



19 May 2023

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Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2



STANDING UP
FOR CANADIAN VOICES



LE CENTRE
POUR LA
DÉFENSE DE
L'INTÉRÊT PUBLIC



Quebec English-Language
Production Council
Conseil québécois de la
production de langue anglaise



Dear Secretary General,

Re: Broadcasting Notices 2023-138 (12 May 2023), -139 (12 May 2023) and -140 (12 May 2023 – Procedural request

I. Introduction

1. This procedural request addresses the deadlines announced by the CRTC on 12 May 2023 in Broadcasting Notices of Consultation 2023-138, -139 and -140, and is being filed jointly by the following 12 parties: Canadian Broadcast Museum Foundation (CBMF), Digital First Canada, Forum for Research and Policy in Communications (FRPC), FRIENDS/Les AMIS, National Campus and Community Radio Association (NCRA/ANREC), OpenMedia, Public Broadcasting for the 21st Century (PBC21/DPC21), Public Interest Advocacy Centre (PIAC), Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC), Quebec English-language Production Council (QEPC), Conseil provinciale du secteur des communications du syndicat canadien de la fonction publique (SCFP) and Unifor.
2. The grounds for the request follow a brief review of the background to the three notices of consultation.

II. Background

3. On 8 May 2023 the CRTC announced its [plan to modernize Canada's broadcasting system](#) (Plan). The Commission's Plan advised that it would launch "a series of public consultations over three phases, with phase one starting in the coming days."
4. Four days after announcing its regulatory plan, the CRTC on 12 May 2023 issued three notices of consultation about broadcasting matters (the Implementation proceedings)

The Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content, [Broadcasting Notice of Consultation CRTC 2023-138](#) (Ottawa, 12 May 2023)

Call for comments – Proposed Regulations for the Registration of Online Streaming Services and Proposed Exemption Order regarding those Regulations, [Broadcasting Notice of Consultation \[CRTC\] 2023-139](#) (Ottawa, 12 May 2023), and

Call for comments – Review of exemption orders and transition from conditions of exemption to conditions of service for broadcasting online undertakings, [Broadcasting Notice of Consultation \[CRTC\] 2023-140](#) (Ottawa, 12 May 2023).

5. The CRTC’s notices of consultation announced the following overlapping deadlines for the Implementation proceedings:

12 June 2023	Interventions – 2023-139 (Registration regulations) Interventions – 2023-140 (Exemption orders)
27 June 2023	Interventions – 2023-138 (Modernized framework) Replies – 2023-139 Replies – 2023-140
12 July 2023	Final replies – 2023-139 Final replies – 2023-140
20 November 2023	Public hearing – 2023-138

6. This request asks the CRTC to grant an extension of deadline for the interventions, replies and final replies in the Implementation proceedings which still provides time for the CRTC to add materials to the public record in these proceedings. It does not ask for changes to the date of the 20 November 2023 public hearing, and provides time for the CRTC to issue determinations on two of the three notices should it wish to do so.

7. In brief, it is proposed that the CRTC extend the deadlines for all three Implementation proceedings as follows:

Proceeding stage:	Current deadlines	Proposed deadlines
Interventions	12 June 2023 (2023-139, -140) 27 June 2023 (2023-138)	Friday, 28 July 2023
Replies	27 June 2023 (2023-139, -140) 12 July 2023 (2023-138)	Friday, 1 September 2023
Final replies	27 June 2023 (2023-139, -140)	Friday, 15 September 2023
Public hearing	20 November 2023 (2023-138)	20 November 2023 (no change)

III. Grounds for this request

8. The applicants provide the following grounds for their procedural request:

- a. The interconnectedness of the 2023-138, -139 and -140 proceedings requires parties to develop a coherent framework for all three proceedings,
- b. The current deadlines provide inadequate time for parties to consult and to undertake necessary research, thereby weakening the record of these proceedings, and
- c. The absence of the policy direction from Cabinet creates uncertainty as to the recommendations that parties may reasonably make.

9. The applicants’ proposal provides the CRTC with time to review and analyze interveners’ submissions, while enabling a wide range of organizations and individuals to develop coherent arguments and to undertake research needed to provide the Commission with an evidence-based record.

A. The Implementation proceedings are interconnected

10. The applicants welcomed the CRTC’s clear desire to implement Parliament’s new broadcasting legislation as quickly as possible, in particular its statement in its 8 May 2023 Regulatory Plan that “[t]he views of all Canadians will be important to help build the new regulatory framework” [bold font added] and that “[e]veryone who is interested should check out the CRTC’s plan and participate in the upcoming consultations” [bold font added].
11. The applicants also took note of the CRTC’s warning in each of BNoC 2023-138, -139 that
 ... [i]nterested persons should note that each of these notices of consultation initiates a separate proceeding, and that they must file comments on the record of each proceeding in which they would like to participate. Given certain common elements between the various proceedings, interested persons should monitor the developments of the other proceedings.
12. Given the CRTC’s emphasis on the necessity to monitor all three proceedings simultaneously, it is therefore somewhat perplexing that the proceedings have different deadlines as this may result in piecemeal results. The applicants respectfully submit that setting the same intervention and reply deadlines for all three proceedings would make it far easier for parties to understand the state of each proceeding at any point in time and also to develop, should parties wish to do so, a coherent framework to submit to the Commission.

B. More time needed to consult, develop positions and undertake research

13. The CRTC has been preparing for the implementation of new broadcasting legislation for at least the past three years. By early December 2020 it was inviting its staff “from a variety of backgrounds and perspectives to share in the thinking, planning, and preparations to develop options and recommendations for the CRTC’s consideration”¹ by participating in nine working groups led by 22 of its senior staff senior staff.² On 18 May 2022 then-CRTC Chairperson Ian Scott told the House of Commons Standing Committee on Canadian Heritage that the Commission had established a series of groups with more than 100 of its staff to prepare for the implementation of the *Online Streaming Act*.

14. The challenge for many of the organizations that would like to participate in the three Implementation proceedings – as [noted recently](#) by Dr. Michael Geist – is that they do not have dozens of staff to undertake similar work by answering the 53 questions set out in the three consultation notices. The 4.4

Proceedings	Pages	Questions	Calendar days/ weeks to intervene
2023-138	15	39	46 days (6.6 weeks)
2023-139	7	7	31 days (4.4 weeks)
2023-140	11	7	
3 proceedings	33	53	

¹ CRTC Final Release Package A-2021-00073, 8 December 2020 e-mail from Ian Scott to unidentified CRTC staff.
² *Ibid.*

and 6.6 weeks granted by the Implementation proceedings, respectively, also limit the applicants' ability to undertake empirical research such as, for instance, surveys.

15. An extension of the deadlines for replies in the case of the 2023-139 and -140 proceedings to 1 September 2023 would still enable the CRTC to require final replies by mid- September – still in time for the 20 November 2023 public hearing.
16. The applicants respectfully note in the context of appropriate intervention deadlines that when the CRTC issued *Call for comments – Broadband Fund policy review*, [Telecom Notice of Consultation 2023-89](#) (Ottawa, 23 March 2023) it granted interested parties roughly four months (120 calendar days, or 17 weeks) to submit interventions in response to 47 questions, and two months (60 days, or 8.6 weeks) to submit replies to other interventions. (The revised deadlines being proposed in this request amount to 11 weeks for interventions, and 5 weeks for replies.)
17. Moreover, while the CRTC has to date published just three notices of consultation in relation to the *Online Streaming Act's* implementation, their deadlines overlap with 11 other CRTC proceedings that are also underway, 8 of which involve broadcasting matters:

Date	Proceeding (filing date)	Stage
24 May 2023	2022-65 – Funding next-generational 9-1-1 access services	Replies
31 May 2023	2023-0219-9 – Amending conditions of approval re BPF	Interventions due
2 June 2023	2023-0210-8 – Removal of Fox News	Interventions due
	2022-32 – Proposed amendments to Telecom Fee Regulations	Interventions due
5 June 2023	2023-129 – Six radio station applications	Interventions due
12 June 2023	<i>2023-139 – Registration regulations</i>	<i>Interventions due</i>
	<i>2023-140 – Exemption orders</i>	<i>Interventions due</i>
	2023-0219-9 – Amending conditions of approval re BPF	Reply due
14 June 2023	2022-0986-6 – Amending TVA conditions of licence (9 May/23)	Interventions due
	2022-0946-0 – Amending Corus conditions of licence re Canadian content (17 Nov/22)	Interventions due
22 June 2023	2023-56 Review of the wholesale high-speed access service framework	Interventions due
27 June 2023	<i>2023-138 – Modernized framework</i>	<i>Interventions due</i>
	<i>2023-139 – Registration regulations</i>	<i>Replies due</i>
	<i>2023-140 – Exemption orders</i>	<i>Replies due</i>
6 July 2023	2023-129 – Six radio station applications	Public hearing
12 July 2023	<i>2023-139 – Registration</i>	<i>Final replies due</i>
	<i>2023-140 – Exemption orders</i>	<i>Final replies due</i>
21 July 2023	2023-89 – Broadband Fund Policy Review	Interventions
20 Nov 2023	2023-138 – Modernized framework	Hearing
<i>Green shading</i>	CRTC's 3 Implementation proceedings	
<i>Blue shading</i>	CRTC telecom proceedings	
<i>No shading</i>	CRTC broadcasting proceedings	

18. The CRTC notes in BNoC 2023-138 that “it is essential for the approach to ensure that the principles of regulatory fairness and equitability are upheld across all contributors”. The applicants respectfully submit that briefly extending the deadline in the three Implementation proceedings is also an equitable way to address the impact of many organizations' and individuals' very limited resources to participate effectively in the CRTC's proceedings, as well

as the fact that the CRTC is simultaneously proceeding with at nearly a dozen or more other proceedings in which parties may also wish to engage.

C. *Absence of Direction from Cabinet creates uncertainty*

19. Canadians have been given to understand that the Governor in Council (Cabinet) would be issuing a new, detailed policy direction to the Commission imminently.
20. This *Direction* has not yet been published, however, leaving the applicants in the dark as to its substance and impact on the 3 Implementation proceedings.
21. A concern is that if the Direction is issued – say – mid-way through the current intervention period, parties may be required to significantly revise their thinking, analysis and comments with little time to do so, as they may also require time to submit comments to the Minister as now provided by subsection 8(2) of the *Broadcasting Act*. The applications respectfully submit that an extension of the deadlines as proposed above would provide all parties with more certainty throughout this proceeding, along with the time and capacity needed to consider and address any new proposals from Cabinet in their submissions to the Commission.

IV. Conclusion

22. To conclude, the applicants respectfully submit that an extension of the deadlines in these three important proceedings will provide greater equity to all participants without disadvantaging any of them. As proposed, the revised deadlines also provide the Commission with a window of time before the November 2023 public hearings in which to place any additional relevant evidence on the record.

The applicants look forward to the Commission's response.

Regards,

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