



Sent via Intervention Form

20 January 2025

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Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

**Re: Comments of the Canadian Association of Broadcasters with respect to
Call for comments – Modernization of radio processes
Broadcasting Notice of Consultation CRTC [2024-290](#)**

1. As the national voice of small, medium and large Canadian privately-owned and controlled commercial radio stations, the Canadian Association of Broadcasters (CAB) is pleased to provide its comments on the Commission's proposals for reducing and streamlining regulatory processes in the radio sector.
2. We applaud the Commission for acknowledging the important role radio plays in *"entertaining, informing, discovering new artists and ensuring that local voices are heard, offering a proximity that as of yet has no real alternative"* and also recognizing that the emergence of online services has had a significant impact on the broadcasting sector, resulting in the steady decline of revenue and profitability. And we agree that the Commission must streamline regulatory process and requirements to ensure that radio remains culturally dynamic and competitive, and that it must find ways to promote the sustainability of the sector.
3. Accordingly, we support the underlying objectives of the Commission's call for comments. However, we believe that (1) more can and must be done to simplify and streamline administrative processes, and (2) that the Commission must approach the licensing and exemption of new entrants judiciously, taking into consideration the impact on existing broadcasters, who already face significant competition and are struggling to manage in the face of falling revenues and decreased profitability, which impacts their ability to continue to contribute to their communities and to broader cultural objectives.
4. Our submission elaborates on these points and then turns to answering the Commission's questions.

Setting the context – Commercial radio faces serious structural decline

5. As elaborated on in the Communications Management Inc. Research Note, *Structural change in the Canadian commercial radio market: Implications for public policy*, attached as **Appendix 1** to this submission, the private commercial radio sector is undergoing significant structural changes, calling into question its continued viability and sustainability:
- Whereas about a decade ago, private radio once captured almost 13% of the advertising market in Canada, over the last 10 years, its share of the market has decreased to 5.5%, as the Internet has grown significantly from 22% to 69%. (Figure 2)
 - Within the Canadian audio market, there has also been considerable change, such that private radio now represents less than half of the market, largely as a result of the growth of Internet-based audio services, which now represent over a quarter of the market. (Figure 3B)
 - Canadian private commercial radio stations have seen year-over-year decreases in advertising revenue, from a high of \$1.6 billion in 2013 to \$1.1 billion in 2023, and estimated to reach a worrisome low of less than a billion dollars in 2030 (Figure 1).
 - Over the same time, their profitability (PBIT margin) has also declined significantly, hitting an historic low of less than 5%. According to custom tabulations from Statistics Canada (prepared for Communications Management Inc.), in 2023, 44% of private radio stations in Canada had negative PBIT margins. Within that total, 182 stations had profitability levels lower than negative 20%, indicating a risk of significant cutbacks or even closure. Indeed, at least 10 commercial radio stations have shut down in the last few years.¹
 - As highlighted in multiple media reports, radio ownership groups have had to make significant cuts in staff as part of their cost-cutting measures. Personnel at radio stations are having to do more with fewer people, often taking on additional responsibilities to cover off lost staff. This means that stations have fewer people to respond to Commission compliance inquiries, which must now be handled by people who often have other more important responsibilities in their stations.

Cultural and community contributions depend on healthy businesses

6. Declines in revenue, profitability and staffing have a direct and meaningful impact on the ability of Canadian stations to contribute to public policy objectives. Stations that have to cut back or reorganize to address the financial difficulties outlined above are unable to continue to provide the full range of services that their communities expect, including local news. Stations that shut down will make *no* contribution – and the risk of closure is no longer just a possibility; recent announcements are evidence of the stark reality.²

¹ CKMX/Calgary, CFRN/Edmonton, CKSL/London, CJBK/London, CKST/Vancouver, CFTE/Vancouver, CFRW/Winnipeg, CHQT/Edmonton, CHML/Hamilton, CIWW/Ottawa.

² For example: <https://www.bnnbloomberg.ca/business/company-news/2024/08/15/corus-shuts-down-hamilton-radio-station-amid-other-necessary-changes/>

7. The regulatory environment must catch up with the realities of the business environment. Therefore, the Commission must put more emphasis on ensuring the sustainability of the Canadian-owned radio sector, and less on extracting benefits from stations that already make significant public interest contributions to their communities, for example, through charitable works, support for local events and activities, the provision of local news programming, and the hiring of Canadian talent. The Commission should not underestimate the important ways in which radio stations contribute, other than *just* through the airing of Canadian musical selections.

Changes that would make a difference

8. We were somewhat surprised that very little in the Commission's call for comments would actually reduce the administrative burden of commercial radio stations.
9. In fact, the Commission must urgently act on its obligations to limit the administrative burden of broadcasting undertakings, as required under sections 5(2)(g) and 5(2)(h) of the *Broadcasting Act* (the Act) and paragraph 8(1) of the Government's Policy Direction.³ In addition, while considering the administrative burden of radio stations, it must also endeavour to ensure equity vis-à-vis foreign streamers which are currently subject to almost none of the burdens discussed in the Commission's notice or in the CAB's submission that follows.
10. Despite the legislative obligation to consider the burden it places on the industry, and a policy direction requiring it to minimize that burden, the Commission continues instead to compound the administrative and regulatory burden of Canadian radio stations, with additional reporting requirements, highly proscriptive and complicated obligations, and overly zealous compliance reviews, with punitive responses to examples of even minor non-compliance.
11. We are therefore proposing changes to the Commission's processes that would result in real benefits to the commercial radio sector.

I. Modernise performance evaluations

12. Canadian radio broadcasters take compliance very seriously. With very few exceptions, commercial radio station non-compliance is unintentional. However, for years, the Commission appears to have been operating on a "gotcha" basis – in effect, there seems to be an assumption of non-compliance rather than one of "innocent until proven guilty."
13. Our members tell us that performance evaluations are increasingly resulting in a great deal of work at their stations – taking them seriously as they do, they spend considerable time trying to address multiple excessively granular questions and concerns. In several instances, for example, radio stations have recently been asked to prove that songs are Canadian when they have been deemed Canadian for years.

³ [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#).

14. Inquiries into the “Canadian-ness” of a song require radio broadcasters to embark on urgent searches for passports or other documentation verifying the Canadian citizenship of a performer, composer or writer of a song. Radio operators do not have access to this personal information and depend on record labels to provide it, but the labels are often not quick to respond, making it impossible to meet Commission deadlines. Further, such inquiries take our members’ programming directors, music directors, regional managers, engineers or on-air hosts, or whomever else has been charged with this task, needlessly away from their core responsibilities. Against the backdrop of major cuts in recent years due to the significant financial strain identified above, commercial radio stations simply do not have the time or resources to keep up with increasingly granular and frequent CRTC compliance inquiries.
15. The CRTC must, of course, evaluate and correct non-compliant behaviour, but in recent years, the burden of such evaluation has increased significantly. We believe that the Commission must adopt a more reasonable, objective, consistent and graduated approach to assessing compliance (elaborated on in our responses below). Further, it must start from an assumption of good faith, rather than the reverse.
16. Therefore, we recommend that the Commission take a broader view of compliance monitoring and no longer “sweat” the details – a song shouldn’t fail simply because it ended after midnight, a metronome shouldn’t dictate whether a montage is a montage, a song that has been considered Canadian before shouldn’t require a passport check – *mistakes are not non-compliance*. The Commission should look for blatant or repeated non-compliance, not inadvertent or unintentional non-compliance, and radio stations who have a history of performing well should be given the benefit of the doubt via a monitoring ‘holiday’. In addition, the performance evaluation process itself should also be simplified, and no longer be accompanied by a host of detailed questions.

II. Streamline reporting

17. Despite identifying reduced reporting requirements as an objective of the proceeding, it was disappointing that no specific proposals were made, or questions asked. We believe this is an extremely important category of Commission processes that warrant modernization.
18. Our radio members face numerous CRTC reporting requirements: in addition to having to file detailed program and audio logs, they must submit multiple annual return forms (some of which include duplicative information), as well as reports on cultural diversity, accessibility, emergency alerting, Indigenous airplay, emerging airplay, and so on. Radio stations must even provide receipts for Canadian content development (CCD) spending, sometimes years after an event has taken place. This latter requirement has proven remarkably difficult, particularly in relation to exactly those sorts of events or activities that local radio stations should invest in, such as volunteer-run festivals.
19. This CRTC reporting is in addition to reports that Canadian broadcasters, as federally regulated entities, must file with the federal government, for example, with respect to employment equity and accessibility.

20. Each log, form, report and request for information (RFI) requires significant time and effort to complete, and most stations do not have dedicated staff to prepare all of these reports, let alone follow up on additional questions from Commission staff.
21. Indeed, as noted above, with significant cuts in recent years due to deep financial difficulties, our members have fewer people available to undertake this work. The people who are left at a station must be allowed to focus on their important day-to-day work of serving their audiences. At this difficult stage in the history of the Canadian radio industry, we struggle to understand how it serves the public interest for programming directors, musical directors, regional managers, engineers or on-air hosts to be spending their scarce time completing new regulatory reports and responding to detailed Commission questions rather than doing their primary job, which is to provide radio programming to their audiences and support their communities.
22. It is also important to note that each new report required by the Commission requires revisions to the software radio stations use to generate the information requested, which comes at a cost to radio operators. This is equally true for new lines added to annual returns. In this way, the Commission is directly increasing the cost of compliance for operators, something it must keep in mind when considering any new reporting requirement.
23. Further to section 5(2)(g) of the Act and paragraph 8(a) of the Policy Direction, we recommend that the Commission conduct a thorough internal review of its reporting requirements, determine which are actually necessary or merely legacy, and those that are actually used or assessed by the Commission. We also recommend that the Commission update its data collection system to reduce repetitiveness and increase efficiency, and only collect information that is actually necessary for the supervision of the broadcasting system, as required under the Act and Policy Direction. On this point, the CAB notes that several of its members wrote to the Commission two and a half years ago with an invitation to work together to improve the Commission's Data Collection System (DCS). Their concerns still stand. We are attaching the original letter and attachment detailing aspects of DCS which are functioning poorly or are otherwise inefficient, along with suggested improvements as **Appendix 2**.
24. In terms of implementing and monitoring CCD requirements, the CAB recommends that the Commission simplify the process of reporting on CCD, establish clearer criteria on eligibility, and introduce a staff pre-clearance mechanism for discretionary initiatives. If the Commission cannot provide a pre-clearance process, then it must be more time sensitive in reviewing CCD compliance. For example, radio stations cannot supply proof of payment to events that happened years before. Further, radio stations cannot be held responsible if CCD recipients have not cashed a cheque on time, or due to other situations beyond their control. We recommend the Commission accept CCD payments "as reported" for any event that happened one year prior to any Commission evaluation. The Commission should also permit discretionary CCD funding to be directed to local news, which is one of the primary ways radio stations serve their communities. Once again, the Commission must focus on what really matters

III. Implement the Cancon database

25. The Commission must move forward with the implementation of its promised database to identify Canadian and Indigenous musical selections and must take responsibility for maintaining and adding to that database over time, rather than calling on individual radio stations to prove that songs are Canadian (or Indigenous). The database must also include a mechanism for identifying emerging artists, to simplify any monitoring or tracking of such music.

IV. Publish applications and issue decisions more quickly, and lift the moratorium

26. In August 2023, the Commission announced that it would “*defer the examination of any new application or complaint relating to radio during the implementation of its regulatory plan for modernizing the Canadian broadcasting system, for a period of approximately two years.*” This shocked and dismayed our radio members and heightened their intense concern that the Commission and Commission staff do not appreciate the very real challenges Canadian commercial radio broadcasters face. Many of our members have held back on legitimate and necessary applications for amendment. Just the fact that the Commission felt that they had to implement a moratorium at all suggests that the Commission needs to rethink its approach to the regulation of the radio sector in order to refocus its attention on what really matters and on those things that truly advance the objectives of the Act.

27. We therefore urge the Commission to explicitly lift the moratorium, and permit licensees to make adjustments as necessary to respond to changing market conditions. Further, we recommend that the Commission move more expeditiously to handle applications for amendment and ownership changes, including reassessing and adding to the categories of applications that qualify for administrative processing.⁴ Once again, the regulatory environment must be responsive to the fundamental shifts that are taking place in the business environment. Each day of delay can increase radio station costs significantly, impacting their ability to continue to serve their communities and other public policy goals.

28. While we recognize that the Commission is required to hold a public hearing in connection with the issue of a licence (including the issuing of a licence to a new owner of an existing station), we are concerned that the Commission’s processes are too slow, where even simple ownership transactions can take a minimum of seven months, and usually take longer. We note, for example, that the Commission recently published decisions on two fairly simple ownership transactions that were filed in April and scheduled to an October hearing.⁵ It is unclear to us why it should take six months to add a non-appearing item to a public hearing, and a further two months after that to issue a decision.

⁴ As set out in Schedule 1 of the Commission’s [Rules of practice and procedure](#).

⁵ See Decisions [2024-325](#) and [2024-330](#).

29. We urge the Commission to take stock of its internal processes and to speed up the time between the filing of an application, its publication, and the issuance of a decision. In this time of modern digital tools, it should not take six months to publish an application. We believe the Commission's proposal of procedures akin to Part 1 processes for low-to-high power shifts should also be considered for transfers of licences.

V. Open up radio markets

30. Greater consolidation is key to the future sustainability of the radio sector. The industry needs increased ownership flexibility to realize greater synergies and economies of scale and to better compete in today's transforming audio market. As noted above, only a viable radio industry can continue to support cultural objectives.

31. The CRTC's *Revised Commercial Radio Policy*⁶ (the Policy) introduced a degree of flexibility but did not go far enough.

32. Despite almost limitless access to content, the Commission took the view that consolidation would reduce diversity, which is a fallacy – common ownership will encourage, not diminish diversity as owners will want to maximize their reach in any given market, meeting different audiences with different content. The Commission can no longer rely on the massively outdated *Diversity of Voices* policy, which was developed and published *sixteen years ago*, before the launch of Spotify and the explosive growth of the Internet as an advertising behemoth.

33. Therefore, the CAB recommends that the Commission adopt the following common ownership thresholds:

- In markets with eight (8) or fewer commercial stations operating in a given language, a person may be permitted to own or control as many as four (4) stations operating in that language.
- In markets with between nine (9) and sixteen (16) commercial stations operating in a given language, a person may be permitted to own or control as many as six (6) stations operating in that language, provided that the person does not own or control more than 50 percent of all stations operating in that language.
- In markets with sixteen (16) commercial stations or more operating in a given language, a person may be permitted to own or control as many as eight (8) stations operating in that language.

34. In addition, the Commission should introduce greater flexibility with respect to local management agreements (LMAs) and local sales agreements (LSAs). These are important mechanisms that permit radio stations to benefit from increased synergies and reduced costs by sharing certain (non-programming) resources. A more flexible approach to LMAs and LSAs – for example, eliminating the requirement for pre-approval – would permit stations to find efficiencies in lieu of cutting programming, and thus support public policy objectives.

⁶ *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022.

35. We therefore recommend that the Commission eliminate the requirement for pre-approval of LSAs and for LMAs⁷ up to the same levels noted above (LMAs exceeding the thresholds identified above could still be subject to prior approval), subject to the criteria spelled out by the Commission in paragraphs 71 and 78 of the Policy. We note that this would have little to no impact on programming diversity given those criteria; further, as acknowledged by the Commission, the public interest is better served by LMAs and LSAs than by service cutbacks or worse, closures.

Any expansion of exemptions must be undertaken judiciously

36. In its notice, the Commission has proposed to expand the number and nature of exempt radio stations, including all campus stations, some community and low-power stations, news services, and the SCMOs associated with exempt stations.

37. The CAB understands the Commission's intent to reduce the barriers for entry, with the goal of increasing diversity in the system, however, we urge the Commission to proceed with caution, as many such stations may in fact compete directly with licensed radio stations for talent, for listeners and for advertising revenue. We are also particularly concerned about the potential impact on ethnic commercial stations who already serve more restrained markets and are subject to additional requirements.

38. Therefore, in considering any new exemptions, the Commission must be guided by the following principles:

- Community, developmental and low-power stations should be permitted to operate under exemption orders **only** in markets where no other station (other than a CBC station) is licensed to operate in the same language,
- exemptions should not be granted to such operators in markets where there is frequency scarcity,
- once an exempted station reaches a certain revenue level, it must seek a licence and be subject to similar obligations as commercial radio stations,
- any new market entry must be subject to rigorous market assessments that seriously consider the capacity of a market to sustain another stations, and
- the entry of new players should be carefully scrutinized to ensure minimal impact on licensed broadcasting services in the same market.

39. We have provided more details on our concerns in our responses to the Commission's questions, below.

⁷ Stations entering into LMAs and LSAs would continue to respect the criteria identified by the Commission at paras 71 and 78 of the *Revised Commercial Radio Policy* respectively.

Responses to CRTC Questions

VI. Licence Terms

Q1. Please comment on the following proposals:

(a) indeterminate licence terms for all stations;

(b) indeterminate licence terms for all AM stations.

Under the revised Act, the Commission is no longer bound to maximum licence terms of seven years and has greater flexibility to make orders and impose conditions of service throughout a licence term. Given that conditions of service are now decoupled from the licence, we believe it would be appropriate to issue licences on an indeterminate basis, unless or until a station demonstrates that it should not or cannot properly operate in compliance with its obligations. Licence renewals are no longer the primary mechanism to deal with compliance, complaints, or changes to conditions of service, which all can (and should) be dealt with on a more expedited basis.

Q2. If the Commission were to maintain licences with fixed terms, please provide comments for the following proposals relating to licence terms for different types of stations:

(a) 20 years for community and campus radio stations;

(b) 15 years for commercial radio stations with annual revenues of less than \$2 million;

(c) 10 years for commercial radio stations with annual revenues of more than \$2 million.

As noted above, the CAB supports indeterminate licence terms. If, however, the Commission decides to maintain fixed terms, we would support terms of 15 years for all commercial stations. We do not believe a distinction by revenue level is necessary or appropriate, especially given the Commission's proposal to conduct renewal proceedings on a group basis.

Q3. To determine the licence term of a commercial station (10 or 15 years), the Commission would use the average revenues for the five years preceding the licence expiry date. Please comment on this proposal.

As noted above, if the Commission chooses fixed terms, we recommend 15 years, regardless of revenue level. We see no particular reason or benefit of making a distinction on the basis of revenue.

VII. Potential Exemption Orders

Q4. Are the existing exemption orders included in Broadcasting Regulatory Policy [2018-137](#) that are currently in force still relevant? If not, what amendments should the Commission make to these orders?

The CAB urges the Commission to be vigilant in ensuring that exemptions are not 'gamed' as a mechanism for back-door entry into the commercial radio market. Further, in considering exemptions, we support the Commission's preliminary views that:

- new entrants should have minimal commercial impact on licensed broadcasting services in the same market,
- exemptions should not be granted in markets where there is frequency scarcity, and
- new exemptions should apply only in markets where no other station (other than a CBC station) is licensed to operate in the same language.

In addition, the Commission must continue to conduct thorough market assessments before considering new stations, to ensure that a market can accommodate additional services without negatively impacting existing stations.

Finally, given the challenges currently faced by commercial radio stations, the CAB recommends that the Commission exempt all AM radio stations from all but the most basic obligations, i.e. imposing conditions only with respect to Canadian ownership, technical certification by the Department, public alerting, and adherence to standard industry self-regulatory codes. Relieving AM stations of reporting obligations, CCD, Cancon, and so on would help to reduce their administrative burden and permit them to focus on providing service to their communities and may encourage more to stay in operation.

Q5. The Commission is considering exempting campus stations. Please comment on this proposal.

Provided campus stations continue to respect their programming conditions and are limited to a maximum of 504 minutes of advertising in any broadcast week, we can support this proposal.

Q6. The Commission is considering exempting community radio stations, regardless of their transmitter power, in markets where no station other than a CBC station is authorized to broadcast in the same language in any part of the community station's primary contour. Please comment on this proposal.

Similarly, provided exempt community stations continue to respect their programming conditions and there is no station (other than a CBC station) authorized to broadcast in the same language in the market, we can support this proposal.

Q7. The Commission is considering exempting community radio stations based on the following criteria:

- (a) a threshold based on total revenues from all sources;
- (b) a threshold based on advertising revenues; and
- (c) a threshold based on a percentage of advertising revenues in relation to the station's total revenue, up to a maximum amount of advertising revenues.

Please comment on this proposal. Should the proposal be restricted to low-power stations? How should the Commission handle stations that exceed the established exemption threshold during a broadcast year, or licensed stations whose revenues fall below the exemption threshold?

As noted above, the Commission must ensure that any expansion of radio exemptions does not have a negative impact on commercial radio stations who face considerable disruption and are subject to a range of regulatory obligations. Therefore:

- Where a community or low-power station operates (or proposes to operate) in the same market (in the same language) as a licensed commercial radio station, it should not be exempted. Further, once a station reaches a certain revenue threshold, it should no longer be exempt. Recognizing that some community stations receive revenues other than advertising, we believe the threshold should be based on advertising revenue and recommend that the threshold be consistent with the threshold for CCD contributions. This threshold is currently set at \$1.25 million, however, we believe this threshold must be adjusted in light of the significant market changes that have occurred since it was originally established.
- Any community station earning advertising revenue greater than the threshold should be subject to CCD obligations commensurate with those applied to commercial radio stations.
- Any exempt station that earns more than the threshold during a broadcast year (ending 31 August) should be required to apply for a licence before the end of the calendar year. The Commission could consider streamlined approaches for granting such licences, for example, something akin to a Part 1 application process.

Q8. Should the Commission impose advertising limits on exempt campus stations, on community stations, or on both?

As stated in response to question 5, the CAB recommends that campus stations continue to be subject to a limit of 504 minutes per week of advertising. For community stations, once they reach the advertising revenue threshold, they should either be subject to a limit on advertising or subject to similar obligations as those that apply to commercial radio stations.

Q9. Should the Commission consider an exemption for certain low-power commercial stations, operated by owners who own only one station, based on their revenues?

As noted above, the CAB's members are concerned about stations that might use a low-power (or developmental) exemption as a backdoor to entry into full competition with existing licensed radio stations that are subject to a higher degree of regulatory oversight and contribution requirements.

The concerns are even more pronounced when it comes to the potential impact on *ethnic* commercial stations. While the Commission wishes to promote diversity through expanded exemptions for low power commercial stations, licensed ethnic commercial radio stations, who must broadcast to a range of community groups, need to be assured of competitive equity.

There is a risk that exempt low-power stations could target single ethnic communities while licensed ethnic stations must provide service to several ethnic communities. Low-power stations could undercut advertising revenue, but also compete for talent.

The concerns raised in Broadcasting Regulatory Policy [2014-554](#) are still valid. The launch of too many low power commercial radio stations would have an adverse financial impact on existing licensed stations. Further, low-power exemptions should only be granted to services entering a market where there is no licensed commercial station.

Q10. Should the Commission consider an exemption to encourage the launch of radio stations dedicated to broadcasting news content focused on local news?

As the CAB has highlighted in numerous recent submissions, the difficult financial climate in which radio stations now find themselves has a direct and deleterious impact on the ability of radio stations to provide news services to their communities. Further, as acknowledged by the Commission in its call for comments on Canadian programming in the audio-visual context, news programming is “risky to produce and difficult to monetize in the current broadcast system.” Therefore, we recommend the Commission find as many ways as possible to support the continued production of news programming in Canada.

We believe that the Commission’s proposal to exempt radio stations that are dedicated to news content may provide a mechanism to encourage their launch and continued operation, and should permit them to focus on the provision of news programming, if, as noted with respect to AM stations, under question 4 above, their exemption is subject only to the most minimal conditions (i.e. Canadian ownership, technical certification by the Department, public alerting, and adherence to standard industry self-regulatory codes).

In addition, the CAB recommends that the current prohibitions on primarily news/talk stations operating on FM should be removed. We see no public policy rationale for prohibiting or limiting the ability of private radio broadcasters to operate news talk radio stations on FM, especially when the CBC is permitted to operate spoken word stations on FM. Further, the Commission should open up the proposed exemption to all news stations, and not just *new* ones. Exempting only new news stations would put incumbent news stations at a competitive disadvantage.

However, the CAB urges the Commission to avoid adding complex definitions to distinguish between different types of news – local, regional, national or international. Doing so would create too much additional administrative burden on stations and on Commission staff. News is news.

(d) Should such stations be required to be owned and operated by qualified Canadian journalistic organizations or other organizations designated by the Commission under paragraphs 27(1)(b) and (c) of the *Online News Act*?

We question the use of QCJO designation as a criterion as we understand that it is primarily used for identifying news providers that are eligible for the Canadian Journalism Tax Credit, which is presently explicitly NOT available to broadcasters.

Instead, the news exemption should apply to any radio station that broadcasts a minimum percentage of news programming or spends a certain minimum on news programming.

(e) What local programming threshold would be appropriate?

As noted above, the CAB recommends against adding specific requirements to provide “local” programming. This would entail new definitions and increased burden for radio stations and the Commission to track. As noted above, news is news.

(f) What percentage of the broadcast week should be devoted to content subcategory 11: News to obtain an exemption?

The CAB recommends that exempt news stations be required to devote a minimum of 50% of the broadcast week to subcategory 11 (news). The obligation should be with respect to news, and not distinguish between local, regional, national or international news, as attempting to do so would result in additional burden for radio stations and Commission staff.

(g) Should this type of exemption be offered to full-power stations?

Yes, provided the station devotes at least 50% of the broadcast week to news.

Q11. For stations that could be exempt, the Commission is considering imposing a requirement for them to keep their audio recordings, music lists and program logs. Please comment on this proposal.

In the CAB’s view, the Commission must adopt a balanced approach to exemptions. If exemptions are granted more broadly, such that a greater number of exempt services may launch that will be directly competitive with licensed (commercial) radio stations, then their obligations, including reporting requirements, should be commensurate with the obligations of licensed undertakings. On the other hand, if exemptions remain relatively constrained – for example, only being permitted in markets where no commercial station operates (which is what the CAB recommends) – the Commission should limit the obligations it imposes on exempt undertakings, and further facilitate their launch and operation.

As noted above, the provision of music lists and program logs and the related performance evaluation process can present a significant administrative burden for radio stations. To the extent that the Commission’s objective is to minimize burden for radio stations, and for exempt stations in particular (assuming that exemptions are not too expansive), we would suggest that exempt stations only be subject to minimal obligations, including only filing reports with the Commission upon specific request.

However, if exempt stations are permitted to compete directly with commercial stations, then the current requirements that apply to exempt stations should continue to apply. Further, once an exempt station achieves revenues at the threshold that applies with respect to CCD contributions, it should either be required to obtain a licence or at least meet conditions similar to the conditions applied to licensed stations.

Q12. For stations that could be exempt, the Commission is considering imposing a requirement to register with the Commission, similar to the registration requirement currently imposed on low-power tourist information stations. Please comment on this proposal.

We agree that all exempt stations should be required to provide simple registration information to the Commission, which should be posted on the Commission's website, and include basic information about the station, including market, language, frequency, transmitter power (for AM) / maximum effective radiated power (for FM), launch date and contact information. The Commission should also require exempt undertakings to update their information within 30 days of any change.

We also believe that, prior to launching (if the Commission opens exemptions to stations in markets which are served by licensed radio stations, which the CAB does NOT recommend), exempt stations should be required to provide this information to all radio stations licensed to serve the market, to provide an opportunity for those stations to comment on whether the station should be permitted to launch under an exemption order or not.

Q13. For stations that could be exempt, the Commission is considering imposing minimal requirements relating to the broadcast of local programming, Canadian content and French-language vocal music, if applicable, and relating to the filing of simplified annual returns. Please comment on this proposal.

See answer to question 11; similar logic applies with respect to the application of regulatory requirements to exempt services. Such obligations should only apply where an exempt station competes with a commercial station, and once they have reached the revenue threshold.

Q14. In cases where the Commission determines that a station is exempt, the Commission is considering extending the exemption to all SCMO audio programming services associated with the station, regardless of content. Please comment on this proposal or on other matters related to the Commission's SCMO service framework.

All of same cautionary messages apply with respect to the SCMO feeds of radio stations, particularly where an SCMO provides ethnic programming and overlaps an area already served by an authorized over-the-air ethnic station.

Building on our comments above, where a station intends to broadcast audio programming on an SCMO service, it should register that service with the CRTC and notify radio stations licensed to serve the same market to enable impacted radio stations to comment on whether the service should be permitted to launch under an exemption order or not.

VIII. Streamlining licensing processes

Q15. What changes could be made to facilitate the process leading to the launch of developmental stations?

(a) Should this class of stations be eligible for a renewal after five years, with complete requirements?

(b) In addition to campus and community stations, should the proposed changes to developmental stations apply to low-power commercial stations?

(c) In your view, if a simplified process existed for development stations, would more applicants use it?

(d) Could developmental stations allow underrepresented groups in the industry to access ownership of radio undertakings?

The CAB believes that the Commission's proposed approach to developmental stations should improve the ability of new entrants to launch campus and community radio stations, and potentially even commercial radio stations. That said, the Commission must be conscious of the potential impact on licensed radio stations, as new developmental stations will compete for listeners and talent and could have an impact on advertising revenue.

Therefore, if a developmental station reaches the advertising revenue threshold in any broadcast year (ending 31 August), it must apply for a full (non-probationary) licence by the end of the calendar year and become subject to the standard obligations that apply to its licence class.

We support the streamlined licensing model outlined by the Commission.

Q16. What specific barriers do equity-deserving groups and individuals face when applying for radio broadcasting licences or seeking permission to start broadcasting? How can these barriers be effectively addressed while allowing the Commission to fulfil its mandate to effectively regulate and supervise the broadcasting system?

Q17. How could the Commission streamline the licensing process to make it easier for equity-deserving groups and individuals to participate in the broadcasting industry?

Q18. What specific measures should be implemented in order to ensure that the diversity of Canadian society is well reflected in the ownership of radio undertakings?

Q19. What data should the Commission collect in order to evaluate whether the modernized broadcasting framework contributes to reducing obstacles for equity-deserving groups, including obstacles to their ability to obtain licences or authorizations?

(h) How could this data be used to make significant improvements?

(i) How can the Commission ensure that the voices and experiences of equity-deserving groups are reflected adequately in the data collection?

The CAB has no particular insight to provide with respect to these questions at this time.

Q20. What additional flexibilities could be granted to AM radio stations?

As suggested in response to question 4, the CAB believes the Commission should fully exempt all AM radio stations, subject only to minimal requirements, i.e. Canadian ownership, technical certification by the Department, public alerting, and adherence to standard industry self-regulatory codes. This should permit AM stations to focus on serving their communities and hopefully encourage more to stay in operation for longer.

Further, given that much of the AM transmission infrastructure is old, the time will come when this equipment needs to be replaced, and broadcasters will need to evaluate if the reach of a 50KW AM station is worth the cost. For stations wishing to reduce coverage, these changes should be coordinated with ISED and stations should only be required to inform the Commission rather than file any application. Failing a simple notification requirement, such applications should be processed administratively.

Q21. Should the Commission consider a simplified process for low-power stations that wish to upgrade to full power, similar to a Part 1 process for a licence amendment, rather than an application for a new station?

(a) In the affirmative, how do you see this type of process unfolding?

(b) In the negative, please explain why.

As noted in the first part of our submission, the CAB's radio members have serious concerns about the timeliness of Commission proceedings, and especially with the long delays associated with the issuance of new licenses via public hearings. Therefore, we support any mechanisms the Commission can adopt to streamline licensing processes.

Therefore, it seems reasonable to suggest that that low power stations that wish to upgrade to full power should be able to propose such an amendment via a process similar to a Part 1 process. However, there must be mechanisms in place to address frequency scarcity. Where there is frequency scarcity, the Commission must permit other parties to identify their interest in serving the market and must examine the capacity of the market to absorb a new full-power station. Further, any such Part-1-like process must include service on affected parties so that radio stations that may be impacted by a low-to-full power switch have an opportunity to comment.

Q22. How should the Commission collect ownership data on radio stations to determine which entities are owned or controlled by equity-deserving groups, taking into account self-reporting and data confidentiality? What about entities owned and controlled by more than one individual, only some of whom belong to an equity-deserving group?

In the interests of limiting administrative burden, the CAB recommends that the Commission no longer require the filing of Cultural Diversity reports, and that it instead seek data on the representation of equity-deserving groups through annual returns, on a confidential and self-reporting basis. Further, the Commission must recognize that many broadcasters (those with greater than 100 employees) already submit detailed employment equity information with the federal government.

Q23. What other measures or amendments should the Commission consider in order to alleviate the administrative burden on radio stations? What other measures could be implemented to ensure that regulatory changes lead to significant changes for equity-deserving groups?

The CAB has made several proposals for alleviating the administrative burden of commercial radio stations in the first part of this submission. We believe the Commission should:

- adopt a graduated approach to compliance monitoring, focusing on egregious or repeated non-compliance rather than unintentional non-compliance and taking a higher level view rather than focussing on granular details that do not support the objectives of the Act;
- modernize its data collection system, consolidate annual report forms, and delete legacy reporting requirements, focusing only on those reports that are actually important to the supervision of the broadcasting system and are actually used by the Commission;
- accept CCD payments “as reported” for any event that happened one year prior to any Commission evaluation and permit discretionary CCD funding to be directed to local news;
- set up and maintain the promised Canadian content database, and no longer call upon individual radio stations to confirm the “Canadian-ness” of musical selections, particularly those that have been previously accepted as Canadian;
- lift the moratorium and review internal procedures to ensure that applications are published expeditiously and that decisions can be issued more quickly;
- increase ownership limits and no longer require prior approval of LSAs or of LMAs (up to the CAB’s proposed ownership limits).

Q24. What are the obstacles to retransmitting a station’s programming over the Internet?

We are not aware of any significant obstacles to retransmitting a station’s programming over the Internet, other than acquiring basic technology and incurring the associated costs. That said, there can be music and content licensing issues that may prevent a stream from being broadcast outside of Canada.

IX. Non-compliance measures

Q25. Are any of the non-compliance measures currently used by the Commission efficient or inefficient? If yes, what are these measures, and why are they efficient or inefficient?

As noted in the first part of our submission, our radio members are very concerned about the granularity of the Commission’s current approach to performance evaluation. Our members feel that the Commission’s going-in assumption is that radio stations are trying to skirt the rules.

Generally speaking, radio stations work hard to respect the Commission's rules and operate in the best of good faith. In most circumstances, any non-compliance is inadvertent, or the result of overly zealous digging into details that are not important to the achievement of the objectives of the Act.

Commission staff must adopt a more nuanced and high-level approach to monitoring compliance and focus only on blatant and purposeful non-compliance rather than inadvertent cases – mistakes are NOT non-compliance.

The CAB recommends a graduated approach to compliance monitoring:

- Where stations have a positive history of compliance, they should be exempt from review for a period of time (a monitoring “holiday”) – for example, three years.
- Where non-compliance is minor or unique, this should simply be brought to the attention of the radio station, with no further action required.
- If the non-compliance is more important or repeated, the Commission can invite the station to comment on the apparent non-compliance and the steps taken to address it via a simplified return process (i.e. not long list of detailed questions).
- Where there is recurrent non-compliance or significant non-compliance, a more thorough analysis is warranted, and the mechanisms identified by the Commission applied.

Q26. Should changes be made to the way radio station operators and the Commission address complaints and comments?

The CAB recommends a more nuanced and graduated approach to compliance monitoring as set out in response to question 25.

Q27. The Commission proposes that if the owner of a commercial station has serious or repeated non-compliance, an AMP would be imposed pursuant to criteria set out in subsection 34.5(2) of the *Broadcasting Act*. For example, the penalty could increase based on the number of instances of non-compliance and their severity. Please comment on this proposal.

The CAB agrees that in the case of egregious and repeated non-compliance, the CRTC may impose an AMP in accordance with the provisions of 5(2) of the Act but only after an appropriate process (notification, opportunity to respond, etc.) has been followed and the radio station has had an opportunity to be heard.

Q28. The Commission considers that the payment of over-and-above CCD contributions is an effective measure to compensate for the harm caused to the broadcasting system stemming from a shortfall in CCD contributions or non-compliance relating to programming. Please comment on the use of CCD contributions for other types of non-compliance.

Small shortfalls (including shortfalls caused by circumstances outside of the control of the radio station – e.g. failure to cash a cheque on time), or shortfalls caused by the Commission refusing contributions after the fact or otherwise adjusting contributions levels down for lack of paperwork, should not result in compliance measures, and definitely not in AMPs or “over- and above” CCD contributions.

As noted above, in such cases, the Commission should report the concern to the radio station, with no further action required, unless the problems are recurrent, in which case, the station should be invited to comment on the steps it will take to correct any problems.

The mechanisms identified in the Commission's question should only be used in cases of egregious and deliberate non-compliance, and only following a short process that permits a radio station to explain any apparent non-compliance and propose restitution.

Q29. What additional measures or incentives could the Commission use or develop to ensure that licensees respect their obligations and conditions of service?

As discussed in response to Question 25, the CAB recommends that the Commission adopt a graduated approach to compliance monitoring. As an incentive to ensure compliance, the Commission should 'reward' good performers with a performance evaluation holiday, say, three years.

Q30. How can the Commission ensure that the voices and experiences of equity-deserving groups are adequately reflected in the evaluation process? Are there industry initiatives upon which the Commission could build a framework in this regard?

The CAB has no comments on this at this time.

Q31. What flexibility measures could help operators and licensees from equity-deserving groups achieve compliance, and what barriers would these measures address or mitigate?

A higher level approach and graduated compliance monitoring will help all radio stations, including those operated by equity-deserving groups.

Q32. What mechanisms do undertakings use to comply with the Commission's requirements, and what improvements could the Commission make to facilitate reporting?

As noted throughout this submission, the CAB believes that the Commission should limit reporting requirements to only those strictly necessary to its supervision of the broadcasting system. Wherever possible, the CRTC should favour the use of the annual return process to gather information. However, the annual return forms must be updated, modernized and consolidated to remove redundancies and simplify reporting.

That said, in updating its annual reporting forms, the Commission must be cognizant that changes to the forms can result in additional burden for radio stations, impacting, among other things, the software they use to complete those forms. Accordingly, any changes must be brought to the attention of radio stations well before the reporting deadline so that they may identify any challenges to the Commission or prepare themselves accordingly.

X. Licence renewal processes

Q33. The Commission proposes a simplified licence renewal process, similar to that used in Broadcasting Notice of Consultation [2022-151](#), with specific follow-ups for radio stations that are in apparent non-compliance. Please comment on this new proposed approach.

The CAB supports the extension of the simplified renewal process – our members say that those forms are straightforward and a welcome addition to the Commission’s processes.

Q34. If the Commission renewed licences by ownership group rather than by station, what would the advantages and disadvantages be for licensees? Could this approach simplify the licence renewal process?

Overall, we believe that a group approach to renewals could be beneficial and hopefully result in reduced paperwork and administrative burden.

That said, we do NOT support a group-based approach to CCD contributions as identified by the Commission in the Policy. We do not believe a group-based CCD requirement is necessary or appropriate, and could have unintended consequences (for example, it may have an impact on tariff payments with copyright collectives). If the Commission nevertheless moves forward with the application of CCD on a group basis, individual stations earning less than a threshold amount (currently set at \$1.25 million, although this level should be adjusted) should continue to be exempted from any CCD contribution requirements.

Q35. If the Commission renewed licences by ownership group, and some stations of the same group were in non-compliance, how should the Commission apply non-compliance measures?

Given that compliance need no longer be tied to the licence, and the Commission’s stated intent to no longer use short-term renewals as a compliance tool, we see no particular disconnect between group renewals and possible non-compliance by individual stations, particularly where any such non-compliance is minor or unintended. Where non-compliance is more serious or repeated, the individual station could be subjected to the non-compliance measures identified by the Commission at paragraph 79 of the notice (with the exception of short-term licence renewals).

Q36. What would be the advantages and disadvantages for licensees if the Commission were to standardize licence renewal dates by type of station rather than by individual station, regardless of the effective date for the licence? Could this approach simplify the licence renewal process?

As stated in response to Question 1, the CAB supports indefinite licence terms, unless or until a station demonstrates that it should not or cannot properly operate in compliance with its obligations.

Summary and conclusion

40. Despite ostensibly recognizing the challenges faced by the Canadian radio industry and identifying as an objective the establishment of a “*flexible regulatory framework that enables both English-and French-language radio to remain competitive with digital audio services,*” the Commission only made minor tweaks to its policy frameworks in the 2022 *Revised Commercial Radio Policy*. Specifically, it made small changes to the common ownership policy, the application of MAPL, and the Hits policy. In fact, the Commission introduced new obligations – expectations and reporting requirements with respect to emerging and Indigenous artists – and proposed reduced flexibility in future as a result of proposed changes to Canadian content development (CCD) obligations and the eventual elimination of montages. Even the proposed changes to MAPL (the point system for identifying songs as Canadian) could actually make it more difficult to identify songs as Canadian.
41. That decision and other signals from the Commission and from Commission staff demonstrate a lack of understanding with respect to the existential game-changer of online streaming and the very real impact of massive competition for audiences and advertising from online media. The Commission acknowledges the challenges faced by radio stations today but has failed to make consequential changes to its policy frameworks or to reduce regulatory and administrative burden, instead, doubling down on broadcasters as the best way to achieve cultural goals.
42. And perhaps of more concern, compliance checks and performance evaluations have become more arduous than ever before, including finding songs previously accepted as Canadian as no longer Canadian.
43. In a time when radio stations are shutting down and cutting back, laying off staff, deleting live shows, and regionalizing content to make ends meet because of the very real competitive challenges that they face, something has to give.
44. The ability of Canadian broadcasters to continue to meet cultural goals and make meaningful ongoing contributions to their communities and to the many public policy objectives set out in the Act rests on their financial health and viability. To support its cultural objectives, the Commission needs to reprioritize the success of Canadian owned and controlled private broadcasters as the *foundation* of our domestic media marketplace and to create the conditions for commercial radio’s sustainability.
45. In this submission, we have made a number of suggestions to support these objectives. In particular, we recommend that the Commission:
 - adopt a graduated approach to compliance monitoring, focusing on egregious or repeated non-compliance rather than unintentional non-compliance and taking a higher level view rather than focussing on granular details that do not support the objectives of the Act;

- modernize its data collection system, consolidate annual report forms, and delete legacy reporting requirements, focusing only on those reports that are truly important to the supervision of the broadcasting system and are actually used by the Commission;
- accept CCD payments “as reported” for any event that happened one year prior to any Commission evaluation and permit discretionary CCD funding to be directed to local news;
- set up and maintain the promised Canadian content database, and no longer call upon individual radio stations to confirm the “Canadian-ness” of musical selections, particularly those that have been previously accepted as Canadian;
- lift the moratorium and review internal procedures to ensure that applications are published expeditiously and that decisions can be issued more quickly;
- increase the ownership limits and no longer require prior approval of LSAs or of LMAs up to the limits proposed by the CAB.

46. Finally, while we support the Commission’s objective to increase ease of entry into the radio sector, particularly for underrepresented groups, we recommend that the Commission approach expanded exemptions in a way that does not harm existing licensees and that respects their important contributions to their local communities and the objectives of the *Broadcasting Act*. More specifically, the CAB recommends that:

- Exempt community, developmental and low-power stations only be permitted in markets where no other station (other than a CBC station) is licensed to operate in the same language,
- exemptions not be granted where there is frequency scarcity,
- once an exempt station reaches a certain revenue level, it must seek a licence and be subject to similar obligations as commercial radio stations,
- any new market entry be subject to rigorous market assessments that seriously consider the true capacity of a market to sustain another station, and
- the entry of new players be carefully scrutinized to ensure minimal impact on licensed broadcasting services.

47. All of which is respectfully submitted.

Yours sincerely,



Kevin Desjardins
President | Canadian Association of Broadcasters

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