



## Broadcasting Decision CRTC 2009-102

Route reference:

Broadcasting Notice of Public Hearing 2008-13

Additional reference:

2008-13-3

Ottawa, 2 March 2009

### **Four Senses Entertainment Inc.**

Whistler, British Columbia

*Application 2008-0997-3, received 18 July 2008*

*Public Hearing in the National Capital Region*

*16 December 2008*

### **English-language FM radio station in Whistler**

*The Commission **approves** an application for a broadcasting licence to operate an English-language FM radio station in Whistler, British Columbia.*

#### **The application**

1. The Commission received an application by Four Senses Entertainment Inc. (Four Senses) for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Whistler, British Columbia.
2. Four Senses is a corporation owned by Mr. Barry Duggan, Mr. Donovan Tildesley, Mr. Hugh Tildesley and Mr. Robert Wilson, all Canadians pursuant to the *Direction to the CRTC (Ineligibility of Non-Canadians)*, with 45%, 22.5%, 22.5% and 10% respectively of all the issued and outstanding voting shares of Four Senses. Four Senses is controlled by its Board of Directors pursuant to a shareholders' agreement.
3. The new station would offer a Hot Adult Contemporary (AC) music format featuring songs from the late 80s and 90s. The new station would also provide 49 hours of local programming, including 11 hours per broadcast week of local spoken word programming relating to news, weather, sports, road conditions, and local community events.
4. The Commission received an intervention in opposition to the application from Rogers Broadcasting Limited (RBL), licensee of CISW-FM Whistler and CISQ-FM Squamish (collectively, Mountain FM).
5. After reviewing the application, the intervention and the applicant's reply, the Commission considers that the primary issue to be determined is whether the Whistler radio market can sustain an additional station without an undue negative impact on RBL's Mountain FM operation.

## Commission's analysis and determinations

6. RBL submitted that its ability to continue to access local advertising in the Whistler market is a critical component of its Mountain FM operation and that the licensing of a new commercial station would compromise its ability to maintain the level of service it currently provides to Whistler and Squamish. This effect would be exacerbated, according to RBL, if the licensing of the proposed station meant that CISW-FM Whistler were to lose the exception that allows it to solicit such advertising while devoting less than one-third of its programming to local programming. RBL further submitted that Four Senses' proposal for a stand-alone operation reflects a lack of understanding of the Whistler market, that the applicant's revenue and expenditure projections are unrealistic and that there are questions about the quality of the local programming it would be able to provide. In this respect, RBL noted that most of the tuning to its Mountain FM stations is along the highway corridor between Whistler and Squamish and that its advertising buys are heavily booked on Friday nights, Saturday mornings and Sunday nights. While RBL did not dispute the fact that Whistler is a popular tourist and recreation destination, particularly on weekends, it submitted that this does not translate into any significant increase in the potential tuning audience for local radio.
7. Contrary to the view expressed by RBL, Four Senses submitted that tourists do listen to FM radio, that its proposed station could be viable without serving both Squamish and Whistler and that its revenue projections were supported by its Harris-Decima research study. The applicant also noted its plans to introduce 49 hours of local programming to Whistler.
8. The Commission notes that CISW-FM Whistler currently operates in a single-station market as defined in Public Notice 1993-121. Accordingly, it is exempt from the requirement that in order to solicit or accept local advertising, one-third of its programming must be local. As set out in Broadcasting Decision 2006-257, the licensee is required to broadcast no less than 3 hours each week of station-produced programming on CISW-FM. CISW-FM also receives programming from CISQ-FM Squamish. RBL stated that CISW-FM broadcasts 6 hours of locally produced Whistler programming each week.
9. Given the limited amount of local Whistler programming currently available, the Commission considers that Four Senses' proposed Hot AC service would add local programming diversity to the market through the introduction of a new radio voice, as well as the broadcasting of 49 hours of local programming. The Commission is also of the view that the introduction of a new local service in Whistler would serve to repatriate out-of-market tuning to Vancouver stations whose signals are available through local transmitters. Finally, considering that CISW-FM contributes only a relatively small portion of the combined revenue of CISW-FM and CISQ-FM, the Commission concludes that the licensing of Four Senses' proposed Whistler FM station would not have an undue negative impact on RBL's Mountain FM operation.

10. In light of the above, the Commission **approves** the application by Four Senses Entertainment Inc. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Whistler, British Columbia. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Canadian content development**

11. The Commission reminds the licensee that it 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 Four Senses indicated that, in addition to the required basic annual contributions, it would, by condition of licence, contribute a total of \$21,593 to CCD over seven consecutive broadcast years following the commencement of operations. Of this amount, 20% would be devoted to FACTOR, with the remainder to be directed to a summer concert, an eligible CCD initiative.

Secretary General

### **Related documents**

- *CISW-FM Whistler and its transmitter CISP-FM Pemberton – Licence renewal*, Broadcasting Decision CRTC 2006-257, 22 June 2006
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Local programming policy for FM radio – Definition of a single-station market*, Public Notice CRTC 1993-121, 17 August 1993

*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 to Broadcasting Decision CRTC 2009-102

## Terms, conditions of licence and encouragement

### Terms

#### Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Whistler, British Columbia

The licence will expire 31 August 2015.

The station will operate at 101.5 MHz (channel 268A) with an average effective radiated power of 881 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 2 March 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 AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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, make annual contributions to CCD totalling \$21,593 over seven consecutive broadcast years and allotted each year as follows:

Year 1	\$1,786
Year 2	\$2,286
Year 3	\$2,694
Year 4	\$3,204
Year 5	\$3,298

Year 6	\$3,872
Year 7	\$4,453

Of these amounts, 20% shall be allocated to FACTOR. The remainder 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.

### **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 the management of its human resources.