



The Honourable Mélanie Joly  
House of Commons  
Ottawa, Ontario  
Canada

RE: Consultation on Canadian content in a digital world

Dear Minister Joly:

Netflix submits the following comments in response to the Canadian Heritage consultation on Canadian content in a digital world.

Canadians have more options for video entertainment than ever before.<sup>1</sup> This competition and choice was built on an open Internet, and it has enabled video streaming services like Netflix to reach audiences directly, providing additional choices for Canadians. Given the many choices Canadians have, our goal is to compete for consumer attention with compelling stories and an appealing user interface. Netflix provides a growing number of hours of 4K video and other innovations designed to offer Canadians what they want to watch, when they want to watch it.

### **Netflix as an Investor in Canada**

Canada's content industry is one of the most vibrant in the world. Canada has world-class producers and top notch talent and facilities,<sup>2</sup> including a leading animation industry.<sup>3</sup> Canadian

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<sup>1</sup> "Canadians have access to over 600 Canadian and non-Canadian television services. Most still watch television by traditional means, whether it be over-the-air, or via cable, satellite or IPTV. However, Canadians are also turning to new platforms and devices connected to the Internet for their video content consumption.": *see* CRTC Communications Monitoring Report 2016, *available at*

<http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2016/cmr4.htm#a4>.

<sup>2</sup> *See* Hollywood executive makes commitment to Surrey, *available at*

productions have found commercial success and critical acclaim at-home and across the globe. As the Canadian content in a digital world consultation paper correctly states: Canada makes “binge-worthy television.”<sup>4</sup>

Netflix is an active investor in movies and TV series made in Canada and our investments are substantial. Netflix partners with Canadian producers to bring new content--including certified Canadian content--to our members worldwide. Netflix has also acquired existing Canadian content for our service in Canada and other markets around the world, including productions from the CBC, Radio Canada, the National Film Board, and private sector producers. This includes titles such as *Heartland*, *Murdoch Mysteries*, *Payback*, *Les Parent*, *Strange Empire*, *The Tudors*, *Cairo Time*, *Caillou*, and *Série Noire*.<sup>5</sup> In Canada, Netflix provides a new window for Canadians to access older Canadian content otherwise not readily available to them, including content that may otherwise have difficulty finding an audience.

Netflix’s acquisition of content produced in Canada has provided financial support to the Canadian production industry and increased global distribution of Canadian stories.

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<http://www.theglobeandmail.com/news/british-columbia/hollywood-executive-makes-commitment-to-surrey/article31980796/> (quoting executive producer of Netflix original series *Altered Carbon*, David Ellison, on why he enjoys working on productions in Canada: “The cast and crew and overall talent in all of British Columbia is second to nowhere in the world, so we absolutely have loved everything we have gotten to shoot here and look forward to a very long history”); Even digital platforms not present in Canada are producing content in Canada. Amazon Prime’s acclaimed series *Man in the High Castle* was filmed in British Columbia.

<sup>3</sup> See Canadian animation know-how behind The Little Prince movie, available at <http://www.rcinet.ca/en/2016/02/15/canadian-animation-know-how-behind-the-little-prince-movie/>, (stating “what has attracted Hollywood producers to places like Montreal, Toronto and Vancouver was not only that it made financial sense, but also that they could find here top-notch talent”).

<sup>4</sup> See Consultation Paper: Canadian content in a Digital World - Focusing the Conversation, available at <http://www.canadiancontentconsultations.ca/consultation-paper>.

<sup>5</sup> The availability of titles varies market to market.

## Netflix Originals Produced in Canada

Netflix is increasingly focusing on exclusive original content. Netflix originals are chosen because they are what our members want to watch. In 2016 alone, we've commissioned hundreds of millions of dollars of original programming produced in Canada. And Netflix has made dozens of commitments in 2016 for Netflix original movies and television series that will be produced in Canada, making it one of the top 3 locations currently for original productions (along with the US and UK). Some of the Netflix originals produced in Canada include 'Canadian content' co-productions with Canadian producers and broadcasters, such as *Anne*, *Alias Grace*, *Travelers*, *Frontier*, *Between*, *Degrassi: Next Class*, *Orphan Black*, and *Some Assembly Required*. Other Netflix originals made in Canada may not qualify as Canadian content, but make use of Canadian creative and other resources, such as *Trailer Park Boys*, *Special Correspondents*, *Van Helsing*, *I Am the Pretty Thing That Lives In the House*, *Lost in Space*, *A Series of Unfortunate Events*, *Altered Carbon*, *Okja*, *Death Note*, *Dirk Gently*, *Hemlock Grove*, and *Haters Back Off*; and Netflix original kids titles such as the *Little Prince*, *Beat Bugs*, *Lost and Found Music Studios*, *Inspector Gadget*, *Hilda*, *Luna Petunia*, *True and the Rainbow Kingdom*, *Project MC<sup>2</sup>*, *Justin Time Go!*, and the *Magic School Bus 360*.<sup>6</sup>

Netflix works with Canadian producers to create original programming because we have found movies and TV series in Canada that will bring our members joy. Whether a producer wants to work inside or outside of the Canadian content regulatory framework is not a part of that decision. As two of the executive producers of *Orphan Black*, a Netflix original series in some Netflix markets, Ivan Schneeberg and David Fortier rightly recognize, “[Over-the top

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<sup>6</sup> The availability of titles varies market to market.

streaming services are] agnostic, in terms of the nationality of the producer, but very particular in terms of wanting the quality to be great. So, what we've realized in this era – this so-called Golden Age of TV – is, if you can make really great stuff, you will sell it. And you will make money off of it. So it's become a creative meritocracy, more so than it's ever been.”<sup>7</sup> Canadian producers are well positioned to compete in the “Golden Age of TV” and government policies should embrace this virtuous cycle.

Producers of Canadian content receive financial incentives on the basis of meeting criteria determined by the Canadian Radio-television and Telecommunications Commission (CRTC), the Canadian Audio-Visual Certification Office (CAVCO) and/or the Canada Media Fund (CMF). That support is provided irrespective of Netflix's involvement. Any additional investment from Netflix is provided in exchange for the rights to license that content *outside of Canada* and may include a second window in Canada. Since we don't have first window rights in the production's domestic market, our investment reflects our belief that Canadian content has global appeal. Netflix investment may enable the producer to increase the quality of the production above and beyond what would otherwise be possible. Therefore, Netflix investments multiply the impact of public support.

But productions that are not Canadian content still support the Canadian production industry<sup>8</sup> and showcase the talent of Canadian creators globally. For example, *ARQ*, a Netflix original film, was filmed in Canada by Canadian production company Blue Ice Pictures, written and directed by Canadian screenwriter Tony Elliot, starred Canadian actor Robbie Amell, and

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<sup>7</sup> See Orphan Black producers see bright future for Canadian TV, *available at* <http://www.theglobeandmail.com/arts/television/orphan-black-producers-see-bright-future-for-canadian-tv/article32296865/?ord=1>.

<sup>8</sup> See Netflix miniseries shoot takes over Kingston, *available at* <http://www.ckwstv.com/2016/11/09/134890/>, describing the benefits of production activity that Netflix original series, *Alias Grace*, is bringing to Kingston, ON.

featured a Canadian director of photography, but falls outside of the Canadian content framework. This, however, meant that Netflix members in Canada were able to watch *ARQ* on Netflix at the same time it became available to Netflix members around the world. Although service productions may not be eligible to be recognized as Canadian content, each of these productions make considerable use of Canadian creative talent and other resources.

In any case, Netflix productions generate a lot of activity for Canada's audiovisual production industry and showcase the talent of Canadian producers around the world. As a director of Netflix original series *Frontier*, Brad Peyton said, "I really wanted to show that a Newfoundland cast and crew — with a little help from our American and British friends — could make world class material."<sup>9</sup>

### **Digital Distribution: Delivering Content Produced in Canada to Canadians and Consumers Around the World**

A Canadian producer can choose to premiere their content with a local broadcaster or cable network, or license it to one of the many distributors or networks around the world. So Netflix and other online video streaming services provide new and additional opportunities for Canadian producers to reach domestic and international audiences. As the Canadian producer of Netflix original movie *I Am the Pretty Thing That Lives In The House*, Rob Menzies said, "Netflix is really changing the game for independent producers. [...] A small movie like this one can be seen by Netflix viewers around the world."<sup>10</sup>

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<sup>9</sup> See Lights, camera, action! *Frontier* comes to life at red carpet premiere in St. John's, available at <http://www.cbc.ca/beta/news/canada/newfoundland-labrador/frontier-premiere-st-johns-jason-momoa-allan-hawco-1.3838811>.

<sup>10</sup> See Netflix giving Ottawa film, TV producers chance to shine, available at <http://www.cbc.ca/news/canada/ottawa/netflix-ottawa-local-tv-film-production-1.3831336>.

In the case of *Anne* and *Alias Grace*, Canadian producer Halfire Entertainment has licensed the exclusive first window in Canada to the Canadian Broadcasting Corporation, and the exclusive first window rights *outside of Canada* to Netflix. This enables Canadian stories to reach a global audience. As one reporter put it simply, "...airing [*Anne*] on Netflix will further introduce *Anne* to a generation of new fans outside Canada."<sup>11</sup> The Netflix announcement for *Anne* was picked up by outlets around the world, including in the U.S.,<sup>12</sup> U.K.,<sup>13</sup> Australia,<sup>14</sup> Japan,<sup>15</sup> and India.<sup>16</sup>

Similarly, the Canadian broadcaster partner had exclusive first window rights for Canada on each of the following Canadian content original productions: *Between* (Rogers' City TV), *Travelers* (Corus Entertainment's Showcase), *Frontier* (Bell Media's Discovery Channel) and *Degrassi: Next Class* (DHX Media's Family Channel). And for each of these productions, Netflix acquired exclusive first window rights for markets outside Canada.

Canadian producers benefit from the greater global demand for exclusive programming, international exposure of their work, and the additional revenue streams created by digital distribution. These benefits in-turn lead to better and more innovative production. Ivan

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<sup>11</sup> See Millbrook Was Beautifully Transformed Into Charlottetown, PEI For New CBC/Netflix TV Series "Anne", available at <http://www.ptbocanada.com/journal/2016/11/8/millbrook-was-dramatically-transformed-into-pei-for-new-tv-Anne-of-green-gables-tv-series>.

<sup>12</sup> See Oh, Gilbert! 'Anne of Green Gables' Is Coming to Netflix, available at [http://www.nytimes.com/2016/08/23/arts/television/oh-gilbert-Anne-of-green-gables-is-coming-to-netflix.html?\\_r=1](http://www.nytimes.com/2016/08/23/arts/television/oh-gilbert-Anne-of-green-gables-is-coming-to-netflix.html?_r=1); see Netflix and CBC Team for 'Anne of Green Gables' Adaptation, available at <http://blogs.wsj.com/speakeasy/2016/08/22/netflix-and-cbc-team-for-Anne-of-green-gables-adaptation/>.

<sup>13</sup> See Breaking Bad writer to create new version of Anne of Green Gables, available at <https://www.theguardian.com/media/2016/jan/13/breaking-bad-writer-Anne-of-green-gables-moira-walley-beckett>.

<sup>14</sup> See Anne of Green Gables is headed for Netflix, available at <http://www.news.com.au/entertainment/tv/Anne-of-green-gables-is-headed-for-netflix/news-story/49567b95d6fcf002c3f2dbc45b61de59>.

<sup>15</sup> See <http://cinema.pia.co.jp/news/0/68078/>.

<sup>16</sup> See 'Anne of Green Gables' TV Adaptation Picked Up at Netflix, available at [http://huntnews.in/p/detail/3898470791430762?xlang=en&uc\\_param\\_str=dnfrpfbivesscpgimibtbmntnijblauputoggdnw&pos=1471881091157&chAnnel=entertainment&chncat=category\\_english](http://huntnews.in/p/detail/3898470791430762?xlang=en&uc_param_str=dnfrpfbivesscpgimibtbmntnijblauputoggdnw&pos=1471881091157&chAnnel=entertainment&chncat=category_english)

Schneeberg and David Fortier have said that they “have watched English-language Canadian TV become respected around the world. A confluence of factors, including the advent of streaming services such as Netflix, has brought more money into the Canadian system.”<sup>17</sup>

### **A Platform for Innovative and Inclusive Content**

Video services have historically been bound by a linear program schedule and reliance on advertising. This meant they have put a premium on airing content that will appeal to the widest audience during times they can attract the most viewers. Online business models such as Netflix’s depend instead on consumers consistently finding content to watch. On-demand services do not rely on getting millions of people to watch a single show at a pre-determined time; they derive value from the entire period that the content is licensed and available on the service. This gives Netflix the freedom to offer unique storytelling formats and “niche” content, accessible by our members whenever they want to view it.

For example, Netflix acquired *Blackstone*, which first aired on Canada’s Aboriginal People’s Television Network and depicts life on a First Nation Reserve. The series is available to Netflix members all around the world. In Canada, it is available on Netflix among other diverse Canadian titles such as the *Book of Negroes*, *Highway of Tears*, *Sabah*, *Laurence Anyways*, and *First Winter*. Netflix has also been a leader in telling female-led stories. Anne Shirley in *Anne*, for example, “stands the test of time to continue being an inspirational and even feminist character.”<sup>18</sup>

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<sup>17</sup> See Orphan Black producers see bright future for Canadian TV, available at <http://www.theglobeandmail.com/arts/television/orphan-black-producers-see-bright-future-for-canadian-tv/article32296865/?ord=1>.

<sup>18</sup> See 'Anne of Green Gables' Is The Strong Teen Female Netflix Has Been Missing, available at <http://moviepilot.com/posts/4049614>.

Netflix is also a leader in making content accessible to our Canadian members with vision and hearing impairments. Netflix offers over 1,700 hours of audio descriptions in Canada and all of the titles on the service in Canada have subtitles and/or captions. We have nearly 5,000 hours of content with French subtitles and/or captions.<sup>19</sup> This means that Netflix members with visual and hearing impairments can enjoy Canadian content like *Trailer Park Boys*, *Degrassi*, and *Between*.

### **Discoverability, In Canada and Out**

Netflix focuses on ensuring that our members are consistently able to find content they want to watch. Netflix is able to do this through the creation of specific genre categories and the Netflix recommendation algorithms. This means that members who love Canadian produced content will be able to find more.

Netflix organizes content into thousands of different genres and micro genres so that our recommendation algorithm can make highly personal recommendations. There are a number of micro genres that feature content produced in Canada.<sup>20</sup> Some of these genres range from the traditional, such as “Canadian Documentaries” and “Canadian Comedies,” to the more specific and obscure, such as “Canadian 20th century period pieces,” and “Canadian Independent Movies Based on Books.” The exact titles available in each micro genre vary depending on what titles are available in a particular market. But the micro genres combined with the recommendation algorithm help ensure that consumers who enjoy content from Canada are presented with more.

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<sup>19</sup> This is subject to change as content is added and removed from the catalogue.

<sup>20</sup> The Canadian genres do not necessarily reflect “Canadian content” as defined by CAVCO or the CRTC.

Netflix recognizes that Canadian produced content is well-positioned to be successful in Canada. Content produced in the same linguistic, cultural, and artistic context as the member watching has an inherent advantage. Netflix highlights Canadian genres for our members watching in Canada for this reason. In Canada, the “Canadian Movies” genre is always readily available in the “Browse” menu on the desktop user interface and a Canadian movies row may appear on a member’s home screen if she has enjoyed Canadian produced movies in the past.

Netflix recommendations also work to ensure members around the world are presented with Canadian produced content that they are likely to enjoy. For example, a Netflix member in Germany who likes horror films may be recommended the Netflix original film, *I Am the Pretty Thing That Lives In the House*.

Furthermore, Canadian produced Netflix originals may benefit from enhanced placement and marketing. Netflix invests in the production and licensing of Netflix original series because we believe that such content will be popular with our members. Therefore, we may highlight ‘Netflix original’ content that was produced in Canada--like *Travelers*, *Degrassi: Next Class*, *Trailer Park Boys*, *Between*, and *ARQ*--in the user interface not only in Canada, but worldwide. Canadian produced Netflix originals may also be promoted by way of other marketing efforts, such as on social media.

### **An Open Internet is Key to these Developments**

As the Consultation paper rightly acknowledges, an open Internet drives innovation and competition, as well as new opportunities for cultural expression and export of Canadian cultural products to the world. It is Netflix’s ability to access consumers directly, via an open Internet,

that provides Canadian producers with access to a worldwide audience. A medium without gatekeepers is one where stories find their audience based on consumer demand. Netflix is pleased that the Consultation paper recognizes the critical importance of an open Internet to the policies ultimately adopted by Heritage in this inquiry.

## **Conclusion**

Netflix investments in Canada are significant. The dozens of Netflix original co-productions and productions, as well as all of the licensed Canadian content available to members around the world, provide organic financial support and global exposure to the Canadian cultural industry. Netflix helps to bring Canadian stories to our members around the world, supporting the virtuous cycle of content investment and innovation in Canada. The open Internet is central to this inquiry. Unrestricted competition and innovation have led to greater investment, higher quality production, and broader distribution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joshua Korn". The signature is fluid and cursive, with a long horizontal stroke at the end.

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