

February 21, 2012

Mr. John Traversy
Secretary General
CRTC
Ottawa, ON K1A 0N2

**Re: Broadcasting Notice 2011-796
Notice of Consultation**

**Comments on proposed administrative changes relating to the Canadian content development policy
for commercial radio**

Dear Mr. Traversy:

1. With regard to the Broadcasting Notice of Consultation 2011-796, the Canadian Independent Music Association (CIMA) would like to submit its comments on the proposed administrative changes relating to the policy governing Canadian Content Development (CCD) funding.
2. By way of background, CIMA represents more than 180 Canadian companies and professionals engaged in the worldwide production and commercialization of Canadian independent music, who in turn represent thousands of Canadian artists and bands.
3. CIMA's membership consists of Canadian-owned companies and representatives of Canadian-owned companies involved in every aspect of the English-language music and music-related industries.
4. They are exclusively small and medium sized businesses which include: record producers, record labels, publishers, recording studios, managers, agents, licensors, music video producers and directors, creative content owners, artists and others professionally involved in the sound recording and music video industries.
5. Some of the great Canadian independent artists and bands represented by our members include Rush, Bruce Cockburn, Sarah McLachlan, Broken Social Scene, Feist, The Trews, Tokyo Police Club, K'Naan, Luke Doucet, Blue Rodeo, City and Colour, Chromeo, K-OS, Metric, Diamond Rings, Lights, The Sheepdogs, Our Lady Peace, Said The Whale, Jenn Grant, Dan Mangan, Chilly Gonzales, Delhi to Dublin, Canadian Brass and Saidah Baba Talibah, to name but a few.
6. To put our industry's size in perspective, the Canadian independent music sector – taken as a bloc – is one of the largest in terms of sales in this country, second only to Universal Music Canada. According to Nielsen SoundScan sales figures, the independent sector accounts for approximately 24 percent of all music sales in Canada – larger than EMI (12 percent) and Warner Music (10 percent) sales combined, and greater than Sony Music (16 percent).

7. For almost 37 years, CIMA has dedicated its efforts to developing business opportunities through an international network of business contacts in the music and entertainment industries and in the associated media such as film, TV, new media and other users of music products. CIMA's mandate is to ensure the long-term development of the Canadian-owned music sector and to raise the profile of Canadian independent music both in Canada and around the world.
8. It is on behalf of these Canadian-owned small businesses that CIMA is speaking, and providing comments in regards to the critically important administrative process governing Canadian Content Development (CCD) funds.
9. As the Commission knows, CCD contributions to businesses and artists through FACTOR or MUSICACTION, or funds to organizations such as CIMA or provincial and territorial music industry associations (MIAs) that are dedicated to support programs, are the lifeblood of the independent music industry. These funds enable businesses and associations to promote, develop and market a broad range of artists, from the 'export-ready', up and coming to the grassroots levels; and they provide much needed capital to help the industry grow both within Canada and internationally, among other very important benefits. In short, every penny of CCD funds used by the industry is effectively and successfully leveraged to support and develop Canadian artists as well as the businesses behind them.
10. Canada's commercial broadcasters are important partners in this regard, and more often than not dedicate their CCD contributions to those programs, events and initiatives that best serve the independent music sector.
11. By way of example, Astral, SiriusXM Canada and Harvard Broadcasting are key partners in CIMA's exporting and investment strategy, wherein we facilitate targeted business and showcasing opportunities around the world. CIMA works to establish the Canadian music industry's business presence worldwide, while providing opportunities for their artists and bands to showcase their exceptional talent.
12. CIMA's exporting strategy is a true public-private sector partnership, with support from both the Government of Canada and the Government of Ontario, the Ontario Media Development Corporation; industry partners SOCAN, Audio Visual Licensing Agency, Canadian Music Week, as well as broadcaster support through Radio Starmaker Fund, and the aforementioned Astral, SiriusXM Canada and Harvard Broadcasting.
13. CIMA's various initiatives to raise the profile and increase the success of the Canadian music industry include export marketing initiatives at international conferences and trade shows; international and domestic trade missions; marketing campaigns; and educational programs.
14. CIMA is able to facilitate Canadian independent labels and companies to build strategic alliances in major markets and establish new contacts and networks; strengthen relations with existing contacts; access new sales territories and new distribution networks; license product; export/import

finished goods; explore opportunities in the digital and mobile markets; and gain a better understanding of international markets.

15. Our three key strategies are: engaging in collective, industry-wide initiatives that benefit the sector by providing opportunities for Canadian music companies and artists on the world stage, emphasizing business 'wins' in North America, UK-Europe and South Asian markets; Exploring new markets and finding ways for the Canadian-owned sector to access foreign markets and meet with buyers and decision makers through trade shows, missions, showcases and targeted business seminars/workshops; and providing strategic support for Canadian companies and organizations looking to increase Canadian music exports, expand trade and brand Canada as a key player in the international marketplace.
16. In 2010-2011, CIMA was engaged in 36 events in 18 countries in UK-Europe, the United States, South Asia and Canada.
17. Consider that from 2008-2011, participants in 15 of CIMA's key international trade missions have reported a total of \$93 million worth of business deals completed and initiated – in 2010-2011 alone, members completed and initiated over \$14.6 million worth of business from just six of these key missions.
18. In short, Canada's music industry directly benefits from the support provided by commercial broadcasters and others – whether it is for exporting initiatives, artist marketing or tour support, artist development, record or video production, professional development, education seminars, and more.
19. Many if not most of these initiatives calculated on an individual basis do not require large or substantial sums of money to execute. However, in an industry where margins are very narrow, revenues are depressed and cash flow is a constant challenge, every dollar of support goes a long way towards growing the industry and developing and promoting our artists.
20. While CIMA fully appreciates the complexities and the challenges relating to the CRTC's tracking and administration of CCD funds from the myriad of radio stations across Canada, it is our position that eliminating almost two percent of the funding in an attempt to streamline the process is ill advised.
21. The 'potential solution' as outlined in 2011-796, paragraph 20, in which it is suggested that stations earning less than \$625,000 in annual revenues be exempt from making CCD contributions is only relieving one challenge (administration) at the expense of creating another – namely, the removal of much needed dollars that go directly to support grassroots initiatives for artists and the industry in general.

22. In addition, providing an exemption from the regulatory requirement, in CIMA's view, creates an unnecessary precedent, which we fear may lead to greater or even additional exemptions down the road.
23. A simpler and more effective solution is to require these 175 stations to allocate their discretionary CCD funds to those existing organizations and associations whose purpose is to serve the industry directly; namely FACTOR, MUSICACTION and/or the national and provincial/territorial music industry associations. A reporting system could be established that will facilitate a more streamlined and effective administrative process that is satisfactory to all parties involved, particularly the CRTC. And the net benefit is these organizations are already eligible to receive CCD funding.
24. In this scenario, the CRTC will be assured that these discretionary funds will be applied to only those programs and initiatives that are deemed eligible by the CRTC, while providing the smaller broadcasters a simpler and more direct process for allocating their CCD funds, thereby relieving all parties of a cumbersome administrative procedure.
25. While CIMA understands the CRTC's desire to not be too prescriptive in regards to the definition of 'eligible' and 'non-eligible' programs and initiatives, it may serve all parties if a list of ineligible allocations were published in addition to the 'non-exhaustive' list of eligible examples.
26. Clarity and transparency would serve the CRTC and the broadcasters well, as a clearer definition of non-eligible programs and initiatives will serve to prevent improper uses of the funding. As an example, while it is inferred that the 'cycling' of CCD funds is not an appropriate use of the allocation, an explicit definition that excludes this practise would be far more beneficial. 'Cycling' occurs when a CCD recipient uses that funding to buy airtime on the same station that provided the money. In addition, the CRTC has identified the time and expense of interpreting and following up on those broadcasters' annual returns which have instances of alleged non-compliance with their CCD obligations. Perhaps this is partly due to a perceived ambiguity of what is acceptable and what is not.
27. Further, such clarity of the rules would be extremely beneficial should the CRTC adopt its proposed solutions as outlined in 2011-796, paragraphs 21-23, namely the creation of an independent fund that would manage and administer broadcaster contributions.
28. As outlined in the Notice, it seems that the CRTC is suggesting that broadcasters may have the option of allocating their CCD contributions to this independent fund. In CIMA's view, if such a fund were to be created, it would require a critical mass of funding in order for it to be effective, and for the administration, adjudication and reporting of its applications and allocations to be cost-effective and worthwhile.
29. A piecemeal, optional fund may not have an appropriate volume of contributions to effectively serve the industry, nor will it likely solve the administrative challenges that the Commission is trying

to avoid in regards to the interpretation and assessment of the eligibility of CCD initiatives. By this it is meant that the Commission would still be left with the situation it is currently in, with regards to processing annual returns from the Broadcasters, and evaluating a myriad of different initiatives across the country.

30. This new fund would only work if broadcasters were mandated to allocate all or a set portion of their CCD obligations to it. In this way, both the funders and the recipients would have a clear understanding of the rules and the process surrounding the assessment and allocation of CCD revenues. Broadcasters would report on the level of their contributions on an annual basis, while the fund would be responsible to report on its specific activities to the Commission.
31. Should the Commission not mandate a 100 percent allocation to the fund, it will give broadcasters some flexibility to contribute funds to existing programs and initiatives or regional programs specific to their individual markets.
32. This new approach does not necessarily require the establishment of a single fund. While a single, national fund would indeed be a workable model, the Commission's suggestions of regional funds may be an alternative that could also address local or regional needs, while addressing the CRTC's concerns about evaluating eligible initiatives.
33. While the Commission has suggested that these funds could operate under established principles and guidelines used by independent production funds, CIMA cautions that the CCD fund model, particularly its governance and the rules and processes surrounding adjudicating applications, must be carefully considered. It is fundamentally important for all concerned parties that clear guidelines and expectations that truly reflect the Commission's stated policy of supporting, promoting, training, and developing Canadian musical talent are established.
34. To that end, CIMA strongly recommends that the Commission either facilitates further discussion among all parties of interest, and/or execute another public process in order to ensure the best possible outcome from this exercise. CIMA would be a willing to lend its views and expertise to this process.
35. Thank you for allowing CIMA the opportunity to provide comments on Notice 2011-796. We ask that the Commission consider our submission when it deliberates on this very important issue. If there are any questions or concerns, please direct your staff to contact our office directly.

Yours sincerely,

Stuart Johnston
President