



Canadian  
Association of  
Broadcasters

L'Association  
canadienne des  
radiodiffuseurs

February 29, 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  
Reply Comments**

1. The Canadian Association of Broadcasters ("CAB") is pleased to provide these Reply comments pursuant to the procedures outlined in the above-noted Public Notice ("the Notice").
2. In our initial comments, filed on February 14, 2008, the CAB submitted that the current public disclosure rules applicable to the financial data of private over-the-air ("OTA") radio and TV broadcasters provide interested parties with sufficient information to fully participate in various CRTC hearings and proceedings.
3. We further submitted that there are no demonstrated incremental benefits associated with providing such parties additional information, as the Commission has proposed, which would outweigh the potential harm to private OTA broadcasters of revealing this information to their competitors. The Commission should not reveal the financial data of OTA radio and TV broadcasters which, for important and substantive competitive reasons, it has historically treated as confidential, absent a clearly demonstrated need and clearly articulated purpose for doing so.
4. In CAB's view, none of the interveners in this proceeding has offered convincing arguments which would justify introducing additional disclosure rules for OTA broadcasters' financial data.

5. The interventions from the various organizations representing rights owners, creators and media workers generally advocated disclosure of even more information than the CRTC has proposed in the Notice. It seems apparent that their purpose for requesting this greater level of disclosure is to allow them to substitute themselves for the Commission and, more significantly, to give them information they believe they could use to second guess the Commission's exclusive jurisdiction as the regulator and supervisor of the Canadian broadcasting system. The Commission has all the financial data it needs to exercise its statutory mandate to regulate its licensees.
6. In serving their own particular interests, these organizations clearly have little concern for the competitive pressures facing Canada's OTA radio and TV broadcasters and for the widely recognized need for businesses to keep commercially sensitive and strategic financial information out of the hands of their competitors and product/service suppliers. This is the reality in which licensees operate and increased public disclosure of their sensitive financial information could cause them irreparable harm. The CAB believes the public interest is best served by ensuring that, in promoting public participation in Commission proceedings, the Commission does not at the same time undermine the ability of licensees to compete in the marketplace in a manner that also preserves their ability to meet their various regulatory obligations.
7. In this respect, the CAB wishes to highlight the fact that OTA radio and TV competition is not just between CRTC licensees, but is increasingly between licensees and unregulated entities offering services on various media platforms: witness the phenomenal growth of Internet advertising in comparison to the advertising environment for conventional broadcasters. Thus it is simply wrong to suggest that increased financial disclosure would cause no harm to OTA broadcasters because all parties would be affected equally. In addition to disrupting the existing competitive marketplace of licensed OTA broadcasters, increased disclosure would put those broadcasters at a distinct disadvantage with respect to their numerous unregulated competitors.
8. The CAB submits that the Commission's current financial disclosure policy for OTA broadcasters has successfully balanced the competitive needs of those broadcasters with the needs of the public and third-party interest groups. Moreover, the CAB submits that the CRTC's current disclosure policy for OTA broadcasters is fully consistent with the Commission's four guiding principles of transparency, fairness, predictability and timeliness.

9. In this respect, the CAB submits that interveners seeking greater disclosure place undue emphasis on the principle of transparency. First, the CAB notes that the CRTC's Chair has stated that, in being guided by the transparency principle, "we want everyone to see exactly what *we* are doing and why"<sup>1</sup> [emphasis added]. In other words, transparency means the public should be able to see what the CRTC is doing; it does not mean that the public should necessarily be able to see all the sensitive financial details of every CRTC licensee.
10. Second, the interveners which focus on the transparency principle appear to disregard the fairness principle. On this subject, the Chair has stated that "every issue will be handled with well-established and even-handed procedures".<sup>2</sup> In these circumstances, the Commission's well-established and even-handed current procedures have successfully struck a balance between the need of OTA broadcasters to keep their sensitive financial information confidential and the need of stakeholders to have sufficient information to participate in CRTC proceedings. Fairness dictates that disclosure rules will not disadvantage CRTC licensees in the competitive markets in which they operate; the disclosure of financial information should not be a means by which to cause irreparable harm to licensed broadcasters.
11. Third, as regards the principles of predictability and timeliness, the CAB notes that the Commission has historically only provided more detailed financial disclosure at licence renewal time; in this respect, interveners supporting greater disclosure point to the last round of licence renewals for OTA TV broadcasters which occurred in 2001. These interveners, however, use the special circumstances of the 2001 licence renewals to argue that greater disclosure should occur on a regular basis, e.g. annually. The CAB submits that the former does not justify the latter. Consistent with its past practice, the Commission may choose to disclose additional financial data in conjunction with the upcoming OTA licence renewal proceedings; such a special approach for such special circumstances, however, does not in any way create either a precedent or rationale for greater disclosure at other times or on some regular basis.
12. With respect to the CBC, the CAB notes that almost all interveners agreed that the Commission should disclose financial data for the CBC's OTA TV and radio stations to the same extent it discloses the financial data of private OTA stations.

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<sup>1</sup> Konrad von Finckenstein, Chairman, CRTC, Speech, (Notes for an address to the annual convention of the Canadian Association of Broadcasters: 5 November 2007, Ottawa).

<sup>2</sup> *Ibid.*

13. In this regard, the CAB notes that fair and equal disclosure is particularly relevant in Quebec where the CBC television service operates like a private broadcaster in aggressively competing for advertising dollars.
14. The CAB appreciates the opportunity to provide these Reply comments.

Sincerely,

***Original signed by:***

Jay Thomson  
Vice-President, Policy and Regulatory

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