| **Comparison of changes to 1991 *Broadcasting Act* proposed in Bill C-11-3 (21 June 2022), with the report adopted by the Senate proposing additional changes, and the changes being proposed by the Government to the House of Commons (8 March 2023)** | | | |
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| [**C-11-3, available through Legisnfo**](https://www.parl.ca/DocumentViewer/en/44-1/bill/C-11/third-reading)  **(21 June 2022)** | [**Senate report**](https://sencanada.ca/en/committees/TRCM/Report/111422/44-1) **as sent by the Senate to the House of Commons as a Message**  **(14 December 2022)** | [***Order Paper and Notice Paper***](https://www.ourcommons.ca/Content/House/441/NoticeOrder/166/ordpaper166.PDF)**, No. 166 (44th Parl, 1st Sess) pages IX to X, being pages 105-106 in 108-page PDF (8 March 2023)** |
| *[C-11-3, page 2]*  ***community element*** includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community; (élément communautaire) | 1.Clause 2, pages 2 and 4:  (a)On page 2,  (i)replace lines 21 to 27 with the following:  “***community element*** includes the participation of members of the community, through volunteers and a community board selected by members, in the content production of community media in the language of their choice, as well as in the day-to-day operations and administration of not-for-profit community media entities responding to the needs of the community they serve; (élément communautaire)”, | disagrees with amendment 1(a)(i) because the amendment does not refer to broadcasting undertakings that comprise components of the broadcasting system which may cause interpretative issues in the application of the Act; |
| *[C-11-3, page 10]*  Regulations — programs to which this Act applies  4.2 (1) For the purposes of paragraph 4.1(2)(b), the  Commission may make regulations prescribing programs in respect of which this Act applies, in a manner that is consistent with freedom of expression. |  |  |
| Matters [13]  (2) In making regulations under subsection (1), the Commission shall consider the following matters:  (a) the extent to which a program, uploaded to an [15] online undertaking that provides a social media service, directly or indirectly generates revenues;  (b) the fact that such a program has been broadcast, in whole or in part, by a broadcasting undertaking that  (i) is required to be carried on under a licence, or  (ii) is required to be registered with the Commission  but does not provide a social media service; and  (c) the fact that such a program has been assigned a unique identifier under an international standards system. [26] | 3.Clause 4, page 10:  Replace lines 15 to 26 with the following:  “(a) the extent to which a program contains a sound recording that has been assigned a unique identifier under an international standards system;  (b) the fact that the program has been uploaded to an online undertaking that provides a social media service by the owner or the exclusive licensee of the copyright in the sound recording, or an agent of the owner; and  (c) the fact that the program or a significant part of it has been broadcast by a broadcasting undertaking that  (i) is required to be carried on under a licence, or  (ii) is required to be registered with the Commission but does not provide a social media service.”. | disagrees with amendment 3 because this would affect the Governor in Council’s ability to publicly consult on, and issue, a policy direction to the CRTC to appropriately scope the regulation of social media services with respect to their distribution of commercial programs, as well as prevent the broadcasting system from adapting to technological changes over time; |
| *[Page 14 of C-11-3]*  Conditions  9.1 (1) The Commission may, in furtherance of its objects,make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting | 6.Clause 10, page 14: Delete lines 23 to 25.  … |  |
| (d) the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure the diversity of programming; | ~~(d) the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure the diversity of programming;~~ | respectfully disagrees with amendment 6 because it could limit the CRTC’s ability to impose conditions respecting the proportion of programs to be broadcast that are devoted to specific genres both for online undertakings and traditional broadcasters, thus reducing the diversity of programming; |
| *[Page 18 of C-11-3]*  Regulations — Canadian programs  [10](1.1) In making regulations under paragraph (1)(b), the  Commission shall consider the following matters: |  |  |
| (1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:  (a) whether Canadian producers, including independent producers, have a right or interest in relation to a program, including copyright or any other right or interest, that allows them to control and benefit in a fair and equitable manner from the exploitation of the program; | (a) On page 18, replace lines 29 to 32 with the following:  “(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a fair”; | Proposes that amendment 7(a) be amended to read as follows:  “(a) On page 18, replace lines 29 to 34 with the following:  “(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;”” |
| Regulations — Canadian programs  (1.1) In making regulations under paragraph (1)(b), theCommission shall consider the following matters:  …  (e) any other matter that may be prescribed by [6] regulation. [7] |  |  |
| *[Absent in C-11-3]* | [7](b) on page 19,  …  (ii) add the following after line 7:  “(1.11) No factor set out in paragraphs (1.1)(a) to (e) is to be determinative of any matter provided for by a regulation made under paragraph (1)(b).”. | disagrees with amendment 7(b)(ii) because the principle that Canadian programs are first and foremost content made by Canadians is, and has been, at the centre of the definition of Canadian programs for decades, and this amendment would remove the ability for the CRTC to ensure that that remains the case; |
| *[Page 23 of C-11-3]*  16 Paragraph 18(1)(c) of the Act is replaced by [18]  the following:  (c) the establishing of any performance objectives for [20]  the purposes of paragraphs 11(2)(b) and 11.1(6)(b);  and [22]  *[Absent in C-11-3]* | 9. Clause 16, page 23:  …  (b) add the following after line 22:  “(2) Subsection 18(2) of the Act is replaced by the following:  (2) The Commission shall also hold a public hearing in connection with the following matters unless it is satisfied that such a hearing is not required in the public interest:  (a) the amendment or renewal of a licence;  (b) the making of an order under subsection 9.1(1) or 11.1(2); and  (c) the making of any regulation under this Act |  |
|  | (2.1) A hearing in connection with a matter referred to in paragraph (2)(b) or (c) shall be held after the proposed order or regulation in question is published.”. | proposes that amendment 9(b) be amended by deleting subsection 18(2.1) because the obligation to hold a public hearing both before and after decisions are taken by the CRTC will entail unnecessary delays in the administration of the Act; |
| *[Bill C-11-3, page 40]*  Objects and powers  46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), subject to any applicable orders and regulations of the Commission, and for that purpose the Corporation may [line 13]  (b) make agreements with persons carrying on broad- [16] casting undertakings for the broadcasting of programs;[18]  *Absent in Bill C-11-3*  [46](2) International service …. [line 21] | 11.*Clause 30, page 40*: Add the following after line 20:  “(1.1) Despite subsection (1), the Corporation may not enter into any contract, arrangement or agreement that results in the broadcasting or development of an advertisement or announcement on behalf of an advertiser that is designed to resemble journalistic programming.”. | respectfully disagrees with amendment 11 because the amendment seeks to legislate matters in the broadcasting system that are beyond the policy intent of the bill, the purpose of which is to include online undertakings, undertakings for the transmission or retransmission of programs over the Internet, in the broadcasting system, and because further study is required on how best to position our national public broadcaster to meet the needs and expectations of Canadians. |

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Please note this is a best-effort comparison and FRPC does not guarantee complete accuracy