



Broadcasting Decision CRTC 2005-207

Ottawa, 20 May 2005

Rogers Broadcasting Limited

Fraser Valley and Victoria, British Columbia
Winnipeg, Manitoba

Applications 2004-1373-2, 2004-1426-9

Public Hearing at Vancouver, British Columbia

28 February 2005

CHNU-TV Fraser Valley, CIIT-TV Winnipeg – Acquisition of assets, new transmitter in Victoria, and new licences

*In this decision, the Commission **approves** the applications by Rogers Broadcasting Limited for authority to acquire the assets of CHNU-TV, which serves the Fraser Valley area of British Columbia, to add a new transmitter of CHNU-TV in Victoria, and for licences to operate CHNU-TV and CIIT-TV Winnipeg, Manitoba, subject to the conditions of licence set out in this decision.*

Background

1. In *New religious television station for the Fraser Valley*, Decision CRTC 2000-218, 6 July 2000 (Decision 2000-218), the Commission approved an application by Trinity Television, Inc. (Trinity Television) for a broadcasting licence to operate a religious television station to serve the Fraser Valley Region of British Columbia. In September of 2001, Trinity Television launched CHNU-TV Fraser Valley, an over-the-air television station with a primarily Christian orientation. The first licence term for CHNU-TV runs until 31 August 2006.
2. In *Proposed religious television station for Winnipeg*, Broadcasting Decision CRTC 2002-229, 8 August 2002 (Decision 2002-229), the Commission approved an application by Trinity Television for a broadcasting licence to operate a new English-language religious television station in Winnipeg, with a licence term expiring on 31 August 2006, to coincide with that of CHNU-TV. Trinity Television proposed that the Winnipeg television station would also be primarily Christian in orientation. In *Deadline to commence operations*, Broadcasting Decision CRTC 2004-279, 19 July 2004 (Decision 2004-279), the Commission approved an application by Trinity Television and extended the deadline to commence operation of the Winnipeg undertaking to 30 November 2005. That television station, to be known as CIIT-TV, was never launched, and the licence for its implementation was never actually issued.

3. In *Transfer of assets – Corporate reorganization*, Broadcasting Decision CRTC 2004-481, 12 November 2004, the Commission approved applications by Trinity Television, on behalf of two new corporations, NOWTV British Columbia Inc. (NOWTV BC) and NOWTV Manitoba Inc. (NOWTV Manitoba), for authority to acquire from Trinity Television as part of a corporate reorganization, the assets of CHNU-TV Fraser Valley and CIIT-TV Winnipeg, and for broadcasting licences to operate the undertakings. As part of those applications, as approved, NOWTV Broadcasting Inc. became the 100% shareholder of the new licensee companies. In turn, Trinity Television Holdings Inc. (Trinity) came to hold 100% of the voting rights in NOWTV Broadcasting Inc. Trinity Television and Trinity were both founded by the Thiessen family of Winnipeg as not-for-profit corporations and were registered as charitable institutions.

The applications

4. The Commission received applications by Rogers Broadcasting Limited (Rogers) for authority to acquire the assets of CHNU-TV Fraser Valley from NOWTV BC, and to acquire the assets of CIIT-TV Winnipeg from NOWTV Manitoba, and for broadcasting licences to operate CHNU-TV and CIIT-TV as religious television stations, under the same terms and conditions as those set out in Decisions 2000-218 and 2002-229, respectively.
5. The applicant also requested that the broadcasting licence for CHNU-TV be amended by adding a transmitter to broadcast the programming of CHNU-TV to Victoria and the surrounding areas. The transmitter would operate on channel 21B with an average effective radiated power of 720 watts.
6. Rogers is a wholly-owned subsidiary of Rogers Media Inc., which, in turn, is a wholly-owned subsidiary of Rogers Communications Inc. Rogers owns and operates two over-the-air, ethnic television stations in Toronto, known as OMNI.1 and OMNI.2. Among other interests, Rogers currently owns and operates radio stations in British Columbia, Alberta, Manitoba, Ontario, New Brunswick, and Nova Scotia.
7. Trinity explained that the proposed transaction is the result of its significant financial losses related to the operation of the Fraser Valley undertaking over the three years since CHNU-TV was launched. Trinity indicated that its losses were associated with the challenges of launching and operating a small, independently-owned television station in a market that is already served by large communications companies. Trinity further explained that its unanticipated financial difficulties had forced it to reconsider its position in television broadcasting and had led it to conclude that more financial resources than it possessed would be needed to achieve the objectives of CHNU-TV and to launch CIIT-TV.

8. Rogers indicated that its proposed common ownership of the Fraser Valley and Winnipeg stations would provide for synergies, including the amortization of programming costs over two additional stations. Rogers added that the proposed new transmitter to serve Victoria would allow all residents of Victoria to have over-the-air access to a religious station that is available via cable in the Vancouver/Victoria market. It would also ensure that CHNU-TV is placed on an equal competitive footing with other television broadcasters operating in the Vancouver/Victoria market, particularly with respect to attracting national advertising revenues.

The interventions

9. During the oral hearing, the Commission requested that Rogers respond to a number of questions and provide additional information in writing. The Commission established a supplementary written process pursuant to which appearing interveners filed comments on the additional information submitted, and to which Rogers replied.
10. The Commission received numerous interventions in support of these applications. Interventions in opposition were submitted by Crossroads Television System (Crossroads) and Christian Hit Radio Inc. Interventions submitted by CHUM Limited (CHUM) and Global Communications Limited (Global) did not oppose Rogers' acquisition of the Fraser Valley station, but did oppose granting a licence to Rogers for CIIT-TV, and approving the addition of a transmitter in Victoria. Multivan Broadcast Corporation (Multivan), licensee of Channel M, an over-the-air ethnic television station in Vancouver, expressed support for the acquisition of CHNU-TV, provided specific conditions of licence were imposed, but submitted that the applications with respect to CIIT-TV and the proposed transmitter in Victoria should be denied.
11. In general, opposing interveners expressed concerns regarding the potential impact of a new entrant in the Victoria and Winnipeg television markets. Intervenors noted specifically that, as indicated in Decision 2002-229, Trinity had forecast that it would receive 50% of its revenue from donations. These intervenors claimed that, since Rogers' projected sources of revenue will exclude donations and would thus be the same as those sought by any other commercial television broadcaster, this would have a negative financial impact in the affected markets.
12. Intervenors also argued that some of the programming broadcast by NOWTV, and other programming that would be offered by Rogers, was inconsistent with the definition of religious programming, as set out in the Commission's *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (the Religious Policy), and was therefore inconsistent with the terms and conditions imposed in Decisions 2000-218 and 2002-229. They argued that some of the programming could possibly transform these stations into mainstream television stations.

13. Multivan submitted that, although NOWTV BC is currently required, by condition of licence, to broadcast programming entirely drawn from Category 4 – Religion, as set out in Schedule I to the *Television Broadcasting Regulations, 1987* (the Regulations), certain programs now offered on CHNU-TV are drawn from programming categories other than Category 4. Multivan requested that the Commission impose conditions of licence that would ensure that CHNU-TV not compete for mainstream foreign or Canadian programming against Vancouver-based commercial broadcasters.
14. In its intervention, Global suggested that the NOWTV stations be required to devote not less than 90% of all programming to programs drawn from Category 4 – Religion. In its reply to the additional information filed by Rogers, CHUM reiterated its position that CHNU-TV and CIIT-TV should be required to broadcast “traditional” religious programming. It added, however, that were the Commission to allow Rogers to broadcast “family-oriented” or information programs on one or both of the stations, the Commission should prohibit the broadcast of any simulcast programming and prohibit the broadcast of any non-Canadian programming between the hours of 8:00 p.m. and 10:00 p.m.

The applicant’s replies

15. In response to interveners’ concerns with respect to the impact that NOWTV would have on the Victoria and Winnipeg markets, Rogers asserted that, according to its research, both markets would be able to support the introduction of NOWTV. Rogers submitted that NOWTV would contribute to future market growth, and that any impact would be readily absorbed by market growth.
16. In reply to concerns expressed with regard to whether NOWTV’s programming can be considered to fall within the definition of religious programming as set out in the Religious Policy, Rogers indicated that the programming is consistent with the Religious Policy, and that “NOWTV is, and will remain, a religious television station.”
17. Rogers stated at the hearing that it would continue Trinity’s practice of “contextualizing” programs that are not “overtly religious” by accompanying each such program that does not deal with religious themes by a further program segment that offers in-studio commentary or discussion related to the religious, ethical or moral issues presented in the main program.
18. Rogers expressed the view that religious programming as defined in the Religious Policy is not limited to Category 4 programming and can include a broad range of other categories. Rogers argued that the Commission has traditionally provided religious broadcasters “with the scope and flexibility to adopt various programming approaches to address the spiritual, moral and ethical interests of viewers and families.”

The value of the transaction and the benefits test

19. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of 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. As stipulated by the Commission in *Building on Success – A Policy Framework for Canadian Television*, Public Notice CRTC 1999-97, 11 June 1999, it generally expects applicants to make clear and unequivocal commitments to provide tangible benefits representing 10% of the dollar value of the transaction (as accepted by the Commission), directed to the communities served and to the broadcasting system as a whole.
20. Rogers estimated the value of the present transaction to be \$13 million, subject to minor adjustments for working capital on closing. Of this amount \$12.25 million was deemed to be the acquisition price for the assets of CHNU-TV, with the balance of \$750,000 representing funds already expended in respect of CIIT-TV.
21. As part of the Agreement of Purchase and Sale dated 15 November 2004, Rogers offered certain members of the Thiessen family on-going consulting roles in the operation of the two television stations. These roles are described in the Consulting Agreement (the Agreement). Specifically, Willard Thiessen would be offered the position of Chair of the Local Advisory Board in Winnipeg, while Jeff Thiessen and Gloria Thiessen would be retained as consultants for on-going projects, including the development and launch of CIIT-TV and the overall programming schedule and approach to both stations.
22. The total amount of fees to be paid to the various members of the Thiessen family is \$1,435,000 over seven years. This total amount consists of the on-going consulting fee in favour of Willard Thiessen (\$50,000 annually) and of the combined consultancy fee for on-going projects in favour of Jeff and Gloria Thiessen (\$155,000 annually).
23. The Commission has determined that this amount of \$1,435,000 should be included as part of the value of the transaction for the purpose of determining the base upon which the tangible benefits should be calculated. This position is consistent with previous Commission decisions, including *Transfer of control of the category 1 digital specialty service Independent Film Channel Canada (IFCC)*, and of 20 other category 2 digital specialty services, through acquisition of all the shares of *Salter Street Broadcasting Limited*, Decision CRTC 2001-752, 13 December 2001.
24. In addition, the Agreement calls for performance incentives relating to CIIT-TV payable to the Thiessens. Rogers estimated the value of these performance incentives to be \$3 million, which the Commission considers should also be added to the value of the transaction. The Commission has accordingly calculated the total value of the transaction to be \$17,435,000 for purposes of calculating the required amount of the tangible benefits.

Benefits of the transaction

25. Rogers proposed the following tangible benefits totalling \$1.3 million:
- NOWTV Documentary Fund (\$450,000),
 - Aboriginal Faith and Spirituality Documentary Series (\$300,000),
 - Vision TV Independent Production Initiative (\$200,000),
 - Willard Thiessen Mentorship/Scholarship Program (\$100,000),
 - Comparative Religious Studies – Conference/Seminar (\$100,000), and
 - Pilot Development Grants for Independent Producers (\$150,000).
26. These benefits are summarized in Appendix 2 to this decision. In light of the revised value of the transaction, the value of tangible benefits should be increased by \$443,500, to \$1,743,500. While Rogers indicated that it would direct any necessary additional tangible benefits to the NOWTV Documentary Fund (the NOWTV Fund), the Commission considers that \$300,000 of the increase should be directed to that fund. With respect to the balance of \$143,500, the Commission expects Rogers, within three months of the date of this decision, to advise the Commission on how it proposes to direct this amount towards acceptable benefits to the Winnipeg community. As a general matter, the Commission reminds Rogers that expenditures on benefits must be incremental to those that are made in accordance with existing licence conditions or commitments. They must also be over and above the financial expenditures that are tied to the fulfilment of programming obligations that may be imposed in any future decision.
27. The Commission is satisfied, conditional on Rogers identifying acceptable benefits regarding the allocation of the remaining \$143,500, that the tangible benefits are clear, unequivocal and commensurate with the size of the transaction.
28. The Commission expects the funds for all the initiatives to be spent evenly over a period of seven years. Rogers confirmed that none of the benefits expenditures would be in respect of administration fees. The Commission notes the applicant's agreement to file annual reports on its progress and performance in implementing the proposed benefits and in adhering to the many programming commitments offered in the context of these applications. The Commission expects the applicant to meet with Commission staff to ensure that the format and accounting methodology to be used in the preparation of these annual reports is acceptable, appropriate and clearly understood.

Programming

Religious programming

29. In its application, Rogers committed to adhere to CHNU-TV's current condition of licence with respect to religious programming, which requires that all programming broadcast be religious programming as defined in the Religious Policy. Rogers also indicated its intention to continue to offer programming that encourages dialogue on

events and issues of importance to Canadians. The applicant further stated that, as indicated above, it would carry on Trinity's practice of broadcasting program segments that serve to contextualize programs that are not "overtly religious."

30. Rogers made a similar commitment to ensure that all programming broadcast on CIIT-TV would be religious programming as defined in the Religious Policy, and that CIIT-TV would not have any undue financial impact upon existing broadcasters in the Winnipeg market due to competition by Rogers for acquisition of popular foreign programming.

Balance programming

31. The *Broadcasting Act* (the Act) specifies that the programming offered by the Canadian broadcasting system should provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern. The Commission generally takes the view that balance will be achieved where, within a reasonable period of time, a reasonably consistent viewer or listener is exposed to a spectrum of views on issues of public concern. In the Religious Policy, and 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, Ontario*, Public Notice CRTC 1996-152, 4 December 1996, the Commission set out guidelines for achieving balance in religious programming.
32. The current condition of CHNU-TV's licence with respect to balance programming requires that a minimum of 18 hours per week of balance programming be broadcast, that at least 12 hours of that total be broadcast between 7:00 p.m. and 11:00 p.m., and that at least 15.5 hours of the total be original, first-run programming.
33. Rogers proposed that the current condition be replaced by the following:

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.
34. With respect to CIIT-TV, the balance programming condition of licence imposed in Decision 2002-229 requires that a minimum of 18 hours per week of balance programming be broadcast, that at least 12 hours of that total be original Canadian programming, and that at least 2.5 hours weekly be original, locally-produced Canadian programming from a faith-specific non-Christian perspective. At least 7.5 hours of the 18 hours of balance programming must be original Canadian programming broadcast between 7:00 p.m. and 11:00 p.m.
35. Rogers proposed to modify the condition of licence for CIIT-TV by extending the period during which the 7.5 hours of original Canadian balance programming must be broadcast, to between 6:00 p.m. and 11:00 p.m.

36. Also with respect to CIIT-TV, Rogers made a commitment to limit to 26 the number of movies that would form part of its balance programming during each broadcast year.

Canadian programming

37. Under the Regulations, licensees must devote not less than 60% of the broadcast day and not less than 50% of the evening broadcast period (6:00 p.m. to midnight) to the broadcasting of Canadian programs.
38. In Decision 2000-218, the Commission noted Trinity Television's commitment in respect of CHNU-TV to devote at least 60% of the broadcast day, and at least 80% of the peak period (7:00 p.m. to 11:00 p.m.) to Canadian programs, and in Decision 2002-229, the Commission noted Trinity Television's commitment in respect of CIIT-TV to devote a minimum of 60% of the broadcast day, and at least 50% of the evening broadcast period to Canadian programs.
39. At the hearing, Rogers indicated that it would continue to adhere to those commitments, with some modifications. Specifically, with respect to CHNU-TV, Rogers committed to devote at least 50% of the peak period (7:00 p.m. to 11:00 p.m.) to Canadian programs, rather than Trinity's commitment to a level of 80%, and to spend \$105,000 on script and concept development over the licence term. The Commission expects Rogers to adhere to those commitments.
40. In addition, for both CHNU-TV and CIIT-TV, Rogers committed to spend approximately 21% of each station's gross revenues on Canadian programming.

Local programming

41. Rogers made a commitment to broadcast 25 hours of local Canadian programming each week on CHNU-TV, and to broadcast 12.5 hours of local Canadian programming each week on CIIT-TV.

Programming synergies

42. Rogers indicated that there may be programs produced by its Toronto ethnic television stations OMNI.1 and/or OMNI.2 that could be broadcast on CHNU-TV and CIIT-TV, but that it would ensure the appropriateness of any such programs, taking into account the religious orientation of CHNU-TV and CIIT-TV. Rogers made a commitment to adhere to a condition of licence that would limit the broadcast on CHNU-TV and CIIT-TV to no more than six hours per week of Canadian programming produced by Rogers' Toronto ethnic television stations.

Ethnic programming

43. Under the Regulations, licensees of over-the-air television programming undertakings may, without Commission approval, devote up to 15% of each broadcast month to programs in languages other than English or French.
44. In its application, Rogers indicated its intention to introduce to the CHNU-TV and CIIT-TV weekly program schedules approximately 12 hours of ethnic programming, representing approximately 10% of the broadcast week, and to adhere to a condition of licence limiting third-language ethnic programming to no more than 5% of each station's weekly programming.
45. At the hearing, Rogers modified its proposed condition of licence, specifying that it would broadcast no more than six hours each week of third-language ethnic programming, rather than a percentage of a weekly total. Six hours would represent approximately 5% of the total amount of weekly programming.

Simulcast of foreign programming

46. At the public hearing, Rogers indicated that it would adhere to a condition of licence that would restrict the simulcast of non-Canadian programming on CHNU-TV and CIIT-TV to no more than 2.5 hours per week between 6:00 p.m. and midnight, and that would prohibit entirely the simulcast of such programming between 8:00 p.m. and 10:00 p.m.

Other programming matters

47. With respect to both CHNU-TV and CIIT-TV, Rogers stated that it would continue to support the Programming Balance Committees established by Trinity, and that it would establish Local Advisory Boards, as proposed in its application.
48. Rogers also made a commitment to broadcast on CHNU-TV 6.5 hours per week of programming targeted to children between the ages of 2 and 11, and 8.5 hours per week of programming of interest to youth between the ages of 12 and 17. With respect to CIIT-TV, Rogers made a further commitment that, during each broadcast week, it would devote 19.5 hours to programming targeted to children and youth, and would maintain this level of programming for children and youth throughout the licence term.

The Commission's analysis and determinations

Religious programming

49. In the Religious Policy, the Commission stated that one of its objectives is "...to meet the legitimate needs and interests of those who wish to receive various kinds of religious programming, without diminishing the integrity and strength of the Canadian broadcasting system."

50. Interveners at the public hearing raised concerns as to whether the program schedule currently presented by NOWTV offered a distinct alternative to those of commercial licensees. In this respect, the Commission notes the concerns of interveners that some of NOWTV's programming may not be consistent with the Religious Policy. Interveners also raised the concern that Rogers, because of its purchasing power, could become unduly competitive with other commercial television stations in the markets in question.
51. The Commission notes the suggestion by interveners that the religious nature of the NOWTV stations could be ensured by requiring Rogers to devote a specific percentage of all programming to programs drawn from Category 4 – Religion. The Commission also notes Rogers' view that religious programming as defined by the Religious Policy is not limited to Category 4 programming.
52. The Commission notes that there was considerable discussion at the public hearing related to whether certain popular entertainment and information programming contained in the NOWTV schedule, and described by both the vendor and by Rogers as religious programming, is appropriately classified as such. The Commission accepts that some programs, while not overtly religious, may be appropriate for broadcast on a religious television station, provided that they reflect broadly accepted religious, spiritual, ethical or moral values.
53. However, the Commission considers that it is appropriate and in the public interest that the programming proposed with respect to CHNU-TV and CIIT-TV be subject to clearer and more precise benchmarks, to ensure that the programming properly reflects religious values, as required of stations licensed as religious undertakings, and that viewers can be confident that they will have access to such programming when tuning to these stations.
54. In the Commission's view, the need for more precise requirements related to religious programming on CHNU-TV and CIIT-TV is reinforced by the fact that the present applications represent the first time that a large, experienced, commercial broadcaster is seeking licences to operate undertakings, the primary distinguishing feature of which is the provision of religious programming. In this respect, the Commission considers that, without more precise requirements, Rogers would also be able to compete directly with commercial broadcasters for popular programming, particularly for broadcast in peak time.
55. With respect to CHNU-TV and CIIT-TV, the Commission is of the view that the most appropriate means to ensure that the religious orientation of these stations is maintained would be to require that a preponderance of the programming offered be devoted to programs in which the dominant themes are religion, religious teachings or discussions of the human spiritual condition. Such programming would be consistent with programming drawn from Category 4 – Religion, as set out in Schedule I to the Regulations.

56. The Commission has examined the program schedule filed as part of these applications, and considers that a condition of licence that is generally reflective of the programming set out in that schedule would be appropriate. More specifically, the Commission considers that at least 75% of CHNU-TV's and CIIT-TV's programming aired during the broadcast day, and not less than 50% of all programming broadcast during peak time hours (7:00 p.m. to 11:00 p.m.) should be drawn from Category 4 – Religion. **Conditions of licence** to this effect are set out in Appendix 1 to this decision.
57. In the Commission's view, it is appropriate that religious broadcasters also be permitted to include in their programming schedules programs not drawn from Category 4, but which reflect broadly accepted religious, spiritual, ethical or moral values. Such programs should be logged according to the appropriate CRTC programming category.
58. In addition, some programs that do not directly reflect such broadly accepted religious, spiritual, ethical or moral values may also be broadcast, if appropriately contextualized by broadcasting supplementary programming offering commentary on, or discussion of, the religious, moral or ethical issues presented in the program. In a **condition of licence** set out in Appendix 1 to this decision, the Commission sets out the appropriate contextualization it considers should be present in order that such programs may be considered as religious programming. Specifically, the Commission states that any contextual segment should be:
- appropriately drawn from Category 4 – Religion,
 - clearly linked and integral to the subject matter of the content being contextualized, and
 - at least equal in duration to the content being contextualized.

Balance programming

59. In the Religious Policy, the Commission also stated that those who broadcast religious programming “have an obligation to offer differing views on matters of general public concern and, at the same time, must expose the audience to different points of view on religion itself.”
60. With respect to this obligation to offer balance programming, the Commission notes Rogers' proposal to extend by one hour (i.e. 6:00 p.m. to 11 p.m. instead of 7:00 p.m. to 11:00 p.m.) the time period within which it is required to schedule a minimum of 12 hours per week of such programming on both CHNU-TV and CIIT-TV. The Commission is satisfied that this extension would provide more flexibility in scheduling, without having any significant impact on Rogers' commitments to balance programming. **Conditions of licence** with respect to balance programming are set out in Appendix 1 to this decision.

61. With respect to both CHNU-TV and CIIT-TV, the Commission expects Rogers to continue to support the Programming Balance Committee established by Trinity. The mandate of the Programming Balance Committee is to ensure balance programming that provides differing views on religious and spiritual matters. As established by Trinity, the committee should include, at a minimum, representatives from the Christian, Jewish, Muslim, Sikh and Hindu faith communities.
62. With respect to CIIT-TV, the Commission expects Rogers to adhere to its commitment to limit to 26 the number of movies that it will claim each year towards discharging its obligations for the provision of balance programming.

Local programming and programming for children and youth

63. With respect to local programming, while the Commission notes that religious television stations do not normally schedule locally-produced news or current affairs programs, it considers that they have an important role to play in reflecting the variety of religious beliefs in the communities they serve, as well as religious issues of concern to their viewers.
64. The Commission notes that Trinity Television's commitment, as quoted in Decision 2000-218, was to provide "... a strong, vibrant new element to local Canadian content. We will reflect the local community of Fraser Valley and contribute to the development of a distinct, balanced, religious television industry that will truly contribute to the identity of Canadians." Specifically, Trinity Television committed to produce 25 hours of local Canadian programming per week.
65. The Commission notes that Rogers agreed to fulfil this commitment. Consequently, the Commission expects Rogers to broadcast 25 hours of local Canadian programming each week on CHNU-TV and to broadcast 12.5 hours of local Canadian programming each week on CIIT-TV.
66. The Commission also notes Rogers' commitment to broadcast during each week on CHNU-TV 6.5 hours of programming targeted to children between the ages of 2 and 11, and 8.5 hours per week of programming of interest to youth between the ages of 12 and 17. With respect to CIIT-TV, Rogers made a further commitment to devote, during each broadcast week, 19.5 hours to programming targeted to children and youth, and to maintain this level of programming for children and youth throughout the licence term.

Synergies with OMNI stations, and the broadcast of ethnic and third-language programming

67. The Commission notes that, for valid business reasons, Rogers will broadcast some programming on CHNU-TV and CIIT-TV that is produced by Rogers' Toronto ethnic television stations OMNI.1 and/or OMNI.2. The Commission notes Rogers' commitment to adhere to a condition of licence limiting such programming on each of CHNU-TV and

CIIT-TV to no more than six hours per week of Canadian programs. The Commission also notes Rogers' commitment to limit the broadcast of ethnic programming from any source to 12 hours per week, with not more than six of those hours consisting of programs in languages other than English or French.

68. In Appendix 1 to this decision, the Commission sets out **conditions of licence** consistent with the commitments noted above.

Simulcast of foreign programs

69. The Commission notes Rogers' commitment that it would restrict the simulcast of foreign programming on CHNU-TV and CIIT-TV to not more than 2.5 hours per week between 6:00 p.m. and midnight, and that it would not simulcast any foreign programming between the hours of 8:00 p.m. and 10:00 p.m.
70. The Commission considers, however that the simulcast of foreign programming during peak time (7:00 p.m. to 11:00 p.m.) would be inconsistent with the mandate of a religious television service, which should be complementary to, not competitive with, local conventional television stations. Accordingly, in Appendix 1 to this decision, the Commission has set out a **condition of licence** prohibiting the simulcast of foreign programming during peak time.

Local Advisory Boards

71. With respect to both CHNU-TV and CIIT-TV, the Commission expects Rogers to adhere to its commitment to establish Local Advisory Boards, as proposed in its application.

Integrity of the licensing process

72. When parties are granted licences to operate broadcasting undertakings and sell the undertakings after a short period of time, the Commission examines such acquisitions carefully to ensure that they do not compromise the integrity of the licensing process. In the case of CHNU-TV, the service was launched by Trinity Television in September 2001. While Trinity Television's application for a new television station in Winnipeg was approved in Decision 2002-229, the station is not yet in operation, and no licence has therefore actually been issued.
73. The Commission considers that the conditions of licence it is imposing with respect to programming will ensure a religious orientation for CHNU-TV and that, in the case of CIIT-TV, an undertaking will be launched that will offer programming substantially as authorized in Decision 2002-229. The Commission also considers that these conditions of licence will significantly attenuate the potential impact of its approval on the Vancouver and Winnipeg markets.

74. The Commission is satisfied that approval of the transfer of the assets of CHNU-TV and the issuance of licences to Rogers for the operation of CHNU-TV and for CIIT-TV do not compromise the integrity of the licensing process, and are in the public interest. The Commission is satisfied further that Rogers' operation of the two stations will allow for CIIT-TV to take advantage of operating synergies with Rogers, thereby helping to ensure a successful launch of a religious television station in Winnipeg.

Conclusion

75. The Commission has carefully considered the views of the applicant and of the interveners. In reaching its decision, it has taken into account the difficult financial situation of Trinity, the length of time that Winnipeg viewers have waited for a religious television service in Winnipeg, and the unlikely possibility that CIIT-TV could be launched by Trinity. The Commission is satisfied that approval of these applications will provide financial stability for CHNU-TV and allow for the long-delayed launch of CIIT-TV.
76. With respect to the nature of the programming on both stations, the Commission is satisfied that the conditions of each licence are appropriate, reflect the nature of the programming to be offered, and ensure that the programming of CHNU-TV and CIIT-TV will be distinctly different from the programming of other commercial television stations.
77. Accordingly, the Commission **approves** the applications by Rogers Broadcasting Limited, for authority to acquire the assets of the English-language religious television programming undertaking CHNU-TV Fraser Valley, British Columbia and for new broadcasting licences to operate CHNU-TV and CIIT-TV. Each licence will be subject to the **conditions of licence** set out in Appendix 1 to this decision.
78. With respect to Rogers' request to add a transmitter at Victoria to provide the programming of CHNU-TV in that market, the Commission is satisfied that approval of that request will offer a programming alternative in Victoria and that it will remove a competitive disadvantage with respect to the marketing of national time sales.
79. Accordingly, the Commission also **approves** the application by Rogers Broadcasting Limited for authority to amend the broadcasting licence for CHNU-TV by adding a transmitter at Victoria, British Columbia, operating on channel 21B with an average effective radiated power of 720 watts.
80. Rogers offered, as a benefit associated with the approval of the application for the Victoria transmitter, \$350,000, of which \$250,000 would be allocated to the NOWTV Fund and \$100,000 to the Pilot Development Grants for Independent Producers. The Commission expects Rogers to provide these benefits and to disburse these funds evenly over the licence term. The Commission notes that these funds are not part of the benefits of the ownership transaction approved above.

Issuance of the licences

81. The Commission will issue the licence for CHNU-TV once the current licence has been surrendered to the Commission.
82. The licence for CIIT-TV will be issued once Rogers has informed the Commission in writing that it is prepared to commence operations. CIIT-TV and the new transmitter in Victoria must, in each case, 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 20 May 2007. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date. Upon closing of the transfer, the authority granted to Trinity Television, Inc. in Decision 2002-229 and extended in Decision 2004-279 will no longer be of any force or effect.
83. The licences for CHNU-TV and CIIT-TV will each expire on 31 August 2011. The licences will be subject to the conditions specified therein and the **conditions of licence** set out in Appendix 1 to this decision.

Additional matters

Service to persons who are deaf or whose hearing is impaired

84. In Decision 2000-218, the Commission set out a requirement that CHNU-TV close caption at least 90% of all programming by the end of the current term of licence. In Decision 2002-229, the Commission applied a condition of licence requiring that, in the case of CIIT-TV Winnipeg, Trinity Television close caption at least 90% of all English-language programming, beginning in the sixth year of operation.
85. As part of this proceeding, Rogers made a commitment to close caption not less than 90% of all programs broadcast during the broadcast year on CHNU-TV and CIIT-TV, beginning in the first year of Rogers' operation of each station. **Conditions of licence** to this effect are set out in Appendix 1 to this decision.

Service to persons who are blind or whose vision is impaired

86. Section 3(1)(p) of the Act states that, as part of the broadcasting policy for Canada, "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose." Accordingly, the Commission expects all broadcasters to work toward improving the accessibility of their programming for persons who are blind or whose vision is impaired.
87. Greater programming accessibility can be achieved through the provision of audio description and/or of video description. All broadcasters can, and should, provide audio description.

88. While Decision 2000-218, which announced approval of Trinity Television's plans for CHNU-TV, did not mention any requirement for described programming, Decision 2002-279 encouraged Trinity Television, despite limited resources, to acquire and broadcast described versions of programs in Winnipeg, wherever possible.
89. Rogers' applications did not include commitments to described programming on CHNU-TV and CIIT-TV, although at the public hearing, Rogers agreed to the application of conditions of licence related to described programming at the same level as those for its Toronto television station OMNI.2. **Conditions of licence** to this effect are set out in Appendix 1 to this decision.

Reflection of Canada's diversity

90. All broadcasting licensees have a responsibility to contribute to the reflection and portrayal of Canada's cultural diversity in furtherance of the policy objectives contained in section 3(1)(d) of the Act. Specifically, broadcasters share responsibility for assisting in the development of a broadcasting system that accurately reflects Canada's ethno-cultural minorities and Aboriginal peoples, as well as persons with disabilities. Broadcasters must therefore ensure that the portrayal of such groups, through their presence and participation on-screen, is accurate, fair and non-stereotypical.
91. Rogers indicated that its Corporate Cultural Diversity Plan is on file with the Commission, including annual reports for the years 2002, 2003 and 2004. Rogers noted the development of a number of corporate policies and training programs that specifically address issues such as diversity management, employment equity, and respect and dignity in the workplace. The applicant indicated that, if its applications were approved, it would include CHNU-TV and CIIT-TV in its Corporate Cultural Diversity Plan.

Employment equity and on-air presence

92. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.
93. With respect to on-air presence, the Commission expects the licensee to ensure that its programming is reflective of Canadian society and that members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) are presented fairly and accurately.

Secretary General

This decision is to be appended to each 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 2005-207

Conditions of licence for CHNU-TV Fraser Valley

1. Not less than 75% of all programming broadcast by the licensee during the broadcast day and not less than 50% of the programming broadcast during peak time hours (7 p.m. to 11 p.m.) shall be devoted to programs drawn from Category 4 – Religion, as set out in Schedule I to the *Television Broadcasting Regulations, 1987*.
2. The remainder of the programming broadcast by the licensee may be:
 - a) programs that reflect broadly accepted religious, spiritual, ethical or moral values; and/or
 - b) other programming, provided it is contextualized, and each contextual segment is:
 - appropriately drawn from Category 4 – Religion;
 - clearly linked and integral to the subject matter of the content being contextualized; and
 - at least equal in duration to the content being contextualized.
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 pm., and on Saturdays from 8:30 a.m. to 1:30 p.m.
4. The licensee shall not broadcast more than six hours per week of Canadian programming produced by OMNI.1 and/or OMNI.2.
5. During each broadcast week, the licensee shall not broadcast more than 12 hours of ethnic programming.

6. No more than six hours of the 12 hours per week of ethnic programming shall be broadcast in languages other than English or French.
7. Not less than 50% of all programming broadcast during peak time (7:00 p.m. to 11:00 p.m.) shall be Canadian programming.
8. The licensee shall not simulcast foreign programs during peak time (7:00 p.m. to 11:00 p.m.).
9. The licensee shall not broadcast more than 12 minutes of advertising material per hour, including solicitation. For clarification purposes, this condition applies to all regular programming as well as all brokered or “paid to air” programming.
10. The licensee shall provide closed captioning for not less than 90% of all programs broadcast during the broadcast year, beginning the first year of operation as the licensee.
11. The licensee shall broadcast, between 7:00 p.m. and 11:00 p.m., the following amounts of described video programming:
 - a) in years 1 and 2 of the licence term, an average of two hours per week;
 - b) in years 3 and 4 of the licence term, an average of three hours per week; and
 - c) in year 5, and for the remainder of the licence term, an average of four hours per week.

In fulfilling this condition, a minimum of 50% of the required hours must be original broadcasts and all of the programming must be Canadian. Further, the licensee may broadcast up to one hour per week of described children’s programming at an appropriate children’s viewing time.

12. The licensee shall adhere to the guidelines on ethics set out in the Commission’s *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, as may be amended from time to time.
13. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the Canadian Association of Broadcasters’ (CAB) *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council (CBSC).
14. The licensee shall adhere to the provisions of the CAB’s *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.

15. The licensee shall adhere to the guidelines on gender portrayal set out in the CAB's *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.

Conditions of licence for CIIT-TV Winnipeg

1. Not less than 75% of all programming broadcast by the licensee during the broadcast day and not less than 50% of the programming broadcast during peak time hours (7 p.m. to 11 p.m.) shall be devoted to programs drawn from Category 4 – Religion, as set out in Schedule I to the *Television Broadcasting Regulations, 1987*.
2. The remainder of the programming broadcast by the licensee may be:
 - a) programs that reflect broadly accepted religious, spiritual, ethical or moral values; and/or
 - b) other programming, provided it is contextualized and each contextual segment is:
 - appropriately drawn from Category 4 – Religion;
 - clearly linked and integral to the subject matter of the content being contextualized; and
 - at least equal in duration to the content being contextualized.
3. The licensee shall broadcast a minimum of 18 hours per week of balance programming, of which 12 hours shall be original Canadian programming. At least 2.5 hours of weekly balance programming shall be original locally-produced Canadian programming from a faith-specific non-Christian perspective.
 - a) At least 7.5 hours of the 18 hours of balance programming referred to above shall be broadcast between 6:00 p.m. and 11:00 p.m., and shall be original Canadian programming.
 - b) For the purpose of this condition of licence, “balance programming” is defined as programming devoted to providing differing views on issues and events presented during the station’s primary programming, and includes the presentation of different religions.
 - c) The licensee shall submit, within 60 days of the end of each broadcast year, a report for each week in the broadcast year that includes the title, the broadcast date, broadcast time and duration of its balance programs, along with a brief description of each balance program that describes how the program served to fulfil the terms of this condition.

4. The licensee shall not broadcast more than six hours per week of Canadian programming produced by OMNI.1 and/or OMNI.2.
5. During each broadcast week, the licensee shall not broadcast more than 12 hours of ethnic programming.
6. No more than six hours of the 12 hours per week of ethnic programming shall be broadcast in languages other than English or French.
7. Not less than 50% of all programming broadcast during peak time (7:00 p.m. to 11:00 p.m.) shall be Canadian programming.
8. The licensee shall not simulcast foreign programs during peak time (7:00 p.m. to 11:00 p.m.).
9. The licensee shall not broadcast more than 12 minutes of advertising material per hour, including solicitation. For clarification purposes, this condition applies to all regular programming as well as all brokered or “paid to air” programming.
10. The licensee shall provide closed captioning for not less than 90% of all programs, beginning the first year of operation as the licensee.
11. The licensee shall broadcast, between 7:00 p.m. and 11:00 p.m., the following amounts of described video programming:
 - a) in years 1 and 2 of the licence term, an average of two hours per week;
 - b) in years 3 and 4 of the licence term, an average of three hours per week; and
 - c) in year 5, and for the remainder of the licence term, an average of four hours per week.

In fulfilling this condition, a minimum of 50% of the required hours must be original broadcasts and all of the programming must be Canadian. Further, the licensee may broadcast up to one hour per week of described children’s programming at an appropriate children’s viewing time.

12. The licensee shall adhere to the guidelines on ethics set out in the Commission’s *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, as may be amended from time to time.

13. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the Canadian Association of Broadcasters' (CAB) *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council (CBSC).
14. The licensee shall adhere to the provisions of the CAB's *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.
15. The licensee shall adhere to the guidelines on gender portrayal set out in the CAB's *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.

Appendix 2 to Broadcasting Decision CRTC 2005-207

Benefits	Amount	Description
NOWTV Documentary Fund	\$750,000	<ul style="list-style-type: none"> • Contribution, in the form of licence fees, to assist independent producers in both British Columbia and Manitoba to develop and produce religious and faith-based documentaries. • Funding criteria will be subject to published guidelines, and will include the following: <ul style="list-style-type: none"> ○ program must be consistent with the definition of “religious program” set out in <i>Religious Broadcasting Policy</i>, Public Notice CRTC 1993-78, 3 June 1993; ○ program must achieve Canadian content status in accordance with the Canadian content rules as administered by CAVCO/CRTC; ○ the producer must be a Canadian independent producer based in British Columbia or Manitoba.
Aboriginal Faith and Spirituality Documentary Series	\$300,000	<ul style="list-style-type: none"> • Contribution towards the development and production of a four-part documentary series examining the rich history of Aboriginal faith and spirituality in Canada. • The executive producer will be APTN, who will then work with four different independent producers. • Rogers expects that the four-part series will premier on APTN, with a second broadcast window on NOWTV, as well as on OMNI television stations in Ontario.
Pilot Development Grants for Independent Producers	\$150,000	<ul style="list-style-type: none"> • These grants will initiate pilot development and allow the faith community to evaluate the type of programming that might be provided. It will also offer an important opportunity for independent producers to receive valuable on-the-job training and hands-on experience. • Grants could be used to fund script development or research that might be necessary for a completed proposal. Grant money could also be used to assist an independent producer in the acquisition of production equipment, or to cover the cost of training courses to update production, sales or broadcast management skills.
Vision TV Independent Production Initiatives	\$200,000	<ul style="list-style-type: none"> • Collaborate with Vision TV in targeting specific independent production projects in need of top-up funding. • Vision TV/NOWTV funding collaborations will be aired on Vision TV, with second broadcast windows on NOWTV.

Willard Thiessen Scholarship/Mentorship Program	\$100,000	<ul style="list-style-type: none"> • Rogers will establish a scholarship/mentorship program at the British Columbia Institute of Technology (BCIT) in Vancouver and Red River College in Winnipeg. • In total, \$50,000 in scholarship awards for each school will be made available to those students who have demonstrated an interest and a commitment to issues involving faith, spirituality and ethics. That interest could be exemplified in a number of different disciplines such as broadcasting, communications or journalism. • Once these students have successfully completed their studies, they will also be provided with a mentorship opportunity to better understand the real world of Canadian broadcasting. In Vancouver, scholarship students at BCIT will have the opportunity to mentor with either NOWTV, Rogers Sportsnet Pacific or any of Rogers' Vancouver stations. In Winnipeg, scholarship students at Red River College will have the opportunity to mentor with NOWTV or any of Rogers' stations in that market.
Comparative Religious Studies Conference	\$100,000	<ul style="list-style-type: none"> • Contribution to the work of Regent College at the University of British Columbia and Trinity Western University to host comparative studies seminars at which all faiths will be invited to attend and share the foundation of their religion and spirituality with others. The objective of the Conference/Seminar will be to encourage greater unity and understanding among various religious groups, while focusing on media-specific issues.
TOTAL	\$1,600,000	

Note:

The figures in Appendix 2 represent Rogers' original proposal with regard to a tangible benefits package of \$1.3 million, plus the additional \$300,000 resulting from the Commission's determination that the transaction value should be increased by \$3 million. The figures do not include the \$143,500 in benefits that Rogers is required to report on to the Commission within three months.

The figures above also do not include the \$350,000 offered as a benefit of the application to add a transmitter of CHNU-TV at Victoria. Those funds do not form part of the benefits of the ownership transaction.