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Coalition of Canadian Audio-visual Unions

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September 15, 2004

Diane Rhéaume
Secretary General
**Canadian Radio-television and
Telecommunications Commission**
Ottawa, Ontario
K1A 0N2

Dear Ms. Rhéaume,

Re: Broadcasting Notice of Public Hearing CRTC 2004-6

1. This is the submission of the Coalition of Canadian Audio-visual Unions (CCAU) with respect to the Commission's call for comments on three applications for licences to carry on multi-channel subscription radio services, distributed by satellite and/or terrestrial transmitters for direct reception by subscribers. The CCAU would like to appear at the public hearing on this matter.
2. The CCAU urges the CRTC not to grant a licence to any of the applicants in this matter before establishing a clear policy framework for such services, one that fully meets the requirements and objectives of the *Broadcasting Act*. Accordingly, the CCAU asks that the Commission draft such a policy framework and present it for public comment before considering and issuing any decision on these licence applications.
3. To create a policy framework for these services, the Commission must first establish whether multi-channel subscription radio services are distribution services or programming services, or both.
4. If they are to be considered broadcasting distribution services, their ratio of Canadian to foreign channels must conform at least to that required under current regulations for broadcasting distribution services. If they are to be considered programming services, they must conform to Canadian content and Canadian Talent Development (CTD) contribution requirements that are at least as stringent as those of existing technologies and services.

5. If the Commission decides that these are both broadcasting distribution *and* programming services, the Commission must likewise apply regulations consistent with the objectives of the *Broadcasting Act*. Thus, the regulations must require these services to establish appropriate Canadian-to-foreign channel ratios and to meet Canadian content requirements and CTD contribution levels.
6. The Commission must arrive at these determinations through public consultation and careful deliberation. Although the applications in question would purport to deal only with a specialty service of a narrow nature and limited appeal, the Commission's decisions will create precedents affecting other new services and distribution technologies in future, jeopardizing key elements of Canadian broadcasting policy and the Commission's ability to effectively regulate radio and television broadcasting.
7. If the Commission opts to make a decision on these licence applications without undertaking the policy consultation that the CCAU here recommends, the Commission must reject all applications whose proposed service does not meet the basic standard mandated in Article 3 (1) (f) of the *Broadcasting Act*, which stipulates that "*each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming*". It is immediately obvious that both the Canadian Satellite Radio Incorporated and the CBC applications fall appallingly short of this standard.
8. However, the CCAU urges the Commission not to promulgate policy through its licencing decisions in this matter. The applicants agree that the services they propose are currently in little demand and experiencing a slow rollout, so the Commission can afford to take time to deliberate and create policy that will withstand future tests.

The CCAU is a coalition of ten Canadian audio-visual unions, including the Alliance of Canadian Cinema Television and Radio Artists ("ACTRA"), the Directors Guild of Canada ("DGC"), the National Association of Broadcast Employees and Technicians, Local 700 CEP ("NABET"), the Writers Guild of Canada ("WGC"), the American Federation of Musicians – Canada ("AFM-Canada"), Union des artistes ("UdA"), the Communications, Energy and Paperworkers Union of Canada ("CEP"), Association des réalisateurs et réalisatrices du Québec ("ARRQ"), Syndicat des techniciennes et techniciens du cinéma et de la vidéo du Québec ("STCVQ"), and Société des auteurs de radio, télévision et cinéma ("SARTEC").