



March 31, 2021

Scott Simms, M.P.
Chair of the Standing Committee on Canadian Heritage
M.P. for Coast of Bays—Central—Notre Dame
House of Commons
Ottawa, Ontario K1A 0A6

Dear Mr. Simms:

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

On behalf of Cogeco Inc. and its subsidiaries, I am pleased to provide our comments on and proposed amendments to Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts. Cogeco supports the bill but wishes to strengthen it with amendments that clearly state that the Canadian Radio-television and Telecommunications Commission (CRTC) has the power to regulate Canada's domestic giants in the public interest.

Cogeco is the second largest cable operator in Quebec and Ontario and the largest private broadcaster in Quebec. We provide high-speed Internet, television and telephony services through our hybrid fibre-optic and cable network to residential, corporate and institutional clients. Cogeco also owns and operates 22 radio stations in Quebec and one in Ontario, reaching more than 5.3 million listeners each week in both rural and urban areas. Cogeco News is the largest private radio news agency in Quebec and, as such, plays a leading role in providing quality news in urban and rural areas across the province.

The COVID-19 pandemic has shown how essential our role is and will continue to be for Canada's economic recovery. With support from its more than 3,800 Canadian suppliers, Cogeco has been investing heavily in digital infrastructure since 1972. Our network stretches from Windsor, Ontario, to Gaspé, Quebec, and services more than 600 communities in various regions, all of which are located outside major urban centres. In addition, we employ close to 3,150 people across Canada.

Bill C-10 proposes sweeping changes to Canada's broadcasting legislation by applying the *Broadcasting Act* to foreign digital giants. However, it does not address the real threat that domestic giants pose to the Canadian broadcasting ecosystem. Cogeco believes that Bill C-10 can be strengthened by adding provisions to regulate the domestic giants, because they threaten the diversity and affordability of Canadian broadcasting services.

Since the last amendments to the *Broadcasting Act*, which date back to the 1990s, the CRTC has allowed the Canadian broadcasting system to consolidate to the point where Canada has become one of the countries with the highest concentration of media ownership in the world. Today, Bell, Rogers, Québecor and Shaw/Corus own the vast majority of programming services in Canada and are the country's largest distributors. The proposed merger of Shaw and Rogers is an attempt to increase consolidation in an industry where the concentration of ownership is already very high. The CRTC has recognized that these domestic giants have both the opportunity and incentive to use anti-competitive practices in their broadcasting services, and has established safeguards to protect the interests of consumers and independent distributors.

These safeguards include the Wholesale Code, which is designed to ensure that the terms and conditions for the distribution of programming services are negotiated fairly, as well as a dispute resolution mechanism that prevents the domestic giants from going off the air when they negotiate rate increases with distributors. These safeguards also prevent the domestic giants from limiting online competition and consumer choice by requiring Canadians to purchase their Internet services in order to access their online content (for example, Bell cannot make Crave available only to its subscribers). Similarly, Netflix and other streaming platforms cannot enter into preferential agreements to make their content available only to subscribers of certain Internet services.

Unfortunately, the CRTC's power to enforce these safeguards is constantly being challenged in court. It is therefore crucial that Bill C-10 be amended to:

Cement the CRTC's power to establish and implement safeguards to prevent anti-competitive behaviour on the part of all giants (both foreign and domestic) in their business relationships with independent distributors; and

Preserve the CRTC's power to maintain the current safeguards for online services.

Both proposed amendments are attached to this letter. In proposing these amendments, we add that we are of the same opinion as other independent stakeholders in the Canadian broadcasting community insofar as we believe that there is a need to cement the CRTC's power to establish rules that prevent anti-competitive behaviour on the part of the domestic giants.

We are available to meet with you in order to further discuss our proposal.

Yours sincerely,

[SIGNED]

Marie-Hélène Labrie
Senior Vice President and Chief Public Affairs, Communications and Strategy Officer
Cogeco Inc. and Cogeco Communications Inc.

Appendix: The two proposed amendments.

Appendix

Amendments proposed by Cogeco:

1. Amend Clause 7 of Bill C-10 by adding a further sub-section to s. 9.1(1) to mirror the language in s. 9.1(1)(f) (which refers to orders respecting “terms and conditions of service in contracts between distribution undertakings and their subscribers”), as follows:

9.1(1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including respecting

... terms and conditions of service in contracts between broadcasting undertakings.

2. Amend Clause 8 of Bill C-10 by adding the following further amendment to s. 10(1) in respect of s. 10(1)(h): 10(1) The Commission may, in furtherance of its objects, make regulations

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