



## Broadcasting Decision CRTC 2005-341

Ottawa, 21 July 2005

**NL Broadcasting Ltd.**  
Kamloops, British Columbia

**Standard Radio Inc.**  
Kamloops, British Columbia

**Evanov Radio Group Inc.**  
Kamloops, British Columbia

*Applications 2004-0236-3, 2004-1021-7, 2004-1039-0  
Public Hearing at Vancouver, British Columbia  
28 February 2005*

### English-language FM radio station in Kamloops

*In this decision, the Commission **approves** the application by NL Broadcasting Ltd. (NL) for a broadcasting licence to operate an English-language commercial FM radio programming undertaking at Kamloops at 103.1 MHz. NL proposed a country music format, targeting listeners between the ages of 25 and 54. The Commission **denies** the applications by Standard Radio Inc. and Evanov Radio Group Inc. for broadcasting licences to operate English-language commercial FM radio programming undertakings at Kamloops.*

### The call for applications

1. On 21 July 2004, the Commission announced that it had received an application for a broadcasting licence to provide a commercial radio service to serve Kamloops, British Columbia, and called for applications from other parties wishing to obtain such a licence (see *Call for applications for broadcasting licences to carry on radio programming undertakings to serve Kamloops, British Columbia*, Broadcasting Public Notice CRTC 2004-54, 21 July 2004). The Commission advised potential applicants that they would be required to provide evidence giving clear indication that there is a demand and a market for the service they propose, and that they should address, among other things:
  - the contribution that the proposed service will make to achieve the objectives established in the *Broadcasting Act* and, in particular, to the production of local and regional programming;

- the four factors relevant to the evaluation of applications, as outlined in *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999 (Decision 99-480), these being the quality of the application (including the business plan), the diversity of news voices, market impact and the competitive state of the market; and
- the means by which the applicant will promote the development of Canadian talent, including local and regional talent.

## **The applications**

2. The Commission received three applications in response to its call. The Commission later announced that one application had been withdrawn from the public hearing at the request of the applicant.<sup>1</sup> The two remaining applications, as well as the application that prompted the call, were considered at the 28 February 2005 Public Hearing in Vancouver. The applicants, in order of their appearance at the Vancouver hearing, were as follows:
  - Standard Radio Inc. (Standard);
  - Evanov Radio Group Inc. (Evanov); and
  - NL Broadcasting Ltd. (NL).
3. All of the applicants proposed to operate conventional, English-language commercial FM stations in the Kamloops market. Two of the three applicants proposed to operate in country music formats, while the third applicant (Evanov) proposed a format encompassing a broad range of musical styles. Although the applicants were not competing for a frequency, all three were deemed to be competitive with each other for a licence to provide a new service in the market.

### **Standard**

4. Standard is an established Canadian broadcaster with radio stations throughout British Columbia, as well as in Alberta, Manitoba, Ontario and Quebec. It proposed a country music format targeting listeners 18 to 54 years of age. According to the application, the station would broadcast predominantly vocal music by new country artists and would offer a variety of country music programs, such as “Canadian Top Ten,” “Spirit of the West” and “Country A to Z.” The applicant also stated that the service would explore the roots of country music through the inclusion of bluegrass, Acadian music and music from the Great Depression. The station would operate at 95.9 MHz (channel 240B1) with an effective radiated power (ERP) of 5,000 watts.

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<sup>1</sup> See Broadcasting Notice of Public Hearing CRTC 2004-11-3, 17 February 2005

5. The applicant proposed to broadcast a minimum of 42 hours of local programming in each broadcast week. While the applicant did not specify the number of hours that would be devoted to spoken word programming, it did indicate that six hours of the broadcast week would be devoted to news programming, most of which would be locally produced. The applicant further committed to make available one hour of community access programming in each broadcast week. Standard also indicated that it would establish a local advisory board, made up largely of professionals from the music industry, and including at least two members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities).
6. Standard proposed to devote, in each broadcast week, a minimum of 40% of its musical selections from category 2 (Popular Music) to Canadian selections. This commitment exceeds the minimum level of 35% specified in the *Radio Regulations, 1986* (the Regulations). It also committed to spend a minimum of \$1,000,000 over seven years on Canadian talent development (CTD).

#### **Evanov**

7. Evanov controls Dufferin Communications Inc., CKMW Radio Ltd. and CKDX Radio Limited, the respective licensees of CIDC-FM Orangeville, CIAO Brampton and CKDX-FM Newmarket. CKMW Radio Ltd. is, in turn, the controlling shareholder of a new corporation to be incorporated, which is to carry on a Halifax FM radio undertaking that is not yet in operation.<sup>2</sup> In its application, Evanov proposed a service that would feature a broad range of musical styles, including crooners, standards, ballads, love songs, and contemporary hits from both the current and past musical eras, targeted to Kamloops residents in the over 45 age group. The music would consist of charted selections, such as adult contemporary and smooth jazz, as well as uncharted selections, such as folk, world instrumental and soundtracks. The applicant also indicated that it would broadcast a variety of music programs featuring Canadian artists, folk and roots music, and instrumental music. The station would operate at 92.5 MHz (channel 223A) with an ERP of 1,860 watts.
8. Approximately 13% of the proposed station's broadcast week (16 hours) would be devoted to spoken word programming, including 3 hours of news, and a range of information and lifestyle features. Evanov indicated that it would establish an advisory committee, the members of which would be residents of the Kamloops area. The committee would meet regularly, with a view to ensuring that the station's programming remains focused on the community and fulfils the needs of its audience.

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<sup>2</sup> The Commission approved the application by CKMW Radio Ltd., on behalf of a corporation to be incorporated, in *Youth Contemporary FM radio station in Halifax*, Broadcasting Decision CRTC 2004-514, 26 November 2004.

9. The applicant proposed that, in each broadcast week, a minimum of 40% of all category 2 musical selections would be Canadian selections. This commitment, like that of Standard, exceeds the minimum required level of 35% specified in the Regulations. The applicant further committed to provide a minimum level of 40% Canadian content in the period between 6 a.m. and 6 p.m., Monday to Friday of each broadcast week. The applicant also committed to spend \$150,000 on CTD over a seven-year licence term.

#### **NL**

10. NL is the licensee of two existing radio stations in Kamloops, namely CHNL and CKRV-FM. The applicant's proposed station would operate in a country music format combining new and old country music targeted to the 25 to 54 year old age group. The station would feature Canadian artists and developing local performers. It would also provide a variety of features and programs, including locally produced features such as "Country Spotlight," which would offer music and biographical information on country artists, "The Canadian Country Countdown," which would present interviews with a different Canadian country artist each week, and "Country Classics," which would feature country hits from the 1960s and 1970s as well as the stories behind the songs and the artists. The station would operate at 103.1 MHz (channel 276B1) with an ERP of 5,000 watts.
11. The applicant proposed to devote 9 hours 49 minutes, or approximately 8% of its broadcast week, to spoken word programming. Of this, 5 hours 50 minutes would consist of news, including live local evening newscasts. The applicant stated that programming synergies with its two existing broadcast facilities in Kamloops would be limited to news gathering activities and would not affect the programming independence of the new station. NL also proposed to establish a community advisory board.
12. NL made a commitment to ensure that a minimum of 40% of all musical selections from category 2 would be devoted to Canadian selections. As in the case of Evanov, this commitment would apply both to the broadcast week and to the period between 6 a.m. and 6 p.m., Monday to Friday. NL also proposed a minimum of \$178,500 in direct expenditures over the first seven years of operation to support CTD.

#### **Interventions**

13. The Commission received many interventions in support of one or other of the three applications.
14. The Canadian Independent Record Production Association (CIRPA) submitted an intervention commenting on all three applications. CIRPA expressed concern that the applicants were not offering sufficient funding to the Foundation to Assist Canadian Talent on Records (FACTOR) in their CTD commitments. According to CIRPA, the best use of money for CTD would be to allocate the funds to FACTOR and allow FACTOR to maximize the benefits through its expertise and knowledge.

15. Opposing interventions were filed by Pattison Broadcast Group,<sup>3</sup> the employees of Pattison Broadcast Group's CIFM-FM, CKBZ-FM and CFJC-TV Kamloops (Pattison station employees), and various retailers from the Kamloops area. All of these interveners argued that the Kamloops market was unable to support the introduction of an additional radio station.
16. The Commission received other interventions, one from Mr. Alan Ranta and another from Mr. Shawn Swakum. Both interveners specifically opposed the approval of NL's application. According to these interveners, Kamloops is already served by a country music service.

## **Market impact and the competitive state of the market**

### **Views of the interveners**

17. Pattison Broadcast Group expressed the view that a fifth radio station in Kamloops would severely affect existing services in the market, given the decline in the profitability of its own Kamloops radio stations in 2004 and the size of Kamloops' population. It submitted that the Kamloops radio market was slowing and has minimal projected growth. It added that the diversity of news voices is already significant for a market the size of Kamloops.
18. The Pattison station employees submitted a petition to the Commission in which they expressed concern that the Kamloops market cannot support a fifth radio station. In their view, a further division of advertising revenues would force the existing stations to decrease their expenses, which would lead to a loss of employment for many of the petitioners.
19. Various retailers from the Kamloops area submitted letters indicating that they would not increase their advertising or marketing budgets as a result of a new radio station entering the market. They expressed concern that the Kamloops market cannot support an additional radio station, and that a new station could negatively affect existing stations in the market.
20. In contrast, several supporting interveners predicted positive growth in the Kamloops market. As indicators that the market was vigorous and dynamic, they pointed out that the housing market was growing, and that Nancy Greene's Cahilty Lodge Sun Peaks Resort planned to invest several million dollars in the area.

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<sup>3</sup> 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

### **Views of the applicants**

21. In their applications, each of the applicants projected that its proposed station would have a minimal impact on incumbent services in the Kamloops market. In reply to the Pattison Broadcast Group's intervention, NL expressed surprise at the intervener's outlook regarding the market. It submitted that the intervention contradicts what most forecasts project for British Columbia's economy. It added that the intervener "has little to fear from us... The resources of the Pattison Broadcast Group and corporate parent should help them cope with a country music station that serves a different demographic than their stations." NL did not respond explicitly to the petition by the Pattison station employees or to the interventions submitted by the retailers.
22. Standard stated that it agreed with NL's position with respect to Pattison Broadcast Group's intervention. In responding to this intervention, as well as to those by the Pattison station employees and the Kamloops area retailers, Standard argued that the market could accommodate another station and presented some of the findings of Venture Kamloops Business Development Society, including its conclusion that "Kamloops is one of the leading growth cities in the province, with a GDP predicted to increase by 3.8 percent in the coming year."
23. For its part, Evanov stated that various national, provincial and local organizations, including Statistics Canada, the *Financial Post*, the Government of British Columbia Economic Development Agency, and Venture Kamloops Business Development Society, have forecast positive economic outlooks for British Columbia and the Kamloops area. Evanov submitted that the market was healthy and strong enough to absorb another radio station.

### **Demand for a country music station**

24. In response to the interventions by Mr. Ranta and Mr. Swakum, who had suggested that Kamloops was already served by a country music service, NL noted that the interveners were mistaken and that there had not been a country music service in Kamloops since August 2003.

### **Commission's analysis and determinations**

25. In assessing the potential market for new services, the potential advertising revenues available to them, and their potential impact on existing services in Kamloops, the Commission analyzed the state of the local economy using data prepared by Statistics Canada and forecasts by the Financial Post Data Group in the *FP markets – Canadian Demographics* publication. Based on its review of these economic indicators and the growth that they forecast for the Kamloops economy over the next five years, and based as well on the record of the 28 February 2005 proceeding, the Commission has

determined that the Kamloops market can support the operations of only one new radio service at this time. More specifically, the Commission is satisfied that the licensing of one such service would not have a material impact on the ability of incumbent radio licensees to meet their programming responsibilities under the *Broadcasting Act* (the Act).

26. The Commission notes that Pattison Broadcast Group had operated a country music station in the Kamloops market, but had chosen to replace that format with its current classic hits format in the summer of 2003. Since that time, the country music format has not been provided by any of the incumbent stations in the Kamloops market. Based on the record of this proceeding, however, the Commission considers that a demand exists for a country music service in the Kamloops radio market. It is of the further view that a country format, such as that proposed by NL and Standard, would add more programming diversity to this market than the non-country format proposed by Evanov.
27. The Commission notes that, as a local entity, NL has operated radio stations in Kamloops for several years and has a strong familiarity with the market. The Commission has assessed the quality of NL's application and its business plan, and considers that the FM station proposed by NL would provide an attractive and successful service to Kamloops residents. The Commission has also determined that, while the station proposed by Standard would add to the diversity of news voices in the market, NL's proposed service would have a lesser impact on the incumbent stations, and would strengthen the competitive balance in the Kamloops market. In arriving at this conclusion, the Commission took into account the four incumbent commercial radio stations, namely the AM and FM stations operated by NL and the two FM stations operated by Pattison Broadcast Group, as well as the ownership by Pattison Broadcast Group of a local television station.
28. In light of all of the above, the Commission **approves** the application by NL Broadcasting Ltd. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Kamloops, British Columbia. The new station will operate at 103.1 MHz (channel 276B1) with an ERP of 5,000 watts.
29. Given the Commission's determination that the Kamloops radio market can support the licensing of only one new service at this time, the Commission **denies** the applications by Standard Radio Inc. and Evanov Radio Group Inc. for broadcasting licences to operate English-language commercial FM radio programming undertakings in Kamloops, British Columbia.
30. The new NL licence will expire 31 August 2011. It will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, as well as to the **conditions** set out in the appendix to this decision.

31. NL's commitment was to provide a minimum of 40% Canadian content in category 2 musical selections, in both the broadcast week and during the period between 6 a.m. and 6 p.m., Monday to Friday. As noted above, this commitment exceeds the minimum regulatory requirement established in section 2.2 of the Regulations, which requires that, on a weekly basis, a minimum of 35% of all category 2 musical selections broadcast be Canadian selections. A **condition of licence** requiring the applicant's adherence to its commitment is set out in the appendix to this decision.
32. The Commission further notes that NL proposed to spend a minimum of \$178,500 in direct expenditures over the first seven-year licence term to support CTD. This amount includes the following:
- \$400 per year to the CTD plan created by the Canadian Association of Broadcasters, which would be earmarked to the Canadian Country Music Association's CTD Fund;
  - \$4,000 per year to Song Writing/Recording and Voice Coaching, a two-day seminar managed through the University College of the Cariboo and in which one participant will record four songs in a local production studio;
  - \$6,000 per year to The Mountain Fest Star Quest, a talent competition with a scholarship component;
  - \$600 per year to Music in the Park;
  - \$6,000 per year to Kamloops Cowboy Festival – Emerging Artist Contest; and
  - \$8,500 per year to a free public celebration concert featuring several regional country music performers, cowboy poets and western music performers.
33. With respect to CIRPA's intervention noted above, the Commission is satisfied that NL has provided detailed information on a range of local and national initiatives eligible as CTD commitments. A **condition of licence** requiring NL's adherence to its commitments for CTD is set out in the appendix to this decision.

### **Issuance of the licence**

34. The Department of Industry (the Department) has advised the Commission that, while the application by NL 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.
35. 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.
36. 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.



### **Cultural diversity**

37. In *Commercial Radio Policy, 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in its programming and employment practices. The Commission expects NL to reflect the cultural diversity of Canada in its programming and employment practices.

### **Employment equity**

38. 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 2005-341

### 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, as well as to the following conditions of licence:
2. The licensee shall ensure that, in each broadcast week, a minimum of 40% of all musical selections from category 2 (Popular Music) will be devoted to Canadian selections broadcast in their entirety. This condition will apply both to the broadcast week and to the period between 6 a.m. and 6 p.m., Monday to Friday.
3. The applicant shall make direct annual expenditures of at least \$25,500 on the development of Canadian talent. This amount shall be distributed as follows:
  - \$400 per year to the Canadian Country Music Association's Canadian Talent Development Fund as part of the Canadian talent development plan created by the Canadian Association of Broadcasters;
  - \$4,000 per year to Song Writing/Recording and Voice Coaching;
  - \$6,000 per year to The Mountain Fest Star Quest;
  - \$600 per year to Music in the Park;
  - \$6,000 per year to Kamloops Cowboy Festival – Emerging Artist Contest; and
  - \$8,500 per year to a free public celebration concert.