



Broadcasting Decision CRTC 2020-165

PDF version

References: 2018-380, 2019-200 and 2019-358

Ottawa, 25 May 2020

Vista Radio Ltd.
North Bay, Ontario

Public record for this application: 2018-0329-7
Public hearing in the National Capital Region
12 February 2020

English-language FM radio station in North Bay

*The Commission **approves** an application by Vista Radio Ltd. for a broadcasting licence to operate an English-language commercial FM radio station in North Bay, Ontario.*

Application

1. Vista Radio Ltd. (Vista) filed an application for a broadcasting licence to operate an English-language commercial FM radio station in North Bay, Ontario.
2. Vista is a corporation controlled by Westerkirk Capital Inc., which is controlled by Thomson Investments Limited.
3. The station would operate on frequency 90.5 MHz (channel 213C1) with an effective radiated power of 45,800 watts (non-directional antenna with an effective height of antenna above average terrain of 145.5 metres).
4. The applicant indicated that the station would broadcast 126 hours of local programming each broadcast week, of which 10 hours and 28.5 minutes would be devoted to spoken-word programming.
5. In each broadcast week, seven hours and 46 minutes of spoken word programming would be devoted to local news and information, with 2 hours and 50 minutes of newscasts devoted to local and regional news and 50 minutes devoted to national and international news. The station would broadcast news, road conditions, weather and information on upcoming community events. Further, it would broadcast news and information at scheduled regular intervals from 6:00 am to 6:00 pm each weekday plus additional weekend newscasts. Finally, the station's programming would focus on local spoken-word content that is directly relevant to the lives of the target audience.
6. Vista is proposing an Oldies music format and would operate the proposed station jointly with its existing station in North Bay, CFXN-FM.

7. The applicant proposed to devote an over-and-above contribution of \$140,000 over a seven-year period (\$20,000 annually) to Canadian content development (CCD) contributions. It would allocate all of this over-and-above contribution to FACTOR.

Interventions

8. The Commission received an intervention in opposition to this application from Rogers Media Inc. (Rogers), which owns three radio stations in North Bay. Rogers stated that its intervention to Broadcasting Notice of Consultation 2018-380 remains valid, as set out in Broadcasting Decision 2019-200, the North Bay radio market is stagnant and has limited potential for future growth. It indicated that radio stations must already compete for local advertising sales with local television stations and newspapers. Rogers stated that a new station would have an undue financial impact on existing operators in the market and would undermine their ability to sustain local news and information services. Rogers added that North Bay's overall economy is experiencing significant challenges, specifically in terms of employment rates, population decline and household income.
9. Rogers expressed the concern that the North Bay market is already served by seven radio stations, including four English-language commercial radio stations. Moreover, an additional entrant to the market would result in a very low ratio in terms of population per commercial station, thus creating the lowest ratio compared to similar markets in Ontario.
10. Since 2016, Rogers experienced a decline in radio revenues for its North Bay stations. Moreover, Internet-based and audio services revenues also continue to grow and put additional pressure on existing traditional radio stations. Therefore, Rogers argued that now is not the time to license a new FM station in North Bay.

Vista's reply

11. In its reply, regarding demographic, economic and radio market trends in North Bay, Vista referred to the detailed reply it filed in response to Broadcasting Notice of Consultation 2018-380, which states that North Bay's overall economic trends are positive. Vista argued that the strong profitability figures in the North Bay market support its claim that the market is underserved and capable of supporting an additional radio station. Further, Vista reiterated its position that North Bay has the capacity to sustain the introduction of a new local commercial radio station by increasing local radio market advertising revenues, with minimal economic impact on the ability of existing stations to continue to provide their radio services.
12. With regard to Rogers' decline in radio revenues for its stations in North Bay, Vista stated that the Commission was aware of the expected continued downward trend in revenues when making its decision in Broadcasting Decision 2019-200, in which the Commission found that the North Bay market can sustain an additional radio station at this time. In that decision, several factors that should mitigate the impact of approval and allow Rogers to offset the anticipated decrease in revenues for its North

Bay stations were taken into account by the Commission. Vista also argued that Rogers decline in revenue was caused by dropping rates and offering combo purchases for its three local radio stations well below market value.

Regulatory framework

13. When evaluating an application for a new commercial station, in addition to the impact on other stations, the Commission also considers in general the quality of the business plan, including the proposed format, the diversity of voices,¹ the local programming offering and other factors pertaining to the operations of the proposed station.
14. Pursuant to section 9(1) of the *Broadcasting Act* (the Act), the Commission may issue licences not exceeding seven years subject to any conditions related to the circumstances of the license as the Commission deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.

Commission's analysis and decision

15. The Commission is of the view that the applicant's proposal with respect to the offer of local spoken word programming and news is satisfactory and meets the objectives set out in Broadcasting Public Notice 2006-158. The Commission is of the view that the offer of a little over 10 hours a week of spoken-word programming would represent an additional source of information for the listeners. As a result, the proposed new station would contribute to the musical and spoken word programming diversity in the North Bay market.
16. The Commission also considers that the Oldies music proposed format would be complementary to the current offer as this format is not available on any other radio station in the market.
17. In addition to the basic annual contribution to CCD, set out in section 15 of the *Radio Regulations, 1986*, Vista committed to devote, by condition of licence, a total of \$140,000 over seven consecutive broadcast years (\$20,000 per year) to CCD, commencing in the first year of operations. Vista has indicated that all of this amount will be devoted to FACTOR.
18. Of this amount, at least 20% will be devoted to FACTOR or MUSICACTION, and the remainder will be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158. The Commission considers that Vista's allocation of CCD contributions is appropriate and in line with the spending requirements set out in the policy. A **condition of licence** relating to CCD contributions is set out in the appendix to this decision.

¹ See Broadcasting Public Notice 2008-4.

19. As mentioned above, the proposed station would be Vista's second commercial station serving the North Bay market. There are three other commercial radio stations serving the North Bay market that are owned and operated by Rogers.
20. With regard to Rogers' concern about its decline in revenues, the Commission notes that Rogers' profit before interest and tax margin remains healthy and higher than both the national and provincial averages. Rogers also accounts for the majority of the market's commercial radio revenues share. In Broadcasting Decision 2019-200, the Commission took into account Rogers' concerns among various factors and found that the market of North Bay can sustain an additional commercial radio station. In any event, given Roger's dominant position in the market with respect to the number of stations as well as revenue share, it is in a strong position to withstand competition from a new station by Vista.
21. In regards to Rogers' concern that licensing a new station would result in a very low commercial radio station per population ratio in North Bay, the Commission notes that the market would have a ratio that's above average when compared to non-designated markets of similar size in Ontario. While Sudbury has a higher population per station ratio, the market is not comparable to North Bay since its population is more than three times the size of North Bay's and the larger the market, the higher its population per station ratio tends to be. The Commission further notes that Sudbury's radio market is a designated market whereas North Bay is a non-designated market meaning population ratio per operator is higher than population ratio per station in North Bay, which is also taken into account when doing a market comparison. Finally, when making a decision regarding market capacity, population per station ratio is one of many factors considered by the Commission which vary from market to market.
22. The Commission considers that the new station would not cause an undue financial impact on incumbent stations in the North Bay market.

Conclusion

23. In light of all of the above, the Commission **approves** the application by Vista Radio Ltd. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in North Bay, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.

Employment Equity

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

Secretary General

Related documents

- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve North Bay*, Broadcasting Decision CRTC 2019-200, 6 June 2019
- *Call for comments on market capacity and the appropriateness of issuing a call for radio applications to serve North Bay, Ontario*, Broadcasting Notice of Consultation CRTC 2018-380, 27 September 2018
- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-165

Terms, conditions of licence and expectation for the English-language commercial FM radio programming undertaking in North Bay, Ontario

Terms

The licence will expire 31 August 2026.

The station will operate at 90.5 MHz (channel 213C1) with an effective radiated power of 45,800 watts (non-directional antenna with an effective height of antenna above average terrain of 145.5 metres).

Pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue a licence for this undertaking once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be in operation as soon as possible and, in any case, by no later than 25 May 2022. To request an extension, the applicant must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986* the licensee must, upon commencement of operations, make an annual contribution of \$20,000 (\$140,000 over seven consecutive broadcast years) toward the promotion and development of Canadian content.

No less than 20% of this amount will be allocated per broadcast year to FACTOR or MUSICACTION. The remaining amount must 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.
3. The licensee must adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.

Expectation

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