Broadcasting Notice of Consultation CRTC 2019-127

PDF version

Ottawa, 3 May 2019

Public record: 1011-NOC2019-0127

Notice of hearing

11 July 2019
Gatineau, Quebec

Deadline for submission of interventions/comments/answers: 3 June 2019

[Submit an intervention/comment/answer or view related documents]

The Commission will hold a hearing on 11 July 2019 at 11 a.m., at the Commission Headquarters, 1 Promenade du Portage, Gatineau, Quebec. The Commission intends to consider the following applications, subject to interventions, without the appearance of the parties:

Applicant/Licensee and locality

1. Allarco Entertainment Limited Partnership
   Across Canada
   Application 2017-0743-1

2. Hope FM Ministries Limited
   Truro, Nova Scotia
   Application 2018-0858-6

   Sorel-Tracy, Quebec
   Application 2018-0810-7

   Sainte-Anne-des-Monts, Quebec
   Application 2018-0830-5

5. Stingray Group Inc.
   Across Canada
   Application 2019-0077-0

6. Sheet Harbour Radio Society
   Sheet Harbour, Nova Scotia
   Application 2018-1094-5
Preamble for item 1

The Commission received an application by Allarco Entertainment Limited Partnership to renew the broadcasting licence for the English-language discretionary service Super Channel.

This application was originally published under Part 1 of the CRTC Rules of Practice and Procedure (the Rules), after which the Commission received interventions that raised issues regarding instances of apparent non-compliance. In light of these instances of apparent non-compliance and their nature, in addition to the instances of non-compliance noted during the last license renewal, the Commission intends to consider the renewal of the broadcasting licence for Super Channel as part of the present proceeding.

Preamble for items 2 to 4

The Commission announces that it has received applications to renew the broadcasting licences for certain radio stations expiring on 31 August 2019. The three licensees proposed to continue the operation of their stations under the same terms and conditions as those in effect under the current licences, including the conditions set out in Conditions of licence for commercial AM and FM radio station, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.

The three stations in question were in non-compliance with one or more of their regulatory requirements in the previous licence term. The licences for these stations were therefore renewed for short-term periods at the time of their last licence renewal to allow for an earlier review of their compliance with their regulatory requirements. In addition, for CINU-FM Truro and CJSO-FM Sorel, the Commission imposed an additional obligation to broadcast an announcement on-air mentioning their non-compliance.

The Commission notes the serious and, in some cases, recurring nature of those instances of apparent non-compliance in the current licence term. The three licensees were notified of their respective instances of apparent non-compliance and of their potential impact on their renewal applications. All of the licensees were given the opportunity to respond to the Commission. This correspondence is available on the public record of each of the renewal applications set out in the present notice.

The Commission intends to consider the renewal of the broadcasting licences for these stations in accordance with the approach set out in Update on the Commission’s approach to non-compliance by radio stations, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014 (Broadcasting Information Bulletin 2014-608). Subject to the requirements of the Broadcasting Act, the Commission will consider the use of the following measures set out in paragraph 7 of that information bulletin, as appropriate, given the facts underlying each application:
• short-term licence renewal;
• imposing conditions of licence;
• requiring additional Canadian content development (CCD) contributions that are over and above those required by Radio Regulations, 1986 or by existing conditions of licence;
• removing the ability to make CCD contributions to discretionary initiatives such as talent contests;
• requiring licensees to broadcast an announcement regarding their non-compliance, as set out in the appendix to Broadcasting Information Bulletin 2014-608;
• imposing mandatory orders;
• non-renewal of the licence; and
• suspension of the licence.

Specifically, as set out in Broadcasting Information Bulletin 2014-608, each instance of non-compliance will be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission will also consider the circumstances, the arguments provided by the licensees and the actions taken to rectify the situation to continue operating their undertakings in compliance with their respective regulatory requirements.

1. Allarco Entertainment Limited Partnership
   Across Canada
   Application 2017-0743-1

Application by Allarco Entertainment Limited Partnership (Allarco) to renew the broadcasting licence for the English-language discretionary service Super Channel.

This application was originally received on 21 August 2017 and was published for comment under Part 1 of the CRTC Rules of Practice and Procedure (the Rules) on 16 February 2018. Following this intervention period, the Commission sent several requests for information to the licensee. The application was therefore published again under Part 1 of the Rules on 13 March 2019. In both of these comment periods, the Commission received interventions that raised issues regarding instances of apparent non-compliance. The Commission will consider the interventions and the replies already filed on the public record of those proceedings as well as any interventions and replies received as part of this proceeding to form part of the record.

Background

In Applications for new pay television services, Broadcasting Decision CRTC 2006-193, 18 May 2006 (Broadcasting Decision 2006-193), Super Channel was licensed as a Category A pay service as a result of a competitive process. In addition to its Canadian programming expenditures, the licensee committed to devote $1 million per year to
regional outreach programs and $2 million per year to script and concept development. The Commission imposed these commitments as conditions of licence.

As part of the service’s last licence renewal in Various independent pay and specialty Category A services – Licence renewals, Broadcasting Decision CRTC 2013-468, 30 August 2013 (Broadcasting Decision 2013-468), the Commission determined that Super Channel was in non-compliance with both of these conditions of licence. The Commission considered this non-compliance to be severe in nature, especially since it had based its decision in the 2006 competitive proceeding in part on these commitments. The Commission approved Allarco’s request to reduce its requirements but considered that the licensee should be required to pay a portion of the shortfall. Accordingly, the Commission required, by condition of licence, that the licensee devote each year, over a period of four years, a total of $1 million to script and concept development and $500,000 for regional outreach programs, for a total of $6 million as payment for the shortfall.

Additionally, the Commission required that the licensee annually devote $500,000 to regional outreach programs and $500,000 to script and concept development.

**Current instances of apparent non-compliance**

Commission records show that the licensee is in apparent non-compliance with the following conditions of licence, set out in Appendix 1 to Broadcasting Decision 2013-468:

- condition 3, relating to the distribution of Canadian programs;
- condition 5, relating to the eligibility and late payment of certain Canadian programming expenditures;
- condition 6, relating to the eligibility of certain expenditures devoted to regional outreach programs;
- condition 7, relating to the eligibility and late payment of certain expenditures devoted to script and concept development; and
- condition 8, relating to the eligibility and late payment of certain expenditures devoted to regional outreach programs and script and concept development.

The Commission is particularly concerned about the manner in which the licensee interprets its regulatory obligations set out in Super Channel’s conditions of licence, as well as in the Commission’s policies and regulations to which the licensee is subject.

Given the nature of the apparent instances of non-compliance and the fact that the licensee was found in severe non-compliance at its last licence renewal, the Commission intends to consider the renewal of the broadcasting licence for Super Channel as part of the present proceeding. The Commission will consider the appropriate measures to address the non-compliance, which may include one or more of the following:
• imposing new conditions of licence;

• imposing a short-term renewal;

• imposing a mandatory order under section 12 of the *Broadcasting Act* (the Act) requiring the licensee to comply with the *Discretionary Services Regulations* and its conditions of licence;

• non-renewal of the licence; and,

• suspending or revoking the licence pursuant to sections 9 and 24 of the Act.

Each instance of non-compliance will be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission will also consider the circumstances, the arguments provided by the licensee and the actions taken to rectify the situation to continue operating its undertaking in compliance with its regulatory requirements.

Additional information may be added to the public record for the service as it becomes available. The Commission encourages interested persons to monitor the public record and the Commission’s website for additional information that they may find useful when preparing their comments.

*Licensee’s address:*

5324 Calgary Trail NW
Suite 200
Edmonton, Alberta
T6H 4J8
Fax: 416-865-1018
Email: mlewis@lbhmedialaw.com
Email to request electronic version of application: mlewis@lbhmedialaw.com

2. **Hope FM Ministries Limited**

   Truro, Nova Scotia
   Application 2018-0858-6

Application by **Hope FM Ministries Limited** to renew the broadcasting licence for the English-language specialty (Christian music) radio station CINU-FM Truro, expiring 31 August 2019.

Commission records show that the licensee is currently in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) and its condition set out below:

• sections 8(1), 8(2), 8(4) and 9(3)(b) of the Regulations relating to the filing of a complete and accurate program log and music list; and
• condition of licence 4 set out in the appendix to *CINU-FM Truro – Licence renewal*, Broadcasting Decision CRTC 2016-241, 27 June 2016 (Broadcasting Decision 2016-241), which requires that at least 20% of all content category 3 (Special Interest Music) musical selections broadcast each broadcast week be Canadian selections.

The Commission notes that in Broadcasting Decision 2016-241, it granted the station a short-term licence renewal and required that it make announcements on-air regarding its non-compliance due to instances of non-compliance regarding sections 2.2(8), 2.2(9), 8(5) and 9(3)(b) of the Regulations, which relate to Canadian musical selections and the submission of radio monitoring material.

Should the Commission determine that the licensee is in non-compliance in the current licence term, this would be the fourth consecutive licence term in which CINU-FM has been found in non-compliance with its regulatory requirements.

Given the number of instances of apparent non-compliance in the current licence term, in addition to the instances of non-compliance noted by the Commission in *CINU-FM Truro - Licence renewal*, Broadcasting Decision CRTC 2010-434, 30 June 2010, *CINU-FM Truro – Licence renewal*, Broadcasting Decision CRTC 2013-746, 20 December 2013, and Broadcasting Decision 2016-241, the Commission has concerns regarding the licensee’s ability and commitment to operate the station in a compliant manner.

Licensee’s address:

217 Harmony Ridge Road
Harmony, Nova Scotia
B6L 3P4
Email: barry@hoperadio.ca
Email to request electronic version of application: barry@hoperadio.ca

3. **Radio Diffusion Sorel-Tracy inc.**

   Sorel-Tracy, Quebec
   Application 2018-0810-7

Application by **Radio Diffusion Sorel-Tracy inc.** to renew the broadcasting licence for the French-language commercial radio station CJSO-FM Sorel, expiring 31 August 2019.

Commission records show that the licensee is currently in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) and its condition of licence set out below:

• section 9(3)(a) of the Regulations relating to the filing of an accurate self-assessment report;

• section 9(3)(b) of the Regulations relating to the filing of complete and accurate music lists;
• section 16(2) of the Regulations relating to the implementation of the National Public Alerting System; and

• condition of licence 3a) and b) set out in Appendix 1 to CJSO-FM Sorel-Tracy – Licence renewal, Broadcasting Decision CRTC 2017-294, 23 August 2017 (Broadcasting Decision 2017-294) relating to the broadcast of an announcement following the failure to comply with certain regulatory obligations and to demonstrate such broadcast by filing audio recordings with the Commission.

The Commission notes that in Broadcasting Decision 2017-294, it granted the station a short-term licence renewal and required that it make announcements on-air regarding its non-compliance due to instances of non-compliance regarding sections 8(1)(c), 8(4), 9(3)(b) and 16 of the Regulations, which relate to the submission of radio monitoring material and to the implementation of the National Public Alerting System.

Should the Commission determine that the licensee is in non-compliance in the current licence term, this would be the fourth consecutive licence term in which CJSO-FM has been found in non-compliance with its regulatory requirements.

Given the current instances of apparent non-compliance and their recurring nature, in addition to the other instances non-compliance noted by the Commission in Broadcasting Decision 2017-294, CJSO-FM Sorel – Licence renewal, Broadcasting Decision CRTC 2014-271, 23 May 2014, and CJSO-FM Sorel-Tracy – Licence renewal, Broadcasting Decision CRTC 2010-857, 19 November 2010, the Commission has concerns regarding the licensee’s ability and commitment to operate the station in a compliant manner.

Licensee's address:

52 Du Roi Street
Sorel-Tracy, Quebec
J3P 4M7
Fax: 450-743-0293
Email: laurent.cournoyer@cjso.ca
Email to request electronic version of application: laurent.cournoyer@cjso.ca

   Sainte-Anne-des-Monts, Quebec
   Application 2018-0830-5


Commission records show that the licensee is currently in apparent non-compliance with the section 9(2) of the Radio Regulations, 1986 (the Regulations) relating to the filing of
annual returns before the 30 November deadline of each year. Specifically, the annual return and the financial statements were submitted late for the 2016-2017 broadcast year.


Should the Commission determine that the licensee is in non-compliance in the current licence term, this would be the third consecutive licence term in which CJMC-FM has been found in non-compliance with its regulatory requirements.

Given the current instance of apparent non-compliance and its recurring nature, in addition to the other instances of non-compliance noted by the Commission in Broadcasting Decision 2013-673 and *CJMC-FM Sainte-Anne-des-Monts and its transmitters – Licence renewal*, Broadcasting Decision CRTC 2010-431, 30 June 2010, the Commission has concerns regarding the licensee’s ability and commitment to operate the station in a compliant manner.

Licensee's address:

170 Sainte-Anne boulevard East
Sainte-Anne-des-Monts, Quebec
G4V 1N1
Fax: 418-763-7211
Email: routage@bleufm.ca
Email to request electronic version of application: routage@bleufm.ca

5. **Stingray Group Inc.**
   Across Canada
   Application 2019-0077-0

Application by **Stingray Group Inc.** for a broadcasting licence to operate its national French-language discretionary service known as PalmarèsADISQ par Stingray.

The service is devoted to francophone music videos and music-related programs from all genres and origins. The service now exceed 210,000 subscribers and can no longer operate pursuant to *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, Broadcasting Order CRTC 2015-88, 12 March 2015.

The applicant stated that it would adhere to a condition of licence requiring that it devote at least 10% of the previous year’s gross annual revenues to the acquisition of and investment in Canadian programming, in addition to the standard conditions of licence for discretionary services set out in Appendix 2 to *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.
Applicant address:

730 Wellington Street  
Montréal, Quebec  
H3C 1T4  
Fax: 514-664-1143  
Email: shudon@stingray.com  
Email to request electronic version of application: shudon@stingray.com

6. Sheet Harbour Radio Society  
   Sheet Harbour, Nova Scotia  
   Application 2018-1094-5

Application by Sheet Harbour Radio Society for a broadcasting licence to operate a low-power English-language community FM radio station in Sheet Harbour.

The station would operate at 94.7 MHz (channel 234LP) with an effective radiated power of 45 watts (omni-directional antenna with an effective height of antenna above average terrain of -19.2 metres).

The applicant proposes to broadcast 126 hours of local programming per broadcast week.

The Commission may withdraw this application from the public hearing if it is not advised by the Department of Industry, at least 20 days prior to the hearing, that the application is technically acceptable.

Applicant’s address:

68 Winging Point Road  
Spry Bay, Nova Scotia  
B0J 3H0  
Email: sheetharbourradio@gmail.com  
Email to request electronic version of application: sheetharbourradio@gmail.com and eempringham@xplornet.com
7. Fabmar Communications Ltd., on behalf of Jim Pattison Broadcast Group Limited Partnership
Whitecourt, Alberta; Chilliwack, British Columbia; and Melfort, Dafoe, Wakesiu Lake and Carrot River, Saskatchewan
Application 2019-0213-0

Application by Fabmar Communications Ltd. (Fabmar), on behalf of Jim Pattison Broadcast Group Ltd. (the general partner) and Jim Pattison Industries Ltd. (the limited partner) (the partners), carrying on business as Jim Pattison Broadcast Group Limited Partnership (JPBGLP), for authority to effect a multi-step corporate reorganization resulting in the issuance of new broadcasting licences.

JPBGLP is also requesting new broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect in the current licences.

Fabmar, a corporation wholly owned and controlled by the partners carrying on business as JPBGLP, is the licensee of the English-language commercial radio stations CIXM-FM Whitecourt, CHWK-FM Chilliwack, CJVR-FM Melfort and its transmitters CJVR-FM-1 Dafoe, CJVR-FM-2 Wakesiu Lake and CJVR-FM-3 Carrot River, as well as CKJH Melfort.

The proposed multi-step corporate reorganization would begin with the amalgamation of Fabmar and Jim Pattison Broadcast Group Ltd. to continue as Jim Pattison Broadcast Group Ltd. This step would not require the issuance of new broadcasting licences.

JPBGLP would then acquire the assets of the above-mentioned undertakings from Jim Pattison Broadcast Group Ltd. As a result of this acquisition, the partners carrying on business as JPBGLP would become the new licensees.

Jim Pattison Broadcast Group Ltd. is ultimately controlled by James A. Pattison.

The multi-step corporate reorganization would not change the effective control of the undertakings, which would continue to be exercised by James A. Pattison.

Applicant's address:

460 Pemberton Terrace
Kamloops, British Columbia
V2C 1T5
Fax: 604-632-4482
Email: cweafer@owenbird.com
Email to request electronic version of application: info@jpbroadcast.com
**Procedure**

**Deadline for interventions, comments or answers**

3 June 2019

The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answer, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission’s website under “Statutes and Regulations.” *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010, provides information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

An intervention or an answer from a respondent must be filed with the Commission and served on the applicant on or before the above-mentioned date. An answer from a respondent must also be served on any other respondent.

Interventions and answers must clearly identify the application referred to and indicate whether parties support or oppose the application, or, if they propose changes to it, include the facts and grounds for their proposal.

Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010.

The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission’s website, for additional information that they may find useful when preparing their submissions.

Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line ***End of document*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
Pursuant to *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.

Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

- **by completing the**
  [Intervention/comment/answer form]

- or

- **by mail to**
  CRTC, Ottawa, Ontario K1A 0N2

- or

- **by fax at**
  819-994-0218

A true copy of each intervention or answer from a respondent must be sent to the applicant and, in the case of a respondent to an application, to any other respondent.

Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.

In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.

The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.
In the event that an application is brought to an oral phase of the hearing, and if parties wish to appear, they must provide reasons why their written interventions or answers are not sufficient and why an appearance is necessary. Parties requiring communication support must state their request on the first page of their intervention. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the public hearing.

Persons requiring communications support such as assistance listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.

**Important notice**

All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission’s website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission’s website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and fax numbers, etc.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission’s website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission’s website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

**Availability of documents**

Electronic versions of the applications are available on the Commission’s website at www.crtc.gc.ca by selecting the application number within this notice. They are also available from the applicants, either on their websites or upon request by contacting the applicants at their email addresses, provided above.

Electronic versions of the interventions and answers, as well as of other documents referred to in this notice, are available on the Commission’s website at www.crtc.gc.ca by visiting the “Have your say!” section, then selecting “our open processes.” Documents
can then be accessed by clicking on the links in the “Subject” and “Related Documents” columns associated with this particular notice.

Documents are also available at the following address, upon request, during normal business hours.

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Toll-free telephone: 1-877-249-2782
Toll-free TTY: 1-877-909-2782

Secretary General