



Broadcasting Decision CRTC 2003-197

Ottawa, 2 July 2003

Cogeco Radio-Télévision inc.
Sherbrooke and Magog, Quebec

Application 2001-1412-4
Public Hearing at Montréal, Quebec
3 February 2003

Commercial French-language FM radio station in Sherbrooke

*In this decision, the Commission **approves** the application by Cogeco Radio-Télévision inc. (Cogeco) for a new commercial French-language FM radio station in Sherbrooke at 93.7 MHz (channel 229B), with a transmitter in Magog at 98.1 MHz (channel 251B). The proposed station will be part of Cogeco's Rhythm FM network and will provide an adult contemporary music format composed primarily of hits from the 1970s to today.*

Introduction

1. The Commission received an application by Cogeco Radio-Télévision inc. (Cogeco) for a broadcasting licence to operate a commercial French-language FM radio programming undertaking in Sherbrooke at 93.7 MHz (channel 229B) with an effective radiated power (ERP) of 1,650 watts, and a transmitter in Magog at 98.1 MHz (channel 251B) with an ERP of 360 watts. The applicant stated that the new station will be part of Cogeco's Rhythm FM network.
2. The Commission considered this application at a public hearing held in Montréal from 3 to 19 February 2003. At the hearing, the Commission heard six other applications in connection with the Sherbrooke region, and today approves three of these proposals: the operation of another commercial French-language FM radio station (Broadcasting Decision CRTC 2003-198), an English-language FM community radio station (Broadcasting Decision CRTC 2003-199) as well as the addition of a transmitter to the broadcasting licence of a Canadian Broadcasting Corporation (CBC) radio station associated with the network La Première Chaîne (Broadcasting Decision CRTC 2003-200).
3. The criteria used by the Commission to evaluate the applications considered at the 3 February 2003 public hearing are set out in *Introductory statement to Broadcasting Decisions CRTC 2003-192 to 2003-203: Applications related to radio stations in the Province of Quebec*, Broadcasting Public Notice CRTC 2003-33, 2 July 2003 (the Introductory Statement). In the Introductory Statement, the Commission also addresses the various proposals that were technically mutually exclusive and the general interventions to most of the applications, and states its conclusions on the capacity of the

markets in Montréal, in Sherbrooke, in Trois-Rivières and in Saguenay to support the addition of one or more new radio stations, taking into account the competitive state of each market.

4. The present decision addresses the particulars of Cogeco's application.

Ownership structure

5. Cogeco is controlled by Cogeco inc. The main shareholder of Cogeco inc. is Mr. Henri Audet.
6. Cogeco is the licensee of a new French-language FM radio station in Québec and, through its wholly-owned subsidiary Cogeco Diffusion inc., controls two other French-language radio stations: CFGL-FM Laval and CJMF-FM Québec. Through TQS inc., Cogeco also owns eight French-language television stations: CFAP-TV Québec, CFJP-TV Montréal, CFKM-TV and CKTM-TV (affiliated with CBC) Trois-Rivières, CFKS-TV and CKSH-TV (affiliated with CBC) Sherbrooke, CFRS-TV and CKTV-TV (affiliated with CBC) Jonquière. Cogeco also operates TQS, a French-language television network originating in Montréal. It also holds an interest in the English-language specialty television service known as The Issues Channel.
7. Cogeco inc., the parent company, holds a minority interest in Canal Indigo through TQS inc. Canal Indigo is a general partnership and is the licensee of French-language pay-per-view (PPV) television undertakings, direct-to-home PPV television undertakings and video-on-demand undertakings. Cogeco inc. also holds an interest in various production houses through TQS inc. In addition, Cogeco inc. controls a cable distributor, Cogeco Cable Canada Inc., which serves Ontario and Quebec. The latter company also holds a broadcasting licence for a regional video-on-demand undertaking.
8. In *Commercial French-language FM radio station in Trois-Rivières*, Broadcasting Decision CRTC 2003-201, released today, the Commission authorizes Cogeco to operate a new radio station in Trois-Rivières which will also be part of the Rhythm FM network.

Programming overview

9. Cogeco proposed to offer an adult contemporary music format composed primarily of hits from the 1970s to today and targeting the 25-54 age group. The applicant proposed to broadcast approximately 77.5 hours of local programming in each broadcast week (62%) devoted to programming that [TRANSLATION] “relates directly to and reflects the realities of the community.” The programming will cover news, weather, arts and entertainment, financial news, sports headlines as well as local and regional events, and will provide opportunities for listeners to voice their opinions on various topics. This programming will be aired during prime time on weekdays and weekends. The remainder of the programming will originate from CFGL-FM Laval. The spoken word programming will account for 14.5 hours of air time in each broadcast week.

The interventions

10. Numerous interventions were filed in connection with this application: 64 in support and 3 in opposition. One of the opposing interventions was withdrawn during the hearing. In another opposing intervention, Mr. Guy Racine, the mayor of Granby, objected to the proposed station because he considered that the region is already well served.
11. The opposing intervention submitted by the Association des radiodiffuseurs communautaires du Québec as well as the comments filed by the Association québécoise de l'industrie du disque, du spectacle et de la vidéo are discussed in the Introductory Statement.

Evaluating the application

12. In its assessment of 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:
 - the quality of the application;
 - the diversity of news voices in the market;
 - the likely impact of a new entrant or entrants; and
 - the competitive state of the market.¹

Quality of the application

13. The Commission generally assesses the quality of applications competing for licences to operate new commercial radio stations 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

14. Cogeco stated that the new station's programming will have a character and tone that will be clearly local and faithfully reflect the realities and concerns of the residents of Sherbrooke. Although the new station will broadcast some network programming, local

¹ 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.

programming will account for about two-thirds of the broadcast week and all prime-time programming will be produced locally with local program hosts. The focus on local matters will also be evident in weekend programming. The station will have one full-time broadcast journalist and two full-time reporters.

15. With respect to the spoken word programming, Cogeco made a commitment to ensure that 70% of the news broadcast by the station will be local and regional. Cogeco stated at the hearing that [TRANSLATION] “local news will be news primarily addressing the new municipality of Sherbrooke, while regional news will address all locales within our coverage area.”
16. The applicant stated that the station will differ from other stations in the market, not only through its programming, but mostly through its music format. It added that its music catalogue is much larger than that of other stations in the market, and that there will be fewer repeats. The applicant also stated that 70% of the music selections broadcast on its Rhythm FM network are different from those aired on the Radio Rock Détente network, which serves the same market and is owned by Astral Radio Québec 2003 inc., a subsidiary of Astral Media inc. (Astral).
17. The Commission is satisfied with Cogeco’s proposals with respect to local reflection.

Canadian content

18. Section 2.2 of the *Radio Regulations, 1986* (the Radio Regulations) requires that a minimum of 35% of all category 2 (popular) musical selections, and a minimum of 10% of all category 3 (special interest) musical selections broadcast over the broadcast week be Canadian. As part of its application, Cogeco made a commitment to ensure that at least 45% of all category 2 musical selections broadcast will be Canadian. The Commission has imposed this commitment as a **condition of licence**, as set out in the appendix to this decision.
19. The Commission notes the applicant’s commitment to devote 45% of the category 2 musical selections aired by the station, Monday to Friday from 6 a.m. to 6 p.m., to Canadian selections broadcast in their entirety. The Commission notes that this commitment represents a 10% increase over the 35% set out in the Radio Regulations.
20. The Commission is confident that the new station will add to the musical diversity available in the Sherbrooke market and is satisfied with its discussions with the applicant in this regard at the hearing.

Business plan and proposed format

21. Cogeco’s business plan is based on the adult contemporary music format that it has successfully employed at CFGL-FM Laval. The programming will be composed mainly of hits from the 1970s to the present.

22. The Commission considers that the applicant has presented a viable business plan for the proposed station and that the projected advertising revenues are achievable. The station's proposed format should attract a large audience in the Sherbrooke market.

Canadian talent development

23. Cogeco stated that it will invest \$420,000 over seven years in direct contributions to Canadian talent development (CTD). Under the terms of the Canadian Talent Development Fund created by the Canadian Association of Broadcasters (the CAB Development Fund), licensees who adhere to the plan and serve markets the same size as the Sherbrooke market must pay a minimum contribution of \$3,000 a year to the CAB Development Fund via an eligible third party. Cogeco made a commitment to take part in the CTD plan created by the CAB, and to contribute \$30,000 per year to MusicAction, i.e., \$210,000 over seven years, which exceeds the minimum CAB requirement. Cogeco also made a commitment to contribute \$140,000 over seven years to the Fonds RadioStar. Finally, Cogeco will contribute \$10,000 annually, i.e. \$70,000 over seven years, for scholarships. The Commission notes that a selection committee will be created, with two-thirds of its members having no ties to the applicant. The Commission requires the applicant to abide by these commitments, by **condition of licence**, as set out in the appendix to this decision.

Diversity of news voices in the market

24. In *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (the Commercial Radio Policy), the Commission stated that it has sought to strike a reasonable balance between the benefits of permitting increased consolidation of ownership within the radio industry and its concerns for preserving a diversity of news voices in the markets. Cogeco stated at the hearing that the new station would use the same newsroom as its television stations in Sherbrooke, with the same executive director. Cogeco did indicate, however, that the programming director and journalists would be completely separate, and that the news would be handled differently. Cogeco added that the station's journalists would report directly and exclusively to the radio station's program director. The applicant also agreed to accept a condition of licence to that effect. A **condition of licence** relating to diversity of editorial voices is found in the appendix to this decision.
25. Although Cogeco already has a presence in the Sherbrooke market through its television stations, the Commission is of the view that its new radio station will also further enhance the diversity of radio voices in greater Sherbrooke. The entry of the new station will provide the public with a broader choice of programming and greater coverage of local events.

Impact of a new entrant and competitive state of the market

26. The Commission generally seeks to ensure that the competitive impact of a new entrant to a radio market will not impinge unduly on the ability of existing stations to meet their programming responsibilities under the *Broadcasting Act* (the Act). At the same time, the

Commission's predisposition lies clearly in favour of increased competition and diversity, and the improvements in the overall quality of available services that these promote. The capacity of the Sherbrooke market to absorb new entrants is addressed in the Introductory Statement.

27. In its evaluation of the application, the Commission has considered the following:
- the Sherbrooke market is extremely dynamic and is able to absorb two new commercial radio stations;
 - the Sherbrooke radio market is currently dominated by radio stations owned by the Astral group, which accounts for 63% of listenership and 84% of advertising revenues;
 - other than Astral's radio stations, there are no other commercial radio stations in the market;
 - Cogeco's entry will create a competitive balance in the market, without unduly impinging on Astral's radio stations, which are already firmly established.

Cultural diversity

28. In the Commercial Radio Policy, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices, especially with respect to news, music and promotion of Canadian artists.
29. The Commission notes the information provided in Cogeco's application and in its discussions at the hearing concerning cultural diversity on the airwaves. In addition, the Commission notes that Cogeco's new station will broadcast a program produced and hosted by an employee of its Rhythm FM station in Montréal who is a member of a visible minority.
30. The Commission encourages the applicant to reflect the cultural diversity of Canada in its programming and employment practices.

The Commission's conclusion

31. The Commission considers that the new station proposed by Cogeco will add to the choice of local programming available to listeners in the Sherbrooke area and will assist in meeting the expectations and needs of those listeners. The new station will bring a diversity of radio voices to the market and contribute to the establishment of the Rhythm FM network, which will offer a diversified and competitive alternative to Astral's two existing networks, Rock Détente and Radio Énergie.

32. Given the significant proposed contributions to promote Canadian French-language artists, the Commission is convinced that the new station will make an important contribution to the fulfilment of the Broadcasting Policy for Canada set out in the Act and to the objectives of the Commercial Radio Policy.
33. In light of the above, the Commission **approves** the application by Cogeco Radio-Télévision inc. for a French-language commercial FM radio programming undertaking in Sherbrooke with a transmitter in Magog. The new station will operate at 93.7 MHz (channel 229B) with an ERP of 1,650 watts, and the transmitter in Magog will operate at 98.1 MHz (channel 251B) with an ERP of 360 watts.

Issuance of the licence

34. The licence will expire 31 August 2009 and will be subject to the conditions specified therein and in the appendix to this decision.
35. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
36. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
37. Furthermore, the licence for this undertaking will be issued once 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 2 July 2005. 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.

Employment equity

38. 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 2003-197

Conditions of licence

1. The licence shall 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 conditions of licence no. 5 and 10.
2. The licensee shall devote a minimum of 45% of all category 2 (popular) musical selections aired during the broadcast week to Canadian selections, broadcast in their entirety.
3. The licensee shall devote \$420,000 over seven years in direct expenditures to promote Canadian artists, as follows:
 - \$30,000 per year to MusicAction;
 - \$20,000 per year to Fonds RadioStar;
 - \$10,000 per year in scholarships. A selection committee shall be created, with two-thirds of its members having no direct ties to the licensee.
4. The licensee shall ensure that:
 - the radio station hires its own journalists for local programming purposes;
 - the radio station's journalists are assigned exclusively to preparing and presenting information programming aired by the radio station;
 - the radio station's journalists report directly and exclusively to the station's director of radio programming.