

March 1, 2021

Mr. Claude Doucet
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Canadian Radio-television and
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Gatineau (Québec) K1A 0N2

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ONLINE SUBMISSION

Final Submission

Re: Broadcasting Notice of Consultation CRTC 2019-379, 2019-379-1, 2019-379-2, 2019-379-3, 2019-379-4, 2019-379-5, 2019-379-6 and 2010-379-7; applications by the Canadian Broadcasting Corporation/Société Radio-Canada (the Corporation) to renew the broadcasting licences for its various English- and French-language audio and audio-visual programming services.

Please find attached CMAC's Final Submission 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.

Summary of CMAC's interventions for CRTC 2019-379

3. A quick look at CMAC's interventions on the record of this proceeding reveals a year-long effort by CBC/SRC (hereafter also referred to as the Corporation) to obstruct the public's and the Commission's access to meaningful and detailed information on the rights of people belonging to Protected Groups to access, reflection, and employment within the Corporation. Even after Commissioner Anderson, during the public hearing, requested the release of the Corporation's Annual Cultural Census through an Undertaking by the Corporation, the CBC/SRC still did not release the latest Annual Cultural Census. CMAC reminds the Commission that the latest (leaked) internal CBC/SRC numbers, covering a three year period 2017-2020, were made available by CMAC in our 2nd procedural requests on July 24, 2020.¹
4. Additionally, the public record shows that the Commission up until the Oral Hearing stage, rejected all of CMAC's procedural requests for information concerning Protected Groups or withheld CMAC's deposited information from the record with no justification provided (see CMAC's Oral Presentation - Annex A: Timeline and Summary of CMAC's Submissions for CRTC 2019-379).² CMAC respectfully notes our disappointment in the moving target of procedures that have often dispensed with or varied from the CRTC Rules of Practice and Procedure (RPP). CMAC believes the process facilitated by the

¹ Leaked CBC/SRC figures that detail the numbers and percentages of employees at the Corporation over the three year period 2017-2020 ([Annex A – Employment Equity Members](#)).

² CMAC's Oral Presentation - [Annex A: Timeline and Summary of CMAC's Submissions for CRTC 2019-379](#).

Commission under CRTC 2019-379 has failed the public interest by withholding the additional evidence CMAC deposited on the record concerning the rights of Protected Groups access, reflection, and employment within the Corporation.

5. We are filing our final written comments today, while the Commission still is withholding evidence CMAC deposited on the record on January 4, 2021, and January 26, 2021. This includes the information requested by the Commission on November 10th in CRTC 2019-379-4 that was denied by the Corporation on December 18th and submitted by CMAC on January 4th as “Annex A: Accounting for Diversity in CBC 2020 TV Programming.”³ Again on January 26, CMAC deposited a fifth procedural request appending details pertaining to complaints of discrimination experienced by Indigenous and Visible Minority Producers in Quebec who engaged the Corporation, that we made reference to in our Oral Presentation.⁴ On the same day, the Commission wrote to the Corporation “Should the SRC/CBC wish to make any submissions on whether the Commission should accept this new information on the record of this proceeding, it should file such submissions no later than the end of day on Wednesday, 3 February 2021.”
6. The deadline passed and the Corporation neither replied nor objected, indicating that the CBC/SRC has no legal grounds to deny our request. On February 4th, CMAC wrote the Commission requesting the annexes in our 4th and 5th procedural letters be published on the record since the Corporation did not object to either. On February 5th, the CRTC wrote to CMAC stating, “The Commission has not yet rendered a decision on the admissibility of the new information submitted by CMAC, which is set out in the appendices to CMAC’s procedural requests.” It is CMAC’s opinion that the Commission’s decision to not rule in a timely manner on the information deposited, information that was neither disputed by nor objected to by the Corporation, is another example of the CRTC dispensing or varying the RPPs.
7. **Given the facts above, CMAC respectfully asks the Commission to publish all of the information we deposited on record that have been withheld arbitrarily, specifically “Annex A: Accounting for Diversity in CBC/SRC 2020 TV Programming” (CMAC 4th Procedural Request - January 4) and Annex 1: French Original and Annex 2: English Version of the “Open Letter: Absence of racialized voices at CRTC public hearings” (CMAC 5th Procedural Request - January 26).**

Addressing comments made during the Oral Hearing

8. On January 22, during CMAC’s Oral Presentation, Commissioner Anderson asked a

³ See [Annex A: Accounting for Diversity in CBC 2020 TV Programming](#).

⁴ See “Open Letter: Absence of racialized voices at CRTC public hearings” - [Annex 1: French Original](#) and [Annex 2: English Version](#).

question that we did not completely answer at the time.

- a. *COMMISSIONER ANDERSON: Thank you. I wonder if you could speak about frequency of consultation and whether, say, consultation sessions done every two years is adequate?*
9. CMAC supports Commissioner Anderson's suggestion that the Corporation holds meaningful public consultations with Protected Groups every two years, to determine what measures should be taken to deliver on their rights to access, reflection, and employment in the Corporation and its programming. CMAC respectfully recommends the Commission add representative and meaningful public consultations with Protected Groups every two years as a condition of licence for the Corporation.
 10. CMAC also reviewed the Corporation's Oral Reply to interveners made on January 28. After the Corporation's final hearing presentation, Commissioner Anderson asked:
 - a. *13573 COMMISSIONER ANDERSON: ... I was wondering if you had anything else that you'd like to add or comment on on what the appropriate metric would be and how do you know when the efforts to achieve diversity have been achieved?*
 11. President Tait replied:
 - a. *13579 MRS. TAIT: ... do we do that by, you know, by quotas for every single group in the -- in the society? I would say that's probably not going to work from a programming point of view..*
 12. CMAC believes this indicates the Corporation is not willing to be held to any license conditions for Exhibition and Expenditures relating to programming Reflective of Protected Groups, and that the Corporation admits that it will continue to fail on these legal obligations. For that reason alone, CMAC respectfully recommends that the Commission add firm conditions of license for meaningful Exhibition and Expenditures relating to programming reflective of Protected Groups.
 13. In lines 13580-13583 of the January 28 transcript, Commissioner Anderson asked the Corporation how they will have an Executive Team that reflects the diversity of society; and how that relates to the Journalistic Standards and Practices (JSP) of the Corporation.
 14. President Tait's reply was mocking and condescending, in so far as making a joke of this important issue. She said:

15. 13584 MRS. TAIT: ... we have made the commitment that we have to ensuring that no less than 50 percent of all future senior management positions will be from people from underrepresented groups.
16. 13585 Now, you know, as you know, we put this policy in place back in June. It takes some time. I'm waiting for the resignations of my various colleagues here. [laughing while saying this]
17. Such insults are familiar to CMAC, and members of Protected Groups seeking equity anywhere, when we hear those in positions of power say “we are waiting for resignations or retirements to hire equitably.” The Corporation's response implies a delayed justice for Protected Groups and protects the entitlement of White management because the CBC is waiting for retirements that could take a generation.
18. The *Canadian Multiculturalism Act* was passed in 1985, and the *Broadcasting Act* was passed in 1991; nearly four decades later and the Corporation has yet to comply with its obligation to give access, reflection, and employment to Protected Groups. President Tait is laughing while telling these communities not to expect to have their rights any sooner than another generation from today; an answer unbecoming of the position of President of the Corporation.
19. A few moments later, Vice-President Williams was called on by President Tait to further explain the Corporation's position. Vice-President Williams obliged by stating:
- a. 13595 MS. WILLIAMS:And you know, you said something earlier that, you said, "How will we know when this work is done?" I don't know. I don't know that this work is ever done.
20. President Tait, who fumbled with her answer, called on Vice-President Williams to help; only for Vice-President Williams to add insult to injury. This response further shows the Corporation's entrenched position that Protected Groups should wait because, according to Vice-President Williams, this work is never done. CMAC respectfully requests that the Commission oblige the CBC/SRC through strong COLs to deliver on its obligations under the *Broadcasting Act*, the *Canadian Charter of Rights and Freedoms*, and the *Multiculturalism Act* to provide Protected Groups access, reflection, and employment at all levels (including senior management), across all platforms (digital and linear), and in all content (from news to children's programming) of the Corporation.
21. Regarding the Corporation's Journalistic Standards and Practices policy, the JSP's adverse effects on Protected Groups and if changes are to be made, Vice-President Williams stated:

- a. *13592 MS. WILLIAMS: Also, just this week in this ongoing conversation about JSP. We made a commitment to add a permanent advisory group of BIPOC Indigenous and black and people of color representatives that will work with our head of JSP.*
22. This “commitment” was detailed by the Corporation in a memo⁵ to all employees on January 25 published publicly by *J-Source*, wherein the Corporation refused to review the JSP and only offered Protected Groups a seat on an advisory group that has no powers, but can make non-binding recommendations within the current and flawed JSP (see CMAC’s Oral Presentation on the flaws as well as the conversation with Commissioner Anderson about the JSP and its impact that starts on Line 9923 of the January 22 transcript). This offer was already rejected by employees of diverse backgrounds who previously demanded the Corporation take action on systemic racism, including updating the JSP.⁶
23. Given the above considerations, CMAC respectfully reiterates our recommendation that the Commission oblige the CBC/SRC to update the JSP based on regular consultation with Protected Groups as a condition of licence. CMAC further recommends that this requirement include mandating the Corporation to take public measures to create an independent advisory committee, made up of current and former employees from Protected Groups as well as public interest advocacy organizations, like CMAC, empowered to rule on the JSP’s application. Such conditions can guarantee meaningful representation and decision-making power for Protected Groups over how the JSP is applied.

Addressing the Undertakings deposited by the Corporation

24. Within Annex G in response to Undertaking 22, the Corporation provided information on Indigenous language programming it airs on all its platforms. The information provided confirms that the majority of Indigenous language programming aired on its English platforms is concentrated in CBC Radio North and online platforms. Only two programs in Indigenous languages air on CBC TV and only in the North. The situation is worse at the SRC. Indigenous language programming was so scarce at SRC, the Corporation had to resort to counting segments and special bilingual broadcasts as Indigenous language programming. According to CMAC’s analysis, the Corporation’s outlook on future Indigenous language programming on the French platforms is underwhelming and inadequate to say the least.

⁵ The following message was sent to CBC staff on Jan. 25 from CBC/Radio-Canada President and CEO Catherine Tait, Executive Vice-President English Services Barb Williams and Executive Vice-President of French Services Michel Bissonnette:

<https://j-source.ca/article/memo-cbc-responds-to-ahmar-khan-arbitration-decision/>

⁶ CBC union members demand action on systemic racism:

<https://www.cmg.ca/en/2020/07/14/cbc-union-members-demand-action-on-systemic-racism/>

25. In response to Undertakings dated February 3, 2020, the CBC rejected any conditions of license for Exhibition of, and Expenditures on, programming that reflects Protected Groups. Instead, the Corporation offers to conduct perception surveys on reflective programming.

- a. *UNDERTAKING 3 - ANSWER: If the Commission were to reduce current regulatory requirements, CBC/Radio-Canada could demonstrate that the needs of underrepresented groups are being met through quantitative perception surveys. Where sampling is too difficult or cost prohibitive, then focus groups, consultations, and structured discussions with under-represented communities would be used.*

26. It is CMAC's expert opinion that perception surveys or more cost efficient focus groups, consultations, and structured discussions with Protected Groups will not provide the necessary data or indicators to assess whether the Corporation is delivering its obligations under the *Broadcasting Act*, the *Canadian Charter of Rights and Freedoms*, and the *Multiculturalism Act* to provide Protected Groups access, reflection, and employment at all levels, across all platforms, and in all content of the Corporation. Therefore, CMAC respectfully recommends that the Commission mandate the Corporation to uphold its obligations through CLOs for Exhibition of, and Expenditures on, programming that reflects Protected Groups.

Recommendations based on the Oral Hearing and Undertakings

27. Throughout this licence renewal process, the Corporation has demonstrated it is failing and will continue to fail to achieve its obligations under the *Broadcasting Act*. In light of the public record for this proceeding, CMAC respectfully recommends the Commission consider the following Conditions of License:

- a. **The licensee shall adhere to its legal obligations to provide Protected Groups with equitable access to all its Canadian programming, and must therefore ensure that all the Canadian programming it airs on its linear channels is also available on its digital platforms, and vice versa.**
- b. **The licensee shall adhere to its legal obligations to provide Protected Groups with employment equity, matching or surpassing Canada's census in its hiring practices at all levels and in all its branches of activities; French, English, linear and digital.**
- c. **The licensee shall adhere to its legal obligations to provide Protected Groups with equitable reflection, by, for, and about them by adhering to exhibition and**

expenditure requirements that determine quantity, quality and budget, and must match or surpass Canada's census in its programming reflection at all levels, news, entertainment and children's programming included, and in all its branches of activities; English, French, linear and online.

- d. The licensee shall publicly publish meaningful information and detailed data in annual financial and statistical reports on the above criteria concerning access, reflection, and employment for Protected Groups.**
 - e. The licensee shall modify its Journalistic Standards and Practices policy, through regular and meaningful public consultation with Protected Groups and according to the demands made by CBC union members last year. The licensee shall convene a public process to appoint an independent advisory committee made up of experts, including current and former employees from Protected Groups as well as public interest advocacy organizations, like CMAC, who are empowered to rule on the JSP's application.**
 - f. The licensee shall facilitate representative and meaningful public consultations with Protected Groups every two years to assess its obligations and achievements towards providing Protected Groups access, reflection, and employment at all levels, across all platforms, and in all content of the Corporation**
28. Finally, given that the Corporation has yet to comply with its obligations to provide access, reflection, and employment for protected groups more thirty years after the *Broadcasting Act* passed into law; given that the Corporation throughout the public process for CRTC 2019-379 attempted to obscure these failures by rejecting all requests for information, including refusing an order by the Commission; and given that it would be unacceptable to fine or revoke the licence of the Corporation as the public broadcaster for its non-compliance concerning its legal obligations towards Protected Groups; CMAC recommends the termination of employment for the Corporation's Executive team and Senior Management with due cause. CMAC believes this solution would be the only way to hold the Corporation responsible for its non-compliance, while opening the door for hiring an Executive Team and Senior Management that is more reflective of Canadian society.

29. CMAC stands by our methodology and recommendations for this proceeding.

We thank the Commission for the opportunity to file this final submission.

Respectfully,
Laith Marouf
CMAC Policy Consultant

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