



World's First
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Broadcaster

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APTN Submission to the Standing Committee on Canadian Heritage, House of Commons

Bill C-10 – An Act to amend the *Broadcasting Act*

APTN is convinced that while there is much that we support in Bill C-10 surrounding the reflection of Indigenous Peoples, there are also serious shortcomings in how the Bill approaches the future of online distribution.

Support for Reflection of Indigenous Voices

APTN fully supports the greater reflection for Indigenous Peoples that is proposed to be incorporated into the Broadcasting Act. In particular:

- new section 3(1)(d)(iii.1) – which states that the broadcasting system should provide opportunities to Indigenous persons to produce programming, whether in Indigenous languages, French or English, and to carry on broadcasting undertakings; and
- the amendment to section 5(2) – which provides that regulatory policy should take into account the different characteristics of English, French and Indigenous language broadcasting.

We also support the amendment to section 3(1)(o) to the Act, but with an important change. In the Bill, it is proposed that section 3(1)(o) would be amended to read as follows:

- “(o) programming that reflects the Indigenous culture of Canada and programming that is in Indigenous languages should be provided within the Canadian broadcasting system, including by programming undertakings that are carried on by Indigenous persons; [emphasis added]

Problematically, the reference to “programming undertakings” in new section 3(1)(o) would exclude Indigenous participation in programming services that make use of the Internet. The term “broadcasting undertakings” should be used. This would better capture all types of broadcasting services, including online services. This would also align with language used in new proposed section 3(1)(d)(iii.1) in Bill C-10.



We also suggest that the Bill be amended to include a definition for Indigenous persons. The term “Indigenous” is often used, but the reality is that there are important differences between First Nations, Inuit and Métis Peoples, as recognized by the Government of Canada in its statement of *Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples*. The Government of Canada’s intention to respect these differences could be reflected by including the following definition in the amended *Broadcasting Act*.

“Indigenous person” describes a First Nations person, an Inuk or a Métis person

This is similar to the definition used in *An Act respecting First Nations, Inuit and Métis children, youth and families*.

Shortcoming Regarding the Future of Online Distribution

While APTN supports amendments to better reflect Indigenous Peoples in the *Broadcasting Act*, the overall structure of the Bill poses problems for APTN’s future – and for the future participation of Indigenous Peoples in the online world.

The *Broadcasting Act* is currently technologically neutral. It allows the CRTC to supervise and, if necessary, regulate the distribution of services by any means of communications if that regulation is necessary to achieve broadcasting policy objectives. Bill C-10 would change this. Under Bill C-10, the CRTC would no longer have the authority to supervise the distribution of Indigenous, or any other programming services on online platforms.

We anticipate that APTN’s programming service will be available in the future in an online version for Internet distribution. APTN has also recently launched an online on-demand service called “LUMI”, which makes our content available on the Internet and on mobile devices directly to the consumer.

It is impossible to say to what extent regulatory intervention could be required, or exactly how that intervention may be framed. But our experience as Indigenous Peoples has been that without appropriate intervention, Indigenous Peoples and Indigenous media can expect to be marginalized, if they are able to exist at all.

Retaining the CRTC’s oversight of online distribution of services does not prejudice any particular regulatory approach or outcome. However, without appropriate authority for the CRTC to oversee distribution issues, it will not be able to act, no matter the urgency or how the online distribution environment develops.

APTN is a founding member of the Independent Broadcast Group/Le groupe de diffuseurs indépendants (“IBG/GDI”). We know that IBG/GDI has proposed amendments to the Bill and will be filing a written submission as well. We support the amendments proposed by IBG/GDI.



Summary of Proposed Amendments

We have attached a short document that describes the specific amendments we are proposing be made to Bill C-10.

Conclusion

APTN appreciates this opportunity to make this submission regarding Bill C-10. We are encouraged by the initiatives in the Bill to better reflect Indigenous Peoples, Indigenous languages and Indigenous owned-media in the *Broadcasting Act*. These are important changes.

If we can correct the CRTC's authority to regulate and supervise the online distribution environment it would be a better document. We are concerned that the CRTC will be left without the tools it needs to ensure that broadcasting policy objectives will be met in the future, especially for Indigenous media services

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APTN Proposed Amendments to Bill C-10

1. ***Changes to section 2(1) to reflect the differences between Indigenous Peoples:***

2(1) In this Act,

"Indigenous person" describes a First Nations person, an Inuk or a Métis person;

2. ***Changes to section 3(1)(o) to reflect online activities of Indigenous broadcasters:***

3(1)(o) programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided within the Canadian broadcasting system, including by programming undertakings broadcasting undertakings that are carried on by Indigenous persons;

3. ***Changes to proposed section 9.1 to reflect the distribution activities of online distributors:***

9.1(1)(b) the presentation of programs and programming services for selection by the public, including the discoverability of Canadian programs and programming services;

9.1(1)(e) a requirement for a person carrying on a distribution undertaking broadcasting undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services specified by the Commission;

4. ***Changes to the CRTC's existing regulation-making authority to reflect online distributors:***

10(1)(g) respecting the carriage of any foreign or other programming services by distribution undertakings broadcasting undertakings;

10(1)(h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings broadcasting undertakings concerning the carriage of programming services originated by the programming undertaking;

5. ***Changes to the broadcasting policy objectives set out in section 3(1) of the Act to better reflect the importance of Canadian services and the distribution function of online services:***

3(1)(a) the Canadian broadcasting system should support Canadian ownership and control of broadcasting undertakings, including independent ownership, offering all manner of services and reflecting a diversity of voices shall be effectively owned and controlled by Canadians;

New section

3(1)(t.1) online undertakings that carry the programming services of other online undertakings

- (i) should ensure the discoverability of Canadian programming services; and
- (ii) should, where programming services are supplied to them by other online undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services.