

MAR 17 2023

RECEIVED / REÇU  
YELLOWKNIFE, NT

Court File No.:

FEDERAL COURT OF APPEAL

BETWEEN:

506992 N.W.T. LTD. O/A CABIN RADIO

Moving Party

and

THE ATTORNEY GENERAL OF CANADA and CANADIAN RADIO-TELEVISION AND  
TELECOMMUNICATIONS COMMISSION

Respondents

MOTION under subsection 31(2) of the *Broadcasting Act* and Rule 352 of the *Federal Courts Rules*

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SUPPLEMENTAL AFFIDAVIT

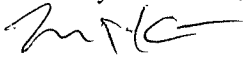
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I, Oliver Williams, of the City of Yellowknife, in the Northwest Territories, MAKE OATH AND  
SWEAR THAT:

1. I am an editor and owner of 506992 N.W.T. LTD. O/A Cabin Radio ("**Cabin Radio**"), and as such I have personal knowledge of the matters herein deposed to, except where I indicate my statements are based on information and belief, in which case I do believe the same to be true.
2. I am advised by Andrew Goodwin, who made Cabin Radio's application for a broadcasting licence on Cabin Radio's behalf, and verily believe, that on March 16, 2023, Cabin Radio received the email attached as **Exhibit A** from the Canadian Radio-television and Telecommunications Commission ("**CRTC**"). This is the first time the CRTC directly provided notice of Broadcasting Decision CRTC 2023-33 to Cabin Radio. Prior to that, Cabin Radio learned of the Decision by happening upon it on the CRTC's website.
3. The first time the CRTC notified Cabin Radio, directly or indirectly, that its application was now considered "closed" and "disposed of", was on March 16.
4. I am advised by Cabin Radio's counsel, Toby Kruger, and verily believe, that he sent the email attached as **Exhibit B** to the Federal Court of Appeal Registry's email address on March 16, 2023.

5. On March 17, 2023, I received the letter attached as **Exhibit C** and dated March 3, 2023 from the Honourable Caroline Wawzonek, Minister of Finance for the Northwest Territories, expressing her support for Cabin Radio's broadcasting licence and her concern with the way Cabin Radio's application was handled by the CRTC.

**I MAKE THIS AFFIDAVIT** in support of Cabin Radio's motion for leave to appeal and for no other or improper purpose.

SWORN BEFORE ME at the City )  
Yellowknife, in the Northwest Territories, this )  
17th day of March, 2023. )  
 )  
\_\_\_\_\_)  
(Signature) )  
A Commissioner of Oaths/Notary Public in and )  
for the Northwest Territories )

  
\_\_\_\_\_  
Oliver Williams

\_\_\_\_\_)  
(Print Name of Commissioner for Oaths/ )  
Notary Public) )  
My commission/appointment expires )

\_\_\_\_\_)  
**M. TOBIAS KRUGER** )  
A Notary Public/Commissioner for Oaths )  
in and for the Northwest Territories )  
My appointment does not expire, being a )  
Barrister & Solicitor )

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**From:** Ollie Williams <ollie@cabinradio.ca>  
**Sent:** Friday, March 17, 2023 9:50 AM  
**To:** Toby Kruger (5534) - 2Flr; Catherine Haid (5502) - 2Flr  
**Subject:** Fwd: Return of application (Application 2019-0951-6)

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

----- Forwarded message -----  
**From:** Broadcasting SWAT <BroadcastingSWAT@crtc.gc.ca>  
**Date:** Thu, Mar 16, 2023, 07:26  
**Subject:** Return of application (Application 2019-0951-6)  
**To:** mailbox@cabinradio.ca <mailbox@cabinradio.ca>  
**Cc:** aj@cabinradio.ca <aj@cabinradio.ca>

Dear Andrew Goodwin,

This is in reference to application 2019-0951-6 by 506992 N.W.T. Ltd. to obtain a broadcasting licence to operate a commercial FM radio station in Yellowknife, Northwest Territories.

Further to *findings regarding market capacity in the Yellowknife radio market*, Broadcasting Decision 2023-33, the Commission determined that the Yellowknife radio market cannot sustain an additional commercial radio station at this time.

In light of the above, the Commission will not proceed with your application as filed. Please note that this application is now considered closed and that the Commission has disposed of all related documents.

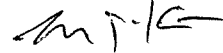
As set out in the decision, the Commission will not generally be disposed to accept applications for new commercial radio stations to serve the Yellowknife radio market for a period of two years from the date of the decision.

Should you require further information, please do not hesitate to contact Julie Aspirault by telephone at 873-455-2386 or at the following email address [Julie.Aspirault@crtc.gc.ca](mailto:Julie.Aspirault@crtc.gc.ca).

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THIS IS EXHIBIT " A "  
referred to in the Affidavit of  
Oliver Williams  
Sworn before me this 17th  
day of March A.D. 20 23

M. TOBIAS KRUGER  
A Notary Public/Commissioner for Oaths  
in and for the Northwest Territories  
My appointment does not expire, being a  
Barrister & Solicitor



Best regards,

**Jean-Simon Demers (he/him/il)**

Superviseur de l'équipe du point de contact unique|Single Point of Contact Supervisor

Conseil de la Radiodiffusion et des Télécommunications Canadiennes (CRTC)| Gouvernement du Canada

Canadian Radio-television and Telecommunications Commission (CRTC) | Government of Canada

1, promenade du portage, Gatineau, QC, J8X 4B1

[Jean-Simon.Demers@crtc.gc.ca](mailto:Jean-Simon.Demers@crtc.gc.ca) / Tél : 873-353-4588

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You received this message because you are subscribed to the Google Groups "Mailbox" group.

To unsubscribe from this group and stop receiving emails from it, send an email to

[mailbox+unsubscribe@cabinradio.ca](mailto:mailbox+unsubscribe@cabinradio.ca).

To view this discussion on the web visit

<https://groups.google.com/a/cabinradio.ca/d/msgid/mailbox/YQXPR01MB5001939FD2F5336F3BD0492687BC9%40YQXPR01MB5001.CANPRD01.PROD.OUTLOOK.COM>.

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**From:** Toby Kruger (5534) - 2Flr  
**Sent:** Thursday, March 16, 2023 9:12 AM  
**To:** 'FCARRegistry-CAFGreffe@cas-satj.gc.ca'  
**Cc:** Catherine Haid (5502) - 2Flr; 'Denise Bertolini'  
**Subject:** RE: Electronic copy of Motion Record of the Moving Party Volume 1 of 2 , 506992 N.W.T. Ltd. O/A Cabin Radio (Motion for Leave to Appeal)

Hello:

Further to the below filing of a Motion Record for Leave to Appeal on March 14, it has come to our attention that it may also be necessary to name the Attorney General of Canada as a respondent under Rule 338. We would be happy to amend our filing accordingly and we ask for the Administrator's direction under Rule 72 accordingly.

Thank you,

Toby Kruger

M. TOBIAS KRUGER  
A Notary Public/Commissioner for Oaths  
in and for the Northwest Territories  
My appointment does not expire, being a  
Barrister & Solicitor



THIS IS EXHIBIT " B "

referred to in the Affidavit of

Oliver Williams

Sworn before me this 17th

day of March A.D. 2023

Toby Kruger | Partner  
Lawson Lundell LLP  
D 867.669.5534 | 403.218.7555 | F 888.981.2823

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**From:** Toby Kruger (5534) - 2Flr  
**Sent:** Tuesday, March 14, 2023 10:13 PM  
**To:** Catherine Haid (5502) - 2Flr <chaid@lawsonlundell.com>; 'FCARRegistry-CAFGreffe@cas-satj.gc.ca' <FCARRegistry-CAFGreffe@cas-satj.gc.ca>  
**Subject:** RE: Electronic copy of Motion Record of the Moving Party Volume 1 of 2 , 506992 N.W.T. Ltd. O/A Cabin Radio (Motion for Leave to Appeal)

Hello:

Here is a reduced size of Volume 1 attached. Please confirm receipt of both volumes 1 and 2.

Thank you,

Toby Kruger | Partner  
Lawson Lundell LLP  
D 867.669.5534 | 403.218.7555 | F 888.981.2823

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**From:** Catherine Haid (5502) - 2Flr <chaid@lawsonlundell.com>  
**Sent:** Tuesday, March 14, 2023 9:51 PM  
**To:** 'FCARRegistry-CAFGreffe@cas-satj.gc.ca' <FCARRegistry-CAFGreffe@cas-satj.gc.ca>  
**Cc:** Toby Kruger (5534) - 2Flr <tkruger@lawsonlundell.com>  
**Subject:** Electronic copy of Motion Record of the Moving Party Volume 1 of 2 , 506992 N.W.T. Ltd. O/A Cabin Radio (Motion for Leave to Appeal)

Hello,

The following document is submitted in the matter of: 506992 N.W.T. Ltd. O/A Cabin Radio (the Moving Party) AND Canadian Radio-television and Telecommunications Commission (Respondent).

No file number has yet been assigned to this matter.

The Moving Party is seeking leave to appeal a decision of the Respondent. Please find attached the electronic copy of **volume 1 of 2** of the Moving Party's Motion Record which was submitted for filing at the Yellowknife, Northwest Territories courthouse registry on March 14, 2023.

Kindly confirm receipt of the Moving Party's Motion Record Volume 1 of 2.

Thank you,



CATHERINE HAID | Articled Student  
D 867.669.5502 | F 867.920.2206 | E [chaid@lawsonlundell.com](mailto:chaid@lawsonlundell.com)  
LAWSON LUNDELL LLP P.O. Box 818, 200, 4915 - 48th Street, YK Centre East, Yellowknife, NT X1A 2N6  
Vancouver | Calgary | Yellowknife | Kelowna

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M. TOBIAS KRUGER  
Government of  
A Notary Public/Commissioner for Oaths  
Northwest Territories  
in and for the Northwest Territories  
My appointment does not expire, being a  
Barrister & Solicitor

March 3, 2023

THIS IS EXHIBIT "C"

referred to in the Affidavit of

Oliver Williams

Sworn before me this 17th

day of March A.D. 2023

Claude Doucet  
Secretary General  
Canadian Radio-television and Telecommunications Commission  
OTTAWA ONTARIO K1A 0N2

Dear Mr. Doucet:

**In Relation to Broadcasting Decision CRTC 2023-33,  
Reference Number 1011-NOC2021-0374 (Cabin Radio, 506992 N.W.T. Ltd.)**

I am writing this letter to express the Government of the Northwest Territories (GNWT) concern with the manner in which the consideration of a license application to obtain and operate a new FM channel in Yellowknife by Cabin Radio ("506992 N.W.T. Ltd.") was conducted.

First, the delay that accrued in this matter was extensive. While I hope there is at least some explanation available, the extent of the delay on its face creates an impression that matters relating to our jurisdiction are of secondary importance.

Given the general lack of northern representation on the Commission, an effort to consider the particularities of the NWT market and economy seems especially important to ensure an adequate and accurate reflection of local realities. An approach that carefully considers local realities would also best meet the objects of the Commission as provided by the *Broadcasting Act*.

On that note, an additional Yellowknife based FM Radio channel would appear meet the policy objectives of the *Broadcasting Act*, which include:

- Taking into account regional needs and concerns;
- Reflecting Canadian attitudes, opinions, ideas, values, and artistic creativity;
- Contributing to original, Canadian programming; and
- Safeguarding, enriching, and strengthening the cultural, political, social and economic fabric of Canada.

.../2

The GNWT values the principles of competition. Having access to greater choices in broadcasting is important across Canada, and is of special importance to Northwest Territories (NWT) residents, businesses, and visitors. FM Radio remains an important source of vital information for many NWT residents in particular to those in remote communities. Even in its current format, Cabin Radio has proven itself to be a valuable provider of news and information. It operates wholly in the NWT and produces original content in the NWT that is relevant to residents.

A more competitive market is more responsive to the shifting needs of consumers and businesses in the products and services it delivers. With fair and vigorous competition, businesses must produce and sell the products consumers want, and offer them at prices they are willing to pay.

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As noted in Commissioner Clair Anderson's and Commissioner Joanne T. Levy's dissenting opinions on this decision, the Commission may have been premature in its determination that the market in Yellowknife cannot support an additional radio station, and that there was too heavy a reliance upon territorial data instead of data focused on the Yellowknife market. Commissioner Anderson notes that Yellowknife market data supports that Yellowknife's economy is stronger than both the territorial and national economies and would be the most suitable indicator in the Commission assessment for the Yellowknife market. Commissioner Anderson further notes that job and economic data for Yellowknife support the position that a significant portion of Yellowknife's population is in the public administration sector, which provides some buffer to any potential economic downturn.

Although it currently is not possible to separate economic measures such as GDP for Yellowknife from the NWT, employment may be used as a proxy. Historically, employment rates in Yellowknife have been considerably higher than both Canada and the rest of the NWT. Over the past 5 years, employment rates in Yellowknife have been, on average, around 15 - 17 percentage points higher than Canada and the rest of the Northwest Territories (Statistics Canada Monthly Labour Force Survey). In 2021, of those employed in Yellowknife, around 30% are working for the federal, territorial or municipal government (Statistics Canada, 2021 Census).

As also noted in Commissioner Anderson's and Commissioner Levy's dissenting opinions, the Commission's departure from the normal application process set forth in the Radio Call Policy and the lengthy delay in assessing Cabin Radio's application, are good reason for the Commission to consider waiving the two-year requirement before reconsidering applications for a new commercial radio station serving the Yellowknife market.



I hope you will consider the process by which this decision was made and your ability to provide a renewed opportunity to allow growth within our local radio broadcasting industry.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caroline Wawzonek'. The signature is fluid and cursive, with a large initial 'C' and 'W'.

Caroline Wawzonek  
Minister of Finance

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c. Michael McLeod, M.P.  
Member for the Northwest Territories

Shaleen Woodward  
Principal Secretary

Martin Goldney  
Secretary to Cabinet/Deputy Minister  
Executive and Indigenous Affairs

William MacKay  
Secretary to the Financial Management Board/Deputy Minister  
Finance

Shawn McCann  
Deputy Secretary, Indigenous and Intergovernmental Affairs  
Executive and Indigenous Affairs