



## Broadcasting Decision CRTC 2008-50

Ottawa, 28 February 2008

### **Jack McGaw Consulting Incorporated**

Halifax, Nova Scotia

*Application 2007-1271-2, received 10 September 2007*

*Broadcasting Public Notice CRTC 2007-113*

*10 October 2007*

### **CIRH-FM Halifax – Technical changes**

*The Commission **approves** an application to amend the broadcasting licence for the radio programming undertaking CIRH-FM Halifax by changing the station's frequency and authorized contours.*

#### **Introduction**

1. The Commission received an application by Jack McGaw Consulting Incorporated (McGaw Consulting) to amend the broadcasting licence for the English-language tourist information radio programming undertaking CIRH-FM Halifax, in order to change the frequency from 97.9 MHz (channel 250LP) to 107.7 MHz (channel 299A), and to change the authorized contours by increasing the effective radiated power (ERP) of 10 watts to an average ERP of 560 watts.
2. This service was originally approved in Broadcasting Decision 2002-212. As noted in that decision, the station was to broadcast, on a year-round basis, pre-recorded messages informing tourists of weather and highway conditions as well as attractions and services in the Halifax area. The present application was submitted following the appointment of CIRH-FM Halifax as the Halifax Regional Municipality's (HRM's) Designated Broadcast System in case of an emergency.
3. In support of its application, the licensee submitted that, due to the large size of the service area and its large population, a stronger signal is required in order for the station, in light of its appointment as the HRM's Designated Broadcast System, to reach all segments of the municipality in the event of an emergency. The licensee also submitted that the station's current signal would likely experience interference from a new FM French-language type A community radio programming undertaking that will soon be on-air, and for which the Commission approved the use of the frequency 98.5 MHz (channel 253B1) in Broadcasting Decision 2006-467.
4. McGaw Consulting also stated that it would continue to limit advertising material broadcast on the station to six minutes per clock hour, as set out by condition of licence in Broadcasting Decision 2002-212.

5. In the event the Commission denies this application, the licensee indicated that it would try to sustain the service at its present frequency of 97.9 MHz (channel 250LP), although it would not be able to fully honour its obligation to the HRM Emergency Measures Organization. The licensee also stated that, should the Commission deny this application, its capacity to reach travellers on highways and roads throughout the HRM would continue to be restricted.
6. The Commission notes that the proposed technical amendments would change CIRH-FM's status from that of a low-power, unprotected service to that of a regular Class A protected service, and would result in a significant increase to the authorized contours of the station.
7. The Commission did not receive any interventions in connection with this application.

### **Commission's analysis and determinations**

8. The Commission finds that the issues to be determined in its evaluation of this application relate to the following:
  - the appointment of CIRH-FM Halifax as the HRM's Designated Broadcast System as consistent with the station's condition of licence relating to its nature of service;
  - the technical need for the proposed amendments;
  - the potential impact of the proposed technical amendments on incumbent stations;
  - the availability of frequencies in the market; and
  - the change from a low-power unprotected service to a regular Class A protected service as a possible case of "back door" entry into the mainstream commercial radio market.

### **Is the appointment of CIRH-FM Halifax as the HRM's Designated Broadcast System consistent with the station's condition of licence relating to its nature of service?**

9. The condition of licence relating to the nature of service for CIRH-FM Halifax, as set out in Broadcasting Decision 2002-212, reads as follows:
  1. The licensee must use the station solely for the purpose of providing a traveller and tourist advisory service which will integrate current weather forecasts, weather bulletins, highway conditions, other traveller safety information and current information for visitors to Halifax including descriptions of attractions, events and heritage, cultural recreational and commercial sites. Each program element will be updated daily, hourly or as necessary.

10. In the Commission's view, the appointment of CIRH-FM Halifax as the HRM's Designated Broadcast System is consistent with the station's nature of service, as set out in this condition of licence.

**Is there a technical need for the proposed amendments?**

11. The Commission expects that, when the licensee of a low-power, unprotected radio station files an application to change its operating class to that of a higher-powered, protected station, it should present compelling evidence that its authorized technical parameters are not adequate to provide the service as originally proposed. The Commission notes that the existing signal provided by the current low-power station is insufficient to adequately cover the HRM, and that the proposed increase to 560 watts would ensure that the heavily populated areas of the HRM would be encompassed in the primary service contour (3 mV/m), while the major roadways in the surrounding area would be encompassed in the secondary service contour (0.5 mV/m).
12. Further, the applicant stated that its listeners would likely be subjected to interference from the new community station approved by the Commission in Broadcasting Decision 2006-139 and soon expected to be on air, as that station will operate at 98.5 MHz (channel 253B1).<sup>1</sup> While the Commission notes that the co-location of both transmitters would reduce any potential interference caused by this station, it also notes that the new community station will operate at a much higher ERP of 2,350 watts, which would significantly increase the likelihood of interference. As a result, it can reasonably be concluded that the CIRH-FM signal could be materially degraded by the new community station, and that approving the licensee's request to use the frequency 107.7 MHz (channel 299A) would avoid these problems.
13. The Commission therefore considers that the applicant has provided compelling evidence with respect to a technical need for the proposed technical amendments.

**What impact would the proposed technical amendments have on incumbent stations?**

14. In evaluating applications to change the operating class of a low-power, unprotected radio station to that of a higher-powered, protected station, the Commission also considers the impact that the proposed technical amendment would have on the radio market. The Commission notes that, according to the station's condition of licence relating to its nature of service, CIRH-FM is not permitted to broadcast musical selections. Further, the licence for this service is currently subject to a condition limiting commercial content to no more than six minutes per clock hour, and the licensee has not requested an amendment to this condition of licence. Finally, no incumbent Halifax stations (or any recently authorized radio services in Halifax) opposed the proposed technical amendments set out in this application. For these reasons, the Commission concludes that the potential economic impact of the proposed technical changes on those stations would be minimal.

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<sup>1</sup> The Commission approved these technical parameters for this radio station in Broadcasting Decision 2007-467

### **Are other frequencies available in the Halifax market?**

15. As noted above, the applicant proposed to operate the service at 107.7 MHz. The Commission notes that this frequency may be capable of supporting a much larger undertaking, through the use of a directional antenna and through the displacement of allotments in neighbouring communities. The Commission also notes that 107.7 MHz is not the last available frequency capable of supporting a large undertaking in this market.

### **Would the change from a low-power unprotected service to a regular Class A protected service constitute a case of “back door” entry into the mainstream commercial radio market?**

16. The Commission notes that McGaw Consulting has applied to amend an existing licence. An application for a new licence is not required. In Broadcasting Public Notice 2002-61, the Commission indicated that it may issue calls for competing applications in cases where an existing low-power station files an application to change its operating class to one that has protected status under the Department of Industry’s (the Department’s) rules. The Commission’s concern in such a case is that approval of that application would permit the licensee to enter the mainstream commercial radio market by the “back door” in that it would be allowed to adopt a mainstream format while bypassing the competitive process. However, the discretion to issue a call rests with the Commission and depends on the circumstances at hand.
17. The Commission notes that CIRH-FM Halifax’s current technical parameters would not allow it to fulfil its responsibilities as the HRM’s Designated Broadcast System. Further, the Commission notes that the licensee is not requesting a greater portion of the available commercial advertising revenues and that the station, given its nature of service, is not permitted, by condition of licence, to broadcast musical selections. For these reasons, the Commission is of the view that the goal of McGaw Consulting’s application is not to avoid the usual process for obtaining a protected radio broadcasting licence, nor to penetrate the Halifax commercial radio market through a “back door” approach.

### **Conclusion**

18. In light of all of the above, the Commission **approves** the application by Jack McGaw Consulting Incorporated to amend the broadcasting licence for the English-language tourist information radio programming undertaking CIRH-FM Halifax, in order to change the frequency from 97.9 MHz (channel 250LP) to 107.7 MHz (channel 299A), and to change the authorized contours by increasing the ERP of 10 watts to an average ERP of 560 watts.
19. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Secretary General

**Related documents**

- *Use of the frequency 98.5 MHz by the new community radio station in Halifax*, Broadcasting Decision CRTC 2006-467, 6 September 2006
- *Community radio station in Halifax*, Broadcasting Decision CRTC 2006-139, 12 April 2006
- *Low-power tourist information service in Halifax*, Broadcasting Decision CRTC 2002-212, 29 July 2002

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