



## Broadcasting Decision CRTC 2003-601

Ottawa, 17 December 2003

### **Crossroads Television System**

Burlington, Ottawa and London, Ontario

*Application 2002-0350-6*

*Public Hearing in the National Capital Region*

*26 May 2003*

### **CITS-TV Burlington – New transmitters in Ottawa and London**

*The Commission **approves** an application by Crossroads Television System to amend the licence for the television programming undertaking CITS-TV Burlington to add transmitters at Ottawa and London.*

#### **The application**

1. The Commission received an application by Crossroads Television System (CTS) to amend the licence for CITS-TV, Burlington by adding transmitters at Ottawa and London. The applicant proposed that the Ottawa transmitter would operate on channel 32B with an effective radiated power of 54,000 watts<sup>1</sup> and the London transmitter would operate on channel 14B with an effective radiated power of 7,700 watts.
2. CTS is a federally-incorporated, not-for-profit corporation without share capital. CITS-TV was licensed by the Commission to provide religious programming to Hamilton, Burlington, St. Catharines and Toronto in *New over-the-air television station devoted to religious programming – Approved, Competing application – Denied*, Decision CRTC 98-123, 9 April 1998.

#### **Background**

##### **Decision CRTC 2001-698**

3. In *Denial of proposal to add transmitters of CITS-TV at London and Ottawa*, Decision CRTC 2001-698, 16 November 2001 (Decision 2001-698), the Commission denied an application by CTS that was similar to that which is being considered in the current proceeding.

---

<sup>1</sup> CTS originally proposed that the Ottawa transmitter would operate on channel 14C with an effective radiated power of 109,000 watts but later amended its application. The Commission announced the amendment in Broadcasting Notice of Public Hearing CRTC 2003-3-1, 9 May 2003.

4. Decision 2001-698 stated that the Commission had examined the CTS application in light of *Distant Canadian television signals*, Public Notice CRTC 1985-61, 22 March 1985 (the Distant Signals Policy). The Distant Signals Policy stated that the Commission would examine, on a case-by-case basis, applications to extend over-the-air signals into distant markets. In assessing such applications, the Commission indicated that it would take into account the following considerations:
  - there should be no objection on the part of the originating station whose signal is being extended (in those cases where the originating station is not the applicant);
  - the originating station whose signal enters a distant market should not accept local advertising from such a market;
  - the originating station will continue to adhere to the local programming commitments of its licensing decision;
  - the distant signal should enhance the diversity of Canadian programming in the market.
5. The Distant Signal Policy indicated that the Commission would also examine:
  - the number of local television services in existence or likely to be licensed in the distant market;
  - the degree of the distant signal's potential impact on the revenue base of the local broadcasters and on their ability to meet their programming commitments;
  - the availability of the required frequency in the proposed new market(s);
  - whether cooperative arrangements (such as twin-sticking) between the originating station and a local broadcaster(s) in the distant market are involved or are being considered.
6. In Decision 2001-698, the Commission found that, of the factors set out above, the one that was of greatest relevance to the application was the number of local television stations in existence or likely to be licensed. The Commission determined that approval of the CTS application would act, to some degree, as an impediment to the emergence of new local over-the-air religious services designed to serve London and Ottawa. In addition, the Commission stated that the licensing of the new transmitters proposed by CTS would add to over-the-air capacity constraints. The Commission considered that the added pressure on capacity, in Ottawa in particular, would be potentially detrimental to the emergence of new local over-the-air French-language services to serve the Ottawa region.

### **Broadcasting Notice of Public Hearing CRTC 2003-3**

7. In Broadcasting Notice of Public Hearing CRTC 2003-3, 21 March 2003 (the Notice of Public Hearing), the Commission announced that it wished to discuss, at the public hearing, the impact that the extension of the CITS-TV signal would have on the Ottawa and London markets. The Commission stated:

Recognizing that an approval of this application would create an additional priority signal in the affected markets, the Commission will want to assess, in addition to the impact on other broadcasting services, the impact of cable channel realignment, especially in the National Capital Region, where a balance of English- and French-language services is an important objective.

### **Interventions**

8. The Commission received 107 interventions in support of the CTS application. Included with the supporting interventions were 1,319 other letters of support. These interveners generally expressed support for the programming of CITS-TV and considered that approving the applications would expand the range and quality of programming available to viewers in the Ottawa and London markets.
9. Interventions in opposition to the CTS proposal to establish transmitters in London and Ottawa were received from VisionTV: Canada's Faith Network/Réseau religieux canadien (Vision), Cable Public Affairs Channel Inc. (CPAC) and Paul McDermott.<sup>2</sup> The concerns raised by Vision and CPAC are addressed in the discussion of the issues set out later in this decision.
10. Paul McDermott opposed CTS' plan to use channel 14B to serve London. Mr. McDermott noted that Industry Canada had approved the use of channel 15 for digital television service in the London area, and was concerned that assigning a new local service to an adjacent channel would make it more difficult for residents in rural areas to receive clear over-the-air signals.
11. CTS did not reply to Mr. McDermott's intervention. The Commission notes, however, that matters related to technical interference are within the jurisdiction of the Department of Industry (the Department). The Commission does not issue licences for new transmitters until the Department has advised that an applicant's technical proposal is acceptable and that the Department will issue a broadcasting certificate for the undertaking.

---

<sup>2</sup> Two other interventions in opposition were received from individuals. These interventions, however, did not raise matters directly related to the extension of CITS-TV's signals to the Ottawa and London markets.

## **The Commission's analysis and determinations**

12. After considering the application in light of the Distant Signals Policy, the concerns raised in Decision 2001-698 and the Notice of Public Hearing, as well as the views expressed by interveners, the Commission has identified a number of issues that it considers are relevant to the application. These are explored below.

### **The impact on existing broadcast services**

#### *Impact on existing local television stations in London and Ottawa*

13. The Commission notes that CITS-TV is a specialized programming service that attracts a niche audience. In the Toronto/Hamilton market, the station garnered an average audience share of 0.5% during its first three years of operations. As a result, CITS-TV has not had a significant negative effect on existing television stations in its primary market. The Commission considers that it is reasonable to assume that CITS-TV will achieve levels of viewing in Ottawa and London that are similar to those achieved in Toronto. The Commission further notes that CTS has made a commitment that it will not seek local advertising in Ottawa or London, and would accept a condition of licence to this effect. As well, the Commission notes that no interventions opposing the application were filed by local television stations serving Ottawa or London.
14. In light of the above, the Commission finds that approval of the CTS application is unlikely to have a significant negative effect on local over-the-air television broadcasters serving the London and Ottawa markets.

#### *Impact on Vision TV*

15. Vision is the licensee for Vision TV, a national English-language religious specialty television service. In its intervention, Vision expressed concern that approval of CTS' application would turn CITS-TV into a competitor with Vision. Vision submitted that CITS-TV had been licensed as a local religious service with all balance programs<sup>3</sup> to be locally-produced, and considered that extending the CITS-TV's reach to include Ottawa and London would not be in accordance with CITS-TV's mandate to be a local station for the Toronto/Hamilton market.
16. In its reply, CTS denied that Vision TV and CITS-TV were competitors. CTS noted that, unlike Vision TV, CITS-TV does not receive such benefits as subscriber fees and national cable carriage, nor is it eligible to receive donations for which tax receipts may be issued. CTS further argued that CITS-TV's locally-produced balance programs would also be relevant to viewers in London and Ottawa, and that it would add a member from each of those two communities to the CITS-TV compliance committee.

---

<sup>3</sup> "Balance programs" are programs designed to provide viewers with different points of view on religious matters. CITS-TV is required, by condition of licence, to provide a minimum weekly level of 20 hours of such programs.

17. The Commission acknowledges that some competition may exist between Vision TV and CITS-TV in terms of selling blocks of airtime. It notes, however, that Vision TV was unable to quantify the impact that approval of CTS' application would have on the operations of Vision TV.
18. The Commission further notes that, as a specialty service, Vision TV enjoys broad national distribution and, unlike CITS-TV, is able to charge a per subscriber wholesale rate to broadcasting distribution undertakings (BDUs) that distribute the service. In *Application for an increase in Vision TV's wholesale rate*, Broadcasting Decision CRTC 2003-23, 24 January 2003, the Commission approved an increase in the wholesale rate for Vision TV from \$0.08 to \$0.10 per subscriber per month, effective 1 March 2003. Further, the Commission notes that, according to the BBM Fall 2002 survey, the London and Ottawa-Hull markets combined account for only about 5% of Vision TV's total viewing.
19. In light of the above, the Commission does not consider that approval of CTS' application will have a significant negative impact on Vision TV.

#### **Implications of approval on the channel line-up of BDUs**

20. In the Notice of Public Hearing, the Commission indicated that it wished to assess the impact that approval would have on cable channel realignment, especially in the National Capital Region (NCR).

#### *CPAC intervention*

21. CPAC opposed the CTS application solely on the grounds of the effect that approval might have on the channel placement of CPAC's service on the cable systems in the NCR. CPAC was concerned that, if the CTS application were approved, the CPAC service might be displaced from its current position, which is below the tiers of analog specialty services, and that it could end up on channel 65 or higher. CPAC argued that filling preferred channel positions of the basic cable service with non-local rebroadcasting transmitters was not necessarily in the public interest when other valuable services such as CAPAC's might be displaced.
22. William C. Corbett, the Clerk of the House of Commons, also submitted a comment which stated that, while the House of Commons did not oppose the CTS application, it shared CPAC's concern about the possible impact that approval the proposed Ottawa transmitter could have on the channel placement of the CPAC service in the NCR. The intervener was concerned that a new channel position for CPAC might significantly affect the service's audience and, in turn, negatively affect public access to the broadcast of the House of Commons proceedings.

23. In reply, CTS stated that it was not seeking to displace any Canadian service, including the CPAC service, from its current carriage position on cable systems. It submitted, however, that realignments of U.S. signals on cable systems do not harm the Canadian broadcasting system and, indeed, appear to help Canadian broadcasters increase their audience shares.

*The Commission's analysis*

24. Section 17(1) of the *Broadcasting Distribution Regulations* (the Regulations), which applies to Class 1 and Class 2 licensees of BDUs, sets out a list of services that must be distributed as part of a BDUs basic service. Section 17(2) of the Regulations provides that “A licensee of a cable distribution undertaking shall distribute the services in subsection (1) beginning with the basic band of its undertaking.” Section 1 of the Regulations defines the term “basic band” as “the 12 analog cable channels that are commonly identified by the numbers 2 to 13...”
25. The transmitters proposed by CTS would qualify as “local television stations” in the Ottawa and London markets, and as such, would qualify for distribution according to the priorities established under section 17(1) and 17(2) of the Regulations. The Commission notes, however, that in its application, CTS stated that it would accept carriage on channel 36 or lower in both Ottawa and London. CTS was concerned that its viewing audience would be significantly diminished if it were carried above channel 36.
26. The Commission acknowledges the concerns expressed by CPAC and the Clerk of the House of Commons about possible disruption of the channel placement of the CPAC service should the CTS application be approved. The Commission notes, however, that on the Rogers cable systems in both the Ottawa and London, there are currently channels at or below channel 36 that are currently occupied by either exempt or non-Canadian programming services on which CITS-TV could be carried. It would be possible for these systems to carry CITS-TV on channel 36 or lower without changing the channel position of licensed Canadian services. In light of the above, the Commission does not consider that concerns about changes in the channel line-up constitute an impediment to approval of the CTS applications.

**Effect of approval on the establishment of local religious stations in Ottawa and London, and French-language stations in Ottawa**

27. Decision 2001-698, which denied a previous application to establish rebroadcasting transmitters for CITS-TV in Ottawa and London, stated that the Commission considered that approval would act, to some degree, as an impediment to the emergence of new local over-the-air religious services designed to Ottawa and London. In addition, the Commission was concerned that licensing an additional over-the-air transmitter could be potentially detrimental to the emergence of new-local over-the-air French-language services for the Ottawa region.

28. In its intervention, Vision also considered that the approval of the current CTS application could inhibit the establishment of local religious television stations in Ottawa and London.
29. At the hearing, CTS expressed the view that stand-alone religious television stations would not be viable in Ottawa or London because of the high capital costs for establishing such stations and the more limited advertising dollars available to them. CTS further submitted that, if its application were approved, there would still be two drop-in channels<sup>4</sup> available in Ottawa that could be used for another station, such as a French-language station.
30. The Commission notes that, since the issuance of Decision 2001-698, there have been no applications for the establishment of local religious stations in Ottawa and London, and that no interventions from parties interested in establishing such stations were received in connection with the current CTS application. The Commission further notes the many interventions that have expressed support for the CTS application. In light of the above, the Commission now considers that the CTS application constitutes a reasonable proposal to provide a religious over-the-air television service that would add to the diversity of programming available to viewers in Ottawa and London.
31. The Commission further notes that channel 32, which CTS has proposed to use in Ottawa, is a drop-in channel. The engineering brief submitted with the application further indicated that channels 51 and 69 could also be used to serve Ottawa, on a drop-in basis, at limited Class C or Class B parameters. Therefore, the Commission considers that approval of the CTS application would not prevent it from licensing additional television stations, including a French-language station, to serve the National Capital Region, if suitable applications were presented in the future.

### **Conclusion**

32. The Commission **approves** the application by CTS to amend the licence for the television programming undertaking CITS-TV Burlington to add transmitters in Ottawa and London. The new transmitter in Ottawa will operate on channel 32B with an effective radiated power of 54,000 watts, and the new transmitter in London will operate on channel 14B with an effective radiated power of 7,700 watts.
33. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

---

<sup>4</sup> A drop-in channel is any television channel that is not included in the official database of the Canadian Television Allotments and Assignments, published and maintained by the Department of Industry.

34. The transmitters 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 17 Decemer 2005. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before this date.
35. In accordance with commitments made by the licensee, it is a **condition of licence** that CTS not broadcast local advertising in London and Ottawa. Further, in accordance with commitments made by the licensee, the Commission expects CTS to include representatives from both Ottawa and London on its compliance committee.
36. As noted above, the applicant indicated that it would be willing to accept carriage on the basic service of cable systems outside of the basic band in Ottawa and London, so long as CITS-TV was carried no higher than channel 36. Broadcasting distribution undertakings that wish to carry CITS-TV in a manner other than that provided for under section 17 of the Regulations must submit an application for approval by the Commission.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>*