



7 June 2024

Marc Morin  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

**Re: *Call for comments – Framework under the Online News Act (formerly Bill C-18)*, Online News Notice of Consultation CRTC 2024-55 (Ottawa, 13 March 2024) – reply to the Canadian Magazine Coalition by the Forum for Research and Policy in Communications (FRPC)**

- 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 intervened with respect to [Broadcasting Notice of Consultation CRTC 2024-55](#) on 12 April 2024 and replied to other interveners on 22 April 2024.
- 2 On 31 May 2024 the CRTC's Director of News Remuneration e-mailed parties to the 2024-55 proceeding regarding an intervention the Commission had received by traditional mail on 12 April 2024 from the Canadian Magazine Coalition (Magazine Coalition). The e-mail explained that, through inadvertence, the Magazine Coalition's submission had not been included in the public record of the 2024-55 proceeding. Having added the Magazine Coalition's comment to the public record, the Commission staff invited parties to reply by no later than 7 June 2024. It is unclear whether the Magazine Coalition will be afforded the opportunity to reply to all other interventions in the proceeding.
- 3 FRPC considers that the Magazine Coalition's submission raises concerns with respect to relevance, prematurity and evidence.
- 4 In terms of relevance, FRPC notes that the CRTC said that its purpose in issuing BNoC 2024-55 was to understand interveners' perspectives on three aspects of the work that the [Online News Act](#) requires the Commission to undertake (2024-55, paragraphs 7-8). The Commission did not invite parties to comment on the issue of eligibility but instead asked 27 questions about
  - a. delineating the bargaining process set out in the *Act*,
  - b. determining whether actions of online platforms are unduly discriminatory, preferential or disadvantageous, and

- c. establishing requirements about the data the CRTC may gather to meet the *ONA*'s requirements.
- 5 The Forum respectfully submits that the Magazine Coalition has not demonstrated the relevance of its intervention and its six recommendations, to BNoC 2024-55's questions about bargaining, discrimination or data-collection requirements. The Magazine Coalition recommendations, for example, ask the Commission:
1. To recognize qualified Canadian magazines organizations as eligible in Bill C-18, the Online News Act, as it is the case for qualified Canadian journalism organizations (p.27);
  2. To view the compensation of online news content as fair payment for its use rather than as a replacement for government funding and support;
  3. To acknowledge their essential role of Canadian magazines organizations as contributors in the production of content for local, regional, and national information;
  4. To designate a journalist as eligible if hired by a professional Canadian magazines organizations who produces content of general interest;
  5. To accept Canadian magazines organizations that hire less than two journalists; small magazines organizations and magazines that rely on freelancers rather than staff journalists. [and]
  6. To include Canadian magazines organizations who produce content focused on news, sports, recreation, lifestyle, art, or entertainment.  
(Magazine Coalition submission, page 3)
- 6 Recommendations 1 and 4 address eligibility directly and are therefore not relevant to the questions posed by BNoC 2024-55. Recommendations 2, 3, 5 and 6 appear to ask the CRTC to interpret sections 4, 27(1)(b)(i) and 27(1)(b)(iii) of the *ONA* in ways that contradict Parliament's actual language – action that is outside the Commission's jurisdiction and therefore not relevant to the questions posed by 2024-55.
- 7 That said, if the CRTC were to decide that the Magazine Coalition's submissions are in fact relevant to BNoC 2024-55, FRPC notes that they focus entirely on the matter of eligibility. FRPC respectfully submits that any determination by the CRTC about the eligibility of news organizations is premature due to timing.
- 8 The *ONA* does not require or specifically empower the CRTC on its own motion to initiate a process for determining the eligibility of individual news businesses. Rather, the *Act* requires eligible news businesses or groups of such businesses to initiate bargaining with digital news intermediaries (section 30); these intermediaries may then ask the CRTC to determine whether the news businesses are eligible (section 31). The also *Act* enables a news business to ask the CRTC to designate it as eligible if it meets the criteria in section 27(1). As well, while the CRTC is required to make and "maintain a list of eligible news businesses" it must obtain the consent of each eligible news business *before* including it in this list (section 29(1)).

- 9 The Magazine Coalition does not state either that it or its members have approached a digital news intermediary to initiate a bargaining process, that any digital news intermediary has asked the CRTC to make a determination about the Magazine Coalition or its members' eligibility, or that the CRTC has asked the Magazine Coalition's members for consent to publish their names as eligible news businesses. Moreover, FRPC has been unable to locate a list of eligible news services on the CRTC's website, leading it to conclude that the CRTC has itself not yet made determinations about whether individual enterprises are eligible news businesses so as to seek their consent to publish their names on its list. The Magazine Coalition's requests of the CRTC in its intervention regarding the matter of eligibility therefore seem premature in the context of the matters being addressed by the CRTC in 2024-55.
- 10 If the Commission nevertheless determines that the Magazine Coalition's submissions are relevant and are not premature, FRPC respectfully submits that the organization has provided insufficient evidence to enable the Commission to conclude that the members of the Magazine Coalition are eligible news organizations. The *ONA* and the [Online News Act Application and Exemption Regulations](#) set out the criteria that the Commission must consider for each of the Magazine Coalition's members – namely whether the named member is:
- a. a news business that operates a news outlet in Canada whose primary purpose is to produce news content, defined as “content ... that reports on, investigates or explains current issues or events of public interest” (*ONA*, section 2(1));
  - b. “a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act, or is licensed by the Commission” to provide programming about communities to these communities (*ONA*, section 27(1)(a));
  - c. producing “news content of public interest that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes” (*ONA*, section 27(1)(b)), and more specifically is
    - i. original news content that is “not focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment;” (*ONA*, section 31(2) and *Online News Act Application and Exemption Regulations*, section 10(2)) and is
    - ii. “not intended to promote the interests, or report on the activities, of an organization, an association or its members” (*ONA*, section 31(2));
  - d. regularly employing “two or more journalists in Canada, which journalists may include journalists who own or are a partner in the news business and journalists who do not deal at arm's length with the business” (*ONA*, section 27(1)(b)(i));

- e. operating “in Canada, including having content edited and designed in Canada” (ONA, section 27(1)(b)(ii))
- f. producing “news content that is not primarily focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment” (ONA, section 27(1)(b)(iii)), and is
- g. “either a member of a recognized journalistic association and follows the code of ethics of a recognized journalistic association or has its own code of ethics whose standards of professional conduct require adherence to the recognized processes and principles of the journalism profession, including fairness, independence and rigour in reporting news and handling sources” (ONA, section 27(1)(b)(iv)),  
or that it
- h. “operates an Indigenous news outlet in Canada and produces news content that includes matters of general interest, including coverage of matters relating to the rights of Indigenous peoples, including the right of self-government and treaty rights.” (ONA, section 27(1)(c)).

**11** In other words, the CRTC must consider eligibility with respect to the nine criteria set out in paragraph 9(a), (b), (c), (c)(i), (c)(ii), (d), (e), (f) and (g) above, or the three criteria set out in paragraph 9(h) above having to do with whether an organization is a new outlet, is Indigenous and produces news content. The limited evidence set out by the Magazine Coalition does not address these criteria specifically and is insufficient to enable the CRTC to conclude either that the individual members described or the Magazine Coalition’s membership as a whole meet these criteria.

To summarize, the Forum respectfully submits that the Magazine Coalition’s submissions regarding BNoC 2024-55 are not relevant to 2024-55, that (if the CRTC considers these submissions to be relevant to 2024-55) its requests of the CRTC have been made prematurely, and that (if the CRTC considers the Magazine Coalition’s submissions to be either relevant or timely) the evidence set out in the submission is insufficient to enable the CRTC to reach any determination regarding the eligibility as news organizations of either the Magazine Coalition or its individual members.

FRPC has appreciated the opportunity to respond to the Magazine Coalition’s submission.



Monica L. Auer, M.A., LL.M.      [execdir@frpc.net](mailto:execdir@frpc.net)  
Executive Director  
Forum for Research and Policy in Communications (FRPC)  
Ottawa, Ontario