



Broadcasting Decision CRTC 2020-119

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Reference: Part 1 application posted on 15 April 2019

Ottawa, 8 April 2020

My Broadcasting Corporation
Milton, Ontario

Public record for this application: 2019-0249-5

CJML-FM Milton – Technical changes

*The Commission **approves** an application to change the authorized contours of the English-language commercial radio station CJML-FM Milton.*

Application

1. My Broadcasting Corporation (MBC) filed an application to change the authorized contours of the English-language commercial radio station CJML-FM Milton, Ontario, by increasing the average effective radiated power (ERP) from 228 to 480 watts (maximum ERP from 950 to 2,000 watts) and by changing the orientation of its directional antenna. All other technical parameters would remain unchanged.
2. MBC indicated that the requested technical changes are necessary to address service coverage challenges that threaten the station's financial viability. It added that Milton, the market CJML-FM is licensed to serve, has grown considerably, both in total population and in overall geographic size. In the licensee's view, this has resulted in CJML-FM being unable to effectively serve integral parts of that community.
3. The Commission received an intervention from an individual, who proposed changing the station's frequency in order to address the service coverage challenges and potential interference issues, to which the licensee replied.

Commission's analysis and decisions

4. After examining the record for this application in light of applicable regulations and policies, the Commission considers that the issues to be addressed are the following:
 - whether MBC has demonstrated a compelling technical or economic need justifying the requested technical changes;
 - whether the requested technical changes are an appropriate technical solution;
 - whether the requested technical changes represent an appropriate use of spectrum;

- whether approval of the requested technical changes would have an undue negative financial impact on incumbent stations;
- whether approval of the requested technical changes would be in the public interest; and
- whether approval of the requested technical changes would undermine the integrity of the Commission's original licensing process.

Demonstration of technical or economic need

5. When a licensee of a radio station files an application for a technical change, the Commission generally requires the licensee to present compelling technical or economic evidence justifying the technical change. The Commission may, as an exception to this general approach, approve applications that do not provide compelling technical or economic evidence where the particular circumstances of the undertaking warrant.

Technical need

6. MBC stated that CJML-FM's signal is impaired by co-channel interference between its station and two others: CJSB-FM Toronto and CKOT-FM Tillsonburg. The licensee added that it was aware of this issue when it originally applied for a broadcasting licence.
7. Following an analysis of 47 audio recordings submitted by the licensee, the Commission found that 16 out of the 24 recordings that demonstrated signal impairment were from locations outside CJML-FM's primary service contour. Although the remaining recordings were from locations along the perimeter of that contour, they were also located within the interference zone that the station accepted, in accordance with *BPR-3: Application Procedures and Rules for FM Broadcasting Undertakings* (BPR-3), when it was originally licensed in *English-language FM radio station in Milton*, Broadcasting Decision CRTC 2015-222, 27 May 2015 (Broadcasting Decision 2015-222).
8. The Commission therefore considers that the licensee's goal is not to improve the station's signal within its primary contour but rather to expand that contour to cover a larger area of the Milton market.
9. In light of the above, the Commission finds that the licensee has not demonstrated a compelling technical need for the requested technical changes.

Economic need

10. MBC stated that CJML-FM, which launched in September 2017, was unprofitable in its first year of operation and saw unexpected attrition in sales contracts during the following year. The licensee added that, according to its projections, if the requested technical changes were approved, the station would become profitable within a one-year period.

11. In regard to the attrition in sales contracts during the station's second year of operation, the Commission notes that the actual decrease in sales was significantly lower than what the licensee had projected as the potential decrease. Moreover, CJML-FM exceeded the revenue projections that MBC provided as part of its original application for a broadcasting licence in both of the station's first two years of operation.
12. Although implementation of the requested technical changes could improve the long-term financial performance of the station, it is not uncommon for a radio station to be unprofitable in the first few years after its launch. Given how recently CJML-FM launched, the Commission considers that there is insufficient data available to support the conclusion that the station's current technical parameters preclude its long-term financial viability.
13. In light of the above, the Commission finds that MBC has not demonstrated a compelling economic need for the requested technical changes.

Appropriateness of the proposed technical solution

14. The Commission considers that the licensee has provided evidence that the population of Milton has grown significantly and has moved further into the known interference zone since the licensee originally applied to serve this market in 2014. The Commission further considers that alternative solutions, including changing the station's frequency as proposed by the intervener, are not possible given the scarcity of available spectrum in the region, a point raised by the licensee in its reply to the intervention. In the Commission's view, the requested technical changes represent the only viable option for CJML-FM to serve the expanded Milton population.
15. In light of the above, to allow CJML-FM to provide better coverage within the station's licensed service area, the Commission finds that the requested technical changes are appropriate on a technical basis.

Appropriate use of spectrum

16. Given that there would be no change in the frequency on which CJML-FM operates, the Commission considers that approval of this application would not impact spectrum availability in adjacent markets. Accordingly, the Commission finds that the requested changes represent an appropriate use of spectrum.

Impact on incumbent stations

17. Although approval of the requested technical changes would result in an increase in the population served by CJML-FM, it would not result in extending the station's primary contour into a market that the station is not licensed to serve. Rather, 99.8% of the increase in the population brought about by the technical change would be within the Milton census subdivision.

18. CJML-FM is the only commercial radio station licensed to serve Milton. There is also no evidence on the record of this proceeding that approval of this application would result in financial harm to incumbent stations.
19. In light of the above, the Commission finds that implementation of the requested technical changes would not have a negative financial impact on incumbent stations.

Public interest

20. As noted above, CJML-FM is the only commercial radio station serving Milton. Since this community has expanded, the station's current primary contour does not cover parts of Milton.
21. The Commission considers that the requested technical changes would improve CJML-FM's coverage of the expanded Milton market, the inhabitants of which would benefit from the station's local programming, which includes coverage of local events and daily features focused on the activities of local community groups.
22. In light of the above, the Commission finds that approval of the application would be in the public interest.

Integrity of the Commission's licensing process

23. In Broadcasting Decision 2015-222, in which the Commission approved an application by MBC to operate the radio station that would launch as CJML-FM, the Commission noted that the proposed station would be the first specifically targeting the community of Milton, and that the station's service would be limited to that community and would not encompass nearby markets.
24. In regard to the present application, the Commission notes that implementation of the requested technical changes would serve only to improve CJML-FM's coverage of its licensed service area and would not cause its signal to enter into any adjacent markets. Accordingly, the Commission finds that approval of the present application would not undermine the integrity of the original licensing process for CJML-FM.

Conclusion

25. Contrary to the Commission's general approach regarding applications for technical changes, MBC failed to demonstrate a compelling technical and economic need justifying the requested technical changes. However, as noted above:
 - CJML-FM is the only commercial station licensed to serve Milton;
 - implementation of the requested technical changes would allow for better coverage within the station's licensed service area and would not have an impact on other radio station licensees; and
 - the requested technical changes do not raise any concerns relating to the integrity of the licensing process for CJML-FM.

26. Given the particular circumstances of the present case, the Commission finds that an exception to its general approach is warranted in regard to the requested technical changes for CJML-FM. Accordingly, the Commission **approves** the application by My Broadcasting Corporation to change the authorized contours of the English-language commercial radio programming undertaking CJML-FM Milton, Ontario, by increasing the average ERP from 228 to 480 watts (maximum ERP from 950 to 2,000 watts) and by changing the orientation of its directional antenna.
27. 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.
28. The licensee must implement the technical changes by no later than **8 April 2022**. To request an extension, the licensee must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

Secretary General

This decision is to be appended to the licence.