



Broadcasting Decision CRTC 2005-339

Ottawa, 21 July 2005

South Asian Broadcasting Corporation Inc.
Vancouver, British Columbia

Application 2004-1101-7
Public Hearing at Vancouver, British Columbia
28 February 2005

Ethnic FM radio station in Vancouver

*In this decision, the Commission **approves** the application by South Asian Broadcasting Corporation Inc. for a broadcasting licence to operate a new commercial specialty FM (ethnic) radio station at Vancouver at 93.1 MHz. The applicant proposed a service that will be directed predominantly to Vancouver's South Asian communities.*

Background

1. The application by South Asian Broadcasting Corporation Inc. (SABC) was one of eight applications for broadcasting licences to operate new radio stations at Vancouver considered by the Commission at a public hearing that commenced on 28 February 2005 in Vancouver. SABC's application was for a broadcasting licence to operate a new Vancouver ethnic radio station targeted primarily to South Asian audiences. It is one of two such applications approved today by the Commission. In *Ethnic AM radio station in Vancouver*, Broadcasting Decision CRTC 2005-338, the Commission also approves the application by I.T. Productions Ltd. (I.T.) for an ethnic AM station. The six other applications for radio broadcasting licences considered at the Vancouver hearing, including five proposing new ethnic radio services, have been denied by the Commission in *Denial of various applications proposing new Vancouver radio services*, Broadcasting Decision CRTC 2005-340 of today's date.
2. The Commission's determinations that a demand exists for new ethnic radio services targeted principally to South Asian audiences, and that the Vancouver radio market can absorb the impact of their introduction, are set out in *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 (Public Notice 2005-68), also issued today. Public Notice 2005-68 also summarizes the rationale underlying the Commission's decisions to approve the applications by SABC and I.T., namely that these two applications best met the evaluation criteria established by the Commission in *Call for applications for broadcasting licences to carry on radio programming undertakings to serve Vancouver, British Columbia*, Broadcasting Public Notice CRTC 2004-55, 21 July 2004 (the call for applications) and represent the best use of the frequencies involved.

The applicant

3. SABC, a company incorporated in British Columbia, is effectively controlled by Mr. Kulwinder Sanghera through his direct and indirect ownership of a majority of the company's issued voting shares. Mr. Sanghera has long been involved in the production of multicultural television programming and in the multicultural music recording industry, both in Canada and abroad.

Programming plans and commitments

Ethnic programming

4. In its written application, SABC committed to operate an ethnic radio station that would provide programming to at least 15 ethnic groups and in a minimum of 15 languages, when measured on a weekly basis, but indicated that, when calculated on a monthly basis, these numbers would increase to 16 and 18, respectively. At the hearing, SABC stated that it would be prepared to provide a service that would adhere to the higher numbers specified above, i.e., service to a minimum of 16 ethnic groups in a minimum of 18 different languages, both as measured on a weekly basis. As proposed by the applicant, at least 90% of all weekly programming would qualify as ethnic programming and would be devoted to third language programming. The principal languages of broadcast, accounting for 75% of all programming, would be Punjabi, Hindi and Urdu. The applicant's proposal indicates that virtually all of the proposed programming would be directed to underserved ethnic groups in the Vancouver market, with 80% targeted to various South Asian communities, and the remaining 20% to other underserved ethnic groups. For the purpose of this calculation regarding the amount of programming that SABC would devote to underserved ethnic groups, the Commission has considered to be "underserved", ethnic groups that, according to the data contained in the *CRTC Broadcasting Policy Monitoring Report 2004*, currently receive five hours or less of programming per week from existing Vancouver ethnic radio stations.

Local reflection

5. The Commission notes SABC's commitment to ensure that all of the programming aired by the new station is locally produced, including the portion of the schedule (12%) that is to consist of brokered programming. Spoken word programming is to occupy approximately 44 hours weekly, including 6.5 hours of news and between 25 and 30 hours of station-produced open-line programming. The applicant stated that it would implement measures to ensure that the content of this open-line programming meets its regulatory obligations and responsibilities at all times. The applicant also indicated that its spoken word programming will focus on promoting local talent and diversity in culture and heritage, and on facilitating integration within the community. Special emphasis is to be given to issues related to women and youth. SABC further committed to establish a seven-member advisory committee that would include participation by representatives of the ethnic communities present within the station's service area.

Canadian talent development

6. SABC did not propose to take part in the plan developed by the Canadian Association of Broadcasters (CAB) establishing varying levels for financial contributions by licensees to Canadian talent development. Instead, the applicant committed to direct a minimum of \$30,000 in each of the first three years of operation to Canadian talent development. In each of years four through seven, SABC committed, as a minimum, to make direct annual expenditures representing the greater of \$30,000 and 2.5% of total annual revenues derived from the operation of its proposed station in support of Canadian talent development.
7. Specifically, the applicant stated that it would provide funding for the Canadian talent development initiatives, and in the minimum amounts specified below:
 - contributions to Foundation to Assist Canadian Talent on Record (FACTOR) and MusicAction - \$4,000 each for a total of \$8,000 per year;
 - contribution to the Canadian Association of Ethnic Broadcasters for the maintenance of its catalogue of Canadian ethnic recordings - \$3,000 per year;
 - scholarships for visible minority youth enrolled in the music or the journalism program of the British Columbia Institute of Technology - \$3,000 per year;
 - contributions to the Kalamandir Music Society of BC - \$4,000 per year;
 - contributions to the Surrey India Arts Club - \$4,000 per year;
 - contributions to the Gurdip Arts Academy - \$3,700 per year; and
 - a talent search contest - \$4,250 per year.
8. As a further matter, the Commission notes that SABC's written application contained a commitment to adhere to the provision of a minimum level of 7% Canadian content in musical selections aired during ethnic programming periods, as specified in section 2.2(4) of the *Radio Regulations, 1986* (the Regulations). At the hearing, however, the applicant stated that it would be prepared to adhere to a minimum level of 10% Canadian content aired during ethnic program periods.

Interventions

9. The Commission received more than 760 interventions in support of SABC's application. An opposing intervention was filed by Jim Pattison Broadcast Group Limited Partnership¹ (Pattison), the licensee of CKBD Vancouver. The intervener indicated that it wished to make use of the same frequency as that proposed by SABC in its application, namely 93.1 MHz, for the purpose of converting CKBD to the FM band. In a second opposing intervention, Mr. Robert Muckle noted the applicant's involvement in the music recording industry, and expressed concern that the recordings of artists who are not associated with the applicant might not receive fair play on the proposed station. In a third opposing intervention, Mr. Max Lama claimed that SABC and the other applicants for Vancouver radio licences, with the exception of Newlife Communications

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.

Inc., had failed to make provision in their plans for programming directed to the Christians present in many of Vancouver's ethnic communities. Fairchild Radio Group Ltd. (Fairchild), licensee of CJVB Vancouver and indirect owner of the licensee of CHKG-FM Vancouver, intervened to request that SABC, if licensed, be restricted by condition of licence from targeting Vancouver's Chinese community.

10. The applicant chose not to respond in writing to the opposing interventions. Regarding the Pattison intervention, however, the Commission notes that this intervener, in response to the call for applications, had filed an application requesting permission to convert its Vancouver AM station to the FM band. This application was returned to Pattison by the Commission because it was outside the evaluation criteria set out in the call for applications. With respect to Mr. Muckle's concerns about artists receiving fair play on the proposed station, the Commission notes the applicant's assurances at the hearing that no undue advantage would be given to recording artists affiliated with the recording studios owned by the applicant's principal shareholder. As for the intervention by Fairchild, the Commission notes SABC's statement at the hearing that it would accept a condition of licence that it not broadcast programming in a Chinese language.

Commission's analysis and determinations

11. Based on the demographic, economic and other evidence relative to the criteria set out in Public Notice 2005-68, the Commission has determined that there is a demand and a market for ethnic programming directed principally to Vancouver's South Asian communities sufficient to warrant the licensing of two new ethnic radio services, and that the introduction of such ethnic services would not have a material impact on the ability of incumbent radio licensees to meet their programming responsibilities under the *Broadcasting Act* (the Act). Furthermore, based on its assessment of the eight applications proposing new Vancouver radio services, the Commission has determined that the applications by SABC and I.T. best meet the evaluation criteria set out in the call for applications and represent the best use of the frequencies involved.
12. With specific reference to SABC, the Commission is satisfied that this applicant has a sound business plan and will offer an attractive new programming service dedicated in its entirety to underserved ethnic groups in Vancouver. The Commission notes the experience of SABC's principal shareholder in business activities closely related to broadcasting. The Commission considers that the proposed new FM station can make a meaningful contribution to the broadcasting system, add to the diversity of ownership within the Canadian radio broadcasting industry and provide a new editorial voice in the Vancouver radio market.
13. The Commission accordingly **approves** the application by South Asian Broadcasting Corporation Inc. for a broadcasting licence to operate a commercial specialty FM (ethnic) radio programming undertaking at Vancouver, at 93.1 MHz (channel 226C), with an average effective radiated power of 2,800 watts.

14. The licence will expire 31 August 2011 and will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence 5, which would otherwise have required the licensee to participate in the CAB's Distribution Guidelines for Canadian Talent Development, and condition of licence 8, which would otherwise have precluded the station from operating in the Specialty format. The licence will also be subject to the further **conditions** set out in the appendix to this decision.
15. As noted earlier in this decision, while SABC's written application contained its commitment to direct programming to a minimum of 15 ethnic groups in a minimum of 15 different languages each week, the applicant indicated at the hearing that it would be willing to abide by a slightly broader commitment, i.e., to serve a minimum of 16 ethnic groups, and in a minimum of 18 different languages, both as measured on a weekly basis. In the conditions of licence appended to this decision, the applicant is required to meet the commitment specified in its written application, at a minimum. Nevertheless, the Commission strongly expects SABC to adhere to the broader commitment to provide service in each broadcast week to a minimum of 16 ethnic groups, in a minimum of 18 different languages.
16. SABC had also committed in its written application to the provision of a minimum of 7% Canadian content in musical selections aired during ethnic programming periods, but indicated at the hearing it would be prepared to adhere to a minimum level of 10% Canadian content during such periods. Once again, the applicant is required to meet the commitment specified in its written application, at a minimum, which accords with the 7% minimum specified in the Regulations. Nevertheless, the Commission strongly expects SABC to adhere to its commitment at the hearing to provide a minimum of 10% Canadian content in musical selections aired during ethnic programming periods.
17. The Commission also expects the applicant to adhere to its commitment for the establishment of a seven-member advisory committee, which would include representatives of the ethnic communities present in its service area. The Commission notes that the Committee would, amongst other things, be charged with responsibility for ensuring that the radio station reflects the local distinctiveness of each of these communities by keeping abreast of their needs and interests and by reflecting these in the station's local programming.
18. Further, the Commission expects the applicant to ensure that its Canadian talent development initiatives, which are described earlier in this decision as well as in its appendix, are eligible as direct contributions, as set out in Appendix 1 of *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.

Issuance of the licence

19. The Department of Industry (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.
20. The Commission reminds the applicant that, pursuant to section 22(1) of the 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.
21. Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 21 July 2007. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Employment equity

22. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

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>

Appendix to Broadcasting Decision CRTC 2005-339

Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of conditions 5 and 8.
2. The station shall be operated within the Specialty format as defined in *A Review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall, in each broadcast week, direct programming to a minimum of 15 ethnic groups in a minimum of 15 different languages.
4. Not less than 90% of the programming in each broadcast week shall be ethnic programming, and all of the ethnic programming shall be third language programming.
5. Not less than 75% of the ethnic programming in each broadcast week shall be in the Punjabi, Hindi and Urdu languages.
6. None of the programming broadcast by the licensee shall be in a Chinese language.
7. The licensee shall direct a minimum of \$30,000 in each of the first three years of operation to the financial support for Canadian talent development. In each of years four through seven, the licensee shall make direct annual expenditures representing the greater of \$30,000 and 2.5% of total annual revenues derived from the operation of its proposed station in support of Canadian talent development. These amounts shall be distributed as follows:
 - contributions to Foundation to Assist Canadian Talent on Record (FACTOR) and MusicAction - \$4,000 each for a total of \$8,000 per year;
 - contribution to the Canadian Association of Ethnic Broadcasters for the maintenance of its catalogue of Canadian ethnic recordings - \$3,000 per year;
 - scholarships for visible minority youth enrolled in the music or the journalism program of the British Columbia Institute of Technology - \$3,000 per year;
 - contributions to the Kalamandir Music Society of BC - \$4,000 per year;
 - contributions to the Surrey India Arts Club - \$4,000 per year;
 - contributions to the Gurdip Arts Academy - \$3,700 per year; and
 - talent search contest - \$4,250 per year.

