

Reply by the ADISQ – Executive Summary

***Broadcasting Notice of Consultation CRTC 2020-374 –
Commercial radio policy framework review***

April 28, 2021

**REFUSING THE COSMETIC VENEER OF A *STATUS QUO*, IN
FAVOUR OF A STRONG AND EFFECTIVE REGULATORY
FRAMEWORK**



Executive Summary

1. Having taken cognizance of the interventions filed in response to the Broadcasting Notice of Consultation CRTC 2020-374, in this reply, the ADISQ submits a series of counter-observations and corrections, in answer to the positions taken by the two main intervenors, namely the Canadian Association of Broadcasters (the “CAB”) and the *Regroupement de titulaires de licences de stations de radio commerciale de langue française* (the “Regroupement”). On a more *ad hoc* basis, we also wish to remark on and clarify proposals made by other intervenors.

A PUBLIC HEARING IS REQUIRED TO RECONCILE OPPOSING VIEWS

2. As a preamble, we reiterate our desire to see a public hearing take place as part of this process, as rapidly as possible. The first round set for the receipt of interventions has shown that many stakeholders have taken diametrically opposed positions, and that proposals that will be hard to reconcile have been submitted.
3. As an example, while the ADISQ’s intervention was entitled *Beyond the Status Quo [...]*, the Regroupement was suggesting that the *status quo* “be maintained in terms of French vocal music quotas” – a stark difference that is only amplified when one reads the details of the interventions. On one side, the ADISQ asks to end circumventing strategies that reduce the discoverability of French vocal music; on the other, radio stations are suggesting rules that would allow them to further deploy that strategy.
4. In terms of financing, while they are all calling for basic contributions to be maintained at their present (low) level, some broadcasters are asking that their contributions be reduced in terms of tangible benefits – or even abolished, as is the case with Rogers, Stingray and Corus: such measures would dramatically reduce the CCD contributions paid to recipients. In contrast, the ADISQ has developed a proposal that would allow the present levels of financing to be maintained, while considering the different financial and business realities of licensees.
5. Broadcasters claim that their request to maintain the *status quo* relies on the early enactment of bill C-10 which, in their opinion, opens the door to a rebalancing of obligations and contributions between themselves and the new industry players who will become subject to the law. We believe that this presumption is extremely dangerous. The support granted to the cultural sector is not akin to the communicating vessels principle, where the level of each vessel decreases as additional vessels are added: on the contrary, the arrival of new contributors should be used to raise the overall level, and to allow the cultural community to benefit from the increased value that these players bring to the broadcasting system.

MAJOR DIFFERENCES IN TERMS OF UNDERSTANDING THE CONTEXT

6. There are other major differences. The licensees rely on contextual elements to support their claims. We have identified **four**, and for each of them, the radio industry's review of the data and the music industry's review of the data are in sharp contrast:

The structural effect of the COVID-19 pandemic on our respective industries

7. Without denying the challenges faced by the radio industry because of the pandemic, we submit that the *alleged* effects of the health crisis should not be used as a new pretext to justify regulatory relief that has long been sought, but on different grounds.

The financial health of the music and radio industries

8. We rectify the financial portrait of the music industry painted by the CAB, which bases its analysis on data concerning the majors, whereas the Canadian music industry, especially in its francophone sector, is made up of local independent companies. While it is true that the majors seem to be recovering and that they are turning streaming to their advantage, it is at the very least tendentious to deduce that the same is true for the Canadian francophone industry.

The - allegedly negative - link between French vocal music and the commercial success of radio stations

9. We address the allegedly negative link broadcasters are trying to establish between Francophone music and the commercial success of radio stations, pointing out that if it were true that Francophone music is dragging down radio stations, then the CRTC would have been alarmed at the dire financial situation of Francophone broadcasters long ago: nearly 50 years have passed since "FVM" quotas were introduced. Rather, the truth of the matter is that Francophone broadcasters have shown impressive profitability since quotas were introduced for French vocal music, and if they face new challenges, they cannot be attributed to quotas. Furthermore, we reiterate that quotas are not intended to reflect consumer practices, but rather to stimulate them.

The alleged difficulty for radio stations to reach younger audiences because of regulatory constraints.

10. Finally, in answer to the recurring assertion made by broadcasters that French vocal music curtails youth radio listening, we point out that it has been observed many times that listening to the radio is part of a kind of life cycle, and that radio gradually finds its place in our lifestyles – while driving, at work, etc. – as we get older. We also point out that the radio offer is simply not aimed at youthful audiences, which are considered unattractive to advertisers.

11. We then examine one by one the broadcasters' proposals for the enhancement and discoverability of French vocal music, as well as the funding measures they put forth.

ENHANCEMENT AND DISCOVERABILITY: WE CALL FOR AN END TO SUBTERFUGE, WHILE RADIO STATIONS WANT TO RESORT TO MORE

Broadcast Week and Peak Listening Hours

12. Please recall that we propose a rethinking of the broadcast week and peak listening hours (the notion of “prime time”) by linking them more closely to actual audience habits. Broadcasters also propose a rethinking of the broadcast week and the notion of prime time, but for the opposite purpose: they want to have more low-listening hours where they can relegate Francophone music. The radio stations’ refusal to consider weekend days as prime time, which relies on no known fact, but rather on their assumed desire to continue to broadcast a meager share of French vocal music, is an eloquent testimony to the issue. For the ADISQ, defining what constitutes “prime time” should not be a matter of debate: it is sufficient to identify actual listening hours and reflect them in the regulation.

Radio montages

13. In an argument that we find utterly astonishing, the broadcasters claim that the purpose of their radio montages trick is precisely to provide them with a circumvention mechanism that will lighten the burden of their obligations in terms of French vocal music, even implying that the CRTC implicitly agrees with this practice. The truth of the matter is that the CRTC never intended that their radio montages trick be used to effectively diminish the presence of French vocal music on the airwaves.

14. For years, this practice has ensured that the proportion of French-language music remains obstinately lower than what the regulation provides. Our request stands: that the CRTC put an end, once and for all, to this appalling practice.

Emerging Artists, Francophone Artists Outside Quebec and Quebec Anglophone Artists

15. We propose to reserve a sizable air space for emerging artists and new music while respecting existing definitions, and to promote the reflection of the greatest possible cultural diversity. For their part, broadcasters put forth certain measures to support the music of emerging artists and linguistically diverse artists, but, in reality, those measures only constitute new means they wish to acquire in order to further diminish the total air space dedicated to French vocal music.

16. In essence, broadcasters offer these two things:

- A new definition of the concept of emerging artist, which would remove the criterion of success and therefore have the effect of allowing broadcasters to be rewarded for airing artists who, despite being relatively new to the industry, have already achieved significant popular success; and

- The implementation of different incitement or enhancement mechanisms, for the portion of their programming devoted to emerging artists: each broadcast of a piece from an emerging artist would diminish their general obligation to air French vocal music.
17. Taken together, these two measures would significantly reduce the total share of French vocal music on the radio, as illustrated in our intervention. We object to both measures.
 18. A similar measure is put forward for pieces by Francophone artists in minority situations (OLMCs). Once again, we are convinced that reducing the total air space granted to French vocal music can only lead to losses in terms of musical diversity in French, and not to the better discoverability of Canadian Francophone music.
 19. Finally, the Regroupement suggests that any piece by a Quebec Anglophone artist should count as a piece of French vocal music, and same, up to 10% of their programming of French vocal music. This would mean, for example, that during prime time, their obligation to air French vocal music would drop from 55% to 45%; and, during a broadcast week, from 65% to 55%.
 20. In reality, opening a 10% window that could be used at the expense of Francophone music could potentially reduce broadcasts of French vocal music by 18% during peak listening hours, which would be extremely damaging to Francophone vocal music. Therefore, this proposal is unacceptable. In any event, remember that we recommended to the CRTC that a regulatory obligation of 5% be set for the two broadcast periods, as defined in our proposal (prime time, outside of the prime time).
 21. Faced with such assertions, we believe it is essential that the current radio policy framework review be used to reaffirm unequivocally the core purpose of the regulation, which is to serve the public interest in an efficient manner, without compromising anything based on a misinterpretation of the Act or the regulation. It is imperative that we return to a simple, enforceable, controllable, and effective regulation.

IN TERMS OF FINANCING: DO NOT UNDERMINE THE ECOSYSTEM

22. At a time where significant decreases in payments to the CCD are expected in the foreseeable future, in particular because of the low prospect of transactions in an already highly concentrated market, broadcasters are asking for:
 - Keeping the *status quo* in terms of yearly contributions;
 - Reducing contributions for tangible benefits by 50% (or even, have them abolished, according to Rogers, Stingray and Corus);

- Maintaining the current allocation levels, including the one for discretionary initiatives.
23. If the CRTC were to go forward with the broadcasters' requests, the effect would be dramatic for the Canadian broadcasting ecosystem. A reading of the interventions filed as part of this process eloquently illustrates this point: CCD contributions clearly benefit many components of the Canadian broadcasting system, not to mention the fact that various groups are trying to convince the CRTC that they should also qualify as beneficiaries from now on.
24. For the ADISQ, the foregoing highlights the obvious:
- The amounts paid to the DCC must be maintained at their current level; otherwise, the ecosystem will be severely undermined;
 - Discretionary initiatives, which place a heavy burden on the CRTC, and which are, after the fact, much too often considered as problematic, should be significantly reduced. The amounts thus freed up should be transferred to existing funds, which have demonstrated their effectiveness, impact, and good governance.
25. Indeed, the ADISQ's proposal to reform basic contributions by adopting a group-based approach, which takes into account the broadcasters' size and revenues, seems all the more important to enact. The Canadian commercial radio market is extremely concentrated, which grants a handful of players key competitive advantages. On the other hand, this concentration presents major challenges to several other players in the ecosystem. For the music industry, this concentration is synonymous with a greatly reduced diversity, since the large groups in charge of programming tend to prefer uniformity, wherever they own radio stations.
26. In closing, we recognize that some exceptions may be made to the common ownership rules, provided that a demonstration also be made that they would promote diversity. This cautious openness is in stark contrast to the CAB's wish to have large groups increase the number of radio stations they own in a market. We clearly highlighted the harmful effects of market concentration on the diversity of voices, and we therefore strongly object to this proposal, which would reinforce the consolidation of our radio market and the power of large proprietary groups.