Independent Broadcast Group/
Le Groupe de diffuseurs indépendants

Pre-Budget Consultations in Advance of the Upcoming Federal Budget

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Summary List of Recommendations:

- **Recommendation 1:** That the government enhance the existing tax deduction for Canadian <u>independent</u> broadcasters by allowing a deduction from income of 130% of expenditures on advertising placed with Canadian independent broadcasters.

- **Recommendation 2:** That the government extend the existing news content tax credit to news programming produced by Canadian <u>independent</u> broadcasters.

- **Recommendation 3:** That the government reimburse the 600 MHz transition costs for Canadian <u>independent</u> broadcasters.

- **Recommendation 4:** That the government provide a clear path to the CRTC to undertake an immediate review of distribution rules on IPTV and Internet-based distribution platforms to ensure that Canadian broadcasters have fair and full access to our own domestic market. We cannot and do not need to wait for changes to be made to the *Broadcasting Act*.

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Discussion of Recommendations

The recommendations of Independent Broadcast Group/Le groupe de diffuseurs indépendants ("IBG/GDI") are focused on providing appropriate support to the Canadian broadcasting sector, especially the independent sector. Independent broadcasters are those private broadcasters that are not owned by one of Canada's large, vertically integrated or affiliated media groups; namely, Bell, Quebecor, Rogers and Shaw/Corus.

Since the implementation of emergency "lock down" measures to protect Canadians from COVID 19, Canada's economy has taken a hit. The broadcasting sector is vulnerable because a high proportion of the revenue in this sector is derived from advertising. Advertising spending is highly sensitive to the level of economic activity.

Based on data collected through industry sources, which closely monitor advertising levels across the country, it is estimated that advertising on television (conventional and discretionary) has fallen by approximately 50% since March, 2020. Advertising in the radio sector is even harder hit, falling by more than 60% in April and May, 2020, with only marginal recovery in June. It is expected that advertising levels will remain depressed for the remainder of 2020 and into 2021.

To give a sense of the impact of this trend: a 50% reduction in television and radio advertising represents an annual loss of approximately $2 billion to the private television and radio sector (i.e. not including CBC/SRC). These losses impact all private broadcasters – large and small – and can be expected to have an especially harsh impact on independent broadcasters which do not have vertically integrated or affiliated cable/satellite or telecom revenues on which they can rely.

The large media conglomerates already control a large proportion of broadcast industry revenues. For example, according to detailed analyses conducted by the Canadian Media Concentration Research Project:

- In the broadcasting distribution sector, the five largest Canadian broadcasting distribution undertakings (BDUs) account for 88% of revenue;

- Those same companies also account for 91% of private conventional television revenue 83% of discretionary service revenue.

Independent broadcasters do not have the same size, scope and structural competitive advantages (for example, the cross ownership of media and cable/satellite networks and Internet and mobile services) to weather a sustained drop in advertising revenue.

Yet, independent broadcasters are fundamentally important to the diversity of voices, competition and innovation in Canada. Just as important, we are major employers – a key concern of policy makers at this time.

Independent broadcasters represent fully 40% of direct employment in the Canadian broadcasting sector: 69% of jobs in commercial radio, 39% of jobs in discretionary television, and 14% of jobs in conventional television.

There is a multiplier effect as well. In a recent study, it was estimated that the independent sector accounts for more than 28,000 FTE positions annually in Canada through our direct operations and through our production and international distribution activities.

The response to COVID 19 should – as far as the broadcasting and digital media sectors are concerned – reflect the structure and characteristics of our industry. A dollar spent (or saved) on support to the <u>independent</u> broadcasting sector will provide direct support for jobs, diversity and maintaining Canadian competitiveness and innovation at a time when all are under threat.

The measures that IBG/GDI recommends are all based current government programs or incentives to support media companies

Recommendation 1: That the government enhance the existing tax deduction for Canadian <u>independent</u> broadcasters by allowing a deduction from income of 130% of expenditures on advertising placed with Canadian independent broadcasters.

Discussion: Section 19.1 of Canada's *Income Tax Act* prevents advertisers from deducting expenditures on advertising placed on a foreign broadcasting undertaking. This taxation measure – which was implemented for Canadian cultural reasons – has ensured that Canadian advertisers use Canadian radio and television stations rather than foreign outlets.

IBG/GDI proposes enhancing this measure by providing for a 130% deduction when that advertising expenditure is made on an <u>independent</u> Canadian broadcaster. An "independent" broadcaster is a private broadcaster that is not affiliated with the owner or operator of a licensed broadcasting distribution undertaking that is also a licensed television broadcaster (i.e. a "vertically integrated" entity). (This would exclude the four large Canadian media conglomerates and their related companies

from the benefit: Bell Canada, Rogers Communications, Shaw Communications/Corus, and Quebecor.)

This measure will create an incentive for advertisers to support the independent broadcasting sector since their advertising spending will be enhanced by the increase in tax deductibility. In turn, this will help to maintain the higher level of employment found in the independent broadcasting sector, as well as the programming and competitive diversity that this sector represents.

We estimate that this measure would cost between $75 and $90 million annually.

While we propose that this measure be implemented immediately as a response to the impact of COVID 19 on the broadcasting sector, it could also serve as a model to assist the independent Canadian broadcasting sector in the longer term.

Recommendation 2: That the government extend the existing news content tax credit to news programming produced by Canadian <u>independent</u> broadcasters.

Discussion: Starting in 2019, the government has permitted certain eligible Canadian news outlets to claim a refundable labour tax credit for the production of news content. The credit is equal to 25% of eligible expenditures.

By its terms, the credit is not available to broadcasters – in radio or television. The reason for this exclusion has never been articulated, to our knowledge.

The current pandemic has highlighted the central importance of Canadian broadcast news – national, regional and local – to an informed citizenry and, indeed, to our collective national health. The pandemic has also exposed, through the precipitous decline in advertising revenue discussed above, the already fragile nature of news production in Canada. Simply put, news is expensive to produce and it is not typically financially self-supporting.

While many forms of Canadian television production – and indeed non-Canadian production – do receive support through labour tax credits, news production does not. This is an anomalous situation: one of the most critical types of content currently available on Canadian broadcast media – Canadian news – receives no labour credit tax support, but the production in Canada of blockbuster Hollywood hits such as instalments in the *X-Men* and *Star Trek* franchises does receive such support.

A good starting point for the introduction of such a broadcast news tax credit would be to focus on Canada's independent broadcasting sector. This sector includes a number of Canadian television stations and discretionary services that produce news and information content in targeted markets (such as Hamilton, Victoria and St. Johns), or that reach otherwise underserved audiences, including Indigenous Peoples and third-language audiences. In radio, independent broadcasters serve a very wide segment of the Canadian population, reaching into virtually every Canadian community capable of supporting a radio service.

A news-based labour tax credit targeted to Canadian independent broadcasters would clearly be beneficial to ensure the continued presence of news in these markets and for these communities.

We estimate the cost of such a news tax credit for independent broadcasters, based on the exiting 25% model used for other news media, would be between $20 and $30 million annually.

Recommendation 3: That the government reimburse the 600 MHz transition costs for Canadian <u>independent</u> broadcasters.

Discussion: Over-the-air television broadcasters are required by government policy to reposition their transmissions within the 600 MHz band to accommodate commercial mobile applications. This transition is being undertaken within a few short years of broadcasters having already converted from analog to digital transmission.

We support the government providing reimbursement for broadcasters, especially independent broadcasters, involved in this transition. Since the portion of the 600 MHz band being vacated by broadcasters will be repurposed for mobile use, it would make sense for a portion of the revenues generated by the government from this use be employed to assist independent broadcasters, in particular. All of Canada’s large media conglomerates also operate mobile phone businesses and are, therefore, expected to benefit from increased spectrum dedicated to this purpose. Independent broadcasters will receive no such benefit.

We estimate that providing reimbursement to independent broadcasters would cost less than $10 million as a one-time expenditure.

Recommendation 4: That the government provide a clear path for the CRTC to undertake an immediate review of distribution rules on IPTV and Internet-based distribution platforms to ensure that Canadian broadcasters have fair and

full access to our own domestic market. We cannot wait, and do not need to wait, for changes to the *Broadcasting Act*.

Discussion: The Minister of Heritage has announced the government's intention to move forward with amendments to the *Broadcasting Act* that are intended to bring foreign Internet-based *programming* services, such as Netflix and Disney+, into the Canadian broadcasting system.

At the same time, the increasing presence in Canada of foreign and Canadian Internet and IPTV-based *distribution* services is now an urgent problem for Canadian apps and services. Foreign IPTV platforms, such as Amazon Prime, and even Canadian hybrid BDU platforms (such as the US-based Xfinity platform that is used by the largest Canadian cable companies), are rapidly entering the Canadian market and are now poised to displace the Canadian BDU distribution ecosystem.

In some cases it is the Canadian BDUs that are driving this change. They are poised to leave the Canadian regulated system in favour of an Internet-based system with no structures in place to ensure Canadians have access to our own broadcasting services and apps in the new digital environment.

The *distribution* issues raised by these Internet and hybrid platforms are different from the issues raised by Internet-based content aggregation services such as Netflix. But, resolving these issues is critical if we want a broadcasting system that profits Canadians and that is sustainable into the future. We need to ensure:

- access for Canadian apps and services offered by IP platforms;
- discoverability (placement & voice command) and prominence for Canadian apps and services directed to the Canadian market; and
- fair terms of distribution so that Canadian apps and services are not disadvantaged and to protect against anti-competitive behaviours (e.g. a platform giving prominence or preference to its own apps or services).

There is no jurisdictional or other question that needs to be resolved through amendments to the *Broadcasting Act*. The CRTC already has the necessary jurisdiction to deal with these issues, including through a review of its *Digital Media Exemption Order* and existing BDU regulations.

> We request that the government ensure that the CRTC has a clear path, through the issuance of an appropriate direction, if required, to undertake an immediate review of its distribution regulatory framework to bring it up to date with current and future distribution environment.

Conclusion

IBG/GDI appreciates this opportunity to participate in these pre-budget consultations.

Submitted by

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