



2 March 2020

VIA GCKey

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: Part 1 licence renewal applications:

2019-1019-1	4517466 Canada Inc. (ICI TV)
2019-1072-9	Acadian Communications Ltd
2019-1013-3	The Miracle Channel Association
2020-0005-8	Neepawa Access Community T.V. (ACTV) Inc.
2019-1035-7	Salt and Light Catholic Media Foundation
2019-1078-7	World Media Ministries
2019-1027-4	Zoomer Media
2019-1025-8	Zoomer Media

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian communications system that serves the public interest and implements Parliament's broadcasting and telecommunications policies for Canada. The Forum's intervention regarding the Part 1 licence renewal applications of a number of television programming services is attached.

Sincerely yours,

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cc.:

4517466 Canada Inc. (ICI TV): CFHD-DT Montreal
Acadian Communications Ltd: CHNE-TV Cheticamp
The Miracle Channel Association: CJIL-TV Lethbridge
Neepawa Access Community T.V. (ACTV) Inc.: CH5248
Salt and Light Catholic Media Foundation
World Media Ministries: Daystar Canada
Zoomer Media: Vision TV, The Brand New ONE

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***Predictable, fair and transparent:
Clarifying the approach taken to
regulatory contraventions by television
programming services***

Intervention of the Forum for Research and Policy in Communications (FRPC) with respect to Part 1 applications to renew the television programming licences of 4517466 Canada, Acadian Communications, Neepawa, Miracle Channel, Salt and Light Catholic Foundation, World Media Ministries and ZoomerMedia

Synopsis

This intervention is being filed with respect to the licence renewal applications submitted by eight television programming services under the CRTC's Part 1 process. The Forum's main concerns have to do with regulatory contraventions and how the applications, if granted, will assist in implementing Parliament's broadcasting policy for Canada.

In terms of broadcasting policy approving the applications may reduce Canadian programming expenditures by at least \$10.5 million over the next five to seven years; clear evidence should therefore be required to support these requests.

In terms of regulatory compliance the Forum reviews the current approach to television broadcasters' contraventions of regulations and conditions of licence, and analyzes the individual renewal applications in this context. The Forum suggests that a published regulatory approach to non-compliance by television programming services would benefit licensees, the public and the Commission by providing consistency, transparency, fairness and predictability.

The Forum recommends full-term renewals for the two smallest undertakings (Acadian and Neepawa) that earn little income and/or are operated by volunteers and also that these services be exempted from most licensing requirements going forward. It also recommends short-term renewals of varying lengths for five other services (4517466 Canada, ZoomerMedia, Salt and Light, and Miracle Channel). Finally, it suggests that the application by World Media Ministries be adjourned and combined with a public hearing to elicit the applicant's grounds for proposing to spend \$0.7 million on Canadian programming over the next licence term while spending \$23.9 million on unknown technical expenses.

Contents

Summary	1
I. Introduction	1
A. Part 1 renewal applications in cases of ‘apparent non-compliance’	1
B. Implementing Parliament’s broadcasting policy for Canada	8
II. Non-compliance by television programming services	11
A. Legislative powers with respect to regulatory contraventions	11
B. CRTC’s guidance on and approach to contraventions	11
1. Non-compliance without penalty	13
2. Short-term renewals	17
3. Non-compliance resulting in denial of amendments	19
C. Proposal that CRTC establish a consistent approach to regulatory contraventions by television programming services	19
III. Analysis of applications in terms of compliance	21
A. Regulatory requirements	21
1. Regulations	21
2. Condition of licence - closed captioning	22
B. Renewal terms	22
1. Full term: Acadian and Neepawa	22
2. Full term less a year: 4517466 Canada and ZoomerMedia	23
3. Two-year term: Salt and Light Catholic Media Foundation	27
4. One-year term: Miracle Channel (CJIL-DT Lethbridge)	28
5. Adjourn to public hearing: World Media Ministries	31
IV. Conclusions and Recommendations	35
A. Conclusions	35
B. Recommendations	35
1. Summary of recommendations for the Part 1 licensees that are the subject of this proceeding	35
2. New policy for non-compliance in broadcasting	36
3. Include details of Part 1 non-compliance matters in Today’s Releases	36
4. CRTC could offer online workshops to non-profit and small for-profit broadcasters to prepare them for the Annual Return process	37



Tables

Table 1: Cornerstone hours of programming in November 205	7
Table 2: Projected impact of proposed reductions in Canadian programming expenditures	9
Table 3 World Media Ministries – revenues, CPE and CPE percentages, 2013-2025	33

Figures

Figure 1: World Media Ministries – actual and projected expenses on technical, programming and Canadian programming	32
Figure 2: Canadian discretionary television services' expenditures, by CRTC expense category	33

Summary

- ES1** The Forum is intervening with respect to licence renewal applications submitted by 8 television programming services through the CRTC's Part 1 process.
- ES2** The applications raised two main concerns.
- ES3** First, the CRTC's Part 1 website identifies each application as showing "apparent non-compliance". Using the administrative Part 1 route to consider applications by licensees that may have contravened their regulatory obligations limits public awareness of the applications because public announcements of licensee applications are only required when licensees are scheduled for a public hearing.
- ES4** As well, although the CRTC has developed policies to deal with regulatory contraventions by radio programming services, it has not published similar policies for television programming services. No clear framework exists, therefore, on which to base recommendations about the licensees and their coming licence terms.
- ES5** A second concern is that the applications do not clearly show how they will contribute towards implementing Parliament's broadcasting policy for Canada. Rather than strengthening the system, some of the licensee's applications would reduce Canadian programming expenditures over the course of their next licence term, perhaps by as much as \$10.5 million. This reduction raises two questions: first, is this amount material to the achievement of Parliament's broadcasting policy, and second, does approval set a precedent for permitting broadcast licensees to weaken implementation of Parliament's broadcasting policy?
- ES6** Insofar as regulatory compliance is concerned, the Forum has been reviewing licensing decisions issued in the past several decades which involve television programming services that have contravened regulatory requirements, and has found a range of regulatory outcomes. Some contraventions are deemed not to be contraventions for the purposes of licensing. Other contraventions result in short-term renewals and/or the denial of licence amendment applications. In some cases the CRTC granted full-term renewals in spite of contraventions that it described as 'serious' in other cases. The grounds for different penalties for the same contraventions were not transparent, and as different licensees were treated differently for identical contraventions, concerns arise about fair treatment and regulatory consistency. Overall, the lack of transparency and concerns about consistency also raise concerns that the regulatory approach for television is somewhat unpredictable at best.
- ES7** The Forum suggests that licensees, the public and the CRTC would benefit from the transparency, fairness, consistency and predictability that published guidelines to non-compliance by television programming licensees would provide, especially if online workshops could be provided annually to explain regulatory requirements and answer questions.
- ES8** We also suggest that consideration be given to exempting very small television broadcasters from many of their regulatory requirements: their compliance with those requirements is often

based on volunteered rather than paid and professional time so that compliance becomes burdensome; moreover, minor regulatory infractions, such as incorrect or late annual returns, will not significantly threaten the broadcasting system or the implementation of Parliament’s broadcasting policy.

ES9 In the interim, using a framework based on the principle that licensees that contravene conditions of licence or regulations must be supervised to ensure future compliance, the Forum has made the following proposals regarding eight of the Part 1 applications for which interventions are due 2 March 2020.

Licensee and service	Non-compliance issue	Factors	Forum recommendation
4517466 Canada Inc ICI TV	Captioning	1 st renewal	Licence term requested, less one year Report in 6 months on corrective measures
Acadian CHFD-DT	Annual returns: 2016 – late 2017 – late 2018 – not filed	Very small undertaking	Exemption from most licensing requirements Full-term renewal
Neepawa CH5248 community television	Annual returns: 2017 – late 2018 – late	Very small undertaking operated by volunteers	Exemption from most licensing requirements Full-term renewal
Miracle Channel CJIL-DT Lethbridge	Closed captioning	3 of 7 previous renewal proceedings disclosed non-compliance 2 interventions expressing concerns about excessive solicitation	One-year renewal (6 months if intervention complaints not answered) Report on compliance with <i>Religious Broadcasting Policy</i>
Salt and Light Catholic Foundation Salt + Light	Closed captioning	Acknowledged failure Written policy Notified staff Bought new equipment Withdrew potentially breaching ads etc. from broadcast to evaluate	Two-year renewal
World Media Ministries Daystar	Closed captioning	No clear written policy or staff notification Plans to spend \$23.9 million on ‘technical’ expenses over next licence term, and \$0.7 million on CPE (down from 2.5% of previous year’s revenues in 2016/17, to 2.0% in 2019/20)	The applicant’s very high technical expenditures and low CPE require explanation and discussion: adjourn this proceeding and combine with a future public hearing where CRTC Commissioners could ask the licensee questions about its applications Reports on closed captioning every 6-months until 2 years of compliance are demonstrated
ZoomerMedia Vision TV	Annual returns 2015/16 – incomplete 2016/17 – late 2017/18 - incomplete	As financial statements are audited in December, licensee submits partial (incomplete) statements to CRTC with Annual Return	Full term less one year Reminder to file complete returns on time



Licensee and service	Non-compliance issue	Factors	Forum recommendation
ONE	Annual returns 2015/16 - incomplete 2016/17 – late 2017/18 - incomplete	As financial statements are audited in December, licensee submits partial (incomplete) statements to CRTC with Annual Return	Full term less one year Reminder to file complete returns on time

I. Introduction

1. The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established to undertake research and policy analysis about communications, including telecommunications. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the *Broadcasting Act*. Parliament has delegated the regulation and supervision of this system to the CRTC.
2. The Forum is intervening with respect to eight licence renewal applications that have been posted as Part 1 applications. The applications have been posted on the CRTC's website for public comment, but have not been scheduled for a public hearing at which the applicants would appear.
3. The Forum has two basic concerns about these applications. First, according to the CRTC's website, 12 of the 28 Part 1 applications posted as of 28 February 2020 involve "apparent non-compliance"; second, the Part 1 renewal process as a whole does not require applicants to demonstrate how their applications are "implementing" Parliament's broadcasting policy for Canada. We address these concerns in greater detail below.

A. Part 1 renewal applications in cases of 'apparent non-compliance'

4. The CRTC publishes broadcasting applications in two ways: through notices of consultation and through the 'Part 1' process. Notices of consultation often announce public hearings to consider applications, but also announce hearings where no applicants appear:

[t]he Commission will hold a hearing on 14 April 2020 at 11 a.m., at the Commission Headquarters, 1 Promenade du Portage, Gatineau, Quebec. The Commission intends to consider the following applications, subject to interventions, without the appearance of the parties:¹

5. Under the CRTC's procedural rules [*Rules*]² notices of consultation involving applications require applicants to post the notices on their websites and to notify the public about the application and how they can comment on it. The *Rules* do not require Part 1 applicants to post their applications on their website and do not require applicants to notify the public about the applications and their ability to comment.
6. The Forum is concerned that considering apparently non-compliant applicants through a non-appearing Part 1 'administrative' process is inconsistent with the CRTC's previous statements about this process.
7. The CRTC clarified and occasionally changed its approach to administering its licensing responsibilities from 2002 to 2011.

¹ *Notice of Hearing*, Broadcasting Notice of Consultation CRTC 2020-54 (Ottawa, 10 February 2020), <https://crtc.gc.ca/eng/archive/2020/2020-54.htm>.

² *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-777.

8. In 2002, for example, the CRTC reviewed its radio renewal procedures. It decided to allow radio licensees to complete a short-form renewal application when a licensee

whose performance in the past licence term raises no concern and who wishes to have its licence renewed under the same terms and conditions as its current licence will be asked to file a short licence renewal application (abridged application). The Commission's determination as to whether the licensee's performance during the past licence term raises any concern will be based on the results of the Commission's on-going compliance monitoring of licensees, as well as its review of complaints filed against the licensee during the licence term.³

9. At that time – 2002 – the CRTC said that it would “also continue to consider all complaints filed, as well as any negative rulings issued by the Canadian Broadcast Standards Council.”⁴

10. In 2005 the CRTC announced that it would consider ownership transactions without a public notice if it did not think that the applications raised “significant policy concern” and approval would be consistent with previous applications.⁵

11. In 2006 the CRTC announced that it could process applications without a public process, such as when a licensee's condition of licence said that the CRTC could make exceptions without public process, but also when “the application does not raise concerns”. The Commission added, though, that this approach would not apply to amendments to video-on-demand (VOD) conditions of licence.⁶ The CRTC commented favourably on a proposal from Quebecor Media Inc., suggesting the elimination of application forms and *en-masse* renewals for licensees with more than one licence:

...

³ *The CRTC Streamlines Radio Renewals Process*, Broadcasting Circular CRTC 2002-448 (Ottawa, 7 June 2002), <https://crtc.gc.ca/eng/archive/2002/c2002-448.htm>.

⁴ *Ibid.*, at para. 5.

⁵ *Ownership applications granted approval*, Broadcasting Public Notice CRTC 2005-75 (Ottawa, 26 July 2005), <https://crtc.gc.ca/eng/archive/2005/pb2005-75.htm>:

a streamlined procedure for its consideration of applications involving transfers of ownership and changes in the effective control of broadcasting undertakings. Under this procedure, and on a case-by-case basis, the Commission may approve such an ownership application without first having issued a public notice provided that:

- a) its examination of the application reveals the presence of no significant policy concern; and
- b) the Commission is convinced that approval would be consistent with its approvals of previous applications.

2. Where these two conditions are met, the Commission is generally satisfied that a process initiated by a public notice is not required in the public interest, and would unnecessarily delay implementation of the transaction contemplated by the applicant.

⁶ *Introduction of service standards for certain broadcasting applications*, Broadcasting Circular CRTC 2006-2 (Ottawa, 5 April 2006), <https://crtc.gc.ca/eng/archive/2006/c2006-2.htm>:

18. An application can be processed without a public process in certain cases such as when a licensee's condition of licence contemplates that exceptions may be made by way of Commission authorizations without a public process, and the application does not raise concerns. This would not, however, be the case for amendments involving the addition of conditions of licence to a VOD licence as suggested by MTS et al. Such amendments must, pursuant to the Broadcasting Act, be processed by public notice. The Commission will continue to review its processes to identify other areas where conditions of licence could provide for exceptions by way of Commission authorizations. Such requests for authorization could be processed without resorting to a public process

32. ... **since a licensee's annual reports already contain a substantial amount of information**, the requirement to complete lengthy licence renewal forms is excessive, especially where no issues are raised. It stated that the current process is demanding of both applicants and the Commission especially where a licensee holds multiple licences. It proposed, as an alternative approach, a public notice on an annual basis providing a list of licences coming up for renewal and asking for comments from the public. Where no concerns are raised, a licensee would be asked to confirm that it wishes to renew its licence, but would not be required to complete an application form. The Commission could then renew a number of licences in one decision.

...

39. The Commission takes note of the alternative review process suggested by QMI with respect to licence renewal applications, and will examine this proposal further. ... the Commission has undertaken to examine how the current radio renewal process may be further streamlined.⁷

12. In 2007, the CRTC clarified when it would consider broadcasting applications administratively, through a public notice, or through a public hearing.⁸ It said its objectives were “to ensure fairness and transparency at all times” and “to deal with applications in the most efficient and timely manner.”⁹ The three types of process involved different kinds of questions: ‘administrative processes’ involved minor changes to licences,¹⁰ public notice processes involved applications to renew licences and/or amend licences, or proposals that raised potential concerns¹¹ and public hearings involved serious non-compliance issues.¹²

⁷ *Introduction of service standards for certain broadcasting applications*, Broadcasting Circular CRTC 2006-2 (Ottawa, 5 April 2006), <https://crtc.gc.ca/eng/archive/2006/c2006-2.htm>.

⁸ *A guide to the CRTC processes for broadcasting applications and policy reviews*, Broadcasting Circular 2007-4 (Ottawa, 7 June 2007), <https://crtc.gc.ca/eng/archive/2007/c2007-4.htm#archived>.

⁹ *Ibid.*, at para. 8.

¹⁰ *Ibid.*, at para. 9:

“The application is either seeking a temporary network authority or changes contemplated under existing conditions of licence” such as extensions of time to implement an undertaking, “a minor change to the authorized contours” of an over-the-air station, “a minor change in the share structure or control of a licensee”.

¹¹ *Ibid.*, at para. 11:

“Applications dealt with by public notice pertain to licence amendments (including the addition, amendment or deletion of a condition of licence) and to the majority of licence renewals. The level of complexity of applications in these categories varies from low, in the case of routine amendments and non-contentious renewals, to complex, if the proposals raise policy concerns or if issues are raised during the intervention process.”

¹² *Ibid.*, at paras. 14 – 16:

“The Act requires that all applications proposing new services (issuance of licences), excluding requests for a temporary network authority, be scheduled at public hearings. This process also applies to applications for authority to acquire the assets of a broadcasting undertaking, which require the issuance of a new licence. ... Occasionally, licence renewal applications that raise serious issues of non compliance or the licence renewal of several undertakings owned by major players are scheduled for appearance at a public hearing.”

13. In 2010 the CRTC published its approach to broadcasting “applications that do not require a public process”.¹³ The applications did not include licence renewals or applications that raised concerns.¹⁴
14. In 2011 the CRTC announced “a simplified and harmonized approach to measure service results”. It distinguished between notices of consultation issued for radio licensees “in apparent non-compliance”¹⁵ and all other applications that did not require a public process and could be processed through an “administrative route”.¹⁶ While the CRTC decided to use its “Part 1 process” for those seeking licence amendments and continued to say that it would use its administrative route for applications that did not raise concerns,¹⁷ it also said that
14. For any renewal, the Commission has an obligation to review the performance of a licensee over the current licence term and compliance with regulatory requirements. In doing so, the Commission takes into account complaints that would have been placed on a licensee’s file. Some policy issues may only become apparent on examination of the public record once the renewal application has been announced.
15. We have not been able to find any documents issued by the CRTC since 2011 in which it clarifies that it will ‘process’ licensees’ renewal applications even when the CRTC has identified areas of “apparent non-compliance” with the CRTC’s regulations or licensees’ conditions of licence.

¹³ *Broadcasting applications that do not require a public process*, Broadcasting Information Bulletin CRTC 2010-960 (Ottawa, 23 December 2010), <https://crtc.gc.ca/eng/archive/2010/2010-960.htm>.

¹⁴ At para. 7 Broadcasting Information Bulletin CRTC 2010-960 incorporated the 2006 notice:
7. Applications dealt with using the administrative approach are subject to an expedited process. This process was established in 2006 and will continue to apply so that, within 15 business days following the receipt of an application of the type listed above, the Commission will issue one of the following:
- a letter approving the application that does not raise policy or other concerns; or
- a letter returning an application that is deemed incomplete, with supporting reasons.

¹⁵ *Ibid.* at para. 13.

¹⁶ *Ibid.* at para. 16.

¹⁷ *New service objectives for the processing of broadcasting and telecommunications applications as of 1 April 2011*, Broadcasting and Telecom Information Bulletin CRTC 2011-222 (Ottawa, 1 April 2011), <https://crtc.gc.ca/eng/archive/2011/2011-222.htm>:

Part 1 applications

6. For broadcasting proceedings, the Part 1 process replaces the publication of a notice of consultation for applications received seeking licence amendments and proposed additions to the lists of eligible satellite services. It also applies to applications from industry and associations regarding undue preference or other disputes that are not processed using the Commission’s alternative dispute resolution mechanism.

...

13. The Commission’s plan for dealing with licence renewal applications is based on licence expiry dates. Each year the Commission announces an average of 175 renewals. To manage the renewal process more efficiently, the Commission usually groups similar types of renewals in one notice. Examples of groupings that occur regularly are streamlined renewals of radio licences and renewals of radio licences held by licensees in apparent non-compliance.

...

c) Applications that do not require a public process (administrative route)

16. In Broadcasting Information Bulletin 2010-960, the Commission provided a list of the types of applications that are dealt with using the administrative approach.

17. The service objective as of today’s date is to render its decisions on such applications within 1 month after the date of receipt. This excludes ownership-related applications, which are addressed in the following section.

16. The CRTC's decision to use an administrative Part 1 process with respect to these applications suggests that the applicants will not be presenting their requests at a CRTC public hearing (or hearings), even though the CRTC has identified a number of instances of licensees showing "apparent non-compliance" with respect to their current licence. The list of Part 1 broadcasting applications for which interventions are due 2 March 2020 includes 8 licensees that apparently did not comply with the CRTC's regulations or with their conditions of licence:

- Neepawa Access Community T.V. (ACTV) Inc. – 2020-0005-8
- The Miracle Channel Association – 2019-1013-3
- Bragg Communications Incorporated – 2019-1016-7
- 4517466 Canada Inc. – 2019-1019-1
- ZoomerMedia Limited – 2019-1025-8, 2019-1027-4
- Salt and Light Catholic Media Foundation – 2019-1035-7
- Acadian Communication Limited – 2019-1072-9, and
- World Media Ministries – 2019-1078-7.

17. The requirements for Part 1 proceedings are set out in the CRTC's procedural rules.¹⁸ The *Rules* require the CRTC to post applications that meet the Part 1 requirements,¹⁹ but do not appear to require broadcasters to publish notice of their applications except when the CRTC holds a public hearing about their applications.²⁰ (The CRTC may always dispense with or vary its the rules.²¹)

Rules Applicable to Public Hearings

Marginal note: Obligations of applicant

35 (1) When a public hearing is held in respect of an application, the applicant must

(a) no later than five days after the day on which the Commission posts the notice of consultation on its website, post the notice or an electronic link to it on a page of their own website that is accessible from the homepage of the website and keep it posted until the deadline for intervening in the proceeding; and

(b) give notice of the notice of consultation in any manner that the Commission directs, including through broadcast over the applicant's facilities or by service to any person that the Commission directs, which notice must set out

(i) the nature of the matters to be considered,

(ii) the deadline for intervening in the proceeding, and

(iii) the date and time of the commencement of the hearing.

¹⁸ *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-777.

¹⁹ *Ibid.*, s. 23: "The Commission must post on its website all applications that comply with the requirements set out in section 22."

²⁰ *Ibid.*, s. 35(1).

²¹ *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-777, s. 7.

18. While the current approach may be more efficient, the CRTC has not demonstrated that it is as effective in terms of public awareness as the approach it once used consistently: to issue notices of consultation for non-compliant licensees.
19. The Forum is concerned that, as the CRTC has not announced a public hearing about any of the Part 1 applications listed above and the applicants need not announce the process on their programming services, members of the public in general or those living in the areas served by the programming services may not be aware of their renewal applications. The existence of the CRTC's own website does not answer this concern: even if people tune to radio or television every day they are unlikely to regularly review the CRTC's website pages showing its notices of consultation and the Part 1 renewal applications it has also received.
20. Using the Part 1 administrative route for licensees with compliance issues effectively deprives these individuals of their right to be informed about the programming services licensed to serve them, and then to set out any concerns they have before the sole regulatory authority with the power to address those concerns with the licensee.
21. The fact that people may present their concerns to the Canadian Broadcast Standards Council (CBSC)²² does not answer the Forum's concern. The CRTC delegated its responsibility for ensuring that licensees broadcast programming of high standard²³ in 1991.²⁴ The CRTC does not ask renewal applicants to report on complaints they have received, and does not appear to routinely examine individual licensees' history at the CBSC.²⁵ As a result, valid complaints about broadcasters' programming may not be considered as part of a non-appearing Part 1 application. While those with concerns about these services may always complain to the CBSC, unlike the CRTC it has no legislative authority over the services, and as a result does not deal with issues related to adherence to conditions of licence, adherence to CRTC policies in regard to the filing of performance reports, or expenditures on Canadian programming.
22. The Forum's concern is not addressed either by the fact that a few, some or even all Part 1 applications attract several or more interventions. The fact that some parties intervene in a few Part 1 proceedings for individual services does not mean the other applicants' programming is otherwise satisfactory; it may just as easily mean that those who were affected by this programming are not aware that the applicants are applying to renew their licences.
23. Moreover, the absence of a public notice of consultation limits informed public awareness of the issues presented by an application. For instance, VisionTV's licence requires it to ensure that "at least 45% of the total hours broadcast in any one broadcast year" are devoted "to the

²² <https://www.cbsc.ca/>.

²³ *Broadcasting Act*, s. 3(1)(g): "the programming originated by broadcasting undertakings should be of high standard".

²⁴ *Canadian Broadcast Standards Council*, Public Notice CRTC 1991-90 (Ottawa, 30 August 1990), <https://crtc.gc.ca/eng/archive/1991/pb91-90.htm>.

²⁵ In 2003 CRTC Commissioner Cram commented in the context of a licence amendment application by a television programming undertaking that a complaint about the undertaking did not come to the CRTC for adjudication, but was directed instead to the CRTC. Broadcasting Decision CRTC 2003-23 (Ottawa, 24 January 2003), <https://crtc.gc.ca/eng/archive/2003/db2003-23.htm>, "Dissenting opinion of Commissioner Barbara Cram".

exhibition of Cornerstone programming”.²⁶ While the condition clearly applies to the full 12 months from September to the following August, the Forum notes that in November 2015 (two years after the CRTC renewed the licence) “COR” programming – which we assume to be Cornerstone programming – amounted to 288.4 hours of the month’s 719.6 program hours, or 40.1%. This result does not represent a breach of Vision TV’s condition of licence – but does suggest that in other months (that the Forum did not analyze) the licensee would have had to compensate for the 35.5 hours of Cornerstone programming not broadcast in November 2015.

Table 1: Cornerstone hours of programming in November 2015

VisionTV – November 2015 program log				
CRTC program category	COR	MOS	PGR	Grand Total
40	236.84	417.57		654.42
120			5.38	5.38
02A		2.50		2.50
02B	1.50			1.50
05B	5.01			5.01
07A	41.53			41.53
07B	1.99			1.99
08A	1.49			1.49
11A		5.83		5.83
Total	288.36	425.91	5.38	719.64
As % of total	40.1%			
Hours if 45%:	232.84			
Difference (in hours)	35.5			

24. Although it might be assumed that the CRTC has evaluated the licensees’ programming performance and confirmed that it had broadcast the required level of programming in the remainder of the 2015 broadcast year, the absence of any information about applicants’ programming makes it difficult for potential interveners to provide an informed comment. For instance, suppose VisionTV provided comparatively little Cornerstone programming from September to April, and provided a great deal of it in the four months from May to August. While such scheduling might meet VisionTV’s conditions of licence, does it meet Canadians’ desire for this programming, or provide balanced access to this programming throughout the year? We do not know, and Canadians who are not able to analyze months of VisionTV’s program logs do not know either.
25. Using a Part 1 non-hearing process effectively creates a two-tiered regulatory approach. Larger broadcasters such as CBC and Bell tend to be called to public hearings that attract significant numbers of interveners, many of whom may address programming concerns.²⁷ Smaller broadcasters whose programming may have raised concerns are not called to public hearings

²⁶ *VisionTV – Licence renewal*, Broadcasting Decision CRTC 2013-393, (Ottawa, 8 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-393.htm>, condition of licence 2(c).

²⁷ More than 12 thousand people intervened with respect to CBC’s renewal, announced by Broadcasting Notice of Consultation CRTC 2019-379, . https://crtc.gc.ca/eng/archive/2019/2019-379.htm?_ga=2.177494885.1116522790.1582553073-1211976415.1582553073 (see also Broadcasting Notice of Consultation CRTC 2019-379-1).

and as a result, do not attract interventions that might lead the CRTC to address such concerns. As a result the ability of members of the public to participate in processes that might otherwise strengthen and improve the radio and television programming services they receive is seriously constrained.

26. Although this proceeding focusses solely on Part 1 applications, the Forum suggests that the CRTC should consider clarifying and stating its current approach to administrative-route applications, and invite the public's views on whether administrative processes promote effective public participation concerning programming services.

B. Implementing Parliament's broadcasting policy for Canada

27. The Forum's second concern has to do with the future of Canada's broadcasting system.
28. Parliament established the CRTC to regulate and supervise broadcasters "with a view to implementing the broadcasting policy" set out by Parliament in section 3(1) of the *Act*.²⁸
29. This phrase – 'with a view to implementing' – suggests that Parliament understood implementation as an ongoing process. When the CRTC considered renewing the licences of a number of discretionary television programming services that were independently owned (not owned by a large broadcaster), for example, it pointed out that it had required increasing levels of Canadian programming exhibition levels since 2000:
 22. ... The Commission established standard requirements on Canadian programming exhibition (15% in year one of operation, 25% in year two, and 35% in year three and the subsequent years) for all Category B services when it first licensed Category 2 (now Category B) services in 2000 in Public Notice 2000-171. ...²⁹
30. Requiring increases in the exhibition of and/or expenditures on Canadian programming helps to ensure continued progress in achieving the goals of Parliament's broadcasting policy. The alternative – diminishing expenditure or exhibition levels, would constitute the gradual 'de-implementation' of the broadcasting policy or its core elements, such as the availability of Canadian programming.
31. The paper-based Part 1 renewal process asks very few questions about applicants' plans for 'implementing' Parliament's broadcasting policy. The result is that some applicants simply reflect the status quo by providing the same programming they are already providing under their current licences.
32. Other applicants propose to reduce the resources they will allocate to Canadian programming. The Forum acknowledges that these proposals may well be consistent with the CRTC's current policies. If these applications are approved, however, they could reduce Canadian programming expenditures by just over \$10 million over the next five to seven years: Table 2.

²⁸ S. 5(1) also requires the CRTC to consider the regulatory policy set out in s. 5(2).

²⁹ *Various independent specialty Category B services – Licence renewals*, Broadcasting Decision CRTC 2013-466 (Ottawa,), <https://crtc.gc.ca/eng/archive/2013/2013-466.htm>.

Table 2: Projected impact of proposed reductions in Canadian programming expenditures

Applicant	Service	Canadian Programming Expenditures (CPE)		
		Current CPE (% of prev yr's revs)	Proposed CPE	Projected impact over licence term
4517466 Canada Inc	ICI TV (CHFD-DT Montreal)	16.5% ³⁰	15%	-\$103,878
Miracle Channel	CJIL-DT Lethbridge	50% ³¹	45%	-\$1,181,009
Salt and Light	Salt + Light	30% ³²	10%	Unknown ³³
World Media Ministries	Daystar	2%	10%	
ZoomerMedia	Vision TV	41%	24%	-\$8,374,528
	ONE	40%	24%	-\$ 874,638
Total				-\$10,534,053

33. We think that changes of this dimension should not be considered using a public process that may attract little attention and does not require public notification. Effective public participation is hindered and reduced by permitting significant changes to occur without clear notification.

³⁰ 4517466 Canada Inc., DM#3770601, at 3: "Currently, CHFD-DT operates with an annual CPE target of approximately 16.5% of previous year's gross revenue. This is slightly more than the 15% that we have proposed for our condition of licence for the next licence term." The Forum notes that the absence of data for the current financial period makes it difficult to evaluate the licensee's statement that it now operates with a CPE of 16.5% of its previous year's revenues. That said, the Canadian programming expenditures proposed for the 2022/23 to 2024/25 broadcast years appear to represent 16.0% of the previous year's revenues.

We calculated the difference between a CPE set at 15% - the level requested for the next licence term - and a CPE set at 16.5% - the level at which the applicant says it currently operates. The difference over the three years for which data were available amounted to \$103,878:

ICI TV DM#3770601	2021-2022	2022-2023	2023-2024	2024-2025	Total
Total revenue	\$2,279,000	\$2,279,000	\$2,367,200	\$2,367,200	
CPE - projected / proposed		\$364,460	\$364,460	\$378,752	\$1,107,672
CPE as percentage of previous year's revenues		16.0%	16.0%	16.0%	
CPE at 16.5% of previous year's revenues		\$376,035	\$376,035	\$390,588	\$1,142,658
CPE at 15% of previous year's revenues		\$341,850	\$341,850	\$355,080	\$1,038,780
Difference between 16.5% and 15%		\$34,185	\$34,185	\$35,508	\$ 103,878

³¹ Miracle Channel, #DM3720398, at 1.

	2019	2020	2021	2022	2023	2024	2025	2021-2025
Revenue	\$4,825,586	\$4,720,660	\$4,701,993	\$4,716,294	\$4,731,998	\$4,749,244	\$4,768,183	\$23,667,712
Canadian	\$2,662,919	\$2,501,950	\$2,398,016	\$2,310,984	\$2,224,039	\$2,137,160	\$2,145,682	\$11,215,881
CPE as % of previous year's revenue		51.8%	50.8%	49.1%	47.2%	45.2%	45.2%	
CPE at 45% of previous year's revenues			\$2,124,297	\$2,115,897	\$2,122,332	\$2,129,399	\$2,137,160	\$10,629,085
CPE at 50% of previous year's revenues			\$2,360,330	\$2,350,997	\$2,358,147	\$2,365,999	\$2,374,622	\$11,810,095
Difference in CPE at 45% and 50%			-\$ 236,033	-\$ 235,100	-\$ 235,815	-\$ 236,600	-\$ 237,462	-\$1,181,009

³² Salt and Light, #DM3795315, at 3.

³³ Although Salt and Light on 29 January 2020 in DM#3795315 at 4 withdrew its request for confidentiality for the entirety of the financial information presented in DM#3724830, no additional financial information had been placed on the CRTC's public record as of 2 March 2020 (10:26 am).

34. The Forum therefore opposes reductions in CPE that will reduce an individual licensee's expenditures on Canadian programming over the projected licence term by a significant amount. Even if individual licensees are 'smaller' than the larger ownership groups, they all accepted the requirements of the *Broadcasting Act*, including the necessity to support Canadian programming.
35. Transferring resources from Canadian programming by reducing expenditures on Canadian programming as a percentage of revenues does not support but weakens Canadian program production.
36. As for justifications for the reductions, the Forum is aware that the CRTC's current policies may permit these reductions for some licensees. It is unclear, though, how allowing licensees whose services are otherwise profitable to reduce their Canadian programming expenditures benefits Canadians, or demonstrably assists the CRTC in 'implementing' Parliament's broadcasting policy for Canada.
37. We would therefore support a CRTC decision to require at least the same or, preferably, higher levels of exhibition and expenditures for Canadian programming for those licensees whose financial projections demonstrate a capacity to do so. Such a decision would help to implement Parliament's broadcasting policy, and is clearly very important for all of the Part 1 applications for which interventions are due on 2 March 2020.
38. At the same time, at least two the applicants in this process are very small undertakings with minimal revenues and minimal staff, including for example, Acadian Communications:
- I, Andrew LeBlanc am the new owner of Acadian Communications. This year we had zero income but we expect to do about a 1000 dollars of advertising per year. Our subscriber count continues to decline as older people pass away. We struggle to keep in viable but we subsidize the local channel by volunteering to do most of the work.³⁴
39. Similarly, Neepawa operates CH5248, a community television programming service. It projects total revenues from 2019 to 2025 of \$723,283, or annual revenues of less than \$110,000 per year.³⁵ More than two-thirds (68.8%) of this revenue comes from donations and paid programming.
40. The Forum does not believe that requiring such very small undertakings to devote any more of their limited income to Canadian programming than they currently achieve will materially affect implementation of Parliament's broadcasting policy. These undertakings more closely resemble the type of services to which section 9(4) of the *Broadcasting Act* ought to apply:
- The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

³⁴ Acadian, DM#3735680 – Financial projections.

³⁵ Neepawa, DM#3779196 – Financial projections.

41. (To the extent that the Commission may be concerned about programming quality, it could require CBSC membership³⁶ as a condition of an exemption order.)
42. The Forum's main concern in this proceeding, however, has to do with non-compliance by reasonably well-established and well-resourced licensees. We address this issue in the next section.

II. Non-compliance by television programming services

A. Legislative powers with respect to regulatory contraventions

43. In 1991 Parliament took broadcast licensing and regulation seriously. It made contraventions of the CRTC's regulations and orders an offence punishable on summary conviction with fines of up to \$25,000 for a first offence,³⁷ and contraventions of conditions of licence an offence punishable under the Criminal Code's provisions.³⁸ Using these provisions requires court proceedings.
44. Parliament also gave the CRTC the power to issue mandatory orders,³⁹ and to suspend or revoke licences.⁴⁰ These processes require a public hearing before they are implemented.⁴¹
45. The CRTC also has the discretion to grant – or deny – applications to renew broadcasting licences.⁴² The CRTC need only hold a public hearing “in connection with the amendment or renewal of a licence” when it is satisfied that such a hearing is required “in the public interest”.⁴³

B. CRTC's guidance on and approach to contraventions

46. Although the CRTC has rarely used the Act's provisions for sanctioning non-compliance, the Commission has often said that it takes regulatory contraventions seriously. In 2013 the CRTC told one licensee that “[t]he Commission will show little tolerance for non-compliance.”⁴⁴
47. Rather than relying on prosecution, mandatory orders, suspensions or revocations, the CRTC instead relies primarily on informal mechanisms to deal with non-compliance. To some extent this practice is encouraged by Parliament's legislated regulatory policy, which requires the CRTC to consider the administrative burden that regulation may impose:

³⁶ Depending on costs; if CBSC requires those who adhere to its codes to pay membership fees, a membership category could be created for community services that lack the financial capacity to pay more than a token amount.

³⁷ S. 32(2)

³⁸ S. 33.

³⁹ S. 12(2) and s. 18(1)(d).

⁴⁰ S. 9(1)(e).

⁴¹ S. 18(1).

⁴² S. 9(1)(d).

⁴³ S. 18(2).

⁴⁴ *VisionTV – Licence renewal*, Broadcasting Decision CRTC 2013-393 (Ottawa, 8 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-393.htm>, para. 18.

5(1)... the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, should have regard to the regulatory policy set out in subsection (2).

5(2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that

...

(g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings.

48. In the past the CRTC has issued several guidelines to advise its radio licensees about the importance of regulatory compliance, and to outline the steps it might take if they contravened its regulations and/or their conditions of licence. In 2006 it said it would evaluate non-compliance in terms of

- its context, and
- factors such as the
- quantity
- recurrence and
- seriousness of the non-compliance.⁴⁵

49. The designated penalties indicated that some contraventions were considered more serious than others: not filing licensee annual returns at all merited harsher sanctions than for filing returns “a few weeks late”.⁴⁶ In considering penalties the CRTC said it “will also consider”

- the circumstances,
- the arguments provided by the licensee and
- the measures taken to correct the non-compliance.

50. Penalties include

- Short-term renewals
- the denial of amendments
- the addition of conditions of licence, and
- requirements to broadcast notices of contravention.

51. As for television non-compliance, the CRTC told several video-on-demand licensees in 2012 that it has a policy with respect to licence renewals and contraventions

⁴⁵ *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347 (Ottawa, 26 May 2011), <https://crtc.gc.ca/eng/archive/2011/2011-347.htm>; see also Notice of hearing, Public Notice CRTC 2020-75 (Ottawa, 26 February 2020), https://crtc.gc.ca/eng/archive/2020/2020-75.htm?_ga=2.185539305.1116522790.1582553073-1211976415.1582553073.

⁴⁶ *Ibid.* (Information Bulletin 2011-347).

... its general policy in regard to licensees that are found to be in non-compliance with their services' conditions of licence and with the Commission's regulations is to impose shorter licence renewal periods for those services.⁴⁷

52. The CRTC has not otherwise clarified its approach to television non-compliance.
53. The Forum has been reviewing CRTC licensing decisions issued in the last several decades which involve television programming services. Since the beginning of 2000 the CRTC has issued over one hundred decisions that have identified regulatory contraventions, involving just under one hundred separate television programming services. The Forum therefore reviewed these decisions to see whether the CRTC's decision outcomes are consistent.
54. At times the decisions regarding contraventions do not appear consistent: some breaches attract penalties, while others do not; in some cases the same regulatory breach either attracts a penalty or does not. In other cases, apparent remorse and corrective actions suffice to essentially nullify the existence of a regulatory contravention altogether.

1. *Non-compliance without penalty*

a) *Non-compliance ignored*

55. The CRTC has from time to time acknowledged a licensee's contravention of its regulatory requirements, but then chose not to identify the contravention as non-compliance. In 2018, for example, the CRTC found that a private TV station appeared not to have captioned most of its programming. The licensee explained that its computers had generated incorrect logs. The CRTC decided that the licensee had not breached the captioning requirement – but did not address the apparent breach of the regulation requiring program logs to be submitted “with a certificate on or on behalf of the licensee attesting to the accuracy of the contents of the log”:⁴⁸

Non-compliance relating to closed captioning

27. According to data filed with the Commission, CHAU-TV Communications Itée is in apparent non-compliance with the requirement to close caption 90% of the programming broadcast on CHAU-DT for the 2015-2016 broadcast year.

28. The licensee explained that there was a computer problem with its system, which resulted in the deletion of a large portion of the closed captioning codes on the files containing CHAU-DT's logs for September, October, November and December 2015. The licensee stated that it had put measures in place to ensure that this situation does not recur.

29. Given that none of Télé Inter-Rives' other stations were found to be in non-compliance regarding the closed captioning requirement during the current licence term, the Commission considers that the licensee's explanation is credible and that the apparent non-compliance in question was in fact due to a computer problem. As such,

⁴⁷ *Various national and regional video-on-demand programming undertakings – Licence renewals and amendments*, Broadcasting Decision CRTC 2012-292 (Ottawa, 17 May 2012), <https://crtc.gc.ca/eng/archive/2012/2012-292.htm>, at para 90.

⁴⁸ *Television Broadcasting Regulations, 1987*, s. 10(3).

the Commission is of the view that CHAU-TV Communications ltée is in compliance with its condition of licence relating to closed captioning.⁴⁹

56. Similarly, the CRTC decided in 2018 that a licensee's failure to file a complete annual return did not require further regulatory action other than a reminder that its regulations exist:

Non-compliance relating to the filing of annual returns

34. As set out in section 12(1) of the *Television Broadcasting Regulations, 1987* (the Regulations), on or before 30 November of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the 12-month period ending on the previous 31 August (i.e., the end of the broadcast year). Financial statements must also be filed, covering the same period as the annual return.

35. In regard to CJON-DT, the annual return filed for the 2012-2013 broadcast year was incomplete, as it was missing the required financial statements.

36. Newfoundland Broadcasting stated that according to its records, the station's annual return for that broadcast year was filed on-time and was complete. However, upon further verification, **the Commission confirmed that the financial statements were not included.**

37. In light of the above, the Commission finds the licensee in non-compliance with section 12(1) of the Regulations for the 2012-2013 broadcast year. However, given that this is the first instance of non-compliance by Newfoundland Broadcasting in regard to this requirement, and given that all other annual returns for the station were filed on time and were complete, **the Commission is satisfied that no further action is necessary.** Nevertheless, the Commission reminds the licensee of the importance of filing complete annual returns.⁵⁰

b) Satisfactory explanations and commitments to improve – full-term renewals

57. At times the CRTC is so satisfied with television licensees' explanation or plans to improve that it grants full-term renewals despite having found non-compliance.⁵¹ Examples include:

- Commitment to respect annual return deadlines in the future and
- Implementation of governance rules;⁵²

⁴⁹ *Various conventional television stations – Licence renewals*, Broadcasting Decision CRTC 2018-337 (Ottawa, 31 August 2018), <https://crtc.gc.ca/eng/archive/2018/2018-337.htm>.

⁵⁰ *Various independent conventional television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2018-478 (Ottawa, 18 December 2018), <https://crtc.gc.ca/eng/archive/2018/2018-478.htm>. See also *Wild TV – Licence renewal*, Broadcasting Decision CRTC 2018-326 (Ottawa, 29 August 2018), <https://crtc.gc.ca/eng/archive/2018/2018-326.htm>, in which "The Commission reminds the licensee of the importance of filing accurate logs in a timely manner..."

⁵¹ *Video-on-demand undertakings – Licence renewal*, Broadcasting Decision CRTC 2014-449 (Ottawa, 29 August 2014), <https://crtc.gc.ca/eng/archive/2014/2014-449.htm>:

10. In light of the above, the Commission considers it appropriate to renew the broadcasting licence for Bragg's VOD undertaking for a full term

⁵² *Nuevo Mundo Television – Licence renewal and amendment*, Broadcasting Decision CRTC 2014-397 (Ottawa, 30 July 2014), <https://crtc.gc.ca/eng/archive/2014/2014-397.htm>, at para. 12-14.

- Commitments to work with programming suppliers to meet Canadian broadcasters' codes (such as for violence);⁵³
- Rectification of absence of program logs and
- Implementation of "rigorous process" to ensure it provides required information to the CRTC in the future;⁵⁴
- Termination of non-compliant practice as soon as notified by CRTC,
- Implemented new measures to comply, and
- Timely rectification of financial shortfalls.⁵⁵

58. The CRTC also sometimes decides that regulatory breaches are minor, such as a licensee's twice filing its annual return a week late,⁵⁶ or breaching the regulations for exhibition Canadian programming:

Non-compliance relating to the broadcast of Canadian programs

21. Pursuant to requirements set out in the Regulations prior to 31 August 2017, television station licensees were required to devote not less than 55% of the broadcast year (section 4(6)) and not less than 50% of the evening broadcast period (the period between 6 p.m. and midnight) (section 4(7)(b)) to the broadcast of Canadian programs. Based on its analysis of the program logs submitted by the licensee, the Commission noted that, for certain broadcast years, the percentage of Canadian programs broadcast on CITS-DT, CKES-DT and CKCS-DT appeared to be below the required levels for both the broadcast year and the evening broadcast period.

22. Crossroads informed the Commission that the program logs were incorrect as a result of an administrative error on its part, and resubmitted the program logs by 31 October 2017. With the missing information now provided, it stated that the stations were in full compliance with the Canadian program requirements. It added that it has since hired a full-time person for the programming and logging department who is responsible for ensuring the timely collection of Canadian program certification numbers and the accuracy of program logs filed.

23. Based on its analysis of the resubmitted program logs, the Commission finds that for the 2014-2015 through 2016-2017 broadcast years, the percentage of Canadian programs broadcast on CITS-DT over each broadcast year was still below the required 55%. Further, for the 2016-2017 broadcast year, the Commission finds that the percentage of Canadian programs broadcast on all three stations during the evening broadcast period was below the required 50%. In all cases, the discrepancies between the requirement and the stations' results were relatively small, often less than one percentage point.

⁵³ *Video-on-demand undertakings – Licence renewal*, Broadcasting Decision CRTC 2014-449 (Ottawa, 29 August 2014), <https://crtc.gc.ca/eng/archive/2014/2014-449.htm>.

⁵⁴ *Video-on-demand undertakings – Licence renewal*, Broadcasting Decision CRTC 2014-449 (Ottawa, 29 August 2014), <https://crtc.gc.ca/eng/archive/2014/2014-449.htm>, at para. 13.

⁵⁵ *Shaw Direct – Licence renewal*, Broadcasting Decision CRTC 2019-388, (Ottawa, 29 November 2019), <https://crtc.gc.ca/eng/archive/2019/2019-388.htm>, paras. 47-49.

⁵⁶ *Video-on-demand undertakings – Licence renewal*, Broadcasting Decision CRTC 2014-449 (Ottawa, 29 August 2014), <https://crtc.gc.ca/eng/archive/2014/2014-449.htm>, at para. 11.

24. In light of the above, the Commission finds Crossroads in non-compliance with sections 4(6) and 4(7)(b) of the Regulations in effect prior to 31 August 2017. However, **given the relatively minor differences between the requirements and the stations' results, and given the measures put in place by the licensee to ensure future compliance**, the Commission finds that no further action is necessary.

....

Length of licence renewal term

30. Despite the above findings regarding the licensee's compliance with requirements relating to the filing of annual returns, the broadcast of Canadian programs and the provision of closed captioning, the Commission is satisfied with the explanations provided and the steps taken by the licensee to ensure compliance going forward. Accordingly, **the Commission considers it appropriate to renew the broadcasting licences for Crossroads' stations for full five-year licence terms.**⁵⁷

[bold font added]

c) Poor financial circumstances and one-time non-compliance – full-term renewals

59. The CRTC also sometimes considers licensees' financial circumstances in conjunction with the number of contraventions committed, at times deciding not to take further action:

Non-compliance relating to the broadcast of Canadian content

69. Pursuant to requirements set out in the Regulations prior to 31 August 2017, television station licensees were required to devote not less than 55% of the broadcast year (section 4(6)) and not less than 50% of the evening broadcast period (the period between 6:00 p.m. and midnight) (section 4(7)(b)) to the broadcast of Canadian programs. **Based on its analysis of the program logs submitted by the licensee, the Commission notes that for the 2012-2013 broadcast year, the amount of Canadian content broadcast on CHEK-DT over the broadcast year and during the evening broadcast period appears to be less than the above-noted levels.**

70. **0859291 B.C. explained that during the broadcast year in question, the viability of the station was an issue and management did not adequately review the Canadian content requirements.** The licensee noted that it has since hired an experienced broadcast executive to oversee the station, and that the station itself now produces much more Canadian content.

71. In light of the above, the Commission finds 0859291 B.C. in non-compliance with sections 4(6) and 4(7)(b) of the Regulations that were in effect prior to 31 August 2017. However, **given that the non-compliance occurred during a period when the existence of the station was in jeopardy, that the non-compliance was not repeated over subsequent years of the licence term, and that the licensee has introduced measures to ensure future compliance, the Commission is satisfied that no further action is necessary.**⁵⁸

⁵⁷ *Various conventional religious television stations – Licence renewals*, Broadcasting Decision CRTC 2018-479 (Ottawa, 18 December 2018), <https://crtc.gc.ca/eng/archive/2018/2018-479.htm>.

⁵⁸ *Various independent conventional television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2018-478 (Ottawa, 18 December 2018), <https://crtc.gc.ca/eng/archive/2018/2018-478.htm>.

60. In a second case, however, financial ‘reasons’ did not lead the CRTC to ignoring contraventions of captioning requirements:

Non-compliance

13. The licensee was required by condition of licence to caption 100% of the English- and French-language programs broadcast over the broadcast day. **Program logs submitted by the licensee showed that insufficient quantities of programming were closed captioned during the 2013-2014, 2014-2015 and 2015-2016 broadcast years.**

14. **New Tang cited financial reasons for not being in full compliance with its closed captioning requirements.** New Tang indicated that it had taken remedial steps to correct the problem, including the formation of a Diversity Council. The council will report on a semi-annual basis to the Commission on the presence and quality of closed captioning on NTD Television English- and French-language programs.

15. The Commission acknowledges the licensee’s intention to meet closed captioning requirements throughout the upcoming licence term.

16. In light of the above, the Commission finds the licensee in non-compliance with its requirements for closed captioning. It considers it appropriate to grant New Tang a short-term licence renewal of four years. This short-term licence renewal will allow for an earlier review of the licensee’s compliance with regulatory requirements.

17. The Commission further requires the licensee to report on its compliance with its condition of licence on closed captioning for year one and two of the new licence term. A condition of licence to this effect is set out in the appendix to this decision.⁵⁹

2. *Short-term renewals*

61. As mentioned previously the CRTC often uses its authority to issue licences to address regulatory contraventions. Rather than granting the maximum licence term possible (seven years under the 1991 legislation), the CRTC grants shorter terms.

a) Recurring non-compliance treated as first-time non-compliance requiring short-term renewal

62. Although the CRTC has sometimes chosen not to sanction problems with licensees’ annual returns, at other times it has issued short-term renewals. In some cases this is due to repeated non-compliance:

18. In its group-based approach to the licensing of private television services (see Broadcasting Regulatory Policy 2010-167), the Commission set out its intention, given the pace of change in the broadcasting environment and the desire to assess the impact of the new group-based approach, to impose five-year, rather than seven-year licence terms for television licensees controlled by designated groups. Over time, the Commission has adopted this practice for other television services, so as to allow it to more regularly reassess the performance of various licensees as well as the criteria used to assess such performance.

Penalties

⁵⁹ *NTD Television – Licence renewal*, Broadcasting Decision CRTC 2018-327 (Ottawa, 29 August 2018), <https://crtc.gc.ca/eng/archive/2018/2018-327.htm>.

19. In determining the appropriate licence term for CFTV-DT, the Commission has assessed the licensee's compliance with its regulatory requirements over the course of the current licence term, relying principally on the logs and records submitted by the licensee. The Commission has also taken into consideration the following:

- any explanations provided by licensee concerning errors or discrepancies in its logs;
- the nature of the non-compliance;
- the frequency of the non-compliance;
- the number of instances of non-compliance; and
- the measures taken to address the non-compliance.

20. CFTV-DT's programming is valuable to the local community in Leamington, and its obligations relating to the broadcast of local programming and Canadian programming are key defining elements of the station's broadcasting licence. The Commission acknowledges the financial challenges facing CFTV-DT and the licensee's measures to ensure compliance going forward.

21. However, in the Commission's view, the above-noted instances of non-compliance relating to the broadcast of Canadian programming and of local programming, and to the filing of annual returns, are, collectively, **serious and repeated. Although Southshore has not disputed the Commission's findings, it also did not act to correct compliance issues that occurred prior to the last short-term licence renewal for the station. Further, despite the confidence expressed by the licensee that it will be able to adhere to its regulatory obligations over the next licence term, it did not provide any significant evidence of clear measures it will take to ensure ongoing compliance.**

22. Consequently, the Commission finds that it would be appropriate to renew the broadcasting licence for CFTV-DT for a short-term period. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.⁶⁰

....

b) Serious or severe non-compliance

63. The CRTC has said generally that a licensee's "failure to meet its responsibilities as a broadcasting licensee to ensure that it is in full compliance with its conditions of licence at all times" is a "serious matter".⁶¹ The specific contraventions that the CRTC has said are serious include filing incomplete annual returns or filing annual returns late.⁶²

⁶⁰ *CFTV-DT Leamington – Licence renewal*, Broadcasting Decision CRTC 2018-477 (Ottawa, 17 December 2018), <https://crtc.gc.ca/eng/archive/2018/2018-477.htm>.

⁶¹ *CJIL-TV Lethbridge - Licence amendment*, Broadcasting Decision CRTC 2006-561 (Ottawa, 28 September 2006), <https://crtc.gc.ca/eng/archive/2006/db2006-561.htm>, at para. 9.

⁶² *Game+ – Licence renewal*, Broadcasting Decision CRTC 2019-284 (Ottawa, 8 August 2019), <https://crtc.gc.ca/eng/archive/2019/2019-284.htm>, at para. 14:

14. The timely filing of complete annual returns, including financial statements, is a basic and fundamental regulatory obligation. Compliance with this requirement not only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the television broadcasting industry as a whole. Accordingly, the late or incomplete filing of annual returns and financial statements is considered to be a serious matter.

64. The CRTC has also provided examples of “very severe” non-compliance for television programming services:
- Consistently high numbers of errors in television logs
 - Repeated failures to file logs over an extended period
 - Lack of improvement or corrective measures,⁶³ and
 - Intentional contravention of CRTC regulations.⁶⁴
65. In some cases involving very serious non-compliance the CRTC has reminded licensees that
- “holding a licence is a privilege, not a right”, and that the CRTC
 - “Commission is prepared to pursue further recourse in the courts in the case of non-compliance”⁶⁵

3. *Non-compliance resulting in denial of amendments*

66. The CRTC has also at times denied licensees’ applications to amend the terms of their licences because they have contravened its requirements. In 2014 it denied an application to amend a television programming licence because approval of the amendment “would effectively absolve Allarco LP of its non-compliance and therefore be inconsistent with the determination” the CRTC had previously made in 2013.⁶⁶

C. **Proposal that CRTC establish a consistent approach to regulatory contraventions by television programming services**

67. The Forum’s review of CRTC decisions involving television licensees’ regulatory contraventions leads it to conclude that at times, the same regulatory contraventions do not attract similar regulatory sanctions, raising concerns about inconsistency instead of promotion fairness, predictability and transparency in regulation.
68. The Forum believes that the CRTC should consider adopting a more coherent approach to regulatory enforcement of the requirements for television programming services operating in Canada. The goals of the approach would be to promote certainty, predictability and regulatory compliance. A secondary effect would be to promote compliance by other broadcasters, possibly reducing the number of cases in the future where the CRTC must intervene simply to

⁶³ *Nuevo Mundo Television – Licence renewal and amendment*, Broadcasting Decision CRTC 2014-397 (Ottawa, 30 July 2014), <https://crtc.gc.ca/eng/archive/2014/2014-397.htm>, at para. 10.

⁶⁴ *TVA Group Inc. – Non-compliance*, Broadcasting Decision CRTC 2019-109 and Broadcasting Order crc 2019-110, (Ottawa, 18 April 2019), <https://crtc.gc.ca/eng/archive/2019/2019-109.htm>.

26. The Commission takes the intentional contravention of its regulations very seriously. Not only did TVA Group premeditate its non-compliance with section 15(1) of the Regulations by announcing to Bell’s subscribers that it would withhold the service, but once directed by the Commission to continue to provide the service to Bell, TVA Group carried through on its threat to withhold the service.

⁶⁵ *TVA Group Inc. – Non-compliance*, Broadcasting Decision CRTC 2019-109 and Broadcasting Order crc 2019-110, (Ottawa, 18 April 2019), <https://crtc.gc.ca/eng/archive/2019/2019-109.htm>, at para. 28.

⁶⁶ *Super Channel – Licence amendment*, Broadcasting Decision CRTC 2014-547 (Ottawa, 24 October 2014), <https://crtc.gc.ca/eng/archive/2014/2014-547.htm>, para. 10.

ensure that licensees follow the regulatory requirements with which they previously agreed to comply.

69. A consistent and principled regulatory approach provides all parties with certainty and predictability, surely a desirable outcome. Publication of a regulatory approach also offers the prospect of transparency in and fair treatment of all licensees.
70. To distinguish between licensees that are able and are not able to make a material contribution to achievement of Parliament's broadcasting policy: licensees that operate entirely with volunteers, or have revenues of less than – say - \$12,000 a year – should be exempted from nearly all regulatory requirements. The CRTC's current exemption orders for television programming services require simplified annual returns, and responses to any CRTC requests for information from exempted services.⁶⁷
71. All other remaining licensees should be required to operate at a high standard.
72. It would in our view then be appropriate to distinguish between licensees that have contravened the CRTC requirements for the first time, and those who have previously contravened the requirements.
73. In the case of first-time contraventions licensees should provide evidence
 - Describing how the contravention occurred
 - Showing the number of times the contravention occurred
 - Noting when the licensee notified the CRTC of the contravention and corrective measures being taken, and
 - Setting the time when correction measures will be fully operational.
74. The CRTC should reduce the licence renewal period that it would have granted but for the contravention, by one year, and require licensees to report within 6 months on the implementation measures they committed to take. In cases where a licensee did not act responsibly by immediately correcting the problem and notifying the CRTC, the licence term should be reduced by a further year.
75. In the case of second-time contraventions licensees that have already contravened the same or other CRTC regulation(s) or condition(s) of licence should provide evidence
 - Describing how the contravention occurred
 - Showing the number of times it occurred
 - Noting when the licensee notified the CRTC of the contravention

⁶⁷ *All TV – Revocation of licence*, Broadcasting Decision CRTC 2019-12 (Ottawa, 18 January 2019), <https://crtc.gc.ca/eng/archive/2019/2019-12.htm>:

As an operator of an exempt service, All TV Inc. must comply at all times with the criteria set out in Broadcasting Order 2015-88, including those relating to the submission of simplified annual returns by no later than 30 November of each year. While All TV Inc. will not be required to file program logs, it will nevertheless be required to comply with certain programming requirements and to respond to any inquiry made by the Commission relating to the operation of the exempt undertaking. **Failure to adhere to the criteria set out in Broadcasting Order 2015-88 at all times may result in a finding that the undertaking is operating without a licence or pursuant to an exemption order, contrary to the Act.** The Commission will consider all of its regulatory options to address such non-compliance.

- Setting the time until corrective measures will be fully operational, and
- Providing their commitment to broadcast a notice of their second-time contravention.

76. The CRTC should reduce the licence renewal period that it would have granted but for the second set of contraventions to one year, require licensees to report within 6 months on the implementation measures they committed to take, and to broadcast a description of their non-compliance.
77. Third-time contraventions: the CRTC should call all licensees that contravene any of its regulations or their conditions of licence for a third time to a public hearing, to determine whether a Court-enforceable mandatory order should be issued, or – if the licence is due to expire – whether the licence should be renewed.

III. Analysis of applications in terms of compliance

A. Regulatory requirements

78. CRTC regulatory requirements for television licensees are set out in its regulations for conventional and discretionary programming services, and in the conditions (if any) attached to their licences.

1. Regulations

79. The CRTC's regulations address programs' content, advertising, and the submission of information – in particular logs describing the programming broadcast by licensees.
80. The CRTC's *Discretionary Service Regulations* and its predecessor *Specialty Service Regulations* also require licensees to file an Annual Return for the previous broadcast year for each licensed service on or before 30 November of each year.⁶⁸ The broadcast year begins each 1 September and ends the following 31 August.⁶⁹
81. The CRTC has provided licensees with information about their compliance with its regulatory requirements for decades. In 2013 it confirmed that it
- ...will provide an annual assessment of the licensee's compliance with its regulatory requirements. This evaluation will be sent to the licensee before the end of the broadcast year following the year being evaluated. This will allow the licensee to verify that it is in compliance with its requirements for the year being evaluated.⁷⁰

⁶⁸ S. 9(1).

⁶⁹ S. 1.

⁷⁰ *VisionTV – Licence renewal*, Broadcasting Decision CRTC 2013-393 (Ottawa, 8 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-393.htm>, at para. 44.

2. *Condition of licence - closed captioning*

82. The CRTC “has considered the provision of closed captioning to be a priority since 2001 when it began requiring stations to close caption, by condition of licence, a minimum of 90% of all programming and 100% of news programming.”⁷¹
83. In 2011 the CRTC set out ‘standard’ conditions of licence for discretionary television programming services, including a requirement that all English- and French-language programming including advertising, sponsorship messages and promotional spots be “captioned by no later than the fourth year of the licence term”.⁷² The CRTC’s policy clarified that the conditions of licence it listed applied “except where an authorization that represents a change from or addition to these terms and conditions is included in the decision granting a particular licence.”⁷³
84. As noted above, licensees are regularly advised by the CRTC if they are not meeting their regulatory requirements:
- From now on, applicants will receive an annual performance evaluation after they have corrected their program logs for the previous broadcast year. This new approach will ensure that licensees always meet their regulatory requirements and never have to revise several years’ worth of logs, which is a time-consuming process.⁷⁴

B. *Renewal terms*

1. *Full term: Acadian and Neepawa*

85. The Forum is recommending full licence terms for two of the applicants in this Part 1 process, due to their very small size.
- a) *Acadian Communications Ltd and Neepawa Access Community T.V. (ACTV) Inc.*
86. At the same time, at least two the applicants in this process are very small undertakings with minimal revenues and minimal staff, including for example, Acadian Communications:
- I, Andrew LeBlanc am the new owner of Acadian Communications. This year we had zero income but we expect to do about a 1000 dollars of advertising per year. Our subscriber count continues to decline as older people pass away. We struggle to keep in viable but we subsidize the local channel by volunteering to do most of the work.⁷⁵

⁷¹ *Various independent conventional and community-based television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-467 (Ottawa, 30 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-467.htm>, at para. 50.

⁷² *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443 (Ottawa, 27 July 2011), <https://crtc.gc.ca/eng/archive/2011/2011-443.htm>.

⁷³ *Ibid.*, at Appendix 1, “General”.

⁷⁴ CRTC, Manager, TV Monitoring Management, Broadcasting, *Re: CBC Network – Annual Performance valuation – Broadcast Year 2013/14*, (Ottawa, 30 September 2015), at 1.

⁷⁵ Acadian, DM#3735680 – Financial projections.

87. According to the CRTC Acadian did not file the 2018 Annual Return, and filed the Annual Returns for 2016 and 2017 late,⁷⁶
88. Acadian explained that a previous shareholder in the undertaking claimed that the CRTC had said that the returns had been filed. Acadian said it would complete the forms if the CRTC sent them.⁷⁷
89. Similarly, Neepawa operates CH5248, a community television programming service. It projects total revenues from 2019 to 2025 of \$723,283, or annual revenues of less than \$110,000 per year.⁷⁸ More than two-thirds (68.8%) of this revenue comes from donations and paid programming.
90. Neepawa did not file its 2017 and 2018 Annual Returns.⁷⁹
91. It explained that it did not file the returns due to its error, and in particular the fact that as CH5248 is run by volunteers, there is occasional turnover in those helping to operate the station. It hoped to file the missing returns by 29 February 2020.⁸⁰
92. In light of the very small size of these undertakings, the licensees' willingness to remedy their failures, and – we assume – the absence of complaints about the services to the CBSC – the Forum recommends that the CRTC grant Neepawa a full licence term, provided it has filed its missing returns or the information required for the returns, by 29 February 2020.

2. Full term less a year: 4517466 Canada and ZoomerMedia

a) 4517466 Canada Inc. (ICI TV)

93. 4517466 Canada Inc. operates CFHD-DT Montreal, also known as ICI Television, a multi-lingual ethnic television programming service first licensed in 2012.⁸¹ It is therefore submitting its first renewal application, and addressing its first instance of non-compliance.
94. ICI TV acknowledged that it did not caption all of its English-language and French-language programming, as required by Broadcasting Regulatory Policy CRTC 2011-442 (whose conditions of licence are attached to ICI TV's licence by way of condition of licence 1 in Broadcasting Decision CRTC 2012-696).
95. In recognition of ICI TV's acknowledgement that it contravened the CRTC's accessibility conditions of licence, and that ICI TV has just completed its first licence term, the Forum recommends that the CRTC renew 4517466 Canada Inc.'s licence for term that is one year less than requested. The Forum also recommends that the licensee report to the CRTC within 6 months on the status of its corrective measures.

⁷⁶ Acadian, DM#3787275, at 3.

⁷⁷ Acadian, DM#3787275, at 3.

⁷⁸ Neepawa, DM#3779196 – Financial projections.

⁷⁹ Neepawa, DM#3794167, at 1.

⁸⁰ Neepawa, DM#3794167, at 1.

⁸¹ *Ethnic television station in Montréal*, Broadcasting Decision CRTC 2012-696 (Ottawa, 20 December 2012), <https://crtc.gc.ca/eng/archive/2012/2012-696.htm>.

b) ZoomerMedia Limited (Vision, ONE)

96. ZoomerMedia Limited (Zoomer) is a commercial licensee that acquired four religious television programming services in 2010 for \$29.4 million;⁸² the CRTC does not require the religious services' licensees to be not-for-profit undertakings.⁸³ In approving the ownership transaction the Commission said that it expected Zoomer "to adhere, as soon as possible, to the applicable accessibility requirements" of the CRTC's Accessibility Policy.⁸⁴
97. Zoomer was created in 2013. At that time "ONE: The Body, Mind and Spirit Channel Inc., Christian Channel Inc., Vision TV Digital Inc., 8567093 Canada Limited and ZoomMedia Limited amalgamated to continue as ZoomerMedia Limited."⁸⁵
98. In the context of its two service renewal applications Zoomer has described itself as "a small operator, with only two licensed specialty services" and "a small license exempt digital service".⁸⁶ Zoomer is also applying to renew the licences of its two religious television stations (CHNU-DT Fraser Valley and CIIT-DT Winnipeg), however. It also currently holds licences for four radio stations (CFMO-FM Collingwood, CFMX-FM Cobourg, CFMX-FM Toronto and CFZM Toronto).⁸⁷
99. Zoomer's applications show that in 2017/18 its four television services generated revenues of \$30.6 million and that Zoomer projects total revenues in 2018/19, the broadcast year just ended, of \$30.7 million. Zoomer's discretionary television services offer significantly more support for Canadian programming expenditures than its conventional television services: in 2018/19 the discretionary services devoted nearly 39% of their revenues of the previous year to CPE; the two conventional services, less than 1%.

Zoomer	Revenues 2017/18	CPE 2018/19	CPE as % of Revenues
Vision	\$ 23,280,396	\$ 9,008,118	38.7%
ONE	\$ 3,100,431	\$ 1,185,538	38.2%
CHNU-DT	\$ 2,569,193	\$ 23,092	0.9%
CIIT-DT	\$ 1,670,922	\$ 2,819	0.2%

100. Zoomer seeks a minimum licence term of 5 years for CHNU-DT and CIIT-DT,⁸⁸ and has provided five years of financial projections from 2020/21 to 2024/25. The licence terms sought for

⁸² *Vision TV – Acquisition of assets; CHNU-TV Fraser Valley and CIIT-TV Winnipeg – Change in effective control; ONE: The Body, Mind and Spirit Channel – Change in effective control; Classical Digital, CFZM, CFMZ-FM, CFMZ-DR-1 Toronto, and CFMX-FM Cobourg – Corporate reorganization*, Broadcasting Decision CRTC 2010-193 (Ottawa, 30 March 2010), <https://crtc.gc.ca/eng/archive/2010/2010-193.htm>, at para. 17.

⁸³ *Ibid.*, at para. 41.

⁸⁴ *Ibid.*, at para. 48.

⁸⁵ *Various independent conventional and community-based television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-467 (Ottawa, 30 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-467.htm>, at Footnote 2.

⁸⁶ Zoomer, DM#3721010 – *Supplementary Brief*, at 1. The Beautiful Little Channel was exempted from licensing requirements in 2019: *The Beautiful Little Channel – Revocation of licence*, Broadcasting Decision CRTC 2019-262 (Ottawa, 24 July 2019), <https://crtc.gc.ca/eng/archive/2019/2019-262.htm>.

⁸⁷ CRTC Ownership Chart #229 (2019-08-08).

⁸⁸ Zoomer, DM#3720901, at 10.

VisionTV and ONE are not clear; Zoomer has provided financial projections for three years from 2020/21 to 2022/23.

(a) VisionTV

101. Since acquiring VisionTV Zoomer has applied for its renewal once, in 2013.

Zoomer: VisionTV	
1987	87-900 – licences Vision TV without a subscriber rate
1993	93-580 – grants amendment to charge wholesale rate (non-compliance re Canadian content expenditure condition of licence)
1994	94-655 – 1 st renewal, for full term – amendment for 2¢ increase denied; (non-compliance re Canadian content expenditure condition of licence; advertising limits; captioning; high-standard req’t; captioning)
1997	97-660 – grants amendment to increase advertising from 6 to 12 mins/hour
2000	2000-40 – denies amendment application
2001	2001-669 – short-term renewal (non-compliance re Canadian content)
2003	2003-23 – grants application to raise wholesale rate by 25%
2004	2004-397 – renewed to Aug 2011; application to measure Canadian content over full year granted (non-compliance re logging)
2009	2009-188 – grants amendment application
2010	2010-193 – approves Zoomer’s acquisition of Vision, ONE, CIIT-DT and CHNU-DT
2013	2013-393 – renews VisionTV to 31 Aug 2020

102. According to the CRTC, Zoomer

- Filed Vision’s 2016/17 Annual Return two months late on 30 January 2018⁸⁹
- Filed Vision’s 2015/16 and 2017/18 Annual Returns on time but the materials were incomplete⁹⁰
-

103. Zoomer says that its 2016/17 Annual Return was filed on time and that all three Annual Returns were questioned by CRTC staff.⁹¹

104. Zoomer added that its financial statements are audited each December. It admitted that it submits only partial financial statements to the CRTC.⁹² The e-mail correspondence attached to Zoomer’s application shows that the CRTC identified a number of incorrect figures in Vision TV’s Annual Return, which Zoomer subsequently corrected.⁹³

105. Although Zoomer says that it “will continue to ensure timely filing of annual returns”, it has not committed to filing complete annual returns by 30 November, as the regulations require.

106. It was and remains open to Zoomer to apply to the CRTC for a condition of licence permitting it to file incomplete annual returns on 30 November, but it has not done so in this application.

107. The Forum recommends that the CRTC renew the VisionTV licence for a year less than a full term, as Zoomer has admitted that it has chosen not to comply with the annual-return

⁸⁹ Zoomer, DM#3793636, at 8.

⁹⁰ Zoomer, DM#3793636, at 8.

⁹¹ Zoomer, DM#3793636, at 8.

⁹² Zoomer, DM#3793636, at 8.

⁹³ Zoomer, DM#3793642, at 2-4, DM#3793643, at 3 and DM#3793644 at 4-5.

regulation, and remind the licensee that it must file complete Annual Returns on time. Choosing to file late is different from unintentional or mistakes, such as programming whose improper formatting prevents the reading and use of closed captioning but which is then resolved.⁹⁴

(b) ONE: GET FIT

108. Since acquiring ONE Zoomer has applied for and been granted its licence renewal once, in 2013.

Zoomer: ONE
2013 2013-468 – renewal to 31 Aug 2020 (previous owner’s non-compliance re programming service may broadcast)

109. According to the CRTC Zoomer

- filed its 2016/17 Annual Return for ONE: GET FIT on 30 January 2018 instead of on or before 1 November 2017,
- filed incomplete Annual Returns for 2015/16 and 2017/18⁹⁵

110. The e-mail correspondence attached to Zoomer’s application shows that the CRTC identified a number of incorrect figures in ONE: GET FIT’s Annual Return, which Zoomer subsequently corrected.⁹⁶

111. Zoomer said that it filed its 2016/17 Annual Return on time, and that its 2015/16 and 2017/18 Annual Returns were complete.⁹⁷ It noted that its financial statements are audited each December, and admitted that it submits only partial financial statements to the CRTC.⁹⁸ Although Zoomer said that it “will continue to ensure timely filing of annual returns”, it did not commit to filing complete annual returns by 30 November, as the regulations require.⁹⁹

112. It was and remains open to Zoomer to apply to the CRTC for a condition of licence permitting it to file incomplete annual returns on 30 November, but it has not done so in this application.

113. The Forum notes that the CRTC has emphasized the importance of filing annual returns on time. We recommend that the CRTC renew ONE’s licence for a full term less one year as Zoomer has chosen to contravene the CRTC’s regulation, and that it remind the licensee that it must file complete annual returns for the service on or before November 30 each year.

⁹⁴ Miracle Channel, DM#3787403, at 3: “The minor non-compliance [resulting in missing closed captions] was the result of some programming that contained closed captioning that was not properly formatted for our equipment to read. The formatting issues required a coordinated effort between the programmers and CJIL-DT to resolve.”

⁹⁵ Zoomer, DM#3793637, at 6.

⁹⁶ Zoomer, DM#3793641, at 2-4; DM#3793643, at 2-3; DM#3793644 at 3-4.

⁹⁷ Zoomer, DM#3793637, at 6.

⁹⁸ Zoomer, DM#3793637, at 8.

⁹⁹ Zoomer, DM#3793637, at 6.

3. Two-year term: Salt and Light Catholic Media Foundation

a) Salt and Light Catholic Media Foundation

114. Salt and Light Catholic Media Foundation (SLCM Foundation) describes Salt + Light TV as a “discretionary television service offering religious programming from a single point-of-view of the Catholic Faith”, in English, French and 7 other languages.¹⁰⁰ SLCM Foundation acquired the service in 2003. Since then it has been renewed administratively four times. The first and only time the CRTC has considered substantive issues with respect to the service’ performance was in 2013. At that time the Commission noted that the service had not met the CRTC’s expectation for accessibility, and warned that the CRTC might take additional regulatory steps if the service did not provide the required levels of closed captioning from 2013 to 2020.

SLCM Foundation: Salt + Light TV	
2001	2001-687 – CRTC licences Inner Peace Television Network
2002	2002-188 – grants application to shift control to St. Joseph Printing Limited for \$102
2002	Inner Peace Television Network launches (see 2003-574)
2003	2003-574 - SLCM Foundation acquires Inner Peace Television Network
2006	2006-319 – administrative renewal to 31 Aug 2009
2006	2006-608 – amendment
2009	2009-145 – administrative renewal to 31 Aug 2010
2010	2010-562 – administrative renewal to 31 Aug 2012
2011	2011-417 – administrative renewal to 31 Aug 2013
2013	2013-466 – renewal to 31 Aug 2020 (amendment to decrease closed captioning and described video denied: “If issues relating to closed captioning persist, the Commission may [in the next renewal] consider what additional regulatory actions it will take to ensure that the programming is accessible to Canadians who are deaf or hard of hearing.”)

115. SLCM Foundation has acknowledged its failure to meet the CRTC’s closed captioning requirements when it applied to renew the Salt +Light TV licence.¹⁰¹ SLCM Foundation said it took steps to ensure compliance with the CRTC’s requirements, including the development of a written policy,¹⁰² notification of its staff,¹⁰³ purchase of new equipment,¹⁰⁴ and temporarily withdrawing advertisements, sponsorship messages and promotional advertisements from broadcast.¹⁰⁵
116. SLCM Foundation has not met its regulatory requirements for closed captioning. Had the requirements been in the shape of regulations or conditions of licence the Forum would have suggested a one-year licence term. This renewal is the first occasion that the CRTC has had to consider an actual regulatory contravention. The Forum therefore recommends – because the licensee has provided some evidence of the steps it has taken to adhere to the CRTC’s requirements – that its licence be renewed for two years.

¹⁰⁰ DM#3724823, at 5. In a typical month, however, it broadcasts in English, French, Chinese and Italian. *Ibid.*

¹⁰¹ Salt and Light TV, DM#3724823, at 8.

¹⁰² Salt and Light TV, DM#3795315, at 1.

¹⁰³ Salt and Light TV, DM#3795315, at 1.

¹⁰⁴ Salt and Light TV, DM#3724823, at 8.

¹⁰⁵ Salt and Light TV, DM#3795315, at 1.

4. *One-year term: Miracle Channel (CJIL-DT Lethbridge)*

a) *The Miracle Channel Association*

117. Miracle Channel currently holds the licence for CJIL-DT Lethbridge, first licensed in 1995.¹⁰⁶ It was then and is still subject to the CRTC's 1993 religious broadcasting policy in which the CRTC said that it "considers that any religious organization or foundation using the Canadian broadcasting system to solicit funds should be a charity"¹⁰⁷ The policy – still in force, according to the CRTC's website,¹⁰⁸ and still applicable to CJIL-DT¹⁰⁹ – requires licensees that operate religious programming services to adhere to the CRTC's guidelines on solicitation:

The Commission expects all licensees to comply with strict provisions regarding the solicitation of funds. In particular, the Commission expects that the wording and tone of any solicitations for funds shall not:

- place an undue responsibility on the viewer or listener to respond to the appeal;
- be alarmist in suggesting that the program may be discontinued in the absence of such a response;
- predict divine consequences of not responding, or exaggerate positive results of responding;
- intimidate the viewer or listener in any way.

The same guidelines apply when printed materials soliciting funds are presented to viewers or listeners.

118. In 2002 the CRTC expressed concerns about the licensee – then identified as The Miracle Channel Association – and its "manifest failure not to comply with the minimum regulatory requirements with respect to the airing of Canadian content during the broadcast day in each of the 1998-1999 and 1999-2000 broadcast years."¹¹⁰ The CRTC also commented on the

... absence of any closed captioned local programs during 1998-1999 and 1999-2000, and captioning levels of only 5.5% and 37.6% of all programming in the first and second of those same years, respectively.¹¹¹

¹⁰⁶ *New Over-the-Air Television Station Devoted to Religious Programming – Approved*, Broadcasting Decision CRTC 95-129 (Ottawa, 4 April 1995), <https://crtc.gc.ca/eng/archive/1995/DB95-129.htm>.

¹⁰⁷ *Religious Broadcasting Policy* Public Notice CRTC 1993-78 (Ottawa, 3 June 1993), <https://crtc.gc.ca/eng/archive/1993/PB93-78.htm>.

¹⁰⁸ CRTC, "Key Television Policies", <https://crtc.gc.ca/eng/5000/tv2.htm>, accessed 28 February 2020.

¹⁰⁹ In 2013 the CRTC reminded "the licensee that it will continue to be subject to the Guidelines on Ethics as set out in the *Religious Broadcasting Policy* with respect to solicitation of funds." Various independent conventional and community-based television programming undertakings – Licence renewals, Broadcasting Decision CRTC 2013-467 (Ottawa, 30 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-467.htm>, at para. 42.

¹¹⁰ *Short-term licence renewal for CJIL-TV*, Broadcasting Decision CRTC 2002-60 (Ottawa, 28 February 2002), <https://crtc.gc.ca/eng/archive/2002/db2002-60.htm>.

¹¹¹ *Ibid.* at para. 8.

119. In 2004 the CRTC renewed CJIL-TV for a full seven-year term, to 2011, without identifying any concerns that it was contravening or had contravened the CRTC's regulatory requirements.¹¹²

120. In 2013 the CRTC noted that CJIL-TV had again contravened its condition of licence for closed captioning. As it decided that this non-compliance was non-systemic, the CRTC renewed the licence for a full term:

71. The Commission's analysis found Miracle Channel in apparent non-compliance with its condition of licence for CJIL-DT requiring it to closed caption 90% of its programming during the broadcast day and 100% of its local programming during the 2011-2012 broadcast year. The licensee argued that, although it captioned all of its programming, there were instances where its equipment for inserting captions failed or there was a power loss that prevented insertion.

72. The Commission finds the licence in non-compliance with its closed captioning requirements for CJIL-DT Lethbridge for the 2011-2012 broadcast year. However, the Commission is of the view that this non-compliance was not systemic and notes that the licensee was in compliance in all other areas. Accordingly, the Commission is renewing the broadcasting licence for CJIL-DT Lethbridge for a full seven-year term.¹¹³

121. To summarize, the CRTC has issued 9 decisions about CJIL-DT since it was first licensed, including two administrative renewals that did not consider the station's performance. The CRTC noted regulatory contraventions in 3 out of the remaining 7 renewal decisions, including the station's licence renewal in 2013:

The Miracle Channel Association: **CJIL-TV Lethbridge**

1995	Decision 95-129 – licensed
1999	Decision 99-71 - amendment
2001	Decision 2001-474 – administrative renewal
2001	Decision 2001-491 – amendment
2002	Decision 2002-60 – short-term renewal - non-compliance (Canadian content, balance, closed captioning)
2004	Decision 2004-372 - renewal
2006	Decision 2006-561 – amendment – non-compliance (advertising)
2011	Decision 2011-417 – administrative renewal
2012	Decision 2012-285 – Small Market Local Production Fund – approved
2013	Decision 2013-467 – 7-year renewal, licence amendment – non-compliance (closed captioning)

122. In the current proceeding the CRTC has again identified contraventions of CJIL-DT's condition of licence, this time for closed captioning. The licensee explained that it had broadcast programming with closed captioning that its equipment could not read,¹¹⁴ and that it bought new equipment "to further enhance" its captioning monitoring process.

123. The licensee has not indicated whether or when CJIL-TV itself first noticed problems with its closed captioning. It is not clear whether this new equipment will enable the service to detect

¹¹² *CJIL-TV Lethbridge and its transmitters - Licence renewal*, Broadcasting Decision CRTC 2004-372 (Ottawa, 27 August 2004), <https://crtc.gc.ca/eng/archive/2004/db2004-372.htm>.

¹¹³ *Various independent conventional and community-based television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-467 (Ottawa, 30 August 2013), <https://crtc.gc.ca/eng/archive/2013/2013-467.htm>.

¹¹⁴ DM#3787403, at 3.

captioned programs that, when broadcast, will not show the captions. It is not clear who is responsible for enforcing the station's closed captioning requirements or whether there are any consequences for failures to meet the requirements.

124. The current contravention represents the third time since 2002 that the licensee has been unable to meet the CRTC's accessibility requirements.

125. Since CJIL-DT's last renewal Parliament has taken new steps to ensure that Canada is accessible to all. The 2019 *Accessible Canada Act*¹¹⁵ requires the identification and removal of existing and new barriers in "information and communication technologies".¹¹⁶ The *Act* defines 'barrier' as

... anything — including anything physical, architectural, technological or attitudinal, anything that is based on information or communications or anything that is the result of a policy or a practice — that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation.¹¹⁷

126. In the absence of evidence proving that the licensee is taking the requirement seriously the Forum therefore recommends a one-year renewal, and monthly reporting requirements showing compliance with its condition of licence for accessibility. The Forum also recommends that the licensee be required to submit a report identifying its policies for enforcing compliance with its condition of licence regarding accessibility.

127. Miracle Channel identifies itself as a charity and says that "approximately 30% of our revenue is from donations."¹¹⁸ The Forum notes that two interventions (as of 28 February 2020) have set out concerns about solicitation of funds on CJIL-DT:

Intervention 1 (Toronto, ON): "This channel is simply a fundraiser for the organization and does not deserve Canadian airtime airspace, cable, or internet. We can do better."

Intervention 2 (Kelowna, BC): "This channel dose [sic] not reflect the diverse views of our plural society. This platform is used as a funding vehicle and how it solicits donations from possibly vulnerable seniors is a risk to the public."

128. If the Miracle Channel does not reply to these interveners in a manner that satisfies the Commission that the station is not being operated as a fund-raising vehicle, the CRTC should consider

- Requiring the licensee to report on its compliance with the CRTC's *Religious Broadcasting Policy*, and

¹¹⁵ *Accessible Canada Act*, S.C. 2019, c. 10; entered into force 11 July 2019 (SI/2019-55) except for s. 205.

¹¹⁶ S. 5(c):

5 The purpose of this Act is to benefit all persons, especially persons with disabilities, through the realization, within the purview of matters coming within the legislative authority of Parliament, of a Canada without barriers, on or before January 1, 2040, particularly by the identification and removal of barriers, and the prevention of new barriers, in the following areas:

...

(c) information and communication technologies;

....

¹¹⁷ S. 2.

¹¹⁸ DM#3720397, at 1.

- Issuing the licensee a six-month renewal so that the CRTC – depending on the report it receives – may either grant the licensee a further six-month term during which time it would be able to work to ensure compliance with respect to closed captioning requirements, or call the licensee to a public hearing (if the report is unsatisfactory).

5. *Adjourn to public hearing: World Media Ministries*

129. Daystar is the former Grace TV, which was licensed as The Christian Channel in 2006. World Impact Ministries – now World Media Ministries – acquired the service in 2009. In 2013 the CRTC was concerned that the service had not met the Commission’s expectations for closed captioning.

World Media Ministries: Daystar	
2006	2006-11 - approves application by Christian Channel Inc. for The Christian Channel
2009	2009-247 – approves acquisition of The Christian Channel by World Impact Ministries; licence expires 31 Aug 2012
2011	2011-417 – renews licence of Grace TV to 31 Aug 2013
2013	2013-466 –renews licence to 31 Aug 2020 (CRTC says it was “disappointed that the licensees did not meet that expectation and notes that these licensees will be required to abide by the standard requirements, including those relating to closed captioning, for the next licence term. If issues relating to closed captioning persist, the Commission may at that time consider what additional regulatory actions it will take to ensure that the programming is accessible to Canadians who are deaf or hard of hearing.”)

130. According to the CRTC’s financial summaries, Daystar earned \$25.7 million between 2014 and 2018, and allocated \$0.8 million over this period, or 3% of its revenues, to Canadian programming expenditures.
131. While the CRTC’s financial summaries do not disaggregate the service’s expenses beyond programming and production expenses, World Media Ministries’ application says that in 2018/19 more than four-fifths (88%, or \$4.5 million) of its expenses were allocated to the “[t]echnical” expense category. World Media Ministries projects that it will spend \$22.9 million on technical expenses from 2020/21 to 2024/25, compared with \$1.4 million in overall programming, and \$600,000 on Canadian programming: Figure 1. Its figure show that it has been spending and plans to continue spending \$4.5 million or more per year on technical expenses.

Figure 1: World Media Ministries – actual and projected expenses on technical, programming and Canadian programming

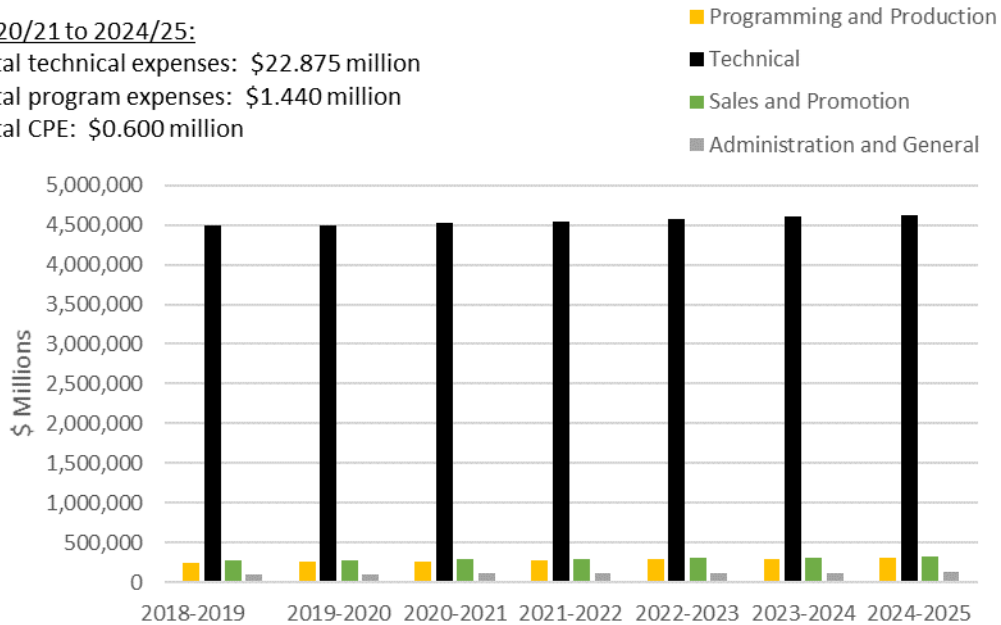
Daystar: projected expenses, 2018/19 to 2024/25

2020/21 to 2024/25:

Total technical expenses: \$22.875 million

Total program expenses: \$1.440 million

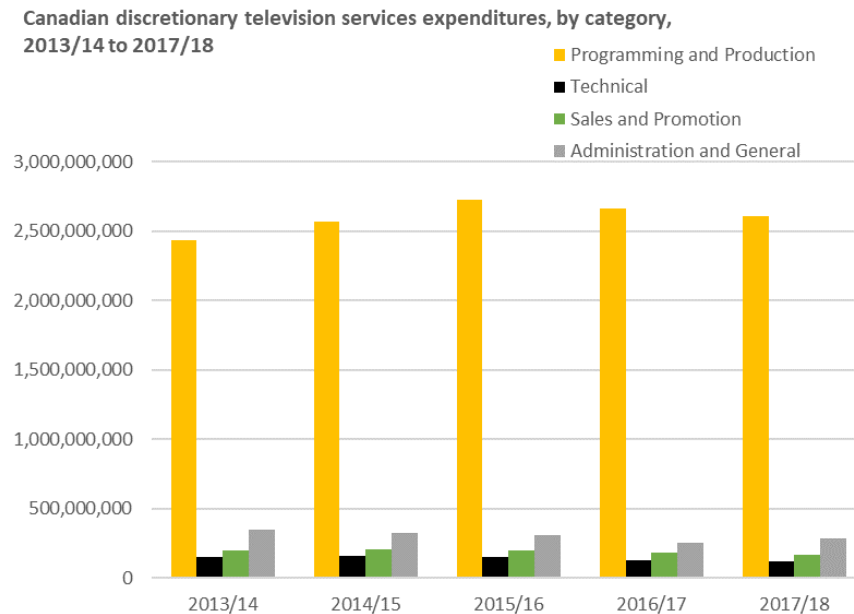
Total CPE: \$0.600 million



132. World Media Ministries is therefore spending more than ten times as much as the average discretionary television service allocates to technical expenses – \$422,398, according to the CRTC’s 2018 financial summaries for discretionary television services.¹¹⁹

¹¹⁹ Consumer affairs and strategic policy, CRTC, *Discretionary and On-Demand Services: statistical and financial summaries, 2014-2018*, at 1: total technical expenses of \$122,917,769, divided by 291 reporting units = \$422,397.83.

Figure 2: Canadian discretionary television services' expenditures, by CRTC expense category



133. World Media Ministries' application shows that the percentage of revenues that it has allocated to Canadian programming expenditures in the following year¹²⁰ has decreased since 2014, when the figure was 5.4%: Table 3. In the first year of its next licence term it proposes to allocate 2.1% of the previous year's revenues on Canadian programming.

Table 3 World Media Ministries – revenues, CPE and CPE percentages, 2013-2025

Year	Total Revenue	CPE	CPE as % of previous years revenue
2013	\$2,848,452	-	-
2014	\$4,189,452	\$154,056	5.4%
2015	\$5,420,636	\$168,000	4.0%
2016	\$5,730,147	\$144,000	2.7%
2017	\$5,651,425	\$144,000	2.5%
2018	No data		
2019	\$5,250,000	100000	
2020	\$5,300,000	105000	2.0%
2021	\$5,350,000	110000	2.1%
2022	\$5,400,000	115000	2.1%
2023	\$5,450,000	120000	2.2%
2024	\$5,500,000	125000	2.3%
2025	\$5,550,000	130000	2.4%

Sources: 2013-17: DM#3737118, at 1; 2019-25: DM#3737119

¹²⁰ The CPE percentage is currently calculated by dividing the Canadian programming expenditures in a year by the revenues in the previous year.

134. According to the CRTC, 2.67% of Daystar’s programming hours from 1 September 2013 to 31 August 2014 were not closed captioned,¹²¹ contravening one of its conditions of licence. The CRTC also found that Daystar’s program logs misidentified captioned advertisements as uncaptioned, due to data-entry errors on Daystar’s part.¹²² The CRTC’s regulations require accurate logs from licensees.
135. World Media Ministries explained that its captioning services in the 2013/14 broadcast year were provided by Zoomer Media.¹²³ Since then the licensee has developed its own procedures for ensuring that all programming is captioned.¹²⁴ It says that all programming is sent to its Captioning Department, which then uploads programs to Daystar’s server; it writes that “[n]o programming is sent to the broadcast team without first going through Daystar Canada’s Captioning Department”¹²⁵ and that it “takes its responsibilities very seriously.”
136. That said, the *Broadcasting Act* requires licensees to be responsible for their programming at all times. The fact that captioning services were provided by a third party in 2013/14 did not absolve the licensee of that duty.¹²⁶ World Media Ministries has also not said whether it has a written policy regarding accessibility in programming and non-program content (advertisements, promotional spots etc.), who is responsible for contraventions of that policy and what happens if contraventions were to occur.
137. The Forum agrees with the CRTC’s proposal to implement a reporting system, though it is not clear why quarterly reports would be required – since no captioning errors have been identified since 2013/14, bi-annual reports (every six months) to confirm ongoing compliance might achieve the same objectives of ensuring compliance. Should new contraventions be identified at the end of the one-year term, the reports could be increased in frequency; and discontinued after two years of compliance.
138. The Forum would recommend a full licence term less one year, to address World Media Ministries’ first breach of its condition of licence and the CRTC’s logging regulations, except for the unusually high expenditure on ‘technical’ issues, and the licensee’s relatively low expenditures on Canadian programming. World Media Ministries did not clarify why it spends and plans to allocate more than 80% of its revenues on technical expenditures, nor did it provide reasons for its relatively small commitment to CPE (less than 3% of each previous year’s revenues in the next licence term).
139. The CRTC’s duty to ensure that Parliament’s broadcasting policy is being implemented require it to obtain additional information about World Media Ministries’ application with respect to its CPE and technical expenditures. As the CRTC’s procedural rules enable it to adjourn a

¹²¹ World Media Ministries, DM#3795460, at 2.

¹²² World Media Ministries, DM#3795460, at 3.

¹²³ World Media Ministries, DM#3795460, at 2.

¹²⁴ World Media Ministries, DM#3795460, at 2.

¹²⁵ DM#3795460, at 2.

¹²⁶ The CRTC noted in 2013 that non-compliance that “occurred under previous ownership” remained the responsibility of the current licensee: *Various independent specialty Category B services – Licence renewals*, Broadcasting Decision CRTC 2013-466 (Ottawa,), <https://crtc.gc.ca/eng/archive/2013/2013-466.htm> at para 49.

proceeding¹²⁷ and to combine two or more proceedings,¹²⁸ the Forum suggests that the Commission consider adjourning its consideration of this Part 1 application, and adding to the agenda of public hearing scheduled for the near future, so that it may ask the applicant for clarification.

IV. Conclusions and Recommendations

A. Conclusions

140. The Forum's main concern in this proceeding has to do with the manner in which very small, small and medium-sized television programming services are licensed when they are found to have contravened the CRTC's regulatory requirements.
141. Our review of the CRTC's television licensing decisions since the beginning of January 2000 found that the decisions treat licensees inconsistently, by deeming contraventions not to be contraventions, by treating some contraventions or repeated non-compliance as not very consequential, and by treating similar contraventions by other licensees with far more seriousness.
142. In brief, the CRTC's approach to regulatory enforcement in the television sector lacks consistency, fairness and transparency.

B. Recommendations

1. *Summary of recommendations for the Part 1 licensees that are the subject of this proceeding*

143. The Forum is recommending two full-term renewals, one one-year renewal, one two-year renewal, and three renewals for a full term less one year:

Licensee and service	Forum recommendation
4517466 Canada Inc ICI TV (CHFD-DT Montreal)	Licence term requested, less one year Report in 6 months on corrective measures
Acadian	Exemption from most licensing requirements Full-term renewal
Neepawa CH5248 community television	Exemption from most licensing requirements Full-term renewal
Miracle Channel CJIL-DT Lethbridge	One-year renewal (6 months if intervention complaints not answered) Report on compliance with <i>Religious Broadcasting Policy</i>
Salt and Light Catholic Foundation Salt + Light	Two-year renewal
World Media Ministries Daystar	Full term less one year – except that licensees' very high technical expenditures and low CPE require explanation and discussion: therefore adjourn this proceeding and

¹²⁷ S. 10(a)

¹²⁸ S. 10(b).

Licensee and service	Forum recommendation
	combine with a future public hearing where CRTC Commissioners could engage the licensee Reports on closed captioning every 6-months until 2 years of compliance are demonstrated
ZoomerMedia Vision TV	Full term less one year Reminder to file complete returns on time
ONE	Full term less one year Reminder to file complete returns on time

2. *New policy for non-compliance in broadcasting*

144. Bearing in mind the looming transition from ‘conventional’ broadcasting to online platform-based services along with the ongoing requirement for the CRTC to enforce Parliament’s broadcasting policy for Canada, the CRTC should invite public comment on a regulatory approach for addressing regulatory contraventions by licensees.

3. *Include details of Part 1 non-compliance matters in Today’s Releases*

145. The Forum also notes that communities served by television programming undertakings may not always be aware that the undertakings’ renewals are being considered and that anyone may comment on these applications. At present the CRTC’s procedural rules stipulate that applicants must post their applications online and broadcast an announcement of their proceeding only when the CRTC holds a public hearing to consider their applications:

Rules Applicable to Public Hearings

Marginal note: Obligations of applicant

35 (1) **When a public hearing is held in respect of an application, the applicant must**

(a) no later than five days after the day on which the Commission posts the notice of consultation on its website, **post the notice or an electronic link to it on a page of their own website** that is accessible from the homepage of the website and keep it posted until the deadline for intervening in the proceeding; and

(b) give notice of the notice of consultation in any manner that the Commission directs, including through broadcast over the applicant’s facilities or by service to any person that the Commission directs, which notice must set out

(i) the nature of the matters to be considered,

(ii) the deadline for intervening in the proceeding, and

(iii) the date and time of the commencement of the hearing.

Marginal note: Obligations of licensees and telecommunications service providers

(2) When a public hearing is held in respect of a regulatory policy, the Commission must determine, if it is in the public interest to do so, which licensees and telecommunications service providers must fulfill the obligations set out in subsection (1).

146. While the CRTC issued a notice of consultation in connection with the Part 1 applications addressed in this intervention, it did not state clearly that it would hold a public hearing. It said instead that it might – or might not – hold a hearing:

[i]n instances where the Commission deems it appropriate, some renewal applications may be published as part of a notice of consultation or notice of hearing.¹²⁹

147. The Forum’s concern is that applicants whose television licence renewal applications are being considered through a Part 1 process that does not specifically require a public hearing, may not have broadcast notifications of this process to the communities they are licensed to serve. The absence of notifications means that people may be unaware that they could share any concerns they have with the CRTC. Moreover, the absence of notification and the potential this raises for limiting public comment creates the appearance of a two-tiered regulatory approach: broadcast announcements required from larger broadcasters whose applications are then noticed, and no announcements required from smaller ones whose applications receive little notice.
148. Section 35 of the CRTC’s rules should be amended to require all applicants seeking renewals to broadcast notifications of their applications and the right of members of the public to comment on the applications.
149. The CRTC should also consider including details of Part 1 applications on its ‘Today’s Releases’ page, when it posts the applications and these involve applications to renew the licences of radio or television programming undertakings.

4. *CRTC could offer online workshops to non-profit and small for-profit broadcasters to prepare them for the Annual Return process*

150. The Forum has proposed that very small television broadcasters that cannot materially contribute to the achievement of Parliament’s broadcasting policy be exempted from the Part 2 licensing requirements of the *Broadcasting Act*.
151. Whether the broadcasters are or are not exempted, the CRTC ought to invite very small licensees to online workshops to help them prepare for the annual return process by explaining the CRTC’s requirements and answering any questions. Such workshops may help to minimize their regulatory non-compliance in the longer run, in turn reducing the CRTC’s workload.

*** End of document ***

¹²⁹ *Call for licence renewal applications: Submission of renewal applications for the broadcasting licences of television services expiring 31 August 2020*, Broadcasting Notice of Consultation CRTC 2019-192 (Ottawa, 3 June 2019) <https://crtc.gc.ca/eng/archive/2019/2019-192.htm>, at para. 5.