



Broadcasting Decision CRTC 2003-152

Ottawa, 14 May 2003

Global Communications Limited
Kitchener-Waterloo, Ontario

Rogers Broadcasting Limited
Kitchener-Waterloo, Ontario

CKMW Radio Ltd.
Kitchener-Waterloo, Ontario

Telephone City Broadcast Limited
Brantford, Ontario

*Applications 2002-0176-5, 2002-0175-7, 2002-0183-0 and 2002-0174-9
Public Hearing at Kitchener, Ontario
28 October 2002*

Rhythmic Contemporary Hit Radio FM station in Kitchener-Waterloo

In this decision, the Commission announces the determinations it has reached following its consideration of four applications proposing new commercial FM radio stations in south-western Ontario. Three of the applications were for licences to serve Kitchener-Waterloo and were filed by Global Communications Limited (Global), Rogers Broadcasting Limited (Rogers), and CKMW Radio Ltd. (CKMW). The fourth application was to serve Brantford and was by Telephone City Broadcast Limited (TCB). The three Kitchener-Waterloo applications were treated by the Commission as competing against each other due to the similarities between the individual musical formats proposed and to the overlap in the age demographics that the stations would target.

The fourth applicant, TCB, proposed an FM station that would serve a community that, while not far removed from Kitchener-Waterloo, nonetheless constitutes a separate radio market. TCB also proposed a country music format that would be targeted to a different age group than the Kitchener-Waterloo applicants. TCB was thus not competing with the Kitchener-Waterloo applicants on marketing grounds. However, TCB's application and that by Global were technically mutually exclusive, due to the relative proximity of the Brantford and Kitchener-Waterloo markets and the fact that both applicants sought use of the same frequency.

*The Commission **approves** the application by Global for a licence to operate a new Rhythmic Contemporary Hit Radio FM station serving Kitchener-Waterloo. The station will operate at 91.5 MHz (channel 218B) with an effective radiated power of 3,600 watts. The applications by Rogers, CKMW and TCB are **denied**.*

Global's proposed station is one of four new FM radio stations authorized in decisions issued today to provide service to the Kitchener-Waterloo area. In total, these decisions deal with ten applications for new FM radio stations that were considered at the 28 October 2002 Public Hearing in Kitchener. The decisions are accompanied by Introduction to Broadcasting Decisions CRTC 2003-152 to 2003-155 – Licensing of new FM radio stations to serve Kitchener-Waterloo, Broadcasting Public Notice CRTC 2003-25, 14 May 2003.

The applications

1. This decision deals with four applications proposing new commercial FM radio stations in south-western Ontario. Three of the applications were for licences to serve Kitchener-Waterloo and were filed by Global Communications Limited (Global), Rogers Broadcasting Limited (Rogers), and CKMW Radio Ltd. (CKMW). The fourth application was for a licence to serve Brantford and was by Telephone City Broadcast Limited (TCB).
2. Global, Rogers and CKMW proposed musical formats which they described, respectively, as Rhythmic Contemporary Hit Radio (Rhythmic CHR), CHR and Urban Top 40. All three formats would feature predominantly Pop, Rock and Dance music. They would be directed to similar or largely-overlapping target audiences, namely youth and young adult listeners 15 to 34 years of age in the case of Global's Rhythmic CHR station, those 12 to 24 years old in the case of Rogers' CHR station, and those 12 to 34 years of age in the case of CKMW's Urban Top 40 station. For these reasons, the three applications were deemed by the Commission to be competing on marketing grounds.
3. Global is a wholly owned subsidiary of Global Television Network Inc. (Global Television), a corporation controlled indirectly by Israel Asper of Winnipeg. Global Television is one of Canada's largest private broadcasters. Through Global, Global Television owns over-the-air television stations and transmitters serving large and small communities across Canada. Global Television and its subsidiaries also control or hold partnership interests in several analog and digital specialty services. Global is one of Canada's largest publishers of daily and weekly newspapers, including *The National Post*. The applicant has recently entered the radio broadcasting industry as licensee of a new FM station in Winnipeg, which commenced operations in March 2003.
4. Although Global owns no broadcasting outlet or newspaper targeted specifically to the Kitchener-Waterloo market, the applicant does operate two television stations, the signals of which are available to area residents, primarily through cable television subscriptions. One of the two signals is that of CIII-TV Paris; this and several other Global transmitters located elsewhere in the province provide a regional television service to Ontario residents. The second signal is that of CHCH-TV Hamilton, a station that broadcasts news and other local programming focused on Hamilton, Halton County and the Niagara region.

5. Rogers, like Global, has extensive Canadian media holdings. In addition to its AM/FM radio combination serving Kitchener-Waterloo (CKGL and CHYM-FM), Rogers owns or has indirect ownership interests in more than 40 other radio stations in Ontario, British Columbia, Alberta and Manitoba. It is the licensee or has indirect ownership interests in approximately 20 national or regional specialty television services, pay television and pay-per-view services. Rogers is also the licensee of the two multilingual television stations in Toronto, CFMT-TV and CJMT-TV (also known as OMNI.1 and OMNI.2). Rogers and its affiliate, Rogers Cable Inc. (Rogers Cable), are owned directly or indirectly by Rogers Communications Limited (Rogers Communications). Rogers Communications, through Rogers Publishing Limited, publishes Macleans Magazine and several other consumer and business magazines. Rogers Cable is the licensee of the cable system serving Kitchener-Waterloo, and operates or is the owner of other licensed distribution undertakings that, together, serve approximately 29% of all basic cable television subscribers in Canada.
6. CKMW is the licensee of CIAO Brampton. It also owns 100% of Dufferin Communications Inc., licensee of CIDC-FM Orangeville, and 70% of CKDX Radio Limited, licensee of CKDX-FM Newmarket. CKMW is effectively controlled by William Evanov.
7. TCB, the applicant for a new Brantford FM station, is the licensee of two existing radio stations serving that community, namely CKPC and CKPC-FM Brantford. TCB is owned and controlled by Richard D. Buchanan. TCB proposed an FM station that would serve a different market and would operate in a Modern Country music format targeted to a different age group than the Kitchener-Waterloo applicants. TCB was thus not competing with the Kitchener-Waterloo applicants on marketing grounds. However, TCB sought use of the same frequency as that sought by Global. Due to the relative proximity of the Brantford and Kitchener-Waterloo markets, the stations proposed by the two applicants could not coexist under the Department of Industry's (the Department's) technical rules. Consequently, TCB's application and that by Global were deemed technically mutually exclusive.

Interventions

8. The applications by Global and TCB were both the subject of opposing interventions filed by CJRT-FM Inc., licensee of CJRT-FM Toronto and by approximately 20 CJRT-FM listeners. These interveners expressed their concern that the use of 91.5 MHz, as proposed by Global in Kitchener or by TCB in Brantford, would adversely affect reception of CJRT-FM. According to the interveners, both applicants should apply for the use of other, alternative frequencies.
9. In its reply, Global stated that its application fully complies with the Department's technical assignment rules, which provide a reasonable level of protection to the service areas of existing stations. Global maintained that, in an area such as southern Ontario, spectrum congestion dictates that a station's "protected coverage" must be reasonably limited in order to maximize the use of the spectrum. Global stated that it would be

unreasonable for a station to expect its fringe coverage to be maintained indefinitely in such an area. The applicant added that CJRT-FM's official contour is fully protected by Global's application, based on the Department's current rules, and that its proposal would have minimal impact on the Toronto station.

10. TCB pointed out that its Brantford FM application also meets the technical criteria established by the Department, and that there already exists a technical limitation caused by CBL-FM-2 Paris, Ontario that affects the reception of CJRT-FM extending from Waterloo to Brantford. TCB added that all but one of the individuals who had filed opposing interventions appeared to be residents of Toronto or Mississauga, which are located some 50 kilometres outside of the zone of potential interference, and that none of these interveners would be adversely affected by its proposal.
11. The Commission has considered the views of the interveners and of the two applicants on this matter. Essentially, the interveners argued that 91.5 MHz should not be licensed for the delivery of a new class B FM station to either Kitchener-Waterloo or Brantford in order to eliminate any possibility of it causing interference to the reception of CJRT-FM's signal both within its official protected contour as well as at locations outside that contour, in the fringe reception areas. The Commission notes in this regard that the Department has declared the applications by Global and by TCB to be technically acceptable. In the Commission's view, there is no need to afford CJRT-FM protection beyond its official service contour. As well, the Commission believes that licensing 91.5 MHz to either one of the two applicants would be consistent with optimum utilization of the frequency spectrum.

Assessment of the Kitchener-Waterloo applications

12. Five commercial radio stations currently serve Kitchener-Waterloo. As mentioned above, Rogers operates two of these stations. Of the others, two are licensed to CHUM Limited (CHUM) and one is owned by Corus Entertainment Inc. (Corus). In addition, two campus stations, one community station and a television station, CKCO-TV owned by CTV Television Inc. (CTV), are licensed to serve this market. Kitchener-Waterloo is also home to a daily newspaper, *The Kitchener-Waterloo Record*, which is owned by Torstar Corporation (Torstar).
13. In its assessment of applications for new commercial radio stations, the Commission takes into account four main factors or bases of comparison that it has identified as being relevant. While the relative importance of the factors will vary depending on the specific circumstances of the market, these factors are:
 - The competitive state of the market
 - The likely impact of a new entrant or entrants

- The diversity of news voices in the market
- The quality of the application.¹

Competitive state of the market, likely impact of a new entrant or entrants, and diversity of news voices

14. In *Introduction to Broadcasting Decisions CRTC 2003-152 to 2003-155 – Licensing of new FM radio stations to serve Kitchener-Waterloo*, Broadcasting Public Notice CRTC 2003-25, 14 May 2003 (Public Notice 2003-25), the Commission has set out its findings regarding the competitive state of the Kitchener-Waterloo radio market. In that notice, the Commission has concluded that the market and its incumbents will be able to absorb the increased competition created by the licensing of two new commercial FM radio stations, including one featuring CHR, Urban Top 40 or Rhythmic CHR music, and one operating in a Country or New Country music format.
15. In reaching this conclusion, the Commission took into account the projections for consistent, positive economic growth within the market, the healthy advertising revenues that have been earned in recent years by existing commercial stations, and their relatively strong average profitability. The Commission also considered the arguments put forward by all of the applicants in their business plans regarding the demand that exists for the services they propose, as evidenced by the high level of out-of-market tuning that characterizes the Kitchener-Waterloo radio market, and their ability to repatriate a substantial percentage of this out-of-market tuning. Further, the Commission has noted that there were no opposing interventions filed against any of the applications before the Commission at the Kitchener public hearing by the two licensees of Kitchener-Waterloo commercial radio stations that were not directly involved in this proceeding, namely CHUM and Corus.
16. With respect to diversity, given the presence of Rogers Communications as the indirect owner of two existing radio stations and a cable television undertaking with a community channel in the Kitchener-Waterloo market, approval of the application by Rogers would not add to the diversity of news voices and, in fact, could result in a diminution in the level of effective competition, within this market.
17. Unlike Rogers, CKMW has no broadcasting outlets in Kitchener-Waterloo. Thus, licensing CKMW would increase the diversity of news voices and the level of competition in the market.
18. As for Global, the Commission is mindful of this applicant's substantial media holdings across Canada, in particular of its ownership of television stations CIII-TV Paris and CHCH-TV Hamilton, the signals of which are available in Kitchener-Waterloo. Global

¹ The relevance of these four factors was highlighted by the Commission in *Introductory statement – Licensing new radio stations*, which appeared in Decisions CRTC 99-480, 99-481 and 99-482, all dated 28 October 1999.

also acknowledged that these holdings and its current application may give rise to concerns with respect to media cross-ownership. Accordingly, Global has stated that it would accept a condition of licence that would ensure the autonomy of the news programming broadcast by its proposed radio station.

19. Specifically, in order to ensure that the proposed radio station's newsgathering and news management activities are kept separate from those of CIII-TV Paris and CHCH-TV Hamilton, the applicant stated that it would adhere to a condition of licence requiring it to maintain a separate newsroom, and to employ a separate radio news director and team of journalist/announcers for the proposed radio station. It added that the news director would control the news stories that the radio station broadcasts, and that the presentation of news on the radio station would be by dedicated radio station personnel.
20. As the applicant pointed out at the hearing, neither of the two Global television stations noted above have Kitchener-Waterloo as the focus of their news coverage. Because Global thus cannot be said to have a *local* news voice or presence in Kitchener-Waterloo, the Commission is satisfied that Global's ownership of a new FM radio station would increase the diversity of news voices and views on matters of local public concern that are available to listeners. It would also increase the level of competition in the market. Further, to the extent that any concern regarding media cross-ownership remains, the Commission considers that the presence of several other strong media voices in Kitchener-Waterloo, including those of Rogers, CHUM, Corus, CTV and Torstar, coupled with Global's acceptance of a condition of licence to ensure the autonomous operation of its proposed new radio station, substantially mitigate this concern.

Quality of the applications

21. The Commission generally assesses the quality of applications competing for licences to operate new radio programming undertakings by examining the following:
 - local programming proposals and plans for providing reflection of the local community;
 - Canadian content commitments;
 - commitments in support of the development of Canadian talent; and
 - the quality of the business plan, including the proposed station format.²

² The relevance of these four factors was highlighted by the Commission in *Introductory statement – Licensing new radio stations* which appeared in Decisions CRTC 99-480, 99-481 and 99-482, all dated 28 October 1999.

Local programming and local reflection

22. Each of the applicants agreed to adhere to the standard condition of licence requiring, as a prerequisite to their solicitation or acceptance of local advertising, that a minimum of one-third of the broadcast week be devoted to local programming. Of the three applicants, Global provided the greatest detail regarding its plans for the scheduling of local news and other local reflection. Local spoken-word programming would amount to more than ten hours per week, including more than 5 hours 30 minutes of scheduled news and related surveillance (traffic, weather and sports information). This news and related surveillance would be produced by a news director and four other full-time news staff. Other local programs would include two, regularly scheduled, student-produced entertainment and information features entitled *Street Beat* and *School Beat*, representing, at a minimum, a further 1 hour 5 minutes per week of surveillance programming.
23. CKMW's written application presented plans to provide a mix of local news and information, concert details, club listings, school events, local drama productions and coverage of other events of interest to youth. Newscasts would air on the half hour from 6:00 a.m. to 9:00 a.m., at noon, and on the hour from 4:00 p.m. to 6:00 p.m. At the hearing, CKMW described plans, not contained in its written application, for a regularly scheduled program during which students would report on events taking place at Kitchener-Waterloo's secondary schools and college campuses.
24. Rogers stated at the hearing that it would schedule five newscasts each weekday, or one per hour during the morning and afternoon drive periods. Other local spoken-word programming would consist of what Rogers described as "topical talk patterns" that would be woven into the schedule throughout the broadcast day, Monday to Friday. The applicant at the hearing did not provide the Commission with any approximation of how the amount of local news and local reflection in a broadcast week would compare to the amount of music that would be presented. Nor did the applicant offer any details regarding its plans for the provision of local programming and local reflection on weekends.

Canadian content

25. Section 2.2 of the *Radio Regulations, 1986* (the Radio Regulations) requires that on a weekly basis, a minimum of 35% of all category 2 musical selections, and a minimum of 10% of all category 3 musical selections, be Canadian selections. Both CKMW and Rogers made commitments in their applications to adhere to these regulatory requirements at a minimum. As part of its application, however, Global, made a commitment to exceed these requirements by ensuring that Canadian selections account for a minimum of 40% of all category 2 musical selections aired in each broadcast week.

Canadian talent development

26. Under the Canadian talent development (CTD) funding plan instituted by the Canadian Association of Broadcasters (CAB), radio licensees adhering to the plan and serving markets the size of Kitchener-Waterloo are required to contribute an annual minimum of \$5,000 to CTD initiatives through eligible third parties. Although only one of the three applicants proposed to participate in the CAB plan, each made commitments that would exceed the plan's minimum financial requirements. Financial expenditures are not the only contributions that broadcasters can make to support CTD, nor do comparisons based on such expenditures form the sole basis for the Commission's assessment of CTD proposals. Nevertheless, the Commission notes that the commitments of two of the applicants are considerably greater than those of the third.
27. Global, as a non-participant in the CAB funding plan, committed to spend \$2.1 million over seven years, or \$300,000 per year, on CTD. Of this annual amount, \$125,000 would be directed to a talent search contest that would culminate in the production and distribution of five CDs each year. In addition, \$70,000 would be contributed to the Foundation to Assist Canadian Talent On Record (FACTOR), and the funds would be directed to the support of Canadian dance music artists, particularly those resident in south-western Ontario. Another \$70,000 would be earmarked as funding for the Canadian Dance Music Festival hosted by the City of Kitchener. Of this \$70,000 amount, \$40,000 would be dedicated to meeting the costs of establishing extra performance stages to showcase local DJs and dance music artists. The remaining \$30,000 would be used to pay musicians fees. As one further initiative, Global stated that it would provide \$35,000 each year to underwrite scholarships and \$500 annually in travel expenses, for three students attending the one-year programs in record producing/engineering and recording arts management at the Harris Institute for the Arts in Toronto, a post secondary school dedicated to excellence in music industry education.
28. Rogers also chose not to participate in the CAB's plan. It did, however, offer commitments to CTD that would represent expenditures totalling a minimum of \$2 million over seven years. One-and-a-half million dollars or approximately \$214,300 annually would be allocated to FACTOR. At least one-third of the overall contribution to FACTOR would be directed by that organization to the support of CHR artists based in south-western Ontario. Another third would flow through to the FACTOR Tour Support Program and would be used to defray the touring expenses of such artists. The remaining \$500,000 of Rogers' CTD commitment, representing approximately \$71,400 per year, would be used to hire marquee Canadian CHR artists to perform during the annual University of Waterloo Music Festival and at the annual Homecoming Concert staged by Wilfrid Laurier University.
29. CKMW's financial commitments to CTD would represent expenditures of \$335,000 over seven years. CKMW proposed to spend \$30,000 on CTD in each of the first three years, \$55,000 in each of years four to six and \$80,000 in year seven of a seven-year licence term. In each of years one to three, CKMW would direct \$15,000 to a DJ Talent Search, \$5,000 to scholarships for two students pursuing studies in music or broadcast

journalism (\$2,500 each), \$5,000 as a donation to the Celebrating Canadian Music organization, and \$5,000 to eligible third parties, as called for by the CAB plan. At the hearing, the applicant confirmed that it had settled upon the projects it would fund, and the amounts that would be allocated to each, only for each of the first three years of the licence term. It indicated that, at the end of the three years, it would assess the effectiveness of these initiatives and then determine how its subsequent CTD funding should be allocated.

Business plans and formats

30. In the Commission's view, each of the three applicants provided a reasonable business plan and adequate evidence of a demand in the Kitchener-Waterloo market for an FM radio station that would target youth and young adults. Of the three applicants, the expenses forecast by CKMW, particularly those attributable to programming, were the lowest. As such, CKMW indicated that its proposed station would achieve profitability by year two. Rogers, despite the expected cost savings and synergies it would enjoy as a consequence of operating its proposed station alongside its two existing radio stations in Kitchener-Waterloo, did not project that its station would be profitable until year four. Global projected that its new station would achieve profitability in year three.
31. Among other things, the three applicants noted that no station in the market currently provides a CHR or a Top 40 service directed primarily to younger listeners. They also noted the very high percentage of out-of-market tuning that characterizes the Kitchener-Waterloo market, and the large portion of this tuning that is to CHR and Top 40 stations that target youth and young adults. The business plans of each applicant rely heavily on the ability of its proposed station to repatriate a significant portion of this out-of-market tuning.
32. In addition to considering the reasonableness of the applicant's proposed business plans, the Commission examined the music formats they proposed. Much of the Commission's questioning at the hearing was aimed at gaining a full appreciation of the similarities and differences between the musical formats proposed, and determining thereby which of the three applicants would ultimately provide the greatest incremental diversity to Kitchener-Waterloo's youth and young adults. Global indicated at the hearing that its proposed Rhythmic CHR format would blend a number of musical styles having a strong rhythmic beat, including electronic dance and soft rhythm and blues. Global noted that, while the station would also broadcast rap and hip hop music, the format would be tailored to appeal to a broader audience than would be attracted to a format more closely oriented to urban music. According to the sample play list filed by the applicant, Global's music mix would provide a 60:40 ratio of CHR (Top 40 or dance) music to urban (rap and hip hop) music.
33. CKMW indicated that its proposed Urban Top 40 format would include urban music drawing principally upon the four musical styles of hip hop, rap, rhythm and blues and reggae, and Top 40 music consisting of the most popular contemporary hits in the genres of Pop and Dance. The applicant expected that the largest component of its audience would consist of those in the younger half of the 12 to 34 age group. It noted,

however, that urban music has been on the airwaves for at least a decade, and therefore proposed to air some “classic” hip hop music for its older listeners. The musical selections contained in the applicant’s sample play list suggest a mix that would approximate a 50:50 balance between urban and Top 40 music.

34. According to Rogers’ statements at the hearing, the applicant’s proposed CHR format would be modelled after its successful Toronto station, CISS-FM (also known as KISS 92.5). Rogers indicated that its proposed format would be distinguishable from a Rhythmic CHR format in that it would feature current mainstream hit music, and have only a minimal component of urban (rap and hip hop) music.
35. In the Commission’s view, Global’s Rhythmic CHR format and CKMW’s Urban Top 40 format would likely sound very similar. The two applicants made it clear, however, that one would “brand” or “image” its proposed station quite differently than the other. Under CKMW’s plans, the proposed new FM station would be promoted as an urban station having an urban sound similar to that of CFXJ-FM Toronto (also known as FLOW 93.5). Global proposed to adopt a more mainstream, high energy dance/CHR image for its station, thereby positioning it at a point along the musical continuum that would fall somewhere between the FM station proposed by CKMW and that proposed by Rogers.
36. The Commission considers that, because Rogers’ CHR format would closely match that of its Toronto station CISS-FM, the proposed station would offer radio listeners in Kitchener-Waterloo very little by way of urban music. It would thus contribute less to the diversity of music programming available in that market than would the formats proposed by either CKMW or Global. As for CKMW and Global, the Commission believes that there would be very little to choose between the two with respect to the levels of diversity that their proposed formats would bring to the market.

Assessment of the Brantford application

37. Brantford, a growing community with a diverse economy, has a population approximately one-quarter that of Kitchener-Waterloo. It is served by an AM station (Classic Hits) and an FM station (Adult Contemporary music), both of which are owned by TCB, the current applicant for a new Country FM station at Brantford. A third, low-power FM station offers a specialty FM (Christian music) service to Brantford residents.
38. TCB suggested that its proposed country music station would complement its existing Brantford AM and FM radio stations. These operate in formats featuring classic hits music and adult contemporary music, respectively. TCB proposed to hire nine additional programming and news staff, all of whom would be dedicated to the proposed new station. TCB stated that it would ensure that the news and editorial voice of the proposed station remains independent of that of the existing stations. It also stated that the station would have a distinctly rural orientation with respect to its news programming, and would emphasize family values in its general programming.

39. TCB committed to adhere to the regulatory requirement for the broadcast of a minimum of 35% Canadian content in Category 2 music. The applicant's plans provided for the broadcast of a certain amount of older country music that would fall under Category 3 Special Interest. Accordingly, the applicant also committed to adhere to the regulatory requirement that a minimum of 10% of Category 3 music be Canadian. The applicant's CTD commitments include contributions to FACTOR of \$4,000 in each year of a seven-year licence term for the development of Ontario-based country music artists. These contributions would be well in excess of the CAB's funding plan guidelines, which specify minimum annual expenditures of \$400 for stations operating in markets the size of Brantford.
40. Overall, the Commission is satisfied with the applicant's business plan and considers that TCB was able to demonstrate that a demand exists in the Brantford market for the type of country music service proposed. As mentioned earlier, however, TCB's request for the use of the same frequency as that proposed by Global and the relative proximity of Brantford and Kitchener made the two applications technically mutually exclusive.

Conclusions

41. As noted in Public Notice 2003-25, the Commission is satisfied that the Kitchener-Waterloo market can support the licensing of two new commercial FM radio stations, including one featuring CHR, Urban Top 40 or Rhythmic CHR music and one operating in a Country or New Country music format. The Commission is also satisfied that, based solely on potential competitive impact, there would be no impediment to the licensing of all three proposals for not-for-profit FM stations.
42. The Commission's assessment of the three Kitchener-Waterloo applications has included an examination of the quality of the applicants' business plans and the evidence they have provided regarding the demand for a new FM service designed to respond to the musical preferences shared by a large percentage of youth and young adults. Based on its assessment of these two factors, the Commission concludes that any one of the three applicants would be licensable. As mentioned earlier, however, given the presence of Rogers Communications as the indirect owner of two existing radio stations and a cable television undertaking in the Kitchener-Waterloo market, approval of the application by Rogers would not contribute to the diversity of news voices in that market and could effectively reduce the level of competition. By way of contrast, approval of CKMW's application would add to diversity and heighten the level of competition. It would strengthen the independent radio sector as well by allowing this experienced and successful broadcaster to expand its operations into a significant new market.
43. Of the three applications, the Commission is satisfied that approval of Global's application would provide the soundest, most compelling combination of benefits for listeners in Kitchener-Waterloo. These include the additional news and editorial

diversity that the station would offer local listeners, as described in the applicant's well-developed plans for providing local reflection. They also include the musical diversity that Global's proposed format would bring to the market and, more specifically, to Kitchener-Waterloo's youth and young adults. In particular, the Commission has noted the applicant's strong commitments to Canadian content in its music programming and the financial contributions it would make to the development of Canadian talent. The Commission has also noted Global's willingness to adhere to a condition of licence designed to ensure that the newsgathering and news management operations of its proposed Kitchener station are kept separate from those of CIII-TV Paris and CHCH-TV Hamilton.

44. With respect to the application by TCB, the Commission acknowledges that approval would strengthen the competitive position of this small-market broadcaster and improve its ability to continue to provide local radio services to Brantford residents. Nevertheless, the Commission is satisfied that the 91.5 MHz frequency would be better used by Global to provide a new FM service in Kitchener-Waterloo.
45. The Commission therefore **approves** the application by Global for a licence to operate a new Rhythmic CHR FM station serving Kitchener-Waterloo. The station will operate at 91.5 MHz (channel 218B) with an effective radiated power of 3,600 watts. The applications by CKMW, Rogers and TCB are consequently **denied**.

Issuance of the licence

46. The licence will expire 31 August 2009. It will be subject to the conditions of licence set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, as well as to the three additional conditions of licence set out in the appendix to this decision.
47. The Department has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
48. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
49. Furthermore, the licence for this undertaking will be issued once 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 14 May 2005. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Cultural diversity

50. In *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged all radio broadcasters to reflect the cultural diversity of Canada.
51. In interventions to each of the applications for new radio programming undertakings heard at the Kitchener public hearing, the Communications and Diversity Network of the Pearson-Shoyama Institute outlined its concerns about the promotion of diversity in radio broadcasting, and made suggestions for the evaluation of a licensee's performance in the five areas of programming, employment practices, news, music and promotion of Canadian artists. As part of this proceeding, Global and all other applicants were given the opportunity to describe the measures they would take to incorporate and reflect the reality of Canada's cultural, ethnic, racial and Aboriginal diversity in each of these five areas.
52. In response, Global assured the Commission that the Rhythmic CHR format it has chosen, by its nature, embraces the ideals of cultural diversity. Global added that artists who record the types of music that the proposed station would feature come from a variety of cultural backgrounds, as do those who form the audiences for such music. The applicant also gave the commitment that its proposed station would join and actively participate in the Global Television Network cultural plan and its various initiatives.
53. The Commission notes this commitment and encourages the applicant to promote Canada's cultural diversity through both the programming and hiring practices of the new station.

Employment equity

54. Because this applicant is subject to the *Employment Equity Act* and files reports with Human Resources Development Canada, its employment equity practices are not examined 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://crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2003-152

Conditions of licence

The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, as well as the following conditions of licence.

1. The licensee shall, in lieu of the requirements set out in subsection 2.2(8) of the *Radio Regulations, 1986* and subject to subsection 2.2(6) of those regulations, devote, in a broadcast week, 40% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For purposes of this condition, the terms "broadcast week", "Canadian selection", "content category", and "musical selection", shall have the meaning set out in the *Radio Regulations, 1986*.

2. The licensee shall make direct expenditures totalling a minimum of \$300,000 per year over seven years on the support of Canadian talent, allocated as follows:
 - \$125,000 to fund an annual talent search;
 - \$70,000 to support the annual Canadian Dance Music Festival (\$40,000 for the construction of concert stages, and \$30,000 in musicians' fees);
 - \$35,000 to endow three scholarships at the Harris Institute for the Arts, plus \$500 to underwrite the travel expenses; and
 - \$70,000 to the Foundation to Assist Canadian Talent On Record (FACTOR) for the support of artists engaged in all genres of rhythmic dance music.
3. The licensee shall ensure that the newsgathering and news management activities of the radio station remain separate at all times from those of both CIII-TV Paris and CHCH-TV Hamilton. The licensee shall maintain a separate radio newsroom and employ a separate radio news director and team of journalist/announcers. The news director shall retain responsibility for decisions regarding which news stories the radio station will broadcast, and the presentation of the radio station's news shall be by dedicated radio station personnel.