



Broadcasting Decision CRTC 2015-401

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Reference: 2015-201

Ottawa, 26 August 2015

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
Grande Prairie, Alberta

Application 2015-0241-9, received 9 March 2015

Public hearing in the National Capital Region

22 July 2015

CIKT-FM Grande Prairie – 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, for authority to acquire the assets of the English-language commercial radio station CIKT-FM Grande Prairie from Bear Creek Broadcasting Limited Partnership.*

The Commission considers that the transaction serves the public interest and furthers the objectives for the Canadian broadcasting system set out in the Broadcasting Act.

As a result of the tangible benefits arising from this transaction, \$279,535 paid in equal installments over the next seven years will flow to various initiatives that support the production and promotion of Canadian music and increase the diversity of radio programming available to listeners.

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), for authority to acquire the assets of the English-language commercial radio station CIKT-FM Grande Prairie from Bear Creek Broadcasting Limited Partnership (Bear Creek).¹ The applicant also requested a new broadcasting licence to continue the operation of the station under the same terms and conditions as those in effect under

¹ 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

the current licence. The Commission did not receive any interventions in connection with this application.

2. Pattison is owned and controlled by Mr. James A. Pattison through various subsidiaries.
3. Following the completion of the transaction, Pattison would become the licensee CIKT-FM.
4. In Broadcasting Notice of Consultation 2015-201, the Commission noted that Bear Creek was in apparent non-compliance with CIKT-FM's condition of licence relating to Canadian content development (CCD) contributions.

Regulatory framework

5. The review of ownership transactions is an essential element of the Commission's regulatory and supervisory mandate under the *Broadcasting Act* (the Act). Since the Commission does not solicit competitive applications for changes in effective control of broadcasting undertakings, the onus is on the applicant to demonstrate that approval is in the public interest, that the benefits associated with the transaction are commensurate with its size and nature and that the application represents the best possible proposal under the circumstances.
6. The Commission must consider each application on its merits, based on the circumstances specific to the application. In addition, the Commission must be assured that approval of a proposed ownership transaction furthers the public interest as expressed in the objectives of the Act.

Public interest

7. The public interest is reflected in the numerous objectives of the Act, including the Canadian broadcasting policy set out in section 3(1) of the Act. In the context of this transaction, relevant Canadian broadcasting policy provisions include the following:
 - the Canadian broadcasting system should
 - serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada [section 3(1)(d)(i)], and
 - encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view; [section 3(1)(d)(ii)]
 - the programming provided by the Canadian broadcasting system should

- (i) be varied and comprehensive...
- (ii) be drawn from local, regional, national and international sources..., and
- (v) include a significant contribution from the Canadian independent production sector. [section 3(1)(i)(ii) and (v)]

Commission's analysis and decisions

8. While this transaction would reduce the number of radio operators in the Grande Prairie market, it would allow Pattison to gain efficiencies in operations between CIKT-FM and CJXX-FM Grande Prairie that would be of clear benefit to local residents.
9. Specifically, with CIKT-FM and CJXX-FM being united under one roof, the transaction could result in synergies that would improve the quality of programming at CIKT-FM and provide a more robust and complete news service to the residents of Grande Prairie. CIKT-FM would schedule 13 additional newscasts during the weekend so that listeners would have access to news broadcasts on Saturday afternoons and all day on Sundays. CIKT-FM would also have access to the Jim Pattison Group Alberta News Network.
10. Further, the transaction ensures that Grande Prairie will benefit through the operation of CIKT-FM by a financially robust broadcaster with considerable experience in small markets like Grande Prairie.
11. In light of the above, the Commission finds that this transaction serves the public interest as it will benefit both Canadians and the broadcasting system and further the achievement of the objectives of the Act.
12. The Commission's decision that the proposed transaction is in the public interest is based on an assessment of the transaction in light of the regulatory framework set out above. In examining the proposed transaction, the Commission also focused on the following issues:
 - whether the calculation of the value of the transaction is appropriate and consistent with general Commission practices and policies;
 - whether the proposed tangible benefits package is consistent with general Commission practices and policies; and
 - whether the length of the licence term should be reduced due to past non-compliance regarding CCD contributions.

Value of the transaction

13. Pursuant to the Share Purchase Agreement, Pattison will purchase the shares for \$4.5 million. The applicant further submitted that an adjustment in the amount of

\$158,916 for assumed working capital is necessary. Accordingly, Pattison submitted that the value of the transaction totals \$4,658,916.

14. The Commission has assessed the value of the transaction pursuant to Broadcasting Public Notice 2008-57 and Broadcasting Regulatory Policy 2014-459 and is satisfied with the amount that Pattison proposed.

Proposed tangible benefits package

15. Consistent with the Commission's tangible benefits policy for radio set out in Broadcasting Public Notice 2006-158,² Pattison proposed a tangible benefits package equal to 6% of the proposed \$4,658,916 value of the transaction (i.e., \$279,535).
16. In accordance with Broadcasting Regulatory Policy 2014-459, the Commission **directs** Pattison to allocate its tangible benefits contributions amounting to \$279,535 in equal payments over seven consecutive broadcast years as follows:
- 3% (\$139,767) to the Radio Starmaker Fund or Fonds Radiostar;
 - 1.5% (\$69,884) to FACTOR or MUSICACTION;
 - 1% (\$46,589) at the discretion of the purchaser, to any eligible CCD initiative; and
 - 0.5% (\$23,295) to the Community Radio Fund of Canada.

Apparent non-compliance and length of the licence term

17. In Broadcasting Notice of Consultation 2015-201, the Commission stated that the licensee was in apparent non-compliance with CIKT-FM's condition of licence 5, set out in Broadcasting Decision 2012-687, for the 2012-2013 broadcast year. This condition of licence requires a minimum annual contribution of \$60,000 to CCD (formerly known as Canadian talent development), allocated to specific initiatives. It appears that the licensee considered that over-payments made in the 2007-2008 and 2008-2009 broadcast years could be applied to future CCD contributions, more specifically, to those for the 2012-2013 broadcast year.
18. As stated in Broadcasting Information Bulletin 2009-251, unless otherwise specified, all contributions required by condition of licence must be made annually, starting in the first year of operation and continuing in each subsequent broadcast year. These contributions cannot be made in another broadcast year unless prior authority is sought and obtained from the Commission. The licensee did not obtain prior approval from the Commission to apply over payments in previous broadcast years to the 2012-2013 broadcast year.

² The Commission reaffirmed its tangible benefits policy for radio in Broadcasting Regulatory Policy 2014-459.

19. Accordingly, the Commission finds that the licensee was in non-compliance with its condition of licence with respect to CCD contributions for the 2012-2013 broadcast year.
20. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
21. Although Bear Creek made a total contribution to CCD of \$420,000 over seven consecutive broadcast years, there was a shortfall in its annual \$60,000 CCD contribution for the 2012-2013 broadcast year. In light of this shortfall, and considering that the licensee made its total required contribution over seven years, the Commission is of the view that a licence term of six years would be appropriate in this case.

Conclusion

22. In light of all 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, for authority to acquire the assets of the English-language commercial radio programming undertaking CIKT-FM Grande Prairie from Bear Creek Broadcasting Limited Partnership.
23. Upon surrender of the current licence issued to Bear Creek Broadcasting Limited Partnership, the Commission will issue a new broadcasting 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 new licence will expire 31 August 2021. The terms and **conditions of licence** are set out in the appendix to this decision.

Employment equity

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

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2015-201, 20 May 2015

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *CIKT-FM Grande Prairie – Acquisition of assets*, Broadcasting Decision CRTC 2012-687, 18 December 2012
- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009
- *Allocation of the transaction value in changes in the effective control of broadcasting undertakings – Information bulletin*, Broadcasting Public Notice CRTC 2008-57, 30 June 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 2015-401

Conditions of licence for the English-language commercial radio programming undertaking CIKT-FM Grande Prairie, Alberta

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, as well as the conditions set out in the broadcasting licence for the undertaking.
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* (the Regulations), 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 Regulations.