



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

20: *Transparency means comparability of data over time*

20 March 2023

This is the twentieth 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 Eatrdes 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. This note deals with the CRTC's approach to making information that is relevant to the performance of its duties available to the public.

Parliament's broadcasting and telecommunications policies often refer to ideas that are difficult to pin down but, more rarely, set objectives for concepts that are more easily measured. The broadcasting policy for Canada says Canada's broadcasting system (being public, private, community, radio, television and distribution services) should "reflect the ... aspirations ... of Canadian ... children" (subsection 3(1)(d)(iii)), while the Canadian telecommunications policy says one of its objectives is to "enrich ... the social ... fabric" of Canada's regions (subsection 7(a)). It is unclear how Parliament and Canadians would know if the broadcasting system is meeting or breaching these objectives.

On the other hand, the broadcasting policy for Canada also declares that the country's broadcasting system shall be effectively owned and controlled by Canadians" (subsection 3(1)(a)), and the Canadian telecommunications policy says that one of its objectives is "to promote the ownership and control of Canadian carriers by Canadians" (subsection 7(d)). Determining shareholdings, investments and the composition of companies' Boards of Directors could all help to measure 'effective ownership' and 'effective control' of broadcasting services – and, in fact, the [Direction to the CRTC \(Ineligibility of Non-Canadians\)](#) and the [Canadian Telecommunications Common Carrier Ownership and Control Regulations](#) set out these criteria and others to help measuring "control" in broadcasting and telecommunications.

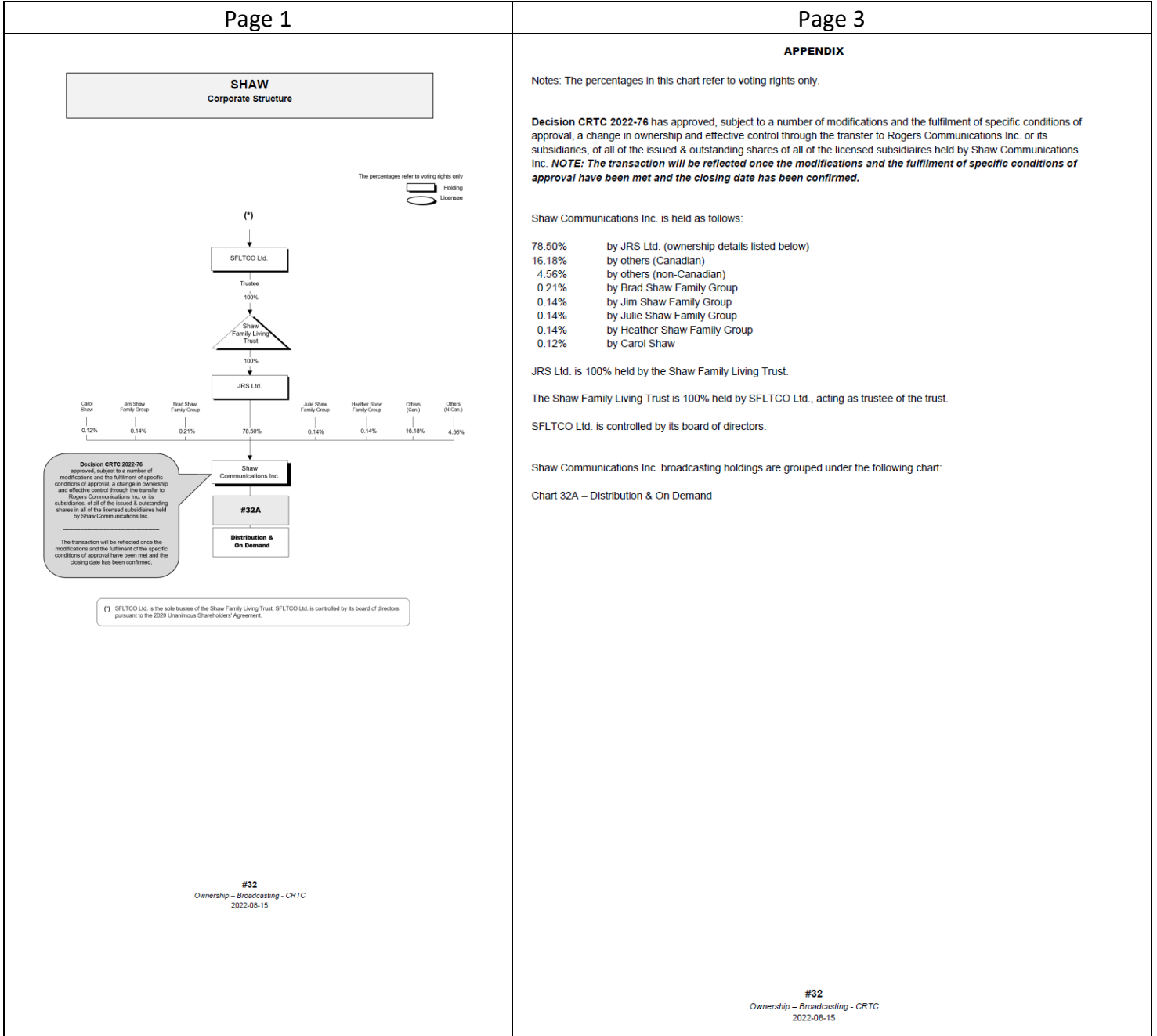
¹ CRTC, "[Meet Vicky](#)" (accessed 1 March 2023).

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).



Some information – that is to say, data – about regulated broadcasting companies’ ownership is available through the CRTC’s Ownership Charts. Multi-page PDF charts describe the point-in-time shareholdings of 256 broadcasters, such as that of the Shaw company: Figure 1. Similar charts for telecommunications, however, are not listed on the [CRTC’s A-Z Index](#).

Figure 1 **CRTC Ownership Chart 32 (Shaw Corporate Structure)**



Other sections of Parliament’s broadcasting and telecommunications policies focus on the quality of services made available in Canada. According to the *Broadcasting Act* the programming broadcast by radio, TV and distribution services “should be of high standard” (subsection 3(1)(g)), while the



Telecommunications Act says that another objective of the telecommunications policy is “to respond to the economic and social requirements of users of telecommunications services” (subsection 7(h)).

In the past the CRTC has considered complaints from broadcast audiences and telecommunications users to evaluate these objectives. The *Broadcasting Act* explicitly empowers the CRTC to “hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint made to the Commission if it is satisfied that it would be in the public interest to do so” (subsection 18(3)). And while the *Telecommunications Act* is silent about complaints (and complaints made as ‘representations’), the CRTC’s [Rules of Practice and Procedure](#) state that matters may be brought before the Commission by a complaint (section 3), that “consumer complaints” may be filed (section 45) and that complaints “seeking relief on an emergency basis in relation to a telecommunications matter” may be addressed to a designated CRTC employee (section 51(1)).

As a matter of law Canada’s courts have said that complaints play a role in the licensing aspect of the CRTC’s broadcasting responsibilities. Complaints about broadcasters’ programming can lead the CRTC to investigate whether a licensee’s programming is of high quality. In [2001](#) the Federal Court held that if the CRTC were indifferent to public concerns about a broadcaster’s performance it would be abdicating its responsibilities:

[27] ... would not be playing its role and would be abdicating its responsibilities if it were indifferent to the public interest or to allegations that a licensee is compromising the public interest by its deeds and actions or its excessive passivity or tolerance. In this context of a licence renewal in the best interests of the public, it must be able to report abuses that the public complains of and to verify whether the licensee has complied with the Act, the Regulations, its conditions of licence or any specific undertakings it may have made.

After the CRTC [decided not to renew the licence held by Genex for CHOI-FM](#) in 2004, noting that it had received complaints about the station’s programming from several parties (paragraph 2), the Federal Court of Appeal again said that the CRTC bears a responsibility to evaluate programming quality:

[148] When a licence is being suspended, revoked or renewed, the CRTC's duty of surveillance implies a verification of the quality of the programming and broadcasts to determine whether they meet the standards established by the Act, the Regulations, the Codes of Ethics and the conditions of licence. Needless to say, such verification requires verification of allegations or complaints that these standards are being diluted, distorted, ignored or flouted by a licensee. In a context of licence renewal, suspension or revocation, such verification is a manifestation of the CRTC's power of review and supervision: see *National Indian Brotherhood v. Juneau* (No. 3), [1971] F.C. 498 (T.D.), at page 513..

The CRTC had been reporting on broadcasting complaints for several years before the Court described their importance to the CRTC’s responsibilities. The Commission issued its first ‘monitoring’ report in November 2000 at the annual convention of the Canadian Association of Broadcasters, and began to publish reports on competition in Canadian telecommunications in 2001 (*Status of Competition in Canadian Telecommunications Markets: Deployment/Accessibility of Advanced Telecommunications Infrastructure and Services*, (Ottawa, September 2001) at the direction of Cabinet. The Commission merged its broadcasting and telecommunications reports in 2008.



In 2014 the CRTC accounted for the presence of information about complaints in its monitoring reports. It explained (page iii) that it used “consumer contacts and complaints to assess the effectiveness of its regulatory frameworks and to determine whether the industry is serving the needs of Canadians.”

Yet using the CRTC’s data about complaints has been laborious and time-consuming because of numerous gaps in the data. Why, for example, did the CRTC decide to present detailed information about the types of complaints it received for radio, television and discretionary television services, without providing any subtotals?

Figure 2 Broadcasting Policy Monitoring Report 2004, page 119

Table 5.3: Broadcasting Complaints by Sector, by Issue

Topic	1 September 2001 - 31 August 2002		1 September 2002 - 31 August 2003		1 September 2003 - 31 August 2004	
	Complaints received	Referrals to CBSC	Complaints received	Referrals to CBSC	Complaints received	Referrals to CBSC
Radio						
Abusive comment ¹⁷	85	29	148	57	81	39
Adult content	66	21	46	23	32	16
Alcohol advertising	2	0	0	0	1	0
Gender portrayal	5	2	39	27	1	1
Offensive comment ¹⁸	241	56	408	255	291	165
Offensive language ¹⁹	71	29	74	24	27	8
Conventional Television						
Abusive comment	39	8	87	31	195	34
Adult content	360	101	303	145	441	286
Alcohol advertising	23	0	19	3	17	1
Gender portrayal	17	3	51	32	14	0
Offensive comment	214	55	203	62	660	158
Offensive language	103	41	91	59	48	21
Television violence	83	22	84	27	99	34
Specialty Channels						
Abusive comment	4	1	25	18	10	2
Adult content	145	65	110	59	102	62
Alcohol advertising	0	0	4	0	1	0
Gender portrayal	3	0	6	4	0	0
Offensive comment	38	28	35	19	38	21
Offensive language	19	11	15	7	8	1
Television violence	13	8	12	9	11	11
Pay Television and Pay-per-view Services²⁰						
Abusive comment	5	0	0	0	0	0
Adult content	8	0	11	0	14	0
Alcohol advertising	0	0	0	0	0	0
Gender portrayal	0	0	0	0	0	0
Offensive comment	87	0	0	0	0	0
Offensive language	2	0	0	0	0	0
Television violence	1	0	1	0	5	0

Source: CRTC Correspondence Tracking System



Why does the same *Monitoring Report* use different presentations? For example, the *Communications Monitoring Report 2015-2016* provided no subtotals (by language, origin and type of discretionary service) in Table 4.2.30 – but did provide subtotals in the case of telecommunications complaints.

Table 4.2.30 Television-related complaints handled by the CBSC, by language of broadcast and origin of the program (2014-2015)

Category	Subcategory	Conventional and specialty TV	Pay TV	Total
Language of broadcast	English-language	508	7	515
	French-language	104	4	108
	Third-language	7	0	7
	Other	1	0	1
	Total	620	11	631
Origin of the program	Canadian	477	4	481
	Foreign	110	2	112
	Other	33	5	38
	Total	620	11	631

Source: CBSC annual reports

The category “Other” in each case refers to complaints for which there was not enough information for the CBSC to determine either the language of broadcast or the national origin of the program.

Table 5.1.4 Number of telecommunications-related contacts received by the CRTC, by type of issue and service, 2015

Service	CRTC policies/decisions	Billing /rates	Quality of service	Provision of service	Terms of service	Other	Total	Contacts per 10,000 residential lines, subscribers or payphones
Telemarketing	6,714	-	-	-	-	-	6,714	6.5
Incumbent telephone companies	491	1,586	615	410	225	43	3,370	6.1
Wireless services	1,021	2,490	473	361	902	118	5,365	1.8
Internet services	1,368	806	710	529	184	97	3,694	3.1
Telecommunication services	765	297	71	126	64	82	1,405	1.4
Competitive local exchange carriers	95	184	58	82	36	3	458	0.9
Alternative providers of long distance service	31	142	24	14	27	2	240	0.2
VoIP services	72	68	43	47	20	-	250	0.2
Pay telephone services	21	33	11	6	1	5	77	10.4
Total	10,578	5,606	2,005	1,575	1,459	350	21,573	-

Source: CRTC data collection

Why, moreover, does the CRTC change its presentation of data so often? . In 2006, for instance, it reported on public contacts about “broadcasting matters – in 2007, it reported instead on “broadcasting related enquiries”: Figure 2. While both reports used the same term to describe complaints – specifically, “broadcasting complaints” – the number of complaints set out in each report for the same year (2003-04) decreased by 16%, from 10,575 in the 2006 report to 8,825 in the 2007 report: Figure 3, and the change was not explained.



Figure 3

Broadcast Policy Monitoring Report 2006, page 118

Table 5.1: Number of contacts by public

	1 September to 31 August			1 Sep. to 31 Mar.
	2002-03	2003-04	2004-05	2005-06
Broadcasting matters	24,770	18,273	23,848	12,531
Broadcasting complaints	11,581	10,575	9,604	5,644

Source: CRTC Correspondence Tracking System²⁸

Broadcast Policy Monitoring Report 2007, page 118

Table 5.1: Number of contacts by public

	1 April to 31 March			
	2003-04	2004-05	2005-06	2006-07
Broadcasting related enquiries	16,810	19,493	17,418	13,947
Broadcasting complaints	8,825	9,880	9,469	7,951

Source: CRTC Correspondence Tracking System²⁷

In 2017 the CRTC switched terminology again, moving from the “broadcasting-related enquiries” that it used in its 2016 report, to “broadcasting-related contacts” in its 2017 report. As the figures also changed for the same years in each report, the change in terminology apparently had an impact on what data were being reported: Figure 3.

The CRTC also began to report on telecommunications complaints and complaints made under the CRTC’s *Unsolicited Telecommunications Regulations* in 2017. It is unclear, however, why the CRTC was able in 2017 to provide figures for the unsolicited-calls complaints for 2012-2013, when it could not provide figures for telecommunications contacts in general (“NA”).



Figure 4

Communications Monitoring Report 2016, page 79

iv Consumer voices

Table 3.0.6 Number of communications-related contacts received by the CRTC, by type of issue

Type of contact	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Broadcasting-related enquiries ¹	5,829	6,358	4,802	4,938	4,559
Broadcasting-related complaints ¹	12,419	11,507	11,055	10,115	8,584
Telecommunications-related contacts ²	N/A	N/A	25,153	27,077	23,453

1. For the 12-month period from 1 April to 31 March.
2. For the 12-month period from 1 January to 31 December.

Source: CRTC correspondence tracking system

The CRTC tracking system counts multiple communications from the same client on the same complaint as separate units; therefore, the actual number of complaints received should be slightly lower.

Enquiries refer to citizens looking for information. **Complaints** refer to a consumer lodging a complaint, expecting feedback and resolution. **Contacts** refer to the total of cases (comments, questions, complaints, campaign and petition) that were assigned and dealt by Client Services across Canada.

Communications Monitoring Report 2017, page 89

iv Consumer voices

Table 3.0.6 Number of communications-related contacts received by the CRTC, by type of issue

Type of contact	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Broadcasting-related contacts ¹	17,701	16,015	15,111	13,254	10,862
Broadcasting-related complaints ¹	11,206	11,138	10,158	8,669	7,104
Telecommunications-related contacts ²	N/A	25,153	27,077	23,453	18,243
Telecommunications-related complaints ²	N/A	18,624	19,818	16,613	11,724
Electronic commerce-related submissions (Spam Reporting Centre) ^{1, 3}	N/A	N/A	264,821	291,145	373,943
Telecommunications-related complaints (Unsolicited Telecommunications Rules) ^{1, 4}	136,622	113,641	107,293	129,984	79,417

1. For the 12-month period from 1 April to 31 March.
2. For the 12-month period from 1 January to 31 December.
3. The Spam Reporting Centre (SRC) began collecting data in July 2014.
4. For detailed info on Unsolicited Telecommunications Rules (UTR) complaints, please see the National Do Not Call List (DNCL) [report](#).

Source: CRTC correspondence tracking system, Spam Reporting Centre, and Unsolicited Telecommunications Rules database

The CRTC tracking system counts multiple communications from the same client regarding the same complaint as separate units; therefore, the actual number of complaints received may be slightly lower.

Contacts refers to the total number of cases (comments, questions, complaints, campaigns, and petitions) that were assigned to and dealt with by Client Services across Canada. **Complaints** refers to a consumer lodging a complaint, expecting feedback and resolution. **Submissions** refers to the total number of reports Canadians sent to the Spam Reporting Centre.



In the 2018 *Communications Monitoring Report* the CRTC changed the actual data for broadcasting contacts and complaints data: Figure 4. For example, the 2016 *Report* showed 15,111 broadcasting-related complaints in 2014-2015 while the 2017 *Report* showed 14,269 broadcasting-related complaints in 2014-2015, or 5.5% fewer complaints. The ‘years’ used in the 2017 and 2018 *Reports* to set out telecommunications-related contacts and complaints also changed: the 2017 *Report* showed no data (“NA”) for telecommunications-related contacts in 2012-2013 and 25,153 such contacts in 2013-2014; the 2018 *Report* now shows 25,153 contacts in 2013 and 27,077 contacts in 2014.

Figure 5

Communications Monitoring Report 2018, page 91

Table 3.2 Number of broadcasting-related contacts received by the CRTC, by type of issue

Type of contact	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Broadcasting-related contacts	18,272	14,652	14,269	12,898	10,123
Broadcasting-related complaints	12,202	9,778	9,579	8,317	6,879

For the 12-month period from 1 September to 31 August.

Table 3.3 Number of telecommunications-related contacts received by the CRTC, by type of issue

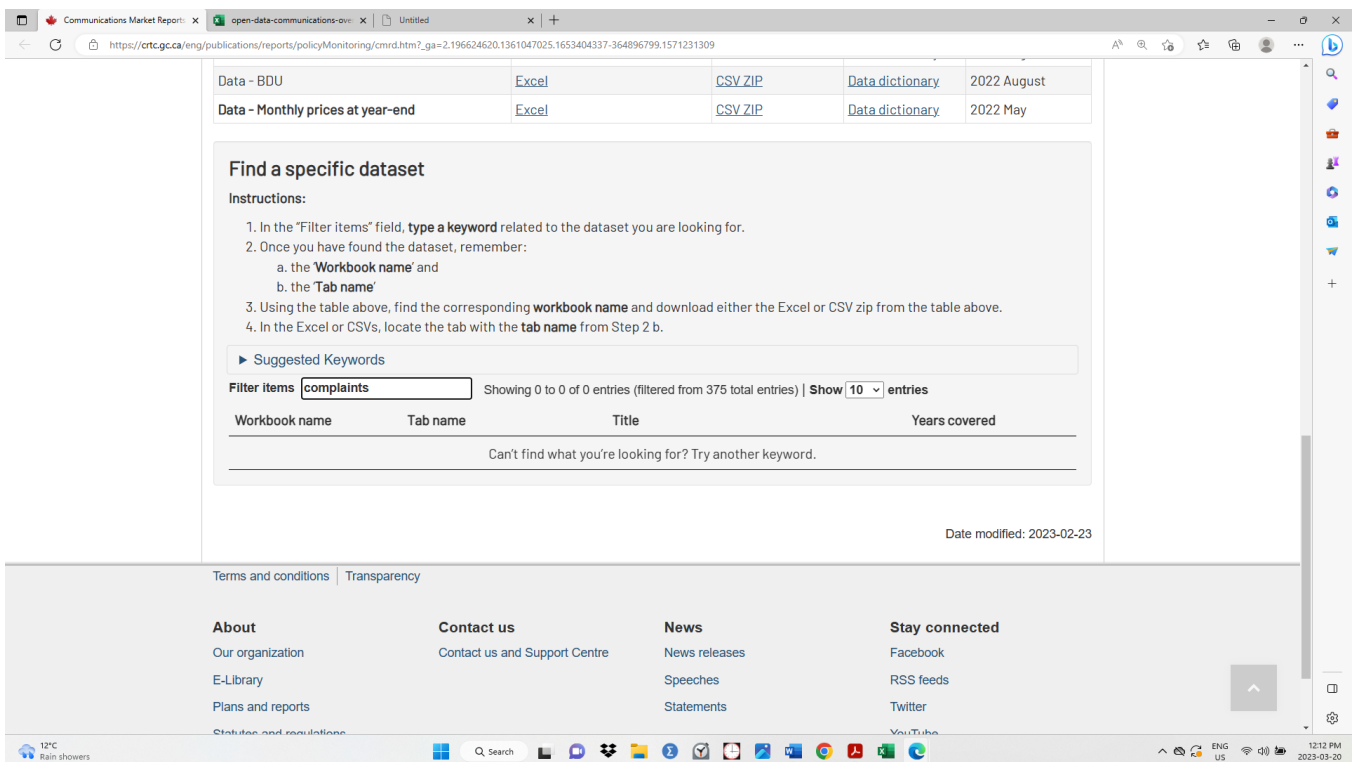
Type of contact	2013	2014	2015	2016	2017
Telecommunications-related contacts	25,153	27,077	23,453	18,243	16,805
Telecommunications-related complaints	18,624	19,818	16,613	11,724	11,142

For the 12-month period from 1 January to 31 December.

Tracking changes in the CRTC’s presentation of its own statistics over time is both time-consuming and nerve-racking, so the fact that the CRTC stopped presenting any information about complaints four years ago in 2019 may in fact be a mixed blessing.



The CRTC datasets on the government of Canada's 'Open Data' site do not appear to offer any information about complaints:



What is unclear is why the CRTC no longer believes the statement it made in 2014: that "consumer contacts and complaints" enable the CRTC "to assess the effectiveness of its regulatory frameworks and to determine whether the industry is serving the needs of Canadians." It is also unclear whether the industry's self-regulatory regime



embraced by the Commission has actually resulted in improved programming quality. Irregular changes in data presentation and data results, of course, prevent precisely this type of analysis.

As the CRTC has now stopped publishing information about the complaints it receives itself about the matters it is supposed to be regulating and supervising, neither Parliament, members of the public nor civil-society organizations have any means of evaluating the CRTC's decision to shift the administration of complaints about broadcasting and telecommunications elsewhere.

Recommendations:

The CRTC should update its administrative processes for the 21st century by revisiting its decision to stop reporting about the complaints it receives from Canadians about broadcasting and telecommunications services. It should also develop a stronger and more coherent reporting framework to ensure that the non-governmental bodies established and funded by broadcasters and telecommunications companies make complaints data available semi-annually so as to facilitate meaningful evaluation of the CRTC's policies over time. This data-collection framework should be developed in consultation with interested members of the public, civil-society organizations and scholars. It should be reviewed every two years, and all changes in presentation and data should be clearly documented and published to ensure comparability of information over time. The CRTC should also, in annual consultation with interested parties, review its practices with respect to the presentation of data in its other reports, including but not limited to its ownership and *Statistical and Financial Summaries* reports. The goal should be to facilitate rather than hinder data analysis and evaluation.

Maintaining the *status quo* – in which the CRTC has stopped reporting anything about the complaints being made about broadcasting and telecommunications in Canada – has the real potential to bring the CRTC's administration of its responsibilities into disrepute.

~ Forum for Research and Policy in Communications (FRPC)

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