



DOCUMENTARY
ORGANIZATION OF CANADA
DOCUMENTARISTES
DU CANADA

Submitted Electronically

June 27, 2023

Mr. Claude Doucet
Secretary General, Canadian Radio-television
and Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Doucet:

Re: Replies to Interventions of the Documentary Organization of Canada - Broadcasting Notices of Consultation CRTC 2023-139 and CRTC 2023-140

A. Introduction

1. This submission is the reply of the Documentary Organization of Canada (DOC) in relation to Broadcasting Notices of Consultation CRTC 2023-139 (BNC 2023-139) and CRTC 2023-140 (BNC 2023-140).
2. This is an historic moment in our sector. Although documentaries have never been more popular, they are vulnerable within the Canadian independent production community and will require support and certain protections within the new CRTC regulatory framework.
3. The Documentary Organization of Canada (DOC) is the collective voice of Canada's independent documentary creators. Founded in 1983, DOC has grown to 1,300 members across six chapters from coast to coast. DOC's mandate is to advocate for an equitable, sustainable environment for documentary production and to strengthen the sector within the broader cultural industry.
4. On 12 June 2023, DOC submitted written interventions relating to BNC 2023-139 and BNC 2023-140. DOC has reviewed the public records of the BNC 2023-139 and 2023-140 consultations and is pleased to provide the following comments.


B. Registration

5. DOC is in agreement with many intervenors that support a registration system for online undertakings that is available to the public.

6. DOC agrees with the comments that there should be important details included in the registry that will enable our sector to monitor the online undertakings operating in Canada as the landscape evolves over time. The information to be filed by registrants should include the date online undertakings began operations in Canada, their operational model (free ad-supported, paid ad-supported, free subscription, paid subscription, etc.), the annual revenues of the online undertaking, subscription numbers, whether the service is providing audio and/or audiovisual works, and the amount of Canadian programming available to the public. This is in addition to DOC's comments submitted on 12 June 2023, that it would be beneficial to track data about financial performance, language, genre of programming, data about the self-identification of the production team, and other qualifiers that will support the Commission's work to ensure that the sector continues to evolve toward a more equitable landscape that represents all Canadians.
7. DOC notes that a number of intervenors have proposed two separate threshold approaches for the registration system and the contribution system. We agree that it is important to capture the largest number of participants who are contributing to the broadcasting system. This may not necessarily be the same threshold required for contributions to Canadian programming.
8. DOC notes the point made by the AQPM on the need for a lower threshold for registration: "Cette façon de fonctionner permettrait au Conseil de réaliser pleinement son rôle de surveillance et de mieux anticiper l'arrivée, la croissance, le niveau de maturation de même que les modèles d'affaires en émergence des entreprises en ligne actives au Canada et leur impact sur le système canadien de radiodiffusion. Comme en témoignent les dernières années, il s'agit là d'un milieu en pleine effervescence, concurrentiel et dont les modèles d'affaires se renouvellent et évoluent sans cesse."¹
9. DOC also notes the intervention by FRIENDS that stated "... there are hundreds, if not thousands, of licensed or exempt Canadian broadcasting undertakings with annual revenues of less than \$10 million—including radio stations, television stations, discretionary services and BDUs. For the Commission to satisfy itself that contributions are "equitable", it would seem that, at minimum, registration requirements for foreign online services need be roughly equivalent to that of current licensed and exempt Canadian broadcasting undertakings."² Friends also recommended a lower threshold of \$1 million for online undertaking registrations.
10. DOC notes the intervention by the IBG that exempting online undertakings operating under the \$10M annual revenue threshold would exclude important elements of our sector: "Many existing Canadian services, licensed, exempted and online, operate under

¹ AQPM intervention BNC 2023 - 139

² FRIENDS intervention BNC 2023 - 139



the \$10 million annual revenue threshold. This includes online third-language services, Indigenous services, community services and smaller English-or French-language independent broadcasters. Under the proposed \$10 million threshold (for broadcast ownership groups or individual undertakings), these services would not be included within the threshold. It seems problematic from a policy perspective to exclude these smaller undertakings from registration—not only due to the potential unintended consequences...but also due to the fact that the Commission will then have very little ability to collect information or even to recognize their existence.”³

C. Exemption Order

11. In DOC’s intervention, we stated that we generally agree with the Commission’s proposed exemption of video games from registering at this stage. However, DOC notes the intervention by ACCORD on this point that some video games have begun to undertake broadcasting activities that “...should still be caught by the Commission’s mandate, notwithstanding that they take place inside of a video game. These exemptions need to be carefully monitored and the definitions adapted as service models shift and change.”⁴
12. DOC has stated that we do not believe that transactional video on demand should be exempt from the registry. DOC notes that our position that new regulatory regimes and conditions of service should apply to transactional on-demand services is shared by many other intervenors in these proceedings.
13. DOC agrees with many intervenors that exempting smaller online entities from the registry is premature and would be contrary to the goal of capturing the largest number of participants who are contributing to the broadcasting system. DOC notes the point made by CACTUS on the importance of small community-oriented online undertakings within the Canadian broadcast sector: “There were and still are cable, OTA (and wireless) co-operatives and municipal service providers that have launched with the express purpose of tailoring available foreign and Canadian content to local needs, including the provision of a community channel.”⁵


D. Exclusions from Conditions of Service

14. In DOC’s written comments relating to BNC 2023-140, we opposed excluding TVOD from conditions of service in the new regime. Further to this point, DOC would like to

³ IBG intervention BNC 2023 - 139

⁴ ACCORD intervention BNC 2023 -139

⁵ CACTUS intervention BNC 2023 - 139



highlight the table presented by the DGC of the CRTC's own data, showing that TVOD services iTunes, Microsoft Movie & TV, PlayStation Network, Google Play and others have benefitted from an estimated \$320.7 million in revenues in Canada in 2021. The DGC further noted that "much of the online transactional revenue in Canada were generated by a handful of the world's largest multinational technology companies namely Apple, Microsoft and Google, who are most certainly well positioned to support the creation, distribution and presentation of Canadian and Indigenous Programming"⁶

15. In DOC's written comments concerning BNC 2023-140, we were not in favour of excluding online undertakings with annual revenues under \$10 million from new conditions of service. Many intervenors have weighed in on this point, some of whom DOC has quoted above with reference to the Commission's proposed exclusions from the Registry. On the question of excluding online undertakings with revenues of less than \$10 million from conditions of service, DOC notes the DGC's point that although operating at lower revenue levels, smaller online undertakings make important contributions and "may also benefit from the application of newly established conditions of service."

16. We note that there is a final reply phase and we may provide further input at that time.

E. Conclusion

17. DOC's aim is to see a successful, accessible, equitable sector for Canadian and Indigenous creators. We look forward to reading the replies and participating in the final reply comments on BNC 2023-139 and BNC 2023-140.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Spring', with a stylized flourish at the end.

Sarah Spring
Executive Director, Documentary Organization of Canada

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⁶ DGC intervention BNC 2023 - 140