

March 15, 2006

Ms Diane Rhéaume
Secretary general
Canadian Radio-Television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Re: Review of the Commercial Radio Policy – Broadcasting Notice of Public Hearing CRTC 2006-1

Dear Ms Rhéaume:

Overview

1. CBC/Radio-Canada is pleased to provide these comments in response to Broadcasting Notice of Public Hearing CRTC 2006-1 (BNPH 2006-1).
2. CBC/Radio-Canada strongly supports the Commission's commitment to ensure that its radio policies and regulatory framework contribute to the fulfilment of the policy objectives set out in the *Broadcasting Act*. The Canadian broadcasting system has successfully been built on a partnership of public and private broadcasters. While different in nature and mandate, both public and private radio broadcasters provide a comprehensive range of services and diverse programming that serves to meet the demands of Canadians and the public policy objectives of the *Act*.
3. As the Commission embarks on a major review of its commercial radio policy and in arriving at a satisfactory approach to the issues raised in this proceeding, CBC/Radio-Canada submits that the CRTC should be guided by the following three principles:

- CBC-/Radio Canada's distinctive high quality English and French language radio programming and contributions to the Canadian broadcasting system should be recognized;
 - Digital Radio Broadcasting (DRB) should be treated as a technology that will co-exist with existing analogue services¹; and
 - The CRTC must put in place a policy and regulatory framework that provides broadcasters with the ability to innovate and experiment in the provision of DRB services to Canadians.
4. The Commission has expressly invited CBC/Radio-Canada to provide its views on the questions raised by the CRTC in regard to the necessary conditions and regulatory approach to ensure a successful transition from analogue to digital transmission and reception. CBC/Radio-Canada's responses to these questions are provided in Appendix A.

CBC/Radio-Canada's Radio Services: A Success Story

5. CBC/Radio-Canada's radio services provide distinctive commercial-free content that is unmatched in its depth of coverage of issues, and its presentation of Canadian artists and Canadian stories. Available to virtually all Canadians, CBC/Radio-Canada's radio services provide an identifiable sense of place and culture, so that Canadians, no matter where they are, can connect with each other.
- Radio One: The flagship of CBC radio, Radio One is a major provider of news, information and public affairs programming. Radio One is deeply rooted in the Regions with 37 stations across the country. All of Radio One's stations are available to listeners over the Internet;
 - Première Chaîne: The most comprehensive French-language network on radio in Canada with 20 production centres and 14 regional news bureaux across the country. La Première Chaîne provides a wide variety of programming including, news public affairs, culture and music. It is available to 98 per cent of Canada's francophone population and all of its prime-time programming is produced in the regions;

¹ In this submission, whenever the term DRB is used, it refers to Digital Radio Broadcasting, as currently implemented in Canada, using the Eureka-147 ("DAB") transmission standard in the 1452-1492 MHz frequency band.

- Radio Two: Canada's leading English-language cultural broadcaster, in all genres. Cultural and music network with 14 stations across the country and is a major source for classical music and cultural programming;
 - Espace musique: Distinctive music service reflecting the breadth of Canadian diversity and musical genres to francophones from coast to coast that is based in each provincial capital. The recent repositioning of our French music service was largely driven by the need to enhance the diversity of musical genres available to radio listeners in the French market. This strategy has been met with success as Espace Musique has increased its national share by 30% further to its launch in Fall 2004.
 - Radio 3 and bandeapart.fm: Radio 3 and bandeapart have emerged as audio services that have been developed to meet the needs of younger listeners and provides a significant opportunity for new Canadian artists and new music. Both services are now part of the Sirius Canada line-up and available to listeners throughout North America.
6. Additionally, CBC/Radio-Canada provides a unique radio service in Canada's North, broadcasting in English, French and eight Aboriginal languages. CBC/Radio-Canada also operates Radio-Canada International, an international short-wave radio service.
 7. Consistent with our strategy to reach Canadians on new emerging platforms, CBC-Radio-Canada has led the way in making its radio content available through new distribution platforms. Audiences now tune to Galaxie, CBC/Radio-Canada's digital pay audio service distributed on DTH and digital cable systems to more than 5 million homes in Canada, to Radio One, Radio Two, Radio 3, Première Chaîne, Espace Musique and bandeapart over the Internet, to podcasts and finally to six CBC/Radio-Canada channels on Sirius satellite radio - Radio One, Radio 3, bandeapart, Première plus, InfoPus, an French all-news service and Radio-Canada International. The first four services are available across North America.
 8. CBC/Radio-Canada's licensed services provide a showcase for Canadian entertainers and performers. Through our French and English language radio networks, Galaxie and our partnership in Sirius Canada, CBC/Radio-Canada plays a major role in promoting new and emerging Canadian talent, supporting several music festivals and investing significant resources in doing so.
 9. And Canadians are listening:
 - More than 3.8 million Canadians, aged 12-plus, listened to either CBC Radio One or CBC Radio Two each week during BBM's latest Spring survey.

- In the Spring 2005 survey, English Radio captured a combined share of 12.6 per cent, which is within a half share point of its highest total ever. Radio One's share was 9.1 per cent in Spring 2005 with Radio Two's share at 3.4 per cent.
- In Spring 2005 Radio de Radio-Canada captured 16.5 per cent of French radio listening among Francophones in markets served by the Corporation, its best performance on record (since 1984).
- Radio de Radio-Canada's impressive share increases are being driven by Première Chaîne, which attracted an audience share of 13.6 per cent in Spring 2005. Espace musique, first launched in Fall 2004, maintained the share it obtained in its inaugural survey.

Regulatory Approach for Digital Radio Success

10. In accordance with Broadcasting Public Notice CRTC 1995-184, *A Policy to Govern the Introduction of Digital Radio*, (the 1995 Policy) CBC/Radio-Canada has made significant capital investments in implementing digital radio broadcasting (DRB) transmission facilities in a number of major markets across Canada, notably Ottawa, Montreal, Vancouver and Toronto.
11. Unfortunately, because of factors such as the limited availability of DRB receivers in the Canadian consumer market, the prohibitive costs of replicating analogue coverage area and low consumer adoption, demand for digital radio has not occurred in the manner anticipated.
12. Nonetheless, CBC/Radio-Canada remains committed to this technology, and, based on the considerable success being enjoyed by DRB in Europe (in the UK in particular) and in some key countries in Asia, the Corporation believes that new technological applications and devices now available in many markets, particularly the mobile market may provide the needed spark for DRB in Canada.
13. Moreover, CBC/Radio-Canada believes that the Commission should re-examine its use of the term "transition" in BNPH 2006-1, in regard to the movement from analogue to digital radio services in Canada.
14. Indeed, the future of DRB in Canada will not be that of a replacement technology, but as a technology that will co-exist with the existing analogue radio services. The Commission's review is timely however, as new technological developments present opportunities for Canadian broadcasters to enhance digital radio offerings in ways that are attractive to Canadians.

15. In Appendix A, CBC/Radio-Canada expands on this theme and responds to the Commission's specific questions concerning the transition from analogue to digital.

CBC/Radio-Canada appreciates this opportunity to provide its comments in this proceeding.

All of which is respectfully submitted

A handwritten signature in black ink, reading "Bev Kirshenblatt". The signature is written in a cursive, flowing style.

Bev Kirshenblatt
Senior Director, Regulatory Affairs

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Attach.

Appendix A
CBC/Radio-Canada Responses to the Commission's Questions

- 1. How can radio best make the transition from analogue 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?***

In Europe, notably the UK, DRB is enjoying considerable success made possible by the increased number of services that can now be offered using this technology. Based on the European experience, it is timely to revisit the 1995 Policy in regard to whether it provides Canada with the type of flexibility needed for an effective use of this technology.

CBC/Radio-Canada submits that the Commission can assist this pursuit of DRB as a co-existent technology, by modifying the Policy so that DRB is no longer deemed a replacement technology, and by encouraging industry experimentation with different DRB business models.

With respect to AM and FM, CBC/Radio-Canada believes that a distinction needs to continue to be made between these bands. Each of these bands has different and specific strengths that create a comparative advantage over the other and over DRB. For example, the AM band offers, in areas where the ground conductivity is high, and low frequencies are available, very large geographic coverage areas relative to the FM or DRB bands. Such coverage attributes are particularly effective and economic in certain parts of Canada. CBC/Radio-Canada therefore does not recommend that the Commission abandon this distinction at this time.

- 2. Should the Transitional Digital Radio Policy be modified so that DRB is no longer deemed to be a replacement technology? If so what should be the status of existing replacement DRB stations which are now in operation?***

For the reasons noted above, and in view of the existing low penetration levels of DRB transmitters, and the prohibitive costs of swapping out all existing AM / FM transmitters for DRB transmitters of equivalent coverage, CBC/Radio-Canada strongly believes that the Policy should be modified and the replacement technology model abandoned.

The Policy needs to be adapted to an environment in which new technologies and new receiver devices are enabling the reception of mobile/portable multimedia content, including radio, as well as the existing environment where the demand for AM and FM spectrum, particularly in congested major markets, cannot be met, continues unabated.

Existing DRB stations can be instrumental in enabling the move to this new environment by enabling the trailing and testing of new applications that complement the existing DRB audio services.

To promote and enable these activities, existing DRB stations should have their current licence confirmed as permanent, and existing allotments listed in the *Allotment Plan for Digital Radio Broadcasting* should be kept and protected.

In addition, based on worldwide experience and based on new listeners habits, CBC/Radio-Canada submits that the requirement for “CD quality” of DRB audio services be removed to provide flexibility to existing licensees and enable a market driven approach to the selection of the quality depending on the audio content, the type of services or the business proposal/application of the applicant.

Further, CBC/Radio-Canada believes that the most productive approach to the new environment would be to make 3 new DRB allotments or one new digital multimedia broadcasting (DMB) allotment available per the existing DRB 1.536 MHz frequency channel or DRB multiplex in order to maximise the opportunity for new applications that can complement the radio offerings. Additional flexibility should be added to DRB licensees, allowing for radio sub-channels, multi-languages, audio multicasting and multi-channel (surround) services.

CBC/Radio-Canada believes that existing DRB spectrum, combined with new drop-in possibilities, are completely adequate for both the existing radio services and new complementary services, in view of the co-existent technology model to be adopted for DRB.

3. *Should the Transitional Digital Radio Policy be modified to facilitate the use of DRB by new entrants? If so, how would adequate DRB spectrum be obtained in markets such as Toronto, where available frequencies are scarce?*

Yes, the Commission should facilitate the use of DRB by new entrants. To the extent there is a demonstrated demand for new services, in a specific crowded market, the adoption of a co-existent model for DRB would enable the Commission to implement competitive calls where existing allotments from the transitional DRB policy would be offered a first right of refusal of their DRB licence prior to its use by others.

As mentioned above, up to 3 new allotments could be defined in each existing DRB multiplex. Other applicants can also be satisfied with reduced bit rate (or mono) to accommodate more services into one DRB channel or multiplex. Some urban drop-in DRB channels could also be found in the Toronto market.

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?

CBC/Radio-Canada believes that before permitting the use of HD Radio (IBOC) in Canada, a number of actions and measures should be taken to ensure it will not create harmful interference to existing Canadian services.

Canadian broadcasters will need to carry out their own tests on IBOC in order to make a determination on whether it is a viable digital platform for Canada. To that end, CBC/Radio-Canada is in the process of carrying out its own technical tests of IBOC and would be pleased to make the results of its analysis available to the CRTC and the rest of the radio industry once they are available.

The IBOC standard (now HD Radio) and implementation schemes come with important coverage compromises and negative impacts on the coexistence with existing on-air analog services. While it offers very limited potential for growth and may not meet the needs of the new environment.

In addition, it is important to distinguish between AM and FM IBOC, since AM IBOC does not at this point in time work during the night time. This arises from an historical flaw dating back to the original North American Regional Broadcasting Agreement (NARBA) which did not provide for adjacent channel night time skywave protection. It is unlikely that a solution will be found to overcome this serious shortcoming. As a result, AM broadcasters have no, or a severely limited, digital migration path.

If adopted, the AM IBOC system requires the reduction of the audio bandwidth by half (4,5 kHz) of the bandwidth of all existing AM stations, not just the ones adopting the system. This would create a serious degradation in sound quality for existing AM stations. Even with these measures, the fact that the IBOC data resides precisely on the carrier frequencies of first adjacent stations, to which skywave protection is not afforded, means that IBOC transmission at night is not practical.

On the FM side, the insertion of the IBOC digital component within the FM band involves the necessity to delay the main analog transmission by about 8.4 seconds, This makes it difficult to adapt with a network operation such as that of CBC/Radio-Canada where a mixture of FM IBOC, FM analog and AM stations will co-exist for many years.

Moreover, the digital component of the FM-IBOC system is located within the bandwidth of the FM signal, above the analog one. Implementation of the system will therefore require additional 1st and 2nd adjacent channel coordination. Considering the current occupancy level of the FM band, such coordination may not

be possible in numerous situations, reducing hereby the possibilities of using the IBOC system to a limited number of stations. In addition, the domestic protection rules for adjacent channel FM stations are different in the United States and Canada. Therefore, the American experience with IBOC interference to adjacent channels cannot necessarily be considered definitive in the Canadian context.

Adding the digital component to the FM signal will in the future prohibit the use of 2nd-adjacent co-siting where broadcasters may have wished to implement it. It will also increase the level of interference between 1st-adjacent channel stations, and therefore cannot be implemented “across the board” in the entire FM band.

5. *Should the Commission consider other standards, such as DRM, DMB or DVB-H, for digital broadcasting in Canada?*

The Commission should consider other standards for digital broadcasting in Canada, as a complement to the use of the Eureka-147 DAB standard in the DRB spectrum band (L-band).

CBC/Radio-Canada has been operating DRM (Digital Radio Mondiale) transmitters since June 16th, 2003 (tests started in October 2001) from its Sackville, New Brunswick shortwave transmitter. The DRM technology can also be used in the AM band to broadcast a good quality audio program. In the mid-term, this technology can revitalise the AM band. Since the deployment of DRM is starting in Europe, it has been decided that all DRM tuners will also be compatible with Eureka-147 DRB. The introduction of DRM by Canadian broadcasters has the potential to replace AM broadcasts, but at this point in time, DRM, unlike IBOC, does not operate in a compatible hybrid mode. In other words, only a pure digital signal is transmitted, not a digital signal imbedded beside the analogue signal.

Digital Multimedia Broadcasting (DMB) is an extension of DRB Eureka-147 and requires a minimal investment for broadcasters already using DRB. As mentioned in response to question 2, CBC/Radio-Canada believes that a DMB allotment should be made available in every DRB channel/multiplex.

DMB broadcasting could create the missing synergy with the PCS cellular carrier industry. In fact, Korea has already introduced this technology using devices that can be fully compatible with the Canadian environment. Integrated DMB/PCS-CDMA cell phones/receivers are already produced in mass market in that country.

Digital Video Broadcasting for handheld devices (DVB-H) is a standard more related to wireless cable operators rather than to broadcasters, since it is intended to deliver multiple (around 30) video and audio services to mobile/portable devices. Although the technology could broadcast radio as a piggyback application, no spectrum is

allocated on a worldwide and domestic basis. In addition, there are more technical and regulatory challenges associated with the implementation of DVB-H.

6. *In the event that no other plans are identified, what other use could be made of the DRB spectrum?*

The AM and FM broadcasting bands are congested in many areas in Canada. DRB spectrum must be preserved to promote the future growth of radio in Canada, and to complement existing radio services by enabling the development of new radio and multi-media broadcast service offerings by broadcasters on DRB. No other plan should be considered for the DRB spectrum (L-band).

7. *How can digital radio policies help provide better services to Canada's diverse cultural and ethnic communities?*

DRB allows for more than five radio services per DRB channel. Flexible DRB services, that can include multi-languages or program splits during certain key hours of the day, can be arranged to secure a spectrum outlet designed for the specific needs of applicants seeking to serve various cultural and ethnic communities within their respective markets.

8. *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?*

DRB spectrum offers the possibility of a range of new services, particularly mobile and portable services, in both audio, video and file download formats for Canadians.

The Canadian broadcasting system is replete with examples of how the industry and the CRTC have successfully utilised new technologies and platforms to ensure Canadian have access to Canadian services, consistent with the furtherance of the objectives of the *Act*.

Section 3(1) (d) (iv) of the *Act* indicates that the *Canadian broadcasting system should be readily adaptable to scientific and technological change*, while section 5(2) (f) stresses that the *Canadian broadcasting system should be regulated and supervised in a flexible manner that does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians*.

In allowing for flexibility in the allotment arrangements of the DRB band and allowing for the full usage of the Eureka-147 standard, that includes DAB, DMB, and IP

Datacasting, the Commission would continue to allow broadcasters to promote the objectives of the *Act*, for the benefit of all Canadians.

9. *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?*

The use of the DRB spectrum (both DMB and DRB services) should, for the most part, be licensed to achieve the objectives of the *Broadcasting Act*, and specifically to maintain the proper balance between the public, private and community elements of the system, as per section 3(1) (b) of the *Act*.

In addition, any licensee in the DRB spectrum should be allowed some capacity of its licensed spectrum for datacasting services.

10. *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?*

CBC/Radio-Canada believes that the Commission has in the past and can in the future continue to make effective use of incentives. Within the more flexible regulatory approach being proposed by the Corporation in these comments, incentives can be made to apply to both new entrants and existing licensee holders.

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