



## Broadcasting Decision CRTC 2009-631

Route reference: Broadcasting Public Notice 2008-90

Additional references: 2009-158, 2009-158-1, 2009-158-2, 2009-158-3

Ottawa, 7 October 2009

### Various applicants

Halifax, Nova Scotia

*Public Hearing in Halifax, Nova Scotia  
28 May 2009*

### Licensing of new radio stations in Halifax

*The Commission **approves** the application by HFX Broadcasting Inc. for a broadcasting licence to operate a new English-language commercial FM radio station in Halifax.*

*The Commission **denies** the remaining applications for broadcasting licences to operate commercial radio stations in Halifax.*

*The Commission also **denies** the application by Parrsboro Radio Society to change the authorized contours of the low-power community Type B radio programming undertaking CICR-FM Parrsboro.*

### Introduction

1. At a public hearing commencing 28 May 2009 in Halifax, Nova Scotia, the Commission considered three applications for new radio programming undertakings to serve Halifax, some of which are mutually exclusive on a technical basis. The applicants were as follows:
  - Acadia Broadcasting Limited;
  - Frank Torres, on behalf of a corporation to be incorporated; and
  - HFX Broadcasting Inc.
2. The Commission also considered an application by Parrsboro Radio Society to change the authorized contours of the low-power community Type B radio programming undertaking CICR-FM Parrsboro by increasing the effective radiated power (ERP) from 50 to 500 watts (non-directional antenna with an effective height of the antenna above average terrain of 24 metres). The station would continue to operate at 99.1 MHz (channel 256). The increase in power would change the status of CICR-FM from that of a low-power unprotected service to that of a regular Class A service. The licensee stated that the change to the authorized contours would enable the signal to cover the areas of Southampton, Canaan, Five Islands, Bass River, Advocate and Apple River.

3. As part of this process, the Commission received and considered interventions with respect to each application. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
4. After reviewing the positions of the parties to this proceeding, the Commission is of the view that the primary issues to be considered are the following:
  - Can the Halifax radio market sustain additional radio services without an undue negative impact on existing stations?
  - If so, which of the applications should be approved in light of the factors identified in Broadcasting Public Notice 2008-90 (the Call)?

### **The Halifax radio market and its ability to sustain new stations**

5. According to *FP Markets Canadian Demographics 2009*, the population of the Halifax Census Metropolitan Area is 390,000, with slightly more females (52%) than males.
6. The Halifax radio market currently consists of nine mainstream commercial stations. Of these, two stations, CJNI-FM, owned by Rogers Broadcasting Limited (Rogers), and CKHZ-FM, owned by HFX Broadcasting Inc. (HFX), began operations in the 2005-2006 broadcast year, under a News/Talk format and a Rhythmic/Dance Top 40 format respectively. In Broadcasting Decisions 2007-410 and 2008-326, the Commission approved separate applications by CTV Limited (CTV) and Rogers for broadcasting licences to operate new English-language FM radio programming undertakings in Halifax and Dartmouth to replace the AM stations CJCH and CFDR respectively. CJCH-FM launched in May 2008 under a Top 40 format, while the new Rogers station, CKLT-FM, launched in August 2009 under a Soft Adult Contemporary (AC) format. CTV also operates CIOO-FM Halifax under a Hot AC format. Finally, Newcap Inc. (Newcap) and Maritime Broadcasting System Limited (MBS) each operate two commercial FM stations in the market with the following formats: CFRQ-FM Dartmouth (Rock) and CKUL-FM Halifax (Classic Hits) and CHFX-FM (Country) and CHNS-FM Halifax (Classic Rock).
7. From 2004 to 2008, total revenues for the Halifax radio market grew at a healthy compound annual rate of 8.8%, compared to 6.5% for all of Canada over the same period.
8. In 2008, the Halifax radio market recorded a profit before interest and taxes (PBIT) margin of 15%, an increase relative to the 12% PBIT margin recorded in 2007, but below the 2008 national average for all radio markets of 21%. Between 2004 and 2006, the Halifax radio market recorded a strong average PBIT of 34%. The Commission considers that the lower PBIT margins for 2007 and 2008 are likely a reflection of the fact that the market was adjusting to the entry of two new stations (CJNI-FM and CKHZ-FM), as well as to the above-mentioned conversions to the FM band and format changes.

9. The Commission notes the positive outlook for the Halifax market, as the Conference Board of Canada (CBOC) is estimating gross domestic product (GDP) growth of 1.4% in 2009 and average annual GDP growth of 2.6% between 2010 and 2013. The CBOC is also expecting retail sales in the Halifax market, a key indicator of potential growth in advertising, to rebound from a modest decline of 1.5% in 2009 to an estimated increase of 3.6% in 2010, with retail sales growth expected to continue at a strong average annual rate of 5.1% for the period from 2011 to 2013.
10. Based on the evidence that the Halifax radio market is healthy and given the projected economic growth in the market, the Commission is satisfied that the Halifax radio market could support the licensing of one new commercial radio station without experiencing an undue negative impact.

### **Assessment of the applications**

11. Having determined that there is room in the Halifax radio market for one additional service, the Commission has considered the applications to serve Halifax in light of the factors relevant to the evaluation of the applications outlined in the Call, which include the following factors set out in Decision 99-480:
  - the quality of the application;
  - the diversity of news voices; and
  - the competitive state of the radio market and level of market impact.
12. Details from the applications are set out in Appendix 1 to this decision.
13. Having considered all of the applications in light of the criteria set out above, the Commission finds that the proposal by HFX best meets the needs of the Halifax radio market. In the Commission's view, the proposal by HFX for a new Adult Album Alternative station blending Classic Rock, 70s Pop Rock and Modern Rock targeted to listeners between the ages of 35 and 64 (skewed to females 35-54) would enhance programming diversity and would address an underserved demographic in the market. The Commission has also taken into account HFX's presence and experience as a broadcaster in the market, where it currently operates CKHZ-FM Halifax. The Commission considers that approval of HFX's application would contribute to the competitive state of the market, by providing the licensee with the synergies needed to compete with the existing two FM operations of CTV, MBS, Newcap and Rogers.
14. HFX committed to devote 40% of its category 2 (Popular music) selections to Canadian selections in each broadcast week, which exceeds the regulatory minimum. HFX also committed to devote 10% of all musical selections in each broadcast week to musical selections drawn from category 3 (Special Interest Music). Finally, the applicant committed to broadcast 126 hours of local programming and 17 hours and 19 minutes of spoken word programming per broadcast week, including 3 hours and 41 minutes of news.

15. All commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes that HFX committed to devote, over and above the basic annual contribution to CCD, a total of \$2,075,325 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% would be devoted to FACTOR. The remainder would be directed to eligible initiatives such as contributions to the University of King's College for an annual grant to a student in journalism and to Acadia University and Dalhousie University for annual grants to a student in music.

### **Determinations**

16. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Halifax:

**HFX Broadcasting Inc.**

*Application 2008-1285-1, received 24 September 2008*

The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.

17. In light of the above, the Commission **denies** the two remaining applications for broadcasting licences to operate radio programming undertakings in Halifax, as set out below:

**Acadia Broadcasting Limited**

*Application 2008-1644-9, received 8 December 2008*

**Frank Torres, on behalf of a corporation to be incorporated**

*Application 2008-1645-7, received 8 December 2008*

18. With respect to Parrsboro Radio Society's application for a technical amendment, the Commission notes that it has received similar applications involving low-power stations seeking protected status on a number of occasions. In considering the merits of such applications, the Commission has indicated that when the licensee of a low-power station files an application to change its operating class to that of a higher-powered, protected station, it should present compelling evidence that its original authorized technical parameters are not adequate to provide the service as originally proposed. In the present case, the applicant's rationale for its proposed power increase is based on the station's apparent inability to provide a signal to several communities in the region of Parrsboro. The Commission notes, however, that the communities that the applicant wishes to serve through the proposed power increase are not encompassed by the proposed contours and would represent communities which the applicant was never licensed to serve. Accordingly, the Commission also **denies** the following application to change the authorized contours of the low-power community Type B radio programming undertaking CICR-FM Parrsboro by increasing the ERP from 50 to 500 watts:

**Parrsboro Radio Society**

*Application 2009-0374-1, received 18 February 2009*

Secretary General

**Related documents**

- *Call for applications* – Notice of consultation, Broadcasting Public Notice CRTC 2008-90, 8 October 2008
- *Exchange of radio assets between Newcap Inc. and Rogers Broadcasting Limited and conversion of CIGM Sudbury and CFDR Dartmouth to the FM band*, Broadcasting Decision CRTC 2008-326, 24 November 2008
- *CJCH Halifax – Conversion to FM band*, Broadcasting Decision CRTC 2007-410, 30 November 2007
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

*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>.*

# Appendix 1 to Broadcasting Decision CRTC 2009-631

## Details from the applications for new broadcasting licences for FM radio programming undertakings to serve Halifax, Nova Scotia

Applicant	Details from the application
<b>Acadia Broadcasting Limited</b> Application 2008-1644-9	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 105.1 MHz (channel 286C), effective radiated power (ERP) of 45,000 watts <b>Format:</b> Adult Album Alternative (4% category 3*) <b>Target audience:</b> 25-54 (skewing females 35-44) <b>Canadian content (music):</b> 40% category 2** <b>Local programming per broadcast week***:</b> 126 hours <b>Spoken word programming per broadcast week***:</b> 11 hours, 38 minutes <b>News**** programming per broadcast week***:</b> 6 hours, 57 minutes <b>Canadian content development contribution (over basic annual contribution):</b> \$700,000 over 7 broadcast years <b>Emerging artists programming per broadcast week***:</b> 20% of Canadian content
<b>Frank Torres, on behalf of a corporation to be incorporated</b> Application 2008-1645-7	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 99.1 MHz (channel 256B), average ERP of 14,223 watts <b>Format:</b> Blues (20% category 3) <b>Target audience:</b> 25-54 (core 25-34) <b>Canadian content (music):</b> 40% category 2; 40% category 3 weekly <b>Local programming per broadcast week:</b> 120 hours <b>Spoken word programming per broadcast week:</b> 22 hours, 34 minutes <b>News programming per broadcast week:</b> 5 hours, 32 minutes <b>Canadian content development contribution (over basic annual contribution):</b> \$1,466,750 over seven years <b>Emerging artists programming per broadcast week:</b> 15% of musical selections
<b>HFX Broadcasting Inc.</b> Application 2008-1285-1	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 105.1 MHz (channel 286C), average ERP of 32,000 watts <b>Format:</b> Adult Album Alternative (10% category 3) <b>Target audience:</b> 35-64, core 35-54 (slight female skew) <b>Canadian content (music):</b> 40% category 2 weekly <b>Local programming per broadcast week:</b> 126 hours <b>Spoken word programming per broadcast week:</b> 17 hours, 19 minutes <b>News programming per broadcast week:</b> 3 hours, 41 minutes <b>Canadian content development contribution (over the basic annual contribution):</b> \$2,075,325 over seven consecutive broadcast years <b>Emerging artists programming per broadcast week:</b> 16% of Canadian content

\* Percentages shown for category 3 musical selections (Special Interest Music) are for the broadcast week. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

\*\* Unless otherwise indicated, percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6:00 a.m. to 6:00 p.m., Monday to Friday. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

\*\*\* The definition of "broadcast week," as it relates to local, spoken word and news programming, is the same as that set out in the *Radio Regulations, 1986*.

\*\*\*\* As set out in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, "news" excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

## Appendix 2 to Broadcasting Decision CRTC 2009-631

**HFX Broadcasting Inc.**

*Application 2008-1285-1, received 24 September 2008*

### **Terms, conditions of licence, expectation and encouragement**

**Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Halifax, Nova Scotia**

#### **Terms**

The licence will expire 31 August 2016.

The station will operate at 105.1 MHz (channel 286C) with an average effective radiated power of 32,000 watts.

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.

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.

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 7 October 2011. 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.

#### **Conditions of licence**

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(8) of the *Radio Regulations, 1986* (the Regulations), as amended from time to time, in any broadcast week, devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

For the purposes of this condition, the terms “broadcast week,” “broadcast day”, “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the Regulations.

3. The licensee shall, in any broadcast week, devote a minimum of 10% of all musical selections broadcast to musical selections drawn from content category 3 (Special Interest Music).
4. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, contribute \$2,075,325 over seven consecutive broadcast years to the promotion and development of Canadian content, to be allotted each year as follows:

Year 1	\$300,000
Year 2	\$299,000
Year 3	\$297,940
Year 4	\$296,300
Year 5	\$295,105
Year 6	\$293,870
Year 7	\$293,110

The licensee shall allocate the following amounts of its additional annual CCD contribution to FACTOR:

Year 1	\$60,000
Year 2	\$59,800
Year 3	\$59,588
Year 4	\$59,260
Year 5	\$59,021
Year 6	\$58,774
Year 7	\$58,622

The remaining amounts of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

## **Expectation**

### **Cultural diversity**

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

## **Encouragement**

### **Employment equity**

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