



Broadcasting Decision CRTC 2014-157

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Route reference: 2013-360

Ottawa, 2 April 2014

My Broadcasting Corporation

Carleton Place, Ontario

Application 2013-0869-3, received 12 June 2013

Public hearing in the National Capital Region

3 October 2013

English-language FM radio station in Carleton Place

*The Commission **denies**, by majority vote, the application for a broadcasting licence to operate an English-language commercial FM radio station in Carleton Place.*

Application

1. My Broadcasting Corporation (MBC) filed an application for a broadcasting licence to operate an English-language commercial FM radio station in Carleton Place. MBC requested that its application be considered as a proposal for a first commercial radio service in this market.
2. The proposed station would operate at 107.7 MHz (channel 299A) with an average effective radiated power (ERP) of 362 watts (maximum ERP of 675 watts with an effective height of antenna above average terrain of 99.4 metres).
3. MBC currently uses 107.7 MHz for CHMY-FM-1 Arnprior, a transmitter of CHMY-FM Renfrew. In *English-language FM radio station in Arnprior*, Broadcasting Decision CRTC 2014-158, also issued today, the Commission has addressed a second application by MBC for a licence to operate an FM station in Arnprior. If its application for a Carleton Place station were approved, MBC proposed that the Arnprior station operate at 97.5 MHz, making 107.7 MHz available for the Carleton Place station.
4. The proposed station in Carleton Place would offer a gold-based Adult Contemporary music format for adults aged 25 to 54. Of the 126 hours of programming broadcast each week, 125 hours would consist of local, station-produced programming, including spoken word programming devoted to local news, coverage of local events and daily community features. The remaining hour of weekly programming would consist of a music show providing new local artists with an opportunity to be heard in Carleton Place and in all markets served by MBC. MBC also stated that it would adhere to a condition of licence requiring it to devote 38% of its popular music

selections throughout the week and between 6 a.m. and 6.p.m. from Monday to Friday to Canadian selections, which exceeds the regulatory level set out in the *Radio Regulations, 1986*.

Interventions and applicant's reply

5. The Commission received interventions supporting the application, as well as an opposing intervention by Perth FM Radio Inc. (Perth FM), the licensee of the English-language commercial radio station CHLK-FM Perth. The public record for the application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. Perth FM expressed concern over the impact of the proposed station in Carleton Place on the local and national sales revenues of CHLK-FM, stressing that Carleton Place was an integral part of its region and that it already covered news and events in this community. Perth FM also disagreed with MBC's characterization of the proposed station as a first commercial radio service in this market given the significant overlap between the primary 3 mV/m contour of the proposed station and the primary 3 mV/m contours of CKBY-FM and CJET-FM Smiths Falls, both of which are operated by Rogers Broadcasting Limited (Rogers). Finally, given that lack of other viable frequencies for Carleton Place, Perth FM submitted that any movement of frequencies would result in an unfair advantage for MBC, regardless of whether a call for applications for Carleton Place was held or an exception was granted on the first service issue.
7. In reply, MBC stated that there would be no impact on CHLK-FM as the communities of Carleton Place and Almonte which it proposed to serve were not part of the target audience of CHLK-FM. Further, with respect to the first service issue, MBC noted that Rogers had not intervened in opposition to its application and that CKBY-FM and CJET-FM were physically located in Smiths Falls and were both regional services with wide-reaching signals covering many communities of the Ottawa Valley. Finally, as regards local coverage, MBC stated that although there would be news in Carleton Place that would be relevant to CHLK-FM's audience, this was not a reason to deny Carleton Place/Almonte residents their own dedicated, locally driven radio service.

Commission's analysis

8. Having examined the public record for this application in light of applicable policies and regulations, the Commission considers that the issues it must address are the integrity of the licensing process and the impact of the proposed service on existing stations.

Integrity of the licensing process

9. The Commission has adopted a case-by-case approach to evaluating applications to exchange frequencies. The Commission has approved such exchanges between parties within a given market in exceptional circumstances. The Commission

approved such an exchange between Jim Pattison Broadcast Group Limited Partnership (Pattison)¹ and Vancouver Co-operative Radio (Co-op Radio) in the Vancouver market on the basis of economic and technical need, as well as a more efficient use of scarce spectrum.² In doing so, the Commission noted that the integrity of the licensing process would not be undermined given that (a) Pattison was the only operator that could use the frequency it was exchanging as this frequency was adjacent to that of another Pattison station (Pattison accepted any interference it would experience from Co-op Radio's use of the frequency) and (b) Pattison was the only applicant to apply for this frequency at a previous public hearing and its application was not mutually exclusive with other applications.

10. In the present case, the Commission notes that, contrary to the preceding, MBC proposed to use 107.7 MHz not to remedy technical issues, but rather to serve a new market, namely Carleton Place. In this regard, the Commission notes that no call for applications for Carleton Place was held to determine interest for providing service on 107.7 MHz from other parties and that no such call could be held as MBC currently uses this frequency in the adjacent market of Arnprior. Moreover, while other frequencies are available for use in Carleton Place, none of these frequencies offers the same or similar coverage potential.
11. Under the circumstances, the Commission is of the view that modifying the Commission's approach towards frequency exchanges by allowing the applicant to use the frequency in an adjacent market without benefit to other parties of the broadcasting industry or the opportunity for such parties to express interest through a call for applications would undermine the integrity of the licensing process and would not be in the public interest.

Impact of the proposed service on existing stations

12. The proposed service's primary contour would overlap with the primary contours of a number of stations, including CHLK-FM Perth and CKBY-FM and CJET-FM Smith Falls. Given the financial performance of one of the stations in the market and the extent to which its contours would overlap with those of the proposed service, the Commission is concerned that the addition of a mainstream commercial radio station in Carleton Place could strain the station's profitability and result in undue financial impact on the station, thereby affecting its ability to continue to meet its programming obligations and commitments.

¹ Jim Pattison Broadcast Group Ltd. (the general partner) and Jim Pattison Industries Ltd. (the limited partner), carrying on business as Jim Pattison Broadcast Group Limited Partnership

² See *CKPK-FM and CFRO-FM Vancouver – Licence amendments and technical changes*, Broadcasting Decision CRTC 2011-580, 9 September 2011.

Conclusion

13. Based on all of the above, the Commission **denies**, by majority vote, the application by My Broadcasting Corporation for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Carleton Place.

Secretary General