



Broadcasting Decision CRTC 2003-192

Ottawa, 2 July 2003

**9115-0318 Québec inc. (Radio Nord Communications inc. and
La Société Spectra-Scène inc., being the shareholders)**
Montréal, Quebec

*Application 2002-0288-8
Public Hearing at Montréal, Quebec
3 February 2003*

Commercial French-language specialty FM radio station in Montréal

*In this decision, the Commission **approves** the application by 9115-0318 Québec inc. (Radio Nord Communications inc. and La Société Spectra-Scène inc., being the shareholders), for a new commercial French-language specialty FM radio station in Montréal, at 91.9 MHz (channel 220B1). The proposed station will provide a jazz and blues specialty format targeting an adult audience in the 35-64 age group.*

Introduction

1. The Commission received an application by 9115-0318 Québec inc. (Radio Nord Communications inc. and La Société Spectra-Scène inc., being the shareholders) (RNC-Spectra) for a broadcasting licence to operate a commercial French-language specialty FM radio programming undertaking in Montréal at 91.9 MHz (channel 220B1) with an effective radiated power of 900 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 eleven other applications in connection with the Montréal market. The Commission today also approves four of these proposals: the operation of a French-language commercial AM radio station (Broadcasting Decision CRTC 2003-193), of an ethnic commercial FM radio station (Broadcasting Decision CRTC 2003-194), of a native FM radio station (Broadcasting Decision CRTC 2003-195) as well as the addition of a transmitter to the broadcasting licence for a Canadian Broadcasting Corporation (CBC) radio station associated with the Radio One network (Broadcasting Decision CRTC 2003-196).
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 RNC-Spectra's application.

Ownership structure

5. RNC-Spectra is controlled by Radio Nord Communications inc. (RNC), a company controlled by Groupe Radio Nord inc., which is in turn controlled by Jean-Yves Gourd. RNC holds 75% of the voting shares of RNC-Spectra, while La Société Spectra-Scène inc. (Spectra-Scène) holds the remaining 25%.
6. Spectra-Scène is affiliated with Équipe SPECTRA, which produces entertainment and television and film programming of all kinds. Spectra-Scène holds a 7% interest in ARTV inc., which is the licensee of the French-language specialty service, "artv."
7. RNC-Spectra does not currently hold a radio licence in the Montréal market. Groupe Radio RNC inc., a wholly-owned subsidiary of RNC, holds a licence for a French-language radio station serving Gatineau and Ottawa. RNC is, itself, the licensee of six French-language radio stations, including five in Abitibi-Témiscamingue, Quebec and one in Hawkesbury, Ontario.
8. RNC also holds five licences for conventional French-language television undertakings: CHOT-TV (TVA) and CFGS-TV (TQS) Gatineau; CKRN-TV (SRC) and CFEM-TV (TVA) Rouyn; and CFVS-TV (TQS) Val d'Or. RNC also holds a 21.03% interest in the Category 1 specialty service known as ONE: The Body, Mind and Spirit Channel, and a 19.06% interest in Radio Témiscamingue incorporée, the licensee of the FM radio station CKVM-FM Ville-Marie.

Programming overview

9. RNC-Spectra proposed a "Cool Jazz" specialty music format consisting of jazz and blues (category 34), world beat and international (category 33), folk and folk-oriented (category 32) and pop, rock and dance (category 21).
10. The target audience is the 35-64 age group. The applicant stated that at least 70% of the station's programming will be jazz and blues (primarily vocal). It added that Cool Jazz is effectively a specialty format, and that the core of its target audience, specifically adults between the ages of 54 and 64, are not well served in the Montréal market.
11. **Conditions of licence** that relate to the station's specialty format and to the percentage of programming to be devoted to subcategory 34 (jazz and blues) are set out in the appendix to this decision.

The interventions

12. Numerous interventions were filed in response to this application: 67 in favour, 2 opposing, and 5 offering comments.
13. Radio Ville-Marie, the licensee of CIRA-FM Montréal, opposed the application on technical grounds. Radio communautaire de la Rive-Sud requested that the Commission examine the intervener's economic vulnerability so that it would not lose jazz and blues audiences in the South Shore of Montréal to the new station.
14. The CBC expressed concern that the applicant, given the collaboration in its ownership by RNC and Spectra-Scène, could obtain exclusive broadcasting rights to taped events produced by Spectra-Scène, including coverage of the Festival International de Jazz de Montréal. The CBC, which airs festival recordings aimed at all Canadians, was concerned that Spectra-Scène would receive an undue advantage through its activities as both producer and broadcaster, and that Canadians outside Montréal could be deprived of the opportunity to enjoy this major Canadian cultural event. The CBC proposed that the Commission impose a condition of licence to preclude any such advantage, and recommended that all applicants be required to demonstrate that the contribution of their proposed services to the advancement of Canadian culture would effectively compensate for any loss in the contributions of other broadcasters operating in the same music format.
15. In reply, the applicant stated at the hearing that it has created a:

[TRANSLATION] very strict code of ethics that has been reviewed and approved by the Société de développement des entreprises culturelles, in place since the Jazz Festival was founded, to ensure there is no appearance of conflict of interest, but more importantly to ensure obviously, that public funds are invested appropriately in the promotion of Francophone music. [The code also states that] any transaction between the Jazz Festival and a company related to Équipe Spectra must be conducted under conditions better than those offered to a third party... thus saving the festival money, and not offering an advantage to Spectra.
16. The applicant added that it could not afford to favour a Spectra subsidiary, as doing so would constitute a violation of the code of ethics, and because [TRANSLATION] "it is in the long-term interest of the Jazz Festival to collaborate with all radio and television broadcasters." The applicant further indicated that it is in the interest of the Jazz Festival to be broadcast nationally, and even internationally. Finally, Spectra-Scène stated that it has no intention of favouring a radio station in which it holds shares.
17. The Commission is satisfied with the information provided by the applicant at the hearing, and has determined that a particular condition of licence with respect to the exclusive rights of the first broadcast of original Canadian programs produced by the

Spectra team and its subsidiaries in connection with the Festival International de Jazz de Montréal and other jazz events in Canada is not necessary. The Commission may, however, review the applicant's performance in this respect at the time of licence renewal.

18. An opposing intervention filed by the Association des radiodiffuseurs communautaires du Québec (ARCQ) as well as the comments by the Société professionnelle des auteurs et compositeurs du Québec and the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) are addressed in the Introductory Statement.

Evaluating the application

19. 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

20. 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

21. At the hearing, RNC-Spectra stated that, in each broadcast week, it would devote 125 hours to local programming and 2 hours 42 minutes of news. The applicant proposed to offer 14 hours of original spoken word programming per broadcast week, consisting of local, regional, national and international newscasts, interviews and documentaries on jazz artists and the history of jazz, cultural spots, weather, sports and traffic, as well as stock market information. In response to the Commission's questioning at the hearing regarding the definition of local and regional news, the applicant stated that local means Montréal, and that regional includes the suburbs south and north of Montréal. The

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.

applicant also stated that editorial control and responsibility for news will remain in Montréal. The station's full-time staff will include one news journalist and one journalist assigned exclusively to providing coverage of cultural events.

22. The Commission considers that the information provided by RNC-Spectra at the hearing regarding local programming and spoken word programming, specifically local and regional news, is satisfactory.

Canadian content

23. 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.
24. In its application, RNC-Spectra made a commitment to exceed the requirements of the Radio Regulations by ensuring that a minimum of 45% of category 2 musical selections and a minimum of 35% of category 3 musical selections are Canadian. Adherence to these commitments shall be by **condition of licence**, as set out in the appendix to this decision.
25. The Commission further notes the applicant's commitment to devote 45% of category 2 musical selections broadcast Monday to Friday from 6 a.m. to 6 p.m. to Canadian selections broadcast in their entirety. The Commission notes that this commitment exceeds the 35% minimum set out in the Radio Regulations by 10%.
26. The Commission is of the view that the new station will add to the amount of Canadian music available in the Montréal market, and is satisfied with its discussions with the applicant at the hearing regarding the concerns of ADISQ in this regard.

Business plan and proposed format

27. As noted above, the RNC-Spectra business plan is based on a Cool Jazz music format targeting adults in the 35-64 age group. According to the market study filed by the applicant, [TRANSLATION] "the new station will be complementary because it will occupy a niche that is not currently exploited by stations in the market with respect to both format and target audience."
28. The applicant expects that two-thirds of the station's audience (i.e., 2% of the radio audience in Montréal) will be drawn from existing stations, and that the station will attract approximately half a million dollars in advertising revenues away from existing Montréal stations. Based on the information filed with the application and on its discussions with the applicant at the hearing, the Commission is of the view that the station will have a limited impact on existing stations in the market. This takes into account the station's projected audience share and advertising revenues, which are fairly modest compared with other stations in the Montréal market, each of which generates an average of \$6.8 million in advertising revenues.

29. The Commission finds that the business plan is realistic and that the projected advertising revenues are achievable.

Canadian talent development

30. RNC-Spectra committed to invest \$1,400,000 in direct contributions to Canadian talent development (CTD), and \$168,000 in indirect contributions, over seven years. Under the terms of the CTD Fund established by the Canadian Association of Broadcasters (the CAB Development Fund), licensees who adhere to the plan and serve markets the size of that of Montréal are required to contribute an annual minimum of \$27,000 to the CAB Development Fund via an eligible third party.
31. RNC-Spectra committed to participate in the CAB Development Fund, and to contribute \$50,000 to MusicAction each year, representing \$350,000 over seven years, which exceeds the minimum level required under the CAB's *Distribution Guidelines for Canadian Talent Development* (Distribution Guidelines). In addition, the applicant made the following commitments for each of the seven years of its licence term:
- the endowment of five \$5,000 scholarships, including one at each of the four universities in the Montréal region offering music programs and at the Conservatoire de musique de Montréal;
 - a contribution of \$25,000 to support the Festival des Harmonies du Québec;
 - a contribution of \$40,000 to the Couleurs Jazz competition;
 - a contribution of \$30,000 to organize two free concerts as part of the Festival international de Jazz de Montréal, featuring a new artist and a well-known Canadian jazz musician;
 - \$30,000 to present two other jazz concerts in Montréal, featuring a new artist and a well-known Canadian jazz musician.
32. Adherence to the above commitments shall be by **condition of licence**, as set out in the appendix to this decision.

Diversity of news voices in the market

33. Given that RNC-Spectra is a new entrant to the market and that all of the programming to be aired by the proposed station will be produced locally, the Commission is confident that the new station will enhance the diversity of news voices in the market.

Impact of a new entrant and competitive state of the market

34. 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.
35. As stated above, the Commission is of the view that the station will have a limited impact on the Montréal market. The capacity of the market to absorb one or more new entrants, the competitive state of the market, and the opposing intervention filed by ARCQ on this issue are addressed in the Introductory Statement.

Cultural diversity

36. In *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (Commercial Radio Policy), the Commission encouraged all radio 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.
37. The Commission notes the information provided by RNC-Spectra in its application and in its discussions at the hearing concerning cultural diversity on the airwaves. It also notes RNC-Spectra's intention to develop a cultural diversity policy and implement a cultural diversity strategy. That policy will be developed by the director of Human Resources jointly with a member of the board of directors, and will address employment and on-air content.
38. Because the station will specialize in jazz, it will have a strong appeal among numerous ethnic groups and provide an exceptional opportunity to reflect cultural diversity. The Commission encourages the applicant to promote the cultural diversity of Canada in its programming and employment practices.

Technical issue

39. Radio Ville-Marie opposed the applicant's proposed use of 91.9 MHz, citing potential interference with its station, CIRA-FM Montréal, which operates at 91.3 MHz. The intervener asked the Commission to impose a condition of licence requiring that the antenna be installed on the same site as, or near to, the Radio Ville-Marie antenna.
40. In its reply to the intervener, the applicant emphasized that its assurances to the Department of Industry (the Department) and to Radio Ville-Marie would be sufficient guarantee that the CIRA-FM frequency will be protected. The Commission noted in this regard that the Department's new standard now authorizes the use of the third adjacent

channel² within a single market. However, should the Department determine during the testing period of the proposed station that such use would result in unacceptable technical interference, it would require the licensee to take the appropriate corrective measures.

The Commission's conclusion

41. The applicant's explanations provided at the hearing, and the commitments it has made, have convinced the Commission that the station will offer a format that is truly focused on jazz and blues. The Commission notes that, because of its unique Cool Jazz format and jazz-oriented spoken word programming, the station will be distinct from other stations in the market, even should some of them occasionally play standard jazz, world beat and blues selections.
42. The Commission considers that the new station proposed by RNC-Spectra will add to the choice of local programming available to listeners in Montréal, particularly those in the 54-64 age group, and will also assist in meeting their expectations and needs. Further, the Commission considers that, because of the station's truly specialized format, it will differ from other stations in the Montréal market and will have no undue impact on existing stations in that market.
43. Given the significant proposed contributions to the promotion of Canadian French-language artists, the Commission is confident 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 identified in the Commercial Radio Policy.
44. In light of the above, the Commission **approves** the application by 9115-0318 Québec inc. (Radio Nord Communications inc. and La Société Spectra-Scène inc. being the shareholders) to operate a commercial French-language specialty FM radio programming undertaking in Montréal. The station will operate at 91.9 MHz (channel 220B1) with an effective radiated power of 900 watts.

Issuance of the licence

45. The licence will expire 31 August 2009 and will be subject to the conditions specified therein and in the appendix to this decision.
46. 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.

² In FM radio broadcasting, the term third adjacent channel is used when two frequencies are separated by an interval of 600 kHz. FM radio broadcasting frequencies are separated by intervals from 88.1 MHz to 107.9 MHz. The Department's rules governing frequency allocation prohibit the licensing of stations within the same community or in neighbouring communities that use any frequency deemed to be a second adjacent frequency.

47. 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.
48. 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

49. 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 2003-192

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. 8 and 10.
2. The station shall be operated within the Specialty format as defined in *A Review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *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 devote a minimum of 70% of the musical programming broadcast to musical selections from subcategory 34 (jazz and blues).
4. 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.
5. The licensee shall devote a minimum of 35% of all category 3 (special interest) musical selections aired during the broadcast week to Canadian selections, to be scheduled in a reasonable manner throughout the broadcast day.
6. The licensee shall contribute \$200,000 per year over seven years in direct expenditures to Canadian talent development. These expenditures shall break down as follows:
 - a contribution of \$50,000 per year to MusicAction as a participant in the CAB Canadian talent development plan;
 - an endowment of five \$5,000 scholarships, including one at each of the four universities in Montréal offering music programs and at the Conservatoire de musique de Montréal;
 - a contribution of \$25,000 to support the Festival des Harmonies du Québec;
 - a contribution of \$40,000 to the Couleurs Jazz competition;
 - a contribution of \$30,000 to organize two free concerts as part of the Festival International de Jazz de Montréal, featuring a new artist and a well-known Canadian jazz musician;
 - a contribution of \$30,000 to present two other jazz concerts in Montréal featuring a new artist and a well-known Canadian jazz musician.

