



Broadcasting Decision CRTC 2005-82

Ottawa, 28 February 2005

Silk FM Broadcasting Ltd.
Penticton and Vernon, British Columbia

*Applications 2004-0099-5 and 2004-0100-3
Broadcasting Public Notice CRTC 2004-74
5 October 2004*

CILK-FM Kelowna – Transmitters in Penticton and Vernon

*The Commission **denies** the applications by Silk FM Broadcasting Ltd. to amend the broadcasting licence for the radio programming undertaking CILK-FM Kelowna, in order to add FM transmitters at Penticton and Vernon.*

The applications

1. The Commission received two applications from Silk FM Broadcasting Ltd. (Silk FM), to amend the broadcasting licence for the radio programming undertaking CILK-FM Kelowna, in order to operate an FM transmitter at Penticton at 101.7 MHz (channel 269B) with an average effective radiated power of 1,200 watts, and an FM transmitter at Vernon at 101.7 MHz (channel 269B) with an average effective radiated power of 240 watts.
2. The applicant indicated that approval of its proposals would result in more choice for listeners in Penticton and Vernon. In addition, the applicant indicated that the proposed transmitters would provide service to persons who reside in Penticton and Vernon, but commute daily to Kelowna for work. Silk FM also indicated that approval of its proposals would address problems with reception of CILK-FM due to mountainous terrain.
3. Silk FM indicated that, at such time as the two markets are able to support additional commercial radio stations, it planned to “offer a locally-programmed, commercial service on the proposed repeaters”.

The interventions

4. The Commission received interventions in connection with these applications, both in support and in opposition.

5. Interventions were submitted by Rogers Broadcasting Limited (Rogers), licensee of CKIZ-FM Vernon, Standard Radio Inc. (Standard), licensee of CKOR and CJMG-FM Penticton and CICF-FM Vernon, Jim Pattison Industries Ltd., the limited partner of Jim Pattison Broadcast Group Limited Partnership (Pattison), licensee of CKOV and CKLZ-FM Kelowna, and Great Valleys Radio Ltd. (Great Valleys), licensee of CIGV-FM Penticton.
6. Rogers, Standard and Pattison expressed the concern that approval of Silk FM's proposals would be a step toward "back-door entry" into the Penticton and Vernon markets, and that such an approval could set a precedent, thereby altering the competitive landscape of medium and small radio markets. Rogers added that, in its opinion, Silk FM does not have a sound rationale for the establishment of a transmitter in Vernon.
7. Rogers, Standard and Pattison further stated that approval of Silk FM's applications would have an undue negative impact on existing radio stations in the region. Great Valleys agreed with this position, stating that, as the licensee of an independent radio station in Penticton, any fragmentation of audience would have a "negative impact on its ability to solicit and retain national, regional and local advertisers".
8. Further, Rogers and Standard indicated that approval of the Silk FM applications would not add to programming diversity and choice in the Penticton and Vernon markets because the format offered by CILK-FM is similar to that offered by existing radio stations in the two markets. Standard added that data from BBM indicates that CILK-FM's target age group is similar to that of incumbent radio stations in the two markets.
9. In addition, Standard noted that the proposed transmitters are full power, comparable to the power of the incumbent radio stations, and are not being contemplated to simply "extend service to under-served communities".

The applicant's replies

10. In reply to the opposing interveners, Silk FM expressed the opinion that the interveners had not demonstrated specifically that approval of the proposed transmitters would unduly harm existing radio stations in the Vernon and Penticton markets. Silk FM stated that there would be no effect on the incumbent stations because it does not initially plan to broadcast local advertising material. Furthermore, in its view, the format of CILK-FM is not similar to that of any radio station in the two markets.
11. The applicant further stated that it would expect to attract no more than 3% of each local radio station's existing audience, and that most of its projected audience would be repatriated from out of market radio stations.

The Commission's analysis and determination

12. The Commission is of the view that the applicant's proposals would result in a significant increase to the coverage of CILK-FM, into the adjacent radio markets of Penticton and Vernon. The Commission notes in particular that, if the current applications were to be approved, the applicant indicated an interest in introducing local programming into the Penticton and Vernon markets in the future. The Commission therefore concurs with the concerns expressed by the interveners, that the applicant's proposals would result in Silk FM's entry to the affected markets in a manner that would circumvent the normal competitive process.
13. The Commission therefore **denies** the application by Silk FM Broadcasting Ltd. to amend the broadcasting licence for the radio programming undertaking CILK-FM Kelowna, in order to operate FM transmitters at Penticton at 101.7 MHz (channel 269B) with an average effective radiated power of 1,200 watts, and at Vernon at 101.7 MHz (channel 269B) with an average effective radiated power of 240 watts.

Secretary General

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