



Broadcasting Decision CRTC 2023-33

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Reference: 2021-374

Ottawa, 15 February 2023

Public record: 1011-NOC2021-0374

Findings regarding market capacity in the Yellowknife radio market

Summary

The Commission, by majority decision, finds that the market of Yellowknife, Northwest Territories, cannot support an additional commercial radio station at this time. Consequently, the Commission will return the application filed by 506992 N.W.T. Ltd. for a broadcasting licence to operate a commercial radio station in Yellowknife.

Dissenting opinions by Commissioners Claire Anderson and Joanne T. Levy are attached.

Background

1. In Broadcasting Notice of Consultation 2021-374, the Commission announced that it had received an application by 506992 N.W.T. Ltd. (506992) for a broadcasting licence to operate an English-language commercial FM radio station in Yellowknife, Northwest Territories.
2. The Yellowknife radio market is currently served by one commercial radio station operated by Vista Radio Ltd. (Vista Radio), CJCD-FM, one French-language community radio station operated by Société Radio Taïga, CIVR-FM, and one Indigenous (Type B Native) radio station operated by the Native Communications Society of the N.W.T. (NCSNWT), CKLB-FM.
3. In accordance with Broadcasting Regulatory Policy 2014-554 (the Policy), the Commission called for comments on the capacity of the Yellowknife market to support a new station. The Policy states that the Commission weighs factors such as market capacity, spectrum availability or scarcity, and interest in serving the market when deciding whether to:
 - publish the application for consideration as part of the non-appearing phase of a public hearing;
 - issue a call for applications; or

- make a determination that the market cannot support additional stations, return the application and issue a decision setting out this determination.
4. As an exception to the current process set out in the Policy, the Commission simultaneously called for radio applications to serve Yellowknife, as described in Broadcasting Notice of Consultation 2021-374, to avoid further delays related to the COVID-19 pandemic. Taking into account economic and financial data as well as the interventions and replies received in response to this notice, the Commission decided to make one of the following determinations:
- that the market can sustain an additional station and publish the initial application for consideration as part of an appearing or of a non-appearing phase of a public hearing, either on its own or alongside any additional applications that were filed in response to the call for applications; or
 - that the market cannot sustain additional stations, return the application(s) and issue a decision setting out this determination.

Interventions

5. The Commission received two interventions, one from the NCSNWT and one from Vista Radio. The Commission also received an application from Vista Radio to operate an English-language commercial FM radio station in Yellowknife.

NCSNWT's intervention

6. In its intervention, the NCSNWT indicated that it objects the addition of an FM radio station in Yellowknife, as it would place additional stress on the viability of the current stations in the market.
7. In addition, the NCSNWT noted that the COVID-19 messaging has artificially buoyed the advertising market during the pandemic. They further noted that the advertising market is unclear as travel restrictions and social distancing have resulted in either local retailers closing down or drastically reducing their advertising budgets.
8. As such, the NCSNWT recommended that the Commission hold off on adding a new entrant in the FM radio market until the pandemic is over.

Vista Radio's intervention

9. In its intervention, Vista Radio stated that, in its view, Yellowknife does not have the capacity for a new radio station and that the addition of one would have significant negative impact on its radio station, CJDC-FM.
10. Vista Radio stated that the economy in the Northwest Territories is contracting, with the gross domestic product (GDP) decreasing at a greater compound annual growth rate (CAGR) than Canada as a whole.

11. Vista Radio further noted that Yellowknife is currently well served based on the number of radio stations available and in comparison to other northern markets. It also stated that the commercial radio market in Yellowknife has been in an extended period of structural decline and CJCD-FM has seen its financial performance deteriorate.
12. Notwithstanding the challenging environment in which it has been operating in recent years, Vista Radio stated that CJCD-FM has continued to undertake significant initiatives and investments, including a recent re-brand and relaunch, to support the community and local businesses, increase access to local news and information and provide increased exposure and support for local artists.
13. Vista Radio also noted its concern about the Commission deviating from the Policy, where interested parties would normally be relieved of the burden of incurring the costs of preparing an application without prior determination of market capacity by the Commission.
14. At the time of Vista Radio's intervention, the Commission had not yet completed its review of the commercial radio policy framework. Vista Radio asked that the Commission pause its consideration of applications for new commercial radio stations until some reasonable period after the results of the commercial radio policy have been released.
15. In spite of its opposition, Vista Radio submitted an application for a new Yellowknife radio station in response to the call for application.

Commission's analysis

16. The Commission notes that it has now completed its review of the commercial radio policy framework, set out in Broadcasting Regulatory Policy 2022-332.
17. Since the beginning of the pandemic, commercial radio in Canada has experienced two years of revenue declines. Profitability has also declined nationally, as radio continues to face pressures from additional online advertising options and channels, making it a buyer's market for advertisers. Compounding this decline, inflation in Canada is at its highest levels since 1991.
18. Furthermore, while average tuning for traditional radio has been in decline for some time, listening hours decreased substantially during the lockdown given that commuting is a large driver for radio listenership and, according to NLogic, had not yet reached the pre-lockdown levels as of January 2022.
19. Yellowknife benefits from low unemployment rates and high average incomes. However, there are concerns regarding slowdowns that may limit long-term growth.
20. In its intervention, Vista Radio also indicated that the Northwest Territories' economy is contracting and expressed concerns about the long-term economic challenges tied to

the diamond mining industry, the engine of the Northwest Territories' private sector economy for the last two decades.

21. The Commission notes that while Yellowknife has comparable population per station for a northern market, the market is generally underperforming in terms of revenue change and profitability when comparing it to the Whitehorse and Iqaluit markets, as well as nationally. Furthermore, Yellowknife's sole commercial station, Vista Radio's CJCD-FM, had declining revenues the five years prior to the pandemic and subsequently.
22. There are also two non-commercial radio stations in Yellowknife, CKLB-FM and CIVR-FM, who rely on advertising revenues. Like many community radio stations, they have benefited from government support, including increased government pandemic-related spending and funding.
23. In their interventions, the NCSNWT and Vista Radio, the operators of two of the three incumbent radio stations, stated their concern that the introduction of a new radio station deriving advertising in the market at this time will impact the incumbent stations' viability to provide local programming.
24. The Commission also notes that due to the isolated location of Yellowknife, there is no real opportunity to repatriate over-the-air out-of-market tuning.

Conclusion

25. In light of the above, the Commission finds that the market of Yellowknife cannot support an additional radio station at this time. Consequently, the Commission will return the application filed by 506992 for a broadcasting licence to operate an English-language commercial FM radio station in Yellowknife.
26. Further, consistent with its approach set out in the Policy, the Commission will not generally be disposed to accept applications for new commercial radio stations to serve the Yellowknife market for a period of two years from the date of this decision.

Secretary General

Related documents

- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Call for comments on market capacity to serve Yellowknife, Northwest Territories, and call for applications to serve Yellowknife, Northwest Territories*, Broadcasting Notice of Consultation CRTC 2021-374, 12 November 2021
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014

Dissenting opinion by Commissioner Claire Anderson

I have read the decision by my esteemed colleagues, and with the greatest respect, I believe that it is premature to determine that the market of Yellowknife, Northwest Territories, cannot support an additional commercial radio station at this time.

I believe the majority decision overly relied upon territorial data rather than data focused on the market at issue (Yellowknife), failed to perform an analysis of Yellowknife's job market, particularly with respect to whether a large government workforce may stabilize the market during economic instability, and placed significant weight on the financial performance of the incumbent commercial radio station who was both underperforming prior to the COVID-19 pandemic, and whose profitability has been improving since 2020.

Application

506992 N.W.T Ltd., operating as Cabin Radio (Cabin Radio) is an Internet radio service based in Yellowknife, Northwest Territories, which has been in operation since 2017.

Cabin Radio filed its application in August 2019.

Notice of consultation

As noted in the majority decision, prior to assessing Cabin Radio's license application, and in accordance with the market assessment process laid out in *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014 (the Radio Call Policy), the Commission issued *Call for comments on market capacity to serve Yellowknife, Northwest Territories, and call for applications to serve Yellowknife, Northwest Territories*, Broadcasting Notice of Consultation CRTC 2021-374, 12 November 2021 (Notice of Consultation 2021-374), which announced it was in receipt of Cabin Radio's application for a broadcasting licence to operate a commercial FM radio station in Yellowknife.

To expedite the application process, the Commission deviated from the Radio Call Policy and called for comments on the capacity of the Yellowknife market to support a new station, while simultaneously calling for radio applications to serve the Yellowknife market. Because the Commission deviated from the Radio Call Policy, the Commission stated in the Notice of Consultation 2021-374 that:

“[b]ecause of the exception to the Commission's established [Radio Call Policy] process in this case, the applicant will be provided an opportunity to update its application, if necessary.”

I understand that Cabin Radio updated its application, however, the application and updated application by Cabin Radio do not form part of the analysis on the market assessment under Notice of Consultation 2021-374.

Cabin Radio's application(s) are omitted from consideration, because prior to assessing the merits of Cabin Radio's application, the Commission considered economic and financial data, as well as interventions and replies on the Notice of Consultation 2021-374.

The only two documents that are on the record for the Notice of Consultation 2021-374 are interventions submitted by the incumbent commercial radio station, Vista Radio Ltd. (Vista Radio) and the Indigenous (Type B Native) radio station operated by Native Communications Society of the N.W.T. (NCSNWT). Those submissions are succinctly summarized in the majority decision.

Again, the market assessment does not include any submissions by Cabin Radio, as it did not file any intervention or reply under the Notice of Consultation 2021-374.

Territorial market performance

Based on the economic and financial data and Vista Radio and NCSNWT's interventions, the majority decision states that the existing market is generally underperforming in terms of revenue growth and profitability.

But the NWT Bureau of Statistics shows that retail levels in Northwest Territories were close to flat between 2017 and 2019 and grew significantly in both 2020 and 2021,¹ which contradicts the Commission's finding on territorial capacity, at least to an extent.

However, territorial data should not be determinative of market capacity, as the market assessment pertains to Yellowknife, not the Northwest Territories more generally, as discussed below.

Yellowknife's economy outperforms the territorial and national economies

The majority decision notes Vista Radio's submission that the economy in the Northwest Territories is contracting, with the Gross Domestic Product (GDP) decreasing at a greater compounded annual growth rate (CAGR) than Canada as a whole.

While territorial metrics are helpful to understanding a regional context, I believe these territorial metrics have a somewhat limited value when determining market capacity, given that the territory incorporates 32 other (much smaller) communities that face significant economic challenges which may not be reflective of Yellowknife's situation.

For instance, Statistics Canada 2021 Census shows that the median total after-tax income in 2020 among those aged 15+ in Yellowknife was \$62,000, which is \$10,800 higher than the territorial average after-tax income (\$51,200) and \$25,200 higher than the national average after-tax income (\$36,800).

¹ NWT Bureau of Statistics, Retail Trade list retail sales at: \$769M (2017); \$787M (2018); \$777M (2019); \$862M (2020); \$889 (2021).

Median after-tax household income in 2020 in Yellowknife was \$126,000, which is \$17,000 higher than the territorial after-tax household income (\$109,000) and \$53,000 higher than the national after-tax household income (\$73,000).²

Additionally, as of December 2019, Yellowknife's unemployment rate was 3.9%, which is significantly lower than the territorial unemployment rate (13.8%) and 1.7% lower than the national unemployment rate (5.6%).³

In total, these figures suggest that Yellowknife's economy is stronger than the territorial and national economies and is the most suitable barometer in a market analysis.

Job composition

Additionally, there is a large government presence in both Yellowknife and the Northwest Territories. According to the City of Yellowknife's Economic Development Strategy (the Economic Development Strategy) people in the Northwest Territories are more than four times as likely to work in public administration than those in other parts of Canada, where public administration accounts for 6% of employment.⁴ It further shows that 46% of people employed in the Northwest Territories work for a public sector employer, when government-funded positions are included.⁵

The majority did not appear to consider how such a large government workforce may stabilize the economy in any market downturn. As noted in the Economic Development Strategy, under the funding arrangement between Canada and the Government of the Northwest Territories (GNWT), the budget allocated to the GNWT is affected in part by the population of the Northwest Territories and serves as somewhat of a steadying force to the economy, to the extent that any economic downturn does not result in a decline to the population.⁶

With the greatest respect to my colleagues, I believe there was simply not enough information about Yellowknife's job composition, and whether a robust public administration sector buffers any potential economic downturn.

Incumbent station's past performance

The majority decision notes that Vista Radio had declining revenues during the five years prior to the pandemic. However, I note that the evidence on the record indicates that Vista Radio's financial situation appears to have improved in the last two years.

² Statistics Canada 2021 Census

³ Ibid

⁴ City of Yellowknife - Economic Development Strategy 2020-2024 at pp 6-7

⁵ Ibid

⁶ Ibid

In light of the evidence which shows a growing retail industry, as well as Vista Radio's recent revenue growth, I am reluctant to draw conclusions of the current commercial radio market, based on a single incumbent radio station which seems to be increasing its revenue in the past few years.

Conclusion

The incumbent's recent increased revenue growth and economic indicators both show a growing retail industry in Yellowknife and at the territorial level. Further, Yellowknife's low unemployment rate and high personal and household income significantly outperform territorial and national trends. Finally, Yellowknife's economy may be steadied by a significant government workforce, which was not subjected to any Commission analysis.

There was not enough evidence on the record to show me that Yellowknife cannot sustain a second commercial radio station.

I note that the majority decision states that the Commission will not generally be disposed to accept applications for a new commercial radio station to serve Yellowknife for two years from the date of the decision.

However, I note that the modified application process we followed in this case was a departure from our normal application process outlined in the Radio Call Policy. In light of our departure from the Radio Call Policy's normal application process and the significant delay in assessing Cabin Radio's application, filed in 2019, the Commission may wish to consider a departure from its general practice not to accept further applications for a commercial radio station to serve the Yellowknife market for two years from the date of the decision.

Dissenting opinion by Commissioner Joanne T. Levy

Summary of dissent

The majority decision (Decision) is flawed for the following reasons:

- the market assessment analysis is subject to a different conclusion; and
- consideration for the unique needs of a Northern community for diversity of voices should be assessed in a timely process.

Recommended remedy: the Commission should publish the applications filed (including the amended application). It should then proceed to a hearing.

Background

This process began with an application from 506992 N.W.T. Ltd. operating as Cabin Radio in August 2019. Cabin Radio had been operating as an Internet radio service since 2017 and sought to parlay its success in that venue to broadcast radio.

In 2021, a Broadcasting Notice of Consultation (2021-374) called for radio applications to serve Yellowknife and at the same time launched the market assessment. The laudable goal of compressing the process has not panned out.

The market assessment

The market assessment made note of the decline in Canadian commercial radio revenues on a national level and noted that profitability has yet to reach pre-pandemic levels as of statistics for 2020-2021. The market assessment examined the financial results of the incumbent stations. These results show financial losses, however, both stations that opposed Cabin Radio's application have had ample time, even pre-pandemic, to establish themselves in the market. CJDC-FM, the English language commercial station, started as an AM station in the market in 1986. It converted to FM in 1997 and Vista Broadcast Group (Vista Radio) bought it in 2007. CKLB-FM, a community radio station owned by the Native Communications Society of the N.W.T. has been licensed since 1985.

On the specifics of the Yellowknife economy, the decision notes that the community benefits from low unemployment and higher than average incomes. It cites the incumbent, Vista Radio, as saying the Northwest Territories economy is contracting, however, that did not stop Vista Radio from applying for another licence itself.

Community considerations

As a territorial capital, Yellowknife benefits from an element of economic stability that other communities might lack. It is also a cultural capital. Diversity of voices is an important driver of Commission policy. Assessing the needs of a Northern community should allow for a more open process that allows those voices to be heard.

Conclusion

The worst of the pandemic is over. The existing commercial radio station in Yellowknife cannot bar competition indefinitely by citing unprofitability. Diversity of voices should be supported as much in a somewhat remote Northern community as anywhere else in Canada.

Contrary to the Decision, I believe publishing the applications received and proceeding to a hearing is the appropriate and timely response. The alternative is further delay.