



Canadian  
Association of  
Broadcasters

L'Association  
canadienne des  
radiodiffuseurs

May 12, 2005

Ms. Diane Rhéaume  
Secretary-General  
Canadian Radio-television and  
Telecommunications Commission  
1, Promenade du Portage  
Hull, Québec  
K1A 0N2

Dear Ms. Rhéaume:

**Re: Broadcasting Notice of Public Hearing CRTC 2005-4 –  
Application No. 2004-0662-0 by Dyracom Communications Inc.**

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view televisions services – is pleased to submit this intervention to the above-noted application.
2. Dyracom Communications Inc. (Dyracom) has applied for a license to operate an English-language low-power FM commercial radio programming undertaking in Estevan, Saskatchewan. The new station would operate on a frequency of 106.3 MHz (channel 292LP) with an effective radiated power of 50 watts at a height of 34.8 meters. The applicant proposes to provide a progressive rock music format with emphasis on presenting local musical talent.
3. The CAB **opposes the above-noted application** for the following reasons:
  - Dyracom’s application does not meet the objectives identified in the licensing policy for low-power radio undertakings outlined in Broadcasting Public Notice CRTC 2002-61 *Policy Framework for Community-based Media* (PN 2002-61); and

- Dyracom has not adequately demonstrated that its proposed service will not have an undue negative commercial impact upon the incumbent broadcaster in the Estevan market.
4. As the CAB noted in its submission to the Commission respecting Public Notice CRTC 2001-19 *Review of Community Channel Policy and Low-Power Radio Broadcasting Policy*, low-power radio undertakings have emerged in numerous markets over the past several years. While their geographic coverage area may be limited, their market reach can be extensive. For example, Dyracom's proposed low-power radio service in Estevan would cover 10,514 people, close to the population of the entire Estevan Census Subdivision and accounting for approximately 60% of the population serviced by the incumbent Class A station. In addition, Dyracom is proposing a music format traditionally provided by mainstream conventional radio stations.
  5. It is the CAB's position that low-power radio undertakings should provide niche-focused services that provide true diversity of voices in the broadcasting system, for example tourist/weather information, ethnic or other services of direct and local relevance. Such services complement rather than compete with existing radio services in the market. Low-power radio services must not represent a new, low-cost competitive layer with few obligations for licensees and a lower threshold to market entry.
  6. In PN 2002-61, the Commission clearly states as a fundamental element of its licensing policy for low-power radio that "[l]ow-power radio undertakings should not replicate the programming offered by existing services." Accordingly, the Commission's licensing policy requires all applicants for low-power radio services to demonstrate how their proposed service will fulfill the following objectives:
    - The contribution of an additional, diverse voice to the markets served;
    - The presentation of programming that complements that of existing licensees in the market; and
    - The fulfillment of demonstrated community needs.
  7. The CAB submits that Dyracom's application has failed to demonstrate how its proposed service will meet any of the above-noted licensing objectives. While the Dyracom application purports to offer a progressive rock music format with an emphasis on local musical talent, the CAB submits that in effect the applicant is proposing a Hard

Rock music format, which is traditionally provided by mainstream conventional radio stations.

8. In its supplementary brief the applicant states that one of its "...main goals is to play as much music from talented musical artists in our local area as possible." However, the CAB notes that the applicant has proposed to play only an hour of locally produced music a day during the evening period. The CAB submits that if the applicant truly intended to add diversity to the market and complement the services provided by the incumbent broadcaster, its application would have included a greater emphasis on local programming and community reflection in keeping with the objectives outlined in the Commission's community-based media policy.
9. The nature of the above-noted application underscores the CAB's serious concern that the Commission's licensing policy for low-power radio will be used as a "back door" entry into the system for applicants wishing to operate conventional radio undertakings but not willing to shoulder the regulatory obligations that accompany such a license. In reviewing Dyracom's application the Commission must not underestimate the significant impact that the introduction of new, ostensibly "non-competitive" services can have on existing licensed radio undertakings, particularly in smaller markets where licensed local services are under constant pressure from all media sources.
- 10. For these reasons, the CAB urges the Commission to deny the application by Dyracom for a low power FM commercial radio station in Estevan, Saskatchewan.**
11. Furthermore, the CAB notes that in Decision CRTC 2004-148, the Commission previously denied a similar application by Dyracom for a broadcasting license to carry on an English-language low-power FM radio station in Estevan. In that decision the Commission concluded that "...the proposed low-power station would have an undue negative commercial impact upon the operations of the incumbent broadcaster and its abilities to discharge its programming obligations and commitments."
12. The CAB submits that the current application is virtually identical to Dyracom's previous application except the applicant has halved its revenue projections in an apparent attempt to downplay the impact it will have on the incumbent broadcaster in the Estevan market.
13. Should the Commission determine in the context of the current proceeding that the Estevan market can now sustain an additional competitive commercial service and that there is a demonstrated need

for such a service, the CAB submits that appropriate safeguards in the form of conditions of license respecting commercial activity and programming content be imposed in order to ensure there is no undue negative commercial impact upon the operations of the incumbent commercial broadcaster.

14. The CAB appreciates the opportunity to provide its comments in this proceeding and does not wish to appear at the June 6th, 2005 hearing in Niagara Falls, Ontario.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. Keeble', with a stylized flourish at the end.

David Keeble  
Senior Vice-President,  
Policy and Regulatory Affairs

cc: Darcy Vatamaniuck - President and CEO, Dyracom Communications Inc.  
Marc O'Sullivan, CRTC