



Broadcasting Decision CRTC 2018-237

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References: 2017-316, 2017-316-1 and 2016-451

Ottawa, 11 July 2018

Various applicants

Grimsby and Beamsville, Ontario

The application numbers are set out in the decision.

Public record: 1011-NOC2017-0316

Public hearing in Toronto, Ontario

28 November 2017

Licensing of a new radio station to serve Grimsby and Beamsville

*The Commission **approves** an application by Durham Radio Inc. for a broadcasting licence to operate a new commercial FM radio station to serve Grimsby and Beamsville, Ontario.*

*The Commission **denies** the remaining applications for broadcasting licences for radio stations to serve Grimsby and Beamsville.*

Introduction

1. At a public hearing commencing 28 November 2017 in Toronto, Ontario, the Commission considered the following applications for broadcasting licences to operate new radio stations to serve Grimsby and Beamsville, Ontario:

Applicant	Application number and date received
Dufferin Communications Inc. (Dufferin)	2014-1355-9, received 31 December 2014
Durham Radio Inc. (Durham)	2017-0257-2, received 30 March 2017
Byrnes Communications Inc. (Byrnes)	2017-0261-3, received 30 March 2017

2. All of the applicants proposed the use of frequency 88.5 MHz. As such, all three applications are mutually exclusive on a technical basis.
3. As part of this process, the Commission received and considered interventions with respect to each application.

Commission's analysis and decisions

4. In Broadcasting Decision 2016-450, following an analysis of the market, the Commission determined that there was capacity for at least one radio station to serve Grimsby and Beamsville. Accordingly, in Broadcasting Notice of Consultation 2016-451 (the Call), the Commission issued a call for applications for a new radio station to serve Grimsby and Beamsville.
5. After reviewing the public record for this proceeding, the Commission finds that the issues to be considered are the following:
 - Which application(s) should be approved in light of the factors identified in the Call?
 - For any application that is approved, should the Commission impose a condition of licence prohibiting the new licensee(s) from soliciting or accepting advertising in Hamilton, Ontario?

Assessment of the applications

6. The Commission has considered the applications to serve Grimsby and Beamsville in light of the factors relevant to the evaluation of the applications for new radio services outlined in the Call, which include the following factors set out in Decision 99-480:
 - the quality of the application (for example, the proposed business plan and programming format, commitments to the broadcast of Canadian content, and the reflection of the local community);
 - the diversity of voices; and
 - the competitive state of the radio market and the level of market impact.
7. Having considered all of the applications in light of the criteria set out above, the Commission finds that the application by Durham best meets the needs of the Grimsby and Beamsville communities.
8. The Commission finds that Durham has proposed a sound business plan that is based on its experience in the Hamilton radio market and third-party research. Approval of its application would give Durham a second commercial radio station in the Numeris Hamilton Central Area (Hamilton CTRL), which would provide it with the opportunity to benefit from important synergies so as to better compete with large established and consolidated multi-station players.
9. In Broadcasting Public Notice 2008-4, the Commission states that the concept of “diversity” in the Canadian broadcasting system should be approached at three distinct levels: diversity of elements, plurality of editorial voices within the private element, and diversity of programming.

10. Durham's proposal will ensure a balance between the three distinct elements. It ensures that the Grimsby and Beamsville market will have its own distinct radio voice, given that the applicant has committed to broadcast 126 hours of local programming in each broadcast week, of which 14 hours will be spoken word programming including local news, weather, sports, traffic and information on community events. Four hours of this local programming will be pure news.
11. Durham's proposal will also ensure a plurality of ownership in the private element, which is necessary to maximize the diversity of voices in the Canadian broadcasting system.
12. Durham's proposal would add to programming diversity given that the applicant has proposed a Classic Hits/Oldies music format targeting adults aged 25 to 64 and will offer local, regional and national reflection.
13. Further, the applicant agreed to devote at least 30% of the musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety when at least 90% of the selections broadcast in a week are selections released prior to 1 January 1981. A **condition of licence** is set out to that effect.
14. In the Commission's view, Durham's proposal is the least likely to have a negative impact on nearby stations given the applicant's modest projections (i.e., first year projections provided by Durham would represent less than 1% of the aggregate revenues of the surrounding areas), a proposed coverage that would be limited to Grimsby and Beamsville and the immediately surrounding areas, and the applicant's current presence in the area.
15. All commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986* (the Regulations), as amended from time to time. Durham committed to devote, by condition of licence, over and above the basic annual contribution to CCD, a total of \$50,000 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR or MUSICACTION. The remainder will be directed 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** is set out in the appendix to this decision.

Solicitation of advertising

16. The Commission received an intervention commenting on the applications from Corus Entertainment Inc. (Corus), on behalf of its authorized subsidiary Corus Premium Television Ltd., licensee of the three Hamilton market commercial radio stations CING-FM Hamilton, CHML Hamilton and CJXY-FM Burlington. Durham, as well as Dufferin and Byrnes, replied to the intervention.
17. Corus expressed concern regarding the effect that the addition of a new player to the region would have on local advertising sales in the Hamilton radio market. Should the

Commission approve any of the applications, Corus requested that the Commission impose a condition of licence prohibiting the approved licensee(s) from soliciting or selling advertising in Hamilton.

18. In reply, Durham submitted that such a condition of licence would be unwarranted and would create a station that would not be capable of serving the public with a level of programming that would fulfil the mandate set out in section 3.1(g) of the *Broadcasting Act*, i.e., that the programming originated by broadcasting undertakings should be of high standard. It added that restricting a new licensee to selling advertising only in the Grimsby and Beamsville radio market would be catastrophic.
19. Grimsby and Beamsville are situated at the extremes of the Hamilton CTRL and the Numeris St. Catharines-Niagara Central Areas. The primary service contour of Durham's proposed station would encompass only a negligible portion of the populations of St. Catharines and Hamilton. Further, as noted above, the first year projections provided by Durham would represent only a small portion of the aggregate revenues of the surrounding areas.
20. In light of the above, the Commission finds that Durham's proposed station would not have an undue negative impact on any incumbent stations in the region. Accordingly, the Commission does not consider it appropriate to impose a condition of licence that would prohibit the licensee from soliciting or accepting advertising in Hamilton.

Conclusion

21. Based on all of the foregoing, the Commission **approves** the application by Durham Radio Inc. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Grimsby and Beamsville. The terms and **conditions of licence** for this new service are set out in the appendix to this decision.
22. The Commission **denies** the applications by Dufferin Communications Inc. and Byrnes Communications Inc. for broadcasting licences to operate radio programming undertakings in Grimsby and Beamsville.

Reminder

23. Pursuant to section 16 of the Regulations, all radio licensees must implement a public alerting system.

Secretary General

Related documents

- *Call for applications – Radio stations to serve Grimsby and Beamsville, Ontario*, Broadcasting Notice of Consultation CRTC 2016-451, 10 November 2016
- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve Grimsby and Beamsville*, Broadcasting Decision

CRTC 2016-450, 10 November 2016

- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2018-237

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

Terms

The licence will expire 31 August 2024.

The station will operate at 88.5 MHz (channel 203A) with an average effective radiated power (ERP) of 2,000 watts (maximum ERP of 4,000 watts with an effective height of antenna above average terrain of 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 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 **11 July 2020**. 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 well as to the conditions set out in the broadcasting licence for the undertaking.
2. As an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), the licensee shall in any broadcast week during which at least 90% of the musical selections from content category 2 (Popular Music) that it broadcasts are selections released before 1 January 1981:
 - a) devote, in that broadcast week, a minimum of 30% of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
 - b) devote, between 6 a.m. and 6 p.m., in the period from Monday to Friday of the same broadcast week, a minimum of 30% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee shall specify, on the music lists it submits to the Commission, the year of release for all musical selections it broadcasts.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the Regulations.

3. 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 \$7,000 for years 1 to 6 and \$8,000 in year 7 (\$50,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, at least 20% per broadcast year shall be allocated 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 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.