



## Broadcasting Decision CRTC 2014-412

PDF version

Route reference: 2013-568

Additional references: 2013-568-1, 2013-568-2 and 2013-568-3

Ottawa, 6 August 2014

### Various applicants

Abbotsford, Surrey and Vancouver, British Columbia

*The application numbers are set out in this decision.*

*Public hearing in Surrey, British Columbia*

*27 January 2014*

### Licensing of new radio stations to serve Surrey and Vancouver

*The Commission **approves** an application by South Fraser Broadcasting Inc. for a broadcasting licence to operate a new FM radio station to serve Surrey, British Columbia.*

*The Commission also **approves** an application by 0971197 B.C. Ltd. for a broadcasting licence to operate a new specialty commercial FM radio station to serve Vancouver.*

*The Commission **denies** the remaining applications for broadcasting licences for radio stations to serve Surrey and Vancouver. The Commission also **denies** applications to add new transmitters in Surrey and Abbotsford.*

*Lastly, the Commission **approves** a request by South Asian Broadcasting Corporation to amend its condition of licence relating to ethnic and third-language programming broadcast on CKYE-FM Vancouver.*

*A dissenting opinion from Commissioner Raj Shoan is attached.*

### Introduction

1. At a public hearing commencing 27 January 2014 in Surrey, British Columbia, the Commission considered eleven applications for new radio stations to serve Surrey and Vancouver, some of which are mutually exclusive on a technical basis. The applicants were as follows:

- 0971197 B.C. Ltd.
- 2308739 Ontario Inc.
- Akash Broadcasting Inc.

- Idea Broadcasting Corporation
  - Mosaic Media Inc.
  - New Vision Broadcasting Inc.
  - Sher-E-Punjab Radio Broadcasting Inc.
  - Sky Radio Broadcasting Corp.
  - South Asian Link Directory Ltd.
  - South Fraser Broadcasting Inc.
  - Surdel Broadcasting Inc.
2. The Commission also considered applications to add new transmitters to existing services:
- I.T. Productions Ltd.
  - South Asian Broadcasting Corporation Inc.
3. The applicants proposed the use of five FM frequencies and one AM frequency. Two of the frequencies proposed would provide service limited to Surrey: 107.7 MHz and 91.5 MHz. The FM frequency 107.7 MHz is considered to be the best remaining frequency available to serve Surrey as it provides better coverage than the alternative frequencies and would suffer less interference from existing adjacent stations. Nine applicants selected it as their preferred frequency. The other proposed FM frequencies (107.9 MHz, 106.9 MHz, and 98.3 MHz) would serve Abbotsford, Burnaby and Vancouver, respectively. The AM frequency 600 kHz would provide extended coverage of Vancouver and its surroundings.
4. At the hearing, South Asian Link Directory Ltd. withdrew its application (2013-0891-6) for a broadcasting licence to operate a radio station on 107.7 MHz. It asked that only its application (2013-0890-9) for an AM radio station to serve Surrey at 600 kHz be considered.
5. 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](http://www.crtc.gc.ca) and by using the application numbers found in Appendix 1 to this decision.
6. After reviewing the positions of the parties to this proceeding, the Commission is of the view that the primary issues to be considered are as follows:
- Can the Vancouver radio market, in which Surrey is included, sustain additional radio services without an undue negative impact?

- If so, which of the applications should be approved, in light of the factors identified in Broadcasting Notice of Consultation 2013-149 (the Call)?
- With respect to the two applications proposing to add new transmitters, have the licensees demonstrated a technical or economic need for the new transmitters and do the proposals represent an appropriate use of spectrum?

### **The Vancouver market and its ability to sustain new stations**

7. According to Statistics Canada's 2011 Census, the population of the Vancouver Census Metropolitan Area (CMA) was 2.3 million. Vancouver's economy, as measured by the gross domestic product (GDP) grew at a pace of 2.6% annually, on average, between 2011 and 2013. According to the Conference Board of Canada (CBOC), Vancouver's economy is expected to expand by an average of 3.1% per year (compound annual growth rate) between 2013 and 2018, outpacing the projected growth for British Columbia and for Canada. Furthermore, CBOC projects that retail sales in Vancouver will grow by 4.6% a year over the next four years, and that its unemployment rate will fall to 5% by 2018, down from 6.7% in 2013.
8. The Vancouver radio market consists of 11 commercial FM stations and 9 commercial AM stations. The mainstream services originating from Vancouver are owned by the following large groups: BCE Inc., Corus Entertainment Inc., Newcap Inc., Rogers Communications Inc. and Jim Pattison Ltd. Of the 20 commercial stations, five stations are ethnic services: three primarily target a Chinese audience and two primarily target a South Asian audience.
9. In 2013, the 20 commercial radio stations in the Vancouver radio market recorded total revenues of \$124 million, representing a slight decrease of 1.6% relative to the prior year. Nonetheless, on an aggregate basis, the Vancouver radio market's profitability remained strong in 2013 with a profit before interest and taxes margin of 24.1%, up from 22.8% in 2012.
10. Surrey, the second largest city in British Columbia, is included in the Vancouver CMA. According to Statistics Canada, Surrey's population was 463,000 in 2011 and accounted for 20% of the total population of the Vancouver CMA. Surrey's population had increased by 17% from the 2006 Census. Data from the City of Surrey suggests that the population is already over 500,000 and longer range forecasts to 2036 estimate a population of over 747,000.
11. Surrey is an ethnically diverse city. According to the Statistics Canada 2011 Census, the South Asian population represents the city's largest ethno-cultural group. While 44% of Surrey's population reported a language other than French or English as their mother tongue, 94% of the residents have some knowledge of English.
12. While Surrey itself has no dedicated radio service, it is served by the radio stations licensed to Vancouver and by a number of ethnic services originating from the United States (U.S.) or broadcast on subsidiary communications multiplex operation

channels.

13. Based on the positive economic outlook for the Vancouver radio market, the Commission is satisfied that this market could support the licensing of new radio stations without undue economic impact on incumbent services. Furthermore, in light of the evidence that Surrey has the audience and advertising base to support a station, the Commission considers that the licensing of a new local station to serve Surrey would not have an undue impact on the incumbent stations serving the larger market.

### **Assessment of the applications**

14. The Commission has considered the applications to serve Vancouver and Surrey in light of the factors outlined in the Call, which include the factors set out in Decision 99-480:

- the quality of the application;
- the diversity of news voices; and
- the market impact.

15. In the case of the applications proposing ethnic services, the Commission also considered the applicants' plans with respect to meeting the objectives set out in Public Notice 1999-117 (the Ethnic Broadcasting Policy).

16. Details of the applications are set out in Appendix 1 to this decision.

17. Having considered all of the applications in light of the criteria set out above, the Commission finds that the proposals by South Fraser Broadcasting Inc. (South Fraser Broadcasting) and 0971197 B.C. Ltd. (0971197 B.C.) best meet the needs of Surrey and Vancouver residents, respectively.

### **South Fraser Broadcasting**

18. In the Commission's view, South Fraser Broadcasting's proposed service will fill a programming void by introducing a first local English-language service dedicated to a Surrey audience. The new service will serve the needs of Surrey residents by offering local news and community information. As a new entrant to the Vancouver radio market, the applicant will enhance the diversity of news voice in the market.

19. South Fraser Broadcasting submitted a good business plan with sound revenue projections for a service with broad appeal. The applicant stated that it will distinguish itself from existing stations in the market, which are Vancouver-focused, with programming that reflects "Surrey first, Surrey second and Surrey always." In the Commission's view, the proposed service's emphasis on news and community information focused on Surrey will be a beneficial addition to the market and will not have an undue impact on the incumbent stations serving the larger market.

20. South Fraser Broadcasting is a corporation wholly-owned and controlled by Sukhvinder Singh Badh.
21. South Fraser Broadcasting proposed a diverse music format consisting of mainstream Adult Contemporary, gold-based Adult Contemporary and Contemporary Triple A targeting an audience of adults between the ages of 18 and 64, with a core audience of women between the ages of 25 and 54.
22. The applicant committed to devote, by condition of licence, 40% of its musical selections from content category 2 (Popular Music) to Canadian selections over the broadcast week. The station would also broadcast 110 hours of local programming per broadcast week, including 34 hours of spoken word programming, of which 3 hours and 19 minutes would consist of pure news.
23. All commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes that South Fraser Broadcasting made a commitment to exceed the minimum contribution to CCD.
24. South Fraser Broadcasting committed to devote, over and above the basic annual contribution to CCD, a total of \$700,000 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR. The remainder will be directed to eligible initiatives as follows:
  - Fusion Festival & Canada Day in Surrey, for secondary stages featuring emerging Canadian talent;
  - Surrey School Board, for music programs, an annual jazz festival and a program that partners professional musicians with students;
  - Scholarships for broadcast journalism students at British Columbia Institute of Technology (BCIT) and Kwantlen Polytechnic University; and
  - Evolution 107.9, for programming and volunteer training initiatives at BCIT's student radio station.

**Specialty station in Vancouver**

25. The Commission considers that the proposal by 0971197 B.C. for a specialty station to serve Vancouver will be a positive addition to the market. The station's niche spoken word offering will target adults aged 25 to 64 living in downtown Vancouver. As a new entrant in the market, 0971197 B.C. will enhance the diversity of news voices in the market.
26. The control of 0971197 B.C. is exercised by Pushor Family Holding Corp., Okanagan Valley Business Consulting Ltd., Dautrich 2007 Family Trust and Craig and Candace Cameron as per the specific powers vested to their nominees pursuant to the terms of their shareholders' agreement dated 5 June 2013.

27. The station would broadcast 100 hours of local programming per broadcast week and 77 hours of spoken word programming, of which 4 hours and 12 minutes would consist of pure news. The spoken word programming would include, among other things, news, weather, sports, local event promotion, public affairs, documentaries, radio plays and dramas, slam poetry, programs of public debate including talk shows and some open-line programming.
28. The applicant also committed to devote, by condition of licence, 50% of its musical selections from content category 2 (Popular Music) and content category 3 (Special Interest Music) to Canadian selections over the broadcast week and, in the case of the category 2 Canadian selections, the period from 6 a.m. to 6 p.m., Monday to Friday.
29. 0971197 B.C. made a commitment to exceed the minimum contribution to CCD. The applicant committed to devote, over and above the basic annual contribution to CCD, a total of \$1,327,240 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR. The remainder will be directed to eligible initiatives as follows:
- the Roundhouse Discovery Project, administered by the Music BC Industry Association; and
  - scholarships for students in programs such as media studies at BCIT and Simon Fraser University, journalism studies at the University of British Columbia and digital media studies at the Great Northern Way Campus as well as a special scholarship program for aboriginal youth.

**Use of the AM frequency 600 kHz and FM frequency 91.5 MHz**

30. The Commission is mindful of the scarcity of spectrum in the Vancouver market. For this reason, and, in the case of 600 kHz, given its extensive coverage, the Commission considers, in the circumstances of this proceeding, that the applications submitted proposing the use of 600 kHz and 91.5 MHz do not represent the best use of the frequencies. The Commission will therefore not be approving applications proposing the use of these two frequencies at this time.
31. Sher-E-Punjab Radio Broadcasting Inc. (Sher-E-Punjab) is one of the applicants that proposed to use 600 kHz. The Commission notes that some interveners opposed Sher-E-Punjab's application, arguing that Sher-E-Punjab broadcasts from the U.S. into Canada without a licence. At the hearing, Sher-E-Punjab proposed to abide by a condition that would require it to cease providing its programming for broadcast over transmission facilities located in the U.S. once the Department of Industry has issued a broadcasting certificate to Sher-E-Punjab for the use of 600 kHz. The Commission's decision to deny Sher-E-Punjab's proposal for the use of the AM frequency 600 kHz as set out in the preceding paragraph will also provide the Commission with time to examine the issue of broadcasting services transmitted from locations outside Canada and which appear to serve Canadian markets.

### **Applications proposing to add new transmitters**

32. As part of this proceeding, two applicants filed applications to add new transmitters for existing services: I.T. Productions Ltd. (I.T. Productions), licensee of the AM station CJRJ Vancouver, and South Asian Broadcasting Corporation Inc. (SABC), licensee of CKYE-FM Vancouver.
33. When a licensee of a radio station files an application for a change to that station's technical parameters, the Commission expects the licensee to present compelling technical or economic evidence that the existing technical parameters are not adequate to provide the service as originally proposed. In addition to the evidence provided as proof of a technical or economic need, the Commission has considered whether the proposals would represent an appropriate use of the spectrum for the market in question.

#### ***I.T. Productions Ltd.***

34. I.T. Productions submitted applications to add a new transmitter in Surrey on 107.7 MHz or on an alternative frequency (106.9 MHz with a transmitter on Mount Seymour). In its applications, I.T. Productions did not provide compelling technical evidence of its signal's deficiencies, such as field measurement studies or reports. In addition, Surrey falls outside of CJRJ's primary service area. The Commission therefore considers that the applicant's proposal is based upon increasing the station's primary service area rather than mitigating poor signal reception.
35. With respect to evidence of economic need, the applicant submitted that the proposed technical amendment is necessary to CJRJ's financial viability and that even a marginal increase of coverage would improve its viability. In that regard, the Commission concurs with the applicant's submission that the proposed technical amendment could allow the station to improve its financial performance. However, the financial projections submitted by the applicant as part of its application show that the addition of the proposed FM transmitter would result in relatively modest incremental revenues, and that the station's financial situation is expected to improve in the next three years whether the proposed technical amendment is approved or not. Accordingly, in the Commission's view, it is unclear the extent to which the proposed technical amendment would ensure the station's financial viability in the long term.
36. Based on all of the above, the Commission concludes that the use of the requested frequencies, as proposed by I.T. Productions, is not justified in a market where spectrum is scarce.
37. Accordingly, the Commission **denies** the applications by I.T. Productions Ltd. to add new transmitters.

#### ***South Asian Broadcasting Corporation Inc.***

38. SABC submitted applications to add new transmitters in Surrey and Abbotsford.

SABC stated that the addition of a new transmitter in Surrey would help resolve interference and signal reception problems experienced by its listeners and provided evidence to this effect. The Commission acknowledges that there is evidence of additional interference on SABC's signal in Surrey from the HD signal of KISM, a U.S. radio station. In this respect, the Commission notes that SABC was aware of the signal's limitations when it first applied for its broadcasting licence, and that Surrey was not part of its interference-free coverage zone. In light of the scarcity of spectrum in the Vancouver market, the Commission is of the view that the market would be better served with a new service dedicated to Surrey on the 107.7 MHz frequency. SABC also submitted an alternative proposal on 91.5 MHz. The Commission considers that the technical parameters proposed by SABC for 91.5 MHz do not represent the best use of that frequency.

39. With respect to SABC's application to add a new transmitter in Abbotsford, an area clearly outside of CKYE-FM's licensed service area, the Commission is of the view that this request cannot be justified by the need to mitigate technical deficiencies or address an economic issue.
40. Accordingly, the Commission **denies** the applications by South Asian Broadcasting Corporation Inc. to add new transmitters.
41. In its applications, SABC also requested to amend its condition of licence relating to ethnic and third-language programming. Specifically, SABC proposed to reduce the percentage of third-language programming broadcast each week from 100% to a minimum of 85% of the ethnic programming. SABC submitted that this change would provide the station with additional programming flexibility. In this respect, the Commission notes that the reduced percentage would still be consistent with the Ethnic Broadcasting Policy. Accordingly, the Commission **approves** the request by SABC to amend its condition of licence relating to ethnic and third-language programs. Condition of licence 4, as set out in Broadcasting Decision 2013-157, shall be replaced by the following **conditions of licence**:

The licensee shall devote a minimum of 90% of the programming broadcast during each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*.

The licensee shall devote a minimum of 85% of the programming broadcast during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.

## **Conclusion**

42. 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 Surrey:

**South Fraser Broadcasting Inc.**

*Application 2011-0173-2, received 28 January 2011 and amended on 17 June 2013*



43. The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.

44. The Commission also **approves** the following application for a broadcasting licence to operate an English-language specialty commercial FM radio programming undertaking in Vancouver:

**0971197 B.C. Ltd.**

*Application 2013-0883-3, received 17 June 2013*

45. The terms and **conditions of licence** for this new service are set out in Appendix 3 to this decision.

46. In light of the above, the Commission **denies** the remaining applications for broadcasting licences to operate radio programming undertakings in Surrey and Vancouver, as set out below:

**2308739 Ontario Inc.**

*Application 2013-1055-7, received 17 June 2013*

**Akash Broadcasting Inc.**

*Application 2013-0893-2, received 17 June 2013*

**Idea Broadcasting Corporation**

*Application 2013-0877-6, received 17 June 2013*

**Mosaic Media Inc.**

*Application 2013-0882-5, received 17 June 2013*

**New Vision Broadcasting Inc.**

*Application 2013-0887-5, received 17 June 2013*

**Sher-E-Punjab Radio Broadcasting Inc.**

*Application 2013-0889-1, received 17 June 2013*

**Sky Radio Broadcasting Corp.**

*Application 2013-0880-0, received 17 June 2013*

**South Asian Link Directory Ltd.**

*Applications 2013-0890-9, received 17 June 2013*

**Surdel Broadcasting Inc.**

*Application 2013-0886-7, received 17 June 2013*

Secretary General

### Related documents

- *CKYE-FM Vancouver – Licence renewal, Broadcasting Decision CRTC 2013-157, 27 March 2013*
- *Call for applications – Radio stations to serve Vancouver, British Columbia,*

Broadcasting Notice of Consultation CRTC 2013-149, 25 March 2013

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999

*\*This decision is to be appended to each licence, as appropriate.*

## Appendix 1 to Broadcasting Decision CRTC 2014-412

### Details from the applications

Applicant	Details from the application
<b>0971197 B.C. Ltd</b> Application 2013-0883-3	<p><b>Type:</b> English-language specialty commercial FM radio programming undertaking</p> <p><b>Technical parameters:</b> 98.3 MHz (channel 252A), average effective radiated power (ERP) of 2,080 watts (maximum ERP of 6,000 watts with an effective height of antenna above average terrain of -11 metres).</p> <p><b>Format:</b> Specialty (spoken word)</p> <p><b>Target audience:</b> Adults 25-64 years of age living in downtown Vancouver (core audience: 35-64 years, 60% female)</p> <p><b>Canadian content (music):</b> 50% category 2*; 50% category 3**</p> <p><b>Local programming per broadcast week***:</b> 100 hours</p> <p><b>Spoken word programming per broadcast week:</b> 77 hours, 42 minutes (61%)</p> <p><b>News programming per broadcast week:</b> 4 hours, 12 minutes (news**** and related surveillance material), of which 3 hours would be local</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$1,327,240 over seven consecutive broadcast years</p> <p><b>Emerging Canadian artists programming per broadcast week:</b> 20%</p>
<b>2308739 Ontario Inc.</b> Application 2013-1055-7	<p><b>Type:</b> Commercial AM radio programming undertaking</p> <p><b>Technical parameters:</b> 600 kHz (Class B) with a transmitter power of 10,000 watts, daytime and night-time</p> <p><b>Format:</b> Specialty – spoken word (business news and investment information)</p> <p><b>Target audience:</b> Adults 35-64 years of age (secondary target: adults 50 years of age and older) interested in financial, business and investment matters. Also small &amp; medium-sized businesses</p> <p><b>Canadian content (music):</b> No music programming</p> <p><b>Local programming per broadcast week***:</b> 69 hours, 6 minutes</p> <p><b>Spoken word programming per broadcast week:</b> 100%</p> <p><b>News programming per broadcast week:</b> not provided</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$350,000 over seven consecutive broadcast years</p>
<b>Akash Broadcasting Inc.</b> Application 2013-0893-2	<p><b>Type:</b> Ethnic commercial FM radio programming undertaking</p> <p><b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 820 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 121.9 metres)</p> <p><b>Format:</b> 100% ethnic and 96% third-language programming</p> <p><b>Target audience:</b> South Asian, adults 18-55 years of age</p> <p><b>Canadian content (music):</b> 50% category 2*; 12% category 3**</p> <p><b>Local programming per broadcast week***:</b> 121 hours</p> <p><b>Spoken word programming per broadcast week:</b> 50 hours, 8 minutes</p> <p><b>News programming per broadcast week:</b> 13 hours, 44 minutes (news**** and related surveillance material) 33% local</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$588,000 over seven consecutive broadcast years</p> <p><b>Emerging Canadian artists programming per broadcast week:</b> 50% category 2, 100% category 3</p>

<p><b>Idea Broadcasting Corporation</b> Application 2013-0877-6</p>	<p><b>Type:</b> Ethnic commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 820 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 121.9 metres)  <b>Format:</b> 100% ethnic and 90% third-language programming  <b>Target audience:</b> adults from the South Asian community, 18-25 years of age  <b>Canadian content (music):</b> Regulatory minimums  <b>Local programming per broadcast week<sup>***</sup>:</b> 109 hours  <b>Spoken word programming per broadcast week:</b> 40%  <b>News programming per broadcast week:</b> 3 hours, 30 minutes (news<sup>****</sup> and related surveillance material) 50% local  <b>Canadian content development contribution (over the basic annual contribution):</b> \$310,800 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 13%</p>
<p><b>Mosaic Media Inc.</b> Application 2013-0882-5</p>	<p><b>Type:</b> English-language commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 820 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 121.9 metres)  <b>Format:</b> Adult Hits  <b>Target audience:</b> Adults 18-64 years of age  <b>Canadian content (music):</b> 40% category 2*; 10% category 3**  <b>Local programming per broadcast week<sup>***</sup>:</b> 126 hours  <b>Spoken word programming per broadcast week:</b> 53 hours, 50 minutes  <b>News programming per broadcast week:</b> 9 hours, 55 minutes (news<sup>****</sup> and related surveillance material) 71% local and regional  <b>Canadian content development contribution (over the basic annual contribution):</b> \$316,880 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 10%</p>
<p><b>New Vision Broadcasting Inc.</b> Application 2013-0887-5</p>	<p><b>Type:</b> Ethnic commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 660 watts (maximum ERP of 2,000 watts with an effective height of antenna above average terrain of 120.8 metres)  <b>Format:</b> 100% ethnic and 85% third-language programming  <b>Target audience:</b> South Asian community  <b>Canadian content (music):</b> Regulatory minimums  <b>Local programming per broadcast week<sup>***</sup>:</b> 110 hours  <b>Spoken word programming per broadcast week:</b> 96 hours  <b>News programming per broadcast week:</b> 27 hours, 45 minutes (news<sup>****</sup> and related surveillance material) 50% local and regional  <b>Canadian content development contribution (over the basic annual contribution):</b> \$319,000 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> N/A</p>
<p><b>Sher-E-Punjab Radio Broadcasting Inc.</b> Application 2013-0889-1</p>	<p><b>Type:</b> Ethnic commercial AM radio programming undertaking  <b>Technical parameters:</b> 600 kHz (Class B) with a transmitter power of 10,000 watts, daytime and night-time.  <b>Format:</b> 100% ethnic and 98% third-language programming  <b>Target audience:</b> South Asian 40 years of age and over  <b>Canadian content (music):</b> Regulatory minimums  <b>Local programming per broadcast week<sup>***</sup>:</b> 115 hours</p>

	<p><b>Spoken word programming per broadcast week:</b> 65 hours  <b>News programming per broadcast week:</b> 8 hours, 30 minutes (news**** and related surveillance material), 6 hours, 48 minutes of pure news, 70% local  <b>Canadian content development contribution (over the basic annual contribution):</b> \$700,000 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> N/A</p>
<p><b>Sky Radio Broadcasting Corp.</b>  Application 2013-0880-0</p>	<p><b>Type:</b> English-language commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 820 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 121.9 metres)  <b>Format:</b> Contemporary urban dance  <b>Target audience:</b> 15-54 years of age (core 18-44)  <b>Canadian content (music):</b> 40% category 2* (50% emerging artists)  <b>Local programming per broadcast week***:</b> 126 hours  <b>Spoken word programming per broadcast week:</b> 35 hours, 57 minutes  <b>News programming per broadcast week:</b> 5 hours, 57 minutes (news**** and related surveillance material), 85% local  <b>Canadian content development contribution (over the basic annual contribution):</b> \$188,859 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 20%</p>
<p><b>South Asian Link Directory Ltd.</b>  Application 2013-0890-6</p>	<p><b>Type:</b> Ethnic commercial AM radio programming undertaking  <b>Technical parameters:</b> 600 kHz (Class B) with a transmitter power of 10,000 watts, daytime and night-time.  <b>Format:</b> news/talk, 100% ethnic and 100% third-language programming  <b>Target audience:</b> South Asian community, adults 18-30 years of age  <b>Canadian content (music):</b> 15% ethnic Canadian musical selections  <b>Local programming per broadcast week***:</b> 126 hours  <b>Spoken word programming per broadcast week:</b> 75 hours, 36 minutes  <b>News programming per broadcast week:</b> 7 hours, 55 minutes (news**** and related surveillance material) 50% local  <b>Canadian content development contribution (over the basic annual contribution):</b> \$425,000 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 15%</p>
<p><b>South Fraser Broadcasting Inc.</b>  Application 2011-0173-2</p>	<p><b>Type:</b> English-language commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 1,066 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 132.4 metres)  <b>Format:</b> Blended mainstream Adult Contemporary, gold-based Adult Contemporary and Contemporary Triple A  <b>Target audience:</b> Adults 18-64 years of age (core audience of women aged 25-54)  <b>Canadian content (music):</b> 40% category 2* (35% between 6 am &amp; 6 pm Monday to Friday); 10% category 3**  <b>Local programming per broadcast week***:</b> 110 hours  <b>Spoken word programming per broadcast week:</b> 34 hours  <b>News programming per broadcast week:</b> 5 hours, 25 minutes (news**** and related surveillance material), 3 hours, 19 minutes pure news, 75% local  <b>Canadian content development contribution (over the basic annual contribution):</b> \$700,000 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 2%</p>

<p><b>Surdel Broadcasting Inc.</b> Application 2013-0886-7</p>	<p><b>Type:</b> English-language specialty commercial FM radio programming undertaking  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 660 watts (maximum ERP of 2,000 watts with an effective height of antenna above average terrain of 161.1 metres)  <b>Format:</b> Specialty, Fusion music (50% World Beat)  <b>Target audience:</b> English-speaking South Asian community, adults 18-49 years of age (2<sup>nd</sup> and 3<sup>rd</sup> generations)  <b>Canadian content (music):</b> 35% category 2*; 10% category 3**  <b>Local programming per broadcast week***:</b> 126 hours  <b>Spoken word programming per broadcast week:</b> 13 hours, 48 minutes  <b>News programming per broadcast week:</b> 3 hours, 40 minutes (news**** and related surveillance material), 64% local and regional  <b>Canadian content development contribution (over the basic annual contribution):</b> \$194,687 over seven consecutive broadcast years  <b>Emerging Canadian artists programming per broadcast week:</b> 18%</p>
<p><b>I.T. Productions Ltd.</b> Application 2013-0888-3</p>	<p><b>Type:</b> FM transmitter in Surrey to broadcast the programming of the ethnic commercial AM radio station CJRJ Vancouver  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 375 watts (maximum ERP of 650 watts with an effective height of antenna above average terrain of 176.8 metres)</p>
<p><b>I.T. Productions Ltd.</b> Application 2013-0892-4</p>	<p><b>Type:</b> FM transmitter in Surrey to broadcast the programming of the ethnic commercial AM radio station CJRJ Vancouver  <b>Technical parameters:</b> 106.9 MHz (channel 295A), average effective radiated power (ERP) of 33.1 watts (maximum ERP of 125 watts with an effective height of antenna above average terrain of 295.1 metres)</p>
<p><b>South Asian Broadcasting Corporation Inc.</b> Application 2013-0885-9</p>	<p><b>Type:</b> FM transmitter in Surrey to broadcast the programming of the ethnic commercial radio station CKYE-FM Vancouver  <b>Technical parameters:</b> 107.7 MHz (channel 299A), average effective radiated power (ERP) of 422 watts (maximum ERP of 750 watts with an effective height of antenna above average terrain of 123.3 metres)</p>
<p><b>South Asian Broadcasting Corporation Inc.</b> Application 2013-0899-0</p>	<p><b>Type:</b> FM transmitter in Surrey to broadcast the programming of the ethnic commercial radio station CKYE-FM Vancouver  <b>Technical parameters:</b> 107.7 MHz (channel 299A1), average effective radiated power (ERP) of 130 watts (maximum ERP of 160 watts with an effective height of antenna above average terrain of 123.3 metres)</p>
<p><b>South Asian Broadcasting Corporation Inc.</b> Application 2013-0896-6</p>	<p><b>Type:</b> FM transmitter in Surrey to broadcast the programming of the ethnic commercial radio station CKYE-FM Vancouver  <b>Technical parameters:</b> 91.5 MHz (channel 218A1), average effective radiated power (ERP) of 23.5 watts (maximum ERP of 100 watts with an effective height of antenna above average terrain of 123.3 metres)</p>
<p><b>South Asian Broadcasting Corporation Inc.</b> Application 2013-0902-1</p>	<p><b>Type:</b> FM transmitter in Abbotsford to broadcast the programming of the ethnic commercial radio station CKYE-FM Vancouver  <b>Technical parameters:</b> 107.9 MHz (channel 300A1), effective radiated power (ERP) of 250 watts (non-directional antenna with an effective height of antenna above average terrain of 62 metres)</p>
<p>* Percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6:00 a.m. to 6:00 p.m., Monday to Friday. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.  ** 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>	

\*\*\* The definition of “broadcast week,” as it relates to local, spoken word and news programming, is the same as that set out in the *Radio Regulations, 1986*.

\*\*\*\* As set out in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, “news” excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

## Appendix 2 to Broadcasting Decision CRTC 2014-412

South Fraser Broadcasting Inc.

Application 2011-0173-2, received 28 January 2011

### Terms, conditions of licence, expectation and encouragement for the English-language commercial FM radio programming undertaking in Surrey, British Columbia

#### Terms

The licence will expire 31 August 2020.

The station will operate at 107.7 MHz (channel 299A) with an average effective radiated power (ERP) of 1,066 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain of 132.4 metres).

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

Furthermore, the Commission will only issue a licence for this undertaking 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 **6 August 2016**. 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, as amended from time to time.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(8) of the *Radio Regulations, 1986* (the Regulations), devote, in each broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the Regulations.

3. 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 an annual contribution of \$100,000 (\$700,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR. The remaining amounts 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.

### **Expectation**

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.

## Appendix 3 to Broadcasting Decision CRTC 2014-412

0971197 B.C. Ltd.

Application 2013-0883-3, received 17 June 2013

### Terms, conditions of licence, expectation and encouragement for the English-language specialty commercial FM radio programming undertaking in Vancouver, British Columbia

#### Terms

The licence will expire 31 August 2020.

The station will operate at 98.3 MHz (channel 252A) with an average effective radiated power (ERP) of 2,080 watts (maximum ERP of 6,000 watts with an effective height of antenna above average terrain of -11 metres).

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

Furthermore, the Commission will only issue a licence for this undertaking 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 **6 August 2016**. 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, as amended from time to time, with the exception of condition of licence 7.
2. The licensee shall operate the station 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*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall devote more than 50% of the programming broadcast each broadcast week to programming drawn from category 1 (spoken word).
4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week:

- a) devote, in that broadcast week, a minimum of 50% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
  - b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, a minimum of 50% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.
5. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, as amended from time to time, devote, in each broadcast week, a minimum of 50% of its musical selections from content category 3 (Special Interest Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.
  6. 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 total contribution of \$1,327,240 over seven consecutive broadcast years to the promotion and development of Canadian content and allotted each year as follows:

Year 1	\$200,000
Year 2	\$190,845
Year 3	\$189,500
Year 4	\$188,085
Year 5	\$187,240
Year 6	\$186,115
Year 7	\$185,455

The licensee shall allocate the following amounts of its additional annual CCD contribution to FACTOR:

Year 1	\$40,000
Year 2	\$38,169
Year 3	\$37,900
Year 4	\$37,617
Year 5	\$37,448
Year 6	\$37,223
Year 7	\$37,091

The remaining amounts 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.

For the purposes of the conditions of this licence, the terms “broadcast day,” “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the

same meanings as those set out in the *Radio Regulations, 1986*, as amended from time to time.

**Expectation**

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.

## Dissenting opinion of Commissioner Raj Shoan

1. This dissenting opinion pertains only to the decision of the majority to license South Fraser Broadcasting Inc. (South Fraser) on 107.7 MHz. I agree with the decision to license 0971197 B.C. Ltd. (Roadhouse Radio) on 98.3 MHz and to leave the 600 KHz, 91.5 MHz and 106.9 MHz frequencies vacant for the purposes of a future licensing proceeding in the hopes of attracting stronger applications for their use.
2. With due respect to my colleagues, I cannot support the majority decision to license South Fraser for the following reasons:
  - a. The licensing of South Fraser would call into question the integrity of the Commission's licensing process; and
  - b. Surdel Broadcasting Inc. (Surdel) had a stronger, more relevant application to serve the Surrey market.

### The licensing process

3. The Commission is mandated with regulating and supervising the broadcasting system with a view to implementing the policy objectives set out in the *Broadcasting Act* (the Act). One of the tools used in fulfilling this mandate is the licensing of broadcasting undertakings.
4. The Commission typically invokes the protection of the integrity of its licensing process as a means by which to preserve the efficacy of its policies and decision-making. It is an overarching principle used by the Commission to discourage behaviour that, in its view, is contrary to the spirit or principles of the Act and its associated regulations and policies.
5. By way of example, the Commission has invoked the protection of the integrity of its licensing process in the following circumstances<sup>1</sup> in recent years:
  - a. To discourage licence trafficking – *Revised criteria for the application of the licence trafficking policy*, Broadcasting Information Bulletin CRTC 2010-220, 19 April 2010;
  - b. To prevent backdoor entry into a market absent a call for applications – *CIXN-FM Fredericton – Technical changes*, Broadcasting Decision CRTC 2014-30, 30 January 2014;
  - c. When evaluating an application for an exchange of frequencies – *English-language FM radio station in Carleton Place*, Broadcasting Decision CRTC 2014-157, 2 April 2014;

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<sup>1</sup> This list of examples is non-exhaustive.

- d. In the context of a transaction, when evaluating whether the transfer of a licence under new conditions is permissible – *Saskatchewan Communications Network – Acquisition of assets*, Broadcasting Decision CRTC 2012-339, 21 June 2012; and
- e. When evaluating radio applications to change from a specialty format to a mainstream format – *CHNI-FM Saint John – Acquisition of assets, licence amendments and technical changes*, Broadcasting Decision CRTC 2014-115, 14 March 2014.
6. One of the most basic requirements of the Canadian broadcasting regulatory regime is that undertakings operating in Canada should be licensed to do so or authorized pursuant to an exemption order or other regulatory tool. Failure to respect the basic requirements violates the Act, destabilizes the marketplace and undermines the regulatory regime presently in place. Licences should not be granted to individuals who may be involved in or have ties to those involved in activities which do not respect the basic requirements.
7. At the public hearing, Sukhvinder Badh, CEO and owner of South Fraser, stated the following:
- 52 I caught the bug when my father asked me to manage a South-Asian station based south of the border, which, frankly, was a mess. I was successful at that and applied to bring the station home in 2004-2005. Since 2007 I have not been involved in the management of Sher-E Punjab....
- 220 THE CHAIRPERSON OF THE HEARING: Okay. Getting to another point and it's -- it's become public knowledge, you filed it, you are the owner of the property on 5538 Imhoff Road in Washington State?
- 221 MR. BADH: That is correct, Commissioner.
- 222 THE CHAIRPERSON OF THE HEARING: And KRPI Ferndale has a transmitter located on that property?
- 223 MR. BADH: That is correct, Commissioner.
- 224 THE CHAIRPERSON OF THE HEARING: And they are paying you rent currently?
- 225 MR. BADH: Yes, Commissioner.
8. The impact of out of market tuning to Vancouver and Surrey on domestic incumbent broadcasters was a major point of discussion at the hearing in terms of its effect of siphoning domestic advertising dollars out of the country and as a factor to consider when licensing certain applicants. In intervention #8580, I.T. Productions stated as follows:

4. I.T. notes that two applicants in this proceeding, under Item 1, South Fraser Broadcasting Inc., and Item 12, Sher-E-Punjab Radio Broadcasting Inc., which has applied for either an AM and FM frequency, are related to one of the Washington State based broadcast stations. At page 31 of the Application of Mr. Suki S. Badh, Item 1, Mr. Badh acknowledges his long term involvement in cross-border services and his family's interest in KPRI-AM, the entity which is applying to build a new tower in Point Roberts, Washington. Mr. Badh states he is "no longer involved in the station". The Sher-E-Punjab Radio Broadcasting Inc. Application, Item 12, identifies at page 6 that the Badh family has been, and continues to operate its U.S. based station.
  5. I.T. has struggled in the face of cross border competition and would clearly have a more legitimate persuasive claim to an FM license, enabling a long standing Canadian service to gain access to compete effectively against these AM cross border services, than would an application who has previously been involved in cross border services, unregulated by the Commission.
  6. I.T. submits that no applicant related to a service which has avoided Canadian broadcasting laws and regulation for many years should now be rewarded with an FM or AM license by the Commission. To issue such a license would be a travesty of regulatory fairness.
9. At paragraph 31 of the majority decision, the Commission states as follows:
- Sher-E-Punjab Radio Broadcasting Inc. (Sher-E-Punjab) is one of the applicants that proposed to use 600 kHz. The Commission notes that some interveners opposed Sher-E-Punjab's application, arguing that Sher-E-Punjab broadcasts from the U.S. into Canada without a licence. At the hearing, Sher-E-Punjab proposed to abide by a condition that would require it to cease providing its programming for broadcast over transmission facilities located in the U.S. once the Department of Industry has issued a broadcasting certificate to Sher-E-Punjab for the use of 600 kHz. The Commission's decision to deny Sher-E-Punjab's proposal for the use of the AM frequency 600 kHz as set out in the preceding paragraph will also provide the Commission with time to examine the issue of broadcasting services transmitted from locations outside Canada and which appear to serve Canadian markets.
10. In my view, the direct and indirect involvement of the owner and CEO of South Fraser, Sukhvinder Badh, in the management and operations of a broadcasting service that may be broadcasting from the U.S. into Canada without a licence raises questions about his suitability to hold a licence absent a full examination by the Commission into the undertaking in question. By direct involvement, I refer to his past management responsibilities of Sher-E-Punjab. By indirect involvement, I refer to his present ownership of the transmission site through which he continues to receive benefit in terms of rental income – benefit that may be derived from the operation, in part, of an unlicensed and potentially unauthorized broadcasting

undertaking. In sum, Mr. Badh's past and present involvement in the operation of Sher-E-Punjab bears further examination and scrutiny, particularly in light of his familial ties to several members of Sher-E-Punjab's senior management.

11. In this respect, I note that, while there is no specific policy in regard to related parties in the Commission's radio regulatory regime, the CRTC does adhere to general principles applicable to all licensees in the context of data collection for annual reporting. In the annual reporting context, as noted on the CRTC's website,<sup>2</sup> the Commission follows the *Canadian Institute of Chartered Accountants' Handbook* (CICA). Section 3840.03 (g) of the CICA Handbook provides the following definition of related parties.

**Related parties** exist when one party has the ability to exercise, directly or indirectly, control, joint control or significant influence over the other. Two or more parties are related when they are subject to common control, joint control or common significant influence. Related parties also include management and immediate family members (see paragraph 3840.04).

12. Given Sukhvinder Badh's connection to Sher-E-Punjab – comprising current ownership of the land upon which the transmitter that arguably broadcasts into Canada is located, past managerial capacity and familial relations with members of Sher-E-Punjab's present management and ownership – the most appropriate course of action, in my view, is to deny his application until such time that a determination can be made into the nature of his past and present involvement with Sher-E-Punjab and whether that involvement constitutes, in some measure, the unauthorized broadcast of radio programming over the air to Canadians.
13. Failure to conduct such an examination could result in the granting of a licence to an entity that may be involved in the act of broadcasting in whole or in part in Canada without a licence, a result that, in my view, would call into question whether the Commission's licensing principles, which support the integrity of the licensing process, have been properly applied in this case. This would be, in the words of I.T. Productions, a "travesty of regulatory fairness."

### **Surrey would be better served by Surdel Broadcasting Inc.**

14. Leaving aside South Fraser's ties to Sher-E-Punjab, I am further of the view that the strongest application over the course of the entirety of the public hearing was that of Surdel.
15. The majority decision, in two brief paragraphs, notes two essential features of Surrey; it is growing at a rapid pace and it is an ethnically diverse city. This hardly does Surrey justice; in many ways, Surrey is a unique phenomenon in the country. It is not merely growing quickly; it is growing more quickly than nearly any other

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<sup>2</sup> [http://www.crtc.gc.ca/dcs/eng/current/faq\\_54.htm](http://www.crtc.gc.ca/dcs/eng/current/faq_54.htm)



metropolitan city in the country. It is not simply ethnically diverse; it is more ethnically diverse than virtually any other city in the country.

16. While Surrey counts a total of about 463,000 people,<sup>3</sup> almost 45% of Surrey's population reported a "non-official language" as its "mother tongue," and 30% of the population indicated a language other than English or French as the "language spoken most often at home." More particularly:
- about 142,000 Surrey residents are of South Asian background (or 30% of the total Surrey population);
  - of the 104,000 people that identified Punjabi as the language spoken most often at home in the Vancouver census metropolitan area (CMA), 71% (or 73,620) are located in Surrey;
  - visible minorities represented 53% of the total population in Surrey in 2011. South Asians represented by far the largest group, accounting for 58% of Surrey's visible minority population and almost a third of its total population; and
  - of the total 142,445 South Asian people in Surrey, almost 52,500 (or 37%) are of second and third generations.
17. So what is Surrey? Surrey is young, ethnically diverse (primarily South Asian) and growing quickly. In the face of these facts, my colleagues have decided to license the only English-language application that offers little of substance to this emerging demographic of the marketplace.
18. The majority decision offers little in the way of persuasiveness in terms of what aspects of South Fraser distinguish it from others in this proceeding and deserving of a licence. They note that the service will "fill a programming void by introducing a first local English-language service dedicated to a Surrey audience" and offer "local news and community information." They further note that South Fraser's application will add to the diversity of voices in the market and that it "submitted a good business plan with sound revenue projections for a service with broad appeal."
19. While these statements may be true, the contemporary Triple A/AC format proposed by South Fraser is already offered by at least two stations in the Vancouver CMA marketplace (CHHR-FM and CKPK-FM) with several others offering elements of these formats in their music programming. Thus, there is little uniqueness to South Fraser's offering.<sup>4</sup>

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<sup>3</sup> See paragraph 10 of the majority decision.

<sup>4</sup> Several applicants, including Mosaic Media Inc. during their appearance at Phase 2 of the hearing, made this same point.

20. Secondly, as an English-language service offering to the residents of Surrey, Surdel's application offers:
- a. more local programming (126 hours);
  - b. greater news programming (3 hours, 40 minutes); and
  - c. a healthy 18% emerging artist commitment
- each of which exceeds the commitments offered by South Fraser.
21. Thirdly, in my view, Surdel's proposed format is far more reflective of the Surrey market than that of South Fraser. It has proposed a specialty format with a strong focus on World Beat music.
22. In its application, Surdel stated that its "proposed new format would take into account the unique South Asian makeup of the Surrey/North Delta region, but would also recognize the advancing assimilation of the South Asian community into contemporary Canadian society."<sup>5</sup>
23. Surdel added that its service would "reach new mainstream audiences, an audience that has been missed both by conventional commercial radio and traditional ethnic radio."<sup>6</sup> Surdel also indicated that: "we must not approach them [i.e. its potential audience] with overt ethnic campaigns but a mainstream mentality that utilizes the appropriate vehicles to reach them, such as our fusion format."<sup>7</sup> It further indicated that its station is not about being an ethnic option but rather a radio station that melds its unique demographic's various interests. Unlike South Fraser's proposed format, Surdel's format strikes me as specifically tailored to Surrey's reality.
24. Lastly, Surdel's application provided, in my view, the strongest financial projections of all of the applicants for the 107.7 MHz proceeding. Whereas South Fraser projects to barely break even after seven years of operation, Surdel confidently projected to turn a decent profit after year 2 and, over the full licence term, predicted a healthy surplus. Upon questioning, it confirmed that it already owned the building that would house the studio and would be aided by its experience as a newspaper entity. In my view, having established relationships with local advertisers in the marketplace, Surdel would have been ideally placed to launch an effective and successful radio station in both the short and long term.<sup>8</sup>

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<sup>5</sup> Surdel Broadcasting Inc., Supplementary Brief, Executive Summary, p.2

<sup>6</sup> Volume 1 (revised), Transcript, paragraph 1653

<sup>7</sup> Volume 1 (revised), Transcript, paragraph 1676 (clarification mine)

<sup>8</sup> In this respect, I note that several of the arguments that I have made in support of Surdel's application apply equally to the Sky Radio Broadcasting Corp. application. While Sky Radio certainly presented an interesting application, in my view, Surdel's financial projections distinguished it more favourably from those provided by Sky Radio.

## Conclusion

25. In sum, given the preceding arguments, I am of the view that Surdel Broadcasting Inc. should have been granted the 107.7 MHz frequency for use in Surrey. Furthermore, given Sukhvinder Badh's past and present involvement with Sher-E-Punjab, I would have included him in an examination of the issue of broadcasting services transmitted from locations outside Canada which appear to serve Canadian markets.
26. As a final comment, I note that it is likely there will be applications for the use of the three remaining frequencies (600 KHz, 91.5 MHz and 106.9 MHz) sooner rather than later. In my view, the Commission should continue along the licensing path that it began when it chose to license domestic ethnic radio stations to combat out of market tuning. That strategy has experienced partial success; another round of licensing will only further strengthen radio tuning to dedicated, local Canadian broadcasters.
27. Akash Broadcasting Inc. stated the following in its oral remarks during Phase 2 of the public hearing:<sup>9</sup>
12. Cross-border frequencies are, for Canadian purposes, unregulated. They will always fill the gaps in the market. For years, the gap in this market has been third-language broadcasting. You should not now turn around and grandfather that gap, as though cross-border broadcasters were part of your planning process. That does not promote the creation of a Canadian broadcasting system. It acquiesces to a non-Canadian one.
  13. In particular, we would not have thought that incumbency in cross-border broadcasting could serve as any kind of basis on which to be grandfathered into a Canadian market. We have never heard the CRTC enunciate a "clean hands" principle of licensing. But to argue that, because one has evaded the system for years, one should now have a leg up on entering the system, is surely a step too far.
  14. We therefore disagree with the argument that Surrey's third-language market is well-served. It is not. The cross-border broadcasters are proof of that. We believe you should provide adequately for Canadian, locally-rooted third-language broadcasting right here in Surrey, by choosing between those applications before you based on the merits of the applications...
28. I wholly agree with this perspective and believe it to be the most appropriate approach for this marketplace.

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<sup>9</sup> Volume 3, Transcript, paragraphs 5818-5820