



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

February 14, 2008

Via Epass

Mr. Robert A. Morin
Secretary General, Corporate and Operations
CRTC
Ottawa, Ontario
K1A 0N2

Dear Mr. Morin:

Re: Broadcasting Public Notice 2008-6, Call for comments on the public disclosure of aggregated financial data for large ownership groups of over-the-air television and radio broadcasters

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 radio and television stations, networks, specialty, pay and pay-per-view services. The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country. The CAB is pleased to submit these comments in response to the above-noted Public Notice ("the Notice").
2. As outlined in our Reply comments regarding Broadcasting Public Notice CRTC 2007-5 ("Diversity of Voices Proceeding"), the CAB is generally not opposed to the idea of having more information, or more detailed information, released annually to help the Commission and stakeholders reach a better understanding of the evolution of the financial situation of the broadcasting industry, including the radio and conventional television sectors.
3. However, the CAB does not see any value in the public disclosure of financial information simply for the sake of making more information available. Absent a clearly demonstrated need and a clearly articulated purpose for requiring financial disclosure, the Commission should not force private over-the-air ("OTA") broadcasters to reveal data that, for

legitimate reasons, it has historically treated as confidential. In this respect, the CAB submits the Commission has not demonstrated how the public interest would be better served by the current proposal to require the public disclosure of aggregated financial data of OTA television and radio undertakings operated by large ownership groups. The CAB submits that the current public disclosure rules applicable to private OTA broadcasters provide more than enough information of value to parties interested in submitting comments in various hearings and proceedings, and that there are no demonstrated incremental benefits associated with providing them additional information, as proposed, which would outweigh the potential harm to private OTA broadcasters of revealing this information to their competitors.

4. The CAB also submits that the CRTC should not require more detailed financial disclosure from licensees than what securities regulators require public companies to disclose to existing and potential investors, which would be the case if the Commission's current proposals are adopted. Simply put, public disclosure rules which security regulators have deemed necessary to protect the financial interests of investors should be more than sufficient to meet the needs of parties interested in CRTC proceedings.
5. The CAB is particularly concerned with the Commission's proposal to require disclosure of Canadian programming expenditure data *subdivided by program category* for OTA television. The disclosure of such detailed financial information is not warranted and could very well be harmful to a large ownership group's OTA television operations.
6. As identified in the Notice, the Commission's rationale for granting confidentiality to financial information of OTA stations is to avoid prejudicing an undertaking's ability to compete and contribute positively to the broadcasting system. The extent to which a large ownership group expends funds on one category of OTA television programming relative to what it expends on another is a strategic matter that can be of great interest to its competitors. Such information can, for example, provide competitive insight into the direction a large ownership group is taking, or is planning to take, regarding its TV programming focus or emphasis. This information can then be used by competitors to alter their own programming or marketing strategies in response or even in advance. Accordingly, the Commission should not require large ownership groups to disclose such detailed and competitively sensitive information.
7. The CAB also submits that the rules for the public disclosure of financial information for both pay and specialty services and for the CBC's OTA stations should mirror the approach adopted for private OTA broadcasters. In the CAB's view, there exists no justification for the Commission to continue to impose more public disclosure obligations on private sector pay and specialty services

than it does for private OTA broadcasters, while requiring *less* public disclosure from the *public* broadcaster's OTA operations. Instead, the Commission should apply a consistent and equitable approach to all sectors of the industry.

8. The Commission's rationale for requiring that the financial information for individual pay and specialty services be made available publicly has been that many such services enjoy regulatory protection from direct competition with respect to genre, access privileges with respect to carriage, access to the CRTC's dispute resolution process and, in many cases, access to the CRTC-set wholesale rates when distributed as part of the basic service (see PN 2006-19).
9. The CAB notes, however, that specialty service rates are no longer regulated and that few such services continue to retain any guaranteed access to the basic service. Moreover, all of the Commission's assumptions as previously set out in PN 2006-19 are subject to reconsideration in the context of the current review of the regulatory frameworks for broadcasting distribution undertakings ("BDUs") and for specialty and pay services (NPH CRTC 2007-10). The outcome of that proceeding may be that many if not all of the Commission's existing reasons for requiring more public disclosure of pay and specialty service financial information may no longer hold.
10. That being said, the CAB firmly believes that, regardless of the outcome of the 2007-10 proceeding, all sectors of the industry should be treated in a consistent and equitable manner respecting the disclosure of financial information. As the Commission itself stated in PN 2006-19:

The Commission generally considers it in the public interest that the principle of equitable treatment be applied where the entities under consideration are subject to the same operating conditions.

11. The CAB submits that the broadcasting system has evolved since PN 2006-19 such that all sectors of the industry are now subject to substantially similar, if not the same, operating conditions. This means that the rules respecting the disclosure to the public of the financial information of pay and specialty services should mirror those applicable to private OTA broadcasters.
12. The same holds true for BDUs.
13. And the same holds true for the CBC's OTA stations. In this respect, the CAB reiterates the recommendation it made in its March 23, 2007 submission to the Standing Committee on Canadian Heritage with respect to the Committee's investigation on the role for a public broadcaster in the 21st century:

CBC/Radio-Canada should be required to publicly report detailed financial information relating to its owned and operated television networks, individual radio and specialty services and digital media platforms, rather than just the broadly aggregated information that it currently places on the public file.

14. As the Commission's recent proceeding to review the operation of the Canadian Television Fund (NPH 2007-15) demonstrated, there is increased interest from both the public and from private industry in the transparency of financial information associated with CRTC regulatory obligations and *Broadcasting Act* objectives. This is particularly applicable where Canadians' tax dollars are being invested in these respects, as is the case with the CBC.
15. To the extent the public disclosure of financial data for private OTA broadcasters serves the public interest by being "valuable for parties interested in submitting comments in a number of hearings and proceedings", this rationale extends equally – if not more so – to the public broadcaster.
16. The Commission states in the Notice that large OTA ownership groups "have a privileged position in the Canadian broadcasting system." The CAB submits that no other undertaking within the broadcasting system has a more privileged position than the CBC. Accordingly, its disclosure requirements should match the most extensive and most public of the requirements imposed on other sectors of the system.
17. Lastly, the CAB submits that it is both in the public interest and equitable to competitors that any financial data which must be disclosed by the various sectors within the broadcasting system is made available to the public at the same time. Otherwise, it is very difficult for interested parties to effectively analyze the data and make meaningful comparisons when, for example, submitting comments in hearings and proceedings.
18. The CAB appreciates the opportunity to provide its comments to the Commission on this matter.

Sincerely,

Original signed by:

Jay Thomson
Vice-President, Regulatory and Policy

*** End of Document ***