



Broadcasting Decision CRTC 2018-238

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References: 2017-316, 2017-316-1 and 2017-100

Ottawa, 11 July 2018

Various applicants

Georgina, 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 Georgina

*The Commission **approves** an application by Frank Torres, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a new commercial FM radio station to serve Georgina, Ontario.*

*The Commission **denies** the remaining applications for broadcasting licences for radio stations to serve Georgina.*

Introduction

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

Applicant	Application number and date received
My Broadcasting Corporation (MBC)	2015-0361-5, received 17 April 2015
Frank Torres, on behalf of a corporation to be incorporated (Torres)	2017-0561-7, received 29 June 2017
Radio Markham York Incorporated, on behalf of a corporation to be incorporated (Radio Markham)	2017-0568-3, received 30 June 2017

2. Radio Markham proposed the use of frequency 94.5 MHz. Torres and MBC both proposed the use of frequency 93.7 MHz; as such, their 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 2017-99, following an analysis of the radio market situation, the Commission determined that there was capacity for a radio station to serve Georgina. Accordingly, in Broadcasting Notice of Consultation 2017-100 (the Call), the Commission issued a call for applications for a new radio station to serve Georgina.
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 Barrie, Ontario?

Assessment of the applications

6. The Commission has considered the applications to serve Georgina 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 Torres best meets the needs of the Georgina community.
8. The Commission finds that Torres proposed the best business plan. This applicant projected revenues of \$491,000 in its first year of operation, increasing to \$991,000 in the seventh year, and stated that it anticipates that the station will generate profits in its third year of operation. In the Commission's view, this is reasonable when viewed in terms of the revenues of stations operating in comparable markets.

9. In support of its projections, Torres stated that the proposed station would benefit from significant operational synergies with its nearby station CIUX-FM Uxbridge,¹ which attained profitability earlier than projected, as well as with Skywords, a radio content producer that is owned by the shareholders of the applicant and that has the financial capacity to incur potential financial losses. The Commission also notes that Torres operates three radio stations in different types of markets.
10. 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.
11. Torres’ proposal will ensure a balance between the three distinct levels. It will ensure that the Georgina market has its own distinct voice as the applicant has committed to broadcast 126 hours of local programming in each broadcast week of which 19 hours and 10 minutes will be spoken word programming including local news, weather, sports, traffic and community event information. Four hours and 22 minutes of this amount will be devoted to pure news.
12. Torres’ proposal also ensures a plurality of ownership in the private element, which is necessary to maximize the diversity of voices in the Canadian broadcasting system.
13. Torres’s proposal would add to programming diversity as the applicant has proposed a Classic Hits/Oldies music format drawing primarily on hit songs from the 1970s, 1980s and 1990s and targeting adults aged 25 to 54 and would offer local, regional and national reflection.
14. 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. Torres committed to devote, by condition of licence, over and above the basic annual contribution to CCD, a total of \$65,000 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR. 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** to this effect is set out in the appendix to this decision.

Solicitation of advertising

15. The Commission received an intervention commenting on the applications from Corus Entertainment Inc. (Corus), on behalf of its authorized subsidiary Corus Radio Inc., licensee of the commercial radio station CHAY-FM Barrie. Torres was the only applicant to reply to the intervention.

¹ The licensee of CIUX-FM, 8237646 Canada Inc., is a corporation controlled by Mr. Frank Torres.

16. Corus expressed concern over the effect that the addition of a new player to the region would have on local advertising sales in the Barrie 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 Barrie.
17. In reply, Torres submitted that such a condition of licence should not be applicable to its application as it has expended a great deal of resources and effort to ensure that its signal will serve the entire town of Georgina, and that its proposal does not constitute an attempt to enter the Barrie radio market through the “back door.”
18. The Commission notes that the Barrie radio market and the Georgina radio market are separate and distinct. The primary (i.e., 3mV/m) service contour of Torres’s proposed station would encompass only a negligible portion of the population of Barrie. Further, only a small portion of the proposed station’s revenues are projected to come from the Barrie radio market.
19. In light of the above, the Commission finds that Torres’s proposed station will not have an undue negative impact on any Barrie radio stations. 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 Barrie.

Conclusion

20. Based on all of the foregoing, the Commission **approves** the application by Frank Torres, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Georgina, Ontario. The terms and **conditions of licence** for this new service are set out in the appendix to this decision.
21. The Commission **denies** the applications by My Broadcasting Corporation and Radio Markham York Incorporated, on behalf of a corporation to be incorporated, for broadcasting licences to operate radio programming undertakings in Georgina.

Reminder

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

Secretary General

Related documents

- *Call for applications – Radio station to serve Georgina, Ontario*, Broadcasting Notice of Consultation CRTC 2017-100, 13 April 2017
- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve Georgina, Ontario*, Broadcasting Decision CRTC 2017-99, 13 April 2017

- *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 2018-238

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

Terms

The licence will expire 31 August 2024.

The station will operate at 93.7 MHz (channel 229B) with an average effective radiated power (ERP) of 6,780 watts (maximum ERP of 26,000 watts with an effective height of antenna above average terrain of 56.1 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. In addition to the 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 \$65,000 over seven consecutive broadcast years to the promotion and development of Canadian content, to be allotted as follows:

Year 1:	\$10,000
Year 2:	\$9,500
Year 3:	\$9,500
Year 4:	\$9,000
Year 5:	\$9,000
Year 6:	\$9,000
Year 7:	\$9,000

Of this amount, the licensee shall allocate at least 20% to FACTOR or MUSICACTION each broadcast year. 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.