



Broadcasting Decision CRTC 2021-283

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Reference: Part 1 application posted on 23 July 2019

Ottawa, 13 August 2021

8159203 Canada Limited
Mississauga, Ontario

Public record for this application: 2019-0571-2

CKNT Mississauga – Licence amendment

The Commission **denies** the application by 8159203 Canada Limited to amend the broadcasting licence for the English-language commercial radio station CKNT Mississauga Ontario, by adding a condition of licence that would permit it to devote up to 22 percent of each broadcast week (27.7 hours) to third-language ethnic programs.

As provided by the *Radio Regulations, 1986*, CKNT may devote up to 15% of the broadcast week (18.9 hours) to third-language ethnic programs without approval by the Commission. In addition, there is no limit on the amount of ethnic programming that CKNT may broadcast in English, French, or a language of the Aboriginal peoples of Canada.

The Commission reminds the licensee that it may consult with Commission staff for clarification on matters related to the application of the Commission's regulations and policies.

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew 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, as well as to amend those conditions on application of the licensee.
2. The Commission received an application by 8159203 Canada Limited (“8159203 Canada” or “the applicant”) to amend the broadcasting licence for the English-language commercial AM radio programming undertaking CKNT Mississauga, Ontario. As provided under subsection 7(3) of the *Radio Regulations, 1986* (the Regulations), 8159203 Canada applied to amend the broadcasting licence of CKNT by adding a condition of licence that would permit CKNT to devote up to 22% (22.7 hours) of its programming aired during each broadcast week to third-language ethnic programming.

3. The applicant stated that it does not currently devote any of its programming to third-language content and wishes to provide ethnic programming primarily in the English language with some third-language words mixed in. The proposed programming would replace current repeat English-language programming aired Monday to Friday from 7 p.m. to midnight.
4. The applicant submitted that this programming would serve as a platform for all of Mississauga's diverse communities to provide content for their respective groups. By way of example, it stated that, one week, Southeast Asians will be invited to speak about their community and, the following week, South Americans will be offered the same opportunity and so on. The applicant further stated that the proposed amendment would establish connections within its community, thereby allowing CKNT to better serve the community and give listeners a greater sense of immediacy and connectivity to its news talk content.
5. The applicant stated that the intention of CKNT was not to broadcast any long-form programming in a third language but to freely use words from third languages in an English-based program to introduce concepts and ideas of the communities which exist in Mississauga so that full participation in Canadian society could become easier for the many newcomers to Canada residing in Mississauga.
6. After the original closing date for interventions on this application, the Commission re-opened the public record in order to send a request for information to the applicant and to allow parties to respond the applicant's answer to that request.

Background

7. In Broadcasting Decision 2011-722, the Commission approved an application by Elliot Kerr, OBCI¹ for an English-language commercial AM radio station to serve Mississauga. This new station would provide local news to the City of Mississauga through a news/talk format. There was no expressed intent to target ethnic communities at the time of the original licensing application. Following several launch delays and subsequent Commission approvals to extend the deadline for the station to commence operations, CKNT went on-air in June 2018.
8. In Broadcasting Decision 2018-294, the Commission renewed CKNT's broadcasting licence for a short-term period of five years, as the station had only been on-air for approximately two months before its licence expiry and 8159203 Canada did not have the chance to demonstrate its ability to comply with its regulatory obligations. The current licence expiry date is 31 August 2023.

¹ Elliot Kerr, OBCI would later become 8159203 Canada Limited.

Interventions and the applicant's replies

9. The Commission received four opposing interventions from ethnic radio licensees that serve the Mississauga area, to which the applicant replied. The interventions were submitted by Dufferin Communications Inc. (Dufferin), licensee of CHLO Brampton; 1760791 Ontario Inc. (1760791 Ontario), licensee of CINA Mississauga; and Trafalgar Broadcasting Limited (Trafalgar), licensee of CJMR Mississauga. Dufferin submitted a second intervention following the re-opening of the public record for this application discussed above.
10. Dufferin and Trafalgar both submitted that the application is an attempt to operate CKNT as an ethnic station while still being licensed as a commercial English-language radio station. According to Dufferin, granting the amendment would allow CKNT to operate as an ethnic radio station without being subject to the provisions of Public Notice 1999-117 (Ethnic Broadcasting Policy) and the Regulations, including the requirement to serve a broad range of ethnic groups and languages.
11. Trafalgar stated that the application marks a change from the applicant's original intent to offer an English-language news/talk format dedicated to Mississauga.
12. 1760791 Ontario and Dufferin submitted that it was not clear from the applicant's supplementary brief and various letters submitted to the Commission whether the applicant would provide third-language programming targeting various ethnic communities in Mississauga or provide English-language programming that includes a few words in third languages. 1760791 Ontario was of the view that the applicant's unclear programming plans make it difficult to determine if the proposed programming is necessary or desirable.
13. If the application were approved, Dufferin submitted that the Commission should impose conditions of licence prohibiting the broadcast of any ethnic programming on CKNT prior to 7:00 p.m., as well as requiring CKNT to provide programming in a minimum number of third languages.
14. Dufferin and 1760791 Ontario further submitted that the applicant does not appear to be making use of the flexibility already available to it under the Ethnic Broadcasting Policy to devote up to 15% of the broadcast week to third-language programming, so it is not clear why it is necessary to increase the permitted amount of ethnic programming to 22%.
15. Dufferin, 1760791 Ontario and Trafalgar all raised concerns about the impact that approval of the application would have on the existing ethnic radio stations in the market. 1760791 Ontario stated that the licensee has provided no information on the financial impact on other stations if the application were approved. 1760791 Ontario noted that an application for a technical amendment by Radio Humsafar Inc. for its new Brampton station CIRF was denied,² in part, to prevent a negative financial impact on its own station, CINA Mississauga.

² See Broadcasting Decision 2019-248.

16. Trafalgar stated that it has already experienced financial challenges due to the applicant targeting CJMR's current ethnic programming clients, and CJMR producers have been approached to start programs on CKNT.

Applicant's reply

17. In reply to the concerns relating to the proposed increase in ethnic programming, the applicant stated that it does not currently offer any third-language programming but rather 18 hours a week (14.28% of the broadcast week) of ethnic programming in the English language.
18. Along with the ethnic content it already produces, the applicant stated that it is seeking to broadcast ethnic programming Mondays through Fridays from 7:00 p.m. to 10:00 p.m. while adjusting its schedule elsewhere in the broadcast week so as to not exceed the 22% limit. This programming would include world music and talk presented by English-language speakers that would include some words in third languages. Third-language content would include content such as a song title or brief explanation of a song.
19. The applicant further stated that adding third-language programming beyond the existing 15% limit does not mean it would become an ethnic station. Rather it remains committed to its current news/talk format.
20. The applicant denied targeting any of CJMR's ethnic programming clients. It does however have a working relationship with one independent producer of English-language content who also provides ethnic content for CJMR.

Regulatory framework

21. Pursuant to section 7(3) of the Regulations, commercial radio stations that are not licensed as ethnic radio stations, such as CKNT, may devote up to 15% of their schedule to third-language programming without further Commission approval. Should they wish to broadcast more than 15%, they may request a condition of licence authorizing them to devote up to 40% to third-language programming.
22. A "third-language program" is defined in the Regulations as an ethnic program in a language other than English, French, or a language of the Aboriginal peoples of Canada, and an "ethnic program" is defined as any program, in any language, that is specifically directed to any culturally or racially distinct group other than one that is Aboriginal Canadian or from France or the British Isles. The Ethnic Broadcasting Policy expands on this definition stating that ethnic programming may be in English, French, a third-language or a combination of languages, and that there is no limit to the amount of English- or French-language ethnic programming that can be broadcast by a non-ethnic radio station.

23. As a result, commercial radio licensees may broadcast as much ethnic programming as they like in English, French, or a language of the Aboriginal peoples of Canada. It is only when ethnic programming is broadcast in a third-language that the 15% limit applies.
24. Additionally, the [Ethnic Broadcasting Policy](#) states that, for radio stations, the Commission will continue to exclude music, advertising, station contests, and community and emergency messages when determining whether a particular program qualifies as ethnic programming but that it will continue to count such excluded material in the calculation of the duration of an ethnic program in which it is found. For radio, the spoken word component of the program determines the ethnic group being served.

Commission's analysis and decisions

25. After reviewing the public record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
- Has the applicant demonstrated that it is making use of the current flexibility available through the Ethnic Broadcasting Policy and that there is a need in the community for the requested amendment?
 - Did the applicant demonstrate an economic need for this request?
 - Would approval of the amendment result in an undue economic impact on incumbent stations?
 - Would approval of this application undermine the integrity of the Commission's licensing process?

Has the applicant demonstrated that it is making use of the current flexibility available through the Ethnic Broadcasting Policy and that there is a need in the community for the requested amendment?

26. The applicant stated that it is not currently broadcasting any third-language programming but devotes 14.3% of the broadcast week to English-language ethnic programming. The Commission notes that, under the Regulations and the Ethnic Broadcasting Policy, there is *no limit on the amount of English-language ethnic programming* that CKNT may broadcast and that such programming would not count towards the 15% level of third-language ethnic programming that CKNT is permitted to broadcast.
27. The applicant stated that its intent is not to broadcast full third-language programs but rather wishes to use a few third-language words within English-language ethnic programs in order to appeal to new Canadians. When a program is predominantly in English with only a few words or phrases in a third language, the Commission will consider only the duration of third-language spoken word programming rather than the length of the entire program when determining compliance with limitations on the amount of third-language programming that may be broadcast. In light of this

approach, the Commission is not convinced that the applicant's proposal would result in the station exceeding the currently permitted 15% level (18.9 hours per broadcast week) of third-language programming.

28. Additionally, the applicant has not confirmed which ethnic communities it would serve, and in what languages. The applicant has stated that it believes that its proposed ethnic programming, which would be directed to newcomers to Canada in the English language, would provide a service that is not provided by the ethnic radio stations in Mississauga. The Commission considers that initiatives to facilitate the full participation of newcomers in Canadian society are laudable. However, the applicant did not provide any detailed plans or evidence demonstrating which ethnic communities are not being represented in the Mississauga ethnic radio market, and the Commission did not receive any supporting interventions from representatives of Mississauga ethnic communities. This lack of specificity has made it difficult to understand exactly what the applicant is proposing.
29. In light of the above, the Commission finds that the applicant has not demonstrated that it requires an increase in the amount of third-language ethnic programming beyond the current 15% limit to institute its proposed programming and that it has not demonstrated that there is a need in the community for the requested amendment.

Did the applicant demonstrate an economic need for this request?

30. The applicant stated that approval of the application would not have an impact on CKNT's financial viability, and therefore provided no financial projections demonstrating economic need. The Commission therefore finds that the applicant did not demonstrate an economic need for the request.

Would approval of the amendment result in an undue economic impact on incumbent stations?

31. Toronto's ethnic radio market has experienced a steady decline in revenues since 2015, with a compound annual growth rate of -1.3% up to 2019. The ethnic radio market consistently experienced a decline in revenues between 2015 and 2018. While it did experience an increase in revenue in 2019, it was not sufficient to see it return to 2017 levels. The ethnic radio market has also experienced an overall decline in profitability, showing consistent annual declines between 2016 and 2019. In 2020, these stations faced additional challenges due to the COVID-19 pandemic.
32. Of the radio stations serving Mississauga and Brampton four are ethnic radio services: CINA, CJMR, CHLO, and CIRF. The newest, CIRF serving Brampton, became operational in July 2020. As noted above, the licensees for CINA, CJMR, and CHLO all intervened in opposition to the application.
33. The Commission is concerned that approval of the application would provide the station with the flexibility to change its programming and implement a much higher level of third-language programming than currently permitted. This would enable CKNT to compete with other ethnic stations without any of the related obligations

applying to such stations that require them to serve multiple cultural groups and broadcast in a minimum number of third languages. As indicated above, the applicant did not provide any financial projections for the station if its application were approved, which makes it difficult to assess the impact that its additional third-language programming would have on the market.

34. In light of the above, the Commission finds that approval of the application could have an undue negative impact on existing ethnic stations, particularly those serving Mississauga and Brampton.

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

35. There was no mention of an interest in serving the ethnic communities of Mississauga in the applicant's original licensing application, which was approved in Broadcasting Decision 2011-722. The station did not go on air until June 2018, so it is still in the early years of its operations.
36. While adding some third-language programming could help to reflect the diversity of Mississauga, devoting 22% of its broadcast week to third-language ethnic programming could represent a significant deviation from the service as originally approved if this authority were implemented to its fullest extent.
37. The Commission therefore finds that approval of the application could undermine the integrity of its licensing process.

Conclusion

38. In light of all of the above, the Commission **denies** the application by 8159203 Canada Limited to amend the broadcasting licence for the English-language commercial radio station CKNT Mississauga Ontario, by adding a condition of licence that would permit it to devote up to 22 percent of each broadcast week (27.7 hours) to third-language ethnic programs.
39. As provided by the Regulations, CKNT may devote up to 15% of the broadcast week to third-language ethnic programs (18.9 hours) without approval by the Commission. In addition, there is no limit on the amount of ethnic programming that CKNT may broadcast in English, French, or a language of the Aboriginal peoples of Canada.
40. The Commission reminds the licensee that it may consult with Commission staff for clarification on matters related to the application of the Commission's regulations and policies.

Secretary General

Related documents

- *Ethnic commercial AM radio station in Brampton – Technical changes*, Broadcasting Decision CRTC 2019-248, 9 July 2019

- *CKNT Mississauga – Licence renewal*, Broadcasting Decision CRTC 2018-294, 27 June 2018
- *English-language AM radio station in Mississauga*, Broadcasting Decision CRTC 2011-722, 21 November 2011
- *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999