



PUBLIC  
INTEREST  
ADVOCACY  
CENTRE

LE CENTRE  
POUR LA  
DÉFENSE DE  
L'INTÉRÊT PUBLIC

2024 08 06

Marc Morin  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

Filed online

Dear Secretary General,

**Re: Part 1 Broadcasting Application 2024-0355-9, *Proposal to expand the mandate of the Broadcasting Participation Fund* (5 July 2024) – FRPC and PIAC – intervention**

Please find attached the joint intervention of the Forum for Research and Policy in Communications (FRPC) and the Public Interest Advocacy Centre (PIAC) with respect to the above-noted application.

FRPC and PIAC look forward to reviewing other participants' comments.

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

John Lawford  
Executive Director  
Public Interest Advocacy Centre (PIAC)  
Ottawa, Ontario  
[jlawford@piac.ca](mailto:jlawford@piac.ca)



PUBLIC  
INTEREST  
ADVOCACY  
CENTRE

LE CENTRE  
POUR LA  
DÉFENSE DE  
L'INTÉRÊT PUBLIC

**Application 2024-0355-9**

Joint intervention by the  
Forum for Research and Policy in Communications (FRPC)  
and the  
Public Interest Advocacy Centre (PIAC)

6 August 2024

Monica Auer  
Executive Director  
Forum for Research and Policy in Communications

John Lawford  
Executive Director  
Public Interest Advocacy Centre



## Contents

<b>Summary</b>	<b>4</b>
<b>I Introduction</b>	<b>1</b>
<b>II The Broadcasting Participation Fund (BPF), Inc./Le fonds de participation à la radiodiffusion (FPR)</b>	<b>2</b>
A Initial proposal to establish the BPF	2
B Regulatory Policy CRTC 2012-181	3
<b>III Changes to the CRTC's enabling statutes since BPF-FPR's establishment</b>	<b>4</b>
A Online News Act	4
B Canadian Radio-television and Telecommunications Commission Act	5
<b>IV Proposals for change by BPF-FPR</b>	<b>6</b>
A Revised mandate and its timing	6
1 BPF-FPR should use mandate approved by the CRTC in 2012	6
2 Changed text should be based on principles of Canadian statutory interpretation	12
B Revised Articles of Incorporation	14
C Revised by-laws	14
1 "CRTC-regulated industry"	14
2 Fund disbursements	15
<b>Appendices</b>	<b>17</b>
Appendix 1 Amendments required by CRTC in Broadcasting Regulatory Policy 2012-181	1
Appendix 2 List of changes proposed by FRPC and PIAC	4
<b>Figures</b>	
Figure 1 Four CRTC decisions that provided the BPF-FPR with support for the Fund	3
Figure 2 Broadcasting Decision CRTC 2012-181 – proposed mandate of the BPF as it then was	8
Figure 3 6 September 2012 Articles of Incorporation of the BPF-FPR	11
<b>Tables</b>	
Table 1 BPF-FPR's proposed changes to its mandate	6
Table 2 Mandate quoted in Application 2024-0355-9 versus mandate approved in 2012	9
Table 3 CRTC amendments to BPF-FPR mandate as shown in BPF-FPR's articles of incorporation	11
Table 4 Mandate approved in 2012-181 and BPF-FPR's proposed changes	13
Table 5 Application's proposal and FRPC-PIAC recommended changes to its Articles	14
Table 6 BPF-FPR's proposed amendments in section 1 of its by-laws and FRPC-PIAC proposals	16



## Summary

- ES 1.** On 5 July 2024 the CRTC invited comments on Application 2024-0355-9, submitted on 18 June 2024 by the Broadcasting Participation Fund (BPF), Inc./Le fonds de participation à la radiodiffusion (FPR). It asked the CRTC to approve the BPF-FPR's proposal to expand its mandate to encompass CRTC proceedings initiated under the *Online News Act*.
- ES 2.** The Forum for Research and Policy in Communications (FRPC) and the Public Interest Advocacy Centre (PIAC) are intervening jointly in support of Application 2024-0355-9.
- ES 3.** After providing historical context for the establishment of the BPF-FPR a decade ago and describing statutory enactments related to the *Online News Act* since then, the FRPC-PIAC intervention addresses the proposals in Application 2024-0355-9 in Part IV.
- ES 4.** FRPC and PIAC support the BPF-FPR's application provided several relatively minor changes to wording are made to reflect the BPF-FPR's intent, particularly with respect to the mandate of the BPF-FPR approved by the Commission in 2012.
- ES 5.** FRPC and PIAC recommend that
- language regarding the BPF-FPR's mandate reflect the mandate actually approved by the CRTC in the Appendix to BRP 2012-181 and that this mandate be amended to reflect the passage of the *Online News Act*
  - the changes FRPC and PIAC have proposed with respect to the BPF-FPR's mandate be reflected in the proposed changes to its Articles of Incorporation
  - all reference to 'digital news' be replaced with references to "online news"
  - the text referring to "proceedings establishing the Online News Act framework, and proceedings under such framework" that is proposed for inclusion in the BPF-FPR's mandate, its Articles of Incorporation and in Section 1(r) of the BPF-FPR's by-laws be replaced by "online-news matters under the Online News Act"
  - the concept of 'broadcasting industry' in the BPF-FPR's proposed by-law definition be replaced by a phrase denoting those regulated by the Commission under the current *Broadcasting Act* and *Online News Act* – "CRTC-regulated Industry", and that
  - the original term, Disbursements, and the original cross-reference to section 49 in section 1(r) of the BPF-FPR's by-laws be retained.



## I Introduction

- 1 The Forum for Research and Policy in Communications (FRPC) is a federally incorporated, non-profit organization established to undertake research and policy analysis about communications, including broadcasting and telecommunications. The Forum supports a strong Canadian communications system that serves the public interest.
- 2 The Public Interest Advocacy Centre (PIAC) is a federally incorporated non-profit organization that works to ensure that government and the private sector consider the public interest, consumer rights, as well as values like diversity and equal opportunity, when making decisions about public services that are vital to participation in society.
- 3 On 5 July 2024 the CRTC posted a letter from the Broadcasting Participation Fund (BPF) Inc./Le fonds de participation à la radiodiffusion (FPR) (BPF-FPR) dated 18 June 2024, as Application 2024-0355-9 under Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.<sup>1</sup> (In the remainder of this intervention its references to the BPF-FPR denote the entity whose guiding mind is its Board of Directors, while references to the “Fund” mean its financial assets.)
- 4 The BPF-FPR’s letter asked the CRTC to approve the Fund’s proposal to expand its mandate to refer to the *Online News Act*, a statute that [entered into force](#) on 22 June 2023.
- 5 FRPC and PIAC are intervening jointly regarding Application 2024-0355-9. FRPC and PIAC have each applied to the BPF-FPR for the reimbursement of costs incurred with respect to matters under the *Broadcasting Act*. PIAC is one of the founding stakeholders of the BPF-FPR, and FRPC was accepted by the BPF-FPR as one of its stakeholders in 2020.<sup>2</sup>
- 6 FRPC also participated in the proceeding initiated by the CRTC in *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). (FRPC did not apply to the BPF-FPR for the reimbursement of these costs because it had advised that its articles and by-laws limited its consideration of cost-reimbursement applications to matters under the *Broadcasting Act*.)
- 7 FRPC and PIAC support the BPF-FPR’s request that the CRTC approve the addition of matters under the *Online News Act* to the mandate of the BPF-FPR, as Parliament specifically envisaged public consultations through the CRTC about this legislation, with one change. Specifically, ***FRPC and PIAC propose that the language regarding the BPF-FPR’s mandate reflect the mandate actually approved for the BPF-FPR by the CRTC in BRP 2012-181.***

---

<sup>1</sup> SOR/2010-277, am. 2021 04 08.

<sup>2</sup> Article 73 of the BPF-FPR by-laws entitle its stakeholders to nominate members of the BPF-FPR’s Board of Directors. stakeholders are entitled



8 Part II of this intervention briefly describes the formation and purpose of the BPF-FPR. Part III briefly summarizes the impact of the *Online News Act* on the CRTC, including Parliament's intention that the Commission consult with the public in some circumstances, while Part IV sets out the grounds for the support by FRPC and PIAC of the BPF-FPR's proposal and its proposals for minor changes to wording which better reflect the mandate of the BPF-FPR approved by the CRTC in 2012 and Canadian statutory drafting principles.

## II The Broadcasting Participation Fund (BPF), Inc./Le fonds de participation à la radiodiffusion (FPR)

### A *Initial proposal to establish the BPF*

9 In spring 2011 the CRTC approved an application by BCE Inc. (BCE) to acquire effective control of CTVglobemedia Inc. (CTVgm) so as to ensure "the long-term stability of a significant Canadian television network".<sup>3</sup> The CRTC required BCE to include a Canadian broadcasting participation fund as part of the "tangible benefits"<sup>4</sup> that the CRTC expected the change in ownership would achieve for Canada's broadcasting system. PIAC proposed that the CTVgm tangible benefits include funding "for an independent fund to represent non-commercial consumer interests before the Commission in its broadcasting proceedings".<sup>5</sup>

10 The Commission accepted PIAC's proposal as "an appropriate starting point" for developing the mandate, governance and operation of "a new Canadian Broadcasting Participation Fund (CBPF)", with a goal of representing "non-commercial user interests before the

---

<sup>3</sup> *Change in effective control of CTVglobemedia Inc.'s licensed broadcasting subsidiaries*, [Broadcasting Decision CRTC 2011-163](#) (Ottawa, 7 March 2011), Introductory text (italics removed from original text) [Decision CRTC 2011-163].

<sup>4</sup> The CRTC first set out the idea of benefits as a way of evaluating applications for changes in ownership of broadcasting assets in 1977. It wrote that,

... in cases of transfers of ownership and control, particularly one of such significance, the onus is on the applicants to demonstrate that approval of the transfers would be in the interest of the public, the communities served by the licensees, including listeners, viewers and cable television subscribers, and the Canadian broadcasting system. **In transactions of this magnitude, there must be significant and unequivocal benefits demonstrated to advance the public interest.** ...

Decision CRTC 77-456 (Ottawa, 28 July 1977)

Apart from its concern that changes in ownership yield 'significant and unequivocal benefits', the CRTC was also cognizant of the implications of adopting competitive licensing in the context of ownership transactions. In 1978 the CRTC said it had

... given serious consideration to the possibility of implementing a competitive transfer system whereby if control of a licensed undertaking were to be transferred, the situation would be treated as if the existing licence was being surrendered and a new one in its place being applied for, with interested parties entitled to submit competing applications. Such a procedure has been strongly advocated by a number of critics and intervenors. The Commission finds, however, that while there is much merit in theory in such a process, there are also such formidable obstacles to its implementation as to render it impracticable.

*Proposed CRTC Procedures and Practices Relating to Broadcasting Matters*, Public Announcement (Ottawa, 25 July 1978) at p. 44

The CRTC later set out elements of its 'test' for tangible and intangible benefits of ownership transactions in CRTC, *Application of the Benefits Test at the Time of Transfers of Ownership or Control of Broadcasting Undertakings*, [Public Notice CRTC 1993-68](#) (Ottawa, 26 May 1993).

<sup>5</sup> *Change in effective control of CTVglobemedia Inc.'s licensed broadcasting subsidiaries*, [Broadcasting Decision CRTC 2011-163](#) (Ottawa, 7 March 2011), at para. 47.



Commission in its broadcasting proceedings”. Decision CRTC 2011-163 stated that this fund “...should facilitate the participation of public interest and consumer groups across Canada in both official languages. The fund should be used to assist in the representation, research and advocacy of these interests. ...”<sup>6</sup>

- 11 The CRTC directed BCE to file a proposal for the fund in March 2011<sup>7</sup> and called for comments later in August about a proposal submitted jointly by BCE and PIAC.<sup>8</sup>

**B Regulatory Policy CRTC 2012-181**

- 12 In March 2012 Broadcasting Regulatory Policy CRTC 2012-181<sup>9</sup> set out the CRTC’s determinations about the joint proposal for the BPF-FPR, its mandate as well as changes the CRTC required to the draft articles of incorporation for the BPF-FPR and the organization’s By-law.
- 13 The Broadcasting Participation Fund (BPF), Inc./Le fonds de participation à la radiodiffusion (FPR) was incorporated in September 2012 as a not-for-profit corporation without share capital under Part II of the then-*Canada Corporations Act*.
- 14 Since its incorporation four CRTC decisions required three broadcasters to direct payments to the Fund to support the BPF-FPR in meeting its mandate.

**Figure 1 Four CRTC decisions that provided the BPF-FPR with support for the Fund**

BCE	<i>Change in effective control of CTVglobemedia Inc.’s licensed broadcasting subsidiaries</i> , <a href="#">Broadcasting Decision CRTC 2011-163</a> (Ottawa, 7 March 2011), “58: ..., the Commission <b>directs</b> BCE to allocate its benefits contribution as set out in Appendix 1. Further, given the magnitude of the benefits, the Commission <b>directs</b> BCE to submit with its annual return for each of the next seven years a detailed report on the manner in which these tangible benefits have been spent.”
BCE	<i>Astral broadcasting undertakings – Change of effective control</i> , <a href="#">Broadcasting Decision CRTC 2013-310</a> (Ottawa, 27 June 2013) “157. As set out in Public Notice 1999-97, for transfers of ownership or control involving television programming undertakings, the Commission generally <b>expects</b> applicants to make clear and unequivocal commitments to provide tangible benefits. “158....the Commission has calculated the tangible benefits package to be \$175,400,000, as indicated in the table set out in paragraph 153 above. The Commission <b>directs</b> BCE to file by no later than 29 July 2013 a revised tangible benefits package with a value of \$175,400,00 that reflects the Commission’s determinations set out below.”
Sirius	<i>Tangible benefits proposal by Sirius XM Canada Inc.</i> , <a href="#">Broadcasting Decision CRTC 2018-91</a> (Ottawa, 16 March 2018), “38. ... approves Sirius XM’s proposal to contribute \$1 million to the BPF paid in two equal installments of \$500,000 in year 1 and 2 “ <b>directs</b> Sirius XM ... to contribute an additional \$596,666 to the BPF expended in equal amounts over five consecutive broadcast years starting in year 3”
Rogers	<i>Shaw Communications Inc. – Change of ownership and effective control</i> , <a href="#">Broadcasting Decision CRTC 2022-76</a> (Ottawa,

<sup>6</sup> *Ibid.*, at para. 48

<sup>7</sup> *Ibid.*

<sup>8</sup> *Call for comments on the Canadian Broadcasting Participation Fund*, [Broadcasting Notice of Consultation CRTC 2011-524](#) (Ottawa, 24 August 2011), para. 4.

<sup>9</sup> *Broadcasting Participation Fund*, [Broadcasting Regulatory Policy CRTC 2012-181](#) (Ottawa, 26 March 2012).



24 March 2022)

68. ... the Commission **requires** Rogers to propose a revised tangible benefits package that allocates \$725,439 each to the BPF and the BAF. In addition, the Commission requires Rogers to make these payments over three consecutive broadcast years instead of the usual seven given the funds' current circumstances and the significant role that they will be called on to play in the near future.

69. ... the Commission requires Rogers, **as a condition of approval**, to file by no later than 25 April 2022, an application to amend the conditions of licence for all of the television programming undertakings currently operated by a Rogers-related entity to require it to report annually on its tangible benefits expenditures stemming from this transaction.

### III Changes to the CRTC's enabling statutes since BPF-FPR's establishment

15 Since the BPF-FPR's incorporation Parliament has enacted new statutes including the *Online News Act* and has amended its statutes governing the CRTC and broadcasting.<sup>10</sup>

#### A *Online News Act*

16 The government introduced its new legislation concerning payments by online platforms to Canadian news organizations to the House of Commons on 5 April 2022. Bill C-18, an Act "respecting online communications platforms that make news content available to all persons in Canada",<sup>11</sup> empowered the Commission to make regulations regarding "fees to be paid for the provision of services – including dealing with a complaint or providing regulatory processes ...."<sup>12</sup> (In late June 2024, the Commission raised the matter of funding of public-interest participation in *Online News Act* processes in a separate proceeding.<sup>13</sup>)

<sup>10</sup> Parliament also enacted the [Accessible Canada Act](#) in 2019 and the [Online Streaming Act](#) in 2023.

<sup>11</sup> Hansard, *House of Commons Debates*, [44<sup>th</sup> Parl., 1<sup>st</sup> Sess., Vol. 151 \(No. 053\)](#), 5 April 2022.

<sup>12</sup> *Online News Act*, s. 79:

(1) The Commission may make regulations respecting fees to be paid for the provision of services — including dealing with a complaint or providing regulatory processes — under this Act, including regulations

(a) fixing those fees or setting out the manner of calculating them;

(b) establishing classes of operators and of news businesses and groups of news businesses for the purposes of paragraph (a);

(c) respecting the payment of those fees, including the time and manner of payment; and

(d) respecting the interest payable in respect of overdue fees.

...

Amount not to exceed cost

(3) Fees that are payable under regulations made under subsection (1) must not in the aggregate exceed the costs that the Commission determines to be attributable to providing the service.

Criteria

(4) Regulations made under subsection (1) may provide for fees to be calculated by reference to any criteria that the Commission considers appropriate, including

(a) the revenues of the operator, the news business or the group of news businesses; or

(b) the market served by the operator's digital news intermediary or by the news outlets operated by the news business or by the members of the group of news businesses.

<sup>13</sup> *Call for comments – Application for exemption from the Online News Act by Google*, [Online News Notice of Consultation CRTC 2024-143](#) (Ottawa, 27 June 2024), [2024-143-1](#) (Ottawa, 9 July 2024), at paragraphs 37 to 38. PIAC and FRPC filed a joint intervention in this proceeding on 6 August 2024.





- 17 The House of Commons Standing Committee on Canadian Heritage (CHPC) began its study of the bill on 23 September 2022.<sup>14</sup> After 14 meetings CHPC presented its report on the bill to the House on 9 December 2022.<sup>15</sup> During its [25 November 2022](#) meeting the members of CHPC voted unanimously to recommend public consultation with respect to exemptions that the CRTC might grant under the *Online News Act* and to provide for five-year renewals of such exemption orders:

Mr. Peter Julian [New Westminster-Burnaby]:

Thank you very much, Mr. Chair.

[Translation]

This amendment comes from the National Federation of Communications and Culture, and it seeks to provide for consultation regarding exemptions.

We move that the following be added to Clause 11 of the bill:

(a.1) the Commission has held public consultations in accordance with any conditions that its Chairperson may specify;

Our amendment also adds the following paragraph to Clause 11:

(5) The order remains in effect for a period of not more than five years and, subject to this section, may be renewed.

Consultation would provide greater guidance on exemptions and, in turn, limit them.

I'd like to thank the National Federation of Communications and Culture for recommending these important changes to the amendment.

The Vice-Chair (Mr. Kevin Waugh):

Is there any discussion on NDP-8?

Seeing no other hands, we will call for the vote.

(Amendment agreed to: yeas 10; nays 0)<sup>16</sup>

- 18 The House of Commons adopted the changes proposed by its Standing Committee and passed Bill C-18 on 14 December 2022. While the Senate Standing Committee on Transport and Communications subsequently proposed changes to the bill in its report of [14 June 2023](#), the Committee did not suggest changing the public-consultation amendment made by the Heritage Committee and this amendment remained in place when the *Online News Act* received Royal Assent on 22 June 2023.

## ***B Canadian Radio-television and Telecommunications Commission Act***

- 19 The CRTC was originally established by Parliament in the 1968 *Broadcasting Act*.<sup>17</sup> When Parliament prepared for the expansion of federal authority over telecommunications in the

---

<sup>14</sup> House of Commons Standing Committee on Canadian Heritage, *Evidence*, [44<sup>th</sup> Parl., 1<sup>st</sup> Sess., No. 043](#) (23 September 2022).

<sup>15</sup> Standing Committee on Canadian Heritage, *Study: Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada*, [Fourth Report \(44<sup>th</sup> Parl., 1<sup>st</sup> Sess.\)](#).

<sup>16</sup> Standing Committee on Canadian Heritage, *Evidence*, [44<sup>th</sup> Parl., 1<sup>st</sup> Sess., No. 056](#) (25 November 2022; the Member for New Westminster-Burnaby).

<sup>17</sup> In Part II of the Act, 16 & 17 Eliz. 2, c. 25. The Commission's legal name from 1968 to 1974 was the Canadian Radio-Television Commission (CRTC).



mid-1970s it enacted the *Canadian Radio-television and Telecommunications Commission Act*<sup>18</sup> (CRTC Act), amending the CRTC's legal name but not its acronym.

- 20 In enacting the *Online News Act* Parliament also amended the *Canadian Radio-television and Telecommunications Commission Act* (CRTC Act) to enable it to exercise the powers and perform the duties derogated to it with respect to online news.<sup>19</sup>

#### IV Proposals for change by BPF-FPR

- 21 According to its 18 June 2024 letter the BPF-FPR proposes to expand its mandate “as described in CRTC 2012-181 ...to include interventions” made with respect to the *Online News Act* (Application 2024-0355-9, page 2). The BPF-FPR explains that “prompt action is required to ensure that groups representing the public interest can apply for cost awards in order to participate in proceedings under the” *Online News Act*.
- 22 Application 2024-0355-9 asks the CRTC to approve changes to the BPF-FPR's mandate set out in Broadcasting Regulatory Policy CRTC 2012-181, to its Articles of Incorporation and also to its by-laws.
- 23 As set out below, FRPC and PIAC support the proposed changes proposed by the BPF-FPR while proposing clarifications with respect to mandate, wording and timing.

##### A Revised mandate and its timing

- 24 FRPC and PIAC support the BPF-FPR's proposal to incorporate a reference to the *Online News Act*, while proposing changes that reflect the mandate approved by the CRTC 12 years ago and that remove extraneous and non-parallel wording.

##### 1 BPF-FPR should use mandate approved by the CRTC in 2012

- 25 The BPF-FPR's application quotes its mandate and uses bold font to highlight the changes it proposes concerning the *Online News Act*: Table 1.

**Table 1 BPF-FPR's proposed changes to its mandate**

BPF-FPR's 18 June 2024 letter at page 2	
The BPF would:	
<ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the CRTC in broadcasting matters under the Broadcasting Act <b>and in digital news matters under the proceedings establishing the <i>Online</i></b></li></ul>	

<sup>18</sup> *Canadian Radio-television and Telecommunications Commission Act*, 23 & 24 Eliz. 2, c. 49 (19 June 1975).

<sup>19</sup> S. 89 of the *Online News Act*:

Section 12 of the Canadian Radio-television and Telecommunications Commission Act is amended by adding the following after subsection (1):

Digital news

(1.1) The Commission exercises the powers and performs the duties and functions conferred on it under the *Online News Act*.



BPF-FPR's 18 June 2024 letter at page 2	
<b>News Act framework, and proceedings under such framework;</b>	
	<ul style="list-style-type: none"><li>support research, analysis and advocacy in both official languages directly related to ongoing CRTC broadcasting proceedings under the Broadcasting Act <b>and CRTC digital news proceedings under the <i>Online News Act</i></b>;</li></ul>

- 26 The text quoted by the BPF-FPR in its application reflects the mandate *initially* proposed for the BPF-FPR and quoted by the CRTC in Decision CRTC 2012-181: Figure 2 (next page).
- 27 The CRTC, however, amended the mandate proposed for the BPF. The Commission stated at paragraph 18 of BRP 2012-181 that it required changes to

...the wording of BPF's mandate to ensure that the monies will be directed to support research, analysis and advocacy in the official language of the applicant's choice in broadcasting proceedings under the *Broadcasting Act* and that the monies will not be directed to other issues or concerns of the Commission or to groups that are not making submissions to the Commission as part of a Commission broadcasting proceeding. The Commission further directs [revision to] the wording of the mandate to include a provision stating that the BPF will also provide efficient and accessible service in English and French, and make the documents that potential costs applicants use and consult available in both official languages. **The revised wording is set out in the appendix to this regulatory policy.**  
[bold font added]

- 28 The Commission then set out the changes to the BPF mandate which it required in the "List of amendments required by the Commission" it appended to BRP 2012-181 in the context of the BPF-FPR's then-proposed Articles of Incorporation (see Appendix 1).
- 29 Specifically, the CRTC required four changes to the BPF mandate:
- Recognition of the different conditions and requirements of English- and French-language broadcasting;
  - Confirmation that applicants could undertake their research, analysis and advocacy work in the official language of their choice, and also that they would be undertaking this work not "directly related to ongoing" CRTC broadcasting proceedings, but rather 'in' those proceedings'
  - Referring in the English-language version of the text only to a costs, rather than a costing, officer who would be subject to the overriding authority of the Corporation's Board of Directors, and the
  - Addition of text regarding the BPF-FPR's efficient operation and the provision of its documents in both official languages.

**Figure 2 Broadcasting Decision CRTC 2012-181 – proposed mandate of the BPF as it then was**

### The proposal

5. The BCE and PIAC's proposal addressed the mandate and governance structure of the BPF, how applications to the BPF would be processed, as well as the process by which the BPF would be dissolved, if necessary. A copy of the complete proposal is available as part of the record of this proceeding.

### Mandate

6. The BPF would:
- provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the CRTC in broadcasting matters under the *Broadcasting Act*;
  - support research, analysis and advocacy in both official languages directly related to ongoing CRTC broadcasting proceedings under the *Broadcasting Act*;
  - retain an independent costing officer who shall be responsible for the day-to-day operations of the BPF subject to the overriding authority of the Board; and
  - do all things which are in furtherance of the foregoing.

### La proposition

5. La proposition de BCE et du CDIP examine le mandat et la structure de gouvernance du FPR, son processus de traitement des demandes et sa procédure de dissolution, le cas échéant. La proposition complète a été déposée au dossier de la présente instance.

### Mandat

6. Les obligations du FPR seraient les suivantes :
- contribuer aux dépenses des groupes de consommateurs et aux organismes de défense de l'intérêt public représentant l'intérêt public et les intérêts des utilisateurs non commerciaux qui participent aux instance du CRTC en radiodiffusion en vertu de la *Loi sur la radiodiffusion*;
  - soutenir la recherche, l'analyse et la défense des intérêts menées dans les deux langues officielles qui sont directement reliées aux instances courantes du CRTC en radiodiffusion en vertu de la *Loi sur la radiodiffusion*;
  - engager un gestionnaire des coûts indépendant qui serait responsable, sous réserve du pouvoir prépondérant du conseil d'administration, du fonctionnement quotidien du FPR;
  - accomplir tout ce qui contribue à la réalisation de ce qui précède.

**30** The English-language and French-language versions of the CRTC's 2012 changes to the then-proposed BPF-FPR mandate are shown below in Table 2 (next page).

**31** FRPC and PIAC note that this part of the BRP 2012-181 Appendix has a minor anomaly with respect to its prefatory statement about text set out in parentheses. Specifically, the CRTC's Appendix states in this section that this text was "to be removed, except for digits/numbers". As the pink highlighting Table 2 indicates, however, the text in



parentheses in the left-hand “Proposed” column is retained in the right-hand “Amendment” column except for the underlined words in III(b) – “current” (English-language version) and “courantes” (French-language version). Given the other changes to the III(b) text in this paragraph it appears that the Commission clearly wanted the reference to current CRTC proceedings to be removed.

**Table 2 Mandate quoted in Application 2024-0355-9 versus mandate approved in 2012**

<b>English-language version Appendix to <u>Broadcasting Regulatory Policy CRTC 2012-181</u></b>	
Proposed Elements in ( ) to be removed, except for digits/numbers <b>Bold font</b> in original 2021-181 text	Amendment  <b>Bold font</b> in original 2021-181 text
<i>Note: pink highlighting added by FRPC and PIAC shows elements in parentheses</i>	<i>Note: yellow highlighting added by FRPC and PIAC shows difference from “proposed” text</i>
II The applicants ...	II: Add the sector/industry each applicant is representing
III	III: Amend
(a) provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission “CRTC” in broadcasting matters under the <i>Broadcasting Act</i> (Canada);	(a) provide costs support to public interest groups and consumer groups representing non- commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission “CRTC” in broadcasting matters under the <i>Broadcasting Act</i> (Canada), recognizing that English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;
(b) support research, analysis and advocacy in both official languages directly related to (ongoing) CRTC broadcasting proceedings under the <i>Broadcasting Act</i> (Canada);	(b) support research, analysis and advocacy in the official language of the applicant’s choice in CRTC broadcasting proceedings under the <i>Broadcasting</i> <i>Act</i> (Canada);
(c) retain an independent costing officer who shall be responsible for the day-to-day operations of the BPF subject to the overriding authority of the Board; and	(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;
[absent]	(d) provide efficient and accessible service in English and French and make available in both official languages the Corporation’s documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and
(d) do all things which are in furtherance of the foregoing.	(e) do all things which are in furtherance of the foregoing.



French-language version (Appendix to <a href="#">Politique réglementaire de radiodiffusion CRTC 2012-181</a> )	
Proposé Éléments en ( ) à supprimer, à l'exception des chiffres/nombres	Modification
II Les demandeurs...	II: Ajouter  Ajouter le secteur/industrie que chaque demandeur représente.
III	
(a) contribuer au paiement des frais de groupes d'intérêt public et de groupes de consommateurs représentant les intérêts des usagers non commerciaux et l'intérêt public devant le Conseil de la radiodiffusion et des télécommunications canadiennes (« CRTC ») sur des questions de radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);	(a) <b>fournir un soutien financier sous forme d'attribution</b> de frais <b>aux</b> groupes d'intérêt public et groupes de consommateurs représentant les intérêts des usagers non commerciaux et l'intérêt public devant le Conseil de la radiodiffusion et des télécommunications canadiennes (« CRTC ») sur des questions de radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada), <b>reconnaissant que les radiodiffusions de langues française et anglaise, malgré certains points communs, diffèrent quant à leurs conditions d'exploitation et, éventuellement, quant à leurs besoins;</b>
(b) soutenir la recherche, l'analyse et la défense des intérêts menées dans les deux langues officielles qui sont directement reliées aux instances (courantes) du CRTC en radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);	(b) soutenir la recherche, l'analyse et la défense des intérêts <b>des consommateurs, dans la langue officielle du choix du demandeur,</b> pour les instances du CRTC en radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);
(c) Modification à la version anglaise seulement. Dans la version anglaise, l'expression « costing officer » est remplacée par « costs officer ».	(c) : Modifier
[absent]	<b>(d) offrir un service efficient et accessible en anglais et en français et rendre disponibles, dans les deux langues officielles, les documents de la Corporation nécessaires aux demandeurs potentiels d'attribution de frais, y compris les politiques, les critères d'attribution de frais et les rapports annuels;</b>
(d) accomplir tout ce qui contribue à la réalisation de ce qui précède.	<b>(e) accomplir tout ce qui contribue à la réalisation de ce qui précède.</b>

- 32 The articles of incorporation of the BPF-FPR subsequently granted by then-Industry Canada<sup>20</sup> reflected the changes to the mandate required by the Commission in the Appendix to BRP 2012-181: Figure 3.

<sup>20</sup> Now Innovation, Science and Economic Development Canada (ISED).



**Figure 3 6 September 2012 Articles of Incorporation of the BPF-FPR****Canada Not-for-profit Corporations Act (NFP Act)****Form 4001****Articles of Incorporation****1 Corporate name**

BROADCASTING PARTICIPATION FUND (BPF), INC. / LE FONDS DE PARTICIPATION À LA RADIODIFFUSION (FPR), INC.

...

**4 Statement of the purpose of the corporation**

The purposes of the corporation are to:

- (a) provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the Broadcasting Act (Canada), recognizing that English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;
- (b) support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting proceedings under the Broadcasting Act (Canada);
- (c) retain an independent costs officer who shall be responsible for the day-to-day operations of the corporation subject to the overriding authority of the board of directors of the corporation;
- (d) provide efficient and accessible service in English and French and make available in both official languages the corporation's documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and
- (e) do all things which are in furtherance of the foregoing.

**33** Table 3 reproduces the portion of the Articles that reflect the BPF-FPR's purpose in Article III, showing the amendments required by the Commission (as shown in the right-hand column of Table 2, above). Pink highlighting shows minor differences between the CRTC's required text and the actual articles of incorporation, having to do with capitalization, italicization and exclusion of the acronym of the Canadian Radio-television and Telecommunications Commission.

**Table 3 CRTC amendments to BPF-FPR mandate as shown in BPF-FPR's articles of incorporation**

<b>Amendments required by CRTC in Appendix to <a href="#">Broadcasting Regulatory Policy CRTC 2012-181</a> [CRTC changes in bold and highlighted]</b>	<b>Form 4001: Articles of Incorporation BROADCASTING PARTICIPATION FUND (BPF), INC./ LE FONDS DE PARTICIPATION À LA RADIODIFFUSION (FPR), INC.</b>
<i>Note: <b>Pink highlighting</b> by FRPC and PIAC shows differences between left and right columns</i>	
<b>III</b>	<b>4 Statement of the purpose of the corporation</b>
(a) provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission (" <b>CRTC</b> ") in broadcasting matters under the <b>Broadcasting Act</b> (Canada), recognizing that English and French language broadcasting, while sharing common aspects, operate under different	(a) provide costs support to public-interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the <b>Broadcasting Act</b> (Canada), recognizing that English and French language broadcasting, while sharing common aspects, operate under different

***Italicized bold red font:*** FRPC-PIAC recommendation



Amendments required by CRTC in Appendix to <a href="#">Broadcasting Regulatory Policy CRTC 2012-181</a> [CRTC changes in bold and highlighted]	Form 4001: Articles of Incorporation BROADCASTING PARTICIPATION FUND (BPF), INC./ LE FONDS DE PARTICIPATION À LA RADIODIFFUSION (FPR), INC.
<i>Note: Pink highlighting by FRPC and PIAC shows differences between left and right columns</i>	
conditions and may have different requirements;	conditions and may have different requirements;
(b) support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting proceedings under the <b>Broadcasting Act</b> (Canada);	(b) support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting proceedings under the <b>Broadcasting Act</b> (Canada);
(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the <b>Corporation</b> subject to the overriding authority of the board of directors of the <b>Corporation</b> ;	(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the corporation subject to the overriding authority of the board of directors of the <b>corporation</b> ;
(d) provide efficient and accessible service in English and French and make available in both official languages the <b>Corporation's</b> documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and	(d) provide efficient and accessible service in English and French and make available in both official languages the <b>corporation's</b> documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and
(e) do all things which are in furtherance of the foregoing.	(e) do all things which are in furtherance of the foregoing.

34 In other words, the BPF articles of incorporation submitted to INDU reflected the changed mandate that the CRTC set out in the appendix to BRP 2012-181.

35 ***FRPC and PIAC recommend that the CRTC use the text in Article 4 as the mandate for the BPF-FPR which would then be amended to reflect the passage of the Online News Act.***

## 2 **Changed text should be based on principles of Canadian statutory interpretation**

36 Modern statutory interpretation in Canada is based on a series of assumptions and principles established through caselaw. For example, it is assumed that “[p]arallel structures are used to express functionally equivalent or analogous meanings.”<sup>21</sup> Similarly, an important statutory drafting principle is that the same words have the same meaning – while different words have different meanings.<sup>22</sup> Adherence to such assumptions and principles limits confusion and lowers the risk that the meaning of text will be misunderstood or misinterpreted.

37 Certain changes proposed by the BPF-FPR with respect to the *Online News Act* do not use parallel structures. For example, the current BPF-FPR mandate addresses costs support with respect to “broadcasting matters under the *Broadcasting Act*”. The proposed mandate with respect to the *Online News Act*, on the other hand, refers to “digital news matters under the proceedings establishing the *Online News Act* framework, and proceedings under such framework”.

<sup>21</sup> Ruth Sullivan, Ph.D., *Statutory Interpretation*, 3<sup>rd</sup> ed. (Irwin Law, Toronto: 2016) at page 43.

<sup>22</sup> *Ibid.*, at pages 147-149.





- 38 The references to ‘proceedings to establish a framework’ and ‘proceedings under a framework’ are inconsistent with the wording approved by the CRTC in 2012 with respect to the *Broadcasting Act*. As inconsistent language risks creating confusion rather than clarifying the BPF-FPR’s mandate, ***FRPC and PIAC recommend that the text referring to proceedings and framework be replaced by “online-news matters under the Online News Act”.***
- 39 Second, FRPC and PIAC note that while the mandate proposed by the BPF-FPR refers to “digital news matters”, the BPF’s proposed articles of incorporation and by-laws refer to “online news” – leading those attempting to interpret this language to conclude that the different terms have different meanings. ***FRPC and PIAC recommend that all reference to ‘digital news’ be replaced with references to “online news”.***
- 40 The changes FRPC and PIAC are recommending are shown in Table 4, below, and are set out in the mandate that the CRTC approved in BRP 2012-181 (as recommended above in paragraph 35).

**Table 4 Mandate approved in 2012-181 and BPF-FPR’s proposed changes**

BPF-FPR’s proposed change regarding <i>Online News Act</i> using proposed rather than approved mandate	Mandate actually approved by CRTC in BRP CRTC 2012-181	FRPC-PIAC’s recommended changes using mandate approved by CRTC in BRP 2012-181
<b>Yellow highlighting</b> by FRPC and PIAC shows difference between BPF-FPR’s proposed text and FRPC-PIAC’s recommended text	<b>Pink highlighting</b> by FRPC and PIAC shows amendment required by CRTC in 2012	<b>Yellow highlighting</b> by FRPC and PIAC shows difference between BPF-FPR’s proposed text and FRPC-PIAC recommended text
The BPF would: <ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the CRTC in broadcasting matters under the <i>Broadcasting Act</i> <b>and in digital news matters under the proceedings establishing the <i>Online News Act</i> framework, and proceedings under such framework;</b></li></ul> ...	The BPF would <ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission (“CRTC”) in broadcasting matters under the <i>Broadcasting Act</i>, recognizing that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;</li></ul> ...	The BPF would: <ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the before the Canadian Radio-television and Telecommunications Commission (CRTC) in broadcasting matters under the <i>Broadcasting Act</i> <b>and in online-news matters under the <i>Online News Act</i>, recognizing that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;</b></li></ul> ...
<ul style="list-style-type: none"><li>support research, analysis and advocacy in both official languages directly related to ongoing CRTC broadcasting proceedings under the <i>Broadcasting Act</i> <b>and CRTC digital news proceedings under the <i>Online News Act</i>;</b></li></ul>	<ul style="list-style-type: none"><li>support research, analysis and advocacy in the official language of the applicant’s choice in CRTC broadcasting proceedings under the <i>Broadcasting Act</i>;</li></ul> ...	<ul style="list-style-type: none"><li>support research, analysis and advocacy in the official language of the applicant’s choice in CRTC broadcasting proceedings under the <i>Broadcasting Act</i> <b>and in CRTC online-news proceedings under the <i>Online News Act</i>;</b></li></ul>

***Italicized bold red font:*** FRPC-PIAC recommendation



## **B Revised Articles of Incorporation**

- 41 The changes FRPC and PIAC have proposed with respect to the BPF-FPR's mandate should also be reflected in the proposed changes to its Articles of Incorporation:** Table 5.

**Table 5 Application's proposal and FRPC-PIAC recommended changes to its Articles**

<b>BPF-FPR's proposed amendments to BPF Articles of Incorporation</b>
<p>The statement of purpose of the BPF would be revised to include the following changes (bolded):</p> <p>The purposes of the corporation are to:</p> <p>(a) Provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the Broadcasting Act (Canada) <b>and under the proceedings establishing the Online News Act (Canada) framework, and proceedings under such framework</b>, recognizing that English and French language broadcasting <b>and online news</b>, while sharing common aspects, operate under different conditions and may have different requirements;</p> <p>(b) Support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting <b>and online news</b> proceedings under the Broadcasting Act (Canada) <b>and under the Online News Act (Canada)</b>;</p> <p>[Unchanged:</p> <p>(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;</p> <p>(d) provide efficient and accessible service in English and French and make available in both official languages the Corporation's documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and</p> <p>(e) do all things which are in furtherance of the foregoing.]</p>
<b>FRPC-PIAC's recommended changes</b>
<p>The purposes of the corporation are to:</p> <p>(a) provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the <i>Broadcasting Act</i> <b>and in online-news matters under the Online News Act</b>, recognizing that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;</p> <p>(b) support research, analysis and advocacy the official language of the applicant's choice in CRTC broadcasting proceedings under the Broadcasting Act <b>and in CRTC online-news proceedings under the Online News Act</b>;</p> <p>(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;</p> <p>(d) provide efficient and accessible service in English and French and make available in both official languages the Corporation's documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and</p> <p>(e) do all things which are in furtherance of the foregoing.</p>

## **C Revised by-laws**

- 1 "CRTC-regulated industry"**
- 42** The BPF-FPR by-laws refer to "broadcasting industry" several dozen times without specifically defining the meaning of this phrase. Application 2024-0355-9 proposes to define the term in section 1 of its by-laws and to incorporate a reference to "online news businesses subject to CRTC regulation or conditions of licence".
- 43** FRPC and PIAC agree that adding a definition – presumably as 1(f.1) – would clarify the meaning of the BPF-FPR's by-laws. The Forum and PIAC note, however, that 'online news

**Italicized bold red font:** FRPC-PIAC recommendation

businesses' do not consist solely of services providing broadcasting and that the current *Broadcasting Act* now refers to conditions of licence, conditions of service as well as orders and regulations.

- 44 ***FRPC and PIAC recommend that the concept of 'broadcasting industry' be replaced by a phrase denoting those regulated by the Commission under the current Broadcasting Act and Online News Act***, irrespective of the mechanism chosen to enforce such regulation. Specifically, FRPC and PIAC propose that instead of the proposed definition of 'broadcasting industry', the BPF-FPR by-laws add a definition of 'CRTC-regulated industry' in section 1(o.1), as follows:

**'CRTC-regulated industry'** means undertakings subject to regulation by the CRTC under the *Broadcasting Act* and the *Online News Act*;

- 45 FRPC and PIAC also note that this change would require the replacement of "Broadcasting Industry" by "CRTC-regulated Industry" in the remainder of the BPF-FPR's by-laws.

## 2 Fund disbursements

- 46 The BPF-FPR's by-laws currently define "Disbursements from the Fund" as follows:

**"Disbursements From the Fund"** means expenditures from the Fund authorized by the Board for the advancement of the objects of the Corporation contained in the Letters Patent, including, without limitation, cost determinations of the Corporation described in Section 49 relating to proceedings under the *Broadcasting Act (Canada)* before the CRTC;  
[italics in original text]

- 47 Application 2024-0355-9 proposes to change this text in three ways, shown below through yellow highlighting:

**"Disbursements from the Fund"** means expenditures from the Fund authorized by the Board for the advancement of the purpose of the Corporation contained in the Articles, including, without limitation, cost determinations of the Corporation described in Section 48 relating to proceedings under the *Broadcasting Act (Canada)* and proceedings establishing the *Online News Act (Canada)* framework, and proceedings under such framework, before the CRTC;

- 48 It is unclear why the BPF-FPR is proposing to make 'disbursements' singular. The BPF-FPR's remaining by-laws refer to "disbursements" eight more times and do not refer to "disbursement". ***FRPC and PIAC recommend that the definitions of the BPF-FPR be consistent with the terms used in the by-laws – in this case, 'disbursements' rather than 'disbursement'.***

- 49 It is also unclear why the proposed by-law refers to section 48, where the current by-law refers to section 49. Section 48 states nine requirements that the BPF-FPR must complete, such as appointing a Secretary and Treasurer (by-law 48(b)), confirming its annual report



(section 48(e)) and making “all decisions with respect to the Fund including Disbursements From the Fund, cost determinations and supervision of the Costs Officer”. Section 49, on the other hand, deals expressly with the BPF-FPR’s expenditures, “including Disbursements From the Fund”. Absent grounds for changing the reference from “Section 49” to “Section 48”, ***FRPC and PIAC recommend that the original cross-reference to section 49 be retained as it pertains more precisely to disbursements.***

- 50 As for the text in section 1(r) of the by-laws which the BPF-FPR has proposed to refer to *Online News Act* proceedings, ***FRPC and PIAC recommend that the by-law use language parallel to that employed with respect to the Broadcasting Act*** as it discussed above. Rather than repeating “proceedings” twice, referring to the establishment of a legislative framework and to proceedings under that framework, the Forum and PIAC propose that section 1(r) refer to “proceedings ... under the *Online News Act (Canada)*....”

**Table 6 BPF-FPR’s proposed amendments in section 1 of its by-laws and FRPC-PIAC proposals**

BPF-FPR’s proposed amendments to its by-laws	FRPC’s proposals
BPF-FPR By-laws	
Add: “Broadcasting Industry” means broadcasting industry businesses and online news businesses subject to CRTC regulation or conditions of licence.	Replace proposed text as follows: “CRTC-regulated Industry” means undertakings subject to regulation by the CRTC under the <i>Broadcasting Act</i> and the <i>Online News Act</i>
Amend: 1(l) “Consumer/Public Interest Stakeholders” means consumer and public interest groups, including advocacy and service groups, that are active before the CRTC in broadcasting and online news proceedings and directly represent a broad-based membership of users, which shall have: (i) been recommended by not less than fifty percent (50%) of the then existing Consumer/Public Interest Stakeholders; (ii) executed the Stakeholder Agreement; and (iii) been confirmed by the Board and recorded as such pursuant to Sections 47(a) and 72 of this By-law;	[no changes proposed]
Amend: 1(r) “Disbursement from the Fund” means expenditures from the Fund authorized by the Board for the advancement of the purpose of the Corporation contained in the Articles, including, without limitation, cost determinations of the Corporation described in Section 48 relating to proceedings under the <i>Broadcasting Act (Canada)</i> and proceedings establishing the <i>Online News Act (Canada)</i> framework, and proceedings under such framework, before the CRTC;	Replace proposed text as follows 1(r) “Disbursement from the Fund” means expenditures from the Fund authorized by the Board for the advancement of the purpose of the Corporation contained in the Articles, including, without limitation, cost determinations of the Corporation described in Section 49 relating to proceedings under the <i>Broadcasting Act (Canada)</i> and under the <i>Online News Act (Canada)</i> before the CRTC;



## Appendices

Appendix 1 Amendments required by CRTC in Broadcasting Regulatory Policy 2012-181	1
Appendix 2 List of changes proposed by FRPC and PIAC	4



**Appendix 1 Amendments required by CRTC in Broadcasting Regulatory Policy 2012-181**

English-language version	
<p><b>Appendix to Broadcasting Regulatory Policy CRTC 2012-181</b></p> <p><b>List of amendments required by the Commission</b></p> <p><b>Broadcasting Participation Fund (BPF), Inc.</b></p> <p><b>Application for Incorporation of a Corporation without share capital under Part II of the Canada Corporations Act (Articles of Incorporation)</b></p>	
<b>Proposed</b> Elements in ( ) to be removed, except for digits/numbers	<b>Amendment</b>
II  The applicants...	II: Add  Add the sector/industry each applicant is representing.
III (a)  provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radiotelevision and Telecommunications Commission (“CRTC”) in broadcasting matters under the <i>Broadcasting Act</i> (Canada);	III (a): Amend  provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission (“CRTC”) in broadcasting matters under the <i>Broadcasting Act</i> (Canada), <b>recognizing that English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;</b>
III (b)  support research, analysis and advocacy in both official languages directly related to (ongoing) CRTC broadcasting matter proceedings under the <i>Broadcasting Act</i> (Canada);	III (b): Amend  support research, analysis and advocacy <b>in the official language of the applicant’s choice in</b> CRTC broadcasting proceedings under the <i>Broadcasting Act</i> (Canada); <sup>9</sup>





III (c) retain an independent costing officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;	III (c): Amend retain an independent <b>costs</b> officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;
III (d) do all things which are in furtherance of the foregoing.	III (c): Amend retain an independent <b>costs</b> officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;
III (e)	III (e): Add <b>do all things which are in furtherance of the foregoing.</b>

French-language version	
<b>Annexe à la politique réglementaire de radiodiffusion CRTC 2012-181</b>  <b>Liste des modifications requises par le Conseil</b>  Le Fonds de participation à la radiodiffusion (FPR) inc.  Demande de constitution d'une Société sans capital-actions en vertu de la Partie II de la Loi sur les Corporations canadiennes (Statuts de constitution)	
<b>Proposé</b> Éléments en ( ) à supprimer, à l'exception des chiffres/nombres	<b>Modification</b>
II Les demandeurs...	II : Ajouter Ajouter le secteur/industrie que chaque demandeur représente.



<p>III (a)</p> <p>contribuer au paiement des frais de groupes d'intérêt public et de groupes de consommateurs représentant les intérêts des usagers non commerciaux et l'intérêt public devant le Conseil de la radiodiffusion et des télécommunications canadiennes (« CRTC ») sur des questions de radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);</p>	<p>III (a) : Modifier</p> <p><b>fournir un soutien financier sous forme d'attribution de frais aux groupes d'intérêt public et groupes de consommateurs représentant les intérêts des usagers non commerciaux et l'intérêt public devant le Conseil de la radiodiffusion et des télécommunications canadiennes (« CRTC ») sur des questions de radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada), reconnaissant que les radiodiffusions de langues française et anglaise, malgré certains points communs, diffèrent quant à leurs conditions d'exploitation et, éventuellement, quant à leurs besoins;</b></p>
<p>III (b)</p> <p>soutenir la recherche, l'analyse et la défense des intérêts des consommateurs, dans les deux langues officielles, directement reliées à des instances (courantes) du CRTC sur des questions de radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);</p>	<p>III (b) : Modifier</p> <p><b>soutenir la recherche, l'analyse et la défense des intérêts des consommateurs, dans la langue officielle du choix du demandeur, pour les instances du CRTC en radiodiffusion en vertu de la <i>Loi sur la radiodiffusion</i> (Canada);</b></p>
<p>III (c)</p> <p>Modification à la version anglaise seulement. Dans la version anglaise, l'expression « costing officer » est remplacée par « costs officer ».</p>	<p>III (c) : Modifier</p>
<p>III (d)</p> <p>accomplir toutes choses contribuant à la réalisation du mandat qui précède.</p>	<p>III (d) : Modifier</p> <p><b>offrir un service efficient et accessible en anglais et en français et rendre disponibles, dans les deux langues officielles, les documents de la Corporation nécessaires aux demandeurs potentiels d'attribution de frais, y compris les politiques, les critères d'attribution de frais et les rapports annuels;</b></p>
<p>III (e)</p>	<p>III (e) : Ajouter</p> <p><b>accomplir tout ce qui contribue à la réalisation de ce qui précède.</b></p>





**Appendix 2 List of changes proposed by FRPC and PIAC**

<b>Changes to BPF-FPR's mandate</b>	
<b>BPF-FPR's proposed change regarding <i>Online News Act</i> using proposed rather than approved mandate</b>	<b>FRPC-PIAC's recommended changes using mandate actually approved by CRTC in the Appendix of BRP 2012-181</b>
<b>Yellow highlighting</b> by FRPC-PIAC shows difference between BPF-FPR's proposed text and FRPC's recommended text	Underlining by FRPC-PIAC shows difference between BPF-FPR's proposed text and FRPC's recommended text
The BPF would: <ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the CRTC in broadcasting matters under the <i>Broadcasting Act</i> and in <b>digital news matters under the proceedings establishing the <i>Online News Act</i> framework, and proceedings under such framework;</b></li></ul> ...	The BPF would: <ul style="list-style-type: none"><li>provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the before the Canadian Radio-television and Telecommunications Commission (CRTC) in broadcasting matters under the <i>Broadcasting Act</i> and <u>in online-news matters under the <i>Online News Act</i>, recognizing that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;</u></li></ul> ...
<ul style="list-style-type: none"><li>support research, analysis and advocacy in both official languages directly related to ongoing CRTC broadcasting proceedings under the <i>Broadcasting Act</i> and CRTC <b>digital news proceedings under the <i>Online News Act</i>;</b></li></ul>	<ul style="list-style-type: none"><li>support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting proceedings under the <i>Broadcasting Act</i> and <u>in CRTC online-news proceedings under the <i>Online News Act</i>;</u></li></ul>



Changes to BPF-FPR's Articles of Incorporation	
BPF-FPR's proposed amendments	FRPC-PIAC's recommended changes
The purposes of the corporation are to: (a) Provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the Broadcasting Act (Canada) <b>and under the proceedings establishing the Online News Act (Canada) framework, and proceedings under such framework</b> , recognizing that English and French language broadcasting <b>and online news</b> , while sharing common aspects, operate under different conditions and may have different requirements; (b) Support research, analysis and advocacy in the official language of the applicant's choice in CRTC broadcasting <b>and online news</b> proceedings under the Broadcasting Act (Canada) <b>and under the Online News Act (Canada)</b> ;	The purposes of the corporation are to: (a) provide costs support to public interest groups and consumer groups representing non-commercial user interests and the public interest before the Canadian Radio-television and Telecommunications Commission in broadcasting matters under the <i>Broadcasting Act</i> <b>and in online-news matters under the <i>Online News Act</i></b> , recognizing that English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements; (b) support research, analysis and advocacy the official language of the applicant's choice in CRTC broadcasting proceedings under the Broadcasting Act <b>and in CRTC online-news proceedings under the <i>Online News Act</i></b> ;
Unchanged:	
(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;	(c) retain an independent costs officer who shall be responsible for the day-to-day operations of the Corporation subject to the overriding authority of the board of directors of the Corporation;
(d) provide efficient and accessible service in English and French and make available in both official languages the Corporation's documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and	(d) provide efficient and accessible service in English and French and make available in both official languages the Corporation's documents necessary for potential costs applicants, including policies, costs funding criteria and annual reports; and
(e) do all things which are in furtherance of the foregoing.]	(e) do all things which are in furtherance of the foregoing.



<b>BPF-FPR By-laws</b>	
<b>BPF-FPR's proposed amendments to its by-laws</b>	<b>FRPC-PIAC proposals</b>
Add: <b>"Broadcasting Industry" means broadcasting industry businesses and online news businesses subject to CRTC regulation or conditions of licence.</b>	Replace proposed text as follows: <b>"CRTC-regulated Industry" means undertakings subject to regulation by the CRTC under the <i>Broadcasting Act</i> and the <i>Online News Act</i></b>
Amend: <b>1(i) "Consumer/Public Interest Stakeholders" means consumer and public interest groups, including advocacy and service groups, that are active before the CRTC in broadcasting and online news proceedings and directly represent a broad-based membership of users, which shall have: (i) been recommended by not less than fifty percent (50%) of the then existing Consumer/Public Interest Stakeholders; (ii) executed the Stakeholder Agreement; and (iii) been confirmed by the Board and recorded as such pursuant to Sections 47(a) and 72 of this By-law;</b>	[no changes proposed]
Amend: <b>1(r) "Disbursement from the Fund" means expenditures from the Fund authorized by the Board for the advancement of the purpose of the Corporation contained in the Articles, including, without limitation, cost determinations of the Corporation described in Section 48 relating to proceedings under the <i>Broadcasting Act (Canada)</i> and proceedings establishing the <i>Online News Act (Canada)</i> framework, and proceedings under such framework, before the CRTC;</b>	Replace proposed text as follows <b>1(r) "Disbursements from the Fund" means expenditures from the Fund authorized by the Board for the advancement of the purpose of the Corporation contained in the Articles, including, without limitation, cost determinations of the Corporation described in Section <b>49</b> relating to proceedings under the <i>Broadcasting Act (Canada)</i> and under the <i>Online News Act (Canada)</i> before the CRTC;</b>

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