



## Broadcasting Decision CRTC 2008-62

Ottawa, 14 March 2008

### Various applicants

Kelowna, British Columbia

*Public Hearing at Kelowna, British Columbia  
30 October 2007*

### Licensing of new radio stations to serve Kelowna, British Columbia

*The Commission **approves** the application by Sun Country Cablevision Ltd. for a broadcasting licence to operate a new FM radio programming undertaking to serve Kelowna.*

*The Commission **approves in part** the application by Vista Radio Ltd. for a broadcasting licence to operate a new FM radio programming undertaking to serve Kelowna. Within 90 days of the date of this decision, the applicant must submit an amendment to the application proposing the use of an FM frequency other than 96.1 MHz (channel 241C) that is acceptable both to the Commission and to the Department of Industry.*

*The Commission **denies** the remaining applications for broadcasting licences for radio programming undertakings to serve Kelowna.*

*A dissenting opinion by Commissioner Morin is attached.*

### Introduction

1. At a public hearing commencing 30 October 2007 in Kelowna, British Columbia, the Commission considered eleven applications for new radio stations to serve Kelowna, some of which are mutually exclusive on a technical basis. The applicants were as follows:

- Clear Sky Radio Inc.
- Corus Radio Company
- CTV Limited<sup>1</sup>
- Deep Waters Media Inc.
- Harvard Broadcasting Inc.
- In-House Communications Inc.
- Northern Native Broadcasting
- Radio CJVR Ltd.
- Sun Country Cablevision Ltd.

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<sup>1</sup> This application was submitted by CHUM Limited, which changed its name to CTV Limited on 31 July 2007.

- Touch Canada Broadcasting (2006) Inc. (the general partner), and 1188011 Alberta Ltd. and Touch Canada Broadcasting Inc. (the limited partners), carrying on business as Touch Canada Broadcasting Limited Partnership
  - Vista Radio Ltd.
2. As part of this process, the Commission received and considered interventions with respect to each of the eleven applications. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
  3. After reviewing the applications and interventions, the Commission is of the view that there are two primary issues to be considered:
    - Can the Kelowna market sustain any additional radio services without an undue negative impact on the radio market?
    - If that market can sustain one or more additional stations, which of the applications should be approved, in light of the factors identified in Broadcasting Public Notice 2007-25 (the Call)?

### **The Kelowna radio market and its ability to sustain new radio stations**

4. The Kelowna radio market consists of five commercial radio stations. Astral Media Radio Group (Astral) owns two FM stations and one AM station, and offers the formats Adult Contemporary (CILK-FM), Contemporary Hit Radio (CHSU-FM) and News/Talk (CKFR).<sup>2</sup> Jim Pattison Broadcast Group (Jim Pattison) owns two FM stations, and offers the formats Rock (CKLZ-FM) and Country (CKOV-FM). The Commission notes that, in Broadcasting Decision 2007-116, it approved an application by Jim Pattison to convert its AM station CKOV to the FM band and to change the station's News/Talk format to a Soft Vocals music format. In August 2007, CKOV completed its switch to the FM band, and adopted a Country music format instead of the Soft Vocals music format that was originally planned.
5. From 2002 to 2006, the average yearly growth in total revenues was 6.2% in the Kelowna market, compared to 4.9% for the province of British Columbia and 6.4% for all of Canada over the same period. Further, since 2004, the growth in total revenues in the Kelowna market has surpassed that of both the British Columbia and Canadian markets.
6. Although total revenue growth has been strong, the modest profit before interest and taxes (PBIT) performance of the Kelowna market has not followed the same trend. However, this modest PBIT performance is tied in large part to the relatively weaker

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<sup>2</sup> In September 2007, Astral changed CKFR's Oldies format to a News/Talk format.

performance of the incumbent AM station and is offset by the positive performance of the incumbent FM stations. The Commission therefore considers that the Kelowna radio market is in a positive PBIT position, even though PBIT growth in this market has been more modest than revenue growth. The Commission also expects a positive impact on profitability with the conversion of CKOV to the FM band.

7. In addition to the healthy radio revenue growth noted above, the Kelowna economy is expected to continue to grow in the near future, based on a steep decline in unemployment from 9.8% to 6.3% between 2002 and 2007, sharp increases in incorporations and building permits, a real estate and tourist boom, and several major infrastructure projects.
8. According to the 2006 Census, the population of the Kelowna Census Metropolitan Area was 162,276. The population had increased by 9.8% from the 2001 Census, as compared to 5.4% for Canada and 5.3% for British Columbia during the same period.
9. Based on the evidence that the Kelowna radio industry is healthy, and based on the expected positive economic outlook, the Commission is satisfied that the Kelowna radio broadcasting market could support the licensing of two new commercial radio stations without experiencing an undue negative impact.
10. In Broadcasting Public Notice 2006-159, the Commission set out its general concern with the relatively lower profitability of radio markets with populations under 250,000, and signalled its intent to avoid over-licensing in such markets. The Commission is of the view that the licensing of two new commercial radio stations to serve the Kelowna market at this time is consistent with this intent.

## **Assessment of the applications**

### **Criteria for assessment**

11. Having determined that there is room in the Kelowna radio market for two additional services, the Commission has considered the eleven applications to serve Kelowna in light of the factors relevant to the evaluation of applications outlined in the Call, which include the factors set out in Decision 99-480.
12. Although the Commission has considered all of the factors in the Call in assessing the proposed services, it considers that the following factors were particularly important and relevant to its determinations for that market:
  - the quality of the applications (notably with respect to the applicants' business plans, station format, the broadcast of Canadian content, the reflection of the local community in programming and commitments to Canadian content development (CCD));
  - the diversity of news voices;

- addressing the Kelowna market in terms of underserved listeners; and
- the competitive state of the market and level of market impact.

### **The applications**

13. The details relevant to the assessment of the applications are set out in Appendix 1 to this decision.

### **Commission's analysis**

14. Of the eleven applications received, the Commission considers that those by Sun Country Cablevision Ltd. (Sun Country) and Vista Radio Ltd. (Vista) best fulfil the criteria set out above for evaluating competing applications for new radio stations to serve Kelowna. In the Commission's view, the proposals by Sun Country, a local applicant and a relatively small player in the radio broadcasting landscape, and Vista, a regional player, would augment the diversity of radio voices in the Kelowna market and would add to the news voices (in particular, local news voices) in that market. Moreover, the Commission considers that both Sun Country and Vista presented viable business plans, and that the addition of these two new commercial radio stations would have a limited impact on the Kelowna radio market.
15. The Commission considers that the programming proposed by Sun Country and the audience targeted by its proposed service would contribute to meeting the needs of underserved listeners in the Kelowna radio market. The addition of this competitive service would contribute to the musical diversity of that market, with a Classic Rock music format that targets an audience from 25 to 54 years of age and that has a slight emphasis on attracting male listeners. Sun Country indicated that a minimum of 40% of all musical selections from content category 2 (Popular Music) broadcast during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday would be Canadian selections, which exceeds the minimum requirement set out in the *Radio Regulations, 1986* (the Regulations). Further, it would broadcast, per broadcast week, 126 hours of local programming, of which 25 hours would be spoken word programming, including five hours and 32 minutes devoted to news, weather and sports. As a local player with strong programming commitments to both local programming and spoken word programming, Sun Country would also contribute to the diversity of local programming in the market.
16. In addition, Sun Country committed to devote, over and above the basic annual contribution to CCD, a total of \$315,000 to CCD over seven consecutive broadcast years, upon commencement of operations. Specifically, Sun Country committed to devote \$45,000 per year to CCD, of which \$9,000 would be directed to FACTOR. The remainder would be directed to eligible initiatives as follows:

- \$25,000 per broadcast year to Home Grown CD initiatives;
- \$6,000 per broadcast year to Parks Alive; and
- \$5,000 per broadcast year to the National Aboriginal Recording Industry Association (NARIA).

17. The Commission considers that the programming proposed by Vista and the audience targeted by its proposed service would also contribute to meeting the needs of underserved listeners in the Kelowna radio market. The addition of this competitive service would contribute to the musical diversity of that market, with a Classic Hits music format that targets an audience 45 years of age and older (focusing predominantly on men), and which is not currently available in that market. Vista indicated that a minimum of 40% of all musical selections from content category 2 (Popular Music) broadcast during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday would be Canadian selections, which exceeds the minimum requirement set out in the Regulations. Further, it would broadcast, per broadcast week, 126 hours of local programming, of which ten hours would be spoken word programming, including six hours devoted to news and sports. In addition, the technical and administrative synergies that Vista would be able to achieve with its five other stations, along with the accounting synergies that it would be able to achieve with the business hub in Courtenay, British Columbia, would enable it to better position itself in this market and foster its continued growth.
18. In addition, Vista committed to devote, over and above the basic annual contribution to CCD, a total of \$700,000 to CCD over seven consecutive broadcast years, upon commencement of operations. Specifically, Vista committed to devote \$100,000 per year to CCD, of which \$80,000 would be directed to FACTOR. The remainder would be directed to eligible parties and initiatives as defined in Broadcasting Public Notice 2006-158.
19. The application by Vista proposing the use of the frequency 96.1 MHz was technically mutually exclusive with the application by Sun Country proposing the use of the 96.3 MHz frequency. The Commission considers that the technical parameters proposed by Sun Country would make better use of the frequency 96.3 MHz than those proposed by Vista would make of the frequency 96.1 MHz, since those proposed by Sun Country would reach a greater portion of the population and would provide greater signal strength to Kelowna's neighbouring communities. In light of comments received at the public hearing, the Commission notes that alternative frequencies have been identified as being capable of serving the Kelowna market. Accordingly, Vista will be required to consider using one of those frequencies to operate the proposed service.

## Determinations

20. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate a new radio station in Kelowna:

**Sun Country Cablevision Ltd.**

*Application 2007-0846-4, received 4 June 2007*

The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.

21. In addition, the Commission **approves in part** the following application for a broadcasting licence to operate a new radio station in Kelowna:

**Vista Radio Ltd.**

*Application 2006-0931-5, received 18 July 2006*

The terms and **conditions of licence** for this new service are set out in Appendix 3 to this decision.

22. While approving in part the application by Vista, the Commission notes that the applicant must submit, as set out in Appendix 3 to this decision, within 90 days of the date of this decision, an amendment to its application proposing the use of an FM frequency other than 96.1 MHz (channel 241C) and related technical parameters that are acceptable to both the Commission and the Department of Industry.

23. In light of the above, the Commission **denies** the nine remaining applications for broadcasting licences to operate new radio stations in Kelowna, as set out below:

**Harvard Broadcasting Inc.**

*Application 2007-0851-3, received 4 June 2007*

**Deep Waters Media Inc.**

*Application 2007-0852-1, received 4 June 2007*

**CTV Limited**

*Application 2007-0857-1, received 4 June 2007*

**Clear Sky Radio Inc.**

*Application 2007-0859-7, received 4 June 2007*

**Corus Radio Company**

*Application 2007-0860-5, received 4 June 2007*

**Touch Canada Broadcasting (2006) Inc. (the general partner), and 1188011 Alberta Ltd. and Touch Canada Broadcasting Inc. (the limited partners), carrying on business as Touch Canada Broadcasting Limited Partnership**

*Application 2007-0862-0, received 4 June 2007*

**Northern Native Broadcasting**

*Application 2007-0863-8, received 4 June 2007*

**Radio CJVR Ltd.**

*Application 2007-0865-4, received 4 June 2007*

**In-House Communications Inc.**

*Application 2007-0866-2, received 4 June 2007*

24. Because Vista is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

**Related documents**

- Broadcasting Notice of Public Hearing CRTC 2007-12, 31 August 2007, as amended by Broadcasting Notices of Public Hearing CRTC 2007-12-1, 7 September 2007; 2007-12-2, 12 September 2007; 2007-12-3, 20 September 2007; 2007-12-4, 26 September 2007; 2007-12-5, 3 October 2007; 2007-12-6, 18 October 2007; 2007-12-7, 19 October 2007; and 2007-12-8, 18 December 2007
- *CKOV Kelowna – Conversion to FM band*, Broadcasting Decision CRTC 2007-116, 23 April 2007
- *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Kelowna, British Columbia*, Broadcasting Public Notice CRTC 2007-25, 12 March 2007
- *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000

- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999

*This decision and the appropriate appendix shall be appended to each licence. 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>*

## Appendix 1 to Broadcasting Decision CRTC 2008-62

### Specific details relevant to the assessment of the applications for new broadcasting licences for FM radio programming undertakings to serve Kelowna, British Columbia

Applicant	Details from the application
<b>Clear Sky Radio Inc.</b> Application 2007-0859-7	<b>Type:</b> English-language commercial (specialty) FM radio programming undertaking <b>Technical parameters:</b> 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts <b>Format:</b> Smooth Jazz <b>Target audience:</b> 34-64 years <b>Canadian content (music):</b> 35% category 2*; 20% category 3** <b>Local programming per broadcast week***:</b> 126 hours <b>Spoken word programming per broadcast week***:</b> 12 hours, 59 minutes <b>News programming per broadcast week***:</b> 6 hours, 21 minutes (news****) <b>Canadian content development contribution (over the basic annual contribution):</b> \$129,500 over seven consecutive broadcast years
<b>Corus Radio Company</b> Application 2007-0860-5	<b>Type:</b> English-language commercial (specialty) FM radio programming undertaking <b>Technical parameters:</b> 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts <b>Format:</b> News/Talk <b>Target audience:</b> 35-64 years <b>Canadian content (music):</b> All Talk (no music) <b>Local programming per broadcast week:</b> 70 hours <b>Spoken word programming per broadcast week:</b> 70 hours, 0 minutes <b>News programming per broadcast week:</b> 14 hours, 0 minutes (news and related surveillance material) <b>Canadian content development contribution (over the basic annual contribution):</b> \$1,750,000 over seven consecutive broadcast years
<b>CTV Limited</b> Application 2007-0857-1	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts <b>Format:</b> Alternative Interactive Radio <b>Target audience:</b> 12-34 years <b>Canadian content (music):</b> 40% category 2 <b>Local programming per broadcast week:</b> 113 hours <b>Spoken word programming per broadcast week:</b> 7 hours, 57 minutes <b>News programming per broadcast week:</b> 2 hours, 17 minutes (news) <b>Canadian content development contribution (over the basic annual contribution):</b> \$700,000 over seven consecutive broadcast years

<b>Deep Waters Media Inc.</b> Application 2007-0852-1	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 102.3 MHz (channel 272B), average effective radiated power of 7,100 watts <b>Format:</b> New Variety music <b>Target audience:</b> 35-64 years <b>Canadian content (music):</b> 40% category 2 <b>Local programming per broadcast week:</b> 126 hours <b>Spoken word programming per broadcast week:</b> 13 hours, 54 minutes <b>News programming per broadcast week:</b> 2 hours, 57 minutes (news) <b>Canadian content development contribution (over the basic annual contribution):</b> \$856,959 over seven consecutive broadcast years
<b>Harvard Broadcasting Inc.</b> Application 2007-0851-3	<b>Type:</b> English-language commercial FM radio programming undertaking <b>Technical parameters:</b> 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts <b>Format:</b> Adult Standards / Easy Listening music <b>Target audience:</b> 35-64 years <b>Canadian content (music):</b> 40% category 2 <b>Local programming per broadcast week:</b> 126 hours <b>Spoken word programming per broadcast week:</b> 30 hours, 0 minutes <b>News programming per broadcast week:</b> 9 hours, 17 minutes, 30 seconds (news and related surveillance material) <b>Canadian content development contribution (over the basic annual contribution):</b> \$682,867 over seven consecutive broadcast years
<b>In-House Communications Inc.</b> Application 2007-0866-2	<b>Type:</b> English-language commercial (specialty) FM radio programming undertaking <b>Technical parameters:</b> 103.9 MHz (channel 280C1), average effective radiated power of 3,600 watts <b>Format:</b> Contemporary Christian music <b>Target audience:</b> 18-54 years <b>Canadian content (music):</b> 35% category 2; 15% category 3 <b>Local programming per broadcast week:</b> 84 hours <b>Spoken word programming per broadcast week:</b> 27 hours, 0 minutes <b>News programming per broadcast week:</b> 5 hours, 20 minutes (news) <b>Canadian content development contribution (over the basic annual contribution):</b> \$35,000 over seven consecutive broadcast years
<b>Northern Native Broadcasting</b> Application 2007-0863-8	<b>Type:</b> English- and Native-language Type B Native FM radio programming undertaking <b>Technical parameters:</b> 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts <b>Format:</b> Blended music – mixture of Popular music (Rock, Pop and Dance) as well as Blues and Country <b>Target audience:</b> entire Kelowna Native population <b>Canadian content (music):</b> 35% category 2 <b>Local programming per broadcast week:</b> 122 hours <b>Spoken word programming per broadcast week:</b> 12 hours, 0 minutes <b>News programming per broadcast week:</b> 3 hours, 0 minutes (news and related surveillance material) <b>Canadian content development contribution (over the basic annual contribution):</b> Not applicable <sup>3</sup>

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<sup>3</sup> Native radio stations are not required to make financial contributions to Canadian content development; however, they are responsible for providing initiatives that would carry out the promotion, presentation and development of Aboriginal

**Radio CJVR Ltd.**  
Application 2007-0865-4

**Type:** English-language commercial FM radio programming undertaking  
**Technical parameters:** 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts  
**Format:** Country music  
**Target audience:** 45+ years  
**Canadian content (music):** 40% category 2  
**Local programming per broadcast week:** 115 hours  
**Spoken word programming per broadcast week:** 12 hours, 29 minutes  
**News programming per broadcast week:** 2 hours, 32 minutes, 30 seconds (news)  
**Canadian content development contribution (over the basic annual contribution):** \$781,000 over seven consecutive broadcast years

**Sun Country  
Cablevision Ltd.**  
Application 2007-0846-4

**Type:** English-language commercial FM radio programming undertaking  
**Technical parameters:** 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts  
**Format:** Classic Rock music  
**Target audience:** 25-54 years  
**Canadian content (music):** 40% category 2  
**Local programming per broadcast week:** 126 hours  
**Spoken word programming per broadcast week:** 25 hours, 0 minutes  
**News programming per broadcast week:** 5 hours, 32 minutes (news, weather and sports)  
**Canadian content development contribution (over the basic annual contribution):** \$315,000 over seven consecutive broadcast years

**Touch Canada  
Broadcasting (2006)  
Inc. (the general  
partner), and 1188011  
Alberta Ltd. and Touch  
Canada Broadcasting  
Inc. (the limited  
partners), carrying on  
business as Touch  
Canada Broadcasting  
Limited Partnership**  
Application 2007-0862-0

**Type:** English-language commercial (specialty) FM radio programming undertaking  
**Technical parameters:** 96.3 MHz (channel 242B), average effective radiated power of 7,100 watts  
**Format:** Gospel Adult Contemporary music  
**Target audience:** 25-54 years  
**Canadian content (music):** 35% category 2; 10% category 3  
**Local programming per broadcast week:** 100 hours  
**Spoken word programming per broadcast week:** 26 hours, 41 minutes  
**News programming per broadcast week:** 3 hours, 31 minutes (news, weather and sports)  
**Canadian content development contribution (over the basic annual contribution):** \$98,000 over seven consecutive broadcast years

**Vista Radio Ltd.**  
Application 2006-0931-5

**Type:** English-language commercial FM radio programming undertaking  
**Technical parameters:** 96.1 MHz (channel 241C), average effective radiated power of 19,900 watts  
**Format:** Classic Hits<sup>4</sup> music  
**Target audience:** 45+ years  
**Canadian content (music):** 40% category 2  
**Local programming per broadcast week:** 126 hours  
**Spoken word programming per broadcast week:** 10 hours, 0 minutes  
**News programming per broadcast week:** 6 hours, 0 minutes (news and

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music talent. In its application, Northern Native Broadcasting committed to promote Aboriginal artists and events, to provide a means for new artists to gain exposure on radio through interviews and feature programming, and to sponsor and promote Native music competitions and events.

<sup>4</sup> In Broadcasting Notice of Public Hearing 2007-12-7, the Commission noted that Vista had originally proposed a Country music format, but changed to a Classic Hits music format in light of a recent music format change in the market.

sports)

**Canadian content development contribution (over the basic annual contribution):** \$700,000 over seven consecutive broadcast years

\* Percentages shown for Category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6:00 a.m. to 6:00 p.m., Monday to Friday. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

\*\* Percentages shown for Category 3 musical selections (Special Interest Music) are for the broadcast week. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

\*\*\* The definition of "broadcast week," as it relates to local, spoken word and news programming, is the same as that set out in the *Radio Regulations, 1986*.

\*\*\*\* As set out in Public Notice 2000-14, "news" excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

## Appendix 2 to Broadcasting Decision CRTC 2008-62

**Sun Country Cablevision Ltd.**

*Application 2007-0846-4, received 4 June 2007*

### **Terms, conditions of licence, expectation and encouragement**

**Issuance of the broadcasting licence to operate an English-language, commercial FM radio programming undertaking in Kelowna, British Columbia**

#### **Terms**

The licence will expire 31 August 2014.

The station will operate at 96.3 MHz (channel 242B) with an average effective radiated power of 7,100 watts.

The Commission will only issue the licence, and the licence will only be effective at such time as:

- the Department of Industry (the Department) has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services;
- pursuant to section 22(1) of the *Broadcasting Act*, the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued; and
- 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 an extension of time is approved by the Commission before 14 March 2010. 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 licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence number 5.
2. The licensee shall, 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), in any broadcast week:

- a) devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular music) to Canadian selections broadcast in their entirety; and
- b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, 40% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

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

3. The licensee shall, upon commencement of operations, make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, (Broadcasting Public Notice 2006-158), as amended from time to time.

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or to MUSICACTION.

The remainder of the basic annual contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

4. In addition to the basic annual contribution, the licensee shall, upon commencement of operations, contribute \$45,000 annually to the promotion and development of Canadian content. This amount is over and above the licensee’s required basic annual Canadian content development contribution. Of this amount, \$9,000 per year shall be devoted to FACTOR. The remainder, \$36,000, 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**

### **Cultural diversity**

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.

## Appendix 3 to Broadcasting Decision CRTC 2008-62

Vista Radio Ltd.

Application 2006-0931-5, received 18 July 2006

### Terms, conditions of licence and expectation

**Issuance of the broadcasting licence to operate an English-language, commercial FM radio programming undertaking in Kelowna, British Columbia**

#### Terms

The licence will expire 31 August 2014.

The Commission will only issue the licence, and the licence will only be effective at such time as:

- the applicant submits, within 90 days of the date of this decision, an amendment to its application proposing the use of an FM frequency other than 96.1 MHz (channel 241C) and related technical parameters that are acceptable to both the Commission and the Department of Industry (the Department);
- pursuant to section 22(1) of the *Broadcasting Act*, the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued; and
- 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 an extension of time is approved by the Commission before 14 March 2010. 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 licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence number 5.
2. The licensee shall, 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), in any broadcast week:

- a) devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular music) to Canadian selections broadcast in their entirety; and
- b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, 40% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

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

3. The licensee shall, upon commencement of operations, make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, (Broadcasting Public Notice 2006-158), as amended from time to time.

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or to MUSICACTION.

The remainder of the basic annual contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

4. In addition to the basic annual contribution, the licensee shall, upon commencement of operations, contribute \$100,000 annually to the promotion and development of Canadian content. This amount is over and above the licensee’s required basic annual Canadian content development contribution. Of this amount, \$80,000 per year shall be devoted to FACTOR. The remainder, \$20,000, 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**

### **Cultural diversity**

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

## **Dissenting opinion of Commissioner Michel Morin**

### **Background**

In July 2006, Vista Radio submitted an application for a country music format FM radio licence to serve the Kelowna region of British Columbia.

Prior to that time, none of the region's five radio stations had considered it appropriate to offer listeners this format.

Nine months later, in March 2007, the CRTC issued a call for applications to all commercial broadcasters. The deadline for submitting licence applications was 4 June 2007.

In its notice, the CRTC committed to considering four unweighted factors for the possible granting of a commercial licence.

Broadcasters responded enthusiastically to the call. In addition to Vista Radio's 2006 application, another ten undertakings submitted proposals in June 2007 for a licence in this region.

The stakes were high. No new radio stations had started up in Kelowna since 1994, and listening levels in the region had fallen by nearly ten per cent over the previous two years.

### **Public hearings short-circuited**

On 4 June 2007, once the potential competitors were announced the two groups that shared ownership of Kelowna's five radio stations reacted by abruptly changing their formats over the summer of 2007 – even before the hearings scheduled for late October could take place.

In mid-August, the Jim Pattison Group abandoned the Soft Vocals music format that it had committed to the CRTC to produce as part of its switchover to the FM band, and adopted a Country format similar to that proposed by Vista Radio.

This tactic was surprising but entirely legal. The CRTC has not regulated radio formats since 1995. As a result, a station can change its format at any time, before, during or after hearings, without being subject to CRTC approval or disapproval!

The Jim Pattison Group had no sooner taken this step than Astral-Standard made its own move.

In September 2007, a few weeks before the hearings were due to begin, Astral-Standard replaced its Oldies format on station CKFR with a News/Talk format like the one Corus Radio had officially proposed in June 2007, in response to the public call for applications.

We can almost conclude from this that the hearings had lost their point, at least in part. In any event, the actions taken in the weeks leading up to the hearings were prejudicial not only to the proposals submitted by Vista Radio and Corus Radio, but also to the Country format proposed by Radio CJVR, and the CRTC, the agency responsible for the Canadian broadcasting system, could not intervene.

In other words, as far as radio formats were concerned, Kelowna was a Wild West town without a sheriff.

The dominant players in the Kelowna market appropriated the new players' formats even before the hearings were held, thereby short-circuiting the call for applications issued in response to Vista Radio's 2006 application.

Clearly, the format changes made by the dominant players were not designed to contribute to the public call for applications process, but rather to destabilize potential competitors openly seeking to provide new radio formats to Kelowna's 155,000 residents.

The question then arises: Why should local, regional or national undertakings invest sums often upwards of \$100,000 to submit a proposal to the CRTC if existing players can move to a different format with impunity just before the public hearings, and by doing so deal a fatal blow to the proposals submitted by undertakings attempting to participate in the public process?

Even so, Vista Radio was able to persuade two of the three Commissioners to award it a radio licence different from the one it had proposed in 2006.

Corus Radio (which had submitted a proposal for a News/Talk format in June) was obliged to justify its proposal to the CRTC all over again following Astral-Standard's decision to convert its AM station to a similar News/Talk format.

The CRTC hearings in Kelowna were thus stripped of some of their meaning as a result of format changes made by the two major broadcasters in the region in the weeks prior to the CRTC's public hearings.

In view of these events, I would like to suggest an improved framework for holding hearings on the potential granting of broadcasting licences.

## **Establish a framework for hearings and calls for applications for new radio licences**

In recent years, Canadian radio stations have become significantly more profitable.

Current economic growth, particularly in western Canada, is encouraging numerous undertakings to apply for new broadcasting licences.

While last summer's events in Kelowna are not typical, the possibility now exists for similar scenarios to be repeated in the future.

New players could be shut out of the broadcasting system by the tactics of well-established players.

In other words, to retain their markets, dominant players will not hesitate to make radical format changes to counter competing proposals submitted in response to a public call for applications, as we have seen in Kelowna.

To prevent similar conduct in the future, I propose the following rule: [translation]

*When the CRTC agrees to issue a public call for applications – i.e., when it decides to invite undertakings to submit proposals for a broadcasting licence – those radio stations already present in the market should be required to immediately freeze their broadcasting formats until the conclusion of the CRTC hearings.*

This rule is not perfect. It would, however, have the effect of freezing the formats of all undertakings already in the market for a certain period of time.

It would not, for example, prevent an undertaking from adopting one of the formats proposed during the call for applications, but it would only be able to do so after the hearings had ended.

As a result, from the time that the call for applications is issued until the conclusion of the hearings, none of the established players could take advantage of the situation in order to introduce a new music or news/talk format proposed by another applicant. In the Kelowna case, this period extended for eight months, from March to November 2007.

This rule would undoubtedly arouse opposition from the industry. But is it not the CRTC's role to protect the interests of the Canadian broadcasting system as a whole, and in particular to promote its renewal by vigorous and stimulating commercial proposals?

It should also be noted that new, more precise and reliable audience measurement techniques (the *Portable People Meter*, or PPM) will force broadcasters to adapt more and more rapidly to consumer needs. In this context, an eight-month freeze may seem excessive, but this may be the price we have to pay to protect the original proposals submitted by new players.

If, ideally, to protect the integrity of the process, it were decided to wait until the new station comes on the air, the initial eight-month freeze might be extended by an additional ten months.

In my opinion, this ideal solution of 18 months is unfeasible in an increasingly competitive context. An unduly long freeze could cause irreparable harm to the undertakings.

The rule that I propose represents a compromise that would protect new players while preserving the competitive nature of the broadcasting system.

But is there not a danger that, once the decision is made, players already in the market may appropriate the radio formats won at great cost by the new licensee or licensees? Of course there is. Once again, established players could take advantage of their position in the market to copy the new formats selected by the CRTC following the public hearing process.

At this stage in the process, I would therefore be in favour of the CRTC imposing a partial freeze to protect the formats until they begin broadcasting ten months later. Existing players seeking to adapt to the constantly evolving market would still have more than 15 formats to choose from in the English-language market and nearly half a dozen in the French-language market.

Once the new radio station is on the air, the freeze would be lifted and all formats would once again become available.

To summarize, these new rules would establish a four-stage process:

- 1) As soon as a call for applications is issued, all radio formats in a given market would be frozen until completion of the hearings.
- 2) On completion of the hearings, all formats would be unfrozen until the CRTC releases its decision.
- 3) From the time that the CRTC decision is released until the new station comes on the air, none of the existing players in the market could adopt the radio format or formats selected by the CRTC.
- 4) Once the new station comes on the air, radio formats would again be completely unregulated.

If the Commission were to adopt this four-stage approach, it would protect the stimulating proposals offered by new players seeking to enter a new market and would partially maintain the integrity of the call for applications process initiated by the CRTC when a broadcaster applies for a new licence.

Without such a rule, there is a real possibility that more players will have their proposals appropriated with impunity by existing broadcasters.

Let there be no mistake about it: such a situation could threaten the diversity of voices. It could also jeopardize the credibility of the CRTC itself and the public call for applications process.

Innovators and those attempting to develop new broadcasting formats are entitled to this minimum level of protection for their formats. Without it, they may well be penalized by a system that refuses to protect their broadcasting proposals. It is not a question of reinventing the wheel – the same approach is already used in public calls for tenders for the construction of buildings or roads.

Under the existing system, no one can say for sure that the Jim Pattison Group's Country format is superior to the Country formats proposed by Radio CJVR and Vista Radio. Nor can anyone be certain that the News/Talk format confirmed by Astral-Standard on the AM band could stand up to comparison with the similar format proposed by Corus Radio on the FM band.

In other words, under our proposed rule, the Jim Pattison Group could not have offered Kelowna listeners its own second country radio station until after the CRTC hearings, i.e., in early November. Would it have done so under the circumstances? It is a reasonable question. No one knew for sure whether the CRTC would approve a Country format.

What we do know, however, is that by adopting a Country format in the summer of 2007, the Jim Pattison Group completely undermined the country music proposals submitted by Vista Radio in 2006 and by Radio CJVR in June 2007 following the call for applications.

Vista Radio – the undertaking that had triggered the public call for applications – was forced to backtrack and present its last-minute plan B, a Classic Hits format.

Is this a practice that the CRTC now wants to encourage? Offering the new innovative proposals submitted by applicants for new licences on a platter to established licensees?

In my opinion, the answer is obvious.

## **The case for a more detailed call for applications**

In its call for applications for the Kelowna market, the CRTC set out four general factors to be considered in its decision.

Were some factors more important than others? The public notice did not say. It presented no scale or relative weighting. Nor does the CRTC's decision shed any more light on the subject. Even today, no one – including industry – knows which factors were the most influential in determining the CRTC's selections.

Paragraph 14 of the decision strongly emphasizes the ownership of “local” and “regional” stations. Yet no such requirement was included in the four factors listed in the call for applications in March 2007.

At most, the notice spoke of local programs, which (unless I am mistaken) could be offered just as well by a station that is locally owned as by one that is nationally owned.

What was the most important factor in the decision handed down by two of the three Commissioners? Diversity of voices? Meeting the needs of underserved listeners? Market impact? Or the quality of the application?

The decision tells us no more than the call for applications issued by the CRTC last March. There is a lack of transparency in the entire decision making process that must be eliminated, at least in part, by specifying a certain number of statements instead of simply setting out, in no particular order, four factors for general consideration.

Before spending \$100,000 in a public process, undertakings have the right to know more on the CRTC's intentions and issues. In addition to the criteria already established, they have a right to more specific information and to more guidelines to be able to better evaluate the risks associated with submitting applications.

For instance, after Vista Radio submitted its application, the CRTC could have indicated, on the basis of that application and its own knowledge of the market, that it considered the Kelowna market underserved, particularly for young listeners.

More precisely, based on current market trends, the CRTC could have listed a number of formats that it considered under-represented in this very specific B.C. market. Its own recent decisions could have served as guidelines.

Finally, on the commercial level, the CRTC could have clearly informed potential undertakings that Kelowna had room for one, two or more licences.

In short, the CRTC must be more transparent to undertakings that are making investments and taking risks.

Since this was my first hearing relating to a call for applications, I hesitate to go into any further detail. For now, I propose that the CRTC simply be more transparent with respect to its expectations, starting with the call for applications, even if this means issuing a number of amendments during the period that follows the call for applications and precedes the hearings.

In the Kelowna case, it seems clear to us that this market was poorly served by the five radio stations. The format changes made by the two dominant groups on the eve of the hearings demonstrate this fact beyond the shadow of a doubt. Were the interests of consumers well served by these efforts to shut new players out of the Kelowna market?

For the Canadian broadcasting system, this was clearly the most important challenge! In my opinion, given the existence of five stations in the region, the search for format diversity rather than simple editorial diversity could have been identified as a major objective from the outset. Finally, the CRTC should have clearly indicated its willingness to consider granting more than one licence in the call for applications issued in March 2007.

All of these guidelines for broadcasters could have been clearly set out in the public call for applications. They would have helped the industry to understand the situation fully before plunging into the public licence application process.

We feel that calls for applications and hearings require an improved framework, based on a clear expression of the CRTC's intentions and the adoption of a rule in advance that would freeze the formats of those players that are already an integral part of the system.

### **Three proposals that seemed superior to those approved by the Commission**

In paragraph 14 of its decision, the Commission writes:

[...] the proposals by Sun Country, a local applicant and a relatively small player in the radio broadcasting landscape, and Vista, a regional player, would augment the diversity of radio voices in the Kelowna market and would add to the news voices (in particular, local news voices) in that market.

In this statement, the Commission emphasizes the fact that its two selections represented a local applicant in one case and a regional player in the other. It is clear from this text that news voices are identified with local and regional ownership.

As I indicated earlier, the original call made no reference to ownership. Why are these factors included in the final decision? In hindsight, would Corus Radio and CTV still have been interested in participating in the public process?

The fact that an undertaking is nationally owned does not necessarily mean national content at the local level. For instance, Corus Radio is a national group, but its proposed News/Talk format was eminently local.

As for CTV, the other national group, its proposal was directed at young people in Kelowna, not Toronto.

We deplore these local, regional and national distinctions. If they are considered essential, fine, but they should be indicated as such from the outset, in writing, in the call for applications.

Need I point out that these arguments did not necessarily contribute to the diversity that the CRTC uses to justify its selection of Vista Radio and Sun Country?

As for the CTV proposal – an innovative project that planned to use both radio and the Internet to reach Kelowna’s young people –, it can be assumed that these young people would have been involved to an extent unique in Canada.

Again in paragraph 14, the Commission writes that both Sun Country and Vista Radio presented viable business plans. This may very well be true, but it could not have been a determining factor in view of the proposals presented by CTV, Corus Radio or Deep Waters Media, the owners of which were solidly backed by Rawlco, a Regina firm.

Will the two proposals selected by the CRTC still have the same owners at the end of the first seven-year licence term? Unless some action is taken, the CRTC may well see the new owners sell their licences to larger players at some point during this period. I believe that a sale during the initial licence term was less likely in the case of players such as CTV, Deep Waters Media and Corus Radio.

In my recent dissenting opinion (*CIGR-FM Sherbrooke – Acquisition of assets*, Broadcasting Decision CRTC 2007-435, 24 December 2007), I suggested that a rule prohibiting the sale of radio stations before the end of the first seven-year licence term be applied universally to all new undertakings in the Canadian broadcasting system so as to prevent licence trafficking during the first seven-year licence term.

In regard to continuity, I admit to feeling more confidence in the CTV and Corus Radio proposals. In addition, 29.9% of the capital of Deep Waters Media (recognized consultants in the field for 30 years) is held by a minority shareholder, Regina’s Rawlco, which is known for its long-term investments.

In paragraphs 15 and 17, the Commission stresses the contribution to diversity offered by the Sun Country and Vista Radio proposals.

Some diversity! These two paragraphs note that the first proposal targets an audience from 25 to 54 years of age, with a slight emphasis on male listeners, while the second targets an audience 45 years of age and older, focusing – again – predominantly on men. Clearly, both of the Commission’s choices favour male listeners!

In contrast, the CTV proposal focused on the age group the least well served by the current system, that is, young people under the age of 34.

As for the Corus Radio News/Talk proposal, it targeted an audience between the ages of 35 and 64, both men and women, with no preference for either gender.

Finally, the proposal submitted by Deep Waters Media targeted the vast audience of listeners from 35 to 64 years of age and indicated that 90% of the musical selections specified were not generally broadcast by the five Kelowna stations.

Diversity in Kelowna would thus have been better served by a CTV-Corus Radio, CTV-Deep Waters Media or Deep Waters Media-Corus Radio combination.

### **The Deep Waters Media, Corus Radio and CTV proposals**

In my opinion, at least three proposals presented at the public hearings in Kelowna were preferable to the two selected by the Commission.

#### **Deep Waters Media**

This is a financially solid group that offers a varied choice of music produced entirely since the beginning of the decade, with composers or artists ranging from Diana Krall and Norah Jones in 2002 to more recent performers such as Michael Bublé or Amy Winehouse.

The format is accurately described by its name: New Variety music.

A poll commissioned by the undertaking clearly indicated that more than 35% of Kelowna consumers were interested in listening frequently to this musical genre, which consists almost exclusively of music produced since the beginning of the new millennium. No fewer than one listener in three responded “OFTEN” to the question of how frequently they would listen to this musical genre.

With this potential listenership, the undertaking appeared confident of capturing over ten per cent of the market share by its third year on the air.

But over and above these considerations, on a strictly musical level, diversity would clearly have benefited, as would have listeners in the region. The New Variety music format lived up to its name, targeting a broad audience made up of both male and female listeners between the ages of 35 and 64, and offering 40% Canadian content, of which two-fifths would be devoted to emerging Canadian artists. Neither Vista Radio nor Sun Country offered as much to our country’s young artists.

In addition, the undertaking proposed to build bridges with the Aboriginal community and to promote environmental concerns.

Its proposal to broadcast on the 102.3 MHz frequency did not conflict with those proposed by CTV and Corus Radio.

Finally, its \$856,959 contribution to Canadian content development was substantially higher than those of \$700,000 and \$315,000 proposed by the proposals selected by the Commission.

### **Corus Radio**

Based on its experience with 16 other radio stations offering the same format, Corus Radio proposed a News/Talk format that would have created more jobs – 30, including 12 in news alone – than any other proposal submitted to the Commission in Kelowna.

Not only is the station a recognized Canadian leader in this radio format, but in addition to jobs created, it proposed by far the largest contribution to Canadian content development, at \$1,750,000, which is two and a half times Vista Radio's contribution and five and a half times that proposed by Sun Country.

Corus Radio would have offered Kelowna listeners 14 hours of news a week, more than any other proposal, and two to three times more than the Sun Country and Vista Radio proposals.

In view of the quality of this proposal, I feel that the Commission could have hardly rejected it for all listeners in the region.

The Kelowna public must now make do, as I have explained above, with a largely defensive proposal submitted by the Astral-Standard group following the call for applications in March 2007.

### **CTV**

Finally, CTV's Alternative Interactive Radio (AIR-FM) proposal was directed at young people and represented a unique proposal for the Canadian radio landscape.

How long have the experts been telling us that the Internet and radio are complementary! The CTV proposal specifically targeted young people under the age of 34, precisely the group that, with its iPods and MP3 players, is creating headaches for commercial broadcasters.

In Kelowna, it is estimated that radio listening levels among this segment of the population have dropped by 20% since the year 2000. That was all the client needed to know! In fact, the decline in listenership among young people is more pronounced in Kelowna than in the country as a whole, yet the Commission selected two proposals that did not address this group.

As the CTV people emphasized, their unique and innovative proposal targeted 30% of Kelowna's population. The Internet was becoming complementary to the broadcasting system, and news and information programming was more likely to meet their needs.

Allow me to quote several paragraphs from the CTV proposal.

- A radio station with a website is not new. One that provides a 360 degree interactive experience that draws local audiences into the programming of the radio station is unprecedented.
- For the first time, listeners will be able to share unique content they discovered or created through their AIR-FM software profile. The AIR-FM music player will feature very user friendly functionality so that listeners can embed their player on their Facebook/Myspace profile, blog or personal website – this allows AIR-FM to become woven into the listener's life.
- The interactive components of AIR-FM have been designed to give young media consumers a fully realized interactive experience which will bring them back to radio by engaging them in the service. AIR-FM listeners will participate with the on-air product on multiple levels.
- Delivering a deep and meaningful experience to the audience is not limited to music alone. Our news and information gathering will be providing a new platform for expression for a generation that is not consuming traditional media.
- As the Commission is aware, interest in traditional news and information programming among younger listeners is a challenge. Youth put social issues, the environment, music and entertainment news first. By providing a focused news approach covering the stories that Kelowna youth are passionate about, we can engage our listeners, and tell the stories which are not being told from their perspective.
- AIR-FM will tell these local and regional stories, and tell them on the audiences' terms, reaching them not only on radio but linking the stories on-line to provide listener commentary, polling and blogging.
- Young media consumers want information on their terms. Because of this concise, yet meaningful news and information approach, we believe the diversity of voices in Kelowna will be greatly enriched by AIR-FM.

- AIR-FM will increase editorial diversity in the marketplace with three and a half hours of news and current affairs each week, delivered in a style and presentation aimed directly at the key demographic.
- AIR-FM artists will include titles by Gym Class Heroes, Muse, and the Arctic Monkeys, and a myriad of emerging Canadian artists like Tegan & Sara, Thousand Foot Crutch, Tokyo Police Club, Evans Blue, and many, many more, none of which are currently receiving radio airplay in Kelowna.

CTV committed not only to offer musical programming with 40% Canadian content, but – like Deep Waters Media – to reserve two-fifths of its musical programming for emerging artists. CTV and Deep Waters Media were going well beyond the CRTC’s Commercial Radio Policy ... and in my humble opinion, in the right direction!

In its final reply, CTV wrote:

We respectfully submit that CTVglobemedia’s application for AIR-FM is the only application in the process that explicitly addressed this challenge [listenership] as the most direct response to the Commission’s Commercial Radio Policy.

Recall that in 2006, the Commission (*Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006) clearly maintained its intention to “question radio licensees [...] in new licensing [...] proceedings, about their plans to employ new distribution platforms to the benefit of the Canadian broadcasting system.”

The CTV proposal offered us a wonderful opportunity to catch the ball in mid-air. We let it pass us by.

## **Conclusion**

In conclusion, I believe that the proposals submitted by Corus Radio, Deep Waters Media and CTV were superior to those submitted by Sun Country and Vista Radio. Even more important, they were fundamentally different. From the outset, the target markets were different.

**COMPARISON BETWEEN THE PROPOSALS SELECTED AND THE  
PROPOSALS NOT SELECTED BY THE COMMISSION**

SELECTED PROPOSALS	TARGET MARKETS	1 <sup>st</sup> year MARKET SHARE
Sun Country	25-54	12.6%
Vista Radio	45 +	14.5%
REJECTED PROPOSALS	TARGET MARKETS	1 <sup>st</sup> year MARKET SHARE
CTV	12-34	----
Corus Radio	35-54	10%
Deep Waters Media	25-64	8%

It should be noted that the first two of the three proposals that I considered more interesting were addressed to mutually exclusive audiences in terms of target age groups. In addition, the CTV and Corus Radio proposals were directed primarily at groups representing age brackets of 20 years rather than 30 years as in the two proposals selected by the Commission. In the case of Deep Waters Media, although the (official) bracket was 40 years, that of the core audience targeted was 15 years (35-49 years). Finally, the first-year market share for Corus Radio and Deep Waters Media was lower than that projected by Sun Country and Vista Radio. An 18% impact on the market (Deep Waters + Corus; the CTV figures are not known) would have been easier for the five existing stations to absorb than the 27% impact projected for Sun Country and Vista Radio.

In the course of our discussions, the choice did not arise since my respected fellow Commissioners opted exclusively for the proposals submitted by Sun Country and Vista Radio.

Finally, after abandoning the Country music format that it had originally proposed, Vista Radio was nonetheless successful in convincing the CRTC to accept its plan B, despite opposition from the other ten competitors, whose proposals had been known since 4 June 2007. It must be admitted that this is a remarkable achievement for a firm attempting to enter a new market!

Finally, I believe that, in general, the Commission should devote special attention to content, news and talk radio. Nothing can match content radio in capturing Canadian identity and promoting our mosaic of values and priorities.

For all these reasons, I therefore express my dissent with respect to the two music-based radio formats approved by the Commission.