



## Broadcasting Decision CRTC 2004-117

Ottawa, 15 March 2004

### **Jim Pattison Industries Ltd.**

Red Deer, Alberta

### **Newcap Inc.**

Red Deer, Alberta

### **Rogers Broadcasting Limited**

Red Deer, Alberta

*Applications 2002-0716-9, 2003-0259-7, 2003-0260-5*

*Public Hearing at Edmonton, Alberta*

*18 June 2003*

### **English-language FM radio station in Red Deer**

*In this decision, the Commission announces the determinations that it has reached following its consideration of three applications, each proposing a new commercial FM radio station to serve Red Deer. The applications were by Jim Pattison Industries Ltd. (Pattison), Newcap Inc. (Newcap) and Rogers Broadcasting Limited (Rogers). The Pattison application proposed a Classic Rock format, while both Newcap and Rogers proposed a Classic Hits format.*

*The Commission **approves in part** the Pattison application for a licence to carry on a new FM radio station in Red Deer. The applications by Newcap and Rogers are **denied**.*

*In CBR-FM Calgary – New transmitter in Red Deer, Broadcasting Decision CRTC 2004-116, 15 March 2004, the Commission has approved an application by the Canadian Broadcasting Corporation (CBC) to establish a new FM transmitter in Red Deer that will rebroadcast the programming of CBR-FM Calgary, which offers CBC's English-language Radio Two service. Given that the CBC's application is technically mutually exclusive with the application submitted by Pattison, the Commission will only issue a licence to Pattison if it submits, within three months of the date of this decision, an amendment to its application proposing the use of another FM frequency that is acceptable to both the Commission and the Department of Industry.*

## **The applications**

1. The Commission received four applications proposing to serve Red Deer with FM radio stations. Two applications, by Newcap Inc. (Newcap) and Rogers Broadcasting Limited (Rogers) proposing the use of the frequencies 104.3 MHz and 104.5 MHz respectively were considered to be technically mutually exclusive, as were two others, by the Canadian Broadcasting Corporation (CBC) and Jim Pattison Industries Ltd. (Pattison), proposing the use of 99.9 MHz.
2. Three of the four applicants, Pattison, Newcap and Rogers, proposed to establish new commercial FM stations. Pattison proposed to feature Classic Rock music, designed to attract an audience between the ages of 25 and 54. The Newcap and Rogers applications proposed a Classic Hits format, both targeted to the same age group, namely those between the ages of 25 and 54.
3. The fourth applicant, the CBC, proposed to provide the CBC's English-language Radio Two service to Red Deer by establishing a transmitter that would rebroadcast the programming of CBR-FM Calgary. This application is approved in *CBR-FM Calgary – New Transmitter in Red Deer*, Broadcasting Decision CRTC 2004-116, 15 March 2004 (Decision 2004-116).
4. Pattison is the licensee of a number of radio and television stations in British Columbia and Alberta, including an existing FM station in Red Deer, CHUB-FM. Newcap holds licences for radio stations in Newfoundland and Labrador, Prince Edward Island, Nova Scotia, Ontario and Alberta. Rogers has extensive media holdings across Canada, including radio stations in Ontario, Manitoba, Alberta and British Columbia.

## **Interventions**

5. Two interventions and a petition of 1,107 signatories were submitted in support of the Pattison application. Thirty-one interventions supporting the Newcap application were received. Interventions in support of the Rogers application were submitted by 11 parties.

## **Assessment of the Pattison, Newcap and Rogers applications**

6. In its assessment of competing applications for new commercial radio stations, the Commission takes into account four main factors or bases of comparison that it has identified as being relevant. While the relative importance of the factors will vary depending on the specific circumstances of the markets, these factors are:
  - The quality of the application
  - The diversity of news voices in the market
  - The likely impact of a new entrant or entrants

- The competitive state of the market <sup>1</sup>

#### **Quality of the applications by Pattison, Newcap and Rogers**

7. The Commission generally assesses the quality of applications competing for licences to operate new radio programming undertakings by examining the following:
  - local programming proposals and plans for providing reflection of the local community;
  - Canadian content commitments;
  - quality of the business plan, including the proposed station format; and
  - commitments to the support of Canadian talent.

#### *Local programming and local reflection*

8. At the hearing, Pattison confirmed that all programming would be local, with more than 11 hours each week of news, sports and environmental coverage, and that a staff person would always be at the station to respond to emergency situations. While some human resource synergies would exist between the new station and CHUB-FM, Pattison indicated that it would hire a number of new staff, including news personnel dedicated to the new station. The applicant further stated that any available programming synergies between the proposed station and CHUB-FM would be limited to news gathering activities and non-programming staff economies, and would not affect the programming independence of the new station. In addition to the 11 hours per week of spoken word programming noted above, Pattison would produce a one-hour, weekly program entitled *Classic Rock World Review*, which would spotlight new and emerging Central Alberta artists and their music. Moreover, local groups and organizations would have an opportunity to announce their activities and upcoming events on *Red Deer Connects*, a 60-second program broadcast twice each day. Pattison proposed total programming expenses of \$604,000 over the first five years of operations.
9. Newcap stated that it would provide approximately 5.5 hours per week of news, including a one-hour weekly news and public affairs program, and five 60-second updates each day on local events. Newcap would maintain a Red Deer news director, responsible for all news and information programming on the station. While all newscasts would be locally-produced, Newcap also emphasized the importance it would place on providing regional news coverage as well. Regional news coverage would be facilitated by Newcap's existing Alberta stations that form the Alberta News Network. Newcap proposed total programming expenses of \$377,000 over the first five years of operations.
10. Rogers indicated that approximately 17% of all programming on its proposed station would be spoken word, including 3.5 hours of news per week. The balance of the spoken word programming would consist of topical discussions, public service announcements

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<sup>1</sup> The relevance of these four factors was highlighted by the Commission in *Introductory statement – Licensing new radio stations* which appeared in Decisions 99-480, 99-481 and 99-482, all dated 28 October 1999.

and community information, which would be blended into the station's overall flow of programming. The proposed station's staff would include a news director/announcer. A local advisory board would be established to assist the station to reflect issues, concerns and events for the people of Red Deer. Rogers proposed total programming expenses of \$339,000 over the first five years of operations.

11. The Commission considers that, while Newcap and Rogers presented solid plans for the reflection of local needs, their quantitative commitments to the provision of local news and related surveillance material fell significantly short of those offered by Pattison. The Commission further notes that Pattison proposed to spend more on programming than the other applicants over the first five years of operations.

*Canadian content*

12. Section 2.2 of the *Radio Regulations, 1986* (the Radio Regulations) requires that, on a weekly basis, a minimum of 35% of all category 2 musical selections and a minimum of 10% of all category 3 musical selections broadcast be Canadian selections. Pattison, Newcap and Rogers all indicated that their proposed stations would adhere to the levels set by the Radio Regulations.

*Business plans and formats*

13. Pattison stated that its proposed audience must currently tune to out-of-market stations to receive the Classic Rock format. The applicant was convinced that a second FM station would also strengthen the competitive position of its existing stand-alone undertaking, CHUB-FM. Moreover, Pattison was of the view that if the Commission were to approve either the Newcap or Rogers proposal, the competitive impact on the Red Deer market, and on CHUB-FM in particular, would be considerably greater than that which would be generated by its proposed station. Pattison projected that its new station would become profitable in its first year of operation, based on audience demand and the support of the business community.
14. Newcap projected a share of 16% of all hours tuned by 25-54 year olds, and a profit by the fourth year of operation, using a Classic Hits format. Rogers stated that its plan would result in a local station that would provide a Classic Hits format to the 25-54 age group. Rogers noted that it had already launched similar stations in Vancouver and Calgary. Such a station would, in Rogers' view, not only repatriate Red Deer listeners, but would attract first-time radio advertisers and stimulate growth in the market. On the other hand, Rogers did not project that the station would be profitable within the first seven years of operation.

15. The Commission considers that each of the three applicants has provided evidence that a demand exists for the service and musical format it has proposed, and has set out a satisfactory business plan based on the repatriation of audience from out-of-market stations. The Commission has no doubt about the applicants' individual ability to launch an FM radio station in Red Deer.

*Canadian talent development*

16. Under the Canadian talent development (CTD) funding plan instituted by the Canadian Association of Broadcasters (CAB), licensees adhering to the plan and serving markets the size of Red Deer are required to contribute a minimum of \$400 per year, or \$2,800 over a seven-year licence term.
17. In addressing its proposed CTD commitments, including its commitment under the CAB plan, Pattison promised to provide a minimum of \$9,000 per year in direct expenditures to support the Northlands Klondike Days Talent Search. Moreover, Pattison stated that, if this particular initiative did not continue after year two or year three of operation, the same expenditures would be made in support of another CTD project in Red Deer.
18. Newcap's CTD commitment consisted of \$17,857 per year to the Foundation to Assist Canadian Talent on Record (FACTOR). In a letter to the applicant, FACTOR confirmed that the funds would be allocated entirely to the support of Red Deer artists, as opposed to other FACTOR initiatives. Newcap also proposed to contribute \$125,000 over seven years to the development of the Aboriginal Voices Radio Network (AVRN).
19. Rogers proposed three CTD initiatives, including \$50,000 per year to FACTOR. In a letter to Rogers, FACTOR confirmed that 50% of this contribution would go to the production and marketing of new music by Canadian artists from Central Alberta. Rogers would also sponsor an annual concert in the Red Deer area, featuring established and new Canadian artists, at a cost to Rogers of \$40,000 per year. Further, Rogers pledged to donate \$10,000 per year to the Red Deer Symphony Orchestra.
20. The Commission notes that Pattison, Newcap and particularly Rogers all proposed CTD commitments well in excess of those set in the CAB plan. While Newcap's proposed funding for AVRN would not have contributed directly to the development of Canadian talent, it would have contributed to the achievement of the objective set out in section 3(1)(o) of the *Broadcasting Act* which states that "programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose."

### **Diversity of news voices, likely impact of a new entrant or entrants, and competitive state of the market**

21. Pattison is the only applicant that operates an existing radio station in Red Deer, CHUB-FM. It is clear that licensing either Newcap or Rogers would add to the diversity of news voices available to the Red Deer audience. At the same time, Pattison stated that the resources available for CHUB-FM's news coverage are limited, and that, with the additional staff for the new station, more news stories would be presented to the listeners of Central Alberta. It claimed that its news voice might not be "new," but would be considerably enhanced.
22. Currently, Red Deer is served by one other commercial radio licensee, namely Corus Radio Company, which operates CIZZ-FM and CKGY-FM. Red Deer residents are also served by two local television stations, CKRD-TV and CITV-TV-1, both of which are owned by Global Communications Limited, a daily newspaper, the *Red Deer Advocate*, and by four community newspapers. In light of the above, the Commission considers that the Red Deer market is served by a variety of news voices.
23. Taking into account all of the applicants' plans for the repatriation of out-of-market tuning, the support expressed by local businesses and the public, the growth in radio advertising revenue in the Red Deer market over the five years ending in 2002, and the comparatively high level of profitability of that market, the Commission is confident that the new Classic Rock format FM radio station proposed by Pattison could be licensed to operate in Red Deer without causing significant financial harm to any other broadcasting undertaking in the market. Moreover, as a well-established broadcaster in Red Deer, Pattison's knowledge of this market is an important advantage. At the same time, in reviewing the same data, as well as the applicants' projections, the Commission is convinced that the licensing of more than one, new commercial FM station could cause undue harm to the profitability of existing Red Deer stations.

### **Conclusion**

24. The Commission has concluded that the entry of Newcap or Rogers would increase competition in this radio market to a level that would be unduly detrimental to existing radio stations. At the same time, it considers that the granting of a second licence to Pattison would enable an existing licensee to compete more effectively in Red Deer, on a more level playing field with Corus, and further strengthen this western-based, regional broadcaster. The Commission considers that the public interest is best served at this time by strengthening Pattison's position in the market, and achieving a competitive balance, rather than introducing a new licensee from a larger broadcast group such as Newcap or Rogers.
25. As noted earlier in this decision, Pattison's commitments to local news and related surveillance spoken word were superior to those of Newcap and Rogers, again reflecting its experience in serving the people of Red Deer.

26. Based on the competitive state of the market, the quality of the application and the commitments contained therein, particularly in regard to local news and other programming, the Commission **approves in part** the application by Jim Pattison Industries Ltd. The frequency 99.9 MHz, proposed for use by Pattison, is the same as that proposed by the CBC to bring Radio Two service to Red Deer. At the hearing, Pattison stated that it would, if necessary, be willing to find another frequency if its application for a new FM station was approved. In Decision 2004-116 the Commission has approved the CBC's application to use 99.9 MHz. Accordingly, the use of 99.9 MHz by Pattison is **denied**. The applications by Newcap and Rogers, competing with that by Pattison, are **denied**.

### **Issuance of the licence**

27. The licence will expire 31 August 2010 and will be subject to the **conditions** set out in the appendix to this decision. The Commission will only issue the licence, and the licence will only be effective at such time as:
- The applicant submits, within three months of the date of this decision, an amendment to its application proposing the use of an FM frequency that is acceptable to both the Commission and the Department of Industry; and
  - The applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 15 March 2006. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### **Cultural diversity**

28. Section 3(1)(d)(iii) of the *Broadcasting Act* states, in part, that the Canadian broadcasting system should reflect the “multicultural and multiracial nature of Canadian society and the special place of Aboriginal peoples within that society”. At the hearing, Pattison stated that it would ensure that its programming and personnel work very closely with the city of Red Deer and surrounding communities to reflect the make-up and cultural diversity of the citizens and ideals of central Alberta.

## **Employment equity**

29. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with Human Resources Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>*



## Appendix to Broadcasting Decision CRTC 2004-117

### 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, as well as to the following condition of licence.
2. In each year of the licence term, the licensee shall expend \$9,000 in direct expenditures to support the Northlands Klondike Days Talent Search, or to support another initiative to support Canadian talent in Red Deer that is acceptable to the Commission. The annual contribution to the Canadian Association of Broadcasters' talent development plan is included in the \$9,000 annual commitment.