



Broadcasting Decision CRTC 2008-102

Ottawa, 9 May 2008

Canadian Broadcasting Corporation
Windsor, Ontario

Applications 2007-1124-3 and 2007-1125-1, received 7 August 2007
Public Hearing in London, Ontario
10 December 2007

CBE and CBEF Windsor – New transmitters at Windsor

*The Commission **approves** applications by the Canadian Broadcasting Corporation to amend the broadcasting licences for CBE and CBEF Windsor in order to operate nested FM rebroadcasting transmitters at Windsor.*

The applications

1. The Commission received applications by the Canadian Broadcasting Corporation (CBC) to amend the broadcasting licences for the AM radio programming undertakings CBE and CBEF Windsor in order to operate nested¹ FM rebroadcasting transmitters at Windsor.
2. The CBC indicated that the proposed FM transmitter for CBE would operate at 102.3 MHz (channel 272A) with an average effective radiated power (ERP) of 690 watts, and that the proposed FM transmitter for CBEF would operate at 105.5 MHz (channel 288A) with an average ERP of 620 watts.²
3. The proposed transmitter of the English-language radio station CBE would rebroadcast the programming of the CBC's national, English-language network service Radio One. The proposed transmitter of the French-language radio station CBEF would rebroadcast the programming of the CBC's national, French-language network service La Première Chaîne.
4. In support of its applications, the CBC noted the following:
 - a significant number of residents in the Windsor region who describe themselves as CBC listeners indicate trouble receiving signals in downtown Windsor;

¹ A "nested" rebroadcasting transmitter is a transmitter located within the coverage contours of the originating station to supplement coverage to an area experiencing reduced signal quality.

² In a letter dated 23 November 2007, the Department of Industry (the Department) informed the Commission that, should the CBC's application for the proposed FM transmitter for CBEF be approved, the application would only be technically acceptable once the CBC submits a revised technical brief indicating a decrease in that transmitter's maximum ERP from 2,940 watts to 2,400 watts and the resulting decrease in its average ERP from 620 watts to 506 watts. The Department indicated that the required technical change would serve to protect the U.S. radio station WWM-FM Cleveland. The Commission notes that the CBC has agreed to comply with the Department's direction.

- indoor and outdoor reception studies that the CBC commissioned show that these stations are not in compliance with the Department of Industry's (the Department's) standards set out in its circular *Application Procedures and Rules for AM Broadcasting Undertakings*, since the indoor signal reception level in larger steel and concrete buildings is below the standard set out in that circular;
- its two stations in the Windsor market are only available on the AM band, whereas almost half of the English- and French-language radio audience listens exclusively to FM stations, many of them from the United States;
- since CBEF is the only francophone station in the Windsor region, and since a large number of Francophones in the region understand English, the absence of a French-language CBC FM presence encourages them to tune to English-language stations;
- Canada has experienced a general shift in radio listening habits from the AM to the FM band;
- the decline in AM tuning in the Windsor market precludes the CBC from increasing its market share, unlike other areas (such as Ottawa, Halifax, Saint John and Toronto) where the CBC's position on the FM band has permitted it to gain market share;
- spectrum is particularly congested in the Windsor market due to the proximity of Windsor to Detroit, Michigan, making it impossible to replicate current service levels through full conversions from the AM to the FM band; and
- there are no Class C allotments available in the Windsor market that would offer comparable coverage, and coverage cannot be replicated by operating CBE at a higher power level than the proposed 102.3 MHz because of the potential for interference with incumbent broadcasters.

5. The Commission received several interventions in support of both applications. The Commission also received an intervention commenting on the application for CBE from Neeti P. Ray, on behalf of a corporation to be incorporated (Neeti Ray), as well as an intervention opposing both applications from CTVglobemedia Inc. (CTVgm). The interventions and the replies to the interventions are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. After examining the applications, the interventions and the replies to the interventions, the Commission considers that the issues to be determined relate to whether the operation of nested FM transmitters would provide the CBC with an appropriate solution for dealing with its technical impediments and to whether the CBC should operate the

FM rebroadcasting transmitters for CBE and CBEF according to the proposed technical parameters.

Nested FM rebroadcasting transmitters as an appropriate solution for dealing with the CBC's technical impediments

7. Similar applications by the CBC for nested FM transmitters have previously been approved where it was demonstrated that the addition of such an FM transmitter was the most financially feasible option for the licensee to deliver a good quality signal to a city's urban core while still maintaining good coverage throughout the service area of the radio station.³ The Commission considers that the establishment of two nested FM rebroadcasting transmitters at Windsor would serve to remedy the technical impediments associated with the CBE and CBEF AM transmitters in Windsor and, as such, would represent an appropriate use of the proposed frequencies.
8. Further, section 3(1)(m)(vii) of the *Broadcasting Act* (the Act) specifies that the programming provided by the CBC should "be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose." Accordingly, the Commission considers that approval of these applications would be appropriate in regard to attaining this objective of the Act and would be in the public interest.

Operation of the FM rebroadcasting transmitters for CBE and CBEF according to the proposed technical parameters

9. Neeti Ray, in its intervention, noted that it had identified 102.3 MHz (channel 272A) as an alternative frequency for its proposed commercial FM ethnic radio station for the Windsor region⁴ and that the CBC should be required to choose either 99.1 MHz (channel 256) or 97.5 MHz (channel 248) to operate its new FM rebroadcasting transmitter for CBE.
10. CTVgm argued that the signal pattern of its AM station CKWW is significantly more compromised in Windsor than the signal patterns of the CBC's stations in Windsor, and contended that approval of the licence amendments proposed by the CBC for CBE and CBEF would not represent the best use of the scarce frequencies available in the Windsor market.
11. In its reply to Neeti Ray, the CBC noted that the use of the frequency 99.1 MHz (channel 256) would result in an overall reduction in coverage throughout the city of Windsor and would exclude about 10% of the population compared to what it proposed in its application. Further, the CBC noted that the frequency 97.5 MHz (channel 248) is fourth adjacent to CHYR-FM Leamington, which operates at 96.7 MHz (channel 244), and that its use of the frequency 97.5 MHz (channel 248) would potentially cause interference for over 13,000 people within the protected contour of CHYR-FM.

³ See, for example, Broadcasting Decision 2006-84 and Decision 99-459.

⁴ Announced in Broadcasting Notice of Public Hearing 2007-14

12. In its reply to CTVgm, the CBC noted that the intervener chose not to file an application in response to the call for applications announced in Broadcasting Public Notice 2007-61, and submitted that if CKWW's coverage was a serious issue for CTVgm, it would have used the opportunity of that call for applications to address it.
13. The Commission is satisfied that the CBC has adequately addressed the concerns raised by both Neeti Ray and CTVgm concerning the best use of the proposed frequencies.

Conclusion

14. In light of all of the above, the Commission **approves** the applications by the Canadian Broadcasting Corporation to amend the broadcasting licences for the AM radio programming undertakings CBE and CBEF Windsor in order to operate nested FM rebroadcasting transmitters at Windsor.
15. The FM transmitter for CBE will operate at 102.3 MHz (channel 272A) with an average ERP of 690 watts. The Department has advised the Commission that, while the application for this transmitter is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
16. The FM transmitter for CBEF will operate at 105.5 MHz (channel 288A). The Department has advised the Commission that the application for this transmitter will only be technically acceptable once the CBC submits a revised technical brief indicating a decrease in the transmitter's maximum ERP from 2,940 watts to 2,400 watts and the resulting decrease in its average ERP from 620 watts to 506 watts. Further, the Department has advised the Commission that it will only issue a broadcasting certificate for that transmitter when it has determined that the revised technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
17. The Commission reminds the licensee that, pursuant to section 22(1) of the Act, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
18. The transmitters must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 9 May 2010. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

Secretary General

Related documents

- Broadcasting Notice of Public Hearing CRTC 2007-14, 11 October 2007, as amended by Broadcasting Notices of Public Hearing CRTC 2007-14-1, 16 October 2007; 2007-14-2, 1 November 2007; 2007-14-3, 9 November 2007; and 2007-14-4, 3 December 2007
- *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Windsor, Ontario*, Broadcasting Public Notice CRTC 2007-61, 8 June 2007, as amended by *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Windsor, Ontario*, Broadcasting Public Notice CRTC 2007-61-1, 13 June 2007
- *CBK Regina, CHFA and CBX Edmonton, CKSB St-Boniface and CBW Winnipeg, and CBR Calgary – Addition of FM transmitters*, Broadcasting Decision CRTC 2006-84, 16 March 2006
- *Licence amendment for CBK*, Decision CRTC 99-459, 12 October 1999

This decision is to be appended to each licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.