



19 June 2023

Filed online

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: *Part 1 Application for an expenditure order amending certain conditions of licence for undertakings that form the Rogers Media Group, Broadcasting Decision CRTC 2017-151, Rogers Media Inc. – Licence renewals for English-language television stations, services and network, (Ottawa, 12 June 2023) – FRPC intervention*

- 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 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 the above-noted application.
- 2 The Forum’s intervention opposing Rogers’ application is set out below. The “¶” symbol followed by a number refers to a numbered paragraph in Rogers’ application.
1. **Introduction**
- 3 On 12 June 2023 Rogers asked the Commission to issue orders to replace conditions of licence that the CRTC imposed in 2017 which set requirements for Rogers’ expenditures on programming of national interest, or PNI (¶1).
- 4 FRPC begins by noting that Rogers’ application is but one of 7 Part 1 applications filed by four of Canada’s largest broadcasters which seeks to amend their conditions of licence (now conditions of service) regarding the Canadian programming they must provide. None of the applicants provided clear facts showing the impact of granting or denying their requests on their own undertakings or on Canada’s broadcasting system. Nor did the applicants provide facts about the impact of their own as yet-unregulated online broadcasting services which might have provided clearer context for their applications for regulatory relief.
- 5 Considering each of the applications by the four broadcasters on their own separate merits poses three challenges for the Commission and Canada’s broadcasting system. First, it is unclear how the CRTC will develop a coherent regulatory approach that will guide the applicants and other prospective applicants for similar relief, in the absence of a clear evidentiary record.

- 6 Generally speaking, the four applicants based their pleas for regulatory relief about their individual programming undertakings on descriptions of the entire private television system.
- 7 Second, it is unclear how the Commission will evaluate the impact of granting the applications on the broadcasting system in the absence of a coherent set of estimates of the impact of the relief sought on programming levels, programming expenditures and broadcasters' staffing levels. This information is, however, necessary to enable the CRTC to implementing section 3(1) of the *Broadcasting Act*.
- 8 Third – and, of course, depending on the CRTC's ability to navigate its way around the first two challenges – the Commission also faces the possibility of ongoing pleas for relief from the four applicants and other broadcasters.
- 9 The CRTC could have avoided the need to face these three challenges if it had held a narrowly focussed proceeding in 2021/22 to renew private broadcasters for several years based on up-to-date evidence. Instead, due to [Cabinet's order that it reconsider the 2017 renewal decisions](#) it had granted, the CRTC renewed the four applicants' television licences for the same five-year period, based on evidence submitted describing large TV broadcasters' financial position in 2016/17.¹ It is unclear why the Commission was apparently unable to foresee that during a period of significant economic uncertainty even large broadcasters – perhaps especially large broadcasters – would be hard pressed to meet requirements established by the CRTC years earlier based on financial evidence rendered largely irrelevant by circumstances beyond the broadcasters' control since that time.
- 10 The CRTC's undue reliance on administrative renewals is consequently unreasonable for private broadcasters and Canadians alike. Broadcasters must hope that their individual applications will yield the relief they believe they need; Canadians must hope that at some point in the next decade the Commission will ensure that broadcasters are meeting the Commission's requirements and their conditions of licence.
- 11 A second issue of concern to FRPC is that the CRTC's decision to post each of the four applicants' proposals for regulatory relief as separate proceedings rather than to consider them in a single Notice of Consultation (or Notice of Public Hearing) means that the CRTC has chosen not to share relevant information it holds about these matters with the public. Such evidence could have included summaries of the applicants' Canadian programming expenditures in real terms and as a percentage of their broadcasting revenues, information about the amount of first-run and repeat local news broadcast by the affected programming services, as well as (at least some) relevant evidence as to the impact of digital media broadcast undertakings operating in whole or in part in Canada: after all, the Commission has now two years' worth of financial information about these undertakings through its *Annual Digital Media Survey*.

¹ Broadcasting Decision CRTC 2 018-335, paragraph 29:

29. In regard to interveners' objections to the use of certain data, the Commission notes that they had an opportunity to comment on the data as filed by the groups in financial appendices as part of this proceeding. The Commission considers they had sufficient data to prepare their submissions and that making reference to the data for the 2016-2017 broadcast year in this decision does not cause harm to the interveners or broadcasters.

30. In addition, the Commission considers that using the most recent data is appropriate given the changing nature of the broadcasting industry. Analyzing historical expenditures for the entire previous licence term rather than a portion of a term provides a better understanding of each licensee's financial situation.

12 Instead, the only evidence available in these two related but separate proceedings is that provided by the applicants themselves. The CRTC bears no clear duty in the *Broadcasting Act* to state the specific evidence it holds and that it has itself considered – unless official-language minority communities are involved.² One implication of this process is that - if the CRTC expects interveners to refute broadcasters’ evidence – the burden of making a case for or against the regulatory relief requested appears to have been moved to interveners. FRPC's' position is that this is unfair.

13 In the remainder of this intervention FRPC sets out the requests that Rogers appears to be making in its application along with the evidence it offers in support of its requests. The Forum then provides additional relevant context for considering Rogers’ application.

II. Rogers’ application

14 In 1991 Parliament decided that Canada’s broadcasting system should provide Canadians with diverse programming. Its *Broadcasting Act* set out a broadcasting policy for Canada stating that

3(1)(d) the Canadian broadcasting system should

...

(d) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada [and]

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

....

15 Further, Parliament stipulated that individual broadcasting undertakings such as television stations had to make maximum use of Canadian programming:

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, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

....

16 In seeking to implement that broadcasting policy the CRTC in 1999 required large broadcasters holding licences for more than one TV station “to broadcast, over the broadcast year, on average, at least eight hours per week of priority Canadian programs ... from 7:00 p.m. to 11:00 p.m.”³ Priority programs came to include “drama, long-form documentaries, music/variety,

² See ss. 5.1 and 5.2 of the *Broadcasting Act*.

³ *A group-based approach to the licensing of private television services*, [Broadcasting Regulatory Policy CRTC 2010-167](#) (Ottawa, 22 March 2010), at ¶67.

entertainment magazines and regionally-produced programs other than news and sports.”⁴ Ten years later the CRTC invited proposals for simplifying Canadian priority programs requirements.

- 17 The Commission decided in 2010 to require television broadcasters to allocate specified amounts of their revenues to “programs of national interest” (PNI). It said that “the new designation of programs of national interest will consist of programs from program categories 7 Drama and comedy and 2(b) Long-form documentary, as well as specific Canadian award shows that celebrate Canadian creative talent”⁵ The Commission later explained that “dramas, long-form documentaries and award shows ... are more costly to produce and the main vehicles for showcasing Canadians’ values and stories”.⁶
- 18 In 2017 the Commission required Rogers to Rogers’ application asks the Commission to issue orders to replace conditions of licence that the CRTC imposed in 2017 which set requirements for Rogers’ expenditures on programming of national interest or PNI (¶1). Briefly, the CRTC required Rogers to spend 5% of the annual gross revenues of the “Rogers Group” of television programming services on PNI programming and to direct 75% of these expenditures to independent production companies (¶2).
- 19 Rogers now asks the Commission – until the next ‘non-administrative’ renewal proceeding of its licences – to permit the company to direct the entire 5% of its annual gross revenues to independent production companies to provide a wider range of programming than that now defined as PNI (¶3). Specifically, Rogers says at ¶25 that it would like to count “programs drawn from categories 2(a) Analysis and interpretation, 8(a) Music and dance other than music video programs or clips, 9 Variety, 10 Game shows, and 11(a) General entertainment and human interest, and 11(b) Reality television” towards its PNI requirements. Table 1 compares Rogers’ current PNI program requirements with its proposal for change, using the CRTC’s television program categories.

Table 1 Comparison of Rogers’ PNI category proposal with CRTC’s 2010 and 2017 policies

| Broadcasting Decision CRTC 2017-151 | | PNI program categories using CRTC program categories | |
|-------------------------------------|---|--|--|
| | | Rogers’ June 2023 Part 1 application, ¶25 | |
| | | 2(a) | Analysis and interpretation |
| 2(b) | Long-form documentary | 2(b) | Long-form documentary |
| 7 | Drama and comedy | 7 | Drama and comedy |
| | | 8(a) | Music and dance other than music video programs or clips |
| | | 9 | Variety |
| | | 10 | Game shows |
| | | Certain award shows not in category 11(a) | |
| | Certain award shows not in category 11(a) | 11(a) | General entertainment and human interest |
| | | 11(b) | Reality television. |

- 20 Rogers then goes on to say that granting its application “would also acknowledge that the policy rationale for PNI requirements, first established in 2010, requires review and that such review is unlikely to occur within the next two years” (¶4): Figure 1.

⁴ *Ibid.*, at ¶66.

⁵ *Ibid.*, at ¶72, footnotes omitted.

⁶ *Renewal of licences for the television services of large English-language ownership groups – Introductory decision, Broadcasting Decision CRTC 2017-148* (Ottawa, 15 May 2017) at ¶4.

Figure 1 Rogers' application asks CRTC to review the 2010 PNI policy rationale

4. Rogers is requesting these orders to replace the current COLs because the requirement to devote 5% of our annual gross revenues to expenditures solely on PNI has become unduly restrictive, and forces Rogers to fund programming that is not in keeping with its programming strategy; this in turn has a negative impact on our ability to finance expensive news and information programming. As the Commission is aware, our television programming services continue to experience significant declines in advertising revenues and face significant competition from yet-to-be-regulated foreign streaming services. Granting Rogers short-term flexibility to invest in important categories of programs that are neither drama nor documentaries – such as our national Canadian award show *Canada's Got Talent* – in exchange for our commitment to devote 100% of those expenditures to independent production companies, will allow us to fulfill our expenditure obligations over the remainder of our licence term in a way that is more relevant to our programming strategy and financially sustainable for our business. This interim measure would also acknowledge that the policy rationale for PNI requirements, first established in 2010, requires review and that such review is unlikely to occur within the next two years, placing Canadian broadcasters at further disadvantage as they adjust to seismic changes in the current Canadian television market while shouldering programming restrictions their online competitors do not have.

21 FRPC's comments on Rogers' application are set out below.

III. FRPC comments on Rogers' application

22 The Forum's main concern is whether Rogers' application provides the evidence the CRTC needs to approve it: specifically, does Rogers' application meet the CRTC's requirements for such applications, and would its approval therefore further the implementation of Parliament's broadcasting policy for Canada in subsection 3(1) of the current *Broadcasting Act*?

A. CRTC requirements for applications

23 Section 3 of the *CRTC Rules of Practice and Procedure* empowers applicants to bring matters before the Commission.⁷ [Section 22\(2\)\(e\)](#) of the *Rules* requires broadcasting applicants to set out “a clear and concise statement of the relevant facts” of their applications: “[e]vidence is relevant ‘where it has some tendency as a matter of logic and human experience o make the proposition for which it is advanced more likely than that proposition would appear to be in the absence of that evidence’”⁸

24 While the CRTC may consider “insights” gained from previous proceedings and its regulatory experience, it must focus on the evidence set out in applications. As the Federal Court of Appeal explained [in *Bell Canada v. 7262591 Canada Ltd. \(Gusto TV\)*](#), 2016 FCA 123 (CanLII), at paragraph 14,

... some administrative decision-makers, like the CRTC in this case, operate in an ongoing regulatory context where multiple issues, often more general and polycentric, interrelate and evolve over time. Administrative decision-makers such as these continually see many of the same parties on issues that relate to or intersect with past issues. In making decisions, these administrative decision-makers will focus on evidence placed before them in the specific matter but, subject to any obligations of procedural fairness and disclosure owed to the particular parties before them, they may go further and draw

⁷ *Rules*, s. 3: “A matter may be brought before the Commission by an application or complaint or on the Commission's own initiative.”

⁸ *R. v. J.-L.J.*, 2000 SCC 51 (CanLII), [2000] 2 SCR 600, at ¶47.

upon broader industrial, economic, regulatory or technological insights they have gathered from past proceedings and regulatory experience.

- 25 Overall FRPC is concerned that Rogers’ application provides no evidence to show how approval of its application – the redefinition of PNI requirements for its designated ownership group television stations - will help to implement Parliament’s broadcasting policy for Canada. Nor has it clarified why it is appropriate now to return to what is essentially the CRTC’s 2010 approach to ‘priority programming’: Table 2.

Table 2

| PNI program categories using CRTC program categories | | | | | |
|--|---|-------------------------------------|---|---|--|
| BRP CRTC 2010-167 | | Broadcasting Decision CRTC 2017-151 | | Rogers’ June 2023 Part 1 application, ¶25 | |
| | | | | 2(a) | Analysis and interpretation |
| 2(b) | Long-form documentaries | 2(b) | Long-form documentary | 2(b) | Long-form documentary |
| 7 | Drama and comedy | 7 | Drama and comedy | 7 | Drama and comedy |
| (8)(a) | Music | | | 8(a) | Music and dance other than music video programs or clips |
| (9) | Variety | | | 9 | Variety |
| | | | | 10 | Game shows |
| | | | | | Certain award shows not in category 11(a) |
| (11) | General entertainment and human interest | | Certain award shows not in category 11(a) | 11(a) | General entertainment and human interest |
| | | | | 11(b) | Reality television. |
| | Regionally-produced programs other than news and sports | | | | |

- 26 Rogers has, however, made many separate but related arguments that fall into four rough categories.

1. *The unduly restrictive argument*

- 27 Rogers argues that the CRTC’s current PNI requirement harms Rogers. It is “unduly restrictive” (¶4), “forces Rogers to fund programming that is not in keeping with its programming strategy” (¶4), harms its “ability to finance expensive news and information programming” (¶4) and requires Rogers to provide Canadian drama that Canadians tend not to watch (¶11).
- 28 Rogers has not provided specific evidence to show how the CRTC’s requirement for minimum levels of spending on programs of national interest actually ‘restricts’ or limits Rogers’ own ability to invest more heavily in any other Canadian programming. In particular, it has not estimated the quantitative impact of this change on its expenditures.
- 29 According to the 2021-2022 Aggregated Financial Return for the Rogers’ Designated Group of television stations Rogers spent \$10.2 million on PNI as defined by its current conditions of licence, or 5.7% of its previous year’s revenues for the designated group (\$179.7 million). One consequence of the change proposed by Rogers is that it could redirect \$10.2 million (32% of the \$31.9 million it spent on local TV stations’ productions in 2021/22), to independent producers.

Table 3 Rogers' designated conventional TV stations' expenditures on Canadian programs, 2021-2022 broadcast year

| 2021/22 - Canadian programs telecast | Station | Affiliated | Independent | Independent | Total |
|--|----------|------------|-------------|-------------|----------|
| News (Cat 1) | \$ 21.7 | | \$- | \$ 21.7 | \$ 21.7 |
| ** Analysis & Interpretation (Cat 2a) | \$ 10.2 | | \$- | \$ 10.2 | \$ 10.2 |
| * Long-form documentary (2b) | | | \$3.3 | \$3.3 | \$3.3 |
| Other information (3 to 5) | | | \$- | \$- | \$- |
| Sports (6) | | \$8.2 | \$- | \$8.2 | \$8.2 |
| * Drama (excl'g 7c, 7d, 7e) | | | \$6.9 | \$6.9 | \$6.9 |
| Films (7c & 7d) | | | \$5.8 | \$5.8 | \$5.8 |
| Animated (7e) | | | | \$- | \$- |
| ** Music & Variety (8 & 9) | | | \$5.6 | \$5.6 | \$5.6 |
| ** Game shows (10) | | | | \$- | \$- |
| ** Human interest (excl'g award shows) (11a) | | \$4.0 | | \$4.0 | \$4.0 |
| ** Reality television (11b) | | | \$3.5 | \$3.5 | \$3.5 |
| Award shows (not in 11a) | | | \$- | \$- | \$- |
| Others (12 to 15) | | | \$- | \$- | \$- |
| Total | \$ 31.9 | \$ 12.2 | \$ 25.1 | \$ 69.2 | \$ 69.2 |
| * Total PNI, current definition | \$- | \$- | \$ 10.22 | \$ 10.22 | \$ 10.22 |
| ** Total PNI, proposed definition | \$ 10.25 | \$ 4.02 | \$ 19.34 | \$ 33.61 | \$ 33.61 |

Source: Rogers, [2021-2022 Aggregated Financial Return for the Rogers' Designated Group](#), page ii

30 Would this change enable Rogers to reduce staff at its television stations? Rogers has not explained whether this would or could happen. In 2021/22, however, Rogers reported that it employed 354 (358.93) people at its designated TV station group. If Rogers reduced its staff by a third – representing the \$10.2 million in local TV station productions it shifted in production to independent producers – would it be able to reduce its staff by the same amount? If so, Rogers's change could enable it to eliminate 118 positions. Rogers employed 358.9 people in 2021/22 for a total of \$44.097 million. At an average salary of \$122,857, Rogers would enjoy \$14.6 million in savings: this would cover the existing \$10.2 million cost of its local TV stations' current analysis and interpretation programming and leave Rogers with \$4.3 million. While Rogers appears to believe that approval of its proposal would serve the Commission's interests regarding independent production, it is not clear whether it would serve Parliament's interest in at least maintaining and preferably increasing regulated broadcasting employment.

31 Another part of Rogers' 'unduly restrictive' argument is that Canadians tend not to watch Canadian drama (¶11). The data Rogers provide refer to audiences in general, however, not to the drama broadcast on Rogers' designated group TV stations. It is unclear, moreover, whether the claim about Canadian audience's being disinterested in Canadian drama takes into account the availability of Canadian drama. If only one in ten hours of drama is Canadian, one might expect that 10% of Canadians watching drama might watch Canadian drama. Rogers provides no other evidence on this point, however, making its importance in Rogers' case difficult to discern.

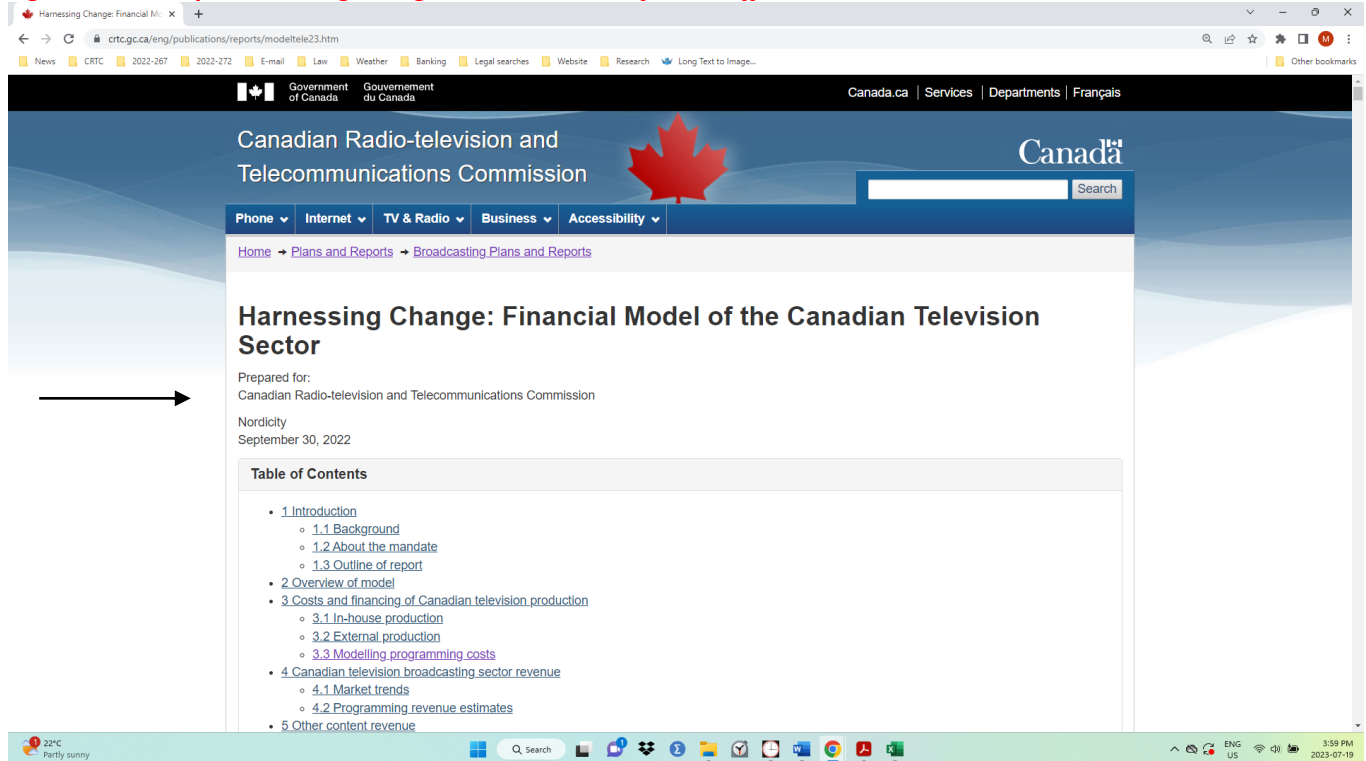
2. [PNI programming loses money argument](#)

32 Next, apart from being unduly restrictive, Rogers argues that PNI programming loses money (¶15). It says that the CRTC's "recently released *Harnessing Change: Financial Model of the Canadian Television Sector ...* provides a comprehensive view of how the Commission's PNI policy has impacted Canadian television genres since it was first introduced in BRP 2010-167"

(¶14). It says this report shows that except for “sports programming in the English-language market, all genres of Canadian television programming are unable to earn enough commercial revenue to cover their total costs of production” (¶15), and that the “fiction genre” has lost “over \$300M annually since 2006” (¶16). It quotes the CRTC’s description of “the bleak and dire state of Canada’s television industry” (¶31).

33 FRPC notes first that the statements made in the *Harnessing Change: Financial Model of the Canadian Television Sector* report were made by Nordicity, not the Commission: see Figure 2.

Figure 2 Nordicity’s *Harnessing Change: Financial Model of the Canadian Television Sector*



[Arrow added]

34 Second, Nordicity did not set out actual revenue-less-cost figures for individual programs: it estimated advertising revenue using audience share disaggregated by language and “genre level” for private conventional broadcasters, the national public broadcaster and discretionary programming services (that include services licensed to private broadcasters along with services licensed to the national public broadcaster).⁹ Nordicity calculated certain factors “manually”.¹⁰

9

39. To allocate the advertising revenue earned within the sector, we used audience share data at the language and genre level for each broadcasting segment – i.e. private conventional, CBC/SRC conventional and discretionary services. In general, for example, if a particular genre accounted for 10% of total audiences and Canadian programming held a 33% audience share in that genre then 3.3% (i.e. 33% x 10%) of total advertising revenue was assigned to the Canadian programming in that genre.

40. To allocate discretionary services’ subscription revenue, a slightly different approach was adopted. Service-by-service data for discretionary services’ subscription revenue was allocated by genre and then between Canadian and non-Canadian programming in order to estimate the portion of total subscription revenue earned within the discretionary and on-demand segment that could be attributed to Canadian programming in each genre.

10 *Ibid.*, ¶40:

35 Third, assuming – as there is insufficient time to replicate the Nordicity model so as to measure its predictive accuracy – that the Nordicity estimates are reasonably accurate, the estimates to which Rogers refers regarding the “shortfalls” allegedly suffered by fiction (drama) do not describe the dramas telecast by Rogers or by private broadcasters. Rogers’ citation at ¶15 refers to Figure 10 of the *Harnessing Change: Financial Model of the Canadian Television Sector*: this figure summarizes Nordicity’s estimates for all television services in Canada including the national public broadcaster.

36 As previously mentioned, the figures presented by the report include not only private broadcasters such as but not limited to Rogers, but also the national public broadcaster.

37 It is unclear why Rogers – that presumably is able to track its advertising revenues and the placement of the advertisements it sells fairly precisely – has not provided its own analysis of its ability to earn advertising revenues in specific genres of programming.

3. *The helps independent producers argument*

38 Rogers also argues that changing PNI will benefit “the Canadian independent producers we work with and who do not operate in the drama or documentary genres” (¶23). It says (¶5) that giving Rogers “...increased flexibility ... to invest in all Canadian program categories other than news and sports ... will fulfill the Commission’s objective of supporting Canada’s independent production sector without compromising funding for other important program genres.”

39 Rogers has not provided any facts on this point, unfortunately. How much in spending will shift to independent producers?

B. *True purpose – rational self-interest*

40 Rogers’ acknowledges that approval of its application regarding PNI serves its needs. Approval will help Rogers “operate its “television programming services more effectively in an environment where [it] must compete vigorously for audiences and revenues””(¶5). It says (¶22) that it cannot “afford to continue to spend money on genres that don’t align with our programming strategy, don’t build our brand or viewership and don’t generate the profitability we need to offset our news investments.” Approval (¶4) would “allow [it] to fulfill [its] expenditure obligations over the remainder of [its] licence term in a way that is more relevant to [its] programming strategy and financial sustainable for [its] business.” Finally, Rogers says at ¶31 that allowing it to “to direct its PNI expenditures towards our significant investment in an independently-produced Canadian award show – and only for the remainder of our current licence term – is one small way in which the Commission could provide some short-term regulatory relief that would have immediate and material impact [*sic*] on the economic health of Citytv.”

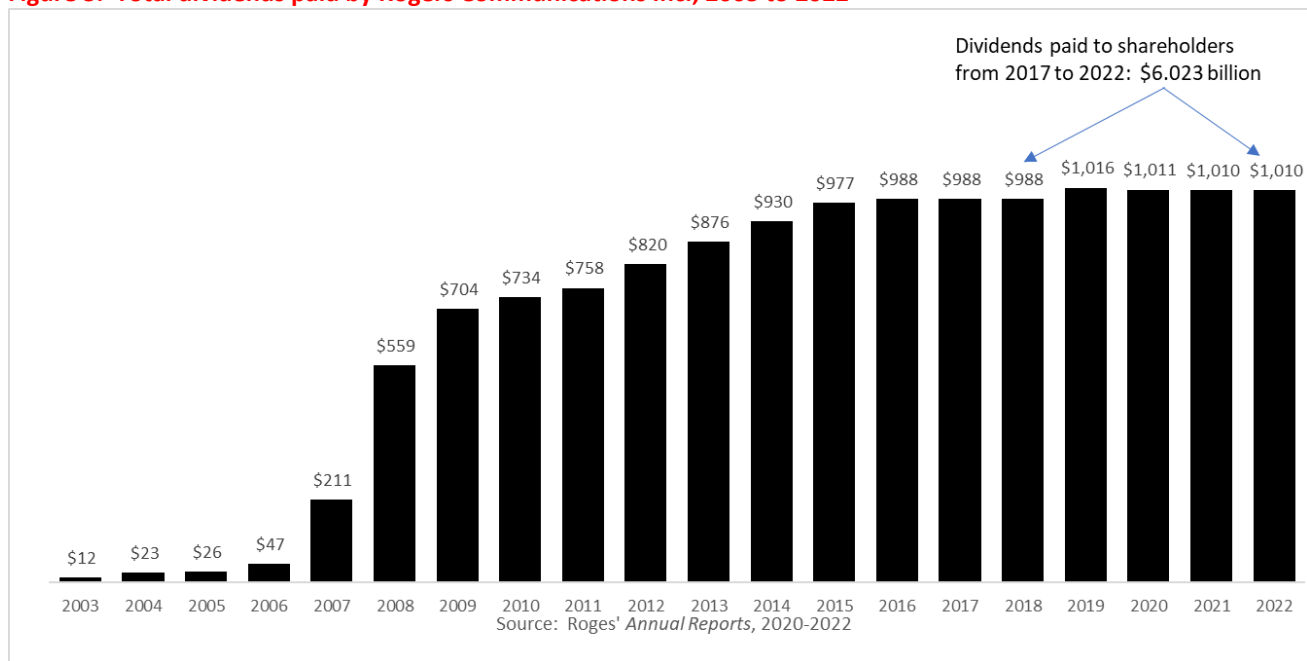
41 Rogers has provided insufficient facts to enable interveners to assess these claims. FRPC notes, for example, that in 2020 and 2021 the federal government provided broadcasters with three forms of financial support. Rogers has acknowledged that in 2020 it qualified for \$91 million of funding associated with the Canada Emergency Wage Subsidy (CEWS) program, a federal

40. The genre percentages for each service were assigned manually by Nordicity based on a review of each service’s genre focus. These genre percentages were used to allocate the total subscription revenue earned by each service.

government initiative offered to eligible employers who kept individuals employed during COVID-19.”¹¹ It seems reasonable to assume that Rogers also benefitted from the decision of the federal government and the CRTC not to require payments of the 2020-21 Part I licence fees (amounting to \$30 million)¹² or of the Part II licence fees that would have amounted to \$50 million.¹³ Rogers has told its shareholders that the Covid-19 pandemic did not have “a material impact on” Rogers’ operating results in 2022¹⁴ and that it does “not expect COVID_19 to continue to significantly affect our operating results in 2023”¹⁵

- 42 FRPC recommends that Rogers account for the funds it has also received from the federal government and the CRTC before seeking additional financial relief.
- 43 The Forum also considers that the CRTC consider related and relevant facts such as Rogers’ decisions on where to allocate its revenues. According to Rogers’ Annual Reports it directed just over \$6 billion to its shareholders from 2017 to 2022: Figure 3.

Figure 3: Total dividends paid by Rogers Communications Inc., 2003 to 2022



¹¹ Rogers, *2021 Annual Report*, at 98.

¹² Department of Canadian Heritage, “[COVID-19: the Government of Canada Provides Relief to the Broadcasting Sector](#)” News release (Gatineau, 30 March 2020); see also [P.C. 2020-0338](#);

¹³ Department of Canadian Heritage, “[COVID-19: Government of Canada Provides Additional Relief to the Broadcasting Sector](#)”, News release (Gatineau, 15 December 2020); see also [P.C. 2020-1060](#).

¹⁴ Rogers, *Rogers 2022 Annual Report: Regaining Momentum*, at 41.

¹⁵ *Ibid.*, at 41.

44 Before approving an application whose true impact on independent producers and employment is unknown, FRPC suggests that the CRTC obtain more information as to why Rogers itself is unable to commit the resources necessary for it to enable its television stations to produce and broadcast PNI programming that Canadians in fact ‘want to watch’.

C. *Prematurity of Rogers’ ‘PNI review’*

45 Finally, FRPC notes that the issue of financial support for PNI was addressed by the CRTC one month before Rogers filed the Part 1 application that is the subject of this intervention. The Commission proposed in *The Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content* that expenditures on programs of national interest could become part of a flexible financial requirement supplementing a base standardized contribution¹⁶ along with ‘intangible requirements’. The CRTC’s intent “is that broadcasting undertakings or ownership groups could contribute to all three categories of contributions in a manner that is appropriate and reflective of their unique role in the Canadian broadcasting system” (NPH 2023-138, ¶24).

46 As the CRTC has already set out its intention to consider how offline and online broadcasters will support programs of national interest at its public hearing this coming November, FRPC believes it would be premature to grant Rogers’ application and thereby acknowledge, as Rogers states, that the Commission’s PNI policy requires review.

IV. Conclusion

47 FRPC considers that Rogers has provided insufficient facts and evidence in support of its specific proposal. It has also not provided clear information about the potential benefits that Canadians would obtain if the CRTC approved its application.

48 The absence of clear, unequivocal and demonstrable benefits for Canada’s broadcasting system and for Canadian audiences leaves the Commission in the untenable position of potentially giving Rogers what it desires, without ‘giving’ Canadians something of equal or preferably greater value.

49 For the reasons set out above, FRPC asks the Commission to deny Rogers’ application.

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

¹⁶ NPH 2023-138, ¶22.