



Broadcasting Decision CRTC 2008-164

Ottawa, 7 August 2008

Vista Radio Ltd.
Kelowna, British Columbia

Application 2008-0591-3, received 22 April 2008
Broadcasting Public Notice CRTC 2008-45
16 May 2008

Use of frequency 103.9 MHz by the new station in Kelowna

*The Commission **approves** the application by Vista Radio Ltd. to operate the new English-language commercial FM radio programming undertaking in Kelowna at 103.9 MHz (channel 280C1) with an average effective radiated power of 5,200 watts.*

Introduction

1. The Commission received an application by Vista Radio Ltd. (Vista) to operate the new English-language commercial FM radio programming undertaking in Kelowna at 103.9 MHz (channel 280C1) with an average effective radiated power (ERP) of 5,200 watts. The applicant had originally proposed to operate its new station at 96.1 MHz (channel 241C) with an average ERP of 19,900 watts.
2. Vista filed this application further to the Commission's direction in *Licensing of new radio stations to serve Kelowna, British Columbia*, Broadcasting Decision CRTC 2008-62, 14 March 2008 (Broadcasting Decision 2008-62). In that decision, the Commission stated that it would only issue a licence for this station provided that the applicant submitted, within three months of the date of that decision, an amendment to its application proposing the use of an FM frequency and technical parameters that are acceptable to both the Commission and the Department of Industry (the Department).

Commission's analysis and determinations

3. The Commission received an intervention in opposition to this application from In-House Communications Inc. (In-House). In-House contended that Vista, in the preparation of its own technical brief for the present application, used proprietary and confidential information from In-House's engineering brief that specified the use of 103.9 MHz and that was submitted with its application for a broadcasting licence to operate a commercial radio programming undertaking in Kelowna. In-House requested that the Commission provide protection for the investment In-House made in its engineering brief.

4. In its reply to the intervention, Vista indicated that its engineering brief and related documents were prepared by its usual engineering consultant, A. G. Gardiner of Kensar Telecommunications Limited of West Vancouver. Vista added that a comparison between its engineering brief and that of In-House would demonstrate that the power, antenna configuration and estimated ERP for each application are different.
5. The Commission notes that the preparation and submission of engineering briefs is a matter determined by the applicant and evaluated by the Department. Further, the Commission notes that, in Broadcasting Decision 2008-62, it denied the above-mentioned application by In-House to obtain a broadcasting licence to operate a commercial radio station, which proposed the use of the frequency 103.9 MHz.
6. Finally, the Commission considers that the revised technical parameters provided by Vista represent a better use of the limited spectrum for the area than those proposed in its original application.

Conclusion

7. In light of the above, the Commission **approves** the application by Vista Radio Ltd. to operate the new English-language commercial FM radio programming undertaking in Kelowna at 103.9 MHz (channel 280C1) with an average ERP of 5,200 watts.
8. The Department has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
9. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Secretary General

This decision is to be appended to the 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>.