



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

28: Accountability means data about outcomes

28 March 2023

This is the twenty-eighth 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 sensed "that public confidence and trust in the CRTC has waned in recent years", pointing to undue delays in its decision-making, unequal access to its processes and the insufficient reasoning, evidence and data in the CRTC's determinations ("decisions").

The 21st to 30th commentaries in this series consider the 'accountability' of the CRTC. As noted above, the Heritage and ISED Ministers are concerned that public trust and confidence in the CRTC has been decreasing. What the Ministers' letter elides, however, is the degree to which the CRTC is accountable for its performance, and whether it should be more accountable as it (to quote the Ministers) "implements the laws and regulations set forth by Parliament in the public interest".

In Canada, accountability is facilitated by the 'open court principle', described almost thirty years ago by the [Supreme Court in 1996](#) as "deeply embedded in the common law tradition" (paragraph 21). The Court affirmed that "ensuring that justice be done openly ... has now become 'one of the hallmarks of a democratic society' and... acts as a guarantee that justice is administered in a non-arbitrary manner, according to the rule of law" (paragraph 22).

That said, the CRTC is an unusual federal agency as Parliament has not set out a single set of objectives for the CRTC to achieve in a single statute. Rather eight laws, if not more, apply directly to the CRTC. In alphabetical order these are the [Accessible Canada Act](#), [Broadcasting Act](#), [Canada Elections Act](#), [CASL](#) (its popular acronym as its title is 52 words long), [CRTC Act](#), [Official Languages Act](#), [Radiocommunications Act](#) and the [Telecommunications Act](#). Like most federal departments and agencies the CRTC is also subject to other statutes such as (in alphabetical order) the [Accessible Canada Act](#), the [Canadian Multiculturalism Act](#), the [Personal Information Protection and Electronics Documents Act](#), the [Privacy Act](#) and even the

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).



[Public Documents Act](#) that allows the Commission to issue documents printed wholly or in part on paper and not parchment (subsection 2(1)).

Although the CRTC is not a court but a [quasi-judicial administrative tribunal](#), publicly available information about the outcomes of its policies enables Canadians to evaluate whether Parliament’s goals are being met.

Parliament’s sixty goals for broadcasting and telecommunications are set out in the *Broadcasting Act* and the *Telecommunications Act*. In broadcasting Parliament has set out a laundry list consisting of the 51 subsections in section 3(1) in the *Broadcasting Act*. In telecommunications the nine goals in section 7 of Parliament’s policy resembles a wish list rather than clear and concrete objectives.

With an unlimited budget the CRTC could measure and report how each of Parliament’s sixty goals for Canada’s regulated communications system is being met. As the CRTC’s budget is not unlimited, however it would be more reasonable to expect that the Commission measures what is easiest to measure, uses its experience to assess goals that are more difficult to measure and reports its measures and assessments annually to show how Parliament’s broadcasting and telecommunications policies are – or are not – being met.

For example, the CRTC could measure broadcast employment, broadcast hours and broadcast subscribers’ monthly rates, and in telecommunications, the availability of telecommunications services across Canada, the monthly rates paid by telecommunications users and the level of foreign ownership in Canadian telecommunications companies:

Table 1 Measures of Parliament’s objectives for broadcasting and telecommunications

Legislated objective	Potential measures and whether CRTC collects this information
<i>Broadcasting Act</i>	
3 (1) It is hereby declared as the broadcasting policy for Canada that	
(d) the Canadian broadcasting system should (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society	Employment levels of radio stations, TV stations, discretionary programming services and distribution services
3(1)(f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming	Hours allocated each week radio stations, TV stations and discretionary programming services to present Canadian programming
3(1)(t)(ii) distribution undertakings ... should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,	Monthly rates paid by subscribers to cable and satellite companies, for basic service (all else being at the subscribers’ discretion)
<i>Telecommunications Act</i>	
7 7 It is hereby affirmed that ... the Canadian telecommunications policy has as its objectives	
(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;	Availability of telecommunications services by province and territory



Legislated objective	Potential measures and whether CRTC collects this information
(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;	Monthly rates paid by subscribers to wireline and wireless telephone service in urban and in rural areas, by province and territory
(d) to promote the ownership and control of Canadian carriers by Canadians;	Voting shares held by Canadians in carriers operating in Canada

The CRTC generates many reports but few of these measure implementation of Parliament’s broadcasting and telecommunications policies. The reports it publishes can be found through the CRTC’s [A-Z Index](#) that lists “[Reports and publications](#)” under R (there are no ‘Plans’ under P, and the CRTC dispensed with a site plan describing its online resources years ago).

The CRTC’s first page under “Reports and publications” brings up three categories of reports: “Plans and Reports,” “Key Reports” and “Related Content” – Table 1 (below).

Table 2 3 sets of “Plans and Reports” of the CRTC – three sets

CRTC categories	Report	Most recent year
Plans and Reports	1. General plans and reports	[see Table 3, below]
	2. Broadcasting plans and reports	[see Table 3, below]
	3. Telecommunications plans and reports	[see Table 3, below]
Key reports	4. Harnessing TV Distribution for Canadians in the Digital Age	October 2020
	5. Communications Market Reports	17 January 2023
	6. Report on Misleading or Aggressive Communications Retail Sales Practices	2019
	7. CRTC Sales Practices Review – 2022 Secret Shopper Project Detailed Findings Report	22 March 2022
	8. CRTC written public submission to the Legislative Review Panel	2019
	9. Departmental Results Report 2021-2022	2021-2022
	10. Departmental Plan 2023-2024	2023-2024
	11. Fees Report 2021-2022	2021-2022
Related Content	12. Annual/monthly reports filed by broadcasting industry Reports from 87 broadcasters	[see Table 2, below]

The “[Related Content](#)” page links to reports that the CRTC has required broadcasters and broadcast organizations to file in the past, and does not include a summary of these documents. The page instead lists 209 reports from 87 broadcasters or broadcast organizations, filed from 2003 to 2023: Table 3.

Table 3 Reports shown under “[Related Content](#)” page

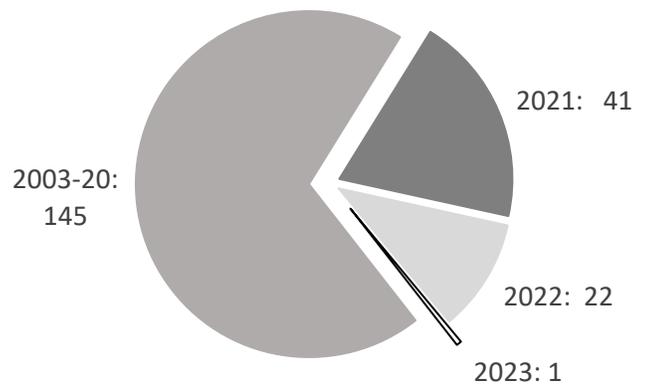
Broadcasters and Broadcast Organizations from which the CRTC has required an annual or a monthly report: 87 broadcasters, 209 reports					
0859291 B.C. Ltd. (CHEK –DT)	1	Craig Media Inc.	2	Rogers Broadcasting Limited	19
Aboriginal Peoples Television Network (APTN)	2	Crossroads Television System	2	Rogers Communications	1
Access Communications Co-Operative Limited	1	CTV Inc.	3	Rogers Group of Funds	1
Accessible Media Inc.	1	Fight Media Inc.	1	Rogers Media Inc.	10
Allarco Entertainment Inc.	1	Fonds Québecor	1	Salt and Light	1
Allarco Entertainment Limited Partnership (Super Channel)	3	Fonds Remstar	1	Saskatchewan Telecommunications (Sasktel)	3



Broadcasters and Broadcast Organizations from which the CRTC has required an annual or a monthly report: 87 broadcasters, 209 reports					
Alliance Atlantis Broadcasting	2	Game TV	1	Saskatchewan Telecommunications (Creative Saskatchewan)	1
Anthem Sports and Entertainment	1	Golden West Broadcasting Ltd.	1	Set-top Box-based Audience Measurement System Industry Working Group	1
ARTV Inc.	1	Harold Greenberg Fund	1	Shaw Communications Inc.	2
Astral Media Inc.	4	Harvard Broadcasting Inc.	1	Shaw Media Inc.	9
BCE Inc.	1	Independent Production Fund	1	Shaw Rocket Fund	1
Bell Aliant	1	Jim Pattison Broadcast Group (Pattison)	2	Sirius XM Canada Inc.	1
Bell Fund	1	Knowledge Network Corporation	1	Société de Télédiffusion du Québec (Télé-Québec)	2
Bell Media Inc.	15	Learning and Skills Television of Alberta Limited	1	Stingray Group Inc.	2
Blue Ant Media	7	The Miracle Channel Associations	1	Stornoway	1
Bluepoint Investments Inc.	1	MTS Allstream	2	Telefilm Canada Talent Fund	1
Cable Public Affairs Channel Inc.	2	MTS Inc.	1	Télé Inter-Rives Ltée	2
Canadian Association of Broadcasters (CAB)	3	MusiquePlus Inc.	1	Telelatino Network Inc. (TLN)	1
Canadian Broadcasting Corporation (CBC) / Société Radio-Canada (SRC)	3	New Tang Dynasty Television	1	TELUS Fund	1
Canal Évasion	1	Newfoundland Capital Corporation Limited (Newcap)	2	Telus Communications Company	2
CanWest Global Communications Corp.	6	Newfoundland Broadcasting Company (NTV)	2	The Score Television Network	1
Channel Zero	5	Novus Entertainment Inc.	1	Thunder Bay Electronic Limited	1
Christian Channel Inc.	1	Nova Scotia Independent Production Fund	1	TQS inc.	3
CHUM Television	5	Ontario Educational Comm'n Auth'y (TVO)	1	TVA Group Inc. / Groupe TVA inc.	5
Cogeco Cable	1	OUTTV	1	Vidéotron Ltd.	1
Cogeco Diffusion Acquisitions Inc.	1	Pelmorex Communications Inc.	2	V Interaction inc.	4
Cogeco Fund	1	Quebecor Inc. (SUN TV)	1	Vision TV	1
Corus Entertainment	12	Québecor Média	2	WildBrain Ltd. (Formally DHX Media Inc.)	2
Consortium de Télévision Canada (TV5)	1	RNC Média	1	ZoomerMedia Limited	5
Total reports of 87 broadcasters or broadcast organizations:					209

The “Related Content” reports deal with a wide range of topics, from “Allocation methodology for the expenses and revenues related to National Hockey League (NHL) programs” (in 2022) to “Video on demand closed captioning” (2016).

Reports CRTC requires broadcasters to file:
2003-2023



Source: CRTC, Annual/Monthly Reports Filed by

Considering that the CRTC removed empirical information about radio stations’ compliance and non-compliance from its website because “it was not possible to have accurate, up to date information always available – see Figure 1, next page – it is somewhat puzzling that more than two-thirds – 145 or 70% - of the reports date from 2003 to 2020, and that half of these (73) are dated from before 2013.



In fact, only 64 (30%) reports were filed in the last three years, and in 2022 just 22 were filed, the majority (18) dealing with closed captioning.

Figure 1

This letter is further to your request of April 9, 2021, to obtain:

“The CRTC said in Broadcasting Regulatory Policy CRTC 2014-554 at para. 67 that it “will publish annual lists of radio stations in compliance and non-compliance with the Commission’s regulations and their conditions of licence.” Please provide a link to these lists. ”

I regret to inform you that the lists to which you refer are no longer available on our web site. **A decision was made to remove them because it was not possible to have accurate, up to date information always available.**

As for the two other categories on the CRTC’s “General Plans and Reports” page, the first sends users to the CRTC’s own “General plans and reports” and the second sets out links to 25 categories of reports (see Table 4, below). None of the three pages in Table 4 reports on broadcasting or telecommunications companies’ implementation of Parliament’s objectives, and a third of the reports date were issued in 2020 or earlier..

Table 4 “General plans and reports from the CRTC”

CRTC Category	Report	Most recent year
General plans and reports	1. <i>Access to Information Act</i> Annual Reports	2021-2022
	2. Accessibility Plan Reports	2023-2025
	3. Report on Accessibility	2021-2022
	4. Communications Market Reports – Broadcasting	2020-2021
	5. Communications Market Reports – Telecommunications	2019-2020
	6. Departmental Plans	2023-2024
	7. Departmental Results Reports	2021-2022
	8. Fees Reports	2021-2022
	9. Internal Audits	2016
	10. Official Languages	2019-2020
	11. Privacy Act Annual Reports	2021-2022
	12. Quarterly Financial Reports, and	December 31, 2022
	13. Miscellaneous Reports	2022 (Secret Shopper)
		13 reports, of which 4 are older than 2021-2022
Broadcasting plans and reports	1. Co-Development of the Indigenous Broadcasting Policy: “What You Said” Report: CRTC Early Engagement Sessions, Phase One of the Co-Development of a new Indigenous Broadcasting Policy	2021
	2. Financial Statements: Local Programming Improvement Fund	2014
	3. Public Opinion Research Reports: Attitudes and opinions towards commercial radio in Canada – Final Report	2020
	4. Service Objectives for the Processing of Certain Types of Broadcasting Applications	2021-2022
	5. Miscellaneous Reports (from 2008 to 2023) <i>Harnessing Change: Financial Model of the Canadian Audio Sector</i>	October 30, 2022



CRTC Category	Report	Most recent year
	Financial Model of the Canadian Television Sector	September 30, 2022
	6 reports, of which 3 are older than 2021-2022	
Telecommunications plans and reports (No “plans” shown)	1. Broadband Performance in Canada (SamKnows)	June 2020
	2. Public Opinion Research Reports	2022
	3. Reports on the Operation of the National Do Not Call List	2022
	4. Service Objective/Standards and Performance Measure for Processing Telecommunications Applications	2021-2022
	5. Miscellaneous Reports (from 2008 to 2022)	2022
	6. CRTC Sales Practices Review – 2022 Secret Shopper Project Detailed Findings Report	
	6 report categories, 1 of which is older than 2021-2022	
Total	25 report categories, of which 8 are older than 2021-2022	

As for the CRTC’s “Communications Market Reports” the information summarized by the Commission’s website page on these reports suggests that while they provide some information on telecommunications performance (LTE coverage, availability of 50/10; landline and mobile long-distance minutes), their main focus in broadcasting is financial performance: Figure 2.

Figure 2

Version 8.0 - Last updated 2023-01-17

See our [current trends changelog](#) for the latest updates.



[Read about the methodology that drives the annual and current trends data](#)



The CRTC's *Broadcasting Sector – Communications Market Report (2013-2021)* overview on the government of Canada's Open Data portal consists of 43 tables which are downloadable into a spreadsheet format. The 43 tables are set out in Table 5, below, and the number of years each table covers has been added. Again, despite the fact that spreadsheets typically offer dozens of columns or more – from A to XFC in my current version – in which data may be entered, the longest period covered by the CRTC's tables is 12 years: Table 5.

Table 5: CRTC Communications Market Report, Broadcasting Sector – CMR (2013-20210)

Tab Name	Title	Years covered
B-T1	Overview of industry characteristics, 2019-2021	3
B-T2	Revenues and contributions by major ownership group, by sector, 2019-2021	3
B-T3	Contributions to Canadian Content (\$ millions), 2014-2021	8
B-T4	Overview of Internet-based audio and television services (estimated revenues), 2018-2021	4
B-T5	Television sector ownership market composition, 2020-2021	2
B-T6	Conventional television ownership market composition, 2020-2021	2
B-T7	Discretionary services composition, 2020-2021	2
B-T8	Discretionary services of large ownership groups and the CBC, 2020-2021	2
B-T9	On-demand services of large ownership groups, 2020-2021	2
B-T10	Distribution of total broadcasting revenues (\$ million), 2014-2021	8
B-T11	Revenue distribution by region (\$ millions), 2014-2021	8
B-T12	Number and share of broadcasting entities by number of sectors where service is offered, 2015-2021	7
B-T13	Share of revenues generated by broadcasting entities by number of sectors where service is offered, 2015-2021	7
B-T14	Government assistance received as a percentage of revenues, 2020-2021	2
B-T15	Average weekly hours of tuning in to traditional radio vs listening to streamed audio services, by Canadians 18+, 2016 to 2021	6
B-T16	Profit margin for commercial radio by entity size, 2019-2021	3
B-T17	Aggregate revenues of commercial radio by language (\$ millions), 2016 to 2021	6
B-T18	CCD contributions by regulatory measure (\$ millions), 2016 to 2021	6
B-T19	Radio tuning (millions of hours) in home vs. out of home, 2016 to 2021	6
B-T20	Year-over-year revenue growth by region – Commercial radio stations, 2016 to 2021	6
B-T21	Total revenues by source - Commercial radio stations (\$ millions), 2016 to 2021	6
B-T22	Aggregate revenues by market size (\$ millions), 2016 to 2021	6
B-T23	Revenues of private conventional stations, CBC conventional stations, and discretionary services and on-demand services (\$ millions), 2020-2021	2
B-T24	Average number of hours Canadians 18+ watched traditional television and Internet-based television each week, 2016 to 2021	6
B-T25	Advertising and subscription revenues of private conventional television stations, discretionary services and on-demand services combined (\$ millions), 2016 to 2021	6
B-T26	Revenues of discretionary services and on-demand services by source (\$ millions), 2020-2021	2
B-T27	Revenues of discretionary services and on-demand services (\$ millions), 2016 to 2021	6
B-T28	Television programming expenditures on PNI, Canadian and non-Canadian programming (\$ millions), 2019-2021	3
B-T29	Year-over-year revenue growth by region – Commercial stations (%), 2016 to 2021	6
B-T30	Overview of broadcasting revenues and contributions to Canadian content (\$ millions), 2014-2021	8
B-T31	Overview of radio, television and broadcasting distribution revenues, growth and PBIT/operating margin, 2014-2021	8
B-T32	Commercial radio overview, 2018-2021	4
B-T33	Radio ownership market composition, 2018-2021	4
B-T34	Broadcasting revenues (\$ millions), 2013-2021	8
B-T35	Percent of total broadcasting revenues, by ownership groups, 2015-2021	7
B-T36	Percentage (%) of total commercial radio revenues by broadcaster, 2017-2021	5

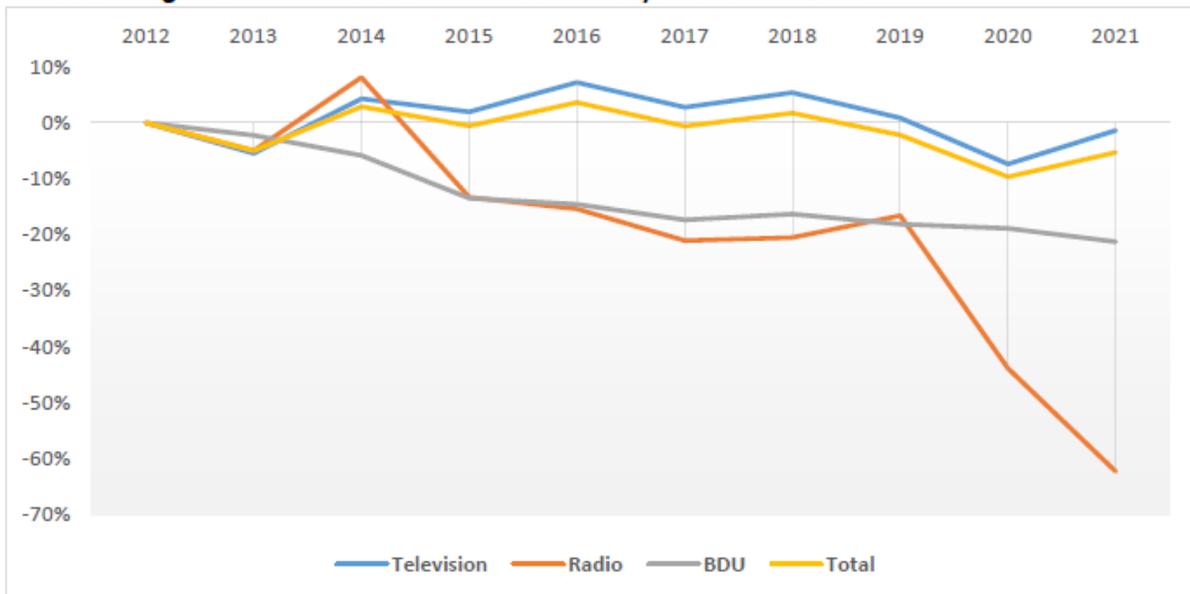


Tab Name	Title	Years covered
B-T37	Percentage (%) of television revenues by broadcaster, 2017-2021	5
B-T38	Total broadcasting revenues by type of service (\$ million), 2013-2021	9
B-T39	PBIT/EBITDA margins by type of service (%), 2013-2021	9
B-T40	Contributions to Canadian content by source (\$ million), 2009-2021	12
B-T41	Revenues (\$ million) of commercial radio stations, by radio market type, 2013-2021	9
B-T42	CBC/SRC conventional television revenues (\$ millions), 2013-2021	9
B-T43	Digital Media Broadcasting Undertakings Revenues (millions) 2021-2022	2

Absent from these 43 tables, moreover, are the data on radio news expenditures that the CRTC displayed in its 2022 *Communication Market Report* (page 10):

- Since 2017, expenditures by conventional and discretionary television stations on news programming have increased by 5.6% (or \$39.8M) to \$748M. Some of this increase can be attributed to the locally reflective news programming revenues received by conventional television stations from BDUs⁹, which has averaged \$46.9M since its inception in 2018.
- During this same period of time, radio station expenditures on news programming have increased by 6.0% to \$100.1M.

Chart 4: Change in Contribution to Canadian Content by Sector since 2012



Source: CRTC Annual Returns

- Additional data is available from the [Communications Market Report – Open Data](#) and [Financial Summaries for Broadcasting Sector](#) web pages.

The CRTC does not provide Canadians and Parliamentarians with easy access to long-term and meaningful data about programming hours and program expenditures, and does not even provide that information in its decisions. Considering the importance that the CRTC places on news, it is always startling that it never describes just how much news is being broadcast. In many of its radio renewal



decisions in 2021 it extolled the importance of local radio stations in providing communities with access to news: but provided not information about how much news these stations were broadcasting:

CIXL-FM Welland and CKYY-FM Welland – Licence renewals, Broadcasting Decision CRTC 2021-400 (Ottawa, 6 December 2021

...

Local radio stations are an important daily source of local news and information for communities. Holding a broadcasting licence comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.

....

Bland rhetoric is no substitute for facts – and prevents fact-based analysis of broadcasters’ performance in the past, now and going forward. In fact, the CRTC’s decision not to publish data on the key parts of its mandate staves off meaningful analysis of its own performance.

Recommendations

To ensure that the CRTC is first, gathering the information needed to determine whether Parliament’s communications policies are being met, and second, not destroying relevant and irreplaceable existing data, the Commission should establish a ‘CRTC Data Collection Committee’ that includes academics, scholars and interested civil-society organizations and meets yearly to provide the Commission with advice and recommendations about the data it should gather, publish and retain.

Maintaining the *status quo* – in which the few up-to-date data published by the CRTC are so limited as to give the impression they are being designed to fit legal-sized landscape paper – would be a significant impediment to meaningful evaluation and understanding of the CRTC’s implementation of Parliament’s communications policies.

~ 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](#)
- 9 March 2023: [Openness means timeliness](#)
- 10 March 2023: [Openness means active efforts by CRTC to engage public](#)
- 11 March 2023: [Transparency means being clear \(about being transparent\)](#)
- 12 March 2023: [Transparency means clarity about planning processes](#)
- 13 March 2023: [Transparency means disclosing dealings, including meetings](#)
- 14 March 2023: [Transparency means clear process](#)
- 15 March 2023: [Transparency means operational clarity](#)
- 16 March 2023: [Transparency means operational timeliness](#)
- 17 March 2023: [Transparency means clarity about evidence](#)
- 18 March 2023: [Transparency means access to evidence, not selective smokescreening](#)
- 19 March 2023: [Transparency means meaningful access to information](#)
- 20 March 2023: [Transparency means comparability of data over time](#)
- 21 March 2023: [Accountability means more meaningful consultation with Canadians](#)
- 22 March 2023: [Accountability means more access without the Access to Information Act](#)
- 23 March 2023: [Accountability means an Information-Highway approach to due process](#)
- 24 March 2023: [Accountability means transparency about dispute-resolution outcomes](#)
- 25 March 2023: [Accountability means well-designed data collection to evaluate policy](#)
- 26 March 2023: [Accountability means public performance evaluations showing whether Parliament's communications laws are being implemented](#)
- 27 March 2023: [Accountability means signing and publishing decisions](#)
- 28 March 2023: Accountability means data about outcomes