



CCSA

**Canadian Communication
Systems Alliance**

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Broadcasting Notice of Consultation CRTC 2024-288

The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector

January 19, 2025

Mr. Marc Morin Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Morin,

1. The Canadian Communication Systems Alliance (“CCSA”) represents independent communications distributors - smaller broadcasting distributions companies, telephone companies and ISP’s across Canada. The CCSA represents more than 100 companies from sea to sea to sea, including the North.
2. The CCSA has focused its response to fundamentally target the outcomes sought by the Commission from paragraph 7 of the Broadcasting Notice of Consultation¹:

“Through this proceeding, the Commission will determine how to:

- better support and promote Canadian stories through audio-visual programming that makes use of Canadian creativity and other resources, including French-language, Indigenous and news content;
- facilitate flexible audio-visual Canadian programming and a financial support ecosystem that encourages a variety of productions, and a variety of business, broadcast and distribution models;
- better recognize the role played by Canadian key creators in the creation, broadcast and distribution of audio-visual Canadian programming;
- foster a sustainable Canadian broadcasting system where Canadian creators are able to profit from their creations, including through intellectual property rights;
- further the exportability and discoverability of Canadian programming; and
- ensure that Canada’s diversity is reflected in the Canadian broadcasting system.”²

3. While the Commission has an established system that it is seeking to modernize, the CCSA started its analysis from a different perspective. In preparation for this submission the CCSA first looked at which of the aforementioned outcomes were successfully being met by the existing system, and then debated if modernization is required or if a complete rethink of each issue is needed. To this end much of the CCSA submission will examine the ongoing relevance of the objectives and their efficacy.

¹ “The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector”. BNC 2024-288: November 15, 2024. <https://crtc.gc.ca/eng/archive/2024/2024-288.htm>

² Ibid. paragraph 7



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4. CCSA would like to note that as a representative of the concerns of a consortium of small independent BDUs, this submission will sometimes be viewed through the lens of marketability of Canadian content. The focus is less on niche artistic content that has limited market appeal because our members serve subscriber bases sometimes below 100 customers. This perspective should not be viewed as criticism of such content, but since our members do not have millions of subscribers to aggregate across, they must be acutely aware of what 'works' and what doesn't for smaller audience bases. Put another way, our members aren't McDonalds or The Keg, but the local neighbourhood restaurant whose profit margin is highly cost and product sensitive.

Sustainability and Profitability

Sustainability

5. CCSA is starting with Sustainability and Profitability as a topic because without sustainability, the whole system, regardless of policy objectives or good intentions, is irrelevant. If BDU's are unable to put sufficient money back into the system, there will be few resources for the Canadian creative community to bring those Canadian stories to Canadian audiences. While Canadian BDU's can exist simply by reselling foreign content, the Canadian Creative Community and Canadian identity cannot. CCSA believes that Canada's stories should be an important element of the Canadian Broadcasting system, but there is a concern that in the Notice of Consultation 'the cart is being put before the horse'.

6. Canadian Broadcasting has been in decline for years, but this is (at least in part) because it hasn't had an anchor of strong Canadian content that appeals to broad audiences. Defining a Canadian program is only part of the problem, but if Canadian programs don't resonate with substantial amounts of Canadian audiences, it facilitates the decision for Canadian audiences to cut cords. Once a significant proportion of a generation are established as cord-nevers and cord-cutters, how will BDUs (small or large) attract paying customers back to watch Canadian Programming?

7. The above is not a criticism of talent in the Canadian production sector. Rather, it is an acknowledgement of structural issues that currently exist which will – if not remedied - make the outcomes of this hearing moot if the Commission's solutions are not primarily focused on sustainability and long-term growth.

8. The CCSA recognizes that growth is the ideal outcome of this hearing from the Commission's perspective. How can CCSA members contribute to that growth? Ensuring that smaller independent BDUs can have the opportunity to participate meaningfully in the creation and distribution of Canadian content is crucial for maintaining diversity in the broadcasting landscape. Currently, the majority of CCSA members are exempt from financial contributions but many also do not contribute by making Canadian programming. If they wanted to start producing, how best would they do so? Their options would be either to create an internal production unit or contract with an external independent producer. How would they best distribute that content? Obviously, they would do so on their own system's, but should they then try to sell to other domestic broadcasters, OTT streamers, or go through social media like Youtube or other social media shorts? The CCSA is hoping the Commission can ensure no new additional regulatory burden while creating opportunities for growth.

Profitability

9. If the CCSA membership sees an opportunity to grow by creating more culturally significant content, there should be an incentive for that growth. The CCSA proposes that the 'Production Packages', 'Twinning', and 'Pilot Projects' initiative discussed in paragraphs: 72, 73, and 76 in the Notice of Consultation³, all be eliminated and refocused towards encouraging small independent BDUs to develop Canadian stories for Canadian Audiences.

10. The Commission needs to create more opportunities for the success of Canadian production. Through that growth, ideally, we⁴ can reinvigorate audience interest in domestic programming to more domestic audiences. The CCSA is not suggesting elimination of what has been working, but instead focusing on taking 'under-utilized' opportunities and trying something new. While some might oppose such a proposal, the CCSA contends that seeking opportunities sends a stronger message than trying to be 'protective'. If the Commission is confident in the potential of Canadian production and the viability of 'cultural elements', then it stands to reason it should encourage new opportunities.

11. The CCSA will explore its proposal for such a new opportunity further in the 'Proposals' section of this submission.

Supporting Canadian stories using Canadian Creativity & Resources

Canadian

12. In paragraph 20, the Commission states: "“what makes something Canadian” is hard to define and that there are in fact many ways of defining what is Canadian.”⁵ The Commission cannot support Canadian stories using Canadian creativity & resources if it sidesteps the core unifying factor- the word Canadian. Instead substituting 'cultural' then requires that word be defined.

13. To demonstrate the issue: “cultural sovereignty, ethnocultural backgrounds, multicultural nature of Canada, cultural expression, and indigenous cultures of Canada” are all referenced in various parts of section 3(1) of the broadcasting act. Is it difficult for the Commission to define the stories of Indigenous cultures of Canada? No one would mistake Canadian BC Indigenous cultures in with that of Ukrainian Canadian culture in Saskatchewan.

14. There may be differing interpretations of 'Canadian' when money is included in the discussion. For this reason, the CCSA recommends a flexible approach to encourage opportunities for growth over protectionism of entrenched dogmatic positions. To date, that existing approach has not resulted in the quantity of attractive Canadian content (that qualifies for production credits) that Canadians⁶ might hope for.

Flexible Programming and Financial Support for a Variety of Productions/Businesses/BDU models

15. The CCSA acknowledges that in the decision BRP 2024-121 the Commission recognized the policy targets set by the Government of Canada to include OTT services in contributing to the Canadian system. In that decision the Commission also distinguished 'Social Media' (SM) from other online broadcasters.

³ Op Cit

⁴ In the sense of the whole Canadian broadcasting system combined

⁵ Op Cit Para 20

⁶ Those Canadian citizens paying for cable, and choosing to watch programming via conventional broadcasters.



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16. With reference to the Commission's positions on both, there are two issues with regard to flexibility that need to be addressed: Should production partnerships be allowed between conventional Vertically Integrated BDU's and OTT services? And whether SM content can cross the threshold of Canadian Cultural Content- and, if so, should such content be eligible to receive benefits?
17. On the first point, the CCSA does not have an easy solution. On one hand if the Commission is seeking to encourage production, having new OTT entrants work together with conventional VI-BDU's may be an opportunity to foster development of content. However, not allowing cooperation on production between OTT and VI-BDU's would produce 'more' content fostering competition in the Canadian content market. At this point in the discussion, the CCSA does not know whether the Commission should prioritize everyone rowing in the same direction together or, rely on competition to develop the 'best' product.
18. On the Social Media issue, while it could be regarded as 'opening a can of worms', there may come a time when such content might meet all the requisite policy objectives. The CCSA notes that the CMF currently has the 'Digital Creators Pilot Program', so the idea is being implemented regardless of Commission involvement.
19. Perhaps a better question is whether funds reserved by the Commission from Broadcasters should be spent on unregulated industries that do not pay back into the system? It is no secret that Canada's broadcasting industry is struggling, so siphoning funds as a result of regulatory requirements from an industry in decline to other industries that are in direct competition for the same resource (viewership) is fundamentally unfair.
20. From a production standpoint there is certainly overlap: producers, writers, directors, (voice) actors are all used. Despite that being the case, there are elements of competitive distortion in the transfer of resources from Broadcasting to social media creators or the videogames industry that should be acknowledged and addressed. While the Commission cannot directly shape the policies of the CMF, funding for the CMF is directly tied to the CRTC's regulatory intervention in the market. The Commission necessarily has a hand in this anti-competitive transfer of funds and should re-evaluate its involvement in an increasingly unreasonable policy of taxing one industry not to 'give back' in full to tv audiences (in terms of content development) but to give to videogaming or YouTubes' audiences. The CCSA is therefore seeking clarification whether the Commission has a policy expectation that content with 'cultural elements' can be funded and distributed via social media?
21. Additionally, if there is a YouTube channel called 'Beavers, Mounties et sirop d'érable', focusing on Canadian history, geography, and politics, should it receive funding? The CCSA can appreciate arguments for such funding from a broad media perspective but there is an inherent contradiction in what is being asked for. Canadian audiences are paying cable bills, 5% of those revenues should be producing quality content they can enjoy. The Commission wants 'good content' from Broadcasters to enrich Canadian culture, which is already a costly and difficult ask, and it is necessarily made more difficult when a significant percentage of that aforementioned 5% is diverted away from its intended purpose. How many seniors who subscribe to cable are playing Assassins Creed or EA Sports' Fifa 2023?



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22. The CCSA is not proposing that Videogames or Social media content creators pay into the system. The Government's policy decision⁷ as well as the Commission's own decision⁸ makes that a non-starter. Instead, the Commission could reduce the regulatory burden on broadcasters proportionally to the amount the CMF decides to contribute to those business initiatives. That would remove the unjust impoverishment that this misapplied regulatory burden is creating.

23. Alternatively, the Commission could simply establish as a condition of license that all licensed broadcasters must re-invest a proportional amount that they previously had to pay into the CMF into their own national and regional productions⁹. Any funds not spent by the broadcasters in a given fiscal year would then be transferred to the CMF as overflow funds for any given purpose for subsequent years. While this option might be deemed to be 'unfair' to programmers or special interest groups, it is at least directly applicable to those who have been paying into a system that continues to undermine the very business rationale by robbing Peter to pay Paul. It may not be the role of the regulator to determine the relative unfairness of two unfair policies, but it is not the responsibility of the Commission to enable interindustry redistributions of wealth to industries beyond its jurisdiction. If the Commission's role is to facilitate a healthy broadcasting industry and attractive Canadian cultural content, facilitating the removal of resources from the system designed to meet these objectives is antithetical to the outcomes sought by federal policy.

Recognition of Canadian Creators

24. Only when the Commission can define what 'Canadian' means in terms of 'cultural content', can it then define 'Canadian Creators'. As an example, if a Canadian writer moves to LA, are they still 'Canadian'? Was Donald Sutherland a Canadian export when he lived in America and pays taxes there? When Canadian television stars move south for new opportunities, and come back to Canada to film, are they Canadian while they shoot here? Are they only Canadian Creators if they stay in Canada and work here; creating content only visible on Canadian domestic OTA channels? 'Canadian creators' is an inherently flexible term, that encompasses many kinds of content from 'The Property Brothers' to the Mercer Report. However, as the Broadcasting industry confronts increasing competition from international broadcasting content, social media, videogames, and other such screen-based options, the Commission will necessarily have to consider how best to address emerging policy objectives alongside shifts in content viewing habits.

Exportability and Discoverability

Exportability

25. The CCSA would suggest that Canadian content has always been 'exportable'. Whether it's Anne of Green Gables, Schitts' Creek, Corner Gas, Kim's Convenience, etc. all demonstrate Canadiana¹⁰ can be

⁷ Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework): SOR/2023-239:

Paragraph 10. Found at: Canada Gazette, Part II, Volume 157, Number 24- November 9, 2023. <https://canadagazette.gc.ca/rp-pr/p2/2023/2023-11-22/html/sor-dors239-eng.html>

⁸ "The Path Forward – Supporting Canadian and Indigenous content through base contributions"

BRP 2023-121: paragraph 82, June 4, 2024 <https://crtc.gc.ca/eng/archive/2024/2024-121.htm>

⁹ If it were to include local/community content, it would artificially distort the ability for small independent broadcasters to compete with VI-BDUS services, allowing larger BDUs to invest disproportionately large amounts or resources to drive smaller not for profit services out of business.

¹⁰ Excluding derivative reality TV.



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exportable! If the goal is to focus on Canadian identity, then exportability should be incidental. Obviously, Canada's market being approximately 40 million people is financially insignificant in marketing terms compared to Europe, or even America. If the Commission's focus is on Canadian cultural content, it could be too narrowly focused to appeal to international audiences once they have their fill of Moose and snowshoeing content¹¹. The CCSA would therefore support any broad understanding of 'Canadian', and 'cultural content' to ensure maximum longevity and flexibility for Canadian programming. If Canadians are receiving high quality engaging content, then its exportability will happen anyway because international audiences will always be interested in good content.

Discoverability

26. CCSA's audiences let our membership know what they want to watch. Discoverability of Canadian Cultural content is rarely the underlying issue. Between piracy, OTT's, VOD, etc, all content can be discovered. Anyone can type "Shang-Chi actor" into google and one of the 'images' that comes up after a Wikipedia link for Simu Liu references is: 'CBC and Kim's Convenience'. Any Canadian can google 'Canadian TV shows' and be provided several lists starting with: "Top Canadian Picks; followed by: Canadian Crime Shows, Canadian Comedies, Canadian Reality shows, Canadian Dramas," and so on. Discoverability is not a problem. Appetite for most of such content is – though that's beyond the scope of this hearing.

Diversity

27. The CCSA would propose an amendment to the revised points system put forward by the Commission in its Notice of Consultation for this hearing. CCSA would suggest that an additional point be added for consideration if a production has a mentorship program being used to encourage diversity and equity mentorship training in two categories in senior roles for the production¹².

Proposals

28. To reiterate and elaborate on the proposals above, the CCSA is making proposals on three specific issues at this time:

- 1) Changing the way funding is provided to Canadian cultural content to ensure all the money ends up reinvested appropriately, to reduce the financial distortion of BDU revenues going to rival competing industries¹³.
- 2) Add one additional optional point to the proposed changes to the 'points classification system' to facilitate mentoring opportunities of equity deserving groups.
- 3) Discontinue certification for production packages, twinings, and pilot projects; instead create a new certification for small independent BDUs to automatically access funding to encourage new production and partnerships.

29. It is the third point that the CCSA still needs to expand on. This point circles back to address the initial two points being reviewed by the Commission - namely:

¹¹ This is intentionally pejorative to illustrate the 'extremely ignorant' views some international audiences have as a default of Canada

¹² Eg- Director, Producer, Lead Actor/Actress, Writer, etc

¹³ In whatever form that takes.



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- o better support and promote Canadian stories through audio-visual programming that makes use of Canadian creativity and other resources, including French-language, Indigenous and news content;
- o facilitate flexible audio-visual Canadian programming and a financial support ecosystem that encourages a variety of productions, and a variety of business, broadcast and distribution models;¹⁴

New Certification for Small Independent BDUs

30. In paragraphs 72 -77 of the notice, the Commission discusses rarely used programs, and asks in questions 48 & 49 whether such programs like the ‘pilot projects program’ and certification of production packages and twinning should be eliminated?

31. The CCSA proposes that these categories be eliminated and the amounts available be assigned to a new classification of production category: small independent BDUs¹⁵ facilitating or providing in-house production¹⁶. If such a proposal was approved, those productions could in time include what was previously called ‘production packages’ or ‘twinning’.¹⁷ It should also be defined broadly enough to encourage the growth of local community content.

32. If the goal of the Commission is to encourage more Canadian production (including at the local level), small independent BDUs across the country are ideally situated to do that. Often however, they lack the knowledge of bureaucratic systems that could facilitate their realization of new opportunities. The Commission simply needs to craft one tailor made solution that ensures it is economically viable for them to begin or continue to produce Canadian content.

33. This will require certification category exclusively for small independent BDUs production that would allow funding for (X) amount of hours community content, (X) amount for local news reporting¹⁸, (X) amount to be qualified for one production package or twinning per year per small independent BDU.

34. The CCSA believes that this proposal gives the Commission the best opportunity to try to adjust the consolidation and mitigation mentality that is rife in Canada’s media currently. By facilitating new voices who already have an active interest in the system and their communities, the Commission is giving the market the best chance to rejuvenate itself. Moreover, such action is directly in line with the policy objectives 8(a,c,d,f,g),9, 12(b,d,e,i) of the policy direction¹⁹ and sections 3(1)d(ii),(iii.1,4,5),(v),(vi), 3(1)f,

¹⁴ **The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector**. BNC 2024-288: November 15, 2024. <https://crtc.gc.ca/eng/archive/2024/2024-288.htm>

¹⁵ Independently owned BDU’s with systems below 20,000 subscribers that are not owned by VI-BDUs

¹⁶ Without any requirements to meet points requirements

¹⁷ This submission is not attempting to predict how such a ruling would be used by small BDUs inside and outside of CCSA

¹⁸ ‘X’ being an amount to be established by the Commission, though the CCSA proposes between \$200,000-\$400,000.

¹⁹ **Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework): SOR/2023-239**

Found at: Canada Gazette, Part II, Volume 157, Number 24- November 9, 2023

<https://canadagazette.gc.ca/rp-pr/p2/2023/2023-11-22/html/sor-dors239-eng.html>



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3(1)(i),(ii.1),(iii),(iv), and 3(1)s of the Broadcasting Act.²⁰ If the Commission is seeking to support Canadian stories, and encourage a variety of businesses, productions, and broadcast and distribution models, the CCSA is confident this suggestion would meet those objectives.

35. The CCSA may wish to amend or add to the above proposals as it reviews submissions by other interveners if it supports submissions. Given the broad scope of the Notice of Consultation, the CCSA thought it preferable to start from a focused position and work constructively with other interveners and stakeholders as ideas are brought forward throughout the process.

The CCSA thanks the Commission for the opportunity to participate and assist in developing the future of Canadian storytelling as the industry navigates complex domestic and international media realities.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J.P. Roman', is written over a faint horizontal line.

John P. Roman
Director, Legal & Regulatory
Canadian Communications Systems Alliance (CCSA)

²⁰**Broadcasting Act S.C. 1991, c. 11.** <https://laws-lois.justice.gc.ca/eng/acts/b-9.01/FullText.html>