



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

### **3. Openness means letting people know what the CRTC is doing**

3 March 2023

*This is the third 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 Commission<sup>1</sup> and also to "inform her of the Government's vision and priorities with respect to Canada's broadcasting and telecommunications system".<sup>2</sup> 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 ...".*

When then-CRTC Chairperson Scott appeared before the Senate Standing Committee on Transportation and Communications in [mid-November 2022](#) he was asked about the Commission's transparency and accountability. Chairperson Scott said that the CRTC holds all of its proceedings publicly except when they "relate to business-confidential matters", and that "everything we decide upon is a matter of public record." He went on to add that the deliberations of the CRTC's meetings "are private, as is any quasi-judicial or judicial body" – "but the decisions or results of those deliberations are entirely transparent and public."

In reality, the CRTC does not hold all proceedings 'publicly', it does not disclose everything it decides as "a matter of public record", and other quasi-judicial bodies publish much more information about their work and deliberations than the CRTC.

**Nearly half (46%) of 'public' hearings since 2005 are public in name only:** Since the CRTC stopped publishing annual information about its public proceedings decades ago, FRPC used the CRTC's calendars and transcripts from 1998 which it publishes on its website. From 1998 to the end of 2022 the CRTC held 295 public hearings (245 broadcasting, 48 telecom and 2 broadcasting/telecom). Beginning in 2005, the CRTC held 'non-appearing' hearings that were

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<sup>1</sup> CRTC, "[Meet Vicky](#)" (accessed 1 March 2023).

<sup>2</sup> 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)

closed to applicants and interveners though attended by CRTC Commissioners, staff and a court reporter.

Of the 193 broadcasting or broadcasting/telecom hearings held by the CRTC from 2005 to 2022, 89 or 46% were non-appearing. The CRTC has even used non-appearing hearings to issue mandatory orders: such orders were issued in Decisions 2018-110, -168, -172 and -468 following non-appearing hearings, despite the *Broadcasting Act's* requirement that such orders only be issued after 'public hearings'.

**Many CRTC decisions not 'published':** The CRTC's "Today's Releases" page often publishes information being released by the CRTC (though on many days in the last several years no releases were issued.) Other decisions can be found in its pages for its [Decisions, Notices and Orders](#) and its [Letters](#). Another page – the CRTC's [Broadcasting Applications Report](#) – lists applications as well as decisions – but not all of the decisions can be accessed because they lack hyperlinks: in other words, these decisions are not accessible to the public.

Moreover, searching for the inaccessible decisions using the CRTC's search engine turns up decisions with the same number that deal with completely different matters:

CRTC Broadcasting Applications Report (2022) page			CRTC's Decisions (2022) Index		
BAR decision	BAR Applicant	BAR applic'n number	CRTC's online decision	Online decision application	Online decision applicant
2022-28	Rogers Media Inc.	2022-0326-4	2022-28	1011-NOC2020-0081	Paper bills
2022-11	TVA Group Inc.	2022-0089-8	2022-11	2019-0517-6	United Christian Broadcasters Media Canada
2022-12	Kootenay Cooperative Radio	2022-0134-1	2022-12	2021-0396-9	CBC
2022-13	CBC	2022-0145-8	2022-13	2021-0752-3	CBC
2022-24	CBC	2022-0254-7	2022-24	2021-0789-6	CBC
2022-30	Vernon Community Radio Society	2022-0332-1	2022-30	2021-0792-9	Lewis Birnberg Hanet
2022-31	CBC	2022-0374-3	2022-31	2020-0428-2	Telus
2022-6	United Christian Broadcasters Media Canada	2022-0042-6	2022-6	2022-0042-6	V Media Inc.
2022-14	Durham Radio Inc.	2022-0174-7	2022-14	2021-0234-1	CBC
2022-15	8384860 Canada Inc.	2022-0178-9	2022-15	2021-0192-1	Maritime Broadcasting
2022-3	North Superior Broadcasting Ltd.	2022-0011-1	2022-3	2021-0081-6	Interlake Mennonite Fellowship Church
2022-9	CBC	2022-0094-7	2022-9	2018-1112-5	Gulf Islands Community Radio Society
2022-55	Northern Native Broadcasting (Terrace, B.C.)	2022-0907-2	2022-55	Not shown	Attraction Images Inc.

The CRTC may be making some decisions administratively – without public process – but using the same decision numbers for determinations with or without public process is at best confusing and at worst, obfuscatory.

**Other decision-making meetings of CRTC closed to public:** The CRTC’s by-laws let it establish committees of its Commissioners to consider different matters. When asked – under the *Access to Information Act* – for a list of its committees and their membership, the CRTC said it had three committees, two of which consisted of all CRTC Commissioners and one of which had three members (but the CRTC did not state who the three members were):

**Links:**

a) The CRTC committees are established under the following 3 by-laws (they are hyperlinked to the CRTC’s website):

1. [Broadcasting Committee:](#)

  - Broadcasting Committee is established as a standing committee of the Commission which shall consist of all members of the Canadian Radio-television and Telecommunications Commission.
    - <https://crtc.gc.ca/eng/about/crtc26.htm>

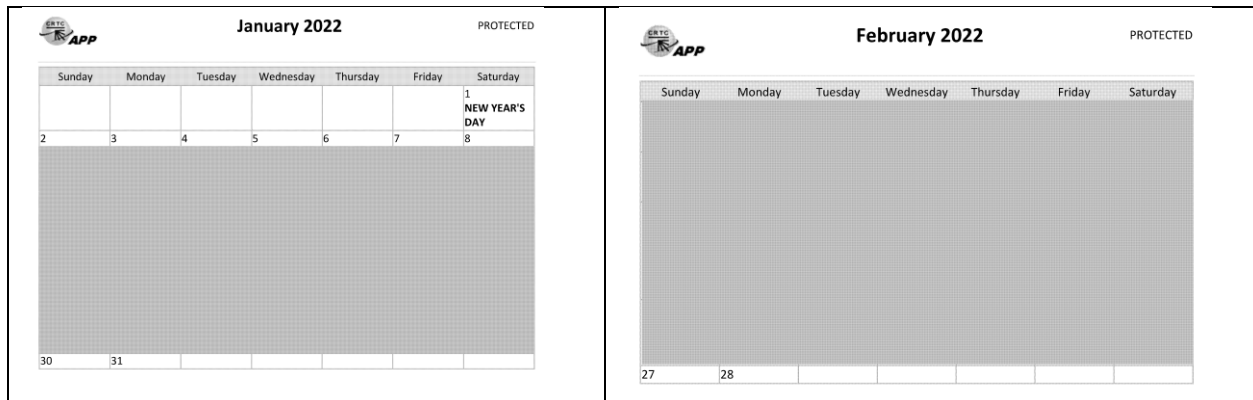
  
2. [Broadcasting committee sub-committee for routine and non-contentious matters:](#)

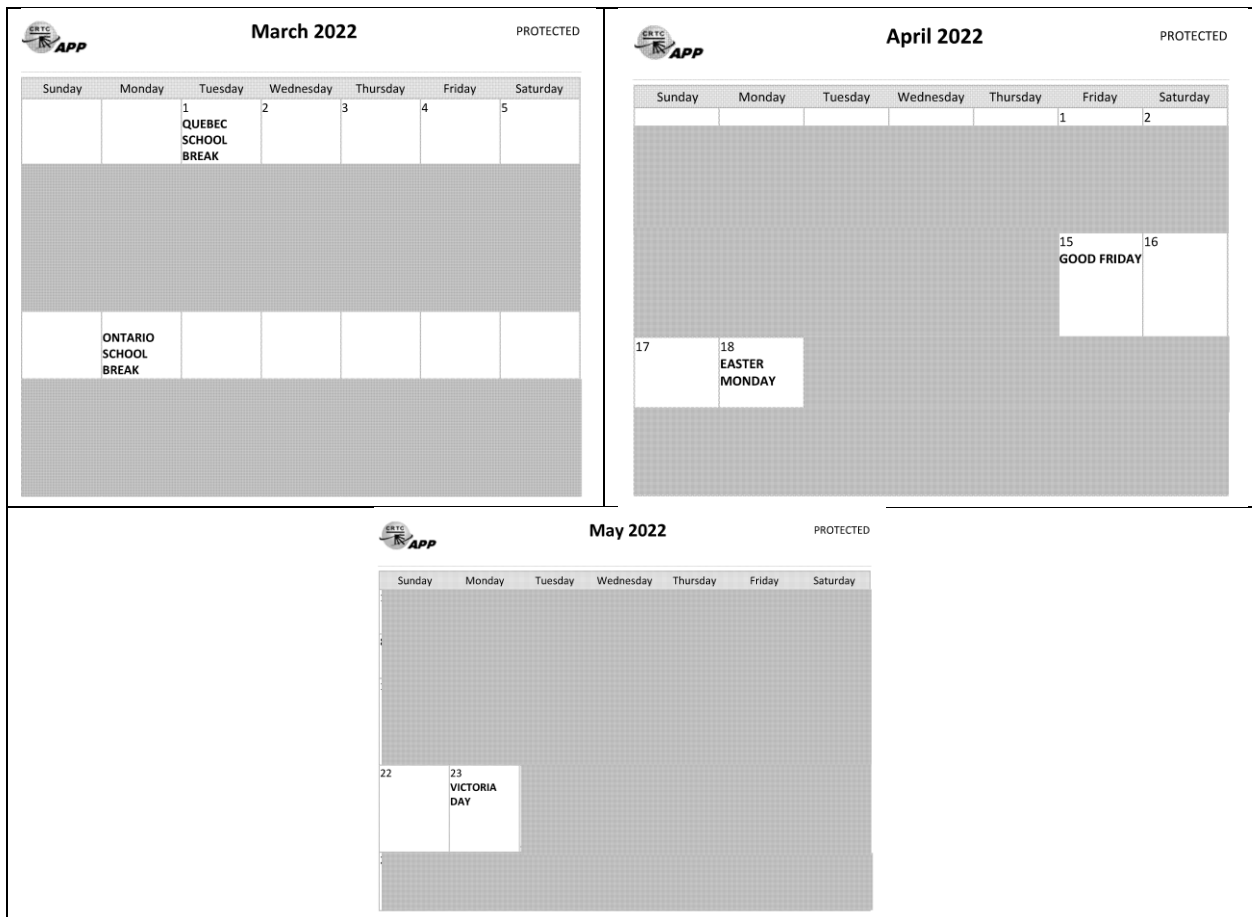
  - Broadcasting Committee Sub-Committee for routine and non-contentious matters (the Sub-Committee) is established as a standing committee of the Commission which shall consist of 3 members and one alternate member. This committee was appointed November 1, 2021.
    - <https://crtc.gc.ca/eng/about/crtc29.htm>

  
3. [Telecommunications Committee:](#)

  - Telecommunications Committee which shall consist of all members of the Commission is established as a standing committee of the Commission.
    - <https://crtc.gc.ca/eng/about/crtc9.htm>

When asked for the dates when these committees met from 1 January 2022 to May 2022, the CRTC provided five heavily redacted calendar pages:





By way of comparison, the Federal Communications Commission (FCC) – the CRTC’s US equivalent— holds “Open Commission Meetings” where it discusses pending matters, streams live and leaves open to the public. The FCC provides links and related materials to these meetings on its website. On [16 March 2022](#), for instance, the FCC’s agenda says it will be considering six matters that in Canada would be considered policy matters, and two enforcement actions:

- **Single Network Future: Supplemental Coverage from Space**  
 The Commission will consider a [Notice of Proposed Rulemaking](#) that would propose a new regulatory framework for supplemental coverage from space. Through this proposed framework, satellite operators collaborating with terrestrial providers would be able to operate space stations on currently licensed, flexible-use spectrum to expand coverage to the terrestrial provider’s subscribers. (GN Docket No. 23-65, IB Docket 22-271)
- **Ensuring Just and Reasonable Rates for Incarcerated People**  
 The Commission will consider a [Notice of Proposed Rulemaking and Order](#), which would begin the Commission’s implementation of the Martha Wright-Reed Just and Reasonable Communications Act of 2022. The Notice of Proposed Rulemaking seeks comment on how the Commission should interpret that Act’s language to ensure just and reasonable rates and charges for incarcerated people’s

## Open Commission Meetings

### Other Years:

Year

Commission Meeting pages include agendas, the Chairman’s drafts of items on the agenda, press releases, Commissioner statements, final adopted items, video, and other public materials as they become available.

See our [Visiting FCC Facilities page](#) for information to help guide visitors through the FCC’s facility security screening process and COVID-19 safety protocols for the FCC’s Headquarters and other facilities.

**MAR 16 2023** | March 2023 Open Commission Meeting  
 10:30 am – 12:30 pm EDT  
 Commission Meeting Room, FCC Headquarters, 45 L Street NE, Washington, DC 20554

### 2023

<a href="#">January 26, 2023</a>	<a href="#">May 18, 2023</a>	<a href="#">September 21, 2023</a>
<a href="#">February 16, 2023</a>	<a href="#">June 8, 2023</a>	<a href="#">October 19, 2023</a>
<a href="#">March 16, 2023</a>	<a href="#">July 20, 2023</a>	<a href="#">November 16, 2023</a>
<a href="#">April 20, 2023</a>	<a href="#">August 3, 2023</a>	<a href="#">December 20, 2023</a>

### 2022

<a href="#">January 27, 2022</a>	<a href="#">May 19, 2022</a>	<a href="#">September 29, 2022</a>
<a href="#">February 18, 2022</a>	<a href="#">June 8, 2022</a>	<a href="#">October 27, 2022</a>
<a href="#">March 16, 2022</a>	<a href="#">July 14, 2022</a>	<a href="#">November 17, 2022</a>
<a href="#">April 21, 2022</a>	<a href="#">August 5, 2022</a>	<a href="#">December 21, 2022</a>

audio and video communications services. The Order will delegate authority to the Wireline Competition Bureau and the Office of Economics and Analytics to update and restructure their most recent data collection as appropriate to fulfill the requirements of the new statute. (WC Docket Nos. 23-62, 12-375)

- **Enhancing Protections Against Illegal Robocalls**  
The Commission will consider a [Report and Order and Further Notice of Proposed Rulemaking](#) that would close a critical gap in the STIR/SHAKEN caller ID authentication regime, expand robocall mitigation requirements for all providers, adopt more robust enforcement tools, and seek comment on additional steps to further enhance the effectiveness of the STIR/SHAKEN framework. (WC Docket No. 17-97).
- **Protecting Consumers with Robotext Blocking**  
The Commission will consider a [Report and Order](#) which would require that providers block texts purporting to be from numbers on a reasonable Do-Not-Originate list; and make available a single point of contact for text message blocking complaints. The Commission will also consider a [Further Notice of Proposed Rulemaking](#) which would propose to require further blocking of illegal robotexts; expand Do-Not-Call protections to robotexts; and protect consumers from getting robotexts and robocalls from multiple, unexpected callers when they provide their consent on websites for comparison shopping. (CG Docket Nos. 21-402, 02-278)
- **Updating Equipment Testing Standards**  
The Commission will consider a [Report and Order](#) which would incorporate standards that are to be used in the testing of equipment to ensure compliance with FCC rules. Two are updates to existing standards and two are new standards that would allow in addition to standards referenced in our existing rules. (ET Docket No. 21-363)
- **Audio Description DMA Expansion**  
The Commission will consider a [Further Notice of Proposed Rulemaking](#) which would propose to expand support for individuals who are blind or visually impaired by expanding audio description requirements to additional market areas. The proposal would help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. (MB Docket No. 11-43)
- **Enforcement Bureau Action**  
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The FCC's apparent openness may, of course, be superficial rather than substantive: at the same time, Canadians literally have no way of knowing what the CRTC is doing, what it is deciding to undertake and what its reasons are

## Recommendation

Pre-pandemic one might have argued that the CRTC is holding non-appearing hearings because it does not believe the matters warrant the costs involved in booking conference facilities for a public hearing. The widespread availability of applications that make it easy to hold audio- and audiovisual meetings means that costs are far less of a concern than in the past. Nor is it clear why the CRTC would purposefully hold sham public hearings – non-appearing, closed-door meetings of the CRTC Commissioners and their staff – when Parliament specifically requires public hearings to consider serious issues that may require mandatory orders. The CRTC should at least hold the public hearings stipulated by Parliament (to issue or suspend licences, to issue mandatory orders), and it should reconsider its current blanket approach to excluding the public from hearings related to new licences to serve smaller communities.

As for the CRTC's decisions, the CRTC has never clearly explained why some decisions remain confidential, essentially forever. It should publish all of its determinations within one week of their being made.

Insofar as denying the public access to information about the CRTC's own meetings is concerned, not publishing information about its non-hearing meetings might protect the

integrity of the Commission's decision-making by preventing inappropriate lobbying by those involved in the matters discussed by the CRTC Commissioners. Yet the CRTC's Commissioners and its senior staff already meet regularly with the larger of the companies it regulates, giving the latter a significant advocacy advantage. Publishing more information about the CRTC's meetings and agendas would at least provide smaller companies and the public with an equitable level of information.

Maintaining the *status quo* – pretending that its many closed door, non-appearing hearings are “public hearings”, hiding many decisions from the public and purposefully concealing meetings of its own committees from all public view – would surely contradict the concern 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](#)