



13 July 2020

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

Re: *Renewal application of the Canadian Broadcasting Corporation – Notice of hearing, Broadcasting Notices of Consultation CRTC 2019-379 (Ottawa, 25 November 2019), 2019-379-1 (Ottawa, 28 January 2020), 2019-379-2 (Ottawa, 8 April 2020) and 2019-379-3 (Ottawa, 22 June 2020) – response to “Additional information added to the public record”*

On 22 June 2020 the CRTC announced a new date in January 2021 to hear the CBC's applications to renew its broadcasting licences and its arguments for maintaining the current Digital Media exemption order for its streaming services.

Broadcasting Notice of Consultation CRTC 2019-379-3 also said that CBC had submitted “new” “financial information pertaining to [CBC's] digital activities” to the CRTC, and that this information had been added to the public record” because the Commission “considers that this new information will assist the Commission and parties to the proceeding in understanding the Corporation’s digital activities and its future plans for those activities.”¹

The CRTC invited any party “to make submissions regarding the new information only”. The Forum’s submissions on CBC's new information are attached.

Sincerely yours,

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Forum for Research and Policy in Communications (FRPC)
Ottawa, Ontario

c. Ms. B. Kirshenblatt, CBC bev.kirshenblatt@cbc.ca

¹ *Change of hearing date; Additional information added to the public record*, Broadcasting Notice of Consultation CRTC 2019-379-3 (Ottawa, 22 June 2020), <https://crtc.gc.ca/eng/archive/2019/2019-379-3.htm>, Broadcasting Notice of Consultation CRTC 2019-379-3, at ¶4.



Too many moving pieces:

It's time to terminate the 2019-379 renewal process

Renewal application of the Canadian Broadcasting Corporation – Notice of hearing,

Broadcasting Notices of Consultation CRTC 2019-379 (Ottawa, 25 November 2019), 2019-379-1 (Ottawa, 28 January 2020), 2019-379-2 (Ottawa, 8 April 2020) and 2019-379-3 (Ottawa, 22 June 2020)

Response to “Additional information added to the public record”

Forum for Research and Policy in Communications (FRPC)

13 July 2020

Ottawa, Ontario

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Executive Summary

Context of this submission

- ES1** The CRTC launched CBC's licence renewal proceeding in May 2019 by inviting CBC to submit applications for the renewals. The CBC submitted those applications, as well as applications seeking to maintain the exempted status of certain services, in August 2019. After several sets of questions and responses the CRTC subsequently published the CBC's applications on 25 November 2019 and invited the public to comment by 20 February 2020.
- ES2** At the end of November 2019 and in late January 2020 the CRTC was asked to require CBC to disclose more information, including financial information about CBC's exempted digital services. On 3 February 2020 the CBC declined to provide additional information; it provided "aggregated expense data ... already on the public record ... as a courtesy ..."
- ES3** The Forum and more than ten thousand others filed interventions about the CBC's broadcasting applications by 20 February 2020. When it replied to 46 interveners (excluding, among others, the Forum) on 6 March 2020, CBC committed to provide more financial information by 11 April 2020.
- ES4** Following an exchange of correspondence between the CRTC and CBC, the CRTC on 12 June 2020 published new information from CBC, including revenues and expenses from 2019 to 2023. CBC described this information as being "consistent with the licence renewal financial projections" it had previously filed, while not reflecting "any changes that may result from the impact on revenue and expenses of the Covid-19 pandemic." On 22 June 2020 the CRTC invited comments about the new information from CBC.

CBC's 12 June 2020 data differ from information previously filed by CBC

- ES5** Although CBC told the CRTC that the new June 2020 information was consistent with the evidence it had previously filed, this is not the case. CBC's February 2020 information offered financial evidence about a single (unidentified) digital media broadcaster, while CBC's June 2020 information provides financial evidence about an unknown total number of exempted programming and non-programming services, as well as Radio Canada International. The new evidence also provided details of the types of revenue earned by CBC's online services, and summarized its expenditures on these services.

CBC's 12 June 2020 data provide new information about CBC's current and planned online programming decisions

- ES6** CBC's evidence in February 2020 was that it planned to spend nearly \$190 million on content-related expenses for its digital media broadcasting service from 2021 to 2023; CBC's June 2020 evidence is that its planned total expenses for these services are more than five times higher, at \$1.05 billion for its exempted programming and non-programming services. CBC's June 2020 evidence now also shows that its digital services are not financially self-supporting: from 2019 to 2023 CBC's \$1.6 billion in expenditures on its exempted digital services exceed the \$356 million earned by these services by \$1.3 billion.

Questions raised by CBC's new information

1. Should CBC and the CRTC ignore the impact of Covid-19?

- ES7** Three months after the declaration of a global pandemic that in Canada has cost more than a million jobs and is expected to shrink the national economy by at least 8%, CBC says that its June 2020 evidence does “not reflect any changes that may result from the impact on revenue and expenses of the Covid-19 pandemic.” Yet it is highly unlikely that CBC will be able to earn the level of revenue set out in its mid-2019 forecasts as the economy contracts and unemployment remains higher than ‘usual’.
- ES8** Should the CRTC and CBC proceed as if Covid-19 has not happened – as if CBC will achieve its mid-2019 targets and as if Parliament will be able to meet any shortfalls through the appropriations process?
- ES9** The Forum’s concern is that continuing in this manner opens any CRTC decision made on the basis of stale-dated evidence to legal challenge, on the grounds that administrative tribunals are not entitled to ignore inconvenient evidence.

2. How do CBC's changes in the presentation of its digital services' finances affect due process?

- ES10** Contrary to CBC's assertion, its June 2020 evidence is not consistent with the evidence it previously filed. It has now disclosed information it previously withheld, in particular the fact that from 2019 to 2023 it spent or planned to spend \$1.2 billion on non-programming digital services, and roughly \$400 million on exempted digital programming services. These expenditures are directly relevant to understanding the plans set out in CBC's renewal applications for programming services that meet its mandate under Parliament’s broadcasting policy for Canada.
- ES11** Were interveners who filed comments in February 2020 denied due process as a result of CBC's failure to disclose such relevant information? Neither the CRTC nor CBC can say what interveners might have said if they had known about these significant outlays by CBC – but the Forum submits that its intervention was materially affected by, and would have been different but for, CBC's failure to disclose this information.
- ES12** The Forum’s concern is that CBC's failure to disclose relevant information until four months after the intervention period closed, placed interveners at a significant disadvantage during the intervention process and denied them fair process. Even if the CRTC has re-opened the 2019-379 process to permit interveners to comment on the new data, it is unlikely that many will be able to respond.

3. Should the CRTC continue to apply decades-old exemption policies whose effect is to enable CBC to allocate hundreds of millions of dollars of very scarce resources to non-programming services?

- ES13** CBC's June 2020 data show that CBC plans to expend \$1.05 billion on exempted digital services, including \$803 million on exempted non-programming (alphanumeric) services, from 2021 to 2023. As CBC's application did not discuss its exempted non-programming services, it is unclear why CBC believes it has the legal authority to provide non-programming services: when Parliament enacted the 1991 *Broadcasting Act* it established that CBC's purpose is to provide programming services.
- ES14** Even if CBC has the legal mandate to provide non-programming services to provincial educational ministries, among others, Parliament empowered the CRTC to exempt services from licensing only when it believes that licensing the services will not contribute materially to achieving Parliament's broadcasting policy objectives. Even if it issues exemption orders, the CRTC may always amend or rescind these orders. To put the status of these exempted, non-programming (alphanumeric) services into perspective, in 2019 CBC expended \$122 million on its conventional television news and \$180 million on its conventional television drama – a total of \$302 million. But it spent two-thirds as much - \$203 million – on non-programming services. CBC's new evidence makes it appropriate to ask whether it is reasonable for the CRTC to conclude that CBC's expenditures on non-programming services from 2019 to 2023 – amounting to \$1.2 billion or 14% of its total programming expenditures – are so 'immaterial' that the services continue to be exempted for licensing requirements.
- ES15** As for CBC's exempted programming services, the CBC's June 2020 evidence shows that in 2019 CBC expended \$62 million on four exempted programming services, and more than three times as much on exempted non-programming services. If the 21st century marks the move from conventional broadcast programming to online broadcast programming, why are CBC's planned expenditures for online non-programming services more than our times higher than its expenditures for online programming services?
- ES16** The Forum's position is that while CBC must maintain if not improve its online presence, the CRTC must ensure that CBC's digital services are also implementing Parliament's broadcasting policy objectives. Its expenditures on digital must neither impair nor erode the quality of service on its conventional (over-the-air) broadcast programming undertakings, still relied upon by many Canadians. The Forum submits that this newly disclosed evidence provides the CRTC with grounds to at least amend, and preferably rescind its exemption order for CBC's online programming services, so that the role of these services and their impact on CBC's licensed services may be assessed.

Conclusions

- ES17** The Forum's analysis of CBC's new evidence is that the Corporation's secrecy about its digital programming services impaired the fair process to which Canadians and interveners were entitled in the 2019-379 proceeding, placing them at an unfair disadvantage relative to CBC. CBC's decision to withhold this evidence until June 2020 means that when Canadians were required to intervene in February 2020 they lacked evidence that was highly relevant to the renewal of CBC's broadcasting licences, and in particular to any continuing exemption of CBC's digital programming and non-programming services.

ES18 The Forum’s February 2020 intervention warned that a “sudden change in Canada’s broadcasting system” might dramatically affect Canadians’ access to local broadcasting services – and the unexpected and dramatic events related to Covid-19 have borne this out. (Ironically, while Canadians lost access to local CBC broadcasting services, private local television news broadcasters soldiered on.) Given the significant – if not huge – impact that Covid-19 will have on Canada and the broadcasting system, it is unclear why CBC’s June 2020 data make no mention whatsoever of the changing environment in which CBC is seeking to renew its broadcasting licences and existing exemption orders.

The Forum’s recommendations

ES19 Eleven of the 30 recommendations made by the Forum’s 20 February 2020 intervention refer to CBC’s digital services. The CBC’s new evidence has not changed our recommendations (see Part IV B for details), but has changed our position on the process now in place for considering the renewal of CBC’s licences.

ES20 Specifically, the Forum is concerned about the CRTC’s plans to continue with the current 2019-379 renewal process, with a public hearing in January 2021. Issuing a decision based on stale-dated evidence submitted in mid-2019 which did not – because it could not – address the enormous impact of a global pandemic, will not serve the public interest. As administrative tribunals are required to take into account all relevant evidence, a decision that ignored the effects of Covid-19 on CBC and the broadcasting system would likely face legal challenge.

ES21 The Forum notes that the CRTC has in the past renewed CBC’s licences administratively. After renewing CBC’s licences in 2000 to expire in 2007 the CRTC issued five administrative decisions that renewed the licences from 2007 to 2013.

ES22 The Forum therefore recommends that the CRTC

Terminate the current 2019-379 proceeding and, as August 31, 2021 approaches, renew CBC’s licences from September 2021 to August 31, 2022 under the same conditions

and

Amend its exemption orders for CBC’s online programming and non-programming services by requiring each set of services (preferably each individual service) to submit their financial and staffing information in a manner that enables the CRTC to generate the financial information it publishes in its annual *Statistical and Financial Summaries*.

ES23 Ending the 2019-379 process would give the CBC, other elements of the broadcasting system, Parliament and Canadians breathing room: time to learn how CBC has been affected by Covid-19 in terms of its earned and Parliamentary income, how other elements of the broadcasting system have been affected, and how CBC’s Board of Directors plans to address its new circumstances in its programming plans for the longer term – and to consider the potential impact of an impending revision of the *Broadcasting Act* on CBC’s mandate. If CBC finds any of

its conditions of licence impossible to manage, it could at any time apply to the CRTC for relief, provided it submitted evidence to support its position.

ES24 **In the alternative** – if the CRTC believes it must proceed despite the uncertainties created by the absence of up-to-date evidence and the warning of a second Covid-19 wave this fall – the CRTC should

Renew CBC's licences for two years rather than the three years originally recommended by the Forum.

ES25 The Forum originally recommended a short-term renewal of CBC in light of its non-transparency and possible breaches of its conditions of licence. Except for the global pandemic and its dramatic effects of the Canadian economy and employment, nothing has changed to alter our view that CBC should not receive a longer-term renewal.

ES26 **Whether the CRTC terminates or continues with the 2019-379 proceeding, the Forum also recommends that it**

Require CBC to submit by 13 August 2020

- a) **projections about Covid-19's impact on CBC's finances and staffing for the next three years, and**
- b) **a report regarding its exempted programming services which includes the numbers of hours of original Canadian and non-Canadian content carried by these services (or included in their catalogue), by year and by language, and**
- c) **a report regarding its non-programming (alphanumeric) services including**
 - **a complete history of its non-programming services**
 - **a complete financial history of its non-programming services**
 - **a report of the number of staff that CBC has employed since 2013 to work on its non-programming services, by year, distinguishing between full-time and contract (fixed-term; casual) staff, and**
 - **an analysis of the impact that CBC's non-programming services expenditures have had on the expenditures of its programming services.**

I. Introduction

- 1 On 20 February 2020 the Forum intervened in the proceeding initiated by the CRTC in mid-May 2019 to consider CBC's applications to renew its broadcasting licences and to maintain the CRTC's current exemptions of its digital programming services. The Forum's 104-page long intervention² made two and a half dozen recommendations about CBC's applications, of which eleven address CBC's online services.
- 2 CBC's 6 March 2020³ *Reply* acknowledged several interveners⁴
 - complaints that the information on the record of this proceeding is insufficient "to permit them to fully understand the scope and character of CBC/Radio-Canada's proposal"
 - claims that "CBC/Radio-Canada has not provided a reasonably detailed framework and associated financial projections regarding its plans for digital", and their consequent
 - questions about "both the character and the merit of CBC/Radio-Canada's proposal as it relates to cross-platform (i.e., traditional/digital) obligations."⁵
- 3 CBC's March 2020 *Reply* also said that:
 - "CBC/Radio-Canada has increased reliance on digital platforms to expand its reach, as well as enrich its traditional programming. For example, news, information and program clips featured on cbc.ca and radio-canada.ca significantly enrich the Corporation's overall broadcast offering" (¶10)
 - "for over six years, CBC/Radio-Canada has been actively pursuing a digital transformation to meet the changing needs of Canadians. In June 2014, CBC/Radio-Canada launched a five-year strategy, *Strategy 2020: A space for us all*, and targeted digital services for ongoing focus and expansion and set a goal of doubling its digital reach by 2020" (¶11)
 - "In March 2016, the Government of Canada announced an important reinvestment in CBC/Radio-Canada by increasing the Corporation's funding by an additional \$75 million in 2016-2017, growing to \$150 million in the following years" (¶12)
 - "CBC/Radio-Canada committed to an Accountability Plan for the Government's reinvestment in the public broadcaster. Under this Accountability Plan, the Corporation made commitments with respect to all of the new funding promised by the Government" (¶12)
 - "The Corporation is already dedicating significant resources to providing Canadian content across all its digital platforms" (¶13)

² The intervention includes 54 pages of argument and evidence, 4 tables, 12 figures, 8 appendices and 30 recommendations.

³ CBC, *Reply* – English version, CRTC website [*Reply*].

⁴ The Forum notes that it did not receive a copy of the *Reply* circulated to 46 interveners.

⁵ *Reply*, at ¶8.

- “... CBC/Radio-Canada will need to dedicate additional resources to this segment of the Canadian broadcasting system if it is to meet the changing needs of Canadians” (¶13), and
 - “The KPI framework for Your Stories, Taken to Heart replaces our former KPIs and Accountability Plan. These new KPIs cover 100% of our appropriations” (¶13) *Note to the reader: KPI refers to CBC's ‘Key Performance Indicators’*
- 4 CBC's *Reply* then stated its willingness to provide more financial information for the proceeding, by mid-April 2020.
- 5 On 22 June 2020 the CRTC announced a new date in January 2021 to hear the CBC's applications to renew its broadcasting licences and its arguments for maintaining the current Digital Media exemption order for its streaming services.⁶ The hearing is now scheduled to begin 20 January 2021.
- 6 The CRTC's 22 June 2020 notice also added financial information submitted by CBC to the public record some four months after the intervention period ended because the Commission “considers that this new information will assist the Commission and parties to the proceeding in understanding the Corporation's digital activities and its future plans for those activities.”⁷
- 7 Broadcasting Notice of Consultation CRTC 2019-379-3 permits interveners “to submit interventions/comments/answers” about the new information added to the public record. The CRTC warned that it will not consider submissions “that fall out side the scope of this additional information” If CBC replies,⁸ it must do so by 23 July 2020.⁹
- 8 As the Commission is aware, the February 2020 intervention by the Forum for Research and Policy in Communications (FRPC) set out its concerns about CBC's failure to provide clear evidence about the finances underpinning its past programming performance and proposals for programming going forward.
- 9 The Forum therefore welcomes the CRTC's decision to pursue CBC's 6 March 2020 commitment “to submit to the Commission ... financial information regarding our digital activities”¹⁰ because, as we said in our 20 February 2020 intervention, “it is in the public interest that

⁶ *Change of hearing date; Additional information added to the public record*, Broadcasting Notice of Consultation CRTC 2019-379-3 (Ottawa, 22 June 2020), <https://crtc.gc.ca/eng/archive/2019/2019-379-3.htm>, Broadcasting Notice of Consultation CRTC 2019-379-3.

⁷ *Ibid.*, at ¶4.

⁸ *Ibid.*, at ¶¶5-6. S. 27(1) of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (SOR/2010-277), <https://laws.justice.gc.ca/eng/regulations/SOR-2010-277/page-3.html#h-766526>, does not, however, require applicants to answer interveners:

27 (1) The applicant may file a reply to an answer or to the document of an intervener with the Commission within 10 days after the deadline for the filing of the answer or the deadline for intervening in the proceeding, as the case may be, or, if a notice of consultation is posted by the Commission on its website, within the time period set out in the notice. [underlining added]

⁹ Broadcasting Notice of Consultation CRTC 2019-379-3, at ¶6.

¹⁰ CBC, *Reply*, para. 14.

information concerning the CBC's online expenditures and revenues be made available.”¹¹ Our intervention raised the specific concern¹² that CBC has not explained how it is paying for its online services:

Figure 1 The Forum's 20 February 2020 intervention, paragraph 140:

It is unclear how CBC is paying for its online services. While it has operated websites since the early 2000s, CBC says that it has only one year of aggregated financial data for its digital media.⁸² It provided five years of projected data, including for the year that just ended (2019) setting out its revenues and “content-related expenses”. It did not explain what its “content-related expenses” include or exclude. Assuming that these expenses represent its websites’ total expenses, CBC's online services lost \$18.2 million in 2018, are projected to lose \$101 million from 2019 to 2023, or a total of \$119 million from 2018-2023.

10 The Forum's intervention also stated our concerns about CBC's decisions

- not to be transparent about the funding of its online services
- to charge subscription fees for some of its websites, and
- to offer programming online that is unavailable on its other broadcast services.¹³

11 The Forum's focus in this submission is on the new information provided by CBC on 12 June 2020 and the questions it raises. Gaps in the public record mean, however, that we do not know either what the CRTC requested on 6 May 2020¹⁴ or what CBC answered on 11 May 2020.¹⁵ (These gaps may be relevant if they touch on the questions we raise in Part III of this submission.)

12 In Part II of these comments we compare the CBC's February and June 2020 information. Part III sets out four basic questions raised by CBC's 12 June 2020 information. Part IV provides the

¹¹ *Family Feud*, at 30, ¶149.

¹² *Family Feud*, at 30-31, ¶¶150-151.

¹³ *Family Feud*, at ¶¶141-142.

¹⁴ CBC's 12 June 2020 response (DM#3876590) states that
Further to the Commission's request for information dated 6 May 2020, we are pleased to provide the additional financial information referred to in our reply comments dated 6 March 2020.
[italics added]

The only letter posted on the CRTC's “Open Proceedings” page for 2019-379-3 (the CBC renewal proceeding) – and described as “Commission Letter 6 May 2020”

(https://crtc.gc.ca/eng/archive/2020/lb200506.htm?_ga=2.21480761.344856793.1594219547-1211976415.1582553073) – is not addressed to CBC but to Ms. Peggy Tabet of Québecor Média; it states that her letter of 14 April 2020 (posted under the “Procedural requests” link) will not be added to the public record: .

The CRTC's “Commission Letters 2020” website page (<https://crtc.gc.ca/eng/8045/lc2020.htm>) lists the letter to Québecor but does not list any other letter for 6 May 2020.

¹⁵ CBC's 12 June 2020 response (DM#3876590) states that
As described in our letter dated 11 May 2020, the additional financial information consists of an overview of all of the Corporation's revenue and expenses, on an annual basis, covering the 5-year period of projections requested by the CRTC in the licence renewal applications; 2018-2019 to 2022-2023.
[italics added]

Forum's conclusions about the new information, as well as several recommendations about CBC's applications which the Forum could not have and did not previously make because

- The CBC's applications were neither transparent nor clear about its finances and its plans for the next licence term
- CBC did not disclose relevant information about its digital programming and non-programming services until after the end of the intervention period, and because
- The World Health Organization declared the Covid-19 to be a global pandemic on 11 March 2020¹⁶ - a few weeks before the end of the intervention deadline.

II. CBC's data from 3 February 2020 and 12 June 2020

13 CBC's letter to the CRTC of 12 June 2020 conveying its new financial evidence states that the evidence is being filed "[f]urther to the Commission's request for information dated 6 May 2020".¹⁷ CBC described the information it intended to file in a letter to the CRTC of 11 May 2020.¹⁸

14 CBC's 12 June 2020 letter states that its "additional financial information consists of an overview of all of the Corporation's revenue and expenses¹⁹" and CBC has included a line showing total "Parliamentary appropriations for conventional, discretionary and digital services".²⁰ (This line is included in Appendix 1, line 1.)

15 As the Forum explains below, CBC's June 2020 evidence has been presented in way that differs completely from its previous evidence about its past, current and projected financial position, and therefore generates completely different results in terms of CBC's projected financial position.

¹⁶ World Health Organization, *Timeline of WHO's response to COVID-19*, "11 March 2020",

<https://www.who.int/news-room/detail/29-06-2020-covidtimeline>.

¹⁷ CBC's 12 June 2020 letter (DM#3876590), at 1.

¹⁸ *Ibid.*

¹⁹ In fact, the new financial information consists solely of *total* operating expenses, rather than 'all expenses' (which in the CRTC's annual statistical and financial summaries including separate subcategories describing programming, technical, sales and administrative expenses).

²⁰ "PUBLIC FINANCIAL SUMMARY", "AGGREGATE FINANCIAL SUMMARY FOR ALL CBC/RADIO-CANADA SERVICES", Note 2.

A. CBC's June 2020 data: new information and new presentation

- 16 The Forum compared the digital financial information filed by CBC in October 2019,²¹ in February 2020²² and in June 2020.²³ The February 2020 and October 2019 data appear identical.
- 17 This comparison found that the June 2020 data describe different entities and different concepts. As Table 1 shows, the February data describe total earned revenue and total content-related expenses of a single reporting digital broadcaster; the June data describe five types of earned revenue and the total operating expenses of five or more exempted programming and non-programming services, including (although the CBC's June 2020 statement does not say so), RCI.²⁴ The Forum also notes that the CBC's new data omit the information it provided in February 2020 on expenditures related to content and Canadian content.

Table 1 Comparison of CBC's February 2020 and June 2020 financial information

| Type of information | 3 February 2020 DM#3798544 | 12 June 2020 DM#3876591 |
|------------------------|--|---|
| Digital media included | For revenue: 1 "Reporting Broadcasters" [sic] For expenses: 1 "Reporting Broadcasters" [sic] | For revenue: "Digital" (undefined) For expenses: [Exempted]: "CBC Gem and ICI TOU.TV" "CBC Listen and OHdio" [Non-programming]: "Websites, Curio and Other" ²⁵ |
| Type of revenue | "Earned Revenue (\$)" | "Total Parliamentary appropriations" "Advertising" "Subscriptions" "Syndication/Production revenue" "Other revenue" "Total Digital" |
| Type of expenses | "Total Content-related Expenses (\$)" | "Operating Expenses" |

²¹ DM#3755576 - English-language radio broadcasting services
DM#3755574 – French-language radio broadcasting services
DM#3755579 – French-language television broadcasting services, and
DM#3755582 – English-language television broadcasting services.

²² DM#3798544 – Digital media broadcasting services (identical to the digital media broadcasting information in the four documents listed in note 11, above.

²³ DM#3876591 (12 June 2020), "PUBLIC FINANCIAL SUMMARY", "AGGREGATE FINANCIAL SUMMARY FOR ALL CBC/Radio-Canada SERVICES".

²⁴ CBC refers to RCI in its 11 May 2020 letter confirming it will file the data it had previously committed to file, but not in its 12 June 2020 document. At 2 of the 11 May 2020 letter CBC writes, "The Corporation's other digital services include our websites, Curio and RCI. ..."

²⁵ It is unclear whether these results include the data from RCI, as suggested by CBC's 11 May 2020 letter (*ibid.*)

B. June 2020 data: different figures mean different results

- 18 Given the significant differences in the February and June documents with respect to media, revenue and expense data it is unsurprising that they yield quite different financial results. The June 2020 evidence shows higher digital revenues (Figure 2) and higher expenses (Figure 3).

Figure 2 CBC's February and June 2020 evidence about digital revenue

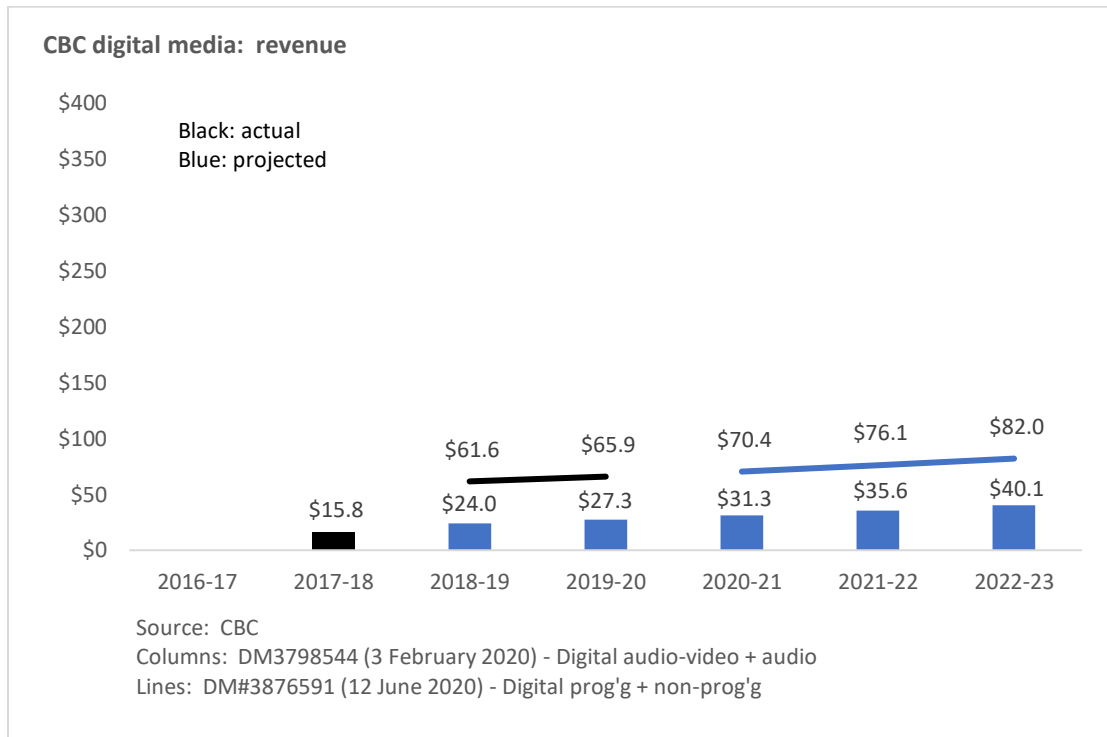
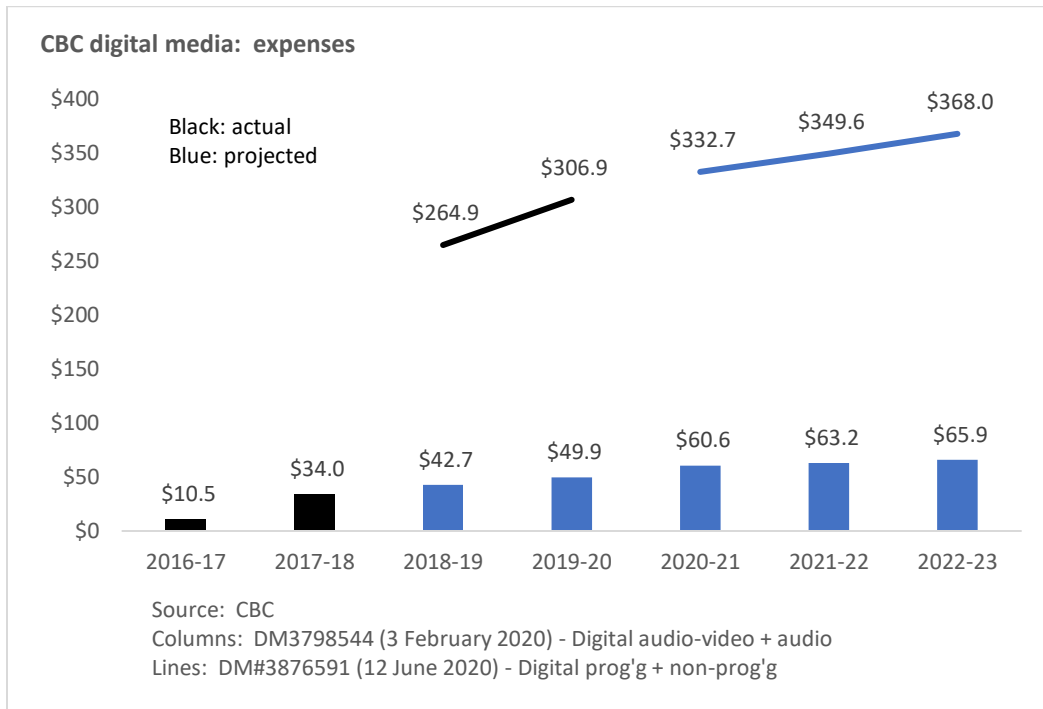
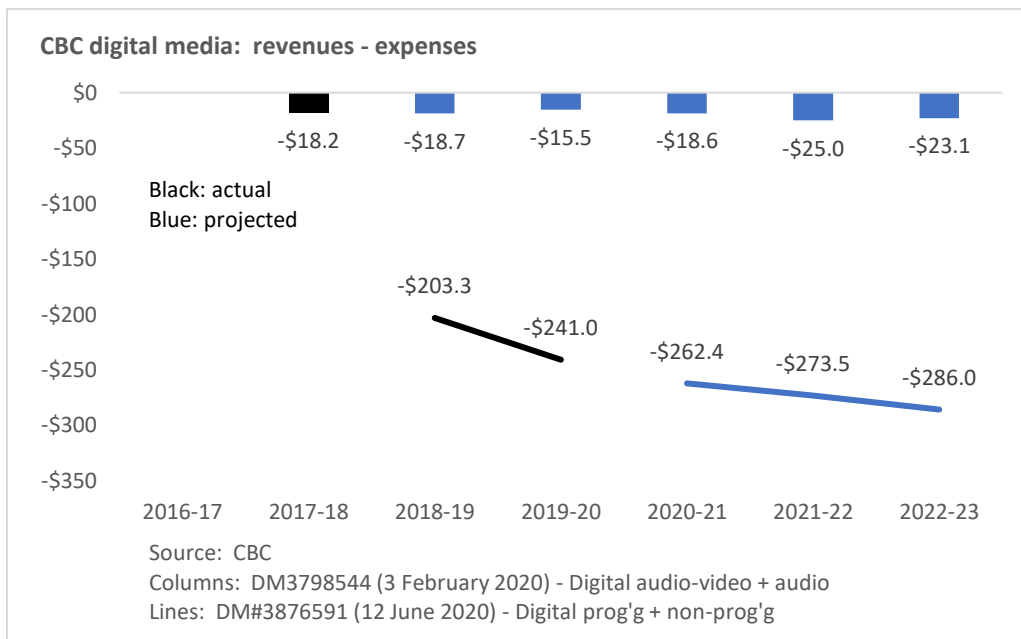


Figure 3 CBC's February and June 2020 evidence about digital expenses



19 Deducting expenses from revenues also shows (Figure 4) higher losses in the June data, compared to the February data.

Figure 4 CBC's February and June 2020 evidence about digital revenues less digital expenses



- 20 In brief, CBC's June 2020 "financial information regarding our digital activities, including those operating outside of the DMEO"²⁶ paints a picture of the next three years of CBC's services that is significantly different from the evidence submitted by CBC to the CRTC from August 2019 through to February 2020. CBC confirmed in early May 2020 that its "application does not include Curio, RCI or non-programming activities."²⁷
- 21 For example, from 2018 to 2023 total expenses for CBC's programming and non-programming digital services amount to \$1.6 billion, and increased by 38.9% from 2017/18 to 2022/23 (Table 2, line 19). Over the same five-year period expenses of CBC's conventional (conventional/discretionary audio and audio-visual) services amounted to \$6.2 billion, and decreased by 3.9% (Table 2, line 12).
- 22 And while it is true that expenses for CBC's conventional and discretionary programming services (\$6.3 billion – Table 2, line 12) exceeded their revenue (\$2 billion – Table 2, line 4), expenses on CBC's exempted programming and non-programming services (\$1.6 billion – Table 2, line 19) also exceeded their revenue (\$355.9 million – Table 2, line 6).

Table 2: Summary of June 2020 revenue and expense data

| Line | \$ millions | Total, current term: 2018-2019 | Total, new term: 2021-2023 | Total: 2018 - 2023 | % change 2018/19 to 2022/23 |
|---|--|--------------------------------------|----------------------------------|-----------------------|-----------------------------------|
| Income: appropriations and revenue | | | | | |
| 1 | Total Parliamentary appropriations | \$2,453.20 | \$3,775.90 | \$6,229.10 | 4.3% |
| 2 | Total appropriations as % of total income | 72.1% | 73.0% | 72.6% | |
| 3 | Revenue earned from broadcasting services | | | | |
| 4 | Audio-visual, conventional & discretionary | \$821.70 | \$1,168.70 | \$1,990.40 | -8.00% |
| 5 | As % of total revenue | 86.6% | 83.6% | 84.8% | |
| 6 | Digital | \$127.50 | \$228.50 | \$355.90 | 33.1% |
| 7 | As % of total revenue | 13.4% | 16.4% | 15.2% | |
| 8 | Total, earned revenue | \$949.20 | \$1,397.10 | \$2,346.30 | -2.8% |
| 9 | Total earned revenue as % of total income | 27.9% | 27.0% | 27.4% | |
| 10 | Total income: appropriations + revenue | \$3,402.40 | \$5,173 | \$8,575.40 | 2.3% |
| 11 | Operating expenses | | | | |
| 12 | Conv'l and discr'y | \$2,572.50 | \$3,757.30 | \$6,329.80 | -3.9% |
| 13 | audio-visual and | 73.2% | 70.2% | 71.4% | |
| 14 | audio | 75.6% | 72.6% | 73.8% | |
| 15 | Subtotal, DMEO programming services | \$132.50 | \$247.10 | \$379.60 | 38.5% |
| 16 | Exempted prog'g exp as % of total exp | 3.8% | 4.6% | 4.3% | |
| 17 | Exempted non-prog'g: websites, Curio, other | \$440.30 | \$803.20 | \$1,243.60 | 39.0% |
| 18 | Digital | 12.5% | 15.0% | 14.0% | |
| 19 | Subtotal, digital prog'g and non-prog'g exp | \$572.80 | \$1,050.30 | \$1,623.10 | 38.9% |
| 20 | Digital expense, as % of total expenses | 16.3% | 19.6% | 18.3% | |
| 21 | Digital expense, as % of total CBC income | 16.8% | 20.3% | 18.9% | |

²⁶ Reply, ¶14.

²⁷ CBC, Response from CBC/Radio-Canada to the Request for information - Filing of additional financial information regarding the CBC/SRC's digital activities Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7, Letter (11 May 2020), at 3.

| Line | \$ millions | Total, current term: 2018-2019 | Total, new term: 2021-2023 | Total: 2018 - 2023 | % change 2018/19 to 2022/23 |
|------|---|--------------------------------------|----------------------------------|-----------------------|-----------------------------------|
| 22 | Total expenses: conventional and digital | \$3,145.30 | \$4,807.60 | \$7,952.90 | 3.4% |
| 23 | Other expenses Subtotal, other expenses | \$369.50 | \$543.90 | \$913.30 | -3.5% |
| 24 | Total CBC expenses: conventional, digital and other | \$3,514.80 | \$5,351.50 | \$8,866.20 | 2.6% |
| 25 | Total CBC expenses as % of total CBC income | 103.3% | 103.4% | 103.4% | |
| 26 | Pre-tax profit (loss): total income less total expenses | -\$112.40 | -\$178.50 | -\$290.80 | 12.4% |
| 27 | Conventional services: revenue less expenses | -\$1,750.70 | -\$2,588.60 | -\$4,339.40 | |
| 28 | Digital services: revenue less expenses | -\$445.40 | -\$821.90 | -\$1,267.20 | |
| 29 | Deducting digital services revenue and expenses: | | | | |
| 30 | Conventional services: (conv'l income + appropriations) less conv'l exp | \$702.50 | \$1,187.30 | \$1,889.70 | |

23 Put another way, where CBC's previous evidence was that in the three years from 2021 to 2023 its digital services would have just under \$190 million in content-related expenses, its new evidence is that the total expenses of its exempt programming and non-programming services would be more than five times higher - \$1.05 billion: see Appendix 1, line 38).

Table 3 Differences in CBC's revenues and expenses for the next three years (2020/21, 2021/22 and 2022/23)

| Revenues and expenses (\$ millions current) | | | |
|---|-----------------|--------------|------------|
| Three-year projection (2020/21 - 2022/23) | 3 February 2020 | 12 June 2020 | Source: |
| Revenue (earned and Parliamentary appropriations) | | | |
| Total Parliamentary appropriations | | \$ 3,775.87 | DM#3876591 |
| Total revenue, licensed conventional & discretionary | | \$ 1,168.68 | DM#3876591 |
| Earned revenues - digital audio-visual and audio | \$ 106.98 | | DM#3798544 |
| Total revenue, exempted digital services | | No data | DM#3876591 |
| Total revenue, non-programming services | | No data | DM#3876591 |
| Total revenue, digital (exempt & non-programming?) | | \$ 228.45 | DM#3876591 |
| Total revenue, licensed, exempted and non-programming services | | \$ 1,397.13 | Calculated |
| Total revenue and Parliamentary appropriations | | \$ 5,173.00 | Calculated |
| Expenses | | | |
| Total content-related expenses - digital audio-visual and audio | \$ 189.73 | | DM#3798544 |
| Total expenses, licensed conventional & discretionary | | \$ 3,757.29 | DM#3876591 |
| Total expenses, exempted digital services | | \$ 247.07 | DM#3876591 |
| Total expenses, non-programming services | | \$ 803.24 | DM#3876591 |
| Total expenses, digital (exempt & non-programming?) | | \$ 1,050.31 | DM#3876591 |
| Total expenses, licensed, exempted and non-programming services | | \$ 4,807.60 | Calculated |
| Revenues less expenses | | | |
| Earned revenues less content-related expenses | \$ (66.68) | | Calculated |
| Total revenue, less total expense | | \$ 346.82 | Calculated |
| Licensed conventional & discretionary | | -\$ 2,588.62 | Calculated |

| Revenues and expenses (\$ millions current) | | | |
|---|-----------------|--------------|------------|
| Three-year projection (2020/21 - 2022/23) | 3 February 2020 | 12 June 2020 | Source: |
| Exempted digital services | | | Calculated |
| Non-programming services | | | Calculated |
| Digital (exempt & non-programming?) | | -\$ 821.86 | Calculated |

?: unclear from CBC's 20 June 2020 document

24 Moreover, while it has generally been the case that CBC's broadcasting services – its licensed radio and television programming undertakings – have lost money, it is somewhat surprising to learn from CBC's new evidence that its exempted digital services lost \$445 million in 2019 and 2020, and are projected to lose \$822 million from 2021 to 2023: Appendix 1, line 47. Excluding the digital services from the actual and forecast revenues and expenses indicates that, but for the digital services (and now, but for the impact of Covid-19 on the economy and Canadians), CBC would be operating at a profit rather than a loss – generating \$1.9 billion in profits (revenues less expenses) from 2019 to 2023.

25 CBC's new evidence raises concerns; the Forum addresses three of these in the next Part.

III. CBC's June 2020 evidence raises three new and important questions

A. Should CBC and the CRTC ignore the impact of Covid-19?

26 When it filed its reformatted financial evidence in June 2020 CBC clarified that it had not taken into account the likely very dramatic impact of the Covid-19 pandemic on its projected Parliamentary appropriations, earned revenue and expenditures.

27 Even if CBC saved some money by suspending its local English-language television newscasts in March 2020,²⁸ the pandemic's impact on the Canadian economy will likely be brutal. The Conference Board of Canada has estimated that the economy may contract by 8% or more, while "... employment will still be nearly 1.1 million lower for 2020 as a whole than it was in 2019."²⁹

28 CBC's June 2020 evidence forecast \$757 million in total advertising income for the next three years, representing 54% of its total earned revenue for the same period. As Canadian business'

²⁸ Editor's Note, "Why CBC News is making changes to local programming during the COVID-19 crisis", (18 March 2020), <https://www.cbc.ca/news/editorsblog/editors-blog-local-programming-1.5502141> (accessed 11 July 2020). CBC subsequently announced that it would resume local English-language television newscasts beginning 25 March 2020: cbc media centre, "CBC will continue to restore local TV news for audiences across the country", (24 March 2020), <https://www.cbc.ca/mediacentre/press-release/statement-on-cbc-local-supperhour-newscasts>. We understand in any event that the temporary suspension did not affect CBC's radio programming services, or its French-language television stations.

²⁹ The Conference Board of Canada, *Canadian Outlook Summary: Summer 2020*, <https://www.conferenceboard.ca/e-library/abstract.aspx?did=10737> (accessed 11 July 2020):

The effects of the COVID-19 pandemic have been severe. Mandated business closures and a collapse in both business and consumer confidence will result in an 8.2 per cent contraction for the Canadian economy this year—the worst annual contraction on record.

capacity to advertise is linked to economic performance it is highly unlikely that in the next several years CBC will be able to earn the level of revenue set out in the forecasts it developed in mid-2019.

- 29 Similarly, CBC's June 2020 evidence forecasts \$370 million in subscription revenue, representing 26% of its total earned revenue. As Canadians who have been hit by unemployment may have already reduced or are planning on reducing discretionary household expenditures such as subscriptions to discretionary audio-visual programming services, CBC may be unable to earn this income.
- 30 Finally, CBC's June 2020 evidence forecast \$3.8 billion in Parliamentary appropriations. As the Federal government has taken on massive new debt to enable Canadians to cope with the financial hardships imposed by months of sheltering in place, we believe it is reasonable to assume that Parliament may be forced to take a hard look at all government expenditures – the CBC's included.
- 31 The Forum's concern is that regardless of why CBC excluded the impact of Covid-19, CBC's programming plans have already changed and will likely continue to change in the next one to two years due to the pandemic's wide-ranging effects.

B. How do CBC's changes in the presentation of its digital services' finances affect due process?

- 32 The CBC's letter of 12 June 2020 conveying the new financial evidence states that its
- ... forecasts are consistent with the licence renewal financial projections that are part of the record of this proceeding.
- 33 In fact, CBC's June 2020 financial evidence is NOT consistent with its previous financial evidence because it has now included information it had previously withheld. As noted earlier, CBC changed the presentation of its financials between February 2020 and June 2020 with respect to
- The numbers and types of digital services covered: The October and February data refer to "Digital Media Broadcasting" apparently consisting of a single "Reporting broadcasters" [sic]. The June data describe exempted programming services ("CBC Gem and ICI TOU.TV", "CBC Listen and OHdio") and non-programming services that are predominantly alphanumeric ("Websites, Curio and other").³⁰ CBC also says that its "other digital services" include RCI.³¹
 - Revenue: The February data refer to "Earned revenue" only; the June data refer to Parliamentary appropriations, advertising, subscriptions, syndication/production revenue and other revenue.
 - Expenses: The February data refer to "Total content-related Expenses" while the June data refer to total operating expenses.

³⁰ DM#3876591, Notes 3 and 4.

³¹ CBC, Letter to CRTC, (11 May 2020), DM#3849736, at 2 ("The Corporation's other digital services include our websites, Curio and RCI").

- 34 In particular, the 12 June 2020 evidence shows for the first time in this proceeding the scale of resources that CBC is devoting to exempted programming and non-programming services: \$1.6 billion from 2019 to 2023 (Appendix 1, line 38). To the extent that it is relevant, the Forum notes that the financial statements published in CBC's annual reports since 2000 also did not separate and set out CBC's expenditures on its online non-programming and exempted programming services.)
- 35 Rather than offering information and “forecasts that are consistent with” CBC's previously filed renewal materials,³² the 12 June 2010 data are inconsistent with CBC's previous published evidence.
- 36 The Forum's concern is that CBC's failure from August 2019 to February 2020 to disclose the scale of its expenditures on digital exempted programming and non-programming services made it impossible for Canadians to comment in a fully-informed manner about CBC's programming plans going forward.

C. Should the CRTC continue to ignore business activities on which CBC plans to spend \$1.05 billion in the next three years?

- 37 In providing new and comparatively far more detailed financial information about all of its services – licensed and exempted –CBC describes its exempted programming as “programming on non-traditional platforms”. While its written text is somewhat unclear, CBC appears to be asking that its ‘non-traditional platform programming’ be recognized “against” CBC's licence obligations, even though it has excluded its non-programming activities from its licence applications:

CBC/Radio-Canada's licence renewal application proposes a bridge to the future by seeking to include programming on non-traditional platforms for the purposes of CRTC recognition against our licence obligations. Our application does not include Curio, RCI or non-programming activities.³³

- 38 Apart from the fact that is not at all clear that CBC's operations with respect to exempted non-programming services have been authorized by Parliament, CBC's decision not to provide the details on expenditures that it reports to the CRTC (expenditures on programming, technical, sales and administrative services and products, as well as on Canadian and non-Canadian content), makes it impossible to evaluate the impact of CBC's expenses on the broadcasting system or the Canadian economy.
- 39 Even more importantly, CBC did not provide any evidence describing the hours of programming that CBC's exempted programming services have been providing, and will be providing in the next licence term.

³² CBC's 12 June 2020 letter stated that its “... forecasts are consistent with the licence renewal financial projections that are part of the record of this proceeding.”

³³ DM#3849736, CBC, *Response from CBC/Radio-Canada to the Request for information - Filing of additional financial information regarding the CBC/SRC's digital activities Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7*, Letter (11 May 2020) at 3.

1 *Non-programming services exempted in 1993*

40 CBC's June 2020 evidence shows that it plans to spend \$803 million on non-programming services that may consist of alphanumeric content even though – as CBC confirmed on 11 May 2020³⁴ - it has not included these services in its application.

a) *Regulatory history*

41 Non-programming services predate the Internet, but also originated in the distribution sector. When Parliament established the CRTC in 1968 it also gave the Commission jurisdiction over cable television, a rapidly-evolving medium that enabled Canadians to obtain television and radio services from outside their local area. Within a decade, cable television undertakings wanted to offer subscribers more than radio and television services³⁵ and in 1978 the CRTC authorized cable television applicants “to provide new communications services of a non-programming nature.”³⁶

42 In deciding whether to grant cable television services’ applications to offer non-programming services, the CRTC said its two concerns were that existing programming services retained their priority³⁷ and that the cable services’ subscribers were “not obliged to take and pay extra for non-programming services, either directly or indirectly.”³⁸

43 The CRTC set out a policy for cable television services’ non-programming services in early 1979.³⁹ Its reiterated that non-programming services should not compromise “the priority claims” of local programming services, and that subscribers should not have to accept or pay extra for non-programming services, whether directly or indirectly.⁴⁰ The CRTC later said that licensees were to “produce evidence of the costs of providing both (i) programming, and (ii) non-programming services” to ensure that its requirements about direct or indirect payments for non-programming services were met.⁴¹

³⁴ *Ibid.*

³⁵ The cable systems were, except for those offering community television channels, rebroadcasting radio and television services.

³⁶ *Non-Programming Service by Cable Television Licensees*, CRTC Public Announcement (Ottawa, 6 June 1978).

³⁷ *Ibid.*: “in terms of channel capacity and spectrum space”.

³⁸ *Ibid.*

³⁹ *Non-Programming Services by Cable Television Licensees*, CRTC Public Announcement (Ottawa, 26 March 1979).

⁴⁰ *Ibid.*, “I. Priority of Programming Services”; “II. Cross-Subsidy from Programming Services”.

...

The Commission is aware of the experimental nature of the proposed services and of the fact that the determination of the costs of a service, distributed on facilities simultaneously used for other services, is not a simple exercise; neither is it an area in which there is unanimity. Nevertheless, the Commission will insist that procedures for identifying, estimating and separating these costs be developed.

... regardless of which type or [sic] [of] organizational structure is eventually established, the Commission will require the submission of financial statements and other appropriate documentation to ensure that costs are properly allocated between programming and non-programming services.

....

⁴¹ *Ottawa Cablevision Limited*, Decision CRTC 79-266 (Ottawa, 26 March 1979), at 4 (“(2) Cross-Subsidy”).

- 44 The development of televised shopping channels led the CRTC to decide that broadcast programming services whose content consisted primarily of still images, including alphanumeric text, were also non-programming services. This position was implemented through the CRTC's 1986 cable television regulations: the regulations defined programming services as being "designed generally to inform or entertain the public at large", while services outside this definition, such as alphanumeric services, were "specifically excluded from the programming services definition ... [to] encourage the provision of more of these services to cable subscribers."⁴² Non-programming services did not require CRTC authorization.
- 45 Alphanumeric services were first defined in 1988, as "any combination of letters, numbers, graphic designs, still images, background music or spoken words that simply and briefly explain or describe what is represented by the letters, numbers, graphic designs or still images."⁴³
- 46 Parliament subsequently gave the CRTC the express authority to exempt certain broadcasting services from regulation in 1991. It permitted the CRTC to exempt broadcasting services from the requirement to hold licences when it was satisfied that complying with licensing requirements "will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1)".⁴⁴ The CRTC promptly asked whether it should exempt a long list of programming services, including "Still Image Programming Service Undertakings",⁴⁵ and exempted these undertakings from the requirement to hold a licence in 1993.⁴⁶
- 47 As noted previously, CBC's June 2020 evidence now shows that it spent \$440 million on non-programming websites in 2019 and 2020, and that it plans to spend \$803 million on these websites from 2021 to 2023,⁴⁷ for a total of \$1.2 billion. The CBC's June 2020 evidence is vague about the services included in "Websites, curio and other", but six years ago CBC described curio.ca as "Canada's largest educational content website";⁴⁸ curio.ca's current website page says that it offers "hundreds of teacher resource guides carefully curated to support provincial K-12 curricula and post-secondary courses across the country".⁴⁹

⁴² *REGULATIONS RESPECTING BROADCASTING RECEIVING UNDERTAKINGS*, Public Notice CRTC 1986-182 (Ottawa, 1 August 1986), <https://crtc.gc.ca/eng/archive/1986/PB86-182.htm>.

⁴³ *Enquiries and Complaints about the Canadian Home Shopping Network (CHSN) Service Distributed by Some Cable Licensees*, Public Notice CRTC 1988-26 (Ottawa, 24 February 1988), <https://crtc.gc.ca/eng/archive/1988/pb88-26.htm>

⁴⁴ *Broadcasting Act*, s. 9(4).

⁴⁵ *PROPOSED EXEMPTIONS FROM LICENSING REQUIREMENTS*, Public Notice CRTC 1992-5 (Ottawa, 17 January 1992), <https://crtc.gc.ca/eng/archive/1992/PB92-5.htm>.

⁴⁶ *EXEMPTIONS FROM LICENSING REQUIREMENTS*, Public Notice CRTC 1993-43 (Ottawa, 30 April 1993), https://crtc.gc.ca/eng/archive/1993/PB93-43.htm?_ga=2.75416208.344856793.1594219547-1211976415.1582553073

⁴⁷ DM#387691 (12 June 2020) explains at Note 4 that the operating expenses line for "Websites, Curio and other" "reflect content and production spend projected primarily on CBC.ca/Radio-Canada.ca. These are websites that consist primarily of alphanumeric text and meet the description of a non-programming service."

⁴⁸ CBC, *Annual Report 2013-2014*, at 5.

⁴⁹ Curio.ca, "About Curio.ca", <https://curio.ca/en/about-us/> (accessed 10 July 2020).

- 48 The June 2020 evidence about CBC's non-programming services provides grounds for two concerns.
- 49 First, does CBC have the legal jurisdiction under the *Broadcasting Act* to provide non-programming services, in light of Parliament's decision that CBC's purpose is to provide programming services? The Forum notes that Québecor on behalf of Vidéotron, has also "raised multiple concerns about the financing of SRC and its role in the digital sphere, arguing that SRC is going beyond its mandate as a public broadcaster."⁵⁰
- 50 Second, assuming CBC has the legal jurisdiction to provide non-programming alphanumeric services, is it reasonable for the CRTC to continue to exempt these non-programming services from regulation when Canada's national public broadcaster plans to allocate 18% (\$803 million) of its total conventional, discretionary and digital expenditures on these services over the next three years?
- b) CBC's jurisdiction*
- 51 CBC's mandate is set out by the *Broadcasting Act*, in Parts I and III. The *Act* states that CBC is established to provide programming:
- The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission...⁵¹
- 52 It goes on to say that 'for the purpose of providing the programming described by section 3(1)(l) and (m), CBC may
- (j) publish, distribute and preserve, whether for a consideration or otherwise, such audio-visual material, papers, periodicals and other literary matter as may seem conducive to the attainment of the objects of the Corporation;
- ... [and]
- (r) do all such other things as the Board deems incidental or conducive to the attainment of the objects of the Corporation.⁵²
- ...
- 53 What CBC has not explained is how the non-programming alphanumeric services on which it plans to spend \$803 million meet the purpose of providing the programming in sections 3(1)(l) and (m):

⁵⁰ Executive Director, Broadcasting, CRTC, *Re: Part 1 Application - Québecor versus Radio-Canada - ICI TOU.TV EXTRA - Application # 2019-1113-1*, Broadcasting Commission Letter addressed to Peggy Tabet (Québecor Media inc.) and Bev Kirshenblatt (CBC/Radio-Canada), (Ottawa, 14 January 2020), <https://crtc.gc.ca/eng/archive/2020/lb200114.htm>.

⁵¹ S. 46(1).

⁵² *Ibid.*

(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;

(m) the programming provided by the Corporation should

- (i) be predominantly and distinctively Canadian,
 - (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,
 - (iii) actively contribute to the flow and exchange of cultural expression,
 - (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,
 - (v) strive to be of equivalent quality in English and in French,
 - (vi) contribute to shared national consciousness and identity,
 - (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
 - (viii) reflect the multicultural and multiracial nature of Canada
- [underlining added]

- 54 It may well be that CBC's non-programming services are programming services that are being made available by the most appropriate and efficient means, as section 3(1)(m)(vii) provides. But if so, CBC should still clarify how these services are being resourced – since the services may only be provided “as resources become available for the purpose”. If the CRTC has never had the opportunity to examine CBC's non-programming services, what authority has agreed that CBC should expend 18% of its total expenditures on alphanumeric non-programming services whose primary target appears to be provincial educational departments?
- 55 More to the point, are CBC's Parliamentary appropriations being shifted from conventional and discretionary programming to non-programming services? It is impossible to say based on the single page of information provided by CBC on 12 June 2020, as it reports expenses but not revenues separately for digital programming and non-programming services. That said, the Forum notes that CBC's data show that exempted non-programming services used four times the expenses of exempted programming services. The combined data for all digital services then show CBC's exempted programming and non-programming services together earning revenues of \$356 million from 2019 to 2023 (Appendix 1, line 14), with the same services (one assumes) expending \$1,623 million (Appendix 1, line 38) over the same period: in other words, CBC's exempted programming services appear to incurring a net loss of \$1,267 million from 2019 to 2023 (Appendix 1, line 47).
- 56 Should the CRTC continue to ignore the non-programming services of Canada's national public broadcaster when they consume hundreds of millions of dollars of its limited resources, and incur hundreds of millions of dollars in losses? Are exempted non-programming services the best possible use of \$1.3 billion for CBC – considering that from 2019 to 2023 it plans to reduce

expenditures on its licensed conventional and discretionary programming services overall by 3.9%?⁵³

2 *Digital streaming programming services exempted in 1999*

- 57 According to CBC's 22 June 2020 evidence it plans to spend \$247 million on programming services that are exempted by way of the digital media exemption order first issued in 1999. CBC includes RCI among these services, although it is unclear whether it is either exempted⁵⁴ or a non-programming service.
- 58 As mentioned previously the CRTC's power to exempt broadcasting services from broadcasting requires it to be satisfied that complying with licensing requirements "will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1)".⁵⁵
- 59 CBC's June 2020 evidence also shows that it spent \$62 million on four exempted programming services in 2018/19, including \$43 million on two exempted television services (GEM and TOU.TV). CBC's aggregated financial summaries show that in 2018/19 its conventional television services spent \$122 million on news, and \$180 million on drama.
- 60 In other words, last year the digital television programming services that are now exempted from regulation because they "will not contribute in a material manner" to implementing Parliament's broadcasting policy accounted in terms of expenditures for half of CBC's expenditures on news, and for a third of its expenditures on drama.
- 61 The Forum is not suggesting that the CBC divert the \$380 million it plans to spend on exempted programming services from 2021 to 2023 to its conventional television services – but that the sum involved amounts to a material contribution to the implementation of section 3. Since the services are currently exempted from regulation, however, CBC has provided Canadians and the CRTC with virtually no clear idea of how these services will meet CBC's own purpose as set out by section 3(1)(m) of the *Act*. The CRTC should inquire further into the nature of CBC's exempted non-programming services, with a view to either amending or dropping their current exempted status.

IV. Conclusions and recommendations

A. Conclusions

- 1 *CBC's June 2020 data suggest more concern for online non-programming services than for programming or online programming services*
- 62 The data disclosed by CBC on 12 June 2020 offer a clearer picture of CBC's priorities. By 2023 it plans to spend 3.9% less on its conventional (audio and audio-visual) and discretionary programming services than it spent in 2019; it plans to spend 38.5% more on its exempted

⁵³ See Appendix 1, line 29.

⁵⁴ As the RCI service was originally intended to serve non-Canadian audiences outside of Canada, no licence was needed to broadcast in Canada; presumably CBC believes that if it is streaming RCI, the service is exempted through the Digital Media exemption order.

⁵⁵ *Broadcasting Act*, s. 9(4).

programming and non-programming services in 2023 than it spent in 2019; (Appendix 1, lines 38 and 29). As for its exempted services – CBC plans to spend \$247 million on digital streaming/programming services from 2021 to 2023, but \$803 million in the same period on its digital non-programming services (Appendix 2, lines 34 and 36).

- 63 CBC is clearly focussed on the growth of its currently exempted services. The Forum agrees that from a strategic perspective CBC has little choice but to stream its content. Audiences for traditional radio and television are still large, though declining; among young people the decline is much greater. If the CBC does not adapt to changes in audience behaviour, it will not be fulfilling their mandate.
- 64 The move to streaming is not a transition from one form of distribution to another, like radio to television in the 1950s or even the digital television switch-over in the 2000s and 2010s. This is more akin to a fragmentation, with myriad ways to consume the same content, and clearly changing consumption patterns.
- 65 Other public broadcasters are also facing these challenges. Like them, CBC has two main problems. First, streaming is very expensive to establish and operate, and second, there are currently limited successful business models that see cost recovery for streamers.
- 66 In terms of cost, streaming on the scale CBC is attempting is very expensive and complex. Broadcasters need to package content beyond live streaming to on-demand, podcasts, web pages, and so on. From a technical perspective it needs an on-demand library available across operating systems and web browsers, partnerships with third party platforms (like YouTube or Spotify) for distribution, apps for various platforms (mobile, streaming box and smart TV) and an appropriate web presence. Public broadcasters may well need to partner with FAANG streamers like Apple for podcasts and YouTube for clips, and to also have a social media presence.
- 67 Most challenging from a technical perspective is that streamers need to utilize a content delivery network (CDN) to distribute their programming to Canadians. Many – though not all – audience members expect instant access to 4K content in their homes. For Netflix, Google and Amazon this means placing servers in communities across the country which can serve content quickly to consumers. This is expensive and technically highly specialized, with the greatest technical expertise right now at Disney, Netflix and Google. CBC's new evidence suggests that it is preparing to spend more on its online services – but its focus seems to be on non-programming, rather than programming, services.
- 68 In terms of business models, it is unclear whether any entity is making money as a pure-play content streamer. The bulk of the larger general streamers – such as the FAANG members like Apple and Amazon, but Disney/Hulu as well – are subsidizing streaming from other operations to the tune of hundreds of millions of dollars annually. Though Netflix is profitable their margin is relatively small (10%) and programming costs are very high due to their high level of original content production. Streaming is clearly in a growth phase where profits are secondary to expanding the business. This is also true for the middle-tier streamers--for example CuriosityStream is growing their subscriber base very quickly with a \$20 per year fee that simply cannot be sustainable.

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- 69 All this puts public broadcasters in a difficult position. They want to follow audiences to streaming, but the costs are very high and the pay-off is unknown. This is the challenge CBC faces.
- 70 CBC could just say no to establishing its own middle-tier streaming platforms and stick to traditional distribution and partnering with the FAANG streamers. In the Forum's view this would essentially mean the end of CBC as we now know it. If it does not follow younger audiences into streaming, it will turn into something more akin to the United States' Public Broadcasting System, and will no longer fulfil its public-broadcaster mandate.
- 71 CBC could try to partner with the FAANG streamers and let them handle the distribution of all of CBC's programming. For example, CBC could stream its audio and podcasts through Apple, and have Netflix or Amazon distribute video programming. In fact, CBC already works with FAANG for audio content, but the fee-based FAANG video streamers are not a good fit for a public broadcaster that should provide programming to Canadians at no cost. CBC does work with Netflix to distribute some content (*Great Canadian Baking*, *Anne with an E*) but this is a revenue generating "international partnership" CBC mentioned in their plan, not a general means of distribution to Canadians.
- 72 CBC appears to be trying to establish a set of middle-tier streaming services available to Canadians at no cost. That said, CBC is in part apparently attempting to commercialize content that for many decades has not been commercial, primarily CBC radio content and news. If CBC is moving to commercialize its content in its digital services, it should be transparent about this.
- 73 Similarly, if CBC has in fact decided that it cannot sustain its digital services through subscriptions or advertising, it should also be transparent about its new approach. If it is shifting resources from its conventional programming services, it should disclose this approach and invite public scrutiny. Transparency will best serve CBC – and Canadians – if CBC explains the programming it is offering and plans to offer online in the future. While it may ultimately be up to Parliament to enable CBC to transition from its currently overly commercialized model to a true public broadcasting model, this decision will require evidence and discussion. The CBC's June 2020 data open the door to a more meaningful debate about public broadcasting in the 21st century – but unfortunately were set out so late in the 2019-379 process that few parties are aware of the information.
- 2** *CBC secrecy about non-programming services impaired fair process in the 2019-379 proceeding*
- 74 CBC's failure to provide information about its non-programming activities from mid-2019 to early June 2020 has had two negative effects. We touched on the first just above, when we pointed out that the information provided by CBC about its online services would have helped interveners understand CBC's approach to transitioning to 21st century broadcasting.
- 75 But filing relevant information about CBC's digital services four months past the intervention deadline also meant that when the CRTC invited Canadians' views on its renewal applications, they had no way of knowing that CBC planned to spend more than \$1.2 billion from 2018/19 to 2022/23 on alpha-numeric non-programming services. The Forum notes that as the information

filed by CBC in June 2020 does not report the income earned by its exempted programming services and by its exempted non-programming services Canadians have no way of knowing the degree to which either or both types of services are supporting themselves.

- 76 The Forum is aware that in 2013 the CRTC was concerned about the loss of educational programming:

The national public broadcaster has a mandate to serve all Canadians. As such, the Commission considers that the CBC has a responsibility to provide informative, educational and entertaining programming to Canadian children and youth. This obligation is not only part of the CBC's public service mandate, but is also vital to building its future audience across multiple platforms. While provincial educational broadcasters provide children's programming, such programming has largely been abandoned by private conventional broadcasters. As a result, limited children's and youth programming is available over-the-air across the country. Accordingly, the Commission considers that an appropriate commitment by the CBC to children's and youth programming is all the more significant.⁵⁶

- 77 The problem is that CBC is not just providing programming for young people (to a limited degree, as the Forum's intervention pointed out through its analysis of CBC's Montreal and Toronto programming logs), but is also providing an "online subscriber-based service developed expressly for the Canadian educational community, including school boards, government ministries, universities, colleges and cégeps, and public libraries".⁵⁷ A second problem is that CBC spent nearly half a billion dollars (\$440 million; see Appendix 1, line 36) on this content. A third problem is that CBC is using its Parliamentary appropriations to pay for its digital services, which presumably include its non-programming services: note 4 of CBC's 12 June 2020 evidence says that the Parliamentary appropriations shown are "for conventional, discretionary and digital services."

- 78 It may well be that Canadians desperately need this non-programming educational service; but it is for Parliament to decide that CBC must meet this need, and to amend the *Broadcasting Act* to enable the Corporation to do so.

- 79 Given that CBC itself said that its "licence renewal application proposes a bridge to the future by seeking to include programming on non-traditional platforms for the purposes of CRTC recognition against [its] licence obligations"⁵⁸ it is clear that CBC's online activities were material and relevant to its application. A superficial analysis also suggests that – assuming CBC's exempted non-programming services are not self-supporting – Canadian taxpayers may be

⁵⁶ *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263 (Ottawa, 28 May 2013), <https://crtc.gc.ca/eng/archive/2013/2013-263.htm>, at para. 72.

⁵⁷ DM#3849736, CBC, *Response from CBC/Radio-Canada to the Request for information - Filing of additional financial information regarding the CBC/SRC's digital activities Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7*, Letter (11 May 2020), at 3.

⁵⁸ *Ibid.*

subsidizing these services despite the CRTC's long-standing opposition to exactly this practice.⁵⁹ The Forum submits that CBC's failure to disclose relevant information placed Canadians at a disadvantage during the intervention process, and denied them fair process.

3 *CBC's failure to account for Covid-19's impact renders its plans and forecasts moot*

80 The Forum's 20 February 2020 intervention commented that

A sudden change in Canada's broadcasting system might mean that, overnight, Canadians could lose access to private local programming services, and the news they provide. According to the CRTC's Financial Summaries, CBC reduced its total and local expenditures on news from 2013 to 2019 by just over 47%. As news is fundamental not just to national, but also to provincial and municipal civil engagement and essential to a democracy, the CRTC must ensure that CBC's capacity to gather and distribute local, regional and national news is safeguarded.⁶⁰

81 (In fact, although CBC has confirmed that its new data do not reflect the impact of the Covid-19 pandemic – CBC's capacity to gather and distribute local news was in fact affected, when CBC eliminated its local English-language television news services for a period of time beginning in March 2020.)

82 The result is that a public hearing in January 2021 will be dealing with financial forecasts and programming plans that will have little if any basis in the reality created by the pandemic that has seized Canada since March 2020, that will lead the economy to contract by 8% and that will cost more than one million Canadians their current jobs.

B. Recommendations

83 The Forum's 20 February 2020 intervention made 30 recommendations about the 2019-379 renewal proceeding. The Forum recommended first and foremost that the Commission deny CBC's request to renew its licences for five years because CBC had provided insufficient evidence to support the application and because CBC's programming plans were too vague to show how it planned to meet its legislated mandate.⁶¹ The Forum recommended instead that the CRTC renew CBC's licences for three years because CBC appeared to be in breach of some of the conditions of its broadcasting licences, and it had offered no information about its plans beyond August 2023.

84 We also argued that a three-year renewal would provide

1. Parliament with time to review its approach to funding Canada's national public broadcaster,
2. the government with time to plan a new approach that will ensure CBC becomes a 21st century public service content provider with stable multi-year funding,

⁵⁹ See above, paragraphs 41-42.

⁶⁰ FRPC, *Family Feud*, at Executive Summary paragraph ES4.

⁶¹ *Ibid.*, at paragraph ES18.

3. CBC with breathing space to make realistic plans to serve Canada, Canadians and communities, and to ensure that

4. CBC develops the capacity to report data showing whether and how it is meeting the programming objectives of the *Broadcasting Act* or new communications legislation.

85 CBC's new evidence and the CRTC's decision to renew CBC's licences from September 2020 to August 2021 require the Forum to change its recommendation for a three-year renewal, to a recommendation for a two-year renewal (commencing 1 September 2021 and concluding 31 August 2023). We address this in greater detail below, particularly with respect to timing.

86 The Forum also notes that of the 30 recommendations set out in its 20 February 2020 intervention, 11 address CBC's online services specifically. These eleven recommendations are repeated below for the convenience of the reader; the Forum has amended recommendation 27 to reflect the CRTC's 2020 administrative renewal of CBC's licensed programming services:

Recommendation 1: The CRTC should address the CBC's evasiveness in responding to questions about its performance and plans in its renewal decisions

...

Recommendation 7: The CRTC should establish conditions of licence for each of CBC's radio, television and online services to ensure that Canadian content begins to increase during the next licence term

...

Recommendation 13: The CRTC should deny CBC's requests to move any original programming to online-only platforms

Recommendation 14: CBC should phase out advertising and paywalls for online programming distribution

Recommendation 15: CBC should report information about its revenues from and expenditures on its online programming services to the CRTC, including information about sources of revenue and the degree to which it is sharing resources with CBC's other programming services

Recommendation 16: CBC should provide CRTC with metrics detailing online viewership and listenership

...

Recommendation 18: CBC should consolidate its online brands

...

Recommendation 21: The CRTC should require CBC to submit annual reports on the programming provided by each service (radio, television, discretionary services, online services) and by language (English, French and Indigenous languages), indicating the number of broadcasts that are original (first-run) and the number that are repeats

Recommendation 22: The CRTC should require CBC to report each year on the percentage of people in Canada who are able to receive its radio, television and online services

Recommendation 23: CBC should track and report to the CRTC on the programming that it provides on each programming undertaking, whether conventional or online

...

Recommendation 27: The CRTC should begin to limit advertising in CBC's non-news programming by the second year of a ~~3-year~~ 2-year licence, with the goal that CBC eliminate all advertising on all CBC broadcasting services by ~~2030~~ 2031

...

- 87 The CBC's 12 June 2020 information has also led the Forum to reconsider the overall timing that the CRTC should use to renew CBC's licences. Our overall conclusion about CBC's June 2020 financial disclosures about an unknown number of non-programming services to which CBC is allocating \$1.2 billion from 2018/19 to 2022/23 is that Canadians are entitled to raise very serious questions about whether CBC is allocating its resources within or outside its legal mandate.
- 88 But beyond that basic concern is the fact that as the CRTC's renewal process for CBC began in or before May 2019, the decisions it makes in spring 2021 will rely in part on two-year old data and analysis that does not take into account the current Covid-19 pandemic.
- 89 Relying on stale-dated evidence might not matter except that as mentioned above⁶² some economists believe that Canada's economy will contract significantly this year and that unemployment will remain high for the next year, due to the Covid-19 pandemic. These changes will affect the entire broadcasting sector, including CBC, not just in terms of financial impacts on advertising and subscriptions, but also in terms of programming decisions (as new program production has been on hold, again due to the pandemic).
- 90 This entirely new context means that it is now very unclear how the CRTC can proceed as planned with CBC's renewal, in light of
- the entirely new financial and other information that CBC has filed and
 - the potential impact of Covid-19 on CBC's current and projected
 - advertising income
 - subscription revenues
 - Parliamentary appropriations
 - programming schedules (given the cancellation of a great deal of program productions), and
 - the broadcasting system as a whole
- and
- the serious concern that a 'second wave' of the Covid-19 pandemic will emerge this fall.⁶³

⁶² Para. 26.

⁶³ In discussing government financial support, a report from Canada's Senate referred to the double impact of a second Covid-19 wave and influenza this fall:

- 91 Insofar as the broadcasting system is concerned, the Forum notes that the Commission has throughout its history steered or attempted to steer a course that balances the interests of the different elements of the broadcasting system. Indeed, the *Broadcasting Act* also mandates this careful balancing.⁶⁴ The Forum's concern is that it will be very difficult for the CRTC to balance the interests of the broadcasting system's different elements in light of the serious impact that Covid-19 will also likely have on private and community broadcasting.
- 92 In light of CBC's new information and the new and unforeseen circumstance of Covid-19, the Forum therefore revises its previous recommendations to recommend that the CRTC

Terminate the current 2019-379 proceeding and, as August 31, 2021 approaches, renew CBC's licences from September 2021 to August 31, 2022 under the same conditions

and

Amend its exemption orders for CBC's online programming and non-programming services by requiring each set of services (preferably each individual service) to submit their financial and staffing information in a manner that enables the CRTC to generate the financial information it publishes in its annual *Statistical and Financial Summaries*.

- 93 The Forum notes that the CRTC has in the past given the CBC time to consider new circumstances. After renewing CBC's licences in 2000 to expire in 2007 the CRTC issued five administrative decisions renewing the licences from 2007 to 2013: see Appendix 2.
- 94 This period will give the CBC and Canadians breathing room: time to learn how CBC has been affected by Covid-19 in terms of its earned and Parliamentary income, how other elements of

Canada is ill-prepared for a second wave of COVID-19, says a Senate committee, calling on the federal Liberals to deliver a plan by Labour Day to help people and communities hit hardest by the pandemic.

Seniors, in particular, are a focus of the report from the Senate's social affairs committee, from those in long-term care homes to those with low incomes....

A potential second wave, which could coincide with the annual flu season that starts in the fall, would make the situation even worse for these seniors "without concrete and timely government action," the report says.

...

CBC "Canada not ready for second wave of COVID-19, Senate committee says" (9 July 2020),

<https://www.cbc.ca/news/politics/canada-not-ready-second-wave-senate-1.5644393>.

⁶⁴ S. 3(1)(n):

where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it shall be resolved in favour of the objectives set out in paragraphs (l) and (m)

It is difficult to perceive how the CRTC could determine whether CBC's objectives conflict with the interests of any other broadcasting undertaking unless it is able to compare these interests at roughly the same time. The likely impact of Covid-19 not just on CBC but on all broadcasting services operating wholly within Canada, and the fact that the Commission last reviewed its broadcasting policies for the private and community elements of the broadcasting system several years ago make it all the more reasonable (though unfortunately necessary) for the CRTC to again postpone a detailed consideration of the past and planned performance of Canada's national public broadcaster.

the broadcasting system have been affected, and how CBC plans to address its new circumstances in its programming plans for the longer term. Insofar as CBC's conditions of licence are concerned, nothing prevents CBC from applying to the CRTC to amend certain conditions of licence, provided it submits the evidence to support such applications.

95 In mid-2021 the CRTC should then invite CBC to file its renewal applications for the fall of 2021, and proceed with a public hearing in Spring 2022. As the CRTC may vary its *Rules and Procedures* it may retain Canadians' interventions on the public record until the hearing, while simultaneously offering those who wish to do so to amend their original interventions.

96 **In the alternative** – if the CRTC decides to continue with a public process that is now fundamentally crippled by the CBC's disclosure of new data – the CRTC's administrative renewal of CBC's licences to August 2021 means that if the CRTC grants CBC a full, seven-year renewal from September 2021 to August 2028, the decision would be based on data covering just two years of that period. If one presumes that administrative tribunals must base their decisions on the evidence before them, the legality of a decision based on evidence covering just 28% of the renewal period may be questionable. If the CRTC decides to continue with the process outlined by Broadcasting Notice of Consultation CRTC 2019-379-3, the Forum recommends that the CRTC

Renew CBC's licences for two years rather than the three years originally recommended by the Forum.

97 As CBC's licences currently expire in August 2021, a two-year renewal would take them to the end of August 2023. (Not coincidentally, is also the last year for which CBC has provided evidence about its plans.)

98 We recommended a 3-year renewal in our 20 February 2020 intervention. Given possible regulatory non-compliance by CBC, the absence from CBC of substantive long-term planning and the as-yet unknown impact of Covid-19, a two-year renewal to August 2023 will best suit the needs of Canadians and the CBC to readjust their thinking about CBC's future.

99 The Forum still believes that terminating the current process in the next few months, rather than continuing into next spring with a process based on stale-dated evidence and seriously outdated plans, is the best option. Continuing to consider CBC's 2019 renewal application as it now stands means that a renewal decision issued in February, March or April 2022 – assuming that the CRTC does not give interveners and the CBC a final reply phase – will be based primarily on plans developed by CBC more than two years ago and which could not and did not take into account the significant blows that the economy and Canadians have endured just in the first six months of 2020.

100 Administrative tribunals are clearly entitled to deference with respect to their expertise, but cannot deliberately decline to consider new evidence – that in this case must encompass the impact of grave external factors beyond the control of either the CRTC or CBC but which significantly affect the broadcasting system and Canada's national public broadcaster.

101 Even if the CRTC now asks CBC to completely revise its application to take into account its new circumstances – reduced advertising, reduced subscription revenue, strained Parliamentary

budgets – would these revisions be sufficient to enable the CRTC to proceed with the hearing scheduled for January 2021?

102 More importantly: if the CRTC believes it can proceed on the basis of wholly or significantly revised renewal applications submitted between now and the hearing, will that process be fair to Canadians? Will they be invited to comment on these revisions and hastily submit new interventions – even as they continue to deal with the impact of Covid-19 on their lives, families, households, friends, businesses and colleagues?

103 Regardless of which approach the CRTC now takes, it should also

Require CBC to submit by 13 August 2020

- a projections about Covid-19's impact on CBC's finances and staffing for the next three years, and**
- b a report regarding its exempted programming services which includes the numbers of hours of original Canadian and non-Canadian content carried by these services (or included in their catalogue), by year and by language, and**
- c a report regarding its exempted non-programming (alphanumeric) services including
 - i. a complete history of its non-programming services**
 - ii. a complete financial history of its non-programming services**
 - iii. a report of the number of staff that CBC has employed since 2013 to work on its non-programming services, by year, distinguishing between full-time and contract (fixed-term; casual) staff**
 - iv. an analysis of the impact that CBC's non-programming services expenditures have had on the expenditures of its programming services****

104 This new information – that would, we assume, be made available for public comment, along with all correspondence between the CRTC and CBC – would at least provide more credible evidence relevant to CBC's programming plans than is currently available on the public record.

105 Having proposed an alternative short-term approach for continuing with the 2019-379 process, the Forum notes that what Canada and Canadians actually need is a serious and meaningful review of Canada's national public broadcaster's performance and its role going forward.

106 As the old saying goes, haste makes waste: rather than rushing to complete a process that was already flawed by CBC's mistrust of the public and desire to conceal significant evidence, the CRTC should take a measured approach to conducting a thorough review of national public broadcasting that is fair to all parties, and in particular serves the public interest. It should terminate the current 2019-379 renewal process by renewing CBC's licences and focus instead on initiating a process either in 2021 or 2022 to permit Canadians and CBC to consider the

future of Canada's national public broadcaster and the role it must play to serve the public interest in the 21st century.

Appendices

Appendix 1 Analysis of CBC's June 2020 financial data

| Line | \$ millions | Current term | | New term | | | 5 year total | Total, current term | Total, new term | % change 2018/19 to 2022/23 |
|---|--|--------------|------------|------------|-----------|------------|--------------|---------------------|-----------------|-----------------------------|
| | | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 | | | | |
| Income: appropriations and revenue | | | | | | | | | | |
| 1 | Total Parliamentary appropriations | \$1,215.9 | \$1,237.3 | \$1,246.8 | \$1,260.5 | \$1,268.6 | \$6,229.1 | \$2,453.2 | \$ 3,775.9 | 4.3% |
| 2 | Total appropriations as % of total income | 71.7% | 72.5% | 72.9% | 73.0% | 73.1% | 72.6% | 72.1% | 73.0% | +1.4 points |
| 3 | Revenue earned from broadcasting services | | | | | | | | | |
| 4 | Audio-visual, TV advertising | \$ 217.0 | \$ 215.0 | \$ 213.6 | \$ 212.2 | \$ 210.6 | \$1,068.3 | \$ 431.9 | \$ 636.4 | -2.9% |
| 5 | conventional & TV subscriptions | \$ 113.7 | \$ 110.4 | \$ 106.8 | \$ 103.5 | \$ 101.1 | \$ 535.5 | \$ 224.1 | \$ 311.3 | -11.1% |
| 6 | discretionary revenue | \$ 41.1 | \$ 32.5 | \$ 29.4 | \$ 29.5 | \$ 29.5 | \$ 162.0 | \$ 73.6 | \$ 88.4 | -28.3% |
| 7 | Other revenue | \$ 47.5 | \$ 44.5 | \$ 43.6 | \$ 44.5 | \$ 44.5 | \$ 224.6 | \$ 92.0 | \$ 132.6 | -6.5% |
| 8 | Subtotal, conv'l & discr'y revenue | \$ 419.3 | \$ 402.4 | \$ 393.4 | \$ 389.6 | \$ 385.7 | \$1,990.4 | \$ 821.7 | \$1,168.7 | -8.0% |
| 9 | As % of total revenue | 87.2% | 85.9% | 84.8% | 83.7% | 82.5% | 84.8% | 86.6% | 83.6% | -4.7 points |
| 10 | Digital revenue | \$ 32.8 | \$ 36.0 | \$ 38.1 | \$ 40.4 | \$ 42.0 | \$ 189.2 | \$ 68.7 | \$ 120.4 | 28.2% |
| 11 | Advertising | \$ 10.8 | \$ 13.2 | \$ 16.0 | \$ 19.3 | \$ 23.3 | \$ 82.5 | \$ 24.0 | \$ 58.5 | 116.9% |
| 12 | Subscriptions | \$ 10.3 | \$ 9.3 | \$ 9.1 | \$ 9.1 | \$ 9.1 | \$ 46.8 | \$ 19.5 | \$ 27.3 | -11.4% |
| 13 | Syndication/Production revenue | \$ 7.8 | \$ 7.5 | \$ 7.3 | \$ 7.4 | \$ 7.6 | \$ 37.5 | \$ 15.3 | \$ 22.2 | -3.2% |
| 14 | Other revenue | \$ 61.6 | \$ 65.9 | \$ 70.4 | \$ 76.1 | \$ 82.0 | \$ 355.9 | \$ 127.5 | \$ 228.5 | 33.1% |
| 15 | Subtotal, digital revenue | 12.8% | 14.1% | 15.2% | 16.3% | 17.5% | 15.2% | 13.4% | 16.4% | +3.5 points |
| 15 | As % of total revenue | | | | | | | | | |
| 16 | Total CBC revenue: Advertising | \$ 249.7 | \$ 250.9 | \$ 251.6 | \$ 252.5 | \$ 252.7 | \$1,257.5 | \$ 500.7 | \$ 756.8 | 1.2% |
| 17 | conventional, Subscriptions | \$ 124.5 | \$ 123.6 | \$ 122.7 | \$ 122.7 | \$ 124.4 | \$ 618.0 | \$ 248.1 | \$ 369.9 | 0.0% |
| 18 | discretionary and digital Syndication/Production revenue | \$ 51.4 | \$ 41.7 | \$ 38.5 | \$ 38.6 | \$ 38.6 | \$ 208.8 | \$ 93.1 | \$ 115.7 | -25.0% |
| 19 | audio-visual Other revenue | \$ 55.4 | \$ 52.0 | \$ 50.9 | \$ 51.8 | \$ 52.0 | \$ 262.1 | \$ 107.3 | \$ 154.8 | -6.0% |
| 20 | Total earned revenue | \$ 480.9 | \$ 468.3 | \$ 463.8 | \$ 465.7 | \$ 467.7 | \$2,346.3 | \$ 949.2 | \$ 1,397.1 | -2.8% |
| 21 | Total CBC rev as % of total income | 28.3% | 27.5% | 27.1% | 27.0% | 26.9% | 27.4% | 27.9% | 27.0% | -1.4 points |
| 22 | Total CBC income: appropriations + revenue | \$1,696.8 | \$ 1,705.6 | \$ 1,710.6 | \$1,726.2 | \$ 1,736.3 | \$8,575.4 | \$3,402.4 | \$5,173 | 2.3% |
| 23 | | | | | | | | | | |
| 24 | Expenses | | | | | | | | | |
| 25 | Conventional television | \$ 864.0 | \$ 841.4 | \$ 822.4 | \$ 820.3 | \$ 812.6 | \$4,160.7 | \$1,705.4 | \$2,455.3 | -5.9% |
| 26 | discretionary audio- Discretionary television | \$ 143.1 | \$ 140.0 | \$ 138.1 | \$ 134.7 | \$ 132.1 | \$ 688.0 | \$ 283.1 | \$ 404.9 | -7.7% |
| 27 | visual and audio Subtotal, audio-visual | \$1,007.1 | \$ 981.4 | \$ 960.5 | \$ 955.1 | \$ 944.8 | \$4,848.8 | \$1,988.5 | \$2,860.3 | -6.2% |
| 28 | Subtotal, radio (audio) | \$ 290.7 | \$ 293.3 | \$ 295.8 | \$ 298.8 | \$ 302.4 | \$1,481.0 | \$ 584.0 | \$ 897.0 | 4.0% |
| 29 | Subtotal, a/v and audio | \$1,297.8 | \$1,274.7 | \$1,256.3 | \$1,253.9 | \$1,247.1 | \$6,329.8 | \$2,572.5 | \$ 3,757.3 | -3.9% |
| 30 | A/V as % of total expenses | 74.2% | 72.2% | 70.9% | 70.2% | 69.5% | 71.4% | 73.2% | 70.2% | -4.7 points |
| 31 | Audio & a/v as % of total CBC income | 76.5% | 74.7% | 73.4% | 72.6% | 71.8% | 73.8% | 75.6% | 72.6% | -4.7 points |

| Line | \$ millions | | Current term | | New term | | | 5 year total | Total, current term | Total, new term | % change 2018/19 to 2022/23 |
|------|---|---|--------------|-----------|-----------|-----------|-----------|--------------------|---------------------|-----------------|-----------------------------|
| | | | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 | | | | |
| 32 | Digital | Progr'g: DME0 CBC GEM, ICI TOU.TV | \$ 42.9 | \$ 47.6 | \$ 57.2 | \$ 60.3 | \$ 63.7 | \$ 271.6 | \$ 90.5 | \$ 181.1 | 48.2% |
| 33 | (exempted services) | Progr'g: DME0 - CBC Listen and Ohdio | \$ 19.0 | \$ 23.0 | \$ 21.8 | \$ 21.9 | \$ 22.2 | \$ 107.9 | \$ 42.0 | \$ 65.9 | 16.7% |
| 34 | | Subtotal, exempted progr'g services | \$ 62.0 | \$ 70.5 | \$ 79.0 | \$ 82.2 | \$ 85.9 | \$ 379.6 | \$ 132.5 | \$ 247.1 | 38.5% |
| 35 | | Exempted prog'g exp as % of tot exp | | | | 4.6% | 4.8% | 4.3% | 3.8% | 4.6% | + 4.8 points |
| 36 | | Non-progr'g: websites, Curio, other | \$ 202.9 | \$ 237.4 | \$ 253.8 | \$ 267.3 | \$ 282.1 | \$1,243.6 | \$ 440.3 | \$ 803.2 | 39.0% |
| 37 | | Exempted non-prog'g exp as % of tot exp | | | | 15.0% | 15.7% | 14.0% | 12.5% | 15.0% | + 15.7 points |
| 38 | | Subtotal, digital prog'g and non-prog'g exp | \$ 264.9 | \$ 307.9 | \$ 332.7 | \$ 349.6 | \$ 368.0 | \$1,623.1 | \$ 572.8 | \$ 1,050.3 | 38.9% |
| 39 | | Digital expense, as % of total exp | 15.1% | 17.4% | 18.8% | 19.6% | 20.5% | 18.3% | 16.3% | 19.6% | 4.5% |
| 40 | | Digital expense, as % of total income | 15.6% | 18.1% | 19.5% | 20.3% | 21.2% | 18.9% | 16.8% | 20.3% | |
| 41 | Total: conventional and digital | | \$1,562.7 | \$1,582.6 | \$1,589.0 | \$1,603.4 | \$1,615.1 | \$7,952.9 | \$3,145.3 | \$4,807.6 | + 3.4 points |
| 42 | Other expenses | Subtotal, other expenses | \$ 186.5 | \$ 182.9 | \$ 181.7 | \$ 182.0 | \$ 180.1 | \$ 913.3 | \$ 369.5 | \$ 543.9 | -3.5% |
| 43 | Total CBC expenses: conventional, digital and other | | \$1,749.3 | \$1,765.5 | \$1,770.7 | \$1,785.5 | \$1,795.3 | \$8,866.2 | \$3,514.8 | \$ 5,351.5 | 2.6% |
| 44 | Total CBC expenses as % of total CBC income | | 103.1% | 103.5% | 103.5% | 103.4% | 103.4% | 103.4% | 103.3% | 103.4% | + 0.3 points |
| 45 | Pre-tax profit (loss): total income less total expenses | | -\$ 52.5 | -\$ 59.9 | -\$ 60.2 | -\$ 59.3 | -\$ 59.0 | -\$ 290.8 | -\$ 112.4 | -\$178.5 | 12.4% |
| 46 | Conventional services: revenue less expenses | | -\$ 878.5 | -\$ 872.3 | -\$ 862.9 | -\$ 864.3 | -\$ 861.5 | -\$4,339.4 | -\$ 1,750.7 | -\$ 2,588.6 | -1.9% |
| 47 | Digital services: revenue less expenses | | -\$ 203.3 | -\$ 242.0 | -\$ 262.4 | -\$ 273.5 | -\$ 286.0 | -\$ 1,267.2 | -\$ 445.4 | -\$821.9 | 40.7% |
| 48 | Deducting digital services revenue and expenses: | | | | | | | | | | |
| 49 | Conventional services: (conv'l income + appropriations) less conv'l exp | | \$ 337.4 | \$ 365.1 | \$ 383.9 | \$ 396.2 | \$ 407.1 | \$1,889.7 | \$ 702.5 | \$1,187.3 | 20.7% |

Appendix 2 Timing of the CRTC proceeding to hear CBC's renewal and other applications

| | |
|------------------|--|
| 31 August 2007 | Original expiry date of CBC's licences, from CRTC's 2000 renewal decision ⁶⁵ |
| 5 March 2008 | Renews CBC's licences administratively from 1 September 2008 to 31 August 2009 ⁶⁶ |
| 12 May 2009 | Renews CBC's licences administratively from 1 September 2009 to 31 August 2010 ⁶⁷ |
| 9 August 2010 | Renews CBC's licences administratively from 1 September 2010 to either 31 March 2011 or 31 August 2011 ⁶⁸ |
| 11 June 2011 | CRTC calls for comments on CBC's licence renewals ⁶⁹ |
| 11 July 2011 | CRTC postpones CBC's licence renewal proceeding to a later date ⁷⁰ |
| 18 August 2011 | Renews CBC's network licences administratively to 31 August 2012 ⁷¹ |
| 31 January 2012 | On CBC asks CRTC to postpone its licence renewal process until after February or March 2012 ⁷² |
| 1 February 2012 | CRTC postpones CBC's licence renewal hearing until further notice. "The Commission considers that it would be inappropriate to set a hearing date for the renewal of the CBC's licences until the CBC has had an opportunity to establish its future operating budget. The Commission is therefore postponing the licence renewal hearing until further notice." ⁷³ |
| 9 August 2012 | Renews CBC's licences administratively from 1 September 2012 to 31 August 2013 ⁷⁴ |
| 5 September 2012 | On CRTC announces public hearing to hear CBC's renewal applications, for 19 November 2012 ⁷⁵ |

⁶⁵ *Licences for CBC English-language television and radio renewed for a seven-year term*, Broadcasting Decision CRTC 2000-1 (Ottawa, 6 January 2000), https://crtc.gc.ca/eng/archive/2000/DB2000-1.htm?_ga=2.88549657.344856793.1594219547-1211976415.1582553073; *Licences for CBC French-language television and radio renewed for a seven-year term*, Broadcasting Decision CRTC 2000-2 (Ottawa, 6 January 2000), https://crtc.gc.ca/eng/archive/2000/DB2000-2.htm?_ga=2.121621130.344856793.1594219547-1211976415.1582553073.

⁶⁶ *Administrative renewals*, Broadcasting Decision CRTC 2008-59 (Ottawa, 5 March 2008), <https://crtc.gc.ca/eng/archive/2008/db2008-59.htm>.

⁶⁷ *Administrative renewals*, Broadcasting Decision CRTC 2009-9264 (Ottawa, 12 May 2009), <https://crtc.gc.ca/eng/archive/2009/2009-264.htm>

⁶⁸ *Administrative renewals*, Broadcasting Decision CRTC 2010-561 (Ottawa, 9 August 2010), <https://crtc.gc.ca/eng/archive/2010/2010-561.htm>.

⁶⁹ *Licence renewals for the Canadian Broadcasting Corporation's French- and English-language services*, Broadcasting Notice of Consultation CRTC 2011-379, <https://crtc.gc.ca/eng/archive/2011/2011-379.htm>

⁷⁰ Broadcasting Notice of Consultation CRTC 2011-379-1 (Ottawa, 11 July 2011).

⁷¹ *Various undertakings – Administrative renewals*, Broadcasting Decision CRTC 2011-511 (Ottawa, 18 August 2011), <https://crtc.gc.ca/eng/archive/2011/2011-511.htm>.

⁷² Broadcasting Notice of Consultation CRTC 2011-379-2 (Ottawa, 1 February 2012).

⁷³ *Licence renewals for the Canadian Broadcasting Corporation's French- and English-language services: Postponement of the public hearing*, Broadcasting Notice of Consultation CRTC 2011-379-2 (Ottawa, 1 February 2012), <https://crtc.gc.ca/eng/archive/2011/2011-379-2.htm>.

⁷⁴ *Various television services – Administrative renewals*, Broadcasting Decision CRTC 2012-439 (Ottawa, 9 August 2012), <https://crtc.gc.ca/eng/archive/2012/2012-439.pdf>.

⁷⁵ Broadcasting Notice of Consultation CRTC 2011-379-3 (Ottawa, 5 September 2012), <https://crtc.gc.ca/eng/archive/2011/2011-379-3.htm>.

| | |
|-------------------|--|
| 28 May 2013 | Renews CBC's licences ⁷⁶ |
| 29 October 2018 | Renews CBC's network licences administratively to 31 August 2020 to "afford the new President and CEO and the board of directors the opportunity to examine the CBC's ongoing strategies so as to participate more effectively in the licence renewal process." ⁷⁷ |
| 23 May 2019 | CRTC writes CBC to ask it to submit its renewal applications (for 88 radio stations, 27 television stations and 5 discretionary services) ⁷⁸ This letter was not be found on the public record |
| 23 August 2019 | CBC submits its renewal applications ⁷⁹ |
| 30 September 2019 | CBC provides supplementary information ⁸⁰ |
| 9 October 2019 | CBC answers CRTC deficiency questions ⁸¹ |
| 25 November 2019 | CRTC posts CBC's renewal applications and invites interventions |
| 29 November 2019 | Friends of Canadian Broadcasting submits a procedural request to the CRTC asking for more information from CBC, including "Financial information related to its unlicensed digital activities" ⁸² |
| 31 December 2019 | The Wuhan Municipal Health Commission in China reports a cluster of cases of pneumonia in Wuhan, Hubei Province, which are later identified as involving a novel coronavirus ⁸³ |
| 13 January 2020 | The first case of Covid-19 recorded outside of China is reported in Thailand ⁸⁴ |
| 23 January 2020 | The Forum asks the CRTC to require CBC to disclose more details about its financials |
| 30 January 2020 | The World Health Organization reports 7,818 Covid-19 cases worldwide, with "82 cases reported in countries outside China" ⁸⁵ |
| 3 February 2020 | CBC writes the CRTC in response to the procedural request of Friends of Canadian Broadcasting; CBC says, ... 3. Please note that the aggregated expenses data is already on the public record and is repeated simply as a courtesy to make the table more complete. In addition, CBC/Radio-Canada did not track digital financial data in 2015-16 and consequently there is no data available for this year. |

⁷⁶ *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, (Ottawa, 28 May 2013), <https://crtc.gc.ca/eng/archive/2013/2013-263.htm>.

⁷⁷ *Various television and radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2018-407 (Ottawa, 29 October 2018), https://crtc.gc.ca/eng/archive/2018/2018-407.htm?_ga=2.121621130.344856793.1594219547-1211976415.1582553073.

⁷⁸ See DM#3720733 – InfoSupp-AddInfo-30 September 2019 – 2019-0282-5_APP_CBC_Cover_letter_EN.doc, at 1, ¶1; the CRTC's letter is not part of the record of the 2019-379 proceeding and is not included in the CRTC's broadcasting Letters page (<https://crtc.gc.ca/eng/8045/lc2019.htm>).

⁷⁹ DM#3720733 – InfoSupp-AddInfo-30 September 2019 – 2019-0282-5_APP_CBC_Cover_letter_EN.doc, at 1.

⁸⁰ *Ibid.*

⁸¹ DM#3733713.

⁸² DM#3761220.

⁸³ World Health Organization, https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19?gclid=Cj0KCQjw6ar4BRDnARIsAITGzIDgAHphNSGCJZxEYv7KNTe2NMieFspkCb90t7vHphzMFwGAPJLk13gaAogM_EALw_wcB.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

4. Finally, in 2016-17 only one of CBC/Radio-Canada's online services generated revenues and we are claiming confidentiality with respect to this information in keeping with the Commission's practice not to disclose individual service revenues given the adverse competitive impact such disclosure could produce.

...

- 20 February 2020 Interventions on CBC's applications are due; CRTC website posts 10,527 separate comments,⁸⁶ including that of the Forum⁸⁷
- 6 March 2020 CBC replies to 46 interveners⁸⁸ and offers to file additional financial information by mid-April 2020
- 14... CBC/Radio-Canada is willing to place additional financial information on the record of this proceeding. In particular, we will submit to the Commission, **by April 17, 2020**, financial information regarding our digital activities, including those operating outside of the DMEO.⁸⁹
- 11 March 2020 World Health Organization announces that Covid-19 is a global pandemic⁹⁰
- 6 May 2020 CRTC writes CBC and refers to "the filing of additional financial information regarding [CBC's] digital activities"⁹¹ mentioned by CBC in its 6 March 2020 reply
- The CRTC's letter could not be found on the CRTC's website
- 11 May 2020 CBC writes the CRTC to say that by 12 June 2020 it will file the additional information mentioned in its 6 March 2020 *Reply* for the years of 2018/19 to 2022/23, by 12 June 2020.⁹² Specifically, CBC said it
- "will provide an overview of all of the Corporation's Revenue and Expenses"
 - "presented on an annual basis"
 - covering "the 5-year period of projections requested by the CRTC in the licence renewal applications: 2018-2019 to 2022-2023"
 - "The objective is to provide Canadians with a clear and complete picture of the Corporation's operations. To do this, it will provide financial information for the Corporation's licenced [sic] conventional and discretionary services, digital services operating pursuant to the DMEO, and other digital services operating outside of the DMEO."
 - "The Corporation's other digital services include our websites, Curio and RCI. Our websites (e.g. cbc.ca and radio-canada.ca) consist primarily of alphanumeric

⁸⁶ The CRTC proceedings webpage shows "1 to 50 of 10527 entries"; sorting the interventions by reverse "Intervention #" lists an intervention numbered 12086, however. It is therefore unclear from the CRTC's website how many interventions have been filed in this proceeding.

⁸⁷ Forum for Research and Policy in Communications (FRPC), *A Family Feud: CBC needs a bigger allowance*, Intervention (20 February 2020), CRTC intervention number 12006 [*Family Feud*].

⁸⁸ Although not to the Forum; see CBC's "Reply – English version", "Distribution List".

⁸⁹ *Reply*, ¶14.

⁹⁰ World Health Organization, https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19?gclid=Cj0KCQjw6ar4BRDnARIsAITGzIDgAHphNSGCJZxEYv7KNTe2NMieFspkCb90t7vHphzMFwGAPJLk13gaAogM EALw_wcB.

⁹¹ DM#3849736, CBC, *Response from CBC/Radio-Canada to the Request for information - Filing of additional financial information regarding the CBC/SRC's digital activities Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7*, 11 May 2020 letter.

⁹² CBC, *Response from CBC/Radio-Canada to the Request for information - Filing of additional financial information regarding the CBC/SRC's digital activities Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7*, Letter (11 May 2020) DM#3849736, answer to question a).

text and meet the description of a ‘non-programming service’. Curio.ca is CBC and Radio-Canada’s online subscriber-based service developed expressly for the Canadian educational community, including school boards, government ministries, universities, colleges and cégeps, and public libraries. RCI is our international broadcasting services that broadcasts via the Internet in English, French, Spanish, Chinese and Arabic. In addition, RCI has a multilingual website.”

- “CBC/Radio-Canada’s licence renewal application proposes a bridge to the future by seeking to include programming on non-traditional platforms for the purposes of CRTC recognition against our licence obligations. Our application does not include Curio, RCI or non-programming activities.”
- “These forecasts are consistent with the licence renewal financial projections that are part of the record of this proceeding”
- The forecasts “do not reflect any changes that may result from the impact on revenue and expenses of the Covid-19 pandemic”⁹³

12 June 2020

CBC submits additional financial information to the CRTC, and says it is responding to these questions from the CRTC’s 6 May 2020 letter:

- a) A new date by which CBC/SRC will file the information referred to in its 6 March 2020 reply comments;
- b) Additionally, in advance of providing this additional information, a detailed description of the material that will be submitted, including:
 - Names of services/platforms for which information will be filed;
 - Whether these services/platforms are, in your view, operating outside of the DMEO and the basis for your rationale;
 - Whether the information is submitted on an aggregate or disaggregate basis
 - o per service/platform
 - o per language market
 - o per type of content (audio vs audio-visual)

The breadth of expense and revenue data that will be included, and whether such information will include historical, current and projections.

Any other information not included above that you intend to file with respect to the digital activities in question.

22 June 2020

Broadcasting Decision CRTC 2020-201

- renews CBC's broadcasting licences administratively from the beginning of September 2020 to the end of August 2021, and
- extends distribution orders for three of CBC's discretionary television programming services

Broadcasting Notice of Consultation CRTC 2019-379-3 announces public hearing of CBC's renewal and other applications for 20 January 2021, and also noted that CBC had “committed to submit additional information pertaining to its digital activities”.⁹⁴

***** End of document *****

⁹³ Ibid.

⁹⁴ *Change of hearing date; Additional information added to the public record*, Broadcasting Notice of Consultation CRTC 2019-379-3 (Ottawa, 22 June 2020), <https://crtc.gc.ca/eng/archive/2019/2019-379-3.htm>, Broadcasting Notice of Consultation CRTC 2019-379-3, at ¶13.