

EXAMEN DE LA LÉGISLATION EN MATIÈRE DE RADIODIFFUSION ET DE TÉLÉCOMMUNICATIONS

L'AVENIR DES  
COMMUNICATIONS AU  
**Canada:**  
le temps d'agir

**Canada's**  
COMMUNICATIONS  
**FUTURE:** Time to Act

BROADCASTING AND TELECOMMUNICATIONS LEGISLATIVE REVIEW

# OVERVIEW OF THIS PRESENTATION

- Our Mandate
- Members of the Panel
- Our Process
- Our Vision
- Why it Matters
- Our Key Recommendations

# OUR MANDATE

- We were tasked in June 2018 by the Minister of Innovation, Science and Economic Development and the Minister of Canadian Heritage with making recommendations on legislative changes to maximize the benefits the digital age brings to citizens, creators, cultural stakeholders, the communications industry and the Canadian economy
- Government provided comprehensive and wide-ranging Terms of Reference
- Ours was the first time the three decades-old communications statutes - the *Broadcasting Act*, the *Telecommunications Act*, and the *Radiocommunication Act* – were reviewed together in an integrated fashion

# MEMBERS OF THE PANEL

- The membership reflected a diversity of expertise and perspectives:
  - Janet Yale, Chair
  - Peter Grant
  - Marina Pavlović
  - Monique Simard
  - Monica Song
  - Pierre Trudel
- As an independent panel, we were given the freedom to think broadly and openly about how best to build an updated legislative and regulatory framework

# OUR PROCESS

- We placed emphasis on engagement and outreach with stakeholders:
  - September 2018: Call for Comments paper issued
  - Received 2,085 letters and written submissions from a wide variety of interested parties
  - In-person meetings in Vancouver, Calgary, Whitehorse, Yellowknife, Iqaluit, Winnipeg, Toronto, Ottawa, Montreal, Halifax and St. John's
    - Met with diverse organizations: industry, creators, Indigenous communities, official language minority communities, public-interest groups, accessibility groups and others.
  - June 2019: *What We Heard* report issued
    - Not a 'What We Think' document
- Panel deliberations began in July 2019:

*'Our Panel knew that we had to think big and consider what would serve Canadians today and years into the future.'*
- Our Final Report, *Canada's Communications Future: Time to Act*, was issued at the end of January 2020, setting out 97 recommendations for legislative reform

# OUR VISION

*'Our work is firmly rooted in an overarching vision for the legislative framework: one that reaffirms Canada's sovereignty, supports our democratic values and inclusivity, and aims to realize the promise of advanced technologies for the benefit of Canada's economy and future prosperity, and Canadians as citizens, users, and creators. All Canadians deserve to live a connected life: to connect with ideas, opinions, content, news and information, people, cultures, services and economic opportunities locally, nationally and globally. And to do so in a trusted environment.'*

- In the new regime:
  - All undertakings, including international online platform providers not currently covered, would contribute whether with respect to cultural policy or the goal of universal broadband connectivity. Those that benefit from the Canadian market should contribute to it.
  - Users would be better served and their interests protected
  - The roll-out of advanced networks would be accelerated to spur innovation and provide affordable services to Canadians

# WHY IT MATTERS

A modern, connected Canada, where everyone can benefit from technology's social, creative and economic potential requires modern, forward-looking communications laws that recognize the realities of our borderless digital world.

- Our ability to live a connected life requires access to affordable, reliable networks in a safe and secure environment.
- Our economic prosperity depends on investment in advanced telecommunications networks, and the capacity of businesses to adapt, innovate and capitalize on new opportunities.
- In an increasingly borderless world, with endless voices and choices, we must take steps to ensure there is a place for Canadian culture, stories and perspectives and the ability to showcase our diversity.
- Communications technologies and online platforms may threaten democracy and civic participation: more than ever, Canadians need independent, trusted, accurate and diverse Canadian sources of news.
- From a privacy and personal security perspective, online platform providers collect large amounts of personal information, creating the need for measures to safeguard against the growing – and global – threat of privacy breaches, the spread of harmful content and the impact of Big Data on all aspects of our lives

L E T E M P S D ' A G I R • T I M E T O A C T

# OUR KEY RECOMMENDATIONS

- Bringing all Media Communications Entities into the Act
- An Increased Focus on Users
  - Affordable Universal Access
  - Enshrining the Right to a Free and Open Internet
  - Privacy Protections
  - The Impact of Big Data, Algorithms and AI
  - Harmful Content
- Accelerating the Roll-out of Advanced Networks
- Reimagining the Role of the Regulator
- A Call for Immediate Action



# BRINGING ALL MEDIA COMMUNICATIONS ENTITIES INTO THE ACT

- Platform agnostic and technology neutral: the new model focuses on activities, establishing consistent obligations to support cultural policy for all media content undertakings involved in similar activities
- All those providing media content services to Canadians – whether online or through conventional means, whether foreign or domestic, whether or not they have a place of business in Canada – would be brought under the *Broadcasting Act* and under the jurisdiction of the CRTC
  - Any media content undertaking with significant Canadian revenues and delivering media content by means of the Internet would be required to register
  - Those involved in a media content undertaking by traditional means would continue to be licensed but under an increasingly flexible regime
- Our approach preserves freedom of expression, especially on the Internet, and freedom to access content from anywhere at any time

# MEDIA COMMUNICATIONS ENTITIES: OBLIGATIONS

- Licensees and registrants would have content development and discovery obligations, which would vary depending on the following activities:
  - Curation: the provision of a service for the dissemination of media content over which the service provider has editorial control
  - Aggregation: the provision of service for the aggregation and dissemination of media content offerings from curators
  - Sharing: the provision of a service that enables users to share amateur or professional media content
- Financial contributions would be based on a simple calculation of the percentage of Canadian-derived revenues - the CRTC would determine the specifics:
  - Media curation undertakings – including Netflix and other online streaming services – would be required to devote a portion of their program budgets to Canadian programs
  - Media content aggregators and sharers would contribute through levies

# MEDIA COMMUNICATIONS ENTITIES: OTHER PROVISIONS

- A new financing model and other initiatives to support the creation, production and discoverability of Canadian content and a strong production sector would be put in place to:
  - Strengthen Canadian producers' ability to negotiate terms of trade to retain the commercial rights
  - Make it easier for broadcasters to adapt their business models to create and produce Canadian content
  - Merge Telefilm Canada and the Canada Media Fund to create a new institution that supports screen-based content
    - Aim to ensure innovation and content from diverse voices

# MEDIA COMMUNICATIONS ENTITIES: NEWS

## The Crisis in News

- Traditional news outlets are losing both advertising and subscription revenues, compromising their ability to produce quality news, while Canadians increasingly access news content through online social media platforms
- A set of inter-related strategies would ensure a strong, financially stable, and independent news sector that delivers diverse, accurate and trusted news to Canadians:
  - Sustainable funding for a wide range of news sources from the financial obligations that would apply to media content aggregators and sharers
  - Ensure that creators of news are compensated for the use of their original content by online platform providers
  - Apply the labour-based tax credit for news organizations to audio and audiovisual news delivered on all platforms

# MEDIA COMMUNICATIONS ENTITIES: CBC/RADIO CANADA

## A New Role for the CBC/Radio Canada

- A singular focus on serving a public rather than a commercial purpose, prepared to experiment and increase the diversity of its content while remaining committed to high-quality standards, by:
  - Renewing its mandate by adding important elements, including reflecting local communities and audiences, providing national, regional and local news, showcasing Canadian content to international audiences and taking creative risks
  - Requiring the federal government to enter into funding commitments of at least five years, coupled with clear performance commitments and annual reporting by the CRTC on CBC/Radio Canada's performance of its mandate
  - Gradually eliminating advertising on all CBC/Radio-Canada platforms over the next five years, starting with news content.

# AN INCREASED FOCUS ON USERS

## Affordable Universal Access to Broadband

- All Canadians deserve to live a connected life - the legal and regulatory framework must ensure broadband services are accessible and affordable
- A universal service objective must be enshrined in the *Telecommunications Act*
- All electronic communications service providers, including Internet service providers, should contribute proportionately to the CRTC Broadband Fund
  - Principle of ‘like supports like’ – providers of broadband support carriage, connectivity and universal access
- The CRTC should regularly examine affordability of telecommunications services and, if necessary, implement measures to improve affordability for those Canadians who may be marginalized
- Minister of ISED must report annually to Parliament on the state of broadband deployment

# AN INCREASED FOCUS ON USERS

## **Affordable Choices: Fostering Competition**

- Streamline the process by which government provides policy direction to the CRTC
- Require the CRTC to monitor and assess the state of competition and take action as appropriate to ensure rates are just and reasonable
- Put the onus on facilities-based providers to unbundle their networks as new services are introduced or successfully demonstrate to the CRTC why this is not required
- Create an improved regulatory toolkit to expedite the process and improve the terms and conditions under which facilities-based providers sell access to their infrastructure
- Broaden the authority of the CRTC to:
  - Issue interconnection orders, opening up existing networks to new providers, and
  - Expand access to telephone numbers

# AN INCREASED FOCUS ON USERS

## Enshrining the Right to a Free and Open Internet

- An explicit policy objective would be added to the *Telecommunications Act* to affirm a user right to an open Internet – in which lawful content can be accessed anytime, from anywhere – to ensure freedom of speech and innovation, and a vibrant healthy democracy

## Privacy Protections

- To empower the CRTC to assert control over the dominant online platform providers with respect to the collection and use of personal data, the objectives of both the *Telecommunications Act* and the *Broadcasting Act* would include commitments to protecting the privacy, confidentiality and security of customer information
- The federal privacy law for private-sector organizations — the *Personal Information Protection and Electronic Documents Act* – should be updated as necessary to ensure Canada is keeping up with emerging global standards, while respecting Canadians' fundamental right to freedom of expression



# AN INCREASED FOCUS ON USERS

## **The Impact of Big Data, Algorithms and AI**

- The CRTC would be empowered to gather information, audit, monitor, and if appropriate regulate practices related to the delivery of news, including algorithms and AI-based processes
- The CRTC would also have powers to intervene with respect to the Big Data practices of all those under its jurisdiction to address the interaction between Big Data and media content choices
- Since issues respecting Big Data transcend communications statutes, the federal government should act on promptly involving all the relevant authorities to develop a comprehensive legislative framework

## **Harmful Content**

- The federal government should introduce separate legislation with respect to liability for harmful content and conduct using communications technologies
- The federal government should continue its active participation in international fora and activities to develop international best practices

# ACCELERATING THE ROLL-OUT OF ADVANCED NETWORKS

- Access to broadband connectivity, and innovation by Canadian businesses depend on the effective roll-out of safe and secure advanced networks. To accelerate efficient roll-out:
  - Regulators have authority to coordinate access to a broader range of public property, such as lampposts and utility poles, for the installation of telecommunications facilities
  - More effective processes to facilitate and enhance the necessary collaboration with different levels of government and address any concerns
  - A new streamlined approach for the approval of an expanded range of telecommunications equipment needed for 5G and other technologies in the future, while continuing to ensure that all devices adhere to security, privacy and accessibility standards
  - A more policy-oriented approach to spectrum regulation by the Minister and an expanded regulatory toolkit to include dynamic approaches for assigning spectrum.

# REIMAGINING THE ROLE OF THE REGULATOR

- Fundamental changes to the role of the CRTC are needed. More than an administrative tribunal, a renewed CRTC would:
  - Have a proactive evidence-based orientation
  - Put consumers in a position to advocate for themselves
  - Ongoing monitoring of markets to identify systemic issues and take action
- To improve public interest group participation in regulatory proceedings and planning processes, improved funding would be available
- To ensure that the diverse range of public, civic, consumer and small business interests have their voices heard, a Public Interest Committee, funded by the CRTC and composed of individuals with a wide range of background, skills and experience
- To reflect these changes in role and scope, the name of the CRTC would be changed to the *Canadian Communications Commission*

# A CALL FOR IMMEDIATE ACTION

We have recommended three measures that the government can and should act on now to address the most pressing issues:

1. Expedited funding and deployment of broadband connectivity
2. Require media content curators now exempt to contribute to Canadian content:
  - Require the CRTC to hold hearings and issue a new exemption order so that those media content curators that derive revenue from Canada and are now exempt from licensing, such as Netflix, are required to contribute to Canadian content through spending and discoverability requirements
3. End the competitive disadvantage facing Canadian companies: apply GST/HST to media communications services provided by foreign online providers

# WHERE TO FIND THE REPORT

<http://www.ic.gc.ca/eic/site/110.nsf/eng/home>

Instructions are on the website to tell you how you can access the research used to help inform the final report.



QUESTIONS?

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