June 10, 2024

To: Canadian Radio-Television and Telecommunications Commission, Ottawa
From: Centre for Canadian Innovation and Competitiveness
Re: Comments in the matter of "*Supporting Canadian and Indigenous content through base contributions*" Broadcasting Regulatory Policy CRTC 2024-121

The Centre for Canadian Innovation and Competitiveness at the Information Technology and Innovation Foundation (ITIF) appreciates the opportunity to comment on the proposed order to require certain online undertakings to make base contributions to support Canadian and indigenous content.[1] The Center urges the Commission not to implement the order as proposed because it would harm Canadians and not achieve its stated goal.

The Commission frames its proposal stating, "online undertakings that benefit from their place in the Canadian broadcasting system by generating significant revenues and drawing significant Canadian audiences should contribute to the system." This characterization of the present situation implies that online undertakings, particularly streaming services, are somehow free riding on Canada and imposing costs on the landscape of Canadian content for which they do not pay. But this view is wrong. It is Canadians themselves who choose what content to bring into their homes, and if they choose content hosted by foreign streaming services, the companies are contributing to the system. This makes sense: Profit seeking streaming services would not last long if they were unresponsive to the demands of their customers.

Moreover, there is no way simply to extract fees from foreign streaming companies rather than from Canadian consumers. It is a fact of economics that the incidence of a commodity tax—who really bears the burden of the tax—does not depend on who is actually sending the money to the government.[2] While the proposed base contribution will be paid by streaming companies directly, it is naïve to stop the analysis there. Because the mandated fee is an increase in the online undertakings' cost of doing business, it will result in an increased

[1] The Centre for Canadian Innovation and Competitiveness is an Ottawa-based affiliate of the Information Technology and Innovation Foundation (ITIF), the world's leading think tank for science and technology policy. As a separately incorporated and registered charity under the Canada Not-for-profit Corporations Act and Income Tax Act, the Centre's mission is to help policymakers and the Canadian public better understand the nature of the innovation economy and the types of public policies that are necessary to drive Canadian innovation, productivity, and global competitiveness. For more information, visit innovationpolicy.ca.

[2] Tyler Cowen, "Commodity Taxes," *Marginal Revolution University*, https://mru.org/courses/principles-economics-microeconomics/taxes-subsidies-definition-tax-wedge.

price to their Canadian customers.[3] This price increase will result in some consumers paying the higher price and some deciding to abandon the service. Thus, though for accounting purposes the money is transferred from the streaming service to the government, the real cost, which may be either increased monetary expenditures or reductions in content quality, is divided between the online undertaking and its customers.

The actual allocation of the costs depends primarily on how sensitive the market is to changes in price, or its "price elasticity." If customers are willing and able to stop subscribing to content when prices increase even a little, then demand is said to be "elastic," and most of the new base contributions will be paid by the online undertakings themselves. If, on the other hand, customers generally stick around even when prices rise (i.e., demand is inelastic), they will bear proportionally more of the cost. Calculating the magnitude of elasticities requires detailed data, but the fact that, for example, Netflix subscribers in Canada have continued to grow despite rising prices suggests that demand is at least somewhat inelastic such that Canadians would bear more of the burden of the base contributions than would foreign streaming companies.[4]

In any case, some end users will leave a service entirely because of the higher prices resulting in deadweight loss; in those cases, the consumers, the streaming service, and Canada's content policy ends lose out.

In this way, the proposed order's attempt to target only large online undertakings cannot succeed. The targets of the tax are those undertakings with greater than $25 million in annual revenue, which the Commission claims will "ensure that they contribute in a way that is commensurate with the place they occupy and the role they play in the system."[5] But this vague statement merely gestures at a prejudice against large companies without reckoning with the fact that profit seeking businesses make decisions on the margin, producing all the content for which they expect revenue to exceed its cost. Increasing the costs of production across the board with a base contribution tax will, therefore, cause the least profitable content to become unviable. This dynamic will hurt the consumers of that marginal content just as much as it does the online undertaking. Indeed, because indigenous and French-language content is likely less profitable than that with a mass audience (otherwise, companies would be producing more of it without government intervention), it is the

[3] *See*, Joe Kane and Jessica Dine, "Consumers Are the Ones Who End Up Paying for Sending-Party-Pays Mandates" (ITIF, November 2022), https://itif.org/publications/2022/11/07/consumers-are-the-ones-who-end-up-paying-for-sending-party-pays-mandates/. *See also*, the example of France, "Spotify to Increase Prices in France Over New Tax," Reuters, March 7, 2024, https://www.reuters.com/technology/spotify-increase-prices-france-over-new-tax-2024-03-07/.

[4] Anis Heydari, "Netflix Reports the Money Is Rolling In — and So Are Advertisements for Canadian Subscribers," *CBC News*, January 24, 2024, https://www.cbc.ca/news/business/netflix-results-q4-adfree-plan-gone-1.7093595.

[5] Canadian Radio-television and Telecommunications Commission, "CRTC Releases 2024 Communications Monitoring Report," CRTC, April 15, 2024, https://crtc.gc.ca/eng/archive/2024/2024-121.htm, at para. 57.

very audiences that the Commission seeks to help that will lose their preferred content along with an increase in costs.

There is no free lunch to be found by imposing base contributions on foreign online undertakings to fund the government's preferred content. The Commission should reckon with the economic realities of its proposal rather than obscuring them behind anti-foreign rhetoric.

Thank you for your consideration.

Sincerely,

Joe Kane
Director of Broadband and Spectrum Policy
Information Technology and Innovation Foundation