



OUR CULTURE,
OUR DEMOCRACY:
CANADA
IN THE **DIGITAL**
WORLD



EXECUTIVE SUMMARY

Canadian culture and democracy are at a crossroads. We have seen how forces in the digital world can undermine Canadian news and information – essential ingredients for a healthy democracy. The dominance of global entertainment threatens to drown out Canadian stories and perspectives. The economics of foreign digital giants make Canadian culture more difficult to fund and sustain. As the public broadcaster, we are very concerned about the health of the broadcasting system and its continued ability to serve the needs of Canadians. We are also concerned about our ability to properly fulfill our responsibility to nurture and promote Canadian culture. We believe that strengthening public broadcasting is critical to ensuring a strong Canadian culture and a vibrant democracy. That is our focus in this submission to the Broadcasting and Telecommunications Legislative Review Panel.

IMAGINE A WORLD WITHOUT CBC AND RADIO-CANADA

No Bye Bye. No *Metro Morning* in Toronto with Matt Galloway or *Gravel le matin* in Montreal. No ICI TOU.TV with its 6,000 hours of French programs. No gripping podcasts like “Someone knows something.” No evening TV news in Inuktitut from CBC Iglaaq. No *Tout le monde en parle*. No *The National*. No Céline Galipeau. No Anna Maria Tremonti. No *Anne with an E*. No *Baroness Von Sketch*. No *District 31*. No *Cross Country Checkup*. No *Land & Sea* in Newfoundland and Labrador, No *All Points West* from Vancouver Island. No *Unreserved* or *Oniva*.



Madeleine Allakariallak, Kowisa Arlooktoo and Pauline Pemik from CBC North in Nunavut



National Conversation Event, *The National*, Toronto

What would Canada be like without a public broadcaster? We are the cultural institution that helps knit our vast and diverse society into something extraordinary in the world; French, English, eight Indigenous languages; stories of new Canadians from every corner of the globe; foreign correspondents bringing the world to Canadians; stories of our amazing Olympic athletes; stories of our extraordinary musicians, stories from our creators in communities across the country, the North, Atlantic Canada, the West and from every place in between. Together these are the stories that describe a nation. These are our Canadian experience, our Canadian culture.

Over the past 50 years, public policy has created a system in which Canada's culture, creators and cultural industries, have thrived, benefitting from a mix of regulation, incentives and subsidies. Canada's public broadcaster, owned by its citizens and dedicated to serving their interests, has been a critical anchor in this system.

The resulting broadcasting ecosystem has contributed to an enormously successful industry – generating economic activity and producing a vibrant and diverse array of content. But, as we now can see, this ecosystem – a delicate balance of public policy objectives to support Canadian stories and commercial objectives to build a healthy industry – is faltering. The global digital disruption fueled by the Internet and broadband penetration poses a very real threat to our ecosystem.

We are facing the globalization of information and entertainment – a true global village increasingly dominated by a handful of US-owned digital companies. These tech giants have deep pockets and monetize their business over vast international audiences. They are pulling value and dollars from our Canadian market without an instinct or obligation to re-invest in Canadian creators or culture. We believe this must be addressed if we want Canadian culture to have a place in the new digital world.

Digital is also changing the business model for private media companies. It is undermining service to Canadians and financial support for culture. As Canadian companies adapt they have consolidated and cut services. This will likely continue as they search for ways to remain profitable for their shareholders. This makes the role of a public broadcaster more important than ever. To be clear, we are not their competitors. CBC/Radio-Canada exists to serve Canadians.

“Our competition is not Canadian companies, but the global digital giants flooding Canada with foreign content.”

We are living in a world where there is an over-abundance of news and information content. Some is good. Much of it is unreliable and even deliberately misleading. In this world, CBC/Radio-Canada's journalism and standards stand firm; Canadians' most trusted brand¹.

It is a world where there is more content from everywhere except the place you call home. CBC/Radio-Canada exists to ensure Canadians have a place that is theirs, a trustworthy place dedicated to connecting and engaging all of our local communities. And while all of the Canadian players contribute significantly to our cultural experience – the public broadcaster has this unique role to play at the local level throughout the country.

CBC/Radio-Canada remains a cornerstone of Canada's cultural and creative sector, anchoring a creative economy that contributes \$54.6B per year and 630,000 jobs for Canadians². Every dollar invested in the public broadcaster (about \$34 per Canadian each year) creates two dollars of economic benefit for Canadians.

1. Proof Inc. CanTrust Index 2018

2. [Creative Canada Policy Framework](#), 2017 p.7



The 2018 Juno Awards in Vancouver

Over the past five years, CBC/Radio-Canada has implemented an ambitious strategy; transforming itself from a traditional linear broadcaster to a digital and mobile content provider. Today we reach more than 20 million Canadians each month on our digital platforms alone. We are ensuring a space for Canada and Canadians in the digital world. We can and need to do more.

CBC/Radio-Canada welcomes the government's initiative to modernize Canadian cultural policy.

« **We want to help strengthen Canadian culture in this world.** »

That's what builds national identity and social cohesion. It is a measure of our vitality as a country. It is a powerful projection of Canada's beliefs, values and democracy to the world.

Cultural policy succeeds when it serves Canadians as citizens; ensuring they are connected to one another and their world, delivering information about their communities and their country, reflecting their lives in comedies, documentaries, music and drama programs that represent the best of Canadian perspectives, creativity and imagination; ensuring that Canadian culture can be celebrated here and around the world.

With this in mind, CBC/Radio-Canada is offering recommendations to strengthen public broadcasting and the broadcasting system as a whole. Our recommendations build on the government's *Creative Canada* policy framework and the CRTC's report to government, *Harnessing Change: The Future of Programming Distribution in Canada* (30 May 2018).

THIS SUBMISSION IS BUILT AROUND THREE KEY ACTIONS:

- A. Strengthen Public Broadcasting as a cornerstone of Canadian culture;**
- B. Strengthen the quality and access to trusted news and information for all Canadians;**
- C. Strengthen Canadian culture by ensuring that all companies who benefit from our market contribute to the sustainability of Canadian culture.**



Radio-Canada Season's launch event in Red Deer, Alberta (photo credit: ICI Alberta)

In this submission, we make specific recommendations to support each of these objectives. In *Appendix A* we have provided specific suggestions for legislative amendments to accomplish this and grouped them under the four themes identified by the panel.

In the main body of this submission we discuss policy options raised in the panel's Terms of Reference, and propose recommendations to strengthen the Canadian communications sector in a digital world.

For CBC/Radio-Canada, this legislative review is important and timely. The *Broadcasting Act* in particular is our governing legislation and sets out the scope of our mandate to serve the public. This review will determine the future of our culture, how our country sees itself and how others see us.

Over the past 80 years, the *Broadcasting Act*, the *Telecommunications Act* and the *Radiocommunications Act* have provided flexibility in the face of rapid change while supporting both cultural and economic objectives. More recently, they have enabled CBC/Radio-Canada to transform itself into a modern digital public broadcaster and multiplatform media company, serving both those who have embraced digital, as well as those who continue to rely on traditional services like radio and television.

While the focus of this review is on broadcasting and telecommunications legislation, we recognize that the definition of broadcasting is changing. Legislation and regulation were designed to manage, for the benefit of Canadians, the limited spectrum available for broadcasting content. In a digital world there are few limits, and the borders that once protected culture are gone. Canadian broadcasters and media companies continue to adapt as consumers have embraced digital technology.

« **Media companies are all becoming digital companies.** »

In this world, can public policy objectives be achieved by amending existing broadcasting legislation? Or does the interrelationship between media, broadcasting and distribution, platform, product and content, require a completely new approach? That is a question for legislators. We have focused primarily on amendments to the current legislation and propose some suggestions for linkages to keep the legislative framework flexible and adaptive to the digital economy. We consider many of the core principles of the existing Act as enduring and critical – equally relevant in a digital world as in a linear world.

We at CBC/Radio-Canada are tremendously excited about the future. We have seen Canadians embrace our new digital services by the thousands. We have seen younger Canadians return to their public broadcaster through mobile services and podcasts. While there are significant challenges in the digital world, we believe there are also enormous opportunities to strengthen the remarkable cultural ecosystem that already exists in Canada.

There is so much we can do. We need to preserve and strengthen the independence of the public broadcaster to maintain the trust Canadians have in high quality, trustworthy journalism.

We need to expand our service to local communities, the heart of our mandate;

We need to strengthen our commitment to Canadians of all ages, and build a lifelong relationship with them, starting with programming for children that reflects our perspectives and stories;

We need to deepen our services to those who depend on us; to Francophone communities outside of Quebec; english communities inside Quebec; to Indigenous communities;

We need to invest in the people who reflect the strength and diversity of contemporary Canada;

We need to make sure Canada and Canadian creators are heard around the world;

We need to ensure Canadians get the best value possible from their investment in public broadcasting, by having the flexibility to generate and manage the resources we have.

To do all this, we need to invest in public broadcasting. We need to ensure sufficient and stable funding that can make Canada competitive in a world where it currently ranks among the very lowest in public funding³. Other countries have already learned that it is this investment that determines the strength of their culture, and their country. This is Canada's time.

3. Canada ranks 16th of 18 OECD countries in levels of funding for public broadcasting (Nordicity, International Comparison of Public Funding for Public Service Broadcasting, 2016, p.6).



Story Hour, CBC Montreal



RECOMMENDATIONS

A. Strengthen Public Broadcasting as the cornerstone of Canadian culture

1. Strengthen and protect the independence and mandate of CBC/Radio-Canada.
2. Recognize the importance of innovation to the public broadcaster's role, and ensure it has the flexibility to determine, over time, the most appropriate platform and delivery mechanisms to serve Canadians.
3. Recognize CBC/Radio-Canada's important role and contribution in reflecting Indigenous people in its programming.
4. Strengthen the mandate of CBC/Radio-Canada by recognizing the role of the public broadcaster in projecting Canada to the world.
5. Strengthen the role of CBC/Radio-Canada in building a life-long relationship with Canadians of all ages, particularly children and youth.
6. Ensure sufficient, predictable levels of funding for the public broadcaster to meet its mandate.
7. Ensure greater financial flexibility for the Corporation in the management of its resources.
8. Strengthen the governance and independence of the Corporation.

B. Strengthen the quality and access to trusted news and information for all Canadians

9. Ensure that the news on digital media undertakings is held to the same standards as that of traditional broadcasters.
10. Provide support for Canadian local news programming that meets Canadian journalistic standards.
11. Identify access to affordable broadband throughout Canada as a policy objective.
12. Identify net neutrality as a policy objective.
13. Strengthen independence by clarifying that when CBC/Radio-Canada is acting as a broadcaster, its rights, obligations and liabilities are the same as other broadcasters, and not those of a government body.

C. Strengthen Canadian culture by ensuring that all companies who benefit from our market contribute to the sustainability of Canadian culture

14. Require Internet service providers (ISPs) and wireless providers to contribute equitably to the funding of Canadian programming.
15. Clarify that domestic and foreign Over-the-Top (OTT) services are captured in broadcasting legislation.
16. Modernize broadcasting regulation to allow the CRTC to determine appropriate obligations by digital media undertakings to
 - a. ensure the availability of high-quality content.
 - b. contribute to the creation of Canadian content.
 - c. ensure the promotion and discoverability of Canadian content.
 - d. provide Canadian rights holders with access to aggregate data about how their content is used.





CONTEXT

Canadians love cultural programs, and we expect a broad range of choices, delivered in high quality, anytime, on any device. Today, digital technology has disrupted and transformed both the way Canadians interact with each other and the way their own cultural content is created and shared.

Canadian culture now competes for time and attention with seemingly limitless global content provided by powerful digital companies like Facebook, Amazon, Apple, Netflix, Google and YouTube, together with emerging over-the-top's (OTT) like Disney+ and CBS All Access. They are leveraging the strength of a worldwide customer base to flood markets like Canada with compelling but foreign content. The stories and experiences we share as Canadians risk being missed or never discovered, while global competition means the cost of producing Canadian stories continues to increase⁴.

There are two elements to Canada's current broadcasting policy: supporting culture and supporting economic development. Broadcasting supports a wide range of economic activity across the country, including skilled jobs, innovation and growing Canadian expertise. As the government's *Creative Canada* framework noted, *culture has a significant economic impact; it provides 630,000 jobs for Canadians and contributes \$54.6 billion per year in economic activity*⁵. This includes \$7 billion in film and TV production, creating \$3 billion in export value⁶. To support both culture and economic

development, public policy has required Canadian broadcasting distribution companies to reinvest a portion of their earnings in vehicles like the *Canada Media Fund* to help fund Canadian programs. Today's global digital companies, and the Internet and wireless services that deliver their content, are also profiting from Canadians consumption of content; yet they do not support the creation of Canadian content. This fundamental imbalance is not sustainable.

Does it matter that Canadian content is supported? That it still exists? Nations tell their stories through culture. It's how they choose to express themselves; to reinforce their shared values, the things they have in common. For a country like Canada national cultural content is particularly important. We are a remarkably diverse country; two official languages; Indigenous peoples; large multicultural communities. We have a relatively small population spread across the second largest nation in the world with significant regional differences. Canadian cultural content – in all its richness and diversity – plays a vital role in drawing the country together; in connecting Canadians to each other. Without it, Canadians will be shaped by values, culture and perspectives provided from elsewhere.

4. [BBC projects](#) a £500 million shortfall in funding for content over the next decade because the inflationary impact of global players like Netflix and Amazon.

5. [Creative Canada Policy Framework](#), 2017 p.7

6. Ibid p.8

Having a public broadcaster has helped Canada mitigate the disruptive effects of the digital transformation on Canadians. CBC/Radio-Canada took the lead in transforming its operations and is now a digital-first media company. The “one to many” traditional broadcast model has evolved into a more personalized one-to-one relationship with each Canadian. This transformation has had huge implications for our budgets and our workforce. We are leaner and more agile, creating unique content for a multitude of platforms. We have vastly improved our ability to serve Canadians.

THE DIGITAL TRANSFORMATION

Digital continues to transform the way Canadians consume content. It has disrupted every business that creates and distributes culture. In [Appendix B](#), CBC/Radio-Canada’s annual Enviroscan report highlights how Canadians’ habits have changed, and how the Corporation is responding. Among the challenges:

- A rapidly changing population that is more digitally savvy than ever before.
- Foreign digital giants capturing more of Canadians’ time spent online.
- The importance of data in the fight for the attention of audiences.
- The continuing decline in traditional broadcast revenues that fund Canadian content.

In addition, the personalization of content complicates the job of a public broadcaster with a mandate to serve all Canadians. The report, *Canadian viewing Profiles* in [Appendix C](#), examines different user profiles among Canadians and how the public broadcaster has adapted to engage with them.

Younger Canadians (ages 18-34) pose a particular challenge. They are more connected, more mobile, and more likely to consume content from around the world. To engage with them CBC/Radio-Canada must continually innovate; creating video and TV content specifically for them; developing new content formats on new platforms; creating compelling audio content for podcasts and streaming audio; and, connecting with them in person through public events. It is true they are consuming much less linear TV and radio, however they depend more and more on digital news and mobile services. The report, *Millennials and CBC/Radio-Canada*, in [Appendix D](#), provides more detail on how we reach and engage young Canadians.

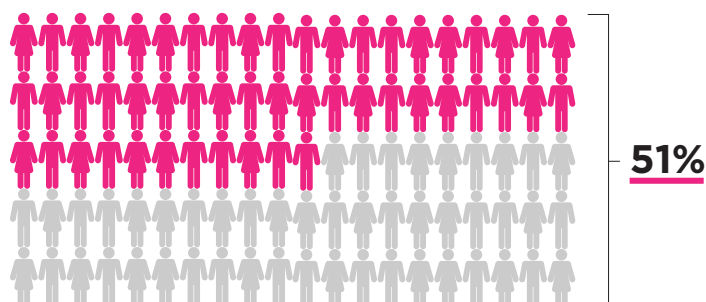
CBC.CA AND RADIO-CANADA.CA REACHING MILLENNIALS

Online millennials reached by CBC.ca in Canada



Source: August 2018

Online Francophone millennials reached by Radio-Canada.ca in Canada (adults 18-34)



Source: August 2018



Overall, CBC/Radio-Canada's transformation has been impressive. Across the country we are engaging with people all day long on digital and mobile. We anchor the depth and breadth of minority official language communities across the country. In many places, Radio-Canada is the only local option to connect Francophones with their communities and the rest of the country. Our "Complete Local Service" strategy has increased news and information in the regions, including on-the-ground initiatives to better reflect diversity and promote Canadian Francophone talent across all platforms. New initiatives like RAD, the French-language digital journalism lab, is creating new forms of journalism for younger, digital audiences.

Distinctly Canadian entertainment programs like *Schitt's Creek*, *The Baroness Von Sketch Show*, *Murdoch Mysteries* and *Anne with an E*, are finding worldwide audiences and raising awareness of Canadian culture. Indigenous programs are sharing Indigenous culture and bridging communities. Our digital music channels are raising the profile of Canadian talent. Award-winning podcasts about Canadian stories have become some of the most popular in the world. In November, for example, the CBC podcast *Uncover* became the number one download in Australia.

These are tremendous accomplishments. These activities support a vibrant cultural ecosystem. Every dollar invested in CBC/Radio-Canada creates two dollars of economic activity in this country⁷. These successes are more impressive when you consider the deep pockets of the global digital competitors.

7. [Economic Impact of CBC/Radio-Canada in 2013](#). Deloitte June 2014. The estimated contribution of CBC/Radio-Canada to the Canadian economy, or gross value added ('GVA'), in 2013 was \$3.56 billion, arising from an expenditure of \$1.69 billion, with a spend-weighted multiplier of 2.11. Through its spend across the country, CBC/Radio-Canada has a positive impact in every province and territory. CBC/Radio-Canada spends significantly more than all private broadcasters combined on Canadian programming.



Apple, Google, Facebook, Netflix, Amazon, CBS All Access, Disney; as the chart above demonstrates, these US-based global companies are cultural juggernauts, investing billions of dollars in content. The sheer volume has a growing influence on Canadians and on popular culture. Already 33 percent of Francophones subscribe to Netflix. Among 18-34 year olds, that number jumps to 61 percent. In English Canada 60 percent of Canadians are Netflix subscribers; 78 percent among 18-34 year olds⁸.

8. MTM data Spring 2018

CBC/Radio-Canada is responding to the global OTT challenge with Canadian streaming services ICI TOU.TV and CBC Gem, available free, or commercial-free by subscription. Launched in 2010, ICI TOU.TV is now a digital destination for Canadian Francophone content. Today it offers not only Radio-Canada programs, but content from Bell Média, TV5 Québec Canada, Télé-Québec and the National Film Board. By “cooperating to compete” ICI TOU.TV is bringing together the best in French-language content, and carving out a Canadian space in the digital world.



Average of
530 000
francophones reached
each week on ICI TOU.TV

7 million
average monthly views
on ICI TOU.TV

While the popularity of OTT services continue to grow, we believe there is a limit to how many services Canadians will choose. We believe it is important that a Canadian service is among them. The latest version of CBC Gem, launched in December offers Canadian programs on demand, including ad-free kids programming, live-streaming of CBC’s local television channels and feature films in partnership with Telefilm Canada.



Reaching
1.2 million
Canadians each month



Sarah Murphy, host, Radio-Canada, British Columbia

We have been able to accomplish all of these things with our current funding, and with the current broadcasting legislation, which was put in place in 1991. There is much more we need to do. We believe digital offers tremendous opportunities to create a strong cultural system for Canadians, and to raise the profile of Canadian culture.

Countries around the world are grappling with how to modernize cultural legislation; to ensure their own culture remains strong, and their citizens properly served in a digital world. In each case the public broadcaster plays a key role in anchoring national culture in the face of global content.



Programming launch, Radio-Canada, Sherbrooke (photo credit: Jocelyn Riendeau)



Pride Parade, CBC, Winnipeg

SECTION A

STRENGTHEN PUBLIC BROADCASTING AS THE CORNERSTONE OF CANADIAN CULTURE

CBC/Radio-Canada is the only media organization that serves citizens in every region of the country, in English and French. It provides them with trusted news and information about their community, their country and the world. In the programs it offers, the music, the performances of elite amateur athletes, it showcases the richness and diversity of this country and ensures the perspectives and experiences of different groups are shared with everyone. It brings Canadians together to share experiences. It is the largest single supporter of Canadian creators, giving them a place to learn, to explore, to hone their skills.

One of our biggest challenges is that currently we are operating two businesses; our legacy linear broadcast services and our digital services. This will continue for some time. It puts tremendous pressure on our finances, and it is a reality that global digital companies do not face. With the limited resources we have we must continue to prepare for the day when we are a digital-only company. That day has not yet arrived, and it won't happen at the same time across the country. In Quebec for example, traditional television



Prix Relève TO, Radio-Canada, Toronto

viewing remains strong. In less-populated areas of the country, terrestrial radio may remain essential for some time. It will be crucial to have the flexibility to adapt our services to fulfill our mandate and meet the needs of Canadians across the country, on whatever platform they choose.

INDEPENDENCE AND MANDATE



RECOMMENDATION 1

Strengthen and protect the independence and mandate of CBC/Radio-Canada.

The most crucial element of a public broadcaster is its independence. Without it, the public cannot have confidence that their broadcaster is serving their interests. That independence is enshrined in the *Broadcasting Act*. It is vital that those protections for the “freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation”⁹ remain unimpeded. In this submission we make several recommendations to strengthen this independence.

We are pleased the government has expressed its determination to maintain the three key purposes of our mandate: to inform, enlighten and entertain. Each of those *raison d’être* are mirrored in the mandates of all public broadcasters around the world. They are essential. It is also important that CBC/Radio-Canada continues to have the flexibility to fulfill these three purposes in a way that best meets the changing needs of Canadians.

INNOVATION AND PLATFORMS



RECOMMENDATION 2

Recognize the importance of innovation to the public broadcaster’s role, and ensure it has the flexibility to determine, over time the most appropriate platforms and delivery mechanisms to serve Canadians.

The digital transformation is not over. As the broadcasting landscape continues to change CBC/Radio-Canada will need to evolve, using new platforms and innovations to meet the changing needs of Canadians. The public broadcaster has always played a leading role in innovation. It developed the first news website in Canada; it was first in Canada to stream audio online; first to stream video on mobile devices. Its development of apps and podcasts makes its content among the most-downloaded on international sites like iTunes. We are currently developing technology to enhance trust in our content by embedding unique identifiers so that digital distributors can confirm that it is our content and has not been altered.



Journées de la Culture, Montreal (Photo credit : Carl Desjardins)

⁹ *Broadcasting Act* Part III Sec 35 (2)

These innovations are good for Canada and for Canadian content. The expertise we develop supports a wider, innovative culture. Currently, the *Broadcasting Act* requires CBC/Radio-Canada to make its programming “available throughout Canada by the most appropriate and efficient means”¹⁰. It also requires that the broadcasting system be “readily adaptable to scientific and technological change”¹¹. Some public broadcasters have enshrined the importance of innovation in legislation¹². We believe the role of the CBC/Radio-Canada can be strengthened by recognizing this specific role in driving innovation.

We also believe the Act could anticipate new technologies by becoming more platform neutral. Specific references to the Corporation providing television and radio services should be modernized to refer to services provided by any technological means, including new technologies and innovations¹³. This will ensure that CBC/Radio-Canada has the flexibility to determine the most appropriate platform to reach Canadians with its programming.

COMMITMENT TO INDIGENOUS PEOPLE



RECOMMENDATION 3

Recognize CBC/Radio-Canada’s important role and contribution in reflecting Indigenous people in its programming.

All broadcasters in Canada have a responsibility under the *Broadcasting Act* to recognize the “*special place of aboriginal peoples*”. We believe that the public broadcaster’s commitment goes deeper. Today, CBC/Radio-Canada serves communities across the North in eight Indigenous languages. National radio programs like *Unreserved*, podcasts like *Missing & Murdered: Finding Cleo*, programs showcasing Indigenous music, and our websites, *CBC Indigenous* and *Espaces Autochtones*, ensure the perspectives and realities of Indigenous people are shared with all Canadians. This work goes far beyond just programming. It seeks to reflect the richness and diversity of Indigenous life in Canada; its ideas, challenges, aspirations and successes. It encourages connections and understanding between Indigenous and non-Indigenous people and communities. A fuller description of this commitment is outlined in [Appendix E](#).

The public broadcaster supports important public conversations around Indigenous issues with community town halls on “reconciliation and cultural appropriation” and the immersive Virtual Reality documentary, *Highway of Tears*. It is a safe environment for communities to engage with each other on sometimes difficult issues. Events like CBC Montreal’s annual *Turtle Island Reads* project celebrates Indigenous stories by connecting authors and their writing with students. CBC’s coverage of the North American Indigenous Games helps all Canadians celebrate the successes of Indigenous athletes.

The Indigenous Archives Digitization Project works with Indigenous elders and other Indigenous community groups to digitize all of CBC’s TV and radio content and eventually make available more than 70,000 hours of content in Inuktitut, Gwich’in, Inuvialuktun, North Slavey, Tlicho, South Slavey, Chipewyan and Cree. This collection, dating back decades, is a vital historical record for Indigenous communities and for the country.

10. *Broadcasting Act*, 3(1)(m)

11. *Broadcasting Act*, 5(2)(c)

12. The BBC Charter, Sec 15(1) recognizes that “*The BBC must promote technological innovation, and maintain a leading role in research and development, that supports the effective fulfilment of its Mission and the promotion of the Public Purposes*”.

13. The BBC Charter addresses this by stating that BBC provides “*output supplied by means of— (i) television, radio and online services; or (ii) similar or related services which make output generally available and which may be in forms or use technologies which either have not previously been used by the BBC or which have yet to be developed.*”

Our interactive digital databases like *Beyond 94*, which measures progress of the Truth and Reconciliation Commission's recommendations, and *Unresolved*, which profiles Missing and Murdered Indigenous Women, have become digital tools for Canadians to learn more about Indigenous realities.

CBC/Radio-Canada's mentoring and training programs actively seek out and prepare Indigenous journalists. Our Indigenous Junior J Schools provide Indigenous high school students hands-on learning with CBC reporters, producers and videographers. CBC sponsors the *Indigenous Voices Program* at the National Screen Institute, that trains Indigenous people in screen skills. One-third of our short documentaries are created by Indigenous filmmakers. Radio-Canada has been working with SOCAM, the Atikamekw-Montagnais Communication Society, to train its radio presenters and journalists, and offers journalism workshops at Kiuna College, the only post-secondary Indigenous school in Quebec.

We do this because we believe it is an important part of our mandate to Canadians and we would support language in the *Broadcasting Act* to better reflect the responsibilities and commitments of the public broadcaster in this area.



Leigh Thomas, one of CBC 2018 Future 40 winners, Saskatchewan



RECOMMENDATION 4

Strengthen the mandate of CBC/Radio-Canada by recognizing the role of the public broadcaster in projecting Canada to the world.

Today, values like tolerance, respect, support for democracy and the rule of law are being tested around the world by economic uncertainty, social disruption and nationalism; all of this fed and amplified, by digital media – with both information and disinformation – delivered to all Canadians in the palm of their hands.

In this environment, countries have recognized the important role their public broadcaster plays in projecting their nation's perspectives and interests to the world. In Australia, for example, the legislation governing the public broadcaster includes a specific international role to “encourage awareness of Australia and an international understanding of Australian attitudes on world affairs¹⁴”.

Sharing Canada's story, through culture, is an important projection of Canada to the world. If we're going to ensure a strong culture here for Canadians, we also need to build a stronger market for Canadian stories in the world.

The *Broadcasting Act* recognizes this in requiring CBC/Radio-Canada to “provide an international service” (Sec 46(2)). Radio-Canada International (RCI) provides news and information about Canada in five languages to audiences around the world. Today we also share our content with the world on every available platform; CBC.ca and Radio-Canada.ca; award-winning podcasts; documentaries; and content posted to YouTube and SnapChat Discover. We would like to build on this multiplatform work, ensuring a place for the world to discover Canadian culture, Canadian perspectives.

Our priority is serving Canadians, but the fact is that Canada is now part of a global marketplace for culture. Global reach is the power behind Netflix, Facebook, Google and Amazon. International-quality programming is what Canadians now choose from. This is the global market where Canada and Canadian creators need to be. It is an important role for the public broadcaster, and we believe this role should be strengthened in legislation.

14. Australian Broadcasting Corporation Act 1983 Sec. 6 1(b) to transmit to countries outside Australia broadcasting programs of news, current affairs, entertainment and cultural enrichment that will:

- i. encourage awareness of Australia and an international understanding of Australian attitudes on world affairs; and
- ii. enable Australian citizens living or travelling outside Australia to obtain information about Australian affairs and Australian attitudes on world affairs; and to provide digital media services; and to encourage and promote the musical, dramatic and other performing arts in Australia.



RECOMMENDATION 5

Strengthen the role of CBC/Radio-Canada in building a life-long relationship with Canadians of all ages, particularly children and youth.

Children will always be strongly influenced by what they watch. *Mr. Dressup* and *Franklin, Passe Partout* and *Caillou* shaped the perspectives of generations of Canadians, and anchored a creative Canadian industry with a global reputation. Today, children and youth are exposed to influences on every platform, and particularly online. Reaching kids with strong Canadian content will help them stay connected with Canada, and with each other.

CBC/Radio-Canada has long been a safe, quality destination for children, primarily for preschoolers. That commitment continues. But the explosion in global content is creating new challenges. The choices available to children and their families are unlimited and largely foreign. Children, tweens and teens have few Canadian content options in the digital world. With a declining number of outlets for children's programs, the creative Canadian production sector for children's content, both live action and animation, faces challenges.



Legs for Literacy Event, Radio-Canada Acadie, Moncton

Canadian children are spending an increasing amount of their time consuming content on Netflix, Amazon and YouTube. And most of that content is in one language. When Disney launches its digital OTT service in Canada in 2019, it could dominate Canadian children's viewing the same way Netflix has done for adults. We risk raising young Canadians whose cultural references will only reflect a foreign culture.

Children's and animated programs have had an outstanding track record of being Canada's strength and international calling-card, influencing generations of children here, while projecting Canadian values around the world. While the circumstances of the English and French children's markets are different, the public broadcaster, with the support of the government and working with industry partners, believes it can leverage its ICI TOU.TV and CBC Gem OTT services to build a Canadian destination for children and youth in both official languages, engaging the next generation of Canadians with stories reflecting Canadian experiences.

Last fall we launched a news service for children, *CBC Kids News*, a daily digital feed of visual journalism for and by children to tell stories that inform, resonate with and engage young Canadians ages eight to 12 years old. Longer format stories provide age-appropriate explanations of societal issues and events important to children.

We also launched CBC News on Snapchat Discover, a platform that reaches over 10 million young Canadians. It offers young Canadians fresh angles on daily news.

Engaging children and youth is the beginning of a lifelong relationship between citizens, their public broadcaster, and their country.

DELIVERING ON THE PROMISE OF PUBLIC BROADCASTING



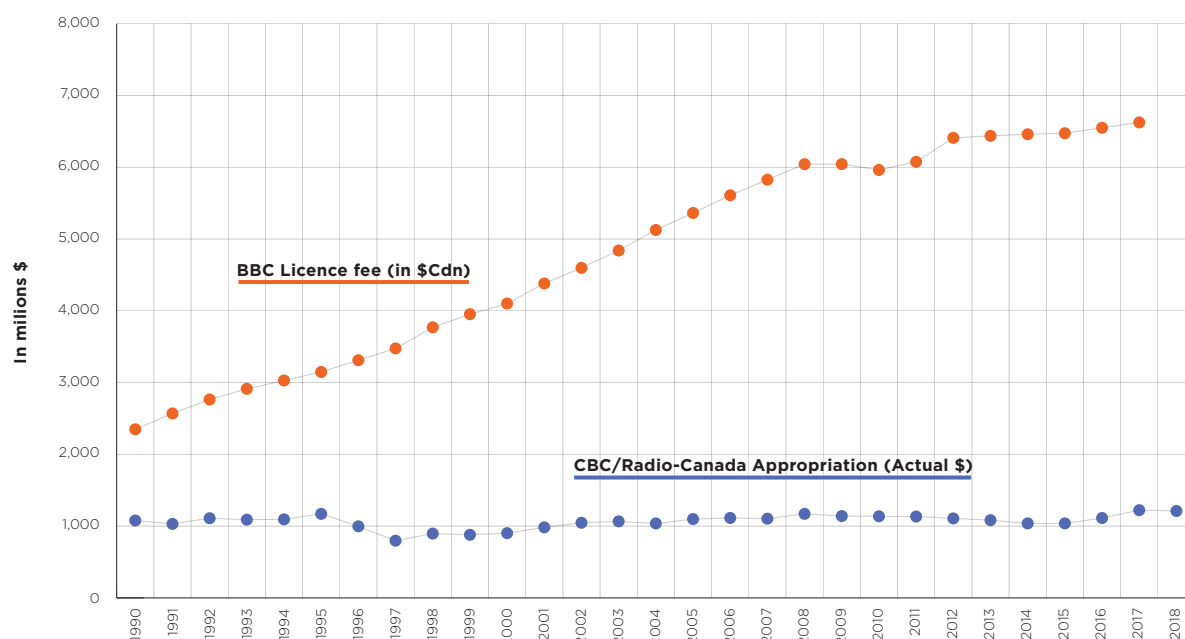
RECOMMENDATION 6

Ensure sufficient, predictable levels of funding for the public broadcaster to meet its mandate.

It is difficult to discuss the role and mandate of the public broadcaster in strengthening Canadian culture without considering the importance of funding sufficient to the task.

Over the past several decades, the Corporation has faced frequent rounds of cuts to programs, services and talent to address either reductions in funding or the continuing erosion of the parliamentary appropriation due to inflation. CBC/Radio-Canada also depends on revenue from commercial activities and faces the same challenges as other media with the decline in traditional advertising revenue.

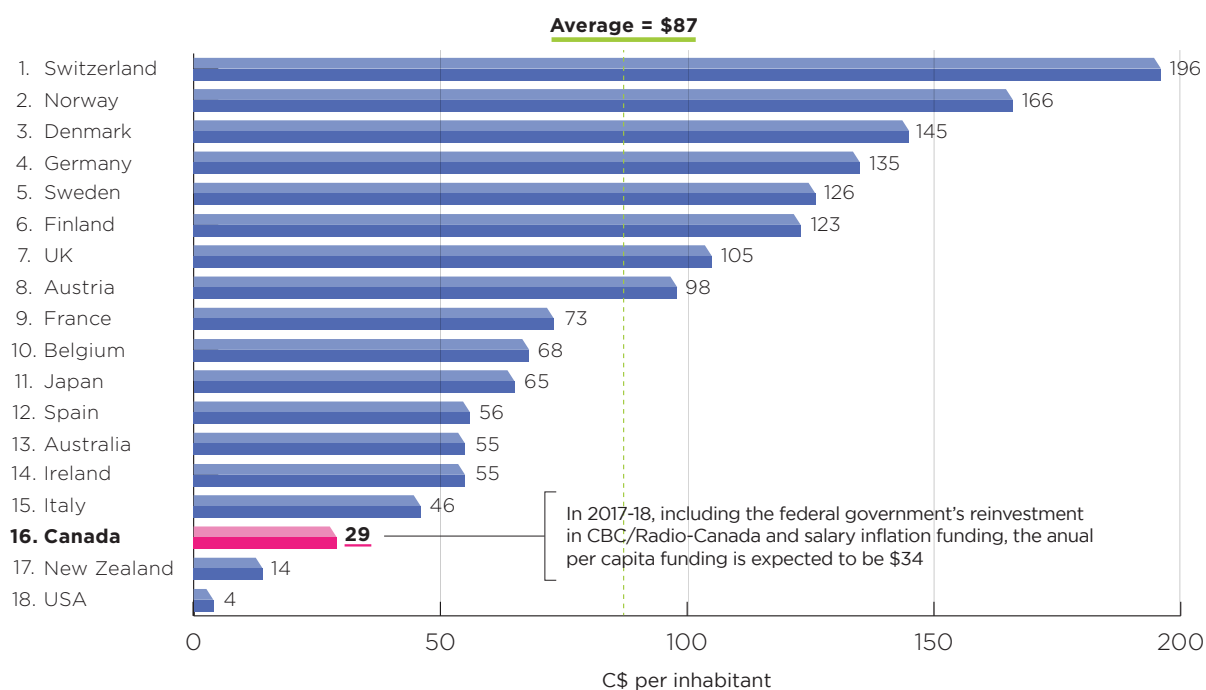
BBC AND CBC/RADIO-CANADA PUBLIC FUNDING IN CANADIAN DOLLARS



Sources: BBC Annual Reports (using 2018 annual average Cdn exchange rate) and CBC/Radio-Canada Finance

Despite these challenges, efficient management of our parliamentary appropriation has enabled us to maintain services to communities. The recent reinvestment in CBC/Radio-Canada has helped us continue our digital transformation. It has also helped protect Canadians' access to trusted news and information in a time of change. However, operating two businesses – linear and digital – put a significant strain on our resources. Funding levels have also prevented the public broadcaster from playing a greater role in support of Canadian culture.

PER CAPITA PUBLIC FUNDING OF PSBs, 2016 (C\$)[†]



Source: Nordicity analysis of annual reports of public broadcasters. (May 2018) † Excludes any commercial revenue earned by public broadcasters.

Other countries invest significantly in their public broadcaster. In fact, as you can see from the chart above, Canada now ranks 16th out of 18 OECD countries in levels of public funding for public broadcasting¹⁵. To provide a sense of the gap, if Canada were to double its \$1.2 billion investment in CBC/Radio-Canada, it would move from 16th to 11th,¹⁶ below Belgium.

This is one reason why CBC/Radio-Canada relies on commercial revenue on television and on its digital platforms. Without it, we would have to cut the programs and services we are mandated to provide to Canadians.

We would like to do more; expand Indigenous services and reflection; showcase the best of Canada and Canadian artists to the world; revitalize local news in communities; and be the home for great, safe, Canadian children's programming. But, ultimately funding must be sufficient to meet the expectations of Canadians.

It is not a question of creating a new funding model. The BBC, at six times our appropriation, is funded by a license fee. Germany uses a fee assessed to every household. Finland uses a dedicated tax for its public broadcaster. In most cases, funding for public broadcasting is secured for a predictable term so that the broadcaster can plan effectively. Many public broadcasters receive inflation funding. Most are also expected to earn commercial revenue. But in each case, the level of funding is either determined or ratified by elected governments.

It is not the model of funding but rather the level of funding relative to the mandate that determines how well a public broadcaster can serve its citizens.

15. International Comparison of Public Funding for Public Service Broadcasting, 2016, Nordicity, May 25, 2018 p.6

16. Comparing public funding of PSBs as a percentage of total government expenditures gives the same ranking. Ibid. p.7

Germany has made this connection in law. Its legislation specifies that “public service broadcasting shall be funded in such a way that it is able to meet its constitutional and statutory responsibilities; in particular the funding shall be sufficient to safeguard the existence and development of public service broadcasting”¹⁷.

We believe Canada should consider an appropriate mechanism to ensure sufficient, secure, predictable levels of funding for public broadcasting. This would ensure that CBC/Radio-Canada can deliver on its responsibilities to Canadians in the face of growing content costs and global competition.

FINANCIAL FLEXIBILITY



RECOMMENDATION 7

Ensure greater financial flexibility for the Corporation in the management of its resources.

In our 2016 submission to the government’s policy consultation, a *Creative Canada*, we proposed moving CBC/Radio-Canada towards an ad-free model. We believe this would make us a better public broadcaster and a stronger partner for the Canadian cultural system. We also recognize that this would require a significant additional investment (approximately \$300M) to replace lost revenue.

It is essential that CBC/Radio-Canada continue to have the flexibility to effectively manage its resources; to pursue timely opportunities; to seek partnerships; and to earn revenue, all in a manner consistent with its mandate. This is recognized in the *Broadcasting Act*, however the financial limits and requirements for CBC/Radio-Canada were established in 1991. They no longer reflect the current environment and need to be modernized. The details of our proposed changes are in Appendix A.



Hot Docs Podcast Festival, Toronto

17. German Interstate Broadcasting Agreement. Article 11.



RECOMMENDATION 8

Strengthen the governance and independence of the Corporation.

- a. strengthen the appointment process.
- b. strengthen the Board's role in protecting the independence of the Corporation.
- c. modernize the rules relating to the outside interests of directors.
- d. clarify the role and responsibilities of the Board and management.
- e. permit the Board flexibility to create committees and to determine their mandate.

The *Broadcasting Act* sets out the governance of the Corporation and the responsibilities of its Officers. In Appendix A, we have recommendations to modernize and strengthen the governance of the Corporation in five areas. Among them: enshrining in legislation the process recently established by government appointments for the President and CEO and Board of Directors, and giving Board members specific responsibility for protecting the Corporation's independence.



Tanya Talaga, 2018 CBC Massey Lectures, Thunder Bay





SECTION B

STRENGTHEN THE QUALITY AND ACCESS TO TRUSTED NEWS AND INFORMATION FOR ALL CANADIANS

There is no function of a country's media more important than to inform its citizens. Democracy depends on freely available, accurate, trusted information. Without it, citizens cannot make the informed decisions necessary for a healthy democracy. We also need a healthy media environment; diverse viewpoints reflecting all regions of the country; from both private and public media. The emerging digital world threatens this function in two ways; by undermining the business model that once supported this diverse ecosystem, and by enabling the easy spread of disinformation and disruption.

Today, Canadians can get information from anywhere in the world; from their Facebook feeds; from blogs; from links shared by their friends. Some of it is credible, some of it is not. Media organizations committed to good journalism are competing against others with their own motivations; whether it's ad-driven clicks, ideology or just disruption.

Digital algorithms enable personalization but can filter out information people already don't like or believe. It builds global tribes of the like-minded, who might feel less in common with the people who live right next door to them.



CBC/Radio-Canada 2018 Annual Public Meeting, Edmonton

The Internet has largely destroyed a model that enabled private news media to flourish for almost a century; a model where advertising and subscriptions underwrote the full cost of quality journalism and kept the price of newspapers low, and television news free, for the benefit of citizens. News and information risks becoming a commodity available only to those who can pay.

Classified advertising, the lifeblood of newspapers, disappeared to the Internet decades ago. Flyers, ads and commercials are following. Today, two global companies, Google and Facebook, alone take 75% of all Internet advertising revenue in Canada. Canadian newspapers have consolidated, closed or cut to pay debt from acquisitions¹⁸.

The Local News Project¹⁹ has been tracking the effect of digital on community news. Two hundred and sixty local news outlets have closed since 2008. Only 93 new outlets have launched. Newspapers continue to merge ownership and content, leaving fewer resources to cover issues unique to communities. It risks creating pockets of what Ryerson professor April Lindgren calls “local news poverty”, situations where the critical information needs of communities are not being addressed by local media.

Throughout this period of upheaval, public broadcasting has continued to help moderate some of its worst effects. It provides Canadians with a trusted source of news and information from their community and around the world. It has maintained a connection between people across every region of this country, in French and English, and eight Indigenous languages. Public broadcasting has been the equalizing force; ensuring all Canadians have access to quality news and information and that they can participate in the democratic life of the country.



18. See [Appendix B](#) Enviroscan 2018 p.29

19. [Local News Map reports offer bi-monthly snapshot of local media changes in Canada](#)

The map on the previous page shows CBC/Radio-Canada's physical presence in Canada. No other organization has this level of engagement with Canadian communities. We hire and train young Indigenous journalists, as well as people from traditionally underrepresented groups, to make sure we are getting a range of perspectives that reflect the diversity of this country. We are using digital media to engage more deeply with Canadians wherever they are. We use innovative solutions like pop-up news productions to cover smaller communities that don't have a permanent CBC/Radio-Canada presence. We would like to do more.

Today CBC/Radio-Canada is the most-trusted online Canadian news source. But we cannot be the only one. We are very concerned about the effects of digital on private media and local communities. Canadians need quality journalism from a wide range of reliable sources. We want to work with private media that share our values and commitment to raise standards and support a strong news ecosystem. We're talking with other private media organizations now to see what more we can all do to support journalism in communities.

However, the solution to this challenge cannot be found in trying to make the public broadcaster smaller or weaker. Some media claim that it is the public broadcaster that is now too strong; that it is undermining their business. When two global companies are offering free content and taking 75% of digital revenue it is not the public broadcaster that is the problem. A recent [study](#) into the impact of ABC in Australia on other media operators found that not only does the public broadcaster not "crowd out" other media, but that ABC's activities provide significant benefits to the wider media industry²⁰. Making public broadcasting weaker will not strengthen either the quality or access to reliable news and information for Canadians.



RECOMMENDATION 9

Ensure that the news on digital media undertakings is held to the same standards as that of traditional broadcasters.

Digital is also blurring the lines around traditional linear definitions of regulated broadcasting. In the digital world, linear broadcasters no longer depend on a scarce, regulated spectrum or airwaves. Even newspapers are transitioning to digital. Some, like La Presse, have abandoned print versions completely. Most others have digital websites, with video content that they amplify on YouTube and social media sites. Are newspapers still newspapers when they no longer publish on paper? All media companies are evolving. All of us should be held to the same standards with respect to news and information. We believe legislative measures should be taken to support the provision of trusted, accurate and quality news and information for Canadians.

Bringing digital services under the jurisdiction of the *Broadcasting Act* and subjecting them to existing Canadian laws, regulations and codes would help ensure they are held to the same standards as traditional broadcasters with respect to high-quality and accurate news. We believe Canadian journalistic standards should also apply to digital media undertakings.

20. [The ABC and the Australian media sector: Summary of RBB Economics Report](#). RBB Economics, 28 June 2018

SUPPORT FOR LOCAL JOURNALISM



RECOMMENDATION 10

Provide support for Canadian local news programming that meets Canadian journalistic standards.

We note the government's recent efforts to support journalism in communities²¹. This is an important step to strengthening news and we believe it can be achieved without undermining journalistic independence.

CBC/Radio-Canada recommends that the government further support the availability of Canadian local news programming that meets Canadian journalistic standards. This could be either through direct Government support or through the CRTC by making financial support available to produce high-quality local news programming. Any organization, including digital media undertakings, which meets the standards for Canadian local news programming should be eligible to receive funding.



Catherine Mercier, *Journées de la Culture*, Montreal

ACCESS TO AFFORDABLE BROADBAND INTERNET



RECOMMENDATION 11

Identify access to affordable broadband throughout Canada as a policy objective.

A fundamental challenge to the digital environment is ensuring equality of access for all Canadians to the Internet. The geographical realities of Canada have always posed challenges to public policy. Today, a growing population centred in cities, and smaller Canadian communities spread across the country, are facing what is becoming a digital divide. Some Canadians enjoy full access to reliable, affordable, high-speed, broadband Internet. Many do not. That divide, particularly in rural and remote areas and some Indigenous communities, means some Canadians do not benefit from easy access to services and cannot easily participate in the cultural life of Canada. It also impairs the ability of content providers like CBC/Radio-Canada to engage all Canadians with news and information through our digital platforms. We believe all Canadians should be able to access the full slate of services offered by their public broadcaster.

We note that a number of initiatives have been undertaken by federal and provincial governments, the CRTC, and the Competition Bureau to address this issue. CBC/Radio-Canada recommends identifying the importance of affordable broadband throughout Canada as a policy objective in the *Telecommunications Act*. This would permit the CRTC to take further measures to bridge the digital divide.

21. Fall Economic Statement 2018

NET NEUTRALITY



RECOMMENDATION 12

Identify net neutrality as a policy objective.

Canada has been consistent about maintaining net neutrality for Canadians as a key government priority. The CRTC has also supported net neutrality in its regulatory decisions. However, there is no specific reference to net neutrality in the *Telecommunications Act*. Given the importance of equity of access to the Internet, particularly for news and information, we believe the *Telecommunications Act* should be updated to clearly enshrine the principle of net neutrality for Canada.

STRENGTHEN INDEPENDENCE BY DISTINGUISHING BETWEEN CBC/RADIO-CANADA'S ROLES AS MEDIA COMPANY AND CROWN CORPORATION



RECOMMENDATION 13

Strengthen independence by clarifying that when CBC/Radio-Canada is acting as a broadcaster, its rights, obligations and liabilities are the same as other broadcasters, and not those of a government body.

As we noted, CBC/Radio-Canada's independence is crucial to its role as a public broadcaster. Canadians must have confidence that the public broadcaster is acting in their interests, not in the interests of any government, as a state broadcaster might. At the same time, CBC/Radio-Canada is also a Crown Corporation, with specific obligations to ensure it is accountable to the public. This can lead to a conflict between its role as an independent media organization and that of a Crown Corporation. Legislation seeks to separate these two roles by explicitly excluding journalistic, creative or programming activities.

The *Broadcasting Act* can strengthen the independence of the public broadcaster by clarifying that the Corporation has complete editorial freedom with respect to the content it broadcasts, and that, when it is performing this programming role, CBC/Radio-Canada should not be considered to be acting as a Crown Corporation but should be protected by all of the freedoms available to other media companies in Canada. This would provide a stronger guarantee of CBC/Radio-Canada's editorial independence.



Portia Clark, CBC Nova Scotia Information Morning radio host, Halifax



Calgary Stampede, CBC Sports



SECTION C

STRENGTHEN CANADIAN CULTURE BY ENSURING THAT ALL COMPANIES WHO BENEFIT FROM OUR MARKET CONTRIBUTE TO THE SUSTAINABILITY OF CANADIAN CULTURE

ENSURING EQUITABLE CONTRIBUTIONS FOR CANADIAN CONTENT



RECOMMENDATION 14

Require ISPs and wireless providers to contribute equitably in the funding of Canadian programming.

Given the relatively small size of the Canadian market, no types of Canadian programming, with the exception of some professional sports, are financially possible without additional support. In Canada, the government has required private broadcasters, who benefit from Canadians' consumption of content, to contribute a portion of their revenue to the creation of Canadian content. Together, with significant government contributions like the Canadian Media Fund (CMF) and tax credits through the Canadian Audio-Visual Certification Office (CAVCO), we have supported the creation of Canadian stories, and the careers of actors, directors, writers and technicians, some of whom have become among the best in the world.

As the consumption of content, and revenues associated with it, shifts increasingly to digital, the ability of traditional services alone to support culture and Canadian programming is untenable. The government has committed to providing additional funding to the CMF over five years to help mitigate the decline in contributions from traditional BDU's, but this does not address the inequality in the system. Increasingly, it is Internet companies that are distributing significant portions of the programming accessed by Canadians. A revised contribution structure should include ISPs and wireless providers and require them to contribute a small fixed percentage of revenues to create a stable level of funding for Canadian programming into the future.



RECOMMENDATION 15

Clarify that domestic and foreign Over-the-Top (OTT) services are captured in broadcasting legislation.

For these same reasons, both domestic and foreign-based digital media services should also be brought under the *Broadcasting Act* and make an equitable contribution to the production, promotion and discoverability of Canadian programming content. This would solidify support for the continued creation of Canadian culture, and ensure fair contributions from all who currently benefit from Canadians' consumption of content.

Countries around the world are grappling with this same issue. France has just concluded an agreement requiring Netflix to pay a 2% tax on its annual revenues in France to be used to create content in that country. The European Union is developing new rules to require global SVODs to dedicate at least 30% of their content to local programmes. In [Appendix F](#) we provide more information on how other countries are ensuring global OTT services contribute to content creation in the countries where they operate.

MODERNIZING BROADCASTING REGULATION: CRTC POWERS



RECOMMENDATION 16

Modernize broadcasting regulation to allow the CRTC to determine appropriate obligations by digital media undertakings to:

- a. ensure the availability of high-quality content.
- b. contribute to the creation of Canadian content.
- c. ensure the promotion and discoverability of Canadian content.
- d. provide Canadian rights holders with access to aggregate data about how their content is used.

Much of the responsibility for regulating the obligations of both traditional and OTT broadcasters and ensuring they contribute to the Canadian system belongs to the CRTC. Canada's regulatory system should be streamlined to make this possible. There are several options that are discussed in more detail in Appendix A. In principle, CBC/Radio-Canada supports an approach that would treat the largest ownership groups and broadcasters (Canadian, foreign, traditional, OTT broadcasters) with advertising or subscription revenues at a certain threshold in the same manner.

The CRTC could then establish obligations in a manner that benefits Canadians and the Canadian system. These measures should include funding for Canadian content, content standards, requirements for the promotion and discoverability of Canadian content, and the sharing of data with Canadian rights holders. Obligations could be set out in conditions of licence, as part of exemption orders or in the service agreements proposed by the CRTC in its May 2018 *Harnessing Change* report.

It is important to recognize that increasingly, telecommunications have become the infrastructure which delivers cultural content. The artificial separation in Canada between broadcasting which uses spectrum, and telecommunications which uses fixed and wireless IP networks, is outdated and risks undermining Canada's ability to respond to the cultural challenges created by the digital environment. The CRTC can ensure that Telecom companies support Canadian cultural objectives. This is explored further in Appendix A.

DISCOVERABILITY

It is clear now that there is effectively no limit to the volume of content available to Canadians in a digital environment. How does one choose? Data analytics help by making suggestions based on what individuals have previously chosen. But how will Canadians find out about Canadian options, particularly on foreign digital platforms, which may have no particular interest in highlighting Canadian content?

Increasingly, discoverability will be a key element to fulfilling Canadian cultural objectives. Funding and creating great Canadian programs are the beginning. But Canadians need to be aware those programs exist. As we noted in our submission to the CRTC's consultation on future programming distribution models²², the Commission already establishes measures on traditional broadcasters to promote cultural objectives. It is equally appropriate to require online and mobile platforms to promote the discoverability of Canadian choices. Players operating in the Canadian system should provide appropriate prominence to Canadian content choices through search, menus and recommendations.

This will become even more important as conversational interfaces, like Amazon's *Alexa* and *Google Home*, become more common. Without the requirement to offer Canadian options, Canadians may not hear of Canadian content suggestions in response to spoken commands. Audiences may never even know about the great Canadian stories available to them.

Other countries are recognizing the importance of giving prominence to national content. In an October 2018 joint letter, the heads of public service broadcasters in the UK called on the government "to modernise the rules that help guarantee prominence for PSB (public service broadcasting) linear services... Regardless of where you're watching, which device you're watching on, or who provides your television service, you should always be able to easily find PSB services and programmes in the UK."²³

We believe it would be appropriate for the CRTC to require digital media undertakings to ensure the promotion and discoverability of Canadian content.



Genevieve Murchison, host, ICI Manitoba, Winnipeg

22. CBC/Radio-Canada submission, par 44. CRTC 2017-359-1-2-3

23. [Don't let tech giants bury public service TV](#)

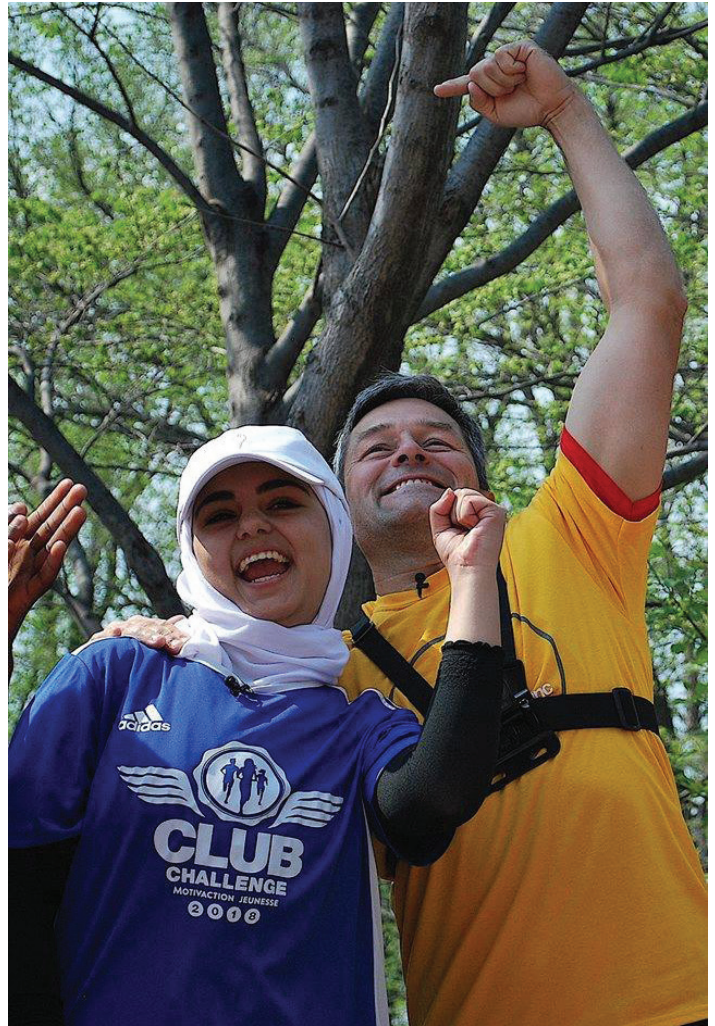
ACCESS TO DATA

Digital information about Canadians' consumption of content is vital to improving their experience online and developing content that matches their interests. Misused, it can violate their privacy and undermine their trust.

CBC/Radio-Canada exchanges digital information with its users in order to improve its services. As our digital site describes it, "We want to know what you're interested in, not who you are". We are transparent about how information is collected and why; how it is used; how we protect it; and how Canadians can control what information they share. CBC/Radio-Canada has also added online pop-up messages to advise users of the tracking methods we use on our online platforms. This is part of our ongoing efforts to be transparent about what happens when Canadians visit our online services and what is being done with the data generated by these visits.

But to reach Canadians today, media organizations must use a variety of digital platforms to distribute their content, such as Facebook, YouTube, Google and Netflix. Digital platforms are an effective way to connect with Canadians but often at the price of losing information about how that content is used. For large digital companies, that data is currency. But that information is the result of content that generated it. This data should be available to the Canadian rights holder, to help them understand how their content is being used and how to make it better.

We believe it would be appropriate for the CRTC to require digital media undertakings to provide Canadian rights holders with access to aggregate data about how their content is used. This would also permit the CRTC to more effectively measure the impact of digital services and assess the effectiveness of measures on the Canadian broadcasting system.



Le Défi du Cap-Blanc, ICI Québec, Radio-Canada

CONCLUSION

In many ways the suite of legislation regulating broadcasting, telecommunications and culture has served Canada well. It has ensured Canadian choices; Canadian news; programming in French, English and Indigenous languages; support for Canadian creators; and economic support to the creative economy. Now we have an opportunity to ensure that legislation continues to serve Canadians in the future; that the public broadcaster plays an even stronger role in supporting Canadian culture; that we strengthen the quality and access to trusted news and information for all Canadians; and that the companies that are benefitting from Canadians' love of culture are doing their part to support the creation and promotion of Canadian culture.

We believe there are tremendous opportunities for Canada to use the power of digital to build a strong cultural system for Canadians. Like public broadcasters around the world, CBC/Radio-Canada has a crucial role to play in supporting that system; to reflect contemporary Canada in all its diversity; to provide more trusted news and stronger links in communities; a Canadian children's destination; and a powerful platform share Canada's culture with the world.

The challenge is managing the pace of transformation with the resources available. Digital does not require fewer resources, it requires more; more content, more innovation. Personalization is now key. The better we know Canadians and their interests, the better we can engage with them. Today it's through conversational interfaces like *Google Assistant* and *Amazon Alexa*. Soon incredible advances in AI could transform the environment again. We need to be flexible and agile to ensure that Canadian content has a place on these new services, as well as the traditional ones. CBC/Radio-Canada is ready to strengthen Canada's place in this world.



Dave White, host (centre), CBC North *Airplay* podcast, Whitehorse

APPENDICES:

- A. Recommendations to amend the *Broadcasting and Telecommunications Acts*.
- B. [CBC/Radio-Canada Environmental Scan](#)
- C. [MTM Canadian viewing Profiles](#)
- D. [Canadians aged 18 to 34 and CBC/Radio-Canada](#)
- E. [CBC Indigenous](#)
- F. [How to make foreign OTT services contribute to the domestic economy](#)

APPENDIX A

RECOMMENDATIONS TO AMEND THE *BROADCASTING AND TELECOMMUNICATIONS ACTS*

In Appendix A we have organized our proposed revisions to the *Broadcasting and Telecommunications Acts* under the four broad themes identified by the Broadcasting and Telecommunications Legislative Review Panel in *Responding to the New Environment: A Call for Comments* dated September 24, 2018.

1. REDUCING BARRIERS TO ACCESS BY ALL CANADIANS TO ADVANCED TELECOMMUNICATION NETWORKS

Revise the *Telecommunications Act* to identify affordable broadband throughout Canada as a policy objective

Affordable broadband benefits all Canadians, but particularly those in rural, remote and Indigenous communities by bringing them, among other things, educational resources, better health services and more economic opportunities. It also plays a role in achieving the objectives of the *Broadcasting Act*. As noted by the Government:

As more and more cultural content becomes available via the Internet, ensuring that Canadians in all regions have access to high-quality and affordable telecommunications services becomes helpful in enabling cultural expression and diversity¹.

Universal broadband access is crucial for the public broadcaster's mandate given our digital-first strategy to provide Canadians with the best content, including trusted news and information. All Canadians should be able to access the full slate of services offered by their public broadcaster which increasingly are made available in digital formats.

Increasing and improving broadband Internet access in rural and remote areas, including Indigenous communities presents significant cost obstacles. One of the solutions to bridging the gap in service is through the development of a comprehensive broadband strategy and the allocation of funding to achieve this goal.

CBC/Radio-Canada recommends identifying the importance of affordable broadband throughout Canada as a policy objective in the *Telecommunications Act*. This would encourage the CRTC to take further measures to bridge the digital divide. For example:

7 (j) To foster access by Canadians in all regions of Canada to affordable high-speed broadband services

In order to achieve this policy objective, the CRTC must have the power to require such funding. We note that Section 46.5 (1) of the *Telecommunications Act* already provides the CRTC with the power to require telecommunications service providers to contribute to a fund to support access to basic telecommunication services.

In Telecom Regulatory Policy CRTC 2016-496² the CRTC expanded the definition of basic service to include high-speed broadband services. In Telecom Regulatory Policy CRTC 2018-377³, the CRTC established a new fund – known as the Broadband Fund – to support the subsidy of broadband extension to areas that do not yet have access to services that meet the CRTC's definition of high-speed broadband services. This fund will provide up to \$750 million over five years to help pay for infrastructure to extend Internet and mobile wireless services to underserved areas. It is intended to ensure that residents in rural areas have comparable service to that available in urban areas.

CBC/Radio-Canada recommends that the CRTC consider regularly reviewing its target broadband speeds (currently set at 50 Mbps per second download and 10 Mbps per second upload) to ensure that these targets remain relevant with technological development and international standards.

Extending broadband and mobile coverage to underserved areas is an important and ambitious objective that will require billions of dollars of investment in infrastructure. Meeting this objective will require additional public funding, private investment, as well as coordination and collaboration amongst numerous parties. In addition to the CRTC, this includes Industry, Science and Economic Development Canada, the provinces and

1. Terms of Reference to Expert Panel, Innovation, Science and Economic Development Canada, Canadian Heritage, June 5, 2018.

2. Telecom Regulatory Policy CRTC 2016-496, *Modern telecommunications services - The path forward for Canada's digital economy*.

3. Telecom Regulatory Policy CRTC 2018-377, *Development of the Commission's Broadband Fund*.

territories, Indigenous governments, the telecommunications industry and non-governmental organizations.

Revise the *Telecommunications Act* to identify net neutrality as a policy objective

The Government's June 5, 2018 Terms of Reference for the panel of external experts identifies "net neutrality as a key Government priority"⁴.

The CRTC currently promotes its net neutrality policy primarily through section 27(2) of the *Telecommunications Act*⁵. In the past few years, the CRTC has issued a number of decisions in order to support net neutrality^{6,7}. Despite these decisions, the term "net neutrality" doesn't appear anywhere in the *Telecommunications Act*. Given the prominence of the Internet in our society and its importance as a source of programming, including news and information, the objectives of Canadian telecommunications policy in section 7 of the *Telecommunications Act* should be updated to affirm net neutrality as a key principle.

CBC/Radio-Canada recommends adding a new paragraph to section 7 of the *Telecommunications Act* to accomplish this. For example:

7(k) To foster open access to the Internet and all websites and applications accessible on it without preference or discrimination, and to promote principles of net neutrality, except when contrary to the laws of Canada or there are clear benefits to the public interest.

4. Terms of Reference to Expert Panel, Innovation, Science and Economic Development Canada, Canadian Heritage, June 5, 2018.

5. Section 27(2) of the *Telecommunications Act* provides that: "No carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage."

6. In its Internet Traffic Management Practices decision, *Telecom Regulatory Policy CRTC 2009-657, Review of the Internet traffic management practices of Internet service providers*, the CRTC established a new regime to assess whether traffic management practices applicable to wholesale and retail Internet access services are compliant with the *Telecommunications Act*.

7. Most recently, in *Telecom Regulatory Policy CRTC 2017-104, Framework for assessing the differential pricing practices of Internet service providers*, the CRTC has strengthened its commitment to net neutrality by determining that "differential pricing" generally gives an unfair advantage or disadvantage to certain content providers and consumers. The CRTC has clarified that ISPs should treat all data traffic equally and established a new framework for regulating differential pricing practices. That decision strongly endorsed the common carriage function performed by Internet Service Providers (ISPs) and set out a general rule requiring non-discriminatory pricing and access to Internet services by ISPs.

2. SUPPORTING CREATION, PRODUCTION AND DISCOVERABILITY OF CANADIAN CONTENT

Given the economics of broadcasting in Canada and the cultural diversity of Canadian society, it is essential that the Government take an active role in supporting and promoting Canadian programming, including through its support of CBC/Radio-Canada.

a) Recommendations to strengthen the Canadian broadcasting system

Revise the *Broadcasting Act* to require ISPs and Wireless providers to contribute equitably in the funding of Canadian programming

It is important that all players who derive revenue from the Canadian broadcasting system contribute in an appropriate manner to the creation of Canadian programming.

Since 1994, broadcasting distribution undertakings (BDUs) have been required to contribute a portion of their revenues to fund national cultural productions through what is now known as the Canada Media Fund (CMF). That funding model is currently under strain⁸. The Government has committed to providing additional funding to the CMF over five years to help mitigate the decline in contributions from the BDUs.

CBC/Radio-Canada believes that the broadcasting system can maintain existing levels of support in light of the changes brought about by the increasing reliance on the Internet to distribute programming accessed by Canadians. This can be achieved by imposing a requirement for ISPs and wireless providers to contribute equitably in the funding of Canadian programming.

In order for a funding mechanism for broadcasting purposes to be imposed on ISPs and wireless providers, changes to the objectives of the *Broadcasting Act* would need to be made to include them. The following steps could be taken:

8. [The CRTC's 2017 Broadcasting Financial Summaries Highlights](#) reported that overall BDU revenues dropped by 2.3% (or \$202 million), falling from \$8.74 billion in 2016 to \$8.54 billion for the broadcast year ended August 31, 2017. In 2017, BDUs contributed approximately \$412 million to the creation and production of Canadian programming, down from last year's figure of \$428 million. Of this amount, \$206 was directed to the Canada Media Fund, \$149 million to local expression and \$57 million to independent funds.

- Define ISPs in section 2(1) of the *Broadcasting Act*, to capture carriers and telecommunications services providers, including wireless carriers who provide Internet access services. For example, the following definition could be added to section 2(1):

Internet service provider (ISP) means a Canadian carrier or telecommunications service provider, who provides fixed or mobile Internet access services to the public.

- Add an objective to section 3 the *Broadcasting Act* stating that it is an objective of Canadian broadcasting policy for Internet service providers, whether providing a fixed or mobile service, to contribute equitably in the funding of the production of Canadian programming. For example:

Internet service providers should contribute in an equitable manner to the funding of the production of Canadian programming.

- In order to avoid any uncertainty, the *Broadcasting Act* should contain language to give authority to the Commission to require Internet service providers to contribute to the funding of the production of Canadian programming. For example, the following wording could be added as paragraph (l) of section 10 (1) of the *Broadcasting Act*:

10 (1) (l) requiring Internet service providers to make equitable contributions to the funding of the production of Canadian programming content

- Amend section 4(4) of the *Broadcasting Act*, which currently states that the *Broadcasting Act* does not apply to any telecommunications common carrier as defined in the *Telecommunications Act* when acting solely in that capacity, by adding the following words to the beginning of the subsection - **“Except as expressly provided for in this Act or the Telecommunications Act, ...”**.

A new equitable contribution regime should not result in an incremental cost to consumers across the system. Sharing the costs of Canadian programming across a broader range of delivery systems should result in a decline in costs for some carriers and a more even distribution of the burden across platforms. CBC/Radio-Canada also believes that such a fund could be structured so as not to diminish support for broadband development in underserved areas.

Revise the *Broadcasting Act* to resolve any uncertainty that domestic and foreign Over-the-Top (OTT) services are captured in the legislation

Canadians have easy access to more foreign programming choices than ever before. In this new environment there is a need for a robust offering of Canadian programming choices to be available if Canada’s cultural policy objectives are to be achieved.

CBC/Radio-Canada recommends that steps be taken to bring both domestic and foreign-based digital media services under the *Broadcasting Act*. The following paragraphs outline the steps that could be taken to accomplish this.

- In the *Broadcasting Act*, create a new definition of digital media undertaking in section 2(1) to capture Canadian and foreign-based services that provide OTT programming services to Canadians. For example:

Digital media undertaking means an undertaking that provides or aggregates programs a) delivered and accessed over the Internet; or b) delivered using point-to-point technology and received by way of mobile device, whether on a subscription basis or free of charge, and includes foreign-based undertakings that permit their programs to be accessed or subscribed to by Canadians.

- Change the definition of *broadcasting undertaking* to include *digital media undertakings*. For example:

Broadcasting undertaking includes a distribution undertaking, a programming undertaking, a network **and a digital media undertaking.**
(bolded font is new)

- Add a new policy objective to section 3(1) of the *Broadcasting Act* requiring all types of broadcasting undertakings to make an equitable contribution to the production, promotion and discoverability of Canadian programming content. For example:

All broadcasting undertakings shall make an equitable contribution to the production, promotion and discoverability of Canadian programming content.

- To avoid any uncertainty, the Act should contain language to give authority to the Commission to require digital media undertakings to make equitable contributions to the production, promotion and discoverability of Canadian programming content. For example, the following wording could be added as paragraph (m) of section 10 (1) of the *Broadcasting Act*:

10 (1) (m) requiring digital media undertakings to make equitable contributions to the production, promotion and discoverability of Canadian programming content.

The proposed legislative amendments would modernize the *Broadcasting Act* and empower the CRTC to enable all broadcasters, including Canadian and non-Canadian broadcasting undertakings that distribute programming over the Internet or via mobile devices to play a role in supporting the production, promotion and discoverability of Canadian content. This is discussed in greater detail in the recommendation below called “*Modernize Broadcasting Regulation in Canada*”.

CBC/Radio-Canada recognizes that broadcasting will continue to evolve in order to take advantage of advances in technology as well as to anticipate and meet consumer preferences. The *Broadcasting Act* is sufficiently broad to capture these activities. For example, the definition of broadcasting in section 2 of the *Broadcasting Act* is technologically neutral.

CBC/Radio-Canada also expects digital media services to evolve and that over time, the CRTC may need to determine whether their activities are captured under the *Broadcasting Act*. For example, traditional news organizations may experiment with different types of audio-visual content to attract new readers and viewers and to retain existing ones. Other types of web based services may evolve and deliver predominantly audio-visual content. Therefore, as these services evolve, the CRTC can decide whether they fall within the definition of “program” and are therefore within the scope of the Act⁹. Our proposal establishes the regulatory framework to permit the regulator to make these determinations and to determine the appropriate contributions to be made to the system.

Modernize Broadcasting Regulation in Canada

CBC/Radio-Canada recommends that the regulatory framework be streamlined to permit oversight of both traditional and OTT broadcasters and ensure that they both contribute to the system. We have identified a number of options that could be employed to achieve this end.

One option is that the CRTC could licence digital media undertakings and require them to make appropriate contributions to the system, as they do for traditional broadcasters.

While Canadians are increasingly obtaining programming

9. “Broadcasting” is defined in section 2 of the *Broadcasting Act* as follows:

[a]ny transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place. The term “program” is defined in section 2 of the *Broadcasting Act* as: [s]ounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text

from foreign OTT services, Canadian ownership and control requirements do not apply to these broadcasting entities. Licensing digital media undertakings would require a change to the current restrictions on foreign ownership. A Cabinet direction has been issued prohibiting the issuance and the granting of broadcasting licence renewals to governments other than the Government of Canada and to persons who are not Canadian citizens or “eligible Canadian corporations”¹⁰. This Cabinet direction could be amended in order to allow foreign OTT services to be licensed. We are not proposing any other changes to the Canadian ownership and control rules.

Another option is that the CRTC could amend the existing digital media exemption order and require digital media undertakings to make appropriate contributions to the Canadian broadcasting system. The exemption order could establish the terms and conditions under which such undertakings must operate in order to be eligible to broadcast without a licence. Undertakings that meet the conditions set out in the applicable order would be authorized to operate, without further assessment or approval of the CRTC. The CRTC could still revoke or suspend the exemption order if its terms were not being honoured.

Overall, CBC/Radio-Canada supports an approach that would treat the largest ownership groups and broadcasters (Canadian, foreign, traditional, OTT broadcasters) with advertising or subscription revenues at a certain threshold in the same manner. This could be via licensing. Exemption orders may be preferable for broadcasting services that have little impact on the system (e.g., advertising or subscription revenues below a certain level) and would ease the regulatory burden on these broadcasters and use fewer CRTC resources.

It may also make sense to preserve licensing in circumstances where the CRTC exercises a necessary gatekeeping function, for example in radio markets where there are a limited number of available frequencies. This would allow the CRTC to evaluate applications to ensure that the frequencies will be used in a way that, to the greatest possible extent, meet the objectives set out in the *Broadcasting Act* and satisfies the public interest. A combination of both options outlined above may be the best approach.

Once steps are taken to bring both domestic and foreign-based digital media undertakings under the *Broadcasting Act* as set out in the recommendation above “*Revise the Broadcasting Act to resolve any uncertainty that domestic and foreign Over-the-Top (OTT) services are captured in the legislation*” and the regulatory framework is streamlined as described above in “*Modernize*

10. [Direction to the CRTC \(Ineligibility of Non-Canadians\)](#), SOR/97-192.

Broadcasting Regulation in Canada", the CRTC could establish obligations based on ownership groups in a way that reflects their technology and business or on individual broadcasters in a manner that benefits Canadians and the Canadian system. These obligations could be set out in conditions of licence, in the applicable exemption order or in service agreements as contemplated by the CRTC in its May 2018 *Harnessing Change Report*.

This approach would ensure that digital media undertakings have obligations with respect to:

i) Funding Canadian content

As far as digital media undertakings are concerned, once it is explicit that their activities fall within the purview of the *Broadcasting Act*, the exact manner in which they should contribute could be determined by the CRTC. For example, for OTT services, their contribution could be a Canadian expenditure requirement or a financial contribution obligation.

ii) Ensuring the Availability of High Quality Content for Canadians

It would also be appropriate for the CRTC to require digital media undertakings to ensure that the content offered to Canadians is of high quality, and meet Canadian standards in broadcasting. If these broadcasting undertakings explicitly fall under the jurisdiction of the *Broadcasting Act*, as proposed in recommendation 4, they should be subject to the same laws, regulation and standards as other broadcasters.

For example, section 3 (1) g) of the *Broadcasting Act* stipulates that "the programming originated by broadcasting undertakings should be of high standard". Furthermore, content and advertising should also meet Canadian standards and codes (e.g., codes administered by self-regulating bodies, the Canadian Broadcast Standards Council¹¹ and the Advertising Standards Canada)¹².

In addition, it would be appropriate for digital media undertakings to provide content that supports the objectives set out in subsection 3 (1) of the *Broadcasting Act*, including linguistic duality, support for Indigenous peoples, and content that is accessible for people with hearing and visual impairments.

iii) Promotion and Discoverability of Canadian content

It would also be appropriate for the CRTC to require digital media undertakings to ensure the promotion and discoverability of Canadian content. This would help position Canadian content to succeed and be relevant in the digital era.

CBC/Radio-Canada believes that these undertakings are best positioned to propose innovative and creative approaches for the promotion and discoverability of Canadian content on their digital media platforms. These approaches may rely on technology, which may be proprietary and will likely evolve over time. Therefore, it would be appropriate for these undertakings to develop proposals and demonstrate to the CRTC how their specific measures for the discoverability and promotion of Canadian content achieve the *Broadcasting Act's* objectives.

iv) Providing Access to Data

It would also be appropriate for the CRTC to require digital media undertakings to provide Canadian rights holders with access to aggregate data about how their content is used in order to inform their decisions and respond to the needs of their viewers and listeners. Having this data available would also permit the CRTC to more effectively measure the impact of those digital services and assess the effectiveness of any new measures on the Canadian broadcasting system.

This would bring the regulation of digital media undertakings into line with the treatment of broadcasting distribution undertakings¹³ and would permit creators/licensees of content to effectively respond to changes within the industry and to meet the needs and interests of viewers.

b) Recommendations to strengthen CBC/Radio-Canada's role in supporting the Canadian broadcasting system

CBC/Radio-Canada plays a central role in the Canadian broadcasting system by fulfilling cultural policy goals through our diverse programming across a variety of platforms as well as industrial policy goals through our broad presence and deep community involvement across Canada, including support and training for creators and major investments in creating and commissioning a wide range of local, regional and national programming.

11. The CBSC establishes standards for programming for private broadcasters and administers five industry codes covering various issues relating to ethics, violence on television, equitable portrayal, journalistic ethics and cross-media ownership.

12. Complaints are evaluated under the provisions of the *Canadian Code of Advertising Standards*.

Strengthen and protect the independence and mandate of CBC/Radio-Canada

The most crucial element of a public broadcaster is its independence. Without it, the public cannot have confidence that their broadcaster is serving their interests. That independence is enshrined in the *Broadcasting Act*. It is vital that those protections for the “freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation”¹³ remain unimpeded. In this submission we make several recommendations to strengthen this independence.

We are pleased the Government has committed to preserving our mandate to inform, enlighten and entertain, as set out in the 1991 *Broadcasting Act*. Each of these purposes is mirrored in the mandates of public broadcasters around the world. They are essential. It is also important that CBC/Radio-Canada continues to have the flexibility to fulfill its mandate in a way that best meets the changing needs of Canadians.

Revise the *Broadcasting Act* to explicitly recognize the importance of innovation to the public broadcaster’s role, and ensure it has the flexibility to determine, over time, the most appropriate platform and delivery mechanism to serve Canadians

Pursuant to subsection 3(1)(m) of the *Broadcasting Act*, CBC/Radio-Canada is required to make its programming available throughout Canada by the most appropriate and efficient means. The Canadian broadcasting system as a whole is required to be regulated and supervised in a flexible manner that is readily adaptable to scientific and technological change, as set out in subsection 5(2)(c).

The broadcasting landscape is changing rapidly and CBC/Radio-Canada will need to continue to evolve by exploring new platforms and innovating with new technologies to meet Canadians’ preferences via the media, platforms and formats that they want to use.

The Terms of Reference specify that the Government continues to support CBC/Radio-Canada’s broad programming mandate to inform, enlighten and entertain. Our proposal provides the national public broadcaster with the flexibility to determine the best platform to reach Canadians with our programming.

13. See example, Broadcasting Decision CRTC 2018-263, Renewal of licences for various terrestrial broadcasting distribution undertakings that will expire in August 2018 – Introductory decision, 2 August 2018.

- Amend subsection 3(1)(l) of the *Broadcasting Act* to remove reference to television and radio services to enable CBC Radio-Canada to use any technological platforms. For example:

*3 (1) (l) the Canadian Broadcasting Corporation, as a national public broadcaster, should provide ~~radio and television~~ services incorporating a wide range of programming that informs, enlightens and entertains **by any technological means known or yet to be developed**;*
(bolded font is new)

Given CBC/Radio-Canada’s mandate to serve all Canadians under the *Broadcasting Act*, we think it would be appropriate to explicitly recognize our role in innovation – to explore new platforms, new techniques and new broadcasting approaches. This is consistent with other public broadcasters such as the BBC, and gives CBC/Radio-Canada the flexibility to adapt to changing audience demands – most recently the shift to mobile. We propose to:

- Amend subsection 3(1)(m)(vii) of the *Broadcasting Act* to recognize CBC/Radio-Canada’s role in innovation, consistent with our mandate. For example:

(m) the programming provided by the Corporation should:

(...)

*(vii) be made available throughout Canada by the most appropriate and efficient means, **including deploying new technologies and innovations**, and as resources become available for the purpose, and*
(bolded font is new)

Revise the *Broadcasting Act* to explicitly recognize CBC/Radio-Canada’s important role and contribution in reflecting Indigenous people in its programming

All broadcasters in Canada have a responsibility under the *Broadcasting Act* to recognize in their programming the “special place of aboriginal peoples.” Specifically, subsection 3(1)(d) (iii) provides that the Canadian broadcasting system should, through both programming and employment opportunities, serve the needs and interests, and reflect the circumstances and aspirations of the “*special place of aboriginal peoples within that society*”. In addition, subsection 3(1)(o) provides that “*programming that reflects aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose*”.

The *Broadcasting Act* recognizes the important role of the national public broadcaster by setting out its programming mandate distinctly and separately in subsection 3(1)(m).

CBC/Radio-Canada reflects the diverse cultures, languages and perspectives of Indigenous peoples across Canada through a wide variety of programming on our television, radio and digital platforms: from documentaries to interviews to dramas to news and current affairs in English, French and 8 Indigenous languages¹⁴. CBC/Radio-Canada recommends that our programming mandate be revised to make specific reference to our role in creating programming that is relevant to and reflective of Indigenous peoples. To reflect this objective in our mandate, we propose to add a subsection to section 3 (1) (m) of the *Broadcasting Act*. For example:

(m) the programming provided by the Corporation should

(...)

actively contribute to reflect the circumstances and aspirations of Indigenous peoples,

Revise the *Broadcasting Act* to strengthen the role of CBC/Radio-Canada in building a life-long relationship with Canadians of all ages, particularly children and youth

CBC/Radio-Canada must address the entire population – not only in the technical sense of making its programming available to all but, equally important, by making content that addresses the needs, interests and situations of all members of the public. Everyone should, at some time be able to find the type of content they are most interested in across CBC/Radio-Canada's range of services. For example, countries around the world acknowledge the importance of public broadcasters engaging with their children and youth. CBC/Radio-Canada is strengthening its engagement with this important demographic and is laying the foundation for a life-long relationship between citizens and their public broadcaster.

To reflect this objective in our mandate, we propose to add a subsection to section 3 (1) (m) of the *Broadcasting Act*. For example:

(m) the programming provided by the Corporation should

(...)

actively contribute to reflect the circumstances and aspirations of Canadians of all ages,

Revise the *Broadcasting Act* to recognize the role of the public broadcaster in projecting Canada to the world

The Government has encouraged CBC/Radio-Canada to showcase the best of Canada to the world. CBC/Radio-Canada recommends broadening its mandate to permit it to showcase Canadian content in a global, digital environment. The following paragraphs outline the steps that would be required to accomplish the distribution of the Corporation's programming outside Canada.

- Amend subsection 3(1)(m) of the *Broadcasting Act* to add a new subparagraph to the Corporation's mandate to broadcast Canadian content to the world. For example:

(ix) promote and make Canadian programming and content available internationally

In addition, CBC/Radio-Canada recommends a number of housekeeping amendments to the other sections of the *Broadcasting Act* to permit CBC/Radio-Canada to be more agile in the international marketplace and more effectively promote Canadian content abroad. This would include changes to subsections 46(1)(d) and (e) to permit the Corporation to promote Canadian programming including Canadian programming produced by a third party and changes to subsections 46(1)(f) and (g) to no longer require approval by the Governor in Council for, respectively, contracts for consulting or engineering services outside Canada and to distribute or market outside Canada any programming services originated by the Corporation or by a third party.

Revise the *Broadcasting Act* to clarify that when CBC/Radio-Canada is acting as a broadcaster, its rights, obligations and liabilities are the same as other broadcasters, and not those of a government body

As a media organization, CBC/Radio-Canada's independence is crucial to its existence. Canadians must have confidence that the public broadcaster is acting in their interests, not in the interests of any government, as a state broadcaster would. Independence could be strengthened by more clearly differentiating between its dual roles of media organization and Crown Corporation.

In order to strengthen the independence of the Corporation, the

14. For specific examples of programming, see CBC Indigenous Beyond 94, an immersive and interactive website on the Truth and Reconciliation CRTC's 94 Calls to Action at cbc.ca/beyond94.

Broadcasting Act should reflect clearly that CBC/Radio-Canada has complete editorial freedom with respect to what it decides to broadcast. This would mean that for the purposes of its programming services, CBC/Radio-Canada is not considered a Crown Corporation. In order to clarify further this editorial freedom, the Corporation believes that this could be achieved by a minor modification to subsection 47(1) of the *Broadcasting Act*. For example:

Except as provided in subsections ~~44(1) and 46 (1) (2) (4) and (5)~~ the Corporation is, for all purposes of this Act, an agent of Her Majesty, and it may exercise its powers under this Act only as an agent of Her Majesty.

This proposed amendment would provide a more complete guarantee of CBC/Radio-Canada's editorial independence. It specifies that when the Corporation is acting as a broadcaster, it is acting in its private aspect and that its rights, obligations, powers and liabilities are the same as a private broadcaster, and not those of a public body or "Crown agent".

Revise the *Broadcasting Act* to ensure sufficient, predictable levels of funding for the public broadcaster to meet its mandate

Funding is key to the independence and stability of CBC/Radio-Canada.

In order to preserve CBC/Radio-Canada's role as a public broadcaster and the broad mandate conferred on it under the *Broadcasting Act*, and to preserve its independence as a trusted news and public affairs organization, the Government could revise the *Broadcasting Act* to require that public funding be commensurate with CBC/Radio-Canada's mandate. More particularly, funding should be sufficient and stable to safeguard the existence and development of the Canadian public broadcaster. We propose to add a subsection after section 3 (1) n) to achieve this objective. For example:

The Canadian Broadcasting Corporation shall be funded in such a way that it is able to meet its mandate as the national public broadcaster; in particular the funding shall be sufficient to safeguard the existence and development of the national public broadcaster.

Revise the *Broadcasting Act* to provide greater financial flexibility to the Corporation in the management of its resources

Increasing CBC/Radio-Canada's financial flexibility would further its independence and stability and enable the public broadcaster to play an even stronger role in the Canadian broadcasting system.

The reality of public broadcasting is that it is subject to the constraints of funding. In Canada, CBC/Radio-Canada operates under a mixed funding model whereby it is granted funds by Parliament on an annual basis and is also expected to generate revenues by commercial activities. Historically, this has been through advertising revenues on its linear television services and subscription revenues on its discretionary services. The rise of digital technology does not change the fact that CBC/Radio-Canada continues to require the flexibility to pursue commercial activities to support its activities.

We have two recommendations that are intended to provide greater financial flexibility to the Corporation in the management of its resources:

First, we propose to revise section 46 (1) (q) of the *Broadcasting Act* in order to reduce the current restraints that exist on acquiring and selling of shares and to permit the Corporation to select the most appropriate vehicle to carry on business that is "incidental or conducive to the attainment of the objects of the Corporation". For example:

46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, and for that purpose the Corporation may

(q) ~~subject to the approval of the Governor in Council, acquire, hold and dispose of shares of the capital stock of any company or securities (including debt obligations) of, or other ownership of economic interest or establish, any:~~

*(i) **corporation;***

*(ii) **partnership; or***

*(iii) **association, syndicate, investment fund, trust or other organization (whether or not incorporated);***

that carries on, or is authorized to carry on, any business incidental or conducive to the attainment of the objects of the Corporation; and
(bolded font is new)

Second, in order to make us more efficient and competitive in the rental and real estate market and generate more revenue, we recommend revising section 48(1) of the Act as follows:

48 (1) Subject to subsection (2), the Corporation may purchase, lease or otherwise acquire any real or personal property that the Corporation deems necessary or convenient for carrying out its objects and may sell, lease or otherwise dispose of all or any part of any property acquired by it.

*(2) The Corporation shall not, without the approval of the Governor in Council, enter into (a) any transaction for the acquisition of any real property or the disposition of any real or personal property, other than program material or rights therein, for a consideration in excess of ~~four~~ **fifty**¹⁵ million dollars or such greater amount as the Governor in Council may by order prescribe; or*

(b) ~~a lease or other agreement for the use or occupation of real property involving an expenditure in excess of four million dollars or such greater amount as the Governor in Council may by order prescribe.~~

(bolded font is new)

Revise the *Broadcasting Act* to strengthen the governance and independence of the Corporation

CBC/Radio-Canada has recommendations in five areas to strengthen the governance and the independence of the Corporation.

i) Strengthen the appointment process

Section 36 (2) of the *Broadcasting Act* should be amended to enshrine in the legislation the process created by the government for its recent appointments to the Board and of the new President; namely, the use of a selection panel made up of independent experts reflecting a fair representation of Canada's regions, as well as Canada's diversity.

The section should also provide that the Board Chair or their delegate be part of the selection panels for all positions, including the panel that appoints the President. When a selection panel is convened to appoint the Board Chair, either the outgoing Chair or the Chair of the Human Resources and Governance Committee should sit on that panel.

¹⁵. The amount referred to in section 46(2)(b) was raised to \$15 million in Order in Council P.C. 2002-1582, September 24, 2002.

Section 36 (3) should be amended to specify that the offices of Chair and President not be replaced during the same year so that appointments are staggered to ensure continuity of work.

Section 38 should also stipulate that appointments reflect cultural diversity, gender parity and a fair representation of provinces and territories and, for the positions of Chair and President, that appointees be capable of working in both official languages. It should further stipulate that Board members be chosen in such a way that, collectively, they possess the range of skills, experience and languages necessary for the Board to operate effectively.

Section 36 (3) should be amended to provide for appropriate remedies in the event that a Board member is absent or incapacitated similar to those stipulated in section 41 (3) for the Chair and in section 42 (3) for the President. For example:

The member fails to attend meetings of the Board continuously for three consecutive regularly scheduled board meeting or more without the consent of the Board.

ii) Strengthen the Board's role in protecting the independence of the Corporation

Board members have a responsibility to safeguard the independence of the public broadcaster. We propose adding a section that would stipulate that each Board member must uphold and protect the Corporation's independence at all times. For example:

In accordance with article 35 (2) each member of the Board must at all times uphold and protect the independence of the CBC/Radio-Canada including by acting in the public interest, exercising independent judgement and neither seeking nor taking instruction from government ministers or any other person.

iii) Modernize the rules relating to the outside interests of directors

Sections 38 (1) and (2) should be amended to allow Board members to maintain some degree of interest in the broadcast industry. Federal conflict-of-interest safeguards, which apply to public officeholders such as ministers, senators and members of Parliament, should be adequate to prevent conflicts of interest for the President, the Chair and other members of the CBC/Radio-Canada Board having, directly or indirectly – including as an owner, shareholder, director, executive or business partner – a pecuniary or proprietary interest in a broadcasting undertaking, or being principally engaged in the production or distribution of program material that is primarily intended for use by a broadcasting undertaking.

For example, placing assets in a blind trust could be considered as sufficient.

The current Act is more restrictive than is required for ministers, senators and members of the Parliament, it provides that a person is not eligible to be appointed or to continue as director or President and CEO if the person has any interest in a broadcasting undertaking, or is engaged in the production or distribution of program material that is primarily intended for use by a broadcasting undertaking. These requirements can deprive the Corporation of high-quality candidates.

iv) Clarify the role and responsibilities of the Board and the management

Section 39 should be amended to avoid any potential confusion between the role of the Corporation's senior executives and the role of the Board. This section should state that the CEO is responsible for leading and managing the business, activities and other affairs of the Corporation while the role and responsibility of the Board is one of direction and oversight.

v) Permit the Board to create committees and to describe their mandate

Section 45 should be rescinded. The decision to create such committees should fall within the Board's purview. Evidence of this is in the fact that the duties of said standing committees are delegated to them under the corporate by-laws adopted by the Board.

3. IMPROVING THE RIGHTS OF DIGITAL CITIZENS AND CONSUMERS

The expert panel's consultation document provides that "independent, trusted, accurate, diverse, as well as local and Canadian sources of news and information are essential for an informed citizenry, civic participation, and democratic process".

Revise the *Broadcasting Act* to ensure that the news on digital media undertakings is held to the same standards as traditional broadcasters

CBC/Radio-Canada supports the availability of high quality content for Canadians for all types of programming, including news.

There are important tools that already exist under the *Broadcasting Act*, regulations, codes and in other legislation to meet the objective of providing trusted, accurate and quality news and information programming to Canadians.

As a first step, CBC/Radio-Canada recommends bringing OTT services under the jurisdiction of the *Broadcasting Act* and requiring them to be subject to Canadian laws, regulations and codes. This is addressed in recommendations above '*Revise the Broadcasting Act to resolve any uncertainty that domestic and foreign Over-the-Top (OTT) services are captured in the legislation*' and '*Modernize broadcast legislation*'.

With respect to news and information programming, as noted above in the recommendation to "Modernize broadcasting regulation in Canada" in the subsection addressing "Ensuring the availability of high quality content for Canadians", subsection 3 (1) (g) of the *Broadcasting Act* stipulates that "the programming originated by broadcasting undertakings should be of high standard". In addition, current regulations for programming services prohibit licensees from broadcasting anything in contravention of the law, abusive comment or pictorial representation, obscene or abusive language or pictorial content, and false or misleading news. Similar requirements should apply to digital media undertakings.

In addition to these regulations, programming services are required by condition of licence to adhere to CBSC Codes which require high-quality and accurate news. For example, the CAB Code of Ethics recognizes that "full, fair and proper presentation of news, opinions and comments and editorials are the prime and fundamental responsibility of each broadcaster"¹⁶. CBC/Radio-Canada believes that these standards in journalism should apply to digital media undertakings too.

16. CAB Code of Ethics, Clause 6.

In addition, CBC/Radio-Canada is proposing a mechanism to permit the CRTC to issue orders requiring Canadian telecommunications carriers and telecommunications service providers, including ISPs to take actions such as the blocking of websites that disseminate manipulated content, including news. This is addressed below, in the recommendation to *“Revise the Broadcasting Act to enable the CRTC to issue orders to telecommunications carriers and service providers to further the objectives of the Broadcasting Act .*

There are other legal instruments to make sure that Canadians receive news that is accurate and not misleading. For instance, every Canadian citizen can avail itself of either their provincial *Defamation Act* or general responsibility regime to file defamation lawsuits against false and misleading news or information. The *Criminal Code of Canada* also has a prohibition against hate speech.

Together, these instruments can ensure the provision of trusted, accurate and quality news and information to Canadians.

Provide support for Canadian local news programming that meets Canadian journalistic standards

The availability of local news and information programming from a plurality of editorial voices is a key part of the Canadian democratic system and trust that Canadians place in it.

In order to support the viability of local news in the broadcasting system, CBC/Radio-Canada recommends that the Government support the availability of Canadian local news programming that meets Canadian journalistic standards. This could be either through direct Government support or by the CRTC rebalancing the resources in the broadcasting system by making financial support available to produce high-quality local news programming that meets Canadian journalist standards. As such, all undertakings, including digital media undertakings, who meet those standards for Canadian local news programming, should be eligible to receive funding.

4. RENEWING THE INSTITUTIONAL FRAMEWORK FOR THE COMMUNICATIONS SECTOR

Revise the *Broadcasting Act* to enable the CRTC to issue orders to telecommunications carriers and service providers to further the objectives of the *Broadcasting Act*

At the present time, the *Telecommunications Act* and the *Broadcasting Act* are compartmentalized leaving the CRTC with no opportunity to order telecommunications carriers to carry out actions that would fulfill the objectives of the *Broadcasting Act*. To address this problem, as set out in recommendation 3, we have proposed to amend section 4(4) of the *Broadcasting Act* to pave the way for a new provision to permit the CRTC to levy a contribution charge on ISPs to support Canadian programming.

The current bifurcation of the two Acts also causes problems in the digital environment where so much of the programming content is being delivered by ISPs, who have been found by the Supreme Court of Canada to be telecommunications carriers rather than broadcasting distribution undertakings. It impedes the ability of the CRTC to order ISPs under the *Telecommunications Act* to block websites that engage in the piracy of programming content, or manipulated content. To address this problem, in addition to the changes already proposed at section 4 (4) of the *Broadcasting Act*, CBC/Radio-Canada recommends that the following additional steps be taken:

- Add a section to the *Broadcasting Act* permitting the CRTC to issue orders requiring Canadian telecommunications carriers and telecommunications service providers, including ISPs to take actions designed to support the implementation of Canadian broadcasting policy objectives such as the blocking of websites used for piracy of programming or content that is manipulated, including news.
- Make any consequential amendments to the *Copyright Act*.

Revise the *Broadcasting Act* to authorize the CRTC to issue administrative monetary orders, including the enforcement of funding obligations

At the present time, the CRTC has little recourse against licensees or licence-exempt parties if they breach the terms of their licence, the exemption order or applicable sections of decisions, orders, or the governing legislation and regulations.

The primary sanction available is suspension or revocation of licence or the exemption order, which is a drastic measure.

The Government of Canada has amended both the *Telecommunications Act* and the *Radiocommunication Act* to authorize the CRTC to issue an administrative monetary penalty in appropriate circumstances in lieu of other remedies. A similar power should be added to the *Broadcasting Act*. This would be an additional tool for the CRTC to use to enforce its policies against both licensed and unlicensed undertakings.

Legitimate businesses that have a stake in the Canadian market will generally want to comply with local laws and regulations. By way of example, the CRTC's telecommunications regime currently captures telecommunications service providers who are not resident in Canada but who provide telecommunications services to Canadians by reselling the facilities of Canadian carriers or other service providers. This includes the application of the CRTC's contribution regime to foreign-based service providers. Many foreign-based service providers register with the CRTC as resellers, obtain Basic International Telecommunications Services (BITS) licences and pay into the contribution fund.