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Hon. Mélanie Joly, PC, MP
Minister of Canadian Heritage
House of Commons
Ottawa, ON
K1A 0A6

Dear Minister:

Canadian Content in a Digital World/Le contenu canadien dans un monde numérique – Rogers Communications Inc. Submission to Government of Canada Consultation

I. INTRODUCTION

1. Rogers Communications Inc. (Rogers) is pleased to participate in this very important consultation on developing a new framework to foster creativity and to support Canadian culture in a digital world.[1] As we look forward to 2017 and the 150th anniversary of the founding of this country, we are struck by the success that has been achieved to date by Canadian content creators and distributors. Notwithstanding this success, we are also aware that the current funding model for Canadian content is out-dated and has not kept pace with the emergence of digital platforms. We believe a new model for the creation of content will enable Canada to realize its full potential as one of the strongest and most competitive creative economies in the world.

2. This submission draws from the proposals outlined in a paper recently prepared by Richard Stursberg, which was presented as part of a panel discussion held at the University of Ottawa on November 2, 2016 by the Centre for Law, Technology and Society. Rogers helped fund Mr. Stursberg's research in order to contribute to the dialogue taking place around this consultation process. We support many of the proposals set out in the paper and we have engaged other stakeholders through the University of Ottawa event and news media to assess their views. We are pleased to report that most of them have responded favourably to the ideas outlined by Mr. Stursberg.

3. Rogers is one of Canada's leading communications and media companies with state-of-the-art networks, strong media brands and advanced communications services. We are Canada's largest wireless communications provider and a leading provider of cable television, high-speed Internet and telephony services. Through Rogers Media, we are

[1] *Consultation Paper*, Canadian Content in a Digital World/Le contenu canadien dans un monde numérique – Government of Canada Consultation: Focusing the Conversation, September 2016.

engaged in radio and television broadcasting, televised shopping, magazines and trade publications, sports entertainment, and digital media. Last year alone, we invested more than $580 million into Canadian content. Our objective is to provide consumers with a range of compelling content that inspires, informs and entertains and to do it on the platform of their choice.

4. This consultation is taking place at a critical time in Canada's history when a wave of innovation is altering the way Canadians consume cultural products and services. We are no longer living in a world dominated by one-way broadcasts and appointment viewing. Consumers want to access all types of content, at any time, on any device and over any platform.

5. In this new world, it is no longer sufficient to rely primarily on the regulated Canadian broadcasting system and the film industry as the means to support Canada's cultural sector. Advancements in the Internet, mobile networks, satellite and cable television have allowed content creators and cultural entrepreneurs throughout the world to deliver content directly to Canadian homes. Those same advancements have enabled Canadians to export content to international audiences.

6. Our funding mechanisms have to evolve to keep pace with these changes and to ensure that Canada's creators and cultural entrepreneurs continue to produce compelling and engaging content for Canadian and international audiences.

7. In this submission, Rogers proposes a new model to support the creation of Canadian content. It is content agnostic, producer agnostic and platform agnostic. It builds upon existing mechanisms and ensures that they will continue to support content creators and cultural entrepreneurs as they adapt to the new digital environment and plan for the future. It is also designed to assist content creators in making contributions that strengthen and support a sound democracy, by reflecting diversity and by incenting the production of news and information that is credible and reliable. At the same time, it encourages these creators to develop tools to export Canadian content beyond our borders. We then address the specific questions asked in Part 3 of the Consultation Paper, titled *Pillars of the Approach*.

II. A NEW FUNDING MODEL FOR CANADIAN CONTENT

(a) A principled approach

8. Rogers is proposing a set of changes to Canada's existing production and distribution support mechanisms to ensure that Canadian content flourishes in this new environment, while also enabling traditional media to make the transition into the digital world. Our model is forward-looking and is based on four core principles:

    - first, all funding should be provided in the form of tax credits in order to simplify access to support and to maximize administrative efficiencies;

- second, all content - including news, documentaries, drama, comedy, reality, virtual reality and video games - is worthy of support and should be eligible for tax credits[2] (content agnostic);

- third, tax credits should be issued to content creators, regardless of the platform they use to distribute their content (platform agnostic); and

- fourth, all Canadian content creators, including broadcasters, should have access to the tax credit system for financing Canadian content (producer agnostic).

(b) A new model that builds on existing mechanisms

<u>(i) Tax credits</u>

9. The initial step is to amalgamate the existing funding programs that currently provide financing for Canadian content and to transform them into a new agency – the Canadian Content Investment Agency (CCIA). This new agency would be responsible for administering all financial support for Canadian content at the federal level. Under our model, the CCIA would replace the administrative functions of Telefilm Canada (feature film), the Canada Media Fund (CMF) (television and digital content) and the Department of Canadian Heritage (Canadian Periodical Fund). It would operate as an extension of the Canadian Audio Visual Certification Office (CAVCO) and would be the sole source of federal support for Canadian content production.

10. The mandate of the new federal agency would be to issue tax credits to content producers as a means to support the production, promotion and export of Canadian content on any platform. The current point system for defining Canadian content would be modified to extend to a broader range of content and would determine how much funding a project would receive based on the total investment in the project and the use of Canadian creative talent (labour). The threshold for accessing the tax credit regime would be similar to the current 6/10 point system that is used today.

<u>(ii) All content would be eligible (content agnostic)</u>

11. Tax credits should be granted to all types of content. This would include almost all traditional genres, such news, documentaries, drama, reality, lifestyle and entertainment programs, but would also include newer innovations like virtual reality content and video games. The only types of Canadian content that the Canadian Government might consider excluding from this tax credit regime would be those traditional programming genres that are already flourishing in the digital environment and are being fully monetized without government assistance. This would include sports programming.

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[2] Our recommendations focus solely on the print and audio-visual sectors. We do not make any recommendations regarding funding mechanisms currently supporting the music sector.

12. In proposing to include “news” as a content category that would qualify for support, we are mindful of concerns regarding journalistic integrity and independence and the potential for the federal government to influence the meaning or purpose of the news through its control over funding.[3] To address those concerns, the new tax credit mechanism would be administered by a body that would be independent and operate at arm’s length from government. Strict and transparent terms of engagement would be implemented for the CCIA that would be akin to a blind trust. Further, the fact that tax credits would be issued automatically under clear, transparent and pre-defined rules, would overcome concerns about government funding of news content.

13. While we have not, at this stage, identified all of the criteria that would have to be satisfied in order to be eligible to receive a tax credit, there would have to be some limits in order to prevent over subscription and excessive production of unscripted content, like reality TV shows. To address these concerns, the Canadian Government could, at the beginning of each year, set a cap on the number and value of the tax credits that could be issued for that year. It could also impose an obligation on the part of each content creator to achieve a certain benchmark, such as a degree of success either in terms of revenues or audiences, before a tax credit would be issued.

14. If these types of criteria (as well as others) are adopted, there is little chance that our tax credit system would “be a recipe for a lot of Canadian reality TV.”[4] The fact is that Canadian reality television programming, which includes shows like The Amazing Race, Bachelor Canada, Canada’s Got Talent and Dragons Den, is largely an international format and is not generally exportable in its domestic forms. If emphasis is placed on international success it would be highly unlikely that reality television could ever come to dominate the tax credit mechanism we are proposing.

15. A tax credit model actually places more risk on the shoulders of the content creator. That is one of its benefits over the current system. It will require content creators to secure financing in advance from a variety of sources including their own investments and that of international partners. In this way, they will have every incentive to create content that would be compelling for Canadian viewers and exportable throughout the world.

16. Our proposal would also ensure a diversity of programming is supported. We acknowledge that the tax credit system we are proposing is designed to reflect market demand so certain genres of programming such as official language minority, third-language/ethnic and Aboriginal productions may be vulnerable. For this reason, we are proposing that a certain amount of funding be reserved for these content creators and administered, on a juried basis, by the Canada Council of the Arts. This would act as a safeguard to ensure that all content creators, including those in underrepresented groups, in Canadian society would benefit from government support.

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[3] Kate Taylor, *Globe & Mail*, “New system for funding Canadian content would rely on tax credits,” November 4, 2016. (http://www.theglobeandmail.com/arts/television/new-system-for-funding-canadian-content-would-rely-on-tax-credits/article32679807/)

[4] Kate Taylor, *Globe & Mail*, “New system for funding Canadian content would rely on tax credits,” November 4, 2016.

17. It is important to note that these content creators would still be eligible for tax credits where there is potential for commercial success for a project, but the safeguard would lie with Canada Council of the Arts. We are, therefore, suggesting that a certain amount of funding be carved out for these genres.

(iii) All platforms would be eligible (platform agnostic)

18. The revised funding mechanism would also ensure that tax credits would be available for content created on any platform. Adopting a platform agnostic model would ensure that Canadians will be able to access Canadian content, however and wherever it is most convenient for them to do so.

19. Today, the vast majority of the federal government's financial support for Canadian content is devoted to television and film, as well as a modest amount for print magazines. In 2015, the government spent $644 million on direct subsidies primarily through the CMF and Telefilm, and provided another $1 billion to the Canadian Broadcasting Corporation (CBC), close to $60 million to the National Film Board (NFB)[5] and close to $75 million for magazines from the Canadian Periodical Fund.[6] Almost all of this money was used to finance the production of Canadian content on traditional platforms.

20. Over the past two decades new digital platforms and services have emerged. These include social media sites like YouTube, Facebook and Instagram, along with digital search engines such as Google, over-the-top (OTT) video streaming services such as Netflix, online video games, shopping services like Amazon and sophisticated Internet sites such as Huffington Post and Tyee. With the exception of some funding provided by the CMF, Canadian content that is produced exclusively for digital platforms does not qualify for support.

21. Adopting our proposal will change that. It will enable content created for any digital or traditional platform to obtain a tax credit. This will ensure that Canada's content creators and cultural entrepreneurs that are responding to the digital phenomenon and are already producing content for those digital platforms will benefit from the federal government's cultural support mechanisms.

(iv) All Canadian content creators, including Canadian broadcasters, are eligible (producer agnostic)

22. To be eligible to receive tax credits, a content producer would either be Canadian, as defined under the *Broadcasting Act* and operate within the regulated Canadian broadcasting system or qualify as Canadian under the *Investment Canada Act* and produce content. This would mean that Canadian broadcasters, as well as independent producers, would be able to access the funding. However, U.S. studios, foreign OTT services and other entities that are not Canadian would not be eligible

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[5] Richard Stursberg, *Cultural Policy for the Digital Age*, presented at the University of Ottawa on November 2, 2016, at page 6.

[6] *Ibid* at page 18. According to Mr. Stursberg, the Canadian magazine industry received close to $75 million in federal support in 2015.

unless they take steps to maintain a presence in Canada and thereby qualify as Canadian under the *Investment Canada Act*.

23. By allowing all Canadians[7] to benefit from this producer agnostic approach, the new model would ensure that the tax credits are issued in a manner that is fair and equitable. The financial benefits associated with the tax credit regime would accrue only to those content creators that would be making a significant financial contribution to the production of Canadian content or would be investing in the Canadian cultural economy by being resident in Canada and paying taxes here.

24. It should be noted that we are <u>not</u> proposing, as part of our proposal, the adoption of a contribution requirement for OTT providers, like Netflix. Given that OTT streaming services do not participate in Canada's regulated broadcasting system and do not, therefore, obtain the benefits associated with the regulatory frameworks thereunder, they should not be required to pay into that system. That said, if an online streaming service, like Netflix, is not going to contribute to the production of Canadian content through the mechanism established by the federal government, it should not benefit from the tax credits and other subsidies that are associated with that framework.

25. In rejecting a "Netflix tax", Rogers is not trying to create a "backdoor" way to eliminate the financial contributions that licensed broadcasting undertakings are currently required to make to the production of Canada content. On the contrary, our tax credit model would provide an incentive to media companies like Rogers, Bell, Corus and others to continue to support the current system of contributions by broadcasting distribution undertaking (BDUs) and Canadian program expenditures (CPE) by broadcasters established under the *Broadcasting Act*.

III. CONCLUSION

26. We believe that the tax credit model that we are proposing is innovative, effective and efficient. It provides the Government of Canada with a mechanism to achieve the objectives outlined in its Consultation Paper without undermining traditional content creators, overhauling Canada's communications statutes (the *Broadcasting Act* and *Telecommunication Act*) or imposing a tax on all Canadian Internet users.

27. We set out below our specific responses to each of the questions asked in Part 3 of the Consultation Paper, titled *Pillars of the Approach*.

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[7] The term "Canadian" means, in this context, a Canadian as defined in section 3 of the *Investment Canada Act*, RSC 1985, c 28 (1st Supp). Given that all licensed Canadian broadcasting undertakings satisfy the criteria for being Canadian under the *Broadcasting Act*, they would also satisfy the test under the *Investment Canada Act* and, as such, would qualify for tax credits under our model.

IV. PART 3 – PILLARS OF THE APPROACH

Principle #1: Focusing on citizens and creators

Pillar 1.1: Enabling choice and access to content

How can we reflect the expectations of citizens and enable Canadians to choose the content that they want to see, hear and experience?

28. Reflecting the expectations of Canadian citizens and enabling them to choose the content that they want to see, hear and experience can be achieved by ensuring that access to those platforms remains affordable to all segments of Canadian society.

29. Any proposal to impose a new fee on ISPs, which would then be passed on to all Canadians who use the Internet, should be rejected. Imposing such a fee on ISPs would certainly qualify as a "tax". It would have all of the indicia of a tax: (i) it would be enforceable by law; (ii) it would be imposed under the authority of Parliament; (iii) it would be imposed by a public body; and (iv) it would be intended for a public purpose.[8] It would apply to everyone and would not discriminate based on usage. Every Internet user or consumer in Canada would have to pay the tax.

30. Such a tax would be regressive and unfair to consumers because it would require almost all Canadians, including many who use the Internet primarily or exclusively for purposes other than streaming large amounts of video, to subsidize those who do. The largest users of network capacity and those most able to afford to pay for their use would be taxed at the same rate as those who rely on the Internet for things other than video streaming. An Internet tax is a blunt instrument that would adversely impact affordability for those who are least able to pay.

31. The Internet is not the same as broadcasting. It is not amenable to the same types of regulatory mechanisms that have been used in the past with respect to traditional broadcasting, such as contributions to production funds and minimum expenditures on Canadian programming.

32. A growing number of Canadians have criticized proposals to impose a new Internet tax. Many, like Dr. Michael Geist, who is a law professor at the University of Ottawa where he holds the Canada Research Chair in Internet and E-commerce Law, have argued that an Internet tax would unfairly target millions of Canadians and make access to the Internet less affordable:

> The reality is that Internet use is about far more than streaming videos or listening to music. Those are obviously popular activities, but numerous studies (CIRA, Statistics Canada) point to the fact that they are not nearly as popular as communicating through messaging and social networks, electronic commerce, Internet banking, or searching for news, weather, and other information. From the integral role of the Internet in our education system to the reliance on the

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[8] *Westbank First Nation v. British Columbia Hydro and Power Authority*, 1999 CanLII 655 (SCC), at 21.

> Internet for health information (and increasingly tele-medicine) to the massive use of the Internet for business-to-business communications, the Internet is about far more than cultural consumption. Indeed, given its importance to virtually all aspects of modern day life, there are few policy goals more essential than ensuring that all Canadians have affordable access to the network. Far from representing an updated approach to cultural funding, an Internet tax would unfairly target millions of Canadians, make access less affordable, and do little to "modernize" cultural funding policy.[9]

33. A similar concern has been raised by numerous groups in Canada that have historically been marginalized and are increasingly relying on the Internet to participate in all aspects of Canadian society. Aboriginal communities, in particular, have sounded the alarm. In an article posted on the Motherboard website by Denise Williams, Executive Director for The First Nations Technology Council, and Josh Tabish, Campaigns Director for OpenMedia, the authors expressed concern that an Internet tax would be regressive and would only expand the digital divide currently separating Aboriginal peoples from mainstream users of the Internet:

> In communities where jobs are few, incomes are seasonal, and the cost of living is very high ($83.49 for a case of water), adoption of broadband technologies is difficult enough. The ISP tax would only serve to exacerbate this problem.
> . . .
> Better ways to fund the promotion of Canadian culture include directing wireless spectrum auction proceeds to Canadian content, imposing GST/HST on foreign online services, or even pulling from general tax revenues.
>
> But taxing Indigenous people to fund Canadian content that scarcely reflects the diversity of our communities and may serve to keep households offline seems abundantly wrong-headed—particularly in the midst of federal efforts to mend relationships with indigenous peoples.
>
> If our aim is to promote Canadian culture then we need to have inclusive policies that address the digital divide, rather than arbitrary, regressive taxes that keep people offline.[10]

34. At the same time, such a mechanism would be legislatively complex to implement because it would require amendments to both the *Telecommunications Act* and the *Broadcasting Act*. Both statutes would have to be amended to require ISPs to support Canadian content initiatives that have only been imposed on broadcasting undertakings under the *Broadcasting Act*. The Supreme Court of Canada has determined ISPs are

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[9] Michael Geist, *Blog*, "No Minister Joly, The Internet Is Much More Than Just Movies, TV and Music," October 31, 2016. (http://www.michaelgeist.ca/2016/10/no-minister-joly-the-internet-is-much-more-than-just-movies-tv-and-music/)

[10] Denise Williams and Josh Tabish, *Motherboard*, "A New Internet Tax in Canada Would Keep Indigenous People Offline," November 2, 2016. (http://motherboard.vice.com/read/a-new-internet-tax-in-canada-would-keep-indigenous-people-offline)

not broadcasting undertakings and cannot therefore be made subject to the cultural and Canadian content objectives contained in the *Broadcasting Act*.[11]

35. For these reasons, Rogers believes that adopting a new tax that would be applied to ISPs and all Canadians who use the Internet would hinder the ability of Canadians to engage in the new digital economy by making the very means by which they can participate more expensive.

Pillar 1.2: Supporting our creators

How can we fairly support creators in the creation and production of content that stands out? What partnerships will be needed to achieve this? How can we help creators have successful and vibrant careers in a digital world?

36. As outlined above, Rogers believes that the most effective, efficient and fair model that could be implemented to support those who create and produce Canadian content is to adopt a tax credit mechanism that treats all content and all Canadian producers the same and supports content created for any platform. By adopting this model, the Government of Canada will ensure that the ecosystem in which content creators and cultural entrepreneurs operate is healthy and vibrant.

37. The key to growing Canada's creative economy is to support large, well-capitalized companies that have the size needed to assume risks, invest in multiple projects and export Canadian content internationally. That is why we believe broadcasters and other well-capitalized Canadian media companies, such as those that own newspapers and magazines, should be eligible for tax credits. Traditionally, the funding mechanisms in Canada have favored smaller independent producers, who are the most poorly capitalized part of the ecosystem. Moving forward, it makes sense to adopt a funding mechanism that encourages the best capitalized parts of that ecosystem to create and distribute content that will reach large audiences, both at home and around the world. To succeed in making better and more exportable content will require that the support system be opened to every Canadian who is prepared to take the necessary financial risks.

38. In addition, we believe there continues to be a role for smaller independent production funds that would operate alongside this new tax credit system. Today these independent production funds, which are supported by financial contributions made by BDUs and certified by the Canadian Radio-television and Telecommunications Commission (CRTC), contribute to Canada's robust production sector.

Principle #2: Reflecting Canadian identities and promoting sound democracy.

Pillar 2.1: Redefine Canadian content for contemporary Canada

[11] *Reference re Broadcasting Act*, [2012] 1 SCR 142, 2012 SCC 4 (CanLII).

With so much online content available today and given Canada's diverse and multicultural makeup, does the concept of Canadian content resonate with you? What does Canadian content mean to you? Do we need to be more flexible in how we support the production of content by Canadians?

39. Rogers believes that the concept of "Canadian content" still resonates with Canadian consumers. Canadian content means content that is made by Canadians for both domestic and international markets. To qualify as "Canadian", content must not only involve Canadian actors, directors and other creative talent, but it must also be produced by Canadians, including those Canadian media companies that have the financial resources to support its production and bring it to market.

40. We noted above that there is a need for more flexibility to be built into the system. The types of Canadian content that are eligible for support should be expanded to include new digital content, like YouTube channels, blogs, on-line content sites, webisodes, virtual reality and video games. Today, the vast majority of the federal government's financial support for Canadian content is devoted to a small subset of traditional content genres, like dramas and documentaries, offered on traditional platforms, such as television and film. That has to change in the digital world.

41. To accommodate these new content genres and types of content, we are proposing the adoption of a modified point system that would be linked to the use of Canadian creative talent, investments in Canadian content and audience impact/success which could be measured by revenues or export to international markets.

In an ultra-competitive global market, how can the private sector support the production of content made by Canadians? What is the role of Canada's national cultural institutions, such as CBC and the National Film Board?

42. In order for the private sector to continue to support the production of content made by Canadians, it is essential for the federal government to ensure that Canada's media companies and content creators operate in a fair and efficient digital market that does not disadvantage them at home. In addition to the tax credit mechanism outlined above, Rogers believes there are three changes that need to be implemented to support Canadian content creators.

43. The first is to require all OTT video and audio streaming services and other digital medial platforms that operate in Canada, including Netflix, Spotify, Facebook and Google, to pay Canada's harmonized sales tax (HST). While we believe that there is sufficient money in the current system for the CCIA to achieve its mandate today, it is also our view that, like every other commercial business operating in this country, OTT services and other digital media platforms should be required to remit HST to the Canadian Government when they are engaging in commercial activities and doing business in Canada

44. Many of these foreign digital media platforms are doing business in Canada today under an exemption from licensing that was issued by the Canadian Radio-television and Telecommunications Commission (CRTC) pursuant to subsection 9(4) of the

Broadcasting Act.[12] As such, they are not subject to the complex set of regulatory requirements, including Canadian content contribution and CPE obligations, established by the CRTC for most licensed broadcasting services. Yet, they are obtaining revenues directly from Canadian consumers who subscribe to their services. As noted above, we do not think that these foreign digital media services should be required to contribute to the new tax credit funding model outline in this submission. But they should be required to pay Canadian sales taxes like every other business.

45. The second change is to protect the integrity of the Canadian advertising market, as more and more advertising dollars are leaving this country and moving to foreign digital platforms. In our view, the Canadian government should extend section 19.1 of the *Income Tax Act* to apply to digital advertising. Section 19.1 was implemented in the 1970s to preserve the integrity of the Canadian advertising marketing for Canadian television and print businesses whose advertising dollars were flowing out of Canada and being spent on American border television stations and print publications.

46. The same phenomenon is happening today in the digital world. Advertisers in Canada are by-passing Canadian digital media services and instead are advertising on foreign platforms, like Google and Facebook. These foreign services make little or no contribution to the production of Canadian content. To preserve the integrity of the Canadian advertising market and its ability to support the creation of Canadian content, the government should make advertising expenses incurred outside the country on foreign digital platforms and services ineligible as legitimate expenses for tax purposes.

47. It has been estimated that the 1976 amendment to the *Income Tax Act* repatriated approximately 25% of the advertising revenue that was flowing outside of the country at that time.[13] We believe extending section 19.1 to digital platforms would also help repatriate digital revenue that is otherwise leaving the country. This would help Canadian media companies compete with global digital players and would have the added value of enhancing their ability to support the production of Canadian content. These companies would be incented to invest in innovative digital services and platforms, which would provide Canadian advertisers with new ways to receive value for their media buys.

48. These changes would ensure that Canadian media and production companies do not operate at a disadvantage in their home market. They would also yield significant new revenues to the federal government and to the provinces. If additional funding were needed to support the tax credit model, the federal government could devote some or all of the proceeds from the upcoming 600 MHZ spectrum auction to be held in 2017 to this new regime.

49. With respect to the role of Canada's national cultural institutions, like the CBC and NFB, we believe that both institutions should be maintained because they both carry out an important public interest function. However, to this point, we have not studied

[12] *Exemption order for digital media broadcasting undertakings* (DMEO) set out in the appendix to Broadcasting Order CRTC 2012-409.

[13] Richard Stursberg, *Cultural Policy for the Digital Age*, presented at the University of Ottawa on November 2, 2016, at page 27.

their activities in any detail and are not, therefore, proposing any changes to the mandate of the CBC or the NFB.

50. Finally, as noted above, we believe that the Canadian Council for the Arts also has a role to play. Given that the tax credit system we are proposing is a market-based approach, certain genres may be vulnerable if they are forced to rely solely on it for funding. With that concern in mind and as a safeguard, we are also proposing that content produced by minority-language, ethnic and Aboriginal content creators be funded through the Canada Council of the Arts and that a certain amount of funding be specifically carved out and devoted to these underrepresented genres.

Pillar 2.2: Strengthen the availability of quality news and information in local markets

What models can we build to support the creation of and access to local information and news in a global context?

51. There are three mechanisms that could be implemented to ensure that there is support for the creation of and access to local news and information in a global context.

52. The first is to use some of the proceeds from the upcoming 600 MHz auction to compensate over-the-air television broadcasters for making the transition out of that spectrum. The cost to move to a new spectrum band will be significant and it will disrupt the industry. In the United States, local broadcasters were compensated for the value of their spectrum when they made the transition. We are not proposing that. Instead, we are proposing that local television broadcasters receive financial assistance to recover the cost of the transition. These local stations play a critical role in providing Canadians with quality news and information in local markets. Funding their move to a new spectrum band would help ensure they remain sustainable and continue to fulfill this public interest function.

53. The second is to allow over-the-air television broadcasters and Canadian print publishers to obtain funding through tax credits to produce local news and information for distribution on all platforms. If implemented, our proposal to establish a new tax credit mechanism would allow broadcasters and print publishers to apply for tax credits for the local news and information content they create on traditional and digital media platforms.

54. In making this proposal, we acknowledge that local news and other types of local programming would have to be treated differently than most other genres or content categories. The reason for this is that local news does not have the same export potential as something like scripted drama and documentaries. As such, its success could not be measured on the same basis as these other types of content. For that reason, a tax credit model specifically tailored to local news and information would have to be developed that takes into account the way that Canadian creative talent is used to produce it.

55. The third mechanism would involve extending section 19.1 of the *Income Tax Act* to digital platforms and services. As noted above, section 19.1 has been effective in

preserving the integrity of the Canadian advertising marketing for over-the-air broadcasters. We believe it could do the same for digital media, especially with respect to local television stations and newspapers, and would assist them in supporting the creation of local news.

Principle #3: Catalyzing economic and social innovation

Pillar 3.1: Positioning Canada as a culture and digital content leader

Canadians make great content; how can we build our exceptional cultural industries and support the growth of new creative enterprises as part of Canada's innovation agenda? What tools do the government and the private sector already have at their disposal? What new tools could we consider?

56. Canada can build exceptional cultural industries and support the growth of new creative enterprises by adopting the tax credit mechanism we have outlined in this submission, as well as implementing the other measures we propose relating to HST and section 19.1 of the *Income Tax Act*.

57. As noted, the first step is to amalgamate the existing programs and agencies (Telefilm and the CMF) that currently administer financing for Canadian content and direct this funding to a new agency – the CCIA. This new agency would administer all financial support for Canadian content at the federal level and would operate as an extension of CAVCO. The CCIA would provide labour-based tax credits to support the production, promotion and export of Canadian content. The tax credit mechanism would be content agnostic, producer agnostic and platform agnostic and would support those content creators that are Canadian or who are contributing directly to this funding model.

58. The second step is to ensure Canadian content creators are not disadvantaged in their home market. As noted above, Rogers believes that supplementing the tax credit mechanism with additional measures – (i) an expanded application of the HST, and (ii) an extended application of section 19.1 of the *Income Tax Act* – Canadian content creators will be able to operate on a more level playing field with foreign competitors and there will be sufficient money available in the system to fund our model for supporting Canadian content.

59. The third step is to adopt a producer agnostic approach for Canada. To be eligible to receive tax credits from the CCIA, a content producer would have to be a Canadian. This would mean that Canadian broadcasting undertakings operating under licences or exemptions granted under the *Broadcasting Act*, as well as Canadian independent producers that qualify as Canadian under the *Investment Canada Act*, would be able to access the funding mechanism. However, U.S. studios, foreign OTT services and other entities that are not Canadian would not be eligible.

60. It is our view that the goal of positioning Canada as a global leader in the cultural economy can only be achieved if we have our own content creators and cultural entrepreneurs that are financially stable and able to support the production of new

content. In order to grow creative enterprises that compete globally, Canada must support Canadian companies that have the size and resources to assume risks, invest in multiple projects and market and promote their content to global audiences.

Pillar 3.2: Leveraging Canada's national cultural institutions

How do we ensure that our national cultural institutions, such as the CBC/Radio-Canada and the National Film Board, are a source of ingenuity and creativity for the creative sector more broadly?

61. The role of the CBC/Radio-Canada and the NEB has not been one of the key issues that we have focused on in this consultation process. We would, however, support a further process that would review the mandate of the CBC/Radio-Canada and the NFB to ensure that they remain a source of ingenuity and creativity in a digital world.

Pillar 3.3 Promoting Canadian content globally

What is needed to best equip Canadian creators and cultural industries to thrive in a global market and exploit the country's competitive advantages? In a global market, what conditions need to be in place to encourage foreign investment in Canada's cultural industries? How can we better brand Canadian content internationally?

62. The best way to equip Canadian creators and cultural industries to thrive in a global market and exploit our country's competitive advantages is to adopt the proposals we have made in this submission. We have outlined three basic proposals.

63. First, Canada needs to adopt a simple, easy to administer support mechanism that does not limit the creativity of Canada's creators and cultural industries by being content specific or platform specific. We have proposed a labour-based tax credit mechanism that would be content agnostic and platform agnostic and would be used to support those content creators that are Canadian or who are making financial contributions directly to this funding mechanism.

64. Second, Canada needs to support and encourage Canadian media companies that are properly capitalized to be involved in the licensing, creation and distribution of Canadian content. These companies should be eligible to receive tax credits for the content they produce. It is essential for Canada to have strong Canadian media companies that are willing to take risks, invest in new brands and have the means to promote and export Canadian content to both domestic and global audiences. In a global market that includes the likes of Disney, NBCU, the BBC and Canal +, Canada can no longer rely on small independent producers to compete in the international creative economy.

65. Third, there is no need for the Government of Canada to adopt a new Internet tax, such as a Netflix tax or an ISP tax. There is enough money in the system already to support the production of Canadian content on traditional and digital platforms. That being said, there is a need to eliminate or adjust some of the current measures to ensure that

Canadian content creators are not operating at a disadvantage in their home market. Specifically, the HST should be applied to foreign media companies that are doing business in Canada, and section 19.1 of the *Income Tax Act* should be applied to digital advertising.

Yours very truly,

Jacob Glick
Chief Corporate Affairs Officer