



9 October 2024

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Marc Morin  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

Dear Secretary General,

**Re: *Call for comments – Guidelines regarding consultation and engagement practices in proceedings relating to official language minority communities and official languages, Broadcasting Notice of Consultation CRTC 2024-202* (Ottawa, 9 September 2024)**

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 1991 *Broadcasting Act*.

The Forum's comments in the above-mentioned notice are attached.

FRPC may address other parties' comments in reply. Should the CRTC decide to hold an appearing public hearing in this matter the Forum respectfully asks to participate in that proceeding.

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***Call for comments – Guidelines regarding consultation and  
engagement practices in proceedings relating to official language  
minority communities and official languages,***  
**[Broadcasting Notice of Consultation CRTC 2024-202](#)**  
**(Ottawa, 9 September 2024)**

Intervention of the Forum for Research and Policy in Communications (FRPC)

Monica L. Auer  
Executive Director

9 October 2024

## Contents

<b>Executive Summary</b>	<b>1</b>
<b>I. Introduction</b>	<b>1</b>
<b>II. BNoC 2024-202</b>	<b>1</b>
A. Inaccurate style of notice	1
B. Lack of clarity with respect to CRTC's existing Rules of Practice and Procedure	3
C. Legal implications of description as 'guidelines'	4
<b>III. CRTC's questions</b>	<b>5</b>
'Could adversely affect'	5
The concept of 'decision'	6
<b>IV. Summary of recommendations</b>	<b>10</b>

## Executive Summary

- ES 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in 2013. It undertakes research, legal analysis and quantitative research about communications, including broadcasting. FRPC believes that the public interest is served when it meets Parliament’s objectives for the broadcasting system, as set out in section 3 of the 1991 Broadcasting Act.
- ES 2 FRPC has several concerns about the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* set out in the Appendix to BNoC 2024-202.
- ES 3 First, although the notice states several times that the Commission may use the now-*Draft guidelines for consultation with official language minority communities in broadcasting proceedings* to “inform” its consultations under the *Telecommunications Act* and the *Online News Act*, the style of this proceeding implies it is restricted to the *Broadcasting Act*. If that is not the case – meaning that the proceeding is not restricted to matters under the *Broadcasting Act* but also touches on matters under two other statutes – FRPC considers that the CRTC should have included the two other statutes in the name or style of this consultation. FRPC submits that the CRTC should, going forward, should resume its past practice of issuing joint-statute notices of consultation to promote efficiency, transparency and fairness of its proceedings.
- ES 4 Second, the relationship between the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* (once finalized) and the *CRTC Rules of Practice and Procedure* is unclear. As the CRTC’s *Regulatory plan to modernize Canada’s broadcasting framework* currently projects that it will hold a consultation on the *Rules* in Spring 2026, the CRTC should ensure that the finalized consultation procedures for OLMCs are part of that proceeding’s agenda.
- ES 5 Third, describing the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* as “guidelines” is likely to create confusion. Parliament stipulates in section 6 of the *Broadcasting Act* that the CRTC’s ‘guidelines’ are not binding on the Commission – yet in subsection 5.2 *mandates* the approach the CRTC must use in its proceedings (presumably as of its implementation in spring 2023). The CRTC could eliminate any confusion between ‘guidelines’ and its OLMC procedures by dropping the reference to ‘guidelines’ and issuing *CRTC procedures for consultation with official language minority communities in broadcasting proceedings*.
- ES 6 FRPC has made initial comments regarding CRTC questions 1 and 5 and may comment on other parties’ responses to the questions in BNoC 2024-202 in reply.
- ES 7 Insofar as question 1 is concerned, FRPC notes that BNoC 2024-202 appears to reinterpret Parliament’s mandatory consultation requirements and its definition of ‘decision’ in ways that are inconsistent with Parliament’s express language in the *Broadcasting Act*.

- ES 8 Insofar as the ‘adverse affect’ concept is concerned, FRPC proposes that the Commission define ‘adversely affect’ as ‘having negative consequences for the vitality and development of one or more OLMCs, which consequences can be measured over a reasonable period of time.’
- ES 9 As for ‘decision’, it is unclear what authority empowers the CRTC to redefine the term as it is currently defined in the *Broadcasting Act*, from “a determination made by the Commission in any form” to “a determination made by the Commission in any form, which affects the legal rights of a person, or which otherwise carries legal consequences”. Even if, as BNoC 2024-202 explains, the CRTC seeks to exclude OLMCs consultations from the CRTC’s policy and data-gathering work, it is unclear how it may do so given Parliament’s clear language.
- ES 10 FRPC addressed two concerns with respect to question 5, namely the lack of any discussion of the way in which the CRTC will ensure that Deaf, Deaf-Blind and Hard of Hearing people within OLMCs will be ‘reached’ with respect to subsection 5.2, and the absence of any clear consultation or notification requirement when the CRTC modifies the final *~~Draft guidelines~~ CRTC procedures for consultation with official language minority communities in broadcasting proceedings*.
- ES 11 FRPC also set out its concern that, despite Parliament’s express requirement that the Commission “gather information to test its policies, decisions and initiatives” and provide OLMCs with “all relevant information on which those policies, decisions or initiatives are based” (subsections 5.2(2)(a) and (d)), BNoC 2024-202 was silent as to the question of OLMCs’ data needs. The Forum proposes that the CRTC convene a meeting of interested parties within the next six months to elicit their concerns and recommendations about the data now being gathered and/or published by the CRTC, and that it hold annual meetings with such parties to discuss the CRTC’s data-collection and -publication practices.

## 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 broadcasting and telecommunications. The Forum supports a strong Canadian communications system that serves the public interest as defined by Parliament in its communications-related statutes
- 2 The Forum wishes to begin by briefly addressing several aspects of [Broadcasting Notice of Consultation CRTC 2024-202](#) (BNoC 2024-202); our comments in response to the CRTC's questions then follow.

## II. BNoC 2024-202

- 3 FRPC has several concerns about the styling and substance of BNoC 2024-202. These have to do with how the CRTC has styled this consultation, the consultation's relationship to the Commission's existing procedural regulations – the [Rules of Practice and Procedure](#) – the description of the consultation's substantive outcome, and the time provided with respect to deadlines.

### A. *Inaccurate style of notice*

- 4 BNoC 2024-202 states in its *Summary*, at paragraph 8<sup>1</sup> and at paragraph 2 of the Appendix<sup>2</sup> that the guidelines “will inform” the CRTC's practices for consultations in other proceedings “such as in making decisions relating to the *Telecommunications Act* and the *Online News Act*.”
- 5 FRPC notes that the [Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure](#) require the CRTC to identify “the nature of the matters to be considered” when it posts its notices of consultation.<sup>3</sup> The CRTC's notices consist at the outset of a title briefly describing the consultation's subject, an identification number that refers to the enabling statute under which the proceeding is being held and the date on which the consultation is issued.
- 6 The CRTC's general practice has been to issue ‘joint’ notices of consultation when the matters addressed by the consultation involve more than one of its enabling statutes. Examples include (and are not limited to):

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<sup>1</sup> “8. These guidelines will also inform the Commission's consultation practices in other public proceedings, such as in making decisions relating to the *Telecommunications Act* and the *Online News Act*, and will be modified as appropriate for those contexts. ...”

<sup>2</sup> “2. ... These guidelines will also inform the Commission's consultation practices in other public proceedings, such as in making decisions under the *Telecommunications Act* and the *Online News Act*.”

<sup>3</sup> *CRTC Rules of Practice and Procedure*, s. 21:

(1) If a matter is brought before the Commission on the Commission's own initiative, the Commission must post a notice of consultation on its website.

(2) The notice must set out

(a) the nature of the matters to be considered and the deadline for intervening in the proceeding;

...

*Call for comments on new draft regulations concerning CRTC Rules of Practice and Procedure, [Broadcasting and Telecom Notice of Consultation CRTC 2009-602](#) (Ottawa, 30 September 2009),*

*Call for comments on the customer transfer process and related competitive issues, [Broadcasting and Telecom Notice of Consultation CRTC 2010-406](#) (Ottawa, 23 June 2010),*

*Fact-finding exercise on the over-the-top programming services in the Canadian broadcasting system, [Broadcasting and Telecom Notice of Consultation CRTC 2011-344](#) (Ottawa, 25 May 2011),*

*Call for comments – Provision of paper bills by communications service providers, [Broadcasting and Telecom Notice of Consultation CRTC 2020-81](#) (Ottawa, 3 March 2020), and*

*Call for comments – Amendments to the Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure and the Discretionary Services Regulations, [Broadcasting and Telecom Notice of Consultation CRTC 2020-357](#) (Ottawa, 23 October 2020).*

- 7 This practice makes it easier for interested parties who visit the CRTC’s *Today’s Releases* or its “All Proceedings Open for Comment” pages to determine the consultations in which they should participate, because they assume that the CRTC describes its consultations accurately. The CRTC states that a principle that informs the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* is to ensure “that public proceedings are ... timely and efficient; ... transparent; and ... fair to all parties who participate in Commission proceedings.”<sup>4</sup> Requiring all parties involved in the regulated portion of Canada’s communication system to read the entirety of each notice to determine whether CRTC-regulated sectors not identified in proceedings’ ‘style of cause’ are actually in play (so to speak) is an inefficient and unnecessary use of their time, and decreases the predictability that the CRTC says it wishes to improve.<sup>5</sup>

**FRPC recommendation 1 The CRTC should resume its past practice of including the enabling statutes in the style of its proceedings to enhance the efficiency, transparency and fairness of its proceedings.**

- 8 In this case, the more appropriate style would be Broadcasting, Telecom and Online News Act Notice of Consultation 2024-202.

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<sup>4</sup> *Draft guidelines for consultation with official language minority communities in broadcasting proceedings*, s. 4(c)(i), (ii) and (iii).

<sup>5</sup> BNoC 2024-202, Appendix, paragraph 2:

These guidelines relate to the obligations set out in sections 5.1 and 5.2 of the Broadcasting Act and section 41 of the Official Languages Act. **They improve the clarity and predictability** in the procedures the Commission will follow to consult with OLMCs and other stakeholders in broadcasting proceedings that relate to OLMCs and official languages. ...

## **B. Lack of clarity with respect to CRTC's existing Rules of Practice and Procedure**

- 9 BNoC 2024-202 states four times that the Commission wants to “strengthen its practices and procedures”.<sup>6</sup> It says that “[t]hese guidelines will also complement existing Commission practices and procedures, including those outlined in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure).”
- 10 The CRTC enacted the [\*Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure\*](#) (*CRTC Rules of Practice and Procedure* or *Rules*) in 2010 as regulations of the Commission (SOR/2010-277, Registration 2010-11-26). BNoC 2024-202 does not clearly explain how the CRTC will apply ‘guidelines’ to its procedural regulations. Will guidelines (so to speak) trump regulations, for instance?
- 11 In any event, the CRTC is also not bound by the *CRTC Rules of Practice and Procedure* because these specifically enable the CRTC to “dispense with or vary these Rules” if it believes that “considerations of public interest or fairness permit it” to do so.<sup>7</sup> In nearly all cases when the CRTC dispenses with or varies its application of the *Rules*, however, it does not state the specific “considerations of public interest or fairness” requiring or permitting it to do so.<sup>8</sup>
- 12 The CRTC’s *Draft guidelines for consultation with official language minority communities in broadcasting proceedings*<sup>9</sup> state that the “Commission is dedicated to strengthening its consultation procedures in the public interest.” If that is the case, FRPC considers that the CRTC should have invited comments on adding the substance of the Appendix to BNoC 2024-202 to the CRTC’s existing *CRTC Rules of Practice and Procedure*.
- 13 It may be, however, that the CRTC views the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* as an interim measure, given that the CRTC’s *Regulatory plan to modernize Canada’s broadcasting framework* stated in its 6 May 2024 version that it will hold a “Consultation on the CRTC Rules of Practice and Procedure” in “Spring 2026”. That plan (and its successor versions) said that this “consultation will review the current Rules of practices and procedures, which govern CRTC proceedings, so that they are more agile, easier to understand and more efficient.” If this remains the Commission’s intention, the CRTC’s decision in this proceeding should explain this approach; in any event, FRPC considers that the CRTC should include its OLMCs consultation procedures as a matter for consideration in the *CRTC Rules of Practice and Procedure* proceeding in Spring 2026.<sup>10</sup>

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<sup>6</sup> BNoC 2024-202: Summary, paragraphs 7-8, .

<sup>7</sup> *CRTC Rules of Practice and Procedure*, s. 7: “If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules.”

<sup>8</sup> Letters from the CRTC staff may offer reasons for the CRTC’s decision to vary or dispense with its *CRTC Rules of Practice and Procedure*, but under the current *Broadcasting Act* only a quorum of the Commission (or of a hearing panel speaking on behalf of the Commission) may make such decisions. Hence, decisions of the Commission to vary or dispense with its *Rules* or its OLMCs procedures should be issued by the Commission.

<sup>9</sup> BNoC 2024-202, Appendix to Broadcasting Notice of Consultation CRTC 2024-202, s. 2.

<sup>10</sup> The CRTC could, for instance, invite comment as to whether the *CRTC Rules of Practice and Procedure* should distinguish between procedures with which the CRTC may dispense or which it may vary, and procedures established as mandatory by Parliament.



**FRPC recommendation 2** **FRPC recommends that the CRTC commit to including the final *Guidelines for consultation with official language minority communities in broadcasting proceedings* in the consultation it has proposed holding in Spring 2025 on the CRTC’s *CRTC Rules of Practice and Procedure***

**C. *Legal implications of description as ‘guidelines’***

- 14 As noted above, BNoC 2024-202 sets out the CRTC’s *Draft guidelines for consultation with official language minority communities in broadcasting proceedings*. It states that the CRTC seeks “comments on how it can strengthen its practices and procedures to further support official language minority communities (OLMCs) and other stakeholders on broadcasting matters relating to OLMCs and official languages”.<sup>11</sup>
- 15 It is unclear why the CRTC is describing its consultative approach to OLMCs as “guidelines” when the *Broadcasting Act* makes it mandatory for the CRTC to consult with OLMCs when making decisions that could adversely affect these communities: Parliament states in subsection 5.2(1) that the “Commission shall consult” with OLMCs.
- 16 Guidelines, by contrast, are not mandatory but discretionary. The *Broadcasting Act* states that while the CRTC may issue guidelines, “no such guidelines ... issued by the Commission are binding on the Commission”.<sup>12</sup> The CRTC itself has also stated – often in response to requests that the Commission apply this or that guideline– that is not bound by its guidelines. Describing the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* as ‘guidelines’ is therefore likely to cause confusion over a matter that in Parliament’s view should not raise any questions at all: consulting with OLMCs about matters that may harm their communities is not optional, but mandatory.
- 17 The CRTC could eliminate any confusion caused by describing the procedural requirements that Parliament has made mandatory for the CRTC more clearly, by replacing the term, ‘guidelines’, with ‘procedures’: *Guidelines CRTC procedures for consultation with official language minority communities in broadcasting proceedings*.

**FRPC recommendation 3** **To reflect the mandatory character of consultations with OLMCs the CRTC should change the name of the Appendix to BNoC 2024-202 to *CRTC procedures for consultation with official language minority communities in broadcasting proceedings***

- 18 For the moment – and assuming that all of subsection 5.2(2)<sup>13</sup> is valid in terms of Canadian constitutional law – the CRTC should clarify whether it considers its *Guidelines for consultation*

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<sup>11</sup> *Ibid.*, Summary.

<sup>12</sup> *Broadcasting Act*, s. 6.

<sup>13</sup> Subsection 5.2(2) states that when it engages in the “consultations required by subsection (1), the Commission shall

(a) gather information to test its policies, decisions and initiatives;

(b) propose policies, decisions and initiatives that have not been finalized;

with official language minority communities in broadcasting proceedings to be mandatory or discretionary requirements.

### III. CRTC's questions

#### **Q1. The Commission is seeking comments on the definition of “adversely affect” proposed in the draft guidelines, which is to cause “a direct, tangible, appreciable and immediate harm to the vitality and development of one or more OLMC.”**

##### **Q1. ‘Could adversely affect’**

- 19 Section 5.2(1) of the 2023 *Broadcasting Act* now requires the CRTC to “consult with official language minority communities in Canada when making decisions that could adversely affect them.” According to the online [Oxford English Dictionary](#) “**could**” in the form of a verb expresses “physical or mental ability: be able to, know how to; have the power, ability, or capacity to.” In other words, “could” refers to the potential exercise of capacity to take action, rather than the immediate exercise of capacity.
- 20 The CRTC proposes to define ‘adversely affect’ as meaning “direct, tangible, appreciable and immediate harm”. The online [OED](#) defines “**tangible**” as that which “may be discerned or discriminated by the sense of touch; as a tangible property or form.” It defines “**appreciable**” as “Capable of being recognized by the senses; perceptible”, and it defines “**immediate**” as “Occurring, accomplished, or taking effect without delay or lapse of time; done at once, instance”. In other words, the CRTC would only recognize an adverse affect of a decision if the harm were concrete (tangible), perceptible (appreciable) and done at once (immediate).
- 21 FRPC supports the CRTC’s desire for the measurability of impact but opposes the proposed definition of ‘adversely affect’. First, the CRTC itself rarely acts ‘immediately’: even when it requires broadcasters to submit annual returns for the September to August broadcast year, for example, the CRTC only requires the returns to be submitted by the end of November – three months after the end of the broadcast year. The CRTC has not explained why it intends to impose an ‘immediate-effect’ standard on OLMCs or how it (or OLMCs) would even measure timing with respect to ‘immediacy’.

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- (c) seek the communities’ opinions with regard to the policies, decisions or initiatives that are the subject of the consultations;
  - (d) provide them with all relevant information on which those policies, decisions or initiatives are based;
  - (e) openly and meaningfully consider those opinions;
  - (f) be prepared to alter those policies, decisions or initiatives; and
  - (g) provide the communities with feedback, both during the consultation process and after a decision has been made.

It is unclear whether subsection 5.2(2)(f) refers to the CRTC’s proposed policies, decisions and initiatives, or to policies, decisions and initiatives the CRTC has made: if the latter, it would appear that 5.2(2)(f) may grant OLMCs an exclusive right to appeal CRTC decisions to the CRTC, a right that is not granted to non-OLMC parties.

- 22 Second, it is unclear under what circumstances a CRTC decision would ever have an immediate, measurable and concrete effect on a community's 'vitality' and 'development' – especially as 'development' implies change over time.
- 23 Third, had Parliament actually intended that the harm of a CRTC decision be immediate to be adverse, it would have written subsection 5.2(1) quite differently, as shown in the example below:

What Parliament enacted in 2023

5.2 (1) The Commission shall consult with official language minority communities in Canada when making decisions that could adversely affect them.

*What Parliament could have enacted*

*The Commission shall consult with official language minority communities in Canada when making decisions that measurably and immediately affect them adversely.*

- 24 Fourth, the fact that Parliament chose to use the word, "could", in subsection 5.2(1) implies that Parliament recognized that OLMCs might be able to articulate their concerns about a specific CRTC proposal without being able to immediately offer quantitative evidence demonstrating an immediate harm. This is especially so if OLMCs are simply responding to a proposal in a consultation rather than to a decision that has been made and whose effects can therefore be measured.
- 25 FRPC proposes instead that the Commission provide functional guidance about adverse harm in its definition: "*adversely affect*" means to have negative consequences for the vitality and development of one or more OLMCs, which consequences can be measured over a reasonable period of time. Focussing on negative consequences would provide OLMCs with more flexibility to consider – and measure – how their communities are being affected by a specific CRTC decision.

**FRPC recommendation 4 With respect to Q1, the CRTC should define 'adversely affect' as having negative consequences for the vitality and development of one or more OLMCs, which consequences can be measured over a reasonable period of time.**

### **Q1. The concept of 'decision'**

- 26 The 2023 *Broadcasting Act* defines 'decision' as including "includes a determination made by the Commission in any form".<sup>14</sup> Section 5.2(1) of the 2023 *Broadcasting Act* requires the CRTC to "consult with official language minority communities in Canada when making decisions that could adversely affect them."

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<sup>14</sup> *Broadcasting Act*, s. 2(1).

- 27 The *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* appended to BNoC 2024-202 reflect this requirement by proposing to limit “dedicated consultation with OLMCs or with the French-speaking population in Canada” (paragraph 11) to times “where it is considering making decisions that may adversely affect OLMCs [bold font omitted]” (paragraph 9).
- 28 The *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* then redefine ‘decision’ to be “a determination made by the Commission in any form, which affects the legal rights of a person, or which otherwise carries legal consequences”.<sup>15</sup>
- 29 The CRTC uses its redefinition of ‘decision’ in the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* to justify the exclusion of “[t]he Commission’s other work, such as making regulatory policies or data-gathering initiatives” from the OLMCs consultation requirement: “[t]here would be no dedicated consultation with OLMCs ... in those instances.”<sup>16</sup>
- 30 The CRTC has not clearly explained the basis of its authority to redefine “decision” to enable it to exclude “regulatory policies” and “data-gathering initiatives” from the scope of section 5.2(1).
- 31 FRPC opposes this redefinition as being contrary to Parliament’s express intent. First, the CRTC’s policies and data-gathering initiatives affect broadcasters and non-broadcasters alike. For example, the Commission’s decision through Broadcasting Regulatory Policy CRTC 2016-224 required broadcasters to provide “locally reflective programming”<sup>17</sup> – enabling broadcasters to prepare (for example) to begin categorizing and including this information in their program logs. As for data-collection, suppose that the CRTC announced that it would gather data about music with lyrics, except for music with English-language lyrics: the effect of this decision would be to exclude the ability of English-language OLMCs to evaluate the impact of CRTC policies on their music industry because even if these communities requested this information from broadcasters the latter would be free to disregard the requests: how then would English-language OLMCs be able to determine whether (as asked above) they have suffered “a direct, tangible, appreciable and immediate harm to [their] vitality and development” so as to ask the CRTC to reconsider its approach?
- 32 Second, FRPC notes that clear distinctions between the CRTC’s “regulatory policies” and ‘decisions’ no longer exist, in part because of the definition of decision in the 2023 *Broadcasting Act* but also because of the CRTC’s approach to making decisions. The CRTC’s ‘policies’ often include determinations – decisions – that regulate broadcasters’ behaviour. For instance, Broadcasting Regulatory Policy CRTC 2017-278 issued determinations about

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<sup>15</sup> BNoC 2024-202, Appendix, “Definitions” (unnumbered paragraph).

<sup>16</sup> BNoC 2024-202, paragraph 11.

<sup>17</sup> *Policy framework for local and community television*, [Broadcasting Regulatory Policy CRTC 2016-224](#) (Ottawa, 15 June 2016), paragraphs 53-58.

- providing terrestrial broadcasting distribution undertakings (BDUs) with greater flexibility in making their contributions to local expression, and direct-to-home BDUs with the ability to claim an allowable contribution for locally reflective news programming;
- providing financial support to over-the-air television stations;
- reflecting policy changes regarding the operation of community channels;
- streamlining logging requirements for over-the-air television stations;
- eliminating the daily Canadian content requirement for over-the-air television stations; and
- updating language and references, and addressing certain anomalies.<sup>18</sup>

**33** The CRTC should clarify that its approach to OLMCs consultations is contingent on the nature of the consultations it undertakes. A consultation about the licence renewal of an English-language radio programming undertaking in Saskatoon, for example, may be unlikely to have adverse effects on French-language OLMCs in that location.

**FRPC recommendation 5** With respect to Q1, the CRTC should number the paragraph following 'Definitions' for the purposes of efficiency and transparency (see paragraph 4(c) of the *Draft Guidelines*).

**FRPC recommendation 6** With respect to Q1, the CRTC should maintain a website page of lists to which interested parties may add their contact information so as to receive communications from the Commission and its staff regarding the different matters addressed by the CRTC (see paragraph 8 of the *Draft Guidelines*).

**FRPC recommendation 7** With respect to Q1, the CRTC should not attempt to redefine 'decision' to enable it to limit the scope of Parliament's use of this term in subsection 5.2(1).

**Q2. For the purpose of consultation with OLMCs and soliciting the views of French speakers in Canada on relevant matters, the Commission is seeking comments on how it should identify whom to consult among these groups in any given proceeding. How best can the Commission determine that those consulted represent the collective views and priorities of OLMCs and the French-speaking minority in Canada?**

**34** FRPC may respond to other parties' answers to this question.

**Q3. Identify any other forms of feedback the Commission should consider implementing during or after a consultation process with OLMCs, and provide justification.**

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<sup>18</sup> Amendments to the *Broadcasting Distribution Regulations and the Television Broadcasting Regulations, 1987 regarding local and community television, and financial support, logging requirements and Canadian exhibition requirements for over-the-air television stations*, [Broadcasting Regulatory Policy CRTC 2017-278](#) (Ottawa, 4 August 2017), introductory text (unnumbered paragraphs).

35 FRPC may respond to other parties' answers to this question.

#### **Q4. What subject matter should the feedback focus on? Provide justification.**

36 FRPC may respond to other parties' answers to this question.

#### **Q5. Provide any other suggestions for other engagement with OLMCs and the French-speaking minority in Canada in the Commission's work.**

37 FRPC notes that BNoC 2024-202 is silent with respect to issues related to accessibility. The CRTC should ensure that Deaf-Deaf Blind- Hard of Hearing (DDBHH) persons within OLMCs have full access to the CRTC's decisions. The CRTC could, for instance establish a notification list for DDBHH persons to receive alerts when matters of interest to them are being addressed by the Commission.

38 FRPC also notes that the Commission's *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* provide that it "may modify or replace these guidelines from time to time, based in part on any feedback received". Meanwhile, section of the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* states that their purpose is to "improve the clarity and predictability in the procedures the Commission will follow to consult with OLMCs and other stakeholders in broadcasting proceedings that relate to OLMCs and official languages." FRPC therefore has two concerns about modifications to the ~~Draft guidelines~~ *CRTC procedures for consultation with official language minority communities in broadcasting proceedings*

39 First, it is unclear if the CRTC will adopt a formal process before modifying or replacing the guidelines it is now contemplating: doing so would in FRPC's view effectively eliminate the CRTC's goal of clarity, as only the CRTC and the party or parties that provided feedback would be involved in the changes. Second, it is unclear whether the CRTC intends to publish notification when it amends its final '*guidelines for consultation with official language minority communities in broadcasting proceedings*': not publishing the *Guidelines for consultation with official language minority communities in broadcasting proceedings* when these are modified would contravene the CRTC's goal of predictability.

40 FRPC is also concerned that the questions in BNoC 2024-202 do not specifically address the issue raised by subsections 5.2(2)(a) and (d) with respect to information. These require that

[w]hen engaging in consultations [with OLMCs in Canada] required by subsection (1), the Commission shall

(a) gather information to test its policies, decisions and initiatives;

...

(d) provide [the communities] with all relevant information on which those policies, decisions or initiatives are based;

....

41 Meanwhile, paragraph 22 of the *Draft guidelines for consultation with official language minority communities in broadcasting proceedings* BNoC 2024-202 states that "[t]he

Commission will keep up these practices and work to improve them. Improvements could include, for instance, routinely publishing more data of interest to OLMCs and making the data more easily accessible on the Commission’s website.”

- 42 With the issue of data gathering in mind, FRPC notes that the CRTC’s Communications Market Reports website page (“[Communications Market Reports - Open Data](#)”) states that it has “over 400 datasets from the CMR that are available on Open Data, which contain data from 2013 (or earlier).” To FRPC’s knowledge the CRTC has not held any meetings with interested parties in general – including but not limited to broadcasters, public-interest organizations, academics and other government agencies – who use and rely on such data to learn whether the data being gathered by the CRTC meet their needs. It is consequently unclear whose needs are addressed or are not addressed by the CRTC’s 400+ datasets. Nor is it clear whether there is any formal mechanism for interested parties to discuss their data needs – say, annual meetings between the CRTC’s staff and interested parties. Given Parliament’s requirement in subsections 5.2(2)(a) and (d), cited above, the CRTC should give prompt attention to this matter.

**FRPC recommendation 8** With respect to Q5, the CRTC should convene a meeting of interested parties within the next six months for the purposes of eliciting their concerns and recommendations about the data now being gathered and/or published by the Commission, and should hold annual meetings with interested parties to discuss concerns about data.

#### IV. Summary of recommendations

- 43 FRPC has made 8 recommendations with respect to BNoC 2024-202’s *Draft guidelines for consultation with official language minority communities in broadcasting proceedings*:

**FRPC recommendation 1** The CRTC should resume its past practice of including the enabling statutes in the style of its proceedings to enhance the efficiency, transparency and fairness of its proceedings.

**FRPC recommendation 2** FRPC recommends that the CRTC commit to including the final Guidelines for consultation with official language minority communities in broadcasting proceedings in the consultation it has proposed holding in Spring 2025 on the CRTC’s CRTC Rules of Practice and Procedure

**FRPC recommendation 3** To reflect the mandatory character of consultations with OLMCs the CRTC should change the name of the Appendix to BNoC 2024-202 to CRTC procedures for consultation with official language minority communities in broadcasting proceedings

**FRPC recommendation 4** With respect to Q1, the CRTC should define ‘adversely affect’ as having negative consequences for the vitality and development

of one or more OLMCs, which consequences can be measured over a reasonable period of time.

**FRPC recommendation 5**

With respect to Q1, the CRTC should number the paragraph following 'Definitions' for the purposes of efficiency and transparency (see paragraph 4(c) of the Draft Guidelines).

**FRPC recommendation 6**

With respect to Q1, the CRTC should maintain a website page of lists to which interested parties may add their contact information so as to receive communications from the Commission and its staff regarding the different matters addressed by the CRTC (see paragraph 8 of the Draft Guidelines).

**FRPC recommendation 7**

With respect to Q1, the CRTC should not attempt to redefine 'decision' to enable it to limit the scope of Parliament's use of this term in subsection 5.2(1).

**FRPC recommendation 8**

With respect to Q5, the CRTC should convene a meeting of interested parties within the next six months for the purposes of eliciting their concerns and recommendations about the data now being gathered and/or published by the Commission, and should hold annual meetings with interested parties to discuss concerns about data.

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