

Re: Complaint against CRTC 5822-03031- CRTC file A-2022-00010

Monica Auer [REDACTED] Thu, Sep 8, 2022 at 3:53 PM
To: [REDACTED]@oic-ci.gc.ca>
Dear [REDACTED],

Thank you for your note of today's date regarding A-2022-0001, which I filed with the CRTC two months ago.

According to the notes I retained of this matter, I had asked for

- a) a list of the Commissioners who made Decision 2022-175;
- b) a list of the Commissioners who voted on the outcome of Decision 2022-175;
- c) a list of all of the Commissioners who attended all meetings of the Commission, and all meetings with CRTC staff regarding the subject matter of Decision CRTC 2022-175; and
- d) a description of the process used to select the Commissioners who made Decision 2022-175.

If this is not the request, please disregard the remainder of this note and advise me as to the correct request.

If this is the correct request, I am at a loss to understand why 60 additional days are required beyond the initial 30 days provided for in the Access to Information Act.

To recap (and again, assuming we are both talking about the same request), I submitted this request to the CRTC electronically on 6 July 2022 - 64 days ago.

The CRTC acknowledged receipt on 28 July 2022 - 42 days ago.

The CRTC has now said it will provide the information by 4 October 2022 - 68 days after acknowledging receipt of my request.

It is incomprehensible why the CRTC needs this much time.

Please allow me to address the points that your note raises.

1. Consultation with one institution

Under section 3(1) of the CRTC Act the CRTC consists of its Commissioners. As a result, the CRTC's determinations of which CRTC Commissioners participated in the 2022-175 decision requires it to consult with itself, not with any other institution. Moreover, the process used to select the Commissioners who made this decision is addressed by section 20 of the Broadcasting Act. and provides that the CRTC Chairperson (also part of the Commission by virtue of his appointment by the Governor in Council) makes this decision. Therefore the process used to select the CRTC Commissioners who made this decision also requires the Commission to consult with itself rather than any other institution, and in particular with one person - the Chairperson.

Why does the CRTC need 68 days to consult with itself or its Chairperson?

2. Complexity and sensitivity

Your note refers to the "complexity and sensitivity" of meeting my request. While it would be understandable if I had asked for the views of the Commissioners who attended these meetings, I am in fact asking for an attendance record.

Why does a list of attendees of CRTC Commissioners at CRTC meetings constitute a record that is complex and/or sensitive?

3. "vast majority of records"

Your note refers to the "vast majority of the records" related to this decision, appearing to imply that the CRTC must review many, many documents.

But has the CRTC stated how many meetings were held about Decision 2022-175? Has it said that it has more than, say, 500 pages worth of documents showing the attendance at these meetings? In my personal experience the minutes of any meeting usually show those who attended on the first page - in other words, not requiring the review of many records.

Moreover, based on previous CRTC responses to ATIP requests, it appears that CRTC Commissioners do not meet more than twice a week on broadcasting matters. Let us suppose that Decision 2022-175 was discussed at every broadcasting meeting of the CRTC between 17 August 2020 (the date when the complaint addressed by Decision CRTC 2022-175 was received by the CRTC) and 29 June 2022 (the date when Decision CRTC 2022-175 was issued). This period has roughly 97 weeks.

If we assume that the CRTC met twice per week and did not take any holidays in that period, there might be as many as 194 meetings involving Decision 2022-175. Assuming the attendance of the meetings consisted of the first page of each set of minutes, there would be 194 pages of documents to determine the list of those who attended the meetings.

It seems unlikely that the CRTC actually allocated 194 meetings to this single issue, however. But even if they addressed the matter at half the meetings - 97 - that would still not constitute an insurmountable level of documentation.

In my view the CRTC's arguments for requiring three months to provide an attendance record and a description of process do not stand up to any rational scrutiny, and the CRTC should respond to my request forthwith.

Thank you for your time,

Monica Auer.

