



Broadcasting Decision CRTC 2012-687

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Route reference: 2012-475

Ottawa, 18 December 2012

Bear Creek Broadcasting Ltd. (general partner and limited partner) and “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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership
Grande Prairie, Alberta

*Application 2012-0797-8, received 29 June 2012
Public hearing in the National Capital Region
7 November 2012*

CIKT-FM Grande Prairie – Acquisition of assets

*The Commission **approves** an application by Bear Creek Broadcasting Ltd. (general partner and limited partner) and “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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership, for authority to acquire from Bear Creek Broadcasting Ltd. the assets of the English-language commercial radio station CIKT-FM Grande Prairie, Alberta, and for a new broadcasting licence to continue the operation of the station. The new licence will be subject to the terms and conditions of licence set out in the appendix to this decision.*

Introduction

1. The Commission received an application by Bear Creek Broadcasting Ltd. (general partner and limited partner) and “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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership (Bear Creek LP), for authority to acquire from Bear Creek Broadcasting Ltd. (Bear Creek) the assets of the English-language commercial radio programming undertaking CIKT-FM Grande Prairie, Alberta. The applicant also requested a new broadcasting licence to continue the operation of the undertaking under the same terms and conditions as those in effect under the current licence.

2. Bear Creek is wholly owned by 1283836 Alberta Ltd., which is a corporation owned and controlled by Mr. Ken Truhn.
3. Jim Pattison Broadcast Group Limited Partnership (JPBG Limited Partnership) is owned and controlled by Mr. James A. Pattison through various subsidiaries.
4. Following the close of the transaction, Bear Creek will hold 51.01% of the units in Bear Creek LP and JPBG Limited Partnership will hold 48.99% of the units. This transaction will not affect the effective control of the undertaking, which will continue to be exercised by Mr. Truhn.
5. The Commission did not receive any interventions in connection with this application. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and decisions

6. After examining the application in light of applicable regulations and policies, the Commission considers that the issue it must address is Bear Creek's compliance with its obligations as the licensee for CIKT-FM relating to Canadian talent development (CTD) and Canadian content development (CCD).¹

Compliance with Canadian content development obligations

7. In Broadcasting Notice of Consultation 2012-475, the Commission noted that the current licensee of CIKT-FM may have failed to comply with its conditions of licence related to CCD contributions for the 2007-2008 through 2010-2011 broadcast years.² The Commission further noted that it was missing descriptions of initiatives funded by the licensee, which are necessary to confirm their eligibility.
8. The Commission originally licensed CIKT-FM in Broadcasting Decision 2006-621, which included a condition of licence setting out specific initiatives related to CTD to which the licensee must contribute with a combined annual contribution of \$60,000. Subsequently, in Broadcasting Decision 2008-153, the Commission approved an amendment to the station's condition of licence (now for CCD) related to two of those initiatives. As a consequence, the licensee is currently subject to the following condition of licence:

The licensee shall contribute an annual minimum of \$60,000 to the development and promotion of Canadian talent, allocated as follows:

¹ In Broadcasting Public Notice 2006-158, the Commission replaced the CTD regime with the CCD regime.

² The licensee was also cited for apparent non-compliance related to CCD contributions for the 2006-2007 broadcast year. The Commission's findings and the licensee's response are available on the public file.

- \$20,000 to the Fine Arts Program at Grande Prairie Regional College for the establishment of a scholarship program;
 - \$10,000 to the Prairie Art Gallery for the sponsorship of local artists through its art exhibition program, as well as sponsorship of the gallery's district school education program;
 - \$10,000 to "Peace Country Idol" which is hosted by the Grande Prairie Regional College's Diploma Marketing Students;
 - \$10,000 to support "Telus Country Fever" to hire Canadian musical artists who do not yet have major recording contracts;
 - \$5,000 to the Community Development Foundation for the development of an endowment fund for scholarships intended to benefit Aboriginal persons enrolled in the Fine Arts Program at Grande Prairie Regional College; and
 - \$5,000 to the Grande Prairie Little Theatre for the development of its education program for youth.
9. The Commission's analysis revealed that the licensee had CTD/CCD contribution shortfalls of \$25,000 in its first year of operations (the 2006-2007 broadcast year), \$15,000 in the 2007-2008 broadcast year and \$10,000 in the 2008-2009 broadcast year for a cumulative shortfall of \$50,000. In addition, the licensee failed to provide the necessary proof of eligibility of several of its CCD initiatives as required by section 9(2) of the *Radio Regulations, 1986* (the Regulations) for each of the broadcast years that CIKT-FM has been in operation through 2010-2011.
 10. In responding to its apparent non-compliance for the 2006-2007 broadcast year, Bear Creek indicated that it had been unsure whether payments were to be made based on the fiscal year or on the year that CIKT-FM began operations.
 11. In this regard, Commission staff advised the licensee in July 2008 that, given that the station had begun operations in April 2007, a pro-rated equivalent of 5 months of CTD payments (totalling \$25,000) from April to 31 August 2007 should have been paid by 31 August 2007. The licensee responded that, at the time, it was waiting for the changes to its CTD commitments that were approved in Broadcasting Decision 2008-153. Given its partial year of operations in 2006-2007, the Commission reminds the licensee that it must make CTD contributions totalling \$35,000 for the remaining seven-month period of the 2006-2007 broadcast year by the end of the licence term. A **condition of licence** that requires that this payment be made by no later than 31 August 2014 is set out in the appendix to this decision.
 12. Regarding its CCD shortfalls for the 2007-2008 and 2008-2009 broadcast years, Bear Creek indicated that, as of 23 April 2012, it had paid \$315,000 of the total \$420,000 in CCD contributions that it had committed to pay over a period of seven consecutive broadcast years upon commencement of operations. Bear Creek indicated it planned to

pay \$45,000 of the remaining \$105,000 by the end of 2012-2013 broadcast year and the remaining \$60,000 by the end of 2013-2014 broadcast year.

13. The Commission has examined Bear Creek's CCD contributions related to its shortfall and based on the subsequent information provided by the licensee has concluded that the remaining CCD shortfall amount totals \$18,750 representing the following:
- \$8,333 to the Fine Arts Program at Grande Prairie Regional College for the establishment of a scholarship program;
 - \$4,167 to the Prairie Art Gallery for the sponsorship of local artists through its art exhibition program, as well as sponsorship of the gallery's district school education program;
 - \$4,167 to "Peace Country Idol" which is hosted by the Grande Prairie Regional College's Diploma Marketing Students; and
 - \$2,083 to the Community Development Foundation for the development of an endowment fund for scholarships intended to benefit Aboriginal persons enrolled in the Fine Arts Program at Grande Prairie Regional College.
14. A **condition of licence** that requires payment of an \$18,750 contribution by no later than 31 August 2013 is set out in the appendix to this decision.
15. The Commission notes that Bear Creek has filed the missing proof of eligibility for the initiatives to which it made CCD contributions during each of broadcast years that CIKT-FM was in operation through 2010-2011. The Commission also notes Bear Creek's efforts to fulfil its CCD contribution shortfalls. Nonetheless, the Commission finds that Bear Creek has operated CIKT-FM in non-compliance with its conditions of licence relating to CTD/CCD contributions for the 2006-2007, 2007-2008 and 2008-2009 broadcast years and with section 9(2) of the Regulations for each broadcast year that CIKT-FM has been in operation through 2010-2011. The Commission reminds the licensee that all CCD contributions must be paid in full by the end of each broadcast year as per its station's conditions of licence. It also reminds Bear Creek LP of its obligation to file proof of eligibility and contributions as part of its annual returns, as provided in section 9(2) of the Regulations.

Conclusion

16. In light of all of the above, the Commission **approves** the application by Bear Creek Broadcasting Ltd. (general partner and limited partner) and "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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership, for authorization to acquire from Bear Creek Broadcasting Ltd. the assets of the English-language commercial radio programming undertaking CIKT-FM Grande Prairie, Alberta.

17. The Commission has considered an appropriate licence term in light of Broadcasting Information Bulletin 2011-347, in which it announced a revised approach to deal with instances of radio non-compliance. In that information bulletin, the Commission noted in particular that each instance of non-compliance would be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. It also noted that it would consider the circumstances leading to the non-compliance in question, the licensee's arguments, and the measures taken to rectify the situation.
18. Consistent with this revised approach, and taking into account the circumstances related to the non-compliance and measures taken by Bear Creek to correct the shortfalls discussed above, the Commission considers that for CIKT-FM, a licence term of **four years**, starting from the expiry of the previous licence term which ends 31 August 2013, would be appropriate.
19. Accordingly, upon surrender of the broadcasting licence currently issued to Bear Creek, the Commission will issue a new licence to Bear Creek Broadcasting Ltd. (general partner and limited partner) and "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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership which will expire on 31 August 2017. The terms and **conditions of licence** for this station are set out in the appendix to this decision. The Commission notes that this short-term licence will allow for an earlier review of the licensee's compliance with the Regulations and with its conditions of licence.
20. The Commission requires Bear Creek Broadcasting Ltd. (general partner and limited partner) and "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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership to file within 12 months of the date of this decision the certificate of registration of the partnership, proof of registration of the partnership and an executed copy of the Transfer & Exchange agreement dated October 2011.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-475, 5 September 2012
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CIKT-FM Grande Prairie – Licence amendment*, Broadcasting Decision CRTC 2008-153, 31 July 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

* *This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2012-687

Term, requirement, conditions of licence and encouragement for the English-language commercial radio programming undertaking serving Grande Prairie, Alberta

Term

The licence will expire 31 August 2017.

Requirement

The Commission requires Bear Creek Broadcasting Ltd. (general partner and limited partner) and “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 other limited partner), carrying on business as Bear Creek Broadcasting Limited Partnership to file within 12 months of the date of this decision the certificate of registration of the partnership, proof of registration of the partnership and an executed copy of the Transfer & Exchange agreement dated October 2011.

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week:
 - (a) 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; and
 - (b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, 40% or more of its musical selections from content category 2 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. The licensee shall, by no later than 31 August 2013, make the following contributions related to its Canadian content development shortfall:
 - \$8,333 to the Fine Arts Program at Grande Prairie Regional College for the establishment of a scholarship program;

- \$4,167 to the Prairie Art Gallery for the sponsorship of local artists through its art exhibition program, as well as sponsorship of the gallery's district school education program;
- \$4,167 to "Peace Country Idol" which is hosted by the Grande Prairie Regional College's Diploma Marketing Students; and
- \$2,083 to the Community Development Foundation for the development of an endowment fund for scholarships intended to benefit Aboriginal persons enrolled in the Fine Arts Program at Grande Prairie Regional College.

4. The licensee shall, by no later than 31 August 2014, contribute \$35,000 which represents the remaining portion of the 2006-2007 broadcast year Canadian content development contribution as follows:

- \$11,667 to the Fine Arts Program at Grande Prairie Regional College for the establishment of a scholarship program;
- \$5,833 to the Prairie Art Gallery for the sponsorship of local artists through its art exhibition program, as well as sponsorship of the gallery's district school education program;
- \$5,833 to "Peace Country Idol" which is hosted by the Grande Prairie Regional College's Diploma Marketing Students;
- \$5,833 to "Telus Country Fever" to hire Canadian musical artists who do not yet have major recording contracts;
- \$2,917 to the Community Development Foundation for the development of an endowment fund for scholarships intended to benefit Aboriginal persons enrolled in the Fine Arts Program at Grande Prairie Regional College; and
- \$2,917 to the Grande Prairie Little Theatre for the development of its education program for youth.

5. The licensee shall contribute an annual minimum of \$60,000 to the development and promotion of Canadian talent, allocated as follows:

- \$20,000 to the Fine Arts Program at Grande Prairie Regional College for the establishment of a scholarship program;
- \$10,000 to the Prairie Art Gallery for the sponsorship of local artists through its art exhibition program, as well as sponsorship of the gallery's district school education program;
- \$10,000 to "Peace Country Idol" which is hosted by the Grande Prairie Regional College's Diploma Marketing Students;
- \$10,000 to support "Telus Country Fever" to hire Canadian musical artists who do not yet have major recording contracts;

- \$5,000 to the Community Development Foundation for the development of an endowment fund for scholarships intended to benefit Aboriginal persons enrolled in the Fine Arts Program at Grande Prairie Regional College; and
- \$5,000 to the Grande Prairie Little Theatre for the development of its education program for youth.

Encouragement

Employment equity

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