



Broadcasting Decision CRTC 2023-309

PDF version

Reference: 2022-331 and 2022-331-1

Ottawa, 8 September 2023

Four Senses Entertainment Inc.
Squamish, British Columbia

Public record: 2019-1225-4

*Public hearing in the National Capital Region
23 February 2023*

English-language commercial FM radio station in Squamish

Summary

The Commission **approves** an application by Four Senses Entertainment Inc. for a broadcasting licence to operate an English-language commercial FM radio station in Squamish, British Columbia.

Application

1. Four Senses Entertainment Inc. (Four Senses) filed an application for a broadcasting licence to operate an English-language commercial FM radio station in Squamish, British Columbia.
2. Four Senses is a corporation incorporated in Canada that is owned by Robert Wilson (90%) and the estate of Barry Duggan (10%), and that is controlled by the majority shareholder Robert Wilson, a Canadian residing in Canada. Consequently, Four Senses is eligible to hold a broadcasting licence pursuant to the *Direction to the CRTC (Ineligibility of Non-Canadians)*.¹
3. The proposed station would operate at 99.7 MHz (channel 259A) with an average effective radiated power (ERP) of 2,449 watts (maximum ERP of 5,000 watts) and an effective height of the antenna above average terrain (EHAAT) of -349.9 metres.²
4. Four Senses proposed to operate the new station within an Adult Album Alternative (Triple A) radio format (album-oriented alternative and rock format) and indicated

¹ SOR/97-192, 8 April 1997.

² These technical parameters reflect those approved by the Department of Industry (also known as Innovation, Science and Economic Development Canada).

that the station's programming would be broadly intended for listeners between 18 and 54 years of age.

5. The applicant proposed to broadcast 126 hours of local programming on the new station each broadcast week. Of these hours, 50 would be devoted to spoken word programming, including weather forecasts, traffic reporting, news and community-centric outdoor recreation information, which the applicant proposed to offer throughout the week (specifically, 4 hours per morning and 4 hours per afternoon on weekdays and 5 hours per day at midday on weekends). Further, the applicant would devote 8.5 hours per week to newscasts, which would comprise 5 hours and 6 minutes of local and regional news, 1 hour and 42 minutes of national news and 1 hour and 42 minutes of international news. The applicant added that it would commit to developing programs that represent the Squamish community, such as information on current and upcoming musical events in the region, outdoor activity alerts and reporting specific to local outdoor and lifestyle activities including, among others, biking, hiking and windsurfing.
6. Four Senses proposed to broadcast a higher percentage of Canadian selections than would otherwise be required of a commercial station pursuant to subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations) that is set at 35% for the broadcast week and between 6am and 6pm Monday to Friday. In particular, it proposed to broadcast a minimum of 40% Canadian content over a 24-hour day, seven days per week.
7. Four Senses also proposed to devote at least 15% of its musical selections over a 24-hour day, seven days per week to selections from Canadian emerging artists, which is above the expectation for commercial stations set out in Broadcasting Regulatory Policy 2022-332, to devote at least 5% of their musical selections aired each broadcast week to selections from Canadian emerging artists.
8. Further, in addition to the basic annual contribution to Canadian content development (CCD) set out in section 15 of the Regulations, Four Senses proposed, upon commencement of operations, to make an over-and-above annual contribution of \$1,000 (\$7,000 over seven consecutive broadcast years) toward the promotion and development of Canadian content, all of which it proposed to allocate to FACTOR.
9. The Commission received an intervention in opposition to this application from Rogers Media Inc. (Rogers), to which Four Senses did not reply.

Background

10. This application triggered the publication of Broadcasting Notice of Consultation 2021-375 in which the Commission, as an exception to its usual practice, simultaneously called for comments on the capacity of the Squamish radio market to sustain a new station and for applications to serve that market. In response, Rogers submitted an intervention in opposition.

11. In Broadcasting Decision 2022-199, the Commission found that the Squamish radio market could sustain an additional radio station and, since only one application had been submitted, stated that this application would be published for consideration as part of the non-appearing phase of a public hearing.

Issues

12. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*, and to make orders respecting expenditures.

13. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:

- whether the use of the frequency 99.7 MHz by the applicant for its proposed station represents an appropriate use of spectrum;
- whether approval of this application would have an undue economic impact on incumbent stations; and
- whether approval of this application would contribute to local representation and increase diversity in the market.

Appropriate use of spectrum

14. The Department of Industry (also known as Innovation, Science and Economic Development Canada) has granted conditional technical acceptability of the proposed station. As such, the applicant's proposal adheres to the rules governing FM spectrum coordination.

15. The use of the proposed frequency would remove its availability from the surrounding areas. However, there are other frequencies available that could provide service to those areas and no major surrounding markets would be impacted by its use. The applicant's proposed station would therefore have a negligible impact on the availability of frequencies in Squamish and surrounding areas.

16. In light of the above, the Commission finds that the use of the frequency 99.7 MHz by the applicant for its proposed FM station represents an appropriate use of spectrum.

Economic impact on incumbent stations

17. Squamish is currently served by a single commercial station, CISQ-FM Squamish, which is operated by Rogers as part of its Mountain FM network (which also includes CISW-FM Whistler and its rebroadcasting transmitter CISP-FM Pemberton). Given the small populations of the communities served, Rogers manages the Mountain FM

network such that it benefits from market synergies. The Commission therefore considers it appropriate, as it did in Broadcasting Decision 2022-199, to assess the possible impact of the proposed station on the Mountain FM network as a whole rather than on only CISQ-FM.³

18. In its intervention in opposition to this application, Rogers indicated that CISQ-FM has experienced declines in revenues and profitability since 2018-19. According to Rogers, the Squamish market does not have the capacity to sustain an additional station as it would compete with CISQ-FM for advertising revenue in this small market. The launch of a new commercial station and increased competition would be detrimental for CISQ-FM and undermine the financial viability of Mountain FM as well as its ability to offer high-quality, relevant local programming to a small market.
19. As noted in Broadcasting Decision 2022-199, there is a considerable amount of out-of-market tuning in Squamish due to its proximity to Vancouver, which the proposed station could potentially repatriate. According to the Statistics Canada 2021 Census, the population of Squamish has increased by 22% since 2016 and, in the Commission's view, the proposed station could, by introducing additional competition and advertising options, have a stimulating effect on the market.
20. The local advertising revenues the applicant expects to generate would be a small percentage of those of the Mountain FM network. The Commission considers that this network is resilient and, given the dominant position held by Rogers in the market, would be able to withstand the increase in competition that would likely result from the launch of the proposed station.
21. In light of the above, the Commission finds that approval of this application would not have an undue economic impact on incumbent stations in the market.

Local representation and programming diversity

22. In Broadcasting Public Notice 2008-4, the Commission indicated that the Canadian broadcasting system should ensure that audiences have access to a diversity of programming, especially local, regional and national content.
23. Four Senses proposed an Adult Album Alternative (Triple A) music format featuring non-hit and album-oriented musical selections, and to broadcast 126 hours of local programming each broadcast week (including 8.5 hours of newscasts and 50 hours of spoken word programming). This programming would include weather forecasts, traffic reporting, news and community-centric outdoor recreation information. Four Senses also proposed to devote, 24 hours per day and seven days per week, at least 40% of its programming to Canadian content and at least 15% of it to content from new and emerging Canadian artists. It would also broadcast a one-hour program

³ Rogers objected to this approach in the intervention it filed in opposition to this application since, in its view, assessment of the proposed station's impact on the Mountain FM network (not just CISQ-FM), is not a constructive approach to assessing the health of the Squamish market.

composed entirely of Canadian content during weekday afternoons and promote local music and music by new and emerging local Canadian artists.

24. Given that no incumbent station offers the format proposed by Four Senses, the Commission considers that it would complement the available options and increase the diversity of musical choices in the market. The proposed spoken word programming would also represent an additional source of information for local residents. As such, the proposed station would serve the needs and interests of the residents of Squamish.
25. The Commission notes that Four Senses' proposal to broadcast a higher percentage of Canadian selections than would otherwise be required of a commercial station pursuant to subsections 2.2(8) and 2.2(9) of the Regulations (that is, 40% over a 24-hour day, seven days per week). The Commission also notes that Four Senses' proposed quota of 15% with respect to Canadian emerging artists, also over a 24-hour day, seven days per week would exceed the expectation recently established in Broadcasting Regulatory Policy 2022-332.
26. In the Commission's view, Four Senses made a commendable commitment to promote and develop Canadian artists. However, the proposed 24-hour timeframe would complicate future compliance assessments,⁴ and the process of verifying whether selections qualify as Canadian selections⁵ or as selections from Canadian emerging artists, could prove too costly, render it difficult for Four Senses to break into the market and create a risk of non-compliance. Further, in Broadcasting Regulatory Policy 2022-332, which was issued after Four Senses submitted this application, the Commission, in paragraph 346 of that policy, set a new simplified definition for the term "Canadian emerging artist"⁶ and set out an expectation that commercial stations devote at least 5% of their musical selections to selections from such artists. As such, the Commission considers that the standard requirements and expectation for commercial stations relating to the broadcast, respectively, of Canadian selections and selections from Canadian emerging artists would establish appropriate minimums for such selections.
27. Nevertheless, the Commission notes that the standard requirements and expectations are minimums and Four Senses could, and the Commission encourages it to, choose

⁴ The Commission calculates percentages based on the definitions for "broadcast week" and "broadcast day" set out in the Regulations, which define a "broadcast week" to mean seven consecutive broadcast days, beginning on Sunday, and a "broadcast day" to mean the total number of hours devoted to broadcasting for a period beginning at six o'clock in the forenoon and ending at midnight on the same day.

⁵ A vocal musical selection is considered a Canadian selection if it meets the criteria set out in subsection 2.2(2) of the Regulations. These criteria are referred to as the MAPL system (Music, Artist, Performance and Lyrics).

⁶ As noted in paragraph 325 of Broadcasting Regulatory Policy 2022-332, the Commission previously set out separate definitions for emerging artists in the English- and French-language markets. The definition for the term "Emerging Canadian artist" was set out in paragraph 5 of Broadcasting Regulatory Policy 2011-316.

to exceed the minimums relating to the broadcast of Canadian selections and selections from Canadian emerging artists.

28. In light of the above, the Commission finds that the proposed station would contribute to local representation and diversity of musical and spoken word programming in the Squamish market.

Conclusion

29. In light of all of the above, the Commission **approves** the application by Four Senses for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Squamish, British Columbia.
30. The Commission notes that the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. Pursuant to subsection 9(1) of the *Broadcasting Act*, the licensee shall, therefore, also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Conditions of service

Standard conditions of service

31. The Commission notes that there are standard conditions of service which apply to all undertakings of a particular class. In this case, the Commission considers it appropriate that the licensee should adhere to the standard conditions of service for commercial stations.
32. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Four Senses, by **condition of service**, to adhere to the standard conditions of service set out in Broadcasting Regulatory Policy 2022-334, as well as all applicable requirements set out in the Regulations, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.⁷

Broadcast of emergency alerts

33. The Commission has implemented obligations in respect of the broadcast of emergency alerts. For reference, see section 16 of the Regulations as well as Broadcasting Regulatory Policy 2014-444. Compliance involves implementing the public alerting system for each of the licensee's transmitters, and ensuring that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages be installed and programmed to properly account for the applicable contour (as set out in paragraph 16(2)(b) of the Regulations) of the station

⁷ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

as well as that of any rebroadcasting transmitter that may appear on the licence for that station.

34. Further to these obligations, the Commission considers it appropriate that the licensee be required to implement the National Public Alerting System (NPAS) in the manner set out in the Regulations within 180 days after the station's launch and to file a letter attesting to the implementation of the NPAS as well as the results of its first test.
35. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Four Senses, by **condition of service**, to implement the NPAS within 180 days after the station's launch and to make the appropriate associated information filings.

Canadian content development contributions

36. The applicant must adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations. According to the applicant's financial projections, the proposed station would generate annual revenues below the \$1.25 million threshold set out in the Regulations throughout its licence term, and therefore may not be required to make any basic CCD contributions so long as its annual revenues remain below \$1.25 million.
37. As noted in paragraph 8, Four Senses proposed, upon commencement of operations, to make an annual contribution of \$1,000 (\$7,000 over seven consecutive broadcast years) over and above the basic CCD requirements for radio stations, and to allocate all of these contributions to FACTOR. Any development initiatives that have not been allocated to specific parties by condition of service must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are set out in Broadcasting Regulatory Policy 2022-332. The Commission considers it appropriate that this commitment be included as a condition of service.
38. Accordingly, pursuant to subsection 11.1(2) of the *Broadcasting Act*, the Commission **orders** Four Senses, by **condition of service**, to make an annual contribution of \$1,000 per year for seven consecutive broadcast years over and above the basic CCD contributions, as set out above.

Broadcast of station-produced programming

39. Rogers requested that the Commission, in the event of approval of this application, require the proposed station to broadcast a specific minimum amount of local station-produced programming. More specifically, Rogers requested that the proposed station be made subject to a minimum requirement identical to that imposed on CISQ-FM in

condition of licence 2⁸ set out in the appendix to Broadcasting Decision 2020-164, which reads as follows:

2. The licensee shall ensure that during each broadcast week, the undertaking broadcasts not less than 30 hours of local station-produced programming.
40. CISQ-FM was first required to broadcast at least 3 hours of station-produced programming because the station operated in what was then a single-station market, and it was therefore exempt from a requirement to devote a third of its programming to local programming in order to solicit or accept local advertising. This minimum was intended to ensure that CISQ-FM, as the only station in the market, would broadcast some station-produced programming. When the Commission renewed the licence for CISQ-FM in Broadcasting Decision 2013-631, it increased that amount to 30 hours. However, that increase was proposed by Rogers as part of that proceeding.
41. Unlike CISQ-FM, the proposed station would not operate in a single-station market and would therefore be subject to condition of service 8 in Broadcasting Regulatory Policy 2022-334, which would preclude it from soliciting or accepting local advertising if, during any broadcast week, it did not devote at least one-third of its programming to local programming.
42. In the Commission's view, the amount of local programming that Four Senses proposed to broadcast (specifically, 126 hours of local programming, 8.5 hours of which would be devoted to newscasts) compares favourably to that broadcast by CISQ-FM and the proposed amounts of local spoken word programming and news would be satisfactory. The Commission also notes that Four Senses did not propose to rebroadcast any third-party programming.
43. In light of the above, the Commission finds that it would be both appropriate and in keeping with its general practice not to impose a condition of service related to the broadcast of station-produced programming. The Commission would, however, expect Four Senses to fulfill its commitment to broadcast 126 hours of local programming, which should include 5 hours and 6 minutes of local and regional news as well as morning, afternoon and weekend shows.
44. Finally, given that this application was filed and processed and the hearing held prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the issues as part of that process, the Commission considers this proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsections 9.1(4) and 11.1(7) of the *Broadcasting Act* in this case.

⁸ Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, which amended the *Broadcasting Act* when it came into force on 27 April 2023, obligations that previously existed as conditions of licence are now deemed to be conditions imposed under an order made pursuant to section 9.1 of the old *Broadcasting Act*, or subsection 11.1(2) in the case of contribution requirements.

Reminders

Local news

45. Radio stations are an important daily source of local news and information for communities. Carrying on a broadcasting undertaking comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.
46. Although Broadcasting Regulatory Policy 2022-332 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming. In accordance with that regulatory policy, the Commission reminds the applicant that its station, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages the applicant to ensure that a reasonable amount of daily local news and information is made available to those communities.

Secretary General

Related documents

- *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022
- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Findings regarding market capacity in the Squamish radio market*, Broadcasting Decision CRTC 2022-199, 27 July 2022
- *Call for comments on market capacity to serve Squamish, British Columbia, and call for applications to serve Squamish, British Columbia*, Broadcasting Notice of Consultation CRTC 2021-375, 12 November 2021
- *Various commercial radio stations – Licence renewals*, Broadcasting Decision CRTC 2020-164, 25 May 2020
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders - Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014

- *CISQ-FM Squamish – Licence renewal and amendment*, Broadcasting Decision CRTC 2013-631, 27 November 2013
- *Definition of emerging Canadian artists on commercial radio*, Broadcasting Regulatory Policy CRTC 2011-316, 12 May 2011
- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-309

Terms, conditions of service, expectations and encouragement for the English-language commercial FM radio programming undertaking in Squamish, British Columbia

Terms

The licence will expire 31 August 2030.

The station will operate at 99.7 MHz (channel 259A) with an average effective radiated power (ERP) of 2,449 watts (maximum ERP of 5,000 watts) and an effective height of the antenna above average terrain (EHAAT) of -349.9 metres.

Pursuant to subsection 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry (also known as Innovation, Science and Economic Development Canada) notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue a licence for this undertaking once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be in operation by no later than **8 September 2025**. To request an extension, the applicant must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.⁹
3. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$1,000 (\$7,000 over seven consecutive broadcast years) toward the promotion and development of Canadian content.

⁹ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

Of this amount, at least 20% per broadcast year shall be devoted to FACTOR or Musicaction. The remainder shall be allocated to parties and initiatives that fulfill the criteria for eligible initiatives set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022.

4. The licensee shall implement the National Public Alerting System (NPAS) by no later than 180 days following the station's launch in the manner set out in subsection 16(2) of the *Radio Regulations, 1986*, and in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014. As part of this requirement:
 - a. The licensee shall file a letter with the Commission to attest to the implementation date of its NPAS within 14 days after the installation. In this letter, the licensee shall confirm whether maintenance, testing and updating procedures have been adopted for its automated emergency alert message distribution equipment.
 - b. The licensee shall file with the Commission the results of its first NPAS test, as scheduled by the relevant alerting authorities or through onsite testing by a qualified installer, within two weeks after the occurrence of such a system test.

Expectations

Cultural diversity

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

Local programming

The Commission expects the licensee to broadcast, during each broadcast week, not less than 126 hours of local programming, which should include 5 hours and 6 minutes of local and regional news as well as morning, afternoon and weekend shows.

Canadian emerging artists

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to devote, in each broadcast week, at least 5% of the station's musical selections to selections from Canadian emerging artists broadcast in their entirety. The licensee should report annually on how it has met this expectation, including the percentage of selections from Canadian emerging artists out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the definition of “Canadian emerging artist” is the same as that set out in paragraph 346 of Broadcasting Regulatory Policy 2022-332.

Indigenous musical selections

Consistent with the Commission’s determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to include Indigenous musical selections on the station’s playlist. The licensee should report annually on the amount of Indigenous content aired on the station throughout the broadcast year (i.e., from 1 September to 31 August), including the percentage of Indigenous musical selections out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the licensee may use the provisional definition of “Indigenous-Canadian musical selection” set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332 to determine whether a musical selection can be considered an Indigenous musical selection.

Encouragement

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 in its hiring practices and in all other aspects of its management of human resources.