



Broadcasting Decision CRTC 2009-39

Route reference:

Broadcasting Public Notice 2008-21

Additional reference:

Broadcasting Public Notice 2008-21-1

Ottawa, 2 February 2009

Various applicants

London, Ontario

*Public Hearing in Cambridge, Ontario
20 October 2008*

Licensing of new radio stations to serve London, Ontario

*The Commission **approves** the application by Blackburn Radio Inc. for a broadcasting licence to operate a new FM radio station to serve London. The licence will expire 31 August 2015.*

*The Commission also **approves** the application by Sound of Faith Broadcasting, subject to certain conditions, for a broadcasting licence to operate a new FM radio station to serve London. The licence will expire 31 August 2012.*

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

A dissenting opinion by Commissioners Elizabeth Duncan and Peter Menzies is attached.

Introduction

1. At a public hearing commencing 20 October 2008 in Cambridge, Ontario, the Commission considered nine applications for new radio programming undertakings to serve London, Ontario, some of which are mutually exclusive on a technical basis. The applicants were as follows:
 - Blackburn Radio Inc.
 - CTV Limited
 - Evanov Communications Inc., on behalf of a corporation to be incorporated
 - Forest City Radio Inc.
 - Frank Torres, on behalf of a corporation to be incorporated

- My Broadcasting Corporation¹
 - Rogers Broadcasting Limited
 - Sound of Faith Broadcasting²
 - United Christian Broadcasters Canada
2. As part of this process, the Commission received and considered interventions with respect to each application. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
 3. The Commission is of the view that the primary issues to be considered are as follows:
 - Can the London radio market sustain additional radio services without an undue negative impact on existing stations?
 - If so, which of the applications should be approved, in light of the factors identified in Broadcasting Public Notice 2008-21 (the Call)?

The London radio market and its ability to sustain new stations

4. The London radio market consists of eight local commercial radio stations, three of which are AM stations and five of which are FM stations.³ Astral Media Radio G.P.⁴ operates CKSL London (Gold/Oldies), CJBK London (News, Talk and Sports), CIQM-FM London (Adult Contemporary and Soft Rock) and CJBX-FM London (Country); Corus Radio Company operates CFPL London (News, Talk and Sports), CFPL-FM London (Modern and Alternative Rock) and CFHK-FM St. Thomas (Contemporary Hit Radio); and CTV Limited operates CHST-FM London (Contemporary Hit Radio), a stand-alone radio station that was the most recent radio station to be licensed for the London radio market.⁵
5. Out of market tuning by London area residents 12 years of age and older accounts for approximately 18% of their total tuning. Further, tuning by this same group to London-based rebroadcasts of Toronto-based Canadian Broadcasting Corporation (CBC) stations accounts for an additional 12% of their total tuning. Among the out-of-market radio stations available to London area listeners are CBL-FM Toronto (the CBC Radio

¹ My Broadcasting Corporation proposed a radio service dedicated to the city of St. Thomas, Ontario, which is located about 25 kilometres south of the city of London. The inclusion of the application by My Broadcasting Corporation along with those for radio stations to serve London is based on St. Thomas being located within the area defined by BBM Canada as comprising the London radio market.

² The new FM radio station proposed by Sound of Faith Broadcasting would replace its existing low-power Christian music radio station CHJX-FM London.

³ The Commission notes that My Broadcasting Corporation operates CJMI-FM Strathroy, which operates under a Hot Adult Contemporary format and is available to listeners in London. In addition, three non-mainstream radio stations operate in London: CIXX-FM, operated by Radio Fanshawe Incorporated, CHRW-FM, operated by Radio Western Inc., and CHJX-FM, which, as noted above, is currently operated by Sound of Faith Broadcasting.

⁴ Astral Media Radio (Toronto) Inc. and 4382072 Canada Inc., partners in a general partnership carrying on business as Astral Media Radio G.P.

⁵ See Decision 99-482.

Two service), CBLA-FM Toronto (the CBC Radio One service), CKDK-FM Woodstock (Classic Rock) and CKOT-FM Tillsonburg (Easy Listening).

6. According to Statistics Canada's 2006 Census, the population of the London Census Metropolitan Area (CMA) was 457,720. The population had increased by 5.1% from the 2001 Census, as compared to 5.4% for Canada and 6.6% for Ontario during the same period. According to Financial Post Markets – Canadian Demographics 2008, the current population of the London CMA is estimated to be 484,685 and is expected to grow by 2% from 2008 to 2013, compared to 4% for Canada and 5% for Ontario over the same period.
7. The 2007 aggregate profit before interest and tax (PBIT) margin for the London radio market was just under 28%, which is above the 2007 national average PBIT margin of 20%. As a whole, the London radio market has been increasingly profitable since 2003.
8. From 2003 to 2007, the average yearly growth in total revenues was 7.3% in the London radio market. Based on the best information available to it at the time of the issuance of the Call, the Commission projected a significant decrease in the annual growth rate in total advertising revenues for the London radio market. Based on more recent information, the Commission projects that the market for advertising revenues for this radio market will be even weaker than previously projected.
9. The Commission requested comments from the parties in regard to the capacity of the London radio market to sustain new entrants and to the viability of their business plans. Although the applicants, at the public hearing, expressed confidence that their business plans were viable, they generally acknowledged that the recent downturn in the economy might have some negative impact on their respective proposals.
10. The Commission notes that the economic situation in southern Ontario has worsened considerably since the issuance of the call for applications to serve London and since the public hearing. The November 2008 Trans-Canada Radio Advertising by Market (TRAM) Report reflects the initial impact of the economic slowdown with radio advertising revenues declining in most radio markets in Canada and particularly in southern Ontario. In early December 2008, the Bank of Canada acknowledged that Canada is entering a recessionary period “as a result of weakness in global economic activity.”
11. In spite of the current economic situation in Canada and the projected decrease in the London radio market's annual revenues, the Commission considers that the larger size of this radio market and its strong record of profitability will enable it to absorb a new entrant without undue impact on incumbent radio stations. The Commission is therefore satisfied that the London radio market could support the licensing of one new mainstream commercial radio station as well as the relaunch of Sound of Faith Broadcasting's (Sound of Faith's) Christian music specialty station CHJX-FM.

Assessment of the applications

Sound of Faith

12. The Commission notes that two applicants – Sound of Faith and United Christian Broadcasters Canada – proposed Christian music specialty radio programming undertakings.⁶ Having considered each of these applications in light of the factors identified in the Call, and given the current economic situation, the Commission considers that Sound of Faith’s proposal best responds to the current economic capacity of the London radio market. In this regard, the Commission notes that Sound of Faith’s proposed FM radio station will replace its existing low-power FM radio station CHJX-FM, and that the relaunch of its existing radio service with an expansion of its authorized service contours will therefore provide an increased presence for its niche radio service. Further, the frequency and technical parameters proposed by Sound of Faith are limited in coverage and will not extend into the entire London radio market. Finally, due to its Christian music format, the new station will have a limited impact on commercial radio revenues in that market.
13. Sound of Faith is a not-for-profit corporation controlled by its board of directors.
14. Sound of Faith’s proposal to offer a Christian music format will target adults from 18 to 55 years of age. The applicant committed to devote at least 95% of the station’s music programming to selections drawn from subcategory 35 (Non-classic religious). In addition, Sound of Faith committed to broadcast, in each broadcast week, 28 hours and 30 minutes of spoken word programming, of which three hours and 15 minutes will be news programming. The applicant further stated that the new station’s programming will be very similar to that broadcast on its existing station, CHJX-FM.
15. In regard to contributions to Canadian content development (CCD), Sound of Faith indicated that, for its new FM station, it would adhere to the basic CCD requirements set out in the *Radio Regulations, 1986* (the Regulations). The Commission notes, however, that, in regard to Sound of Faith’s required contributions for CHJX-FM to Canadian talent development (CTD) under the Canadian Association of Broadcasters’ (CAB’s) former CTD plan, set out in Broadcasting Decision 2002-416, there was an apparent shortfall of \$16,406 from 2004 through 2007. The Commission requested Sound of Faith to provide, within 30 days of the 20 October Cambridge public hearing, annual returns for those years as well as proof that it has made its required CTD contributions for CHJX-FM. In reply, Sound of Faith submitted annual returns; however, these returns did not contain proof of contributions having been made to specific and eligible initiatives. As such, the Commission remains concerned that the CTD shortfall has not been fully addressed.

⁶ The details of these applications are set out in Appendix 1 to this decision.

16. Accordingly, the Commission will require Sound of Faith, as a condition of approval of its present application, to provide the following documentation related to CHJX-FM's compliance with its CTD obligations:

- proof of CHJX-FM's payment made to various CTD initiatives, as required in Broadcasting Decision 2002-416; and
- a breakdown of CHJX-FM's payments made and a detailed description of the initiatives sponsored with those payments, so as to allow the Commission to determine the eligibility of the initiatives.

Further, if certain payments made by Sound of Faith were directed to ineligible recipients, the applicant must redirect funding to eligible initiatives before 30 June 2009 in order to fulfill its prior CTD obligations. The above-noted documentation, including proof of payment, is to be submitted to the Commission by no later than 30 June 2009.

17. This condition of approval will be considered to have been met once the applicant has been advised by the Commission of the acceptability of the requested documentation.
18. Finally, the Commission considers it appropriate to issue Sound of Faith a short-term licence for the new FM radio station to replace its current station CHJX-FM, so that it may evaluate, at an earlier date, the applicant's compliance with its conditions of licence relating to its commitments to CCD for the new FM radio station. Accordingly, the licence for the new FM radio station will expire 31 August 2012. The Commission reminds Sound of Faith that it must ensure the correctness of its annual returns in regard to its required CCD contributions, as well as to any other required information.

Applications for new mainstream commercial radio stations

19. Having determined that there is also room in the London radio market for one additional mainstream radio service, the Commission has considered the appropriate applications to serve London in light of the factors relevant to the evaluation of the applications outlined in the Call, which include the factors set out in Decision 99-480:
- the quality of the application;
 - the diversity of news voices;
 - addressing the London radio market in terms of underserved listeners; and
 - the competitive state of the radio market and the level of market impact.
20. The details of these applications are also set out in Appendix 1 to this decision. Having considered all of these applications in light of the criteria set out above, the Commission finds that the proposal by Blackburn Radio Inc. (Blackburn) best meets the needs of the London radio market.

21. Blackburn is a corporation controlled by Cogent Investments Inc., which in turn is controlled by Richard Costley-White.
22. Blackburn's proposal to offer an Adult Album Alternative (Triple A) music format targeting adults from 34 to 64 years of age will add to the musical diversity of the London radio market and will address an underserved demographic in that market. The applicant committed to devote at least 40% of all category 2 (Popular music) musical selections broadcast during each broadcast week and between 6:00 a.m. and 6:00 p.m., Monday to Friday, as well as 30% of all category 3 (Special Interest Music) musical selections broadcast during each broadcast week, to Canadian selections. The applicant will also devote 10% of the category 3 music broadcast each broadcast week to Jazz and Blues, World Beat and Folk musical selections.
23. The Commission notes that approval of the application by Blackburn, which currently operates radio stations in Chatham, Leamington, Sarnia, Windsor and Wingham, Ontario, will see this new local player in the London radio market increase its regional presence in Southwestern Ontario. The Commission considers that Blackburn, although a smaller Canadian radio licensee, has the depth of resources necessary to confront the current precarious economic situation in Southwestern Ontario and compete against the multiple operations of the licensees of London's incumbent radio stations. Further, the Commission is of the view that Blackburn, by realizing efficiencies and maximizing synergies among its various radio stations, will be able to provide a service that is locally and regionally reflective.
24. Blackburn's proposal will also introduce competition in the London radio market and add to the diversity of news voices in London. In addition to providing significant local reflection through the proposed 120 hours of local programming per broadcast week, Blackburn committed to devote, in each broadcast week, 12 hours and 50 minutes to spoken word programming, including five hours and ten minutes of "pure" news.⁷
25. All commercial radio licensees must adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations. The Commission notes that Blackburn made commitments to exceed the minimum contribution to CCD. Specifically, Blackburn committed to devote, over and above the basic annual contribution to CCD, a total of \$1,500,000 to CCD over seven consecutive broadcast years upon commencement of operations. Of this amount, \$360,000 will be devoted to FACTOR. The remainder will be directed to eligible initiatives as follows:
 - \$364,000 to 91.1 FREE-FM New and Emerging Spotlight;
 - \$230,000 to 91.1 FREE-FM New and Emerging Contest;
 - \$105,000 to Thames Valley District School Board - Variety and the Elementary Arts Festival;

⁷ The definition of "news programming" is set out in Public Notice 2000-14.

- \$105,000 to Home County Folk Festival;
- \$105,000 to London's International Bluesfest;
- \$105,000 to London district Catholic School Board Festival Sponsorship;
- \$56,000 to Martha Blackburn Multicultural scholarship at the journalism program;
- \$35,000 to Martha Blackburn Scholarship for female students; and
- \$35,000 to 91.1 FREE-FM first-year scholarship.

Determinations

26. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in London:

Blackburn Radio Inc.

Application 2008-0683-8, received 12 May 2008

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

27. In addition, the Commission **approves**, subject to certain conditions of approval, the following application for a broadcasting licence to operate an English-language specialty commercial FM radio programming undertaking in London:

Sound of Faith Broadcasting

Application 2008-0680-5, received 12 May 2008

The terms and **conditions of licence** for this new service are set out in Appendix 3 to this decision. As a **condition of approval**, the Commission directs Sound of Faith to comply with the directives set out in that appendix.

28. As set out in Appendix 3 to this decision, Sound of Faith is authorized to simulcast the programming of the new FM station on CHJX-FM for a transition period of three months following commencement of operations of the new FM station. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act*, and as consented to by Sound of Faith in its application, the Commission **revokes** the licence for CHJX-FM at the end of the simulcast period.
29. In light of the above, the Commission **denies** the seven remaining applications for broadcasting licences to operate radio programming undertakings in London, as set out below:

CTV Limited

Application 2008-0688-8, received 12 May 2008

Evanov Communications Inc., on behalf of a corporation to be incorporated

Application 2008-0681-2, received 12 May 2008

Forest City Radio Inc.

Application 2008-0682-0, received 12 May 2008

Frank Torres, on behalf of a corporation to be incorporated

Application 2008-0686-2, received 12 May 2008

My Broadcasting Corporation

Application 2008-0660-7, received 6 May 2008

Rogers Broadcasting Limited

Application 2008-0692-9, received 12 May 2008

United Christian Broadcasters Canada

Application 2008-0694-5, received 13 May 2008

30. Because Blackburn is subject to the *Employment Equity Act* and files reports concerning employment equity with the department of Human Resources and Social Development Canada, its employment equity practices are not examined by the Commission.
31. The Commission notes that both CTV Limited and Rogers Broadcasting Limited, in their applications, set out initiatives relating to the integration of interactive components into their programming proposals. Although those applications for new FM radio stations are denied in the present decision, the Commission considers that the introduction and integration of interactive components into existing and future radio programming undertakings should be more fully explored and developed on a going forward basis, particularly as those interactive components relate to the promotion and development of Canadian music and spoken word content.

Secretary General

Related documents

- *Call for applications – Radio – London, Ontario – Notice of consultation, Broadcasting Public Notice CRTC 2008-21, 13 March 2008, amended by Call for applications – Radio – London, Ontario – Addition of financial summary – Notice of consultation, Broadcasting Public Notice CRTC 2008-21-1, 27 March 2008*
- *Commercial Radio Policy 2006, Broadcasting Public Notice CRTC 2006-158, 15 December 2006*
- *Low-power Christian music FM radio station in London, Broadcasting Decision CRTC 2002-416, 9 December 2002*

- *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-482, 28 October 1999
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

This decision and the appropriate appendix are to 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 2009-39

Details from the applications for new broadcasting licences for FM radio programming undertakings to serve London, Ontario

Applicant	Details from the application
Blackburn Radio Inc. Application 2008-0683-8	Type: English-language commercial FM radio programming undertaking in London Technical parameters: 98.1 MHz (channel 251B1), average effective radiated power of 4,000 watts Format: Adult Album Alternative (Triple A) (10% Category 3* music to be drawn from Jazz and Blues, World Beat and Folk) Target audience: 35-64 years (34-44 core) Canadian content (music): 40% category 2**; 30% category 3 Local programming per broadcast week***: 120 hours Spoken word programming per broadcast week: 12 hours, 50 minutes News programming**** per broadcast week: 5 hours, 10 minutes Canadian content development contribution (over the basic annual contribution): \$1,500,000 over seven consecutive broadcast years Live-to-air programming per broadcast week: 82 hours Emerging Canadian artists programming per broadcast week: 10%
CTV Limited Application 2008-0688-8	Type: English-language commercial FM radio programming undertaking in London Technical parameters: 98.1 MHz (channel 251B), average effective radiated power of 6,600 watts Format: Modern Hit Radio (mix of pop, urban, alternative and alternative pop) Target audience: 13-34 years (general and core) Canadian content (music): 40% category 2 Local programming per broadcast week: 126 hours Spoken word programming per broadcast week: 12 hours, 48 minutes News programming per broadcast week: 3 hours Canadian content development contribution (over the basic annual contribution): \$3,500,000 over seven consecutive broadcast years Live-to-air programming per broadcast week: 126 hours Emerging Canadian artists programming per broadcast week: 10%
Evanov Communications Inc., on behalf of a corporation to be incorporated Application 2008-0681-2	Type: English-language commercial FM radio programming undertaking in London Technical parameters: 98.1 MHz (channel 251B1), average effective radiated power of 4,000 watts Format: Youth Contemporary Target audience: 12-49 years (15-34 core) Canadian content (music): 40% category 2 Local programming per broadcast week: 100 hours Spoken word programming per broadcast week: 11 hours, 5 minutes

News programming per broadcast week: 3 hours, 42 minutes
Canadian content development contribution (over the basic annual contribution): \$2,068,298 over seven consecutive broadcast years
Live-to-air programming per broadcast week: 101 hours
Emerging Canadian artists programming per broadcast week: 12%

Forest City Radio Inc.
 Application 2008-0682-0

Type: English-language commercial FM radio programming undertaking in London
Technical parameters: 98.1 MHz (channel 251B1), average effective radiated power of 4,000 watts
Format: Pop/Oldies (focus on music from the 1960s and 1970s)
Target audience: 35-64 years (45-64 core)
Canadian content (music): 35% category 2
Local programming per broadcast week: 122 hours
Spoken word programming per broadcast week: 19 hours, 21 minutes, 30 seconds
News programming per broadcast week: 3 hours, 36 minutes
Canadian content development contribution (over the basic annual contribution): \$1,566,000 over seven consecutive broadcast years
Live-to-air programming per broadcast week: 99 hours
Emerging Canadian artists programming per broadcast week: None intended

Frank Torres, on behalf of a corporation to be incorporated
 Application 2008-0686-2

Type: English-language commercial FM radio programming undertaking in London
Technical parameters: 98.1 MHz (channel 251B), average effective radiated power of 18,578 watts
Format: Blues (25% category 3 music to be drawn, by condition of licence, from Jazz and Blues)
Target audience: 25-64 years (25-54 core)
Canadian content (music): 40% category 2
Local programming per broadcast week: 120 hours
Spoken word programming per broadcast week: 22 hours, 34 minutes
News programming per broadcast week: 5 hours, 32 minutes
Canadian content development contribution (over the basic annual contribution): \$1,505,000 over seven consecutive broadcast years
Live-to-air programming per broadcast week: 120 hours
Emerging Canadian artists programming per broadcast week: 20%

My Broadcasting Corporation
 Application 2008-0660-7

Type: English-language commercial FM radio programming undertaking in St. Thomas
Technical parameters: 94.1 MHz (channel 231B1), average effective radiated power of 2,500 watts
Format: Gold Based Adult Contemporary
Target audience: 18-64 years (25-54 core)
Canadian content (music): 38% category 2
Local programming per broadcast week: 103 hours
Spoken word programming per broadcast week: 14 hours
News programming per broadcast week: 4 hours
Canadian content development contribution (over the basic

annual contribution): \$5,000 over seven consecutive broadcast years

Live-to-air programming per broadcast week: 76 hours

Emerging Canadian artists programming per broadcast week: 1.4%

Rogers Broadcasting Limited
Application 2008-0692-9

Type: English-language commercial FM radio programming undertaking in London

Technical parameters: 98.1 MHz (channel 251B1), average effective radiated power of 4,000 watts

Format: Contemporary Hits

Target audience: 15-34 years (15-24 core) (slightly skewed towards women)

Canadian content (music): 40% category 2 (35% 6:00 a.m. to 6:00 p.m. Monday to Friday)

Local programming per broadcast week: 120 hours

Spoken word programming per broadcast week: 2 hours, 21 minutes

News programming per broadcast week: 3 hours, 7 minutes

Canadian content development contribution (over the basic annual contribution): \$3,200,000 over seven consecutive broadcast years

Live-to-air programming per broadcast week: 114 hours

Emerging Canadian artists programming per broadcast week: None identified

Sound of Faith Broadcasting
Application 2008-0680-5

Type: English-language specialty commercial FM radio programming undertaking in London

Technical parameters: 99.9 MHz (channel 260A), average effective radiated power of 234 watts

Format: Christian music (95% to be drawn from subcategory 35 – Non-classic religious)

Target audience: 18-55 years (18-40 core)

Canadian content (music): 35% category 2; 10% category 3

Local programming per broadcast week: 80 hours

Spoken word programming per broadcast week: 28 hours, 30 minutes

News programming** per broadcast week:** 3 hours, 15 minutes

Canadian content development contribution (over the basic annual contribution): None proposed

Live-to-air programming per broadcast week: 21 hours

Emerging Canadian artists programming per broadcast week: 15%

United Christian Broadcasters Canada
Application 2008-0694-5

Type: English-language specialty commercial FM radio programming undertaking in London

Technical parameters: 98.1 MHz (channel 251A), average effective radiated power of 2,904 watts

Format: Adult Contemporary Christian music (95% to be drawn from subcategory 35 – Non-classic religious)

Target audience: 25-55 years

Canadian content (music): 35% category 2; 15% category 3

Local programming per broadcast week: 74 hours

Spoken word programming per broadcast week: 35 hours

News programming per broadcast week: 4 hours, 25 minutes

Canadian content development contribution (over the basic

annual contribution): \$10,500 over seven consecutive broadcast years

Live-to-air programming per broadcast week: 49 hours

Emerging Canadian artists programming per broadcast week: 15%

* 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*.

** 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*.

*** 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 *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, "news" excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

***** For the application by Sound of Faith Broadcasting only, "news programming" includes both news and related surveillance material.

Appendix 2 to Broadcasting Decision CRTC 2009-39

Blackburn Radio Inc.

Application 2008-0683-8, received 12 May 2008

Terms, conditions of licence and expectation

Issuance of the broadcasting licence to operate a commercial FM radio programming undertaking in London, Ontario

Terms

The licence will expire 31 August 2015.

The station will operate at 98.1 MHz (channel 251B1) with an average effective radiated power of 4,000 watts.

The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department 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 2 February 2011. 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 exceptions of conditions of licence 1 and 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*:
 - a) devote, in each 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 any period beginning on Monday of a week and ending on Friday of the same week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.
3. The licensee shall ensure that a minimum of 10% of musical selections broadcast during each broadcast week are from content category 3 (Special Interest Music).
4. The licensee shall ensure that a minimum of 30% of musical selections from content category 3 (Special Interest Music) broadcast during each broadcast week are Canadian selections broadcast in their entirety.
5. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$214,285.71 (\$1,500,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

This 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.

6. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council.

For the purposes of the above conditions of licence, the terms "broadcast week," "Canadian selection," "content category" and "musical selection" shall have the same meaning as that set out in the *Radio Regulations, 1986*.

Expectation

Cultural diversity

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

Appendix 3 to Broadcasting Decision CRTC 2009-39

Sound of Faith Broadcasting

Application 2008-0680-5, received 12 May 2008

Condition of approval, terms, conditions of licence, expectation and encouragement

Issuance of the broadcasting licence to operate a specialty commercial FM radio programming undertaking in London, Ontario

Condition of approval

The Commission's approval of the application submitted by Sound of Faith Broadcasting will only be effective once the applicant has been advised by the Commission of the acceptability of documentation, to be submitted by the applicant, relating to the following:

- proof of CHJX-FM's payments made to various Canadian talent development (CTD) initiatives, as required in *Low-power Christian music FM radio station in London*, Broadcasting Decision CRTC 2002-416, 9 December 2002; and
- a breakdown of CHJX-FM's payments made and a detailed description of the initiatives sponsored with those payments, so as to allow the Commission to determine the eligibility of the initiatives.

This documentation is to be provided by the applicant to the Commission by no later than 30 June 2009.

Terms

The licence will expire 31 August 2012.

The station will operate at 99.9 MHz (channel 260A) with an average effective radiated power of 234 watts.

The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department 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 2 February 2011. 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 exceptions of conditions of licence 1, 5 and 8.
2. The licensee shall broadcast a minimum of six (6) hours of balance programming per broadcast week.
3. Where the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.
4. The licensee is authorized to simulcast the programming of the new FM station on its existing station CHJX-FM London for a transition period of three (3) months following the commencement of operations of the new FM station.
5. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council.

Expectation

Cultural diversity

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

Encouragement

Employment equity

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.

Dissenting opinion of Commissioners Elizabeth Duncan and Peter Menzies

We respectively dissent from the decision by our colleagues to approve the application by Blackburn Radio Inc. (Blackburn) for a broadcasting licence to operate a new FM radio station to serve London, Ontario.

We recognize that Blackburn is an experienced and well-regarded operator and expect they will do their best to serve the interests of the people of London. However, based on the criteria established by the Commission for potential applicants, we feel that there were other operators with superior applications; chief amongst these was Rogers Broadcasting Limited (Rogers).

Four of the applicants identified the youth demographic in the London market as currently underserved. Based on its research of the market, Rogers proposed an innovative approach designed specifically for that market.

Rogers described their proposal as “a personal and on-demand, on-air and on-line, local radio experience,” and a first in Canada. Their audience-driven, interactive approach to programming was designed to repatriate youth to radio and appeal to a younger demographic, particularly women aged 15-34. Further, their business plan made it clear that this project was the product of, and an investment in, innovation. Without such innovation the economy, businesses, and industries are, at best, diminished and, at worst, subject to failure.

In our view, Rogers’ proposal, which intended to link Internet and mobile technologies with conventional radio, showed the type of ingenuity that would not only best serve London’s significant university population and underserved youth demographic, but create a template for future creativity within the industry.

In terms of the licensing criteria, Rogers’ proposal and relative depth of resources would have had the greatest impact in terms of increasing the level of competition for advertisers and consumer loyalty within the market. It also would have added the most depth to the diversity of news perspectives and provided significant musical diversity to the market.

In addition to the above key factors, Rogers proposed 114 hours of live-to-air programming per week – compared to 82 hours live-to-air programming per week proposed by Blackburn. Rogers further proposed \$3.2 million in Canadian content development (CCD) contributions. This was more than double the \$1.5 million CCD contribution proposed by Blackburn.

We do not believe that the weight given to Blackburn’s regional presence by our colleagues was sufficient to overrule the considerably more impressive applications by Rogers and other applicants to meet Commission expectations in these key areas. As such, we disagree with the majority decision to award the licence to Blackburn.