

February 24, 2025

Filed via Intervention Comment Form

Marc Morin
Secretary General
Canadian Radio-television
and Telecommunications Commission
Ottawa, Ontario K1A 0N2

Re: Broadcasting Notice of Consultation CRTC 2025-2: The Path Forward – Working towards a sustainable Canadian broadcasting system

Dear Mr. Morin:

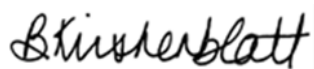
CBC/Radio-Canada is pleased to provide these Comments in response to Broadcasting Notice of Consultation CRTC 2025-2 (the Notice).

As Canada's national public broadcaster, CBC/Radio-Canada provides television, radio, and online programming in English, French and eight Indigenous languages across Canada. Through our mandate to inform, enlighten, and entertain, we play a central role in strengthening Canadian culture. As Canada's trusted news source, we offer a uniquely Canadian perspective on news, current affairs, and world affairs. Our distinctively homegrown entertainment programming draws audiences from across the country and supports the Canadian creative community. In addition to our mandate and programming objectives as set out in the *Broadcasting Act*, CBC/Radio-Canada is required to comply with licensing and other regulatory obligations established by the CRTC.

A sustainable broadcasting system gives Canadian services the opportunity to thrive in traditional and online environments. We appreciate this opportunity to provide our preliminary comments and respectfully request to appear at the public hearing scheduled to commence on May 12, 2025.

Should the Commission require additional information, we would be pleased to provide it on request.

All of which is respectfully submitted,



Bev Kirshenblatt
Executive Director, Corporate and Regulatory Affairs

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Executive Summary

1. The Commission's objective in this proceeding is to ensure a sustainable Canadian broadcasting system. Market forces alone will not achieve all the statutory policy objectives outlined in the *Broadcasting Act* (the Act). This has *always* been the case, and remains so today and for the future.
2. In the traditional system, there is a clear imbalance of power between players, and the imbalance is growing. Canadian programming services, and especially independent Canadian services, are at an obvious and distinct disadvantage when negotiating against a limited number of very large and typically vertically-integrated broadcasting distribution undertakings (BDUs) that make all of the critical carriage, pricing, packaging, promotion, and presentation decisions. This is precisely why the Commission has developed access- and discoverability-related rules for Canadian services and developed mechanisms such as the Wholesale Code, a dispute resolution framework, and prohibitions against undue preference and disadvantage. Vertically-integrated BDUs have the incentive, ability, and opportunity to act in ways prejudicial to unaffiliated Canadian services.
3. In the online system, it is no stretch to suggest that our cultural sovereignty is at stake. The world's biggest communications companies are dominating the Canadian market with foreign content. They are effectively squeezing out and marginalizing Canadian services. Connected devices are in the vast majority of Canadian households and pockets. However, there are no protections currently in place to support domestic programmers on these platforms and interfaces: no access requirements; no prominence or pride-of-place obligations; no prohibition against "pay-for-play" where Canadian services (and particularly independent ones) can hardly compete against giant foreign corporations such as Netflix, Amazon, Google, Apple, and Disney.
4. Parliament has recognized that global technological advances in media and communications have stressed traditional cultural protections. As a result, Parliament amended the Act in 2023 to address the shortcomings in our regulatory system. Other countries have addressed regulatory limitations and implemented their own legislative and regulatory solutions (or are about to put rules in place). Canada has fallen behind and we urge the Commission to move quickly to establish rules and requirements on key online content distribution platforms. The Commission needs to act to ensure the continued presence and viability of a distinct Canadian broadcasting system. The Commission also needs to carve out a special place for Canadian content – as well as Indigenous and minority language content – in an ever-growing sea of foreign programming and distribution systems.
5. It is important to note that the Commission has always established access and discoverability obligations on new content distribution technologies. As a country, we have *never* simply abandoned or otherwise not supported domestic services because of technological change. Indeed, the amended Act and related Policy Directive provide clear direction to the Commission to act, especially with respect to domestic independent services.

6. In summary, there is no evidence to suggest that regulatory intervention is no longer required in the traditional broadcasting system *or* is somehow unnecessary in an online world. The need for access, discoverability, and prominence rules is clear here and in other jurisdictions around the world; and crucially, the viability and sustainability of the Canadian broadcasting system depend on it, today and in the future.
7. In this submission, CBC/Radio-Canada recommends that the Commission:
 - a. Maintain existing support mechanisms and regulatory tools to account for and address the growing imbalance between traditional BDUs and Canadian programming services (particularly independent services). In response to questions in the Notice, CBC/Radio-Canada proposes a limited number of changes or clarifications to the Wholesale Code and dispute resolution mechanisms; and
 - b. Replicate or adapt, wherever possible and permissible, existing support mechanisms and regulatory tools in the online distribution environment, particularly with respect to connected devices given their widespread adoption and use. Recognizing that online distributors may have different technical capabilities and operate under different business models, CBC/Radio-Canada proposes a flexible approach with respect to the prominence of Canadian services; but one that requires mandatory access for specific Canadian services and an obligation for regulated online distributors to measure and report on the value of their respective prominence-related actions. We also urge the Commission to establish the strongest possible undue preference rules and processes for arbitration.

I - Traditional distribution

A) Market Dynamics - Programming services and BDUs

8. Over many decades, Canadian legislators and regulators carefully and intentionally introduced a set of inter-related measures and protections to support national culture and sovereignty and ensure a vibrant and distinct Canadian broadcasting system. Some key measures include:
 - Limits on foreign ownership;
 - Cultural exemptions in free trade agreements;
 - Radio frequency allocations to Canadian broadcasters;
 - Establishment of an independent Canadian broadcasting regulator;
 - Canadian content definitions and formulas, and related exhibition and expenditure levels;
 - Simultaneous substitution;
 - Tax measures and incentives;
 - Eligibility lists to prevent uncontrolled distribution of foreign cable networks and to encourage Canadianized versions of those services; and

- Predominance, access, packaging, local availabilities, and linkage rules on distribution undertakings.
9. Among other things, our country's underlying broadcasting policy is *explicitly* designed to maintain and enhance "national identity and cultural sovereignty" and "encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity."¹ The result of this longstanding policy is a rich and diverse content offering for Canadians that spans all programming categories. It is a complex policy system that includes and supports Canadian public, private, and community broadcasters in multiple languages, small and large players, free over-the-air stations and discretionary services, for profit and not-for-profit offerings, domestic and foreign channels, linear and on-demand programming, and vertically-integrated companies and independent services. Additional mechanisms are in place to protect and enhance the vitality of the English and French linguistic minority communities across the country.
 10. New content distribution technologies have emerged over time. Electronic mass media began with radio, of course, and conventional television stations and networks soon followed. Eventually, intermediaries such as cable and direct-to-home (DTH) satellite systems entered the content value chain and developed direct billing relationships with Canadians. Satellite radio and IPTV followed. In each case, the Commission developed distribution-specific regulations and licence requirements to ensure that Canadian programming services could access and be easily found on those platforms.
 11. The entry of BDUs into the Canadian broadcasting system in the 1970s vastly expanded the number of programming services available and introduced new business models. BDUs became the largest segment of the regulated system by a very wide margin. Today, BDUs generate over \$7 billion of revenue, eclipsing the revenues earned by the discretionary television, conventional television, and radio segments.² Nearly two thirds of Canadians – 64% – still receive their television services via a BDU.³
 12. Eventually, common ownership of programming and distribution undertakings became the leading business model in the electronic communications sector. Publicly-traded telecommunications companies launched and acquired stations and services. Today, two of those companies – BCE Inc. (Bell) and Rogers Communications Inc. (Rogers) – control nearly 60% of the country's roughly 9.2 million BDU subscribers.⁴ At this writing, Bell and Rogers have a combined market capitalization of about \$52 billion.
 13. In the anglophone BDU market, the three (3) largest content distributors hold 88% of total subscribers; and it is the same percentage for the three (3) largest BDUs in the francophone

¹ [Broadcasting Act](#), ss. 3(1)(b), 3(1)(d)(ii).

² CRTC Statistical and Financial Summaries 2019-2023.

³ Media Technology Monitor (MTM), 18+, 2023-2024.

⁴ Derived from The Convergence Research Group Limited, "The Battle for the Canadian Couch Potato: Bundling, Television, Internet, Telephone, and Wireless," March 2024, pp. 8-9.

market.⁵ For Canadian discretionary services, there are now fewer “doors to knock on” than ever before. It is no exaggeration to say that unilateral carriage, pricing, and packaging decisions by a single BDU can effectively determine the viability of entire Canadian services, and indeed, entire independent companies.

14. Of course, the Commission has long recognized the power differential between independent domestic programming services and Canada’s BDUs. The latter hold the direct customer relationship, and control carriage, pricing, packaging, promotion, and placement decisions for linear and on-demand services; they oversee all aspects of content access and discoverability on their respective platforms and the look-and-feel of the user interface; they provide consumer access to any number of traditional and digital platforms and devices. The Canadian broadcasting market is dominated by very large, vertically integrated conglomerates that combine production, program acquisition, broadcasting and distribution activities with telecommunications services and multiple delivery platforms.
15. Recognizing the gatekeeping powers of BDUs, the Commission developed and implemented a number of regulatory tools to ensure that Canadians have access to, and can find and enjoy, the content provided by independently-owned stations and services. Several of these tools are listed and described in the Notice. These include a preponderance rule, access and packaging requirements, a specific code to guide commercial arrangements and negotiations, an undue preference and disadvantage framework, and the provision of various dispute resolution mechanisms.
16. As recently as 2022, the Commission concluded that these existing regulatory tools were *still* insufficient to protect independent services from the scale and scope of one such vertically-integrated BDU. In approving a change in ownership and effective control of Shaw Communications Inc., the Commission expressed concern that Rogers would wield too much control over parts of the system and ultimately concluded:

Nevertheless, the Commission agrees that additional safeguards are required to ensure that Rogers continues to contribute to the Canadian broadcasting system and that its increased scale will not have a deleterious effect on competition in the distribution market, the distribution of Canadian and non-Canadian online broadcasting services, or the availability of Canadian programming services, particularly independent services.⁶

17. To address this concern – and it was expressed by many parties – the decision included a requirement for Rogers to distribute a minimum of 45 Canadian independent English- and French-language programming services, excluding services by Corus Entertainment Inc. (Corus), on each of its terrestrial BDUs and DTH BDUs. The Commission also mandated Rogers to provide assistance to independent programming services in the development of online

⁵ Linguistic market breakdowns derived from CBC/Radio-Canada BDU remittances, October 2024.

⁶ *Shaw Communications Inc. – Change of ownership and effective control*, [Broadcasting Decision CRTC 2022-76](#), March 24, 2022, para. 77.

applications, and expected Rogers to launch such applications as they become available in a manner that fosters discoverability.

18. In short, to address the legitimate concerns of independent Canadian programming services in an increasingly consolidated, vertically-integrated, and telecom-dominated broadcasting sector, the Commission imposed some additional measures, over and above existing regulatory protections and mechanisms, such as the standstill rule and the Wholesale Code.
19. All of this is important because the system is experiencing a decline of BDU support for unaffiliated domestic programming services. BDUs are increasingly marketing and otherwise promoting their respective bundled telecom offerings and the deep-pocketed foreign streaming services now available on their platforms. It has become much more difficult to access BDU call centres to promote our various brands and content offerings (these centres employ the very people who sell programming services and packages); and, on certain BDUs, it is even challenging to arrange for service “freeviews” that encourage content sampling and provide added visibility. Even when offered “at cost,” the local availabilities on BDU systems, combined with the Commission’s strict rules on this form of promotion, effectively price smaller players out of the opportunity.
20. Reducing or otherwise weakening existing regulatory tools would run counter to the Commission’s stated objective to establish a fair and competitive marketplace and ensure a rich diversity of domestic content. It would also overlook fundamental broadcasting policy objectives outlined in subsection 3(1) of the Act, including subparagraph 3(1)(d)(iii.5), added to the Act in 2023, which states that the Canadian broadcasting system “should ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system”.

B) Regulatory framework for the distribution of programming services by BDUs

21. In light of the market dynamics impacting relations between Canadian programming services and traditional distribution by BDUs, and to ensure that the Act’s objectives are met, CBC/Radio-Canada believes that the following key items of the current regulatory framework and tools must be maintained.

1) Specific services that must be distributed by BDUs

22. The current regulatory framework for traditional distribution on BDUs ensures that services which have programming requirements essential to meet the objectives of the Act can fulfill their role and be widely accessible by Canadians. These requirements can, for example, relate to the provision of local and regional news, original national Canadian news, children’s programming, original French-language programming, programming serving and reflecting diverse

communities, including Indigenous communities, official language minority communities (OLMCs), and equity-deserving groups.

23. Such rules include requirements that BDUs distribute⁷ *specific* programming services, which each have specific programming requirements serving the objectives of the Act, such as :
- at least one English-language and one French-language television station operated by the national public broadcaster CBC/Radio-Canada;
 - provincial educational television programming services, such as TVO and Télé-Québec;
 - private local over-the-air television stations;
 - discretionary television services that qualify as national news services,⁸ which currently include CBC News Network, ICI RDI, CTV News Channel, Le Canal Nouvelles and The News Forum; and
 - discretionary television programming services that the Commission has determined to be of exceptional importance for the achievement of the Act's objectives, such as, for example, APTN, CPAC, TV5/UNIS and AMI-tv and AMI-télé.⁹

2) Proportion of certain television services that must be distributed

24. BDUs must distribute certain proportions of independent discretionary programming services, such as the 1:1 rule, which requires a BDU to distribute at least one discretionary service of an independent programming undertaking for each discretionary service of a related programming undertaking that it distributes.¹⁰
25. BDUs must also comply with the 1:10 rule, which requires a BDU to distribute at least one French-language discretionary service for every 10 English-language programming services in an anglophone market, and at least one English-language discretionary service for every 10 French-language programming services in a francophone market.¹¹ These requirements for

⁷ Mandated by the Commission through various regulatory tools, such as s.17.1 and 46 of the *Broadcasting Distribution Regulations*, mandatory distribution orders under paragraph 9.1(1)(h) of the Act, and BDU's conditions of service.

⁸ The conditions of service of national news discretionary news services are set out in Appendix 3 of Broadcasting Regulatory Policy CRTC 2023-306. The conditions require the programming to have high proportions of mainstream national news and information and of original programming, and 90% of the programming must be Canadian.

⁹ Under paragraph 9.1(1)(h) of the Act, the Commission may require BDUs to carry specific programming services on certain terms and conditions, such as the monthly wholesale rate to be paid by BDUs. When considering mandatory distribution on the digital basic service, the Commission assesses criteria in Broadcasting Regulatory Policy CRTC 2010-629 and issues distribution orders accordingly.

¹⁰ Paragraph 19(3)(a) and b) of the *Broadcasting Distribution Regulations*.

¹¹ *Broadcasting Distribution Regulations*, ss.18(2)(a)(iii), 18(2)(b)(iii).

BDUs help to ensure the prominence of Canadian programming services, as well as a minimum number of services to serve OLMC markets.

26. The distribution requirements described above in section 1) and 2) should continue to exist to ensure access to Canadian programming services that are essential to achieving the Act's objectives and maintaining a sustainable broadcasting system.

3) Wholesale Code, dispute resolution and undue preference

27. For market dynamics reasons outlined above, the Wholesale Code and dispute resolution processes – which currently include mechanisms such as staff assisted mediation (SAM), final offer arbitration (FOA) and the standstill rule, as well as the undue preference prohibition – are regulatory mechanisms that should also be maintained and remain accessible to independent programming services. The need for these mechanisms is even more acute today.
28. It is important to recall that many of these mechanisms are beneficial for consumers. The standstill rule, for example, ensures that viewers can continue to have access to a programming service and not be denied specific programs because of difficult industry-related negotiations. An orderly negotiation and dispute resolution process can only work if the threat of service removal during a dispute is not an option for either party. We all have seen how the absence of standstill rules plays out in the United States where one of the parties chooses to “go dark” at a time of greatest inconvenience to consumers.¹²
29. CBC/Radio-Canada proposes that some aspects of the Wholesale Code and the dispute resolution process be reviewed to address the growing imbalance in negotiating power. Below, are four minor but practical adjustments to the existing tools that could help ensure pride-of-place for independent domestic services in a market dominated by some of the largest domestic content and communications companies.
30. The Commission's Wholesale Code includes a list of unweighted fair market value (FMV) factors that must be taken into consideration during wholesale fee negotiations between programming undertakings, BDUs, or exempt digital media undertakings.¹³
31. CBC/Radio-Canada submits that Canadian content requirements could be particularly relevant factors in a value-based negotiation. Moreover, for clarification purposes, we recommend that “public interest and policy objectives” be included in the list of FMV factors in section 6 of the Wholesale Code. The Commission has already determined that public interest and broadcasting policy are directly relevant in FOA or any other dispute resolution process where monetary terms

¹² See, for example, [Altitude and Comcast reach deal to broadcast Denver Nuggets, Colorado Avalanche games ending nearly 6-year blackout](#); [Spectrum owner Charter calls pay-TV model broken as it battles Disney over blackout](#); [Nexstar TV stations blackout on DirecTV ends after 76 days - Los Angeles Times](#); [Knicks, NHL Teams Go Dark in New York Amid Cable Dispute](#); and [Cable TV is disrupting the industry at a critical time](#).

¹³ *The Wholesale Code*, Broadcasting Regulatory Policy CRTC 2015-438, September 24, 2015, Appendix, section 6.

are in dispute,¹⁴ where the Commission examines “the impact on the ability of a programming service to create Canadian programming, contribute to the diversity of such programming and otherwise contribute to the achievement of the policy objectives set out in the Act”. Adding this clarification in the list of FMV factors in section 6 of the Wholesale Code would reflect longstanding and current practice.

32. CBC/Radio-Canada submits that references to “viewership” in the list of FMV factors should be clarified and reconfigured. Parties subject to dispute resolution should not have to confront or otherwise argue against audience or user data that is not available in the public domain *and* auditable. When one party in a negotiation holds audience or user data that the other party cannot access, or is prevented from reviewing and verifying underlying data-gathering technologies and techniques, that data should simply be inadmissible in a formal dispute process. Asymmetrical information is no foundation for a fair negotiation and should not form the basis of any formal decision by an independent third party. This clarity should also be provided for any new parties that may become subject to a formal dispute process (e.g., audio services).
33. The Commission asks whether access to SAM or FOA should be restricted to broadcasting undertakings with limited resources or continue to be available to all entities regardless of size.¹⁵ Presumably, this question relates to the “marked increase in formal and informal disputes resulting from the challenges facing the broadcasting system.”¹⁶ For CBC/Radio-Canada, it seems counterintuitive to limit access to formal dispute mechanisms, managed by a body with the requisite expertise in broadcasting matters, simply because those processes are being used more often by some undertakings. Fundamentally, these mechanisms are intended to mitigate the problems associated with power imbalances. When one party controls access to a given platform(s), and pricing decisions, and packaging and bundling decisions, and the presentation, user interface, and content search design and functionality, and holds the direct and billing relationship with consumers, it obviously holds significant leverage and is in a significantly favourable negotiating position. There may be some justification to exclude bilateral disputes between vertically-integrated corporations from the Commission’s SAM or FOA mechanisms, given each party’s ability to mitigate or match threats in a given negotiation, but, at the very least, the option to access CRTC dispute resolution resources for independent domestic programming services should be maintained.
34. CBC/Radio-Canada appreciates the Commission’s rationale for providing an “ethical wall” between CRTC staff who conduct mediations and staff who analyze undue preference applications and formal requests for FOA.¹⁷ However, using a single mediator-arbitrator for all parts of the formal dispute resolution process would be more efficient and likely shorten the time to resolution. It would deepen the arbitrator’s understanding of the underlying issues and frustrations from the very earliest stages of the process; and it would provide the arbitrator with an indication of progress or movement through the negotiation, the willingness of parties to find a

¹⁴ *Interpretation of the Wholesale Code*, Broadcasting Information Bulletin CRTC 2022-140, paras. 36-37, 40.

¹⁵ Notice, Q46 and Q51.

¹⁶ Notice, para. 62.

¹⁷ Notice, para. 80.

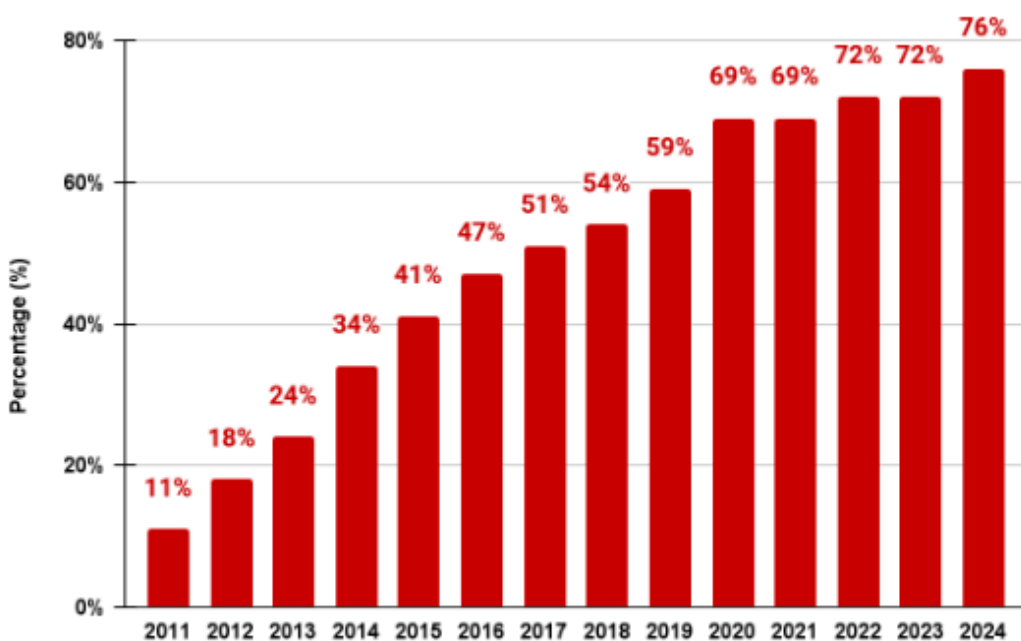
solution, and the nature and size of negotiated trade-offs for both parties. Given the increased use of Commission staff, holding two (2) consecutive proceedings for the same dispute is time- and resource-intensive; and all things considered, a single steward and decision-maker through the process offers clear efficiency advantages.

II - Online distribution

A) Market Dynamics - Programming services and online distribution

35. The Commission is correct to focus part of this consultation on the role and impact of connected devices in the Canadian broadcasting system. These technologies have been adopted quickly and now have a dominant presence in the Canadian marketplace. Consider the following:

- 24 million Canadians (18+) own a Connected TV – a national penetration level of over 75% with similar penetration levels for anglophones and francophones.¹⁸ The penetration rate of Connected TVs is notably higher in Indigenous communities (86%).



Source: Media Technology Monitor 18+ Spring 2024

- 12 million Canadians (18+) own a smart speaker – a national penetration level of 36% with a slightly higher penetration level among anglophones (37%) compared to francophones (32%).¹⁹

¹⁸ MTM, 18+, National, Fall 2024.

¹⁹ *Ibid.*

36. The hardware itself is not the issue; but rather the vast amount of content distributed on these Internet-connected devices; and how that content is presented to Canadians on user interfaces and found in search results. Canadian content and services risk becoming completely lost in, and subsumed by, an ever-expanding sea of foreign content. In this regard, we have found our way back to the problems identified by the Aird Commission in 1929:

At present the majority of programs heard are from sources outside of Canada. It has been emphasized to us that the continued reception of these has a tendency to mold the minds of young people in the home to ideals and opinions that are not Canadian. In a country of the vast geographical dimensions of Canada, broadcasting will undoubtedly become a great force in fostering a national spirit and interpreting national citizenship.²⁰

37. Despite decades of careful regulation and licensing to ensure that Canadian content and services have access to, and pride-of-place on, distribution systems that serve domestic audiences (through over-the-air transmission, and licensed and exempt BDUs), connected devices effectively sidestep access or discoverability obligations and have become major gatekeepers. In fact, they are not subject to any obligations whatsoever: no priority carriage requirements; no minimum domestic content levels; no Indigenous or diversity-related targets; no recourse mechanisms.
38. If these communication vehicles were emerging or lightly adopted or unconnected to the Internet, then perhaps a wait-and-see approach would be warranted. But that is obviously not the case.
39. It is clear from the data that as Canadians shift to digital, they use domestic platforms less. Data from Ontario anglophone and Quebec francophone markets (which represent roughly 60% of the total market) show that the Canadian share of audiovisual streaming barely registers today:
- For anglophones, about 40.5% of time is spent consuming video on digital platforms, *but only 1.2% of this time is on Canadian platforms*. For perspective, the Top 5 digital streaming platforms in Ontario's anglophone market – YouTube (33%), TikTok (15%), Prime Video (14%), Netflix (13%), and Instagram Reels (9%) – capture about 84% of total time spent.²¹ For anglophone children and youth (2-17), 60% of time is spent consuming video on digital platforms, *but only 0.4% of this time is on Canadian platforms*.
 - For francophones, about 24% of time is spent consuming video on digital platforms, *but only 3.3% of that time is on Canadian platforms*. For perspective, the Top 5 digital streaming platforms in Quebec's francophone market – YouTube (33%), Netflix (15%), TikTok (14%), Prime Video (13%), and Facebook Video (8%) – capture about 83% of total time spent.²² For francophone children and youth (2-17), 38% of time is spent consuming video on digital platforms, *but only 0.6% of that time is on Canadian platforms*.

²⁰ [Report of the Royal Commission on Radio Broadcasting \(1929\)](#), p. 6.

²¹ Numeris VAM data, Total Time Spent (hours), Ontario Anglophone, Ind 2+, Sept. 2023 - Dec. 2024, compiled by CBC/Radio-Canada Corporate Research.

²² Numeris VAM data, Volume d'écoute total (heures), Quebec Francophone, Ind 2+, Sept. 2023 - Dec. 2024, compiled by CBC/Radio-Canada Corporate Research.

40. As Canadians migrate to digital services, the use of domestic platforms declines significantly. Currently, foreign content platforms dominate; and this is so across all demographics, from children to adults. National population trends will exacerbate the situation. The inconsequential levels of adoption of domestic services among children and youth, for example, is foreboding. If today is prologue, then the future is certainly not promising for the viability of the Canadian broadcasting system.
41. CBC/Radio-Canada believes that wide access, pre-loading of apps, and prime placement and promotion of certain foreign offerings (including YouTube which is the largest player in this space by far, but sometimes overlooked) play a significant role in squeezing out the entire traditional Canadian content ecosystem. The owners of the most popular connected TVs are enormous foreign corporations: Samsung Electronics, LG Electronics, Sony, and Roku have a combined market capitalization of \$587 *billion*. The first three (3) brands combined represent two thirds (2/3) of the connected TV market in Canada.²³ Most of these connected TVs are powered by the Android software operating system, which is developed by Google, the owner of YouTube. It is not happenstance that the latter service leads in connected TV and digital video usage across all demographics, as measured by Numeris. YouTube is commonly pre-loaded and in the pole position on the start-up pages of Android-powered Connected TVs. The owners of popular smart speakers are even bigger global companies, notably Apple, Amazon, and Google. Imagine, for a moment, the challenge facing a Canadian media company, and especially an independent Canadian programming service, having to negotiate for carriage, prominence, and promotion on these devices and operating systems. The power differential in the absence of counter-balancing rules or requirements is gigantic.
42. Moreover, connected device manufacturers – basically, new content distributors – do not operate in a programming vacuum. They approach, and are approached by, some of the largest content providers in the world. Netflix (market cap C\$607 billion), Amazon (market cap C\$3.6 trillion), and Disney (market cap C\$297 billion) are just some of the global behemoths jostling for access, prominence, and promotion on the interfaces of these devices.
43. A few Canadian broadcasters, including CBC/Radio-Canada, were early-to-market with free ad-supported television (FAST) channels or other digital offerings and were able to secure carriage and some visibility commitments on select digital platforms for a period of time; but no Canadian media company can approach the purchasing power of the global giants. If they wish, global content companies can easily “pay-for-play” in ways and amounts that are unattainable by Canadian content services, and effectively outbid all others for access and prominence: from branded remote control buttons, to home page and banner presence and frequency, to search and algorithm preferences, to co-marketing arrangements.
44. Canada is behind. Other territories have identified the importance of this particular problem and developed or implemented rules to ensure that priority domestic services are not only carried by new content distributors online, but also receive pride-of-place on user interfaces.

²³ MTM, 18+, Spring 2024.

45. For example, the United Kingdom has introduced prominence rules for “television selection services” (e.g., operating systems of connected TVs) and “radio selection services” (e.g., voice assistants), bringing these types of services under regulatory oversight for the first time.²⁴ Moreover, the British regulator, Ofcom, has recognized the power and impact of these new content distributors:

It is the providers of these software platforms that usually have control as to what content [...] is presented on the viewers’ TV screen. [...] [G]enerally platform operators negotiate with content providers [...] over both the commercial and technical terms of carriage, including the level of prominence given to a content provider’s app and individual programming.²⁵

46. In 2021, France established prominence rules for “user interface providers”, with specific reference to public service media and other designated audio-visual providers.²⁶ Germany’s Interstate Media Treaty introduced prominence rules on key online platforms and user interfaces for public service media and some commercial broadcasters in 2020.²⁷
47. Italy’s prominence regime introduces four icons on connected television home screens – “Local TV”, “Radio”, “Sat” and “General interest services” – which act as gateways to lists of individual services that the Italian regulator, AGCOM, has designated for prominence. This list is updated annually, and includes the services of public service media, free-to-air broadcasters, as well as services in the genres of “information”, “children” and “culture”.²⁸
48. The Ministry for Culture and Heritage in New Zealand has started a public consultation on proposals to introduce must-carry requirements on “regulated TV devices.” The objective is to ensure that local TV apps are pre-installed on key devices and receive a basic level of prominence at no cost to the programmer:

Research by the Royal Melbourne Institute of Technology found that about a third of surveyed people with a smart TV in their home say they don’t know how to download an app onto them, and over half don’t know how to customise the order and appearance. If a local app isn’t on the default home screen, audiences are unlikely to go out of their way to find them.

²⁴ UK Public General Acts, [Media Act 2024](#), ss. 28, 48. Ofcom is currently consulting on its proposed methods to designate the applicable public service broadcaster services, and the platforms on which those services must be offered. See Ofcom, [Consultation: Designation of Public Service Broadcaster Internet Programme Services](#), February 11, 2025.

²⁵ Ofcom, [Consultation: designation of television selection services - principles and methods for Ofcom’s recommendations](#), s. 3.11. December 11, 2024.

²⁶ Arcom, [Visibilité des services audiovisuels sur les écrans connectés : l’Arcom adopte deux délibérations pour la mise en œuvre du régime des services d’intérêt général \(SIG\)](#).

²⁷ Germany, [Interstate Treaty on the Media](#), article 84. November 7, 2020.

²⁸ A description of AGCOM’s approach to prominence, and what is considered as general interest, may be found in [Guidelines on the prominence of audiovisual and radio media services of general interest](#), published on October 15, 2024 with [Delibera 390/24/CONS | Agcom](#).

Even where audiences are equipped to install and/or find local apps (which are increasingly likely to be ‘buried’ amongst international apps and content), local research suggests that the comparative inconvenience is likely to decrease engagement. These impacts are likely to be most acute in older audiences and non-digital natives.²⁹ (footnotes omitted)

49. But perhaps most instructive is the approach recently taken by Australia. In July 2024, the Australian parliament passed the Communications Legislation Amendment (Prominence and Anti-siphoning) Act 2024. It established a detailed “framework to regulate the accessibility and prominent display of certain broadcasting services and broadcasting video on demand services (called *regulated television services*) on devices designed for viewing television (called *regulated television devices*).”³⁰
50. The Australian legislation prioritizes access to, and prominence of, national public broadcasting services, commercial television broadcasting services, community television broadcasting services (and certain video-on-demand services) that are made available free to the general public on domestic reception equipment that is capable of connecting to the Internet. The legislation requires access to the television device’s primary user interface (e.g., home screen; main screen; or main interface most commonly used to provide access to applications that make the content available). Importantly, the regulated television device may not charge a fee, charge, or require any other consideration for “minimum prominence requirements” which is a defined term in the legislation.³¹
51. Canada’s situation is no different. Like our peer countries, we too are facing foreign oligopolistic dominance of our digital, audio, and audiovisual programming ecosystem. The Commission has been an authoritative, innovative, creative world leader with respect to content access and discoverability on traditional platforms, especially for the most critical and vulnerable services, such as: conventional television stations; 9(1)(h) services that make an exceptional contribution to Canadian expression and reflect Canadian attitudes, opinions, ideas, values and artistic creativity; and independently-owned stations and services. It is now time to extend similar consideration to the online platforms that Canadians are now adopting and using.

²⁹ [Media Reform: Modernising regulation and content funding arrangements for New Zealand](#), February 12, 2025.

³⁰ Australia, [Communications Legislation Amendment \(Prominence and Anti-siphoning\) Bill 2024](#), s. 130ZZF.

³¹ Detailed guidance regarding “minimum prominence requirements” is provided in Communications Legislation Amendment (Prominence and Anti-siphoning) Act 2024, and may be useful in this Consultation. The most salient part, excerpted from section 130ZZO, is re-printed here for ease of reference: “The regulations may prescribe requirements (the minimum prominence requirements), with which a regulated television device must comply, in relation to any or all of the following: (a) access to regulated television services on the device; (b) the display, location or positioning on the device or the primary user interface of the device of: (i) regulated television services; or (ii) applications, covered by subsection 130ZZJ(5), that are used to access regulated television services; or (iii) any other thing used to access regulated television services; (c) installation on the device of applications [...] that are used to access regulated television services; (d) the availability for installation on the device of such applications; (e) the updating of such applications that are installed on the device; (f) any electronic program guide on the device that provides information about or access to regulated television services”.

B) Regulatory framework for the distribution of programming services on Virtual BDUs

52. The development of the regulatory framework for the distribution of programming services on online undertakings should be based on the Commission's powers under the Act, as amended in 2023, and build on recent regulations and orders that the Commission issued thereafter concerning online undertakings.

53. The Act gives the following powers to the CRTC:

9.1 (1) Conditions. – The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting:

[...]

(i) a requirement, without terms or conditions, for a person carrying on an online undertaking that provides the programming services of other broadcasting undertakings in a manner that is similar to a distribution undertaking, to carry programming services, specified by the Commission, that are provided by a broadcasting undertaking;

9.1 (9): Good faith negotiation. – The person carrying on an online undertaking to whom an order made under paragraph (1)(i) applies and the person carrying on the broadcasting undertaking whose programming services are specified in the order shall negotiate the terms for the carriage of the programming services in good faith.

9.1 (10) Facilitation. – The Commission may facilitate those negotiations at the request of either party to the negotiations.

54. We address below the following subjects: 1) Which online undertakings that act “in a manner that is similar to a distribution undertaking” should be subject to obligations to carry programming services; 2) Which programming services should be “specified by the Commission” to be carried; and 3) Which criteria should be applicable to the “Good faith negotiation” of the terms of carriage and what are the regulatory tools for enforcement.

1) Which online undertakings that act “in a manner that is similar to a distribution undertaking” should be subject to obligations to carry programming services

55. Online undertakings operating “in a manner similar to a distribution undertaking” that should be subject to carriage requirements are those we call here “Virtual BDUs”.

56. Virtual BDUs are online undertakings that aggregate third-party programming services (linear channels, on-demand content, apps, etc.). Examples of Virtual BDUs operating in Canada are Amazon Prime Video, Apple TV app, RiverTV, and Rogers Xfinity App TV. Virtual BDUs are a distinct category from online undertakings which only create or curate their own content, such as Disney+.

57. A more formal definition of a Virtual BDU, aligned with the terminology of section 9.1(1)(i) and 3(1)(q) of the Act, could be this: an online undertaking that provides programming services of other broadcasting undertakings.³²
58. Carriage obligations would apply only to Virtual BDUs that meet the criteria to be subject to:
- registration requirements³³; and
 - conditions of service for online undertakings in CRTC Order 2023-332,³⁴ which include Information Gathering, Undue Preference and Availability of Content provisions.

2) Which programming services should be “specified by the Commission” to be carried

59. In Canada, must-carry rules for certain programming services on traditional BDUs are implemented through various regulatory mechanisms, including regulations, individual BDU conditions of service, and orders under section 9.1(1)(h) (previously s. 9(1)(h) of the Act). These carriage rules ensure that programming services can fulfill their programming requirements which the Commission has decided to impose to achieve the objectives of the Act. For example, local television services, public broadcasting (at least one English-language and one French-language), provincial educational broadcasting, national news services with high original news requirements, and various services of exceptional importance have must-carry rights on traditional distribution undertakings. To align with the objectives of the Act, and in consideration of the market dynamics described above, the Commission must ensure that these programming services are also made available to the Canadian public through virtual BDUs.
60. In terms of regulatory mechanisms, the Commission could use the powers granted by section 9.1(1)(i) of the Act to require that Virtual BDUs carry specified programming services (hereafter called “9-1-i orders”). The Commission could issue a 9-1-i order for a specified programming service when it renews its licence and determines its programming requirements, similar to the current practice for s. 9.1(1)(h) orders applicable to traditional BDUs. The synchronization of the 9-1-i order processes with those of the licence renewals of the programming services ensures that the list of services that have distribution rights is regularly reviewed.³⁵

³² The *Act* states the “**broadcasting undertaking** includes a distribution undertaking, an online undertaking, a programming undertaking and a network;”

³³ *Online Undertakings Registration Regulations, and exemption order regarding those regulations*, Broadcasting Regulatory Policy CRTC 2023-329 and Broadcasting Order CRTC 2023-330, September 29, 2023.

³⁴ Broadcasting Regulatory Policy CRTC 2023-331 and Broadcasting Order CRTC 2023-332.

³⁵ Some countries have established a regime where a list of services to be carried is regularly reviewed. For example, the German Media Authorities publish a list of services eligible for prominence. This list is valid for a period of three years. See Morrison Foerster, [Public Value Content Selected - \(How\) Will It Be Privileged?](#) The Italian communications regulator (AGCOM) annually updates a list of designated services for prominence, including public service media, free-to-air broadcasters, and services in the genres of “information”, “children” and “culture” See AGCOM, [Guidelines on the prominence of audiovisual and radio media services of general interest](#).

61. The Commission could take a flexible approach in the formulation of the 9-1-i orders, in recognition of the fact that Virtual BDUs may have very different business models, may not offer all types of content delivery (linear streaming, FAST channels, AVOD, SVOD, apps), and may not offer all types of programming.
62. The 9-1-i orders should include a reference to both parties' obligation to negotiate the terms for the carriage of the programming services in good faith, as required by section 9.1(9) of the Act.

3) Which criteria should be applicable to the “good faith negotiation” of the terms for the carriage and what are the regulatory tools for enforcement

63. CBC/Radio-Canada submits that good faith could be assessed using the principles of the Wholesale Code. The Commission recognized that in the past, “although exempt DMBUs were not expressly subject to the Wholesale Code, the Commission has used that code as a guide in making decisions regarding such services.”³⁶
64. The Wholesale Code, as well as the Commission’s Information Bulletin on the interpretation of the Wholesale Code³⁷ (hereinafter the “BIB 2022”), could be reviewed by the Commission to better reflect the current realities and market dynamics of the online world. For instance, a review of the BIB was done in 2022 to add a new paragraph in the section dealing with the “Multiplatform terms (sections 11-12)” of Wholesale Code. This new paragraph refers to “apps”, a word that was not present in the previous 2015 version of the BIB:

Section 11 also applies such that where a VI BDU offers opportunities for affiliated programming services on its platforms, including the carriage of their applications (i.e., apps) to deliver programming, it should offer fair and equitable terms to independent programming services for similar multiplatform opportunities.³⁸

65. We recommend that the Commission review the Wholesale Code and BIB 2022 to reflect the current and quickly evolving online world.³⁹
66. Negotiations conducted in good faith should result in conditions that ensure discoverability, a subject that we discuss further in the section below.
67. Section 9.1(10) of the Act authorizes the Commission to provide “facilitation” for the negotiation in good faith of the terms of carriage. The current dispute resolution provisions do not apply to online undertakings. The Commission’s authority to extend these provisions to online undertakings is limited.⁴⁰ The Commission asks, given this limited authority under the Act,

³⁶ BRP 2023-331, para. 143.

³⁷ *Interpretation of the Wholesale Code*, Broadcasting Information Bulletin CRTC 2022-140. This BIB replaces BIB CRTC 2015-440.

³⁸ BIB 2022-140, para. 47.

³⁹ In Section I of this intervention, suggestions are made on some items to review in the Wholesale Code for traditional BDUs.

⁴⁰ S. 10 (1) h) of the Act states that the Commission can make regulations “for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution

whether there are ADR mechanisms that the Commission could offer to parties in such disputes that could be used on a voluntary basis.⁴¹ It also asks what role should the Commission play if it is asked to facilitate negotiations, pursuant to subsection 9.1(10) of the Act.⁴²

68. CBC/Radio-Canada is of the view that the Commission should offer to online undertakings its graduated ADR approach. It includes informal dispute resolution through early staff assistance. If informal discussions fail, staff assisted mediation (SAM) is the next step. This confidential, voluntary process allows Commission staff to assist parties in reaching a non-binding, mutually agreeable resolution. While the informal agreement arrived at by way of SAM is non-binding, any resulting affiliation agreements signed by both parties are legally binding. If SAM fails, parties may submit formal requests for FOA. Under the current framework, both parties must agree to FOA. Offering these voluntary processes to online undertakings is clearly within the Commission's "facilitation" authority under the Act.
69. In the event that negotiations and Commission-led facilitation are unsuccessful, or if such negotiations and facilitation do not occur, a party may submit a complaint to the CRTC if they believe that the obligations to carry or to negotiate in good faith have not been fulfilled. Additionally, a party may choose to file a Part 1 application alleging undue preference. The Commission may use its authority under the Act to impose remedies. The Commission has the authority to craft remedies and to enforce its decisions, including the authority to impose administrative monetary penalties in certain circumstances.
70. The regulatory framework discussed in this section II) B) focuses mainly on programming services which would benefit from mandatory carriage on Virtual BDUs. The following section C), below, provides CBC/Radio-Canada's recommendations on various subjects that concern all types of online undertakings and all types of programming undertakings. These subjects include discoverability, undue preference and consumption data.

C) Online distribution - Discoverability, undue preference and consumption data

71. The Act includes the following provisions relating to discoverability:

3(1) It is hereby declared as the broadcasting policy for Canada that

[...]

(q) online undertakings that provide the programming services of other broadcasting undertakings should

(i) ensure the discoverability of Canadian programming services and original Canadian programs, including original French language programs, in an equitable proportion,

undertakings concerning the carriage of programming originated by the programming undertakings;". There is no equivalent provision for online undertakings.

⁴¹ Notice, Q40.

⁴² Notice, Q41.

(ii) when programming services are supplied to them by other broadcasting undertakings under contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

(iii) ensure the delivery of programming at affordable rates;

(r) online undertakings shall clearly promote and recommend Canadian programming, in both official languages as well as in Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery.

9.1 (1) Conditions. – The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting:

[...]

(e) the presentation of programs and programming services for selection by the public, including the showcasing and the discoverability of Canadian programs and programming services, such as French language original programs;

72. The issue of discoverability is also explicitly addressed in section 6 of the related Policy Direction:

The Commission is directed to consider both established and emerging means of discoverability and showcasing to promote a wide range of Canadian programming. In making regulations or imposing conditions in respect of discoverability and showcasing requirements, the Commission is directed to prioritize outcome-based regulations and conditions that minimize the need for broadcasting undertakings to make changes to their computer algorithms that impact the presentation of programs.⁴³

73. In the section II B) above, titled “Regulatory framework for the distribution of programming services on Virtual BDUs”, we recommend that some programming services should have must-carry status on some types of Virtual BDUs. While CBC/Radio-Canada does not object to extending carriage rights to all Canadian programming services, and especially to independent programming services that operate at a distinct negotiating disadvantage, it recognizes that there may be limitations to the number of services that an online distribution platform could reasonably accommodate.

⁴³ Government of Canada, “[Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#)” (SOR /2023-239).

74. For programming services that are carried under contractual arrangements by an online undertaking, s. 3(1)(q)(ii) of the Act states that the online undertaking should “provide reasonable terms for the carriage, packaging and retailing of those programming services”. We submit that the reasonableness for the terms for the carriage could be assessed using the principles of the Wholesale Code.
75. The Canadian programming service should work with each designated online distributor to determine the most appropriate content offering (i.e., linear stations or services; on-demand offerings; apps that contain the requested content; or a combination of various offerings).
76. The Commission has the authority under s. 9.1(1)(e) of the Act to impose conditions on presentation of programs and programming services for selection by the public, “including the showcasing and the discoverability of Canadian programs and programming services, such as French language original programs”.
77. Recognizing that different online platforms operate under unique business models and may have different product and presentation specifications, CBC/Radio-Canada does not recommend a regime of prescribed discoverability and prominence obligations, but rather a flexible regulatory approach that respects the specific capabilities of a given platform, product and user interface. These could include placement on the primary interface home page, banner or carousel promotion, prominence on search or recommendation results, marketing of the content, services, or apps on third-party platforms or vehicles, making available promotional space or opportunities for the designated Canadian services, direct-to-consumer messaging and promotion (e.g., newsletters), and any other approaches that could provide minimum prominence and discoverability to Canadian services and satisfy the Commission’s determinations.
78. The key is to allow each platform to choose its contributions to discoverability, based on their technical means and product designs, product roadmap, and customer and marketing strategies. However, the value of the approaches chosen by the online content distributor should be quantifiable, similar to marketing value contributions. The Commission should set a minimum annual expenditure level as a percentage of revenues generated in Canada for such marketing or discoverability value, and require annual reporting to be placed on the public record. These reports should be subject to independent audit by experts in marketing program valuation.
79. The Commission decided that the conditions of service formulated in CRTC Order 2023-332, including information gathering and the undue preference prohibition, were essential to ensure market fairness. This is still the case and will remain so in the future. Given the amendments to the Act in 2023, the Commission is now expressly authorized, pursuant to paragraph 10(1)(h.1), to make regulations “respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person” for all broadcasting undertakings, including online undertakings. It is likely that the undue preference framework will be the most critical and common mechanism to handle industry complaints or concerns. As the Commission itself notes in paragraph 101 of the Notice:

Prohibition of undue preference promotes fairness and competition, and ultimately benefits Canadians and the industry. It addresses unequal treatment of entities that are otherwise comparable.

80. CBC/Radio-Canada submits that the existing undue preference framework – with the onus placed on the undertaking on which the complaint is served given its possession of critical information – should be retained and extended to all types of online undertakings. CBC/Radio-Canada also recommends that the undue preference framework allow an assessment based on the principles of the Wholesale Code⁴⁴ and of the standstill rule. Given the fast-evolving nature of the technologies and capabilities involved, the Commission should not create an exhaustive or prescriptive list of prohibited behaviours; but could provide illustrative examples of behaviours that it might consider conferring an undue preference, particularly as these relate to platform access, discoverability and prominence. Providing undue preferential treatment to related services or offerings, especially over the Commission’s designated services, should be included in the examples.
81. For reasons outlined in the section above titled “Market Dynamics - Programming services and online distribution”, and in line with other jurisdictions, connected devices should be prohibited from charging a fee, or requiring any other consideration from a regulated television or audio service for “minimum prominence requirements”. Canadian media companies, and particularly independent services, do not have the means to compete on a “pay-for-play” basis with global online giants, such as Netflix, Amazon, Apple and Disney. For greater certainty, prominence provisions over-and-above the minimum prominence requirements could be subject to negotiations and charges.
82. Even when discoverability rules are in place, there is currently no uniform standard to monitor or even understand the consumption of Canadian content across all of the various platforms and devices. CBC/Radio-Canada recently wrote in response to Broadcasting Notice of Consultation 2024-288:

We all spend so much time and effort to ensure that Canadian content gets made; but what is the point if ultimately no one can find that content on the fastest growing content distribution platforms? How can an “outcome-based” regulatory approach be relevant, coherent and successful without uniform data that measures consumption?⁴⁵

83. We submit that the Commission should develop and mandate the implementation of data metrics that allow for uniform and consistent reporting on content consumption that can account for, and work across, linear and digital platforms.

⁴⁴ We also mention in section B 3), above, that the assessment of “good faith” negotiations under s. 9.1(9) of the Act should be assessed using the principles of the Wholesale Code.

⁴⁵ *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector*, Broadcasting Notice of Consultation CRTC 2024-288, 15 November 2024, Comment by CBC/Radio-Canada, para. 28.

Conclusion

84. The Commission's stated goals for the present consultation are two-fold:

- To ensure a sustainable model for the delivery and discoverability of diverse Canadian and Indigenous content; and
- To ensure a fair and competitive marketplace.⁴⁶

Clearly, these are the right priorities; but time is of the essence. The imbalance of power in the Canadian broadcasting system must be addressed by the Commission with its new powers under the Act.

85. The BDU sector has never been more concentrated. These companies not only hold the consumer relationship, but they also control nearly every critical carriage, pricing, packaging, promotion, and presentation decision. BDU support for domestic broadcast offerings (and especially unaffiliated services) has materially declined, commonly sacrificed in favour of bundled telecom offerings and deep-pocketed foreign streaming services. This one-sided leverage position not only calls for the maintenance of existing regulatory mechanisms and tools for domestic programming services, but a strengthening and fine-tuning of existing supports. To address these issues, the CBC/Radio-Canada suggests a few changes related to the Wholesale Code and dispute resolution.
86. The online landscape is especially concerning. No Canadian programming service could possibly compete for access and prominence against some of the largest foreign streaming services. Netflix, Amazon, Disney, Spotify, Apple, and others have the global scale and technological and financial means to ensure the best placement on the interfaces and search functionality of connected devices. This is why other countries have actively sought ways to ensure that their own national content – public service or otherwise – can be accessed and found. Without pride of place, there can simply be no visibility for domestic services; and cultural sovereignty itself is threatened.
87. The simple fact is this: as Canadian consumers move to digital platforms, domestic platforms and distributors are being marginalized. The entire system risks becoming a fraction, a fingernail, of overall media consumption. The Canadian system is, without question, facing an existential threat. The amended Act and related Policy Direction recognize the severity of the problem; it is incumbent on the Commission to take measures to address it.
88. This will, no doubt, introduce obligations on some of the largest foreign content distributors. But it is expected and required under new domestic legislation as a condition to operate in the Canadian market. Obligations on the new players will help ensure the continued viability of critical Canadian programming services. Historically, the Commission has *a/ways* responded to new content distribution technologies with reasonable access and discoverability requirements. CBC/Radio-Canada submits that the regulator cannot simply give up as Internet-connected devices and software platforms continue to penetrate the Canadian marketplace.

⁴⁶ BNC CRTC 2025-2, para. 8.

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