December 11, 2025

Mr. Marc Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Gatineau, Québec K1A 0N2

Filed Online

Dear Mr. Morin:

Re: Broadcasting Notice of Consultation ("BNC") CRTC 2025-52-5 – *The Path Forward – Supporting Canadian and Indigenous audio content* – DIMA Final Written Submissions

1. These are DIMA's final written submissions in the above-noted consultation ("**Audio Consultation**"), on behalf of our members, the world's leading music streaming companies.

2. DIMA incorporates by reference in these submissions its November 24, 2025 responses to the Commission's requests for information ("**RFIs**").[1]

Introduction and Executive Summary

3. The Commission has recognized that the Canadian broadcasting system has been undergoing an important transformation, and has stated that its goal is to build a framework that reflects that transformation, for today and tomorrow. Commission Chairperson Eatrides recently stated that:

[1] See DIMA's RFI responses (DM#4936177) available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

> […] "**we are in the midst of one of the biggest transformations in the system's history**. Since Parliament passed the Online Streaming Act, we have been tasked with **building a modern regulatory framework**, and that work is well underway. […] Our goal remains clear: to ensure that Canadians have access to their own stories, and to **build a broadcasting system that is resilient, adaptable, and ready for the future**. […] And **our broadcasting system is evolving to better reflect the Canada of today and tomorrow**."[2]

4. DIMA emphatically agrees that the audio system has come through a **fundamental transformation – one of the biggest in the music industry's history**. DIMA members have worked together with stakeholders in the music industry to build a whole new system. These successes were achieved on the global stage, and within Canada:

    - *Global achievements:* Two decades ago, most online music consumption came through piracy. Napster, Limewire and other pirate networks effectively decimated the music industry. The entire music business was in jeopardy as artists struggled to get the revenues they relied on. DIMA members worked alongside the music industry to help the industry rebound, offering extensive, licensed catalogues of music, ensuring that artists were paid. Over the years, continued collaboration between streaming and artists helped forge strong connections between artists and listeners, cementing the user-focused, personalized experience that drives subscriptions and music industry revenues. In short, this process transformed piracy into prosperity.

    - *Canadian achievements:* Canada is now the eighth largest recorded music market in the world,[3] and the third largest exporter of music to the world.[4] Streaming now generates the vast majority of Canadian recorded music revenues.[5]

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[2] Chairperson Vicky Eatrides, Speech to the Canadian Chapter of the International Institute of Communications, Ottawa, October 20, 2025, available at https://www.canada.ca/en/radio-television-telecommunications/news/2025/10/vicky-eatrides-to-the-canadian-chapter-of-the-international-institute-of-communications.html.

[3] Graham Davies, DIMA President and CEO, Public hearing transcript September 26, 2025 at para. 4068. See International Federation of the Phonographic Industry ("**IFPI**") Global Music Report 2025, available at https://www.ifpi.org/wp-content/uploads/2024/03/GMR2025_SOTI.pdf, at pp. 8 and 10.

[4] John Murphy, head of Amazon Music in Canada, Public hearing transcript September 18, 2025 at para. 952. See Luminate 2024 Year-End Report, available at https://luminatedata.com/reports/yearend-music-industry-report-2024/, at p. 44.

[5] Graham Davies, DIMA, Public hearing transcript September 26, 2025 at para. 4069. Canada ranks among the top ten markets for both recorded music and authors' rights revenues, with "digital" accounting for

5. As we will explain in these final written submissions, the Commission should recognize the positive initiatives and contributions provided by online music undertakings and leverage these efforts to their fullest extent to meet the objectives of the *Broadcasting Act* (the "**Act**") as amended by the *Online Streaming Act*. The Commission cannot rely on arguments made in this proceeding to apply elements of the outdated regulatory regime to the modern system, or to impose a regulatory framework on online services that is designed to reflect or alleviate the problems of another sector. That was never Parliament's intention, is not supported by the Act or the Policy Direction,[6] and would only undermine the thriving music streaming market that benefits the Canadian industry.

6. We will also explain that the music streaming system would in fact be put at risk if the Commission were to impose a framework that fails to recognize its business model, which is user-centric and based on strong connection with the artists.

7. The Commission's decisions to modernize the policies that regulate broadcasting and audio streaming in Canada should be guided by first principles. Its decisions and policies must:

   I. ***Recognize that the Canadian music industry is a story of growth, not crisis.*** The Commission must begin with a clear-eyed view of today's music streaming system. Assertions that Canadian music is in crisis are not supported by the record. On the contrary, the evidence demonstrates a strong and resilient system driven by streaming services and supported by growing Canadian and global audiences.

   II. ***Recognize music streaming services' initiatives and contributions to the creation and success of Canadian music and artists – including royalties as a core driver of growth and sustainability.*** The surge in the consumption of Canadian, Francophone and Indigenous music, the outsized success of Canadian artists and tracks locally and globally, and the significant royalties generated by streaming services demonstrate that the policy objectives of the Act and Direction are already being met.

79.3% for rights in the sound recording (IFPI) and 52% for rights in the musical work (authors/songwriters) (CISAC): see IFPI Global Music Report 2025 and 2024 CISAC Global Collections Report 2024, p.24.

[6] Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework), SOR/2023-239 ("**Policy Direction**").

III. ***Recognize the listener's central role.*** Listeners are not just beneficiaries of the system. They make active choices in the online music environment that shape the music served. Canadian listeners are not only highly satisfied with the availability and discoverability of Canadian content on streaming platforms – they are shaping that experience through their daily choices and engagement.

IV. ***Recognize the repercussions that regulating music streaming services will have for others.*** In the digital music system, only music streaming services are regulated under the *Broadcasting Act*. Mandated changes on streaming can have broad and negative repercussions for other participants in the system, including labels, artists, publishers and listeners.

8. With the above first principles in mind, DIMA makes the following key submissions:

Financial contributions to the broadcasting system

a) The Commission must begin by recognizing music streaming companies' existing contributions.

b) The Commission must not impose additional financial contributions.

c) The Commission must be guided by the proper and intended meaning of "*equitable contributions*" under the Act and Policy Direction, and not distracted by arguments for "equality", or "equal rules".

Discoverability

a) The Commission's decisions should properly recognize that discoverability is an important competitive differentiator for music streaming services, and that they require flexibility.

b) The Commission must prioritize established and emerging means of discoverability, and use existing, available outcome-based data to measure success.

c) Defining "Canadian musical selection" will be a long, challenging process, given the complexities of modern music production. Moreover, a definition will always be an imperfect tool to measure or regulate the contributions of music streaming services. We point to other much more effective factors to track and measure their contributions.

Data collection and confidentiality

a) The Commission must rationally connect any data collection to a clear objective, and should collect it only as necessary.

b) The Commission must continue to maintain the strict confidentiality of sensitive financial and operational information.

Procedural fairness concern

9. Before setting out DIMA's final substantive submissions further below, we are raising our concern with the Commission Panel's decision, announced on September 29, 2025, the last day of the public hearing, to add three new reports commissioned by l'Association des professionnels de l'édition musicale ("**APEM**") to the public record, for comment by parties in final written submissions. DIMA objects to the addition of these reports to the public record, as a matter of procedural fairness.

10. APEM's procedural request was dated Friday, September 12, 2025 and published shortly before the start of the public hearing the following week. Section 41 of the CRTC Rules of Practice and Procedure ("**Rules**")[7] and the Commission Guidelines on them ("**Guidelines**")[8] provide that:

> [...] parties **cannot introduce new evidence at the public hearing except where it supports statements already on the public record** (section 41). This rule is designed to **ensure that all parties have a fair opportunity to respond to the evidence and positions of the other parties in the proceeding**. However, in certain circumstances, at the request of a party the Commission may grant permission to introduce new evidence to support a statement or position not already on the record. If you wish to introduce new evidence, you must ask permission of the Chair of the hearing before you do so.[9]

11. The Rules and Guidelines make it clear that adding evidence to the record of a proceeding at a public hearing is an *exceptional* measure to "support *statements* already on the public record". However, the reports commissioned by APEM amount to a large volume – 226 pages – of data and commentary on music discoverability and related matters – and therefore, not mere "statements". Moreover, as APEM stated, the

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[7] Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure (SOR/2010-277).

[8] Broadcasting and Telecom Information Bulletin CRTC 2010-959.

[9] Guidelines at para. 129.

reports were commissioned far in advance, and therefore could have been raised in a formal request to the Commission made equally far in advance. Parties to this proceeding should have had a formal, full, advance opportunity to comment on whether these reports should be added to the record, and if they were to be added, the Commission should have provided some direction to parties on the Panel's preliminary assessment of their relevance, to assist parties in focusing their responses at this late stage of the proceeding.

A. FIRST PRINCIPLES

First Principle I: Recognize that the Canadian music industry is a story of growth, not crisis.

12. The starting point for a regulatory framework must be an accurate understanding of the system it seeks to shape. Assertions that the Canadian music industry is in crisis are not supported by the record before the Commission. In fact, the evidence drawn from public data overwhelmingly demonstrates a sector experiencing sustained growth.

13. Streaming data show that revenues across the Canadian music system have steadily increased. Record labels, music publishers, and Canadian artists, whether signed to Canadian or international companies, have all benefited from the rise of streaming. This trend has been confirmed by Statistics Canada,[10] the International Federation of the Phonographic Industry ("**IFPI**"),[11] and other industry sources.

14. Canadian and Indigenous artists are not only reaching domestic audiences on music streaming services but are also finding significant success internationally. These real-world outcomes have not been rebutted.

15. Despite this, some parties[12] continue to claim that Canadian artists and rightsholders are facing a crisis. They base this claim on two flawed metrics: relative stream share – sometimes called "market share" at the public hearing – and SOCAN royalty distribution data. Neither offers a reliable or complete basis for policymaking.

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[10] Statistics Canada, "Sound recording and music publishing, 2023", available at https://www150.statcan.gc.ca/n1/daily-quotidien/250124/dq250124c-eng.htm.

[11] IFPI Global Music Report 2025, available at https://www.ifpi.org/wp-content/uploads/2024/03/GMR2025_SOTI.pdf, overview at pp. 4-7.

[12] For example, APEM, ACCORD, and ADISQ.

16. Relative stream share is not a meaningful indicator of success in the context of streaming. It measures only what proportion of overall consumption involves Canadian content. On streaming services, an increase in the volume of consumption of some music does not necessarily happen at the expense of other content; it is not a "zero sum game". On the contrary, as consumers become more satisfied with streaming services, they tend to consume more content. Two things can be true at the same time: more Canadian content can be consumed, and its relative share in total consumption can be decreasing, but that does not mean that Canadian content is not doing well. As more music becomes available and discoverable, the total number of tracks streamed by Canadian users has increased significantly. The overall size of the pie has grown.

17. Canadian artists are reaching more listeners, generating more royalties, and finding new audiences both at home and abroad. A decline in relative share does not mean a decline in value or visibility. It simply reflects the expanded consumption that happens when consumers are satisfied with the scope of choice and access that streaming services provide. Relying on relative stream share alone ignores the fundamental shift in how music is consumed and misunderstands what it means for artists to succeed in a global market. As DIMA stated at the public hearing:

> Traditional charts or relative market shares are not a good proxy for streaming success. Last year, a large proportion of artists who earned more than a million dollars from one of our members never appeared in the global top fifty.[13]

18. The interpretation of SOCAN data presents a different set of challenges. This data combines music and audiovisual streaming revenues, even though these are separate markets. It presents distributions rather than collections, without accounting for internal deductions or delays. In addition, it offers no clear explanation of how Canadian music is defined, making it impossible to draw accurate conclusions about Canadian content performance. These limitations and methodological flaws in SOCAN's assessment are detailed in reply comments by Music Canada and DIMA members in this proceeding.[14]

19. When decisions with significant consequences for artists, rightsholders, consumers, and digital platforms are being considered, they must be supported by sound evidence.

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[13] Graham Davies, DIMA, Public hearing transcript September 26, 2025 at para. 4084.

[14] See Music Canada Reply comments at paras. 84-92; Spotify Reply comments at paras. 30-37; Apple Reply comments at paras. 7-8.

The record in this proceeding shows a music sector that is growing in both reach and revenue. That reality must guide the Commission's approach.

First Principle II: Recognize music streaming services' initiatives and contributions to the creation and success of Canadian music and artists – including royalties as a core driver of growth and sustainability.

20. The Act and the Policy Direction require the Commission to recognize the distinct business models, contributions and perspectives of music streaming companies. That must begin with understanding and recognizing how they work with the music industry to provide editorial support and promote Canadian and Indigenous music, for the benefit of artists, rightsholders, and users.

21. As DIMA stated at the public hearing:

> Two decades ago, most online music consumption came through piracy. By building a whole new ecosystem that provides legal access to the world's music at your fingertips, our members have helped transform piracy into prosperity. Today, Canada stands as the eighth largest recorded music market in the world – this is a tremendous success story, and we are proud of the role that DIMA's members have played. Streaming now generates the vast majority of Canadian recorded music revenues, paying more than half a billion dollars to rights holders last year.[15]

22. Neither the Commission's contributions consultation[16] nor the earlier phases of this proceeding have properly considered DIMA's members' contributions to the creation and success of the modern music system. The Commission must reflect this in its decision-making. As we noted in the introduction to these submissions, Commission Chairperson Eatrides correctly recognized that "we are in the midst of one of the biggest transformations in the system's history".[17] While representatives of the legacy broadcasting system have consistently pointed to the ways that streamers are allegedly upending their business model, DIMA and its members have consistently explained, with supporting evidence, how the transformation has produced satisfied listeners, and successes for Canadian and Indigenous artists and music, in ways the legacy broadcasting system could not, within Canada and on the global stage.

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[15] Graham Davies, DIMA, Public hearing transcript September 26, 2025 at paras. 4068-4069.

[16] Broadcasting Notice of Consultation CRTC 2023-138, *The Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content*.

[17] Supra note 2.

First Principle III: Recognize the listener's central role.

23. The Policy Direction requires the Commission to "respect audience choice".[18] The Commission itself has recognized that:

> At the same time, ensuring that Canadians have access to content, and that it is discoverable, does not mean that content is guaranteed to succeed with audiences. A policy principle of this proceeding and of the resulting regulatory framework is **to ensure choice in content and the ability to consume that chosen content, not to direct Canadians in which content they must consume, or how they must consume it**.[19]

24. Audience choice and engagement are at the heart of the success in the online music system. Listeners are not just beneficiaries; they are active participants.

- Canadian consumers are choosing streaming. Two thirds of Canadians use music streaming services (for those under 30 – above 90%), 85% are satisfied with their experience, and 80% find it easy to discover Canadian music.[20] These responses demonstrate that Canadian users not only value choice – they are accessing and engaging with Canadian content in a way that reflects meaningful discoverability.

- The above level of satisfaction is strongly based on users' ability to choose their own listening experiences: their preferences steer what they listen to. Streaming offers music to listeners that is customized and tailored to their taste.

25. The Commission Panel heard at the public hearing that each music streaming service has built its business on its listeners trusting their individual, self-directed experience on the service.[21] The Commission also heard that discoverability driven by user choice is the "magic sauce" driving the entire system:

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[18] Policy Direction s. 8(c).

[19] Broadcasting Notice of Consultation CRTC 2025-2, *The Path Forward – Working towards a sustainable Canadian broadcasting system*, para. 21, emphasis added.

[20] Graham Davies, DIMA Public hearing transcript September 26, 2025 at para. 4073. See https://sparkadvocacy.ca/insights/2024/05/streaming-lets-canadians-find-music-they-love-and-canadian-musicians-find-audiences-around-the-world.

[21] Patrick Aldous, Senior VP of Business and Legal Affairs at Nettwerk Music Group ("**Nettwerk**"), Public hearing transcript, September 18 2025 at para. 1136.

> You know, just in my house alone, when my girls listen to the Beaches' "Last Girls at the Party," [...] they get more of the Beaches. When they listen to Shania Twain, they get more Shania Twain. And **the discoverability option, when it switches between the two, is the magic sauce and magic potion that has let society go from a world of piracy to paying for music again and paying for these subscription services that learn about the music that you like**.[22]

26. The focus on listeners matters because the government has directed the Commission to respect audience choice,[23] and to "prioritize outcome-based regulations and conditions that minimize the need for broadcasting undertakings to make changes to their computer algorithms that impact the presentation of programs" to users.[24] More fundamentally, it matters because imposing regulations that interfere with the way users engage with services – through quotas, "play or pay", or other regulations dictating how music streaming services surface music to users, as proposed by certain stakeholders[25] and by the Commission in its RFI questions[26] – will undermine the system and listener choice, and even risk "driving users to unlicensed services that do not pay artists".[27]

First Principle IV: Recognize the repercussions that regulating music streaming services will have for others.

27. The Act is structured such that the Commission imposes orders and makes regulations applicable only to one part of the music system: broadcasting undertakings, including audio online undertakings (music streaming services).[28] However, the digital music system depends on, and has important implications for, actors and actions that are not regulated under the Act, including labels, artists, publishers and listeners. Those

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[22] Patrick Rogers, CEO of Music Canada, Public Hearing transcript September 18, 2025 at para. 381.

[23] Policy Direction section 8(c).

[24] Policy Direction, s. 6.

[25] See proposals by APEM, ACCORD, ADISQ, and CBC.

[26] Broadcasting – Staff Letter addressed to the Distribution List, 23 October 2025 - *Requests for information regarding the proceeding initiated by The Path Forward – Supporting Canadian and Indigenous audio content, Broadcasting Notice of Consultation CRTC 2025-52, 20 February 2025* ("**Audio Policy RFI request**"), Q20, asking about an "exchange rate between financial contributions and Canadian content aired" under a "pay or play" regime.

[27] See Music Canada RFI responses (DM#4936034) to Q20 at para. 56, available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

[28] The Commission's powers to make orders and regulations apply chiefly to persons carrying on broadcasting undertakings, defined as three categories of undertakings engaged in "broadcasting".

relationships are intricate and interdependent. Changes can have broad repercussions for the overall music streaming system.

28. To put this in perspective in the context of this consultation, Music Canada noted at the public hearing that for the first time, the Commission is regulating the single largest source of revenue for the music industry:

> "[t]he regulation of the streaming platforms means that the CRTC is regulating services that represent 5 per cent of revenue [radio] to 79 per cent [music streaming] [for the music industry]."[29]

Nettwerk – one of the first independent record labels in Canada to openly embrace music streaming, and today the largest full-service independent record label in Canada[30] – commented that "this intervention by the CRTC is the first attempt ever at regulating Nettwerk's *primary* source of revenue".[31] This cannot be overstated. Regulations that impact music streaming companies' business models and their spending can and will have knock-on effects for the music industry. That could arise from mandated discoverability requirements that undermine the user-led experience, disrupting the data music labels rely on to determine which artists to sign and invest in.[32] It may also arise from the requirement for music streaming companies to re-direct their on-the-ground local and international investments in Canadian artists and artist organizations to third-party funds, including funds with a mandate to support business models and content that are not our members' focus, such as radio and news.

29. Consumer choice and preferences drive the success of the entire digital music industry, and the Commission has correctly stated that a policy principle for the regulatory framework is to respect audience choice.[33] If audience choice is not fully respected, that would risk undermining the entire interrelated flow of consumption, data about consumer choice, investment, and rights payments to artists and other

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[29] Patrick Rogers, CEO of Music Canada, Public Hearing transcript, September 18, 2025 at para. 301.

[30] Patrick Aldous, Nettwerk, Public hearing transcript, September 18, 2025 at paras. 1126-1127.

[31] Patrick Aldous, Nettwerk, Public hearing transcript, September 18, 2025 at para. 1136.

[32] See Patrick Aldous, Nettwerk, Public hearing transcript, September 18, 2025 at para. 1136: "**Streaming services have built their business on their listeners trusting the listening experience on these platforms**, and **we have built ours on being able to trust the data that we receive** from our streaming partners regarding that listening experience. **If that experience and trust is compromised** with respect to Canadian and Indigenous artists, we would not be able to trust the data that we use to build our business with respect to those artists, which would lead to us avoid signing Canadian and Indigenous Artists." (emphasis added)

[33] Supra notes 18 and 19.

rightsholders, all of which are working well and supporting Canada's success on the global stage.

B. CONTRIBUTIONS

Begin by recognizing existing contributions

30. The Commission must begin by fully considering and recognizing music streaming companies' existing contributions to the system, and only then determining what contributions are appropriate under the Act and the Policy Direction.

31. In this and earlier proceedings, DIMA and its members have provided significant and detailed evidence of music streamers' contributions to discovery and promotion of Canadian artists.[34] These contributions include, and are not limited to:

- Royalties paid by online music services to music rights holders. DIMA members currently pay around 70% of all revenues they receive for music streaming as royalties to music rightsholders. Those payments support the music industry in Canada in a way that no other contributions can. They represent approximately 8.5 times the value of radio royalty payments, and they are paid directly to rightsholders.
- Off-platform marketing.
- Partnerships and sponsoring festivals and events.
- Training such as workshops and songwriting camps.
- Local music teams.

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[34] See for example RFI responses by DIMA members Amazon Music, Apple Music and Spotify:

- in January 2024 (BNC 2023-138) Q17 regarding expenses related to music services (available at https://applications.crtc.gc.ca/TransferToWeb/2023/2023-138_Responses%20to%20requests%20for%20information.zip);
- in August 2025 (BNC 2025-2) Q12 regarding access and exposure to Canadian content on music streaming services (available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-2_Responses%20to%20requests%20for%20information.zip); and
- in November 2025 (BNC 2025-52) Q10 regarding proposed reporting on promotion and discoverability, and Q11 regarding expenditures on populating and promoting editorial programs on music streaming services (available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip).

- Investment in technology, tools and features that allow artists to: access consumption, playlist, and audience data; customize their profiles; promote merchandise; and interact with and develop fans.

- Development and production of original recordings. Some DIMA members invest in limited music production, as a way to support and partner with artists.

32. The Indigenous Music Office,[35] Nettwerk,[36] Music Canada[37] and others expressly recognized the value of these investments and partnerships with the music industry. These can and should be recognized, serve as a guideline, and incentivized in the regulatory regime to meet Canadian broadcasting policy under the Act.

33. While the Commission and some parties to this and earlier proceedings have questioned whether royalties should be recognized and counted as contributions, there is no doubt that they must be. The flow of royalties that allowed the music industry to make such a strong comeback from the days of piracy make the following investments possible, every day: find and support new talent, sign new artists, fund production, and increase budgets for promotion and discovery. Each of these investments furthers the objectives of the Act.

34. DIMA members are not aware of any international models that are similar to the Commission's proposed regulatory regime for music streaming services. We urge the Commission to use the submissions and information DIMA, its members, and music industry representatives have provided in these consultations to better understand and leverage the successes streaming has brought to the Canadian system. An overly intrusive and disruptive model could easily lead to fall-off of user engagement and diversion of resources from valuable initiatives and partnerships. It would also risk

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[35] See IMO references to SOCAN Foundations Indigenous Song Camp supported by Amazon Music Canada, billboards at Yonge and Dundas in Toronto for Spotify, Amazon and Apple Music, artist-centred platforms such as Spotify for Artists, Apple Music for Artists, and Amazon Music for Artists, and relationships with editorial staff in Canada. Alan Greyeyes, IMO Chairperson, Public Hearing transcript September 19, 2025 at paras. 2451-2452 and 2458.

[36] See Patrick Aldous, Nettwerk, Public hearing transcript September 18, 2025 at paras. 1138-1141.

[37] See Music Canada RFI responses (DM#4936034) to RFI Q5a and 9 at paras. 34, 38 and 50-52, available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip). Music Canada encouraged the Commission to recognize these initiatives, and provide flexibility to enable music services to develop "distinct programs to promote and amplify emerging Canadian and Indigenous artists"... "in the manner best aligned with their specific business models."

discriminating against foreign businesses[38] instead of fulfilling Parliament's intention to recognize and bring foreign undertakings' unique contributions into the broadcasting system.

Continued contributions to funds are not warranted

35. The Commission has made requests for information ("**RFIs**") such as what should be included in an annual report on support of Canadian music and musicians, and asking which investments the Commission should recognize.[39] If the Commission pursues that information collection, it should use the data to review redundancies between those initiatives and contributions to funds. Direct expenditures and investments will always be more valuable than flowing contributions through third party funds. Direct expenditures are in fact what the government expected to be captured and recognized under the new Act. The Commission has been directed to "**prioritize the imposition of requirements to make expenditures directly** on the creation, production, and presentation of Canadian programming", wherever that is appropriate for a given business model and set of objectives.[40]

Additional financial contributions are not supported

36. The Commission should reject proposals to impose additional financial contributions on music streaming services.[41] These proposals do not even attempt to account for the

[38] See discussion of the potential for measures under the *Online Streaming Act* (then Bill C-11) to be discriminatory or a "trade irritant". Standing Senate Committee on Transport and Communications, clause-by-clause examination of Bill C-11, Evidence November 30 2022 at p. 35:35 – 35:37.

[39] Broadcasting – Audio Policy RFI request, supra note 26. See for example RFI #15.

[40] Policy Direction section 12(e), emphasis added.

[41] APEM and ADISQ seek to add a further 2% to the base contribution. Friends of Canadian Media ("**Friends**") have proposed a 25% CPE for music streaming services. The CBC and Friends support a "play or pay" requirement.

value of music streaming services' existing contributions.

The Act and Direction provide a blueprint for equitable contributions

37. Parties to this proceeding have raised the issue of "equity" in their arguments,[42] and the Commission panel asked some parties what constitutes an "equitable contribution".[43] With respect, many of these arguments and questions fail to fully reflect the context of the Act and the Policy Direction, and the legislative intent behind both. The Commission must put any decision making about what is "equitable" in its proper context. We discuss this below.

38. The Commission has correctly acknowledged that "equitable" does not mean equal.[44] That common sense position aligns with the government's intention for the regulatory framework to be developed under the new Act. The legislative discussions around Bill C-11 and the resulting text of the Act clearly indicate that contributions to the Canadian broadcasting system are expected to differ as between traditional and online broadcasters. In a discussion concerning contribution standards for Canadian broadcasters and foreign online services, the Representative of the Government in the Senate of Canada stated that:

> It is just not realistic, in the opinion of the government, to expect that foreign broadcasters who operate in a global marketplace to be subject to the same provisions as Canadian broadcasters.[45]

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[42] See for example arguments made by Canadian traditional broadcasters about "equitable rules": Caroline Jamet, President, Cogeco Media, Public Hearing transcript September 19, 2025 at para. 1722; Kevin Desjardins, Canadian Association of Broadcasters, September 25, 2025 at para. 2689; Rod Schween, President of Pattison Media, September 25, 2025 at para. 2691; Ward Smith, Corus Entertainment Inc., September 25, 2025 at para. 3309; Tammy Cole, Corus Entertainment Inc., September 25, 2025 at para. 3316; Susan Wheeler, Rogers Media Inc., September 29, 2025 at para. 4252; and Doug Bingley, OAB, September 29, 2025 at para. 5138.

[43] See for example Hearing Chairperson Nathalie Théberge, Public Hearing transcript September 19, 2025 at paras. 1696-97, September 26, 2025 at paras. 3827-3831, and September 29, 2025 at para. 4837; Commissioner Levy, September 19, 2025 at para. 2325; and Commissioner Naidoo, September 26, 2025 at para. 4128.

[44] See for example Hearing Chairperson Théberge, Public hearing transcript September 29, 2025 at para. 4709: "And I just want to remind everyone that the mandate that we got was to treat traditional and online platforms in an equitable manner. That doesn't necessarily mean at an identical manner"; and Commissioner Desmond, Public hearing transcript September 29, 2025 at para. 5136: "You make the comment that things aren't equitable. But, as you know, it's a different business model so it's not going to be the same. The requirements are going to be different."

[45] Senator Marc Gold, Standing Senate Committee on Transport and Communications, clause-by-clause examination of Bill C-11, Evidence November 30 2022 at p. 35:35.

39. The resulting text of the Act on contributions is "split into two categories":[46] section 3(1)(f) requires Canadian broadcasters to make "maximum", and "in no case less than predominant" use of Canadian creative and other human resources as they create, produce and present programming, and section 3(1)(f.1) requires foreign online undertakings to apply a "greatest practicable" use standard, contributing to the system in an "equitable manner". The text "equitable manner" must be read in the context of the full section 3(1)(f.1), which sets a lower standard of contribution for online undertakings. The text "equitable manner" must also be read in the context of the broader legislative scheme. Section 5(1) of the Act sets out the overall objects of the Commission in relation to broadcasting, and provides that:

> 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection [5](2).

40. The Commission should continue its longstanding practice of interpreting the subparagraphs of the broadcasting policy for Canada set out under section 3(1) in the full context of that entire section, with regard to the companion section 5(2) and the applicable Policy Directions.

    - Section 3(1) also includes section (a.1), added as part of the *Online Streaming Act* to reflect the inclusion of online undertakings: "each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking" (emphasis added).

    - Subsection 5(2)(a.1) provides that the Commission should regulate the system flexibly, taking into account the nature of the services provided by the undertakings it regulates, particularly with respect to the contributions those undertakings make to achieving Canada's broadcasting policy (emphasis added).

[46] *Ibid*.

- The Policy Direction directs the Commission to ensure that expenditure requirements: are proportional to clear objectives; reflect the diversity of services provided by broadcasting undertakings; and flexible.[47]

41. Taking these together, it is clear that when the Commission assesses contributions to the Canadian broadcasting system by online undertakings, it must: (a) take into account online undertakings' existing contributions (s. 5(2)(a.1)); (b) expect and recognize standards that are not the same, equal to or parallel to those of traditional broadcasters (s. 3(1)(f.1)); and (c) instead, expect standards that directly reflect the diversity and nature of services provided by online undertakings (s. 3(1)(a.1)) and Policy Direction s. 12).

42. "Equitable" must reflect the business model of each undertaking. It is equitable to harness the contributions that a business has demonstrated it can and does provide; it would be inequitable to expect a business to meet requirements and standards that would disrupt its business model.

43. Some parties erroneously argued that the Commission should establish equitable regulatory rules.[48] These submissions are not only unproductive, but they also overlook the actual text of the Act. As other parties correctly recognized, section 3(1)(f.1) requires that foreign online undertakings make equitable contributions – it does not require foreign online undertakings be subject to equitable – meaning the same or comparable – rules and regulatory requirements.[49] Any discussion of the surrounding regulatory framework is misplaced and detracts from the focus of this proceeding, anchored by the language of the Act and Policy Direction: to define and determine equitable contributions to the system by various undertakings, based on their business models.

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[47] Policy Direction s. 12(a) (b) and (c).

[48] See, for example Caroline Jamet, President, Cogeco Media, Public Hearing transcript September 19, 2025 at para. 1722; Kevin Desjardins, Canadian Association of Broadcasters, Canadian Radio-television and Telecommunications Commission, September 25, 2025 at para. 2689; Rod Schween, President of Pattison Media, September 25, 2025 at para. 2691; Ward Smith, Corus Entertainment Inc., September 25, 2025 at para. 3309; Tammy Cole, Corus Entertainment Inc., September 25, 2025 at para. 3316; Susan Wheeler, Rogers Media Inc., September 29, 2025 at para. 4252; and Doug Bingley, OAB, September 29, 2025 at para. 5138.

[49] See, for example, Peter Miller, external counsel for Friends of Canadian Media, Public hearing transcript September 19, 2025 at para. 2307; Fraser Turnball, Counsel to SOCAN, Public hearing transcript September 25, 2025 at para. 2934.

Cross-subsidies to other sectors and business models are not "equitable"

44. Cross-subsidies by online undertakings to news and radio are not and cannot be "equitable". First, as we have explained in the section above, contributions by online undertakings are subject to a different and separate regime under the Act, pursuant to section 3(1)(f.1). Second, contributions are not intended to "level a playing field" between industry sectors, or support other regulated sectors and business models. Pursuant to the Act and the Policy Direction, contributions should reflect and be tailored to the undertaking making them.

C. DISCOVERABILITY

Discoverability as a competitive differentiator

45. As DIMA explained in its submissions[50] in the proceeding initiated by Broadcasting Notice of Consultation CRTC 2025-2 ("**Market Dynamics**"), global streaming services' business models depend on relevance and discovery for listeners in every country. That is precisely why DIMA members invest time and resources in curating and promoting playlists featuring tracks from Canadian and Indigenous artists. In fact, DIMA members compete vigorously with each other and other entertainment media to make their services relevant to Canadians. That competition depends on creativity and innovation, often leveraging direct collaboration between the music streaming services and artists.[51] All of these efforts result in a range of diverse features and approaches to promotion that are designed to be attractive and helpful to artists and users alike. Music streaming companies must continue to have flexibility to continue to experiment, compete and innovate, using diverse approaches in line with their

[50] DIMA Final Written Submissions, Broadcasting Notice of Consultation CRTC 2025-52, *The Path Forward – Working towards a sustainable Canadian broadcasting system*.

[51] See discussion of Amazon Music for Artists, Public hearing transcript September 18, 2025 at paras. 997-1003, 1008, and 1035; Apple Music for Artists, Public hearing transcript September 26, 2025 at paras. 3744-3746; and Spotify for Artists, Public hearing transcript September 29, 2025 at paras. 4794-4796 and para. 4878. See discussions of Canadian and Indigenous artist-curated playlists on Spotify: Public hearing transcript September 29, 2025 at para. 4697 and para. 4830; November 24, 2025 RFI responses to Q10 by Amazon (DM#4936190) and Apple (DM#4935973) regarding playlists curated by Canadian and Indigenous artists, available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

individual business models. In these proceedings, discoverability has no single definition, and no "one size fits all" approach.

Measuring discoverability

46. Just as the Policy Direction requires the Commission to "consider both established and emerging means of discoverability" of Canadian programming,[52] the Commission should consider established and emerging means of measuring the success of Canadian programming.

47. The Commission and all stakeholders must recognize existing markers of music sector success as part of that exercise. Those significant markers include flow of royalties to artists and rightsholders, the export performance of Canadian artists; and the number of Canadians paying for legal music. The Commission can also assess reports from music streaming services to demonstrate their ongoing initiatives to elevate Canadian and Indigenous content.

48. Specifically, as DIMA stated in its RFI response to questions on "measuring discoverability" and other support to the Canadian system,[53] various "system impact" information is available through third party publications such as the IFPI Global Music Report,[54] the CISAC Global Collections Report,[55] and the Luminate Canada Year-End Report.[56] Each of these organizations publishes international and Canadian data on a regular basis, allowing stakeholders and governments to track trends in revenues, subscriptions, and innovation. Information includes: levels of royalty payments by online music services to artists and other rightsholders, and the amount of Canada's recorded music revenues generated from streaming; export levels of Canadian music – for example, Canada is currently ranked as the third largest global exporter of recorded

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[52] Policy Direction s. 6.

[53] See DIMA's 24 November 2025 response to RFI Q15b (DM#4936177) available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip

[54] IFPI is International Federation of the Phonographic Industry, and represents the recording industry worldwide. See the IFPI Global Music Report 2025, available at https://www.ifpi.org/wp-content/uploads/2024/03/GMR2025_SOTI.pdf.

[55] CISAC is the International Confederation of Societies of Authors and Composers, the world's leading network of authors' societies. See the CISAC Global Collections Report 2025, available at https://www.cisac.org/cisac-global-collections-report-2025 .

[56] Luminate is one of the entertainment industry's primary data and insights company. See the Luminate 2024 Year-End Report, available at https://luminatedata.com/reports/yearend-music-industry-report-2024/.

music, according to Luminate's 2024 "export power score",[57] and for every one stream at home, Canadian artists generate approximately ten overseas;[58] the numbers of Canadian streaming subscriptions; Canada-specific playlists entering the top 10 playlists in Canada; and lists of marketing and profile support provided to Juno and ADISQ Gala nominees. These data are part of government[59] and third party publications, some of which are already on the record of this proceeding, including Statistics Canada data, Canadian and international copyright collective society data, and music industry organization data.[60]

Defining a "Canadian Musical Selection"

49. DIMA does not support the development of a formal, strict definition of "Canadian musical selection" for music streaming services. However, DIMA understands that the Commission wants to be able to monitor what it refers to as "Canadian musical selections" as part of its mandate to fulfill certain provisions under the Act regarding Canadian programs. Before the Commission determines what constitutes a "Canadian musical selection", it must consider *why* – and *whether* – this is necessary, and *how* and *when* those decisions will fit into the regulatory regime.

50. *The why:* The Commission imposed a regulatory requirement for the broadcast of Canadian musical recordings on AM and FM radio in the 1970's. A definition of "Canadian musical selection" was a must to make that Canadian content quota

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[57] Music Canada May 5 2025 Comments at para. 40, citing Luminate, "2024 Year-End Music Report", available at: https://luminatedata.com/reports/yearend-music-industry-report-2024/ at page 44.

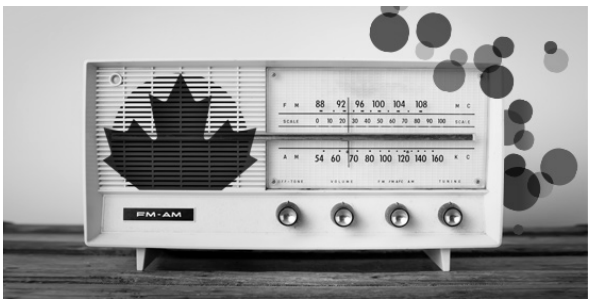
[58] Music Canada May 5 2025 Comments at para. 40 and Appendix A.

[59] Section 14(1) of the Act encourages the Commission to "utilize technical, economic and statistical information and advice from [...] departments or agencies of the Government of Canada", which includes Stats Canada.

[60] See generally the sources cited by DIMA and Music Canada in their May 5, 2025 Comments (DIMA set out below, see also Music Canada, page 19 and Appendix A).

Data published by the International Federation of the Phonographic Industry ("**IFPI**"), the International Confederation of Societies of Authors and Composers ("**CISAC**") and the Society of Composers, Authors and Music Publishers ("**SOCAN**") continue to show revenue growth in Canada. CISAC data show a 5.8% increase in total Canadian music authors' rights growth CISAC Global Collections Report 2024, p. 24. Canada ranks among the top ten markets for both recorded music and authors' rights revenues, with "digital" accounting for 79.3% for rights in the sound recording (IFPI) and 52% for rights in the musical work (authors/songwriters) (CISAC): see IFPI Global Music Report 2025 and 2024 CISAC Global Collections Report 2024, p.24. See also: The Canadian record production and distribution industry earned $903.3 million in operating revenue in 2023, up 21.2% from 2021, the last time the survey was conducted (see Statistics Canada, Sound recording and music publishing, 2023). SOCAN distributed a record-high total of $512.4-million to rightsholders in 2024, a 17.5% year-over-year increase (see SOCAN Annual Report 2024).

system work. Consider the Commission's own summary, published on the organization's 50th anniversary in 2018:



> In the 1960s, in was difficult for Canadian music to find its place on the Canadian airwaves. Radio stations were airing mostly British and U.S. songs. To be heard in the country, Canadian musicians first had to break into the European or U.S. markets.
>
> **In 1971, the rules on quotas for Canadian content became a game-changer.** From then on, the majority of Canadian stations were required to broadcast a minimum of 25% Canadian content. In 1980, these quotas were reviewed and adjusted upwards to 30%, and in 1999 they rose to 35%.[61]

51. The new "game-changer" for the 2000s has been the rise of music streaming. Because of streaming, Canadian artists have an opportunity to reach listeners all over the world. As we noted in the introduction to these comments, the Chair of the Commission has called this "**one of the biggest transformations in the system's history"**.[62]

52. *The how and the when:* If the Commission does impose requirements – such as reporting or promotion – that reference "Canadian musical selection", then the Commission must make clear decisions on that definition, before it imposes the requirements. The Policy Direction dictates that.[63] Therefore the Commission's steps must be as follows:

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[61] CRTC 50 Years, "The CRTC encourages the growth of Canadian culture", available at https://crtc.gc.ca/eng/acrtc/50.htm.

[62] Supra note 2.

[63] Policy Direction s. 19 provides that "The Commission is directed to make any changes to its regulatory framework that are necessary for the purposes of the implementation of this Order within two years after the day on which it comes into force. In doing so, the **Commission is directed to prioritize the implementation of sections 13** to 16" (emphasis added). Section 13 addresses decisions on what constitutes Canadian programming.

a) first, to determine, in consultation with rights owners and distributors, the extent to which they can provide origin and nationality information for tracks, and systematically attach that metadata to tracks at scale;[64]

b) second, to determine whether a definition of "Canadian musical selection" can be implemented at this time, recognizing the challenges, gaps and shortfalls in setting one or more definitions for the Canadian audio system; and

c) third, to determine what place a definition of "Canadian musical selection" will have – if any – in measuring contributions, considering that music streaming companies already make many valuable contributions to Canadian artists and music without a common and formal definition.

53. In short, attempting to incorporate a definition of "Canadian musical selection" into the system of contributions would not be simple or fast; it would be a very complex process. The Commission cannot impose specific requirements tied to "Canadian musical selections" on music streaming services unless and until those standards are properly defined. Fundamentally, any definition of "Canadian musical selection" can only ever be one part of the broader review of contributions to Canadian artists and music.

54. The Commission and all stakeholders must recognize that definitions of music categories have their limits. Definitions applied to music:

- tend to be broad brush, given the tendency of artists and tracks to defy simple categorization;
- may risk excluding Canadian artists and music that should be supported; and
- may not represent what users themselves perceive to be Canadian.

55. Moreover, any definitions imposed by regulation will not align with how music streaming companies make their contributions to "Canadian" artists and music today. As DIMA and its members discussed at the public hearing, companies take a broad,

[64] See November 24, 2025 RFI responses from Music Canada (DM#4936034) and Spotify (DM#4936186) to Q1, available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

inclusive, outcomes-based approach to identifying and supporting Canadian artists and their music.[65]

56. Finally, applying definitions can be a burden to the entire supply chain of music production and licensing. As DIMA and its members have explained in various submissions to the Commission and at the public hearing,[66] identifying the national origin, language and other information relating to a track must be the responsibility of rights owners and music distributors. DIMA members have stated that they are open to participating in a working group to identify and begin to address music metadata-related issues.

57. Given the challenges inherent in categorizing music and artists that meets a certain regulatory definition, it is all the more important for the Commission's assessment of contributions to be flexible and properly recognize and incentivize existing contributions to the broadcasting system. As we have explained, clear indicators of discoverability and success are already well documented through the example of many initiatives that online streaming services already presented on the record, flow of royalties to artists and rightsholders, the export performance of Canadian artists, and the number of Canadians paying for legal music.

D. DATA COLLECTION AND CONFIDENTIALITY

Rational basis for data collection

58. The Commission has collected certain information from DIMA members over the course of this and other consultations to implement the *Online Streaming Act*, and as part of annual reporting. In the public hearing for this proceeding, the Commission asked DIMA members for various information and data, and about the availability of those data. In the recent RFIs,[67] the Commission asked for: annual costs associated with populating and promoting certain editorial programs (Q11); information on commercial arrangements that influence or prioritize certain content (Q12); and the percentage of streams derived from "programmed" versus "active" listening (Q13). The

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[65] See John Murphy, Amazon Music, Public hearing transcript September 18, 2025 at paras. 968-969 and 971-973, James Maunder and Mike Lawless, Apple Music, Public hearing transcript September 26, 2025 at paras. 3760-3763; and Xenia Manning, Spotify, Public hearing transcript September 29, 2025 at paras. 4716-4718.

[66] See November 24, 2025 RFI responses from Amazon (DM#4936190), Apple (DM#4935973), Spotify (DM#4936186) to Q1 regarding metadata issues, available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

[67] Audio Policy RFI request, supra note 26.

Commission also asked about proposed reporting and data collection: reporting on discoverability methods (Q10a); existing reporting tools or dashboards "that could be adapted to provide this information" (Q10b); an annual report to show marketing, promotion, and other expenses to support Canadian music and musicians (Q15a); reporting on performance data (Q15b); and collecting a ranked list of the top 10,000 most streamed tracks in Canada from each registered audio streaming service (Q28).

59. The *Broadcasting Act* provides that the Commission may collect information that it "considers necessary for the administration of this Act" (s. 9.1(1)(o)), and that such information collection requirements must be "appropriate for the implementation of the broadcasting policy for Canada" (s. 9.1(1)). This means that before the Commission requires any additional data reporting, it must determine whether such reporting is rationally connected to a clear objective under the Act, and that the specific reporting requirement will yield data that the Commission must have to develop policy or effectively measure the impact of its rule-making.

60. DIMA therefore emphasized in its response[68] to Q28 noted above (collecting a ranked list of the top 10,000 most streamed tracks in Canada) that the Commission must have a rational basis for data collection, and a public interest basis for data disclosure.[69] The questions asked in Q28 – "what specific insights could be derived"; "is this sample size reflective"; "how often should this data be reported" – appear to assume that the Commission will proceed with this data collection.

61. DIMA, its members, and Music Canada have each explained why, for reasons based on the core business model for music streaming, this data collection is not rational.[70] Among other things:

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[68] See DIMA's 24 November 2025 response (DM#4936177) to RFI Q28 regarding the collection and review of a ranked list of the top 10,000 most-streamed tracks in Canada available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

[69] *Broadcasting Act* section 25.3(5)(a).

[70] November 24, 2025 responses to RFI Q28 by DIMA (DM#4936177); Amazon (DM#4936190); Apple (DM#4935973); Spotify (DM#4936186), and Music Canada (DM#4896864), available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip; and

August 18, 2025 responses to RFI Q24 (BNC 2025-2) by Amazon (DM#4896975); Apple (DM#4896324); and Spotify (DM#4896819), available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-2_Responses%20to%20requests%20for%20information.zip.

- Data on the share of Canadian tracks or artists streamed is data about consumption, not discoverability. There is no direct correlation between efforts and investments to promote Canadian music and "market share".

- Any sample of 10,000 streamed tracks will not include underlying metadata to identify them as "Canadian musical selections".

- Limiting a sample to tracks streamed in Canada would entirely miss the value of the export market for Canadian music. That value is a major part of the support Canadian artists receive from music streaming.

62. DIMA maintains that the Commission does not have a rational basis for a decision to require the collection of this data, and – more importantly – would not have a rational basis to rely on the data to impose obligations on music streaming services. DIMA urges the Commission to review and consider the fact-based data already on the record of this proceeding to measure the support provided by music streaming services to Canadian and Indigenous artists and music. As we have noted, these include the flow of royalties to artists and rightsholders, the export performance of Canadian artists, and the number of Canadians paying for legal music. The Commission can also assess reports from music streaming services to demonstrate their ongoing initiatives to elevate Canadian and Indigenous content.

Protecting confidential information

63. DIMA is on the record in this and earlier proceedings with respect to data sharing, data publication, and the importance of confidentiality for financial and sensitive business data.[71] The Commission should recognize that music streaming companies have existing and longstanding information practices that may not align with Commission regulatory expectations.[72]

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[71] DIMA's comments include its November 24, 2025 responses to RFI Q28 and Q29 (DM#4936177) available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip; its May 5, 2025 Comments in this Audio Policy Consultation proceeding at paras. 143-147; its February 24, 2025 Comments in Broadcasting Notice of Consultation CRTC 2025-2, *The Path Forward – Working towards a sustainable Canadian broadcasting system*, at paras. 37-39; and its June 14, 2024 Comments in Broadcasting Regulatory Policy CRTC 2024-121, *Proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings*, at para. 27.

[72] See DIMA's 24 November 2025 response to RFI Q29 (DM#4936177) available at https://applications.crtc.gc.ca/TransferToWeb/2025/2025-52_Responses%20to%20requests%20for%20information.zip.

64. The Commission has developed a line of decisions that address the protection of online services' confidential and sensitive commercial information, namely: the Annual Digital Media Survey (2022 and 2023);[73] the preliminary Conditions of Service for online undertakings (2023);[74] the Broadcasting Fees Regulations (2024);[75] and the Base Contributions Decision (2024).[76] Over the course of those decisions, the Commission consistently acknowledged the importance of confidentiality, and in summary, it determined that:

    a. broadcasting undertakings have a reasonable expectation that the confidentiality of their financial information will be preserved, "given that this information is fundamental to the preservation of their respective competitive positions";[77]

    b. financial information should presumptively be treated as confidential;[78]

    c. where the Commission is contemplating disclosing information provided by regulated businesses, it must weigh the benefits of disclosing that information against the "risk of disclosure of confidential and sensitive commercial information and possible damage to the competitive position of one or more of" those businesses;[79] and

    d. where the Commission decides to disclose information, high-level aggregation of information collected across an industry sector is appropriate to avoid the above harms to individual businesses.[80]

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[73] Broadcasting Regulatory Policy CRTC 2022-47 at paras. 123-148; and Broadcasting Decision CRTC 2023-34, *Publication of aggregate data collected in response to the Annual Digital Media Survey* ("**Decision 2023-34"**).

[74] Broadcasting Regulatory Policy CRTC 2023-331, Review of exemption orders and transition from conditions of exemption to conditions of service for broadcasting online undertakings, at paras. 50, 52; 58-59; 69-70; 110-113; and 126.

[75] Broadcasting Regulatory Policy CRTC 2024-65 ("**BRP 2024-65**"), *Broadcasting Fees Regulations,* at paras. 201-206.

[76] Broadcasting Regulatory Policy CRTC 2024-121-1, *The Path Forward – Supporting Canadian and Indigenous content through base contributions – Finalization of conditions of service*, at paras. 71-77.

[77] BRP 2024-65 at para. 203.

[78] BRP 2024-65 at paras. 205-206.

[79] Decision 2023-34 at para. 12.

[80] Decision 2023-34 at paras. 12-17, consistent with the Commission's long-standing position that "the more the information is disaggregated or the greater the degree of competition, the more likely it is that the direct harm will outweigh the public interest and that the information should not be disclosed": Broadcasting and

65. In Broadcasting Regulatory Policy CRTC 2025-299 (the "**AV Canadian Program Policy**") issued last month,[81] the Commission stated that:

> the Commission has decided that Canadian broadcasting revenues and Canadian programming expenditures made by all players in the Canadian broadcasting system, including non-Canadian online undertakings, will be aggregated by entity and made public. This will provide Canadians with insight into how players in the broadcasting system are making meaningful contributions to Canadian creative industries and to the overall Canadian economy.[82]

66. The Commission's about-face on the protection of confidential and sensitive commercial information is startling. Notably, the Commission stated that its decision "*levels the playing field* in regard to the publication of financial data",[83] which appears to be a reference to the long-standing practice of publishing the financial data of large Canadian traditional broadcasters. Traditional broadcasters have objected to "asymmetrical regulation" as an alleged competitive issue across various Commission consultations on implementing the *Online Streaming Act*, including in this proceeding, and in the proceeding regarding the modernization of radio processes.[84] They have urged the Commission to "level the playing field" between the two sectors.

67. DIMA has emphasized that the Commission's approach to regulating Canadian audio services should reflect what each sector is and does – whether that is traditional Canadian radio or global music streaming. We restate here that arguments to "level" obligations as between the two sectors are not helpful and not appropriate. Such arguments completely fail to acknowledge the fundamental differences between traditional radio stations and global online audio services. Moreover, they ignore the Commission's mandate under the Act to ensure that any regulation of a particular service or class of services fits that sector's business and operating model. The Act

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Telecom Information Bulletin CRTC 2010-961, *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, s. 17.

[81] Broadcasting Regulatory Policy CRTC 2025-299, *The Path Forward – Defining "Canadian program" and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements*.

[82] AV Canadian Program Policy, preamble.

[83] *Ibid*. and at para. 214: "Leveling the playing field by modifying the publication requirements as described above is in the public interest as it fosters transparency and provides stakeholders with a more comprehensive view of market trends."

[84] Broadcasting Notice of Consultation CRTC 2024-290, *Call for comments – Modernization of radio processes*.

requires the Commission to ensure that any regulation: "is appropriate in consideration of the nature of the services provided by the undertaking" (s. 3(1)(a.1)); and take into account "the variety of broadcasting undertakings" the Act applies to, avoiding "imposing obligations on any class of broadcasting undertakings" if doing so would not materially contribute to the Act's policy objectives (s. 5(2)(h)).

68. In this regard, as part of its explanation for the disclosure, the Commission cites section 18 of the Policy Direction[85], stating that it has been directed to "provide information to the public on a periodic basis regarding the achievement of the Canadian broadcasting policy objectives". However, that Direction specifically requires the Commission to provide information to the public on the achievement of those objectives – something the Commission can readily do without publishing the operators' financial data.

69. The risk in disclosing financially and competitively sensitive information belonging to music streaming companies far outweighs the benefits to disclosure. The Commission reports on key metrics regarding the music streaming industry without disclosing entity-level information. The Commission should not publicly disclose the revenue and expenditure information of individual entities or undertakings. Any information collected must be aggregated at a level, and in a manner, that does not and cannot reveal the source entities, ownership groups, or undertakings.

Conclusion

70. Thank you for the opportunity to provide our comments in this consultation.

Sincerely,

[Original signed by]

Colin Rushing
Executive Vice President and General Counsel
Digital Media Association (DIMA)

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[85] Section 18 of the Policy Direction provides that "The Commission is directed to provide information to the public on a periodic basis regarding the progress made in achieving the objectives of the broadcasting policy set in subsection 3(1) of the Act, including progress on the inclusion and participation of Indigenous persons, members of official language minority communities and members of equity-seeking groups and ethnocultural groups in the Canadian broadcasting system."