



## Broadcasting Decision CRTC 2008-44

Ottawa, 25 February 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**

Enderby, Keremeos, Penticton, Princeton and Vernon, British Columbia

*Applications 2007-0868-8 and 2007-1129-3, received 5 June and 31 August 2007*

*Public Hearing in Kelowna, British Columbia*

*30 October 2007*

### **CKIZ-FM Vernon and CIGV-FM Penticton and their transmitters – Acquisition of assets**

*The Commission **denies** 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 (Pattison), to acquire from Rogers Broadcasting Limited the assets of the commercial radio programming undertaking CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia. The Commission also **denies** the application by Pattison to acquire from Great Valleys Radio Ltd. the assets of the commercial radio programming undertaking CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia.*

### **The applications**

1. The Commission received separate applications 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 from Rogers Broadcasting Limited the assets of the commercial radio programming undertaking CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia, and to acquire from Great Valleys Radio Ltd., a corporation controlled by Ralph and Jean Robinson, the assets of the commercial radio programming undertaking CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia. Pattison also requested broadcasting licences to continue the operation of these undertakings under the same terms and conditions as those set out in the current licences.
2. As noted in Broadcasting Notice of Public Hearing 2007-12-3, the Commission approved in Broadcasting Decision 2007-116 the conversion of Pattison's AM station CKOV to the FM band in Kelowna, where Pattison already owns and operates CKLZ-FM. As set out in Public Notice 1998-41, the Commission's Common Ownership Policy generally permits the ownership of no more than three stations in a given language in markets



where less than eight commercial stations are operating in that language. The Common Ownership Policy also restricts to a maximum of two stations in any one frequency band the number of same-language stations that may be owned in such a market. In its notice of public hearing, the Commission invited comments on the potential impact of the proposed acquisition of the assets of CIGV-FM Penticton, including comments relating to compliance with the provisions of the Common Ownership Policy.

3. The Commission received interventions in opposition to both applications from Vista Radio Ltd.

**Would the ownership of either of the FM stations to be acquired by Pattison be consistent with the Common Ownership Policy?**

4. In reviewing its Common Ownership Policy and determining which ownership model it should adopt in Public Notice 1998-41, the Commission considered a number of factors, including the impact on the diversity of news voices in markets of different sizes, the possible impact on diversity of formats, and the implications for competition. The Commission concluded that in markets with less than eight commercial stations operating in a given language, a person may be permitted to own or control as many as three stations 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, a person may be permitted to own or control as many as two AM and two FM stations in that language.
5. In the case of an FM station, section 2 of the *Radio Regulations, 1986* defines a “market” as the FM 3mV/m contour of a station or the central area as defined by the Bureau of Broadcast Measurement (BBM), whichever is smaller. In the present case, given the size of the BBM-defined market compared to the 3mV/m contour, the Commission determines that since the 3mV/m contour is the smallest, the market for each station involved is defined as its 3mV/m contour.
6. Presently, in the Kelowna radio market, Pattison owns and operates two FM stations. If the Commission were to approve the applications to acquire CKIZ-FM Vernon and CIGV-FM Penticton, all of the nine commercial radio programming undertakings serving Vernon, Kelowna and Penticton that are currently in operation would belong to two operators – Pattison and Astral Media Radio G.P. (Astral).<sup>1</sup> The Commission notes that although the licensing of new entrants might aid in the preservation of the diversity of voices, the region would be served almost entirely by these two operators. The

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<sup>1</sup> In Broadcasting Decision 2007-359, the Commission approved the acquisition by the partners in a general partnership carrying on business as Astral Media Radio G.P. of various assets from Standard Radio Inc., including the assets of CIGV-FM Penticton, CKFR, CILK-FM and CHSU-FM Kelowna, and CKOR and CJMG-FM Penticton.

Commission reiterates its view, as expressed in Broadcasting Public Notice 2008-4 on the diversity of voices, that the Canadian broadcasting system should ensure that audiences have access to a diversity of programming – especially national, regional and local content. The Commission also notes that a plurality of ownership in the private element is necessary in order to maximize the diversity of voices in the Canadian broadcasting system.

7. The Commission also notes that it does not permit a licensee to own and operate three FM stations in a given market except in exceptional circumstances such as those addressed below. At the hearing, Pattison submitted that in its view the Common Ownership Policy was not applicable to the proposed acquisitions. However, Pattison conceded that if the Commission deemed the overlaps of contours to be relevant, both applications would require exceptions under the current Common Ownership Policy.
8. Although the magnitude of overlap with Kelowna varies between CKIZ-FM Vernon and CIGV-FM Penticton, the Commission notes that the 3mV/m contours of both stations overlap the 3mV/m contours of the existing Pattison stations in Kelowna. Given the foregoing, the Commission has determined that exceptions to the Common Ownership Policy would need to be sought in each case.
9. Exceptions to the Common Ownership Policy are based either on technical considerations or economic need. With respect to both CKIZ-FM Vernon and CIGV-FM Penticton, however, the Commission notes that neither station is failing nor operating in a market that is severely economically depressed. Moreover, neither Pattison nor any other operator in the region has claimed that a denial of these applications would cause a station to cease operations. Finally, because the stations to be acquired are currently operating, the Commission notes that technical considerations are not relevant to these applications.
10. Therefore, in both cases, approval of the transaction would constitute an exception to the Common Ownership Policy without any demonstrated technical or economic need for such an exception.
11. In light of all of the above, the Commission **denies** the applications 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 from Rogers Broadcasting Limited the assets of the commercial radio programming undertaking CKIZ-FM Vernon and its transmitter CKIZ-FM-1 Enderby, British Columbia, and to acquire from Great Valleys Radio Ltd. the assets of the commercial radio programming undertaking CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia.

Secretary General

**Related documents**

- *Diversity of voices*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Acquisition of assets*, Broadcasting Decision CRTC 2007-359, 28 September 2007
- Broadcasting Notice of Public Hearing CRTC 2007-12-3, 20 September 2007
- *CKOV Kelowna – Conversion to FM band*, Broadcasting Decision CRTC 2007-116, 23 April 2007
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

*This decision 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>*