



## Broadcasting Decision CRTC 2012-697

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Route reference: 2012-475

Ottawa, 20 December 2012

**Rogers Broadcasting Limited**  
Montréal, Quebec

*Application 2012-0756-4, received 19 June 2012*  
*Public hearing in the National Capital Region*  
*7 November 2012*

### **CJNT-DT Montréal – Acquisition of assets**

*The Commission **approves** the application by Rogers Broadcasting Limited for authority to acquire from 2209005 Ontario Inc. the assets of CJNT-DT, an ethnic television programming undertaking in Montréal and for a broadcasting licence to continue the operation of the station. The Commission also **approves** the conversion of CJNT-DT into an English-language conventional television station. The terms and **conditions of licence** are set out in the appendix to this decision.*

#### **Introduction**

1. The Commission received an application by Rogers Broadcasting Limited (Rogers) for authority to acquire from 2209005 Ontario Inc. (2209005) the assets of CJNT-DT, an ethnic television programming undertaking in Montréal and for a broadcasting licence to continue the operation of the station. Rogers also proposed to convert CJNT-DT into an English-language conventional television station.
2. Rogers is owned and controlled by Rogers Communications Inc.
3. Rogers stated that it was prepared to commit to Canadian programming expenditure and programs of national interest requirements consistent with those currently imposed on its Citytv services.
4. In Broadcasting Decision 2012-696, also issued today, the Commission approved the application by 4517466 Canada Inc. (4517466) for a multilingual ethnic television programming undertaking in Montréal to be known as ICI (International Channel/Canal International). As stated in Broadcasting Notice of Consultation 2012-475, the Commission decided to consider the two applications jointly because they could be considered complementary.

5. The Commission received interventions in support of this application, as well as comments from a number of parties. 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."
6. After reviewing the application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
  - whether Rogers' proposal to convert CJNT-DT into an English-language television station is in the public interest;
  - assessment of the proposed tangible benefits package;
  - conditions of licence and expectation; and
  - other matters.

### **Proposal to convert CJNT-DT into an English-language television station**

7. Rogers requested a broadcasting licence to operate CJNT-DT as an English-language conventional television station. In support of its application, Rogers argued that under its current conditions of licence, the operation of CJNT-DT as an ethnic station is not viable in the Montréal market.
8. As part of its proposal for an English-language television station, Rogers indicated that it would offer unique local programming in the form of a morning show that would air from 6 a.m. to 9 a.m. and that would be oriented towards the Montréal community. This program would offer a mix of local news, information and entertainment programming focused on the Montréal market. Rogers also proposed a weekly half-hour sports program dedicated to local professional, amateur, university, CÉGEP and junior league sports in the greater Montréal area.
9. Rogers argued that the conversion of CJNT-DT into an English-language television station would give Citytv an over-the-air presence in Montréal and as such would represent an important step towards addressing its lack of national coverage. In this respect, Rogers submitted that national coverage was necessary to compete with larger, national over-the-air broadcasting networks. Finally, Rogers stated that its proposal would allow the repatriation of viewing from U.S. services, resulting in more advertising revenue flowing into the Canadian broadcasting system.
10. Although Shaw Communications Inc. (Shaw) indicated in its comment that it did not oppose Rogers' application to acquire the assets of CJNT-DT, it did raise concerns regarding the Montréal English-language television market's present ability to absorb another full-service conventional television station. For its part, Bell Media Inc. (Bell) indicated that in the absence of a call for applications it was not possible to know if Rogers' proposal to convert CJNT-DT to a mainstream English-language station represented the best proposal for Montréal's audiences.

## Commission's analysis and decision

11. As stated in Broadcasting Decision 2012-574, the Commission must be convinced that approval of a change in ownership of a broadcasting undertaking is in the public interest. The Commission's decision on whether a proposed transaction is in the public interest takes into account a wide set of factors as reflected in the *Broadcasting Act*, including the nature of programming and service to the communities involved, as well as regional, social, cultural, economic and financial considerations. The Commission also considers all relevant policies.
12. The Commission notes that Rogers proposed to broadcast 15.5 hours of local programming in each broadcast week. This level exceeds the 14 hours required of conventional television stations operating in metropolitan television markets under the standard conditions of licence set out in Broadcasting Regulatory Policy 2011-442. The Commission also notes that the proposed daily morning program would provide Montréal's English-language minority community with programming that is not currently in existence in the Montréal market and that the presence of a local Citytv station would increase the diversity of voices in the market.
13. The Commission further notes that it approved the application by 4517466 for a multilingual ethnic television programming undertaking in Montréal in Broadcasting Decision 2012-696. With respect to ethnic communities in Montréal, the Commission considers that ICI's programming should fill the void that would result from the conversion of CJNT-DT to an English-language television station.
14. With regard to Bell's intervention, the Commission notes that it has not received an application for an English-language television station in Montréal for several years. Furthermore, following the publication of Broadcasting Notice of Consultation 2012-475, no broadcaster expressed an interest in operating a new English-language television station in the Montréal market. The Commission also notes that Rogers' proposal does not require the use of a new channel and that channels remain available for this market.
15. Finally, the Commission acknowledges the comments made by Shaw regarding the market's ability to absorb an additional conventional English-language television station. The Commission is aware of Shaw's concerns regarding the potential for increased competition in the local market, particularly given that Rogers' proposed morning show could compete directly with Shaw's planned morning show for CKMI-DT. However, the Commission considers that the benefits derived by Shaw from operating a national network mitigate the impact of added competition in the Montréal market. The Commission is also of the view that there would be considerable public benefit associated with the addition of diversity through the introduction of a new local English-language station in the market.
16. Furthermore, the Commission notes that this application raises no concerns with respect to any of its policies. In fact, approval of the application would enhance the diversity of voices available in the Montréal market.

17. In light of the above, the Commission is satisfied that the conversion of CJNT-DT into an English-language television station will have a positive impact on the Canadian broadcasting system and the Montréal market in particular.

### **Assessment of the proposed tangible benefits package**

18. As the Commission does not solicit competing applications for authorization to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction (see Public Notice 1999-97).

19. As set out in Public Notice 1999-97, for transfers of ownership or control involving television broadcasting undertakings, the Commission generally expects applicants to make clear and unequivocal commitments to provide tangible benefits representing 10% of the value of a transaction, as accepted by the Commission. Such benefits should be directed to the communities served and to the broadcasting system as a whole. Further, in order to be accepted as a benefit, the proposed expenditure must be incremental to expenditures that would generally be considered part of the ongoing normal responsibilities and regulatory requirements of the existing licensee.

20. Rogers proposed a tangible benefits package representing 10% of the value of the transaction, to be allocated equally over five years. Rogers proposed that the tangible benefits be directed to ICI should the Commission accept the proposal to convert CJNT-DT into an English-language service. Rogers was of the view that this benefits package would provide critical support to ICI during its first licence term.

21. Based on the terms of the Asset Purchase Agreement, the purchase price of this transaction is \$10.3 million.

22. Consistent with its general practice, the Commission includes the value of the leases assumed by Rogers. Accordingly, the revised value of the transaction amounts to \$10,670,460, as follows:

#### **Value of the transaction**

Purchase price	\$10,300,000
Assumed leases	\$ 370,460
<b>Total</b>	<b>\$10,670,460</b>

23. The Commission notes the requests made by the Canadian Media Production Association and the Quebec English-language Production Council that the benefits be made available to independent English-language production in Quebec. However, the Commission is satisfied that directing these benefits to support the launch and

operation of the new ICI station is appropriate in the context of this application and consistent with the historical role of CJNT-DT in the Montréal market. The Commission notes that the tangible benefits proposed are incremental to the normal expenditures made by Rogers in relation to its other requirements and beneficial to the Montréal communities as well as the Canadian broadcasting system as a whole. Accordingly, Rogers' proposal is consistent with the Commission's policies and general practices.

24. In light of the above, the Commission considers that Rogers' proposal to direct its tangible benefits of \$1,067,046 to ICI, spread equally over five years, is appropriate.

### **Conditions of licence and expectation**

25. Rogers submitted that it was prepared to accept conditions of licence identical to those applicable to its existing Citytv stations, as set out in Appendix 2 to Broadcasting Decision 2011-447 and amended in Broadcasting Decision 2012-598. As mentioned above, Rogers also indicated that it would offer an English-language daily morning program and a weekly half-hour sports program focusing on the greater Montréal area. **Conditions of licence** to this effect are set out in the appendix to this decision.
26. The Commission also notes that Rogers committed to devote a minimum of 3% of the total programming expenditures of all conventional television stations from the Rogers Media group to the production of English-language programs by independent production companies in Quebec. The Commission expects Rogers to abide by its commitment.

### **Other matters**

27. The Commission notes that the current licensee of CJNT-DT has failed to comply with section 10(3) of the *Television Broadcasting Regulations, 1987* (the Regulations), which states that "except as otherwise provided under a condition of its licence, a licensee shall furnish to the Commission, within 30 days after the end of each month, the program log or machine-readable record of the licensee for that month, together with a certificate signed by or on behalf of the licensee attesting to the accuracy of the contents of the log or record." The Commission further notes that without these program logs it is unable to assess whether CJNT-DT is in compliance with its regulatory obligations.
28. The Commission notes that the failure to comply with the above-noted requirements occurred under 2209005's ownership of the station and that the company submitted that its logs submission will be finalized by 15 February 2013. The Commission expects the issue to be resolved by 2209005 by that date. However, as part of the current process, the Commission received assurances from Rogers that should its application be approved, it would immediately implement practices and protocols to ensure that the situation is rectified. The Commission is satisfied that Rogers will abide by its obligations in the operation of CJNT-DT.

29. The Commission reminds all licensees of their obligation to abide by the requirements relating to program logs set out in the Regulations. Failure by a licensee to act in accordance with these requirements could result in the consequences described in Broadcasting Information Bulletin 2011-650. The Commission expects all licensees and their affiliates to be in compliance with their regulatory obligations before filing new applications with the Commission.

## Conclusion

30. In light of all of the above, the Commission **approves** the application by Rogers Broadcasting Limited for authority to acquire from 2209005 Ontario Inc. the assets of CJNT-DT. The Commission also **approves** the conversion of CJNT-DT into an English-language conventional television station.

31. Upon surrender of the current licence issued to 2209005 Ontario Inc., a broadcasting licence will be issued to Rogers Broadcasting Inc., subject to the terms and **conditions of licence** set out in the appendix to this decision.

Secretary General

## Related documents

- *Ethnic television station in Montréal*, Broadcasting Decision CRTC 2012-696, 20 December 2012
- *Rogers Media Inc. – Licence amendments*, Broadcasting Decision CRTC 2012-598, 30 October 2012
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2012-574, 18 October 2012
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-475, 5 September 2012
- *Procedures for television services in non-compliance with logging requirements*, Broadcasting Information Bulletin CRTC 2011-650, 18 October 2011
- *Rogers Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-447, 27 July 2011
- *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999

*\*This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2012-697

### Terms and conditions of licence for the English-language conventional television programming undertaking CJNT-DT Montréal

#### Terms

The licence will expire 31 August 2014.

#### Conditions of licence

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.
2. Except as provided in conditions 3 and 6 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall devote in each broadcast year to the acquisition of or investment in Canadian programming 23% of
  - (a) in the first broadcast year of the licence term, the average of the previous three years' gross revenues of all conventional television stations from the Rogers Media group; and
  - (b) in each subsequent broadcast year of the licence term, the previous year's gross revenues of all conventional television stations from the Rogers Media group.
3. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more conventional television stations from the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition 2.
4. Except as provided in condition 6 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall
  - (a) in the first broadcast year of the licence term, devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 2.5% of the average of the previous three years' gross revenues of all conventional television stations from the Rogers Media group and devote 2.5% of the average of the previous three years' gross revenues of all conventional television stations from the Rogers Media group to local programming that is incremental to the amount spent on local programming by the Rogers Media group in the 2010-2011 broadcast year. These incremental local programming expenditures must be used to produce new local programming

over and above programming produced in the 2010-2011 broadcast year and 80% of this new programming must be produced outside of Toronto;

- (b) in the second broadcast year of the licence term, devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 2.5% of the previous year's gross revenues of all conventional television stations from the Rogers Media group and devote 2.5% of the previous year's gross revenues of all conventional television stations from the Rogers Media group to local programming that is incremental to the amount spent on local programming by the Rogers Media group in the 2010-2011 broadcast year. These incremental local programming expenditures must be used to produce new local programming over and above programming produced in the 2010-2011 broadcast year and 80% of this new programming must be produced outside of Toronto;
  - (c) in the third broadcast year of the licence term, devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 3% of the previous year's gross revenues of all conventional television stations from the Rogers Media group and devote 2% of the previous year's gross revenues of all conventional television stations from the Rogers Media group to local programming that is incremental to the amount spent on local programming by the Rogers Media group in the 2010-2011 broadcast year. These incremental local programming expenditures must be used to produce new local programming over and above programming produced in the 2010-2011 broadcast year and 80% of this new programming must be produced outside of Toronto.
5. At least 75% of the expenditures on programs of national interest in condition 4 must be made to an independent production company.

For the purpose of these conditions, "independent production company" is defined as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

6. The licensee,
- (a) in each broadcast year of the licence term, excluding the final year, may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions 2 and 4 respectively; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure;

(b) that, in each broadcast year of the licence term, excluding the final year, expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.

(c) notwithstanding paragraphs (a) and (b) above, during the licence term, shall expend on Canadian programming and on programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 2 and 4.

7. Beginning no later than 1 September 2013, the licensee shall broadcast a minimum of 15.5 hours of original local programming per week. This programming will consist of a three-hour local, English-language morning program from Monday to Friday that includes a significant amount of local news, weather and traffic, interviews and community events. The original local programming will also include a weekly half-hour local sports program dedicated to professional, amateur, university, CÉGEP and junior league sports in the greater Montréal area.
8. In any market containing both an OMNI and a Citytv television station, no more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the Citytv television stations.
9. In any market containing both an OMNI and a Citytv television station, no third-language ethnic programming shall be broadcast on both the OMNI and the Citytv television stations.
10. The licensee shall adhere to a terms of trade agreement with the Canadian Media Production Association.