



Broadcasting Decision CRTC 2017-340

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Reference: Part 1 application posted on 16 January 2017

Ottawa, 20 September 2017

Canadian Broadcasting Corporation

Toronto, Ontario

Application 2017-0011-2

CBL-FM Toronto – Use of the SCMO channel

*The Commission **denies** an application by the Canadian Broadcasting Corporation for authority to use the subsidiary communications multiplex operations channel of CBL-FM Toronto, Ontario, to broadcast a predominantly Tamil-language radio service.*

Application

1. The Canadian Broadcasting Corporation (CBC) filed an application for authority to use the subsidiary communications multiplex operations (SCMO) channel of CBL-FM Toronto, Ontario (Radio 2), to broadcast a predominantly Tamil-language radio service.
2. The SCMO service would broadcast 24 hours a day, seven days a week, and would offer news, music, talk radio and children's programming.

Interventions and reply

3. The Commission received two interventions in opposition to the application, to which the applicant replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
4. Mr. Michel Mathieu, representing Mr. Kumar Nadarajah, President and CEO of CJRK-FM Scarborough and of Geethavaani, a Tamil-language SCMO service serving the Greater Toronto Area (GTA), stated that the proposed SCMO would overlap with the two services operated by his client. He argued that adding a new Tamil-language service in Toronto would take listeners away from both the FM station and the SCMO service, and would thus have an impact on advertising revenues.

5. Mr. Mathieu also stated that CJRK-FM has only been in operation since 1 September 2016¹ and argued that the station is fighting for its rightful place in the ethnic broadcasting market of the GTA.
6. 3885275 Canada Inc. (3885275 Canada), licensee of CJSA-FM Toronto, a multicultural FM radio station serving primarily South Asian communities in the GTA, stated that the approval of the new SCMO service would have a detrimental effect on the market. 3885275 Canada submitted that the Tamil community in the GTA is effectively and sufficiently served by its station as well as by other existing radio stations and SCMO services broadcasting in the Tamil language. The intervener argued that an SCMO service would have a competitive advantage over licensed radio stations, such as CJSA-FM, that are required, by condition of licence, to broadcast in several languages and to serve several ethnic communities.
7. The CBC indicated that ethnic radio stations have a distinct role to play in the over-the-air environment with the broad service requirement, while SCMO services fill a niche void outside of that arena. The applicant stated that the proposed service would only be received by a small group of individuals who choose to purchase a sideband radio.

Commission's analysis and decision

8. The Commission's policy regarding services using the SCMO channel of FM stations is set out in Public Notice 1989-23. It states that the Commission would be concerned if an SCMO service were to cause an undue negative impact on existing over-the-air broadcasters. Radio stations must seek Commission approval to offer an SCMO service if more than 15% of the programming of the SCMO service is ethnic programming and there is an over-the-air ethnic radio station in the relevant service area. Such ethnic SCMO services are not authorized without an opportunity for public comment.
9. In its assessment of the application, the Commission must consider whether the proposed SCMO service could have an undue negative impact on existing local broadcasting services.
10. Both interveners expressed concern that the addition of the proposed SCMO service to the market would have a detrimental effect on their stations given that Tamil-language programming represents 41% of the programming broadcast on CJRK-FM and 28% on CJSA-FM.
11. The Commission acknowledges that CJRK-FM only began operations in September 2016 and has not yet had a chance to establish itself in the market.

¹ See Broadcasting Decision 2014-574.

12. In addition, the applicant indicated that the proposed SCMO service would fall within the service contours of CBL-FM. CBL-FM's service contours include Brampton, which was recently the subject of a market capacity assessment. In Broadcasting Decision 2017-193, the Commission concluded that the market could not sustain an additional radio station.
13. The Commission considers that approval of the amendment could have a negative impact on incumbent ethnic radio stations in the market. However, it cannot determine at this time whether the impact would be undue given that the applicant did not file financial projections for the proposed SCMO service and that the financial statements for CJRK-FM's first broadcast year are not due until 30 November 2017.
14. Given that CJRK-FM is still establishing itself in the market, that the Commission determined that the Brampton radio market cannot sustain an additional radio station, and that opposing interventions were filed, the Commission considers that approving this application would not be in the best interest of the market. Accordingly, as an exception to its normal policy, the Commission **denies** the application by the Canadian Broadcasting Corporation for authority to use the SCMO channel of CBL-FM Toronto to broadcast a predominantly Tamil-language radio service.

Secretary General

Related documents

- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve the Brampton radio market*, Broadcasting Decision CRTC 2017-193, 9 June 2017
- *Licensing of new radio stations to serve Scarborough and technical changes for existing radio stations serving Scarborough, Toronto and Whitchurch-Stouffville*, Broadcasting Decision CRTC 2014-574, 5 November 2014
- *Services using the vertical blanking interval (television) or subsidiary communications multiplex operation (FM) channel*, Public Notice CRTC 1989-23, 23 March 1989