



CRTC “Television” Policy Review

Overview of Proposed Submission

Creative Cluster Policy Unit (CCPU)
Ministry of Tourism, Culture and Sport

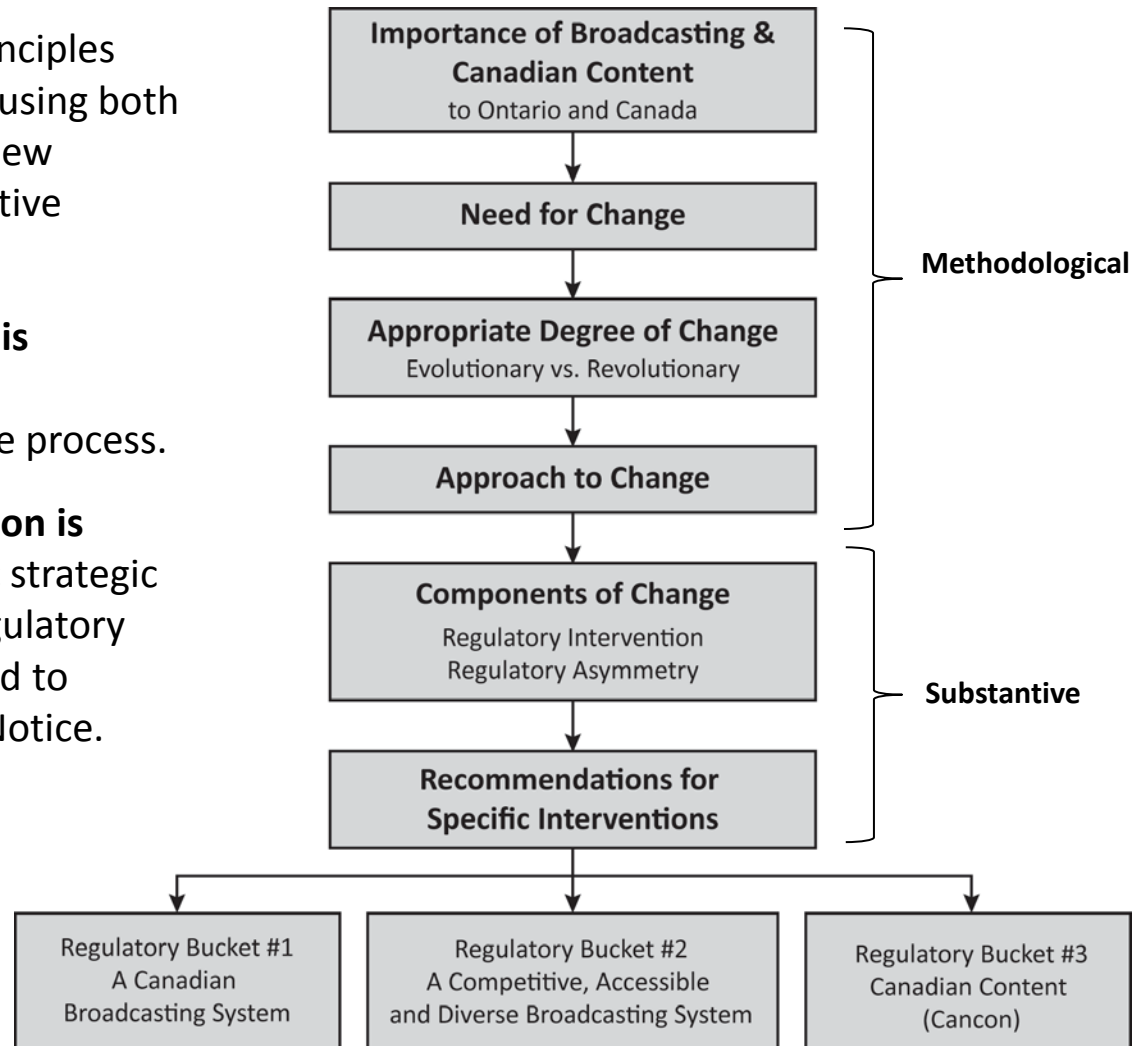
DM Briefing
June 12, 2014

Purpose

- To provide an overview of the proposed draft MTCS submission to the Canadian Radio-television and Telecommunications Commission (CRTC) TV Policy Review.
- Receive Deputy Minister feedback on the proposed draft.
- Confirm next steps.

Structure of the Draft Submission

- The Ministry has taken a first principles approach to this submission, focusing both on the process of developing a new framework as well as its substantive content.
- **The first part of the submission is methodological**, focusing on a recommended regulatory change process.
- **The second part of the submission is substantive**, focusing on specific strategic revisions to the current “TV” regulatory framework. This part will respond to specific questions posed in the Notice.



Methodological Section

The introductory methodological sections of the submission:

- **Stress the importance of the Cluster** generally, and the screen-based sector in particular, to the achievement of Ontario’s economic and cultural policy objectives.
- **Note the importance of broadcasting** as an integral component of a healthy Cluster ecosystem and the critical value of Canadian content within Ontario’s Cluster strategy.
- **Acknowledge the need to modernize** the “TV” regulatory framework to respond to the rapidly evolving globalized broadcasting environment.
- **Recommend evolutionary change** (i.e., responding to specific, demonstrable regulatory policy failures only) to reflect the realities of the new competitive broadcasting environment, protect consumer interests and build on the success of the “TV” system to date.
- Propose the CRTC should adopt modified principles of **Smart Regulation** when pursuing evolutionary change.
- Recommend a **balanced approach** that responds to the wants and needs of all Canadians while continuing to promote the objectives of the *Broadcasting Act*.

Substantive Section

The substantive section begins with two general recommendations:

- **Ensure that regulatory interventions are reciprocal**, by favouring interventions in the form of protections (for industry players and consumers) and obligations (for industry players).
- **Decrease regulatory asymmetry by expanding new media TV regulation.** MTCS' policy position is that industry players that benefit from delivering content to Canadian audiences should contribute in an appropriate manner to the Canadian broadcasting system and to the achievement of broadcasting policy objectives.

This recommendation represents a significant change to the current regulatory system.

- By corollary, MTCS does not recommend that regulatory asymmetry be decreased by lightening TV regulation. The current level of TV regulation overall is essential to maintain a healthy Canadian broadcasting system and achievement of the broadcasting policy objectives.

After framing these two key issues, the substantive section presents detailed comments on specific regulatory interventions, organized under three “buckets” of regulatory objectives.

Current Framework “Buckets”

CRTC’s current framework can be summarized as generally achieving three “**buckets**” of broadcasting objectives. CRTC has established **regulatory tools** that differently support each of these buckets.

Objectives	<p>CANADIAN SYSTEM The broadcasting system is <u>Canadian</u>.</p>	<p>COMPETITIVE, ACCESSIBLE & DIVERSE SYSTEM The broadcasting system is competitive, accessible and diverse.</p>	<p>CANADIAN CONTENT (Cancon) Cancon is produced, available and accessible.</p>
Example Tools	<p><u>Barriers to direct foreign entry</u>: Prohibit foreign TV broadcasters from BDU distribution in Canada unless authorized, and from competing with Canadian specialty broadcasters in certain genres.</p> <p><u>BDU packaging</u>: TV BDUs must distribute a % of Canadian broadcasters.</p> <p><u>Program rights protection</u>: Canadian TV broadcasters’ Canadian distribution rights to <i>foreign</i> programs are protected (e.g., simultaneous substitution, authorized foreign broadcasters must obtain Canadian rights to foreign programs).</p> <p>Together, these regulatory tools support the Canadian Program Rights Market (CPRM), which ensures Canadian TV BDUs, broadcasters and producers can obtain, retain and monetize Canadian distribution rights to made-for-TV programs (foreign and Cancon).</p>	<p><u>Market entry rules</u>: Canadian TV broadcasters and BDUs must be licensed.</p> <p><u>Transaction approval</u>: TV transactions must be reviewed and approved.</p> <p><u>Competitive safeguards</u>: Protect against anti-competitive behaviour by TV and new media TV industry players, between vertically-integrated companies (VICs) and between independents and VICs (e.g., undue preference rules, BDU-broadcaster carriage rules, producer terms of trade and dispute settlement and enforcement).</p> <p><u>BDU packaging</u>: TV BDUs must provide “basic” and “discretionary” service packages (but NOT pick-n-pay for individual services), and preferentially distribute certain Canadian broadcasters (e.g., local OTA, public interest specialty).</p>	<p><u>Spending/contribution quotas</u>: TV broadcasters must spend a % of revenues on Cancon (including independent Cancon), and TV BDUs must contribute a % of revenues to independent Cancon production funds (e.g., the Canada Media Fund) (see details in Appendix B).</p> <p><u>Broadcast quotas</u>: TV broadcasters must broadcast a % of Cancon (including independent Cancon) during specific viewing periods.</p> <p><u>Tangible benefits</u>: Buyers of TV broadcasters must make financial investments in the Canadian broadcasting system.</p> <p>These supports enable Ontario creators and producers to develop successful, sustainable careers and to produce, distribute and market high-quality, commercially viable Cancon to domestic and international audiences.</p>

s.13 Advice to Government



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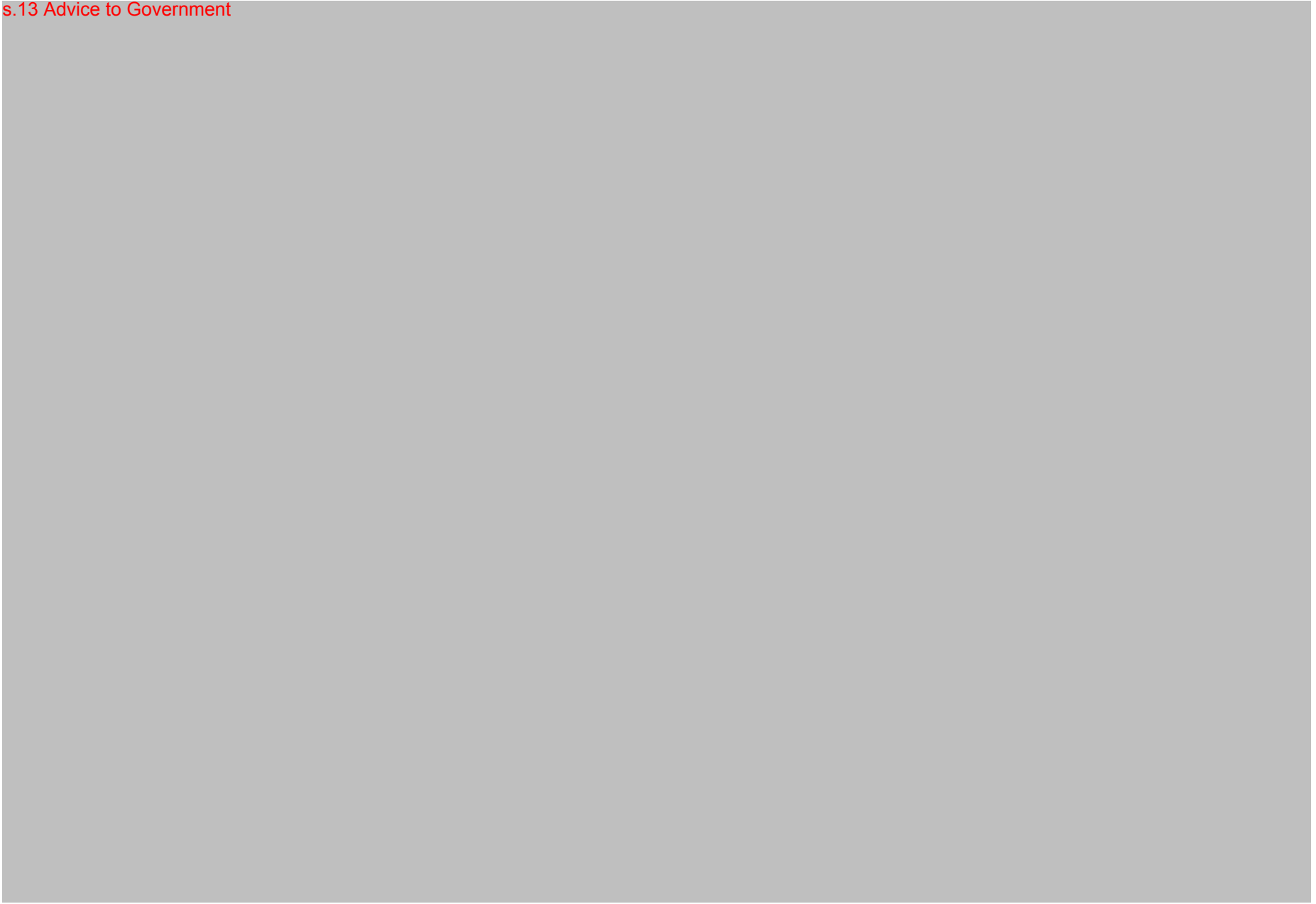
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Expected High-Level Stakeholder Positions

Table Legend
✓ Agree
✘ Disagree
○ Divided opinion

The submission has been positioned to mitigate stakeholder management issues and is expected to generally be consistent with the position of independent creators and producers.

Proposed Preliminary MTCS Positions	Canadian Industry				Foreign OTT Providers	Consumers
	VICs/TV Everywhere providers	Independents				
		TV BDUs/TV Everywhere	TV Broadcasters	Creators/ Producers		
Continue regulating “TV” system	✓	✓	✓	✓	✘	○
Advocate for: <ul style="list-style-type: none"> Regulatory supports (protections and obligations) over non-regulatory supports (i.e., incentives) Cancon quotas over promotional obligations Cancon financial regulatory supports over non-financial regulatory supports (e.g., broadcasting, promotion) 	✘ Regulatory protections only	✘ Regulatory protections only	✘ Regulatory protections only	✓	✘	○
Maintain CPRM supports	✓	✓	✓	✓	No position	✘
Maintain or enhance competitive safeguards, especially for independent players	✘	✓	✓	✓	✘	✓
Traditional TV: Maintain or increase <i>regulatory</i> supports, specifically including <i>Cancon</i> supports (i.e. keep quotas, add promotional obligations)	✘ Delete quotas	✘ Delete quotas	✘ Delete quotas (esp. indie Cancon)	✓	✘ Delete quotas	✘ Overall, lighten TV requirements
New Media TV: Increase <i>regulatory</i> supports, specifically including <i>Cancon financial</i> supports (through a staged approach). Note: Rogers is specifically arguing for foreign OTT requirements.	✘ Don't add or only expand foreign OTT requirements	✘ Don't add or only expand foreign OTT requirements	✘ Don't add or only expand foreign OTT requirements	✓ Add foreign OTT requirements to level playing field	✘ Don't add or only expand TV Everywhere requirements	✘
Other non-regulatory supports (e.g. set-top box analytics)	✓	✓	✓	✓	✘	○

Next Steps

1. Finalize current draft.
2. Share draft for feedback from other Ministries, with the proviso that the submission may not proceed depending on direction from the new government and noting that engagement on this proceeding is flagged as a “can’t wait” decision. Ministries to be consulted include:
 - Ministry of Economic Development and Trade (MEDTE)
 - Ministry of Research and Innovation (MRI)
 - Ministry of Intergovernmental Affairs (MIA)
 - Office of Francophone Affairs
3. Commence French language translation.
4. Await engagement decision and approval of submission by new government.