

**PRELIMINARY DRAFT POLICY DIRECTION TO THE
CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**

Whereas Canada has been recognized globally for its high-quality creative content and industries, which have generated significant economic growth and a competitive advantage;

Whereas the digital age has transformed how cultural products are created, shared, and consumed, within an increasingly open, global, and dynamic marketplace;

Whereas Canada is subject to international trade obligations governing digital commerce and broadcasting services;

Whereas the Canadian broadcasting ecosystem is comprised of a broad range of public, private and community elements and draws programming from a variety of sources, in both the audio and audiovisual sectors, which work together to contribute to the creation and presentation of Canadian programming;

Whereas online undertakings, including those serving Canada from abroad, provide broadcasting services similar to that provided by licensed Canadian broadcasting undertakings, but are not subject to comparable regulatory requirements;

Whereas the *Broadcasting Act* recognizes the distinctiveness of the English and French linguistic markets in Canada, as well as the importance of supporting Indigenous broadcasting undertakings, Indigenous programming, and programming accessible without barriers by persons with disabilities;

Whereas the Canadian Radio-television and Telecommunications Commission's regulatory approach should be flexible and predictable in responding to the needs of a modern and diverse Canadian broadcasting system;

Whereas, the Minister of Canadian Heritage has, in accordance with subsection 7(6) and 15(2) of the [Broadcasting Act](#) consulted with the Canadian Radio-television and Telecommunications Commission;

Whereas, in accordance with paragraph 8(1)(a) of the [Broadcasting Act](#), notice of the proposed *Order issuing directions to the Canadian Radio-television and Telecommunications Commission (Sustainable and Equitable Regulatory Framework for Broadcasting)*, substantially in the form annexed hereto, was published in the [Canada Gazette](#) Part I on [insert date] and interested persons were invited to make representations to the Minister of Canadian Heritage with respect to the proposed Order for a minimum period of 30 days;

Whereas, in accordance with paragraph [insert new section in Broadcasting Act], the Minister of Canadian Heritage has published a summary of the comments received as part of the public consultation;

And whereas, in accordance with paragraph 8(1)(b) of the [Broadcasting Act](#), a copy of the proposed Order was tabled before each House of Parliament for information;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the

Minister of Canadian Heritage, pursuant to section 7 and 15(1) of the [Broadcasting Act](#), is pleased hereby to make the annexed *Order issuing directions to the Canadian Radio-television and Telecommunications Commission (Sustainable and Equitable Regulatory Framework for Broadcasting)*.

Interpretation

2 In this Order,

Act means the *Broadcasting Act*;

Charges means charges and expenditures imposed under s. 11.1 of the Act; [referring to the relevant provision added by the DIs]

CRTC means the Canadian Radio-television and Telecommunications Commission;

Independent production fund has the same meaning as in section 1 of the *Broadcasting Distribution Regulations, 1997*; and

Barriers has the same meaning as in section 2 of the *Accessible Canada Act*.

Direction

3 The CRTC is directed to impose regulatory requirements on such classes of online undertakings as it may define, only if the CRTC is satisfied that meeting any such requirements would contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1) of the *Act*. In this regard, the CRTC is directed not to impose regulatory requirements in respect of:

- a) broadcasting services that do not have a material effect on Canada's economy, national identity, or cultural fabric; and
- b) video games.

4 The CRTC is directed to, subject to section 3 above, ensure that online undertakings are required to contribute appropriately to the support for and promotion of Canadian programming and Canadian creators.

5 In ensuring the support for and promotion of Canadian programming and Canadian creators, the CRTC is directed to craft a scheme for charges and expenditures. To promote regulatory transparency, predictability and consistency within this scheme, the CRTC is directed to, after holding a public proceeding, establish a clear methodology that sets an appropriate level of funding and determines which classes of broadcasting undertakings are required to contribute in a way that is proportionate to this objective. The CRTC is directed to make certain that this methodology:

- (a) considers the importance of providing flexibility for all broadcasting undertakings required to pay the charges and expenditures;
- (b) be informed by data collected from broadcasting undertakings;

- (c) requires that where appropriate, broadcasting undertakings make financial contributions to Canadian programming through expenditures going directly towards that programming;
- (d) ensures that an appropriate portion be directed to the creation of French-language programming. The allocation of funding to Canadian programming should reflect that the creation of programming in both official languages is a key priority, and consider the specific challenges to creating and making available French-language programming;
- (e) recognizes the systemic obstacles faced by Indigenous creators. The CRTC is directed to ensure that the allocation of funding to Canadian programming and creators reflects the vital cultural objective that the creation of Indigenous programming thrives in Canada, regardless of technological or other developments in the broadcasting sector;
- (f) reflects the importance of supporting racialized and ethno-cultural communities as a key priority. The allocation of funding should help programming and creators from these communities thrive in the Canadian broadcasting system, and recognize the systemic obstacles these communities face; and
- (g) be reviewed regularly to ensure that financial contributions continue to be aligned with what is required to support the objectives of the broadcasting policy set out in subsection 3(1) of the *Act*.

5.1 Should the CRTC impose charges and expenditures for the purpose of supporting public interest participation in proceedings held under the Act, the CRTC is directed to, after holding a public proceeding, establish a clear methodology that sets an appropriate level of funding and determines which classes of broadcasting undertakings are required to contribute in a way that is proportionate to this objective. The CRTC is directed to make certain that this methodology considers the importance of providing sufficient flexibility for all broadcasting undertakings required to pay and remains up to date.

6 The CRTC is directed to regulate and supervise the Canadian broadcasting system in a manner that is flexible, fair, and equitable, and which:

- (a) ensures that Canadian programming in English, French, and Indigenous languages is available, prominent, and easy to discover;
- (b) considers the particular needs of each official language market, including those of official-language minority communities;
- (c) supports and promotes opportunities for programming led by women, the LGBTQ2+ community, racialized and ethno-cultural communities, and other equity seeking groups or communities, recognizing the challenges faced by these groups in the broadcasting system;
- (d) supports programs being made accessible without barriers to people with disabilities;
- (e) streamlines regulatory obligations so all broadcasting undertakings are in a position to compete in the modern broadcasting environment;

- (f) provides flexibility and predictability, while recognizing the distinct business models in the modern Canadian broadcasting system;
- (g) ensures that non-Canadian online services receive treatment no less favourable than comparable Canadian online services; and
- (h) emphasizes the importance of continued access by Canadians to a wide range of programming and services through whatever means of broadcasting it may be provided.

7 The CRTC is directed to examine how it defines Canadian programs, in both the audio and audiovisual sectors, for the purposes of broadcasting undertakings' regulatory obligations. This definition is to be flexible, encourage the contribution of Canadians in a broad range of key creative positions, support Canadian ownership of intellectual property, and reflect the fact that global, not just Canadian, broadcasting undertakings are included in the regulatory system. The CRTC is directed to take into account the government of Canada's other Canadian content policies of relevance to the Canadian broadcasting system as they develop over time, including audiovisual tax credits.

8 The CRTC is directed to consider how to use flexible, dynamic, and incentive-based regulatory tools to implement sections 5 through 7 of the direction. In doing so, the CRTC shall consider mechanisms to incentivize broadcasting undertakings to make contributions towards attaining the objectives of the broadcasting policy set out in subsection 3(1) of the *Act*, ensuring that greater weight be afforded to supporting objectives that would not otherwise be met by the market. In order to encourage the development of diverse Canadian expression, the CRTC is directed to consider incentivizing diversity in key creative positions, in both the audio and audiovisual sectors, and supporting the following communities: Indigenous peoples, Official-Language Minority Communities, the LGBTQ2+ community, racialized and ethno-cultural communities, women, accessibility groups, and French-language creators.

9 The CRTC is directed to consider how regulatory tools such as the incentive based tools contemplated in section 8, Canadian programming requirements, discoverability requirements, reporting requirements, charges and expenditures, or any other appropriate tool, could be used to support and promote fair and transparent remuneration for music creators in the modern broadcasting system.

10 The CRTC is directed to adopt an equitable approach to regulation, including licensee fees imposed under section 11 of the *Act* and charges and expenditures imposed under section 11.1 of the *Act*, to continue to allow broadcasting undertakings to contribute to and benefit from the Canadian broadcasting system. In doing so, the CRTC is directed to address unjustified regulatory asymmetries in the Canadian broadcasting system which may arise or persist, including between online undertakings and licensed broadcasting undertakings.

11 The CRTC shall hold engagement sessions with Indigenous broadcasters, content creators and artists, followed by a public consultation process to solicit comments on the possibility of certifying a new independent production fund supporting Indigenous storytelling and production, which could be under the governance and responsibility of the Indigenous Screen Office or another entity that is best suited.

12 The CRTC shall hold engagement sessions with Indigenous broadcasters, creators and artists, followed by a public consultation process to solicit comments on how to best support Indigenous broadcasters, specifically focusing on the appropriate levels of support in order to help ensure the continued viability of the Indigenous broadcasting sector.

13 The CRTC is directed to hold engagement sessions with racialized and ethno-cultural groups regarding suitable tools, including funding mechanisms, to support racialized community-owned media and help ensure access to diverse content.

14 The CRTC is directed to implement a regulatory framework satisfying sections 3 and 4 within 9 months of this order coming into force, to establish charges and expenditures in accordance with the methodology set out in section 5 within 9 months of this order coming into force, and to ensure that all other sections of the direction above are fully implemented within 2 years of this order coming into force.