**C-10: related reports and events**

4 June 1991 1991 [*Broadcasting Act*](https://laws.justice.gc.ca/eng/acts/B-9.01/index.html) enters into force

September 1995 *Information Highway Advisory Council. Connection, Community and Content: The Challenge of the Information Highway*. ([Supply and Services Canada, Ottawa, Canada, September 1995](https://publications.gc.ca/collections/collection_2021/isde-ised/c2/C2-229-7-1995-eng.pdf))

1996 Mandate Review Committee of the CBC, NFB and Telefilm Canada, *Making Our Voices Heard: Report* (Ottawa, 1996) [Juneau Committee]

1999 *New Media*, Broadcasting Public Notice CRTC 1999-84 and Telecom Public Notice 99-14 ([Ottawa, 17 May 1999](https://crtc.gc.ca/eng/archive/1999/PB99-84.htm))

…

Is new media "broadcasting"?

Statutory Definitions

33. "Broadcasting" is defined in section 2 of the Broadcasting Act as follows:

[a]ny transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place.

34. The term "program" is in turn defined in section 2 of the Act as:

[s]ounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text.

Explicit statutory exclusions from the definition of broadcasting

35. The Commission notes that, as stated above, much of the content available by way of the Internet, Canadian or otherwise, currently consists predominantly of alphanumeric text and is therefore excluded from the definition of "program". This type of content, therefore, falls outside the scope of the Broadcasting Act. Accordingly, **the remainder of this section contemplates Internet content that consists only of audio, video, a combination of audio and video, or other visual images including still images that do not consist predominantly of alphanumeric text.**

36. It was submitted, among other things, that information displayed on the Internet can be considered to be solely for display in a public place and therefore excluded from the definition of "broadcasting". Certainly, the Canadian public expressed its view that the Internet has a unique ability to foster citizen engagement and public discourse. While the Commission agrees, it considers that **the Internet is not in and of itself a "public place" in the sense intended by the Act. Programs are not transmitted to cyberspace, but through it, and are received in a physical place, e.g. in an office or home**.

37. The Commission considers, however, that the exception to the definition of "broadcasting" for programs transmitted for display in a public place would apply, as suggested by one participant, to a particular service delivered via the Internet that is accessible by end-users only in a terminal or kiosk located in a public place, such as a public library.

Technological neutrality of "broadcasting"

38. The Commission notes that the definition of "broadcasting" includes the transmission of programs, whether or not encrypted, by other means of telecommunication. This definition is, and was intended to be, technologically neutral. Accordingly, **the mere fact that a program is delivered by means of the Internet, rather than by means of the airwaves or by a cable company, does not exclude it from the definition of "broadcasting".**

39. Some parties argued that there is no "transmission" of content over the Internet, and therefore, there is no "broadcasting". The fact that an end-user activates the delivery of a program is not, in the Commission's view, determinative. As discussed below, on-demand delivery is included in the definition of "broadcasting". Further, the Commission considers that the particular technology used for the delivery of signals over the Internet cannot be determinative. **Based on a plain meaning of the word, and recognizing the intent that the definition be technologically neutral, the Commission considers that the delivery of data signals from an origination point (e.g. a host server) to a reception point (e.g. an end-user's apparatus) by means of the Internet involves the "transmission" of the content.**

40. Some parties submitted that the definition of "broadcasting receiving apparatus" was not intended to capture devices such as personal computers or Web TV boxes when used to access the Internet. The Commission notes that the definition of "broadcasting receiving apparatus" includes a "device, or combination of devices, intended for or capable of being used for the reception of broadcasting". The Commission considers that an interpretation of this definition that includes only conventional televisions and radios is not supported by the plain meaning of the definition and would undermine the technological neutrality of the definition of "broadcasting**". In the Commission's view, devices such as personal computers, or televisions equipped with Web TV boxes, fall within the definition of "broadcasting receiving apparatus" to the extent that they are or are capable of being used to receive broadcasting.**

Transmission of programs for reception by the public

…

42. A number of parties submitted that content that is "customizable" does not constitute "broadcasting". The Commission notes that parties have used the term "customizable" to mean different things. For example, some parties cited the non-simultaneous characteristic of Internet services as a basis for which such services cannot be considered to be "broadcasting".

43. The Commission considers it important to distinguish between the ability to obtain Internet content "on-demand" - the non-simultaneous characteristic of Internet services - and the ability of the end-user to "customize", or interact with, the content itself to suit his or her own needs and interests.

44. In the Commission's view, there is no explicit or implicit statutory requirement that broadcasting involve scheduled or simultaneous transmissions of programs. The Commission notes that the legislator could have, but did not, expressly exclude on-demand programs from the Act. As noted by one party, the mere ability of an end-user to select content on-demand does not by itself remove such content from the definition of broadcasting. **The Commission considers that programs that are transmitted to members of the public on-demand are transmitted "for reception by the public".**

45. The Commission considers, however, that some Internet services involve a high degree of "customizable" content. This allows end-users to have an individual one-on-one experience through the creation of their own uniquely tailored content. In the Commission's view, this content, created by the end-user, would not be transmitted for reception by the public. The Commission therefore considers that **content that is "customizable" to a significant degree does not properly fall within the definition of "broadcasting" set out in the Broadcasting Act.**

46. By contrast, the ability to select, for example, camera angles or background lighting would not by itself remove programs transmitted by means of the Internet from the definition of "broadcasting". The Commission notes that digital television can be expected to allow this more limited degree of customization. In these circumstances, where the experience of end-users with the program in question would be similar, if not the same, there is nonetheless a transmission of the program for reception by the public, and, therefore, such content would be "broadcasting". These types of programs would include, for example, those that consist of digital audio and video services.

…

1999 *Exemption order for new media broadcasting undertakings*, Public Notice CRTC 1999-197 ([Ottawa, 17 December 1999](https://crtc.gc.ca/eng/archive/1999/pb99-197.htm))

2003 Department of Canadian Heritage, *Canadian Content in the 21st Century in Film and Television Productions: A Matter of Cultural Identity*, ([Ottawa, June 2003](https://publications.gc.ca/collections/Collection/CH44-29-2003E.pdf))

June 2003 House of Commons Standing Committee on Canadian Heritage, *Our Cultural Sovereignty: The Second Century of Canadian* Broadcasting, [(Ottawa, June 2003)](https://www.ourcommons.ca/DocumentViewer/en/37-2/HERI/report-2/)

April 2005 Department of Canadian Heritage, *Reinforcing Our Cultural Sovereignty – Setting Priorities for the Canadian Broadcasting System*, Second Response to the Report of the Standing Committee on Canadian Heritage ([Ottawa, April 2005](http://dsp-psd.pwgsc.gc.ca/Collection/CH44-48-2005E.pdf))

December 2006 CRTC, *The Future Environment Facing the Canadian Broadcasting System: a report prepared pursuant to section 15 of the Broadcasting Act* ([Ottawa, 14 December 2006](https://www.ic.gc.ca/eic/site/smt-gst.nsf/vwapj/tprp-final-report-2006.pdf/$FILE/tprp-final-report-2006.pdf))

June 2008 CRTC, *Perspectives on Canadian Broadcasting in New Media ­ a compilation of research and stakeholder views* (Ottawa, May 2008) [Revised June 2008](http://publications.gc.ca/collections/collection_2009/crtc/BC92-65-2008E.pdf)

February 2010 Convergence Policy, Policy Development and Research, CRTC, *Navigating Convergence: Charting Canadian Communications Change and Regulatory Implications*, ([Ottawa, February 2010](https://crtc.gc.ca/eng/publications/reports/rp1002.htm))

2011 CRTC, *Navigating Convergence II: Charting Canadian Communications Change and Regulatory Implications*, ([Ottawa, 2011](http://publications.gc.ca/site/eng/9.694893/publication.html))

February 2011 House of Commons Standing Committee on Canadian Heritage, *EMERGING AND DIGITAL MEDIA: OPPORTUNITIES AND CHALLENGES* ([Ottawa, February, 2011](https://www.ourcommons.ca/DocumentViewer/en/40-3/CHPC/report-7/page-5))

March 2011 House of Commons Standing Committee on Canadian Heritage*, IMPACTS OF PRIVATE TELEVISION OWNERSHIP CHANGES AND THE MOVE TOWARDS NEW VIEWING PLATFORMS*, ([Ottawa, March 2011](https://www.ourcommons.ca/DocumentViewer/en/40-3/CHPC/report-9/page-5))

2016 Canadian Heritage – close to 10,000 Canadians complete pre-consultation questionnaire about Canadian content in a digital world (see [13 September 2016 News Release](https://www.canada.ca/en/canadian-heritage/news/2016/09/consultations-launched-canadian-content-digital-world.html))

June 2016 Minister of Canadian Heritage appoints a multidisciplinary Expert Advisory Group on Canadian content in a digital world (see [13 September 2016 News Release](https://www.canada.ca/en/canadian-heritage/news/2016/09/consultations-launched-canadian-content-digital-world.html))

13 September 2016 Minister of Canadian Heritage launches public consultation asking how to strengthen Canadian content’s creation, discovery and export in a digital world, and hosts in-person discussions across Canada with a variety of sectors; the Minister’s News Release ([Ottawa, 13 September 2016](https://www.canada.ca/en/canadian-heritage/news/2016/09/consultations-launched-canadian-content-digital-world.html)) says that the discussions will be guided by 3 principles, namely to

* focus on respecting citizen choice and supporting creators in making great, compelling content
* reflect Canada’s incredible diversity in the content that is produced and support the production of news information and local content that is credible and reliable
* drive social and economic innovation by forging strong links between creativity, economic growth and social resilience.

22 March 2017 Federal government announces review of *Broadcasting Act* in its 2017 Budget:

An Open, Transparent and Innovative Internet

Over the past year, the Minister of Canadian Heritage has consulted with Canadians on the future of the Internet, the future of news media, and the role of Canadian content in an increasingly digital world.

For its part, the Government believes in an open and transparent Internet environment that emphasizes freedom—freedom to innovate, freedom to connect with others, and freedom of discussion.

This is a future that must include Canada’s creative entrepreneurs and cultural leaders, who are essential to building an inclusive and innovative Canada. From advertising and design to television and film to fashion and publishing, Canada’s creative industries are facing rapid and disruptive change, including the shift to online technologies, the push for new business models, and increased competition due to globalization. Along with these risks comes the opportunity for Canada—and its creative sector—to lead the way in creating new experiences, new technologies, and new, well-paying jobs for Canadians.

Over the next year, the Government will outline a new approach to growing Canada’s creative sector—one that is focused on the future, and on bringing the best of Canada to the world, rather than a protectionist stance that restricts growth and limits opportunities.

The Government also recognizes that Canada’s media industries, and the systems that allow for broadcasting, distribution and the exchange of ideas, are fundamentally changing in the digital age.

To ensure that Canadians continue to benefit from an open and innovative Internet, the Government proposes to review and modernize the Broadcasting Act and Telecommunications Act.

In this review, the Government will look to examine issues such as telecommunications and content creation in the digital age, net neutrality and cultural diversity, and how to strengthen the future of Canadian media and Canadian content creation. Further details on the review will be announced in the coming months.

June 2017 House of Commons, Standing Committee on Canadian Heritage, *DISRUPTION: CHANGE AND CHURNING IN CANADA'S MEDIA LANDSCAPE*, 42nd Parl., 1st Sess., ([Ottawa, June 2017](https://www.ourcommons.ca/DocumentViewer/en/42-1/CHPC/report-6/))

28 September 2017 Canadian Heritage, *Creative Canada – A Vision for Canada’s Creative Industries*, ([Ottawa, 28 September 2017](https://www.canada.ca/en/canadian-heritage/campaigns/creative-canada/framework.html)); the Heritage Minister’s News Release ([Ottawa, 28 September 2017](https://www.canada.ca/en/canadian-heritage/news/2017/09/minister_joly_announcescreativecanadaavisionforcanadascreativein.html)) said the strategy was “to strengthen Canada’s diverse and vibrant creative sector”, by “investing in Canadian creators and cultural entrepreneurs, promoting the discovery and distribution of content at home and globally, and working to strengthen public broadcasting and support local news”. The Minister “also announced a $500 million agreement with Netflix, a first of its kind in the world.”

5 June 2018 Ministers of Canadian Heritage and Innovation, Science and Economic Development [announce review](https://www.canada.ca/en/canadian-heritage/news/2018/06/government-of-canada-launches-review-of-telecommunications-and-broadcasting-acts.html) of the *Broadcasting, Telecommunications Act* and *Radiocommunication Acts* by an expert panel

25 September 2018 Broadcasting and Telecommunications Legislative Review Panel [launches consultations](https://www.ic.gc.ca/eic/site/110.nsf/eng/00004.html)

11 January 2019 Written submissions for the Broadcasting and Telecommunications Legislative Review Panel are due

26 June 2019 Broadcasting and Telecommunications Legislative Review Panel releases report on ‘[what it heard](https://www.ic.gc.ca/eic/site/110.nsf/eng/00011.html)’

29 January 2020 Broadcasting and Telecommunications Legislative Review Panel, *Report* ([Ottawa, 29 January 2020](https://www.ic.gc.ca/eic/site/110.nsf/eng/00012.html))

3 November 2020 Introduction and first reading of Bill C-10

16 February 2021 Second reading of Bill C-10 and referral to Committee

7 June 2021 House of Commons adopts a time-allocation motion that limits additional debate on Bill C-10 by the Heritage Committee to five hours (see [15 June 2021 Hansard](https://www.ourcommons.ca/DocumentViewer/en/43-2/house/sitting-118/hansard#11395120))

14 June 2021 Committee reporting Bill C-10 with amendments

[Member for Banff-Airdrie (CPC, Mr. Blake Richards)](https://www.ourcommons.ca/DocumentViewer/en/43-2/house/sitting-117/hansard) rose on a point of order regarding the Heritage Committee’s report on Bill C-10, challenging the status of amendments to clauses 8 through 47 of the Bill which were passed by the Committee on 10 and 11 June 2021 without hearing the amendments’ wording read aloud, without debate and without the opportunity to question Canadian Heritage witnesses. Mr. Richards said he did “not make this point of order lightly. … Our rules must be followed. Parliamentary procedure is not a body of play pretend rules that can just be set aside at the first moment of inconvenience.”

15 June 2021 Speaker of the House of Commons rules that the Heritage Committee exceeded its authority when it continued to consider amendments after the 5-hour limit:

I therefore rule that the committee exceeded its authority by putting the question on amendments after the five-hour mark. However, in the list of amendments made to clauses 8 to 47, the Chair notes that the amendment made to clause 23, which added text to line 7 on page 20 and replaced line 8 on page 24 of the bill with new text, was the consequential result of an amendment previously adopted by the committee to clause 7 of the bill. Accordingly, this amendment will stand.

All other amendments made to clauses 8 to 47 are declared null and void, and will no longer form part of the bill as reported to the House. In addition, I am ordering that a reprint of the bill be published with all possible haste for use by the House at report stage to replace the reprint ordered by the committee.

Finally, with respect to the amendment that created new clause 13.1, I would agree with the member that this modifies a section of the Broadcasting Act that was not covered by Bill C-10. As such, it is a violation of the “parent Act” rule and it goes beyond the scope of the bill. Consequently, it is also declared null and void and will not form part of the bill. Report stage, the next step in the legislative process for this bill, will accord an opportunity for amendments to the bill to be made. “

21 June 2021 Third reading and passage of [Bill C-10 (as amended by the Speaker](https://parl.ca/DocumentViewer/en/43-2/bill/C-10/third-reading)) by the House of Commons

22 June 2021 Senate, first reading of Bill C-10 ([2nd sess., 43rd Parl., Vol. 152, Issue 53](https://sencanada.ca/en/content/sen/chamber/432/debates/053db_2021-06-22-e?language=e))

*Broadcasting Act*

Bill to Amend—First Reading

The Hon. the Speaker [Hon. George J. Fury] informed the Senate that a message had been received from the House of Commons with Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Gold, bill placed on the Orders of the Day for second reading two days hence.)

23 June 2021 Senator Dawson [moved second reading of Bill C-10](https://sencanada.ca/en/content/sen/chamber/432/debates/054db_2021-06-23-e#39):

Honourable senators, I rise today to introduce you to Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

As you know, we were not expecting to get to second reading today, and since we are now expecting to sit next week, I hope we can send this bill to the Standing Senate Committee on Transport and Communications as soon as possible. Negotiations are ongoing for when the committee will meet, but for now I will concentrate on having the bill sent to committee.

Bill C-10 deserves much attention and scrutiny, and we need to perform our duties as the chamber of sober second thought. It was never the intention of the government to ram the bill through at the end of the session. I am happy to speak to it today.

…

Hon. Leo Housakos: Thank you, Senator Dawson, for your speech.

There is very little in it that I’m in concurrence with, but I do recognize you’re the sponsor of the bill, not the architect. We will have to address this legislation and, hopefully, try to strengthen it, clean it up and make it achieve its original objective.

Before we get into the actual content of the bill, senator, I want to talk about process. I know you’re a long-time member of this chamber and a former member of the House of Commons as well. I have been very concerned with the process of what has basically become secret lawmaking or legislation-making in the House of Commons. Have we ever seen a House of Commons committee behind closed doors, in camera, propose amendments to legislation that the Speaker of the House of Commons had to rule out of order?

Senator Dawson, I know you appreciate the supremacy of Parliament. Can you comment? Do you share the concerns that I know Senator Wallin, other colleagues and I have about the process that was utilized in the other place to come to the end result, which is that this legislation is crawling to come to a finish line here in the Senate?

Senator Dawson: I have to correct you, Senator Housakos. These amendments were done in public on the broadcast CPAC and in the parliamentary broadcast; they weren’t done in an in camera meeting. Obviously, since the Speaker had to overturn the decision the committee had made to tell the chair to do it that way, obviously the rules were applied. That’s why the Speaker did it, and they reassessed the amendments and passed them again in respect for the structure of amendments in the chamber.

Obviously, since there was time allocation, they weren’t going to debate all of the — they had five hours to debate, I told you before — 100 amendments. There was no way they could debate each one of those and respect the five hours since — and I’m not being partisan — but the Conservatives obviously had the objective of filibustering the adoption of these amendments. They succeeded. The communications were broken between the chair of the committee, who was overturned by the committee, and the Speaker overturned the decision of the committee.

It was not done in secret, and since you’re talking about it, because there was nothing secret about it.

…

Senator Wallin: Honourable senators, I want to come back to some of the comments Senator Dawson has made here.

Senator Dawson, you talk about this process in the House of Commons being conducted in public. It was, in fact, true that the committee hearings were broadcast. The problem was that the discussion, the debate and the amendments were secret. They were written on pieces of paper, and you had to vote for amendment one, amendment two or amendment three. Even members of the committee were not allowed to see that. On the whole question of process, it’s nothing short of appalling that we would put forward a piece of legislation that was constructed in that manner.

The minister himself, on occasion, has said that the point of this was for discoverability so we could see — whatever the royal “we” is in that case — the content of online posts, tweets or YouTube videos. They wanted to be able to observe that and make decisions about it. They themselves may not do this directly, but under the auspices of the CRTC or, worse yet, through the streaming services themselves, they could start to censor content that people don’t like.

How can that be preserving, saving or protecting free speech? It just doesn’t make sense.

Senator Dawson: I’m surprised the question would come from someone who was involved in broadcasting for so long.

Senator Wallin: That’s exactly why I’m asking.

Senator Dawson: Could you give me examples of when the CRTC issued you directives on what you were allowed to say or not say? That’s just not what happens.

The only thing the bill will do is to apply the same rules to internet content that they applied to you. It’s not stifling free speech. You will have the same liberties you had when you were a broadcaster broadcasting from home. A good example is your podcast. Nobody will stifle it, but if Canadian podcasts are going to start making money off products that Canadians are producing, the CRTC wants its fair share of the revenue. That’s the only objective of this addition to the bill.

…

Senator Dawson: … I repeat that modernization does not apply only to new broadcasters. It applies to traditional broadcasters as well. The CRTC will get directives from the minister clarifying these issues. It’s going to be part of a process that’s in the bill of consultation with the players. This will be clarified.

28 June 2021 Senator Dawson’s motion for second reading of Bill C-10 is passed

Senator Dasko:

…

The main goal of Bill C-10 is simple: to apply the rules that are set for traditional broadcasters in Canada to online enterprises that provide broadcast services to Canadian consumers, such as Netflix, Amazon Prime, Spotify and others. That will create a so-called level playing field, which is the government’s key communication message of Bill C-10.

To use the more bureaucratic language, Bill C-10 brings businesses that provide audio or audiovisual online content to Canadian consumers within the scope of the Broadcasting Act such that they will adhere to regulatory obligations in a manner similar to conventional radio and television broadcasters. These so-called online undertakings will be subject to charges, expenditures and requirements to support and promote Canadian programming and Canadian creators.

…

Senators, 30 meetings and over four months at committee stage might be unheard of, but I stand here today to say that this legislation still needs further study.

There are many good elements in this bill. It has serious goals, a good framework and many important elements. Bill C-10 enjoys the support of stakeholders across Canada’s arts and culture and broadcasting communities, including many people in the huge and substantial Toronto cultural community where I live, and this is very important to me. Organizations like the Writers Guild of Canada, the Alliance of Canadian Cinema, Television and Radio Artists, the Canadian Media Producers Association, the CBC and many of Canada’s major television broadcasters support the bill. But there are outstanding issues, which I mentioned earlier, and the process in the other place was fraught.

Above all, colleagues, I feel that public confidence is lacking at this point in time, and I see a positive role for us in this chamber to play in this regard. I look forward to the Senate’s study of this legislation. I strongly encourage colleagues to send this bill to committee so it can receive the sober second thought it so clearly needs. Thank you. Meegwetch.

…

Senator Housakos:

…

The core problem with this bill is that it takes the regulatory tools designated for a small, fixed number of licensed TV and radio stations in the 1990s and attempts to apply it to the vast universe of the internet in the 2020s. In doing so, it gives the CRTC an unprecedented delegation of power with no clear framework or definitions as to how it will be used.

…

Honourable senators, consider this: 127 highly complex and technical amendments to the bill were tabled in committee after witnesses had been heard, including 28 from government members. Collectively, they were longer than the original bill itself. This doesn’t happen often in Parliament, and when it does, it is a sign of a government that hasn’t done its homework and of the need for further study. Stakeholders who have accepted inevitable regulation and taxation and who didn’t see the need to testify at the committee in the House have since seen fundamental changes to the scope of this legislation. They rightfully feel it is imperative that senators hear their concerns about the consequences, unintended or otherwise, of those changes and consider amendments to address them.

…

… [Currently] [p]roposed subsection 2(2.1) says that users who upload programs onto social media sites like Facebook, YouTube and TikTok are not by the fact of that use considered broadcasters, and so are not personally subject to conditions like Canadian content requirements or Canadian Media Fund contributions that will be imposed on streaming services like Netflix and Amazon. This exception is still in the bill, and it is a very narrow exception that basically says that just uploading a video is not enough in itself for you to be regulated, but you still might be, based on other criteria.

[Now deleted] [p]roposed section 4.1 dealt with the programs users upload onto social media sites and said that the CRTC and the Broadcasting Act couldn’t regulate such programs. The Liberal government MPs voted down this part of their own bill.

The key distinction here is that 2(2.1) protects speakers, while 4.1 protected speech. The fact that the CRTC doesn’t consider you to be a broadcaster when you upload a video to YouTube means nothing if they can make YouTube change its algorithms so that almost no one will ever see it. It means nothing if they can instead make people see a video with the kind of content they prefer.

That is the threat to free speech to which our colleague Senator Wallin and others, me included, are referring. It is not that they will contact Millie and tell her to take down her cat video, colleagues, but they can certainly make sure that cat video never sees the light of day by forcing the platform not to prioritize it.

….

29 June 2021 Bill C-10 [is referred to the Standing Senate Committee on Transport and Communications](https://sencanada.ca/en/content/sen/chamber/432/debates/056db_2021-06-29-e#36)