



Broadcasting Notice of Consultation CRTC 2021-377

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Ottawa, 12 November 2021

Public record: 1011-NOC2021-0377

Call for comments on market capacity to serve Sarnia, Ontario, and call for applications to serve Sarnia, Ontario

The Commission has received an application for a broadcasting licence to operate a new commercial radio station to serve Sarnia, Ontario. As an exception to its current process as set out in *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014 (the Radio Call Policy), the Commission is simultaneously seeking comments on market capacity and calling for radio applications to serve Sarnia. The Commission encourages interested persons, as well as the applicant, to submit additional information that it will take into consideration before making a final determination on market capacity and whether to authorize any such service at this time.

The deadline for the receipt of interventions is **12 January 2022**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline to file replies is **27 January 2022**.

The Commission expects persons interested in serving the Sarnia radio market to submit a duly completed application to the Commission by no later than **27 January 2022**, using the appropriate application form for a licence to operate a new radio station. It should be noted that in making this call, the Commission has not reached any conclusion regarding the market capacity in Sarnia or the licensing of any service at this time.

Background

1. In *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014 (the Radio Call Policy), the Commission set out its procedure for issuing calls for applications for broadcasting licences to operate radio stations. According to the Radio Call Policy, applications for new radio stations in markets of all sizes will generally result in the issuance of a call for applications with the following exceptions:
 - proposals with very little or no commercial potential or impact, including some low-power applications;
 - proposals to provide the first commercial service in a market;
 - proposals by the sole commercial operator in a market to improve service to the market, either through an AM to FM conversion or a new station;

- proposals to provide the first commercial service in the other official language in a market or to convert the only station in the other official language from AM to FM; and
 - proposals to convert stations from AM to FM in markets with two or fewer commercial operators.
2. The Commission also takes into account the availability or scarcity of spectrum when considering applications that propose to use one of the last known frequencies in a market. Such applications will not be eligible to be considered under one of the exceptions to the issuance of a call.
 3. If an application does not fall within one of the exceptions to the issuance of a call, the Commission normally publishes a notice of consultation to seek comments on market capacity and the appropriateness of issuing a call. The Commission proceeds this way to ensure that new radio stations are introduced in a transparent and efficient manner and that the ability of existing radio stations to serve their communities is not compromised. It also provides Canadians with an opportunity to express their views on introducing new radio services prior to a call being issued.
 4. Following receipt of interventions and replies, the Commission normally conducts an assessment of the capacity of the market to support an additional station, taking into account economic and financial data as well as the comments received in the public consultation.
 5. As indicated in the Radio Call Policy, the Commission would weigh factors such as market capacity, spectrum availability or scarcity and interest by other parties in serving the market when deciding whether to:
 - publish the application for consideration during the non-appearing phase of a public hearing;
 - 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.
 6. Since the beginning of the COVID-19 pandemic, the Commission has not published any notices of consultation in response to applications to operate new radio stations due to the uncertainty faced by the radio industry. This has resulted in some applications effectively being on hold since mid-March 2020.

Application for Sarnia

7. The Commission has received the following application for a broadcasting licence to operate a new English-language low-power commercial FM radio station to serve Sarnia, Ontario:

Applicant	Type of service	Technical parameters	Main communities included in the primary contour
Sarnia Media and Entertainment Inc.	Low-power FM commercial radio station	100.9 MHz FM (channel 265 LP) with an effective radiated power of 45 watts	Sarnia

8. Given that the applicant is proposing a service that would operate alongside incumbent commercial radio stations in the same market, and despite the fact that the applicant's proposal is to operate a low-power station, the Commission does not consider that the present application will have little to no commercial potential. As such, the application does not meet any of the exceptions set out in the Radio Call Policy. The Commission would normally, under these circumstances, issue a notice of consultation to seek comments on market capacity and the appropriateness of issuing a call for applications.

The need for a modified procedure for this application

9. The Commission relies on the historic economic performance of a market when determining a market's capacity for a new station. However, the COVID-19 pandemic had an important impact on the radio industry, with a number of markets experiencing significant declines and other uncertainties. The timing of some applications for new licences was such that only pre-COVID-19 data was available at the time a call for comments would have typically been published. In the Commission's view, relying on this data alone would have generated unreliable market assessments. For this reason, the Commission put a number of applications on hold until relevant data was available, in order to ensure a legitimate and fair market assessment process. Unfortunately, this took some time and has resulted in some applications effectively being on hold since mid-March 2020, including this application for a new English-language low-power FM commercial radio station to serve Sarnia.
10. The larger effects of the COVID-19 pandemic on the radio industry are now better understood by the Commission, making it possible to assess this application in light of recent and relevant financial data. That being said, the Commission recognizes that this application was received over a year ago and has been effectively on hold for some time. In order to avoid exacerbating what has already been a long delay, the Commission will expedite the treatment of this application and will not follow the process established in the Radio Call Policy as it relates to this particular application. Because of the exception to the Commission's established process in this case, the applicant will be provided an opportunity to update its application, if necessary.
11. Specifically, and as described in more detail below, the Commission is seeking comments on market capacity while simultaneously putting out a call for applications to serve Sarnia. In the Commission's view, proceeding in this manner will maintain the opportunity for Canadians to express their views on introducing new radio services

while ensuring that the introduction of a new station would not compromise the ability of existing radio stations to serve this market.

Call for comments

12. In light of the above, the Commission calls for comments on the capacity of Sarnia to support a new radio station to serve this community.
13. Given the limited number of stations operating in Sarnia, the Commission will not release financial data to preserve the confidentiality of station-level information. Aggregated financial information relating to the radio market for Southern Ontario can be found in the [Commission's Statistical and Financial Summaries 2016-2020](#) on the Open Data Portal.
14. Following receipt of comments, the Commission will assess the capacity of Sarnia to support an additional radio station, taking into account economic and financial data as well as the interventions and replies received in response to this notice. Using this assessment, the Commission will decide whether to:
 - publish this application 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 are filed in response to this 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.
15. The procedure to submit comments is set out in Appendix 1 to this notice of consultation.

Call for applications

16. The Commission also calls for applications from other parties wishing to obtain radio licences to serve Sarnia. It should be noted that, in making this call, the Commission has not reached any conclusion with respect to the market capacity in Sarnia or the licensing of any service at this time.
17. Persons interested in responding to this call must submit a duly completed application to the Commission no later than **27 January 2022**, using the appropriate application [form](#) for a licence to operate a new radio station. Applicants are also required to submit all necessary technical documentation to the Department of Industry (the Department) by the same date.
18. The factors relevant to the evaluation of applications are detailed in Appendix 2 to this notice of consultation. The Commission will only evaluate applications in the event that it determines that there is capacity for another radio station to serve Sarnia. In the event that the Commission makes such a determination, it intends to consider all of the applications for Sarnia at a future public hearing. As part of that process, the public will be given the opportunity to comment on the applications by submitting written

interventions to the Commission. Notice of each application will also be published in newspapers of general circulation within the area to be served.

Technical approval from the Department of Industry

19. The Commission advises applicants that it will withdraw any application from the public hearing if it is not advised by the Department, **at least twenty days prior to the first day of the hearing**, 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 hearing**, 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 applicants

20. 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.

Update of application

21. Sarnia Media and Entertainment Inc. will be given the opportunity to update its application and to provide the essential information set out below.

Essential information that applicants must provide

22. To assist it in the assessment of applications, the Commission requires each applicant to provide all the information requested in Appendices 3, 4 or 5 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.
23. 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.
24. 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 filling 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.

¹ SOR/97-192

² SOR/85-627

Secretary General

Appendix 1 to Broadcasting Notice of Consultation CRTC 2021-377

Procedure for filing interventions and replies in response to the call for comments

The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." The *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

The Commission invites interventions that address the issues and questions set out above. The Commission will accept interventions that it receives on or before **12 January 2022**. Only parties that file interventions may file a reply to matters raised during the intervention phase. The deadline for the filing of replies is **27 January 2022**.

The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

Pursuant to *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.

Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and fax numbers, etc.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

Electronic versions of the interventions and of other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by visiting "Consultations and hearings – Have your say!" section, then selecting "our applications and processes that are open for comment". Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.

Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TTY: 1-877-909-2782

Appendix 2 to Broadcasting Notice of Consultation CRTC 2021-377

Factors for evaluation of applications

In assessing applications for new commercial radio services in a market, the Commission will consider the following factors, which were first set out in *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999.

Quality of the application

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.

The Commission will also consider commitments regarding the percentage of Canadian content of musical selections, contributions to Canadian content development (CCD) and, where applicable, the percentage of French-language vocal music.

The Commission does not regulate the format of AM or FM stations that base their programming on popular music. 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 clearly 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

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.

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

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 on existing stations in the market will therefore be relevant.

The Commission will therefore evaluate how the proposed station's programming, general and core target audience, and projected audience share overlaps stations already present in

the market. While the Commission may also consider the profitability of existing station groups in the market 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

In markets with fewer than eight commercial stations operating in a given language, the Commission's common ownership policy permits a person to own a maximum of three stations, with a maximum of two in any one frequency band. In markets with eight commercial stations or more, a person may own a maximum of two FM and two AM stations in any given language. The concentration of ownership resulting from this policy may increase the possibility of competitive imbalance in a radio market.

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

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

Appendix 3 to Broadcasting Notice of Consultation CRTC 2021-377

Requirements for new commercial radio licences including ethnic radio licences

Applicants wishing to file for a new commercial radio licence as part of this call for applications must complete the application [form 101](#).

Applicants should provide the information in the form so that the Commission may evaluate their applications in light of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Appendix 4 to Broadcasting Notice of Consultation CRTC 2021-377

Requirements for new community or campus radio licences

Applicants wishing to file for a new community or campus radio licence as part of this call for applications must complete the application [form 114](#).

Applicants should provide the information in the form 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.

Appendix 5 to Broadcasting Notice of Consultation CRTC 2021-377

Requirements for a new Indigenous (Type B Native) licence

Applicants wishing to file for an Indigenous (Type B Native) radio licence as part of this call for applications must complete application [form 103](#).

Applicants should provide the information so that the Commission may evaluate the application in light of *Native Broadcasting Policy*, Public Notice CRTC [1990-89](#), 20 September 1990, as well as *Changes to conditions of licence for certain native radio undertakings*, Public Notice CRTC [2001-70](#), 15 June 2001.

Appendix 6 to Broadcasting Notice of Consultation CRTC 2021-377

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](#). All of the information required in form 303 must be included.