



16 April 2020

Claude Doucet
Secretary General
CRTC
Ottawa, ON K1A 0N2

Via GC Key
TNoC/BNoC 2020-124

Dear Secretary General,

Re: *Call for comments – Regulations to be made under the Accessible Canada Act, Telecom and Broadcasting Notice of Consultation CRTC 2020-124 (Ottawa, 14 April 2020)*, <https://crtc.gc.ca/eng/archive/2020/2020-124.htm> - procedural request for clarification

The Forum for Research and Policy in Communications (FRPC) is in receipt of the procedural request submitted by the Public Interest Advocacy Centre (PIAC) on 15 April 2020 with respect to the above-noted proceeding.

The Forum supports PIAC's request that the CRTC reconsider whether it has the authority to consider costs in this proceeding, and that it issue its determination no later than next Monday (April 20, 2020).

PIAC has pointed out that the CRTC has chosen to use its existing jurisdiction in this proceeding and also that the CRTC's suggestion that public-interest organizations seeking pro-accessibility regulations work for free contradicts both the Federal government's objectives for the *Accessible Canada Act* and the United Nations *Convention on the Rights of Persons with Disabilities and Optional Protocol*.

In addition to PIAC's submissions, the Forum also notes that at its core the proceeding initiated by TNoC/BNoC 2020-124 will result in regulations of the CRTC that are within the mandate Parliament assigned to the CRTC in the *Broadcasting Act* and *Telecommunications Act*.¹ As the CRTC is only empowered to enact regulations by

¹ In fact, the 1993 Telecommunications Act and the 1991 Broadcasting Act have always required the CRTC to consider issues important to the accessibility community. S. 7(b) of the *Telecommunications Act* states that one of the objectives of Canada's telecommunications policy is "to render reliable and affordable telecommunications services ... accessible to to Canadians ... in all regions of Canada", and to "respond to the ... social requirements of users of telecommunications services". S. 3(1)(p) of the *Broadcasting Act* states that "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for that purpose"

those two statutes² and is – as PIAC has also noted – conducting this proceeding under its own *Rules of Practice and Procedure*, the CRTC’s apparent assumption that it lacks authority to consider costs related to this proceeding is difficult to understand. (We note that while the CRTC’s statement applies solely to costs applications submitted under the *Telecommunications Act*, it is likely that the Broadcasting Participation Fund would give strong consideration to the CRTC’s approach.)

The Forum also notes that the CRTC’s statement at paragraph 46 in TNoC/BNoC 2020-124 that “there **may** be no authority” [underlining and bold font added] suggests ~~that~~ the CRTC’s own uncertainty about the scope of its own authority. This uncertainty creates risks for all public-interest organizations that would normally engage in this important CRTC proceeding, including the Forum. By participating we risk not being compensated for our time and work – resources that could also have been allocated to other important matters; by not participating we risk a determination developed from a public record in which most or the majority of comments come from regulated telecommunications and broadcasting companies and which are unlikely to reflect the concerns of our organization. We believe the record of and the quality of the CRTC’s final determinations in this proceeding would be strengthened by a record based on comments from a wider range of parties. A determination that the CRTC will consider cost applications in this proceeding would facilitate the development of this record.

The Forum therefore joins PIAC in asking that the Commission determine whether it has the authority to consider costs for participation in this proceeding. In light of the one-month deadline for comments we also respectfully request that the CRTC publish its determination as quickly as possible – by Monday, April 20, 2020.

Sincerely,



Monica Auer, M.A., LL.M.
Executive Director

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² *Telecommunications Act*, s. 67(1): “The Commission may make regulations...” with respect to 6 matters; *Broadcasting Act*, s. 10: “The Commission may, in furtherance of its objects, make regulations” with respect to 11 matters.