



## Broadcasting Decision CRTC 2004-136

Ottawa, 5 April 2004

**Rawlco (Edmonton) Ltd.**  
Edmonton, Alberta

*Application 2002-0696-3  
Public Hearing at Edmonton, Alberta  
18 June 2003*

### **Smooth jazz Specialty FM radio station in Edmonton**

*In this decision, the Commission **approves in part** the application by Rawlco (Edmonton) Ltd. (Rawlco) for a new, English-language Specialty FM radio station in Edmonton. The new station will operate in a Smooth jazz musical format, targeted to an audience aged 25 to 54. Given that Aboriginal Voices Radio Inc.'s application is technically mutually exclusive with the application submitted by Rawlco, the Commission will only issue a licence to Rawlco provided that it meets the requirements set out later in this decision, including that concerning the commencement of operations and the stipulation that it submit, within three months of the date of this decision, an amendment to its application proposing the use of another FM frequency that is acceptable to both the Commission and the Department of Industry.*

*The application by Rawlco is one of four applications approved today for broadcasting licences to carry on new FM radio stations to serve Edmonton. The Commission heard these and other applications proposing new Edmonton FM radio stations at the 18 June 2003 Edmonton Public Hearing. In Introduction to Broadcasting Decisions CRTC 2004-133 to 2004-137 – Licensing of new FM radio stations to serve Edmonton, Broadcasting Public Notice CRTC 2004-23, 5 April 2004, the Commission reviews the factors relevant to the evaluation of competing radio applications and discusses those leading to its determinations regarding the competitive state of that market and its ability to absorb the competitive impact that would be generated by the introduction of new radio services, without affecting unduly the ability of existing services to meet their programming responsibilities. The Commission's reasons for its approval of Rawlco's application, as set out in the present decision, are based on the Commission's assessment of the overall quality of the applicant's programming plans and commitments, and of the contribution that the proposed service will make to the programming diversity available to Edmonton radio listeners.*

## **Introduction**

1. The Commission received an application by Rawlco (Edmonton) Ltd. (Rawlco) for a broadcasting licence to operate a commercial, English-language Specialty FM radio programming undertaking in Edmonton at 89.3 MHz (channel 207C1) with an effective radiated power of 100,000 watts.
2. The Commission considered this application at a public hearing held in Edmonton that commenced 18 June 2003. At the hearing, the Commission heard eight other applications, including seven other proposals for conventional, commercial, English-language FM stations to serve Edmonton, and one proposal for a new Edmonton Native Type B FM radio programming undertaking.
3. The criteria used by the Commission to evaluate the eight applications for conventional, commercial, English-language FM stations considered at the public hearing are set out in *Introduction to Broadcasting Decisions CRTC 2004-133 to 2004-137 – Licensing of new FM radio stations to serve Edmonton*, Broadcasting Public Notice CRTC 2004-23 (Public Notice 2004-23), published today. In Public Notice 2004-23, the Commission also announces that it has approved four applications for new Edmonton radio stations, including the approval in part of the application by Rawlco. This decision addresses the particulars of the application by Rawlco.

## **Ownership**

4. Rawlco is owned and controlled 100% by Rawlco Capital Ltd. (RCL). While Rawlco has no other broadcasting interests, RCL holds indirect, effective control of 12 radio stations in Saskatchewan.

## **Interventions**

5. The Commission received 46 interventions in support of this application, including 20 form letters. The Commission also received one intervention in opposition to the proposed new station, and one intervention offering general comments submitted by Standard Radio Inc. (Standard).
6. The intervention in opposition was submitted by Scott Clemens, who expressed the view that, if Rawlco's application were approved, Rawlco would be likely to sell the station to a third party rather than retain ownership of the station over the long term.
7. Standard stated that the Edmonton radio market is already well served. It recommended that, if the Commission were to license a new service, that service should add to the diversity of the programming in the market.

## Evaluating the application

8. In its assessment of the applications for new commercial radio stations, the Commission takes into account four main factors or bases of comparison that it has identified as being relevant. While the relative importance of the factors will vary depending on the specific circumstances of the market, these factors are:
  - quality of the application;
  - diversity of news voices in the market;
  - competitive state of the market; and
  - likely impact of a new entrant or entrants.<sup>1</sup>
9. In Public Notice 2004-23, the Commission noted that there is already a considerable diversity of news voices in the market, since Edmonton residents have ready access to a very large number and a great range of news voices. The Commission notes that approval of this application will add to this diversity.
10. With respect to the competitive state of the market and the likely impact of a new entrant or entrants, in Public Notice 2004-23, the Commission concluded that the Edmonton radio market would be able to absorb the introduction of the Native Type B FM service proposed by Aboriginal Voices Radio Inc. in addition to as many as three new commercial, music-based FM radio services, without affecting unduly the ability of existing radio services to meet their programming responsibilities.
11. The above determinations leave the quality of each of the applications as the one remaining factor to be examined by the Commission in its deliberations concerning the Edmonton commercial FM applications.

### Quality of the application

12. The Commission generally assesses the quality of applications for licences to operate new radio programming undertakings by examining the following:
  - local programming proposals and plans for providing reflection of the local community;
  - Canadian content commitments;
  - quality of the business plan, including the proposed station format; and
  - commitments in support of the development of Canadian talent.

#### *Local programming and local reflection*

13. At the hearing, Rawlco stated that all programming broadcast by the station would be local, station-produced programming.

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<sup>1</sup> The relevance of these four factors was highlighted by the Commission in *Introductory statement – Licensing new radio stations*, which appeared in Decisions CRTC 99-480, 99-481 and 99-482, all dated 28 October 1999.

14. As part of its spoken word commitment, Rawlco noted that its spoken word programming would be directed to the interests of its audience, which it projected would include a large proportion of listeners with a higher-than-average education and income. Rawlco would provide eight hours of local news and related surveillance, as well as lifestyle and community features. Additional spoken word programming would consist of artist information, information on the local, national and international jazz scenes, and general surveillance information. Rawlco stated that its commitment to provide additional non-news local spoken word programming would differentiate its station from other information sources available to Edmonton radio audiences.
15. The Commission is satisfied with the applicant's proposals for the use of spoken word programming to reflect the local needs of its targeted Edmonton audience.

*Canadian content*

16. Section 2.2 of the *Radio Regulations, 1986* (the Radio Regulations) requires that, on a weekly basis, a minimum of 35% of all category 2 Popular music selections and a minimum of 10% of all category 3 Special interest music selections broadcast be Canadian selections. As part of its application, Rawlco made a commitment to ensure that a minimum of 35% of all category 2 and category 3 musical selections are Canadian. The applicant's commitment with respect to the provision of Canadian content in category 3 musical selections well exceeds the regulatory requirement.
17. Consistent with the applicant's commitment, the Commission is imposing a **condition of licence** requiring that a minimum of 35% of all category 3 musical selections broadcast during each broadcast week be Canadian. The condition of licence is set out in the appendix to this decision.

*Business plan and format*

18. The applicant proposed to offer a Smooth jazz music format targeting the 25 to 54 age group. Rawlco confirmed that it would accept a condition of licence requiring it to devote a weekly minimum of 70% of all music broadcast to selections drawn from subcategory 34 Jazz and blues. The applicant proposed that the remainder of its musical programming, no more than 30% of its overall music mix, would consist of musical programming drawn from category 2.
19. In *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995 (Public Notice 1995-60), the Commission indicated that it would retain the "Specialty format" for private commercial FM stations as a tool to ensure the diversity of programming available to listeners. A station, to operate in the Specialty format, must, by condition of licence, meet one or more of the following criteria: the language of broadcast is neither English nor French; more than 50% of the broadcast week is devoted to spoken word; and less than 70% of the music broadcast is from category 2.

20. Rawlco's proposal to devote, by condition of licence, a weekly minimum of 70% of all music broadcast to selections drawn from subcategory 34 would thus restrict category 2 music to no more than 30% of all selections. This would far exceed the minimum requirements of the third criterion set out in Public Notice 1995-60, would qualify the station as one operating in the Specialty format, and would clearly serve the Commission's objective of ensuring the diversity of programming available to listeners.
21. The applicant stated that, although its audience share would be smaller than those of all six of the existing English-language commercial FM stations in the Edmonton market, the proposed station's Smooth jazz format would appeal to an audience of higher-than-average education and income, and would draw greater advertising revenues than its audience share would otherwise appear to dictate. Moreover, the applicant noted that the existing conditions of licence of Edmonton's other commercial FM stations would preclude them from offering any less than 70% of their musical selections from category 2 music, and thereby prevent them from encroaching on Rawlco's proposed Smooth jazz format, without the Commission's approval. This, Rawlco claimed, would circumscribe the amount of direct competition that its proposed station would face from other FM stations.
22. The Commission is satisfied with the applicant's business plan, and notes that the Specialty FM format will offer the proposed station access to a niche audience and a degree of regulatory protection against direct competition for this audience from Edmonton's other commercial FM radio stations. The Commission is also satisfied that the applicant is committed to its chosen format and to maintaining the proposed station and format in the Edmonton market over the long term.
23. Further, the Commission considers that the station's proposed format will add to the programming diversity of the existing Edmonton radio market. The Commission is imposing a **condition of licence**, requiring the applicant's adherence to its commitment to devote a weekly minimum of 70% of all music broadcast to selections drawn from subcategory 34. The condition of licence is set out in the appendix to this decision.

*Canadian talent development*

24. Under the Canadian talent development (CTD) funding plan instituted by the Canadian Association of Broadcasters (CAB), licensees adhering to the plan and serving markets the size of Edmonton are required to contribute a minimum of \$8,000 annually to CTD initiatives, through eligible third parties.
25. As part of its application, Rawlco proposed to allocate \$2.405 million in direct expenditures to CTD over a seven-year licence term, including the expenditures specified under the CAB plan. This amount would include an annual commitment of \$315,000 and an additional, one-time expenditure of \$200,000 to be devoted to its Project 10K20 initiative that would be made during the initial 6-month start-up phase of the station's

operation. The annual expenditures would include \$200,000 on Project 10K20 to support the production of jazz CDs, \$50,000 on each of the Edmonton International Jazz Festival and the Yardbird Suite Jazz Club to underwrite performances of Canadian talent, and the allocation of \$8,000 to the Foundation to Assist Canadian Talent on Record (FACTOR).

26. As part of its expenditures on CTD, Rawlco proposed to direct \$7,000 annually to Canadian Women in Communications (CWC). However, Rawlco acknowledged at the hearing that the Commission might disqualify the initiative as not being a direct expenditure on CTD, and therefore stated that it would be prepared to accept a condition of licence requiring it to redirect the \$7,000 per year to an eligible CTD initiative. It added that it would also accept a condition of licence requiring adherence to its original \$7,000 per year commitment to CWC.
27. The Commission has, in fact, identified Rawlco's proposed contribution of \$7,000 per year to CWC as being an ineligible CTD initiative. The applicant is therefore required to redirect \$7,000 per year to an eligible CTD initiative, and to inform the Commission in writing, within three months from the date of this decision, regarding to which initiative it will allocate these funds. The Commission also accepts Rawlco's proposal to maintain a \$7,000 per year commitment to CWC in addition to its direct expenditures on CTD.
28. The Commission is satisfied with all the commitments mentioned above and is imposing adherence to them as **conditions of licence**. These conditions are set out in the appendix to this decision.

#### *Other programming initiatives*

29. In addition to the funding support for CWC noted above, Rawlco proposed to allocate an additional \$350,000 in funding over a seven-year licence term to the Aboriginal Multi-Media Society of Alberta (AMMSA) to support Aboriginal broadcast training. A **condition of licence** requiring adherence to this commitment has also been set out in the appendix to this decision.

#### **The Commission's determination**

30. The Commission is satisfied that approval of this application will add to the programming diversity in the Edmonton radio market by providing listeners with access to a range of artists and music that is largely unavailable in that market. The Commission also notes that the new station will operate in a Specialty FM format and will therefore remain focused upon serving a niche audience consisting of those whose musical tastes and preferences currently receive little or no consistent attention from existing Edmonton radio stations. The new station will also bring an additional English-language news voice to the market.

31. In light of the above, and for the reasons set out in Public Notice 2004-23, the Commission **approves in part** the application by Rawlco (Edmonton) Ltd. for a licence to operate a commercial, English-language Specialty FM radio programming undertaking in Edmonton. The Commission notes that the frequency of 89.3 MHz applied for by the applicant has been granted to Aboriginal Voices Radio Inc. in *Native FM radio station in Edmonton*, Broadcasting Decision CRTC 2004-134, also dated today. Accordingly, the issuance of a licence to Rawlco is subject to the requirement that the applicant file a further application proposing the use of an alternative FM frequency, acceptable to both the Commission and to the Department of Industry (the Department). The Commission notes the confirmation by Rawlco that it is prepared to submit an application for this purpose.

### **Issuance of the licence**

32. The licence will expire 31 August 2010. It will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence no. 8, as well as to the conditions set out in the appendix to this decision. The Commission will only issue the licence, and the licence will only be effective at such time as:
- The applicant submits, within three months of the date of this decision, an amendment to its application proposing the use of an FM frequency that is acceptable to both the Commission and the Department; and
  - The applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 5 April 2006. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### **Cultural diversity**

33. Section 3(1)(d)(iii) of the *Broadcasting Act* states, in part, that the Canadian broadcasting system should reflect the “multicultural and multiracial nature of Canadian society and the special place of Aboriginal peoples within that society”, and in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged all radio broadcasters to reflect the cultural diversity of Canada.
34. In its application, Rawlco indicated that it is committed to reflecting the cultural diversity of the Edmonton market in its staffing of the proposed station as well as in its programming. Rawlco stated that it would provide fair and balanced coverage of news stories and issues of interest to minority groups and to Edmonton’s Aboriginal community. It also committed to featuring music of minority Canadian artists, and Aboriginal artists.

## **Employment equity**

35. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with Human Resources Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>*



## Appendix to Broadcasting Decision CRTC 2004-136

### Conditions of licence

1. The licence will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence no. 8, as well as to the following conditions of licence.
2. The licensee shall operate the station within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall ensure that a minimum of 70% of all musical selections broadcast during each broadcast week shall be devoted to selections drawn from subcategory 34 Jazz and blues.
4. The licensee shall devote a minimum of 35% of all category 3 musical selections broadcast during each broadcast week to Canadian selections, broadcast in their entirety.
5. a) In each year of the licence term, the licensee shall devote \$315,000 in direct expenditures to support Canadian talent development (CTD), as follows:
  - \$200,000 to Project 10K20;
  - \$50,000 to the Edmonton International Jazz Festival;
  - \$50,000 to the Yardbird Suite Jazz Club;
  - \$8,000 to the Foundation to Assist Canadian Talent on Record (FACTOR); and
  - \$7,000 that the licensee is required to redirect to another eligible CTD initiative.
- b) The licensee shall also allocate a one-time \$200,000 expenditure, during the initial 6-month pre-operating phase, to Project 10K20.
6. In each year of the licence term, the licensee shall direct \$7,000 to support Canadian Women in Communications.
7. The licensee shall direct \$350,000 over the licence term to the Aboriginal Multi-Media Society of Alberta (AMMSA) to support Aboriginal broadcast training.

