



Via GC Key

28 March 2021

Mr. Claude Doucet
Secretary General
Canadian Radio-Telephone and Telecommunications Commission
Ottawa, Ontario
Canada, K1A 0N2

Re: Broadcasting Notice of Consultation CRTC 2020-374 Call for Comments - Commercial radio policy framework review

Introduction

1. Torres Media (Torres) is a group of related companies controlled by Frank and Edward Torres that together operates 4 stand alone FM radio stations in the markets of Uxbridge, Georgina, Valleyfield Quebec, and Ottawa. Torres also owns SkyWords, a leading content producer of traffic, news, weather and other content designed for Canadian radio stations. SkyWords was incorporated almost thirty years ago, our first FM station was launched just ten years ago. Most recently we launched Canada's newest commercial FM radio station in Georgina, Ontario in October of 2020.

Our comments come from the perspective of a small, independently owned family company that operates primarily in small markets and in one large market. Our company is focussed on local radio and providing supporting digital services to the communities that we serve.

The Challenging Business of Radio

2. Radio is increasingly challenged by a number of aggressive threats.
 - Unregulated streaming services without Cancon or CCD requirements
 - A fragile retail market that is also under siege by foreign online tech giants
 - Advertising market share gains by social media
 - Burdensome regulation
3. The Commission's "Harnessing Change" report, June 2018, considers Radio to be resilient and in a mature state, the report highlights inequities between online streaming services and other online broadcasters, but in the 3 years since the release of the report, COVID has created serious instability in the radio sector.
4. While C-10 aims to bring online broadcasters under the regulatory umbrella the changes to the inequities between the online broadcasters and the regulated broadcasters will take years to resolve.

A Policy That Helps Canadian Broadcasters

5. Canadian Radio licencees need a policy that helps the sector. In 2006 as we prepared for our first radio licence application in the Ottawa market, the market generated over 70 million dollars of radio revenue and averaged an annualized growth of 8.3% (source CRTC financial data base system). Based on more conservative estimates we were able to convince bankers that our business would be viable. Fast-forward to 2019, the Ottawa market generated only 54 million, **16 million dollars less** than in 2006. The annual growth of the market over the past 5 years has been negative, down **4.3%**. This is before the impact of COVID, which may cause the market to be off by 25% to 35%
6. In our first application we pledged \$750,000 towards Canadian Content Development. It was an ambitious amount for a nascent broadcast company, financed on a conservative business plan, based on the historic growth in the market. We launched the station in the aftermath of the 2008 financial crisis and the Ottawa market has shown negative growth since then.
7. In 2006, the Commercial Radio Policy used the strength of radio revenue growth to craft a policy that supports Canadian artists and musicians. Operating in a closed system, it seemed like an equitable solution. In 2021 it is the radio sector that needs help. It is our hope that the takeaway for The Commission of our intervention is that the sector needs a policy and regulator that supports Canadian broadcasters and recognizes the benefits to Canadians that radio provides.
8. Torres is a member of both the CAB and OAB and we agree with the positions of both the CAB and OAB as outlined in their interventions.

MAPL

9. We agree with the positions of the CAB and OAB with respect to MAPL. Discoverability could be improved by giving credit to broadcasters playing new emerging Canadian artists vs. established Canadian artists.
10. Any changes to MAPL should be considered in terms of the burden of regulation on broadcasters.
11. In our first term licence renewal of CIDG-FM we were accused of non-compliance by The Commission because many of the Canadian artists that played on our Ottawa station were emerging artists and unknown to the Commission. The Commission advised us that the burden of proof to prove that these artists were indeed Canadian and that the songs were in fact MAPL compliance was ours. As a result, our senior Management spent weeks chasing artists for birth certificates, landed immigrant cards, production contracts and record sleeves to show that in fact we were in compliance.
12. We suggest that any new MAPL guidelines be crafted to be less onerous on broadcasters.

Canadian Content Quotas

13. We agree with the positions of the CAB and OAB with respect to Canadian Content. Rules should be simple and the new policy should apply equally across the board to all stations by removing grand-fathered Conditions of Licence.
14. We believe that penalties for broadcasters that are marginally out of compliance with Canadian Content Quotas is adversarial and not in the best public interest. A monetary penalty applied to a broadcaster that is out of compliance results in fewer resources available for news or other Canadian content.

RULES for Certain Types of Music and Stations

15. We support the positions of the CAB and OAB with respect to certain types of music and stations. In general terms, the Commission needs to consider that an uneven playing field exists between internet, satellite and conventional broadcasters. Satellite is not regulated in terms of the genre of music that it chooses to play. Streaming services likewise are not required to deliver differing types of genres. The Commission should consider that the new policy for commercial broadcasters allow them to compete with un-regulated online broadcasters, until such time that online broadcasters are brought into the regulatory tent.
16. In the event that genre thresholds are used, the Commission should use a collaborative not confrontational approach with broadcasters when reviewing playlists and station logs.

Emerging Artists

17. We agree with the positions of the CAB and OAB with respect to Emerging artists. We do not feel that a regulation is required here as it creates more burden on commercial broadcasters.

Policy on Hits in Bilingual Markets

18. As an operator of a station in the bilingual market of Ottawa/Gatineau, we feel the Hits policy is antiquated and no longer relevant in today's audio consumption realm. This is a good opportunity for The Commission to remove a layer of regulation that is not achieving it's intended goals.

French Language Music Programming

19. As the operator of a small market French language radio station in Valleyfield Quebec, we support changes to the policy that result in less regulation. Because of the size of the Quebec radio market relative to the Anglo radio market, identifying and hiring programming talent with regulatory expertise is increasingly difficult. We believe that changes that reduce this burden are needed.
20. This policy review is an opportunity for The Commission to work collaboratively with French Language broadcasters to develop a policy that is less burdensome to implement and easier to comply with.

Local Programming – Local radio stations are Canadian Content Creators

21. The new radio policy should recognize that all of the spoken word, including announcer talk, commercials, contests, station promos, traffic, weather and sports is Cancon. Local radio stations are content creators.
22. The Commission only recognizes radio's financial contribution as Canadian Content creation. In fact, when aggregated, Commercial radio stations are arguably the largest creators of Canadian content in the broadcasting sector.
23. Local programming is the only competitive advantage that radio enjoys in what has become an open market where unregulated streaming companies and social media giants have gained share of hours tuned and advertising dollars. For this reason, the news departments of our stations are where we will target growth as resources permit. The Commission should not introduce regulation to further burden struggling radio stations. Radio operators will invest in news without the need of regulation as they are able.

24. We agree with the positions of the CAB and OAB with respect to CCD. Internally we have debated whether CCD should be indexed to radio's growth and whether it should be adjusted on an annual basis, but this, we determined, would lead to more regulation and an increased potential for error that could put stations out of compliance.
25. Any change in CCD policy should not increase the regulatory burden on broadcasters and should not result in greater reporting.

Ownership Structure

26. We agree with the positions of the CAB and OAB with respect to ownership limits. The CAB and OAB held extensive consultative sessions with respect to this complex issue and their position reflects the consensus achieved by commercial radio broadcasters.
27. A new policy needs to ensure timely decisions when changes in ownership are requested. Timelines could be established to ensure that businesses can plan transitions accordingly.

Burden of Regulation - Reporting

28. The Commission should examine the burden of regulation on broadcasters, particularly as it relates to annual reporting.
29. Annual reporting for 4 radio stations takes the full attention of 2 of our most senior executives, our President and CFO, for 10 days. In some cases, address information needs to be populated into different forms many times. The forms are not intuitive and must be filled in, managed, and filed even though the information on the form is the same as that from the previous year.
30. Forms are frequently misplaced at The Commission. All of our renewals have resulted in us re-filing forms that we have filed previously and have receipts for. This creates added work but it also generates a renewal that is in apparent non-compliance. When the forms are re-filed, it does not change the renewal status from apparent non-compliance to apparent compliance.
31. In most cases the only change in operations from year to year are the financial results. Annual reporting could easily be achieved with a single form that has a box that simply confirms that all other information is as on file with The Commission.

Burden of Regulation – Conditions of Licence

32. Compliance for Torres is of the utmost importance and the responsibility for compliance rests at the highest level of the company. We take compliance with CRTC regulation very seriously, our aim is to be considered a "good operator" in the eyes of Commissioners and Commission staff.
33. The complexity of various regulations when layered one on top of another can lead to errors by well meaning programmers. Consider that our COL's for our 4 stations include:
 - playing 65% French Vocal music
 - devote, in that broadcast week, a minimum of 55% of its musical selections from content category 2 (Popular Music) to Canadian Selections broadcast in their entirety; and
 - devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, 55% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety
 - timing musical selections to ensure the content is at least 50% French Vocal music to count as FVM
 - 40% Cancon in Ottawa
 - 35% Cancon in Georgina and Uxbridge
 - Limiting selection of Hits in Ottawa

34. The Commission should consider reducing the regulatory burden wherever possible to assist Canadian broadcasters to achieve results that are in the best interest of all Canadians.

Conclusion

35. Radio stations provide a relevant and important service to Canadians every day. The importance of commercial radio is clear from the findings of the CRTC's recently commissioned Ipsos survey:

“Commercial radio is considered the most important broadcast platform for Canadians to have access to (45% 8-10 on 10 pt scale), specifically for the music (64%) and local news content (57%).”

Commercial radio is more important than the CBC, more important than Spotify, more important than Satellite Radio and yet is the most at risk.

36. During our tenure as a licenced broadcaster, we have supported Canadian artists financially, by producing live events for them to participate in, through countless numbers of interviews, and spins. We have done this, as all broadcasters do, in the spirit of promoting Canadian culture and content. Today the coup door is wide open and the coyotes have taken up residence. We need a new model to ensure that Canadian broadcasters survive for another hundred years.

Yours truly,

Edward Torres