



## Broadcasting Decision CRTC 2014-574

PDF version

Route reference: 2014-102

Additional reference: 2014-102-1

Ottawa, 5 November 2014

### Various applicants

Scarborough, Toronto and Whitchurch-Stouffville, Ontario

*The application numbers are set out in this decision.*

*Public hearing in Toronto, Ontario*

*13 May 2014*

### Licensing of new radio stations to serve Scarborough and technical changes for existing radio stations serving Scarborough, Toronto and Whitchurch-Stouffville

*The Commission **approves** the application by 8041393 Canada Inc., on behalf of a corporation to be incorporated, for a broadcasting licence to operate a new FM radio station to serve Scarborough. The new station will target listeners 24 years of age and younger in South-, East- and West-Asian communities in Scarborough, Ajax and Pickering, and will serve a minimum of 18 distinct ethnic groups in a minimum of nine different languages.*

*The Commission **denies** the applications by MBC – Multicultural Broadcasting Company Ltd. and WorldBand Media Inc., on behalf of a corporation to be incorporated, for broadcasting licences to operate radio stations to serve Scarborough.*

*The Commission also **denies** the applications by 105.9 FM Ltd., Intercity Broadcasting Network Inc. (Intercity) and WhiStle Community Radio for technical changes to their respective radio stations CJVF-FM Scarborough, CKFG-FM Toronto and CIWS-FM Whitchurch-Stouffville.*

*Finally, the Commission **denies** a request by Intercity to amend the condition of licence for CKFG-FM relating to over-and-above Canadian content development contributions.*

### Applications

1. At a public hearing commencing 13 May 2014 in Toronto, Ontario, the Commission considered three applications for new ethnic radio stations to serve Scarborough, from the following applicants:
  - 8041393 Canada Inc., on behalf of a corporation to be incorporated

- MBC – Multicultural Broadcasting Company Ltd.
  - WorldBand Media Inc., on behalf of a corporation to be incorporated.
2. These applicants proposed to operate their new stations on frequency 102.7 MHz. Consequently, their applications are mutually exclusive on a technical basis.
  3. Prior to the Commission receiving the above-noted applications, 105.9 FM Ltd. filed an application relating to the low-power, commercial specialty ethnic radio station CJVF-FM Scarborough. The licensee proposed to change the authorized contours of its transmitter by increasing the average effective radiated power (ERP) from 6.5 to 476 watts (maximum ERP from 6.5 to 1,200 watts),<sup>1</sup> by changing the antenna's radiation pattern from non-directional to directional, and by increasing the effective height of antenna above average terrain (EHAAT) from 63.4 to 77 metres. The requested power increase would result in a change of the station's status from a low-power, unprotected service to a protected Class A service. Since the licensee did not propose a change to the frequency on which the station operates (i.e., 102.7 MHz), this application is mutually exclusive on a technical basis with the above-noted applications for new radio services.
  4. In addition, the Commission considered an application by Intercity Broadcasting Network Inc. (Intercity) to add an FM transmitter at Scarborough to broadcast the programming of its English-language specialty commercial radio station CKFG-FM Toronto. The new transmitter would operate at 102.7 MHz (channel 274A) with an average ERP of 442 watts (maximum ERP of 1,500 watts with an EHAAT of 54.6 metres). Given the frequency proposed, this application is mutually exclusive on a technical basis with the above-noted applications. In its application, Intercity also requested an amendment to CKFG-FM's condition of licence relating to its annual over-and-above Canadian content development (CCD) contributions. Approval of the amendment would allow the licensee to expend, over the 2013-2014 through 2017-2018 broadcast years, its CCD contribution shortfall of \$63,874<sup>2</sup> incurred over the station's first two years of operation (i.e., 2011-2012 and 2012-2013).
  5. Finally, the Commission received an application by WhiStle Community Radio (WhiStle) relating to the low-power, community radio station CIWS-FM Whitchurch-Stouffville. The licensee proposed to change the station's authorized contours by increasing the average ERP from 50 to 175 watts (maximum ERP from 50 to 1,000 watts), by changing the antenna's radiation pattern from non-directional to directional, by increasing the EHAAT from 12 to 30 metres, and by relocating the transmitter. WhiStle indicated that the station would continue to operate on the

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<sup>1</sup> The present application, which was received in November 2012, proposed to change the frequency from 105.9 MHz (channel 290LP) to 102.7 MHz (channel 274A), and to increase the average ERP of the transmitter from 45 to 476 watts (maximum ERP from 45 to 1,200 watts). However, in Broadcasting Decision 2014-29, the Commission approved an application by 105.9 FM Ltd., which was filed in November 2013, for the same change in frequency but at the very low power of 6.5 watts.

<sup>2</sup> Broadcasting Notice of Consultation 2014-102 incorrectly specified this shortfall amount as \$63,877.

frequency 102.7 MHz. Based on the technical parameters proposed, and given the proximity of Whitchurch-Stouffville to Scarborough, this application is also mutually exclusive on a technical basis with the Scarborough applications.

6. Further details relating to each of the above applications are set out in Appendix 1 to this decision.<sup>3</sup>

### **Interventions**

7. As part of this process, the Commission received and considered interventions for each application. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the appropriate application numbers provided in Appendix 1 to this decision.

### **Commission's analysis**

8. The Commission must determine which one of the present applications, all of which are mutually exclusive on a technical basis, would represent the best use of the frequency 102.7 MHz, should the Toronto radio market, which includes Scarborough, be able to sustain an additional radio service. In this regard, and after examining the public record for this proceeding in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
  - whether the Toronto (Scarborough) radio market can sustain an additional radio service without an undue negative impact on incumbent stations;
  - if the Toronto radio market can sustain an additional radio service, which of the applications for new services should be approved; and
  - whether it would be appropriate to approve the applications proposing technical changes.

### **The Toronto radio market and its ability to sustain a new station**

9. The Toronto radio market consists of 30 radio stations. In 2013, they generated total revenues of more than \$264 million, and reported a profit before interest and taxes (PBIT) of \$87 million (PBIT margin of 32.8%).

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<sup>3</sup> In Broadcasting Notice of Consultation 2014-102, the Commission announced an application by Vista Radio Ltd. (Vista) to amend the broadcasting licence for the commercial radio station CJFB-FM Bolton, to change the station's frequency from 105.5 MHz (channel 288LP) to 102.7 MHz (channel 274A) and to change its authorized contours. Given Bolton's proximity to Toronto, Scarborough and Whitchurch-Stouffville, this application was impacted, on a technical basis, by the other above-noted applications, although not in a mutually exclusive manner. However, after being advised by the Department of Industry that this application was not technically acceptable, the Commission issued Broadcasting Notice of Consultation 2014-102-1, in which it indicated that Vista's application was withdrawn from the 13 May 2014 public hearing and would be rescheduled at a later date.

10. Ten of those stations offer third-language programming. In 2013, they generated aggregate revenues of \$20 million and reported a PBIT of \$2.8 million (PBIT margin of 12.5%). Of those ten stations, five primarily target the South Asian population.
11. In addition, in Broadcasting Decision 2012-487, the Commission approved an application for a broadcasting licence to operate a new English-language commercial FM radio station in Markham, which launched in February 2014 as CFMS-FM Markham. As noted in that decision, the applicant proposed to operate the station under a music format, with local programming dedicated to Markham as well as a significant portion (36.9%) of ethnic and third-language programming primarily targeting the South Asian and Chinese communities.
12. Given the financial performance of the Toronto radio market, and in particular of its ethnic radio stations, the Commission is satisfied that the market could support the licensing of a new radio station without having an undue negative impact on incumbent services.

#### **Assessment of the applications for new services**

13. The Commission has examined the applications for broadcasting licences to operate new radio stations to serve Scarborough in light of the following factors relevant to the evaluation of those applications, which include the factors set out in Decision 99-480:
  - the quality of the application;
  - the diversity of news voices;
  - addressing the Scarborough radio market in terms of underserved listeners;
  - the competitive state of the radio market and the level of market impact; and
  - the applicants' plans with respect to meeting the objectives set out in Public Notice 1999-117 (the Ethnic Broadcasting Policy).
14. Having considered the applications in light of the criteria set out above, and having determined that the market can absorb a new radio service, the Commission finds that the proposal by 8041393 Canada Inc., on behalf of a corporation to be incorporated (8041393 Canada (OBCI)), best meets the needs of the Scarborough radio market.
15. 8041393 Canada (OBCI) will be a corporation controlled by Kumarakulasingham Nadarajah.
16. In the Commission's view, by adding a new radio voice to the Scarborough radio market and by serving a wider range of languages and cultural groups than those proposed by the other applicants for new radio services, the proposal by 8041393 Canada (OBCI) would increase the diversity of local ethnic radio programming in Scarborough.

17. 8041393 Canada (OBCI) proposed an Asian “re-mix” music format targeting listeners 24 years of age and younger in South-, East- and West-Asian communities in Scarborough, Ajax and Pickering. It committed to devote, by condition of licence, 10% of the musical selections broadcast during ethnic programming periods to Canadian selections, which exceeds the regulatory minimum of 7%. In addition, the applicant committed to provide 126 hours of local programming each broadcast week, including 25 hours of spoken word programming, of which 5.5 hours would be news (60% of the news programming would be local news). It also indicated that it would accept a condition of licence requiring the station to serve a minimum of 18 distinct ethnic groups in a minimum of nine different languages. All of the programming broadcast each broadcast week would be devoted to ethnic programming, with 89% devoted to third-language programming. Finally, 8041393 Canada (OBCI) stated that at least 50% of all the ethnic programming broadcast each broadcast week would be in the Tamil, Korean and Farsi languages. In the Commission’s view, the applicant’s proposal in regard to the station’s programming would enhance both musical diversity and the diversity of editorial voices available to listeners in the Scarborough radio market. **Conditions of licence** relating to the broadcast of musical selections, the minimum number of ethnic groups to be served, the languages of broadcast, and the broadcast of third-language programming are set out in Appendix 2 to this decision.
18. The Commission notes that 8041393 Canada (OBCI) made a commitment to devote, over and above the basic annual contribution to CCD, a total of \$120,000 to CCD over seven consecutive broadcast years upon commencement of operations. Although ethnic radio broadcasters are not required to direct a portion of the CCD contribution amount to FACTOR or MUSICACTION, the applicant stated that \$500 per broadcast year, beginning in the second year of operations, will be devoted to FACTOR. The remainder will be directed to eligible initiatives as follows: scholarships for ethnic broadcasters at Scarborough Centennial College, and a two-day cross-cultural music festival. A **condition of licence** to that effect is set out in Appendix 2 to this decision.
19. Finally, the Commission notes that Mr. Nadarajah, the owner of the applicant, also owns Radio Geethavaani, which currently operates a Subsidiary Communications Multiplex Operation (SCMO) channel in Scarborough that serves that city’s South Asian community and that would be replaced by the proposed service. In the Commission’s view, this applicant’s ability to provide the service as proposed would be enhanced through Mr. Nadarajah’s experience operating that SCMO channel and through the relationships he has built within the local business community.
20. In making its determination, the Commission examined the potential impact that approval of 8041393 Canada (OBCI)’s application would have on CFMS-FM. Mr. Bhupinder Bola, the owner and operator of CFMS-FM, stated in his intervention to this proceeding that the majority of that station’s revenues are derived from advertising directed to Tamil audiences in Scarborough.

21. The Commission is of the view that differences in the target markets of the proposed station and CFMS-FM would limit the potential advertising competition between them. Whereas 8041393 Canada (OBCI) proposes to provide local service to Scarborough primarily through third-language programming, CFMS-FM provides a primarily mainstream English-language service with a Triple A (Adult Album Alternative)/Adult Contemporary music format, with just over a third of its weekly programming devoted to ethnic programming. Further, as per the licensee's original proposal for the station, CFMS-FM is licensed to provide a local radio service to Markham, not Scarborough.
22. Finally, whereas the proposed station's service contour, through its use of the frequency 102.7 MHz, would have some reach into the south-east portion of Markham, its interference-free zone would have only a moderate overlap with the interference-free zone of CFMS-FM.
23. In light of the above, the Commission finds that the licensing of the station proposed by 8041393 Canada (OBCI) would not have an undue negative impact on CFMS-FM.

#### **Assessment of the applications for technical changes**

24. Below, the Commission sets out its determinations in regard to the applications for technical changes to CIWS-FM, CJVF-FM and CKFG-FM.

#### **CIWS-FM Whitchurch-Stouffville**

25. Although the proposed power increase for CIWS-FM would result in an increase in the population served by the station, the size of that population would still be less than one tenth of that served through any of the other proposals in this proceeding. In regard to the application by 8041393 Canada (OBCI), the proposed station would not only serve a greater number of listeners, but also a wide range of linguistic and cultural groups, thereby increasing the diversity of local ethnic radio programming in Scarborough. In the Commission's view, given the above, and given that 102.7 MHz is the best available frequency in Scarborough, the proposal by 8041393 Canada (OBCI) represents a more appropriate use of that frequency. The Commission notes that although there may be other frequencies available in the market currently served by CIWS-FM, the availability of other frequencies was not addressed in the context of this proceeding.

#### **CJVF-FM Scarborough**

26. CJVF-FM has been operating as a low-power radio station that is currently required to broadcast programming to a minimum of three distinct ethnic groups, in a minimum of three different languages, which reflects its limited coverage. This station has a particular focus on the Tamil-speaking population, with 75 hours of the programming broadcast each broadcast week targeting this community.

27. Should the Commission approve the proposed power increase for CJVF-FM, the population that would reside in the station's new service contour would increase almost two-fold. The Commission notes, however, that the licensee did not propose to broaden its ethnic programming service in a manner that would reflect the station's increase in coverage as well as the increase in the population it would be licensed to serve. Consequently, the Commission finds that the licensee's application does not satisfy basic elements of the Ethnic Broadcasting Policy, and that it would not be appropriate to approve this application.
28. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) requires licensees to file annual returns by 30 November of each year for the broadcast year ending the previous 31 August. The filing requirements, including the requirement to submit financial statements with the annual returns, are set out in Broadcasting Information Bulletin 2011-795. In Broadcasting Notice of Consultation 2014-102, the Commission indicated that 105.9 FM Ltd. may have failed to comply with section 9(2) of the Regulations for the 2011-2012 and 2012-2013 broadcast years. Specifically, the licensee did not include financial statements with CJVF-FM's annual returns for each of those broadcast years.
29. In that notice, the Commission further indicated that this licensee may have failed to comply with CJVF-FM's condition of licence 7, set out in Broadcasting Decision 2011-756, which requires the licensee to make minimum yearly contributions to CCD that are over-and-above those required by the Regulations. Specifically, for the 2011-2012 broadcast year, the licensee incurred an apparent shortfall of \$833 in over-and-above CCD contributions.
30. The Commission notes, however, that 105.9 FM Ltd. has since provided the missing financial statements as well as proof of payment for the CCD shortfall. The Commission reminds the licensee that compliance with regulations and conditions of licence are reviewed in the context of the renewal of a station's broadcasting licence.

#### **CKFG-FM Toronto**

31. In Broadcasting Notice of Consultation 2014-102, the Commission indicated that Intercity may have failed to comply with section 9(2) of the Regulations, for the 2011-2012 and 2012-2013 broadcast years. Specifically, the licensee filed CKFG-FM's annual returns for each of those broadcast years after the 30 November deadline.
32. The Commission further indicated that this licensee may have failed to comply with sections 15(2) and 15(5) of the Regulations for the 2011-2012 and 2012-2013 broadcast years. Section 15(2) sets out the requirements for radio station licensees relating to CCD contributions, based on the station's total annual revenues. Section 15(5) sets out the portions of those required CCD contributions that must be allocated to the Community Radio Fund of Canada and to FACTOR or MUSICACTION. Intercity did not make any contributions to CCD for those broadcast years.

33. The Commission also indicated that Intercity may have failed to comply with the following condition of licence for CKFG-FM, set out in Broadcasting Decision 2011-369, relating to over-and-above CCD contributions:

6. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall make a contribution of \$249,545 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$35,800 in year one, \$37,024 in year two, \$36,330 in year three, \$36,346 in year four, \$36,330 in year five, \$36,296 in year six and \$36,418 in year seven.<sup>4</sup>

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR. 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.

34. Specifically, the licensee did not make its required contributions for the 2011-2012 and 2012-2013 broadcast years, resulting in an apparent total shortfall of \$63,874 in over-and-above CCD contributions.
35. Finally, the Commission indicated that Intercity may have failed to comply with the following condition of licence for CKFG-FM, also set out in Broadcasting Decision 2011-369, relating to reporting on programming for Toronto's Caribbean and African communities:

7. The applicant is required to file an annual report by 30 November of each year providing specific details on the manner in which it has fulfilled its programming requirements in serving the Caribbean and African communities of Toronto with its spoken word programming and musical format.

36. Specifically, for the 2011-2012 and 2012-2013 broadcast years, the licensee filed this report after the 30 November deadline.
37. Not only are these instances of non-compliance numerous, they are serious in nature and have occurred within the short period of time since the launch of the station in November 2011. As an example, the licensee indicated at the hearing that it would make its basic CCD contribution payment for the 2012-2013 broadcast year by no later than the end of February 2014. However, as of the date of this decision, the Commission has not received proof of payment for this contribution.

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<sup>4</sup> The Commission notes that CKFG-FM launched in November 2011, nine months into the 2011-2012 broadcast year. As set out in Broadcasting Information Bulletin 2009-251, when a station launches part way through a broadcast year, the Commission generally requires the licensee to pro-rate its annual CCD contribution that is over and above that required under the Regulations for that year. Specifically, the Commission expects that the remainder of the over-and-above contribution from the first broadcast year to be paid in full by the end of the seventh year of the licence term.

38. The Commission has examined the licensee's non-compliance in the context of its revised approach to non-compliance by radio stations (see Broadcasting Information Bulletin 2011-347). As set out in that approach, the Commission takes into account the quantity, recurrence and seriousness of the non-compliance, as well as the relationship between the application for amendment and any instance of non-compliance.
39. Intercity's proposal was based on remedying CKFG-FM's apparent signal issues in Scarborough and would serve to ensure that the station's service to the Black and Caribbean population in the entire Greater Toronto Area would extend to Scarborough (which is part of the Greater Toronto Area). The Commission questions, however, whether Intercity, by not having fulfilled its commitment in regard to rectifying its non-compliance, understands or appreciates the importance of adhering to these necessary requirements. Further, it stresses that requests for amendments, technical or other, are, as noted above, not normally granted in cases where licensees are not in good standing with those requirements. As a consequence, and in view of the nature and the seriousness of the above-noted instances of non-compliance, the Commission does not consider it appropriate to approve Intercity's application to add an FM transmitter at Scarborough to broadcast the programming of CKFG-FM. The Commission notes that it will review this licensee's performance and the manner in which it has remedied its various instances of non-compliance as part of the licence renewal for CKFG-FM in 2017.

### **Commission's decisions**

40. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate an ethnic FM radio programming undertaking in Scarborough:

**8041393 Canada Inc., on behalf of a corporation to be incorporated**  
*Application 2012-1549-2, received 6 December 2012*

41. The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.
42. In light of the above, the Commission **denies** the two remaining applications for broadcasting licences to operate radio programming undertakings in Scarborough, as set out below:

**MBC – Multicultural Broadcasting Company Ltd.**  
*Application 2012-1548-4, received 7 December 2012*

**WorldBand Media Inc., on behalf of a corporation to be incorporated**  
*Application 2012-1555-9, received 7 December 2012*

43. In addition, the Commission **denies** the following applications to amend the broadcasting licence for the radio programming undertaking CKFG-FM Toronto in order to add a transmitter at Scarborough, and for technical changes to the radio programming undertakings CJVF-FM Scarborough and CIWS-FM Whitchurch-Stouffville:

**105.9 FM Ltd.**

*Application 2012-1384-2, received 1 November 2012*

**Intercity Broadcasting Network Inc.**

*Application 2013-1076-3, received 22 July 2013*

**WhiStle Community Radio**

*Application 2013-1661-2, received 19 November 2013*

**Requirement for CIWS-FM Whitchurch-Stouffville to vacate the frequency  
102.7 MHz**

44. Given the approval for the use of 102.7 MHz by 8041393 Canada (OBCI), WhiStle must either vacate that frequency, pursuant to the rules and procedures established by the Department of Industry (the Department),<sup>5</sup> and submit an application to use a frequency other than 102.7 MHz in order to continue the operation of CIWS-FM, or find another technical solution that would enable it to continue using the same frequency and meet the Department's interference protection requirements towards 8041393 Canada (OBCI)'s station.
45. At the public hearing, several of the applicants stated that should their applications be approved, they would work with WhiStle to overcome any interference issues. 8041393 Canada (OBCI), in particular, stated the following:

We have the sympathy for the problem facing WhiStle Radio. However, we understand that, with cooperation, both WhiStle Radio and ourselves can engineer a solution that works for both. And we also understand that there may be other frequencies that could provide them the same reach they now enjoy. We pledge that if we are licensed, we will work to find a solution and help defray the engineering costs to do so. We will meet the concerns they just indicated here.
46. In view of the challenges faced by CIWS-FM as a not-for-profit community radio station that operates as the only local radio station in Whitchurch-Stouffville, the Commission expects 8041393 Canada (OBCI) to adhere to its commitment to WhiStle Radio and to collaborate with that licensee to find a solution that will allow CIWS-FM's continued operation.
47. Should the parties involved not be able to arrive at a solution that would allow the continued operation of CIWS-FM on frequency 102.7 MHz, WhiStle will be required to vacate this frequency and submit an application to use a frequency other than 102.7 MHz in order to continue the operation of its radio station. That application would be examined on its own merits and would take into account the impact that approval would have on the market.

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<sup>5</sup> See *BPR-3: Application Procedures and Rules for FM Broadcasting Undertakings*.

### **Requirement for CJVF-FM Scarborough to vacate the frequency 102.7 MHz**

48. As noted above, CJVF-FM currently operates on the frequency 102.7 MHz as an unprotected low-power radio station (i.e., at 50 watts or less). Given the licensing of the station proposed by 8041393 Canada (OBCI), 105.9 FM Ltd. must vacate this frequency, pursuant to the rules and procedures established by the Department, and submit an application to use a frequency other than 102.7 MHz in order to continue the operation of its station in Scarborough.

### **Licence amendment for CKFG-FM Toronto**

49. As noted above, Intercity requested an amendment to CKFG-FM's condition of licence relating to annual over-and-above CCD contributions. The proposed amendment would allow the licensee to expend its combined 2011-2012 and 2012-2013 CCD shortfall of \$63,874 over the five remaining broadcast years of its licence term (i.e., the 2013-2014 through 2017-2018 broadcast years).
50. However, also noted above, the licensee is in apparent non-compliance with sections 15(2) and 15(5) of the Regulations relating to its annual basic CCD contributions. Further, as of the date of this decision, the licensee has not submitted any proof that this shortfall has been rectified.
51. As is the case with the requested addition of a transmitter to rebroadcast the programming of CKFG-FM in Scarborough, and consistent with its approach regarding licence amendment requests by licensees that are in non-compliance with the Regulations and/or conditions of licence, the Commission does not consider it appropriate to approve the requested amendment relating to CCD due to the severity and scope of CKFG-FM's non-compliance. Accordingly, the Commission **denies** the licensee's request in this regard.
52. Further, the Commission directs the licensee to spend its basic required CCD contribution and its over-and-above CCD contribution shortfall of \$63,874, and to provide proof that these shortfalls have been paid, by no later than **4 February 2015**.

Secretary General

### **Related documents**

- *Notice of hearing*, Broadcasting Public Notice CRTC 2014-102, 6 March 2014, as amended by Broadcasting Notice of Consultation CRTC 2014-102-1, 30 April 2014
- *CJVF-FM Scarborough – Licence amendment and technical change*, Broadcasting Decision CRTC 2014-29, 30 January 2014
- *Licensing of new radio stations to serve Markham*, Broadcasting Decision CRTC 2012-487, 11 September 2012

- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Ethnic FM radio station in Scarborough*, Broadcasting Decision CRTC 2011-756, 7 December 2011
- *English-language FM radio station in Toronto*, Broadcasting Decision CRTC 2011-369, 9 June 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999

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

## Appendix 1 to Broadcasting Decision CRTC 2014-574

### Applications relating to the operation of radio programming undertakings in Scarborough, Toronto and Whitchurch-Stouffville, Ontario

#### Details of the applications for new broadcasting licences to operate FM radio programming undertakings to serve Scarborough, Ontario

Applicant	Details from the application
<p><b>MBC – Multicultural Broadcasting Company Ltd.</b> Application 2012-1548-4</p>	<p><b>Type:</b> ethnic commercial specialty FM radio programming undertaking</p> <p><b>Technical parameters:</b> 102.7 MHz (channel 274A), average effective radiated power (ERP) of 620 watts (maximum ERP of 1,300 watts with an effective height of antenna above average terrain of 76.5 metres)</p> <p><b>Format:</b> 100% ethnic programming directed to a minimum of 7 cultural groups in a minimum of 7 different languages; 85% third-language programming</p> <p><b>Target audience:</b> South Asian communities (population 18-54 years of age), with a particular focus on the Tamil-speaking population</p> <p><b>Canadian content (music):</b> 35% category 2*; 10% category 3**; 10% of musical selections during ethnic programming periods</p> <p><b>Local programming per broadcast week***:</b> 126 hours</p> <p><b>Spoken word programming per broadcast week:</b> 49 hours, 20 minutes</p> <p><b>News programming per broadcast week:</b> 6 hours, 30 minutes (news**** and related surveillance material), 20% local and regional</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$215,000 over seven consecutive broadcast years</p>
<p><b>8041393 Canada Inc., on behalf of a corporation to be incorporated</b> Application 2012-1549-2</p>	<p><b>Type:</b> ethnic commercial specialty FM radio programming undertaking</p> <p><b>Technical parameters:</b> 102.7 MHz (channel 274A), average effective radiated power (ERP) of 472 watts (maximum ERP of 1,200 watts with an effective height of antenna above average terrain of 72.6 metres)</p> <p><b>Format:</b> 100% ethnic programming directed to a minimum of 18 cultural groups in a minimum of 9 different languages; 89% third-language programming</p> <p><b>Target audience:</b> Tamil, Persian and Korean communities (principal), Arabic and West Asian communities (secondary) (primarily Asian youth 24 years of age and younger)</p> <p><b>Canadian content (music):</b> 10% of musical selections during ethnic programming periods</p> <p><b>Local programming per broadcast week:</b> 126 hours</p> <p><b>Spoken word programming per broadcast week:</b> 25 hours</p> <p><b>News programming per broadcast week:</b> 5 hours, 30 minutes (news and related surveillance material), 60% local and regional</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$120,000 over seven consecutive broadcast years</p>

<p><b>WorldBand Media Inc., on behalf of a corporation to be incorporated</b> Application 2012-1555-9</p>	<p><b>Type:</b> ethnic commercial specialty FM radio programming undertaking</p> <p><b>Technical parameters:</b> 102.7 MHz (channel 274A), average effective radiated power (ERP) of 472 watts (maximum ERP of 1,200 watts with an effective height of antenna above average terrain of 72.6 metres)</p> <p><b>Format:</b> 100% ethnic programming directed to a minimum of 20 cultural groups in a minimum of 12 different languages; 98% third-language programming</p> <p><b>Target audience:</b> South Asian communities (population 18-54 years of age), with a particular focus on the Tamil-speaking population</p> <p><b>Canadian content (music):</b> 35% category 2; 10% category 3; 7% of musical selections during ethnic programming periods</p> <p><b>Local programming per broadcast week:</b> 126 hours</p> <p><b>Spoken word programming per broadcast week:</b> 54 hours, 36 minutes</p> <p><b>News programming per broadcast week:</b> 22 hours, 24 minutes (news and related surveillance material)</p> <p><b>Canadian content development contribution (over the basic annual contribution):</b> \$195,149 over seven consecutive broadcast years</p>
<p>* Percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6:00 a.m. to 6:00 p.m., Monday to Friday. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>** Percentages shown for category 3 musical selections (Special Interest Music) are for the broadcast week. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>*** The definition of “broadcast week,” as it relates to local, spoken word and news programming, is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>**** As set out in <i>Revised content categories and subcategories for radio</i>, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, “news” excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.</p>	

**Details of the applications for technical changes to FM radio programming undertakings in Scarborough, Toronto and Whitchurch-Stouffville, Ontario**

Applicant	Details from the application
<p><b>105.9 FM Ltd.</b> Application 2012-1384-2</p>	<p><b>Programming undertaking:</b> CJVF-FM Scarborough</p> <p><b>Type:</b> low-power, ethnic commercial specialty radio programming undertaking</p> <p><b>Requested technical change:</b> change the authorized contours by increasing the average effective radiated power (ERP) from 6.5 to 476 watts (maximum ERP from 6.5 to 1,200 watts), by changing the antenna’s radiation pattern from non-directional to directional, and by increasing the average height of antenna above average terrain from 63.4 to 77 metres (to continue operating at 102.7 MHz (channel 274); as a result, the station’s licence class would change from low-power unprotected to class A protected)</p>

<p><b>Intercity Broadcasting Network Inc.</b> Application 2013-1076-3</p>	<p><b>Programming undertaking:</b> CKFG-FM Toronto  <b>Type:</b> English-language commercial radio programming undertaking  <b>Requested technical change:</b> add an FM transmitter at Scarborough to rebroadcast the programming of CKFG-FM  <b>Technical parameters:</b> 102.7 MHz (channel 274A), average effective radiated power of 442 watts (maximum ERP of 1,500 watts with an effective height of antenna above average terrain of 54.6 metres)</p>
<p><b>WhiStle Community Radio</b> Application 2013-1661-2</p>	<p><b>Programming undertaking:</b> CIWS-FM Whitchurch-Stouffville  <b>Type:</b> low-power, English-language community radio programming undertaking  <b>Requested technical change:</b> change the authorized contours by increasing the average effective radiated power (ERP) from 50 to 175 watts (maximum ERP from 50 to 1,000 watts), by changing the antenna's radiation pattern from non-directional to directional, and by increasing the average height of antenna above average terrain from 12 to 30 metres (to continue operating at 102.7 MHz (channel 274); as a result, the station's licence class would change from low-power unprotected to class A protected)</p>

## Appendix 2 to Broadcasting Decision CRTC 2014-574

8041393 Canada Inc., on behalf of a corporation to be incorporated  
Application 2012-1549-2, received 6 December 2012

### Terms, conditions of licence, expectations and encouragement for the new ethnic FM radio programming undertaking to serve Scarborough, Ontario

#### Terms

The licence will expire 31 August 2021.

The station will operate at 102.7 MHz (channel 274A) with an average effective radiated power (ERP) of 472 watts (maximum ERP of 1,200 watts with an effective height of antenna above average terrain of 72.6 metres).

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 Commission will only issue a licence for this undertaking 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
- 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 **5 November 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.
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*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote 100% of the programming broadcast during each broadcast week to ethnic programs, as defined the *Radio Regulations, 1986*.

4. The licensee shall devote a minimum of 89% of the programming broadcast during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.
5. In each broadcast week, the licensee shall provide programming directed to a minimum of 18 distinct ethnic groups in a minimum of nine different languages.
6. The licensee shall ensure that at least 10% of the musical selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.
7. In each broadcast week, not less than 50% of the programming shall be broadcast in the Korean, Farsi and Tamil languages.
8. In addition to any required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, make a contribution of \$120,000 over seven consecutive broadcast years to the promotion and development of Canadian content, to be allotted each year as follows:

Year 1	\$3,000
Year 2	\$5,500
Year 3	\$17,500
Year 4	\$21,500
Year 5	\$23,500
Year 6	\$24,500
Year 7	\$24,500

Of this amount, the licensee shall allocate no less than \$500 per broadcast year, beginning in the second year of operations, to FACTOR. 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.

For the purposes of these conditions of licence, the terms “broadcast week,” “Canadian selection” and “musical selection” shall have the same meaning as that set out in the *Radio Regulations, 1986*.

### **Expectations**

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

In view of the challenges faced by CIWS-FM Whitchurch-Stouffville as a not-for-profit community radio station that operates as the only local radio station in Whitchurch-Stouffville, Ontario, the Commission expects 8041393 Canada Inc., on behalf of a corporation to be incorporated, to collaborate with WhiStle Community Radio, the licensee of CIWS-FM, to find a solution that will allow CIWS-FM’s continued operation.

**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.