



Broadcasting Decision CRTC 2010-597

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Route reference: 2010-157

Ottawa, 19 August 2010

Durham Radio Inc.
Ajax and Toronto, Ontario

Application 2009-1664-5, received 9 December 2009

CJKX-FM Ajax and its transmitter CJKX-FM 2 Toronto – Technical change

*The Commission **denies** the application by Durham Radio Inc. to modify the authorized contours of its transmitter CJKX-FM-2 Toronto.*

The application

1. The Commission received an application by Durham Radio Inc. (Durham) relating to the broadcasting licence for the English-language commercial radio programming undertaking CJKX-FM Ajax. Durham proposed to change the authorized contours of its transmitter CJKX-FM-2 Toronto by decreasing the average effective radiated power (ERP) from 122 to 31 watts (maximum ERP from 220 watts at 16 degrees to 175 watts at 0 degrees). All other technical parameters would remain unchanged.
2. The proposed changes would result in an increase in the potential listenership within the 3 mV/m contour of the transmitter from 131,776 to 500,921 persons and within its 0.5 mV/m contour from 773,107 to 1,901,557 persons.
3. Durham stated that the reason for the application was to provide the country music format to listeners in the Greater Toronto Area (GTA). Durham argued that CJKX-FM supports and promotes Canadian country music and, by extending the coverage to a greater proportion of the GTA population, Canadian country artists would receive greater exposure. Durham further submitted that, because the proposed technical change would be small, there would be no interference to other stations that serve the GTA.

Interventions

4. The Commission received interventions supporting the application from parties that enjoy country music and who would like to receive CJKX-FM's country format in areas of Toronto where it is not currently available. The Commission also received a joint intervention opposing the application from three parties that operate radio stations in the

Toronto market: Astral Media Radio G.P.,¹ CTV Limited and Rogers Broadcasting Limited (the Opposing Interveners). The interventions and the licensee's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

5. The Opposing Interveners argued that CJKX-FM is licensed to serve Ajax, Oshawa and the Durham Region, and that approval of the application would introduce a new player in the GTA market without a competitive process. As such, the Opposing Interveners argued that the current application is not about improving service to listeners in the Ajax area but to serve the GTA. The Opposing Interveners were further concerned that approval of the application would have a significant financial impact on other stations in the market.
6. In reply, Durham argued that the Toronto market needed a country music radio station since the Opposing Interveners have abandoned that format. Durham indicated that it would continue to orient its service primarily to Ajax, Oshawa and the Durham Region and would accept a condition of licence in this regard. Durham also argued that the financial impact of the approval of the application on the Opposing Interveners would be minimal, given that the Opposing Interveners' Toronto stations have strong signals and garner large audience and revenue shares.

Commission's analysis and determinations

7. It is the Commission's general practice to approve technical amendments only in instances in which the licensee has demonstrated that the amendment is needed to correct a technical issue in order to improve service to the licensed market or because of a clear economic need.
8. CJKX-FM is licensed to serve the Durham Region, comprised of Ajax and Oshawa, as the primary market within its 3 mV/m contour. Its secondary 0.5 mV/m contour extends into the western part of Toronto. In *CJKX-FM Ajax – New transmitter in Toronto*, Broadcasting Decision CRTC 2006-107, 29 March 2006, the Commission approved the rebroadcasting transmitter CJKX-FM-2 Toronto. The purpose of the Toronto transmitter was to correct interference within CJKX-FM's existing 0.5 mV/m service contour. As a result, CJKX-FM's listeners who commute to downtown Toronto are able to receive the station. Accordingly, the establishment of CJKX-FM-2 was to correct a technical issue and in accordance with the practice set out above.
9. In the current application, Durham has not cited technical issues or economic need to support its application. Rather, it has argued that listeners in the GTA should have access to the country music format, which CJKX-FM provides. Durham was asked if it would accept a condition of licence requiring, among other things, that it devote up to 70% of its musical selections to country music selections. However, Durham stated that it would only be willing to accept such a condition for a seven-year term or until another Toronto station changes its format to country music. The Commission notes, however, that radio

¹ Astral Media Radio (Toronto) Inc. and 4382072 Canada Inc., partners in a general partnership carrying on business as Astral Media Radio G.P.

stations that do not operate in the specialty format can amend their formats as they choose so there is no long-term guarantee that CJKX-FM would remain in the country music format.²

10. In light of all of the above, the Commission does not consider that an exception to its general practice of approving technical amendments only in instances in which the licensee has demonstrated that the amendment is needed to correct a technical issue in order to improve service to the licensed market or because of a clear economic need is warranted in this case.
11. According the Commission **denies** the application by Durham Radio to modify the authorized contours of its transmitter CJKX-FM-2 Toronto.

Secretary General

² In this regard, the Commission notes that CHAM Hamilton, which puts a strong signal into parts of the GTA, recently adopted a country music format.