



Broadcasting Notice of Consultation CRTC 2018-16

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Ottawa, 16 January 2018

Notice of hearing

27 March 2018

Gatineau, Quebec

Deadline for submission of interventions/comments/answers: 15 February 2018

[\[Submit an intervention/comment/answer or view related documents\]](#)

The Commission will hold a hearing on **27 March 2018 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. **Intercity Broadcasting Network Inc.**
Toronto, Ontario
Applications 2016-0920-8 and 2016-0919-0
2. **Steven Huber, on behalf of a corporation to be incorporated**
Assiniboia, Saskatchewan
Application 2017-0675-6
3. **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**
Calgary, Alberta, and Winnipeg and Selkirk, Manitoba
Application 2017-1002-0

1. **Intercity Broadcasting Network Inc.**
Toronto, Ontario
Applications 2016-0920-8 and 2016-0919-0

Application (2016-0920-8) by **Intercity Broadcasting Network Inc.** (Intercity) to renew the broadcasting licence for the English-language commercial specialty radio station CKFG-FM Toronto, expiring 31 August 2018.

The licensee also filed an application (2016-0919-0) to amend CKFG-FM's conditions of licence relating to the broadcast of musical selections and to contributions to Canadian content development (CCD) set out in *English-language FM radio station in Toronto*,

Broadcasting Decision CRTC 2011-369, 9 June 2011 (Broadcasting Decision 2011-369), which read as follows:

3. The licensee shall devote at least 50% of all musical selections broadcast in each broadcast week to programming drawn from content subcategory 33 (World beat and international).

6. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall make a contribution of \$249,545 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$35,800 in year one, \$37,024 in year two, \$36,330 in year three, \$36,346 in year four, \$36,330 in year five, \$36,296 in year six and \$36,418 in year seven.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR. The remaining amounts of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

The licensee wishes to replace condition of licence 3 with the following:

3. The licensee shall devote at least 37% of all musical selections broadcast in each broadcast week to programming drawn from content subcategory 33 (World beat and international).

In regard to condition of licence 6, in response to letters from Commission staff, Intercity withdrew its request.

Commission records indicate that the licensee is in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) and with the following conditions of licence set out in Appendix 1 to Broadcasting Decision 2011-369.

- sections 2.2(3)(b), 2.2(8) and 2.2(9) relating to the broadcast of content category 2 (Popular Music) and content category 3 (Special Interest Music) Canadian musical selections;
- sections 8(1) and 9(3)(b) relating to the filing of a complete and accurate program log and music list;
- section 9(2) relating to the filing of annual returns by no later than 30 November of each year for the 2011-2012 and 2012-2013 broadcast years;
- sections 15(2) and 15(5) relating to basic CCD contributions for the 2012-2013 through 2015-2016 broadcast years;

- section 16(2) relating to the implementation of the National Public Alerting System;
- condition of licence 3 requiring that at least 50% of all musical selections broadcast in each broadcast week be drawn from content subcategory 33 (World beat and international);
- condition of licence 6 requiring annual over-and-above CCD contributions for the 2011-2012 through 2015-2016 broadcast years; and
- condition of licence 7 requiring the licensee to file a report by 30 November of each year providing specific details on the manner in which the licensee has fulfilled its programming requirements in serving the Caribbean and African communities of Toronto with its spoken word programming and musical format for the 2011-2012 through 2015-2016 broadcast years.

Further, it appears that the licensee failed to meet the objectives and expectations relating to the broadcast of montages set out in *Requirements for the broadcast of radio montages*, Broadcasting Information Bulletin CRTC 2011-728, 24 November 2011.

In Broadcasting Decision 2011-369, the Commission approved an application by Intercity for a broadcasting licence to operate an English-language commercial specialty FM radio station in Toronto that would launch as CKFG-FM. As such, the station is in its first licence term.

In *Licensing of new radio stations to serve Scarborough and technical changes for existing radio stations serving Scarborough, Toronto and Whitchurch-Stouffville*, Broadcasting Decision CRTC 2014-574, 5 November 2014 (Broadcasting Decision 2014-574), the Commission denied requests by Intercity for technical changes to CKFG-FM, as well as for amendments to its conditions of licence relating to over-and-above CCD contributions. In that decision, the Commission determined that the licensee was in non-compliance with sections 9(2), 15(2) and 15(5) of the Regulations and conditions of licence 6 and 7. The Commission indicated that it would review the licensee's performance and the manner in which it had remedied the instances of non-compliance as part of the licence renewal for CKFG-FM.

Given the number of instances of apparent non-compliance and the instances of non-compliance noted in Broadcasting Decision 2014-574, the Commission could conclude that the licensee has demonstrated that it does not understand its regulatory obligations. Because of this, coupled with the fact that the Commission has already required corrective measures by the licensee during the current licence term with which the licensee does not appear to have complied, the Commission has concerns regarding the licensee's ability and commitment to operate the station in a compliant manner. In this regard, the Commission will consider further regulatory measures such as the imposition of mandatory orders requiring the licensee to comply with its regulatory obligations in addition to a short-term licence renewal and conditions of licence requiring additional CCD contributions that are over-and-above those required by the Regulations or by existing conditions of licence.

As set out in *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014, each instance of non-compliance will be evaluated in its context and in light of factors such as quantity, recurrence and seriousness of non-compliance. The Commission will also consider the circumstances, the arguments provided by the licensee and the actions taken to rectify the situation in order to continue operating the undertaking in compliance with regulatory requirements.

These applications were first scheduled to be considered at a hearing held on 7 September 2017 (*Notice of hearing*, Broadcasting Notice of Consultation CRTC 2017-223, 29 June 2017), and later rescheduled to be considered at a hearing held on 11 January 2018 (*Notice of hearing*, Broadcasting Notice of Consultation CRTC 2017-381, 25 October 2017), but were withdrawn to be rescheduled at a later date. The Commission will consider the interventions and the replies already accepted and filed on the public record for the 7 September 2017 and 11 January 2018 public hearings, as well as other interventions and replies received in the context of this hearing.

Applicant's address:

34 Kern Road
Toronto, Ontario
M3B 1T1

Email: fg2020@gmail.com

Email to request electronic version of application: mpowell@g987fm.com

2. Steven Huber, on behalf of a corporation to be incorporated

Assiniboia, Saskatchewan
Application 2017-0675-6

Application by **Steven Huber, on behalf of a corporation to be incorporated**, for a broadcasting licence to operate an English-language commercial FM radio station in Assiniboia.

The station would operate at 98.1 MHz (channel 251C1) with an average effective radiated power (ERP) of 20,000 watts (maximum ERP of 29,000 watts with an effective height of antenna above average terrain of 258.3 metres).

The applicant proposes a country music format.

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

Applicant's address:

P.O. Box 141
Briercrest, Saskatchewan
S0H 0K0

Fax: 306-799-4628

Email: steve@tucsonradio.ca

Email to request electronic version of application: steve@tucsonradio.ca

3. 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

Calgary, Alberta, and Winnipeg and Selkirk, Manitoba
Application 2017-1002-0

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 effect a multi-step corporate reorganization.

The numbered companies 8384835 Canada Inc., 8384843 Canada Inc. and 8384894 Canada Inc. are the licensees of the English-language commercial FM radio stations CKCE-FM Calgary, Alberta, CHIQ-FM Winnipeg and CFQX-FM Selkirk, Manitoba, respectively. Following the proposed transaction, Jim Pattison Broadcast Group Limited Partnership would become the licensee of these three radio stations.

The proposed corporate reorganization would be carried out through a series of transactions. It would begin with a merger between 8384835 Canada Inc., 8384843 Canada Inc., 8384894 Canada Inc. and Jim Pattison Broadcasting Group Ltd. Jim Pattison Broadcasting Group Ltd. would then contribute the assets of CKCE-FM, CHIQ-FM and CFQX-FM to Jim Pattison Broadcast Group Limited Partnership in exchange for 13.99% of the units of Jim Pattison Broadcast Group Limited Partnership.

The applicant 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.

Jim Pattison Broadcast Group Ltd. is a corporation owned by Jim Pattison Industries Ltd.

Jim Pattison Industries Ltd. is a corporation owned by Jim Pattison Ltd.

Jim Pattison Broadcast Group Limited Partnership is a corporation in a general partnership owned by Jim Pattison Broadcast Group Ltd. (0.01%) as the general partner and by Jim Pattison Industries Ltd. (99.99%) as the limited partner.

The multi-step corporate reorganization would not change the effective control of the services, as Jim Pattison Industries Ltd., Jim Pattison Broadcast Group Ltd., Jim Pattison Broadcast Group Limited Partnership, 8384835 Canada Inc., 8384843 Canada Inc. and 8384894 Canada Inc. are all controlled by Mr. James A. Pattison.

Applicant's address:

460 Pemberton Terrace
Kamloops, British Columbia
V2C 1T5

Fax: 240-374-0445

Email: rschween@jpbg.com

Email to request electronic version of application: info@jpbroadcast.com

Procedure

Deadline for interventions, comments or answers

15 February 2018

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 service/filing 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. The Commission advises parties who file and 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, facsimile, 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 facsimile 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 "Participate" section, selecting "Submit Ideas and Comments," and 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 TDD: 1-877-909-2782

Secretary General