**The CRTC and 21st century expectations of openness, transparency and accountability**

***1. Openness means not hiding applications from public view***

1 March 2023

Parliament established what is now the Canadian Radio-television and Telecommunications Commission or CRTC nearly 55 years ago. Often described as a quasi-judicial agency of the federal government, the CRTC considers and makes hundreds of decisions every year about a wide range of issues involving broadcasting and/or telecommunications. On January 6, 2023 Vicky Eatrides began a five-year term as the new Chairperson of the CRTC.[[1]](#footnote-1)

The Ministers of Canadian Heritage and Innovation, Science and Economic Development wrote Chairperson Eatrides last month to congratulate her on her appointment and also to “inform her of the Government’s vision and priorities with respect to Canada’s broadcasting and telecommunications system”.[[2]](#footnote-2) The Ministers referred to “a perception among many that access to CRTC processes is unequal” for the public and civil-society organizations. Among other things the Ministers expressed confidence in the new Chairperson’s ability to see to the CRTC’s “to being more open …”.

The principle of openness is said to allow individuals to participate in the way that decisions affecting them are made.[[3]](#footnote-3) The Ministers’ letter said they “trust that interested parties, civil society, and the public can continue to count on the CRTC to help them understand the reasoning, evidence, and data underpinning its decisions.”

One way that Canadians can understand what is happening at the CRTC is through the applications that people, companies or civil-society organizations submit to the Commission and that the CRTC publishes on its website. In fact, the [*Rules of Practice and Procedure*](https://laws.justice.gc.ca/eng/regulations/SOR-2010-277/FullText.html)written and enacted by the CRTC say that “[t]he Commission must post on its website all applications that comply” with the *Rules*’ requirements for service, form and content (section 23).

Interested parties can visit the “[All Proceedings Open for Comment](https://applications.crtc.gc.ca/instances-proceedings/Default-Defaut.aspx?S=O&PA=B&PT=A&PST=A&Lang=eng)” page to review current broadcasting applications, and a similar page to review [current telecommunications applications](https://applications.crtc.gc.ca/instances-proceedings/Default-Defaut.aspx?S=O&PA=T&PT=A&PST=A).

It therefore came as something of a surprise to FRPC to learn that the CRTC does not actually publish all applications it receives. In 2018, for example, the Syndicat canadien de la fonction publique (SCFP) filed a [Part 1 application asking the CRTC to review its Digital Media Exemption Order (DMEO)](https://scfp.qc.ca/wp-content/uploads/2018/03/2018-02-13_Demande_R%C3%A9examen_Exemp_MediaNum_CPSC_SCFP_CRTC2012-409.pdf). Neither this application, nor the second Part 1 application by SCFP asking the CRTC to publish the first application as required by the CRTC’s *Rules* was published by the CRTC.

When FRPC asked about such ‘missing’ applications under the *Access to Information Act*, the CRTC disclosed another 64 applications that it had received without publishing (see FRPC’ [12 September 2022 submission](https://frpc.net/wp-content/uploads/2022/10/FRPC-submission-12-Sept-2022-Formatting-fixed.docx.pdf) to the Senate Standing Committee on Transportation, Appendix 4).

Yet this list did not include SCFP’s two Part 1 applications or, indeed, any other applications from guilds, associations or civil-society organizations. In 2022, for instance, the CRTC also decided not to publish [an application filed jointly by the Public Interest Advocacy Centre (PIAC) and FRPC](https://frpc.net/research/piac-and-frpc-ask-the-crtc-to-stabilize-funding-for-the-broadcasting-participation-fund/) regarding the financial instability of the [Broadcasting Participation Fund](http://www.bpf-fpr.ca/en/home.html) (BPF-FPR).

**Recommendation**

There is a simple way for the CRTC to regain some of the public’s trust in the integrity of its processes which could be implemented under both the current (1991) *Broadcasting Act* and the new broadcasting legislation proposed by the *Online Streaming* Act, aka Bill C-11. The Commission could publish all applications it receives which comply with its requirements for form and content, when it receives them – and, once it decides whether to grant or deny consideration to the applications, to post such decisions alongside the applications.

Maintaining the *status quo* – hiding applications from public view and from the scope of the *Access to Information Act* – would surely contradict the concern raised by the Ministers to whom the CRTC reports.

~ Forum for Research and Policy in Communications (FRPC)

1. CRTC, ”[Meet Vicky](https://crtc.gc.ca/eng/acrtc/organ.htm#presidenteBio)”(accessed 1 March 2023). [↑](#footnote-ref-1)
2. Department of Canadian Heritage, “[New CRTC Chair’s Leadership Will Help Shape the Future of Canada’s Communication System](https://www.canada.ca/en/canadian-heritage/news/2023/02/new-crtc-chairs-leadership-will-help-shape-the-future-of-canadas-communication-system.html)”, News release (Gatineau, 6 February 2023) [↑](#footnote-ref-2)
3. Bugaric, Bojan, “OPENNESS AND TRANSPARENCY IN PUBLIC ADMINISTRATION: CHALLENGES FOR PUBLIC LAW,” Wisconsin International Law Journal, Vol. 22 (2012), No. 3, 483-521, at 487 “The principle of openness allows individuals, i.e. citizens, to participate in the decision-making process. They can obtain all public information on the work of the public administration and participate in adopting its decisions. [↑](#footnote-ref-3)