



Sent via Intervention Form

23 June 2025

Marc Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Gatineau, Quebec
K1A 0N2

Re: Final comments of the Canadian Association of Broadcasters with respect to
The Path Forward – Defining “Canadian program” and supporting the creation and
distribution of Canadian programming in the audio-visual sector,
Broadcasting Notice of Consultation CRTC [2024-288](#)

1. As the national voice of small, medium and large Canadian privately-owned and controlled television broadcasters both independent and vertically integrated, including those operating under 9.1(1)(h) distribution orders, the Canadian Association of Broadcasters (CAB) is pleased to provide its final comments on the above noted notice of consultation.
2. This consultation process presents the Commission with an important, and necessary opportunity to reset the regulatory framework in support of important broadcasting policy objectives in three key ways:
 - **First, the Commission should ensure foreign online undertakings contribute to the system commensurate with what they take out**– we recommend a contribution requirement of 20% of the Canadian revenues associated with “programming” activities and 5% of revenues associated with “BDU-like” activities;
 - **Second, it should alleviate the regulatory and administrative burden of television broadcasters** by setting programming obligations that are better aligned with viewing preferences and the services’ programming strategies – we recommend eliminating PNI obligations and the micro-regulation of news requirements; and
 - **Third, it should adopt a definition of Canadian program that is NOT watered down to accommodate foreign online undertakings** – we recommend retaining mandatory positions, requiring at least 60% of positions (whether a 10-point or a 15-point system) be held by Canadians, and requiring IP to be held by Canadians.

3. Central to the CAB's recommendations is the first broadcasting policy objective set out in the *Broadcasting Act* (the Act), namely, that the Canadian broadcasting system be effectively owned and controlled by Canadians, while recognizing that foreign broadcasting undertakings also provide programming to Canadians. We believe this objective is equally as important as those regarding the support of Canadian programming in English and French and Indigenous programming, as well as programming by and for official language minority communities, Black and racialized Canadians, and the diverse ethnocultural components of Canadian society.
4. Therefore, we believe the Commission must prioritize the continued viability and sustainability of Canadian owned and operated broadcasters as the cornerstone of the Canadian broadcasting system.
5. Canadian broadcasters contribute in a myriad of ways – including spending on Canadian programming, airing Canadian programming, investing in independent productions, and producing vastly important news programming – but also through hiring Canadians, paying Canadian taxes, supporting local events, and so on. Almost every non-programming dollar is spent in Canada.
6. But the disruption caused by foreign online undertakings has made the challenges Canadian television broadcasters face even harder to overcome. The direct entry of foreign players has upended the ability of private television services to continue supporting Canadian programming and other public policy objectives in the ways and to the extent they used to. News, in particular, is at risk. Foreign streamers cannot fill the gaps that would be created if Canadian broadcasters ceased to exist – and this is particularly true in terms of the production and broadcast of Canadian news.
7. Therefore, we believe the three points listed above are critical components of a modernized broadcasting framework that will support the continued sustainability of Canadian owned and operated broadcasters, while ensuring that foreign online undertakings also contribute to the support of important public policy objectives.
8. We elaborate on these three points below.

Ensure foreign online undertakings make direct, meaningful and equitable contributions, commensurate with the revenue they take out of the system

9. The CAB disagrees with the position of the foreign online undertakings that the Act requires the Commission to set lower obligations for them.
10. Section 3(1)(f) of the Act requires Canadian broadcasters to make “maximum” use of Canadians in the creation, production and presentation of ***all of their programming*** – not only their *Canadian* programming – and they do that every day – given that almost every dollar of non-program spending is spent in Canada:

(f) each Canadian broadcasting undertaking shall employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

11. Section 3(1)(f.1) of the Act requires foreign online undertakings to make “greatest practical” use of Canadians in support of the creation, production and presentation of **Canadian** programming:

(f.1) each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve;

12. These obligations under the Act may be different – but saying that 3(1)(f.1) gives online undertakings a lesser obligation is incorrect. Indeed, all broadcasting undertakings are subject to the same general obligation set out at 3(1)(e) of the Act:

(e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.

13. And all fall under the same set of rules in terms of Canadian programming and spending obligations, as set out in section 9.1(1) and 10(1) of the Act.

14. Further, the government’s policy direction¹ to the CRTC requires the Commission to ensure that Canadian programming obligations are equitable:

Supporting Canadian programming

4 The Commission is directed to impose requirements on broadcasting undertakings that ensure that the Canadian broadcasting system — which is to be effectively owned and controlled by Canadians and includes foreign broadcasting undertakings that provide programming to Canadians — strongly supports a wide range of Canadian programming and Canadian creators. The requirements, both financial and non-financial, must be equitable given the size and nature of the undertaking and equitable as between foreign online undertakings and Canadian broadcasting undertakings.

¹ [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\).](#)

15. In our view, these sections of the Act – coupled with the policy direction – both empower *and* require the Commission to apply similar obligations to Canadian and foreign broadcasting companies operating in Canada. And in any event, whatever flexibility is granted to foreign streamers must also be extended to Canadian programming services whose obligations must not be more onerous.
16. In our June 12 responses to the Commission’s Requests for Information, we reiterated our previous recommendation of a 20% obligation for online *programming* undertakings and a 5% obligation for online *BDU-like* undertakings, described as follows:

For clarity, under the CAB’s proposed model, services like Netflix – which currently acts only as a curator of content [in Canada], rather than a distributor of third-party services – would have a contribution requirement of 20%. Services like Amazon and Apple – which provide the programming services of third parties, as well as their own content – would have a contribution requirement of 5% of the Canadian revenue derived from the distribution of third-party programming services (plus an obligation to carry specified services), and a contribution requirement of 20% of Canadian revenue derived from the distribution of their own programming/services.

17. We believe that foreign online undertakings should fulfill their obligations by contributing only to funds, ensuring these contributions are directed by Canadians to support Canadian broadcasting policy objectives, rather than diluting the definition of Canadian programming. This would also ensure that they do not drive up the costs of production in Canada.

Alleviate the regulatory and administrative burden that applies to Canadian television broadcasters to ensure their longer term sustainability

18. Throughout the hearing, there was a great deal of discussion of “at risk” programming but we heard very little about “at risk” Canadian broadcasters. Commercial television broadcasters cannot continue to sustain the losses they have seen over the last 10 years, nor can they continue to bear the brunt of onerous regulatory obligations.
19. Indeed, it is the capacity of Canadian radio and television stations to continue to contribute to cultural policy objectives that is at risk. Therefore, the Commission can no longer focus on the extraction of benefits at the cost of the success and sustainability of those very broadcasters on which the system relies.
20. We need a new regulatory bargain – one that starts from an acknowledgement of the importance of the viability of Canadian owned and operated television stations, and of the need to support a healthy and sustainable Canadian broadcasting industry, as the foundation of good cultural policy.

21. The Commission can help to ensure the health and sustainability of Canadian broadcasters by setting programming obligations that are better aligned with viewing preferences and the services' individual programming strategies. In particular, we have recommended that the Commission no longer impose specific obligations with respect to programs of national interest (PNI). PNI obligations constrain broadcasters, making them spend on programming that may not fit in their programming strategies. In today's competitive viewing environment, broadcasters need flexibility to be able to invest in the programming that makes most sense for their audiences.
22. Consistent with the view expressed above, we believe that the Commission should establish a Canadian programming expenditure requirement of no more than 20% and permit Canadian broadcasters to allocate their spending to the programming that makes most sense to their mix of programming assets and their audiences' interests. Some will focus on news programming, some will continue to invest in drama and documentaries and children's programming, and others will have different programming strategies.
23. In addition to removing PNI obligations, we recommend that the Commission conduct a thorough internal review of all of its rules and processes – particularly its reporting and disclosure requirements and data collection systems – with a view to reducing regulatory and administrative burden to the greatest possible extent, and ensuring fairness in the publication of sensitive business data.
24. As part of a more general shift to regulating only what really matters, we urge the Commission, in particular, to end the micro-regulation of news. Canadian conventional broadcasters will continue to provide news to their communities – it is one of their key differentiators. However, we believe that their internal resources are better directed to the production and broadcast of news programming than to the identification, timing and reporting of “relevant” and “reflective” programming segments. The record of the hearing also includes several examples of the unintended consequences of the Commission's limiting definitions.

Adopt a meaningful definition of Canadian programming

25. We are concerned that the foreign online undertakings have proposed a definition of Canadian program that is so watered down that it would encompass foreign service production and result in no net-new Canadian production. Given the resources that they are taking out of the Canadian system, foreign streamers must be required to reinvest in the system, rather than in their own businesses.
26. In particular, their focus on investments in what is almost entirely foreign location shooting fails to acknowledge how much money they derive from Canadians and the impact that has had on the Canadian broadcasting system. They must be required to contribute back into the system in an equitable and meaningful way.

27. Foreign service production is an investment in their businesses, in their bottom lines. While there is short term economic value to Canadian creative personnel, there is no long term cultural value to such production or to the sustainability of Canadian producers, which need more sustainable support, most importantly through the production of content that they own and can exploit in the longer term.

28. We also find it hard to support the additional complexity of sliding scales to accommodate the interests of foreign online undertakings. As noted in our response to the Commission's RFIs:

Rather than creating complex sliding scales, the CAB believes that adapting the current co-venture model would be sufficient to provide flexibility for foreign streamers to work with Canadian broadcasters and producers and still retain a degree of control and financial participation. In co-ventures, we support permitting the sharing of IP on a 50/50 basis, which would align with the current requirement of shared decision-making responsibilities, financial participation, and profit-sharing.

29. Nor do we support the percentages of percentages models as recommended by the CMPA, which are similarly designed to appeal to the foreign streamers but add needless complexity to the regulatory framework.

30. Therefore, for the definition of Canadian program, we recommend mechanisms that support Canadian creative and financial ownership and control. In particular, we recommend retaining the mandatory positions and, for the sake of simplicity, rather than creating different definitions for different genres of programming, we recommend that the Commission require that a minimum of 60% of key positions be held by Canadians. Finally, we recommend that the Commission adopt IP ownership requirements aligned with CAVCO.

31. Ultimately, the objective should be the articulation of a definition that is simple and clear, and makes it no more difficult for Canadian broadcasters to meet certification requirements.

32. All of which is respectfully submitted.

Yours sincerely,

[Original signed by]

Kevin Desjardins
President | Canadian Association of Broadcasters

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