



Canadian
Association of
Broadcasters

L'Association
canadienne des
radiodiffuseurs

February 26, 2008

Mr. Jim Prentice
Minister of Industry
House of Commons
Room 401, Confederation Bldg.
Ottawa, Ontario K1A 0A6

Dear Mr. Prentice,

Canada's private broadcasters have a significant interest in and concerns with Canada's copyright regime. Given the pending legislative review, the Canadian Association of Broadcasters (CAB) would like to draw your attention to the environment in which broadcasters operate.

Local radio plays an important role in the life of Canadian communities. It provides valuable information ranging from news, weather, local programming, and traffic reports. Radio helps local charities raise hundreds of thousands of dollars every year for worthy causes. Our local stations provide small businesses with an affordable and effective way to reach their customers, and an effective way for elected officials to reach their constituents. Private radio is also important to the local economy, both as an employer and as a central player in the local business community.

Broadcasters are facing unprecedented increases in copyright tariffs escalating from \$22 million in 1995 to \$74 million in 2006. Now, various rights-holders are proposing increases for 2008 that would make those payments more than \$200 million per year. That would amount to a hyperbolic cost increase of more than 170%, just in the last two years. Applying the same percentage increases to the price of a CD would set consumers back \$109.00!

There isn't any business model that can be expected to sustain comparable combined cost escalations without facing a breaking point on its horizon. And that's where private radio currently finds itself.

As the Canadian Music Week conference rolls out March 5-8, with its panels and keynotes, and performers generating buzz – as Arcade Fire, Nelly Furtado, Michel Rivard, K-OS and Michael Bublé did in years past – new waves of Canadian talent are primed for ‘discovery’. Broadcasters continue to partner with the recording industry to promote rising artists on-air and artists, in turn, regularly give the radio industry credit for their success.

The CAB wants legislators to address radio’s unfair copyright burden. Broadcasters have paid copyright royalties for decades, and they will continue to do so. However, under the current “breaking point” scenario, they are facing increases based on multiple royalty payments for a single activity: putting music on the air. Two of the payments are based on a technical operational process which merely facilitates the broadcast. Going forward the record labels are exploiting this situation by seeking a new payment to make up for losses they say they are incurring due to piracy. Amendments to the *Copyright Act* must include a meaningful reproduction right exception for broadcasters.

An amendment to the *Copyright Act* to provide a meaningful **reproduction right exception** for local radio stations would ensure a vibrant radio industry in Canada. This amendment is necessary and would assist in alleviating the growing copyright burden on local radio. Broadcasters welcome an opportunity to consult with MPs on copyright reform.

Sincerely,

Signature

Glenn O’Farrell,
President & CEO

Encl.

STOP THE COPYRIGHT PILE-ON

GIVE LOCAL RADIO STATIONS A REAL BROADCAST REPRODUCTION EXCEPTION

- ▶ Local radio stations are under siege – struggling under the burden of ever higher copyright tariffs.
- ▶ Copyright fees have increased from \$22 million a year in 1995 to \$74 million a year in 2006. These fees are proposed to increase to over \$200 million annually.
- ▶ There are 318 smaller radio operations in Canada that earn on average \$612,000 a year. Their expenses are \$678,000 a year. Overall, almost 40% of Canada's stations realized a loss in 2006.

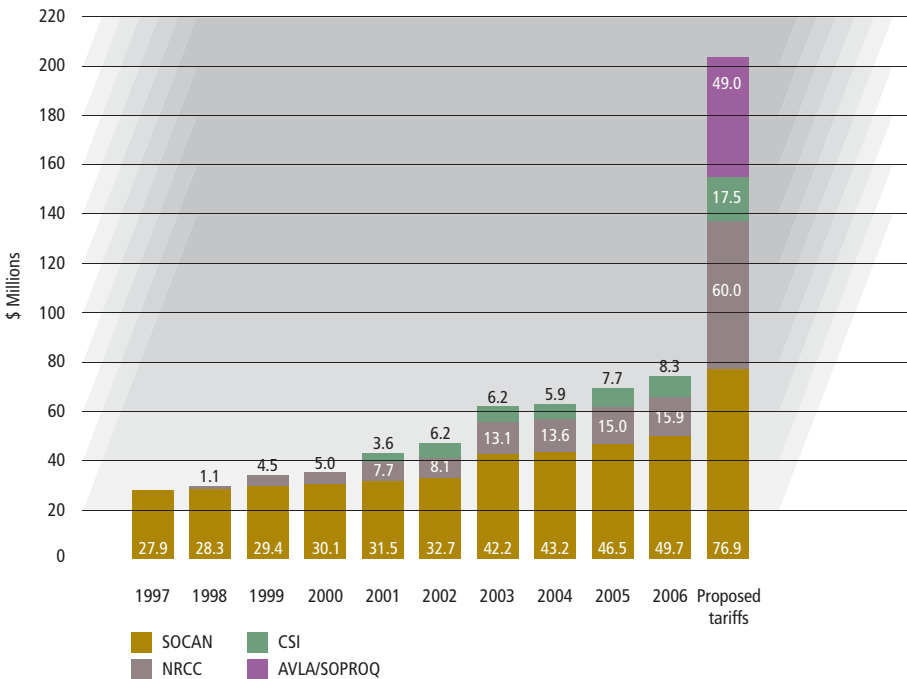


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- ▶ Radio stations recognize that artists and other rights-holders deserve to be fairly compensated for the use of their music. For over 80 years radio stations have been paying copyright royalties, and we will continue to do so. But these payments must be fair to all parties.
- ▶ Is it fair that local radio stations are facing a proposed 170% copyright fee increase? Is it fair that the foreign record labels are asking for a new fee of almost \$50 million a year for the right to make a broadcast-ready track of a song – when radio stations already pay the record labels to play the song?
- ▶ **We need to stop the copyright pile-on. We need to give local radio stations a real broadcast reproduction exception.**
- ▶ You can help, by supporting fair copyright reform. Say no to the foreign multinationals that threaten to crush our radio stations with their never-ending copyright demands.



**Say yes to your local radio station.
Support the reproduction right exception.**

December 2007

OPINION

Copyright: this is not a tipping point, it's a breaking point

Photographs by Jake Wright, *The Hill Times*

Copyright Act heats up: Industry Minister Jim Prentice and Canadian Heritage Minister Josée Verner are responsible for the Copyright Act. Canada's private broadcasters want to address radio's unfair copyright burden, argues Glenn O'Farrell, who says radio needs an effective reproduction right exception.

BY GLENN O'FARRELL

As far as Canada's radio broadcasters are concerned, successive initiatives to reform the Copyright Act have followed a blinkered path. Over the years, we have seen brokered amendments to the Copyright Act that have created a cumulative tariff burden that is pushing local radio to the breaking point.

Radio broadcasters are suffering from copyright pile-on. Fees have already risen from \$22-million in 1995 to \$74-million a year in 2006. Now, various rights-holders are proposing increases for 2008 that would, all told, push the bill to more than \$200-million per annum. That would amount to a hyperbolic cost increase of more than 170 per cent, just in the last two years.

Applying the same percentage increases to the price of a CD, that shiny little compact disk would set consumers back \$109.

While private radio contemplates the impact of such major new expenses, it's essential to keep in mind that broadcasters fully appreciate the importance of paying their fair share of copyright to compensate artists. Broadcasters have been paying the fees for more than 80 years. At the same time, radio does a great deal more in promoting emerging Canadian artists and bringing the sounds of new music to our listeners than any other media sector. As the Canadian Music Week conference rolls out March 5-8, with its panels and keynotes, and performers generating buzz—as Arcade Fire, Nelly Furtado, Michel Rivard, K-OS and Michael Bublé did in years past—new waves of Canadian talent are primed for 'discovery.' Broadcasters are primed to partner with the recording industry to promote rising artists on-air and artists, in turn, regularly give the radio industry credit for their success.

In fact, radio is soaring to great heights in helping to bring audiences the new talent. Figures for 2001-2006 indicate Canada's broadcasters have pumped more than \$100-million into industry initiatives and funds that support talent development, funds such as Radio Starmaker/Fonds Radiostar, FACTOR and MusicAction.

There isn't any business model that can be expected to sustain comparable combined cost escalations without facing a breaking point on its horizon. And that's

where private radio currently finds itself.

The Canadian Association of Broadcasters (CAB), representing Canada's private broadcasters, wants legislators to address radio's unfair copyright burden. Amendments to the Copyright Act need to include a meaningful reproduction right exception for broadcasters so stations would not incur expensive new fees based on this right. Here's a brief background: when radio stations were simply playing a song directly from a vinyl record, the airing triggered the payment of certain copyright fees to copyright holders. But when stations began to transfer songs from CDs to a computer hard drive for airing via music management software, rights holders came forward to claim a new fee, based on the reproduction right.

If a new fee proposed by the record labels is approved, additional payments from Canadian broadcasters to the labels—many based outside Canada—are expected to total approximately \$50-million per year. In claiming this fee, these labels are looking to take advantage of a provision in Canada's Copyright Act to compensate themselves for losses they say they have incurred via internet downloading. Rather than adapting their business models to the opportunities presented by evolving digital media, the labels are engaging in what is essentially an abuse of the principles of the Copyright Act. The act looks to balance creator and user rights but fails to recognize that broadcasters add tremendous value to the songs they air.

Radio needs an effective reproduction right exception.

Just as broadcasters strive to promote a Canadian identity that reflects all elements of Canadian culture and talent, and to balance that promotion with fair remuneration for all the players in the recording industry, the revised Copyright Act must respond to the technical realities of the broadcasting industry and help broadcasters fulfill their cultural mandate. In essence, the government needs to restore a true balance between the rights of creators and users. As MPs and Senators consider the diverse interests on copyright, they should consider this unequivocal message: radio broadcasters are at the tariff breaking point.

Glenn O'Farrell is the president and CEO of the Canadian Association of Broadcasters.

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