

February 4, 2021

Aimée Belmore, Clerk of the Committee
Standing Committee on Canadian Heritage
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Via email: chpc@parl.gc.ca

Ms. Belmore,

Re: Subject Matter of Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts

1. Pelmorex Weather Networks (Television) Inc. (“Pelmorex”) is the broadcasting licensee of the Canadian specialty programming services The Weather Network and MétéoMédia, Canada’s most popular weather forecast and information services on television, web and mobile applications. Pelmorex also operates and funds the National Alert Aggregation and Dissemination (NAAD) System, which is the technical infrastructure that enables emergency alerts to be distributed by government officials to Canadians via television, radio and wireless devices.
2. Pelmorex is pleased to provide these comments regarding the Committee’s study of Bill C-10. As an all-Canadian, bilingual specialty channel, with one of the strongest digital presences of any broadcaster, and operator of a key component of Canada’s public safety infrastructure, Pelmorex is greatly invested in any changes to Canadian broadcasting legislation or policy. Our interest is made that much greater by the fact that we are a fully independent company with no additional, vertically-integrated lines of business that we can leverage to extend the distribution of our services.
3. Although Bill C-10 proposes changes to the *Broadcasting Act* intended to allow regulation to keep pace with an increasingly online industry, it also removes some existing authority to ensure fair treatment of Canadian programming services in an online world. As well, while C-10 recognizes the importance of the broadcasting industry in disseminating emergency alerts, it does not underpin this with a public safety objective.
4. Pelmorex therefore recommends two amendments to Bill C-10 that to ensure that:
 - the Canadian Radio-television and Telecommunications Commission maintains its current ability to oversee the distribution of Canadian programming services in an online world; and

- the broadcasting industry's important contributions to public safety are enshrined in, and supported by, the *Act*.

Maintain the CRTC's ability to oversee the distribution of programming services in an online environment

5. The Independent Broadcast Group ("IBG"), of which Pelmorex is a member, has drafted a comprehensive backgrounder on how Bill C-10, as written, "removes the CRTC's authority to supervise a critical element of online activity – the oversight of the distribution, discoverability and fair treatment of Canadian apps and services in an online environment." IBG has also outlined the specific amendments necessary to ensure C-10 does not inadvertently reduce the CRTC's current ability to ensure the fair distribution of Canadian services. Pelmorex fully supports the IBG submission and has appended the two documents here. We will then provide here a brief overview of the nature of our concerns with C-10 and how it would affect Pelmorex directly if it is passed as currently written.
6. To summarize, while the proposed legislation would provide the CRTC the authority to oversee the distribution, discovery and treatment of Canadian "programs" on digital distribution services, it removes the Commission's ability to require the distribution, or any rules related to promoting, Canadian "programming services" on digital platforms. While this could help with the funding and distribution of the next *Schitt's Creek*, it is potentially catastrophic for services like the Weather Network that need to operate live, 24/7 to be available to viewers.
7. In a real-world context, Canadian cable companies could launch their own "online undertakings" and could meet new regulatory requirements by distributing Canadian programs on their own services, with no obligation to distribute any non-affiliated programming services, including those that are considered essential by the CRTC. At a minimum, these distributors would have little incentive to negotiate fair distribution terms without a regulatory backstop.
8. However, a more severe scenario exists where Canadian distributors may not even be allowed to distribute some Canadian services without proper regulatory oversight. Canadian cable companies are increasingly using US-originating operating systems for their distribution software,¹ one of which comes preloaded with an app for the American Weather Channel. Under the proposed changes to the *Broadcasting Act* there would be no regulatory imperative for the Canadian distributors to work with a company like Pelmorex to ensure Canadians receive a Canadian owned and focused weather service. Worse though, without the requirements of the *Broadcasting Act*, or the appropriate regulation, US software providers could potentially force Canadian distributors to honour global content agreements that they have already made with large US content providers, thereby keeping Canadian players like Pelmorex out of the system entirely.

¹ Canada's five largest communications services companies are all migrating to, or using, either the Xfinity platform, owned by Comcast Corporation, or Android TV Operator Tier, owned by Google.

9. Pelmorex understands that policy and regulation will need to continue to evolve to match the changing needs and demands of the quickly evolving broadcasting and content industry. We strongly submit that the authority to make regulatory decisions in such a dynamic marketplace should remain fully with the CRTC, and that a component as important as overseeing the distribution of programming services on online platforms should not be totally foreclosed by legislation. We therefore urge the Committee to recommend the amendments proposed by IBG to address this matter.

The Broadcasting industry's important contributions to public safety are enshrined in, and supported by, the Act

10. Pelmorex has operated and funded, as a condition of its broadcasting licence for The Weather Network and MétéoMédia, the technical infrastructure of Canada's public alerting system since 2010. The CRTC has required TV and radio broadcasters to distribute targeted emergency alerts to the public since 2015, and has similarly required wireless service providers to distribute alerts to compatible mobile devices since 2018.
11. Pelmorex welcomes the proposed addition to section 9 of the *Act* that would give the CRTC the explicit authority to make orders imposing conditions on broadcasting undertakings respecting "the carriage of emergency messages." This amendment is an important step in recognizing and solidifying the important role that the broadcasting industry plays in keeping Canadians safe.
12. However, although a critical and lifesaving service, disseminating emergency alerts is just one way that broadcasters contribute to public safety on an ongoing basis. Pelmorex, as one example, broadcasts important road reports and active weather coverage, and is an important partner in promoting emergency preparedness. As well, the proposed addition of a clause related to "emergency messages" in the *Act* is intended to exist as a Commission authority in the "furtherance of its objects," but there is no Object or policy in the current or proposed *Act* that relates to public safety
13. Pelmorex submits that adding a public safety policy objective to the *Act* would both recognize the important and ongoing contributions that the broadcasting industry makes to public safety – including passing on emergency messages to the public – and ensure the CRTC can regulate in a manner necessary to ensure such contributions continue. We therefore propose specifically that the following be added following Subparagraph 3(1)(d)(iv):

(v) contribute to public safety.

Conclusion

14. Pelmorex has maintained its status as the provider of Canada's leading weather news and information services by constantly innovating to deliver the most accurate weather forecasts, and expanding to provide more critical safety services, for all Canadians, when and where they

want and need them. As an independent media company we have had to compete aggressively for audiences in the currently unregulated digital space, and have continually increased our contributions to the objectives of the *Broadcasting Act* to ensure our bilingual programming services remain available to all Canadians.

15. The broadcasting and media industry continues to change rapidly, and Bill C-10 recognizes that new powers are needed so the CRTC can properly oversee this new landscape in a way that ensures the objectives of the *Act* continue to be met. However, as we have outlined in this submission, the proposed legislation as drafted would leave a large gap in the regulator's ability to ensure Canadian programming services are still made available – or at the very least not completely shut out in favour of foreign services – in an online environment. As well, we submit that an updated *Act* should more fully recognize and enshrine the important contributions that the broadcasting industry makes to public safety.

16. We appreciate the opportunity to participate in this important proceeding. Please do not hesitate to contact us directly if you have any additional questions about our submission.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kurt Eby', with a stylized, sweeping flourish extending from the end of the name.

Kurt Eby
Director, Regulatory, Government and Affiliate Relations
Pelmorex Weather Networks Inc.

Attachments:

- IBG Bill C-10 Background;
- IBG Proposed Amendments to Bill C-10