



Broadcasting Decision CRTC 2006-25

Ottawa, 1 February 2006

**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**
Kamloops, Chase, Clinton, Merritt, 100 Mile House, Nicola, Pritchard and
Quesnel, British Columbia

*Application 2005-0917-7
Broadcasting Public Notice CRTC 2005-100
1 November 2005*

CFJC-TV Kamloops and its transmitters – Licence amendment

*The Commission **approves** the application to amend the broadcasting licence for CFJC-TV Kamloops and its transmitters in order to delete the condition of licence related to its affiliation with the Canadian Broadcasting Corporation's (CBC) national, English-language television network.*

Background

1. The partners of Jim Pattison Broadcast Group Limited Partnership¹ (Pattison) are licensed to operate the television programming undertaking, CFJC-TV Kamloops and its transmitters serving the communities noted above, as an affiliate of the Canadian Broadcasting Corporation's (CBC) national, English-language television network. CFJC-TV currently broadcasts an average of 13 hours of original local programming, and approximately 43 hours of CBC programming in each broadcast week.
2. For many years, CFJC-TV has operated under a joint sales agreement with CHBC-TV Kelowna. Until February 2005, CHBC-TV was also licensed to operate as an affiliate of the CBC's national, English-language television network. In *CHBC-TV Kelowna – Licence amendment*, Broadcasting Decision CRTC 2005-80, 28 February 2005, the Commission approved an application by Global Communications Limited, at that time the licensee of CHBC-TV², to disaffiliate the station from the CBC's television network. The Commission specified that the authority granted in that decision could only be implemented when the CBC commenced operation of the transmitters, approved in

CBUT Vancouver – New transmitters in Kelowna, Braeloch, Penticton, Vernon, Oliver,

¹ 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

² On 1 September 2005, Global Television Network Inc., Global Communications Limited, CanWest Media Inc. and certain other CanWest corporations amalgamated under the name of CanWest MediaWorks Inc.

Salmon Arm, Enderby and Celista, Broadcasting Decision CRTC 2005-79, 28 February 2005, to replace the CBC programming services formerly provided by CHBC-TV with the full CBC English-language television network and regional services.

The application

3. The Commission received an application by Pattison to amend the broadcasting licence for the television programming undertaking, CFJC-TV Kamloops and its transmitters serving the communities noted above, in order to delete the condition of licence requiring that the station be operated as an affiliate of the CBC's national, English-language television network.
4. Pattison made a commitment that, upon disaffiliation from the CBC, it would continue to broadcast, in each broadcast week, an average of 13 hours of original local programming, consistent with *CFJC-TV Kamloops and its transmitters – Licence renewal*, Broadcasting Decision CRTC 2004-373, 27 August 2004. Pattison stated that it would acquire its non-local programming through CanWest MediaWorks Inc., which is now the licensee of CHBC-TV.
5. In support of its application, Pattison submitted that CHBC-TV's impending disaffiliation from the CBC's television network would terminate the longstanding joint sales agreement between CFJC-TV and CHBC-TV, an agreement that Pattison claimed has enabled both stations to attract national advertising revenues and to operate at a profit. Pattison explained that the joint sales agreement could not continue if both stations were not authorized to disaffiliate at the same time because the programming offered by CFJC-TV would be completely different from that offered by CHBC-TV. Pattison further contended that, without the joint sales agreement, CFJC-TV would experience a substantial reduction in national advertising revenues, a reduction that, in the applicant's view, could potentially cause the station to become unprofitable by 2007, and jeopardize its ability to continue providing 13 hours of local programming in each broadcast week.

CBC's position

6. Pattison's application included two letters from the CBC dated 29 July 2005, and 19 September 2005, respectively, indicating the CBC's full support for the proposed disaffiliation. However, noting that its affiliation agreement with CFJC-TV is in the second year of a six-year term, the CBC also stated that Pattison's request for disaffiliation occurred much sooner than the CBC had anticipated. The CBC indicated that it did not budget, nor does it have the resources within its current capital plan to establish CBC owned-and-operated over-the-air transmitters in the Kamloops area. It further maintained that it did not expect that resources would become available in the foreseeable future for that purpose.

7. At the same time, the CBC stated that, if Pattison's application were approved, Class 1 and Class 2 broadcasting distribution undertakings (BDUs) that are authorized to serve the Kamloops area would be required, under section 17(1)(f) of the *Broadcasting Distribution Regulations*, to distribute, by satellite or microwave relay, at least one English-language television station that broadcasts the CBC's service. The CBC also noted that CBUT Vancouver, which provides full CBC English-language national television network and regional programming, is available by satellite from direct-to-home (DTH) BDUs in the Kamloops area.
8. The CBC stated that the Bureau of Broadcast Measurement's (BBM) Spring 2005 survey reported that more than 95% of households in the Kamloops market are subscribers to cable or DTH BDUs. Consequently, 5% of the total tuning in this market is by viewers who do not subscribe to cable or DTH BDUs. The CBC submitted that tuning by those viewers would decline in the future, and that the most appropriate and efficient means of providing its full television network and regional services to Kamloops would be through the BDUs that are authorized to serve that market.
9. The CBC stated that its "goal is to bring the full CBC service to as many Canadians as possible." It contended that the loss of 43 hours of CBC television network service by 5% of the viewers in the Kamloops market would be balanced by the fact that a large proportion of viewers in that market would receive the full CBC English-language national television network and regional services for the first time.

Interventions

10. The Commission received many interventions in connection with this application, the majority of which were in support.
11. Many of the supporting interventions by individual residents of Kamloops, local organizations and community groups, local businesses and CFJC-TV's employees expressed concern that they would lose local television programming and advertising as well as local employment if CFJC-TV were not allowed to disaffiliate from the CBC's television network at the same time as CHBC-TV. They also submitted that approval of the application would provide important benefits to Kamloops, including increased diversity of news voices in the area, the possibility of enhanced local programming, and the continuation of the station's longstanding charitable contributions and community involvement.
12. The two opposing interveners stated that many people chose to receive only over-the-air television signals because of the cost involved in subscribing to cable or satellite services, or because those services are not available in their areas. One of these interveners also noted that the CBC plays an important role in "creating distinctive Canadian programming and in uniting Canadians."

Licensee's reply

13. In response to the concerns expressed by the opposing interveners, Pattison emphasized the importance of ensuring that CFJC-TV is able to continue operation. Pattison also contended that the absence of a significant level of opposition to the application indicates that the Kamloops community strongly supports maintaining local television in Kamloops.

Commission's analysis and determination

14. The Commission has considered this application in light of section 3(1)(m)(vii) of the *Broadcasting Act* (the Act), which specifies that the programming provided by the CBC should "be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose." The Commission has also considered the arguments submitted by Pattison and the CBC regarding the unique circumstances of the present case as well as the views expressed by the interveners to this application.
15. The Commission notes that, in all previous cases, a licensee's application for an amendment to its broadcasting licence that would enable it to disaffiliate from the CBC's television network has been accompanied by a related application by the CBC for authority to establish over-the-air CBC owned-and-operated transmitters to ensure the availability of full CBC service to viewers previously served over-the-air by a CBC affiliate. Furthermore, in all previous cases, the authority granted to a licensee by the Commission to disaffiliate from the CBC's television network could only be implemented at such time as the CBC commenced operation of over-the-air transmitters to provide its service to the affected communities.
16. In the present case, the Commission is persuaded by Pattison's argument that its joint sales agreement with CHBC-TV, which enables each station to attract national advertisers, is essential for maintaining CFJC-TV's financial viability and enabling it to continue providing local programming. In view of the fact that the joint sales agreement requires that both stations offer a common program schedule to national advertisers, particularly during the peak viewing hours, the Commission considers that it would be impossible for CFJC-TV to continue its joint sales agreement with CHBC-TV unless both television stations disaffiliate from the CBC's network.
17. The Commission is also persuaded by the CBC's argument that, given the unique circumstances of the present case, the most appropriate and efficient means of making its full network and regional services available to viewers in the Kamloops market at this time is by the distribution of CBUT by BDUs operating in the market.
18. Furthermore, the Commission has taken into consideration the concerns expressed by residents of Kamloops that they might lose local television programming if CFJC-TV were not allowed to disaffiliate from the CBC at the same time as CHBC-TV as well as the strong support expressed by many of those residents for this application.

19. Based on 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, to amend the broadcasting licence for the television programming undertaking CFJC-TV Kamloops and its transmitters, in order to delete the condition of licence requiring that the station be operated as an affiliate of the CBC's national, English-language television network.
20. The Commission reminds the CBC of its obligations under section 3(1)(m)(vii) of the Act to ensure that its programming "be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose." At the time of the CBC's next licence renewals, the Commission will review with the CBC its plans and the projected costs for extending its full service throughout Canada.

Secretary General

This decision is to be appended to the licence. It 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>