

19 October 2020

Claude Doucet Via GC Key

Secretary General

CRTC

Ottawa, ON K1A 0N2

Dear Secretary General,

**Re: *Call for comments on an application by the Canadian Association of Broadcasters requesting regulatory relief for Canadian broadcasters in regard to the COVID-19 pandemic*, Broadcasting Notice of Consultation CRTC 2020-336 (Ottawa, 17 September 2020), https://crtc.gc.ca/eng/archive/2020/2020-336.htm?\_ga=2.20536190.73343484.1600965043-1211976415.1582553073**

The Forum for Research and Policy in Communications (FRPC) is pleased to submit its comments in the above-noted proceeding; if the CRTC decides to hold a public hearing the Forum would appreciate the opportunity to appear.

If you have any questions or encounter any difficulty in opening the document, please contact the undersigned

Sincerely yours,



Monica L. Auer, M.A., LL.M. [execdir@frpc.net](mailto:execdir@frpc.net)

Executive Director

Forum for Research and Policy in Communications

Ottawa, Ontario

c. Ms. Lenore Gibson,

Chair, Canadian Association of Broadcasters

Care of: sbissonnette@cab-acr.ca



**Regulatory relief for Canadian broadcasters:**

**Reporting, transparency, enforcement and results**

*Call for comments on an application by the Canadian Association of Broadcasters requesting regulatory relief for Canadian broadcasters in regard to the COVID-19 pandemic*, Broadcasting Notice of Consultation CRTC 2020-336 (17 September 2020)

Comments by the Forum for Research and Policy in Communications (FRPC)

19 October 2020

M.L. Auer

Executive Director

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**Acronyms**

BDU Broadcasting Distribution Undertaking

CAB Canadian Association of Broadcasters

CBSC Canadian Broadcast Standards Council

CRTC Canadian Radio-Television Commission (to 1975); Canadian Radio-television and Telecommunications Commission (since 1976)

FRPC Forum for Research and Policy in Communications (FRPC)

LMA Local Management (or sales) Agreement

OLMC Official language minority community

OTA over-the-air (*i.e.*, radio or television services whose broadcast signals can be obtained by radio or television sets)

TV Television

# Executive summary

1. This proceeding addresses an application by the Canadian Association of Broadcasters (CAB) made in light of the current Covid-19 pandemic and seeking reduced regulatory oversight and regulation for private radio and television broadcasters. The Forum for Research and Policy in Communications (FRPC) is intervening to offer support for a temporary modification of the CRTC’s current approach to broadcast regulation.

## The regulatory relief sought by CAB: suspension of CRTC’s supervisory role and approval of *de facto* amalgamation

1. The CAB is asking the CRTC to change its policies for non-compliance and its regulations for local management/sales agreements (LMAs). Specifically, the CAB wants the CRTC to ignore private broadcasters’ failures to meet their current regulatory obligations due to the Covid-19 pandemic, and permit them to establish LMAs with little or no oversight. CAB argues that without this relief private broadcasters are likely to close at least 50 of Canada’s 737 radio stations.
2. Five aspects of CAB’s application are noteworthy. **First**, CAB essentially asks the CRTC to grant Canada’s largest broadcasters the same relief it grants to Canada’s smallest, independent broadcasters, although the former were approved by the CRTC precisely to support weaker programming services; in 2017/18 Canada’s five largest broadcasters in the radio, television and discretionary sectors controlled, respectively, 65%, 91% and 79% of those sectors’ revenues. **Second**, the CAB’s application offers next to no evidence to support its application or to show the cumulative impact of its requests on private broadcasters’ financial position and ignores the possibility that ownership groups with discretionary income could allocate some of that income to support conventional programming services. **Third**, in asking the CRTC to ignore its legal mandate to supervise broadcasters and the public to accept the loss of significant levels of Canadian programming expenditures and hours of exhibition, CAB has not clearly stated what Canadians or the CRTC will gain in return – such as clear and enforceable commitments to provide specific weekly hours of original local news during and after the current health crisis; the resumption of specific levels of Canadian programming expenditure and programming of national importance; and new employment opportunities following the pandemic. **Fourth**, it is unclear whether the CRTC has the discretion required to enable it to limit its legal mandate to regulate and supervise the broadcasting system as the CAB suggests.
3. Finally, the CAB has not clearly established how Canadians will benefit from the CRTC’s approval of its application. As it currently stands approving the application would grant private broadcasters significant regulatory relief with few discernible benefits for Canadians: Canada’s radio and television program production sectors would be left further behind than before the pandemic began, Canadian communities would lose access to original and diverse sources of broadcast news, Canadian television programming would become less accessible and Canadians would lose employment opportunities.
4. The CRTC should instead temporarily permit some of the changes sought by the CAB, in exchange for clear undertakings to return to the pre-Covid-19 position regarding regulation, compliance, and Canadian programming. It should deny all requests to reduce the accessibility of Canada’s broadcasting system. The CRTC should require further information, and more information filed more frequently over the next several years, to ensure that changes made serve the public interest, and are reversible.

## Key first principles

1. The Forum respectfully submits that when it deals with CAB’s application the CRTC must protect four critical principles – first principles, so to speak. The Commission’s response must protect Canadian ownership, Canadians’ access to high-quality and diverse journalism, Canadians’ employment opportunities and accessibility of the broadcasting system for all Canadians.

## Conditions for granting regulatory relief

The Forum supports the granting of regulatory ‘relief’ by the CRTC to private radio and television broadcasters, with conditions related to lawfulness, outcomes, eligibility, transparency, duration and accountability.

1. **Lawfulness**: it is unclear whether the CAB, in arguing that the CRTC should effectively suspend its current approaches to broadcasters’ non-compliance, has considered whether the *Broadcasting Act* permits the Commission to suspend or weaken its mandated supervisory role.
2. **Expected outcomes**: If the CRTC considers that it may suspend current parts of its supervisory responsibilities it must set out the reasons for, and the benefits that Canadians will obtain from, this suspension. Setting out these benefits – in the Forum’s view, the continuation of specified levels of original local news and station employment levels – will inform Parliament about the actions of its administrative delegate, will ensure that the public interest is served, and will enable evaluation of the impact of approving some or all of the CAB’s application.
3. **Eligibility**: if the CRTC decides to approve any or all of the CAB’s application, it must limit the application of regulatory relief to those who need it most. The CAB appears to argue that all broadcasters should be eligible to benefit from regulatory relief, an argument that flies in the face of the *Broadcasting Act*’s emphasis on the circumstances of individual licensees*,* the broadcasting industry’s current highly concentrated ownership structure, the access of Canada’s largest ownership groups to revenue from discretionary programming services. The CRTC must instead focus any regulatory relief where it is most needed: on independent or small broadcasters that provide the CRTC with evidence as to their incapacity to continue to operate without the relief sought.
4. **Full, public transparency**: if the CRTC decides to grant any broadcasters regulatory relief, it must require private broadcasters to provide specific information to the CRTC before, during and after the period in which relief is granted. The Forum submits that the public interest requires the Commission to publish that information so that Canadians may evaluate the impact of the relief granted. If the CRTC and Canadians lack objective information about broadcasters’ compliance with the *Broadcasting Act* and the CRTC’s regulations before regulatory relief is granted, it will be impossible going forward to evaluate the impact of the relief granted.
5. **Clearly limited duration**: If regulatory relief is granted, arguments will inevitably be made for temporary relief measures to become permanent. The CRTC must clearly state that the relief granted is temporary, lasting only to the end of their current licence term. Broadcasters that believe they have a case for extending such relief may, of course, always make their case to the CRTC by stating their argument based on facts.
6. **Actual accountability**: if the CRTC grants individual broadcasters temporary relief the Commission must hold these broadcasters to account if they subsequently reduce service, eliminate employment opportunities, transform stations into rebroadcasting undertakings, sell and/or close stations.
7. Finally, the Forum respectfully submits CRTC must provide Canadians with the assurance that as matters progress it will consider a new approach to the issue of broadcast ownership and prepare itself for worst-case scenarios involving the bankruptcy and/or closure of radio or television undertakings.
8. The best case for Canadians, of course, would be that all broadcast programming services survive over the next five years. The worst case for Canadians, however, would happen if smaller broadcast ownership groups decide they can no longer operate, and sell their assets to Canada’s largest vertically integrated ownership groups: Canadians would then lose access to diverse news sources – one of the many outcomes that consolidated media ownership was supposed to deliver. The CRTC must begin – if it has not already done so – to establish a post-pandemic regulatory framework focused on serving the public interest in diverse news content broadcast by Canadians for Canadians.

# Introduction: a crisis in Canadian broadcasting

1. On 13 July 2020 the Canadian Association of Broadcasters (CAB) applied to the CRTC seeking emergency relief, primarily for Canada’s private radio and television stations, in light of the Covid-19 crisis. The CRTC called for comments on the CAB’s application on 17 September 2020.

## The unusual context of this proceeding

1. History shows that every society has endured crises. It is now generally accepted that a crisis consists of an unanticipated event, a serious threat to well-being and a short time for responding to the threat.[[1]](#endnote-2) The World Health Organization announced a global pandemic in early March 2020,[[2]](#endnote-3) when Canadian cases of Covid-19 were beginning to climb.[[3]](#endnote-4) States of emergency were declared across Canada by 22 March 2020.[[4]](#endnote-5) Since then nearly 10,000 people have contracted and died of the virus in this country.[[5]](#endnote-6)
2. Measures taken to limit people’s exposure to the virus resulted in a 1.7% reduction in real output in Canada’s economy and a 5.6% reduction in hours worked in the first three months of the year.[[6]](#endnote-7) In April 2020 Canada’s real Gross Domestic Product fell 11.6%.[[7]](#endnote-8)
3. The decrease in GDP matters to Canadian broadcasters because for decades changes in economic growth have been reflected by changes in conventional radio and television advertising revenues.[[8]](#endnote-9) Overall, 97% of the changes in their radio advertising revenues correlate with changes in GDP; these revenues began to decrease in 2016, however: Appendix 1. The relationship between changes in GDP and conventional television advertising revenues is weaker than for radio, and was severed almost a decade ago: Appendix 2.
4. The CAB’s application – focussed on privately owned, conventional radio and television stations*[[9]](#footnote-1)* – does not clearly state the overall impact so far on private broadcasters. the Forum estimates somewhat simplistically (based on the CRTC’s estimates of five-year compound annual growth rates for privately controlled radio and television stations) that but for the Covid-19 crisis, total conventional broadcast revenues in 2019/20 might have amounted to just under $3 billion: Table 1.

Table Private conventional TV and radio, projected revenues for 2019/20

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **$ millions** | **Total revenues**  **(2018/19)** | **CAGR (Compound annual growth rate) – 2015 to 2019** | **Pre-Covid-19 projection**  **for 2019/20** | **Difference** |
| Radio stations | $1,453.0 | -2.4% | $1,418.1 | -2.4% (-$34.9) |
| Television stations | $1,553.6 | -3.0% | $1,507.0 | -3.0% (-$46.6) |
| **Total** | **$3,006.60** |  | **$2,925.10** | **-2.7% (-$81.5)** |
| Sources: CRTC, statistical and financial summaries for private radio and conventional private television | | | | |

1. The reduced services or closures of many businesses across Canada led Parliament to offer financial assistance through the Canada Emergency Response Benefit, the Canada Recovery Benefit, the Canada Emergency Wage Subsidy and, from Canadian Heritage, the $500 million Emergency Support Fund. Some of this financial support is available to and, as we understand it, has assisted some of Canada’s private broadcasters.
2. But Canada is now entering the eighth month of widespread social and economic disruption caused by the global health pandemic, and the Federal government believes that Canada will be hit – or has already begun to be hit – by a ‘second wave’ of the pandemic by mid-October 2020.[[10]](#endnote-10) Whether the country is or is not in a ‘true’ crisis[[11]](#endnote-11) few would argue that Canadian society and the economy will be subject to turmoil for many more months. Canadian broadcasters and the communities they serve will also continue to be affected by the pandemic, and the Forum supports efforts to minimize the pandemic’s impact on individuals, communities and businesses.

## Impact of the pandemic on Canada’s private broadcasting system

1. Like every other sector of the economy, Canada’s broadcasting sector has suffered. On 24 March 2020 the Canadian Association of Broadcasters (CAB), which represents many of Canada’s privately owned radio and television programming services, informed the Federal Cabinet Ministers and the CRTC’s Chairperson that broadcasters’ advertising revenues had decreased by 20% or more, and that it expected further decreases in the order of 50% to 75%.[[12]](#endnote-12) (CAB’s application does not identify the basis of these decreases – month to month, year to year.) It proposed nine measures to avoid station closures, the loss of local media presence and increased unemployment, including the suspension of broadcast licence fees.[[13]](#endnote-13)
2. The CAB’s July 2020 application does not set out clear estimates of the overall impact of the pandemic. It notes that private radio advertising decreased 56.9% from May 2020 to June 2020 while private TV advertising decreased 50.4% from April 2020 to May 2020, and notes that CAB’s members have reported reduced “advertising bookings for the first quarter of the 2020-2021 broadcast year”.[[14]](#endnote-14)
3. CAB then also says that private local broadcasters have continued operating deficits of approximately $50 million per month.[[15]](#endnote-15) An August 2020 report posted on the CAB’s website projects advertising revenue losses of $538 million for private radio and $527 million for private TV (or $1,065 million in total) from 2020-2022.[[16]](#endnote-16)
4. As it somewhat unclear what losses CAB is projecting for 2021/21 the Forum reviewed the CRTC’s 2018/19 financial summaries. They show that on average private radio stations earned $121 million in advertising revenues per month, while private television stations earned on average $110 million per month: Table 2**Error! Reference source not found.**.

Table Private radio and television stations’ revenues in 2018/19

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Revenue – 2018/19 broadcast year** | **Radio** | **%** | **TV** | **%** |
| Local Time Sales | $934,744,367 | 64.3% | $273,144,871 | 17.6% |
| National Time Sales | 494,180,738 | 34.0% | 1,048,719,581 | 67.5% |
| Subtotal, advertising revenue | 1,453,009,974 | 98.3% | 1,321,864,452 | 85.1% |
| Ad revenue - average per month | $121,084,164 |  | $110,155,371 |  |
| Network payments |  |  | 109,382,942 | 7.0% |
| Infomercials |  |  | 13,685,583 | 0.9% |
| Syndication-Production | 7,141,287 | 0.5% | 5,928,990 | 0.4% |
| Independent Local News Fund |  |  | 21,216,219 | 1.4% |
| Government/Corporate Grants | 4,514,543 | 0.3% | 247,001 | 0.0% |
| Other Revenue | 12,429,039 | 0.9% | 81,283,284 | 5.2% |
| **Total Revenue** | **$1,453,009,974** | **100.0%** | **$1,553,608,471** | 100.0% |
| Source: CRTC statistical and financial summaries | | | | |

1. The CAB has provided some information about changes in private broadcasters’ advertising income. Applying this information to private television and radio broadcasters’ 2018/19 advertising revenues/month offers an estimate of these broadcasters’ monthly advertising revenues in 2019/20: this estimate indicates that advertising revenues of Canada’s private radio and television broadcasters may decrease by 35% to 40%, respectively, for radio and television: Appendix 3. Assuming that all components of private broadcasters’ revenues decrease to the same degree, private broadcasters may be facing a loss of $896 million in the 2019/20 broadcast year, a 30% decrease from 2018/19: Table 3.

Table Estimated decrease in conventional advertising revenues in 2019/20

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **$ millions** | **Pre-Covid-19 projection**  **for 2019/20** | **Estimated decrease in revenue (%)** | **Decrease, applied to**  **pre-Covid-19 projection** | **Result** |
| Radio stations | $1,418.1 | - 35.5% | ($302.6) | $1,115.5 |
| Television stations | $1,507.0 | - 39.4% | ($593.8) | $913.2 |
| **Total** | **$2,925.10** | **-30.6%** | **($896.3)** | **$2,028.8** |

1. The scale of this revenue loss with respect to conventional radio and television stations will have implications for the entire broadcasting sector and its non-licensed stakeholders, including employees and stakeholders in the production sector. Insofar as Canadian programming is concerned, expenditure levels have only just been recovering from significant decreases around 2010: Appendix 4. As for employment, full-time or equivalent employment opportunities have been declining in conventional broadcasting since the early 2000s: Appendix 5.
2. Canada’s private radio and television sectors clearly face significant financial challenges in both the 2019/20 and 2020/21 broadcast years. We believe it is also likely that these challenges will linger well into and perhaps even beyond the 2021/22 broadcast year.[[17]](#endnote-17)
3. At the end of March 2020, Canadian Heritage announced that the CRTC would not require broadcasters to pay an estimated $30 million in annual licence fees.[[18]](#endnote-18) It is unclear to what degree the Federal government is considering the other eight measures proposed by the CAB. Taking the licence fee reduction into account might reduce the total loss faced by radio and TV broadcasters by 3%, from $896 million to $866 million.
4. Faced with continued uncertainty (like everyone else in Canada), it is unsurprising that in mid-2020 the CAB asked the CRTC to change its policies and regulations for all private radio and television programming stations. (The Forum distinguishes between stations licensed to transmit to and serve individual communities in Canada, and programming services whose services are transmitted across several regions of or the entire country, and for the most part are not licensed to serve individual communities.) The CRTC has granted Canada’s private TV broadcasters regulatory flexibility in the past – see Appendix 6 – but neither the CRTC, Canadian broadcasters or their audiences have faced a similar level of financial turmoil. Covid-19’s impact on Canada’s economy will be unique.
5. In the remainder of this intervention the Forum addresses CAB’s requests and the evidence it offered to support the requests. The Forum’s answers to the CRTC’s questions are set out in Appendix 11.

# CAB’s application: exceptional times require an exceptional approach

1. The CAB’s 13 July 2020 application seeks “emergency regulatory relief”[[19]](#endnote-19) and an expedited CRTC process to address the consequences of the 2020 Covid-19 global pandemic for radio and television broadcasters.[[20]](#endnote-20) While the *Rules* expressly permit the CRTC to dispense with or vary its *Rules*,[[21]](#endnote-21) they do not address expedited applications.[[22]](#endnote-22) The CRTC did not grant the CAB’s request for expedited relief but instead published a notice of consultation dealing with the application on 17 September 2020, and published the application itself the following day.
2. The Forum’s comments on the CAB’s application are made in terms of the requirements of the CRTC’s *Rules of Practice and Procedure* which require applicants to submit the grounds for and facts of their requests[[23]](#endnote-23)and require the Forum to state relevant facts and grounds for its support of or opposition to the CAB’s application.[[24]](#endnote-24) In addition to the CAB’s application, the Forum’s intervention takes note of information published on 24 August 2020 which was posted on the CAB’s website.[[25]](#endnote-25) (In this context we note that while the CRTC’s *Rules* do not set out specific requirements for expedited Part 1 applications, they require applicants to post their applications online or set out the online address where the applications may be found. The CAB’s application did not specify the online address where it could be found, nor does the CAB’s website appear to have a copy of the application posted: Appendix 7.)

## The overall impact of the Covid-19 pandemic on conventional broadcasting

1. The CAB’s application says that while radio has maintained 85% of its reach and TV viewing has grown,[[26]](#endnote-26) private radio advertising decreased 56.9% from May 2020 to June 2020 and private TV advertising decreased 50.4% from April 2020 to May 2020. It says that private local broadcasters have continued operating deficits of approximately $50 million per month.[[27]](#endnote-27) As noted previously the CAB’s application does not estimate the full scope of private broadcasters’ reduced revenues in the 2019/20 broadcast year.
2. Based on the evidence provided by CAB, the Forum’s analysis (above, at paragraphs 13 to 15) and the ongoing nature of Canadian efforts to contain the Covid-19 virus, the Forum agrees that Canada’s private radio and television sectors face significant financial challenges in both the 2019/20 and 2020/21 broadcast years. Despite some recovery in Canada’s economy in general we believe these challenges will linger for at least the first half of the 2021/22 broadcast year.

## Specific requests made by the CAB

1. Briefly, the CAB states that it is not asking the CRTC to amend or suspend broadcasters’ conditions of licence[[28]](#endnote-28) but to use “[a]n exceptional approach … to address an exceptional situation”[[29]](#endnote-29) by ignoring private broadcasters’ non-compliance with the CRTC’s requirements and by facilitating private broadcasters’ LMAs. The CAB asks that the CRTC grant flexibility for exhibition and other regulatory requirement, and that it adopt different practices and policies for breaches of conditions of licence or regulations arising from the pandemic,[[30]](#endnote-30) “limited to the 2020 broadcast year and designed to minimize the need for further relief in the 2021 broadcast year.”[[31]](#endnote-31) The CAB says that adopting such practices and policies would not fetter the CRTC’s discretion to sanction any broadcasters it may ultimately deem have acted in bad faith.”[[32]](#endnote-32)
2. The CAB argues that without such changes the broadcasting industry will continue to endure uncertainty, hindering broadcasters’ recovery plans.[[33]](#endnote-33) If the CRTC does not act there may be “unnecessary[[34]](#endnote-34) job losses and station closures”, news and information programming may disappear, and the Commission may receive “a wave of individual applications for relief”.[[35]](#endnote-35) The CAB’s application estimates that 50 or more private radio stations may close in the few months after July 2020, pointing to AM stations in larger locations and radio stations operated by Canada’s smallest broadcasters.[[36]](#endnote-36) It noted that when it filed its application in mid-July 2020 two radio stations had already closed and that three broadcasters had announced “cuts and layoffs”.[[37]](#endnote-37)
3. Indeed, a report dated 24 August 2020 which is posted on the CAB’s website[[38]](#endnote-38) estimates that

* Local private broadcasters may experience a shortfall of more than $1 billion in advertising revenue “between 2020 and 2022”[[39]](#endnote-39)
* 50 of 737 radio stations may close before February 2021 and that 100 to 150 more may close between February 2021 and February 2022,[[40]](#endnote-40) and
* More than 40 or almost half of Canada’s private television stations may close before August 2023.[[41]](#endnote-41)

1. The report goes on to say that “[w]hile emergency assistance programs have helped” they address only an unknown part of broadcasters’ revenue losses.[[42]](#endnote-42)
2. The CAB’s application also argues that the CRTC will face a “significant administrative challenge” because “[h]undreds of individual licensee applications for relief could potentially be filed. The CAB did not explain why hundreds of individual licensee applications would be submitted to the CRTC in this matter, in light of the CRTC’s 20-year-old policy of licensing ownership groups,[[43]](#endnote-43) established to support conventional broadcasting services as discretionary programming services grew in popularity. (It is perhaps more likely that if it does not develop an approach to deal with the broadcasting sector’s financial crisis that the CRTC could receive dozens of applications for regulatory relief from broadcast owners: Appendix 8.)[[44]](#endnote-44)
3. Altogether the CAB proposes six types of changes to address private broadcasters’ concerns. These are discussed below.

### Local Management / sales Agreements (LMAs)

1. LMAs are negotiated between radio stations so that management and sales resources can be shared. In 1999 the CRTC set out its requirements for these arrangements:

* No change in effective control
* Maintenance of “distinct and separate programming and news services”
* Licensees maintain responsibility for management (including the program director, news director and any other related staff)
* Assets continue to be owned by the individual licensees
* Generally
* involve unprofitable stations
* no more than the number of undertakings that the CRTC’s ownership policy allows under common ownership (unless there are exceptional circumstances)
* limited to a specific term, and
* represent a temporary alternative business model that allows broadcasters to improve their performance.[[45]](#endnote-45)

1. The CAB argues that time for regulatory approval “and highly restrictive criteria” leave LMA’s out of reach of “highly at-risk stations”.[[46]](#endnote-46) It has not specified which of the CRTC’s criteria are highly restrictive.
2. The CAB asks that the CRTC to suspend its current restrictions on, and requirement for prior Commission approval of, LMAs for 18 months.[[47]](#endnote-47) The CAB notes that the CRTC’s current process for dealing with LMAs now takes four to eight months.[[48]](#endnote-48) It argues that at least 10 to 15 “local broadcast stations could be saved, and continue to provide some local programming and local news”.[[49]](#endnote-49) While noting the CRTC’s previous concerns that LMAs may reduce programming diversity and competition, the CAB argues that the exceptionality of the Covid-19 pandemic renders these concerns moot.[[50]](#endnote-50) In any event, says the CAB, the CRTC could continue to address complaints about LMAs.
3. While the CAB’s application refers to 20 LMAs involving its radio members,[[51]](#endnote-51) the CAB’s application does not estimate the financial savings that relaxing LMA criteria would yield or whether an increase in the number of LMAs would result in job losses. It is not clear whether the CAB is suggesting that LMAs be formed between radio and television stations, radio stations alone or television stations alone, or whether the CAB considers that these arrangements will remain temporary, or whether parties to an LMA could be profitable. It is also unclear who would submit complaints to the CRTC about LMAs, unless the CAB envisages regular notifications to the public that stations are being jointly operated, or where these complaints would actually be sent (to the CRTC?). it is unclear – given the CAB’s desire to minimize or eliminate reporting requirements – whether the CRTC would be able to determine that licensees had maintained separate responsibility for their respective news programs. Finally, it is also somewhat unclear from the CAB’s application whether or when it believes the CRTC ought to re-adopt its pre-Covid-19 approach to LMAs.
4. In the absence of the information set out above the Forum is unable to support this element of CAB’s application.

### Deemed compliance with CCD and other requirements

1. The CRTC sets both exhibition and expenditure requirements for radio and television licensees through conditions of licence. Although Parliament established that licensees that breach their conditions of licence may be guilty of an offence punishable on summary conviction and liable to thousands of dollars in fines,[[52]](#endnote-52) the CRTC instead relies on its own policy for radio licensees’ non-compliance utilizing regulatory and licensing requirements; it does not have a similar policy for television licensees’ non-compliance.
2. CAB argues in part that there are “unknown and potentially severe” legal, operational and financial consequences for non-compliance.[[53]](#endnote-53) It therefore asks the CRTC to adopt “a policy of deemed compliance” for expenditure requirements[[54]](#endnote-54) so that unless the CRTC has evidence of bad faith it would consider licensees compliant with their conditions of licence and with the CRTC’s regulations regardless of their actual expenditure levels (para. 22).
3. Specifically, it asks the CRTC in the case of radio to

* allow radio stations to reduce their overall Canadian content development (CCD) obligations for 2019/20 (para. 41) with ‘normal’ CCD payments resuming in 2020/21 (para 43)
* allow radio stations to carry forward to and use in 2020/21 any CCD payments that radio stations made in 2019/20 but which were not actually expended (para 40) journalism
* clarify radio broadcasters’ treatment of CCD expenditures (paras. 39-40).

1. From 2014 to 2018 private radio stations allocated an average of $48 million/year to (Appendix 9), which represents 8.7% of the $896 million in losses that private broadcasters now face.
2. Private television broadcasters’ expenditures on Canadian programming (CPE) and programming of national interest (PNI) may also be at risk. The CRTC currently tailors these requirements to the circumstances of individual licensees and implementation of Parliament’s broadcasting policy.[[55]](#endnote-55) Private television services are at present required to allocate a specified percentage of their previous year’s revenues to their current expenditures on Canadian programming, and may reduce spending by up to 5% in any given year provided they make up that short fall the following year. In 2018/19 private television station’s Canadian programming expenditures (CPE) amounted to $669 million: Appendix 9. The CRTC recently granted a request by Corus – made before the pandemic – to increase its allowable CPE reduction from 5% to 10%, but denied its request to make up the expenditure shortfall over the licence term on the grounds that this change would lead to excessive volatility.[[56]](#endnote-56)
3. The CAB appears to suggest not just that broadcasters are shifting some of these resources into local news, but also that they may also forgo some of these expenditures altogether.[[57]](#endnote-57) It raises the concern of ‘unknown and potentially severe’ legal, operational and financial consequences for non-compliance with requirements for CPE, PNI and CCD.
4. Insofar as potentially severe legal consequences for regulatory non-compliance are concerned, the Forum notes that the CRTC’s own policies and practices have for years sought to encourage regulatory compliance with a combination of short-term licence renewals and the denial of amendments sought to non-compliant broadcasters. The CRTC has used revocations and non-renewals very rarely,[[58]](#endnote-58) and to the best of our knowledge never without several attempts (through short-term renewals) to enable a broadcaster to become compliant. In the Forum’s view, past practice would seem to make it highly unlikely that the CRTC would decide to revoke or decline to renew a broadcaster’s licence for non-compliance resulting from the Covid-19 pandemic.
5. That said, it also seems unlikely that the CRTC would condone the complete cancellation of all CPE expenditures by private conventional television broadcasters in 2020/21 and 2021/22, not simply because this could have grave consequences for Canada’s program production sector, but because Canadians would then be deprived of the Canadian programming that the CRTC was established to protect.
6. The CAB also did not indicate how much money radio licensees would save by reducing their 2019/20 CCD expenditures, although as we show above, the complete cancellation of all CCD payments in 2019/20 would represent approximately $48 million or 8.7% of private broadcasters’ projected loss for that year. It remains unclear what impact the cancellation of these payments will subsequently have on the stakeholders and workers who might otherwise have benefitted from the payments.

### Replace local programming with group, regional or national programming

1. Requirements for private television stations to provide local programming are set by condition of licence. For English-language stations they vary from 7 hours/week (in small locations) to 14 hours/week (in larger locations), while French-language stations must provide a minimum of five hours of local programming per week.[[59]](#endnote-59) As for radio, commercial FM radio stations must devote one-third of the broadcast week to local programming if they want to solicit or accept local advertising,[[60]](#endnote-60) while commercial AM stations’ local programming requirements are set case by case.[[61]](#endnote-61) These requirements were established by the CRTC in response to concerns expressed by Canadian audiences about inadequate levels of local news.[[62]](#endnote-62)
2. CAB says initially that broadcasters have “shifted resources, including programming resources, to their news and information programming”[[63]](#endnote-63) although it does not quantify this shift in resources. It then asks that the CRTC recognize and permit CAB members to rely more heavily on group, regional or national programming to meet their local programming requirements (para. 44), and that the Commission “refrain from auditing broadcasters’ locally reflective news and local programming requirements for the latter half of the 2019-2020 broadcast year” (para. 47).
3. CAB did not clarify how much programming would be involved, and provided no evidence about the number of hours of local programming or original local news currently being produced and broadcast by Canada’s local television and radio stations. The CRTC does not publish this information either, although it receives reports from television broadcasters every month when they submit logs of their programming. In 2015 the Forum analyzed some of the logs submitted to the CRTC and found that CIVI-DT Victoria claimed a radio newscast from CFAX Victoria as original and local television news for the previous six years; we also found that both Rogers and CBC had begun to broadcast radio on their television news stations.[[64]](#endnote-64) In 2016 the Forum noted that several other cases when private TV stations rebroadcast local news from other stations.[[65]](#endnote-65) It is our understanding that the practice of swapping programming between radio and television stations has continued.
4. The CAB’s application has not provided evidence of the financial impact of reducing local programming. While the CRTC publishes information about private television broadcasters’ expenditures on local station productions, it only publishes total program expenditures for private radio stations. Using the same general approach as before – applying the 5-year CAGR percentage to the 2018/19 financial results reported by the CRTC, a 50% reduction in local radio and television expenditures could amount to $452 million in 2019/20: Table 4.

Table Estimated impact of CAB’s proposal on local programming expenditures

|  |  |  |  |
| --- | --- | --- | --- |
| **Expenditures ($ millions)** | **Radio** | **Television** | **Total** |
| Programming and production – 2018/19 | $488.0 |  | $488.0 |
| Local private TV station productions |  | $417.3 | $417.3 |
| 5-year CAGR % ($ value) | -1.1% ($5.4) | 1.2% (est’d) |  |
| Value based on CAGR % | ($5.4) | $5.2 |  |
| Projection for 2019/20 | $482.7 | $422.4 | $905.1 |
| **Local program expenditures –**  **if reduced by 50%** | **$241.3** | **$211.2** | **$452.5** |

1. This expenditure estimate does not address the impact of lost employment on Canadian households, communities and others of reduced local programming expenditures.
2. The Forum’s concern with the CAB’s proposal that the CRTC allow local television and radio stations to replace local programming with other programming that it transforms such cuts from being an “exceptional business decision to reduce the amount of local content aired”[[66]](#endnote-66) into a standard business decision that applies across the Board. Essentially, the CAB wants the CRTC and Canadians to accept that an unknown number of stations will reduce or replace an unknown level of local programming hours with an unknown level of programming from unknown other sources, to save an unknown amount of money. For the purpose of future planning, a greater degree of specificity would be useful. The CAB has also not indicated whether – or when – Canada’s licensees will commit to return local programming to local communities:[[67]](#endnote-67) time frames would offer some guidance, even if these are only estimates.
3. In the absence of greater detail the Forum is unable to support this element of the CAB’s application because it is unclear how many hours of local programming will be affected, how many jobs will be lost, whether broadcasters would agree to return to the *status quo ante*, and what conditions would govern such actions.

### No remedial action for underexpenditures going forward

1. Next, the CAB asks that the CRTC not require broadcasters to carry forward or make up under-expenditures or shortfalls for the 2019/20 broadcast year (para. 22), in the same way that “Canada’s airlines will not be expected to ‘make up’ flights that they cancelled during the pandemic in future years” (footnote 18).
2. It asks the CRTC to base expenditure requirements for the 2020/21 broadcast year on 2019/20 revenues (para. 22) if

* the 2020/21 broadcast year is not “worse for licensees in revenue terms than the 2019-2020 broadcast year and normal evolution of regulatory policy” (footnote 13)
* while “not forcing broadcasters to overspend on programming in the 2020-21 broadcast year when they are still facing up to 50% revenue declines” and
* not leaving them “with contingent liability for expenditure shortfalls that are impossible to make up over the licence term without destabilizing the sector even further” (para. 32).

1. In 2018/19 private television broadcasters spent $669 million on CPE. The CAB does not provide an estimate of the impact of its proposal on Canadian programming expenditures in 2019/20.
2. The Forum generally agrees with this approach, as long as those to whom it applies provide the CRTC with clear and measurable commitments for the resumption of pre-Covid-19 ‘normal’ expenditures and the projected duration of the temporary relief sought.

### Stop monitoring

1. The CAB asks that the CRTC not require broadcasters to track their reasons for non-compliance as this “takes resources away from operational priorities.”[[68]](#endnote-68)
2. The CAB also asks that the CRTC either not audit TV broadcasters locally reflective news and local programming requirements for the “latter half of the 2019-2020 broadcast year” in both non-metropolitan and metropolitan communities (paras. 45-47), or “treat all locally reflective news and local programming requirements as expectations subject to ‘should resources permit’ when assessing compliance” (para. 48).
3. Finally, the CAB asks that the CRTC not ask for additional information (para. 62).
4. The Forum is concerned that the CAB has not provided any estimates of the expenditures or employees required to provide such information, and has not explained why broadcasters would not themselves want to know what is happening at their stations and why.[[69]](#endnote-69) An important effect of this gap in facts is that it does not provide the CRTC with a strong evidentiary foundation to support its ultimate decision.
5. The Forum is equally concerned that granting this “stop-monitoring” element of the CAB’s application would prevent the CRTC from evaluating the impact of any policy it adopts to address the Covid-19 pandemic. A recent review by the Forum found that among the 3,154 tables, figures and infographics published in the twelve *Communications Monitoring Reports* issued by the CRTC from 2008 to 2019 there were only five (5) references to the hours of programming actually broadcast by radio and television services in Canada: see Appendix 10. As previously mentioned, some radio and television broadcasters have already adopted to some extent the practice of simulcasting radio programs on television, and television programs on radio; should the CRTC not be able to monitor such practices to evaluate their impact on diversity of news, including in particular the source and level of original hours of Category 1 news?
6. More seriously – and contrary to the CAB’s claim – the Forum submits that granting this request would effectively “fetter the CRTC’s discretion to sanction any broadcasters it may ultimately deem have acted in bad faith”:[[70]](#endnote-70) on what evidence could the CRTC then base a decision to sanction any broadcasters it ‘deems’ to have acted in bad faith?

### ‘Should resources permit’

1. The CAB suggests that the CRTC treat all other regulatory requirements for the 2019/20 year, such as new closed captioning standards, “as expectations subject to a should resources permit’” limitation (para. 49).
2. The CAB’s application does not explain the impact of this proposal on broadcasters’ financial position or employment levels, or on closed captioning. The CRTC’s financial summaries show that in 2018/19 private television broadcasters spent $6.9 million on closed captioning and described video. If broadcasters reduced this expenditure by half in 2019/20 – and it is unclear whether this is what the CAB is proposing, the amount would decrease to $3.4 million (representing 0.4% of the $896 million projected loss for 2019/20).
3. In the specific example of captioning, the Forum understands that almost all non-live programming acquired by broadcasters is captioned. Live programming – consisting generally of news and sports – presumably requires the expenditure of resources for captioning not only due to the CRTC’s long-overdue accessibility requirements, but also now because of the *Accessibility Canada Act*. In the absence of any evidence from the CAB about the savings represented by captioning and about the number of people who would be adversely affected by the loss of captioning, the Forum strongly opposes this aspect of CAB’s application.

## The Forum conditionally supports CAB’s application

1. Having reviewed the CAB’s application and the CRTC’s comments in BNoC 2020-336 the Forum strongly supports a measure of regulatory support to provide broadcasters with the flexibility to serve Canadian communities, while maintaining original local radio and television news and employment levels. That said, the Forum also strongly opposes any reductions in the accessibility of Canadian programming.
2. The Forum’s main concern with CAB’s application is that it provides little information about the impact of its proposals on broadcasters. A very rough estimate of the ideas proposed by CAB indicates that the measures it has proposed could address up to 96% of the losses it appears to be projecting for the 2019/20 broadcast year:

| **Regulatory relief** | **Estimated total ($M)** | **Cumulative total ($M)** | **% of loss** |
| --- | --- | --- | --- |
| Total projected loss in 2019/20 (see ¶12) | $896.30 |  |  |
| Suspension of broadcasters' licence fees (¶15) | $30.00 | $30.00 | 3.3% |
| LMAs - more flexibility (¶31) | Unknown | Unknown |  |
| CCD payments - cancellation in 2019/20 (¶36) | $48.00 | $78.00 | 8.7% |
| Replacement of local programming with other programming |  |  |  |
| Local programming - 50% reduction (radio) (¶47) | $241.30 | $319.30 | 35.6% |
| Local programming - 50% reduction (TV) (¶46) | $211.20 | $530.50 | 59.2% |
| CPE requirements, assuming a significant reduction |  |  |  |
| 50% reduction (¶53) | $334.50 | $865.00 | 96.5% |
| Reduce reporting requirements (¶¶54-56) | Unknown | Unknown |  |
| Adopt 'should resources permit' criterion (¶62) | $3.4 | $868.40 | 96.9% |
| **Total, regulatory relief – estimated financial impact** | **$865.00** | **$865.00** | **96.9%** |
| **Total projected loss in 2019/20** | **$896.30** |  |  |

1. The Forum therefore recommends that the CRTC adopt a plan to address the impact of the pandemic on Canada’s broadcasting system, to reduce uncertainty for broadcasters and Canadians alike. Before proceeding to develop that plan, however, the Forum respectfully submits that the CAB be asked for clarifications regarding the financial, employment and programming impacts of its application. While this proceeding is limited to consideration of the CAB’s application, any plan devised by the Commission to address the challenges facing Canadian broadcasters should encompass non-CAB members as well as the Canadian Broadcasting Corporation (CBC).[[71]](#endnote-71)
2. The change in the relationship between GDP and private conventional television stations’ revenues strongly suggests that while the pandemic is affecting these stations, other factors are also affecting their financial position, especially the unlimited operation of foreign online television services. These services are free to compete with Canadian television services for audiences because the CRTC cannot regulate them. The CRTC cannot regulate foreign online television services because the *Broadcasting Act* limits its authority to licensable broadcasting services and the current, 1997 *Direction* by Cabinet prohibits the CRTC from licensing foreign services. (Practically speaking the CRTC can only address the role of online foreign programming services if Cabinet changes the *Direction* to enable the CRTC to authorize the operation of foreign programming services in Canada.)
3. An important consequence of this legal catch-22 is that granting the CAB’s application may provide little or no benefit to Canada’s private television broadcasters: as indicated by Appendix 2, private television revenues are likely going to continue to decline, however the CRTC responds to this application. That said, millions of Canadian households rely on radio and television broadcasters for local news: the Forum agrees that the CRTC must ensure the continued availability of this important programming. The Forum is, however, troubled by the CAB’s overgeneralized approach to regulatory support and has therefore set out several recommendations below to address our concerns.

### The CRTC should focus on small private broadcasters

1. The CRTC has granted so many applications to transfer broadcasting licences – on the theory that larger ownership groups would save small stations – that Canada’s broadcasting system is among the most highly concentrated in the world. More to the point, five ownership groups in radio and television each control two thirds or more of the revenues in those sectors – 91% in the case of television, 65% in the case of radio and 79% in the case of discretionary television services: Table 5. Dozens of other broadcasters share in the revenues that remain.

Table Share of 2018 revenues of five largest ownership groups, by subsector

|  |  |  |  |
| --- | --- | --- | --- |
| **Sector** | **Revenue**  **($ billions)** | **5 largest ownership groups ($ billions)** | **Top 5 - % of total revenue** |
| Radio | $1.5 | $0.975 | 65% |
| TV | 1.5 | 1.365 | 91% |
| Discretionary | 4.2 | 3.342 | 79% |
| Source: 2019 *Communications Monitoring Report* | | | |

1. In 2016, however, the CRTC acknowledged that concentrated media ownership was supposed to ensure the availability of local news:

63. … the Commission noted that when it approved transactions that led to increased consolidation within the broadcasting industry, it was to create entities with the critical mass to ensure the production and promotion of diverse, high-quality Canadian programming and its distribution through conventional and digital media.**[[72]](#endnote-72)**

…

1. The CAB argues in part that “[e]veryone must operate (or note) based on a new set of economic realities”, [[73]](#endnote-73) implying that all broadcasters should be treated in the same way. Yet the CAB has not explained why Canada’s largest broadcasters should receive the same regulatory support as its smallest broadcasters. The Forum notes first, that support should be granted to broadcasters that need it most – and that have no other sources of income to support their programming services. To treat all broadcasters equally, regardless of their means, is to negate Parliament’s language in subsection 9(1)(b) of the *Broadcasting Act* (which requires the CRTC to set conditions based on the ‘circumstances’ – a broad concept – of individual licensees).
2. Second, the Forum submits that the CRTC should only grant regulatory support to the five largest ownership groups in each sector when those groups provide evidence that they are unable to use their own resources to maintain the stations. Ownership groups that decline to use their own resources to maintain their stations’ services should return the licence to the CRTC one year before they terminate the stations’ services; the CRTC should then invite applications for the licences from existing broadcasters and new applicants.

### Support granted must be lawful

As Parliament’s delegate the CRTC’s discretion is limited by its enabling statutes. The *Broadcasting Act* defines two specific roles for the CRTC: to regulate and to supervise all aspects of the broadcasting system. Though it is true that Parliament suggests that the “broadcasting system be regulated and supervised in a flexible manner” (subsection 5(2)) it is unclear whether that discretionary statement (using “should”) enables the CRTC to override the preceding mandatory statement (“shall”).

|  |
| --- |
| 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act**, 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, shall have regard to the regulatory policy set out in subsection (2).  [bold font added] |

1. The Forum’s view is that the CRTC may introduce temporary measures to address the circumstances of individual broadcasters, provided the available evidence enables it to determine that these measures will ultimately ensure that Parliament’s broadcasting policy’s statements regarding Canadian ownership and control, news, employment opportunities, the resources to be devoted to Canadian programming and licensee responsibility are respected:

|  |
| --- |
| 3 (1) It is hereby declared as the broadcasting policy for Canada that  (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians;  …  (d) the Canadian broadcasting system should  (i) serve to **safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada**,  …  (iii) **through … the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children,** …  (f) **each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming**, …  (h) **all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast**;  (i) the programming provided by the Canadian broadcasting system should  (i) be **varied** and comprehensive, providing **a balance of information, enlightenment and entertainment** for men, women and children of all ages, interests and tastes,  (ii) **be drawn from local**, regional, national and international **sources**,  …  (iv) **provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern ….** |

### Changes must not be permanent

1. The Forum’s third concern is that the measures taken by the CRTC must be temporary and must be clearly described as temporary. This is because, first, the CRTC’s measures were established on the basis of evidence and the Commission’s expertise – neither of which, one presumes, has changed permanently: the current crisis does not justify the permanent reversal of all CRTC policies.
2. Second, unlike the *Let’s Talk TV* proceedings which the CRTC promoted widely, it is unlikely that the majority of Canadians are aware of this proceeding, and its implications. Canadians should be granted a better opportunity to comment before *any* permanent changes are made which reduce the quality of service they now receive.
3. Third, making any measures flowing from this proceeding permanent risks the breach of Parliament’s objects for Canada’s broadcasting system.
4. Fourth – and while foreign ownership of Canadian broadcasting services is not yet under consideration by Parliament – if the legislature were to amend the *Broadcasting Act* before the expiry of any temporary measures taken as a result of this proceeding, non-Canadian broadcasters would understandably wish to be regulated on the basis of the ‘temporary’ relief measures rather than the higher standards that were previously established over the last fifty years.
5. At present the licences of a number of large and smaller ownership groups expire within the next two years: Table 6. The range of dates and the overarching uncertainty regarding the Covid-19 pandemic’s duration make it difficult to recommend any ‘best’ time for the CRTC to consider the cessation of any temporary measures granted in response to the CAB’s application. The CRTC has the authority and has in the past renewed licences administratively, meaning that the specific licence terms now in place do not in any way dictate the timing of the CRTC’s necessary and eventual review of any measures it decides to implement to support private broadcasting. The Forum suggests, however, that if the CRTC grants such measures it include provisions for a timely review of their impact – perhaps within the next year.

Table Expiry dates of ownership group licences

|  |  |  |
| --- | --- | --- |
| **Type of ownership group** | **Group and licensing decision** | **Licence term ends** |
| Multicultural services | Rogers (2020-254) | 31 August 2021 |
| French-language groups | Bell (2017-144)  Corus (2017-145)  Groupe V (2017-146)  Quebecor Media (2017-147) | 31 August 2022 |
| English-language groups | Bell (2017-149)  Corus (2017-150)  Rogers Media (2017-151) | 31 August 2022 |
| Independent television services | 2018-478:  Thunder Bay Electronics  Newfoundland Broadcasting  2190015 Ontario Inc.  0859291 B.C. Ltd.  Jim Pattison Broadcast Group | 31 August 2023 |
| Large radio ownership groups | Golden West (2017-211 – 4 stations) | 31 August 2024 |
| Golden West (2019-211 – 6 stations) | 31 August 2025 |
| Rogers (2020-164 – 16 stations)  Pattison (2020-161 – 9 stations)  Golden West (2020-138 – 5 stations) | 31 August 2027 |

# Appendices

[Appendix 1 Relationship between private radio advertising revenues and GDP 1](#_Toc54006640)

[Appendix 2 Relationship between private TV advertising revenues and GDP 2](#_Toc54006641)

[Appendix 3 Estimated impact of decreased private radio and television advertising (2019/20) 3](#_Toc54006642)

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[Appendix 6 CRTC regulatory flexibility and private conventional TV revenues, 1968-2019 6](#_Toc54006645)

[Appendix 7 CAB website 7](#_Toc54006646)

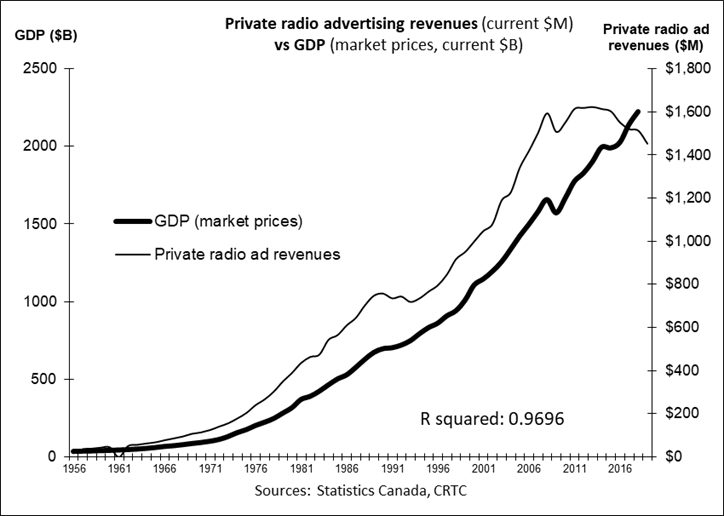
[Appendix 8 Private radio and television ownership groups, 2018 8](#_Toc54006647)

[Appendix 9 CCD and CPE expenditures 9](#_Toc54006648)

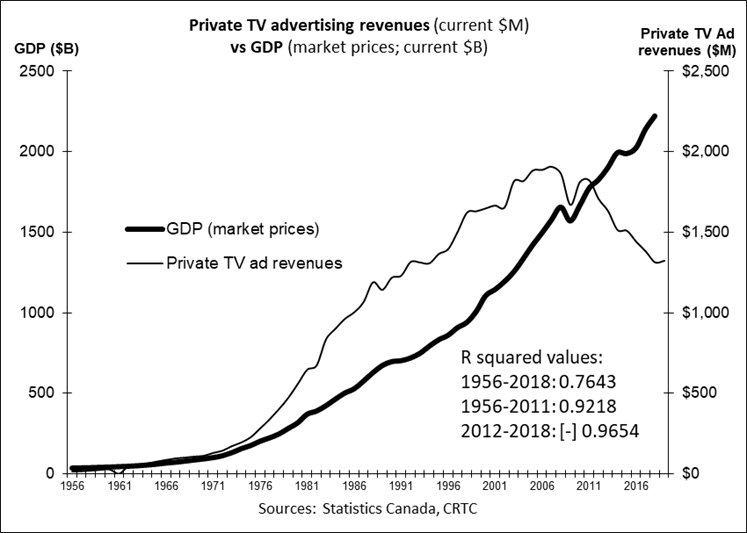
[Appendix 10 Tables and figures in the CRTC’s Communications Monitoring Reports, 2008-2019 10](#_Toc54006649)

[Appendix 11 FRPC’s answers to the CRTC’s questions 22](#_Toc54006650)

Appendix Relationship between private radio advertising revenues and GDP



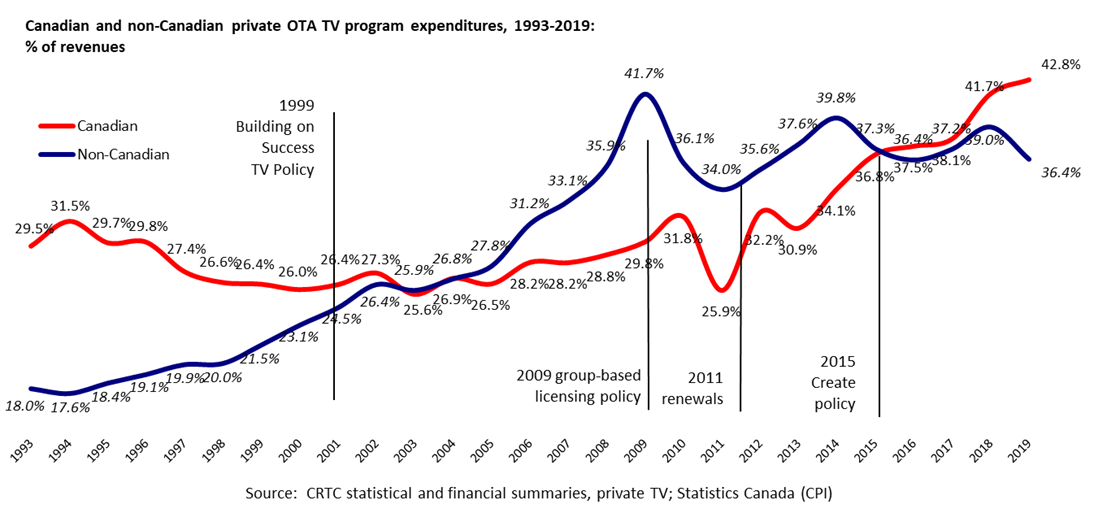
Appendix Relationship between private TV advertising revenues and GDP



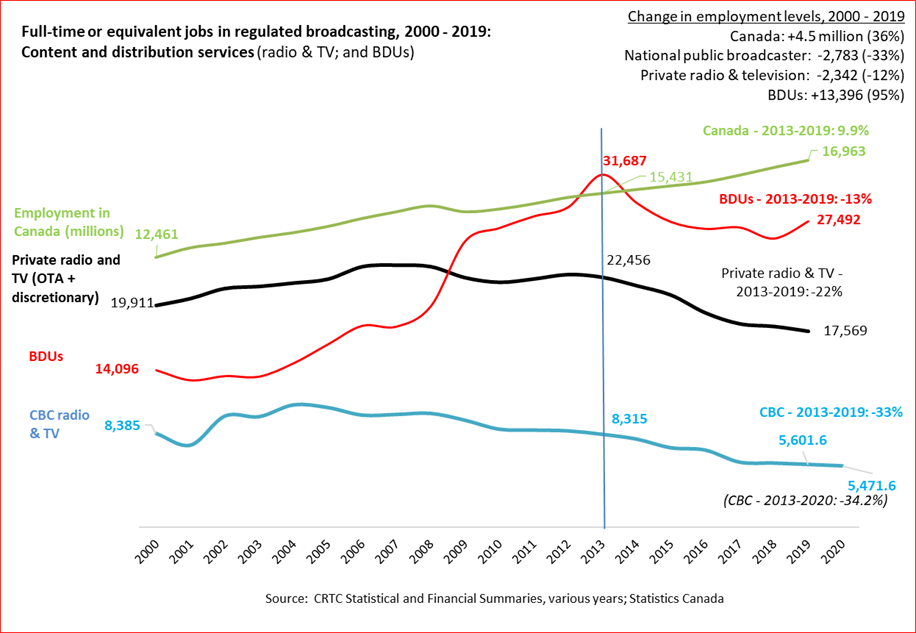
Appendix Estimated impact of decreased private radio and television advertising (2019/20)

|  | **Private TV** | **% change** | **Monthly ad’g revenue** | **Private radio** | **% change** | **Monthly ad’g revenue** |
| --- | --- | --- | --- | --- | --- | --- |
| 2018/19 ad’g revenue | $ 1,321.86 |  | $110.16 | $1,453.01 |  | $ 121.08 |
| Estimates for 2019/20 broadcast year | | | | | | | |
| Sept 2019 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Oct 2019 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Nov 2019 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Dec 2019 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Jan 2020 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Feb 2020 | $110.16 |  | $ 110.16 | $121.08 |  | $ 121.08 |
| Mar 2020 | $110.16 | -14.6% | $ 94.07 | $121.08 | -7.5% | $99.89 |
| Apr 2020 | $110.16 | -46.4% | $ 50.42 | $121.08 | -5.5% | $34.46 |
| May 2020 | $110.16 | -50.4% | $ 25.01 | $121.08 | -7.3% | $11.27 |
| Jun 2020 | $110.16 | -50.0% | $ 12.50 | $121.08 | -6.90% | $ 4.86 |
| Jul 2020 | $110.16 | -50.0% | $6.25 | $121.08 | -50.0% | $ 2.43 |
| Aug 2020 | $110.16 | -50.0% | $3.13 | $121.08 | -50.0% | $ 1.22 |
| **Total** | **$ 1,321.86** |  | **$ 852.32** | **$1,453.01** |  | **$ 880.64** |
| **Estimated decrease in advertising revenues compared to 2018/19** | | | **-35.5%** | **-39.4%** | | | |

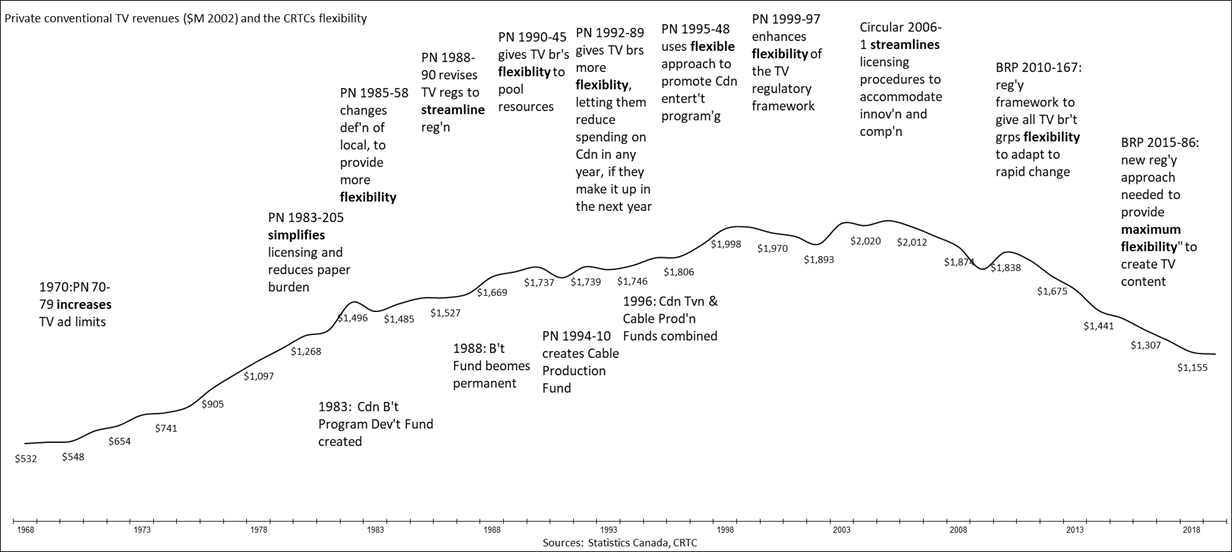
Appendix Private conventional TV expenditures on Canadian and non-Canadian programming, 1993-2019



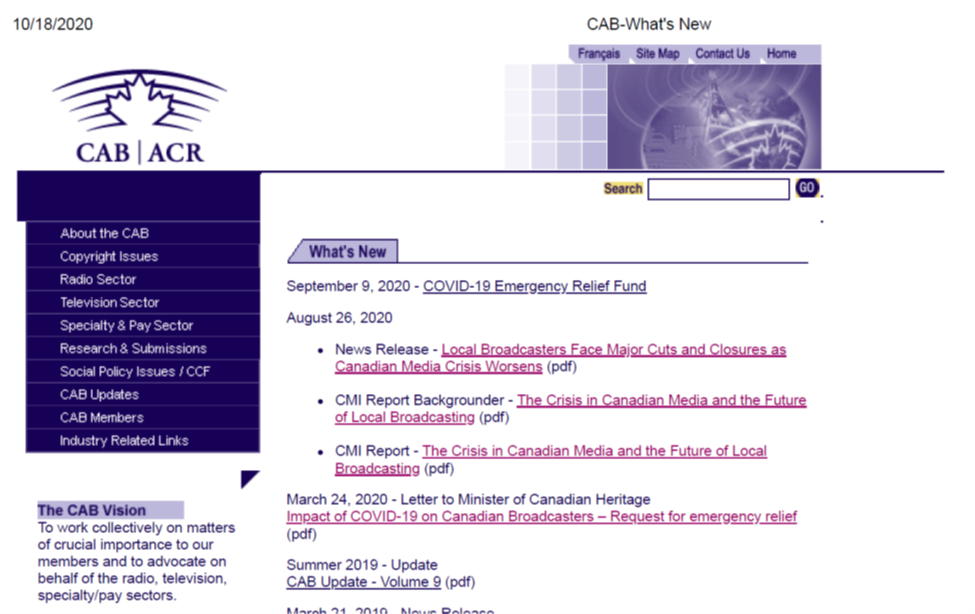
Appendix Employment in Canada’s regulated broadcast sector, 2000-2019



Appendix CRTC regulatory flexibility and private conventional TV revenues, 1968-2019



Appendix CAB website



Appendix Private radio and television ownership groups, 2018

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Radio** | **Television** | **Total** |
| Undertakings (stations) | 721 private stations | 93 reporting units | 814 stations/units |
| Total revenue (2018) | $1.5 billion | $1.5 billion | $3.0 billion |
| % of revenues of top | 5 groups: 65% - $975 million | 6 groups: 89% - $1.3 billion |  |
| # of stations of top | 5: 289 stations (65% of revenues) | 5: 69 stations (91% of revenues) |  |
| # ownership groups | 109 ownership groups | 5 + up to 24 owners of individual TV stns | 138 ownership groups (but some radio and TV stations have the same owner – ie, Bell and Rogers) |
| Sources: *2019 Communications Monitoring Report* at 123 (total revenue; owners’ revenues), 135-136 (radio ownership groups, number of stations), 177 (TV ownership groups) | | | |

Appendix CCD and CPE expenditures

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **CCD ($ millions)** | **2013/14** | **2014/15** | **2015/16** | **2016/17** | **2017/18** | **Average** | **%** |
| New stations | 8.9 | 6.8 | 3.7 | 2 | 2.2 | 4.72 | 9.8% |
| Licence renewals | 19.3 | 21.5 | 22.9 | 21.4 | 19.2 | 20.86 | 43.3% |
| Tangible benefits | 31.3 | 19.4 | 20 | 20.2 | 22.3 | 22.64 | 47.0% |
| **Total CCD expenditures** | **59.5** | **47.7** | **46.6** | **43.6** | **43.7** | **48.22** | **100.0%** |
| Total radio revenues | $1,613.5 | $1,602.3 | $1,550.5 | $1,520.6 | $1,513.1 |  |  |
| Source of 2013/14 – 2017/18 data, CRTC, *2019 Communications Monitoring Report*, Figure 5.3 | | | | | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **CPE ($ millions)** | **2014/15** | **2015/16** | **2016/17** | **2017/18** | **2018/19** |
| Canadian Programming Expenses (CPE) | $655.7 | $633.7 | $618.2 | $655.3 | $669.9 |
| CPE / Revenue (%) | 37.3 | 37.8 | 38.4 | 42.5 | 43.1 |
| Source: CRTC, Conventional Television: Statistical and Financial summaries for private conventional television, 2015 – 2019 | | | | | |

Appendix Tables and figures in the CRTC’s Communications Monitoring Reports, 2008-2019

| **CRTC Monitoring Reports, 2008-2019**  **Sector**  **CRTC concept**  Measure | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **Total** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Households** |  |  |  |  |  |  | **1** | **2** | **2** | **2** | **2** | **4** | **13** |
| **Demography** |  |  |  |  |  |  | **1** | **2** | **2** | **2** | **2** | **4** | **13** |
| First Nations |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Official language minorities |  |  |  |  |  |  | 1 | 2 | 2 | 2 |  | 1 | 8 |
| Rural |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 2 |
| Urban |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 2 |
| **Broadcasting** | **110** | **116** | **111** | **119** | **127** | **104** | **127** | **132** | **136** | **139** | **84** | **88** | **1393** |
| **Industry structure** | **6** | **11** | **9** | **8** | **7** | **7** | **11** | **15** | **13** | **12** | **6** | **20** | **125** |
| BDU community channels | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| BDUs |  |  |  |  |  |  | 1 |  |  |  |  | 2 | 3 |
| Broadcasting |  |  |  |  |  |  | 1 |  |  |  | 1 | 2 | 4 |
| CBC |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Official language minorities - radio |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Ownership | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 7 | 7 | 7 | 2 | 7 | 37 |
| Ownership transaction - benefits | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 24 |
| Performance indicators |  | 2 |  |  |  | 2 |  | 4 |  |  |  |  | 8 |
| Radio |  | 1 | 2 | 1 | 1 |  | 1 |  |  |  |  | 3 | 9 |
| Radio stations authorized |  | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 1 | 1 | 13 |
| Station formats | 2 | 2 |  |  |  |  |  |  |  |  |  |  | 4 |
| Subscriptions - BDUs |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 2 |
| Television |  |  | 2 | 2 | 1 | 1 | 4 |  |  |  |  | 1 | 11 |
| TV - discretionary |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| TV - HDTV |  | 1 |  |  |  |  |  |  |  |  |  |  | 1 |
| VOD |  |  |  |  |  |  |  | 1 | 1 |  |  |  | 2 |
| **Broadcast services** | **6** | **3** | **3** | **3** | **3** | **3** | **3** | **7** | **7** | **7** | **4** | **8** | **57** |
| Authorized broadcasting services | 6 | 3 | 3 | 3 | 3 | 3 | 3 | 5 | 5 | 5 | 4 | 4 | 47 |
| Authorized television services |  |  |  |  |  |  |  |  |  |  |  | 3 | 3 |
| Online video |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Subscriptions - Netflix |  |  |  |  |  |  |  | 2 | 2 | 2 |  |  | 6 |
| **Canadians' use** | **23** | **19** | **21** | **19** | **22** | **16** | **17** | **19** | **23** | **22** | **12** | **12** | **225** |
| Online activity | 2 | 1 | 1 | 1 | 2 |  | 1 | 2 | 2 | 3 | 3 | 3 | 21 |
| Tuning hours/share | 6 | 6 | 8 | 8 | 9 | 8 | 7 | 8 | 10 | 8 | 4 | 4 | 86 |
| Viewing hours/share | 15 | 12 | 12 | 10 | 11 | 8 | 9 | 9 | 11 | 11 | 5 | 5 | 118 |
| **Canadian content - program hours** | **1** | **1** | **1** | **1** | **1** |  |  |  |  |  |  |  | **5** |
| Priority programming hours | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| **Canadian content - financial support** | **11** | **11** | **11** | **10** | **10** | **15** | **17** | **19** | **20** | **20** | **9** | **11** | **164** |
| BDUs - recipients |  |  |  |  |  |  |  |  | 1 | 1 | 1 | 2 | 5 |
| BDUs - remittance to funds | 1 | 2 | 2 | 2 | 2 | 2 | 2 | 1 |  |  |  |  | 14 |
| Canadian content - expenditures | 1 |  |  |  |  | 1 | 1 | 1 | 1 |  |  |  | 5 |
| CCD | 2 | 2 | 2 | 2 | 2 | 4 | 4 | 7 | 7 | 7 | 1 | 1 | 41 |
| CPE | 5 | 5 | 5 | 5 | 5 | 6 | 8 | 7 | 8 | 8 | 4 | 4 | 70 |
| Ecosystem |  |  |  |  |  |  |  |  |  | 1 |  |  | 1 |
| Expenditures | 1 | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  | 6 |
| New Media funds | 1 | 1 | 1 |  |  |  |  |  |  |  |  |  | 3 |
| PNI |  |  |  |  |  | 1 | 2 | 2 | 2 | 2 | 1 | 1 | 11 |
| Recipients |  |  |  |  |  |  |  | 1 |  |  | 1 | 1 | 3 |
| Source |  |  |  |  |  |  |  |  | 1 | 1 | 1 | 2 | 5 |
| **Foreign content - financial support** | **1** | **1** | **1** | **1** | **1** | **1** | **1** | **2** | **2** | **2** |  |  | **13** |
| Expenditures | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 |  |  | 13 |
| **News** |  |  |  | **2** | **2** | **3** | **3** | **3** |  |  |  |  | **13** |
| LPIF |  |  |  | 2 | 2 | 3 | 3 | 3 |  |  |  |  | 13 |
| **Content - source** | **1** | **1** | **1** | **1** |  |  | **1** | **1** | **1** | **1** |  |  | **8** |
| Online audio - radio sources | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| Platforms |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| **Content distribution** | **1** | **1** | **1** | **1** | **1** |  |  |  |  |  |  |  | **5** |
| Diagram | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| **Affordability** |  |  |  |  |  |  | **2** | **2** | **2** | **2** | **2** | **1** | **11** |
| Prices - BDUs |  |  |  |  |  |  | 2 | 2 | 2 | 2 | 2 | 1 | 11 |
| **Financial performance** | **39** | **42** | **42** | **47** | **47** | **45** | **52** | **48** | **51** | **55** | **25** | **32** | **525** |
| BDU - affiliation payments | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 16 |
| EBITDA | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 |  |  | 14 |
| PBIT | 9 | 9 | 9 | 9 | 8 | 8 | 8 | 8 | 8 | 8 |  |  | 84 |
| Radio - non-commercial |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 2 |
| Revenue | 28 | 31 | 31 | 36 | 37 | 35 | 41 | 37 | 38 | 42 | 23 | 30 | 409 |
| **Dissatisfaction** | **6** | **8** | **4** | **6** | **6** | **7** | **10** | **9** | **10** | **10** | **11** | **2** | **89** |
| Complaints |  |  |  |  |  |  |  | 1 |  |  |  |  | 1 |
| Complaints - loudness |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Contacts (complaints) | 4 | 4 | 4 | 4 | 4 | 6 | 10 | 8 | 9 | 9 | 9 |  | 71 |
| Dispute resolution | 2 | 3 |  | 2 | 2 |  |  |  | 1 | 1 | 2 | 2 | 15 |
| Dispute resolution - procedures |  | 1 |  |  |  |  |  |  |  |  |  |  | 1 |
| **Technology - availability** | **1** | **2** | **2** | **1** | **1** |  |  |  |  |  |  |  | **7** |
| Audio | 1 | 1 |  |  |  |  |  |  |  |  |  |  | 2 |
| Audio (excl'g radio) |  |  | 1 | 1 | 1 |  |  |  |  |  |  |  | 3 |
| Television - digital |  | 1 | 1 |  |  |  |  |  |  |  |  |  | 2 |
| **Technology - use** | **14** | **16** | **15** | **19** | **26** | **7** | **10** | **7** | **7** | **8** | **3** | **2** | **134** |
| Audio - streaming |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Canadian adopters - time | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| Content - podcasts | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| Devices - mobile |  |  |  |  | 3 |  |  |  |  |  |  |  | 3 |
| Households - BDUs |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Households - digital |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Households - pay-TV |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Internet - % of Canadians |  |  |  |  | 2 |  |  |  |  |  |  |  | 2 |
| Internet - activities | 1 | 1 | 1 | 1 | 2 |  |  |  |  |  |  |  | 6 |
| Internet - applications - bandwidth | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| Internet TV - devices |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Music - downloading |  | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 3 |
| Music - downloading/streaming |  |  |  |  | 3 |  | 1 |  |  |  |  |  | 4 |
| Online TV - % of Canadians | 1 | 1 | 1 | 2 |  |  |  | 1 | 1 | 1 | 1 | 1 | 10 |
| Product life cycle | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| Radio - podcasts |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Radio - streaming |  | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 3 |
| Subscribers/subsciptions | 2 | 2 | 2 | 3 | 4 | 5 | 6 | 4 | 4 | 4 | 2 | 1 | 39 |
| Subscriptions - Netflix |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Technologies - audio | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Technologies - video | 1 | 2 | 2 | 2 | 2 |  | 2 | 1 | 1 | 1 |  |  | 14 |
| Technology - media |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Television - digital | 1 | 1 |  | 1 | 1 |  |  |  |  |  |  |  | 4 |
| Television - households |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| TV households |  |  |  | 1 |  |  |  |  |  |  |  |  | 1 |
| Usage - Internet | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| Video technology | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| Website visits | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  |  | 4 |
| Youtube & FB - monthly users |  |  |  |  |  |  |  |  |  | 1 |  |  | 1 |
| **Unknown (infographics - no description)** |  |  |  |  |  |  |  |  |  |  | **12** |  | **12** |
| Infographic - unlabelled |  |  |  |  |  |  |  |  |  |  | 12 |  | 12 |
| **Telecom** | **81** | **63** | **91** | **102** | **109** | **139** | **166** | **161** | **157** | **179** | **118** | **158** | **1524** |
| **Industry structure** | **8** | **6** | **10** | **9** | **10** | **10** | **17** | **14** | **6** | **6** | **4** | **14** | **114** |
| Alternative TSP - local lines | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 1 | 1 |  |  | 18 |
| Broadband - mobile |  |  |  | 1 | 1 | 1 | 1 |  |  |  |  |  | 4 |
| Connections - number |  |  | 1 | 1 | 1 |  |  |  |  |  |  |  | 3 |
| Internet - business |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Internet - residential |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Internet - retail - fixed |  |  |  |  |  |  |  |  |  |  |  | 3 | 3 |
| Lines - local - access |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Local lines - retail |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Market share | 4 | 3 | 5 | 4 | 4 | 5 | 4 | 3 | 3 | 3 | 2 | 3 | 43 |
| Mobile - retail |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Mobile wireless | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Networks - wireless |  |  |  |  |  |  | 1 | 1 |  |  |  |  | 2 |
| Performance indicators |  | 1 |  |  |  | 1 |  | 6 |  |  |  |  | 8 |
| Retail - data, private line |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Retail data & private line |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| Retail VOIP |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Retail wireline |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| Telecommunications |  |  |  |  |  |  | 3 |  |  |  | 1 |  | 4 |
| TSPs |  |  |  |  |  |  |  |  |  |  | 1 | 2 | 3 |
| Wholesale |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Wireless |  |  | 1 | 1 | 1 |  | 2 |  |  |  |  |  | 5 |
| Wireless - retail sector |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| WSPs | 1 |  | 1 |  | 1 |  |  |  |  |  |  |  | 3 |
| **Broadcast services** |  |  |  |  |  | **1** |  |  |  |  |  |  | **1** |
| Subscriptions - Netflix |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| **Availability - broadcasting** |  |  |  |  |  |  |  |  | **1** |  |  |  | **1** |
| Official language minorities |  |  |  |  |  |  |  |  | 1 |  |  |  | 1 |
| **Canadians' use** |  |  |  |  |  | **6** |  |  | **1** |  |  |  | **7** |
| Online activity |  |  |  |  |  | 3 |  |  | 1 |  |  |  | 4 |
| Tuning hours/share |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Viewing hours/share |  |  |  |  |  | 2 |  |  |  |  |  |  | 2 |
| **Affordability** | **4** | **3** | **2** | **2** | **2** | **4** | **14** | **13** | **15** | **25** | **10** | **21** | **115** |
| Broadband, wireline, wireless |  |  |  |  |  |  |  |  | 2 | 2 |  |  | 4 |
| Fair use policies - streaming |  |  |  |  |  |  |  |  |  |  | 1 |  | 1 |
| International comparison |  | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  | 5 |
| Internet - residental - speed - pricing |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Payphones |  |  |  |  |  | 1 | 1 | 1 | 1 | 1 |  |  | 5 |
| Price - BDU service |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Price - broadband |  |  |  |  |  |  | 1 | 1 | 1 | 3 |  |  | 6 |
| Price - telephony |  |  |  |  |  |  |  |  |  | 1 |  |  | 1 |
| Prices - basic local telephone |  |  |  |  |  |  | 2 | 2 | 2 | 2 |  |  | 8 |
| Prices - broadband |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| Prices - broadband - residential |  |  |  |  |  |  | 1 | 1 | 1 | 3 | 6 | 6 | 18 |
| Prices - communications |  | 1 |  |  |  |  |  |  |  |  | 1 | 2 | 4 |
| Prices - international | 3 |  |  |  |  |  |  |  |  |  |  |  | 3 |
| Prices - Internet |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Prices - Internet - residential |  | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 4 |
| Prices - telephony |  |  |  |  |  | 1 | 1 |  |  | 3 |  | 1 | 6 |
| Prices - wireless |  |  |  |  |  |  | 6 | 8 | 8 | 8 |  | 8 | 38 |
| Prices - wireline |  |  |  |  |  |  |  |  |  |  | 2 | 2 | 4 |
| Pricing - bundles |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| Pricing - Internet | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Pricing - wireless |  |  |  |  |  |  |  |  |  | 2 |  |  | 2 |
| **Competition** | **3** | **1** | **1** | **5** | **4** | **5** | **4** | **4** | **3** | **3** | **2** | **3** | **38** |
| Churn | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |  | 2 | 12 |
| Coverage - established vs new entrants |  |  |  | 1 | 1 | 1 | 1 | 1 | 1 | 1 |  |  | 7 |
| Facilites-based carriers |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Local lines - TSP |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Long distance | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Rates - Internet |  |  |  | 2 | 2 | 1 |  |  |  |  |  |  | 5 |
| Residential connections |  |  |  |  |  | 1 | 1 | 1 |  |  |  |  | 3 |
| Retail lines - VOIP vs switched |  |  |  | 1 |  |  |  |  |  |  |  |  | 1 |
| Subsidy regime | 1 |  |  |  |  |  |  |  |  |  | 1 | 1 | 3 |
| TSPs |  |  |  |  |  |  |  |  |  |  | 1 |  | 1 |
| **Financial performance** | **51** | **41** | **56** | **61** | **60** | **57** | **81** | **74** | **75** | **78** | **28** | **47** | **709** |
| Alternative TSP - revenue | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| ARPU | 1 |  |  | 1 | 2 | 3 | 1 | 1 | 1 |  | 2 | 3 | 15 |
| Capital expenditure | 3 | 2 | 3 | 2 | 2 | 2 |  |  |  |  | 3 | 5 | 22 |
| Capital expenditure - telecommunications |  |  |  |  |  |  | 2 | 2 | 2 | 2 |  |  | 8 |
| EBITDA |  |  |  |  |  |  |  |  |  |  | 2 | 2 | 4 |
| Fees - overage |  |  |  |  |  |  |  |  |  |  | 2 |  | 2 |
| Revenue | 46 | 39 | 53 | 58 | 56 | 52 | 78 | 71 | 72 | 76 | 19 | 34 | 654 |
| Telecommunications |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Telephony |  |  |  |  |  |  |  |  |  |  |  | 2 | 2 |
| **Dissatisfaction** |  |  |  |  | **2** | **2** | **2** | **2** | **2** | **3** | **3** |  | **16** |
| Contacts (complaints) |  |  |  |  | 1 | 2 | 2 | 2 | 2 | 3 | 3 |  | 15 |
| Dispute resolution |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| **Technology - availability** | **9** | **7** | **14** | **14** | **18** | **18** | **17** | **19** | **16** | **17** | **6** | **31** | **186** |
| Audio (excl'g radio) |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Broadband |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Broadband - access |  | 1 |  |  |  |  | 1 | 1 | 1 | 1 | 1 | 3 | 9 |
| Broadband - connection types | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Broadband - First Nations |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Broadband - fixed |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Broadband - fixed - connections |  |  | 1 |  |  |  |  |  |  |  |  |  | 1 |
| Broadband - fixed - speeds |  |  |  | 2 | 2 |  |  |  |  |  |  |  | 4 |
| Broadband - fixed, mobile |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| Broadband - households |  |  | 1 | 1 | 1 | 1 |  |  |  |  |  |  | 4 |
| Broadband - households - % | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |  |  |  |  | 8 |
| Broadband - mobile |  |  | 1 |  |  |  |  |  |  |  |  |  | 1 |
| Broadband - speed |  |  | 1 | 2 | 3 | 5 | 5 | 4 | 3 | 3 | 2 | 4 | 32 |
| Broadband - technology |  |  | 1 |  |  |  |  |  |  |  |  |  | 1 |
| Broadband - Urban/Rural | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 1 | 1 | 14 |
| Broadband/mobile - First Nations |  |  |  |  |  |  |  |  |  |  |  | 2 | 2 |
| Broadband/mobile - official language minoritiess |  |  |  |  |  |  |  |  |  |  |  | 2 | 2 |
| Connections - international |  | 1 |  |  |  |  |  |  |  |  |  |  | 1 |
| Coverage |  |  | 1 | 1 | 1 |  |  |  |  |  |  |  | 3 |
| Coverage - broadband, mobile |  |  |  |  |  | 1 |  |  |  |  |  | 1 | 2 |
| Coverage - LTE |  |  |  |  |  |  |  |  |  |  |  | 6 | 6 |
| Coverage - mobile |  |  |  |  |  |  |  |  |  |  |  | 4 | 4 |
| Coverage - wireless - facilities-based |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| Data - speed - broadband - mobile |  |  |  |  |  |  | 1 | 2 |  |  |  |  | 3 |
| Data - speed - broadband - wireline |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| DS3 |  |  |  | 1 |  |  |  |  |  |  |  |  | 1 |
| Fixed vs mobile | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| High-speed DSL, cable |  |  |  |  |  |  |  | 1 | 1 |  |  |  | 2 |
| High-speed lines |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Homes passed - fibre optic |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Household - % |  |  |  |  |  |  |  |  | 1 | 1 | 1 |  | 3 |
| International comparison | 1 |  | 1 | 1 | 1 |  |  |  |  |  |  |  | 4 |
| Internet - high-speed wholseale lines |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Internet - residental - speed |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Internet - residential | 1 | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  | 6 |
| Internet - retail - fixed |  |  |  |  |  |  |  | 1 |  |  |  |  | 1 |
| Internet - speed |  |  | 1 | 1 | 1 | 1 |  |  |  |  |  | 1 | 5 |
| Key indicators | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |  |  |  |  | 8 |
| Lines - fibre based |  |  |  |  | 1 | 1 |  |  |  |  |  |  | 2 |
| Local lines | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 |  |  | 11 |
| LTE |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 2 |
| Mobile - % |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| VOIP - retail |  |  |  |  | 1 | 1 |  |  |  |  |  |  | 2 |
| WIFI hotspots - number |  |  |  |  |  |  |  | 2 | 2 | 2 | 1 | 1 | 8 |
| Wireless |  |  |  |  |  | 1 | 1 | 1 | 1 | 2 |  |  | 6 |
| Wireless - 3G | 1 |  | 1 |  |  |  |  |  |  |  |  |  | 2 |
| Wireless - HSPA+ |  |  |  |  | 1 |  |  |  |  |  |  |  | 1 |
| WSPs |  |  |  |  |  | 1 | 1 | 1 | 1 | 1 |  |  | 5 |
| **Technology - use** | **6** | **5** | **8** | **11** | **13** | **34** | **28** | **34** | **36** | **46** | **34** | **41** | **296** |
| Content - podcasts |  |  |  |  |  | 1 |  |  |  |  |  | 1 | 2 |
| Data - usage |  |  |  |  |  | 1 | 2 | 3 | 3 | 7 | 4 | 6 | 26 |
| Data traffic - roaming |  |  |  |  |  |  | 1 | 1 | 1 | 1 | 2 |  | 6 |
| Devices - cellphones, landlines |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 2 |
| Devices - computers, Internet |  |  |  |  |  |  |  | 1 | 1 | 1 | 1 | 1 | 5 |
| Devices - handhelds |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Devices - mobile |  |  |  |  |  | 3 | 4 | 4 | 3 | 3 | 3 | 3 | 23 |
| Devices - phones |  |  |  |  |  |  |  | 1 |  |  |  |  | 1 |
| Devices - shipments |  |  |  | 1 | 1 | 1 |  |  |  |  |  |  | 3 |
| High-speed lines |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Households - broadband |  |  |  |  |  |  |  |  |  |  | 1 |  | 1 |
| Households - fibre-optic |  |  |  |  |  |  |  |  |  | 1 |  |  | 1 |
| Internet - % of Canadians |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Internet - activities |  |  |  |  |  | 3 | 2 | 2 | 2 | 2 | 2 | 2 | 15 |
| Internet - applications - bandwidth |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Internet - bandwidth |  |  |  |  |  |  | 1 | 1 |  |  |  |  | 2 |
| Internet - residential - subscribers |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Internet TV - devices |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Local lines |  |  |  |  |  |  |  |  | 1 |  |  |  | 1 |
| Mobile and landlines |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 2 |
| Mobile subscriber |  |  |  |  |  |  |  | 1 | 1 |  |  |  | 2 |
| Music - downloading/streaming |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Plans - wireless - contract length |  |  |  |  |  |  | 1 | 1 | 1 | 2 |  |  | 5 |
| Product life cycle |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Radio - podcasts |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Subscribers/subsciptions | 6 | 5 | 8 | 9 | 11 | 14 | 14 | 15 | 18 | 23 | 18 | 25 | 166 |
| Subscriptions - telecom |  |  |  |  |  |  |  |  |  |  | 2 | 1 | 3 |
| Technologies - video |  |  |  |  |  | 2 |  | 1 | 1 | 2 |  |  | 6 |
| Technology - media |  |  |  |  |  | 1 |  |  |  |  |  |  | 1 |
| Text messages |  |  |  | 1 | 1 | 1 | 1 | 1 | 1 | 1 |  |  | 7 |
| Upload/download limits |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| **Investment** |  |  |  |  |  |  |  |  |  |  | **1** | **1** | **2** |
| Capital expenditure |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 2 |
| **Efficiency** |  |  |  |  |  | **2** | **2** |  |  |  |  |  | **4** |
| DNCL |  |  |  |  |  | 1 | 1 |  |  |  |  |  | 2 |
| DNCL - registrations |  |  |  |  |  | 1 | 1 |  |  |  |  |  | 2 |
| **Technology -availability** |  |  |  |  |  |  | **1** |  | **1** | **1** |  |  | **3** |
| Coverage - wireless |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 2 |
| Fibre optic lines |  |  |  |  |  |  | 1 |  |  |  |  |  | 1 |
| **Technology - use** |  |  |  |  |  |  |  | **1** | **1** |  |  |  | **2** |
| Fibre optic lines |  |  |  |  |  |  |  | 1 | 1 |  |  |  | 2 |
| **Unknown (infographics - no description)** |  |  |  |  |  |  |  |  |  |  | **30** |  | **30** |
| Infographic - unlabelled |  |  |  |  |  |  |  |  |  |  | 30 |  | 30 |
| **Communications** | **12** | **10** | **12** | **17** | **16** | **15** | **19** | **18** | **20** | **20** | **34** | **31** | **224** |
| **Industry structure** | **1** | **1** | **1** | **3** | **1** | **1** | **2** | **2** |  |  |  | **2** | **14** |
| Communications |  |  |  |  |  |  | 1 | 1 |  |  |  | 1 | 3 |
| Communications |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| Connections - number |  |  |  |  |  | 1 | 1 |  |  |  |  |  | 2 |
| Convergence | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| Performance indicators |  |  |  |  |  |  |  | 1 |  |  |  |  | 1 |
| Services in the home |  |  |  | 2 |  |  |  |  |  |  |  |  | 2 |
| **Availability - broadcasting** |  |  |  |  |  |  | **2** | **1** |  | **1** |  |  | **4** |
| Official language minorities |  |  |  |  |  |  | 2 | 1 |  | 1 |  |  | 4 |
| **Affordability** | **1** |  | **1** | **2** | **3** | **3** | **3** | **3** | **4** | **4** | **11** | **17** | **52** |
| Household spending |  |  |  | 1 | 2 | 2 | 2 | 2 | 3 | 3 | 8 | 15 | 38 |
| Price - communications |  |  |  |  |  |  |  |  |  |  | 3 | 2 | 5 |
| Price - indices - BDU, Internet, telephone |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  |  | 4 |
| Price indices - BDU, Internet | 1 |  | 1 | 1 | 1 | 1 |  |  |  |  |  |  | 5 |
| **Competition** |  |  | **1** | **1** | **1** | **1** | **1** | **1** | **1** | **1** | **1** | **1** | **10** |
| Cable vs telecom |  |  | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 10 |
| **Financial performance** | **8** | **8** | **8** | **10** | **10** | **10** | **11** | **10** | **13** | **13** | **9** | **7** | **117** |
| EBITDA | 1 | 1 | 1 | 1 | 1 | 1 |  |  | 1 | 1 | 1 | 1 | 10 |
| Revenue | 7 | 7 | 7 | 9 | 9 | 9 | 11 | 10 | 12 | 12 | 8 | 6 | 107 |
| **Dissatisfaction** |  |  |  |  |  |  |  | **1** | **1** | **1** | **1** |  | **4** |
| Contacts (complaints) |  |  |  |  |  |  |  | 1 | 1 | 1 | 1 |  | 4 |
| **Technology - availability** | **1** | **1** | **1** | **1** | **1** |  |  |  | **1** |  |  | **1** | **7** |
| Connections - residential |  |  |  |  |  |  |  |  | 1 |  |  |  | 1 |
| Operating platforms | 1 | 1 | 1 | 1 | 1 |  |  |  |  |  |  |  | 5 |
| Service availability |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |
| **Technology - use** | **1** |  |  |  |  |  |  |  |  |  | **3** | **3** | **7** |
| Communications services - households |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 2 |
| Gaming consoles | 1 |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Subscribers/subsciptions |  |  |  |  |  |  |  |  |  |  | 2 | 2 | 4 |
| **Unknown (infographics - no description)** |  |  |  |  |  |  |  |  |  |  | **9** |  | **9** |
| Infographic - unlabelled |  |  |  |  |  |  |  |  |  |  | 9 |  | 9 |
| **Grand Total** | **203** | **189** | **214** | **238** | **252** | **258** | **313** | **313** | **315** | **340** | **238** | **281** | **3154** |

Appendix FRPC’s answers to the CRTC’s questions

CRTC Question 1 Does the CAB’s proposal align with the outcomes for this proceeding as set out above? If not, how could the CAB’s proposal be modified to better align with these outcomes?

1. The outcomes mentioned in the question are:

* viability of the Canadian broadcasting sector is not further harmed as a result of the regulatory relief proposed
* parties that currently benefit from the requirements imposed by the Commission on broadcasters are not unreasonably affected by any potential regulatory relief
* when viewed as a whole, current news and information programming and the service such programming provides to Canadians is maintained; and
* any regulatory action is minimally administratively burdensome on those entities seeking relief but is easily monitored and supervised by the Commission in order to ensure appropriate accountability.

1. The Forum respectfully submits that

* The viability of the broadcasting sector will be harmed if the measures proposed by the CAB are applied to all radio and television broadcast ownership groups, without consideration of the individual circumstances of these groups, and
* the CAB’s express desire that the CRTC not require any information about broadcasters’ activities will make it impossible for the CRTC to monitor and supervise these activities, so as to ensure accountability.

CRTC Question 2 Does the [CRTC’s proposed] approach align with the outcomes for this proceeding as set out above? Please explain. If not, how could this approach be modified to better meet the outcomes?

1. The approach mentioned by the question:

* “For all broadcasters the CRTC would determine individual broadcasters’ compliance with its regulatory obligations for the 2019-2020 broadcast year based on whether that broadcaster has fulfilled such obligations over a more protracted period of time. That is, financial requirements could be spread over several years to give broadcasters needed flexibility while ensuring that Canada’s creative industries can also continue to operate.”

1. The Forum agrees that the CRTC should determine individual broadcasters’ compliance with their regulatory obligations, and provide them with more time to meet these requirements.

CRTC Question 3 Is this approach applicable equally to all expenditure- and exhibition-related requirements? If not, how should such requirements be treated?

1. While expenditures may be spread over a longer period of time and required levels of Canadian drama may increase over time (in tandem with revenues, for instance), it is difficult to see how this should apply to the exhibition of local news programming. It is likely that Canadians and individual communities will for the foreseeable future – ie, the next two years – be far more focussed on local news than in previous years. In this context, permitting local broadcasters to reduce the level of local news they currently provide will not serve the public interest.

CRTC Question 4 To which entities should these solutions be applied, and under what circumstances would broadcasters be eligible to make use of the proposed flexibilities?

1. Regulatory support should be provided to broadcasters that need it most – and in particular, independent broadcasters that operate a single radio or a single television station.
2. Going forward, however, the CRTC will at some point hear broadcasters’ applications to renew their radio and/or television station licences. The CRTC should not sanction broadcasters that maintained pre-Covid-19 employment and news levels during the current licence term.

CRTC Question 5 If the Commission were to adopt this approach, what period of time should be granted to broadcasters for meeting their regulatory obligations for the 2019-2020 broadcast year? Should these obligations be spread equally over a period of time or ramped up over time?

1. The Forum’s answer to Q5 is based on two key premises. First, decisions of a future CRTC cannot be bound by decisions of the current CRTC. Second, any regulated broadcaster may apply to the CRTC at any time for regulatory relief. The combination of these two premises means that neither the CRTC nor broadcasters will be ‘bound’ – that is to say, compelled – to follow any approach devised by the CRTC at the moment.
2. The time granted to broadcasters to meet their regulatory obligations for the 2019/20 broadcast year depends on the resources of the broadcasters involved and on the recovery of Canada’s economy, which in turn depends on the unpredictable path of the Covid-19 pandemic.
3. As noted previously, ownership of Canada’s broadcasting sector is highly concentrated. In this case a Biblical maxim is apt: “To whom much is given, much will be required.” (Luke 12:48). Large, vertically integrated broadcasters should be required to meet their regulatory obligations for the 2019/20 broadcast year by the end of their current licence terms.
4. Broadcasters that are not vertically integrated and that consequently lack extensive resources should be give given somewhat more time, as these broadcasters are typically located in smaller communities whose economies may (or may not be) harder hit by the Covid-19 pandemic. In the absence of more specific evidence from the CAB the Forum suggests that independent broadcasters be granted the remainder of their current licence term, and half of the next (five-year) licence term to meet their regulatory obligations for the 2019/20 broadcast year.

CRTC Question 6 What possible regulatory relief or flexibility other than that requested by the CAB or proposed by the Commission could be granted to Canada’s broadcasters and would align with the outcomes set out by the Commission? In proposing solutions, the following must be addressed:

1. What regulatory requirements should be subject to these proposed flexibilities?

2. To which entities should these solutions be applied, and under what circumstances would broadcasters be eligible to make use of the proposed flexibilities?

3. For how long should any flexibilities provided by the Commission to Canada’s broadcasters apply?

1. The Forum has no comments on this question at this time.

CRTC Question 7 On which elements of any flexibility proposed in the context of this notice of consultation should the Commission require broadcasters to report? On which elements should they be required to publicly report?

1. The CRTC should ensure that broadcasters provide clear documentation about the financial impact of any flexibility granted, as well as the impact of such flexibility on programming hours and employment opportunities.
2. The key outcome from this proceeding from the Forum’s perspective, however, will be the maintenance of Canadian programming. Broadcasters seeking regulatory flexibility should be required to report publicly on the levels and types of programming they are broadcasting, including original or first-run hours.

CRTC Question 8 What form and frequency should such reporting take? Are additional measures beyond current reporting requirements (relating, for example, to annual returns and the program logs) necessary in regard to reporting on and monitoring compliance with the proposed approach?

1. Published reporting must take place at least yearly, but it would be preferable– if financial and programming reports were made and published more frequently, every three months (ie, quarterly) as is done in the United Kingdom.

CRTC Question 9 Are there any elements of this reporting for which broadcasters should be granted confidentiality?

1. It is unclear whether this question refers to broadcasters or to licensees. Radio and television licensees have for the last several decades been granted confidentiality concerning most aspects of their financial position. Programming information, on the other hand, has never been granted confidentiality, as broadcast programming is by definition public. That said, the CRTC no longer requires radio broadcasters to submit their monthly program logs to the Commission, and even when these logs were submitted, they were not made public. The logs of television programming services, however, have been public since the late 1990s.
2. The Forum submits that broadcasters with three or more undertakings should be required to submit aggregated information about their financial position – and in particular, regarding their annual expenditures and employment levels and that this information should be made public on an aggregated basis (that is, aggregated by ownership group). The CRTC should also (first request, in the case of radio licensees and then) publish information about the hours of programming broadcast by radio and television stations to establish

* Total hours of local programming and of news per week
* Total hours of **first-run**  local programming and of news per week.

1. The CRTC should publish information about television broadcasters’

* Total hours of Canadian and non-Canadian drama (and comedy) per month
* Total hours of **first-run** Canadian and non-Canadian drama (and comedy) per month
* Total hours of captioned programming, and total hours of first-run programming that is captioned

# Endnotes

1. Michael P. Byron, “Modeling the Global International System: Logical Consistency with Theory, Internal Self-Consistency, and Empirical Falsifiability”, *Journal of Sociocybernetics*, Vol. 2: 1 (Spring/Summer 2001), 9-32, <https://www.unizar.es/sociocybernetics/Journal/JoS2-1.pdf#page=15>, at 12:

   Most events are routine and so can be dealt with by existent decisional procedures. Occasionally, an event, which cannot be so dealt with, occurs. This precipitates a crisis. Crisis is defined as any threatening, or unanticipated, eventuality which has the perceived potential to substantially reduce, or eliminate altogether, the well-being, or more precisely, fitness, of the international system and that cannot be resolved by application of existent decisional procedures. [↑](#endnote-ref-2)
2. World Health Organization, “WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020” (11 March 2020), https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020. [↑](#endnote-ref-3)
3. Tristan Bronca, “COVID-19: A Canadian timeline - A look back at how the novel coronavirus began its spread across the nation and how our healthcare leaders responded” (8 April 2020), <https://www.canadianhealthcarenetwork.ca/covid-19-a-canadian-timeline>. The first case of Covid-19 in Canada was reported on 25 January 2020; by 26 February 2020 Canada had 12 confirmed cases, and by 24 March 2020, there were 2,792 confirmed cases: *Ibid*. [↑](#endnote-ref-4)
4. By 22 March 2020 all Canadian provinces and territories had declared states of emergency: *Ibid*. [↑](#endnote-ref-5)
5. Canada, “Coronavirus disease (COVID-19): Outbreak update”, <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html?&utm_campaign=gc-hc-sc-coronavirus2021-ao-2021-0005-9834796012&utm_medium=search&utm_source=google_grant-ads-107802327544&utm_content=text-en-434601690158&utm_term=%2Bcovid%20%2B19%20%2Bcanada>. As of October 15, 2020 the Federal government reported 9,699 deaths in Canada related to Covid-19. [↑](#endnote-ref-6)
6. Wulong Gu, “Economic Impact of the COVID-19 Pandemic on Canadian Businesses across Firm Size Classes”, Statistics Canada, *Economic Insights*, Cat. 11-626-X, <https://www150.statcan.gc.ca/n1/pub/11-626-x/11-626-x2020017-eng.htm>. [↑](#endnote-ref-7)
7. Statistics Canada, “Canadian Economic Dashboard and COVID-19”, “1-month percentage change”, real gross domestic product (chained 2012 dollars), <https://www150.statcan.gc.ca/n1/pub/71-607-x/71-607-x2020009-eng.htm>. [↑](#endnote-ref-8)
8. Local and national advertising worth $1.3 billion comprised 85.1% of private TV stations’ total revenues in 2018/19; local and national advertising worth $1.4 billion comprised 98.3% of private radio stations’ total revenues in the same year: CRTC statistical and financial summaries for television and radio. [↑](#endnote-ref-9)
9. The application says very little about Canada’s discretionary television programming services, for example, which in 2018/19 generated $4.2 billion in revenues (including $1.3 billion in advertising), $1.1 billion in profits before interest and taxes and $1.7 billion in Canadian programming expenditures, and which employed more than 4,000 people. (CRTC, *Discretionary and On-Demand Statistical and Financial Summaries, 2015-2019*, at 1). [↑](#footnote-ref-1)
10. Rachel Aiello, “PM says second wave 'frustrating', as Canada is projected to see thousands of new COVID-19 cases”, ctvnews.ca (9 October 2020 10:18AM EDT, updated 3:41PM EDT), <https://www.ctvnews.ca/health/coronavirus/pm-says-second-wave-frustrating-as-canada-is-projected-to-see-thousands-of-new-covid-19-cases-1.5139466>:

    “We're at a tipping point in this pandemic. Not only is the second wave underway, yesterday we hit the highest daily recorded cases, well above what saw this spring,” said Prime Minister Justin Trudeau. [↑](#endnote-ref-10)
11. ‘True’, in that two of the three accepted criteria may no longer be fully applicable – surprise and the short period for response.

    In terms of surprise, global health pandemics were not unexpected (though Canada’s early warning system, the Global Public Health Intelligence Network, “went silent” on 24 May 2018 – Grant Robertson, “Auditor-General to probe lapse in Canada’s pandemic warning system”, *Globe and Mail* (30 July 2020), <https://www.theglobeandmail.com/canada/investigations/article-auditor-general-to-probe-oversight-of-countrys-pandemic-warning/>).

    Insofar as a short period for response is concerned, the world has now endured almost a year of exposure to the Covid 19 virus, and its ill effects are expected to linger even after an effective vaccine becomes available to the general population, likely sometime in 2021 (The Canadian Press, “Canada has now committed more than $1 bilion to buy doses of COVID-19 vaccines”, CBC.ca (22 September 2020), https://www.cbc.ca/news/health/canada-vaccine-agreements-1.5734101 [↑](#endnote-ref-11)
12. CAB, Part 1 Application, DM#3890215, at ¶6. [↑](#endnote-ref-12)
13. The CAB (<https://www.cab-acr.ca/english/pdf/CAB_Covid-19_Letter.pdf>) asked the Federal government to redirect all Federal advertising to Canadian media outlets, suspend all monthly/quarterly Federal HST installment payments, suspend broadcast licence fees, reimburse TV broadcaster 600 MHz relocation expenses, extend the journalism tax credit to broadcasters, make “TV news and other broadcaster produced programming eligible for production tax credits”, expand temporary wage subsidy for small businesses, to amend the *Income Tax Act* to incent advertising on Canadian media and (in footnote 8) to postpone the payment of income tax owing on or after 18 March to September 2020 indefinitely (see footnote 8). [↑](#endnote-ref-13)
14. CAB, Part 1 Application, DM#3890215, at ¶15. [↑](#endnote-ref-14)
15. *Ibid*., at ¶8. [↑](#endnote-ref-15)
16. Communications Management Inc., “The crisis in Canadian media an the future of local broadcasting”, Prepared for the Canadian Association of Broadcasters, 24 August 2020, <https://www.cab-acr.ca/english/media/news/20/cmi_report_aug24.pdf>, at 31, Figure 17. [↑](#endnote-ref-16)
17. Some may speculate that today’s financial challenges will linger for many more years after this – but that speculation and the issue it raises (an ongoing structural crisis) is not before the CRTC in this application. [↑](#endnote-ref-17)
18. The Government of Canada announced that it would transfer funds to the CRTC. Canada, “COVID-19: the Government of Canada Provides Relief to the Broadcasting Sector” (Gatineau, 30 March 2020), <https://www.canada.ca/en/canadian-heritage/news/2020/03/covid-19-the-government-of-canada-provides-relief-to-the-broadcasting-sector.html>. [↑](#endnote-ref-18)
19. CAB, Part 1 Application, DM#3890215, at ¶1. [↑](#endnote-ref-19)
20. *Ibid*., at ¶18. [↑](#endnote-ref-20)
21. S. 7: “If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules.” [↑](#endnote-ref-21)
22. In 2013 the CRTC issued an information bulletin for expedited procedures in the context of CRTC-assisted dispute resolution – see Broadcasting and Telecom Information Bulletin 2013-637.

    The CRTC’s search engine lists 124 results for ‘expedited decisions’ over the 21 years from 1999 to 2 October 2020. [↑](#endnote-ref-22)
23. *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277, <https://laws.justice.gc.ca/eng/regulations/SOR-2010-277/index.html>, s. 22(2):

    An application must be made using the appropriate form listed in Broadcasting and Telecom Information Bulletin CRTC 2010-453, as amended from time to time. If none of the forms listed in the Bulletin is appropriate, the application must

    …

    (d) identify the statutory or regulatory provisions under which the application is made;

    (e) contain a clear and concise statement of the relevant facts, of the grounds of the application and of the nature of the decision sought;

    (f) set out any amendments or additions to these Rules proposed by the applicant; and

    (g) include any other information that might inform the Commission as to the nature, purpose and scope of the application, and be accompanied by any supporting documents. [↑](#endnote-ref-23)
24. *Ibid*., s. 26(2)(f). [↑](#endnote-ref-24)
25. Communications Management Inc., “The crisis in Canadian media an the future of local broadcasting”, Prepared for the Canadian Association of Broadcasters, 24 August 2020, <https://www.cab-acr.ca/english/media/news/20/cmi_report_aug24.pdf>. [↑](#endnote-ref-25)
26. CAB, Part 1 Application, DM#3890215, at ¶7. [↑](#endnote-ref-26)
27. *Ibid*., at ¶8. [↑](#endnote-ref-27)
28. *Ibid*., at ¶64: “… this application does not request amendments to, or suspensions of conditions of licence….” [↑](#endnote-ref-28)
29. *Ibid*., at ¶19. [↑](#endnote-ref-29)
30. *Ibid*., at ¶64: CAB’s application “… proposes practices and policies for how the Commission should address inevitable, unavoidable, breaches of condition of licence or regulations that arise from COVID-19.” [↑](#endnote-ref-30)
31. *Ibid*., at ¶65. [↑](#endnote-ref-31)
32. *Ibid*.. [↑](#endnote-ref-32)
33. *Ibid*., at ¶66. [↑](#endnote-ref-33)
34. The CAB does not clarify the difference between necessary and unnecessary job losses. [↑](#endnote-ref-34)
35. CAB, Part 1 Application, DM#3890215, at ¶66. [↑](#endnote-ref-35)
36. *Ibid*., at ¶50. [↑](#endnote-ref-36)
37. Two radio stations: CKOO-FM Kelowna and CHRF Montreal (Evanov). Layoffs have been announced by Harvard, Cogeco and Stingray. CAB, Part 1 Application, DM#3890215, at footnote 37. [↑](#endnote-ref-37)
38. Communications Management Inc., “The crisis in Canadian media an the future of local broadcasting”, Prepared for the Canadian Association of Broadcasters, 24 August 2020, <https://www.cab-acr.ca/english/media/news/20/cmi_report_aug24.pdf>. [↑](#endnote-ref-38)
39. *Ibid*., at v. [↑](#endnote-ref-39)
40. *Ibid*., at vi. [↑](#endnote-ref-40)
41. *Ibid*. [↑](#endnote-ref-41)
42. *Ibid*., at vii. [↑](#endnote-ref-42)
43. In 1999 the CRTC determined that it would renew the television licences controlled by individual owners at the same time:

    The renewal of all the conventional television licences held or controlled by a group will generally be considered by the Commission at the same time. A group will be defined as more than one conventional television station owned or controlled by the same person or entity. Commitments made by a group will be applied to the individual stations within the group as either conditions of licences or expectations. The Commission will take into account the other holdings of the group, such as a specialty service, but will not necessarily entertain the licence renewal of that service at the same time.

    *BUILDING ON SUCCESS - A POLICY FRAMEWORK FOR CANADIAN TELEVISION*, Public Notice CRTC 1999-97 (Ottawa, 11 June 1999), <https://crtc.gc.ca/eng/archive/1999/pb99-97.htm#t5>, at ¶10.

    In 2010 the CRTC formalized its “group-based approach to the licensing of large … private television ownership groups.” *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167 (Ottawa, 22 March 2010), <https://crtc.gc.ca/eng/archive/2010/2010-167.htm>:

    41. The Commission must supervise and regulate the broadcasting system in order to fulfil the policy objectives of the Act. These include encouraging the development of Canadian expression; being readily adaptable to scientific and technological change; and ensuring that each element of the Canadian broadcasting system contributes in an appropriate manner to the creation and presentation of Canadian programming.

    42. The Commission considers that these objectives, particularly the adaptability of the broadcasting system to change, are best met through a regulatory approach that recognizes the significant challenges to conventional television broadcasting and the stronger role that both regulated and unregulated, on-demand platforms are playing in providing Canadians with the television programming they need and want.

    …

    44. The exclusivity of broadcasters' programming has eroded as a result of increased choice and increasing cost of foreign programming. This has resulted in a diminishing of the profits realized from the exhibition of popular foreign programming. The profitability of this programming has, in the past, provided conventional television broadcasters with the resources to spend on less profitable Canadian programming, such as programs of local reflection, local news, and especially high-quality scripted Canadian entertainment.

    45. In the short and medium terms, because of their continued ability to attract mass audiences, conventional television broadcasters play a particularly important role in fulfilling the objectives of the Act. However, **in the longer term, as audiences continue to move to other platforms, this role may become less important. As a step in adapting the broadcasting system to the digital age, the Commission considers it appropriate to pursue a new approach regarding the requirements for the exhibition and creation of high-quality Canadian programming**.

    46. **First, in order to ensure that the designated groups continue to contribute to the creation of Canadian programming, the Commission will establish a minimum, aggregate level of spending on Canadian programs for each designated group**.

    47. **Second, in order to permit the designated groups to adapt quickly to a changing environment, the Commission will provide them with the greatest possible flexibility so that they may allocate that spending among their various licensed undertakings**. Since these ownership groups are not licensees of the Commission, this policy will be implemented through the imposition of conditions of licence on the relevant individual licensees controlled by the groups, as set out in detail below.

    …

    [bold font added]

    In 2016 the CRTC commented that

    …

    14. **The group-based approach has permitted the large English- and French-language ownership groups that have used it to benefit from flexibility in allocating their resources while also ensuring support for Canadian programming**.

    15. Overall, the English-language groups have taken advantage of the flexibility provided by the group-based approach to transfer the additional CPE from their conventional television stations to their specialty and pay services and, vice versa, to transfer their additional PNI expenditures from their specialty and pay services to their conventional television stations, in order to meet their group requirements.

    ….

    Broadcasting Notice of Consultation CRTC 2016-225 (Ottawa, 15 June 2016), <https://crtc.gc.ca/eng/archive/2016/2016-225.htm>, bold font added. [↑](#endnote-ref-43)
44. The conventional television sector has 93 reporting units; if the top 5 groups control 69 of the stations, 24 units would remain. Assuming that each station had a different owner (in fact, smaller ownership groups each own several television stations), there could be no more than 29 ownership groups. [↑](#endnote-ref-44)
45. *Local Management Agreements* Public Notice CRTC 1999-176 (Ottawa, 1 November 1996), https://crtc.gc.ca/eng/archive/1999/pb99-176.htm [↑](#endnote-ref-45)
46. CAB, Part 1 Application, DM#3890215, at ¶56. [↑](#endnote-ref-46)
47. *Ibid*., at ¶57 – 18 months effective July 31, 2020. [↑](#endnote-ref-47)
48. *Ibid*., at ¶53. [↑](#endnote-ref-48)
49. *Ibid*. [↑](#endnote-ref-49)
50. *Ibid*., at ¶58. [↑](#endnote-ref-50)
51. *Ibid*., at ¶52. [↑](#endnote-ref-51)
52. S. 32(2). [↑](#endnote-ref-52)
53. CAB, Part 1 Application, DM#3890215, at 13: “Leaving a cloud of regulatory uncertainty to hang over the industry will prove detrimental to all concerned. The legal, operational and financial consequences of being deemed ‘non-compliant’ are unknown and potentially severe for licensees. ….” [↑](#endnote-ref-53)
54. *Ibid*., at ¶19. [↑](#endnote-ref-54)
55. S. 9(1)(b)(i) of the *Broadcasting Act*:

    Subject to this Part, the Commission may, in furtherance of its objects,

    …

    (b) issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee

    (i) as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) …. [↑](#endnote-ref-55)
56. *Television services that form part of the Corus group of services – Licence amendments*, Broadcasting Decision CRTC 2020-220 (Ottawa, 10 July 2020), <https://crtc.gc.ca/eng/archive/2020/2020-214.htm>:

    24. In the Commission’s view, this could force Corus to spend significantly in the final year of the licence term in order to adhere to its CPE obligations, particularly given that, as stated by Corus, only a portion of the additional cash expenditures would count as eligible CPE in the first year of the broadcast of content. Consequently, the Commission determines that granting both a 10% underspend flexibility and the ability for Corus to make up cumulative underspending by the end of the licence term, as sought by Corus, would make the potential for volatility in regard to its CPE requirements more significant. [↑](#endnote-ref-56)
57. CAB, Part 1 Application, DM#3890215, at ¶¶29-38. [↑](#endnote-ref-57)
58. See *e.g.* ML Auer, “The CRTC’s Enforcement of Canada’s Broadcasting Legislation: ‘Concern’, ‘Serious Concern’, and ‘Grave Concern’”, *Canadian Journal of Law and Technology*, 5:3 (2006), <https://ojs.library.dal.ca/CJLT/article/view/6051/5378>, 115-161. [↑](#endnote-ref-58)
59. *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224 (Ottawa, 15 June 2016), <https://crtc.gc.ca/eng/archive/2016/2016-224.htm>, at ¶32. [↑](#endnote-ref-59)
60. <https://crtc.gc.ca/eng/archive/2006/pb2006-158.htm>, at ¶182. [↑](#endnote-ref-60)
61. *Ibid*., at ¶184. [↑](#endnote-ref-61)
62. During the 2015 ‘Let’s Talk TV’ proceedings, for instance, “Canadians who participated in the online discussion forum for this proceeding emphasized that local programming, particularly local news, is of great importance to them. The majority appeared satisfied with the quantity and quality of television news. However, some stated that large broadcasting ownership groups provide insufficient local news, especially in the regions.” <https://crtc.gc.ca/eng/archive/2016/2016-224.htm>, at ¶12. The CRTC then also said,

    17. A vibrant and dynamic news ecosystem is one of the cornerstones of any democracy, since it permits citizens to remain informed of matters of public concern and thus enables their participation in the democratic system. Television news, especially at the local level, is an important source for the gathering and production of locally relevant and reflective news.

    18. Licensees have a duty to serve the public interest in return for using the public airwaves and the privilege of holding a licence. In the case of conventional television stations, privileges such as distribution on the basic service, the right to broadcast local advertising and simultaneous substitution go hand in hand with the responsibility to provide local programming. Further, given that a vibrant, free and responsible news ecosystem is a public good, licensees must ensure that the news and analysis they broadcast meets a high standard, particularly at the local level.

    19. In the Working Document, the Commission also reminded large, vertically integrated (VI) ownership groups, which operate both programming and distribution undertakings, that Canadians should be able to reap the full benefits of their consolidation. Specifically, when the Commission approved the applications that led to their consolidation, it was to create entities with the critical mass to ensure the production and promotion of diverse and high-quality Canadian programming and its distribution through traditional and digital media. [↑](#endnote-ref-62)
63. CAB, Part 1 Application, DM#3890215, at, ¶28. [↑](#endnote-ref-63)
64. FRPC, *Putting the ‘local’ back into local TV*, (Ottawa, 6 November 2015), <https://frpc.net/wp-content/uploads/2015/11/FRPC-2015-421-6-Nov-2015-comments.pdf> at ¶¶82-86. [↑](#endnote-ref-64)
65. FRPC, *Renewing the licences of Canada’s largest private broadcasters to strengthen Canada’s television system* , (Ottawa, 15 August 2016), <https://frpc.net/wp-content/uploads/2016/10/FRPC-2016-225-15-Aug-2016-comment.pdf>, Appendix 3 (TV stations and news bureaux, 2015: A summary of available evidence”: at this time CJCB-TV Sydney simulcast the local news of CJCH-DT Halifax; CJBN TV Kenora simulcast the news of CKND TV Winnipeg and of Thunder Bay Television, and CIPA-TV Prince Albert simulcast the newscast of CFQC-DT Saskatoon. [↑](#endnote-ref-65)
66. CAB, Part 1 Application, DM#3890215, at footnote 7. [↑](#endnote-ref-66)
67. By which we mean that local radio stations would provide local radio programming, and local television stations would provide local television programming (not that television stations would claim radio programming as television content, or *vice versa*). [↑](#endnote-ref-67)
68. CAB, Part 1 Application, DM#3890215, at ¶¶45-47. [↑](#endnote-ref-68)
69. Although the CRTC’s statistical and financial summaries report broadcasters’ expenditures on “Administration and General”, the components that make up this category are entirely unknown, and we therefore have not attempted to generate any estimates of the expenditures required for broadcasters’ own monitoring purposes. [↑](#endnote-ref-69)
70. CAB, Part 1 Application, DM#3890215, at ¶65. [↑](#endnote-ref-70)
71. The Forum notes that at the time of writing the CRTC has yet to issue a determination regarding the Forum’s 4 August 2020 proposal regarding the CBC's renewal application. [↑](#endnote-ref-71)
72. *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224 (Ottawa, 15 June 2016), <https://crtc.gc.ca/eng/archive/2016/2016-224.htm>. [↑](#endnote-ref-72)
73. CAB, Part 1 Application, DM#3890215, at ¶38.

    **\* \* \* End of document \* \* \*** [↑](#endnote-ref-73)