



Broadcasting Notice of Public Hearing CRTC 2006-1

Ottawa, 13 January 2006

Review of the Commercial Radio Policy

The Commission will hold a public hearing commencing on 15 May 2006 at 9:30 a.m., at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec, to consider the matters addressed in this notice as part of a review of its Commercial Radio Policy.

*The Commission invites written comments on the matters for consideration set out below. The deadline for filing written comments is **Wednesday, 15 March 2006.***

Background

1. On 30 April 1998, the Commission issued Public Notice CRTC 1998-41, *Commercial Radio Policy 1998* (the 1998 Policy), which had three major objectives:
 - (i) To ensure a strong, well-financed radio industry that is better poised to achieve its objectives under the *Broadcasting Act* (the Act) and meet the challenges of the 21st century.
 - (ii) To ensure pride of place for Canadian artists.
 - (iii) To ensure that a French-language presence in radio broadcasting is maintained.
2. In order to ensure the fulfillment of these objectives, the 1998 Policy introduced a number of new regulatory measures, including:
 1. Increased opportunities for ownership consolidation by expanding the number of stations operating in a single market that may be controlled by a single person.
 2. More flexibility to encourage the entrance of new players through revocation of the Radio Market Policy.¹
 3. Greater availability of Canadian popular music selections by increasing the regulatory minimum from 30% to 35%.
 4. Ensuring that Canadian music is played during high listening periods by also requiring a minimum 35% between 6:00 a.m. and 6:00 p.m.

¹ The Radio Market Policy was a test to determine if a market could sustain the entry of a new radio station, based on the profitability of the existing stations in that market.

5. For French-language broadcasters, increasing the regulatory minimum for French-language vocal music from 55% to 65%.
 6. Ensuring that French-language vocal music is played during high listening periods by requiring 55% between 6:00 a.m. and 6:00 p.m.
 7. Supporting cooperative initiatives between the radio and music industries in order to promote Canadian music.
 8. Requiring, in ownership transfers, a minimum public benefit representing 6% of the value of the transaction.
3. The 1998 Policy stated that,
- The Commission intends to review its approach to commercial radio in five years, including its revised policy on common ownership, and its policies designed to ensure exposure for Canadian artists and a distinctive French-language presence.
4. In 2003, the Commission was in the process of launching a review of the 1998 Policy when it received an application for a licence to operate a satellite radio undertaking. The Commission decided that the radio policy review should be postponed until the subscription radio licensing process was complete. That process culminated in the licensing of three subscription radio undertakings on 16 June 2005 (Broadcasting Decisions CRTC 2005-246, 247, and 248), and the recent launch of two satellite subscription radio undertakings.

Introduction

5. Although rapid technological and societal changes have been constants for decades, never have these changes seemed more dramatic than they do now. The seven years since the 1998 Policy came into effect have seen the advent of new digital technologies and methods of distribution that are having a profound effect on the way in which people, particularly young people, obtain and listen to music. This is presenting the radio industry with new opportunities, but also new challenges: in addition to the satellite radio services now available, file-sharing, podcasting, downloading, and audio streaming, all facilitated through the increasing ubiquity of the Internet, offer new and often more flexible alternatives to the traditional practices of purchasing recorded music and listening to radio broadcasting.
6. These new distribution platforms, which provide a wide variety of audio programming, predominately in the English-language, present an added challenge for French-language radio broadcasters, who are charged with the responsibility of supporting the francophone recording industry in Canada, exposing francophones to music that reflects their culture, and contributing to the development of French-language expression.

7. In the meantime, all broadcasters must reflect and meet the needs of an increasingly diverse multicultural, multilingual and multiracial society, particularly in larger metropolitan centres, if they are to remain relevant and viable. Edmonton, Saskatoon, Regina, Winnipeg and Ottawa are home to growing Aboriginal communities and increasing ethnic and racial diversity. Ethnic and racial minorities, taken together now account for at least one-third of the population of Vancouver and Montréal, and these groups now compose more than 50% of the population of Toronto.

The objectives of this review

8. In addition to reviewing the effectiveness of the measures implemented in the 1998 Policy, this process has the objectives set out below.

To develop policies that assist in creating conditions for:

- A. A strong, well-financed commercial radio sector in both official languages capable of contributing to the fulfillment of the policy objectives set out in the Act.
- B. A commercial radio sector that makes effective contributions to Canadian artists through airplay of Canadian music, French-language vocal music, and contributions to Canadian talent development (CTD) that are commensurate with the financial health of the sector.
- C. A commercial radio sector that provides listeners with a greater diversity of musical genres, and airplay for a greater variety of Canadian artists in both official languages.
- D. A commercial radio sector that reflects the multicultural and multiracial nature of Canadian society and the special place of Aboriginal peoples within society.
- E. A commercial radio sector that provides listeners with an appropriate amount of regularly-scheduled, locally produced news and information.
- F. A commercial radio sector capable of making the transition to digital transmission, and of exploiting new and emerging distribution platforms in a manner that furthers the objectives of the Act.

Overview

9. This policy review provides an important opportunity for all interested parties to express their views as to what policy framework will be necessary for commercial radio stations to maintain healthy, successful businesses in the face of growing competition, while meeting the objectives of the Act. In particular, the Commission wishes to discuss appropriate strategic responses to broad challenges such as the following:

- *What is the likely impact of other audio technologies, such as satellite radio, Internet radio, podcasting, file sharing and down-loading, on commercial radio and the music industry?*
 - *How can commercial radio attract younger audiences in light of competing sources of popular music?*
 - *How can French-language broadcasters respond to the demands, particularly of younger audiences, for a greater variety of music?*
 - *How will Canada's changing demographics, particularly the increasingly multi-ethnic and Aboriginal composition, affect the audience and revenue base of commercial radio over the next 5 to 10 years?*
 - *What are the appropriate responses of commercial radio to these changes in order to attract and retain its audience?*
 - *What factors will influence the availability of popular Canadian music, in both English and French, over the next 5 to 10 years? What is commercial radio's role in ensuring a steady supply of such music?*
 - *In a fragmented marketplace, what strategies will result in an appropriate balance between the market and regulation in order to ensure that commercial radio successfully contributes to the objectives of the Act?*
10. Broadcasters, music producers, and other interested parties are requested to place on the record of this proceeding detailed financial information and other related studies, tabulations, statistics, etc. concerning the economic models they envisage as most effectively contributing to the fulfillment of the objectives noted above, and consistent with the objectives of the Act.
 11. In this review, the Commission wishes to examine its existing policies and regulatory mechanisms to determine how they can be most effectively implemented to contribute to the objectives of the Act, as the radio industry continues to move into an era of increased competition from alternative sources of programming.
 12. To provide a context for this discussion, the following sections of this notice describe the mechanisms currently used to achieve the policy objectives set out above, highlight issues and concerns, and pose questions that may be addressed by interested parties in the public process. The questions raised in this notice are not intended to indicate that the Commission is predisposed to a particular policy direction, only to assist interveners in preparing their comments on the various issues. Nor are they meant to preclude discussion of other relevant issues that interested parties may wish to address.

Current regulatory framework

13. The current regulatory framework for radio is based on principles derived from the Act. The principles most relevant to this proceeding may be summarized as follows:

- radio programming should be predominantly Canadian;
- radio should provide listeners with varied and comprehensive programming from a variety of sources including the CBC, commercial stations and not-for-profit stations. The presence of different editorial voices should be encouraged and listeners should have a diversity of programming from which to choose;
- programming should be of high standard and balanced on matters of public concern;
- radio should provide service that is relevant to local communities;
- programming should reflect Canada's linguistic duality;
- programming should reflect Canada's cultural diversity, including the needs and interests of Aboriginal peoples; and
- radio should be readily adaptable to technological change.

14. The Commission also makes its licensing decisions with the goal of ensuring that the introduction of additional radio stations will not unduly affect the ability of existing commercial stations to meet their obligations under the Act, the *Radio Regulations, 1986* (the Regulations) and the commitments made in their licence applications.

Objective A: A strong, well-financed commercial radio sector in both official languages, capable of contributing to the fulfillment of the policy objectives set out in the Act.

15. In the 1998 Policy, the Commission determined that one of the ways to ensure a strong, well-financed radio industry was by allowing station groups to cut high operating costs.

16. Accordingly, the Commission revised its policy on common ownership in a given market by allowing the following:

- in a market with less than eight commercial stations operating in a given language, a person may be permitted to own or control as many as three stations operating in that language, with a maximum of two stations in any one frequency band; and
- in a market having eight or more commercial radio stations in a given language, a person may be permitted to own or control as many as four radio stations (not more than two in the same frequency band).

Radio revenues

17. All Canadian commercial AM and FM radio stations combined experienced an average annual growth in total revenues of 4.5% between the broadcasting years 2000 and 2004. English-language stations accounted for \$998.5 million in total revenue or 81.5% of total radio revenue in 2004.
18. AM stations showed a continued gradual decline in total revenues, dropping from \$315.1 million in 2000 to \$302.4 million in 2004. However, total AM station revenues have rebounded since 2002 after reaching a low point of just over \$297 million.
19. This increase in total revenue by AM stations between 2002 and 2004 is significant given that the number of AM stations declined by 23, or 11%, during this two-year period. Since 2002, total AM revenues have increased by 1.7% while total expenses have declined by 5.1%.
20. FM stations have seen revenues increase from \$710.5 million in 2000 to \$922 million in 2004, an average annual growth rate of 6.7%. The total number of FM stations grew by 102 or 39.7% between 2000 and 2004. Growth in the FM segment of the radio industry between 2000 and 2004 more than offset the contraction in the AM industry segment during this period.

Radio profits

21. Profit before interest and taxes (PBIT) for all Canadian AM and FM stations combined increased from \$167 million (16.3% of total revenues) in 2000 to \$224 million (18.3%) in 2004.
22. PBIT grew at an average annual rate of 8.8% for English-language stations, but declined by 1.3% for French-language stations, between 2000 and 2004. PBIT margins for English-language stations mirrored the growth seen overall in the radio industry. However, the average PBIT margin for French-language stations has gradually declined from 14.8% in 2000 to 11.9% in 2004.
23. The PBIT of all Canadian AM stations rose from a loss of \$15 million in 2000 to \$3.4 million in 2004.
24. FM stations remain the main contributor to profit in the commercial radio sector. FM profits grew at an average annual rate of 4.9%, from a total of just under \$182 million (25.6%) in 2000 to \$220.6 million (23.9%) in 2004.
25. While significant ownership consolidation has taken place since 1998, the commercial radio industry still has a significant “independently owned” sector. Independent owners can be defined as those other than the six largest ownership groups – Astral Media, CHUM, Corus Entertainment, NewCap, Rogers Communications, and Standard Broadcasting.

26. Of the 438 English-language commercial radio stations in Canada in 2004, 234 (53%) were owned by independents. In the French-language market, 55 of a total of 92 originating stations, or 60%, were independently-owned.
27. While a majority of stations are owned by independents, in 2004 they represented only 30% of total radio revenues in the English-language market, and 27% of total revenues in the French-language market.
28. Please note that more financial information regarding the commercial radio sector is available in the “Industries at a Glance” section of the Commission’s website (www.crtc.gc.ca) through the “Financial Data” and “Monitoring Reports” links. Note also that updated financial data for 2005 is scheduled to be posted during the course of this public process.

Questions for consideration

29. In light of the overall health of the commercial radio sector, there may be no need for major changes to the current ownership rules, however, the Commission considers that certain issues should be examined:

Profitability of French-language radio

1. *Why has the PBIT of French-language radio stations declined?*
2. *What changes might improve the financial health of the French-language radio sector?*
3. *Is there a concern regarding the diversity of ownership in French-language markets?*

Independent radio stations

1. *Is it in the public interest to ensure a healthy independent sector in radio – that is, radio stations operated by licensees other than the six largest radio groups in Canada?*
2. *Are there regulatory measures that could help maintain a strong independent sector?*

Small market radio stations

1. *What particular challenges are faced by small market stations – both those owned by independent operators, and larger station groups?*
2. *What regulatory measures could help small market broadcasters fulfil their public service obligations?*

3. *Are there circumstances in which the Commission could allow the ownership of more than two stations on the same band in a particular market?*

Local management agreements (LMAs)

30. In the 1998 Policy, the Commission recognized that increased consolidation of ownership in a market involving stations that are party to an LMA could raise questions as to whether this would lead to market dominance by one broadcaster to the undue detriment of others in a market, or effectively create a monopoly in a market that would otherwise be competitive under the revised common ownership policy.
31. This led to the review of the Commission's policy on LMAs. Initially, the LMA policy was intended to assist radio broadcasters in achieving cost savings and greater marketing parity with other media during periods of financial difficulty. Cost savings are normally realized under LMAs through the integration of several operational components of one radio station, often involving the technical, sales and promotion and general administrative activities, with similar operational components of a radio station operated by another licensee in the same market.
32. In *Local Management Agreements*, Public Notice CRTC 1999-176, 1 November 1999 (LMA Policy), the Commission announced its policy determinations with respect to LMAs and the adoption of an amendment to the Regulations to give effect to that policy. The amendment, which is contained in section 11.1 of the Regulations, prohibits any licensee from entering into, or operating its station pursuant to, an LMA unless it first obtains Commission approval and a condition of licence authorizing it to do so. Section 11.1 defines an LMA as follows:
- “local management agreement” means an arrangement, contract, understanding or agreement between two or more licensees or their associates that relates, directly or indirectly, to any aspect of the management, administration or operation of two or more stations that broadcast in the same market.
33. Such arrangements are evaluated on a case-by-case basis, taking into account all relevant circumstances. At the same time, the Commission had set out what it described as “guiding principles” to assist radio broadcasters in evaluating which alternative business model the Commission would generally consider as being appropriate, and in what circumstances it might authorize an LMA by condition of licence. The Commission reminded broadcasters that an LMA cannot constitute a change in the effective control of an undertaking. The Commission added that it would also continue to expect the following:
- parties to an LMA must ensure that distinct and separate programming and news services are maintained, and that their management remains under the respective responsibility of each licensee. This includes the program director and the news director, as well as any other related staff assigned to programming and/or news activities; and

- all assets of the undertakings involved in an LMA must remain in the ownership of each respective licensee.
34. Furthermore, the Commission indicated that it would be generally inclined to approve LMAs that include unprofitable stations:
- in which the number of stations does not exceed the number that may be commonly owned under the ownership policy; and
 - that are limited to a specific term and represent a temporary alternative business model that will allow the broadcasters involved to improve their performance.
35. The Commission indicated that, in exceptional circumstances, it may approve an LMA that includes the participation of a number of stations that exceeds the limit allowed under the common ownership policy. It emphasized, however, that licensees would be required to demonstrate clearly that the participation of radio stations in LMAs in excess of the threshold would be in the public interest and that it does not create a situation of inequity within the market.

Local sales agreements (LSAs)

36. In *The Commission's policy on local management agreements (LMAs) – Determinations concerning the appropriateness of various existing and proposed LMAs, including local sales agreements, between licensees of radio stations serving the same market*, Broadcasting Public Notice CRTC 2005-10, 31 January 2005, the Commission determined that LSAs – combining the sales functions of radio stations, including the invoicing and collection of advertising revenues – fall within the definition of an LMA, as contained in section 11.1 of the Regulations. As a result, licensees of commercial radio stations serving the same market who wish to enter into an LSA, or any other similar business arrangement, whether formal or informal, must first apply for Commission approval to obtain conditions of licence authorizing them to do so.
37. As part of its determination, the Commission raised its concern about the possible negative consequences of LMAs, including LSAs, over time, such as the potential disadvantage to which they subject competitors who are not party to them, the chilling effect such agreements may have on the decisions of potential new entrants, and the extent to which they may reduce, ultimately to the detriment of the service provided to the public, the incentive for some or all parties to an LMA to manage their stations efficiently, compete effectively and improve their programming performance.
38. Therefore, although the Commission has made its decision regarding the application of the LMA Policy to LSAs in February 2005, it wishes to review various aspects of the LMA Policy, including the issues set out in the following questions.

Questions for consideration

1. *Are LMAs of any kind necessary or appropriate given the current situation of the radio industry?*
2. *Should LMAs continue to be accepted on the basis that they represent a temporary alternative business model to allow the broadcasters involved to improve their financial performance?*
3. *Do LMAs between two licensees operating their respective radio stations in adjacent markets raise concerns?*
4. *Should the LMA definition be amended to include an arrangement between licensees of radio stations and television stations in the same market?*
5. *Should the Commission take into consideration additional criteria when considering an LMA, such as measures to ensure that distinct and separate programming and news services are maintained, and that management remains under the respective responsibility of each licensee; the specific terms of the arrangement, and the performance of the undertakings involved?*
6. *In a market of less than four radio stations, is an LMA preferable to market consolidation?*
7. *Are LSAs preferable to LMAs?*

Objective B: A commercial radio sector that makes effective contributions to Canadian artists through airplay of Canadian music and French-language vocal music, and contributions to CTD that are commensurate with the health of the sector.

Canadian content regulations

39. Section 2.2 of the Regulations sets out the minimum levels of Canadian musical selections required of radio stations. The regulations generally require that at least 35% of popular music selections (category 2) broadcast each week must be Canadian selections, and at least 10% of traditional and special interest music selections (category 3) broadcast each week must be Canadian selections.
40. The lower level of Canadian content for category 3 selections has been established because of the more limited availability of Canadian recordings for more specialized types of music such as classical and jazz.
41. Where 7% or more of the musical selections broadcast during an ethnic programming period are Canadian selections, this programming will not be considered in determining whether or not a licensee is in compliance with the weekly 35% and 10% Canadian content requirements set out above.

42. To qualify as a Canadian selection, a musical selection must generally fulfil at least two of the following conditions set out below. This is usually referred to as the MAPL system.
- M (music) - the music is composed entirely by a Canadian.
 - A (artist) - the music is, or the lyrics are, performed principally by a Canadian.
 - P (production) - the musical selection consists of a live performance that is recorded wholly in Canada, or performed wholly in Canada and broadcast live in Canada.
 - L (Lyrics) - The lyrics are entirely written by a Canadian.
 - The musical selection was performed live or recorded after September 1, 1991 and a Canadian who has collaborated with a non-Canadian receives at least half of the credit as a composer and lyricist.
43. There are also three special cases where a musical selection may qualify as Canadian, even if it does not satisfy at least two conditions of the MAPL system: an instrumental performance of a musical composition written or composed entirely by a Canadian; a performance of a musical composition that a Canadian has composed for instruments only; and a musical selection that has already qualified as a Canadian selection under previous regulations. All are deemed to be Canadian selections.

The 1998 Policy

44. In the 1998 Policy, the Commission stated that it considered playing Canadian music to be a vital contribution that radio makes toward fulfilling the cultural goals set out in the Act. It also stated that the regulations requiring minimum levels of Canadian music were important elements in bringing the Canadian music industry to its current level of success.
45. Moreover, the Commission was convinced that an adequate supply of Canadian recordings was available to support an increase in the required level of category 2 music on radio stations. The Commission also noted that Canadian content requirements do not generally involve large incremental direct expenses, since radio stations do not have to pay for the production of the recordings.
46. Based on those factors, and the maturity of the Canadian radio industry, the Commission considered that an immediate increase in the level of Canadian content from 30% to 35% was both manageable and appropriate. The Commission stated that such an increase would expand the exposure given to Canadian artists and provide increased support to the Canadian music industry as a whole.
47. The Regulations were amended, effective 3 January 1999, to require that at least 35% of category 2 musical selections broadcast by commercial AM and FM stations each broadcast week be Canadian selections.
48. The Commission also stated that it was confident that the cooperative initiatives and efforts of the broadcasting and music industries to promote and support Canadian music would succeed in bringing about a level of Canadian content that would reach 40% in five years.

Distribution of Canadian category 2 selections

49. To ensure that Canadian selections were not relegated to times of low listenership, the Commission also amended the Regulations to require that at least 35% of category 2 musical selections broadcast between 6:00 a.m. and 6:00 p.m., Monday through Friday, be Canadian selections. The Commission considered that this increased level, as well as the reduction of the daytime measurement period from 13 to 12 hours, would increase exposure of Canadian music during hours of higher listening, but still give licensees flexibility in adjusting their programming.
50. A review of the Commission's records indicates that there has been no increase in the incidence of non-compliance by radio stations that must meet the higher Canadian content requirements. As noted above, the fulfillment of these increased Canadian content requirements has been achieved in concert with increases in annual industry revenues and profits.
51. It should also be noted that since the release of the 1998 Policy, the Commission has licensed some 20 new radio stations that play popular music where commitments were made to broadcast levels of Canadian content that exceed the standard 35% requirement.
52. In spite of the success in increasing the percentage of Canadian music that is broadcast by commercial radio stations, there is a concern that this has not increased the number of Canadian selections that are played – instead, the same songs are simply being played more often.

State of the Canadian music industry

53. In its 2004 Economic Profile of the Canadian Music Industry, which can be accessed at http://www.pch.gc.ca/pc-ch/sujets-subjects/arts-culture/sonore-sound/music_industry/music_industry_e.pdf, the Department of Canadian Heritage (Canadian Heritage) notes that the shift in music format and consumer behaviour to the online realm resulted in five years of declining music sales, both internationally and in Canada.
54. The Canadian Heritage study indicates that between 1999 and 2003, the value of music sold dropped 28%, from \$1.3 billion to \$946.4 million. However, it also notes that the last few years have been a period of incredible success for Canadian artists, both at home and abroad. Based on the strength of releases by musicians such as Céline Dion, Shania Twain, Avril Lavigne and Nickelback, Canadian artists' share of the top 200 best selling albums in Canada increased from 15.1% in 2001 to 27.2% in 2003.
55. During the same period, while sales of albums by foreign artists in the top 200 continued to decline, albums by Canadian artists – led by Shania Twain, Avril Lavigne, Sarah McLachlan and Diana Krall – actually grew by 36.8%

56. The report also notes that 2002 and 2003 were the first years in the history of the Society of Composers, Authors and Music Publishers of Canada (SOCAN) that royalties paid to Canadian artists from international sources have exceeded royalties paid by SOCAN to foreign songwriters, composers and publishers.

Questions for consideration

1. *The Commission's approach to Canadian content on radio focuses primarily on the percentage of Canadian musical selections that are played. Would an increase in the minimum Canadian content requirement for category 2 popular music to 40% result in a broadening of the play lists for Canadian artists, or are there other more effective ways of achieving this objective?*
2. *Is the current definition of a "Canadian selection" (the MAPL system) still appropriate? If not, what changes could be made to the definition to make it more effective?*
3. *Is the current approach of requiring that at least 35% of category 2 musical selections broadcast between 6:00 a.m. and 6:00 p.m., Monday through Friday, be Canadian selections ensuring the exposure of Canadian music during hours of higher listening? Are there other measures that would be more effective in achieving this objective?*

Special interest music

57. In the 1998 policy, the Commission concluded that given the limited number of commercial stations involved, it would be best to deal with the issue of increasing Canadian content levels for category 3 (special interest) music on a case-by-case basis.
58. At licence renewal time, FM stations operating in the specialty format, as well as AM stations that offer high levels of category 3 music, are expected to propose an increase in the current level of Canadian music they play.
59. Since 2001, the Commission has licensed a classical music station with a minimum Category 3 Canadian content requirement of 15%, and four jazz radio stations with a minimum Category 3 Canadian content level of 35%.

Questions for consideration

1. *Should the Commission continue with its current approach of determining appropriate levels of Category 3 Canadian content requirements on a case-by-case basis, or should such requirements be reflected in the Regulations?*
2. *If these requirements should be incorporated into the Regulations, what would be an appropriate minimum level of Canadian content for Category 3 music?*

3. *The Commission has noted increases in the availability of classical music selections which qualify as Canadian selections. Should the Commission consider an increase in the minimum requirement for this genre of Category 3 music? If so, what would be an appropriate minimum level?*

French-language vocal music

60. Currently, in order to ensure that French-language radio stations reflect the needs and interests of their audiences, at least 65% of the vocal popular (category 2) music selections broadcast each week must be in the French-language.
61. The Commission's 65% requirement was based on two related goals. On one hand, it wished to support a francophone recording industry in Canada and to allow francophones to have access to music reflecting their culture. On the other hand, the Commission has always considered it to be the responsibility of French-language broadcasters to continue their efforts to support French-language expression.
62. The Commission also requires that a minimum of 55% of the vocal category 2 musical selections broadcast between 6:00 a.m. and 6:00 p.m., Monday through Friday, be in the French language.
63. During the 1998 policy review, it came to light that some stations were shortening French-language selections on a systematic basis. This practice allowed the stations to fulfil requirements for French-language vocal music by playing a large number of shortened selections in periods of lower listening. In the 1998 Policy, the Commission stated that shortening selections to meet content requirements was inconsistent with the objectives of the Act and the Regulations. Accordingly, the Regulations were amended to require that category 2 Canadian selections and category 2 French-language selections be played in their entirety for the purpose of meeting Canadian content and French-language vocal music requirements.
64. In *Regulations Amending the Radio Regulations, 1986 – Commercial Radio Programming*, Public Notice CRTC 1998-132, 17 December 1998, which announced the adoption of those amendments to the regulations, the Commission made an exception for montages, compilations containing excerpts from several musical selections, noting that montages can allow audiences to discover new artists or to sample selections that would not otherwise be broadcast.

Questions for consideration

1. *Are the French-language vocal requirements appropriate mechanisms to ensure diversity of French-language music and artists in the French market?*
2. *If not, what other mechanisms and/or measures would ensure diversity of French-language music and artists in the French market?*

3. *Would a reduction in the French-language vocal music requirements assist in providing diversity of music in the French market?*
4. *Is the rule requiring that musical selections be played in their entirety achieving its purpose?*
5. *Should a new definition of montage be considered to reflect the specificities of the French-language market?*
6. *Are broadcasters using the montage to effectively reduce the amount of French-language vocal music being played?*

Canadian talent development

65. The Commission has long held the view that the Canadian broadcasting system has an important role to play in the development of Canadian artists, primarily through airplay. It has also pointed to the importance of CTD as a way to ensure that an adequate supply of Canadian material is available to offer Canadian listeners a diversity of high quality Canadian content. While broadcasters are not solely responsible for seeking out and developing Canadian creative talent, it is clearly in their interest to take an active role in this process to ensure that there is a sufficiently large pool of Canadian recorded music as well as other types of Canadian creative material available for broadcast.
66. To achieve these goals, the Commission has expected Canadian broadcasters to encourage and promote the development of new Canadian talent, especially through financial contributions.
67. Radio licensees make commitments to contribute to CTD in three contexts:
 - when applying for a new radio licence through the competitive process;
 - in the context of benefits related to transfers of control or ownership of radio stations; and,
 - through commitments made at licence renewal.

CTD commitments made when applying for a new radio licence

68. The Commission has no set policy governing the amount parties applying for a new radio licence should be required to contribute to CTD over their first license term. Nor are there guidelines that dictate what types of contributions are eligible expenditures. CTD commitments proposed are at the discretion of the applicant and are often for initiatives that are connected to the genre of music the applicant is proposing for its station. The Commission generally uses benchmarks and guidelines established in the past to determine what should be considered as an eligible CTD contribution, for example, third parties associated with the development of Canadian talent.

69. Most parties applying for new radio licences generally propose CTD commitments in order to gain an advantage over other applicants. Given that the radio licensing process is a competitive one, some of the larger broadcasters could be seen to have an advantage over smaller broadcasters or new entrants, who do not have the same financial resources at their disposal and usually cannot make CTD commitments of the same proportion and value.

Questions for consideration

1. *Should the Commission establish guidelines related to the quantity and/or nature of CTD commitments made in applications for new radio licences?*
2. *Should the Commission place a cap on the amount of CTD contributions that applicants are expected to make when applying for a new radio licence?*
3. *Is it appropriate to require that CTD contributions from new radio licensees benefit the market/region that the undertaking will serve?*
4. *What types of initiatives continue to be the most effective in meeting the Commission's objectives for the development of Canadian talent? Are there existing eligible CTD initiatives that are no longer effective, or need to be revised in order to increase their effectiveness?*
5. *Should initiatives that are not directly involved in the development of Canadian musical or artistic talent, but do contribute to the broadcasting system as a whole, be eligible to receive CTD contributions?*

CTD commitments made in transfers of control or ownership

70. In the 1998 Policy, the Commission modified its policy for benefits proposed in transfers of ownership or control. Until 1998, the Commission assessed the benefits proposed in each such application on a case-by case basis. Although there were no set guidelines or benchmarks concerning what would constitute an acceptable level of tangible benefits in such transactions, these generally represented approximately 10% of the value of a transaction.
71. The Commission determined that in the absence of a competitive process to consider applications involving the transfer of ownership and control of radio broadcasting undertakings (which, by definition, make use of frequencies that are scarce public resources), the benefits test would continue to be an appropriate mechanism for ensuring that the public interest is served in the case of transfers of ownership and control.

72. However, in response to calls for a reduction in the level of tangible benefits associated with ownership transactions, the Commission modified its benefits policy for radio transactions. As noted in the 1998 Policy, in the case of applications for transfers of ownership and control of radio undertakings, the Commission expects applicants to make commitments to implement clear and unequivocal benefits representing a minimum direct financial contribution to CTD of 6% of the value of the transaction.
73. Financial contributions derived from such ownership transactions are to be distributed as follows:
- 3% to be allocated to a new Canadian music marketing and promotion fund (now the Radio Starmaker Fund and the Fonds RadioStar);
 - 2% to be allocated, at the discretion of the purchaser, to FACTOR or MusicAction; and
 - 1% to be allocated, at the discretion of the purchaser, to either of the above initiatives, to other CTD initiatives, or to other eligible third parties directly involved in the development of Canadian musical and other artistic talent.
74. These contributions to Canadian talent are to remain separate and apart from CTD commitments derived from previous ownership transactions, CTD commitments made at licence renewal, or commitments made when applying for the undertaking's original licence (if within its first license term).
75. The Commission granted its approval for the new marketing and promotion funds, the Radio Starmaker Fund and the Fonds RadioStar in 2000. From the date of the revised Commercial Radio Policy until the end of the 2003/2004 broadcast year, more than \$46 million has gone to these two organizations to help advance the careers of Canadian recording artists.

Questions for consideration

1. *Is 6% of the value of the transaction still the appropriate amount that should be required of broadcasters applying for a transfer of ownership or control?*
2. *In the event that there are fewer ownership transactions in the future, what other sources of revenue could be used to fund the Radio Starmaker Fund and Fonds RadioStar?*
3. *If the Commission wishes to encourage support for local talent development in ownership transactions:*
 - a. *Should structures already established by the industry, i.e., MusicAction/ Factor and Fonds RadioStar/Starmaker Fund, play a role in meeting this objective? If so, how can that be done while respecting each fund's national mandate?*

b. *What other mechanisms could contribute to the effective development of Canadian talent on a local level?*

CTD commitments made at licence renewal

76. As part of their licence renewal applications, all licensees of private commercial radio stations are asked to make an annual financial commitment to CTD. The Commission has considered that such contributions are important to help ensure that there is a sufficiently large pool of Canadian music and other Canadian creative material available for broadcast.
77. In April 1995, the Commission reviewed its CTD policy. At that time, annual direct cost contributions by private radio broadcasters at licence renewal to CTD projects totalled approximately \$7 million. Approximately \$1.8 million of the \$7 million offered as commitments in license renewal applications consisted of payments to third parties, such as FACTOR and MusicAction, as well as national and provincial musical organizations, cultural organizations, performing arts groups, schools and scholarship recipients.
78. The balance of commitments (\$5.2 million) was related to initiatives carried out by stations at a local level, which showcased and promoted local and regional artists. These local initiatives included sponsorship of talent contests, production of programming featuring live performances, local production of recordings or videos and the sponsorship of concerts.
79. The Commission determined that a more streamlined approach to CTD was necessary. In addition, the Canadian radio industry as a whole was experiencing financial difficulties and was requesting a reduction in financial contributions to CTD initiatives.
80. In response to the Commission's request for a new license renewal CTD proposal, the Canadian Association of Broadcasters (CAB) presented its "CAB Plan" which set out a distribution schedule for Canadian talent funds based on a market-by-market approach in which a common fee schedule would be set for stations in similar markets. Under the plan, licensees would send their contributions directly to eligible third parties – FACTOR, MusicAction, national and provincial music organizations, performing arts groups, schools and scholarship recipients – and annual CTD payments by individual stations would be as follows:

Major Markets	\$27,000
Large Markets	\$ 8,000
Medium to Large Markets	\$ 5,000
Medium Markets	\$ 3,000
Small Market	\$ 400

81. The Commission accepted the CAB's proposal and announced the new CTD policy in *Contributions by radio stations to Canadian talent development – A new approach*, Public Notice CRTC 1995-196, 17 November 1995. In the Notice, the Commission stated:

In light of concerns expressed by recording industry representatives that the proposed annual contribution of \$1.8 million by the radio industry could become a maximum rather than a minimum, the Commission will review this base level in five years to determine whether it remains adequate. With respect to local Canadian talent initiatives, the Commission notes comments by broadcasters that many radio stations will continue to undertake these projects on their own initiative.

82. The vast majority of radio licensees adopted the CAB Plan and submitted applications to have their conditions of licence amended so as to be relieved of their existing CTD commitments and have, instead, requirements for contributing to CTD under the CAB Plan.
83. There are still, however, a small number (although this number has increased over the past few years) of radio licensees who have chosen not to adopt the CAB Plan and who continue to direct their license renewal CTD financial contributions to local initiatives.

Questions for consideration

1. *Is the CAB Plan still an appropriate approach to CTD for radio broadcasters renewing their licences?*
2. *Should CTD contribution levels be tied to revenues instead of tied to market size?*
3. *Is the \$1.8 million annual base contribution level still appropriate?*
4. *Are there different approaches to CTD initiatives that would make financial contributions to CTD more effective?*
5. *Given that FACTOR and MusicAction get substantial funding from government sources, should they still get broadcaster contributions?*
6. *Should the Commission consider a different approach in French-language markets to ensure appropriate, diversified and equitable contributions to Francophone CTD?*

Objective C: A commercial radio sector that provides listeners with a greater diversity of musical genres and airplay for a greater variety of Canadian artists in both official languages.

New music and emerging artists

84. In the 1998 Policy, the Commission agreed with the broadcasting industry that it would be very difficult to develop across-the-board requirements for the broadcast of recordings by new Canadian artists that could be fairly applied to all formats. It also agreed that a bonus system would eliminate some of these difficulties, but shared the concerns of the music industry that this could decrease the overall level of Canadian music that stations play.

85. The Commission considered that the promotion and development of new Canadian artists was an area that would benefit greatly from increased co-operation between the music and broadcasting industries. It noted that the various commitments by the CAB to promote Canadian music, and benefits contributions resulting from transfers of ownership and control, would provide additional support for new talent.
86. The Commission considered that it would be appropriate to allow these initiatives to develop, and to evaluate their success before deciding if any new regulatory initiatives related to new music by emerging Canadian artists were necessary.
87. In the subscription radio licensing process, a number of Canadian musicians and a representative of independent Canadian musicians submitted that there are scores of highly talented and emerging Canadian who are underserved by conventional radio stations, and were therefore supporting the licensing of subscription radio services in Canada. In response to these concerns, the Commission imposed a condition of licence requiring the satellite subscription radio undertakings to devote at least 25% of the Canadian musical selections they broadcast to songs by emerging Canadian artists.
88. In 1997, the Commission conducted a study of the use and scheduling of various types of musical selections by commercial radio stations operating in category 2 (popular) music formats in Toronto, Calgary, Montréal, and Quebec City. In that study, the Commission reviewed the stations' play-lists to determine, among other things, the percentage of musical selections that were recordings by new Canadian artists. For the purposes of this study, a recording by a new Canadian artist was defined as a) a recording released within 2 years of the date that the programming was broadcast; and b) the artist had no entries in the Commission's database of Canadian music earlier than 2 years before the programming was broadcast.
89. The 1997 study indicated that new Canadian artists received 5.0% of the airplay on English-language stations in Toronto, Calgary and Montréal, and accounted for 7% of the music played on French-language stations in Montréal and Quebec City.
90. In April 2005, the Commission conducted a similar study of English- and French-language popular music stations in these four cities, using the same definition of a new Canadian artist, to gauge the exposure that emerging artists now receive on commercial radio stations.
91. The 2005 study indicates that new Canadian artists received 6.7% of the airplay on English-language stations in Toronto, Calgary and Montréal, and accounted for 16.4% of the music played on French-language stations in Montréal and Quebec City.
92. A copy of the 2005 study will soon be available on the Commission's website at www.crtc.gc.ca. Hard copies of both the 1997 and 2005 studies are available on request, and will be placed on the public record of this proceeding.

Questions for consideration

1. *How successful have initiatives resulting from cooperation between the music and broadcasting industries, such as Radio Starmaker Fund and Fonds RadioStar, been in promoting the airplay of new music and emerging artists?*
2. *What should be considered an appropriate level of airplay of new Canadian music and emerging Canadian artists by commercial radio stations?*
3. *Should such levels be required by way of regulation, or is there an incentive-based approach that could effectively promote the airplay of new music by emerging Canadian artists?*
4. *What would be the most appropriate definitions of new Canadian music and an emerging Canadian artist?*
5. *Are there changes that could be made to the current definition of a “Canadian selection” (the MAPL system) to make it more effective in promoting airplay by new and emerging Canadian artists?*
6. *Are there other models or approaches that could be adopted that would encourage the broadcast of new Canadian music and emerging Canadian artists?*

Diversity of musical formats

93. In the 1998 Policy review process, a number of broadcasters stated that an increase in the number of stations a person is permitted to own in a market would lead to an increase in the diversity of formats offered. The Commission agreed that one of the benefits of consolidation could be some increase in the diversity of formats offered in some individual markets. However, it did not consider that the extent of any such increase overall would be as great as that forecast by the broadcasting industry.
94. The Commission accepted the argument that one owner with several stations in a market will likely offer different formats on each of these stations, but it was not convinced that this owner would maintain formats that differ from those employed by stations that are owned by other broadcasters in that market.
95. Within the commercial sector, the Commission has increasingly relied on competition and market forces to encourage programming diversity. The licensing of additional radio stations has increased the choice of services available to listeners, however concern has been expressed that the range of programming provided by commercial radio stations is still relatively limited, because these stations tend to concentrate on providing programming to only those age brackets and social demographic groups that are most attractive to advertisers.

Questions for consideration

1. *In an environment with increasing alternative sources of audio programming, are policies and regulations designed to encourage diversity of music radio formats necessary? If so, what specific mechanisms would be appropriate?*
2. *Are there ways in which the various funding agencies – FACTOR, MusicAction, Starmaker Fund and Fonds RadioStar – or other funding mechanisms could help facilitate music format diversity?*

Objective D: A commercial radio sector that reflects the multicultural and multiracial nature of Canadian society and the special place of Aboriginal peoples within society.

96. Since the late 1990s, the Commission has made cultural diversity one of its key priorities. When the Commission refers to cultural diversity, it is referring to the inclusion of groups that have been traditionally under-represented in broadcasting: ethnocultural minorities, Aboriginal peoples, as well as persons with disabilities. Such under-representation includes these groups' presence and portrayal on the air and their participation in the industry. It expects broadcasters to share the responsibility for assisting in the development of a broadcasting system that reflects Canada's ethnocultural minorities, Aboriginal peoples as well as persons with disabilities.
97. This is in accordance with section 3(d)(iii) of the Act, which states that the broadcasting system should "through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society."
98. In response to this goal, the 1998 Policy encourages broadcasters to "reflect the cultural diversity of Canada in their programming and employment practices, especially with respect to news, music and the promotion of Canadian artists."
99. In the case of television, the Commission's strategy to date has been two-fold: (a) requiring all broadcast groups to file corporate plans at licence renewal as well as annual progress reports, and (b) the creation of an industry/community Task Force for Cultural Diversity on Television to undertake research and develop best practices and industry initiatives. This strategy has recently come to include persons with disabilities as well (*Introduction to Broadcasting Decisions CRTC 2004-6 to 2004-27 renewing the licences of 22 specialty services*, Broadcasting Public Notice CRTC 2004-2, 21 January 2004 (paragraphs 51-53). While there may be some parallels that can be drawn from the experience of implementing this strategy for television thus far, the Commission considers it essential that the industry and public have an opportunity to share their views on the unique challenges of making radio more reflective of Canada's cultural diversity.

Questions for consideration

1. *What can the Commission do to increase the inclusion of groups such as multicultural groups, Aboriginals and persons with disabilities in the commercial radio sector?*
2. *What are the challenges of making radio more reflective of Canada's cultural diversity?*
3. *Are different goals and strategies required for different genres/station formats?*
4. *Which areas of programming do stations have the most control over in terms of being able to influence reflection of cultural diversity?*
5. *Given the particular characteristics of radio, what are the most appropriate ways to apply cultural diversity principles to this medium?*
6. *Are there differences between the English and French language markets that should be taken into account?*
7. *Are there CTD initiatives that could be implemented to further cultural diversity objectives?*

Objective E: A commercial radio sector that provides listeners with an appropriate amount of regularly-scheduled, locally-produced news and information.

100. The Commission's local programming policy for radio was set out in *Policies for local programming on commercial radio stations and advertising on campus stations*, Public Notice CRTC 1993-38, 19 April 1993. Under this policy, licensees of commercial FM stations in markets served by more than one private commercial radio station are required to devote at least one-third of the broadcast week to local programming if they wish to solicit or accept local advertising. This requirement is imposed as a condition of licence.
101. Local programming is defined as:

Programming that originates with the station or is produced separately and exclusively for the station. It does not include programming received from another station and rebroadcast simultaneously or at a later time; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station.

In their local programming, licensees must include spoken word material of direct and particular relevance to the community served, such as local news, weather and sports, and the promotion of local events and activities.

102. It is noted that no minimum quantities of local information are specified in the policy.
103. A more flexible approach for AM stations was chosen by the Commission to allow syndicated or network programming formats to develop. Such formats provide a complete music or spoken-word service for stations, while providing opportunities in each hour for the insertion of local information. These services have allowed some financially-troubled AM stations to stay on the air. The Commission was concerned that imposing an overall local programming requirement on AM stations could have a negative impact on stations that are in financial difficulty.
104. Although the one-third guideline does not apply to AM stations, the policy makes provision for AM stations to indicate, at the time of licence renewal, the amount of local programming they propose to broadcast and to indicate how they will provide information of direct and particular relevance to the communities they serve.
105. In the 1998 Policy, the Commission decided to maintain the one-third local programming requirement with respect to FM stations in competitive markets, and its case-by-case approach for AM stations. The standard renewal form requires AM stations to make commitments to a minimum level of local programming, and to describe how they will provide sufficient service to their local communities.
106. The Commission noted the concerns raised by several parties about the impact that consolidation of ownership could have on news programming. It emphasized the important role that radio plays in the dissemination of local news and information, and expressed the view that local news coverage had declined in Quebec as a consequence of the consolidation of ownership that had occurred in that province in the period prior to the 1998 policy review. These interveners were concerned that this trend could continue if ownership requirements were loosened further. The Commission concluded, however, that setting across-the-board requirements for levels of news and spoken word would not take into account the particular needs of different communities or the differing resources of licensees.
107. Therefore, it decided to use a case-by-case approach in assessing programming commitments. Applicants seeking to acquire ownership or control of more than one AM and one FM station in a given language and market are required to outline how their proposed programming will benefit the community and further the objectives of the Act. The Commission retains the option of requiring adherence, by condition of licence, to particular commitments made by applicants.
108. In Canadian Heritage's second response to the 2003 Report of the Standing Committee on Canadian Heritage, the government stated that in the current broadcasting system, a "pressing issue is maintaining the diversity of voices at the local and regional level in a changing communications environment" (*Reinforcing Our Cultural Sovereignty – Setting Priorities for the Canadian Broadcasting System*), and announced its intention to issue a direction under section 7 of the Act in this regard.

Questions for consideration

1. *Is local radio programming meeting the needs of communities? Is enough local news and information being provided to listeners?*
2. *Is the Commission's current local programming policy, including the one-third requirement for FM stations in competitive markets, the most effective means of ensuring that private radio stations provide meaningful local service? If not, what alternative methods would be more effective?*
3. *Are there circumstances in which commercial FM stations should make more specific commitments to local programming than the one-third level set out in the local programming policy?*
4. *Should the Commission impose a minimum level of local news/information for commercial FM radio stations? If so, what would be the appropriate amount?*
5. *Should the Commission consider minimum local programming requirements for AM stations? If so, what would be the appropriate amount?*

Objective F: A commercial radio sector capable of making the transition to digital transmission, and of exploiting new and emerging distribution platforms in a manner that furthers the objectives of the Act.

Transition to digital transmission

109. On 29 October 1995, the Commission issued *A Policy to Govern the Introduction of Digital Radio*, Public Notice CRTC 1995-184 (Transitional Digital Radio Policy). Because digital radio in Canada was in the early experimental stage, the Commission set out a two-stage approach for digital radio: this short term and long term approach involved establishing a process for licensing digital radio services on a transitional basis and then, later, undertaking a public process to consider all aspects of digital radio broadcasting in the longer term.
110. The development of a long term digital radio policy has not yet taken place largely because the adoption of the new digital radio technology by consumers and the switch-over by the radio industry to digital has taken longer than was expected. In fact, it is now effectively stalled.
111. The Commission stated in the Transitional Digital Radio Policy that it considered digital radio to be a replacement technology for existing AM and FM radio services. It noted, however, that digital radio has the potential to increase diversity of programming services available to the public. For this reason, the Commission decided that existing radio services would have priority access, but not exclusive access, to the digital band.

112. Since licensing Canada's first digital radio stations in 1998, the Commission has granted transitional digital radio licences to existing AM and FM licensees in Toronto, Windsor, Montréal, Vancouver, Victoria and Ottawa. In addition, a digital radio licence was granted to a new entrant in Toronto. Currently, there are 76 radio stations licensed to provide digital radio broadcasting (DAB) service in Canada, including 42 English and 9 French-language commercial stations, 18 CBC stations, and 7 ethnic stations. Of these, approximately 50 are operational. Unlike the countries where the introduction of DAB has been a success, Canadian DAB radio stations are primarily rebroadcasting the programming of existing analog radio stations.
113. In spite of the availability of DAB signals, very few people are listening to these services due to the limited take-up of DAB receivers in Canada. This has been due, in large part, to the limited availability and cost of the DAB receivers that have entered the Canadian market.
114. Although many other countries, notably in Europe, have also adopted the Eureka 147 standard for digital radio broadcasting, a number of differences mean that all of the receivers sold in Canada must be adapted to the Canadian market. The decision by the United States to adopt a different technology, In Band On Channel (IBOC), for the conversion of American radio stations from analog to digital, has also prevented economies of scale to allow for the sale of DAB receivers at prices comparable to those of AM and FM radios in Canada. It has been suggested that it is not realistic for Canada to establish a different digital radio broadcast platform than the US.
115. It has also been argued that the slow roll-out of DAB may be due to the lack of distinctive programming on the digital band: better quality sound through digital radio may not be enough to drive the roll-out and widespread take-up of DAB receivers. New and innovative programming may be needed, particularly programming for ethnic audiences, who would have a strong incentive to purchase DAB receivers.
116. Any major changes to Canada's Transitional Digital Radio Policy will have to be closely coordinated with the Department of Industry and all participants in the radio sector. Nevertheless, the Commission considers that this is an appropriate time to seek the views of the commercial radio sector and other interested parties, such as the CBC, with respect to the necessary conditions and regulatory approach to ensure a successful transition from analog to digital transmission and reception.

Questions for consideration

1. *How can radio best make the transition from analog to digital, and how can the Commission assist this through policy and regulatory actions? Should a distinction be made between the AM and FM bands?*
2. *Should the Transitional Digital Radio Policy be modified so that DAB is no longer deemed to be a replacement technology? If so, what should be the status of existing replacement DAB stations which are now in operation?*

3. *Should the Transitional Digital Radio Policy be modified to facilitate the use of DAB by new entrants? If so, how would adequate DAB spectrum be obtained in markets such as Toronto, where available frequencies are scarce?*
4. *Should the Commission permit the use of IBOC as a digital platform for radio? If so, what regulatory measures and criteria should be adopted?*
5. *Should the Commission consider other standards, such as DRM, DMB or DVB-H, for digital broadcasting in Canada?*
6. *In the event that no other plans are identified, what other use could be made of the DAB spectrum?*
7. *How can digital radio policies help provide better services to Canada's diverse cultural and ethnic communities?*

New and emerging distribution platforms

117. As noted in the Overview, the advent of new digital technologies and distribution platforms is having a profound effect on the way in which people are and will be able to listen to music and other audio programming. In addition to the Canadian satellite radio services that are now available, there are several Internet-based methods of delivering audio content – file-sharing, podcasting, downloading, and audio streaming – which offer listeners a multitude of programming choices on a variety of devices, and the ability to tailor those choices according to their personal tastes and preferences.
118. And while access to these Internet-based services was initially limited to fixed locations, the rapid development of cellphone distribution and other wireless systems such as Wi-Fi and WiMAX will increasingly allow for their reception on a mobile basis. The ability of Internet-based services to be received in cars, where a significant amount of listening to conventional radio stations takes place, will provide another competitive challenge for conventional broadcasters.
119. A number of conventional radio broadcasters have established a presence on the Internet as a means of extending their brand and providing value added services to their listeners. However, there is no doubt that the new audio programming alternatives pose an unprecedented challenge for the conventional radio sector that will require astute business decisions and a judicious regulatory approach.

Questions for consideration

1. *How can conventional radio licensees utilize new technologies and incorporate new platforms into their strategies in a manner that furthers the objectives of the Act?*

2. *Should regulations of these activities be done through licensing or by exemption order? What criteria should be used to determine the dividing line between the two, particularly in a dynamic environment?*
3. *Should incentives be created to encourage the showcasing of Canadian programming on these platforms? If so, to what extent should any such incentives be linked to the holding of a broadcasting licence?*

Other Issues

Streamlining the licensing process

Calls for applications

120. On 8 July 1999, the Commission released *The Issuance of calls for radio applications*, Public Notice CRTC 1999-111 in order to clarify the types of applications that would normally generate calls for applications.
121. The policy conveys the Commission's intention to assess each application for either a new licence or an AM to FM conversion on the merits of the individual application.
122. The policy frames this approach within the broader Commission objective of encouraging competition and choice, with calls for applications issued where it is determined that a call is warranted.
123. The policy also lists the type of applications which generally **do not** result in a call for applications. These include:
 - i) low power and other proposals with very little or no commercial potential;
 - ii) proposals to provide the first commercial service in a market;
 - iii) proposals by the sole commercial operator in a market to improve service to the market, either through an AM to FM conversion or a new station;
 - iv) proposals to provide the first commercial service in the other official language in a market, or to convert the only station in the other official language from AM to FM; and
 - v) proposals to convert stations from AM to FM, in markets with 2 or fewer commercial operators.
124. As was anticipated, the increased flexibility for multiple station ownership in a market provided by the 1998 Policy resulted in an increase in applications for new radio stations. The Commission issued 34 calls for radio applications between July 1999 and May 2005.
125. The large number of calls for radio applications issued since July of 1999, and specifically the competitive processes resulting from these calls, has contributed significantly to delays in the consideration of licence applications.

126. As part of this review, the Commission wishes to provide interested parties with an opportunity to discuss potential modifications to its policy for issuing calls and other elements of its consideration of applications for radio licences in support of its goals related to streamlining the processing of applications.

Questions for consideration

1. *What modifications to the Commission's policy for issuing calls for radio licence applications could streamline the licensing process, while maintaining the objective of encouraging competition and choice?*
2. *Are there other ways in which the licensing process could be streamlined to expedite the consideration of applications for new radio licences?*

Streamlined approach to radio licence renewals

127. The Commission outlined its streamlined radio renewal process in Broadcasting Circular CRTC 2002-448 dated 7 June 2002.
128. The circular sets out the process which allows licensees whose performance in the past licence term raises no concern to file short licence renewal applications. The purpose is to reduce the administrative burden faced by the Commission and by licensees, since each year the Commission considers between 125 and 150 radio licence renewals.

Questions for consideration

1. *Has the streamlined approach to radio licence renewals achieved the goal of reducing administrative burden without compromising basic regulatory requirements?*
2. *Are there modifications that should be made to ensure that interested parties have sufficient opportunity to participate in the renewal process of radio licences?*

Low-power radio stations

129. Low-power FM radio services are those with a maximum Effective Radiated Power of 50 watts and a maximum transmitting antenna height of 60 meters. As defined in Parts III and IV of Industry Canada's Broadcasting Procedures and Rules, low-power radio frequencies are not protected against interference from regular high-power (over 50 watts) radio stations.
130. This means that, in case of a frequency conflict between a low-power and an existing or newly approved regular high-power station, the low-power service would either have to change frequency or cease operation.

131. Many low-power radio services are exempt from licensing. These exempt services consist of non-mainstream radio services such as those providing tourist and traffic information in parks and historical trails; services providing local weather information and information concerning local road and marine conditions, ferry schedules, traffic advisories; as well as limited duration special event facilitating programming.
132. Over the past several years, however, the Commission has received an increasing number of applications for low-power commercial radio stations proposing to offer mainstream programming.
133. *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002 (Public Notice 2002-61) sets out the Commission's general policy governing low-power radio. It sets out the following as the objectives of the licensing policy for low-power radio broadcasting:

The Commission considers that low-power radio undertakings make a contribution to the goals set out in the Broadcasting Act and may attract new entrants into the Canadian broadcasting system. Such services are particularly well-suited to provide local community-based programming. Low-power radio undertakings should not replicate the programming offered by existing services. The Commission expects applicants for low-power radio services to show how their programming proposals will fulfil the following objectives:

- The contribution of an additional, diverse voice to the markets served.
- The presentation of programming that complements that of existing licensees in the market.
- The fulfilment of demonstrated community needs.

134. In addition, this Notice identifies the four types of low-power radio undertakings that exist, comments on when the Commission may issue a call for competing low-power applications, identifies the markets where low-power frequencies are scarce and sets out a priority system for assessing competing applications for low-power frequencies.
135. Public Notice 2002-61 also states that adherence to the Regulations and industry codes, by low power licensees, is generally required. It also discourages the ownership of multiple low-power radio undertakings and cross-ownership between low-power radio and low-power television stations. The Notice also states that low-power radio licensees should contribute appropriately to Canadian talent development, even if they do so simply by providing an outlet for artists who do not receive airplay on other stations.
136. Over the past several years, due to the increasing number of applications for low-power commercial radio stations, the Commission has heard concerns from broadcasters regarding applications that have been received for low-power radio licences.

137. For example, a number of small market broadcasters have voiced concerns that some applicants seem to be using applications for low-power radio as a “back-door entry” into the mainstream commercial radio sector. Others have expressed concern about the lighter-handed approach the Commission has taken with low-power radio applicants, in terms of the information and documentation that must be provided with these applications.
138. The Commission has taken steps to address some of the concerns related to low- power radio, but considers that the review of the 1998 Policy provides a context in which to further examine its policy for the low-power radio services that it licenses. The Commission does not wish to include in this proceeding a discussion of the low-power radio services that are of a non-mainstream nature and are currently exempt from licensing. The Commission, therefore, calls for comments on the following questions and issues:

Questions for consideration

1. *Should the Commission treat applications for originating conventional low-power radio stations (private commercial broadcasters including ethnic) differently than such applications for high-power radio stations? If so, what differences should apply?*
2. *Given that low-power radio stations are particularly well-suited to provide local community-based programming, should the Commission impose minimum local programming requirements on these services? If so, what is the appropriate amount?*
3. *Are there circumstances under which low-power radio licensees should be allowed to apply for power increases which would accord them protected status?*

Infomercials

139. *Amendment to the Television Broadcasting Regulations, 1987 to permit, by condition of licence, the airing of “infomercials” during the broadcast day*, Public Notice CRTC 1994-139, 7 November 1994, outlines the Commission’s position with regard to infomercials on television. An infomercial is defined as a program that lasts more than 12 minutes and combines entertainment or information with the sale or promotion of goods or services into a virtually indistinguishable whole.
140. For the purposes of private television stations, networks (excluding the CBC) and specialty television services, an infomercial is not counted as part of the 12 minute per clock hour of advertising material and does not count as Canadian programming in the calculation of fulfilling Canadian content requirements. Infomercials must be clearly identified with a prominent written and oral announcement that the programming constitutes paid commercial programming.

141. The Commission's 1999 Television Policy reiterated the infomercial policy.
142. While the Commission has a published policy with respect to the broadcasting of infomercials on television, no such written policy exists for radio.

Question for consideration

1. *Is a policy regarding the use of infomercials on radio required?*

Public proceeding

143. The Commission will hold an oral public hearing to consider the matters addressed in this notice commencing at 9:30 a.m. on **Monday, 15 May 2006**. The Public Hearing will take place at The Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec.
144. The Commission invites written comments on the matters for consideration set out above. The deadline for filing written comments is **Wednesday, 15 March 2006**.
145. Following the oral public hearing, interested parties may have an opportunity to file brief final written comments.
146. The Commission will only accept submissions that it receives on or before the prescribed date noted above.
147. Parties wishing to appear at the public hearing must state their request on the first page of their written submissions. Parties requesting appearance must provide clear reasons, on the first page of their submissions, as to why the written submission is not sufficient and why an appearance is necessary. The Commission will subsequently inform parties whether their request to appear has been granted. While submissions will not otherwise be acknowledged, they will be considered by the Commission and will form part of the public record of the proceeding, provided the procedures set out herein have been followed.

Procedures for filing comments

148. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

- **by mail to**
CRTC, Ottawa, Ontario K1A 0N2

OR

- **by fax at**
(819) 994-0218

149. Parties filing submissions that are over five pages in length are asked to include a short executive summary.
150. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

151. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's web site at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's web site. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
152. Documents received electronically or otherwise will be put on the Commission's web site in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
153. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
154. To ensure effective use of time at the public hearing, the Commission may use a written question process, prior to the commencement of the oral hearing, to obtain additional information from those who have filed written submissions. The questions and answers will form part of the public record and may be consulted by other interested parties. Interested parties are therefore encouraged and expected to monitor the content of the public examination files.

**Examination of public comments and related documents at the following
Commission offices during normal business hours**

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec K1A 0N2
Tel: (819) 997-2429 - TDD: 994-0423
Fax: (819) 994-0218

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel: (902) 426-7997 - TDD: 426-6997
Fax: (902) 426-2721

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