



Broadcasting Decision CRTC 2007-406

Ottawa, 29 November 2007

Burlingham Communications Inc.
Hamilton/Burlington and Peterborough, Ontario

*Application 2007-1154-0, received 20 August 2007
Broadcasting Public Notice CRTC 2007-108
27 September 2007*

CIWV-FM Hamilton/Burlington – New transmitter at Peterborough

*In this decision, the Commission **denies** an application to amend the broadcasting licence for CIWV-FM Hamilton/Burlington in order to operate a rebroadcasting transmitter at Peterborough.*

Introduction

1. The Commission received an application by Burlingham Communications Inc. (Burlingham) to amend the broadcasting licence for the radio programming undertaking CIWV-FM Hamilton/Burlington, in order to operate a rebroadcasting transmitter at Peterborough, Ontario. The new transmitter would operate at 100.7 MHz (channel 264A) with an average effective radiated power of 1,700 watts.
2. In “*New adult contemporary/smooth jazz*” FM station in Hamilton, Decision CRTC 2000-142, 5 May 2000, the Commission approved an application by Burlingham for a broadcasting licence to operate a New Adult Contemporary/Smooth Jazz FM (NAC Smooth Jazz) station in Hamilton/Burlington.
3. In support of the present application, Burlingham argued that CIWV-FM should evolve into a regional service since there is no other station in Ontario playing comparable music.
4. The Commission received several interventions in support of this application, as well as an intervention offering general comments from Mr. Scott Jackson on behalf of Trust Communications Ministries. The Commission also received interventions in opposition to this application from CTVglobemedia Inc., Corus Entertainment Inc., CKOL Radio, Acadia Broadcasting Limited, Evanov Communications Inc. and the Madoc and District Chamber of Commerce. The applicant did not reply to the interventions. The interventions for this application are available at the Commission’s Web site at www.crtc.gc.ca under “Public Proceedings.”

Commission's analysis and determinations

5. After considering the positions of the applicant and the interveners, the Commission finds that the issues to be determined in its evaluation of this application relate to the distance between the originating station and the Peterborough market, and to whether Burlingham's application represents the best use of the proposed frequency.

Distance between Hamilton/Burlington and Peterborough

6. In most cases where it authorizes the addition of a transmitter to broadcast the programming of an originating station, the Commission does so in order to either correct technical deficiencies in the signal of the originating station within its authorized service area, or extend the originating station's signal into neighbouring communities, where the programming broadcast by those transmitters provides local reflection of the communities served by airing local news and promoting local community activities.
7. In the present case, Peterborough is located approximately 200 kilometres from Hamilton/Burlington. The Commission considers that the proposed transmitter to broadcast programming originating from Hamilton/Burlington would provide virtually no local content to the Peterborough community, and would therefore have no apparent logical appeal for the distant Peterborough audience. Furthermore, while the Commission recognizes that the NAC Smooth Jazz format currently offered by CIWV-FM may add to the musical diversity available in the Peterborough area, Burlingham is not bound to that format by any condition of CIWV-FM's licence, and could elect to alter that format with no notice.

Best use of the proposed frequency

8. Given that FM frequencies are public property and a scarce resource, the Commission must ensure, in the public interest, that any application for a frequency represents the best use of the proposed frequency, with consideration given to assigning a channel that would be commensurate with the nature of the proposed service. This is particularly critical in Southern Ontario where spectrum is scarce.
9. The Commission finds that Burlingham's proposal to use a Class A channel to rebroadcast the programming of its Hamilton/Burlington station in the distant Peterborough market would not utilize the full potential of a Class A channel. The Commission notes that the Peterborough area shares little or no direct affinity with the Hamilton/Burlington area, and that the applicant would not provide any programming that would be particularly reflective of or relevant to the Peterborough market. Therefore, the Commission concludes that assigning the proposed Class A channel to Burlingham for the addition of an FM rebroadcasting transmitter at Peterborough would not represent the best use of the frequency.

Conclusion

10. In light of all of the above, the Commission **denies** the application by Burlingham Communications Inc. to amend the broadcasting licence for the radio programming undertaking CIWV-FM Hamilton/Burlington, in order to operate a rebroadcasting transmitter at Peterborough, Ontario.

Secretary General

This decision is available in alternate format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>