



Broadcasting Notice of Consultation CRTC 2013-278

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Ottawa, 7 June 2013

Call for comments regarding the exemption of low-power tourist information related radio programming undertakings from licensing requirements and associated regulations

The Commission calls for comments on whether currently exempt low-power tourist information related radio stations should be exempt under a single exemption order.

The Commission also calls for comments on a proposal to exempt from licensing requirements and associated regulations certain currently licensed low-power tourist information related radio programming undertakings.

In the appendix to this notice, the Commission sets out a proposed exemption order incorporating all of the above.

*The deadline for the filing of comments is **8 July 2013**. Parties may file replies to matters raised in the initial comments. The deadline for the filing of replies is **18 July 2013**.*

Background

1. In the CRTC Three-Year Plan 2013-2016,¹ the Commission announced its intention for the 2013-2014 broadcast year to review and streamline requirements set out in its current exemption orders for radio programming undertakings by issuing revised exemption orders for public comment. In the present notice of consultation, the Commission calls for comments relating to the exemption of certain tourist information related radio programming undertakings. Specifically, it calls for comments on issues and proposals relating to combining existing exemption orders for low-power tourist information related radio programming undertakings, and the possible exemption of certain currently licensed tourist information related radio programming undertakings.

Policy considerations

2. The Commission's authority to exempt classes of broadcasting undertakings is set out in section 9(4) of the *Broadcasting Act* (the Act), which states the following:

The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class

¹ This can be found on the Commission's website at www.crtc.gc.ca under "Reports and Publications."

specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1) [of the Act].

3. In Public Notice 1996-59, the Commission stated that its policy is generally to exempt classes of programming undertakings only where:
 - a) it is evident to the Commission that the licensing and regulation of the class of undertaking will not result in a significantly greater contribution to the Canadian broadcasting system, whether with respect to the Canadian programming carried by undertakings of that class, or the expenditures on Canadian programming made by such undertakings; and
 - b) it is evident to the Commission that undertakings operating under the exemption order will not have an undue impact on the ability of licensed undertakings to fulfil their regulatory requirements.
4. This policy seeks to ensure that there is an appropriate balance between the obligations that are imposed on licensees and the resources to which these licensees are disposed to meet those obligations.

Combining existing exemption orders

5. In the appendices to Broadcasting Public Notice 2003-35, the Commission set out exemption orders whereby it exempted from licensing requirements and associated regulations the following classes of programming undertakings:
 - low-power radio programming undertakings providing tourist and traffic information in national and provincial parks and on historic trails;
 - low-power radio programming undertakings providing atmospheric environment services from Environment Canada, and information concerning local and marine weather, road and boating conditions, ferry schedules and traffic control;
 - very low-power FM radio programming undertakings providing traffic advisories in remote areas concerning approaching logging, construction, road maintenances and other large vehicles.
6. In the appendix to Broadcasting Public Notice 2004-92, as amended by Broadcasting Order 2011-176,² the Commission set out an exemption order whereby it exempted from licensing requirements and associated regulations those

² This amendment permits provincial or municipal governments to operate undertakings that are exempt under Broadcasting Public Notice 2004-92.

low-power radio programming undertakings that provide live or pre-recorded messages about traffic, weather conditions, highway construction and closures, conditions on bridges and in mountain passes, and information, broadcast without consideration, relating to attractions of interest to tourists. The Commission notes that these undertakings, along with the three classes of undertaking described above, are prohibited from broadcasting advertising.

7. Given that the broadcast of tourist and traffic information are common elements to each of the above-noted exemption orders, the Commission is of the view that combining those exemption orders under one exemption order would allow similar types of undertakings to operate under one easily referenced document while ensuring that the revised order is broad enough to allow currently exempt stations to continue operating under an exemption.

Exemption of certain currently licensed tourist information related radio stations

8. In addition to exempt low-power tourist information related radio stations, there are 48 tourist information stations that have been licensed by the Commission and that are currently in operation. Although these licensed stations offer programming of style and substance similar to that of exempt stations, they are generally permitted to broadcast up to six minutes of advertising per clock hour. Additionally, some are permitted by condition of licence to broadcast musical selections. Finally, some are not low-power stations. For these reasons, these tourist information related stations are currently ineligible for exemption.
9. The Commission would not be inclined to exempt currently licensed tourist information related radio stations if exempting such stations could have an undue impact on the ability of licensed undertakings to fulfill their regulatory requirements. However, the Commission considers that most licensed tourist information related radio stations have a negligible impact on the markets they serve. Not only do they have limited revenues, but their niche programming appeals to a very small audience that is likely to tune into these stations for a limited amount of time. Further, they are not likely to solicit significant advertising due to their niche programming.
10. Moreover, although these stations contribute to the Canadian broadcasting system, their contribution is minimal as they broadcast tourist information and other related information (for example, relating to weather, traffic and community events) that can be heard on other radio stations. In addition, they have relatively low programming expenses when compared to other classes of programming undertakings. Finally, the reach of these stations is generally limited given that the majority are low-power stations.
11. The Commission is therefore of the preliminary view that the continued licensing of these stations does not contribute to the quality and diversity of programming available to Canadians and to the Canadian broadcasting system, and to the

implementation of the policy objectives of the Act. Accordingly, and in light of the guidelines set out in Public Notice 1996-59, the Commission considers that they could be exempted from licensing requirements and associated regulations.

Which licensed tourist information related radio stations should become eligible for exemption?

12. In setting out its proposal regarding the licensed tourist information related radio stations that should be eligible for exemption, the Commission has considered existing exemption criteria for similar stations. The Commission notes that under this proposal, the majority of the currently licensed tourist information related radio stations would become eligible for exemption from licensing requirements and associated regulations.

Exemption criteria

13. In Broadcasting Public Notice 2004-92, the Commission set out a number of defining criteria to exempt tourist information related radio stations. One of the key criteria relates to the purpose of the undertaking. Specifically, the programming provided by the station consists of live or pre-recorded messages that provide the travelling public with information about traffic, weather conditions, highway construction and closures, conditions on bridges and in mountain passes, and information, broadcast without consideration, relating to attractions of interest to tourists.
14. Furthermore, these stations are expected to adhere to the following programming related criteria:
 - The station does not rebroadcast the programming service of any licensed or exempted radio or television undertaking.
 - The programming provided by the station contains no music or advertising material.
 - The station does not broadcast programming that is religious or political in nature.
15. In the Commission's view, the criteria relating to the rebroadcast of the programming service of any licensed or exempted radio station and to the broadcast of programming that is religious or political in nature should be maintained in the proposed exemption order. It considers, however, that the purpose of the undertaking and the current restrictions on musical selections and advertising material should be amended. These amendments would ensure that the revised order continues to allow currently exempt stations to operate, and would broaden the scope of the order to permit certain low-power tourist information related stations to operate without requiring a licence.

Purpose of the undertaking

16. In regard to the purpose of the undertaking, the Commission proposes the following (proposed amendments in bold)

The programming provided by the undertaking consists of live or pre-recorded messages which provide the public with information about **local** traffic, weather **and marine** conditions, **road and boating conditions**, highway construction and closures, **airport arrival and departure information, ferry and train schedules, current border crossing regulations and wait times**, conditions on bridges and in mountain passes, **advisories of approaching large vehicles (example: logging, construction, road maintenance and other large vehicles)** and **any other locally relevant** information relating to attractions **and events** of interest to tourists **or the public**.

17. The Commission notes that the above expansion of programming characteristics would encompass all stations currently exempt under the exemption orders set out in Broadcasting Public Notices 2003-35 and 2004-92. Further, the programming characteristics are sufficiently expansive to encompass the majority of tourist information related radio stations that are currently licensed. Finally, the Commission considers that the programming characteristics should help ensure that these stations remain faithful to their nature of service and limit their impact on the markets they serve, thereby ensuring that they continue to meet the requirements for exemption set out in Public Notice 1996-59.

Music and advertising criterion

18. The Commission proposes to replace the criterion relating to whether the programming provided by the stations contains music or advertising material with the following: “The undertaking shall not broadcast musical selections, except as incidental background music.” Although this new criterion would permit the exempt stations to solicit advertising revenue, the impact of this change on the markets in which they operate would be mitigated by the following:

- the niche nature of the exclusively tourist information, traffic and weather-related programming broadcast;
- the inability to broadcast live programming other than tourist information related programming; and
- the inability to offer musical programming except in a very cursory fashion.

Low-power services

19. Finally, the Commission is of the view that only low-power stations should be eligible for exemption from licensing requirements and associated regulations. In this regard, the Commission notes that regular FM stations are protected from interference caused by new stations or changes to existing stations. Low-power

stations, on the other hand, do not have protected status and must relinquish their licences if they are not compatible with a regular, protected FM station. Therefore, low-power stations, unlike regular FM stations, have a minimal impact on the availability of frequencies in a given market. As such, the Commission considers that it continues to be necessary to licence regular, protected FM stations in order to fulfill its mandate under the Act.

Call for comments

20. The Commission calls for comments on the issues and proposals set out above, specifically in regard to the following:
- whether the exemption orders set out in the appendices to Broadcasting Public Notices 2004-92 and 2003-35 should be combined into a single exemption order;
 - whether licensed low-power tourist information related radio stations that do not broadcast music programming and that do not rebroadcast the programming service of any licensed or exempted radio or television undertaking should be eligible for exemption from licensing requirements and associated regulations;
 - the proposed amendments to the criterion relating to the purpose of the undertaking; and
 - the replacement of the criterion relating to prohibition on the broadcast of music or advertising material by a criterion prohibiting the station from broadcasting musical selections, except as incidental background music.
21. A proposed exemption order is set out in the appendix to this notice.

Procedure

22. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277 (the Rules of Procedure) set out, among other things, the rules for content, format, filing and service of interventions. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."
23. The Commission will accept comments that it receives on or before **8 July 2013**. Parties may file replies to matters raised in the initial comments. The deadline for the filing of replies is **18 July 2013**.
24. In accordance with the Rules of Procedure, a document must be filed with, not merely sent to, the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will

not notify a party whose submission is received after the deadline date. Late submissions will not be considered by the Commission and will not be made part of the public file.

25. The Commission will not formally acknowledge interventions. It will, however, fully consider all interventions, and they will form part of the public record of the proceeding, provided that the procedures for filing set out in the Rules of Procedure and this notice have been followed.
26. Submissions must be filed by sending them to the Secretary General of the Commission by **only one** of the following means:

by using the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

27. Submissions longer than five pages should include a summary.
28. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line ***End of document*** should be entered following the last paragraph of the document, as an indication that the document has not been altered during electronic transmission.

Important notice

29. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
30. The personal information that parties 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.
31. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, 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.

32. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
33. The Commission encourages parties and interested persons to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Examination of documents

34. A list of all interventions and answers will also be available on the Commission's website. The list is accessible by selecting "View all proceedings open for comment" from the "Public Proceedings" section of the Commission's website and clicking on the "Interventions/Answers" link associated with this notice.
35. The public may examine public interventions and related documents at the following Commission offices during normal business hours.

Location of Commission offices

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional offices

Nova Scotia

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

Quebec

205 Viger Avenue West
Suite 504
Montréal, Quebec
H2Z 1G2
Tel.: 514-283-6607

Ontario

55 St. Clair Avenue East
Suite 624
Toronto, Ontario
M4T 1M2
Tel.: 416-952-9096

Manitoba

360 Main Street
Suite 970
Winnipeg, Manitoba
R3C 3Z3
Tel.: 204-983-6306
Fax: 204-983-6317

Saskatchewan

2220 – 12th Avenue
Suite 620
Regina, Saskatchewan
S4P 0M8
Tel.: 306-780-3422

Alberta

100 – 4th Avenue South-West
Suite 403
Calgary, Alberta
T2P 3N2
Tel.: 403-292-6660
Fax: 403-292-6686

British Columbia

858 Beatty Street
Suite 290
Vancouver, British Columbia
V6B 1C1

Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Amendments to the Exemption order for low-power radio programming undertakings providing information about traffic, weather conditions, highway construction and closures, conditions on bridges and in mountain passes, and information, broadcast without consideration, relating to attractions of interest to tourists, Broadcasting Order CRTC 2011-176, 11 March 2011*
- *Exemption order respecting a class of low-power radio programming undertaking, Broadcasting Public Notice CRTC 2004-92, 26 November 2004*
- *Exemption orders respecting certain classes of low-power and very low-power programming undertakings, Broadcasting Public Notice CRTC 2003-35, 10 July 2003*
- *Policy regarding the use of exemption orders, Public Notice CRTC 1996-59, 26 April 1996*

Appendix to Broadcasting Notice of Consultation CRTC 2013-278

Proposed exemption order

Exemption order for low-power tourist information related radio programming undertakings

Pursuant to subsection 9(4) of the *Broadcasting Act* (the Act), the Commission by this order, exempts from the requirement of Part II of the Act and any regulations, those persons carrying on broadcasting undertakings of the class defined by the following criteria:

Purpose

The purpose of these radio programming undertakings is to provide the public with live or pre-recorded messages with tourist related information that may include information about local traffic, weather and marine conditions, road and boating conditions, highway construction and closures, airport arrival and departure information, ferry and train schedules, current border crossing regulations and wait times, marine traffic information, conditions on bridges and in mountain passes, advisories of approaching large vehicles (example: logging trucks and large construction and road maintenance vehicles) and any other locally relevant information relating to attractions and events of interest to tourists or the public.

Description

1. The undertaking meets all technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by that Department.
2. The low-power undertaking operates between 525 kHz and 1705 kHz in the AM frequency band or between 88 MHz and 107.5 MHz in the FM frequency band. The undertaking broadcasts with a transmitter power of less than 100 watts in the AM band, and with a maximum effective radiated power of 50 watts with a maximum transmitting antenna height of 60 metres in the FM band as defined by the Department of Industry in Parts II and III of its *Broadcasting Procedures and Rules*.
3. The Commission would not be prohibited from licensing the undertaking by virtue of any Act of Parliament or any direction to the Commission by the Governor in Council.
4. The programming provided by the undertaking consists of live or pre-recorded messages which provide the public with information about local traffic, weather and marine conditions, road and boating conditions, highway construction and closures, airport arrival and departure information, ferry and train schedules, current border crossing regulations and wait times, conditions on bridges and in mountain passes, advisories of approaching large vehicles (example: logging, construction, road maintenance and other large vehicles) and any other locally relevant information relating to attractions and events of interest to tourists.

5. The undertaking does not rebroadcast the programming service of any licensed or exempted radio or television undertaking.
6. The programming provided by the undertaking contains no musical selections, except as incidental background music.
7. The undertaking does not broadcast programming that is religious or political in nature.
8. The undertaking's programming complies with the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' *Equitable portrayal code*, as amended from time to time and approved by the Commission.
9. The undertaking adheres to the Canadian Association of Broadcasters' *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.