



## A Message from the Chair

### CAB Hard at Work, Even in the Summer!

As CAB Chair, it's always a great pleasure to be able to share good news, which is why I'm glad to report that the finances of our association are in good shape! Through careful fiscal management, the Board of Directors is fulfilling our fiduciary obligations in handling the affairs of the CAB on behalf of our 715 members (481 Radio, 83 Conventional Television, 151 Specialty/Pay Television).

Here is an overview of some of the issues we have been dealing with in recent months. First of all, on behalf of our radio colleagues and our legal counsel, Gabriel Van Loon and Kathleen Simmons, I wish to thank the more than 100 radio members who were asked to complete very detailed SOCAN, Re:Sound, AVLA/SOPROQ & CSI Interrogatory questions this past May and June.

The Copyright Board directive was part of the process for our association to respond to the collectives that are seeking significant increases in copyright fees, while the CAB is focused on having reproduction right fees significantly reduced from the current levels, as well as other fees held at current levels or reduced. I know it took each station/group a great deal of time to answer the hundreds of questions from the collectives, which is no small feat to accomplish in a very short period of time!

Also, the CAB CEO Radio Council is very active, representing radio members on a number of fronts. As announced, the CRTC will review the Commercial Radio Policy this coming broadcast year through a written consultation process, with a view to simplifying the regulatory framework for commercial radio to make it more efficient and easier to administrate. The Radio Council has begun to make plans and receive input from the membership on what is in the best interest of the radio industry. The Council intends to participate in the Commission's review and will collaborate with regional associations in this regard.

On the conventional television front, the recent release of the CRTC's statistical and financial report on private conventional TV stations is cause for concern for your association. The report for fiscal year ended August 31, 2012 showed PBIT declining year over year from 85% from \$151.6M to 22.9M with a number of stations posting losses for the broadcast year. With the windup of LPIF (Local Programming Improvement Fund) next August 31st, there will be further losses in the tens of millions! How will the industry survive going forward is the big question for the CAB and the conventional television industry as a whole.

In conclusion, I'm pleased to report that, effective today, we're launching our newly upgraded CAB website ([www.cab-acr.ca](http://www.cab-acr.ca)), and I thank Sylvie Bissonnette and Carol Asboth for their fine work on this project over the past couple of months. The site will be updated on a regular basis to keep our members informed on current CAB activities, as well as providing some historical archival information that may be of use to our membership.

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As you can see, the CAB continues to work collectively on matters of crucial importance to our members and industry, as well as provide certain administrative and other functions that benefit our radio, television and specialty/pay television sectors.

I look forward to receiving any and all input that you may have regarding activities of your association and Board actions/accomplishments!

I hope you are all having a wonderful summer!

Best regards,

Rick Arnish  
CAB Board Chair

## CAB CEO Radio Council Very Active on a Broad Front

Over the past six months, the CAB CEO Radio Council has focused on building a stronger profile for private radio among decision-makers in the federal government, meeting on two separate occasions with the CRTC Chair, and leveraging the “Radio Ahead” presentation to bring new information on the radio landscape forward to Commissioners.

### Meeting with CRTC Chair Jean-Pierre Blais

Paul Ski and Elmer Hildebrand met with CRTC Chair Jean-Pierre Blais on February 7. Topics for discussion included CCD non-compliance hearings and sanctions for marginal infractions; lengthy delays in licence renewals; and the forthcoming Commercial Radio Policy Review, where the Council stated its preference for a targeted review in a written consultation (see below).

The Chair indicated that they are working on alleviating backlog and will likely launch a review of Commercial Radio Policy later in 2013. He further asked the Council to consider what our industry might do to mark the 100th anniversary of World War I, in 2015.

### CRTC Decision on Advertising for CBC Radio 2 and Espace Musique Services

On April 28, the Commission released its decision on the application by CBC to carry commercial advertising on its Radio 2 and Espace Musique services. The CAB CEO Radio Council had strongly opposed the application, and appeared before the Commission in November 2012 to argue its case.

The Commission approved the application by CBC, but applied several conditions of licence as well, limiting the amount of advertising to four minutes per hour in a maximum of two blocks – to be revisited in three years. The Council issued a statement on the decision, in which Paul Ski stated:

“While we appreciate a three-year window has been established to review and analyze the impact that advertising on Radio 2 and Espace Musique will have on specific English and French markets, we remain concerned that this decision will fundamentally alter the balance of public and private broadcasting enjoyed by listeners. This decision will be difficult to reverse now that funding from advertising is available to these services.”

The Council will be monitoring the situation very closely, to assess the impact of this decision on the private radio sector.

## **CRTC Three-year Plan and Review of Commercial Radio Policy**

The CRTC released its three-year plan on May 2, identifying the following measures for commercial radio to take place in the 2013-14 fiscal year:

*The CRTC will review the (Commercial Radio) policy, through a written consultation process, with a view to simplifying the regulatory framework for commercial radio to make it more efficient and easier to administer. The review could include a follow-up of the review of the Canadian Content Development (CCD) administration process; a discussion on the deployment of terrestrial digital technology; and a study of alternative sanctions that could be imposed instead of short-term licence renewals.*

The Council will continue to deliberate and craft positioning on the review elements noted in Commission's statement.

With respect to the issue of digital radio, the Council is reviewing a report on FM Spectrum from Fern Belisle, and digital radio options were discussed at the Council conference call in January. All radio spectrum issues are closely watched by the Broadcasters' Technical Coordinating Committee (TCC), which is consulting with Industry Canada as appropriate. Wayne Stacey continues to keep the Council advised on TCC discussions. (See the article on the TCC elsewhere in this Update.)

### **"Radio Ahead" Presentation to the CRTC and Government Communications Officers**

In continuing to raise the profile of private radio in Ottawa, Council Chair Paul Ski and members Rick Arnish, Charles Benoît, Chris Pandoff and Elmer Hildebrand attended a presentation of "Radio Ahead" to CRTC Commissioners and senior staff in Gatineau on April 17. The presentation provides a comprehensive review of the current state of the industry in an environment of digital transformation and new services.

The presentation was very well received, with Commissioners posing a number of questions to Council members.

Later in April, the "Radio Ahead" presentation was made to a group of federal government Communications Officers in Ottawa, focusing on the ability of radio to deliver audiences over and above other media. The presentation was designed to raise the profile of radio with government decision-makers in marketing policies and programs.

## **CRTC Releases 2012 Financial Results for Television, Radio**

In June, the Canadian Radio-television and Telecommunications Commission (CRTC) released financial and statistical information on conventional television and commercial radio in Canada.

The Television release looked at such issues as profitability, revenues and expenses, and the amount spent on Canadian programming.

To see the full release, [click here](#).

The Radio release breaks down financial results for both FM and AM radio. It also makes reference to the CRTC's review of its commercial radio policy, which will be launched in the fall of 2013.

To see the full release, [click here](#).

# Technical Coordinating Committee: There to Help You

Technical matters of interest to Canadian private broadcasters are handled through the industry's Technical Coordinating Committee (TCC). The TCC includes senior engineering personnel representing most of Canada's private over-the-air (OTA) radio and TV broadcasters. Membership is open to any CAB member company and requires payment of a modest annual support fee.

The mandate of the TCC is to:

- assist private broadcasters in technical and engineering dealings with government departments and agencies, parliamentarians, other like-minded associations, research organizations, and international standard-setting bodies;
- maintain ongoing liaison with the two regional broadcast engineering associations (CCBE and WABE);
- provide sponsoring members with timely information concerning technological and regulatory developments, as well as business opportunities created by new technologies.

The TCC is an active participant within the Radio Advisory Board of Canada (RABC), Industry Canada's Broadcasting Technical Advisory Committee (BTAC) and the National Radio Systems Committee (NRSC) in the USA.

## **Current technical issues of interest to Canadian private broadcasters:**

**Digital Radio Broadcasting (DRB):** All L-Band DRB transmissions have now been terminated in Canada and so far no alternative transmission standard(s) have been selected. Several FM broadcasters have applied for authorizations to implement hybrid HD Radio™ digital transmissions on an experimental basis. So far, there has been no interest among Canadian radio broadcasters in deploying hybrid DRB operations in the AM band. Broadcasters continue to explore the many technical options for future delivery of digital audio programming and auxiliary data services, including OTA services employing in-band on-channel (IBOC) hybrid techniques, wide-band digital-only transmissions, as well as internet delivery. They also have an ongoing interest in the possibility of eventually re-allocating some low-band television spectrum for a new all-digital radio service in North America.

**Digital television (DTV):** Digital television conversions have been completed in the major television markets, as mandated by the CRTC. Additional voluntary conversions, as well as some pursuant to commitments made to the CRTC during licence transfer applications, are occurring in certain non-mandatory markets. Nevertheless, it is anticipated that analog TV transmitters in many mid-to-small Canadian markets will continue to operate for some time.

**TV White Space (TVWS):** Industry Canada has recently issued a spectrum policy decision that will enable unlicensed TV White Space devices to operate in the VHF/UHF television bands in Canada. The TCC is working, via two government/industry consultative committees, to help develop regulations and procedures ensuring that all licensed television and wireless microphone operations will be adequately protected against interference from TVWS devices.

**AM radio technical issues:** In an effort to help ensure the financial survival of AM radio in Canada, TCC members have been examining ways to minimize operating costs. The removal or modification of certain regulatory provisions that may no longer be appropriate have been recommended to Industry Canada and are in the process of being adopted. As well, the TCC has recently recommended that AM stations should be granted blanket approval to employ Modulation Dependent Carrier Level (MDCL) technology, on a voluntary basis, as a means of reducing electrical energy consumption.

**FM radio technical issues:** TCC members are currently working within the NRSC to explore potential technical improvements to FM radio broadcasting systems. Included among these is the possibility of employing

single-sideband suppressed carrier (SSBSC) transmission for the FM stereo subcarrier, in an effort to reduce multipath interference. There is also an interest among Canadian FM broadcasters in exploring enhancements to digital RDS services, including techniques such as RadioDNS.

**Emergency alerting:** TCC members have been working with various partners within Canada's National Public Alerting System (NPAS) to develop guidelines on "emergency alerting". These guidelines will help authorized authorities issue threat-to-life emergency alerting messages in such a manner that they can be readily received by radio and TV stations and quickly transmitted to the public. For the past two years, broadcasters have been providing NPAS participants with information and advice on how to resolve certain technical, equipment and operational issues so that emergency messages can be processed and forwarded even when stations are unattended. Now that this phase of the project has been completed, broadcasters await the availability of made-for-Canada commercial receiver/decoder/inserters that will enable them to automatically access and transmit qualifying emergency alerting messages.

**Public exposure to radiofrequency energy:** In situations where the general public may have ready access to areas adjacent to broadcasting transmitter sites, all licensees are required to ensure that radiofrequency energy levels in these areas fall below the maximum values stipulated by Health Canada in its Safety Code 6 standard. The TCC continues to coordinate ongoing technical liaison between private broadcasters and the federal government with respect to the prediction and measurement of radiofrequency energy levels in the vicinity of broadcasting sites.

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**For more information:** Inquiries about the TCC and its activities may be directed to the TCC Secretary, Wayne A. Stacey, P.Eng (e-mail: [tcc@magma.ca](mailto:tcc@magma.ca)) or to the CAB office at **613-233-4035, extension 221**.

## CBSC Strengthens Operations and Delivers Results

The Canadian Broadcast Standards (CBSC) is continuing to upgrade its level of service, for the benefit of audiences and broadcasters.

### Timelines

Panel decisions are being released within four months of the receipt of a Ruling request.

Summary decisions are often presented within two months. This reduced timeline is both more responsive to complainants and more useful for broadcasters.

### Adjudicators

At our annual general meeting held in Ottawa on January 14, the Board of directors appointed 17 new adjudicators to our ranks. We are always looking for qualified volunteers to serve as both public and industry representatives so if anyone have nominees to suggest, please feel free to share their names with us.

### Corporate Structure

As a result of the new federal legislation governing not-for-profit corporations, the CBSC will be reviewing and revising both its by-laws and its manual to reflect the new corporate structure and to update its processes.

### CBSC Activities

All of these efforts are bearing fruit. As of June, we had opened 1,671 complaint files. We have issued 13 Panel decisions, and 55 Summary decisions.

# Copyright News

## **Commercial Radio Proceeding - Reproduction Right Reduction**

On November 7, the CAB filed an application for relief from reproduction right liability for commercial radio broadcasters with the Copyright Board of Canada. This application has led to a tariff proceeding with a hearing commencing on October 8, 2013. The tariff proceeding relates to all radio tariffs, but the CAB's objective in this proceeding is to significantly reduce the reproduction right tariffs you pay to the collectives CMRRA, SODRAC, AVLA, SOPROQ and Artisti. Together, these tariffs are worth approximately \$25 million annually for the entire industry.

Other issues that are on the table in this proceeding include a proposal by Re:Sound to levy an additional tariff on broadcasters for music played in commercial establishments. All collectives are asking for the Commercial Radio Tariff to be payable on a corporate basis as opposed to a per station basis. The CAB is vigorously opposing both of these requests.

As with any proceeding of this nature, settlement discussions are ongoing. In terms of timing, the interrogatory phase of the process was recently completed and the CAB will file the first of its three cases on August 8, 2013.

## **SOCAN Tariff 2.A/17 (TV & Specialty and Pay)**

On Friday March 22, 2013, the Copyright Board initiated a proceeding culminating in a hearing on March 25, 2014. This proceeding is already in the interrogatory phase, with responses due on October 4, 2013 and the CAB's case to be filed on February 14, 2014.

SOCAN tabled status quo rates for Tariffs 2.A and 17 for 2009-2012 and has sought an increase for 2013 as follows:

- Tariff 2.A – increase from current rate 1:9% to proposed rate 2.1%
- Tariff 17 low music use (<20%) – increase from current rate of 0.8% to proposed rate of 0.9%
- Tariff 17 regular music use – increase from current rate 1:9% to proposed rate 2.1%

The CAB objected to the proposed increase and will be taking all necessary steps to defend the interests of its TV and Specialty & Pay members in this regard. In addition to the CAB, the BDUs and CBC are also listed in this proceeding as objectors. CAB counsel are conducting a fact finding survey at this time with CAB members to help inform the CAB's case.

We understand that SOCAN feels a rate increase is justified based on industry metrics. The CAB will vigorously oppose all rate increases; in fact we suggest that the financial health of the television industry at this time does not support a tariff increase in the rates but rather that the current rates are no longer sustainable. As is typical for a proceeding of this nature, the CAB is engaged in ongoing settlement negotiations with SOCAN concurrent with the formal Copyright Board process.

## **CAB Copyright Reform Update: Bill C-11 Implementation - WIPO Ministerial Statement**

Bill C-11, The Copyright Modernization Act, was passed by Parliament in June 2012, and will be proclaimed into force in multiple stages. The first stage came into force on November 7, 2012. Other than the Commercial Radio Tariff proceeding discussed earlier, the other key issue for the CAB flowing from the changes to the Copyright Act is to ensure that a Ministerial Statement is issued in respect of the WIPO implementation provisions to prevent an effective doubling of the Re:Sound Commercial Radio Tariff 1.A.

On the WIPO implementation issue, changes to Bill C-11 that grant rights to US performers and record labels will have the effect of doubling Re:Sound Commercial Radio Tariff 1.A unless the Minister of Industry issues a statement to prevent that from happening. The CAB has advocated for a Ministerial Statement to be issued concurrent with WPPT ratification, which we now understand to be the date upon which the WPPT comes into force for Canada.

On November 5, 2012, the then Minister of Industry, the Honourable Christian Paradis, sent a letter to the CAB and a coalition of parties with similar interest indicating that the Government intends to issue a Ministerial Statement that will “limit the scope and duration of the right of remuneration for rights holders in WPPT countries that do not reciprocate”. This would satisfy the CAB and coalition request, and prevent the anticipated increase in Re:Sound’s eligible repertoire that applies to the tariffs paid by many current Re:Sound licensees including broadcasters. We will continue to push for this outcome, and will keep you updated.

In the Cabinet shuffle announced on July 15, 2013, James Moore was appointed the new Minister of Industry. The CAB is currently evaluating whether this will have any impact on the Government’s previously stated commitment to issue a Ministerial Statement.

### **Re:Sound 8.A and 8.B (Internet – Audio Simulcast and Audio Webcast)+ CSI Online Music Services**

The hearing relating to proposed tariff Re:Sound 8.A (Simulcasting and Webcasting) and Re:Sound 8.B (Semi-Interactive Webcasting) took place in late summer and fall of 2012. The CAB appeared as an objector to these tariffs, along with other objectors including Pandora, CBC, the National Campus and Community Radio Association (NCRA), and a group of Internet service providers including Bell, Rogers, Shaw and Quebecor.

Re:Sound asked the Board to certify tariffs at high rates, seeking the greater of (i) 12% to 25% of revenues and (ii) varying penny rates per play of sound recordings on simulcasts and webcasts. Re:Sound’s proposal was based on marketplace agreements between existing webcasting services and the record labels, and their arguments are largely based on US precedents.

The CAB asked the Board to certify rates for simulcasting that are based on SOCAN Tariff 22.B (commercial radio websites) and rates for webcasting that are based on SOCAN Tariff 22.F (audio webcasting).

This new tariff will apply to any broadcaster that is currently paying SOCAN Tariff 22.B Decisions from the Copyright Board typically take one to two years and we will keep our members updated through the CAB Updates.

On a related note, CSI filed its case in the CSI Online Music Services (OMS) Proceeding on July 26, 2013. The CAB and other objectors will file their cases on October 11, 2013. The CSI OMS Tariff is proposed to apply to similar uses as Re:Sound Tariff 8. The CAB intends to base its case in part on the evidence recently tabled in the context of the Re:Sound 8 proceeding as well as relying on arguments based on the new reproduction right exceptions arising from recent changes in the law.