

**Testimony For the Record
Standing Committee on Canadian Heritage**

By

**Jérémy Erlich,
Global Co-Head of Music at Spotify
Nathan Wiszniak,
Head of Artist and Label Partnerships in Canada at Spotify¹**

At Spotify we see ourselves as part of a community of creators and artists. As the world's most popular audio streaming service, our mission is to unlock the potential of human creativity—by giving a million creative artists the opportunity to live off their art and billions of fans the opportunity to enjoy and be inspired by it. We strive to empower creators and lift up local cultures on the local and global stages, bringing a first-class audio experience to 345 million listeners in 178 markets. I will detail later in this testimony the steps we have been and are taking to promote Canadian artists and creators.

With a strong commitment to Canadian artists, we write to the Committee today to express our concern that Bill C-10 needs further clarity on how it is to be applied by the Canadian Radio-television and Telecommunications Commission (CRTC) to the novel area of regulation of streaming audio services. How it applies to streaming services could further Bill C-10's goals, or

¹ Jérémy Erlich is the Global Co-Head of Music at Spotify, responsible for driving the company's overall music strategy, including editorial, marketing, strategy and operations as well as helping in Spotify's relationships in the creative community. Prior to this role, Jérémy was the CFO and EVP of Business Development at Interscope Geffen A&M where he was responsible for driving the financial strategy of the company as well as deal making. He also worked for Universal Music, where he was responsible for global M&A, venture investments and strategic initiatives. Jérémy also ran UMG's investment fund from 2014 to 2017. Jérémy was born in Paris, France and spent his childhood between France and the US. He earned a BA in Economics and International Relations from Northwestern University and an MBA from London Business School.

Nathan Wiszniak brings over 20 years of music marketing and programming experience to the Spotify Canada team. His knowledge of the Canadian marketplace can be attributed to his positions at Sony Music in Retail and Artist Marketing and at Universal Canada where he was responsible for the marketing, acquisition and distribution for a diverse roster of independent labels and artists. At Spotify Canada over the past 6 years as Head of Artist And Label Partnerships encompasses the day to day relationships with Canadian labels, artists, songwriters, management and organizations within the Canadian music industry, and leads the local strategy in building an ecosystem to promote Canadian creators at home and abroad.

it could be highly disruptive and have the unintended consequences of hurting rather than helping to promote Canadian creators and culture.

In this testimony we focus on four areas:

- A description of Spotify's streaming services.
- The many valuable expenditures and contributions Spotify is making to promoting Canadian artists and creators, not only in Canada, but around the world.
- Why streaming is dramatically different from radio and thus radio rules should not be applied "as is" to streaming, without changes that take into account the deep differences between streaming and traditional broadcasting.
- Areas where Parliament should provide additional guidance to the CRTC.

We would like to start by noting that the COVID pandemic has profoundly impacted every aspect of life, and musicians and the music industry have been especially hard hit as live performances—a principal source of income for musicians—in effect stopped. In April of 2020, as the dire impact of the pandemic became evident, Spotify launched the COVID Music Relief project specifically aimed at helping musicians by matching dollar for dollar money raised by partnering organizations supporting the music community. Spotify also created the Artist Fundraising Pick, enabling artists to highlight a fundraising effort for themselves or general COVID relief on their page. In Canada, we worked with two groups: the Unison Benevolent Fund, a registered charity that provides counselling and emergency relief services to the Canadian music community, and the Canadian Country Music Association. And we continue to work with a number of Canadian organizations on live streaming events, raising awareness for additional funding.

About Spotify

For Spotify, audio is our history—and it's our future. In 2006, the music industry was collapsing. Piracy was killing it. The idea that all music should be free for the taking, no matter the cost and effort, destroyed the careers of a lot of working artists, including in Canada.

We believed there had to be a better way. And we knew our platform had to be nothing short of revolutionary if we were going to stand a chance of getting people to abandon piracy, and pay for music again.

Today if you're an artist or a podcaster with a song to share, an album to drop, or a story to tell, we want Spotify to be the best place for you to find an audience. It's connecting listeners with the audio they love, and connecting creators with the fans who'll find meaning in their art, and who won't just follow their career, but will sustain it.

The world has changed dramatically from the era of the record store and AM/FM radio, a time before piracy. The amount of music you could discover back then was limited by shelf space and floor space, by the physical distribution capabilities of music companies, by the personal

preferences of a radio DJ and, of course, by where you lived and how much you could afford to spend.

Over the past two decades, streaming has fundamentally changed the audio ecosystem. It's lowered barriers to entry and it's democratized access to audio for listeners in Canada.

We provide a wide array of audio content which falls into two broad categories: music and podcasts. The music is created by third parties, and is licensed from creators via recording companies, distributors, and publishers. The vast majority of podcasts are also created by third parties, and redistributed by Spotify. About two-thirds of every dollar we make from music is paid to creators -- artists, performers, songwriters.

We have a two-tier business model. A tier that is supported by advertising with limited functionality (e.g., shuffled music, no offline capabilities, etc.), and a paid subscription tier, which includes a variety of different offerings including individual, Duo, Family (plus Kids), Student and other types of plans, whereby the user pays a monthly fee. The listener gets to decide what to listen to (e.g., country, classical, hip hop, blues), when, how often, in what order and on what device (e.g., car, smart speaker, mobile phone, etc.), and can download and listen to music offline as well.

Spotify personalizes the service to each user based on that user's tastes. We do this by taking into account many factors, including, what the user is listening to and when, which songs they are adding to playlists, the listening habits of people who have similar tastes, and much more. We also take into account less obvious factors like the time of day, the order in which the user is listening to songs or podcasts, or the release date of a song.

Spotify's Contributions and Expenditures to Promote Canadian Artists and Culture

Spotify launched in Canada in 2014 when streaming accounted for just 10% of the Canadian music revenues according to the International Federation of Phonogram Industries. By 2020, streaming grew dramatically to account for 77% of total music industry revenues of over C\$640 million. As of today, we have about 10 million monthly users in Canada.

Spotify is committed to promoting Canadian content and diversity. Upon launch in 2014, our local content team's mission was to create an ecosystem within Spotify to foster Canadian talent through playlisting, marketing campaigns and facilitating educational programs for the industry to help grow audiences on our global platform. Today, a team based out of our Toronto office works across all facets of the Canadian music industry, and strives to connect artists with new audiences. In the first half of this year, we will be adding a Quebec-based team member to promote Francophone artists and songwriters.

Our editorial team curates over 70 playlists across multiple genres that are distributed globally and predominantly focused to showcase local talent. These teams collaborate with editor colleagues in other markets to export Canadian music through the global playlist ecosystem,

thus growing an international audience for Canadian artists and creating new opportunities abroad. With our growing staff, we will be creating even more playlists for more Canadian artists to be discovered and re-discovered. In other words, thanks to our local Canadian music experts, Canadian culture is thriving not only in Canada, but all around the world. It is of no surprise that 3 of the top 10 artists globally on Spotify are Canadians.

Artist marketing teams support our playlisting strategies and promote Canadian artists and releases through multi-channel campaigns. We have supported hundreds of independent Canadian artists through marketing focused on promoting Canadian flagship playlists such as “Northern Bars” (Hip Hop), “Live Country”, “Mood Ring” (R&B) and “Rap québ” (Francophone hip hop) all supported through channels such as billboards, social media marketing and publicity.

Our commitment to promote developing artists through the Radar Canada campaign has resulted in over 400 independent artists added to the playlist alone, in just under a year. Through this campaign, we have the ability to launch an artist's career from the very beginning and elevate their profile from local to global. As a recent example, Vancouver-based artist Jessica was featured on our Radar Canada playlist where she garnered 5 million monthly listeners and 47 million streams in a matter of weeks and was placed on Spotify's most coveted playlist, Today's Top Hits. All of this would not have been possible without our dedicated global efforts to break an independent Canadian artist.

In addition, we have launched campaigns and playlists focused on Canadian Indigenous creators, Women In Music, Black Musicians and LGBTQ+ creators. Spotify Singles, a global program dedicated to producing original content, has enabled us to create new musical works in collaboration with the likes of Céline Dion, Arcade Fire, Coeur de pirate and Kaytranada to name a few.

“New Music Friday Canada” and “Nouveautés de la semaine”, our flagship playlists dedicated to new releases, are supported by multi-channel marketing campaigns. On average, 50% of the “New Music Friday” playlist features Canadian content, while “Nouveautés de la semaine” features 100% French content from Canada and around the world. We are committed to supporting Francophone music and the promotion of Québec culture to the rest of Canada through editorial, on platform visibility, marketing and the growth of international audiences through collaborations with our colleagues in France.

We also actively support Canadian songwriters and producers. We have a Spotify songwriting studio in Toronto, which is a fully equipped, professional recording studio located in Noble Street Studios available to all for sessions M-F, 12pm-8pm with a sound engineer (in non-Covid times). We've hosted songwriting camps focused around Canadian producers (Boi-1da, Frank Dukes) and have had a Canadian presence at many of our camps - Illangelo, Wondagurl, Cirkut, T-Minus and more. We've invested in a suite of business tools to support the publishing industry with key Canadian independent publishers such as Anthem Entertainment, Red Brick Music Publishing, Third Side Music now using our Publishing Analytics portal. We've created

songwriter pages and Written By playlists for an ever-increasing number of Canadian songwriters and producers, providing them with a chance to be programmed to a global audience and giving them an opportunity to be promoted via Spotify. Finally, through our Noteable brand, we've featured songwriters (Imad Royal, Jessie Reyez, Jenna Andrews etc.) in our global social franchises and our on-Spotify Songwriter Hub.

In 2017, we were honored to partner with the Canadian government to celebrate Canada's 150th birthday. Influential Canadians ranging from musicians, television personalities, actors and athletes created and shared their own Spotify playlists of top Canadian artists and tracks, including a personally curated playlist from Canadian Prime Minister, Justin Trudeau. The campaign was supported by Spotify with advertising, digital media and on platform promotion.

Our work also extends off platform as we continue to work with industry organizations such as Manitoba Music, Canadian Independent Music Association (CIMA), Music Managers Forum (MMF), Association québécoise de l'industrie du disque (ADISQ), the Canadian Country Music Association (CCMA), Canadian Academy of Recording Arts and Sciences (CARAS), MusicCounts and the Unison Fund. These relationships are imperative to growing our industry and providing educational workshops to help organizations and their members understand our business and marketing best practices. In short, our success and the success of Canadian culture are inherently tied.

Aside from the user experience, we make a substantial financial contribution to Canadian artists. Terrestrial radio stations pay only for a fraction of the value of the music they broadcast. More specifically, the maximum amount payable to creators for non low-use, non-French or French language stations in Canada is currently ~8% of gross annual income (1.7% for reproduction rights and 6.2% for public performance). Further, the use of music videos by broadcasters offered by cable or satellite services only requires payment for an even smaller fraction of the value of the music that they broadcast. Such broadcasters pay at a rate of 1.9% of the programming services' revenue. By contrast, approximately two-thirds of every dollar earned by Spotify is paid to songwriters, musicians, performers, creators, publishers, and record companies. To make this disparity in contribution clearer, Spotify pays creators – performers, songwriters, producers of music – 8.5 times as much as radio, and 30 times as much as broadcasters of music-videos.

Spotify has not only been a significant factor in the growth of the music industry, but has been a highly positive factor in the democratization of music. Independent artists can now find a voice and success. 57,000 artists now represent 90% of monthly streams on our platform -- a figure that has quadrupled in just six years. And with the power of our playlists, Spotify drives 16 billion artist discoveries each month, helping fans discover artists that they've never heard before. Just last year, 76,000 artists were playlisted for the first time, connecting more creators with new fans.

Finally, streaming makes positive contributions for Canada that local broadcasters cannot make. Because our content is available around the world in over 170 countries, we in effect export

Canadian music, making it discoverable to all music fans, gathering new fans and generating revenues worldwide for Canadian creators. For example, in 2019 Daniel Caesar became the first local independent artist to reach one billion streams globally as a result of our team's efforts to export Canadian music around the world. Today, three of the top ten artists most listened to around the world are Canadian. Drake's song "God's Plan" has been streamed 1.7 billion times on Spotify. Justin Bieber's "Love Yourself" has been streamed 1.5 billion times. And The Weeknd's "Blinding Lights" has garnered 2 billion streams. A global audience benefits a broad range of Canadian artists, and Spotify is uniquely positioned with its international reach to grow their export value. Our streaming service introduces new audiences to established Canadian artists such as The Tragically Hip who still top the charts today and have seen increased engagement through our Canada Day campaigns on Spotify year over year. In 2020, Canadian artists as a whole generated more than 10 times in recording royalties on Spotify abroad than they did domestically.

Finally, Spotify makes a substantial investment in creating tools for creators which deliver key data and information to artists about where their fans can be found, what they like best, real-time stream counts, all while giving creators the ability to control their presence on Spotify and grow their audience via Spotify for Artists. Similar tools are available for podcasters to help them distribute not only to Spotify but other services via our podcast creation and distribution service, Anchor. Spotify for Podcasters also gives creators insights on where their listeners are, how they respond to podcast episodes, and where, how, and when their fans listen and tune in.

Spotify is proud of our contributions and dedication to the promotion and global discovery of Canadian artists and creators, but the legislation before the Committee, if enacted in its current form, could have a significant negative impact on the Canadian music industry and its artists as well as the music and podcasting services enjoyed every month by the 10 million Canadian Spotify users.

We say "could" as the Bill - in its current form - does not provide very much guidance to streaming companies like Spotify or the CRTC on how to apply the rules, specifically as it relates to streaming audio services. Without guidance, our concern is that the CRTC could use its current broadcast radio rules as a point of reference. This - in our humble opinion - would be a grave mistake that would have negative downstream implications on Canadian culture and artists.

Streaming and Radio Are Very Different

Streaming is nothing like broadcast radio except in one general respect: they both deliver audio services, but the similarities end there. At a high level, streaming allows for user choice, radio does not. We note just a few differences, although there are many, many more.

Unlike streaming, in broadcast radio, the music director controls what the listener hears (i.e., a "one to many" model, as opposed to an individual experience for each user). In that traditional "push" type of model, it is possible to require that a certain percentage of broadcast radio

content be created by Canadians. In streaming, the user largely controls the experience -- not Spotify -- by selecting from over 70 million songs and 2.2 million podcasts available on our platform, any of which can be retrieved by fans in a fraction of a second. And ultimately, we think that by merely applying a radio-like system to streaming, consumers and creators alike will lose out.

Streaming is a primarily on-demand, user-controlled medium where the user selects, or directly influences, what to hear, in what order and when. By contrast, in radio, content is presented in "linear" fashion, and the station music director controls and selects what the user hears; and the user's sole controls are the radio dial and the power button. In a linear model like radio, programming is a "zero-sum" game, in the sense that when a slot is allocated to a particular track then that slot is no longer available to other tracks. In an interactive, "on demand" model like that of music streaming, every user is largely in control of which track they listen to, and the experience is highly personalized.

There are at least two aspects of the Broadcasting Act as applied to radio, if transposed to streaming, which would present major challenges for Spotify and the Canadian music industry.

First, the law currently requires broadcast radio to meet Canadian content requirements in their broadcasts. Again, this is possible for radio because programming is controlled by the broadcaster based on a finite number of programming hours in a given time period, making it feasible to allocate certain proportions of programs to Canadian content. It would be virtually impossible for Spotify to meet these types of requirements because streaming is an entirely different model that is ultimately controlled by the user. It is the user, not Spotify, that determines what to hear and when and in what order. Every day more than 60,000 tracks are added to our service. Behind each one of these tracks and podcast episodes is a team of creators. A single song may have dozens or more people making it come to life, including songwriters, lyricists, producers, musicians and performers. By way of example, the master recording "God's Plan" is (i) performed by Drake, (ii) written by Drake (Aubrey Graham), Brock Korsan, Daveon Jackson, Matthew Samuels, N. Shebib and Ronald La Tour, (iii) produced by Cardo, Young Exclusive, Boi-1da, Noah "40" Shebib, (iv) distributed by Cash Money/Drake LP6 via a license agreement between Universal Music Recordings Inc. and Spotify and (v) licensed to Spotify via all of the applicable publishers representing the aforementioned writers in (ii). The same is true for podcasts.

Making matters more complex, rarely is the full list of contributors to a song or a podcast made available in the data provided by the producers of the content to streaming services. Even more importantly, the nationality of each contributor is almost never made available by the distributor of the song or the producer of the podcast. In short, these challenges would likely result in our listeners being exposed to less Canadian content, not more.

Second, current rules applied to radio require contributions to promote Canadian culture, but do not provide guidance on the expenditure that should be included in such calculations. As described in detail earlier in this testimony, Spotify makes substantial investments to promote

Canadian artists and performers, while partnering with organizations that promote Canadian culture and exporting Canadian music globally by enabling fans around the world to discover the creative work of Canadians. We believe all these expenditures should be considered when the Commission develops its rules.

Importantly, Spotify already distributes approximately two-thirds of its total revenues to rights holders -- artists, songwriters, performers and producers. The remaining one-third covers our operating costs, including our human capital, office space and facilities, cloud computing, and marketing expenses - all of which are aimed at expanding revenue opportunities and generation for us, rightsholders, and artists. By contrast, only about 8% of radio revenues are paid to creators. This disparity in the cost structures of radio and music streaming and the scale of the existing contributions to local rights holders must be taken into account before additional contributions are imposed on music streaming services like Spotify.

Of critical importance, although Spotify has grown fast, we have yet to make a profit. The imposition of additional obligations to make monetary contributions would have an immediate impact on our ability to operate and continue to invest in Canada.

It is also worth emphasizing that music streaming is a nascent industry that carries considerable growth potential. Any changes in law or regulation should take into account the dynamics of the industry and, in particular, the fact that pure play digital service providers like Spotify would be affected differently by these changes as compared to music streaming services provided by large vertically-integrated digital companies, such as Google, Apple or Amazon. The latter are able to underwrite their music streaming business through their other activities, contrary to pure play providers like Spotify, who need to be a financially viable standalone in a market that has always faced challenging margins due to the cost of licensing content from rights holders. Changes that would overly disadvantage pure play providers would not only reduce competition and consumer choice, but would ultimately also lead to reduced overall revenue for creators.

Bill C-10 and Streaming Audio

As we have outlined, our streaming service is uniquely distinct from traditional broadcasting such as radio and thus, the few and unspecific points of guidance in Bill C-10 are insufficient. Without clarity on the law, the onus would be on Spotify to make business plans and investments to provide services to Canadians in an uncertain environment, which could have a severely disruptive impact on both Spotify, as well as Canadians.

Materials accompanying the Bill expressly state only that the amendments are meant to “clarify that undertakings...that transmit programs over the Internet, including on an on-demand basis, fall within the scope of the Act” and mentions specifically that services such as *Spotify* would be subject to the Act. The materials also state the CRTC is to make its determination based on an assessment of whether a music service and/or podcasting offering would materially affect the implementation of the broadcasting policy.

The Government Backgrounder does note that streaming is different and rules should reflect this, but provides no additional guidance on those differences or how they are to be considered and weighed. The Government's materials also point out that the definition of Canadian content currently used by the CRTC may no longer be appropriate in light of the proliferation of different types of "broadcasting undertakings", in particular online undertakings. We appreciate this recognition, but it would be good to know what this will mean in practice.

Finally, certain "inclusivity" objectives are in the Amended Act which engage "discoverability" objectives. We embrace this goal and have taken specific actions to advance it. We are pleased to report that Spotify already taken substantial steps in accordance with the discoverability requirement as exemplified by our curated Canadian-focused playlists, namely "Canadian Gold", "Northern Bars", "Rap québ", "Indigenous", "Live Country", "Mood Ring" and "RADAR Canada".

Recommendations

In conclusion, we urge Parliament to provide additional guidance and clarity on how the Act should be applied by the CRTC to online streaming audio services. Spotify is committed to supporting and promoting Canadian creators. But without clear guidance on how Bill C-10 is to be applied to streaming, we are concerned that unintended consequences will hurt both Canadian culture domestically and globally. Thank you to the members of the Committee for the urgent attention to this issue.