



Broadcasting Notice of Consultation CRTC 2014-426

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Ottawa, 13 August 2014

Notice of hearing

15 October 2014

Gatineau, Quebec

Deadline for submission of interventions/comments: 12 September 2014

Deadline for submission of applicants' replies: 22 September 2014

[\[Submit an intervention/comment/answer or view related documents\]](#)

1. In October 2013, the Commission began a public process to consider licensing new radio stations in Surrey, British Columbia. The process included an oral public hearing that began on 27 January 2014.¹ As part of the public process for that hearing, parties raised and discussed whether certain entities were potentially broadcasting in whole or in part in Canada without a licence and transmitting from Washington State into lower mainland BC in contravention of the *Broadcasting Act*. The entities discussed were Sher-E-Punjab Radio Broadcasting Inc. (Sher-E-Punjab), who was an applicant at the Surrey hearing,² Radio India (2003) Ltd. (Radio India) and Radio Punjab Ltd. (Radio Punjab).
2. The Commission has examined the issue of entities apparently broadcasting, in whole or in part, in Canada without a licence into the Surrey, BC market at various times in the last 16 years.
3. In 1998, the Commission examined this issue as part of a response to a programming complaint regarding potential abusive comment. In particular, the Commission looked at the activities of four undertakings operating out of Surrey BC at that time. These undertakings sent programming by telephone line to uplink facilities which fed into the Subsidiary Communication Multiplex Operation (SCMO) channels of Washington FM stations by satellite. From there, the signals were broadcast over the air to listeners in the U.S. and lower mainland BC. The programming was also made available as a live broadcast over the Internet.
4. On 28 September 2001, the Commission sent a letter to the undertakings advising them that they required a licence to continue their broadcasting activities via satellite, including via SCMO from the U.S. The undertakings indicated that they ceased using satellite distribution and that they made their programming available on the Internet

¹ See Broadcasting Notice of Consultation 2013-568.

² Sher-E-Punjab Radio Broadcasting Inc., Application [2013-0889-1](#).

in compliance with the New Media Exemption Order (now the Digital Media Exemption Order).³

5. The issue arose again as part of a licensing hearing held 28 February 2005. The Commission noted that certain applicants operated from Washington State and offered predominantly South Asian language programming, which was widely available in the Vancouver market. These applicants were Sukhvinder Singh Badh, whose family owns and operates Sher-E-Punjab, and Radio India.⁴
6. As a result of the hearing, the Commission licensed two new local Vancouver radio stations that broadcast predominantly South Asian programming.
7. While the licensing of the two Vancouver radio stations did serve to establish Canadian licensed predominantly South Asian services in the Vancouver area, the Washington State services continued to exist. The Commission is concerned that their ongoing presence has hindered the growth of the licensed Canadian services, which have specific regulatory requirements related to offering programming in a range of languages to multiple cultural groups, annual Canadian Content Development contribution requirements, and Commission and industry oversight.
8. Recently, Sher-E-Punjab applied for a licence to broadcast on a Canadian frequency as part of the Surrey, BC hearing held 27 January 2014. Radio India also sought to apply for a licence from the Commission pursuant to the same proceeding. However, its application was not filed on time and its request for an extension was denied.⁵
9. As part of its application, Sher-E-Punjab described its over-the-air presence in Vancouver through a brokerage agreement with KRPI Ferndale (Washington), which has broadcast its Vancouver-based South Asian programming for several years.
10. On 6 August 2014, the Commission issued Broadcasting Decision 2014-412, which, among other things, denied Sher-E-Punjab's application for a licence on the 600 kHz AM frequency.
11. In light of the above and as set out below, the Commission considers that there is reason to believe that Sher-E-Punjab, Radio India and Radio Punjab may be carrying on broadcasting undertakings in whole or in part in Canada without licences in contravention of the *Broadcasting Act*.

³ See Broadcasting Order 2012-409.

⁴ See Broadcasting Decision 2005-340 and Broadcasting Public Notice 2005-68.

⁵ On 17 June 2013, the Commission received a request from Radio India seeking an extension of 6 weeks from the filing deadline to submit an application for a new radio service for Vancouver. See also Broadcasting Notice of Consultation 2013-149.

12. The Commission notes that, given the use of foreign transmitters by these stations, there may be tax implications for businesses who advertise on these stations. In that regard, the Commission notes that section 19.1 of the *Income Tax Act* provides that no deduction may be made in respect of an expense “for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking” and a foreign broadcasting undertaking includes “a broadcasting transmitting undertaking located outside Canada.”
13. In light of the above, the Commission will hold a hearing commencing on **15 October 2014 at 9 a.m., at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec** to consider the following:

1. **Radio India (2003) Ltd.**
Surrey, British Columbia
Reference 2014-0694-2

Radio India operates out of Surrey, British Columbia, and produces programming for broadcast on the radio as well as over the Internet but does not have a licence to carry on a radio programming undertaking in Canada. Radio India is owned and controlled by Baljit Kaur Bains.

By letters dated 18 March 2014 and 2 July 2014, the Commission sought information from Radio India regarding its operations and activities. Based on the information received, it appears that Radio India carries on business in Canada and that it has an arrangement with Way Broadcasting Licensee, LLC, the licensee of KVRI 1600 AM, located in Blaine, Washington, to transmit its programming by radio waves for reception by the public by means of a radio and that this transmission is received within Canada.

In light of the record, it therefore appears that Radio India may be carrying on a broadcasting undertaking in whole or in part in Canada without a licence or pursuant to an exemption contrary to the *Broadcasting Act*.

Therefore, pursuant to section 12 of the *Broadcasting Act*, the Commission calls Radio India (2003) Ltd. to a public hearing in order to inquire into, hear and determine whether the entity is carrying on an undertaking in whole or in part in Canada without a licence. Radio India will also be required to show cause why a mandatory order should not be issued requiring Radio India (2003) Ltd. to cease and desist operating a broadcasting undertaking at Surrey, British Columbia, or elsewhere in Canada, except in compliance with the *Broadcasting Act*.

Additional information may be placed on the public record as it becomes available. The Commission encourages interested persons to monitor the public record and the Commission’s website for additional information that they may find useful when preparing their comments.

Address:

201 -12830 80th Avenue
Surrey, British Columbia
V3W 3A8
Fax: 604-592-9091
Email: msgill@radioindia ltd.com

2. Radio Punjab Ltd.

Surrey, British Columbia
Reference 2014-0695-0

Radio Punjab operates out of Surrey, British Columbia, and produces programming for broadcast on the radio as well as over the Internet but does not have a licence to carry on a radio programming undertaking in Canada. Radio Punjab is owned and controlled by Gurpal S. Garcha.

By letters dated 2 April 2014 and 20 June 2014, the Commission sought information from Radio Punjab regarding its operations and activities. Based on the information received, it appears that Radio Punjab carries on business in Canada and that it has an arrangement with New Age Media Limited, the licensee of KRPA 1110 AM, located in Oak Harbour, Washington, to transmit its programming by radio waves for reception by the public by means of a radio and that this transmission is received within Canada.

In light of the record, it therefore appears that Radio Punjab may be carrying on a broadcasting undertaking in whole or in part in Canada without a licence or pursuant to an exemption contrary to the *Broadcasting Act*.

Therefore, pursuant to section 12 of the *Broadcasting Act*, the Commission calls Radio Punjab Ltd. to a public hearing in order to inquire into, hear and determine whether the entity is carrying on an undertaking in whole or in part in Canada without a licence. Radio Punjab will also be required to show cause why a mandatory order should not be issued requiring Radio Punjab Ltd. to cease and desist operating a broadcasting undertaking at Surrey, British Columbia, or elsewhere in Canada, except in compliance with the *Broadcasting Act*.

Additional information may be placed on the public record as it becomes available. The Commission encourages interested persons to monitor the public record and the Commission's website for additional information that they may find useful when preparing their comments.

Address:

216 – 12830 80th Avenue
 Surrey, British Columbia
 V3W 3A8
 Fax: 604-648-8381
 Email: gurpal@radiopunjab.com

3. Sher-E-Punjab Radio Broadcasting Inc.

Richmond, British Columbia
 Reference 2014-0696-8

Sher-E-Punjab operates out of Richmond, British Columbia, and produces programming for broadcast on the radio as well as over the Internet but does not have a licence to carry on a radio programming undertaking in Canada. Sher-E-Punjab is owned and controlled by Surinder Kaur Badh.

By letters dated 19 March 2014 and 20 June 2014, the Commission sought information from Sher-E-Punjab regarding its operations and activities. Based on the information received, it appears that Sher-E-Punjab carries on business in Canada and that it has an arrangement with BBC Broadcasting Inc., the licensee of KRPI 1550 AM, located in Ferndale, Washington, to transmit its programming by radio waves for reception by the public by means of a radio and that this transmission is received within Canada.

In light of the record, it therefore appears that Sher-E-Punjab may be carrying on a broadcasting undertaking in whole or in part in Canada without a licence or pursuant to an exemption contrary to the *Broadcasting Act*.

Therefore, pursuant to section 12 of the *Broadcasting Act*, the Commission calls Sher-E-Punjab Radio Broadcasting Inc. to a public hearing in order to inquire into, hear and determine whether the entity is carrying on an undertaking in whole or in part in Canada without a licence. Sher-E-Punjab will also be required to show cause why a mandatory order should not be issued requiring Sher-E-Punjab Radio Broadcasting Inc. to cease and desist operating a broadcasting undertaking at Richmond, British Columbia, or elsewhere in Canada, except in compliance with the *Broadcasting Act*.

Additional information may be placed on the public record as it becomes available. The Commission encourages interested persons to monitor the public record and the Commission's website for additional information that they may find useful when preparing their comments.

Address:

1228 - 20800 Westminster Highway
 Richmond, British Columbia
 V6V 2W3

Fax: 604-279-1550
Email: info@sherepunjabradio.ca

Procedure

Deadline for interventions, comments or answers

12 September 2014

The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, replies, answers of respondents and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "Statutes and Regulations." *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, provides information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

For purposes of the Rules of Procedure, Radio India, Radio Punjab and Sher-E-Punjab will be considered as applicants. Consistent with section 57 of the Rules of Procedure, the applicants will have until **28 August 2014** to review the documents relied on by the Commission and to provide comments and file supporting documents with the Commission.

An intervention or an answer from a respondent must be filed with the Commission and served on the applicant on or before the above-mentioned date. An answer from a respondent must also be served on any other respondent.

Interventions and answers must clearly identify the file referred to and indicate whether parties support or oppose the applicant.

The intervention or answer must include one of the following statements in either the first or the last paragraph:

1. I request to appear at the public hearing.
2. I do not want to appear at the public hearing.

Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position but do not wish to appear at the hearing. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for*

broadcasting policy proceedings, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010.

The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line ***End of document*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

A true copy of each intervention or answer from a respondent must be sent to the applicant and, in the case of a respondent to an application, to any other respondent.

Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that service/filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

In the event that an application to be considered during the non-appearing phase of the hearing is brought to the oral phase of the hearing, and if parties wish to appear, they must provide reasons why their written interventions or answers are not sufficient and why an appearance is necessary. Parties requiring communication support must state their request on the first page of their intervention. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the public hearing.

Persons requiring communications support such as assistance listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.

Important notice

All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, etc.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

Electronic versions of the documents relied on by the Commission are available on the Commission's website at www.crtc.gc.ca by selecting the number within this notice. They are also available from the applicants, either on their websites or upon request by contacting the applicants at their email addresses, provided above.

Electronic versions of the interventions and answers, as well as of other documents referred to in this notice, are available on the Commission's website at www.crtc.gc.ca by

visiting the “Participate” section, selecting “Submit Ideas and Comments,” and then selecting “our open processes.” Documents can then be accessed by clicking on the links in the “Subject” and “Related Documents” columns associated with this particular notice.

Documents are also available from Commission offices, upon request, during normal business hours.

Location of Commission offices

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
J8X 4B1
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Fax: 306-780-3319

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Suite 574
Calgary, Alberta
T2G 4X3
Tel.: 403-292-6660
Fax: 403-292-6686

British Columbia

858 Beatty Street
Suite 290
Vancouver, British Columbia
V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Licensing of new radio stations to serve Surrey and Vancouver*, Broadcasting Decision CRTC 2014-412, 6 August 2014
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2013-568, 29 October 2013
- *Call for applications – Radio stations to serve Vancouver, British Columbia*, Broadcasting Notice of Consultation CRTC 2013-149, 25 March 2013

- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media undertakings),* Broadcasting Order CRTC 2012-409, 26 July 2012
- *Denial of various applications proposing new Vancouver radio services,* Broadcasting Decision CRTC 2005-340, 21 July 2005
- *Licensing of new ethnic radio stations to serve Vancouver – Introduction to Broadcasting Decisions CRTC 2005-338 to 2005-340,* Broadcasting Public Notice CRTC 2005-68, 21 July 2005