



Canadian Association of Broadcasters  
Association canadienne des radiodiffuseurs

July 10, 2008

*Via Epass*

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

Dear Mr. Morin:

**Re: Broadcasting Public Notice CRTC 2008-44:  
Notice of consultation: Call for comments on the scope of a future proceeding on  
Canadian broadcasting in new media**

1. The Canadian Association of Broadcasters (CAB) - 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 - is pleased to submit these comments in response to the above-noted Public Notice (the Notice).
2. The CAB recognizes that the purpose of the Notice is to seek input on the scope of the issues, as well as the questions associated with those issues, to be discussed in the new media broadcasting public proceeding which the Commission intends to hold sometime in early 2009. In this respect, the CAB acknowledges that the Notice seeks comment on what questions the Commission should be asking and what issues it should be exploring at the future hearing - it is *not* at this time asking that the questions be answered or the issues addressed in any substantive way as that exercise is to be left for written submissions in response to the upcoming Notice of Public Hearing and for oral presentations at the hearing itself.
3. The CAB also acknowledges that, at the time the Notice was issued and on a number of occasions since, the Commission has publicly stated that its intent for the new media broadcasting proceeding is not to regulate the Internet generally or to apply traditional

broadcasting-style regulation<sup>1</sup> to Internet content. Rather, the CAB understands from the Commission's public statements that the intent of the upcoming proceeding is to explore means other than direct regulation of the Internet which the Commission might employ to contribute to the ability of Canadians to take advantage of the opportunities presented by the Internet for the creation, distribution and accessing of high-quality professional Canadian content.

4. That being said, it is clear that, notwithstanding the Commission's efforts to clarify its intent for the upcoming new media proceeding, many Canadians remain concerned about the need for and potential outcome of this proceeding and its impact on the freedoms they currently enjoy as Internet users. This concern is demonstrated, for example, in the numerous postings to the Commission's new media consultation web site, almost all of which argue strongly and at times passionately against the prospect of the government generally, and the Commission specifically, imposing broadcasting-style regulatory limitations or obligations with respect to legal Internet content. Accordingly, the CAB submits that there is an ongoing need for the Commission to ensure that its true intent for this proceeding is communicated clearly to all interested parties so that the process and its ultimate outcome will serve to contribute constructively both to public discourse and to Canada's presence and reflection online.
5. The CAB notes that, in its recently-released Report, the Competition Review Panel recognized that the Internet "is the dominant technology platform for a growing number of information and communications products that are radically changing how people around the world live and work and how businesses operate and generate wealth." The Report highlights that the Internet is bringing new competition into Canadian and global markets, resulting in the creation of new online businesses and the increased opening of global markets. The authors argue that a country's competitiveness depends on governments welcoming, rather than seeking to control, the new freedom and choices brought by the Internet as an agent of change.
6. In 1999, the Commission concluded that, pursuant to the test established in s. 9(4) of the *Broadcasting Act*, the regulation of new media broadcasting undertakings would not contribute in a material manner to the implementation of Canada's broadcasting policy. Accordingly, the Commission exempted such undertakings. Given that Canada jumped out as an early leader in high speed Internet deployment and in online innovation, and in light of the fact that Canadians are at the forefront in developing and delivering new and exciting Internet services, the Commission's decision in 1999 was clearly the right approach to take.

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<sup>1</sup> While the Commission has not in these circumstances defined "traditional broadcasting-style regulation", it has previously referred to obligations relating to the broadcast and distribution of Canadian programs of high quality, to the achievement of diversity and balance, the reflection of local concerns and contributions to the development, and production and acquisition of Canadian programs: see Policy Regarding Use of Exemption Orders, Public Notice CRTC 1996-59. Broadcasting regulations can also impose restrictions, for example, on the distribution of foreign programming services.

7. The CAB supported that approach, and will participate in this current review proceeding to ensure Canadians continue to benefit from the “freedom and choices brought by the Internet as an agent of change”.

**Questions to ask/Issues to address**

8. Subject to the following, the CAB considers that the questions the Commission has proposed in the Notice will provide interested parties with the necessary parameters to frame relevant responses while leaving enough room to address individual or sector-specific matters.
9. Noticeably missing from the Commission’s list of proposed questions, however, is a query about the relationship between new media and linear broadcasting and, in particular, about the impact of recent new media developments on all aspects of the business of television and radio licensees.
10. As identified in paragraph 16 of the Notice, the Commission has always been interested in whether the new media environment would have an impact on radio and television audiences and on the advertising revenues of traditional broadcasters.
11. While CAB submits that the Commission must endeavour to ensure the scope of this proceeding is sufficiently narrow to promote constructive discussion, it is our view that the impact question remains relevant to this enquiry and should therefore be asked.
12. The CAB appreciates this opportunity to comment on the scope and direction of the upcoming new media proceeding and will respond to the Notice of Public Hearing, once issued, and participate in the 2009 hearing.

Sincerely,

*Original signed by*

Jay Thomson  
Vice-President, Regulatory and Policy

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