



Broadcasting Notice of Consultation CRTC 2024-202

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Ottawa, 9 September 2024

Public record: 1011-NOC2024-0202

Call for comments – Guidelines regarding consultation and engagement practices in proceedings relating to official language minority communities and official languages

Deadline to provide an intervention: 9 October 2024

Deadline to provide an intervention from official language minority communities or their representatives: 8 November 2024

Deadline to provide a reply: 18 November 2024

[\[Submit an intervention or view related documents\]](#)

Summary

The Commission is calling for comments on how it can strengthen its practices and procedures to further support official language minority communities (OLMCs) and other stakeholders on broadcasting matters relating to OLMCs and official languages.

The Commission is an independent quasi-judicial tribunal with mandates set out in several laws, including the recently amended *Broadcasting Act* and *Official Languages Act*. These laws include specific obligations to consult with OLMCs in certain circumstances. To help it meet these obligations, the Commission is issuing these draft guidelines for comment. These draft guidelines set out how the Commission would consult with OLMCs, French-language speakers, and other stakeholders in broadcasting proceedings that relate to OLMCs and official languages. This includes procedures for specific and direct consultation with OLMCs when the Commission considers that a proposed decision might affect them.

These guidelines will also inform the Commission's consultation practices in other public proceedings, such as those relating to the *Telecommunications Act* and the *Online News Act*, and will be modified for those contexts.

This initiative is one of several that the Commission is pursuing to reflect its ongoing commitment to OLMCs and official languages. Other initiatives include ensuring active dialogue with OLMCs, modernizing Canada's broadcasting regulatory framework to support programming created by and for OLMCs and programming in French, and improving information the Commission makes available related to OLMCs and official languages.

A complete list of questions and the draft guidelines can be found in the Call for comments section of this notice, starting at paragraph nine.

All interested persons are invited to participate in this proceeding. The deadline for the receipt of comments is **9 October 2024**. The deadline for the receipt of comments from OLMCs or their representatives is **8 November 2024**. The deadline for the receipt of replies is **18 November 2024**. Only parties that file comments may file a reply to matters raised during the comment phase.

Background

1. The Commission is an independent quasi-judicial tribunal with mandates set out in the *Broadcasting Act*, the *Telecommunications Act*, Canada's Anti-Spam Legislation, the *Online News Act* and the *Accessible Canada Act*, as well as other federal laws such as the *Official Languages Act*.
2. To do its work under these laws, the Commission holds open public proceedings in which any person can participate and provide views. Proceedings can be held in writing or in person, and the views provided form the public record of a proceeding. The public record might also include research and evidence provided by the Commission, parties to proceedings, or third parties. The public record is the basis upon which the Commission makes decisions and policies.
3. The procedures that the Commission adopts in proceedings will vary based on many considerations. These include the complexity of the matter and whether the issues concern only a few persons or relate to issues with broader effects within the Canadian communications system. In all cases, to respect its duties as an impartial decision-maker, the Commission establishes procedures that are fair to all participants. The Commission's proceedings must be timely, transparent, and adaptable to the issues under consideration.
4. Recent amendments to the *Broadcasting Act* and the *Official Languages Act* introduce policy objectives specific to OLMCs and official languages that the Commission must implement when carrying out its statutory mandates. Specifically, section 5.1 of the *Broadcasting Act* and section 41 of the *Official Languages Act* require the Commission to act to:
 - (a) enhance the vitality and support the development of OLMCs in Canada, given their uniqueness, diversity, and historical and cultural contributions to Canadian society;
 - (b) promote and protect the French language, which is in a minority situation in Canada and North America; and
 - (c) advance the full recognition and use of French and English in Canada.

5. Recent revisions to the *Broadcasting Act* and *Official Languages Act* also add specific new obligations for the Commission to consult with OLMCs and other stakeholders when fulfilling these policy objectives. Specifically,

(a) subsection 5.2(1) of the *Broadcasting Act* requires the Commission to consult with OLMCs when making decisions that could adversely affect OLMCs, and subsection 5.2(2) states that in such consultations, the Commission must:

- (i) gather information to test its policies, decisions and initiatives;
- (ii) propose policies, decisions and initiatives that have not been finalized;
- (iii) seek the communities' opinions regarding the policies, decisions or initiatives that are the subject of the consultations;
- (iv) provide them with all relevant information on which those policies, decisions or initiatives are based;
- (v) openly and meaningfully consider those opinions;
- (vi) be prepared to alter those policies, decisions or initiatives; and
- (vii) provide the communities with feedback, both during the consultation process and after a decision has been made.

(b) section 41 of the *Official Languages Act* requires the Commission, to the extent possible, to base the measures it takes under the *Official Languages Act* on research, evidence, dialogue and consultation with OLMCs and other stakeholders. The objective of the dialogue and consultation activities is to permit the priorities of the OLMCs and other stakeholders to be taken into account. In carrying out this objective, the Commission must:

- (i) gather relevant information;
- (ii) seek the opinions of English and French linguistic minority communities and other stakeholders about the positive measures that are the subject of the consultations;
- (iii) provide the participants with relevant information on which those positive measures are based;
- (iv) openly and meaningfully consider their opinions; and
- (v) be prepared to alter those positive measures.

6. The importance of engagement with OLMCs in broadcasting matters was reaffirmed in the [*Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)*](#) SOR/2023-239 at sections 16 and 17.

Way forward: guidelines regarding practice and procedure for consultation with OLMCs

7. To address these new consultation requirements, the Commission considers that it must strengthen its practices and procedures, particularly in public proceedings in broadcasting matters, to support further consultation with OLMCs and other stakeholders on matters relating to OLMCs and official languages. The Commission proposes to adopt new procedural guidelines to reflect these strengthened practices and procedures in the broadcasting context.
8. These guidelines will also inform the Commission’s consultation practices in other public proceedings, such as in making decisions relating to the *Telecommunications Act* and the *Online News Act*, and will be modified as appropriate for those contexts. These guidelines will also complement existing Commission practices and procedures, including those outlined in the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure). Periodically, the guidelines may be modified or replaced. Changes might be warranted, for instance, due to feedback received on the application of the guidelines, and Treasury Board Secretariat’s development of regulations regarding Part VII of the *Official Languages Act*.

Call for comments

9. In what types of proceedings should the Commission apply the proposed guidelines for consultations with OLMCs? To answer this question, the Commission calls for comments on the following topics and on the draft guidelines included in the Appendix.

“Adversely affect” defined

10. Section 5.1 of the *Broadcasting Act* requires the Commission to enhance the vitality of OLMCs and support and assist their development. Subsection 5.2(1) of the *Broadcasting Act* requires the Commission to consult with OLMCs “when making decisions that could adversely affect them.” The *Broadcasting Act* does not define “adversely affect.”

Q1. The Commission is seeking comments on the definition of “adversely affect” proposed in the draft guidelines, which is to cause “a direct, tangible, appreciable and immediate harm to the vitality and development of one or more OLMC.”

Consultation with OLMCs

11. As the Commission must consult with OLMCs, it must determine which OLMCs should be consulted in any given proceeding.

12. In the *Broadcasting Act* and the *Online News Act*, the term “OLMC” means English-speaking communities in Quebec and French-speaking communities outside Quebec. The *Official Languages Act* does not define “OLMC.”
13. The minority context of the French language in Canada and North America must also be taken into account in implementing certain policy objectives in the *Broadcasting Act* and the *Official Languages Act*. In the Commission’s view, a consultation framework that accounts for the minority context of the French language in Canada and North America is critical to the successful implementation of these policy objectives.
14. The purpose of the consultation requirements in both the *Broadcasting Act* and the *Official Languages Act* is to understand the collective views and priorities of members of OLMCs and of the French-speaking minority in Canada in order to support these communities.

Q2. For the purpose of consultation with OLMCs and soliciting the views of French speakers in Canada on relevant matters, the Commission is seeking comments on how it should identify whom to consult among these groups in any given proceeding. How best can the Commission determine that those consulted represent the collective views and priorities of OLMCs and the French-speaking minority in Canada?

Feedback

15. Paragraph 5.2(2)(g) of the *Broadcasting Act* requires the Commission “to provide [OLMCs] with feedback, both during the consultation process and after a decision has been made.”
16. Subsection 41(10) of the *Official Languages Act* requires the Commission to establish evaluation and monitoring mechanisms to verify the measures taken against the policy objectives of that Act. These mechanisms must take into account the dialogue and consultation activities involved in the taking of any measures.
17. Feedback may be a form of evaluation and monitoring.
18. In addition, during proceedings, the Commission continually solicits additional information necessary to build the public record upon which its decisions are made. This can include requests for information or questions during hearings. In the draft guidelines set out in the Appendix to this notice, the Commission also calls for feedback on the guidelines and their application.
19. After proceedings, the Commission issues decisions that explain the reasons why the Commission came to the conclusions it did, with reference to the public record that was before it. Subsection 31(1) of the *Broadcasting Act* states, “except as provided in this Part, every decision and order of the Commission is final and conclusive.”
20. After proceedings, the Commission also evaluates and monitors its work by initiating and conducting reviews of its policies and decisions, considering applications or

complaints from the public, and undertaking reviews of its work, as required by statute.¹

Q3. Identify any other forms of feedback the Commission should consider implementing during or after a consultation process with OLMCs, and provide justification.

Q4. What subject matter should the feedback focus on? Provide justification.

Other engagement

21. In addition to consultation in its public proceedings, the Commission has other long-standing practices for engaging with OLMCs and French-language speakers to understand their views and priorities and be responsive to their needs. For example:

- (a) The [CRTC-OLMC Discussion Group](#) is a forum for Commission staff and OLMC stakeholders that was created in 2006. The Discussion Group meets a few times a year to discuss, in an informal setting, matters of interest to the members, and to share knowledge and feedback.
- (b) Commission staff maintain a contact list for persons who self-identify as a member or representative of one or more OLMC. These persons receive communications from the Commission and staff regarding OLMC and official languages matters.
- (c) The Commission provides information to the public on the Commission's work and obligations in respect of official languages through its dedicated [web page](#).
- (d) The Commission routinely prepares and publishes industry data and information that relate to matters of interest to OLMCs, such as the amount of money directed to independent productions that are created by or for OLMCs.

22. The Commission will keep up these practices and work to improve them. Improvements could include, for instance, routinely publishing more data of interest to OLMCs and making the data more easily accessible on the Commission's website.

Q5. Provide any other suggestions for other engagement with OLMCs and the French-speaking minority in Canada in the Commission's work.

23. The Commission will accept interventions from the public on or before **9 October 2024**. The Commission will also accept interventions from OLMCs or their representatives at any point on or before **8 November 2024**. The deadline for the filing of replies is **18 November 2024**. Only parties who file interventions may file a

¹ See, for example, section 34.01 of the *Broadcasting Act*, which requires the Commission to consult and report on orders and regulations previously made, and section 62 of the *Telecommunications Act*, which allows the Commission to review and vary decisions.

reply to matters raised during the intervention period. Replies must address only the issues raised in the intervention period.

Procedure

24. Except as otherwise modified herein, 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.
25. Interested persons are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in Broadcasting Information Bulletin 2010-28-1.
26. 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.
27. 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.
28. 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 assist in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
29. 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

30. 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.
31. 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.
32. 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

33. 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.
34. 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.
35. 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.
36. 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

37. 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.
38. 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
- *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010

Appendix to Broadcasting Notice of Consultation CRTC 2024-202

Draft guidelines for consultation with official language minority communities in broadcasting proceedings

Purpose

1. The Commission is an independent quasi-judicial tribunal with mandates set out in the *Broadcasting Act* and the *Official Languages Act* (among others), which include specific obligations to consult with official language minority communities (OLMCs) in certain circumstances.
2. These guidelines relate to the obligations set out in sections 5.1 and 5.2 of the *Broadcasting Act* and section 41 of the *Official Languages Act*. They improve the clarity and predictability in the procedures the Commission will follow to consult with OLMCs and other stakeholders in broadcasting proceedings that relate to OLMCs and official languages. These guidelines will also inform the Commission's consultation practices in other public proceedings, such as in making decisions under the *Telecommunications Act* and the *Online News Act*.
3. The Commission is dedicated to strengthening its consultation procedures in the public interest. Procedures that strengthen consultations in respect of OLMCs and official languages complement consultations conducted with other groups such as Indigenous persons and persons with disabilities.

Guiding principles

4. The following principles inform these guidelines:
 - (a) Strengthening the Commission's commitment to the meaningful participation of OLMCs in its public proceedings;
 - (b) Advancing the use and status of both official languages and considering the protection and promotion of the French language in the Commission's work;
 - (c) Ensuring that public proceedings are
 - (i) timely and efficient;
 - (ii) open, accessible and transparent; and
 - (iii) fair to all parties who participate in Commission proceedings.

Definitions

For the purposes of these guidelines,

- “decision” means a determination made by the Commission in any form, which affects the legal rights of a person, or which otherwise carries legal consequences;
- “OLMC” means English-speaking communities in Quebec and French-speaking communities outside Quebec; and
- “adversely affect” means to cause a direct, tangible, appreciable and immediate harm to the vitality and development of one or more OLMC.

Official language minority communities and minority position of French language

5. The *Official Languages Act* does not define OLMC. However, in the *Broadcasting Act* and the *Online News Act*, the term “OLMC” means English-speaking communities in Quebec and French-speaking communities outside Quebec. While this does not include French-speaking communities in Quebec, the protection and promotion of the French language, given its minority position in Canada and North America, is an important objective of the *Broadcasting Act* and the *Official Languages Act*.
6. The Commission must support and consult with these groups (OLMCs and French-language speakers nationwide) to understand their collective views and priorities when considering taking actions relating to them. This will entail ensuring in relevant proceedings that the views of affected OLMCs or French speakers throughout the country are considered.
7. To facilitate consultation and engagement, Commission staff maintain a contact list for groups or other persons who self-identify as a member or representative of one or more OLMC or of the French-speaking minority in Canada.
8. To request to be added to this list to receive communications from the Commission and staff regarding OLMC and official languages matters, persons may contact languesofficielles-officiallanguages@crtc.gc.ca. Additionally, members or representatives of one or more OLMC can self-identify as such in any correspondence or comments they submit to the Commission, or in the webforms when filing comments with the Commission.

Dedicated consultation with OLMCs

9. The Commission will put in place a **dedicated consultation process** for OLMCs in broadcasting proceedings where it is considering **making decisions that may adversely affect OLMCs**. Proposed decision-making may arise in different contexts, such as through applications for changes of effective control and ownership of broadcasting undertakings, applications to license or exempt broadcasting undertakings, or proceedings to consider conditions of service for licensed or exempt broadcasting undertakings.
10. The dedicated consultations with OLMCs will be integrated into public proceedings alongside other existing Commission procedures and practices (such as the

procedures set out in Part 1 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure). As set out in the sections that follow, in respect of the proposed decision-making, the dedicated consultation process will provide additional time for OLMCs to submit comments to the Commission and additional notice and information relating to the proceedings.

11. The Commission's other work, such as making regulatory policies or data-gathering initiatives, is distinct from decision-making to the extent that this other work does not involve making decisions as defined in these guidelines. There would be no dedicated consultation with OLMCs or with the French-speaking population in Canada in those instances.
12. These groups may still participate in consultations on matters of interest, even when dedicated consultations are not triggered. The Commission's public proceedings encourage open, robust and meaningful public consultation in the absence of this dedicated consultation with OLMCs. OLMCs and other stakeholders regularly participate in these proceedings. These procedures continue to be appropriate for many Commission proceedings, including proceedings to consider taking action to implement positive measures to support OLMCs, advance the use of both official languages or protect and promote the use of the French language. Similarly, dedicated consultation with OLMCs is not called for when making decisions that have no foreseeable adverse affect on OLMCs or official languages.

Additional time

13. The dedicated consultation process will provide OLMCs with specific additional time to submit comments following a deadline for submitting interventions. The additional time will generally be a period of 20 calendar days, taking into account the need for timely and efficient proceedings among the other guiding principles. The additional time may be adjusted based on the circumstances of the proceeding, including the complexity or breadth of the issues under consideration.
14. To help the Commission in its work, in their comments, OLMCs should explain their views and priorities. The comments should explain how the proposed decisions and any related policies and initiatives under consideration could adversely affect the OLMCs, and how any proposed measures relating to OLMCs could impact them.
15. If the Commission decides to hold a hearing, it will establish timelines for appearances by parties and will ensure that representatives of OLMCs who choose to do so have the opportunity to appear as parties to a proceeding.
16. If the nature and scope of the proposed decisions or related policies and initiatives under consideration change significantly over the course of a proceeding in a manner that could adversely affect the vitality and development of OLMCs, an additional opportunity to provide comments will be given to OLMCs. These opportunities and associated timelines will be communicated publicly by posting the information on the

Commission's website. OLMCs will also receive specific notice, typically through a Commission staff procedural letter.

Additional notice

17. The dedicated consultation will include specific outreach to OLMCs such as through a Commission letter or staff correspondence sent to OLMCs known to the Commission.
18. This outreach would provide:
 - (i) notice of the proceeding;
 - (ii) an invitation for OLMCs to provide their opinions on the subject matter of the consultations;
 - (iii) all relevant information on which the decisions, and related policies and initiatives under consideration are based, including links to the public record of the proceeding, links or copies of relevant Commission decisions and related policies or other materials such as relevant legislation; and
 - (iv) to the extent it is not otherwise on the public record, an identification of the issues and the proposed decisions and related policies and initiatives under consideration that may adversely affect OLMCs.
19. The Commission will take steps to ensure that its notices of consultation clearly articulate the Commission's preliminary views on proposed decisions or related policies and initiatives that may adversely affect OLMCs, where it is reasonable and fair to do so.
20. The Commission or its staff may conduct further outreach to OLMCs during the proceeding. This outreach would generally occur if additional information or views are necessary for the public record. This further outreach could take the form of feedback such as a request for information or questions from Commission members during a hearing.

Outcome of consultations

21. For all proceedings, when the Commission has all the information it needs, the Commission considers the record and makes determinations. This includes consideration of the views and opinions of OLMCs and other stakeholders on matters related to OLMCs and official languages. In doing so, the Commission is prepared to modify the proposed decisions and related policies and initiatives in making its final determinations.
22. Through its published reasons for decisions and other documents, the Commission can demonstrate its open and meaningful consultation and how the policy objectives of the *Broadcasting Act* and *Official Languages Act* are met.

Feedback and review of the Guidelines

23. The Commission welcomes feedback from OLMCs and other stakeholders on the guidelines and the consultations it carries out. To comment on these guidelines, or how they are being applied, please contact the Commission through its [website](#), file a comment on the record of an ongoing proceeding, or send an email to languesofficielles-officiallanguages@crtc.gc.ca.
24. The Commission may modify or replace these guidelines from time to time, based in part on any feedback received.