



Broadcasting Decision CRTC 2012-487

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Route reference: 2012-126

Ottawa, 11 September 2012

Various applicants

Markham, Ontario

The application numbers are set out in the decision.

Public hearing in Toronto, Ontario

7 May 2012

Licensing of new radio stations to serve Markham

*The Commission **approves** the application by Bhupinder Bola, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a commercial FM radio station in Markham.*

*The Commission **denies** the application by 8041393 Canada Inc. for a broadcasting licence to operate an ethnic commercial AM radio station to serve Markham.*

Introduction

1. At a public hearing beginning 7 May 2012 in Toronto, Ontario, the Commission considered two applications for new radio programming undertakings to serve Markham. The applicants were as follows:
 - 8041393 Canada Inc. (8041393)
 - Bhupinder Bola, on behalf of a corporation to be incorporated (Bhupinder Bola)
2. As part of this proceeding, 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."

Assessment of the applications

3. The Commission notes that the city of Markham is located approximately 35 kilometres northeast of the city of Toronto and is part of the regional municipality of York. The community is included in the Toronto Census Metropolitan Area and is also part of the Toronto central BBM market. Markham reported strong population growth between 2006 and 2011, and its current population is 301,709. The community consists of a considerable number of residents belonging to ethnic communities. In fact, according to the 2006 census, visible minorities accounted for 65% of its population, with the most prominent ethnic groups being Chinese (34%) and South Asian (17%). Given its

geographical proximity to Toronto, the community of Markham has access to many radio stations originating from Toronto, including some of the ethnic stations that currently operate in the Toronto market. However, the Commission notes that none of these stations currently provide a local service to the community of Markham.

4. The Commission has considered the applications to serve the Markham radio market in light of the factors relevant to the evaluation of the applications outlined in Broadcasting Notice of Consultation 2011-625, which include the following factors set out in Decision 99-480:
 - the quality of the application;
 - the diversity of news voices;
 - the competitive state of the market; and
 - the level of market impact.
5. Details of the applications are set out in Appendix 1 to this decision.
6. Having considered the applications in light of the criteria set out above, the Commission finds that the proposal by Bhupinder Bola to operate a predominantly English-language commercial FM radio station best meets the needs of the Markham radio market. In the Commission's view, the applicant's proposal for an Adult Album Alternative/Adult Contemporary musical format commercial FM station offering local programming, as well as a significant portion (36.9%) of ethnic and third-language programming primarily targeted at the South Asian and Chinese communities, will enhance the diversity of editorial voices available both to Markham and the Greater Toronto Area (GTA). Specifically, the applicant committed to provide 126 hours of local programming each broadcast week, including approximately 10 hours of local news and surveillance with 8 hours of pure news. The applicant further indicated that it would accept a condition of licence requiring it to serve a minimum of five ethnic groups in a minimum of nine languages. The Commission considers that the proposed station's broad format, the local nature of its programming and its limited coverage area will likely limit any financial impact on existing ethnic and music radio stations in the wider GTA radio market and that any impact would be spread among several stations.
7. The Commission notes that section 7(3) of the *Radio Regulations, 1986* (the Regulations) states that except as otherwise provided under a condition of licence, an FM licensee that is licensed to operate a station other than an ethnic station shall devote not more than 15% of a broadcast week to third-language programs. However, given the strong presence of ethnic groups in Markham and the applicant's unique proposal to reflect the non-ethnic as well as the multicultural make-up of the market, the Commission considers that an exception to section 7(3) of the Regulations is warranted in this case in order to allow the applicant to devote a maximum of 36.9% of its programming to third-language programming. A **condition of licence** to this effect is set out in Appendix 2 to this decision.
8. With respect to the application by 8041393 Canada to operate an ethnic commercial AM station primarily targeting the South Asian community through the use of two

frequencies, the Commission notes that the 1480 kHz frequency proposed for daytime operation can be used for both daytime and nighttime operation in Newmarket. As such, the Commission considers that the applicant's proposal to use this frequency for daytime operation only does not represent the best use of spectrum. Moreover, the Commission considers that the applicant's proposal to use one AM frequency during daytime and another at nighttime could contribute to listener confusion and consequently impede the station's ability to maintain its audience. As the times for sunrise and sunset vary throughout the year, listeners to a dual-frequency AM station would need to become accustomed to switching between frequencies in accordance with these variations. In practice, this may represent an increased problem for the station during the winter months given that sunrise and sunset coincide with heavy commuter times and that a large portion of radio listenership at these times is attributed to in-vehicle tuning.

9. All commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the Regulations, as amended from time to time. The Commission notes that Bhupinder Bola made a commitment to exceed the minimum contribution to CCD. Specifically, Bhupinder Bola committed to devote, over and above the basic annual contribution to CCD, a total of \$24,225 to CCD over seven consecutive broadcast years upon commencement of operations, to be allocated to FACTOR.

Conclusion

10. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Markham:

Bhupinder Bola, on behalf of a corporation to be incorporated
Application 2011-1271-3, received 13 September 2011

11. The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.
12. In light of all of the above, the Commission **denies** the following application for a broadcasting licence to operate an ethnic commercial AM radio programming undertaking in Markham:

8041393 Canada Inc.
Application 2011-1663-2, received 16 December 2011

Secretary General

Related documents

- *Call for applications – Radio stations to serve Toronto*, Broadcasting Notice of Consultation CRTC 2011-625, 28 September 2011
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

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

Appendix 1 to Broadcasting Decision CRTC 2012-487

Details from the applications for new broadcasting licences for radio programming undertakings to serve Markham, Ontario

Applicant	Details from the application
<p>8041393 Canada Inc. Application 2011-1663-2</p>	<p>Type: ethnic commercial AM radio programming undertaking</p> <p>Technical parameters: 1,480 kHz (Class C) with a transmitter power of 1,000 watts during daytime operation; and 1,490 kHz (Class C) with a transmitter power of 500 watts during nighttime operation</p> <p>Format: ethnic programming directed to a minimum of 22 cultural groups in a minimum of 15 different languages</p> <p>Target audience: South Asian, Punjabi, Iranian, Afghani, Tajikistanish, Uzbekistanish</p> <p>Canadian content (music): 35% category 2* and 10% category 3**; 7% of musical selections during ethnic programming periods</p> <p>Local programming per broadcast week***: 120 hours</p> <p>Spoken word programming per broadcast week: approximately 23 hours of spoken word programming with 8 hours of news. In addition to news, weather, sports and traffic, will offer programs on arts and culture, politics, as well as health and information.</p> <p>Canadian content development contribution (over the basic annual contribution): \$5,500 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: n/a (ethnic station)</p>
<p>Bhupinder Bola, on behalf of a corporation to be incorporated Application 2011-1271-3</p>	<p>Type: English-language commercial FM radio programming undertaking</p> <p>Technical parameters: 105.9 MHz (channel 290A), average effective radiated power (ERP) of 618 watts (maximum ERP of 1,600 watts with an effective height of antenna above average terrain of 21.1 metres)</p> <p>Format: Adult Album Alternative and Adult Contemporary; ethnic programming directed to a minimum of 5 ethnic groups in a minimum of 9 languages</p> <p>Target audience: 12 to 64 years; core: adults 25 to 54 years; target ethnic groups: Chinese, South Asian, Muslim, Black African/Caribbean, Filipino</p> <p>Canadian content (music): 35% category 2 and 10% category 3; 7% of musical selections during ethnic programming periods</p> <p>Local programming per broadcast week: 126 hours</p> <p>Spoken word programming per broadcast week: 10 hours of local news and surveillance, of which 8 hours will be devoted to pure news</p>

	<p>Canadian content development contribution (over the basic annual contribution): \$24,225 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: 10%</p>
<p>* Percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6 a.m. to 6 p.m., Monday to Friday. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>** Percentages shown for category 3 musical selections (Special Interest Music) are for the broadcast week. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>*** The definition of “broadcast week,” as it relates to local, spoken word and news programming, is the same as that set out in the <i>Radio Regulations, 1986</i>.</p>	

Appendix 2 to Broadcasting Decision CRTC 2012-487

Bhupinder Bola, on behalf of a corporation to be incorporated
Application 2011-1271-3, received 13 September 2011

Terms, conditions of licence, expectation and encouragement for the broadcasting licence to operate a commercial FM radio programming undertaking in Markham, Ontario

Terms

The licence will expire 31 August 2019.

The station will operate at 105.9 MHz (channel 290A) with an average effective radiated power (ERP) of 618 watts (maximum ERP of 1,600 watts with an effective height of antenna above average terrain of 21.1 metres).

The Commission reminds the applicant that pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry (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 **11 September 2014**. 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 licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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, upon commencement of operations make a contribution of \$24,225 over seven consecutive broadcast years to the promotion and development of Canadian content, to be allotted each year as follows:

Year 1	\$5,000
Year 2	\$1,817
Year 3	\$5,298
Year 4	\$4,196
Year 5	\$3,453
Year 6	\$2,657
Year 7	\$1,804

Of these amounts, the licensee shall allocate at least 20% to FACTOR on an annual basis. The remainder of this additional CCD 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.

3. In each broadcast week, the licensee shall provide programming directed to a minimum of five ethnic groups in a minimum of nine languages.
4. As an exception to section 7(3) of the *Radio Regulations, 1986*, the licensee may devote a maximum of 36.9% of its programming to third-language programming.

Expectation

Cultural diversity

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

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.