



24 February 2025

Marc Morin  
Secretary General  
CRTC  
Ottawa, ON K1A 0N2

Dear Secretary General,

**Re: *The Path Forward – Working towards a sustainable Canadian broadcasting system*, [Broadcasting Notice of Consultation CRTC 2025-2](#) Notice of hearing (Ottawa-Gatineau, 9 January 2025)**

- 1 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established a decade ago to undertake research and policy analysis about communications, including telecommunications. It supports a strong Canadian communications system that serves the public interest. The Forum requests the opportunity to appear before the Commission at its 12 May 2025 public hearing in the above-noted proceeding, to address the submissions of other parties and to respond to questions from the CRTC's hearing panel.
- 2 Our Phase I comments – limited to comments regarding the absence of relevant data in BNoC 2025-2 and to a brief analysis of the data published by the CRTC elsewhere – are attached. FRPC reserves the right to respond to other parties' comments in greater detail in its reply (for which the CRTC's deadline is currently 11 March 2025).

Monica L. Auer, M.A., LL.M.  
Executive Director  
Ottawa, Ontario  
[www.frpc.net](http://www.frpc.net)

[execdir@frpc.net](mailto:execdir@frpc.net)



## **The CRTC wants a resilient, adaptable, fair, diverse, and innovative Canadian broadcasting system but does not answer 3 key questions:**

- 1. How does the CRTC define resilience, adaptability, fairness, diversity and innovation?**
- 2. How resilient, adaptable, fair, diverse and innovative is Canada's broadcasting system today?  
and**
- 3. How will we know when the system has become sufficiently resilient, adaptable, fair, diverse and innovative?**

**Comments by the Forum for Research and Policy in Communications (FRPC)**

24 February 2025

Monica L. Auer, M.A., LL.M.  
Executive Director  
Ottawa, Ontario  
[execdir@frpc.net](mailto:execdir@frpc.net)



[Contents](#)

<b>Executive Summary</b>	<b>1</b>
<b>I. Introduction</b>	<b>1</b>
<b>A. 2025-2 inappropriately conflates Parliament’s broadcasting and regulatory policies</b>	<b>1</b>
<b>B. Is there a there, anywhere?</b>	<b>2</b>
1. What does the CRTC want and how will it know when it has it?	2
2. CRTC’s two goals for 2025-2 include 11 measurable concepts	3
<b>C. Lack of information hinders public’s ability to respond to BNoC 2025-2</b>	<b>7</b>
<b>II. Asymmetrical outcomes of the CRTC’s current regulatory policies</b>	<b>11</b>
<b>III. Conclusions and summary of recommendations</b>	<b>18</b>



## Tables

Table 1	CRTC’s descriptions of 12 concepts in 2025-2	5
Table 2	Number of tables by topics and number of years described in table	9
Table 3	Number of CRTC open-data tables referring to “Canadian” in their title	9
Table 4	CRTC only federal agency empowered to obtain relevant data	10

## Figures

Figure 1	Number of years described by CRTC’s OpenData data tables	8
Figure 2	Total numbers of discretionary services, 2008-2023	12
Figure 3	Total Canadian programming expenditures per year of vertically integrated and non-vertically integrated programming services, 2008-2023	14
Figure 4	Percentage of revenues allocated to Canadian programming expenditures	14
Figure 5	Average staff per reporting unit, 2008-2023	15
Figure 6	Average subscriber revenue per reporting unit, per month: 2008-2023	16
Figure 7	PBIT (\$ millions) per vertically integrated and non-vertically integrated reporting unit, 2008-2023	17



---

## Executive Summary

### I Introduction

**ES 1** The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in late 2013 to undertake research and policy analysis about communications including broadcasting, whether offline or online. In our view, a strong Canadian communications system is one that serves the public interest as described by Parliament, in the case of broadcasting, in the *Broadcasting Act*.

**ES 2** FRPC's initial comments on BNoC 2025-2 focus on the absence of clear and measurable objectives, and the lack of reliable data available from the CRTC.

### A FRPC's concerns

#### **Inappropriate conflation of Parliament's broadcasting and regulatory policies**

**ES 3** FRPC notes that BNoC 2025-2 conflates Parliament's broadcasting and regulatory policies by stating (¶16) that if the CRTC's current regulatory mechanisms are ineffectively in meeting the Broadcasting Policy for Canada, then these may be changed with new "tools that can better adapt to the needs of industry". As a matter of law, Canada's current broadcasting legislation only allows the CRTC to use tools adapted to industry's needs when the tools achieve Parliament's Broadcasting Policy for Canada because conflicts between the policies must be resolved in favour of the Broadcasting Policy for Canada. Consequently any changes made by the CRTC may well serve industry's needs – but only if they also serve the objectives of Parliament's Broadcasting Policy.

#### **Is a there, anywhere?**

**ES 4** FRPC also notes that the vague and imprecise wording used throughout BNoC 2025-2 leaves one asking whether 'there is a there': 2025-2 does not describe where the broadcasting system 'is' currently, does not state where the broadcasting system 'should be' and does not explain or describe how Canadians, Parliament and the CRTC will know if the broadcasting ever arrives 'there', wherever 'there' may be. The CRTC should clarify its goals by stating statistics measuring its objectives as they now stand, the direction in which the CRTC wants the system to go, as well as the parameters that define success for the CRTC.

**ES 5** The two goals that 2025-2 sets out at ¶18 in fact relate to 11 different concepts: sustainability, discoverability, access (to services), diversity (of content), fairness,

competitiveness, transparency, engagement rules, timeliness, efficacy and resolution (of disputes). Only two of these – sustainability and efficacy – refer in 2025-2 to objectives in the *Broadcasting Policy for Canada*.

### **Lack of objective evidence forestalls analysis and modelling by the public**

- ES 6** 2025-2 also does not set out any objective information describing the current state of these concepts in Canada’s broadcasting system. If we do not know how resilient, adaptable, fair, diverse and innovative Canada’s broadcasting system is now, how will we know when the system becomes more (or less) how resilient, adaptable, fair, diverse and innovative?
- ES 7** FRPC is also concerned that the lack of any objective data about where the system ‘is’, for instance, in terms of the 11 concepts in the CRTC’s two stated goals. The absence of data in 2025-2 unfairly and unreasonably limits public-interest participants ability to make informed comments and recommendations about the CRTC’s objectives.
- ES 8** Two striking features of the CRTC’s 146 “Open Data” data tables that the CRTC does publish are that the tables do not provide measures of the level of Canadian programming now provided by Canada’s broadcasting system, and the substantial differences in the periods covered by the tables (ranging from 3 years for 4 data tables, to 6 years by 39 data tables, to 15 years by 6 data tables). The absence of reliable longitudinal data limits objective analysis of the impact of the CRTC’s past policies and forestalls empirical modelling by the public or public-interest participants.

## **II. Asymmetrical outcomes of the CRTC’s current regulatory policies for discretionary audiovisual programming services**

- ES 9** Given the lack of objective data in 2025-2 and the uncertainty about the direction in which the CRTC is proposing to lead Canada’s broadcasting system, the Forum reviewed the *Statistical and Financial Summaries* that the CRTC publishes annually and which describe radio, conventional television and discretionary programming services.
- ES 10** The reports published by the CRTC about individual discretionary programming services include aggregated summaries for vertically integrated and non-vertically integrated programming services. The reports allow comparisons to be made with respect to regulated financial outcomes of these services but do not include programming analyses showing hours of original Canadian programming broadcast by the services. We wanted to determine whether the services

- perform in similar ways and have similar outcomes, as differences might suggest areas where policies could be adapted.
- ES 11** It is difficult to ascertain whether the data published by the CRTC about discretionary programming services are reliable, due to inconsistencies in the numbers of services reported by the CRTC in its different discretionary-programming service reports.
- ES 12** In terms of programming, the available (potentially unreliable) data show that vertically integrated discretionary services allocated \$11.9 billion to Canadian programming expenditures from 2008 to 2023, while non-vertically integrated services allocated \$4.7 billion. At the same time, however, the percentage of revenues devoted by non-vertically integrated discretionary services overall was consistently higher than for vertically integrated services. If vertically integrated services had devoted the percentage of revenues allocated by non-vertically integrated services to Canadian programming, the vertically integrated services would have directed an additional \$3.7 billion to Canadian programming from 2008 to 2023.
- ES 13** In terms of ‘sustainability’, FRPC notes that in total vertically integrated discretionary services reported profits in each of the 16 years from 2008 to 2023, while non-vertically integrated services in total reported losses in 2008, 2015 and 2023. (In 2023 vertically integrated services reported on average [per reporting unit] profits of \$7.1 million; non-vertically integrated services on average losses of \$0.5 million.)
- ES 14** Non-vertically integrated discretionary services have also met Parliament’s ‘human resources’ objective by employing more people (on average) than vertically integrated services, since 2017.
- ES 15** The Forum is concerned that the issue(s) before the CRTC as set out in BNoC 2025-2 have less to do with differences between types of broadcasters, whether they are operating offline online or online only, and more to do with the lack of policies directed at implementing specific sections of Parliament’s *Broadcasting Policy for Canada*. The CRTC does not have a published policy regarding employment, for example, or regarding the degree to which it permits programming services – depending on their ownership – to operate profitable businesses.
- ES 16** The Forum submits that the CRTC must set out clear goals and timelines for implementing the (many) objectives in section 3(1) of the Broadcasting Act – and

must publish annual quantitative information describing how these objectives – such as the exhibition of Canadian programming -- are being met.

### III Conclusions and recommendations

ES 17 As a preliminary matter BNoC 2025-2 does not clarify

- how the CRTC defines resilience, adaptability, fairness, diversity and innovation;
- how resilient, adaptable, fair, diverse and innovative is Canada's broadcasting system today;
- how the Commission – and Canadians – will know when the system has become sufficiently resilient, adaptable, fair, diverse and innovative, and
- whether a more resilient, adaptable, fair, diverse and innovative broadcasting system will achieve more, the same or fewer of the objectives in Parliament's *Broadcasting Policy for Canada*.

ES 18 Given this lack of clarity, FRPC's two recommendations focus on the outcome of the CRTC's determinations of BNoC 2025-2, both in terms of purpose and in terms of data:

#### FRPC Recommendations

**Recommendation 1** In making determinations about 2025-2 the CRTC should ensure that any of the changes it proposes ensure that implementation of the Broadcasting Policy for Canada their first priority – and only then consider whether different tools could or should be used to regulate existing and prospective broadcasters

**Recommendation 2** The CRTC should publish long-term data describing programming, financial and employment characteristics of the sectors it regulates, to correct errors on the record and to provide the public, Parliament and broadcasters with objective information with which to evaluate the implementation of Parliament's broadcasting policy for Canada.





## I. Introduction

- 3 The Forum for Research and Policy in Communications (FRPC) is a non-profit and non-partisan organization established in late 2013 to undertake research and policy analysis about communications including broadcasting, whether offline or online.
- 4 The Forum supports a strong Canadian communications system, provided it serves the public interest as described by Parliament in its *Broadcasting Policy for Canada*, located at section 3 of the 2023 *Broadcasting Act*.
- 5 FRPC has two initial concerns, involving 2025-2's conflation of Parliament's broadcasting and regulatory policies and the uncertainty as to what the CRTC wants from this proceeding. After addressing these concerns below, the Forum set out its analysis of the limited CRTC data it has published over the past 15 years about Canada's broadcasting system which are partially related to the factors described above.

### A. *2025-2 inappropriately conflates Parliament's broadcasting and regulatory policies*

- 6 The 1991 and the current *Broadcasting Act* set out Parliament's *Broadcasting Policy for Canada* as well as a *Regulatory Policy*.

- 7 The CRTC exists to implement Parliament's broadcasting policy for Canada. At ¶16 of BNoC 2025-2, however, the Commission states that in this proceeding it

... will consider whether its current tools are still effective for and appropriate to meeting the public policy objectives set out in the Act, and, if not, whether they should be amended or replaced with new, innovative tools that can better adapt to the needs of the industry in today's environment.

Objects [of the Commission in Relation to Broadcasting] 5(1) Subject to this Act and the <i>Radiocommunication Act</i> and to any directions to the Commission issued by the Governor in Council under this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection (2).
--

- 8 The Forum disagrees with this wording as it conflates Parliament's broadcasting policy with its regulatory policy (in subsection 5(2)) of the *Broadcasting Act*.

- 9 Regardless of the specific requirements set out in subsection 5(2), the 1991 and the current *Broadcasting Act* require the Commission to place the requirements of Parliament’s *Broadcasting Policy* before it takes steps to meet the *Regulatory Policy*. Specifically, Parliament states in section 5(3) that if the regulatory policy’s provisions conflict with those of the *Broadcasting Policy* the CRTC main concern must be with the *Broadcasting Policy*.
- 10 Consequently, the CRTC must ensure that the changes it determines to make in the 2025-2 proceeding first serve to implement Parliament’s objectives in the *Broadcasting Policy for Canada* – before determining whether its changes “adapt to the needs of the industry” today.

Conflict

5(3) The Commission shall give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2).

**Recommendation 1 In making determinations about 2025-2 the CRTC should ensure that any changes it proposes make implementation of the *Broadcasting Policy for Canada* their first priority – and only then consider whether different tools could or should be used to regulate existing and prospective broadcasters**

**B. Is there a there, anywhere?**

**1. What does the CRTC want and how will it know when it has it?**

- 11 BNoC 2025-2 states at paragraph 8 that the two goals for this proceeding are:
- a sustainable model for the delivery and discoverability of diverse Canadian and Indigenous content: A broadcasting system in which Canadians have access to and can discover a diversity of audio-visual and audio content; and
  - a fair and competitive marketplace: A broadcasting system in which fair, transparent, and competitive rules of engagement <sup>Footnote2</sup> support interactions between programming services <sup>Footnote3</sup> and distributors, <sup>Footnote4</sup> and which provides timely and effective mechanisms for resolving commercial disputes.
- Footnote 2: In this context, the term “rules of engagement” refers to requirements, practices, and principles.
- Footnote 3: “Programming services” here refers both to programming undertakings and online undertakings that act like programming services.
- Footnote 4: “Distributors” here refers to both BDUs and online undertakings that act like BDUs.
- 12 The Forum’s main concern is this proceeding is that at the moment

- 
- a) the state of “market dynamics between small, medium, and large programming, distribution, and online services” is unknown
- b) the state of market dynamics that the CRTC wants the broadcasting system to obtain is unknown, and
- c) it is unclear how Canadians, Parliament and the CRTC will know when the “market dynamics” are at an appropriate level.
- 13 In other words, it is unclear where Canada’s broadcasting system “is”, where the CRTC wants the system “to be”, and how the CRTC will know that the system ‘gets there’, wherever where is.
- 14 Without objective measures of these three questions, any outcome could be described as either successful or unsuccessful. Without objective parameters how will Canadian and foreign broadcasters – or Parliament and Canadians – ascertain that individual or groups of broadcasters are progressing towards or away from achievement of the CRTC’s goals?
- 15 The CRTC should clarify its goals by providing measures of these objectives which show where the broadcasting system now stands and where the Commission wants it to go.

## **2. CRTC’s two goals for 2025-2 include 11 measurable concepts**

- 16 The two goals in ¶18 of BNoC 2025-2 refer to 11 specific concepts: sustainability, discoverability, access (to services), diversity (of content), fairness, competitiveness, transparency, engagement rules, timeliness, efficacy and resolution (of disputes):

- a sustainable model for the delivery and discoverability of diverse Canadian and Indigenous content: A broadcasting system in which Canadians have access to and can discover a diversity of audio-visual and audio content; and
- a fair and competitive marketplace: A broadcasting system in which fair, transparent, and competitive rules of engagement <sup>Footnote2</sup> support interactions between programming services <sup>Footnote3</sup> and distributors, <sup>Footnote4</sup> and which provides timely and effective mechanisms for resolving commercial disputes.

[underlining added]

Footnote 2: In this context, the term “rules of engagement” refers to requirements, practices, and principles.

Footnote 3: “Programming services” here refers both to programming undertakings and online undertakings that act like programming services.

---

Footnote 4: “Distributors” here refers to both BDUs and online undertakings that act like BDUs.

- 17 The CRTC may, of course, be concerned about entirely different factors. If so, it should list and describe these more clearly – preferably at least four weeks before its 12 May 2025 public hearing begins – to enable parties in that hearing to consider before they appear before the CRTC hearing panel whether and when these factors can be achieved.
- 18 What is missing from the CRTC’s list of factors is a description of how the CRTC measures – or intends to measure – each one. Yet we need to know
- How the CRTC defines resilience, adaptability, fairness, diversity and innovation,
  - To determine how resilient, adaptable, fair, diverse and innovative Canada’s broadcasting system is today, and
  - To enable Canadians, Parliament broadcasters and the CRTC to know when the system has become resilient, adaptable, fair, diverse and innovative to the degree desired by the Commission.
- 19 Without the answers to these three questions, the Commission risks regulating without clear purpose.
- 20 Some factors receive short shrift in terms of the number of times they are mentioned: does this mean that some factors are less important than others? None of the factors is clearly defined, moreover, as BNoC 2025-2 tends instead to refer to these so vaguely that they cannot be measured, or in terms of other (equally undefined) concepts: Table 1. It appears that only two of the 12 factors – sustainability and efficacy – refer directly to the objectives laid out by Parliament in its *Broadcasting Policy for Canada*.

Remainder of page left intentionally blank



**Table 1 CRTC’s descriptions of 12 concepts in 2025-2**

2025-2 concepts CRTC description	# of mentions
<p><b>Sustainability – defined in terms of 10 other concepts: resilience, adaptability, support, discoverability, competition, diversity, innovation, financial stability, Canadians’ aspirations and contributions</b></p> <p>Summary: “The Commission considers that a sustainable Canadian broadcasting system is one that is resilient, adapts effectively to change, supports Canadian and Indigenous content and facilitates its discoverability, and promotes fair competition, diversity, and innovation”</p> <p>¶14: “A sustainable broadcasting system is one that effectively fulfills the policy objectives set out in the Act. It is also one that helps to achieve the cultural, social, and economic aspirations of Canadians. It responds to changes in technology and consumer demand by adapting to how Canadians discover, access, and consume content, especially Canadian and Indigenous content. It is financially stable and able to grow and evolve. It supports the production and distribution of diverse Canadian content in both official languages and Indigenous content through the contributions of the various private and public players that participate in and benefit from the system.”</p>	<p>Sustain: 19 mentions            Sustainable: 12 mentions            Sustainability: 6 mentions</p>
<p><b>Discoverability</b></p> <p>Footnote 9: “Prominence is an aspect of discoverability and a term often used in reference to visibility on online streaming services.”</p>	<p>Discoverability: 17 mentions</p>
<p><b>Canadians’ access to services</b></p> <p>Footnote 42: “The Commission has traditionally required that programming services be available to all BDUs and not be exclusive to any particular one. In this way, most Canadians have access to programs that have been acquired on an exclusive basis.”</p> <p>¶138: “... Traditionally, mandatory distribution has been used to ensure access to and support for programming of exceptional importance, including news services.”</p> <p>¶138: “To ensure affordable access to essential Canadian programming, licensed BDUs must offer a basic service for no more than \$25 per month.”</p> <p>¶140: “Are the current regulatory tools appropriate to and effective for ensuring that programming undertakings have access to the broadcasting system ...”</p> <p>¶158: “... the Commission is examining whether there are barriers to accessing relevant data related to audio-visual and audio services, including return-path data and program guide data.”</p> <p>[footnotes 28 and 29 omitted]</p>	<p>Access: 51 results</p>
<p><b>Diversity of content</b></p> <p>¶1: “diversity of Canadian cultural expression and social values”</p> <p>¶146: “diversity of editorial voices in programming content, including news”</p>	<p>Diversity: 16 mentions            Diversity of content: 0 mentions</p>



2025-2 concepts CRTC description	# of mentions
<p><b>Fairness</b></p> <p>¶141: “there are power imbalances in the broadcasting system that can be leveraged by certain entities”</p>	<p>Fair: 25 times</p>
<p><b>Competitiveness – tautology combining fairness, transparency and competitiveness</b> (see ¶141)</p> <p>¶18: “a fair and competitive marketplace: A broadcasting system in which fair, transparent, and competitive rules of engagement support interactions between programming services and distributors, and which provides timely and effective mechanisms for resolving commercial disputes.”</p> <p>[footnotes 2, 3 and 4 omitted]</p>	<p>Competitive market: 3 mentions          Competitiveness: 1 mention (¶159)</p>
<p><b>Transparency</b></p> <p>Q32: “...Should behaviours, actions, and/or metrics be considered? These could include, for example, transparency, timeliness of responses, or fairness. If so, please propose a definition or approach, specifying which of these aspects should be considered and why.”</p> <p>Q37: “...What data governance and transparency obligations, or guidelines supplementing existing general legal obligations, ought to be introduced with respect to the collection, storage, and use of audience information?”</p>	<p>Transparency: 2 mentions          [3<sup>rd</sup> mention is to “About this site”]</p>
<p><b>Engagement rules</b></p> <p>Footnote 2: “rules of engagement” refers to requirements, practices, and principles</p>	<p>Rules of engagement: 5 mentions</p>
<p><b>Timeliness</b></p> <p>¶165. Adaptable, flexible, and timely dispute resolution mechanisms are essential for handling the variety of commercial disputes in support of the public policy objectives of the Act and for both traditional and online players. ...</p> <p>¶18; see also ¶142: “... timely and effective mechanisms for resolving commercial disputes”</p> <p>¶165: “timely dispute resolution mechanisms ....”</p> <p>¶144: “... timely resolution of commercial disputes ....”</p>	<p>Timeliness: 1 mention          Timely: 5 mentions</p>
<p><b>Efficacy</b></p> <p>¶14: “A sustainable broadcasting system is one that effectively fulfills the policy objectives set out in the Act.”</p>	<p>Efficacy: 0 mentions          Effectively: 11 results          Effective: 33 results</p>
<p><b>Resolution of disputes</b></p> <p>¶145: “The Commission is of the view that aligning the rules of engagement and the Commission’s Alternative Dispute Resolution (ADR) mechanisms will be important for fostering fair and transparent commercial relationships.”</p> <p>¶161: “Amid rising competition, especially from large online undertakings and vertically integrated players, there appears to be a growing need for the Commission to resolve commercial disputes between programmers and distributors. ...”</p> <p>¶171: “The Commission’s graduated ADR approach prioritizes informal dispute resolution through early staff assistance. If informal discussions fail, staff assisted mediation (SAM) is the next step. This</p>	<p>Resolution: 31 mentions          Dispute resolution: 26 results          Alternative dispute resolution: 3 results          Resolution of disputes: 1 mention</p>



2025-2 concepts CRTC description	# of mentions
confidential, voluntary process allows Commission staff to assist parties in reaching a non-binding, mutually agreeable resolution.” ¶178: “Q43. Have the remedies imposed by the Commission in cases of dispute resolution or undue preference generally been sufficient to address the concerns of the party seeking relief? ....”	
Yellow highlighting added	

**C. Lack of information hinders public’s ability to respond to BNoC 2025-2**

21 The Forum’s comments in this stage of the 2025-2 proceeding are brief due to the absence of relevant evidence in 2025-2 about the current state of Canada’s broadcasting system, and how the state of Canada’s broadcasting system has changed over time. For example, BNoC 2025-2 states that “certain entities” could ‘leverage’ unspecified “power imbalances” and goes on to say that these imbalances “have” prevented “various services” from participating in the broadcasting system fairly and meaningfully.

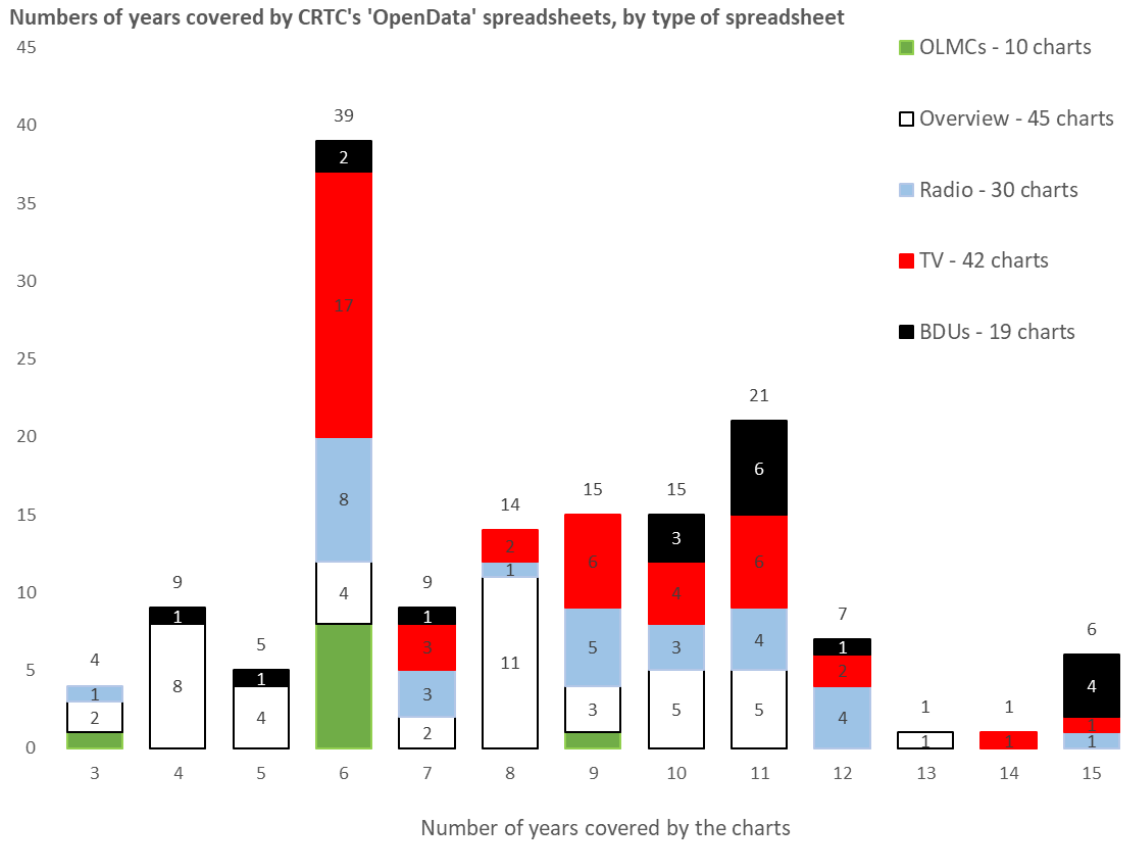
BNoC 2025-2, ¶41: “... there are power imbalances in the broadcasting system that can be leveraged by certain entities. These imbalances have strained commercial relationships and hindered the ability of various services to participate in the system in a fair and meaningful way.”

22 What concrete recommendations does the CRTC expect the public or public-interest participants to make about statements that identify problems without identifying how the problems arose and which parties – or even which type of broadcaster (programming or distribution or both?) – were at fault? The Forum submits that this information is relevant to the public evaluation of evidence submitted by broadcasters – yet the data cannot readily be found.

23 The CRTC was known formerly for publishing evidence about complex issues when it invited Canadians to comment on those issues. In its review of Canadian television policy in 1998, for instance, the information that the CRTC placed on the public record included analyses of ownership structures, stations’ schedules, results from stations’ program logs, viewing data, and financial performance. Having this this information enabled public-interest participants to focus their submissions, and also provided an evidentiary foundation against which the outcomes of the CRTC’s decisions could be evaluated.

24 While the CRTC today publishes many datasets through the Open Data portal – 146 by our count, they do not address the issues being addressed by BNoC 2025-2. For one thing, the different data tables refer to different periods of time ranging from 3 to 15 years: Figure 1. Only 6 data tables describe 15 years (one more year than two 7-year licence terms: 1 table radio 1, 1 for TV, and 4 for BDUs.

**Figure 1 Number of years described by CRTC's OpenData data tables**



- 25 This inconsistent presentation of longitudinal information about the broadcasting services the CRTC's regulates limits objective analysis of the actual impact of its past policies, and limits the development of models to evaluate the impact of its proposals or proposals by other parties, in particular by the public and public-interest participants. (FRPC notes as well that several of the tables in separate 'open-data' sets, duplicate each other, at times covering different years.)
- 26 None of the CRTC's open-data datasets, moreover, describes the hours of Canadian and non-Canadian programming offered by radio and television programming services, or distributed by distribution undertakings. They focus instead primarily on financial and audience performance. Just over half (74 or 51%) of the data tables in the CRTC's broadcasting datasets describe broadcasters' financial performance and just over a fifth (32 or 22%) of the tables describe audience' use of the different media (tuning or share of hours): Table 2.



**Table 2 Number of tables by topics and number of years described in table**

General topic described by CRTC's individual open-data spreadsheets	Number of years covered													Total	
	3	4	5	6	7	8	9	10	11	12	13	14	15	#	% of total
Access				9										9	6%
Audience	1			3	2	5	5	4	8	3	1			32	22%
Financials	3	6	4	12	4	9	9	7	11	4			5	74	51%
Households				1										1	1%
Ownership				1								1		2	1%
Structure		3	1	13	2		1	2						22	15%
Subscribers								2	1				1	4	3%
Subscription					1									1	1%
Technology									1					1	1%
Total	4	9	5	39	9	14	15	15	21	7	1	1	6	146	100%
% of total	3%	6%	3%	27%	6%	10%	10%	10%	14%	5%	1%	1%	4%	100%	

27 Only one in five of the CRTC's open-data tables – or 31 of 146 tables – describe aspects of Canadian content in Canada's broadcasting system, all in terms of expenditures or tuning: Table 3.

**Table 3 Number of CRTC open-data tables referring to "Canadian" in their title**

Tables addressing Canadian content:	Total	
	#	%
Table title did not refer to "Canadian"	115	79%
Canadian programming services	1	1%
Canadian and foreign affiliation payments	2	1%
Canadian content contributions	2	1%
Canadian content development	9	6%
Canadian content expenditures	3	2%
Canadian production credit	5	3%
Canadian program tuning	1	1%
Share of viewing to Canadian and foreign services	4	3%
Share of viewing to Canadian services	1	1%
Average hours to Canadian programs	3	2%
Total	146	100%

28 Strikingly, considering the emphasis in Parliament's *Broadcasting Policy for Canada* on the availability of Canadian programming, none of the CRTC's 146 data tables describes how much Canadian programming is being or has been exhibited by Canadian audio and audiovisual services.

29 The main effect of the CRTC's decision to ask for evidence without providing any of its own – when it is the sole regulatory agency empowered to obtain information from those it regulates – is to minimize the ability of the public and Parliament to

understand how the CRTC's regulation of broadcasting is implementing the legislature's *Broadcasting Policy for Canada*: see e.g. Table 4.

**Table 4 CRTC only federal agency empowered to obtain relevant data**

<p>9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting:</p> <p>...</p> <p>(n) the provision to the Commission, by licensees or persons exempt from the requirement to hold a licence under an order made under subsection 9(4), of information related to</p> <ul style="list-style-type: none"><li>(i) the ownership, governance and control of those licensees or exempt persons, and</li><li>(ii) the affiliation of those licensees or exempt persons with any affiliates carrying on broadcasting undertakings;</li></ul> <p>(o) the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including</p> <ul style="list-style-type: none"><li>(i) financial or commercial information,</li><li>(ii) information related to programming,</li><li>(iii) information related to expenditures made under section 11.1, and</li><li>(iv) information related to audience measurement, other than information that could identify any individual audience member; and</li></ul> <p>(p) continued ownership and control by Canadians of Canadian broadcasting undertakings</p>
--

**Recommendation 2 The CRTC should publish long-term data describing programming, financial and employment characteristics of the sectors it regulates, to correct errors on the record and to provide the public, Parliament and broadcasters with objective information with which to evaluate the implementation of Parliament's broadcasting policy for Canada.**

30 A second – and perhaps equally important – effect is that the lack of data provided in 2025-2 and in the CRTC's 146 data tables limits the transparency of the Commission's development of regulatory proposals in relation to BNoC 2025-2. The *Canada-United States-Mexico Agreement* to which Canada is a party sets out specific best practices in regulation in Article 28. Whatever one's views about *CUSMA* and whether Canada remains or withdraws from *CUSMA* in the future, Canada is currently a party to this international agreement. This means that it has agreed to abide by the requirements of Article 28:9.1:

Article 28.9: Transparent Development of Regulations

1. ... **when a regulatory authority is developing a regulation, the Party shall, under normal circumstances, publish:**

- (a) the text of the regulation along with its regulatory impact assessment, if any;
- (b) an explanation of the regulation, including its objectives, how the regulation achieves those objectives, the rationale for the material features of the regulation, and any major alternatives being considered;

(c) **an explanation of the data, other information, and analyses the regulatory authority relied upon to support the regulation;** and  
(d) the name and contact information of an individual official from the regulatory authority who may be contacted concerning questions regarding the regulation.

...

- 31 The Forum considers that, given the importance of this proceeding, it was incumbent on the Commission to publish information about the 12 factors to which it referred in BNoC 2025-2.

## II. Asymmetrical outcomes of the CRTC's current regulatory policies

- 32 In the absence of objective data in BNoC 2025-2 – and lacking information about the ‘there’ to which the CRTC wishes to go, the Forum reviewed the annual reports issued by the CRTC about radio, conventional television and discretionary television programming services.

- 33 Of these reports, only the discretionary television services reports – since the 2008-2012 report – distinguish services by ownership: whether regulated services<sup>1</sup> are controlled by vertically integrated companies or not. The Foreword to the CRTC's most recent published information – in *INDIVIDUAL DISCRETIONARY AND ON-DEMAND SERVICES: STATISTICAL AND FINANCIAL SUMMARIES, 2019 – 2023* – explains that the CRTC decided in 2011 to

... publish complete financial information for services owned or controlled by a vertically integrated entity. The Commission also determined it will publish partial financial information for all independent individual licensed services including total revenues, total programming expenses, and total Canadian programming expenses. Complete financial information for all independent licensed services on an aggregate basis is also included in this publication. Consult the aggregate discretionary and on-demand services publication for information relating to exempt services.

- 34 The CRTC explains in a separate report – *BROADCASTING DISTRIBUTION: Cable, Internet Protocol Television (IPTV) and Direct-to-Home (DTH) - STATISTICAL AND FINANCIAL SUMMARIES, 2019 – 2023* – that the “exempt services” to which it

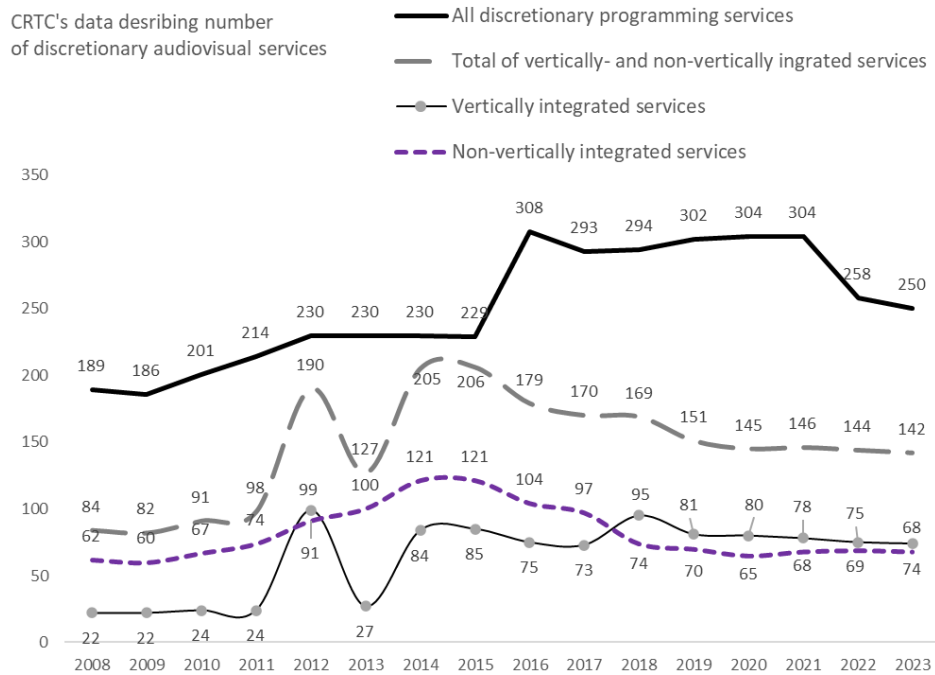
---

<sup>1</sup> Regulated in the sense that the parties are subject to regulation (but may be exempted in some cases from specific regulations or conditions of service/orders).

refers describe revenues “derived from classified advertising, teleshopping/general services and infomercials” (Foreword). The CRTC does not list the exempted services that are excluded from the *Individual Discretionary and On-Demand Services* report in either that report or the *Broadcasting Distribution* report, however, leaving it unclear to which or to how many services it is referring.

- 35 The CRTC’s annual financial summaries do not, unfortunately, provide any information about the exhibition of Canadian programming by the services described in the summaries.
- 36 The Forum combined the annual data published by the CRTC in its financial summaries for vertically integrated, non-vertically integrated and all discretionary services, to obtain a time series from 2008 to 2023. (The *Individual* discretionary services with data from before 2008 did not include disaggregations of the vertically integrated and non-vertically integrated services.)
- 37 As an initial point, we note that the total number of programming services shown in the *DISCRETIONARY AND ON-DEMAND SERVICES: STATISTICAL AND FINANCIAL SUMMARIES, 2019 – 2023* report differs from the total of the vertically integrated and non-vertically integrated services in the *Individual Discretionary and On-Demand Services* report: **Error! Reference source not found..**

**Figure 2 Total numbers of discretionary services, 2008-2023**



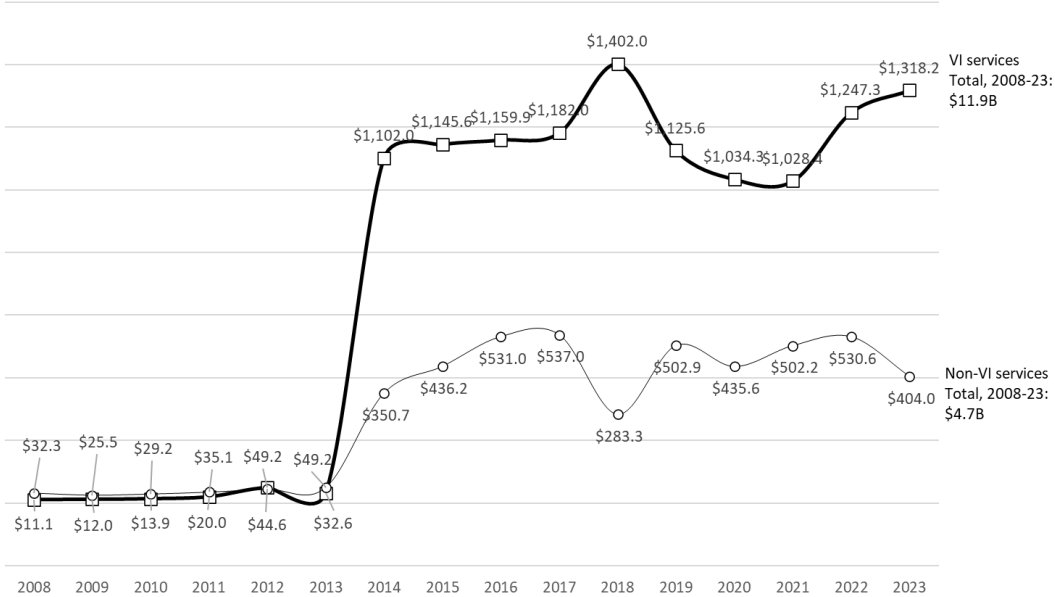
- 38 It is therefore unclear which services are covered by these reports, meaning in turn that it is unclear how reliable the data are from either report in describing the topics noted in their titles.
- 39 Putting the reliability or unreliability of the CRTC’s published data to one side, the available statistics show clear differences between vertically integrated and non-vertically integrated discretionary services.
- 40 Parliament’s *Broadcasting Policy for Canada* requires each broadcasting undertaking to “contribute to the implementation” of the *Broadcasting Policy’s* objectives, but sets different requirements for Canadian and non-Canadian broadcasters. Each Canadian broadcasting undertaking must – with some exceptions - make predominant use of Canadian resources (including people) to create, produce and present programming. Each foreign broadcasting undertaking must make the most ‘practical’ use of Canadian resources and “contribute” ‘equitably’ to the creation, production and presentation of Canadian programming.
- 41 In fact, in the 16 years from 2008 to 2023 vertically integrated services devoted \$11.9 billion to Canadian programming expenditures, while non-vertically integrated services allocated just \$4.7 billion to Canadian programming expenditures: Figure 3. This suggests the existence of unequal financial support for Canadian programming.

3 (1) It is hereby declared as the broadcasting policy for Canada that ...  
(a.1) each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking;  
[and that]  
(f) each Canadian broadcasting undertaking shall employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;  
(f.1) each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve;

Remainder of page left intentionally blank

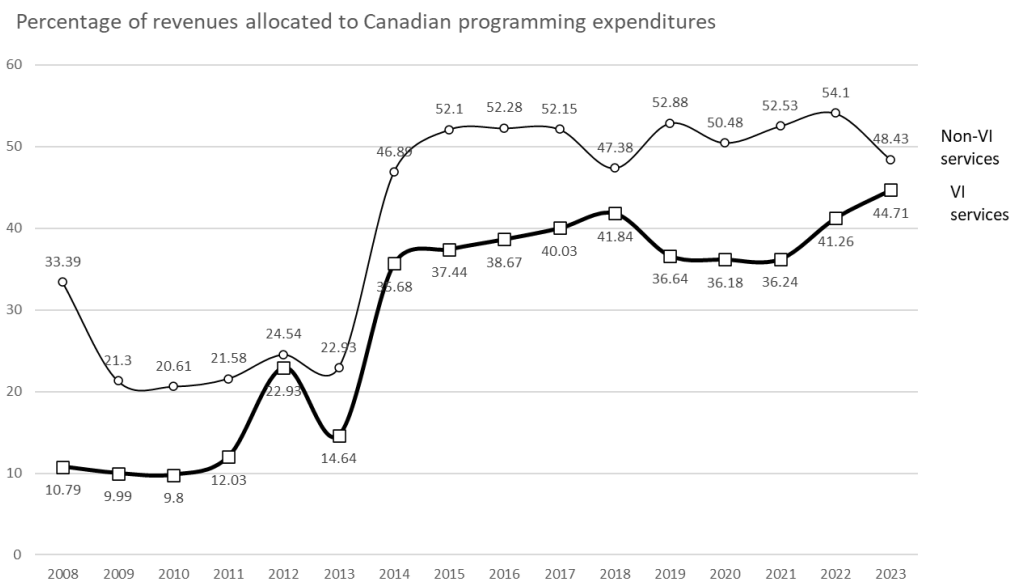
**Figure 3 Total Canadian programming expenditures per year of vertically integrated and non-vertically integrated programming services, 2008-2023**

Total Canadian programming expenditures of vertically integrated and non-vertically integrated audiovisual programming services, 2008-2023



42 These expenditures must be viewed in context, however, because the CRTC has set different Canadian programming expenditure requirements for these two groups of programming services: Figure 4.

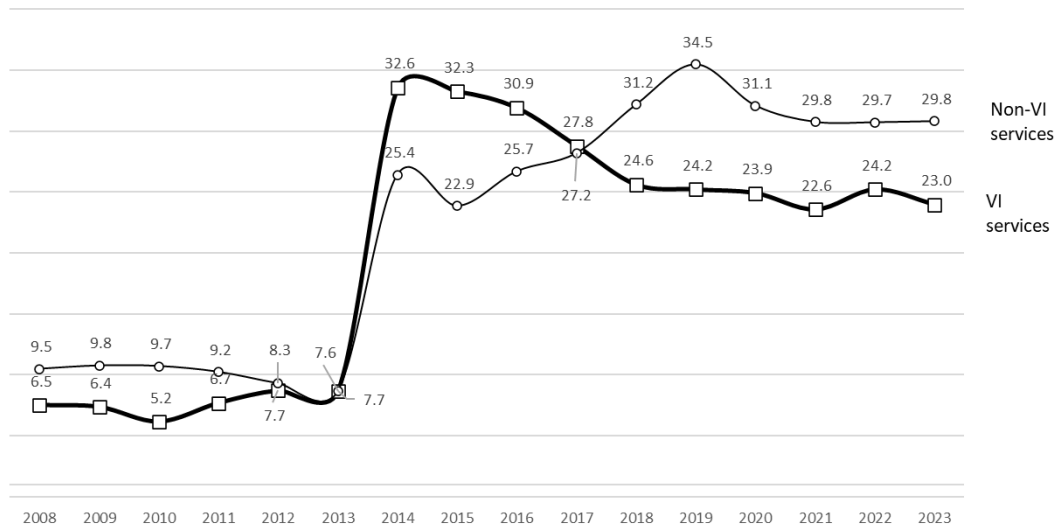
**Figure 4 Percentage of revenues allocated to Canadian programming expenditures**



- 43 Non-vertically integrated service devote more of their revenues to Canadian programming expenditures than vertically integrated programming services.
- 44 The Forum estimates that if vertically integrated programming services had devoted the same percentage to Canadian programming expenditures as that required of non-vertically integrated services, Canadian audiovisual programming would have benefited from an additional investment of \$3.7 billion from 2008 to 2023.
- 45 Insofar as people are concerned, vertically integrated and non-vertically integrated programming services have had different staffing practices since 2017, with non-vertically integrated services employing more people (on average) than vertically integrated services: Figure 5.

**Figure 5 Average staff per reporting unit, 2008-2023**

Average staff per reporting unit by year: 2008-2023

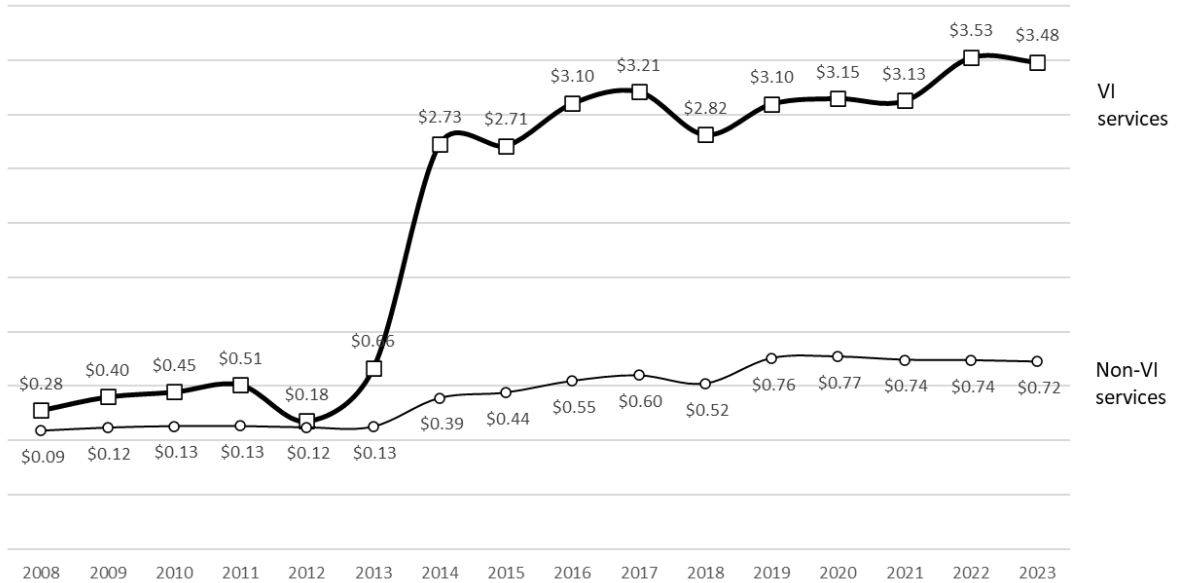


- 46 Vertically integrated and non-vertically integrated services also differ in terms of the subscriber income they earn, with vertically integrated service obtaining nearly five times more subscriber income, on average (per month), than non-vertically integrated services: Figure 6.

Remainder of page left intentionally blank

**Figure 6 Average subscriber revenue per reporting unit, per month: 2008-2023**

Average subscriber revenue per reporting unit, per month: 2008-2023



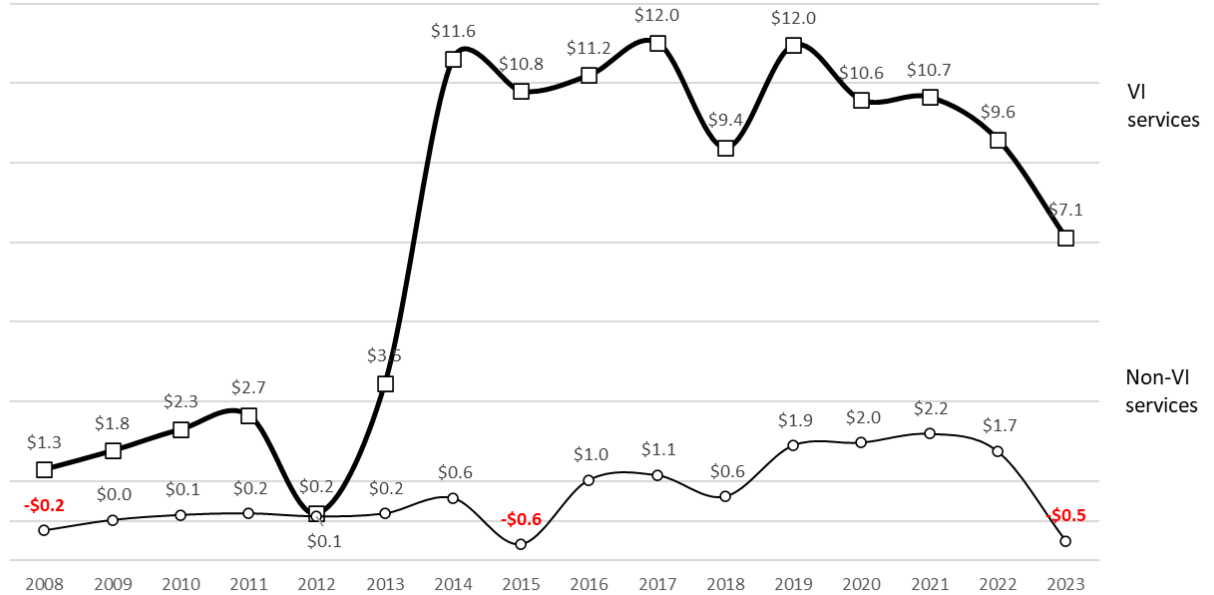
47 The *Broadcasting Act* does not address the financial well-being or profitability of broadcasting services. As it happens, vertically integrated and non-vertically integrated services differ in terms of their sustainability – that is, profits before interest and taxes (or PBIT). As Figure 7 shows, non-vertically integrated services showed PBIT losses in 2008, 2015 and 2023, where vertically integrated services showed profits in all 25 years. The ‘average’ vertically integrated discretionary service enjoyed profits of \$7.12 million; on average non-vertically integrated discretionary services reported a loss of \$0.50 million.

Remainder of page left intentionally blank



**Figure 7 PBIT (\$ millions) per vertically integrated and non-vertically integrated reporting unit, 2008-2023**

Average profits before interest and taxes (PBIT) per reporting unit (\$ millions), by year:  
 2008-2023



- 48 To the extent that the Commission wishes to ensure sustainability of the broadcasting system, it should ensure regulatory symmetry between all major types of broadcasting services. Given the importance of Canadian programming, for instance, it is unclear why the CRTC over the past 16 years has generally required vertically integrated programming services that, on average, earned 10 times the average profits of their non-vertically integrated equivalents, to devote a lower percentage of their revenues to Canadian programming than it requires from non-vertically integrated programming services.
- 49 Consequently, the Forum does not agree with the majority of the statements made by the Commission in ¶18 of BNoC 2025-2, aimed at the differences between offline and online broadcasters:

[o]ne of the most complex aspects of commercial relationships in Canada’s broadcasting industry is the coexistence of traditional broadcasters and online streaming services. This complexity has been further accentuated by the significant differences in the way the commercial relationships and market dynamics play out in Canada’s English- and French-language markets, including the way relationships

between public and private broadcasters have evolved. The rise of international online streaming services has drastically altered the market dynamics, creating tension between traditional broadcasters and these new players. This shift has created both competition and collaboration. For example, increasingly, Canadian broadcasters have entered into partnerships with online streaming services for content distribution or joint productions, while also attempting to adapt their own services to capture a slice of the streaming market.

- 50 In our view, the issue before the Commission has less to do with differences between types of broadcasters – online or offline – and more to do with the lack of policies directed at implementing specific sections of Parliament’s *Broadcasting Policy for Canada*. One might conclude that the CRTC has since 1991 been tinkering incrementally at the edges of its many policies – all the while ignoring whether Canadians are able to listen to and watch more or less (first-run) Canadian content (in the official languages of their choice) than before. The result today is an abundance of incoherent and possibly unreliable data and an equally startling lack of information about the current broadcasting system’s ability to meet Parliament’s objectives.
- 51 The solution to this problem is not more policy tinkering, but the CRTC’s setting out of clear goals and timelines for implementing the (many) objectives in section 3(1) of the *Broadcasting Act* – and the Commission’s publication of annual quantitative information describing the degree to which the most measurable of these objectives (such as the exhibition of and expenditures on Canadian programming, and the employment of Canadian people by broadcasters operating in Canada) are being achieved.

### III. Conclusions and summary of recommendations

- 52 This consultation and the amendments made by Parliament to the 1991 *Broadcasting Act*, afford the Commission a rare opportunity to rethink and redirect its regulatory attention towards to the objectives now set out more clearly in Parliament’s *Broadcasting Policy for Canada*.
- 53 Unfortunately, the CRTC has provided very little information to inform the public, Canadians and broadcasters of its plans. Consequently,
1. It is unclear how the CRTC defines resilience, adaptability, fairness, diversity and innovation;
  2. It is unclear how resilient, adaptable, fair, diverse and innovative is Canada’s broadcasting system today;

3. It is unclear how the Commission – and Canadians – will know when the system has become sufficiently resilient, adaptable, fair, diverse and innovative, and
4. It is unclear whether a more resilient, adaptable, fair, diverse and innovative broadcasting system will achieve more, the same or fewer of the objectives in Parliament’s *Broadcasting Policy for Canada*.

54 The Forum has made just two recommendations at this time, directed at the data reported by the CRTC, and may make other recommendations once it has the opportunity to review comments from other parties about the issues raised in BNoC 2025-2.

Recommendation 1 In making determinations about 2025-2 the CRTC should ensure that any changes it proposes make implementation of the Broadcasting Policy for Canada their first priority – and only then consider whether different tools could or should be used to regulate existing and prospective broadcasters

Recommendation 2 The CRTC should publish long-term data describing programming, financial and employment characteristics of the sectors it regulates, to correct errors on the record and to provide the public, Parliament and broadcasters with objective information with which to evaluate the implementation of Parliament’s broadcasting policy for Canada.