



Community Media Advocacy Centre
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February 20, 2020

Mr. Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission (CRTC)
Gatineau (Québec)
K1A 0N2

ONLINE SUBMISSION

Re: Broadcasting Notice of Consultation CRTC 2019-379 and 2019-379-1

CMAC requests an opportunity to appear at the public hearing scheduled for May 25, 2020. Please find attached our response to the aforementioned application.

Sincerely,
Gretchen King
CMAC Secretary

Cc regulatoryaffairs@cbc.ca
The Honourable Steven Guilbeault
The Honourable Steven Blaney
The Honourable Alexandre Boulerice

Introduction

1. The Community Media Advocacy Centre (www.CMACentre.ca) is a non-profit organization that is uniquely comprised of academics, lawyers, policy consultants and experienced community media practitioners. CMAC supports the self-determination of Indigenous, racialized, and disAbled peoples in the media through research, relationship-building, advocacy, and learning. In our work, CMAC prioritizes the perspectives, voices and lived experiences of Indigenous Peoples, racialized people, third language and disAbility communities because these voices are underrepresented in the media landscape generally.
2. CMAC promotes access to multimedia (radio, television, in print and online) Indigenous and community owned communication infrastructure by advocating for community-based, nonprofit and noncommercial broadcasting, as well as media produced by volunteers and/or underrepresented communities. CMAC offers advocacy and support to Indigenous and community organizations that wish to explore licensing, funding, and launching their own nonprofit broadcasting organizations.

Diversity, Reflection, and Employment: Procedural Request of CMAC

1. CMAC was hoping to intervene in these proceedings to advocate for the rights of Indigenous, racialized, and disAbled peoples to access, reflection and employment at the CBC/Radio-Canada (hereafter referred to as CBC), Canada's national broadcaster. After reviewing all the documents on record, it became apparent that neither the CRTC nor CBC have provided the public with any detailed data that can help assess how the national broadcaster is performing in regards to delivering on the rights guaranteed by the *Charter*, the *Multiculturalism Act* and the *Broadcasting Act*, to what the CRTC calls "diversity groups."
2. This is concerning, given the fact the CRTC clearly anchored these proceedings in two files: Discoverability and Diversity. In fact, the CRTC stated in the "outcomes" expected in the Notice: "(CBC) activities should be regulated in the next licence term with a view to:
 - ensuring that its programming:
 - reflects and meets the needs and interests of Canadians, including diversity groups, in both official languages;
 - is of high quality and supports Canadian producers and content creators;
 - is accessible and discoverable across Canada and abroad; and
 - contributes to democratic life in Canada;" (emphasis added)

3. The Commission recognizes that reflecting the views and realities of “women, Indigenous groups, ethnic and multicultural groups, official language minority communities (OLMCs), children and youth, Canadians with disabilities, and LGBTQ2 Canadians,” or what the CRTC calls “diversity groups,” is crucial to the advancement of democratic life in Canada; especially given how the two issues of Indigenous liberation/reconciliation and immigration/integration dominate the news cycle and electoral process. But if the CRTC does not provide the public and advocacy groups with detailed statistics on the realities of access, reflection and employment for “diversity groups” at the CBC, the recognition of these issues in the Broadcasting Notice of Consultation for CRTC 2019-379 becomes nothing more than lip-service.
4. In their Supplementary Brief posted for these proceedings, CBC devoted one paragraph to the issues of “diversity” buried on page 10 of the 12 pages document. The issues of immigration/integration dominate the news and electoral cycles in Canada, and the national broadcaster offers a paragraph on a condition of license to begin reporting on diversity markers, as follows:
 - 1) the percentage of diverse staff that are hired during the broadcast year and at the management level at CBC/Radio-Canada;
 - 2) annual statistics regarding diversity in CBC/Radio-Canada’s commissioned and in-house programs in terms of onscreen/audio performance;
 - 3) annual statistics regarding diversity in CBC/Radio-Canada’s commissioned programs on the production side (i.e., diversity in key creative positions such as producer, director, writer, showrunner or lead performer).
5. Similarly, CBC promises license conditions to report on markers that can measure their compliance with their duties to provide access, reflection and employment to Indigenous people and Women in Canada. Not one mention is made of Canadians living with disAbilities; and certainly no license conditions are offered on reporting meaningful progress towards providing these communities with any of their rights.
6. While CMAC welcomes the proposal of CBC/RDI-Canada to condition their license on reporting annually on the aforementioned diversity markers, we take the position that this proposed condition reaffirms our assertion that reporting on such markers during this license renewal proceedings is crucial to give the public and advocacy groups the ability to correctly evaluate if the national broadcaster has been delivering on its legally binding obligations to provide access, reflection and employment, to what the CRTC calls “diversity groups.”

7. After failing to find any relevant information on the record provided by the CBC and the CRTC to help evaluate if the applicant is delivering on its legal responsibilities; CMAC decided to widen its search for information. The documents we found in the public domain include the CBC's Employment Equity Report,¹ Diversity and Inclusion Numbers,² Diversity and Inclusion Action Plan for 2018-2021,³ and Annual Report.⁴
8. The CBC 2018-2019 Annual Report is astonishing, for in its 137 pages, it uses the terms “minorities” and “disability” only 2 times each, and “women” three times. The Annual Report makes up for these glaring failures by overcompensating and over-hyping its work to deliver on its legal responsibilities towards Indigenous Nations. When we investigated the CBC Employment Equity Report, it was clear that no concrete numbers are available for the “diversity groups.” The report only provides general numbers that cannot help determine if the employees that identify as members of a “diversity group” were employed only in front of the mic/camera, or have any technical, editorial or administrative roles in the organization. Scholars and researchers have shown that “diversity groups” are underrepresented in media, where absent in governance, management, and employment (Women in View, 2019; Malik and Fatah, 2019).⁵
9. The CBC 2018-21 Diversity and Inclusion Action Plan is also vague, setting goals to study, investigate, and train the workforce to produce “diversity,” “content” and change “workforce culture” in the hopes of finally beginning to deliver on diversity within the “workforce.” Finally, CBC’s Diversity and Inclusion Numbers posted on their corporate website provide only a broad overview of employee percentages reported as belonging to a “diversity group.” Even this macro data reveals the CBC’s lack of accomplishment. Overall, the corporation fails to match “Labor Force Availability” for “Visible Minorities” and “Persons with Disabilities,” and the situation is even more appalling in the French services (RDI-Canada). It should be noted that the Labour Force Availability markers are drastically lower than actual population representation for “diversity groups,” indicating a broader

¹ Retrieved from:

<https://site-cbc.radio-canada.ca/documents/impact-and-accountability/diversity-inclusion/2018-employment-equity-report-en.pdf>

² Retrieved from:

<https://cbc.radio-canada.ca/en/working-with-us/jobs/diversity-inclusion-cbc-rc/our-numbers>

³ Retrieved from:

<https://cbc.radio-canada.ca/en/impact-and-accountability/diversity-and-inclusion/diversity-and-inclusion-plan/action-plans/cbc-radio-canada>

⁴ Retrieved from:

<https://site-cbc.radio-canada.ca/documents/impact-and-accountability/finances/2018-2019-annual-report.pdf>

⁵ Retrieved from: <http://womeninview.ca/wp-content/uploads/WIVOS19-Full-Report.pdf> and

<https://theconversation.com/newsrooms-not-keeping-up-with-changing-demographics-study-suggests-125368>

institutional bias in educational and media systems that discourage “diversity groups” from joining the profession and the CBC.

10. CMAC also reviewed the web pages of the CBC Board of Directors⁶ and Senior Executive Team,⁷ and the data provided affirms that the corporation’s top decision makers are homogeneous and these leadership positions do not reflect or give access to “diversity groups.” This situation is problematic, given that the CBC’s senior executive team was reorganised last year and the corporation did not recruit “diversity” talent. The CBC chose to move around some of its homogeneous leadership, and failed to deliver on its legal obligations to provide access, reflection and employment to “diversity groups” (beyond White or non-racialized women) at the highest decision-making positions in a national institution entrusted with shaping the nation’s identity.
11. During our research, CMAC found multiple references to the CBC “Annual Cultural Census” (Census). We attempted to find this Census via public resources, but failed to do so. CMAC believes that the Census may hold valuable information that sheds light on the situation of employment equity for “diversity groups” at the Corporation.
- 12. In light of the above, CMAC, in its Procedural Request dated February 8, 2020, respectfully requested that the CRTC:**
- 13. Order the CBC to release all Annual Cultural Census reports it has compiled since it first started preparing them in the first quarter of 2018; within a reasonable timeframe.**
- 14. CMAC further requested that the CRTC order the CBC to release the complete notes and reports that resulted from each stage and activity it conducted within its 2018-21 Diversity and Inclusion Plan as posted on its corporate site.**
- 15. Finally, CMAC requested that the CRTC delay the deadline for comments on the file.**
16. CMAC is of the opinion these procedural amendments would have strengthened the public process by guaranteeing access to the information required for informed and meaningful public engagement with the Commission regarding CRTC 2019-379 without unduly burdening CBC.
17. Unfortunately, the CRTC delayed our Procedural Request for a week before forwarding it to the CBC or publishing it on the public record. On February 19th, the Commission sent CMAC a response to our Procedural Request, claiming that

⁶ Retrieved from: <https://cbc.radio-canada.ca/en/vision/leadership/board-of-directors>

⁷ Retrieved from: <https://cbc.radio-canada.ca/en/vision/leadership/senior-executive-team>

it was too late in the process to order CBC to release the information requested. The letter stated “*CMAC can, at its discretion, include the above-noted requests in its intervention, ... it should clearly indicate why such information is required for the purposes of completing the public record.*”

18. While the Commission may be correct that CMAC’s Procedural Request was late in the process, the CRTC does not take into account that CMAC is a not-for-profit public interest group, and not a large corporation with tens of staff. It should also be noted that the information requested is easily accessible by the CBC and does not require more than a working day to locate and transmit for the public record.
19. CMAC is of the opinion that the CRTC, by ignoring our Procedural Request, has violated its own rules of procedure, and failed to deliver on its obligations under the *Broadcasting Act*, the *Multiculturalism Act*, and all international treaties pertaining to the rights of Indigenous Nations and racialized Canadians to access, reflection and employment in broadcasting (see below).
20. CMAC is also of the opinion that the actions and decision by the CRTC with regard to CMAC’s February 8th procedural letter is evidence of systemic racism within the Commission for “diversity groups” that results in denying them their rights to access, reflection and employment in the broadcasting system.
- 21. Given the above, CMAC respectfully reaffirms our above Procedural Request and hopes the Commission would be reasonable enough to order the CBC to release the information requested on February 8th, at least a month prior to the commencement of the public hearing on May 25, 2020.**
- 22. With the release of the above information requested by CMAC, the CRTC can rescue the public process and ensure due diligence in the current proceeding by upholding the rights to access, reflection and employment in the broadcasting system for “diversity groups.”**

Declining News Production and the Looting of Community Television Funding

23. A few years ago during the Community Television Policy review process, the Commission merged the hearing with the issues of Local News production (CRTC 2016-224).⁸ The Commission’s justification for this merger presented at the hearing was that Local News production is in crisis, evident in falling numbers of programming and expenditures in the Corporate/Private and Government/Public broadcasters; and how that negatively impacts democracy and public participation in Canada.

⁸ Retrieved from: <https://crtc.gc.ca/eng/archive/2016/2016-224.htm>

24. By merging the two issues, the CRTC encouraged participants to present ideas on how to increase Local News production, using the funds at the time allocated for Community Television production. Like vultures descending, the Corporate media and the CBC argued for the reallocation of Community Television funds towards Local News production, and reasoned that such a fund will lead to the revival of Local News programming across the country (see CRTC 2016-224, linked in footnote 8).
25. It was clear for CMAC then that “diversity groups,” who already are underrepresented, misrepresented or completely shut out of the Corporate and Government broadcasting sectors, would suffer immensely by the destruction and defunding of the Community Television sector; the only sector where they could have any decision-making power or have any possibility to reach the wider Canadian community with their opinions, needs and interests.
26. In any case, the “diversity groups” were ignored, and the funds were looted. Today, four years later, the questions that must be asked and answered are:
- a. Did the CBC increase its news production after supporting the looting of the Community Television sector?
 - b. And did “diversity groups” gain any new programming, or more access, reflection and employment at the CBC, as a result of diverting the Community TV funds towards the Independent Local News Fund?
27. The answer is a resounding no. In fact, the Independent Local News Fund created by the CRTC’s decision is prohibited from benefiting the CBC or other non-profit broadcasters (such as Indigenous broadcasters or community radio stations). Indeed, the so-called “Independent” Local News Fund only supports private local news broadcasters (see CRTC 2016-224, linked in footnote 8).
28. In addition, CMAC reviewed the financial numbers and budget forecasts deposited by the CBC on this proceeding’s public record. The data indicates a drastic decrease in the news production budgets of all the CBC holdings, in French and English, on radio and television.
29. For example, the aggregated numbers for all English Language Television stations operated by the CBC, show that Category 1 News programming expenditures dropped from \$92,642,620 in 2015-16 prior to the looting of Community Television funding, to \$52,862,851 in 2016-17; a decrease of \$39,779,769 in one year, or a decrease of 57% in the news budget. The situation is similar when looking at the aggregated numbers for the French language Television stations; the Cat1 News expenditures in 2015-16 were \$88,880,052, and they decreased to \$49,253,683 in 2016-17.

30. The numbers indicate that the creation and limits placed on the Independent Local News Fund have accompanied the CBC drastically reducing their spending on News. In fact, the CBC has instead diverted public funds towards Music and Entertainment Programming (Cat 7-11), which does not address the deficit in local news production in Canada that was recognized by the CRTC in 2015 and is producing “news deserts,” according to scholars and researchers.⁹

Democracy, Integration, Reconciliation and Sovereignty

31. Given all the facts mentioned above, one wonders why then does the CRTC anchors these proceedings in the issues of diversity and democracy? The Commission could have saved us all the headache of reading the hundreds of pages on record, if they would have just openly stated that they have no intention of allowing “diversity groups,” mainly racialized communities and Indigenous Nations, any meaningful access, reflection or employment at the CBC.
32. Additionally, the Commission’s reliance on the use of social media to increase public participation in this proceeding has resulted in complete failure; where only four comments were made about “diversity” at the CBC. Instead, CMAC believes the CRTC could have proactively outreached to public interest groups, like CMAC as well as academics, and commissioned research to investigate the issues at hand. Given the fact the Commission is a Tribunal with the powers of a Superior Court, it is unreasonable for the CRTC to put more emphasis on using social media to engage the uninformed opinion of a small segment of the public, rather than facilitate independent research to produce informed data that would better benefit evidence based decision-making.
33. Regarding the current Notice, the lack of public outcry for the CRTC and CBC failing to deliver on their obligations under the law towards “diversity groups” is only possible because the majority of the public is completely ignorant of the process for CRTC 2019-379 and 2019-379-1.
34. This media blackout about the CRTC and the current proceedings is by design. For example, the CBC did not produce even one news story on any of its English or French Radio and Television platforms about its relicensing proceedings. In comparison, every station holding a 9(1)h license that was seeking renewal during CRTC 2017-365, as well as most applicants during CRTC 2018-127, aired hundreds of ads on their stations encouraging viewers to participate in the hearings, and even covered the license process in their news programs.
35. CMAC believes the CBC’s decision not to publicize these proceedings, nor to encourage the participation of the public, are political decisions rooted in disregard for the opinions of the public, including “diversity groups.”

⁹ Retrieved from: <http://ryersonjournalism.ca/tag/media-deserts-project/>

36. Given the CRTC's legal and public interest obligations to uphold democracy, integration, reconciliation, and sovereignty, CMAC believes the CRTC has the opportunity and the power to take into account facts presented by commissioned independent research made available on the public record and by experts during the hearing. In this way, the CRTC can facilitate an informed and meaningful public process for all Canadians.

Conclusion

37. Finally, in light of the legal obligations of Canada to deliver on access, reflection and employment to “diversity groups” enshrined in laws, policies, and conventions; including the *1991 Broadcasting Act*,¹⁰ the *Canadian Charter of Rights and Freedoms and Constitution Acts*,¹¹ *Ethnic Broadcasting Policy* CRTC 1999-117,¹² the *Native Broadcasting Policy* Public Notice CRTC 1990-89,¹³ the *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*,¹⁴ the United Nations' *Declaration on the Rights of Indigenous Peoples*,¹⁵ the United Nations' *Convention on the Rights of Persons with Disabilities*,¹⁶ CMAC respectfully reiterates our Procedural Request that asks the CRTC to:

38. Order the CBC to release all Annual Cultural Census reports it has compiled since it first started preparing them in the first quarter of 2018; within a reasonable timeframe.

39. And order the CBC to release the complete notes and reports that resulted from each stage and activity it conducted within its 2018-21 Diversity and Inclusion Plan as posted on its corporate site.

40. CMAC respectfully requests that the above mentioned and all relevant data is released at least a month prior to the convening of the Public Hearing on 25 May 2020.

41. CMAC is available and requests to participate in the public hearing for CRTC 2019-379 and 2019-379-1 to further engage the Commission on issues outlined above.

¹⁰ Retrieved from: <http://laws-lois.justice.gc.ca/eng/acts/B-9.01/>

¹¹ Retrieved from: <http://laws-lois.justice.gc.ca/eng/Const/FullText.html>

¹² Retrieved from: <http://www.crtc.gc.ca/eng/archive/1999/PB99-117.HTM>

¹³ Retrieved from: <https://crtc.gc.ca/eng/archive/1990/PB90-89.htm>

¹⁴ Retrieved from:

http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html

¹⁵ Retrieved from: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹⁶ Retrieved from:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

We thank the Commission for the opportunity to file this intervention.

Respectfully,
Laith Marouf
CMAC Policy Consultant

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