

29 July 2020 Filed via GCKey

Claude Doucet

Secretary General

Canadian Radio-television and

Telecommunications Commission

Ottawa, Ontario

K1A 0N2

**Subject:**  **Reply of CBC/Radio-Canada to the 24 July 2020 Letter of Community Media Advocacy Centre (CMAC); Applications # 2019-0280-0, 2019-0279-2, 2019-0282-5 and
2019-0281-7.**

Dear Mr. Doucet:

1. CBC/Radio-Canada is in receipt of the 24 July 2020 letter of the Community Media Advocacy Centre (CMAC) raising a wide range of matters relating to the composition and duties of the CRTC, the employment practices of CBC/Radio-Canada and, tangentially, the CBC/Radio-Canada licence renewal process. Among other things, CMAC requests the Commission to direct CBC/Radio-Canada to provide certain employment equity information for the record of CBC/Radio-Canada’s licence renewal process. As explained below, this request is outside the scope of the licence renewal process and beyond the jurisdiction of the CRTC under the *Broadcasting Act*. The request should be denied.
2. CBC/Radio-Canada is committed to combating racism in all its forms, and to fixing structural barriers and practices that may result in discrimination against our employees and to improve our workplace culture. We report on these plans and initiatives regularly to relevant government bodies, under statutory authority, and more broadly to the Canadian public.

The CMAC Letter

1. In its 24 July 2020 letter, CMAC raises at least four broad areas of concern:

a) the appointment of CRTC Commissioners by the Minister of Heritage;

b) CBC/Radio-Canada’s obligations under the *Employment Equity Act*;

c) CBC/Radio-Canada’s obligations under the *Access to Information Act*.;

d) the renewal of CBC/Radio-Canada’s licences under the *Broadcasting Act*;

Of these matters, the Commission only has jurisdiction with respect to d).

The Appointment of Commissioners

1. It is clear that the Commission has no control over, or any role to play in respect of, the appointment of Commissioners to the CRTC by the Minister of Heritage. It is unclear why CMAC would include a discussion of such appointments in a letter which purports to be a procedural request in the context of the CBC/Radio-Canada licence renewal process. In any event, CMAC’s comments on this topic do not require a response by CBC/Radio-Canada, as the matter lies outside the licensing process and outside of CBC/Radio-Canada’s authority.

Employment Equity

1. In its letter CMAC focuses heavily on the employment equity obligations of CBC/Radio-Canada. While CMAC does not highlight this point, these obligations are based in the *Employment Equity Act*. They are not based in sections 3(1)(d)(iii) and 3(1)(m)(viii) of the *Broadcasting Act*, which are cited by CMAC. On the contrary, and for clarity of jurisdiction, section 5(4) of the *Broadcasting Act* states that:

Where a broadcasting undertaking is subject to the *Employment Equity Act*, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking.

1. Given that the Commission’s powers “do not extend to the regulation or supervision of matters concerning employment equity”, there is no legal basis under the *Broadcasting Act* for CMAC’s request for detailed employment equity information from CBC/Radio-Canada. Nor is there a basis under the *Act* for the Commission to direct CBC/Radio-Canada to provide such information.

Access to Information

1. At paragraph 9 of its 24 July 2020 letter, CMAC states that in its 6 March 2020 Reply to Interventions, CBC/Radio-Canada “ignored” CMAC’s request for “equity information”. This is false.
2. At paragraphs 52 through 58 of its 6 March 2020 Reply, CBC/Radio-Canada responded directly to CMAC’s information request and pointed CMAC to all the information on CBC/Radio-Canada’s website arising from a recent Access to Information (ATI) request dealing with such information. This included all emails, memos (internal and external), documents, and correspondence that we have regarding the CBC/Radio-Canada's 2018-2021 Diversity & Inclusion Plan. CBC/Radio-Canada also pointed to several other public documents concerning diversity issues on CBC/Radio-Canada’s website.
3. Given CBC/Radio-Canada’s response, it is not clear why CMAC believes it is entitled to more information. To the extent that CMAC’s request can be construed as an indirect attack on the sufficiency of the ATI information, CMAC should pursue any remedies available to it under the *Access to Information Act*. It should not attempt to use a *Broadcasting Act* proceeding to mount a collateral attack on the *Access to Information Act* regime.

CBC/Radio-Canada’s Licence Renewal Process Under the *Broadcasting Act*

1. CMAC’s 24 July 2020 letter purports to relate to the CBC/Radio-Canada licence renewal process under the *Broadcasting Act*. Viewed as such, CMAC’s letter is both out of process and it asks the Commission to act outside the scope of the CRTC’s jurisdiction under the *Broadcasting Act*. In particular, CMAC asks the Commission to exercise power over employment equity matters which section 5(4) of the *Broadcasting Act* expressly states are beyond the Commission’s jurisdiction. On either basis, the CMAC request is inappropriate.
2. The CMAC request should be denied.

Yours truly,



Bev Kirshenblatt

Executive Director, Corporate & Regulatory Affairs

cc: CMAC

 The Honourable Steven Guilbault

 The Honourable Steven Blaney

 The Honourable Alexandre Boulerice

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