



National Campus and  
Community Radio  
Association/  
l'Association nationale des  
radios étudiantes et  
communautaires



Alliance des radios  
communautaires du  
Canada



Association des  
radiodiffuseurs  
communautaires du  
Québec

## **Broadcasting Notice of Consultation CRTC 2020-374**

### Commercial radio policy framework review, reply phase

Reply of

l'Association des radiodiffuseurs communautaires du Québec ("ARCQ")

l'Alliance des radios communautaires du Canada ("ARCC")

and the National Campus and Community Radio Association/Association nationale des radios étudiantes et communautaires ("NCRCA/ANREC")

April 28, 2021

## Executive summary

The ARCQ, ARCC, and the NCRA/ANREC (“the associations”) are committed to non-profit, community-owned, and locally-reflective radio and online broadcasting. Together, we represent about 87% of Canada’s licensed campus and community (“c/c”) radio broadcasters. We have replied to various interventions in four areas:

### Policies:

- **CanCon:** if commercial CanCon requirements are decreased (CAB, OAB, BCE) CCD contributions to c/c radio should be increased
- **MAPL:** reinterpret the “P” in MAPL from “performance” to “production” (CAB, OAB, Music Canada)
- **Categories:** if Cat. 3 requirements are eliminated for mainstream commercial stations (CAB), CCD contributions to c/c radio should be increased

### Promotion of artists:

- **Emerging Canadian artists:** If the qualifying period for emerging artists is extended (CAB, OAB, SiriusXM), CCD contributions to c/c radio should be increased

### Ownership and the diversity of voices

- **Common Ownership Policy:** we support some proposed changes to the COP (CAB, OAB, Corus); we do not support eliminating the COP (BCE)
- **Local Management and Local Sales Agreements:** we do not support most of the proposed changes (CAB) to LMA and LSA policies
- **Diversity of voices:** Canada’s diverse cultural and racial identity must be reflected at all levels of the broadcasting industry (ADVANCE, Alliance)
- **Indigenous voices:** all broadcasting sectors have a role to play in making Indigenous voices available; a variety of financial supports should be available to Indigenous radio stations (public, community, and commercial) (FPR)

### Revenue and the campus and community radio sector

- **CCD:** basic CCD contributions to c/c radio should increase, tangible benefits should be maintained and the percentages recalculated (CRFC/FCRC).
- **Reporting and monitoring:** continue to ensure accountability and consistency so funding to the c/c sector is as predictable as possible (CAB, OAB)

April 28, 2021

Claude Doucet

Secretary-General

Canadian Radio-television and Telecommunications Commission

Ottawa, Ontario,

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Secretary-General:

**Broadcasting Notice of Consultation CRTC 2020-374-1: Call for comments –  
Commercial radio policy framework review, replies phase**

1. We are the Association des radiodiffuseurs communautaires du Québec (“ARCQ”), l’Alliance des radios communautaires du Canada (“ARCC”), and the National Campus and Community Radio Association/Association nationale des radios étudiantes et communautaires (“NCRA/ANREC”), collectively, “the associations”. We are not-for-profit organizations committed to non-profit, community-owned, and locally-reflective radio and online broadcasting. Together, we represent 158 of about 180 licensed campus and community (“c/c”) radio broadcasters.

2. In this document we have responded to interventions by the Canadian Association of Broadcasters (“CAB”), the Community Radio Fund of Canada / Fonds canadien de la radio communautaire (“CRFC/FCRC”), the Ontario Association of Broadcasters (“OAB”), Music Canada, Bell Canada Enterprises (“BCE”), SiriusXM Canada (“Sirius”), Corus Entertainment (“Corus”), Rogers Communications (“Rogers”), First People’s Radio (“FPR”), ADVANCE, Canada’s Black Music Collective (“ADVANCE”), Association québécoise de l’industrie du disque, du spectacle et de la vidéo (“ADISQ”), and the Alliance for Equality in the Music Industry (“Alliance”).

3. We are commenting in four general areas: 1) policy, 2) promotion of artists, 3) ownership structure and the diversity of voices, and 4) revenue to the c/c sector.

## **AREA ONE: POLICIES**

### **CanCon**

4. CAB, OAB, and BCE have all proposed that CanCon requirements for the commercial sector be reduced to 25%. While we do not take a position on an appropriate requirement for the commercial sector, we support the position taken by the CRFC/FCRC that if this reduction is permitted, it would be appropriate to increase the flow of CCD to the c/c sector through basic or targeted discretionary contributions. This will recognize our sector's ongoing contributions to the discoverability of Canadian artists. We note that the CRFC/FCRC makes the point in its intervention that investing in a robust c/c radio sector will increase the capacity of fellow CCD recipients FACTOR and Musicaction to fulfill their mandates by providing a strong national sector eager to play their funded artists.

### **MAPL**

5. Music Canada proposes to combine MAPL's "M" and "L" categories into a "songwriter" category, and award between 1 and 3 points depending on the involvement of Canadians in the songwriting process<sup>1</sup>. We do not oppose this suggestion, although we are concerned that it may create confusion for our stations when they are calculating their CanCon percentages. This is because it involves an increased number of variables to assess. Stations in our sector broadcast a lot of independent music which is not found in industry directories or publisher catalogues. This means that finding all information could require research and a certain amount of subjectivity to determine which of these three point values apply. This increases the possibility of error and may increase the duties of staff (for c/c stations that have staff), since a significant percentage of the programmers in our sector are volunteers who may require help to correctly categorize musical selections in this new way.

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<sup>1</sup> Music & lyrics written/composed entirely by Canadians - 3 points; Canadians collaborating with non-Canadians receive at least 50% of songwriting credits under the current criteria - 2 points; Canadians collaborating with non-Canadians receive at least 25% but less than 50% of songwriting credits under the existing criteria - 1 point

6. We note that CAB, OAB, and Music Canada have all suggested that MAPL's "P" category be reinterpreted from "performance" to "production" and we support this suggestion. Please see our March 29, 2021 intervention for our other comments regarding the "P".

7. Music Canada has brought up the question of whether revised MAPL criteria should be applied prospectively or retroactively. Either way, we think this change could be challenging for our members whose volunteers and staff enter this information into databases and paper log sheets manually, and may unintentionally apply the old criteria to the new system or vice versa, leading to possible non-compliance. We ask that if the MAPL criteria are changed, the Commission provide c/c stations some leeway in applying the new criteria on logs and playlists for a reasonable period of time while they get used to the changes.

### **Categories and subcategories**

8. We take no position on CAB's proposal to eliminate all Category 3 music requirements for mainstream commercial stations. Given the significant role that our stations play in promoting Category 3 music, we suggest that, if this requirement is eliminated for commercial broadcasters, it would be appropriate to increase the flow of CCD to the c/c sector through basic or targeted discretionary contributions for the reasons stated in para 4.

### **Specialty stations**

9. CAB has proposed that any station licensed to operate in a specialty format should continue to be required to seek CRTC approval to switch out of that specialty format. We support this proposal.

## AREA TWO: PROMOTION OF ARTISTS

### Emerging Canadian artists

10. We note that CAB, OAB, and BCE have all proposed incentive-based approaches to promoting emerging Canadian artists, and CAB, OAB, and SiriusXM have proposed extending the qualifying period for emerging artists. We will not comment directly on these proposals except to note two things:

- We believe that extending the qualifying period for emerging artists is likely to decrease the diversity of Canadian artists broadcast by the commercial sector, since artists will be recognized as emerging for a longer period. We think that this could lead to a slower turnover of artists and a focus by commercial radio on artists closer to the more established end of the qualifying period, which could leave a large pool of artists in the earliest stages of their careers not receiving any exposure on commercial radio,
- C/c stations already broadcast a high percentage of emerging Canadian artists, with particular emphasis on “breaking” local artists and offering them their first opportunities to be interviewed, perform live in the studio, and get onto our sector’s national music charts.<sup>2</sup> While there are now many ways for Canadian artists to promote their music, we find that new artists are still eager to be recognized in these ways by their local c/c stations, and we are confident that we will continue to play an important role in furthering the careers of emerging artists, which we see as an important part of our mandate. Those artists may begin to see exposure on c/c radio as even more important to further their careers if their opportunities for commercial radio exposure early in their careers decrease.

11. We, therefore, believe that, if the qualifying period is extended, it would be appropriate for our contribution to be recognized through increased CCD support, which should come to us through basic or targeted discretionary contributions.

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<sup>2</sup> Our earshot charts can be found at <https://www.earshot-online.com/charts/>

## AREA THREE: OWNERSHIP AND THE DIVERSITY OF VOICES

### Common Ownership Policy

12. CAB has proposed changes to the Common Ownership Policy (“COP”). These changes, also supported by OAB and Corus, would permit greater station ownership at the local market level.

13. For the purposes of this policy, the Commission currently considers two types of markets: markets with fewer than eight commercial stations operating in a particular language (allowing an entity to own or control up to three stations operating in that language, with a maximum of two stations in any one frequency band), and markets with eight commercial stations or more operating in a particular language (allowing an entity to own or control as many as two AM and two FM stations in that language).

14. CAB proposes to add a third type of market with sixteen commercial stations or more operating in a given language, in which an entity can control as many as eight stations operating in that language. We do not take a firm position on this proposal. It will affect markets in large urban centres, which allow stations to target their advertising sales finely to reach their chosen audiences. Because c/c radio tends to attract very specific audiences in large urban centres we think this addition may not seriously impact our members. However, it is possible that it could create instability in the market on a local and national level and affect smaller stations. For this reason we suggest that, if this change is made, it should be on a trial basis with a review to determine whether it is having a significant impact on c/c stations.

15. CAB also proposes increases in permitted ownership in the first two market types- from three stations (operating in a language) to four stations in markets of fewer than eight, and from two AM and two FM stations operating in markets of more than eight stations operating in each language to six stations operating in each language. We do not oppose this proposal on its own merits, as CAB’s has proposed that these changes would be applied to radio transactions on a

case-by-case basis in an appropriate public proceeding, and would continue to permit exceptions that the Commission deems to be in the public interest. This process offers our stations some protection, especially in small and medium-sized communities, where the advertising markets tend to be less specialized.

16. However, we are concerned about CAB's proposal to no longer include rebroadcasting transmitters as part of the COP assessment. We believe that this could affect the competitive balance in a given market and adversely impact stations in our sector as it may encourage out-of-area broadcasters to enter small markets, increasing the level of competition in them without adding a truly local service.

17. BCE has proposed eliminating the COP because it creates a significant competitive disadvantage for Canadian licensees vis-à-vis foreign online audio services. We cannot support this proposal because it would eliminate the existing protection, which seeks to maintain a diversity of editorial voices and a balance of competition between radio broadcasters in any particular market. As we understand it, if there was no COP, a large broadcasting group could be permitted to own all of the stations in a market and target them to different niches. This would create advantages for them in terms of advertising sales that could severely impact a local c/c station's ability to sustain itself, impacting the diversity of voices in that community.

18. It could also impact the c/c radio sector as a whole. Our members, which are a vital part of Canada's broadcasting system, are required by definition to exclusively serve local markets. Our associations do not have the financial or regulatory resources to help our members compete in a system that offers no protection to them in those markets in terms of their ability to compete for advertising revenue. Our associations rely on a small number of volunteers and staff to support our members in Commission proceedings, and we lack the capacity to analyse each proposed application by a commercial radio station or group to determine how it might affect our members in the relevant market. Policies like the COP offer our sector ongoing protection without the need for our associations to help stations prepare interventions in response to applications by commercial broadcasters.



## **LMAs and LSAs**

19. CAB proposes changes to the Commission's Local Management Agreement (LMA) and Local Sales Agreement (LSA) policies. Specifically, it suggests the elimination of pre-approval requirements for bona fide LSAs and for LMAs that are consistent with CAB's proposed COP. We believe that this proposal, which we think may result in the widespread use of LSAs in small markets, could put local c/c stations, which rely heavily on local advertising, at a competitive disadvantage.

20. Currently, the Commission evaluates LMAs on a case-by-case basis and offers them for a limited period to ensure that they do not have a significant negative impact on the diversity, dynamics, or competitive forces in any given market. They have been used to help unprofitable stations improve their financial performance and to create conditions to foster sales growth for the stations involved. By the end of the LMA's term, it is hoped that each station will be in a better position going forward.

21. Should LMAs and LSAs become broadly available, commercial radio stations and groups will be able to improve their financial performance by cutting their costs, which we support. However, LSAs will also allow local commercial radio stations to scale up their advertising efforts which could negatively affect c/c stations. Therefore we ask that the Commission continue to evaluate these agreements on a case-by-case basis.

## **DIVERSITY OF VOICES**

22. We support ADVANCE's comments that Black representation and empowerment in all areas of public life are key to Canada's health and prosperity, and that there can be no real diversity within Canada's broadcasting system without diverse representation in every sector and at every level. We also echo its encouragement to the Commission to work towards a broadcasting system that (1) reflects the diverse cultural and racial identity of the country; (2) encourages and increases BIPOC ownership and management throughout the Canadian broadcasting industry, and (3) otherwise encourages opportunities for and

representation of Canada's BIPOC communities at all levels of the Canadian broadcasting industry. The c/c radio sector can and must play its part in achieving these three goals. It is our mandate to serve our communities, which are diverse in nature, and our stations are strongest when they include people from all backgrounds, cultures, ethnicities in their governance and operations.

23. The Alliance has made four recommendations: (1) that the CRTC create an Equity Office; (2) that the CRTC collect gender and race-based data from broadcasters; (3) that the CRTC engage communities and consider perspectives of Black, Indigenous and People of Colour in the music industry; and (4) that music industry stakeholders (including funders) should have accountability measures that ensure the inclusion of racialized communities as a part of their internal governance and operations. In terms of actions that could be taken by the Commission, we wholeheartedly support recommendations one and three. While we support the aims of the second recommendation, we are unsure how it could be practically implemented since this information is not usually provided with music submissions received by c/c stations. Regarding the fourth recommendation, we also support its aims and suggest that the CRTC could provide strong encouragement to funding recipients to report in these areas.

24. FPR has suggested that CCD contributions be directed to Indigenous radio services, tied to meeting policy objectives such as support for Indigenous language programming, and support for the development of Indigenous musical talent. We support this request in principle.

## **AREA FOUR: REVENUE TO THE C/C SECTOR**

### **CCD contributions**

25. CAB suggests that basic CCD requirements be held at current levels and SiriusXM suggests that CCD requirements be reduced. We want to see basic CCD contributions to our sector increased, and we support the proposals described in the

CRFC/FCRC's intervention.<sup>3</sup> C/c radio stations make many crucial contributions to Canada's broadcasting system, particularly their openness to community involvement, training of community volunteers, a guarantee of local ownership, and commitment to local programming which reflects the diversity of the community served.

26. ADISQ has proposed a basic contribution system which includes five tiers: very small commercial radio broadcasters (revenues of \$1.5 million or under), small commercial radio broadcasters (\$1,250,000 and \$10 million), medium commercial radio broadcasters (\$10 and \$20 million), large commercial radio broadcasters (\$20 to \$50 million), and very large commercial radio broadcasters (more than \$50 million). They suggest that very small broadcasters be exempt from CCD contributions and that the other tiers pay on a scale of between 0.5% and 4% based on their annual revenue. We also support this proposal. We note that Rogers stated in its intervention that it would be unfair to require large ownership groups to pay a higher percentage of CCD because online services are not required to do so, and also that large ownership groups already contribute disproportionately to the system by subsidizing unprofitable stations with revenue from profitable stations. We would suggest that ADISQ's proposal raises the threshold under which an entity is not required to pay CCD from \$1.25 million to \$1.5 million in annual revenue, which may help make Canada's smallest commercial radio stations more profitable. We, along with the CRFC/FCRC support this recommendation as it is consistent with the increase recommended by the CRFC, but as noted, would result in a more equitable (and realistic) distribution of responsibility.

27. Regarding tangible benefits, CAB has suggested a reduction to 3% of the value of a transaction for a transitional period of two to three years. CAB argues that tangible benefits are counterproductive from a policy perspective because they discourage consolidation that would drive operational efficiencies. They suggest that a transitional period will give CCD recipients some stability until online platforms are required to contribute. Rogers, BCE, and Corus all suggest that tangible benefits be

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<sup>3</sup> Basic contributions: should be based on gross revenues before expenses and taxes are deducted; licensed stations earning more than \$1,250,000 should be required to contribute at least 1% and that of that, 45% should go to Factor or Musicaction, 40% should go to the CRFC, and 15% should go to an initiative of the licensees choice.

eliminated to allow commercial broadcasters to compete more equally with digital services. We oppose the reduction or elimination of tangible benefits, and we support the CRFC/FCRC's proposal to re-calculate the percentages to ensure that more money reaches our sector.<sup>4</sup>

28. CAB suggests that the Commission treat CCD contribution monitoring and compliance with more flexibility. They suggest using three criteria to assess compliance (see footnote).<sup>5</sup> Point "b" (correction of non-qualifying initiatives) does not directly affect our members and we do not oppose it. We are concerned about point "a" (allowing a 10% margin of error) and point "c" (allowing payments to be deferred to the end of a license term if a station has an operating margin of less than 5% in any one year) as these could negatively impact our stations by impacting the predictability of CCD revenues through the CRFC/FCRC, making it more difficult for the CRFC/FCRC to offer a stable flow of funding for the sector. We take no position on OAB's proposal to issue deficiency notices for late payments, charging 1% interest, as opposed to dealing with underpayment of CCD contributions at licensing. However, we emphasise that the Commission must continue to have the ability to take further steps if payments are not made.

29. CAB and OAB suggest that it may be appropriate to set up a commercial radio news fund to receive discretionary CCD donations from both commercial broadcasters and online services. We take no position on this suggestion except to say that discretionary CCD must continue to flow to a broad range of recipients. The CRFC/FCRC's suggestion of a program to support early career and/or recently graduated broadcasters from marginalized/underrepresented groups is an example of an initiative that could be funded with discretionary funds for the benefit of all three radio sectors (public, commercial, and community).

30. CAB, Rogers, and SiriusXM suggest that commercial radio stations be required to do less reporting about CCD contributions. We do not support a reduction

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<sup>4</sup> Tangible benefits: The minimum 6% allocation for tangible benefits should remain at that level; 1.5% should be directed to the CRFC

<sup>5</sup>(a) Annual payments made were within +/- 10% of requirements; (b) Any payment deemed by the Commission to not qualify as CCD is corrected/repaid within 90 days of notification of same; or (c) In the event a station has an operating margin of less than 5% in any one year, payments are deferred to the end of the licence term.

in reporting on CCD contributions because their inefficient or incorrect use can result in less CCD funding directed to our sector. In the notice, the Commission provided examples of issues identified through compliance audits<sup>6</sup>, and, while these issues may be exceptional and inadvertent, they do happen. CCD contributions are a precious resource, and getting more so every year as they diminish. It is important to ensure that they continue to carry out their intended function to “*support, develop or promote Canadian musical or spoken word talent, including journalists.*”<sup>7</sup>

## CONCLUSION

31. We greatly appreciate the opportunity to reply to various proposals in the context of this policy review and we look forward to presenting at the upcoming hearing

Sincerely,



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<sup>6</sup> BNC 2020-374 Commercial Radio Policy Framework Review, paras. 110 and 111

<sup>7</sup> CRTC: Canadian Content Development contributions and eligible initiatives, <https://crtc.gc.ca/eng/general/ccdparties.htm>

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