



Broadcasting Decision CRTC 2017-391

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Reference: Part 1 application posted on 4 April 2017

Ottawa, 31 October 2017

Radio Markham York Incorporated
Markham, Ontario

Public record for this application: 2017-0171-4

CFMS-FM Markham –Technical changes

*The Commission **approves** an application to change the authorized contours of the commercial radio station CFMS-FM Markham, Ontario. The technical changes approved in this decision will help improve the station's signal quality within its authorized coverage area.*

Application

1. Radio Markham York Incorporated (Radio Markham) filed an application relating to its English-language commercial radio station CFMS-FM Markham, Ontario. The licensee requested to change CFMS-FM's authorized contours by increasing the maximum effective radiated power (ERP) from 2,500 to 3,000 watts, by decreasing the average ERP from 981 to 630 watts, by increasing the effective height of the antenna above average terrain (EHAAT) from 9.1 to 54 metres, and by relocating the transmitter. All other technical parameters would remain unchanged.
2. Radio Markham submitted that the requested technical changes are necessary to improve CFMS-FM's signal quality within its authorized coverage area, and to ensure the station's profitability and long-term financial viability. It noted that reception issues have resulted in a loss of listeners and have led prospective advertisers to seek alternative opportunities, which has affected the station's ability to generate revenues. The licensee added that increasing the EHAAT and relocating the transmitter would result in greater coverage to the city of Markham and improve reception in that city.

Interventions

3. The Commission received a joint intervention supporting this application. It also received an intervention in opposition from 8041393 Canada Inc. (8041393 Canada), which, in Broadcasting Decision 2014-574, was granted a broadcasting licence to operate an ethnic radio station that would launch as CJRK-FM Scarborough. Radio Markham replied to the intervention in opposition.

Commission's analysis and decisions

4. When a licensee of a radio station files an application for a technical change, the Commission expects the licensee to present compelling technical or economic evidence justifying the technical change. Given this expectation, and after examining the information on the public record for this application in light of applicable regulations and policies, the Commission considers that it should address the following issues:
 - whether the licensee has demonstrated a compelling technical need for the technical changes;
 - whether the requested changes are appropriate on a technical basis;
 - whether the licensee has demonstrated a compelling economic need for the technical changes;
 - whether approval of the application would have an undue financial impact on incumbent radio stations; and
 - whether approving the requested technical changes would undermine the integrity of the Commission's licensing process.

Technical need

5. The licensee stated that since the launch of CFMS-FM in February 2014, the station has been experiencing severe interference from incumbent stations as well as significant reception problems. It added that despite increasing the station's ERP in 2015¹ and maximizing technical improvements at the current transmitter site, CFMS-FM still suffers from reception issues.
6. As part of its application, Radio Markham filed the results of a consumer research survey it commissioned showing that reception issues for the station were one of the main reasons why listeners were not tuning into the station. In addition, the licensee filed a field measurement report showing that the signal levels in many areas within CFMS-FM's primary service contour (i.e., 3 mV/m), which includes part of Markham, are lower than expected.
7. In light of the above, the Commission finds that Radio Markham has demonstrated a compelling technical need for the requested technical changes.

Appropriateness of the requested changes on a technical basis

8. Radio Markham has not requested a change in CFMS-FM's currently authorized frequency, but wishes to improve the use of that frequency. Consequently, approval of

¹ An application seeking to increase CFMS-FM's average ERP from 704 to 981 watts was approved by the Commission in Broadcasting Decision 2015-147.

the technical changes would help improve the station's signal quality within its authorized coverage area, without having an impact on the availability of frequencies in Markham or in any adjacent radio market.

9. In light of the above, the Commission finds that the requested technical changes are appropriate on a technical basis.

Economic need

10. Radio Markham cited an economic need as justification for the technical changes. Specifically, it indicated that due to reception issues and interference from incumbent stations, CFMS-FM has incurred greater than expected financial losses over the course of its first three years of operation.
11. The Commission agrees that CFMS-FM has lost advertising opportunities due to technical issues, which has impeded the station's ability to generate advertising revenues and has compounded the station's financial losses. Accordingly, the Commission finds that Radio Markham has demonstrated a compelling economic need for the requested technical changes.

Financial impact on incumbent radio stations

12. In its intervention, 8041393 Canada submitted that Radio Markham's revenue projections are unrealistic. It also expressed the concern that the station's proposed secondary contour would extend too far into Scarborough, CJRK-FM's primary marketing area.
13. In reply, Radio Markham submitted that based on the potential increase in tuning hours that would result from the requested technical changes, its estimate of improved revenues is realistic and achievable. It added that there was no mention in its application of trying to improve CFMS-FM's signal in Scarborough, and that the studies it filed are specific to its principal market.
14. Approval of Radio Markham's requested technical changes could lead to significant increases in revenues for CFMS-FM, given that the station would be able to capture new advertising revenues within its primary market. Those revenues would nevertheless represent a small proportion of total commercial revenues in the Toronto radio market.
15. In regard to extending the station's signal into Scarborough, there is currently no overlap between CFMS-FM's and CJRK-FM's current primary service contours, and the proposed primary service contour for CFMS-FM does not enter Scarborough, the city CJRK-FM is licensed to serve. Overlap of each station's secondary service contours (i.e., 0.5 mV/m) existed prior to the filing of the present application.
16. In addition, CJRK-FM, an ethnic radio station, is required to devote a minimum of 89% of the programming it broadcasts each broadcast week to third-language programs.² CFMS-FM, on the other hand, provides primarily English-language mainstream

² A condition of licence to that effect is set out in Appendix 2 to Broadcasting Decision 2014-574.

programming, and is permitted to devote a maximum of 36.9% of its programming to third-language programming.³ The difference in the primary target audience for each station would further minimize any negative financial impact that the requested technical changes for CFMS-FM would have on CJRK-FM.

17. In light of the above, the Commission finds that the requested technical changes would not have an undue negative financial impact on incumbent radio stations.

Integrity of the Commission's licensing process

18. In Broadcasting Decision 2012-487, following a competitive licensing process, the Commission approved an application by Radio Markham for a broadcasting licence to operate a radio station to serve Markham. When it applied for that broadcasting licence, Radio Markham indicated that the station's principal marketing activities would be directed towards that city, although it would also provide local coverage to Richmond Hill and Vaughan, Ontario. Accordingly, in the Commission's view, any technical changes to improve the quality of the station's signal should serve to ensure that primary service to Markham is maintained.
19. The requested technical changes for CFMS-FM would increase coverage within Markham and the neighbouring areas of Richmond Hill and Vaughan, but without encroaching upon Scarborough or Toronto. Further, the Markham population served within CFMS-FM's primary contour would increase, thereby maintaining service to that city.
20. In light of the above, the Commission finds that approving the requested technical changes would not undermine the integrity of the Commission's licensing process.

Conclusion

21. In light of the above, the Commission **approves** the application by Radio Markham York Incorporated to change the authorized contours of the English-language commercial radio programming undertaking CFMS-FM Markham by increasing the maximum ERP from 2,500 to 3,000 watts, by decreasing the average ERP from 981 to 630 watts, by increasing the EHAAT from 9.1 to 54 metres, and by relocating the transmitter.
22. Pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.
23. The transmitter must be operational with implemented technical changes 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 **31 October 2019**. 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.

³ A condition of licence to that effect is set out in Appendix 2 to Broadcasting Decision 2012-487.

24. The Commission reminds the licensee of the importance of providing and maintaining service to its primary service area of Markham, which CFMS-FM was originally licensed to serve.

Secretary General

Related documents

- *CFMS-FM Markham – Technical change*, Broadcasting Decision CRTC 2015-147, 16 April 2015
- *Licensing of new radio stations to serve Scarborough and technical changes for existing radio stations serving Scarborough, Toronto and Whitchurch-Stouffville*, Broadcasting Decision CRTC 2014-574, 5 November 2014
- *Licensing of new radio stations to serve Markham*, Broadcasting Decision CRTC 2012-487, 11 September 2012

This decision is to be appended to the licence.