

Submission to the Government of Canada's Telecommunications and Broadcasting Acts Review

Introduction

Headquartered in Toronto with 24 offices around the world (including in Montreal and Vancouver), Entertainment One (eOne) produces high-quality entertainment content across the country. It has grown to become Canada's largest independent global entertainment studio and a leading producer and exporter of English- and French-language film, television, music, family and digital content. eOne is committed to sharing Canadian stories with audiences around the world.

Cultural industries are a vital component of Canada's innovative economy. In 2017, the film and television production industry alone contributed \$12 billion to the Canadian economy, generating 171,700 full-time equivalent jobs. Currently, eOne employs over 500 full-time employees within Canada and has over 1,100 employees worldwide, with thousands of additional Canadian jobs being generated as a result of our productions. Globally, in 2018 eOne delivered over 500 hours of television programming and distributed more than 100 theatrical releases.

Given the pace and inevitability of the changes to the global entertainment sector, there is a pressing need in Canada for the modernization of policy and legislative frameworks. We are looking to the Government of Canada to create a supportive regime for the creation of Canadian content now and in the future. We are encouraged by the government's initiative to review the Broadcasting and Telecommunications Acts, and the previous work undertaken by the CRTC exploring the Future of Programming.

Recommendations in Response to Terms of Reference

9.3 What might a new approach to achieving the Act's policy objectives in a modern legislative context look like?

A more competitive market where Canadian companies can grow, scale, and keep pace with global developments and investment will help turn our cultural industries towards the future.

Today's content marketplace is increasingly global and competitive, and we continue to see expanding investment in content creation around the world. Consumer access to content is no longer constrained by borders. This has resulted in a few global players, such as Facebook, Apple, Amazon, Netflix and Google, all with unprecedented amounts of capital to deploy, moving to acquire global rights to content and intellectual property (IP). As production budgets continue to increase, new support levers that enable the creation of high-quality Canadian content that can compete globally are essential. We need to also ensure that control of that content remains in the hands of Canadians so that we can continue to derive long-term value and facilitate a virtuous cycle of reinvestment in the Canadian entertainment ecosystem.

10.1 How can we ensure that Canadian and non-Canadian online players play a role in supporting the creation, production, and distribution of Canadian content?

10.3 How should legislative tools ensure the availability of Canadian content on the different types of platforms and devices that Canadians use to access content?

The traditional broadcast model for distributing programming over the airwaves is under rapid transformation. Canadians are increasingly turning to primarily foreign-owned “over-the-top” or “OTT” platforms that facilitate the delivery of film and TV content via the internet. This has impacted the business model of creating and distributing Canadian content – which has historically relied almost exclusively on the commissioning and funding triggered by Canadian broadcast distribution undertakings.

At present the Broadcast Act is limited in its scope as it pertains to OTT platforms. Given the trend towards consuming content on a multitude of platforms, the government should consider a modernized definition of broadcasting and ensure that these rapidly growing foreign-owned OTT platforms that operate in Canada are adequately captured by and governed under the Act.

The CRTC's Future of Programming report articulated that Canadian-made content funding is unsustainable given that it relies on traditional supports that are in stages of decline, namely cable and/or radio stations. As less money is available for production of Canadian content by Canadians, less content will be made by Canadians and Canadians will see less content reflecting Canada.

Recognizing that audiences are and will continue to view content on a multitude of platforms, **it's crucial to establish mechanisms that drive contribution to Canadian content creation on the part of foreign-owned OTTs** that are earning revenue from Canadian viewers. For any platform (broadcaster or OTT) operating in Canada and enjoying access to Canadian viewers, eOne recommends minimum requirements for exhibition and promotion of true Canadian content, to ensure high-quality Canadian programming is accessible to and discoverable by Canadians.

In a restructured funding ecosystem, the model should include a broader number of participants and focus on sustainability. All platforms that benefit from access to Canadian audiences should play a role in the health and vibrancy of the industry in Canada. We recommend that OTT platforms commit to commissioning Canadian content across film, TV and music by **earmarking an agreed upon percentage of their revenues from Canadian viewership for Canadian content creation**, either under the oversight of the existing CMF or through a new public/private partnership entity. The levy could be calculated based on the total number of Canadian subscribers per service but **paid directly by the service provider and not by individual Canadian taxpayers and users**. As consumer tastes change, the market transitions, and broadcaster revenues continue to decline, a flat marginal levy on OTT subscription revenues would ensure continued support of Canadian artists and growth in these sectors overall. Additionally, the Government should consider implementing a levy on internet service providers (ISPs), which also derive revenue through data charges for content provided by OTT platforms. Funds generated from this ISP levy should also be earmarked for investment in the creation, exhibition and promotion of true Canadian content.

In addition to commissioning content and carrying content on the platforms, we want to highlight the importance of exhibition and promotion. **All broadcast platforms operating in Canada should commit to a minimum exhibition and/or marketing and promotional threshold for Canadian content**, to ensure Canadian content can be discovered by Canadian audiences.

9.1 How can the objectives of the Broadcasting Act be adapted to ensure that they are relevant in today's more open, global, and competitive environment?

14.1 Does the Broadcasting Act strike the right balance between enabling government to set overall policy direction while maintaining regulatory independence in an efficient and effective way?

Broadcasters remain an integral part of the content creation and distribution system in Canada, along with distributors and producers. All of these industry players are exposed to the same challenges to remain competitive and to grow and scale here. Greater emphasis needs to be placed on regulation that permits Canadian companies that are contributing to the ecosystem to remain competitive and invest in new platforms as they continue to enter the market. Additionally, there are a number of operating restrictions and parameters that inhibit the operations, capitalization and management of Canadian broadcasters today that put them at a significant competitive disadvantage to OTT platforms. These restrictions will increasingly challenge the viability of our domestic broadcasters.

The government's regulatory and policy frameworks should support Canadian companies including distributors, producers and broadcasters that are adding economic value at all steps in the value chain of a production. A holistic and supportive regulatory system will allow these businesses to continue to invest in Canadian content, control IP at the earliest stages, and stay competitive in Canada and around the world.

13.1 How should the mandate of the national public broadcaster be updated in light of the more open, global, and competitive communications environment?

13.3 How can CBC/Radio-Canada play a role as a leader among cultural and news organizations and in showcasing Canadian content, including local news?

13.4 How can CBC/Radio-Canada promote Canadian culture and voices to the world, including on the Internet?

eOne looks to the government to **distinguish between TV and film content in broadcast exhibition requirements** by mandating that Canadian broadcasters (including OTTs under a broadened definition) devote a given amount of their schedules specifically to a new category of Canadian programming: category 7(d) for feature film. Historically under the regulations, any Canadian content exhibition requirements have not distinguished between TV and film content. Ensuring a minimum Canadian theatrical film exhibition quota in modernized regulations for broadcasters will expand the audience for Canadian films and strengthen their discoverability so they can compete on a global scale.

In addition to the revision above, CBC, as the national broadcaster, has an even greater impetus to support Canadian content – and specifically Canadian feature film. eOne believes CBC should become the broadcast home for Canadian feature films and should commit to licensing a minimum number of new release Canadian theatrical feature films and air these frequently and regularly in prime time. eOne recommends **the establishment of CBC as the home for new Canadian theatrical feature films and a requirement that CBC license at least one new-release independent theatrical feature film (i.e. for which it has not participated in the financing) every month in prime time – a minimum of 12 titles a year.**

Creating Success for the Future

The recommendations provided above are a response to the ever-evolving digital entertainment content industry, and endeavour to propose measures that will ensure sustainability and future success for Canada’s film, television and entertainment industry. A modernized policy framework must retain our best talent, strengthen the Canadian cultural brand, support companies that are deeply invested in the success of the cultural industries, establish a competitive landscape, and explore new opportunities to bolster talent development.