IBG/GDI
Independent Broadcast Group/ Le
Groupe de diffuseurs indépendants

January 11, 2019

The Broadcasting and Telecommunications Legislative Review Panel
c/o Innovation, Science and Economic Development Canada
235 Queen Street, 1st Floor
Ottawa, Ontario K1A 0H5

Dear Panel Chair and Panel Members:

Re: Review of the Canadian Communications Legislative Framework

1. Independent Broadcast Group/Le groupe de diffuseurs indépendants ("IBG/GDI") is an association of Canadian independent broadcasters.[1] IBG/GDI welcomes this review of Canada's communications legislative framework.

A. Introduction and Executive Summary

2. This submission will focus principally on the *Broadcasting Act* and on the theme of supporting the creation, production and discoverability of Canadian content.

3. The broadcasting policy for Canada in the *Broadcasting Act* sets out our country's ambitions for broadcasting media. These ambitions are based on the recognition that the broadcasting system provides a critical public service that is essential to Canada's national identity and cultural sovereignty.

4. One of the key objectives in the Act is set out in section 3(1)(d) which provides that Canada's broadcasting system should:

   (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society.

5. Canada's independent broadcasters reflect all of these vital ambitions for the broadcasting sector. Independent broadcasters create and distribute programming content in English and French, in Indigenous languages and in a wide range of third-languages reflecting Canada's ever-increasing diversity. Independent broadcasters offer content to all age groups as well, and often have the specific mandate to serve linguistic and ethnic minorities.

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[1] The members of IBG/GDI are Aboriginal Peoples Television Network Incorporated, BBC Kids, Channel Zero Inc., Ethnic Channels Group Limited, Hollywood Suite Inc., OUTtv Network Inc., Stingray Group Inc., Super Channel (Allarco Entertainment), TV5 Québec Canada, and Zoomer Media Limited.

6. Independent broadcasters are also an important source of innovation and entrepreneurial dynamism in the communications sector. Independent broadcasters invest in Canadian programming and technology, and are actively pursuing new opportunities in international markets as a priority. Independent broadcasters are more nimble and less tied to legacy domestic infrastructure than the vertically integrated media conglomerates that now dominate the Canadian market. For this reason, independent companies are well placed to act as the catalyst for Canada's content production industry as it seeks to take advantage of global platforms.

7. Independent broadcasters are, we believe, exactly the type of content and technology companies that Canada's communications policies and legislative framework should support and help grow in the emerging digital future.

8. Our submission to the Panel is based on this objective: creating a legislative framework that recognizes the essential and vital role of independent broadcasters in Canada's communications system and ensures an ongoing and vibrant communications sector.

9. In this submission, we will first provide an economic overview of the impact of the independent production sector based on a study commissioned from Nordicity. The study is compelling. Collectively, independent broadcasters account for $2.73 billion in annual revenue, employ the equivalent of 28,610 Canadian full-time employees (FTE), directly and indirectly, and contribute $2.6 billion annually to Canada's gross domestic product.

10. There are, however, immediate concerns. Consistent with observations made by the CRTC when it introduced its Let's Talk TV regulatory framework[2], independent broadcasters are experiencing a greater economic decline than the larger broadcast groups. Contrary to the hopeful statements made when Let's Talk TV was announced that, "New players will emerge,"[3] this has not been the case. Rather, the "new players" that are now poised to dominate in Canada are the existing non-Canadian platforms like Amazon, Apple, Google and Facebook, among others. For the first time, Canadian services will be forced to negotiate with non-Canadian platforms for access to our own domestic market.

11. This raises serious policy concerns regarding the diversity of voices and representation in the broadcasting system, particularly since the Canadian system is itself characterized by very high levels of ownership concentration and cross-ownership of media and communications networks. This is not an accident. It is the result of policy decisions taken over time to create "Canadian champions" to compete directly with global companies.

12. Instead, it appears that the vitality of our own domestic market has been sapped, even when we need to stimulate new and innovative Canadian players that can take advantage

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[2] *Broadcasting Notice of Consultation CRTC 2014-190*.
[3] Speech by Chairman Blais to the Canadian Club, Ottawa, Ontario, March 12, 2015.

of global opportunities. Instead of focusing on opportunities for Canadian programming abroad, our largest domestic players are deeply engaged with their domestic mobile and other telecom businesses – seeking to maximize their share of the domestic market against their domestic competitors – and forcing down programming costs on the BDU side in the face of shrinking subscriber numbers. This does not bode well for a dynamic Canadian programming sector that would encourage new entrants.

13. Instead of continuing the strategy of favouring a few, dominant Canadian players, we believe that the communications legislative framework should prioritize a diversity of voices and diversity of ownership, especially independent ownership. For the Canadian broadcasting system to be healthy and vibrant it must include diverse ownership groups and companies of different scale and size to ensure that different voices are heard – and different economic models are pursued. For Canada to be competitive, we need a system that fosters creativity and innovation. This means a system that encourages and supports new entrants and a broad and diverse group of content companies.

14. In this submission, we will address certain of the questions set out for the Task Force in its Terms of Reference, addressing principally questions related to the *Broadcasting Act*. The following is a summary of our recommendations:

- Immediate action is required to bring online services into the Canadian broadcasting system as recognized and contributing players. The Commission should be authorized to establish terms and conditions by which these services may contribute in an appropriate manner to broadcasting policy objectives.

- Definitions in the *Broadcasting Act* determine the scope of the Commission's authority. It would be appropriate to update these definitions as part of a longer-term update of the communications legislative framework. In addition to including "online services", as discussed above, broadcasting definitions should:

    - remain technologically neutral;

    - continue to focus on programming content (i.e. audio and audio-visual content), and not the wider range of content that is available on the Internet;

    - recognize that the data that is generated in connection with programming is itself integral to that programming;

    - move towards the recognition of programming "platforms" – which are replacing BDUs – and that may perform "programming", "distribution" and "network" functions at the same time; and

    - reconsider some of the assumptions around the exclusion of the delivery of programming to "public places" in the current definition – it is not clear why the delivery of content to most commercial establishments should be excluded from the Act.

- Broadcasting policy objectives should be updated to reflect the role of the diversity of voices and diversity of ownership, including independent ownership, in fostering innovation and creativity. Currently the Act does not explicitly recognize the diversity of voices and ownership as a clear objective. It should.

- IBG/GDI supports many of proposals made by the Commission in its *Harnessing Change* report including:

    - Bringing online services into the broadcasting system so that they may make an appropriate contribution to broadcasting policy objectives.

    - Potentially streamlining licensing procedures to lighten the administrative and regulatory burden on licensees and the Commission. Any such tools (such as open-ended licensing) should also provide for regulatory certainty for licensees.

    - Giving the Commission the explicit authority to regulate the collection and use of programming data – and explicitly recognizing in the Act the privacy rights of individuals in their own personal information.

    - Providing the Commission with additional licensing tools – such as service agreements – to enable regulation at the enterprise rather than service-specific level. However, small and medium sized enterprises should not be disadvantaged by such arrangements (i.e. by having less flexibility or more onerous terms than larger entities).

- A healthy and dynamic domestic market is essential to both the *domestic* success of Canadian expression, as well as to its potential *international* success. Ownership diversity is both a bellwether of, and a key contributor to, a healthy domestic market.

    - The regulatory policy in the *Broadcasting Act* should explicitly recognize ownership diversity, including independent ownership,

    - As the broadcasting system moves to a platform environment, many of the principles ensuring access of programming and programming services to distribution undertakings should also be applied to programming platforms.

- To ensure that the Commission has the requisite authority and tools to support a healthy domestic market the Commission's specific authorities should be expanded.

- The Commission's authority to regulate economic relationships between undertakings should be made explicit.

- The Commission's authority to use dispute resolution tools should apply to disputes between all types of undertakings.

- The Commission should be provided with the authority under the *Broadcasting Act* to make interim decisions and orders, and to review its own decisions, comparable to the powers it has under the *Telecommunications Act*.

B. **Economic Contribution of the Canadian Independent Broadcasting Sector**

15. In preparing for this submission, the members of IBG/GDI and a number of other independent broadcasters engaged Nordicity to prepare an analysis of the economic contribution of the Canadian independent broadcasting sector. That analysis is attached as an Appendix to this submission.

16. For the purposes of Nordicity's analysis and this submission, independent broadcasters are understood to include broadcasters other than those associated with the largest ownership groups, Bell, Shaw/Corus, Rogers and Quebecor, as well as Cogeco, which operates a significant BDU as well as video-on-demand and radio programming assets. CBC/SRC is also excluded from the definition of "independent broadcaster". The size of its parliamentary appropriation sets it apart from independent broadcasters.

17. The Nordicity study largely speaks for itself, but there are a number of key findings made in the report:

    - Independent broadcasters have often been at the forefront of promoting diversity in the Canadian broadcasting system and sustaining their business models through innovation, diversification and international expansion.

    - Independent broadcasters account for $2.73 billion in annual revenue, employ the equivalent of 28,610 Canadian full-time employees (FTE), directly and indirectly and contribute $2.6 billion annually to Canada's gross domestic product.

    - Independent broadcasters are actively expanding their broadcasting and content production operations to embrace new distribution platforms and international opportunities. Independent broadcasters attracted $191.2 million in international earnings in 2017.

    - As illustrated with many of the examples provided in the study, independent broadcasters are leading Canada's drive into global markets as cultural and technological entrepreneurs.

- While independent broadcasters are intensely focused on continuing to succeed, revenue from broadcasting activities in the independent sector have experienced a greater decline since 2013 (by 15%), than have revenues from broadcasting as a whole (by 5%). The independent share of the broadcasting market has declined from 12.2% in 2013 to 10.9% in 2017.

- It is notable that the radio sector remains more diverse than the television sector – with revenue from independent radio services (including pay audio and satellite services) exceeding independent revenue in the television sector. Total revenue in the independent radio sector in 2016/17 amounted to $1.09 billion.

- However, independent television services make substantial direct contributions to Canadian programming – spending $253.3 million on Canadian programming in the 2016/17 broadcast year.

- Most of this spending was on programs of national interest (PNI) or related information programming (drama, long-form documentary and other information programming) or news programming. Overall, in 2016/17, independent broadcasters spent 9.4% of their previous year's revenue on PNI, which exceeds the minimum requirements set by the CRTC for the largest broadcast groups.

- Independent television stations spent $143.5 million in 2016/17 on news and information programming, with almost half of this amount directed to news.

- Independent television stations spent $154.7 million on external (i.e. non-in house) production, with long form documentary and information programming and drama making up most of this activity. Most of this expenditure, $91.1 million, was on original (rather than acquired) productions.

- When the leverage provided by independent television services' spending on original production is accounted for, this amounts to $388.5 million of commissioned production activity. When service production and proprietary productions are also taken into account, this amounts to a total of $691.2 million in annual Canadian television production associated with independent broadcasters.

18. The Nordicity study describes a substantial independent broadcasting sector that is engaged in reflecting Canadian diversity and in pursuing innovative new approaches to broadcasting and content businesses. These companies, which vary largely in size and scope, include some of Canada's leading cultural entrepreneurs.

19. While the results of the economic analysis demonstrate convincingly the economic value and impact of the independent sector, there are notable areas of concern. In particular the more rapid decline in revenue within the independent sector between 2013 and 2017 is a serious concern as is the decline in market share. Canada simply cannot afford any

further decline in the independent sector. The share of the market held by the few largest companies is already disproportionately high.

20. We do note the difference between the relative share of the radio market represented by independent broadcasters as compared to the television market. Independents still represent a majority of radio market revenue. This difference is significant. In radio, with the exception of Stingray's pay audio service, access to the listening audience does not depend on a BDU intermediary. In television – even over-the-air television, for the most part – access to audiences does depend on a BDU intermediary. While the intermediation of BDUs in the television industry is not the sole determining factor (the cost of entry in radio is generally lower than for many television services), it is nonetheless highly relevant to the fate of the independent broadcasting sector.

Questions in Terms of Referenced related to the *Broadcasting Act*

C. Broadcasting Definitions

8.1 How can the concept of broadcasting remain relevant in an open and shifting communications landscape?

8.2 How can legislation promote access to Canadian voices on the Internet, in both official languages, and on all platforms?

21. These two questions set out in the Terms of Reference request the Panel to look at the scope of the *Broadcasting Act* and at how Canada's communications framework could be adapted to more directly incorporate the Internet. The Internet directly affects Canada's content creation and distribution landscape. IBG/GDI believes strongly that it is essential for our legislative framework to expressly include the Internet, and to continue to take a technologically neutral approach to how programming content is created and distributed to Canadians. While the questions assume that there exists an "open" Internet, the truth is that the Internet is itself an evolving and consolidating environment that is subject to exactly the same concerns about "access" and "distribution" for programming and programming services that underpin the existing *Broadcasting Act*.

22. IBG/GDI believes, however, that it is critical to take a staged approach to adapt the *Broadcasting Act* to Internet distribution. Urgent action is needed, as soon as possible, to ensure that Internet distributors are clearly brought within the ambit of the *Broadcasting Act*.

23. In the longer term – as a part of this Panel's review of the entirety of Canada's communications legislative framework – it could be desirable to modify this framework more comprehensively to reflect technological advancements and emerging platform-based programming distribution models.

(i) *Immediate Action to Include Internet Distribution in the Broadcasting Act*

24. It is time to require large, Internet-based distributors to make a direct contribution to the Canadian broadcasting system in a manner that is similar to the contributions made by Canadian broadcasters.

25. After its comprehensive review of the future distribution environment, the CRTC reached the following conclusion – which confirms the observations of made by IBG/GDI and others in that process, and in many others:

> In the future, Canadians will increasingly rely on the Internet to discover and consume music, entertainment, news and information. Already, more than two-thirds of data on fixed networks and more than one-third of mobile data is used for real-time video and audio entertainment, and this amount is steadily increasing. Although traditional television and radio will continue to evolve and play important roles, the roles will be smaller than in the past as they are gradually overtaken by online services.[4]

The Commission continued:

> It is evident that Canadians already rely on international online services that are deeply integrated into our broadcasting system and that the role of these services cannot be ignored or minimized. These are new types of services with different business models and not simply other television, radio or distribution services.

26. IBG/GDI agrees with these conclusions. We do wish to note, however, that by acknowledging that so-called "traditional" radio and television services will play a lesser role going forward, we are not indicating that independent broadcasters – or independent content companies – will necessarily play a lesser role. The objective of independent broadcasters is to continue to evolve with communications technologies and to take full advantage of the Internet and other distribution opportunities, in Canada and internationally, that it represents.

27. The overriding concern at present is that the pace of comprehensive legislative change – which realistically represents several years' work – is inadequate to respond to the existing realities of the communications market. The international services referred to in the Commission's analysis – such as Netflix, Amazon Prime and others – are *already* present in Canada and are making substantial inroads in the communications marketplace. These services have no obligation to Canadian content exhibition, funding, independent production, programming accessibility, local programming, news and information content, or any other many other areas in which Canadian broadcasters have obligations.

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[4] CRTC, *Harnessing Change*, Part 7, Conclusions and Potential Options.

28. This uneven approach is not sustainable and the impact on Canadian services is already being felt. Therefore, as an urgent priority, IBG/GDI believes that the existing *Broadcasting Act* should be amended to explicitly incorporate the Internet within the existing legislative framework. In many ways this framework is already technologically neutral. Only a few amendments would be required to ensure that Internet distribution of content is treated in a manner that is comparable to other forms of content distribution. The following amendments to the *Broadcasting Act* would be sufficient to enable the Commission to equalize the treatment Internet and other types of broadcasters:

- Amend section 2 of the Act (the definitions section) by adding the following:

  "online service" means a distribution undertaking or programming undertaking that receives and retransmits broadcasting or transmits programs by means of the Internet;

- Update the broadcasting policy set out in section 3 of the Act by adding the following new policy objective:

  "online services"

  (i) should give priority to delivering or providing access to Canadian programs;

  (ii) should, to an extent consistent with their operations in Canada, contribute to the creation and presentation of Canadian programs; and

  (iii) should, to the extent they operate as programming undertakings or distribution undertakings, fulfill the policy objectives applicable to such undertakings;

- Amend section 4 (which deals with the application of the Act) by adding new subsection (5) as follows:

  (5) For greater certainty, this Act applies to online services that offer services to the public in Canada regardless of the location of any facilities of the online service provider.

- Amend section 9(1) (licensing and other powers) by adding a new paragraph dealing specifically with online services as follows:

  9.(1) Subject to this part, the Commission may, in furtherance of its objects,

  (i) require any online service that would require a licence to operate if it were not exempted by an order made under subsection 9(4), to carry, on such terms and conditions as the Commission deems appropriate, programming and programming services specified by the Commission.

- Amend section 9 by adding a new subsection that explicitly addresses the exemption of online services to ensure that any such exemption takes into account broadcasting policy objectives for such services:

  9.(5) For greater certainty, any order made under subjection 9(4) in relation to online services shall ensure that online services contribute substantially to the implementation of the broadcasting policy set out in subsection 3(1).

- Amend section 10 (regulation-making authority) by adding express regulatory authority with respect to online services as follows:

  10.(1) The Commission may, in furtherance of its objects, make regulations

  (j.1) respecting the delivery or provision of access to Canadian programs and the contribution to the creation and presentation of Canadian programs by online services;

  (j.2) requiring persons operating online services to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify with respect to their operations or services provided in Canada;

29. The changes, as proposed, recognize that "online services" are unique in that they may function as both "programming services" and as "broadcasting distribution undertakings". Accordingly, the contribution to be made by these services, and the role they must play, should take into account the particular function of these services. Existing broadcasting policy objectives would apply to these services, as appropriate, in keeping with their functions as originators of content ("programming services"), or as the distributor of content provided by others ("distribution undertakings").

30. With these amendments, the *Broadcasting Act* would be updated immediately to incorporate the Internet expressly as a means of distribution. The Commission would be expressly empowered to regulate these undertakings if they provide services to the public in Canada, regardless of the location of their facilities. The Commission would have explicit authority require online services to offer Canadian programming and distribute Canadian programming services, as may be appropriate, as well as to provide requested information regarding their operations and services in Canada.

31. Finally, these amendments are consistent with the Commission's current regulatory approach for Internet-based undertakings, which regulates them by way of an exemption order issued under section 9(4) of the Act. There is no impediment to the Commission issuing an exemption order that would frame appropriate requirements for online services in keeping with the explicit objectives for these services set out above. This authority is made explicit in proposed section 9(1)(i) set out above.

32. These changes would enable the Commission to regulate online services in a manner that is consistent with their function, role and innovative business models.

(ii) *Longer Term Legislative Reform to Address New Distribution Models*

33. IBG/GDI believes that the definitions and related amendments set out above would help to address the existing inconsistency in regulatory approach between online and other types of broadcasters.

34. In the longer term, it is possible that more extensive definitional changes could be made to the *Broadcasting Act* to reflect new ways of offering programming to the public. There are, however, certain elements of the existing definitions that should be maintained.

Technological Neutrality

35. The 1991 *Broadcasting Act* was intended to take a technologically neutral approach to the delivery of programming. For this reason, the definition of "broadcasting" includes "any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication". "Other means of telecommunication" is itself broadly defined in section 2(2) of the Act.[5]

36. At the time of the 1991 amendments, Parliament's concerns extended primarily to capturing satellite transmissions and encrypted, cable-delivered signals (i.e. pay and specialty television services) within the Act. A similar technologically neutral approach is desirable going forward. In 1991, Internet or other forms of computer based and "networked" distribution was not recognized as a type of communication. For this reason, some aspects of the definition of "broadcasting" now appear outdated. An updated, but still technologically neutral definition of "broadcasting" would be appropriate.

37. A technologically neutral definition could, for example, examine whether the notion of "encrypted" content is still relevant, add reference to accessing content via the Internet, and consider the relevance of the reception of content by means of "broadcasting receiving apparatus". The CRTC has itself determined that this term is broad enough to capture "personal computers, or televisions equipped with web TV boxes"[6] and, similarly, captures mobile devices employing point-to-point technology[7]. However, it is not clear what type of devices the term is meant to exclude. It could be more helpful to consider whether there are particular types of public programming delivery that are *not* meant to be captured (for example, permanent programming downloading[8]), rather than focus on the means of reception.

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[5] To mean, "any wire, cable, radio, optical or other electromagnetic system, or any similar technical system".
[6] *Broadcasting Public Notice CRTC 1999-84*.
[7] *Broadcasting Regulatory Policy CRTC 2009-329*.
[8] In *Entertainment Software Association* v. *SOCAN* [2012] 2 SCR 231, a majority of the Supreme Court of Canada determined that "permanent" downloads of content (video games containing musical works)

38. When it comes to certain key question that affect the creation and delivery of diverse programming content to Canadians, there is little difference between distribution of content by the Internet and other forms of distribution. Without careful monitoring and intervention in the public interest, all forms of distribution are potentially subject to monopolization and competitive abuse.

39. Consider the following observation made by the Canadian Media Concentration Research Project ("CMCRP"):

> The sprawling expansion of the internet giants adds up to the two companies [Google and Facebook] — and others, such as Amazon, Apple and Microsoft — building what is tantamount to their own private internets that bring huge volumes of internet traffic as close to the doorsteps, desktops and devices of their users as possible. These activities have huge implications for the very character of the internet as we know it.[9]

These companies, which now dominate the Internet, are moving more directly into the broadcasting marketplace: the ownership and delivery of content directly to the public.

40. While CMCRP takes issue with whether these companies are actually the "vampire squids" of the advertising market that they have been made out to be,[10] the lesson to be taken is that the Internet is not immune from domination by a few players. The history of communications systems, from book to film to telegraph to radio to television – and now to Internet – has consistently seen technology that promised open and diverse communication eventually controlled by a few dominant players.[11]

41. There is no principled reason to exclude communication by means of the Internet from the application of key principles set out in the *Broadcasting Act*. It is subject to exactly the same potential abuses – and should be carefully managed to ensure that the Internet is able to meet its potential to fulfill the same public interest objectives.

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did not constitute a communication to the public for copyright purposes. Rather, these transactions were compared to traditional video rental or purchase activities. It is, however, a valid policy question whether electronic activities of this type *should* potentially fall within the scope of the *Broadcasting Act* – at least as they relate to "programs". Including these activities within the ambit of the Act would enable the regulation of electronic rental and purchase transactions to ensure, for example, the provision of shelf-space to Canadian programming content. There is no bright line between the provision of "on-demand" access to programming content in comparison to short-term rental of such content, for example. Including such transactions within the definition of broadcasting would enable the regulator to determine whether regulating these transactions would contribute to the policy objectives set out in the Act.

[9] CMCRP, *Media and Internet Concentration in Canada, 1984-2017*. [http://www.cmcrp.org/media-and-internet-concentration-in-canada-1984-2017/], page iv.

[10] *Ibid.*, page 73.

[11] This is the theme explored in great and convincing detail in Timothy Wu's highly influential work, *The Master Switch: The Rise and Fall of Information Empires*.

Continue to Focus on Programming, not Text

42. The current definition of broadcasting relates to the transmission of "programs". This is a central term of the *Broadcasting Act* and goes to the heart of the CRTC's jurisdiction over the regulation of electronic content. Essentially, unless the electronic content is a "program", the provisions of the *Broadcasting Act* do not apply to that content (or do so only indirectly to the extent that these types of communications are otherwise closely associated with the delivery of programming – such as the delivery of closed captioning).

43. IBG/GDI believes that it is appropriate to maintain the distinction drawn in the Act between communications that are "programming" – i.e. audio or audio-visual in nature – as opposed to those that are predominantly alphanumeric text. To include alphanumeric text within the ambit of the Act would extend the Commission's jurisdiction to all forms of electronic communication to the public, including electronic publications such as newspapers, for example.

Programming data is integral to programming

44. While maintaining the distinction between programming and alphanumeric text that is *delivered* to the public is appropriate, the same reasoning does not apply to data (i.e. "alphanumeric text" or digital information) that is *collected* from the public.

45. The collection of viewership data and other information associated with programming is now intimately related to the delivery of that programming over the Internet. Data is accessible through the set-top-box platform and it is being actively used now by vertically integrated or BDU-affiliated broadcasters in Canada. The Commission has already recognized that the appropriate use of this data by the broadcasting industry can be beneficial to the achievement of broadcasting policy objectives.[12]

46. The *Broadcasting Act* does not, however, currently recognize the role of data as it relates to the delivery and use of programming services. Arguably, the Commission's jurisdiction to regulate the collection of data is derived indirectly from its authority to regulate the distribution of programming services by distribution undertakings.[13] The collection and use of data is now intimately associated with the distribution and use of programming by viewers in the online environment. In particular, the use of algorithms to collate and present programming titles to viewers is a key feature of Internet-based platforms such as Netflix and YouTube – and virtually every other Internet platform. Viewer or user data is also used for the purposes of compensating programming creators and distributors.

47. The collection and use of data is one of the biggest issues that regulators will confront going forward. It is now the primary business model of many Internet based programming platforms. This kind of data collection and use was not part of the

[12] *Broadcasting Regulatory Policy CRTC 2015-86*, paragraphs 154-162.

[13] Pursuant to the regulation making authority in relation to distribution undertakings under sections 10(1)(g) and (h), for example, and under its authority to make conditions of licence.

economic landscape when the current *Broadcasting Act* was created. It was not, therefore, dealt with as an express element of the creation, delivery and use of programming.

48. We need to be able to create explicit policies around the creation and use of viewer data. It is critical that broadcasters have access to key data relating to the viewing of programming and basic audience information. The use of this data will be fundamental to the development, production and marketing of programming and to revenue streams such as advertising and merchandising. Without this information, program creators face much greater risk and miss potentially valuable revenue opportunities. This will discourage *investment* in content. Yet, many platforms, such as Netflix, are loath to share basic viewing data. The story of the set-top-box audience measurement system in Canada is tortuous – even as the largest companies continue to make announcements of their ability to access and use enhanced data.[14] Asymmetrical access to data will have far reaching consequences to how content is created and distributed.

49. In this environment, the omission of data use from the concept of broadcasting is a key gap that should be addressed. The concept of broadcasting should include the collection and use of data collected in association with programming.

Move to the concept of "Platforms"

50. The current definitions in the Act refer to three specific types of undertakings: "programming undertakings" (which transmit programs), "distribution undertakings" (which receive and retransmit broadcasting to dwellings, permanent or temporary), and "networks" (where control over programming or programming schedules is exercised by another undertaking or person). Internet-based services do not easily fall within these definitions or are more likely than not to exhibit characteristics of all types.

51. It would be beneficial to consider broadcasting undertakings in a more holistic manner, rather than separating them by functional category as is currently done in the Act. Rather, "undertakings" should be recognized as potentially operating multi-faceted service *platforms* which could involve the transmission of programs selected by them (i.e. a "programming" function) as well as the transmission of programs offered by other persons (i.e. a "distribution" function).

52. The merger of the concept of the programming undertaking and the distribution undertaking would provide greater flexibility in determining the appropriate regulatory action for the particular undertaking involved. Currently, the *Broadcasting Act* does not extend objectives relating to the provision of access for programming to "programming services" themselves. Thus, for example, the Act does not contemplate that video-on-demand undertakings (which are programming undertakings) provide fair terms of access for the programming provided by other programming services. Section 3(1)(t) of the Act, which sets out the principle of fair access for programming services, relates only to the

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[14] "Bell launches system for targeted TV ads", *Wire Report*, January 9, 2019.

facilities of distribution undertakings. In an online environment, this distinction will become potentially even more problematic. For example, if Bell Canada were to elect to distribute all of its own, controlled programming to the public via the Internet in its own walled garden (as a "programming service"), then the Act would not currently seem to empower the provision of access to this platform by other programming providers. This gap will become increasingly problematic going forward.

Delivery in "public places"

53. Lastly, with respect to the overall approach to broadcasting set out in the current *Broadcasting Act*, the current definition explicitly excludes the transmission of programs "made solely for performance or display in a public place". At the time this provision was enacted, it was stated that the intention was to exclude such matters as "championship fights shown in arenas"[15]. This exclusion has, however, taken on a potentially much broader scope than may have been intended. It is now the case, for example, that most commercial establishments in which the public is permitted entry could be considered a "public place". Accordingly, any service may be offered in such an establishment without regard to its character, or compliance with regulatory requirements.

54. While the distinction drawn in the existing Act may have made sense when the transmission of programming to public places was a relatively discrete and costly activity, this is no longer the case. The services that are accessed in public places such as retail establishments, restaurants and bars, and other locations are potentially exactly the same services as may be accessed by the general public in any other location via the Internet. It is not clear why an entity offering programming to the general public in Canada for home viewing, for example, should not meet the same public policy objectives when it makes that content available for viewing by the public through commercial establishments. Some activities – such as the championship fight noted above – do not raise material policy issues. Other activities, such as providing television or music services to retail outlets, could raise material policy issues if the activity had a sufficient impact on the Canadian market.

55. In IBG/GDI's view, the outright public place exclusion from the definition of broadcasting appears to be overbroad in the current environment. A more consistent approach would be to include such activities within the overall regulatory framework and then enable the regulator to exercise a "light" or "heavier" touch as may be appropriate depending on the activity.

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[15] See discussion in *Canadian Broadcasting Regulatory Handbook, 14th Edition*, page 10 [ss104-6].

D. Broadcasting Policy Objectives

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?

9.2 Should certain objectives be prioritized? If so, which ones? What should be added?

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

56. IBG/GDI believes that the broadcasting policy objectives for Canada set out in the *Broadcasting Act* remain highly relevant to Canada today. The provisions set out overall objectives for the broadcasting system and then enumerate specific objectives for certain types of broadcasters (e.g. programming services and distribution undertakings) and in specific areas of activity (e.g. educational programming, the provision of accessible programming and programming reflecting Indigenous cultures). There are only a few instances where the objectives do not seem to resonate in the manner in which they were originally intended (such as the reference to "alternative television programming services" in section 3(1)(r)).

57. From IBG/GDI's perspective, the most significant omissions from the existing broadcasting policy objectives are objectives relating to a diversity of ownership within the broadcasting system, and objectives relating to the more open and global environment in which programming providers now operate.

Recognize Diversity of Ownership and Independent Ownership as a Clear Objective

58. IBG/GDI believes strongly that ownership diversity plays a key role in furthering the interests of Canadians. In fact, ownership diversity is often cited by the Commission as an important factor in preserving a diversity of editorial points of view[16] and in enhancing competitiveness and innovation in the broadcasting sector.[17]

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[16] *Broadcasting Public Notice CRTC 2008-4*, in which the Commission states: "Given the trend toward greater consolidation and the consequent impact on diversity of voices, a plurality of ownership in the private element is necessary in order to maximize the diversity of voices in the Canadian broadcasting system."

[17] *Broadcasting Regulatory Policy CRTC 2015-96*. The Commission notes at several points in that policy that the wholesale regulation of relationship between programming services and distribution services is focused on ensuring a fair competitive environment that fosters diversity and innovation. Its policies with respect to small BDUs are expressly intended to encourage new entrants and competition between different owners. It makes similar comments with respect to the entry of new programming services to serve third-language markets.

59. With respect to editorial diversity, the Commission has already recognized, for example, that independent local television stations are often the only source of local news on television in the communities they serve.[18]

60. Notwithstanding the importance of ownership diversity, over time, a few large media conglomerates have come to dominate the Canadian broadcasting system. Not only are the entities large, they are also vertically integrated, controlling both the distribution networks and the content that is delivered over those networks.

61. The recent report by the CMCRP summarizes the state of the Canadian market succinctly. It states that in Canada, "two things stand out: the sky-high levels of diagonal integration and the extremely high levels of vertical integration that exist in this country." The report continues:

> . . . Canada stands alone in the developed world on account of the fact that all of the main TV services in the country, except for the CBC and Netflix, are owned by telecoms operators. In the US, by contrast, while there are also four vertically-integrated behemoths—AT&T, Comcast, Charter (Liberty) and Cox—they accounted for just a third of that country's mammoth $1,405 billion (CDN) network media economy in 2017 (adjusted to take account of AT&T's take-over of Time Warner earlier this year). In the US, like most other countries as well, most broadcast and pay TV services are not owned by telecoms operators—a fact that has extremely important implications, as this report shows.
>
> In sum, high-levels of vertical and diagonal integration are distinguishing features of the network media economy in Canada and they need to be recognized and dealt with accordingly. Indeed, the principle of "common carriage" (popularly known as "net neutrality") is built for conditions like these—albeit not contingent upon them. As this report suggests, this unique combination of conditions helps explain why internet access, mobile wireless and cable TV services prices are so expensive, data caps low, unlimited options rare and expensive, and the variety of stand-alone internet streaming TV services on offer in Canada so limited.[19]

62. IBG/GDI agrees with this analysis. In fact, it is alarming to realize that the greatest challenge to the dominance of the largest Canadian companies comes from *non-Canadian* players. The CMCRP notes, for example, that concentration levels in the total TV marketplace in Canada have started to decline over the last year "largely because of the growth of internet streaming services, especially Netflix".[20]

63. Yet, services like Netflix – while very popular with Canadians – operate largely outside of the regulated broadcasting system and do not make anywhere near the same

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[18] *Broadcasting Regulatory Policy CRTC 2016-224*, paragraphs 77-78.
[19] CMCRP, *Media and Internet Concentration in Canada, 1984-2017*. [http://www.cmcrp.org/media-and-internet-concentration-in-canada-1984-2017/], page ii.
[20] *Ibid.*

contribution in terms of employment, production of Canadian programming content and contribution to Canadian GDP as do Canadian players. Turning to non-Canadian players to re-establish a competitive and diverse environment in the Canadian marketplace can only have a long-term negative impact on the Canadian broadcasting system and on Canadian expression.

64. A critical objective that should be included in the *Broadcasting Act* going forward, therefore, is explicit recognition of the benefits of ownership diversity and a diversity of voices in Canada. IBG/GDI recommends that a new objective be added as follows:

3(1)(d) *The Canadian broadcasting system should*

. . .

(v) Foster innovation and creativity in the provision of programming through a diversity of voices and diversity of ownership, including independent ownership.

65. The concept of "independence" in this objective is meant to reflect ownership that is independent of material ownership of distribution networks. As noted by the CMCRPP, the principles of "common carriage" and "net neutrality" were meant specifically to address concerns related to the cross-ownership of networks and the content offered over those networks. In the broadcasting context, the "common carriage" principle was instead replaced by the notion of BDUs providing access to content providers.

66. Initially, when cross-ownership of cable or satellite companies and programming services was first allowed – the access commitments made by these companies were comprehensive and far-reaching. For example, when Rogers acquired Maclean Hunter in 1994, Rogers committed to distribute all licensed programming services on its cable systems "without qualification".[21] It also committed to abide by a binding arbitration dispute resolution mechanism and to ensure that programming services had priority access to the Rogers systems over non-programming services. These and similar access commitments were carried forward and codified in regulation even as more programming services were licensed and the regulatory framework became more nuanced.

67. The broad and comprehensive access commitments made by cable and satellite providers in exchange for the ownership of programming services were largely eliminated with the Commission's Let's Talk TV policy framework. Somewhat ironically, the requirements to provide access to certain key programming services was eliminated in part because a large proportion of those services with an access right (i.e. Category A services) were owned by the vertically integrated companies themselves.[22] This should be a clear indication that the level of concentration of media ownership and vertical integration has indeed become very high.

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[21] *Decision CRTC 94-923*. The commitment did not apply to third-language and minority language services, which were subject to channel capacity.

[22] *Broadcasting Regulatory Policy CRTC 2015-96*, paragraphs 113 to 119.

68. The challenges associated with obtaining access rights also lead directly to ownership consolidation among programming services. For example, independent services well remember the suggestion made at the Let's Talk TV hearing that independent programming services should "get together" – i.e. consolidate – in order to increase their bargaining power in relation to distributors.[23] This could be one response, but it is inconsistent with the approach of encouraging new entrants and does not promote wider editorial and content diversity.

69. It is also inconsistent with the idea that an economic environment benefits from the presence of a range of companies of different sizes and scale, innovating, growing and consolidating and de-consolidating on a continuous basis. Even while we have created network access choke points in the broadcasting system through industry consolidation, we have also created a broadcasting system that faces systemic risk because it depends excessively on a few, large players whose economic interests in broadcasting are actually quite small in relation to their economic interests in other businesses.[24]

70. Our system should, we believe, be moving to eliminate choke points that affect the distribution of content: they are increasingly the result of the simple exercise of market power rather than capacity or other technical limitations. Similarly, we need to be consciously aware and seek to address concerns around the excessive concentration of power by emerging platforms. On the Internet, it is often terms of service or terms of access to the platform that are the new choke point. This is an area that must be subject to scrutiny and oversight.[25]

71. Network and platform access issues will, IBG/GDI believes, dominate the competitive communications environment for years to come, including in relation to Internet-based platforms.

72. Recognizing the need within the broadcasting system of a diversity of voices and a diversity of ownership, as a clear objective, will provide clear direction in staving off potential abuses by network and platform owners.

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[23] *Broadcasting Notice of Consultation CRTC 2014-190*, Transcript, Hearing 15 September 2014, paragraphs 14023 to 14052.

[24] CMCRP, *Media and Internet Concentration in Canada, 1984-2017*. [http://www.cmcrp.org/media-and-internet-concentration-in-canada-1984-2017/], page 24.

[25] See, for example, the discussion of this issue in the European Commission's Communication *Online Platforms and the Digital Single Market: Opportunities and Challenges for Europe* (May 25, 2016). In that Communication, the European Commission noted that the most common alleged market problems for businesses reliant upon and dealing with online platforms included the following: "(1) platforms imposing unfair terms and conditions, in particular for access to important user bases or databases; (2) platforms refusing market access or unilaterally modifying the conditions for market access, including access to essential business data; (3) the dual role that platforms play when they both facilitate market access and compete at the same time with suppliers, which can lead to platforms unfairly promoting their own services to the disadvantage of these suppliers; (4) unfair 'parity' clauses with detrimental effects for the consumer; and (5) lack of transparency — notably on platform tariffs, use of data and search results — which could result in harming suppliers' business activities."

E. Support for Canadian Content and Creative Industries

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?

10.2 How can the CRTC be empowered to implement and regulate according to a modernized Broadcasting Act in order to protect, support, and promote our culture in both official languages?

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?

73. The path forward to ensuring the continuing production and accessibility of Canadian programing – and ongoing innovation in content creation and distribution is deceptively simple to state:

- first, all entities that are involved in Canada's broadcasting system should make an appropriate contribution to Canadian programming – through its funding, creation or distribution – in a manner that is consistent with the functions of those entities; and

- second, Canada should focus on ensuring that it has a healthy and dynamic domestic marketplace that supports Canadian players – including new entrants, independent services, and small and medium sized companies – and ensures access to the Canadian market for these players – notwithstanding the heavily concentrated and vertically integrated ownership structure of Canada's communications industries.

(i) *Parity in regulatory contributions*

74. We have already set out above our view that urgent action is required to bring Internet-based broadcasting services expressly into the communications legislative framework. We have proposed specific legislative amendments that could be adopted within a short time frame to provide that Internet-based services should make an appropriate contribution to the achievement of Canadian broadcasting policy objectives that is in keeping with the function and role of those services.

75. IBG/GDI respectfully requests that the Panel urge the Government to move forward on these or similar amendments as an urgent priority. Bringing online services expressly into the *Broadcasting Act* is a first and much needed step to modernize the communications legislative framework. Such an initiative would immediately enable the Commission to move forward to develop comprehensive and detailed policies that will ensure that online services do make an appropriate contribution to Canadian programming – and contribute to the ongoing development and growth of Canada's broadcasting system.

76. In its *Harnessing Change* report the Commission has succinctly expressed views that echo the submissions made to it over the years by many industry players and consumers:

> [S]ervices operating in Canada, just as in any other nation, have social responsibilities to the Canadians they serve. Such services benefit from Canada and Canadians and consequently should also participate in the enrichment of our cultural, social, democratic and economic fabric.[26]

Viewed from another perspective, we should appreciate that services like Amazon Prime are about to enter a highly attractive market with online audio-visual services. Accessing this market should come with the assumption of responsibilities to support and enhance that market.

77. In IBG/GDI's respectful view, the key role for the Panel in suggesting legislative modernization should be to empower the regulator to take the steps that are required to modernize Canada's regulatory framework. The Panel itself is likely not in the position to suggest, for example, detailed regulatory requirements for online services, such as exhibition levels, funding requirements, or access for Canadian services. Rather, the focus should be on ensuring that the regulator, the CRTC, has the legislative tools it requires, and a clear mandate, to move meaningfully into this area of regulation.

78. In the longer term, IBG/GDI notes that the Commission in its *Harnessing Change* report has suggested that the regulatory tools available to the Commission be reformed in key ways to adapt to on online and more global environment. These proposed measures would include:

- Reframing the formal licensing framework under which individual services are authorized to operate in Canada and, more specifically, providing for open-ended licence terms;
- Providing the Commission with explicit authority to collect data, and regulate the collection of data, both for the CRTC's own purposes and to provide service providers with the data generated from third-party platforms; and
- Enabling the Commission to regulate at the "enterprise" level, rather than service by service, through innovative service agreements or similar measures.

79. IBG/GDI would support these measures. We agree with the Commission's observation in its report that the current regulatory tools available to the Commission do not appear to be adequate to the task at hand and result in our regulatory system falling behind technological developments. We have the following more specific observations on these proposals:

[26] CRTC, *Harnessing Change*, Conclusions and Potential Options.

(ii) ***Open-ended licensing***

80. As the Commission notes in the *Harnessing Change* report, it currently issues thousands of licences. The ongoing activity of reviewing, renewing and reissuing these licences creates a significant administrative burden for the Commission and for licensees. IBG/GDI agrees, therefore, that a more open-ended licensing regime could reduce these administrative burdens.

81. IBG/GDI's primary concern in this area, however, is that the certainty of a licence term – and the terms and conditions under which a particular service may operate – are key factors for commercial and non-commercial broadcasters. It would be far more difficult to make investments in operations, to generate financing, and undertake other business activities without a high level of certainty regarding the particular circumstances under which a licensee will operate for a reasonable period of time. Currently, licences may not be amended on the Commission's own motion during their first five years of currency.

82. Therefore, if the legislation were amended to contemplate open-ended licensing, mechanisms should also be included to provide for *minimum* time frames for non-amendment to provide for commercial and operational certainty.

(iii) ***Authority to Collect and Regulate Data Collection and Use***

83. IBG/GDI fully supports the Commission's objectives in this area. As noted above, IBG/GDI believes that data that is associated with programming and its use should be recognized as an integral element of the function of broadcasting. Data that is specific to programming and its use should not be confused with the type of alphanumeric text and information that is currently explicitly excluded from the notion of broadcasting.

84. In order to make provide the Commission with clear authority in this area, IBG/GDI believes that the Commission should be provided with specific authority to make regulations prescribing:

- the types of data that are to be considered as associated with programming and its use;
- the conditions for the collection and use of such data; and
- the conditions on which such data shall be provided to the services to which such data relates.

IBG/GDI recognizes that the collection and use of data may involve privacy issues. Therefore, the Act should also provide for the explicit recognition of the rights of privacy of individuals in their own personal information.

(iv) ***Service Agreements***

85. The Commission's proposal to use service agreements in order to regulate enterprises at the highest level of operations could result in a much more responsive and flexible regulatory environment. IBG/GDI therefore supports this approach to regulation.

86. At the same time, there is some concern that this manner of regulation could result in terms and conditions for large enterprises that are more favourable – or more flexible – than terms and conditions that are available to smaller enterprises. For example, the Commission's move to group licensing for the largest broadcast groups resulted in those large groups gaining considerable flexibility in the manner in which they met their regulatory obligations (such as Canadian programming expenditure obligations). Smaller broadcasters had no means to take advantage of the increased flexibility enjoyed by the large groups and were thus placed at some competitive disadvantage. This outcome was an unintended consequence of the regulatory initiative of group licensing.

87. IBG/GDI's concern, therefore, is that any approach to regulating at an enterprise level be framed to take into account the relative size of the various enterprises. In general, small and medium sized enterprises should not be placed in a disadvantageous regulatory position in relation to larger enterprises that are able to "negotiate" a better deal with the regulator due to their size or market power.

(v) ***A healthy and dynamic domestic marketplace***

88. Many stakeholders recognize the central role that Canada's domestic market must play in the creation and distribution of Canadian programming that reflects and is relevant in our own country. As large and enticing as the global market for content may appear, this market will not drive the creation of the type of diverse content that is now readily available in the broadcasting system. This includes local, regional and national news and information programming, programming in Indigenous languages, educational programming and programming that reflects the diversity of cultures and languages present in Canada – from Canadian perspectives. No one else will produce content that is directed to Canada in the same way that Canadians will.

89. For this reason, policymakers have emphasized the continuing need for a healthy and dynamic *domestic* market. For example, the Department of Canadian Heritage noted the following in its *Creative Canada Policy Framework*:

> As the federal regulator for broadcasting and telecommunications, the CRTC has a key role to play in this transition. The Government sent a letter to the incoming Chairperson of the CRTC, welcoming him to his new post and informing him of the Government’s vision and priorities for Canada’s broadcasting and telecommunications system during his term. <u>These include recognizing that the digital shift has led to an environment of seemingly infinite choice, where global success for Canadian content requires a diverse and strong domestic market that acts as a launchpad for homegrown talent</u>; that the broadcasting system plays a

> crucial role in providing trusted, accurate and quality information; and that recognizing and supporting the perspectives of creators in CRTC deliberations, as well as the key role they play, will be important to the success of the Canadian broadcasting system.[27]

The CRTC's own *Harnessing Change* report highlights the need for a vibrant domestic market, and emphasizes that new approaches are required to respond to the digital shift in the future:

> In this new environment, fostering a spirit of innovation and helping to build a vibrant domestic market in the future—including the new industries and jobs that the Canadian economy will rely on—will require action and investment by governments and all other stakeholders.[28]

Finally, the Terms of Reference provided to the Panel makes explicit the connection between a healthy domestic market and the viability of Canadian expression:

> Without a viable and healthy broadcasting sector, the continued success of Canadian creators, independent producers, and the content they produce is at risk.[29]

90. IBG/GDI fully supports this perspective. A healthy and dynamic domestic market is essential to both the *domestic* success of Canadian expression – which should be perhaps the central goal for policy makers – as well as to its potential *international* success. IBG/GDI has iterated on many occasions that a healthy domestic market will enhance Canadian expression and help to drive innovation in the digital economy.[30]

91. One of the hallmarks of a healthy domestic market in the cultural content sector is a diversity of players in that market – as reflected by diversity in ownership. The Canadian market does not score well in terms of the diversity of ownership. In fact, as noted above, Canada's communications market – including the broadcasting market (and especially television market) – is characterized by exceedingly high levels of concentration of ownership and vertical integration. This is one of the <u>defining features</u> of the Canadian broadcasting sector.

92. It is not apparent that the conscious strategy that some large players and the regulator have pursued – of creating large, and vertically integrated media conglomerates as champions to counterbalance the influence of non-Canadian OTT players – has succeeded. The opposite may well be true. As the CMCRP states:

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[27] Department of Canadian Heritage, *Creative Canada Policy Framework*, page 26 (emphasis added).
[28] CRTC, *Harnessing Change*, Conclusions and Potential Options.
[29] *Broadcasting and Telecommunications Legislative Review, Terms of Reference*, page 10.
[30] See, for example, IBG/GDI's submission dated November 25, 2016 in response to the Department of Canadian Heritage's *Canadian Content in a Digital World* consultation.

> [T]he above analysis suggests that building a cultural policy and TV industry around a few giant vertically-integrated companies has been a failure even on its own terms, with Bell, Shaw (Corus) and Rogers quick to shutter the doors and dispose of services when challenges to their bottom lines mount—despite making profits that are the envy of almost any other industry.[31]

93. We acknowledge that in some instances, the Commission has recognized the discrepancy between the promises made at the time when transactions involving substantial consolidation and vertical integration were approved, and the reality on the ground. For example, in its recent policy regarding local and community television, the Commission noted that large vertically integrated entities were allowed to establish themselves purportedly to create a critical mass to ensure the continued production and distribution of Canadian programming, including news programming.[32] For that reason, the Commission did not permit these companies to access additional funding to support local news programming.

94. Instead, the Commission directed funding to local independent television stations – and this policy has been a resounding success. The Commission recognized that these stations were often the only source for televised news in their local markets.[33] The Commission's policy recognized the operational differences between independent and non-independent services – as well as the specific role of independent TV stations as a source of diversity. This is precisely the type of analysis that the Commission must make under the *Broadcasting Act* to ensure a vibrant and healthy domestic market.

95. IBG/GDI has suggested that broadcasting policy objectives make specific reference to the diversity of ownership as a key objective to guide policy makers.[34] In addition, the regulatory policy set out in the Act should refer specifically to ownership diversity.

96. Currently, section 5 of the Act recites numerous regulatory objectives, but makes no mention of diversity, whether in terms of programming content, ownership, reflection or in any other manner. This is a glaring omission. IBG/GDI believes that focusing on ownership diversity in the regulation of the broadcasting market, even as the market evolves with the entry of new digital players, will help to ensure the presence of a healthy domestic market that supports and encourages programming diversity and innovation at all levels.

97. We recommend, therefore that section 5 be amended to include a specific reference to ensuring ownership diversity:

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[31] CMCRP, *Media and Internet Concentration in Canada, 1984-2017*. [http://www.cmcrp.org/media-and-internet-concentration-in-canada-1984-2017/], page 56.
[32] *Broadcasting Regulatory Policy CRTC 2016-224*, paragraph 19.
[33] Ibid. at 77 and 78.
[34] See above at paragraphs 58 to 72.

> 5.(2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that
>
> *h) encourages diversity of ownership, including independent ownership*

98. In addition to this specific change to the legislative framework, it should be noted that IBG/GDI fully supports principles of "net neutrality" in relation to open networks, such as the Internet. Moreover, as we have argued elsewhere, these principles are no less important in relation to the "closed networks" operated by BDUs. Access to closed networks has, however, been viewed more as an issue of ensuring "fair access" to networks, rather than open and "neutral" access.[35]

99. Going forward, IBG/GDI believes that the difference between "open" Internet networks and "closed" BDU networks will continue to blur. In this environment, when a few of the same companies dominate both the "open" Internet access market and the "closed" BDU market, access issues will become even more important to ensure a healthy and vibrant domestic market.

100. If, as IBG/GDI has proposed, the longer term outlook for broadcasting services is to view them as "platforms" rather than programming services or distribution undertakings, then many of the principles of fair access that apply to BDUs are also relevant to certain types of broadcasting service platforms.

101. Looking at section 3(1)(t) of the *Broadcasting Act*, which sets out the key policy objectives that relate to distribution undertakings, many if not all of these principles could be applied equally to a service "platform" offering access to content whether through an open or closed network:

> (t) distribution undertakings
>
> > (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,
> >
> > (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,
> >
> > (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

[35] See IBG/GDI submission to the CRTC dated December 1, 2017 in response to *Broadcasting Notice of Consultation CRTC 2017-359*.

(iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

102. For example, a service offering access to content "apps" on its platform, when operating in Canada, could reasonably be expected to ensure that Canadian "apps" are given priority (or event mandated), are carried on fair terms and are given prominence on the platform. Similarly, a platform that operates a BDU-like service in a "virtual" environment (i.e. through the Internet without operating its own transmission facilities), could reasonably be expected to provide access to the programming offered by other services in Canada (whether on a linear or on-demand basis), and to generally abide by distribution rules that would generally apply to a facilities-based BDU.

103. IBG/GDI believes that it is likely that programming and distribution functions will continue to blur in the future. This is especially true in Canada where the largest distributors are also the largest owners of programming services. In this environment, the *Broadcasting Act* should take a holistic approach to services that are engaged in "broadcasting" (i.e. delivery of programming to the public), and have the full ability to ensure fair and open access to all platforms delivering content to the public as it considers appropriate. Ensuring access to the market – and letting the consumer make the ultimate choice as to whether a service succeeds or not – is and should be a fundamental element of a healthy and vibrant domestic market.

104. The effectiveness of the Commission's existing tools to regulate in the future distribution environment is the subject of the next section of this submission.

F. Governance and Effective Administration

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?

14.2 What is the appropriate level of government oversight of CRTC broadcasting licensing and policy decisions?

14.3 How can a modernized Broadcasting Act improve the functioning and efficiency of the CRTC and the regulatory framework?

14.4 Are there tools that the CRTC does not have in the Broadcasting Act that it should?

14.5 How can accountability and transparency in the availability and discovery of digital cultural content be enabled, notably with access to local content?

105. In this section, we will focus specifically on Question 14.4, whether the Commission has the tools at its disposal to regulate appropriately in the emerging digital environment.

106. IBG/GDI wishes to note, however, that the *Broadcasting Act* does strike a balance between an independent regulator and the role of the elected government of the day in setting policy and overseeing individual decisions. While the government of the day has the authority to issue directions on policy matters, to direct research and consultations, and to quash or refer certain decisions back to the CRTC, the CRTC remains independent within its area of jurisdiction. It has proven itself to be fully independent over time. Equally important, CRTC decisions are subject to appeal to the Federal Court of Appeal. In general, this framework strikes an appropriate balance.

107. Some of the particulars could require review and updating as the legislation itself undergoes review. For example, if the Commission were empowered to establish or enter into enterprise-level service agreements, then presumably these agreements should be subject to section 28 of the *Broadcasting Act* in the same manner as a licensing decision. Similarly, as the Commission continues to rely on exemption orders to enable broadcasting services to operate, these orders might themselves be suitable for Cabinet review. Generally, however, such changes would be consequential to other amendments made to the structure of the Act. IBG/GDI believes that the overall interaction between the CRTC, governments of the day and the courts are appropriate in the broadcasting context.

(i) *Authority to regulate commercial relationships should be made explicit*

108. The Commission has explicitly recognized that a healthy wholesale market between BDUs and programming undertakings helps to achieve broadcasting policy objectives. Among other things, it promotes consumer choice and serves to promote the creation of a diverse range of programming made by Canadians, including programing provided by independent services.[36] A healthy wholesale market is also, in IBG/GDI's view, one of the indicators of the healthy and vibrant domestic market.

109. The Commission has developed a number of tools under its existing powers that are intended to support a healthy wholesale market. These include the Commission's *Wholesale Code*[37], and its dispute resolution mechanisms including a "standstill rule", applicable to BDUs and programming services under applicable regulations,[38] staff-assisted mediation, and expedited dispute resolution procedures. In IBG/GDI's view, all of these mechanisms fall with the Commission's existing regulatory powers and will continue to be highly relevant in the future distribution environment.

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[36] See the discussion in *Broadcasting Regulatory Policy CRTC 2015-96*, paragraphs 61 to 103.
[37] *Broadcasting Regulatory Policy CRTC 2015-438*.
[38] *Broadcasting Distribution Regulations*, sections 12 to 15.01; *Discretionary Service Regulations*, sections 14 and 15.

110. Notwithstanding IBG/GDI's view, the Commission's authority to implement the *Wholesale Code* and, in fact, to regulate and supervise commercial relationships between BDUs and programming services has been questioned. Recently, in a Federal Court of Appeal decision, the Court left intact the Commission's overall authority to implement the *Wholesale Code*, but determined that the tool used by the Commission in that instance for its implementation (section 9(1)(h) of the *Broadcasting Act*) was invalid.[39] Accordingly, the *Wholesale Code* and the Commission's dispute resolution mechanisms are now operative by virtue of conditions of licence applicable to BDUs and programming services, and through the dispute resolution provisions set out in the various regulations.

111. IBG/GDI agrees with the suggestions made by the Canadian Communications Systems Alliance ("CCSA") that the Commission should be provided with the express and incontrovertible authority to regulate and supervise the economic relationships between broadcasting undertakings. We agree, therefore, with the recommendation made by CCSA that the Commission's regulatory powers in section 10 of the *Broadcasting Act* be amended to enable the Commission to establish, or to provide mechanisms to establish, the terms and conditions of contractual relationships between broadcasting undertakings.

112. This authority must extend, without question or limitation, to online services and platforms.

(ii) ***Dispute resolution should extend to disputes between all undertakings***

113. In addition, IBG/GDI notes that the Commission's authority to regulate disputes between broadcasting undertakings should be expanded so that it applies, unambiguously, to any type of undertaking, and not just disputes between BDUs and programming services.[40] In addition, the scope of disputes to be resolved should probably be expanded to include disputes of any character relating to the operations of those undertakings and not simply the "carriage of programming".

114. It has been questioned, for example, whether dispute resolution procedures could apply to a dispute between a programming service, on the one hand, and a video-on-demand

[39] *Bell Canada* v. *7265921 Canada Ltd.*, 2018 FCA 174 (CanLII).

[40] Section 10(1)(h) of the Act give the Commission the authority to make regulations "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;" It has been questioned, for example, whether dispute resolution procedures could apply to a dispute between a programming service, on the one hand, and a video-on-demand undertaking operated by a BDU on the other. Unquestionably, dispute resolution should apply in these circumstances for the same reason that dispute resolution is appropriate between programming services and BDUs: it involves access to a platform for delivery to the public. As undertakings move to a universal "platform" environment, the programming service and distribution functions will become increasingly blurred, meaning that bright line distinctions such as those currently set out in the regulations between BDUs and programming services will be difficult to interpret and enforce.

undertaking operated by a BDU on the other.[41] Unquestionably, dispute resolution should apply in these circumstances for the same reason that dispute resolution is appropriate between programming services and BDUs: it involves access to a platform for delivery to the public.

115. As undertakings move to a "platform" environment, the programming service and distribution functions will become increasingly blurred, meaning that bright line distinctions such as those currently set out in the regulations between BDUs and programming services will be difficult to interpret and enforce. In addition, while the carriage and terms of carriage of programming are likely to remain the key issues in most disputes between undertakings, there is increasing likelihood that other issues, such as the use and sharing of data collected by one undertaking concerning another undertaking, may also become the subject of active disputes. A broader, rather than a narrower approach is warranted.

(iii) *Authority to make Interim Orders and Decisions and to Review Orders and Decisions*

116. IBG/GDI similarly agrees with CCSA that the Commission's authority under the *Broadcasting Act* should be expanded to enable the Commission to make interim decisions and orders, and to reconsider its decisions and orders. The Commission already has similar powers under sections 60 and 62 of the *Telecommunications Act*. Broadcasting matters would benefit from this additional level of flexibility and responsiveness.

(iv) *Illegal and Infringing Content*

117. IBG/GDI has carefully followed the application brought by the Fairplay Coalition regarding the proliferation of illegal and infringing content distributed over the Internet. It is abundantly clear that the power of the Internet has brought both incredible benefits for the wide communication of content to the public, as well as glaring risks.

118. In *Telecom Decision CRTC 2018-384*, the Commission determined that it did not have jurisdiction under the *Telecommunications Act* to require Internet service providers to disable access to web-based services engaged in the blatant and flagrant infringement of copyright. This review of the communications legislative framework presents an opportunity to remedy this gap in way that respects the interests of copyright users, while providing effective remedies for copyright owners and licensees.

119. IBG/GDI supports initiatives that would provide effective means to inhibit the proliferation of illegal and infringing content. This proliferation is currently causing direct harm to programming producers and broadcasters – especially at this time to third-language producers and broadcasters – and this harm will intensify without a meaningful way for the protection of copyright online.

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[41] *Broadcasting Notice of Consultation CRTC 2017-280*.

G. Conclusion

120. IBG/GDI appreciates this opportunity to make this submission to the Panel. Independent broadcasting companies include some of Canada's leading cultural entrepreneurs, who are making new and exciting content for Canadians to experience, and actively exploring opportunities in global markets. Independent broadcasting companies also reflect Canada's full diversity, meeting the mandate for diversity as set out in the *Broadcasting Act*.

121. Canada benefits from and needs a strong independent broadcasting sector.

122. We look forward to working with the Panel and other stakeholders to create a legislative framework that recognizes the essential and vital role of independent broadcasters in Canada's communications system and ensures an ongoing and vibrant communications sector.

123. We would be pleased to meet with the Panel to review this submission or any matters touching upon the independent broadcasting sector.

Yours truly,

[Submitted Electronically]

Joel R. Fortune
Legal Counsel

Appendix

Economic Contribution of the Canadian Independent Broadcasting Sector

Economic Contribution of the Canadian Independent Broadcasting Sector

Prepared for:

Independent Broadcast Group (IBG)/
Le groupe de diffuseurs indépendants (GDI)

Prepared by:

Nordicity

January 11, 2019

About Nordicity

Nordicity (www.nordicity.com) is a leading international consulting firm providing private and public-sector clients with solutions for Economic Analysis, Strategy and Business, and Policy and Regulation across four priority sectors: arts, culture and heritage; digital and creative media; information and communication technologies (ICTs) and innovation; and, telecommunications and spectrum. With offices in Ottawa, Toronto, Vancouver and London (UK), Nordicity is ideally placed to assist our clients to succeed in the rapidly evolving global markets.

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Nordicity

Canadian Independent Broadcasting Sector: Key Statistics 2017

	Value of revenue/ production spending	Canadian employment (FTEs)		Canadian gross domestic product (GDP)	
		Direct	Total[1]	Direct	Total[1]
Television broadcasting[2]	$752M	2,500	5,270	$279M	$531M
Television production in Canada[3]	$691M	5,590	14,180	$360M	$983M
Distribution and merch. licensing[4]	$146M	80	230	$34M	$47M
Radio and audio services in Canada[5]	$1.09B	5,320	8,610	$592M	$995M
Other inter-national media operations[6]	$45M	200	320	$29M	$39M
Total	$2.73B	13,690	28,610	$1.29B	$2.60B

Source: Nordicity estimates based on data from CRTC, CMPA, Statistics Canada and public financial reports.

Notes:

1. Includes direct, indirect and induced economic impacts within Canada.
2. Includes revenue earned from conventional, discretionary and pay television broadcasting services in Canada.
3. Includes the total estimated value of production budgets associated with independent broadcasters' licensing of original Canadian television programming, other content production made by independent broadcasters' production arms and service production in Canada.
4. Includes revenue from the distribution of video content and earnings from characters licensing.
5. Equals the sum of revenue earned from commercial radio broadcasting and Stingray's non-TV revenue within Canada.
6. Includes other revenue earned outside of Canada from broadcasting, production, distribution, merchandise licensing and any other media businesses owned by Canadian independent broadcasters.

Executive summary

While Canada's large vertically integrated broadcasting ownership groups control over 80% of revenue in the Canadian broadcasting sector,[1] Canada's independent broadcasters have – in the face of this market dominance – demonstrated considerable entrepreneurialism and business innovation.

These independent broadcasters – i.e. those Canadian broadcasting companies not owned by one of the large vertically integrated ownership groups or CBC/Radio-Canada – have often been at the forefront of promoting diversity in the Canadian broadcasting sector and sustaining their business models through diversification, adoption of new technologies and platforms, and international expansion and business development.

In promoting diversity and business innovation within the Canadian broadcasting sector, Canada's independent broadcasters also generate an important economic contribution. Not only do their operations employ thousands of Canadians and generate millions of dollars of gross domestic product (GDP), but their affiliated production and distribution businesses stimulate further economic activity within the Canadian television production sector, while also helping to spearhead the development of their businesses around the world– which generate export earnings, and return financial and economic benefits to Canada.

With this is mind, the Independent Broadcast Group (IBG) / Le groupe de diffuseurs indépendants (GDI) commissioned Nordicity to prepare an analysis of the economic contribution of the Canadian independent broadcasting sector.

Today, many of Canada's independent broadcasters are no longer just operators of television programming services or radio stations. The largest companies also operate production and distribution arms that create and/or market their own content or content acquired from other creators. DHX Media Ltd ("DHX Media"), Blue Ant Media Inc. ("Blue Ant Media") and Remstar Group ("Remstar") all operate production arms. DHX Media, Blue Ant Media, Remstar and Channel Zero Inc. ("Channel Zero") are also active in the distribution of audiovisual content.

In 2017, Canada's independent broadcasters earned $752 million from their television operations – including conventional and discretionary television services. This represented 10.9% of the $6.9 billion in total revenue in Canada's broadcast programming segment in 2017.

Between 2013 and 2017, independent broadcasters' broadcasting revenue fell by 15%. This drop was much faster than the 5% decline in revenue experienced by the entire Canadian broadcasting sector during that period and meant that independent broadcasters' market share declined from 12.2% in 2013 to 10.9% in 2017.

[1] CRTC (2017), *Communications Monitoring Report 2017*, p. 94.

The $752 million in revenue earned by independent broadcasters translated into 5,270 FTEs of employment and $531 million in GDP for the Canadian economy. Of this total, 2,500 FTEs were employed directly at independent broadcasters, helping these companies generate $279 million in GDP.

The economic contribution of independent broadcasters' television operations is even larger when one takes into account the leverage they achieve through the commissioning of original Canadian television production. In 2017, independent broadcasters spent an estimated $91 million on original Canadian television production. This spending led to total production of $389 million, once other sources of financing joined the commissioned projects.

Added to the leverage of this commissioned production was the propriety content created by companies such as DHX Media and Blue Ant Media, as well their production-services activities. In total, we estimate that Canada's independent broadcasters and their affiliated production arms accounted for $691 million in audiovisual production in Canada in 2017.

This level of audiovisual production generated 14,180 FTEs of employment and $983 million in GDP. Of this total, direct employment (i.e. cast and crew on television projects) accounted for 5,590 FTEs; the direct GDP of this television production was $360 million.

As the largest distributor of audiovisual content among Canada's independent broadcasters, DHX Media earned an estimated $146 million in revenue from distribution and merchandise licensing activities in 2017. This element of DHX Media's operations generated 230 FTEs of employment and $47 million in GDP for the Canadian economy.

The size and economic contribution of independent broadcasters in the radio and audio-services market is even larger than that of the television market. In 2017, independent broadcasters, including Sirius XM Canada Inc. ("Sirius XM Canada") and Stingray Group Inc. ("Stingray"), earned $1.09 billion in revenue in Canada. Their Canadian radio and audio-services operations, in turn, generated 8,610 FTEs of employment and $995 million in GDP.

Several Canadian independent broadcasters also operate lines of business that do not fall within the television broadcasting, television production, audiovisual distribution, or radio and audio services sub-sector. Stingray, Blue Ant Media, Pelmorex Corp., OUTtv Network Inc. ("OUTtv") and Ethnic Channels Group Limited (ECG) all have significant media operations outside of Canada, for example.

Stingray's international operations, alone, earned $46 million in revenue in 2017, and generated an estimated 320 FTEs of employment and $39 million GDP.

In total, therefore, Canada's independent broadcasters generated 28,440 FTEs of employment and over $2.54 billion in GDP for the Canadian economy in 2017. This included direct employment of 13,690 FTEs and direct GDP of $1.29 billion. The balance of the contribution came from the indirect and induced impacts stimulated by independent broadcasters' economic activity.

1. Introduction

1.1 Background

1. Over the past two decades Canada's broadcasting sector has experienced significant consolidation – both horizontal and vertical. Today, four corporate ownership groups – Bell Canada ("Bell"), Shaw Communications Inc. / Corus Entertainment Inc. ("Shaw/Corus"), Rogers Communications Inc. ("Rogers") and Quebecor Media Inc. ("Quebecor"). – control the vast majority of revenue and subscribers within Canada's broadcasting sector. Indeed, according to the Canadian Radio-television and Telecommunications Commission (CRTC), these four ownership groups plus CBC/Radio-Canada account for 81% of total revenue in the Canadian broadcasting sector (including broadcasting programming services and broadcast distribution undertaking [BDU] services).[2]

2. These four commercial ownership groups not only control most of the television programming services in Canada, they are also vertically integrated – controlling assets from production through programming through broadcast distribution. But while these large vertically integrated broadcast ownership groups exercise significant economic control over the sector, it is Canada's **independent broadcasting companies** that have often led the way in terms of promoting diversity and business innovation within the Canadian broadcasting sector.

3. In promoting diversity and business innovation, Canada's independent broadcasters also make an important economic contribution. Not only do their operations employ thousands of Canadians and generate millions of dollars of gross domestic product (GDP), but their affiliated production and distribution arms stimulate further economic activity within the Canadian television production sector, while also helping to spearhead the development of their businesses around the world– thus generating exports, and returning financial and economic benefits to Canada.

4. With this is mind, the Independent Broadcast Group (IBG) / Le groupe de diffuseurs indépendants (GDI) commissioned Nordicity to prepare an analysis of the economic contribution of the Canadian independent broadcasting sector. The following report presents the results of this analysis.

1.2 Definition of independent broadcasting

5. In general, **independent broadcasters** or the **independent broadcasting sector** is defined as those Canadian broadcasting companies that are not affiliated with one of Canada's large vertically integrated broadcast ownership groups. These large vertically broadcast integrated groups control not only programming assets (i.e. conventional, discretionary or on-demand television services), but broadcast distribution undertaking (BDU) assets (i.e. cable-TV, DTH satellite or IPTV services).

[2] CRTC (2017), *Communications Monitoring Report 2017*, p. 94.

6. As of January 2019, there were four ownership groups that fulfilled this definition: Bell. Shaw/Corus, Rogers and Quebecor. Indeed, the CRTC has explicitly identified these four large vertically integrated companies and requires them to submit annual financial reports on a group basis.

7. A fifth company, Cogeco Media Inc. ("Cogeco"), is not explicitly identified by the CRTC as a vertically integrated ownership group. However, Cogeco does maintain a certain degree of vertical integration with its ownership of BDU, video-on-demand (VOD) and radio programming assets.

8. CBC/Radio-Canada is also a major player in Canada's broadcasting sector. In 2017, it recorded $943.9 million in revenue, including $674.2 million from its annual parliamentary appropriation. While CBC/Radio-Canada does not control BDU assets, its parliamentary appropriation and prominence within the programming sub-sector sets it apart. For the purposes of this analysis, therefore, CBC/Radio-Canada was excluded from the definition of the independent broadcasting sector, and thereby, included alongside the large vertically integrated ownership groups and Cogeco.

9. For the purposes of this analysis, we have also excluded all on-demand television services operated by BDUs (i.e. Canadian VOD and pay-per-view [PPV] services) from the definition of the independent broadcasting sector. In 2017, these services earned a total of $317 million in revenue.[3]

10. For the purposes of this analysis, therefore, Canada's independent broadcasting sector includes <u>all other</u> television and radio broadcasting companies. Among the companies operating within Canada's independent broadcasting sector are the members of IBG/GDI, including Aboriginal People's Television Network (APTN), Channel Zero Inc. ("Channel Zero"), OUTtv Network Inc. ("OUTtv"), ZoomerMedia Ltd. ("ZoomerMedia"), Allarco Entertainment 2008 Inc. ("Super Channel"), TV5 Québec Canada, Hollywood Suite Inc. ("Hollywood Suite"), Ethnic Channels Group Ltd (ECG), BBC Kids and Stingray Group Inc. ("Stingray").

11. In addition to IBG/GDI membership, Canada's independent broadcasting sector also includes DHX Media Inc. ("DHX Media"), Blue Ant Media, Remstar Group / Groupe VMedia ("Remstar"), Fairchild Television Ltd. ("Fairchild"), Jim Pattison Group, Pelmorex Corp. ("Pelmorex"), Accessible Media Inc. (AMI) and numerous other small locally owned television and radio stations.

[3] In 2017, a total of 25 on-demand services (i.e. VOD or PPV services) reported financial data to the CRTC. Of these 25, 13 were owned by one of the vertically integrated broadcasting groups (i.e. Bell, Rogers, Shaw/Corus Quebecor); four were owned by another incumbent Canadian telecommunications carrier (i.e. TELUS, Saskatchewan Telecommunications, Northwestel). Of the remaining eight on-demand services, three were no longer in operation in 2017. The remaining five combined for only $4.5 million in revenue in 2017 out of total revenue of $317 million in the on-demand segment.

1.3 Methodology

1.3.1 General approach and data sources

12. In general, the estimates of size and economic contribution of the independent broadcasting sector in Canada were arrived at using a *deduction* approach. Under this deduction approach, we compiled financial and employment data published by the CRTC for the four large vertically integrated broadcast ownership groups plus Cogeco and CBC/Radio-Canada. This financial data was used to estimate the aggregate financial and employment performance of these large vertically integrated broadcasters, Cogeco and CBC/Radio-Canada. We then deducted these aggregate estimates from the financial and employment statistics for the overall broadcasting sector in Canada published by the CRTC.

13. For the television sector, this deduction exercise was conducted separately for the conventional television, and discretionary and on-demand television sub-sectors. Separate calculations were also conducted for the radio broadcasting sub-sector.

14. In order to estimate the size and economic contribution of independent broadcasters' operations outside of the Canadian broadcasting sector, per se (e.g. television production, audiovisual distribution, international media operations), we compiled additional financial and employment data from the public financial reports for specific companies, including DHX Media, Stingray and Sirius XM Canada Inc. ("Sirius XM Canada").

15. Information from the CRTC's web site, Canadian media companies' public financial reports and trade journals were also used to research the ownership relationships within Canada's independent broadcasting sector and the various lines of business operated by Canadian independent broadcasting companies.

1.3.2 Survey

16. We also administered a short survey of independent broadcasting companies in November/ December 2018, in order to collect additional detail related to broadcasters' spending on Canadian programming and their international operations. A total of 11 companies completed the survey, including most of the largest independent broadcasting companies, such as DHX Media, Blue Ant Media, APTN, ZoomerMedia, Stingray, OUTtv, TV5 Québec Canada, Groupe V Media, Allarco and BBC Kids.

17. To maintain the confidentiality of the survey data, only data from questions that were completed by three or more companies was used in the report. No attempt was made to extrapolate the survey results for non-responding companies.

1.3.3 Economic contribution analysis

18. To estimate the total economic contribution of the independent broadcasting sector, we prepared estimates of the **direct** and **spin-off impacts**.

19. The **direct impact** refers to the employment and GDP generated directly within the independent broadcasting companies and their affiliated operations. For example, the direct economic impact includes persons employed at independent broadcasters in either in-house production, sales and marketing, or administrative roles. It also includes the Canadian cast and crew employed on television productions commissioned by Canadian independent broadcasters.

20. The **spin-off impact** is the term used in this report to refer to the sum of the indirect and induced impacts.

    i. The **indirect impact** refers to the additional employment and GDP generated within Canadian industries that supply goods and services to Canadian broadcasters, content producers or distributors. In this regard, it includes equipment suppliers, lawyers and accountants, for example.

    ii. The **induced impact** refers to the additional employment and GDP generated within Canada on account of the re-spending of labour income of persons employed at both the direct and indirect-impact stages. This includes re-spending on food, fuel, entertainment and domestic travel, for example.

21. The sum of the direct and spin-off impacts is the **total economic contribution** or **total economic impact**.

22. Wherever possible, we estimated the economic contribution using existing methodologies and ratios used by Nordicity in other related reports (e.g. *Profile 2017*, published by the Canadian Media Producers Association ["CMPA Profile 2017"]). In fact, the CMPA Profile 2017 provided methodologies and economic ratios that we were able to use to convert our estimates of television broadcasting revenue, audiovisual distribution revenue and independent television production spending into estimates of employment, labour income and GDP.

23. Where existing methodologies and ratios were not available from other Nordicity reports – for example, in the case of radio and audio services – we used Nordicity's MyEIA Model™. This model is based on Statistics Canada's input-output tables and can be used to estimate the impact that specific types of spending have on employment, labour income and GDP in Canada.

1.4 Outline of study

24. The remainder of this report is divided into seven additional sections.

- Section 2, **Diversity and business innovation**, examines how Canada's independent broadcasters have harnessed their entrepreneurial roots to promote diversity and business innovation within Canada's broadcasting system.
- Section 3, **Independent television broadcasting**, provides an analysis of the size and economic contribution that Canada's independent television broadcasters make through their broadcasting operations in Canada.
- Section 4, **Independent broadcasters' Canadian television production**, analyzes how Canada's independent television broadcasters also generate an economic contribution through the television production that they directly commission and create through their affiliated production arms.
- Section 5, **Audiovisual distribution**, discusses and estimates how the audiovisual distribution arms of Canada's independent broadcasters also contribute to employment and GDP in Canada.
- Section 6, **Independent radio and audio services**, examines the size and economic contribution of independent broadcasters primarily engaged in radio and audio-services in Canada.
- Section 7, **Independent broadcasters' other lines of business**, examines the other Canadian and international media businesses in which Canadian independent broadcasters are also engaged.
- In Section 8 we provide a **Summary of key findings**.

2. Diversity and business innovation

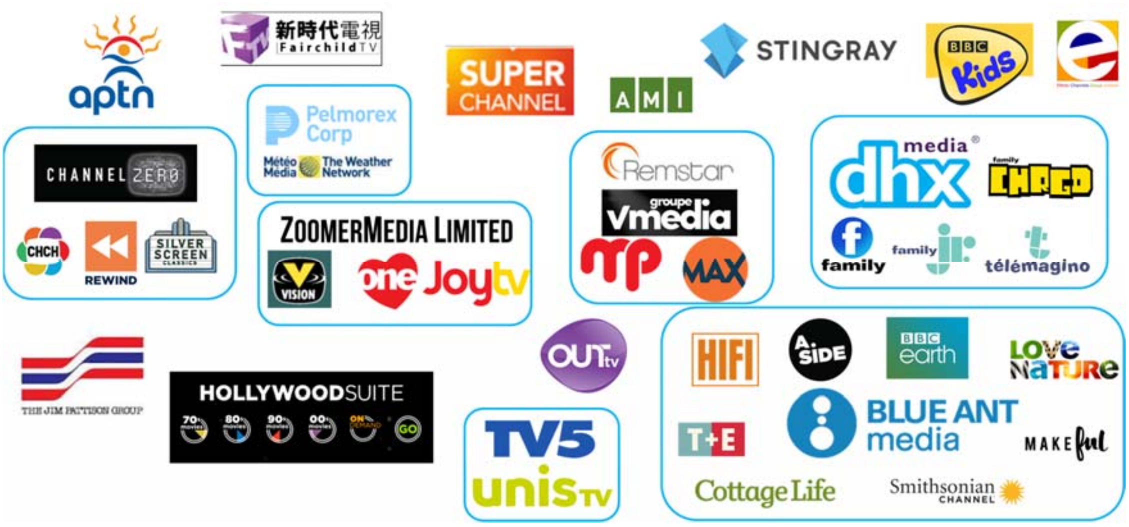
25. In this section we examine the various companies that comprise Canada's independent broadcasting sector and how they have promoted diversity and business innovation within Canada's broadcasting sector.

2.1 Ownership

26. As noted in Section 1, four ownership groups along with CBC/Radio-Canada control 81% of revenue in the Canadian broadcasting sector.[4] This high level of concentration in ownership and decision-making contrasts with the less concentrated ownership among independent broadcasters.

27. Figure 1 presents many of the leading independent Canadian broadcasters that make up the "other 19%." Among these companies, some are still effectively controlled by individual entrepreneurs (e.g. SuperChannel and Charles Allard). Others remain privately-held by groups of Canadian broadcasting pioneers (e.g. Pelmorex) and some are publicly traded (e.g. DHX Media and Stingray).

Figure 1 Canada's leading independent broadcasting ownership groups and brands



Source: CRTC

28. Many independent broadcasters control a single television programming brand. In several cases, Canada's independent broadcasters have, through acquisitions or broadcasting licensing rounds, assembled portfolios of broadcasting services. Channel Zero, Pelmorex, ZoomerMedia, Remstar,

[4] CRTC (2017), *Communications Monitoring Report 2017*, p. 94.

DHX Media, Blue Ant Media, Hollywood Suite and FairchildTV each operate several television-programming services or brands.

2.2 Lines of business

29. While Canada's independent broadcasters do not control BDU assets, they have diversified vertically into various lines of business beyond television or radio broadcasting. Indeed, in the case of DHX Media and Channel Zero, the vertical diversification was in the reverse: these two companies' businesses were first focused on production and distribution of audiovisual content before diversifying downstream into the television programming sub-sector.

30. As of January 2019, **DHX Media** operated several television programming assets in Canada (i.e. Family, Family CHRGD, Family Junior and Télémagino), alongside significant television production, television distribution, merchandise licensing and brand management services. Its television production operations included the creation of its own animation and live-action children's television programming intellectual property (IP) for its own Canadian programming services and for a wide range of traditional and online programming services around the world. As part of its Canadian production operation, it also provided production services to create content for other IP holders.

Figure 2 Lines of business operated by leading Canadian independent broadcasting companies

	dhx media	Blue Ant media	Remstar	Stingray	Pelmorex Corp		新時代電視 FairchildTV	Allarco/ Touch Canada	Channel Zero	TV5
Television broadcast	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Production	✓	✓	✓							✓
Distribution	✓	✓	✓						✓	
Merchandise and licensing	✓									
Radio and audio services				✓		✓	✓	✓		
Other media and non-media	✓	✓	✓	✓	✓					

Source: CRTC and public financial reports

31. **Blue Ant Media** operates a large portfolio of Canadian television programming services (i.e. A. Side, BBC Earth, LoveNature, Smithsonian Channel, HiFi, Travel & Escape, Cottage Life and Makeful), while also producing and distributing video and digital media content internationally. Additionally, Blue Ant Media owns and operates (i) production companies in Canada, Australia, New Zealand,

Singapore, London, Los Angeles; (ii) linear channels globally (Love Nature, Smithsonian Channel, ZooMoo, Arcade Cloud, Makeful, Blue Ant Entertainment, Blue Ant Extreme, Choice TV [New Zealand], HGTV New Zealand), (iii) a YouTube multi-channel network (Omnia Media), (iv) two print magazines (*Cottage Life* and *Australian Geographic*); (v) consumer trade shows (e.g. Cottage Life Show, Seasons Show, The Baby Show); and (vi) an international video and digital media content distribution division through its international distribution arm (Blue Ant International).

32. **Remstar** operates several conventional television stations in Quebec, as well as the specialty music channels, MusiquePlus and Max. Remstar Studios produces independent films and television programs, while Remstar Films operates as a distributor of its own and third-party audiovisual content.

33. **Stingray** operates a pay audio service in Canada as well as a portfolio of discretionary television services: Stingray Ambiance, Now 4K, Palmares ADISQ; and the Stingray-branded channels, HITS, Juicebox, Loud, Retro and Vibe. In October 2018, it also completed the purchase of Newcap Radio ("Newcap") radio broadcasting assets, further expanding its role within Canada's radio and audio-services sector.[5] In addition to its Canadian operations, Stingray also operates audio television channels and music streaming services for BDUs and mobile operators in 156 different countries, including the US, UK, Germany, Australia and Singapore.

34. In addition to operating the television services, Weather Network and MétéoMedia, **Pelmorex** also provides weather, environmental and public safety information content to a variety of digital platforms and operates Canada's National Alerting Aggregation and Dissemination (NAAD) System, which validates and distributes emergency alerts issued by authorized government agencies in Canada.

35. The **Jim Pattison Group** operates 45 radio stations and three conventional television stations in Western Canada.

36. **Fairchild** operates three discretionary television services devoted to ethnic-language content and four ethnic radio stations.

37. **Allarco Entertainment Inc.** and **Touch Canada Broadcasting Inc.** – both controlled by the Charles Allard– operate Super Channel and five radio stations in Western Canada**.**

[5] CRTC (2018), *Various radio and television broadcasting undertakings – Change in ownership and effective control*, Broadcasting Decision CRTC 2018-404.

38. **Channel Zero** operates conventional and discretionary television services in Canada, and also distributes short and documentary films internationally through its OUAT Media subsidiary.[6]

39. **TV5 Québec Canada** not only operates two discretionary television services in Canada (TV5 and Unis TV), but has coproduced content with TV5MONDE for international distribution on social media platforms.[7]

2.3 Diversity

40. One of the hallmarks of Canada's independent broadcasting companies has been the leadership they have often taken in terms of promoting diversity and inclusion within the Canadian broadcasting sector.

41. **APTN**, launched in 1999, is the world's first Aboriginal television broadcaster. In 2017, it aired an average of 55 hours per week or Aboriginal television programming and 21.5 hours of French-language programming.[8] It also plays an important role in ensuring that Canada's Aboriginal stories and talent reach audiences across Canada and around the world. In 2017, it commissioned over 306 hours of original Canadian content in English, French and 11 Aboriginal languages.[9] This commissioning included 31 television projects and 25 digital media projects.[10]

42. APTN's commitment to diversity is also reflected in its in-house operations. In 2017, 65% of its employees were Aboriginal and 51% were female.[11] This commitment has helped it to be recognised as one of Canada's 100 top employers five times.[12]

43. **TV5 Québec Canada**, established in 1988, operates two television services, TV5 and Unis TV. TV5 offers programming focused primarily on reflecting the international Francophonie, and Unis TV, launched in 2014, offers programming primarily focused on official language minority communities (OLMC) or created by producers from these communities in order to reflect the diversity of the Canadian Francophonie. Last year, TV5 Québec Canada invested more than $16.9 million in original Canadian programming representing 370 hours of original, first-run French-language content, $6.5 million of which was spent commissioning content from independent producers within OLMC.

44. **ECG**, is one of the world's largest ethnic broadcasters in terms of channels with over 100 television channels worldwide. In Canada, ECG operates or distributes over 80 discretionary television

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[6] IBG/GDI (2016) "Canadian content in a Digital World: The Role of Independent Broadcasters as Content Creators and Providers," p. 5.
[7] Ibid.
[8] APTN (2017), *Communiqué 2017*, p. 15.
[9] Ibid., p. 7.
[10] Ibid.
[11] Ibid., p. 21.
[12] Ibid., p. 19.

services in 16 different languages. ECG's sister company, NexTV,was the first Internet-protocol TV (IPTV) BDU offering legal, third-language content in Canada and Nextologies offers IPTV-based transmission and digital master control services in Canada and in more than 100 different countries.

45. **Asian Television Network (ATN)** is Canada's largest provider of South Asian television services. It operates 54 different discretionary television services in Canada, which cover virtually every programming genre – from news to movies to sports.

46. **OUTtv** launched in 2001 as Pridevision, was the world's first and is Canada's only broadcaster that focuses on content relevant to the LGBTQ2 community and their allies. OUTtv also operates direct-to-consumer OTT platforms in Canada, Australia and New Zealand, and successfully operated a month-long "pop up" linear channel in South Africa last fall.

47. With a portfolio of three discretionary television services, investments in jazz and classical radio stations, and the *Zoomer* magazine, **ZoomerMedia** has essentially defined and created the "boomer-Zoomer" demographic. [13] At the core of its television offering is VisionTV – Canada's only multifaith service.[14]

48. **AMI**, established in 1989,[15] aims to empower and entertain blind and partially sighted Canadians, as well as creating media that represents the interests of disabled Canadians. By eliminating barriers to experiencing media, AMI serves the five-million-plus Canadians who are blind; deaf; vision-, hearing- or mobility-impaired; learning-disabled; or print-restricted.[16]

49. Among other things, AMI eliminates barriers to media by providing Described Video (DV), Integrated Described Video (IDV), Live Described Video and Captioning. It formats popular television series, films and children's programming for the visually or hearing impaired using DV or captioning.[17]

50. AMI is also an active commissioner of original Canadian programming. It commissions reality and lifestyle programs that focus on subjects such as employment, dating, cooking, physical activity, as well as programs that discuss the challenges and triumphs of people living with disabilities.[18] All of its original programming feature IDV and aims to convey an authentic experience of those who are living with disabilities.[19]

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[13] IBG/GDI (2016) "Canadian content in a Digital World: The Role of Independent Broadcasters as Content Creators and Providers," p. 5.
[14] Ibid.
[15] Humber College (2017), "Creating described video for broadcasting media."
[16] Ibid.
[17] Accessible Media Inc. (2019), "What is AMI-tv?"
[18] Accessible Media Inc. (2019), "Shows"
[19] Humber College (2017), "Creating described video for broadcasting media."

51. **DHX Media** is one of the world's leading producers of children's and youth programming. It also holds the largest library of children's programming outside of Hollywood.[20] Its operation of four family-oriented television services in Canada (i.e. Family, Family CHRGD, Family Junior and Télémagino) contributes to the diversity of domestic television-programming choices for children's and youth audiences in Canada.

2.4 Entrepreneurialism and business innovation

52. Entering underserved audience niches – let alone defining and creating one – can be a highly risky proposition that calls for a high level of entrepreneurialism and business innovation. In some cases, independent broadcasters did benefit from the support of the Canadian regulatory system; however, this support was, in many ways, designed to offset the high risk of entry and to contribute to important broadcasting policy goals.

53. Nevertheless, many of Canada independent broadcasters have not rested on the laurels of what until recently was a quasi-protected Canadian television market. Canada's Independent broadcasters have, in many cases been, at the forefront of harnessing new technologies and expanding in overseas market.

54. From a single television service in Canada, **OUTtv** has used global technology platforms such as Apple iTunes, Google Play, Roku and Amazon Prime to push its programming outside of Canada.[21] It has partnered with broadcasters in New Zealand and other countries to coproduce and then distribute content.[22] In 2016, it launched OUTtv-Go – a direct-to-consumer subscription video-on-demand (SVOD) platform designed to capture cord-cutting audiences.[23]

55. In 2011, **Stingray** acquired the Galaxie music service from CBC/Radio-Canada and turned it around.[24] Alongside that Canadian turnaround story, it has expanded its music services internationally and now earns approximately half its revenue outside of Canada. In Canada, Stingray has expanded into television with the launch of a portfolio of music and music-related discretionary television services. And in 2018, it completed its purchase of Newcap, thus entering Canada's conventional radio broadcasting industry.

56. **Channel Zero** is another independent broadcaster with a track record of turning around Canadian broadcasting assets. Through its acquisition of CHCH-TV Hamilton, it was instrumental in

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[20] DHX Media (2018), *Annual Information Form 2018*, p. 10.
[21] Regan Reid (2018), "Playback's 2018 Channel of the Year: OUTtv," *Playback*, December 12, 2018.
[22] Ibid.
[23] Ibid.
[24] IBG/GDI (2016) "Canadian content in a Digital World: The Role of Independent Broadcasters as Content Creators and Providers," p. 5.

preserving local news and information programming in a local market where media is often crowded out by nearby television stations in the Greater Toronto Area.

57. **APTN** is also looking beyond Canada's borders for expansion. At the time of writing, it was negotiating with three different US companies for carriage of its All Nations Network.[25] APTN has led the launch this past year of two new Indigenous radio stations in Ottawa and Toronto by First Peoples Radio under the ELMNT brand.

58. Launched in 2014, **AMI's** AMI-player was the first ever accessible online media player in North America.[26] The introduction of the service acknowledged Canadians with disabilities – like many other Canadians – are migrating away from traditional television and opting for SVOD services for the television programming. AMI-player was designed to be paired with assistive technologies and features many described video and captioning capabilities.[27]

59. **Pelmorex** has continually innovated to leverage the benefits of new technologies to deliver hyper-local weather information to Canadians. This began in 1994 when it developed and installed patented localization technology at more than 1,000 BDU head-ends to deliver custom, community-specific weather forecasts to BDU subscribers. It has followed by expanding its services to the web, mobile and tablet apps, and smart TV apps. Today, Pelmorex operates Canada's fourth-largest digital network across desktop and mobile, and is growing its reach on four continents, including the leading digital weather service in Spain.

60. **Blue Ant Media** operates television broadcasting and production companies in Canada and around the world, together with other digital distribution and branded trade shows (as discussed elsewhere in this report). In 2016, Blue Ant Media was one of the first companies to venture and invest in 4K production and distribution as part of its Love Nature business – producing more than 400 hours of 4K content, launching the Love Nature 4K SVOD service internationally, and distributing the Love Nature 4K linear channel in Canada and around the world.

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[25] APTN (2017), Communique 2017.
[26] Accessible Media Inc. (2019), "AMI-player."
[27] Ibid.

3. Independent television broadcasting

61. In this section, we provide estimates of the size and economic contribution that the independent television broadcasting sector makes through its broadcasting operations – i.e. the programming and transmission of television programs.

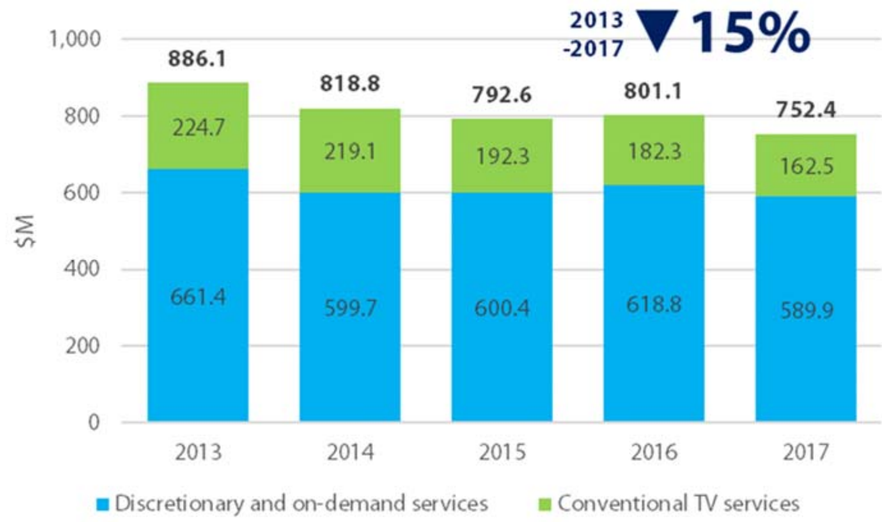
62. This impact is distinct the economic contribution associated with the Canadian television production that independent broadcasting sector commissions. That part of the sector's economic contribution is addressed in Section 4.

3.1 Revenue

63. Independent broadcasters earned an estimated $752.4 million in revenue from their broadcasting operations in Canada in 2017 (Figure 3). Of this total, discretionary services accounted for $589.9 million, or 78%; conventional television services accounted for $162.5 million, or 22%.

64. Between 2013 and 2017, independent broadcasters' Canadian broadcasting revenue decreased by a total of 15%, or an annual average decrease of 4%.

Figure 3 Independent broadcasters' revenue from broadcasting operations in Canada ($M)

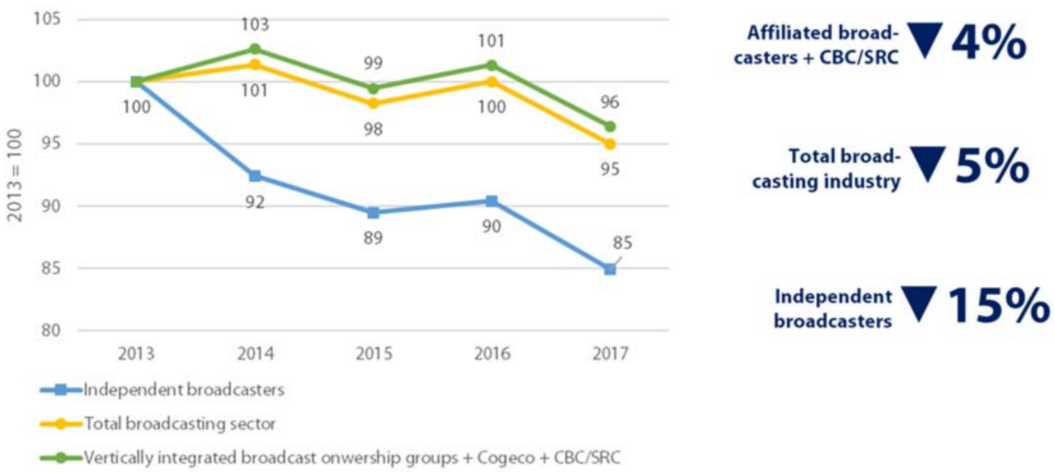


Source: Nordicity calculations based on data from CRTC

65. The decrease in broadcasting revenue among independent broadcasters outpaced that of the rest of the Canadian broadcasting sector. As noted above, independent broadcasters' television broadcasting revenue was down by 15% between 2013 and 2017. During this same five-year period, total revenue at the large vertically integrated broadcasters and CBC/Radio-Canada

decreased by only 4% (Figure 4). Across the entire Canadian broadcasting sector, total revenue was down by 5% during this five-year period.

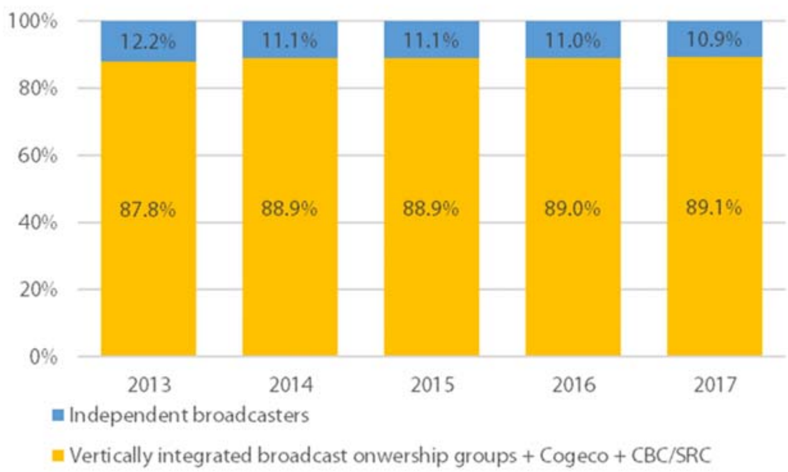
Figure 4 Index of revenue trends, independent broadcasters vs. total broadcasting sector (2013 = 100)



Source: Nordicity calculations based on data from CRTC

66. Because of the faster rate of revenue decline at independent broadcasters, their share of total revenue within the overall Canadian broadcasting sector also steadily declined from 12.2% in 2013 to 10.9% in 2017 (Figure 5).

Figure 5 Market share (based on revenue) within the Canadian broadcasting sector



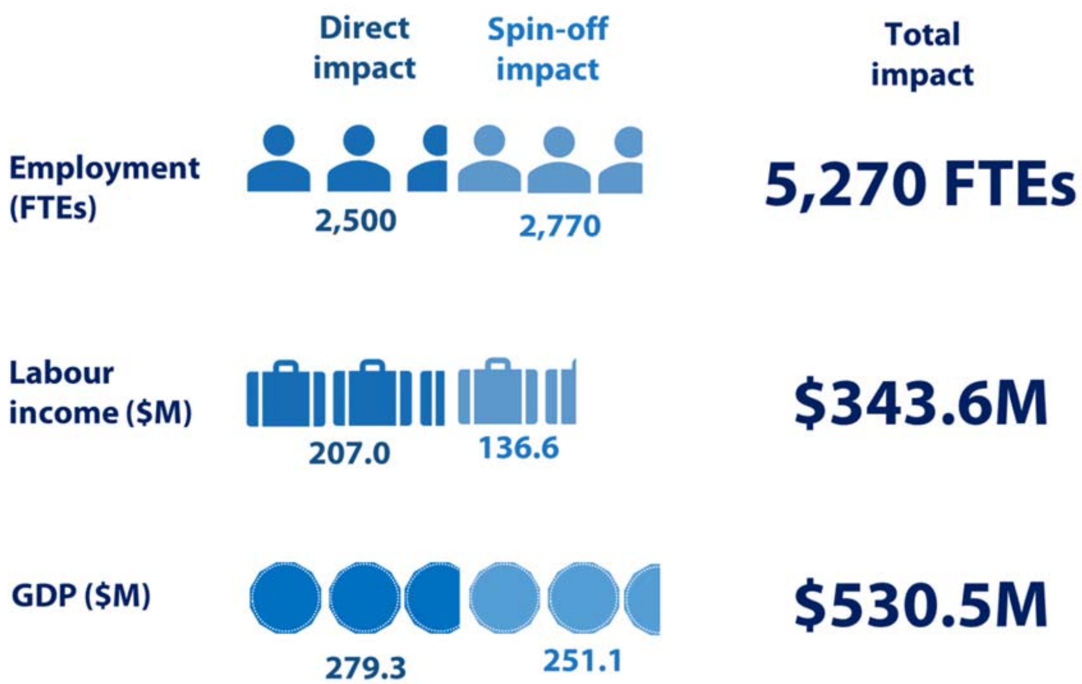
Source: Nordicity calculations based on data from CRTC

3.2 Economic contribution

67. Independent broadcasters' television broadcasting operations generated a total of 5,270 FTEs of employment in Canada in 2017, along with $343.6 million in labour income and $530.5 million in GDP (Figure 6). These estimates included the impact associated with broadcasters' programming, sales and marketing, and finance and administration operations, as well as their in-house production of news and other programming.

68. This total impact included a direct employment impact of 2,500 full-time equivalent workers (FTEs). This represents our estimate of the number people employed on a full-time-equivalent basis directly at independent broadcasters. These broadcaster employees earned an estimated $207.0 million in labour income. In aggregate, independent broadcasting companies, on their own, created $279.3 in economic value added (i.e. direct GDP impact).

Figure 6 Economic contribution of independent broadcasters' television broadcasting operations, 2017



Source: Nordicity estimates based on data from CRTC and CMPA Profile 2017.

4. Independent broadcasters' Canadian television production

69. In Section 3, we estimated the size and economic contribution of independent broadcasters' broadcasting operations, including the in-house television production (e.g. news programming) associated with these operations. Independent broadcasters also generate an economic impact through their commissioning of the production of original Canadian television programming – i.e. external production. Some independent broadcasters also operate affiliated production arms that produce television programs for other broadcasters and video platforms.

70. In this section, we analyze independent broadcasters' spending on television production – through commissioning and affiliated production arms – and estimate the economic contribution generated by this Canadian television production.

4.1 Canadian program expenditures (CPE)

71. During the 2017 broadcasting year, independent broadcasters spent an estimated $253.3 million on Canadian program expenditures (CPE). This CPE included all forms of production, including in-house production (e.g. news programming) and external production (i.e. commissioned original production and acquisitions of existing television programs and films).

72. Independent broadcasters' CPE represented 31.6% of the total revenue ($801 million) that they earned from their broadcasting operations in the previous year, 2016. This rate of CPE was slightly higher than the 30% minimum requirement that the CRTC has applied to large English-language broadcast ownership groups.[28]

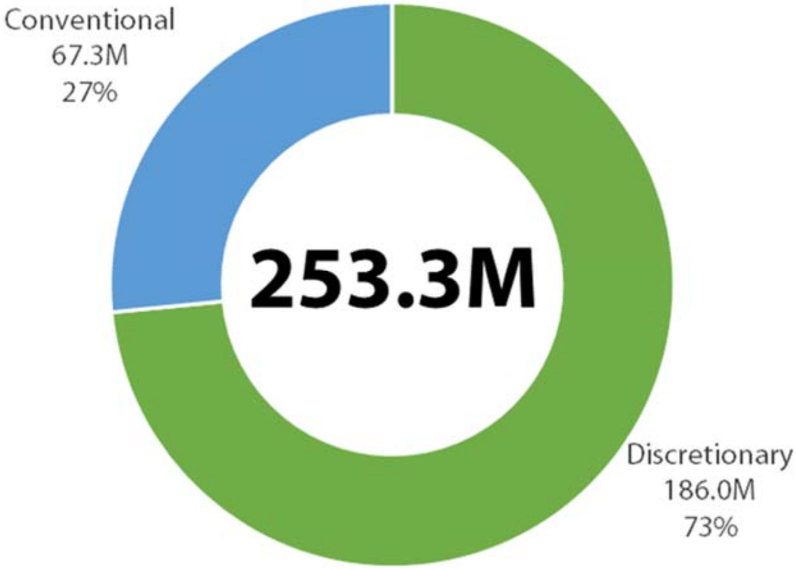
73. Out of this total CPE of $253.3 million, independent discretionary services accounted for $186.0 million, or 73%, while conventional broadcasters accounted for $67.3 million, or 27% (Figure 7).

74. From a genre perspective, over half of independent broadcasters' CPE in 2017 was in the news, and long-form documentary and other information genres. These program categories accounted for 57% of independent broadcasters' total CPE (Figure 8).

75. The fiction genre was third-largest in terms of CPE, with $44.6 million in 2017. It was followed by the human interest (8%), music/variety (5%), reality television (3%) and sports genres (3%).

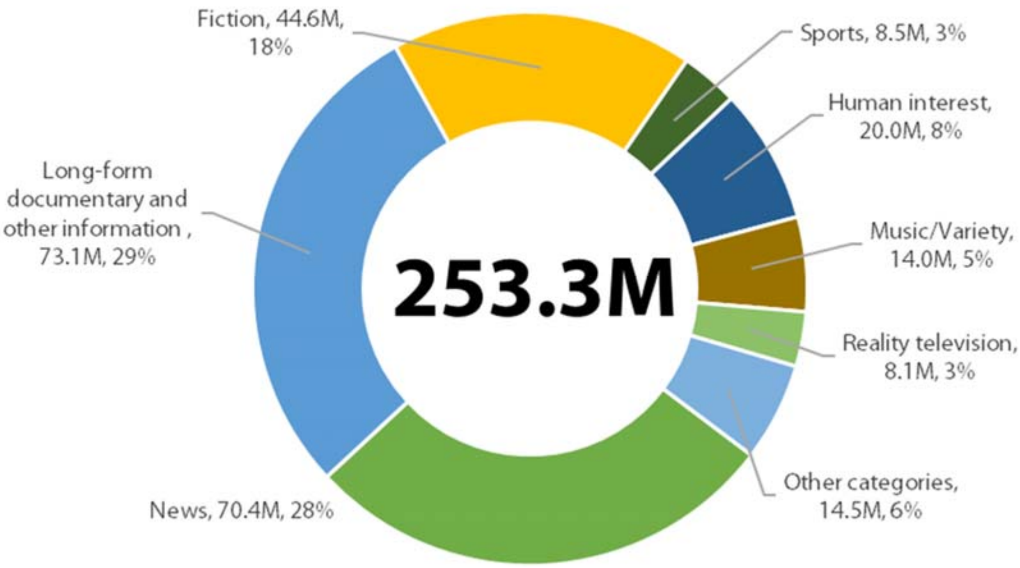
[28] CRTC (2017), *Rogers Media Inc. – Licence renewals for English-language television stations, services and network*, Broadcasting Decision CRTC 2017-151, May 15, 2017.

Figure 7 Independent broadcasters' CPE, by industry segment, 2017 ($M)



Source: Nordicity calculations based on data from CRTC

Figure 8 Independent broadcasters' CPE, by genre, 2017 ($M)



Source: Nordicity calculations based on data from CRTC

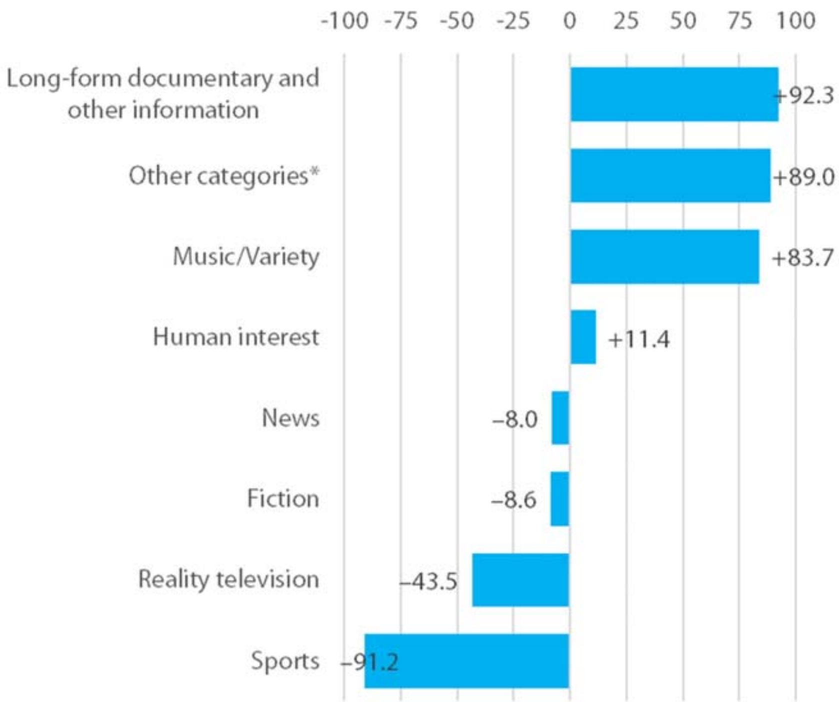
Box 1 Independent broadcasters' relative level of CPE

In the chart below, we compare the independent broadcasters' total spending on CPE by genre in 2017 to their overall share of broadcasting sector revenue (10.9%) in order to identify within which genres independent broadcasters are over- or under-weighted in terms of their CPE in certain genres.

The results in the chart indicate that independent broadcasters were over-weighted in terms of their spending on Canadian programming in the long-form documentary and other information, other program categories*, music/variety and human interest genres. In the long-form documentary and other information genre, independent broadcasters' CPE was 92.3% higher (i.e. nearly double) what would be predicted by their share of sector revenue.

Independent broadcasters were slightly under-weighted in terms of their CPE in the news and fiction genre, and significantly under-weighted in the reality television and sports categories. In fact, the sports category, independent broadcasters' CPE was 91.2% below (i.e. under one-tenth of) what would be predicted by their share of industry revenue.

Canadian independent broadcasters' CPE in relative to their share of broadcasting sector revenue, 2017



Source: Nordicity calculations based on data from CRTC.
* Includes awards shows, interstitials, public service announcements, infomercials, promotional programming and filler programming.

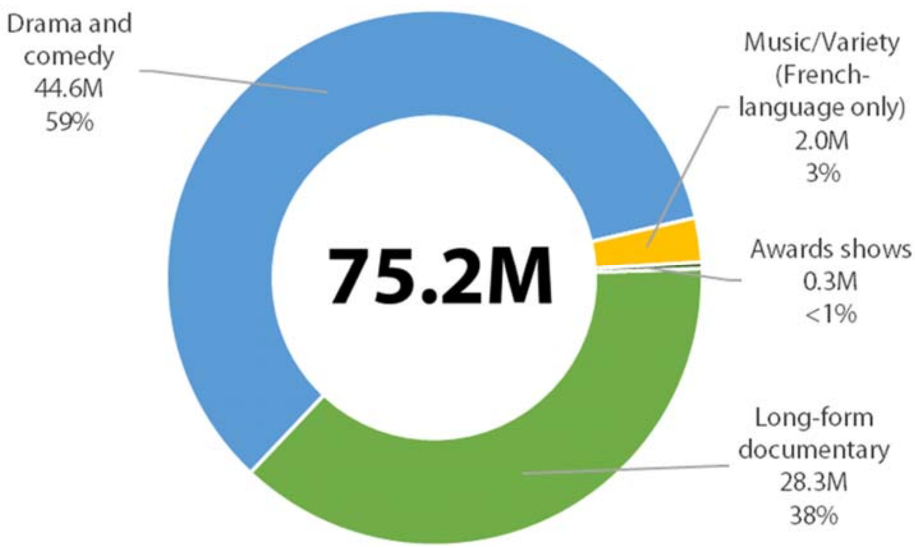
4.2 Programs of national interest

76. Programs of national interest (PNI) include television programs that fall within the CRTC program categories (2b) long-form documentary and (7) drama and comedy, as well as Canadian awards shows that celebrate Canadian creative talent. In the French-language market, it also includes categories (8 & 9) music and variety programming.

77. In 2017, independent broadcasters spent an estimated $75.2 million or 9.4% of their total broadcasting revenue from the previous year ($801 million in 2016) on PNI (Figure 9). This rate of PNI expenditure was well above the minimum requirements that the CRTC applied to the large English-language broadcast ownership groups in 2017.[29]

78. Out of this total spending on PNI, drama and comedy programming accounted for $44.6 million, or 59%; long-form documentary accounted for $28.3 million, or 38%; music and variety programming in the French-language market accounted for an estimated $2 million, or 3%; awards shows accounted for $300,000, or less than one per cent (Figure 9).

Figure 9 Independent broadcasters' PNI, by genre, 2017 ($M)



Source: Nordicity calculations based on data from CRTC and survey of independent broadcasters (2018)

[29] CRTC (2018), *Reconsideration of licence renewal decisions for the television services of large English-language private ownership groups*, Broadcasting Decision CRTC 2018-335, August 30, 2018.

4.3 Spending on Canadian news and information programming

79. Independent broadcasters spent a total of $143.5 million on news and information programming in 2017. This included spending on both in-house production and external production (i.e. commissioned and acquired programming) in the following CRTC program categories:

    - News (category 1)
    - Analysis/Interpretation (category 2a)
    - Long-form documentary (category 2b)
    - Other information (categories 3 to 5).

80. Out of this total spending, news programming accounted for 49%, with the other-information program categories accounting for the balance. Independent broadcasters' discretionary services accounted for 72% of the total spending, while their conventional services accounted for the other 28%. At a 28% share, the conventional segment's share was in line with its share of the independent broadcasting sector's CPE (27%), but higher than its share of revenue (22%).

Table 1 Independent broadcasters' expenditures on Canadian news and other information programming, 2017 ($M)

	Conven-tional	Discre-tionary	Total	*Share*
News	35.3	35.2	**70.4**	*49%*
Analysis/Interpretation, long-form documentary and other information programming	5.2	67.9	**73.1**	*51%*
Total	**40.5**	**103.0**	**143.5**	*100%*
Share	*28%*	*72%*	*100%*	

Source: Nordicity calculations based on data from CRTC

4.4 External production

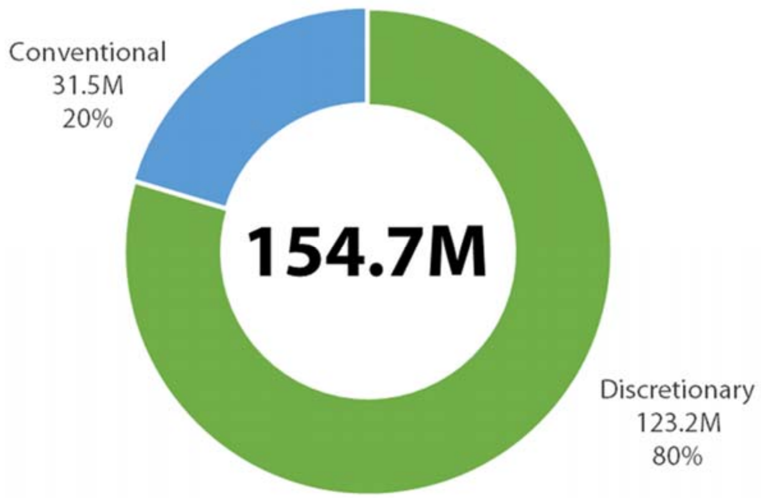
81. External production refers to independent broadcasters' total CPE less any spending on in-house production. In other words, it consists of independent broadcasters' acquisition or commissioning of programming from independent or affiliated producers.[30]

[30] In Broadcasting Decision CRTC 2018-228, the CRTC determined that DHX Media's production arm was an "affiliated producer" since DHX Media wholly owns both its production arm and its broadcasting licences (e.g. Family), and therefore, meets the CRTC's definition of an affiliated producer.

82. In 2017, independent broadcasters spent an estimated $154.7 million on external production (Figure 10). Out of this total, discretionary services accounted for 80%, while conventional services accounted for 20%.

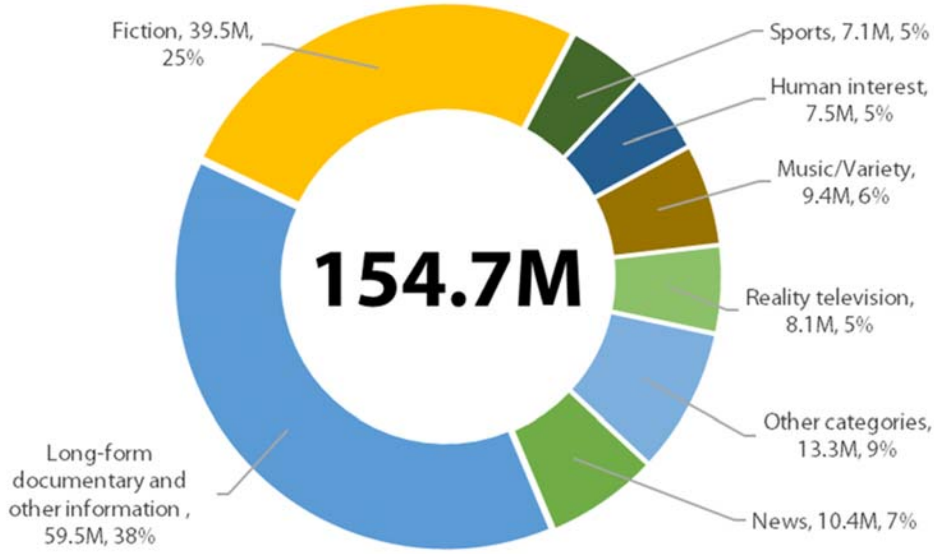
83. From a genre perspective, long-form documentary and other information programming, together, accounted for the largest single share of independent broadcasters' external production - $59.5 million, or 38% (Figure 11). The fiction genre (including animation and children's programming) accounted for $39.5 million, or 25% of external production. All other genres accounted for 9% or less of independent broadcasters' external production.

Figure 10 Independent broadcasters' spending on external Canadian production (i.e. independent + affiliated producers), by industry segment, 2017 ($M)



Source: Nordicity calculations based on data from CRTC

Figure 11 Independent broadcasters' spending on external Canadian production (i.e. independent + affiliated producers), by genre, 2017 ($M)



Source: Nordicity calculations based on data from CRTC

4.5 Original production

84. As with CPE and PNI, external production can include spending on both television programs commissioned by broadcasters (i.e. original production) and the acquisition of existing programs from distributors' content libraries (i.e. acquired programming).

85. The CRTC does not publish separate statistics for broadcasters' spending on original production, so we used a short survey of the largest independent broadcasters to derive an estimate of their spending on original production in 2017.

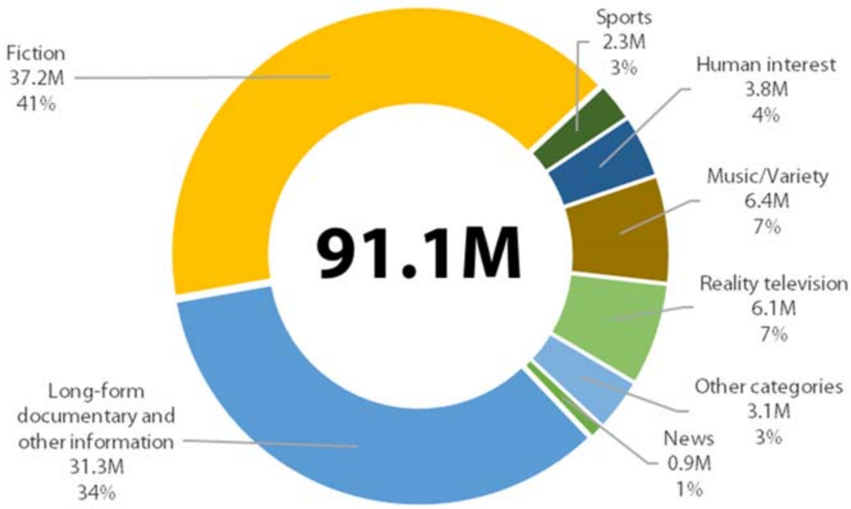
86. The results of this survey (found in Figure 12) indicate that out of total spending on external production of $154.7 million, an estimated $91.1 million was spent on original production.

87. Once again, the two largest genres of spending were (i) long-form documentary and other information, and (ii) fiction. However, in the case of original production, the fiction genre actually accounted for the largest single share.

88. In 2017, independent broadcasters spent an estimated $37.2 million on the original production of fiction programming. In other words, 83% of independent broadcasters' total CPE in the fiction genre ($44.6 million) was devoted to the commissioning of original production.

89. In the long-form documentary and other information genre, independent broadcasters spent $31.3 million on original production in 2017. This accounted for 43% of their total CPE ($73.1 million) in that genre in 2017.

Figure 12 Independent broadcasters' spending on original Canadian production (incl. independent + affiliated producers), by genre, 2016-17 ($M)



Source: Nordicity calculations based on data from CRTC and survey of independent broadcasters (2018).

4.6 Total production output

90. In the Canadian television production market, broadcasters only cover a portion of the total production budget with the fee associated with their commissioning licence. To complete their projects, Canadian producers must also secure financing from federal and provincial tax credits; Canadian distributors (with a view to monetizing the program in other territories or future Canadian release windows); foreign broadcasters and distributors; other private or public sources, such as brand sponsorships or independent production funds; and in some cases, the CMF. Under this production financing model, Canadian broadcasters' licence fees can generate significant financing leverage within the production sector, and thereby, have a significant multiplicative effect in terms of economic contribution.

91. In the Canadian market, the rate of financing leverage varies by genre. For example, in the fiction genre, where budgets are relatively high, and there is access to the Canada Media Fund (CMF), Canadian broadcasters will, on average, contribute 18% of total financing.[31] On the other hand, in the lifestyle and human interest genre, where budget levels are lower and there is no access to

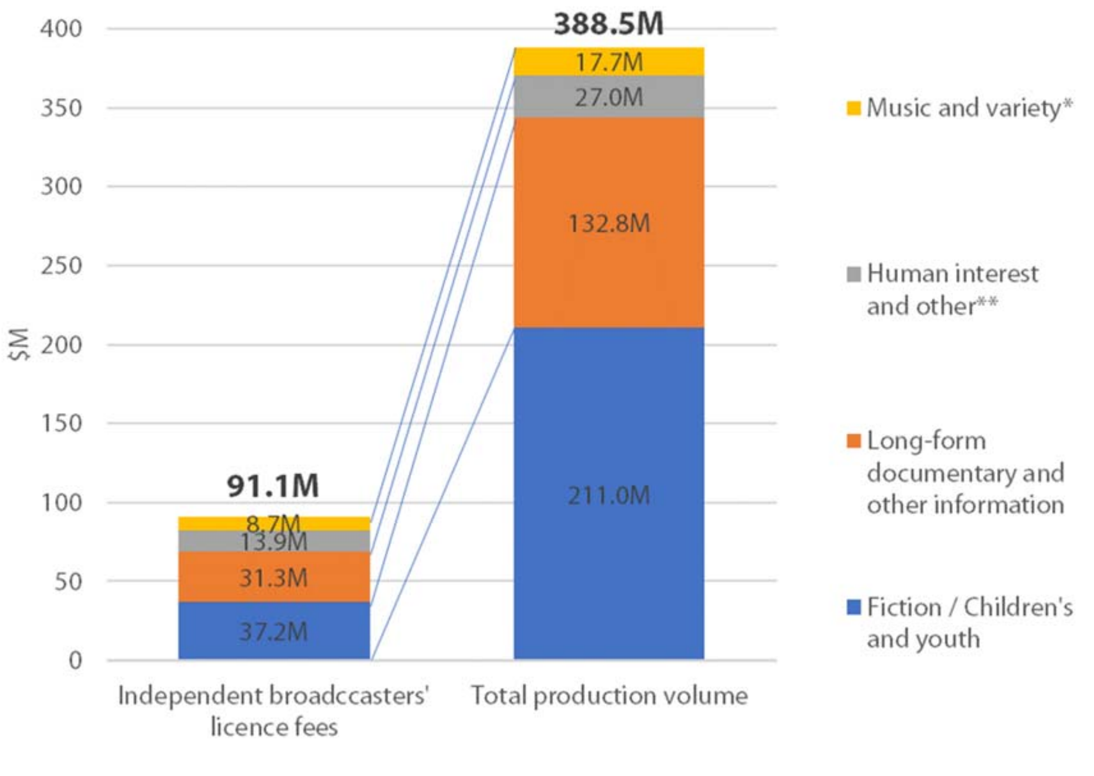
[31] CMPA et al. (2018), *Profile 2017: An Economic Report on the Screen-based Media Production Industry in Canada*, p. 52.

funding from the CMF, Canadian broadcasters will, on average, contribute approximately 50% of total financing.[32]

92. To estimate the financing leverage generated by independent broadcasters' licence fees – and thereby, the total value of the production output stimulated by them – we took into account the pattern of spending and different financing-leverage rates in the different genres.

93. Based on this approach, we estimate that the $91.1 million spent by independent broadcasters on original Canadian production in 2017 translated into $388.5 million in total Canadian production expenditures (Figure 13).

Figure 13 Total volume of original Canadian television production stimulated by independent broadcasters' licence fees (incl. independent + affiliated producers), 2017 ($M)



Source: Nordicity calculations based on data from CRTC and survey of independent broadcasters (2018)
* Includes a small amount of sports programming ($2.3M)
** Includes human interest, news, reality TV, games shows and other CRTC program categories.

[32] CMPA et al. (2018), *Profile 2017: An Economic Report on the Screen-based Media Production Industry in Canada*, p. 52.

94. The highest rate of leverage and largest volume of production was in the fiction / children's and youth genre. In that genre, $37.2 million in licence fees stimulated $211.0 million in production volume. In the documentary and other information genre, $31.3 million in licence fees stimulated $132.8 million in total production volume. In the human interest genre, total production volumes was an estimated $27 million in 2017. And in the music and variety genre, independent broadcasters stimulated a total volume of $17.7 million.

4.7 Affiliated production companies

95. Thus far, we have estimated the spending and overall production volume (i.e. total production budgets) associated with independent broadcasters' commissioning of original Canadian programming. As noted in Section 2, however, at least two independent broadcasters – DHX Media and Blue Ant Media – also operate affiliated production companies.

96. DHX Media's affiliated production company, DHX Studios, is, in fact, one of the Canada's largest production companies, and the country's largest within the children's and youth genre. According to *Playback*'s annual survey of the independent Canadian producers, DHX Media was second only to eOne in terms of the total value of its production output in 2017.[33]

97. According to *Playback*, Blue Ant Media was also among Canada's leading production companies in 2017 (it was ranked 28th), with $5.9 million in total production in 2017. [34]

98. Although *Playback* estimates that DHX Media's production in 2017 was worth $207.2 million, our own analysis of DHX Media's financial statements indicates that its total production volume, including the value of tax credits and other funding, was approximately $283 million in 2017. This represented the estimated value of the budgets for DHX Media's propriety content. To this, we have added the $59 million in revenue it earned from the provision production services to other IP holders in 2017.[35] In total, therefore, we estimate that DHX Media's total production volume in 2017 was equal to an estimated $342 million.

99. To avoid double-counting with our earlier estimates of original production, we have adjusted the totals for both DHX Media and Blue Ant Media, to take into account the portion of their broadcasting assets' spending that would be classified as affiliated production. For both companies, we assumed that 50% of external production would be directed to affiliated production companies.

100. The result of this exercise is presented in Table 2. In the case of Blue Ant Media, our estimate of affiliated production actually exceeded the total value of its production activity in 2017 (as per

[33] Jordan Pinto (2018), "Indie List 2018: The Year in Review," *Playback*, June 4, 2018.
[34] Ibid.
[35] DHX Media Ltd. (2018), "Consolidated Financial Statements: June 30, 2018 and 2017", p. 44.

Playback) That being case, we simply applied a figure of zero for Blue Ant Media's additional *non-affiliated* production.

101. For DHX Media, our approach arrived at $39.3 million in estimated affiliated production. That amount was deducted from DHX Media's gross level of total production ($283.0 million) to arrive at an estimate of $243.7 million in net production. In other words, in addition to the original production stimulated by independent broadcasters' commissioning activity, their production arms (in this case, simply DHX Media) generated a further $243.7 million in propriety production (i.e. IP-owned production) spending in Canada in 2017.

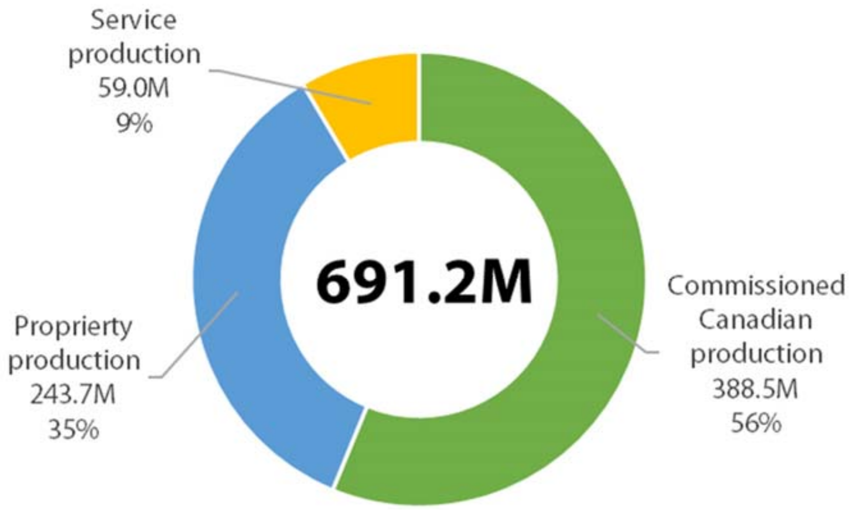
Table 2 Calculation of net value of production at affiliated production companies (excluding production commissioned by affiliated broadcasters), 2017 ($M)

	Line/ Formula	Blue Ant Media	DHX Media	Total
Propriety production	A	5.9	283.0	**288.9**
Spending on external production	B	6.1	13.7	**64.7**
Estimated spend on affiliated production	C = B x 50%	3.1	6.9	**10.0**
Leverage rate	D	2.7	5.7	**--**
Estimated value of affiliated production	E = C x D	8.4	39.3	**47.7**
Net value of production	**F = A – E**	**<0**	**243.7**	**243.7**

Source: Nordicity estimates based on data from CRTC, Playback and public financial reports.

102. When we add this $243.7 million in net *production-arm* production to our estimate of $388.5 million in commissioned original production and the $59 million in service production conducted by DHX Media, we arrive at an estimate of $691.2 million in total Canadian production associated with independent broadcasters in 2017 (Figure 14).

Figure 14 Total value of Canadian television production associated with independent broadcasters, 2017 ($M)

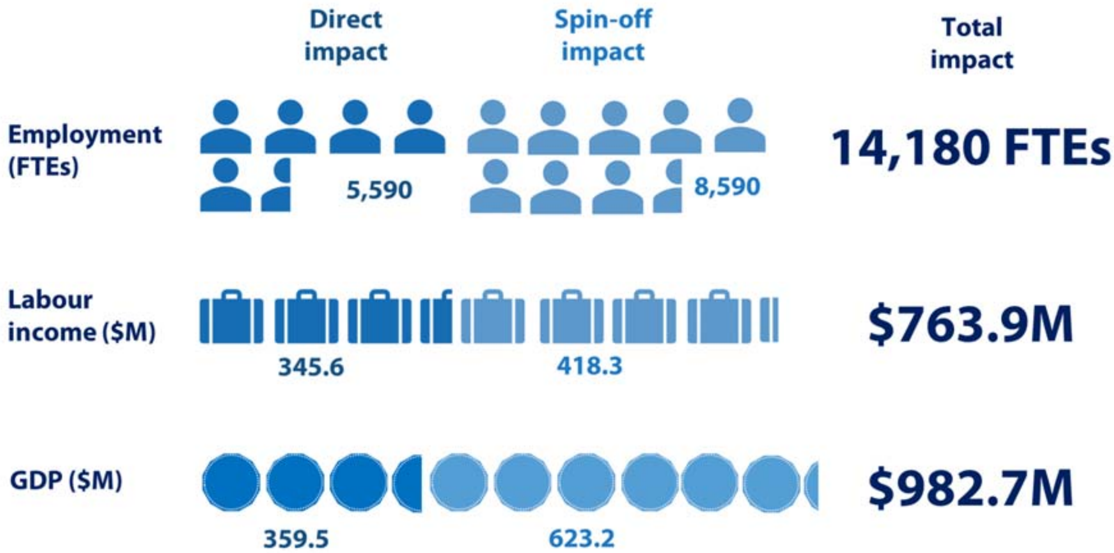


Source: Nordicity estimates based on data from CRTC, Playback and public financial reports.

4.8 Economic contribution

103. This level of television production ($691.2 million) generated 14,180 FTEs of employment, $763 million in labour income and $982.7 million in GDP for the Canadian economy in 2017 (Figure 15). This total impact included direct employment of 5,590 FTEs – i.e. employment in cast and crew positions on television productions –as well $345.6 million in labour income for these cast and crew, and $982.7 million in direct GDP for the Canadian economy.

Figure 15 Economic contribution of Canadian production associated with independent broadcasters, 2017



Source: Nordicity estimates based on data from CRTC, public financial reports, CMPA Profile 2017 and survey of independent broadcasters (2018).

5. Audiovisual distribution

104. As noted in Section 2, several Canadian independent broadcasters also operate distribution arms that license their own audiovisual content as well content they acquire from third parties. In this section, we estimate the size and economic contribution of this component of Canadian independent broadcasters' businesses.

5.1 Distribution revenue

105. Although our research indicates several Canadian independent broadcasters, including DHX Media, Blue Ant Media, Remstar and Channel Zero maintain distribution arms, the lack of public or survey data on these distribution arms means that our estimates are based exclusively on the public financial data available for DHX Media. This is not to downplay the activities of other independent broadcasters. For example, Blue Ant Media's international distribution catalogue contains more than 3,500 hours of premium content, including the largest 4K natural history library on the market. However, public data is not available for its financial performance, so the impact of its international distribution activities cannot be quantified for the purposes of this analysis.

106. DHX Media is one of the leading global distributors of children's television content. Its content library contains approximately 13,000 half hours of programming associated with approximately 500 different titles.[36] Indeed, DHX's content library represents the largest independent library (i.e. independent Hollywood studio) of children's content in the world.[37]

107. DHX Media's content library includes many of the world's most popular and recognizable children's programming titles, including *Peanuts*, *Teletubbies*, *Strawberry Shortcake*, *Caillou*, *Inspector Gadget*, and *Degrassi*.[38]

108. DHX Media's content distribution operation is complemented by its merchandise licensing operations. As part of this merchandise licensing, DHX Media collects royalties for the use of its IP and brands in toys, games, clothing, books and other consumer products.[39] It also earns commissions from third party brands that it manages in the merchandise licensing market.[40]

109. DHX Media's public financial reports indicate that it earned a total of $145.5 million from its distribution and merchandise licensing businesses in 2017 (Table 3). This included $100.4 million

[36] DHX Media (2018), *Annual Information Form 2018*, p. 10.
[37] Ibid.
[38] Ibid.
[39] Ibid., p. 11.
[40] Ibid.

from the distribution of audiovisual content, $26.3 million from merchandise licensing activities and $18.8 million from third party brand representation.

Table 3 DHX Media distribution revenue, 2017

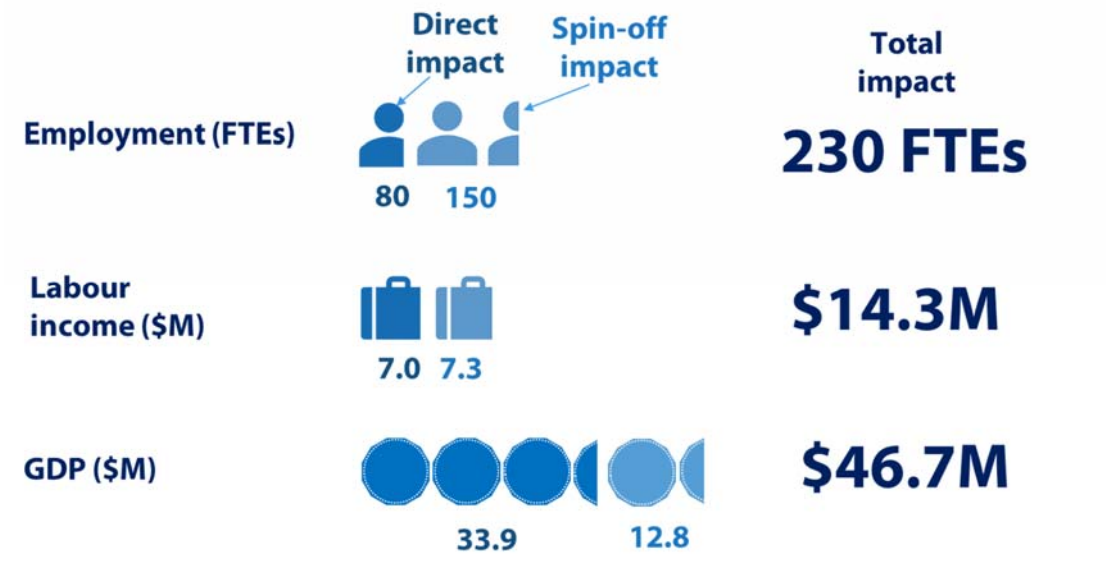
	Revenue ($M)
Distribution	100.4
Merchandising and licensing (and other sources of content revenue)	26.3
Third party brand representation	18.8
Total	**145.5**

Source: DHX Media Ltd. (2018), "Consolidated Financial Statements: June 30, 2018 and 2017", p. 44.

5.2 Economic contribution

110. The $145.5 million in distribution revenue earned by DHX Media in 2017 generated an estimated 230 FTEs of employment in Canada, including an estimated 80 FTEs directly at DHX Media. These revenues also generated $46.7 million in GDP in Canada, including $33.9 million in direct GDP.

Figure 16 Economic contribution of Canadian independent broadcasters' audiovisual distribution operations, 2017



Source: Nordicity estimates based on data from DHX Media and CMPA Profile 2017.

6. Independent radio and audio services

111. In addition to the television sector, Canadian independent broadcasters also play an important role in Canada's radio and audio-services sector. The radio sub-sector includes both AM and FM broadcasters; the audio-services sub-sector includes specialty audio programming services, pay audio programming services and satellite subscription radio services.

112. In the following section, we estimate the size and economic contribution of Canada's independent radio and audio-services sector.

6.1 Overview of sector

113. As of August 31, 2017, there were a total of 1,112 radio and audio services in operation in Canada. This total included: 726 AM or FM stations and network licences; 92 CBC/Radio-Canada stations and network licences; 283 non-commercial radio stations; seven specialty audio services (e.g. commercial/non-profit/regional/national); two satellite subscription radio services; and two pay audio services (Table 4).

Table 4 Number of radio and audio services in Canada

	Number of stations /licences /services	Major companies
AM and FM radio	726	BCE Rogers Corus Cogeco Newcap[1]
CBC/Radio-Canada AM/FM	92	CBC/Radio-Canada
Non-commercial radio	283	--
Specialty audio	7	Tamil Radio Apna Desi Radio (Classical/Hindi/Punjabi/Sport) Chutney Radio
Satellite subscription radio	2	Sirius Canada XM Canada
Pay audio	2	Stingray Group Inc. Kosiner Venture Capital Inc.
Total	**1,112**	

Source: CMR 2017, p. 113 and CRTC.gc.ca.
Notes:
1. On October 23, 2018, Stingray Digital Group Inc. completed a purchase of Newcap Radio.

6.2 Financial performance

114. During the 2017 broadcasting year, Canada's commercial radio sub-sector earned $1.52 billion in total revenue. Of this total, the vertically integrated broadcasting companies – BCE, Rogers, Shaw/Corus, and Cogeco – accounted for a combined $827.7 million. Independent broadcasting companies, including Newcap,[41] accounted for the balance of revenue, or $692.1 million.

115. As in the case of the television sector, CBC/Radio-Canada services are also not considered independent broadcasting services. Technically, the 283 non-commercial radio stations – including community and campus radio stations – are independent broadcasters; however, no published financial or economic data is available for these stations, so they have been excluded from our estimates of the independent radio and audio-services sector.

116. Within the three audio-services sub-sectors, all of the services are operated by independent broadcasting companies. However, financial data is only available for two of these companies – Sirius XM Canada and Stingray.

117. Sirius XM Canada is 33% owned by Sirius XM Radio Inc. (US), which is controlled by Liberty Media Inc. – a vertically integrated global media company with BDU and programming assets. However, since it has no BDU assets in Canada and only holds a minority stake in Sirius XM Canada, we have defined Sirius XM Canada as an independent audio services company. In 2016, Sirius XM Canada earned $341.3 million in revenue.[42] Its interim financial reports for 2017 indicate that its annual revenue in 2017 was likely to have been $353.9 million.[43]

118. Stingray is also an independent audio services company with no BDU assets in Canada. Stingray has operations inside and outside Canada. Its public financial statements indicate it earned a total of $56.1 million in revenue from its Canadian operations in 2017.[44] Excluding the $4.8 million revenue at its discretionary television service implies that Stingray earned an estimated $51.3 million from its Canadian pay audio services in 2016.

119. Adding the revenue earned by Sirius XM Canada and Stingray within Canada, brings the total estimated value of the Canadian radio and audio-services sector to $1.92 billion in 2017. Of this total, independent radio and audio services accounted for $1.09 billion (Figure 17).

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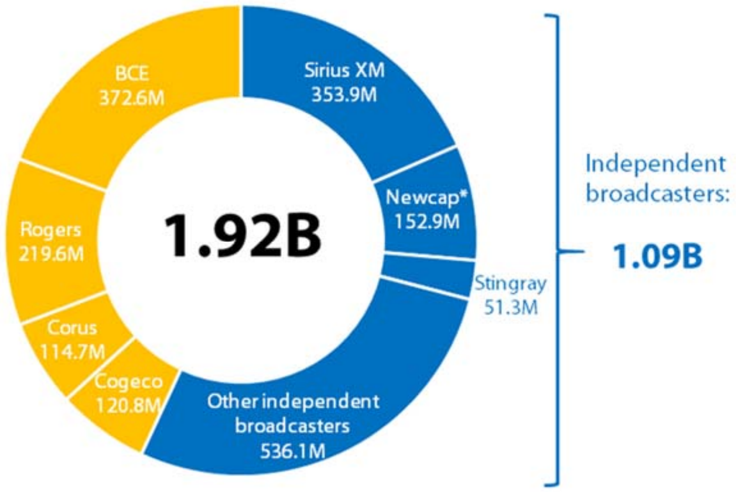
[41] On October 23, 2018, the CRTC approved Stingray Digital Group Inc.'s purchase of Newfoundland Capital Corporation Limited, including Newcap Inc. and all its broadcasting assets and licences. See Broadcasting Decision CRTC 2018-404.

[42] Sirius XM Canada Holdings Inc. (2017), "Management's Discussion and Analysis: For the fiscal year ended August 31, 2016," September 28, 2016, p. 10.

[43] Sirius XM Canada's financial results for the first six months of 2017 have been doubled to estimate the annual amounts for 2017. See Sirius XM Canada Holdings Inc. (2017), "Interim Condensed Consolidated Financial Statements," February 28, 2017, p. 4.

[44] Stingray Group Inc. (2018), *Annual Report 2018*, p. 31.

Figure 17 Revenue in the radio and audio services sector, 2017 ($)

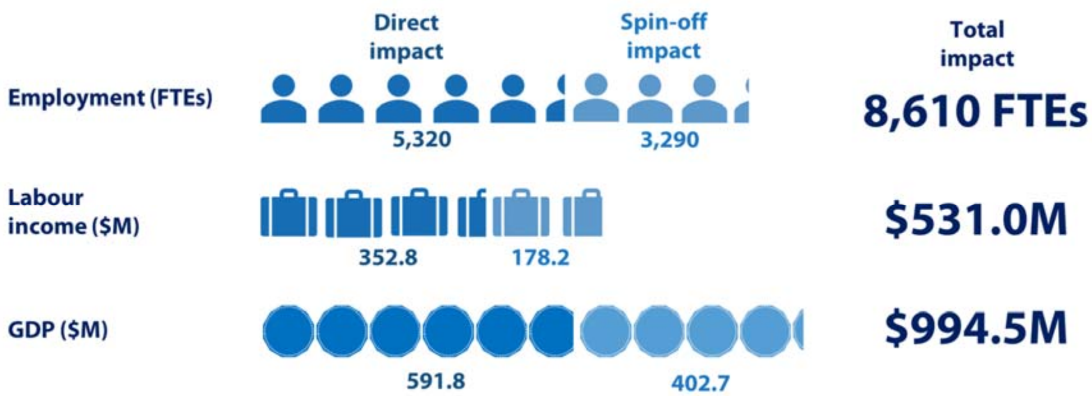


Source: Nordicity estimates based on data from CRTC and public financial reports.

6.3 Economic contribution

120. With revenue of $1.09 billion in 2017, Canada's independent radio and audio-services sector generated an estimated 8,610 FTEs of employment, along within $531.0 million in labour income and $994.5 million in GDP (Figure 18).

Figure 18 Economic contribution of independent radio and audio-services sector in Canada, 2017



Source: Nordicity estimates based on data from CRTC, Statistics Canada and public financial reports.

121. This total economic contribution included 5,320 direct FTEs employed directly at radio stations and audio-services companies earning an estimated $352.8 million in direct labour income. It also

included $591.8 million in direct GDP. The balance of the economic contribution was due to the spin-off impact (i.e. indirect and induced impacts) associated with the sector's purchases of supplies and services, and the re-spending of labour income within Canada.

7. Independent broadcasters' other lines of business

122. As noted in Section 2, several Canadian independent broadcasters also operate lines of business that do not fall within the sub-sectors already examined in this report (i.e. television broadcasting, television production in Canada, audiovisual distribution, and radio and audio services). In some cases, these other lines of business may include the international business initiatives that Canadian independent broadcasters may be engaged in. In this section, we review these other lines of business and estimate the contribution that they make to the Canadian economy.

7.1 Overview

123. In addition to its Canadian audio-services operations, **Stingray** also operates subscription music services in 1565 other countries, including the US, UK, Germany, Latin America, Singapore and Australia.[45] In 2017, these international operations generated $45.4 million in revenue for Stingray.[46]

124. Alongside its flagship television channels, The Weather Channel and MeteoMedia, **Pelmorex** also operates Canada's NAAD System, which validates and distributes emergency alerts issued by authorized government agencies in Canada. It also operates the leading digital weather service in Spain.

125. Canada's only LGBTQ television service, **OUTtv**, has not restricted itself to the Canadian market. It operates a VOD channel in New Zealand and has added online and mobile versions of its programming services to the Apple iTunes, Google Play, Amazon and Roku platforms in order to expand its international reach.[47]

126. **ECG**, based on Markham, Ontario, provides over 100 multicultural television channels around the world, including the US, Australia, the Middle East and North Africa. Its sister company, Nextologies, provides digital transmission and master control services on an international basis.

127. **Blue Ant Media** also operates production companies and distributes linear television services on a global basis, in addition to its global YouTube channel (as described elsewhere in this report).

7.2 Economic contribution

128. While it is clear that Canada's independent broadcasters operate lines of business not already captured elsewhere in this study, at the time of writing, financial data was only available for Stingray's international operations. For this reason, our estimates ae based exclusively on Stingray's

[45] Stingray Group Inc. (2018), *Annual Report 2018*, pp. 3 and 8.

[46] Ibid., p. 31.

[47] Regan Reid (2018), "Playback's 2018 Channel of the Year: OUTtv," *Playback*, December 12, 2018.

international operations, and therefore, only provide a *lower-bound* estimate of the economic contribution associated with the sector's other lines of business.

129. Since Stingray's international operations most resemble an audio-services business, its economic contribution was modelled in the same manner as the audio-services sub-sector was in Section 6.

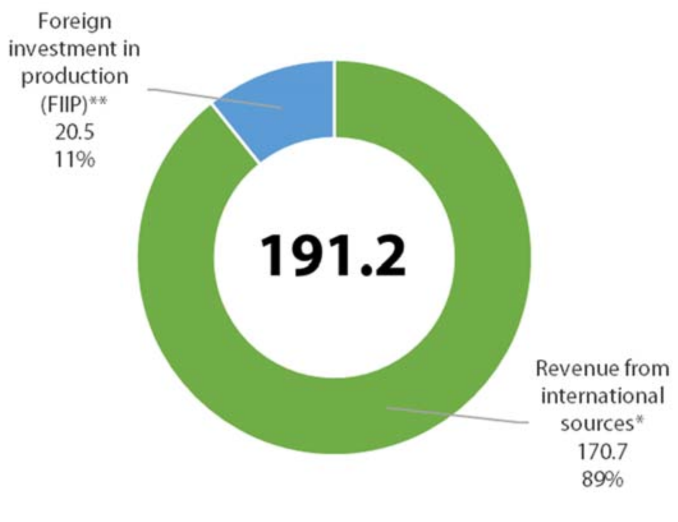
Box 2 Independent broadcasters' international earnings

Several of Canada's independent broadcasters have significant international operations. As noted elsewhere in this report. DHX Media, Stingray, Blue Ant Media, OUTtv, Channel Zero, Pelmorex and ECG all earn revenue from media operations located outside of Canada or by selling to overseas clients.

In addition, Canadian independent broadcasters indirectly help Canadian independent producers attract foreign investment into their television projects ("foreign investment in production [FIIP]"). This FIIP can come in the form of licence fees from foreign broadcasters that also have an interest in obtaining first-window rights in their territories for television programs commissioned by Canadian independent broadcasters. This FIIP can also come from Canadian distributors that see foreign sales potential in the original programming commissioned by independent broadcasters.

We estimate that, in 2017, the international receipts earned by Canadian independent broadcasters totalled $191.2 million. This total included $170.7 million in revenue from international sources and $20.5 million in FIIP.

Canadian independent broadcasters' international receipts, 2017 ($M)

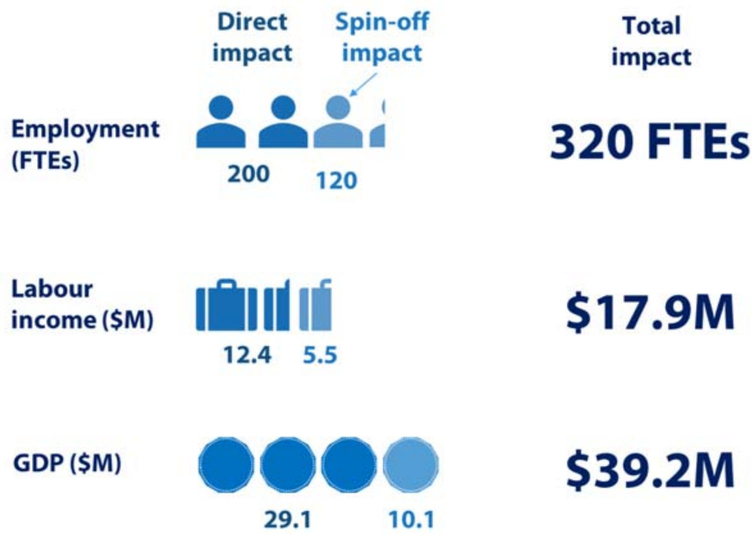


Source: Nordicity estimates based on data from CRTC, CMPA Profile 2017 and public financial reports.
* Includes revenue earned from locations and clients outside of Canada.
** Includes the estimated value of production financing from foreign sources (e.g. foreign broadcasters, distributors and SVOD platforms) and Canadian distributors (that will market territorial windows to Canadian television programs outside of Canada)

130. Based on data in its public financial reports, we estimate that Stingray's international operations accounted for 200 FTEs of the company's total employment (i.e. direct employment) in 2017, as well as $12.4 million in labour income (i.e. wages and benefits paid to those employees) and $29.1 million in GDP (i.e. Stingray's economic value added) (Figure 19).

131. After taking into account the spin-off impact (i.e. indirect and induced impacts) associated with Stingray's international operations, we estimate that its international operations – and thereby Canadian independent broadcasters' other lines of business – generated a total economic contribution of 320 FTEs of employment, $17.9 million in labour income and $39.2 million in GDP for the Canadian economy in 2017.

Figure 19 Economic contribution of independent broadcasters' other lines of business, 2017



Source: Nordicity estimates based on data from Statistics Canada and Stingray.

8. Summary of key findings

132. While Canada's large vertically integrated broadcast ownership groups control over 80% of revenue in the Canadian broadcasting sector,[48] Canada's independent broadcasters have – in the face of this market dominance – demonstrated considerable entrepreneurialism and business innovation.

133. These independent broadcasters – i.e. those Canadian broadcasting companies not owned by one of the large vertically integrated ownership groups, Cogeco or CBC/Radio-Canada – have often been at the forefront of promoting diversity in the Canadian broadcasting sector and sustaining their business models through diversification, adoption of new technologies and platforms, and international expansion and business development.

134. Today, many of Canada's independent broadcasters are no longer just operators of television programming services or radio stations. The largest companies also operate production and distribution arms that create and/or market their own content or content acquired from other creators. DHX Media, Blue Ant Media and Remstar all operate production arms. DHX Media, Blue Ant Media, Remstar and Channel Zero are also active in audiovisual distribution.

135. In 2017, Canada's independent broadcasters earned $752.4 million from their television operations – including conventional and discretionary services. This represented 10.9% of the $6.9 billion in total revenue in Canada's broadcast programming segment in 2017.

136. Between 2013 and 2017, independent broadcasters' broadcasting revenue fell by 15%. This drop was much faster than the 5% decline in revenue experienced by the entire Canadian broadcasting sector during that period and meant that independent broadcasters' market share declined from 12.2% in 2013 to 10.9% in 2017.

137. The $752.4 million in revenue earned by independent broadcasters translated into 5,270 FTEs of employment and $530.5 million in GDP for the Canadian economy. Of this total, 2,500 FTEs were employed directly at independent broadcasters, helping these companies generate $279.3 million in GDP.

138. The economic contribution of independent broadcasters' television operations is even larger when one takes into account the leverage they achieve through the commissioning of original Canadian television production. In 2017, independent broadcasters spent an estimated $91.1 million on original Canadian television production. This spending led to total production of $388.5 million, once other sources of financing joined the commissioned projects.

139. Added to the leverage of this commissioned production is the propriety content created by companies such as DHX Media and Blue Ant, as well their production-services activities. In total, we

[48] CRTC (2017), *Communications Monitoring Report 2017*, p. 94.

estimate that Canada's independent broadcasters were associated with $691.2 million in screen production in Canada in 2017.

140. This level of screen production generated 14,180 FTEs or employment and $982.7 million in GDP. Of this total, direct employment (i.e. cast and crew) accounted for 5,590 FTEs and direct GDP was worth $359.5 million.

141. As the largest distributor of audiovisual content among Canada's independent broadcasters, DHX Media earned an estimated $145.5 million in revenue from distribution and merchandise licensing activities in 2017. This element of DHX Media's operations generated 230 FTEs of employment and $46.7 million in GDP for the Canadian economy.

142. The size and economic contribution of independent broadcasters in the radio and audio-services market is even larger than that of the television broadcasting market. In 2017, independent broadcasters, including Sirius XM Canada and Stingray, earned $1.09 billion in revenue in Canada. Their Canadian radio and audio-services operations, in turn, generated 8,610 FTEs of employment and $994.5 million in GDP.

143. Several Canadian independent broadcasters also operate lines of business that do not fall within the television broadcasting, television production, audiovisual distribution, or radio and audio services sub-sectors. Stingray, Blue Ant Media, Pelmorex, OUTtv and ECG all have significant media operations outside of Canada, for example.

144. Stingray's international operations, alone, generated $45.5 million in revenue in 2017 and generated an estimated 320 FTEs of employment and $39.2 million GDP.

145. In total, therefore, Canada's independent broadcasters generated 28,610 FTEs of employment and over $2.59 billion in GDP for the Canadian economy in 2017. This included direct employment of 13,690 FTEs and direct GDP of $1.29 billion. The balance of the contribution came from the indirect and induced stimulated by independent broadcasters' economy activity.

Nordicity

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Glossary

Acquired programming
Refers to a television program that has already been filmed and aired at least once in Canada or elsewhere.

Broadcaster-affiliated producer/production
A Canadian production company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and, in which, a broadcasting licensee, or any company related to the broadcasting licensee owns, in aggregate a 30% or greater (voting) equity interest

Broadcast distribution undertaking (BDU)
Includes cable, direct-to-home satellite (DTH), multipoint distribution services (MDS) and Internet protocol TV (IPTV) services which allow Canadian households and businesses to access licensed television programming services, including conventional television, discretionary television services and on-demand television services, by subscribing to channel packages and certain à la carte services.

Canadian programing expenditures (CPE)
The total value of broadcasters spending on the Canadian television programs – either original or acquired existing programs.

Commissioned programming
A television program that a broadcaster has agreed to partially finance for original production, followed by first airing.

Conventional television / Conventional TV
Includes private and public broadcasters that maintain over-the-air (OTA) infrastructure to broadcast to households, although the vast majority of Canadian households now receive conventional television signals via cable or satellite television providers.

Discretionary services
Discretionary services are only available via cable or satellite television providers and typically provide sports, 24-hour news, movies, arts and other thematic programming. Discretionary television services earn revenue from a combination of subscription fees and advertising.

External production
Refers to broadcasters' CPE less the value of their spending ion in-house production. It includes television programs that broadcasters have been commissioned for original production or existing programs that they have acquired.

Full-time Equivalents (FTEs)
A measurement of employment that converts the number of part-time workers or any workers working less than a full work year into the equivalent number of full-time workers.

Gross domestic product (GDP)
Refers to the monetary value of the unduplicated value added generated by an industry or economy. The difference between the value of an industry's output and the value of the inputs it consumes from other industries.

In-house production	Refers to television programs made internally by conventional broadcasters or discretionary television series and largely consists of news or sports programming, but can also include production in other genres.
Labour income	Refers to the monetary value of wages, salaries and benefits paid to employees or freelance workers or paid on their behalf (e.g. health insurance premiums).
On-demand services	On-demand services permit consumers to watch specific films or television programs whenever they want, rather than at a scheduled time (i.e. linear television"). On-demand can be offered over BDU platforms (e.g. cable-TV or DTH satellite) or over the Internet.
Programs of national interest (PNI)	Includes television programs that fall within the CRTC program categories (2b) long-form documentary and (7) drama and comedy, as well as Canadian awards shows that celebrate Canadian creative talent. In the French-language market, it also includes categories (8 & 9) music and variety programming.
Spin-off impact	Refers to the sum of the indirect and induced economic impacts. The indirect impact includes the employment and GDP generated within industries that supply goods and services to the production industry. The induced impact includes the employment and GDP generated in consumer industries within the Canadian economy that benefit from the re-spending of wages earned by production sector cast and crew, and the workers employed in the supplier industries.
Subscription video-on-demand (SVOD)	Refers to television services such as GEM, CraveTV, Club illico, Netflix, Amazon or Hulu), whereby consumers pay a monthly subscription to access on-demand programming over the Internet.
Video-on-Demand (VOD)	Refers to a television service whereby consumers can pay a fee to choose what and when they want to watch specific films or television programs.