



22 September 2023

Filed online

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Dear Secretary General,

Re: *Call for comments – Proposed new Broadcasting Fees Regulations, [BNoC 2023-280](#)*
(Ottawa, 23 August 2023)

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 comments about the CRTC's proposed broadcasting fee regulations are attached.

FRPC looks forward to reviewing other parties' submissions.

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

execdir@frpc.net



More openness, transparency and accountability are needed

Call for comments – Proposed new Broadcasting Fees Regulations, [BNoC 2023-280](#)

(Ottawa, 23 August 2023)

Comments of the
Forum for Research and Policy in Communications (FRPC)
22 September 2023

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



Contents

Summary	Error! Bookmark not defined.
I. Introduction	1
A. Comment on procedure: lack of information limits effective participation	1
B. Background: broadcast licence fees	6
1 Part I and II fees	8
2 The 2017 Service Fees Act	10
II. FRPC's comments on BNoC 2023-280	11
A. Issues in the CRTC's notice	11
1 Equitable treatment for feepayers	11
2 Anti--avoidance provision	12
3 From undertakings to ownership groups	13
4 \$10 million threshold	13
B. Other issues	14
1 Transparency – clear, consistent definitions and operationalizations	14
2 Accountability - Service standards and results	15
3 Openness – to all stakeholders including the public	20
III. Conclusions	23

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. *Comment on procedure: lack of information limits effective participation*

2 FRPC begins by noting that the lack of relevant evidence in BNoC 2023-280 limits participants' ability to participate effectively in this proceeding.

3 According to the CRTC, its proposed *Licence Fee Regulations* “have been designed with a view to ensuring” that the *Regulations*

- a. treat fee payers equitably¹
- b. ensure that “no one group is disproportionately responsible to pay the fees” by limiting the total percentage paid by any ownership group to 35% of the CRTC’s actual total regulatory costs, with the different being redistributed to other feepayers²
- c. maintain a relationship between the fees charged and the costs of the CRTC’s regulatory activity with respect to “each feepaying undertaking or group of undertakings”³
- d. “continue to bear a relation to the costs associated with the level of regulatory activity that the Commission performs with respect to each feepaying undertaking or group of undertakings”⁴
- e. maintain percentage of total Part I licence fees now paid by existing feepaying groups of undertakings⁵
- f. shift obligation to pay licence fees from individual broadcasters to broadcasting ownership groups⁶
- g. “vastly” reduce the number of feepaying undertakings⁷
- h. Include Canadian online undertakings with traditional fee-paying broadcasting undertakings⁸

¹ BNoC 2023-280, Summary.

² BNoC 2023-280, para. 11(c).

³ BNoC 2023-280, Summary.

⁴ BNoC 2023-280, para. 11(d).

⁵ BNoC 2023-280, para. 11.

⁶ BNoC 2023-280, para. 11 (b).

⁷ BNoC 2023-280, para. 11(b)(i).

i. Reduce opportunities to reduce licence fees by choice of payor⁹

4 The CRTC’s proposed *Licence Fee Regulations* then identify four variables in sections 10(1) and 10(2):

A: the broadcasting ownership group’s fee revenue for the most recent return year, less “that broadcasting ownership group’s exemption level for that return year”

B the amount by which the aggregate fee revenues of all broadcasting ownership groups for the most recent return year exceeds the applicable exemption level, less the aggregate exemption level amount for all those broadcasting ownership groups for that return year

C the estimated total regulatory costs of the Commission for the current fiscal year....

5 Table 1 sets out examples of the type of relevant evidence needed to evaluate the proposals being made in BNoC 2023-280 both now and in the future. The grey shading denotes objective evidence.

6 Briefly, BNoC 2023-280 lacks any information or objective evidence to enable participants to comment in an informed way about its proposals.

Table 1 Availability of evidence relevant to assessment of BNoC 2023-280

BNoC 2023-280 – proposals and availability of relevant evidence	
CRTC’s proposed objectives and formula	Relevant evidence to assess CRTC’s proposal
a. treat fee payers equitably	Are fee payers now treated inequitably? Empirical rationale for exemption set at \$10 million in terms of numbers of broadcasters affected?
b. ensure that “no one group is disproportionately responsible to pay the fees” by limiting the total percentage paid by any ownership group to 35% of the CRTC’s actual total regulatory costs, with the different being redistributed to other feepayers	Estimated numbers of individual and group broadcasters Estimated percentage of licence fees payable by those subject to the proposed <i>Licence Fee Regulations</i>
c. maintain a relationship between the fees charged and the costs of the CRTC’s regulatory activity with respect to “each feepaying undertaking or group of undertakings”	CRTC’s regulatory costs for “each feepaying undertaking or group of undertakings” for the past five years (to provide historical context and information about changes in these costs over time)
d. “continue to bear a relation to the costs associated with the level of regulatory	

⁸ BNoC 2023-280, para. 11(b)(ii).

⁹ BNoC 2023-280, para. 11(b)(ii).

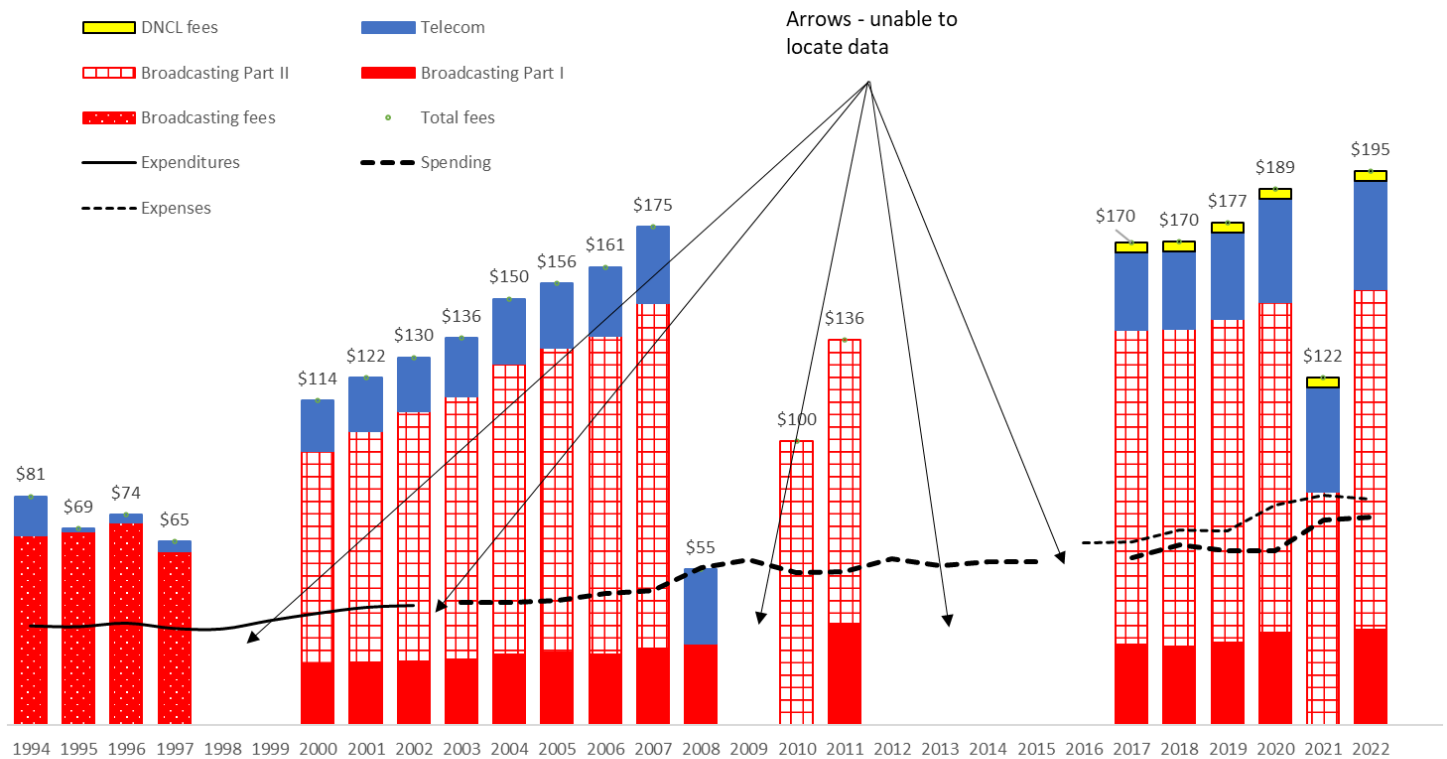
BNoC 2023-280 – proposals and availability of relevant evidence	
CRTC’s proposed objectives and formula	Relevant evidence to assess CRTC’s proposal
activity that the Commission performs with respect to each feepaying undertaking or group of undertakings”	
e. maintain percentage of total Part 1 licence fees now paid by existing feepaying groups of undertakings	Current percentage of total Part 1 licence fees now paid by existing feepaying groups of undertakings
f. shift obligation to pay licence fees from individual broadcasters to broadcasting ownership groups	Numbers of broadcasting ownership groups in 2022/22 Numbers of broadcasters paying licence fees in 2021/22
g. “vastly” reduce the number of feepaying undertakings	Estimated number of feepaying undertakings under the proposed <i>Licence Fee Regulations</i>
h. Include Canadian online undertakings with traditional fee-paying broadcasting undertakings	Estimated number of online undertakings (and, as above, numbers of broadcasters paying licence fees in 2021/22)
i. Reduce opportunities to reduce licence fees by choice of payor	Estimated prevalence of licence-fee evasion in 2021/22
A: the broadcasting ownership group’s fee revenue for the most recent return year, less that group’s exemption level	Total amount that the proposed <i>Licence Fee Regulations</i> is estimated to generate for each of next five years
B the amount by which the aggregate fee revenues of all broadcasting ownership groups for the most recent return year exceeds the applicable exemption level, less the aggregate exemption level amount for all those broadcasting ownership groups for that return year	
C the estimated total regulatory costs of the Commission for the current fiscal year....	CRTC’s estimated regulatory costs for each of next five years
Grey shading:	No evidence provided in BNoC 2023-280

- 7 In other words, BNoC 2023-280 provides interested participants with no information to determine whether any of the CRTC’s goals are or are not being met. It also provides no information about the revenues that the Commission’s proposed *Licence Fee Regulations* may actually yield.
- 8 The evidence noted in Table 1 matters because it is clear that the revenue generated by the CRTC’s broadcasting and telecommunications fees have greatly exceeded the CRTC’s costs of operation for at least 30 years. Figure 1 compares the licence fee information reported by the CRTC from 1994 to 2022 with its reported expenditures. The CRTC reported this information in

several annual reports. Gaps in the data exist because of changes in the CRTC’s presentation of information in its reports.

Figure 1 CRTC’s broadcasting and telecom fees, and its expenditures, 1994-2022

CRTC 'revenues' and spending/expenditures/expenses, 1994-2022 (\$ millions current)



Sources: CRTC’s departmental *Performance Reports*, *Departmental Results Reports* and Treasury Board Secretariat

9 Figure 1 indicates that the revenues it collected from broadcasters exceeded its operating costs¹⁰ in each year for which data were available. It is estimated that from 1994 to 2022 the CRTC’s broadcasting fees exceeded its total operating costs by at least \$1.4 billion (\$1,359.7 million), or by an average of \$64.8 per year): Table 2.

¹⁰ Presentation of the concept of the Commission’s expenses changed over time. The Commission reported, variously, its “expenditures”, its “spending” and/or its “expenses” and while the terms appear to measure different concept – note the difference between the “spending” and “expenses” lines – its reports did not define these terms.

Table 2 CRTC licence fee revenues and operating expense, 1994-2022

Year	CRTC licence fee revenues		CRTC operating expenses	Licence fees less CRTC operating expenses	
	Broadcasting (total of undefined broadcasting, Part I and Part II fees)	Revenues from broadcasting, telecom's and unsolicited telecommunications fees		Broadcasting fees less CRTC expenses	Total fees less CRTC expenses
1994	\$67.0	\$80.7	\$40.8	\$26.16	\$39.86
1995	\$68.3	\$69.4	\$39.6	\$28.69	\$29.79
1996	\$71.4	\$74.2	\$40.5	\$30.91	\$33.71
1997	\$61.2	\$64.7	\$37.7	\$23.48	\$26.98
1998	Data unavailable	Data unavailable	\$37.1	Unavailable	Unavailable
1999	Data unavailable	Data unavailable	\$39.7	Unavailable	Unavailable
2000	\$96.7	\$114.3	\$41.4	\$55.30	\$72.90
2001	\$103.8	\$122.4	\$42.5	\$61.26	\$79.86
2002	\$110.5	\$129.6	\$42.3	\$68.20	\$87.30
2003	\$115.7	\$136.4	\$42.0	\$73.68	\$94.38
2004	\$127.4	\$150.2	\$41.3	\$86.14	\$108.94
2005	\$133.0	\$155.7	\$41.1	\$91.88	\$114.58
2006	\$137.3	\$161.4	\$42.6	\$94.68	\$118.78
2007	\$148.9	\$175.5	\$42.7	\$106.17	\$132.80
2008	\$28.8	\$54.9	\$48.7	-\$19.96	\$6.14
2009	Data unavailable	Data unavailable	\$51.1	Unavailable	Unavailable
2010	\$100.0	\$100.0	\$46.1	\$53.91	\$53.91
2011	\$135.8	\$135.8	\$45.1	\$90.68	\$90.68
2012	Data unavailable	Data unavailable	\$48.2	Unavailable	Unavailable
2013	Data unavailable	Data unavailable	\$45.9	Unavailable	Unavailable
2014	Data unavailable	Data unavailable	\$46.0	Unavailable	Unavailable
2015	Data unavailable	Data unavailable	\$45.6	Unavailable	Unavailable
2016	Data unavailable	Data unavailable	\$50.2	Unavailable	Unavailable
2017	\$139.2	\$170.0	\$49.7	\$89.57	\$120.30
2018	\$139.8	\$170.3	\$51.7	\$88.10	\$118.58
2019	\$143.0	\$176.9	\$50.5	\$92.55	\$126.50
2020	\$149.1	\$188.9	\$56.7	\$92.44	\$132.21
2021	\$82.3	\$122.4	\$57.2	\$25.08	\$65.10
2022	\$153.5	\$195.1	\$52.8	\$100.76	\$142.33
1994-22	\$ 2,312.71	\$ 2,748.66	\$ 1,316.92	\$ 1,359.66	\$ 1,795.61

- 10 The fact that the licence fees collected by the CRTC exceeded its operating costs by 75% confirms that, as the Commission has said, the broadcasting fees it collects have paid for more than the Commission's expenses or expenditures, and raises at least three basic questions:

1. How much money will the CRTC's proposed *Licence Fee Regulations* yield?
2. Given that the CRTC's expenses increased by 14.4% in the ten years between 2013 and 2022, does the CRTC have any concrete projections about its proposed expenses over time?
3. If the proposed *Licence Fee Regulations* yield more than the CRTC spends, how will the remaining funds be used?

- 11 BNoC 2023-280 does not provide any information on these points, effectively requiring each participant interested in this proceeding to find this information themselves – if they want to provide the Commission with comments based on facts rather than just on opinion (however well-informed).
- 12 Comments based on evidence or empirical information appear to matter in the CRTC's proceedings because the Commission often gives more weight to objective evidence than to subjective opinion. As broadcasters typically have more information at their figurative or literal fingertips, they gain a participatory advantage. The CRTC's continued practice of inviting comments without disclosing relevant evidence or information that it already has places those who lack either detailed knowledge of the CRTC's historic approach to licence fees or a library of past CRTC reports about its financial performance or both at a serious disadvantage. Rather than correcting these disadvantages by providing relevant evidence, however, BNoC 2023-280 merely maintains and to some extent widens the gap between broadcasters and others.
- 13 The CRTC should adopt new *Administrative Practices* to reduce this gap going forward. Adopting a best practice of including relevant evidence in its notices of consultations would reduce the disadvantages faced by nearly all Canadians when they seek to exercise their participatory rights in CRTC proceedings.

B. *Background: broadcast licence fees*

- 14 The requirement for those holding licences to pay some or all of the costs of the licensing system is not new in Canada. By 1923 those owning radio or television sets had to pay annual fees for 'receiving-set' licences.¹¹ The revenues from these fees were used to both to establish radio stations (operated by government), to suppress radio interference and to pay for the cost of regulating radio.¹² From 1936 to 1952 licence fees also helped to establish the

¹¹

¹² Royal Commission on Radio Broadcasting, *Report* (Ottawa, September 1929):

...

License fees – A fee of \$1 is at present charged for a receiving license. Fifty per cent of all license fees collected in Manitoba is paid over to the Government of that province towards the maintenance of the provincial-owned broadcasting stations at Winnipeg and Brandon. With this exception, no contribution to the cost of broadcast programs in Canada is made from fees collected, which revert to the revenue fund of the Dominion Government.

It should be pointed out, however, that the Marine Department, through its Radio Branch, maintains a service to broadcast listeners in suppressing extraneous noises interfering with radio reception, at an expenditure in proportion to the amount of revenue received from license fees.

Canadian Broadcasting Corporation (CBC) whose responsibilities in this period included the regulation of private broadcasters.¹³ The federal government abolished licence fees on 1 April 1953.¹⁴

- 15 Within a year of the CRTC’s being established it enacted regulations requiring its broadcast licensees to remit annual licence fees.¹⁵ The fee consisted from the outset of two parts: a fixed amount tied to a set level of broadcasting revenues and a variable amount calculated as a percentage of the broadcaster’s revenues from broadcasting plus the fixed amount. In 1968, the amount was calculated as follows;

An undertaking’s gross [broadcasting] revenues	
Less than \$200,000	\$25 + 1% of gross revenues
More than \$200,000	\$2,025 + 1.5% of revenue above \$200,000

- 16 The Commission subsequently amended its licence-fee regulations to exempt or include categories of broadcasters required to make such payments, and to increase the percentage with respect to broadcasting revenues. By 1996 the percentage had increased to 1.8%.

- 17 The CRTC’s licence fees today set different fees and exemptions in relation to medium and ownership. They allow the CRTC, in the case of undertakings whose licensee has not filed a licence fee return for the previous year (return year), to estimate an undertaking’s annual broadcasting revenues based on the undertaking’s previous financial performance, undefined ‘market trends’ and “the licensee’s business plan” for its first 12 months of operation.¹⁶

Part I fee

Initial amount: (A/B) x C

(Gross revenues from licensed broadcasting activity less exemption level)
 (Aggregate gross revenues of all licensees above exemption level less aggregate exemption level for all licensees) x CRTC estimated total broadcasting regulatory costs

Annual adjustment: (A/B) x D

(Gross revenues from licensed broadcasting activity less exemption level)
 (Aggregate gross revenues of all licensees above exemption level less aggregate exemption level for all licensees) x (Estimated total broadcasting regulatory costs less Actual total regulatory costs)

Part II fee: X/Y x Z

(Gross revenues from licensed broadcasting activity less exemption level)
 (Aggregate gross revenues of all licensees above exemption level less aggregate exemption level for all licensees) X (lesser of \$100,000 and 1.365% of Aggregate gross revenues of all licensees above exemption level)

13
 Subsection 1(a) of the *Canadian Broadcasting Act, 1936* was amended effective 1 April 1947 so that the cost of collecting and administering the radio receiver set fees was no longer deducted from the gross amount paid to the CBC for its operations: CBC, Annual Report 1947-1948, at 51.

14 Replacing funding for the CBC with a portion of the excise tax then in place for television receivers (sets).

15 The CRTC held a public hearing beginning 19 November 1968 to address, among other things, the issue of the *Regulations Respecting Licence Fees Payable by Broadcasting Undertakings*.

16 *Broadcasting Licence Fee Regulations, 1997, SOR/97-144, s. 1 – “fee revenue” (b).*

less aggregate exemption level for all licensees)

18 The Part 1 fees include an ‘adjustment amount’ that takes into account any difference between the CRTC’s estimated and its actual regulatory costs.¹⁷ The CRTC does not reimburse over-payments; rather, such amounts are “credited to” individual licensees in the following year. Licensees are responsible for remitting any underpayments. The CRTC does not currently state the scale of under- or overpayments in its annual *Fees Reports*.¹⁸

1 Part I and II fees

19 In 1996 Treasury Board gave the CRTC “vote-netting authority” for broadcasting: “[v]ote-netting is a means of funding selected government programs or activities whereby Parliament authorizes a department or agency to apply revenues towards costs directly incurred for specific activities.”¹⁹

20 The CRTC then began to distinguish between Part I and Part II licence fees: Part 1 fees would recover “broadcasting-related items set out in the Commission’s Expenditure Plan”, while Part II fees would include “the costs of regulating the broadcasting spectrum”.²⁰ The CRTC said at the time that the Part I fees “would equal approximately 25% of the total annual licence fee payable by each undertaking”.²¹ (In 1997 it added a “primary reason for their development, namely, to ... [retain] a system that will generate an amount of revenue equivalent to that raised under the previous fee regulations.”²²)

21 In 2004 the Commission described Part II fees as having three purposes:

- to earn a fair return for the Canadian public for access to, or exploitation of, a publicly owned or controlled resource (i.e. broadcasters use of the broadcasting spectrum);
- to recover Industry Canada costs associated with the management of the broadcasting spectrum; and
- to represent the privilege of holding a broadcasting licence for commercial benefit.²³

22 Roughly half a decade later Treasury Board explained that the Part II fees “recover part of the Government of Canada’s substantial annual investment in the Canadian broadcasting

¹⁷ *Broadcasting Licence Fee Regulations, 1997*, SOR/97-144, s. 8(2).

¹⁸ See <https://crtc.gc.ca/eng/publications/reports/fr2022.htm>, available through [General Plans and Reports](#).

¹⁹ *Proposed New Broadcasting Licence Fee Regulations, Public Notice CRTC 1996-149* (Ottawa, 22 November 1996).

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Broadcasting Licence Fee Regulations, 1997, Public Notice CRTC 1997-32* (Ottawa, 20 March 1997).

²³ *CRTC, Performance Report For the period ending March 31, 2004*, at 57, Appendix B (Financial Information & Summary Tables), Note to Table 6: User Fee Information.

system”.²⁴ Briefing notes prepared last year for Commissioners newly appointed to the CRTC explained the Part I and II Fees as cost-recovery and regulatory/privilege charges, respectively:

Part I broadcasting licence fees fully recover Commission operating costs related to its broadcasting activity with the exception of preliminary work undertaken for the implementation of amendments to the Broadcasting Act.

Part II broadcasting licence fees were set at \$100 million starting in 2010 and are adjusted annually by the Consumer Price Index. For fiscal year 2022/23, it is forecast that the Commission will collect \$123.7 million. The Part II licence fees are regulatory charges, imposed in relation to a broadcaster’s privilege to hold a licence. These fees recover part of the Government of Canada’s substantial annual investment in the Canadian broadcasting system. The Part II licence fees are considered non-responsible revenue (non-tax revenue). All revenues collected are deposited into the Government of Canada’s Consolidated Revenue Fund.²⁵

23 Beginning in 2003 broadcasters began to challenge the legality of the Part II licence fees.²⁶ Following several appeals the Minister of Canadian Heritage announced that an out-of-court settlement was reached on 7 October 2009.

Note 1: On October 7, 2009, the Minister of Canadian Heritage announced an out-of-court settlement regarding CRTC Part II broadcasting license fees. As part of this agreement, the Government issued a remission order (2009-1715 dated October 7, 2009) with respect to a) the amount of Part II license fees and interest that would have been payable by applicable licensees during the Government’s fiscal years 2007– 2008, 2008–2009 and 2009–2010; and

b) the amount of costs and interest awarded to Her Majesty in right of Canada against the appellants by the Federal Court of Appeal’s decision on April 28, 2008.

The CRTC has recorded those transactions required to address that part of the remission order dealing with fees and accrued interest, while the Department of Canadian Heritage has recorded those transactions related to the award of costs and accrued interest.

As a result of the Government’s remission order announced on October 7, 2009, during fiscal year 2009- 2010 the CRTC recognized in the Public Accounts of Canada and its financial statements the total amount of Part II fees that would have been payable by broadcasters over the three-year period (i.e. fiscal years 2007- 2008, 2008- 2009 and 2009-2010), which amounted to \$433,847,811 (\$415,279,112 in fees and \$18,568,699 in interest). This total amount was also written off by the CRTC as a bad-debt expense in accordance with the authority provided in the Government’s remission order.²⁷

²⁴ Secretariat, Treasury Board of Canada, [ARCHIVED - 2011-2012 RPPs - User Fees/External Fees](#).

²⁵ CRTC, *Briefing book for Chairperson, Vice-Chairpersons and Commissioners* “[Broadcasting licence fees](#)”.

²⁶

²⁷ CRTC, *Performance Report 2010*, at 32.

24 In 2010 the CRTC explained that as part of the settlement it had set a \$100 million cap on the Part II broadcasting fees and that the cap would change annually based on inflation.²⁸

2 *The 2017 Service Fees Act*

25 In 2017 the CRTC became subject to the 2017 *Service Fees Act*, including its requirement to publish annual reports on the fees it charges broadcasters, telecommunications companies and those required to register under the *Telecommunications Act*'s Do Not Call List. Section 2(1) of the *Service Fees Act* defines fees as amounts payable for “the provision of a regulatory process” by “a federal entity”,²⁹ and defines federal entities as divisions or branches “of the federal public administration set out in column I of Schedule I.1” of the *Financial Administration Act* (which is where the CRTC falls).

26 In the CRTC's first *Service Fees Act* report the Minister of Canadian Heritage described the *Service Fees Act* as “a modern legislative framework that enables cost-effective delivery of services” as well as “improved transparency and oversight.”³⁰ According to the Minister, the *Service Fees Act* includes “a requirement to have performance standards and report against these standards, along with a policy to remit fees to fee payers when standards are not met”: Table 3. All five of the CRTC's five annual *Service Fees Act* reports state, however, that it is not subject to the standards-reporting requirement.

Table 3 Minister's 2018 message about CRTC and the *Service Fees Act*

CRTC, [2017 to 2018 Fees Report](#), at 1.

Minister's message

On behalf of the Canadian Radio-television and Telecommunications Commission (CRTC), I am pleased to present the 2017 to 2018 Report on Fees.

On June 22, 2017, the Service Fees Act received royal assent, thereby repealing the User Fees Act.

The Service Fees Act introduces a modern legislative framework that enables cost-effective delivery of services and, through enhanced reporting to Parliament, improved transparency and oversight. The act provides for:

- a streamlined approach to consultation and the approval of new or modified fees;
- a requirement to have performance standards and report against these standards, along with a policy to remit fees to fee payers when standards are not met;
- an automatic annual fee adjustment by the Consumer Price Index (CPI) to ensure that fees keep pace with inflation; and
- annual detailed reporting to Parliament in order to increase transparency.

²⁸ CRTC, *Performance Report 2011*, at 30-31:

In FY 2010-11 – As a follow up to the recommendation of the Government following the out of court settlement on October 7, 2009, during FY 2010-11 the CRTC implemented a new fee regime with a cap of \$100 million for the Part II broadcasting licence fees. Commencing in 2011, this amount will be adjusted annually on a compound basis in accordance with the percentage increase or decrease, as the case may be, to the Consumer Price Index (CPI) for the calendar year prior to the year of the adjustment. The CPI is the annual average all-items CPI for Canada that is published by Statistics Canada. (See CRTC Broadcasting Regulatory Policy CRTC 2010-476 for additional information <http://www.crtc.gc.ca/eng/archive/2010/2010-476.htm>)[.]

²⁹ *Service Fees Act*, s. 2(1), “fee”, (e) the provision of a regulatory process.

³⁰ CRTC, [2017 to 2018 Fees Report](#), at 1 (Minister's message).

This 2017 to 2018 Fees Report is the first report to be prepared under the Service Fees Act. The report includes new information such as a detailed listing of all fees along with future year fee amounts. Additional fee information will be included starting next fiscal year, once the CRTC fully transitions to the Service Fees Act regime.

I welcome the increased transparency and oversight embodied by the reporting regime of the Service Fees Act, and I fully endorse the CRTC efforts to transition to this modern framework.

[footnotes omitted]

II. FRPC's comments on BNoC 2023-280

27 BNoC 2023-280 states that the CRTC's proposed new Fees Regulations have two purposes: equitable treatment of those paying fees and maintenance of a relationship between the fees charged the costs of the CRTC's regulatory activities.³¹

28 The Forum's comments begin by addressing the issues raised in BNoC 2023-280, and continue by discussing several other issues related to the proposed new Fees Regulations.

A. *Issues in the CRTC's notice*

29 Asdf

1 *Equitable treatment for feepayers*

30 The CRTC says in BNoC 2023-280 that the proposed *Licence Fee Regulations* are to treat those paying fees 'equitably' and are to maintain a link between the fees and actual regulatory costs:

... proposed new Fees Regulations have been designed with a view to ensuring that feepayers are treated equitably and that there continues to be a relationship between the fees charged and the costs associated with the level of regulatory activity that the Commission performs with respect to each feepaying undertaking or group of undertakings. In line with these objectives, the current criterion for fixing the amount of fees in relation to the size of broadcasting undertakings' revenues is continued in the proposed new Fees Regulations.³²

31 BNoC 2023-280 provides no evidence to support its claim that the proposed *Licence Fee Regulations* will result in equitable treatment of fee payers.

32 Specifically, while BNoC 2023-280 claims that the proposed *Licence Fee Regulations* will treat fee payers equitably, it then reverses this position. It proposes "an upper fee limit of 35% of the Commission's total regulatory costs for the year that any one ownership group would be

³¹ BNoC 2023-280, Summary: "The proposed new Fees Regulations have been designed with a view to ensuring that feepayers are treated equitably and that there continues to be a relationship between the fees charged and the costs associated with the level of regulatory activity that the Commission performs with respect to each feepaying undertaking or group of undertakings."

³² BNoC 2023-280, Summary.

required to pay”³³ but when this upper fee limit is reached, “other feepayers’ fees would increase, as the differential excess amount would be spread proportionately among other feepaying undertakings.”³⁴

33 Even if the CRTC has a laudable objective – say, limiting a very large broadcaster’s influence on the CRTC’s fees – it has failed to explain its choice of 35%, and has failed to explain how allocating the ‘costs’ payable by that broadcaster to all other broadcasters is equitable or fair. In our view, the proposal is at odds with the statement mentioned above in the Summary of BNoC 2023-280 that the proposed *Licence Fee Regulations* “have been designed with a view to ensuring that ... there continues to be a relationship between the fees charged and the costs associated with the level of regulatory activity that the Commission performs with respect to each feepaying undertaking or group of undertakings.” In reality, the CRTC plans to shift fees charged from some broadcasters to others – regardless of the level of regulatory activity involved.

34 FRPC does not support the CRTC’s re-allocation proposal as described in BNoC 2023-280.

2 Anti-avoidance provision

35 The CRTC’s current *Licence Fee Regulations* contain what BNoC 2023-280 describes as an ‘anti-avoidance’ provision.³⁵ This provision applies “where the licensee has not filed a licence fee return covering 12 months of the most recently completed return year”:

It covers situations such as ensuring that fees can be imposed on newly licensed broadcasting undertakings that do not have financial information covering 12 months of broadcasting revenues. It also captures situations where a licensee neglects its regulatory obligation to file a fee return.³⁶

36 To be more precise, these *Regulations* do not have a specific regulation dealing with avoidance, but rather define “fee revenue” to include “annual revenue” that is “estimated” based on the “trends of the market” in which a licensed undertaking operates, on the undertaking’s previous financial performance or on the licensee’s business plan for the first year. The extent to which the CRTC uses this provision is unknown: the CRTC’s search engine did not disclose any decisions that referred to “licence fee return”. By way of comparison the same search engine listed 776 decisions using the term, “annual return”, and 326 decisions (42% of 776) using the term “annual return” along with either “failure” or “non-compliance”.

37 The Forum’s concern is that the absence of any information about the current or historic incidence of ‘anti-avoidance’ behaviour makes it difficult to assess either the necessity or the effectiveness of the anti-avoidance provisions in the proposed *Licence Fee Regulations*. 29.

³³ BNoC 2023-280, para. 37.

³⁴ BNoC 2023-280, at para. 38.

³⁵ BNoC 2023-280, at paras. 28-29.

³⁶ BNoC 2023-280, at para. 28.

The proposed new Fees Regulations continue to include an anti-avoidance provision, and apply it to all broadcasting undertakings, including online undertakings.

38 FRPC is also concerned about the fairness of the CRTC’s using “the trends of the market, the undertaking’s business plan and previous financial performance, in order to determine its gross annual revenues.”³⁷ Supposing that the CRTC is required to do so – and it seriously overestimates the licence fee required – the proposed *Licence Fee Regulations* appear to prevent the Commission from reimbursing the fee payer if the latter paid the amount deemed to be owing.³⁸

3 From undertakings to ownership groups

39 BNoC 2023-280 sets out an “important change” in the proposed *Licence Fee Regulations*, being the shift from licence-fee payments from individual broadcasting undertakings, to payments from “broadcasting ownership groups”.³⁹

40 Use of the term, ‘broadcasting ownership group’, is in our view somewhat confusing. The proposed *Licence Fee Regulations* in fact define “ownership group” as including “an operator” that in turn is defined as “a person that carries on a broadcasting undertaking to which the Act applies”.⁴⁰ In the same way that a ‘flock of birds’ does not consist of a single bird, it is unclear why a broadcasting ownership group with a single undertaking would constitute an ownership group. Moreover, the proposed *Licence Fee Regulations* does not refer solely to ownership groups; they state, for example, that the regulations apply to “all broadcasting undertakings” (not to all broadcasting ownership groups) and to “online undertakings”.⁴¹

4 \$10 million threshold

41 BNoC 2023-280 does not clearly explain its choice of a \$10 million threshold for exempting those otherwise required to remit licence fees from that necessity. As this amount appears to flow from the CRTC’s proposals in Broadcasting Notices of Consultation 2023-139 and -140, for which the Commission has not yet rendered its decisions – the absence of any justification of this threshold is perhaps unsurprising, though regrettable.

42 That said, BNoC 2023-280 similarly fails to provide any clarity about the impact of this effective exemption on licence fee payments. The Forum believes clarification on this point would benefit fee payers and the general public.

³⁷ BNoC 2023-280, at para. 29.

³⁸ BNoC 2023-280, proposed *Licence Fee Regulations*, s. 9(3): “(3) Any change in the amount of the annual broadcasting fees payable that results from the calculation of the annual adjustment amount referred to in subsection 10(2) is to be charged or credited to the broadcasting ownership group in the following year’s invoice and **must not, in any case, result in a reimbursement on the part of the Commission.**” (Bold font added)

³⁹ BNoC 2023-280, Summary.

⁴⁰ *Proposed Licence Fee Regulations*, s. 1, “broadcasting ownership group” and “operator”; s. 2(c).

⁴¹ *Proposed Licence Fee Regulations*, s. 2.

B. *Other issues*

- 43 BNoC 2023-280 invited “comments on any other issues that may be essential to the proposed new regulations.”⁴² FRPC notes that while the notice addresses equity⁴³ and the existence of a relationship between fees charged and “the costs associated with the level of regulatory activity” involved, it does not address the issues of transparency, openness and accountability. The then-Minister of Canadian Heritage identified these as important in his 6 February 2023 letter to Chairperson Eatrides.⁴⁴ He (and his colleague, ISED Minister Champagne) emphasized that it was important for the CRTC to be “more open” and “transparent”, and that the CRTC currently fell short with respect to the “[a]ccessibility of CRTC processes to the public, non-corporate interest groups, and civil society”.
- 44 We believe that the CRTC’s approach to licence fees should also show its commitment to openness, transparency and accessibility to the public.
- 1 *Transparency – clear, consistent definitions and operationalizations*
- 45 Reviewing the CRTC’s reports to Parliament on its performance, its plan and its results show that the Commission changes the presentation of these reports without explanation. This tends to give the impression that the CRTC’s ‘revenues’ (being its Parliamentary appropriations), the fees it charges and the costs of its regulatory processes are not the public’s business. This impression is not helped by the CRTC’s use of different terms to describe what appears to be the concept: for example, in 2017 the CRTC reported \$59 million in “Actual spending” as well as \$64.8 million in “Actual” “Total expenses” – Table 4.
- 46 While the CRTC, its staff, broadcasters and telcos will understand the differences in these terms clearly, it is unclear whether Canadians share that same understanding.

⁴² BNoC 2023-280, para. 42.

⁴³ “The proposed new Fees Regulations have been designed with a view to ensuring that feepayers are treated equitably” (BNoC 2023-280, Summary).

⁴⁴ Canadian Heritage, *New CRTC Chair’s Leadership Will Help Shape the Future of Canada’s Communication System*, News release (Gatineau, 6 February 2023).

Table 4 CRTC's 2016-17 Departmental Results Report

<p>Canadian Radio-television and Telecommunications Commission</p> <p>2016–17</p> <p>Departmental Results Report</p> <hr/> <p>The Honourable Mélanie Joly, P.C., M.P. Minister of Canadian Heritage</p>	<p style="text-align: right;">2016–17 Departmental Results Report</p> <p>Results at a glance</p> <p>The CRTC's total actual spending in 2016–17 was \$59,076,634, and its total number of actual full-time equivalents was 460.</p> <p>Key results achieved in 2016–17:</p> <ul style="list-style-type: none"> Established a new Universal Service Objective for telecommunications services and announced the creation of a new broadband funding regime to build the infrastructure necessary to make faster Internet available to all Canadians. Revised the policy for local and community television to ensure Canadians continue to have access to local programming, including high-quality local news, which reflects their needs and interests. Signed collaborative agreements with regulators in the United States, New Zealand and Australia to better address the growing threat posed by unwanted and unsolicited communications. <p>For more information on the department's plans, priorities and results achieved, see the "Results: what we achieved" section of this report.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>What funds were used?</p> <p>\$ 59,076,634</p> <p>Actual Spending</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>Who was involved?</p> <p>460</p> <p>Actual FTEs</p> </div> </div> <p style="text-align: right; font-size: small;">Canadian Radio-television and Telecommunications Commission 3</p>	<p style="text-align: right;">2016–17 Departmental Results Report</p> <p>Financial statements and financial statements highlights</p> <p>Financial statements</p> <p>The CRTC's financial statements [unaudited] for the year ended March 31, 2017, are available on the CRTC's website⁴⁵.</p> <p>As required by the Policy on Internal Control, the Core Control Audit Report⁴⁶ and Management Action Plan⁴⁷ are posted on the CRTC's website since the audit was conducted by the Office of the Comptroller General of Canada in 2016–17.</p> <p>Financial statements highlights</p> <p>Condensed Statement of Operations (unaudited) for the year ended March 31, 2017 (dollars)</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Financial information</th> <th>2016–17 Planned results</th> <th>2016–17 Actual</th> <th>2015–16 Actual</th> <th>Difference 2016–17 actual minus 2016–17 planned</th> <th>Difference 2016–17 actual minus 2015–16 actual</th> </tr> </thead> <tbody> <tr> <td>Total expenses</td> <td>67,657,000</td> <td>64,789,000</td> <td>64,446,000</td> <td>-2,868,000</td> <td>320,000</td> </tr> <tr> <td>Total revenues</td> <td>47,885,000</td> <td>47,885,000</td> <td>48,708,000</td> <td>0</td> <td>978,000</td> </tr> <tr> <td>Net cost of operations before government funding and transfers</td> <td>19,972,000</td> <td>17,094,000</td> <td>17,743,000</td> <td>-2,888,000</td> <td>-659,000</td> </tr> </tbody> </table> <p>Note: These figures are net departmental revenues and do not include the revenues collected on behalf of the Government of Canada, which totalled \$124 million for 2016–17.</p> <p>Revenues</p> <p>Revenues collected in 2016–17 totalled \$171.7 million (\$124 million + \$47.7 million), a net increase of \$0.2 million when compared to the total revenues collected in 2015–16. The increase is mainly attributable to an increase in the Part II broadcasting licence fees.</p> <p>Expenses</p> <p>Expenses in 2016–17 totalled \$64.8 million, an increase of \$0.3 million when compared to 2015–16 total expenses.</p> <p style="text-align: right; font-size: small;">Canadian Radio-television and Telecommunications Commission 25</p>	Financial information	2016–17 Planned results	2016–17 Actual	2015–16 Actual	Difference 2016–17 actual minus 2016–17 planned	Difference 2016–17 actual minus 2015–16 actual	Total expenses	67,657,000	64,789,000	64,446,000	-2,868,000	320,000	Total revenues	47,885,000	47,885,000	48,708,000	0	978,000	Net cost of operations before government funding and transfers	19,972,000	17,094,000	17,743,000	-2,888,000	-659,000
Financial information	2016–17 Planned results	2016–17 Actual	2015–16 Actual	Difference 2016–17 actual minus 2016–17 planned	Difference 2016–17 actual minus 2015–16 actual																					
Total expenses	67,657,000	64,789,000	64,446,000	-2,868,000	320,000																					
Total revenues	47,885,000	47,885,000	48,708,000	0	978,000																					
Net cost of operations before government funding and transfers	19,972,000	17,094,000	17,743,000	-2,888,000	-659,000																					
<p>Page 21</p>	<p>Total spending pertains to expenditures incurred by the CRTC in relation to all funding authorities approved during the fiscal year. Funding authorities include all Parliamentary appropriations and revenue sources: Main Estimates, Supplementary Estimates, Treasury Board Vote transfers (including the operating budget carry-forward), and revenues from Part I broadcasting licence fees, telecommunications fees and unsolicited telecommunications fees.</p> <p>For fiscal years 2014–15 to 2016–17, actual spending represents the actual expenditures as reported in the Public Accounts of Canada. For the period from 2017–18 to 2019–20, the planned spending reflects funding approved by Treasury Board to support the CRTC's programs.</p>																									
<p>Yellow highlighting added</p>																										

47 FRPC urges the Commission to commit – if not in the proposed *Licence Fee Regulations* themselves, then in the notice accompanying the final *Regulations* – to clear language, consistent terminology and defined terms. We also suggest that, as part of ‘best administrative practices’, the CRTC convene a meeting of all interested participants including public interest organizations to discuss matters related to the CRTC’s publication of information.

2 Accountability - Service standards and results

48 The Service Fees Act deals at some length with performance standards, beginning with the requirement that such standards must be established with respect to a fee.⁴⁵

49 Before the *Service Fees Act*’s establishment in 2017 the CRTC reported – albeit irregularly – on its performance using a variety of measurable criteria:

⁴⁵ *Service Fees Act*, s. 4: “The responsible authority with respect to a fee must ensure that a performance standard is established in respect of the fee, in accordance with Treasury Board policies or directives, if any.”

- 50 In its departmental *Performance Report* for 1998 (page 41), for example, it described the applications it had received:

Communication concerns? We're listening

Number of calls and correspondence

In 1997-98, we received and responded to 64,817 calls and letters. Almost 37,000 of these pertained to broadcasting issues, with a large proportion relating to the Howard Stern program and the cable industry's launch of the new specialty services. Cable subscribers wanted to know about their options for receiving programming services and inquired frequently about direct-to-home satellite services and other competitors to cable.

The remaining calls and letters (approximately 27,800) concerned telecommunications matters. Our "price cap" decision generated a lot of comments and concerns about the cost and affordability of local telephone service. Slamming, and unsolicited marketing techniques that make use of faxes and telephone calls, remain high on the list of subscriber concerns. We also receive numerous requests to extend the local calling area in a number of communities.

Another busy year for the CRTC

Although we address a number of significant regulatory issues pertaining to communications frameworks, we are also responsible for the day to day processing of the many applications we receive pursuant to the *Broadcasting Act* and *Telecommunications Act*. In 1997-98:

- We processed 2,124 telecommunications-related applications. These include tariffs, agreements, and other applications such as competitive disputes, social and consumers issues, contribution exception, etc. In addition, we issued a total of 1,912 telecommunications Decisions, Orders, Public Notices, Cost Orders and Taxation Orders; and
- We processed 1,379 broadcasting applications pertaining to television, radio, BDU (e.g. cable), pay and specialty services undertakings. These included requests for new licences, licence amendments and renewals, applications for authority to transfer effective control of licensed undertakings, and cable rate filings. In total, we also issued 658 broadcasting Decisions and 143 Public Notices.

(Yellow highlighting added)

- 51 In 2006 the CRTC published service standards for "external fees" which included results in relation to timing:⁴⁶

⁴⁶ CRTC, *Performance Report 2006*, at 41.

Policy on Service Standards for External Fees

Service Standards

The Commission has completed the following template, pursuant to Treasury Board Secretariat's *Policy on Service Standards for External Fees*, with a view to being as comprehensive and transparent as possible.

Broadcasting Services	Service Standards	Stakeholders	Method of annual consultation
1. Administrative Route	<p>Applications that do not require a public process, including transfer of ownership</p> <p>80% in 2 months 90% in 3 months</p>	<p>1. Broadcasting Industry²</p> <p>2. Canadian public</p>	Public notice process (Note 1)
2. Public Notice Route (excluding licence renewals)	<p>Applications that do not give rise to opposing interventions or policy issues</p> <p>80% in 6 months 90% in 8 months</p> <p>Applications that give rise to opposing interventions, but do not raise policy issues</p> <p>80% in 8 months 90% in 10 months</p> <p>Applications that raise policy issues</p> <p>The Commission will advise the applicant that its application raises policy issues within 30 days of this policy issue being identified by the Commission</p>		
3. Licence renewals by public notice route	<p>Applications that do not raise policy issues</p> <p>80% in 8 months 90% in 10 months</p>		

52 The CRTC explained the following year that the Commission sought to be “as comprehensive and transparent as possible” regarding fees:⁴⁷

⁴⁷ CRTC, *Performance Report 2007*, at 45 (yellow highlighting added).

CRTC External Fees and Policy on Service Standard for External Fees

CRTC assesses fees pursuant to the *Broadcasting Licence Fee Regulations 1997*, and the *Telecommunications Fee Regulations 1995*. The CRTC has received a legal opinion indicating that the Part I broadcasting licence fees and telecommunications fees are considered to be external “regulatory fees” and not “user fees” as defined in the *User Fees Act*. Thus these fees, and the external reporting of any information related to these fees, are not subject to the provisions of the *User Fees Act (UFA)*, but rather the *Treasury Board Policy on Service Standards for External Fees*. In order to be as comprehensive and transparent as possible with respect to CRTC external fees, information on broadcasting and telecommunications fees is being presented in the following table.

Yellow highlighting added

represent a 9% increase in the regulatory activities performed by the CRTC.⁴⁸

- 53 By contrast, the CRTC began not to disclose its regulatory activities and performance once the *Service Fees Act* entered into force. Its 2017 reports (and reports thereafter) provide no information about its service standards or performance:

Fees Report for 2021–22

Fee grouping

Broadcasting Licence Fees

Fee

Broadcasting Licence Fee - Part I

Fee-setting authority

Broadcasting Act,^{vi} section 11(1)c); *Broadcasting Licence Fee Regulations, 1997*^{vii} (SOR/97-144)

Year fee-setting authority was introduced

1991

Last year fee-setting authority was amended

2020

Service standard

Not subject to a service standard requirement

Performance result

Not subject to a service standard requirement

Application of Low-Materiality Fees Regulations

Not subject to section 17 of the *Service Fees Act*

⁴⁸ CRTC, *Performance Report 2009*, at 26, “Planned Activities Results” [broadcasting].

Yellow highlighting and oval added

- 54 Yet the fact that they are not required to report on service standards and performance has not prevented other government institutions from providing this information. Canadian Heritage did so in its [2021-22 Fees Report](#), (Cat. No. CH1-41E-PDF) at pages 10 and 11:

Fee grouping

Fee levy under the Canadian Film or Video Production Tax Credit Program (CPTC)

Fee

- Certificate of completion Part A
- Certificate of completion Part B
- Certificates of completion Part A/B
- Certificates of completion (applies to only Part A/B) Minimum Fee

Fees Report for 2021–22

Fee-setting authority

- [Department of Canadian Heritage Act^{vi}](#), 10 (1); *Fees in respect of regulatory processes, etc.*;
- [Fee levy under the Canadian Film or Video Production Tax Credit Program \(CPTC\)^{vii}](#) (Canada Gazette, Part 1, Vol. 156, No 11);
- [Bulletin: March 31, 2022 Adjustment to Fees^{viii}](#);

Year fee-setting authority was introduced

1996

Last year fee-setting authority was amended

2004

Service standard

Not subject to a service standard requirement. The following service standard is not subject to remissions pursuant to the Service Fees Act: Issuance of a certificate within 120 working days from receipt of a complete application.

Performance result

The service standard was met 86% of the time over the course of the year.

Fee grouping

Fee levy under the Film or Video Production Services Tax Credit Program (PSTC)

Fee

- Accreditation Certificate with tax credit of \$25,001 +
- Accreditation Certificate with tax credit between \$20,001 - \$25,000
- Accreditation Certificate with tax credit between \$15,001 - \$20,000
- Accreditation Certificate with tax credit between \$10,001 - \$15,000
- Accreditation Certificate with tax credit between \$0 - \$10,000

Fee-setting authority

- [Department of Canadian Heritage Act^{xiii}](#), 10(1); *Fees in respect of regulatory processes, etc.*;
- [Fee levy under the Film or Video Production Services Tax Credit Program \(PSTC\)^{xiii}](#) (Canada Gazette, Part 1, Vol. 156, No 11);
- [Bulletin: March 31, 2022 Adjustment to Fees^{xiv}](#)

Year fee-setting authority was introduced

1998

Last year fee-setting authority was amended

Not applicable

Service standard

Not subject to a service standard requirement. The following service standard is not subject to remissions pursuant to the Service Fees Act: Issuance of a certificate within 120 working days from receipt of a complete application.

Performance result

The service standard was met 94% of the time over the course of the year.

[Red-line oval added]

55 The CRTC should reconsider its decision to deny Canadians any information about its service and performance standards.

3 *Openness – to all stakeholders including the public*

- 56 A key reason for the CRTC to become more transparent is to demonstrate its willingness to engage with Canadians, rather its ‘stakeholders’ that tend to comprise those it regulates. More than twenty years ago, for example, the CRTC said it was “open, transparent and collaborative” – because in August 1999 it had met with broadcasters and telecommunications in “two roundtable consultations” in which the Commission demonstrated its cost-effectiveness to its “fee-paying community”:

In a highly competitive communications environment, the CRTC’s ability to respond quickly and effectively to applications and requests is a key component of a strong and healthy communications environment. The CRTC is committed to providing timely service delivery and cost-effective use of its resources. We will continue to examine where processes can be re-engineered and resource re-allocations made to enhance our service delivery. We will do so in an open, transparent and collaborative manner with members of the public and our fee payers.

For example, in August 1999, the CRTC conducted two roundtable consultations with members from the broadcasting and telecommunications industry. This forum provided us with the opportunity to demonstrate to our fee-paying community that our resources are spent in a cost-effective manner. It also allowed us to identify areas where our service delivery could be enhanced. Several suggestions that were made at these roundtable sessions have already been implemented. One example is a review of our telecommunications reporting requirements to lighten the regulatory burden on the industry that was conducted in co-operation with industry members.

CRTC, *Departmental Performance Report 2000*, p. 33, yellow highlighting added:

- 57 In 2005 the Commission explained “Full public consultations occur with each change to the telecommunications fee regulations or the broadcasting licence fee regulations.”⁴⁹ The Commission elsewhere described its work with telecommunications companies the same year:

Annual collection of telecommunications industry data
3. Each year, the telecommunications industry is surveyed and is required to provide information. In order to reduce the reporting burden on smaller entities the

⁴⁹ CRTC, *Performance Report 2005*, at 40.

Commission has stratified the industry into two broad groups for the 2005 data collection to simplify the data collection for most of the smaller entities.⁵⁰

58 The CRTC also met with broadcast and telecommunications industry stakeholders in mid-2007, to justify its request for an increase in its operating budget:

In June and July 2007, Commission staff conducted a series of consultations with industry stakeholders. During these consultations, staff indicated that the Commission was seeking an increase to its operating budget for a period of five years. It was explained that these additional resources would be used to respond to government priorities and non-discretionary regulatory responsibilities. Specifically, the Commission would use such resources to address items such as:

- accelerating service delivery to the broadcasting and telecommunications industries;
- managing the transition in the telecommunications sector toward increased de-regulation;
- transforming the regulatory frameworks to lighter regulation in broadcasting, with more free play for market forces, while at the same time achieving the objectives of the Broadcasting Act;
- implementing new legislated responsibilities, e.g. the National “Do Not Call List” (DNCL);
- updating the Commission’s aging information technology infrastructure and systems to enhance client services and reduce the reporting burden;
- addressing workload and inflationary pressures associated with public processes (e.g. the timely processing of ownership transactions) and regulatory issues including new media research; and
- reviewing internal processes to streamline and enhance service delivery.⁵¹

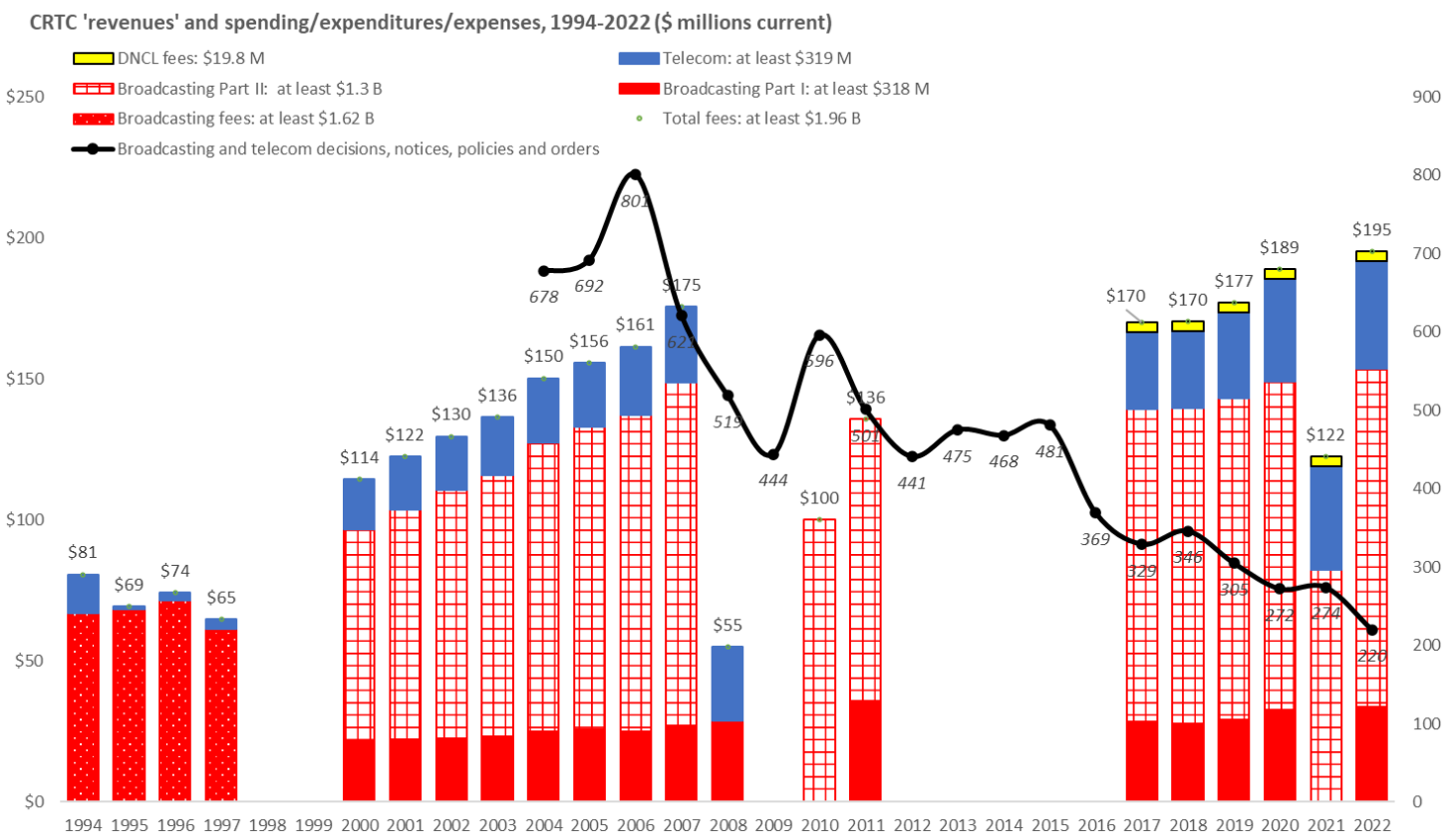
59 The Forum’s concern is that the CRTC’s ongoing private meetings with those who pay for its regulatory costs inadvertently suggests that while its legal mandate is to regulate and supervise broadcasters, it is also obligated to them to the extent that it considers that it must explain its work and the costs of that work to them. Meanwhile, the legal source of the CRTC’s funding is Parliament, through the budgetary appropriations process. Inviting members of the public (such as public-interest organizations) to such meetings could minimize the apparent conflict between the CRTC’s duties and its need for stable and adequate funding.

⁵⁰ *Telecommunications industry data collection: updating of CRTC registration lists, telecommunications fees, Canadian revenue-based contribution regime, international licences and monitoring of the Canadian telecommunications industry*, [Telecom Circular CRTC 2005-4](#) (Ottawa, 9 February 2005).

⁵¹ *Notification of a temporary increase to CRTC Part I Broadcasting Licence Fees and Telecommunications Fees*, Broadcasting Circular CRTC 2007-9 Telecom Circular CRTC 2007-18 (Ottawa, 21 December 2007), para. 3.

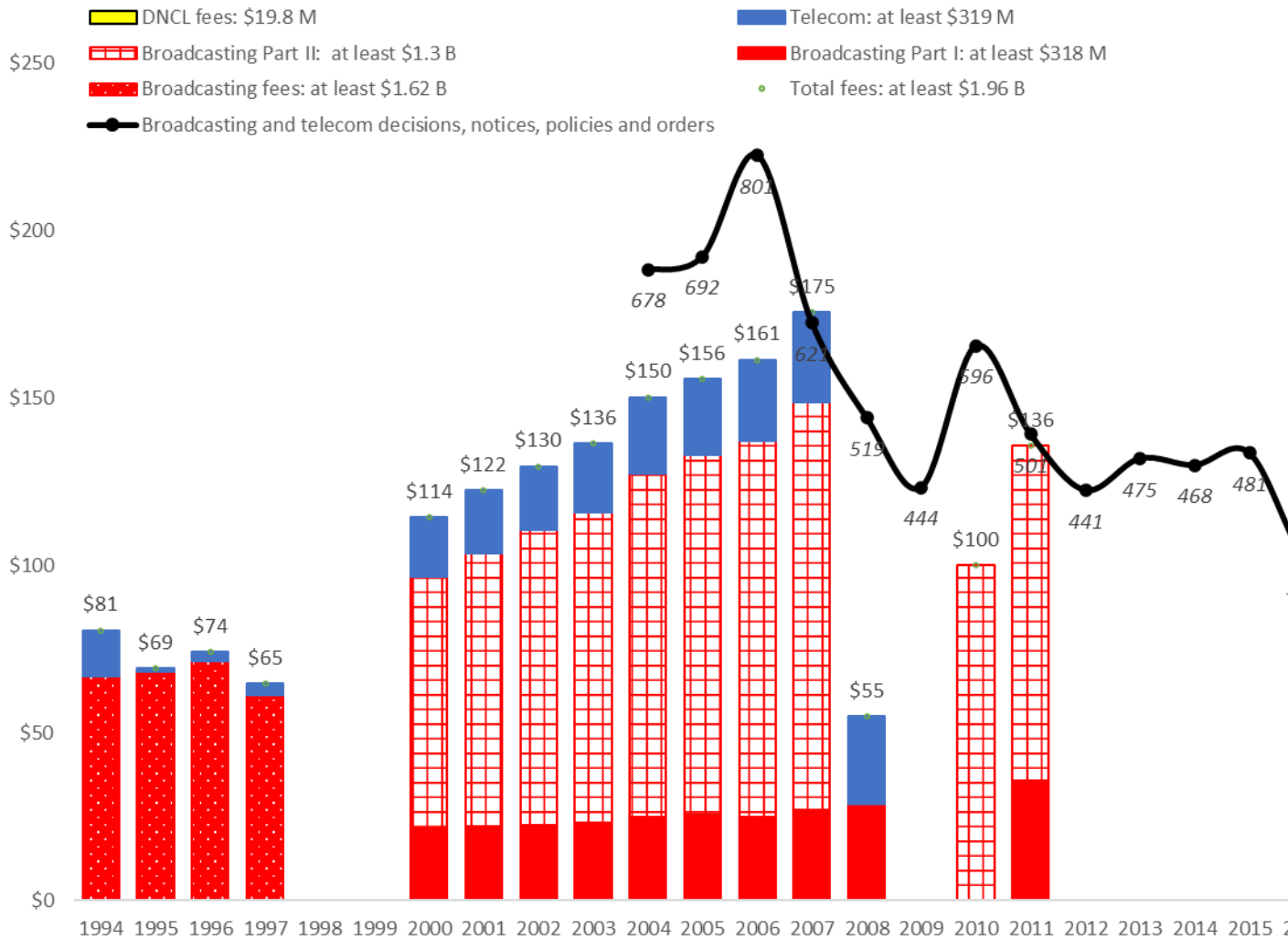
III. Conclusions

- 60 FRPC’s main concerns with the CRTC’s proposed *Licence Fee Regulations* is the absence of any meaningful (or enforceable) commitment to tell Canadians what it is doing and how well it is performing these tasks.
- 61 This past month FRPC estimated the total number of decisions, notices, policies and orders issued by the CRTC since 2004. Combining these estimates with the CRTC’s financial fees’ data suggests fewer such determinations over time, rather than less. This raises obvious concerns about what the CRTC is doing, and how well it is performing.



Sources: CRTC's departmental *Performance Reports*, *Departmental Results Reports* and Treasury Board Secretariat; CRTC Decisions, Notices (Regulatory policies) and Orders, as well as Part 1 (broadcasting) administrative decisions

CRTC 'revenues' and spending/expenditures/expenses, 1994-2022 (\$ millions current)



Sources: CRTC's departmental *Performance Reports*, *Departmental Results Reports* and Treasury Board Notices (Regulatory policies) and Orders, as well as Part 1 (broadcasting) administrative