



Ethnic Channels Group Limited

Filed Electronically

November 25, 2016

The Honourable Mélanie Joly
Minister of Canadian Heritage
15 Eddy Street
Gatineau, QC
K1A 0M5

Dear Minister Joly:

Re: Canadian Content in a Digital World – Le Contenu Canadian dans un monde numérique – Public Consultation

A. Introduction

1. These are the comments of Ethic Channels Group Limited (ECGL) regarding the above-mentioned Public Consultation on *Canadian Content in a Digital World*. ECGL is a leading Canadian independent broadcaster, distributor and technology company that specializes in serving Canada's multicultural and multilingual communities across all regions of Canada. ECGL is also a founding member of the Independent Broadcast Group (IBG), which has also filed comments in this consultation.
2. ECGL has read IBG's submission and supports the comments made in that brief. We also wish to provide additional comments that relate in particular to third-language media services and platforms in Canada.
3. We are very pleased that the Department of Canadian Heritage (The Department) has launched this proceeding. It has raised a number of important and timely issues that are highly relevant to Canada's cultural sectors, Canadian citizens and Canada's place on the world stage. As technology and "the Internet of Things" continue to evolve, it is essential that Canada's legislative frameworks and public policies keep pace. This will serve to ensure that Canada's cultural industries continue to incubate new ideas and thrive at home and in the international arena.
4. An environment that fosters innovation, a wide range of ground-breaking platforms and access to engaging and compelling new forms of content



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are essential to our cultural fabric and principles of democracy. We, therefore, very much appreciate the opportunity to be part of this important conversation to ensure Canada's cultural legacy.

B. About ECGL & Television Services for Canada's Multicultural Communities

(i) ECGL's Multicultural Media Services

5. ECGL is a leading independent Canadian broadcaster and technology company, based in Markham, ON. We focus on providing multicultural and multilingual digital programming services in Canada, and internationally. We began operating more than twelve years ago, and currently own, operate or represent over 80 third-language services in Canada. We have built a strong and diverse media group, that offers high-quality, compelling and entertaining content in more than twenty languages, including: **Arabic, Croatian, German, Greek, Hebrew, Hindi, Macedonian, Mandarin, Pakistani, Polish, Portuguese, Russian, Serbian, Tagalog, Tamil and Urdu.**
6. ECGL also has a strong presence in the international marketplace. Our partners and collaborators include some of the world's leading media and content companies including Zee TV (India), Rai International (Italy), Prosieben (Germany), beIN Sport (Middle East), and Multimédios (Brazil). ECGL works tirelessly at maintaining and building our relationships with our international partners, and to promoting the strengths of Canadian platforms, tech services and Canadian digital content in international markets.

(ii) ECGL's Focus on Leading Edge Technology

7. ECGL strives to remain at the cutting edge of advancements in technology. We, and our related companies, have developed innovative ways for the transport of digital content across a range of platforms in Canada and in global markets. We also recently completed the construction of our new state of the art facility in Markham, ON, that offers opportunities for the production and editing of new digital content, as well as the incubation of leading edge technologies and platforms. ECGL was also one of the first in Canada to use IPTV technology, and launched



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NexTV a decade ago, which is an on-line IPTV service that distributes tailored packages of international channels and third-language digital content.

(iii) *ECGL's Diverse Workforce*

8. A point of great pride for our company is that a significant portion of our workforce and executive colleagues are drawn from Canada's diverse cultural communities. This allows us to provide the best possible service to our audiences on-air, across all platforms and behind the scenes. It also allows us to respond to the changing needs of the communities and citizens that we serve, and to ensure that their experiences are well reflected in the digital content we provide. We have attached as **Appendix 1** a list of the Canadian third-language and ethnic media services that ECGL currently operates in Canada.

C. Media Platforms for Canada's Multicultural Communities

9. Our extensive experience in the multicultural broadcasting sector has provided ECGL with a deep understanding of the needs and interests of Canada's ethno-cultural communities. We know that these diverse communities are heavily reliant on multicultural television and media services for integration into Canadian society. We also know that these communities look to third-language television programming services for information about their community in Canada and back home. Older multicultural audiences also tend to prefer third-language programming in order to access programming in their mother tongue.
10. As recently pointed out by Statistics Canada, "Canada is a multicultural society whose ethno-cultural make-up has been shaped over time by immigrants and their descendants."¹ Based on the 2011 Census, Canada had a population of approximately 6,775,800 foreign-born individuals who arrived as immigrants in 2011. They represented 20.6% of the total population in Canada. And, among the G8 countries, Canada had the highest proportion of foreign-born population. This was well above Germany at 13% of the population in 2010, and the US with 12.9% of the population in 2010.²

¹ Statistics Canada, "Immigration and Ethnocultural Diversity in Canada", 15 September 2016.

² *Ibid.*



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11. As the *Speech from the Throne* recently pointed out:

*“Diversity is Canada’s Strength...Canada is strong because of our differences, not in spite of them. As a country, we are strengthened in many ways: by our shared experiences, by the diversity that inspires both Canada and the world, and by the way that we treat each other.”*³

...

*“[t]he Government will make it easier for immigrants to build successful lives in Canada, reunite their families, and contribute to the economic success of all Canadians.”*⁴

12. ECGL fully agrees. Our country’s strength lays in its diversity, and in ensuring that all Canadian citizens, regardless of their ethnicity or cultural backgrounds, are welcome and thrive.

D. Public Consultation – Canadian Content in a Digital World

13. In this Public Consultation, the Department has sought comments on ways to strengthen the creation, discovery and export of Canadian content in a digital world. Indeed, the Department is seeking to “build a new model for how the federal government can best foster creativity and support Canadian culture.”⁵ To that end, the Department has established three principles:

1. *Focusing on Citizens and Creators: a new model must both respect citizen choice and support content creation.*
2. *Reflecting Canadian Identities and Promoting Sound Democracy: Canada’s diversity is a strength and Canadian content that reflects our diversity strengthens our democracy. And,*
3. *Catalyzing Social and Economic Innovation: the social benefits of culture are well understood. A strong cultural sector contributes to the*

³ *Speech from the Throne to Open the First Session of the Forty-second Parliament of Canada*, 24 November 2016.

⁴ *Ibid.*

⁵ Government of Canada, “*Canadian Content in a Digital World – Le Contenu Canadien dans un monde numérique – Focusing the Conversation*”, Consultation Paper, September 2016.



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*vitality of our communities. By sharing our stories with one another and engaging in dialogue, we build an inclusive and open society where citizens can freely express themselves.*⁶

14. To achieve this, it is imperative that Canada's legislative and policy frameworks foster an environment that ensure the presence of a broad range of media services and innovative platforms that are available and discoverable for Canada's vast and growing multicultural communities. It is also critical that our cultural landscape fosters the creation of multicultural and multilingual content reflective of the aspirations and perspectives of Canada's diverse ethno-cultural communities.

15. To achieve this, ECGL makes two key recommendations:

1. Ensure that the legislative and policy frameworks foster the presence of strong ethno-cultural and multilingual media services and platforms to ensure continued access to a diversity of informative and entertaining content in Canada; and,
2. Ensure that the legislative and policy frameworks support the integrity of Canadian digital content and digital media services, from which follows further innovation and strong cultural industries for the benefit of Canadians.

16. The following expands upon each of these two recommendations.

E. Legislative Framework to ensure Access to Multicultural and Multilingual Media Platforms and Content

17. As stated above, Canada's new legislative framework should foster the presence of strong ethno-cultural and multilingual media platforms to ensure continued access to a diversity of content in Canada. This will help ensure that all Canadians have access to content that is meaningful and pertinent to them. It will also allow the Government of Canada to help immigrants and new Canadians to build successful, full and enriched lives in Canada.

18. Access to engaging, informative, inspiring and entertaining third-language content from Canada – and the world, and reflecting diverse Canadian experiences in the digital economy in a multitude of languages spoken in

⁶*Ibid.*



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our country will also serve to promote a sound democracy. **Such objectives should be reflected in any revisions to Canada's *Broadcasting Act* that may ensue following this consultation.**

19. **These objectives should also be reflected in the regulatory and policy tools that implement the objectives of our broadcast legislation.** Canada's broadcast and telecommunications regulator, the Canadian Radio-television and Telecommunications Commission (CRTC or Commission), is an arm's length quasi-judicial body that is under the purview of the Department. In the CRTC's new regulatory framework for television adopted in the Let's Talk TV proceeding of 2014/2015, the Commission adopted a detailed and comprehensive approach to help strengthen Canada's television system, and the Canadian independent production sector, to enhance the creation of high-quality and compelling Canadian programs, for Canadian and international audiences.
20. While there are many aspects of that Commission's Let's Talk TV Framework that will serve to strengthen **Canada's television and production industries, its approach for multicultural and third-language media services raises serious concerns for ECGL.** To that end, the Commission has granted greater flexibility to the larger mainstream media companies to allow them to respond to the changing digital media ecosystem more readily than that which has been provided to smaller, niche third-language multicultural media services.
21. ECGL has raised this issue with the CRTC following the issuance of the Let's Talk TV Decisions, and most recently within the Commission's proceeding set out in Broadcasting Notice of Consultation 2016-385 (BNC 2016-385). In this regard, the Commission has maintained a Canadian content exhibition requirement for third-language discretionary services of 15% of the evening broadcast period (6:00 p.m. to midnight). In the Let's Talk TV proceeding, however, the Commission removed the evening Canadian content exhibition obligation for all licensed English and French-language mainstream services such as Bravo, Showcase, Teletoon/Télétoon, the Food Network and The Movie Network.
22. ECGL has respectfully requested that the Commission adopt the same exhibition rules for multicultural third-language media services as those adopted for the leading mainstream television services. An evening Canadian content exhibition obligation on third-language services may



have a significant financial and competitive impact on Canadian third-language services. These services operate in direct competition with non-Canadian third-language services that have an open entry in Canada and which offer programming that is directly competitive in the same genres. Consequently, the competitive realities in the Canadian broadcasting system are such that scheduling on Canadian third-language services is of significant importance.

23. While Canadian programs are valuable, they do not fare well in time-slots that are directly competitive with the most-popular non-Canadian third-language programs in the evening broadcast periods. Further, if an evening exhibition requirement is placed on third-language services, greater regulatory flexibility will be granted to English- and French-language discretionary services than to the smaller services within the Canadian broadcasting system.
24. In the highly competitive and rapidly evolving digital media environment, Canadian third-language services very much require the same increased scheduling flexibility that the Commission has granted to English- and French-language discretionary broadcasters. Such regulatory flexibility will grant third-language services with the authority to schedule Canadian programs at the optimal time during the broadcast day, and to compete effectively with non-Canadian programming services.
25. ECGL will continue to raise this issue with the CRTC. Canadian third-language services offer an important public service to Canada's multicultural communities and meet a number of important public policy objectives of the *Broadcasting Act*, including 3(1)(d) which reads as follows:
- "[T]he Canadian 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,"...*
26. In our respectful view, it is of vital importance to ensure that appropriate legislative and policy mechanisms are in place to allow multicultural and third-language media services to innovate and offer services that reflect



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the needs, interests and aspirations of Canada's diverse citizens. This in turn will go a long way to ensuring strong cultural industries for Canada in the digital era, and for building a strong, diverse and prosperous nation for Canada.

F. Legislative and Policy Frameworks to Ensure the Integrity of Canadian Digital Content and Platforms

27. In this new digital era, Canadians now have deep access to television content in any language from around the world, wherever they are – and on the digital platform of their choice. There are a number of on-line platforms that offer content for which they have the requisite program rights, such as Netflix, NexTV, Google Play, illico.tv, Amazon, and the list goes on. In the ethnic media space, however, there is an increasing number of over-the-top (OTT) services that are providing ethnic content directed to Canadians without obtaining the Canadian broadcast rights to do so.

28. These illegal services charge very little, if anything, to viewers and completely by-pass the regulated system. This diminishes the integrity of the Canadian broadcasting space, and the program rights market (which is the foundation of the *Broadcasting Act*), and limits the ability of legitimate Canadian services to properly serve their audiences, including multicultural and diverse communities. The availability of illegal services will encourage Canadians and subscribers to leave the regulated media space system altogether given its mounting costs, which in turn will stifle innovation and competition.

29. In a recent Superior Court of Ontario decision on copyright infringement, Justice Fred Myers of the Ontario Superior Court stated:

“If technology has overcome the existing laws and policies, it is open to interested parties to put the issues to the CRTC to try to revise the policies and the definitions... This decision says what the law is. It is for others to determine what the applicable law ought to be.”

30. Hence, there is a key role for the Department and the CRTC to play in the area of illegal use of broadcast signals in the new digital era. Moreover, it is of critical importance that Canada's copyright regime



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and the CRTC limit the availability of illegal OTT services in Canada that target and serve Canadian audiences. Canada's copyright regime should also ensure that appropriate mechanisms be put in place to foster strong broadcasting and content distribution sectors for Canada.

G. Conclusion

31. In this rapidly changing digital environment it is important that Canada's legislative and policy frameworks reflect the current experiences and realities of Canadian citizens and cultural innovators. It is also important that all Canadians find themselves reflected in and well-served by the digital media services available. This will help foster a strong cultural sector for Canada, celebrate and build upon Canada's diversity, enhance Canada's place on the world stage, and promote a sound democracy Canada.

32. We appreciate the opportunity to file these comments. We would be pleased to meet with the Department and the Minister at your convenience to discuss our proposals further.

All of which is respectfully submitted.

Ethnic Channels Group Limited
per:

Slava Levin
CEO

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