

Submission of Corus Entertainment to the House of Commons Standing Committee on Canadian Heritage

**Study of Bill C-10, An Act to Amend
the Broadcasting Act**

March 26, 2021

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the time for broadcasting act reform is now



Corus Entertainment thanks the Standing Committee on Canadian Heritage for its work on Bill C-10, and for considering our views. We urge Parliament to pass these critical, long-overdue reforms of the Broadcasting Act during the current legislative session.

After a decade of escalating, unregulated foreign competition, five years of rolling policy consultations and one devastating pandemic, Canadian broadcasters cannot afford to wait any longer for change. The Broadcasting Act has served Canada well, but its core assumption of a closed broadcasting system is out of date. A modern regulatory framework, which includes all audiovisual programming providers – traditional, digital, foreign and domestic – and holds all players to flexible, equitable obligations, is badly needed.

strengthening broadcasters will strengthen the system

Corus is an independent, pure-play, Canadian media and content company that wants to continue growing in, and contributing to our country. With 86 television and radio stations; complementary publishing, animation, and studio assets; strong international partnerships and distribution networks; and, a talented team of over 3,500 Canadian employees, **we have the vision, resources and expertise to build an international media powerhouse in Canada. That is our goal.**

We are the proud home of Global News, one of Canada's largest news organizations, which delivers local, regional and national coverage every day. Every morning, noon, evening and night, from Lethbridge to Saskatoon to Montreal, Global News journalists tell Canadian stories and connect Canadian communities. We want to continue delivering this essential public service for many years to come.

Canadian news broadcasting has always been a challenging business that relies on cross subsidies from related, profitable media businesses. In the future, to continue supporting news in this way, we will need greater flexibility than Canadian broadcasting regulations currently allow so we can grow in other parts of our business.

Importantly, during their study of Bill C-10, some Committee members have inquired whether Canadian media companies can successfully compete abroad, while contributing at home. For Corus, these goals are connected. **Growing our international content business is an essential part of being a strong domestic contributor to the Canadian system.** We must offset traditional television and radio revenue declines with international growth. For example, we plan to bring more Canadian programs like "The Hardy Boys," "Max and Ruby," "Island of Bryan," and "Rust Valley Restorers" to audiences around the world. Our export success will help us to continue delivering the news.



Corus' children's content studio, Nelvana, recently rebooted "The Hardy Boys" for television. The series recently debuted in Canada on Corus-owned YTV, and in the US on Hulu. Leveraging our creative, broadcast and distribution capabilities, Corus was able to bring this Canadian classic to domestic and international audiences.



a modern, equitable regulatory framework for all

Corus not only seeks fairness with our larger foreign counterparts, but a modern regulatory framework that permits all players to succeed in Canada. Only competitive, successful media organizations will be able to serve Canadian audiences and support cultural policy objectives in the future. **The current regulations, policies and codes that govern the broadcasting industry are rooted in an outdated assumption of a closed system.** They prescribe how much we have to spend on certain kinds of shows; when those shows can air; the types of songs we can play on our radio stations; the number of commercials we can sell to advertisers; and, from whom we can buy our programs. Collectively, these rules make it more difficult to operate a successful media organization in Canada.

The level of regulation currently applied to Canadian broadcasters is untenable in a world of open competition. It is simply impractical to apply the old rules to new players. Going forward, all players – foreign, domestic, digital and traditional – must have a more flexible, less onerous set of obligations than Canadian broadcasters have now. **All regulated entities should be able to contribute to the system in ways that make sense for their businesses, and their audiences.**

Recalibrating the regulatory framework for both incumbent broadcasters and new entrants is not a radical idea that Committee members should fear. Rather, **Parliament should embrace the generational opportunity to modernize 30-year old rules for one of Canada's most over-regulated, heavily disrupted economic sectors.** This is not a time to double down on the rigid approaches of the past, but to build sustainable policy models for the future. Independent third parties who track the media industry closely like the Competition Bureau¹, the CRTC² and the Canada Media Fund³ have called for widespread regulatory modernization for incumbent broadcasters and new entrants alike.

Committee members should also not forget that new broadcasting legislation will generate significant incremental investment in Canadian content, which will in turn support members of the Canadian creative and cultural communities. With new legislation, Parliament has the opportunity to modernize



Since the pandemic, Global News has maintained all local newscasts, added special COVID-19 news broadcasts, provided around-the-clock updates on Corus radio stations, interrupted regular programming for news conferences and health briefings and launched new 24-7 online regional news streaming feeds.

Canadian broadcasters' regulations, while sustaining aggregate investment in the sector. It should aim for a 'win/win/win' outcome that benefits Canadian media organizations, the beneficiaries of the broadcasting system, and Canadian audiences.

Bill C-10 gets the big things right

Corus supports Bill C-10 because it recognizes the current reality of Canada's media sector. **This is no longer a closed system, in which government-issued broadcasting licenses provide select access to Canadian audiences.** Today, we live in a two-tiered system, where Canadian broadcasting companies play by one set of rules, and foreign broadcasters play by no rules whatsoever.

Contrary to some suggestions, Canadian broadcasters and foreign streaming services do not inhabit different markets or operate fundamentally different businesses. **We compete for the same subscribers, audiences, revenues and program rights.** Neilson and Numeris now count video streams among their metrics for television ratings. Billboard now counts audio downloads among its metrics for song charts. There is one global audiovisual programming market, and there is no turning back the clock.

However, as mentioned, new entrants should not have to play by the old rules and they are entitled to fairness as well. All players who make equitable contributions to the system should have equitable opportunities to succeed in Canada within a fair framework.



Canadians like Scott McGillivray, Bryan and Sarah Baeumler, Sarah Richardson, Lynn Crawford and Sebastian Clovis have built national profiles and international brands on Corus platforms like HGTV Canada and Food Network Canada. We are proud to have built a strong pipeline of Canadian stars

Bill C-10 takes an important first step toward bringing all audiovisual programming providers who operate in Canada into a regulated framework. **By emphasizing both equity and specific tailored obligations for different media organizations, it begins to shift the paradigm to a more nimble regulatory approach.**

By replacing conditions of licence with conditions of service, it provides the regulator with new tools to affect broader regulatory modernization. To be sure, the Bill leaves many questions unanswered and important details to be determined, but it gets the big things right, and after many years of inaction, we must begin somewhere.

amending the bill to better 'level the playing field'

Bill C-10 is a necessary, long-overdue first step toward reform that gets the big things right, and Corus supports it for that reason. **While it rightly aims to create greater equity for Canadian media organizations with their larger foreign digital competitors, there remain areas where the Bill could be strengthened to better 'level the playing field.'** We recommend amendments to that effect in the Appendix to this document. Absent these amendments, we are concerned certain inequities with respect to broadcasting licence fees, advertising regulations and service condition amendments will persist. The Committee should address them at this stage.

we cannot turn back the clock or address everything under the sun

By contrast, **the Committee should resist proposed amendments that would turn back the clock and leave us with a more rigid or inequitable regulatory framework.** It should also heed the call of Minister Guilbeault not to use Bill C-10 to address "everything under the sun."^{iv}

For example, we strongly urge Parliament not to amend the Bill to empower the CRTC to regulate commercial terms between broadcasters and producers. The CRTC rejected this "terms of trade" approach six years ago as one that incents, "poorly capitalized independent production companies ... to be dependent on government subsidies."^v International models offered to Committee such as one from the United Kingdom are unhelpful because they only apply to British public service broadcasters.^{vi} **If Parliament chooses to impose strict contractual conditions in favour of large producers it will only deepen inequities for Canadian broadcasters – including smaller broadcasters – and make it less economical for us to invest in Canadian content.** Corus is a Canadian business that wants to own and export more Canadian intellectual property to grow our revenues and we strongly urge Parliament not to make it more difficult for us to do so.

The Committee should also resist calls to enshrine specific Canadian program genre quotas in the legislation. The Broadcasting Act already includes provisions that prioritize diverse program genres and these provisions have provided the CRTC with sufficient authority to regulate program genres for many years. **Genre quotas are relics of a closed broadcasting system, unworkable in a system of open competition and the Committee even heard from witnesses in the Canadian production sector that they do not belong in the Act.**^{vii} Indeed, genre quotas are antithetical to the “flexible, dynamic, and incentive-based regulatory tools” the Government rightly proposes in its draft direction to the CRTC.^{viii}

We note that Bill C-10 focuses squarely on amending the Broadcasting Act, which in turn focuses squarely on establishing a legal and policy framework for broadcasting services in Canada. The Broadcasting

Act is therefore not the appropriate place to address other issues like online hate speech and compensation for print and online journalism from foreign websites. We trust these important issues will be addressed in separate, future legislation.

Finally, it is important to remember that the Bill proposes maintaining licensing requirements for Canadian broadcasters, but would permit foreign online players to operate without licences, provided they meet certain regulatory obligations. **This would undoubtedly improve the status quo, but risks fomenting unintended inequities between licensed and unlicensed players.** For example, Parliament should resist calls to amend the legislation to permit unlicensed foreign broadcasters to access unlimited capital, but deny licensed Canadian broadcasters the same freedom. **Ultimately, Bill C-10 must aim to ‘level the playing field.’**



Toronto's Arisa Cox returns for a ninth season as host and producer of Big Brother Canada. The show continues to be a hit with Canadian audiences on Global TV and other Corus platforms.

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appendix

Corus' proposed amendments to Bill C-10



proposed amendment to Bill C-10	description of proposed amendment	policy outcome of proposed amendment
3(1)(a) It is hereby declared as the broadcasting policy for Canada that each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking, <u>their organizational strategies and to the extent consistent with the financial and other resources available to them</u>	These proposed additions incorporate language from subsections 3(1)(k) and 3(1)(s) of the current Broadcasting Act, which Bill C-10 proposes to eliminate.	Amendment will reinforce that broadcasters' regulatory obligations should be relevant to their unique circumstances, thus fostering healthier competition between Canadian and foreign media organizations.
5(2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that ... <u>(i) rely on market forces to the maximum extent feasible as the means of achieving broadcasting policy objectives</u>	This proposed addition incorporates language from the "Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives" (SOR/2006-355) into the "Regulatory Policy" objectives of the Broadcasting Act.	Amendment will require policy-makers to consider Canadian market forces when designing regulations, thus promoting a more level playing field for Canadian media, and more quality content for Canadian audiences.
5(3) The Commission shall give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2)	This proposed deletion eliminates an inequity between the "Broadcasting Policy" objectives (section 3) and "Regulatory Policy" objectives (section 5) in the Broadcasting Act, thus placing them on equal footing.	Amendment will reinforce the principles in section 5, which will include assurance that regulations should be "fair and equitable" between Canadian and foreign online broadcasters.

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9(1)(d) Subject to this part, the Commission may, in further of its objects, amend a licence other than as to its term, on the application of the licensee or, <u>where three years have elapsed since the issuance or renewal of the licence</u> on the Commission's own motion	The current Broadcasting Act only permits the CRTC to amend broadcasting licences unilaterally after five years have elapsed, but Bill C-10 would remove this limitation. This proposed addition maintains the current limit on the CRTC's powers, but lowers the restriction from five to three years.	Amendment will offer Canadian broadcasters a more level playing field with online broadcasters who will not be required to hold licences under the new regime.
10(1)(d) The Commission may, in furtherance of its objects, make regulations respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising	This proposed deletion removes the CRTC's power to restrict the amount of time that broadcasters can sell to advertisers. Currently, Canadian specialty television channels are limited to 12 minutes of advertising per hour.	Amendment will ensure Canadian broadcasters who rely on advertising revenues can effectively compete with foreign online platforms who do not.
11(3.1) The only fees that may be established with respect to a broadcasting undertaking that may be carried on without a licence shall be fees that relate to the recovery of the costs of the Commission's activities under this Act.	This proposed deletion removes the CRTC's power to assess certain licence fees to Canadian broadcast licence holders, but not foreign online platforms.	Amendment will ensure that Canadian broadcasters are subject to the same fees as foreign online broadcasters, thus promoting a level playing field.

- i. Submission of the Interim Commissioner of Competition on behalf of the Competition Bureau to the Broadcasting and Telecommunications Legislative Review Panel, January 11, 2019, para 37.
- ii. Canadian Radio-television and Telecommunications Commission, *Harnessing Change: The Future of Programming Distribution in Canada*, May 31, 2018, "Conclusions and Potential Options."
- iii. Appearance of the Canada Media Fund at the House of Commons Standing Committee on Canadian Heritage, February 22, 2021.
- iv. Appearance of Minister Steven Guilbeault at the House of Commons Standing Committee on Canadian Heritage, March 8, 2021.
- v. Broadcasting Regulatory Policy CRTC 2015-86, para 118.
- vi. Communications Act 2003, c. 21, s. 285.
- vii. Appearance of Association québécoise de la production médiatique at the House of Commons Standing Committee on Canadian Heritage, February 1, 2021.
- viii. Preliminary Draft Policy Direction to the Canadian Radio-television and Telecommunications Commission, "Sustainable and Equitable Regulatory Framework for Broadcasting," s. 8.