



The CRTC and 21st century expectations of openness, transparency and accountability: a month of comments on how Parliament's delegate performs its responsibilities

12: Transparency means clarity about planning processes

12 March 2023

This is the twelfth of a series of comments by FRPC about the openness, transparency and accountability of the Canadian Radio-television and Telecommunications Commission (CRTC). Parliament established the CRTC on 1 April 1968 and delegated responsibility to it for implementing Parliament's broadcasting and telecommunications policies for Canada.

The Ministers of Canadian Heritage and Innovation, Science and Economic Development wrote Chairperson Eatrudes in early February 2023 to offer congratulations on her appointment to the Commission¹ and also to "inform her of the Government's vision and priorities with respect to Canada's broadcasting and telecommunications system".² The Ministers said they had "consistently heard" that the CRTC "falls short in "openness and transparency" and were confident in the new Chairperson's ability to see to the CRTC's "to being more ... transparent"

Transparency can refer to several aspects of the work of an organization like the CRTC, including the degree to which it explains or describes its plans, the dealings it has with other parties, its operations or processes, and the information it makes available about its work.

Insofar as the CRTC's plans are concerns, it has published information about its plans under a variety of names since the late 1990s. In 1997 and 1998 it offered some information about the coming year in its *1997-98 Estimates* and *1998-99 Estimates*, and it published a yearly *Report on Plans and Priorities* from 1999 to 2016. The CRTC also published an annual three-year plan, from at least as early as 2005 to 2015.

Since 2017 the Commission has also published an annual *Departmental Plan*. This plan covers the CRTC's fiscal year beginning in April and concluding the following March. While it seems reasonable to assume that the CRTC has a general idea of what it would like to accomplish in any given – renewing licences, for instance, or tariffs – one reason for establishing quasi-judicial administrative agencies such as the CRTC is to enable them to respond swiftly to problems as these emerge, should it wish to do so. As a result the CRTC cannot be expected to adhere line by line to its plans for the simple reason that major issues may arise that require speedy resolution..

It was therefore somewhat surprising, since the CRTC's *2018-19 Departmental Plan* did not list any major concerns about the Internet or the idea of a mandatory code for the Internet, that the CRTC on [9 November 2018](#) asked Canadians to submit comments about a proposed "mandatory code for Internet services" by 19 December 2018. The call for comments was also surprising because the CRTC had not completed the report on aggressive sales practices by large telecommunications companies [requested by Cabinet in early June 2018](#). In fact, it had just wrapped up its [5-day public hearing on this issue](#) 13 days earlier (on 26 October 2018). Moreover, the federally appointed Broadcasting and Telecommunications Legislative Review (BTLR) panel had also invited final submissions to be filed about new legislative proposals by [11 January 2019](#).

Given uncertainties about the CRTC's findings about aggressive sales practices in telecommunications and the equally intensive requirement to respond to the BTLR panel by early January 2018, the Public Interest Advocacy Centre (PIAC) asked the CRTC on 10 November 2018 to extend its mid-December 2018 deadline to early April 2019 (and also to hold a public hearing rather than a 'paper' process). Five other organizations and several individuals

¹ CRTC, "[Meet Vicky](#)" (accessed 1 March 2023).

² Department of Canadian Heritage, "[New CRTC Chair's Leadership Will Help Shape the Future of Canada's Communication System](#)", News release (Gatineau, 6 February 2023).



wrote to support PIAC's request (FRPC, the Union des consommateurs, the Canadian Network Operators Consortium [CNOCO, the Canadian Association of the Deaf-Association des Sourds du Canada et al. [CAD-ASC et al.], the Manitoba Branch of the Consumers' Association of Canada), along with [ten scholars at seven universities](#).

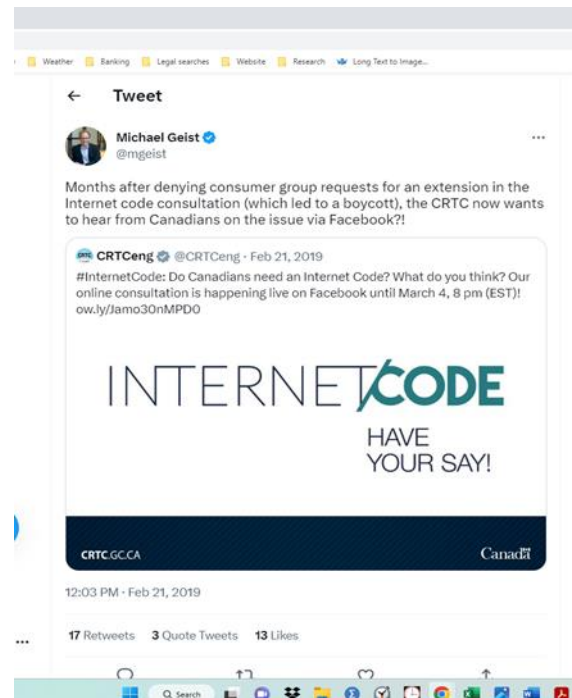
Briefly, [the CRTC said no](#) to PIAC and its supporters because, said the CRTC, it was “not in the public interest to delay” the proceeding. More than a dozen civil-society organizations chose not to participate in the proceeding (in FRPC' case, due to lack of time) – while the CRTC [on 18 March 2019 extended its 2019 deadlines](#) by several weeks, presumably having determined that this extension served the public interest.

Ensuring that all parties have a reasonable opportunity to participate in its proceedings is not the only reason that the CRTC should clarify its planning, at least at the beginning of its fiscal year. This is especially important for major broadcasters: knowing when the CRTC will address renewals of the national public broadcaster – the Canadian Broadcasting Corporation (CBC) – and large private broadcast ownership groups such as Bell, Rogers and Québecor enables interested parties to plan their own work accordingly. Since Parliament has empowered the CRTC to grant broadcasting licences for up to seven years, one might expect that the CRTC would hold renewal proceedings within that period.

Yet the CRTC has long used a different approach for the CBC, renewing its licences in [June 2022](#), nine years after the licences granted in [2013](#). The CRTC renewed CBC's licences administratively five times before its renewal decision: in 2017 from [Sep/18 to Aug/19](#), in 2018 from [Sep/19 – Aug/20](#), in October 2020 from [Sep/20 – Aug/21](#), in August 2021 from [Sep/21 – Mar/22](#) and in March 2022 from [Mar/22 – Aug/22](#). In 2017 the CRTC explained its delay in beginning the CBC renewal process on the basis that the term of the CBC's President would be ending soon. In 2018 it said the President's term would just be beginning. The third administrative renewal – understandable in light of Covid's impact – extended the CBC's licences while announcing a hearing in January 2021. Neither the fourth nor the fifth administrative renewals explained the CRTC's delay in issuing a renewal decision from June 2021 to June 2022. The result, however, was a renewal for the period from 2022 to 2027 based on evidence filed in mid-2019.

The CRTC and its 2023-24 plan remain silent about the regulatory future of the CBC, somewhat surprising as [Cabinet directed the CRTC to reconsider its June 2022 CBC decision](#) last September. The CRTC has not publicly described the process it will follow to reconsider the June 2022 decision, and its [current one-year plan for 2023 to 2024](#) is also silent about this process.

The Commission is also silent about how it develops its one- or multi-year plans. The [CRTC Act](#) specifies that the CRTC's Chairperson is also its “chief executive officer” and that they have “supervision over and direction of the work and staff [wording in the original] he Commission” (section 6(2)), but its CRTC's published plans do not explain the process it follows to determine its priorities each year, or mention whether the Commission has consulted with interested parties about their priorities for the coming year or years. Based on FRPC' ongoing analysis of the





monthly communications reports of lobbyists required to register with the Commissioner of Lobbying, registered meetings between the CRTC’s Commissioners and its senior staff, and those it regulates or their industry associations, at one time used to peak in the late fall, around November: Table 1.

Table 1

Number of meetings between the CRTC Chairperson, Commissioners or senior CRTC staff, and regulated companies or industry associations													
Year	Month												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
2012							2	7	4	6	3	1	23
2013	4	2	1	1	2	4	2	1	7	4	6	4	38
2014	6	8	5	7	3	6		3	2	1	8		49
2015	1	5	6	1	3	4	6	6	3	1	5	7	48
2016	5			1	4	1	1	1			3	2	18
2017		1	3	1	2				1	5	6	6	25
2018	3	7	1	2	3	5	2	1	6	1	3	1	35
2019	5	4	3	2	1	3	6	2	3	2	2	1	34
2020	2		2	4	1	8	4	2	1	1	1	3	29
2021		2	9	3	1	3	2		1	1	5	2	29
2022	3	4	1	2			4		3	1	3	2	23
Grand Total	29	33	31	24	20	34	29	23	31	23	45	29	351

In 2019 the CRTC’s [submission to the Broadcasting and Telecommunications Legislative Review Panel](#) commented that the “the interactions between Canada’s citizens and its institutions are best maintained when these institutions are verifiably held to account in an open and transparent way.” The CRTC’s Chairperson subsequently went on to describe the transparency of the CRTC’s processes in speeches (in [November 2022](#), for example) and [statements](#) in either broadcasting or telecommunications.

Given the lack of information in the CRTC’s annual plans, whether with respect to how it undertakes annual planning or more specific outcomes of that process, however, it is difficult to conclude that the CRTC’s planning is transparent to a meaningful degree. As section 37 the CRTC’s [Rules of Practice and Procedure](#) specifically envisages the possibility of preparatory conferences between interested parties and the Commission, the Commission’s lack of transparency in enabling all parties to prepare for CRTC processes all the more striking.

Recommendations:

The CRTC should develop and implement a coherent, 21st century approach to planning its activities for the next several years, and should include interested parties in a transparent process in which the parties have the opportunity to set out and explain their proposals for the CRTC to consider specific matters.

Maintaining the *status quo* – an unknown process in which unidentified parties participate to establish unknown priorities for Canada’s independent regulatory authority – would surely contradict the concern about openness raised by the Ministers to whom the CRTC reports.

~ Forum for Research and Policy in Communications (FRPC)

Other comments in this series

1 March 2023: [Openness means not hiding applications from public view](#)



- 2 March 2023: [Openness means not just describing but explaining the CRTC's process and proceedings](#)
- 3 March 2023: [Openness means 'real' public hearings, published decisions and published meeting schedules](#)
- 4 March 2023: [Openness means publishing information about CRTC meetings with those it regulates](#)
- 5 March 2023: [Openness today means easier access to CRTC programming, ownership and financial data](#)
- 6 March 2023: [Openness means knowing who sets the CRTC's agenda](#)
- 7 March 2023: [Openness means disclosing relevant evidence](#)
- 8 March 2023: [Openness means being open to all, not just to some or most](#)
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