



## Broadcasting Decision CRTC 2007-134

Ottawa, 11 May 2007

**SIRIUS Radio Inc.**  
Across Canada

*Application 2006-1135-2, received 6 September 2006*  
*Broadcasting Public Notice CRTC 2006-130*  
*10 October 2006*

### Licence amendment for Sirius

*The Commission **denies** an application to amend the condition of licence that stipulates Sirius' required contributions to Canadian talent development.*

### Introduction

1. Following a competitive process, SIRIUS Radio Inc. (Sirius Canada) was granted a broadcasting licence to operate a satellite subscription radio (SSR) undertaking, which is now known as Sirius (Broadcasting Decision CRTC 2005-247). Sirius Canada launched its SSR service in December 2005.
2. In accordance with the licensing framework for SSR undertakings set out in Broadcasting Public Notice CRTC 2005-61, the Commission imposed a condition of licence on Sirius Canada requiring that, during each broadcast year, it contribute a minimum of 5% of its gross revenues from its SSR undertaking to eligible third parties directly connected to the development of Canadian musical and other artistic talent or other initiatives approved by the Commission.
3. In the present application, Sirius Canada requested that “during each broadcast year” be deleted from the condition and replaced with “by the end of each broadcast year of the licence term.” The licensee also submitted that Sirius is a broadcasting distribution undertaking (BDU) and that, in accordance with the *Broadcasting Distribution Regulations*, the calculation of its minimum contribution to Canadian talent development (CTD) should be based on the cumulative gross revenues from broadcasting activities rather than on the gross revenues from its SSR undertaking.

4. Under Sirius Canada's proposed condition of licence, the licensee would be permitted to apply any over payment, i.e. payment of more than 5% of gross subscription revenues in any given year, to its entire contribution over the licence term. Sirius Canada maintained that this flexibility would allow it to contribute more to CTD during its initial years of operation resulting in increased and earlier funding to more Canadian artists and eligible third party initiatives in those years.
5. The Commission considers that the primary issue arising from this application is whether Sirius Canada's proposed method for calculating its required CTD contributions, which represents a departure from the Commission's usual practice for SSR undertakings, would best serve the needs of Canadian artists and eligible third party initiatives.
6. The Commission received one intervention in support of this application as well as three interventions in opposition and two comments.

### **Commission's analysis and determination**

7. As noted by the opposing interveners, Sirius Canada is not currently prohibited from exceeding its required annual CTD contributions because its requirement is stipulated as a minimum. The calculation of Sirius Canada's required minimum CTD contributions is based on a percentage of its gross revenues from the SSR undertaking, which includes only revenues from activities that are regulated by the Commission. The Commission has consistently imposed similar CTD expenditure requirements on commercial radio licensees based on gross revenues as minimums to be met in each broadcast year, but which allow for over payments to be made in any given year. Many commercial radio licensees exceed their minimum annual requirements for contributions to CTD and maintain their conditions of licence.
8. The Commission notes that Sirius Canada's proposed licence amendment would establish the licensee's CTD expenditure requirement as a maximum payment over the entire licence term and limit its contributions to 5%. While the Commission agrees with the licensee that the proposed amendment would ensure a greater level of funding in the earlier years of the licence term, the Commission shares the opposing interveners' concern that Sirius Canada's contributions to CTD could be reduced in subsequent years, particularly in the final years. The Commission further notes that Sirius Canada is licensed to operate a SSR undertaking, not a BDU.
9. The Commission considers that approval of the application could result in a reduction of Sirius Canada's contributions to CTD and consequently would not serve the needs of Canadian artists and eligible third party initiatives. The Commission further notes that Sirius Canada's condition of licence was imposed on the licensee following a competitive licensing process. In the Commission's view, allowing a licensee to reduce significant commitments during the first licence term would, absent special circumstances, bring into question the integrity of the licensing process.

10. In light of all the above, the Commission **denies** the application by SIRIUS Radio Inc. to amend the condition of licence that stipulates the method for calculating the required contributions to Canadian talent development for its satellite subscription radio undertaking.

Secretary General

*This decision is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*