



Department of Canadian Heritage

*Canadian Content in a Digital World
Consultations*

**Submission of the
Public Interest Advocacy Centre**

25 November 2016

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PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

25 November 2016

Hon. Mélanie Joly, P.C., M.P.
Minister of Canadian Heritage
Department of Canadian Heritage
15 Eddy Street
Gatineau, QC K1A 0M5

Re: *Canadian Content in a Digital World Consultations*

Dear Ms. Joly,

The Public Interest Advocacy Centre (PIAC) is pleased to provide you with its submission to the *Canadian Content in a Digital World Consultations*. Please do not hesitate to contact us if you have any inquiries or concerns.

Yours truly,

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1. Introduction

1. The Public Interest Advocacy Centre (**PIAC**) is pleased to provide the Honourable Mélanie Joly, Minister of Canadian Heritage, its submission to the *Canadian Content in a Digital World Consultations*.
2. PIAC has over the last forty years advocated on behalf of consumers, the public interest and vulnerable interests, particularly in the telecommunications and broadcasting sectors. PIAC advocates for fair access to, choice and affordability of important services, and recognizes the importance of a diversity of programming which serves Canadians' needs and communities.
3. PIAC's submission to the Honourable Minister will focus on three main messages:
 - i) **Get Canadians connected – no ISP levy.** Canadians need to be connected in order to be informed, entertained and heard, whether through Canadian or other forms of content. No policy should constrain fair access to and affordability of communications services – especially, broadband internet service.
 - ii) **Canadian content is important and changing.** Canadians value Canadian content and believe it should be given the support to succeed. Canadians still see “traditional players” as gaining the most – and therefore ought to be contributing the most – from the Canadian media market, but do see the ecosystem as one that is evolving and which increasingly embraces digital media players. While many Canadians would still like to see ongoing support for dramas and documentaries, a growing number of Canadians, including young Canadians and certain regional communities, believe local communities and minority groups, such as ethnocultural and First Nations groups, merit rising attention.
 - iii) **Ensure consumer and public interest groups continue to be part of the conversation.** Consumer and public interest groups have a key role to play to ensure the right balance is struck so all Canadians can benefit from the Canadian cultural sector. The Broadcasting Participation Fund is critical to allowing public interest groups to participate meaningfully in various consultations and regulatory proceedings often dominated by strong, well-funded industry voices. PIAC recommends the ongoing financing of this fund or an amendment to the *Broadcasting Act* in order to establish a costs awards regime similar to that existing under the *Telecommunications Act*.

4. In what follows, PIAC will further expand on these key messages and make several recommendations at the conclusion of this submission. Our comments will primarily focus on the English-language Canadian market, although the principles can in many cases be applied to the French-language market as well.
5. Additionally, in order to inform this discussion, PIAC commissioned a national IVR survey¹ in November 2016 with 1,228 English-speaking Canadians aged 18 years or over regarding the role of Canadian film and television and the ways Canadian media should be supported in the future. The survey primarily described “Canadian content” as films and television made by Canadians. The results will be discussed below.

¹ Interactive Voice Response survey

2. Get Canadians Connected – No ISP Levy

2.1 *Canadians need to connect to engage and participate*

6. Canada's current policy environment highlights a new "innovation era", where the success of Canada's future society and economy will depend on its ability to become a competitive innovation hub. Strengthening Canada's ability to "Compete in a Digital World," one of the six action areas outlined in the federal government's *Inclusive Innovation Agenda*,² can only be achieved where all Canadians have affordable access to broadband, wireless and other communications services.
7. Communications services have become essential to the life of everyday Canadians. In 2014, 99.2% of Canadian households had a telephone (landline or mobile),³ 84.9% used the internet from home,⁴ and 80.3% of Canadian families subscribed to a traditional TV service.⁵
8. Choice and affordability are keys to accessing Canadian content over a traditional television subscription. In the Canadian Radio-television and Telecommunications Commission's (CRTC) 2014 *Let's Talk TV*⁶ proceeding, PIAC and other public interest organizations advocated for the creation of "pick and pay" rules and an affordable basic TV package which would allow Canadians to more easily access the content they wanted to watch.
9. However, at the heart of any discussion about the "digital world" is the ability for Canadians to connect to that world through broadband internet access. Tim Berners-Lee already contended in 2011 that access to the Web is a human right:

Access to the Web is now a human right... It's possible to live without the Web. It's not possible to live without water. But if you've got water, then the difference between somebody who is connected to the Web and is

² Government of Canada, *Positioning Canada to Lead: An Inclusive Innovation Agenda* (2016), online: Government of Canada <https://www.ic.gc.ca/eic/site/062.nsf/eng/h_00009.html>.

³ Canadian Radio-Television and Telecommunications Commission, *Communications Monitoring Report* (2016), online: CRTC.gc.ca <<http://www.crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2016/cmr.pdf>>, Table 2.0.5.

⁴ *Ibid*, Table 2.0.8.

⁵ *Ibid*, Table 4.3.6.

⁶ Broadcasting Notice of Consultation CRTC 2014-190. See the Groups for the Public Interest's comments here:

<https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=218507&en=2014-190&dt=i&lang=e&S=C&PA=B&PT=NC&PST=A>

part of the information society, and someone who (is not) is growing bigger and bigger.⁷

10. Similarly, a 2014 survey of over 23,000 Internet users in 24 countries found 83% believed affordable access to the internet should be a basic human right.⁸ The “digital divide” between those with access to broadband and those without will only widen as internet access is increasingly required to gain employment and work, gather news, participate in politics, receive education, connect with health-care systems, engage in basic financial services, and access media and television—all central to participation in a democratic and cultural society.
11. The Government of Canada itself has recognized this, stating that:

Canada must also do more to give rural communities and low-income Canadians affordable access to high-speed Internet so that they can participate fully in a digital and global economy for a better quality of life.⁹
12. Many Canadians have been quick to adopt the internet as a means of accessing film and television. The latest CRTC *Communications Monitoring Report* shows 55% of Canadians watched television online in the past month, and 81% had watched “any type of internet video.”¹⁰ Notably, the percentage of Canadians who watch TV exclusively online doubled over a mere four years between 2011 and 2015—with 10% of Anglophone Canadians now watching TV exclusively online.¹¹
13. Moreover, a 2014 survey by the Television Bureau of Canada with “online Canadians” found that these Canadians spent about seven hours a day with media, of which 47% was spent watching video.¹² Of the time spent watching video, 83% of that time was spent watching commercial television, 5% non-

⁷ Jon Brodtkin, “Berners-Lee: Web access is a ‘human right’: Speaks at MIT symposium marking the university’s 150th anniversary” (12 April 2011), online: NetworkWorld.com <<http://www.networkworld.com/article/2202043/lan-wan/berners-lee--web-access-is-a--human-right-.html>> .

⁸ Ipsos, *83% of Global Internet Users Believe Affordable Access to the Internet Should be a Basic Human Right* (24 November 2014), online: Ipsos <<http://www.ipsos-na.com/news-polls/pressrelease.aspx?id=6683>> .

⁹ Government of Canada, *Positioning Canada to Lead: An Inclusive Innovation Agenda* (2016), online: Government of Canada <https://www.ic.gc.ca/eic/site/062.nsf/eng/h_00009.html> .

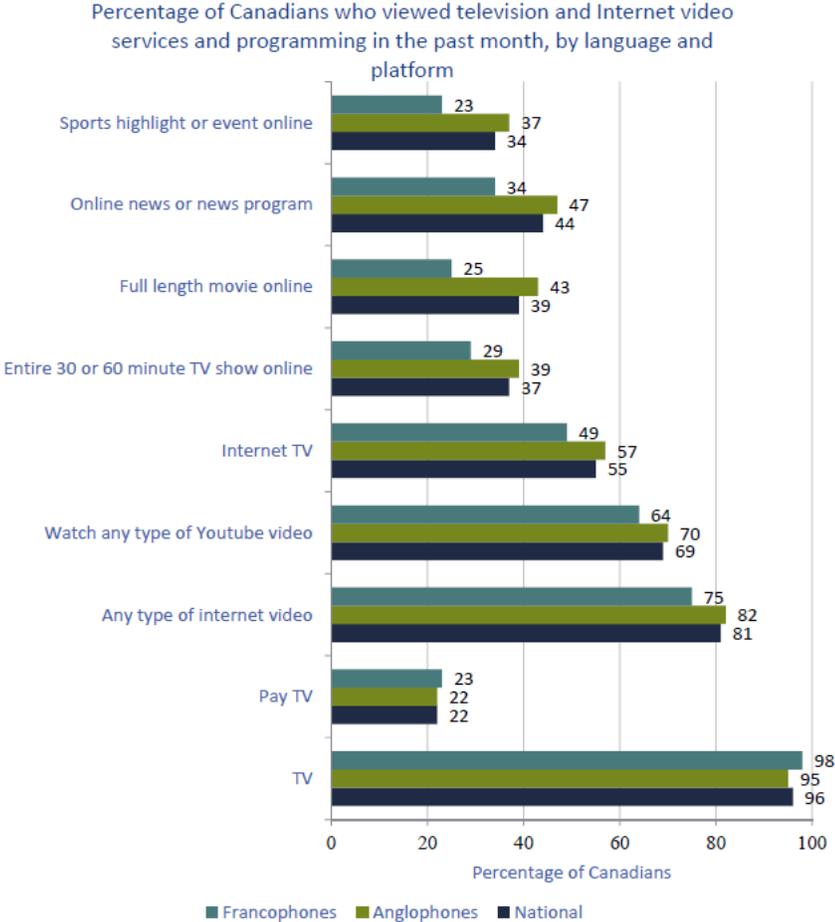
¹⁰ Canadian Radio-Television and Telecommunications Commission, *Communications Monitoring Report* (2016), Figure 4.2.14.

¹¹ *Ibid*, Figure 4.3.5.

¹² Television Bureau of Canada, *New TVB Research Study Confirms Commercial Television is the Dominant Video-Viewing Medium in Canada* (29 May 2014), online: TVB.ca <http://www.tvb.ca/page_files/doc/MediaReleases/FOR%20IMMEDIATE%20RELEASE-Thursday%20May%2029%202014.pdf> at p 2.

commercial television (such as Netflix) and 12% “Grey Zone” internet video (such as Youtube or social networks).¹³

Figure 2(a). Internet video viewing in Canada



Source: CRTC Communications Monitoring Report (2016)

14. The internet, therefore, creates a significant opportunity to expand the ways Canadians (both creators and viewers) can access and create film and television. In fact, research shows that many Canadians have been eager to adopt online video, while some continue to watch “traditional” cable television, meaning Canadian creators have more platforms to promote and distribute their cultural and artistic productions.
15. Thus, public policy must ensure that Canadians can get connected. This means improving both physical access to and affordability of communications services, especially broadband internet. In the same vein, no policy should result in making

¹³ *Ibid* at p 1.

broadband internet, a vital communications service, less affordable for Canadian families.

2.2 *Affordability of broadband is critical for low-income Canadians*

16. Geographic access to—that is, the availability of—broadband internet service throughout the country, including rural communities and Northern Canada, is essential to getting Canadians connected. The CRTC recently held a hearing examining basic telecommunications services, and PIAC and other public interest organizations proposed ways to increase access to and the affordability of broadband internet.¹⁴
17. However, PIAC will focus here on the affordability aspect of broadband internet access. PIAC has published two comprehensive reports on the affordability of communications services for low-income families and households in Canada.¹⁵ PIAC's most recent affordability report, completed this past July, is attached to this submission as a link in the online form. According to Statistics Canada, 13% of, or about 4.62 million, Canadians were considered low-income in 2014.¹⁶ Their median after-tax total family income was \$12,910.¹⁷
18. Despite the growing need to be connected to the internet—whether for government services, school and education, employment and housing searches, or other activities—the difference in broadband adoption rates among low-income Canadians is noticeable. While 84.9% of all Canadians use the internet from home, including 98.3% of the top income quintile, only 63.5% of Canadians in the lowest quintile use the internet from home.¹⁸
19. Yet, PIAC's research shows that low-income Canadians equally value the importance of being connected to home internet. In fact, low-income Canadians

¹⁴ Telecom Notice of Consultation CRTC 2015-134. The Affordable Access Coalition's (including PIAC) submissions can be found here:

<https://services.crtc.gc.ca/pub/ListeInterventionList/Documents.aspx?ID=224017&en=2015-134&dt=i&lang=e&S=C&PA=T&PT=NC&PST=A>

¹⁵ See: John Lawford & Alysia Lau, *No Consumer Left Behind: A Canadian Affordability Framework for Communications Services in a Digital Age* (Ottawa: Public Interest Advocacy Centre, 2015), online: PIAC.ca <<http://www.piac.ca/wp-content/uploads/2015/03/PIAC-No-Consumer-Left-Behind-Final-Report-English.pdf>>; and Jonathan Bishop & Alysia Lau, *No Consumer Left Behind Part II: Is There A Communications Affordability Problem in Canada?* (Ottawa: Public Interest Advocacy Centre, 2016), online: PIAC.CA <http://www.piac.ca/wp-content/uploads/2016/09/PIAC_No-Consumer-Left-Behind-Part-II-Website-Version.pdf>.

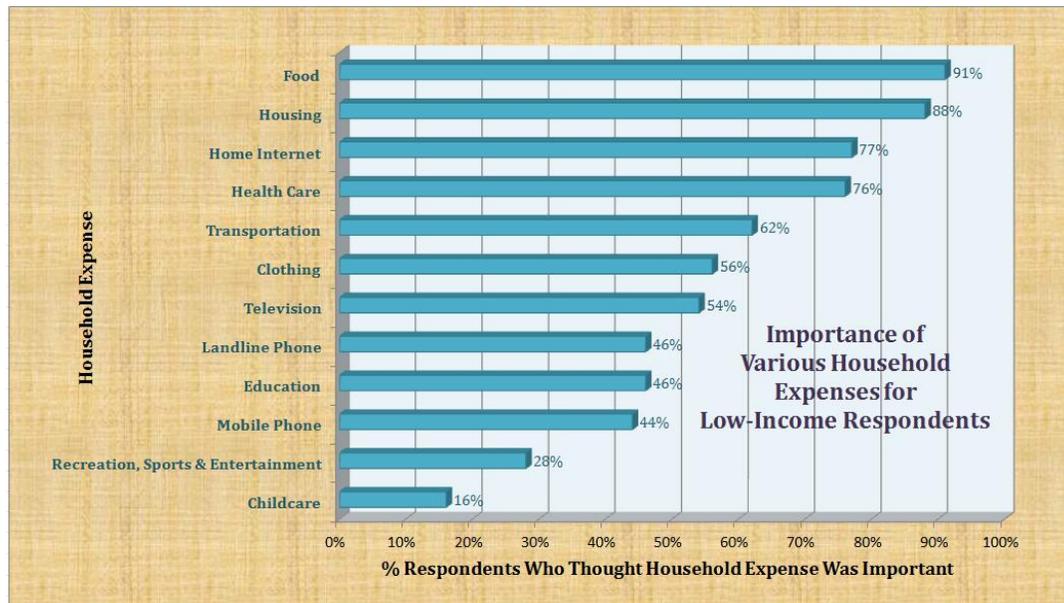
¹⁶ Statistics Canada, CANSIM Table 206-0041.

¹⁷ Statistics Canada, CANSIM Table 111-0015.

¹⁸ Canadian Radio-Television and Telecommunications Commission, *Communications Monitoring Report* (2016), Table 2.0.8.

surveyed by PIAC ranked home internet access as equally important as household expenditures on health care, and more important than all other household items except food and housing.¹⁹

Figure 2(b). Importance of various household expenses to low-income Canadians



Source: PIAC (2016)

20. These results are supported by interviews PIAC held with ACORN Canada members and local social service organizations in 2013 and 2014.

“My clients often feel like they need everything because they are a part of society and want to participate in social life. We are seeing cell phones and internet becoming more and more essential services.”

– Centre d’éducation financière EBO (Ottawa, ON)

“Income of our clients is typically less than \$1,000 per month; it could be even \$600 to \$700 per month. However, it is surprising to what degree some clients would pay for their communications services, even more than some essential services. A lot of discretionary income is already going to basic needs, so I’m surprised how many clients are still willing to cut food and health expenses in order to retain their communications services and go to the food bank, for instance, instead.”

– Disability Alliance BC (Vancouver, BC)

¹⁹ Jonathan Bishop & Alysia Lau, *No Consumer Left Behind Part II: Is There A Communications Affordability Problem in Canada?* (Ottawa: Public Interest Advocacy Centre, 2016) at p 87.

“If my clients can no longer reduce their plans, then they would cut other expenses, such as food or clothing, rather than cut service.”

– Salvation Army Ottawa Booth Centre, MoneyWise Program (Ottawa, ON)

MODERATOR: All right. And PARTICIPANT 6?

PARTICIPANT 6: Home Internet?

MODERATOR: Yeah.

PARTICIPANT 6: It's already way too much, but I need it, so I pay it.

MODERATOR: So, if it went up another... But first, may I ask, how much?

PARTICIPANT 6: 50.

MODERATOR: And, if it went up to 60, would you bite the bullet and keep paying it?

PARTICIPANT 6: Just because I need it.

MODERATOR: It's so much of a necessity that if they jacked it up you would be stuck with it still.

– ACORN Canada Focus Group (Vancouver, BC)²⁰

21. How do we explain the digital divide between low-income Canadians and other Canadian families? PIAC's latest report found that cost and affordability are indeed significant barriers to the ability of low-income families to subscribe to the communications services of their choice. The CRTC has shown that the percentage of one's annual household income spent on communications services is about 2.75 times higher in the lowest income quintile than in the average Canadian household, and 4.4 times higher than in the highest quintile.²¹
22. PIAC's first report on affordability found that for many low-income households, communications expenses represented, on average, 7.67% of their monthly income, with smaller households of between 1 to 4 persons spending the greatest proportion – up to 8.09% – of their monthly income on communications services. In cases where low-income Canadians had communications debt, these debts constituted up to one-fifth of their total debt.
23. This affordability challenge also expresses itself in different ways.
 - About one-half of low-income respondents had to trade off other household goods or services in order to pay their communications bills—almost 1 in 5 (17%) indicated they went without other essential goods, such as food, medicine or clothing in order to pay a communications bill.

²⁰ John Lawford & Alysia Lau, *No Consumer Left Behind: A Canadian Affordability Framework for Communications Services in a Digital Age* (Ottawa: Public Interest Advocacy Centre, 2015).

²¹ Canadian Radio-Television and Telecommunications Commission, *Communications Monitoring Report* (2016), Table 2.0.4.

- About 20% of low-income subscribers struggled to pay off their communications bills in the past year, having to make partial payments, commit to a payment plan, be referred to debt collectors, or suspend or disconnect their service.
- More than 1 in 10 respondents (11%) ultimately cancelled a communications service.²²

24. Therefore, it is clear that low-income Canadians – about 13% of all Canadians – are already financially stretched by their communications service subscriptions, including broadband internet. Where the cost of their subscription increases, these Canadians attempt to adapt to the new budgetary strain by cutting other households expenses—including food, health care and clothing—or incurring debt rather than cancelling their service. Ultimately some do cancel, even though they rank home internet as equally important as health care expenses in their household. *Therefore, any increase to the cost of internet service would have a serious impact on the affordability of internet service for low-income families.*

2.3 *No ISP levy*

25. PIAC submits no policy should constrain fair access to and affordability of communications services – especially, broadband internet access. In particular, PIAC believes proposals made by other broadcasting stakeholders to impose a “levy” on Internet Service Providers (**ISPs**) in order to finance the production of Canadian content, or to support Canadian film and television in any other way, would create harmful effects on the ability of Canadians to get connected—and low-income Canadians especially.

26. Canadian content is important, and PIAC will elaborate on how to support it in the following sections. However, we would be seriously concerned by any policy which would increase the cost of broadband internet service. It is becoming impossible for Canadians to access the services they need without access to the internet—in fact, low-income Canadians often have a more critical need to access online services than other Canadians do—and an ISP levy would create further barriers to getting all Canadians connected.

27. PIAC acknowledges It has proposed in the CRTC’s basic telecommunications services review that ISPs should contribute to the cost of getting Canadians connected to broadband through infrastructure deployment and affordability funding mechanisms. In PIAC’s view, these proposals are integral to “getting

²² Jonathan Bishop & Alysia Lau, *No Consumer Left Behind Part II: Is There A Communications Affordability Problem in Canada?* (Ottawa: Public Interest Advocacy Centre, 2016) at pp 161-162.

Canadians online” and are significantly different from imposing an ISP levy based on what Canadians might access through their internet connection.

28. Imposing an ISP levy in order to fund Canadian content would set a dangerous precedent, opening the door to the creation of other types of ISP levies since Canadians access a myriad of services over the internet. Rather than promoting access to Canadian content and other forms of creativity, ISP levies would harm digital innovation and create a disproportionate burden on low-income Canadians.
29. Therefore, in order to see as many Canadians engaged in Canadian and other forms of content as possible, PIAC believes no policy should affect the affordability of broadband internet service. Such a policy would hinder the ability of all Canadians, especially vulnerable Canadians, to be connected to the digital world at all.

Recommendation 1:

Any Canadian content policy should prioritize the objective of getting Canadians connected so they can engage and participate in all forms of media and content. No policy should constrain fair access to and affordability of communications services – especially broadband internet access.

3. Canadian Content Is Important and Changing

3.1 *Canadian content is important, and Canadians want it to succeed*

30. Canada's broadcasting policy objectives, set out in section 3(1) of the *Broadcasting Act*,²³ among other things aim to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada; encourage the development of local, regional and national Canadian expression; and reflect all Canadian women, men and children, including Aboriginal and ethnocultural groups.
31. Canadian culture and Canadian content remain important. Canadians do not necessarily watch a lot of Canadian content. PIAC's survey found that 47% of Anglophone Canadians said "some" of the films and television programs they watch are Canadian, and 36% of respondents said "very little" of what they watch is Canadian.

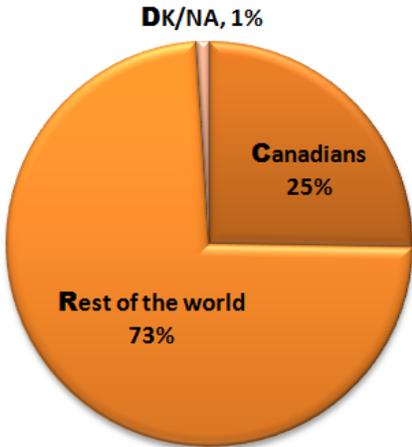
Figure 3-1. Percentage of films and television watched which is Canadian

Percentage of films and television watched which are Canadian	Percentage of respondents
Most is Canadian	9%
Some is Canadian	47%
Very little is Canadian	36%
Don't know/Not applicable	9%

32. Canadians do not therefore always watch a lot of Canadian content, and presumably would not want their choice of content to be restricted to or necessarily prioritize Canadian content. Nonetheless, they still want Canadian films and television to succeed internationally. When asked whether the top priority should be to create Canadian content for Canadians or to be sold to the rest of the world, **73%** of respondents said Canada should create content that can be sold to the rest of the world.

²³ SC 1991, c 11.

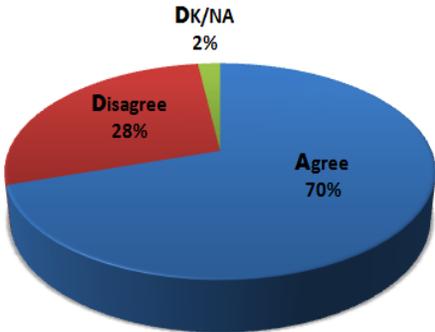
Figure 3-2. Top priority for Canadian film and television



When Canadian film and television programming is produced, should the top priority be to create Canadian content for Canadians or should it be to create Canadian content that can be sold to the rest of the world?

Figure 3-3. Whether there should be more financial support for Canadian film and television

33. Canadians do believe Canadian content should be supported so that it can succeed. When asked whether respondents agreed there needs to be more financial support for the production of Canadian film and television, 70% of Canadians agreed, while 28% disagreed. The noticeable difference was among younger respondents aged 18 to 29 years – 79% agreed there should be more financial support for Canadian content. The specific tools and sources for support will be further discussed below.



Some people say that there needs to be more financial support for the production of Canadian film and television programming. Agree or Disagree?

3.2 However, Canadian content is changing

34. As discussed earlier in this paper, the way Canadians access content and programming is changing. There is growing choice over the internet, and Canadians have eagerly adopted that choice. The CRTC’s *Communications*

Monitoring Report shows 55% of Canadians watched television online in the past month, and 81% had watched “any type of internet video.”²⁴

35. This is, in fact, the foundation for this consultation, as the Minister noted in her Consultation Paper that the world is “increasingly interconnected and open, giving audiences access to an abundance of content from all over the world” and “new players... have emerged, causing disruption to traditional business models and value chains.”²⁵
36. This means Canadian creators are no longer solely those directly employed in the traditional film and television sector, and that the notion of “Canadian content” is not solely tied to specific regulatory definitions.
37. Ryan Edwardson opens his book, *Canadian Content: Culture and the Quest for Nationhood*,²⁶ with an anecdote about the 1991 album, *Waking Up the Neighbours*, by Canadian musician, Bryan Adams. The album was disqualified from being considered “Canadian content” under the CRTC’s regulations.²⁷ This was because credit for the album’s lyrics, music and production was shared with a British producer, Robert Lange. After closely examining the historical development of Canadian content policies, Edwardson comes to several conclusions, one of which is:

Crises in content are accompanied by those presented by new communications technologies and federal cultural policy-making. The Internet, satellite transmission, World Trade Organization verdicts, fusion of cultural and foreign policies, and exclusion from multilateral cultural directives all testify to cultural industrialism as not being the most stable bedrock upon which to build a sense of nationhood. [...] Out of these contradictions runs a very questionable path upon which to articulate and orchestrate a civic nationhood servicing the interest of the citizenry as a whole.²⁸

²⁴ Canadian Radio-Television and Telecommunications Commission, *Communications Monitoring Report* (2016), Figure 4.2.14.

²⁵ Government of Canada, *Canadian Content in a Digital World: Focusing the Conversation Consultation Paper* (September 2016), online: Canadian Content Consultations <http://www.canadiancontentconsultations.ca/system/documents/attachments/e328d01aaa5d8b25b5b2e769f0f3ccb59f63893e/000/004/022/original/PCH-DigiCanCon-Consultation_Paper.pdf> at p 2. [**Consultation Paper**]

²⁶ Ryan Edwardson, *Canadian Content: Culture and the Quest for Nationhood* (Toronto: University of Toronto Press, 2008).

²⁷ *Ibid* at p 3.

²⁸ *Ibid* at pp 278-9. (Emphasis added)

38. Broadening the concept of Canadian content is beneficial not merely to Canadian citizens and viewers but to creators as well. The Canadian novelist and journalist, Kate Taylor, recently wrote:

There are cases where the internationalist approach can work fine, for reasons both artistic and commercial. Unless you know Toronto intimately, you might believe the sci-fi series *Orphan Black* takes place in an American city; the movie version of *Room* moved that novel's generic North American setting to Akron, Ohio. There are also cases where it's clearly the reverse: The 11 foreign broadcasters who picked up *Republic of Doyle* must have figured their viewers would warm to the distinctive Newfoundland setting.

Mainly, creators and producers need flexibility because you never know when the next *Natasha* is going to come along, all ready to tell Canadians a Russian story. Despite the nationalist sentiment that originally drove them, Canadian cultural regulations have wisely tended to focus on the citizenship of the creators rather than recognizable settings or prescribed themes. The best definition of Canadian content remains a tautology: It's content created by Canadians.²⁹

39. After a consultation spanning longer than a year, the CRTC also found that:

Canada has a stable infrastructure of government support and private investment that generates significant funding opportunities for Canadian programming. However, there are barriers in this infrastructure that hinder the creation of certain types of productions. The Commission considers that this funding system could be further improved in order to foster a robust Canadian production sector that is better able to offer compelling high-quality content to Canadians and to global markets. A more flexible funding system would further contribute to meeting the [Broadcasting Act's] objectives set out above. [...] In the same vein, the Commission considers that the future television environment may require new approaches to what constitutes Canadian programming.³⁰

40. Therefore, PIAC submits the Minister could broaden the concept, certification and policy support for Canadian content. In particular, the Minister should ensure that the concept of Canadian content and the funding, policy and business models used to support it are technologically neutral. This will become more important as online television grows in popularity, equally spurring the creation of

²⁹ Kate Taylor, "Kate Taylor: Rethinking the rules around what counts as Canadian culture" (6 May 2016), online: *The Globe and Mail* <<http://www.theglobeandmail.com/arts/rethinking-the-rules-around-what-counts-as-canadian-culture/article29916021/>>. (Emphasis added)

³⁰ Broadcasting Regulatory Policy CRTC 2015-86, *Let's Talk TV: The way forward - Creating compelling and diverse Canadian programming* (12 March 2015) at paras 116 and 124.

content and programming which do not necessarily conform with the traditional formats of film and television.

41. The *Broadcasting Act* itself provides a broad and technologically neutral definition of a “program”, which means “*sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain*, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text.”³¹
42. Therefore, PIAC submits the goal should be to *give creators greater flexibility* by promoting and supporting various expressions of Canadian content—including online content. This will ensure the cultural industry and its business models can continue to evolve creatively and sustainably.
43. Policy tools should therefore incorporate greater consideration of Canadian content created for the digital space and other platforms, rather than focusing primarily on content and formats created for the traditional film and television sector. Canadian online creators should equally be given the policy support provided to creators of other more traditional forms of Canadian content. The Minister could also create greater flexibility in funding so as to include projects backed by online video services – including, where appropriate, foreign-owned online video services and co-productions.

Recommendation 2:

Ensure the concept of Canadian content and the funding, policy and business models used to support it are technologically neutral. In particular, broaden policy tools to further embrace Canadian content created for the digital space and other platforms.

3.3 *How do we support Canadian content?*

44. Canadians believe Canadian film and television must be supported in a variety of ways. When asked which was the best way to support Canadian film and television, survey respondents were almost evenly split on all the options. However, the leading response was *requiring more promotion and marketing of Canadian programs*.

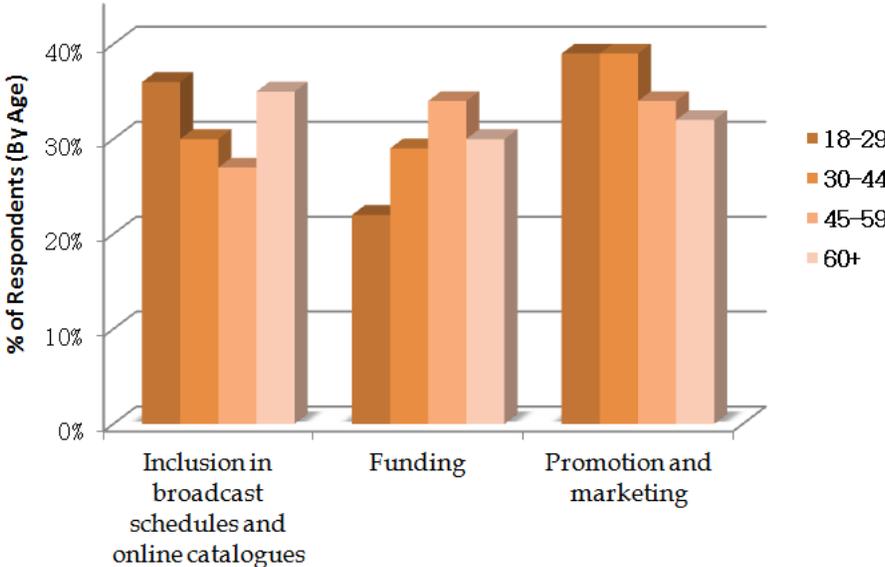
³¹ *Broadcasting Act*, SC 1991, c 11, s 2(1).

Figure 3-4. Which of the following do you think is the best way to support Canadian film and television production?

Require more promotion and marketing of Canadian programs	36%
Require that a certain number of Canadian programs be included in broadcast schedules and online catalogues	31%
Require more funding of Canadian productions by industry and/or government	29%
Don't know/Not applicable	3%

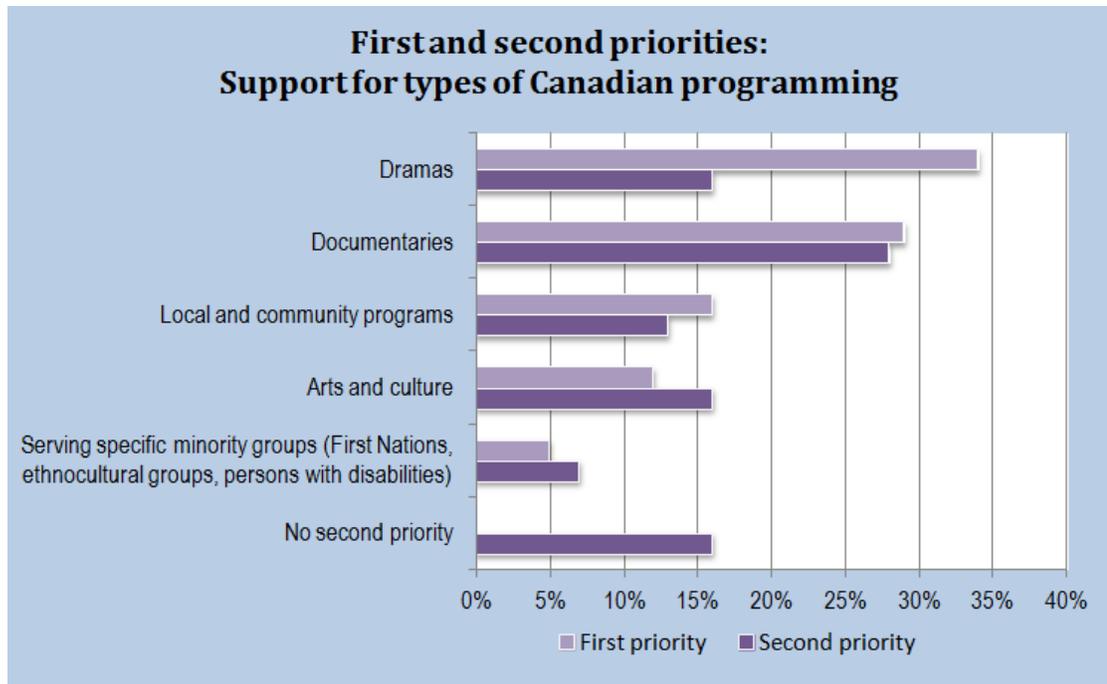
45. Younger respondents in particular were more likely to favour requiring more promotion and marketing of Canadian content.

Figure 3-5. Best tool to support Canadian content (by age)



46. When asked which types of programming Canadians thought should be the priorities when supporting Canadian programming, survey respondents identified dramas (34%) and documentaries (28%) as the first and second priorities.

Figure 3-6. First and second priorities for support for types of Canadian programming



47. However, **responses tended to vary** extensively, especially depending on age, region and education. In particular, PIAC noted the following significant differences:

- Younger respondents aged 18 to 29 years, although still favouring dramas (38%), were more likely to support a variety of programming as top priorities – with noticeably stronger support for *programs that serve specific minority groups* (10% – double the national average); 14% of young Canadians thought programming serving minority groups should be the second priority.
- Canadians from the Atlantic region (26%) were more likely than other regional respondents to support *local and community-based programs* as a top priority.
- Support for *documentaries* varied widely. Notably, documentaries tended to be a much higher priority for: respondents with a high school education (34%) as opposed to those who were university (26%) or college-educated (28%); respondents who were not subscribed to an online video service (34%) as opposed to those who were (24%); and those who only watched films or television once in a while (39%) as opposed to those who watched every day (27%) or a couple times a week (27%).

48. On the basis of these survey findings, PIAC has two recommendations for the Minister on how to effectively support Canadian content.
49. First, policy tools to support Canadian content should be well-rounded and comprehensive rather than narrowly focused. Canadians expect Canadian content to be supported using a range of tools – from exhibition or inclusion in catalogues to promotion and marketing – and not primarily through one means, such as production funding. In fact, younger Canadians tend to favour marketing and promotional requirements rather than funding obligations. PIAC underscores, however, that any policy tool or decision must also continue to respect and promote freedom of expression and an “open internet”, where Canadians have uninhibited and equal access to the content of their choice.
50. Second, policy tools can, on the national level, focus more on supporting Canadian dramas and documentaries. However, as expressed in the *Broadcasting Act’s* policy objectives, policy and funding support should also pay particular attention to the needs of minority groups and local communities (including local news)—audiences that can at times be overshadowed by the interests of the “mainstream consumer.”³² After all, being Canadian also means recognizing diversity and pluralism, and elevating smaller voices that can occasionally be drowned out by larger, louder ones.

³² Section 3(1)(d) of the *Broadcasting Act* states, for instance, that the Canadian broadcasting system should:

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

(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...

Recommendation 3:

Policy tools to support Canadian content should be wide-ranging, with important emphasis on promotion and marketing, rather than narrowly focused on funding. However, all policy tools must respect and promote freedom of expression and an open internet.

Recommendation 4:

While policy tools can, on the national level, focus more on supporting Canadian dramas and documentaries, they should also pay particular attention to the needs of minority groups and local communities (including local news).

3.4 Who should support Canadian content?

51. At present, support for Canadian content comes from a variety of sources in various shapes and forms.
52. According to the Canadian Media Producers Association's *Profile 2015* report, Canadian film and television production generated \$2.96 billion in production volume and \$70.1 million in convergent digital media production in 2014/15.³³ Canadian film and television received about \$2.95 billion in financing from public and private sources, the top sources originating from provincial tax credits (18%), private broadcaster licence fees (17%) and Canadian distributors (12%).³⁴

³³ Canadian Media Producers Association, *Profile 2015: Economic Report on the Screen-Based Media Production Industry in Canada* (2015), online: CMPA <<http://www.cmpa.ca/sites/default/files/Profile%202015%20%28English%29.pdf>> at pp 4-5.

³⁴ *Ibid*, Exhibit 2-26.

Figure 3-7. Sources of funding for Canadian film and television

Exhibit 2-26 Financing for Canadian film and television production

From a financing perspective, approximately three-fifths of the growth in production volume in 2014/15 was fueled by increases in private sector funding from Canadian broadcasters, Canadian distributors and other Canadian private sector sources.

	2010/11		2011/12		2012/13		2013/14		2014/15	
	\$ millions	%								
Private broadcaster licence fees	500	21	572	19	494	18	442	16	488	17
Public broadcaster licence fees	179	7	221	7	225	8	261	10	253	9
Federal tax credits	235	10	299	10	263	10	278	10	300	10
Provincial tax credits	430	18	561	19	492	18	516	19	546	18
Canadian distributors	225	9	357	12	290	11	292	11	368	12
Foreign	195	8	280	9	253	9	322	12	326	11
Canada Media Fund	282	12	303	10	300	11	282	10	286	10
Telefilm - CFFF	67	3	60	2	66	2	60	2	58	2
Other public*	68	3	60	2	54	2	27	1	67	2
Other private**	254	10	298	10	241	9	240	9	264	9
Total	2,437	100	3,011	100	2,678	100	2,720	100	2,957	100

Source: Estimates based on data obtained from CAVCO, CMF and Telefilm Canada.

Note: Some totals may not sum due to rounding.

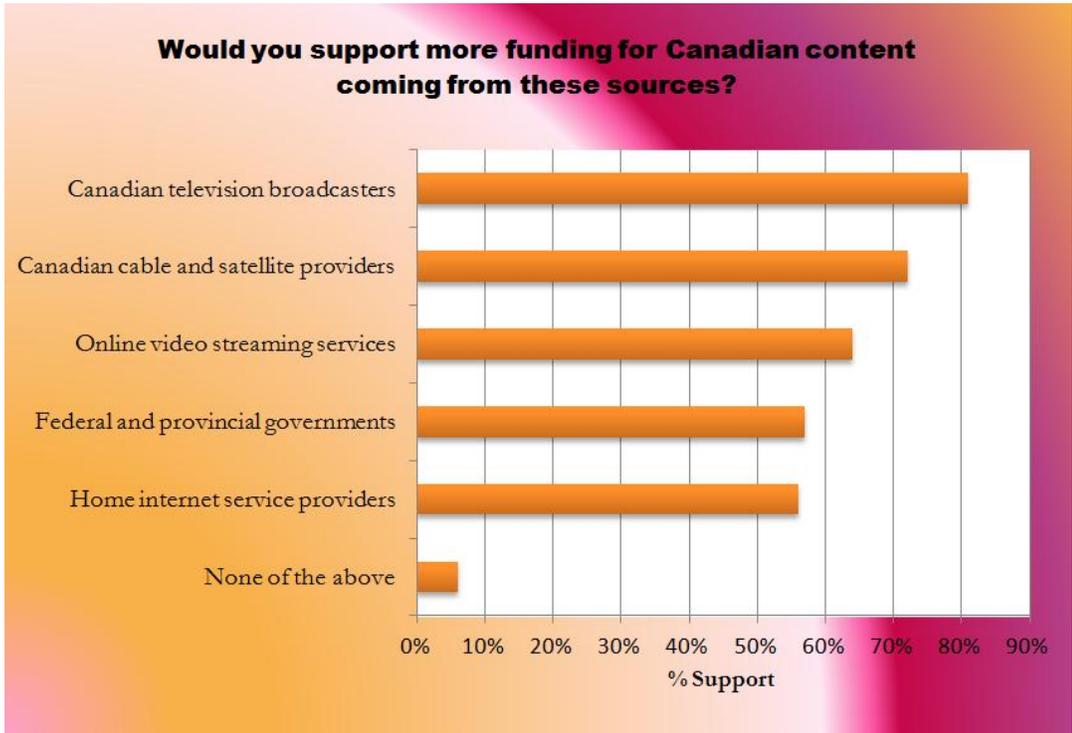
* Other public includes financing from provincial governments, and other government departments and agencies.

** Other private includes financing from production companies (excluding the tax credit contribution), independent production funds, broadcaster equity and other Canadian private investors.

Source: CMPA Profile 2015 Report

53. PIAC asked consumers where, if required, additional funding for Canadian content beyond these policy tools should come from. Survey respondents were read each possible source and asked to state whether they supported or did not support more funding for Canadian film and television coming from that source. While the survey question focused on funding in particular, PIAC believes the results could be extrapolated to consider where broader support for Canadian content should come from in general. The results are depicted below.

Figure 3-8. Future sources for additional Canadian content funding



- 54. The survey results show that Canadians most strongly support contributions from the “traditional” or incumbent media players – notably Canadian broadcasters (such as the CBC, CTV and YTV) and cable and satellite television providers. Canadians do, however, recognize that the film and television landscape is changing. They view online video services to be different from the traditional media players—there is less support for contributions from online services. However, Canadians tend to favour more contributions coming from traditional and online film and television players than from federal or provincial governments or home internet service providers.

- 55. When online video service subscribers were asked how much more per month they would be willing to pay on their subscription to support Canadian content, 46% said “nothing” while about 1 in 2 Canadians said they would be willing to pay an additional \$1 or more per month. Responses varied significantly by household income—57% of respondents with a household income of \$40,000 or less said they would pay “nothing” on top of their monthly online video subscription.

- 56. In sum, Canadians still see “traditional media players” as gaining the most – and therefore ought to be contributing the most – from the Canadian media market. However, they also recognize the ecosystem as one that is evolving and which

increasingly embraces digital media players. Canadians far prefer additional support for Canadian content coming from these players rather than from other sources such as government funding and especially ISPs.

57. Therefore, Canadians believe traditional Canadian broadcasters and television providers should continue to be the heavyweights in supporting Canadian content. Fewer Canadians, but still a significant group, believe online video services too could start supporting Canadian content.
58. In relation to funding in particular, there is already significant funding and financing for Canadian film and television in the current framework. In PIAC's view, the Minister should first examine whether existing funding could be shifted in order to address consumer trends and digital platforms. For instance, at this year's International Institute of Communications Canadian Chapter conference, a *Canadian Content Innovations* panel of Canadian producers proposed that funding models could shift from financing projects to financing specific independent production companies.
59. Where additional funding sources are deemed to be needed, PIAC submits the Minister should first take into account solutions which are equitable, and which in some cases do not directly affect individual Canadian subscribers. These funding sources could include:
 - Application of sales taxes to foreign online services such as Netflix. For instance, direct Netflix subscribers do not currently pay sales taxes whereas other subscribers – such as those who access Netflix through Apple TV iTunes – do. Applying a sales tax to all online video service subscribers would create an equitable policy.
 - Redirection of a portion of federal spectrum auction funds to supporting Canadian content. This funding policy would not directly affect Canadian subscribers in the way an ISP levy, for instance, would.
60. Only then should the Minister contemplate requiring further contributions from traditional, and possibly online, media players. However, as discussed above, PIAC believes a levy on ISPs would not be in the public interest for the digital access and affordability reasons given above.

Recommendation 5:

Incumbent media players in the Canadian market should be the first to support Canadian content, with recognition that online media players have a growing role – and growing responsibilities – in the media ecosystem.

Recommendation 6:

In examining funding for Canadian content, the Minister should:

- (i) Consider first whether existing funding should instead be modified in order to effectively support Canadian content in the future.
- (ii) Look to new sources which are more equitable or do not directly affect Canadians subscribers (e.g. sales taxes or spectrum auction proceeds).
- (iii) Only where needed, consider further contributions from traditional and potentially online media players – not ISPs.

4. Ensure Consumer and Public Interest Groups Continue to Be Part of the Conversation

61. Conversations about Canadian content are no longer only relevant to broadcasters, distributors, advertisers, unions and artists. In its *Let's Talk TV* proceeding, the CRTC recognized it was also important to consult with Canadians and ensure they were at the centre of their television system.³⁵
62. Consumer and public interest groups have a vital role to play in ensuring the right balance is struck so that all Canadians can benefit from the film and television sector. In the *Let's Talk TV* proceeding, PIAC in a coalition of other public interest groups argued for more choice, flexibility and affordability for Canadian families through pick-and-pay and skinny basic options—proposals which were ultimately adopted by the CRTC.³⁶ PIAC has also advocated for a diversity of programming which serves ethnocultural groups and local communities.
63. Consumer and public interest groups should be supported and encouraged to continue to participate in conversations about Canadian content and broadcasting policy.
64. In PIAC's experience, the Broadcasting Participation Fund (**BPF**) has been critical to enabling us to participate in public broadcasting consultations with the necessary research and evidence needed. While public interest interveners do their best to participate in policy proceedings without funding, their participation is necessarily restricted and cannot be as comprehensive and far-reaching—including the commissioning of surveys and other forms of evidence—as is often needed. To date, a variety of different public interest groups have relied on BPF funding.
65. The BPF is presently facing significant financial pressure from the many groups who apply for funding from it. It is at risk of disappearing since it has been, to date, only funded by occasional contributions during change of control proceedings before the CRTC. In fact, recent change of control “tangible benefits” packages have committed no funding to the BPF at all.
66. Therefore, PIAC calls on the Minister to keep consumer and public interest groups part of the conversation either by establishing regular funding of the BPF (by broadcasting industry stakeholders or others) or amending the *Broadcasting Act* to create a costs awards regime similar to that existing in the

³⁵ See, for instance: Broadcasting Notice of Invitation CRTC 2013-563.

³⁶ See: Broadcasting Regulatory Policy CRTC 2015-96.

Telecommunications Act and elaborated upon in the *CRTC Rules of Practice and Procedure*.³⁷

67. This would assist and encourage a plurality of public interest groups to contribute to policy proceedings and consultations related to Canadian content and broadcasting policy.

Recommendation 7:

In order to allow consumer and public interest groups to participate in developing Canadian content and broadcasting policy, either:

- (i) Establish regular funding of the Broadcasting Participation Fund; or
- (ii) Amend the *Broadcasting Act* to create a costs awards regime in the CRTC parallel to that under the *Telecommunications Act*.

³⁷ See: *Telecommunications Act*, SC 1993, c 38, s 56; and *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277, ss 60-70.

5. Conclusion and Recommendations

68. Canadians care about Canadian content and want it to succeed globally. However, the Minister's current consultation is timely—Canadian content is changing and the policy and regulatory tools supporting it must be reassessed and re-imagined.
69. In PIAC's view, any Canadian content policy must continue to value choice, affordable access to communications services, and the benefits of freedom of expression and an open, uninhibited internet. Canadians need to be connected in order to be informed, entertained and heard, whether through access to Canadian or other forms of content. Notably, PIAC would strongly oppose any levy on ISPs which would reduce the affordability of broadband, especially for low-income families and households.
70. However, Canadian content and the broader media ecosystem are changing, and more Canadians recognize this. Younger Canadians in particular view online choices and video services as part of the Canadian film and television landscape and would like to see tools which would better promote and market Canadian-made programs. Many Canadians also recognize the value of programming which serves minority groups and local communities, as these groups form part of the broader Canadian identity and culture. Therefore, PIAC would recommend that future policies not merely focus on films, dramas and documentaries, but also pay particular attention to the needs of local and minority communities.
71. The Minister should also ensure that consumer and public interest groups continue to be part of the conversation. These groups have a key role to play in ensuring the right balance is struck so that all Canadians can benefit from the Canadian film and television sector, and should continue to be supported in their efforts. Therefore, PIAC recommends a continuous, predictable funding mechanism for the Broadcasting Participation Fund or a costs awards regime similar to that under the *Telecommunications Act* for broadcasting public interest interveners.
72. PIAC thanks the Minister for the opportunity to participate in this consultation and looks forward to future occasions to share the results of our research and findings. We close by reiterating our submission's recommendations below.

Recommendation 1:

Any Canadian content policy should prioritize the objective of getting Canadians connected so they can engage and participate in all forms of media and content. No policy should constrain fair access to and affordability of communications services – especially broadband internet access.

Recommendation 2:

Ensure the concept of Canadian content and the funding, policy and business models used to support it are technologically neutral. In particular, broaden policy tools to further embrace Canadian content created for the digital space and other platforms.

Recommendation 3:

Policy tools to support Canadian content should be wide-ranging, with important emphasis on promotion and marketing, rather than narrowly focused on funding. However, all policy tools must respect and promote freedom of expression and an open internet.

Recommendation 4:

While policy tools can, on the national level, focus more on supporting Canadian dramas and documentaries, they should also pay particular attention to the needs of minority groups and local communities (including local news).

Recommendation 5:

Incumbent media players in the Canadian market should be the first to support Canadian content, with recognition that online media players have a growing role – and growing responsibilities – in the media ecosystem.

Recommendation 6:

In examining funding for Canadian content, the Minister should:

- (i) Consider first whether existing funding should instead be modified in order to effectively support Canadian content in the future.
- (ii) Look to new sources which are more equitable or do not directly affect Canadians subscribers (e.g. sales taxes or spectrum auction proceeds).
- (iii) Only where needed, consider further contributions from traditional and potentially online media players – not ISPs.

Recommendation 7:

In order to allow consumer and public interest groups to participate in developing Canadian content and broadcasting policy, either:

- (i) Establish regular funding of the Broadcasting Participation Fund; or
- (ii) Amend the *Broadcasting Act* to create a costs awards regime in the CRTC parallel to that under the *Telecommunications Act*.