



## Broadcasting Decision CRTC 2003-198

Ottawa, 2 July 2003

**André Gagné, on behalf of a company to be incorporated to be known as  
Groupe Génération Rock**  
Sherbrooke, Quebec

*Application 2002-0283-8  
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 André Gagné, on behalf of a company to be incorporated to be known as Groupe Génération Rock (GGR), for a new commercial French-language FM radio station in Sherbrooke, at 104.5 MHz (channel 283A). The proposed station will provide a rock music format composed of classic rock, soft rock and new rock. The station's target audience will be the 18- to 44-year age group.*

### **Introduction**

1. The Commission received an application by André Gagné, on behalf of a company to be incorporated to be known as Groupe Génération Rock (GGR), to operate a French-language commercial FM radio programming undertaking in Sherbrooke at 104.5 MHz (channel 283A) with an effective radiated power of 1,300 watts.
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 market. The Commission today also approves three of these proposals: the operation of another FM French-language commercial radio station (Broadcasting Decision CRTC 2003-197); of an English-language community FM radio station (Broadcasting Decision CRTC 2003-199), as well as the request for the addition of a transmitter to the broadcasting licence of a Canadian Broadcasting Corporation station affiliated with 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 GGR's application.

### **Ownership structure**

5. The applicant represents a company with share capital that is to be incorporated under provincial legislation and will be known as Groupe Génération Rock. It will be controlled by the shareholders based on the proportion of shares they hold, pursuant to a draft shareholder agreement filed with the application. The two principal shareholders are André Gagné (33.3% of the holder's voting shares through his company 2846-2059 Québec inc.) and Jean-Pierre Beaudoin (30.7% of the voting shares). The other two shareholders are Michèle Gagné (20% of the voting shares) and the company 9114-9724 Québec inc., which is controlled by Danny Houle (16% of the voting shares).
6. The ownership structure of the applicant meets the definition of a qualified corporation as set out in *Direction to the CRTC (Ineligibility of Non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (Direction to the CRTC). The Commission notes, however, that the composition of the boards of directors of the two shareholding companies in the applicant, namely 2846-2059 Québec inc. and 9114-9724 Québec inc., as considered in the companies' by-laws, does not comply with the Direction to the CRTC, which requires that, at all times, 80% of the board members be Canadians residing in Canada. The applicant assured the Commission, however, that the necessary amendments will be made to the by-laws of both companies and that a revised version will be filed with the Commission as soon as possible.

### **Programming overview**

7. The programming will target the 18- to 44-year age group. All of the programming will be produced locally. GGR proposed a rock music format featuring rock artists of the past 30 years and comprising classic rock, light rock and new rock.
8. The applicant stated that new musical selections will not make up more than 25% of the music it broadcasts. The applicant defined a new musical selection as a song that has aired for no more than 12 months post production. A **condition of licence** to this effect is set out in the appendix to this decision.
9. At the hearing, the applicant confirmed that eight hours per broadcast week will be devoted to news, 40% of which will be local and regional. The applicant will devote 39 hours and 30 minutes to spoken word programming each broadcast week.

## **The interventions**

10. An opposing intervention submitted by the Association des radiodiffuseurs communautaires du Québec (ARCQ) 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**

11. 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.<sup>1</sup>

## **Quality of the application**

12. 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*

13. As stated earlier, all of the programming will be produced locally and will include 39 hours and 30 minutes of spoken word programming. The spoken word programming will consist of discussions, surveys and open-line programs involving listeners and the main host as well as special guests. The applicant stated its intention to establish its own code of ethics with respect to on-air language and the requirements for conducting open-line programs set out in *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988.

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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. The applicant will devote eight hours per broadcast week to news, 40% of which will be local and regional. The applicant stated at the hearing that local news will cover the Sherbrooke market and regional news will cover surrounding towns such as Windsor, Richmond and Weedon. The rest of the programming will be made up of national and international news.
15. The station staff will include one journalist assigned to news, one journalist assigned to sports, and one researcher responsible for finding guests and covering various news conferences. The station will also have four full-time hosts from Monday to Friday.
16. The station's all-local programming, its all-rock music format, which is not found elsewhere in the market, and its commitment to play no more than 25% new musical selections will differentiate it from the other stations in the market.
17. The Commission considers that GGR's proposal with respect to local programming and local reflection is sound.

*Canadian content*

18. 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) musical selections, and a minimum of 10% of all category 3 (special interest) musical selections broadcast be Canadian selections. At the hearing, GGR made a commitment to ensure that at least 45% of all category 2 musical selections broadcast will be Canadian. The Commission notes that this commitment is 10% higher than the commitment required by the Radio Regulations. This commitment is subject to a **condition of licence** found in the appendix to this decision.

*Business plan and proposed format*

19. GGR's business plan emphasizes more local and regional news and information. This new voice in the Sherbrooke market will meet a need, since the other local stations belong to networks whose source station is located outside that market.
20. According to the Commission, the station's business plan and projected advertising revenue are feasible. The proposed station's all-rock music format should attract a large audience in the Sherbrooke market.

*Canadian talent development*

21. Under the terms of the Canadian Association of Broadcasters' (CAB) Canadian Talent Development Fund (CAB Development Fund), licensees that adhere to the plan and serve markets the size of the Sherbrooke market are required to contribute a minimum of \$3,000 to the CAB Development Fund through eligible third parties.

22. At the hearing, the applicant confirmed its commitment to spend a minimum of \$214,552 on Canadian talent development. This represents annual commitments of \$3,000 to MusicAction and \$25,000 to a contest called “Pro Scène,” indexed at 3% annually for seven years. GGR also indicated at the hearing that any amount the Commission deemed to be indirect expenditures on Canadian talent development would be redirected as a contribution to MusicAction. The Commission identified as indirect expenditures the proposed amounts of \$6,000 for radio advertising and \$2,000 in radio screening related to the Pro Scène contest. The applicant will therefore have to redirect \$8,000 to MusicAction. The above commitments will have to be met as **conditions of licence**. These conditions are set out in the appendix to this decision.
23. The Pro Scène contest will consist in selecting the 12 best demos submitted by contestants. Each contestant will perform in a local club before an experienced panel that will choose the four best performances. The four artists chosen will record the selected piece in a professional recording studio, and the song will be aired on the new station. Finally, two finalists will be chosen to perform at the grand finale to be held at the Théâtre Granada in Sherbrooke. The winner will receive a cash prize and studio recording time. He or she will perform at the Woodstock en Beauce music festival and will be signed to a recording contract with Les Disques Consult’Art. The Commission notes that the studio and the record company must not be connected in any way with the shareholders, directors or employees of the licensee.

#### **Diversity of news voices in the market**

24. GGR represents a new entrant in the market. Furthermore, since all of the programming aired on the proposed station will be produced locally, the Commission believes that the new station will add to the diversity of news voices in the market.

#### **Impact of a new entrant and competitive state of the market**

25. 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 one or more new entrants, the state of competition in this market, as well as the opposing intervention by ARCQ with respect to these issues are discussed in the Introductory Statement.

#### **Cultural diversity**

26. The *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (Commercial Radio Policy), encouraged broadcasters to reflect Canada’s cultural diversity in their programming and employment practices, especially with respect to news, music and promotion of Canadian artists.

27. The Commission noted the information provided in GGR's application and during its discussions with the Commission at the hearing regarding on-air cultural diversity. It notes, for example, the applicant's intention to ensure that its staff is made up of people of different sexes, ages, experience, expertise and cultural backgrounds. When it begins hiring, the applicant will encourage collaboration with individuals representing different generations and cultures. Finally, the applicant added at the hearing that the format, which is geared heavily to the expression of listeners' opinions, will be conducive to reflecting the various groups in the Sherbrooke region.
28. The Commission encourages the applicant to promote Canada's cultural diversity through its programming and also through the criteria used to hire staff for its new station.

### **The Commission's conclusion**

29. The Commission is of the view that the new station proposed by GGR will add significantly to the amount of local programming currently available to the public in the Sherbrooke market and will help meet the needs and expectations of that audience. The new station will bring diversity to radio voices in the market and will offer fans of rock music songs from the 1970s, 1980s and 1990s that cannot otherwise be heard except by tuning to stations outside Sherbrooke.
30. Given the proposed contributions to the promotion of French-speaking Canadian artists, the Commission believes that the new station will make a valuable contribution to attaining the objectives of Canada's broadcasting policy set out in the Act and the objectives of the Commercial Radio Policy.
31. In light of the above, the Commission **approves** the application by André Gagné, on behalf of a company to be incorporated to be known as Groupe Génération Rock to operate a commercial French-language FM radio programming undertaking in Sherbrooke at 104.5 MHz (channel 283A) with an effective radiated power of 1,300 watts.

### **Issuance of the licence**

32. The licence will expire 31 August 2009 and will be subject to the conditions specified therein and in the appendix to this decision.
33. 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.

34. 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.
35. The Commission will issue a licence once the applicant has shown to the Commission's satisfaction, with supporting documentary evidence, not later than 60 days following the date of this decision, that the following requirements have been met:
- an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
  - the applicant has amended the by-laws of its two shareholding companies to reflect such changes in the composition of their boards of directors as are required to meet the requirements of *Direction to the CRTC*;
  - the applicant has submitted a copy of the signed shareholder agreement.
36. 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**

37. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the applicant to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

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 2003-198

### 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.
2. The licensee shall devote at least 45% of all category 2 (popular) musical selections aired over the entire broadcast week to Canadian musical selections broadcast in their entirety.
3. The licensee shall not devote more than 25% of all musical selections broadcast to new musical selections. For the purposes of this condition, a new musical selection is a song that has aired for no more than 12 months post production.
4. The licensee shall contribute \$214,552 over seven years to the promotion of Canadian artists. This contribution shall be broken down as follows:
  - participation in the Canadian Association of Broadcasters' Canadian Talent Development Fund by contributing \$3,000\* per year to MusicAction;
  - a contribution of \$17,000\* per year to the Pro Scène contest; and
  - a contribution of \$8,000\* per year representing the amount of expenditures that the Commission deemed to be indirect expenditures and that the licensee is required to redirect to MusicAction.

\* These amounts shall be indexed at 3% annually.