



Broadcasting Decision CRTC 2023-34

PDF version

References: 2019-90 and 2019-90-1

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Publication of aggregate data collected in response to the Annual Digital Media Survey

Summary

With respect to data collected in response to the 2020-2021 Annual Digital Media Survey (ADMS), the Commission will publish total revenue figures aggregated by industry segment (i.e. audio and audiovisual) and, for the audiovisual industry segment only, combine the revenues reported by digital media broadcasting undertakings in response to the ADMS with those reported by hybrid video-on-demand (HVOD) services as part of their annual returns.

Additionally, the Commission sets out its intention to publish, on a going-forward basis, data collected in response to the ADMS, provided that, in any given format in which publication would occur, the data have been aggregated at the level of industry segment and meet three criteria, that is, the data must be (i) accurate, (ii) complete and (iii) readily comparable.

Finally, the Commission finds it appropriate, on a going-forward basis, when publishing ADMS data pertaining to the audiovisual industry segment, to combine the survey data together with relevant data filed by HVOD services as part of their annual returns, and to publish the combined data in aggregate form.

Introduction

1. In Broadcasting Notices of Consultation 2019-90 and 2019-90-1 (collectively, the Notices), the Commission called for comments on the proposed administration of a survey to gather information on the activities of digital media broadcasting undertakings (DMBUs) in Canada, pursuant to paragraph 4 of the Exemption order for digital media broadcasting undertakings (DMEO), which is set out in the appendix to Broadcasting Order 2012-409, and which reads as follows:

4. The undertaking submits such information regarding the undertaking's activities in broadcasting in digital media, and such other information that is required by the Commission in order to monitor the development of broadcasting in digital media, at such time and in such form, as requested by the Commission from time to time.

2. The Commission stated in Broadcasting Notice of Consultation 2019-90 that one of its specific objectives would be to inform the industry and all stakeholders on the state of digital media broadcasting in Canada through the publication of aggregate data and, in both of the Notices, that it recognized that certain broadcasters might be reticent or unwilling to share commercially sensitive information with the Commission, particularly if the data were to be published, even in aggregate form. As such, the Commission, in the Notices, requested comments on its proposal to publish, on an aggregate basis, data on digital media broadcasting activities in Canada to be provided on the survey form, and the appropriate level of confidentiality to be granted to such data as well as on the appropriate balance between the public interest benefits and associated potential harm of disclosure.
3. Following its review of the record of this proceeding, the Commission issued Broadcasting Regulatory Policy 2022-47 (the Policy), in which it approved the launch of the Annual Digital Media Survey (ADMS) and, in paragraph 145 of that policy, found it appropriate to vary the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules)¹ and grant full confidentiality, in advance of issuing the ADMS, against any disclosure of individual DMBU-level data (hereafter referred to as microdata) collected in response to it.
4. As for the publication of aggregate data, the Commission made various findings in the Policy. Among other things, it noted that publishing data aggregated by ownership group and programming language would not be appropriate and that the data, if published, would be of greater interest to the public and better meet the Commission's stated objectives if aggregated by industry segment (i.e. audio and audiovisual) rather than by country of origin of the DMBU (i.e. Canadian and non-Canadian). The Commission also stated in the Policy that, since it did not, at that time, have sufficient information to adequately weigh the benefit to the public interest of publishing collected data against the potential risk to the survey respondents, it would consider the appropriateness of publishing data at a later date. The Commission also stated in the Policy that it retains the discretion to re-evaluate its reporting and data publication practices, such as the level of aggregation that it applies to the data it publishes, and may adapt those practices while weighing the public interest and the confidentiality concerns of undertakings.
5. In accordance with the Policy, the Commission first administered the ADMS to DMBUs meeting the thresholds set out in Appendix 1 to the Policy in order to collect data for the 2020-2021 broadcast year.² The deadline to respond to that survey was 30 June 2022. The Commission will administer subsequent surveys, each with a filing deadline of 30 November, each fall concurrently with (but separately from) the

¹ SOR/2010-277, 26 November 2010, as amended from time to time.

² As set out in paragraph 121 of the Policy, DMBUs that do not track data based on the Canadian broadcast year are permitted to file data based on the closest quarter of their respective reporting years.

Commission's Annual Broadcasting Survey.³ Responses were collected separately from audio and audiovisual DMBUs, which were asked to provide the information specified, respectively, in the templates of the survey forms included as Appendices 2 and 3 to the Policy. The collected data fall into three broad categories, that is, revenue figures, subscriber figures and programming expenditures for a given broadcast year.

6. The Commission has reviewed the data collected in response to the 2020-2021 ADMS (which are confidential) and the record of the proceeding (these interventions remain on the record of this proceeding and are noted in paragraphs 123 through 146 of the Policy). Taking this into account, it has considered the appropriateness of publishing the collected data in aggregate form.

Issues

7. After examining the record for this proceeding as well as the data collected in response to the 2020-2021 ADMS, the Commission considers that the issues it must examine are the following:
 - whether it would be appropriate to publish aggregate data and, if so, at what level of aggregation;
 - which data, of the three broad categories of data that were collected, if any, should be published; and
 - whether it would be appropriate to include certain data provided by hybrid video-on-demand (HVOD) services operating pursuant to Broadcasting Order 2015-356 in any published aggregate data.

Is it appropriate to publish any aggregate data and, if so, at what level of aggregation?

8. The Commission has the discretion to aggregate and publish broadcasting survey data and to re-evaluate its practices in this regard. As previously mentioned, the Commission stated in the Policy that it intended, given that it did not have sufficient information at that time, to determine at a later date whether it would be appropriate to publish certain aggregate survey data and, if so, the appropriate level of aggregation. To make these determinations, the Commission has considered the following:
 - the Commission's stated objectives, as set out in the Notices, for the ADMS;
 - the public record of the proceeding concerning publication and aggregation;

³ The Annual Broadcasting Survey collects data on the traditional broadcasting activities of licensed broadcasting undertakings as well as some exempt broadcasting undertakings, which provides the Commission with information that it requires in order to properly regulate and supervise the Canadian broadcasting system.

- the guidance in the Rules and in Broadcasting and Telecom Information Bulletin 2010-961 (the Bulletin) with respect to weighing the benefit to the public interest of publishing any aggregate data against the potential risk to survey respondents' confidential data and the Commission's past practices for publication of other broadcasting data; and
- the responses to the 2020-2021 ADMS and, in particular, the response rate.

Should aggregate data be published?

9. When the Commission first called for comments on the proposed administration of the ADMS in Broadcasting Notice of Consultation 2019-90, it stated that, among other objectives, it intended for the ADMS to inform the industry and all stakeholders on the state of digital media broadcasting in Canada through the publication of aggregate data. Subsequently, in paragraphs 1 and 2 of Broadcasting Notice of Consultation 2019-90-1, the Commission reiterated its intention to achieve the objectives set out in paragraph 6 of Broadcasting Notice of Consultation 2019-90. To achieve this objective necessitates publication, in some form, of the information collected in response to the ADMS.
10. However, in the Notices, the Commission also noted that prospective survey respondents could, given the commercially sensitive nature of the information that it proposed to collect, have concerns regarding harms that could result from the publication of this aggregate data, and that these associated potential harms would need to be weighed against the public interest benefits of disclosure. Indeed, in response to the Notices, the parties to this proceeding identified a number of potential harms that could result from the publication of aggregate data as well as a number of public interest considerations that would favour disclosure.
11. In regard to the harms, interveners noted that the survey data is highly commercially sensitive, the publication of aggregate data could allow for the activities of individual survey respondents to be identified and any lack of participation by non-Canadian DMBUs could undermine the competitive position of Canadian DMBUs. In regard to the public interest, interveners indicated that access to this data would allow members of the public, like the Commission, to have a better understanding of the evolution of digital media as well as access to information that would be useful to them when participating in future policy proceedings. They also indicated that there would be value in disclosing survey data aggregated by country of origin of the DMBU (i.e. Canadian and non-Canadian) or by industry segment (i.e. audio and audiovisual) and that publishing only aggregated data (not microdata) would encourage DMBUs to participate in the ADMS.
12. Based on this, the Commission considers that the key harms to be considered are the risk of disclosure of confidential and sensitive commercial information and possible damage to the competitive position of one or more of the respondents. The benefits of disclosure are that the publication of aggregate data would allow members of the public, including those involved in the broadcasting industry, to better understand the

Canadian broadcasting system. It would also help them to make informed decisions and informed submissions to the Commission on matters of policy.

13. The Commission is of the view that, to be consistent with its general principles and practices governing confidential information in broadcasting matters, including what is set out in the Rules and the Bulletin, the publication of aggregate data must strike an appropriate balance between the possible risks and benefits of disclosure. Specifically, the Commission considers whether the disclosure of information would be in the public interest, or whether any direct harm likely to arise from the disclosure would outweigh the public interest in access to the information. If the harm does not outweigh the public interest in disclosure, the Commission generally requires information to be disclosed. The Bulletin also states that the Commission has generally found that the more the information is disaggregated, the more likely it is that the harm will outweigh the public interest in disclosure. The Bulletin also provides guidance on which types of information the Commission will or will not presumptively treat as confidential.
14. Based on its review of the collected survey responses, the Commission is satisfied that, given the high rate of response by DMBUs, the collected data could be aggregated such that the level of aggregation would mitigate the concerns raised by certain interveners that the publication of aggregate data would allow for the activities of individual survey respondents to be identified. This would also serve to prevent any compromise of the confidentiality of the survey microdata, which the Commission previously determined in the Policy were not to be disclosed. Indeed, the Commission is of the view that any data aggregated at a sufficiently high level that it cannot be disaggregated should no longer be considered the confidential data of any single survey respondent.
15. The publication of such aggregated data would also be consistent with the Commission's general practices in other broadcasting proceedings and surveys. As previously mentioned, the Commission routinely collects documents and data that it presumptively treats as confidential, as well as others that it does not. However, the Commission also routinely publishes such collected data in aggregate form. In the Commission's view, it is appropriate to treat the information submitted by the DMBUs in response to the ADMS and that submitted by licensees as part of other broadcasting surveys or proceedings in a similar fashion.
16. In balancing the above-mentioned potential harms with the public interest, the Commission considers that there is a strongly stated need to inform the public about the aggregated results of the ADMS. Moreover, these potential harms do not preclude publication. Rather, they can be mitigated by aggregating the published data of all the survey respondents. As such, the Commission considers that this need, provided that the microdata remain confidential, outweighs any potential harms that might arise.
17. In light of the above, the Commission finds that it would be appropriate to publish data collected from DMBUs in response to the ADMS in aggregate form.

What would constitute an appropriate level of aggregation?

18. When it issued the Policy, the Commission was of the view that it might, depending on the results collected in response to the 2020-2021 ADMS, be appropriate to publish survey data aggregated either by country of origin of the DMBU (i.e. Canadian and non-Canadian) or by industry segment (i.e. audio and audiovisual).
19. To address concerns of potential harms that might arise from disclosure, data must be aggregated such that it respects the Commission's confidentiality determination on the microdata and cannot be disaggregated.
20. Even before administering the ADMS, the Commission, as noted in paragraph 140 of the Policy, anticipated that, given the number of prospective respondents and the distribution of these DMBUs by country of origin, the publication of both sets of aggregate data would introduce the risk of residual disclosure of microdata. The Commission was also of the view that the publication of data aggregated by industry segment would be of greater interest to the public and better meet the Commission's stated objective of informing stakeholders of the state of digital media broadcasting in Canada while still mitigating the risk to respondents.
21. Following its review of the collected survey data, the Commission determines that the publication of data aggregated by country of origin could, even in the absence of data aggregated by industry segment, result in the disclosure of confidential microdata and sensitive commercial information. This would not be consistent with the considerations regarding whether to publish aggregate data above, and the Commission therefore determines that it would not be appropriate to publish data aggregated in this fashion.
22. As for aggregating data by industry segment, the Commission considers that, given the high rate of response to the ADMS by DMBUs and the distribution of DMBUs by industry segment, such aggregation would mitigate the risk of disclosing the microdata. In addition, the Commission notes that, during the proceeding, this option was proposed by certain interveners (including the Canadian Broadcasting Corporation, the Canadian Association of Broadcasters and Bragg Communications Incorporated, carrying on business as Eastlink), and that no specific objection was made to the publication of data aggregated in this fashion.
23. Aggregating the data by industry segment would also, in the Commission's view, serve the public interest by allowing members of the public and industry stakeholders to better understand the Canadian broadcasting system, make informed decisions and submit informed submissions to the Commission on matters of policy. It would also provide the public and industry stakeholders with an understanding of the evolution of online business models.
24. Given this, the Commission considers that the publication of data aggregated by industry segment would preclude the disclosure of confidential survey microdata, mitigate the risk of harm to survey respondents, serve the public interest and meet the Commission's previously mentioned objective for the ADMS.

25. In light of the above, the Commission finds that it would be appropriate to publish data aggregated by industry segment.

Which data, of the three broad categories of data that were collected, if any, should be published?

26. The ADMS collects three broad categories of data, specifically, revenue figures, subscriber figures and programming expenditures for a given broadcast year. These figures are collected separately from audio and audiovisual DMBUs using survey forms based on the templates included as Appendices 2 and 3 to the Policy.

27. The Commission has assessed the data collected in response to the 2020-2021 ADMS and has identified an approach for its intended publication of aggregate data. This approach uses three criteria to be applied, on a going-forward basis, to determine which data, if any, of the three broad categories of data that were collected (whether in response to the 2020-2021 ADMS or any other), might be published (in any given format in which publication might occur and in any given year). Specifically, the Commission determines that the data must be (i) accurate, (ii) complete and (iii) readily comparable. The application of these criteria, with respect to data collected in response to the ADMS for any given year, will ensure that any published data provide an accurate picture of the state of digital media broadcasting in Canada.

Application of criteria to data collected in response to the 2020-2021 ADMS

28. The following is an application of the criteria set out in paragraph 27 of this decision to the publication of data collected in response to the 2020-2021 ADMS.

Revenue figures

29. The collected revenue figures include those for any subscription, advertising, transactional and other revenues generated by DMBUs.

30. In the Commission's view, the figures provided by audio and audiovisual DMBUs in response to the ADMS are accurate and substantially complete. Despite some minor differences in how entities allocate revenues between DMBUs and other undertakings that they operate, the Commission considers these figures to be readily comparable between the various respondents.

31. In light of the above, and in accordance with the criteria set out in paragraph 27 of this decision, with respect to the 2020-2021 ADMS, the Commission finds it appropriate to publish the total revenue figures aggregated by industry segment (i.e. audio and audiovisual).

Subscriber figures

32. The subscriber figures collected in response to the ADMS include those for subscribers paying the full posted price, those paying a discounted rate and those with free subscriptions.

33. In the Commission's view, the figures provided in response to the ADMS are both accurate and complete. However, the Commission is also of the view that these figures are not readily comparable between respondents.
34. More specifically, the reported subscriber figures for various services varied substantially by how they were reported. For instance, some entities operating a terrestrial broadcasting distribution undertaking (BDU) provide subscribers to that terrestrial BDU with access to a DMBU via mobile device applications. Of these entities, some reported all subscribers to their terrestrial BDU as also being subscribers to their DMBU while others reported zero subscribers to their DMBU. The Commission therefore considers the reported figures not to be readily comparable between respondents.
35. In addition, any subscriber figures aggregated by industry segment (i.e. audio and audiovisual) would not distinguish between services that are generally complementary to each other (that is, services for which subscribers may choose to maintain concurrent subscriptions, such as services offering different selections of films and television shows) versus those that are generally competitive against each other (that is, services for which subscribers do not generally maintain concurrent subscriptions, such as the aforementioned DMBU subscriptions provided to subscribers to terrestrial BDUs). In the Commission's view, publishing aggregate figures that combine these two different types of subscribers could present a misleading picture. For the same reason, the Commission routinely publishes figures for aggregate subscribers to BDUs⁴ but does not publish figures for aggregate subscribers to discretionary and on-demand services.
36. Given the differences in how various respondents reported their subscriber figures, the Commission considers that the reported figures, if aggregated by industry segment (i.e. audio and audiovisual), would not be readily comparable and would therefore not be meaningful when aggregated. Indeed, in the Commission's view, the publication of such figures could present a misleading picture of the current state of those industry segments.
37. In light of the above, and in accordance with the criteria set out in paragraph 27 of this decision, with respect to the 2020-2021 ADMS, the Commission finds that it would not be appropriate to publish subscriber figures, even in aggregate form.

Programming expenditures

38. With respect to programming expenditures, the ADMS collects different information from audio and audiovisual DMBUs. The former were asked to report the royalties that they paid to Canadian artists or content creators as well as those paid to non-

⁴ See the *Television Service Providers BDUs* reports published each year as part of the Commission's [Financial Summaries for Broadcasting Sector](#).

Canadians. The latter were asked to report their total Canadian programming expenditures (CPE) as well as their total non-Canadian programming expenditures.

39. Respondents from both industry segments (i.e. audio and audiovisual) were, in some cases, unable to supply the requested data for the 2020-2021 broadcast year or were uncertain about what to report. For instance, certain audio DMBUs indicated that they did not have any information regarding the ultimate distribution to Canadian and non-Canadian recipients of payments that the DMBUs made to copyright collectives and record labels, certain audiovisual DMBUs indicated that they had not been tracking expenditures devoted to CPE, and some respondents indicated that they did not know what would be considered a “Canadian program” for reporting purposes. Moreover, the respondents that did report expenditure figures used disparate approaches to determine their reported expenditures.
40. Given the provision of a number of incomplete responses, the expressions of uncertainty with respect to what information had been requested and the disparate approaches used to determine the programming expenditures that were reported, the Commission is of the view that the programming expenditure figures are neither accurate nor complete, and that these figures are not comparable between respondents. As such, in the Commission’s view, the collected programming expenditures data should not be published.
41. In light of the above, and in accordance with the criteria set out in paragraph 27 of this decision, with respect to the 2020-2021 ADMS, the Commission finds that it would not be appropriate to publish the programming expenditure figures collected in response to the ADMS, even in aggregate form.

Should data collected from HVOD services be included in any published aggregate data?

42. The Commission also collects data from registered HVOD services that operate in accordance with the exemption order set out in Broadcasting Order 2015-356 (which is included as Appendix 1 to Broadcasting Regulatory Policy 2015-355). The Commission has not reported publicly on these figures due to the risk, given the small number of HVOD services, of disclosing confidential information as well as the inability to aggregate these figures with those reported by any comparable undertakings.
43. Both HVOD services and DMBUs operate under exemption orders, are broadcast over the Internet and do not require the audiences that they serve to also subscribe to any given BDU. Further, the Commission considers that many Canadians likely view HVOD undertakings as being comparable to audiovisual DMBUs.
44. As such, in the Commission’s view, the publication of aggregate data collected in response to the ADMS presents an opportunity to also publish data collected from HVOD services. That is, given the similarities between these undertakings, certain data supplied by HVOD undertakings can be aggregated with data provided by audiovisual DMBUs, and combining these data sets in this fashion would mitigate the

risk of disclosing confidential data. In the Commission's view, proceeding in this fashion would serve the public interest and would not compromise the confidential data of any of the HVOD services.

45. In light of the above, the Commission finds it appropriate, for the 2020-2021 broadcast year and on a going-forward basis, to publish relevant data collected from HVOD services aggregated together with data collected in response to the ADMS.

Conclusion

46. In light of all of the above, the Commission finds it appropriate to publish, on a going-forward basis, aggregate data collected from DMBUs in response to the ADMS, provided that, in any given format in which publication would occur, the data are aggregated at the level of industry segment (i.e. audio and audiovisual) and meet the criteria set out in paragraph 27 of this decision, that is, the data must be (i) accurate, (ii) complete and (iii) readily comparable.
47. Further, the Commission finds it appropriate, when publishing data pertaining to the audiovisual industry segment, to combine the data collected from the DMBUs in response to the ADMS with relevant data provided by HVOD undertakings as part of their annual returns, and to publish the combined data in aggregate form.
48. Accordingly, with respect to the data collected in response to the 2020-2021 ADMS, the Commission will publish total revenue figures aggregated by industry segment and, for the audiovisual industry segment only, the published figures will include any revenues reported by audiovisual DMBUs in response to the ADMS aggregated together with any revenues reported by HVOD undertakings as part of their annual returns.

Secretary General

Related documents

- *Annual Digital Media Survey*, Broadcasting Regulatory Policy CRTC 2022-47, 23 February 2022
- *Call for comments on a new, annual digital media survey*, Broadcasting Notice of Consultation CRTC 2019-90, 28 March 2019, as amended by Broadcasting Notice of Consultation CRTC 2019-90-1, 30 June 2021
- *Revised exemption order for certain classes of video-on-demand (VOD) undertakings and updated standard conditions of licence for licensed VOD undertakings*, Broadcasting Regulatory Policy CRTC 2015-355 and Broadcasting Order CRTC 2015-356, 6 August 2015
- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012

- *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, Broadcasting and Telecom Information Bulletin CRTC 2010-961, 23 December 2010