



Community Media Advocacy Centre
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July 24, 2020

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

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Minister of Canadian Heritage
15 Eddy Street, 12th Floor
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The Honourable Steven Blaney
Shadow Cabinet Heritage Critic
115 President Kennedy Road
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ONLINE SUBMISSION

(Amended) PROCEDURAL REQUEST Re: Broadcasting Notice of Consultation CRTC 2019-379, 2019-379-1, 2019-379-2 and 2019-379-3; 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.

In this letter, CMAC files for a procedural request motivated by our access to internal CBC/SRC records on the employment of what the CRTC calls “diversity groups,” and the Commission’s abandonment of its duties to these “diversity groups” as stipulated by

1991 Broadcasting Act,¹ the *Canadian Charter of Rights and Freedoms and Constitution Acts*,² *Ethnic Broadcasting Policy* CRTC 1999-117,³ the *Native Broadcasting Policy* Public Notice CRTC 1990-89,⁴ the *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*,⁵ the *United Nations' Declaration on the Rights of Indigenous Peoples*,⁶ and the *United Nations' Convention on the Rights of Persons with Disabilities*.⁷ See the detailed explanation of these legal obligations provided in CMAC's intervention⁸ for CRTC 2019-379 submitted on February 20, 2020.

Kindly note the amended paragraph 25 in this version, concerning the request CMAC is making to the Minister of Heritage.

Sincerely,
Gretchen King
CMAC Secretary

Cc regulatoryaffairs@cbc.ca, info@cmg.ca

¹ Retrieved from: <http://laws-lois.justice.gc.ca/eng/acts/B-9.01/>

² Retrieved from: <http://laws-lois.justice.gc.ca/eng/Const/FullText.html>

³ Retrieved from: <http://www.crtc.gc.ca/eng/archive/1999/PB99-117.HTM>

⁴ Retrieved from: <https://crtc.gc.ca/eng/archive/1990/PB90-89.htm>

⁵ Retrieved from:

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

⁶ Retrieved from: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁷ 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>

⁸ Retrieved from: <https://services.crtc.gc.ca/pub/DocWebBroker/OpenDocument.aspx?DMID=3876622>

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 people who are racialized, Indigenous, or living with disAbilities 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.

The Process

3. On February 8, 2020, CMAC sent a procedural request to the CRTC, asking the Commission to:
4. 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.
5. 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.
6. Finally, CMAC requested that the CRTC delay the deadline for comments on the file.
7. On February 18, 2020, the CRTC sent a letter to CMAC, denying our requests, but noting: *“CMAC can, at its discretion, include the above-noted requests in its intervention, which, as stated above, is due no later than 20 February 2020. Furthermore, should CMAC choose to pursue its request for this information, it should clearly indicate why such information is required for the purposes of completing the public record. The CBC/SRC will then be afforded the opportunity to respond to that intervention as a part of the established procedure for this*

process. The Commission may decide to examine these and other issues further at the public hearing.”⁹

8. On February 20, 2020, CMAC submitted its Intervention on record, and as the Commission suggested, we reiterated the requests made in our procedural letter.
9. On March 6, 2020, the CBC submitted its reply to the interventions, and ignored the requests for equity information made in the procedural request and intervention of CMAC.
10. On June 22, 2020, the CRTC issued BNC 2019-379-3, where it set the date for the future Public Hearing for January 11, 2020. The Notice also reported more information on the Corporation’s “digital activities and future plans for those activities,” and set a deadline for the public to comment “with respect to the additional information added to the public record only.” This additional information, the Notice announced, came because some “interveners expressed concerns over a lack of transparency by the Corporation in regard to information on digital revenues and expenses. In response, the Corporation committed to submit additional financial information pertaining to its digital activities.”
11. It is clear to CMAC, from the aforementioned process, that the CRTC and CBC could provide the public with more information regarding the employment status of “diversity groups” at the Corporation, and that the Commission, given that the hearing is set six months from now, could order the Corporation to comply with CMAC’s request with no undue burden to CBC. The Commission can then publish the obtained information and add a separate intervention stage (Phase 3) for the public to give its opinion on this new information “only.”
12. The question that CMAC asks is: Are issues of financial viability of digital activities by the nation’s public broadcaster deemed to be more relevant than the guaranteed rights of “diversity groups” to access, reflection, and employment at the network? According to the public record for CRTC 2019-379, it appears that for the CRTC and the CBC, this is the case. The public record provides evidence of CRTC and CBC priorities that are inconsistent with the public interest. CMAC believes these acts are part of ongoing structural and systemic discrimination at the tribunal empowered to regulate the media landscape in Canada and the nation’s public broadcaster.
13. According to the latest data that CMAC found in the public domain, the evidence shows that CBC is still not meeting the overall expectation of the Canadian broadcasting system under section 3(1)(d)(iii) as well as its obligation “to reflect the multicultural and multiracial nature of Canada” within its programming and among its employees as stated in the 1991 *Broadcasting Act*, section

⁹ Retrieved from: <https://crtc.gc.ca/eng/archive/2020/lb200219.htm>

3(1)(m)(viii). Comparing the CBC's most recent annual employment equity report (2018)¹⁰ with the last census conducted in Canada (2016),¹¹ the makeup of CBC employees does not meet the proportion of diversity present in the total population. For example, racialized and Indigenous people represent nearly 22 percent and 5 percent of the total population respectively, yet only 12 percent of CBC employees are racialized and 2 percent are First Nations, Inuit, or Métis. Additionally, people living with at least one disability represent 22 percent of the population in Canada (CSD, 2017),¹² yet CBC employees with disabilities represent 3 percent of workers only. While these numbers show the Corporation is failing its obligations under section 3(1)(m)(viii) of the Act, the annual employment equity report does not provide the detailed breakdown CMAC requested concerning protected groups working at and represented by the CBC.

14. Given that CMAC's procedural request was ignored by the Commission and the Corporation did not respond to any of our multiple requests on the public record, CMAC sought to find additional information without the help of the CRTC or the CBC. After the recent "Black Lives Matter" resurgence on the public agenda due to the murder of unarmed civilian George Floyd by the police in the USA, many journalists that work at the CBC took the courageous step of publicizing the issues regarding systemic racism and discrimination they face at the Corporation (see for example #Blackinthenewsroom). This included Black, Indigenous, and people of colour (BIPOC) journalists and high visibility news anchors at the CBC.
15. Since our intervention was submitted in February and through personal correspondence with diverse employees of the CBC, CMAC has received CBC figures that detail the numbers and percentages of employees at the Corporation over the three year period 2017-2020, broken down by the categories of: Able Bodied White Males, Visible Minorities, Indigenous Peoples, Persons with Disabilities, and Women. The five tables we received, cover the numbers for "Employment Equity Representation All," "Employment Equity Representation Management," "Employment Equity Representation External Hire Rates," "Employment Equity Representation Promotion Rates," and "Employment Equity Representation Turnover Rates." This evidence is attached to this Procedural Request as "Annex A."
16. This data provides additional and up to date evidence that the Corporation is still failing its obligations under section 3(1)(m)(viii) of the Act. In 2020, visible minorities represent only 14.1% of all employees, and an even lower percentage of the upper management with only 12.5%; while they have the highest turnover rate at 4.9%. Similarly, Indigenous peoples represent only 2.1% of all employees,

¹⁰ Retrieved from:

<https://site-cbc.radio-canada.ca/documents/impact-and-accountability/diversity-inclusion%2F2018-employment-equity-report-en.pdf>

¹¹ Retrieved from: <https://www12.statcan.gc.ca/census-recensement/index-eng.cfm>

¹² Retrieved from: <https://www150.statcan.gc.ca/n1/daily-quotidien/181128/dq181128a-eng.htm>

0.5% of upper management, and have a turnover rate of 4.9%. Finally, persons with disabilities represent only 3.2% of all employees, 3.0% of upper management, and have a 2.3% turnover rate. We have attached the CBC data acquired by CMAC as “Annex A” (see “Annex A - Employment Equity Members.xlsx”).

17. We have also attached as “Annex B” (see “Annex B - CBC union members demand action on systemic racism | CMG.pdf”) the demands issued to the Corporation by CBC employees, including the Canadian Media Guild (CMG) members of the Joint Committee on Equity, Diversity and Inclusion, and circulated on social media, in regards to the structural and systemic discrimination they face at the public broadcaster and solutions. These demands have also been further elaborated and are submitted as “Annex C” (see “Annex C - 10 Calls to Action.pdf”). The reasonable demands in Annexes B and C as well as the tens of social media posts by CBC employees who seek a betterment of their working conditions, give the CRTC a window into the realities of discrimination inside the CBC. CMAC believes these demands motivate the need for the CRTC to mandate the CBC put all evidence on the public record for 2019-379 concerning the realities of employment, access, and representation for “diversity groups” at the CBC.
18. CMAC continues to investigate the information that the CBC refuses to make available in this proceeding concerning the representation of protected groups working at each level of the Corporation, in programming, employment and governance. Given that the Commission has the power, and the public interest responsibility given sections 3(1)(d)(iii) and 3(1)(m)(viii) of the Act, to force the Corporation to release the requested information on the record, CMAC once again respectfully asks the Commission to accommodate the following procedural requests that will cause no undue burden on the CBC.

Procedural Request

19. **CMAC respectfully asks the Commission to order the CBC to release the requested employment equity information following the format that appears in the documents deposited with this procedural request as “Annex A,” but with a more complete breakdown of diversity groups added and the percentage of total employees indicated for each:**
 - a. **Able-Bodied White Males**
 - b. **Visible Minority Men**
 - c. **Indigenous Men**
 - d. **Men with Disabilities**
 - e. **Able-Bodied White Women**
 - f. **Visible Minority Women**
 - g. **Indigenous Women**
 - h. **Women with Disabilities**

- 20. In addition, the employment equity representation data for Management needs to be separated for each category of manager: PB8, PB9, PB10, and Executives, using the same diversity groups outlined above (in paragraph 19 a-h) to allow a better understanding of equity and the management breakdown at the Corporation. CBC should provide separate sheets for these categories titled “Employment Equity Representation [category of manager]: Manager Salaries and Expenditures” to allow the public to ascertain how the Corporation represents diversity groups across manager categories, salaries, and expenditures.**
- 21. CMAC believes the Employment Equity Representation data should also be broken down, using the same diversity groups outlined above (in paragraph 19 a-h), for each category of employee, such as journalist, anchor, editor, technical, support, etc. We are sure the CBC has ready access to this information from the database it uses. These numbers will help the public determine if the Corporation is putting more emphasis on hiring “diversity groups” in outward or visible positions like on-camera roles, while failing to give them employment in creative, editorial, and technical positions. Similarly, we ask for separate sheets for these categories that should be titled “Employment Equity Representation [category of employee]: Employee Salaries and Expenditures” to determine if the Corporation discriminates against diversity groups across employee categories, in salaries, and expenditures.**
- 22. Additionally, the data for “Employment Equity Representation: All” should also offer a breakdown (following the groups outlined in paragraph 19 a-h), for representation of diversity groups at each of the Corporation’s radio and television stations across the country, as well as for the CBC’s web platforms and digital assets. We also ask for a second sheet for each of these stations and platforms titled “Employment Equity Representation All [per station/platform]: Salaries and Expenditures” again to be able to determine if the Corporation discriminates against “diversity groups” in salaries and expenditures in different regions of the country.**
- 23. Given the public testimonies concerning discrimination at the Corporation by BIPOC and other CBC journalists mentioned above, CMAC also respectfully requests that the Commission orders the CBC to release a record of all complaints known to its Human Resources department made by employees at the Corporation, alleging any form of discrimination or racism over the period of 2015-2020. This data can redact the names of the employees involved in these complaints, but must include if and how each complaint was resolved.**

24. Further, CMAC respectfully requests that the Commission panel for the public hearing for CRTC 2019-379 include at least two Commissioners that identify as Indigenous, racialized, and/or live with a disability. Diversity on the panel is needed to ensure that the issues of protected diversity groups are included. Additionally, equity representation among the panel of Commissioners will assure the public interest is upheld through the hearing process for CRTC 2019-379.

25. Given that the composition of the Commission is made up of seven white members, one member who is Indigenous, one newly appointed member who is a person of colour,¹³ and is currently devoid of any Commissioners who identify as living with a disability, CMAC respectfully asks the Minister of Heritage (to whom this procedural letter is also addressed) to urgently appoint one new commissioner who identifies as living with a disability, and to do so before the selection of the Panel that will preside over the public hearing for CRTC 2019-379.

Sincerely,
Laith Marouf
CMAC Policy Consultant

*****End of document*****

¹³ See press release issued June 25, 2020:
<https://www.newswire.ca/news-releases/minister-guilbeault-announces-two-new-appointments-to-the-crtc-811716931.html>