



Broadcasting Notice of Consultation CRTC 2015-399

PDF version

Ottawa, 26 August 2015

Call for radio applications to serve urban Aboriginal communities in Ottawa, Toronto, Calgary, Edmonton and Vancouver

Introduction

1. The Commission announces that it is calling for applications for a radio licence or licences to serve the urban Aboriginal communities in one or more of the Ottawa, Toronto, Calgary, Edmonton and Vancouver markets.
2. The Commission is seeking innovative applications that focus on serving Aboriginal Canadians, regardless of the type of service proposed. Applicants must clearly demonstrate how their proposals fulfill this mandate.
3. Persons interested in responding to this call must submit a duly completed application to the Commission by **12 January 2016**, using the appropriate application form for a [new licence](#). Applicants are also required to submit all necessary technical documentation to the Department of Industry (the Department) by the same date.
4. It should be noted that in making this call the Commission has not reached any conclusion regarding the licensing of any service at this time.
5. Applicants will be required to provide evidence giving clear indication that there is a demand and a market for the proposed service. This includes demonstrating the needs of the Aboriginal communities in the market(s) in question, how the proposed service(s) will meet them and whether, if there are currently services addressing Aboriginal communities, the market(s) can sustain the proposed additional service(s).

Background

6. In Broadcasting Decision 2015-282, the Commission revoked the broadcasting licences for the following Type B Native radio stations held by Aboriginal Voices Radio Inc. (AVR), effective 25 July 2015:
 - CKAV-FM Toronto (operating at 106.5 MHz);
 - CKAV-FM-2 Vancouver (operating at 106.3 MHz);
 - CKAV-FM-3 Calgary (operating at 88.1 MHz);
 - CKAV-FM-4 Edmonton (operating at 89.3 MHz); and
 - CKAV-FM-9 Ottawa (operating at 95.7 MHz).

7. By Order of the Federal Court of Appeal dated 21 August 2015, AVR has been granted leave to appeal Broadcasting Decision 2015-282 revoking AVR's licences in Toronto, Vancouver, Calgary, Edmonton and Ottawa. The Court also stayed this decision and ordered that AVR's broadcasting licences for these five radio stations remain in effect subject to the same terms and conditions until final determination of the appeal.
8. In Broadcasting Decision 2015-282, the Commission noted that radio services designed to serve the underserved urban Aboriginal communities in Toronto, Vancouver, Calgary, Edmonton and Ottawa could complement existing Aboriginal services in a way that would contribute to fulfilling the objectives of the *Broadcasting Act* (the Act) and that there is a pressing need to serve the Aboriginal community as a whole given that issues vitally important to Aboriginal Canadians are not fully covered or addressed at all in non-Native media. As a priority, the Commission stated its intention to issue a call for applications and hold a hearing to license new services that would fulfill this mandate.
9. It is important to note that the original decisions to license AVR followed a series of competitive processes in 2000 and 2001 and were taken on the basis that its service would serve the public interest and contribute to fulfilling the policy objectives set out in sections 3(1)(d)(iii) and 3(1)(o) of the Act to reflect the special place of Aboriginal peoples within Canadian society. At the time, the Commission was of the view that Canada's urban Aboriginal communities were not adequately served by radio services.
10. Under these unique circumstances, the Commission considers it appropriate to issue a call for applications for services that could fill any gap as it relates to serving Aboriginal Canadians in the above-noted markets, while noting that the Edmonton market is currently served by an Aboriginal radio service, CFWE-FM-4. As indicated earlier, the Commission encourages applicants to consider innovative approaches and is not limiting the type of service that can be proposed. Issuing the call at this time will provide potential applicants with early guidance in developing these innovative proposals and will ensure that if the appeal is denied, the issue of service to the urban Aboriginal communities in these markets can be considered without delay.

Essential information that applicants must provide

11. Each applicant wishing to be considered as part of this process **is required** to indicate **how the proposed service will meet the needs of Aboriginal Canadians in the market(s)**, as well as **provide all the information requested in the appendices to this document for the type of service that it proposes to operate**. An applicant must clearly demonstrate that its application includes the required information and submit the appropriate completed application form. Requests for information by Commission staff will seek to clarify specific facts or resolve minor discrepancies in the applicants' proposals.

12. The Commission will return any application that fails to provide the required information and that application will not be considered as part of this process.

Factors for evaluating applications

13. In evaluating the applications received, the Commission will consider **how the proposed service will meet the needs of Aboriginal Canadians in the market(s) which it is seeking to serve**. To assist the Commission in this evaluation, applicants should consider addressing the following in their applications:

- plans and commitments regarding Aboriginal programming, including how the applicant's commitments will reflect the interests and needs of the Aboriginal population to be served, foster the development of Aboriginal cultures and help preserve Aboriginal languages;
- the capacity of the proposed business plan, whether commercial or non-commercial, to sustain the programming plans set out in the application; and
- plans to provide for broad participation by the Aboriginal population of the region served in the governance, operation and programming of the station.

14. For applications for new commercial radio services in a market, these factors are in addition to the following factors normally considered by the Commission in assessing such applications, as first set out in Decision 99-480.

Quality of the application

15. In its analysis, the Commission will evaluate the applicant's programming proposal and commitments in a number of areas. These will include the manner in which the applicant will reflect the local community, including the community's diversity and distinct nature. Accordingly, the Commission will consider commitments related to local programming and the benefits that such programming will bring to the community.

16. The Commission will also consider commitments regarding the percentage of Canadian content of musical selections, emerging artists and, where applicable, the percentage of French-language vocal music, as well as contributions to Canadian content development (CCD) for commercial radio proposals.

17. The Commission does not regulate the format of AM or FM stations that base their programming on popular music. The Commission will however assess the applicant's business plan in light of the proposed format or programming offering since the two are interrelated. The business plan should clearly demonstrate the applicant's ability to fulfill its proposed programming plans and commitments. Further, the Commission will examine the programming proposals submitted by the applicants to determine which overall proposal best suits the market.

Diversity of news voices in the market

18. This factor relates to concerns regarding concentration of ownership and cross-media ownership. The Commission seeks to strike a balance between its concerns for preserving a diversity of news voices in a market and the benefits of permitting increased consolidation of ownership within the industry.
19. The Commission will therefore assess how approval of the application would add to or serve to maintain the diversity of voices available in the market, as well as increase the diversity of programming available to listeners.

Market impact

20. The possibility that licensing too many stations in a market could lead to a reduction in the quality of service to the local community remains of concern to the Commission. The economic condition of the market and the likely financial impact of the proposed station on existing stations in the market will therefore be relevant.
21. Accordingly, the Commission will evaluate how the proposed station's programming, general and core target audience and projected audience share overlap that of stations already present in the market. While the Commission may also consider the profitability of existing stations in the market in its assessment of the impact of the proposed station on existing ones, the profitability of existing stations will only be one factor in its evaluation.

Competitive state of the market

22. In markets with fewer than eight commercial stations operating in a given language, the Commission's common ownership policy permits a person to own no more than three stations, with a maximum of two in any one frequency band. In markets with eight or more commercial stations, a person may own no more than two FM and two AM stations in any given language. The concentration of ownership resulting from this policy may increase the possibility of competitive imbalance in a radio market.
23. The Commission will therefore consider factors such as the number of radio stations that an applicant already owns in the market, the profitability of its station(s) and the concentration of ownership in that market in making its licensing decision.

Importance of factors

24. The relative importance of each of the factors set out above will vary in each case depending on the specific circumstances of the market and the type of service proposed.

Financial summary for markets

25. For the convenience of interested parties, the financial summary for each radio market can be found at the following links:

- [Ottawa](#)
- [Toronto](#)
- [Calgary](#)
- [Edmonton](#)
- [Vancouver](#)

Technical approval from the Department of Industry

26. The Commission intends to consider the applications at a public hearing. However, the Commission advises applicants that it will withdraw any application from the public hearing if it is not advised by the Department **at least twenty days prior to the first day of the hearing** that the application is technically acceptable. The Commission must also be advised by the Department **at least twenty days prior to the first day of the hearing** that any alternative frequencies proposed by the applicant are technically acceptable. Otherwise those frequencies shall not be considered as part of the proceeding.

Eligibility of applicant

27. The Commission also reminds applicants that they must comply with the eligibility requirements set out in the *Direction to the CRTC (Ineligibility of Non-Canadians)* and the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*.

Future public proceeding

28. At a later date, if appropriate, the Commission will announce a public process to consider the applications, including how the applications may be examined by the public. As part of that process, the public will be given the opportunity to comment on any application by submitting written interventions to the Commission.
29. Notice of each application will also be published in newspapers of general circulation within the area to be served.
30. Applications filed in response to this call must be submitted in electronic form by using the secured service “[My CRTC Account](#)” ([Partner Log In](#) or [GCKey](#)) and filling in the “Broadcasting Online Form and Cover Page” located on this web page. On this web page, applicants will also find information on submitting applications to the Commission (“[submitting applications and other documents using My CRTC Account](#)”). Applicants who are unable to file their applications using Partner Log In or GCKey should contact the Commission’s single point of contact for small undertakings at 1-866-781-1911.
31. The *Canadian Radio-Television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) set out, among other things, the rules for filing, content, format of applications and the procedure for filing confidential information and requesting its disclosure. Accordingly, the procedure set

out in the notice of consultation announcing the public hearing must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

Secretary General

Related documents

- *CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary, CKAV-FM-4 Edmonton and CKAV-FM-9 Ottawa – Revocation of licences*, Broadcasting Decision CRTC 2015-282, 25 June 2015
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

Appendix 1 to Broadcasting Notice of Consultation CRTC 2015-399

Application for a native Type B service

Applicants should provide the information set out below so that the Commission may evaluate the application in light of the *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990.

Native community support

- submissions on the need for a native radio station in the market to be served, including evidence of community support for the proposed station; and
- a description of the communities that the station will serve.

Programming information

Musical content

- Canadian content commitments for category 2 (Popular Music) selections, as well as for category 3 (Special Interest Music) selections, if applicable;
- percentage of category 3 music, if applicable; and
- percentage of French-language vocal music, if applicable.

Aboriginal talent development

- percentage of music that will be performed or composed by Aboriginal talent

Programming orientation

- local programming commitments, including the amount of spoken word material of direct and particular relevance to the community;
- language(s) of Aboriginal Canadians to be offered and the amount of programming in each language expressed in hours per week; and
- a description of how the proposed service would address the specific needs and concerns of the Aboriginal population in its proposed service area, as well as the efforts the station will make to strengthen culture and preserve Aboriginal ancestral language.

Commitments as conditions of licence

Applicants are also required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of their licence.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider; and
- proof that technical documents have been submitted for consideration by the Department of Industry for each of the frequencies that the applicant is requesting that the Commission consider.

Financial information

Applicants must provide:

- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- potential sources of revenue (including advertising and all sources of grants and other contributions) to justify the revenue projections made in the application;
- where an applicant identified alternative frequencies, the applicant should indicate the impact of their use on the communities it intends to serve; and
- any market study that was commissioned.

Ownership information

- All information requested in sections 2.1, 2.2 and 2.3 of the application form must be provided. This includes identifying in Table 2.1 of the application form the chief executive officer or the person performing functions that are similar to the functions performed by a chief executive officer and the citizenship and complete home address (post office boxes will not be accepted) of each individual.
- A copy of all of the applicant's constituting documents (e.g., letters patent, certificate and articles of incorporation or amendment, by-laws) must be filed with the application.
- If the corporation is not yet incorporated, a list of proposed directors and officers, as well as draft documents, must be provided.

Appendix 2 to Broadcasting Notice of Consultation CRTC 2015-399

Requirements for new commercial radio licences

Applicants should provide the information set out below so that the Commission may evaluate their applications in light of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Programming information

Musical content

- Canadian content commitments for category 2 (Popular Music) selections, as well as for category 3 (Special Interest Music) selections, if applicable;
- percentage of category 3 music, if applicable;
- percentage of French-language vocal music, if applicable; and
- commitments with respect to the broadcast of emerging artists as defined by the Commission in *Definition of emerging Canadian artists on commercial radio*, Broadcasting Regulatory Policy CRTC 2011-316, 12 May 2011.

Contributions to Canadian Content Development:

- Canadian content development (CCD) proposals, including proposals over and above the regulated minimum annual requirements; and
- demonstration of the eligibility of each initiative proposed, as discussed in paragraphs 106 to 112 of the *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (the Commercial Radio Policy).

Local programming

- local programming commitments, including the level of spoken word material of direct and particular relevance to the community; and
- a description of how the proposed service would meet the particular needs and interests of its local community. The Commission refers applicants to paragraphs 206 and 207 of the Commercial Radio Policy, which provides a detailed definition of local programming.

In addition, applicants for new ethnic commercial radio licences should provide the following information so that the application can be evaluated according to the *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999:

- amount of ethnic programming (as a percentage of total weekly programming);
- amount of third-language programming (as a percentage of total weekly programming);

- how the station will meet the broad service requirement including an indication of the minimum number of groups to be served and the number of languages in which programming will be broadcast; and
- Canadian content commitments for ethnic programming periods.

Commitments as conditions of licence

Applicants are required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of their licence.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider; and
- proof that technical documents have been submitted for consideration by the Department of Industry for each of the frequencies that the applicant is requesting that the Commission consider.

Financial information

Applicants must provide an overall business plan that includes the following information:

- the proposed format as well as the general and core target audiences;
- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- projected audience share to support the projected business plan;
- any operational efficiencies with existing stations, where applicable;
- an analysis of the markets involved and potential advertising revenues, taking into account the results of any survey undertaken supporting the estimates;
- an assessment of the impact of the proposed service on the revenues and audience share of existing stations in the market;
- where an applicant identified alternative frequencies, the applicant should indicate the impact of their use on its business plan;
- any market study that was commissioned; and
- evidence as to the availability of financial resources consistent with the requirements established in the financial projections of the applicant's business

plan. For the convenience of applicants, the Commission has made available a document entitled [Commission policy regarding documentary evidence to confirm the availability of financing.](#)

Ownership information

Appendix 2A to the application form

All of the information requested below must be provided:

- **The applicant:** Unless exempt by the Commission, the applicant **must** file the ownership information for the entity applying for a broadcasting licence to operate a commercial radio programming undertaking, whether this information has already been filed with the Commission or not.

Important: In addition to the information requested in Table 2.2 (Shareholding) of Appendix 2A to the application form, the following information must be filed in the event of the situation below:

- If the total of the voting shares or of the votes held collectively by the group of shareholders holding less than 10% of the voting shares or of the votes represents 20% or more of the total of the voting shares or of the votes of the entity to which Table 2.2 pertains, the applicant **must** identify each shareholder of this group, up to a total that will demonstrate that at least 80% of the voting shares and of the votes are held by Canadians and that this entity meets the definition of “qualified corporation” as defined in the *Direction to the CRTC (Ineligibility of non-Canadians)*.
- **The shareholder corporations:** The parent corporation, the corporations which form part of the control chain, and all corporations or legal entities listed in Table 2.2 of Appendix 2A to the application form.

Important: In addition to the information requested in Table 2.2 of Appendix 2A to the application form, the following information must be filed in the event of the situation below:

- If the total of the voting shares or of the votes held collectively by the group of shareholders holding less than 10% of the voting shares or of the votes represents 33 1/3% or more of the total of the voting shares or of the votes of the entity to which Table 2.2 pertains, the applicant **must** identify each shareholder of this group, up to a total that will demonstrate that at least 66 2/3% of the voting shares and of the votes are held by Canadians and that this entity meets the definition of “qualified corporation” as defined in the *Direction to the CRTC (Ineligibility of non-Canadians)*.

Appendix 2B to the application form

The applicant must provide a statement regarding who controls/will control the licensee and by what means. If the control is to be held by a shareholder corporation, a statement regarding who controls/will control the shareholder corporation and by what means must be provided.

- All related governance documents such as the shareholder agreements, the local management agreements, and other agreements with third parties that **are not already on file with the Commission** must be attached. If the document is not yet executed, a draft copy must be filed.
- Examples of effective control: exercised by the board of directors, exercised by the majority shareholder, jointly exercised pursuant to the terms of a shareholder agreement, etc.

Appendix 2C to the application form

The applicant must provide a copy of the constituting documents (certificate and articles of incorporation or amendment, amalgamation documents, by-laws, partnership agreements, etc.) **that are not already on file with the Commission**, for:

- **The applicant:** If not yet incorporated, a draft copy of the documents.
- **The shareholder entities:** The parent corporation and for each corporation listed in Table 2.2 of Appendix 2A to the application form.

Appendix 3 to Broadcasting Notice of Consultation CRTC 2015-399

Requirements for new community or campus radio licences

Applicants should provide the information set out below so that the Commission may evaluate the application in light of the *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010.

Community support

- submissions on the need for a community or campus radio station in the market to be served, including any evidence of community support for the proposed station;
- a description of the communities the station will serve; and
- clear plans with regard to community involvement (and student/campus involvement as applicable) in all aspects of the proposed station's operations including its board of directors, management, programming and other station activities.

Programming information

Musical content

- Canadian content commitments for category 2 music and category 3 music, if applicable;
- percentage of category 3 music, if applicable;
- percentage of French-language vocal music, if applicable; and
- commitments with respect to the broadcast of local and emerging Canadian artists and opportunities for other new and local talent. The definition of an emerging artist can be found in *Definition of emerging Canadian artists on commercial radio*, Broadcasting Regulatory Policy CRTC 2011-316, 12 May 2011.

Local programming

- Clear plans for the reflection of the needs and interests of the communities to be served. Such plans should include measures that the station will take to include community input and membership to ensure that the station will broadcast a diversity of opinions and programming content.
- Clear plans, including description of programs, for the broadcast of locally relevant spoken word programming including news, public affairs and other programs that have a specific local focus.
- Clear plans for the involvement of volunteers and the training and supervision of these volunteers, particularly in the area of programming.

In addition, applicants for new community stations that intend to devote at least 60% of their programming to ethnic programming and at least 50% of their programming to third-language programming should provide the information set out below so that the Commission can evaluate the application according to the *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999.

- Amount of ethnic programming (as a percentage of the total weekly programming)
- Amount of third-language programming (as a percentage of total weekly programming)
- How the station will meet the broad service requirement including an indication of the minimum number of groups to be served and the minimum number of languages in which programming will be provided
- Canadian content commitments for ethnic programming periods

Commitments as conditions of licence

Applicants are also required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of their licence.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider; and
- proof that technical documents have been submitted for consideration by the Department of Industry for each of the frequencies that the applicant is requesting that the Commission consider.

Financial information

Applicants must provide:

- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- potential sources of revenue (including advertising and all sources of grants and other contributions) to justify the revenue projections made in the application;
- where an applicant has identified alternative frequencies, the applicant should indicate the impact of their use on the communities it intends to serve; and
- any market study that was commissioned.

Ownership information

Directors and officers and corporate documents

- All information requested in section 2 of the application form must be provided. This includes the identification, in Table 2.1 of the application form, of the chief executive officer or the person performing functions that are similar to the functions performed by a chief executive officer, and the citizenship and complete home address (post office boxes will not be accepted) of each individual. **For campus radio only:** Applicants must also identify which of the four groups described in Table 2.2 each director represents.
- A copy of all of the applicant's constituting documents (e.g., letters patent, certificate and articles of incorporation or amendment, by-laws) must be filed with the application.
- If the corporation is not yet incorporated, a list of proposed directors and officers, as well as draft documents, must be provided.

Appendix 4 to Broadcasting Notice of Consultation CRTC 2015-399

Application for a technical amendment

Applicants wishing to file a technical amendment application as part of this call for applications must complete application [form 303](#). All of the information required in form 303 must be included.