



Broadcasting Decision CRTC 2014-345

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Route reference: 2013-663

Ottawa, 26 June 2014

R.B. Communications Ltd.

Welland, Ontario

Application 2012-1281-0, received 18 September 2012

Public hearing in the National Capital Region

26 February 2014

English-language FM radio station in Welland

*The Commission **approves** an application for a broadcasting licence to operate an English-language commercial FM radio station in Welland.*

Application

1. R.B. Communications Ltd. (RBC) filed an application for a broadcasting licence to operate an English-language commercial FM radio station in Welland, Ontario.
2. RBC is a corporation effectively controlled by Mr. David Holdgate.
3. The proposed station would operate at 89.1 MHz (channel 206A) with an average effective radiated power (ERP) of 564 watts (maximum ERP of 3,100 watts with an effective height of antenna above average terrain of 130.5 metres).
4. The station would offer a Country music format targeting adults 45 years of age and older, particularly women. Of the 126 hours of programming to be broadcast each broadcast week, 120 hours would be local programming. Spoken word programming would focus on local content, including news, weather, sports, local interviews, and event coverage. Two hours and six minutes of spoken word programming per broadcast week would be devoted to pure news.
5. In addition to the required basic contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986* (the Regulations), RBC proposed to devote, by condition of licence, \$70,000 over seven broadcast years (\$10,000 per broadcast year) in direct contributions to CCD, commencing in the first year of operations. RBC noted that its proposed contribution would allow it to develop and host an annual Country Music Showcase.
6. RBC is the licensee of the English-language radio station CIXL-FM Welland, which used to operate under a Country music format, but now operates under a Classic Rock format. According to the applicant, having only one FM radio station in the market

has made it increasingly difficult to compete with the multiple station owners serving the neighbouring communities. As the sole commercial radio operator dedicated to serving Welland, RBC stated that the proposed station would improve service for local audiences by offering them a programming format not currently available. It further stated that operating a second station would help it better face competition and solidify its long-term viability.

Interventions

7. The Commission received numerous interventions in support of this application. It also received an intervention commenting on the application from the Ministry of Community Safety and Correctional Services, Province of Ontario. The public record for this application, including the licensee's reply to the comment by the Province of Ontario, is available on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
8. The intervention from the Province of Ontario related to the participation of the proposed station in the National Public Alerting System (NPAS). In this regard, in Broadcasting Notice of Consultation 2014-85, the Commission proposed regulations that would require the participation of broadcasters in the NPAS by 31 December 2014. Therefore, it will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission continues to expect all licensees to voluntarily participate in the NPAS so that Canadians receive timely warnings of imminent perils.

Commission's analysis and decisions

9. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - the potential impact of the proposed station on other stations in the region; and
 - whether the proposal represents an appropriate use of spectrum.

Impact on other stations in the region

10. RBC stated that its proposed station would have a limited impact on radio stations serving Welland's neighbouring communities. In this regard, Bell Media Inc. (Bell) currently operates radio stations in St. Catharines, Ontario (CHRE-FM, CHTZ-FM and CKTB) whereas Vista Radio Ltd. (Vista) operates radio stations in Niagara Falls, Ontario (CJED-FM) and Fort Erie, Ontario (CFLZ-FM).
11. The Commission acknowledges that the above-noted stations have recorded, on an aggregate basis, moderate revenue growth over the last five years, and that some have even been unprofitable over the same period. Furthermore, recent financial results for CJED-FM and CFLZ-FM in particular reflect significant investments made in these

stations by Vista, which acquired them from Haliburton Broadcasting Group Inc.¹ in 2012.

12. Nevertheless, the Commission notes that these stations are operated by large, well-experienced broadcasters that operate multiple services in the area. It further notes that neither Bell nor Vista submitted interventions in opposition to the present application. Accordingly, the Commission considers that both Bell and Vista are in a good position to sustain any additional competition that a second Welland radio service could introduce in the market.
13. In the Commission's view, consumers in the region would benefit from the addition of a new radio service since the proposed Country music format for the new station would attract an audience that is different from that for the mainstream services operated by Bell and Vista. Moreover, the proposed station would likely draw a share of its listenership from a repatriation of out-of-market tunings directed to the U.S. Country station WYRK-FM Buffalo. The Commission considers that this would mitigate the impact the proposed service could have on the tunings of the stations operating in the region and limit the financial impact on these services.
14. In light of the above, the Commission finds that the proposed station would have a limited financial impact on other stations in the region.

Appropriate use of spectrum

15. Due to the requirement to protect incumbent stations from additional interference, RBC's proposed primary service contour does not fully encompass Welland. However, Welland is fully served by the proposed secondary contour's interference-free zone. In addition, the proposed primary service contour extends to encompass only a portion of St. Catharines to the north and only a portion of Niagara Falls to the east. The Commission therefore considers that RBC has maximized the use of frequency 89.1 MHz in and around Welland.
16. Furthermore, although there is spectrum scarcity in the region surrounding Welland, there are other frequencies that could provide similar service to the desired market.
17. In light of the above, the Commission finds that RBC's proposal represents an appropriate use of spectrum.

Conclusion

18. In light of all of the above, the Commission **approves** the application by R.B. Communications Ltd. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Welland. The terms and **conditions of licence** are set out in the appendix to this decision.

¹ See Broadcasting Decision 2012-577.

Canadian content development

19. The Commission reminds the licensee that it must adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations, as amended from time to time. The Commission notes that according to RBC's financial projections, the station would generate annual revenues below the \$1.25 million threshold set out in the Regulations throughout its licence term and therefore may not be required to make any basic CCD contributions for the new station so long as annual revenues remain below \$1.25 million.
20. The Commission further notes that RBC made commitments to exceed the minimum required contribution to CCD. Specifically, RBC committed to devote, by condition of licence, over and above the basic annual contribution to CCD, a total of \$70,000 to CCD over seven consecutive broadcast years (\$10,000 per broadcast year) upon commencement of operations. Of this amount, at least 20% shall be devoted to FACTOR or MUSICACTION on an annual basis with the remainder to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158. A **condition of licence** to that effect is set out in the appendix to this decision.

Secretary General

Related documents

- *Call for comments on proposed amendments to various regulations, to the standard conditions of licence for video-on-demand undertakings, and to certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Notice of Consultation CRTC 2014-85, 27 February 2014
- *Various radio programming undertakings – Acquisition of assets*, Broadcasting Decision CRTC 2012-577, 19 October 2012
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

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

Appendix to Broadcasting Decision CRTC 2014-345

Terms, conditions of licence, expectation and encouragement for the English-language commercial FM radio programming undertaking in Welland, Ontario

Terms

The licence will expire 31 August 2020.

The station will operate on frequency 89.1 MHz (channel 206A) with an average effective radiated power (ERP) of 564 watts (maximum ERP of 3,100 watts with an effective height of antenna above average terrain of 130.5 metres).

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

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 **26 June 2016**. 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 licensee shall adhere 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, as amended from time to time.
2. In addition to the basic annual contribution to Canadian content development, set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$10,000 (\$70,000 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder 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 reflect the cultural diversity of Canada in its programming and employment practices.

Encouragement

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.