



## Broadcasting Decision CRTC 2006-327

Ottawa, 2 August 2006

**Golden West Broadcasting Ltd.**  
Lethbridge, Alberta

*Applications 2005-0448-2 and 2005-0599-3  
Public Hearing at Calgary, Alberta  
21 February 2006*

### Acquisition of assets

*In this decision, the Commission **approves** an application by Golden West Broadcasting Ltd. (Golden West) to acquire from Spirit Broadcasting Ltd. the assets of radio station CJTS-FM Lethbridge. The Commission also **approves** an application by Golden West to amend the licence for CJTS-FM, by changing the frequency and to change the authorized contours by increasing the effective radiated power, increasing the antenna height and relocating the transmitter.*

### Background

1. The applications by Golden West Broadcasting Ltd. (Golden West) were considered at the 21 February Public Hearing, together with four other applications to serve Lethbridge. Vista Radio Ltd. (Vista), Newcap Inc. (Newcap), 1182743 Alberta Ltd. (1182743 Alberta) and Touch Canada Broadcasting Inc. (Touch Canada) each proposed to establish new FM radio stations to serve Lethbridge.
2. The Commission's determination that the Lethbridge market can support the introduction of a new commercial FM radio station as well as technical amendments to an existing FM radio station is set out in *Acquisition of assets of a Lethbridge, Alberta radio station, and licensing of a new radio station to serve Lethbridge – Introduction to Broadcasting Decisions CRTC 2006-327 to 2006-329*, Broadcasting Public Notice CRTC 2006-98 (Public Notice 2006-98), of today's date.
3. In *English-language FM radio station in Lethbridge*, Broadcasting Decision CRTC 2006-328, of today's date, the Commission has approved an application by 1182743 Alberta for a broadcasting licence to operate a new English-language commercial FM radio station in Lethbridge.
4. Public Notice 2006-98 also summarizes the rationale underlying the Commission's approval of the application by 1182743 Alberta, as well as its approval of these applications.

5. In *Denial of applications proposing radio services for Lethbridge, Alberta*, Broadcasting Decision CRTC 2006-329, also dated today, the Commission has denied the competing applications by Vista, Newcap and Touch Canada.

### **The applications**

6. Golden West is the licensee of a number of radio stations serving communities in Alberta, Saskatchewan and Manitoba, and is ultimately controlled by Mr. Elmer Hildebrand.
7. The applications by Golden West requested approval to acquire from Spirit Broadcasting Ltd. (Spirit) the assets of the existing English-language, low-power Specialty FM radio programming undertaking CJTS-FM Lethbridge, and to amend the broadcasting licence of CJTS-FM by changing the frequency from 97.1 MHz (channel 246LP) to 98.1 MHz (channel 251B). Golden West also proposed to change the authorized contours of CJTS-FM by increasing the effective radiated power (ERP) from 50 watts to 20,000 watts, by increasing the antenna height and by relocating the transmitter. The applicant further requested a broadcasting licence to continue the operation of CJTS-FM upon surrender of the current licence issued to Spirit.
8. As a result of the proposed increase in power, CJTS-FM's status would change from that of a low-power unprotected service to that of a regular Class B FM station.
9. In proposing to acquire the assets of the Christian music Specialty FM station CJTS-FM, Golden West indicated that the future of the station is uncertain, since the current owner of the station has had personal health problems, and because CJTS-FM has experienced negative financial performance. If its application were approved, Golden West committed to maintain the Christian music format of CJTS-FM through adherence to the current conditions of licence, including those related to musical format, Canadian content and support for Canadian talent development (CTD). Golden West committed to continue Spirit's \$2,600 annual CTD contribution, and to make an additional \$2,000 contribution in each year of the new licence term. Further, Golden West stated that, if its application were approved, it would fulfill \$10,400 that is outstanding in Spirit's commitments to CTD, within 18 months of an approval.
10. In addition to maintaining the station's current format, the applicant indicated that it would increase the levels of local reflection programming offered by CJTS-FM. In this regard, Golden West committed to broadcast at least 6.5 hours each week of station-produced local news, weather and sports.
11. Golden West also indicated that it would, during each broadcast week, broadcast approximately five hours of religious spoken word programming, as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (the Religious Policy). The applicant stated that it would accept a condition of licence with respect to the provision of balance and ethics in religious programming, as set out in the Religious Policy.

12. With respect to the application for technical amendments to the licence for CJTS-FM, Golden West indicated that the primary reasons for the amendments are that the station's current low-power frequency is not protected, and the signal is subject to interference and therefore not reliable at all times.
13. As noted above, if the application by Golden West for technical amendments to the licence for CJTS-FM were approved, the authorized contours of CJTS-FM would increase significantly, and the proposed power increase would result in a change of status for CJTS-FM, from a low-power unprotected service, to a regular Class B FM station.
14. If the technical amendments were approved, Golden West indicated that it would be able to offer a strong reliable signal 24 hours a day. Furthermore, with a protected frequency it would be able to make long-term plans for CJTS-FM to become a viable radio station in the Lethbridge market.

### **Interventions**

15. The Commission received interventions in support of this application from the partners of Jim Pattison Broadcast Group Ltd.<sup>1</sup> (Pattison Group), licensee of CHLB-FM Lethbridge and CJBZ-FM Taber, Alberta, and from the Miracle Channel Association (Miracle Channel), licensee of CJIL-TV Lethbridge. The Pattison Group's support for the Golden West applications was based on the view that approval of those applications rather than any other would have the least impact on the Lethbridge radio market. Miracle Channel was of the opinion that the Lethbridge audience would benefit by the alternative format proposed by Golden West.
16. Interventions in opposition were submitted by Mr. Eric Cartman, and CKXU Radio Society (CKXU Radio), licensee of the community-based campus FM radio station CKXU-FM Lethbridge. Mr. Cartman expressed the view that the proposed technical amendments for CJTS-FM are not necessary. CKXU Radio expressed a general concern with the ability of the Lethbridge market to support any additional FM radio stations.
17. Golden West did not reply to the interventions in opposition.

### **Benefits**

18. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction.

---

<sup>1</sup> Jim Pattison Broadcast Group Ltd. (the general partner) and Jim Pattison Industries Ltd. (the limited partner), carrying on business as Jim Pattison Broadcast Group Limited Partnership

19. The proposed value of this transaction is \$225,000. Under the provisions set out in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (the Radio Policy), applicants seeking to acquire ownership of radio stations are generally required to make commitments to clear and unequivocal tangible benefits representing a financial contribution of 6% of the value of the transaction, as accepted by the Commission. The Radio Policy stipulates that the Commission will be prepared to forgo benefits requirements in the case of transactions involving the sale of unprofitable undertakings. However, the Commission stated in its Radio Policy that it would not “systematically apply this exemption to stations in the first five years of operation.”
20. Golden West was of the view that no benefits would be required with respect to this application because CJTS-FM showed only marginal profitability in 2001 and 2002, its first two years of operation, and has not been profitable since 2003. However, at the public hearing, Golden West indicated that, if the Commission determined that benefits were warranted, it would comply and direct any funds to appropriate third parties as required under the current benefits policy.

### **Commission’s analysis and determinations**

21. In making its decision, the Commission has considered the transaction’s potential impact on the Lethbridge market. The Commission considers that approval of this application will have a minimal impact on the market and on incumbent radio stations because Golden West has made a commitment to maintain CJTS-FM’s niche Specialty format. The Commission has also taken into consideration the applicant’s commitment to increase local reflection through its programming.
22. The Commission does not have any specific concerns arising from this application with respect to ownership. Golden West is an established broadcaster with experience in operating radio stations in smaller markets. Given that Golden West does not operate any broadcasting undertakings in this market, the acquisition of CJTS-FM would allow the applicant to expand into a new market.
23. In light of all of the above, the Commission is satisfied that approval of the Golden West application to acquire the assets of CJTS-FM and approval of its application to amend the technical parameters of that station are in the public interest, and would increase the likelihood of CJTS-FM remaining a viable local service in Lethbridge, without having an undue negative impact on the incumbent radio stations in the market.
24. Accordingly, the Commission **approves** the application by Golden West Broadcasting Ltd. for authority to acquire from Spirit Broadcasting Ltd. the assets of the English-language Specialty FM radio programming undertaking CJTS-FM Lethbridge, and for a broadcasting licence to continue the operation of the undertaking. The Commission further **approves** the application by Golden West Broadcasting Ltd. to amend the broadcasting licence of CJTS-FM by changing the frequency from 97.1 MHz (channel

246LP) to 98.1 MHz (channel 251B) and to change the authorized contours by increasing the ERP from 50 watts to 20,000 watts, by increasing the antenna height and by relocating the transmitter.

25. The Commission notes the applicant's commitments related to the broadcast of Canadian music and contributions to CTD. **Conditions of licence** are set out in the appendix to this decision requiring the applicant to adhere to those commitments to minimum levels of Canadian musical selections and minimum levels of annual financial contributions to CTD. The Commission expects the applicant to contribute a total of \$32,200 over a period of seven consecutive broadcast years, as proposed.
26. The Commission also notes Golden West's commitment to fulfill, within 18 months of the date of this decision, \$10,400 that is outstanding in Spirit's commitments to CTD. A **condition of licence** to this effect is set out in the appendix to this decision.

#### **Benefits**

27. With respect to the provision of benefits of this application, the Commission notes that CJTS-FM is in its first term of licence, and that Golden West's application to acquire the assets of the radio station was filed within the first five years of CJTS-FM's operation.
28. In light of the above, the Commission has determined that Golden West is required to expend a minimum of \$13,500 in tangible benefits initiatives, which is 6% of the value of this transaction. In accordance with commitments made by the applicant at the hearing, the benefits shall be directed as follows:
  - \$6,750 to the Canadian Association of Broadcasters' Starmaker Fund,
  - \$4,500 to the Foundation to Assist Canadian Talent on Records (FACTOR),
  - \$2,250 to Avanti Records, an eligible third party.

#### **Cultural diversity**

29. In the Radio Policy, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices. The Commission expects Golden West to adhere to its commitment to reflect the cultural diversity of Canada in its programming and employment practices.

#### **Employment equity**

30. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages Golden West to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

## Issuance of the licence

31. The Commission will issue a broadcasting licence to Golden West, upon surrender to the Commission of the licence issued to Spirit.
32. The new licence for CJTS-FM will be effective 1 September 2006 and will expire 31 August 2013. The licence will be subject to the **conditions** set out in the appendix to this decision.
33. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
34. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting 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.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Appendix to Broadcasting Decision CRTC 2006-327

### Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of conditions number 5, 8 and 10.
2. The station shall be operated within the Specialty format as defined in *A Review of Certain Matters concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised Content Categories and Subcategories for Radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall ensure that, during each broadcast week, not less than 95% of all musical selections broadcast are drawn from subcategory 35 (Non-classic religious).
4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, in any broadcast week, devote in that week a minimum of 20% of its musical selections from content category 3 (Special Interest Music) to Canadian selections, and schedule them in a reasonable manner throughout each broadcast week.
5. The licensee shall, in any broadcast week devote a maximum of 25% of its musical selections from content category 2 (Popular Music) to hit material, as defined in *Revised Policy on the Use of Hits by English-language FM Radio Stations*, Public Notice CRTC 1997-42, 23 April 1997, as amended from time to time.
6. The licensee shall contribute an annual minimum of \$4,600 to the development and promotion of Canadian talent, as follows:
  - \$2,600 to underwrite a Christian music talent search,
  - \$1,000 to assist local music groups, and
  - \$1,000 to a scholarship for a student of music at either a high school or a post-secondary institution.

The Commission reminds the licensee that all Canadian talent development (CTD) expenditures must be made in accordance with the Commission's policy on qualifying contributions to CTD, as set out in Appendix 1 to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.

7. In addition to the expenditures to be made pursuant to condition of licence 6, the licensee shall, within 18 months of the date of this decision, expend \$10,400, representing outstanding commitments for the support of CTD made by Spirit Broadcasting Ltd. The licensee shall submit a report, within 60 days of the date of this decision, detailing the eligible CTD initiatives it will support with this funding.

8. Where the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV. of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

For the purposes of these conditions, the terms “broadcast week” and “musical selection” shall have the same meaning as that set out in section 2 of the *Radio Regulations, 1986*.