

## A Message from the Chair

### A New Year, and Change is in the Air

Let me wish everyone all the best for 2014, a year that I hope will be filled with success in all your endeavours, be it family, business or community! A new year also brings us fresh hope and a desire for a better future and inspiration to achieve our resolutions, and grow our radio and television industry.

At the CAB, 2014 will be a year of change for all of us, with new challenges, opportunities, and growth potential for our Radio, Conventional Television, Specialty/Pay Television members. I'm also pleased to report that in the last quarter of 2013 we welcomed 5 new members to the CAB, representing 81 stations. This brings our total membership to 796.

The Canadian Association of Broadcasters has worked very hard over this past year on many membership matters. In 2014, we will continue to be active on a number of critical files.

For example, we will continue to take the lead on the very important matter of the Commercial Radio Copyright Proceeding following recent reforms to the Copyright Act that could have a significant cost implication to radio members.

Speaking of that sector, with the CRTC's Review of Commercial Radio on the horizon, the CAB CEO Radio Council will be leading the charge in ensuring that the views of our members are at the forefront in any presentations made to the Commission. Discussions are currently centered on the future of Canadian Radio with respect to many facets of our industry and what changes in policy need to be considered to safeguard and grow the industry, now and in the future.

In Television, as you are aware, there is a major review being conducted by the CRTC in 2014 that will have a further impact on the television industry. The Commission will propose new approaches for the Canadian television system which will be discussed at a public hearing in September of this year. It is important for me to underline that, in this instance your association will not be taking a proactive consensus role in the process. Instead, member stations of the CAB will be filing their own individual intervention(s) and briefs as part of this review.

The CAB Technical Co-ordinating Committee (TCC) is focused on a number of key files, including the very important expectation from the Commission regarding Emergency Alerting. The TCC activities have also included technical matters regarding the Review of Commercial Radio and White Space Devices (WSD) operating on an unlicensed, unprotected basis within the TV bands.

Your association continues to fund the Canadian Broadcast Standards Council (CBSC) on your behalf and I'm pleased to report that Andrée Noël and the CBSC Team have done a remarkable job over the past 2 years in

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clearing away the huge backlog of complaints that had built up over the years. This is very timely for our members as CBSC complaints can now be dealt within the current broadcast year and decisions rendered accordingly.

I wish to thank your CAB Board of Directors for their solid work on behalf of our members, working together for the common good of our association. I also wish to thank Sylvie Bissonnette for her outstanding work as our Vice President of Finance. Her attention to detail, ensuring that the CAB is maintained on a sound financial footing is appreciated by all of us!

In closing, I am pleased to have this opportunity to wish everyone all the very "best" in health, happiness and business in 2014. The New Year gives us fresh hope for a better future and continued success, as we face new challenges, and pursue new opportunities, with increased confidence. As Chair of the CAB it has been a privilege again this past year to work with our board and members on numerous projects in the common interest of our members and the association.

Rick Arnish  
Chair, Canadian Association of Broadcasters

## CAB Copyright News

### **Commercial Radio**

(SOCAN 2012-2013; Re:Sound 2012-2014; CSI 2012-2013; AVLA/SOPROQ 2012-2017; Artisti 2012-2014)

In a previous update, we outlined the CAB's efforts in a Copyright case seeking a substantial reduction in reproduction royalties on the basis of the changes in the Copyright Act.

The hearing was complex and involved contributions from legal counsel, economic experts, and a range of other experts including industry experts on behalf of the CAB. While it is very hard to predict the outcome of the Board's decision, commentary from the Board members throughout the hearing indicated a willingness to consider reductions based on the changes in the law. The Board also seemed reluctant to fully accept the proposals relating to the change in rate base and the new public performance royalty.

The cost of this very important hearing was close to \$1,230,000. Funds from the CBRA Retransmission Royalties collected by the CAB on behalf of Radio Broadcasters were used to fund almost half of these costs. The remaining \$630,000 will be assessed to all of the CAB Radio Members and will be invoiced by the CAB in January 2014. Radio organizations that are not members of the CAB will also be asked to share in the cost of any and all Copyright initiatives undertaken by the CAB.

### **CSI Online Music Services and SOCAN Tariff 22.A**

There was a hearing relating to CSI and SOCAN's interests in online webcasting and streaming held in November 2013. The CAB participated in a limited capacity to deal with some audio streaming components of the proposed tariffs. The vast majority of CAB members are not affected by these tariffs so the CAB worked with Pandora to share resources and save costs. The CAB built on arguments made in the 2012 Re:Sound 8A and 8.B (Internet – Audio Simulcast and Audio Webcast) proceeding, namely that the existing rates for webcasting should be maintained.

The costs for this hearing are expected to total \$28,000 and will be covered by the CBRA Retransmission Royalties collected by the CAB on behalf of Radio Broadcasters.

## **SOCAN Tariff 22.D (Internet – TV & Specialty and Pay)**

The CAB is engaged in settlement discussions with SOCAN with respect to its Internet Tariff 22, which applies to TV and S&P broadcasters. The CAB is engaged in ongoing outreach to a number of broadcasters to clarify certain facts and assumptions in the context of our settlement discussions. Our goal is to obtain tariff terms that are reasonable, reflective of the relatively nascent nature of most broadcasters' online businesses, and relatively easy to administer. We expect to have updates on this matter in the coming months.

## **Re:Sound 8.A and 8.B (Internet – Audio Simulcast and Audio Webcast)**

As noted in a previous update, there was a hearing related to proposed tariff Re:Sound 8.A (Simulcasting and Webcasting) and Re:Sound 8.B (Semi-Interactive Webcasting) in September 2012. The CAB appeared as an objector to these tariffs.

In that hearing, 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. 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. The Board has indicated that it will not release its decision on this tariff until it renders a decision on the other outstanding online tariffs currently under consideration (see CSI Online Music Services and SOCAN Tariff 22.A above). Decisions from the Copyright Board typically take one to two years and we will keep our members updated through the CAB Updates.

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

SOCAN had proposed an increase in the rate for Tariffs 2.A and 17, from the current 1.9% to 2.1% for 2013. The CAB objected to this proposal. A hearing was scheduled for March 2014, but the CAB and SOCAN reached a settlement to continue with status quo rates until the end of 2013. The practical effect of this is no change to TV and S&P tariff payments and no retroactive uncertainty. SOCAN's proposed increase remains on the table for 2014 and this will likely proceed to a hearing sometime in 2015 or 2016.

## **CAB Copyright Reform Update**

### ***Bill C-11 Implementation***

As we indicated to you recently, Bill C-11, *The Copyright Modernization Act*, was passed by Parliament in June 2012, and is being proclaimed into force in multiple stages. The first stage came into force on November 7, 2012. The second stage is underway and is expected to come into force sometime in 2014.

There are two main issues for the CAB flowing out of the coming into force of this Bill: (1) taking action to ensure changes to the reproduction right mean a reduction in the radio reproduction tariffs, and (2) ensuring that a Ministerial Statement is issued with respect to the WIPO implementation provisions to prevent an effective doubling of the Re:Sound Commercial Radio Tariff 1.A.

### ***Reproduction Right Reduction***

The CAB took the first steps to realize a reduction in the 2013 Commercial Radio proceeding (see above).

### ***WIPO Ministerial Statement***

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 understands, from ongoing discussions with government officials, that the Ministerial Statement is on track to be published in early 2014, prior to or commensurate with the coming into force of the relevant parts of the legislation. This will have the effect of preventing the increase to the Re:Sound tariff. We will continue to actively monitor the progress of this issue and engage with officials where necessary, and will keep you updated.

## Corporate Governance: Updating By-laws to Comply with New Act

The CAB will be updating its by-laws in order to comply with the new *Canada Not-for-Profit Corporations Act* before October 2014. The vast majority of amendments will be technical in nature, and complete updates will be provided to the membership throughout the amendment process. A full membership vote will be required to ratify the amendments prior to filing with Industry Canada – expect this to take place prior to July 2014.

## CAB CEO Radio Council Update

### Review of the Commercial Radio Policy

The Commission's Review of the Commercial Radio Policy has been the central focus of the Council's work over the past several months. The Council sent a letter to the Commission in early October, identifying a number of issues of current concern to the industry.

The review was formally announced on October 30, in Broadcasting Notice of Consultation CRTC 2013-572. The review has targeted specific issues, including criteria for calls for applications and for small markets; converting low-power FM to protected status; defining national, regional and local advertising; implementation of digital radio; compliance measures; and updating the Radio Regulations.

The Commission also left the door open for other issues to be raised by parties in the context of the review.

The Council has been developing positions on each of these issue areas, and is presently developing a strategic approach to other issues, including the Common Ownership Policy and Local Management Agreements. The Council has also contracted research on the economics of the industry, digital radio options and the shifting industry landscape, to establish the groundwork for positioning on the issues. The CAB has also obtained a legal opinion regarding the matter of the proposed new penalties the Commission is suggesting could be imposed on radio licensees that are found in breach of conditions of licence.

The intention is to file a submission on these issues on behalf of the radio industry.

It is worth noting that the CAB was successful in securing an extension to the filing deadline. Submissions were due on January 30, 2014, with replies due April 1, 2014.

### Working More Closely with Regional Associations

The Council had previously identified the need to establish better coordination with the Regional Associations: the Ontario Association of Broadcasters (OAB), the Western Association of Broadcasters (WAB) and the B.C. Association of Broadcasters (BCAB).

In order to work more closely together on issues and positioning, the Council and the Regional Associations have agreed to exchange the minutes of their latest meetings, and the Chair/Presidents will have more frequent discussions to ensure a coordinated approach.

The Regional Association Presidents participated in the most recent Council conference calls focused on the Review of the Commercial Radio Policy, held on December 16 and January 24.

### **CBC Advertising on Radio 2 and *Espace Musique***

With national advertising spots just getting underway on Radio 2 and *Espace Musique*, the Council will be tracking its impact and identifying any changes to market share. The Commission has already received a complaint from *Radio Classique* in Montreal, which has objected to an ad for the Montreal Symphony Orchestra on *Espace Musique* – a local spot.

Earlier this quarter, the CBC applied to the Commission to amend its conditions of licence for advertising on Radio 2 and *Espace Musique*. Specifically, CBC applied to amend the number of programming interruptions per hour, arguing that commercials aired immediately following news/information breaks should not constitute an interruption.

While the Council did not oppose the application, we intervened to call into question the request for an amendment so soon after a licence decision, arguing the commercial radio broadcasters should be afforded the same flexibility should the Commission approve the application. The CBC received approval on December 5, 2013.

### **Council Reaching out to Federal Policy-Makers**

The Council has determined that it can do more to raise the profile of commercial radio interests in Ottawa. To this end, a meeting has been requested with the Minister of Canadian Heritage, and officials with Broadcasting Policy at Canadian Heritage have also been contacted with a request to meet with Council representatives.

Quarterly meetings with the CRTC's Chair/Vice-chair Broadcasting will be scheduled following the completion of the Review of Commercial Radio Policy.

### **Radio Ahead**

Council members have noted that Radio Ahead was a worthwhile investment that should be leveraged to the industry's advantage going forward. For a nominal (if any) cost, the information and data in Radio Ahead can be easily updated every six to nine months, and presented on an annual basis to the Commission and agencies (all of which found the information quite useful).

### **Centenary of the Beginning of the First World War**

Further to a request from the Commission's Chair for commercial radio to consider ways of commemorating the centenary of the beginning of the First World War, the Canadian Heritage Foundation is producing a series of video and audio spots to commemorate the occasion. The spots will be made available to radio broadcasters. The Council will inform the Commission should radio operators choose to run these or other First World War spots. Please advise the CAB when you do run these spots in your local markets.

# Broadcasters' Technical Coordinating Committee (TCC) Activities

## White Space Devices (WSD)

By 2015, broadcasters should expect to find WSD operating on an unlicensed, unprotected basis within the TV bands.

These low-power devices will primarily be used to extend broadband internet to customers who cannot be served economically via existing cable or fibre. The TCC is currently working with Industry Canada and other stakeholders to develop technical rules designed to ensure that WSD will not cause interference to licensed services operating in the same bands.

The new TV band-sharing policy will also mean that unlicensed wireless microphones currently being used by broadcasters for studio and ENG purposes will have to become licensed, if interference from WSD is to be avoided.

The current draft versions of WSD procedures and rules are expected to be more fully developed in the early months of 2014, following which the TCC will provide additional details to broadcasters concerning any actions they may need to take to ensure that existing services remain adequately protected.

## Emergency Alerting

The TCC has been working with governments and other industry stakeholders to develop operational and technical guidelines that will help stations plan for the carriage of real-time emergency alerts.

Extensive discussions were required to resolve issues such as maximum message lengths, audio file formats, a distinctly Canadian audio warning tone, message repeat frequencies, and the need for dual language capabilities. It was also necessary to specify clearly which messages require immediate delivery to the public and to consider how this can be done on an automated basis when stations are unattended.

All this was achieved in late April 2013, when the Senior (government) Officials Responsible for Emergency Management (SOREM) released a technical guidelines document concerning these and other related issues.

As OTA broadcasters, cable licensees and satellite operators are all being urged by the CRTC to make implementation commitments regarding public alerting, CAB members should now be investigating the capabilities and cost of the message decoders and insertion equipment that they will require in order to comply.

For a copy of the SOREM guidelines document please go to: <http://capan.ca/uploads/npas/NPAS%20CLF%20Guidance%201.0%20-%20April%2024,%202013.pdf>

## Technical matters connected with the CAB Radio Policy Review

The TCC has been busy developing responses to several key technical issues raised in CRTC Notice of Consultation 2013-572. (See <http://crtc.gc.ca/eng/archive/2013/2013-572.htm>).

Of particular interest is the matter of implementing hybrid HD Radio™ digital services via existing AM and FM analog transmitters. The TCC's intention is to provide objective technical advice, pointing out the potential risks, costs and benefits of employing this technology in Canada.

In addition, the TCC has prepared comments concerning the matter of upgrading LPFM stations to protected status, as well as the industry's need for policy changes that would allow "nested" FM repeaters of local AM stations to be licensed.

## Replacement for BTAC

Industry Canada has recently announced that, due to resource cuts, it has dissolved the Technical Advisory Committee on Broadcasting (BTAC).

For decades, this group had been the primary means through which broadcasters and engineering consultants negotiated technical regulatory matters with the Department. These consultations will now be carried out under the auspices of the Radio Advisory Board of Canada (RABC).

Private broadcasters will still be able to participate because the TCC is a member of the RABC. The same will hold for the CBC, as well as for consulting engineers who are members of the Canadian Association of Broadcast Consultants (CABC).

The RABC's existing Broadcasting Committee will be re-constituted within the next few months in order to accommodate an expanded mandate.

## Welcome New CAB Members!

The CAB is very pleased to welcome five new members since September 2013:

### **Radio:**

Evanov Communications Inc. and Vista Radio Ltd.

### **Television:**

Groupe TVA Inc.

### **Specialty & Pay:**

Gusto TV and Sun News Network

This brings our total membership to 796!

## CAB AGM Coming Up Feb. 18, 2014

The CAB Annual General Meeting for all members is scheduled to take place in Ottawa on February 18th, 2014. The Notice of Meeting will be sent out to Members by e-mail early in February. Please check your inbox for more details or contact Sylvie Bissonnette at [sbissonnette@cab-acr.ca](mailto:sbissonnette@cab-acr.ca) or at 613-233-4035 ext. 221.