



Broadcasting Public Notice CRTC 2006-159

Ottawa, 15 December 2006

Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets

The Commission's objectives in issuing calls for radio applications are to ensure that the best possible application is licensed and that applications are dealt with in an efficient manner. At the same time, in response to the challenging operating environment faced by broadcasters in smaller radio markets, including the relatively lower overall profitability of stations in these markets, the Commission is implementing certain changes to its call policy as set out below. The objective is to introduce greater certainty into the call process.

This public notice is one of three issued following the Commission's review of its policy for commercial radio announced in Review of the commercial radio policy, Broadcasting Notice of Public Hearing CRTC 2006-1, 31 January 2006, and that was the subject of a public hearing in the National Capital Region that began on 15 May 2006. The other two notices are Commercial Radio Policy 2006, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 and Digital Radio Policy, Broadcasting Public Notice CRTC 2006-160, 15 December 2006.

Background

The Commission's current policy regarding calls for radio applications

1. On 8 July 1999, the Commission released *The Issuance of calls for radio applications*, Public Notice CRTC 1999-111, ("the Radio Call Policy" or "Public Notice 1999-111") which stated that applications for new radio undertakings, or for AM to FM conversions, would generally result in a call for applications with the following exceptions:
 - low power and other proposals with very little or no commercial potential;
 - proposals to provide the first commercial service in a market;
 - proposals by the sole commercial operator in a market to improve service to the market, either through an AM to FM conversion or a new station;

- proposals to provide the first commercial service in the other official language in a market, or to convert the only station in the other official language from AM to FM; and
- proposals to convert stations from AM to FM, in markets with two or fewer commercial operators.

Review of the commercial radio policy

2. As part of the review initiated by *Review of the commercial radio policy*, Broadcasting Notice of Public Hearing CRTC 2006-1, 31 January 2006, the Commission stated that it wished to provide interested parties with an opportunity to discuss potential modifications to its Radio Call Policy and to other elements of its consideration of applications for radio licences in support of its goals related to streamlining the processing of applications. The following questions were suggested for consideration:
 - What modifications to the Commission's policy for issuing calls for radio licence applications could streamline the licensing process, while maintaining the objective of encouraging competition and choice?
 - Are there other ways in which the licensing process could be streamlined to expedite the consideration of applications for new radio licences?

Positions of parties

3. The Commission received comments concerning its Radio Call Policy and the situation of small market broadcasters from various parties including L'Association des radiodiffuseurs privés indépendants de langue française, the Ontario Independent Radio Group (OIRG), Rawlco Radio Ltd. (Rawlco), Blackburn Radio Inc. (Blackburn) and the Canadian Association of Broadcasters (CAB). The CAB's position is summarized below.

The issuance of calls for smaller radio markets

4. The CAB noted that smaller market radio stations have the lowest average revenue per station, as well as the lowest level of profitability. The CAB maintained that smaller market radio stations are more vulnerable to the impact of competition, whether that competition emanates from within their markets through newly licensed radio stations, out-of-market through new audio platforms within the parallel audio system such as satellite subscription radio, or any other commercially available media. According to the CAB, the average small market radio station simply does not have the same resources that larger market broadcasters might have to absorb the impact of competition.
5. The CAB recommended that, for purposes of defining a small radio market, the Commission use a cut-off population of 250,000.

Overlicensing and the need for a market entry test

6. Given its concern regarding overlicensing in markets, the CAB recommended that the Commission introduce a new market entry test in a manner that fully addresses the new competitive reality of the private radio industry. As for the specifics of a new market entry test, the CAB made the following recommendations:
 - The Commission should release aggregate data on small, medium and large markets on an annual basis, to provide the industry with current and meaningful data on the health of individual radio markets.
 - Where small market tests of profitability are problematic for reasons of confidentiality, the Commission and the private radio industry should work together to determine a market entry testing procedure suitable for small markets.
 - Profitability trends through measures of profit before interest and taxes (PBIT) should be identified within individual markets. While measures of profitability covered five-year periods under the original Radio Market Policy,¹ the new market entry test should track profitability over a three-year period.
 - The Commission should carry out the required work to provide the commercial radio industry with profitability measures in medium and large markets for the 2002-2005 period as soon as possible and provide this aggregate data to the private radio industry.
 - Following the issuance of a licence or licences in any given market, there should be a formalized three-year pause to licensing in that market.
7. The CAB's position was supported by a number of broadcasters serving smaller markets, including the OIRG, Rawlco and Blackburn.

Commission's analysis and determinations

Distribution of commercial radio stations by market size

8. More than two-thirds (67%) of Canada's private English-language and French-language commercial radio stations operate in markets with a 12+ population of 250,000 or less. Commission data indicates that there are 360 stations in markets with 12+ populations 250,000 or less and 181 stations in markets with 12+ populations of more than 250,000.

¹ *Radio Market Policy*, Public Notice CRTC 1991-74, 23 July 1991

Vulnerability of smaller commercial radio markets

9. Stations in smaller markets generally tend to report levels of profitability that are below the industry average, particularly in smaller French-language markets. The Commission notes that commercial radio stations in smaller markets are more vulnerable to the impact of increasing competition. The Commission considers that, generally, smaller market stations have fewer resources than larger market stations to absorb the impact of competition.

The need for streamlining

10. As was anticipated, the increased flexibility for multiple station ownership in a market provided by the *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, contributed to an increase in applications for new radio stations. Also, the large number of calls for radio applications issued since July 1999, and specifically the competitive processes resulting from these calls, has contributed significantly to delays in the consideration of applications for new radio licences.

Low power stations

11. The Radio Call Policy currently indicates that the Commission will not generally issue calls for applications in the case of “low power and other proposals with very little or no commercial potential.” The Commission notes, however, that it sometimes receives applications for low-power commercial stations, which could, in fact, have a negative impact on other commercial stations in the market. The Commission will therefore revise the statement set out above to indicate that it will not generally issue calls for applications in connection with “proposals with very little or no commercial potential or impact, including some low-power applications.”

Revised Radio Call Policy for markets with populations up to 250,000

12. In light of all of the above, the Commission has decided to modify its existing Radio Call Policy for smaller markets, as follows:
13. For markets with 12+ populations up to 250,000, Commission staff will, upon receipt of an application for a new radio station, conduct a preliminary economic assessment of the market’s ability to sustain a new radio station. This assessment will take into account historic financial data for existing stations in the market, including measures such as aggregate advertising revenue growth and the aggregate market PBIT compared with industry averages, as well as the availability of frequencies and general economic forecasts for the market in question.
14. Following this assessment, if Commission staff is of the view that the market in question is unlikely to support the entry of a new station, the applicant will be contacted and informed of the results of this preliminary assessment. The applicant will then have the opportunity to withdraw its application or to submit additional information within a 10-day period providing evidence of the market’s ability to support a new station.

15. If, following assessment of this additional information, Commission staff is of the view that the market in question can support an additional station, the Commission will proceed with the application. If Commission staff does not consider that the market can support an additional station, the application will be returned with a letter explaining why.
16. If the applicant decides that it still wishes to proceed, it may resubmit the application and the Commission will issue a public notice announcing the receipt of an application for the market, without identifying the applicant, and indicate the Commission's concern about the ability of the market to support a new station. Interested parties, including the applicant, will be encouraged to submit additional information that the Commission will take into consideration before making a final determination on whether or not to proceed with a call for applications. Subsequent to an analysis of comments received in response to the public notice, if the Commission determines that the market is incapable of supporting a new radio station the application will be returned and a public notice will be issued detailing the Commission's conclusions.
17. Where the Commission decides not to issue a call based on unfavourable market conditions, the Commission will not generally be disposed to accept applications for the market in question for a period of two years from the date of the public notice announcing the Commission's decision.
18. The Commission is of the view that the introduction of this new process will assist in determining the capacity of radio markets to support new stations, will contribute toward enhanced transparency, and will act to prevent overlicensing.
19. Under the revised Radio Call Policy, applications for new radio undertakings, or for AM to FM conversions, will generally result in a call for applications with the following exceptions:
 - proposals with very little or no commercial potential or impact, including some low-power applications;
 - proposals to provide the first commercial service in a market;
 - proposals by the sole commercial operator in a market to improve service to the market, either through an AM to FM conversion or a new station;
 - proposals to provide the first commercial service in the other official language in a market, or to convert the only station in the other official language from AM to FM; and
 - proposals to convert stations from AM to FM, in markets with two or fewer commercial operators.

20. As indicated in Public Notice 1999-111, in all cases where the Commission decides that a call should be issued, it will advise the original applicant of the impending call. It will then allow the applicant a period of 10 working days to decide whether to withdraw the application or to proceed. If the applicant decides to withdraw, the call will not be issued. If the applicant decides to proceed, the Commission will issue the call, and the original application will be assessed in competition with any application filed in response to that call. Applicants may, therefore, wish to provide in their applications reasons why the Commission should not issue a call in their particular case.

Two-year pause in processing applications after the issuance of a decision following a call for applications

21. In response to concerns raised by the CAB and others, after the issuance of a decision following a call for applications, the Commission will not generally be disposed to entertain applications for a mainstream commercial station in the concerned market for a period of two years from the publication of that decision. The Commission considers that this measure will help to prevent overlicensing and will introduce greater certainty into the process related to the issuance of calls for applications. In the case of a radio service that would have very little or no commercial impact in a larger market, the Commission considers that a pause in licensing in that market is not necessary.

Publication of market data

22. In response to concerns raised by the CAB and others, the Commission will release aggregate data on small, medium and large markets on an annual basis in order to provide the broadcasting industry with current and meaningful data on the health of individual radio markets. The Commission considers that this measure will contribute to enhanced transparency, to reducing the number of applications in markets experiencing slower growth, and to the prevention of overlicensing. The Commission intends to meet with the CAB and other parties, such as L'Association des radiodiffuseurs privés indépendants de langue française and the Ontario Independent Radio Group, to address issues related to the confidentiality of financial information for small market stations. It will also discuss other possible approaches related to the issuance of calls for applications that would further streamline the application process both for applicants and for the Commission. Any new approaches would be issued for public comment.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>