

APPENDIX E

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FCM Presentations and Stakeholder Meetings

April 29, 2014

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BACKGROUND

- Commissioners, as public office holders and members of an administrative tribunal, are frequently approached by the regulated industry and groups representing a range of interests to request to make presentations during Full Commission Meetings (FCM) or to set up private meetings to discuss issues relevant to certain parties.
- Commissioners need to understand the sectors regulated by the CRTC, the broader communications system and the domestic and global context within which they make decisions.
- **However**, when private meetings are held and presentations are made behind closed doors, there may be a perception that certain parties are getting a privileged audience with decision makers.
- The purpose of this presentation is to discuss a proposed approach for presentations by outside parties at FCM and for other private meetings with stakeholders.

GENERAL PRINCIPLES

- As an administrative tribunal, the CRTC must be free from an appearance of bias. Decision makers must be impartial and appear to be impartial, in order to maintain public confidence in the decision-making process.
- Third parties should not influence, or appear to influence, the formal decision-making process.
- Appearance is just as important as reality.
- Decisions of the CRTC must be made on the record of a proceeding and all decision makers must have access to the same information.

FCM PRESENTATIONS

BENEFITS OF FCM PRESENTATIONS

FCM Presentations:

- Provide Commissioners and staff with a high level environmental scan that stimulates discussion on issues that are in the public interest
- Give Commissioners an opportunity to learn new information and meet people they might not otherwise encounter: government officials, academics, consumer groups, foreign visitors, associations and member-based groups (when appropriate), etc.
- Give all Commissioners access to the same information at the same time

CONCERNS OVER FCM PRESENTATIONS

However, FCM Presentations have some challenges:

- There is a perception that parties are getting a “private audience” with Commissioners
- The CRTC’s reputation could suffer due to a lack of transparency
- It is hard to prove that inappropriate subjects were not discussed during or after a presentation
 - Despite forewarning, some presenters may try to address topics/issues that may not be appropriate (ie: ongoing files or issues that may soon be before the Commission)
- Some presentations may not be beneficial to the CRTC, and may not be the best way for Commissioners to spend the limited amount of time they have together at HQ
- Sometimes, presenters are uncomfortable that their presentations may trigger registration or reporting obligations under the *Lobbying Act* and that their decks are subject to the *Access to Information Act*

PROPOSED CRITERIA FOR FCM PRESENTATIONS

We suggest that requests for presentations at FCM meet most of the following criteria:

- Beneficial and informative to Commissioners, not only to presenters
- Advance the CRTC's regulatory policy development by presenting new ideas and perspectives
- Provide context for the Commission's work
- Demonstrate how a presentation with Commissioners is the most appropriate venue at that time
- Not be adversely perceived
- Be linked to the Three-Year Plan or to a government program/priority



PROPOSED APPROACH FOR FCM PRESENTATIONS

The following approach is proposed:

- Continue to schedule presentations at FCM, assessing requests on a case-by-case basis at Direct Reports meetings, using the criteria specified on the previous page
- Priority should be given to associations, public interest groups, public policy-makers and subject matter experts
- In general, individual licencees would not be permitted to give presentations at FCM, however, member-based or representative associations are welcome to request to give presentations at FCM on behalf of all their members

MEETINGS WITH STAKEHOLDERS

MEETINGS WITH COMMISSIONERS

- Meetings with stakeholders and licencees are a useful way for Commissioners to gain knowledge on the issues that are affecting the communication industry.
- In particular, Regional Commissioners have a unique understanding of their area of the country and therefore have the need to meet with regional stakeholders and licencees.
- Meetings are currently accepted on an *ad hoc* basis, and sometimes raise concerns similar to those that exist for FCM presentations. A coordinated approach with appropriate safeguards would enable the Commission to address these concerns.

CONCERNS ABOUT PRIVATE MEETINGS

Similar concerns that exist for FCM presentations exist for private meetings:

- There is an appearance of special access
- There is an opportunity to influence
- Communications are made on an *ex parte* basis
- May create the impression that Commissioners are predisposed to decide an issue or application a certain way
- Not all Commissioners have access to the same information
- It is difficult to prove what was or was not said during the course of a meeting

CONSIDERATIONS FOR MEETING REQUESTS

Considerations:

- The meeting must have a clear benefit to the CRTC
 - ie: it is in the public interest for Commissioner(s) to gain a better understanding of a particular issue.
- There should be no real or perceived conflict in attending the meeting
- Budgetary implications associated with a meeting need to be taken into account (keep in mind the \$25K cap on travel and conferences as well as travel and conference amounts already allocated in the annual budget)
- For overall Commission planning purposes, if the meeting request is associated with a speaking engagement or conference participation, the request should be sent to Communications for review by the Chairman

BEST PRACTICES FOR MEETING REQUESTS

- Always check with Senior General Counsel and relevant Executive Directors to determine whether accepting the meeting invitation creates a real or perceived conflict; seek advice on how (if possible) the risk can be mitigated to an acceptable level
- Ask Commission staff to conduct internal research for any files that involve or may involve the requester:
 - Sometimes the best course of action is to avoid a meeting altogether
- Ask whether other Commissioners have received the same meeting request
- Invite a Commission employee (preferably senior) to be present at the meeting

BEST PRACTICES FOR MEETING REQUESTS (Con't)

- Always confirm a meeting in writing and include the following (see template attached):
 - ✓ Date and time of meeting
 - ✓ Purpose of the meeting
 - ✓ Exclude from the meeting specific files involving the requester and files that will come before the Commission soon or are already before the Commission
 - ✓ Inform the requester that the date, time, purpose and the names of persons attending the meeting will be available on request by a third party
 - ✓ Reminder about the *Lobbying Act* if applicable
- However, keep in mind that a confirmation letter is not foolproof

DURING A PUBLIC HEARING

***Appearance is just as important as reality
during public hearings.***

- Do not at any time have private discussions with the parties during an oral hearing, even outside hearing hours.
- If parties ask you questions during an oral public hearing, ask Commission employees to answer.