



7 February 2018

Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Gatineau, QC K1A 0N2

Via e-mail

Dear Secretary General Doucet,

Re: Part 1 Application to disable on-line access to piracy sites – Procedural Request of CIPPIC/OpenMedia – Reply of Forum for Research and Policy in Communications (FRPC)

1. The Forum for Research and Policy in Communications (FRPC) is in receipt of the procedural request filed on 2 February 2018 by the Canadian Internet Policy and Public Interest Clinic (CIPPIC) and OpenMedia in the above-noted proceeding (“the Application”). FRPC supports this procedural request, specifically CIPPIC/OpenMedia’s proposed timeline and additional procedural stages, and in particular its recommendation that the CRTC hold a public hearing as part of its consideration of the Application.
2. As both CIPPIC/OpenMedia and the Public Interest Advocacy Centre (PIAC) have pointed out, the Application raises a wide range of complex and contested legal and factual issues. The specific actions that the applicant asks of the Commission are unprecedented in nature, involving serious questions that engage Canada’s *Charter of Rights and Freedoms*, human rights law, copyright legislation, as well as telecommunications and broadcasting law. Certain claims central to the applicant’s case, such as the current state and impact of online copyright infringement and the alleged inadequacy of Canada’s current copyright law regime, have also not typically been within the scope of the Commission’s core expertise.
3. The minimal process and time provided for public comment in a Part 1 application will not allow public interest interveners such as the FRPC, CIPPIC/OpenMedia, PIAC, and doubtless others to respond with the fulsome analysis, research, and testing through interrogatories that this Application clearly requires. The applicant’s submissions and demands go far beyond a typical Part 1 dispute or request for relief. The immediate groundswell of public opposition that has poured into the Commission’s docket in less than a week gives further indication of the enormous legal and public policy significance of this proceeding.
4. The Forum respectfully submits that the considerable issues—particularly the constitutional questions—raised by the Application necessitate a record that is as complete and robust as possible. The CRTC’s process must include and will be strengthened by valid, reliable, and objective evidence that sheds further light on the Application’s claims and issues raised. The limited evidence now on the record is, we submit, inadequate in this regard. The Forum therefore intends to undertake efforts to canvas Canadians’ views with respect to this proceeding, among other research and evidence gathering. The reasonable extension of deadlines, as CIPPIC and OpenMedia proposed, will permit the Forum and others sufficient time to engage in such efforts and analyze the results before interventions are due, thereby permitting the submission of relevant evidence, to which all interested parties would then have an opportunity to respond.

5. For the reasons above, FRPC requests that the Commission implement the process amendments proposed by CIPPIC and OpenMedia on page 2 of its procedural request, or in the alternative, that the Commission issue a Notice of Consultation in lieu of this Part 1 process.

Best regards,

[original signed]

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