



Broadcasting Decision CRTC 2005-432

Ottawa, 25 August 2005

Tillsonburg Broadcasting Company Limited
Tillsonburg, Ontario

Application 2004-1290-9
Public Hearing at Niagara Falls, Ontario
6 June 2005

CKOT Tillsonburg – Conversion to FM band

*In this decision, the Commission **approves in part** the application by Tillsonburg Broadcasting Company Limited (TBCL) to operate a new English-language commercial FM radio station at Tillsonburg, Ontario to replace its AM station CKOT. However, TBCL must, within six months of the date of this decision, submit for the Commission's approval, an application proposing the use of another frequency and technical parameters that are acceptable to the Commission and the Department of Industry for use in the Tillsonburg market.*

Background

1. The application by Tillsonburg Broadcasting Company Limited (TBCL) was one of six applications considered at the 6 June 2005 public hearing that proposed the use of FM frequency 104.7 MHz. Five of the applicants proposed to serve Woodstock, Ontario, while TBCL proposed to serve the nearby community of Tillsonburg, Ontario. The TBCL application is one of two of these applications approved, either in whole or in part, today by the Commission. In *English-language FM radio station in Woodstock*, Broadcasting Decision CRTC 2005-431, 25 August 2005, the Commission has also approved an application by Byrnes Communications Inc. (Byrnes) for a broadcasting licence to operate a new English-language FM commercial radio station in Woodstock at 104.7 MHz. The new radio station will offer a mainstream adult contemporary music format. In *Denial of various applications proposing radio services for Woodstock, Ontario*, Broadcasting Decision CRTC 2005-433, 25 August 2005, the Commission has denied the remaining four competing applications.
2. The Commission's determination that the Woodstock market can support a new commercial FM radio station that concentrates on providing service to the Woodstock market is set out in *Licensing of new radio stations to serve Woodstock and Tillsonburg, Ontario – Introduction to Broadcasting Decisions CRTC 2005-431 to 2005-433*, Broadcasting Public Notice CRTC 2005-85, 25 August 2005 (Public Notice 2005-85). Public Notice 2005-85 also summarizes the rationale underlying the Commission's approval in part of the TBCL application, and its approval of the Byrnes application.

The applicant

3. TBCL owns CKOT and CKOT-FM Tillsonburg. Ultimate control of the corporation is exercised by Mr. John D. Lamers.

The application

4. TBCL proposed to convert CKOT from the AM band to the FM band. The new station would operate as an English-language commercial FM radio programming undertaking on frequency 104.7 MHz (channel 284B1) with an average effective radiated power (ERP) of 2,300 watts. CKOT's current AM frequency allocation allows it to operate only during the daytime. The applicant submitted that conversion of CKOT to the FM band would allow the station to offer its country music and rural information service to listeners on a full-time basis. All programming would be station-produced. The applicant proposed to broadcast 15 hours of spoken word programming per week, including 10 hours and 30 minutes per week of scheduled newscasts. At least 70% of the time during newscasts would be devoted to local and regional news stories. The balance of spoken word programming would include community-oriented information such as farm reports, marine weather, road conditions, the *Farm Line* open-line program and community history vignettes. A minimum of 35% of the popular (category 2) musical selections aired during each broadcast week would be Canadian selections, in accordance with the minimum level for category 2 musical selections set out in the *Radio Regulations, 1986*.
5. The applicant proposed to devote a total of \$37,800 to Canadian talent development (CTD) initiatives over the first seven years of operations. This money would be spent on the following initiatives:
 - \$400 each year to the Foundation to Assist Canadian Talent on Records (FACTOR), to fulfil TBCL's commitment as a participant in the Canadian Association of Broadcasters' CTD plan; and
 - \$5,000 each year to the "Home Grown Country" initiative, which would provide support and region-wide exposure for country artists starting out in the music business.

Interventions

6. The Commission received over 30 interventions with respect to this application, all but six of which were in support.

7. Two of the competing applicants for frequency 104.7 MHz intervened against the TBCL application. Byrnes considered that TBCL's application did not reflect the spirit or intent of the call for applications,¹ which was for a radio station to serve Woodstock. As such, it considered that TBCL's application did not constitute the best use of the frequency. Byrnes further submitted that the contours of the station proposed by TBCL would far exceed the applicant's concept of a Tillsonburg radio station that would replace its existing AM station.
8. CHUM Limited (CHUM) considered that the use of frequency 104.7 MHz in Tillsonburg would cause interference with the signal of CHUM-FM Toronto in some areas west of Kitchener. CHUM considered that any applicant for frequency 104.7 MHz other than itself would unlikely be able, or have the inclination, to manage possible interference of its signal with that of CHUM-FM, since the interference would occur outside the protected contours of CHUM-FM. CHUM considered that such interference would lead to a loss of listeners for CHUM-FM.
9. Four individuals opposed the application on the grounds that frequency 104.7 MHz would be better utilized by a station that would focus on service to Woodstock.

Applicant's replies

10. In reply to the intervention by Byrnes, TBCL affirmed that the intent of its application is to convert its existing daytime only AM station CKOT to the FM band in order to provide a full-time 24-hour service from Tillsonburg. TBCL argued that the contours of the proposed FM station actually fall short of the current contours of CKOT and would result in a reduction in the total number of people able to receive the service. However, TBCL considered that this reduction is necessary in order to provide a full-time signal to its primary coverage area. TBCL disagreed with Byrnes' contention that TBCL's application does not constitute the best use of frequency 104.7 MHz and was of the view that its proposal constitutes the best solution to convert its station to the FM band.
11. In reply to the intervention by CHUM, TBCL noted that its application had been judged technically acceptable by the Department of Industry (the Department). It further argued that, in the face of the scarcity of FM frequencies, stations cannot expect their non-protected fringe coverage to remain intact. TBCL also submitted that, of all the proposals to utilize frequency 104.7 MHz, its own application proposed a transmitter and tower site that is the furthest away from that of CHUM-FM Toronto, which further minimizes the potential for interference.

Commission's analysis and determinations

12. In Public Notice 2005-85, the Commission set out its determination that the Woodstock market can accommodate the introduction of a new commercial FM radio station that concentrates on providing service to the Woodstock market, and that the application by

¹ *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Woodstock, Ontario*, Broadcasting Public Notice CRTC 2004-83, 8 November 2004.

Byrnes best meets the evaluation criteria set out in the call for applications and constitutes the best use of frequency 104.7 MHz. However, the Commission is also of the view that approval of the application by TBCL is in the public interest. The Commission considers that conversion of CKOT to the FM band will provide a solution to the station's longstanding technical limitations that permit it to operate only during daytime hours, will increase the technical quality of the station's sound, and will strengthen TBCL's competitive position.

13. At the hearing, the Commission explored possible approaches other than the use of frequency 104.7 MHz that could be used in order to allow CKOT to provide full-time FM service to the Tillsonburg market. One approach was conversion of CKOT to the FM band using frequency 107.3 MHz, rather than 104.7 MHz, as originally proposed. A second approach was the conversion of CKOT to the FM band using frequency 107.3 MHz, while it continued to use AM frequency 1510 kHz to simulcast the programming of the new FM station. Under this second approach, the applicant would apply to use frequency 107.3 MHz for the new FM station approved in this decision with a transmitter, to operate during the daytime only, on AM frequency 1510 kHz. As a result, the programming of CKOT would be available on both the AM and FM bands during the day, and only on the FM band at night. The third approach was the conversion of CKOT to the FM band using frequency 94.3 MHz, rather than 104.7 MHz, as originally proposed. The Commission notes, however that use of frequency 94.3 MHz by TBCL would mean that Sound of Faith Broadcasting would have to find a replacement frequency for its stations CJFH-FM Woodstock and CJTW-FM Kitchener since both of these stations currently utilize frequency 94.3 MHz on a low-power, unprotected basis. The Commission notes that the second approach would seem to be the most promising in that it would appear that it could be implemented using the existing transmitter site for CKOT-FM, thus reducing cost to the applicant, and would provide a reliable signal to the Tillsonburg market at night, when the AM signal is not available.
14. In light of the above, the Commission **approves in part** the application by Tillsonburg Broadcasting Company Limited to convert CKOT Tillsonburg from the AM to the FM band. However, the applicant's proposed use of frequency 104.7 MHz is **denied**.
15. Subject to the limitations set out below at paragraph 16, the licence will be effective 1 September 2005 and expire 31 August 2012 and will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999 (Public Notice 1999-137), as well as to the following **condition**:

The licensee shall make direct contributions of at least \$37,800 over seven consecutive years on the development of Canadian talent, as set out in this decision. Upon commencement of operations, this amount shall be distributed over seven consecutive broadcast years as follows:

- \$400 in each broadcast year to the Foundation to Assist Canadian Talent on Records (FACTOR); and
- \$5,000 in each broadcast year to support the “Home Grown Country” initiative.

The amounts set out above include those required under the provisions of condition of licence number 5 in Public Notice 1999-137, which requires the licensee to make payments to third parties involved in Canadian talent development in accordance with the Canadian Association of Broadcasters’ Distribution Guidelines for Canadian talent development.

Issuance of the licence

16. The Commission will only issue the licence, and it will only be effective at such time as:
- The applicant submits, within six months of the date of this decision, an amendment to its application proposing the use of an FM frequency and technical parameters that are acceptable to both the Commission and the Department. The amended application will form part of a public process. The Commission will take into account the effect on the Sound of Faith Broadcasting stations when considering the applicant’s proposal.
 - 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 25 August 2007. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Employment equity

17. 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.

Secretary General

This decision is to be appended to the licence. It 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>