

Supplementary Brief

Towards a 21st Century, Audience-First Regulatory Framework for Canada's Public Broadcaster

I. Introduction

- 1 CBC/Radio-Canada is unique in the Canadian broadcasting system. As the nation's public broadcaster, we are the only player in the system mandated to serve *all* Canadians. In order to meet this mandate, we bring distinctive content to audiences across the country in every possible way so that they can choose the platform most suited to their situation, not the one most convenient to us. We have been proactive and innovative for many years, adapting to Canadians' consumption needs as the technology and the environment have evolved.
- 2 As we turn to this licence renewal process, we believe the challenge is how to transition from legacy regulation of CBC/Radio-Canada's traditional platforms to a future-facing regulatory framework. This future-facing framework must recognize not only the multi-platform realities of today, but also must support the continued evolution of that reality over the next several years. Simply put, we need a bridge between legacy regulation and this future framework; a bridge that supports and strengthens the role and differentiating characteristics of the public broadcaster.
- 3 CBC/Radio-Canada's response to this challenge is to propose several significant changes to our existing regulatory commitments, and the addition of innovative new commitments in order to set Canada's public broadcaster on the path to a comprehensive new framework that fully spans all platforms. Specifically, we are proposing:
 - Enhanced commitments for programs of national interest (PNI), children's and youth programming, and local programming spanning traditional and digital audio-visual platforms;
 - Renewed and expanded commitments for independent production in audio-visual content;
 - New consultation and reporting commitments with respect to content created by and for Indigenous peoples;
 - New reporting commitments for reflecting diversity on-screen, on- air, in content production and within CBC/Radio-Canada's workforce; and
 - New reporting commitments for gender parity in audio-visual content production.
- 4 We strongly believe that these proposals will position CBC/Radio-Canada to meet the challenges of the evolving broadcasting and communications environment in keeping with its statutory mandate under the *Broadcasting Act*.

- 5 In its May 2018 document, *Harnessing Change*,¹ the Commission recognized the challenges described above and suggested that, eventually, all platforms used by broadcasters should be subject to regulatory oversight by means of broad service agreements that would establish binding commitments for “service groups”. Those agreements would enable broadcasters to satisfy the goals of the *Broadcasting Act*, while also meeting the realities of the changing media environment.
- 6 We strongly support the regulatory approach outlined by the Commission in *Harnessing Change*. However, we also note that the Commission’s proposal assumes there will be amendments to the *Broadcasting Act* which would enable this more comprehensive form of regulation. In the absence of these legislative changes, we believe it is necessary to continue with the regulatory approach currently in place under the *Broadcasting Act*: that is, the continued licensing of traditional services and the exemption of digital services under the Digital Media Exemption Order (DMEO).² Our proposals for a transitional regime are based on this regulatory framework and go as far as we believe is reasonable in the current context. We note that this approach aligns with our submission to the Yale Panel tasked with making recommendations to the Federal Government for legislative renewal.³

II. The Media Environment in which CBC/Radio-Canada Operates

- 7 Canadians have embraced digital and, as a result, have access to the best content the world has to offer. By 2020, there will be more Canadian households subscribed to OTT services (foreign and Canadian) than there will be households subscribed to traditional television.⁴ Similarly, Canadians in greater numbers than ever before are turning to online audio services such as Spotify, Apple Music, and CBC/Radio-Canada’s own digital audio services. In fact, nearly three quarters of all Canadians (72%) now listen to online audio. Six in 10 stream music on YouTube, and a quarter of all Canadians use Spotify each month.⁵
- 8 While CBC/Radio-Canada is a prominent player in the online video and audio space, we must also continue to serve audiences over traditional audio and audio-visual platforms. As illustrated in the graphs below, traditional media services continue to hold a significant place in the Canadian broadcasting system. However, it is expected that the number of Canadians who watch a combination of traditional and online content will continue to grow in the future and that an increasing number of Canadians will only watch content online. See Appendix A for the full [Canadian Viewing Profiles](#).

¹ See “Harnessing Change: The Future Programming Distribution in Canada,” (2018) at <https://crtc.gc.ca/eng/publications/s15/>.

² *Exemption order for digital media broadcasting undertakings* (DMEO) is set out in the appendix to Broadcasting Order [2012-409](#).

³ “Our Culture, Our Democracy: Canada in the Digital World,” January 2019. Submissions and appendices at <https://cbc.radio-canada.ca/en/vision/strategy/submission>. For context, see “Broadcasting and Telecommunications Legislative Review,” at <https://www.ic.gc.ca/eic/site/110.nsf/eng/home>.

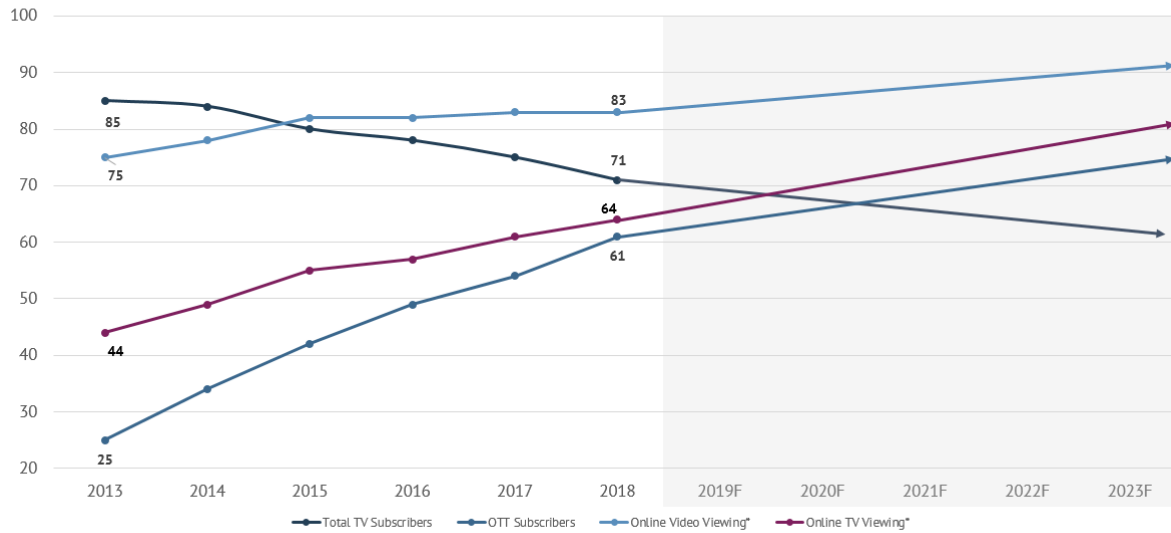
⁴ See The Convergence Research Group, Annual Report, *The Battle for the North American (US/Canada) Couch Potato: OTT and TV*, Online (April 2019).

⁵ Media Technology Monitor (“MTM”), Spring 2019.

Trends in Media Consumption

Canadian Video Technology Adoption

Canadians | %



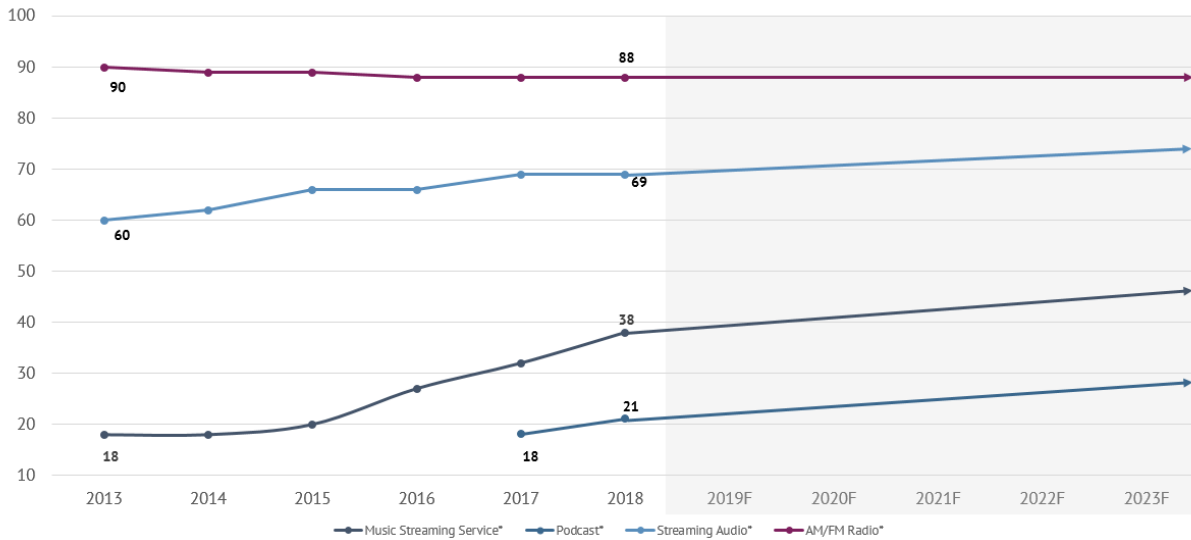
* Online video and TV viewing are based on past month user.

Source: Media Technology Monitor, Trends and Projections, Fall 2018

Trends in Media Consumption

Canadian Audio Technology Adoption

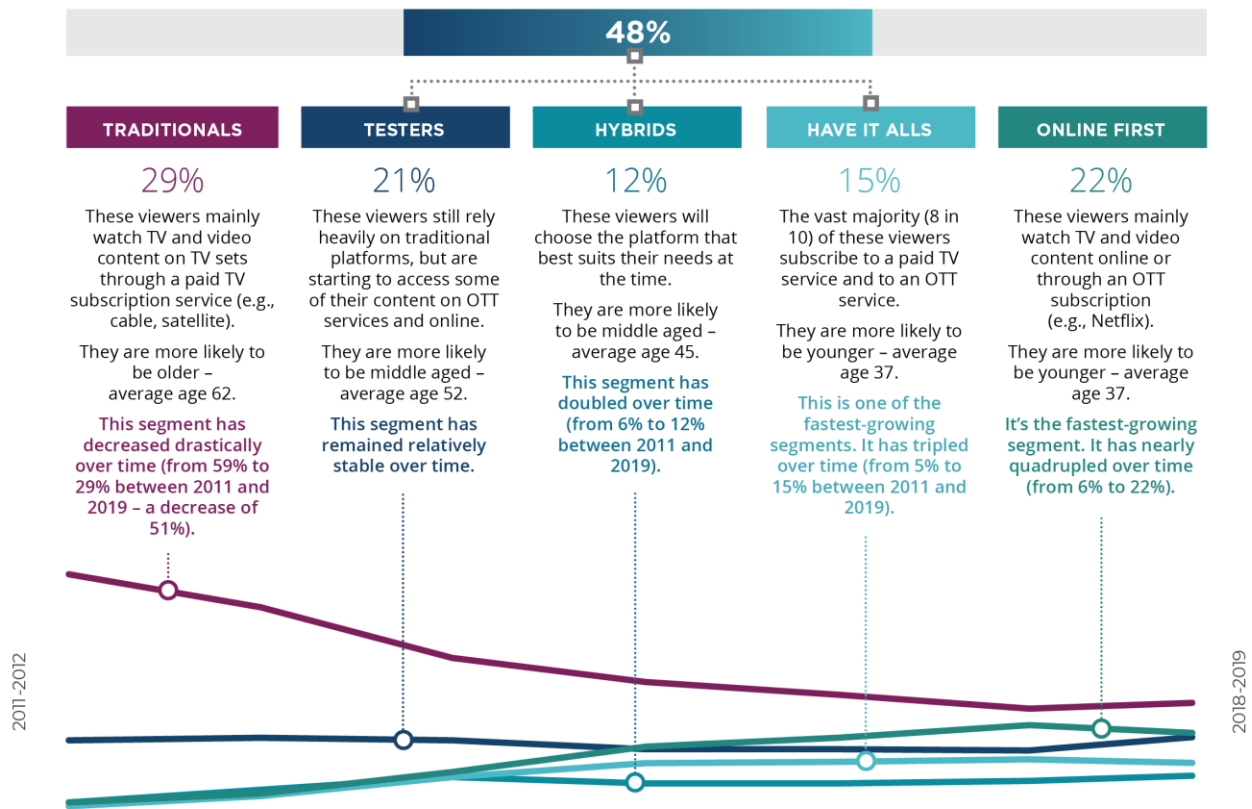
Canadians | %



*Based on past month user.

Note: AM/FM Radio includes traditional and online consumption.

Source: Media Technology Monitor, Trends and Projections, Fall 2018



Source: Media Technology Monitor, 2019 Canadian Viewing Profiles

9 These trends clearly illustrate that CBC/Radio-Canada, in its mandate to serve *all* Canadians, will have to maintain a strong presence in both traditional and digital media for the foreseeable future. Fortunately, we are already deeply rooted in this new hybrid world of broadcasting, as shown below in the list of our services.



See Appendix B for a detailed description of our services.

- 10 Our two main networks are based in Montreal (French) and Toronto (English), with over 60 locations across the country that house 27 television stations, 88 radio stations and one digital-only station. Our French- and English-language television networks and stations provide a mix of programming that appeals to a general audience, and our four Canada-wide radio networks are unique audio services with a highly Canadian focus and innovative audio programming, whether it be news, music, current affairs, or matters of general cultural interest. We have five discretionary television channels. Internationally, we operate eight foreign bureaus and have developed a flexible approach for deploying “pocket bureaus”.
- 11 We offer six audio channels of content across North America through a partnership with SiriusXM Satellite Radio. We also join forces with other francophone public broadcasters to broadcast French Canadian television content internationally through TV5MONDE.
- 12 We continue to strengthen our traditional services and extend and deepen our activities in the digital domain. The CBC/Radio-Canada network of digital services is used by over 20 million Canadians monthly, and consistently ranks in the top 10 online properties used each month by Canadians.⁶
- 13 Overall, CBC/Radio-Canada’s approach to distribution and delivery of its content is to maximize availability and discoverability among Canadians: on traditional radio and television platforms; with BDU distribution and VOD; on CBC/Radio-Canada digital platforms and applications; social media channels, such as Facebook and Snapchat; and other third-party platforms, such as YouTube, Netflix, Apple Podcasts, Spotify and Luminary. We anticipate that our offer will evolve further as we provide new content in new ways to all Canadians.
- 14 The following section sets out the regulatory measures we believe will provide an appropriate bridge to the future for CBC/Radio-Canada over the next licence term. See list of Conditions of Licence and expectations attached to the application in response to Q33, Q37, Q94 and Q100 for a complete list of proposed regulatory measures.

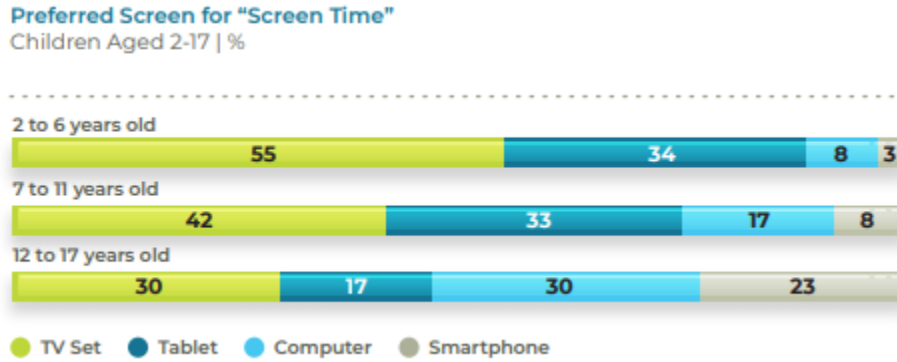
III. Regulatory Commitments

- 15 At present, our services on traditional platforms are subject to licensing, with accompanying conditions of licence and expectations, while our digital services are exempt from licensing pursuant to the DMEQ. We believe the current approach should continue until such time as the *Broadcasting Act* is revised and a new regulatory regime is introduced. In the meantime, we are proposing the following forward-looking commitments for the next licence term.

⁶ See Appendix C “The Top 100 Most Visited Digital Properties in Canada,” Comscore data, September 2018 to June 2019.

1) Genre Content Commitments

- 16 The way Canadians access content is changing. For example, the graph below shows how children and youth access content. As children age, the platforms on which they consume video changes: they move away from television and shift toward digital devices that stream video content.



Source: MTM Junior, 2019⁷

- 17 The graph above illustrates very clearly why CBC/Radio-Canada needs to be able to target its children’s and youth programming in a responsive manner, with multi-platform offerings in some cases or the most appropriate platform in others. Without this flexibility to serve audiences “where they are”, we risk not reaching them at all, nor properly serving them. We believe similar pressures apply in respect of Programs of National Interest (PNI) and local programming, and that these pressures will continue to accelerate over the next licence term.
- 18 In the past, the Commission has imposed conditions of licence on our conventional television networks with respect to these types of content. To date, no consideration has been given to what we might be doing in the digital realm. We believe it is appropriate now to bring the regulatory framework into better alignment with the changes in viewing patterns. Consequently, we are proposing a new approach to content commitments for our French- and English-language television networks which takes into account, for the very first time, both traditional and digital exhibition of audio-visual content.
- 19 In order to recognize and encourage the exhibition of audio-visual content on digital platforms, we are proposing for each type of content the following approach:
- First, a cross-platform goal described as a total number of exhibition hours for combined conventional television and digital platforms;⁸
 - Second, an accompanying condition of licence setting a minimum exhibition obligation for conventional television; and
 - Anything between the conventional television minimum and the total exhibition goal could be broadcast either on the conventional television network or on a digital platform.

⁷ See the [Sneak Peak Infographic](https://mtmjunior.ca) at <https://mtmjunior.ca>.

⁸ Currently, CBC/Radio-Canada’s online audio-visual programming services consist of ICI TOU.TV and CBC Gem. This may evolve in the future.

20 We are proposing the following commitments:

French Services

- a) **PNI programming** – an expectation of 8 hours per week of PNI programming in total (i.e., total exhibition hours for conventional television and our digital platforms), and a condition of licence setting a minimum of 6 hours per week on the ICI TÉLÉ;
- b) **Children’s and youth programming** – a condition of licence of 15 hours of children’s programming per week on the ICI TÉLÉ, and an expectation of 110 hours of original children’s and youth programming in total (i.e., total exhibition hours for conventional television and our digital platforms), with a condition of licence setting a minimum of eighty 80 hours of original children’s and youth programming per broadcast year on the ICI TÉLÉ; and
- c) **Local programming** – an expectation of 5.5 hours per week of local programming in total (i.e., total exhibition hours for conventional television and our digital platforms); and a condition of licence setting a minimum of 5 hours of local programming on the ICI TÉLÉ stations.

English Services

- a) **PNI programming** – an expectation of 10 hours per week of PNI programming in total (i.e., total exhibition hours for conventional television and our digital platforms), and a condition of licence setting a minimum 7 hours per week on CBC Television;
- b) **Children’s and youth programming** – a condition of licence of 15 hours of children’s programming per week on CBC Television; and an expectation of 80 hours of original children’s and youth programming in total (i.e., total exhibition hours for conventional television and our digital platforms), with a condition of licence setting a minimum of 40 hours of original children’s and youth programming per broadcast year on CBC Television; and
- c) **Local programming** – an expectation of 14.5 per week of local programming in metropolitan markets in total, and 7.5 hours per week of local programming in non-metropolitan markets per week in total (i.e., total exhibition hours for conventional television and our digital platforms), with a condition of licence setting a minimum of 12 hours per week on CBC Television stations in metropolitan markets, and 5 hours per week on CBC Television stations in non-metropolitan markets.

21 As indicated above, we would satisfy the expectation for a particular genre of content by means of traditional *and* digital platforms, but be subject to the *specified floors* on traditional platforms. This proposal will allow us the flexibility to serve Canadians on whichever platform they choose to access our programming; in short, to put our *audiences first* in our programming strategies.

ii) Independent Production

- 22 CBC/Radio-Canada highly values Canada's independent producers as partners; together we are the engine for the country's creative sector.
- 23 Over the current licence term, we have reduced our non-news in-house production and we have partnered with more independent producers to support a broader range of Canadian programming. According to the Canadian Media Producers Association (CMPA) annual industry *Profile 2018*, Canadian public broadcasters (principally CBC/Radio-Canada) invested – by way of broadcast licence fees – an estimated \$387 million in the creation of original Canadian television programming in 2017/18. This number exceeded the estimated amount (\$360 million) invested by all private Canadian broadcasters, combined.⁹
- 24 We are committed to maintaining this significant contribution to the Canadian independent production sector. To this end, we propose the following conditions of licence with respect to independent production over the next licence term.

For all CBC/Radio Canada conventional television stations and digital platforms:

- Establish an expectation that no less than 80% of all audio-visual Canadian content, other than news, sports, and current affairs programming, be produced by Canadian independent production companies.

For all CBC/Radio-Canada conventional television stations:

- Continue to broadcast programs from independent producers as one component of “the balanced programming schedule” condition of licence.

For CBC Television:

- Maintain the current obligations requiring 6% of its independent programming expenditures and 10% of its development expenditures be spent on independent English-language production in Quebec;
- Increase the condition of licence for independent production of PNI from 5.25 hours per week to 80%; and
- Increase the condition of licence for independent production for children's programming from 75% to 80%.

For ICI TÉLÉ:

- Maintain the current obligation requiring 6% of its independent programming expenditures be spent on independent production outside Montreal;
- Establish a condition of licence that at least 3% of its independent programming expenditures be spent on independent production outside Quebec;

⁹ Source: Canadian Media Producers Association (CMPA), 2018 Profile, Exhibit 4-17, pg. 38.

- Increase the condition of licence for independent production of PNI from 75% to 80%;
- Increase the condition of licence for independent production for children's programming from 75% to 80%.

25 The proposed conditions of licence with respect to independent production on CBC/Radio-Canada's discretionary services ICI ARTV, ICI Explora and *documentary* Channel are set out below in section v) Other Regulatory Obligations.

III) Programming by and for Indigenous Peoples

26 CBC/Radio-Canada contributes to the preservation and promotion of Indigenous languages by offering Indigenous language news and information services across television, radio and digital platforms in Canada's North in eight (8) languages: Inuktitut, Gwich'in, Inuvialuktun, North Slavey, Tlicho, South Slavey, Chipewyan and Cree.

27 In addition to CBC North, we create and commission a wide range of programming by and for Canada's diverse Indigenous peoples, and reflect Indigenous realities across all our platforms. As set out in our new Strategic Plan, *Your Stories, Taken to Heart*, we are committed to reflecting Indigenous communities across Canada in everything we do, from our workforce to our programming, across all platforms and all genres of content.

28 We want to improve our service to Indigenous communities across Canada. Accordingly, we are proposing the following commitments regarding consultations and reporting.

29 First, a condition of licence to hold formal consultations at least once every two (2) years with Indigenous communities in each of the regions of Atlantic Canada, Quebec, Ontario, Western Canada, and the North to discuss broadcasting issues of importance to them. In parallel with these community consultations, we would also hold consultations with Indigenous independent producers in each of the five regions. We would report to the Commission annually on consultations that took place that year, and demonstrate how feedback from the consultations was taken into consideration in CBC/Radio-Canada's decision-making process.

30 Second, a condition of licence to report annually on the following matters: 1) the percentage of Indigenous staff that are hired during the broadcast year and at the management level at CBC/Radio-Canada; 2) the number of Indigenous producers CBC/Radio-Canada met with during the broadcast year; 3) the number and budgets of audio programs commissioned from Indigenous producers during the broadcast year; 4) the number and budgets of audio-visual programs commissioned from Indigenous producers during the broadcast year; and 5) data regarding Indigenous reflection and Indigenous language programming commissioned by or produced by CBC/Radio-Canada. We would accept an expectation that we would provide all of the above information in respect of both our traditional and our digital platforms in a single report.

Diversity

- 31 CBC/Radio-Canada is significantly increasing its commitment to diversity in its operations and programming as well as reporting on our progress in these areas. We are proposing a condition of licence to report annually on the following matters: 1) the percentage of diverse staff that are hired during the broadcast year and at the management level at CBC/Radio-Canada; 2) annual statistics regarding diversity in CBC/Radio-Canada's commissioned and in-house programs in terms of onscreen/audio performance; 3) annual statistics regarding diversity in CBC/Radio-Canada's commissioned programs on the production side (i.e., diversity in key creative positions such as producer, director, writer, showrunner or lead performer).

IV) Gender Parity

- 32 CBC/Radio-Canada has placed great emphasis on ensuring gender parity in key creative positions related to its commissioned audio-visual programming. We recently measured Radio-Canada's and CBC's performance with respect to our overall gender balance in the key creative positions of producer, director, writer and showrunner during the 2018-2019 broadcast year. The results illustrate our leadership role in promoting opportunities for women. We surpassed our goal of gender parity across all independently produced original, scripted and unscripted Canadian television shows on our linear and digital platforms. During the 2018/19 broadcast year across all original French and English shows, we supported 62% female-led projects where the majority of the key creative roles of producer, director, writer and showrunner were held by women.
- 33 We intend to continue down this path. We therefore propose a condition of licence to report annually on the percentage of commissioned television programs with women in key leadership roles for both French- and English-language productions. We would accept an expectation that we would provide all of the above information in respect of both our traditional and our digital platforms in a single report.

V) Other Regulatory Obligations

- 34 In addition to the commitments discussed above, we propose to carry forward existing regulatory obligations from our present licence term, subject to some adjustments. Specifically, we suggest the Commission's licence renewal decision include provisions related to:
- 1) CBC/Radio-Canada's social obligations, such as accessibility, codes of conduct, role of the Ombudsman, as well as appropriate reporting requirements relating to these obligations as detailed in our responses to questions 66-70 and 73-77;
 - 2) The conditions of licence and expectations for our conventional radio networks, as detailed in our responses to questions 88-94;
 - 3) The conditions of licence and expectations for our conventional television networks, including the enhanced commitments with respect to PNI, children's and youth programming, and local programming, as detailed in our responses to questions 99 and 100;
 - 4) The conditions of licence and expectations for our discretionary services, as detailed in our responses to questions 33-39, 99 and 100;

- 5) The consultation and reporting commitments with respect to programming by and for Indigenous peoples, as outlined above and described in greater detail in our responses to question 56; and
- 6) The additional commitments regarding diversity and gender parity, as outlined above and described in detail in our responses to question 57.

35 We note that most of the proposed regulatory obligations for our conventional television and radio services are similar to the obligations established in the last licence renewal process.

36 We also note that, as Canada's national public broadcaster, our statutory mandate is to provide Canadians with Canadian programming. The Commission has never had to impose expenditure requirements on CBC/Radio-Canada's conventional television networks in order to ensure we meet our statutory requirements for Canadian programming. Consequently, we believe the type of regulatory flexibility offered under an expenditure-based group licensing approach would not be relevant to or appropriate for CBC/Radio-Canada.

37 With respect to our discretionary services, we are proposing new conditions of licences for ICI ARTV, ICI EXPLORA and *documentary* Channel. These strike an appropriate balance between their historical contributions to the system and their vulnerability to significant distribution and subscriber changes over the next licence term. We are proposing the following conditions of licence:

ICI ARTV:

- Maintain the current obligation of 60% Cancon, but measured across the broadcast day;
- Maintain the current Canadian Programming Expenditure (CPE) condition of licence at 50%; and
- Maintain the current condition of licence requiring at least 50% of Canadian programming from Canadian independent production companies.

ICI Explora:

- Maintain the current obligation of 35% Cancon, but measured across the broadcast day; and
- Establish a CPE condition of licence at 40%.

documentary Channel:

- Maintain the current obligation of 75% Cancon, but measured across the broadcast day;
- Maintain the current CPE condition of licence at 43%;
- Maintain the requirement that no less than 75% of our original, first-run Canadian content hours are from independent production companies; and
- Maintain the requirement that no less than 25% of all our Canadian programs broadcast other than news, sports, and current affairs programming are produced by independent production companies.

- 38 The proposals for ICI ARTV and *documentary* Channel exceed the standard conditions of licence for discretionary services established by Broadcasting Regulatory Policy CRTC 2015-86. In addition to these conditions of licence, we will adhere to the other Standard Conditions of Licence, expectations and encouragements for discretionary services as set out in Appendix 2 to Broadcasting Regulatory Policy CRTC 2016-436.
- 39 We are also asking that our national news services, ICI RDI and CBC News Network, have their section 9(1)(h) mandatory orders renewed and be subject to the revised standard conditions established in Broadcasting Regulatory Policy 2015-436. We also request a continuation of ICI RDI's existing condition of licence with respect to programming from the regions. In addition, we are requesting that *both* services be granted a modest increase in their wholesale rates. Specifically, we are requesting modest increases in the wholesale rates of ICI RDI to \$0.13 when carried in English-language markets and of CBC News Network to \$0.20 when carried in French-language markets. These would represent the first wholesale rate increases, of approximately 30% for each of these services, from the rates that were established by the Commission over a quarter of a century ago.

IV. Conclusion

- 40 The broadcasting environment continues to change rapidly. Canada's media ecosystem has been disrupted profoundly by foreign digital giants, who have captured significant market share among Canadian viewers, listeners, and users of digital services. Canadian media companies have no choice but to keep up; otherwise, we risk irrelevance among Canadians. To confront and meet this challenge, CBC/Radio-Canada's strategy has been to put *audiences first* and to serve them the content they want on the platforms they prefer.
- 41 Ideally, the regulatory environment would fully reflect these environmental changes. Unfortunately, that is not possible, fully, under the current *Broadcasting Act*. Legislative changes are required, and such change is not within the control of either the Commission or CBC/Radio-Canada. Consequently, we are proposing that the Commission maintain the current regulatory structure with regard to licensing of traditional platforms and the exemption of digital services under the DMEQ. However, what we are proposing is a bridge with a new approach that we believe will help establish a more forward-looking regulatory regime for CBC/Radio-Canada.
- 42 It is our hope and intention in this licence renewal application to strengthen the role and position of CBC/Radio-Canada as the nation's public broadcaster. We are committed to providing news, information and entertainment content to *all* Canadians on whatever platform they have access to or are currently favouring. We are committed to deepening our support to creators and independent producers across the country. We are committed to improving our services to Indigenous peoples. We are committed to upholding the goal of reflecting Canada's population through diversity and gender parity initiatives in our productions and our workforce. These commitments are the promise of public broadcasting. We believe this approach represents the best way forward for CBC/Radio-Canada, the Commission, and for Canadians.

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