

March 29, 2021

The Honourable Scott Simms, M.P.
Chair, Standing Committee on Canadian Heritage
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Re: Submission from On Screen Manitoba to the Standing Committee on Bill C-10, An Act to
amend the Broadcasting Act

Dear Chair Simms,

On Screen Manitoba appreciates this opportunity to share our comments in regard to Bill C-10, an act to amend the Broadcasting Act and to make related and consequential amendments to other Acts (Bill C-10) with the Standing Committee on Canadian Heritage.

As a provincial media production industry association On Screen Manitoba leads, builds and represents the sector. Our members work in both English and French language markets and reflect the cultural and linguistic diversity of Manitoba. Over 40% of Manitoba production companies are owned by women and 18% of Manitoba media production companies are at least partially Indigenous-owned, and four production companies are dedicated to producing French-language content for and by French-speaking creators and producers.¹

The On Screen Manitoba membership includes all components of the media production industry: individuals (producers, writers, directors and other industry professionals); labour organizations (ACTRA-Manitoba, DGC-Manitoba, IATSE 856); service suppliers (material, equipment, professional services, etc.); training organizations; film festivals and other stakeholders. Our members make all types of audio-visual content (television, film, web series) in all genres (fiction, documentary, factual, animation, children's) for broadcast, online platforms, and in-person venues.

In a province with a population of just over 1.3 million people the media production industry makes a significant contribution to the Manitoba economy. In each of the two-years prior to the COVID-19

¹ [WAVES: A Snapshot of Manitoba's Media Production](#) Industry commissioned from Nordicity by On Screen Manitoba, published January 16, 2018.

pandemic the total production volume was over \$260 million and employed over 2000 Manitobans (annually).²

Manitoba-made productions include those wholly-owned and partially owned (interprovincial and international co-productions) by Manitoba companies; as well as service productions made by Manitobans, but which belong to foreign entities. While the volume of service productions has grown in the past few years, a strong steady stream of wholly-owned Manitoba productions and co-productions have stimulated the growth and development of some 60 industry-related companies including about 40 media production companies that regularly produce content for national and international markets.

The Manitoba media production industry, while capturing a small percentage of the total Canadian media production industry is at the top of the second tier of production centres (as measured by total production volume). Vancouver, Toronto and Montreal have the lion's share of total production volume in Canada with Alberta, Manitoba and Nova Scotia having similar production volumes when compared over a couple of decades.³

We believe that Manitoba; along with Alberta, Nova Scotia and the other provinces and territories, make a vital contribution to the media production industry in Canada. Through our independent media productions, we contribute to the creation of Canadian content that reflects the geographic, linguistic and cultural diversity of Canada. We believe that this diversity is a strength of the Canadian media production industry and one that must remain clearly enshrined in Canada's Broadcasting Policy.

Canada's Broadcasting Policy as set out in Section 3 of the Canadian Broadcasting Act is foundational to Canada's national identity and cultural sovereignty. It provides opportunity for the creation and sharing of stories made by Canadians. Stories about Canada, and stories about the world from a Canadian perspective. Manitoba production companies and creative talent are behind some of Canada's leading productions such as *Burden of Truth*, *Taken*, *Polar Bear Town*, *Dr. Keri*, *Prairie Vet*, *Losing our Religion*, *La Grande Traversée*, *Canot cocasse*, et *les Boys du Ballet*. Productions that are appreciated here, in Canada, as well as in international markets. The quality and volume of production in Manitoba confirms that regionally-based creators and producers, which includes Canadians of Indigenous, official language minority, racialized and diverse ethnocultural communities, contribute significantly to the overall quality and diversity of Canadian cultural expression.

On Screen Manitoba welcomes Bill C-10. It addresses many essential issues such as the integration of online platforms in the broadcasting system, and it enhances some definitions of diversity; however, it falls short on two key areas: obligations with regard to official language minority communities and the control and ownership of Canadian programming. As we modernize the Canadian Broadcasting Act to include more online distribution platforms, including large foreign-controlled undertakings, we must ensure Canadian identity and cultural sovereignty is maintained and that regionally-based creators and

² [Manitoba Film and Music 2019-2020 Annual Report.](#)

³ [Profile 2019, page 10.](#)

producers are recognized as key contributors to the production of Canadian-owned content in English, in French and in Indigenous languages.

On Screen Manitoba welcomes the amendments to Section 3(1)(d)(iii) of the Broadcasting Act to enhance the definition of diversity of voice:

(iii) ... all Canadians — including Canadians from racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages

And to state clearly that the Canadian broadcasting system should:

(iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings...

However, in addition to these necessary changes, the Broadcasting Act must include clear obligations with regard to official language minority communities. We stand with the *Alliance des producteurs francophones du Canada* (APFC) and the *Fédération Culturelle Canadienne-française* (FCCF) in their call to include statements to this effect within the Broadcasting Act. Further, we would note that the Broadcasting-Telecommunications Legislative Review Report, recommendation 53 included the same recommendation for both Indigenous and for official language minority communities:

- ensure the creation of and access to content by and for Indigenous Peoples, including Indigenous languages content;
- ensure the creation of and access to content by and for official language minority communities;

The Government of Canada has clearly communicated its commitment to, and its understanding of the particular challenges faced by Indigenous peoples and official language minorities communities. The Indigenous Languages Act, which received royal assent in 2019 solidified the federal government's commitment to support and promote Indigenous languages. And, in the September 23, 2020 Speech from the Throne, the government stated:

Nos deux langues officielles sont indissociables du patrimoine de notre pays. La défense des droits des minorités francophones à l'extérieur du Québec et la défense des droits de la minorité anglophone au Québec sont une priorité pour le gouvernement. Mais le gouvernement du Canada doit également reconnaître que la situation du français est particulière. Il y a près de 8 millions de francophones au Canada dans un océan de plus de 360 millions d'habitants principalement anglophones. Le gouvernement a donc la responsabilité de protéger et de promouvoir le français non seulement à l'extérieur du Québec, mais également au Québec.

A modernized Canadian broadcasting act must include clearly stated obligations for both Indigenous peoples and their languages; and for official language minority communities. This could be achieved through the following changes to the proposed Bill C-10:

1. A statement that notes that the whole of the Canadian broadcasting system, including community, private and public elements, and not only the Canadian Broadcasting Corporation/Société Radio-Canada, should, reflect “the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities.”⁴
2. The addition to section 3(1)(i)(i) proposed by the APFC:
3(1)i)(i.1) reconnaître et appuyer la dualité linguistique canadienne ainsi que la situation particulière du français en faisant une place importante à la production et à la diffusion émissions originales de langue française, y compris celles des minorités francophones ;
3. The addition to section 3(1)(d)(iii) proposed by the APFC:
3(1)d)(iii.2) assurer la création de contenu par et pour les communautés de langue officielle en situation minoritaire, et en garantir l'accès,
4. Elimination of the word “progressively” in section 3(1)(k). Canadians living in official language minority communities require services in both official languages now. Furthermore, Canadians, in all regions of Canada require access to services in Indigenous languages, now.
5. Inclusion of linguistic considerations in section 5(2)(e)
 5(2)(e) facilitates the provision of Canadian programs to Canadians in English, in French and in Indigenous languages;
6. The addition to section 11.1(4) proposed by the APFC:
Dans le cas des entreprises en ligne qui offre des émissions dans les deux langues officielles, la proportion des dépenses énumérée à 11.1(1)a) qui doit être minimalement allouée à des émissions originales canadiennes de langue française.

On Screen Manitoba believes that it is through independent production that a diversity of voice is most effectively achieved in the Canadian Broadcasting System. Independent creators and producers live and work in every territory and province of Canada. They are best positioned to reflect and express the creative and cultural vitality of Canada. They also bring additional financial resources through local private and public production incentives and investments. Through these creative and economic contributions, they enhance the quality and the diversity of Canadian programming.

The contribution of creators and producers who live and work in all provinces and territories of Canada must be ensured as Canada moves towards a modern Canadian broadcasting system. In today’s digital world, Canadians watch content from all over the world. They are a discerning audience and want access to the very best content they can find. They also expect to watch programming any time, any place, and

⁴ B.A. 3(m)(iv).

on any screen – content that we still call “television” is viewed on handheld devices, projected on large screens and PVR’d. Content we still call “film” is digital and available on any size screen.

Modernization of the Canadian Broadcasting Act must take into account Canadian audiences and their demonstrated desire to access audiovisual content from around the world. At the same time, it must take into account Canadian cultural policy objectives relative to diversity of voice, Canadian identity and cultural sovereignty. Canada recently demonstrated the importance of its cultural sovereignty in the recent renegotiation of the North American Free Trade Agreement (NAFTA), now the Canada-United States-Mexico Agreement (CUSMA), which maintains Canadian cultural sovereignty. Canadian ownership and control of our stories and cultural expression remains a high priority. We understand that in order to include foreign online content distribution platforms, Bill C-10 does not include, the current section 3(1) (a), regarding “Canadian control and ownership” of the broadcasting system.

As we open the Canadian broadcasting system to include foreign-owned undertakings, we need to be clear in defining and understanding the role, and the importance, of “Canadian-owned and controlled” productions, as opposed to foreign service productions. Foreign service productions are projects that employ Canadians, but where the final product is not owned by Canadians. Both ownership structures, “foreign service” and “wholly or partially Canadian-owned” have a role to play in the Canadian media production industry.

Many Manitoba creators, artisans, artists, actors, technicians and producers contribute to the making foreign service productions that are enjoyed by audiences around the world. These projects strengthen the capacity and the visibility of the Canadian media production industry, but control and ownership of these projects lies in the hands of foreign entities. Foreign service productions represent the fastest growing component of the Canadian media production industry.⁵ There is no indication that any regulatory intervention, or additional incentivization, beyond those that already exist, are required.

Ownership and control of the content Canadians create matters. All Canadians have a vested interest in Canadian-owned productions, funding for Canadian content production comes largely from government sources including federal and provincial tax credits, the CBC, Telefilm Canada and the Canada Media Fund (CMF). We agree with the Canadian Media Producers Association (CMPA) and other industry associations and stakeholders that control and ownership of Canadian programs is essential to ensuring Canadian cultural sovereignty in what has become a global marketplace. In the simplest of terms, ownership of productions and programs ensures that the Canadian creators and Canadian-owned production and distribution companies that made them retain the economic benefit of sales over the long term. From a broader perspective it ensures that Canadian cultural objectives, expressed through audiovisual content, are made by and for Canadians.

Accordingly, we support the CMPA’s amendment that 3(1) (a) be added back to the Act with an explicit reference to the ownership and control of Canadian programs:

⁵ [Profile 2019, page 9.](#)

3(1)(a) the Canadian broadcasting system shall include, to the maximum extent possible, effective ownership and control of broadcasting undertakings and programs by Canadians.

Finally, in order to further safeguard Canadian control and ownership of Canadian programming, we support the call by media producer associations including the CMPA, the APFC and the *Association Québécoise des producteurs médiatiques* (AQPM) that the Canadian Radio-television Telecommunications Commission (CRTC) be authorized and mandated to require codes of practices between broadcast and online undertakings and independent Canadian producers. The Canadian broadcasting system is already highly concentrated with just three large private companies. The Independent producer has little bargaining power within the current system and has even less when faced with giant foreign online undertakings. As a result, Canadian producers find themselves having to relinquish ownership of their intellectual property.

Independent Canadian producers working in English, in French, in Indigenous languages and representing the geographic and cultural diversity of Canada all invest significant amounts of time and money into developing a concept into intellectual property of interest to broadcast and/or online undertakings. The development of a fiction series, for example can take several years and significant investment on the part of the producer in order to prepare to pitch to a broadcasters or streamer. Investments that are not necessarily recognized when the producer negotiates with the broadcaster or the streamer, investments that contribute to the telling of Canadian stories.

Currently Canadian producers find themselves cornered into giving up IP global rights and access to the rewards of international distribution. Codes of Practice, or “Terms of Trade” as they are sometimes referred to, are simply template structures to facilitate negotiations in good faith. The expert panel, named by the Government of Canada and led by Janet Yale recognized this imbalance of power and recommended that “The CRTC should be able to determine or approve terms of trade to ensure that independent producers are treated fairly. The CRTC should also have the authority to resolve disputes between media content undertakings”⁶

Finally, On Screen Manitoba wishes to communicate our concerns in regard to the preliminary draft policy direction to the CRTC released by the Minister of Canadian Heritage.⁷ We believe there is an over-emphasis on “de-regulation” and “incentivization” where regulation and clearly stated obligations are required. In regard to the proposed examination of the definition of Canadian programs by the CRTC, we are concerned by the use of terms such as “flexible” and the proposal to “encourage” the contribution of Canadians and “support” the Canadian ownership of intellectual property. We believe that these terms could result in a reduction of requirements to meet the definition of Canadian programming, a reduction that would substantially weaken Canadian control and ownership of their own stories.

⁶ Broadcasting and Telecommunications Legislative Review Panel, [Canada's Communications Future: Time to Act](https://www.noscommunes.ca/content/Committee/432/CHPC/WebDoc/WD11173039/11173039/DepartmentOfCanadianHeritage-DraftPolicyDirection-f.pdf), p. 144.
<https://www.noscommunes.ca/content/Committee/432/CHPC/WebDoc/WD11173039/11173039/DepartmentOfCanadianHeritage-DraftPolicyDirection-f.pdf>

We understand other stakeholders have communicated similar concerns and the preliminary draft that was released will be amended. It is critical that industry and government work together to manage the transition of Canadian broadcasting system as we prepare to move from one which is “Canadian owned and controlled” to one which includes foreign undertakings. Ongoing consultation and provisions for a period of transition will be needed to ensure the continued economic success of the economic Canadian media production industry and to ensure the Canadian cultural identity as expressed through audiovisual storytelling remains under the ownership and control of Canadians.

Through Bill C-10 Canada has the opportunity to strengthen its commitment that the Canadian broadcasting system reflect and engage Canadians from all regions of the country to share stories in English, in French and in Indigenous languages, and to include Canadian audiences, creators and producers from racialized communities, and from diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages. This opportunity must also ensure that ownership and control of our stories remains with the Canadians who create and produce them.

We thank the Standing Committee for the opportunity to share our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read 'N. Matiation', with a stylized, flowing script.

Nicole Matiation
Executive Director /*directrice générale*

CC : The Honourable Alain Rayes, Committee Vice-president; The Honorable Martin Champoux, Committee Vice-president; and members of the Committee, The Honourable Scott Aitchison, The honourable Lyne Bessette, The Honourable Julie Dabrusin, The Honourable Anthony Housefather, The Honourable Marci Ien, The Honourable Tim Louis, The Honourable Heather McPherson, The Honourable Martin Shields, The Honourable Kevin Waugh and Mme Aimée Belmore, Committee Clerk.