



## Broadcasting Decision CRTC 2006-107

Ottawa, 29 March 2006

**Durham Radio Inc.**  
Ajax and Toronto, Ontario

*Application 2005-0350-0*  
*Broadcasting Public Notice CRTC 2005-77*  
*4 August 2005*

### **CJKX-FM Ajax – New transmitter in Toronto**

*The Commission **approves** an application to amend the broadcasting licence for CJKX-FM Ajax, Ontario in order to operate an FM transmitter in Toronto, Ontario. The new transmitter will be a synchronous repeater of CJKX-FM; that is, it will operate at 95.9 MHz, the same frequency used by CJKX-FM's main transmitter.*

#### **The application**

1. The Commission received an application by Durham Radio Inc. to amend the broadcasting licence for the radio programming undertaking CJKX-FM Ajax, Ontario in order to operate an FM transmitter in Toronto, Ontario.
2. The proposed transmitter would be located in downtown Toronto. It would be a synchronous repeater of CJKX-FM; that is, it would operate at 95.9 MHz (channel 240A), the same frequency used by CJKX-FM's main transmitter<sup>1</sup>. The new transmitter would operate with an average effective radiated power (ERP) of 85 watts.

#### **Licensee's rationale**

3. The licensee submitted that, while CJKX-FM's audience is primarily located in Durham Region, which includes Ajax and Oshawa, and secondarily in east Toronto and York Region, many of its listeners commute to downtown Toronto for work or travel there regularly for personal business, professional services and entertainment. The licensee claimed that these listeners are unable to receive a good quality signal from CJKX-FM in downtown Toronto because of interference caused by the concentration of Toronto FM radio stations transmitting from the CN Tower and First Canadian Place. In addition, the licensee expressed concern that approval of an application by Trumar Communications Inc., which was before the Commission, to increase the average ERP of CFMX-FM-1 Toronto would cause additional interference to CJKX-FM in downtown Toronto<sup>2</sup>. The

<sup>1</sup> CJKX-FM operates at 95.9 MHz (channel 240B) with an average effective radiated power of 19,940 watts.

<sup>2</sup> In *CFMX-FM-1 Toronto – Technical change*, Broadcasting Decision CRTC 2005-342, 22 July 2005, the Commission approved an application by Trumar Communications Inc. to change the authorized contours of CFMX-FM-1 Toronto, by increasing the average effective radiated power from 13,300 watts to 24,500 watts.

licensee was of the view that the proposed synchronous transmitter would correct the existing and anticipated interference to CJKX-FM in downtown Toronto and thereby allow it to provide improved service to its Durham Region listeners who travel within this area.

4. The licensee maintained that the proposed transmitter would not extend CJKX-FM's signal beyond its currently authorized contours. In this regard, the licensee noted that CJKX-FM's licensed 0.5 mV/m contour falls approximately eight to ten kilometres west of downtown Toronto. The licensee further pointed out that, since the transmitter would operate at the same frequency as is currently used by CJKX-FM, approval of this application would not represent the use of additional scarce analog frequency spectrum in the Toronto radio market.
5. The licensee stated that CJKX-FM's programming is oriented primarily to Ajax, Oshawa and the greater Durham Region and that it attributes the station's success to the service it provides to these communities. Accordingly, the licensee affirmed that it has no intention of changing the station's programming or its orientation. It also confirmed that it would not establish a studio in downtown Toronto.
6. As part of the deficiency process, the Commission asked the licensee to comment on the potential impact that the proposed transmitter might have on the Toronto radio market given that a reliable signal in downtown Toronto could improve CJKX-FM's capacity to capture more listeners and generate more advertising revenues in that market.
7. In response, the licensee agreed that the addition of the proposed transmitter would give CJKX-FM an improved signal in downtown Toronto. At the same time, the licensee pointed out that the proposed transmitter would operate with an average ERP of only 85 watts. It argued that, in comparison, most incumbent downtown Toronto radio stations operate with ERPs of between 20,000 watts and 40,000 watts.
8. In the licensee's view, the proposed transmitter would primarily benefit listeners traveling in their cars, particularly those who are commuters from the Durham Region, since it would not have enough power to provide an adequate signal in buildings in competition with higher-powered downtown Toronto radio stations. Accordingly, the licensee anticipated only a small increase in CJKX-FM's audience from increased tuning by commuters; specifically, approximately 10% greater than its current audience. The licensee also projected that the addition of the proposed transmitter would result in an additional \$100,000 in total revenues in the first year of operation. It further projected that, over the period between 2006 and 2010, the total additional revenues accruing from approval of the proposed transmitter would be \$790,000, or 6.8% greater than its revenues under the current scenario.

## **Interventions**

9. The Commission received interventions in connection with this application, the majority of which were in support. In addition, Rogers Broadcasting Limited (Rogers) intervened in opposition to the application and Corus Entertainment (Corus) commented on the proposal.
10. Rogers owns and operates four radio stations in the Toronto market, namely CJAQ-FM, CHFI-FM, CFTR and CJCL. Rogers expressed concern that approval of this application would establish a precedent that would encourage other licensees of radio stations operating on the fringes of larger markets, and whose key signals penetrate into these larger markets, to apply for similar technical enhancements of their signals by means of transmitters. Rogers contended that CJKX-FM is licensed to serve Ajax and the larger Durham Region, not downtown Toronto where the proposed transmitter would be located. The intervener further pointed out that the interference problems cited by the licensee of CJKX-FM, as the reason for its application, are not unique to CJKX-FM, but are shared by the licensees of many other radio stations located in communities adjacent to much larger metropolitan areas.
11. While Corus did not oppose the application, it expressed concern that the proposed transmitter could cause interference to the intervener's station CING-FM Hamilton.

## **Licensee's replies**

12. In response to Rogers' intervention, the licensee noted that Rogers is the only party that filed an intervention in opposition to this application. The licensee suggested that Rogers has argued in support of similar proposals in other radio markets and alleged that Rogers' present intervention constitutes "advocating a policy of asymmetrical regulation."
13. The licensee acknowledged that CJKX-FM is licensed to serve Ajax. However, the licensee maintained that it has never indicated to the Commission or to any other party that CJKX-FM was serving only Ajax. The licensee contended that, while CJKX-FM's primary market is Durham Region, its secondary market is the station's full authorized coverage area, which includes Toronto. In addition, the licensee pointed out that Ajax is included in the Bureau of Broadcast Measurement's (BBM) geographic definition of the Toronto Central Market Area (CMA). It added that, similarly, radio stations in Brampton, North York, Orangeville and Newmarket are also included in the BBM's geographic definition of the Toronto CMA.
14. In a response to Corus' intervention, the licensee stated that its proposal conforms to the Department of Industry's (the Department) rules with respect to third adjacent channels and would not cause interference to CING-FM Hamilton in the area covered by the proposed synchronous transmitter.

## Commission's analysis and determination

15. The Commission notes that CJKX-FM is licensed to serve Durham Region, comprised of Ajax and Oshawa, as its 3 mV/m primary market. Its secondary 0.5 mV/m market contour extends into the western region of Toronto. The proposed transmitter is intended to correct interference within CJKX-FM's existing 0.5 mV/m service contours.
16. The proposed transmitter would operate at 95.9 MHz, the same frequency as is currently used by CJKX-FM in its main studio. Accordingly, the proposed transmitter would not make use of additional scarce FM frequency spectrum in the Toronto radio market. Further, by adding the synchronous transmitter, the proposed 0.5 mV/m contour would be wholly enclosed within CJKX-FM's existing 0.5 mV/m contour. All of CJKX-FM's protection criteria would be respected and it is anticipated that no new mutual interference would be generated.
17. In the Commission's view, given the proposed transmitter's relatively small coverage area, its potential for generating additional revenues would be limited. The Commission also notes that the licensee's projected incremental revenues of \$100,000 in the first year of the transmitter's operation and \$790,000 over the period between 2006 and 2010 represent a small fraction of the total revenue reported by Toronto radio stations in 2005, which was approximately \$230 million. Accordingly, the Commission considers that approval of the licensee's proposal would result in a negligible financial impact upon incumbent Toronto radio stations.
18. With respect to the concerns raised by Corus regarding potential interference to CING-FM Hamilton, the Commission notes that the Department has indicated that the application is technically acceptable, subject to the proposal not creating any unacceptable interference with aeronautical NAV/COM services.
19. The Commission notes that only Durham Radio Inc. would be authorized to use the proposed frequency within the licensee's already licensed protected contours. Given the unique circumstances of the present case, the Commission is persuaded that the proposed synchronous transmitter will improve CJKX-FM's signal quality in downtown Toronto without having an undue negative impact on existing Toronto radio stations. Accordingly, the Commission **approves** the application by Durham Radio Inc. to amend the broadcasting licence for the radio programming undertaking CJKX-FM Ajax, in order to operate an FM transmitter in Toronto at 95.9 MHz (channel 240A) with an average ERP of 85 watts.
20. The Commission recognizes the concerns raised by Rogers that approval of this application could establish a precedent. However, the Commission emphasizes that the approval granted in this decision is based only on the unique circumstances of this particular case.

21. The Department has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
22. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
23. The transmitter must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 29 March 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*