



Broadcasting Public Notice CRTC 2007-79

Ottawa, 12 July 2007

Call for comments on proposed amendments to the *Radio Regulations, 1986* – Implementation of the *Commercial Radio Policy 2006* and the *Digital Radio Policy*

In this public notice, the Commission calls for comments on proposed amendments to the Radio Regulations, 1986 that reflect determinations set out in its policy frameworks for commercial radio and digital radio set out in Broadcasting Public Notice 2006-158 and Broadcasting Public Notice 2006-160. The Commission also provides information with respect to the implementation of Canadian content development – the new approach to the development and promotion of Canadian artists set out in Broadcasting Public Notice 2006-158.

1. The Commission proposes to amend the *Radio Regulations, 1986* (the Regulations) in order to implement the commercial radio and digital radio policy frameworks established, respectively, in Broadcasting Public Notice 2006-158 and Broadcasting Public Notice 2006-160.
2. Specifically, the Commission proposes to amend the Regulations in order to:
 - implement changes relating to the Canadian content of musical selections from subcategory 31 (concert music) and subcategory 34 (jazz and blues) in accordance with paragraph 94 of Public Notice 2006-158;
 - implement the new Canadian content development (CCD) contribution regime as set out in Public Notice 2006-158;
 - implement changes to broaden the definition of Local Management Agreement (LMA) as defined in paragraph 178 of Public Notice 2006-158; and
 - extend the regulatory framework for FM analogue services to licensees operating in the L-band as determined in Public Notice 2006-160.

Transitional measure for the implementation of CCD

3. In Public Notice 2006-158, the Commission set out a new approach to the development and promotion of Canadian artists. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission replaced the expression “Canadian talent development” (CTD) with “Canadian content development” (CCD). Each radio station holding a commercial radio licence is required to make a basic annual CCD contribution based on its total broadcast revenues in the previous broadcast year. Of this basic annual contribution, 60% must be allocated to the Foundation Assisting Canadian Talent on Recordings (FACTOR) or MUSICACTION and the remainder to eligible initiatives as defined in paragraph 108 of Public Notice 2006-158.

4. Under the previous CTD regime, all obligations with respect to CTD were imposed only by condition of licence. In Public Notice 2006-158, the Commission stated that the new model would, as a transitional measure, allow for deductions of amounts contributed under these conditions of licence from the total amount contributable under the new model. This transitional measure is designed to facilitate the transition from the previous CTD regime to the new CCD regime for licensees subject to such conditions of licence and, in particular, to avoid licensees contributing twice, given that any conditions of licence imposed under the old policy will remain in effect. In this regard, the Commission notes, in the attached proposed Regulations, the provision relating to the ability of licensees to reduce the basic annual amount contributable under the Regulations by the amount to be contributed to the development of Canadian content or Canadian talent under conditions of licence imposed prior to 1 June 2007.
5. The Commission has chosen 1 June 2007 as the transitional date since all decisions issued after this date will have been made in accordance with the new policy. The ability to deduct amounts contributable under conditions of licence applies only to those with CTD obligations examined under the old regime. All decisions issued after 1 June 2007 will be subject to the new regime and will not be entitled to this deduction. These decisions may have conditions of licence for CCD commitments over and above the required basic annual contributions; however, these amounts are recognized as being in addition to the required basic annual contribution and cannot be deducted from it.
6. Licensees entitled to deduct their CTD commitments from the required basic annual contribution will contribute under their condition of licence first and, only if the amount contributable under their condition of licence is less than the required basic annual contribution will they be required to make an additional contribution under the new basic regime above the amount prescribed in their condition of licence.
7. For example, if a licensee has a condition of licence requiring a contribution of \$1,000 annually to Canadian talent either as part of the CAB Plan or otherwise and, based on its previous broadcast year's total broadcast revenues (less than \$625,000), its required basic annual contribution under the Regulations would be \$500, under the transitional measure, the licensee will be able to reduce its basic annual contribution by the amount it is required to contribute under its condition of licence. Accordingly, the net result in this instance is that the licensee would only be required to contribute \$1,000 under its condition of licence and still be considered to have met its obligations in respect of the required basic annual contribution, without having to make any additional contributions under the Regulations.
8. Alternatively, if a licensee has a condition of license requiring a contribution of \$500 annually to Canadian talent and, based on its previous broadcast year's total broadcast revenues (between \$625,000 and \$1,250,000), its required basic annual contribution under the Regulations would be \$1,000, under the transitional provision the licensee would be able to reduce its basic annual contribution by the \$500 contributed under its condition of license. The licensee would, therefore, only be required to contribute the

difference (\$500) in order to meet its obligations under the Regulations. The net result in this instance, is that the licensee would be required to contribute \$1,000: \$500 as provided in its condition of license and an additional \$500 under the Regulations, 60% (\$300) of which must be directed to FACTOR or MUSICACTION.

9. Where the condition of license specifies the initiative to which the contribution is to be made, the licensee must continue to contribute to that initiative. Where the condition of licence does not specify the initiative to which the contribution is to be made, the licensee should contribute to eligible initiatives as described in paragraph 108 of Public Notice 2006-158.

Future applications and additional contributions

10. As noted in Public Notice 2006-158, applicants may wish to make CCD commitments over and above the required basic annual contribution. These over and above commitments will be imposed as conditions of licence. The Commission notes that, given that basic annual contribution amounts are based on the previous broadcast year's total broadcast revenues, these amounts may vary from the estimates provided in an application. In light of this, the Commission encourages applicants proposing to contribute amounts over and above their required basic annual contribution to clearly identify in their applications the specific over and above amount that they will contribute on an annual basis, independent of the required basic annual contribution.

Call for comments

11. The proposed *Regulations Amending the Radio Regulations, 1986* are appended to this public notice. The Commission invites comments on the wording of the proposed amendments set out in the appendix. The Commission will accept comments that it receives on or before **31 July 2007**.
12. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

13. 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

14. Submissions longer than five pages should include a summary.
15. 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

16. 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.
17. 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.
18. 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.
19. Please note that the information you 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 webpage of this particular public process. As a result, a general search of our Web site with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
20. The Commission encourages interested parties to monitor the public examination file and the Commission's Web site for additional information that they may find useful when preparing their comments.

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

Toll-free telephone: 1-877-249-2782
Toll-free TDD: 1-877-909-2782

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

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

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

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

Kensington Building
275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
TDD: 204-983-8274
Fax: 204-983-6317

Cornwall Professional Building
2125 - 11th Avenue
Room 103
Regina, Saskatchewan S4P 3X3
Tel.: 306-780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Digital Radio Policy*, Broadcasting Public Notice CRTC 2006-160, 15 December 2006

This document 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>

Appendix to Broadcasting Public Notice 2007-79

REGULATIONS AMENDING THE RADIO REGULATIONS, 1986

AMENDMENTS

1. (1) The definition “official contour” in section 2 of the *Radio Regulations, 1986*¹ is repealed.

(2) The definitions “campus station”, “commercial station”, “community station”, “ethnic station”, “licensee” and “native station” in section 2 of the Regulations are replaced by the following:

“campus station” means an A.M. station, F. M. station or digital radio station that is licensed as a campus station; (*station de campus*)

“commercial station” means an A. M. station, F. M. station or digital radio station, other than one that

(a) is owned and operated by the Corporation or a not-for profit corporation; or

(b) is a campus station, community station, native station or ethnic station; (*station commerciale*)

“community station” means an A.M. station, F.M. station or digital radio station that is licensed as a community station; (*station communautaire*)

“ethnic station” means an A.M. station, F.M. station or digital radio station that is licensed as an ethnic station; (*station à caractère ethnique*)

“licensee” means a person licensed to operate an A.M. station, F.M. station, digital radio station or radio network; (*titulaire*)

“native station” means an A.M. station, F.M. station or digital radio station that is licensed as a native station; (*station autochtone*)

(3) The definition “market” in section 2 of the Regulations is amended by striking out the word “or” at the end of paragraph (a), by adding the word “or” at the end of paragraph (b) and by adding the following after paragraph (b):

(c) in the case of a digital radio station, the digital service area; (*marché*)

¹ SOR/86-982

(4) Section 2 of the Regulations is amended by adding the following in alphabetical order:

“contour” means a service contour marked for a licensed A.M. station or a licensed F.M. station on the map that pertains to that station and that is most recently published by the Department of Industry; (*périmètre de rayonnement*)

“digital radio licensee” means a person licensed to operate a digital radio station; (*titulaire radio numérique*)

“digital radio station” means a station that broadcasts in the frequency band of 1452 to 1492 MHz (L-band) using a digital transmission system, but does not include a transmitter that only rebroadcasts the radiocommunications of a licensee; (*station de radio numérique*)

“digital service area” means a service area marked for a licensed digital radio station on the map that pertains to that station and that is most recently published by the Department of Industry; (*zone de desserte numérique*)

2. (1) Subsections 2.2(3) to (10) of the Regulations are replaced by the following:

(3) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a station other than a community station or campus station shall, in a broadcast week, devote at least 10% of its musical selections from content category 3 to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

(3.1) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station shall, in a broadcast week, devote

(a) at least 25% of its musical selections from content subcategory 31 to Canadian selections and schedule them in a reasonable manner throughout each broadcast day; and

(b) at least 20% of its musical selections from content subcategory 34 to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

(4) If 7% or more of the musical selections broadcast by the licensee during an ethnic programming period are Canadian selections and are scheduled in a reasonable manner throughout the period, the requirements of subsections (3), (3.1) and (7) to (9) apply only in respect of the musical selections that are broadcast during the part of the broadcast week that is not devoted to ethnic programs.

(5) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a campus station, commercial station or community station in the French language shall, in a broadcast week, devote at least 65% of its vocal musical selections from content category 2 to musical selections in the French language broadcast in their entirety.

(6) An A.M. licensee, F.M. licensee or digital radio licensee may, in a broadcast week, reduce the percentage of its Canadian musical selections from content category 2 referred to in subsections (7) to (9) to

(a) not less than 20% if, in that broadcast week, the licensee devotes at least 35%, but less than 50%, of all of its musical selections to instrumental selections; and

(b) not less than 15% if, in that broadcast week, the licensee devotes at least 50% of all of its musical selections to instrumental selections.

(7) Except as otherwise provided under a condition of its licence and subject to subsection (6), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a station other than a commercial station, community station or campus station shall, in a broadcast week, devote at least 30% of its musical selections from content category 2 to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

(8) Except as otherwise provided under a condition of its licence that refers expressly to this subsection and subject to subsection (6), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station, community station or campus station shall, in a broadcast week, devote at least 35% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

(9) Except as otherwise provided under a condition of its licence and subject to subsection (6), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on a Monday and ending on the Friday of that week, devote at least 35% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

(10) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station in the French language shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on a Monday and ending on the Friday of that week, devote at least 55% of its vocal musical selections from content category 2 to musical selections in the French language broadcast in their entirety.

(2) Subsections 2.2(13) and (14) of the Regulations are replaced by the following:

(13) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a station in the French language – other than a commercial station, community station or campus station – shall, in a broadcast week, devote at least 65% of its vocal musical selections from content category 2 to musical selections in the French language and schedule them in a reasonable manner throughout each broadcast day.

(14) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a community station or campus station in the French language shall, in a broadcast week, devote at least 65% of its vocal musical selections from content category 2 to musical selections in the French language.

3. Subsections 7(2) to (4) of the Regulations are replaced by the following:

(2) Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate an ethnic station shall devote at least 50% of a broadcast week to third language programs.

(3) Except as otherwise provided under a condition of its licence to devote up to 40% of a broadcast week to third language programs, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a station other than an ethnic station shall devote not more than 15% of a broadcast week to third language programs.

(4) Despite subsection (3), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a Type A community station, or a campus station broadcasting in a market where there is no ethnic station, may devote up to 40% of a broadcast week to third language programs.

4. Subsection 8(7) of the Regulations is replaced by the following:

(7) Subsections (1) to (4) do not apply to a person licensed to operate a radio network.

5. Section 10 of the Regulations is replaced by the following:

10. (1) For the purposes of this section, “affiliation agreement” means an agreement between one or more A.M. licensees, F.M. licensees or digital radio licensees and another party, according to which programs provided by the other party are to be broadcast by the licensee’s station at a predetermined time.

(2) An A.M. licensee, F.M. licensee or digital radio licensee shall not enter into an affiliation agreement with a person who is deemed to be a non-Canadian under section 3 of the *Direction to the CRTC (Ineligibility of Non-Canadians)*.

6. The portion of paragraph 11(4)(d) before subparagraph (i) of the Regulations is replaced by the following:

(d) another A.M. licensee, F.M. licensee or digital radio licensee that broadcasts in the same market and in the same language as the licensee, an associate of that other licensee or that other licensee together with its associate, who owns less than

7. The definition “local management agreement” in subsection 11.1(1) of the Regulations is replaced by the following:

“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, at least two of which

(a) broadcast in the same market; or

(b) broadcast in adjacent markets, with each station’s A.M. 5 mV/m contour, F.M. 0.5 mV/m contour or digital service area, as the case may be, overlapping the A.M. 15 mV/m contour, F.M. 3 mV/m contour or digital service area of the other station. (*convention de gestion locale*)

8. Section 12 of the Regulations is replaced by the following

12. This Part applies only to F.M. licensees and digital radio licensees.

9. Subsection 14(1) of the Regulations is replaced by the following:

14. (1) An F.M. licensee or digital radio licensee that is also an A.M. licensee shall not, during the broadcast day, broadcast simultaneously on its F.M. station or digital radio station the same matter that is being broadcast on its A.M. station if any part of the F.M. station’s 3 mV/m contour or the digital radio station’s digital service area overlaps with any part of the A.M. station’s daytime 15 mV/m contour.

10. The Regulations are amended by adding the following after section 14:

PART III
CANADIAN CONTENT DEVELOPMENT

15. (1) The following definitions apply in this Part.

“broadcast year” means the period beginning on September 1 and ending on August 31 of the following year. (*année de radiodiffusion*)

“eligible initiative” means an initiative that is considered to be eligible for Canadian content development funding as indicated in Broadcasting Public Notice CRTC 2006-158, dated December 15, 2006 and entitled *Commercial Radio Policy 2006*. (*projet admissible*)

“FACTOR” means the not-for-profit organization known as The Foundation Assisting Canadian Talent on Recordings. (*FACTOR*)

“MUSICACTION” means the not-for-profit organization known as MUSICACTION. (*MUSICACTION*)

“spoken word station” means an A.M. station, F.M. station or digital radio station for which, as a condition of its licence, the licensee is required to devote more than 50% of a broadcast week to programming from content category 1. (*station de créations orales*)

“total revenues” means the total broadcast revenues reported by an A.M. licensee, F.M. licensee or digital radio licensee in its annual returns for the previous broadcast year. (*revenus totaux*)

(2) Except as otherwise provided under a condition of its licence that refers expressly to this subsection and subject to subsection (3), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station or ethnic station shall contribute the following amount annually to eligible initiatives:

(a) if the licensee’s total revenues are less than \$625,000, \$500;

(b) if the licensee’s total revenues are at least \$625,000 but not more than \$1,250,000, \$1,000; and

(c) if the licensee’s total revenues are more than \$1,250,000, \$1,000 plus one half of one percent of those revenues that are in excess of \$1,250,000.

(3) If a condition of licence imposed prior to June 1, 2007 requires the licensee to make a contribution to the development of Canadian content or Canadian talent that is other than that referred to in subsection (2), the amount that the licensee is required to contribute under that subsection is reduced by the amount that the licensee is required to contribute under the condition of its licence.

(4) Except as otherwise provided under a condition of its licence, the licensee shall make at least 60% of the contribution referred to in subsection (2) to FACTOR or MUSICACTION. However, if the licensee's station is an ethnic station or spoken word station, the licensee may instead make that percentage of the contribution to any eligible initiative that supports the creation of ethnic programs or programming from content category 1, as the case may be.

11. (1) The portion of item 1 of Table A of the schedule to the Regulations in column II is replaced by the following:

Column II

Item Description

1 Local programming as defined in Broadcasting Public Notice CRTC 2006-158, dated December 15, 2006 and entitled *Commercial Radio Policy 2006*.

(2) The portion of item 1 of Table E of the schedule to the Regulations in column II is replaced by the following:

Column II

Item Description

1 Programming that originates outside Canada other than local programming as defined in Broadcasting Public Notice CRTC 2006-158, dated December 15, 2006 and entitled *Commercial Radio Policy 2006*, and other than programming that is produced by a Canadian as defined in section 1 of the *Direction to the CRTC (Ineligibility of Non-Canadians)*.

COMING INTO FORCE

12. These Regulations come into force on September 1, 2007.