



## Broadcasting Decision CRTC 2021-11

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Reference: Part 1 application posted on 16 January 2020

Ottawa, 15 January 2021

**San Lorenzo Latin American Community Centre**  
Toronto, Ontario

*Public record for this application: 2019-1259-3*

### CHHA Toronto – Technical changes

*The Commission **approves** an application to change the authorized contours of the ethnic community AM radio station CHHA Toronto, Ontario.*

#### Application

1. San Lorenzo Latin American Community Centre (San Lorenzo) filed an application to change the authorized contours of the ethnic community AM radio programming undertaking CHHA Toronto, Ontario, by increasing the daytime and nighttime transmitter power from 6,250 to 10,000 watts. All other technical parameters would remain unchanged.
2. The licensee indicated that the requested technical changes are necessary to address service coverage challenges in its licensed service area. San Lorenzo added that listeners affected by service disruptions submit written and verbal complaints to the station on a regular basis.

#### Interventions and replies

3. The Commission received numerous supporting interventions in regard to this application as well as an intervention in comment submitted by 8041393 Canada Inc. (8041393), the licensee of the ethnic commercial specialty radio station CJRK-FM Scarborough, Ontario, in which the intervener supported this application but also requested that the Commission impose a condition of licence preventing CHHA from broadcasting in Tamil. San Lorenzo did not reply to 8041393's intervention.
4. The Commission notes that CJRK-FM is the only ethnic commercial specialty radio station specifically authorized to serve the Scarborough market (which is a subset of the Toronto radio market that CHHA is authorized to serve). CJRK-FM, which is still in its first licence term, would have difficulty achieving viability if a new English- or third-language commercial station were to compete against it for local advertising revenues in Scarborough. However, CHHA is not a commercial station but a community station, and its role is to provide access and meet the needs and interests

of its target communities in ways that are not met by commercial radio stations like CJRK-FM. In addition, CHHA's target cultural communities, as set out in condition of licence 7 in the appendix to Broadcasting Decision 2018-204,<sup>1</sup> do not include Tamil-speaking groups. The Commission therefore considers that, if this application were approved, it would not be necessary to impose a condition of licence on CHHA that would restrict the broadcast of Tamil-language programming.

5. The Commission also received four opposing interventions. Radio Humsafar Inc. (Radio Humsafar), the licensee of CHRN Montréal, Quebec, submitted that approval of this application would cause undue nighttime interference. This intervention is considered as part of the Commission's analysis below. The other three interventions, to which the licensee replied, were those submitted by Canadian Punjabi Network Inc. (the Canadian Punjabi Network) and two individuals. These interventions are in regard to comments made on air by Joginder Singh Bassi, one of CHHA's radio talk show hosts. These comments fall outside the scope of this proceeding and will instead be taken into account when the Commission next considers renewing the station's licence.
6. In addition to addressing the above-mentioned on-air comments, the Canadian Punjabi Network submitted that CHHA was not in compliance with two of its conditions of licence, specifically, conditions of licence 3 and 4, which require the licensee to broadcast certain minimum levels of ethnic programming.
7. San Lorenzo responded that it has fulfilled its licence requirements, provided a calculation demonstrating this, and indicated that the intervenor's calculations erroneously included the unregulated period between midnight and 6:00 a.m. The Commission is satisfied with San Lorenzo's explanation.
8. The Canadian Punjabi Network also indicated that it has commenced a legal proceeding against the licensee in regard to a legal matter that, in the Commission's view, is unrelated to this application and therefore will not be taken into account in this decision.

## **Regulatory framework**

9. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act, and to amend any conditions on application of the licensee.
10. When a licensee of a radio station files an application for a technical amendment, the Commission generally requires the licensee to present compelling technical or economic evidence justifying the requested technical changes. The Commission may,

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<sup>1</sup> Rather, the station targets Spanish-, Tagalog-, Italian- and Portuguese-speaking groups from various geographic origins.

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.

### **Commission's analysis and decisions**

11. After examining the record for this application in light of the applicable regulations and policies, the Commission considers that the issues to be addressed are the following:

- whether San Lorenzo has demonstrated a compelling technical or economic need justifying the requested technical changes;
- whether implementation of the requested technical changes would have an undue negative financial impact on incumbent stations;
- whether implementation of the requested technical changes would impact programming diversity in the market; and
- whether implementation of the requested technical changes would undermine the integrity of the Commission's original licensing process.

### **Demonstration of technical or economic need**

12. As noted, the Commission generally requires licensees seeking technical amendments to present compelling technical or economic evidence justifying the requested technical changes.

13. San Lorenzo stated that CHHA experiences signal deficiencies within its primary (15 mV/m) daytime contour that result in it regularly receiving complaints from listeners. In the licensee's opinion, increasing the station's daytime and nighttime transmitter power to 10,000 watts would address these signal issues and allow the station to regain lost listenership. In support of its application, San Lorenzo submitted eight listener complaints. Of these complaints, two originated from locations within the station's primary daytime contour, two from locations outside the station's secondary (5 mV/m) daytime contour, and four from unknown locations.

14. In order to demonstrate technical need, the Commission generally requires an applicant to submit evidence of technical deficiencies. The Commission notes that some signal deficiencies are to be expected for any radio signal in a dense urban market such as Toronto, and that this is more likely to occur in instances of in-building reception located at the periphery of the primary contour. The Commission generally accepts complaints from listeners located in areas where there is an expectation of good reception (that is, within a station's primary contour and its interference-free zone) as valid technical evidence. Complaints from listeners located at the periphery or outside of a station's primary contour do not constitute compelling technical evidence. As such, the Commission does not consider that the listener complaints submitted by San Lorenzo sufficiently demonstrate that CHHA is

experiencing ongoing signal deficiencies within the primary contour of its licensed service area.

15. San Lorenzo did not cite an economic need for the requested technical changes.
16. In light of the above, the Commission finds that the licensee has not demonstrated a compelling technical or economic need for the requested technical changes.

#### **Impact on incumbent stations**

17. Radio Humsafar submitted that the requested technical changes would result in nighttime interference to their station CHRN and added that it opposes any nighttime power increase by CHHA. San Lorenzo responded that, in its view, the requested power increase would not cause undue nighttime interference.
18. The Commission notes that the Department of Industry (the Department) is responsible for both determining acceptable interference levels and maintaining standards of protection for radio operators, and the Department has issued a letter of conditional technical acceptance for the requested technical changes. In the case of any valid interference to CHRN, the Department would require that CHHA decrease its power to 6,250 watts during critical hours.
19. The Commission is satisfied that the above-mentioned process for resolving interference issues adequately addresses the concerns raised by Radio Humsafar with respect to possible interference to CHRN.
20. Approval of the requested technical changes would result in the populations served by CHHA increasing from 876,000 to 1,023,000 within the station's primary contour (an increase of 16.8%) and from 1,773,000 to 2,172,000 within the station's secondary contour (an increase of 22.5%).
21. In terms of economic impact, CHHA is a relatively small player in the Toronto market that operates as a community station and primarily broadcasts Spanish-language programming. The Commission notes that it did not receive any interventions that opposed this application on the grounds that its approval would have an adverse economic impact on other stations serving the same market. Given that CHHA provides a niche service and that the increase in coverage that would result from this application being approved would be relatively small, the Commission is of the view that it is unlikely that any resulting incremental revenues would come at the expense of incumbent stations.
22. In light of the above, the Commission finds that implementation of the requested technical changes would not have an undue negative financial impact on incumbent stations.

## Programming diversity

23. Section 3(1)(b) of the Act provides that the broadcasting system comprises private, public and community elements. As a community station operated by members of that same community, CHHA enhances the diversity of radio ownership within the Greater Toronto Area as well as the larger Canadian broadcasting system. In addition, the Commission considers that, as an ethnic station, CHHA contributes to the Canadian broadcasting system and serves the objectives set out in the Act, including section 3(1)(d)(iii) specifically, by reflecting the circumstances and aspirations of Canadians as well as the multicultural and multiracial nature of Canadian society.
24. In Public Notice 1999-117, the Commission stated that ethnic stations are required to serve a range of ethnic groups in a variety of languages. This is because the scarcity of broadcast frequencies may not permit the licensing of an over-the-air single-language service for each ethnic group in a given market. This approach also allows for the provision of service to groups that would not otherwise be able to afford their own single-language service. Further, in Broadcasting Regulatory Policy 2010-499, the Commission expressed its view that campus and community radio distinguishes itself by virtue of its place in the communities served, reflection of the communities' needs and values, and the requirement for volunteers in programming and other aspects of station operations. In that regulatory policy, the Commission also indicated that campus and community radio programming should differ from commercial and public radio programming in both style and substance.
25. Conditions of licence 4, 5 and 6 set out in the appendix to Broadcasting Decision 2018-204 require that the licensee of CHHA devote 100% of the programming broadcast in each broadcast week to ethnic programs, of which a minimum of 75% must be devoted to third-language programs, and a minimum of 60% must be devoted to Spanish-language programs targeting the many cultural groups within the Spanish-speaking community.<sup>2</sup> Further, condition of licence 7, set out in that same appendix, requires that San Lorenzo, in each broadcast week, broadcast ethnic programs directed to a minimum of four cultural groups in a minimum of four different languages, specifically, Spanish, Tagalog, Italian and Portuguese.<sup>3</sup> As part of its required ethnic programming, CHHA broadcasts programming in Punjabi, English, French and many other languages. Given this, the Commission considers that CHHA, by providing programming to the diverse multicultural and multiethnic communities of Toronto, and by providing access to the

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<sup>2</sup> The definitions for "ethnic program" and "third language" are set out in the *Radio Regulations, 1986*, as amended from time to time.

<sup>3</sup> Specifically, these comprise the following four language groups from the following geographic origins: Spanish-speaking groups from Argentina, Bolivia, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Spain, Uruguay and Venezuela; Tagalog-speaking groups from the Philippines; Italian-speaking groups from Italy; and Portuguese-speaking groups from Brazil and Portugal.

airwaves to groups that would have difficulty obtaining airtime on commercial stations, serves the objectives set out in Public Notice 1999-117.

26. CHHA is also the only ethnic community radio station serving the Toronto market at this time,<sup>4</sup> and the licensee, San Lorenzo, is a not-for-profit organization. In the Commission's view, this permits and facilitates communication among members of the community by fostering diversity in the broadcasting of opinions, spoken word content and musical programming, and by providing a means for participation in the cultural enrichment of Toronto. The Commission therefore considers that CHHA serves the objectives set out in Broadcasting Regulatory Policy 2010-499.
27. In light of the above, the Commission finds that implementation of the requested technical changes would support programming diversity in the Toronto radio market.

### **Integrity of the Commission's licensing process**

28. The Commission is of the view that CHHA's programming requirements have not changed since it was authorized to operate in Broadcasting Decision 2003-117, which followed a competitive process that began with the issuance of Public Notice 2001-39 (the Call). The station continues to provide the programming services specified in the Call and to serve the objectives set out in Public Notice 1999-117 and Broadcasting Regulatory Policy 2010-499.<sup>5</sup> The Commission further notes that implementation of the requested technical changes would serve only to improve CHHA's coverage of its licensed service area and would not cause its signal to enter into any adjacent markets.
29. In light of the above, the Commission finds that approval of the present application would not undermine the integrity of the Commission's original licensing process.

### **Conclusion**

30. Contrary to the Commission's general approach regarding applications for technical changes, San Lorenzo failed to demonstrate a compelling technical or economic need justifying the requested technical changes. However, as noted above, CHHA is the only ethnic community station licensed to serve Toronto, it provides community-based and third-language programming that is distinct in style and substance from commercial radio programming, and implementation of the requested technical changes would allow the station to better serve its licensed market (which includes listeners who might not otherwise see themselves reflected in radio programming). Approval of this application would improve reception of a service that fills a unique

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<sup>4</sup> All other ethnic radio stations serving Toronto are commercial stations.

<sup>5</sup> Paragraph 14 of Broadcasting Decision 2003-117 refers to Public Notice 2000-13. The Commission, following review of Public Notices 2000-12 and 2000-13, published a revised policy, namely, Broadcasting Regulatory Policy 2010-499, which applies to both campus and community radio stations.

role in this market and further support the objectives set out in the Act, Public Notice 1999-117 and Broadcasting Regulatory Policy 2010-499.

31. In addition, the Commission determined that implementation of the requested technical changes would not have an undue negative financial impact on incumbent stations, would support programming diversity in the Toronto radio market, and would not undermine the integrity of the Commission's original licensing process.
32. Given the particular circumstances of the present case, the Commission finds that an exception to its general approach is warranted. Accordingly, the Commission **approves** the application by San Lorenzo Latin American Community Centre to change the authorized contours of the ethnic community AM radio programming undertaking CHHA Toronto, Ontario, by increasing the daytime and nighttime transmitter power from 6,250 to 10,000 watts.
33. Pursuant to section 22(1) of the 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.
34. The licensee must implement the technical changes by no later than **15 January 2023**. 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.

### **Reprogramming of the alert broadcast decoder in accordance with the station's new authorized contours**

35. As set out in section 16 of the *Radio Regulations, 1986*, all radio station licensees have obligations relating to the broadcast of emergency alert messages received from the National Alert Aggregation and Dissemination System. In regard to the changes to CHHA's authorized contours resulting from the implementation of the technical changes approved in this decision, the Commission reminds the licensee that continued compliance with section 16 of the *Radio Regulations, 1986* may require that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages on that station be reprogrammed to properly account for the new authorized contours.

Secretary General

*This decision is to be appended to the licence.*

### **Related Documents**

- *Various campus and community radio stations – Licence renewals*, Broadcasting Decision CRTC 2018-204, 13 June 2018
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010

- *Ethnic AM community radio station in Toronto*, Broadcasting Decision CRTC 2003-117, 17 April 2003
- *Call for applications for a broadcasting licence to carry on a radio programming undertaking to serve Toronto, Ontario*, Public Notice CRTC 2001-39, 22 March 2001
- *Community radio policy*, Public Notice CRTC 2000-13, 28 January 2000
- *Campus radio policy*, Public Notice CRTC 2000-12, 28 January 2000
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999