



Broadcasting Decision CRTC 2019-248

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Ottawa, 9 July 2019

Radio Humsafar Inc.
Brampton, Ontario

Public record for this application: 2019-0040-8

Ethnic commercial AM radio station in Brampton – Technical changes

*The Commission **denies** an application by Radio Humsafar Inc. to change the authorized contours of its unlaunched ethnic commercial AM radio station in Brampton, Ontario.*

Background

1. In Broadcasting Decision 2015-471, following a competitive process, the Commission approved an application by Radio Humsafar Inc. (Radio Humsafar) for a broadcasting licence to operate a new ethnic commercial AM radio station to serve Brampton, Ontario.¹ The station would operate at 1350 kHz with a daytime transmitter power of 1,000 watts and a night-time transmitter power of 45 watts, with the transmitter to be located in Brampton. Radio Humsafar stated that all of the station's programming would be ethnic programming devoted primarily to the South Asian population in the Brampton radio market (primarily the Punjabi-, Hindi- and Urdu-speaking population), targeting a minimum of 14 distinct ethnic groups in at least 11 different languages. In the decision, the Commission set a deadline of 21 October 2017 for the station to begin operations, unless a request for an extension to that deadline was approved by the Commission.
2. On 14 November 2016, Radio Humsafar filed an application to change the transmitter site for its unlaunched Brampton station. Noting that the site approved in Broadcasting Decision 2015-471 was no longer a viable option, the applicant indicated that it had carefully selected a new site in Brampton in close proximity to the previously approved site. It submitted that approval of the requested technical changes would not alter the station's broadcast contours or target audience, the communities to be served, or the grounds on which the original application was approved.
3. After determining that appropriate coverage of Brampton would be maintained and that the change in the population to be served would be small, the Commission, in a letter

¹ As noted in that decision, the Commission considered applications from three different applicants to operate AM radio stations to serve Brampton at 1350 kHz, and who had proposed to offer various amounts of English- and/or third-language ethnic programming.

decision dated 7 December 2016, approved the above application and imposed a new deadline of 7 December 2018 for the launch of the station with the implemented technical changes. However, Radio Humsafar informed the Commission that the second, new transmitter site in Brampton became unavailable. As such, it was not possible for the applicant to launch the station as planned.

4. In Broadcasting Decision 2018-385, the Commission denied a subsequent application by Radio Humsafar to change the authorized contours of the unlaunched Brampton station by relocating the transmitter to a site in Mississauga, Ontario and by changing its class from C to B.² The Commission determined that the applicant had not demonstrated a compelling technical need for the proposed changes, as it neither provided explanations as to why the previous sites were no longer viable nor specified the steps it had undertaken to maintain service to Brampton. The Commission further determined that the proposed changes were not appropriate on a technical basis given that the unlaunched station's primary (i.e., 15mV/m) service contour would shift away from Brampton, the market to be served by the station, and into Mississauga. Further, the applicant did not propose any other modifications to the unlaunched station's technical parameters that would compensate for the loss of coverage to Brampton. As a consequence, the Commission found that approval of the application would have undermined the integrity of the licensing process in which Radio Humsafar's original application for a broadcasting licence to operate a Brampton station was approved.
5. Following the issuance of Broadcasting Decision 2018-385, Radio Humsafar filed an application to extend the deadline for its unlaunched Brampton radio station to commence operations. In a letter dated 1 November 2018, the Commission administratively approved that application and, pursuant to its general practice of granting a total of four years to begin operations, extended the deadline for the station to begin operations until 21 October 2019. The Commission also stated that it would be the final extension to be granted in regard to the implementation of the station.

Application

6. Radio Humsafar filed the present application to change the authorized contours of its unlaunched radio station in Brampton by relocating the transmitter to a site in Mississauga and by changing the transmitter class from C to B. All other technical parameters would remain unchanged. This is therefore the applicant's third request for a new transmitter site for the unlaunched station. The proposed technical parameters for the unlaunched station are identical to those set out in the application that was denied in Broadcasting Decision 2018-385.

² Pursuant to the Department of Industry's (the Department's) *BPR-2 – Application Procedures and Rules for AM Broadcasting Undertakings*, a Class B station may broadcast up to a maximum power of 50,000 watts, whereas a Class C station may broadcast up to a maximum power of 1,000 watts. Since the unlaunched station is currently a Class C station and has the maximum power allowed for that class, changing the station's class from C to B would enable the licensee to increase its coverage in the future, subject to approvals by the Commission and by the Department.

7. Radio Humsafar submitted that the requested technical changes are necessary given that neither of the previously approved transmitter sites are now available. It indicated that it has found an existing telecommunications tower located in Mississauga, approximately seven kilometres from the site approved by the Commission in 2015, from where it could easily commence operations. The applicant submitted that approval of the new site would not result in a change to the communities to be served by the unlaunched station and, as such, would not alter the grounds on which the original application for a broadcasting licence to operate that station was approved. Radio Humsafar acknowledged that the requested technical changes would result in a decrease in the Brampton population that would be served by the unlaunched station, but argued that the potential listener base in its licensed market of Brampton is not evenly distributed and that most of the targeted South-Asian listeners are located in the southern half of Brampton, on the border with Mississauga. The applicant added that its proposed transmitter site in Mississauga would allow its unlaunched station to properly serve those listeners, and that the signal within the station's secondary (i.e., 5 mV/m) contour would be acceptably clear for most Brampton listeners.
8. The Commission received an intervention in opposition to Radio Humsafar's application from Trafalgar Broadcasting Limited (Trafalgar), licensee of the ethnic commercial AM radio station CJMR Mississauga, as well as an intervention from an individual commenting on an issue that falls outside the scope of this proceeding. Radio Humsafar replied to the intervention in opposition.

Commission's analysis and decisions

9. After examining the information on the record for Radio Humsafar's application in light of applicable regulations and policies, the Commission has addressed the following issues:
 - whether Radio Humsafar has demonstrated a compelling technical or economic need justifying a technical change for the unlaunched Brampton radio station;
 - whether the requested technical changes represent an appropriate technical solution;
 - whether approval of the requested technical changes would have an undue negative financial impact on incumbent stations; and
 - whether approval of Radio Humsafar's application would undermine the integrity of the Commission's licensing process.

Has the applicant demonstrated a compelling technical or economic need for a technical change?

10. When an applicant or a licensee of a radio station files an application to change a radio station's authorized contours, the Commission generally requires the applicant or licensee to present compelling technical or economic evidence justifying the technical change. In this regard, in Broadcasting Decision 2018-385, the Commission reminded Radio

Humsafar that the onus is on the applicant or licensee to fulfill this requirement regarding technical/economic need and to provide sufficient evidence justifying any changes.

Technical need

11. Radio Humsafar cited technical need for the proposed amendment, specifically, the need for a new transmitter site, and provided a letter confirming that the owner of the original transmitter site cancelled its site usage agreement. In the Commission's view, the applicant has provided sufficient evidence that the site approved in the original licensing decision for the station is no longer available. Accordingly, the Commission finds that Radio Humsafar has demonstrated a compelling technical need justifying a technical change.

Economic need

12. Radio Humsafar cited economic need for the proposed technical changes. In this regard, the applicant submitted that, as a small independent player, it is unable to sustain continued expenses in searching for an appropriate transmitter site for the unlaunched station.
13. Given that the station cannot launch without the applicant securing a new transmitter site, the Commission finds that Radio Humsafar has demonstrated a compelling economic need justifying a technical change.

Do the requested technical changes represent an appropriate technical solution?

14. In Broadcasting Decision 2018-385, in regard to requested technical changes for radio stations, the Commission reminded Radio Humsafar that it is the applicant or licensee who must undertake efforts to find a solution and provide sufficient evidence that the solution proposed would have the least impact on the market the radio station is licensed to serve.
15. Commission staff requested that Radio Humsafar describe other technical solutions that it has considered for maintaining service to Brampton. In reply, the applicant indicated that while over-the-air broadcasting remains the most important component of its offering, it has been able to use innovative solutions, such as streaming over the Internet and a toll free phone number to reach listeners, that is has used for its AM station CHRN Montréal, despite limitations in transmitter power and geographic footprint.
16. The Commission acknowledges that the applicant may have had some success in regard to its use of innovation for ensuring listener reception of CHRN's signal in Montréal. However, it finds that the remedies used by Radio Humsafar for CHRN cannot be used to address concerns relating to shifting its unlaunched station's coverage from Brampton, the market it was licensed to serve, to Mississauga.
17. Further, given that the technical changes requested by Radio Humsafar would result in a significant decrease in the Brampton population that would be served by the station, those changes would not constitute an appropriate means for ensuring good coverage of

Brampton. Consequently, the Commission finds that the requested technical changes are not appropriate on a technical basis.

Would approval of the requested technical changes have an undue negative financial impact on incumbent stations?

18. In its intervention, Trafalgar, licensee of the ethnic commercial radio station CJMR, submitted that potential interference from Radio Humsafar's unlaunched Brampton station would encroach upon its station's 25 mV/m contour, thereby interfering with the propagation of its signal. The intervener submitted that approval of the requested technical changes could therefore result in an undue negative financial impact on CJMR.
19. In its reply, Radio Humsafar stated that while the protection of third and fourth adjacent frequencies only applies to stations outside national boundaries, it would work with CJMR to resolve any interference issues that may ensue from the eventual operation of Radio Humsafar's unlaunched Brampton radio station.
20. The Commission notes that technical matters pertaining to interference fall within the jurisdiction of the Department of Industry (the Department). If the Department encounters a technical issue with the application, it will require that the problem be remedied before the proposal is deemed to be technically acceptable.
21. In regard to undue negative financial impact on incumbent stations, Radio Humsafar's application would result in the station's service contours shifting towards the Mississauga radio market, with the station's primary service contour's coverage of its primary target population within Mississauga increasing by 160%. The Commission notes that the Mississauga radio market is currently served by two stations with the same primary target population: CJMR and CINA Mississauga.
22. In light of the above, the Commission finds that approval of the requested technical changes could have an undue negative financial impact on incumbent stations in the Mississauga radio market.

Would approval of the application undermine the integrity of the Commission's licensing process?

23. In Broadcasting Decision 2018-385, in which it denied an application by Radio Humsafar to change the authorized contours of the unlaunched Brampton station, the Commission stated that any changes to the transmitter site approved in 2016 for that station should maintain coverage of the original community the applicant was authorized to serve. The Commission found that the requested technical changes would have resulted in a significant shift of the station's coverage away from the Brampton radio market and, consequently, in a significant decrease in the population the station was licensed to serve. As such, the Commission determined that approval of that application would have undermined the integrity of the original licensing process for Radio Humsafar's unlaunched Brampton radio station.

24. In regard to the present application, Trafalgar noted its concern that Radio Humsafar's request to change its operating class from C to B indicates its intention to change its focus from Brampton to Brampton-Mississauga, which was not discussed in the application that was approved in Broadcasting Decision 2015-471. In reply, the applicant stated that it requested the change in the station's class from C to B at the request of the Department, and that the focus and business objectives of the unlaunched station remain unchanged.
25. As noted above, the Commission approved Radio Humsafar's application for a broadcasting licence to operate an ethnic commercial AM radio station in Brampton following a competitive process in which it was one of three different applicants that had proposed to operate an AM radio station to serve Brampton on the frequency 1350 kHz. Although the applicant has restated its commitment to serve Brampton, approval of the present application would result in a 50% decrease in the coverage of its primary target population within its primary service contour, and an 83% decrease within its licensed market of Brampton, as well as a shift of the station's primary service contour into Mississauga. In the Commission's view, this would result in a significant decrease in the population the station was licensed to serve, and would essentially allow the unlaunched Brampton radio station to enter the Mississauga market without being considered via the Commission's licensing process.
26. In light of the above, the Commission finds that approval of the present application would undermine the integrity of the Commission's licensing process.

Conclusion

27. In light of all of the above, the Commission **denies** the application by Radio Humsafar Inc. to change the authorized contours of its unlaunched ethnic commercial AM radio programming undertaking in Brampton, Ontario.

Reminders

28. As noted above, in light of the final extension granted by the Commission, Radio Humsafar's unlaunched ethnic commercial AM radio station in Brampton must be operational by no later than **21 October 2019**.
29. When requesting technical changes for radio stations, the onus is on the applicant or licensee to find an appropriate technical solution and provide evidence that the proposed solution would ensure service to the market it is licensed to serve without undermining the integrity of the Commission's licensing process.

Secretary General

Related documents

- *Ethnic commercial AM radio station – Technical changes*, Broadcasting Decision CRTC 2018-385, 3 October 2018

- *Licensing of new radio stations to serve Brampton*, Broadcasting Decision CRTC 2015-471, 21 October 2015