



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

25 October, 2005

via e-mail

Mr. Charles Dalfen
Chairman
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

**RE: Request for Deferral of the Commercial Radio Policy Review
Proceeding**

Dear Mr. Dalfen:

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view television services.
2. A month ago we wrote to you to request that the Commission defer the upcoming public proceeding to review the commercial radio policy for a period of between 24 and 36 months. CAB's rationale in support of this request for deferral was threefold: 1) it would allow the industry and the Commission to properly assess the impact of new audio delivery technologies, including subscription radio, on the commercial radio sector; 2) a delay would provide a cooling off period following the subscription radio decisions, appeals, amendments etc., which is needed to ensure constructive discussions on the needs of both the radio and music industries; and 3) it would allow the radio industry an opportunity to assess developments in digital radio, in order to devise and propose a coherent and cohesive plan to ensure a successful digital transition for commercial radio.
3. The CAB wishes to bring to the Commission's attention that since the original request was sent, new developments have occurred that profoundly change the commercial radio dynamic and convince the

CAB even more that a deferral of the radio review is not only timely, but essential. These new developments are the Copyright Board decision on the SOCAN-NRCC commercial radio tariffs and, at the same time, the new announcements with respect to wireless internet or broadband radio such as WiMax or Wi-Fi and I-Pods which are becoming very rapidly a serious substitution threat for broadcast radio.

Copyright Board Decision on SOCAN-NRCC

4. On Friday, October 14th the Copyright Board released its long awaited decision on the SOCAN and NRCC request for a rate increase. In its decision the Board made very significant increases in the tariff levels that radio stations have to pay to SOCAN and NRCC for the use of their music. By the Copyright Board's own accounting, this will represent a 30% increase in the amount of fees that private radio stations will have to pay. Some increases are as high as 46%.
5. To give the Commission an idea of the magnitude of this rate increase, the additional amount in copyright payment for the year 2003 alone would have shaved off a full percentage point of private radio's PBIT margin for that year. In fact, without increasing the percentage levied, the total amount paid by private radio in copyright fees between 1995 and 2003 has grown by 132 %. Over the same period, with the new increases in the levy, that amount would have leapt to 185 %. By comparison, over the same eight year period, private radio revenues as a total sector have gone up by only 53 % (on a per station basis, revenue growth was even smaller at 40 %), while total expenses excluding copyright payments have grown by a mere 29 % (5 times less than copyright payments).
6. In CAB's view, these massive and historic rate increases are entirely unjustified, and represent a tax on efficiency, innovation and good programming. This is not rhetoric, the decision actually identifies a component of the increase that is not related to the value of music but is a simple tax on efficiency. Furthermore, because the above-mentioned rate increases are retroactive to 2003 it will put additional financial pressure on the commercial radio sector at a time where it will need to be even more creative and adjust its business model to face new competition from both regulated and unregulated media platforms.
7. The CAB is currently assessing its options with respect to the Copyright Board rates increase decision. It is clear that this decision profoundly changes private radio's economic and programming

dynamics and will force radio broadcasters to make tough decisions in the very near future. In this context, it has become even more certain that the current environment is not conducive to discussing win-win solutions through which radio's contribution may be made more effective in supporting the artists who make the music.

The increasing threat of Broadband Radio Technology

8. We mentioned in our September 20th letter that commercial radio is competing with a plethora of other new content platforms for delivering music, including internet-based radio, portable personal music devices such as MP3 players and mobile phones, to name but a few. Since the filing of this letter, just a month ago, not a week has gone by without an announcement for a new business or technological proposal aimed at providing audio and music to the population at large.
9. As an example, the recent announcement by Philadelphia of its plan to roll out Wi-Fi technology everywhere on its territory is an indication of the rapidly changing competitive landscape for radio and what to expect in the very near future. This technology will provide the consumer with wireless internet connection. Therefore, Wi-Fi will enable the delivery to the consumer of streaming audio signals over the internet to laptops as well as small devices such as cellular phones or other hand-held receivers.
10. And it does not stop there. Indeed, Google has also announced plans to build out a Wi-Fi system in San Francisco and indicated that it would support the maintenance of this system as well as pay for its infrastructure by offering the on-line service to advertisers. This approach of offering a wireless coverage of a local area supported by advertising basically replicates radio's business model. Further, the CAB has been informed that there are discussions now underway between automobile manufacturers and equipment providers that would enable internet reception in cars based on the proposed Wi-Fi system.
11. At the same time the functionality of the already phenomenally successful iPod has been extended to video, permitting the ready download of music videos, information programs and even topical television series. The arrival of these video media in what has hitherto been radio's space – portability – will have significant consequences.

12. Given the swelling penetration rates and consumer demand for iPod accessories, it is not surprising that an interface device between iPod and automobile sound systems has already been made available to the consumer in every store that sells iPod and MP3 players. Some analysts are even predicting that car manufacturers are likely to offer a transparent iPod interface in the car entertainment system, with a programming guide, in the very near future. If this scenario becomes real, then in-car iPods are bound to siphon listenership from radio.
13. Meanwhile, it is becoming apparent that consumers are increasingly shifting to home computers as the backbone for their home stereos. Broadband brings near-CD-quality audio streaming opportunities from on-line radio stations providers. Given that almost 50 % of Canadian households now subscribe to High speed internet (broadband) and that computers generally are not built with radio tuners, broadband radio is likely to rapidly pose a difficult challenge to over-the-air commercial radio at home market.
14. Furthermore, it should be noted that Broadband radio is also threatening private radio listenership in the workplace as some FM station signals, let alone AM signals, cannot penetrate office towers.
15. All of these developments indicate that the marketplace for radio is changing faster than one could have ever imagined. At the same time the situation is so much in flux that it has become increasingly difficult to provide answers to the challenges facing the commercial radio industry.
16. It may be argued that change is a constant, and that no time will be free of changes, and provide a stable environment for a discussion, so why not have the review anyway. The CAB believes however, that the current environment is extraordinary, with start-up companies and technologies arriving in a speed reminiscent of the short-lived “tech boom” of several years ago – a boom that was followed by a period of consolidation and retrenchment.
17. Moreover, even if no period is completely stable, and discussion is possible at any time, a policy review is not simply a discussion but a process in which commitments for the future are made on behalf of an entire industry. Radio’s commitments are already significant. There is no reason to believe that they are currently inadequate, in terms of overall Canadian content or talent contributions, to meet the needs of the music industry.

18. In such a context, in which radio broadcasters are frankly unable to assess the future clearly enough to propose new commitments, the CAB believes that it will be very difficult to make good policy, policy that will stand the test of time. We therefore reiterate that delaying the commercial radio policy review process has become a necessity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn O'Farrell', written in a cursive style.

Glenn O'Farrell
President and CEO

cc: Diane Rhéaume – Secretary General
Michel Arpin – Vice-Chairperson, Broadcasting
Richard French – Vice-Chairperson, Telecommunications
Barbara Cram – Commissioner
Rita Cugini – Commissioner
Elizabeth A. Duncan – Commissioner
James Stuart Langford – Commissioner
Andrée Noël – Commissioner
Joan Pennefather – Commissioner
Helen Ray del Val – Commissioner
Ronald D. Williams – Commissioner
Jacques Langlois – Director General, Broadcasting Policy
Marc O'Sullivan – Executive Director, Broadcasting
Nick Ketchum – Director, English Language Radio-Television Policy
Réjean Myre – Director, French Language Radio and Television Policy