



4 July 2023

Filed online

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: *Demande de la Partie 1 - Modification des conditions de licence applicables à Groupe TVA inc., version amendée (2 June 2023) – Application 2023-0307-2 CFCM-DT – Intervention by FRPC*

The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including broadcasting. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in the *Broadcasting Act* to which Royal Assent was given on 27 April 2023. FRPC asks to appear before the CRTC should it hold a public hearing regarding this notice of consultation.

The Forum's intervention opposing the Part 1 application submitted by Québecor is attached.

FRPC looks forward to reviewing other parties' final replies.

Monica Auer, M.A., LL.M.
Executive Director
Forum for Research and Policy in Communications (FRPC)
Ottawa, Ontario

execdir@frpc.net

c. Ms. Peggy Tabet peggy.tabet@quebecor.com
Vice President, Regulatory and Environmental Affairs
Québecor Média inc.
Montréal, Quebec



Call for comments
Part 1 Application 2023-0307-2

**Québecor asks for relief from its requirement
to serve the city of Quebec without providing
clear evidence or clear commitments for the future**

Intervention of the
Forum for Research and Policy in Communications (FRPC)
Tuesday, 4 July 2023

Monica Auer, M.A., LL.M.
Counsel

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I. Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013 to undertake research and policy analysis about communications, including telecommunications. The Forum supports a strong Canadian communications system that serves the public interest.

A. Québecor's application

- 2 The Forum is intervening with respect to the Part 1 application regarding the licence for CFCM-DT held by TVA Group Inc. Québecor submitted its application on 26 May 2023 on behalf of TVA Groupe Inc. in which Québecor holds 99.97% of the voting rights.¹ Québecor subsequently amended its application on 2 June 2023. (FRPC' intervention addresses the arguments and evidence set out in the 2 June 2023 amended application.²)
- 3 Application 2023-0307-2 asks the Commission to amend a condition of service (formerly condition of licence) imposed in May 2017³ by the CRTC on CFCM-DT and reimposed five years later through the device of an 'administrative' renewal decision by the Commission in July 2022.⁴
- 4 FRPC agrees with Québecor and other private television and discretionary-service broadcasters that the CRTC's failure to seek updated evidence from private broadcasters about their ability to sustain the requirements imposed in a different economic climate before renewing the broadcasters' licences based on 5-year-old terms and conditions was unjust.
- 5 FRPC is unable to support the application as currently presented, however, because it does not clearly explain either the impact on or the benefits of its proposed amendment for Québecor, TVA Groupe, CFCM-DT or for the people who live in Québec, Canada's 11th largest city.⁵ Nor does 2023-0307-2 provide evidence establishing that the advantages of approving the application outweigh its disadvantages, or commitments as to the specific types of programming it plans to provide to the city of and region surrounding Québec.

B. Procedural fairness

- 6 Regardless of its position regarding 2023-0307-2, FRPC was concerned to learn that Québecor submitted a similar request to the CRTC months ago, in August 2022:

... Québecor Média s'explique mal le délai de traitement de la présente demande – dont une première mouture incluant des demandes de modifications portant sur les obligations de programmation locale de la station CFTM-DT Montréal ainsi que sur les

¹ CRTC Ownership Chart 156A, last update shown as 2020-12-10.

² Identified in this proceeding as DM#4371574.

³ *Quebecor Media Inc. – Group-based licence renewals for French-language television stations and services*, [Broadcasting Decision CRTC 2017-147](#) (Ottawa, 15 May 2017)

⁴ *Various large English-language and French-language television ownership groups – Administrative renewals*, [Broadcasting Decision CRTC 2022-180](#) (Ottawa, 4 July 2022).

⁵ According to Wikipedia.

obligations en matière de nouvelles reflétant la réalité locale imposées à l'ensemble de ses stations, lui a été présentée en août 2022, soit il y a près de 9 mois.
(2023-0307-2, paragraph [¶]22)

- 7 FRPC notes that Corus also applied to amend conditions of service of its television and discretionary programming services in November 2022⁶ following the CRTC's administrative renewals in July 2022, and the CRTC did not post its application until 15 May 2023,⁷ six months later.
- 8 Whether the CRTC took six months in the case of Corus or nine months in the case of Québecor is immaterial: what matters is that Parliament, Canadians and broadcasters have the right to assume that the Commission operates efficiently. After all, operational delays may lead broadcasters to postpone needed programming changes, to put off innovative business strategies and/or to cut jobs to reduce expenses. If the CRTC lacks resources it must make its case to the Minister – and should explain how its resources affect its timeliness.
- 9 As the CRTC's practice is not to explain its reasons for deciding whether to use one or another of its procedural routes (Part 1 applications, Notices of Consultation, Notices of Public Hearing, administrative Letter Decisions) neither Canadians nor broadcasters have any way of understanding the CRTC's approach to its responsibilities. It is not even clear whether Commissioners themselves make such determinations or if they have been delegated to others.
- 10 It seems unlikely that the delays with respect to the applications by Corus and Québecor could be due merely to the fact that – for the first time since the CRTC's establishment in 1968 – the former Chairperson was reappointed for a brief term from September to December 2022 before the appointment of his successor, Chairperson Eatrides. After all, subsections 6(1) and (2) of the [Canadian Radio-television and Telecommunications Commission Act](#) specifically address matters such as a CRTC Chairperson's incapacity to act:

Chairperson and Vice-Chairpersons

6 (1) The Governor in Council shall designate one of the members to be Chairperson of the Commission and two of the members to be Vice-Chairpersons of the Commission.

Chairperson chief executive officer

(2) The Chairperson is the chief executive officer of the Commission, has supervision over and direction of the work and staff of the Commission and shall preside at meetings of the Commission.

Chairperson's absence, incapacity or office vacant

⁶ Being Part 1 Application 2022-0946-0: Corus, *Part 1 Application to amend certain conditions of licences applicable to Corus Entertainment Group Inc. ("Corus") English- and French-language television groups – Appendix 1, Supplementary Brief*, (Ottawa, 17 November 2022).

⁷ CRTC, *Closed Part 1 Applications, 2023* ("Posted Date").

(3) In the event of the absence or incapacity of the Chairperson or if the office of Chairperson is vacant, the Commission may authorize one of the Vice-Chairpersons to exercise the powers and to perform the duties and functions of the Chairperson.

Acting Chairperson

(4) The Commission may authorize one or more of its members to act as Chairperson if the Chairperson and both Vice-Chairpersons are absent or unable to act or if the office of Chairperson and each office of Vice-Chairperson are vacant.

[bold font in original text]

- 11 The legislature clearly envisaged that the Commission should be able to operate or to ensure that it can operate, without relying on the legislature or the Governor in Council.
- 12 Lack of transparency about the decisions made by the Commission or one of its Committees to deal or not to deal with applications makes it difficult to understand how the CRTC is meeting its duty to implement its mandate on a daily basis.
- 13 FRPC recommends that the CRTC adopt specific measures to improve its transparency, by publishing weekly statements of its decisions to grant, deny or postpone process to the applications it receives, and that these decisions include reasons.

C. *CRTC should publish valid data about its timeliness*

- 14 Lack of transparency regarding the CRTC's responsibility in broadcasting exists in part because the CRTC does not publish statistics about its timeliness, making it unclear how quickly it 'processes' applications – that is, how quickly it makes and publishes determinations about the applications it receives.
- 15 The Commission's most report on *Service objectives for the processing of certain types of broadcasting applications*, for the year from [1 April 2021 to 31 March 2022](#) (the most recent year FRPC could locate) instead provides figures about the number of decisions about Part 1 broadcasting applications that it made "within 4 months" of the 'close of record' (COR).
- 16 As the COR appears to be contingent on the CRTC's decision to post applications and to then set deadlines for comments about individual applications, its statistics provide the misleading and inaccurate picture that it is operating efficiently even though as the examples of Corus and Québecor show, it has taken the CRTC months just to post the applications it has received.
- 17 FRPC recommends that the CRTC's *Service objectives for the processing of certain types of broadcasting applications* include a column showing the time taken from the date that it receives an application, to the time it issues a decision.
- 18 In the pages that remain, FRPC sets out the specific request for which Québecor seeks the CRTC's approval. We then address Québecor's arguments and facts. The Forum's conclusions and recommendations follow.

II. Québecor’s application

19 Québecor holds the broadcasting licence for CFCM-DT in the city of Québec. According to the CRTC’s “Diversity of Voices” charts, Québec it is served by 4 other television stations, 18 radio stations and two newspapers (*Le Soleil* and Québecor’s *Le Journal de Québec*).

A. *What Québecor wants: 2 fewer hours of local programming and no local weekend newscasts on CFCM-DT*

20 Québecor is asking that the CRTC modify condition of service 31 set out in Broadcasting Decision CRTC 2017-147, as shown in Table 1.

Table 1 Québecor’s proposal to amend condition of service 31(a)

French-language version	English-language version
Current condition of service in Broadcasting Decision CRTC 2017-147	
<p>31. Conformément au <i>Cadre politique relatif à la télévision locale et communautaire</i>, politique réglementaire de radiodiffusion CRTC 2016-224, 15 juin 2016,</p> <p>(a)* le titulaire doit diffuser au moins 18 heures de programmation locale au cours de chaque semaine de radiodiffusion, dont</p> <p>(i) au moins 5 h 30 de bulletins de nouvelles produits à Québec, incluant deux bulletins de nouvelles durant la fin de semaine;</p> <p>(ii) au moins 3 h 30 d’autres émissions qui reflètent spécifiquement la région de Québec qui peuvent être diffusées sur le réseau TVA;</p> <p>(iii) au moins 3 h 30 de nouvelles offrant un reflet local au cours de chaque semaine de radiodiffusion.</p> <p>* S. 31 does not have a “(b)” subsection</p>	<p>31. Consistent with <i>Policy framework for local and community television</i>, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016:</p> <p>a.* The licensee shall broadcast at least 18 hours of local programming in each broadcast week, of which</p> <p>i. at least 5 hours and 30 minutes shall be local news produced in Québec, including two local newscast on the weekends;</p> <p>ii. at least 3 hours and 30 minutes shall be other programs that focus specifically on the Québec region that may be broadcast on the TVA network; and</p> <p>iii. at least 3 hours and 30 minutes shall be locally reflective news in each broadcasting week.</p>
Condition of service requested by Québecor	
Québecor application 2023-0307-2	<i>FRPC’ draft translation</i>
<p>31. Conformément au <i>Cadre politique relatif à la télévision locale et communautaire</i>, politique réglementaire de radiodiffusion CRTC 2016-224, 15 juin 2016,</p> <p>(a) le titulaire doit diffuser au moins 16 heures de programmation locale au cours de chaque semaine de radiodiffusion, dont</p> <p>(i) au moins 9 heures de programmation qui reflète spécifiquement la région de Québec et qui peut être diffusée sur le réseau TVA, incluant au moins 5 h 30 de bulletins de nouvelles produits à Québec.</p> <p>(ii) au moins 3 h 30 de nouvelles offrant un reflet local au</p>	<p>31. Consistent with <i>Policy framework for local and community television</i>, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016:</p> <p>a. The licensee shall broadcast at least 16 hours of local programming in each broadcast week, of which</p> <p>i. at least 9 hours shall be local programming that specifically reflects the Québec region and which may be broadcast on the TVA network, including at least 5 hours and 30 minutes of newscasts produced in Québec</p> <p>ii. at least 3 hours and 30 minutes shall be locally</p>

cours de chaque semaine de radiodiffusion.	reflective news in each broadcasting week.
2023-0307-2, Application (2 June 2023, as amended), DM#4371574, ANNEXE À LA DEMANDE DE QUÉBECOR MÉDIA, p. 14 of 14	

- 21 Québecor has not clearly stated the impact of changing condition of service 31 on CFCM-DT’s programming, employment or capacity to contribute to subsection 3(1)’s current requirements. A side-by-side comparison (in English) does not clarify matters:

Table 2 Side-by-side comparison of current condition of service 31 with proposed condition of service 31

Current (English-language version)	Requested (English-language translation)
31. Consistent with <i>Policy framework for local and community television</i> , Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016:	31. Consistent with <i>Policy framework for local and community television</i> , Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016:
a. The licensee shall broadcast at least 18 hours of local programming in each broadcast week, of which	a. The licensee shall broadcast at least 16 hours of local programming in each broadcast week, of which
i. at least 5 hours and 30 minutes shall be local news produced in Québec, including two local newscast [sic] on the weekends	i. at least 9 hours shall be local programming that <u>specifically reflects the Québec region and which may be broadcast on the TVA network</u> , including at least 5 hours and 30 minutes of newscasts produced in Québec
ii. at least 3 hours and 30 minutes shall be other programs that focus specifically on the Québec region that may be broadcast on the TVA network; and	
iii. at least 3 hours and 30 minutes shall be locally reflective news in each broadcasting week.	ii. at least 3 hours and 30 minutes shall be locally reflective news in each broadcasting week.

- 22 FRPC guesses that Québecor wants to reduce local programming produced in Québec by two hours (from 18 to 16), drop the two weekend newscasts that must now be produced in Québec, and change the minimum requirement of 3.5 hours of non-news local programming that must be focussed on the Québec region to a maximum requirement: Table 3.

Table 3 Impact of granting Québecor’s application

Hours / broadcast week by CFCM-DT	Current		Requested	
Local news produced in Québec	31 a i	5.5	31	5.5
Weekend newscasts produced in Québec	31 a i	<u>2 newscasts</u>		None
“Other programs” (non-news?) focussed on Québec region and which may be broadcast on TVA network	31 a ii	<u>At least 3.5</u>		
Local programming focussed on Québec region which may be broadcast on the TVA network			31 a i	Up to 3.5 = 9 hrs less 5.3 hours
Locally reflective news	31 a iii	At least 3.5	3 a ii	At least 3.5
Subtotal		12.5		12.5
Local programming, total hours	31 a	<u>18</u>	31 a	16

All other local programming: total hours less subtotal		<u>5.5</u>		3.5
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B. Arguments and facts

23 Québecor makes several arguments in support of its request to amend CFCM-DT’s condition of service, without consistently explaining the legal basis of its arguments and without providing factual support for the arguments specific to the station. It is the absence of evidence showing how the existing condition of service harms CFCM-DT’s programming or employment or how the amended condition of service would benefit CFCM-DT’s programming or employment which is the most serious.

1 Inequity between Québecor and due to Broadcasting Decision CRTC 2022-165

24 Québecor refers in ¶¶⁸ 3, 4, 5, 6, 7, 8, 20, 24, 25, 26, 27 and 28 to the flexibility granted by the CRTC to Canada’s national public broadcaster, the Canadian Broadcasting Corporation (CBC or Radio-Canada), in Broadcasting Decision CRTC 2022-165. It points to Cabinet’s decision to grant petitions seeking reconsideration of this decision as indicating that this flexibility was inappropriate for the CBC (¶7). It notes that the CRTC’s administrative renewal in July 2022 did not amend private broadcasters’ condition of service (¶2). It urges the CRTC to proceed with the reconsideration – a recommendation that FRPC strongly supports.⁹

25 Insofar as the petition is concerned, the Forum considers that the overarching problem with 2022-165 was not that the CRTC inappropriately granted Radio-Canada regulatory flexibility, but that that the programming requirements it set in the decision were inconsistent with Radio-Canada’s mandate in subsections 3(1)(l) and (m) in the 1991 *Broadcasting Act*.

26 Québecor has also not explained why the CRTC should grant private broadcasters flexibility instead of granting such flexibility to Radio-Canada. Section 9(1)(b) of the 1991 *Broadcasting Act* (in force at the time of 2022-165) requires the Commission to issue licences subject to the terms and conditions “related to the circumstances of the licensee” as the CRTC deems appropriate either to implement the subsection 3(1) broadcasting policy, or in the case of Radio-Canada to provide “the programming contemplated” by subsections 3(1)(l) and (m) of the *Act*. In other words, Parliament did not specifically require the CRTC to grant private broadcasters regulatory flexibility if it granted CBC programming flexibility.

27 FRPC notes that Parliament’s Regulatory policy in subsection 5(2)(g) also does not distinguish between public and private broadcasters: it requires the CRTC instead to be “sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings.” It is unclear why the matter of regulatory flexibility’s being granted to the public element of the broadcasting system demands commensurate flexibility’s being granted to the private element.

⁸ ¶ - paragraph; ¶¶ - paragraphs.

⁹ Although the passage of 291 days from the issuance of 2022-165 to today also suggests any reconsidered decision is likely to be moot insofar as the CBC is concerned.

28 The larger issue for Québecor, we submit and as Québecor also argues indirectly, is that the CRTC should have undertaken a narrowly focussed review of the financial conditions facing private broadcasters to determine whether the conditions of service it imposed administratively remained appropriate for each licensee's circumstances.

2 *Current conditions of service are 'useless'*

29 Québecor states at ¶18 that the CRTC uselessly imposed a regulatory straitjacket¹⁰ on private broadcasters.

30 FRPC respectfully notes that as Québecor (apparently) did not appeal Broadcasting Decision CRTC 2017-149, it would seem that Québecor did not then believe that the conditions of service applied by the CRTC to CFCM-DT were 'useless'. If the conditions of service have only become useless now, it would be helpful to have evidence to support this argument.

31 Nor has Québecor established whether or why condition of service 32 has become 'useless'. Are people in Québec watching less news or are they less interested in news than they were previously? Are they obtaining their local news elsewhere? Do other TV services in Québec provide extensive non-news local programming? Without such evidence how could the Commission conclude that requirements for news – generally the most-watched programming on most TV stations – are 'useless' or unnecessary?

32 Québecor then argues from ¶36 to ¶40 that – essentially – the CRTC can trust it to serve the needs of its audiences:

... Nous avons toujours et continuerons d'avoir à coeur de satisfaire les besoins de nos téléspectateurs et de leur présenter du contenu qui reflète leur région et contribue notamment à les informer. Les dernières années ont amplement démontré la volonté de Groupe TVA en ce sens, notamment à Québec.

33 As the Commission and its staff are well aware, however, legislatures do not lightly legislate. They tend to enact laws to ensure better outcomes – to limit election fraud, pollution and assaults, for example – or to ensure through the laws' enforcement to deter and/or sanction non-compliance. Similarly, broadcasting is regulated in Canada not just to deal with spectrum capacity, or concerns about the erasure of Canadian sovereignty through cultural assimilation. Broadcasting is regulated to ensure that those who benefit from access to audiences in Canada actually provide those audiences with commensurate benefits: without regulation, the obvious temptation would be operate broadcasting undertakings more whimsically. Regulating a TV station like CFCM-DT and its three competitors through the CRTC's television regulations and the requirements imposed by enforceable conditions of service provides Parliament and the people it serves, including those living in Québec, with certainty and predictability.

34 FRPC respectfully notes in this context that Québecor is at present not best placed to argue that it may be trusted to meet its obligations to the people in Québec in light of its decision on

¹⁰ ¶18: "carcan réglementaire".

2 June 2023 to issue a news release announcing the cancellation of the CFCM-DT weekend newscasts effective the week of 19 June 2023¹¹ even as the CRTC's process¹² to address Québecor's proposals remains underway.

- 35 Moreover it is concerning that in response to a letter from the CRTC's staff¹³ identifying potential corrective action if Québecor followed through with its planned reduction before receiving the CRTC's approval of its proposed condition of service, Québecor argued that its plan was justified given the CRTC's failure to censure Bell when it closed six radio stations and laid off their employees.
- 36 Having agreed that the initial fault in this entire proceeding was the CRTC's, for not dealing with the Corus and Québecor applications last Fall, FRPC opposes what is nothing more than a race to the bottom. Given its long experience in Canada's regulated broadcasting system Québecor must surely be aware that the CRTC cannot easily prevent a licensee from returning its licence(s). Nor is it yet clear whether Bell has indeed returned its radio licences – and if it has not, it may indeed be in breach of those licences by failing to respect their terms and conditions.
- 37 To the extent that Québecor is tired, as could be forgiven, of waiting for the CRTC to schedule vital proceedings, the public may also be tired in having to strive constantly to defend Canada's broadcasting system from broadcasters' never-ending pleas to eliminate money-losing programs, money-losing stations, money-losing genres or money-losing services so that they can focus solely on their specific interest – making money. Canada's regulated broadcasting system does not exist to deliver income to broadcasters – it exists to ensure that Canadians benefit from the broadcasting system to the same or even to a greater degree than broadcasters themselves.
- 38 Regardless, – the CRTC could and in our view should consider expanding the reach of its 'group-ownership' licensing model¹⁴ to require money-making services to cross-subsidize less profitable undertakings. Québecor's discretionary services, for example, began earning more revenue than its TV stations in 2019: Table 4.

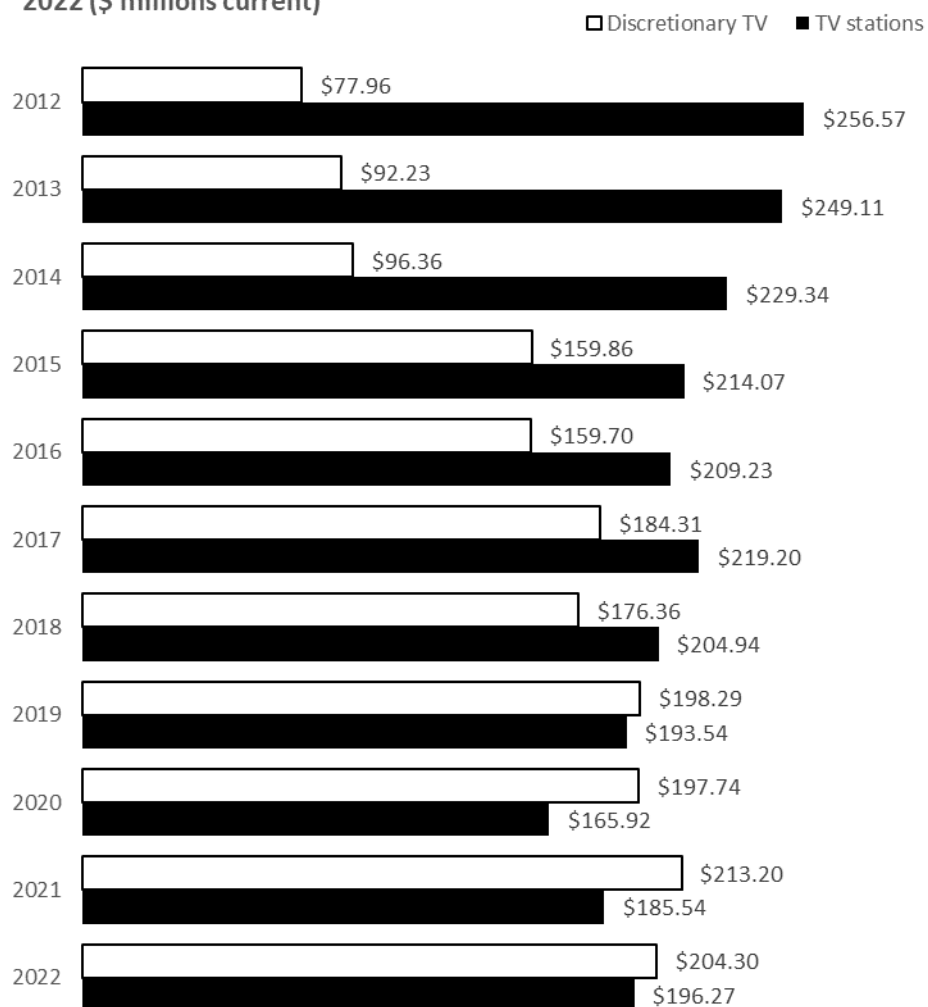
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¹¹ Executive Director, Broadcasting, CRTC, [Re: Application by Québecor Media Inc. on behalf of TVA Group Inc. to remove its requirement to broadcast two newscasts produced in Québec on weekends, CRTC staff letter](#) (16 June 2023).

¹² Admittedly flawed, as the joint FRPC-PIAC application for a consolidated proceeding suggests.

¹³ *Ibid.*

¹⁴ Whose legality was apparently never challenged.

Table 4
Quebecor TV stations and discr'y services: revenues, 2012-2022 (\$ millions current)


Source: CRTC aggregated financial summaries (Quebecor)

3 Administrative renewals' terms and conditions are obsolete

39 Québecor argues that the CRTC has not taken any initiatives to help private broadcasters burdened with obsolete conditions of service.¹⁵

40 FRPC assumes that this argument is not being made with respect to financial support granted by the federal government to businesses including broadcasters during the pandemic years of 2020, 2021 and 2022.

¹⁵ 2023-0307-2, ¶11: 'conditions de service [ou de licence] désuètes'.

- 41 If Québecor’s argument reflects the fact that the CRTC in July 2022 apparently chose not to consider whether private broadcasters’ circumstances had changed from 2017 to 2022 – which would therefore require different terms and conditions under subsection 9(1)(a)(i) of the then-Act – FRPC agrees. As Québecor argues at ¶21, the CRTC should not wait years to renew private broadcasters’ TV licences: on 30 June 2023 FRPC and PIAC submitted a Part 1 application to the CRTC asking it to take such a step with respect Canada’s largest broadcasters, including Québecor, due to the sudden spate of applications from broadcasters seeking amendments to their conditions of service. While Part 1 processes have traditionally been used for non-contentious technical or other amendments, FRPC submits that would be preferable for the CRTC to address broadcasters’ common concerns regarding their programming requirements in a single proceeding: this would enable the CRTC to provide the public and interested parties with facts so that all parties are equally well-informed.
- 42 That said, Québecor has not explained whether it or any other broadcasters petitioned Cabinet to reconsider the CRTC’s administrative renewal in Broadcasting Decision CRTC 2022-180¹⁶ so as to obtain non-obsolete conditions of licence. While Bill C-11 was then being considered by the Senate, the 1991 *Broadcasting Act* provided this remedy and was in force at the time.
- 43 As for the correct legal route regarding a CRTC’s decision not to grant process to an application – such as the one filed by Québecor in November 2022 to address its financial concerns – FRPC notes that gaps in the 1991 Act unfortunately left it unclear whether broadcasters should challenge the lack of a decision about their Part 1 applications through a petition to Cabinet or by seeking leave to appeal the absence of a decision from the Federal Court of Appeal.¹⁷
- 4 *Online competition*
- 44 Québecor points to competition from unregulated online broadcasters including online distributors in ¶¶11, 12, 13, 14, 15, 16, 17. Parliament has of course now enacted two new statutes since Québecor first set out its concerns to the CRTC in November 2022 – concerns that may have included online competition. As the CRTC has only just launched its consultations to implement the *Online Streaming Act*, it may be premature for the CRTC to take specific action regarding CFCM-DT to counter losses that – Québecor appears to be alleging – the station has incurred due to online streaming services.
- 45 Moreover, while Québecor notes at ¶¶14 and 17, respectively that TVA Groupe lost 12% of its total revenues in the last six years and that the profits before interest and taxes of the network have declined in the last ten years – it has not set out any specific financial losses that CFCM-DT has incurred due to unregulated online competition. Québecor also notes at ¶18 that it

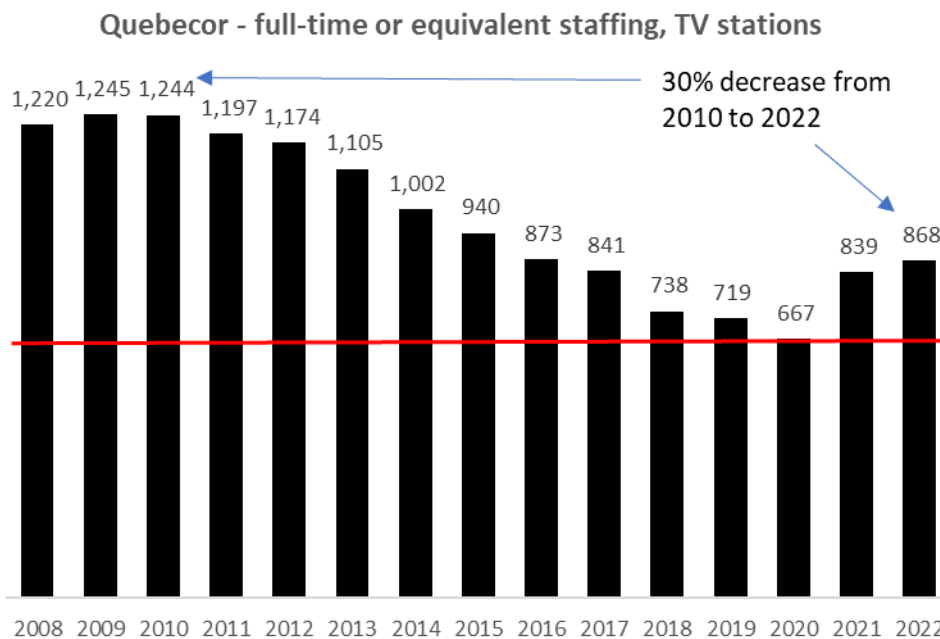
¹⁶ Subsection 28(1) permitted parties to petition Cabinet regarding decisions “to issue, amend or renew” licences – yet leaves it unclear whether petitions could be filed about decisions not even to consider whether to issue, amend or renew licences.

¹⁷ Subsection 31(2) of the 1991 *Broadcasting Act* permitted appeals “from a decision ... of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction” At this time, however, the Act did not define ‘decision’ and it was unclear whether an unpublished ‘determination’ by the Commission not to grant process to a Part 1 application would have been interpreted as a ‘decision’ of the CRTC.

made a business decision¹⁸ to enable “la survie de nos entreprises” resulted in the loss of 240 positions at TVA Groupe – but again, has not said that it needed to terminate positions at CFCM-DT for the station’s survival.

- 46 FRPC also notes that – based on limited CRTC data that began only in 2008 – Québecor first began to reduce the numbers of people it employs at its TV stations in 2009. Its TV station staff numbers only began to rise again in 2021, and remain below its staffing six years earlier (2016): Figure 1.

Figure 1 Québecor – full-time or equivalent staffing, TV stations 2008-2022



Source: CRTC Aggregated Financial Summaries, 2008-2022

- 47 Finally, Québecor has also not provided any evidence about the degree to which its own online services are earning advertising revenues gained either from its own stations or from other broadcasters’ undertakings. Knowing whether Québecor’s online services are regaining advertising revenues ‘lost’ to CFCM-DT is relevant to this application: if Québecor is recouping elsewhere the revenues that it says CFCM-DT is losing, the disadvantage to the licensee is difficult to determine.

5 *Other stations have lower local-programming requirements*

- 48 Québecor describes the local-news requirements set for two of the four stations that serve Québec: BCE’s CFAP-DT and Radio-Canada’s CBVT-DT. It does not, however, describe the amount of first-run news that CFCM-DT provides, that its two main competitors provide or that the two non-competing TV stations provide (being CIVQ-DT operated by the provincial

¹⁸ ¶18, “decision d’affaires”.

broadcaster, Télé Québec and CHMG-TV, an independent low-power community-based TV station operated by Télé-Mag inc.¹⁹ Without these data it is unclear what Québecor is proposing to actually produce in Québec.

49 Rather, Québecor argues at ¶¶ 29, 30 and 31 that CFCM-DT has been treated unfairly because two other stations in Québec have lower requirements for local programming. At the same time Québecor also writes that its audiences in Québec want the programming it offers²⁰ - begging the question of why reducing that programming would be desired by its audiences.

50 Other than identifying the disparity in requirements Québecor has not attempted to explain the difference in treatment by the CRTC. That said, when Québecor's licence for CFCM-DT was renewed both in 2017 and 2020 Parliament required the CRTC to consider the circumstances of individual licensees when setting conditions of their licences under subsection 9(1)(b). Presumably that is why the CRTC afforded different licensees in Québec dissimilar treatment, and required CFCM-DT – licensed to the largest private broadcaster operating in the province of Quebec – to do more for the communities that it applied to serve in line with its capacity to do so.

51 Today's *Broadcasting Act* does not include this requirement, however, and the Commission may well decide either in this proceeding to grant Québecor similar requirements – provided it has sufficient evidence to support that determination. FRPC respectfully submits that this evidence is lacking in Québecor's current application.

III. Conclusions and recommendations

52 FRPC agrees with Québecor that the process followed by the Commission in this proceeding has been marked by significant delays that amount to procedural unfairness. While FRPC and PIAC on 30 June 2023 filed a joint application asking the CRTC to consolidate the seven applications filed (so far) seeking significant changes in local and national programming, more is needed.

FRPC recommends that the CRTC consider adding to its proceedings for the 2024 calendar year a process to update the CRTC's *Rules of Practice and Procedure* to set clear timelines for the different types of broadcast proceedings it is and will be undertaking.

FRPC recommends that the CRTC include data in its *Service objectives for the processing of certain types of broadcasting applications* which show the time taken from the date the CRTC receives an application, to the time it renders any determination about the application.

53 While Québecor's extensive focus on the CRTC's regulatory approach with respect to the national public broadcaster, Radio-Canada, is interesting and will be of even greater interest when Parliament next revises Part III of the current *Act*, it appears Québecor is actually arguing

¹⁹ See

²⁰ ¶133: "Il est en effet indéniable que Groupe TVA a à cœur de répondre aux besoins des téléspectateurs de Québec en leur offrant la programmation locale de qualité qu'ils désirent tant."

that it should not be required to do more than Radio-Canada. FRPC respectfully submits that this position negates the concept of competition in Canada's broadcasting system, and unfortunately implies that some private broadcasters would prefer to race to lower rather than to higher programming standards.

- 54 That said, FRPC strongly agrees that the CRTC's decision to renew large broadcasters' TV licences administratively without obtaining updated evidence about their financial conditions was ill-advised.

FRPC recommends that the CRTC hold a narrowly focused public proceeding to consider the specific financial circumstances of broadcasters and whether their conditions of service should be modified on an interim basis.

- 55 FRPC does not agree with Québecor's argument that the CRTC's current conditions of service for CFCM-DT are a 'regulatory straitjacket', primarily because it presented no evidence to support this point. Insofar as Québecor argues it may be relied upon to continue to provide local news, locally reflective news and local programming – FRPC respectfully notes that Québecor's unexpected announcement in the middle of this process (2 June) that it was cancelling weekend newscasts on CFCM-DT despite that despite the absence of a CRTC decision about its application raises concerns about the confidence in which the CRTC and Canadians may have in the company. FRPC therefore supports the continuation of conditions of service regarding, in particular, first-run original news.

FRPC recommends that the CRTC ensure that CFCM-DT continues to produce and broadcast the same level of first-run (original) local news that it was producing and broadcasting in 2017.

- 56 Québecor relies heavily on the argument that unregulated online broadcasting places it at a competitive disadvantage: its competitors are unregulated, while it must adhere to broadcast regulations and conditions of service. What Québecor has not provided is evidence of the impact of online broadcasting on CFCM-DT itself. Granting Québecor's request without that evidence will trigger a tsunami of similar applications, similarly making unsubstantiated claims in return for yet more regulatory streamlining or flexibility.
- 57 Finally, Québecor argues that the CRTC treats its competitors in Québec differently. Québecor has provided no evidence as to the specific quantitative impact of this differential treatment. If Québecor's mandated local programming on CFCM-DT attracts audiences, one would assume this also attracts the local advertising permitted by the CRTC's local TV programming in exchange for local advertising policy.

FRPC recommends that the CRTC not grant Québecor's proposed amendments due to inadequate evidence, but would support an amendment requiring CFCM-DT to produce and broadcast the same level of first-run local news in Québec as it provided in 2017.

Appendix 1 CRTC, Diversity of Voices – Quebec City

Diversity of Voices - Quebec City

Group / Licensee	AM	Lang	FM	Lang	TV	Lang	Community Channel	Daily Newspapers
Private								
BCE			CHIK-FM CITF-FM	F F	CFAP-DT	F		
Cogeco			CFOM-FM CJMF-FM	F F				
Leclerc communication			CFEL-FM CJEC-FM	F F				
Media ClassiQ (Gregory Charles)			CJSQ-FM	F				
Quebecor					CFCM-DT	F	x	x
RNC MEDIA			CHOI-FM CHXX-FM	F F				

Group / Licensee	AM	Lang	FM	Lang	TV	Lang	Community Channel	Daily Newspapers
Public								
CBC/SRC			CBV-FM CBVE-FM CBVX-FM	F E F	CBVT-DT	F		
Société de télédiffusion du Québec*					CIVQ-DT* (Télé Québec)	F		
Community								
Campus								
Corporation des médias étudiants de l'Université Laval (CoMEUL)			CHYZ-FM	F				
Community-based								
CKRL-MF 89,1 inc.			CKRL-FM	F				
Radio Basse Ville			CKIA-FM	F				

Group / Licensee	AM	Lang	FM	Lang	TV	Lang	Community Channel	Daily Newspapers
Radio communautaire de Lévis			CJMD-FM	F				
Télé-Mag inc.					CHMG-TV (*)	F		
Religious								
Association d'Églises baptistes reformées du Québec			CFOI-FM	F				
Fondation Radio Galilée			CION-FM	F				
Native								
n/a								

Dailies

Owner/Publisher	Lang.	Newspaper	on-line
Groupe Capiales Médias	F	Le Soleil	x
Quebecor	F	Le Journal de Québec	x

* Province of Quebec's educational television network

(*) Low power community based television, held by a for-profit corporation

***** End of document *****