

A Message from the Chair

As Busy as Ever

With the return of the nice weather, nature is in bloom and everywhere people are busy with Spring cleaning.

A look at the latest issue of the CAB Update reveals that our industry and the government agencies we deal with are also very busy. From a new CRTC Three-Year Plan, to Copyright hearings, to important technical changes, Canada's private broadcasters have a wide range of complicated issues to deal with.

We at the CAB are pleased to be here to help. As you can see, we are fighting the good fight in various hearings, alerting members to important regulatory changes that could have an impact on their businesses, and providing government with invaluable insights regarding the impact that its decisions could have on the broadcasting industry. Rest assured that we will continue to diligently represent the interests of our members and their industry.

Kevin Goldstein
Chair, Board of Directors
Canadian Association of Broadcasters

CRTC Releases 3-Year Plan (2015-2018)

On April 29, the Canadian Radio-television and Telecommunications Commission (CRTC) released its new Three-Year Plan, outlining the activities the Commission intends to focus on from 2015 to 2018.

As stated on the Commission's website, "The plan provides a rolling three-year horizon of key CRTC activities. The document is intended to provide Canadians, industry, and other interested stakeholders and groups with important information to prepare for and participate in the CRTC's public processes. The plan also provides a status update on the activities that the CRTC committed to in the previous year (2014-15). The communications environment is very dynamic. Accordingly, the CRTC may need to adjust its plan to respond to emerging issues."

For a full copy of the CRTC's latest Three-Year Plan, [click here](#).

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CAB Welcomes New Members

The CAB is very pleased to welcome four new members in the following sectors:

Radio:

Attraction Radio and Radio Markham York Inc.

Specialty & Pay:

DHX Television Ltd. and Hollywood Suite Inc.

This brings our total membership to 819, strengthening the voice of Canadian private broadcasting. CAB looks forward to working with you and all our members!

CAB Copyright News

Copyright Hearings

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

SOCAN 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 2015. The CAB is engaging in proactive research and analysis over the course of 2015 to develop arguments against any increase and possibly in support of a reduction.

CMRRA Commercial Television Stations (2015)

CMRRA has proposed a first-time tariff for commercial television that would set a rate for reproductions made by commercial television stations in the course of broadcasting. The proposed rates are 0.66% of gross income for regular music use stations, and 0.28% of gross income for low music use stations. The CAB has objected to this tariff proposal. A hearing has not yet been scheduled, but could arise in 2015.

Given the potential impact of a new tariff for television broadcasters, the CAB is preparing an aggressive case against this tariff proposal, including a fundamental challenge to CMRRA's entitlement to collect at all, given the nature of television broadcasting operations. In particular, the CAB will be working with TV members over the course of 2015 to review and analyze the types of reproductions that are made and the extent to which these may or may not be covered by existing agreements.

Costs associated with the research and preparation for a proceeding relating to this tariff are expected to be \$150,000, which will be assessed to all CAB Television Members, in accordance with a formula approved by the CAB Board.

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

The Copyright Board released its decision in Re:Sound Tariff 8 Non-Interactive and Semi-Interactive Webcasts on Friday, May 16, 2014 (following a hearing on the matter that took place in September/October 2012). The tariff is applicable to non-interactive (i.e., b-streams) and semi-interactive (i.e., Pandora type services) webcasts offered by commercial and non-commercial webcasters.

Simulcast was originally targeted by this tariff and Re:Sound argued at the hearing for rates of \$2.30 to \$4.00 per 1000 plays. The CAB took the position that simulcasting should not be subject to this tariff because it is a purely ancillary business to over-the-air broadcasting. The Board agreed with the CAB and deferred any decision on simulcast until the next time it considers the Commercial Radio tariff.

With respect to non-interactive webcasting, the rates certified by the Board are 10.2¢ per 1000 plays for commercial webcasters, 13.1¢ per 1000 plays for CBC, and \$25 per year for small non-commercial webcasters. This is substantially lower than what Re:Sound requested, which was between \$2.30 and \$4.00 per 1000 plays.

Re:Sound has applied for judicial review of this decision on the basis that the rates are unsatisfactory and unfair. The CAB is participating in this judicial review to respond to arguments relating to webcasting and

simulcasting. Re:Sound has recently confirmed with the CAB that it no longer intends to overturn the Board's decision relating to simulcast. The CAB will benefit from a 75% reduction to its external legal costs because it is sharing external counsel (David Kent) with Pandora. The proceeding is ongoing, and a hearing may be scheduled for Fall 2015.

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

On November 7, 2012, the CAB filed an application with the Copyright Board for relief from reproduction right liability that resulted in a Board hearing relating to all the radio tariffs held from October 8 to 23, 2013. Closing arguments were made before the Board on March 3 and 4, 2014.

The CAB advanced an aggressive case for a substantial reduction in reproduction royalties on the basis of the changes in the law. The CAB argued that the new law carves out exceptions for many types of copies made by radio broadcasters and the tariffs should reflect these changes and enable broadcasters to stop paying or at least pay less. CAB also refuted arguments from the collectives to (i) change the rate base so the tariffs would be paid as a percentage of total revenues for all stations within a corporate group as opposed to the current method of paying as a percentage of individual station revenues, and (ii) levy a new royalty for the public performance of radio in commercial spaces.

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 collectives' proposals relating to the change in rate base and the new public performance royalty.

We may see a decision from the Board sometime in late 2015.

The cost of this very important hearing was close to \$1,230,000. This has been paid in full with funds from the CBRA Retransmission Royalties collected by the CAB on behalf of Radio Broadcasters, collections from non-members, and a special assessment to all of the CAB Radio Members.

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. Closing Arguments took place on May 12 and 13, 2014. 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 8.A 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 have been covered by the CBRA Retransmission Royalties collected by the CAB on behalf of Radio Broadcasters.

We may see a decision from the Board sometime in late 2015.

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

The CAB is engaged in advanced settlement discussions with SOCAN in respect of its Internet Tariff 22 that applies to TV and S&P broadcasters. Our goal is to obtain tariff terms that are reasonable and relatively easy to administer. We expect to have updates on this matter in the coming months.

Copyright Board Procedural Review

The Copyright Board of Canada is conducting a review of some of its operations, processes, and procedures in order to make the Board more efficient and more productive. The Board issued a discussion paper in February 2015 in which it advanced suggestions and recommendations for such improvements. As part of the consultation process on the discussion paper, the CAB recommended, among other things, that the collectives be required to justify their tariff proposals up front and that the Board intervene to streamline the interrogatory process to reduce the burden on objectors. The consultation process closed in April and the Board is expected to make public the changes it will implement.

CAB Copyright Reform Update

Bill C-11 Implementation

Bill C-11, The Copyright Modernization Act, was passed by Parliament in June 2012, and was proclaimed in multiple stages. The first stage came into force on November 7, 2012. The second stage came into force on June 17, 2014 following ratification of the WIPO Copyright Treaties in Geneva.

There were 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 was issued in respect of 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 were slated to have the effect of doubling Re:Sound Commercial Radio Tariff 1.A unless the Minister of Industry issued a statement to prevent that from happening. Following effective lobbying by the CAB, the Ministerial Statement was published in the Canada Gazette on July 30, 2014 and it included language that preserves the status quo for over-the-air broadcasters as well as additional language that would preclude payment of royalties by any service (including online streaming/webcasting by broadcasters) for sound recordings published before 1972. The Ministerial Statement has the effect of preventing a \$15 million increase to the Re:Sound tariff and is a good news story for the CAB.

Corporate Governance

CAB By-law Amendments

Following the coming into force of the Canada Not-for-Profit Corporations Act in October 2011, all not-for-profit corporations were required to file Articles of Continuance and update their by-laws in order to comply with the new legislation. Under the direction of the Governance Chair, Sylvie Courtemanche from Corus Entertainment, the CAB completed all the necessary requirements for continuance.

The CAB Membership voted to approve Articles of Continuance, which allow the CAB to continue to operate under the Canada Not-for-Profit Corporations Act at a special general meeting of the members held on June 27, 2014. The Articles were approved by Industry Canada on July 21, 2014. Corresponding by-law amendments

were approved by the CAB Board of Directors on November 25, 2014 and by the CAB Membership at the Annual General Meeting held on December 12, 2014.

CAB CEO Radio Council Update

A number of changes in the industry have required a change in the membership and executive of the Council. The current CAB CEO Radio Council members are:

Chris Gordon, Bell Media Inc., Chair and Category A Member of the Council
Carmela Laurignagno, Evanov Radio, Vice-Chair and Category B Member of the Council
Julie Adam, Rogers Radio, Category A Member of the Council
Rick Arnish, Jim Pattison Broadcast Group, Category A Member of the Council
Mario Cecchini, Corus Radio, Category A Member of the Council
Elmer Hildebrand, Golden West Broadcasting, Category A Member of the Council
Geoff Poulton, Vista Radio, Category A Member of the Council
Cam Cowie, Harvard Communications, Category B Member of the Council
David Murray, Chief Operating Officer, NewCap Inc.

Peter Fleming, a consultant in regulatory affairs, was contracted to serve as the Council's Facilitator in February of 2014. In this capacity he has replaced Pierre-Louis Smith as our representative on the Boards of Fonds RadioStar and the Community Radio Fund of Canada.

The Council is actively looking at a number of industry and regulatory initiatives and once there are more details about these, we will report them to the membership.

News from the CAB Technical Coordinating Committee (TCC)

Emergency Alerting:

The requirement for broadcasters to distribute emergency alerts came into effect on March 31, 2015.

The TCC Emergency Alerting Working Group has worked in a number of areas to identify and resolve operational and technical issues. Productive meetings were held with Environment Canada to shorten their alert messages and make them more suitable and consistent for broadcast. The Working Group continues to participate in the Common Look and Feel (CLF) Working Group to update and improve the guidelines for alert messages. Interpretation bulletins were developed by the CLF WG to clarify the current practices for issuance and distribution of alerts. These documents are intended to assist alert issuers/originators and broadcasters in issuing and processing clear, concise, high quality alerts and should serve as recommended practices. The documents are available on the Public Alerting Website at the following link under "Additional Resource":

<https://alerts.pelmorex.com/lastmilesdistributors/>

The TCC is continuing its efforts to recommend further improvements related to audio levels and text crawl speed.

Consultation on Repurposing the 600 MHz Band:

In December, Industry Canada announced a consultation proposing to repurpose the 600 MHz Band to mobile services. In addition, the Department has placed a moratorium on all new applications and changes of facilities. The Department's proposals could displace UHF TV stations above channel 26. This would have a significant impact on all over-the-air (OTA) television stations because repacking all existing stations into the remaining TV Bands would require most, if not all, stations to change channel. The actual amount of spectrum to be repurposed for mobile services in Canada will depend on how much spectrum is vacated by US TV broadcasters in the Incentive Auction planned for next year. The TCC provided substantial support to develop the CAB response to the consultation. The CAB response outlines the significant impacts and costs that would result from repacking all TV stations. The CAB comments advocate for broadcasters to be reimbursed for all costs, compensated if required to reduce spectrum, and recommends a local television fund to support OTA television.

Next Generation Radio:

Technologies are evolving which allow radio stations to connect with listeners in new ways. Two radio conferences in February explored how radio can offer enhanced and interactive content to listeners. The North American Broadcasting Association (NABA) held a Radio and Audio Symposium in Toronto. The NABA proceedings discussed the opportunities related to the connected car, FM radio in smartphones, HD Radio, and AM revitalization. The European Broadcasting Union (EBU) held a Digital Radio Summit in Geneva. The EBU conference focused mainly on the development of Hybrid Radio. Hybrid radio is the linkage of OTA audio programming with enhanced/interactive content delivered over the Internet. An internationally recognized standard called RadioDNS is emerging to enable radio stations to link their OTA broadcasts with Internet content. For example, Next Radio has adopted the RadioDNS standard to deliver interactive content to FM enabled smartphones in the US.

The CAB is continuing to monitor these developments to understand how they may be applicable in a Canadian context.

Spectrum Applications Modernization:

Industry Canada is in the midst of a multi-year project called SAM-CSI to completely revamp its software systems for the management and licensing of spectrum. The initiative began in September 2012 and will be completed by March 2016. Broadcasting will be cutover to the new system in the middle of 2015. The Department is warning broadcasters to expect processing delays and blackout periods particularly in Q2 2015, and encourages applications to be filed as soon as possible to reduce delays. The TCC is working with Industry Canada and the Radio Advisory Board of Canada (RABC) to update all of the Broadcast Procedures and Rules for AM, FM, TV and DTV to align these documents with the new systems.

White Space Devices (WSD):

The Department published the WSD procedures and rules in February 2015. These low-power devices will be used to deliver wireless broadband internet service. Broadcasters could find WSD operating on an unlicensed, unprotected basis within the TV bands. The new TV band-sharing policy with White Space Devices will also mean that unlicensed wireless microphones currently being used by broadcasters for studio and ENG purposes may have to become licensed to avoid interference from WSD. The Industry Canada procedure, "CPC-2-1-28 — Voluntary Licensing of Licence-Exempt Low-Power Radio Apparatus in the TV Bands" provides a means for licensing wireless microphones. However, the subsequent consultation on repurposing the 600 MHz band has placed a moratorium on licensing. The CAB response to the 600 MHz Consultation has pointed out the discontinuity in the Department's procedures.

Safety Code 6:

Health Canada has published a new version of Safety Code 6 to adopt new RF energy safety thresholds for protection of the general public. Many broadcasters conducted additional analyses of transmitter sites in 2014 to ensure compliance with more stringent RF energy limits. Subsequently, Industry Canada published an update of "Broadcast Procedures and Rules-1, General Rules" to align the document with the changes to Safety Code 6. The attached Technical Bulletin "New Safety Code 6 Guideline in Effect" was prepared by the CAB to advise members of the changes and requirements. **Please see the Technical Bulletin elsewhere in this issue of the CAB Update for more details.**

If you would like more information about these topics or the activities of the Technical Coordinating Committee, please contact Kirk Nesbitt at aknesbitt@rogers.com.

Member Alert:

Support AIREUM, and Help Celebrate Broadcasting History

I'd like to bring to your attention an important initiative that is being undertaken by the Canadian Broadcast Museum Foundation/Fondation du musée canadien de la radiodiffusion.

The National Broadcast Collection that the Foundation has been building for the last several years has now reached the level where plans are being made to make it accessible to all Canadians. Rather than spend millions on building a conventional "bricks and mortar" institution, the Foundation is creating a unique, innovative virtual presence that will celebrate decades of programs and the people behind them, as well as remarkable industrial and technological achievements that have combined to build this country's radio and television series.

It's all going to happen at AIREUM – or in web-lingo, at www.AIREUM.ca.

Planning and design work for the virtual museum, its many galleries and interactive elements has begun. Meanwhile the important activity of finding, cataloguing and preserving all kinds of relics of our broadcasting past continues. As you will recognize, this is especially important at a time when the industry itself is confronting major technological and regulatory changes.

A short video (watch it by clicking [here](#)) explains why it is so important that Canada preserve the electronic record of its history for future generations.

AIREUM's initial activity will focus on English radio and television, but will expand to include French-language, First Nations and multicultural services once testing is complete.

We encourage you to get involved and support AIREUM. Please visit www.AIREUM.ca.

You can make a donation, for which you will receive a charitable tax receipt. We also encourage you to share the site with your Facebook and Twitter communities.

Let's all get behind AIREUM – and create a new chapter in Canadian history!

Duff Roman
Board Member
Canadian Broadcast Museum Foundation

Technical Bulletin

Notice to Members: New Safety Code 6 Guideline in Effect

In March, Health Canada published a new version of Safety Code 6 - Limits of Human Exposure to Radiofrequency Electromagnetic Energy in the Frequency Range from 3 kHz to 300 GHz (2015). The Guideline can be found at the following link:

http://www.hc-sc.gc.ca/ewh-semt/pubs/radiation/radio_guide-lignes_direct/index-eng.php

Members are reminded that compliance with the new Guideline is required immediately and at all times. Industry Canada may impose financial penalties for Safety Code 6 violations.

The Guideline recommends the maximum human exposure limits to radio frequency fields (RF energy) that must be respected at all times for protection of the general public in uncontrolled environments, and also for exposure to persons in controlled environments.

High levels of RF energy can be present near broadcast transmitter sites, and also near other radio system installations, such as Studio to Transmitter links and microwave antennas.

Industry Canada notified broadcasters of the proposed changes to the maximum human exposure limits in 2013 and 2014 so that broadcast transmitter sites could be evaluated in advance for continued compliance.

The new RF energy thresholds, now in effect, are more stringent in certain broadcast bands than the previous Safety Code 6 Guideline published in 2009. **Please note that the maximum permissible levels have not changed from the proposed thresholds provided by Industry Canada in 2014.**

Industry Canada has adopted the new (2015) Safety Code 6 Guideline for the purpose of protecting the general public. Recently, Industry Canada published updates on its website of several documents related to Safety Code 6, as listed below:

BPR-1 — Part I : General Rules

GL-01 — Guidelines for the Measurement of Radio Frequency Fields at Frequencies from 3 kHz to 300 GHz

TN-261 — Safety Code 6 (SC6) Radio Frequency Exposure Compliance Evaluation Template (Uncontrolled Environment Exposure Limits)

RSS-102 — Radio Frequency (RF) Exposure Compliance of Radiocommunications Apparatus (All Frequency Bands)

These documents can be found at the following link:

<http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/Home>

AM broadcasters should note that the new version of BPR 1: General Rules now specifies a procedure that must be followed to determine the compliance distances from AM transmitting antennas.