

	<b>Director Remuneration</b>
<b>TO:</b>	Human Resources and Governance Committee
<b>MEETING:</b>	2013-03-20
<b>FROM:</b>	Maryse Bertrand, Vice-President, Real Estate, Legal Services and General Counsel
<b>PURPOSE:</b>	Inform Committee members on matters to take into account and options available in considering changes to directors' remuneration
<b>DATE:</b>	2013-02-28

See attached Briefing Note

## BRIEFING NOTE

### DIRECTORS' REMUNERATION

2013-03-01

In considering potential changes to the directors' remuneration, the following should be taken into account:

1. The Government's *Remuneration Guidelines for part-time Governor in Council Appointees in Crown Corporations*
2. The Corporation's remuneration scheme from 2001 to 2006
3. The Corporation's remuneration scheme since 2006
4. The Government's review of directors' compensation
5. Options considered by the Board in September 2010
6. Comparative costs
7. Statutory provisions and practices of select Crown Corporations
8. Options available to the Board under the *Broadcasting Act*

#### **1. The Government's *Remuneration Guidelines for part-time Governor in Council Appointees in Crown Corporations***

The Governor in Council fixes the remuneration of all Crown Corporation directors unless the corporation's enabling legislation states otherwise, which is the case for CBC\Radio-Canada. Under the *Broadcasting Act*, the Board, with the approval of the Minister, can enact bylaws to fix the remuneration of its directors (other than the CEO and the Chairperson).

The Government's current remuneration scheme for Crown Corporation directors was established in October 2001 and has remained unchanged. The scheme groups the corporations into various categories and establishes a range for the retainers and the per diem payable to the directors of the Crown Corporations within each category. If CBC\Radio-Canada were subject to that scheme, directors would be entitled to a retainer ranging from \$7,300 to \$8,600 and a per diem ranging from \$565 to \$665. Usually directors are granted the maximum amounts within their range.

The guidelines also stipulate that a per diem rate is normally payable for the following:

- physical attendance at meetings of the board and of recognized committees or sub-committees of the board (including appointees' participation by electronic means);
- four meetings conducted among a quorum of the board or its committees or sub-committees, by telephone or other similar facility;
- travelling time, if the time required to travel between the meeting place and the normal place of residence exceeds three hours; and
- special executive, analytical or representational responsibilities explicitly designated by the governing members of the organization.

## 2. The Corporation's remuneration scheme from 2001 to 2006

In 2001, the CBC/Radio-Canada Board approved a by-law fixing the directors' remuneration, which was based largely on the Government's guidelines. The scheme provided for:

- an annual director retainer of \$8000
- an annual committee chair retainer of \$1000  
(\$2000 for the Governance Committee Chair)
- a per diem of \$625 for Board and committee meetings and travel time

## 3. The Corporation's remuneration scheme since 2006

In March 2006, the then Vice-President, General Counsel and Corporate Secretary informed the Board that the Corporation's Bylaws relating to director remuneration did not respect the specific language of the *Broadcasting Act*. He noted that the Act allowed the payment of fees "for attendance at meetings of the Board and any committee", but did not provide for the payments of "annual retainers". Consequently, the Board revised its Bylaws to provide only for a per diem for attendance at meetings.

The Minister was advised by the Vice-President, General Counsel and Corporate Secretary that: "The Board believes that this is the most appropriate way to meet the spirit of PCO's guidelines while at the same time taking into account the specifics of the *Broadcasting Act*. A further advantage of this approach is that it contributes to improved governance by encouraging even better attendance at Board meetings. It is important to emphasize that we expect no additional costs to be incurred by CBC/Radio-Canada as a result of this change given that the proposed *per diem* meeting fee is based on a blend of the recommended annual retainer and the previous *per diem* meeting fee."

The current remuneration scheme can be summarized as follows:

Meetings		Board of Directors	Audit Committee	Other Committees
Regular (in person) Meetings	Attendance in person	For the first 6 regular meeting days: <ul style="list-style-type: none"> <li>• \$2000/day</li> </ul> Thereafter: <ul style="list-style-type: none"> <li>• \$625/day</li> </ul>	For the first 6 regular meeting days: <ul style="list-style-type: none"> <li>• \$1300/day for members</li> <li>• \$1550 for the Chair</li> </ul> Thereafter: <ul style="list-style-type: none"> <li>• \$625/day</li> </ul>	For the first 4 regular meeting days: <ul style="list-style-type: none"> <li>• \$1000/day for members</li> <li>• \$1250 for the Chair</li> </ul> Thereafter: <ul style="list-style-type: none"> <li>• \$625/day</li> </ul>
	Participation by telephone	\$625/day or \$312.50/half-day	\$250/day	\$250/day
Conference Call Meetings		\$250/day	\$250/day	\$250/day

It should be noted that, while this scheme does not provide specifically for additional travel time, the per diem rate of attending a regular in-person meeting is significantly greater than for simply participating by telephone. Also, the current remuneration scheme is complex and could be greatly simplified.

**4. The Government’s review of directors’ compensation**

In 2008, in response to many Crown Corporations having expressed their dissatisfaction with the directors’ remuneration levels, the Government tasked its Advisory Committee on Executive Level Retention and Remuneration (the “Stephenson Committee”) to review directors’ compensation. The Committee made its recommendations in 2010, but, in light of the prolonged period of fiscal restraint, the Government has yet to respond to the proposed recommendations.

The key elements of the recommendations included:

- a compensation framework that is benchmarked against the Canadian public sector market
- four groups/categories of Crown Corporations -- with CBC\Radio-Canada most likely falling in the last/highest category along with Canada Post
- a meeting attendance fee – expected to be \$1,000 for CBC\Radio-Canada
- an annual retainer (which would also cover any other director activity or service) expected to be \$17,500 for CBC\Radio-Canada
- a retainer premium for committee chairs – expected to be \$5,900 for CBC\Radio-Canada

**5. Options considered by the Board in September 2010**

Following the presentation of the Stephenson’s Report, the Nominating and Governance Committee considered the merits of broaching the subject-matter of Board remuneration with the Minister. The Committee “decided; after discussion, to defer further consideration of the matter until May 2011, in light of: (i) the fact that the Government has not yet responded to the recommendations of the Stephenson Committee; and (ii) under the Expenditure Restraint Act, the restraint period continues until March 31, 2011.”

In addition to seeking an amendment to the *Broadcasting Act*, the following options were presented to the Committee:

Meetings	Current	Option 1	Option 2
Board Meeting Fee(First Day)	\$2,000	\$2,500	\$3,500
Board Meeting Fee(Additional Day)	\$625	\$1,200	\$1,500
Committee Meeting Fee (Member)	\$1,000/\$1,300	\$1,200	\$1,500
Committee Meeting Fee (Chair)	\$1,250/\$1,550	\$1,600	\$2,000
Conference Call Meeting Fee	\$250	\$400	\$500

The matter was again brought to the Committee's attention in September 2011 as an information item, noting that the Corporate Secretary would continue to monitor the government's plans to implement the Stephenson Report's recommendations and, when the government's implementation plans will be known, will recommend an appropriate course of action. There are currently no signs that the Government intends to address these recommendations within the next fiscal year.

## 6. Comparative costs

The annual and inflation-adjusted costs of the various schemes are presented below.

<b>Remuneration Schemes</b>	<b>Annual Cost</b>	<b>Pro Forma Inflation to 2013</b>
1. The Government's <i>Remuneration Guidelines for part-time Governor in Council Appointees in Crown Corporations</i>	170,775	* 218,000
2. The Corporation's remuneration scheme from 2001 to 2006	167,695	* 214,000
3. The Corporation's remuneration scheme since 2006	173,250	* 221,100
4. The Government's review of directors' compensation	306,100	** 319,800
5. September 2010 Option A	207,400	** 216,700
6. September 2010 Option B	278,000	** 290,400

(\* approx. 27.6%)

(\*\* approx. 4.5%)

## 7. Statutory provisions and practices of select Crown Corporations

The statutory provisions and practices relating to the fees paid to directors vary among Crown Corporations. About two-thirds of the Crown Corporations surveyed have statutory provisions for the payment of fees for the “attendance at meetings” (or very similar wording) while about one-third have different or additional wording in their statutes that enables them to pay fees for other activities. Among the Crown Corporations with provisions that limit the payment of fees to the “attendance at meetings”, two-thirds also pay, to varying degrees, fees for things other than the “attendance at meetings”, such as preparatory time, travel time or the attendance at other activities (such as orientation and training sessions, industry conferences, and events sponsored or hosted by the Corporation). Indeed, there appears to be no correlation between the wording of the statutory provisions and the actual practices nor between who fixes the fees and the actual practices.

CROWN CORPORATIONS	STATUTORY PROVISIONS (*)		CORP. PAYS FOR (CONFIDENTIAL)		
	X = Payments for the attendance at meetings	Set By	Prep Time	travel Time	other things
Bank of Canada	X	Bylaw			
Business Development Bank	X “and to perform their duties under this Act”	GIC			
Canada Deposit Insurance Corporation	X	GIC			
Canada Mortgage and Housing Corporation	X	GIC			
Canada Post	X	GIC			
Canadian Air Transport Security Authority	X “or perform other duties required of them as directors of the Authority”	GIC			
Canadian Broadcasting Corporation	X	Bylaw			
Export Development Canada	“salary, fees or other remuneration”	GIC			
Farm Credit Canada	(*)	(*)			
National Arts Centre	X	Bylaw			
National Capital Commission	“allowances or other remuneration”	GIC			
Pacific Pilotage Authority	“daily allowance...for each day that the member is engaged in the business of the Authority”	GiC			
Royal Canadian Mint	“... salary... and benefits...”	GiC / Bylaw			
Telefilm Canada	X	Bylaw			
VIA Rail (inc. under the <i>Canada Business Corporations Act</i> )	(*)	(*)			
<b>TOTAL: 15</b>	<b>/</b>	<b>NUMBER OF CROWN CORPORATIONS THAT PAY:</b>	5	9	9

(\*) when there is no provision in the governing Act, the provisions of the *Financial Administration Act* apply (i.e., the Governor in Council fixes the rate of remuneration).

## 8. Options available to the Board under the *Broadcasting Act*

If the Board feels that remuneration is a matter that it wishes to advance with the Minister at this time, the following options could be pursued, in increasing order of difficulty of accomplishment or of desirability:

Options	Comments
(a) Amend the Corporation's Bylaws to provide for increased per diem amounts	<ul style="list-style-type: none"> <li>• Respects the specific wording of the <i>Broadcasting Act</i></li> <li>• Transparent and visible</li> </ul>
(b) Amend the Corporation's Bylaws to include fees for the time spent preparing for, and travelling to, meetings (as an extension of attending meetings)	<ul style="list-style-type: none"> <li>• Does not respect the specific wording of the <i>Broadcasting Act</i></li> <li>• The interpretation that "fees ... for the attendance at meetings" includes fees for preparing for, and travelling to meetings, could be successfully challenged</li> <li>• Requires the Corporation and the Minister to revert (in part) to the pre-2006 scheme which was expressly repudiated</li> <li>• Transparent and visible</li> </ul>
(c) Amend the Corporation's Bylaws to provide for a scheme similar to the one recommended in the Stephenson's Report	<ul style="list-style-type: none"> <li>• Does not respect the specific wording of the <i>Broadcasting Act</i></li> <li>• The interpretation that "fees ... for the attendance at meetings" includes both retainers and fees could be successfully challenged</li> <li>• Requires the Corporation and the Minister to revert to the pre-2006 scheme which was expressly repudiated</li> <li>• Transparent and visible</li> </ul>
(d) Seek an amendment to the <i>Broadcasting Act</i> to expand the list of activities for which directors can be remunerated	<ul style="list-style-type: none"> <li>• Requires the Minister's approval, the consent of other Ministers to introduce legislation, the passage of legislation through Parliament, and public support</li> <li>• May cause other revisions to be made to the <i>Broadcasting Act</i></li> <li>• Very transparent and very visible</li> </ul>