



Gabriola Radio Society
solar powered radio
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Robert A. Morin

Secretary General

Canadian Radio-television and Telecommunications Commission

Ottawa, Ontario

K1A 0N2

Subject: Opposing Rogers Broadcasting Limited Application 2009-0996-3

Dear Secretary General:

1. We are writing to intervene in the above referenced Application. We ask Rogers Broadcasting Limited (Rogers) withdraw the Application, for the public good and to permit Gabriola Radio Society CKGI (Gabriola Radio) to proceed with its longstanding plan to service its coverage area. Failing that, the CRTC should demonstrate its commitment to community radio, and diversity of voices and viewpoints, by denying Rogers' application in its current form.
2. If there is a hearing on this matter, we would ask to appear.

3. Introduction

Rogers proposes to expand its 100,000 watt "98.5 FM The Ocean" soft-rock radio broadcast service originating in Victoria, BC. Its so-called "optimal" approach will - effectively expand their broadcasting into Nanaimo, Gabriola and

Spring Island. The extension of this channel will eliminate a possible local 98.7 FM channel that was the subject of an earlier Application by Gabriola Radio Society (2008-1533-4). Note, however, that **a modified application by Rogers could satisfy its main objectives while permitting both applications to be approved**. Given the congestion of spectrum on the west coast, we suggest that such a compromise would be in the public interest.

4. Summary

Please consider the following in your deliberations:

- a. Rogers proposes a repeater while Gabriola Radio proposes a new community service. The latter is a higher, better use.
- b. Rogers did not follow Industry Canada rule BPR 3 requiring a CRTC "simultaneous application".
- c. Rogers expansion would deliver a CIOC signal out of market.
- d. In its application, Rogers identifies a deficiency in its coverage area. Below we identify a solution.
- e. In the Minority Language Report, the CRTC wrote that reassignment of channels may relieve congestion of spectrum on the west coast.
- f. The CRTC should issue a call for applications for use of the channel in question.
- g. **The West Coast corridor is already home to a preponderance of commercial stations.**
- h. Gabriola Radio would provide a much needed local news service.
- i. Rogers should not be awarded its proposed expansion when a community applicant is ready to use the scarce channel

5. We will discuss each of these points in more detail below.

Review of applicant Gabriola Radio

6. The Gabriola community has supported our CRTC community radio application in deed and substantial numbers. Three CDs (2003, 2006, 2008) of original local material have been recorded so far, station produced, before the station is even on the air. Prior to Rogers' application, we had completed the application process and submitted the required documents along with an engineering brief that was, in the main, technically acceptable. The reduced 60 watt erp, from 80 watt, protected Rogers' existing CIOC service, as well as the newly licensed incumbent in Vancouver over land. Interference over water is permitted by Industry Canada practice.) The sole complaint came from Rogers, which desires to expand.
7. Gabriola Radio would provide community access to the airwaves, important local news services, and content not provided by any other radio service. For example, we plan to establish a local news department operated by volunteers and supported by our small paid staff, using existing telephony and internet technologies. Other programming highlights include children's bedtime stories airing every weeknight, local arts and culture coverage, live readings and performances by local writers and musicians, plus emergency broadcasting services.
8. Regarding the latter: our forests are dry in the summer, leading to increased danger from fire. We also live in a major earthquake zone. FM radio is a proven method for communicating in the event of a widespread emergency. In particular, a community station can provide real-time, instructions, specific to the community, that have the potential to save lives. It is no accident that local fire

department trustees are Gabriola Radio's largest single funder. Ken Zakreski, CKGI developer, is a former Provincial Emergency Program co-ordinator.

9. Since 2001 we have worked within our community to create awareness, establish support infrastructures, and raise funds (over \$13,000 so far, despite our small population of 4,050). Recently the Regional District of Nanaimo provided \$400 for a microphone, and The Islands Trust donated two internet computer servers. 2003 saw Gabriola Radio host the NCRA's regional radio conference. In 2005 we filed our constituting documents and were granted non profit status under BC law. We have demonstrated our commitment to community radio to our peers across Canada, and Gabriola Radio has been awarded the hosting duties for the National Campus Community Radio Conference for 2010.
10. We have provided comments to the CRTC, and attended hearings, when spectrum was at risk in our area. We believe the commission supported our efforts by leaving a small portion (98.7FM) suitable for us to use on Gabriola to service our community and immediate area.
11. Finally, we applied to the CRTC in 2008. During the process we lowered our ERP to 60 watts to fully protect Rogers' existing CIOC service, as well as the newly licensed MacBride undertaking (Application No. 2007-0988-4) out of Vancouver. Rogers opposed our application solely on technical grounds, resulting in its being withdrawn. In June of 2009, Rogers filed an application to expand their CIOC service.
- 12. While in principle we have no objection to the Rogers application, given that it serves a different audience than the one Gabriola Radio is intended**

for, we strongly object to use of the last remaining protected frequency on the West Coast in this manner.

Rationale for Opposing Rogers application

13. Rogers proposes a repeater of their CIOC commercial service, Gabriola Radio proposes a new community service, CKGI. The Diversity of Voices decision (CRTC 2008-4) seems to support a new service over a repeater. The Vancouver Island region is not currently served by any English language, not for profit, community radio station. Two campus licensees (CFUV, CHLY), and one instructional (CKMO), serve major urban centres (Victoria, Nanaimo). Two developmental stations (CICV, CHFR) are likely to have difficulty finding protected frequencies at the conclusion of their developmental license periods. That leaves the Commercial Specialty community format at CFSI, and, of course, CILS, *Société radio communautaire Victoria*, **There are no English language, community licensed, non-profit radio stations serving any of the Gulf Islands or smaller Vancouver Island communities.** The commission's challenge is to ensure that future development, of community services, for smaller communities, is possible on the West Coast.

14. Rogers did not follow Industry Canada rules when it delayed filing its CRTC application. Their Industry Canada brief was filed on February 28th, 2009. On March 5th, they were advised by Industry Canada to file their CRTC application "as soon as possible." Rogers' CRTC Application is dated July 7th, 2009. Thus Rogers breached Industry Canada BPR 3 requiring a CRTC "simultaneous application". Gabriola Radio acknowledges with thanks that Rogers used the

time to examine CCD policy for the support of community radio applicants such as Gabriola Radio. However, we hope the Commission will take this delay, and its impact on Gabriola Radio, into consideration in making its decision. CRTC rules and procedures must be seen to apply equally to all applicants, including large incumbent broadcasters.

15. Rogers expansion, if permitted, would deliver a CIOC signal outside of the broadcast area permitted by its class C license.

16. Rogers states that "the Saanich Peninsula, including the town of Sidney, the ferry docks servicing Vancouver and the area around Victoria International Airport" are the areas of most serious deficiency. Rogers could use a directional antennae, from Salt Spring (or a lower site with increased shadowing), to serve this area, thus permitting both Gabriola Radio and Rogers to proceed with their applications. This solution is balanced. Gabriola Radio suggests that if the Commission is considering approving Rogers' application, Rogers should be required to revise its engineering parameters to support use of the frequency by both Rogers and Gabriola Radio. **Gabriola Radio would agree to work co-operatively to that end as long as any costs over our original application were covered.**

17. In the Minority Language Report for the governor in council (September 29th- <http://www.crtc.gc.ca/eng/BACKGRND/language/ol0903-lo0903.htm>), the CRTC wrote that reassignment of channels may relieve congestion of spectrum on the West Coast:

In the Commission's view, a detailed review of the allotment plan, conducted to identify and reassign some frequencies operated

by licensees in highly congested zones, would clear new channels for licensing of new FM radio stations. The Commission considers that the Department of Industry could analyze the management of the spectrum in the Quebec-Windsor corridor and in Greater Vancouver.

18. We believe this statement supports our rationale for denying Rogers use of this channel, and reserving it for an applicant demonstrating a higher and better use.

19. If the Commission deems the Rogers application to have merit, it is important to keep in mind that no other protected channel is available for Gabriola Radio to use. This is last protected full-power channel available to new broadcasters in the region and it should not be given away without a comprehensive process. Therefore, if the Rogers' application goes to a hearing, The CRTC should issue a call for the use of this channel. The earlier Gabriola Radio application did not need to trigger a call as the broadcast area had no commercial value (see letter dated November 21, 2008, CRTC application 2008-1533-4), but we believe Rogers' application should be based on the commercial value they are asserting.

20. The West Coast corridor is home to a preponderance of commercial stations. Community and Campus stations are under-represented. The Broadcast Act calls for the CRTC to "*(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.*" Community radio is also a proven venue for public training and participation.

21. Gabriola Radio would provide a much needed local news service. The Commission is well aware of the decrease in local reporting coverage requested by both the CBC and commercial sector. Community radio, however, is able to

continue its local coverage even under difficult economic conditions. The report *Our Cultural Sovereignty – the Second Century of Canadian Broadcasting* (Lincoln Report), submitted to Parliament June 2003, recommends that the Broadcasting Act be amended

to recognize not-for-profit public broadcasters as an integral part of the Canadian broadcasting system.

22. The current Broadcast Act reflects this Lincoln Report recommendation.

23. We also note *Diversity of Voices* (CRTC 2008-4) states:

In the Commission's view, the Canadian broadcasting system should provide access to a diversity of voices through broadcasting services from the public, private and community elements.

24. Denying the Rogers application for a CIOC light rock repeater, at least in its current form, and reserving the channel for a higher and better use such as that proposed by Gabriola Radio, would support Diversity of Voices, Diversity of Elements and Diversity of Programming. Approving Rogers would not.

25. Rogers showed no previous interest in broadcasting to the area in question until Gabriola Radio applied. In SMBR 003-08, Industry Canada decided to remove the protection for squatting broadcasters like Rogers (tying up a channel and not servicing the area) as of 2011. Meanwhile, Gabriola Radio believes that Rogers should not be awarded their expansion into an unserved area when a community applicant is ready to use the scarce channel. We respectfully ask the Commission to question the timing of the Rogers application, given that they chose not to apply to expand when the CBC applied for this same channel a few months prior to Gabriola Radio (Application No. 2007-1423-9).

26. Conclusion

27. Gabriola Radio requests that the Commission deny Rogers' application to expand its 100,000 watt CIOC (The Ocean) 98.5 FM service, as this is not the highest and best use of the last remaining protected frequency on the West Coast. Failure to do so would leave only a low power unprotected channel for Gabriola Radio that would put us at risk of being bumped by other broadcasters, with the attendant financial damage, and prevent us from broadcasting to our entire community.

28. We respectfully request that the Commission permit Gabriola Radio to resubmit our previous application 2008-1533-4 (at the all ready documented lower 60 watts), based on the rationale provided herein. Since the Rogers proposal was the only reason for the withdrawal of Gabriola Radio Application 2008-1533-4 (at 60 watts), we believe the Commission should reconsider it based on the comments received. This would be a streamlined approach solving the problem.

29. Rogers should be permitted to reapply to service its most serious deficiencies (ie., on the south of Salt Spring) provided it does not pre-empt the development of a protected community radio service for Gabriola Island.

30. We ask the Commission's permission to respond to any rebuttal that Rogers provides to our opposing intervention.

peace

Gabriola Radio Society

proof of delivery

Deadline for Interventions/Comments

29 September 2009

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I, Ken Zakreski, did email Susan Wheeler these comments, at this time, on this date, from this place.

peace and good scones.

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