



Broadcasting Decision CRTC 2011-722

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Route reference: 2011-427

Ottawa, 22 November 2011

Elliot Kerr, on behalf of a corporation to be incorporated
Mississauga, Ontario

Application 2011-0835-8, received 12 May 2011
Public hearing in the National Capital Region
19 September 2011

English-language AM radio station in Mississauga

*The Commission **approves** an application by Elliot Kerr, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English-language commercial AM radio station in Mississauga, Ontario.*

The application

1. The Commission received an application by Elliot Kerr, on behalf of a corporation to be incorporated (Kerr), for a broadcasting licence to operate an English-language commercial AM radio programming undertaking in Mississauga, Ontario. The new station would operate at 960 kHz (class C) with a transmitter power of 2,000 watts daytime and 280 watts night time.
2. Kerr would be controlled by its majority shareholder Elliot Kerr.
3. The applicant proposed to offer a news/talk format dedicated to Mississauga. The station would provide Mississauga residents with local news and information, including coverage of city council, local business issues, and community related political and social events. The station would also provide sports, weather and traffic, as well as a community forum for public discourse and debate during its mid-morning program *Mississauga Voices*.
4. Kerr would broadcast 126 hours of spoken word programming each broadcast week, of which at least 101 hours would be local. A maximum of 25 hours would be automated programming. Programming would include 28.5 hours of structured newscasts and news programs per broadcast week, 80% of which would focus on local Mississauga news stories.

Interventions

5. The Commission received one joint supporting intervention and one comment from Astral Media Radio G.P. (Astral) regarding this application. The complete

record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

6. Astral did not comment on the merits of the application but submitted that the applicant had mischaracterized the municipality of Mississauga as an underserved and distinct market within the Greater Toronto Area (GTA). Astral argued that it is impossible to separate each GTA community from its surrounding cities and/or Toronto itself as these communities operate, in part, as one large market. It was therefore of the view that applications for communities within the GTA must be analyzed in that context. To do otherwise would result in a false perception of the economic prospects for the region and, in the worst case scenario, would result in a "death by a thousand cuts" for incumbent stations in the Toronto market and its surrounding communities.
7. In this regard, Astral submitted that the Commission's approach in Broadcasting Decision 2009-216, which dealt with applications for ethnic stations to serve Scarborough and Markham correctly set out the essential nature of the business models underpinning incumbent radio stations serving the GTA and metropolitan Toronto.
8. Astral noted that, in correspondence with the Commission dated 4 July 2011, the applicant indicated that it would not direct marketing activities toward Toronto, Brampton or Oakville. It submitted that the Commission should impose this commitment as a condition of licence if the application is approved.

Applicant's reply

9. Kerr submitted that Astral had ignored the nature of the proposed service in terms of signal coverage, programming orientation and advertising sales.
10. Kerr stated that the signal contours of the proposed station have been deliberately designed so as not to provide primary coverage of the City of Toronto. Instead, the coverage area of the station has been confined to the City of Mississauga. Additionally, the night time signal will have some limitations within the City of Mississauga itself due to protection requirements. Furthermore, Kerr submitted that its news/talk programming schedule would focus on news and stories from the City of Mississauga, not Toronto. The applicant further noted that its business model is based on generating advertising sales from Mississauga advertisers, not Toronto advertisers.
11. Kerr added that, in Broadcasting Decision 88-292, which dealt with an application to serve Mississauga, the Commission noted that opportunities for establishing a full-time radio service for Mississauga may exist on the AM band.
12. Lastly, Kerr argued that it is abundantly clear from the record that the proposed station would have no impact on incumbent Toronto stations given that none of the incumbent licensees, including Astral, intervened in opposition. Kerr submitted that this lack of opposition, combined with the fact that the station's

signal would not provide reliable coverage in the City of Toronto, establishes beyond any doubt that the new station would not have an impact on Toronto stations. Kerr did not reply to Astral's suggestion that the Commission impose a condition of licence relating to the proposed station's marketing activities.

Commission's analysis and decisions

13. With respect to the comment submitted by Astral, the Commission acknowledges that, for licensing purposes, the GTA, including Mississauga, is typically assessed in its entirety. Furthermore, the Commission notes that Mississauga falls within the Toronto Central Market Area according to radio market boundaries defined by the BBM Canada. Accordingly the Commission considers that it is appropriate to assess the impact of a proposed station for Mississauga on other radio stations serving the GTA.
14. In its reply to Astral, Kerr submitted that the proposed signal contours have been deliberately designed to provide coverage to Mississauga and not to provide primary coverage to the City of Toronto. In this regard, the Commission notes that the 15 mV/m primary daytime contour of the proposed station would provide service to a radius of approximately 10 km from the transmitting antenna site, which includes Mississauga, while the 22.6 mV/m night-time Eu contour will cover a radius of approximately 3 km from the transmitting antenna site including Mississauga.
15. The Commission further notes that the 5 mV/m secondary daytime contour would cover a radius of approximately 18 to 25 km from the transmitting antenna site, which would include Mississauga and a portion of Brampton.
16. As a result, the proposed service area would encompass a population of 586,000 in its daytime primary contour, or approximately 11% of the total population in the Toronto Census Metropolitan Area. In light of the above, the Commission is of the view that the technical parameters, as proposed by the applicant, serve to limit the coverage of the proposed service primarily to Mississauga.
17. With respect to the potential financial impact of the proposed service, the Commission notes that the Toronto radio market is generating a healthy level of profitability. In 2010, the Toronto radio market generated total revenues of approximately \$251 million with a strong aggregate profit before interest and tax margin of 30.3%. The applicant projects first year revenues of \$3.8 million, rising to \$7.3 million by Year 7. This \$7.3 million in annual revenue would represent a modest 2.9% proportion of the 2010 total revenues in the market. The Commission also considers that the technical parameters, with their considerable limitations, would serve to further mitigate the potential impact of the proposed station on other stations. The Commission considers that the lack of interventions in opposition to the application suggests that stations in the GTA are not concerned that the proposed service would have an undue financial impact on their

operations. The Commission therefore concludes that the proposed station would not have an undue negative financial impact on existing stations serving the GTA.

18. Astral requested that the Commission impose a condition of license requiring that the applicant refrain from directing marketing activities to Toronto, Brampton or Oakville. The Commission notes that the applicant does not intend to direct marketing activities to those areas and expects the applicant to adhere to its commitment. The Commission is also of the view that the limitations of the applicant's proposed frequency will help to limit the station's ability to market itself to the entire GTA. As such, the Commission does not consider it necessary to impose a condition of licence, as requested by Astral, at this time.

Canadian content development

19. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes the applicant's commitment to exceed the minimum required contribution. Specifically, the applicant committed to devote, over and above the required basic annual contribution to CCD, a total of \$94,775 over seven consecutive broadcast years, upon commencement of operations. The total contribution would be allocated as follows: \$5,000 in year one, \$2,434 in year two, \$2,147 in year three, \$3,694 in year four, \$16,250 in year five, \$23,583 in year six and \$41,667 in year seven. Of this amount, 20% would be devoted to FACTOR or MUSICACTION, with the remainder to eligible initiatives. A **condition of licence** in this regard is set out in the appendix to this decision.
20. The Commission reminds the applicant that any development initiatives that have not been allocated to specific parties by condition of licence must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Broadcasting Public Notice 2006-158.

Conclusion

21. The Commission is of the view that approval of this application would enhance the diversity of radio voices in the market. Given that the new station will target its programming specifically to the City of Mississauga, and given that the technical parameters demonstrate that its daytime and night time signal contours will be confined primarily within the boundaries of the City of Mississauga, the Commission is convinced that this station would complement and not compete with existing radio stations in surrounding communities.
22. In light of all of the above, the Commission **approves** the application by Elliot Kerr, on behalf of a corporation to be incorporated for a broadcasting licence to operate an English-language AM radio programming undertaking in Mississauga,

Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Ethnic-language AM radio stations to serve Scarborough and Markham*, Broadcasting Decision CRTC 2009-216, 24 April 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- Broadcasting Decision CRTC 88-292, 25 April 1988

**This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2011-722

Terms, conditions of licence, expectation, and encouragement

Issuance of the broadcasting licence to operate an English-language commercial AM radio programming undertaking in Mississauga, Ontario

Terms

The licence will expire 31 August 2018.

The station will operate at 960 kHz (class C) with a transmitter power of 2,000 watts daytime and 280 watts night time.

Furthermore, the licence for this undertaking will be issued once the applicant:

- has satisfied the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- 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 22 November 2013. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licence shall be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986* (the Regulations), as amended from time to time, the licensee shall make a contribution of \$94,775 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$5,000 in year one, \$2,434 in year two, \$2,147 in year three, \$3,694 in year four, \$16,250 in year five, \$23,583 in year six and \$41,667 in year seven.

Each broadcast year, the licensee shall allocate no less than 20% of its CCD contribution that is over and above that set out in section 15 of the Regulations to FACTOR or MUSICACTION. The remaining amounts of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

The Commission expects the licensee to adhere to its commitment to not direct marketing activities to Toronto, Brampton or Oakville.

Encouragement

Employment equity

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.