



## Broadcasting Decision CRTC 2006-48

Ottawa, 24 February 2006

**Rogers Broadcasting Limited**  
Fraser Valley, British Columbia

*Application 2005-0785-8*  
*Broadcasting Public Notice CRTC 2005-90*  
*15 September 2005*

### **CHNU-TV Fraser Valley – Licence amendments**

*In this decision, the Commission **denies** an application by Rogers Broadcasting Limited for flexibility in the scheduling of balance programming, and flexibility in the specific faith groups that CHNU-TV's balance programming must be targeted to.*

### **Background**

1. CHNU-TV is an English-language television programming undertaking licensed in 2000 to serve the Fraser Valley Region of British Columbia. Its mandate is to provide religious programming that is primarily Christian in orientation, but also to reflect other perspectives and religions through balance programming. In *CHNU-TV Fraser Valley, CIIT-TV Winnipeg – Acquisition of assets, new transmitter in Victoria, and new licences*, Broadcasting Decision CRTC 2005-207, 20 May 2005 (Decision 2005-207), Rogers Broadcasting Limited (Rogers) acquired CHNU-TV from Trinity Television Inc. In Decision 2005-207, consistent with the applicant's commitments, the Commission imposed the following condition of licence with respect to the balance programming to be broadcast on CHNU-TV:
  3. The licensee shall broadcast a minimum of 18 hours per week of balance programming, of which 12 hours shall be Canadian and broadcast between 6:00 p.m. and 11:00 p.m. At least 15.5 hours of weekly balance programming shall be original first-run programming.
    - a) Balance programming is programming devoted to providing differing views on issues and events presented during the station's primary programming, which address matters from a Christian perspective, and includes the presentation of different religions.

b) At least 7.5 hours of the 18 hours of balance programming referred to above shall be faith-specific programming produced by individual non-Christian groups. These programs will include presentations from the Buddhist, Hindu, Jewish, Muslim and Sikh perspectives and be broadcast on weekdays between 9:30 p.m. and 10:00 p.m., and on Saturdays from 8:30 a.m. to 1:30 p.m.

## **The application**

2. On 4 July 2005, the Commission received an application by Rogers to amend the broadcasting licence of CHNU-TV (OMNI BC)<sup>1</sup>, by replacing condition of licence 3b) set out above with the following:

At least 7.5 hours of the 18 hours of balance programming referred to above shall be faith-specific programming produced by individual non-Christian groups. These programs will include presentations from a minimum of five different non-Christian faith communities every week, and be broadcast on weekdays between 6:00 p.m. and 11:00 p.m., and on Saturdays and Sundays from 8:30 a.m. to 1:30 p.m.

3. Rogers submitted that the flexibility afforded by a reference to a minimum number of non-Christian faith communities, rather than specifically named faith groups would not have an impact on the programming perspective nor on the diversity offered by OMNI BC. Rogers also stated that the proposed amendment would allow it to better serve smaller faith groups that may, according to the licensee, have more acute need of representation on television than the large faith groups identified in the current condition of licence.
4. The licensee also proposed to extend the hours during which balance programming must be scheduled, and offered assurances that faith-specific programming would continue to occupy strong positions on OMNI BC's broadcast schedule.

## **Interventions**

5. CHUM Limited (CHUM) and CanWest MediaWorks Inc. (CanWest), while not opposed to Rogers' proposal to broaden the non-Christian groups to which OMNI BC may direct its balance programming, did oppose the proposal for scheduling flexibility.
6. In CHUM's view, additional flexibility in scheduling would allow Rogers to "bury" the mandated balance programming on weekend mornings, thereby allowing a solid prime-time block of foreign syndicated programming to be broadcast on weeknight evenings. CHUM further argued that, by airing a schedule consisting mainly of mainstream syndicated programming without contextualization, Rogers is in direct contravention of CHNU-TV's conditions of licence.

---

<sup>1</sup> CHNU-TV was formerly branded as NOWTV, and is now known as OMNI BC.

7. In CanWest's view, the application for flexibility in scheduling is premature, given that Rogers submitted its application very shortly after the publication of Decision 2005-207. CanWest noted that, at the 28 February 2005 Public Hearing in Vancouver, at which the Commission considered Rogers' application for the acquisition of CHNU-TV, Rogers "absolutely committed" to condition of licence 3b. CanWest further argued that Rogers had not provided evidence that the amendment is required, nor that the affected non-Christian groups had requested the change.
8. CanWest also echoed CHUM's concern that the proposed scheduling flexibility would allow Rogers to broadcast all of its balance programming on Saturday and Sunday mornings, periods which, according to CanWest, have a low average audience size. CanWest was of the view that Rogers would prefer to take advantage of evening weekday programming times to broadcast programming which would be more traditionally competitive with conventional television stations in the market.
9. Multivan Broadcast Limited Partnership<sup>2</sup> (Multivan), licensee of the multilingual ethnic television station CHNM-TV Vancouver (also known as Channel M), opposed both of Rogers' requests. With respect to Rogers' proposal to broaden the non-Christian groups to which OMNI BC must direct balance programming, Multivan expressed the view that it "would not seem unreasonable to expect that programming reflective of" the specified groups should be broadcast on a religious programming service.
10. With respect to the request for scheduling flexibility, Multivan was of the view that Rogers has already received additional scheduling flexibility, since in Decision 2005-207, the time frame for the evening broadcast of balance programming was extended by one hour.
11. Multivan further contended that Rogers is not currently meeting its mandate as a religious programming service, and that the requisite balance programming for the time period 9:30 p.m. to 10:00 p.m. is not being provided.

#### **Licensee's replies**

12. In its reply to the three interventions, Rogers stated that the interveners had "mischaracterized" its application, and reaffirmed its commitment to balance programming. Rogers indicated that it sought only the removal of "unnecessarily specific requirements". The licensee was of the view that there is no precedent for such a specific scheduling requirement, and that no other broadcaster is subject to such a requirement.

---

<sup>2</sup> Multivan Broadcast Corporation (the general partner), and 650504 B.C. Ltd., Douglas M. Holtby, Geoffrey Y.W. Lau, Robert H. Lee, Joseph Segal and RCG Forex Service Corp. (the limited partners), carrying on business as Multivan Broadcast Limited Partnership

13. In response to suggestions that it would marginalize its balance programming to weekend mornings, Rogers noted that another condition of CHNU-TV's licence also requires it to carry at least 12 hours of balance programming between the hours of 6:00 p.m. and 11:00 p.m. each week. To eliminate the concerns expressed by the interveners with respect to the scheduling flexibility, Rogers proposed to remove the reference to Sundays, and to broadcast the 7.5 hours of balance programming weekly. Rogers stated that it would be prepared to accept the following revised condition of licence:

At least 7.5 hours of the 18 hours of balance programming referred to above shall be faith-specific programming produced by individual non-Christian groups. These programs will include presentations from a minimum of five different non-Christian faith communities every week, and be broadcast weekly between 6:00 p.m. and 11:00 p.m., and on Saturdays from 8:30 a.m. to 1:30 p.m.

14. With respect to Multivan's comment on its request to delete the names of specific faith groups to be served, Rogers noted that the licence of Multivan's station, Channel M, is subject to a requirement that specifies only the minimum numbers of groups and languages that must be served by the station, and argued that it is seeking the same flexibility.
15. In regard to allegations from interveners that Rogers is in non-compliance with other conditions of OMNI BC's licence, Rogers stated that such comments were outside of the scope of the limited and technical nature of this application.

### **Commission's analysis and determination**

16. In its analysis of each of Rogers' two requests, the Commission considered whether the broadening of the non-Christian groups to which Rogers may direct its balance programming, and the granting of any additional flexibility in the scheduling of that programming would be consistent with OMNI BC's nature of service and mandate as a religious programming service.

### **Flexibility in the scheduling of balance programming**

17. In *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (the Religious Policy), the Commission confirmed that it remains a principal tenet of the Canadian broadcasting system that licensees should provide balance on matters of public concern. The Commission's balance policy seeks to ensure that a reasonably consistent viewer or listener will be exposed to a spectrum of differing views on issues of public concern, including religion, within a reasonable period of time. In order to avoid interference with freedom of expression, however, the Commission has permitted broadcasters great flexibility in determining which issues are of public concern, and how balance can best be achieved.

18. As noted in the Religious Policy, while a token expression of alternate points of view is not acceptable, the provision of “equal time” has never been required. It has been the Commission’s usual practice to be most concerned with the broadcast of balance programming during peak viewing times. As stated in *Introductory Statement to Decisions CRTC 95-849 to 95-855 – Denial of Applications for Broadcasting Licences to Carry on New, Religious Television Programming Undertakings at Various Locations in Western Canada*, Public Notice CRTC 1995-198, 24 November 1995:

A heavy reliance on the repeat broadcast of balance programs and ... the absence of plans to schedule any balance programs during the evening hours when the largest potential audiences are available, raise concerns about whether such programming could be truly effective in providing balance ...

19. The Commission notes that Rogers’ revised proposal with respect to scheduling flexibility would provide some assurance that a portion of OMNI BC’s faith-specific balance programming would continue to appear during peak viewing periods. However, the Commission also notes that, while adhering to the proposed condition, it would be possible for Rogers to schedule 2.5 hours of such programming entirely on one weeknight evening, and remain in compliance with the revised condition of licence proposed in its reply to interventions. In the view of the Commission this would be contrary to the spirit of the Religious Policy and the commitment made by Rogers at the time of the February 2005 Public Hearing.
20. The Commission is of the view that a religious programming service should offer balance programming during peak viewing periods throughout the broadcast week. Without safeguards to ensure a prominent place in the broadcast schedule, balance programming is at risk of being relegated to token expressions of alternate points of view.

#### **References to specific faith groups**

21. With respect to Rogers’ request to delete the references to specific non-Christian faith groups to which balance programming must be targeted, in *Introductory Statement to Decisions CRTC 96-773 and 96-774 – Denial of Applications for Broadcasting Licences to Carry on New, Religious Television Programming Undertakings at Toronto and Hamilton/Burlington*, Public Notice CRTC 1996-152, 4 December 1996 (Public Notice 1996-152), the Commission stated that it would be essential that applications proposing to serve large urban centres include firm commitments for the participation of other faith groups in the production and provision of programming. In Public Notice 1996-152, the Commission also stated:

In cases where applicants propose to provide air-time to various faith groups, letters of commitment should be submitted from these groups, documenting their willingness to participate in the provision of programs, as well as the amount and type of programming to be supplied ... Proposals involving the acquisition of balance programs should include a description of the programs, the number of hours of programming to be acquired, and written confirmation from the distributors of this programming that it is available for acquisition ... Applicants should also submit letters of commitment from other faith groups confirming their willingness to participate on the consultative programming committees ...

22. With the present application, Rogers filed no information documenting the commitment of faith groups other than those listed in the present condition of licence to provide programming for OMNI BC in the event the Commission were to delete the reference to the five faith groups now specified. In addition, Rogers provided no information with respect to the amount or type of programming to be acquired from any other faith group. Neither has Rogers provided evidence of consultation, through its Local Advisory Board, with any other faith groups.
23. The Commission finds that Rogers has provided no evidence to support the necessity of deleting the reference to the five non-Christian faith groups to be served by OMNI BC's balance programming.
24. The Commission notes that the current condition of CHNU-TV's licence would not prohibit Rogers from offering programming from non-Christian faith groups other than those listed in condition of licence 3b, so long as the specified groups continue to be served.

### **Conclusion**

25. Given that Rogers accepted condition of licence number 3 in the context of its acquisition of CHNU-TV, and that it requested the amendment of that condition a very short time following the publication of the decision approving the acquisition, the Commission is of the view that Rogers has not operated CHNU-TV for a period of time sufficient to assess whether the current conditions of licence are inappropriate.
26. In the circumstances, the Commission **denies** the application by Rogers Broadcasting Limited to amend the broadcasting licence of CHNU-TV by replacing condition of licence number 3 in order to increase the flexibility in the scheduling of balance programming, and to delete the reference to specific non-Christian faith communities to be served by CHNU-TV's balance programming.

27. With respect to comments made by interveners regarding alleged non-compliance by Rogers in regards to programming matters, the Commission is not prepared to make a ruling based on the record of this proceeding. Accordingly, the Commission will shortly issue a letter requesting that Rogers provide comments regarding the submissions made in this proceeding concerning its alleged non-compliance with the terms of CHNU-TV's licence.

Secretary General

*This decision 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>*