



Broadcasting Decision CRTC 2008-101

Ottawa, 9 May 2008

Neeti P. Ray, on behalf of a corporation to be incorporated

Windsor, Ontario

Blackburn Radio Inc.

Windsor, Ontario

Application 2006-1236-8, received 3 October 2006

Application 2007-1123-5, received 7 August 2007

Public Hearing in London, Ontario

10 December 2007

Licensing of new radio stations to serve Windsor, Ontario

*The Commission **approves** the application by Blackburn Radio Inc. for a broadcasting licence to operate a new FM radio station to serve Windsor. The Commission also **approves** the applicant's request for an exemption from the regulatory requirement regarding the level of hit material that may be broadcast.*

*The Commission **approves in part** the application by Neeti P. Ray, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a new FM ethnic radio station to serve Windsor. Within 90 days of the date of this decision, the applicant must submit an amendment to the application proposing the use of an FM frequency other than 95.9 MHz (channel 240B1) that is acceptable both to the Commission and the Department of Industry.*

Introduction

1. At a public hearing commencing 10 December 2007 in London, Ontario, the Commission considered two applications for new radio programming undertakings to serve Windsor, which are mutually exclusive on a technical basis. The applicants were Blackburn Radio Inc. (Blackburn) and Neeti P. Ray, on behalf of a corporation to be incorporated (Neeti Ray).
2. As part of this process, the Commission received and considered interventions with respect to each application. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. After reviewing the applications and interventions, the Commission is of the view that the primary issues to be considered are the following:
 - Can the Windsor radio market sustain additional radio services without an undue negative impact on existing stations?

- If so, which of the applications should be approved, in light of the factors identified in Broadcasting Public Notice 2007-61, as amended by Broadcasting Public Notice 2007-61-1 (the Call)?

The Windsor radio market and its ability to sustain new stations

4. The Windsor radio market consists of two commercial AM radio stations and two commercial FM radio stations, all of which are owned by CTVglobemedia Inc. (CTVgm) through CTV Limited (CTV), the licensee of the four stations.¹ CKLW Windsor operates under a News/Talk format; CKWW Windsor, under an Adult Standards format; CIMX-FM Windsor, under an Alternative Rock format; and CIDR-FM Windsor, under an Adult Contemporary/Jazz format.
5. Out-of-market tuning to Detroit area stations by Windsor area residents 12 years of age and older accounts for 70% of their total tuning.² Among the Detroit radio stations available to Windsor listeners are two FM stations that offer a Country Music format (WYCD-FM and WDTW-FM Detroit) and three AM stations that offer ethnic programming (WNZK Detroit, a multilingual radio station; WSDS Detroit, a Spanish-language music station; and WPON Detroit, an oldies station with South Asian and Spanish programming on weekends).
6. From 2002 to 2006, the compound annual growth rate of total revenues was 1.1% in the Windsor radio market, compared to 6.4% for the province of Ontario and 6.4% for all of Canada over the same period.
7. According to the Conference Board of Canada, real growth in the Windsor Census Metropolitan Area's (CMA's) gross domestic product (GDP) was flat in 2007, the seventh year in a row in which the economy has disappointed. Further, it projects that the economic struggles will persist into 2008, with real GDP growth of 0.9% forecast, and that an expected increase of 1.8% in employment in 2008 will not be enough to compensate for the estimated 4.5% decrease in employment in 2007.
8. Although the Windsor radio market experienced, from 2006 to 2007, a slight decrease in its profit before interest and tax (PBIT) margin, it was above average in terms of profitability relative to the 2006 aggregate PBIT for all commercial radio stations in Canada. Further, of CTV's four radio stations in Windsor, only one was unprofitable in 2007.

¹ In Broadcasting Decision 2007-165, the Commission approved the transfer of effective control of these and other programming undertakings from CHUM Limited (CHUM) to CTVgm. On 31 July 2007, CHUM changed its name to CTV Limited (CTV). Due to the unique circumstances of the Windsor radio market, the Commission had granted CHUM an exception to its Common Ownership Policy in Decision 93-37, where it approved its acquisition of the assets of the radio programming undertakings CKLW and CKLW-FM Windsor (the latter now CIDR-FM) from Trillium Cable Communications Limited; when Decision 93-37 was issued, CHUM already owned CKWW and CIMX-FM Windsor. As such, in Broadcasting Decision 2007-165, CTVgm inherited from CHUM this exception to the Commission's Common Ownership Policy, and thus owns and operates one more station than would be permitted without that exception.

² BBM Canada, Fall 2007

9. According to Statistics Canada's 2006 Census,³ the population of the Windsor CMA was about 331,600. The population had increased by 0.9% between 2003 and 2006, as compared to 3.1% for Canada and 3.6% for Ontario during the same period. The 2007 Windsor radio market population 12 years of age and older was estimated to be 290,635.⁴ According to the Financial Post Survey of Markets, 2007, the size of this segment of Windsor's population is expected to increase by 0.2% annually from 2007 to 2012.
10. Although the Commission recognizes that incumbent Windsor radio services would experience some negative economic impact from the licensing of new stations, it is satisfied, based on the evidence set out above, that the Windsor radio market could support the licensing of one new commercial radio station and one niche radio station (one not directed to a mainstream audience) without becoming unprofitable.

Assessment of the applications

11. Having determined that there is room in the Windsor radio market for two additional services, the Commission has considered the two applications to serve Windsor in light of the factors relevant to the evaluation of the applications outlined in the Call, which include the factors set out in Decision 99-480:
 - the diversity of news voices;
 - the quality of the application; and
 - the level of market impact.
12. In the case of the Neeti Ray application, the Commission also considered the applicant's plans with respect to meeting the objectives set out in Public Notice 1999-117 (the Ethnic broadcasting policy).
13. In assessing the applications for the proposed services, the Commission has also taken into consideration the special circumstances of the Windsor radio market. In Public Notice 1984-233 (the Windsor Radio Review), the Commission acknowledged that Windsor radio licensees, who compete for local listeners with many stations located one kilometre away in Detroit, operate in an environment unparalleled anywhere in Canada. The Commission therefore stated that it was prepared to regulate radio licensees operating in Windsor in a flexible manner. However, the Commission also established the following principle that would govern its approach to the regulation of Windsor radio stations:

[...] the Commission is of the view that its objectives in Windsor will be achieved by programming services that reflect a firm Canadian orientation in their approach to the provision of spoken word and music programming.

³ www.statscan.ca

⁴ BBM Canada, 2007

14. As noted in Broadcasting Decision 2003-603, in view of the unique circumstances of the Windsor radio market, CTV's four commercial radio stations in Windsor are regulated in a manner that differs from the regulation of other commercial radio stations. Further, whereas minimum requirements with respect to the level of spoken word and news programming that commercial FM stations must broadcast were generally eliminated in 1993,⁵ such requirements were retained for Windsor stations due to the fact that all of the city's radio stations were owned by one licensee and because the Windsor Radio Review's call for radio stations reflected a firm Canadian orientation to the provision of spoken word programming.

Neeti Ray

15. In Broadcasting Decision 2007-117, the Commission approved an application by Neeti Ray for a broadcasting licence to operate a new ethnic AM radio programming undertaking in Mississauga, Ontario. As of the date of this decision, that undertaking has not commenced operations.
16. In the present case, Neeti Ray proposed to establish an English- and third-language commercial FM ethnic radio programming undertaking that would operate at 95.9 MHz (channel 240B1) with an average effective radiated power (ERP) of 2,900 watts. The proposed station would offer ethnic programming to a minimum of 21 ethnic groups in Windsor, in a minimum of 12 languages, and would also offer programming targeting an Aboriginal audience. In addition, the applicant indicated that at least 7% of musical selections broadcast during ethnic broadcast periods would be Canadian selections as specified in section 2.2(4) of the *Radio Regulations, 1986* (the Regulations), and that at least 10% of all Category 3 (Special Interest Music) musical selections would be Canadian musical selections played in their entirety.
17. Neeti Ray indicated that at least 105 hours per broadcast week would be devoted to local programming, and that, by condition of licence, a minimum of 105 hours per broadcast week would be third-language programming, with the remainder being English-language programming. The applicant also indicated that, by condition of licence, at least 105 hours per broadcast week would consist of ethnic programming, and that six hours per broadcast week would be devoted to Aboriginal programming. In addition, the applicant indicated that, by condition of licence, 36 hours per broadcast week would be devoted to spoken word programming, of which, also by condition of licence, 11 hours and 30 minutes would consist of news.⁶
18. Further, Neeti Ray indicated that, in addition to its basic annual contribution to Canadian content development (CCD), it would contribute a total of \$24,000 over seven consecutive broadcast years to the funding of ethnic journalism scholarships, broken down as follows:

⁵ See Decisions 93-38 and 93-113.

⁶ As set out in Public Notice 2000-14, "news" excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

- \$2,500 per year in the first and second broadcast years;
 - \$2,000 per year in the third and fourth broadcast years; and
 - \$5,000 per year in the fifth, sixth and seventh broadcast years.
19. Finally, the applicant proposed to broadcast, during each broadcast week, a maximum of 12 hours and 36 minutes of religious programming, and indicated that it would accept a condition of licence relating to balance and ethics in religious programming.

Blackburn

20. Blackburn owns and operates various AM and FM radio programming undertakings in Chatham, Leamington, Sarnia and Wingham, Ontario. For its station CKUE-FM Chatham, Blackburn also operates the rebroadcasting transmitter CKUE-FM-1 Windsor.
21. The applicant proposed to establish an English-language commercial FM radio programming undertaking in Windsor that would operate at 95.9 MHz (channel 240B1) with an average ERP of 3,550 watts. The proposed station would offer a New Country music format targeting listeners between 35 and 64 years of age, with a core audience 35 to 44 years of age, skewed slightly towards women.
22. Blackburn indicated that at least 120 hours of each broadcast week would be devoted to local programming and that, by condition of licence, 11 hours and 13 minutes of each broadcast week would be devoted to spoken word programming. Of the latter, 6 hours and 42 minutes would consist of news and related surveillance material, of which, by condition of licence, four hours and eight minutes would be news.
23. Blackburn also requested an exemption from the regulatory requirement regarding the level of hit material that it is permitted to broadcast, set out in Public Notice 1997-42.⁷ It proposed instead that up to 100% of its music programming be comprised of hit material.
24. Finally, the applicant indicated that, in addition to its basic annual contribution to CCD, it would contribute \$143,000 annually, for a total of \$1,001,000 over seven consecutive broadcast years, to CCD. Of this amount, \$28,600 per broadcast year would be devoted to FACTOR, and the remainder would be allocated to eligible parties and initiatives as defined in Broadcasting Public Notice 2006-158.

⁷ According to Public Notice 1997-42, “[f]or English-language commercial FM stations in markets other than Montréal and Ottawa/Hull [...] [a] hit is any selection that, up to and including 31 December 1980, reached one of the Top 40 positions in the charts used by the Commission to determine hits.” As set out in that public notice, the level of hits broadcast by English-language commercial FM radio stations must be less than 50% of all musical selections broadcast each week.

Commission's analysis

25. The Commission considers that the applications by both Neeti Ray and Blackburn fulfill the criteria set out above for evaluating competing applications for new radio stations to serve Windsor, and that the Windsor radio market could support the licensing of both proposed radio programming undertakings without becoming unprofitable.

Blackburn

26. The Commission considers that Blackburn's proposal for a local country music station represents a viable business opportunity that would add diversity to the Windsor radio market and that could repatriate Windsor area residents who tune in to Detroit area stations. Further, the Commission notes that Blackburn's proposal would introduce a new Canadian news voice to the Windsor radio market, and considers that the applicant's proposed levels of spoken word and news programming would ensure an additional source of Canadian radio programming in Windsor. In addition, the Commission considers that Blackburn's regional presence would allow for economies of scale in the highly competitive Windsor radio market dominated by CTV. Finally, Blackburn committed to devote, over and above the basic annual contribution to CCD, a total of \$1,001,000 to CCD over seven consecutive broadcast years.
27. In regard to Blackburn's request to be granted an exemption from the regulatory requirement regarding the level of hit material that may be broadcast, the Commission notes that FM radio stations in Windsor have previously been granted exemptions from the requirement to broadcast less than 50% hits, due to the special nature of the Windsor radio market and its proximity to Detroit.⁸ The Commission considers that granting the requested exemption in the present case would be consistent with past decisions regarding incumbent radio stations in that market.
28. In an intervention submitted in regard to Blackburn's application, CTVgm contended that the introduction of the applicant's proposed FM service would constitute a breach of the Commission's Common Ownership Policy. In its reply to this intervention, Blackburn noted that the unique circumstances of the Windsor radio market have, in the past, led the Commission to provide exceptions to some of its policies, and suggested that, in regard to Windsor's four incumbent AM and FM radio stations, it is not only CTVgm that should benefit from an exception to the Commission's Common Ownership Policy.
29. The Commission's Common Ownership Policy for radio, as set out in Public Notice 1998-41, and reaffirmed in Broadcasting Public Notice 2008-4, includes the following limitation (which applies to the Windsor radio market, among other markets) on the number of stations a commercial licensee can own and control in a given geographical and linguistic market:

⁸ See, for example, Decisions 93-37 and 93-38.

[...] in markets with less than eight commercial stations operating in a given language, a person may be permitted to own or control as many as three stations operating in that language, with a maximum of two stations in any one frequency band.

30. In the case of an AM station, the term “market” is defined in section 2 of the Regulations as the “A.M. daytime 15mV/m contour or the central area as defined by the Bureau of Broadcast Measurement (BBM), whichever is smaller.” In the case of an FM station, the term “market” is defined in that same section of the Regulations as the “F.M. 3mV/m contour or the central area as defined by the Bureau of Broadcast Measurement (BBM), whichever is smaller.”
31. In the past, the Commission has granted limited exceptions to its Common Ownership Policy,⁹ the rationale for which has generally rested on the following two elements:
 - the need to sustain strong, locally focused programming for smaller communities located adjacent to large urban centres; and
 - the financial ability of the licensee to provide such local programming, and thus contribute to the diversity of voices, while maintaining a viable enterprise.

It was within this rationale that the above-mentioned exception to the Commission’s Common Ownership Policy was granted to CHUM.

32. Blackburn currently owns and operates one radio programming undertaking that impinges upon the Windsor radio market, namely, CHYR-FM Leamington.¹⁰ Approval of the present application would therefore give Blackburn a second FM station in the same radio market.
33. As noted above, Blackburn also owns and operates the transmitter CKUE-FM-1 Windsor, which rebroadcasts the programming of CKUE-FM Chatham. The operation of CKUE-FM-1 provides 42 hours per week of local programming to Windsor (while broadcasting the same feed to Windsor and Chatham) and sells advertising in the Windsor radio market. This gives that rebroadcasting transmitter a presence in the Windsor radio market, and, consequently, a third FM presence in that radio market to Blackburn.

⁹ See, for example, Decision 2000-141 in regard to Newcap Inc.’s ownership and operation of four radio stations in the St. John’s radio market.

¹⁰ In Broadcasting Decision 2007-223, the Commission approved an application by Blackburn for a broadcasting licence to operate CJSP-FM Leamington, which has not yet commenced operations. The Commission notes that the 3mV/m contour for this station does not impinge upon the Windsor radio market.

34. In recent broadcasting decisions, the Commission has denied applications to operate FM rebroadcasting transmitters in Winnipeg and Owen Sound,¹¹ since the addition of the proposed transmitters would have effectively given each licensee a third FM presence in each market. However, the Commission's denial of those proposed transmitters was based on the transmitters being located within the same radio market as the originating station, which is not the case for CKUE-FM-1.
35. In the present case, the Commission also notes that the programming focus of both CKUE-FM-1 and CHYR-FM is not exclusive to Windsor matters or local Windsor reflection. Furthermore, the Commission considers that the long-standing unique circumstances of the Windsor radio market would allow it to support the introduction of the additional local radio choices offered by Blackburn.
36. In light of the above, the Commission does not consider that three FM presences in Windsor would give Blackburn a competitive advantage over CTV's four local Windsor originating stations, and therefore considers that approval of Blackburn's present application would not constitute a breach of the Commission's Common Ownership Policy.

Neeti Ray

37. The Commission considers that Neeti Ray's proposal for an ethnic radio service would add diversity to the Windsor radio market and could repatriate Windsor area residents who tune in to Detroit area ethnic radio stations. Further, the Commission notes that Neeti Ray's proposal would introduce a new Canadian news voice to the Windsor radio market, and considers that the applicant's proposed levels of spoken word and news programming would ensure an additional source of Canadian radio programming in Windsor. In addition, the Commission notes Neeti Ray's commitment to serve at least 21 groups in a minimum of 12 different languages, and that the proposed service would introduce visible minority radio ownership to the Windsor radio market. Finally, Neeti Ray committed to devote, over and above the basic annual contribution to CCD, a total of \$24,000 to CCD over seven consecutive broadcast years.
38. The application by Neeti Ray proposing the use of the frequency 95.9 MHz was technically mutually exclusive with the application by Blackburn, which proposed the use of the same frequency. The Commission considers that the service proposed by Blackburn would make better use of that frequency than would the service proposed by Neeti Ray, since Blackburn is proposing a conventional mass-appeal commercial radio station that would compete directly against CTV's four-station Windsor operation for both audience share and advertisers. In light of the comments received at the public hearing, the Commission notes that alternative frequencies have been identified as being capable of serving the Windsor radio market. Accordingly, Neeti Ray will be required to consider using an alternative frequency to operate its proposed service.

¹¹ See Broadcasting Decisions 2007-350 and 2008-25, respectively.

Determinations

39. Based on all of the foregoing, the Commission **approves** the application by Blackburn Radio Inc. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Windsor. The Commission also **approves** Blackburn's request to be exempted from the regulatory requirement regarding the level of hit material that may be broadcast, set out in Public Notice 1997-42. The terms and **conditions of licence** are set out in Appendix 1 to this decision.
40. In addition, the Commission **approves in part** the application by Neeti P. Ray, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English- and third-language commercial FM ethnic radio programming undertaking in Windsor. The terms and **conditions of licence** are set out in Appendix 2 to this decision.
41. While approving in part the application by Neeti Ray, the Commission notes that the applicant must submit, as set out in Appendix 2 to this decision, within 90 days of the date of this decision, an amendment to the application proposing the use of an FM frequency other than 95.9 MHz (channel 240B1) and related technical parameters that are acceptable to both the Commission and the Department of Industry.
42. Because Blackburn 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.

Secretary General

Related documents

- *CFOS Owen Sound – New transmitter in Owen Sound*, Broadcasting Decision CRTC 2008-25, 6 February 2008
- *Diversity of Voices*, Regulatory policy, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *CJOB Winnipeg – New FM transmitter in Winnipeg*, Broadcasting Decision CRTC 2007-350, 7 September 2007
- *English-language FM radio station in Leamington*, Broadcasting Decision CRTC 2007-223, 9 July 2007
- *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Windsor, Ontario*, Broadcasting Public Notice CRTC 2007-61, 8 June 2007, as amended by Broadcasting Public Notice CRTC 2007-61-1, 13 June 2007
- *Transfer of effective control of CHUM Limited to CTVglobemedia Inc.*, Broadcasting Decision CRTC 2007-165, 8 June 2007

- *Ethnic radio programming undertakings in Mississauga and Brampton*, Broadcasting Decision CRTC 2007-117, 23 April 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CKUE-FM Chatham – New transmitter in Windsor*, Broadcasting Decision CRTC 2003-603, 17 December 2003
- *Transfer of the ownership and control of VOXM and VOXM-FM St. John's, and of five other radio stations in Newfoundland*, Decision CRTC 2000-141, 4 May 2000
- *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998
- *Revised Policy on the Use of Hits by English-Language FM Radio Stations*, Public Notice CRTC 1997-42, 23 April 1997
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993
- Decision CRTC 93-113, 16 April 1993
- Decision CRTC 93-38, 29 January 1993
- Decision CRTC 93-37, 29 January 1993
- *Windsor Radio Review*, Public Notice CRTC 1984-233, 25 September 1984

This decision and the appropriate appendix are to be appended to each licence. This document 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 2008-101

Blackburn Radio Inc.

Application 2007-1123-5, received 7 August 2007

Terms, conditions of licence and expectation

Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Windsor, Ontario

Terms

The licence will expire 31 August 2014.

The station will operate at 95.9 MHz (channel 240B1) with an average effective radiated power of 3,550 watts.

The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must 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 9 May 2010. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of conditions of licence numbers 5 and 10.
2. The licensee shall broadcast not less than 11 hours and 13 minutes of spoken word programming during each broadcast week, and not less than 4 hours and 8 minutes of news programming during each broadcast week.

For the purpose of this condition of licence, the definition of “broadcast week” is the same as that set out in the *Radio Regulations, 1986*.

3. The licensee shall, upon commencement of operations, make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Broadcasting Public Notice 2006-158), as amended from time to time.

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or MUSICACTION.

The remainder of the basic annual contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

4. In addition to its basic annual Canadian content development contribution, the licensee shall, upon commencement of operations, make an annual contribution of \$143,000 (\$1,001,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate \$28,600 per broadcast year to FACTOR.

The remaining amounts of this additional contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

Cultural diversity

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

Appendix 2 to Broadcasting Decision CRTC 2008-101

Neeti P. Ray, on behalf of a corporation to be incorporated

Application 2006-1236-8, received 3 October 2006

Terms, conditions of licence, expectation and encouragement

Issuance of the broadcasting licence to operate an English- and third-language commercial FM ethnic radio programming undertaking in Windsor, Ontario

Terms

The licence will expire 31 August 2014.

The Commission will only issue the licence, and the licence will only be effective at such time as:

- the applicant submits, within 90 days of the date of this decision, an amendment to its application proposing the use of an FM frequency other than 95.9 MHz (channel 240B1) and related technical parameters that are acceptable to both the Commission and the Department of Industry (the Department). This amended application will form part of a public process;
- pursuant to section 22(1) of the *Broadcasting Act*, the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued;
- the applicant has satisfied the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must 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 9 May 2010. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

Where the term “broadcast week” appears in the following conditions of licence, it shall have the same meaning as that set out in the *Radio Regulations, 1986*.

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of conditions of licence numbers 5 and 8.
2. The licensee shall broadcast not less than 105 hours of local programming during each broadcast week.
3. The licensee shall broadcast, during each broadcast week, not less than 36 hours of spoken word programming and not less than 11 hours and 30 minutes of news programming.
4. The licensee shall broadcast, during each broadcast week, programming directed to a minimum of 21 ethnic groups in a minimum of 12 languages.
5. The licensee shall broadcast not less than 105 hours of third-language programming during each broadcast week.
6. The licensee shall broadcast not less than 105 hours of ethnic programming during each broadcast week.
7. The licensee shall, upon commencement of operations, make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Broadcasting Public Notice 2006-158), as amended from time to time.

This basic annual contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives in Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

8. In addition to its basic annual Canadian content development contribution, the licensee shall, upon commencement of operations, make an additional annual contribution to the funding of ethnic journalism scholarships as follows:
 - \$2,500 per broadcast year in the first and second years of operation;
 - \$2,000 per broadcast year in the third and fourth years of operation; and
 - \$5,000 per broadcast year in the fifth, sixth and seventh years of operation.

9. Whereas the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

Expectation

Cultural diversity

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

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