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CROSS-BORDER TARGETED RADIO IN NORTH AMERICA

CROSS-BORDER TARGETED RADIO IN NORTH AMERICA

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GAYLORD COLLEGE OF JOURNALISM AND MASS COMMUNICATION

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# CROSS-BORDER TARGETED RADIO IN NORTH AMERICA

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## CROSS-BORDER TARGETED RADIO IN NORTH AMERICA

Life-long learning is not a new concept in my family. I was in sixth grade when my father earned his Ph.D. My mother was a grandmother when she graduated from law school. They have supported me throughout my educational journey.

My children, Michael, Kyle, Christine, and Cara, have given up much for my pursuit of this degree. I am excited for their futures.

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### **Abstract**

This is a historic and contemporary study of cross-border targeted AM and FM radio stations licensed along the United States borders with Canada and Mexico. Each North American nation considered the airwaves a public resource and built its radio industry through privately-owned, advertiser-supported stations licensed to local communities. The countries also developed a set of content and ownership regulations. Radio serves a special role in the lives of its listeners, especially immigrants.

This study used comparative-historical analysis and general inductive analysis to look at how radio markets along the borders evolved, what made a cross-border market different from others, how regulations of two countries affected station operations, and what other legal entanglements faced these stations. The answers came from primary and secondary sources as well as a set of interviews with managers and regulators.

It was determined that most cross-border targeted stations used licenses in Mexico or Canada to reach listeners in the U.S. The study also found that regulators in each country took a different view of this phenomenon: Americans tried to thwart it, Mexicans facilitated it, and Canadians took a dim view of it. Some operators discovered that what is legal on one side of the border may not be legal on the other. Others used loopholes in regulations to build their business. The research also contains true stories of colorful characters and improbable situations.

*Keywords:* radio, broadcast regulation, media law, borders, Federal Communications Commission (FCC), Canadian Radio-television and Telecommunications Commission (CRTC), Instituto Federal de Telecomunicaciones (IFT), border blasters, Wolfman Jack, CKLW, transnational immigration, San Diego, Tijuana, Vancouver, Bellingham, Juarez, El Paso, Detroit, Windsor

## Chapter 1: Introduction

*Radio, itself, is a neutral thing. It is merely a device for transporting noise from one place to many others. But its power lies in the fact that the noise it transmits can be heard anywhere in the world, by as many people as wish to listen. – Albert Crews, NBC Production Director (Crews, 1944, p. v)*

There are thousands of radio stations in the North American nations of the United States, Canada, and Mexico. Each station serves a purpose for its audience. This study began with a historical look at some stations along the borders of the United States and Canada and the United States and Mexico and the unique contributions they made to the radio industry. After these looks at the past, the study moved onto contemporary cross-border targeted radio stations. These stations had the ability to serve listeners in two nations, although not all of them sought a cross-border audience. Unlike people, radio waves pass freely across borders. For shortwave stations, this was essential to their mission.

For AM and FM stations near the northern and southern U.S. boundaries, having a cross-border signal could mean very little, or it could be vital. Further, the stations to be studied were likely to show a dramatic contrast in how the presence of the border was approached. There could be an opportunity to expand the number of stations serving a market by using additional signals from across the border. There might be a way to use a signal from one country to provide programming to a specific audience in the other country. There may also be a way to serve listeners in both nations, even if those listeners may not be aware of the country of license for their favorite radio station.

Cross-border targeted radio has been a factor in the industry back to the 1930s. These stations have had the ability to provide information and entertainment to listeners

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in two countries, although not all of them have taken advantage of that ability. Station owners and managers have at times used the differing regulations affecting broadcasting in the United States, Canada, and Mexico to their advantage. In some cases, those regulations thwarted plans and resulted in a loss of audience, revenue, or even the station.

### *North American radio developed differently than other parts of the world*

It will be shown that the three nations in the studies viewed the broadcast airwaves as a public resource. Radio stations were, for the most part, established by private companies and supported by advertising. Furthermore, these stations were designed to serve the local communities to which they were licensed. Most other countries built their radio industries through public service broadcasters. The British Parliament's Sykes Committee on Broadcasting report in 1923 set the table for start of the BBC four years later, and showed the marked difference of opinion with the North American nations:

Broadcasting holds social and political possibilities as great as any technical attainments of our generation... For these reasons we consider that the control of such a potential power over public opinion and the life of the nation ought to remain with the state, and that the operation of so important a national service ought not to become an unrestricted commercial monopoly (Street, 2003, p. 100).

A member of that committee, Sir John Reith, went on to become the first director-general of the BBC. Reith was a true believer in the BBC's monopoly status:

On grounds of efficiency and economy of working, the advantages of central control are obvious. The necessity for maintaining the general policy and high standards, and for ensuring that these are promulgated throughout the service, demands it (Street, 2003, p. 8).

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The BBC's radio monopoly ended in 1973 with the establishment of independent local radio. The first independent station was LBC in London (LBC- from 1973 to today, 2002). The state-sponsored programming allowed these stations to be the voice of their respective national governments, perhaps to the point of being considered a propaganda arm.

Perhaps no one appreciated radio's value as propaganda tool more than Germany's Reich Minister for Popular Enlightenment and Propaganda, Joseph Goebbels. In 1933, Goebbels told a press meeting, "I have a vision of a new and topical radio, a radio that takes account of the spirit of our time...a radio that is aware of its great national responsibility" (Welch, 1993, p. 38). Goebbels also valued cross-border targeted radio. In 1938, one quarter of Czechoslovakia's population spoke German, but very little programming on the Czech state broadcaster was in German. Journalist Milena Jesenská said German speakers were turning their tuning dials,

For five years all that people in the borderlands have had to do is to turn a switch and Nazi ideology from the German stations has flowed directly into their homes - it goes without saying that they all tuned into stations that they could understand! (Vaughan, 2008).

Where Canada and Mexico diverged from the U.S. was in radio stations operated by arms of the government. These stations competed for audience with local, commercial stations. The Canadian Broadcasting Corporation/Société Radio-Canada started in 1933, in part using a network of stations built across the country by the Canadian National Railway (CNR radio out - CRBC in, 2018). It will be shown that some Mexican government agencies owned stations and all stations in that country were required to carry a certain amount of government-produced programs.

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## **Purpose of Study**

While there have been some historical studies with varying degrees of detail and scope, this was the first scholarly examination of cross-border targeted radio from historical and regulatory perspectives and the first to examine case studies in the United States, Canada, and Mexico. This study examined what happened along the shared borders of these three countries, where their regulatory schemes crossed. It may show the presence of a boundary is treated differently in each market. While each nation in the study viewed the airwaves as a public resource, each had different views of how that resource is best managed.

## **Research Questions**

Broadcasters operate under myriad laws and regulations from an alphabet soup of agencies at all levels of government. This study will include instances where compliance with all applicable laws in one country can mean little when regulators from another country assert jurisdiction. This study sought the answers to these questions:

1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?
2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?
3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?
4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.

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### **Significance of Study**

The markets and stations in this study held a unique position in the North American radio industry. There were times when one of the most-listened to radio stations in the United States was actually in Canada, when a Major League Baseball team had the flagship station of its English radio play-by-play network licensed in Mexico, and when immigrants to a Canadian city kept in touch with their distant homeland through radio stations in the U.S. This study was a look at some of the most important cross-border targeted stations of yesterday and today. It could show how the presence of an international border and its attendant clash of regulations had affected the operation of these stations.

This research should provide a rich background for students in several areas:

- It included a look at broadcast history and how radio developed in the selected markets.
- It looked at media law, especially contrasting content and ownership regulations among the three nations.
- The decision by managers of which target markets to serve and how to serve them was a lesson in media economics.
- It also touched on immigration, with some stations in the study serving people who moved from other lands.
- This was also a study of international relations, showing how multiple nations eventually developed a way to regulate an industry across borders.

Academic literature contains many studies of life along borders, because that is where culture, languages, people, laws, and government intersect. For example, the

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Association for Borderlands Studies is described as, “the leading international scholarly association dedicated to the systematic study and exchange of ideas, information and analysis of international border, and the processes and communities engendered by such borders” (Association for Borderlands Studies, n.d.). The organization’s *Journal of Borderlands Studies* has been published since 1986, yet has included just two articles on broadcasting: a comparison of news coverage between U.S.-licensed Spanish and English television stations in San Diego (Moran, 2005); and an analysis of classified ad shows on Spanish-language radio in Tucson, Albuquerque, and a U.S.-licensed station in El Paso (Morales, 2002).

The history of cross-border targeted radio has been examined by a small group of authors from a limited number of perspectives, while references to current cross-border stations are found in trade press with little acknowledgment of their unique situation. Fowler and Crawford (2002) co-wrote an excellent book on the early “border blasters” along the Rio Grande. Their work focused on the personalities who operated and appeared on those stations. A personal perspective on the use of Mexican stations to reach U.S. audiences could be found in the autobiography of disc jockey and station manager Bob Smith, better known as Wolfman Jack (Smith B. , 1995). Carson (2000) included the Windsor, Ontario-licensed CKLW in his history of Detroit radio personalities. Some of CKLW’s history and personalities were also the subject of a documentary titled “Radio Revolution” (McNamara, 2005). The development of radio in Mexico was well chronicled by Hayes (2000) and Robles (2012). This study added to the previous work by taking a more comprehensive look at historic and contemporary cross-border targeted radio from a regulatory perspective. Beyond these sources, the



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literature reviewed for this study involved primary sources such as semi-structured interviews, legal documents and hearing transcripts combined with secondary sources including general and trade media stories about the markets and/or stations studied.

### **Scope and Limitations**

This study involves a specific subset of radio stations in the United States, Canada, and Mexico in markets along the U.S. borders with its neighbors. These are privately-owned or publicly-owned, commercial or non-commercial, AM and FM stations. The study is based on historical research, document analysis, and semi-structured interviews, tools of qualitative research. This allows a detailed look at the subject of the inquiry.

### **Organization of Study**

This study starts with a selected history of North American cross-border targeted radio in the twentieth century. The industry's growing pains coupled with disputes among regulators led to the construction of several high-powered stations along the U.S.-Mexico border. Although licensed in Mexico, these stations were operated for American audiences. A look at their volatile history set the stage for the regulatory roadblocks that would face cross-border targeted stations in the decades to follow. The history continued with a review of cross-border targeted radio stations in the markets of San Diego-Tijuana, El Paso-Juarez, and Detroit-Windsor, home to the biggest cross-border targeted station in the industry's history.

The contemporary section is an analysis of four radio markets: San Diego-Tijuana, El Paso- Juarez, Detroit-Windsor, and Vancouver-Bellingham. The comparison and contrast of stations in these cities could show the regulatory and legal

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situations are quite different in each market. Vancouver provided one example of regulators coming in after the market was established, then making decisions which disrupted the *status quo* in favor of a new plan. Another case of regulators moving in afterwards can be found in San Diego, where one ownership group was dominating the market with the help of Mexican-licensed stations until American regulators took action.

There were differences in the economics of these markets. These included selling advertising to clients in two countries, perhaps at different rates. Among those advertisements where products not available in one country (Tinnes, 2001) or even conducting business on one side of the border in a way that would be illegal on the other (Tiegel, 1967). Students of broadcast history are aware of the role cross-border targeted stations played in the twentieth century. The stations and people involved could be generously described as colorful. These researchers will not be disappointed that cross-border targeted radio continued to provide stories of unusual situations.

Broadcast radio has been a vital part of people's lives for almost a century. In an era where sound comes out of smartphones and into earbuds, it can be difficult to imagine a child in the 1920s building a kit that allowed him or her to listen to static-filled voices and music. There is still a little bit of magic in pushing a button on a box and hearing disembodied voices and music from the other side of town or from far away. The history of radio in North America contains stories of stations large and small, announcers and musicians who provided companionship and entertainment, journalists who brought listeners to the scene of tragedy and triumph, and engineers who have continually evolved radio's technology.

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This is a dissertation about a fusion of history, geography, economy, culture, communications and technology. It is about three sovereign countries: Canada, the United States, and Mexico. They are independent of each other, but also dependent on each other. As Johnson and Graybill (2010) wrote, “each nation acts in relation to other nations and to political and economic realities they cannot always control” (p. 3). Some of the boundaries separating these countries are natural, such as the Rio Grande and the St. Lawrence River. But most of the lines were drawn across the soil by surveyors establishing a boundary set by a treaty. Of the border separating the western U.S. from western Canada, Stegner (1962) wrote “the 49<sup>th</sup> parallel was an agreement, a rule, a limitation, a fiction perhaps but a legal one, acknowledged by both sides.... Civilization is built on a tripod of geography, history, and law, and it is made up largely of limitations” (p. 85). Of the southern boundary, McWilliams (1948) wrote, “Essentially these are one people, occupying a single cultural province, for the Spanish speaking minority north of the border (majority in some areas) has always drawn ... support, sustenance, and reinforcements from south of the border” (as quoted in Rodriguez, 1997, p. 362).

The Canadian boundary stretches 8,893 kilometers (5,525 miles) from Lubec, Maine to the Arctic Ocean (Canada, 2016). The Mexican border covers 3,155 kilometers (1,960 miles) from Brownsville, Texas to San Diego, California (Mexico, 2016). There has been no armed conflict along the Canadian border since the Treaty of Ghent ended the War of 1812 (Historica Canada, n.d.). The last U.S. military action with Mexico was the Pancho Villa raid on Columbus, New Mexico and subsequent pursuit in 1916 (Nicolopoulos, n.d.). Some people who live along the borders can feel as

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though the line does not exist. Residents of Derby Line, Vermont and Stanstead, Quebec can withdraw books and watch productions in the Haskell Free Library and Opera House, purposely built with the boundary running through the center of the building (Farfan, 2016). When part of the U.S.-Mexico border was fixed in the 1854 Gadsden Purchase, the line bisected the historic lands of the Tohono O’odham tribe in what would become Arizona. Tribal members have a gate in the border fence that allows access to both sides (Bernadett, 2016).

The broadcast radio industry began on April 30, 1920, shortly after the United States government relinquished the control of the airwaves it held during World War I (Radio service reopened, 1920). The radio industries of the U.S., Canada, and Mexico developed alongside each other. It will be shown that there have been times when the relationships among the nations and the stations within them were not smooth. This research moved from the 1930s and the so-called “Border Blasters”, into the 1960s, when Americans enjoyed rock and roll on signals that had traversed an international boundary to reach their car radios, and then to the present, with a look at what cross-border targeted radio meant in four cross-border markets.

### **The Research**

This dissertation investigates the historical and contemporary regulation of radio stations along the borders of three North American nations: Canada, the United States, and Mexico. This study could show that since its development as a mass medium, radio station operators along the borders have been aware of the binational possibilities presented by geography. In its early days, cross-border broadcasting offered an escape from legal situations. Today, there are markets where cross-border listening allows the

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sharing of a culture, is a purely economic matter, or legal fights are underway involving stations crossing a border that bring a culture from countries far away. What makes these four markets different from others in the United States, Canada, or Mexico is the presence of an international border. With that boundary came situations that set these markets apart: different regulations among the countries of license, efforts to promote a national culture on one side of the line that meant little on the other side, infrastructure located in two countries, and whether the nation in which a station is licensed has any effect on its audience.

### **Selected Markets**

The history section began by examining stations along the Rio Grande, a river that forms the eastern portion of the border between the United States and Mexico from Brownsville to El Paso, Texas. The focus is expanded later to include stations in San Diego-Tijuana, El Paso-Juarez, and Detroit-Windsor. The contemporary section continued the study of these three cross-border markets and added Vancouver-Bellingham. The primary data for this section of the study included a series of semi-structured interviews. The population of interviewees included the managers who made the decisions about how these stations were run, and the regulators who ensured those managers were following the rules.

## **Chapter 2: Literature Review**

This study looked at the phenomenon of cross-border targeted radio among the United States, Canada, and Mexico from historic and contemporary perspectives with a focus on the regulatory environment. It was designed to show that among the markets studied, there may be significant differences in how radio station managers treat the presence of an international border. Radio is the most popular of the mass media and radio can play a variety of roles in the lives of listeners. This research could show that while there are significant differences in how radio is regulated by the three nations, this group of stations can be treated differently. It could also show that radio can be an important tie for immigrants, both with their sending nation and compatriots in their new home.

Broadcast radio as an industry is nearly 100 years old. Because of its universal access, its ability to reach millions, its role in transmitting news in an instant, and its success as an advertising medium, radio has been a frequent subject of academic research. For this study, literature in four areas was reviewed. Radio's presence in the home, in the car, and even on the smartphone gives it universal accessibility. Its ability to target programs to specific audiences gives the industry wide appeal. Therefore, the role of radio in the lives of listeners has been researched from a variety of perspectives. Radio is also a regulated industry. Under law in the United States, Canada, and Mexico, the airwaves are a public resource and those licensed to use the spectrum must follow a long list of regulations. Some of those rules are technical, preventing interference among the stations. Others dictate the management of a certain amount of

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the station's programming. It will be shown that those rules are very different among the three nations in the study. Communications among these countries has evolved with technology. From mail routes, to telegraph, to telephone, to broadcasting, the interconnection of the United States with Canada and Mexico will be explored. Finally, North America was built by and continues to attract immigrants from other countries. Modern technology has changed the nature of immigration and this study will show how certain radio stations have responded to those changes.

Other sources of information for this study included the plethora of papers and books looking at individual markets, stations, or personalities. The broadcasting industry and the related music business have been the subject of a long list of trade publications. Before being supplanted by television grids, local newspapers published radio program schedules and continue to report on stories about changes in air personalities and ownership. As a government-licensed industry, regulators conduct hearings, issue rulings, and impose or remove rules, all accompanied by a paper trail. Like any business, there are going to be disputes with stakeholders ranging from employees and advertisers to regulators. Those disputes may end up in court, generating filings and rulings. In order to conduct this study, examples of almost all of this literature were reviewed.

### **The Role of Radio for the Audience**

Radio is a competitive industry. Like any business, radio stations rely on revenues that exceed expenses to remain in operation and deliver a profit to the ownership. The primary source of revenue for privately-owned radio stations is advertising: the sale of commercials, promotions, website banner ads, and remote

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broadcasts to other businesses trying to reach the stations' audiences. Non-commercial stations must also raise revenue, primarily through donations, grants, government support, and the sale of underwriting announcements. Since television began, radio stations have found success by appealing to a specific slice of the general population. This narrow focus allows a given station to identify the demographic and psychographic attributes of its potential audience, then develop programming to meet their needs.

This is now a world in which entertainment and information are available from a seemingly infinite number of sources. AM and FM radio stations compete for the audience's attention with broadcast television, cable/satellite television, online portals such as Hulu and Netflix, Pandora, Shazam, and other streaming music apps, satellite radio, and social media such as Facebook and Twitter. Dimmick (2003) developed the theory of the niche. He wrote that while there are more media choices, people still live in a 24-hour day. "Given relatively fixed time budgets, a medium that offers more of a given type of content or interaction at a greater number of times offers audiences in a particular time-space location a higher probability of obtaining the gratifications they seek" (p. 32). Dimmick (2003) observed, "The demand for media products and services depends crucially on the gratification and gratification opportunities" (p. 31). The gratification sought by media consumers was studied by Slobodchikoff and Schulz who found six macrodimensions that help define the resources offered to media organizations and the reason those organizations are chosen by consumers. These include gratifications obtained, gratification opportunities, consumer spending, time spent by consumers on the media, and advertising spending (Dimmick, 2003). In an effort to test his theory, Dimmick (2003) conducted a survey of media consumption in



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the Columbus, Ohio area. He found radio provided the most cognitive gratification for listeners seeking information about government officials and providing facts to mold their opinions of world events while its greatest affective role was to be exciting and provide a diversion from their own problems. Radio can also inspire listeners to seek further gratification. In a study of radio's effect on music sales conducted for the National Association of Broadcasters (NAB), Dertouzos (2008) found, "music exposures have a positive and statistically significant impact on retail music sales" (p. 62).

While the radio industry can provide stations that supply a variety of formats, there must be a sufficient demand for them among the potential audience. By offering a certain musical genre, or programs in select languages, a critical mass of listeners will seek exposure to a given station (Klimkiewicz, 2015). Obviously, radio station managers want their stations to provide the gratification opportunities for the target audiences. This takes on added meaning for cross-border targeted stations. From an economic standpoint, a radio station filling a niche in one country while broadcasting from another could result in higher revenue than serving an audience in the country of license.

There are many reasons radio is the most pervasive of the mass media, reaching 93 percent of American adults every week (Audio today: Radio 2016 - appealing far and wide, 2016). With many choices available locally, and thousands more online, radio can provide the scratch for any itch: news, sports, weather, traffic, conservative talk, liberal talk, religion, and any musical genre from polka to punk rock, is available at the push of a button. While station managers consider what niche in the audience they are

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trying to serve, the members of the audience have an idea of what they want from a radio station. These could include entertainment, information, or conversation. One role radio can play is companionship. A radio brings another voice into the life of a police officer spending hours alone in a patrol car or a widow living on her own. It has been shown that belonging is as basic a human need as food, shelter, and clothing, “Feelings of loneliness and a lack of social connections are psychologically and physically perilous, leading to aversive outcomes, including hurt feelings, lowered self-esteem, depression, and even physical pain” (Troisi & Gabriel, 2011, p. 747).

Despite the human need for belonging, media such as music, television, books, celebrities, and fictional characters can all serve as social surrogates. Because these are nonhuman, they are always available, “social surrogates can potentially fill belongingness needs without risk of rejection” (Gabriel, Valenti, & Young, 2016, p. 194). Studies have shown that when humans cannot fill the need for belonging with other people, they may develop a parasocial relationship with a media figure (Troisi & Gabriel, 2011). This would be a media figure with whom a person feels a kindred spirit, “parasocial relationships have the power to make a person feel socially connected and fulfill belongingness needs” (Gabriel, Valenti, & Young, 2016, p. 212). Rubin and Step’s (2000) study of talk radio listeners found many who felt a talk show host was a friend or who understood them. These feelings led them to be more willing to discuss political topics with others, make their opinions known to public officials, or vote for particular candidates. However, these listeners may not have been aware of the influence of that friendly voice, “the more listeners liked or were socially attracted to their favorite host, the less they felt their attitudes were influenced” (p. 650).

### **Content Regulation**

Several countries have established regulations on the content of programming by radio stations licensed in those countries. These rules were put in place to protect the culture or language of the country involved. As radio, television, satellites, and then the internet brought the world closer together, the need to protect a native culture from encroachment became greater. These regulations could cover music selection, government access to airwaves, languages used, and methods to ensure balanced coverage of controversial issues. As will be shown, while other nations have been imposing content rules on their licensees, United States regulators have been going in the opposite direction.

In France, a 1994 law requires private radio stations to play a minimum number of songs in French. Responsibility for monitoring compliance with content regulations lies with the Conseil Supérieur de l'Audiovisuel (CSA), an institution charged with defense of the French language (La diffusion de chansons d'expression française, n.d.). The legal requirement for most stations is 40% of songs in French (or a regional language), with at least half from new talent (who has not produced two albums that have sold 50,000 copies each) or a new production (La diffusion de chansons d'expression française, n.d.). Songs which qualify as new productions and artists who cannot be considered new talent are listed on a CSA website (Le suivi du respect des quotas, 2017). Penalties for failure to abide by the quotas ranges from a €50,000 fine to loss of license (Les sanctions en cas de manquement, n.d.).

One criticism of music content regulation is that programmers will rely heavily on a limited number of artists or songs to satisfy the requirements. In France, a culture

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ministry official found the same 10 songs accounted for 74% of the quota on one station and 67% of the quota on another (Chazan, 2016). Complicating the issue for French stations is the international nature of the music business. Many French musicians have learned that in order to increase their chances of success, they must record songs in other languages, especially English. Station owners have been trying to get the quota reduced to 35%. The executive officer of France's National Union of Artists and Composers, Emmanuel de Rengerve, said the quota is necessary, "If the French language disappears, it would represent a cultural and linguistic impoverishment not just for France but for the whole world" (Chazan, 2016).

A similar quota for new artists is part of the content regulation for commercial radio stations in Australia. Depending on the musical format of the station, five to 25 percent of the music played between six o'clock in the morning and midnight must be performed by Australians, and as much as 25 percent of that music must consist of new performances (Commercial radio code of practice, 2017). Other nations with radio content requirements include South Korea, which limits foreign popular music to 40%, and South Africa, where there is a 20% native music requirement between 5:00 a.m. and 11:00 p.m. In Malaysia, 60% of radio programming must be local, while Venezuela has a 50% local content requirement (Gailey, 2012).

### **Canada's Attempts to Protect Culture**

The most extensive content regulations in North America can be found in Canada. Although these rules were instituted out of a desire to preserve and promote a culture, it will be shown that one set of regulations was really designed to create and build a domestic music industry. As a Canadian regulator pointed out, "We're the only

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market in the world where local programming isn't the most popular" (Hutton, 2018). That is despite a 50-year effort by the Canadian government and regulatory agencies. In 1969, then-Prime Minister Pierre Trudeau said that the proximity of Canada and the United States "is in some ways like sleeping with an elephant. No matter how friendly or temperate the beast, one is affected by every twitch and grunt" (O'Malley & Thompson, 2003). When two nations are physically that close, the social and cultural challenges for media management are major.

Three-quarters of Canada's population lives within 160 kilometers (100 miles) of the U.S. border (Canada Facts, n.d.). That proximity allows easy viewing of American television channels and listening of U.S. radio stations. It is through broadcasting, Collins (1990) argued, that an integrated Canadian culture can be achieved. But despite the well-intentioned efforts of multiple generations, the True North may be strong and free, but its subjects are enamored of south-of-the-border culture. The members of Parliament's Standing Committee on Canadian Heritage summarized the situation in their 2003 report, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, "English-speaking Canada shares a border, and a language, with the world's largest and most dominant producer of audio-visual programming. Canadians are constantly exposed to a mass media that endlessly promotes American shows and stars" (Standing Committee on Canadian Heritage, 2003, p. 8). There is a challenge when two countries and their communication systems are so closely tied, "the purpose of defining Canadian culture is to allow us to recognize just exactly where those differences lie" (Adam, 1993, p. 79).

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The Canadian Parliament passed a new Broadcasting Act in 1968 and established the Canadian Radio-Television Commission (CRTC) (now the Canadian Radio-television and Telecommunications Commission) as the nation's broadcast regulator. The CRTC had the power to license stations, severely limit foreign ownership, and a mandate to track the airing of Canadian content (Edwardson, 2008). CRTC executive director of broadcasting Scott Hutton (2018) admitted, "The fundamental rationale for Canada to be so much involved in broadcasting is very much the spillover from the giant market that is directly to the south." He added that the Broadcasting Act has two overarching goals:

- Make sure there is a Canadian broadcasting system that provides access to news, information, entertainment, various viewpoints, to all Canadians across the country.
- Make sure that Canadians themselves are able to tell their own stories, so that Canadians themselves can get access to the broadcasting system.

Hutton (2018) is not only the person in charge of enforcing these content regulations, he is a believer in the need for them, "Without some form of intervention, essentially all the programming here would basically emanate out of the United States. Canadians, with the exception of Francophone Canadians, are very much fans and this is something that is an abnormality in Canada."

Requiring a certain amount of Canadian music to be played on the radio created another challenge: how to define what qualified as Canadian music. The CRTC decided that to qualify as Canadian content, each song had to meet two of four so-called MAPL (Music Artist Performance Lyric) criteria (CRTC, 2009):

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- Canadian composer
- Canadian artist
- Canadian performance
- Canadian lyricist

“How we measure what is Canadian is a purely industrial measure, so it has nothing to do with the culture,” Hutton (2018) said, “it has created a rather robust music industry.” The current CanCon requirement for English commercial radio stations is 35% between 6:00 a.m. and 6:00 pm. Monday through Friday and 35% between 6:00 a.m. and midnight Sunday through Saturday (James, 2016).

The CRTC granted a modification of this rule applicable to this study. The commission permits three radio stations in Windsor, Ontario to play just 20% CanCon music. In a decision opposed by two Canadian music organizations, the commission accepted a license modification request from CHUM Ltd. (now Bell Media) for CKWW “AM 580”, CIMX “89X”, and CIDR “The River”. “(T)he Commission notes that, from 1996 to 1998, tuning to U.S. stations in the Windsor market ranged from 59% to 66%. Accordingly, the Commission considers that the Windsor market is unique and requires programming flexibility” (Broadcasting decision CRTC 99-513, 1999). Years later, Hutton (2018) agreed with the decision,

It was a different situation where the stations there were in serious financial difficulty. We gave them an exemption on a number of fronts, they still play Canadian music, they are still distinctive, and often people tune into them because they have that slightly different flavor than the remainder of the radio stations in the greater Detroit market.

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As will be shown, this decision came too late to save a Windsor station that played a unique role in radio and music history. It will also be shown that competitors in the Windsor market chose not to seek this accommodation.

The CanCon requirements go beyond airplay. Canadian radio stations must send a portion of their revenues to Canadian Content Development (CCD) organizations (Radio's support for Canadian talent, 2014). Commercial and ethnic radio stations must share a portion of revenues with CCD groups if a station reports more than Can\$1.25 million in annual revenue (Canadian Content Development Contributions and Eligible Initiatives, 2014). Another assessment is made when a station is sold. The involuntary annual contribution of a station is Can\$1,000 plus one-half percent (50 cents per \$100) of the revenues that exceed Can\$1.25 million. When a station is sold, 6% of the sale price must be sent to CCD organizations (Make A Contribution, n.d.). This is more extensive than the obligation of the Irish public service broadcaster, RTÉ. Ireland's Broadcasting Act requires RTÉ to spend a set amount of its budget acquiring independently produced programs. That was €39.6 million in 2016: €38.4 million for television and €1.2 million to radio (Independent productions annual report 2016, 2017).

Canada and the United States are each other's largest trading partners. However, that trade does not include media, "the cultural industries were exempted from the provisions of the Canada-United States Free Trade Agreement (FTA). A similar exemption was later incorporated into the North American Free Trade Agreement (NAFTA)" (Lemieux & Jackson, 1999). Canadian Prime Minister Justin



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Trudeau insisted on keeping cultural industries out of 2018's revised U.S.-Canada-Mexico trade deal,

We can't imagine a situation in which an American TV company or network could come up and buy radio stations or buy CTV, for example. That would not be good for Canada, it wouldn't be good for our identity, it wouldn't be good for our sovereignty (Wingrove, 2018).

Trudeau's stance was successful and the cultural industries exemption remained in the agreement (MacDonald, 2018).

### *Keeping Talk Shows Balanced*

Since the removal of the fairness doctrine (Ruane, 2011), U.S. airwaves have been filled with talk show hosts who make no secret of their political philosophy on public issues and interact with guests and callers who share their views. In Canada, the Broadcasting Act requires, "the programming provided by the Canadian broadcasting system ... should provide reasonable, balanced opportunity for the expression of differing views on matters of public concern...." (Public Notice CRTC 1988-213, 1988). Canadian stations that carry "open line" programming are required to explain to the CRTC how the licensee and the employees involved in the shows will handle abusive comments, ensure balance, and enforce the high standards to which broadcasters are supposed to aspire (Public Notice CRTC 1988-213, 1988).

### *Multiple Voices in One Place*

There are many advocates for media plurality, but each may have a different definition of the phrase: multiple platforms, different owners, or various types of operators each have their supporters. There can be both external pluralism, with multiple outlets and ownership and internal pluralism, where a single outlet provides many types of content (Valcke, Picard, & Sukosd, 2015). Both versions of pluralism

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are on display in the Canadian radio industry. There is multiple pluralism through a public service broadcaster, CBC/Radio-Canada, as well as private ownership that ranges from group operators to single station owners. While all stations must abide by the CRTC's regulations, there are different conditions of license depending on the type of station in question. As will be shown, ethnic broadcasters have an internal pluralism in the requirement to carry a certain amount of third-language (neither English nor French) programs and may be required to air programs in more than a dozen languages.

### *Pluralism and Religious Broadcasting*

One area where Canadian and U.S. regulations are vastly different is in religious broadcasting. It will be shown that religious radio listeners in Vancouver rely on stations from the U.S. Canadian regulators refused to license radio stations advocating the views of a single faith from 1930 until 1993<sup>1</sup>, holding to an opinion that denominational stations would look at the world from a single viewpoint (Faasen, 2011). That did not prevent religious programs on the CBC or private stations nor did it limit the ability of religious organizations to purchase time from broadcasters. But it also meant that the available time would be limited and likely not in preferred slots. The first break from the prohibition came in 1983, when the CRTC permitted the multi-faith Vision TV to be distributed via cable or satellite (Buckingham, 2014). The commission looked at stations devoted to Christianity or other faiths alone in 1983, but found, "undertakings dedicated exclusively to the views of a particular religion, denomination or sect would, by their very nature, be predisposed toward one particular point of view,

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<sup>1</sup> Stations VOAR and VOWR in St. John's, Newfoundland, have been operated by the Seventh-Day Adventist and Wesleyan churches respectively since the 1920s. Newfoundland did not become part of the Canada until 1949. After confederation, Canadian regulators allowed both to continue operating as single-faith religious stations (VOAR, n.d.) (VOWR, n.d.).

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they would be unlikely to satisfy the requirement to provide balance in their programming” (Public Notice CRTC 1993-78, 1993).

The CRTC took a new look at religious broadcasting in 1993, including two public hearings. The commission’s revised policy permitted single-faith ownership of radio stations, but put some specific requirements on those stations. One was that nonprofit organizations operating the stations be registered as charities. Another differentiated between stations carrying religious programs, such as church services and faith-based talk shows, and those that air religious music (Public Notice CRTC 1993-78, 1993). While some evangelical groups had claimed the universal character of religious messages should mean there was no need for requiring a certain amount of Canadian content, the commissioners were not buying that argument,

The Commission considers that sufficient Canadian resources exist to produce attractive Canadian religious programming, including recorded music. Moreover, it is important to note that the purpose of Canadian content requirements is not to deny Canadians access to foreign programming, but to ensure that Canadians have available to them services that are predominantly Canadian in character and reflective of Canadian society (Public Notice CRTC 1993-78, 1993).

Perhaps to ensure potential station operators got the message, the commissioners specifically warned it would not license stations that intended to re-broadcast American religious programs in Canada (Public Notice CRTC 1993-78, 1993)<sup>2</sup>. On top of these restrictions, the CRTC set a list of programming practices for religious stations:

1. No programs shall have the effect of abusing or misrepresenting any individual or group.
2. No group shall be targeted for the purpose of conversion or proselytism.
3. While groups and ministries are free to express their views about activities that they deem to be "sinful", they shall not call into question the human rights or dignity of any individual or group.

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<sup>2</sup> Prior to these proceedings, the CRTC had been dealing with pirate TV transmitters operated by an Alberta church to re-broadcast the Trinity Broadcasting Network (TBN) from the U.S. (Faasen, 2011).

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4. When programs are planned that deal with or comment on the beliefs, practices, liturgy or behaviour of another religious group, the licensee shall ensure the accuracy and appropriate context of such content (Public Notice CRTC 1993-78, 1993).

The commissioners added two more requirements for religious broadcasters, rules that have led to complaints from religious organizations since they were promulgated. First, religious stations were required to provide balanced views on “matters of public concern”, although equal time was not necessary. Second, the commissioners stated that achieving the goal of serving the community may require multifaith programming (Public Notice CRTC 1993-78, 1993).

The inclusion of the latter requirements by the commissioners actually set in motion several years of legal wrangling over exactly what was meant by their directive. When the CRTC called for hearings on the diversity of voices in Canadian broadcasting in 2007, some religious leaders told the commissioners exactly how they felt:

This policy results in an undue restriction on freedom of expression and is financially harmful to Christian broadcasters, both of these restrictions inhibiting the operation of single-faith broadcasters and the opportunity for a substantial number of Canadians to receive programming for which there is demand (Hutchinson, Diversity of Voices: Submission to the Canadian Radio-television and Telecommunications Commission in response to Broadcasting Notice of Public Hearing CRTC 2007-5, 2007, p. 2).

That opinion was supported in a CRTC-commissioned study conducted by Laurence Dunbar and Christian Leblanc that suggested it was not realistic to charge individual stations with achieving balance and that goal should instead be met by the broadcasting system as whole (Buckingham, 2014).

Testifying before the commission on behalf of the Evangelical Federation of Canada, Don Hutchinson spoke of the consequences of the 1993 decision on single-faith stations. Among them:

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- Stations producing multifaith programs at little or no charge for organizations that lack their own resources.
- Stations providing airtime at little or no charge to other faith organizations when that time could be sold at higher rates.
- Sponsors targeting Christians unwilling to advertise during multifaith programs.
- Sponsors of multifaith programs unwilling to advertise on Christian programs (Hutchinson D. , Diversity of voices proceeding, 2007).

Hutchinson added that Canadian single-faith stations have moved Canadian listeners away from American stations and created an improved market for Canadian Christian musicians. But he reiterated that single-faith stations were the only group of broadcasters in Canada required to achieve balance in their programming (Hutchinson, 2007).

Faasen's (2011) analysis of the state of religious broadcasting in Canada found that even though some may view these rules as unfair or onerous, "the balance programming requirement appears to be treated by religious broadcasters as a cost of doing business" (p. 307). In 2016, the CRTC reported there were 1,101 over-the-air radio stations licensed in Canada. Of those, 50 are either spoken word or musically religious (45 in English, four in French, and one third-language) (Communications monitoring report 2017, 2018).

### **U.S. Regulation vs. the First Amendment**

The first comprehensive set of regulations governing broadcasting in the United States was the Radio Act of 1927. The act established that the airwaves belong to the people of the nation and stations that had been granted licenses were made trustees of

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public property. The guiding principle of the Federal Radio Commission (now the Federal Communications Commission or FCC) put in place under the act to supervise the airwaves was to make decisions in the “public interest, convenience, and necessity”, a phrase repeated five times in the act (United States Radio Act of 1927, Public Law 632, 69th Congress, 1927).

This public interest standard has governed American broadcasting policy throughout its history. An early major challenge to the definition of the standard came in the battle over localism. In 1936, FRC/FCC Chairman E.O. Sykes said, “A local station is to serve a particular community and that, if possible, it should be owned and controlled by the people of that community and not outsiders” (Goodman, 2011, p. 107). The rise of networks providing identical programs simultaneously to stations across the country forced a battle among the stations, regulators, and networks. The FCC instituted a variety of rule changes in 1941 that were designed to reassert the dominance of local stations. The battle over so-called chain broadcasting came to an end when the U.S. Supreme Court ruled against NBC and CBS and upheld the FCC regulations. Writing for the majority, Justice Felix Frankfurter also turned back the networks’ argument that the rules were a violation of the First Amendment rights, citing the scarcity argument that was the backbone of American broadcast regulation,

Freedom of utterance is abridged to many who wish to use the limited facilities of radio. Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation (National Broadcasting Co., Inc. v. United States, 1943).

There has also been the related question of how much control regulators should exert over entertainment programs as opposed to informational programs. Radio station

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owners choose program formats based on what they believe will best appeal to their target market in order to maximize listenership and revenue. There may come a time when that choice no longer works and another format is chosen. When that happens, listeners to the former format are likely to experience disappointment. They may feel the change is contrary to the station's public interest obligations and consider lodging a complaint with the FCC.

That complaint is not likely to get very far. In a 1940 case, the U.S. Supreme Court upheld the FCC's claim that the programming of a station was at the discretion of the licensee, "The Commission is given no supervisory control of the programs, of business management or of policy" (*Federal Communications Commission v. Sanders Bros. Radio Station*, 1940). As similar cases kept appearing before the FCC and lower federal courts, the commissioners in 1976 sought input on whether they should assert authority over entertainment formats. They were openly skeptical of this potential power, as they felt a *laissez-faire* policy had allowed experimentation in format choice while the threat of a challenge due to a format change might lock stations into unsuccessful formats, "We are deeply concerned that, by rejecting the programming choices of individual broadcasters in favor of a system of pervasive government regulation, the Commission would embark on a course which may have serious adverse consequences for the public interest" (*In the matter of development of policy re: Changes in the entertainment formats of broadcast stations F.C.C. 75-1426*, 1976).

After consideration of the public comments, the commissioners issued their Memorandum Report and Order on changes in entertainment formats of broadcast

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stations which enshrined the view that the FCC had no interest in regulating programming:

In our society, public tastes are subject to rapid change. The people are entitled to expect that the broadcast industry will respond to these changing tastes – and the changing needs and aspirations which they mirror – without having to endure the delay and inconvenience that would be inevitable if permission to change had to be sought from a government agency (Changes in entertainment formats of broadcast stations FCC 76-744, 1976, p. 32952).

The commissioners admitted that the market is not a perfect way to ensure diversity, but it does support both the First Amendment rights of broadcasters and their economic needs (Changes in entertainment formats of broadcast stations FCC 76-744, 1976).

The commission's actions came at a time another format-based license challenge was underway. In May, 1973, Starr Broadcasting purchased New York classical station WNCN. In August, 1975, Starr's management announced the station was losing money and would be switching to a rock format (Hughes, 1974). The station was re-named WQIV and began carrying rock music in quadrophonic sound on October 5, 1974 (O'Connor, 1975). Nine months of drama ensued as a group called the WNCN Listeners Guild challenged the station's license before the FCC, Starr agreed to sell the station to an owner who would reinstate the classical format, and WQIV played its last rock song on August 19, 1975 (O'Connor, 1975). The saga of WNCN did finally settle the question of whether the FCC had any authority over program formats. The WNCN Listeners Guild challenge went all the way to the U.S. Supreme Court, where in a 7-2 decision, the justices ruled in favor of the commission's view as expressed in the 1976 order:



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- a) The FCC had carefully considered its decision that the market is better at attaining format diversity and the commission should not oversee formats.
- b) The FCC's decision to stay out of format changes does not weaken the public interest standard.
- c) The FCC policy is consistent with its legislative mandate.
- d) The First Amendment rights of listeners do not extend to forcing an FCC review of format changes (FCC v. WNCN listeners guild, 1981).

Michael Wagner, the assistant chief of the audio division in the FCC's media bureau, said applications are carefully screened for technical issues and while programming is not a concern, "Every one of our stations, television and radio, but particularly radio, are licensed to an individual community, and their primary obligation is to serve the needs and interests of that community" (Wagner, 2018).

The *Sanders Bros.* case did leave the door open for the FCC to consider economic issues in licensing, an option the District of Columbia Circuit Court affirmed in the 1958 *Carroll Broadcasting Company* case, "We hold that, when an existing licensee offers to prove that the economic effect of another station would be detrimental to the public interest, the Commission should afford an opportunity for presentation of such proof and, if the evidence is substantial (*i.e.*, if the protestant does not fail entirely to meet his burden), should make a finding or findings" (Carroll Broadcasting Company, Appellant, v. Federal Communications Commission, Appellee, West Georgia Broadcasting Company, Intervenor, 1958). This decision created the so-called Carroll Doctrine allowing the commissioners to consider the economics of a market before

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licensing new stations. The commissioners terminated the Carroll Doctrine in 1988. Their reasoning was that the public interest was served by competition in the marketplace and an economic review would be anticompetitive (Brotman, 2006).

Fifty-five years after the Radio Act of 1927, then-FCC Chairman Mark Fowler and legal assistant Daniel Brenner suggested in a law review article that the public interest standard, “has built a series of legal fictions into a regulatory environment” (Fowler & Brenner, 1982, p. 207). Compared to its neighbors, the United States has imposed few content regulations on its broadcasters. One of them was known as the fairness doctrine, a result of a 1949 FCC report on *Editorializing by Broadcast*

*Licensees:*

(T)he needs and interests of the general public with respect to programs devoted to new commentary and opinion can only be satisfied by making available to them for their consideration and acceptance or rejection, of varying and conflicting views held by responsible elements of the community (13 FCC 1246, 1949, p. 1247).

In short, the commission required broadcast licensees to provide balanced coverage of potentially divisive issues in their communities. Under Fowler’s chairmanship, the commission initiated a review of the fairness doctrine, including whether it was applicable under the First Amendment and if it actually discouraged free speech. There were station owners, federal legislators and legal experts who felt this regulation was an undue burden. The commission members agreed with them, “we find that the fairness doctrine, in operation, actually inhibits the presentation of controversial issues of public importance to the detriment of the public and in degradation of the editorial prerogatives of broadcast journalists” (FCC, 1985). The fairness doctrine was officially revoked in 1987 (Ruane, 2011) and totally eliminated in 2007 (Matthews, 2011).

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The fairness doctrine was not the only content regulation on Fowler's radar. He also dropped the public service programming requirement in 1994, so stations were no longer assessed by the amount of time devoted to public affairs (Ladd, 2012).

### *Radio's Payola Scandal*

The impact of radio airplay on music sales has been previously mentioned. It would be nice to think that radio programmers and disc jockeys selected music to play on the air only through their opinion of how well the artist or song would be received by the audience. In the 1950s, as top 40 music grew in popularity and more radio stations carried the format, some in the music industry thought one way to influence airplay was to persuade disc jockeys to play certain records through cash and gifts. The payola scandal led to congressional hearings in 1959. The findings: 335 disc jockeys had accepted \$263,000 in incentives for playing certain records. Alan Freed, the Cleveland disc jockey credited with inventing the term "rock and roll", had by then moved on to WABC in New York. Facing 26 counts of commercial bribery, he paid a fine and received a suspended sentence (Hutchinson L. , 2015).

The FCC has instituted a set of rules requiring broadcasters to disclose receiving payments or other consideration to put something on the air:

- The station must identify who is paying for the airtime.
- Sponsored material must be clearly identified.
- Employees who accept payments and those making the payments must disclose this information to the station.
- Anyone who is aware of payments being made must disclose the information.
- Licensees must try to obtain the information to make the disclosures.

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- The information must be provided to the chain of management before airing.

The commission has a link to filing a payola complaint on its website (Payola rules, 2017).

Payola is not a relic of the 1950s. In 2007, six broadcast groups reached a \$12.5 million settlement with the FCC that followed a \$30 million settlement between the New York attorney general's office and four record labels. In the consent decree, the companies did not admit guilt, but did say, "policies and practices with respect to sponsorship identification laws can be improved so as to further enhance the prospects for company-wide compliance" (Paul, Weiss, Rifkind, Wharton & Garrison, 2007). The firms agreed to increase training, appoint payola compliance officers, and suspend employees accused of violating the rules (Paul, Weiss, Rifkind, Wharton & Garrison, 2007).

While it would seem payola remains a challenge in the United States, it should be noted that these rules apply to FCC-licensed stations. In a cross-border environment, not all stations are under FCC jurisdiction. It will be shown that payola continues to be a special concern in the markets contained in this study.

### *Ownership Limits*

While the FCC has taken a limited role in content regulation, it has historically used its authority to limit the number of radio and/or television stations that can be owned by a single entity. The most recent major change to radio ownership rules came under the Telecommunications Act of 1996. It replaced a national cap with a per-market limit based on the number of stations within each market. For example, one firm can own eight radio stations markets that have more than 45 stations, but no more

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than five in each band (FCC sets limits on media concentration, 2003). The Commission's explanation of the rule said, "Competitive radio markets ensure that local stations are responsive to local listener needs and tastes. By guaranteeing a substantial number of independent radio voices, this rule will also promote viewpoint diversity among local radio owners" (FCC sets limits on media concentration, 2003). It will be shown that one revision to these rules would have a major effect on America's largest radio company as the FCC had asserted jurisdiction over stations licensed in Mexico and Canada (Leeds, 2003).

### *FCC Foreign Ownership Regulations*

Rupert Murdoch inherited some newspapers from his father and made his first broadcast investments in 1958 with the purchase of two television stations in the southern city of Adelaide. He made his first newspaper investments in Sydney two years later. In subsequent years, Murdoch bought newspapers and a satellite television service in the United Kingdom. He began his quest for U.S. properties with the purchase of the *San Antonio Express-News* in 1973, later adding the *New York Post* and *Chicago Sun-Times*. In 1985, he moved into film production by acquiring a 50 percent stake in 20<sup>th</sup> Century Fox (McCrum, 2014). The missing piece of this American media empire was broadcasting, specifically television. In May of 1985, Murdoch and his partner in 20<sup>th</sup> Century Fox, Marvin Davis, announced plans to purchase six television stations from Metromedia for more than \$2 billion. However, the deal could not close until Murdoch became a U.S. citizen (Tucker & Vise, 1985). The hurdle fell in September of that year, when Murdoch was among 186 people who became naturalized

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Americans in a New York courtroom (UPI, 1985). Those stations went on to become the founding affiliates of the Fox network.

The concern over foreign ownership of American broadcast stations was evident in both the Radio Act of 1912 and the Radio Act of 1927 (Cho, 2007). Section 310 of the Communications Act of 1934 was specific about what people or entities were ineligible for a broadcast license:

- (1) any alien or the representative of any alien;
- (2) any corporation organized under the laws of any foreign government;
- (3) any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;
- (4) any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license (Communications Act of 1934, 47 U.S. Code 310 (b)).

That section of the act stood for 79 years. In 2013, the FCC responded to an interest group request for a review of Section 310(b)(4) (Media Bureau announces filing of request to clarification of the commission's policies and procedures under 47 U.S.C. 310(b)(4) by the Coalition for Broadcast Investment, 2013). The commission issued a Report and Order outlining its changes to the rule in 2016. The new standard allows up to 100 percent foreign ownership of U.S. broadcast stations. A proposed foreign licensee must go through several additional steps to which a domestic licensee would not be subject. These include an assessment of the new owner from national security, law enforcement, and foreign policy perspectives (Report and order FCC-16-128,

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2016). Ajit Pai, then an FCC commissioner and later its chair, wrote that the new policy struck an important balance,

On the one hand, we should promote investment in the United States and make it easier for communications companies to access capital. But on the other hand, we must ensure that any specific foreign investment in this sector of our economy is in the public interest (Report and order FCC-16-128, 2016, p. 79).

The first transfer approved under the new rules involved two Australian citizens seeking to boost their ownership interest in several stations from the previously allowed 20% to 100% (Oxenford, 2017).

### **Mexico Fights Cultural Imperialism**

Like Canada's leaders, officials in Mexico were concerned that proximity to the United States would create too much American influence of the national culture. In 1926, the first broadcasting regulations required station owners to be Mexican citizens. Subsequent laws required all programs to be in Spanish, all studios to be within the country, programs to meet a minimum 25 percent Mexican content, forbade discussions of politics or religion, limited the amount of commercial time, and required time for public service announcements (Buffington, 2004). It did not take long for a loophole to appear. A 1933 law retained the requirement that broadcasts be in Spanish, but with U.S. advertisers using Mexican stations, it permitted commercials in English, as long as they followed an identical commercial in Spanish (Robles, 2012). This exemption was vital for Tijuana station owners such as Carlos de la Sierra, "the only way to exist as a commercial station is through Los Angeles, Cal. With more than one million inhabitants this city is practically the focal point of all business in the western region of the United States...in order for a station to survive, it is essential that it obtain advertisements from that city" (Robles, 2012, p. 102).

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Radio managers strongly protested a requirement for 25 percent of “typically Mexican music” that took effect in 1937. They suggested a compromise under which the 25 percent applied to the composer of the music. That idea was soundly rejected as stripping the entire reason for the regulation, that music is an essential expression of Mexican popular culture (Barbour, 1940). The 1960 *Ley Federal de Radio y TV* (LFRT) (Federal Law of Radio and Television) enshrined the principal that broadcasting was a private activity and reduced some of the content regulations (Hayes, 2000). Article 5 of the LFRT re-affirmed the role of broadcasting in promoting culture, including preserving the customs and traditions, language, and values of Mexican nationality (Camara de Diputados, 2014). The LFRT’s Article 230 was modified in 2016 to allow broadcasters to use indigenous languages instead of Spanish. However, it continued to require approval from the Ministry of the Interior for the use of foreign languages (Ley Federal de Telecomunicaciones y Radiodifusión, 2017).

In 1969, a proposed tax on broadcasters was dropped in favor of the stations ceding 12.5 percent of their broadcast day to the government (Hayes, 2000). That time is used for messages or programs produced by the federal or state government and, in election periods, political parties. Known as *tiempos oficiales*, or official time, 48 minutes of each day must be made available to users from the federal executive, legislative, and judicial branches and other agencies such as the National Commission of Human Rights. These could be 20- to 30-second public service announcements or short-form programs such as “World of Work” from the Ministry of Labor and Social Welfare. The Directorate of Radio, Television, and Cinematography controls 88% of the time, with the remaining 12% under control of the Federal Electoral Institute.



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During election periods, the Federal Electoral Institute controls a larger share (Tiempos Oficiales de Radio y Televisión, n.d.).

A further requirement is the carriage of *La Hora Nacional*, which airs every Sunday evening on every station in Mexico. The program first aired on July 25, 1937 and serves, “as a medium by the federal government to strengthen communication with society and strengthen national integration through language, culture, traditions and artistic creation. With the passage of time, the objective has been extended to areas such as the orientation of public services and social and cultural campaigns, among others” (Breve Historia De La Hora Nacional, n.d.). In 1987, the program was split into two half-hours: the national half produced by the General Directorate of Radio, Television, and Cinematography, followed by 30 minutes produced by the state in which the station operates (in the five states that do not produce their own block, the national program produces a supplemental half hour) (Breve Historia De La Hora Nacional, n.d.).

As mentioned, these requirements apply to all stations licensed in Mexico, including the cross-border targeted stations along the U.S. border. While they carry *La Hora Nacional* in Spanish, *tiempos oficiales* announcements have in some cases been translated into English. American listeners have been confused by these announcements, especially those in which the translation is poorly done and production values are low. The general manager of XEPRS in San Diego-Tijuana, an English-language sports station, admitted the switchboard would get calls about them. A Tijuana federal legislator had been trying to convince officials to replace the general announcements with well-produced messages that polish the country’s image, “It’s a shameful waste of a good opportunity to promote Mexico, especially in terms of

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tourism, trade and culture” (Dibble, 2012). While XHTO in Juarez broadcasts in English from U.S. studios, it airs *tiempos oficiales* in Spanish.

One additional obligation placed on Mexican broadcasters is the airing of the country’s national anthem at the beginning and end of the broadcast day. In 2016, a radio group in the northern border state of Sonora (opposite Arizona) mounted a court challenge to the anthem and official time requirements, claiming they restricted freedom of expression and implied they are a form on censorship promoting the values of national unity. The Supreme Court of Justice of the Nation rejected the broadcaster’s claims, claiming the rules serves a valid constitutional purpose (*Avalan obligación de transmitir Himno Nacional en radio y TV*, 2016).

Mexico’s broadcast ownership rules were changed in the 2014 Telecommunications and Broadcasting Law. Under the new law, foreign interests were permitted to own up to 49 percent of a Mexican broadcaster. That percentage can increase to the share permitted of Mexican broadcasting investment in the new owner’s home country (USTR, 2018). Given the changes in U.S. ownership rules, American firms could take 100 percent ownership in a Mexican station, since a Mexican company can now own 100 percent of an American broadcaster. As will be shown, a legendary cross-border targeted station drew attention on Capitol Hill when it was purchased by a U.S. concern.

### **Cooperation Among American, Canadian, and Mexican Regulators**

The broadcast regulatory agencies in the three nations studied have strong working relationships with their counterparts along the borders.<sup>3</sup> Unlike the FCC in the

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<sup>3</sup> Because the islands of St. Pierre and Miquelon off the Newfoundland coast are French territory, the CRTC and ISED have agreements with l’Office de Radiodiffusion-Télévision Française (ISED, 2016).

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U.S., the CRTC does not regulate spectrum in Canada, which is the domain of Industry, Science, and Economic Development Canada (ISED) (formerly Industry Canada).

Hutton (2018) said frequency and interference coordination between the United States and Canada goes through ISED, and the CRTC will not grant a new license or technical modification without ISED's approval. Wagner (2018) added that the FCC's engineering team gets most of the cross-border work at the commission, as they ensure any applications fall within the requirements of treaties between the U.S. and Canada or Mexico.

### **Theory of the Loophole**

As businesses that straddle two sides of an international border, cross-border targeted radio stations find themselves at the intersection of two sets of laws. It will be shown there are times when something legal on one side of the border is illegal on the other. However, there are times when the applicability of a law was explicit and others where it was implicit. A loophole is a glitch in a law that allows those subject to it to find ways to subvert its purpose. Katz (2010) wrote that loopholes are generally irremediable and people who take advantage of them do not usually feel guilty about doing so. It will be shown that operators of cross-border targeted radio stations often took advantage of differences in laws and loopholes within them. In some instances, it seemed they rode out the loophole until a regulator stepped in.

### **North American Cross-Border Communications**

Communications across the borders evolved with technology. As joint postmaster under the British crown, Benjamin Franklin established mail service among the colonies that would become the United States and Canada before 1774 (U.S. Postal

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Service, 2007). The United States and Mexico signed a postal treaty in 1856 (Postal treaty between the United States and Mexico, 1856).

Telegraph lines began crossing the U.S.-Canada border in 1847, first connecting Toronto and Buffalo and then Montreal and New York seven months later (Whidden, 1938). A telegraph line across the southern border linking Brownsville, Texas with Matamoros, Tamaulipas was not established until the early 1870s (Stacy, 2002). U.S. President James Garfield sent a message to Mexican President Manuel Gonzalez via the first telegraph cable under the Gulf of Mexico connecting Galveston, Texas with Veracruz, Veracruz in 1881 (Harlow, 1936).

The 1885 charter of the original American Telephone and Telegraph Company (AT&T) established it as a long-distance carrier connecting every city, town, or place to anywhere else in the United States, Canada, and Mexico (FCC, 1938). MacDougall (2004) described the circuitous, bi-national switching of Canada's first transcontinental telephone call in 1916: originating in Montreal, the call was routed through Buffalo, Chicago, Omaha, Salt Lake City and Portland via AT&T before going into Vancouver.

What is now part of Canada played an important role in the next development in communications technology: wireless communications. Guglielmo Marconi successfully transmitted the Morse code for the letter "S" wirelessly from England to Newfoundland in 1901 (Webb, 2001). The development of radio as a broadcast medium would have to wait until the end of World War I (Starr, 2004).

As North America's first radio stations went on the air, the contrast between that part of the world and others became clear: local, commercial stations would build the industry rather than a state monopoly. Further, the first stations went on the air to

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promote the sales of radio sets, a newspaper, or both. Radio broadcasting came to the United States and Canada in 1920 with WWJ in Detroit, owned by the *Detroit News* (Plant, 1989), and KDKA in Pittsburgh, owned by radio manufacturer Westinghouse (Starr, 2004), and XWA (later CFCF) in Montreal, owned by another set maker, Marconi Wireless Telegraph Co. of Canada (Careless, 2010). Mexico's first station, CYL, went on the air in Mexico City in 1923. It was founded by Luis and Raul Azcárraga, who sold radio sets and parts, together with the *El Universal* newspaper (Hayes, 2000).

The potential of radio led to a mad dash to build new stations across the continent. Unlike telegraph and telephone, wires did not need to be installed to carry broadcast communications across borders. The modulated electromagnetic waves of radio traverse boundaries as easily as birds. AM stations transmit signals in two ways: groundwaves generated through radials on the surface and skywaves from towers. Solar radiation limits the effectiveness of skywaves during the day. But at night, they can bounce between the earth's surface and the bottom of the ionosphere. With sufficient transmitter power, skywaves can travel hundreds of miles (Read, n.d.). In order to prevent stations from interfering with each other, stations can be assigned to certain frequencies, limit transmitter power, and/or install directional antenna arrays.

In his role as the U.S. secretary of commerce, Herbert Hoover tried to bring some order to the airwaves through a freeze on the issuance of station licenses and asserting government control over frequencies and power outputs in 1923 (Fowler & Crawford, 2002). That authority would be handed over to the Federal Radio Commission (FRC) in the Federal Radio Act of 1927. That law would be further

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revised in the Communications Act of 1934 and the FRC would be replaced by the FCC. In Canada, the 1905 Wireless Telegraph Act established federal authority over all wireless transmissions. Licenses were issued by the Department of Fisheries. The Canadian Radio Broadcasting Commission (CRBC) would assume responsibility for broadcast radio in 1932 (Hylton, Buchanan, & Buchanan, 2014). Mexico's Secretary of Communications and Public Works began licensing radio stations in 1923 (Robles, 2012).

An initial attempt at cross-border cooperation involving radio broadcasts happened in Mexico City at the 1924 Inter-American Conference on Electrical Communications. The U.S. delegation insisted frequencies be allocated by technological capabilities (which would give most of the control to Americans). U.S. officials found some parts of the final agreement were counter to American policies and refused to ratify the agreement (Hayes, 2000).

The AM dial established in 1928 extended from 550 to 1500 kilohertz (KHz) with 10-KHz spacing between channels. That allowed 96 available frequencies for stations (White, 2008). That year, the United States and Canada reached an informal agreement to allocate the available AM channels (Foust, 2000). That agreement gave Canada exclusive use of six of the available frequencies: 690, 730, 840, 910, 960, and 1030 (White, 2008). An additional eleven frequencies were designated for shared use with Canada. In its annual report, the FRC admitted the neighbors were not totally pleased (and previewed an argument Canadian authorities would make four decades later):

During the past year representatives of Canada have strongly protested against the present basis as being unfair to Canada, and there seems to be a disposition

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on the part of that country to press a demand for an increased assignment. This was rather forcibly suggested in the course of the North American conference held in Washington, D.C., on August 20 to 25, 1928. The present allocation, however, is based on the respective populations of the two countries. Furthermore, the programs of American stations give extensive service to Canada (FRC, 1928, p. 7).

The 1928 conference included representatives from the United States, Canada, and Cuba. The Mexican government was sent an invitation, but for reasons unmentioned, did not attend the meetings (FRC, 1928). For Rep. Ewin Davis (D-TN), the lack of frequency coordination was ominous, “(U)nless there is some definite agreement made between the United States and Mexico and Cuba along the line of the agreement with Canada, this is liable to become a disturbing factor” (FRC, 1928, p. 134).

It was not until 1937 that the United States, Canada and Mexico, as well as Cuba, the Dominican Republic, and Haiti agreed to the North American Regional Broadcasting Agreement (NARBA). NARBA expanded the AM dial on each end, from 540 to 1600 KHz, and established international classifications for the 106 frequencies now available: 59 clear channels, 41 regional channels and six local channels (Ramsburg, 2015). Of the clear channels, America was assigned 32, Canada and Mexico received six each and Cuba received one (Foust, 2000). March 29, 1941 was ‘moving day’ as 802 of the 890 AM stations in the United States moved to new frequencies to achieve compliance with NARBA (Ramsburg, 2015). The FCC established four classes and power limits for U.S. radio stations: Class I with 10,000 to 50,000 watts, Class II from 250 watts to 50,000 watts, Class III with 500 to 5,000 watts and Class IV at 100 to 250 watts (Head, 1956). For Mexico, NARBA meant control of 730, 800, 900, 1050, 1220 and 1570 KHz. U.S. officials agreed that other than existing stations on 1050 and 1220 KHz, any new stations on those frequencies would be limited

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to daytime operation with a maximum power of 1,000 watts (Fowler & Crawford, 2002).

Because radio signals travel across borders unimpeded, it is possible that a radio station in one country may be asked to make a technical adjustment so a station in another country can make adjustments of its own. In 1966, Canadian broadcaster Ted Rogers moved CHFI (now CFTR) in Toronto from 1540 KHz to 680 KHz. But in order to truly take advantage of the better dial position and increase power to 50,000 watts, he needed to get other stations on 680 to change to another frequency. His main obstacle was WRVM (now WDCX) in Rochester, New York. Although a daytime station, WRVM had a pre-sunrise authorization that allowed it to sign on at 6:00 a.m., creating interference with CHFI in parts of Rogers' desired listening area. The two biggest changes Rogers made through several years of negotiations with Rochester owner Milton Maltz were a binational agreement limiting further use of 680 in the U.S. and moving WRVM (then WNYR) to the Canadian clear channel of 990 using a directional antenna system to protect what was then CKGM in Montreal (Van Hasselt, 2007).

### **Transnationalism**

As its name implies, cross-border targeted radio has the potential to bridge the cultures of two nations. For teachers of foreign languages, "radio is ideally suited to teaching and learning strategies which posit communication not only as the goal but as the starting point of foreign language education" (Nelson & Wood, 1975, p. 5). It was suggested to French teachers in the Detroit area and northwest Ohio that Radio Canada's CBEF in Windsor could be a valuable resource in their lessons (Nelson & Wood, 1975). It will be shown that immigrants use radio to maintain ties to their



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homelands and with each other. For this study, three markets are home to groups of immigrants that merit special attention. They include people who came to the Vancouver area from the South Asian nations of India, Pakistan, and Bangladesh. Vancouver is also home to a large number of immigrants from Hong Kong and China. This research will also look at an attempt to reach Chinese immigrants in southern California. Of the estimated 838,000 people living in El Paso County, TX, 82% claimed to be Hispanic and 72% speak a language other than English at home (Quick facts - El Paso County, 2016). There are immigrants who take advantage of modern technology to maintain a virtual presence in two nations. Sociologists refer to them as transnational migrants.

The call of distant lands has driven humans through history. For some people who leave their native countries and establish a new home in another nation, it will be a clean break from one state to another. For others, any from a long list of reasons could cause them to move back. A third category are those physically present in their new country, but who continue to maintain multiple, strong ties to their homeland. These are people who lead a transnational life, as Basch, Schiller and Blanc (1994) put it, “Transmigrants take actions, make decisions, and develop subjectivities and identities embedded in networks of relationships that connect them simultaneously to two or more nation-states” (p. 7).

For most of history, the story of migration was, “a simple account of departure, arrival, settlement, and assimilation as the migrant undergoes a status passage from an émigré of the old world to an acculturated citizen of the new world” (Ley, 2009, p. 388). The ‘virtual’ arena Vertovec (2009) wrote of was the result of modern

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technologies such as inexpensive telephone calls, satellite television, the internet, and affordable travel. These developments made a transnational life possible. Doyle (2009) wrote this allows the study of a dual-nation life, “focusing as it does on the transports and transformations that occur across the borders of nations, in the process continually (re)defining these nations as such” (p. 5). From the perspective of those involved, Huang (2009) wrote, “transnationality may be first and foremost thought of as a condition of sustained interconnectedness experienced by transmigrants whose everyday geographies span social fields located in two or more nations” (p. 404).

### *Strangers in strange lands*

Every nation that receives migrants is redefined in different ways. The United States and Canada trace their modern origins to England. The Peace Arch at the Blaine, Washington/Surrey, British Columbia border has “Children of a Common Mother” inscribed on its wall (Peace Arch historical state park, n.d.). While both countries were built by immigrants, the integration of new arrivals in each nation has become very different.

In 1909, British playwright Israel Zangwill debuted his play about a Russian Jew whose family had been killed in an anti-Semitic riot and flees to the United States. The play’s title, *The Melting Pot*, became the metaphor of America as a home for people from around the world (Higgins, 2015). But like the cubes of cheese that make the fondue, U.S. immigrants were expected to blend into the larger whole through actions such as learning English and dressing in American fashion.

An early mention of the word transnational was by Randolph Bourne in *The Atlantic* magazine in 1916. In the aftermath of World War I, Bourne (1916) wrote, “No

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reverberatory effect of the great war has caused American public opinion more solicitude than the failure of the 'melting-pot.'... America is coming to be, not a nationality but a trans-nationality, a weaving back and forth, with the other lands, of many threads of all sizes and colors.” Bourne (1916) made his view clear, “Deliberate headway must be made against the survivals of the melting pot ideal for the promise of American life.” While the Peace Arch reflected the joint British heritage of the United States and Canada, Bourne was concerned about the consequences of adherence to British tradition, “It is just this English-American conservatism that has been our chief obstacle to social advance. We have needed the new peoples... to save us from our own stagnation.”

On the north side of the 49<sup>th</sup> parallel, immigration law became guided by the 1971 Multiculturalism Policy of Canada, “Multiculturalism ensures that all citizens can keep their identities, can take pride in their ancestry and have a sense of belonging” (Immigration, Refugees and Citizenship Canada, 2012). The Canadian system guarantees migrants the right to decide how much they will assimilate Canadian culture into their lives.

Diaspora and transnationalism are related, but very different, concepts. History books and religious texts are filled with stories of people in diaspora through forced or unforced migration or the migration of borders over groups of people and carried through successive generations. These people have a collective identity, but the strength of their ties to their former or current country can vary. The concept of transnationalism is relatively new and focuses on the ability of people, ideas, and goods to continually cross borders (Faist, 2010). Diasporic peoples live under those

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conditions through the acts of others, or are transnationals ‘from above’. With individuals blazing their own business paths across borders, there is transnationalism ‘from below’ (Huang, 2009).

The arrival of new immigrants brings more than new customs, foods, religions, and languages to a nation. Immigrants face a sometimes-difficult decision, “the relationship between assimilation and transnational life is complex, changing across the life course, by generation, and by class” (Smith R. , 2006, p. 7). Smith (2006) argued that assimilation and transnationalization could and do co-exist. He also reiterated that a transnational life is not a new phenomenon, but that technology has changed its nature.

The “new” transnationalism, according to Vertovec (2009), includes:

- More detailed and immediate information about events in the sending country thanks to communications technology
- An increase in the number of hometown associations facilitating improvements in sending communities
- More political engagement in the homeland, including campaigning and voting
- A large increase in remittances
- Special offices established in sending countries covering subjects from finance to civil rights

### *Transnationals*

The impending arrival of the 21st century and its technological changes allowed the development of a new type of immigrant, those who “forge and sustain multi-stranded social relations that link together their societies of origin and settlement”

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(Basch, Schiller, & Blanc, 1994, p. 7). These immigrants were educated, entrepreneurial, and seeking economic opportunities that bridged their native lands and their new homes. These migrants took advantage of new transportation and telecommunications technologies that allowed them to maintain economic, political and cultural connections in ways never before available (Portes, 2003). These new arrivals represent a minority of immigrants. Even with modern technology, most immigrants limit their transnational activities to traditional things such as interpersonal communications by mail, telephone, or internet and sending remittances to family members in their home country. A study of immigrants to the U.S. from three Latin American countries found just six percent were entrepreneurs whose businesses depended on contact with other nations (Portes, 2003).

The most basic transnational monetary transaction is the remittance, a fancy name for money sent by an immigrant back to his or her family or friends in the sending country. Those birthday checks add up. The total amount of these remittances from the United States has grown exponentially from approximately \$30 billion in 1991 to \$401 billion in 2012 (Ratha, 2013). Smith (2006) studied the economic ties between migrants from a Mexican town he called Ticuani to New York. This migration can be traced to 1943, but increased in number during the 1960s and grew rapidly in the late 1980s. Half of Ticuani's population consisted of people unable to establish themselves north of the border: those under 15 years old and the elderly. Most of the able-bodied adults were working in New York, but sent home remittances estimated at \$1,300 per person annually. A 1993 survey by Smith (2006) found half the households in Ticuani received more than 90 percent of their income from remittances. However, these

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immigrants support more than their families. A committee of Ticuani migrants in New York raised money for municipal projects such as a water distribution system and took an active role in the politics of their hometown.

### *I'm American – I'm Indian – I'm both*

One key to the growth of transnational businesses has been the ability of immigrant entrepreneurs to hop on a plane and be anywhere on the globe in less than 12 hours. Of course, the international borders that must be crossed present a serious impediment to getting business done. Countries have border controls that limit the movements of people for a variety of reasons. But those rules do not apply to their own citizens, so it is vital for a transnational entrepreneur to have dual nationality.

Mexicans who became citizens of another country renounced their Mexican citizenship until a 1998 change in law allowed them to apply for dual nationality. With dual nationality, they qualify for Mexican passports, attend schools as Mexicans, and can purchase property unavailable to foreigners, but cannot vote, hold political office, or serve in the Mexican military (UC-Davis, 1998). In 2015, Mexico's Ministry of Foreign Relations encouraged Mexicans eligible for U.S. citizenship to take advantage of the opportunity, "to obtain significant benefits on economic, social and political matters, as well as to strengthen their ties to both countries" (Estevez, 2015). In 2017, Mexican consulates in the U.S. experienced a dramatic rise in the number of Mexicans, some living in America illegally, seeking dual citizenship for their U.S.-born children (Crespo, 2017).

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### *Transnationals and Media*

As a population spreads into a new geographic area, it is very easy to be subsumed into the existing culture of that area. Something must exist that maintains ties among those who have left their native land. Murphet (2013) went back to the scattered tribes of Israel and their reliance on the Torah scroll to show there can be “no diaspora without media” (p. 55). He added media allow a group to express itself, communicate among itself and provide resources to itself, “media systems transmute the quality and quantity of ‘story’ through which a diaspora can be embodied and felt as an existential structure” (p. 63). “The symbolic presence and real availability of different media open up new possibilities for expression and representation and thus of imagining the self and belonging within and across space” (Bailey, Georgiou, & Haridranath, 2007, p. 2). Ethnic newspapers may have become the modern equivalent of Torah scrolls for keeping a population together. In 2002, the circulation of Vancouver’s 46 ethnic newspapers was greater than the circulation of its two English newspapers (Kelly, 2003).

### *Radio’s Role*

For transnationals, radio can serve as a vital link between their two homes. Baljinder Bhandal immigrated to Canada from India at 17. Speaking to a CRTC hearing reviewing ethnic radio in Vancouver, she said radio made a difference in her life:

(W)hen I moved here to Canada, I don't speak English at all. Like I speak Punjabi. And the first thing, my friend is a radio. It's a small box, wooden box, like back then, like 1991. So I start listening the radio and then, slowly, slowly, I just get connected, get all the information where I get more information and all that. It's in my language, in Punjabi, and it's very easy for me” (Transcript, hearing, 16 May, 2016, 2016, p. at 809).

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Bhandal went on to a career in broadcasting and worked with a group seeking a license for a new station.

Neesha Hothi is a brand consultant in Surrey, BC, and the daughter of immigrants. Hothi discussed the challenges of ethnic media for second-generation immigrants at the CRTC license hearing,

I am not listening to stations that are talking of -- the one point is my parents and my grandparents, there's a place for ethnic radio. They enjoy what's there because it's talking about back home. It's talking about things that are relevant to them, things that they want to stay connected to. But I don't have an interest in the politics of my home country. I do. I want to get the basics. (Transcript, hearing, 16 May, 2016, 2016, p. at 1099).

Karim (2003) noted that seeking news about their sending countries is a priority for first-generation immigrants who generally maintain strong ties to their former homelands. Nayar (2004) wrote Indian immigrants turned the dial for news of their homeland, “radio shows are the most important medium for the first generation in its efforts to maintain a connection with the Punjab” (p. 194).

### **Conclusion**

Through history, borders have been a source of conflict. India and Pakistan share a 3,300 kilometer (2,050 mile) border that has been a source of bloody conflicts since it was established in 1947. It is heavily militarized and the floodlights that run along most of it can be seen from orbiting spacecraft (Walia, 2015). It is a marked contrast to the border between Surrey and Blaine, which runs along the south curb of 0 Avenue with no government barriers; or the ability to walk across a bridge from El Paso to Juarez. The United States, Canada, and Mexico have a long history of cross-border cooperation. These could be local, such the joint wastewater treatment plant for



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Nogales, AZ Nogales, Sonora (Nogales field office and wastewater treatment plant, n.d.) and a fire department mutual aid agreement between Port Huron, MI and Sarnia, ON (Emergency Management, 2018). They could be major, such as the NAFTA trilateral trade agreement, or the North American Aerospace Defense Command (NORAD), established in 1958 to ensure a joint U.S. and Canadian response to threats against either nation. In the 2007 Merida Initiative, Mexican and American officials established a system for binational cooperation in fighting organized crime, but a NORAD-like military agreement has been difficult to achieve (Bielling, 2016).

After a rocky start, the United States, Canada, and Mexico established a coordinated framework for broadcast regulation with the 1937 NARBA deal. FM and television developed without the friction that occurred in the early days of AM. Each nation has developed its own set of content and ownership restrictions: Canada and Mexico viewed them as essential to combating the pervasive American culture. Since airwaves do not recognize borders, the technical cooperation that has prevented interference problems is a great achievement.

This study looked at cross-border targeted terrestrial radio in selected markets from both historic and contemporary perspectives. It has been shown that AM and FM stations sometimes fill varying roles in the lives of their listeners. This could include a parasocial relationship with a talk show host who holds similar views about current events, companionship for a nurse on the night shift, or gratifying a young person's search for new music. For the stations in this study, content regulation has been viewed as a challenge by the management of some, while the lack of content regulations is viewed as a positive by the management of others. In a key part of this study, content

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regulation dealt a fatal blow to a prominent cross-border station. Another regulatory issue that may affect these stations are different opinions of payola. Media is an essential tool for transnational immigrants. This study will include examples of how immigrants from one country to a second worked through radio stations in a third to reach their target audience.

### **Chapter 3: Methodology**

In order to obtain the answers to the research questions of this study, it was necessary to conduct both historic and contemporary research as well as determine the best ways to interpret the data generated by that research. The radio industries of the United States, Canada, and Mexico matured together, but in different ways. While each nation shares the view that the airwaves are a public resource, the United States adopted a private model, Canada went with a hybrid of a public service broadcaster and private stations, and Mexico added a layer of public service obligations to its private model, with some stations operated by government agencies. Those regulatory models meet in the border markets, where stations may be the red-headed stepchildren of the industry: permitted to operate in ways that would not be allowed in other parts of these countries. Philosopher George Santayana (1905) wrote, “Those who cannot remember the past are condemned to repeat it” (p. 284). It would be difficult to explain modern cross-border targeted radio without an overview of its history. For example, the recent actions by Canadian regulators against U.S.-licensed stations airing programming originating in Canada and aimed at a Canadian audience are reminiscent of the U.S. Brinkley rule imposed in the 1930s. Similarly, the success of Mexican-licensed stations in San Diego today has its roots in stations used to promote the availability of drinking and gambling in Tijuana during the prohibition era.

### **Comparative-Historical Analysis**

The history of cross-border targeted radio covers almost 90 years and dozens of radio stations across thousands of miles of boundary lines. There are similarities and differences among the eras, the markets, and the stations. The use of comparative-historical analysis can reveal the unique features of each case and point to generalities among them. Contrasts of the cases can be made while themes, questions, and ideal types can emerge (Skocpol & Somers, 1980). The comparative historical method is complimentary to the general inductive approach for data analysis, which will be discussed presently. Skocpol and Somers (1980) wrote that the focus in comparative history, “is on the cases themselves and the contrasts between and among them that underline the uniqueness of each” (p. 192).

Comparative-historical methods are appropriate for this study as they allow balancing the particular with the general to achieve insight, an understanding of the set of the causal processes in the cases explored, and provide an ideographic, or case-specific, explanation of the causes of the particular case (Lange, 2014). Within the general structure of radio broadcasting in the three countries studied are these particular situations. The analysis provides insights into how regulators carved a niche in the rules for these stations. The within-case methods take a holistic view that include phenomenon analysis, mechanisms, and interaction to yield insight of one case in one setting, and while that insight is not universal, the insight could be applicable in other cases. Cases can be defined in several ways, but researchers must be aware of spatial and temporal boundaries, as cases can last for many years (Lange, 2014).

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In a comparative-historical analysis, there is a three-step process and the use of primary and secondary methods to obtain results. The process begins with gathering evidence, analyzing that evidence for insight into characteristics and determinants, and finally presenting the results. The primary within-case method provides the evidence needed for an analysis, and researchers must review both the generation of evidence and how it is analyzed (Lange, 2014). The primary method for this study is historical narrative, which describes an event or phenomenon and its characteristics, but not its causes, providing evidence for research questions. A historical narrative may also be needed if existing research is inadequate to provide enough material for analysis (Lange, 2014). The use of the same research questions for the historic and contemporary cases will tie together the two parts of the study and show the evolution of this unique sector in the North American mass media industry.

According to Lange (2014), one method for secondary within-case analysis is the causal narrative, in which a sequential account of a social phenomenon is used to show what led and followed events, allowing consideration of several factors and how processes evolved over time:

Causal narrative is an excellent method for analyzing complex processes and concepts, as it allows detail and a more holistic analysis that considers multiple factors as well as their interactions and sequencing. It is particularly suitable for exploratory studies and is capable of providing considerable insight into causal mechanisms (p. 7).

While causal narratives are not usually appropriate for generalizable results, the results may be applicable to several cases in an analysis. The most common combination for comparative-historical researchers is the use of historical methods as the primary within-case method and causal narrative as the secondary within-case method (Lange,

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2014). For this study, causal narrative has been chosen as the secondary within-case method.

Another concern for effective use of the comparative-historical method is the number of cases analyzed. While it may be possible to obtain results from a large number of cases, Lange (2014) wrote that small-N comparison, in which fewer than ten cases are considered, provides strong insight through within-case analysis and puts the comparative in comparative-historical analysis. However, he cautions that small-N comparisons should not be used to justify broad claims, since the method highlights differences and promotes attention to detail.

The option chosen for this study's analysis is process-oriented comparison in which the causes of multiple cases are presented and then compared to identify similarities and differences: showing the important elements of those causes and spotlighting the factors that lead to similar outcomes. Lange (2014) cautioned that process-oriented comparison has a reliance on counterfactuals, in which "the researcher weighs the evidence from within-case analysis and considers what would have happened if a case was similar to or different from another case in one or more ways" (p. 14).

In order for a comparative-historical analysis to provide meaningful findings, the choice of cases and selection of data must be carefully considered. Lange (2014) warned of the possibility of selection bias when choosing cases for analysis. This has been avoided through selecting cases that are objectively representative: they are among the largest markets along the borders and include multiple stations that could participate in cross-border broadcasting. The comparative-historical method is well-suited for

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theory development. The within-case studies provide insight and inter-case comparison can show similarities and differences. The insight that comes from small-N narrative comparisons show factors and conditions that help build a theory (Lange, 2014).

### *Comparative-Historical Analysis in This Study*

There are four historical cases to be compared in the first section of this study, so it qualifies as a small-N comparison. After examining each case, there is a concluding analysis. The cases are defined both by geography and time. The four cases involved markets where regulatory issues had a major effect on cross-border targeted radio stations. Further, there are generous amounts of primary and secondary data in most of the cases. The primary sources included regulatory filings, court records, and essays by those involved. The secondary sources included books about the history of radio and radio personalities, trade press, and general media.

Each case involved a historical narrative that described the development of stations in those markets, as well as a focus on stations that sought a cross-border audience. Building these narratives required the use of many and varied sources, as not all of these markets had been historically documented. In order to ascertain the answers to the research questions, attention was given to the development of the cross-border targeted sector of the North American radio industry and the effects of regulations on operations of these stations. The secondary within-case method for this research is the causal narrative. Factors that lead to the development of a cross-border radio market for the selected stations was examined. These factors could influence how the stations developed and how their managers dealt with the regulatory environment affecting those stations. In the concluding analysis, comparing the causal narratives may yield

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essential insights into why these stations made the choices they did in seeking a target market. This section also included process-oriented comparisons of the cases to identify the similarities and differences among the cases.

### **General Inductive Analysis**

Analysis of a contemporary case differs from that of a historical case. As shown, the comparative-historical analysis for this study was seeking causes and making comparisons for selected cases based on extant primary and secondary sources. For the contemporary portion of this study, the primary and secondary source documents were also available, but there was the added ability to conduct semi-structured interviews with those currently involved in cross-border targeted radio. It was decided to conduct the analysis of the contemporary data through the general inductive approach. The comparative-historical method used in the first section of the study started with a historical narrative developed by the researcher, then a causal narrative on how the regulatory environment affected the stations studied, and a process-oriented comparison for a contrast of the cases and the development of a theory. The historic research will cover how cross-border targeted radio evolved from a means to an end for Americans trying to avoid legal entanglements to additional stations in binational markets in spite of regulations that in some cases were specifically targeted at them.

For the contemporary analysis, there was a look at the evolution of certain stations in these markets, as well as the answers to the basic questions about the evolution of cross-border targeted radio, differences of cross-border markets, regulatory effects, and legal entanglements. As Thomas (2006) wrote,

Data analysis is guided by the evaluation objectives, which identify domains and topics to be investigated. The analysis is carried out through multiple readings



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and interpretations of the raw data, the inductive component. Although the findings are influenced by the evaluation objectives or questions outlined by the researcher, the findings arise directly from the analysis of the raw data, not from *a priori* expectations or models. The evaluation objectives provide a focus or domain of relevance for conducting the analysis, not a set of expectations about specific findings. (p. 239).

Semi-structured interviews and document analysis were used for the contemporary cases. The document analysis included reviews of popular and trade media, and government and court records. In addition, interviews were conducted with station managers and regulators. The decision to pursue these methods was based on a desire for an in-depth look at the unique roles these stations played in the radio industry. If it is shown that each market responds to local challenges, this study will not yield a defined result, but rather enlightenment on what makes operating these stations different

This study involved a set of “how” and “why” questions for which interviews were the best method of finding answers. This is a study of what makes radio stations along the border different from other radio stations through the experience and opinion of those involved. These questions are designed to get detailed answers from these particular people in this particular situation (Agee, 2009). A semi-structured interview generates spontaneous answers, opinions, and insights that may not be possible in a written questionnaire and could never be addressed in a Likert scale survey. Semi-structured interviews start with a set of pre-determined and open-ended questions, but further questions emerge during the conversation between the researcher and the subject (DiCicco-Bloom & Crabtree, 2006). It is also important that interviewees have something in common so shared experiences can be discussed and DiCicco-Bloom and Crabtree (2006) emphasized that a rapport needs to be quickly developed so the interviewee is comfortable giving thorough answers to what may be difficult questions.

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In certain situations, where a semi-structured interview was not possible, questions and answers were exchanged via e-mail.

The interviews and document analyses generated a significant amount of data to be put through an inductive analysis. The purposes of a general inductive approach include condensing raw text data into a summary format, establishing transparent and defensible links between summary findings and the raw data, and developing a model or theory about the underlying structure that can be found in the data. While the data to code in a document analysis is whatever is present in the document, extracting data to code from interviews is a multi-step process. The interviews must be transcribed in a way that keeps the transcription faithful to the original statements (Lindlof & Taylor, 2011). The inductive coding system starts with establishing a common format for the data, then a systematic reading of the text, followed by the creation of categories. It is possible text could be coded into more than one category, as well as some text not fitting into any category. Categories may be added or refined as the text review continues (Thomas, 2006). As recommended by Thomas (2006), the analysis will include the categories with detailed descriptions and appropriate quotations to explain their meaning.

While the exact categories would be determined in the data analysis, there were several possible categories that were likely to emerge. For example, each of the four markets being studied contained two groups of radio stations: one licensed in the U.S., the other in the adjoining nation. For each station, there are two possible conditions: interest in attracting an audience in the licensed country and interest in attracting an audience in the bordering nation. Therefore, each station could be placed in one of

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three situations: seeking an audience only in the licensed country, seeking an audience only in the other country, or seeking an audience in both nations. (The fourth possible situation, not interested in attracting an audience in either country, can be eliminated.) The country of license for each station was ascertained in document reviews. The conditions regarding the border was determined from the interviews and/or document reviews.

The reasons for choosing that condition provided another set of categories. Among the possible options for the condition under which managers choose to appeal only to their country of license would be there is sufficient audience in the home country that listenership on the other side of the border is not necessary for success, the costs of developing promotions or providing service to listeners in the other country would not result in a sufficient return on their investment, or the format would not appeal to listeners from the other country. The possible responses for managers who only seek to reach an audience on the other side of the boundary would be a desirable audience in that nation, but a lack of available stations, or the ability to increase the number of stations in a market, even if it means the station is not licensed in that country. For those managers choosing to appeal for listeners on both sides of the line, possible responses would include that more listeners are always desirable, or that the border means little in the culture of the market.

One avenue of inquiry for this study was the binational regulatory environment in which these cross-border targeted stations operated. The border blasters of the 1930s took advantage of the anger of Mexican government officials to reach listeners in America. Many years later, the FCC moved against Mexican-licensed stations being

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used to avoid the per-market ownership cap. Canadian authorities have viewed some American-licensed stations as facilitating illegal operations. Revisions to U.S. ownership regulations could allow Mexican interests to become part owners of stations in the U.S. Revisions to Mexican ownership regulations have allowed an American interest to buy control of a station in Tijuana. This study also showed how station managers coped with rules ranging from content regulation to zoning.

### *Units of Analysis*

As in the historical section, the basic units of analysis for the contemporary portion of the current study are four cross-border radio markets and their stations: Detroit-Windsor, El Paso-Juarez, San Diego-Tijuana and Vancouver-Bellingham. In practice, this represents eight markets, as ratings are based on audiences in each country. For example, the Canadian ratings firm Numeris only publishes ratings for member stations in the Windsor market, and no Detroit stations are Numeris subscribers (Numeris granted access to non-published data for this study). Nielsen provides ratings for Detroit, which has included some Windsor stations. Within each market are several radio stations and ownership groups. Part of this study was to determine the degree to which a station or group of stations was seeking a cross-border audience. It could be shown that there are some stations for which cross-border listening is essential and others for which cross-border listening is not a concern. The reasons for this difference were an essential part of the study. Questions about the station management's view of the border and its role in how it is managed could provide evidence that being along the border could mean everything to a station – or it might mean nothing.

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### *Timeline*

The four cases in the history section of this study looked at the start of the radio industry in each market before a focus on different time periods:

1. The Rio Grande “border blasters” between 1930 and 1944
2. San Diego-Tijuana and XERB between 1966 and 1971
3. El Paso-Juarez and XEROK between 1974 and 1979
4. Detroit-Windsor and CKLW between 1967 and 1984

These examples provided detailed answers to each of the research questions. They also showed how the regulatory environment affecting cross-border targeted radio stations evolved.

The contemporary study looked at the impact of several changes affecting cross-border radio in the recent past. These included a redefinition of FCC ownership caps in 2003, the initial licensing of South Asian multicultural stations in Vancouver in 2005, and changes to Mexican and American foreign ownership rules in 2014 and 2016, respectively.

### *Generalizability*

The results of this study should provide a foundation for analytic generalization, which either could be used to corroborate, modify, reject, or advance in some other way the theoretical propositions of the study or show the development of new concepts (Yin, 2014). As the data from the interviews and other sources is compared, the common themes among the stations and markets will emerge, as will the differences among them. The commonalities may lead theory development, while the differences may

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contradict a possible theory. As a qualitative study, the results would not be statistically generalizable.

### *Validity*

In order to ensure construct validity, there was an appropriate document analysis and several interviewees in each case. As mentioned, there was likely to be a significant difference of opinion among interviewees about possible cross-border listenership and regulatory framework. The interviews were transcribed and coded to show the areas of agreement and disagreement. Attempts were made to ensure inferences from the data could be explained and verified. The use of research questions asked of all interviewees will assure external validity. The data from these interviews as well as the primary and secondary sources could be subject to member validation in which some interviewees were asked to confirm the possible findings (Lindlof & Taylor, 2011). By following a clearly designed protocol and maintaining records of all interviews and documents, reliability should be established. A future researcher should be able to conduct a similar study.

### *Multiple-Market Design*

This study examined each of the markets separately in an effort to identify the similarities and differences in the conclusion. While it was anticipated that there would be some similarities in the findings among the individual markets, the local nature of radio would dictate a variation in practice among the markets and reflect different motivations for pursuing a cross-border audience.

## **Research Protocol**

### *Overview*

This was an exploratory study of cross-border targeted terrestrial radio in the United States, Canada, and Mexico. It covered AM and FM stations licensed in their respective countries, but with the ability serve listeners in another nation. It consists of two sections: historic and contemporary. It was designed to show that among the markets studied, there could be significant differences in how radio station managers treated the presence of an international border. It paid special attention to the unique regulatory environment within which these stations operated. As a multiple-market study, there are replicated questions across all markets. Adherence to this protocol will assure construct validity, external validity, and reliability.

### *Data Collection Procedure*

For the historical section of this study, primary and secondary source documents were reviewed. These included memoirs of people involved in cross-border targeted radio, regulatory filings, court rulings, books, a documentary, and articles in the general and trade press. For the contemporary section, a similar list of primary and secondary source documents was studied. The history of the individual markets and key stations within each market, available audience ratings, and any current or past legal inquiries in the market were reviewed in preparation for the semi-structured interviews. When possible, the interviews were conducted in person during trips by the researcher. Telephone was used for interviews in which the researcher could not be physically present. If needed, some interviews were conducted by email. Afterward, the interviews were transcribed and coded to help find common answers and point out

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differences. A total of 19 people agreed to be interviewed for this study. The first choice for interviewees was selected owners or general managers of radio stations in each of the studied markets. These were the people with ultimate responsibility for the success (or failure) of the stations. The initial contact included an explanation of the study, the credentials of the researcher, and a request for a block of time to conduct an interview. Succeeding contact contained a request to sign and return the IRB consent form and a list of preliminary questions. No incentive was offered for participation. It was stressed that the results would be more credible if the interviewees could be quoted by name and title, but anonymization was offered if requested. Anonymity was undesirable because it may reduce the confidence in the study if the background of its participants is not known (Yin, 2014). Only one interviewee requested anonymity. Only one interviewee declined permission for an audio recording of the discussion.

### *Data Collection Questions*

This was a multiple-market study, but interviews started with the same basic research questions. As mentioned, those questions were:

1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?
2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?
3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?
4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.



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The historical-comparative method was used to answer these questions for the historical part of the study. For the contemporary section, the answers to the four questions were given a general inductive analysis.

### **Concluding Analysis**

After looking at the individual markets, the results were given a joint analysis to find similarities and differences among the chosen markets.

#### *Sources of Evidence*

In an effort to ensure the construct validity of this study, multiple sources of evidence were used. These included official documents of U.S., Canadian, and Mexican government agencies and subdivisions within them, trade and general press reports, peer-reviewed journal articles, master's theses, doctoral dissertations, books, documentaries, and websites operated by stations or focused on the industry. Radio stations specifically mentioned in the study were monitored by the researcher. A review of this evidence preceded the semi-structured interviews. This aided the development of pre-planned questions and provided a guide for coding the answers.

Inductive coding requires close reading of the transcripts and documentary evidence in search of multiple meanings within the text. A five-step process was involved (Thomas, 2006):

1. Placing raw data files in a common format.
2. Reading the raw text in detail to identify themes and events.
3. The creation of categories includes upper-level categories identified from the aims of the study and lower-level categories identified from the reading of the data.

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4. The text could be coded into multiple categories and some text may not be assigned to any category.
5. Ongoing revision of the categories, especially when the text is contradictory or offers new insights.

The conclusion of the research was a cross-case synthesis. Since it was expected that each of the markets would show different findings, a concluding chapter that discussed the similarities and differences was appropriate.

### *Research Report*

There are two general sections to this study: the historic and the contemporary. The choice of the comparative-historical analysis and general inductive approach methods and research questions has been explained. The historic section covered the four cases mentioned followed by a concluding analysis based on process-oriented comparison. The contemporary section followed with its four cases and concluding analysis. A report based on inductive analysis uses the top-level categories as the primary means of dividing the narrative, with the specific categories as the subdivisions (Thomas, 2006). There was also a final section summarizing the entire study.

### *Method Choice*

The use of qualitative methods, comparative-historical analysis and the general inductive approach, is not without its drawbacks. Qualitative data is usually not generalizable to a larger population. However, this is a study of situations that are unique in North American radio and specifically, these markets. The option for a qualitative study was chosen for several reasons. The absence of pre-existing studies called for the kind of in-depth look at the phenomenon that is cross-border targeted

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radio which could only be afforded by the chosen qualitative methods. This included insights derived from the document reviews of the historical section and the search for common threads in the contemporary documents. Beyond those, the interview subjects played key roles in the stations or markets being studied. They could provide insight on decisions that were made in the operation of their stations and markets, or in regulating those stations. It should be noted that the answers in any interview setting will contain both facts of the case and the opinion of the interviewee.

### **IRB Review**

The University of Oklahoma Institutional Review Board (IRB) had approved this study (number 6036). Because it involved minimal risk and no protected persons, the study qualified for and was given an expedited review.

## **Chapter 4: The History of Cross-Border Targeted Radio**

This section looks at how cross-border targeted radio developed through the history of radio as a broadcast medium. In some cases, histories of these stations and markets had already been produced. In others, this study produced the historical account. This detailed look at certain stations and markets is a prelude to the contemporary section of the study. It is only by knowing the history of cross-border targeted radio that a deep understanding of the contemporary situations can be realized.

Presented below are four cases that show the development of this subset of North American radio stations. It starts in the first decade of broadcast radio. A member of the U.S. Congress had warned in 1928 that the decision by American regulators to ignore their Mexican counterparts could create a problem. This section starts on the Texas portion of the U.S.-Mexico border, where Americans, some with their own complaints about U.S. regulators, took advantage of the Mexican anger. One listener to these “border blasters” was so intrigued, he pursued a career in radio and went on to become one of the most storied disc jockeys of the twentieth century. The second portion of this section will explain how Bob Smith from Brooklyn used cross-border targeted radio to create an on-air persona. Then, the study returns to the Rio Grande. In El Paso, a long-time cross-border targeted station made an attempt to create a top 40 powerhouse that met with initial success. However, internal and external forces were creating problems. Finally, the study switches to the Canadian border and the cities of Detroit, Michigan and Windsor, Ontario, home of a station with a cross-border targeted history like no other.

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This comparative-historical analysis begins with these four historical narratives. These are important to this study as the material needed to make an analysis was not easily available prior to this research. These narratives contain the evidence for the causal narrative analysis which follows. The comparisons and contrasts of the four cases produce the answers to this study's research questions.

### *Evolution of Cross-Border Targeted Radio*

In an age where a device in a pocket can instantly connect its user to virtually anywhere on the globe, it can be hard to appreciate what the dawn of broadcast radio represented. The industry was not developing in Mexico as quickly as it had been in the United States or Canada. Its first commercial station went on the air in 1923, three years after stations began programming in the other North American nations. The American delegation members made it very clear at the 1924 Mexico City conference that they felt the U.S. was entitled to control a large portion of the AM spectrum because the American industry was developing so much faster. It was an argument with some merit, as in 1926 Mexico had just 16 stations on the air and 25,000 radios in use. The Americans walked away from that conference without an agreement. Four years later, they divided up the AM band with the Canadians, totally ignoring the government and broadcasters along the southern border.

It would not be until 1937 that a serious effort started to harmonize the development of radio in North America. Negotiating a treaty between two nations is a complex process. The NARBA treaty involved six countries arriving at a decision that affected one industry but required the cooperation and non-reimbursable expense of thousands of independent businesses. It would be seven decades until a similar change

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would occur in the transition to digital television (and that did not come simultaneously to the different countries).

It is obvious that American, Canadian, and Mexican officials have maintained a regulatory environment that has allowed the broadcasting industry to grow in each nation. The NARBA treaty was the first of several agreements among the North American nations that allocated the AM, FM, and TV frequencies for broadcast use in a way designed to minimize interference. Since allocation tables cannot always predict actual conditions, any proposed technical changes to stations in border regions are required to be coordinated with both the regulators for the licensed country and the adjacent nation.

Technical coordination is just one aspect that eased the evolution of the radio industry in these markets. Stegner called the U.S.-Canadian border a “fiction” while McWilliams termed the U.S.-Mexican border a, “single cultural province.” These international boundaries were established by government officials far removed from the cultural borders. In areas where families and businesses are intertwined, the idea that listeners would be attracted to a radio station because of its programming regardless of its country of license makes sense.

**Along the Rio Grande: The cure for what ails you**

*In John R. Brinkley, quackery reaches its apotheosis.... He continues to demonstrate his astuteness in shaking shekels from the pockets of credulous Americans, notwithstanding the efforts of various governmental departments and agencies. – American Medical Association Secretary Morris Fishbein (Fishbein, Modern medical charlatans II, 1938, p. 172)*

For 1,930 kilometers (1,200 miles), the Rio Grande meanders from El Paso to Brownsville. The river became the southern border of Texas and the northern border of Mexico in the 1848 Treaty of Guadalupe Hidalgo (Timm, 2010). While a river boundary is more obvious than a line drawn on the ground, the historic and family ties of those living on the border cannot be broken by a treaty negotiated thousands of miles away. As Brownsville Mayor Tony Martinez said on the on the bridge connecting his city with neighboring Matamoros, “We are more than neighbors, we are family” (Casares, 2013).

Radio was slow to take off in Mexico. In 1926, there were just 16 stations in the country (Hayes J. , 2000). While in the United States, there were 536 licensed stations on the air that year (Mishkind, U. S. radio stations as of June 30, 1926, n.d.). Partly in an effort limit American dominance over the nascent industry, the 1926 Law of Electronic Commerce affirmed the airwaves as a Mexican national resource and limited ownership of radio stations to Mexican citizens. Three years later, Mexico was assigned the XE and XH call letters and had 19 stations on the air (Hayes J. , 2000). As the nation’s capital and largest city, Mexico City became the spawning ground of radio in the country. But 740 kilometers (460 miles) north of Mexico City is the City of Reynosa, Tamaulipas. Across the Rio Grande from Reynosa is McAllen, Texas. It was in these neighboring cities that cross-border targeted radio began. In the years that

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followed, colorful characters, questionable cures, mysterious violence, and mail bags full of money from American radio listeners would make their way to the shores of the Rio Grande.

In 1930, XED signed on from Reynosa using the Canadian-exclusive 840 KHz with 10,000 watts and approval for 50,000 watts when feasible, making it the most powerful station in Mexico. Put on the air by the International Broadcasting Company and aided by a Mexican cabinet member with business interests in Reynosa, XED had studios in McAllen and Reynosa. The next year, Houston theater owner and philanthropist Will Horwitz took over operations of the station (Fowler & Crawford, 2002). Horwitz soon learned one of the pitfalls of cross-border targeted radio: what is perfectly legal on one side of the border can cause trouble on the other side. State or provincial and federal governments in the U.S. and Canada have had an on-again/off-again relationship with the form of gambling called lotteries. They had been declared illegal in Canada in 1856 and in the United States in 1905 (Lottery history, 2016). XED was licensed in Tamaulipas, which operated a state lottery. The station ran announcements informing listeners they could buy tickets in the lottery by sending payments to XED's McAllen mailing address. Those funds were deposited in a U.S. bank and winners were paid by a check drawn on the bank and mailed to their American addresses. As this was a violation of several U.S. laws, Horwitz, his wife, and three associates were named in a 13-count federal indictment and later convicted in U.S. District Court. Horwitz' defense against the charges had been that the radio station was licensed in Mexico and therefore not under American jurisdiction. Fifth Circuit Judge Nathan Bryan did not agree with Horwitz' view when he appealed the conviction:



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If it be conceded that in the beginning it was formed in Mexico, appellants and their associates brought it into the jurisdiction of the trial court, by depositing and withdrawing funds from the bank at McAllen, by causing letters and checks to be delivered by the United States mail, and by performing other acts in pursuance of it and to effect its object (Horwitz et al. v. United States, 1933).

Horwitz was originally given an 18-month sentence, but served only six months. He was pardoned by President Franklin Roosevelt in 1940. As for XED, the station's original owners regained control of what then became XEAW and operated it until 1935, when it was sold to the most infamous operator of cross-border targeted stations (Fowler & Crawford, 2002).

### *Charlatans of the airwaves*

Among the stations receiving licenses from the U.S. Department of Commerce in 1923 was KFKB (Kansas First Kansas Best) in Milford, Kansas. Operating at 1050 KHz, the 'Sunshine Station in the Heart of the Nation' featured an array of early radio staples: church services, orchestral music and educational programs. But the most important program was a three times daily talk by KFKB's founder and owner, Dr. John Brinkley (Fowler & Crawford, 2002). Brinkley took some classes at the Bennett Medical College in Chicago, but received his diploma from the Eclectic Medical University and Kansas City College of Medicine and Surgery in Kansas City, Missouri (Fishbein, Modern medical charlatans II, 1938). Brinkley was granted a license to practice in Arkansas, giving him the ability to practice in other states, including Kansas and Texas (Fowler & Crawford, 2002). Brinkley arrived in Milford in 1917 and soon discovered his claim to fame, a unique surgical procedure designed to reinvigorate the sex drive of middle age men. Brinkley was taking the testicles of Toggenberg goats and placing them in his patients' scrotums. After his first patients reported feeling younger

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and fathering children, stories of the goat gland doctor began appearing in U.S. and foreign newspapers. Fowler and Crawford (2002) wrote that Brinkley traveled to China and then California at the request of Harry Chandler, owner of the *Los Angeles Times* and KHJ Radio. Using a special medical license, Brinkley earned \$40,000 performing his surgical technique in the Golden State before returning to the Sunflower State.

Over the air, Brinkley promoted the success of his surgery for which patients paid \$750 cash. He also read letters from listeners who paid \$2 and prescribed treatments that could be obtained at a network of affiliated pharmacies that paid him a \$1 commission on each bottle. Brinkley's income was in the six figures and he went on a building spree to handle his growing practice: a sanitarium, apartments and bungalows, paved roads, electricity, a sewer system and a new post office building capable of handling the three thousand letters addressed to him each day. In 1929, a survey by Chicago's *Radio Times* named KFKB America's most popular radio station (Fowler & Crawford, 2002). For Brinkley, this was the pinnacle of his success in his adopted hometown. The American Medical Association (AMA) would soon launch an investigation into the doctor's claims. When KFKB was granted a power increase that had been denied to a radio station owned by the *Kansas City Star*, the paper wrote a series of critical articles. The FRC joined the ranks of Brinkley's critics, seeking proof the station was meeting the Radio Act's requirements that the station operate in the "public interest, convenience and necessity" (Fowler & Crawford, 2002).

The FRC voted to revoke Brinkley's radio license saying he was not operating in the public interest. In addition, the Kansas State Medical Board revoked his license to practice. Brinkley took both regulators to court and lost each appeal (Fowler &

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Crawford, 2002). Brinkley's final attempt to beat the system was a write-in campaign for governor of Kansas in the 1930 election, garnering 30 per cent of the vote (Kansas Historical Society, 2014). Brinkley sold KFKB in 1931 for \$90,000 and turned his eyes to the south (Fowler & Crawford, 2002).

550 kilometers (340 miles) northeast of Milford is the City of Muscatine, Iowa, the hometown of Norman Baker. According to Fowler and Crawford (2002), in the modern era, Baker might be called an entrepreneurial showman. After staging a mind-reading performance tour, Baker achieved commercial success designing, manufacturing, and selling air-powered calliopes. A fire at the plant might have ended that business, but Baker earned enough money with a mail-order art school to resume making calliopes. For his next venture, Baker answered the call of the local business community and Muscatine's first radio station took to the air in 1925, KTNT (Know The Naked Truth), was at 1170 KHz (Harris, 2015). Although his original license limited the station to 500 watts and was subsequently granted a boost to 3,500 watts, Baker allegedly would run the station as high as 10,000 watts. Baker used the station to promote a set of ancillary businesses, including a mail order catalog operation. In 1926, he also tried to become the voice of independent and farm broadcasters in their struggle against what he called the "radio trust" of equipment manufacturers and network affiliates by establishing the American Broadcasters Association (Rudel, 2008).

In 1930, Baker made his entry into the medical field. He converted a roller skating rink into the Baker Institute, a hospital for cancer patients. One of Baker's medical experts was Dr. Charles Ozias, a Missouri physician who in 1922 wrote to doctors across the country seeking 100 to accompany their patients to Kansas City so he

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could demonstrate “the hypodermic method for the cure of cancer” (AMA, 1922). The other was Harry Hoxsey, the son of a veterinarian whose great grandfather had also developed a supposed cancer cure. After pressure from the AMA forced the closure of his own clinic, Hoxsey went to Muscatine and joined the Baker Institute. The promotional power of KTNT radio, a magazine with a 30,000 subscriber circulation, and staged events that drew thousands to demonstrate supposedly successful cancer cures combined to earn the Baker Institute \$100,000 in monthly revenues as patients descended on Muscatine in search of cures (Fowler & Crawford, 2002).

The mellow sounds of a calliope that were often heard on KTNT did little to soothe the growing chorus of Baker’s critics. The AMA Bureau of Investigation tried to discredit the cancer treatments, “The lie is so obviously false to any person with intelligence above that of a moron that it needs little thought to convince hearers of its fallacy” (Fishbein, 1938, p. 88). The FRC chief examiner wanted to stop renewal of the station’s license. Baker and Hoxsey had a falling out (although they remained codefendants in a state lawsuit alleging operation of an unlicensed medical practice), and Hoxsey got into a shootout with men who approached the studio building in the middle of the night. In June, 1931, the FRC voted not to renew KTNT’s license. In 1932, Baker lost a slander lawsuit he had filed against the AMA and received just 5,000 write-in votes in a campaign for governor of Iowa (Fowler & Crawford, 2002). Like Brinkley, Baker was ready to make a move to someplace where it was hoped the FRC and AMA could not interfere with their broadcasting or medical business interests.

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### *Across the Rio Grande, A New Hope*

Brinkley and Baker had many things in common: they had become accustomed to making a lot of money through questionable medical procedures, had a flair for self-promotion, and knew how to maximize the power of a still-young medium. The American Medical Association considered their treatments fraudulent. The Federal Radio Commission had earned their enmity by stripping them of their radio stations. But Baker and Brinkley were not the only people angry at FRC. Left out of the U.S.-Canadian agreement dividing all of the available AM frequencies, Mexican officials were also not fans of the regulators in Washington.

In 1931, Brinkley received a letter from the head of the chamber of commerce in Del Rio, Texas. Partnering with municipal leaders across the Rio Grande in Villa Acuña, Coahuila, Brinkley was invited to return to the airwaves in a way that made KFKB seem like a CB radio. The Mexican city conceded 10 acres to the doctor, who erected two 91-meter (300-foot) towers and contracted for a custom-built transmitter that was turned on during a celebration on October 21, 1931 (Fowler & Crawford, 2002). XER originally operated on 735 KHz at 75,000 watts, but later authorized for 500,000 watts (Cronologia, 2014). American stations such as WSB in Atlanta, a 50,000 watt clear channel station then operating at 740 KHz, complained of interference from XER (Fowler & Crawford, 2002). Calling XER “The Sunshine Station Between the Nations”, Brinkley claimed the programming would improve relations between the neighbors and provide an economic boost to Mexico. Brinkley resumed his on-air promotion of rejuvenation surgery, initially still being performed by his staff in Kansas, interspersed with a mixture of American and Mexican talent, including Rosa

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Dominguez, “The Mexican Nightingale”. It did not take Brinkley long to attract an audience far beyond what KFKB had been capable of delivering. The Del Rio post office processed almost 28,000 pieces of mail for the station just three months after it signed on with return addresses from most states and several countries (Fowler & Crawford, 2002).

Brinkley was not done with Kansas yet. He mounted another campaign for governor in 1932. In order to be present for the campaign and remain on the air, Brinkley installed a broadcast loop telephone line between Milford and Villa Acuña that cost \$10,000 a month. He came in third, garnering 250,000 votes. 1933 became a big year for Brinkley, and not all in a good way. He razed his hospital and other buildings in Milford and moved his medical facility to a Del Rio hotel. While local officials in Villa Acuña were closely aligned with Brinkley, Mexico’s federal health department assessed fines on XER, claiming Brinkley’s advertised treatments were prohibited by Mexican law. Federal troops seized and shut down the station in February, 1934 (Fowler & Crawford, 2002). In a parallel with the Horwitz case, Brinkley found promoting his business on both sides of a border may come with consequences from one side.

In 1935, Brinkley re-organized the corporate entity that owned the station, defeated the Mexican government in court and was back on the air as XERA. The station was now at 500,000 watts with a directional antenna system pointed north into the United States at 840 KHz (Braudaway, n.d.). For WWL in New Orleans, then at 850 KHz, and KOA in Denver, that was at 830 KHz, both clear channel stations expecting economic value from their far, regional reach without interference

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(Ramsburg, 2015), this was not welcome news. According to Fowler and Crawford (2002), Brinkley also added to his medical and broadcasting empire, building a hospital in San Juan, Texas to treat colon illness and acquiring XEAW. Brinkley's engineer also boosted that station to 500,000 watts through a north-oriented directional antenna system.

For Brinkley, 1938 marked the beginning of the end. Rather than fight a low-priced competitor who built a clinic in Del Rio, he moved his medical practice to Little Rock, Arkansas (Fowler & Crawford, 2002). Also that year, the AMA magazine *Hygeia* published a series of articles on "Modern Medical Charlatans" in which both Brinkley and Baker were featured. The secretary of the AMA, Dr. Morris Fishbein, authored the essays and marveled at Brinkley's success, "The evidence assembled indicates that at various times, Brinkley has made as much as \$55,000 a week from his various quackeries.... Yet the money rolls in, which proves that the wages of sin is not always death" (Fishbein, Modern medical charlatans II, 1938, p. 182). Brinkley responded with a libel lawsuit against Fishbein that he lost both at trial and on appeal. Federal appeals Judge Rufus Foster wrote, "We think above stated facts are sufficient to support a reasonable and honest opinion that plaintiff should be considered a charlatan and quack in the ordinary, well-understood meaning of those words" (Brinkley v. Fishbein, 1940). That decision led to a series of lawsuits against Brinkley by unhappy patients as well as the U.S. Internal Revenue Service seeking back taxes. Brinkley declared bankruptcy, made an aborted run for U.S. Senate, abandoned a planned return to Del Rio, and was arrested on mail fraud charges. In light of Brinkley's legal troubles and the NARBA agreement, Mexican authorities ended his operation of XERA. After

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suffering a heart attack and having a leg amputated, Brinkley died in 1942 (Fowler & Crawford, 2002).

### *Trying to Shut Down the Border Blasters*

While American officials had no authority to control broadcasts coming from across the border, they did look for ways they hoped would hurt these operations. In February, 1934, both the U.S. Senate and House considered bills to amend the Radio Act of 1927 to prohibit Americans from sending programs across a border to be transmitted on a station that could be received in the U.S. In a letter to Sen. Clarence Dill (D-WA), FRC Chairman E.O. Sykes made it clear this legislation had one target:

The object and purpose of this proposal is especially directed at the broadcasts from Mexican stations, such as Dr. Brinkley who has now moved his hospital to Texas and broadcasts from Texas to his station in Mexico. It is our belief that if such an amendment were enacted it would make it very much harder for these people because then they would be compelled to do their broadcasting from foreign soil and would greatly tend to discourage not only the present broadcasting of this character but would also tend to stop the erection of new stations along the Mexican border (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 2).

While Brinkley may have been the impetus for the bill, committee chair Rep. Schuyler Otis Bland (D-VA) told the hearing several Mexican-licensed stations were creating interference with American stations. FRC Chief Engineer Charles (C.B.) Joliffe told the committee this is not a problem along the northern border, “The assignments which Canada has made to her broadcasting stations have been agreed to by an exchange of notes between the United States and Canada, and we are living very happily with Canada” (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 12). Bland told the hearing



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that he and Sykes were among those who attended a 1933 radio conference in Mexico City, “at which nothing was accomplished in the way of keeping these stations from interfering with American stations” (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 2).

The Mexican border blasters did not follow the lead of the U.S. and Canada. Rather than using the same frequencies, some of the “X” stations appeared between two channels, such as XENT at 1115 KHz and XEPN at 585 KHz. This created two types of interference with American stations on the frequencies 5 KHz to either side. One was cross talk, hearing two stations at once, the other was a 5 KHz heterodyne, a high-pitched squeal very unpleasant to the ear (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934).

The so-called Brinkley rule, also known as section 325c, did eventually prohibit the unauthorized use of cross-border links for sending programs out of the U.S. to be heard in the U.S.:

No person shall be permitted to locate, use, or maintain a radio broadcast studio... and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor (47 U.S.C. §325(c)) .

This regulation is as old as the FCC, although it was originally Section 325(b) in the Communications Act of 1934 (Communications Act of 1934, 73d Congress Sess. II Ch. 652, 1934). Congress drew its authority to regulate broadcasting from the commerce clause of the U.S. Constitution (Messere, n.d.). Found in Section 8 of Article I of the

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Constitution, the clause authorizes Congress, “To regulate commerce with foreign nations, and among the several states, and with the Indian tribes” (Article I, n.d.). Since the clause allows regulation of commerce with foreign nations, Congress found authority to enact a law covering broadcasting originating in another country. The Communications Act of 1934 contained specific authority for the FCC to regulate, “interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nationwide, and world-wide wire and radio communication service” (National Broadcasting Co., Inc. v. United States, 1943). In this particular instance, the FRC’s Sykes said the commission did not view the border blasters as Mexican stations, “they are really American stations, owned by Americans for the purpose of broadcasting into the United States and not into Mexico. Naturally, we want to stop as much of that as we can” (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 36).

The rule forced Brinkley to either broadcast from the station’s Mexican studios or to record his messages on 16-inch discs and send them to the station. After being played on the air, the discs were discovered to have an interesting second use, “Villa Acuña residents found the aluminum-based discs discarded from the station made excellent shingles, and soon the roofs of homes near the station glistened with the doctor’s messages of mercy” (Fowler & Crawford, 2002, p. 45).

The original Mexican radio regulatory scheme was similar to the contemporary Canadian system. The *Secretaria de Comunicaciones y Obras Publicas* (SCOP) was put in charge of radio in 1923 by President Alvaro Obregón, but the Telegraph

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Department handled the technical portions. Another provision of the 1926 Law of Electronic Commerce was the ability of the national government to take over all stations in the event of war or a national emergency. In addition to the privately-owned stations, some government ministries established their own stations, the Ministry of Public Education among them (Robles, 2012). Revisions of the 1926 law included a requirement that any station owner desiring to broadcast in a language other than Spanish needed a permit, the applications for which Hayes (2000) wrote often involved bribery and corruption.

### *Norman Baker Heads for the Border*

Following Brinkley's example, Norman Baker headed to the cross-border cities of Laredo, Texas and Nuevo Laredo, Tamaulipas. While local authorities on both sides of the Rio Grande paved the way for Brinkley, Baker was on his own as he built XENT, a 150,000-watt station, originally at 1115 KHz, that went on the air in December, 1933 (Fowler & Crawford, 2002). Like Brinkley's stations, the programming was an eclectic mix that filled time between Baker's personal messages. Baker told a Laredo business group the station publicized, "the beauty, the art, the wonders of Mexico" (Fowler & Crawford, 2002, p. 86). Mexican education authorities were given one hour daily on XENT and other blocks of time were devoted to Spanish-language entertainment. Baker also opened a new hospital in Laredo while maintaining his operation in Muscatine.

Baker's 1935 application to the FCC for a new station in Muscatine was denied and a 1936 campaign for U.S. Senate from Iowa failed (Fowler & Crawford, 2002). In 1937, Baker was convicted in federal court of violating the Brinkley rule regarding

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cross-border programming. The case was to set an important precedent for cross-border targeted radio. That conviction was overturned on appeal when it was found that delivering pre-recorded programs across the border was not a violation of the rule (Barnett, 1987). In another parallel with Brinkley and also in 1937, Baker purchased a resort in Eureka Springs, Arkansas and converted it to a hospital offering his cancer treatments (Fowler & Crawford, 2002).

Baker's binational world began to collapse in 1940 when he was convicted of mail fraud in federal court and sentenced to four years in prison. The prison psychiatrist wrote that Baker was delusional. But while behind bars, Baker was quoted as saying, "If I could keep my radio station open, I would make a million dollars out of the suckers of the states" (Spence, n.d.). After his release, Iowa authorities blocked his attempt to re-open a Muscatine clinic and Baker headed to Florida, where he died aboard his yacht in 1958 (Fowler & Crawford, 2002).

XENT eventually signed off, having lost its main purpose of promoting Baker's treatments. XENT provided as much intrigue in its death as it had during its life. Baker hired Thelma Yount to run the Laredo advertising agency that coordinated the ads on XENT, but trusted her enough to be considered his alter ego and share where he hid prodigious hordes of cash, "none of his servants was more faithful than Miss Yount" (Baker v. Bellows, Executrix, 1943). Baker had given Yount power of attorney over XENT's holding company, Compania Industrial Universal.

In 1944, KABC Radio in San Antonio was granted an FCC construction permit (CP) to move from a 250-watt station at 1450 KHz to 680 KHz with 50,000 watts by day and 10,000 watts at night. There was just one problem: with America in the midst

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of World War II, any materials needed to make the change were being diverted to the war effort. KABC owner Gene Cagle dispatched an engineer to Mexico in search of the needed equipment. With XENT off the air, Yount had two towers, a high-powered transmitter, a 300-kilowatt diesel generator, and studio equipment doing nothing. It took some negotiations with the Ministry of Communications, but six trucks were loaded with XENT's transmitter equipment in exchange for a \$100,000 payment on October 31, 1944. However, the Mexican president produced an order forbidding the export of any of XENT's assets. The order was rescinded on March 23, 1945 when the president was satisfied that the Americans were not also trying to claim the 1140 KHz frequency. (The president's order permitted only the export of the transmitter and not the generator. The towers turned out to be too short for KABC's new frequency.) With that letter in hand, the trucks made their way across the river to Texas (Alamo Broadcasting Company v. Commissioner of Internal Revenue, 1950). However, that was not the end of the XENT-KABC saga.

On December 14, 1945, Norman Baker petitioned the FCC to rescind the grant of the KABC CP. Baker claimed Yount did not have the authority to sell the XENT assets and she and Cagle conspired to defraud him. However, KABC attorneys produced a copy of a bill of sale that had been signed by Baker and Yount. Baker also conceded he was present when Yount endorsed the \$100,000 check and deposited it in a Mexican bank. On April 1, 1947, the FCC denied the petition (FCC, 1947). Baker still got the last laugh: KABC's Mexican adventure had a total cost of more than \$196,000 to get a transmitter that took three months to rebuild and had to be replaced four years

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later at a further cost of \$150,000 (Alamo Broadcasting Company v. Commissioner of Internal Revenue, 1950).

### *Crazy Water and the Crazy Gang*

The third chapter in the life of one border blaster began with the discovery of a natural spring near Mineral Wells, Texas in 1877. It was said that a woman demonstrating signs of insanity drank the well water and was cured of her illness (Fowler G. , 2013). As tourists descended upon the city to drink what was known as Crazy Water from the Crazy Well, there was a building boom in hotels. Dallas insurance executive Carr Collins was a frequent visitor to Mineral Wells. Collins was the founder of a major insurance firm, a devout Baptist, a non-drinker, and such a fan of cafeteria dining that he would later open the largest cafeteria in the world. With his brother, Hal, the pair built the Crazy Hotel in Mineral Wells in 1927 (Fowler & Crawford, 2002).

The arrival of the Great Depression meant fewer visitors to the spring, but Collins discovered that if the water was boiled off, the remaining ingredients formed a powder that could be packaged and sold, then reconstituted by the consumer. What would today be termed infomercials for Crazy Water Crystals called “The Crazy Gang Show” started on a Dallas radio station, then expanded to a state network and eventually from coast-to-coast on the Mutual Broadcasting System. Broadcast from the Crazy Hotel, the program was a mix of hillbilly music and Hal Collins imploring listeners to order Crazy Water Crystals, “It cures ailments brought on by constipation, high blood pressure, rheumatism, arthritis, liver and kidney troubles, autointoxication, bad complexion, excess acidity, or something else of a more serious nature” (Fowler &

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Crawford, 2002, p. 139). The Collins brothers' media empire grew to include sponsorship of a segment of Grand Ole Opry broadcasts on WSM in Nashville in 1934 and the next year, singer Hank Snow promoted Crazy Water Crystals on Canadian radio (Fowler & Crawford, 2002). Live musical acts interspersed with messages about Crazy Water Crystals took up a lot of program time on WBT in Charlotte, NC until 1937 (Williams, 2006). Hal and Carr Collins were taking in an estimated \$3 million in annual revenue from their boiled water powder (Fowler & Crawford, 2002).

The AMA flexed its muscles against Brinkley's surgeries and Baker's treatments. For Crazy Water Crystals, the adversary was the U.S. Department of Agriculture (USDA). In a 1934 issue of *The American Spectator* magazine, Assistant Secretary of Agriculture Rexford Tugwell (1934) penned a 10-page article entitled "The Great American Fraud" in which he called into question the advertising of certain products, even though their label complied with the requirements of the Food and Drugs Act of 1906. Tugwell assembled a display for the 1933 Chicago World's Fair, later moved to the USDA headquarters in Washington, and nicknamed "The Chamber of Horrors." Among the items on exhibit: Crazy Water Crystals. Tugwell (1934) wrote "On the radio this product is advertised with all the trappings and paraphernalia of exact laboratory science, frequently accompanied by testimonials and sanctimonious lectures of quack physicians" (p. 87). It turned out the residue of Crazy Water was Glauber's salts, used by veterinarians as a laxative. The label on the Crazy Water Crystals box accurately contained the warning, "continual use of any laxative may develop a systemic dependence on same" (Fowler & Crawford, 2002, p. 138). But the cure-all claims were too much for the USDA, "the practice of selling a common saline laxative

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represented to be something it is not constitutes both an economic fraud and unfair competition with honest manufacturers” (Tugwell, 1934, p. 88).

The Collins brothers were fearful that the U.S. Food and Drug Administration (FDA) might pressure the FCC to move against stations advertising their highly profitable product. Faced with the prospect of American regulators trying to shut down his medically-related business, Carr Collins made what by then was a typical business decision: find a border blaster. Fortunately for Carr, Brinkley had moved his hospital to Arkansas and concentrated his radio efforts at XERA, making XEAW available. There was one catch: Brinkley moved XERA to XEAW’s 960 KHz, leaving XEAW at 1570 KHz. Collins and a silent partner, Texas Governor W. Lee O’Daniel, purchased XEAW in 1939 and the Reynosa station became the 150,000-watt voice of Crazy Water Crystals (Fowler & Crawford, 2002).

XEAW beamed the Collins brothers’ messages into the U.S. until 1943. Carr recalled going into a movie with the station on the car radio and came outside to hear a different station on the channel from Monterrey, Nuevo Leon. “Within the two-hour period, the Mexican authorities, acting through a squad of soldiers, had closed us down at Reynosa and given the frequency to a station in Monterrey” (Fowler & Crawford, 2002, p. 156). Not wishing to lose their capital investment, the Collins brothers quickly headed to the border to recover XEAW’s equipment. A Mexican general who also owned the Reynosa power plant secured permission from the Mexican president for the removal of the station’s transmitter and seven towers in exchange for XEAW’s electric transformer. Everything was on trucks within a few days and, with an honorarium to Reynosa’s police chief for escort duty, the equipment was taken across the Rio Grande



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and shipped to Corpus Christi, Texas by rail. It took some political wrangling, but the XEAW gear was eventually back on the air as the 50,000-watt KWBU. Collins later donated the station to Baylor University, part of \$20 million given to various charities during his life. He also drank Crazy Water regularly until his death in 1980 at 87 (Fowler & Crawford, 2002).

### *Other Border Blasters*

Not all border blasters were established to peddle medical procedures. Leaders in the border cities of Eagle Pass, Texas and Piedras Negras, Coahuila, wanted to attract some of the attention coming to Del Rio and Laredo. XEPN went on the air in November 1932, with 100,000 watts at 730 KHz. The station carried a number of shows by cowboy singers and fortunetellers that awaited the arrival of twice-daily trains and the mail sacks containing orders for products advertised on the station. Among the Mexican entertainment provided on XEPN was Lydia Mendoza, the “Lark of the Border”. Five years later, the station’s Mexican and American managers got into a disagreement. A spectacular explosion later destroyed the station’s transmitter and the station’s tower fell. No charges were ever filed (Fowler & Crawford, 2002). In Nuevo Laredo, XEFE owner Rafael Tijerina Carranza built the station’s towers on the shores of the Rio Grande and attracted listeners in two states: Tamaulipas and Texas. In 1944, Carranza claimed he had control of the audience on both sides of the river (Robles, 2012).

### *Mexico and the Border Blasters*

American and Canadian clear channel stations with their 50,000-watt power outputs were usually located in large cities, such as WLS in Chicago and CBL in

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Toronto. To the FRC's Joliffe, border towns such as Reynosa are not where he expected to find a 500,000-watt radio station, "(T)he area along the Mexican border is extremely sparsely populated. These stations, therefore, cannot be appealing to the people of that area; because there are not sufficient people to justify or to support a station of that power (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 5). Joliffe told a 1934 hearing of the U.S. House Committee on Merchant Marine, Radio, and Fisheries that Mexican regulators have refused American requests to go after these stations for the interference they were causing to U.S. broadcasters. In addition, Joliffe said the Mexican representatives had asked for 12 clear channel frequencies, six of them for border stations. Joliffe told the committee that the American representatives rebuffed the request, saying it would reduce the number of channels available for U.S. stations, possibly forcing some off the air, nor would the Americans be inclined to help stations they believed to be operating illegally.

As mentioned, that does not mean the Mexican government would remain protective of these stations. Negotiators finalized the NARBA contract in December, 1937. However, it still needed to be ratified by the governments involved. Mexican and American negotiators both wanted to use the agreement as a way to silence the border blasters. President Lazaro Cardenas signed a side agreement with the U.S. in April, 1939 to eliminate the high powered stations in Villa Acuna (Brinkley's XERA), Nuevo Laredo (Baker's XENT), and Reynosa (the Collins' XEAW). The catch was the agreement could not take effect until both Mexico and the U.S. ratified NARBA. The U.S. Congress had been the first to approve the agreement, in August, 1938. However,

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internal situations in Mexico, including a change in administration, were delaying ratification in Mexico City. President Manuel Avila Camacho got the NARBA treaty and the side agreement regarding the border blasters ratified in March, 1941. The reconstituted XERA and the Carr Brothers' XEAW were both expropriated (Fowler & Crawford, 2002).

The NARBA agreement set in motion a realignment of the North American radio dial and was a precursor to the international cooperation on the radio spectrum that would follow. While the United States and Canada maintained their maximum power level of 50,000 watts, Mexico continued to allow stations operating with much higher power levels. Some of those stations were in border cities, including Juarez and Tijuana. The next generation of border blasters were not pedaling questionable cures, but promoting a potpourri of products for U.S. audiences from baby chicks to eternal salvation as well as country and rock music.

**San Diego – Tijuana: The Howl of the Wolf**

*I feel a hot wind on my shoulder  
And the touch of a world that is older  
Turn the switch and check the number  
Leave it on when in bed I slumber  
I hear the rhythms of the music  
I buy the product and never use it  
I hear the talking of the d.j.  
Can't understand just what does he say?  
I'm on a Mexican radio*

“Mexican Radio”, Wall of Voodoo (Ridgway & Moreland, n.d.)

Wall of Voodoo lead singer Stan Ridgway said the inspiration for “Mexican Radio” came from guitarist Marc Moreland who would search for Mexican stations on the car radio while driving to rehearsals in southern California (Lang, 2004). The song may only have reached number 58 on the *Billboard* Hot 100 chart in 1983 (Wall of Voodoo chart history, n.d.) but in it, Ridgway and Moreland captured another phase of cross-border targeted radio along the U.S.-Mexico border.

The southwest corner of the continental United States and the northwest corner of Mexico was established under the 1848 Treaty of Guadalupe Hidalgo, which ended the Mexican-American War (Griswold del Castillo, 2006). Boundary commissioners from both nations negotiated the start of the international border at a point one marine league south of the port of the San Diego in 1849, the line then continued east to the Rio Grande (Dear, 2005). The border separates the cities of Tijuana and San Diego, but the two cities share a deep and intertwined history. This is especially apparent when looking at the radio industry in its first century.

On the north side of the line, broadcast radio got off to a slow start. Licenses were issued to nine stations in 1922, all of which shared time at 833 KHz (also called

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360 meters). The first went to Jack Wiseman for KON. The station was built inside Holzwasser's department store to promote Blue Bird records. Wiseman was also an innovator, originating remote broadcasts from the Superba Theater. However, record sales were not meeting goals and the station was operating at a loss. KON went dark on March 9, 1923. Misery loves company and KON had plenty of it: of the nine stations that signed on in San Diego in 1922, only one survived (Crane, 1977).

The survivor and oldest station in the market is what is now known as KLSD. It started on July 14, 1922 as KFBC, also sharing time at 833 KHz. In 1928, the station was at 1210 KHz and adopted the KGB call letters that would become a legend in the market (Crane, 1977). In 1933, the Canadian-born son of an itinerant preacher and San Diego State College student joined the KGB announcing staff (Art Linkletter, 2014). Art Linkletter pioneered "man on the street" and audience participation shows for which he would become famous while at KGB, and was named station manager in 1936. KGB settled at 1360 as part of the NARBA realignment in 1941 (Crane, 1977). KGB would go on to become one of the most listened-to top 40 stations, but as music left the AM band, the KGB call letters were retired in 1982 and a procession of call letters took their place at 1360: KCNN, KPOP, KPQP, and KLSD. KGB-FM went on the air in the 1950s at 101.5 MHz and maintains those call letters (Fybush, 2009). KGB also made an important contribution to the history of sports entertainment. In 1974, the station hired San Diego State University student Ted Giannoulas to don a chicken costume as KGB's mascot and the Famous Chicken was born (Famous Chicken, n.d.). Giannoulas as his alter ego would go on to a four-decade and counting career of entertaining at

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sporting events and inspiring a sports mascot industry such as the Philadelphia Phillies' Phillie Phanatic (Croatto, 2016).

Only a line in dirt separates San Diego and the United States from Tijuana and Mexico. The early days of radio in North America coincided with the time in U.S. history that the 18<sup>th</sup> Amendment was in force: 1920 to 1933 was the prohibition era, with sales of alcoholic beverages illegal in America (Graham, 2017). In the early 20<sup>th</sup> century, U.S. entrepreneurs had gone to Tijuana and built casinos, racetracks, and other businesses that catered to American's vices. American preachers erected signposts warning Tijuana-bound travelers they were entering "Satan's Playground" (Cavanaugh & Finn, 2010). With liquor available legally south of the border, more than 250 businesses from bars to bordellos operated in the downtown area. Mexican President Lázaro Cárdenas outlawed gambling in 1934 and three years later expropriated the American-owned businesses (Griswold del Castillo, Ortiz, & Gonzalez, 2011).

In the middle of the prohibition era, radio first came to Tijuana. Alberto Mendez Bernal put an experimental station on the air in 1926 to provide an outlet for artistic and educational purposes (Aripez, 2013). While Bernal may have had an altruistic goal for his station, it did not take long for a peek into the future of Tijuana radio, where Mexican-licensed signals would be used to broadcast programs in English for an American audience. A U.S. government listing of the licensed radio stations in Mexico showed 115 stations that had been confirmed through Mexican diplomats, but warned, "The power authorized as listed is not strictly adhered to in all cases" (Stations of Mexico, 1938).

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That may have been the case at Tijuana's XEBC, which was on the air at 815 KHz with a licensed power of 2,500 watts (Radio Index, 1934). The station broadcast from the Agua Caliente casino, featuring live concerts and programs that promoted the tourist destination in English to American listeners (Aripez, 2013). Casino owner Ricardo Vázquez de Lara said he wanted to use XEBC to attract potential tourists from Washington, Oregon, and Canada (Robles, 2012). The FRC's Joliffe testified before a congressional committee in 1934 that XEBC was creating trouble for WCCO in Minneapolis, then at 810 KHz (History of WCCO Radio, 2012), and WFAA and WBAP in Dallas-Fort Worth, which at the time were sharing 800 KHz (Glick, 1977), as well as WHAS in Louisville, then at 820 KHz (Cummings, 2012). Joliffe had his suspicions about the XEBC operating power, "the only information we have is it is approximately 2 kilowatts, but the indication is it is probably more" (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 6). WCCO was at the time owned by CBS. Henry Bellows, a CBS vice president and director of the National Association of Broadcasters, told the committee that CBS needed to eliminate the interference to its Minneapolis station, "If this bill will do any good, we are certainly in favor of it," although he did have some questions about its details (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934, p. 26).

President Cárdenas may have closed the casino, but he wanted to keep XEBC on the air to promote his plan to colonize the Baja California peninsula, which included

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establishing communal farms known as *ejidos* and industrialization. The station was allowed to broadcast in Spanish and English (Robles, 2012).

### *The Birth of the Wolfman*

The 1941 NARBA deal assuaged the Mexican officials' anger at being left out of the allocation of AM frequencies among the United States, Canada, Mexico, and the Caribbean nations. The settlement of the frequency dispute with its neighbors did not mean managing Mexico's border blasters was going to be more like managing any other radio station.

While most radio managers are concerned with maximizing revenues by providing programs aimed at a desirable audience, running a border blaster could also mean a violent confrontation. It was at one of Mexico's six clear channels, 1570, that dreams of a re-kindled border blaster by some former Del Rio associates of Dr. John Brinkley became reality. Working through attorney Arturo González, who had dual U.S.-Mexican citizenship, what was once Brinkley's XERA was back on the air in 1947 as XERF, and sending out a 250,000-watt signal from what is now known as Ciudad Acuña. The station's specialty was country music and its impressive listenership throughout the Midwest made it a must-stop for artists trying to make hit records. The station had little trouble attracting advertisers peddling cold remedies, life insurance, and even a box of 100 baby chicks for \$4.95 (Fowler & Crawford, 2002). Keeping the program flowing was announcer Paul Kallinger, who referred to himself as, "your good neighbor along the way". Kallinger was ranked as one of America's top country disc jockeys by *Billboard* for eight straight years and was inducted into both the Country



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Disc Jockey Hall of Fame and Texas Country Music Hall of Fame (Braudaway, n.d.). In 1963, a long-running disagreement between XERF owner Arturo González and a labor union known as *Sindicato Nacional* reached the boiling point with a demand for payment. A group of armed men reportedly connected to the labor organization burst into the XERF studios and started shooting. Kallinger was on the air when one of the attackers stuck a gun in his back and told him to run. González regained control of the station, but Kallinger never returned (Fowler & Crawford, 2002).

Even at 1570, a quarter of a million watts can cast a wide skywave signal after dark. 2,745 kilometers (1,705 miles) away from Ciudad Acuña, Kallinger's voice was coming out of a radio in Brooklyn that belonged to Bob Smith. The aspiring disc jockey was fascinated by the country music, donation-seeking preachers, and overnight rhythm and blues. Smith's radio career took him to KCIJ in Shreveport, where he did a country music morning show, then sold commercials to local businesses. He also contacted the preachers he was hearing on XERF and sold them blocks of time in Shreveport. In 1963, Smith and an associate drove from Shreveport to Ciudad Acuña, intending to meet with González about a programming idea he had for the station. Instead, he found himself in the middle of a dispute between González and authorities in Mexico City. He took it upon himself to use his contacts with the preachers that had been on both KCIJ and XERF to renegotiate contracts and get cash in advance payments wired to Del Rio. The radio evangelists were initially hesitant to meet Smith's demands, but he made good on his threat to pull them off the air and deprive them of the lucrative donations the station's listeners were making to their ministries. In their place, Smith introduced the on-air persona he had been refining for years:

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Wolfman Jack (Smith, 1995). Of Smith's alter ego, the BBC's Nick Barraclough said, "Wolfman was the most outlandish, the most scandalizing, the most elliptical disc jockey of his era" (Barraclough & Cuddon, 2008).

The introduction of Wolfman to the world provided another bizarre entry in the history of cross-border targeted radio. Smith (1995) was so concerned that the dispute over the station could once again turn violent that he made preparations, using barbed wire, sandbags, and an arsenal of weapons, to turn XERF's studio and transmitter facility into an armed camp. The Mexican military had moved against the station under Brinkley's ownership twice. His concerns were not misplaced as gunmen descended upon the station late one evening and got into a firefight with the staff. Hearing the ruckus on the air from his hotel in Del Rio, Smith drove across the river, assembled some backup, and drove to the station to engage the attackers. They dispersed as the reinforcements arrived, but two of the gunmen were killed in the skirmish. Authorities arrived the next morning and after a perfunctory investigation announced that no charges would be filed. Smith found himself facing a gun two more times: once at the hotel in Del Rio a week after the shooting at the station and three days after that as he drove to the facility (Smith, 1995).

With the ownership and management of the station settled, Wolfman Jack became a sensation with listeners, advertisers, and the music business. The per-inquiry commercials, in which a station gets a cut of the revenue from every product sold, that were a staple of border blasters continued, selling items from roach clips to various artist records. But after eight months, Smith decided to re-join his wife and children in

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the U.S. and have Wolfman Jack howl through recorded shows. It did not take long for the call of the border blasters to once again ring in Smith's ears. He was able to expand the Wolfman Jack show from XERF to XEG in Monterrey and XERB in Tijuana (Smith, 1995).

Like XEBC, XERB was a station put on the air to promote a Mexican resort: the Rosarito Beach Country Club, just south of Tijuana, which had become a playground for many famous Hollywood celebrities (Fowler & Crawford, 2002). In 1936, the Mexican government issued a license to the resort's owner, Manuel Barbachano, for a 150,000-watt station at 730 KHz (IFT, 1936). Barbachano was successful selling his station to American advertisers, with a client list that included Mercury Insurance, the *American Poultry Journal*, and Everlasting Baby Shoes (Robles, 2012).

An analysis of the sales figures for Smith's compilation albums showed XERB was selling many more units than the other stations. On further review, Smith determined that the Mexican border blasters were not reaching as many Americans as in the past because U.S. stations were crowding them out. However, it appeared that XERB, now using 50,000 watts at 1090 KHz, was able to be heard clearly throughout southern California. Smith and an engineer friend went to Los Angeles, Bakersfield, and area neighborhoods with significant African-American populations carrying a small transistor radio to assess XERB's signal. Satisfied with the simple field strength tests, they appeared at KGFJ, a Compton-based station with a large following in the black community. Pretending to be potential clients, they were given a complete survey of the African-American market in the Los Angeles area (Smith, 1995).

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The end result of this market and technical research was a decision by Smith that XERB could become a popular (and profitable) station in the Los Angeles market. The station's Mexican ownership had already decided that it could make more money appealing to an American audience than Mexican listeners. It was this business decision that became the guiding economic principle of cross-border targeted stations.

In 1966, Smith started a five-year mission to establish XERB as a Los Angeles station, initially operating from studios on the famed Sunset Strip (Smith, 1995). Smith's management skills turned XERB from a station carrying an assortment of preachers and grossing \$30,000 monthly to a rhythm-and-blues station aimed at the 600,000 African-Americans in the Los Angeles area and more than doubled the profits. Smith purchased the American management contract of the station for \$2.5 million in 1970 (A Brooklynite grows a money tree in Tijuana, 1970). Smith also guided the station's playlist to mirror the music preferences of XERB's target audience, 18 to 25 year-old African-Americans. What he found was the young adults were actually listening to a broad group of artists, ranging from The Who to Glen Campbell. "We don't play a record unless it's bought in a black record store," Smith told *Billboard* (Tiegel, 1969, p. 22). He may have been the station manager by day, but after dark, the Wolfman was on the prowl, "He became nighttime radio, he loved the midnight hour, the bewitching time as he called it, and the time when a hungry young audience could feed on his tidbits" (Barraclough & Cuddon, 2008). The station was so successful that Smith moved from the Sunset Strip studios to a larger building that was totally remodeled, including a million dollars in new equipment, and what he claimed was the first 32-track recording studio in southern California (Smith, 1995). XERB did more

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than just play music that appealed to the African-American community and tried to save their souls. Smith arranged a series of concerts featuring the station's core artists and hosted by the Wolfman which yielded significant revenue for the station (Smith, 1995).

### *XERB and Those Pesky Regulations*

Like any cross-border station, XERB had to navigate regulations imposed from Washington and Mexico City. Radio stations have several ways to get their programming from the studios to the transmitter: they can have the transmitter where the studios are located, use special telephone lines (with a digital option now available), or microwave studio-transmitter links (STL). With the combination of the distance from Los Angeles to Rosarito and the Brinkley rule prohibiting sending programming from the U.S. to a foreign transmitter, it was impossible for XERB to be live from its studios. Smith's workaround was to have his staff record an entire day as though they were live, then put the tapes in a box on the midnight Greyhound bus from Los Angeles to San Diego. A station driver then took the tapes across the border to the transmitter site, where engineers played them out as instructed (Smith, 1995).

Using Greyhound as an STL and maintaining a staff at the cross-border transmitter posed significant challenges to both the operations of the station and its cost to operate. It was apparent Smith felt it was worth bearing those costs rather than trying to obtain a Los Angeles-licensed station. In 1970, he paid \$2.5 million for the American operating rights to XERB while KCBH-FM (now KYSR) in Los Angeles sold that year for the then-highest price ever paid for an FM station: \$1.6 million (\$1.6 million paid for FM, 1970). While purchasing that station would have given Smith the

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Los Angeles market, it would not have had the footprint XERB offered from San Diego to Bakersfield and beyond (movie director George Lucas listened to the station in Modesto, 680 kilometers (420 miles) from XERB's transmitter). While there is a popular saying in the industry that, "all radio is local," this was an era when many big signal AM stations traded on their geographic reach. This included legendary outlets such as WOWO in Fort Wayne and WSM in Nashville.

There has always been a symbiotic relationship between the radio and music industries. Radio stations need songs to play; labels know radio play can increase music sales. One way to ensure certain songs would be played was for music promoters to encourage spins by offering cash or other incentives, also known as payola, to disc jockeys and program directors. The U.S. Congress voted to outlaw the practice in 1960 by amending the Federal Communications Act (Kelly K. , 2016). As a Mexican licensee, XERB was not subject to U.S. laws. XERB national sales manager Paul Anthony told *Billboard* in 1967 that Mexican law allowed the station to accept payments for playing songs without making a sponsorship identification and admitted many of the songs on the air were unidentified commercials (Tiegel, 1967).

On January 2, 1971, a ban on advertising cigarettes and tobacco products on American radio and television stations took effect (Glass, 2009). Since the new law did not apply to Mexican-licensed stations, Smith approached the American tobacco firms, "I told them I'd hire the best jocks in the country and blast out cigarette ads from the border" (Fowler & Crawford, 2002, p. 271). In this case, Smith was not successful. He claimed that the companies making cigarettes were involved in too many other

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businesses and did not want to risk the wrath of American regulators (Fowler & Crawford, 2002).

### *The Party's Over*

A cross-border targeted station along the U.S. southern boundary has a labyrinth ownership structure. The station is legally owned by a Mexican interest, which signs a contract with an American firm to manage the station in exchange for a payment. Harold Smith's General Audio Industries in Chicago held the U.S. management contract for XERB and hired Bob Smith to run it until Wolfman bought out Harold Smith. The station was actually owned by Inter Americana de Radio of Monterey. In January, 1971, XERB had revenues of \$100,000 per month, \$80,000 of that from the evangelists. The monthly payments from Bob Smith to Inter Americana had risen from \$30,000 to \$55,000 during the five years he had been operating the station. In his autobiography, Smith recounted the morning he arrived at XERB and found the station's owners had gathered in a conference room to deliver a message. The visitors claimed XERB's evangelical preachers were detrimental to young people in predominantly Catholic Mexico and the Mexican government had ordered the religious programs off the air. Smith and his managers suspected the decision had nothing to do with religion and everything to do with the ownership wanting a bigger share of the station's success. In May of 1971, Smith defaulted on the monthly payment and walked away from XERB. The ownership installed new management, changed the call letters to XEPRS, branded the station as Soul Express and brought back the preachers, but never achieved the success of XERB (Smith, 1995). XEPRS would later become the Mexican-licensed home of America's pastime for San Diego baseball fans.

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For Wolfman Jack, the closing of the XERB chapter of his life opened a new one. George Lucas cast Smith in his on-air persona for the film *American Graffiti*. Originally signed to the role for \$3,000, Lucas later awarded Smith a percentage of the film and royalty checks he received helped him erase debts still owed from his XERB days (Smith, 1995).



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### **El Paso – Juarez: The Sun City Streaker**

*I was on the air from 10-2 at night when that flame thrower was heard everywhere that CKLW wasn't! - XEROK disc jockey Pat Garrett (Airchexx, n.d.)*

In the summer of 1581, a party led by a Spanish army captain and a Franciscan priest headed north from a settlement in what is now northeastern Mexico to confirm rumors of a flowing river. Not only did the group find the Rio Grande, but also a way to reach what is now Texas and New Mexico through *El Paso del Norte*. The 1848 Treaty of Guadalupe Hidalgo had fixed the river as the boundary between the U.S. and Mexico and in 1888, the village on the Mexican side was named Juarez in homage to revolutionary leader Benito Juarez. Of the border between the two cities and the two nations, Jack Morris of the El Paso Chamber of Commerce said. “The fact that one side of the river is one country and one side is the other is a relatively new concept in our 400-year history” (Crewdson, 1981).

#### *Maintaining a Monopoly*

As America entered the twentieth century, El Paso was becoming a major mining center. The industry had grown sufficiently in size and importance by 1913 that the Texas State School of Mines and Metallurgy (now known as the University of Texas at El Paso, or UTEP) was established (UTEP, n.d.). In 1922, the Department of Commerce (1922) granted El Paso’s first commercial radio license to the Mine and Smelter Supply Company at 833 KHz (also known as 360 meters). Since 1923, American radio stations located east of the Mississippi River have been issued call letters that start with “W” and with “K” for those to the west. Before that, the dividing line was two states further west, including Texas (White, 2017). The new station in El

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Paso was assigned the call letters WDAH (Dept. of Commerce, 1922). In 1929, KTSM was licensed by the FRC to share time with WDAH at 1310 KHz. In 1932, WDAH and KTSM came under common ownership of Tri-State Broadcasting (Actions of the Federal Radio Commission, 1932).

For the next few years, El Paso listeners had one place to go on the dial for an American station. In what had to be a difficult engineering assignment for 1933, KTSM carried live coverage of the murder trial of J.H. Nunn from an El Paso courtroom. Nunn, a 48 year-old farmer from Fabens, TX, was accused of killing another man in a dispute over ownership of a team of mules and some farm implements (Murder charge filed in Hoover killing, 1932). The microphone in the courtroom was hidden and a reporter worked outside the room (May broadcast trial of mortgage slayer, 1933). While both the prosecution and defense attorneys had agreed to the broadcast, the El Paso Bar Association denounced the coverage, following the lead of the American Bar Association's opposition to trial broadcasts (El Paso bar condemns court trial broadcast, 1933).

In 1935, KTSM marked its sixth anniversary with a staff of 12 and studios at the Hotel Paso del Norte (Studio notes, 1935). WDAH and KTSM had a lot to celebrate. A CBS study found 22,100 of the 24,400 households in El Paso had radios in 1935, almost four times the less than 4,700 five years earlier (Radio set ownership by principal cities of the U.S., 1935). This provided a great selling point for Tri-State Broadcasting: the ability to tell potential advertisers there was a radio in 91% of the city's homes and the company owned both of the U.S. radio stations in the market, giving them a virtual monopoly. There are few things that can make managers of a monopoly firm more

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nervous than competition. And in January 1936, *El Paso Times* publisher Dorrance Roderick tried to introduce competition by filing an application with the FCC for a station at 1500 KHz (Applications, 1936).

An FCC examiner who reviewed the application found the proposed station met the commission's public interest, convenience, and necessity standard for granting a license. The examiner noted that metropolitan El Paso had a population of more than 118,000 people and just one U.S. frequency, but also had service from across the Rio Grande:

(T)he city of El Paso receives primary service from Stations KTSM-WDAH which are there located, and share time on the frequency 1310 kc, with power of 100 watts. Additional primary service appears to be available from Stations XEJ (1020 kc with 1 kw), XEFV (1210 kc, with 100 watts), XEF (980 kc, with 100 watts) and XEP (1160 kc, with 500 watts). Each of the stations involved in the latter group is located at Juarez, Mexico, which is directly across the border from El Paso. In addition secondary service is available during nighttime hours (Tri-State Broadcasting Co. v. Federal Communications Commission, 1938).

Tri-State's owners objected to the application on economic grounds,

(T)hat there were insufficient new sources of revenue to insure the financial stability of the proposed new station, that advertising revenues to be received by it would diminish those then being received by KTSM, that the consequent financial loss to KTSM would result in deterioration of its service and injury to the public, and that there was no need for the establishment of a new station in El Paso (Tri-State Broadcasting Co. v. Federal Communications Commission, 1938).

Tri-State's owners were so displeased with the award of a new competitor that they filed a case against the FCC in the U.S. Court of Appeals for the District of Columbia, claiming that the commission should consider the financial impact on extant stations of adding new stations to a market. In a hint of a ruling to come 37 years later, Tri-State's argument included a claim that as the owner of a local newspaper, Roderick would be in

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an advantaged position, but the court found no statute prohibiting radio-newspaper cross-ownership.<sup>4</sup>

In March 1939, the court heard arguments in this and a related case. FCC General Counsel William Dempsey told the court the commission's role is to issue licenses and it has no interest in whether stations can stand up to competition for advertising revenue from other stations or other media. Further, Dempsey claimed existing stations have no standing to challenge license grants in their markets. He specifically added the commission's view that broadcasting is not a public utility that receives protection against competition (Right to appeal FCC rulings argued, 1939). The court denied Tri-State's petition for a rehearing of the application (Tri-State Broadcasting Co. v. Federal Communications Commission, 1938). The commission, however, did vacate the order granting the license, held new proceedings, made new findings, and once again granted a license to Roderick (Tri-State Broadcasting Co. v. Federal Communications Commission, 1939).

Tri-State was not going to lose its monopoly without a fight and once again brought the FCC before the D.C. appeals court with a claim that the license award, "creates and fosters unfair, destructive and ruinous competition between a pioneer public service medium and a newcomer in the field of broadcasting" (Tri-State Broadcasting Co. v. Federal Communications Commission, 1939). The true reason for Tri-State's continuing fight against Roderick was revealed in an FCC finding:

The presence and operation of an additional radio station in El Paso will result in the creation of a competitive situation between the applicant and the licensee of

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<sup>4</sup> The FCC banned cross-ownership of a newspaper and a broadcast station in the same market in 1975, then removed the ban in 2017 (Mirabella, 2017).

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KTSM-WDAH. However, in view of the fact that for the years 1934 and 1935 the existing licensee made a profit which is about 19 per cent in 1934 and about 28 per cent in 1935 on its investment, in addition to paying a substantial bonus to its manager, and which operated during the years 1929-33 without losing money, although operating in a manner which was admittedly antagonistic to the people in El Paso, and still having had but a small part of the potential business of the City of El Paso, it does not appear that the expected competition will immediately or ultimately result in such a reduction in income to Tri-State Broadcasting Company (KTSM-WDAH) as to require deterioration of its service to the listening public. Such competitive condition may reasonably be expected to insure an improved broadcasting service to the City of El Paso (Tri-State Broadcasting Co. v. Federal Communications Commission, 1939).

The court dismissed the appeal and ruled, “A mere showing that the income of an existing station may be reduced if another station enters its field is not sufficient” to deny a license to a new station (Tri-State Broadcasting Co. v. Federal Communications Commission, 1939). The legal fight behind him, Roderick launched KROD on June 1, 1940 as a fulltime station at 1500 KHz with 250 watts. The debut broadcast included a concert by the El Paso Symphony that was carried by the CBS network (KROD in El Paso debuts, Joins CBS, 1940). As the NARBA reallocation approached in 1941, Roderick was granted a move to the station’s current dial position of 600 KHz (KROD history cards, n.d.).

KTSM moved to 1350 in 1940, the same year the WDAH license was surrendered to the FCC. In the 1941 NARBA move, KTSM was switched to 1380 KHz. KTSM applied to move to 690 KHz in 1942, but the application was dismissed (KTSM history cards, n.d.). KEPO was licensed to operate at 690 KHz in 1949, with the call letters later changing to KHEY (KHEY history cards, n.d.). In 1998, KHEY owner Clear Channel Communications (now iHeartMedia) purchased KTSM (Clear Channel to acquire Florida, Texas properties, 1998). On October 27, 2000, KHEY and KTSM swapped call letters to their current dial positions: KTSM at 690 and KHEY at

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1380 (KTSM call sign history, n.d.) (KHEY call sign history, n.d.). FM came to El Paso in 1950, when Texas Western College (another previous name for UTEP) was granted a license for KVOF (now KTEP) (KTEP, n.d.).

### *Radio in Juarez: A Transnational Audience*

Between 1900 and 1930, an estimated one million Mexicans had crossed the U.S. border, fleeing the Mexican Revolution or seeking work. According to Robles (2012), the state government of Chihuahua put XICE on the air in 1923 using both Spanish and English as a way to reach an audience in the United States. XEJ became the first commercial station in Ciudad Juarez when it signed on in 1931 (Robles, 2012). Originally at 1015 KHz with 500 watts (XEJ titulo de concesion, 2004), it was operating at its current frequency of 970 KHz in 1942 (Mexican stations, 1942), and is now licensed for 10,000 watts day and 5,000 watts night (XEJ titulo de concesion, 2004).

In an early example of transnational media, station owners on the Mexican side of the border knew they could provide service to migrants and saw a potential revenue source in businesses on the U.S. side trying to reach Mexicans in America. While these owners were happy to play the Mexican music required by the national government, they asked for and received permission to sell time to U.S. advertisers. Management at XEP in Ciudad Juarez claimed to have built, “a permanent spiritual connection with the Mexicans who either live or are traveling through the U.S. South” (Robles, 2012, p. 91). As might be imagined, managers at the stations being established in El Paso were not viewing the stations in Ciudad Juarez as friendly neighbors, leading XEJ’s managers to seek support from the regulators in Mexico City (Robles, 2012).

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Another Ciudad Juarez station seeking a transnational audience was XELO (later known as XEROK), where bilingual announcers, generally Mexicans who had lived for some time in the U.S., could speak to binational listeners in ways people on either side of the border could understand (Robles, 2012). The 1941 NARBA agreement set aside nine frequencies as Mexican clear channels (three of them shared with Canada). XELO had started in Piedras Negras, more than 640 kilometers (400 miles) downriver from El Paso, as XEPNA at 660 KHz in 1934, moved to 1110 KHz, then to 800 KHz with a power of 150,000 watts (XEROK titulo de concesion, 2004). Further north, XELO's nighttime skywaves would fight with those from CKLW, also at 800 KHz and with 50,000 watts from Windsor, Ontario, across the river from Detroit. As the designated Mexican clear channel station, XELO was non-directional while CKLW used a five-tower directional array to prevent interfering with XELO.

As World War II was coming to an end, XELO management made the cross-border economic decision that there was more money to be made programming to an American audience than Mexican listeners. The station began to sound more like a border blaster with a mix of country music and radio evangelists. Herbert W. Armstrong, the legendary broadcast preacher and founder of the Worldwide Church of God (now called Grace Communion International), placed his *The World Tomorrow* program on XELO in October 1944 and extolled the station's ability reach most of the United States:

Almighty God miraculously opened up to us on that station of tremendous power the very best TIME of the whole week---the time when more people are listening than any other---8 o'clock Sunday night! Never before have we been able to secure such a favorable and valuable time on any station. (Armstrong, 1944).

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By 1950, guitar player Hank Thompson, known as “The King of Western Swing”, was using 15-minute pre-recorded programs on XELO to play songs with his Brazos Valley Boys band and sell copies of his songbook (Hank Thompson Show (XELO), 2014).

Rock had made its way onto XELO by 1964 with the station calling itself “The Spanish Voice of the Great Southwest” (XELO 800 AM , 1964). In 1969, XELO was home to *The Record Roost*, which featured “a pop, rock and western show” run by disc jockeys using music-based pseudonyms such as Rick Needle, Frank Album, and James Turntable (XELO and the border blasters, 2009).

There is a consistent theme to employment in the radio business that is important to remember as the next chapter in the history of XELO is explored. It is an unfortunate fact of life in the radio industry that tenure is tenuous: a new owner, a format change, or the whims of senior management can, and often do, mean a paycheck on Tuesday and unemployment on Wednesday. According to Jacksonville radio veteran Jack O’Brien, “In the radio business most disc jockeys are hired to be fired” (Patton, 2017). Reflecting on the unexpected cancellation of the *Gambo and Ash* afternoon drive show after 12 years on the air in Phoenix, John Gambadoro (2011) wrote, “in this business you are hired to be fired.” Following on his sudden departure after 20 years at Montreal’s CJAD, Peter Anthony Holder said, “broadcasters are like professional sports coaches – they are hired to be fired. And firing is all they can do. They can’t kill you” (Holder, 2009).

The transition from XELO to XEROK began with a series of relatively short-term program directors. Charlie Van was hired to program the new format in 1972 (Station breaks, 1972). He then used *Billboard* to seek bilingual air talent (Hall C. ,



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Vox Jox, 1972) and music service from rock labels (Hall C. , Vox Jox, 1972). Van had moved on by the time the new XEROK debuted on January 3, 1974 with Jim White as the station's program director (Hamilton, 1973). White promised a tight playlist that would appeal to more than the teens Top 40 stations generally attracted (150,000-watter in Mexico to beam U.S.; Top 40 DJs work "live" from El Paso, 1973). In March, 1974, consultant Kent Burkhart hired John Long to replace White. Long had recently been passed over for the program director job at KHJ in Los Angeles and Burkhart explained the XEROK situation: U.S. investors leased the station from Mexican owners, who programmed it and sold the commercials, then paid some of the revenue to ownership. Burkhart added that the station's 150,000-watt signal covered the entire southwest U.S. after sunset (Long, 2012).

### *Working Around an Old Regulation*

Long was undeterred from dreaming big when he moved to El Paso, telling *Radio World* that the station's target audience is, "everybody we can get" (Magid, 1974). As the person responsible for the station's overall sound and growing its audience, Long had to develop strategies for programming, music, and promotions. He inherited an air staff of major market veterans, but was not happy with the station's basic operations. The first challenge was section 325c, the Brinkley rule, which prohibited sending live programming to a transmitter across a border. As at XERB, XEROK's disc jockeys recorded their programs in advance, then a courier took them over the river and through the desert to the transmitter where Mexican engineers played out the tapes. One of his first moves was to change how the station's programming was produced. Members of the air staff had been haphazardly recording their shows. This

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left no options for time checks, weather forecasts, or audience interaction. Long implemented a system where the disc jockeys worked as though they were live, doing their programs in accord with the on-air schedule, but recording them a day before air, even adding approximate weather forecasts and time checks, and with the following announcer required to interact with the departing one at the end of the shift (Long, 2012).

While spending some time observing the nightlife of El Paso and Juarez, Long found an affinity in the market for soul and R&B music. Nothing from those genres was on the XEROK playlist, so Long added selections to the station, along with dance music popular with local teens. With staff in the studio on a regular schedule, Long could install and promote request lines that would be answered, and the requests could be tabulated, both to ensure the music was what the audience wanted and to add to the schedule a *Top Nine at Nine* countdown based on those requests. He wrote that those changes in music were not welcomed by general manager Ray Gardella, who wanted a straight Top 40 format (Long, 2012).

The fall of 1973 brought a new fad to American college campuses. Streaking, or groups of people running naked in public, became the rage, even at schools not in warmer climates (Schwarz, 1999). Picking up on the fad and using El Paso's nickname, the station started promoting itself as *The Sun City Streaker X-Rock 80* (Airchexx, n.d.). In a test of the station's influence, a disc jockey made up an event and announced that those participating in streaking that Friday evening on the New Mexico State University campus in nearby Las Cruces should meet at the school's student center at 11 o'clock.

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A local newspaper reported that the announcement on an El Paso radio station inspired streaking by hundreds of students and faculty (Long, 2012).

Two other promotions showed how quickly X-Rock had gained influence in the market. A free night at a drive-in theater in El Paso attracted hundreds of cars and required the Texas Highway Patrol to control the traffic (Long, 2012). Ten months after the format change, petitions totaling more than one million signatures were received in a station promotion to bring a concert to a local school (Radio, 1974). Long even paid homage to XEROK's border blaster heritage. After leaving XERB, Wolfman Jack eventually became the evening personality at WNBC in New York. Unhappy with living in New York and dealing with the corporate culture of NBC, he was only released from his contract after arranging for another legendary disc jockey, Bruce "Cousin Brucie" Morrow, to jump from cross-town WABC. Wolfman had met singer Burton Cummings of the Canadian band the Guess Who at an appearance in Toronto. He accepted an invitation to appear on the group's "Clap for the Wolfman" single. Smith then agreed to go on tour with the band after leaving WNBC (Smith B. , 1995). That song by a Canadian band about an American disc jockey who became famous on a Mexican radio station peaked at number six on the *Billboard* Hot 100 during the "Canadian invasion" year of 1974 (Guess Who chart history, n.d.). When the Guess Who tour made its El Paso stop, Long (2012) arranged with RCA Records to be the presenting station and get a studio visit from Wolfman Jack.

The wisdom in Long's strategic plan was proven when an Arbitron ratings report was issued showing XEROK as the highest-rated Top 40 station in the U.S., with a total audience share of 21.4 and a teen audience share of 48.9 in the El Paso market.

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While those ratings allowed the station to drastically raise its advertising rates, it also provided some members of the original air staff with justification for moving to larger, and better-paying, markets (Long, 2012). The station also got a fair amount of attention at the 1974 Gavin Radio Program Conference, where it was nominated for medium market station of the year and disc jockey Christopher Haze (legal name Randy Brown) was named medium market personality of the year (Gavin picks his cream of the radio crop, 1974).

Barely one year into its new format, XEROK was the choice of more than 20% of listeners and almost half the teens in El Paso (a market that at the time was 60% Hispanic), its advertising rates had tripled, its promotions were getting responses, and the industry had taken notice of a station with unusual call letters in market 81. While it might be expected that Long would come home from the Gavin conference ready to make a plan for 1975 with his air staff, that is not what happened. As Long (2012) wrote, “I returned to El Paso and was promptly fired. The GM (general manager) ordered me to clean out my desk, while he watched. I was so mad, I was shaking. I wanted to kill the bastard.” Gardella also terminated the contract of consultant Kent Burkhardt and hired Ray Potter as the new program director. Shortly thereafter, the station’s three daytime disc jockeys and production director left the station (XEROK staff rocked, 1974). Potter took over the morning shift, but gave up the program director position four months later to be replaced by Bob Payton (Station breaks, 1975).

In 1977, X-Rock management had made a change that avoided the Brinkley rule that required pre-recording of the day’s programs – the announcers reported for duty to a studio on the other side of the border. Keith Morgan moved to El Paso from

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California to join the air staff, “I was in a little adobe studio on the outskirts of Juarez, Mexico talking to over 22 million Americans on North America’s most powerful AM rock radio station of the day” (Morgan, n.d.). He wrote that the trip from the border to the studio-transmitter site was 32 kilometers (20 miles) each way through open desert, but on his first night, he took listener calls from Florida, Iowa, and Idaho.

Despite the constant changes in air staff and management, XEROK remained a dominant force in its home market for the next few years. But as 1978 wore on, there were storm clouds coming across the Franklin Mountains. In the April/May 1978 Arbitron ratings, the station was first in total listenership, the only station in the market with more than 100,000 people in its audience. It was number one with teens, and was number two with both adults 18 to 34 and adults 25 to 49. The October/November book presented a very different picture as Top 40 competitors KINT-FM and KELP-AM made gains at XEROK’s expense. KINT had moved from second to first in total listenership while KELP went from fifth to second. KINT had also replaced X-Rock as the number one station with teens, moving it to number two, as the number one station with 18-34, moving XEROK to number three, and as the first choice for 25-49, with X-Rock no longer among the top five in that age group (Hiber, 1979). Falling numbers leave radio managers with two choices: fight back to regain the lost audience or give up and try something new. The latter path was chosen, and the rock of X-ROCK came to an end in February of 1979 as the station switched to country (Hall D. , 1979).

**Detroit – Windsor: The Biggest Cross-Border Targeted Station of All**

*Ninety-nine per cent of all stations operate from one building. We operate from two and they're 20 miles apart in two different countries. The complications are unique.* – CKLW President Chuck Camroux (Today's new business: Increasing market share, 1982)

There is a cross-border component to the start of broadcast radio in the United States. *Detroit News* founder James E. Scripps and his son William were impressed by a 1902 demonstration of voice broadcasting. When the Navy relinquished control of the airwaves, William Scripps decided the *News* needed to take advantage of this new medium. He hired an engineer, purchased equipment, and obtained amateur license 8MK. On August 20, 1920, 8MK began its daily broadcasts, 11 weeks before KDKA in Pittsburgh. William Scripps selected Elton Plant as the station's announcer and sometime singer. Plant was a 16 year-old cub reporter who commuted to Detroit by ferry from his home across the Detroit River in Windsor, Ontario (Plant, 1989). The station obtained a commercial license in 1922 and eventually became WWJ (A Detroit first: The first government licensed radio station, 2016). 8MK is credited with broadcasting radio's first newscasts (Abell, 2010).

On the south side of the Detroit River and on the other side of the U.S.-Canada border lies Windsor. It took a dozen years after radio came to Detroit for Windsor to get its first radio station, when a group of business owners put CKOK on the air in 1932 (CKLW-AM, n.d.). Little did they know that their investment, soon to re-christened CKLW, would become one of the most controversial and significant stations in the history of radio in both Canada and the United States. Like most Canadian local stations of its day, the early CKLW featured what would today be called a block format: live

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music, country dances, farm reports, and programs from the Canadian Broadcasting Corporation (CBC) (McNamara, 2005). But there was something else about CKLW that was possible because of Windsor's unique geography. By the 1930s, four networks dominated the American radio airwaves: NBC Red, NBC Blue, CBS, and Mutual. In addition to the CBC, CKLW was a CBS affiliate. Due to the Brinkley rule, the FCC had to approve the live feed of programming from the U.S. to Canada for an audience in the U.S. (CKLW-AM, n.d.). This is another example of a cross-border station recognizing there was potential revenue on the other side of the line and deciding how best to pursue it.

CKLW at one time referred itself as "Your Good Neighbor Station" (McNamara, 2005), a tagline also used by Mexican border blaster XERF (Fowler & Crawford, 2002). However, the station's efforts to attract listeners and advertisers on both sides of the Detroit River were not always viewed as friendly competition by stations on the north side of the waterway. In 1935, the network affiliations in Detroit changed and it took another FCC action for CKLW to become an affiliate of the Mutual Broadcasting System (CKLW-AM, n.d.). This cross-border arrangement did not sit well with WJBK in Detroit, which challenged the agreement before the FCC when it came up for renewal in 1938. At the time, WJBK operated with 100 watts while CKLW was at 5,000 watts. In the complaint, WJBK General Manager James Hopkins claimed CKLW was taking "\$5,000 to \$10,000 a month from Detroit advertisers that rightfully belong to the Detroit stations" (WJBK claims affiliation of CKLW on Mutual net is unfair competition, 1938). WJBK's Elmer Pratt told a hearing officer that CKLW was using its Mutual affiliation as a way to enter the Detroit market as well as engaging

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in unfair trade practices to sign U.S. advertisers. Pratt said this gave CKLW a more favorable competitive position. He also questioned CKLW's use of American talent and programs. The attorney for Mutual presented Hopkins the WJBK financial statement showing it was making a higher profit than other stations in the market, which would indicate CKLW was not hurting WJBK's margins. Hopkins could only reply that the challenge was not a matter of profitability, but of WJBK's ability to boost its revenues (Mutual's plea for extension of CKLW attacked at hearing, 1938).

WJBK was not the only Detroit station with a grudge against their cross-border neighbor in 1938. By then, CKLW had studios in both Windsor and Detroit. WXYZ's attorneys filed a complaint with the CBC, which was also the Canadian radio regulator at the time, saying that CKLW was promoting itself as a "Windsor-Detroit" station, when it was not licensed to Detroit. The CBC response letter was noncommittal (CKLW-AM, n.d.).

One of the first announcers hired by CKOK was Joe Gentile, who did a morning program that featured music and comedy. Toby David became his on-air partner in 1935, to be replaced by Ralph Binge in 1940, when David was hired in Washington, DC. With a combination of parody commercials and music, Gentile and Binge captured 80 percent of the Detroit morning radio audience. Around 1945, announcer Eddie Chase had developed his own version of the *Make Believe Ballroom* program and brought it to Detroit on WXYZ, then moved to CKLW. In a preview of what was to come, the major band leaders and singers of the day such as Tommy Dorsey and Lionel Hampton would not visit Detroit without stopping by Chase's program. The show was recorded at a Detroit theater and replayed from CKLW's Windsor studios (Carson,



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2000). CKLW was also a source of talent for stations in Detroit. In 1948, new owners at WJBK hired CKLW's sales manager to be their general manager and Carson (2000) wrote that he brought along the Gentile and Binge morning team. Also in 1948, CKLW-FM took to the air at 93.9 MHz (CIDR-FM, n.d.).

In its early days, CKLW bounced around several dial positions: originally at 540 with 1,000 watts in 1932, then with 5,000 watts at 840 in 1933, and 5,000 watts at 1030 in 1934. Under the NARBA treaty, CKLW moved to 800 in 1941, retaining its 5,000-watt output. On September 1, 1949, the station's two-year effort to upgrade to 50,000 watts was successfully completed (CKLW-AM, n.d.). 800 KHz is a Mexico-only clear channel (Mishkind, 2010). It is 2,380 kilometers (1,480 miles) from Ciudad Juarez to Windsor, but CKLW uses a five-tower directional array to protect Mexico and XEROK in Juarez (CKLW-AM 800 KHz, n.d.).

Despite its location on the other side of the river and its call letters starting with "C", CKLW had become an integral part of the Detroit broadcast industry. When *Broadcasting* magazine published a detailed look at Detroit's radio market in 1949, it listed CKLW among the market's eight AM stations, "CKLW has been functioning in two countries ever since (its founding) and is a prime example of the international cooperation and amity between Canada and the U.S." (CKLW, CKLW-FM, 1949, p. 75). CKLW accompanied the article with a display ad promoting its new, 50,000-watt signal.

A preview of how CKLW's binational operation would come to be viewed by Canadian government officials occurred in 1953. As part of a review of the station's

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application for a TV license, a CBC study found 85 percent of the radio station's programming was American (CKLW-AM, n.d.). Major James (M.J.) Coldwell, a Member of Parliament from Saskatchewan and a member of that body's radio committee, complained about "a high proportion" of U.S. programs on CKLW (Canadian TV comes high - Dunton, 1953). It was an attitude that was not going to change in the decades to come.

### *Rock Comes to CKLW*

Twenty years after its founding, an American firm took part ownership of CKLW. After denying the sale of CKLW AM-FM-TV to a Canadian interest in 1955, the CBC Board of Governors approved the purchase of a 33 percent controlling interest in the stations by RKO Distributing (later known as RKO General), a film production and exhibition firm that also had broadcast interests, one year later. The approval came with a requirement that there be no further sales of interest in the stations to U.S. concerns (CKLW-AM, n.d.).

By 1957, CKLW was running the new music genre of rock and roll in the evening, with disc jockey Ron Knowles. In rock's early days, many radio stations were hesitant to play it. CKLW's 50,000-watt signal carried Knowles and his tunes across several American states and eastern Canada, providing access to the music that might otherwise be unavailable on the dial. CKLW became a full-time rock station in 1959 (Carson, 2000). In 1963, RKO General's executives tasked CKLW's managers with dominating the rock audience in Detroit. The station was using the nickname "Radio 8-0", jingles, and announcers with personalities to present the latest hits on the air

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(McNamara, 2005). The station had an 80-song playlist and the announcers had a free hand assembling their shows from those selections. A band from Saginaw, MI, Question Mark and the Mysterians, became early beneficiaries of CKLW's ability make hits. After evening announcer Tom Shannon mentioned how well it was doing on the station, a friend in the music business signed the band to a national contract and "96 Tears" sold more than a million copies (Carson, 2000).

The management also started working with Bill Drake and the Drake-Chenault program consulting team off the air (McNamara, 2005). Drake, the on-air name of Philip Yarbrough, was a Georgia native who began analyzing rock radio after being named program director of San Francisco's KYA in 1961. He believed that long jingles, talkative announcers, and mixed commercials were just noise to listeners who wanted to hear music. The owner of KYNO in Fresno, Gene Chenault, hired Drake to help re-make that station and a partnership was born. The team then headed to KGB in San Diego and in turning it around caught the attention of RKO General, which in addition to CKLW, owned KHJ in Los Angeles. Drake and Chenault installed their own program director at KHJ and debuted a revised format in May 1965 that featured a 30-song playlist and a limit of 12 minutes of commercials per hour. While they were not happy with the promotion team's labeling of the station as "Boss Radio", KHJ was soon the number-one station in America's number-two market. Given the success in Los Angeles, RKO General executives greenlighted Drake-Chenault to start making changes at its other properties (Hunn, 2003).

*The Big 8*

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Detroit's biggest rock station in 1967 was WKNR, also known as "Keener 13". It was the type of station Drake had come to despise: 18 minutes of commercials per hour, long jingles, and what he considered clutter. That spring, CKLW management hired Drake's childhood friend Paul Drew as the station's program director (Carson, 2000). Drew's assignment was to create a Detroit version of "Boss Radio" at the station, soon to be known as "The Big 8" (Spangler, 2003). While XERB and XEROK had a scope limited to their markets, bringing on Drake-Chenault put this Canadian station in the same league as Top 40 powerhouses KHJ, KGB, and WOR-FM in New York (Grimes, 2008). Drew felt the station had a geographic challenge, as its Canadian license gave it a bad reputation. He told a newly hired announcer, "I don't care what problem your station has, if it's FM, a day-timer, low-powered, Canadian, etc. If it sounds great, people will listen to it" (Davis, 2014). Drew designed a "hot clock" that strictly controlled what elements were played in what order. Complying with the clock was a two-person job: the disc jockey in an announce studio and a board operator on the other side of a window working the control board and playing the songs, jingles, and commercials. The station's basic playlist was, as at KHJ, reduced to 30 songs, a new package of 3- to 8-second *a capella* jingles was commissioned, and Bill Drake's voice opened each hour with a promotional liner and the eventually iconic "CKLW, the Motor City" jingle (Carson, 2000). Drake's clock allowed the station to play as many as 18 songs per hour, "You just kept the tempo going," said disc jockey Ted "The Bear" Richards, "you never really stopped" (McNamara, 2005). In a marked contrast to other Detroit stations, commercials were limited to 13 minutes per hour (Carson, 2000). To ensure the new format went off without a hitch, the on-air teams practiced for six

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months (McNamara, 2005). With the programming changes came a series of personnel changes, including the departure of Ron Knowles, the station's original rock and roll disc jockey (Carson, 2000).

On April 4, 1967, The Big 8 made its on-air debut. "The rest of the industry didn't know what to do with it," recalled news anchor Grant Hudson, "neither did the audience" (McNamara, 2005). Disc jockey Jim Edwards and his board operator had to live – or die – by the clock, "I used to think of it kind of as a fine, precision watch. It was a set of gears that just mashed together all the time" (McNamara, 2005). Bill Drake and Paul Drew were known to be constant listeners to the station, and the air staff came to dread the special telephone lines that had been installed so either could criticize the on-air staff for breaking format or some other gaffe, as air personality Dave Shafer recalled, "You would be on the air trying to concentrate and here would be Drew calling to harass you" (Carson, 2000, p. 205).

The Big 8 on the air was actually a combination of two entities: CKLW Radio Broadcasting, Ltd., the Canadian company that operated the station and sold time to Canadian advertisers, and CKLW Radio Sales, Inc., an American firm that handled sales and promotions on the Michigan side. Charlie O'Brien, the last of The Big 8 disc jockeys working for CKLW when he retired in 2015 (O'Brien, 2015), wrote this dual personality created fights between the U.S. and Canadian sales teams. Preference for commercial slots would go to the highest-paying clients. The American rate card was higher than the Canadian one, forcing the Windsor sales team to fight to get its clients on the air (O'Brien, n.d.).

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The new sound accomplished the goal set by RKO General's executives: within 90 days, Keener 13 was dethroned as the top station in Detroit and replaced by The Big 8 (McNamara, 2005). However, the new sound and the station's big signal meant CKLW was having an impact beyond Detroit and Windsor. The station management considered the Ohio cities of Cleveland and Toledo to be within The Big 8's service area. Weather forecasts would conclude with the temperatures in Cleveland, Toledo, Detroit, and after 1975, the Celsius temperature in Windsor.

Cleveland musician Denny Carleton was a fan of the station across the lake, "I liked CKLW a lot more than (Cleveland's) WIXY. The disc jockeys made it seem exciting; they may have been a little more cutting-edge than the Cleveland stations" (Wolff, 2006, p. 12). Big 8 evening disc jockey Steve Hunter was getting such high ratings in Cleveland that WIXY lured him to the birthplace of rock and roll for afternoon drive and an assistant program director position (Hunter, n.d.).

In 1970, CKLW had a 23 percent share of the Detroit morning radio audience (McNamara, 2005). By 1973, this Canadian signal and its millions of listeners became the third most listened-to station in the United States (Hayes D. , 2004). But while being number one in Detroit was the main objective of station management, CKLW's 50,000-watt signal meant the station would have listeners far from the Motor City. As O'Brien recalled, "You pick up the phone and it's somebody calling from Philadelphia for a request. You pick up the phone on a Sunday night, it's somebody in Manhattan" (McNamara, 2005). Program director Wes Garland said, "You knew you were reaching millions of people who would never be counted in an Arbitron (survey), those ratings never reflected how big that radio station was" (McNamara, 2005). Garland was

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partially right. In addition to Detroit, Cleveland, and Toledo, CKLW appeared in the 1976 Arbitron audience ratings in seven other markets covering four states: Erie, Fort Wayne, Grand Rapids, Lansing, Akron, Flint, and Dayton (Duncan, 1976) .

CKLW's vast U.S. audience also caught the eye of a prominent Capitol Hill lawmaker. After the Canadian Parliament passed an act ending the deductibility of advertising expenses on non-Canadian media, Sen. Daniel Patrick Moynihan (D-NY) took to the floor of the Senate to complain that this was an unfair trade practice hurting television stations in the New York cities of Buffalo, Plattsburgh, and Watertown. He claimed there were 60 American and 19 Canadian TV stations with viewers in each country, "Several Canadian radio and television stations, in particular radio station CKLW in Windsor, Ontario, which serves the Detroit metropolitan market and derives over 90 percent of its revenues from U.S. advertising sales, reach substantial American audiences" (128 Cong. Rec. 25 (statement of Sen. Patrick Moynihan), 1982 , p. 655). While the senator's statement was designed to show the importance of cross-border targeted broadcasting, it also pointed out why CKLW was getting a lot of attention from the regulators in Ottawa.

In 1978, Arbitron showed CKLW as the number-two station in Detroit. Those ratings numbers are vital to radio stations trying to prove their audience to advertisers. But a decision that year by Arbitron management was the equivalent of an artillery shell being launched across the Detroit River. The company announced that after eight years of considering CKLW a Detroit station, it would be considered a "non-home market station" starting with the October/November ratings book. This status, also referred to as "below the line", prompted the station to file a federal lawsuit. This could be a big

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blow to the station as 95 percent of national advertising buys were based on those numbers. Station president Herbert McCord told *Radio & Records* that as the sole provider of U.S. radio audience information, Arbitron was a monopoly and, “under a legal obligation to act in a fair and reasonable manner and avoid arbitrary actions that damage any radio station dependent on its service” (CKLW sues Arbitron for trade restraint, antitrust violations, 1978). CKLW got its days in court, but a U.S. District Court judge refused the station’s request for a preliminary injunction against Arbitron under the Sherman Antitrust Act. An appeals panel agreed with the lower court’s finding that the station managers “had failed to meet their burden of demonstrating irreparable harm” (CKLW Radio Broadcasting Ltd. and CKLW Radio Sales Inc. v. Control Data Corporation and Arbitron Company, 1980).

### *CKLW and the Music Business*

In a time before iTunes and Pandora, the easiest way for music fans to be introduced to new artists and songs was by hearing them on the radio. Record labels had teams of promoters who traveled from station to station trying to convince music and program directors that certain songs would be attractive to listeners. They knew that after getting added to the playlist and getting a sufficient number of spins on the station, there would be a corresponding increase in sales of singles of the song and albums by the artist.

The Holy Grail for a record promoter was to get a single played on popular stations in major markets such as New York and Los Angeles. The idea of crossing the Ambassador Bridge to pitch songs at a radio station in a smaller Canadian city would



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have been dismissed as ridiculous – until The Big 8 came along. Barely six months after CKLW adopted the boss radio format, a *Billboard* survey of music dealers, distributors, and record companies found The Big 8 had become the top influencer of singles sales in the Detroit market, once again taking a crown from cross-town WKNR (CKLW Detroit's singles champ, 1967).

One not-so-secret for CKLW's success was how the station's playlist reflected Detroit's musical melting pot. In 1969, program director Jim O'Brien told *Cashbox* that the Detroit music market had unique characteristics (CKLW Detroit: Straddling 2 countries with Top 40, 1969). Within the tight playlist could be found a diverse set of musicians: the CKLW Big 30 for one week in 1981 included the Greg Kihn Band, John Denver, and Teena Marie in consecutive positions (Ross, 2016). Hometown artists were very important to CKLW: Motown groups like Martha and the Vandellas, the early punk band MC5, and Detroit native Alice Cooper, who admitted, "CKLW, we owe everything to them" (McNamara, 2005).

CKLW managers were well aware of the importance of the station to the music industry, and tried to use it to stop what they saw as a disturbing trend. In 1974, Paul Drew, the original Big 8 program director who had become the national program director of RKO General, made the front page of *Billboard* with a warning to the music industry against producing records that were too long. Herbert McCord had told a radio programmers' gathering that longer songs were wreaking havoc with the station's format clock and said records over three and half minutes long would have to be exceptional if they were going to get airplay (Hall C. , 1974).

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In 1968, Drew had handed over CKLW's program director duties to Ted Atkins. Atkins then made a personnel decision that would eventually reverberate through the U.S. and Canadian music industries. Rather than relying on the RKO General music team, he promoted Rosalie Trombley, who had joined the station as a switchboard operator, to be CKLW's music director (Carson, 2000), "I was the one sitting behind the desk. If they wanted to get their record played, I was the boss" (McNamara, 2005). Trombley knew the choice of a bad record could turn listeners away from the station, so she implemented a research procedure that ensured the station was playing what listeners in the market wanted to hear. As with Wolfman Jack at XERB, one part of that research involved calling a list of record stores across the Detroit area each week to determine the best-selling music. Another set of data came from the station's "Hit Line Girls", who answered two million calls a year to the Detroit and Windsor request lines. Those requests were tabulated and sent to Trombley. She would combine these figures and develop a weekly playlist that was watched by stations across North America (McNamara, 2005). "(W)e recognized Detroit as a unique market," Trombley said, "There were a lot of hit records, both hard rock and R&B, that we broke in Detroit that would never make the charts in places like Boston or out in Los Angeles" (Carson, 2000, p. 207). Trombley's influence on the African-American music industry was recognized in 1979 when she was invited to a reception and concert for the Black Music Association hosted by President Jimmy Carter at the White House (McNamara, 2005).

Detroit's music community was well aware of the importance of impressing Trombley and getting a song added to CKLW's playlist. Mitch Ryder once told an interviewer, "It was very, very important to be a young, white, rock and roll band,

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coming out of Detroit and get your record played on CKLW. You were almost guaranteed stardom if that happened” (McNamara, 2005). When Trombley took meetings with record company executives and promoters, they often brought their stars through Customs to meet the queen of the playlist. Westbound Records’ Armen Boladian knew other radio stations in the U.S. were checking the CKLW playlist, so songs Trombley added to her rotation had a good chance of becoming national hits. Among the stars he brought to the station were Neil Diamond and Dionne Warwick (McNamara, 2005).

Until 1972, CKLW shared its building with CKLW-FM and CKLW-TV. One of the locally-produced programs on channel 9 was a teen dance show best known as “Swingin’ Time”. The list of acts who travelled across the river to appear on this local television program reads like a who’s who of rock artists of the era. Martha Reeves recalled piling into a station wagon that brought not only her and her backup singers, the Vandellas, to the Windsor studio, but also Diana Ross and the Supremes, and Mary Wells (McNamara, 2005).

### *Regulations Killed the Radio Star*

Carleton University professor George Pollard, a former CRTC radio policy analyst, once summed up CKLW: “They weren’t even in the same universe as the rest of Canadian radio” (McNamara, 2005). The implications of the 1968 Broadcasting Act would set off a chain of events that had a direct impact on CKLW’s music, ownership, and profitability. The decision makers in the Canadian capital of Ottawa, 680 kilometers (425 miles) from Windsor, apparently had not gained any appreciation for

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CKLW's success and its unique market. Along with the establishment of the CRTC came a series of regulations that would create major concerns for CKLW's management, listeners, and competitors.

The first was a requirement that 80% of voting shares and 40% of equity in a broadcasting station be held by Canadians. CKLW AM-FM-TV president S.C. "Cam" Ritchie appeared before the CRTC to request an exemption from the new rule. He claimed CKLW had been under both Canadian and U.S. ownership and served the public interest of Windsor residents. A CRTC attorney countered Ritchie's testimony with a comparison of news coverage on CKLW and another Windsor station, CKWW. The study found 63% of stories on CKLW were U.S.-oriented compared to 7% on CKWW (CKLW seeks waiver of ownership rule, 1969). The CRTC members turned down the application claiming they gave, "careful consideration to ... the programming of the station and the unique situation of this station and its relation to the Canadian broadcasting system" (CKLW told to drop its U.S. ownership, 1969, p. 46).

The executives at RKO General knew they had no choice but to sell the three stations to Canadian interests. At the time both CKLW and CKLW-TV were enjoying high ratings in the Detroit market. An appraiser valued the stations at Can\$32 million. The challenge was to find a Canadian investor who could afford that price. The first person they contacted was a man of whom Siggins (1979) wrote, "through the magnet that is television, has more influence on the popular culture of Canada than any other individual in recent history" (p. 237). He was John Bassett of Baton Broadcasting, who put the first private TV station in Toronto on the air and established the CTV network. Bassett initially teamed with another firm to purchase CKLW-TV, but the CRTC

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rejected the application on ownership concentration concerns (Siggins, 1979). Then, CRTC Chairman Pierre Juneau had a proposition for Bassett. Channel 9 was carrying some CBC programs, but the public service broadcaster wanted to own a station in Windsor and did not have the resources to buy CKLW-TV. Juneau suggested Baton and CBC team up to buy CKLW-TV for Can\$5 million: Can\$3.75 million in cash and notes from Baton and Can\$1.25 million from the CBC. During the next five years, CBC would pay Baton Can\$100,000 per year to operate the station, the principal and interest on Baton's notes, and cover any operating losses. By the time CBC took outright ownership of the station, Siggins (1979) estimated it had spent Can\$10 million, but Baton had neither lost nor made money on the deal.

The sale of CKLW-TV still left RKO General with the need to find a buyer for CKLW and CKLW-FM. There had been as many as 30 offers for the stations, but RKO General executives decided to stick with Bassett and Baton based on their relationship from the sale of channel 9 (Siggins, 1979). However, it was not an easy negotiation. Bassett initially offered Can\$8 million for the stations. When the American executives told him that was too low, Bassett told them they were never going to find another Canadian buyer. Elliot (2016) wrote that Bassett's prediction was correct: the RKO team was unable to find any other potential purchasers. As the deadline approached to either sell the stations or be forced off the air, Bassett was called and told his Can\$8 million offer would be accepted. Bassett replied that his offer was now Can\$4 million, an amount RKO had no choice but to accept.

Another regulation that had a direct effect on CKLW was the imposition of Canadian content (CanCon) requirements. As previously explained, under Canada's

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1968 Broadcasting Act, radio stations licensed in the country were required to play a certain percentage of songs that met Canadian production guidelines. The Big 8 had a playlist specifically with a Detroit appeal: soul and R&B songs appeared along with the Top 40 artists played across the continent. Requiring that a certain portion of the music played on the station meet CanCon standards was a challenge. When the CanCon rules took effect in 1971, CKLW's estimated three million American listeners made the station a driving force in a Canadian music industry that had generally ignored the station. U.S. label promoters considered CKLW to be a Detroit station and Canadian labels concentrated their promotions efforts on Toronto. General manager Fred Forrell admitted he was seeking ways to make U.S. songs count as Canadian, such as considering a Janis Joplin song as Canadian because two of her backup singers were born in Ontario. He admitted that did not work, but was well aware of the influence the station could have on the Canadian music industry, "CKLW has a chance here to make the CRTC ruling a blockbuster" (CKLW holds powerful grasp on Canadian, American marts, 1971, p. C24). However, *Broadcasting* magazine pointed out that The Big 8 could damage the Canadian music industry by discriminating against Canadian artists (CKLW holds powerful grasp on Canadian, American marts, 1971).

Rosalie Trombley said that for CKLW's Detroit competitors, the imposition of CanCon was a reason to smile, "They were jumping for joy over there... While we're playing that 30 percent of non-hit music, they can be playing hits" (McNamara, 2005). Trombley worked hard to find CanCon-compliant music to play on the station. *Billboard* credited Trombley with turning singles into hits for Canadian artists such as Gordon Lightfoot, Bachman-Turner Overdrive, the Guess Who, Burton Cummings, and

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Paul Anka (Bliss, 2016). In 1973, she added “Last Song” by the group Edward Bear to The Big 8 playlist. The record sold more than 1.25 million copies in the U.S. Lead singer Larry Evoy told *Billboard*, “If it hadn’t been for her efforts, I doubt if we’d done anywhere near as well” (Yorke, 1973, p. 58).

What frustrated Trombley most was the American record labels that refused to promote their Canadian talent in the U.S., even when she played their songs on a radio station that commanded large audiences in Michigan, Ohio, and neighboring states. She said it was unacceptable to be contacted by listeners who wanted to buy a record that turned out to be unavailable. While Trombley was well known for her ability to spot potential hit records, there were those in the U.S. music and radio businesses who felt the only reason CKLW was playing that music was to satisfy a government mandate. Greg Beaumont, who owned a record store in a Cleveland suburb, knew the influence of The Big 8, “A lot of big artists became really big in Cleveland because of CKLW: the Rationals, Ted Nugent, they were out of Detroit; Mitch Ryder, Terry Knight and the Pack (later known as Grand Funk Railroad)” (Wolff, 2006, p. 11). Speaking to the Canadian Recording Industry Association in 1975, Trombley had strong words for American labels, “Record companies in the U.S. have to get off their fannies and promote those records in markets like Milwaukee, Minneapolis and some of those towns in Indiana – that type of area. If they did, in many cases, they would end up with a top ten record” (Melhuish, 1976, p. C9).

One indication of Trombley’s ear, CKLW’s influence, and the effects of CanCon may be found in the *Billboard* Hot 100 charts of 1974. Music historians have noted that 1974 holds the record for the most Number 1 songs in a year with 31

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different selections holding the top spot (Simmons, 2015). It could also legitimately be called the year of the Canadian invasion as five Canadian acts were among those that did top the chart: Terry Jacks, Gordon Lightfoot, Paul Anka, Andy Kim, and Bachman-Turner Overdrive (Serwer, 2018). Two songs by those acts were among the four that were at Number 1 for three weeks, the longest tenure at the top of the charts that year, Terry Jacks' "Seasons in the Sun" and Paul Anka's "You're Having My Baby" (Simmons, 2015). "Seasons in the Sun" was Number 1 for the weeks of March 2<sup>nd</sup>, March 9<sup>th</sup>, and March 16<sup>th</sup>. It first entered the Hot 100 at number 99 on January 12<sup>th</sup>, rising to 86, 72, 49, 27, 12, and 2 over the following six weeks (The Hot 100, 1974). By then, it was falling off the chart at The Big 8. Trombley placed "Seasons in the Sun" at number 24 in her December 18, 1973 Big 30 playlist. It rose to nine and then five in the ensuing two weeks before spending three weeks atop CKLW's chart on January 15<sup>th</sup>, 22<sup>nd</sup>, and 29<sup>th</sup> (Big 30, 1974). Each of the five chart toppers by Canadian artists that year appeared on CKLW's Big 30 two to four weeks ahead of when it entered the *Billboard* Hot 100:

**Table 1: Debut dates of Canadian artists on CKLW Big 30 and *Billboard* Hot 100 charts who attained Number 1 on the Hot 100 in 1974**

Title	Artist	Big 30	Hot 100	Hot 100 #1
Seasons in the Sun	Terry Jacks	12/18/73	1/12/74	3/2/74
Sundown	Gordon Lightfoot	3/26/74	4/13/74	6/29/74
You're Having My Baby	Paul Anka	6/25/73	7/6/74	8/24/74
Rock Me Gently	Andy Kim	5/21/74	6/22/74	9/28/74
You Ain't Seen Nothing Yet	Bachman-Turner Overdrive	9/10/74	9/21/74	11/9/74

(Big 30, 1974) (The Hot 100, 1974).



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The imposition of CanCon also meant an eventual change in target audience for CKLW. With little compliant soul or R&B music available, the station moved away from teens and toward the adult 25-54 audience in the late 1970s (McNamara, 2005).

The CRTC regulates Canadian radio stations in ways American stations would never find acceptable. The 1968 Broadcasting Act was championed by Liberal Prime Minister Pierre Trudeau. Its CanCon requirements have been expanded through the years and involuntary donations to Canadian Content Development (CCD) organizations were added, licenses specify the format of the station, while other rules guide how music could be rotated (Crump, 1982), or limited the geographic area from which a station could solicit advertisers (Broadcasting decision CRTC 2017-208, 2017). CKLW news director Keith Radford recalled attending CRTC license renewal hearings during which the commissioners would ask, “What are you doing down there in Windsor? Why is it all American? Why are you not playing Canadian records? Why can’t we hear Canadian news and nothing about politics?” (McNamara, 2005).

As part of the CRTC team monitoring the Canadian radio industry, Pollard took a dim view of CKLW’s position that is was a Windsor station:

If your audience is in the U.S. and your on-air promotions promote this and your traffic helicopter is flying out of Detroit airport, not even a Windsor airport... it just draws so much attention to you. They were doing a really good job, just not in the right place or for the right society. They were just really easy targets and they were too proud of making a lot of money, too proud of their success in the U.S. It just got everybody’s backs up. It wasn’t a fair fight, I’ll tell you, because the commission had the resources to just destroy this and I think to some extent they initiated the downfall of what was The Big 8 (McNamara, 2005).

The management and staff at CKLW had taken the station to places that seemed impossible: dominating the airwaves in Detroit and far beyond, driving the U.S. and Canadian music industries, and generating millions of dollars in revenue. They may

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have become Goliath in the Motor City, but they would find out that they were David without a slingshot in Ottawa.

Pierre Juneau and the team he assembled at the CRTC had a calling, “in which the state would intervene to strengthen English-speaking Canadian culture against the pervasive American influence” (Hayes D. , 2004). One of Aesop’s Fables spoke of a countryman who discovered a goose that laid a golden egg every morning. Selling the eggs was making him rich, one day at a time. In his desire to speed up his earnings, he decided to kill the goose and remove all the eggs, only to discover that there was no store of golden eggs inside the goose’s body (Aesop, n.d.). For RKO General and then Baton, CKLW was delivering a golden egg every day in terms of millions of listeners and millions of dollars. However, most of those listeners and the advertisers that were providing the revenue were in the U.S. CKLW’s management was becoming concerned that in the CRTC’s zeal to preserve Canadian culture, the members of the commission would become the countrymen that could kill their goose.

The chief of the CRTC’s radio division at the time, Sief Frenken, admitted the commissioners were losing patience with CKLW’s long-term cross-border orientation – and they were prepared to take radical action,

They were proud that they had this massive audience in the United States, and you could tell that all the programming was fixed on Detroit. Everything was done to hide from its American audience that this was a Canadian station. So there was a feeling that we should repatriate the programming of CKLW for its Canadian audience (Hayes D. , 2004).

CKLW news anchor Grant Hudson felt the CRTC had no understanding of what made the Windsor market different from anywhere else in Canada, “This is in a

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Canadian market where 70 to 75% of the audience is listening to radio stations outside of the country. And by God, you had better be the best if you wanted to compete with them, or you are going to collapse. They wouldn't let us be the best" (McNamara, 2005).

The Big 8 faced another challenge that was affecting every AM radio station playing music in the early 1980s: the move of listeners and music to FM. Station president Chuck Camroux admitted to *Billboard* in 1982 that the stations' profits had been declining and he believed CanCon requirements were causing a drop in listenership. He also added CKLW's profits were being hurt by losses at CKJY (formerly CKLW-FM). That station had been playing country until 1979, when it switched to big band (Today's new business: Increasing market share, 1982). In 1983, the CRTC approved a new tower and power increase for CKJY (CIDR-FM, n.d.). This helped set the stage for a bold move to reinvigorate CKLW.

For American station operators, the choice was obvious: move the music to FM and find a more appropriate format for the AM. As previously discussed, U.S. regulators were not concerned with program formats or economic competition. What few guidelines to programming were in place were reduced in the 1980s deregulation campaign. So unless there was a call letter change or a technical adjustment, there was no need to involve the FCC. But in Canada, the mandate of the CRTC included ensuring the economic viability of stations and the commission imposed some very detailed rules on FM music stations as a way of protecting AM music stations. These included requiring 51% of the music to be new or non-charted, so only 49% of the songs could be considered "hits", and limiting song repetition to 18 spins per week

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(O'Brien, n.d.). By contrast, an American top 40 station would give a single high on the playlist up to 120 spins per week, or 17 per day (Spradling, 2018). Under these restrictions, there was no way for Boss Radio or any Top 40 format in Canada at the time to make the jump to FM.

As calendars switched to 1984, the market forces were finally being felt at The Big 8. Long-time Detroit air personality Dick Purtan was holding the morning audience, but listeners were switching to FM stations after 10 o'clock. CKLW disc jockey turned program director Pat Holiday led the team to re-design CKJY into a station it was hoped would keep the AM listeners and continue the station's binational success (O'Brien, n.d.). He had management's blessing for the move to create "94 The Fox FM", "We spent a million dollars to get ready for this thing to go. We were going to put essentially the AM onto the FM, move all the guys, and have this wicked FM station and kill everybody all over again" (McNamara, 2005). The staff spent 30 days rehearsing and working out the kinks of the new format, billboards teasing its arrival had been erected, and advertisers were lined up (O'Brien, n.d.).

The Fox was supposed to launch at three o'clock on a chosen afternoon, but the CRTC had not given its approval for the format switch. As Holiday remembered, "Fifteen minutes before the station was supposed to launch on the air, I got a call from Toronto (the corporate headquarters) saying don't do it". Rosalie Trombley made a personal appeal to CRTC member Jean-Pierre Mongeau at a commission hearing, warning that a failure to approve the format swap would lead to the death of CKLW. She recalled his reply, "The rock and roll belongs on the AM and the easy listening on the FM" (McNamara, 2005). The CRTC decision would allow the CJKY to adopt a

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block format under an “experimental” license: The Fox format could be used for two hours each morning and two hours each afternoon. Outside of those times, it would have to continue its big band format (O'Brien, n.d.). This approved change was not going to happen.

Baton sold the stations and before closing the sale, dismissed 29 station employees, including CKLW's disc jockeys, on October 17, 1984 (Graff & Smyntek, 1984). The new owners installed the nostalgia “Music of Your Life” format on CKLW and an easy listening format on CKJY. CKLW announcer Joe Evans recalled the staff meeting when the CRTC decision was announced, “It was like somebody had stuck a knife in your heart” (McNamara, 2005). Perhaps the staff and management were a little optimistic that the CRTC members would look kindly on the application. The CRTC got what the commissioners wanted: CKLW became a station focused on Windsor and the surrounding Essex County. However, AM 800 and its sister stations continued to operate a U.S. sales office and appear in Detroit ratings books.

It has been shown that binationalism had been a hallmark of CKLW since its early days, with little interference from a series of Canadian regulators. George Pollard said The Big 8 had just grown too big and was ignoring the reason for its existence, “It was simple. The station was licensed to serve that small Canadian community and it never did that job. Then they came to Ottawa and tried to turn the situation into the OK Corral. But they were the Clanton Brothers who arrived without their guns, and the Earp Brothers shot them dead” (Hayes D. , 2004).

### **Comparative-Historical Analysis**

This section of the study looks at the four cases presented through the lens of a comparative-historical analysis. It started with the historical narratives just presented. Each case was reviewed on its own to provide the evidence for this analysis. What follows is the causal narrative, in which the events described can be reviewed for common themes and evolution over time. This process-oriented comparison looks for similarities and differences that led to similar or different outcomes. These findings will then be used to answer the study's research questions.

### **Border Blasters**

John Brinkley, Norman Baker, and the Collins brothers were all advocates of medical products that met with disapproval by U.S. regulators. Brinkley and Baker had been promoting their cures on Kansas and Iowa radio stations that each owned. Hal and Carr Collins made extensive use of radio to advertise Crazy Water Crystals, but they did not own any American stations. While the American Medical Association and the U.S. Food and Drug Administration took a dim view of these treatments, these men appeared to be true believers (and generating healthy incomes). That belief led them to find a way to use a medium with which they were familiar to continue to promote their treatments. Losing access to the airwaves would likely mean losing a significant amount of revenue. With American regulators viewing their treatments as dangerous, it was clear the FRC or FCC would not permit their return to U.S. radio. Will Horwitz was not promoting a medical cure on XED, but facilitating the participation of listeners north of the border in a lottery south of the border ran afoul of American law.

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Regulation of the growing radio industry was lagging behind the development of the radio business. Mexico instituted a radio licensing system in 1923, the U.S. Federal Radio Commission was not formed until 1927, and a specific broadcast regulator would not be established in Canada until 1932. Despite the fact that radio waves know no borders, especially AM signals at night (FM was still years away), there was little cooperation among the three neighbors for coordinating the new medium. When the American delegation to the 1924 Inter-American Conference on Electrical Communications found out their counterparts from the other nations would not just allow U.S. dominance of the airwaves, they turned down a joint agreement. Combine that rejection with the 1928 U.S.-Canadian frequency allocation agreement and it is understandable why Mexican officials would be unhappy with the state of cross-border radio regulation in the early 1930s.

Around the year 300 BC, an adviser to the king of India, Kautilya, authored a book on war and diplomacy titled *Arthashastra* in which he wrote, “the enemy of my enemy is my friend” (Boesche, 2003, p. 18). Brinkley, Baker, and the Collins brothers needed a way to continue promoting their services to an American audience, but outside the jurisdiction of American regulators. The growth of radio in Mexico had been much slower than in the U.S. or Canada, so adding new stations would help counter arguments that the more capable Americans should dominate the dial. If those stations happened to transmit high power signals into the U.S., it would serve as a reminder that Mexico deserved an active role in developing the new medium across the continent. While the Mexicans did prove their point and were treated as equals in the NARBA agreement, the station operators’ goals were not met. Horwitz, Brinkley, and Baker

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each faced the U.S. justice system and lost. Brinkley and the Carr brothers lost their stations thanks to a side agreement in NARBA directed at them. With Mexico now an equal partner in the burgeoning industry, there was no longer a need to irritate the Americans. However, that did not mean the end of the border blaster. High powered AM stations located close to the U.S. border would continue to seek American audiences.

### **San Diego – Tijuana**

As with some of the Rio Grande stations, a few of the Tijuana outlets were used to promote activities that had been ruled illegal in the United States. The difference is these activities were legal in Mexico – and a major source of income for many Tijuana businesses. XEBC and XERB were put on the air and allowed to broadcast in English in order to promote resorts where gambling was available and liquor was served during the U.S. prohibition era. Like their cousins south of Texas, these Baja stations used powerful transmitters (perhaps without authorization) to get their messages well into the U.S. When the American legal system finally shut down the Brinkley and Baker operations, their radio stations went away. In Tijuana, it was a Mexican government decision that brought Satan's Playground to an end, which could have meant the end for the resort radio stations. However, President Lazaro Cardenas was apparently aware of the ability of XEBC to promote his new vision for the country into the United States, allowing it to continue providing programs in both English and Spanish.

Behind the on-air persona of Wolfman Jack was a keen mind for the power of radio as a medium for music, its listeners, and especially, its advertisers. Bob Smith was drawn to a career in the radio industry by listening to a border blaster. He knew the



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potential of these high-powered stations and the large swath of American real estate they covered. He also saw the pop era coming to radio with its tighter playlists and reliance on personalities. Smith discovered a hole in the programming available to radio listeners in this part of the U.S. and filled it – from a cross-border station. Using American air talent from an American studio, he built a station to appeal to the African-American audience in southern California through a Mexican radio station.

Unfortunately, his \$2.5 million investment in the station gave him no equity, just the ability to program it and sell advertising. Mexican regulations at the time required the station remain under Mexican owners. When those owners saw a possible opportunity to increase their income by removing the middleman, all Smith could do was howl.

Tijuana stations had been seeking American audiences almost as long as broadcast radio has been in existence. Wolfman's XERB was another chapter in that story. Even as FM surpassed AM, there has been no better example of a cross-border targeted radio market than San Diego-Tijuana.

### **El Paso – Juarez**

XEROK launched with a major splash, quickly becoming the highest rated Top 40 station in an American market, despite an entire program day that had been recorded 24 hours earlier. X-Rock management switched from recording shows and sending tapes across the border to sending announcers across the Rio Grande to do their shows live and not violate the Brinkley rule. Long (2012) wrote that the general manager and ownership had visions of leveraging the station's big signal for higher advertising rates than El Paso could deliver by garnering nighttime ratings in other markets. This was not an unusual strategy for border blasters, but the intersection of physics and human

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geography contained a bad omen for using this as a strategy at XEROK. As shown, Wolfman Jack tested XERB's daytime 50,000-watt signal into Bakersfield, about 375 kilometers (234 miles) from Tijuana. In 1976, Bakersfield was Arbitron radio market number 95 and between Bakersfield and Tijuana were Los Angeles (market #2), and San Diego (#19). In 1976, CKLW and its 50,000-watt signal had documented listeners in Detroit (#6) and nine additional U.S. radio markets, including #117 Erie (245 kilometers/153 miles from Windsor), #86 Fort Wayne (222 kilometers/138 miles), and #62 Grand Rapids (227 kilometers/140 miles) as well as Cleveland (#16) and Toledo (#45). Assuming XEROK's 150,000-watt signal would provide a useable daytime signal that could travel 480 kilometers (300 miles) from El Paso (#81), the largest U.S. markets it could reach were Albuquerque (#83) and Tucson (#69). A nighttime skywave signal is difficult to sell, as the audience is not easy to measure and atmospheric factors can affect the coverage area each evening. Long (2012) tracked the station's reception reports and surmised the XEROK and CKLW signals clashed somewhere between Kansas City and St. Louis.

Furthermore, CKLW and XERB offered unique programming: the pop and soul fusion of Detroit in a Boss Radio presentation or the Wolfman's antics and urban-oriented sound. The Big 8's glory days lasted 17 years, from 1967 to 1984, succumbing to a combination of market forces as music listeners migrated to FM and the CRTC's decision to rein in the station. Wolfman Jack operated XERB for just five years, from 1966 to 1971, before the Mexican ownership decided to take over the operation. XEROK faced a number of challenges: a larger city surrounded by hundreds of miles of sparsely populated deserts and mountains, an air staff and management frequently

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changing, and competitors, including those on FM, looking to take away the station's audience. Combine those local concerns with the general migration of music listeners from AM to FM and the death of X-Rock is understandable.

### **Detroit – Windsor**

CKLW may have more in common with the Mexican border blasters than its fellow Canadian stations. The border blasters appealed to U.S. listeners who contacted them through a U.S. address and generated revenue advertising U.S. products and services. They played the country music favored by listeners in the southern states and their signals took U.S. preachers into the Bible Belt. In short, they were cross-border stations when they went on the air. While it was Windsor business interests that founded the station, its affiliation with American networks, use of a Detroit sales office, and hiring of staff with American experience demonstrate that CKLW had been a cross-border targeted station long before the days of The Big 8. It has been shown that Canadian regulators were well aware of the station's focus on both sides of the Detroit River, but showed little concern: CKLW was permitted to add a TV station and to come under the controlling interest of an American corporation.

In 1934, the FRC's chief engineer told a Congressional committee that the cities of license for the Rio Grande border blasters were not of the size to justify a high-powered radio station. CKLW moved to 50,000 watts in 1949. The population of Windsor in 1951 was 120,000, making it Canada's 10<sup>th</sup> largest city (Ninth census of Canada 1951, 1953). That would certainly merit consideration for a high-powered radio station. However, 800 KHz is a Mexican clear channel, so CKLW needed to use five towers to create a directional pattern that protected what at the time of the grant was

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XELO in Juarez. With no American stations on the frequency in Ohio, Michigan, Indiana, New York, or western Pennsylvania, the station's engineers developed a pattern that covered a large swath of the United States. In Canada, it provided service to the southern Ontario peninsula, but started fading away east of London to protect a co-channel station in the Ontario city of Belleville, 500 kilometers (310 miles) to the northeast (Predicted coverage area for CKLW 800 AM, Windsor, ON, n.d.). There was a time when visitors to the Windsor studios were reminded of the station's enormous footprint by a rug in the lobby showing The Big 8's contour map.

As the post-1968 regulatory regime took hold, it was obvious CKLW was going to be the prime target of Canadian regulators trying to impose their view of Canadian media on stations across the country. It has been shown that The Big 8 provided a big boost to the careers of Canadian musicians, giving them U.S. exposure unavailable on any other Canadian signal. While The Fox could not have the geographic footprint of The Big 8, it would still have provided an important pipeline to American consumers for Canadian artists. Unlike hunters who aim for the quick kill, the CRTC took CKLW through a slow death of CanCon requirements that reduced the station's audience, a forced sale that hurt access to capital, and a refusal to acknowledge market forces and permit the format to move to FM.

### **Conclusion**

This study asks four research questions. Based on a comparative-historical analysis of these examples, these answers have been found.

#### **1. How has radio along US-Canada & US-Mexico borders evolved?**

The common theme in these four cases is the use of a radio station in a border city to reach an audience on the other side of the border, specifically from Mexico or Canada into the United States. It started with Joliffe's observation that the small Mexican towns hosting the 1930s border blasters did not justify a high-powered station. However, the Mexican authorities apparently felt their continued presence was useful in their dispute with the U.S. regulators. XERB was just one of many Tijuana stations used to provide an additional signal into San Diego and Los Angeles. While XELO had traded on its big signal in the 1940s and 1950s, as XEROK, it could only compete in El Paso in the 1970s. CKLW tried to appear as a binational station, but it was obvious the American listener and American advertisers were the management's priorities.

The managers of the stations in this study proved Dimmick's theory of the niche as each found a niche for which the audience would seek gratification. These included the medical conditions that Brinkley, Baker, and the Carr brothers were trying to treat. If there were not many people seeking cures, the trains would not be arriving full of mail orders for the products sold on their border blasters. CKLW program director Paul Drew said, "If it sounds great, people will listen to it." That prediction came true as The Big 8 not only dominated the Detroit radio dial, but found large audiences across Michigan, Ohio, Pennsylvania, and Indiana. XEROK also proved Drew's point as that Mexican station attracted the highest share of local audience for any Top 40 station in

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the U.S. Rosalie Trombley, Wolfman Jack, and John Long used forms of music research to ascertain what niche was desired by their target audiences, then put it on the air and watched their gratified listenership grow.

While Brinkley, Baker, and the Collins brothers helped create the phenomenon of the Mexican border blaster, radio along the border did not become a haven for those seeking refuge from U.S. law. These stations evolved in two ways: either under U.S. management to reach American listeners through music and/or religious programming, or to reach Mexican immigrants in the U.S. Mexican authorities apparently saw good reasons to continue viewing this group of radio stations through a different lens than stations in the interior of the country. During the 1930s and 1940s, Mexican immigrants in the U.S. could be found near their radios late at night or early in the morning to catch the skywaves in order to hear Mexican music (Robles, 2012). This was important because there were few alternatives in American markets. Some stations were selling non-prime time to Spanish producers, but the U.S. did not get a full-time Spanish, Latino-owned radio station until KCOR in San Antonio, calling itself *La Voz Mexicana*, went on the air in 1946 (Grant, 2015).

Tijuana, Juarez, and the smaller Mexican cities that hosted border blasters all shared one geographic trait: their city limits are the boundary with the United States. Tijuana and Juarez also happened to share the border with the large U.S. cities of San Diego and El Paso respectively. Montreal is 60 kilometers (37 miles) north of the border, Toronto is on the north shore of Lake Ontario, and Vancouver is 38 kilometers (24 miles) northwest of Blaine, WA. Windsor was the only one of Canada's large cities at this time that sat on the U.S. border. It also has Detroit on the other side of the river.

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If a Canadian operator wanted to attempt building a cross-border targeted station, Windsor was the most likely location.

John Brinkley's medical credentials may have been questionable, but it is obvious that he was able to gain the trust of his audience. In the era when the U.S. was emerging from the Great Depression and rural Americans had limited access to health care, he convinced his listeners that he was a kindred spirit in trying to keep them healthy. Later, Wolfman Jack's persona allowed listeners to think they were living a hedonistic life vicariously through him. CKLW's disc jockeys were as important as the music, both in keeping the tempo flowing on the air and interacting with listeners who called the studio lines. These parasocial relationships were a key to the success of these stations.

### **2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?**

The long-term peaceful coexistence of the United States, Canada, and Mexico has carried into broadcasting. The differences of opinion among the three nations have been limited to efforts to promote a national culture or protect the economic status of their stations. It has been shown that Canadian and American regulators have worked together since the dawn of the radio industry. Their Mexican counterparts were not so cooperative until the NARBA agreement. However, the three nations have a history of more than 70 years of cooperation. In a cross-border market, these national regulations meet up and down the dial. Even if a Mexican-licensed station is operating in English from a U.S. studio, it is in Spanish for an hour every Sunday evening. That provides a

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competitive opportunity for an American station. Canadian listeners seeking a full schedule of religious programs could only find them coming from America, as there was no Canadian alternative.

Station managers along the borders had the ability to choose to program to one side of the line, the other side of the line, or both sides of the line. As shown in this study, Mexican authorities have long permitted stations along the U.S. border to operate for an American audience. This included English language programs from American studios, as long as the actual ownership of the station was Mexican. Residents on the Mexican side of a cross-border market may find some stations located in their city not interested in serving them. The *laissez-faire* attitude toward programming in the United States would allow American stations, if they so choose, to target an audience in Mexico or Canada. This would be especially true for religious and ethnic broadcasters. It was clear that as Canadian regulations evolved, Canadian radio was going to be for Canadians.

No Canadian station showed as much of a U.S. orientation as CKLW. That binational existence went back to its founding in 1932. Windsor was a much smaller city than Detroit, so it made economic sense to try and attract listeners and advertisers in Michigan as well as Ontario. Despite concerns from government officials over time, the station continued its cross-border operation for more than 50 years. However, the post-1968 efforts to force Canadian media to protect and promote Canadian culture and develop Canadian cultural industries were diametrically opposed to the operation of a cross-border targeted station. As Pollard said, CKLW was not in the same universe as the rest of Canadian radio. By coming down hard on CKLW and its attempts to re-



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make itself on The Fox, the CRTC members sent a signal to other stations that might think about emulating The Big 8's cross-border operation. However, a subsequent commission did recognize that Windsor was a unique market and loosened some of the cultural requirements for a group of stations there. The process of repatriation happens when a country tries to bring something back that went to another nation. The members of the CRTC decided that CKLW had become an American station and needed to be repatriated. The cry of repatriation would later be heard in Vancouver, where U.S.-licensed stations were being used to serve an ethnic audience in Canada. After Canadian-licensed stations were established, their management and the CRTC launched an effort it was hoped would repatriate advertising dollars going to the American stations.

### **3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?**

The broadcasting philosophy of the United States, Canada, and Mexico starts with the same premise across all three nations: the radio spectrum is a public resource. Radio stations receive and maintain licenses to use the spectrum by proving they are meeting each government's definition of the public interest that merits being a trustee of public property. While the three nations have had their share of differences through the broadcast age, there has been a remarkable cooperation managing the radio spectrum among them for more than 70 years. The major difference in the regulatory schemes among the countries in this study is in how stations meet their public interest obligations.

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The CRTC enforces rules that are supposed to ensure maximum access to the airwaves for Canadians. This starts with the imposition in 1930 of a ban on single-faith religious stations (lifted in 1993) to establishing Canadian content requirements and restrictions on open line programs in 1968. Furthermore, the CRTC is concerned with the economic viability of stations and has imposed various conditions on licensees to protect other stations.

Mexico requires its radio stations to provide a direct pipeline from the federal and state governments to a station's audience. *La Hora Nacional* on Sunday evenings, the 1969 imposition of *tiempos oficiales* throughout the day, and the twice-daily playing of the *himno nacional* are reminders to both stations and listeners that the airwaves belong to the government. The voice of the national government was supposed to be prominent on the air as far back as 1926, "the state gained a position of privileged access to the national broadcasting system and played a significant role in the development of commercial broadcasting" (Hayes J. , 2000, p. 41).

These schemes are in stark contrast to the evolution, or perhaps devolution, of regulations in the United States. While the guiding principle of American broadcast regulations since 1927 has been "the public interest, convenience, and necessity", the interpretation of that phrase has changed markedly. The FRC denied a renewal of KFKB's license because its promotion of Brinkley's questionable medical procedures was not in the public interest. A later FCC decision in El Paso would affirm that the commission was not concerned with the economic viability of stations or other media outlets owned by a station owner. Had the commission ruled in favor of KTSM/WDAH on their complaint about competition, the American licensing system would have

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become incredibly complex. And while a newspaper cross-ownership ban would come four decades later, imposing one in 1936 when major newspapers were also getting into radio would have pinched the growth of the medium<sup>5</sup>. The so-called “fairness doctrine” requiring a balanced presentation on important issues to the community was imposed in 1949 and revoked in 1987. Since the 1980s, the commission has expressed less interest in regulating what’s on the air; the FCC’s prime mission today is to enforce technical and ownership rules.

For the typical listener, all radio stations generally sound the same. He or she seeks the station that best serves his or her desire for a style of music or type of information. In a cross-border market, the most obvious difference is that not all stations’ call signs start with the same letter. Of course, many radio stations only mention the call letters when required and instead rely on nicknames or tag lines, which obscure their country of license. Yet behind this superficial sameness is a maze of regulatory and cultural imperatives that disrupt and distort cross-border broadcasting.

A Mexican-licensed station was out of reach for American broadcast regulators. They also provided a perfect opportunity for Mexican government officials to get revenge on the U.S. and Canadian broadcast regulators who refused them a seat at the table when sketching plans for the growth of North American radio. Allowing the operation of stations with 10 times the power allowed in the other two countries through directional antenna patterns aimed into the heart of the U.S. was a constant reminder of the snub.

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<sup>5</sup> In addition to KHJ and the *Los Angeles Times* and WWJ and the *Detroit News* already mentioned, early radio stations owned by newspapers included WGN of the *Chicago Tribune* and the shared-time WFAA of the *Dallas Morning News* and WBAP of the *Fort Worth Star-Telegram*.

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The one tool that could be deployed by the FCC to make life more difficult for the border blasters was section 325c, the Brinkley rule. That prohibited the sending of programs out of the U.S. to stations that could be received in the U.S. It turned out that rule had its limits when a federal appeals court decided for Baker and ruled that the law did not apply to pre-recorded programs. Eventually, XEROK announcers crossed the Rio Grande to go to work.

A listener may notice a difference when content regulations are involved. People listening to CKLW in Cleveland or Fort Wayne after CanCon came into effect may have heard an inordinate amount of Burton Cummings or Anne Murray songs compared to other stations. On the Canadian side of a cross-border market, Canadians had access to U.S. stations where programming decisions did not follow government mandates. XERB listeners seeking some R&B for Sunday night may have been surprised by an hour of Spanish language programming produced by the Mexican government.

During the period covered in this section of the study, Canada, the United States, and Mexico each required that radio stations be owned by citizens of that country. As we will see in subsequent chapters, that unanimity no longer exists. Wolfman Jack learned the hard way that the U.S. operator of a Mexican cross-border station is at the mercy of the station's Mexican owner. When his contract was canceled, he had no recourse and was left deeply in debt.

**4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.**

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John Brinkley, Norman Baker, and the Carr brothers needed a way to reach their potential clients away from their shared nemeses of the FRC/FCC as well as Morris Fishbein and the AMA for Brinkley and Baker or Rexford Tugwell and the FDA for the Carrs.

Alan Freed and other disc jockeys paid the price for their involvement in payola. But at XERB, management admitted to taking money to play records without disclosing the payment. That disclosure was not required under Mexican law. Wolfman Jack also made an unsuccessful attempt to get cigarette commercials on the station after the U.S. tobacco advertising ban took effect.

For CKLW, it meant a binational corporate structure: a U.S. company handling sales to American advertisers and a Canadian firm running the station. Having clients in two countries could also lead to advertising products on the station that were available in Canada but not the United States or vice-versa. This included commercials for certain beer brands tagged with a, “not available in Ontario,” statement.

### **Long-term impact of historic cross-border targeted radio**

In many ways, these cross-border targeted stations were trailblazers in the industry. Early AM station owners were trying to find ways to avoid interfering with each other and increase transmitter power. One way to avoid interference is to install a directional antenna system. The first of those was built in 1932 at WFLA/WSUN in Clearwater, FL (Miller, n.d.). From 1934 to 1939, the FCC authorized Cincinnati’s WLW to experiment operating with 500,000 watts (June-Friesen, 2015). In 1935, Brinkley was running two stations pumping 500,000 watts through directional arrays. Brinkley, Baker, and the Carr brothers used direct-to-consumer advertising to promote

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their medical treatments. It was during a time when prescriptions were optional and people could self-medicate. The AMA viewed people diagnosing themselves and purchasing their own medicines as a threat to the medical profession. The 1938 Food, Drug, and Cosmetic Act started the move toward requiring prescriptions for certain drugs. That also switched the marketing of drugs away from the public and to the medical profession. Direct-to-consumer advertising of prescription drugs did not resume until 1985 (Donohue, 2006). The FCC commissioners may have thought the Brinkley rule would be an impediment to cross-border targeted radio. However, the reversal of Baker's conviction for violating it actually made future cross-border targeted radio possible. Without that loophole, Wolfman Jack could not have operated XERB from the Sunset Strip. This study contains other examples of stations that relied on the tape-and-transport system.

In the 1980s, the radio industry saw the rise of so-called shock jocks, announcers who appealed to a primarily male audience through use of sexual innuendo and language that stretched the bounds of acceptability. These included Don Imus, Howard Stern, Opie and Anthony, Doug "Greaseman" Tracht, and Tom Leykis (Hayes & Zechowski, 2014). In an interview upon his retirement from radio, Imus told CBS News the five best people in the history of radio were Arthur Godfrey, Jack Benny, Wolfman Jack, Howard Stern, and himself (Mason, 2018). For a time, Imus did mornings and Stern did afternoons at WNBC in New York. Imus arranged for Wolfman Jack to take over evenings on the station (Smith, 1995). It would not be a stretch to consider Wolfman Jack as the original shock jock, and he first rose to prominence in cross-border targeted radio.

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An El Paso business leader pointed out that an international border has run through the city for a small part of its history. When people are border agnostic in everyday life, it is not a surprise that it would extend to their choice of radio stations. There are Canadian, American, and Mexican firms that measure radio listening. The best known are Nielsen in the U.S. and Numeris in Canada. They use statistical models to identify survey participants, then ask those participants to track their listening. From those surveys, the firms extract a model of the demographics of a station's audience and the share of those demographics achieved by each station. A look at historic ratings books in San Diego and El Paso show a mix of stations starting with "X" and "K". Cross-border targeted radio was introduced to those markets when radio was in its infancy and has played a role in those cities ever since.

The top 40 format evolved through the 1960s, attracting large audiences not only to KHJ and other Drake-Chenault "boss radio" clients. WABC in New York, WLS in Chicago, KLIF in Dallas-Fort Worth, CHUM in Toronto, CKLG in Vancouver, and hundreds of stations across the United States and Canada pumped out the hits, jingles, and personalities that screamed through car radios on the streets and transistor radios on the beaches. Because it was in a city with a rich musical heritage and had a strong signal across a large section of the continent, CKLW stood out from the crowd. While CanCon rules and CRTC regulators did play roles in the demise of The Big 8, there were other forces at work. Music radio and listeners were migrating to FM. The high energy sound of top 40 was falling out of vogue. The big signal AM stations had the ability to attract listeners in multiple markets, something that is not technically

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possible on FM. The Big 8 may have had a big influence on the industry in its day, but that day is gone.

This section has looked at four cases and leads to questions about what might have been. The early days of U.S. radio included a fight for the airwaves between the networks and their big-city, big-signal clear channel stations that forced many local stations into daytime-only operations and those who advocated for a more community-oriented dial of lower-powered stations. It has been shown that the Rio Grande border blasters had an incredible reach across the United States. The American networks knew of CKLW's ability to reach a U.S. audience at the same time that Brinkley, Baker, and the Carr brothers were peddling their cures. Mexican officials knew the value of stations in Tijuana to attract American patrons during prohibition and of those in Juarez to maintain ties with Mexicans in the U.S. The FRC's chief engineer praised Canadian cooperation before Congress. If the American, Canadian, and Mexican negotiators had come to an agreement earlier, XERA, XENT, and XEAW might have become important stations for U.S. operators and not pariahs of the dial. Instead, the technical innovations and wide audience these stations achieved was taken away by Mexican authorities when they no longer served their purpose of being thorns in the side of the Americans.

Innovation dashed by regulations continued through the history of cross-border targeted radio in North America. Wolfman Jack, the original shock jock and a master of the medium, could not own XERB, the station that made him famous. XEROK had several problems, but the Brinkley rule originally challenged the station to sound live despite its entire day being pre-recorded, then later sending its airstaff on a 64 kilometer



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(40 mile) round trip through the desert to get to work. The Big 8 brought boss radio to the Midwest, attracting listeners in several markets and being emulated by other stations. The management could not do anything about the migration of music listeners to FM, but the CRTC stopped their effort to migrate the station with the listeners.

Each of these stations had the freedom to experiment with technology, personality, and/or programming. They had become very successful in their market (or markets). Each of these cases recounted the stories of radio stations that took advantage of their geography to use non-American signals to successfully reach American ears. The role of regulations in operating and/or shutting down these stations cannot be overlooked.

## Chapter 5: San Diego – Tijuana

### The Biggest Cross-Border Market

*I think the general public doesn't really know (in which country a station is licensed). All they know is is this good music, is this entertaining, is this a DJ that I listen to and that I like and that I affiliate with or do they give away prizes that I like? – Sabina Widmann, Univision vice president (Widmann, 2018)*

In 2017, the City of San Diego was home to 1.4 million people, while San Diego County had a population of 3.3 million. Hispanics make up 34% of the county population (Quick facts - San Diego County, 2017). In 2015, the combined, official population of the Municipality of Tijuana and the adjoining cities of Tecate and Playas de Rosarito was 1.8 million (Tijuana, Baja California, 2015). There are many locations where people and cargo can enter the United States from another country: airports, shipping ports, and land ports of entry along the Mexican and Canadian borders. However, one San Diego-Tijuana crossing plays an outsize role for U.S.-bound travelers. The three ports of entry connecting Tijuana and San Diego are San Ysidro, Otay Mesa, and the Cross Border Xpress. According to William Ward of U.S. Customs and Border Protection (CBP), “Six out of every 10 people that enter the United States whether it be by land, air or sea enter through the San Ysidro port” (Aragon, 2018). In 2017, the three San Diego-Tijuana ports processed more than 49.4 million people entering the U.S. as well as cars and buses, trucks and trains, and the cargo they were transporting (Border crossing/entry data, 2018).

Tijuana is a city with a high crime rate. City officials had seen the number of homicides drop from 1,256 in 2010 to 312 in 2012. However, there were 793 murders in Tijuana during the first half of 2017. Most of the killings can be attributed to disputes among rival drug gangs (Suarez, 2017). For Americans crossing into Tijuana,

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the U.S. Department of State issued a Level 2 warning in 2018, urging visitors to exercise increased caution (Mexico travel advisory, 2018). This warning was in addition to an earlier advisory about pickpockets in large crowds and at tourist destinations (Mexico 2016 crime & safety report: Tijuana, 2016).

### **Where X meets K**

Cross-border targeted radio has been an essential part of the broadcast industry in San Diego-Tijuana for more than 80 years. In the decades since XEBC signed on in 1934, more stations have been added on both sides of the border, FM has become the dominant band, and the ratings books continue to show that listeners in this market find what they want to hear regardless of on which side of the border the station's transmitter is located.

The Nielsen Audio ratings for San Diego show that this is a market unlike any other in North America. The September 2018 report of people six and older listening to radio between 6:00 a.m. and midnight Monday through Sunday lists 33 stations: 13 of them have call letters that start with "X" (#17 San Diego, 2018). Ratings books have reflected the binational nature of this market for decades (Duncan, 1976). This portion of the research will show that San Diego is a border agnostic market. Many Tijuana station owners have decided to lease their signals to American managers rather than operate the stations themselves. When the San Diego Padres' Baseball Hall of Fame announcer Jerry Coleman said, "Let's pause 10 seconds for station identification," it was for many years followed by an announcer in Spanish. San Diego advertisers buy time on stations regardless of their call letters. Many San Diego listeners seem unaware or apathetic about the country of license for their favorite radio stations.

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The highest-rated of the “X” stations in the September 2018 report was XHRM, also known as Magic 92.5, and the first FM station in Baja California (Radio, n.d.). Jose Luis Rivas Marentes made his initial application for the station in 1965 (SCT, 1967). Rivas passed control of his firm, Radio Moderna Mexicana, to his sons before he died in a 1990 small plane crash (Cramer, 1990). The Rivas family had leased the station to hair care entrepreneur Willie Morrow in 1980, who installed an urban contemporary format that by 1982 was billing \$700,000 a year (On the hair and on the air, 1983). Morrow had a Wolfman Jack-like experience in 1989 when the Rivas family canceled his contract. Among the reasons cited was a Sunday morning gospel program that was deemed inappropriate for a Mexican audience. One of Rivas’ sons, Luis Rivas Kaloyan, also said the station needed to appeal to a wider audience beyond the African-Americans who at the time made up seven percent of San Diego’s population (Brass, 1990). XHRM debuted an alternative pop format as “92.5 The Flash” in 1993 (XHRM switches to 'alternative pop', 1993). Kaloyan and XHRM were accused by another cross-border targeted station of stealing trade secrets and unfair competition (Hargrove, 2012).

XHRM is now owned by Comunicacion Xersa, which also owns Tijuana stations XETRA-FM/91.5 and XHITZ/90.3. All three have been leased to U.S. interests and operated in English from American studios for many years. The FCC generally has two roles with stations using this arrangement: coordinate technical changes with Mexican regulators as needed and issue section 325c (Brinkley rule) permits allowing the programming to cross the border and return. However, these three stations would be found in the middle of a dispute that went all the way to Capitol Hill.

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### **U.S. ownership rules and Mexican stations**

The passage by the U.S. Congress of the Telecommunications Act of 1996 meant an entirely new set of American radio ownership regulations. The national cap on the number of stations that could be owned by a single firm was replaced by a per-market cap without an overall limit. The enactment of the new rules started a frenzy of buying and selling across the American radio industry as groups acquired other groups, with some stations changing hands multiple times in quick succession. In February 1996, Jacor Communications added to its ownership of KHTS-FM in San Diego by purchasing the U.S. management contract of XETRA AM and FM from Noble Broadcast Group (Telecom tales: Jacor maxes out in Denver, 1996). Over the next year, Jacor would acquire enough stations to hit the FCC-mandated cap of eight stations in the market by adding AMs KOGO, KPOP, and KSDO to FMs KGB, KIOZ, KKBH, and KKLQ. With KHTS, the company now had five FMs and three AMs. But it also had XETRA AM and FM, which did not count against the U.S. maximum. In May 1997, market manager Mike Glickenhau told *Radio & Records* there was an advantage in scale, “With our exceptional array of 10 stations, we have plenty of opportunities to build San Diego into Jacor’s top market” (McCarthy now VP/GM for Jacor/SD AMs, 1997). Clear Channel Communications announced its acquisition of Jacor in October 1997, which had in the interim added U.S. management of XHRM (Stigall, 1998).

Since the inception of the new ownership rules, Clear Channel had been on a buying spree. At its height, the firm owned 1,150 radio stations, 42 television stations, and one of America’s largest billboard firms (Mulligan, 2006). There was no American

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firm that could match its size and influence on the industry.<sup>6</sup> In San Diego, the company had reached the maximum of eight stations under common ownership in a market that size. But in a situation that Sen. John McCain (R-AZ), the chairman of the U.S. Senate Committee on Commerce, Science, and Transportation called “misbehavior” (Media ownership, 2003, p. 59), Clear Channel had also obtained management contracts for five Mexican-licensed stations. Taking advantage of a loophole in the ownership regulation, the firm was operating 13 stations in the San Diego market, with combinations of some of those stations dominating key demographics.

The management at Jefferson-Pilot Communications, the owner of four competing San Diego stations, lodged a complaint with the FCC that Clear Channel’s binational operation had upset the competitive balance in the market. One advertising buyer told the *Los Angeles Times*, “For someone targeting certain demographics, they really have you between a rock and a hard place. It's David and Goliath, and right now Goliath is winning" (Leeds, Firm skirts radio caps in San Diego, 2002). Goliath was an appropriate comparison as Clear Channel’s baker’s dozen of San Diego stations accounted for 40% of the listening in the market – and 55% of the advertising revenue (Mathews, 2002).

Clear Channel’s exploitation of that loophole in the per-market ownership cap set in the 1996 act became a topic for testimony when the U.S. Senate commerce committee held a hearing on the media ownership rules in January, 2003. Clear

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<sup>6</sup> Clear Channel would later go through a leveraged buyout that left the company deeply in debt. The firm changed its name to iHeartMedia and later filed for bankruptcy.

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Channel Chairman and CEO Lowry Mays defended the company's San Diego arrangement:

We think it encourages additional benefits to the community simply because whether it is the Mexican side of the border or the English-speaking side of the border, the diversity of formats that we have in provided the San Diego market benefits that community (Media ownership, 2003).

The loophole was remedied later that year as the FCC voted on a revised package of media ownership rules. The changes covering radio included counting both commercial and non-commercial stations when determining the number of stations in a market and using the market definitions determined by the Arbitron (now Nielsen) ratings service. Those definitions included all of the signals that could be received in a market, even those coming from adjoining nations (Ryan, Cohen, & Fried, 2003). It was a change welcomed by Jefferson-Pilot's Darrel Goodin, "We're really pleased that the FCC took action to close those loopholes. Circumventing the intent and spirit of the rules appears to be unacceptable at this point" (Leeds, 2003).

Because of the revised regulations, Clear Channel had to exit its management agreements covering XETRA-AM, XETRA-FM, XHRM, XHTZ, and XHOCL. The future of XETRA-AM and XHOCL will be discussed presently. Former Jacor and Clear Channel executive Mike Glickenhau created a new firm, Finest City Broadcasting, to take over the management of XHRM, XHTZ, and XETRA-FM from Comunicacion Xersa (Berman, 2005).

### **Tijuana license – San Diego studio**

Clear Channel and then Finest City were not the only American firms using Mexican stations to reach an American audience. XHNLC, called XLNC1, was a non-profit classical music station that started online in 1998, went on the air in 2000 at 90.7

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MHz, and moved to 104.9 MHz in 2008. Financial pressures forced the station back to online-only in March, 2018 (Varga, 2018). Broadcast Company of the Americas (BCA) was formed in 2003 to operate XEPRS (the former XERB), XHPRS, and XEPE (John Lynch sues BCA over ouster, 2010). In 2005, a Native American community, the Viejas Band, purchased a half interest in BCA (Native Americans get half-interest in San Diego operator, 2005). Finest City defaulted on a loan in 2009 and put itself up for sale (Peterson, 2009). The new owner was Local Media of America, a combination of the Thoma Bravo private equity firm and BCA, that purchased Finest City's debts and acquired its assets (Thoma Bravo, 2010). In November, 2018, Local Media's management team purchased Thoma Bravo's equity in the firm (Managers buy Local Media San Diego from investment firm, 2018).

BCA and Local Media both operate from the same office building north of San Diego and each operates three Mexican-licensed stations:

**Table 2 BCA and Local Media contracted stations in San Diego**

Call	Freq.	Name	Format	Owner	Operator
XHITZ	90.3	Z90	CHR	Comunicacion Xersa	Local Media
XETRA	91.1	91X	Alternative	Comunciacion Xersa	Local Media
XHRM	92.5	Magic 92.5	Rhythmic AC	Comunicacion Xersa	Local Media
XEPRS	1090	Mighty 1090	Sports	Interamericana de Radio	BCA
XEPE	1700	ESPN 1700	Sports	Media Sports de Mexico	BCA
XHPRS	105.7	MAX FM	Classic Hits	Media Sports de Mexico	BCA

Each station in the Local Media trio operates at 100,000 watts ERP from the towers on Monte San Antonio, Tijuana's highest point, with a clear line of sight into California.



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Each station also has an enviable heritage in the market. Z90 and Magic 92.5 have more than 20 years in their respective formats (Halper, 2017). In the September 2018 Nielsen rating report, Z90 was the number 12 station in the market and 91X was number 21 (#17 San Diego, 2018). Local Media's competitors included iHeartMedia (formerly Clear Channel), with seven stations in the market and more than 850 around the country, and Entercom, with five San Diego stations among the more than 230 it owned. Although the San Diego market radio revenue dropped seven percent in 2017, Local Media's sales remained flat from 2016 and 91X led the market in non-traditional revenue. Local Media Vice President and General Manager Gregg Wolfson told *Radio Business Report* he is not intimidated by his large group rivals, "We are the leader in live and local content, and local contesting with actual, local listeners. We do local events, instead of pushing a major event like some of our corporate competitors" (Jacobson, 2018).

### *America's pastime from Mexico*

San Diego has a rich sports history. The San Diego Clippers of the National Basketball Association and San Diego Chargers of the National Football League eventually moved up the freeway to Los Angeles. In 1969, Major League Baseball's San Diego Padres started playing. From 2004 to 2016, the English language flagship station of the Padres baseball team BCA's XEPRS (Calkins, 2018). The bad news of losing the Padres to Entercom was compounded in 2017 when Mighty 1090 saw the end of its four-year contract to carry San Diego State University Aztecs football and basketball games (Kenney, 2017). There was one bright spot as the American Hockey

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League's San Diego Gulls starting playing in 2015 with a three-year agreement for the games to be carried on XEPRS or XEPE (Kenney, 2015).

### **The rock of San Diego – on an “X”**

XETRA-FM, better known as 91X, went on the air in 1978. In a familiar arrangement, it started with recorded programs being taken across the border. Eventually, the disc jockeys were traveling to a studio in Tijuana (Leighton, 2013). But the story of what made 91X a legendary station in the rock world started two hours north of San Diego, at KROQ in Los Angeles. It was there that program director Rick Carroll took music that was being played in clubs but not on the radio and put it on the air. Carroll named his format “Rock of the Eighties” and offered his services as a consultant to station owners considering a format change. His first client was 91X, where program director and air personality “Mad Max” Tolkoff implemented Carroll's vision for the station,

It was clear almost right away that bands like The Cure, Depeche Mode, and others had huge ‘underground’ followings. These artists were selling large amounts of concert tickets and albums, not just overseas, but in the U.S. as well. All that was missing was airplay (Jacobs, 2015).

Tolkoff added that the new sound was an instant success as the station jumped from a 3.9 share to a 6.1 share despite changing the format in the middle of the ratings period,

(F)ans of the new format came in all shapes and sizes and tastes. It wasn't just college kids. It was kids in high school, as well as Gen X-ers just hitting the workforce and corporate types in shirts and ties.... It was an incredible feeling going around town and hearing the station on in nearly every small store and restaurant. I didn't need to monitor 91X in just my car. You could hear it everywhere. (Jacobs, 2015).

“Wreckless Erik” Thompson, one of the original 91X disc jockeys, recalled working from that Tijuana studio for the *San Diego Reader*:

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To get to the studio you had to drive up this hill to get to this dingy, cinder-block building. We had to create this fantasy for our audience from a s###-hole studio. When it rained you had to park at the bottom of the hill and walk up the hill unless you had a four-wheel drive. There were moths the size of birds. A three-hour wait back across the border wasn't unusual. Yet it was kind of fun at the same time (Leighton, 2013).

91X has used the same logo since it adopted the alternative format more than 35 years ago and stayed true to the format through numerous ownership changes. Music director Hilary Chambers called the station, “a San Diego institution” (Halper, 2017).

91X helped launch the careers of such artists as Blink 182, Rocket From the Crypt, Slightly Stoopid, P.O.D., Steve Poltz, the Rugburns, Little Hurricane, and Buck-O-Nine (Broyles, 2013). A 19 year-old singer-songwriter who had been living in her car between gigs at San Diego clubs played live on 91X's local music show, “Loudspeaker”, in 1993. Jewel Kilcher did not expect the listeners' reaction, “I was surprised like that it got requested.... I didn't think much big would come of it” (Niles, 2017). Two years later, Jewel's “Pieces of You” album was released and sold 12 million copies (About Jewel, n.d.). Pearl Jam lead singer Eddie Vedder grew up in San Diego listening to 91X. When he returned for a 1995 concert, he authorized 91X to carry it live. When he found out other stations were also broadcasting the show, he stopped between songs to deliver 91X's legal identification in Spanish (Halloran & Mayans, 2018).

As any Mexican licensee, 91X had to carry the government-mandated content. For a time during the 1980s and 1990s, stations in Tijuana and other border cities received a different set of *tiempos oficilaes* commercials than the Mexican interior markets. These English language announcements promoted south of the border tourism and were well produced. That stopped with a change in federal administration in

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Mexico City. The Tijuana stations now air the same commercials as the rest of the nation, but a poorly translated, simply produced version. 91X also carried *La Hora Nacional* Sunday evenings at 10 and the Mexican national anthem at midnight and 6:00 a.m. (Halloran, 2018).

As 91X was taking off in San Diego, in Detroit, a teenage Michael Halloran had returned to his family from a boarding school in England. He had become enamored with the punk rock scene and the live music shows presented by the legendary John Peel on BBC Radio 1. Unhappy with the lack of musical variety on Detroit radio, Halloran would call station request lines and complain. One of the announcers on the other end of the line, John O’Leary, told Halloran to get trained in radio and get a job in the business. He took that advice and was working at Detroit public station WDET in 1986 when he got a call to the border (Cosper, 2015). After two years at 91X, Halloran moved on to other markets, including Los Angeles and Seattle, putting alternative rock stations on the air<sup>7</sup>. However, he would eventually return to San Diego as the 91X program director. Halloran established himself as an authority on the San Diego music scene, both through his work at several radio stations and promotional efforts for local bands.

### **Michael Halloran’s latest cross-border adventure**

Mario Mayans is a third-generation broadcaster and owner of Grupo Cadena, the operator of seven stations in Baja California. In March 2018, the company’s FM station in Tijuana, XHMORE, adopted a new identity as “98/9 TJ-SD”. The station operates with 50,000 watts ERP (Letter to Jose Francico Gutierrez Carmona, 2007) from a

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<sup>7</sup> Halloran returned to Detroit in 1990 and guided the transition of Windsor’s CJOM from adult contemporary to alternative CIMX, also known as 89X (Halloran, 2018).

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hilltop tower 0.7 kilometers (0.4 miles) south of the border. As the station's program director, Halloran guided the development of a format heavy on local music from each side of the border regardless of whether it is in English or Spanish, "rock and roll is a different language than English anyway..., they're not singing in prose half the time" (Halloran & Mayans, 2018). He added that running a station that speaks both English and Spanish fits right in with the market. At a Tijuana event for local musicians, Mayans found out that almost all of those attending were bilingual. Halloran has observed that billboards on the U.S. side in Spanish were once confined to border neighborhoods, but can now be seen throughout the area. Economically, Mayans pointed out that cross-border consumer spending is imbalanced toward Tijuana shoppers, "people from San Diego that come to Baja is pretty much tourism. And people that live in Tijuana, they go buy gas, kids that go to school, some of them buy properties" (Halloran & Mayans, 2018).

More than six months after the format change, Halloran (2018) reported the station was doing well. While it had not yet cracked the Nielsen Audio 6+ ratings in San Diego, the station has proven very popular with Tijuana's high income earners and Mexicans with visas to make frequent border crossings.

### **Serving San Diego in Spanish**

One-quarter of San Diego County residents speak Spanish. Most of the Spanish speakers are bilingual, as 61% claim to speak English very well (Language spoken at home - San Diego County, CA, 2017). Univision operates two Spanish-language radio stations in the market, Regional Mexican KLNK at 106.5 MHz known as "Que Buena", and KLQV, a Spanish adult contemporary station called "Amor 102.9". Sabina

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Widmann, Univision's vice president and regional radio general manager, said her Spanish-language competitors are all licensed in Mexico, and that makes little difference to listeners, "All they know is is this good music, is this entertaining, is this a DJ that I listen to and that I like and that I affiliate with or do they give away prizes that I like?" (Widmann, 2018). The stations do not pursue listeners in Baja California, although she has heard the stations played in restaurants when traveling into Tijuana and Rosarito. Que Buena and Amor do not have a sales office in Tijuana, but there are clients from south of the border, especially in health care, "We will work with businesses there that are targeting Hispanics that maybe they live in the United States, but they're willing to go down into Tijuana for services" (Widmann, 2018). She added that the Hispanic consumer profile in the San Diego market is primarily white collar workers with a median annual income of \$75,000 and living a cross-border life.

There is one significant difference between American and Mexican regulations that concerns Widmann, and it is a reminder of Wolfman Jack's days at XERB. Her Tijuana competitors are still practicing payola under which they accept payment or other consideration to play certain music on the air. This has put her in a difficult situation, "clients blatantly will ask us for it because our competition will do it" (Widmann, 2018). Widmann has to stand her ground on these requests, as accepting payola could put her licenses in jeopardy, not to mention the potential personal consequences. Her concerns may be heightened by Univision's experience with a payola scandal. In 2010, the company paid a \$1 million fine to the FCC to settle charges that employees at its music label had engaged in payola-related activity between 2003 and 2006. The music division was spun off in 2008. In addition to the

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fine, the company agreed to appoint a compliance officer, institute new policies, and provide better training to employees (Johnson, 2010).

While Widmann's stations do not have to air *tiempos oficiales*, she was happy they are airing in English on English-language stations. Despite the fact that radio is an advertising medium, music programmers would prefer to limit the time devoted to commercials. Widmann (2018) said her Mexican competitors spend too much time on ads, partially because of the requirement to carry the government announcements. The number of required announcements increases during election periods. A *Voice of San Diego* columnist noted that the English translations of the Mexican political commercials were not always conversational, such as, "You vote free, you investigate proposals, you choose, and you demand to be fulfilled. You vote free. Because you care for Mexico" (Dotinga, 2018).

Widmann sees a future in which San Diego and Tijuana become even more intertwined. She pointed to the growing success of the Cross Border Xpress (CBX), a bridge that connects the terminals of A.L. Rodriguez International Airport in Tijuana with San Diego. Flights from Tijuana are generally less expensive than flights from San Diego. There is service from Tijuana to more Mexican destinations than San Diego, and even flights to China. Opened in 2015, the bridge had 1.9 million users in 2017 (Dibble, 2017). She added that Tijuana is also trying to develop a reputation as a culinary destination. A local chef has coined the term "Baja Med" to describe a local cuisine that has developed since the early 2000s and reflects influences of the traditional Baja California foods with the area's Mediterranean-like climate and recent Chinese immigrants (Guo, 2017).

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Also serving San Diego in Spanish is XHOCL, an adult contemporary station known as Diego 99.3. The station was purchased by Frecuencia Modulada del Noroeste, a part of Mexican group owner MVS International, in 2007 (Cesion, 2007). It broadcasts from Monte San Antonio with an effective radiated power of 25,000 watts (XHOCL-FM 99.3 MHz, n.d.). Like its sister station XHPX in El Paso-Juarez, the station has a section 325c permit to broadcast from a U.S. studio (Action public notice and grant of authority, 2017). In this case, at a Chula Vista office building that is also the home of XHNLC. Another Mexican operator, Uniradio, has 325c permit to operate XHFG, also known as Pulsar 107.3, from studios in the Mission Valley section of San Diego (XHFG-FM letter, 2016).

### **Propaganda from South of the Border**

Another cross-border targeted station with a colorful history serving San Diego and Los Angeles from Tijuana is at 690 KHz. It was started in 1935 as XEAC by Jorge Rivera (Cabralet, et al., 2009). XEAC got the FCC's attention in 1956 when Rivera put a television station, XETV, on the air. Two San Diego TV stations objected to XETV becoming the ABC affiliate for the market. One of many claims made in the complaint was the possibility of XEAC's typical border station programming, "astrologers, fortune tellers, lotteries, horse race information, liquor advertising and stock speculative schemes" moving to television (American Broadcasting-Paramount Theatres Inc. memorandum opinion and order designating application for hearing on stated issues FCC 56-58, 1956, p. 615). XEAC would later become the Top 40 "Mighty 690", XEAK.



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In 1961, legendary Texas broadcaster Gordon McLendon bought the U.S. operating contract for XEAK and debuted new call letters and a pioneering format. XETRA, known as “XTRA News Over Los Angeles”, was one of the first all-news stations in the U.S., although with anchors reading the news from Mexico. XETRA’s all news format lasted seven years, until two Los Angeles stations, CBS-owned KNX and Westinghouse-owned KFVB, adopted their own all-news formats (Harvey, 2010). The station’s signal easily blankets southern California thanks to a power output of 77,000 watts by day and 50,000 watts by night using a directional array along the beach in Rosarito, south of Tijuana (XEWW, n.d.). XETRA continued through a series of music formats and some time as an all-sports station until February 6, 2006, when decades of English-language programming was replaced by Spanish talk called “W Radio 690” (SoCal gets "W Radio 690", 2006). One year later, the station switched to its current call letters, XEWW (Letter to Jose Francico Gutierrez Carmona, 2007).

XEWW was owned by a Mexican firm, W3 Comm Concesionaria, but the programming was provided under a section 325c permit by an American concern, GLR Networks. At first, the programs originated at a studio in Miami (Permit to deliver programs to foreign broadcast stations (XETRA-AM) 325-00106, 2005). In January 2018, GLR’s legal counsel advised the FCC that XEWW’s programming was changing from Spanish language to Chinese language and the studios would be at 3810 Durbin Street in the Los Angeles suburb of Irwindale (Ory, 2018). Six months later, the FCC’s International Bureau received a request for expedited approval of a section 325c change from a lawyer representing H&H Group USA. The letter said H&H was obtaining all of GLR’s equity and was merely asking that no conditions of the permit be changed

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except for the name of the permit holder (Fronabarger, 2018). The commission granted GLR an extension of its 325c permit through a Special Temporary Authority (STA), pending final approval of the transfer application (Permit to deliver programs to foreign broadcast stations Report No. 325-00216, 2018). However, that two-page advisory letter became the opening salvo in the latest battle of cross-border targeted radio.

On the surface, the transfer application appeared routine. Filed on June 20, 2018, it informed the commission that H&H had taken a 49% share in W3 Comm Concesionaria (consistent with Mexico's 2014 ownership revisions), and a 99% share in the division of W3 Comm that owns the station's operating assets. The application also claimed that XEWW would be carrying Mandarin Chinese programming to include music, entertainment, Los Angeles traffic reports, and Chinese community news. H&H Group's two owners were listed as U.S. citizens: Vivian Huo with 97% and Julian Sant with 3%. The programs would be fed to the transmitter via an internet stream from the Irwindale studio (Avett, 2018).

The filing of the application kicked off a series of events that was anything but routine. The first came on August 8, 2018, when the licensee of KQEV, a low power FM (LPFM) station licensed to the Los Angeles suburb of Walnut and aimed at the local Chinese-American community, filed a Petition to Deny the H&H Group application. The petition by Chinese Sound of Oriental and West Heritage (CSO) made two claims. The first was the potential negative impact of a border blaster competitor, "It will have the ability to reach CSO's entire listening audience with a more powerful signal than CSO's station. This could result in a significant loss of audience and donations for KQEV-LP" (Winston, 2018, p. 3).

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The second claim brought international intrigue into the case. CSO's counsel raised the possibility that H&H may get support and programs from the Chinese government, allowing the station to be used by the Chinese Communist Party to spread propaganda to unaware Americans (Winston, 2018). The petition also makes some implications about Vivian Huo. Huo is the Beijing-born managing partner of H&H Capital Partners, a New York-based investment and finance firm that specializes in helping Chinese firms invest overseas and overseas firms invest in China. She also has experience in financial journalism (H&H, n.d.). The petition questioned why Huo would make a Mexican radio station her first media investment. It concluded by painting an ominous picture of what might happen should the section 325c permit be granted, "if the programming of XEWW AM is tainted by, or worse controlled by, the Chinese Communist Party, the Chinese American community of Southern California could be indoctrinated with CCP propaganda, and the American political and economic community could be damaged," and called for an investigation (Winston, 2018, p. 8).

That call was heard beyond the halls of the FCC and caught the attention of two U.S. Senators. An August 13, 2018 story from the *Washington Free Beacon* took a deeper look at possible ties between H&H and the Phoenix TV satellite service. The *Beacon* reported that the Hong Kong-based Phoenix TV was established as a tool for overseas influence, and a former People's Liberation Army propaganda official was its chairman (Gertz, 2018). Phoenix TV had been involved in a 2013 attempt to purchase KDAY, an FM station serving Los Angeles, and KDEY, an FM station serving the San Bernardino-Riverside area. In that application, the new ownership of the stations would be split: 80% to a U.S. citizen named Anthony Yuen through his Delaware-incorporated

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LLC, RBC Investments, and 20% to a non-attributable shareholder that was Phoenix Satellite Television (U.S.) (FCC, 2013). This would meet the FCC's regulations on foreign ownership in effect at the time. The proposed sales of KDAY and KDEY generated several petitions to deny, most from people concerned about the loss of the stations' hip-hop format (Venta, 2013). Brett Hamilton, a Manhattan Beach man, filed a detailed petition asking the commission to reject the sale based on the foreign ownership regulations. Hamilton's 59-page filing said Yuen is employed as a reporter by Phoenix and questioned how he would finance the \$19.5 million purchase price. He also pointed out several connections between Phoenix's corporate officers and Chinese state-owned industries (Hamilton, 2013). The application listed a single address for Anthony Yuen and RBC: 3810 Durbin Street in Irwindale (FCC, 2013). On September 25, 2013, RBC's legal counsel notified the FCC it was withdrawing the applications with no further explanation (Burns, 2013).

The *Free Beacon* reported several ties between Phoenix and the XEWW application. First, the Durbin Street address is also the address of Phoenix. Another was that a Phoenix reporter, Jackie Pang, had joined H&H as a senior adviser, although Pang denied any role in the company's radio activities. Huo told the *Free Beacon* the station is renting space in the Phoenix building, but denied any involvement between Phoenix and XEWW for programming or the financing of the station purchase (Gertz, 2018).

Sen. Marco Rubio (D-FL) told the *Free Beacon* he would ask for an FCC investigation, "The FCC must protect American security and economic interests, and deny any attempt by the Chinese government to broadcast Communist Party

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propaganda and other programming into the United States” (Gertz, 2018). Sen. Ted Cruz (R-TX) echoed Rubio’s concerns in a letter to FCC chair Ajit Pai asking that the application be rejected, “The Chinese Communist Party is waging an information warfare campaign to undermine American democracy. The decision before the Commission risks allowing the CPC to broadcast government-approved propaganda into Southern California” (Cruz, 2018).

On September 4, 2018, CSO’s attorney filed a supplement to its petition. It called for a review of the sale on national security grounds, alleging that H&H is a “stalking horse” for Phoenix TV, which in turn is a “stalking horse” for the People’s Republic of China (PRC). CSO called for the station’s management to register as foreign agents and for the sale to be reviewed by the Committee on Foreign Investment in the United States (CFIUS). It also expressed doubt about the H&H claim that it would control the station’s programming, noting that Phoenix had taken out help wanted ads for the station and implying the satellite TV service would actually be running the station. The petition also included a request that the FCC deny the permit based on XEWW’s alleged programming,

CSO submits that the propaganda programming designed to advance the interests of the PRC and undermine U.S. elections patently is objectionable to Americans – just as objectionable as that which is obscene, indecent and profane. As such, the programming proposed to be broadcast poses a “substantial risk of public harm” (Winston, Supplement to petition to deny, 2018, p. 22).

The petition also asked the commission to rescind the special temporary authority allowing the station to operate from its U.S. facilities (Winston, Supplement to petition to deny, 2018).

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In the reply to KQEV's Petition to Deny, H&H Group's lawyers told the commission a possible adverse economic impact on another station is not a reason for denial under the FCC's rules. As for the allegations of the station as a conduit for Chinese propaganda, the reply called the charges unfounded. It also included statements from Huo and a media broker explaining how the sale came about. The reply also admitted that there is a programming agreement between H&H and Phoenix, but added H&H has the ability to preempt any programs the management might feel violates U.S. or Mexican rules or not be in the public interest (Oxenford & Fronabarger, 2018). CSO's reply to H&H's reply reiterated the company's claims that XEWW would be *de facto* controlled by Phoenix as a propaganda arm of the PRC and the FCC has the authority to consider the economic impact of the application on KQEV. It concluded with a request for a hearing and a renewed request for the cancelation of the STA (Winston, Reply to opposition to petition to deny, 2018).

Attorneys for H&H filed a 38-page response to CSO's supplemental filing. It first claimed that CSO's supplement was an improper filing and should be dismissed. It further claimed that most of the items in the supplementary filing were known at the time of the filing of the original petition. As for the CSO claims that XEWW operators would be agents of the Chinese government, "Chinese Sound is attempting to rely on knee-jerk, fear-based reactions to the combination of Chinese language content and investment by an individual of Chinese heritage in the hopes that the Commission will connect dots that do not exist" (Fronabarger & Oxenford, Response to unauthorized filings, 2018, p. 7). The response further stated there is no need for H&H or Phoenix to register as a foreign agent or for a firm owned by a U.S. citizen to clear a CFIUS

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review. It also reiterated that the FCC does not review program formats, but even if it did, the music and news format of XEWW could not be considered propaganda. It concluded, “grant of the Application is in the public interest and that denial would deprive Chinese-speaking residents of Southern California of a new radio service and an Asian-American woman the opportunity to operate a station serving significant populations in Southern California” (Fronabarger & Oxenford, Response to unauthorized filings, 2018, p. 19).

CSO’s legal counsel filed their response to the H&H filing on October 17, 2018. The 32-page reply reiterated the claim that a grant of the section 325c permit is a matter of national security. They once again cited allegations that Phoenix TV could act as a propaganda arm of the Beijing government, that Phoenix TV is actually in charge of the radio programming, that H&H must register as a foreign agent, and have CFIUS review the transaction. It concluded with another request that the application be designated for a hearing (Winston, Reply to response to unauthorized filings, 2018).

### **Conclusion**

#### *1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?*

With the millions of people and tons of cargo crossing the border, it is easy to consider San Diego and Tijuana as one metropolitan area. As the cities and the broadcast industry grew through the twentieth century, it just never seemed unusual for the San Diego audience to listen to stations from Tijuana. It was not a coincidence that American station owners viewed Tijuana’s stations as a way to bring additional signals into the U.S. market. The prominent role of 91X in the rock music industry overshadows the longevity in the market of its sister stations. That the San Diego

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Padres would have their English broadcasts originate on a Mexican-licensed station for a dozen years shows how invisible the border is when it comes to broadcasting.

It has been shown that San Diego-Tijuana has been a border-agnostic market for decades. However, this market generally runs one way: a group of the Mexican-licensed stations is seeking an audience on the U.S. side. These are high-powered AM stations using directional arrays as well as FM stations with advantageous tower sites and sufficient power to blanket the San Diego market. The two U.S.-licensed stations in Spanish in this study view their Mexican audience and advertisers as a bonus. Univision managers do not conduct promotions in Tijuana. They also do not maintain a sales office south of the border, but the stations do have Mexican advertisers.

*2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?*

Halloran and Mayans agreed with Widmann that San Diego's high cost of living has resulted in some of their U.S. citizen co-workers and associates choosing to live in Tijuana, where rents and other expenses are lower than in California. These are just some of the millions of people who go through the American and Mexican ports of entry on a regular basis. This is also a market where many people on both sides of the border are bilingual. In that environment, the mingling of U.S.- and Mexican-licensed stations in the ratings books should not be a surprise. It has been shown that several of the Mexican-licensed stations sound very much like the U.S.-licensed stations. The most obvious required Mexican content, the government commercials, have been translated into English for these stations. The choice of a Mexican-licensed station to



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be the flagship stations for both the Padres and Aztecs is further evidence that it is the station, not the country, that counts with listeners and the business community.

*3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?*

Operators such as Local Media San Diego find themselves navigating regulations imposed by both the American and Mexican governments. With studios in San Diego and transmitters in Mexico, a station needs a 325c permit to operate. While the FCC originally designed that law to silence John Brinkley, this situation allows the stations to sound and feel American. That is, until the Mexican content requirements kick in. Mexico's *himno nacional* is played at midnight and early in the morning. The long-running *La Hora Nacional* appears in Spanish for an hour each Sunday evening. These are not the highest times for radio listening. The station's legal ID, with the call letters read out in Spanish with the city of license, can be easy to miss as it happens quickly and quietly. However, it can be jarring to hear the transition from well-produced American commercials to the poorly-translated and simply produced *tiempos oficiales* in commercial breaks throughout the day.

*4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.*

It is not a stretch to say that cross-border targeted stations are part of the fabric of the San Diego-Tijuana broadcasting market. And station operators have faced legal challenges unique to this subset of stations. Years after Wolfman Jack learned the potentially tenuous nature of the contracts between American station operators and Mexican station owners, Willie Morrow found himself without a radio station. Using

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the same rationale of improper religious programs, XHRM's owner canceled his contract.

The managers at Clear Channel had found a loophole in the revised ownership regulations that could only happen in San Diego. They had the U.S. maximum of eight stations, plus five Mexican signals, creating a 13-station behemoth. The redefinition of what constitutes stations in a market forced Clear Channel to get out of the contracts. It did create an opportunity for the formation of a new company to manage the Mexican-licensed stations. The loss of those stations has reduced the successor iHeartMedia's share of the overall audience, but it remains the dominant operator in the market, commanding a 25.8 share of 6+ listening in Nielsen Audio's September 2018 ratings month. On top of that, Entercom's five stations account for another 18.2 share, giving the two firms a combined share of 44.0 (#17 San Diego, 2018). Any other owner in the market faces an uphill battle for revenue, hence Local Media's push as a local operator and seeker of non-traditional revenue.

Vivian Huo's purchase of a Mexican station to reach Chinese listeners in Los Angeles resulted in a petition to deny XEWW a renewal of its section 325c permit. That filing by the licensee of a Los Angeles area LPFM has kept two groups of attorneys busy and generated a file containing more than 160 pages of responses from both sides.

## Chapter 6: El Paso – Juarez

*Even though you can throw a rock from here and hit (Mexico), it's a different country, and you connect with those people and that's awesome. – Diana De Lara Zamudio, Senior Vice President, Entravision Communications (Zamudio, 2018)*

As the Rio Grande turns to the southeast and its waters flow toward the Gulf of Mexico, it crosses into American state of Texas on the north and the Mexican state of Chihuahua on the south. Floods and flow variations can cause a river to change its natural course, which can create a serious problem when that waterway is also an international boundary. A 1906 agreement to find a way to limit the Rio Grande's meanderings led to a canalization completed in 1943 (Rio Grande canalization, n.d.). U.S. President Lyndon Johnson and Mexican President Adolfo Lopez Mateos met in El Paso and Juarez in 1964 to complete the agreement on a permanent river channel and a fixed border (Gregory & Liss, 2010). On the Texas shore is El Paso County, home to more than 840,400 people in 2017 (El Paso County, Texas, 2018). The U.S. Census Bureau (n.d.) estimated 682,000 (81%) of the county's residents were Hispanic, with 648,000 of them from Mexico. Most of the county's residents live in the city of El Paso, population 684,000 (US Census Bureau, 2018). The bureau also found that 70% of the county's population speaks Spanish and 43% speak English less than "very well" (Language spoken at home - El Paso County, TX, 2016). On the Mexican shore is the Juarez metropolitan area, with a 2015 estimated population of 1,391,000 (Juarez, Chihuahua, n.d.). Juarez is Mexico's eighth-largest metropolitan area (Mexico: Metropolitan areas, 2017).

Because of the river boundary, the City of El Paso manages three bridges connecting the two cities. In 2016, there were 2.9 million private vehicle crossings,

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422,000 commercial vehicle crossings, and 4.36 million pedestrian crossings among the three bridges (International Bridges, n.d.). El Paso's retail sector benefits from being the only major shopping destination for hundreds of miles. The city's annual retail trade was estimated at \$12.24 billion, with an estimated \$980 million of that from Mexican shoppers (Rushe, 2017).

Driving along Interstate 10 or Loop 375, which parallel the Rio Grande, there is no way to be unaware that this where two worlds meet. U.S. government agencies have built a screened wall along the north side of river channel to deter illegal border crossing. Looking across the river from the American side, the differences in architecture and signage are easily apparent. The most distinctive structure in Juarez is *La Equis*, or "The X", a red letter X that rises 60 meters (197 feet) from a park on the south bank of the Rio Grande. Dedicated in 2013, the sculpture represents Mexico's merging of its native peoples and the Spaniards and commemorates President Benito Juarez, for whom the city was named. Juarez was the first Mexican president of Aztec descent and is credited with changing the spelling of the country's name from Mejico to Mexico (Dougherty, 2015).

There is one major difference between the two cities that is not apparent on the surface, but inescapable to those who live in El Paso and Juarez. El Paso was named the second safest city in America for 2017, based on an analysis of FBI crime report data (City of El Paso named second safest city in America, 2017). It is a very different story on the other side of the Rio Grande, with Juarez ranked at number 37 among the 50 most violent cities in the world for 2017. The city's homicide rate of 43.63 per 100,000 residents had doubled from the previous year. This was bad news as the rate

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had been previously been dropping from a high of 229 murders per 100,000 residents in 2010, ranking Juarez first on the most violent cities list (Figueroa, 2017). The head of the city's convention and visitor's bureau started a "Welcome back to Juarez" campaign in late 2017. Elisa Garrido told the *Albuquerque Journal*, "We went through a very hard situation. We want people to know what's happening now. It's nothing compared to what it was before" (Kocherga, 2017). Unfortunately for Garrido, the U.S. Department of State did not share her optimism. In August, 2018, the department issued a level three travel alert for Chihuahua, urging Americans to reconsider travel. It also issued several restrictions on U.S. government employees in Juarez, including, "Due to an increase in homicides during daylight hours in the downtown area, U.S. government employees are prohibited from traveling to downtown Ciudad Juarez...unless approved in advance by the Consulate General's leadership" (Mexico travel advisory, 2018).

### *The El Paso-Juarez Radio Market*

Nielsen considers El Paso to be U.S. radio market number 76 (Nielsen, 2018). El Paso is the number 20 Hispanic designated market area (DMA) based on television households in the United States (Nielsen, 2016). However, the market boundary is the Rio Grande, and that disappoints one El Paso broadcast manager, "If the population of Juarez was counted in our DMA, El Paso would be the fourth largest Hispanic DMA" (Zamudio, 2018).

The El Paso area is home to nine AM stations while on the FM dial there are 13 full-power stations (Radio-Locator, n.d.). There are 14 AM stations (Infraestructura de estaciones de radio AM, 2017) and eight FM stations licensed in Juarez (Infraestructura

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de estaciones de radio FM, 2016). Nielsen conducts continuous surveys of radio listening on the U.S. side of the market and makes available its estimates of listening by people over six years old, seven days a week, between 6:00 a.m. and midnight. Nielsen considers 80 percent of its target population in the market to be Hispanic. The firm's Spring 2018 ratings book listed 20 stations. Nine of the stations in the published results broadcast in Spanish. The cross-border nature of the market is obvious, as five of the listed stations are licensed in Mexico. Several of the largest radio groups in the U.S. and Mexico are represented in this binational market, including the American iHeartMedia, Townsquare Media, and Entravision Communications as well as the Mexican MVS International and Grupo Radio Centro (#76 El Paso, 2018).

This section will provide some examples of how selected stations in this cross-border market deal with differing regulations and whether or not they seek an international audience. It will include discussions of Mexican content requirements such as the *tiempos oficiales*, *La Hora Nacional*, and the *himno nacional*. U.S. ownership rules and recent changes in them, specifically in foreign ownership, will be explored as well as the continuing influence of section 325c, the so-called Brinkley rule governing American studios for stations licensed in other countries but receivable in the U.S. Market forces that have nothing to do with regulation are also in play here. American radio stations traditionally sell commercials in lengths of 30 seconds and 60 seconds. In Mexico, advertisers typically buy 20-second spots. In some cases, this has led to creativity in commercial scheduling.

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### **Entravision Communications**

Entravision Communications, based in Santa Monica, California, is a publicly-held corporation that owns 55 television and 49 radio stations, primarily Spanish-language properties, concentrated in the southwestern states (About us, n.d.). In El Paso, the company owns two Spanish-language television stations, the Univision-affiliated KINT-TV/26 and UniMas affiliate KTFN/65. Entravision also has five El Paso radio stations. The three in Spanish are KINT-FM/93.9, which carries the company's La Suavecita adult contemporary format, KYSE/94.7 with Entravision's Tricolor country programming, and KSVE/1650, an ESPN Deportes affiliate. The remaining two stations are in English: KOFX, a classic rock station called 92.3 The Fox, and KHRO/1150, an automated classic hits station that shares The Fox branding. All of the stations operate from a studio and office facility on El Paso's west side. The three FM stations broadcast from different towers in the Franklin Mountains above central El Paso, providing coverage across far west Texas, southeast New Mexico, and well into Chihuahua (Predicted coverage area for KOFX 92.3 FM, El Paso, TX, n.d.). The AM stations share a tower within an El Paso Water reclaimed water facility on Fonseca Drive, just 245 meters (800 feet) north of the Rio Grande (and the Mexican border) (KHRO-AM 1150 kHz, n.d.).

In the Spring 2018 ratings book, Nielsen Audio found KINT to be the most popular Spanish language station in the market among 12+ listeners, while KYSE ranked third, and KSVE barely registered (#76 El Paso, 2018). Senior Vice President Diana De Lara Zamudio oversees all of the stations. A dual U.S.-Mexican citizen, she grew up in Juarez and graduated from the University of Texas-El Paso (UTEP). She

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was excited about the stations' cross-border potential, "When you represent properties like I do, and the coverage map is like a circle, it doesn't see a wall. It's kind of interesting because you have all this extra audience" (Zamudio, 2018). The company has found ways to leverage the market's binational potential. The television side maintains an office in Juarez that houses the only El Paso TV news crew south of the border to cover stories and a sales team to sell commercials. For radio, Entravision has a representation agreement<sup>8</sup> with Radiorama, a Mexican firm that owns XHNZ, XHEPR, and XEP in Juarez (Emisoras, n.d.). Radiorama's staff can sell advertisements to Mexican businesses on both their own stations and Entravision's, an arrangement that provides 15 to 20 percent of Entravision's radio revenue. Zamudio (2018) says this works out well for Radiorama, "they love the fact that they can go to their clients and also include our stations because we're well-rated in Juarez." It is a one-way agreement, as Entravision does not represent the Radiorama stations in the U.S. Scheduling commercials for Mexican advertisers using 20-second commercials does create a problem for Entravision's traffic department. In some cases, three of them are scheduled back-to-back to provide the equivalent of one 60-second ad (Zamudio, 2018).

While Zamudio appreciated her Mexican advertisers, she was happy to be working for U.S.-licensed stations. In particular, she was glad to be free from the Mexican program requirements, "(the) government can come and say you're going to run all this and I don't have to pay you because this is my time, I own it" (Zamudio, 2018). She got a lesson in differing regulations in 2009. The El Paso television stations

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<sup>8</sup> Under a representation agreement, one company sells the advertisements for a station in locations where the station does not have its own sales staff. This is most frequently used for "national" buys through out-of-town advertising agencies. The representative earns a commission on its sales.



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are not available on cable in Juarez, but are easily received over the air. While the FCC mandated that American TV stations switch to digital in 2009, Mexican TV stations remained analog until 2015 (Mexico completes digital switchover, 2016), “We lost approximately \$2 million because they couldn’t see us anymore” (Zamudio, 2018).

KOFX was the top-rated station in the market among listeners 6+ in Nielsen’s Spring 2018 ratings book (#76 El Paso, 2018). Zamudio added that despite being in English, The Fox has a good audience in Juarez because the songs in its classic rock playlist were popular on both sides of the border when they were new, creating a shared experience, “those were the hits that we enjoyed” (Zamudio, 2018). The stations regularly hear from the Mexican audience, “that’s awesome because they call us, now with the digital world they are part of our Facebook pages and they talk to us and they tell what they want to hear and they tell us what’s happening over there.”

While the listeners may be providing intelligence about their lives, a vital source of intelligence for radio managers is of limited use in this cross-border market. The accounting firm Miller Kaplan Arase issues regular reports comparing revenues among radio and television stations in each market. This intelligence allows station managers to keep up on their performance against the competition. For the first seven months of 2018, the firm’s radio revenue report for El Paso showed Entravision’s radio group of five stations ranked third in billing behind iHeartMedia’s group of six stations and Townsquare Media’s group of three stations. However, Zamudio (2018) said in El Paso, the Miller Kaplan Arase report gives an incomplete picture of the market because it does not include the advertising revenue of the Mexican-licensed stations. She and other members of the El Paso Association of Radio Stations (EARS) have to deal with

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Juarez stations that sell advertising for much lower rates than the American stations. Whatever that spending may be, it is not reflected in a Miller Kaplan Arase study, preventing the station managers from having a complete picture of the radio advertising business in the market.

### **Grupo Radio Centro**

Any discussion of Spanish-language broadcasting in the U.S. must include Univision. The company is invested in television and radio networks and stations, online platforms, and media production directed at the American Spanish-speaking audience. For fiscal 2017, Univision reported total revenues of more than \$3 billion, with radio's revenue of \$267 million representing just eight percent of the total (Univision Communications Inc. and subsidiaries 2017 year-end reporting package, 2018). In a market with such a heavy Hispanic concentration, it would be expected that Univision would have a presence in El Paso. While Entravision has a Univision affiliation for both of its television stations, Univision exited the El Paso radio market in an interesting way.

In 2016, Univision announced the sale of the three El Paso radio stations it owned. KAMA/750, KQBU/920, and KBNA/97.5 were purchased by 97.5 Holdings LLC for \$2 million. What made the sale intriguing was that a portion of the new ownership was Mexico's Grupo Radio Centro and the second purchase of an interest in a U.S. station by the firm<sup>9</sup> (Jacobson, 2016).

Mexico City-based Grupo Radio Centro owns or operates 50 radio stations and was no stranger to the El Paso-Juarez market, where it already operated XHEM/103.5

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<sup>9</sup> In 2012, another firm 25% owned by Grupo Radio Centro purchased KXOS-FM in Los Angeles (Jacobson, 2016).

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which uses the company's *La Z* (La Zeta) pop format, news-talk XEJ/970, regional Mexican XEPZ/1190, oldies XEJCC/720, the firm's Planeta format is on XHIM/105.1, and XHTO/104.3 (Estaciones por formato, n.d.). Dario Rodriguez is the program director for the two Spanish language stations: regional Mexican KBNA, known as *Ke Buena*, and KAMA, a talk station, while KQBU is a CBS Sports affiliate known as Lone Star Sports Radio 920. He also serves as U.S. operations manager for XHEM and XHIM. Although he claims there is not a lot of cross-border listening to the stations, Rodriguez (2018) said the company's American and Mexican sales teams do book contracts for all of them. The revenue stays on the side where the sale was made, regardless of on which stations the ads will run. KAMA and KBNA may be in Spanish, but Rodriguez said most of their audience is on the U.S. side. Nielsen's Spring 2018 book put KBNA at number two among Spanish language stations with the 6+ audience, while KAMA had just enough listeners to be rated. Coming from the Juarez side, XHEM was fourth among Spanish stations in El Paso (#76 El Paso, 2018).

A lot of Rodriguez's attention was devoted to XHTO, also called 104.3 HITfm, a station he joined in 2003 and where he became both operations manager and the midday personality. Although licensed to Juarez and owned by a Mexican company, XHTO operates in English from studios and offices in east El Paso, a building that once housed an earlier cross-border hit station, XEROK. In 2017, it also became the home of the three former Univision stations. XHTO's programming is carried from the studio to the transmitter through an international fiber link. 104.3 HITfm may have ranked seventh overall in the Spring 2018 ratings book (#76 El Paso, 2018), but Rodriguez (2018) said that an important segment of the U.S. audience apparently does not care that

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they are listening to a Mexican station, “with women 18-34 middays it was ranked number one in the (El Paso) market, nights was ranked number one in the market, the morning show was ranked number two in the market, and that’s amongst women 18-34, so I’d say we haven’t had a problem.”

Although aimed at an American audience, he added that he does hear from XHTO fans in Juarez, “They’re listeners, listeners are listeners and if we can’t profit off of them, they’ll profit off of them in Juarez because we sell advertising over there. It’s not like we’re going to say no to listeners, the more, the merrier” (Rodriguez, 2018). The troubles in Juarez have cost XHTO some sponsors, “Back in the day, we did have a lot of nightclubs in Juarez that would advertise, but that has since stopped.... They don’t think it’s worth it because of the violence that’s going on over there and the people won’t really go over there to party” (Rodriguez, 2018).

Rodriguez (2018) said the binational possibilities are the best part of working and living in El Paso, “There’s events that happen on both sides of the border, so there’s always something to do. So there might be times there’s nothing going on here, but there might be something going on in Juarez.” The toughest part of his job is complying with Mexico’s requirements. XHTO has to break from the music on Sunday evenings at nine for the national and Chihuahua half hours of *La Hora Nacional*. The required twice-daily playing of the Mexican national anthem is at midnight and 5:00 a.m. The station has a unique approach to the *tiempos oficiales*: when the station goes to commercial break, it plays the English spots and then announces that the music will back in in 60 or 90 seconds, followed by the government announcements in Spanish, and a liner that the station is back. He said this is not confusing to listeners in a heavily

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Hispanic market, “For the most part, they do know that it is a Mexican station, so they’re used to it by now” (Rodriguez, 2018).

As mentioned, the Grupo Radio Centro share of ownership in the former Univision stations was the maximum allowed under the FCC rules at the time. Rodriguez (2018) said he would not be surprised to see a Mexican interest use the revised foreign ownership rules to purchase an El Paso station outright. One reason would be the ability to sell commercials on a U.S.-licensed station, “There are some clients that are reluctant on advertising on X stations, so X stations lose out on those advertising dollars.”

### **Public Radio in El Paso and Juarez**

El Paso’s NPR affiliate, and the first FM station in the market, is KTEP, licensed to UTEP. As with other FM stations that transmit from the Franklin Mountains, KTEP’s 94,000-watt ERP signal blankets a large area of neighboring Mexico (Predicted coverage area for KTEP 88.5 FM, El Paso, TX, n.d.). However, general manager Pat Piotrowski (2018) said the station provides no programming for Juarez listeners. It also makes no effort to seek an audience or financial support among Mexican listeners. Hence, there are only one or two Mexican addresses among the station’s 2,000 members.

This is a direct contrast to the public station in Juarez, XHUAR/106.7. The station’s 100,000-watt ERP easily covers both sides of the Rio Grande (Predicted coverage area for XHUAR 106.7 FM, Ciudad Juarez, CH, n.d.). XHUAR is owned by the *Instituto Mexicano de la Radio* (IMER), which operates 17 broadcast and one online stations plus an additional 39 digital channels using HDRadio (Que es el IMER, 2018).

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The Juarez station, known as Orbita 106.7, took to the air on July 1, 1986 with a mission that reflected its location on the border, “to help preserve Mexican traditions in an area where the influence of American culture is present at all times.” The station also adopted a music mix that was 60% English and 40% Spanish (Cronologia, n.d.). The station’s slogan is “Rock Sin Fronteras” (Rock Without Borders).

### **MVS International**

Radio station managers in a binational market have the opportunity to seek advertisers in either country. However, not all of them do and those that seek cross-border sponsors in this market approach them in different ways. MVS International is a Mexico City-based firm that owns 150 stations serving nine countries. The company manages four different formats that are localized in each market: FM Globo, a pop music format for a higher-income audience, The Best FM, providing rhythmic music from multiple Latin genres, MVS Noticias offers a morning news block and midday talk show for news-talk stations, and EXA FM (Nuestra cobertura, n.d.).

XHPX, also known as EXA 98.3, is one of more than 50 stations carrying the format based on pop music in Spanish and English for the youth market (Nuestra cobertura, n.d.). General Manager Manuel Saturno (2018) said MVS executives felt the station had maximized its revenue potential in Juarez,

(T)here’s a point you’re running out of things and you have 10 big clients in Mexico that gives you \$100,000 a year, how do you ask them for \$200,000 a year?... They already buy everything you do.... What can you do to get more money from them? You have to expand.

In 2005, MVS leased studio and office space in west El Paso with line-of-sight to the mountain in Juarez where the station’s tower is located (Saturno, 2018), allowing its 100,000-watt signal to easily blanket both sides of the border (Predicted coverage area

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for XHPX 98.3 FM, Ciudad Juarez, CH, n.d.). Atop the building is a microwave dish sending an FCC-authorized cross-border signal to the transmitter (WQCU286 license, 2015). Mexican regulations require XHPX also maintain studios and offices in Juarez, but most of the programming originates from El Paso. As a Mexican-licensed station, XHPX must play the *himno nacional*, or national anthem, twice a day, so it airs at midnight and 6:00 a.m. *La Hora Nacional* airs Sundays, with the national half-hour at 9:00 p.m. and the Chihuahua half-hour at 9:30 p.m. The *tiempos oficiales* take three minutes of each hour when there are no elections, and Saturno (2018) said that is an obligation he takes seriously, “the government monitors and makes sure that you run it.”

XHPX appeared to be taking full advantage of the cross-border possibilities in this market. EXA is not a syndicated format that comes from a satellite complete with announcers and imaging. The corporate office dictates the logo, colors, and branding, and provides guidance to the local stations. Each station has a program director, air staff, and the ability to tailor the format to local interests. Saturno said the differences between XHPX and other EXA stations is apparent in their playlists, “In Mexico, they might play in their super, super hits rotation, they might play four English songs, which is Bruno Mars, Katy Perry, Rhianna, and someone else. But then here, we should play 10 or 12.” He added that XHPX spins raggaeton, while in southern Mexico, the EXA stations include salsa and cumbia.

The station’s revenue mix in mid-2018 was 60 percent U.S. and 40 percent Mexico, but getting there involved a lot of growing pains. Advertisers needed to be given a choice in commercial lengths, with Mexican clients able to buy 20-second and

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30-second commercials while American advertisers could purchase 30-second and 60-second spots. Program directors at American music stations have long fought to reduce the commercial load on their stations, based on a belief that too many commercials turn off listeners. They would not like the EXA format clock, which calls for two commercial breaks of nine minutes each per hour (with a third break of six minutes during election periods when the *tiempos oficiales* obligation is greater) (Saturno, 2018). While being able to sell on both sides of the border is useful, it can be a challenge when dealing with advertisers who are present on each side of the Rio Grande, such as Coca-Cola and the automotive brands. EXA's success in the El Paso market has translated to increased revenue from U.S. national business. In the Spring 2018 ratings book, XHPX was the number three Spanish station 6+ (#76 El Paso, 2018). The station has a representation agreement with Entravision, whose El Paso stations are not format competitors, for sales to American advertising agencies.

Saturno said another problem management had to recognize and mitigate was establishing a balance between the cities,

In the U.S., to have the preference of the audience is the hardest work for a station, so we tried to put all our effort to get the audience's attention and we forgot about Mexico. We started doing promotions in El Paso and giveaways and everything in El Paso, so the Mexican audience was, 'I used to have the opportunity to get some tickets here and now you're gone.' (Saturno, 2018).

The station now does promotions in parallel: there are EXA promotional vehicles in El Paso and Juarez, giveaways are done in both cities simultaneously, and prizes offered on the south side of the Rio Grande are also offered on the north side. The air staff could be at the studio in El Paso or the studio in Juarez, but will never say which one, so the audience on the other side does not feel left out.



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Saturno, born in Mexico and now a naturalized U.S. citizen, was working in the corporate office when he helped build the El Paso facility, but returned to his duties in Mexico City. Now back in El Paso, he has had to explain to his former teammates some of the differences between running a radio station in the U.S. and one in Mexico. Among them is that a Mexican sales contract must bear an actual signature, while U.S. media buyers fax or email signed contracts. His El Paso employees are Americans, paid in American dollars, and make much more than their counterparts in Mexico.

With the growing pains out of the way, Saturno (2018) said EXA 98.3 was an exciting place to be, “The best thing for the company is we have more business than just being in one city, but the cool thing for us, the people that work here, is that we are able to have a good balance between different audiences, different clients.”

### **XEROK Today**

The Sun City Streaker X-Rock 80 dominated the El Paso market for a time in the 1970s as an English Top 40 station. It is now owned by Emisiones Radiofonicas and known as Calibre 800, a news-talk station. In an acknowledgment of its binational location, the station has studio lines with El Paso and Juarez telephone numbers (Calibre 800, n.d.).

### **Conclusion**

This study seeks the answers to several research questions. In El Paso-Juarez today, these are the answers to those questions.

#### *1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?*

While radio developed more slowly in Mexico than in the U.S., this market is an exception. El Paso got its first station in 1922 and a time-sharing partner in 1929 that

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came under common ownership in 1932. WDAH-KTSM was El Paso's only station until 1940. The court fight over getting KROD on the air helped establish the precedent that the FCC has no interest in ensuring a station's economic viability. The FCC noted that Juarez at the time had four stations in operation. Some of the stations in Juarez were authorized to serve the Mexican immigrants who had moved to the U.S. in the first third of the twentieth century. XELO and then XEROK brought the concept of using a Mexican license to reach a U.S. audience in English to the market in the 1940s.

Much like Tijuana and San Diego, Juarez and El Paso have developed together. It would therefore be expected that radio listeners would be border agnostic. Ratings and anecdotal evidence show listeners in the El Paso-Juarez market will seek a station based on programming and not country of license. This is proven through the ratings, where one quarter of the stations rated on the American side have call letters that start with "X".

For Entravision and MVS, cross-border listening is a vital source of revenue. If there was not a significant audience for Entravision's El Paso stations in Juarez, Radiorama would not be able to sell so much of the stations' inventories. MVS' dual-office operation allows Mexican and American advertisers easy access to the station's listeners regardless of what side of the Rio Grande they call home. At Grupo Radio Centro, the El Paso and Juarez sales teams sell every station in the market. The ratings show the group has the number two (KBNA) and number four (XHEM) Spanish-language stations in El Paso, each licensed in a different country.

American station managers have complained that some Mexican stations are selling time in El Paso at low rates. Regardless of the rates, they would not be able to

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sell those commercials if the business purchasing them did not think they would benefit from including the stations in their marketing plans. The combined Juarez metropolitan and El Paso County population is 2.23 million people. There were 4.36 million pedestrian crossings among the three international bridges in 2016. It is no surprise that listeners apparently pay little attention to the country of license for their favorite radio stations.

*2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?*

This question may be looked at differently in this cross-border market. With 70% of the county's population able to speak Spanish and 43% speaking English less than "very well", that "same language" in this market is not English. With just one Mexican-licensed station operating in English and five American-licensed stations operating in Spanish, the predominant language in El Paso-Juarez is obvious.

While no application as yet been made for a 100% Mexican-owned station in El Paso, the managers in this study said it would not surprise them to see it happen. Several major Mexican radio groups are familiar with this market through their Juarez stations, so taking an advantage of an opportunity in El Paso would carry less risk than in an unfamiliar market. As Rodriguez said, there are some advertisers in the market reluctant to advertise on Mexican stations. Even with a Mexican owner, it is possible that those advertisers would be more willing to use an American-licensed station. It is also now legally possible for an American firm to take an ownership position in a Juarez station, similar to the structure at XEWW in Tijuana.

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3. *Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?*

In a market with stations in English and Spanish licensed in both the U.S. and Mexico, listeners can hear the difference in regulatory schemes. The most noticeable is the continuing Mexican view that even privately-owned stations are acting on behalf of the government. The three conditions listeners would notice are *La Hora Nacional* on Sunday evening, the national anthem twice daily, and the government announcements throughout the day. In a Mexican interior market, all radio choices are carrying those requirements so listeners have no options. In a border market, Mexican listeners might be attracted to a station that does not deal with these mandates. American listeners might find them strange, as there are no comparable requirements in the U.S.

XHTO and XHPX are both highly rated and each operates from El Paso studios using the Section 325c permits that make those arrangements possible.

XHTO has announcers in English, a website in English, and plays English-language music. However, with its Mexican license, it has to air the *tiempos oficiales* and has chosen to air them in their original Spanish versions. That is not the case in San Diego, where stations use English translations. Management is not concerned about the Spanish messages, given the dominance of Spanish speakers in the market. While the transition back and forth between languages can seem strange to a listener unfamiliar with the station, it has not hurt XHTO's ratings and its dominance in certain dayparts and demographics.

With XHPX already in Spanish, the mandated programming does not stand out as much as it does on XHTO. While the air personalities and commercials are in

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Spanish, XHPX plays a lot more English music than its corporate cousins in order to attract American listeners.

*4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.*

. Grupo Radio Centro and MVS International respectively use American subsidiaries to operate their El Paso studios and hire their teams. This is different from Wolfman Jack's arrangement, in which he had a management contract with the Mexican corporate owner of XERB. Another difference faced by cross-border managers is the handling of sales agreements. MVS managers in Mexico expect a hand-signed contract when an advertising deal is negotiated. This is in direct contrast to American buyers, who place orders electronically.

One challenge of being in a binational market is the need to cross an international border to get from one side of the market to another. While there are few physical barriers between America and Canada, the north shore of the Rio Grande separating America and Mexico is lined with a fence and floodlight towers. It has been shown that Juarez can be a dangerous city. At least one U.S. ownership group had forbidden its managers from crossing into Mexico for any reason.

## Chapter 7: Detroit-Windsor

*“Now there’s some terrific rock stations in Detroit, but 35% of the people surveyed in Windsor said that their preference would be for a Windsor-based rock station, without recognizing there was already one in place” (Dann, 2018).*

Detroit is known as The Motor City or Motown, reflecting the industry that brought the city to prominence and the musical style it originated. Thanks to the meanderings of the Detroit River, the city also holds an unusual geographic designation: the only major American city where one travels south to enter Canada. Across the river is Windsor, Ontario.

The Detroit metropolitan statistical area (MSA) was home to 4.3 million people in 2017. The MSA covers five counties and is ranked 9<sup>th</sup> among American metropolitan areas (American Fact Finder, 2018). The 2017 population estimate for Windsor’s census metropolitan area was 345,000, the 16<sup>th</sup> largest in Canada (Canada at a Glance 2018, 2018). Vehicle traffic between the two cities moves across the Ambassador Bridge or through the Ambassador Tunnel, rail traffic uses the Michigan Central Railway Tunnel, and the Port of Detroit serves Great Lakes shipping. \$207 billion of international trade moves through Detroit each year, making it the third largest port in the U.S. (Toner & Kane, 2015). In 2017, the Detroit ports of entry processed four million passenger cars, 1.5 million trucks, and 2,000 trains (Border crossing/entry data, 2018). The Ambassador Bridge is the busiest crossing on the U.S.-Canada border (The Canada-U.S. border: By the numbers, 2011). The U.S. Customs and Border Protection force (CBP) and the Canada Border Services Agency (CBSA) jointly administer the NEXUS trusted traveler program. Holders of NEXUS cards have agreed to be screened

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in exchange for expedited border crossings. One indicator of the frequency of cross-border traffic is the almost 400,000 NEXUS cardholders in Detroit-Windsor (Border Barometer, 2018).

Detroit-Windsor is the intersection of two local media markets with a host of out-of-market signals available from Michigan, Ohio, and Ontario. It will be shown that cross-border radio listening is a major factor on one side of this market, but whether it could be considered cross-border targeted radio is an open question.

### *Legendary Radio in Detroit*

Pierre Trudeau's explanation of Canada as sleeping next to the elephant that is the United States becomes obvious when looking at the Detroit and Windsor radio markets. Detroit helped give birth to radio at WWJ, which broadcast the first radio newscasts. The station continues to lead the market with its all-news format. It was also the home of WXYZ, which produced *The Lone Ranger*, *The Green Hornet*, and *Sgt. Preston of the Yukon*. The station is now known as WXYT, the market's leading sports station. Since 1971, WRIF has established itself as one of America's premier album rock stations. According to long-time announcer "Screamin' Scott" Randall,

The product of WRIF on air from the best jocks to the incredible music for all demographics, has always been a benchmark for others to follow. Many have tried in the Detroit market to topple us off the mountain but in the end, we still keep going and going and going (Anthony, 2017).

These are just three examples of Detroit stations that made significant contributions to the radio industry. It is adjacent to this elephant of a market that the radio stations of Windsor must sleep.

Nielsen considers Detroit to be U.S. radio market number 13. The company's October 2018 ratings book for the market lists 26 stations as well as two online streams

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and two HD channels. Classic rock WCSX and WWJ were the top rated stations among people six and over listening between 6:00 a.m. and midnight across seven days (#13 Detroit, 2018).

### *Radio from South of the Border*

In Detroit, radio stations from south of the border have call letters that start with “C”. The contemporary Windsor radio dial is home to 13 radio stations: three AM and 10 FM. Among them are three stations owned by the CBC and a college station:

**Table 3 Windsor radio dial**

<b>Station</b>	<b>Alias</b>	<b>Freq</b>	<b>Format</b>	<b>Owner</b>
CKWW	AM 580	580	Oldies	Bell Media
CKLW	AM 800	800	News-Talk	Bell Media
CBEF		1550	French	CBC/Radio Canada
CIMX	89X	88.7	Alternative	Bell Media
CBE		89.9	CBC Music	CBC
CJAH		90.5	Christian Contemporary	United Christian
CIDR	The River	93.9	Adult Album Alternative	Bell Media
CJWF		95.9	Country	Blackburn
CHYR	Mix 96.7	96.7	AC	Blackburn
CBEW		97.5	Radio One	CBC
CJAM		99.1		Univ. of Windsor
CKUE	Cool	100.7	Rock	Blackburn
CINA		102.3	Ethnic	Neeti Ray



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Canada's Numeris ratings service listed no American stations among the nine it measured for Fall 2017 in Windsor. It determined that CKLW was the dominant station on that side of the river, with a share more than triple its nearest competitor (Windsor CTRL, 2017). There are no Windsor stations among those listed by Nielsen. However, the lack of Canadian stations listed in Detroit or U.S. stations listed in Windsor should not be taken as an indication there is no cross-border listening. Nielsen and Numeris make limited information from their data public and those releases do not mention non-subscribing stations. In Detroit, no Canadian stations are Nielsen subscribers while no American stations are Numeris subscribers in Windsor. Numeris does have non-published data, some of which was provided for this research, that enumerates cross-border listening in Windsor.

As mentioned, CKLW in Windsor played a significant role in Detroit radio going back to the 1930s. While there have always been other stations in Windsor, none made the cross-border impact of CKLW. This was especially true in The Big 8 days when CKLW was not only among the top-ranked stations in Detroit, but was also the third most listened-to radio station in the United States. In the three decades since The Big 8 played its last song, there has been less consideration of Detroit-Windsor as a cross-border market. The battle of the border is still going on, even if it has become less of a war.

### **Dark days in Windsor**

CKLW's management had warned the members of the CRTC that operating in Windsor presented challenges not found anywhere else in Canada. But the commissioners were a determined group. CRTC radio division head Sief Frenken

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summed up the opinion of the commissioners, “there was a feeling that we should repatriate the programming of CKLW for its Canadian audience” (Hayes, 2004). The CRTC is also charged with monitoring the economic status of Canadian broadcasters. It is possible that the commissioners were so blinded by their desire to take action on CKLW’s binational focus that they failed to consider the station management’s 4,000,000 reasons that operating in Windsor cannot be compared to operating anywhere else in Canada: Detroit is next door.

In 1984, CKLW and its FM sister, then CFXX, were owned by Russwood Broadcasting. Russwood had just one competing privately-held combination in Windsor, CKWW and CJOM-FM, owned by Radio Windsor Canadian. In addition to those two pairs, the CBC operated its own pair of CBE in English and CBEF in French. A special review of the Windsor radio market by the CRTC determined that CFXX and CJOM were losing revenue and audience because of, “the increasingly pronounced trend on the part of Windsor residents in recent years to listen to American radio stations, especially Detroit FM stations” and admitted, “the Commission is aware that the competitive situation in the Windsor area may be so difficult that, regardless of the regulatory environment, the Windsor FM licensees may well continue to experience financial difficulties” (Public Notice CRTC 1984-233, 1984).

The situation had become so dire by 1993 that the CRTC took an extraordinary step. The commissioners put all four privately-held Windsor stations under the common ownership of CHUM Ltd., a major Canadian group operator of radio and television stations that started with the legendary Toronto station 1050 CHUM. CKLW, the returned CKLW-FM, and CIMX (formerly CJOM) were music stations while

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CKWW was news-talk. The four stations had been operating at a loss from 1981 to 1991. CHUM managers told the commissioners they would maintain four different formats on the four stations, but combine all of the operations at CKLW's building on Ouellette Avenue (Broadcasting decision CRTC 93-37, 1993). Carleton University professor and former CRTC radio policy analyst George Pollard was critical of the CRTC decision, "CHUM Limited bamboozled the CRTC into believing the concessions were essential to developing a viable on-air presence in Windsor" (Pollard, 2018).

Even with savings in operational costs and ownership by one of the country's largest broadcast operators, management reported to the CRTC in 1999 that the music stations had yet to see a profit. CHUM's four Windsor stations had been through a set of format and call letter changes: CKWW had become an oldies station, CIMX was running alternative rock, and CIDR (yet another name for CKLW-FM) was an adult alternative station, while CKLW turned into a news-talk station. Desperate times call for desperate measures, and CHUM executives had a desperate proposal for the CRTC. Since 1986, the Canadian content (CanCon) requirement for popular music had been 35%. CHUM managers requested – and received – permission to drop the CanCon level on its Windsor music stations to 20% and not be bound by the commission's guidelines limiting the amount of hit music played (Broadcasting decision CRTC 99-513, 1999). This decision had the potential to set a precedent for other stations entering the Windsor market. However, taking advantage of that was the exact opposite of how prospective licensees approach the CRTC.

The CRTC requires popular music stations to play 35% Canadian content Monday through Friday between 6:00 a.m. and 6:00 p.m. and seven days a week

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between 6:00 a.m. and midnight. In addition, the stations must share a percentage of revenues with Canadian content development (CCD) organizations. A review of applications for new stations in Canada shows a consistent pattern: the applicants try to out-do each other with promises to promote new artists and make CCD contributions above what is required. Should the CRTC open a window for a new station in Windsor, an applicant seeking a 20% CanCon quota was not going to impress the commissioners.

### *Windsor Radio Rebounds*

The turn of the century meant a turnaround in the fortunes of CHUM's Windsor radio operations. In 2003, the CRTC determined that not only had the four stations been operating in the black since 1999, the profit before interest and taxes of the Windsor stations had beaten the Canadian average for English stations for each of the prior three years (Broadcasting decision CRTC 2003-603, 2003). If a market is turning around, other players will seek to enter the market. The commissioners determined there was sufficient business available in Windsor to begin considering licensing additional stations in the market.

The first applicant was BEA-VER Communications, owner of CKUE in Chatham, a city 70 kilometers (43 miles) east of Windsor. CKUE management wanted an on-frequency booster at 95.1 MHz in Windsor and promised to stick to the national standard of 35% CanCon. While CHUM objected to the application claiming there was not enough revenue in Windsor to support an additional station, the CRTC approved it (Broadcasting decision CRTC 2003-603, 2003). BEA-VER would later sell the station to Blackburn Radio and CKUE would become a full-power Windsor station at 100.7 MHz (Ontario, South-Western, n.d.).

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Blackburn would be in front of the CRTC seeking Windsor's next new station when the commission accepted applications for a station at 95.9 MHz in 2007. Blackburn's managers and consultants told the commissioners they had determined the best format choice was new country. Operations manager Walter Ploegman said the magic number, "While the conventional wisdom in this area is that stations must have a Canadian content 'break' to be competitive, we believe we can succeed with the regulatory level of 35%" (Blackburn Radio, 2007). Blackburn was awarded the station, CJWF, to be known as Windsor's Country 95.9.

When the CRTC awarded the license to Blackburn, it also had good news for a competing applicant seeking an ethnic station, "Neeti Ray's proposal for an ethnic radio service would add diversity to the Windsor radio market and could repatriate Windsor area residents who tune in to Detroit area ethnic radio stations." Ray was told to find another frequency and come back to the commissioners (Broadcasting decision CRTC 2008-101, 2008). Statistics Canada estimated that 28% of Windsor city residents were foreign-born, the largest groups from Iraq and Syria (Pearson, 2017). CINA went on the air at 102.3 MHz with the bulk of its programming in Arabic, but also providing programs in 11 other languages (CINA, 2018).

It has been noted that Canadian regulators refused to license single-faith religious radio stations until 1993. United Christian Broadcasters of Canada (UCB) already had a chain of stations established when it applied for a new outlet in Windsor in 2013. UCB's application mentioned that Christians seeking a radio station had four choices in Detroit, but none in Windsor. It also said they were aware of exceptions to CanCon requirements in Windsor, but would not seek a lower CanCon level than that

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required of other Canadian religious stations (UCB Canada, 2013). UCB Canada was licensed to operate CJAH at 90.5 MHz.

As these new stations were coming on the air, there were some other changes affecting the Windsor radio dial. Bell Media, then known as CTVglobemedia, acquired CHUM Ltd. in 2007. That put Windsor's four heritage stations under new ownership (CRTC approves CTVglobemedia buyout of CHUM, 2007). For CKLW and CIDR, this was a touch of nostalgia. CTV founder John Bassett and his Baton Broadcasting had purchased the stations from RKO General in 1979 after the CRTC ordered their sale to a Canadian interest. Bell Media was a division of Bell Canada Enterprises (BCE). Growing from its roots as a telephone company, BCE added national cellular service, broadband internet, streaming and satellite TV, as well as Bell Media. The four Windsor stations were among Bell Media's 109 radio stations, 30 television stations, 30 cable channels, and the CTV network (BCE overview, n.d.). In fiscal year 2017, Bell Media reported Can\$3.1 billion in revenue and Can\$716,000,000 in adjusted EBITDA (earnings before interest, taxes, depreciation, and amortization). Radio represented 14% of Bell Media's 2017 revenue (BCE Inc. 2017 annual report, 2018).

Bell Media had continued the cross-border operation established by CKLW many years earlier. The stations had a Detroit sales office and subscribed to the Arbitron/Nielsen American ratings services. Getting American commercials on the stations was not always simple. Some U.S. spots, especially those for beer, food, and drugs, did not conform with advertising regulations promulgated by Canada's Department of Consumer and Corporate Affairs or the Department of Health and

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Welfare. Many of the American advertisers were not willing to revise the commercials just for Windsor, so the stations lost the potential revenue (Partridge, 1991).

Working for a larger company means employees have to be alert to positive and negative changes in the firm's financial statements that could have a direct effect on their jobs. The company had cited financial pressures to downsize on several occasions. In 2009, six Windsor radio employees were laid off shortly after CTV shut down its Windsor station (Shaw, 2009). The Michigan sales office was closed in 2017 as part of another Bell Media restructuring that also led to the layoff of 12 employees, including the morning and afternoon drive personalities at CIMX (Graham A. , 2017).

There have also been several changes to the CBC's radio operations in Windsor. The public broadcaster's CBC Stereo service, later known as CBC Radio Two and then CBC Music, came to the market on CBE-FM at 89.9 MHz in 1978 (CBE-FM, n.d.). In 2011, a CBC initiative to move AM stations to FM took Radio One network programs from CBE at 1550 KHz to CBEW at 97.5 MHz (Bull, 2011). Managers at Radio Canada's CBEF told the CRTC their 540 KHz transmitter site was in need of extensive repairs and received permission to take over the 1550 frequency and transmitter site in 2012 (Kirshenblatt, 2012).

### **New Stations, Old Battles**

The CRTC has guided the development of Windsor's radio dial to reflect a balanced market: formats covering the most popular music genres, stations airing news-talk, ethnic, or religious programs, and three services from the CBC. Dimmick's theory of the niche said people will seek gratification from media choices presented. It would appear that almost all of those niches could be filled among Windsor's 13 radio stations.

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In just about any other Canadian market, the different stations would be settling in for their shares of listeners and revenue. According Ron Dann, president of Blackburn Radio, Windsor is not just any other Canadian market, “It’s just been a Detroit-driven market for long... there’s just a stellar level of on-air talent and accessibility to programming that we don’t have” (Dann, 2018).

Numeris’ predecessor, BBM, reported the amount of Windsor listening to out-of-market stations (which would primarily be from Detroit) was 55% in fall 2003, 57% in spring 2004, 55% in spring 2005, 59% in fall 2005 (Shaw, 2005), and 57% in fall 2006 (Shaw, 2006). The CRTC members had hoped to reduce the amount of Detroit listening by adding radio choices in Windsor. Even after the new stations came on the air, Windsor remained a Detroit-oriented market. Numeris prepared a custom analysis for this study and estimated that significant American listening was still going on in Windsor. Of the top 10 rated stations in Fall 2014, just three were licensed to Windsor. Although it should be noted that the combined share of CKLW and CIDR equals the combined share of the top six U.S. stations:

**Table 4 Fall 2014 Windsor radio ratings<sup>10</sup>**

Rank	Station	Format	Share %
1	CKLW	Talk	17.5
2	CIDR	Adult Album Alt	6.0
3	WCSX	Classic Rock	4.5
4	WDZH	CHR	4.4
5	WYCD	Country	3.7
5	WRIF	Active Rock	3.7
7	CJWF	Country	3.5
7	WOMC	Classic Hits	3.5
7	WNIC	AC	3.5
10	WXYT	Sports	3.3

(Numeris, 2016)

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<sup>10</sup> Fall 2014 diary analysis of listeners 18+ Monday-Sunday 5:00 a.m.-1:00 a.m. in Windsor CTRL. The processing of data, and subsequent analysis and conclusions found within have been conducted outside of Numeris. Numeris has not endorsed or validated these results or conclusions.



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A look at the November 2013 Nielsen ratings book for Detroit shows the four Bell Media stations had a presence in the market, but among the lower-rated stations (the other Windsor station owners have never been subscribers):

**Table 5 Windsor stations listed in Detroit November 2013 ratings**

<b>Rank</b>	<b>Station</b>	<b>Format</b>	<b>Share %</b>
1	WYCD	Country	7.9
2	WXYT	Sports	7.6
3	WWJ	News	6.8
19	CIDR	Adult Album Alt	1.8
20	CIMX	Alt Rock	1.5
26	CKWW	Oldies	0.4
28	CKLW	Talk	0.2

(Henson, 2014)

These charts show that Detroit-Windsor remains a market with significant cross-border listening, but it is Canadians listening to American stations.

In San Diego-Tijuana, cross-border listening has been a factor since the 1930s. Michael Halloran made a name for himself as program director and air personality at 91X, the legendary alternative station that serves San Diego with a Tijuana license. He also guided the conversion of CJOM to alternative CIMX, which interestingly adopted the nickname 89X. Reflecting on his experience in both markets, Halloran said San Diego and Tijuana are, “bonded by an economic disparity” that leads Mexican station owners to seek an American audience because dollars are worth significantly more than pesos. He pointed out that the disparity between the U.S. and Canadian dollars is never that large (Halloran, 2018).

There is an old adage that says, “You have to spend money to make money.” Radio stations build awareness through advertising and promotions, especially using billboards and making appearances at public events. They maintain awareness through

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providing programming their target audience wants to hear. While The Big 8 made a lot of money, it spent some of its revenue on the announcers and board operators who worked in tandem 24 hours a day, a full service newsroom, and the music research team. Bell Media continued to promote its four stations in Detroit for many years, but Blackburn's Ron Dann (2018) questioned its value, "I never saw them making dramatic leaps in their market position..., despite the money they put into billboards and promotions over there." Dann is content to search for listeners in his front yard, "As much as Detroit would be incredibly lucrative, I have to believe the Detroit radio stations are pretty good at what they do when it comes to sales and promotions and marketing their own formats."

George Pollard said Detroit and Windsor should be considered separate markets by stations owners and regulators. He does not think the CRTC should be making decisions about Windsor that give any consideration to attracting Detroit listeners, "If a listener finds a station in a different market entertaining, that's great. Local stations provide local service. It's not the job of a local station to compete with non-local stations" (Pollard, 2018).

Even though his stations use every traditional and new way to attract new listeners in Windsor, he admits it is an uphill battle. Blackburn's research team surveys the Windsor market trying to ascertain what will attract listeners to one of the firm's three stations. Dann gave an example of the frustrations that come from knowing what potential listeners are thinking:

45% of country music fans when asked said their ideal station location would be from Windsor. The scary part was that a lot of people didn't realize.... They knew that there was a station in Windsor, but they had not made the connection

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between our country music station being a Windsor country music station, even though we call it Windsor's Country Station 95-9 (Dann, 2018).

Dann added that Blackburn's stations follow every convention about how to attract and keep listeners:

You say you want a classic rock station, we have a classic rock station, you've been to some of the concerts we've promoted, and yet you have not made that leap yet, where you recognize that we're in the marketplace. That's a tough one. What events can we be at that would put us in front of people? How many coffee mugs or beer mugs can we give away before it gets to the point that it seems you're just spinning your wheels? (Dann, 2018)

The Bell Media station managers successfully convinced the CRTC that they needed a reduced CanCon requirement to be competitive. The commissioners granted the request, but made it clear it went against everything they believed:

The Commission has recognized that the Windsor market is unique, and has regulated radio stations that operate in Windsor in a flexible manner. The Commission has, however, established the principle that Windsor radio stations should reflect a firm Canadian orientation in their approach to the provision of spoken word and music programming (Broadcasting decision CRTC 2003-603, 2003).

No applicant for a Windsor station in the intervening years has sought Bell Media's exemption, including Blackburn. Dann (2018) said it was decision he has to live with, and it has not been so bad, "it's not prohibiting us from being successful, truthfully."

### **Conclusion**

This study seeks the answers to four research questions. In Detroit-Windsor today, these are the answers to those questions.

#### *1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?*

Detroit-Windsor does not have the cross-border targeted listening history of the markets studied on the U.S.-Mexico border. CKLW had incredible success, but was really an outlier. Detroit stations have a large number of listeners in Windsor, but

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appear to look at them more as a bonus. Dann (2018) said the Detroit stations have not promoted themselves to Ontario listeners. CKLW's corporate sisters made a concerted effort to maintain a presence with Detroit's listeners and advertisers, but never became major players on the American side of the river.

*2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?*

To the radio industry, Detroit is more than the largest city on the U.S.-Canadian border. It is also the Motor City and the U.S. automotive industry spent an estimated \$1.6 billion on radio advertising in 2017 (Ackley, 2017). The largest American radio groups are represented on the Detroit dial: iHeartMedia, Cumulus, Entercom, Beasley, and Radio One all have rated stations (#13 Detroit, 2018). This is a sharp contrast to Windsor, a metro area with just 8% of the population of Detroit's MSA.

With 4.2 million people to serve in Michigan, it is no wonder Detroit stations have shown little interest in Ontario. A search for Windsor news stories reported by WWJ reveals detailed coverage of just two stories in 2018: a labor dispute that closed the Caesars Windsor casino for two months and the continuing progress of the Gordie Howe Bridge, a third link between Detroit and Windsor that is scheduled to open in 2024.

It has been shown that the popularity of Detroit stations in Windsor has been a factor for many years. Regulations would seem to have little to do with that preference. There appears to be little the Windsor stations can do to change that orientation.

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*3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?*

The largest regulatory impact on Detroit-Windsor radio stations is technical. With the cities so close together, any technical change by a station in either market is going to have pass review by both the American FCC and Canada's ISED on behalf of the CRTC. Blackburn has been through that binational review several times with its Windsor stations, "It's a little bit longer process, because now you're going through two regulatory agencies, but you understand that and it might take a little bit more time to get that done" (Dann, 2018).

In 1999, CHUM managed to get from the CRTC the ruling CKLW's managers had requested years earlier. CKWW, CIDR, and CIMX would be exempt from the commission's program guidelines and only required to play 20 percent CanCon music. The stations went from losing money to being among Canada's most profitable operations. Even as they granted the exemption, the CRTC members reiterated that Windsor stations, "should reflect a firm Canadian orientation." As the CRTC filled out the Windsor dial with new stations, each applicant recognized that the exemption had been granted and Windsor was a unique market. Each then made it clear they intended to follow the CRTC guidelines as any other Canadian licensee in their formats.

*4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.*

Bell Media continued the binational operation CKLW established until 2017. Their promotions attracted a moderate number of Detroit listeners while their account executives found American revenue. It was shown that there were times potential U.S.

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sales had to be cancelled because the commercials would not conform with Canadian laws.

### *Missing Listeners*

The Windsor census metropolitan area is home to 345,000 people. They are served by a baker's dozen of radio stations providing a variety of listening options. The CRTC members have approved what should be a good market, were it not for the geographic situation.

Due to factors such as non-subscribing stations and out-of-market listening, a ratings book never reflects 100% of the listening in a radio market. But a comparison of Numeris topline reports from interior Ontario cities demonstrates the biggest challenge faced by Windsor managers:

**Table 6 Total share of radio listening reported in selected Ontario markets**

<b>Market</b>	<b>Stations</b>	<b>Total Share</b>
Sudbury	8	89.3
Thunder Bay	7	93.0
Ottawa-Gatineau (English)*	23	92.0
London	11	82.9

\*- Includes a portion of Quebec (Numeris, 2017)

In comparison, the Windsor topline report listed nine stations<sup>11</sup> with a total share of 46.5, leaving 53.5 % of the market listening unaccounted for (Numeris, 2017). These are numbers similar to those 14 years earlier, when Windsor had just four commercial stations.

Canadian radio markets do not have rated adjoining suburban markets as those of the U.S. For example, New York is the number one market in America. But Nassau and Suffolk Counties on Long Island are in a separate report, which ranks 20<sup>th</sup> among

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<sup>11</sup> The Windsor stations not listed were ethnic CINA, religious CJAH, French CBEF, and college CJAM.

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Nielsen's markets. Of the top 20 stations on Long Island in October 2018, just five are licensed in Nassau or Suffolk. The rest are licensed to New York City (#20 Nassau-Suffolk, 2018). Operating in the shadow of major market requires an emphasis on presence and promotion to maintain an awareness of options among potential listeners. As Blackburn discovered, even the best efforts cannot put your local station on a par with the big stations from the big city.

There is an old saying, "You can lead a horse to water, but you can't make him drink." The CRTC has filled the Windsor radio trough with a variety of stations. It appears a majority of Windsorites do not have a thirst for what local radio is offering.

## **Chapter 8: Vancouver – Bellingham**

### **Where Cross-Border Targeted Radio Meets the Law (Every Law)**

*The mindset I want to have my airstaff filter things through is ‘erase the border.’ –  
KWPZ General Manager John Randolph (2017)*

*The Lower Mainland of British Columbia’s ethnic radio market can best be described  
as an all-out free-for-all.*

*-Bernie Merkel, CJRJ Operations/General Sales Manager (2016, p. at 4323)*

Unlike the San Diego-Tijuana, El Paso-Juarez, and Detroit-Windsor markets in this study, the Vancouver-Bellingham area does not have a large city on both sides of the U.S. border. Metropolitan Vancouver has an estimated population of 2,549,000 (Population of census metropolitan areas, 2017). On the U.S. side is Whatcom County (the county seat and largest city is Bellingham), with a 2017 estimated population of 221,000 (Annual estimates of the resident population: April 1, 2010 to July 1, 2017, 2018). Blaine, WA sits on the south side of the border with Surrey, BC, a boundary marked by the Peace Arch, on which is inscribed “Children of a Common Mother” (Peace Arch historical state park, n.d.).

This is an area where cross-border commerce is strong. Residents of Bellingham enjoy easy access to everything Vancouver and Seattle have to offer. For those living in southern British Columbia, Whatcom County provides shopping options often at lower prices than can be found in Canada. Drivers heading to the Peace Arch border crossing from the south can be observed filling up not only the gas tanks in their vehicles, but additional containers in their trunks in order to save money when filling



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their other cars<sup>12</sup>. Long-term analyses of cross-border shopping trends show a direct correlation between the amount spent and the exchange rate of the Canadian dollar (Nichols, Yu, & Saga, 2010). When the Canadian dollar is high, parking lots on the U.S. side can be so crowded that Americans have asked for U.S.-only shopping hours (Allison, 2012). But when the Canadian dollar is lower, the number of Canadian cars seen in Whatcom County retail parking lots declines precipitously (Changes in Canadian shopping visits to northwest Washington, 2013-2016, 2017).

Although the number of retail shoppers may have dropped, Whatcom County's border cities have seen geography lead to a boon in online shopping. Because some U.S. web stores will not ship to Canada, or charge higher shipping fees, or some Canadian online sites charge higher prices for the same products, a number of BC residents have opted to shop American sites and ship their online purchases to private mailbox stores in border cities. Blaine's portion of the sales tax paid on online purchases delivered to the city, plus a penny-per-gallon local gasoline tax, were a major part of the city's 2017 sales tax revenue of \$1.7 million, much higher than similar Washington cities away from the border (Samuel, 2018).

This section of the study will look at how radio came to the Bellingham and Vancouver markets. Another difference in this market compared to others in the study is a lack of history of cross-border listening. It will then look at three different formats in the contemporary market: music, religion, and South Asian. For the latter two specialty formats, cross-border listening has been essential for the past two decades.

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<sup>12</sup> On September 2, 2018, one liter of gasoline sold for Can\$1.459 in Vancouver, while in Blaine a liter of gasoline was Can\$1.164 (CKWX, 2018).

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For religious stations KARI and KPWZ, Canadian listeners and advertisers are important to their success. Vancouver's large South Asian population did not have a radio station dedicated to them until KVRI and then KRPI began offering South Asian programming, but from Canadian studios. That arrangement was not in violation of any U.S. rules. But Canadian regulators would view these operators as exploiting a loophole that needed to be remediated. The ensuing battle resulted in fully legal stations being branded as pirate operators, years of hearings, and the eventual licensing of four stations to serve this immigrant community.

### *Radio comes to Whatcom County*

On the U.S. side, proximity to the border means different things to different Whatcom County radio station managers. Depending on the format, Canadian listeners and advertisers are either a nice bonus, an essential factor, or their reason for being. However, all of the managers interviewed agreed that operating under American regulations was far preferable to operating under Canadian rules.

The FCC has issued licenses to four full power FM and six AM stations in Whatcom County, five of which have FM translators (KRPA-AM 1110 KHz, n.d.). The first station in the county was KGMI in Bellingham. Its early history included traveling up and down the dial: originally licensed in 1926 at 900 KHz, the station moved to 1430 KHz the next year, then 1200 KHz in 1928. In 1941's NARBA reallocation, it was moved to 1230 KHz, but that only lasted until 1943, when KGMI made its final move to 790 KHz (KGMI history cards, n.d.). In 1960, KGMI's ownership put KISM-FM on the air at 92.9 MHz from a tower on Mount Washington on Orcas Island in the strait between Washington's west coast and Vancouver Island, 15 kilometers (9 miles) from

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the Canadian border (KISM history cards, n.d.). This became the site of choice for Whatcom County's FM stations as KBLE in Bellingham (now KAFE), then the FM station of KARI in Blaine, joined KISM there in 1966 (KAFE history cards, n.d.). KLYN (now KWPZ) went on the air from Lynden in 1961 and made its first application to move its transmitter to Orcas Island shortly thereafter (KWPZ history cards, n.d.), but did not actually start broadcasting from there until 1997 (KWPZ FM broadcast station license, 1997). KARI at 550 KHz and KVRI at 1600 KHz are licensed to Blaine. KARI went on the air in 1960 (KARI history cards, n.d.) from a studio and transmitter site on the south shore of Semiahmoo Bay, with a view of the Peace Arch and the White Rock section of Surrey, BC across the water. KVRI was licensed from the same site in 2000 (KVRI AM broadcast station license, 2003), requiring seven towers to accommodate the four directional patterns. KVRI transmits with 50,000 watts during the day and 10,000 watts at night with a directional signal that easily covers metro Vancouver (KVRI-AM 1600 Khz, n.d.). In December, 2018, KARI added an FM translator at 95.7 MHz and KVRI got a translator at 105.3 MHz (Levine, 2018). Both are located on a tower east of Blaine that was used by KWPZ prior to its move to Orcas Island (KWPZ history cards, n.d.) and just 620 meters (680 yards) south of the border.

**Table 7 Whatcom County Radio Stations**

KARI	550 (95.7)	Blaine	Christian
KGMI	790 (96.5)	Bellingham	News/Talk
KBAI	930 (98.9)	Bellingham	Classic Hits
KPUG	1170 (97.9)	Bellingham	Sports
KRPI	1550	Ferndale	South Asian
KVRI	1600 (105.3)	Blaine	South Asian
KUGS	89.3	Bellingham	NPR
KISM	92.9	Bellingham	Classic Rock
KAFE	104.1	Bellingham	Adult Contemp
KWPZ	106.5	Lynden	Christian

(AM stations also using FM translators as shown) (Radio-Locator, n.d.)

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### *Radio comes to Vancouver*

Vancouver's first three radio stations had two things in common: each was owned by one of the city's three daily newspapers, and each took to the air in March of 1922. The *Daily Province* operated CFCB, the *Sun* on CJCE, and the *Daily World* owned CFYC. The Canadian National Railway put CNRV on the air in 1925 as part of its network of stations along rail lines. That network would later become the CBC. FM came to the market in 1947 when the CBC established CBR-FM as the first FM station west of Toronto. French was heard on Vancouver airwaves via Radio Canada's CBUF-FM in 1967. The area's immigrant community got its own station in 1972, when CJVB signed on at 1470 KHz (Station history, n.d.). In 2016, the Vancouver radio market had nine commercial AM stations and 13 commercial FM stations (Broadcasting decision CRTC 2016-464, 2016) as well as five CBC Radio stations, two of them in French (British Columbia, 2017). Among these were five ethnic stations: three primarily for Chinese audiences (CJVB, CHKG, and CHMB) and two primarily for South Asian audiences (CJRJ and CKYE-FM) (Broadcasting decision CRTC 2016-464, 2016).

Ted Rogers' prodigious effort to upgrade his Toronto AM station was not the only time a technical change involved binational moves. In 2010, KMCQ (now KLSW) filed an application to move from The Dalles, Oregon into the Seattle market at 104.5 MHz. But in order to make room for KMCQ on the Seattle dial, KAFE in Bellingham and CHHR in Vancouver had to swap frequencies with KAFE moving to second adjacent 104.1 MHz and CHHR taking over the first adjacent 104.3 MHz (Venta, 2010).

### **Music Stations and the Border**

The general manager (2017) of one Whatcom County radio group summed up the feeling of local broadcasters by saying, “We’re regulated by the FCC and so we play ball based on the FCC regulations and that musically gives us a little bit of an advantage over the Canadian stations because they have to play ball by the CRTC rules which dictate a lot of their content and the fact that it needs to be Canadian content (CanCon).” This can be obvious on a music station, “So if you were to listen to a classic rock station...for an hour and a half, two hours, you will notice a distinct difference from listening to a classic rock station in Canada just by the fact that you will hear quite a different variety of songs, a prevalence of more Canadian artists and even deeper cuts that might not even make the grade on a U.S. classic rock station.” American programmers get to select the best songs available from the best artists and present them in a way designed to attract the largest share of their target audiences however they see fit, “as opposed to being dictated the percentage that we have to play and pick the best of those percentages to make it work.”

Corus Entertainment owns four stations in Vancouver, including alternative rock CFOX at 99.3 MHz and CFMI “Rock 101” at 101.1 MHz. Brad Phillips (2018), the Corus vice president for FM radio who is charge of programming for 30 stations across the country, said CanCon compliance is no longer the disadvantage it once was, “we have legitimate Canadian artists, that people will pay money to go and see their concerts, and want to hear their music.”

As a non-subscriber to Canadian ratings, the Whatcom County general manager could not give a statistical estimate of north-of-the-border listening, but could report

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significant Canadian participation in events and telephone interactions. British Columbia venues and promoters have contacted Washington stations for promotional agreements around concerts. The manager claimed some business owners in far southern BC, typically between White Rock and Chilliwack, have learned they reach not only American shoppers, but Canadian shoppers who listen to American stations in significant enough numbers, by advertising on U.S. signals.

Phillips (2018) said he thinks CFOX and CFMI have some American listeners, but the stations make no effort to attract or serve them nor do they have an infrastructure to generate U.S. revenue for the stations. But that does not mean the stations do not take advantage of their proximity to Seattle, “If there’s a concert that is coming into Seattle of an artist that’s not coming into Vancouver, it wouldn’t be uncommon for us to do a promotion and send a busload of listeners down to see the concert.” The stations also run contests that involve the Seattle Seahawks and Mariners professional sports teams. While there is duplication among music formats by stations in Bellingham and Vancouver, the same cannot be said for religious stations.

### **Bringing God’s Word to Canada – Through the U.S.**

The management at most of the stations in this study made an economic decision to seek an audience on the other side of the border from the country of license, which usually meant seeking American listeners and advertisers. For these two U.S. stations, a Canadian audience and sponsors became essential but were not given much attention early in their operations. KARI, operating with 5,000 watts day and 2,400 watts night, has been owned by Multicultural Broadcasting since 2000. The purchase from Birch Bay Broadcasting led to an end to local programming such as news and high

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school sports in favor of a fully brokered schedule of Christian shows. General Manager Dan Levine (2017) said the station serves an important purpose, “We provide programming that is of great value: it’s edifying, it can be reassuring, it can be of great interest by contrast to some of the things where radio is going.” The station’s geography is important to many of the ministries from the U.S. and Canada that buy time on KARI, “we play a valued role in providing Christian talk and Bible teaching to Vancouver, where there are no Christian radio stations” (Levine, 2017). That format void in Vancouver also benefits KWPZ, known as Praise 106.5, a Contemporary Christian Music (CCM) station licensed to Lynden. The station is one of four owned by the media division of Christa Ministries. Its net income is used to support Christa’s other ministries. Moving the transmitter to Orcas Island led to an interesting discovery. General Manager John Randolph (2017) said “We thought we’d impact some people in Canada, but it wasn’t our original plan or goal. And as time went on, we realized that 75 percent of our listeners are now Canadian.”

As with music stations and the CanCon rules, religious stations KARI and KWPZ are also the beneficiaries of the stark differences between Canadian and American radio regulations. As previously mentioned, Canadian regulators refused to license radio stations advocating the views of a single faith until 1993. With no religious stations in the Vancouver market, KARI and KWPZ were able to take advantage of their proximity to the so-called Bible belt of British Columbia in the Fraser Valley, east of Vancouver and centered around the city of Abbotsford, home to more than 185,000 people (Population estimates, 2017). A study by the evangelical support ministry Outreach Canada found that while attendance at mainstream Christian

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churches in Abbotsford had declined between 2001 and 2013, evangelical churches in the city had seen more people in their pews (Abbotsford church research project, 2016).

For KWPZ's Randolph (2017), that larger population north of the border is invaluable. KWPZ rents office space in Abbotsford and has an account representative based there working with and seeking advertisers for the station. KARI's Levine (2017) works with the Christian marketing firm Eaglecom in Surrey to obtain Canadian program and advertising revenues. In July 2017, KARI carried 49 programs, 20 of them Canadian. While program sales represent the bulk of KARI's revenue, 90% of the spot sales revenue during the first seven months of 2017 was from Canadian sources. Unlike KWPZ, KARI does not subscribe to the Numeris ratings service, but Levine does hear from his audience, "There's a frequency of listeners and calls, letters, inquires that comes from the Fraser Valley." In the Numeris data provided for this study, KWPZ was the most listened-to U.S. station in the Vancouver Central ratings in Fall 2014, with KARI tied for third<sup>13</sup>.

Managers at KWPZ and KARI/KVRI have dealt with several of the regulatory issues which exclusively affect cross-border targeted stations. According to KARI/KVRI chief engineer Michael Gilbert (2017), the KVRI construction permit had been in effect for some time before the previous owner decided to build the station, "to make sure that we were going to be a good neighbor to our folks across the way, we went to the CRTC and Industry Canada and we hired two of their recent retirees from their ranks and we asked them to take care of any issues that were reported across the

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<sup>13</sup> Fall 2014 diary analysis of listeners 18+ Monday-Sunday 5:00 a.m.-1:00 a.m. in Vancouver CTRL. The processing of data, and subsequent analysis and conclusions found within have been conducted outside of Numeris. Numeris has not endorsed or validated these results or conclusions.



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border.” KWPZ has experienced some adjacent channel interference in Canada since aboriginal station CFVE in Vancouver signed on in 2017 at 106.3 MHz (Randolph, 2017).

As discussed earlier, Canadian businesses are unable to deduct advertising costs on non-Canadian media as a business expense. However, advertising sales in British Columbia are subject to a federal goods and services tax (GST) of five percent, adding \$50 in costs to every \$1,000 purchased<sup>14</sup>. Randolph (2017) said that Canadian advertisers on KWPZ are not subject to the GST, “So there’s a little bit of one bucket to another bucket there. They don’t have to pay taxes when they advertise on our station, but they’re not able to write off their advertising expenditures on the station either.” He added that there has been some reluctance on the part of his sponsors to support an American station,

Some of our advertisers, in reading between the lines, they almost have some guilt if they’re advertising on our stations as opposed to spending their dollars within Canada. We try and help them through that, explaining that most of our listeners are actually in Canada. In fact, many of our listeners believe we are a Canadian station.

For concerts in Canada, KWPZ works with a promoter who handles the artist negotiations and performance taxes. Another issue faced by cross-border targeted stations is the need for a binational infrastructure. In addition to its Abbotsford sales office, KWPZ rents a storage unit on the Canadian side and stocks its promotional items there to avoid having to make a Customs declaration each time an event team crosses the border (Randolph, 2017).

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<sup>14</sup> This rate can be higher in provinces with a harmonized sales tax (HST) that combines the GST with a provincial sales tax (PST). In Ontario, the HST on advertising is 13 percent.

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The general managers of KWPZ and KARI agree that not being subject to the CRTC's regulations on single faith stations gives them a distinct advantage. Even though KWPZ is not subject to the CanCon music quotas, Randolph (2017) said that his station plays more Canadian musicians than the other stations in his group, "but they are not added because they are Canadian, we add them if they're great artists." He also trained his on-air staff to operate as though the border does not exist. For example, temperatures are given in Fahrenheit for U.S. locations and Celsius for Canadian ones without specifying which scale is used, "I want our hosts and the entire feel of the station to identify with people, regardless of where they're located."

Neither KWPZ nor KARI have dealt with pushback from Canadian stations or regulators. However, that may change should a Christian station be established on the north side of the border. Scott Hutton (2018), the CRTC's executive director of broadcasting, said the commission is aware of American licensed stations that attempt to attract listeners in Toronto and Montreal, "but they don't have the economic weight to cause a serious, negative impact." It was that position which led the CRTC to act against three other radio stations in northwest Washington.

### **The South Asian South of the Border Fight**

For three AM stations in northwest Washington, cross-border targeting was not a bonus, it was the purpose. KARI and KWPZ served their Christian audiences in British Columbia without any regulatory concerns from the Canadian side. The same cannot be said of this set of stations, which served the South Asian immigrant population in Vancouver. While all three stations had remained in full compliance with FCC regulations, the CRTC took a dim view of their operations. In addition, local

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authorities thwarted a plan that would have provided one of them with a much better signal into Canada by taking advantage of a quirk in international boundaries.

Metro Vancouver is a regional planning area encompassing the southwestern corner of mainland British Columbia. It is divided into 21 municipalities, of which the City of Vancouver is the largest with its population of 641,000 (About us, 2016). The Statistics Canada 2011 National Household Survey (2016) reported metro Vancouver was home to 248,560 people of South Asian origin, 11 percent of the total population. With just one ethnic station licensed to Vancouver, and that station serving listeners from multiple parts of the globe, this was a target audience ready-made for a broadcast entrepreneur.

### *South Asians in the Pacific Northwest*

The first arrival of South Asian immigrants to the Pacific Northwest did not go well. In 1904, five thousand men from India, mostly Sikhs, arrived in British Columbia to begin working in lumber mills. They established the Khalsa Diwan Society and erected a gurdwara (temple) in Vancouver (Wong-Chu & Tzang, 2001). In Bellingham, a mob of American workers unhappy with South Asian workers in that city's lumber mills staged a 1907 riot that resulted in all of the foreign workers leaving the city (Cahn, 2008). A number of Canadian workers were also not happy with the arrival of these immigrant laborers. In 1908, Parliament approved what was known as the Continuous Passage Act that would allow the government to "prohibit the landing in Canada of any specified class of immigrants or of any immigrants who have come to Canada otherwise than by continuous journey from the country of which they are natives or citizens and upon through tickets purchased in that country" (Statutes of Canada. An Act to Amend

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the Immigration Act, 1908. Ottawa: SC 7-8 Edward VII, Chapter 33, 1908). In 1914, the ship *Komagata Maru* arrived in Vancouver harbor carrying 376 east Indian immigrants. It remained docked for two months until a court ordered the ship to leave with all passengers remaining on board<sup>15</sup> (Continuous journey regulation, 1908, n.d.). A government offer to move Sikh immigrants to British Honduras in 1908 was rejected (Wong-Chu & Tzang, 2001). In the aftermath of World War II, Canada's attitude toward Asian immigrants changed. The Continuous Passage Act was repealed in 1947 (The 100th anniversary of the Continuous Passage Act, 2008). In 1950, voters in Mission, British Columbia elected a Sikh to the city council and then mayor four years later (Wong-Chu & Tzang, 2001).

Metro Vancouver has become a destination of choice for immigrants. The area's non-European population grew 422% between 1971 and 1986 (Good, 2009). This was most apparent in the years before the People's Republic of China assumed governance of the former British colony of Hong Kong in 1997. Good (2009) wrote that almost 45,000 people moved from Hong Kong to the Vancouver area between 1991 and 1996. In 2011, Statistics Canada reported there were more than 913,000 immigrants among metro Vancouver's 2.3 million residents, or 40% of the area population (2011 national household survey catalogue no. 99-010-X2011028, 2016). Immigration and economic growth have become tied together in the City of Vancouver. During his 1980-86 incumbency, Mayor Mike Harcourt established a goal of making Vancouver the

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<sup>15</sup> Indian colonial authorities were standing by when the ship returned to Kolkata and attempted to arrest some of the passengers they claimed were Sikh radicals. In an ensuing riot, 19 of the returnees were killed (Lewis D. , 2016).

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gateway to the Pacific Rim. In 2004, city councillor Jim Green said, “it is our diversity that gives us our competitive edge internationally” (Good, 2009, p. 174).

Immigrants to a new land must decide on a proper balance between their native culture and that of their adopted homeland. This presents infinite choices in language, clothing, social circles, consumer decisions and media consumption. Nayar (2004) wrote that the gurdwaras served as the structural centers of the Sikh community “however, radio shows are the most important medium for the first generation in its efforts to maintain a connection with the Punjab” (p. 194). By moving across the Pacific, some immigrants become transnational: they find themselves physically in Canada, with their languages and cultures from their former home, but also forced to adopt the language and culture of a new nation, what Doyle (2009) termed a “radical, *involuntary* connectedness” (p. 2) (emphasis in original).

This section of the study is a look at the twists and turns followed by those who wanted to find a way to serve the South Asian residents in metro Vancouver through radio. American newspaper columnist Dave Barry has built a career writing essays that include the phrase, “I am not making this up.” As was shown with the early Mexican border blasters, the history of North American radio has some bizarre chapters. Another was written along the shores of the Salish Sea.

This section features three Canadian families, three American radio stations, two countries, and one regulatory body determined to carry out its national mandate. Maninder Gill blazed the trail for Vancouver South Asian broadcast entrepreneurs. Amardeep Badh and Gurpal Garcha followed. Over time, a second generation of two of these families continued their efforts to reach their community through radio.

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### *Maninder Gill and Radio India*

Maninder Gill came to Canada in 1979 and three years later started producing a two-hour radio program (Transcript, hearing, 15 October, 2014, 2014) on Vancouver's first multicultural radio station, CJVB (CJVB-AM, 2012). In 1998, Gill formed a corporate entity and moved his programming to an FM subcarrier<sup>16</sup> on a U.S.-licensed station before he started leasing airtime on KVRI. The leased time grew from eight hours daily in 2000 to 24 hours daily in 2002 (with a brief exception on Sunday mornings) (Transcript, hearing, 15 October, 2014, 2014). From KVRI's perspective, this arrangement was a low-cost but potentially lucrative way of programming the station. The station's contract with Radio India provided for a lease payment of \$100,000 per month, with a pre-payment discount available (Transcript, hearing, 15 October, 2014, 2014). The lessee was also responsible for the cost of internet service at the studio and electric service to the transmitter. A studio at KVRI takes the program feed, inserts hourly legal identifications, and runs the program out to the station's towers (Gilbert, 2017).

Despite its south-of-the-border signal origin, the Vancouver South Asian population accepted Radio India, and Maninder Gill, as a vital part of the community. People outside the community, including political officeholders and local leaders, recognized that the station and Gill were an effective way to access South Asians in British Columbia. In 2008, Prime Minister Stephen Harper used a park in Vancouver to issue a formal apology for the *Komagata Maru* incident rather than make the

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<sup>16</sup> Known in Canada as SCMO [subsidiary communications multiplex operation] and in the United States as SCA [subsidiary communications authorization], these broadcasts are available via a special radio that picks up a side transmission on an FM's station's signal. Their uses include reading services for the blind.

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proclamation inside Parliament as had been done for apologies to other ethnic groups for earlier discriminatory acts. The *Vancouver Sun* went right to Gill for reaction, who said, “This is not fair to the whole Indo-Canadian community”<sup>17</sup> (Tomlinson, 2008). That same year, the *Sun* included Gill on its list of 100 influential Indo-Canadians in British Columbia. Gill then received a note of congratulations from provincial Premier Gordon Campbell, “it speaks to the success of your efforts and commitment over the years” (Campbell, 2008). The station’s walls were covered with plaques of gratitude from community organizations, thanks for what Gill said was Can\$10 million in fundraising (Hopper, 2014).

In 2013, to honor Queen Elizabeth II’s sixty years on the throne, Canadian Members of Parliament (MP) and Senators were each allocated 30 Diamond Jubilee medals to present to those in their constituency who they felt worthy of the honor. The MP at the time for what was then called the Newton-North Delta riding (district) was Jinny Sims, who was born in India (NDP, 2012). Among those receiving a Diamond Jubilee medal from Sims was Gill, “I awarded the medal to Mr. Gill in recognition of the significant contributions he has made to his community.” For reasons that will be shown, the decision to give Gill this award was later so heavily criticized that Sims issued an apology (Chase, 2013).

The prominence of Radio India and Gill paid off in more ways than accolades and charity donations. In 2014, Gill said the firm never got less than Can\$2 million in advertising sales revenue, and some years brought in more than Can\$3 million. He

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<sup>17</sup> An apology for the Canadian government’s role in the *Komagata Maru* incident was made in the House of Commons by Prime Minister Justin Trudeau on May 18, 2016 (Toor, 2016)

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added that a significant portion of those advertising dollars were paid by various government agencies. From those revenues, Gill had to pay the KVRI time agreement contract, meet payroll for the station's 19 employees and pay corporate taxes (Transcript, hearing, 15 October, 2014, 2014). Gill was still arguing for a Canadian license in 2014, telling the *National Post* "If they want me to come under CRTC regulation, give me the frequency" (Hopper, 2014). He later told the CRTC, "I pay the \$1 million lease to KVRI every year. You know, if I had a chance to broadcast from Canada, that \$1 million I love to donate to the food bank of Surrey" (Transcript, hearing, 15 October, 2014, 2014, p. at 369).

Immigrants to new countries may still have strong views about controversies in their homeland. For people from India, the events of 1984 will never be forgotten. Sir Mark Tully (2014) recounted for the *Telegraph* his experience as a BBC correspondent in India when Indian Prime Minister Indira Gandhi decided to take action against Sikh leader Sant Jarnail Singh Bhindranwale. Bhindranwale had occupied a Sikh shrine in Amritsar that adjoined that faith's holiest site, the Golden Temple. For six years, he had been extolling his followers to reject the Indian government and work for the establishment of a Sikh homeland to be called Khalistan. In an attack nicknamed Operation Blue Star, an Indian military force stormed the shrine that had been heavily fortified. Nine hours later, Bhindranwale and 41 followers were dead and there were 331 fatalities among the military forces. Relations between Sikhs and Hindus became severely strained. Six months later, two Sikh bodyguards assassinated Prime Minister Indira Gandhi. Riots that followed killed another 2,000. An outgrowth of Operation Blue Star was the founding of the International Sikh Youth Federation (ISYF), a



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terrorist organization promoting the establishment of Khalistan. Its Canadian branch disbanded in 2002 (Mackenzie Institute, 2015).

For the Indo-Canadian community in Vancouver, 26 years of bad feelings became apparent in the summer of 2010. Harjit Atwal, a former member of the ISYF, claimed to be a victim of character assassination after being repeatedly criticized on Radio India (Jiwa, 2010). CTV News (2010) reported that on August 3, 2010, Atwal and two other men filed a civil lawsuit against Gill, Radio India and some station employees for allegedly defamatory statements broadcast the previous May. Atwal and his fellow plaintiffs as well as Gill were among hundreds who attended a wedding at a Sikh temple in Surrey on August 28. During a dispute in a parking lot between Atwal and Gill, Gill produced a gun and fired two shots, one striking Atwal in the leg. Gill surrendered to the Royal Canadian Mounted Police (RCMP) the following Monday.<sup>18</sup>

Gill claimed to have shot in self-defense. In June 2010, Gill had met with RCMP supervisors to discuss threats he had allegedly received and two constables were assigned to stand-by duty (R. v. Gill, 2016). In the pre-dawn hours of September 20, 2010, Gill's home was targeted in a drive-by shooting (Drive-by shooting targets Radio India boss, 2010). At trial, Gill's testimony about getting stabbed by an ice pick during a fight and finding a gun on the ground after the struggle was ruled neither "credible nor reliable" by Justice Kenneth Ball of the Supreme Court of British Columbia. Gill was convicted on five of six counts against him, including aggravated assault, weapons possession and discharging a firearm with intent to endanger life (R. v. Gill, 2016). Justice Ball said he weighed several factors, including many letters of support for Gill,

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<sup>18</sup> The RCMP was at the time contracted as the city police force in Surrey.

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and sentenced the radio executive to the mandatory minimum of four years in prison on the aggravated assault and firearms discharge counts. Six years had passed between the shooting and the sentencing. Atwal told the Vancouver Sun, “It was a long time, but finally we have justice” (Saltman, 2016).

The company that provided the programming to KVRI was Radio India 2003 Ltd., of which Gill was the managing director. The sole owner of the company was his sister, Baljit Kaur Bains, but Gill said he oversaw operations, revenue and long-term strategy, “this company is in her name, that's all” (Transcript, hearing, 15 October, 2014, 2014, p. at 133). Radio India’s entire operation was in Canada. It was incorporated in British Columbia in 2003 (Certificate of Incorporation, 2003). The company owned its studio and office facilities in Surrey, both Gill and Bains were Canadian citizens and station employees were either Canadian citizens or legal residents (Transcript, hearing, 15 October, 2014, 2014, p. at 207). In short, everything about Radio India was Canadian – except the station that carried its programming. The use of KVRI by Gill and Radio India to reach South Asians in Vancouver went on for 14 years without drawing any attention from Canadian regulators. It will be shown that when the CRTC decided to take action, Gill tried to stand his ground but found himself much like the ownership of CKLW: arriving at the OK Corral as Ike Clanton without a gun to face the Earps.

### *Sher-E-Pinjab, KRPI and the NIMBYs*

It was on November 19, 1958 that the FCC issued a construction permit (CP) that would lead to radio station KOQT in Ferndale, signing on in 1963 at 1550 KHz (KRPI history cards, n.d.). In 2002, the station then known as KCCF was sold by Pearl

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Broadcast Corporation to BBC Broadcasting (not affiliated with the British BBC) for \$600,000 (KCCF application for consent to assignment of broadcast station construction permit or license, 2002). A separate \$900,000 agreement covered the purchase of the station's real estate (Dhillon v. BBC Holdings Inc et al., 2009). The signer of the agreement on behalf of BBC was Sukhdev Singh "Dave" Dhillon. Like Gill, Dhillon had been leasing air time from a radio station, then placing programming on it and selling commercials within the programs. At the time of KCCF's purchase, Dhillon had been leasing time on another radio station that aired his "Radio Punjab" programs (Dhillon v. BBC Holdings Inc et al., 2009).

The station, now called KRPI, was broadcasting a format called Sher-E-Punjab, directed at listeners from that part of India. During a later CRTC hearing, Sher-E-Punjab's Amardeep Badh told the commission, "The only reason they were able to sell it because there is demand in the market for this type of content; content that is not being provided by any Canadian licence holder" (Transcript, hearing, 16 May, 2016, 2016, p. at 5778). KRPI had been operating with 50,000 watts during the day and 10,000 watts at night using a directional pattern from a site in Ferndale about 18 kilometers (11 miles) south of the border. That location provided adequate nighttime coverage of the U.S. cities of Ferndale, Blaine and Bellingham. However, the nighttime city-grade signal did not get to the Fraser River on the Canadian side, missing cities such as Vancouver, Richmond, Burnaby and New Westminster (KRPI-AM 1550 KHz, n.d.). In 2012, the station applied to the FCC and was granted a construction permit to build a new transmitter plant that would allow it to operate at the U.S. maximum power of 50,000 watts from a site in Point Roberts, Washington, using a five-tower directional

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system that would send the bulk of the signal to the north-northwest as well as changing its city of license to Point Roberts (KRPI application for construction permit for commercial broadcast station, 2012). Radio stations typically apply for these changes either to increase their potential audience and ensure it receives an adequate signal or to avoid interference with other stations.

By choosing Point Roberts as the new location for the station's transmitter as well as KRPI's new city of license, BBC Broadcasting was taking advantage of an unusual vestige of the survey that set the boundary between Canada and the United States. A 1908 treaty between the United States and Great Britain acting on behalf of what was then the Dominion of Canada included a provision to replace or repair existing monuments, erect additional markers and draw modern charts establishing the boundary between the nations along the 49<sup>th</sup> parallel from the summit of the Rocky Mountains to the eastern shore of the Gulf of Georgia in accord with an 1846 treaty. A bi-national team confirmed that a boundary marker erected on the western shore of Point Roberts in 1861 was correctly placed and used that as the starting point for a meandering border through the Haro Strait and Strait of Juan de Fuca so that Vancouver Island remained in Canada even though it extended below the 49<sup>th</sup> parallel (International Boundary Commission, 1921). While the Canadians were obviously interested in retaining Vancouver Island and the city of Victoria, keeping the line straight along the 49<sup>th</sup> created a 1,300 hectare (five square mile) peninsula that was U.S. territory but totally cut off from the rest of the country (Zwingle, 2004). Were KRPI to build the facility as permitted, the station's daytime and nighttime signals would easily blanket

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all of metro Vancouver (Radio-Locator, n.d.) from a location that was in the United States but 290 meters (315 yards) south of the Canadian border (Reber, 2014).

With approval of the new plan from the FCC and Canada's ISED, all KRPI needed was a conditional use permit (CUP) from the planning and development services department of Whatcom County. A 119-page application was filed on June 13, 2013 outlining plans for the 10-acre site that included five, free-standing 150-foot towers, only two of which would bear aviation painting and lighting (BBC Broadcasting conditional use application, 2013). County officials issued a conditional approval of the plan on October 3, 2014 (Bosman, 2014).

The approval set off a binational campaign to ensure those towers were never erected. Residents of Point Roberts and neighboring Tsawwassen, British Columbia mounted a major effort to deny the final county permit. Point Roberts Conservation Society Chair Michael Rosser wrote to county officials, "Radio towers are visually out of character and disruptive to home and business. Metal lattice monoliths are assiduously stark, their height dominating, their 50,000 watts of invisible radiance repellant of future business and residential interest" (Rosser, 2013). Another letter-writer said, "This transmitting site is for Vancouver, Canada and a portion of its population and has absolutely no benefit to Point Roberts and will cause nothing but grief for its residents" (Simpson, n.d.). Letters were sent and received from U.S. and Canadian officeholders and objections were filed to KRPI's license renewal application. On October 30, 2014, a hearing examiner denied the application based on the height of the towers being above the maximum height for structures in Point Roberts (Bobbink,

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2014). BBC Broadcasting lost its court appeal of that decision in October, 2015 (Olson, 2015).

The Point Roberts Taxpayers Association (PRTA) solicited donations to hire attorneys and experts to fight the proposal, going so far as filing a 70-page petition to deny and an informal objection to KRPI's license renewal application with the FCC. Among the reasons for denial of the renewal were potential harmful interference from the transmitter, misrepresentation of ownership, and undisclosed alien ownership interests (Joyce & Hartwell, 2013). In their 205-page consolidated reply, KRPI's attorneys claimed the filings, "lack any factual basis and appear to represent a scorched earth, 'not in my backyard' reaction from persons living near KRPI's proposed tower site who seek to derail the proposal at all costs" (Lipp & Meltzer, 2014, p. ii).

On November 12, 2015, KRPI informed the FCC that it would not appeal the court decision and intended to continue operating from its Ferndale location. The letter also requested "dismissal of all petitions to deny and informal objections to its pending license renewal application" (Lipp & Meltzer, 2015). PRTA President Mark Robbins told the Point Roberts newspaper *All Point Bulletin* it appeared the group had won its fight against the towers, but their petition to deny should not be withdrawn, "We believe they should not be entitled to a license" (Olson, 2015). The FCC granted KRPI's license renewal on June 30, 2016 (KRPI license renewal authorization, 2016). The assistant chief of the commission's Media Bureau, Michael Wagner (2018), said this was an unusual situation, "Border station issues are engineering issues for the most part. KRPI ended up a whole different kettle of fish for a whole bunch of reasons that ticked off a lot of people." Defeated in its attempt to move the station and boost its power,

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KRPI's owners sold the station. The FCC consented to the transfer of the license to Amarjit Sandhu in October, 2017 (KRPI consent to transfer, 2017), who paid \$100 for it (KRPI purchase agreement, 2017).

### *Radio Punjab and KRPA*

Another American station (but not licensed in Whatcom County), KRPA at 1110 KHz in Oak Harbor, Washington, went by the name Radio Punjab. Gurpal Garcha, the president and CEO of Radio Punjab, owned 20% of the station (the maximum permitted for foreign ownership at the time) (Recent news archives 2014, 2014). As a daytime-only station with a power of 5,000 watts, KRPA's signal did not reach Vancouver (KRPA-AM 1110 KHz, n.d.). However, it did cover metro Victoria, BC. That area of 336,000 is home to more than 8,300 South Asians (2011 national household survey catalogue no. 99-010-X2011028, 2016). KRPA management has received a construction permit for fulltime operation at 9,000 watts day and 2,500 watts night with a west-northwest directional pattern that would greatly increase its coverage of British Columbia's capital city (KRPA application for construction permit for commercial broadcast station, 2014).

### *BC audience for Whatcom County stations*

The Numeris survey firm produced a custom report for this study. It identified 21 U.S. stations with some reported listenership in Vancouver in Fall 2014. The most

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popular, in order, were KWPZ, KRPI, KVRI, KARI, KISM, and KAFE (Numeris, 2016). At that time, KRPI was the home of Sher-E-Punjab and KVRI of Radio India.<sup>19</sup>

### **Serving South Asians from Canada**

The next section reviews the efforts to serve South Asia listeners from stations licensed in Canada. The CRTC has issued four licenses for primarily South Asian stations after two rounds of applications and hearings. In between those rounds, the commission had to deal with three signals in the Vancouver suburb of Surrey that were using licenses for limited-use and limited-range stations to reach South Asians in that city contrary to what those licenses permitted. A striking feature of this narrative is the way certain family names kept appearing as those who were providing programming through U.S. signals sought to obtain a Canadian license.

It has been shown that South Asian immigrants make up a significant number of metropolitan Vancouver residents. The first stations dedicated to serving this audience were KVRI and KRPI. It was five years after Maninder Gill got Radio India started that the CRTC accepted applications from potential operators of the first South Asian stations in Vancouver. That process ended with licenses for CJRJ and CKYE-FM in 2005. In 2016, the CRTC awarded licenses to CHOF and CJCN after a lengthy hearing.

### *Sushma Datt and Spice Radio*

Maninder Gill is just one immigrant entrepreneur who sought to reach Vancouver's South Asian community through mass media. Sushma Datt, born in

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<sup>19</sup> Fall 2014 diary analysis of listeners 18+ Monday-Sunday 5:00 a.m.-1:00 a.m. in Vancouver CTRL. The processing of data, and subsequent analysis and conclusions found within have been conducted outside of Numeris. Numeris has not endorsed or validated these results or conclusions.



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Kenya and educated in India, started her career at the BBC. She emigrated to Canada in 1972 as part of an arranged marriage to a Vancouver man. When passed over for a position with the CBC, she went took jobs at CHQM and then CJVB, where she worked on a Hindi program (Datt, 2017). In 1987, she built the SCMO “Rim Jhim” station (originally on a subcarrier of KISM from Bellingham) into a 24-hour service and expanded her production company to produce South Asian-focused television programs (Forster, n.d.). Becoming a listener to an SCMO station requires more than an investment of time, it also means buying a special radio. Datt (2017) said once word got out that she had newscasts anchored from New Delhi by an acquaintance from her BBC days, the demand for her SCMO radios, with a Can\$130 price tag, was so high she had to establish a waiting list. Datt also began producing television programs.

Datt’s work on behalf of the Indo-Canadian community and the radio industry has resulted in a long list of honors. She received the Order of British Columbia, the province’s highest honor, in 1992 (Members of the Order of British Columbia, 2015). Senator Mobina Jaffer conferred one of her Queen’s Jubilee medals on Datt in 2012, saying “Shushma has been instrumental in portraying the Canadian South Asian community in a positive light” (Shushma Datt honored with Queen’s Diamond Jubilee Medal, 2012). Datt received the Rosalie Award during Canadian Music Week in 2015. That award is given to a woman who has made a difference in the radio business and is named in honor of legendary music director of CKLW, Rosalie Trombley (Rosalie Award, 2015). Datt also started a campaign called Raise Your Hand Against Racism, based on the Hindu festival called Holi that celebrates colors and love. She organized

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events where people dipped their hands in waterpaint and created a multi-colored mural of the handprints (McIntyre, 2016).

What had eluded Datt was a broadcasting license. That chance came in 2005, when the CRTC accepted applications for two ethnic radio stations to serve Vancouver. Applicants for Canadian radio station licenses must prove ownership, financial capacity, technical capacity and programming requirements. Further, “A market study may be required to confirm the demand for the proposed service and to show how it will increase diversity in the market. A market study must also address the effect the new service would have on existing broadcasters” (How to apply for broadcasting licence, 2012).

When the filing window opened, Datt (2017) felt the license was hers to lose, and she was correct. The CRTC awarded an AM station that would become CJRJ at 1200 KHz with a power of 25,000 watts to I.T. Productions, managed by Datt. The granting of the license to Datt came after what she said was a 20-year fight to get one (Rosalie Award, 2015). She committed to providing programming to 11 ethnic groups in 17 languages, although more than 70% of the programs would be in Hindustani and Punjabi (Broadcasting decision CRTC 2005-338, 2005). The commission also awarded an FM station that would become CKYE-FM at 93.1 MHz with an effective radiated power of 2,800 watts to South Asia Broadcasting, managed by Kulwinder Sanghera. In this case, the station management promised service to 16 ethnic groups in 18 different languages with 75% of programming in Hindi, Punjabi, and Urdu. Both of the chosen stations also agreed to make contributions to Canadian talent development organizations in ways that varied from the plan established by the Canadian Association

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of Broadcasters (CAB) (Broadcasting public notice CRTC 2005-68, 2005). In this filing window, two of the unsuccessful applicants for the FM station were producing programs on U.S. stations aimed at the Vancouver market: Maninder Gill from KVRI and Sukhvinder Singh Badh of KRPI (Broadcasting public notice CRTC 2005-68, 2005).

After Radio India and Sher-E-Punjab appeared on their U.S. signals, Datt (2017) made her first complaint to Canadian regulators about the cross-border targeted competition, “The CRTC is not protecting me.” While Datt was still upset about south-of-the-border competition, she welcomed another Canadian licensee sharing her target market, calling Red-FM, “great competition. If you don’t have competition, you can’t improve. While Datt could claim that KVRI and KRPI were illegally taking money and listeners away from CJRJ, she had to acknowledge CKYE-FM was a Canadian-licensed station subject to the same regulations as her station and, in fact, was licensed to be her competition.

### *The border skirmish*

Radio stations make money selling advertising time to businesses interested in reaching the station’s listeners. A station with more listeners can charge higher rates than a station with fewer listeners and generate more revenue. In fall 2014, the Numeris custom survey for this study showed four radio stations claiming to serve Vancouver’s South Asian community had a measurable audience in that market, two with Canadian licenses and two from the United States. In addition, the two American religious stations also had measurable listening in the Vancouver Central ratings book.

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**Table 8 Ratings of South Asian, Religious, and Bellingham stations in Vancouver**

Station	Format	Share
KWPZ	Religion	1.7
CKYE	South Asian	1.4
KRPI	South Asian	0.5
KARI	Religion	0.4
KVRI	South Asian	0.4
CJRJ	South Asian	0.3
KISM	Classic Rock	0.3
KAFE	Adult Contemporary	0.1

(Numeris, 2016)<sup>20</sup>

In a market where five stations reported a share in excess of 6.0, these may seem like small numbers, but radio stations generally sell time based on the specific demographics of the station audience rather than raw numbers.

### *Hoist a Jolly Roger on the tower*

It has been shown that there are certain advantages to serving a Canadian audience on an American station. Newspaper stories about the Vancouver South Asian radio market characterized the U.S.-based stations as “pirate radio” operations. FCC Commissioner Michael O’Reilly (2015) minced no words when discussing “pirate” radio stations:

(P)irate radio causes unacceptable economic harm to legitimate and licensed American broadcasters by stealing listeners. Pirate operators also cause “harmful interference” that inhibits the ability of real broadcasters to transmit their signals and programming.... And, pirate radio can disproportionately impact minority-owned stations as they undercut their financials and can cause harmful interference to legitimate stations serving minority populations.

Each of the American signals carrying programming aimed at the South Asian audience was fully in compliance with FCC regulations and operated through facilities that had

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<sup>20</sup> Fall 2014 diary analysis of listeners 18+ Monday-Sunday 5:00 a.m.-1:00 a.m. in Vancouver CTRL. The processing of data, and subsequent analysis and conclusions found within have been conducted outside of Numeris. Numeris has not endorsed or validated these results or conclusions.

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received clearance from Canadian regulators. They did not fit the definition of “pirate” radio. While it will become clear that CRTC officials took a dim view of these three American stations, Hutton (2018) said the CRTC itself was not calling them “pirate” stations, “I think that was probably more a media spin or the complaints the various folks would have come to our hearings to complain about them.” Despite the word choice, the commissioners obviously felt the programmers on these stations were using a loophole to violate Section 32 of Canada’s Broadcasting Act, which contains a definition of “broadcasting without or contrary to licence”:

Every person who, not being exempt from the requirement to hold a licence, carries on a broadcasting undertaking without a licence therefor is guilty of an offence punishable on summary conviction... (Justice Laws, 2016).

The applications for the two ethnic frequencies re-ignited the CRTC’s interest in radio stations targeting Vancouver from the U.S. There had been small investigations of SCMO operations in 1998 and the use of satellites to distribute programs produced in Canada but aired on American transmitters in 2001 (Broadcasting notice of consultation CRTC 2014-426, 2014) . This time, things were going to be different. The CRTC’s Hutton (2018), said “it became a significant issue after a number of complaints and issues that were made public that we started clamping down on those stations.”

### *The CRTC takes action*

With CJRJ and CKYE-FM on the air, South Asian listeners in metro Vancouver had two Canadian-licensed stations providing programs in their native languages and designed to appeal to their specific interests. After beating two U.S. signal competitors to get her license, Datt once again let the CRTC know she was not happy to be competing with American stations. Datt told the *National Post*, “I’m being affected

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directly by these stations, so I complain” (Hopper, 2014). On August 13, 2014, the CRTC issued a Broadcasting Notice of Consultation announcing a hearing in Gatineau, Quebec to examine the operations of Radio India, Radio Punjab and Sher-E-Punjab (Broadcasting notice of consultation CRTC 2014-426, 2014):

The Commission is concerned that their ongoing presence has hindered the growth of the licensed Canadian services, which have specific regulatory requirements related to offering programming in a range of languages to multiple cultural groups, annual Canadian Content Development contribution requirements, and Commission and industry oversight... the Commission considers that there is reason to believe that Sher-E-Punjab, Radio India and Radio Punjab may be carrying on broadcasting undertakings in whole or in part in Canada without licences in contravention of the *Broadcasting Act* (p. 2).

Each company was separately noticed and given the option to appear at the hearing and/or submit documents that would explain their situation.

While the British Columbia Association of Broadcasters was supportive of potential CRTC actions regarding these stations, they were not without community supporters. Nina Grewal, a Member of Parliament from Surrey, expressed hopes for a compromise, “Let’s be clear, these radio stations are providing a service that the people want” (O’Neil, 2014).

Each reply to the CRTC notice included a letter providing answers to a specific set of questions asked by the CRTC staff. Among those questions were the ownership of the firms, citizenship of those involved, sources of revenue and technical details, including contour maps of the U.S. stations airing their programs. Each reply stressed that the companies involved did not own or operate any U.S. radio stations. They were instead producers of programs that aired on stations owned by American entities and the programs were fed by internet stream. The firms were all producing their programs in Canada and had Canadian owners.

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Radio Punjab's reply was just seven pages. Gurpal Garcha explained that all of KRPA's programming was produced by Radio Punjab as an online stream and told the CRTC, "Since Radio Punjab broadcast over the internet from Surrey Studio we are requesting that we be exempt from Radio Broadcasting License" (Garcha, 2014). When the CRTC requested a copy of KRPA's nighttime contour map, Garcha reminded the commission that KRPA was a daytime-only station<sup>21</sup>.

The Sher-E-Punjab reply by Chief Operating Officer Gurdial (Dale) Badh ran 15 pages. He opened by stressing an invisible border among South Asian immigrants:

With the closeness of the two communities, it is common for Punjabi-Americans to come to the Lower Mainland, particularly Surrey, to shop for Indian clothing, foodstuffs, spices and other things. Similarly, Punjabi-Canadians cross the border regularly to purchase dairy products and gasoline. Those from both sides of the border also regularly attend events on the other side of the border, including Vaisakhi celebrations, concerts of South Asian artists, whether they take place in Seattle or Vancouver (Badh G. , 2014).

He then explained that two lifelong friends, one a Canadian and the other an American, saw a need for a South Asian radio station in Vancouver. The American friend purchased what became KRPI in 2002 and for more than two years used programming produced by Sukhhdev Singh "Dave" Dhillon. Sher-E-Punjab began providing the station's programs in December 2004. At the time of the CRTC notice, Sher-E-Punjab programming aired on KRPI from 6:00 a.m. to 10:00 p.m. except for a half-hour block produced at KRPI for a gurdwara in Lynden, Washington (Badh G. , 2014).

As the time for the hearing approached, the agenda got shorter. In a September 22, 2014 letter to CRTC Secretary General John Traversy that ran 11 pages, Sher-E-

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<sup>21</sup> Canada's last daytime-only AM station, CKOT in Tillsonburg, Ontario, went dark in 2013 (Canadian Communications Foundation, n.d.).

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Punjab Chief Operating Officer Jasbir Singh Badh agreed to a long list of concessions, among them terminating the airtime lease with KRPI (Badh J. , 2014). A one-page letter from Gurpal Garcha advised Traversy that Radio Punjab would remove its programming from KRPA as of September 22, 2014 (Garcha, Letter to John Traversy, 2014).

Maninder Gill's eight-page letter opened with a renewed request for a Canadian frequency assignment. He claimed to have access to an AM frequency and asked that it be awarded to him without a call for competitive applications. His response contained much shorter answers than the other respondents, some of which appeared to be copied from the company's media kit (Gill, Letter to Cathy Allison, 2014). Gill's response concluded by saying he was looking forward to the hearing. His 3-page letter contained eight points, two of them critical of CKYE-FM and CJRJ. Unlike the other respondents, Gill did not inform the CRTC of any plans to cease operations. In a *National Post* interview, Gill referenced other cross-border operations that did not draw the commission's attention: WYUL in Chateaugay, New York, called itself "Montreal's 20-In-A-Row Hit Music Channel" and Rogers Broadcasting, a major owner of Canadian broadcast interests, operated WLYK in Cape Vincent, New York with its other stations in Kingston, Ontario (Hopper, 2014).

### *Enter the arena*

After engaging in a war of written words, Maninder Gill and Shushma Datt were finally to meet on a field of battle – a conference room thousands of miles from Vancouver. Gill and his attorney made the cross-country trip for the CRTC hearing.



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Datt participated via videoconference. The hearing was opened by CRTC Vice Chairman of Broadcasting Tom Pentefountas, who set forth what was at stake:

At this hearing the Commission will examine whether Radio India Ltd. is operating without a licence. Although based in Surrey, British Columbia, it appears that it has arrangements to transmit its radio programming into Lower Mainland British Columbia from FM stations (*sic*) in Washington State. The Commission intends to inquire into, hear and determine whether Radio India is carrying on a broadcasting service in whole or in part in Canada without a licence. Given the severity of this matter, the company will also be asked to show cause why a mandatory order requiring them to cease and desist and to operate at all times in compliance with the Broadcasting Act should not be issued (Transcript, hearing, 15 October, 2014, 2014, p. at 5)

After some legal announcements, Gill and his attorney were sworn in to testify.

Gill reminded the hearing panel that he had been in the radio business for a long time and only recently had the CRTC expressed any interest in his operation:

Radio India is my life. Radio India has been serving the South Asian community in the Vancouver and Lower Mainland area for the last 18 years. During this time there has been no demand asking Radio India to alter its business plan or until now requesting Radio India to stop programming to Canada. Radio India created the broadcasting industry for the South Asian market in Canada (Transcript, hearing, 15 October, 2014, 2014, p. at 76).

The Radio India lawyer then made an offer at the hearing to halt Radio India's use of KVRI if the commission would allow Gill 120 days to negotiate an exit from his time brokerage contract, collect his accounts receivable and cushion the blow to his employees (Transcript, hearing, 15 October, 2014, 2014).

Datt testified before the panel as an intervenor. Although at the time she did not know the details of letters from Radio Punjab and Sher-E-Punjab, she assumed those operators were consenting to cease operations, "we acknowledge and thank the Commission for their efforts to uphold the spirit and intent of the Broadcasting Act. Their operations cause day-to-day harm to our business and the longer they operate the

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more damage that is done” (Transcript, hearing, 15 October, 2014, 2014, p. at 1049). Despite getting her start on a U.S.-licensed station, Datt enumerated the alleged harm the U.S.-licensed stations were causing to CJRJ. She told the committee members that it costs Can\$85,000 per month to run the station and her revenues have been less than that. Datt estimated that the closure of these competitors would allow CJRJ and CKYE-FM to repatriate 75% of the revenue going to the other operators, “I would state that if Radio India and Sher-e-Punjab were to cease to program to the South Asian community that some of that money would come to us and we would at least be able to meet all our commitments” (Transcript, hearing, 15 October, 2014, 2014, p. at 1073).

In an interview three years after the hearing, Datt (2017) said she did not feel vindicated that the CRTC was finally acting on her years of complaints and admitted, “the damage had already been done,” by the U.S.-licensed stations, “Whatever happens does not make any difference to me anymore.” She has accepted that there is little the CRTC could do to implement its order on the American signals.

The next intervenor was CKYE-FM Vice President and General Manager Bijoy Samuel, who told the panel advertisers and listeners do not view Radio India, Sher-E-Punjab, and Radio Punjab as programming services but as Canadian radio stations. Samuel also mentioned the cross-border regulatory environment, “These differences create an uneven playing field for us, resulting in many advantages for anyone who uses a U.S. transmitter” (Transcript, hearing, 15 October, 2014, 2014, p. at 1093).

On November 13, 2014, the CRTC issued mandatory orders upon Radio Punjab, Sher-E-Punjab, and Radio India. Radio Punjab and Sher-E-Punjab each received a 3-page order, “not to carry on a broadcasting undertaking at Richmond, British Columbia,

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or anywhere else in Canada, except in compliance with the Broadcasting Act”

(Broadcasting decision CRTC 2014-589 and broadcasting order CRTC 2014-590, 2014)

(Broadcasting decision CRTC 2014-591 and broadcasting order CRTC 2014-592,

2014). The Radio India order ran 11 pages. Gill’s request for 120 days to wind down

operations fell on deaf ears:

Radio India (2003) Ltd. is hereby ordered, pursuant to section 12(2) of the *Broadcasting Act*, by 11:59:59 p.m. Pacific Standard Time on 13 November 2014, to cease having its programming broadcast over the air via a transmitter whose signal reaches into Canada, whether by arrangement or otherwise, without a licence or authority pursuant to an exemption. Radio India (2003) Ltd. is also ordered to provide to the Commission proof that it has terminated its arrangements with Way Broadcasting Operating, LLC, licensee of KVRI 1600 AM by 5:00 p.m. Pacific Standard Time on 20 November 2014 including proof that it is no longer broadcasting, and will not in the future broadcast, its programming over the air from KVRI 1600 AM (Broadcasting decision CRTC 2014-587 and broadcasting order CRTC 2014-588, 2014).

After getting the decision, Gill told the *Globe and Mail* newspaper he was not giving up, “We are doing everything by the Canadian Broadcasting Act and we are going to appeal this decision to the federal court” (Lederman, 2014).

The CRTC’s Hutton (2018) said the commission was on firm ground in moving against these programmers:

What the Broadcasting Act says is if you are operating in whole or in part a broadcasting activity and you’ve seen the decisions, there’s a variety of tests that we use to establish that, you then need a license and so essentially we concluded that in some of those instances the players were in fact operating in whole or in part in Canada and that’s where we went after them.

Hutton added that the commission had heard not only from the Canadian-licensed broadcasters, but also from listeners who complained a lack of balance, inappropriate language, and political involvement by the South Asian programmers. Corus

Entertainment’s Brad Phillips (2018) said even though this is a small slice of the market

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that would not directly affect his stations, “We don’t like anybody coming into our country and not having to abide by the same rules that we do, so it does feel pirate-y and it does feel unfair.”

### *Changes on the Air*

The decisions by the management teams at Radio India and Sher-E-Punjab to end their program leases may have been the goal of the CRTC members, but it did not solve their perceived problem. New firms took over the time and continued to serve Vancouver’s South Asian population through U.S. stations. In April 2016, an industry watcher said South Asian programming remained on the air on two of these U.S. stations. KRPI was broadcasting Punjabi programming from Ferndale, but not branded as Sher-E-Punjab. KRPA was simulcasting a co-owned English music station (Sys, 2016).

Radio India programming is no longer heard on KVRI, but has moved to an internet stream. South Asian programming continued on the station as another Surrey-based programmer, Media Waves, began broadcasting through KVRI in January, 2016 (Levine, 2017). The new company did not mean an end to the controversy caused by programs heard at 1600. Media Waves and Multicultural Broadcasting are among the defendants in a civil lawsuit filed in BC Supreme Court in January, 2018. The plaintiffs include directors of the non-profit New Horizons Village Society who claim Media Waves program hosts defamed them when discussing a Can\$200,000 provincial grant for the society to provide services to senior citizens in Surrey and the Fraser Valley (Lawsuit of the week, 2018). On June 23, 2018, Media Waves CEO Ashiana Khan

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reported to the RCMP that her car had been shot at while driving through Surrey. On her program the previous morning, Khan claimed she was going to name two men who had been invited to a Eid ul Fitr event on Parliament Hill in Ottawa despite their criminal records. She told the *Vancouver Sun*, “At this moment there are so many issues I’m discussing. It makes me an enemy to many people” (Grindlay, 2018).

### *Sushma Datt’s Challenges*

Being an entrepreneur is not for the faint of heart. Sushma Datt was a pioneer in using the airwaves to reach Vancouver’s South Asian community. However, she has had difficulty turning that hard work into financial success. Her initial complaint to the CRTC was based on economic grounds. She claimed Sher-E-Punjab and Radio India were siphoning revenue out of the market, some of which was rightly hers as the operator of a Canadian-licensed station serving a Canadian audience. It became obvious why Datt put so much effort into her attempt to repatriate those dollars. She testified to the CRTC that she had been having trouble meeting the station’s monthly cost of operations. The financial troubles of CJRJ led to a short-term license renewal from the CRTC in 2013. The station reported its revenues were below projections and it was behind on paying its Canadian content development commitments. The commission noted “CJRJ is a stand-alone AM service in a highly competitive ethnic radio market in Vancouver, where ethnic stations not only compete directly with other Canadian ethnic services but also face the added difficulty of competing with programming being offered by American stations located near the border” (Broadcasting decision CRTC 2013-164, 2013, p. 4). The renewal was granted through August, 2017 subject to CJRJ programming to 11 cultural groups in 17 languages, with

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at least 73% of ethnic programming in Hindustani and Punjabi languages. The station's content development assessment had been adjusted to Can\$70,000 per year (Broadcasting decision CRTC 2013-164, 2013). The adjustment was not going to help, "I'm not making enough money to do all that" (Datt, 2017).

In December, 2017, the CRTC granted CJRJ another short-term license renewal, through August 31, 2020 (Broadcasting decision CRTC 2017-454, 2017). The renewal decision started with a list of situations in which Datt was out of compliance with CRTC regulations and the conditions of her license. It was followed by a list of stipulations. Among the areas of non-compliance were inadequate financial reporting and a shortfall in CCD contributions. The renewal came with a stern warning, "should I.T. Productions Ltd. again breach its regulatory requirements, the Commission may consider recourse to additional measures, including the imposition of a mandatory order or the suspension, non-renewal or revocation of the broadcasting licence."

### **The Fight for Surrey**

Of the 21 municipalities that comprise Metropolitan Vancouver, none may be more important to a South Asian broadcaster than Surrey. A city of 463,000, Surrey has the highest concentration of South Asians in the market: 71% of the metro population who speaks Punjabi at home lives in that city (Broadcasting decision CRTC 2016-464, 2016). CJRJ and CKYE-FM had less-than-optimal signals in Surrey due to technical and geographic factors. In 2013, the CRTC announced it would accept applications for two new commercial stations: one in Surrey, the other in Vancouver. While eleven applicants sought one of the stations, both CJRJ and CKYE-FM asked the commission to instead allow them to use an additional transmitter to provide a more consistent

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signal in Surrey. The CRTC denied both applications (Broadcasting decision CRTC 2014-412, 2014).

*If at first you don't succeed...*

The Badhs of Sher-E-Punjab and Gill of Radio India were dogged in their pursuit of a Canadian license to replace their cross-border, brokered time operations. When the CRTC accepted applications for a new Vancouver station at 600 KHz in 2014, both made unsuccessful attempts: Sher-E-Punjab's application was denied and Radio India's application was not filed in a timely manner (Broadcasting decision CRTC 2014-412, 2014).

*Join the Party*

In June 2015, the CRTC issued another call for applications for new stations in metro Vancouver and stated a preference for ethnic stations. The cross-border battle had an acknowledged influence on the proceeding, "The Commission is of the view that the existence of these cross-border stations indicates that there is demand in the Vancouver market for additional ethnic radio programming services" (Broadcasting notice of consultation CRTC 2015-288, 2015). In May 2016, the CRTC held a multi-day hearing in Vancouver to consider eight applications, with a special focus on Surrey (Broadcasting notice of consultation CRTC 2016-64, 2016).

*Everything is on the Table*

The CRTC's Vancouver hearing opened on May 16, 2016. The proceedings had barely started when the shadow of the so-called pirate stations entered the room. Chief operating officer Gurdial Badh and the management of Sher-E-Punjab were the first people to face the commission to discuss their application for a news-talk station at 600

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KHz. Badh's father, Ajit Singh Badh, helped establish Sher-E-Punjab in 2004 and leased time on KRPI until the CRTC's 2014 mandatory order to prohibit programming an American station from a Canadian studio to reach a Canadian audience. CRTC Chairman Jean-Pierre Blais got to the point, "And you do have a bit of a history, as a group, not to respect our broadcasting regulatory framework... (W)hat assurances can you give us, despite past behaviour, that you will actually meet regulatory obligations?" (Transcript, hearing, 16 May, 2016, 2016, p. at 270). Badh told Blais the management would ensure compliance with CRTC regulations should the license be awarded. Later in the hearing, there was an interesting exchange between Blais and Metro Vancouver Crime Stoppers Foundation director John Ashbridge. Appearing in support of the Sher-E-Punjab application, Ashbridge explained to the members that while it provided the programming to KRPI, the station was a valuable partner. Blais got agreement from Ashbridge when he asked if Crime Stoppers supported law and order, then pressed him on whether working with an illegal operation was consistent with law and order. Ashbridge replied that the Sher-E-Punjab operation had not been ruled illegal until 2014 and furthermore, it had been on a legally licensed station (Transcript, hearing, 16 May, 2016, 2016).

. The commission later heard from the owner of Radio India Ltd. Sharon Gill told the hearing she is the daughter of Maninder Gill, but she purchased his company, Radio India 2003, which had been programming Radio India through KVRI until after the 2014 order. No mention was made of her father's legal troubles, but when asked to clarify his role in the new company, Sharon Gill declared, "He's my father, so he'll always be there in my life, but in terms -- from like a business perspective, he's not



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involved at all, whatsoever, and isn't operating anything or guiding anything or doesn't have any influence or any sphere of influence on this application” (Transcript, hearing, 16 May, 2016, 2016, p. at 2266). Her ambitious application sought two frequencies: one for Surrey and another for Vancouver. The younger Gill assured the commission her team could meet its revenue expectations because of the prior firm’s experience in the market and list of clients on KVRI she claimed were ready to use the new station.

Radio India’s role in the community, even though it was through the U.S.-licensed KVRI, was mentioned by several intervenors addressing the commission in support of Sharon Gill’s application. But Chairman Blais had a pointed question for Parshotam Goel of the Vedic Hindu Cultural Society, which owns the largest Hindu temple in western Canada. Goel praised the former operations, “Not only did Radio India bridge a gap between the people and mainstream society, they did so with honesty and integrity. Unfortunately, they were forced off the air” (Transcript, hearing, 16 May, 2016, 2016, p. at 5200). Blais then asked Goel, “And you say ‘unfortunately they were forced off the air.’ Do you feel that it’s unfortunate when people who drive through red lights or don’t stop at stop signs? Is that unfortunate as well?” (Transcript, hearing, 16 May, 2016, 2016, p. at 5204).

Sharon Gill was not alone among the applicants claiming that advertiser dollars previously sent to KVRI and KRPI would instead be spent on Canadian stations. Samuel of CKYE-FM cautioned the CRTC against rosy predictions made by the applicants for the new stations (and claims by Sushma Datt). He asked the commission to compare the situation of radio stations serving metro Vancouver’s Chinese population of more than 411,000 to the South Asian population of more than 252,000.

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While three Canadian stations are licensed to serve the Chinese audience, Samuel pointed out South Asians have two full-time options licensed in Canada. Add to that KVRI and KRPI from the U.S. and three other stations accused of operating outside their license presenting many radio choices for those immigrants,

“(W)e believe that the repatriation estimates of applicants are far over-stated. Those unlicensed broadcasters will continue to under-cut rates and sell aggressively. You may think that what we are saying is contradictory. There is a significant amount of ad revenue going to those unlicensed operators but nowhere near what some applicants claim they will repatriate to support their new services. And that's the real issue” (Transcript, hearing, 16 May, 2016, 2016, p. at 4045).

As the operator of the station with the largest audience in the South Asian market, Samuel expressed concern about the amount of potential revenue for similar stations. However, he was not seeking to prevent any new, properly licensed, stations from entering the market. The CRTC members got a totally different perspective from Sushma Datt, who asked the commission not to issue licenses for additional South Asian ethnic radio stations. She viewed the revenue projections of the applicants as too optimistic considering the financial pressures seen by CJRJ. Datt also made a point that some of the applicants for the new stations were involved in the cross-border broadcasting that prompted her complaint to the CRTC and resulted in the mandatory orders. CJRJ’s operations and general sales manager, Bernie Merkl, used a hockey analogy to justify his firm’s decision to oppose a new licensee, saying it would put too many players on the ice and threaten the economics of the market (Transcript, hearing, 16 May, 2016, 2016).

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### *RED FM's Interference Problem*

CKYE-FM at 93.1 MHz is in on a first-adjacent channel to KISM in Bellingham at 92.9 MHz. There were no interference problems between the stations from when CKYE-FM signed on in 2005 until 2013. It was then that KISM added an HD Radio digital signal. Samuel told the commission that change created signal issues in the southern part of the market and resulted in lost revenue. His application for a translator to serve Surrey was turned down in 2014. For the 2016 hearings, Samuel had a determination from ISED that CKYE-FM was subject to an unavoidable technical problem. He asked the CRTC to grant him a translator at 89.1 MHz (Transcript, hearing, 16 May, 2016, 2016).

### *Bending the Law – Or Breaking It?*

Radio is a creative medium, but when creativity is applied contrary to the conditions of a broadcast license, regulators rarely show appreciation. A frequent sight alongside highways are traveler information stations (TIS), operating with low-power transmitters, and usually airing a loop of pre-recorded announcements. Under CRTC rules, a TIS can only provide traffic, weather, and attraction information, with no more than incidental music, and nothing religious or political (Broadcasting order CRTC 2014-447, 2014). In September 2015, CKYE-FM filed a complaint with the CRTC that three stations in Surrey, two of them with TIS licenses, were illegally providing a broadcasting service to the South Asian community in that city (Broadcasting decision CRTC 2016-414, 2016) (Broadcasting decision CRTC 2016-421, 2016) (Broadcasting decision CRTC 2016-419, 2016). As the CRTC hearing moved into its fourth day, the focus shifted to the operators of these low-power stations. It was clear the other

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applicants considered these three signals to be competitors in the Surrey market for both listeners and advertisers. (Transcript, hearing, 16 May, 2016, 2016).

Ravinder Singh Pannu was joined by the marketing and program managers of his TIS as well as his legal counsel. Pannu was not a broadcast neophyte, telling the commission he owned two CRTC-permitted services in Toronto: Sur Sagar TV is available on cable channels<sup>22</sup> in the Toronto area as well as the SCMO Sur Sagar Radio. In Surrey, he was the owner of TIS station VF2689, known as Myfm, at 106.9 MHz, and house of worship station VF2688 at 91.5 MHz, also branded as Sur Sagar Radio (Transcript, hearing, 16 May, 2016, 2016). Two days earlier, Pannu explained to the commissioners his application to convert Myfm into a full-power station. He claimed the station already had an infrastructure, listener base, and 75 advertising clients that combined would give a full-power station a good chance at success. Furthermore, his application for the license revealed the tourist station had contracts for Can\$600,000 in advertising revenue (Transcript, hearing, 16 May, 2016, 2016).

Pannu did not deny that Myfm had been carrying programming inconsistent with his permit for a TIS. At the time of the hearing, he claimed the station had dropped its news, talk, and music programs and was instead airing prerecorded content about Surrey interspersed with live traffic and weather (Transcript, hearing, 16 May, 2016, 2016). Nawab Singh Heer of the Myfm advisory committee defended Pannu, “Yes, there have been mistakes and there have been errors, but errors -- it was never intended that we wanted to flout the rules, but we had misunderstood the rules” (Transcript, hearing, 16 May, 2016, 2016, p. at 6132).

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<sup>22</sup> In Canada, the CRTC issues licenses for cable as well as broadcast TV channels.

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In follow-up questions, the CRTC's Blais got Pannu to admit he did not hold a broadcasting license. Blais made his feelings plain, "I put it to you that you are not operating an exempt tourist station but instead you have jumped the gun and are operating an unlicensed commercial radio station" (Transcript, hearing, 16 May, 2016, 2016, p. at 6623). Pannu agreed to take the station dark (Transcript, hearing, 16 May, 2016, 2016). As for the house of worship station, VF2688, Pannu told the commissioners the station simply broadcasts the services underway at the Gurdwara Dukh Nivaran Sahib in Surrey. He reiterated that the station carries no advertising (Transcript, hearing, 16 May, 2016, 2016).

Gurpal Garcha, who had been the President and CEO of Radio Punjab and minority owner of KRPA, was also the president of Surrey City FM Limited. He informed the CRTC members that he could not appear to discuss the possible non-compliance of VF2686, a TIS called City FM at 89.3 MHz. In a letter to the members accompanied by a doctor's note, he said he was not healthy enough to attend the hearing and that the station had ceased operations (Transcript, hearing, 16 May, 2016, 2016).

Datt then asked the commissioners to shut down the three low power stations, or at least order compliance with their permits (Transcript, hearing, 16 May, 2016, 2016). Samuel was unimpressed by Pannu's explanations, "it is our submission that Mr. Pannu has set out to operate a commercially ethnic radio service" (Transcript, hearing, 16 May, 2016, 2016, p. at 6808).

### *The Commission Takes Action*

On October 20, 2016, the commission issued mandatory orders against all three of these stations. Myfm was found to be providing newscasts, sportscasts, telephone

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talk shows, music programs, and political and religious segments. Further, the CRTC found it was likely operating outside its licensed parameters of 41 watts at 51.7 meters (170 feet) (Broadcasting decision CRTC 2016-414, 2016). The order was highly critical of the station's owner. "The demonstrated unawareness of the undertaking's obligations and the attempts by Mr. Pannu to deflect responsibility suggest that Mr. Pannu does not respect the Commission's authority or take his responsibilities as a broadcaster in the Canadian broadcasting system seriously" (Broadcasting decision CRTC 2016-414, 2016, p. at 40). Sur Sagar Radio was found to be carrying improper programming, including pre-recorded material, shows from India, and talk shows. As with Myfm, the CRTC suspected it was being operated in excess of its licensed parameters (Broadcasting decision CRTC 2016-421, 2016). Pannu was ordered to operate only within the limits of Canada's Broadcasting Act anywhere in the country, maintain recordings of the stations' programs, and have an independent engineer field test the stations' signals to verify they were operating within their permits (Broadcasting decision CRTC 2016-421, 2016).

The other Surrey TIS, City FM, was also found to be carrying programs inconsistent with its permit. Further, the commission found the station was owned and operated by Gurpal Garcha, who was not the licensee. Garcha was told he could only operate a radio station in Canada under a CRTC license and further prohibiting him being involved in any radio station in Canada, or a U.S. station with a signal that crosses the border, without a CRTC license (Broadcasting decision CRTC 2016-419, 2016).

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As a result of this situation, the CRTC also issued a call for comments on ways to ensure TIS operators are properly registered and operating according to their licenses (The CRTC has slammed a number of Surrey, BC radio stations, 2017).

### *New Canadian Stations Authorized*

As previously mentioned, the CRTC considers many factors when deciding to award a license, including the station's proposed format, its economic viability, ownership, technical parameters, and effect on the economics of the market. The ethnic stations that operated in the metro Vancouver market at the time of the hearing included three aimed at the Chinese community (CJVB, CHMB, and CHKG-FM), and two for South Asians (CJRJ and CKYE-FM). The stations collectively reported a small increase in revenue from 2011 to 2015, but saw profits drop from 13.7% to 12.8% in the same period. The commission appears to have found a growing ethnic population, coupled with Vancouver's increasing gross domestic product and retail sales, as well as forecasts for a rise in per capita income, would make the addition of two South Asian-oriented stations to the market feasible (Broadcasting decision CRTC 2016-464, 2016). The so-called pirates operating from U.S. stations did play a role in the commission's decision. The CRTC statement said Radio India, Sher-E-Punjab, and Radio Punjab were no longer aiming South Asian programming into Vancouver from Washington. The order claimed these new stations could benefit from capturing some of the revenue and clients of the American stations (Broadcasting decision CRTC 2016-464, 2016).

In November 2016, the commission announced the award of the new ethnic stations for metro Vancouver. It awarded CKYE-FM the requested rebroadcast

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transmitter at 89.1 MHz with a 250-watt ERP to combat the KISM HD interference. (Broadcasting decision CRTC 2016-464, 2016).

One of the three families involved with the American cross-border targeted stations finally got its coveted Canadian license. The Badhs and Sher-E-Punjab would return to the air as the CRTC awarded it 600 KHz with 10,000 watts full-time. The conditions of license required 85% of programming not be in English or French, 67% in Hindi or Punjabi, but nothing in Chinese, and make annual contributions of Can\$250,000 above the level required to Canadian content development organizations. But in acknowledgment of the family history, the commissioners reminded Sher-E-Punjab to steer clear of any involvement with U.S. stations based the 2014 consent agreement (Broadcasting decision CRTC 2016-464, 2016).

The CRTC awarded the second new station to a firm called Akash to serve Surrey at 91.5 MHz with a 1,000-watt ERP at 122 meters (400 feet). The conditions of license included 100% ethnic programming, at least 77% in languages other than English or French, 67% of programming in Punjabi, Hindi, or Urdu, but not Chinese. The firm must also contribute Can\$100,000 per year above what is required to Canadian content development organizations. All three stations were to be operational before November 28, 2018 (Broadcasting decision CRTC 2016-464, 2016). However, the two new stations went back to the CRTC with additional applications. In one case, it re-opened the question of how the new stations could affect the economic viability of the existing stations.

Sher-E-Punjab's proposed transmitter site was no longer available (Pelser, 2017). The CRTC granted the application for the station, now called CHOF, to duplex



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the station from the site of Corus Entertainment's CKNW, 24 kilometers (15 miles) east of the original location (Broadcasting decision CRTC 2018-283, 2018). The approval included a power increase from 10,000 watts fulltime to 50,000 watts day and 20,000 watts night. The company's Dale Badh (2018) told the CRTC this would grow the station's proposed coverage area, but not significantly increase the potential reach in the South Asian population centers. There were no objections to the application.

The Akash license was granted the call letters CJCJ, but the firm's manager claimed the proposed antenna site was also no longer available. Akash president and CEO Herkiranjeet Kaur Mann applied to move the antenna to neighboring Delta. Mann also sought to increase the antenna height from 122 meters to 193.9 meters (636 feet) and boost the ERP from 290 watts to 320 watts. She informed the commission that the change would increase the population within the station's 3 mV/m contour from 345,000 to 644,000 (Mann, 2018). CJRJ and CKYE-FM jointly filed a response opposing the application. Among the reasons for opposition cited by were that the new location would expand CJCJ's coverage area far beyond Surrey, which it was licensed to serve, and into areas served by the existing stations, creating financial pressures on CJRJ and CKYE-FM (Lewis, 2018). Dale Badh filed a similar objection on behalf of Sher-E-Punjab. Specifically, being on FM already presented a competitive advantage. Badh (2018) estimated the grant of the CJCJ application would reduce Sher-E-Punjab's projected revenue by 20 percent.

**Table 9 South Asian Stations Serving Metro Vancouver**

600	CHOF	Sher-E-Punjab
1200	CJRJ Spice Radio	IT Productions (Sushma Datt)
1550	KRPI	(formerly Sher-E-Punjab)
1600	KVRI	Media Waves (formerly Radio India)
91.5	CJCN	Akash
93.1	CKYE Red FM	South Asian Broadcasting

### Conclusion

*1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?*

In addition to the population disparity, another condition that sets the Vancouver-Bellingham market apart from the other markets in this study is the lack of a history of cross-border listening. The radio industry in southwest British Columbia and northwest Washington appears to have evolved in parallel, but with little interaction beyond the necessary technical coordination.

For two groups of listeners, that changed as the 20<sup>th</sup> century became the 21<sup>st</sup> century. Canadian listeners seeking Christian music programming found KWPZ after it moved its transmitter to Orcas Island in 1997. They then found Christian talk shows on KARI after its purchase and format change in 2000. Maninder Gill was not a shock jock, but like Wolfman Jack at XERB, he realized he could use a cross-border station to reach a target audience on the other side of the line as he created South Asian broadcasting in the market and put Radio India on KVRI in 2000. Sher-E-Punjab later appeared on KRPI and Radio Punjab on KRPA. Their success prompted the CRTC to seek ethnic stations in Canada, but CJRJ and CKYE-FM did not get their licenses awarded until 2005.

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*2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?*

The differences between the regulatory philosophies of the United States and Canada come into stark contrast in Vancouver-Bellingham. The FCC is still charged with ensuring the goals of public interest, convenience, and necessity are met. As previously mentioned, what constitutes the public interest has changed over time. The commission has evolved into primarily an enforcer of technical and ownership regulations. As was shown in El Paso many years earlier, economic viability and programming choices are not the commission's concern. The CRTC is very concerned about economic viability and programming choices. It also enforces ownership regulations and coordinates with ISED on technical aspects. For example, the CRTC members had to be satisfied there was enough of market to support two South Asian stations before licensing CJRJ and CKYE-FM in 2005. They made the same considerations when adding two more in 2016. When CJCN applied to move its transmitter and thereby increase its potential FM audience, all three of its direct competitors cried foul on economic grounds.

That stands in contrast to the KRPI application to move the transmitter to Point Roberts. After coordinating the move with ISED, the FCC approved both the relocation and a change in the city of license. The only grounds other U.S. station managers had to object to the change were technical, not economic or programming. None of the American managers interviewed for this study opposed the switch. What stopped the move was not the FCC, but local opposition at the county zoning board.

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*3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?*

This study showed a difference of opinion between music station managers about the effect of CanCon rules on cross-border listening. The American manager said the ability to play the best music without government interference gave Canadian listeners a reason to seek out U.S. stations. The Canadian manager admitted that CanCon had been a detriment to programming in the past, but the growth of the Canada's music industry has turned around the listeners' opinions.

Canada's format regulations are what drove the growth of cross-border targeted radio in Vancouver-Bellingham. Although the long-time prohibition on single-faith radio stations has come to an end, no southern British Columbia stations had sought the format. That left KARI and KWPZ as the only source of Christian programming for the so-called Bible belt in the Fraser Valley.

The CRTC authorized Vancouver's first multicultural station in 1972, and subsequently licensed stations serving the larger population of immigrants from China. The CRTC was forced into authorizing the first two South Asian stations by the presence of the three stations coming in from the United States side of the border. After the 2005 hearings, the CRTC licensed one AM and one FM South Asian-focused multicultural station to Vancouver. It was hoped that the orders issued on the three programmers of the American stations would force them off the air, allowing CJRJ and CKYE-FM to repatriate the money Canadian advertisers were spending on the U.S. stations. That did not happen. Other Canadian-produced South Asian programs appeared on KVRI and KRPI. Canada does not have an equivalent of the American

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section 325c. The CRTC members made it very clear that they viewed people using Canadian studios to produce programming for American stations that can be received in Canada to be a violation of the Broadcasting Act. The three programmers involved were ordered to stop what they were doing. However, others took their place on two of the U.S. stations involved. The CRTC order upon Radio India did get its programs off KVRI, but MediaWaves replaced it with similar programs. The MediaWaves studios and offices are in Surrey, its manager has been an activist in that city. The two new stations are supposed to serve Surrey.

The market was further diluted by the illegal operation of what was licensed as three limited stations in Surrey. A TIS station is supposed to tell drivers what to avoid. The concept of a TIS owner appearing before the CRTC with a marketing manager, program manager, and legal counsel as well as carrying Can\$600,000 in advertising commitments continues the “you cannot make this up” theme of this section. The commission did have the authority to order the three out-of-license stations in Surrey off the air. The subsequent grant of licenses took away any hope of returning to the air on their original frequencies.

Datt argued that the two proposed new Canadian-licensed stations would hurt the revenue of the existing, licensed South Asian stations. The commission had tried to split the market, making it clear the new stations were primarily designed to serve Surrey. Perhaps the new stations will stimulate an increased interest in reaching the South Asian community by advertisers who had not previously looked at including it in their marketing program. The stations need to expand their advertiser base if all are to

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survive. CJRJ was teetering on the edge of economic viability, operating under its second short-term license renewal.

*4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.*

The sale of KRPI for \$100 could be an indication that the former owners just wanted to get rid of the station. As the FCC interviewee said, KRPI's attempt to change its city of license and build a new transmitter plant within sight of the border in Point Roberts opened a "kettle of fish." The project had FCC and ISED approval and a preliminary OK from the county's zoning authorities. However, the station's management never involved the people of Point Roberts and Tsawassen in their plan. When the residents discovered that the five-tower array of a 50,000-watt radio station was potentially coming to that small community, opposition mobilized quickly. There is no way to know if the outcome would have changed with a different approach. Two years later, the fight over the towers was still fresh in the minds of those in the area.

The KRPA situation has an air of uncertainty. Time will tell if KRPA acts on its construction permit and what programming is placed on it.

The KWPZ operation is somewhat similar to that of CKLW years earlier. The station has its main offices and studios in Bellingham, but has a sales office and promotional supply location on the Canadian side. The decision to rent the storage unit was prompted by the need to clear t-shirts and other giveaways through the Canada Border Services Agency (CBSA). Taking a large quantity across the line at once avoids having to stop and make declarations before going to every event. Staff members were also reminded of what to say to CBSA personnel about their reason for crossing the

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border. It was perfectly legal for them to be carrying out the business of the station in Canada, but they needed to be clear that they were not going to a job in BC.

### *Whac-A-Mole*

The Vancouver-Bellingham market shows the stark contrast between the radio regulatory frameworks of the United States and Canada. There are South Asian focused stations licensed in the U.S. seeking an audience almost totally within Canada. Meanwhile, the American Christian stations are trying to serve listeners on both sides of the 49<sup>th</sup> parallel. The FCC has nothing to say about these situations. In fact, the FCC (with ISED's approval) authorized the construction of a maximum power AM transmitter site just about hugging the border.

Canada's efforts to restrict South Asian immigration ended in 1947 and immigrants from India, Bangladesh, and Pakistan became a large share of the Vancouver area's population. The CRTC has to approve station formats and the commission was slow to recognize this community's need for its own radio stations. As South Asian programming appeared on American stations, the CRTC members found themselves playing a version of the arcade game Whac-A-Mole: licensing Canadian stations, issuing orders to the programmers of American stations, watching new operators pop up to continue the U.S. programming, dealing with TIS stations that popped up and operated outside their permits, and licensing more stations that could not immediately pop up due to transmitter issues. While the commissioners were trying to preserve the economic vitality of the South Asian stations licensed in Canada, it was paying no attention to the American-licensed Christian stations that were attracting listeners and support among BC residents, businesses, and ministries.

## Chapter 9: Discussion

This study started with a quote from NBC Production Director Albert Crews, “Radio, itself, is a neutral thing. It is merely a device for transporting noise from one place to many others. But its power lies in the fact that the noise it transmits can be heard anywhere in the world, by as many people as wish to listen” (Crews, 1944, p. v). That noise gets people dancing, sports fans screaming, voters outraged, or the lonely a little less so. Crews wrote those words in 1944, when the world was at war. Edward R. Murrow is best remembered for using radio to bring World War II into American homes. In the European theater, the British BBC and German RRG carried the messages of the allied and axis powers across borders. After the fighting stopped, the American Radio Free Europe and Radio Moscow conducted a cold war of the airwaves. Radio is a medium without borders. The peaceful coexistence of the United States, Canada, and Mexico facilitated the development of an innovative, profitable, and vital radio industry.

Technology in the century since broadcast radio debuted has included telephones without wires, a worldwide information network available to anyone, automated manufacturing, and supersonic air transportation. With the countless sources of information and entertainment at American’s fingertips, the influence of radio has not been diminished. In 2018, Nielsen estimated that Americans 18 and over spent a total of 3.1 billion hours listening to AM or FM radio in an average week. That was exponentially greater than the 223.8 million hours spent with audio streaming services (As the audio landscape evolves, broadcast radio remains the king, 2018) .



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The history of each North American nation includes stories of radio stations and personalities that made important contributions in their communities. That last word is the most important: radio is a local medium, stations serve the communities to which they are licensed and anyone the signal from their tower can reach. While that did include listeners across the eastern U.S. tuning in WSM from Nashville on Saturday evenings for the Grand Ole Opry broadcast, that was an exception rather than the rule. If there was snow on the ground on Long Island, it was time to turn on WHLI in Hempstead to see if schools were closed. Newfoundland residents who wanted to express an opinion have been able to do it on the talk shows of VOXM in St. John's (Marland, 2013). A traffic backup on the Washington Beltway could lead a driver to seek an alternate route from WMAL. WMAL serves listeners in Maryland, Virginia, and the District of Columbia. Like Washington, the New York, St. Louis, and Ottawa-Gatineau markets traverse state or provincial lines. This study looked at another subset of radio stations in markets that contain international boundaries.

An international border is an intersection of cultures and governments. The Berlin Wall was built along a border to keep people inside East Germany. The border wall through San Diego was built to keep people outside the United States. Walls cannot stop the modulated electromagnetic waves of radio. Along the U.S. southern and northern borders, the radio stations in this study took advantage of their geographic location and created a unique way of doing business not available away from those boundaries.

Successive Canadian, American, and Mexican governments have molded broadcast regulations to fit their larger goals. Katz (2010) wrote that people will look

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for ways to bend rules without breaking them. As he predicted, firms taking advantage of loopholes in San Diego-Tijuana and Vancouver-Bellingham felt no guilt about doing so and used criteria that made sense to them as explanations for their behavior. The FCC and CRTC did not see things their way.

This was the first scholarly examination of cross-border targeted radio from historical and regulatory perspectives and the first to examine case studies in the United States, Canada, and Mexico. The markets and stations studied indeed hold unique positions in North American radio history. Cross-border targeted remained a factor in these markets even as the importance of big-signal AM stations faded into the dominance of the FM band.

The first reason for broadcast regulation is to prevent interference. Without an agency to police frequencies and power, the dial would descend into cacophony as stations fought for dominance. Since radio waves know no borders, regulators in adjoining nations must work together. As this study showed, the modern trilateral cooperation is a stark contrast to the early days of the medium when it seemed Mexico did not mind a bit of chaos on the dial. Each North American nation views the airwaves as public, not government, property. This was the reverse of most of the developed world. While public service broadcasters enjoyed a monopoly for more than 50 years in most of Europe, the radio industries of Canada, the U.S., and Mexico were built by private companies. From that point, the regulatory trajectory in each country followed its own path. Mexico believed in more government access to the airwaves, the United States reduced program mandates, and Canada worked to ensure the airwaves were used by Canadians for Canadians.

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In the vacuum that is an interior market, these regulations are transparent because all of the stations follow them. They can become obvious in a border market, where different stations are following different regulations. It may be more advantageous to be under the requirements of one country than the other. Specifically, an American station does not have to follow the content regulations of Canada or the government access rules of Mexico. But while Canadian regulators monitor the economic environment of stations, U.S. stations succeed or fail on their own. It was shown that most cross-border targeted radio originates outside the U.S. for an American audience. This is an easy calculation as the U.S. may have a larger population and the U.S. dollar is generally somewhat higher in value than the Canadian dollar and much higher in value than the Mexican peso.

As a local medium, cross-border targeted radio has a longer history in markets where there are close ties between communities on either side of the line. McWilliams (1948) wrote that people living along the U.S.-Mexico border occupy a “single cultural province.” If an area is border agnostic by nature, it stands to reason it would be border agnostic in its radio choices. That explains why there is such a contrast between cross-border targeted radio in San Diego-Tijuana and El Paso-Juarez and cross-border targeted radio in Detroit-Windsor and Vancouver-Bellingham.

The new North American free trade environment could have a major impact on broadcasting in two of the three nations studied. Changes in U.S. and Mexican foreign ownership regulations could open the door for greater investment by Americans in Mexican broadcasting and Mexicans in American broadcasting. This study looked at some early signs of these changes, but with that distinctive cross-border targeted radio

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twist of a seemingly improbable situation being reality. The same cannot be said of Canada. As long as the Ottawa government views cultural industries such as broadcasting as a distinct business to be protected by and for Canadians, the foreign ownership restrictions will remain in place.

Most radio station managers in Canada, the United States, and Mexico need to comply with one set of regulations. However, managers of some stations along the U.S.-Canada and U.S.-Mexico borders take on a dual regulatory challenge that also allows managers to take advantage of loopholes in those regulations. As this study has shown, sometimes loopholes not only open, but get closed.

This study has looked at listening options for millions of people in Canada, the United States, and Mexico. The history of cross-border targeted radio was subjected to a comparative-historical analysis that facilitated a comparison and contrast of the cases and the causes behind the developments in each market. A large variety of primary and secondary sources was needed to develop this analysis. In the general inductive analysis used for the contemporary section, data is gathered and then analyzed without *a priori* expectations. There are evaluation objectives and research questions, but those are designed to guide the conduct of the research and not to assess the conformance with a defined hypothesis or theory. For the contemporary portion of this study, primary and secondary data were combined with semi-structured interviews to construct the narratives of these four cases. The use of “how” and “why” questions elicited open-ended answers. The interviewees were the managers of these stations and the regulators who implemented the rules those managers must follow. They gave frank assessments of their experiences in the realm of cross-border targeted radio which facilitated this

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analysis. The unit of analysis in this study was the selected market rather than the individual station. This perspective prevented outliers from skewing the study's findings. It also included more data into the analysis. While this method does not yield a generalizable result, it provides an in-depth market-level analysis based on the study's questions.

### **Answers to Research Questions**

#### **1. How has radio along U.S.-Canada and U.S.-Mexico borders evolved?**

The governments of Canada, the United States, and Mexico have coexisted peacefully through most of their histories. There are no military forces pointing weapons across the border, most citizens are able to cross through ports of entry with little difficulty, and there is a long history of tri- and binational agreements ranging from the NAFTA trade agreement to the U.S.-Mexico International Boundary and Water Commission to the U.S.-Canada interconnected electric grid. It is into this cooperative environment that broadcast radio appeared in 1920.

The first decision about broadcasting that each nation made on its own was one that would set the direction for the future. The Canadian, American, and Mexican governments all decided to consider the radio spectrum a public resource. That gave a designated regulator the authority to determine the highest and best use of a broadcast band. As the U.S. Radio Act of 1927 said, the FRC was to make decisions in the “public interest, convenience, and necessity.” Over time, each North American nation would develop its own view of what the “public interest” actually meant. In the United States, rules such as the fairness doctrine were once considered part of the public interest. Most of those regulations have been eliminated. The 1968 Broadcasting Act

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said the public interest of Canadian broadcasters is to provide access to the airwaves for Canadians. Mexico's LFRT reminds broadcasters that the public interest includes stations serving as a direct pipeline from the government to residents.

The development of the radio industry in the three North American nations was a marked contrast to the trajectory of radio in other parts of the world. While state broadcasters enjoyed monopolies in many other countries, the United States, Canada, and Mexico built their radio businesses primarily through privately-owned stations sustained by advertising. Canada created the CBC/Radio-Canada and Mexico saw a selection of stations owned by government agencies. The United States eschewed a government-affiliated broadcaster, preferring to spread local stations throughout the country. Regardless of government involvement, a key feature of all three countries were that all allowed commercial broadcasting, facilitating the temptation to experiment with cross-border targeted radio.

Radio's first cross-border challenge was avoiding interference. A customs officer may be able to stop a traveler entering a country, but radio waves do not recognize borders. That meant national regulators had not only to act as the traffic cop of local airwaves, but ensure what they approved on their side of a border would not create a problem on the other side of a border. From radio's earliest days, American and Canadian regulators worked to combat interference between stations licensed in each country. Among the first decisions was to assign stations in both countries to frequencies between 550 and 1550 KHz on the AM band in 10 KHz intervals. As higher power transmitters became available, the agreements assigning clear channels to each country and limiting stations to a maximum of 50,000 watts on those frequencies

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put the young radio industry in shape for an orderly growth in the U.S. and Canada. But the failure of the American and Canadian negotiators to consider Mexico an equal partner in managing the dial created real problems for American stations and the U.S. government.

By combining the odd frequencies, higher power, and directional antennas of the Mexican stations with the early border blaster operators' desire to provide programming American regulators found objectionable, Mexican-licensed stations sent an audio post card from Mexico City to Washington saying, "Do not leave us out of your radio discussions." One skill the border blaster engineers developed was the construction of high-powered transmitters. John Brinkley, not one to miss an opportunity to promote himself, boasted about the 500,000 watts of his two stations. Ricardo Vázquez de Lara's XEBC had a reported power output of 2,000 watts. The FRC's C.B. Joliffe was being generous when he said, "the indication is it is probably more," as he discussed the interference caused by the Tijuana station to WCCO in Minneapolis, almost 2,500 kilometers (1,550 miles) away (Remote control border stations: Hearings before the committee on merchant marine, radio, and fisheries, House, 73rd Cong. 2, 1934).

Mexican representatives finally got a seat at the table in the 1937 NARBA talks. Being recognized as an equal partner led to an orderly distribution of an expanded number of frequencies, assignments of classes to channels, designations of clear channels, and the avoidance of interference. While it meant an end to those border blaster stations the Americans wanted off the air, Mexico's retention of the ability to license stations with more than the 50,000-watt maximum in the U.S. and Canada meant new generations of border blasters could (and would) emerge.

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Those negotiations involved six countries, but established a system that, if followed, would assure a smooth future for North American broadcasting. That precedent was followed as the original agreement was renewed, FM was developed, and TV was added. It is remarkable to consider the amount of give and take involved in these kind of negotiations in combination with the number of countries trying to achieve a settlement. However, with a framework in place that prevented cross-border interference, each nation was then free to develop its own broadcast industry in a way best suited to its particular social, economic, and cultural aims. These developments became what separated the regulatory schemes of Canada, the United States, and Mexico. In some cases, they facilitated cross-border targeted radio while in other ways, they complicated cross-border targeted radio.

Rather than being thorns in the side of the Americans, the subsequent border blasters used their powerful Mexican transmitters to become part of the U.S. radio landscape. The Mexican owners of these transmitters had determined they would do better leasing the stations to programmers who would make more money for them with American-oriented programming than trying to appeal to a Mexican audience. For their part, Mexican regulators appear to have viewed radio stations along the border and radio stations away from the border through different lenses. This facilitated the development of cross-border targeted radio. The requirement that Mexican stations operate in Spanish was routinely waived, they sold advertising time to U.S. clients, and the administration had an appreciation for these stations' abilities to promote their policies to an American audience. Thanks to the NARBA allocations, these stations were no longer creating interference on the American dial. However, FCC still had



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section 325c to extend some oversight of these stations. This complicated cross-border targeted radio.

The new generations of border blasters continued some of the staples of the genre, including country music and radio evangelists. Preacher Herbert W. Armstrong (1944) told his followers that divine intervention allowed him to use the 150,000 watts of XELO in Juarez to spread the Gospel to the heart of America on Sunday evenings. Cross-border targeted radio has also been innovative, such as XETRA in Tijuana becoming the first all-news station for Los Angeles (Harvey, 2010).

This study identified a significant difference between the evolution of cross-border targeted radio along America's northern and southern boundaries. The San Diego-Tijuana and El Paso-Juarez cultural connection existed since long before the current border was established. The majority of these stations were licensed in Mexico and seeking American audiences.

One reason for the smaller amount of cross-border targeted radio in Canada is technical. A distinctive feature of AM broadcasting in Canada is the use of directional antennas to avoid invading U.S. space. The use of four, six, eight, or even more directional towers is routine, allowing Canadian stations to stay on the air around the clock and avoid interfering with U.S. and other Canadian stations. For some of the stations mentioned in this study, CJRJ used two towers, CHOF and CKWW needed four, while CFTR had an eight-tower array (FCC Data, n.d.). This limited the technical ability of most Canadian stations to reach a significant American audience. The exception was CKLW, where its five-tower array delivered a solid signal to parts of five U.S. states, but only one corner of Ontario. This meant Canadian regulators did not

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need to consider cross-border targeted radio as a major issue. They were certainly aware of Canada's border blaster, but spent four decades pretty much ignoring, and at times enabling, its binational operation.

To listeners, advertisers, and competitors, CKLW had been a part of the Detroit landscape since the 1930s. When Drake-Chenault, a highly-regarded professional programming consulting firm, came to town and The Big 8 was born, CKLW went from a Detroit-Windsor station to a multi-market powerhouse mentioned in the same sentence as American broadcasting giants WABC, KHJ, and WLS. A cross-border targeted radio station had become a major force in the U.S. radio industry.

There are several remarkable differences with cross-border targeted radio in Vancouver-Bellingham. First, cross-border targeted radio did not have a long history in the market. Second, it did not involve stations across the border trying to attract American listeners. These were American stations licensed in rural areas with a partial or total focus on attracting Canadian listeners.

As FM became popular, it shrank the footprint of a cross-border station. It was now a case of using a station in one city to attract listeners in another, but with an international boundary between them. In markets where cross-border listening had been going on for decades, choosing an FM station from the other side of line was just as routine as choosing an AM station from the other side of the line. That does not mean that an FM cross-border targeted station could not have an impact beyond its contour map. XETRA-FM, or 91X, in San Diego-Tijuana has been one of America's most influential alternative rock stations for decades.

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Cross-border targeted radio also allows those who have, for a variety of reasons, been denied a license in one country to get on the air in another country. In the 1930s, both John Brinkley and Norman Baker saw U.S. regulators rescind their licenses, but found a way to get back on the air through Mexican signals. Seventy years later, Maninder Gill, unable to secure a license from the CRTC, and took over a U.S. station to reach his Canadian-targeted South Asian audience.

Transnational media provided immigrants an essential tie to the home nation and fellow immigrants in their new home. The early Juarez stations were granted approval to use English and Spanish and sell time to American firms to reach Mexican immigrants in the southern United States. Maninder Gill, the Badh family, and Gurpal Garcha used American-licensed stations to maintain ties between South Asian immigrants in the Vancouver area and their home countries of India, Pakistan, and Bangladesh. In Tijuana, a cross-border targeted station is being used as a connection for Chinese immigrants in Los Angeles.

### *Modern Cross-Border Targeted Radio*

In San Diego-Tijuana, Mexican-licensed stations were being used to increase the number of options for San Diego radio listeners. This has been going on for so long that listeners in that market could be considered border agnostic. Mexican regulators have facilitated the use of these stations to reach an American audience by allowing them to broadcast in English and sending them English translations of the required government announcements. For some time, these stations received specific messages promoting Mexican tourism rather than the messages used in the interior of the country. While conforming with Mexican regulations, these stations also had an obligation to

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American regulators through the section 325c permit process that allowed use of U.S. studios. Being in cross-border markets allowed America's largest radio broadcaster to take advantage of a loophole in U.S. ownership restrictions and operate 13 stations in the market, giving it *de facto* control over certain demographics. As Katz (2010) predicted, Clear Channel felt no guilt in skirting a law designed to ensure access by multiple voices to the airwaves. However, this loophole was remediable and the FCC eventually closed it. The unique history of cross-border targeted radio continues as the application for a section 325c permit by a Tijuana station set off a series of allegations that the station would be a pipeline for Chinese propaganda into the U.S.

El Paso-Juarez is also a border agnostic market. The predominance of Spanish among residents in the market allows stations in that language from both sides of the Rio Grande to be highly rated in El Paso. With one Mexican ownership group already holding equity in some El Paso stations, managers are prepared for a day when a Mexican concern takes advantage of the revised U.S. ownership rules and purchases an El Paso station outright. While cross-border targeted stations in San Diego-Tijuana are Mexican licenses being used to reach American listeners, there are stations such as XHPX that try to appeal to listeners and advertisers in both El Paso and Juarez.

In Detroit-Windsor, the historical impact of CKLW could lead to the erroneous conclusion that this is a strong cross-border targeted market. In fact, CKLW was an exception. The station faced nothing but green lights in its drive across the river for almost 40 years. The implementation of the 1968 Broadcasting Act changed those lights to yellow. When market forces and a determined regulator came together in 1984, those lights turned red. While Windsor stations do have some listeners in Detroit,

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they have never been a factor among the Michigan radio audience. Using powers not available to the FCC, the CRTC members guided development of a larger Windsor radio market. In spite of their efforts, Windsor remains a Detroit-oriented market.

Loopholes, conflicting regulations, and legal entanglements have come together over the past two decades to produce a fascinating cross-border targeted radio environment in Vancouver-Bellingham. There is a format void in Vancouver for Christian radio. Canadian regulators had refused to license single-faith radio stations for many years and those it has since the ban was lifted face a specific set of rules. For residents of the so-called “Fraser Valley Bible Belt” and other believers in metropolitan Vancouver, their only options for Christian radio are two stations from northwest Washington.

It can be difficult to encapsulate the intrigue that South Asian targeted radio in this market has generated. Despite the growing share of South Asian-connected immigrants in the Vancouver area, the CRTC had not licensed stations to serve this community. Entrepreneurs found a way to do it through the use of Canadian studios and American transmitters. Years earlier, American regulators had claimed that since the Rio Grande border blasters were being operated by Americans for an American audience, they were subject to American jurisdiction, even though they held a Mexican license. This was the same rationale used by the CRTC in its attempts to silence this cross-border targeted programming. The drive to reach this audience was so intense that it included an attempt to build a maximum power transmitter site almost on the U.S. border and the use of traveler information stations as full-service ethnic radio stations. Even as the CRTC issued a series of licenses for Canadian stations to serve

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these Canadian immigrants, the desire for operators to get their portion of the market from U.S. signals continued.

### **2. What makes a cross-border market different from a market in which all stations are licensed in the same nation, most people speak the same language, and broadcasters are subject to the same regulations?**

North American border cities have shared close ties throughout history. The mayor of one Texas city described the residents of the city on the Mexican side of the Rio Grande as family. An El Paso business leader pointed out that Juarez being in another country is a recent development in the 400-year history of the area. There are 400,000 people in Detroit-Windsor who have registered for faster border crossings. These examples help show that many people who live along a border may see it more as a fact of life than a barrier.

Language plays an interesting role in cross-border targeted radio. Spanish is the official language of Mexico and has long been the language required for broadcasting. Yet since the early days of radio, Mexican authorities recognized the value of cross-border targeted radio to promote the country and maintain ties with those who immigrated to the United States. That meant allowing some stations on Mexico's northern frontier to broadcast in English. There was a time when border stations received a set of Mexican tourism *tiempos oficiales* that were not used on interior stations. One Tijuana border blaster that had broadcast in English for decades, switched to Spanish from American studios, and then into Mandarin Chinese. In 2016, the law was modified to allow the use of indigenous languages. Radio stations in English or

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another language require a permit issued not by the broadcast regulator, but from the Ministry of the Interior.

It is, therefore, not surprising to see the acceptance of Mexican-licensed stations in San Diego and El Paso. For years, XEPRS was the home of Padres baseball. The station's management firm had to secure a section 325c permit from the FCC, run translated versions of the required Mexican government announcements without compensation on top of a regular load of commercials, give up an hour of Sunday evenings for a Mexican government national program, and schedule the playing of the Mexican national anthem twice a day. When the Padres switched to an American station owned by Entercom, their new station had a license from the FCC and none of those government-imposed programming obligations (Venta, Entercom snags San Diego Padres radio rights, 2016).

El Paso may be an American city, but Spanish is the dominant language in the market. Grupo Radio Centro owns stations in Juarez and has a minority interest in stations in El Paso. One of its American stations is rated number two among Spanish outlets, with one of its Mexican stations ranked fourth. The firm's English-language station operates from El Paso using a 325c permit. But unlike the stations in San Diego, the station management opted to run the required government announcements in the original Spanish. That has not hindered its success, as XHTO dominates certain demographics in the market. Years earlier, XEROK had also become dominant among certain target markets in El Paso.

As "Children of a Common Mother", residents of Bellingham and Vancouver also share English as a common mother tongue. Immigration has been a major factor in

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the growth of Vancouver, increasing the number of third-language speakers. When the CRTC did not provide for stations serving the lower mainland's South Asian immigrants in their languages, entrepreneurs found a loophole that allowed them to serve this community through U.S. stations.

Mexicans living in Monterey, Nuevo Leon can listen to six AM and 20 FM stations that are licensed to and serve that nation's 10<sup>th</sup> largest city. Mexicans living in Tijuana have to accept that some stations licensed in their city actually serve listeners on the other side of the border in a language they may not speak. However, they have the ability to listen to Spanish stations from San Diego and avoid the *tiempos oficiales* throughout the day, *La Hora Nacional* on Sunday evenings, and the *himno nacional* each morning and night.

The tradition of cross-border listening is not significant in Detroit. CKLW had been an essential part of the market from its earliest days and a dominant station during the height of The Big 8 era. After that, Arbitron and Nielsen continued to show small but consistent ratings for the four CHUM and later Bell Media stations on the American side. Boss Radio was the king of the Top 40 formats and CKLW was an innovator that other stations copied. The Big 8 offered something not otherwise available on a station with which Detroit listeners were familiar. While Top 40 was a mass appeal format with a specific target on the younger side, alternative rock had a stable, though smaller, audience. Much like 91X in San Diego, 89X in Detroit had been maintaining its piece of the market for many years<sup>23</sup>.

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<sup>23</sup> Both stations did acquire format competitors on the American side of the markets: ALT 94.9/KBZT in San Diego and ALT 106.7/WDTW in Detroit.



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In Windsor, cross-border listening is very significant. While BBM and Numeris are not specific in their released reports, the only explanation for how the Windsor station shares do not add up to a majority of the market is an audience listening to Detroit radio. That was proven in the custom report for this study that found at the time of the research, seven of the top ten stations in Windsor were American. Ron Dann (2018) at Blackburn admitted that listeners in Canada's Motor City find something shiny in America's Motor City, "There's always the impression that a bigger market, a bigger American market, has more to offer than a small Canadian market when it comes to programming."

### **3. Each country develops its own set of broadcast regulations. How do those regulations affect the operations of stations in cross-border markets?**

This study has revealed the relative strengths of the regulatory schemes among the three nations. The strongest regulatory environment is in Canada, where the charge to maintain a Canadian broadcasting systems for Canadians has resonated for more than 50 years. The Mexican regulations show a strong role for the federal government in administering the broadcast industry. Both of these provide a stark contrast to the evolved U.S. system, where content regulations, once strong, have all but disappeared.

As the largest of the three countries, the one with the biggest economy, and the home of Hollywood, New York, Nashville, New Orleans, and Detroit, American cultural industries pumped out plays, films, and music that attracted audiences far beyond the country's boundaries. Officeholders in both Canada and Mexico realized that without some sort of intervention, Canadian and Mexican cultures could fade away. The Mexican government instituted a set of content regulations that were supposed to

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combat the pervasive American culture in the early days of radio. That was followed by the requirements to carry *La Hora Nacional* on Sunday evenings, the national anthem twice a day, and the airtime tax that is the broadcasting of the *tiempos oficiales* government announcements. Canada's 1968 Broadcasting Act included Canadian content requirements, ownership restrictions, and program guidelines to ensure the airwaves were being used by and for Canadians.

Managers at radio stations in border cities have three choices: program to listeners one side of the border, program to listeners on the other side of the border, or program to listeners on both sides of the border. The nature of cross-border targeted radio is a binational existence and the inherent conflict of trying to stay within the bounds of two nation's laws and regulations. As the CRTC's George Pollard said of CKLW, "The station was licensed to serve that small Canadian community and it never did that job" (McNamara, 2005). This is in contrast to the Mexican regulators who facilitated cross-border targeted stations with exemptions from language rules. While American regulators established a system for those who wanted to use a station in another country to reach U.S. listeners, they created no provision for those who wanted to use a U.S. station to reach listeners in another country. That allowed the development of stations in Bellingham specifically aimed at listeners in Vancouver.

One way lawmakers in all three countries sought to ensure broadcasting reflected the cultures of the nation was to limit licensing of the public airwaves only to citizens of the country. This was enshrined very early in the development of broadcast regulations. The workaround for cross-border targeted radio stations in Mexico was the management contract. A Mexican firm owned the station and had legal responsibility

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for its operation. However, programming and sales were handled by a contractor who paid a lease fee to the station owner. The lessee received a receipt for the payments, but no equity in the business. The lessor could cancel the contract based on the terms of the deal. This study contained examples of that repossession at XED after Will Horwitz was convicted in a U.S. court from charges based on facilitating American participation in a Mexican lottery, and XERB, where the owners claimed the preachers who represented a bulk of the station revenue were contrary to Mexico's Catholic values.

The United States in 2016 and Mexico in 2014 changed the citizen ownership regulations. It is now possible, after a more involved process, for a foreign entity to own an American or Mexican radio or television station. The revised Mexican law allows for 50 percent foreign ownership, but there are circumstances under which that share could be higher. Canada took a strong stand against foreign ownership in the 1968 Broadcasting Act. Even though earlier regulators had approved the sale of control in CKLW AM-FM-TV to an American firm, the CRTC members ordered RKO General to find a Canadian buyer. Canada's cultural industries, which include broadcasting, had been exempted from a series of trade agreements with the U.S. Although American negotiators looking for greater access to Canada's digital realm sought to change that during the 2018 talks on a new trilateral deal, the exemption remained.

The most significant American federal government effort to thwart cross-border targeted radio was section 325c, the Brinkley rule. This requires a permit to use an American studio to send programming to a station outside the U.S. that can be received in the U.S. Equally significant was Norman Baker's successful appeal of the rule, clearing the way for recording programs in the U.S. and transporting them out of the

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country for playback. It is interesting to note that section 325c did not specify to what countries it applied. The true target nation of the statute became obvious as CKLW in Windsor easily obtained the needed permits to be an affiliate of American networks. The disc jockeys of XEROK and 91X and news anchors of XETRA recalled traveling over the border to get to their studios.

This points to a more sweeping change that has been going on in U.S. broadcast regulations since the 1980s. Most of the programming requirements were eliminated, the ownership rules were radically changed, and regulations such as the need to have a physical studio and accessible public file were repealed. The regulations that remain are primarily concerned with ownership and technical issues.

One foundation of Mexican broadcast law was the promotion and preservation of the Mexican culture. Much of that culture is tied to the Roman Catholic church. In the United States, many religious radio broadcasts come from evangelical or Pentecostal traditions. The Mexican owners of XERB and XHRM each used the excuse that American evangelists on the stations were preaching a message contrary to Mexico's Catholic tradition in arguing to take back control of the stations from their American operators. The lessees believed religion had nothing to do with the owners' moves. At XERB, Wolfman Jack saw it is a ploy by the owners to get a larger share of the business he generated. XHRM's owners had complained that the station's African-American oriented format was unable to attract a sufficient number of listeners.

American radio has a long tradition of religious broadcasting, with many stations carrying words and songs of praise throughout the day. Canada's preference for pluralism did not allow single-faith radio stations until 1993. Windsor did not get a

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religious station until 2013. With no religious radio stations in lower British Columbia, the only options for Christian programming were stations from northwest Washington.

As The Big 8's glory days faded into memory, CKLW's managers pleaded with the CRTC for relief from the CanCon and programming regulations they said were stifling its potential or preventing the station from following music listeners to FM. There is no way of knowing if The Fox could have succeeded in regaining CKLW's dominance as the program director predicted (McNamara, 2005). The CRTC members finally relented when it was shown that the Windsor stations were struggling to survive. When the market rebounded, the CRTC guided the development of an expanded Windsor radio dial.

There are times when regulators tried to limit the growth of cross-border targeted radio. Among them are American section 325c and the NARBA ratification side letter between the U.S. and Mexico designed to shut down the Brinkley, Baker, and Carr stations. The CRTC used provisions of the 1968 Broadcasting Act to, in the words of its staff, repatriate CKLW. In other instances, American and Mexican regulators have facilitated the growth of cross-border targeted radio. Mexican regulators allow border stations to operate in English while San Diego and El Paso have several stations operating under the section 325c permits that were originally designed to thwart their operation.

**4. What are the legal entanglements of cross-border targeted radio? These may include laws covering a wide variety of topics from advertising to property zoning.**

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John Adams, the second president of the United States, once said, “We are a nation of laws, not of men.” People and businesses in the United States, as well as Canada and Mexico, are subject to myriad laws and regulations from federal, state or provincial, and local governments. These are laws on top of the broadcast regulations. It is very possible that what is perfectly legal in one country was quite illegal in its neighboring nation. When operating a business that straddles a border, those conflicting laws can have serious consequences.

The first legal entanglement of a cross-border targeted radio station involved the first cross-border targeted radio station. Will Horwitz at XED correctly thought that offering an opportunity to participate in the Tamaulipas state lottery would increase his audience. American federal prosecutors saw it quite differently, and he was sent to prison. That gave the station’s Mexican owners the opportunity to regain control of the station, until they made a new arrangement with John Brinkley.

John Brinkley and Norman Baker had offered their listeners hope for the cure of medical conditions. The American Medical Association called them quacks and tried to stop their practices. Mexico’s federal health department also had questions about Brinkley’s medical practices and seized XER in 1934. The station was back on the air as XERA in a few months. Promoting a horse laxative as a cure-all put the Carr brothers in the crosshairs of the Food and Drug Administration.

Payola is a form of bribery that puts songs on the air in exchange for something of value. It continued to be a problem after the scandal that brought down American disc jockey Allen Freed and others in the American music and radio industries. Stations along the Mexican border straddle a boundary where it is legal to accept payment for

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playing a song on one side (Mexico) and a crime on the other. When Wolfman Jack was running XERB, members of his team admitted to being paid to spin records. Today, American station managers in San Diego have to contend with promoters who try to apply the same approach they would use in Mexico.

The economic weapon the Canadian government could wield at cross-border targeted stations was to eliminate the deductibility of advertising expenses on non-Canadian media. Sen. Daniel Moynihan of New York pointed out that this would hurt not only CKLW, but radio and television stations operated by his constituents. While designed to keep Canadian dollars in Canada, this tax exemption would also affect the owner of a store in St. Catharines, Ontario who might use a Buffalo radio station to entice shoppers to cross the Peace Bridge. That shopkeeper would pay a 13% harmonized sales tax on an advertising contract with CHRE in St. Catharines, which may mitigate the inability to deduct the cost of an advertising contract with WMSX in Buffalo.

American firms that chose to advertise on Canadian stations might find that a commercial that met all U.S. requirements might not be able to be played on the other side of the border. Canada's Department of Consumer and Corporate Affairs and the Department of Health and Welfare each had advertising guidelines that might require a commercial that met American regulations to be re-cut for a Canadian audience. The additional cost kept some U.S. advertisers off Canadian stations.

The Badh family had developed a plan to improve KRPI's signal in a brilliant way: placing the Canada-oriented directional array of a 50,000-watt radio station a stone's throw south of the border. The American community of Point Roberts is a

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geopolitical quirk that has fascinated mapmakers for a long time. The modern FCC considers changes in city of license, new transmitter sites, and technical changes to be a “minor change”. With ISED’s agreement, the FCC had no objection to KRPI’s several changes. What stopped the move was complaints to the local zoning board members by area residents upset about what they called ugly towers and allegedly dangerous radiation.

### **Conclusion**

In any of the three nations in this study, radio is a business. Station owners and managers identify a target audience they think will be attractive to advertisers, design a format that appeals to that audience, then hopefully turn a profit selling commercials to those business owners that want to reach that target audience. While there are a few exceptions, the consistent theme from this study has been the use of radio stations licensed on one side of a border for economic gain to reach a target audience on the other side of that border.

The border blasters gave North America a surgeon with questionable credentials who claimed to reinvigorate men with goat glands, a scratchy-voiced disc jockey with a distinctive howl who rocked through the night, and a station in a small Canadian city that became one of the most listened-to stations in the United States. They laid the groundwork for today’s cross-border targeted radio stations. In some cases, this became a routine way of doing business. In others, this bizarre history continued.

### **Implications of Findings**

As the first look at the phenomenon of cross-border targeted radio through a regulatory lens, existing literature contributed valuable building blocks to this study.



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This research united the work of Fowler and Crawford (2002) on the American operators of the Rio Grande border blasters, with that of Robles (2012), who looked at Mexican operators along the border. While Robles wrote about the first stations of Juarez and Tijuana, the litigious arrival of radio in El Paso had to be documented from FCC and court records. Crane's (1977) look at San Diego radio stopped at 1950, so additional sources were needed to bring the research up to date. The Canadian Communications Foundation's History of Canadian Broadcasting website explained the development of radio in Windsor and Vancouver. Elton Plant's (1989) autobiography and Carson's (2000) retrospective on personalities helped build the history of the Detroit market. This is the first Bellingham market history and was assembled from FCC records. By assembling these histories in this study, future researchers have a guide for their look into the past.

In addition to documents from the FCC, CRTC, and IFT, the general and trade press provided background for the contemporary section of the study. However, the semi-structured interviews with station managers and national regulators provided invaluable and previously unavailable insight into how regulations are applied in these unique markets.

As a study in media law among these three nations, this study provided the first comparison and contrast of the radio regulatory schemes of the United States, Canada, and Mexico. There is a fundamental difference between the evolution of radio in North America and the evolution of radio in Europe, Asia, and South America. In those areas, radio was a government resource and public service broadcasters such as the BBC had a monopoly on the medium. It would be decades before commercial radio was

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introduced. Canada, the United States, and Mexico instead viewed the airwaves as a public resource. The industry was largely developed by private operators as commercial enterprises. Although the three nations agreed on that basic point, from there the role of government in guiding the content of radio programming diverged. After a rough start, the broadcast regulators of the three neighbors established an enviable system of allocation tables and specific technical reviews that has prevented interference across the broadcast spectrum.

It has been found that Canadian regulators will try to stop cross-border targeted radio that puts a non-Canadian audience ahead of Canadian listeners as well as Canadian firms that use another country's stations to reach a Canadian audience. This is the opposite of the perceived Mexican view that facilitates cross-border targeted operations. While the American regulators frowned on cross-border targeted radio in history, the number of stations in Tijuana and Juarez operating with section 325c permits shows an FCC tolerance of the practice.

Broadcasters, like other mass media, have both consumers and customers. As Dimmick (2003) explained, radio's consumers are the listeners who find gratification from the niches presented on the dial. Radio listeners have also been known to develop parasocial relationships with personalities they see as kindred spirits or aspire to be, such as Wolfman Jack's on-air hedonistic persona (Troisi & Gabriel, 2011). Radio's customers are the advertisers who want to reach the listeners of the station. The economic theme that emerges from this study is the impetus in these markets to use stations to reach a more desirable audience on the other side of the border. There are instances when managers searched for loopholes to make that desire a reality.

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However, the local nature of the radio industry dictates that each market generates its own version of cross-border targeted radio. For example, the cross-border targeted stations in Bellingham are filling holes in Vancouver programming that resulted from regulations. The cross-border targeted stations in Tijuana are essentially expanding the number of options for San Diego listeners. In both cities, the stations have a target market just as any other station in North America, it just happens to be on the other side of an international border.

Radio is an essential link among immigrant communities. This study has shown that cross-border targeted radio has played a vital role in the lives of immigrants from several nations in different markets. With an estimated one million Mexican expatriates living in the United States during the 1920s and 1930s, early stations in Juarez received permission to serve them, partially in English, and sell time to American advertisers interested in reaching this immigrant community (Robles, 2012). These stations provided a similar bond to the Mexican homeland of these migrants that stations in Bellingham provided to South Asian immigrants in Vancouver 70 years later. Those stations drew a very loyal audience that was not happy when Canadian regulators moved in, as shown by their testimony at CRTC hearings. Although shrouded in controversy, a Tijuana station provided a connection between East Asia and the Chinese immigrants of Los Angeles. Bailey, Georgiou, and Haridranath (2007) wrote that media allow expression and representation for transnational migrants within and across space. In that instance, ethnic radio goes from being the gratification of a niche to filling a need for belonging that Troisi and Gabriel (2011) found so essential, especially in an unfamiliar country.

### **Limitations and Recommendations for Future Study**

The scope of this study was limited to AM and FM stations in selected North American markets. It was conducted from the viewpoint of managers and regulators. While mentioned anecdotally, the impact of cross-border targeted radio on listeners was not part of this study. A further study might examine the influence of stations from across a border on the radio audience in these markets.

Borders and radio stations exist around the globe. CKLW was North America's prime example of the potential of cross-border targeted radio. Its story is comparable to that of Radio Luxembourg, a station from a small city that attracted listeners across Europe and operated from facilities in two countries, being its own thorn in the side of British regulators (Radio Luxembourg, n.d.). This study could be replicated along other boundaries.

Modern technology has changed the way radio is consumed. SiriusXM satellite radio provides service in the United States and Canada, but has turned back efforts to expand to other parts of the globe (Forrester, 2014). The WorldSpace satellite service that was very popular in India, but never gained traction in the other parts of the world it served, filed for bankruptcy and went dark in 2010 (Chanda, 2014).

Terrestrial stations are no longer limited to their contour maps as online streams have the capability to carry their programming around the globe. Some "radio" stations exist only online, such as Radio India since it left KVRI. Sushma Datt (2017) said people were attracted to her station by a newscast from New Delhi. Listeners who want to know what is happening in New Delhi can now access a radio station from there through a smartphone app. Ron Dann (2018) said CanCon regulations can result in too

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much Bryan Adams on the air. Here again, an online stream of a radio station not subject to CanCon regulations is a click away. As consumers become more accustomed to finding their media gratification through wifi, the concept of radio as a local medium is weakened. In an online world, every station has the ability to be a cross-border targeted station. A future study could look at the consumption of online streams directed at listeners in other nations.

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