



Broadcasting Regulatory Policy CRTC 2011-507

PDF version

Route reference: 2010-499

Other references: 2011-173 and 2011-174

Ottawa, 18 August 2011

Implementation of the campus and community radio policy

The Commission sets out its determinations concerning follow-up proceedings that it launched to implement and give full effect to its policy for campus and community radio set out in Broadcasting Regulatory Policy 2010-499. The Commission finds that:

- *it is appropriate to maintain the current levels of Canadian musical selections for campus and community radio stations; and*
- *while it is not necessary to establish general requirements on volunteer participation, the Commission may impose such requirements by condition of licence on a case by case basis, as necessary.*

Amendments to the Radio Regulations, 1986 to implement the campus and community radio policy and the determinations set out in this regulatory policy, as well as those in Broadcasting Regulatory Policy 2011-431 relating to the Community Radio Fund of Canada, are set out in the Appendix. The amended regulations will come into force on 1 September 2011.

A dissenting opinion by Commissioner Peter Menzies is attached.

Background

1. In Broadcasting Regulatory Policy 2010-499 (the Policy) the Commission set out its revised policy for both campus and community radio. The Commission subsequently launched three follow-up proceedings to implement and give full effect to the policy.
2. In Broadcasting Notice of Consultation 2011-173, the Commission called for comments on amendment to the *Radio Regulations, 1986* (the Regulations), to come into effect 1 September 2011. The proposed amendments would give effect to various determinations set out in the Policy.
3. In Broadcasting Notice of Consultation 2011-174, the Commission called for comments on possible requirements related to Canadian content and volunteer participation for campus and community radio. More specifically, the Commission sought comments on the advisability of increasing the minimum level of Canadian musical selections that campus and community radio stations must play, and whether

to impose requirements on such stations related to the involvement of volunteers in station operations and in the production of programming.

4. Finally, in Broadcasting Notice of Consultation 2011-216, the Commission called for comments on the proposed Structural and Operational Plan (the Plan) provided by the Community Radio Fund of Canada (CRFC). In Broadcasting Regulatory Policy 2011-431, the Commission approved the Plan subject to certain amendments related to the participation of commercial radio broadcasters on the board of directors, participation on the selection committee, and the measurement of the success of its initiatives.
5. In this Regulatory Policy, the Commission discusses and sets out its determinations relating to the follow-up proceedings initiated by Broadcasting Notices of Consultation 2011-173 and 174. Although Broadcasting Notice of Consultation 2011-173 was the first of the Notices of Consultation issued, it will be considered last in this document. This is because the determinations arising from the proceeding initiated in Broadcasting Notice of Consultation 2011-174 as well as those set out in Broadcasting Regulatory Policy 2011-431 affect the final wording of the amendments to the Regulations.

Canadian content (Broadcasting Notice of Consultation 2011-174)

6. Currently campus and community radio stations must devote at least 35% of musical selections from content category 2 (Popular Music) and at least 12% of musical selections from content category 3 (Special Interest Music) to Canadian selections.
7. In Broadcasting Notice of Consultation 2011-174, the Commission sought comments on whether it would appropriate to increase the minimum requirements for Canadian musical sections from Category 2 and Category 3 music to 40% and 15% respectively, or more.
8. Apart from the licensee of one commercial station, CKLE-FM Bathurst/Caraquet, no party proposed increases beyond 40% for Category 2 selections and 15% for Category 3 selections and most were in favour of maintaining the current levels of 35% and 12%. Among other things, those opposing the increases expressed concern that they could result in undue repetition of musical selections and act as a disincentive to produce innovative programming featuring types of music where there are few Canadian selections available.
9. The Commission notes that, in addition to requirements to broadcast minimum levels of Canadian musical selections, campus and community stations are also subject to a number of requirements and expectations, which are not generally applied to commercial stations, designed to ensure that they broadcast a diversity of Canadian music. These include:
 - a requirement that at least 5% of all musical selections broadcast are selections from category 3;

- limitations, for campus stations, on the level of hits that they broadcast;
 - limitations, for community stations, on the broadcast of music from subcategory 21 (Pop, rock and dance); and
 - an expectation that campus and community stations provide programming that differs from that provided by commercial radio stations and the CBC.
10. The Commission is of the view that these measures have been effective in increasing the diversity of programming available in the Canadian broadcasting system. After reviewing the comments received, it is concerned that increases to the minimum levels of Canadian musical selections could increase the repetition of certain selections, thereby decreasing the diversity of programming that campus and community stations provide. The Commission further notes that many campus and community stations already exceed the minimum levels of Canadian selections as a means to ensure that they remain in compliance.
11. Accordingly, the Commission finds that it is appropriate to maintain the current levels of Canadian musical selections for campus and community radio stations. Campus and community radio stations must continue to devote at least 35% of musical selections from content category 2 (Popular Music) and at least 12% of musical selections from content category 3 (Special Interest Music) to Canadian selections.

Volunteer participation (Broadcasting Notice of Consultation 2011-174)

12. The Policy states that the campus and community radio sector has provided, and should continue to provide, distinctive programming opportunities and other means of access to the Canadian broadcasting system in the communities its stations serve. The Commission therefore expects that programming produced by campus and community stations will be produced, in part, by volunteers and that volunteers will form a part of the overall operations of campus and community stations.
13. Accordingly, in Broadcasting Notice of Consultation 2011-174, the Commission called for comments on whether it should impose requirements on campus and community stations with respect to the participation of volunteers in station operations and in the production of programming. To assist parties in preparing their comments, the Commission released a report on the use of volunteers in the campus and community radio sector (Volunteer Report).
14. Parties associated with campus and community radio opposed firm requirements for volunteer participation, although they agreed with the general views set out in the Policy on the importance of volunteerism. They were of the view that such requirements would add an additional burden to an already heavily regulated sector. Parties also noted that the level of volunteerism can fluctuate according to seasons, school semesters and changes in the economy. Concern was also expressed that firm requirements for volunteers may not be realistic for stations in rural areas or for those

that serve official language minority communities, given the small pool of individuals available to participate in station activities.

15. In addition, parties associated with campus and community radio noted that their stations already depend on volunteers and cannot operate without them. As a result, they were of the view that requirements related to volunteer participation were not necessary.
16. Commercial station CKLE-FM, on the other hand, supported a requirement, including a stipulation that programming produced by volunteers be distributed throughout the broadcast day.
17. After considering the Volunteer Report and the submissions to this proceeding, the Commission is satisfied that volunteerism is, by and large, strong in the campus and community radio sector. According to the Volunteer Report, campus and community stations, depending on market size, average between 73 and 118 volunteers per station with an average of 52 hours per broadcast week of programming produced by volunteers. It is therefore the Commission's view that it is not necessary to regulate all campus and community stations in this area.
18. Accordingly, the Commission reiterates the importance of volunteer participation in campus and community radio, as set out in the Policy. While not imposing general requirements on volunteer participation, it may impose such requirements by condition of licence on a case-by-case basis, as necessary.

Amendments to the Regulations (Broadcasting Notice of Consultation 2011-173)

19. In Broadcasting Notice of Consultation 2011-173, the Commission called for comments on the proposed wording of amendments to the Regulations to give effect to aspects of the Policy. These included amendment to:
 - simplify the approach to licensing campus and community stations, including eliminating the distinction between Type A and Type B community stations;
 - incorporate new programming requirements, including revisions to content categories and subcategories and changes to Canadian content requirements; and
 - implement the new approach to funding campus and community radio.
20. The comments received in response to Broadcasting Notice of Consultation 2011-173 did not address the wording of the Regulations but instead addressed matters already dealt with in the Policy or in the other related proceedings discussed earlier in this Regulatory Policy. The Commission has adjusted the proposed amendments to the Regulations to take into account the determinations set out in this Regulatory Policy and in Broadcasting Regulatory Policy 2011-431.

21. In light of the above, the Commission has adopted the amended *Radio Regulations, 1986* attached to this regulatory policy. The amended Regulations were registered on 12 July 2011 and were published in the *Canada Gazette*, Part II, Vol. 145 No. 16 on 3 August 2011 (SOR/2011-146). They will come into force on 1 September 2011.

Secretary General

Related documents

- *Community Radio Fund of Canada's Structural and Operational Plan*, Broadcasting Regulatory Policy CRTC 2011-431, 20 July 2011
- *Call for comments on the Community Radio Fund of Canada's proposed Structural and Operational Plan*, Broadcasting Notice of Consultation CRTC 2011-216, 29 March 2011
- *Call for comments on requirements related to Canadian content and volunteer participation for campus and community radio*, Broadcasting Notice of Consultation CRTC 2011-174, 11 March 2011
- *Call for comments on amendments to the Radio Regulations, 1986*, Broadcasting Notice of Consultation CRTC 2011-173, 11 March 2011
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010

Appendix to Broadcasting Regulatory Policy 2011-507

REGULATIONS AMENDING THE RADIO REGULATIONS, 1986

AMENDMENTS

1. (1) The definition “Type A community station” in section 2 of the *Radio Regulations, 1986*¹ is repealed.

(2) The definitions “content category” and “content subcategory” in section 2 of the Regulations are replaced by the following:

“content category” means a content category of broadcast matter that is described in the appendix to Broadcasting Regulatory Policy 2010-819, dated November 5, 2010 and entitled *Revised content categories and subcategories for radio; (catégorie de teneur)*

“content subcategory” means a content subcategory of broadcast matter that is described in the appendix to Broadcasting Regulatory Policy 2010-819, dated November 5, 2010 and entitled *Revised content categories and subcategories for radio; (sous-catégorie de teneur)*

2. (1) Subsection 2.2(3) of the Regulations is 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 shall devote, in a broadcast week,

(a) if the licensee is licensed to operate a community station or campus station, at least 12% of its musical selections from content category 3 to Canadian selections broadcast in their entirety; or

(b) if the licensee is licensed to operate a station other than a community station or campus station, 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.

(2) Subsection 2.2(14) of the Regulations is repealed.

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

(4) Despite subsection (3), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a community station or campus station may devote

(a) if it is broadcasting in a market where there is no ethnic station, up to 40% of a broadcast week to third language programs; or

(b) if it is broadcasting in a market where there is at least one ethnic station, except as otherwise provided by a condition of its licence, up to 15% of a broadcast week to third language programs.

4. Subparagraph 9(3)(b)(iv) of the Regulations is replaced by the following:

(iv) any content category 3 musical selection, and

5. Subsection 15(4) of the Regulations is replaced by the following:

(4) Except as otherwise provided under a condition of its licence, the licensee whose total revenues are \$1,250,000 or less shall make at least 60% of the contribution referred to in subsection (2) to FACTOR or MUSICACTION. However, if the licensee is licensed to operate 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.

(5) Except as otherwise provided under a condition of its license, a licensee whose total revenues are more than \$1,250,000 shall make

(a) at least 15% of the contribution referred to in subsection (2) to the Community Radio Fund of Canada; and

(b) at least 45% of the contribution referred to in subsection (2) to FACTOR or MUSICACTION, however, if the licensee is licensed to operate 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.

COMING INTO FORCE

6. These Regulations come into force on September 1, 2011.

¹ SOR/86-982

Dissenting opinion by Commissioner Peter Menzies

This dissent is in regard to the Commission's decision to maintain Canadian content levels for community and campus radio licensees at current/historic levels of at least 35% musical selections.

There is no longer a compelling argument as to why community and campus radio licensees should not support the country that supports them by dedicating at least 40%—if not 50%—of their musical selections to the music of Canada. For the most part, this argument focuses on the Anglophone sector as there are differences in the structure and funding of the Francophone sector in Quebec that tend to define it uniquely. There is, however, no reason to exclude the Francophone/Quebec sector from the argument. Indeed, given the high priority and necessity for the preservation and promotion of Canada's Francophone culture, this specific argument in terms of Canadian content expectations is even more vital.

To understand this perspective, it is necessary to understand the original purpose of community and campus radio. During a period of social upheaval in the 1960s, it was decided by Parliament that Canadian democracy and social order would be enhanced by giving those with alternative voices access to broadcasting that would be beyond the control of either corporate or public ownership. At this time, the only access the average citizen had to media was either through the publication of a "letter to the editor" in a daily newspaper or via talk radio or, perhaps if one participated in a "person on the street" television interview. All of these opportunities involved negotiation with the respective gatekeepers of those media and, therefore, it was deemed that Canadian society would benefit from the establishment of media for those unable to breach the walls of mainstream media which many believed were non-receptive to counter-cultural and alternative perspectives—a voice for the voiceless, if you will.

And yet, while the legislative framework insisting on the existence of these voices remains unchanged, the 20th century world that inspired their creation and *raison d'être* no longer exists.

Here in the 21st century—in the Internet, wireless and broadband world—all citizens who have access to technology (and for those who cannot afford it, public libraries offer it) now have the voice that community and campus radio was intended to give them. None of us need negotiate with newspaper editors or corporate radio and television producers in order for our voice to be heard in the virtual public square. Through blogs, social media and even Internet radio, virtually every Canadian is free to express him- or herself as frequently as is desired or necessary. Much as they may remain oblivious to it, the power over the public narrative that mainstream media gatekeepers once held has been massively diminished if not entirely eradicated. In short, community and campus radio is no longer democratically necessary, at least for the achievement of its original purpose. It is, in this tightly defined sense, comparable to a relic of the age of sail trying to find a utilitarian purpose in the age of steam.

So, given that its foundational *raison d'être* has been swept away by time and technology and that its listenership, while passionate, is with some notable exceptions minimal, how best can campus and community radio continue to justify its existence in the 21st century as an efficient use of spectrum if and when the fundamentals of the current *Broadcasting Act* (conceived more than a generation ago) come under review?

The view of this dissent is that if it can no longer justify its utility/necessity in terms of the health of democracy and free expression, it will be necessary for community and campus radio to prove its cultural usefulness as a crucible for the development of Canadian talent.

Currently, the demands placed upon the sector—35% Canadian music—are no greater than those placed upon the commercial sector. That is, apart from the significant obligation that community and campus radio ensure that of the 5% of selections that must be derived from Category 3 (Special Interest Music), 12% must be Canadian music in order to ensure some differentiation and prevent community and campus stations from competing directly with commercial operators.

And, while it is true that a great many if not most of the community and campus stations offer levels of Canadian content beyond the minimum requirement, the same can be said of commercial operators who these days routinely offer 40% Canadian music content in licensing applications.

Some may argue that part of the appeal of community and campus radio is that it offers international musical selections that listeners would not be able to access via commercial radio. This is true, but only within the regulated framework. Today, it is possible not just to listen to, for example, Russian or Punjabi or Thai music via the Internet: those who have an interest in such things may listen to Russian, Punjabi or Thai radio stations via the Internet. It may, therefore, be amusing for Canadian community and campus radio to play this music, but it is not culturally necessary. Nor, for that matter would it be prohibited by the insistence upon higher levels of Canadian content for community and campus radio in this country.

Further, if a level of 40% Canadian content is not seen to be overly burdensome for those commercial operators offering it, it is difficult to see why it would be so for community and campus entities. A shift from 35% to 40% is, depending on spoken word levels, only likely to involve the addition of between four and five hours of additional Canadian music each week (the official broadcast week of 6 a.m. to midnight consists of 126 hours of music and talk—banter, news, etc.). On a daily basis, such an increase translates into less than one song per hour of additional public and broadcast exposure for Canadian performers and composers.

It is, in conclusion, unfortunate that neither the sector nor the Commission at this stage can see that, in the future, that which is no longer necessary for one outdated 20th century purpose (a space for alternative voices) will need to be useful in the 21st century for another (developing Canadian talent) and that a system entirely supported by Canadians should aspire to be ever more supportive of Canada's creative community.