



Broadcasting Decision CRTC 2016-305

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Reference: Part 1 application posted on 11 June 2015

Ottawa, 1 August 2016

Durham Radio Inc.
Ajax and Toronto, Ontario

Application 2015-0564-5

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

*The Commission **denies** an application by Durham Radio Inc. (Durham) to change the authorized contours of CJKX-FM-2 Toronto, Ontario, a transmitter of the English-language commercial radio station CJKX-FM Ajax, to expand its service into the west side of Toronto and east side of Mississauga.*

The Commission considers that an exception to its general practice for approving technical amendments is not warranted, given that the primary market that Durham is licensed to serve is Ajax and Oshawa.

Application

1. Durham Radio Inc. (Durham) filed an application to change the authorized contours of CJKX-FM-2 Toronto, Ontario, a rebroadcasting transmitter of the English-language commercial radio station CJKX-FM Ajax. The applicant proposed to change the transmitter's class from A to B1 and increase the average effective radiated power (ERP) from 122 to 194 watts (maximum ERP from 220 to 800 watts). All other technical parameters would remain unchanged.
2. The licensee stated that this amendment would allow it to expand its market and provide service and music diversity (Country format) to an additional 654,000 individuals residing in the west side of Toronto and the east side of Mississauga. The licensee also stated that its proposal would enhance and extend service to Ajax and Durham residents who work in Toronto but that Durham Region (Ajax, Oshawa, Whitby) would remain its primary market and first priority for local service.

3. To demonstrate its long term commitment to the Durham Region and to the Country music format, Durham proposed to abide by the following conditions of licence:

The licensee shall devote a minimum of 70% of its musical selections from subcategory 22 (Country and country-oriented).

The licensee shall maintain its studios and base of operations in the Durham region.

The licensee shall contribute an additional \$10,000 per year for the next 7 years for initiatives that support Canadian country music artists over and above the basic annual contribution to Canadian content development.

Interventions and reply

4. The Commission received several interventions in support of this application as well as a joint intervention opposing the application from Newcap, Corus, Bell and Rogers, to which the applicant replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
5. In the joint intervention, the interveners argued that the proposal does not meet the Commission's policy for power increases, i.e. proof of a technical or economic need. They argued that CJKX-FM was licensed to serve Ajax and that the application is a "back-door" entry into the Toronto market.
6. The interveners further argued that the Toronto market is in decline and that approval would have a negative impact on existing Toronto stations. In addition, they stated that Durham's argument that an extension of coverage is needed to serve commuters travelling from Ajax to Toronto is not properly supported and that this issue was resolved in 2006 when Durham's application for a rebroadcasting transmitter in Toronto was approved in *CJKX-FM Ajax – New transmitter in Toronto*, Broadcasting Decision CRTC 2006-107, 29 March 2006 (Broadcasting Decision 2006-107).
7. In its reply, Durham stated that CJKX-FM Ajax is a Toronto radio station in the Toronto Census Metropolitan Area (CMA) and is considered a Toronto station based on the definitions of a radio market as outlined in the *Radio Regulations, 1986* (the Regulations). It also noted that CJKX-FM-2 is licensed for Toronto. Durham argued that approval would not give it full access to the Toronto market and that there would be minimal impact on incumbent stations.
8. Durham stated that the primary objective of its application is to provide a country music service not provided by Toronto CMA broadcasters and that the extension of coverage for Ajax and Durham residents commuting to Toronto is an added benefit.

Commission's analysis and decisions

9. When a licensee of a radio station files an application for a technical amendment, the Commission expects the licensee to present compelling technical or economic evidence justifying the technical changes.
10. In the present case, the licensee acknowledged that there are neither technical difficulties nor financial hardships to justify the proposed technical amendments. Rather, Durham stated that its objective is to expand the reach of CJKX-FM, a country music service, to the west side of Toronto and east side of Mississauga.
11. After examining the public record for this application in light of the applicable regulations and policies, the Commission considers that it should address the following issues:
 - Does CJKX-FM's primary market include the market of Toronto?
 - Is an exception to the Commission's general practice of approving technical amendments warranted in this particular case?
12. The Regulations define a market as the 3 mV/m contour for FM stations or the 15 mV/m contour for AM stations or the central area as defined by Numeris, whichever is smaller.
13. 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.
14. In Broadcasting Decision 2006-107, the Commission approved the rebroadcasting transmitter CJKX-FM-2 Toronto for the purpose of correcting interference within CJKX-FM's existing 0.5 mV/m service contour and to allow CJKX-FM's listeners who commute to downtown Toronto to receive the station. The establishment of CJKX-FM-2 Toronto was to correct a technical issue and not to expand the primary market of the station. Therefore, although CJKX-FM provides coverage to a portion of the Toronto market, its primary market does not include Toronto.
15. Further, the Commission is concerned that the service expansion into the larger market of Toronto could compromise Durham's service to Ajax and Oshawa, the market it is licensed to serve. Approval of the application could lead to the regionalization of programming, at the expense of the local coverage to the communities of Ajax, Oshawa and the Durham Region.
16. The Commission therefore considers that an exception to its general practice for approving technical amendments is not warranted.

Conclusion

17. In light of all of the above, the Commission **denies** the application by Durham Radio Inc. to change the authorized contours of CJKX-FM-2 Toronto, a transmitter of the English-language commercial radio programming undertaking CJKX-FM Ajax.

Secretary General