

**Brief presented to the Standing Committee on Canadian Heritage
In the context of the study of Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts**

March 26, 2021

Introduction

The CDCE applauded the introduction of Bill C-10 on November 3, 2020 and was pleased that all Parliamentarians agreed to move the Bill forward at an accelerated pace. CDCE members have been calling for this review for many years to support the showcasing of Canadian cultural expressions, in all their diversity, and to ensure an adequate level of funding for the creation and production of original Canadian content.

While we support the broad objectives of Bill C-10, we are proposing amendments that we believe are essential for Canada to preserve its cultural sovereignty and meet the objective of incorporating online broadcasting into the Act. The changes we are asking you to make are the result of an unprecedented consensus among members of our broad coalition.

The cultural sector is a very important economic sector in Canada. Prior to the pandemic, it employed 799,100 people, including 183,200 artists, far ahead of the real estate, agriculture and automotive sectors¹, while the GDP for culture exceeded \$56 billion in 2018, or 2.7% of Canadian GDP².

But the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, of which Canada was the first signatory, reminds us that the input of culture is not only economic. Culture contributes to social cohesion and cultural expressions convey identity, values and meaning. Cultural diversity contributes to the realization of human rights, "nurtures human capacities and values, [...] is a mainspring of sustainable development, [and] is indispensable for peace and security"³.

There is no denying the growth of "service production" in this country and its significant contribution to the Canadian economy. The CDCE does not propose to make a choice between this type of activity and the creation and production of Canadian content, but to ensure that the right balance is struck between the two so that the cohabitation continues. This is a false debate.

The real debate is about the will of the Canadian government to ensure that the *Broadcasting Act* remains a cultural policy that allows for the generation of a diversity of cultural expression that reflect the aspirations of the population, its ideas and values, and that constitute a fundamental instrument to "safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada"⁴.

We will now present our eight major requests for amendments to Bill C-10. We have grouped our corrections to the text into tables in the appendix.

¹ Hill Strategies (2019), [A Statistical Profile of Artists in Canada in 2016](#).

² Statistics Canada (2018), [Provincial and Territorial Cultural Indicators](#).

³ UNESCO (2005), Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Preamble.

⁴ *Broadcasting Act*, section 3(1)d(i).

1. Ensuring an optimal framework for the online content offer

One of the objectives of the proposed Bill is to clarify that online broadcasting falls within the scope of the Act. However, social media and distribution services provided by online undertakings are excluded.

The exclusion of social media means, for example, that Canada's most popular online service, YouTube, would have no obligation to contribute to the development of Canadian content or to showcase it, which does not make sense. We agree that individuals who use social media for non-commercial purposes should be excluded from the scope of the Act.

It would seem wiser to let the CRTC determine how to regulate social media under the *Broadcasting Act*, rather than allowing from the outset to subtract these services from the scope of the Act. Excluding them from the Act would prevent the CRTC from collecting information from social media, eliminating its capacity to assess the scope of their broadcasting activities. This would be a serious mistake, particularly in the context where social media are rapidly evolving and are increasingly popular for sharing cultural content, especially music.

If social media have significant broadcasting activities (e.g. YouTube), the CRTC will need to assess how to regulate them. And these platforms already know how to distinguish user-generated content from professional content. They also get licenses to use copyrighted content.

We understand from the testimony of the Minister of Canadian Heritage at CHPC that the intention is to include social medias, including their curation role, in relation to professional content. But we believe that changes to sections 2.1 and 4.1 (1) are needed to ensure this. We propose to include these services from the outset, in particular so that the CRTC can make full use of its new powers to gather information from these undertakings and let the CRTC determine whether and how these undertakings should contribute to our ecosystems.

In the case of broadcasting distribution, the exclusion of online distribution undertakings generates, for the same activity, two regimes depending on the technology used. For example, the CRTC can issue mandatory distribution orders to ensure that certain broadcasting services are included in the subscription package. These include, for example, services offering content to minority language communities, Indigenous language content, accessible content for persons with disabilities, etc. These orders ensure access to certain content necessary for the implementation of the Canadian broadcasting policy. They guarantee, for example, that Francophone minority communities have access to a minimum level of French-language services.

As proposed, Bill C-10 would deprive the CRTC of this tool with respect to online distribution undertakings. These undertakings will become increasingly important in the coming years, including in the audio sector. As the CMF's 2020 Trend Report stated "Several digital bundles have been offered for some time, whether it's through web platforms (Hulu+ Live TV, YouTube TV, Amazon Prime Video Channels), media streaming sticks (Roku) or telecom and cable TV providers (Comcast's Xfinity Flex)"⁵.

Canadian companies such as RiverTV and Ebox now offer these services. If the CRTC is no longer allowed to require the inclusion of certain services, there is a serious risk that the services that have been deemed to contribute significantly to the objectives of the Act will lose penetration and their future viability will be jeopardized, thereby reducing the diversity of cultural expressions.

⁵ CMF (2020), [Closer, Wider, Faster](#). The Canada Media Fund's 2020 trends report in the audiovisual industry.

Furthermore, it is difficult to predict the evolution of future technologies and uses. Access to cultural content through social media could also be much more important in the future, as the CMF's 2020 Trend Report stated: "Facebook is set to experiment with virtual worlds in 2020. The American juggernaut promises to deliver a massive, immersive VR universe with Facebook Horizon, on Oculus Quest and Rift, where visitors will even be able to watch films"⁶.

We also note that section 9(4) would allow the CRTC to exempt from the application of the Act persons who carry on broadcasting undertakings "if the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy". Thanks to the amendments we propose to the bill, C-10 will provide an opportunity to request information that will allow the Board to assess the extent of the social media undertaking's contributions to this policy.

If online undertakings were to be exempted from the application of the Act for reasons other than those mentioned in the previous paragraph, the Governor in Council would still have the ability to issue directions in this regard.

Recommendation 1

The CDCE recommends deleting sections 2.1 and 4.1 (1) of the Bill;

The CDCE recommends amending paragraphs (b) and (e) of section 9.1(1) of the Bill:

b) the presentation of programs

~~and programming services~~ for selection by the public, including the discoverability of Canadian programs ~~and programming services~~;

e) a requirement for a person carrying on a ~~distribution-broadcasting~~ undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services specified by the Commission;

And amending paragraphs (g) and (h) of section 10(1) of the Bill:

(g) respecting the carriage of any foreign or other programming services by ~~distribution broadcasting~~ undertakings;

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

2. Canadian Character of Broadcasting System

It does not seem prudent to us that all broadcasting undertakings should cease to be subject to the Canadian ownership requirements of the Act.

While the ineligibility of non-Canadians to hold a "broadcasting licence" would be maintained under the Direction to the CRTC, a future government could easily repeal this requirement by an Order in Council to the CRTC. In addition, it is not desirable that the few Canadian online businesses can easily be acquired or controlled by foreign interests. Finally, without an objective in the *Broadcasting Act* this Direction may no longer have a legal basis and could be struck down by the courts⁷.

We see no benefit in amending the Act in this way if it is not the government's intention to allow foreign acquisition of Canadian broadcasting undertakings. We also believe that foreign online undertakings are part

⁶ CMF (2020), [Closer, Wider, Faster](#). The Canada Media Fund's 2020 trends report in the audiovisual industry.

⁷ Monica Auer (2021), Is there a Trojan Horse hiding in Bill C-10? *Bill C-10 and the Trojan Horse of the Investment Canada Act may therefore end up bringing down the regulatory foundation first established in 1968 to 'safeguard, enrich and strengthen' Canada's 'cultural, political, social and economic fabric'*. [The Hill Times](#), March 15, 2021.

Greg O'Brien (2021), ANALYSIS: How Canadian broadcasters could still be sold to foreign interests under C-10, [Cartt](#), March 10, 2021.

of the Canadian broadcasting system from the moment they offer programming in Canada. A distinction must be made between the system as a whole and the individual undertakings that are part of it. Having some foreign undertakings that are not Canadian-owned does not affect control of the system as a whole.

Nevertheless, we suggest that a clarification be added to the current paragraph 3(1)(a) to clarify that foreign undertakings are subject to the *Broadcasting Act*.

Recommendation 2

Retain the current subsection 3(1)(a) of the Act, adding:

(a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians, [foreign online undertakings can also provide broadcast programming to Canadians](#);

3. Decreased requirements to draw on Canadian talent

Amendments to Section 3(1)(f) significantly reduce the requirements for Canadian talent. In particular, the proposed wording could remove any obligation on broadcasting undertakings to make use of Canadian creative and other resources.

However, the current text already allows for the nature of the service to be taken into account. For example, Sirius XM does not have to offer predominantly Canadian content (only four out of 200 channels do so). However, in return for this weaker presentation, its contribution to Canadian content development is higher than that of commercial radio.

This has also led to the identification of appropriate targets in terms of presentation and funding of Canadian content for video-on-demand services (see Policy [CRTC 2017-138](#)).

Finally, we propose adding the word “production” to section 3(1)(f). If foreign companies are to develop Canadian content, care should be taken to retain as much intellectual property as possible in Canada.

Recommendation 3

Retain the current subsection 3(1)(f) of the Act, adding:

(f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation, [production](#) and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

4. Maintain the call to the GIC for conditions of service

It seems important to us that the government should not deprive itself of the power to intervene if it feels that the CRTC is deviating from the direction it considers appropriate for the implementation of Canadian policy. To this end, we propose adding a new definition to section 2(1) and amending section 28(1).

Applications under this section are rarely successful, but can make a difference by allowing civil society to make legitimate arguments that had not been accepted by the Commission. One example is the appeal by civil society organizations following a 2017 CRTC decision in the context of the renewal of the television licences of large French-language private ownership groups. The CRTC had not included requirements for the

creation and presentation of original French-language programs and music programs. The Governor in Council asked the CRTC to review its decisions⁸, resulting in a new CRTC decision⁹.

Recommendation 4

Add the following definition to section 2 (1):

Decision: includes a determination made by the Commission in any form; (*décision*)^[1].

Amend section 28(1) of the Bill:

28 (1) If the Commission makes a decision ~~under section 9 to issue, amend or renew a licence~~, the Governor in Council may, within 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council's own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1).

5. Reinforce objectives regarding original French-language content

Many stakeholders raised the issue of French-language content when Bill C-10 was released. The Quebec National Assembly even adopted a unanimous motion to request quotas for original Quebec and French-language content. We do not believe that such quotas should be included in the *Broadcasting Act*, simply because quotas should continue to vary by broadcaster and type of requirement. For example, 75% of French-language broadcasters' spending on Canadian programming must go to fund original French-language content.

However, we propose to amend Bill C-10 to ensure the creation, production and presentation of original French-language programming.

Without strengthening the text in this sense, we can fear that the future requirements in terms of French content will allow an undertaking to present essentially content translated or subtitled in French, but no or very little original content in French. As mentioned before, it took the Governor in Council to get the CRTC to revise the conditions of licence for the television services of the large French-language private ownership groups when they were renewed in 2017 because there were no requirements for the creation and presentation of original French-language programming. Clearly, the Act needs to be strengthened to prevent this from happening again, especially since it will now apply to foreign companies.

For this reason, we propose three references to original French-language programming in the most important sections of the Act: Canadian policy objectives, monitoring provisions and conditions of service.

Recommendation 5

Add a new paragraph to section 3 (1) i) after (i):

recognize and support Canada's linguistic duality by giving prominence to the production and broadcasting of original French-language programs, including those of francophone minorities;

Add the following to section 5(2)(e)

(e) facilitates the provision of Canadian programs created and produced in both official languages as well as in Indigenous languages to Canadians;

Add a new paragraph to section 9.1 (1), under new paragraph (b) (see item 8):

⁸ See the [Order Referring Back to the CRTC Decisions CRTC 2017-143 to 2017-151 to Renew the Broadcasting Licences](#), SI/2017-42, Vol. 151, no 18, September 6, 2017.

⁹ See the [Broadcasting Decision CRTC 2018-334](#), August 30, 2018.

[1] *Telecommunications Act*, section 2(1).

(c) The proportion of original French-language programming, ensuring that it represents a significant proportion of Canadian programming;

6. Duration of Orders and changes

We believe that a term setting the duration of orders is necessary to ensure predictability of conditions for all actors in the system, and would make it easier to plan activities. In addition, the order renewal exercise will allow the Canadian public to participate in the decision making process regarding the regulation of broadcasting undertakings.

We therefore propose that a maximum period of seven years be provided for the duration of the orders and that a new subsection be added to allow the CRTC to amend these orders if necessary adjustments are required.

Recommendation 6

Amend section 9.1(1) of the Bill:

9.1 (1) The Commission may, in furtherance of its objects, make orders such terms not exceeding seven years imposing conditions on the carrying on of broadcasting undertakings and that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting

Add a new subsection after subsection 9.1 (1):

The Commission may, in the performance of its duties, amend an order made under this section as to its term or as to its conditions. The Commission may renew an order for a term not exceeding seven years on the conditions referred to in subsection (1) and may suspend or revoke the order.

7. Avoid a race to the bottom

With the exception of the amendments to paragraphs 3(1)(a) and (f), the proposed changes to Canadian broadcasting policy do not represent a major shift from the objectives of the current Act. On the contrary, the corrections will allow for greater consideration of cultural diversity. It will therefore be important for the CRTC's regulations to meet these objectives. This is incompatible with deregulation of the system, which would inevitably have negative consequences on cultural ecosystems.

Canadian broadcasters are right to complain about unfair conditions for online broadcasters. But demands for deregulation by many broadcasters would lead to a race to the bottom, rather than asking online undertakings to play their full role in meeting cultural policy requirements.

Some changes could have the effect of reducing the current requirements for broadcasting undertakings to integrate online undertakings. This risk arises primarily, at section 5(2)(a.1) because of the intention to group broadcasting undertakings of a "similar nature" and impose the same conditions of service on them. For example, the CRTC could conclude that a commercial radio station and a music streaming service offer a service of a "similar nature". Thus, if a music streaming service cannot give predominance to French-language content, for example, it would not be "fair" for a radio station to be required to do so.

New paragraph 5(2)(h) encourages deregulation, or even the maintenance of unfair conditions between different players, by reiterating a principle already present in the Act in section 9(4).

The fact that expenses are not included in the conditions of service that can be defined in the orders could lead to the identification of the lowest common denominator, applying to a set too broad. It may be more logical and beneficial to tailor them to specific undertakings. While section 11.1(2) of Bill C-10 states that " The

Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking [...] ", it does not refer to a group as in the case of section 9.1 (2) which states that the orders may also apply "to all persons carrying on broadcasting undertakings of any class established by the Commission".

Finally, we would like to see a public hearing process for the issuance of orders. We understand that interested persons will be able to make submissions to the Commission. However, do we need to explain the importance of hearing the various points of view in a study, of being able to ask for clarification, for examples, so that decision-makers can get a better idea of the positions of all stakeholders in a case?

Recommendation 7

Amend clauses 5(2)(a.1) and (h) of the Bill :

- (a.1) ~~take into account the nature and diversity of the services rendered by is fair and equitable as between~~ broadcasting undertakings ~~as well as their size and impact on the Canadian creative and production ecosystem providing services of a similar nature, taking into account any variation in size~~ and any other difference between the undertakings that may be relevant in the circumstances;
- (h) takes into account the variety of broadcasting undertakings to which this Act applies ~~and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).~~

Addition of a paragraph to section 9.1. (1), under paragraph (d):

- (e) the expenditures set out in section 11.1 (1)

Amend section 18(1):

- 18 (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with
 - (a) the issue of a licence, other than a licence to carry on a temporary network operation;
 - (b) the suspension or revocation of a licence;
 - (c) the establishing of any performance objectives for the purposes of paragraphs 11(2)(b) and 11.1(5)(b); and
 - (d) the making of an order under subsections ~~9.1 (1) and~~ 12(2).

8. Other amendments

We also consider the addition of two other paragraphs to be important. First, the CRTC should continue to define the proportion of programming that is of national interest. Otherwise, we could end up with a lot of sports and reality-tv programming, and little children's, documentary and drama programming. Yet these are cultural expressions that intensely nourish our identity.

Second, the inability of our producers to hold the copyright on their productions and therefore to market them internationally is a major problem. On the one hand, this limits investment in new productions, and on the other hand, it prevents performers from benefiting from the additional revenues to which they would be entitled if the producer were able to acquire additional rights, for the foreign market for example. As other countries are establishing domestic regulatory requirements for online undertakings, we wish to note they are considering the retention of rights by domestic producers. For instance, France is moving forward with a framework under which its government will require streaming services to invest up to 25% of their domestic revenues in French content, of which either 66% of the television content is independently produced and the rights will revert back to those producers within 36 months or 75% of the film content is independently produced and the rights will revert back in 18 months.¹⁰

¹⁰ Nick Vivarelli, "Europe's New Rules of Engagement With Streamers Making Slow But Steady Progress," *Variety*, March 5, 2021. Available online: <https://variety.com/2021/digital/news/europe-avms-streamers-1234915013/>.

We therefore recommend that the CRTC regulate the contractual practices between independent producers and programming undertakings as well as online undertakings. This is a proposal from the Yale report that should be incorporated considering the size of the players that will be subject to CRTC orders and regulations¹¹.

Recommendation 8

Add a new paragraph after paragraph 9.1 (1) (a) :

(b) The proportion of programming to be devoted to particular genres in order to ensure diversity of programming;

Add a new paragraph under paragraphs 9.1 and 10 (1) :

establishing a framework for contractual practices between independent producers and programming undertakings as well as online undertakings;

Presentation of the CDCE

The Coalition for the Diversity of Cultural Expressions (CDCE) brings together the main Anglophone and Francophone professional organizations in the cultural sector in Canada. It is made up of some 40 organizations that collectively represent the interests of more than 200,000 professionals and 2,000 organizations and businesses in the book, film, television, new media, music, performing arts and visual arts sectors. The CDCE intervenes primarily to ensure that cultural goods and services are excluded from trade negotiations and that the diversity of cultural expressions is present in the digital environment.

¹¹ See Recommendation #61 in [Canada's Communications Future: Time to Act](#)

Appendix: Proposed Amendments to Bill C-10

In the following table, the changes made to the current Act by C-10 are indicated by following the changes in the "Bill C-10" column, where applicable.

1. Ensuring an optimal framework for the online content offer

Bill C-10	CDCE's proposal	Explanations
<p><i>(new paragraph)</i> Exclusion — carrying on broadcasting undertaking (2.1) A person who uses a social media service to upload programs for transmission over the Internet and reception by other users of the service — and who is not the provider of the service or the provider's affiliate, or the agent or mandatary of either of them — does not, by the fact of that use, carry on a broadcasting undertaking for the purposes of this Act.</p>	<p>Reject this section.</p>	<p>Give the CRTC responsibility for determining the application of this Act with respect to users of a social media service. If necessary, the Government of Canada could correct the situation by issuing a Direction to the Commission.</p>
<p><i>(new paragraph)</i> Non-application — certain programs 4.1 (1) This Act does not apply in respect of</p> <ul style="list-style-type: none"> a) programs that are uploaded to an online undertaking that provides a social media service by a user of the service — who is not the provider of the service or the provider's affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service; and b) online undertakings whose broadcasting consists only of such programs. 	<p>Reject this section.</p>	<p>Give the CRTC responsibility for determining the application of this Act with respect to users of a social media service. If necessary, the Government of Canada could correct the situation by issuing a Direction to the Commission.</p>
<p><i>(new paragraphs)</i> 9.1(1) b) the presentation of programs for selection by the public,</p>	<p>9.1(1) b) the presentation of programs</p>	<p>These changes are meant to reflect the distribution activities of online distributors.</p>

including the discoverability of Canadian programs; e) a requirement for a person carrying on a distribution undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services specified by the Commission;	<u>and programming services</u> for selection by the public, including the discoverability of Canadian programs <u>and programming services</u> ; e) a requirement for a person carrying on a <u>distribution broadcasting</u> undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services specified by the Commission;	They would enable the CRTC to ensure that Canadian programming services are discoverable on online broadcasting platforms.
10 (1) (g) respecting the carriage of any foreign or other programming services by distribution undertakings; (h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings;	10 (1) (g) respecting the carriage of any foreign or other programming services by <u>distribution broadcasting</u> undertakings; (h) for resolving, by way of mediation or otherwise, any disputes arising between <u>programming undertakings and distribution broadcasting</u> undertakings concerning the carriage of programming <u>originated by the programming undertakings services</u> ;	These changes will make sure that the CRTC can make regulations and intervene to resolve disputes regarding the carriage of programming services by online undertakings.

2. Canadian Character of Broadcasting System

Bill C-10	CDCE's proposal	Explanations
3 (1) (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians;	3 (1) (a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians, <u>foreign online undertakings can also provide broadcast programming to Canadians</u> ;	

3. Decreased requirements to draw on Canadian talent

Bill C-10	CDCE's proposal	Explanations
3 (1) (f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation	3 (1) (f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation,	Retain the current text. There is a loophole offered to the CRTC by the current text with the phrase "unless such a practice is impractical due to the nature of the service." Thus, the

and presentation of programming to the extent that is appropriate for the nature of the undertaking, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;	production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;	Commission could modulate this requirement in its application to online carriers according to the nature of each.
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4. Maintain the call to the GIC for conditions of service

Bill C-10	CDCE's proposal	Explanations
	Addition to section 2 (1) : decision includes a determination made by the Commission in any form; (<i>décision</i>) ^[1]	Note 1 refers to the definition contained in the <i>Telecommunications Act</i> .
28 (1) If the Commission makes a decision under section 9 to issue, amend or renew a licence, the Governor in Council may, within ninety days 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council's own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1).	28 (1) If the Commission makes a decision under section 9 to issue, amend or renew a licence , the Governor in Council may, within 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council's own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1).	CRTC orders should also be subject to the possibility of revocation or referral back to the Commission for reconsideration and rehearing.

5. Reinforce objectives regarding original French-language content

Bill C-10	CDCE's proposal	Explanations
	Addition of a new clause to section 3 (1) (i) after (i) : recognize and support Canada's linguistic duality by giving prominence to the production and	By an Order in Council issued under the <i>Broadcasting Act</i> , the Governor in Council has referred the decisions concerning the renewal of the licences of the

[1] *Telecommunication Act*, section 2(1).

	broadcasting of original French-language programs, including those of francophone minorities;	television services of major French-language private ownership groups back to the CRTC for reconsideration and a new hearing to review the aspects of the decisions relating to original French-language programming and music programming. (See Decision CRTC 2018-334.)
(current text of the Act) 5 (2) (e) facilitates the provision of Canadian programs to Canadians;	5 (2) (e) facilitates the provision of Canadian programs created and produced in both official languages as well as in Indigenous languages to Canadians;	
	New paragraph in Section 9.1 (1), under new paragraph (b) (see item 8): (c) The proportion of original French-language programming, ensuring that it represents a significant proportion of Canadian programming;	

6. Duration of Orders and changes

Bill C-10	CDCE's proposal	Explanations
(new paragraph) 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 conditions respecting	9.1 (1) The Commission may, in furtherance of its objects, make orders such terms not exceeding seven years imposing conditions on the carrying on of broadcasting undertakings and that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting	Whether broadcasting undertakings are governed by conditions of licence or conditions of service, they should be subject to mandatory periodic review by the Commission and the Canadian public.
	Add a new subsection after subsection 9.1 (1) : The Commission may, in the performance of its duties, amend an order made under this section as to its term or as to its conditions. The Commission may renew an order for a term not exceeding seven years on the conditions referred to in	The addition of such a paragraph is justified since a duration can be determined for the issuance of an order.

	subsection (1) and may suspend or revoke the order.	
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7. Avoid a race to the bottom

Bill C-10	CDCE's proposal	Explanations
<p><i>(new paragraph)</i> 5 (2) (a.1) is fair and equitable as between broadcasting undertakings providing services of a similar nature, taking into account any variation in size and any other difference between the undertakings that may be relevant in the circumstances;</p>	<p>5 (2) (a.1) take into account the nature and diversity of the services rendered by is fair and equitable as between broadcasting undertakings as well as their size and impact on the Canadian creative and production ecosystem providing services of a similar nature, taking into account any variation in size and any other difference between the undertakings that may be relevant in the circumstances;</p>	<p>We propose to identify more characteristics in this article.</p> <p>We fear that the notion of similar nature is too vague.</p> <p>The law and its various principles also guarantee the principles of justice and equity.</p> <p>Impact also seems to be an important element since a smaller company can still have a significant impact on the ecosystem.</p>
<p><i>(new paragraph)</i> 5 (2) (h) takes into account the variety of broadcasting undertakings to which this Act applies and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).</p>	<p>5 (2) (h) takes into account the variety of broadcasting undertakings to which this Act applies and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).</p>	<p>This is an unnecessary repetition of a principle already advanced in s. 9(4). Its repetition could encourage deregulation.</p>
	<p>Addition of a paragraph to section 9.1. (1), under clause (d) : (e) the expenditures set out in section 11.1 (1)</p>	
<p>18 (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with (a) the issue of a licence, other than a licence to carry on a temporary network operation; (b) the suspension or revocation of a licence; (c) the establishing of any performance objectives for the</p>	<p>18 (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with (a) the issue of a licence, other than a licence to carry on a temporary network operation; (b) the suspension or revocation of a licence; (c) the establishing of any performance objectives for the</p>	<p>We would like to see a public hearing process for the issuance of orders.</p> <p>Note that 9.1 (4) states that: “(4) A copy of each order that the Commission proposes to make under this section shall be published on the Commission’s website and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested</p>

purposes of paragraphs 11(2)(b) and 11.1(5)(b); and (d) the making of an order under subsection 12(2).	purposes of paragraphs 11(2)(b) and 11.1(5)(b); and (d) the making of an order under subsections 9.1 (1) and 12(2).	persons to make representations to the Commission with respect to the proposed order.”
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8. Other amendments

Bill C-10	CDCE’s proposal	Explanations
	New paragraph, after paragraph 9.1 (1) (a): (b) The proportion of programming to be devoted to particular genres in order to ensure diversity of programming;	This is an objective of the policy, the application of which must be reminded to the CRTC. Some genres within the concept of national interest programming may be overlooked if conditions are not specified.
	New clause under clauses 9.1 and 10 (1): establishing a framework for contractual practices between independent producers and programming undertakings as well as online undertakings;	We recommend incorporating in sections 9.1 and 10 to allow the CRTC the flexibility of imposing as either a condition or service or regulation.