Broadcasting Notice of Consultation CRTC 2020-374
Commercial Policy Framework Review
Rogers Media Inc.

April 28, 2021

Contents

<u>Introduction/Executive Summary</u>

1. Rogers Media Inc. (Rogers) is pleased to participate in the Reply phase of Broadcasting Notice of Consultation 2020-374 – *Commercial Radio Policy Framework Review* (BNC 2020-374).

2. Comments of intervenors in this proceeding covered a wide range of issues. On the whole, comments from members of the radio broadcasting industry supplemented and supported the proposals put forward by the Canadian Association of Broadcasters (CAB), with which Rogers' submission is also aligned. Remaining interventions from other parties - primarily those representing the music industry and various music industry associations - tended to advocate for more, or more detailed, regulation, without acknowledging the current challenges facing the Canadian radio industry.

3. These interventions largely ignore the fact that the Canadian market is increasingly saturated with unregulated foreign audio streaming services, which has resulted in significant revenue declines for radio stations. The proposals brought forward by Rogers, the CAB and many other radio broadcasters, on the other hand, present a fair and equitable framework that accounts for these changes and gives Canadian radio (stations) the chance to compete against unregulated competitors in Canada, what has become a global media environment.

4. Rogers also notes that several parties including PIAC, SOCAN, and the SCFP filed letters during the intervention phase, but did not submit any substantive comments. Rogers submits that in accordance with the CRTC Rules of Practice and Procedure and as a matter of procedural fairness, these parties should not have the ability to make proposals in the Reply phase that cannot be challenged or addressed by other parties to this proceeding.

5. As a member of the CAB, Rogers supports the CAB's Reply comments in this proceeding. We are providing additional comments to elaborate on the following issues of particular concern and relevance to Rogers, including our proposals to 1) eliminate the hits/non-hits policy; 2) create a more flexible Common Ownership Policy; 3) eliminate format restrictions; 4) promote and preserve local news; 5) maintain the current CCD rules and eliminate the tangible benefits policy for radio; and 6) reject proposals for an HD Radio policy.

Elimination of the Hits/Non-Hits Policy

6. Rogers' March 29th intervention emphasized the necessity for the Commission to eliminate the Hits/Non-Hits Policy ("Hits Policy").[1] Comments opposing the proposal to eliminate this policy came from several French-language broadcasters, the Quebec's Ministère de la Culture et des Communications (MCC), and ADISQ, all of whom believe that eliminating this policy will have a negative impact on linguistic duality in the bilingual markets of Ottawa-Gatineau and Montréal.

7. Rogers reaffirms our position that this policy, which is outdated, ineffective and unnecessarily punitive, should be eliminated for the reasons outlined in our intervention. In response to intervenors' submissions in support of maintaining this policy, we submit that: i) the data used by parties to justify this policy does not demonstrate that the Hits Policy has had any impact on listener migration in bilingual markets; and ii) the Hits Policy negatively impacts Rogers' ability to program music for our listeners in these markets, which further restricts our ability to compete with global non-Canadian unregulated streaming services.

[1] Broadcasting Regulatory Policy CRTC 2009-61.

Tuning Data does not demonstrate the effectiveness of the Hits Policy

8. Both Leclerc Communications Inc. (Leclerc) and RNC Media filed tuning data evidence, which purported to support their argument that the Hits Policy is necessary to prevent further listener migration of Francophones to English-language stations in bilingual markets. Leclerc stated in its intervention that in Ottawa-Gatineau, 54% of all music listening by Francophone adults aged 18-34 is lost to Anglophone music stations.[2] RNC stated in its intervention that in the Ottawa/Gatineau market 32.1% of Francophones listen to English-language public and commercial radio while only 3.1% of Anglophones listen to French-language radio.[3]

9. Regardless of the accuracy of this data, tuning data does not support a correlation between the Hits Policy and listener migration to English-language stations. Moreover, it ignores the migration of all listeners to digital streaming services. The Commission's own evidence from the Notice of Consultation for this proceeding makes this very clear. It states:

> *As noted in the FVM proceeding, in 2014 the Commission observed a Francophone audience shift towards English-language stations in the bilingual markets of Montréal and especially Ottawa–Gatineau.* ***Since then, the trend has reversed, since a portion of the Anglophone and Francophone audiences likely migrated to digital platforms.*** *This may partially explain the overall audience decline in both markets between 2017 and 2019 for both English- and French-language stations.*[4]

10. The Hits Policy has been in place in bilingual markets since 1997.[5] As the Commission states above, tuning trends of English-language and French-

[2] Leclerc Communications Intervention to CRTC 2020-374 at para 69.
[3] RNC Intervention to CRTC 2020-374 at Q22.
[4] Broadcasting Notice of Consultation 2020-374 at para 58.
[5] CRTC 1997-5.

language stations have actually reversed in the last 5-6 years, showing English-language tuning declining at a much faster rate than French-language tuning in these markets. Rogers' analysis of the Numeris from the last 4 years confirms these trends. When expanded to include all age groups, Numeris data shows that tuning in the Ottawa/Gatineau market to French-language stations over the past five years has been flat (actually increasing 1.96% from 2016-2020), while tuning to English language stations is down by 9.88%.[6]

11. Therefore, tuning trends from 2009-2020 show that tuning in bilingual markets has fluctuated extensively throughout the duration of the Hits Policy providing compelling evidence that this policy has in fact had very little impact on listener migration trends. There is simply no demonstrable correlation between the Hits Policy and listener migration between English-language and French-language stations in these markets. As the Commission itself explains and as we highlighted in our intervention, the evidence indicates that it is much more likely these audiences have migrated to unregulated digital platforms.

12. Rogers also notes that Quebec's MCC did not provide any evidence to support its position that "regulatory weakening for English and French language commercial radio stations would be detrimental to the discoverability and influence of French-language musical content."[7] MCC also opined that the Commission's statement that 18.4% of English-language tuning share fell between 2017 to 2019 should not be a justification for regulatory relaxation in these markets. Rogers submits that the overall decline in both English and French-language tuning demonstrates that both Anglophone and Francophone listeners are migrating out of the local radio ecosystem to foreign digital streaming services and not from French-language to English-language stations.

[6] Numeris, Ottawa-Gatineau Franco Station Listening 2016-2020.
[7] Quebec's Ministère de la Culture et des Communications (MCC) Intervention to BNC 2020-374 at paras 62-65.

13. Additionally, French-language stations face less competition from foreign streaming services compared to English-language stations. As was also mentioned in Corus' intervention, a recent analysis of music consumption using online streaming services like Spotify, Apple Music, Tidal, YouTube, SoundCloud and Amazon Music revealed that French vocal music represented only 0.1 percent of all streaming, significantly lower than the 7.2 percent of Canadian content.[8]

Negative Impact on Programming

14. The Hits Policy continues to negatively impact the ability of radio stations to program music for their listeners in these bilingual markets, which in turn restricts their ability to compete against foreign streaming services. In this respect, Rogers supports the comments submitted by Corus Entertainment Inc. (Corus) in this proceeding where it addressed the impact that the Hits Policy is having on English-language programming. Corus' submission highlighted some of the challenges caused by the Hits Policy in the following manner:

> *Because of the hits policy, our music directors must constantly monitor the charts to ascertain whether songs previously categorized as non-hits have become hits. They must remove musical selections from song rotations more quickly than desired, and scramble for replacement non-hits to fill their quotas. In many cases, our music directors must simply bypass songs that would otherwise appear on our playlists on the expectation that they will become hits, and broadcast songs that are not strong enough to air on a Top 40 station in any other market.*[9]

15. Today, if listeners in the Ottawa-Gatineau market are unable to hear the songs they are looking for on radio stations, they are going to (and clearly have, as evidenced by the tuning trends above) migrate to unregulated foreign streaming

[8] MRC BDS top 1000 titles streamed in Canada for the 5-month period on a weekly basis from October 2020 to February 2021.
[9] Corus Intervention to BNC 2020-374 at para 48.

services. Listeners are not limited by geographic region when making song selections, and therefore it follows that programming on radio stations should also not be regulated by geographic region. As noted by Stingray in their submission:

> *The issue is no longer about whether audiences will migrate from licensed French-language stations to licensed English-language stations. It is whether they will leave the system entirely, something the Commission notes in BNC 2020-374 is already happening. As highlighted in the CAB's submission, only 0.2% of the Top 5000 titles consumed on music streaming services in Canada are French Vocal Music selections.* ***What this shows is that Canadians will seek out the content they want – if it isn't available from one provider, they will find it from another, especially if that provider is easily accessible****.* [Emphasis added] [10]

Stingray's intervention notes that Spotify has millions of Canadian subscribers, and over 345 million active users worldwide.[11] Additionally, Canadians spent approximately 8 hours each week tuning to streaming audio compared to 14.7 hours for radio.[12] The maintenance of the Hits Policy is further disadvantaging the radio industry in specific markets which face increased competition by foreign streaming platforms, a phenomenon which was unforeseen and unaccounted for by the industry a decade ago.

16. As was also mentioned in Rogers' intervention, between 2018 and 2020, the revenues of the Ottawa English-language stations fell from almost [redacted] to less than [redacted] while those of the French language stations remained relatively static, declining from [redacted] to [redacted] despite declines in tuning. Even if one takes into account the COVID-19 year from February 2020 to February 2021, the English language market has been disproportionately disadvantaged. Its Relative Year to Date (RYTD) figure of [redacted] shows a

[10] Stingray Intervention to BNC 2020-374 at paras 17-18.
[11] Ibid at para 18.
[12] CRTC, *Communications Monitoring Report*, 2020.

year over year decline of more than [redacted] compared with [redacted] for the French language stations. It is also important to note English-language stations in this market which report a current RYTD figure of [redacted] were reporting revenue of [redacted] only three years ago, meaning the **English-language market in Ottawa is essentially half the size it was four years ago.**

17. For the above reasons, in addition to those outlined in our March 29th submission, Rogers urges the Commission to eliminate the Hits Policy as it is not accomplishing its desired objective. It is negatively impacting the quality of programming offered on English-language stations in these markets, and putting these stations are an even greater disadvantage vis a vis foreign streaming services. Rogers respectfully submits that the Commission should eliminate all policies that attempt to socially engineer policy outcomes that are beyond the Commission's control in the current media environment. Moreover, the linguistic duality that the Quebec MCC importantly references must balance the needs of both official language communities and Rogers fails to understand how a policy that requires English-language audiences to accept a lower quality product takes their interests into account or is in the public interest.

Common Ownership Restrictions

18. Rogers and various other intervenors supported the CAB's proposal[13] for greater ownership flexibility. In doing so, they expressed the urgent need for a relaxation of the Commission's current Common Ownership Policy (COP). Rogers notes that besides radio broadcasters few intervenors commented on common ownership limits. Only Music Canada opposed changes to the policy outright,

[13] The CAB has proposed: In markets with eight (8) or fewer commercial stations operating in a given language, a person may be permitted to own or control as many as four (4) stations operating in that language; In markets with between nine (9) and sixteen (16) commercial stations operating in a given language, a person may be permitted to own or control as many as six (6) stations operating in that language, provided that the person does not own or control more than 50 percent of all stations operating in that language; and in markets with more than sixteen (16) commercial stations or more operating in a given language, a person may be permitted to own or control as many as eight (8) stations operating in that language.

and ADISQ opposed further consolidation among larger players. The root of these concerns, and comments from other intervenors are largely related to the impact a more flexible COP would have on format diversity in a market.

19. Rogers acknowledges that diversity is important. However, we believe that relaxing the current COP is necessary to help ensure the continued viability of radio in certain markets. Rogers also reiterates that there is a need for the Commission to create a more flexible framework for transitioning AM stations to the FM bands that at minimum requires the elimination of the band restriction in the current policy. We note there was little opposition raised to this proposal in the interventions.

Preserving the Canadian Radio Market

20. Rogers submits that relaxing the COP in accordance with the CAB's proposal would allow Canadian radio stations to achieve operational efficiencies and revenue opportunities thereby preserving the presence of Canadian voices in local markets. Increased flexibility is necessary to give Canadian radio stations the ability to compete for ad dollars and listeners against unregulated foreign streaming services. The Commission established the current COP in 1998, over twenty years ago.[14] The last time the Commission reviewed the COP since its establishment was 10 years later in 2008.[15]

21. When the Commission reviewed the COP in 2008, it stated: "the Commission also recognizes that increasing numbers of Canadians are turning to the Internet or to other forms of new media as a source of news and information. There is no doubt that the new media will become an increasingly important source of local,

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[14] CRTC 1998-41
[15] In CRTC 2008-4 - When the Commission did a targeted review of the commercial radio sector in CRTC 2014-554, it did not address the COP.

national and international information."[16] Obviously, the trend highlighted by the Commission in 2008 has only become more prevalent in 2021.

22. The Interactive Advertising Bureau of Canada (IAB Canada), a trade association that develops and promotes digital marketing and advertising in Canada, calculates that of the total advertising dollars spent in Canada annually in 2020, nearly half was spent on digital platforms the vast majority of which went to Facebook and Google (between 70% and 80%).[17] In addition, since the last comprehensive review of the regulatory framework for commercial radio, the following audio services and technologies have entered the Canadian market and compete with the Canadian radio sector for listeners and/or ad dollars: SoundCloud in 2008 and the SoundCloud Go app in 2016; Spotify in 2014 in Canada; Apple Music in 2015; TikTok in 2016; and Clubhouse in 2020. In 2006, podcasts had also just been created as an audio medium, and there were no digital streaming audio services.

23. More recently, Twitter Spaces and Facebook have now launched social audio which allow for real time audio where listeners can actively participate in the dialogue. Spotify and Facebook also have a new miniplayer experience which allows listeners to enjoy music and podcasts from Spotify directly within Facebook on iOS and Android without switching between apps. Clearly, the competitive landscape of the audio industry, both for music and talk formats in Canada, has drastically shifted. As Rogers referenced in our intervention, today four in ten (39%) Canadians listen to streaming music services on a weekly basis.[18] This percentage will only increase.

[16] CRTC 2008-4 at para 60.
[17] The Interactive Advertising Bureau of Canada (IAB Canada).
[18] Attitudes and opinions towards commercial radio in Canada, Final Report, online: < https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/crtc/2021/090-19-e/POR090-19-Final_Report.pdf>.

24. Based on the above, the concerns of intervenors that a change to the COP would result in a material reduction in diversity of voices in local markets fails to take into account today's media landscape where the number of sources of audio content has been steadily growing. Allowing more flexibility in the ownership rules would allow Canadian radio stations to preserve Canadian voices in markets which are no longer restricted to competition in a set geographical boundary.

Increased Diversity of Format

25. In relation to both ADISQ and Music Canada's concern about consolidation leading to format duplication or restricted playlists, Rogers submits that neither will result from a relaxed COP and is another example of how the music industry does not understand the radio market and how operators make format decision. Contrary to Music Canada and ADISQ's assertions, relaxing the COP will in fact increase the diversity of formats available in each market as station groups will have less risk associated with format experimentation and innovation. An owner of multiple stations in a market will not "compete" against itself by maintaining similar formats in that market. Instead, consolidation would result in an owner segmenting the market differently to achieve greater reach for advertisers through a combination of smaller, programmatically diverse stations. This shift would result in less stations competing to maintain "the middle" of the market and allow for further experimentation and differentiation in radio formats.

26. The Commission agreed with this notion in 1998 when it established the current COP, stating "A number of broadcasters at the hearing stated that an increase in the number of stations a person is permitted to own in a market would lead to an increase in the diversity of formats offered. The Commission agrees that one of

the benefits of consolidation could be some increase in the diversity of formats offered in some individual markets."[19]

27. Nevertheless, ADISQ attempts to paint the presence of large and medium ownership groups in markets such as Montreal as decreasing diversity in programming and increasing repetition for listeners. We note that the examples they chose at paragraph 268 and 269 – repetition in content between CKOI-FM and CKMF-FM – are from two competing broadcasters (Cogeco and Bell, respectively) both operating hits-format stations in the same market. If anything, this example proves our point that competing stations in a market will all migrate to the middle and the formats with the broadest reach and therefore largest audiences.

Converting AM stations to FM band

28. Finally, there were only a few comments made by intervenors with respect to the issue of converting AM stations to the FM band. CINA Radio, for example, expressed the view that if AM stations were converted to the FM band they should still be subject to FM ownership limits in the local market. Rogers reiterates that given the current position of AM stations and the inferior listener experience those stations offer, there is an urgent need to migrate AM's programming (predominantly news and information content) to the FM band. CINA Radio's concern that this would lead to the hollowing out of the AM environment is not valid. That "hollowing out" is already happening as listeners are increasingly abandoning AM radio for FM and online options.

29. Moreover, some major car manufacturers are opting to not include AM tuners in their new vehicles, and AM is incompatible with electric vehicles as the

[19] CRTC 1998-41.

electromagnetic frequencies generated by the vehicles' electric-powered motor cause direct interference to AM radio reception. For this reason, most manufactures have also chosen not to include AM radio receivers in their electric vehicles.[20] Given this reality, the current policies in place which prevent AM operators from converting to FM (i.e., approval to operate in a specialty format, simulcast regulations, and the current band restrictions of the COP) must be eliminated. These changes are necessary in order to allow operators to respond to the steady decline in both tuning and revenue of AM stations over the past decade.

Eliminating Format Restrictions

30. Further to the above, Rogers maintains that restrictions on formats should be eliminated except in circumstances where stations have committed to specific programming requirements through a competitive licensing process. The policy rationale for restricting FM stations from moving into or out of Group III formats is outdated, and prevents broadcasters from moving AM's programming to the FM band where listening quality is superior and programming can be heard by a larger audience. As most content on AM is local news content, this restriction also has the effect of inhibiting the preservation of local news in many communities as AM stations are no longer able to effectively monetize this content given losses in tuning.

31. No intervenors submitted comments opposing eliminating format restrictions. Most comments related to programming restrictions such as the need to update corresponding Cancon and French-language vocal music (FVM) minimums. Various other intervenors supported the loosening of format restrictions including Friends of Canadian Broadcasting who expressed the view that, "Given

[20] Electric Cars will Make AM radio obsolete, online: <https://incompliancemag.com/will-electric-cars-make-am-radio-obsolete/>

increasingly ubiquitous access to digital music via computers, smartphones and smart speakers, the Commission should not look at diversity only from a radio perspective but across all platforms."[21] No party to this proceeding has taken the stance that format restrictions remain useful and should be maintained.

Promoting and Preserving Local News Content

32. The overwhelming consensus of intervenors who made comments with respect to local news opposed the imposition of quotas. Rogers maintains our view that the imposition of quotas is not only an antiquated approach to ensuring that Canadians have access to high quality news programming from varied sources, but it is also unnecessary. As the CAB notes in their reply comments, providing local programming and information is a central function of the majority of radio stations, regardless of format. It remains one of the strengths of local radio that differentiates it from streaming services, despite the fact that Canadian radio competes with a myriad of news sources from all over the world on a variety of platforms. Imposing additional obligations is neither necessary nor appropriate as we work to maintain audiences and serve Canadians with quality local news.

Funding – CCD, Tangible Benefits

33. Collectively, several intervenors representing the music industry, music collectives and campus and community radio stations – all beneficiaries of the current Canadian content development (CCD) funding regime – are proposing broad and sweeping changes meant to dramatically increase how much broadcasters are required to spend on CCD. These proposals are designed to offset declines in tangible benefits funding and remove the discretionary portion of broadcasters' CCD spending through adjustments to the current allocation

[21] Friends of Canadian Broadcasting Intervention to BNC 2020-374 at para 20.

methodology all to suit their various financial needs. Many of the proposals are simply out of touch and ignore the revenue declines experienced by the radio industry in recent years.

34. As a whole, these intervenors believe the solution to reduced CCD funding due to radio's revenue declines should be addressed by imposing higher expenditure obligations on businesses that are already struggling to stay on-air. While we understand the concerns of those organizations that benefit from a contribution regime, their proposed solutions will only serve to hasten the financial decline of some stations and deepen the regulatory inequities that currently exist between Canadian radio stations and unregulated streaming services.

Proposals to increase CCD contributions from large ownership groups

35. A number of interventions submitted by representatives from the Canadian music industry also propose that large ownership groups should be forced to shoulder a larger burden of industry-wide revenue declines in the form of increased CCD contribution requirements. ADISQ's submission is the most aggressive in this regard, and deserves some detailed consideration to illustrate the breadth of their proposed reconstruction of the current funding regime and the lack of supporting rationale or consideration of its impact on the entire industry.

36. ADISQ's proposed restructuring of the current contribution regime is based on the observation that, as ownership transactions in Canadian radio markets have slowed (primarily because further consolidation in most markets is prohibited by the common ownership policy), the funding stream resulting from tangible benefits is expected to decrease substantially. ADISQ states that French-language organizations (Musicaction and Fonds Radiostar) are more heavily impacted by this decrease in funding due to the fact that the most recent major

transaction in French-language markets (Bell's acquisition of Astral in 2013) is nearing the end of its term.

37. Their solution to the expected decrease in revenue is to dramatically restructure the basic contribution regime, forcing English-language stations to pay 40% of their contribution to French-language markets and for French-language stations to pay fully 60% of their contribution to English-language markets. This is to be achieved by the creation of an undefined centralized fund which would then secondarily disburse to the existing funds.

38. ADISQ then proposes that the revenue base on which contributions are calculated be restructured to eliminate the $1.25M revenue threshold for anyone who operates more than one station. Owners of a single station that makes less than $1.25M would be exempt from contributions. Anyone who owns two or more stations would have no revenue threshold exemption, and contribution requirements would be calculated on the operator's total group revenue (regardless of whether any station within that group earned, itself, less than $1.25M in revenue).

39. Contribution levels would then be tiered depending on total annual revenues. ADISQ references how the Commission defined "large", "medium" and "small" commercial radio operators in BNC 2007-122[22] (large commercial operators are defined as those with annual revenues above $50 million, medium above $20 million and small below $20 million), and then without rationale proposes new revenue categories: "very small" (income less than $1.25 million), "small" ($1.25 million to $10 million), "medium" ($10 to $20 million), "large" ($20 to $50 million)

[22] Broadcasting Public Notice 2007-122 (*Canadian Association of Broadcasters' Best Practices for Diversity in Private Radio*)

and “very large” (revenues over $50 million).[23]

40. Each of these operators would then see a tiered contribution system imposed on them: “very small” (exempt), “small” (0.5%), “medium” (2%), “large” (3%) and “very large” (4%).[24] Their rationale for imposing such a high contribution level (4%) on “very large” ownership groups is that these groups (which would, under their proposal, include Corus, Bell, Rogers and Stingray) unduly benefit from concentration of ownership and the attendant increase in revenue ADISQ supposes follows.

41. ADISQ frames their proposal around the notion that “very large” ownership groups have an unfair market advantage due to their size, dominate the market, and are not contributing their fair share given their size.[25] They support this claim based on CRTC Monitoring Reports that detail which radio ownership groups generate the bulk of industry revenue[26], and on public statements made by the sales and advertising teams of Bell, Rogers, Stingray and Corus promoting the sales reach of their respective groups (presumably pulled from company websites).[27]

42. Therefore, the whole of ADISQ’s proposal rests not on our aggregate annual returns (also available to them publicly, and which clearly demonstrate the bleak financial position radio operators, large and small, currently find themselves in), which are factual representations of our financial health, but on our market share

[23] ADISQ Intervention, paragraphs 350
[24] ADISQ Intervention, paragraph 351
[25] ADISQ Intervention, paragraph 353
[26] ADISQ Intervention, paragraph 253
[27] ADISQ Intervention, paragraphs 248 to 252

and the pitch of our sales teams as they attempt to attract as much advertising as possible to stem the tide of revenue decline.

43. Based on this overly complex and unsubstantiated foundation, ADISQ proposes a contribution requirement from “very large” groups of 4% of total group revenues, a stunning **$20 million** for broadcast year 2019/2020 if we applied their proposal retroactively. We urge the Commission to see this proposal for the unrealistic and self-interested cash grab that it is.

44. To illustrate how unsustainable ADISQ’s proposal is, we took the amount reported publicly for each of Bell, Corus, Rogers and Stingray (each of whom would be considered “very large” by ADISQ’s calculation) for total CCD contributions made in 2019/2020 (as posted on the CRTC’s website), which was calculated at the current 0.5% requirement, and calculated it instead using ADISQ’s proposed 4%[28]:

Large Ownership Groups	2019/2020 at 0.5%	2019/2020 at 4%
Bell	$875,827	$7,006,616
Corus	$363,000	$2,904,000
Rogers	$859,601	$6,876,808
Stingray	$477,000	$3,816,000
Total	**$2,575,428**	**$20,603,424**

[28] Without visibility to operator’s contribution calculations which factor in the exemption threshold for the first $1.25 million in revenue, these figures were obtained by dividing BY 2019/20 contribution totals by 0.5% and then multiplying that figure by 4%. An imperfect calculation but nevertheless illustrative of our point.

45. In the case of Rogers, the proposed 4% contribution level if applied to the 2019/2020 broadcast year is almost double our operating income for that same year. Once you factor in reported profit before interest and taxes (PBIT), ADISQ's proposal would result in two of Canada's four largest group radio operators operating at an even greater loss (Bell and Rogers) in order to contribute more money to Canadian content development than they make in profit, while the remaining operators (Corus and Stingray) would see their profit margin further diminish (in Corus' case, nearly completely).

46. Once the Commission has gathered this unprecedented sum of money, ADISQ further proposes that fully 70% of all industry contributions (including those from "small", "medium" and "large" operators) should be placed in an undefined and non-existent centralized fund to be distributed to FACTOR/Musicaction and Starmaker Fund/Fonds Radiostar.[29] The fund would then be distributed on a 60/40 split, with 60% going to English-language funds and 40% going to French-language funds.[30] We note that ADISQ fails to identify or justify the amount of money and administrative expense associated with adding yet another "fund" into the CCD equation or why English-language stations outside bilingual markets should direct any of their CCD funds to French-language music organizations rather than organizations in their communities or that support their programming and artist development initiatives.

47. We note that ADISQ is not the only intervenor to support increases in contribution requirements, although theirs is the most egregious. The Community

[29] ADISQ Intervention, Section 3.4.3
[30] ADISQ Intervention, para. 382

Radio Fund of Canada (CRFC) proposes an increase in contribution requirements for large ownership groups – from the current 0.5% to 1% - and other campus and community radio station organizations (ARCQ, ARCC and the NCRA/ANREC) propose that there should be some increase over the current 0.5% to be determined by the Commission. However, none of these organizations propose eliminating the exemption threshold of $1.25M.

48. Rogers strongly rejects any proposal that purports to increase radio's CCD requirements or place a disproportionate obligation on large radio groups. The precipitous revenue declines the industry is currently experiencing have been equally disastrous for large ownership groups, as clearly demonstrated in our publicly disclosed annual financial returns. Moreover, targeting large radio groups for increased CCD payments fails to take into account that these groups are already cross-subsidizing their small market stations with revenues from large markets; something that would no longer be possible if CCD contributions were increased. Adoption of the ADISQ proposal would surely result in station closures.

49. Any proposal to offset beneficiary declines by increasing broadcaster contributions – by any amount – would be, quite simply, financially unviable, and furthermore would be an entirely inequitable solution in a regulatory environment that does not require the same contributions from over-the-top (OTT) audio streaming services.

50. The proposals put forth by ADISQ, the CRFC, CIMA, Music Canada and other music industry associations (MIAs) not only ignore the precarious financial situation of many stations within large ownership groups, but also seek dramatic increases in funding from the Canadian broadcasting system before either the

Canadian government or the CRTC has had an opportunity to bring foreign OTT streaming services into the regulatory framework. Once foreign OTT streaming services are required to contribute to the system the declines in CCD funding due to declining revenues in the radio sector will be quickly offset if not increased exponentially. There is no need to further burden Canadian local radio stations who are already subject to a number of regulatory requirements and obligations.

How the contribution system can and does support Canadian artists from equity-seeking communities

51. Rogers notes that the Radio Starmaker – a fund established by the CAB to support marketing and promotion for emerging Canadian artists – recently launched the Orion program, a funding stream dedicated to supporting music artists from diverse communities. The Orion program was established to distribute funds in a manner that lowers the barrier to entry for these artists who have not yet met Starmaker sales criteria, and is intended to be a "stepping stone" towards gaining eligibility to its main programs. It will fund a broad range of activities to support racialized artists as they continue to develop, and increase the audience and industry reach needed to qualify for other Starmaker programs.

52. The CRFC states that funds such as Starmaker "disproportionately support only a handful of Canadian musicians" and that, because it is operated by the CAB, it is a fund in which "commercial broadcasters are paying themselves to support a handful of already established Canadian musicians."[31] Their intervention proposes that the portion of tangible benefits directed to Starmaker (3%) be reduced to 2% so that the CRFC can receive an additional 1% in tangible benefits funds.

[31] CRFC Intervention, para. 27.

53. While the CRFC's statements are not supported by the data readily available on the Starmaker website, it should also be noted that of all the funds supported by CCD contribution payments of any kind, only Starmaker has launched a specific program targeted at supporting equity-seeking artists.

Additional reporting requirements to ensure compliance with eligibility criteria

54. Several intervenors propose that broadcasters should have even greater reporting requirements with respect to their CCD contributions than already exist. These proposals were made in response to Q41 posed in BNC 2020-374 (which contemplates requiring every licensee to have reporting obligations similar to those imposed by Broadcasting Decision 2013-310 (*Astral broadcasting undertakings – change of effective control*) and Broadcasting Decision 2019-431 (*Sirius Canada and XM Canada – Licence renewal and licence amendments*)). Specifically, CIMA and the CRFC support such a proposal on the somewhat specious grounds that broadcasters are not complying with eligibility requirements for discretionary CCD spending.[32]

55. As we stated in our intervention, Rogers is strongly opposed to the addition of more reporting requirements on top of the extensive reporting already required of broadcasters. Licensees already provide detailed reporting on their discretionary initiatives, submitting to Commission staff all the pertinent information needed to evaluate compliance. In situations where compliance is in question, the Commission has the authority to audit broadcasters. Between existing reporting requirements and audits, Commission staff have all the information they need to assess compliance.

[32] CIMA Intervention, para. 61, CRFC Intervention, para. 48.

56. We fail to see the value of adding even more bureaucratic reporting layers to radio stations, particularly when no such reporting obligations fall on foreign streaming services.

Proposals to eliminate eligible initiatives

57. Rogers takes particular exception to CIMA's proposal that several key eligible initiatives be eliminated from discretionary funding, specifically the ability to support talent contests, award prize money to winners of music competitions, and provide Emerging Music Artist Patron grants.[33] CIMA states, without evidentiary support, that talent contests or music competitions serve no benefit to artists – and yet, as Rogers pointed out in our intervention, events such as the Nipissing Country Music Association's Annual Northern Ontario Open Country Sing Contest is attended by country music talent scouts, and previous winners have been given recording studio time, and some have even been invited to perform in the United States. Rogers also notes that CIMA represents Canadian independent music labels not Canadian artists whose economic interests are entirely different and should not be conflated.

58. CIMA's proposal to eliminate Emerging Music Artist Patron grants is the most puzzling. Indeed, they state that initiatives "for the production and promotion of local music and the promotion of local musical artists, **particularly emerging artists by radio stations** is not a relevant development activity [emphasis added]."[34] Based on its intervention, CIMA apparently believes that radio stations must support emerging artists through greater airplay but are incapable of supporting emerging artists through direct funding. The hypocrisy of this position can only be explained by CIMA's desire to redirect funding away from Canadian

[33] CIMA Intervention, para. 60-62
[34] CIMA Intervention, para. 60

artists towards Canadian independent record companies seeking to exploit their music.

59. Rogers opposes the elimination of the eligibility of these important initiatives, which have resulted in direct and material benefits to artists we have supported over the years. Broadcasters are entirely capable of appropriately directing discretionary funds to support emerging artists, including those from equity-seeking communities. At Rogers, our All IN Advisory Council[35] – comprised of Black people, Indigenous people and People of Colour, established to advise and direct the Rogers Sports & Media division in ensuring equity in all aspects of our business – advises on potential recipients of CCD funding through a lens of equity and inclusion. Their expertise is an invaluable tool for ensuring our discretionary funding reaches artists from equity-seeking groups.

HD Radio

60. Several interventions (Xperi and Nautel) have been submitted in this proceeding regarding HD radio and its current status as an experimental form of broadcasting. Despite Xperi's enthusiasm for additional spectrum deployment associated with HD signals, Rogers notes that HD radio is not currently something we are considering as a viable solution to our technical challenges as the requisite infrastructure costs are prohibitively expensive and audience adoption is still extremely low. We support the CAB's submission in this regard, as HD radio is a technology we are unlikely to continue to support in the long term.

[35] https://www.allinforequity.ca

Conclusion

61. Rogers appreciates the opportunity to provide its comments during this phase of the proceeding. Rogers, the CAB and its members have stressed throughout this proceeding that the radio industry is at a critical juncture in its evolution and requires the regulatory tools and flexibility needed to transition to and build audiences to digital platforms. Requiring radio stations to continue to operate within a highly restrictive regulatory framework, which was established decades ago at a time when traditional broadcasters were the primary players in the Canadian media market, is unrealistic and unsustainable.

62. Today's media landscape now includes a vast array of global digital media services that operate without any of the regulatory limitations and obligations imposed on Canadian radio broadcasters. It is urgent that regulations governing traditional radio broadcasters be re-calibrated to reflect these changes and to allow Canadian radio to adapt and compete effectively in this new environment.

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