

# **Process and Criteria in Public Broadcasting Governance: Appointments to CBC and CRTC**

Prepared for the Friends of Canadian Broadcasting

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## Summary

Using public documents, including biographical directories, media archives, government reports and legal statutes, this report uses an historical approach to examine the processes and results of appointments to the CBC and CRTC.

Major findings include:

- Various reports, legislation, and committee findings have over time defined loose, non-binding criteria for appointment to the CBC or CRTC. Nevertheless, the appointments process remains under the direct and exclusive control of the Prime Minister, where it is subject to no consistently-applied objective criteria.
- Historically, Prime Ministers have appeared to value both vocational and secondary skills and experience, as well as a high level of education.
- However, women, aboriginals and minorities have been under-represented, as have appointees from western and northern Canada.
- The absence of public profiles of many appointees prior to their appointment suggests a large number were simply patronage appointments. Appointees known to have partisan affiliations were, for the most part, affiliated with the governing party at the time of their appointment.

The report concludes that the appointments process to the CBC and CRTC should be reviewed and changes made to meet normative standards.

*“Whoever controls the media - the images - controls the culture” -Allen Ginsberg*

## **Introduction**

While considerable attention has been paid to reforms in public policy in Canada in recent decades, the governance of public organizations has not been an area of focus. For the public organizations that oversee broadcasting, chiefly the Canadian Broadcasting Corporation (CBC) and the Canadian Radio-Television and Telecommunications Commission (CRTC), the lack of policy attention to governance has been particularly glaring. From the beginning, questions of who should head these bodies and how appointments should be made have been largely overlooked in broadcasting legislation. Rather, the appointments process remains vested with the Prime Minister, who directly appoints every CBC Board member and CRTC Commissioner.

The report begins by identifying the desirable characteristics of governing bodies that can be inferred from several decades of broadcasting legislation. Second, given those expectations, the report proposes a normative range of skills, experiences, and characteristics – in short, ‘criteria for service’ – that appointees to the governing bodies might or should possess as a group. Third, the report surveys the more than 200 individuals who have served on the governing bodies of the CBC and CRTC and draws conclusions about how their skills, experiences, and characteristics compare to these normative standards.<sup>1</sup> Finally, the report suggests that a new appointments procedure – in addition to new, stated criteria for service – might better meet current legislative expectations.

This report builds on a similar study completed in 1998 entitled *Appointments to the CBC and CRTC: Criteria and Process* – defined herein as the 1998 Report. The findings of the current report remain largely unchanged from that time.<sup>2</sup>

## I. GOVERNING BOARDS IN BROADCASTING LEGISLATION

From the beginning, broadcasting legislation in Canada has envisioned not just a regulatory function for the broadcasting system but a creative one as well. While broadcasting legislation has its roots in the short-lived regulatory body known as the Canadian Radio Broadcasting Commission (which lasted from 1932-36), the CBC was charged with the dual role of operating a broadcasting service and administering broadcast regulations by the 1936 *Canadian Broadcasting Act*. When the *Broadcasting Act* of 1958 transferred regulatory responsibility to the newly created Board of Broadcast Governors, the CBC was able to dedicate its full attention to broadcasting. One of the reasons for transferring regulatory responsibilities away from the CBC was the growing complexity of broadcasting regulations. When the 1968 *Broadcasting Act* replaced the Board of Broadcast Governors with the CRTC, it produced a working commission with administrative and quasi-judicial authority over the regulatory structure. The current *Broadcasting Act* was adopted in February 1991. Although in the last decade the governing board of the CBC has tended to take a more active role in management decisions, it has always played a predominantly advisory role.<sup>3</sup> According to past CBC chair Patrick Watson, the Board's main purpose has been "to give good guidance and keep a steady hand on the tiller".<sup>4</sup>

Although there are differences in their role and mandate, the governing bodies of the CBC and CRTC do share a fundamental similarity: Canadian broadcasting legislation has failed to articulate specific criteria for the Governor in Council to follow when making appointments.

There are, to be sure, some formal eligibility requirements, but these are merely formalisms. The *Canadian Radio Broadcasting Act* of 1932 included a conflict of interest clause that has been retained, albeit in modified form, in subsequent legislation. The *Broadcasting Act* of 1958 adopted several additional criteria for service. It mandated retirement at age 70, limited appointments to two consecutive terms, and stipulated that appointees must be and remain Canadian citizens while holding their positions. Parliament added a further qualification in 1968 that appointees must be ordinarily resident in Canada. Since 1991, full-time appointees (excluding regional appointees) to the CRTC have also been required to relocate to the National Capital Region.<sup>5</sup> (Further information on broadcasting legislation is contained in the tables in Appendix I.)

However, broadcasting legislation stops here, offering few meaningful guidelines for identifying the best qualified individuals from among countless eligible Canadians.

## II. CRITERIA FOR SERVICE

The lack of qualitative appointment criteria in broadcasting legislation is somewhat baffling considering that many of the skills, experiences, and characteristics that are desirable in appointees as a group are stated in, or can readily be inferred from, government policy statements, review committee reports, media comments by informed observers, and broadcast legislation itself. Indeed, the June 2003 report of the Standing Committee on Canadian Heritage, *Our Cultural Sovereignty*, recommended, “that it is both appropriate and necessary that criteria and guidelines be developed for nominations to the CRTC and the CBC”.<sup>6</sup> Extrapolating these implicit criteria for service from a myriad of sources may be as close as one can come to suggesting a set of normative criteria for appointments to the governing bodies of the CBC and CRTC.

Some of these criteria have involved appointees’ vocation or professional experience. In its 1996 report, the Mandate Review Committee advocated vocational and educational diversity with some appointees coming from “business, labour, science or the academic world,” and others from “broadcasting, journalism or the arts”.<sup>7</sup> The 1982 Federal Cultural Policy Review Committee encouraged appointments to be made with an “overriding concern for the appointees’ experience in the fields of concern of the agency” and a “broad-ranging interest in cultural matters.”<sup>8</sup> Author and retired CBC broadcaster Knowlton Nash added that it had been a “great sin” not to let “the creative person into the upper councils.”<sup>9</sup> At the same time, the 1966 White Paper on Broadcasting underlined the importance of “knowledge and experience of management matters”; and the Mandate Review Committee advocated including members “with high level corporate management skills.”<sup>10</sup>

The merit of including diverse perspectives on the CBC and CRTC governing boards has also been highlighted. The 1965 Fowler Committee on Broadcasting stressed the importance of knowing Canada “extensively, its present problems, and its future possibilities as a nation”; Friends of Canadian Broadcasting has in the past advocated international experience as well.<sup>11</sup> Considering the large proportion of “white, mostly male and largely upper middle-class” appointees, it has been common to advocate appointments that represent the ethnic, gender, and socio-economic diversity of Canadian society.<sup>12</sup> Always wary of the political bias inherent in government appointments, the Mandate Review Committee also urged that “directors with known political affiliations [ought to represent] the full political spectrum and not just that of the governing party.”<sup>13</sup>

Canadian broadcasting legislation arguably implies certain selection criteria. The provision for remuneration of expenses, albeit small, in the *Canadian Radio Broadcasting Act* of 1932 probably reveals a deliberate attempt to allow appointees other than the very wealthy to serve, as was the case for the Senate.<sup>14</sup> The legacy of these reimbursement funds today suggests the attractiveness of some socio-economic balance among appointees. Reference in

the 1968 *Broadcasting Act* to the obligation of the CBC and CRTC to “safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada” suggested a requirement for representation from those communities. The same legislation addresses “Canadian identity,” linguistic dualism, and the requirement for Canadian broadcasting to “[serve] the special geographic regions” suggesting it is critical for both the regional origins of appointees and the degree to which they identify with the country as a whole to be taken into account.<sup>15</sup>

Subsequent legislation has suggested other conditions for service. The 1991 *Broadcasting Act* illuminated the need for the CBC and the CRTC to be both “adaptable to scientific and technological change” and capable of pursuing the “most appropriate and efficient means” of effecting change, implying the need for individuals with technical, broadcasting, and financial and management experience. This legislation also calls attention to demographic diversity, especially the need to reflect “the circumstances and aspirations of Canadian women,” the “multicultural and multiracial nature of Canadian society,” and the “special place of aboriginal peoples.”<sup>16</sup>

Of all potential criteria, perhaps the most persuasive is what might be called “profile.” In 1958, reflecting on the first appointments to the Board of Broadcast Governors, the Minister in charge of broadcasting matters observed that those chosen for the Board “should be of outstanding quality.”<sup>17</sup> Friends of Canadian Broadcasting has similarly emphasized the need for “a critical mass of people of stature.”<sup>18</sup> Likewise, the Mandate Review Committee described model appointees as those with “real stature and prominence in their communities or professions.”<sup>19</sup>

The criteria identified above are not exhaustive, but they do point to the range of qualities that might be present in appointees as a group under ideal conditions. Such criteria are useful as a basis for assessing the historical composition of the governing bodies of the CBC and CRTC.

### **III. STATISTICAL SURVEY**

The fact that broadcasting legislation has failed to mandate specific criteria for appointments made to the CBC and CRTC boards does not, on its own, prove that the actual appointments have not met some or many of the normative criteria outlined above. To evaluate this hypothesis, extensive empirical research was undertaken on the 152 appointments made to the CBC since 1936, and the 83 appointees made to the CRTC since 1968.<sup>20</sup> The cumulative data were organized into six categories: vocation, education, skills, demographics, profile, and political affiliation. Within each category, a number of subcategories were identified. It is important to note that complete information was not available for all appointees, and for some, no information was available.<sup>21</sup> Percentages therefore represent extrapolations from the sample of those appointees on whom information could be compiled.<sup>22</sup> Conclusions that were not statistically significant were not included in the report. Raw data tables are included in Appendix II.

#### **1. Vocation**

This category was considered by evaluating the current or primary occupation of appointees at the time of their appointment. Appointees were counted only once. For purposes of analysis, secondary work or training that appointees may have carried out in other occupational categories was not considered, though this information was often incorporated into the skills and expertise category below.

Based on information for 118 of 152 possible appointees, or 78 percent, 53 percent of appointees to the CBC for whom information was available have come from vocational backgrounds in either law or business. All Prime Ministers except Lester B. Pearson made half or nearly half of their appointments from the business and legal fields. One in four appointments made by Jean Chrétien and Brian Mulroney were lawyers, while for Pierre Trudeau, two in five appointees were. In contrast, only thirteen percent of appointees to the CBC have had past experience in broadcasting. Under John Diefenbaker, appointees with past broadcasting experience rose to 29 percent, the highest of any Prime Minister. Louis St. Laurent and William Lyon Mackenzie King appointed no candidates with past broadcasting employment. Half of Lester B. Pearson's appointments came from academic backgrounds, while Chrétien and St. Laurent appointed none. Overall, only six percent of appointees for whom information was available have come from the public service.

For the CRTC, the vocation category included information for 70 of 83 appointees, or 84 percent. In total, thirty-three percent of CRTC appointees for whom information was available have come from law or business backgrounds. Under Jean Chrétien and Pierre Trudeau, two in five appointees for whom information was available were drawn from these realms. Under Brian Mulroney, only one in five have come from law or business. Pierre Trudeau appointed the most business people of any Prime Minister, Jean Chrétien the most lawyers,

and Brian Mulroney the most from a broadcasting background. Overall, 27 percent of appointees to the CRTC for whom information was available had a background in broadcasting, and 19 percent a background in the public service. Only 13 percent of appointees to the CRTC came from academia.

This report considered “broadcasting” employment to be creative or administrative work in television or radio, but also in film, and occasionally in publishing or journalism. Many of the appointees to the CBC and CRTC employed in broadcasting have come from public broadcasting backgrounds, though the private sector has also been represented. Among CBC appointees employed in broadcasting (18 of 152 appointees), 39 percent worked in the public sector, 17 percent in the private sector, and 44 percent in both the public and private sectors. Among CRTC appointees employed in broadcasting, based on information for 21 of 83 appointees, 29 percent of appointees for whom information was available have worked exclusively in public broadcasting, 24 percent in private broadcasting, the remaining 43 percent had experience in both sectors.

## **2. Education**

In this report, education refers to the level of study formally attained after secondary studies. Post-secondary education refers to any formal training after high school. Post-graduate qualifications include both university diplomas as well as degrees. Professional qualifications refer to those attained in law, business, medicine, or other areas after the completion of a certain period of university study. Calculations were tallied for the highest degree attained for each appointee. In addition to type of degree, appointees were assessed for international qualifications.

Based on information for 83 of 152 appointees, or 55 percent, nearly two in five appointees to the CBC since 1936 for whom information was available have completed post-secondary education. Almost that same number – 30 percent – held post-graduate degrees, 16 percent had professional degrees, and 28 percent attended a foreign institution. The number of appointees with post-graduate or professional degrees reached a low of 17 percent under St. Laurent while Pearson appointed as many as 78 percent with such qualifications. Half of Chrétien’s appointees had post-graduate or professional degrees while three in five of Mulroney’s appointees held such qualifications.

Based on information for 63 percent of CRTC appointees, almost half of appointees for whom information was available completed post-secondary education. Some 38 percent had post-graduate degrees, ten percent professional degrees, and 35 percent of the total studied at a foreign institution. In contrast to the CBC, the incidence of post-graduate and professional qualifications among CRTC appointees has appeared to increase. Almost four in five of Chrétien’s appointees had post-graduate or professional degrees while



only half of Trudeau's appointees had those qualifications. Only 29 percent of appointments made under Mulroney had such qualifications.

### **3. Skills/Experience**

This category includes additional skills and experiences that may not be evident from vocational or educational background alone. It identifies four types of experience: broadcasting expertise, cultural expertise, international expertise, and governance expertise. Broadcasting expertise refers to experience or exposure obtained through prior or secondary employment, as an aspect of current and primary employment, or through volunteer endeavours. Cultural expertise is based on a demonstrated interest in and identification with the arts community through administrative or creative involvement in music, theatre, literature, film, arts publishing, multicultural organizations, or cultural funding bodies. International experience includes foreign birth, study, employment, or military service, or other extended stays abroad. Governance experience refers to involvement as a member or chair of a school board, selection committee, professional society, tribunal, or board of directors of a company, non-profit organization, or public enterprise. Whether information was considered available in the above categories was determined by evaluating whether information was available in at least one of the four categories.

For the CBC, category information was available for 89 of 152 appointees (59 percent). Three in five appointees to the CBC for whom information was available had some broadcasting or cultural expertise. Almost half of appointees to the CBC had expertise in broadcasting and culture, some 43 percent and 44 percent respectively. Jean Chrétien, Brian Mulroney, Pierre Trudeau, John Diefenbaker, and William Lyon Mackenzie King appointed a high percentage of appointees with broadcasting and cultural expertise. Based on available information, Pearson and St. Laurent appointed no individuals with broadcasting expertise and low numbers of appointees with cultural expertise. Of CBC appointments for whom information was available, 58 percent had international experience, while this figure reached a high of 100 percent under Lester B. Pearson and a low of 33 percent under Louis St. Laurent. Some 93 percent of appointees have had some prior experience in governance-related activities.

In the CRTC, by contrast, five in six appointees for whom information was available had some broadcasting or cultural experience, based on information for 61 of 83 appointees, or 73 percent. Seventy-two percent of appointees have had experience in broadcasting, and 49 percent have had a background in culture. Chrétien and Mulroney both appointed a large percentage of individuals with experience in broadcasting. The proportion of appointees with broadcasting experience reached 93 percent under Chrétien and 94 percent under Mulroney, while Trudeau appointed 52 percent with broadcasting expertise. Overall, 46 percent of CRTC appointees have had international experience and 54 percent have had governance expertise.

#### 4. Demographics

Demographic data show the extent to which appointees have been representative of Canada's regions, official language groups, women, aboriginals and visible minorities. This category also reflects whether appointees have had a sense of the country, or a "national perspective" that transcends their local community, usually measured by extended stays in two or more of Canada's regions.

Results for this category for CBC are based on complete information. Of the 152 appointments made to the CBC since 1936, 60 percent have come from Ontario and Québec. This figure has risen noticeably from the 1930s to 1950s under St. Laurent and King, when that figure was respectively 36 percent and 48 percent. King's appointments were equally balanced among the regions. Since 1936, there has been some representation from all regions; two of the 152 appointees have come from northern Canada. In total, 17 percent have come from Alberta and British Columbia, 11 percent from the East Coast, and 10 percent from the Prairies. Overall, 84 percent have come from urban areas, though one in three appointees under Diefenbaker was from rural Canada. Just one in five appointees has been a francophone although that number increased to one in three under Chrétien, Mulroney, and Trudeau. Only 3 of the 152 appointees have been visible minorities, and of the three, two were aboriginal. Since 1936, only 21 percent of appointees have been women, though the trend has grown from less than 10 percent women under King and Pearson to 39 percent under Chrétien. One in five appointees has had a national perspective that could be ascertained by the criteria used. One third of the appointees under Chrétien, Mulroney, and Diefenbaker exhibited the national perspective characteristic, the most of all Prime Ministers.

For the CRTC, there was demographic data for 58 of 83 appointees, or 70 percent. Of this number, 55 percent have come from Ontario and Québec. However, under Chrétien and Mulroney, more than 45 percent have come from Ontario alone. Like the CBC, since 1968 appointees to the CRTC have represented all regions but only one has come from northern Canada. Overall, 10 percent have come from Alberta and British Columbia, 19 percent from the East Coast, and 14 percent from the Prairies. Chrétien appointed no Commissioners from Alberta and Mulroney appointed none from Alberta or British Columbia. Since 1968, 86 percent have come from urban areas; Mulroney appointed no Commissioners from rural Canada. Based on complete information, some 34 percent of appointees have been francophone. Only 2 of the 83 appointees have been visible minorities, and none have been aboriginal. Just 24 percent of appointees since 1968 have been women, though this figure has gradually increased from 18 percent under Trudeau to 44 percent under Chrétien. One in four has had a national perspective, although Mulroney's appointments were twice as likely as Chrétien's to have this characteristic.

At both the CBC and CRTC, the majority of appointees have been in their 50s when appointed, retired, or both. The average age of appointment for the CBC has been 52, and of retirement, 56; for the CRTC, the average age of appointment has been 53 and of retirement, 57. This reflects average term lengths of 5.2 years for the CBC, and 6.1 years for the CRTC, though 9 percent of CBC appointees, and 17 percent of CRTC appointees, have had much longer terms of between 9 and 18 years.

## 5. Profile

This category was measured based on two indicators: appearance in a biographical directory such as the *Canadian Who's Who*, at or around the time of appointment; and/or the receipt of distinctions such as an Order of Canada, honorary doctorate, Rhodes scholarship, Royal Society of Canada fellowship, or other scholastic, professional, civic or political honour.

Based on complete information for all 152 CBC appointees, a total of 54 percent of appointees have appeared in a biographical directory. The appearance in biographical directories such as *Canadian Who's Who* reached three quarters under King, Diefenbaker, and Pearson but fell to just over one third under Mulroney and Trudeau. Overall, therefore, one in three CBC appointees have had "profile," though this figure declined to 14 percent under Mulroney and rose to 56 percent under Chrétien.

For the CRTC, the 'profile' category included information for all 83 appointees. Overall, 40 percent of CRTC appointees have appeared in a biographical directory; this figure has remained consistent since 1968. One in four CRTC appointees have received distinctions or honours. Only 13 percent and 12 percent under Chrétien and Mulroney respectively received honours, while one in three appointees under Trudeau did.

## 6. Political Affiliation

The report's conclusions about political leaning are based on congruence of appointees' known political affiliations with the party in power. There are data on political affiliation only for a minority of appointees.<sup>23</sup>

Based on information for 55 of the 152 appointees, or 36 percent, 89 percent of appointees to the CBC with known political affiliations were appointed by governments of the same affiliation. For the CRTC, information was available for 23 percent of 83 appointees. Of those appointees for whom information was available, 87 percent were appointed by governments of the same affiliation. All Prime Ministers except Trudeau and St. Laurent have shown some inclination to appoint individuals of a differing political affiliation. However, the correlation between appointees with political affiliations and the political stripe of the

government in power has never been higher than among appointees who served the CBC and CRTC in 2004, when 89 percent of CBC board members and 100 percent of CRTC Commissioners for whom information was available were affiliated with the governing party.

#### IV. TRENDS AND CONCLUSIONS FROM STATISTICAL SURVEY

The survey of data on the 152 appointees to the CBC and 83 appointees to the CRTC reveals that although some normative criteria have coincidentally been reflected in appointments that have been made, other criteria have effectively been overlooked.

As shown in Charts 1.1 and 1.2, the data indicate that appointees have collectively had relatively high levels of relevant experience, insofar as many appointees have had a vocational or experiential background in broadcasting, culture, or governance.

Chart 1.1

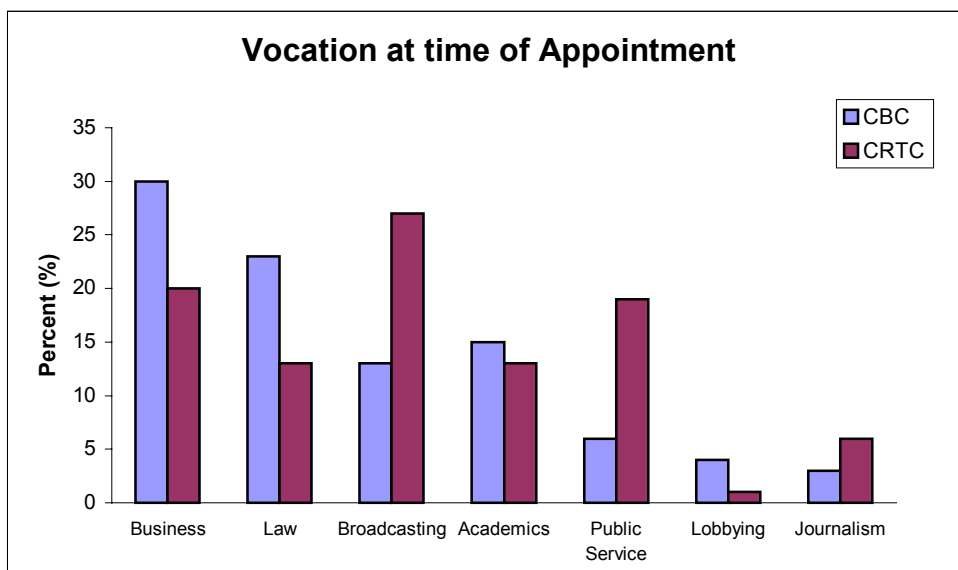
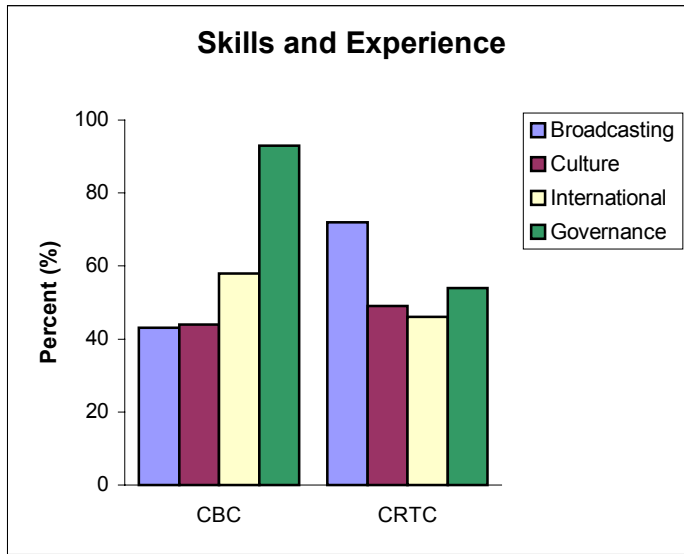
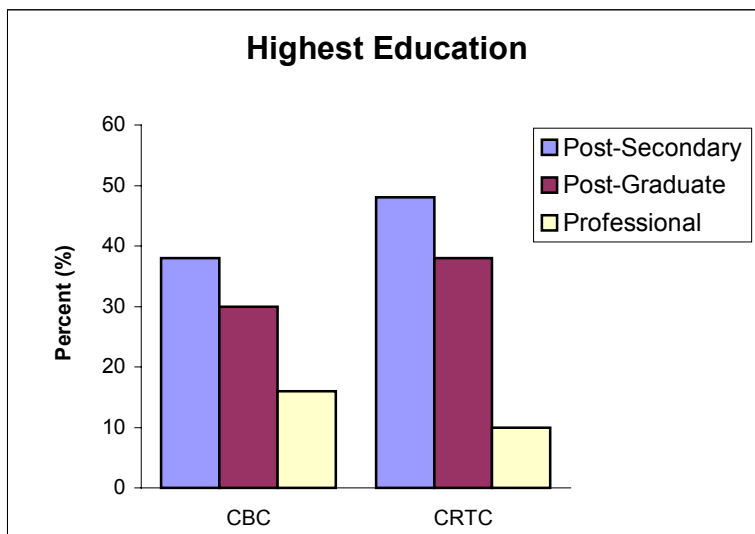


Chart 1.2



Collectively, the level of education of appointees has been quite high (Chart 1.3).

Chart 1.3



However, appointments have been for the most part unrepresentative of Canadian demographics. This is particularly the case with regard to women (Chart 1.4), aboriginal peoples, visible minorities, rural residents, and those residing in the North, West, and in Atlantic Canada (Chart 1.5).

Chart 1.4

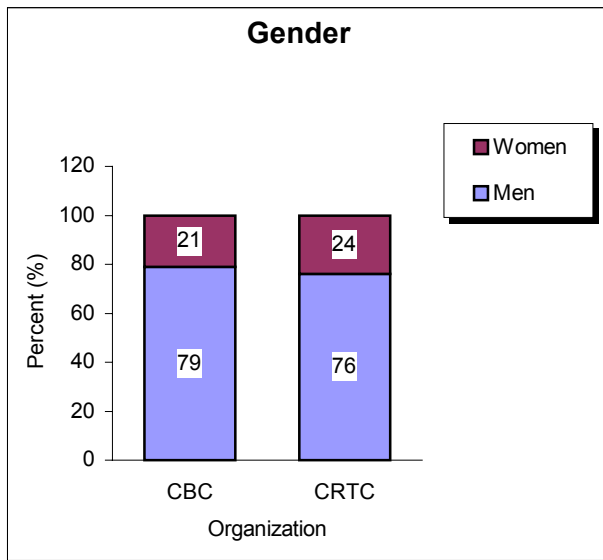
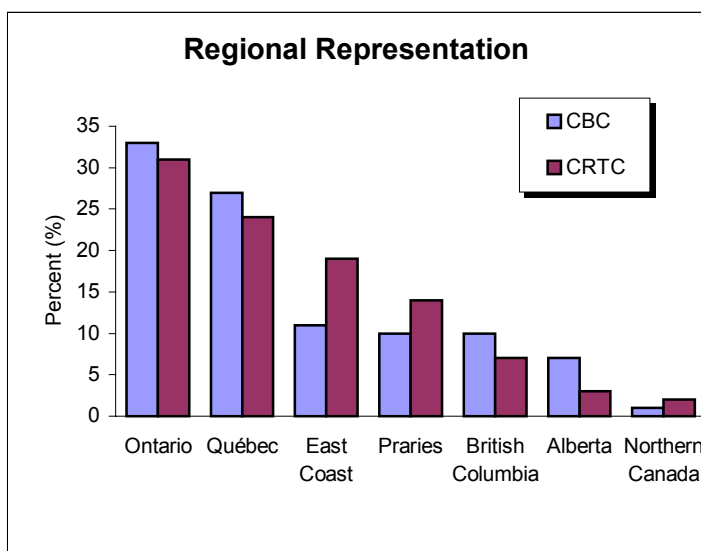
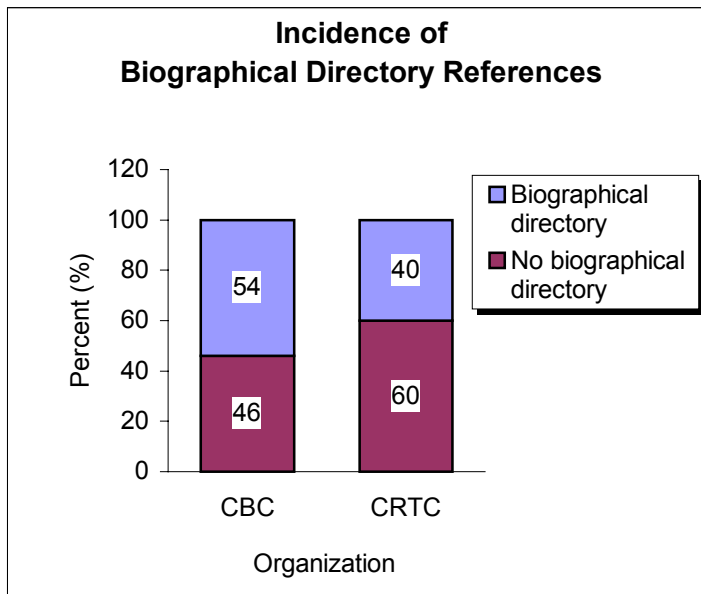


Chart 1.5



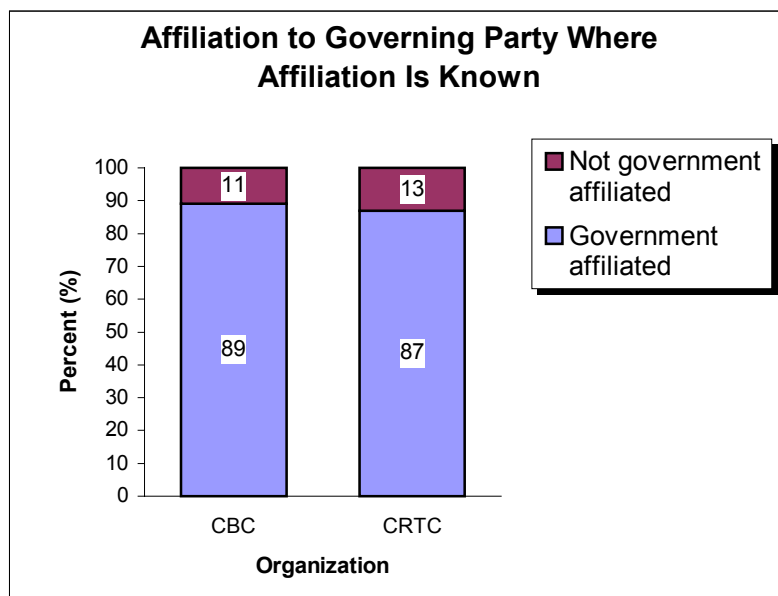
Over the years, appointees' profiles have also declined, regardless of strong population growth and the likelihood that, in absolute terms, there are far more eminent Canadians today than in the past. More striking is the proportion of appointees who have not made a mark on the national public record prior to their appointment. As many as 46 percent of appointees to the CBC were not included in the *Canadian Who's Who* at or around the time of their appointment; at the CRTC that proportion reached 60 percent, as chart 1.6 shows.

Chart 1.6



Though it may be misleading to assume these appointees had nothing to offer, the fact that their names have not been prominent on the public record may suggest that the primary reason for catching the Prime Minister's eye was their partisan political contributions. In view of the statistical relationship between parties in power and appointees with a known political affiliation, politics appears to be a key consideration in making many appointments, as Chart 1.7 shows. That the appointment process is prone to political patronage raises the issue of whether the lack of explicit criteria and a detailed appointments process in broadcasting legislation causes these appointments to be particularly susceptible to political influence. More generally, it must be asked whether the process is successful at attracting the most distinguished and talented individuals to the two largest and most important cultural institutions in Canada.

Chart 1.7



### The Appeal of Patronage

Reservations about the capacity of the present appointments process inevitably launch a discussion of alternatives. However, the existing appointments process and the patronage system on which it appears to be based are deeply entrenched. This system perpetuates itself to some extent because the current process has benefits not easily ignored.

The first benefit is convenience. It is far easier to appoint people with whom one is familiar with than to initiate a selection process for thousands. Jean Chrétien once declared that he would continue to appoint people he knows because "I know whether they're competent."<sup>24</sup> The expediency of a patronage system may also help to explain the frequency of reappointments. Overall, just more than one third of appointments to the CBC and CRTC have been re-appointments. Over 50 percent of appointments made to the CBC by King and



St. Laurent, and over 40 percent of those made by Diefenbaker and Pearson, were of individuals who had served previously. Trudeau reappointed one in three of his appointees to the CRTC.

The second factor sustaining the current appointments process is the difficulty in both finding and retaining superior candidates. As more conditions are appended to the appointment process, it becomes more challenging to find candidates who meet the requirements. Added to this is the fact that some appointees decline their offers *ab initio*. Early resignation has been common among those who do accept. At the CBC, 40 percent of Diefenbaker's appointees, and 30 percent of King's, resigned early. Some 37 percent of Trudeau's appointees to the CRTC did not complete their terms. In both organizations, almost one in four appointees have resigned prematurely, an average of almost two years early.

A final factor perpetuating the existing appointments process is that it is realistic to imagine that some appointees will meet the needs of their appointment. It is possible, perhaps even natural, to begin a term of appointment with particular political or regional loyalties but to emerge having acquired a strong interest and attachment to the organization. And politics is not necessarily responsible for reducing the high calibre of appointments. As Nash notes, the first board of directors of the CBC, often praised as its best, "was sharply political" but "generated little opposition".<sup>25</sup>

In addition, it is arguable that entirely abolishing political appointments would leave no way to reward volunteer contributions to political parties, one of the underpinnings of the Canadian political system. Political appointees are also typically the most eager to become engaged in some level of government. Without patronage, many minor government positions might be more difficult to fill.

### **Problems with Patronage**

Yet although the current appointments process may be entrenched, the question remains whether the CBC and CRTC should be subject to it. As the data above show, there is a need at both organizations for a more impartial appointments process to provide broader representation of eminent Canadians reflecting the regional, ethnic and gender demographics of modern Canada. More principled appointments could also provide the kind of skilled leadership that would inspire the vision that CBC and CRTC increasingly need as they grapple, respectively, with the challenges of a scarcity of resources and "doing more with less", and finding solutions to difficult and inherently controversial regulatory problems.

Those rationales aside, the current model should arguably change for major appointments if only to assure the greater public of an objective, impartial and

transparent *process*. In his campaign for the Liberal leadership in fall 2003, Prime Minister Paul Martin spoke of a plan to “confront the democratic deficit” in Canada, which he identified as necessary to broaden public participation in government and restore public confidence in the individuals who serve the Canadian public.

In fact, democracy has an intricate relationship to broadcasting and the media. The Broadcasting Act charges the CBC with representing and speaking to diversity, protecting diverse voices, and preserving national identity. The late Dalton Camp saw clear links between media and democracy and repeatedly emphasized them over decades as commentator and direct participant in the political process. In that respect, the independence of appointments to the boards of key cultural organizations such as the CBC and CRTC is fundamental. As Eduard Sagalaev, the Russian President of the National Television and Radio Association said about the situation of the media in Russia, “the process of creating new, democratic organs of government power is beginning, and, as never before, the greatest responsibility rests with the broadcast media.”

### Comparative International Models

In examining the current appointments process, it is useful to compare a variety of public broadcasting systems. The Standing Committee on Canadian Heritage has studied both the Australian and British systems, both of which have themselves recently re-examined the process of appointing directors to the board of directors of public broadcasting corporations.<sup>26</sup>

Table 1.1 below compares the appointments process in Australia, France, Japan, South Africa, and the United Kingdom. Some findings are particularly relevant. In South Africa, appointments are made by the President, but only on the advice of the National Assembly and after a shortlist of candidates has been published. France is the only country where appointments are not made solely by the executive; rather, appointments are made by the Parliament, the State, the broadcast regulator, and the workforce. The UK has no regulatory body such as the CRTC; instead, regulation is administered by a variety of Oversight Councils, the Secretary of State or other government ministers, and the obligations of the BBC itself. Appointments to the BBC are made under a Royal Prerogative which, in practice, means the Prime Minister, as referenced above. Australia, Japan and South Africa require appointees to have experience related to broadcasting. France, Japan and South Africa require board members to be collectively representative of their societies.

Table 1.1

Australia	France	Japan	South Africa	United Kingdom
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Organization
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<i>Public Service Broadcasting Organizations</i>	Australian Broadcasting Corporation (ABC), Special Broadcasting Service Corporation (SBSC)	Public service broadcasting undertaken by several different public companies	Nippon Hoso Kyokai (NHK)	South African Broadcasting Corporation (SABC)	British Broadcasting Corporation (BBC)
<i>Regulatory legislation</i>	<i>Broadcasting Services Act</i> (1992)	1986 Law	<i>Broadcast Law</i> (1950)	<i>Broadcasting Act</i> (1999)	1996 Royal Charter and License Agreement (secondary legislation subject to judicial review)
<i>Regulatory body</i>	Independent of government control	Conseil Superior de l'Audiovisuel (CSA) - an independent statutory body; Laws governing broadcasting are subject to Article 11 of the Declaration of the Rights of Man of 1789	Broadcasters are required to establish an advisory body - the Consultative Organization on Broadcast Programs - to oversee quality and service	Regulation by Parliament, Minister of Communications, and the Independent Broadcasting Authority (IBA) which has broad regulatory powers over broadcasters	Oversight Councils, Secretary of State or other government ministers, and obligations of the BBC itself

<b>Board Composition</b>					
<i>Number/term</i>	6-8 Directors and the Managing Director; 5 years renewable	12 members; 3 years	12 members; 3 years renewable	12 members, as well as Group Chief Executive Officer, Chief Operations Officer, Chief Financial Officer; term determined by President, not to exceed 5 years	12 members (or such number as may be ordered under the Royal Prerogative); 5 years renewable
<i>Powers/role</i>	Ensure ABC performs efficiently; maintain its integrity and independence; ensure news is accurate and impartial; ensure compliance with broadcasting regulations	Different broadcasters have different relationships with their governing bodies, depending on their individual charters	Select management, policy, budget, financial planning, plan of broadcasting stations and standards, remuneration of officers, appoint the President and auditors, approve the appointment, by the President, of the Vice-President and Directors	Controls the affairs of the SABC with the obligation to protect the independence and freedom of SABC	Approve clear objectives and monitor their compliance, ensure high standards of probity, propriety & value for money, set overall strategy, ensure proper consultation with Councils & regard for the views of listeners, monitor fulfillment of legal/contractual obligations, appoint a Director General and senior members of management
<i>Appointments</i>	Governor General (i.e. Cabinet)	One from each chamber of Parliament, 4 representing the State, 4 nominated by the broadcast regulator, and 2 representing the workforce. Presidents are nominated by the broadcast regulator	The Prime Minister, with the consent of both Houses of the Diet	The President on the advice of the National Assembly in a transparent, open, and public manner in the nominations process, and after publication of a shortlist of candidates	Appointed under the Royal Prerogative (in practice, the Prime Minister)
<i>Conditions on members</i>	Experience related to broadcasting or other related matters	No formal criteria	Capable of fair judgments, collectively have wide experience of relevant issues in education, culture, science, industry, and have not been sentenced to imprisonment or dismissed from the public service. Should be a national public servant, staff member of any political party or have an interest in any broadcasting-related	Members must have suitable qualifications, expertise and experience in broadcasting areas, be committed to fairness, freedom of expression, the objects of the SABC accountability, be citizens and permanent residents of South Africa, must not be determined by a court to be mentally ill, have been convicted of a serious crime, a crime	In general, none; three Governors are National Governors representing Northern Ireland, Scotland and Wales and must be selected for their knowledge of the culture, characteristics and affairs of the people, and their close touch with local opinion

			broadcasting or related activity	serious crime, a crime of dishonesty or an offence under the Act	
<i>Membership criteria</i>	Members must declare any conflicts of interest with respect to specific matters and remove themselves from the debate	Structured to ensure membership is representative of society	At least one Governor must come from each of the eight districts listed, no more than 4 Governors may belong to any one political party	Must represent the broad population, strict conflict of interest rules and if a conflict of interest issue arises the member involved must leave	None in constituent instruments
<i>Removal</i>	Misbehaviour, physical or mental incapacity, bankruptcy, failure to comply with obligations, absence from 3 consecutive meetings without leave	No formal conditions for removal in the law, although the appointing body could be responsible	May be dismissed by Prime Minister if no longer satisfy conditions of appointment or, with consent of both Houses of the Diet if they are unable to perform their duties, have acted contrary to their official obligations or are guilty of malfeasances rendering them unfit Governors	May be removed for misconduct or inability to perform duties, after inquiry and recommendation of the Board	Termination under the Royal Prerogative; removal if they have interests conflicting with their governing duties, become bankrupt, suffer from a mental disorder or are absent from meetings for longer than three months without consent
<i>Remuneration</i>	Determined by the Remuneration Tribunal	Not outlined in governing legislation	Appropriate compensation	Not outlined in governing legislation	Determined by Secretary of State from the funds of BBC

## Alternative Models

Several alternative approaches for making appointments are relevant to the current study, and help to clarify new models that might better meet current legislative expectations. One alternative to the current Canadian system might be to use normative criteria such as those proposed by this report, in which standards would be set to which the Prime Minister would be required to adhere when making appointments. The complexity of the screening process necessary, however, would likely be costly, slow, and liable to leave positions vacant. Another model might entail opening the process to the House of Commons, allowing Members of Parliament a level of input proportional to their parties' representation in the House. Nevertheless, this model can also be criticized. Non-partisan appointments might still trigger doubt among the public if they merely suggest a political incentive. A move by the Prime Minister to relinquish control could leave the appointments process susceptible to abuse from other directions.

A third, preferable option would be to allow the governing bodies of the CBC and CRTC to select, or at least pre-select, the appointees. This would theoretically allow the process to bypass political agendas.<sup>27</sup> However, whether the boards of the CBC and CRTC should manage all new appointments requires differentiating between the goal of verifying certain qualities in those already slated for appointment, as opposed to seeking to draw appointees from the general public who possess the desired attributes. It is unlikely, however, that the second option could be accomplished either economically or efficiently; perhaps thousands of Canadians would qualify. There may be scope, however, for existing appointees to review a preliminary list, or to add to it, to promote the appointment of those with the skills and experience deemed to be in greatest need. The idea of publishing a shortlist of candidates prior to making appointments is used in South Africa, and was recommended by a review committee of the Australian Broadcasting Corporation.

### **1998 vs. 2004**

As noted above, the present report builds on the 1998 Report which assessed appointments up to December 1997 using similar criteria. The present report has exposed a bleak situation: the conclusions about the appointments process remain largely unchanged from that time. The CBC Board of Directors and the CRTC remain largely unrepresentative of Canada's diverse population, political patronage persists in the appointments process, and although the Standing Committee on Canadian Heritage produced a fruitful report that recommended key changes to the appointments process, no changes have been discussed much less initiated. Until the appointments process is reformed and changes made to peg it to normative criteria, the existing process will merely serve to explain appointments, not to justify them.

## Appendix I: Canadian Broadcasting Legislation

### Canadian Radio Broadcast Commission/CBC

Legislation	# Members	Appointed by	Term	Reappt	Remuneration	Criteria
<i>Canadian Radio Broadcasting Act, 1932</i>	Chair	Governor in Council	10 yrs	Eligible	Salary <sup>28</sup> /exp <sup>29</sup>	No conflict of interest  Geographic Representation
	Vice-chair		9 yrs	Eligible	Salary/exp	
	3rd Comm		9 yrs	Eligible	Salary/exp	
	<9 Asst Comm		Indef	Eligible	Hon'm <sup>30</sup> /exp	
	Advisory Committees		Indef	Eligible	Nil	
<i>Canadian Broadcasting Act (1936)</i>	Chair	Governor in Council	<3 yrs, staggered	Eligible	Hon'm/exp	Same as 1932
	Vice-chair			Eligible	Hon'm/exp	
	7 Other Governors <sup>31</sup>			Eligible	Fee <sup>32</sup> /exp	
<i>Broadcasting Act (1958)</i>	President	Governor in Council	7 yrs	Eligible	Salary/exp	Addition of maximum age 70 yrs, Canadian Citizens
	Vice-president		7 yrs		Salary/exp	
	9 Other Directors		7 yrs		Fee/exp	
<i>Broadcasting Act (1968)</i>	President	Governor in Council	7 yrs	Eligible	Salary/exp	Addition of of 'ordinarily resident in Canada'
	14 Other Directors		5 yrs		Fee/exp	
<i>Broadcasting Act (1991) (amended 1995)</i>	Chair	Governor in Council	5 yrs	Eligible	Salary/exp	
	President		5 yrs		Salary/exp	
	13 Other Directors		5 yrs	Fee/exp		
	(10 Other Directors)		5 yrs	Eligible	Fee/exp	

*Board of Broadcast Governors/CRTC*

<b>Legislation</b>	<b># Members</b>	<b>Appointed by</b>	<b>Term</b>	<b>Reappt</b>	<b>Remuneration</b>	<b>Criteria</b>
<i>Broadcasting Act (1958)</i>	3 full-time 12 part-time	Governor in Council	5 yrs 5 yrs	Eligible Two terms only	Salary/exp Fee/exp	Canadian citizen Maximum age 70 yrs
<i>Broadcasting Act (1968)</i>	5 full-time <10 part-time	Governor in Council	7 yrs 5 yrs	Eligible Two terms only	Salary/exp Fee/exp	Addition of 'ordinarily resident in Canada'
<i>Canadian Radio-television and Telecomms Act (1975)</i>	Chair Two vice-chairmen <9 full-time <10 part-time	Governor in Council	7 yrs 7 yrs 7 yrs 5 yrs	Eligible Eligible Eligible Two terms only (as part-time)	Salary/exp Salary/exp Salary/exp Fee/exp	No additional criteria
<i>Broadcasting Act (1991)</i>	Chair Two vice-chairmen <10 other full-time <6 part-time	Governor in Council	5 yrs 5 yrs 5 yrs 5 yrs	Eligible Eligible Eligible Eligible	Salary/exp Salary/exp Salary/exp Fee/exp	Addition of 'shall reside in the National Capital Region'

## Appendix II: Statistical Tables by Prime Minister

### Vocation

#### CBC

Prime Minister	% info	broadcast	legal	public service	academic	business	journalism	lobby	cultural	other
Chrétien	100	11	22	17	0	22	5	0	17	5
Campbell	100	0	100	0	0	0	0	0	0	0
Mulroney	100	14	23	4	9	41	0	4	4	0
Trudeau	53	15	42	4	8	27	4	0	0	0
Clark	100	100	0	0	0	0	0	0	0	0
Pearson	64	0	11	22	55	11	0	0	0	0
Diefenbaker	93	29	7	0	14	43	0	7	0	0
St. Laurent	54	0	17	0	17	33	0	33	0	0
King	83	0	15	0	30	35	10	5	5	0
<b>OVERALL</b>	<b>78</b>	<b>13</b>	<b>23</b>	<b>6</b>	<b>15</b>	<b>30</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>1</b>

#### CRTC

Prime Minister	% info	broadcast	legal	public service	academic	business	journalism	lobby	cultural	other
Chrétien	94	33	33	13	0	7	7	7	0	0
Mulroney	100	47	6	23	6	12	6	0	0	0
Turner	100	0	0	100	0	0	0	0	0	0
Trudeau	75	16	8	16	22	30	5	0	3	0
<b>OVERALL</b>	<b>84</b>	<b>27</b>	<b>13</b>	<b>19</b>	<b>13</b>	<b>20</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>0</b>

### Education

#### CBC

Prime Minister	% info	% post-graduate	% professional	% post-secondary	% foreign qualification
Chrétien	78	21	29	50	14
Campbell	100	0	100	0	0
Mulroney	36	50	12	37	37
Trudeau	33	25	25	38	31
Clark	100	100	0	0	0
Pearson	75	56	11	22	56
Diefenbaker	73	27	12	36	9
St. Laurent	54	0	17	17	17
King	74	35	0	41	35
<b>OVERALL</b>	<b>55</b>	<b>30</b>	<b>16</b>	<b>38</b>	<b>28</b>

#### CRTC

Prime Minister	% info	% post-graduate	% professional	% post-secondary	% foreign qualification
Chrétien	56	55	22	22	33
Mulroney	82	21	7	71	29



Turner	100	100	0	0	0
Trudeau	59	38	7	45	34
<b>OVERALL</b>	<b>63</b>	<b>38</b>	<b>10</b>	<b>48</b>	<b>35</b>

## Skills/Expertise

### **CBC**

Prime Minister	% info	% broadcast	% cultural	% governance	% national	% international
Chrétien	89	56	62	100	28	56
Campbell	100	0	0	0	0	0
Mulroney	59	46	54	77	32	38
Trudeau	31	60	67	100	10	53
Clark	100	100	100	100	100	100
Pearson	75	0	22	100	25	100
Diefenbaker	80	42	17	73	33	42
St. Laurent	54	0	17	83	27	33
King	70	50	50	94	26	81
<b>OVERALL</b>	<b>59</b>	<b>43</b>	<b>44</b>	<b>93</b>	<b>23</b>	<b>58</b>

### **CRTC**

Prime Minister	% info	% broadcast	% cultural	% governance	% national	% international
Chrétien	87	93	43	43	31	29
Mulroney	94	94	50	19	59	37
Turner	100	100	0	0	0	100
Trudeau	59	52	55	83	12	59
<b>OVERALL</b>	<b>73</b>	<b>72</b>	<b>49</b>	<b>54</b>	<b>25</b>	<b>46</b>

## Demographics

### **CBC**

Prime Minister	% info	% ON	% QC	% AB	% BC	% Prairies	% Atlantic	% North	% Rural
Chrétien	100	33	33	6	11	0	17	0	17
Campbell	100	100	0	0	0	0	0	0	0
Mulroney	100	32	32	14	9	4	9	0	9
Trudeau	100	35	31	6	8	8	8	4	20
Clark	100	0	100	0	0	0	0	0	0
Pearson	100	33	33	0	8	17	8	0	17
Diefenbaker	100	47	13	7	7	7	20	0	33
St. Laurent	100	27	9	9	18	27	9	0	9
King	100	26	22	4	17	17	13	0	9
<b>OVERALL</b>	<b>100</b>	<b>33</b>	<b>27</b>	<b>7</b>	<b>10</b>	<b>10</b>	<b>11</b>	<b>1</b>	<b>16</b>

Prime Minister	% female	% francophone	% visible minority
Chrétien	39	33	6

Campbell	0	0	0
Mulroney	23	32	0
Trudeau	24	27	4
Clark	0	100	0
Pearson	8	17	0
Diefenbaker	20	13	0
St. Laurent	18	9	0
King	9	13	0
<b>OVERALL</b>	<b>21</b>	<b>23</b>	<b>2</b>

### CRTC

Prime Minister	% info	% ON	% QC	% AB	% BC	% Prairies	% Atlantic	% North	% Rural
Chrétien	94	47	20	0	7	7	13	7	13
Mulroney	65	45	18	0	0	18	18	0	0
Turner	100	0	0	0	0	100	0	0	0
Trudeau	63	19	29	6	10	13	23	0	19
<b>OVERALL</b>	<b>70</b>	<b>31</b>	<b>24</b>	<b>3</b>	<b>7</b>	<b>14</b>	<b>19</b>	<b>2</b>	<b>14</b>

Prime Minister	% female	% francophone	% visible minority
Chrétien	44	38	6
Mulroney	24	29	6
Turner	0	0	0
Trudeau	18	35	0
<b>OVERALL</b>	<b>24</b>	<b>34</b>	<b>2</b>

### Profile

#### CBC

Prime Minister	% info	% who's who	% honours
Chrétien	100	61	56
Campbell	100	100	0
Mulroney	100	36	27
Trudeau	100	35	14
Clark	100	100	100
Pearson	100	75	42
Diefenbaker	100	73	40
St. Laurent	100	55	9
King	100	78	43
<b>OVERALL</b>	<b>100</b>	<b>54</b>	<b>31</b>

#### CRTC

Prime Minister	% info	% who's who	% honours
Chrétien	100	38	13
Mulroney	100	41	12

Turner	100	0	0
Trudeau	100	41	33
<b>OVERALL</b>	<b>100</b>	<b>40</b>	<b>24</b>

### **Political Affiliation**

#### **CBC**

<b>Prime Minister</b>	<b>% info</b>	<b>% governing party</b>
Chrétien	67	56
Campbell	100	0
Mulroney	50	45
Trudeau	22	22
Clark	0	0
Pearson	42	33
Diefenbaker	27	27
St. Laurent	36	36
King	30	26
<b>OVERALL</b>	<b>36</b>	<b>32</b>

#### **CRTC**

<b>Prime Minister</b>	<b>% info</b>	<b>% governing party</b>
Chrétien	56	50
Mulroney	18	6
Turner	100	0
Trudeau	20	20
<b>OVERALL</b>	<b>28</b>	<b>24</b>

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## NOTES

- <sup>1</sup> The survey was current as of July 2004.
- <sup>2</sup> Arlan Gates, "Appointments to the CBC and CRTC: Criteria and Process." (Toronto: Friends of Canadian Broadcasting, February 1998).
- <sup>3</sup> Christopher Harris, "On Board at the CBC", *The Globe and Mail* (2 December 1995), p. C1.
- <sup>4</sup> Ibid.
- <sup>5</sup> *Canadian Radio Broadcasting Act, 1932*, S.C. 1932, c. 51, s. 19; *Broadcasting Act*, S.C. 1958, c. 22, s. 3 (3), (5), (6); *Broadcasting Act*, S.C. 1968, c. 25, s. 7 (1); *Broadcasting Act*, S.C. 1991, c. B-9.01, s. 10.1 (1).
- <sup>6</sup> Standing Committee on Canadian Heritage, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting* (Ottawa: Department of Canadian Heritage, 2003), p. 567.
- <sup>7</sup> Government of Canada, Mandate Review Committee (Juneau/Murphy/Herrndorf Committee), *Making Our Voices Heard: Canadian Broadcasting and Film for the 21st Century* (Hull, Quebec: Department of Canadian Heritage, 1996), pp. 116-17.
- <sup>8</sup> Federal Cultural Policy Review Committee (Applebaum-Hébert Committee), *Report of the Federal Cultural Policy Review Committee* (Ottawa: Dept. of Communications, 1982), p. 44.
- <sup>9</sup> Knowlton Nash, *The Microphone Wars: A History of Triumph and Betrayal at the CBC* (Toronto: McClelland & Stewart, 1994), p. 380.
- <sup>10</sup> Government of Canada, Department of the Secretary of State, *White Paper on Broadcasting* (Ottawa: Queen's Printer, 1966), p. 16; Mandate Review Committee, pp. 116-17.
- <sup>11</sup> Committee on Broadcasting (Fowler 2 Committee), *Report of the Committee on Broadcasting* (Ottawa: Queen's Printer, 1965), p. 149; Michael Valpy, "Today's Unsolved Mystery: the CBC Board", *The Globe and Mail* (19 May 1994), p. A2.
- <sup>12</sup> Harris, p. C1.
- <sup>13</sup> *Mandate Review Committee*, pp. 116-17.
- <sup>14</sup> *Canadian Radio Broadcasting Act, 1932*, S.C. 1932, c. 51, s. 3 (2).
- <sup>15</sup> *Broadcasting Act*, S.C. 1968, c. 25, s. 2.
- <sup>16</sup> *Broadcasting Act*, S.C. 1991, c. B-9.01, s. 3 (1).
- <sup>17</sup> Cabinet documents, RG2 A5a, Vol. 1899, 21 October 1958, in Andrew Stewart and William H.N. Hull, *Canadian Television Policy and the Board of Broadcast Governors, 1958-68* (Edmonton: University of Alberta Press, 1994), p. 4.
- <sup>18</sup> Harris, p. C1.
- <sup>19</sup> Mandate Review Committee, pp. 116-17.
- <sup>20</sup> Research on the period 1936-1997 was originally undertaken in December 1997 and updated in July 2004.
- <sup>21</sup> No information was found on 23 percent of CBC appointees, and 12 percent of CRTC appointees.
- <sup>22</sup> The figures in this report have been calculated as a percentage of the appointees for which data were available in each category, rather than as a percentage of total appointees. They may therefore be slightly inflated and as such are not directly comparable to the 1998 Report.
- <sup>23</sup> Sources of information regarding political affiliation included appointee statements, known past affiliation, media coverage, and the Elections Canada "Contributions and Expenses" database at [www.elections.ca](http://www.elections.ca).
- <sup>24</sup> Ross Howard, "Liberals, Expect No Favoritism", *The Globe and Mail* (17 February 1994), p. A4.
- <sup>25</sup> Nash, p. 137.
- <sup>26</sup> Standing Committee on Canadian Heritage, pp. 560-66.
- <sup>27</sup> The attractiveness of such a model can be inferred from the report of the Mandate Review Committee which recommended that the CBC board choose or at least nominate its president (Mandate Review Committee, p. 115); the same recommendation was made in 1982 by the Federal Cultural Policy Review Committee, p. 45, and again in 1986 by the Task Force on Broadcasting Policy (Caplan-Sauvageau Task Force) in its *Report of the Task Force on Broadcasting Policy* (Ottawa: Minister of Supply and Services, 1986), p. 329.
- <sup>28</sup> salary = sum comparable to full-time executive employment
- <sup>29</sup> exp = expenses

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<sup>30</sup> hon'm = annual honorarium  
<sup>31</sup> office holders full-time, 'other directors' part-time  
<sup>32</sup> fee = per meeting sum