



Broadcasting Decision CRTC 2011-756

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Ottawa, 7 December 2011

Subanasiri Vaithilingam, on behalf of a corporation to be incorporated Scarborough, Ontario

Application 2010-1889-6, received 17 December 2010

Public hearing in the National Capital Region

19 September 2011

Ethnic FM radio station in Scarborough

*The Commission **approves** an application for a broadcasting licence to operate a commercial ethnic FM radio station in Scarborough, Ontario.*

Introduction

1. The Commission received an application by Subanasiri Vaithilingam, on behalf of a corporation to be incorporated (OBCI), for a broadcasting licence to operate a commercial ethnic FM radio programming undertaking in Scarborough, Ontario. The new station would operate at 105.9 MHz (channel 290LP) with an effective radiated power of 45 watts (non-directional antenna with an effective height of antenna above average terrain of 63.4 metres).
2. Subanasiri Vaithilingam (OBCI) will be wholly owned and controlled by Subanasiri Vaithilingam.
3. The applicant proposed to direct ethnic programming to a minimum of three cultural groups in a minimum of three different languages each broadcast week by condition of licence. It indicated that 90% of the programming aired each broadcast week would be devoted to ethnic programming and that 90% thereof would be devoted to third-language programming. The applicant also stated that it would accept a condition of licence requiring it to contribute \$17,000 over seven years to Canadian content development (CCD) over and above the basic contributions to CCD.

Interventions and applicant's reply

4. The Commission received one intervention in support of the application, composed of numerous letters in support. The Commission also received opposing interventions by

3885275 Canada Inc., licensee of CJSА-FM Toronto, and Bhupinder Bola.¹ The public record for this application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

5. In its intervention, 3885275 Canada Inc. noted that the Greater Toronto Area (GTA) was already served by nine ethnic stations and submitted that the market could not support the entry of a new ethnic radio station. It also indicated that approval of the application would have a negative impact on CJSА-FM by targeting the same Tamil ethnic group, from which it indicated it derived approximately half of its revenues. The two interveners in opposition to the application indicated that the Tamil community in the GTA and Scarborough was already well served by existing stations in the market.
6. In reply, the applicant indicated that its new low-power FM station would have very little impact on other stations in the market and that both CJSА-FM and its proposed FM station could serve the Tamil community in the market.

Commission's analysis and decision

7. After considering the public record for this application in light of applicable policies and regulations, the Commission finds that the issue it must examine is whether approval of the application would have an undue negative impact on CJSА-FM Toronto.
8. The Commission notes that the applicant proposed to devote up to 90% of its programming to programming directed to the South Asian community, including programming primarily targeted to the Tamil community (60%), as well as programming targeted to the Punjabi (20%) and Filipino (10%) communities. The Commission recognizes the potential programming overlap between the proposed service and the ethnic radio services presently serving the GTA, including CJSА-FM, which currently dedicates the largest proportion of its programming to the GTA's Tamil community. However, the Commission notes that the applicant is proposing a low-power ethnic station with coverage primarily limited to Scarborough. Further, the Commission generally considers CJSА-FM to be solidly established in the Toronto market and within the communities it serves, as reflected by the amount and consistency of its revenues. The Commission also considers that the growth within the GTA's Tamil population and business community will help offset the potential impact on CJSА-FM.
9. In light of all of the above, the Commission **approves** the application by Subanasiri Vaithilingam, on behalf of a corporation to be incorporated, for a broadcasting licence

¹ The Commission notes that Bhupinder Bola indicated that it intended to apply for a new service to serve an area similar to the one proposed at the same frequency. Since the current application is for a low-power frequency, the Commission will proceed with this application regardless of the possibility of future applications for that same frequency.

to operate a commercial ethnic FM radio programming undertaking in Scarborough.
The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

**This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2011-756

Terms, conditions of licence and encouragement

Terms

Issuance of the broadcasting licence to operate a commercial ethnic FM radio programming undertaking in Scarborough, Ontario

The licence will expire 31 August 2018.

The station will operate at 105.9 MHz (channel 290LP) with an effective radiated power of 45 watts (non-directional antenna with an effective height of antenna above average terrain of 63.4 metres).

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.

Given that the technical parameters approved in this decision are for a low-power unprotected FM service, the Commission also reminds the applicant that it will have to select another frequency if the Department so requires.

In order to ensure that the applicant is in compliance at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, the Commission requires the applicant to file a copy of its amended and executed by-laws within 12 months of the date of this decision.

Furthermore, the licence for this undertaking will be issued once 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
- 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 7 December 2013. 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 *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The station shall be operated within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall devote a minimum of 90% of the programming broadcast during each broadcast week to ethnic programs, as defined the *Radio Regulations, 1986*.
4. The licensee shall devote a minimum of 90% of the programming broadcast during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.
5. The licensee shall offer on a weekly basis programming directed to a minimum of three cultural groups in a minimum of three languages.
6. The licensee shall ensure that at least 7% of the musical selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.
7. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall make a contribution of \$17,000 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$2,000 in year one, \$1,500 in year two, \$2,000 in year three, \$2,000 in year four, \$3,000 in year five, \$3,000 in year six and \$3,500 in year seven.

Encouragement

Employment equity

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.