



## Broadcasting Decision CRTC 2006-328

Ottawa, 2 August 2006

**1182743 Alberta Ltd.**  
Lethbridge, Alberta

*Application 2005-1088-5*  
*Public Hearing at Calgary, Alberta*  
*21 February 2006*

### **English-language FM radio station in Lethbridge**

*In this decision, the Commission **approves** an application by 1182743 Alberta Ltd. for a broadcasting licence to operate a new English-language, commercial FM radio station in Lethbridge.*

### **Background**

1. 1182743 Alberta Ltd. (1182743 Alberta) was one of five applicants whose proposals to serve Lethbridge were considered at the 21 February Public Hearing. 1182743 Alberta, Vista Radio Ltd. (Vista), Newcap Inc. (Newcap) and Touch Canada Broadcasting Inc. (Touch Canada) each proposed to establish new FM radio stations to serve Lethbridge. Golden West Broadcasting Ltd. (Golden West) requested approval of applications to acquire the assets of an existing low-power Lethbridge station, CJTS-FM, and technical amendments to the licence for CJTS-FM.
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 *Acquisition of assets*, Broadcasting Decision CRTC 2006-327, also of today's date, the Commission has approved applications by Golden West to acquire the assets of the radio programming undertaking CJTS-FM Lethbridge from Spirit Broadcasting Ltd., to amend the broadcasting licence for CJTS-FM by changing the frequency, and to change the authorized contours of CJTS-FM.
4. Public Notice 2006-98 also summarizes the rationale underlying the Commission's approval of the applications by Golden West, as well as its approval of this application.

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 application**

6. 1182743 Alberta is a corporation equally owned by Mr. Paul Larsen and Norscot Holdings Ltd., a corporation wholly-owned and controlled by Mary McKinnon Mills. The control of 1182743 Alberta is shared equally between the two shareholders.
7. The applicant proposed to establish an English-language commercial FM radio station in Lethbridge that would operate at 94.1 MHz (channel 231C). The proposed station would offer an Adult Standards and Modern Nostalgia music format, appealing to listeners aged 35 to 64, with a core audience of adults over the age of 45. The applicant indicated that it would accept a condition of licence requiring that during each broadcast week, at least 40% of all category 2 (Popular Music) musical selections would be Canadian musical selections played in their entirety. This commitment would exceed the minimum level of 35% required of commercial radio stations under the *Radio Regulations, 1986*.
8. 1182743 Alberta indicated that at least 23 hours of each broadcast week would be devoted to scripted spoken word programming. Such programming would include 4.5 hours of news, 90% of which would be local or regional, 2.5 hours of surveillance material such as weather and traffic conditions, 4.5 hours devoted to a weekday noon-hour magazine program, a one-hour lifestyle magazine program on weekends, and 7 hours weekly of classic radio programs.
9. The applicant indicated that it would participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters (CAB). Under this plan, a radio licensee serving a market the size of Lethbridge is required to contribute a minimum of \$400 in each broadcast year to eligible third parties for the development of Canadian talent. 1182743 Alberta indicated that, including the \$400 required under the CAB plan, it would contribute \$129,500 over a seven-year period, allocated on an annual basis as follows:
  - \$2,500 to the Broadcasting Education Bursary
  - \$2,500 to the Music Education Bursary
  - \$1,500 to the Lethbridge and District Kiwanis Music and Speech Arts Festival
  - \$1,500 to the Instruments in Schools program
  - \$2,000 to the Foundation to Assist Canadian Talent on Records (FACTOR)
  - \$8,500 to the Original Song Competition.

## Interventions

10. The Commission received numerous interventions in support of this application. An opposing intervention was submitted by the partners of the Jim Pattison Broadcast Group Limited Partnership<sup>1</sup> (Pattison Group), and general comments were submitted by the Canadian Independent Record Production Association (CIRPA), CKXU Radio Society, and Golden West, one of the applicants heard at the 21 February Public Hearing in Calgary.
11. The Pattison Group is the licensee of CJBZ-FM Taber, Alberta and CHLB-FM Lethbridge. Pattison Group expressed the opinion that, of the five applicants considered at the hearing, the only application that should be approved is Golden West's proposal to acquire CJTS-FM. The intervener expressed the view that 1182743 Alberta, if approved, would likely change its programming focus in order to target the more successful formats already in existence in the market.
12. CIRPA indicated that it generally supported applicants that offered higher levels of Canadian musical selections, contributed to diversity of ownership in the marketplace and offered programming diversity both in terms of musical format and with respect to the selections included in their playlists. CIRPA also expressed a general concern with the level of CTD funding proposed by applicants to be directed to FACTOR. In CIRPA's opinion, the recording industry in Canada would be better served if a substantial portion of CTD funds were directed to supporting FACTOR, an organization that assists in the development of new artists and the marketing of existing ones.
13. CIRPA also expressed concern that exposure for entrants to the applicant's proposed Original Song Competition would be restricted to the station's web site, rather than supported by airplay. CIRPA further noted that the proposed program *Indie Lounge* would be broadcast on Sunday mornings, a time that has a greatly reduced audience.
14. CKXU Radio Society, licensee of the community-based campus FM radio station CKXU-FM Lethbridge, expressed a general concern with the ability of the Lethbridge market to support any additional FM radio stations.
15. Golden West indicated that its own application to acquire the assets of an existing station in the Lethbridge market would be the only one that would not cause any undue negative impact on existing stations, since it would maintain the format of the acquired station, and hence maintain radio market diversity in Lethbridge. The intervener specifically submitted that 1182743 Alberta's proposed music format would be unlikely to sustain any longevity in the market, and would likely be changed at some point during the first year of operation.

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<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

### **Applicant's replies**

16. In reply to the Pattison Group intervention, 1182743 Alberta stated that it was committed to offer the format that it proposed, and fully intends to bring the radio station to air as outlined in its application. The applicant indicated that its research shows that tuning to Calgary AM stations by Lethbridge adults 35 to 64 is significant, and believes that its proposal will repatriate those listeners to a local station, without damage to any incumbent radio stations.
17. In response to the concerns expressed by CIRPA, 1182743 Alberta stated that its application to serve Lethbridge offers Canadian content in excess of the regulatory minimum, and that the portion of its CTD commitment to be directed to FACTOR is significant.
18. With respect to CIRPA's concerns related to the applicant's plans for an Original Song Competition, 1182743 Alberta stated that the Internet has become a critical component of artist exposure and sales of music product. At the same time, the applicant indicated that Internet exposure would form only part of the promotion of up-and-coming artists, and that entrants to the Original Song Competition would receive significant on-air exposure in the form of airplay, promotion and marketing. With regard to the proposed program *Indie Lounge*, 1182743 Alberta expressed the opinion that a dedicated one-hour weekly program would be the best format in which to exclusively play and highlight independent Canadian artists.
19. In reply to the concerns expressed by CKXU Radio Society and Golden West, 1182743 Alberta indicated that it had conducted significant consumer demand research and a thorough economic analysis of the Lethbridge market, that it had confidence in both its business plan and the fact that its proposed format would increase the diversity of both news voices and music formats in the market. 1182743 Alberta reiterated that, if approved, it would have no plans to change format.

### **Commission's analysis and determinations**

20. In Public Notice 2006-98, the Commission set out its determination that based on positive economic indicators, the Lethbridge radio market can support the acquisition of and technical amendments to CJTS-FM without creating any undue negative impact on the Lethbridge market. In addition, based on market factors and economic indicators, the Commission concluded that the Lethbridge market could accommodate the entry of one new commercial FM radio station that would serve Lethbridge.
21. The Commission considers that approval of the application by 1182743 Alberta presents the best alternative in terms of offering listening choice to an underserved demographic in Lethbridge, especially those persons over the age of 45, while having a minimal impact on incumbent radio stations. The Commission notes that the licensing of 1182743 Alberta would introduce a new editorial voice to the Lethbridge market, and a new company to the Canadian broadcasting system. The Commission further notes the proposals by 1182743 Alberta for the broadcast of Canadian music, and its plans for the

development of Canadian talent.

22. The Commission notes the concerns expressed by CIRPA. The Commission considers that the initiatives proposed by the applicant will provide valuable support for the development of Canadian talent.
23. In light of all of the above, the Commission **approves** the application by 1182743 Alberta Ltd. for a broadcasting licence to operate an English-language, commercial FM radio programming undertaking at Lethbridge. The new station will operate at 94.1 MHz (channel 231C) with an effective radiated power of 100,000 watts.
24. 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 \$129,500 over a period of seven consecutive broadcast years upon commencement of operations, as proposed.

#### **Cultural diversity**

25. In *Commercial Radio Policy, 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices. The Commission expects 1182743 Alberta to reflect the cultural diversity of Canada in its programming and employment practices.

#### **Employment equity**

26. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages 1182743 Alberta to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

#### **Issuance of the licence**

27. The licence to be issued to 1182743 Alberta will be effective on 1 September 2006 and will expire 31 August 2013. It will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999.
28. 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.

29. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
30. Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 2 August 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

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 2006-328

### 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 (Public Notice 1999-137).
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(8) of the *Radio Regulations, 1986*, in any broadcast week, devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category,” and “musical selection” shall have the same meaning as that set out in the *Radio Regulations, 1986*.

3. Including the amount required under condition of licence number 5 set out in Public Notice 1999-137, the licensee shall contribute an annual minimum of \$18,500 to the development and promotion of Canadian talent, as follows:
  - \$2,500 to the Broadcasting Education Bursary
  - \$2,500 to the Music Education Bursary
  - \$1,500 to the Lethbridge and District Kiwanis Music and Speech Arts Festival
  - \$1,500 to the Instruments in Schools program
  - \$2,000 to the Foundation to Assist Canadian Talent on Records (FACTOR)
  - \$8,500 to the Original Song Competition.

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.