



Broadcasting Notice of Consultation CRTC 2024-57

PDF version

References: 2021-374 and 2023-33

Ottawa, 14 March 2024

Public record: 1011-NOC2024-0057

Call for applications – Radio station to serve Yellowknife, Northwest Territories

Summary

The Commission is issuing a call for applications to serve Yellowknife, Northwest Territories. Following a decision in this proceeding, the Commission will hold a separate proceeding to consider the application from 506992 N.W.T. Ltd., operating as Cabin Radio, and other applications the Commission may receive.

Cabin Radio filed an application for a broadcasting licence in August 2019. Following a public proceeding and a thorough assessment of the evidence, the Commission denied that application on the basis that the Yellowknife market could not sustain another radio station.

Subsequently, Cabin Radio filed a new application revealing that circumstances had changed since its original application. Specifically, the COVID-19 pandemic and the wildfires in the Northwest Territories have highlighted the importance of having increased access to radio content in the north.

In light of the change in circumstances since Cabin Radio's application in August 2019, including the impacts of major events, the Commission considers that the market is not as well served as it could be and that it should issue a call for applications for radio stations to serve Yellowknife.

This call for applications will initiate a process that examines the broadcasting needs of citizens in Yellowknife, as well as each application received in the context of the current process, in order to determine which proposal will best serve the needs and interests of the Yellowknife community and the broadcasting system as a whole. The Commission's decision in this matter will be based on the public record, including applications received, comments from interested parties, and updated data regarding market conditions in Yellowknife.

The Commission encourages interested persons to submit applications for a broadcasting licence to operate a new commercial, ethnic, community, campus or Indigenous radio station. Interested persons must submit a duly completed application to the Commission no later than **13 May 2024**, using the appropriate application form for a new radio

licence. Applicants are also required to submit all necessary technical documentation to the Department of Industry (also known as Innovation, Science and Economic Development Canada) by the same date and will be required to provide evidence giving clear indication that there is demand and a market for the station and the proposed service.

Call for applications

1. On 4 May 2023, 506992 N.W.T. Ltd., operating as Cabin Radio, filed an application for a broadcasting licence to operate a commercial FM radio station in Yellowknife, Northwest Territories. The proposed station would operate at 93.9 MHz (channel 203A) with an effective radiated power (ERP) of 540 watts.
2. As set out in Broadcasting Regulatory Policy 2014-554, when the Commission receives an application for a new radio station, it will generally publish a notice of consultation seeking comments on the market capacity and the appropriateness of issuing a call for applications. Following that notice of consultation, the Commission conducts an assessment of the market's capacity to support an additional station, taking into account economic and financial data as well as the comments received in the public consultation. Based on that assessment, the Commission weighs factors and determines whether to publish the application for consideration during the non-appearing phase of a public proceeding, issue a call for applications, or make a determination that the market cannot sustain additional stations, return the application and issue a decision setting out this determination. Further, the Commission may use its discretion to issue a call in all instances where it deems appropriate to do so.
3. Cabin Radio had filed a previous application on 30 August 2019, which was returned by the Commission following its determination in Broadcasting Decision 2023-33.
4. In Broadcasting Decision 2023-33, the Commission found, by majority decision, that the Yellowknife radio market could not support an additional radio station at that time. As set out in Broadcasting Regulatory Policy 2014-554, a two-year pause generally follows the issuance of a decision approving a new service as a result of a call or, where it has decided not to issue a call due to market capacity concerns. Such an approach prevents over licensing in a market and provides a market with sufficient time to adjust to a new entrant.
5. Cabin Radio's new application requests that the Commission make an exception to its practice of waiting two years before accepting new applications to serve the relevant market. Cabin Radio's new application reveals that circumstances have changed since its original application. Specifically, the COVID-19 pandemic and the wildfires in the Northwest Territories have highlighted the importance of having increased access to radio content in the north.
6. In light of the change in circumstances since Cabin Radio's application in August 2019, including the impacts of major events, the Commission considers that the market is not as well served as it could be.

7. Accordingly, the Commission has determined, by majority decision, that it will exercise its discretion to issue a call for applications and consider Cabin Radio's application as part of a future public proceeding in this exceptional circumstance. To ensure the process is equitable to all those wishing to serve the Yellowknife market, the Commission hereby calls for applications from parties wishing to obtain a radio licence to serve this area.
8. Persons interested in responding to this call must submit a duly completed application to the Commission no later than **13 May 2024**, using the appropriate application form for a new radio licence. Applicants are also required to submit all necessary technical documentation to the Department of Industry (also known as Innovation, Science and Economic Development Canada, hereafter called the Department) by the same date. Applicants will also be required to provide evidence giving clear indication that there is demand and a market for the station and the proposed service.
9. Cabin Radio may update its application and provide the essential information set out below no later than **13 May 2024**.
10. The Commission notes that, in making this call for applications, it has not reached any conclusion on the licensing of any radio service at this time. The Commission will announce, at a later date, the public proceeding to consider applications. As part of that process, the public will be given the opportunity to comment on any application by submitting written interventions to the Commission. The public record leading to Broadcasting Decision 2023-33 will be considered as part of this proceeding.

Factors for evaluation of applications

11. In assessing applications for new radio services in a market, the Commission will consider the following factors, which were first set out in Decision 99-480.

Quality of the application

12. In its analysis, the Commission will evaluate the applicant's programming proposal and commitments in a number of areas. These will include the manner in which the applicant will reflect the local community, including the community's diversity and distinct nature. Accordingly, the Commission will consider commitments related to local programming and the benefits that such programming will bring to the community.
13. The Commission will also consider commitments regarding the percentage of Canadian content of musical selections, contributions to Canadian content development and, where applicable, the percentage of French-language vocal music.
14. Aside from specialty format stations, the Commission does not regulate the formats of radio stations. The Commission will, however, assess the applicant's business plan in light of the proposed format since the two are interrelated. The business plan should demonstrate the applicant's ability to fulfill its proposed programming plans and

commitments. Further, the Commission will examine the programming proposals submitted by the applicants to determine which overall proposal best suits the market.

Diversity of news voices in the market

15. This factor relates to the concerns regarding concentration of ownership and cross media ownership. The Commission seeks to strike a balance between its concerns for preserving a diversity of news voices in a market and the benefits of permitting increased consolidation of ownership within the radio industry.
16. The Commission will therefore assess how approval of the application would add to or serve to maintain the diversity of voices available in the market, and how approval of the application would increase the diversity of programming available to listeners.

Market impact

17. The possibility that licensing too many stations in a market could lead to a reduction in the quality of service to the local community remains of concern to the Commission. The economic condition of the market and the likely financial impact of the proposed station will therefore be relevant.
18. The Commission will therefore evaluate how the proposed station's programming, general and core target audience, and projected audience share overlap with existing stations. While the Commission may consider the profitability of existing station groups in its assessment of the proposed station on existing ones, the profitability of existing stations will be only one factor in its evaluation.

Competitive state of the market

19. In markets with fewer than eight commercial stations operating in a given language, the Commission's common ownership policy (as amended by Broadcasting Regulatory Policy 2022-332) permits a person to own or control a maximum of three stations operating in that language, with no limits on frequency band. In markets with eight commercial stations or more operating in a given language, a person may own or control a maximum of four stations, with a maximum of three stations within one frequency band (AM or FM) in that language.
20. The Commission will therefore consider factors such as the number of radio stations that an applicant already owns in the market, the profitability of its station(s) and the concentration of ownership in that market in making its licensing decision.

Importance of factors

21. The relative importance of each of the factors set out above will vary in each case, depending on the specific circumstances of the market.

Technical approval from the Department

22. The Commission intends to consider the applications at a public proceeding. However, the Commission advises applicants that it **will withdraw** any applications from the public proceeding if it is not advised by the Department, **at least twenty days prior to the first day of the proceeding**, that the application is technically acceptable. The Commission must also be advised by the Department, **at least twenty days prior to the first day of the proceeding**, that any alternative frequencies proposed by the applicant are technically acceptable. Otherwise, those frequencies shall not be considered as part of the proceeding.

Eligibility of applicant

23. The Commission also reminds applicants that they must comply with the eligibility requirements set out in the *Direction to the CRTC (Ineligibility of Non-Canadians)*,¹ and the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*.²

Essential information that applicants must provide

24. To assist it in the assessment of applications, the Commission requires each applicant to provide all the information requested in the appendices to this document for the type of service that it proposes to operate. An applicant must clearly demonstrate that its application includes the required information and submit the appropriate completed application. Requests for information by Commission staff will seek to clarify specific facts or to resolve minor discrepancies in the applicants' proposals.
25. The Commission will return any application that fails to provide the required information and that application will not be considered as part of this process.
26. Applications filed in response to this call must be submitted in electronic form by using the secured service "[My CRTC Account](#)" ([Partner Log In or GCKey](#)) and by filing in the "Broadcasting Online Form and Cover Page" located on this web page. On this web page, applicants will also find information on submitting applications to the Commission: "[Submitting applications and other documents using My CRTC Account](#)". Applicants who are unable to file their applications using Partner Log In or GCKey should contact the Commission's single point of contact for small undertakings at 1-866-781-1911.
27. The *Canadian Radio-Television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) set out, among other things, the rules for content, format and filing of applications, as well as the procedure for filing confidential information and requesting its disclosure. Accordingly, the procedure set out in the notice of consultation announcing the public proceeding must be read in conjunction with the Rules of Procedure and its accompanying documents, which can

¹ SOR/97-192

² SOR/85-627

be found on the Commission's website under "CRTC Rules of Practice and Procedure."

Secretary General

Related documents

- *Findings regarding market capacity in the Yellowknife radio market*, Broadcasting Decision CRTC 2023-33, 15 February 2023
- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Call for comments on market capacity to serve Yellowknife, Northwest Territories, and call for applications to serve Yellowknife, Northwest Territories*, Broadcasting Notice of Consultation CRTC 2021-374, 12 November 2021
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Decision*, Decision CRTC 99-480, 28 October 1999

Appendix 1 to Broadcasting Notice of Consultation CRTC 2024-57

Requirements for new commercial radio licences

Applicants should provide the information set out below so that the Commission may evaluate their applications in light of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (2006 Commercial Radio Policy), as amended by *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332).

Programming information

Musical content

- Canadian content commitments for category 2 music, as well as for category 3 music, if applicable;
- percentage of category 3 music, if applicable;
- percentage of French-language vocal music, if applicable;
- commitments with respect to the broadcast of emerging artists as defined by the Commission in paragraph 346 of Broadcasting Regulatory Policy 2022-332; and
- commitments with respect to the broadcast of Indigenous music (the applicant may use the provisional definition of “Indigenous-Canadian musical selection” set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332).

Contributions to Canadian content development

- Canadian content development proposals, including proposals over and above the regulated minimum annual requirements; and
- demonstration of the eligibility of each initiative proposed, as discussed in paragraphs 106 to 112 of the 2006 Commercial Radio Policy and paragraph 117 of Broadcasting Regulatory Policy 2022-332.

Local programming

- local programming commitments, including the level of spoken word material of direct and particular relevance to the community; and
- a description of how the proposed service would meet the particular needs and interests of its local community. The Commission refers applicants to paragraphs 206 and 207 of the 2006 Commercial Radio Policy, which provides detailed information of local programming.

In addition, applicants for new ethnic commercial radio licences should provide the following information so that the application can be evaluated according to *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999:

- amount of ethnic programming (as a percentage of total weekly programming);
- amount of third-language programming (as a percentage of total weekly programming);
- how the station will meet the broad service requirement including an indication of the minimum number of groups to be served and the number of languages in which programming will be broadcast; and
- Canadian content commitments for ethnic programming periods.

Commitments as conditions of service

Applicants are required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of service.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider;
- proof that technical documents have been submitted for consideration by the Department of Industry (also known as Innovation, Science and Economic Development Canada) for each of the frequencies that the applicant is requesting that the Commission consider; and
- service contour maps and population estimates as described in [Service Contour Maps and Population Estimates](#).

Financial information

Applicants must provide an overall business plan that includes the following information:

- the proposed format as well as the general and core target audiences;
- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- projected audience share to support the projected business plan;
- any operational efficiencies with existing stations, where applicable;

- an analysis of the markets involved and potential advertising revenues, taking into account the results of any survey undertaken supporting the estimates;
- an assessment of the impact of the proposed service on the revenues and audience share of existing stations;
- where an applicant identified alternative frequencies, the applicant should indicate the impact of their use on its business plan;
- any market study that was commissioned; and
- evidence as to the availability of financial resources consistent with the requirement established in the financial projections of the applicant's business plan. For the convenience of applicants, the Commission has made available a document entitled [Commission policy regarding documentary evidence to conform the availability of financing](#).

Ownership information

Appendix 2A to the application form

All of the information requested below must be provided:

- **The applicant:** Unless exempt by the Commission, the applicant must file the ownership information for the entity applying for a broadcasting licence to operate a commercial radio programming undertaking, whether this information has already been filed with the Commission or not.

Important: In addition to the information requested in Table 2.2 (Shareholding) of Appendix 2A to the application form, the following information must be filed in the event of the situation below:

- If the total of the voting shares or of the votes held collectively by the group of shareholders holding less than 10% of the voting shares or of the votes represents 20% or more of the total of the voting shares or of the votes of the entity to which Table 2.2 pertains, the applicant **must** identify each shareholder of this group, up to a total that will demonstrate that at least 80% of the voting shares and of the votes are held by Canadians and that this entity meets the definition of “qualified corporation” as defined in the *Direction to the CRTC (Ineligibility of non-Canadians)*.
- **The shareholder corporations:** The parent corporations, the corporations which form part of the control chain, and all corporations or legal entities listed in Table 2.2 of Appendix 2A to the application form.

Important: In addition to the information requested in Table 2.2 of Appendix 2A to the application form, the following information must be filed in the event of the situation below:

- If the total of the voting shares or of the votes held collectively by the group of shareholders holding less than 10% of the voting shares or of the votes represents 33 1/3% or more of the total voting shares or of the votes of the entity to which Table 2.2 pertains, the applicant **must** identify each shareholder of this group, up to a total that will demonstrate that at least 66 2/3% of the voting shares and of the votes are held by Canadians and that this entity meets the definition of “qualified corporation” as defined in the *Direction to the CRTC (Ineligibility of non-Canadians)*.

Appendix 2B to the application form

The applicant must provide a statement regarding who controls/will control the licensee and by what that means. If the control is to be held by a shareholder corporation, a statement regarding who controls/will control the shareholder corporation and by what means must be provided.

- All related governance documents such as the shareholder agreements, the local management agreements, and other agreements with third parties that **are not already on file with the Commission** must be attached. If the document is not yet executed, a draft copy must be filed.
- Examples of effective control: exercised by the board of directors, exercised by the majority shareholder, jointly exercised pursuant to the terms of a shareholder agreement, etc.

Appendix 2C to the application form

The applicant must provide a copy of the constituting documents (certificate and articles of incorporation or amendment, amalgamation documents, by-laws, partnership agreements, etc.) **that are not already on file with the Commission**, for:

- **The applicant:** If not yet incorporated, a draft copy of the documents.
- **The shareholder entities:** The parent corporation and for each corporation listed in Table 2.2 of Appendix 2A to the application form.

Appendix 2 to Broadcasting Notice of Consultation CRTC 2024-57

Requirements for new community or campus radio licences

Applicants should provide the information set out below so that the Commission may evaluate the application in light of *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010.

Community support

- submissions on the need for a community or campus radio station in the market to be served, including any evidence of community support for the proposed station;
- a description of the communities the station will serve; and
- clear plans with regard to community involvement (and student/campus involvement as applicable) in all aspects of the proposed station's operations including its board of directors, management, programming and other station activities.

Programming information

Musical content

- Canadian content commitments for category 2 music and category 3 music, if applicable;
- percentage of category 3, if applicable;
- percentage of French-language vocal music, if applicable; and
- commitments with respect to the broadcast of local and emerging Canadian artists and opportunities for other new and local talents. The definition of an emerging artist can be found in paragraph 346 of *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022.

Local programming

- clear plans for the reflection of the needs and interests of the communities to be served. Such plans should include measures that the station will take to include community input and membership to ensure that the station will broadcast a diversity of opinions and programming content;
- clear plans, including description of programs, for the broadcast of locally relevant spoken word programming including news, public affairs and other programs that have a specific local focus; and
- clear plans for the involvement of volunteers and the training and supervision of these volunteers, particularly in the area of programming.

In addition, applicants for new community stations that intend to devote at least 60% of their programming to ethnic programming and at least 50% of their programming to third-language programming should provide the information set out below so that the Commission can evaluate the application according to *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999

- amount of ethnic programming (as a percentage of the total weekly programming);
- amount of third-language programming (as a percentage of total weekly programming);
- how the station will meet the broad service requirement including an indication of the minimum number of groups to be served and the minimum number of languages in which programming will be provided; and
- Canadian content commitments for ethnic programming periods.

Commitments as conditions of service

Applicants are also required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of service.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider;
- proof that technical documents have been submitted for consideration by the Department of Industry (also known as Innovation, Science and Economic Development Canada) for each of the frequencies that the applicant is requesting that the Commission consider; and
- service contour maps and population estimates as described in [Service Contour Maps and Population Estimates](#).

Financial information

Applicants must provide:

- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- potential sources of revenue (including advertising and all sources of grants and other contributions) to justify the revenue projections made in the application;
- where an applicant has identified alternative frequencies, the applicant should indicate the impact of their use on the communities it intends to serve; and

- any market study that was commissioned.

Ownership information

Directors and officers, and corporate documents

All information requested in section 2 of the application form must be provided. This includes the identification, in Table 2.1 of the application form, of the chief executive officer or the person performing functions that are similar to the functions performed by a chief executive officer, and the citizenship and complete home address (post office boxes will not be acceptable) of each individual. **For campus radio only:** Applicants must also identify which of the four groups described in Table 2.2 each director represents.

- A copy of all of the applicant's constituting documents (e.g., letters patent, certificate and articles of incorporation or amendment, by-laws) must be filed with the application.
- If the corporation is not yet incorporated, a list of proposed directors and officers, as well as draft documents, must be provided.

Appendix 3 to Broadcasting Notice of Consultation CRTC 2024-57

Application for an Indigenous (Type B Native) service

Applicants for a licence to operate an Indigenous (Type B Native)³ radio station should provide the information set out below so that the Commission may evaluate the application in light of *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990.

Indigenous community support

- submissions on the need for a Indigenous radio station in the market to be served, including evidence of community support for the proposed station; and
- a description of the communities that the station will serve.

Programming information

Musical content

- Canadian content commitments for category 2 music, as well as for category 3 music, if applicable;
- percentage of category 3 music, if applicable; and
- percentage of French-language vocal music, if applicable.

Indigenous talent development

- percentage of music that will be performed or composed by Indigenous talent.

Programming orientation

- local programming commitments, including the amount of spoken work material of direct and particular relevance to the community;
- Indigenous languages to be offered and the amount of programming in each language expressed in hours per week; and
- a description of how the proposed service would address the specific needs and concerns of the Indigenous population in its proposed service area as well as the efforts the station will make to strengthen culture and preserve Indigenous ancestral language.

³ Type B Native stations, as defined in *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990, are referred to as Indigenous stations in this notice.

Commitments as conditions of service

Applicants are also required to provide their views on the possibility of the Commission imposing any or all of the above commitments as conditions of service.

Technical information

Applicants are required to provide the following information:

- the technical parameters and appendices identified in the application form for each of the frequencies that the applicant is requesting that the Commission consider;
- proof that technical documents have been submitted for consideration by the Department of Industry (also known as Innovation, Science and Economic Development Canada) for each of the frequencies that the applicant is requesting that the Commission consider; and
- service contour maps and population estimates as described in [Service Contour Maps and Population Estimates](#).

Financial information

Applicants must provide:

- projected revenues and allocation of expenses, particularly with respect to programming and marketing;
- potential sources of revenue (including advertising and all sources of grants and other contributions) to justify the revenue projections made in the application;
- where the applicant identified alternative frequencies, the applicant should indicate the impact of their use on the communities it intends to serve; and
- any market study that was commissioned.

Ownership information

- All information requested in sections 2.1, 2.2 and 2.3 of the application form must be provided. This includes identifying in Table 2.1 of the application form the chief executive officer or the person performing functions that are similar to the functions performed by a chief executive officer, and the citizenship and complete home address (post office boxes will not be accepted) of each individual.
- A copy of all of the applicant's constituting documents (e.g., letters patent, certificate and articles of incorporation or amendment, by-laws) must be filed with the application.
- If the corporation is not yet incorporated, a list of proposed directors and officers, as well as draft documents, must be provided.

- An explanation on how the structure of the proposed licensee provides for board membership by the Indigenous community of the region served, must be provided.

Appendix 4 to Broadcasting Notice of Consultation CRTC 2024-57

Application for a technical amendment

Applicants wishing to file a technical amendment application as part of this call for applications must complete application “[Form 303 - Technical amendment to a broadcasting licence for an analog radio \(including a new transmitter\)](#)”. All of the information required in form 303 must be included.

Applicants are required to provide service contour maps and population estimates as described in [Service Contour Maps and Population Estimates](#).

Dissenting opinion by Commissioner Ellen Desmond K.C.

I have read the attached Notice of Consultation, together with the reasons provided therein. I respectfully disagree with my colleagues that a Notice of Consultation should be issued at this time.

Background

A. The First Application

This is not the first time that 506992 N.W.T. Ltd., doing business as Cabin Radio, applied for a commercial radio licence to operate in Yellowknife, Northwest Territories. The first application was posted on the Commission's website on 12 November 2021. At that time, the Commission decided to process the application in an expedited fashion, given some of the delays that had been experienced with the COVID-19 pandemic.

As described in Notice of Consultation 2021-374⁴ (Notice 2021-374), the Commission stated that it would assess the capacity of Yellowknife to support an additional radio station, taking into account the economic and financial data as well as the interventions and replies received in response. Using this assessment, the Commission stated that it would make one of the following determinations:

- i) that the market can sustain an additional station and would proceed to publish the initial application filed by Cabin Radio for consideration as part of an appearing or of a non-appearing phase of a public hearing (either on its own or alongside any additional applications that were filed in response to the call for applications); or
- ii) that the market cannot sustain additional stations, return the application(s) and issue a decision setting out this determination.

It should be noted that the Yellowknife radio market is currently served by the following stations, in addition to the public broadcaster:

- a) one commercial station operated by Vista Radio Ltd. (Vista Radio);
- b) one French-language community radio station operated by Société Radio Taïga;
and
- c) one Indigenous radio station operated by the Native Communications Society of the N.W.T. (the Native Communications Society).

⁴ *Call for comments on market capacity to serve Yellowknife, Northwest Territories, and call for applications to serve Yellowknife, Northwest Territories*, Broadcasting Notice of Consultation CRTC 2021-374, 12 November 2021.

Following the issuance of Notice 2021-374, the Commission conducted a thorough market assessment. The Commission received two interventions, one from Vista Radio and one from the Native Communications Society. The Commission also received an application from Vista Radio to operate an English-language commercial FM radio station in Yellowknife.

The submissions from Vista Radio and from the Native Communications Society shared the concern that Yellowknife did not have the market capacity for a new station. The Native Communications Society commented that the addition of a FM radio station would place additional stress on the viability of the current stations.

B. Broadcasting Decision CRTC 2023-33

Having considered the evidence and the submissions made in response to Notice 2021-374, the Commission issued Broadcasting Decision 2023-33⁵ (the majority Decision) on 15 February 2023, which included a fulsome rationale. The Commission noted that commercial radio in Canada has experienced two years of revenue declines. Profitability has also declined nationally, as radio continues to face pressures from additional online advertising options and channels, making it a buyer's market for advertisers. Compounding this decline, inflation in Canada is at its highest levels since 1991.

The Commission specifically determined that while Yellowknife has a comparable population per station for a northern market, the market itself is generally underperforming in terms of revenue change and profitability, when compared to the Whitehorse, Yukon, and Iqaluit, Nunavut markets, as well as nationally.

The Commission also took specific notice of the interventions received and the submissions that a new radio station would impact the ability of incumbent stations to provide local programming.

As a result, the Commission determined that the application by Cabin Radio should be returned and that, consistent with Broadcasting Regulatory Policy 2014-554⁶ (the Policy), the Commission would not be disposed to accepting new applications to serve the Yellowknife market for a period of two years from the date of the majority Decision.

The Current Application (the second application)

The Commission received a second application from Cabin Radio on 4 May 2023. This second application was filed less than three months after the Commission issued its majority Decision.

⁵ *Findings regarding market capacity in the Yellowknife radio market*, Broadcasting Decision CRTC 2023-33, 15 February 2023.

⁶ *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014.

Cabin Radio is again seeking approval to operate a commercial radio station in the Yellowknife market. They are seeking an exception to the Policy and submit that their application is unprecedented. Cabin Radio argues that they have market support, a commanding presence and a positive reputation. They suggest the Commission failed to account in the majority Decision, for their unique circumstances as an internet radio service.

Analysis

It is important to note that, at this stage, the Commission is not considering the merits of the second application, nor the market or financial evidence filed in support. The Commission is simply deciding a procedural question, i.e., should the second application be processed at this time.

In the normal course and in keeping with the Policy, the Commission would not consider this application for a period of two years. That said, the Commission could exercise its discretion and process this second application notwithstanding the Policy.

The majority has decided to proceed in this fashion.

With respect to my colleagues, I do not agree that it is procedurally fair to process this second application at this time. If the Commission is to make an exception to the Policy, it must be justified and reasonable in the circumstances. I am not satisfied that Cabin Radio, in its filing, has provided the Commission with sufficient reason to deviate from the established practice. Permitting this second application to proceed departs from the legitimate expectations that are set out in the Policy.

I take particular notice that Cabin Radio filed its second application less than three months after the majority Decision was issued. A fulsome market analysis was already conducted and the Commission was aware of Cabin Radio's internet presence when the majority Decision was provided. The Commission determined in the majority Decision that, given its analysis, the Yellowknife market cannot support an additional commercial radio station in the current conditions. The viability of the existing stations, including an Indigenous service provider, remains a concern and the potential impact on local programming must be considered.

Conclusion

In light of these facts, I respectfully do not support issuing the Notice of Consultation at this time. I believe that the Commission should proceed in a fashion that is consistent with the Policy and I would return the second application to Cabin Radio.