



11 March 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) – Reply to other interveners

- 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.
- 2 The Forum submitted comments in this proceeding on 24 February 2025 (and asked to appear at the CRTC's public hearing). These were limited to a discussion of the lack of relevant data in BNoC 2025-2 and to a brief analysis of the data published by the CRTC elsewhere.
- 3 FRPC's reply to other interveners in the proceeding is attached. The absence of a response to specific interveners should not be understood as our assent to those interveners' arguments.

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**Broadcasters say their problem is overregulation
and the solution is deregulation.**

**But will this solution lead to the “resilient, adaptable, fair,
diverse, and innovative Canadian broadcasting system” that
2025-2 says the CRTC wants
— and without data, how will we know?**

**Reply to other interveners
by the Forum for Research and Policy in Communications (FRPC)**

11 March 2025

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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 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 focussed on the absence of clear and measurable objectives, and the lack of reliable data available from the CRTC.
- ES 3** The Forum's reply to other parties in this proceeding addresses four issues: the purpose of BNoC 2025-2, the gap in this proceeding concerning technological innovation, the ongoing problems created by the CRTC publication of insufficient and also unreliable data, and the degree to which accountability is stymied by lack of data and concerns about timely decision-making.
- ES 4** Our review of other parties' submissions has led us to revise our initial (two) recommendations. Our current recommendations are set out below:

FRPC Recommendations

Recommendation 1 Before making determinations about 2025-2 the CRTC should ensure that the changes it proposes will implement Parliament's *Broadcasting Policy for Canada*

Recommendation 2 As the only way to know whether changes made due to 2025-2 will implement Parliament's *Broadcasting Policy for Canada* is by measuring the objectives in the *Policy*, the CRTC's decision regarding 2025-2 must state how it will measure the *Policy's* objectives: 'the *Policy* measures'

Recommendation 3 To remain accountable to Parliament and to Canadians the CRTC must commit to publishing – at a minimum – aggregated data that are disaggregated to describe the *Policy* measures for online and offline, and public and private, audio and audiovisual broadcasters

Recommendation 4 Since measuring the *Policy* objectives after changes already made due to 2025-2 ('2025-2 changes') take place will prevent measurement of the impact of the 2025-2 changes, the CRTC should obtain data describing the *Policy* measures for the broadcast year concluded before the date when it issues its 2025-2 decision



Recommendation 5 To ensure its accountability to Parliament and to Canadians the CRTC must commit to publishing long-term data series that objectively describe the *Policy* measures

Recommendation 6 To ensure its accountability and transparency, the CRTC must commit to publishing other objective data describing programming, financial and employment characteristics of the sectors it regulates in complete time series (describing decades, rather than a few recent years) and to correcting errors in these time series as it identifies them (with appropriate notification highlighting corrections over time)

Recommendation 7 To improve its transparency, the CRTC must begin dating its 'open data' data sets to distinguish current data sets from data sets it has previously published containing different information, and

Recommendation 8 To improve its transparency and accountability, the CRTC must in 2025 coordinate a meeting of interested parties to discuss concerns about the data the CRTC currently publishes, as well as about its decisions to destroy data (such as the log data it held and destroyed describing programming broadcast before September 2014).



I. Introduction

- 4 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, whether offline or online.
- 5 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*.

A. *The inappropriate and misleading terminology of ‘contributions’*

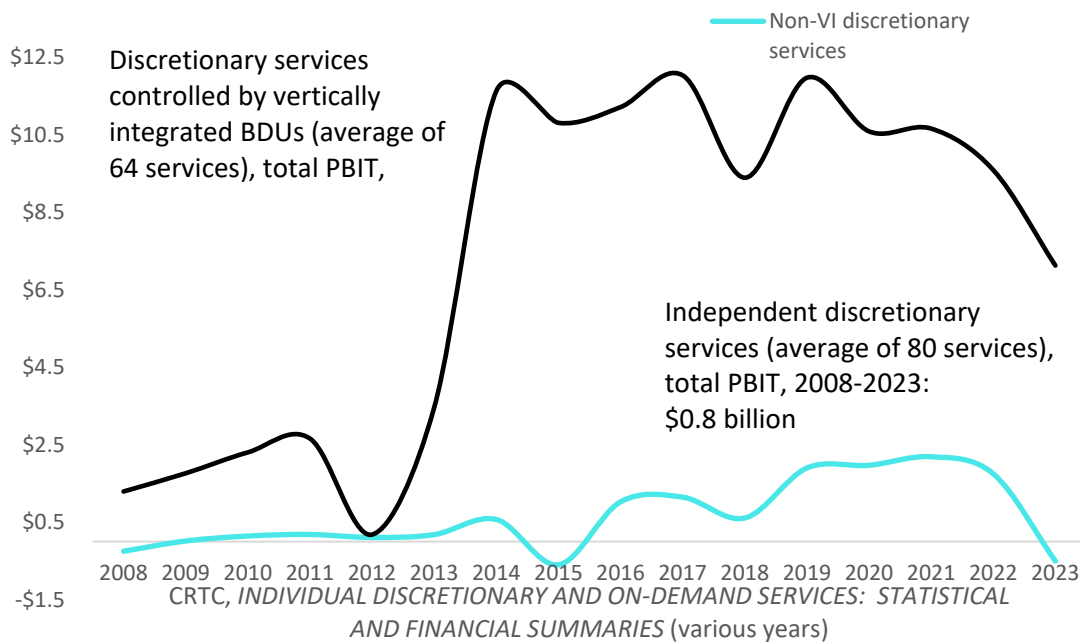
- 6 As a preliminary matter, FRPC acknowledges that Parliament in 1991 introduced the concept of ‘contributions’ to its broadcasting legislation, noting at section 3(1)(e) that the public, private and community elements of Canada’s broadcasting system must “contribute” to Canadian programming’s creation and presentation.
- 7 Regardless of Parliament’s intention 34 years ago, many today appear to interpret this term as if creating and broadcasting Canadian programming is some kind of charity, an impoverished and destitute sector whose existence – while tolerated – is magniloquently suffered, succored and subsidized by otherwise industrious, competitive and innovative businesses.
- 8 Other parties use ‘contribution’ in different ways to mean different things, leading to a confusion of arguments: Amazon, for instance, notes (¶23) that “... audio streaming services are passing on 70% of the money they receive from customers to Canadian rightsholders—a number that is seven times higher than the traditional contributions made by commercial radio stations.” [references omitted]. What Amazon is actually discussing, however, is the *Copyright Act* requirement to make payments to copyright holders to use their content, and the *Broadcasting Act* requirement that each broadcasting undertaking help to implement Parliament’s *Broadcasting Policy for Canada* by allocating resources to Canadian programming. Other parties similarly conflate programming costs and affiliate payments with contributions. These are not contributions, but expenditures – as are payments that support the creation and production of Canadian programming.
- 9 The Forum’s position is that Canadian programming is not a charity but a legislative priority of Parliament.

B. Canadian law regarding broadcast programming

- 10 The reality is that Canadian programming exists because Canadians want to watch and hear programming about their lives and their country and because Canadians want to produce and disseminate programming about their lives and their country to people in Canada and beyond its borders.
- 11 Canadian programming services require legislative intervention because, left to the whimsies of programming-distribution oligopolies able to freeride on the extensive marketing provided by American broadcasters, access by Canadians to Canadian services would otherwise be effectively limited. This conclusion can be inferred from the available evidence regarding Canadian audiovisual discretionary programming services.
- 12 Due to lack of regulatory enforcement Canada’s large programming-distribution oligopolies have been able to ensure that their discretionary programming services thrive, while programming services of independent discretionary services (some of whose carriage the Commission purportedly mandates) lacks equitable level of access and consequently, struggle to stay afloat (see Figure 1).

Figure 1

Licensed discretionary services: average PBIT per unit, 2008-2023

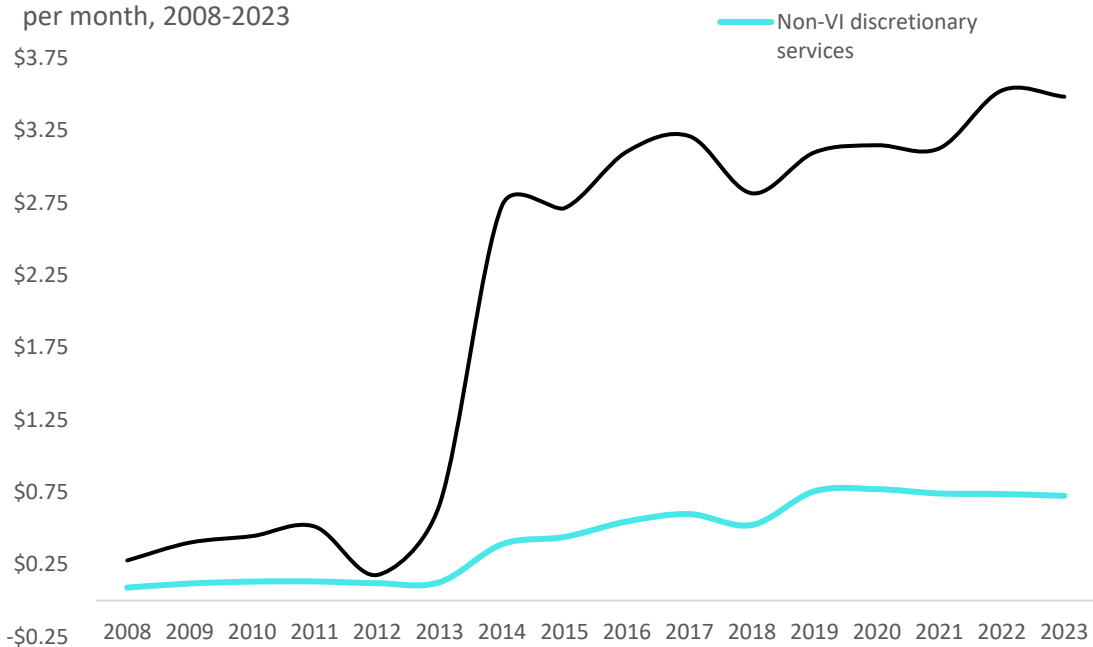


- 13 Analysis of these data demonstrate that independent discretionary services have been unable for the last decade and a half to achieve the same level of profits as the discretionary services controlled by BDUs.

- 14 Vertically integrated BDUs may argue that this difference in profits is simply due to the high quality of the discretionary services they control.
- 15 The Forum believes, however, that the difference in profits results from independent discretionary services’ inability to obtain reasonable access to subscribers. As Figure 2 shows, the discretionary services controlled by BDUs simply have access to more subscribers – measured by subscriber revenue per service – than independent discretionary services.

Figure 2

Licensed discretionary services: average subscription revenue per unit per month, 2008-2023



- 16 Therefore, the Forum does not agree with Rogers’ argument (¶18) that the Commission place yet “[g]reater reliance on market forces to resolve negotiations between parties” regarding carriage. If years of CRTC regulatory efforts to ensure ‘fair’ treatment for independent discretionary programming services have yielded the profit levels shown in Figure 1, yet more reliance on market forces is likely to eliminate independent programming services altogether.
- 17 Canadian programming today requires effective and enforced regulatory support today because decades of decisions by the CRTC in the past have magnified Canadian programming services’ dependence on the whimsies of broadcast oligopolies whose competition until the internet was so limited that the owners of Rogers and Shaw

swapped programming distribution assets between themselves at least twice,¹ only seeking regulatory blessing of the deals after the fact.

- 18 In brief, the Forum declines to refer to ‘contributions’ in relation to Canadian programming not just because it is a demeaning acronym, but because using this term condones the misrepresentation of Canadian programming as unsuccessful and perpetuates unwarranted contempt for cultural content key to Canadian sovereignty.

C. *Outline of this reply*

- 19 FRPC set out three initial concerns in its 24 February 2025 comment. These involved:
- 2025-2’s inexplicable conflation of Parliament’s broadcasting and regulatory policies,
 - the uncertainty as to what the CRTC actually wants from this proceeding given that the notice of consultation listed 60 numbered questions that when disaggregated one by one totalled 130 questions that, presumably, it hoped parties would answer, and
 - the absence of any objective historical or current data from a notice purporting to invite comment on the ‘dynamics’ of Canada’s broadcasting ‘market’.
- 20 The Forum set out its analysis of the data published by the CRTC over the past 15 years about Canada’s broadcasting system, noting the inconsistent and fluctuating duration

¹ Joe O’Connor, [“Long before merger, Rogers and Shaw had history of rivalry, respect and plenty of bull: Canada’s two cable tycoons in many ways were a lot alike — and now the companies they founded are coming together”](#), *Financial Post* (16 March 2021):

... In 1994, as Maclean-Hunter, the media company, teetered to its end, Shaw was in a position to gallop into the fray as a white knight to thwart Rogers’ \$3-billion ambitions to buy the conglomerate. Shaw stood down, and instead made a deal with Rogers to swap a bunch of cable assets, a move that gave Rogers control of Ontario and parts East and further strengthened Shaw’s position in Western Canada. Win, win.

[“Rogers, Shaw swap and merge assets”](#), *Playback* (3 April 2000):

In a move that gives the word ‘clustering’ a new meaning on the Canadian cable front, Rogers Communications and Shaw Communications have inked a deal that will see the rival cablecos swap cable assets and make strategic alliances with their respective Internet properties.

Under the agreement, Rogers will swap existing cable operations in b.c. [sic], which represents roughly 623,000 subscribers, for Shaw’s cable operations in southern Ontario and New Brunswick, which together represent about 600,000 subscribers.

The cost of the incremental, 23,000, subscribers will be based on \$3,300 per subscriber, or approximately \$75.9 million.

....

Ian Anthony, [The roots of Canadian Television](#):

... over a dinner meeting, Ted Rogers and Jim Shaw agree to trade, or “swap,” parts of their respective cable holdings. Rogers Cable service areas in British Columbia (Rogers operated since the Premier acquisition in 1981) would be provided to Shaw in exchange for the Shaw holdings in Southern Ontario, Nova Scotia [sic] and New Brunswick.

of its time series. FRPC also made two recommendations focussed on measuring the impact of any regulatory changes the CRTC makes as a result of 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.

- 21 In the remainder of this submission the Forum sets out four overarching issues that underlie the BNoC 2025-2 proceeding and other C-11 consultations. As noted in FRPC’s covering letter, our decision not to respond to some interveners should not be understood as tacit assent to their arguments.

II. Four key issues

- 22 Having reviewed a number of the initial comments in this proceeding, the Forum wishes to focus on four issues. First, FRPC believes that, given participants’ conflicting views as to the purpose of BNoC 2025-2, the CRTC should more clearly define its goals for this proceeding. Second, and as mentioned by other parties, FRPC is concerned by the quantity and quality of data available to respond to the questions in 2025-2. Third, the Forum submits that the absence of data in this and other CRTC proceedings matters in particular because accountability requires objective information to be effective. Finally, FRPC shares the concerns raised by other parties in this proceeding regarding decision-making timeliness.

A. Purpose of BNoC 2025-2

- 23 A number of parties set out their interpretation of the purpose of 2025-2. In Amazon’s view, for instance, the CRTC is asking “whether it is appropriate to extend regulatory tools designed specifically to address market failures in traditional broadcasting to online undertakings” (Amazon, ¶14). Rogers says (¶161) in the context of data collection that the CRTC “must eliminate historical inequities between online undertakings and traditional Canadian broadcasting undertakings”.
- 24 FRPC’s position is that the Commission is attempting to implement Parliament’s 2023 *Broadcasting Policy for Canada* because that is the legal role that Parliament gave the CRTC in the *Broadcasting Act*:

5(1) ... 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).

- 25 CRTC’s role must be to enforce Parliament’s legislation – and not to make policies designed to implement *assumptions* about the operation of ‘competitive markets’ – because these assumptions do not describe reality. If these competitive markets existed, Parliament would not have had to enact laws since the late 1800s² to ensure that the competitive markets theorized (rather than proven) in the *Wealth of Nations* actually serve the public interest. ‘Pure’ market forces do not exist in the broadcasting sector and that is why the CRTC has had to take the regulatory steps summarized by BCE in its intervention:

BCE, Table 1 (omitting ‘Foreign Streamers [*sic*] Requirements’ column)

Regulation	Canadian Broadcasters’ Requirements
<i>Contributions to Canadian Programming</i>	30% Canadian programming expenditures (CPE) (Bell Media’s English group - linear) 40% CPE (Bell Media’s French group - linear)
<i>Programs of National Interest</i>	7.5% (Bell Media’s English group) 18% (Bell Media’s French group)
<i>Exhibition of Canadian Programming</i>	35% during broadcast day (discretionary) 50% during evening period (OTA)
<i>Exhibition of Local Programming (Over the Air (OTA))</i>	Between 4.25 and 14 hours per week depending on the licence
<i>Exhibition of Locally Reflective News (OTA)</i>	Between 2.5 and 6 hours per week
<i>Expenditure on Locally Reflective News (OTA)</i>	11% (CTV/CTV2) 5% (Noovo)
<i>Adherence to Foreign Ownership Rules</i>	Yes
<i>Commission Approval to transfer ownership</i>	Yes
<i>Tangible Benefits on Change of Control</i>	Yes

BCE, Table 2(omitting ‘Foreign Streamers [*sic*] Requirements’ column)

Regulation	BDU Requirement
<i>Contributions to Canadian Programming</i>	5% plus additional 2%-2.5% in wholesale payments for 9.1(1)(h) services
<i>Preponderance of Canadian signals</i>	Yes
<i>Distribution of 9.1(1)(h) services</i>	Yes
<i>Small basic package offered at \$25 or less</i>	Yes

² See e.g. *An Act to amend the Act incorporating “The Bell Telephone Company of Canada”, S.C. 1882, c. 95, 45 Vict.*

...

4. The said Act of incorporation as hereby amended, and the works thereunder authorized, are hereby declared to be for the general advantage of Canada.

<i>Television Programming Access Rules</i>	Yes
<i>1:1 linkage for VI BDUs (one independent service must be included in packaging for each VI program undertaking in the same package)</i>	Yes
<i>Anti-competitive Head Start</i>	Yes
<i>Undue Preference Rules</i>	Yes
<i>Standstill Rules</i>	Yes
<i>Dispute Resolution</i>	Yes
<i>Wholesale Code - Commercial Practices</i>	Yes
<i>Wholesale Code – Affiliation Agreement Provisions</i>	Yes
<i>Standard Conditions of Licence for On-Demand Programming</i>	Yes
<i>Accessibility Requirements</i>	Yes
<i>Commission Approval to transfer ownership</i>	Yes
<i>Tangible Benefits on Change of Control</i>	Yes

26 MPA-Canada argues that the Commission should not “simply transpose prescriptive regulatory tools and requirements designed for a closed linear broadcasting system onto online undertakings that operate via the Internet” (¶15). The Forum agrees – but not because, as MPA-Canada argues, the Commission lacks authority: we agree rather because the CRTC has not provided any evidence to show that any of its regulatory approaches have achieved their stated objectives.

27 That said, FRPC agrees with Blue Ant that the CRTC must adopt a new regulatory approach to distribution because in today’s “environment there are new and different gatekeepers” (¶16). To some extent, the available evidence on the record indicates that technological innovation such as that described by the City of Calgary may yield some of the outcomes desired by Parliament’s *Broadcasting Policy for Canada*.

B. Gap regarding innovation

28 The Forum recognizes that BNoC 2025-2 addressed technological innovation in ¶¶1 and 11:

Canada’s broadcasting industry is at a crossroads, facing profound changes driven by technological innovation, shifting consumer habits, and global competition. ...

...

... This migration has put increased pressure on traditional broadcasters, both public and private, to reinvent themselves in order to secure and develop their audiences as they adapt to an environment of increased competition and technological change.

29 A puzzling gap in the 2025-2 process involves ATSC 3.0, described by The City of Calgary (Calgary) in its comments in this proceeding (Intervention 41).

- 30 Briefly, Calgary explained that it has begun “testing a variety of ATSC 3.0 solutions, such as emergency communications, first responder communication network, connected infrastructure, and remote education” and notes that the US has already begun to adopt ATSC 3.0 (¶18). The *Broadcasting Policy for Canada* includes innovation and technological changes as objectives for Canada’s broadcasting system³ and Parliament’s *Regulatory Policy* adds that the system “should be regulated and supervised in a flexible manner that promotes innovation”⁴
- 31 The CRTC’s search engine disclosed six documents that use the term (“ATSC 3.0”): letters sent in 2016 by the CRTC’s staff to Corus, Bell Media, Shaw Communications, Rogers Media and Québecor Media concerning the renewal of their licensed television programming services⁵ which invited the licensees to address the potential impact of ATSC 3.0. The CRTC’s search engine did not list any other CRTC documents in which “ATSC 3.0” was mentioned.
- 32 Given the potential benefits of ATSC 3.0 – including but not limited to emergency broadcast notifications (now referenced explicitly in the *Broadcasting Act* at section 9.1(1)⁶), the Forum recommends that the Commission invite parties to address ATSC 3.0 and its impact if they appear before the CRTC’s hearing panel during the 12 May 2025 public hearing scheduled to consider BNoC 2025-2.
- 33 The Forum considers that the 2025-2 public record would benefit from evidence including testimony regarding the implications of direct-to-consumer (DTC) business models, use of data and the positive as well as negative implications of shifting from an audiovisual programming system based on the existence of a relatively small number of very large distribution intermediaries, to a system in which the role of distribution intermediaries is reduced.

C. *Insufficient and unreliable data*

- 34 The Forum has frequently raised the issue of data in CRTC proceedings (and elsewhere) because – in our view – making submissions based solely on opinion, however

³ S. 3(1)(d)(iv): “It is hereby declared as the broadcasting policy for Canada that ... the Canadian broadcasting system should ... promote innovation and be readily adaptable to scientific and technological change,”

⁴ S. 5(2)(c).

⁵ CRTC Broadcasting Letters of 8 February 2016 addressed to [Corus/Corus Entertainment](#), [Bell Media](#), [Shaw Communications](#), [Rogers Media](#) and [Québecor Media](#).

⁶ 9.1(1) 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 ... (l) the carriage of emergency messages;”

interesting, lacks the probative value of submissions based on objective, empirical evidence.

- 35 In responding to BNoC 2025-2 several other parties have advocated for more data. Bragg, for instance, suggests ¶12) that the Commission “publish benchmark data to guide negotiations between VI programmers and independent BDUs”, since “informational imbalances often place smaller entities at a disadvantage in negotiations”. We agree with Bragg (¶180) that “... any minimal harm that may result from the Commission publishing slightly less aggregated data on its site will be more than outweighed by the benefits this data will produce in the form of more transparent, efficient, and fair negotiations between independent BDUs and VI programmers” – with the qualification that publishing more data will also make the CRTC in general more transparent and more accountable, while enabling the public to discern to what extent Parliament’s *Broadcasting Policy for Canada* is being implemented.

1. Insufficient data

- 36 The CRTC asked whether the data published by the CRTC “for certain licensed broadcasting undertakings” is useful, “what type of data points would be useful” and why (Q31),
- 37 The Forum agrees with Rogers’ comment (¶157) about the “considerable differences between the data available to various players in the Canadian broadcasting system” and with its proposal that the CRTC “revisit data collection, sharing and reporting obligations”. We also agree with Rogers’ comment (¶163) that focused “data collection is necessary ... to make informed regulatory decisions in furtherance of the Act’s objectives”. Data are clearly not just useful, but key in this proceeding.
- 38 Where we disagree with Rogers is in its argument that the Commission must “streamline” reporting requirements because, if anything, the CRTC should be publishing more data, for more years, to provide objective description of more of the concepts set out in Parliament’s *Broadcasting Policy for Canada*.
- 39 From the Forum’s perspective, the CRTC publishes too little data to enable reliable forecasting models to be developed and tested. After all, the CRTC began regulating broadcasting services 57 years ago. Its staff began working with computers in the 1970s, and by the mid-1980s they were being equipped with desktop computers. Yet as FRPC’s submission noted at Figure 1, nearly half (45% or 66 of 146 tables in the CRTC’s Open Data tables) provide information about the past 7 or fewer years. Just 6 tables set out data for two “full” seven-year licence terms (or 14 years). This level of information is insufficient whether for the purpose of developing statistical forecasting

models or for evaluating the Commission's implementation of the *Broadcasting Policy for Canada*.

2. Publication gaps

- 40 Apart from the CRTC's unpublished (and largely unknown) practice of destroying unique and irreplaceable information such as its audiovisual programming logs from before September 2014, the utility of the CRTC's published data is limited by gaps. For instance, the CRTC currently publishes financial and employment data for its audiovisual, audio and distribution broadcasting sectors – in 5-year tranches, even though Parliament empowered the CRTC in 1991 to issue broadcasting licences for 7 years.
- 41 The rationale for the CRTC's practice of publishing short-term data is unclear: after all, the CRTC today has today more technology, more staff and more budgetary resources to publish more data and to undertake even more research. Moreover, the CRTC's publication of so little data makes it nearly impossible for the public to evaluate the impact of its broadcasting policies. The CRTC should begin to publish full, historical times series showing financial and staffing information since the Commission's establishment in 1968. This would enable interested parties including Parliament to evaluate its existing policies and to develop models to forecast the effects of its future policies.
- 42 The CRTC's data also suffer from irregular gaps. For instance, since the early 1980s the CRTC has published summary financial and staffing information about individual discretionary audiovisual programming services. In its 2011 *Regulatory framework relating to vertical integration* (Broadcasting Regulatory Policy CRTC 2011-601) the CRTC "determined it will publish complete financial information for services owned or controlled by a vertically integrated entity."
- 43 As it happens, the CRTC's 2019-2023 *Individual Discretionary and On-Demand Statistical and Financial Summaries* do not include financial and staffing information for Rogers' Hockey Night in Canada programming service, its Sportsnet PPV services or for Leafs TV (owned 75% by Rogers and Bell) for 2022/23.
- 44 Yet when the CRTC was asked for this information – which it had committed to provide in 2011 – the CRTC's staff said in mid-March 2025 that it was unavailable:⁷ Figure 3.

⁷ CRTC response to A-2024-0105 (Ottawa, 5 March 2025). As is its practice, the CRTC does not date its access-to-information responses; the date shown reflects the date of the CRTC's e-mail conveying its response.

Figure 3

This is further to your request that was received in this office on February 19, 2025.
We note that, pursuant to the *Access to Information Act* (ATIA), you wish to obtain the following information:

“Re: Missing financial data for discretionary services owned by vertically integrated licensees

The CRTC’s Individual Discretionary and On-Demand Statistical and Financial Summaries: 2019-2023 state in the Foreword that due to BRP 2011-601 the CRTC “will publish complete financial information for services owned or controlled by a vertically integrated entity.” However, financial and staffing information are missing for all or some of the broadcast years in the report for Rogers’ Hockey Night in Canada, Rogers’ Sportsnet PPV services and Leafs TV (owned 75% by Rogers and Bell) for 2022/23.

*Please provide the missing information *** in a machine-readable spreadsheet [as shown in the CRTC’s published, Excel versions of its Financial and Statistical Summaries]***.*

Thank you.”

We regret to inform you that, following a thorough search of our records, the Canadian Radio-television and Telecommunications Commission has found no documents related to the subject of your request submitted under the *Access to Information Act* (ATIA).

45 What should the public make of such answers – and will such gaps be corrected in the future?

3. *Unreliable and invalid data*

46 Research based on statistics must meet minimum standards of reliability and validity. Reliable data of concepts means that the concepts are measured in the same way over time – in other words, changes in data reflect ‘real-world’ changes rather than decisions to use different tools or definitions to measure specific concepts. Similarly, valid data measure concepts properly: a valid measure of a person’s height, for example, would be made using (trustworthy) tools or instruments that set out height in inches or centimetres – hair colour (or the absence of hair) would be an invalid measure of a person’s height.

47 One of the most striking features of all the data published by the CRTC is how so little of this information actually describes the audio and audiovisual programming broadcast in Canada and made available to Canadians even though the majority of the measurable objectives in the *Broadcasting Policy for Canada* prescribe the availability of and Canadians’ access to different types of programming for different audiences with different needs and interests.

48 The CRTC publishes a wealth of information about broadcasters’ expenditures on Canadian or non-Canadian programming reflect the resources devoted to these types

of programming. It publishes nothing about the hours of first-run or repeat programming that is available to Canadian audiences. Yet while expenditure data may validly describe resource allocation, they are an invalid measure of the availability of broadcast programming to Canadian audiences: broadcast programming data must also be published. Why does the CRTC not publish programming data, since it collects the audiovisual programming data from broadcasters every month? Why does the Commission not publish audio programming data?

- 49 If it refrains from publishing reliable and valid data about broadcast audiovisual and audio programming in computer-accessible formats over as many years as possible, the CRTC cannot claim to be either transparent or accountable to Parliament and to Canadians.
- 50 Unless the CRTC has clear evidence that disclosure of objective evidence will seriously harm specific parties, therefore, it should provide the public with the evidence on which it relies itself, both in its notices of consultation and its decisions.
- 51 The Forum noted many parties' comments about alternative dispute resolution (ADR) – even though the CRTC publishes very little data describing ADR. What is unknown is what specific harms would occur if the CRTC published annual lists of parties involved in such processes, and the number of cases it begins and completes. After all, data regarding disputes about broadcast programming are a matter of public interest, along with their outcomes: results could show either that the CRTC's regulatory approaches are working – or that they are not. Again: what specific harm will accrue if the CRTC publishes annual, bi-annual or quarterly information about the timing of its ADR processes – and, say, for each of its processes, statistics⁸ about their duration?

D. Accountability requires data

- 52 FRPC notes Amazon's position that because online broadcasters are currently helping to achieve some of the objectives in the Parliament's *Broadcasting Policy for Canada* in terms of employment, access to programming and "expanding demand for Canadian content" (¶27), "[t]here is no basis for the CRTC to interfere with" these positive effects (¶28).
- 53 We disagree with Amazon's argument that "[r]egulatory intervention risks" the "gains that have accrued to artists, creators, producers and consumers" (¶28). If regulatory intervention merely reflects the current positive practices of online broadcasters like Amazon, what would lead rational, law-abiding businesses to change their practices so

⁸ For example, the duration in days showing the average, the mode, the minimum and the maximum days from initiation to 'end'.

as to reduce these gains, thereby placing themselves in conflict with the laws of the jurisdictions in which they operate?

- 54 The Forum instead agrees with Blue Ant’s comment (¶14) that even if many foreign online broadcasters now distribute and promote Canadian programming services, regulatory standards are needed going forward to ensure this behaviour continues:

Blue Ant acknowledges that many non-Canadian streaming platforms, including Pluto TV, Roku Channels, and Amazon Prime Channels are already carrying and promoting a meaningful number of Canadian programming services, and we commend their commitment to supporting Canadian programming. Similarly, BDUs that are migrating services online have continued to carry and support independent services. While these are positive steps, regulatory standards will be necessary to ensure that Canadian independent broadcasters continue to receive access and visibility as distribution models evolve in a digital landscape. A policy framework that facilitates a strong presence for Canadian independent programming services will be key to maintaining domestic control over programming decisions and sustaining a diverse Canadian-owned broadcasting system.

- 55 Moreover, and as previously stated, data are needed to enable Parliament and the public to evaluate the CRTC’s implementation of the *Broadcasting Policy for Canada*. 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 ^{Footnote2} support interactions between programming services ^{Footnote3} and distributors, ^{Footnote4} 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.

- 56 In this proceeding, however, the following key points remain obscure because too little information has been provided by the Commission either in BNoC 2025-2 or in any of its other datasets. Specifically,

- 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.

57 To put this another way, 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 ‘there’ ‘is’.

58 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?

59 The CRTC should clarify its goals by proposing measures of these objectives which show where the broadcasting system now stands and where the Commission wants it to go – before its May 2025 public hearing, so that parties may address these measures at the hearing itself.

E. Timeliness

60 The Forum notes that a number of parties made comments regarding the timing of CRTC processes. BCE wrote (¶127) that “[i]n recent years, the Commission has been wholly incapable of meeting its own service standards. Commission decisions are now anticipated in years not months. These delays are so significant that they have had a consequential impact on the financial performance and the long-term strategic direction of our company.”

61 In general terms, the Forum shares BCE’s concern about timing. Table 1 shows the Commission’s progress made towards implementing Bill C-11.



Table 1

C-11 implementation: CRTC public consultations	Public consultation phase					Decision and order			Shading:	No decision	If no PH and no decision, months since process began	
	BNoC	Date	Public hearing	Intervention or final reply	Duration: months	Decision	Date	Order	Date	Duration: months		
2023												
1	<i>Contributions</i>	2023-138	12-May-23	20-Nov-23	15-Feb-24	9.2	2024-121	04-Jun-24	2024-194	29-Aug-24	15.6	
2	<i>Registration regulations</i>	2023-139	12-May-23	None	12-Jul-23	2.0	2023-329	29-Sep-23	2023-330	29-Sep-23	4.6	
3	<i>Conditions of service</i>	2023-140	12-May-23	None	12-Jul-23	2.0	2023-331	29-Sep-23	2023-332	29-Sep-23	4.6	
4	<i>Proposed broadcasting fees</i>	2023-280	23-Aug-23	None	22-Sep-23	1.0	2024-65	21-Mar-24			6.0	
2024												
5	<i>Online News</i>	2024-55	13-Mar-24	None	22-Apr-24	1.3	2024-327	12-Dec-24			7.7	
6	<i>Indigenous policy</i>	2024-67	22-Mar-24	None	22-Jul-24	4.0						11.5
7	<i>ONA Cost recovery regulations</i>	2024-111	23-May-24	None	25-Jun-24	1.1	2025-57	26-Feb-25			8.1	
8	<i>Ind Local News Fund</i>	2024-164	23-Jul-24	None	23-Sep-24	2.0						7.5
9	<i>Closed captioning</i>	2024-137	25-Jun-24	None	29-Jan-25	7.2						8.4
10	<i>Described video</i>	2024-138	25-Jun-24	None	20-Dec-24	5.9						8.4
11	<i>Google exemption</i>	2024-143	27-Jun-24	None	26-Aug-24	2.0						8.4
12	<i>Independent Local News Fund</i>	2024-164	23-Jul-24	None	23-Sep-24	2.0						7.5
13	<i>OLMCs consultation</i>	2024-202	09-Sep-24	None	18-Nov-24	2.3						5.9
14	<i>ONA Bargaining Code of Conduct</i>	2024-236	08-Oct-24	None	07-Nov-24	1.0						5.0
15	<i>Temporary Local Radio News Fund</i>	2024-270	04-Nov-24	None	19-Dec-24	1.5						4.1
16	<i>Defining Cancon - Audiovisual</i>	2024-288	15-Nov-24	31-Mar-25	20-Jan-25	2.2						
17	<i>Modernizing radio regulations</i>	2024-290	15-Nov-24	None	04-Feb-25	2.7						3.7
2025												
18	<i>Market Dynamics</i>	2025-2	09-Jan-25	12-May-25	11-Mar-25	2.0						
19	<i>Defining Cancon - Audio</i>	2025-52	20-Feb-25	18-Jun-25	22-Apr-25	2.0						
Proceedings announced which have not yet been scheduled												
20	<i>Public interest participation</i>	Winter 2025										
21	<i>Inclusion and diversity</i>	Late 2025										
22	<i>Tailored conditions of service</i>	Late 2025										
	<i>Rules of Practice and Procedure</i>	First Spring 2025, then Spring 2026; removed from plan on 15 November 2024										
	<i>News programming</i>	Originally Spring 2025; removed from plan on 15 November 2024										
Total, proceedings towards implementing C-11												
Total C-11 proceedings announced						24						
Total C-11 proceedings now listed in Regulatory plan						22						
Total C-11 outcomes						6						

- 62 Insofar as the CRTC’s performance standards are concerned, data published by the CRTC support BCE’s argument. Its data for 2022/23 show that it met only one of the five standards for which it published information about its performance: Figure 4. The last time the CRTC met some of its standards was in 2020/21; the CRTC’s website does not currently provide comparable data for 2023/24.

Figure 4

CRTC “Service objective/standards and performance measure for processing telecommunications applications”, past five CRTC fiscal years – CRTC excluded applications shown in square brackets					
BROADCASTING	2018	2019	2020	2021	2022
	-19	-20	-21	-22	-23
1. Part 1 broadcasting applications: “decision to be issued within 4 months of the close of record”					
Number of applications	79	80	60	58	47
Decisions issued within 4 months of close of record	69	66	40	38	39
Percentage issued within 4 months of close of record	87%	83%	67%	66%	83%
2. Broadcasting applications considered at a public hearing					
Number of applications	84	39	33	15	12
Decisions issued within 4 months of close of record	14	19	29	10	3
Percentage of decisions issued within 4 months of close of record	17%	49%	88%	67%	25%
3. Broadcasting applications that do not require a public process (i.e. administrative)					
Number of applications	37	40 [5]	41 [5]	44	48
Decisions rendered within 1 month of the date of receipt	34	34	37	32	38
Percentage of decisions rendered within standard	92%	97%	90%	73%	79%
4. Ownership-related applications					
a) hearing route: within 35 days of the close of record					
Number of applications	15	5[2]	7 [2]	12	6
Decisions rendered within standard	12	3	7	3	0
Percentage of decisions rendered within standard	80%	60%	100%	25%	0%
b) notice of consultation route: within 2 months of the close of record					
Number of applications	2	1	1	0	0
Decisions rendered within standard	1	0	1	0	0
Percentage of decisions rendered within timeframe	50%	0%	100%	NA	NA
c) administrative route: within 2 months after the date of receipt					
Number of applications	9	4 [4]	3 [4]	5	6
Decisions rendered within standard	5	3	3	0	2
Percentage of decisions rendered within standard	56%	75%	100%	0%	33%
Total, all broadcasting processes					
Number of standards that could be met	6	6	6	5	5
Times standards met	0	0	3	0	0
Number of applications	226	169	145	134	119
Decisions issued within standard	135	125	117	83	82
% of applications for which decisions were issued within standard	59.7%	74.0%	80.7%	61.9%	68.9%

Sources: see <https://crtc.gc.ca/eng/publications/reports/standards18.htm>;

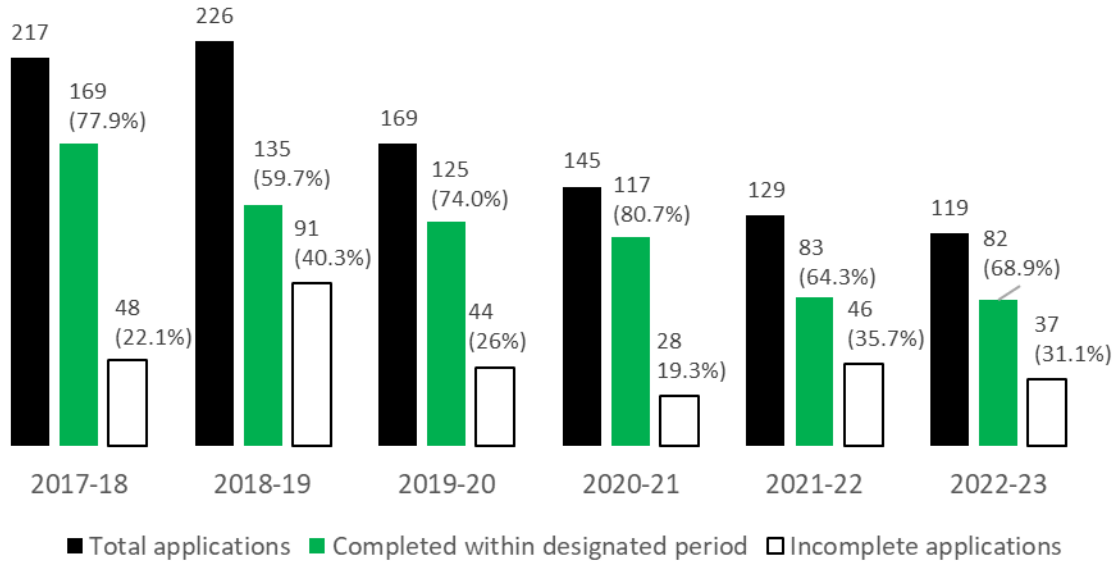
<https://crtc.gc.ca/eng/publications/reports/standards19.htm>; <https://crtc.gc.ca/eng/publications/reports/standards20.htm>

<https://crtc.gc.ca/eng/publications/reports/standards21.htm>; <https://crtc.gc.ca/eng/publications/reports/standards22.htm>

63 The Forum provided a graphic view of these data – see Figure 5 – in an intervention submitted to the Commission in October 2024.⁹

Figure 5

**Total broadcasting applications, 2018-2023:
 total completed or incomplete**



CRTC, Service objectives for the processing of certain types of broadcasting applications, crtc.gc.ca/eng/publications2.htm [various fiscal years]

64 FRPC notes that the CRTC formerly published information about the number of applications it received and decided in annual reports that it published until the early 1990s. Fifty years ago, for example, the CRTC's '74-'75 *annual report* disclosed that it had made decisions about 946 applications that year: Figure 6.

⁹ FRPC, *Re: OUTtv Network Inc., Part 1 Application 2024-05380-1 (Vancouver, 15 October 2024)*, Intervention (Ottawa, 18 November 2024), Figure 12.

Figure 6

B. Applications and decisions

Tables 1-4 give a breakdown of applications and decisions for 1974-75, by type and regions. Decisions announced this year by the Commission number 946; at year's end, there were 1304 applications on hand.

The Commission processed and took decisions on 142 AM radio licence applications, of which 52 were for new licences, 42 for amendments to existing licences, and 48 for renewals of licences. In FM radio, 22 applications for new licences, 58 for renewals, and 19 for amendments were processed and decided on.

TABLE 2
 DECISIONS TAKEN DURING FISCAL YEAR 1974-75
 BY REGION*

Application type		Pacific region	Prairie region	Ontario region	Quebec region	Atlantic region	Canada total
AM	New	12	12	5	11	12	52
	Amendments	8	5	15	6	8	42
	Renewals	18	16	12	1	1	48
	Total	38	33	32	18	21	142
FM	New	3	6	2	6	5	22
	Amendments	1	8	3	2	5	19
	Renewals	8	9	28	7	6	58
	Total	12	23	33	15	16	99
TV	New	18	29	7	19	13	86
	Amendments	11	12	6	5	4	38
	Renewals	17	3	5		11	36
	Total	46	44	18	24	28	160
CATV	New	18	11	33	20	5	87
	Amendments	20	20	147	45	17	249
	Renewals			2	8	1	11
	Total	38	31	182	73	23	347
Networks		5	8	4	9	2	28
Securities		21	17	71	33	28	170
All applications		160	156	340	172	118	946

*Prepared by Planning and Scheduling Section, Licensing Branch, CRTC, 31 March 1975.

- 65 It is unclear what percentage of applications the CRTC actually decided in 1974/75, although the CRTC's '74-'75 annual report also states that it received 1,363 broadcast applications in 1974/75.¹⁰
- 66 In the current 2025-2 proceeding BCE (¶¶27, 28) and Rogers (¶27) each set out concerns about the timing in CRTC alternative-dispute resolution (ADR) proceedings. The Forum shares these concerns. In April 2024 FRPC submitted an analysis of information received from the CRTC under the Access to Information Act describing its ADR broadcasting processes.¹¹ The processes for 182 closed proceedings (excluding processes that were open at the time the CRTC provided the information) provided in the CRTC's response for the years from 2015 to 2021 from ranged from 2.8 to 15.9 months:¹² Table 2.

¹⁰ CRTC, *Annual Report, '74-'75*, Tables 1 and 2, pages 29 and 30.

¹¹ FRPC, *Call for comments – Proposed regulations – Code of Conduct Respecting Bargaining in Relation to Online News Content*, Online News Notice of Consultation CRTC 2024-236 (Ottawa, 8 October 2024) – Comments of the Forum for Research and Policy in Communications (FRPC), (Ottawa, 7 November 2024).

¹² *Ibid.*, Executive summary, ¶ES3 and also Table 5



Table 2

Type of ADR process	Number of closed proceedings	Average number of days from opening to closing	[Average number of days] in months
Informal	42	191.7	6.3
Informal/ NOD	15	85.8	2.8
NOD [Notice of dispute?]	19	167.1	5.5
MAP/SAM [Staff-assisted mediation]	13	481.9	15.9
SAM	46	279.7	9.2
MM [mandatory mediation?]	8	116.8	3.8
Standstill	9	124.6	4.1
Part 1	17	243.4	8.0
FOA [Final-offer arbitration]	13	242.2	8.0
Average, all ADR proceedings	182	232.0	7.6

Source: CRTC ATIP release packages A-2021-00078 and A-2024-00011

67 FRPC previously mentioned in its comments that the lack of data set out by the Commission in BNoC 2025-2 limited informed participation by the public. We note, for instance, that 2025-2 states that the “number of formal disputes ... significantly increased in 2024, showing a two-to-three-fold rise over levels seen in 2023 and 2022” (¶162). What, in this case, prevented the CRTC from setting out actual numbers of disputes? The Forum has no way of knowing what the actual numbers are either, except that in its response to access-to-information requests A-2021-00078 and A-2024-00011, the CRTC data listed 214 cases involving ADR, with 32 in 2021: Table 3.

Table 3

ADR - Type	2015	2016	2017	2018	2019	2020	2021	Total
Informal	3	5	15	3	12	7	4	49
Informal/ NOD			1	8	6			15
MAP/SAM					9	7	12	28
SAM	5	21	11	6	3			46
MM			5		2	1		8
NOD		6	1		6	3	6	22
Standstill					5	2	3	10
Part 1	2	2	2	1	4	5	4	20
FOA		1	4		5	3	3	16
Total	10	35	39	18	52	28	32	214

68 Yet as so much of the information provided by the CRTC in its access-to-information response was redacted, it is unclear whether, in fact, some of the cases shown are duplicate or triplicate values, meaning the ‘true’ number of ADR cases by year may be lower (though not higher).

69 The Forum asked the CRTC on 11 February 2025 for its 2021, 2022, 2023 and 2024 ADR data. Its 10 March 2025 answer explains that it needs an unknown number of days to provide the information:¹³

Since, at the present time, meeting the original time limit of 30 days would unreasonably interfere with operations, an extension pursuant to paragraph 9(1)(a) of the *Access to Information Act* (ATIA), of up to days beyond the 30-day statutory deadline is required.

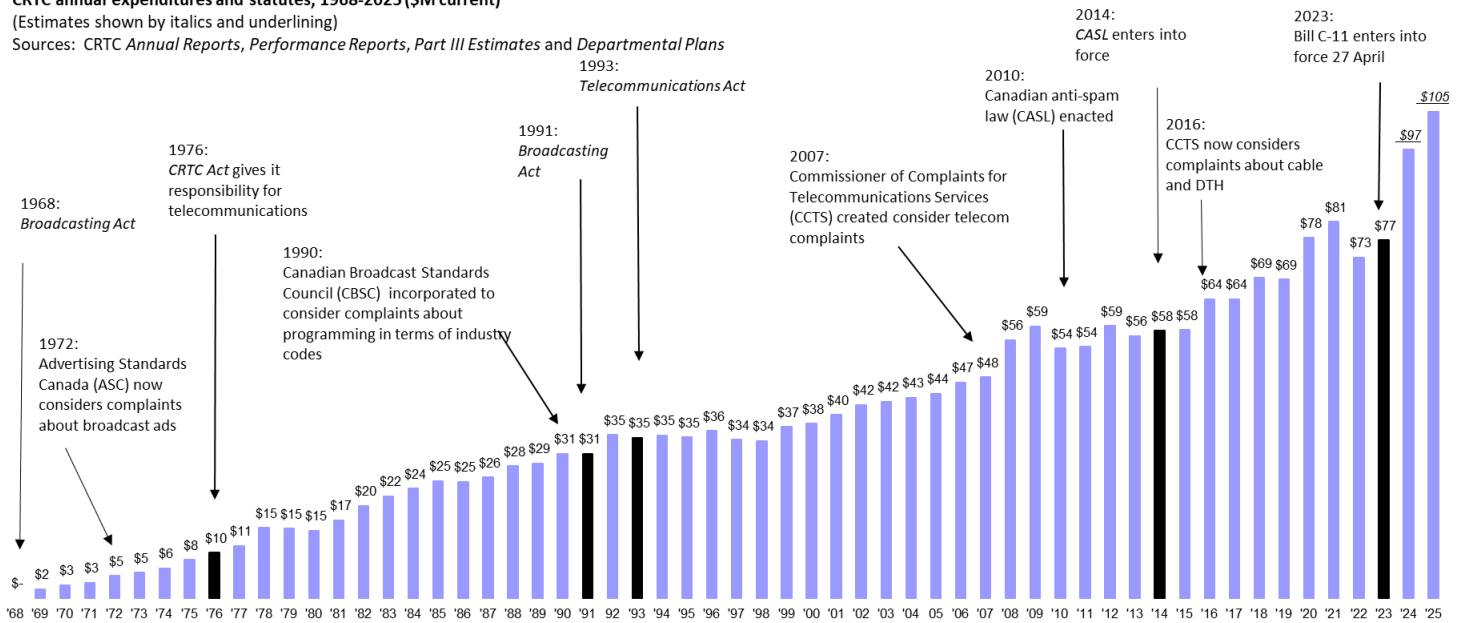
70 The Forum notes, meanwhile, that the CRTC’s operating budget and staffing levels have both increased over time, in part to accommodate its new responsibilities under the *Online Streaming Act* and the *Online News Act*: Figures 7 and 8, respectively.

Figure 7

CRTC annual expenditures and statutes, 1968-2025 (\$M current)

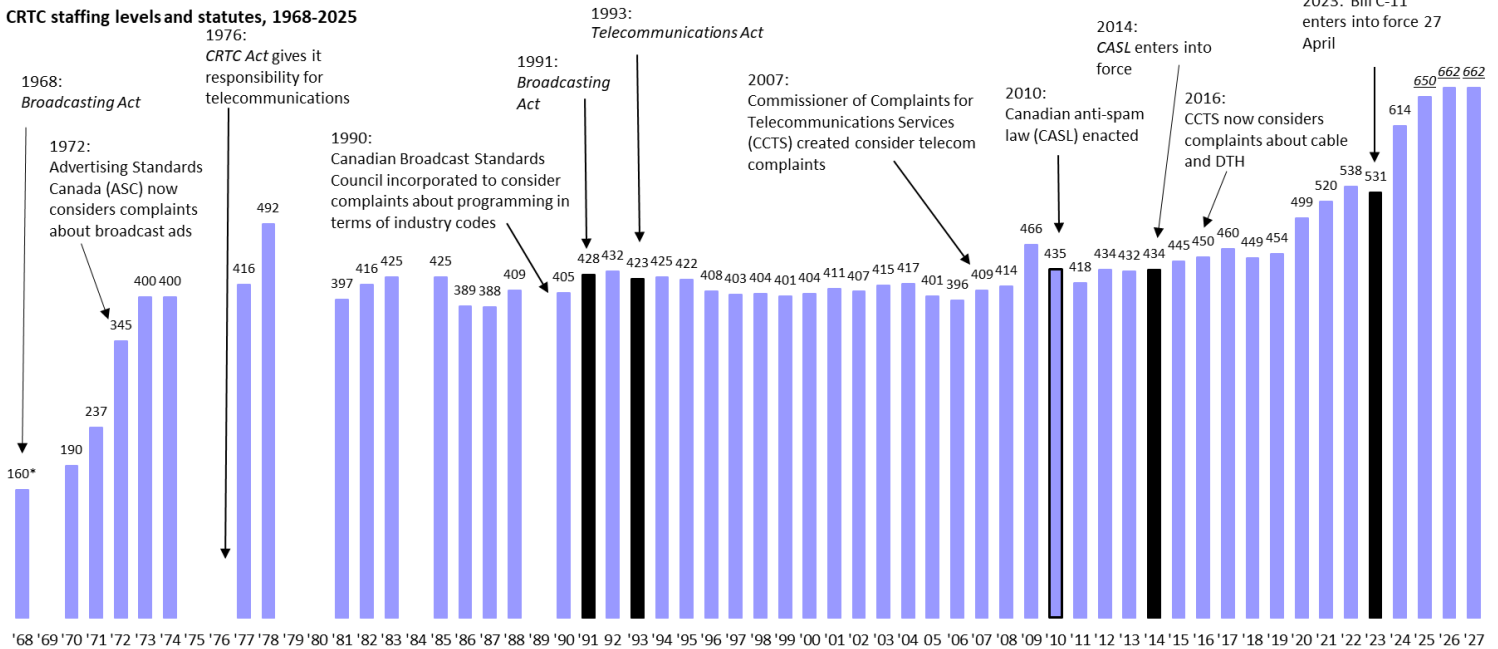
(Estimates shown by italics and underlining)

Sources: CRTC Annual Reports, Performance Reports, Part III Estimates and Departmental Plans



13 CRTC, *CRTC access to information request A-2024-00103*, undated letter received by e-mail on 10 March 2025, yellow highlighting added.

Figure 8



Sources: CRTC, *Annual reports, Part III Estimates, Departmental Performance Reports, Departmental Results Reports and Departmental Plans* (various years) - italicized and underlined text: CRTC's staffing forecast

- 71 The confluence of these data raises two concerns for the Forum. First, the lack of information published by the CRTC in 2025-2 and elsewhere prevents the public from evaluating and supporting new proposals for regulation to meeting Parliament’s *Broadcasting Policy for Canada*. Second – and at the same time – large licensed broadcasters and registered online broadcasters that have relevant data – submitted at times in confidence to the Commission – are able to argue plausibly for complete or near-complete deregulation, without the public’s being able to evaluate the impact of such proposals, to challenge their adoption or even to challenge the data.
- 72 In either case, the CRTC could and in our view must address such issues by publishing more, more reliable and more valid data about broadcasting in Canada. Without such data, it will be impossible to know how changes the CRTC makes in response to the evidence on the 2025-2 public record will implement Parliament’s objectives for Canada’s broadcasting system.
- 73 Having reviewed the comments of a number of parties in the BNoC 2025-2 proceeding the Forum has revised its initial recommendations as noted in the Executive Summary.