



# TEAM MUSIC ENTERTAINMENT

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November 13, 2013

Secretary-General  
Canadian Radio-television and Telecommunications Commission  
Ottawa, Ontario K1A 0N2

RE: South Asian Broadcasting Corporation Inc., Item 9  
(Applications 2013-0885-9, 2013-0899-0, 2013-0896-6 and 2013-0902-1)

Dear Sir:

1. I am writing to:
  - (a) oppose the applications by South Asian Broadcasting Corporation Inc. ("SABC"), approval of which would allocate two rare Vancouver-area FM frequencies to the radio vehicle for SABC's entertainment business;
  - (b) request not to appear at the public hearing.
2. By way of background, I am a Punjabi singer, composer, actor, and producer. I am active in the music and film sectors in South Asia and its diaspora—including Canada. I understand that, for many years, Canadians have been cheered by success stories of local creators who go off to Los Angeles, New York, or Nashville, encounter great success, and create a pipeline and set of contacts for talent that benefits the Canadian cultural sector. Now, destinations like Mumbai, Lahore, and Chandigarh belong on that list, too.
3. Canadian creative talent is good enough to compete everywhere—and does. I have been impressed by the strength of the Canadian ecosystem for home grown talent in the South Asian idiom. Vancouverites are now able to choose from a number of Canadian and non-Canadian radio stations that highlight South Asian music and culture, consistent with Vancouver's status as a major hub and incubator for Canadian creative talent working in South Asian, rather than Hollywood, idioms.
4. I strongly support your work, as the Canadian regulator, to support that ecosystem, which benefits both Canadian artists, and the international industry of which I and my company are a part. I therefore support your initiative to add a Canadian radio station that will add to the local support network, and repatriate listeners from U.S. stations that have no obligation to highlight Canadian talent.
5. For the same reason, however, I am concerned by the applications filed by SABC. First, locking up South-Asian-Canadian talent behind a single entertainment conglomerate as gatekeeper will harm the support network from which so many Canadian artists benefit—especially in view of that conglomerate's past behaviour. Second, to the extent you as a Commission elect to designate certain players as kingmakers within the Canadian

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cultural industry, it is important that you understand what reputation these anointed players have developed abroad. That is why I am intervening in this proceeding.

### **Cross-Media Ownership**

6. I was able to locate ownership information by reviewing their prior filings with the CRTC (2004 Vancouver application, 2011 Vancouver renewal application, 2011 Calgary application). They show that:
  - South Asian Broadcasting Corp., which operates RED-FM Vancouver, is wholly owned, by way of shares, by Mr. Kulwinder Sanghera. Multicultural Broadcasting Corp. ("MBC"), which operates RED-FM Calgary, is also wholly owned by Mr. Kulwinder Sanghera, half directly by way of shares, and half indirectly through SABC.
  - SABC did not acknowledge any cross-media ownership—Table 3.2 (entitled "Cross-Media Ownership") of the 2011 renewal application was blank. No entities, for instance, were listed under the category of "(d) production or distribution of programming material".
7. The latter is not accurate. Mr. Kulwinder Sanghera apparently owns Music Waves Productions Ltd. producers and distributors of audio and audiovisual content in Canada.
8. It is not possible to evaluate the impact of SABC's applications on diversity of voices without accurate information on their cross-media ownership. That is why the CRTC requests such information. SABC should complete their applications by filing cross-media information that is accurate and complete. Interveners should then be afforded a reasonable opportunity to comment on it.

### **SABC's Dealings with Creators**

9. This intervention is insisting on extremely specific rules to ensure that SABC does not, as part of a vertical supply chain, act on its incentive to self-deal.
10. Extremely specific rules are always a good idea when they constrain a company from doing what would otherwise be in its self-interest. However, here I can confirm that they are necessary because, as a creator, I have in the past interacted with SABC's affiliated entity Music Waves Films. The result was not impressive.
11. In 2010, I wrote, composed the music for, and co-starred in the Punjabi-language movie "Jawani Zindabad" (Long Live Youth). Mr. Kulwinder Sanghera showed his interest to procure worldwide theatrical rights of this movie for three years under banner of Music Waves.
12. After all necessary verbal agreements, Mr. Kulwinder Sanghera asked my production company, Team Music Entertainment, to sign worldwide theatrical distribution rights with Music Waves Films. Music Waves Films' contract was signed by SABC owner Mr. Kulwinder Sanghera's relative (nephew), Mr. Gurvinder Sanghera, whom I understand is currently overlooking Music Waves Productions Ltd. in Canada. Mr. Gurvinder Sanghera is also representing RED-FM with various radio advertisers wherein he has signed agreements with radio advertisers on behalf of RED-FM.

  
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13. "Jawani Zindabad" was released in March 2010. All of that was three years ago. My company held up its end of the bargain: we produced the film, allowed Music Waves to distribute it worldwide, including in Canada, and reap the profits. The film had some success, particularly in Canada. Reviews were positive. The soundtrack contents had extensive airplay throughout the Punjabi-language media world.
14. But Music Waves never held up its end of things. As per contractual agreement, they were to pay Rs.60 lakhs upfront as Minimum Guarantee (MG). So far, I have only been paid approximately Rs.27 lakhs. Contract also states that Music Waves will spend Rs.50 lakhs in worldwide marketing. They never even supplied the marketing plans or showed evidence of having undertaken the marketing expenditures that they were required to undertake. Once the movie was released, they never provided required box office reports substantiating the film's gross revenues.
15. After release of movie, I tried contacting both Mr. Kulwinder Sanghera & Mr. Gurvinder Sanghera for my outstanding payments, box office and revenue reports. They stopped picking up my phone. After my consistently calling them, Mr. Kulwinder Sanghera answered phone & told me not to call him again. For any future conversation, Mr. Gurvinder Sanghera will deal with me. But Mr. Gurvinder Sanghera never returned any of my calls.
16. Without any financial remuneration coming my way, I was completely devastated. It took so much toll of my health that I was admitted to hospital in June 2010. For 12 days, I was in coma. I was released from hospital after 3 months. During this period, my financial situation went from bad to worse.
17. After coming from hospital, I gathered my very limited resources. I send them notice through my advocate. But no one replied to it. Because of my financial constrains, I was unable to pursue this matter further.
18. I am, financially, back on my feet again. My three-year theatrical rights contract with Music Waves expired in March 2013. I waited for them give me any final update but none came. My company will now be pursuing the matter against Music Waves Films in India, where the contract between our companies was concluded. If either of parties has not fulfilled their commitment, they were liable to other parties for Rs.2 crores. Many of my other creative projects are still on the backburner as a result of the resource crunch caused by Music Waves Films' failure to execute their contractual commitments. My career is six years behind because of their total unprofessional & cruel attitude.
19. I do not raise this issue in the hope of involving the CRTC in this dispute. However, it is important that the Commission understand the business practices of the principals that are before it. In my view, the CRTC should award licences only to applicants which demonstrate that they deal with Canadian creative talent in an honourable and fair way that will lead to the sustainable development of our creative sector. The behaviour noted here simply does not meet those criteria.

### **Conclusion**

20. I have made my request, and set out a position.

  
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21. Request that I have made relate to items that are missing or hard to locate in SABC's applications. Its cross-media ownership must be made public, so that I and other creators can understand SABC's applications and file comments on them—which we must be given the time to do. Per my understanding, there are many other artists who have met similar treatment. But due to cross-media ownership, they do not have way out of this vicious loop.
22. The position I have set out is to oppose SABC's applications:
- (a) It does not serve a diversity of voices to award multiple FM frequencies to a single player, especially when there is so much demonstrated demand by Canadians—and a tailor-made opportunity to allow other Canadians to serve that demand.
  - (b) Further, it does not serve Canadian citizens who hail from South Asian backgrounds to engage in "king-making" by designating a single entertainment conglomerate as the gatekeeper to our community's broadcast media. Yet that is exactly what the effect of granting SABC's proposal would be. Our communities are not monolithic. Nor should our broadcast media be.
  - (c) Finally, it harms creators when the distributors, promoters, and media outlets available to undertake such distribution and promotion are all owned by the same people—that is a recipe for a stunted ecosystem. It harms creators all the more so when that single point of failure is, in fact, one with a track record of treating creators unfairly, something with which I have some experience & for sure, there are others.
  - (d) I am concerned that many Canadian creators who are at earlier points in their careers will be afraid to speak out as I have, since the principals of SABC already hold such a strong position in the Canadian ecosystem for culture in the South Asian idiom. That is why I have elected to intervene in this proceeding. For all of the reasons set out above, I respectfully request that the CRTC deny the SABC applications.

If you need any further information about this intervention, kindly call me at +91-99889-65205 (using Punjabi interpreter).

Yours sincerely,

**For TEAM MUSIC ENTERTAINMENT**

  
Raj Brar

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