



Broadcasting Public Notice CRTC 2003-25

Ottawa, 14 May 2003

Introduction to Broadcasting Decisions CRTC 2003-152 to 2003-155 – Licensing of new FM radio stations to serve Kitchener-Waterloo

The applicants

1. In *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Kitchener-Waterloo, Ontario*, Public Notice CRTC 2001-128, 21 December 2001 (Public Notice 2001-128), the Commission announced that it had received an application for a broadcasting licence to carry on an FM radio programming undertaking to serve the Kitchener-Waterloo area. Consistent with the procedures generally followed by the Commission in such cases, it called for applications from other parties wishing to obtain such a licence. The Commission subsequently gazetted a total of nine applications proposing new FM services for the Kitchener-Waterloo market. The applications included six proposals for conventional commercial FM stations, two others proposing new commercial Specialty FM (Christian music) services, and one application for a licence to carry on a Native Type B FM radio programming undertaking. These applications were considered at a public hearing in Kitchener, which commenced 28 October 2002.
2. The Commission gazetted two additional applications for consideration at the Kitchener public hearing. One application, which is discussed further below, was by Telephone City Broadcast Limited (TCB). TCB proposed a new commercial FM station in Brantford, Ontario, operating in a Modern Country music format having adults 35 to 64 years of age as its target audience.
3. The other application placed on the hearing's agenda was by Anthony Schleifer, on behalf of 14863781 Ontario Ltd., licensee of the low-power unprotected station CFWC-FM Brantford, originally authorized in *New Christian music FM radio station*, Decision CRTC 2001-642, 11 October 2001. The station was authorized to operate on the frequency 99.5 MHz (channel 258LP), with an effective radiated power of 50 watts. Four other applicants at the Kitchener public hearing proposed use of the same frequency currently occupied by CFWC-FM. The application by Mr. Schleifer on the agenda of the hearing sought to amend the licence for CFWC-FM by increasing the station's effective radiated power, thereby protecting the station against the assignment of its frequency for use by another FM station in the area operating at a higher power. At the hearing, however, each of the four other applicants for the frequency 99.5 MHz agreed, if licensed, to absorb the costs of "moving" CFWC-FM to another frequency, prompting Mr. Schleifer to withdraw his application.

4. All but one of the nine applications proposing new FM radio services for Kitchener-Waterloo were deemed by the Commission to be competing against one or more of the other applications considered at the hearing. These determinations were reached either on marketing grounds, because applicants proposed to operate in similar musical formats, or on technical grounds, because their applications were predicated on use of the same or an adjacent frequency, or on both marketing and technical grounds. The only application not competitive with any other, on either marketing or technical grounds, was the one submitted by Aboriginal Voices Radio Inc. (AVR). For the purpose of this public process, the Kitchener-Waterloo market equates to the Kitchener Central Market Area (CMA), and encompasses the cities of Kitchener, Waterloo and Cambridge, and the Townships of Woolwich and North Dumfries.
5. Three of the six applicants seeking licences to operate new commercial FM stations in Kitchener-Waterloo were Global Communications Limited (Global), Rogers Broadcasting Limited (Rogers) and CKMW Radio Ltd. (CKMW). These three applicants proposed to operate in musical formats that they described, respectively, as Rhythmic Contemporary Hit Radio (Rhythmic CHR), CHR and Urban Top 40. All three formats would feature predominantly Pop, Rock and Dance music, and would have similar or largely overlapping target audiences. These audiences were: listeners 15 to 34 years of age in the case of Global's Rhythmic CHR station, those 12 to 24 years old in the case of Rogers' CHR station, and those 12 to 34 years of age in the case of CKMW's Urban Top 40 station. Each applicant proposed the use of a frequency not proposed by either of the other two. Their proposals were thus competing against each other solely on marketing grounds.
6. Douglas E. Kirk, on behalf of a corporation to be incorporated (Kirk), proposed a commercial FM station at Kitchener-Waterloo operating in the New Country format and targeted to an audience of those 18 to 64 years of age. Two other applicants, Larche Communications Inc., on behalf of a corporation to be incorporated (Larche) and Edward F. Bauman and Rae Roe, on behalf of a corporation to be incorporated (Bauman/Roe), proposed new commercial FM stations at Kitchener-Waterloo operating in Country music formats intended to attract listeners aged 35 to 64, and 25 to 64 years, respectively. All three applications were predicated on the use of the same frequency. They were thus competing against each other on both marketing and technical grounds.
7. Two Kitchener-Waterloo applicants, Sound of Faith Broadcasting (Sound of Faith) and Trust Communications Ministries (Trust), proposed commercial Specialty FM services featuring Christian music. One other applicant, AVR proposed to carry on a Native Type B FM radio programming undertaking. Each of these three applicants proposed to operate its undertaking on a not-for-profit basis. Although they planned to air commercial messages, the limited amount and the nature of their commercial activity would be such that none were deemed to be competing against each other, or against any

of the other applicants, on marketing grounds. Trust, however, was competing for use of the same frequency proposed by each of Kirk, Larche, and Bauman/Roe. Sound of Faith's application was technically mutually exclusive with that of CKMW because they proposed the use of second adjacent channel frequencies¹.

8. With regard to the application by TCB for a new FM station in Brantford, although the communities of Brantford and Kitchener-Waterloo are separated by less than 40 kilometres, they form separate radio markets. TCB's application thus fell outside of the scope of Public Notice 2001-128, as strictly interpreted. The applicant, however, sought use of the same frequency as that proposed by Global. These two applications were therefore technically mutually exclusive due to the relative proximity of the Brantford and Kitchener-Waterloo markets. For these reasons, the Commission scheduled the Brantford application for consideration at the Kitchener public hearing.

Factors relevant to the evaluation of competing radio applications

9. In *Introductory statement – Licensing of new radio stations*, which appeared as a preface to Decisions CRTC 99-480 to 99-482, 28 October 1999, the Commission identified four factors that, in its view, are generally among those relevant to the evaluation of competitive applications. These factors are:
 - likely impact of a new entrant or entrants;
 - competitive state of the market;
 - diversity of news voices in the market; and
 - quality of the application.
10. In this introductory notice, the Commission sets out its determinations as to the first of these factors, that is, the capacity of the market to support an additional radio service or services without these creating an undue impact on existing stations. The other three factors are examined in the context of the accompanying decisions that deal at length with the specifics of the applications concerned.

The ability of the Kitchener-Waterloo market to support new entrants

Views of the parties

11. All six of the Kitchener-Waterloo applicants proposing new mainstream commercial FM stations were of the view that the market would be able to support the entry of two additional, conventional commercial radio stations, provided they were to operate in formats that differed from each other and from the formats of existing stations in the market. The Commission notes in this regard that all of the existing stations in the market

¹ In FM broadcasting, a "second adjacent channel" relationship is said to exist where the separation between any pair of frequencies on the dial equals 400 kHz. FM broadcast frequencies are spaced at intervals, starting at 88.1 MHz and ending at 107.9 MHz at the top of the dial. The Department of Industry's technical assignment rules preclude the licensing of stations in the same or nearby communities using second adjacent frequencies.

operate in formats other than those that the six applicants have proposed. CKMW pointed out that a Country music station would be targeted to an older demographic than those targeted by existing stations. According to Rogers, such a service might thus have a greater impact on existing stations than would one aimed at a younger audience. However, all six applicants were convinced that a new station operating in either a Country music format, or in one offering predominantly CHR or Urban Top 40 music, would repatriate significant numbers of listeners who now tune to out-of-market radio stations. They were equally certain that a new commercial station featuring music in either of these genres would attract an audience and advertisers that would differ significantly from those attracted by a station featuring the other music genre.

12. None of the six applicants proposing commercial FM stations to serve Kitchener-Waterloo believed that the licensing of AVR or the licensing of one or other or both of the proposed Christian music services, would have a significant impact on the market.

The Commission's determination

13. The estimated population of Kitchener-Waterloo in 2002 was 437,542, making it the eleventh-largest radio market in Canada. Five commercial radio stations are currently licensed to serve this market. Of the five stations, CHUM Limited (CHUM) owns two, an AM/FM combination operating in the Sports/Talk and Classic Rock/Current Rock formats. Another AM/FM combination in Kitchener-Waterloo consisting of stations operating in the News/Talk and Adult Contemporary (AC) music formats is owned by Rogers. As noted above, Rogers is also one of the current applicants. The fifth commercial radio operation in the market is a stand-alone, Hot Adult Contemporary FM station based in Cambridge; it is owned indirectly by Corus Entertainment Inc. (Corus). Two campus FM stations and one community FM station round out the radio services that are targeted primarily to audiences in Kitchener-Waterloo.
14. In assessing the ability of the Kitchener-Waterloo market to absorb the introduction of one or more new radio stations, the Commission examined the market's economic strength. The Commission notes in this regard that economic projections for Kitchener-Waterloo show that it will experience consistently positive growth in the coming years. For example, the Conference Board of Canada forecasts that the annual population increase in Kitchener-Waterloo will be approximately 1.6% in each of the next five years, which outstrips the averages projected for Ontario and for Canada as a whole. The Conference Board of Canada estimates that, between 2003 and 2006, the average annual growth in the gross domestic product of Kitchener-Waterloo will likewise exceed the provincial and national averages. Advertising revenues earned by the market's five commercial stations increased at an average rate of 8.6% over the four years from 1997 to 2001, and rose by 10.2% from 2001 to 2002. Their aggregate profit margin before interest and taxes (PBIT margin) was 24.2% in 2001, some 50% greater than the national aggregate that year of 16.1%.

15. A significant feature of the Kitchener-Waterloo radio market is the large amount of out-of-market tuning. Approximately 57% of total tuning by persons twelve years of age and older is to stations other than those licensed to serve that market. It is generally the case that the amount of out-of-market tuning affects inversely the amount of advertising revenue that a radio market is able to generate.
16. Based on the record of this proceeding, including the evidence concerning the relative strength of the local economy and the amount of out-of-market radio tuning, the Commission is satisfied that the Kitchener-Waterloo market can support the licensing of two new commercial FM radio stations, including one featuring CHR, Urban Top 40 or Rhythmic CHR music and one operating in a Country or New Country music format. The Commission notes in this regard that there were no opposing interventions filed against any of the six applications by the two licensees of Kitchener-Waterloo commercial radio stations that are not directly involved as applicants in this proceeding, namely CHUM and Corus.
17. With respect to the three applicants proposing not-for-profit FM stations to serve Kitchener-Waterloo, given the available evidence, the Commission is also satisfied that there would be no impediment to the licensing of all three proposals on the basis of their potential economic impact on the market.
18. In the case of the Brantford market, the Commission notes that potential concerns regarding market impact do not arise because the applicant for a new Brantford FM station is, itself, the owner of the only two, full-power, protected radio stations now licensed to serve that community.

The Commission's decisions

19. The above determinations reached by the Commission concern only the ability of either the Brantford or the Kitchener-Waterloo market to support a new station or stations. The Commission's specific determinations on the applications before it in this proceeding are set out in Broadcasting Decisions CRTC 2003-152 to 2003-155 that accompany this introductory public notice. In summary, the Commission's decisions are as follows:
 - In *Rhythmic Contemporary Hit Radio FM station in Kitchener-Waterloo*, Broadcasting Decision CRTC 2003-152, 14 May 2003, the application by Global for authority to operate a Rhythmic CHR station in Kitchener-Waterloo at 91.5 MHz is **approved**. The applications by CKMW and Rogers, which were competitive with Global on marketing grounds, are **denied**. The application by TCB, competitive with Global on technical grounds, is likewise **denied**.
 - In *Country FM radio station in Kitchener-Waterloo*, Broadcasting Decision CRTC 2003-153, 14 May 2003; the application by Larche for authority to operate a Country music format FM station in Kitchener-Waterloo at 99.5 MHz is **approved**.

The applications by Kirk and by Bauman/Roe, which were competing with Larche on both marketing and technical grounds, are **denied**. The application by Trust, also competitive with Larche on technical grounds, is likewise **denied**.

- In *Christian music radio station in Kitchener-Waterloo*, Broadcasting Decision CRTC 2003-154, 14 May 2003, the application by Sound of Faith for authority to operate a Christian music station in Kitchener-Waterloo at 94.3 MHz is **approved**.
- In *Native FM radio station in Kitchener-Waterloo*, Broadcasting Decision CRTC 2003-155, 14 May 2003, the application by AVR for authority to operate a Native Type B FM radio station in Kitchener-Waterloo at 102.5 MHz is **approved**.

Interventions

20. The Commission received more than 1,600 interventions to the applications that were considered at the Kitchener Public Hearing. The vast majority of interveners wrote to express their support for one or other of the applications. Interventions expressing opposition to any particular application were relatively few. The Commission addresses the issues the opposing interveners have raised in the individual decision dealing with the application concerned.
21. The Canadian Independent Record Production Association (CIRPA) submitted an intervention containing comments that were addressed to all of the applicants appearing at the Kitchener public hearing. CIRPA requested that the Commission license as many applicants as would be feasible, and in a variety of formats. The intervener stated that the licensing of smaller and new owners should be encouraged. CIRPA's comments also suggested that the applicants' Canadian content proposals should be examined in light of the Commission's indication, set out in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, that Canadian content levels could possibly rise to 40% in the near future.
22. The Commission notes that today's decisions grant new FM radio licences to four applicants representing a cross-section of the radio industry, and who will operate in a variety of formats. The Commission further notes that two of the successful applicants will provide, as a condition of licence, a minimum of 40% Canadian content.

Secretary General

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