



Canadian Association of Broadcasters  
Association canadienne des radiodiffuseurs

May 6, 2009

*Via Epass*

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

Dear Mr. Morin:

**Re: Broadcasting Notice of Consultation CRTC 2009-173 *Call for comments on a proposed exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers (BNC 2009-173)***

The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks, specialty, pay and pay-per-view services. The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country.

In BNC 2009-173 the Commission has proposed an exemption order respecting terrestrial broadcasting distribution undertakings (BDUs) serving fewer than 20,000 subscribers. It would replace the two existing exemption orders for terrestrial BDUs, one for BDUs with fewer than 2,000 subscribers and the other for BDUs with 2,000 to 6,000 subscribers.

The Commission has called for comments on three general matters related to the proposed exemption order:

- the specific provisions in the proposed exemption order;
- the minimum necessary information that should be provided by exempt undertakings serving more than 2,000 subscribers; and
- the criteria that should be used to determine whether a particular service area within a regional licence would be considered as a discrete operation for exemption purposes.

The CAB is pleased to provide the following comments in response to BNC 2009-173.

## I. SUMMARY OF RECOMMENDATIONS

### ***Recommendation 1 – Eligibility for exemption***

Only those terrestrial BDUs with fewer than 20,000 subscribers and not owned by one of the top four cable MSOs (i.e. Rogers, Shaw, Vidéotron and Cogeco) should be eligible for exemption.

Any system fully interconnected with a separately licensed BDU should not be eligible for exemption.

### ***Recommendation 2 – Criteria for a “discrete operation”***

In order to qualify as a “discrete operation”, the following three criteria would have to be met in order to ensure that the area carved out for exemption purposes is in fact operating as a true standalone system:

- the existence of a separate headend and signal processing facility for the local service area;
- the existence of a separate business office within the local service area; and
- no interconnection with any other licensed or exempt system or serving area within the regional licence.

### ***Recommendation 3 – Access obligations***

The exemption order should contain a provision that requires exempt systems with more than 2,000 subscribers to continue to adhere to the access rules applicable to licensed cable BDUs.

### ***Recommendation 4 – Contributions to Canadian programming***

All exempt systems with more than 2,000 subscribers should be required to make a direct financial contribution of 5% of gross revenues (to be increased to 6% with implementation of the LPIF), less any contribution to local expression, to Canadian programming. Should the Commission increase the required contribution of licensed BDUs in the future (e.g. to fund the LPIF), then exempt undertakings with more than 2,000 subscribers should be required to make similar increased contributions.

### ***Recommendation 5 – Insertion of commercial messages***

Section 11(f) re the insertion of targeted advertising should be deleted. An appropriate amendment to accommodate targeted advertising can be proposed, if necessary, when the Commission finalizes its policy on the insertion of targeted commercial messages by BDUs.

### ***Recommendation 6 – Distribution of authorized services***

Section 13 of the proposed exemption order should be revised to ensure that an exempt system cannot distribute more than two sets of US 4+1 signals.

### ***Recommendation 7 – Programming service substitution***

Section 21 of the proposed exemption order should be revised to ensure that exempt BDUs with more than 6,000 subscribers have the same programming service substitution obligations as licensed Class 1 cable systems.

***Recommendation 8 – Information requirements***

All exempt BDUs should be required to file, at least annually, basic identification as to location and ownership of the exempt undertaking, a map of their serving area and a detailed channel line-up, in addition to the information required to be filed in the Annual Return. The channel line-up should consist of a list of all services distributed specifying: (i) basic service/discretionary and analog/digital mode of distribution.

The operator or individual responsible should be required to file an annual attestation or sworn statement to the effect that he/she has examined the requirements of the BDU exemption order and certifies that the operation of the exempt undertaking complies in all respects with the relevant criteria.

***Recommendation 9 – Licence fees***

The Commission should carefully review its internal operations with a view to reducing costs, particularly in light of the reduced workload that should result from eliminating the need to process applications for licensing, amendment or renewal from exempt systems. The goal should be to offset the loss of Part I licence fee revenue payable by newly exempt systems.

Any increase in Part I licence fees required as a result of the exemption of small BDUs should be recovered only from the BDU sector, not from programming undertakings.

## II. DETAILED COMMENTS

### The scope of the proposed exemption order

1. The proposed exemption order reflects the Commission's determination in Broadcasting Public Notice CRTC 2008-100 *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* (BPN 2008-100) that it could streamline the existing licensing regime and the Commission's regulatory activities with respect to BDUs by exempting a greater number of smaller BDUs from licensing requirements, without detracting in a material manner from the implementation of Canadian broadcasting policy.
2. To begin, the CAB notes that the Commission has proposed a very broad exemption order that entails not just relief from licensing requirements but also the elimination of key regulatory measures that, only a few months ago, it had determined should apply to BDUs to further broadcasting policy objectives. The removal of specialty and pay access obligations and the elimination of any requirement to contribute to Canadian programming are just two examples of the significant deregulation that the exemption order represents.
3. To that extent, therefore, the proposed exemption order effectively constitutes a further policy proceeding for BDUs with fewer than 20,000 subscribers, but without any analysis of the potential impact on licensed programming services that depend on BDU distribution to reach all, or at least the vast majority, of their viewers.
4. The CAB submits that it is important to identify the scope of the proposed exemption order, in order to better understand the potential impact of its adoption on key issues such as the carriage of specialty and pay services and contributions to Canadian programming.
5. In the CAB's view, an undue impact on central issues such as these could well detract in a material manner from the achievement of broadcasting policy objectives set out in the *Broadcasting Act*. These specific issues and others are addressed in more detail below.
6. In BNC 2009-173 the Commission noted that approximately 420,000 subscribers are served by exempt BDUs under the existing exemption orders; it did not, however, provide an estimate of the number of BDUs that would qualify for exemption under the proposed order, nor did it quantify the number of subscribers served by BDUs eligible for exemption.
7. According to the BDU statistical and financial summaries that were published by the Commission on April 23, 2009, there were about 10.6 million BDU subscribers as of August 31, 2008. Of this total, about 7.9 million subscribers were served by licensed and exempt cable systems.
8. In 2006, the Commission estimated that, based on 2004 annual return data, cable systems serving fewer than 20,000 subscribers collectively serve about 2 million subscribers<sup>1</sup>.

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<sup>1</sup> Broadcasting Public Notice 2006-23 *Digital Migration Framework* (BPN 2006-23), paragraph 58.

9. Assuming that cable BDUs with fewer than 20,000 subscribers continue to serve about 2 million subscribers in total, then adoption of the Commission's proposal would result in BDUs collectively serving about 25% of cable subscribers and 19% of all BDU subscribers being exempted from licensing requirements.
10. According to independent information collected by Mediastats in September 2008, Class 1, 2 and 3 cable systems, both licensed and exempt, serve about 7.725 million residential subscribers. Of these, systems qualifying for exemption under the Commission's proposal serve about 1.613 million residential subscribers, or about 21% of the total cable subscriber base.
11. In terms of the number of separate BDU licences potentially impacted, Mediastats estimates that there are 139 Class 1 systems, 104 Class 2 systems and 1653 Class 3 systems, or 1896 cable systems in total. Many of the Class 2 and Class 3 systems are already exempted under the existing exemption orders; of the 139 currently licensed Class 1 systems, almost one-half or 68 in total would also qualify for exemption under the Commission's proposal.
12. In summary, if the Commission adopts the proposed exemption order, approximately 96% of all cable BDUs would no longer require licensing. The Commission would retain the power of licensing for only about 71 cable BDUs.
13. The CAB is concerned that exempting 96% of all cable BDUs, collectively serving up to 25% of all cable subscribers, is an overly broad application of the Commission's power of exemption. There are numerous issues associated with the scope of this proposal, including the loss of access rights for specialty and pay services, a significant reduction in contributions to Canadian programming by the BDU sector and impact on Part I licence fees payable by other licensees, which could affect the achievement of broadcasting policy objectives.
14. The CAB submits that the Commission should carefully consider the eligibility criteria to ensure that the scope of the proposed exemption order is limited to those BDUs with fewer than 20,000 subscribers that meet the test of small, independent standalone operations. There are three specific issues to consider in this regard.
15. First, the CAB notes that the proposed exemption order would apply to all terrestrial BDUs with fewer than 20,000 subscribers, irrespective of ownership. Thus, cable systems owned by the four largest multiple system operators (MSOs), namely Rogers, Shaw, Vidéotron and Cogeco, would be eligible for exemption as would cable systems owned by smaller MSOs and independently owned small systems. The CAB estimates that systems owned by the top four MSOs account for approximately 75% of the Class 1 systems that would become eligible for exemption.
16. The CAB submits that to exempt all BDUs with fewer than 20,000 subscribers, without regard to ownership, is inconsistent with one of the key reasons for considering broadening the existing approach to exemptions.

17. The rationale for an expanded exemption order was intended, at least in part, to streamline the regulatory framework and associated filing requirements for small systems that do not have the resources and/or regulatory expertise to deal efficiently with such matters. These circumstances do not apply to any system owned by one of the top four cable MSOs.
18. The Commission has reached a similar conclusion on several occasions in the past.
19. In Public Notice CRTC 2001-130 *Small cable systems – Digital migration policy*, for example, the Commission adopted a definition of “small cable system” at paragraph 8 as “one that is not owned or operated, directly or indirectly, by Rogers, Shaw, Vidéotron or Cogeco...”.
20. Subsequently, in BPN 2006-23 the Commission again considered the appropriate definition of a small cable system for the purpose of extending additional flexibility to such systems under the small system digital migration policy. It concluded at paragraph 58 that “...the resources available to Rogers, Shaw, Vidéotron and Cogeco render unnecessary the flexibility that any of their cable systems with fewer than 20,000 subscribers would receive under the proposal of the CCSA and the CCTA.” [emphasis added]
21. Moreover, the Canadian Cable Systems Alliance (CCSA), in its submission to last year’s proceeding to review the regulatory framework applicable to BDUs, argued that an expanded exemption order (albeit with a threshold higher than 20,000 subscribers) should not apply to systems owned by the top four MSOs in recognition of the special challenges (economic, competitive, technological, etc.) faced by independently owned small systems.
22. The CAB concurs with the CCSA position that it is not necessary to exempt small systems owned by one of the top four MSOs in order to achieve significant benefits in terms of simplifying the regulatory framework for those small systems that could truly benefit from such streamlining.
23. The Commission’s proposal to exempt all systems with fewer than 20,000 subscribers from the requirement to provide access to Canadian specialty and pay services, from the requirement to make appropriate contributions to Canadian programming and from the requirement to pay CRTC licence fees, among other things, is not supported by the operating circumstances of systems owned by the top four MSOs. More importantly, such a broad-brush exemption would run the risk of undermining the achievement of key policy objectives.
24. Accordingly, the CAB submits that **only those terrestrial BDUs with fewer than 20,000 subscribers and not owned by one of the top four cable MSOs (i.e. Rogers, Shaw, Vidéotron and Cogeco) should be eligible for exemption.**
25. Second, the CAB submits that **any cable system fully interconnected with a separately licensed BDU should not be eligible for exemption.** Such interconnected systems, even if separately licensed, do not act as true standalone systems. Their operation is determined by the applicable regulatory requirements and the business decisions of the licensed BDU with which it is interconnected, not by the requirements of the proposed exemption order.

26. Third, with respect to the potential “carve out” of an individual service area from an existing regional licence, the CAB agrees with the Commission’s determination that two conditions must apply: (i) all or part of the service area to be removed from the regional licence must already be served by a competing exempt BDU, and (ii) the regionally licensed BDU must be operating as a discrete operation in that service area.
27. **In order to qualify as a “discrete operation”, the CAB proposes that the following three criteria would have to be met in order to ensure that the area carved out for exemption purposes is in fact operating as a true standalone system:**
- **the existence of a separate headend and signal processing facility for the local service area;**
  - **the existence of a separate business office within the local service area; and**
  - **no interconnection with any other licensed or exempt system or serving area within the regional licence.**

### **Removal of access obligations**

28. The CAB strongly opposes the Commission’s proposal to remove access obligations for all exempt systems. This proposal represents a fundamental change in policy applicable to cable BDUs and in the CAB’s view its implementation would detract in a material manner from the achievement of broadcasting policy objectives.
29. Currently, all BDUs with more than 6,000 subscribers are subject to access rules in the *Broadcasting Distribution Regulations* respecting the carriage of specialty and pay services. In addition, exempt BDUs with 2,000 to 6,000 subscribers are governed by access requirements set out in the exemption order for such systems. These critical provisions would be eliminated under the terms of the proposed exemption order.
30. Last year the Commission undertook a comprehensive review of the regulatory framework applicable to all BDUs. In BPN 2008-100 the Commission determined that it would maintain BDU access rules for Category A services in the new *Broadcasting Distribution Regulations* to take effect on September 1, 2011.
31. In so doing, the Commission provided a strong endorsement for the importance of access rights. At paragraph 65 of BPN 2008-100 it stated the following:
- The Commission considers that the issue of access rights is fundamental to any regulatory framework for the digital world. Removing most access requirements would unquestionably result in a simpler, more flexible and more market-oriented approach. However, such a market-oriented approach must not come at the expense of other objectives, in particular those that foster diverse programming choices and support Canadian services through the production and acquisition of Canadian programming. [emphasis added]*
32. The proposed exemption order, however, would immediately delete access rules for all systems with fewer than 20,000 subscribers assuming they opt for exemption rather than licensing. The CAB submits that this proposal directly contradicts the Commission’s key findings with respect to the importance of access rights.

33. The Commission gave no indication in BPN 2008-100 that it was contemplating the removal of access requirements for all BDUs with fewer than 20,000 subscribers. The potential loss of access by specialty and pay services to BDUs serving up to 25% of all cable subscribers would, in the CAB's view, detract in a material manner from the implementation of Canadian broadcasting policy and would thus be inconsistent with the Commission's stated objectives in proposing this exemption order.
34. Access rules are a central element of the Commission's regulation of BDUs. They ensure that consumers have the ability to view Canadian services and they provide critical support to those programming services that must negotiate the terms of carriage by individual BDUs.
35. As the CAB argued in its submission's to last year's BDU framework proceeding, the elimination of access rules for cable BDUs with fewer than 20,000 subscribers, particularly if this includes BDUs operated by the top four MSOs, would provide those BDUs with the ability to threaten removal of an existing service or non-carriage of a new service as a lever to negotiate lower affiliation payments. The inevitable result would be lower revenues for discretionary services and lower expenditures on Canadian programming. Small independent specialty services are particularly vulnerable in this regard because of their lack of negotiating power.
36. In the CAB's view, access rules must remain as a central element of the distribution environment, for both licensed and exempt BDUs. Accordingly, the CAB submits that **the exemption order should contain a provision that requires exempt systems with more than 2,000 subscribers to continue to adhere to the access rules applicable to licensed cable BDUs.**

### **Contributions to Canadian programming**

37. The existing exemption order for cable systems with more than 2,000 and less than 6,000 subscribers, and the regulations applicable to Class 1 systems with 6,000 to 20,000 subscribers, requires such systems to contribute 5% of gross revenues, less any contribution to local expression (i.e. a community channel), to the CTF and independent productions funds. The proposed exemption order, which would exempt cable BDUs with as many as 20,000 subscribers, would significantly alter that policy because it does not contain any requirement for a financial contribution to Canadian programming.
38. In BPN 2008-100, the Commission did not indicate that it was revising its policy to relieve exempt systems from the obligation to contribute 5% of gross revenues to Canadian programming. Furthermore, the Commission has provided no analysis in BNC 2009-173 to support a conclusion that cable systems with more than 2,000 subscribers and fewer than 20,000 subscribers, should no longer be required to make such a contribution.
39. The *Broadcasting Act* requires each element of the Canadian broadcasting system to contribute in an appropriate manner to the creation and presentation of Canadian programming. The CAB acknowledges that, under existing policy, a cable BDU with up to 20,000 subscribers may elect to make this contribution to its community channel, if it provides such a service. If it does not provide a community channel, or if it does not direct 5% of its gross revenues to its community



channel, then the difference must be made up through contributions to the CTF and independent production funds.

40. Thus, relieving these systems of any requirement to contribute to Canadian programming will have an unknown but potentially material impact on the CTF and other production funds, and on the new Canadian Media Fund which will replace the CTF.
41. Furthermore, the Commission is currently considering the parameters of the new Local Programming Improvement Fund (LPIF), including the level of BDU contributions that should be required. At the present time it is anticipated that an additional contribution of 1% of gross revenues (to a total of 6%) will be required of BDUs to fund the LPIF; the amount of this contribution requirement could be further increased depending on the Commission's conclusions on this issue coming out of the current licence renewal proceedings.
42. Exempting BDUs serving up to 25% of the existing cable subscriber base from any requirement to contribute to Canadian programming would clearly have a material impact on the level of funding available to assist conventional television licensees with the production of local programming.
43. Based on Mediastats data the CAB estimates that, if BDUs were required to contribute 1% of their revenues to support the LPIF, the contributions that would otherwise be required of cable systems with 2,000 to 20,000 subscribers would be equivalent to at least \$10 million. A higher percentage contribution would represent correspondingly higher reductions in funding for the LPIF attributable to the absence of any contribution requirement for exempt systems.
44. Alternatively, in order to maintain the overall level of funding that would otherwise be available to support the LPIF, those BDUs that continue to hold a licence would have to make correspondingly higher percentage contributions to the LPIF to make up for the loss in contributions attributable to exempt BDUs.
45. For these reasons, **the CAB urges the Commission to amend the proposed exemption criteria to require all exempt BDUs with more than 2,000 subscribers to make a direct financial contribution of 5% of gross revenues (to be increased to 6% with implementation of the LPIF), less any contribution to local expression, to Canadian programming. Should the CRTC increase the required contribution of licensed BDUs in the future (e.g. to fund the LPIF), then exempt undertakings with more than 2,000 subscribers should be required to make similar increased contributions.**

#### **The insertion of commercial messages by exempt BDUs (section 11(f))**

46. Section 11(f) of the proposed exemption order contains a provision that would allow an exempt system to insert targeted commercial messages in a programming service, if the insertion of such messages is in accordance with an agreement between the exempt BDU and the operator of the exempt service. This provision mirrors a similar provision in proposed amendments to the *Broadcasting Distribution Regulations* announced in Broadcasting Notice of Consultation CRTC 2009-176 (BNC 2009-176).

47. The Commission has not yet finalized a policy on the insertion of targeted advertising by BDUs in content provided by Canadian programming services. A proceeding to examine the regulatory framework for VOD undertakings, including the implications of targeted advertising and the conditions under which it might be inserted in such content, is currently underway (Broadcasting Public Notice CRTC 2008-101).
48. The CAB submits that the proposed provision in the exemption order that would authorize the insertion of targeted advertising is premature, given that a policy on targeted advertising, including relevant definitions, terms and conditions, is yet to be determined. The CAB will address this issue in more detail in its submission in response to BNC 2009-176, to be filed on May 11, 2009.
49. **Section 11(f) re the insertion of targeted advertising should be deleted from the proposed exemption order. Appropriate amendments to the exemption order can be introduced, if necessary, when the Commission finalizes its policy on the insertion of targeted commercial messages by BDUs,** with the certainty that the relevant terms and conditions associated with the insertion of targeted advertising will properly reflect the policy determinations to be made by the Commission.

#### **Distribution of authorized services (section 13)**

50. Section 13 of the proposed exemption order generally allows an exempt BDU to distribute any service that the Commission has authorized, whether by regulation or otherwise. As drafted, this general authorization is overly broad as it would appear that it would permit an exempt BDU to distribute multiple sets of US 4+1 signals. This would be contrary to the Commission's policy limiting BDUs to the distribution of no more than two sets of US 4+1 signals.
51. The effect of an exempt BDU distributing more than two sets of US 4+1 signals would be to further compromise the ability of Canadian specialty and pay services to gain access to distribution, a concern that is already heightened by the absence of access requirements in the proposed exemption order.
52. The CAB submits that **section 13 of the proposed exemption order should be revised to ensure that an exempt system cannot distribute more than two sets of US 4+1 signals.**

#### **Programming service substitution (section 21)**

53. Section 21 of the proposed exemption order requires exempt BDUs with more than 2,000 subscribers to carry out program substitution with respect to local stations provided that, among other things, the main studio of the local television station (i) is located within the service area of the undertaking and (ii) is used to produce locally originated programming.
54. This provision generally reflects the program substitution requirements currently applicable to licensed Class 2 cable BDUs (i.e. BDUs serving between 2,000 and 6,000 subscribers). However, it represents a significant relaxation of the program substitution requirements that currently

apply to Class 1 systems (i.e. those systems with more than 6,000 subscribers), in two key respects:

- (i) the obligation to carry out program substitution would apply only with respect to local television stations, not to local and regional stations as in the current policy; and
- (ii) the obligation to carry out program substitution would apply only where the local station has a local studio located in the service area that produces local programming. No such requirement currently applies to cable BDUs with more than 6,000 subscribers.

55. In last year's proceeding to review the regulatory framework for BDUs, the CAB strongly argued the importance of maintaining the program substitution rules for cable BDUs. They are a fundamental mechanism for protecting the integrity of program rights, and they play an even more crucial role in the present economic circumstances where the advertising revenues of over-the-air broadcasters are particularly vulnerable.
56. In the CAB's view, a watering down of the program substitution rules for BDUs serving 6,000 to 20,000 subscribers is unwarranted and represents further erosion of the stability of the conventional television sector.
57. The CAB submits that **section 21 of the proposed exemption order should be revised to ensure that exempt BDUs with more than 6,000 subscribers have the same programming service substitution obligations as licensed Class 1 cable systems.**

### **Information requirements (section 23)**

58. The CRTC has not yet determined what information filing requirements should be applied to exempt systems with more than 2,000 subscribers, but has indicated its intention to develop a simplified Annual Return with Statistics Canada. This is reflected in section 23 of the proposed exemption order.
59. In addition to the statistical and financial information that is required to be filed in the Annual Return, the CAB suggests that it would be reasonable to expect the operators of exempt undertakings to file sufficient information to permit a third party to assess compliance with the exemption order.
60. For example, conventional television stations, 9(1)(h) services and minority language services should be able to readily identify from information publicly available, the extent to which their signals are being carried by exempt systems as required by the exemption order. This is important because the CRTC relies on third party complaints, rather than active monitoring, to identify potential compliance issues with exempt undertakings.
61. To this end, the CAB submits that **all exempt BDUs should be required to file, at least annually, basic identification as to location and ownership of the exempt undertaking, a map of the serving area and a detailed channel line-up, in addition to the information required to be filed in the Annual Return. The channel line-up should consist of a list of**

**all services distributed specifying: (i) basic service/discretionary and analog/digital mode of distribution.**

62. The CAB also suggests that **the operator or individual responsible for the exempt undertaking should be required to file an annual attestation or sworn statement to the effect that he/she has examined the requirements of the BDU exemption order and certifies that the operation of the exempt undertaking complies in all respects with the relevant criteria.**

### **Impact on Part I licence fees**

63. In BNC 2009-173-1, the Commission confirmed that Part I licence fees that would have been collected from the BDUs that will be exempt from licensing requirements under the proposed exemption order will have to be redistributed to other fee-payers once the exemption order comes into force.
64. The Commission estimated that the amount of Part I licence fees assessed to BDUs that will be eligible to seek exemption amounted to \$1.25 million in 2008-2009, about 4.6% of the total Part I fees assessed for that year. In 2009-2010, assuming the exemption order is in effect and the Commission does in fact redistribute this amount to licensed undertakings, the result would be a *de facto* increase in Part I fees for all other licensed undertakings, even if there is no increase in the Commission's operating budget.
65. Specialty and pay licensees would be doubly impacted because of the "secondary recipient rule", since they will now be responsible for paying licence fees on the revenue associated with the affiliation payments they receive from exempt systems.
66. The CAB submits that it is illogical that an exercise intended to streamline the regulatory framework to the benefit of smaller BDUs and the Commission itself should increase the regulatory burden of programming undertakings through higher licence fees. In theory, the Commission should be expected to absorb at least some of this impact by reducing its operating budget to reflect the cost savings associated with the reduced regulatory oversight of exempted systems.
67. Limiting the scope of the proposed exemption order as recommended above would partially alleviate this concern in terms of the financial impact on licensed programming undertakings, but it would not address the inherent unfairness of higher fees on one sector resulting from the deregulation of a different sector.
68. Accordingly, the CAB recommends that **the Commission should carefully review its internal operations with a view to reducing costs, particularly in light of the reduced workload that should result from eliminating the need to process applications for licensing, amendment or renewal from exempt systems. The goal should be to offset the loss of Part I licence fee revenue payable by newly exempt systems.**

69. Furthermore, to the extent that increased licence fees may need to be paid by licensed undertakings as a result of the broadening the applicability of the existing BDU exemption orders, **the Commission should ensure that increased licence fees are recovered from the BDU sector, not the programming sector, since it is the BDU sector that would derive the benefit of the revised exemption order.**

70. The CAB appreciates the opportunity to file these comments respecting the proposed BDU exemption order.

Sincerely,

*Original signed by:*

Pierre-Louis Smith  
Vice-President, Policy and Chief Regulatory officer

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