



Broadcasting Decision CRTC 2008-297

Ottawa, 31 October 2008

**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**
Vernon and Enderby, British Columbia

*Application 2008-0558-3, received 15 April 2008
Public Hearing in the National Capital Region
24 September 2008*

CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby – Acquisition of assets

*The Commission **approves** an application by 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 to acquire the assets of CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia from Rogers Broadcasting Limited and for a broadcasting licence to continue the operation of the undertaking under the same terms and **conditions** as those in effect under the current licence.*

The application

1. The Commission received an application by 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 (Pattison) to acquire the assets of the radio programming undertaking CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia from Rogers Broadcasting Limited (Rogers). The applicant also requested a broadcasting licence to continue the operation of the undertaking under the same terms and conditions as those in effect under the current licence.
2. The Commission received interventions in support of this application.

Background

3. In Broadcasting Decision 2008-44, the Commission denied a previous application by Pattison to acquire the assets of CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby. The Commission determined that the 3mV/m contour of CKIZ-FM Vernon overlapped the 3mV/m contours of existing Pattison stations in Kelowna, and consequently, Pattison would have exceeded the limit set in the Common Ownership Policy of two FM stations in a given geographical and linguistic

market.¹ Further, the Commission concluded that Pattison did not demonstrate a technical or economic need for an exception to the Commission's Common Ownership Policy.

Commission's analysis and determinations

4. The Commission has identified the following three issues to be addressed in its determinations:
 - Is Pattison's proposed acquisition of CKIZ-FM Vernon consistent with the Common Ownership Policy?
 - Is the proposed value of the transaction for the purpose of calculating the tangible benefits reasonable and acceptable?
 - Is the proposed allocation of the tangible benefits package acceptable?

Is Pattison's proposed acquisition of CKIZ-FM Vernon consistent with the Common Ownership Policy?

5. Section 2 of the *Radio Regulations, 1986* (the Regulations) defines a "market" in the case of an FM station as "the FM 3mV/m contour or the central area as defined by the [Bureau of Broadcast Measurement], whichever is smaller". For the purpose of evaluating this application under the Common Ownership Policy, the Commission determines that the markets are best defined by the respective 3mV/m contours of Pattison's two FM radio stations in Kelowna and of CKIZ-FM Vernon.
6. The Commission notes that Pattison has made a slight modification to the 3mV/m contour of CKIZ-FM. As a result, CKIZ-FM's 3mV/m contour no longer overlaps the 3mV/m contours of Pattison's radio stations in Kelowna. The Commission is therefore satisfied that Pattison's proposed acquisition is consistent with the Common Ownership Policy. Further, the Commission expects Pattison to maintain CKIZ-FM's local Vernon programming. In this regard, the Commission notes Pattison's commitment to broadcast 126 hours of local programming per broadcast week as well as its commitment to provide ongoing local news (80% local news stories), surveillance, sports and other spoken word of direct and particular interest to the population of Vernon.

Is the proposed value of the transaction for the purpose of calculating the tangible benefits reasonable and acceptable?

7. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the tangible benefits

¹ As set out in Public Notice 1998-41 and reaffirmed in Broadcasting Public Notice 2008-4, a person may own or control no more than three stations in a given language in markets where less than eight commercial stations are operating in that language, with a maximum of two stations in any one frequency band. In markets with eight commercial stations or more operating in a given language, the limit is set at a maximum of two AM and two FM stations in that language.

proposed in the application are adequate and that the proposed value of the transaction is acceptable and reasonable.

8. The proposed value of the transaction, based on the terms of the Assets Purchase Agreement, is \$4 million.
9. It is Commission practice to include in the value of the transaction certain elements such as the commitments related to operating leases. The Commission notes that the purchaser will be assuming some lease commitments. At the date of the transaction (4 May 2007), the lease commitments were valued at \$61,430.
10. As a result, the revised value of the transaction amounts to \$4,061,430.

Is the proposed allocation of the tangible benefits package acceptable?

11. Consistent with the Commission's tangible benefits policy outlined in Broadcasting Public Notice 2006-158, Pattison proposed a tangible benefits package equal to 6% of the proposed \$4 million value of the transaction (\$240,000). Pattison proposed to allocate the following amounts over seven broadcast years:
 - 3% to Radio Starmaker Fund;
 - 2% to FACTOR; and
 - 1% to Pattison's Save the Music Foundation.
12. Given the Commission's determination of the value of the transaction, the value of the tangible benefits package will increase to \$243,686 (i.e. 6% of the revised amount of \$4,061,430). The Commission expects that the revised benefits will be allocated in the same proportions proposed by the applicant over seven consecutive broadcast years, i.e.:
 - 3% (\$121,843) to Radio Starmaker Fund;
 - 2% (\$81,229) to FACTOR; and
 - 1% (\$40,614) to Pattison's Save the Music Foundation.

Conclusion

13. In light of the above, the Commission **approves** the application by 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 to acquire the assets of CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia from Rogers Broadcasting Limited and for a broadcasting licence to continue the operation of the undertaking.
14. Upon surrender of the current licence issued to Rogers Broadcasting Limited, the Commission will issue a new licence to 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. The licence will expire 31 August 2014, the expiry date of the current licence, and will be subject to the terms and **conditions** set out in the appendix to this decision.

15. The Commission reminds Pattison that, as of 1 September 2008, all commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the Radio Regulations, 1986, as amended by Regulations Amending the Radio Regulations, 1986, SOR/2008-177, 28 May 2008, announced in Broadcasting Public Notice 2008-67.

Employment equity

16. Because Pattison is subject to the *Employment Equity Act* and files reports concerning employment equity with the department of Human Resources and Social Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Amendments to the Radio Regulations, 1986 – Implementation of the Commercial Radio Policy 2006 and the Digital Radio Policy – Regulatory policy*, Broadcasting Public Notice CRTC 2008-67, 23 July 2008
- *CKIZ-FM Vernon and CIGV-FM Penticton and their transmitters – Acquisition of assets*, Broadcasting Decision CRTC 2008-44, 25 February 2008
- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Licence Renewals*, Broadcasting Decision CRTC 2007-272, 2 August 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

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 2008-297

Terms and conditions of licence for CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby

Terms

The licence will expire 31 August 2014.

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 of licence 1 and 5.
2. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.