



Online News Notice of Consultation CRTC 2024-111

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Ottawa, 23 May 2024

Public record: 1011-NOC2024-0111

Call for comments – Proposed *Cost Recovery Regulations*

Summary

The *Online News Act* gives the Commission new responsibilities to set up and supervise the bargaining framework to support fair negotiations between news businesses and the largest online platforms.

The vast majority of the Commission’s operations are funded by fees charged to the companies it regulates. In light of the new work required under the *Online News Act*, the Commission is now proposing new *Cost Recovery Regulations*.

The *Cost Recovery Regulations* will apply to the largest online platforms that distribute news content. The Commission will collect charges from the operators of those platforms to fund the new work.

The cost recovery charges will be limited to covering the Commission’s work under the *Online News Act* and will not be used to fund work in broadcasting or telecommunications. No charges will be collected from news businesses.

The proposed *Cost Recovery Regulations* are set out in the appendix to this notice of consultation. Anyone can comment by filing an intervention on or before **25 June 2024**.

Background

1. On 22 June 2023, the *Online News Act*¹ (the Act) received royal assent and some provisions came into force on that day. The rest of the Act came into force on 19 December 2023. The Act sets out a framework for mandatory bargaining between news businesses in Canada and online platforms that make news content available. It gives the Commission the responsibility to oversee this framework.
2. Under section 81 of the Act, the Commission can make regulations that apply to the operators of online platforms called “digital news intermediaries”² (DNIs). These

¹ *An Act respecting online communications platforms that make news content available to persons in Canada*, SC 2023, c 23.

² “Digital news intermediaries” are defined in the Act as online communications platforms, including search engines and social media services, that are subject to the legislative authority of Parliament and that makes news content produced by news outlets available to persons in Canada. It does not include online

regulations would make DNI operators responsible for paying charges to fund the Commission's activities under the Act.

The proposed *Cost Recovery Regulations*

3. The Commission is proposing *Cost Recovery Regulations*, which are set out in the appendix to this notice. The Commission is looking for comments on these proposed regulations. The key parts of the draft regulations are described below:
 - the objectives;
 - who is regulated;
 - the revenues taken into account;
 - if the revenue information is not available;
 - how the payment amounts are calculated and charged; and
 - when and how the *Cost Recovery Regulations* will come into force.

The objectives

4. The proposed *Cost Recovery Regulations* are meant to meet the following objectives:
 - (a) give DNI operators a clear understanding of how the Commission will impose, calculate and collect cost recovery charges;
 - (b) ensure charges do not go beyond the Commission's costs for overseeing the Act;
 - (c) ensure charges for DNI operators are in proportion with their Canadian revenues associated with making news available;
 - (d) ensure charges for DNI operators are in proportion with the level of the Commission's regulatory activity affecting them;
 - (e) ensure cost recovery rules are easy for DNI operators to comply with; and
 - (f) clarify how the cost recovery rules take effect once they come into force.

Who is regulated

5. The Act applies to a DNI if there is a significant bargaining power imbalance between its operator and news businesses.

communications platforms that are messaging services the primary purpose of which is to allow persons to communicate with each other privately.

6. The *Online News Act Application and Exemption Regulations* explain that a “significant bargaining power imbalance” exists where operators of search engines or social media services have more than \$1 billion in global revenues. For search engines, the operator must have an average of 20 million or more unique visitors in Canada per month to qualify. For social media services, the operator must have an average of 20 million or more active users in Canada per month.
7. The proposed *Cost Recovery Regulations* apply to the operators of these DNIs.

The revenues taken into account

8. The proposed *Cost Recovery Regulations* use the term “news revenue” to explain which of the operator’s revenues the Commission will consider when setting charges. These are the gross Canadian revenues that the operator generates, directly or indirectly, from making news content available on any DNI in any given calendar year. Operators would provide this information to the Commission in an annual return determined by the Commission.
9. The proposed *Cost Recovery Regulations* prevent the double-counting of the same revenue within the definition of “news revenue” by excluding any amount that the operator receives from another operator also subject to the regulations.

If the revenue information is not available

10. The proposed *Cost Recovery Regulations* explain that the Commission can recover its costs even without an annual return. The Commission can do this by estimating news revenues if gross Canadian revenue information is not available, the annual return filed by the operator is found to be inaccurate or incomplete, or an operator has not filed an annual return.
11. The Commission would estimate news revenues using the trends of the market, previous financial performance, and, if applicable, the operator’s business plan.

How the payment amounts are calculated and charged

12. The charges collected under the *Cost Recovery Regulations* cannot go beyond the Commission’s actual costs to oversee the Act. To make sure of this, payors would be invoiced based on the Commission’s estimated costs for the current year (called the initial amount). The following year’s invoice would then be adjusted to reflect the Commission’s actual costs for the previous year (called the annual adjustment).
13. The proposed *Cost Recovery Regulations* set out the calculation of the initial amount and annual adjustment amount.

When and how the regulations come into force

14. The target date for the proposed *Cost Recovery Regulations* to come into force is 1 April 2025, in time for the 2025-2026 fiscal year.

15. The proposed *Cost Recovery Regulations* depend on the Commission having information on operators' revenues. To help these rules take effect smoothly, they include a transitional provision. This requires operators to report their news revenues to the Commission for the 2024 calendar year within 60 days after the *Cost Recovery Regulations* come into force.

Call for comments

16. The Commission calls for comments on its proposed *Cost Recovery Regulations*, which are set out in the appendix to this notice of consultation. The Commission also invites comments on any other important issues that would affect the proposed *Cost Recovery Regulations* or how they would work. The Commission will accept interventions that it receives on or before **25 June 2024**.

Procedure

17. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) shall apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
18. The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
19. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
20. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
21. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

22. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
23. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
24. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

25. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, telephone and fax numbers, etc.
26. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
27. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information

contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

28. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

29. Links to interventions, replies and answers filed for this proceeding, as well as other documents referred to in this notice, are available on the Commission's "[Consultations and hearings: have your say](#)" page.

30. Documents are available upon request during normal business hours by contacting:

Documentation Centre
Examinationroom@crtc.gc.ca
Tel.: 819-997-4389
Fax: 819-994-0218

Client Services
Toll-free telephone: 1-877-249-2782
Toll-free TTY: 1-877-909-2782

Secretary General

Related documents

- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

Appendix to the Online News Notice of Consultation CRTC 2024-111

Proposed *Cost Recovery Regulations*

Cost Recovery Regulations

Interpretation

Definition of Act

1 In these Regulations, *Act* means the *Online News Act*.

News revenue

2 The news revenue of an operator for a calendar year is the gross Canadian revenue that the operator generates, directly or indirectly, from making news content available through any digital news intermediary that it operates in that year, excluding any amount received from another operator to which these Regulations apply, established on the basis of

(a) the annual return filed by the operator; or

(b) if the operator has not filed an annual return for the year or the return is inaccurate, an estimate by the Commission based on

(i) information provided by the operator,

(ii) the trends of the market in which the digital news intermediary is operated,

(iii) the previous financial performance of the operator, and

(iv) the business plan of the operator.

Annual return

April 30

3 On or before April 30 of each year, an operator must file with the Commission a return with respect to the preceding calendar year that is in the form provided by the Commission and contains the information required by the Commission, including information respecting the operator's news revenue with respect to each digital news intermediary that it operated.

Cost Recovery Charge

Calculation of charge

4 (1) The cost recovery charge for an operator for a fiscal year is the sum of the base assessment amount determined in accordance with subsection (2) and the annual adjustment amount for the previous fiscal year determined in accordance with subsection (3).

Base assessment amount

(2) The base assessment amount is the result of the following formula

$$(A \div B) \times C$$

where

A is the operator's news revenue for the immediately preceding calendar year;

B is the aggregate news revenue of all operators for that calendar year; and

C is the estimated costs incurred by the Commission in the fiscal year that are attributable to the Commission exercising its powers and carrying out its duties and functions under the Act and that will not be recovered under the regulations made under subsection 79(1) of the Act.

Annual adjustment

(3) The annual adjustment amount is the result of the following formula

$$(A \div B) \times (D - E)$$

where

A is the operator's news revenue for the immediately preceding calendar year;

B is the aggregate news revenue of all operators for that calendar year;

D is the actual costs incurred by the Commission in the fiscal year that are attributable to the Commission exercising its powers and carrying out its duties and functions under the Act as set out in Part III of the *Estimates* of the Government of Canada and that are not recovered under the regulations made under subsection 79(1) of the Act; and

E is the amount determined for C in subsection (2) for the fiscal year.

Recovery charge negative

(4) If the amount of the recovery charge for the fiscal year is negative, that amount is not repaid to the operator but is instead deducted from the amount of the recovery charge that the operator is to pay for the following fiscal year.

Publication – estimated costs

5 The Commission must, in each fiscal year, publish a notice in the *Canada Gazette*, Part I, setting out the estimated costs to be incurred by the Commission in that fiscal year that are attributable to the Commission exercising its powers and carrying out its duties and functions under the Act.

Payment within 30 days

6 An operator must pay a cost recovery charge to the Commission within 30 days after the day on which the invoice respecting that charge was sent.

Transitional provision

News revenue for 2024

7 An operator must report its news revenue for 2024 to the Commission, in the form required by the Commission, within 60 days after the day on which these Regulations come into force.

Coming into force

April 1, 2025

8 These Regulations come into force on April 1, 2025, but, if they are registered after that day, they come into force on the day on which they are registered.