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of Canada

A brief regarding Bill C-18, the Online News Act

An Act respecting online communications platforms that make news content
available to persons in Canada

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Introduction

Between the Alliance des radios communautaires du Canada (ARCC), the Association des radios communautaires du Québec ARCQ, and National Community and Campus Radio Association (NCRA/ANREC), we represent more than 180 community radio stations across the country. We have stations in almost every province and territory. Across the country, there are more than 700 staff members and a network of more than 10 000 volunteers. All of our stations are not-for-profit and governed by a volunteer board of directors elected by and responsible to the communities they serve. As a result, ALL investments in community radio go right back into the community they serve.

More than 2.5 million Canadians listen to community broadcasters on a regular basis¹, and the critical importance of community radio truly came into focus during the pandemic when we saw a 16% increase in listeners as Canadians sought out reliable local information.

Community-based broadcasters produce content in more than 65 languages which include 11 Indigenous languages spoken by Canadians from coast to coast to coast. More than 35 stations serve Official Language Minority communities. Within these stations is the largest number of diverse broadcasters and programming in the country. It is often the case that community radio is the only place these communities can get (and share) local news.

These changes would only impact C/C radio stations, and based on CRTC definitions not impact other outlets.

C18 Importance to C/C radio

Campus/Community Radio in Canada is heavily integrated with local news, information and entertainment by nature of the organization's mandate and CRTC license Category. Stations are required to air 15% (on average, 19 hours) of locally produced, spoken word programming each week². This is the equivalent of approximately 95 hours of production time (averaging 5/1 ratio of broadcast to pre-production³). In many cases, community stations in Canada operate solely on Volunteers, for operations, programming and local news and information. They are often the only sources of any type of news or information in a community, especially when those communities are only serviced by the radio station and no other types of local media. This is becoming increasingly common with the amalgamation of commercial broadcasters - often leaving the communities they used to serve with no local voice. In fact, C/C radio is the only radio sector seeing growth, with an average of 5-7 new stations each year.

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<https://abacusdata.ca/wp-content/uploads/2022/10/National-Campus-and-Community-Radio-Association.pdf>

² <https://crtc.gc.ca/eng/archive/2010/2010-499.HTM> #50

³ <https://crtc.gc.ca/eng/archive/2010/2010-819.HTM>

Section 3(1)(d)(iii) of the Act states, in part, that the Canadian broadcasting system should reflect the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Aboriginal peoples. The cultural diversity present in many Canadian communities places campus and community stations serving those centres in a position to make a strong contribution to the reflection of that cultural diversity, especially by providing exposure to new and emerging artists from underserved cultural groups, namely ethnocultural minorities, Aboriginal peoples and persons with disabilities. Campus and community stations are also well placed to provide spoken word programming that reflects the perspectives and concerns of diverse cultural groups, including official language minority communities....The Commission acknowledges the significant role played by campus and community stations in providing third-language programming to the ethnocultural communities resident within their service areas⁴.

Necessary Amendments to the Act

We recognize the importance of C-18 and support the goals as outlined in the act. We believe there are necessary changes to enhance the opportunity for all Canadians to benefit from accessing local news and information, regardless of their proximity to medium and large communities with commercial news organizations.

We further appreciate that there needs to be a baseline which ensures that those organizations are deemed eligible for designation as an eligible news business and therefore appreciate the challenge of defining what should and should not be eligible. We believe the CRTC definition of campus and community radio aligns with the needs of legitimate organizations that satisfy the requirements that “journalistic independence enjoyed by news outlets in relation to news content produced primarily for the Canadian news marketplace, including local, regional and national news content”

Unfortunately in its current form, C-18 will exclude almost every community and campus licensed station in Canada. That will further disenfranchise 232 radio stations that serve underserved communities in the parts of Canada where reliable journalism is most important as disinformation is creeping in at an alarming rate.

Indigenous stations in particular have been impacted by systemic racism throughout the system. This legislation cannot be allowed to pass without ensuring these stations have the ability to be designated as eligible news businesses.

Proposed changes to the Online Streaming Act recognizing the importance of non-profit media as defined in C11.

community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community; (*élément communautaire*)

⁴ <https://laws-lois.justice.gc.ca/eng/acts/b-9.01/>

Specifically,

(5.1) Subparagraph 3(1)(i)(iv) of the Act is replaced by the following:

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern and to directly participate in public dialogue on those matters including through the community element...

Community radio stations deserve to be considered as eligible because they serve a population that is not profitable and has been abandoned by commercial and public broadcasters. Rural Canada, multicultural communities, Indigenous communities, and Official Language Minority communities.

Community, Indigenous, and campus broadcasters remain the few local news sources providing accurate and immediate news for hundreds of underserved communities across the country. There are more than 235 stations that broadcast programming in more than 65 languages including more than a dozen Indigenous languages. They receive no federal support. They do this because it is core to who they are and why they exist. The importance of community radio on democratic processes has been demonstrated by research from all across the world including [India](#), [USA](#), [Australia](#), and [Africa](#).

In rural Canada, 92 of the 177 community and campus stations, or 52%, are in rural Canada (population under 50k) and 78% of the 54 Indigenous broadcasters are in rural communities.

Each of these stations is licensed by the CRTC after an exhaustive, multi-year licensing process. As per the requirements, these stations are all mandated to⁵:

- Be a non-profit corporation with a board of directors elected from the community they are licenced to serve and;
- Air a minimum of 15 % of total airtime of spoken word programming that is defined as:

Content Subcategory 11: News

The recounting and reporting of local, regional, national and international events of the day or recent days, with particular emphasis on the topicality of the events or situations selected, or on the constant updating of information, or both as well as background material about current events when included in newscasts but excluding weather, traffic and sports and entertainment reports.

Content Subcategory 12: Spoken word-other

All programming with the exception of material falling under subcategory 11-News and categories 2, 3, 4 and 5 (Popular Music, Special Interest Music, Musical Production and Advertising).*

**in short, locally relevant information that supports the community element and provides information that is usually not available anywhere else.*

⁵ <https://crtc.gc.ca/eng/archive/2010/2010-499.HTM>

The C18 definition currently says “**news content**” means content — in any format, including an audio or audiovisual format — that reports on, investigates or explains current issues or events of public interest. (*contenu de nouvelles*)”

All community radio provides news and information in some form or another. The spoken word programming often refers to civic information and engagement.

During the pandemic community broadcasters were deemed essential workers, and served to provide local communities with the news that was pertinent to their audiences. As an example, if you live on Cortes Island, BC, and get your news from the CBC you would have no idea about local services in the community. The station held 3-hour weekly town hall broadcasts directing listeners to clinics at the right time, providing the most up-to-date and reliable information, not from Dr. Theresa Tam in Ottawa, but from local health officials located in Masons Landing⁶. This was common across the country; for example in Pontiac, Quebec where CHIP FM put a microphone in the local Municipal meeting so that citizens who were confined to their homes were able to be part of the civic process because of community radio.

Another example of contribution to local news for stations that would currently be ineligible for funding was laid bare during hurricane Fiona. CKOA had its transmitter blown off its foundation, yet was able to continue broadcasting survival information. They ordered pizza, shut the stations and stayed on air all night in Glace Bay. When the power went out and social media was down, people pulled out battery-powered receivers and tuned into CKOA FM in Cape Breton for vital information, for days when no one else was broadcasting (Local commercial stations re-aired American programming)⁷.

How can it be that a law designed to protect local news outlets and news has excluded many of these stations in Australia and will do it again in Canada?

Our major area of concern is the eligibility criteria.

Eligible news businesses — designation

27 (1) At the request of a news business, the Commission must, by order, designate the business as eligible if it

(a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or

(b) produces news content that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and

⁶ <https://www.islandhealth.ca/our-locations/hospitals-health-centre-locations/cortes-health-centre>

⁷

https://drive.google.com/open?id=18uvMGZElowKoxh1YAiBWtP0sgHpZacWH&authuser=barry%40ncra.ca&usp=drive_fs

- (i) regularly employs two or more journalists in Canada,*
- (ii) operates in Canada, including having content edited and designed in Canada, and*
- (iii) produces news content that is not primarily focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment.*

There are 2 specific sections which will present a significant challenge for all community broadcasters.

27(1) (a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or

We have had 4 stations apply for qualification as QCJO status and they have all been rejected so far.

When the requirements for QCJO/RJO were put into place, community radio was not consulted, which resulted in 95% of stations being ineligible for designation due to the fact that they operate through volunteers and cannot afford to hire multiple full-time journalists.

A simple solution is to adjust the requirements for QCJO and RJO so that Campus/Community and Indigenous stations are automatically designated and have the opportunity to grow their local news content under C18.

Recommendation #1: Modify

27(1) (a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or

To

*27(1) (a) (i) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act or
(ii) holds a valid CRTC Radio/TV license for community/campus and native type b here and is in good standing with the CRTC or;
(iii) a not-for-profit broadcasting undertaking that has produces news.*

There would be no tax implications for the entire group being admitted en masse as we are all not-for-profit stations.

As a footnote, it seems preposterous that the tax agency would have jurisdiction over who qualifies as a news outlet.

The second challenging section is 27 (1) (i) regularly employs two or more journalists in Canada,

There are more than 63 community stations that operate on an annual budget of \$50 000 or less. The average total annual operating budget for these stations is \$260 000. At this level it is hard enough to hire and pay a living wage to a station manager or host, never mind a journalist.

Of the 232 stations, we estimate only 10 have 2 full-time journalists without Local Journalism Support. This seems strange that the government would fund a great project like LJI, but have other policies that restrict the ability of stations to generate more local news through other means. The reality is that these stations are supported by a network of more than 12 000 volunteers. Just because they don't get paid does not mean they do not contribute to the production of local news. C/C Licenses required 15% of all content produced to be locally-produced spoken word. On average it takes about 5-1 ratio of time to produce spoken word (and 2-1 for Music). This means that each station spends, at Minimum, 19 hours/week* 5 hours of production for each hour aired, a total of just under 100 hours/week on spoken word programming. This is the equivalent of more than 2 full-time paid employees.

The recommendation is to automatically designate all campus/community/indigenous radio stations licensed by the CRTC as RJO, so they can get the benefits of that designation based on their licensing requirements.

Problems with external negotiations

Without C/C radio being automatically listed as a QCJO/RJO, large organizations like Meta and Google have no obligation to negotiate with our sector. This disadvantages these small, community-focused organizations as they do not have the capacity to address the issue itself.

Misinformation about the Australian Model

<https://www.canberra.edu.au/research/faculty-research-centres/nmrc/digital-news-report-australia-2022>

On September 23rd, Mr. Rod Sims (Professor, Crawford School of Public Policy, The Australian National University) appeared as an Individual in committee and finished his opening statement by saying: *“only the large media players that got deals and the smaller players missed out. This is just simply false.”* He went on to state that *“We have many smaller media businesses, especially small regional and rural newspapers and digital natives. Essentially all of them got a deal from Google, and most of them got a deal from Facebook.”*

We believe this statement is incorrect, as small and medium community radio stations and other media groups were in fact left out of the negotiation process as per The Digital News Report:

Australia 2022⁸ The report indicates that of the 452 community radio stations in Australia less than a dozen have been able to negotiate any sort of deal with Google or Facebook According to Jon Bissett, CEO of the CBAA.

It must be recognized that as one of the principal architects of the Australian news bargaining code, Dr. Sims has a vested interest in promoting the success of the legislation.

When he refers to smaller businesses and rural newspapers he is primarily referring to a conglomerate owned by Rupert Murdoch.

We have been in touch with both the Community Broadcasting Association of Australia (CBAA) and the Local & Independent News Association. Both are adamant that the lack of transparency in the process has dramatically hampered everyone's ability to negotiate in good faith. We know for a fact that many entities in Canada have already negotiated their deals, However, those deals are private and confidential - and because they are not required to divulge the information, the ability to negotiate becomes almost impossible without legislative support. . Torstar offered to make the details of their agreement public but that has so far not materialized⁹.

We ask, how can non-profit organizations, with reduced capacity, negotiate with multi-national organizations who won't respond to requests to discuss?

To date, it has been their experience that Google has been forthcoming in offering compensation to a handful of small publishers in the form of small payments and access to their own training program, attendance to which, it should be noted, produced benefits to Google.

It has further been their collective experience that, after more than a year of the legislation being in effect, many find it impossible to get a response from Facebook.

Currently, the bill reads:

Agreement with group

32 (1) If a group of eligible news businesses enters into an agreement with an operator as a result of bargaining or mediation sessions under the bargaining process, the group must file a copy of the agreement with the Commission within 15 days after the day on which it is entered into.

Recommendation 2: Mandate and prioritize community media negotiations with web giants so there is a fair opportunity to participate in funding that supports small and remote communities. Specifically, this would be by adding language to

⁸ <https://www.canberra.edu.au/research/faculty-research-centres/nmrc/digital-news-report-australia-2022>

⁹

<https://www.thestar.com/politics/federal/2022/10/18/google-defends-secret-deals-in-clash-with-mps-over-online-news-bill.html?rf>

Purpose

4 The purpose of this Act is to regulate digital news intermediaries with a view to enhancing fairness in the Canadian digital news marketplace and contributing to its sustainability, including the sustainability of independent local news businesses, in ***both the for-profit and non-profit sectors.***

Recommendation 3:

Amend 11 (VI) they involve a range of news outlets that reflect the diversity of the Canadian news marketplace, including diversity with respect to language, racialized groups, Indigenous communities, local news and business models, including participation by the public, private and community broadcasting element; and

Conclusion

Community radio is a critical part of the Canadian broadcasting environment. As we see all other broadcasters abandoning local news, information, stories, music and arts, community radio will always focus on supporting local voices.

Community broadcasters will benefit dramatically if the legislation does in fact ensure financial contributions to support Canadian music, stories, creators and producers. However, that support will only reach the smaller broadcasters in the community broadcasting sector if their role in the broadcasting system is acknowledged in the Act.

C-18 is an important piece of legislation that will have an important impact on newsgathering in Canada. It will improve our collective ability to fight disinformation, ensure our population is making decisions with accurate information and ultimately fight for our democracy.

From the beginning of the process that led to the development of C-18, we have been told that the law in Australia has been a success and that C-18 would be based on the Australian model.

The unfortunate reality is that Australia has excluded the vast majority of community broadcasters, independent news outlets, and legitimate news organizations which have been unable to meet the bar set by the legislation or engage in costly legal representation required to participate in collective bargaining. .

This undermines all of the critical objectives we hope to see come from this legislation. The world needs more local news and this bill will not deliver on that promise unless some modifications are made to who can qualify to be at the table.

Online News Act must reflect all elements of the broadcasting system with equal measure. The amendments proposed above will see community broadcasters recognized for their role in a healthy democracy.



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