



Broadcasting Decision CRTC 2020-39

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References: Part 1 applications posted on 10 May 2018

Ottawa, 31 January 2020

Dufferin Communications Inc.
Toronto and Orangeville, Ontario

Public record for these applications: 2018-0285-1 and 2018-0286-9

CIRR-FM Toronto and CIDC-FM Orangeville – Technical changes

*The Commission **denies** applications to change the frequencies and authorized contours of the English-language radio stations CIRR-FM Toronto and CIDC-FM Orangeville, Ontario.*

Background

CIRR-FM Toronto

1. In Broadcasting Decision 2006-128, the Commission approved an application by Rainbow Media Group Inc. (Rainbow) for a broadcasting licence to operate an English-language commercial FM radio station in Toronto, Ontario, on frequency 103.9 MHz and with an effective radiated power (ERP) of 50 watts. In 2007, the station launched as CIRR-FM Toronto.¹ The broadcasting licence for CIRR-FM expires 31 August 2020.
2. In that application, Rainbow proposed to add diversity to the Toronto radio market by serving the LGBTQ² community of Toronto with spoken word programming (e.g., news, publicity for daily events, and open-line programs) reflecting the interests, concerns and activities of that community. The licensee also indicated that it would establish an advisory committee “to ensure that the operations and the services [the licensee provides] are best suited to the interests and needs of the gay community in Canada” as well as of the broader society of Canada. In line with Rainbow’s proposal, the Commission set out the expectation that the station’s spoken word programming, including newscasts, open-line and discussion programs, and promotion of local events

¹ In a letter dated 24 April 2009, the Commission approved an application whereby Evanov Communications Inc. became the majority shareholder of Rainbow. Following an amalgamation between Rainbow and Dufferin Communications Inc. on 1 May 2009, the latter became the licensee of CIRR-FM.

² In that application, the licensee used the expression “gay and lesbian community.” In regard to its current application, the licensee used both “LGBT” (lesbian, gay, bisexual, transgender/transsexual) and LGBTQ+ (lesbian, gay, bisexual, transgender, transsexual, queer (or questioning) and others). In the present decision, to standardize reference to this community, the Commission has used “LGBTQ²” (lesbian, gay, bisexual, transgender, transsexual, queer, questioning, and 2-spirited), the acronym currently used by the Government of Canada Privy Council Office for the official title of the [LGBTQ² Secretariat](#).

and activities, consistently incorporate material of direct and particular relevance to the LGBTQ2 community and reflect its perspective and its particular needs and interests.

3. In Broadcasting Decision 2006-128, the Commission also concluded that the proposed station would have very little commercial impact on existing Toronto radio broadcasters given the size of the Toronto radio market and the amount of advertising revenue the station was expected to generate, and given the limited coverage the station would have in the Toronto area due to the fact that it would operate with an ERP of 50 watts.
4. In Broadcasting Decision 2014-164, the Commission approved an application by Dufferin Communications Inc. (Dufferin) to change the authorized contours of CIRR-FM by increasing the average ERP from 50 to 107 watts (maximum ERP from 50 to 225 watts), decreasing the effective height of the antenna above average terrain (EHAAT) from 131.5 to 123 metres, changing the antenna's radiation pattern from non-directional to directional, and relocating the transmitter. In its application, the licensee argued that the requested increase in the station's power would allow it to solve some of the interference and reception issues affecting the station's listeners.

CIDC-FM Orangeville

5. In Broadcasting Decision 86-864, the Commission approved an application by Dufferin for a broadcasting licence to operate an English-language commercial FM radio station in Orangeville. In 1987, the station launched as CIDC-FM Orangeville. Currently branded as Z103, CIDC-FM operates as a Rhythmic Contemporary Hit Radio (CHR) station. The broadcasting licence for the station expires 31 August 2023.
6. In Broadcasting Decision 2000-275, the Commission approved an application by Dufferin for technical changes to CIDC-FM such that the station's coverage would expand into the Toronto Census Metropolitan Area (CMA). The Commission approved the licensee's requested technical changes given CIDC-FM's commitment to continue serving Orangeville as its licensed market.
7. However, in Broadcasting Decision 2014-378, in which the Commission approved an application by My Broadcasting Corporation (MBC) for a broadcasting licence to operate an English-language commercial FM radio station in Orangeville (which would launch as CKMO-FM Orangeville), the Commission determined that CIDC-FM's financial performance reflected the profile of a station that was competing in the Toronto radio market, and that the station was drawing little local revenue from Orangeville. It also expressed the view that, based on an examination of a portion of CIDC-FM's programming in January 2013, the station had oriented itself as a Toronto radio station, rather than an Orangeville radio station.
8. Furthermore, in Broadcasting Decision 2017-452, in which the Commission last renewed the broadcasting licence for CIDC-FM, the Commission found that the programming broadcast on the station contained very little locally-reflective content with direct and particular relevance to Orangeville, the community it was licensed to serve. Rather, the station's programming (including station identifications, advertisements, news, weather,

traffic and sports reports, and promotions for local events and activities) targeted the Greater Toronto Area (GTA), often without specific mention of Orangeville. As a consequence, the Commission imposed conditions of licence to ensure that CIDC-FM would, going forward, broadcast programming that refers and relates to Orangeville, without prohibiting the licensee from including Toronto content in its broadcasts.

Applications

9. Dufferin filed an application (2018-0285-1) to amend the broadcasting licence for CIRR-FM in order to change the station's frequency from 103.9 MHz (channel 280A) to 103.5 MHz (channel 278C1), the frequency currently used by CIDC-FM, and to change the station's authorized contours by increasing the average ERP from 107 to 8,500 watts, increasing the maximum ERP from 225 to 20,000 watts, increasing the EHAAT from 123 to 325 metres, changing the radiation pattern of the directional antenna, and relocating the transmitter.
10. Accordingly, Dufferin filed a second application (2018-0286-9) to amend the broadcasting licence for CIDC-FM in order to change that station's frequency from 103.5 MHz (channel 278B) to 103.7 MHz (channel 279C1), a protected adjacent frequency for Dufferin that cannot be used by other broadcasters, and also to change the station's authorized contours by decreasing the average ERP from 30,700 to 10,000 watts, increasing the maximum ERP from 30,700 to 45,000 watts, decreasing the the EHAAT from 190.3 to 187 metres, and changing the antenna radiation pattern from non-directional to directional.
11. Given that implementation of either proposal is conditional upon approval of the other, Dufferin indicated that the applications are non-severable.
12. According to Dufferin, its flagship station has always been CIDC-FM, its "Toronto CMA" station. It submitted that approval of its requested technical changes for the two stations would allow CIDC-FM to operate a local service with reduced coverage that would primarily serve Orangeville on a new adjacent frequency, and would allow CIRR-FM to broadcast on CIDC-FM's original frequency with increased coverage in Toronto.
13. Dufferin further submitted that the requested changes are necessary to address the financial and technical challenges faced by CIDC-FM and CIRR-FM. In this regard, it argued that increasing strain placed on CIDC-FM risks the long-term viability of both stations.
14. Should its applications be approved, Dufferin stated that it would further experiment with high definition (HD) radio for CIRR-FM and implement an HD radio service on the station. As a result, some of CIRR-FM's programming would be moved off its analog signal and instead be broadcast on one of its HD radio channels. The licensee also stated that at least five hours of differentiated programming would be directed to the LGBTQ2 community each day on the HD radio channel.
15. Finally, should its applications be approved, Dufferin proposed for CIRR-FM specifically to devote \$1,000,000 over seven consecutive broadcast years to Canadian content

development (CCD) (\$100,000 in year one, and \$150,000 annually for the following six years), which would be over-and-above the required basic CCD contributions. At least 20% of that amount would be allocated to FACTOR or MUSICACTION each broadcast year, with the remainder to be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158.

Interventions

16. The Commission received numerous interventions in support of both applications. It also received a joint intervention in opposition to both applications from Corus Entertainment Inc. (Corus), Bell Media Inc. (Bell) and Rogers Media Inc. (Rogers), as well as interventions in opposition from MBC, licensee of CKMO-FM; Brock University Student Radio (BUSR), licensee of the English-language campus/community radio station CFBU-FM St. Catharines, Ontario; and the National Campus and Community Radio Association (NCRA). Finally, the Commission received an intervention in opposition to the application for CIDC-FM from Bayshore Broadcasting Corporation (Bayshore), licensee of CFDC-FM Shelburne, Ontario, and an intervention in opposition to the application for CIRR-FM from an individual. The licensee filed replies to the joint Corus/Bell/Rogers intervention as well as to the interventions from BUSR, the NCRA, Bayshore, MBC and the individual intervener.

Commission's analysis and decisions

17. After examining the information on the record for these applications in light of applicable regulations and policies, the Commission has focused primarily on whether approval of the requested technical changes for CIRR-FM and CIDC-FM would undermine the integrity of the Commission's original licensing process for each station. However, given that the applications relate to technical changes for the stations, the Commission has also examined whether the licensee's proposals represent an appropriate use of spectrum and whether the licensee has provided evidence of a technical or economic need that would justify the requested technical changes.

Integrity of the Commission's licensing process

CIRR-FM

18. In Broadcasting Decision 2006-128, the original licensing decision for CIRR-FM, the Commission determined that the proposed station would have very little impact on existing Toronto radio broadcasters. In reaching this determination, the Commission took into account the size of the Toronto radio market and the amount of advertising revenue the proposed station was expected to generate, based on the limited coverage the station would have in the Toronto area due to the fact that it would operate at an ERP of 50 watts. In Broadcasting Decision 2014-164, the Commission approved an application by Dufferin to increase CIRR-FM's maximum ERP from 50 to 225 watts (average ERP from 50 to 128 watts) to address interference and reception issues affecting the station's listeners. In regard to the current application for CIRR-FM, approval of the requested technical changes (including the increase in ERP from 225 to 20,000 watts) would, as indicated by the licensee, result in a significant increase in the population served

(i.e., more than an eight-fold increase in the station's primary service contour and almost a four-fold increase in the station's secondary contour), and would therefore significantly expand the station's signal beyond the area it was originally licensed to serve. As noted by certain interveners, this would essentially allow the licensee to operate a *de facto* full-power radio station in Toronto without being considered via the Commission's licensing process.

19. Moreover, as noted above, CIRR-FM was originally licensed to serve the LGBTQ2 community of Toronto. Although the Commission did not impose any conditions of licence in this regard, it did set out the above-noted expectation regarding the relevance of spoken word programming to the LGBTQ2 community and the reflection of that community's perspective, needs and interests in such programming. In the current application for CIRR-FM, Dufferin indicated that it would continue to offer programming that "reflect[s] the diversity of Toronto that is gay-friendly; an all-inclusive format that transcends gender and sexuality." As such, unlike its original proposal to provide various types of spoken word programming that reflects the interests, concerns, and activities of that community, there is no explicit suggestion in the present application of a dedicated focus on continuing to serve the LGBTQ2 community. Further, the licensee's proposal to divert CIRR-FM's LGBTQ2 community programming to its HD radio channel(s) suggests a shift away from providing programming to its original target audience and instead towards a broader mainstream audience and advertiser base through the requested expanded coverage.
20. In light of the above, the Commission finds that approval of the application for CIRR-FM would undermine the original licensing process for this radio station.

CIDC-FM

21. Although Orangeville represents the licensed market for CIDC-FM, Dufferin has a history of filing applications for technical changes for which the objective was to increase that station's transmitting power and extend its coverage further into the Toronto radio market. In Broadcasting Decision 2016-74, the Commission denied an application by Dufferin for technical changes for CIDC-FM that would have resulted in improved coverage for Toronto but would have also resulted in the station's primary service contour moving south from Orangeville, which would have left areas within the station's licensed market and north of Orangeville suffering a loss in signal quality.
22. Further, in Broadcasting Decision 2017-452, in which the Commission renewed the broadcasting licence for CIDC-FM, the Commission found that the programming broadcast on the station contained very little reflective content with direct and particular relevance to Orangeville, targeting instead the GTA, often without specific mention of Orangeville. To address this situation, the Commission imposed conditions of licence on CIDC-FM that would ensure that:
 - all station identification announcements broadcast on the station make specific reference to Orangeville, and do not refer exclusively to Toronto;

- the station provides, on a regular basis during each broadcast day, coverage of local news, sports, events and activities that take place in Orangeville and are of direct and particular relevance to Orangeville, and that do not relate exclusively to Toronto; and
 - the station provides, on a regular basis during each broadcast day, traffic and weather reports that are of direct and particular relevance to areas within the station's authorized market, including Orangeville, and that do not relate exclusively to Toronto.
23. In this regard, the Commission notes that in Broadcasting Decision 2014-378, in which it approved the application by MBC to operate the radio station that would launch as CKMO-FM, it determined that CIDC-FM targeted the Toronto radio market rather than the Orangeville radio market, which it was licensed to serve, based on the station's financial performance and programming.
24. Approval of the present application for CIDC-FM, and in particular of the decrease in the station's average ERP, would result in the station's authorized service contour no longer extending into Toronto, with its signal encompassing Orangeville and its immediate surroundings. Should the Commission deny the application, CIDC-FM would maintain its signal coverage of Toronto, but the conditions of licence imposed in Broadcasting Decision 2017-452 would serve to ensure that the station's local programming focus for Orangeville is maintained and not placed exclusively on Toronto. As such, the integrity of the Commission's original licensing process for the station would not be undermined in either case.

Appropriate use of spectrum

25. Due to Orangeville's proximity to Toronto, Dufferin's current use of 103.5 MHz for CIDC-FM limits the use of that frequency in Toronto. As such, Dufferin's proposal to use 103.5 MHz for CIRR-FM would have a negligible impact on the availability of frequencies in Toronto. Furthermore, although the proposed use of 103.7 MHz for CIDC-FM would remove the frequency's availability in Orangeville and in the vicinity of Toronto, the frequency is currently only available to Dufferin due to adjacent channel protection requirements. Consequently, approval of the licensee's proposed frequency use would have a negligible impact on the availability of frequencies in Orangeville and Toronto, as well as in surrounding communities. Accordingly, the Commission finds that the licensee's proposals represent an appropriate use of spectrum.³

³ In their interventions, Corus, Bell and Rogers, as well as MBC, argued that the use of 103.7 MHz for CIDC-FM would result in the loss of an unused allotment in the Warton, Ontario area. The Commission notes, however, that there are other frequencies in Warton that are capable of providing similar or greater coverage to that provided by that allotment.

Technical and economic need

26. 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. Applications are examined on a case-by-case basis, and the Commission may give consideration to the particulars of an application and any relevant issues raised in interventions.

Technical need

27. Given that the requested technical changes for CIDC-FM would result in a decrease in the size of its service contour, approval of those changes would result in a service contour that would no longer include the GTA but, instead, be limited to the Orangeville radio market, which the station was originally licensed to serve. Accordingly, the Commission does not consider technical need to be an issue in regard to the requested technical changes for CIDC-FM.
28. In regard to CIRR-FM, the requested technical changes and, in particular, the requested increase in the station's ERP from 225 to 20,000 watts, would result in significant increases to the population served compared to the population served within the station's currently authorized contours. Although Dufferin argued that the reception of the station's signal is impaired due to the increase in the density of high-rise buildings within its service contours, it did not submit any evidence of signal reception issues. In this regard, although the increasing density of high-rise buildings could degrade the level of FM radio signals, signal degradation cannot typically be directly translated into a loss of reception. In the Commission's view, the licensee has therefore not provided sufficient evidence⁴ to demonstrate that CIRR-FM's signal is inadequate to provide service within its authorized service contours. Consequently, the Commission finds that Dufferin has not demonstrated a compelling technical need to justify the requested technical changes for CIRR-FM.

Economic need

29. Dufferin's claim of economic need was based on its practice of cross-subsidizing some of its other services in more remote areas. The Commission notes, however, that when considering requested technical changes for radio stations, it generally does not consider support for out-of-market radio stations a compelling reason to approve those technical changes.
30. Dufferin also indicated that the overall revenues and profitability of CIRR-FM and CIDC-FM have declined, and that approval of the requested technical changes would help to reverse the stations' declines in revenues.

⁴ Evidence can be provided in the form of field strength measurements, engineering analysis, extensive survey reports from impacted listeners, etc.

31. Despite the fact that the stations experienced varying degrees of change in their revenues in recent years, it is the Commission's view that Dufferin has not demonstrated that the requested technical changes are required to maintain the services' viability.
32. In light of the above, the Commission finds that Dufferin has not demonstrated a compelling economic need to justify the requested technical changes for CIRR-FM and CIDC-FM.

Conclusion

33. In light of all of the above, the Commission **denies** the application by Dufferin Communications Inc. to amend the broadcasting licence for the English-language commercial FM radio programming undertaking CIRR-FM Toronto in order to change that station's frequency and authorized contours.
34. Further, the Commission **denies** the application by Dufferin Communications Inc. to amend the broadcasting licence for the English-language commercial FM radio programming undertaking CIDC-FM Orangeville in order to change that station's frequency and authorized contours.

HD radio

35. As noted above, Dufferin proposed to experiment with an HD radio service for CIRR-FM. While the Commission is generally supportive of efforts to implement HD radio services on an experimental basis, it does not have a formal application process or licensing framework for HD radio. As such, the technical changes requested for CIRR-FM and CIDC-FM do not need to be approved to enable the licensee to experiment with HD radio. Accordingly, the Commission encourages Dufferin to proceed with its proposal to experiment with HD radio based on CIRR-FM's current technical parameters.

Secretary General

Related documents

- *CIDC-FM Orangeville – Licence renewal*, Broadcasting Decision CRTC 2017-452, 18 December 2017, as corrected by *CIDC-FM Orangeville – Licence renewal – Correction*, Broadcasting Decision CRTC 2017-452-1, 21 September 2018
- *CIDC-FM Orangeville – Technical changes*, Broadcasting Decision CRTC 2016-74, 29 February 2016
- *English-language FM radio station in Orangeville*, Broadcasting Decision CRTC 2014-378, 18 July 2014
- *CIRR-FM Toronto – Technical changes*, Broadcasting Decision 2014-164, 3 April 2014

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *English-language FM radio station in Toronto*, Broadcasting Decision CRTC 2006-128, 5 April 2006
- *Approval of a licence amendment for CIDC-FM – relocation of transmitter and decrease in power*, Broadcasting Decision CRTC 2000-275, 28 July 2000
- Decision CRTC 86-864, 10 September 1986