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Regulatory

December 1, 2017

VIA GC Key

Mr. Chris Seidl
Acting Secretary-General
CRTC
1 Promenade du Portage
Les Terrasses de la Chaudière
Central Building
Gatineau, QC
K1A 0N2

Dear Mr. Seidl:

Subject: **Broadcasting Notice of consultation CRTC 2017-359: Call for comments on the Governor in Council's request for a report on future programming distribution models**

1. The Canadian Cable Systems Alliance ("CCSA") speaks for independent communications distributors – smaller cable companies, telephone companies and ISPs – across Canada. CCSA represents more than 125 companies operating from sea to sea to sea, including across the North.

2. CCSA wishes to appear at any oral hearing of this matter to address the submissions of other intervenors.

Executive Summary

The Changing Video Landscape

3. According to a number of reports that CCSA has reviewed, some salient features of the changing video landscape are:

    - improved market conditions for content producers as a result of new global and domestic content demand, especially from OTT platforms;

- polarization of the content market with decreasing consumer demand for mid-level content targeted at mass audiences;

- growth in the production of and demand for "hyper-local" content produced by "pro-am" and amateur content creators;

- increasing popularity and take-up of "skinny bundle" channel offerings that enable consumers to purchase content from a variety of sources and platforms; and

- notwithstanding the observation immediately above, continued requirements, especially from the vertically-integrated ("VI") companies, for "big bundle", high-penetration channel packaging together with price increases for "mid-level" content for which consumer demand is decreasing.

4. In addition, demand for mid-level traditional television content aimed at the mass market is "hollowing out". Demand is polarizing toward "top shelf" professional content such as drama series commissioned by Netflix at the top of the market and toward a growing body of less costly content produced by "pro am" and amateur creators at the bottom of the market.

5. The top and bottom ends of the market are thriving and, in fact, overall per-person viewing hours to content from a multiplicity of sources are increasing.

6. Finally, we have entered into a "golden age" for content creators and producers, which is creating new opportunities and markets for domestic Canadian producers. That is because:

   - powerful global OTT distributors, such as Netflix, are commissioning and purchasing more content;

   - globalization of the video consumption market has opened new opportunities for sale and export of content, especially English-language content produced in countries like Canada and the UK;

   - emergence of new distribution platforms and models has created new windows for monetization of content; and

- overall consumer demand for and viewership of video content is increasing.

The Opportunities and Challenges for Independent Distributors

7. Today, viewers face a rapidly expanding and bewildering array of content choices from a growing number of traditional, newer and emerging platforms.

8. The end distributors who have direct relationships with those customers, and direct network connections with them, have a great opportunity to add real value and gain competitive advantage by helping their customers navigate and discover the content that is most relevant.

9. As program guide and recommendation tools proliferate and scale to smaller applications – and their prices to distributors drop – independent distributors will be able to serve in this space despite their relatively small size and limited resources.

10. Creation of and demand for "hyper local" content is a growing segment of the market. The importance and attractiveness of such content to Canadians appears to be increasing. Independent distributors, both as BDUs and as ISPs, are ideally placed to play a powerful role in creating, supporting the creation of and exhibiting such content. That role will continue to be especially important in relation to communities outside the urban centres.

11. Consumers now demand video content from a variety of traditional television and online sources. That behavior will become more widespread over time. Consumers' interest in "skinny" bundles of traditional off-air and cable channels is high and demand for such smaller, reasonably priced bundles of traditional television services has exceeded industry expectations.

12. Again, independent distributors can play a role by developing packages and combinations of traditional television and newer streaming services that respond to their customers' desire for flexible, affordable content choices and the ability to view content from a mix of traditional television and online sources.

13. However, there are challenges that limit the independent distributors' ability to grow in those roles, especially given their lack of market power.

14. The independent distributors' central challenges are two-fold. They are:

- the continued increase in wholesale costs and packaging inflexibility that characterize affiliation agreements for traditional pay and specialty channels; and

- the cost of network upgrades and conversions to IP architecture needed to enable effective use of currently available navigation and discovery tools.

15. As to the first and more critical challenge, even in the post "Let's Talk TV" environment, Canadian programmers, especially the Vertically-Integrated companies that own large stables of channels, continue to use legacy contractual terms and pricing structures to resist packaging of their services into smaller, more flexible bundles.

16. To a large degree, those tactics are being used to protect the revenues of the very services that represent the category of "mid-level traditional television content aimed at the mass market" for which the studies show demand is decreasing.

17. Rather than recognize decreased consumer demand by reducing their wholesale pricing, those programmers continue to drive prices up and to insulate themselves from the risk of falling demand for their products. They do that by transferring the entire risk to the BDUs, especially the smaller ones that lack market power.

18. The result is a perpetuation, within the regulated broadcasting system, of the practice, as one report puts it, of "pushing bloated cable bundles and exorbitant prices" which, as the report observes, "is a losing tactic in a world where streaming video is the growth engine for the industry."

19. The second challenge for the independent BDUs and ISPs is the economic one of funding network upgrades and conversions that are needed to support use of the navigation and recommendation tools that will give each customer a viewing experience that is powerful, comprehensive and relevant to that customer.

20. Here, part of the power of such tools is promotion of the discovery of Canadian content that is relevant to the viewer, a feature of the new environment that will support Canadian content production and exhibition.

21. CCSA recommends two responses to those challenges:

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- the policy framework for video distribution in Canada should continue to force existing "traditional" channels to compete on the merits of their content rather than on the basis of contractual terms they import from protections they enjoyed in the legacy regulated system. Quite simply, the legacy "protectionist" model is less and less sustainable as customer choices and behaviours evolve. It must change <u>in practice</u> as well as in theory; and

- government funding mechanisms, including the Commission's broadband funding regime, should recognize the value of upgrading existing network technologies, especially where upgrades by smaller distributors – who often are the only broadband choice in their areas – contribute to the introduction of new content discovery, recommendation and viewing tools.

22. In addition, the policy framework for video distribution in Canada should not impose new costs that would undermine investments by independent distributors that are needed to extend broadband services to currently unserved or underserved Canadians in rural and remote parts of this country.

23. CCSA thanks the Commission for the opportunity to provide these comments.

Sincerely,

Christopher J. Edwards
Vice-President, Regulatory Affairs

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CANADIAN CABLE SYSTEMS ALLIANCE INC.

Broadcasting Notice of Consultation CRTC 2017-359:

Call for Comments on The Governor In Council's Request for a Report on Future Programming Distribution Models

December 1, 2017

CCSA

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Introduction

1. The Canadian Cable Systems Alliance ("CCSA") speaks for independent communications distributors – smaller cable companies, telephone companies and ISPs – across Canada. CCSA represents more than 125 companies operating from sea to sea to sea, including across the North.

2. CCSA's members connect Canadians to information, entertainment and other critical communications services. They include co-operatives, family businesses, rural companies and distribution systems operated by First Nations and municipalities. They provide services to Canadians generally outside urban markets across the country. A few are independent companies that offer competitive alternatives in urban centres.

3. These are companies that invest in their communities. They create jobs and sponsor local events. This is because their relationship to the community isn't just one of business; they live there. They are highly engaged in local issues.

4. CCSA believes very strongly that these independent distributors will remain a vital component of Canada's content creation and delivery infrastructure for years to come.

The Changing Video Landscape

5. As background for CCSA's submissions, some salient features of the changing video landscape should be considered. Those are:

   1) improved market conditions for content producers as a result of new global and domestic content demand, especially from OTT platforms;

   2) polarization of the content market with decreasing consumer demand for mid-level content targeted at mass audiences;

   3) growth in the production of and demand for "hyper-local" content produced by "pro-am" and amateur content creators;

4) increasing popularity and take-up of "skinny bundle" channel offerings that enable consumers to purchase content from a variety of sources platforms; and

5) notwithstanding the observation immediately above, continued requirements, especially from the vertically-integrated ("VI") companies, for "big bundle", high-penetration channel packaging together with price increases for "mid-level" content for which consumer demand is decreasing.

6. Following from that background, CCSA's submission focuses on two key themes:

   1) As the universe of content available from a growing number of sources explodes, the end distributor to the retail customer has an important role to play in helping Canadians to navigate and discover content, including Canadian content. This will be a critical "value added" service to Canadian consumers. As program guide and recommendation tools proliferate and their prices to distributors drop, independent distributors, such as CCSA members, will be able to serve in this space despite their relatively small size and limited resources.

   2) There will be a dramatic increase in the amount of "hyper local" content available and the importance of such content to Canadians in local communities will grow. Independent distributors, both as BDUs and as ISPs, are ideally placed to play a powerful role in the creation and exhibition of such content, particularly in relation to communities outside the urban markets.

7. Any future-oriented policy framework should encourage independent distributors, especially those who serve rural and remote communities, to grow in those two roles. In addition, a policy framework should not inhibit such activities or the extension or improvement of communications services for currently unserved or underserved Canadians through, for example, imposition of new or increased content funding obligations which would divert resources away from important network investments.

Q1. How is the growth in online audio and video consumption changing the business models of program creators and distributors? What are the new models?

8. Growth in online video consumption has led to growing importance of models which promote affordability and choice, namely skinny basic and smaller packages.

9. The ever-growing cornucopia of content sources is finally enabling consumers to make radically different consumption choices, a fact that puts pressure on the traditional "big bundle" of services offered by the traditional providers. While the contracting practices of the VI companies continue to pressure smaller distributors into the offering of big bundles, that model is becoming less and less sustainable.

10. The US experience, as observed by a 2016 Boston Consulting Group ("BCG") paper has been that:

> Skinny bundles often exclude the priciest networks, and consumers have adopted them faster than the networks anticipated.[1]

11. A recent industry outlook document prepared by Deloitte notes that:

> For example, Dish Network's Sling TV skinny bundle was launched in 2015, garnering 700,000 subscribers within a year.[2]

12. Those observations are supported by CCSA members' experience. A number of those independent distributors have had considerable success with the design and pricing of "skinny basic" offerings and have seen encouraging customer take-up of these packages which, in some cases, are priced below twenty dollars.

13. Anecdotally, CCSA members' experience is that many, if not most, customers do not reduce their total communications buy when they adopt the "skinny basic" service. Rather, they tend to apply the money saved from reduction of their television spend to upgrading of their Internet data packages.

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[1] Boston Consulting Group, "The Future of Television: Where the US Industry is Heading" June 9, 2016 [hereinafter *BCG US Future Report, 2016*] at 8 of 12, accessed at https://www.bcg.com/de-de/publications/2016/media-entertainment-technology-digital-future-television-where-us-industry-is-heading.aspx, on November 21, 2017.
[2] Deloitte, "2017 Media and Entertainment Industry Outlook: Interview with Kevin Westcott" at 2, accessed at https://www2.deloitte.com/us/en/pages/technology-media-and-telecommunications/articles/media-and-entertainment-industry-outlook-trends.html on November 22, 2017 [hereinafter *Deloitte 2017 Outlook*].

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14. That CCSA member experience aligns with what the various reports we cite in this submission are saying: consumers are diversifying their purchasing across multiple content delivery platforms.

15. Notably, however, a number of CCSA members, who have no regulatory requirement to introduce a “skinny basic” service but, for competitive reasons, desperately want to, have been prevented from offering their customers that attractive option.

16. That is because as soon as a BDU introduces a “skinny basic” service, the penetrations achieved on its legacy “big basic” for channels that are not included in the “skinny” offering, fall below 100%. That change triggers an often dramatic increase to the wholesale rates the programmers require the BDU to pay for the services still offered on the legacy, big basic tier.

17. Similarly, under the contracts imposed by the VI companies, any packaging change, including introduction of a new “skinny basic” may trigger the application of a new, penetration-based rate card, again resulting in a dramatic increase to wholesale prices.

18. Through contractual provisions such as these, the programmers, especially the VI companies, continue to frustrate the intent of the “Let’s Talk TV” decisions, perpetuate the legacy “big bundle” offerings that the BDUs must offer and inhibit the BDUs’ ability to respond to the changing video consumption landscape described above.

Q2. Content is generally monetized through advertising, subscription and/or transaction revenues. How are new business models shaping the evolution of these revenue sources?

19. The emergence of new OTT services and other distribution platforms is good for content producers. As a 2016 Boston Consulting Group paper put it:

> For professionally produced English-language television content, this is indeed a golden age. Spurred by OTT demand, more professionally produced

content is being commissioned than ever before, amid rising competition for consumers' attention and wallets.[3]

20. The same report quotes a Canadian children's programming executive as saying:

> "I was going to retire five years ago, but OTT has unlocked so many new monetization windows for me – domestically and internationally – that I am making multiple times what I used to on most of my productions."[4]

and that:

> "The ecosystem has never been better for content production."[5]

21. That view is supported by BCG's finding that:

> English content travels comparatively easily across borders. Because of this, domestic producers in, for example, Canada and the UK are benefitting from the trend of content globalization that OTT has enhanced. In fact, foreign distribution has been a key lever of growth in Canada and the UK, enabling domestic creators to further monetize their libraries by selling content abroad in first- and second-run windows.[6]

22. In short, with the emergence of powerful new OTT players in an increasingly global marketplace and with the increased consumer appetite for new forms of "pro am" and amateur content (see our answer to Question 5, below), Canadian creators and producers have tremendous new opportunities to monetize content in both the high-value professional space and in the "long tail".

23. Those opportunities arise in the form of:

- new markets around the world;
- new windows for content monetization; and

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[3] Boston Consulting Group, "The Future of Television: The Impact of OTT on Video production Around the World" September 2016 [hereinafter *BCG OTT Report, 2016*] at 19, accessed at https://www.friends.ca/files/PDF/bcg-the-future-of-television.pdf, on November 21, 2017.
[4] *BCG OTT Report, 2016* at 19.
[5] *BCG OTT Report, 2016* at 30.
[6] *BCG OTT Report, 2016* at 30.

- an overall growth in the viewership of video content.

Q3. **Many new business models are global. How will the growth of a global content rights market affect business models?**

24. See CCSA's answer to Question 2.

Q4. Given Canadians' ever-increasing demand for data to stream audio and video content on fixed and mobile broadband networks, how will these networks keep pace with future capacity requirements, particularly in rural and remote areas?

25. The basic answer to this question is that the technological tools needed to keep pace with growing bandwidth demand exist today, even for smaller BDUs and ISPs. We address that topic in our response to Question 6, below.

26. The more pressing challenge is the economic case for network modernization. There are two sides to the response to that challenge: addressing funding for network upgrades; and stemming the dramatic, continuous increases to the wholesale cost of "traditional" television programming.

Funding Network Upgrades

27. As to the funding question, CCSA submitted, in the context of the Commission's current proceeding to define a broadband funding regime (TNC CRTC 2017-112):

> Upgrades of existing networks may prove to be a highly effective means of meeting the over-arching funding objectives.
>
> In that respect, projects such as DOCSIS upgrades may enable existing cable operators to deliver significantly improved broadband capacity and speeds to their existing and new customers. An upgrade to DOCSIS 3.1 delivers many such benefits but requires substantial upgrades to existing physical infrastructure to implement.
>
> Such upgrades absolutely should qualify for funding if they can deliver the appropriate broadband service to customers who, as yet, do not enjoy USO-standard broadband.[7]

[7] Canadian Cable Systems Alliance, Inc, "Telecom Notice of Consultation CRTC 2017-112 - Development of the

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28. In addition to supporting DOCSIS upgrades, funding programs should support conversion of existing QAM-based networks to IP architecture.

29. Dedication of a portion of broadband funding to such network upgrades and conversions, in addition to addressing the basic "digital divide", would help smaller BDUs and ISPs to make the economic case for upgrades they need to make effective use of powerful new content discovery and recommendation tools that are now available, even for smaller players, in today's market.

Increasing Programming Costs

30. The second element of the financial challenge is the continuously increasing wholesale cost for traditional discretionary programming services that occupy the declining "middle" of the market.

31. The traditional, licensed discretionary service providers impose those wholesale costs on smaller BDUs through a combination of market power and legacy contractual terms and rate cards.

32. With respect to those ever-increasing costs for content, including decreasingly popular mid-level content , we note the following conclusion from the BCG US Future Report:

> Pushing bloated cable bundles and exorbitant prices is a losing tactic in a world where streaming video is the growth engine for the industry.[8]

33. We could not agree more. While CCSA members have welcomed the policy framework that emerged from the Commission's "Let's Talk TV" proceeding, in particular the *Wholesale Code*, the fact remains that wholesale affiliation contracts remain essentially as they were before the new policy.

34. That, ultimately, is a function of the power of the VI companies. For the smaller, independent distributors, the only thing that has really changed is that the prices they must pay for programming have increased.

Commission's Broadband Funding Regime: Initial Written Comments", June 28, 2017 at paras. 190-192.
[8] *BCG US Future Report, 2016* at 8 of 12.

35. On the other hand, changes to consumer behavior are happening rapidly. So long as regulatory policy continues to permit the large VI companies to impose "bloated cable bundles and exorbitant prices" on smaller distributors at the wholesale level then we can expect to see an acceleration of cord-cutting and cord-shaving.

Q5. <u>Canadians currently enjoy audio and video content through a combination of traditional broadcast and Internet-based services. How will consumer behaviour evolve in the next five years? What factors will influence this evolution?</u>

36. The emergence of OTT services is leading toward a polarization of the content market in which, to respond to consumer demand, powerful OTT providers like Netflix commission expensive, top-level "hit" content while relatively inexpensive niche content produced by "pro-ams" and amateurs fills the bottom end of the market.

37. The BCG OTT Report puts it this way:

> A second unequivocal truth is that the middle of the content market – mid-level quality content produced for a mass market audience (what the US TV industry used to call the lowest common denominator) – is collapsing while the top and bottom ends thrive.[9]

38. The BCG OTT Report explains that point as follows:

> Furthermore, the middle tier of entertainment programming, long the backbone of traditional TV producers, is collapsing as content consumption bifurcates at the top of the market with high production value, must-watch shows that can cut through the clutter, and more modest traditional professional pro-am or even amateur productions that appeal to a proliferating array of audience segments.[10]

39. Noteworthy for CCSA's members is that the burgeoning lower end of the content market – that being populated by massive numbers of "pro-am" and amateur creators and producers – has a distinctly local flavour. As the BCG OTT Report puts it:

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[9] *BCG OTT Report, 2016* at 19.
[10] *BCG OTT Report, 2016* at 5.

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> . . . pro-am and amateur content creation, much of which is "hyperlocal" in focus, has become a significant factor in the cultural landscape.[11]

40. The BCG Report amplifies that conclusion in the following observation:

> . . . our survey showed that millennials watch the same amounts of domestic and foreign pro-am and amateur content. This represents a higher share of domestic content than what is shown by most cable networks on traditional TV. Also, contrary to the trend in traditional professional content, the share of local stories in pro-am and amateur content has actually been rising in recent years.[12]

41. Such content is especially relevant to the objectives at s. 3 of the *Broadcasting Act* that programming be "drawn from "local, regional, national and international sources" and that it "reflect Canada and its regions to national and regional audiences". Such content is a powerful and growing form of local expression and reflection.

42. This type of content is an often inexpensive resource[13] available to local BDUs that CCSA represents, companies that are uniquely situated to offer such content to the communities to which it matters the most. It is precisely this type of content from its members' community channels that CCSA celebrates in the context of its annual "Tuned-In Canada" campaign.

Community and Local ISP Channels are Flourishing

43. In the context of the growing abundance of – and market for – attractive, relatively inexpensive "hyper local" content, the local community channels that the independent distributors operate are especially important. As the major broadcasting networks retreat from local content production – especially local

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[11] *BCG OTT Report, 2016* at 6.
[12] *BCG OTT Report, 2016* at 36 [emphasis added].
[13] A Boston Consulting Group report, "The Digital Revolution Is Disrupting the TV Industry", March 21, 2016 [hereinafter *BCG Digital Disruption Report*] at 2 of 6, accessed at https://www.bcgperspectives.com/content/articles/media-entertainment-digital-revolution-disrupting-tv-industry/?chapter=2 on November 22, 2017 observes that, "Digital studios and semipro content creators are challenging the belief that high-quality content must be expensive. Top-tier network entertainment programs can draw 10 million to 15 million viewers and cost up to $5 million per episode, and top-tier cable shows—at up to $3 million per episode—routinely draw millions of viewers. By comparison, the top YouTube channels have proved they can drive millions of views for $30,000 to $50,000 per episode."

news and sports – these locally-based community channels are filling the resulting void.

44. Just as important, some of these community channels are producing extremely high quality programming and others are developing innovative approaches to informing and entertaining the Canadians they serve.

45. In its submissions in the CRTC's 2015 local and community programming review[14], CCSA submitted that the existing community channel policy framework works well for community channels operated by independent distributors.

46. That remains true today. The community channel remains a vital resource for hundreds – if not thousands – of communities across Canada, especially those outside the major urban markets.

47. Even in the few cases where independent distributors compete in large urban centres, they offer a more local, neighborhood-focused community channel for their viewers that is much appreciated. They also offer an outlet for a wide variety of communications students and other future Canadian content creators to participate in the production of local content.

48. A number of community channels that CCSA members operate are offered both as linear and on-demand products to their communities and some are available to customers on multiple devices, both in and out of home.

49. Independent BDUs already are meeting consumer demands for "hyper local" content in many different ways. For example:

    - a number of CCSA members offer locally-created community channel content to the community at large, not just their own customers. Novus Entertainment in Vancouver, for example, puts all of its original content on YouTube so that both its television customers and its Internet-only customers are able to view it. In addition, other non–customer residents in Metro Vancouver and elsewhere who are interested in the subject matter being covered are also able to access Novus' community channel content in this manner;

[14] Broadcasting Notice of Consultation CRTC 2015-421 - A Review of the Policy Framework for Local and Community Television Programming.

- Tbaytel, based in Thunder Bay, has launched a VOD-only community channel. In addition, it offers digital television customers local information through a number of community-oriented applications such as local movie theatre showtime listings, recorded Lakehead Thunderwolves and Thunder Bay Border Cats games and Thunder Bay Airport flight updates.

50. Such companies bear testimony to the truth of the proposition that demand for local content is a growth area of the overall video market.

Local Community Channels Invest Where the Major Networks Do Not

51. Statistics published by the CRTC show that spending on local and community access programming in small markets is on par with spending on such programming in large markets.[15] As well, spending in small markets on volunteer training and community outreach activities far outstrips such spending in both large and medium-sized markets.[16]

52. Similarly, the exhibition of community access programming in small markets is roughly equal to that in large markets and the exhibition of community access programming during peak viewing hours in small markets substantially exceeds the amount exhibited in large markets.[17]

Continued Flexibility to Fund Community Channels is Essential

53. Under the present rules, the smaller companies are permitted to direct all of their required Canadian content contributions to operation of their community channels, rather than sending that money to a central fund like the CMF. The continued

[15] CRTC, "Community Programming Data – Public Hearing of 25 January 2016", September 14, 2015 at p. 4 of 6. Under the heading "2013-14 Aggregate Data", the Programming table shows access programming spending of $25.3 million in large markets and $23.4 million in small markets.
[16] *Ibid*. Under the heading "2013-14 Aggregate Data", the Community Outreach Initiatives table shows spending on volunteer training of $0.2 million in large markets, $0.4 million in medium-sized markets and $1.2 million in small markets. Spending on community outreach initiatives was $1.1 million in large markets, $0.3 million in medium-sized markets and $2.3 million in small markets.
[17] *Ibid*. at p. 5 of 6. Under the heading "2013-14 Aggregate Data", the Average Access Programming Exhibition Hours Per Reporting Unit table shows access programming exhibition of 3,116 hours in large markets and 3,037 hours in small markets. With respect to exhibition during peak viewing hours, the corresponding figures were 413 and 539 hours, respectively.

ability of these companies to fund local content creation and their community channel operations in this way is a critical enabler of this activity.

54. Without these current funding rules, the new channels we have mentioned would not be launching. Rather, we would expect to see existing channels shutting down.

55. If anything, policy should be directed toward increasing support for the on-going development of – and experimentation with – such local expression and reflection. To do so would be entirely consistent with Canada's broadcasting policy and what today's market demands.

56. Such a path would also be consistent with the public welfare. This would especially be the case in smaller, rural and remote markets where broadband speeds remain a challenge and the availability and utility of alternative sources and platforms for viewing video content are more limited than in the urban centres.

57. For such communities, the locally-based community channel is much more than simply a "nice to have": it is a need and that need is likely to persist for many years to come.

58. As it was put in a 2015 Community Media Policy Working Group report :

> Those who rely on the Internet for the most local information tended to live in urban communities. Less than 15% of rural respondents indicated that the Internet was a significant source of local information, and 2/3 of rural respondents said that they get no local information from the Internet. By contrast, 2/3 of urban respondents said that they get no local information from either television or the radio. These results reinforce the concerns expressed by many respondents about community media as an important source of local information for communities who do not have broadband access.[18]

59. The community channels which CCSA members operate embody the core objectives of the *Broadcasting Act*: they are direct avenues for Canadians to participate in and be reflected by our broadcasting system. They should be sustained and developed as an integral element of Canada's digital future.

[18] Community Media Policy Working Group, "Community Media in the Digital Age: Relic or Renewal?" October 24, 2015 at 20 accessed at http://www.commediaconverge.ca/sites/default/files/documents/Community%20Media%20Policy%20Survey%20Report%20Oct%2029.pdf on November 3, 2015.

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Q6. From whom will Canadians access programming in the future? For instance, will Canadians look to traditional or online providers? Global or domestic providers? Content aggregators or multiple distributors?

60. As the universe of content available from a growing number of sources explodes, the end distributor to the retail customer has an important role to play in helping Canadians navigate and discover content, including Canadian content.

61. This will be a critical "value added" service to Canadian consumers. As program guide and recommendation tools proliferate and their prices to distributors drop, independent distributors, such as CCSA members, will be able to serve in this space despite their relatively small size and limited resources.

62. The March 2016 Boston Consulting Group Digital Disruption Report expressed the navigation and discovery challenge as follows:

> As viewers embrace new ways to access video, they are challenged to find the specific content they want to watch. A wealth of compelling content exists in the fragmented mosaic of FTA programming, pay TV, and Internet-based offerings, but nobody has yet solved the discovery problem. That is, consumers can't access and stream all video content across pathways and devices using a single point of navigation. The business that can integrate these ecosystems and become the go-to, anytime-anywhere access point for living-room TV, smartphone, and tablet viewing will create a huge competitive advantage.[19]

63. That report continues:

> Cable service providers with broadband infrastructure are especially well positioned to develop such global navigation. By partnering with or acquiring online providers (such as video-on-demand services) and gaining access to a broad set of online and nonlinear content rights, they can provide one-stop shopping for a comprehensive array of video programming.[20]

64. Having pointed out the opportunity, the report goes on to describe the challenge that faces smaller distributors:

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[19] *BCG Digital Disruption Report* at 4 of 6.
[20] *BCG Digital Disruption Report* at 4 of 6.

> Small pay-TV distributors do not have the scale necessary to develop a comprehensive navigation platform for subscribers, so their best hope for survival is the gradual-evolution scenario. Video-only distributors are perhaps the most vulnerable should any of the disruptive scenarios come to pass. With little or no access to broadband, they are highly susceptible to cord cutting and thinning, and their margins are eroding as content costs eat up a growing share of video revenues. Given their endangered status, this cohort should either build or acquire broadband capabilities to supplement existing services, compete on exclusive content, or strategically align with broadband players.[21]

65. Most independent distributors within CCSA are both cable DOCSIS-based or IPTV video distributors and broadband companies. Many also operate VOD undertakings and have exclusive local content to include in their on-demand offerings.

66. As such, while economies of scale tend to work against them, they do have the basic platforms in place that they need to develop and offer a "comprehensive navigation platform for subscribers".

67. The technical challenge for smaller BDUs/ISPs is that of access to navigation and recommendation tools that would enable them to offer their customers easy, comprehensive access to relevant and appealing content.

68. While some larger Canadian distributors have chosen to move toward platforms such as Comcast's Xfinity, such solutions do not scale to smaller distributors such as those CCSA represents.[22]

69. However, just as consumer content distribution channels proliferate, so do the choices available to smaller distributors for integration and presentation of content from all sources.

70. Such choices range from the BDU/ISPs' own platforms to fully hosted and managed cloud-based offerings. While the price of entry for some such systems is a network upgrade to enable content distribution in IP rather than QAM format – a significant challenge for the smaller QAM-based distributors – a world of hybrid solutions is also opening up.

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[21] *BCG Digital Disruption Report* at 5 of 6.

[22] MultiChannel News, "An Economical Way For Smaller MVPDs To Embrace OTT, IP", July 21, 2017, accessed at http://www.multichannel.com/news/newbay-plus/economical-way-smaller-mvpds-embrace-ott-ip/414124 on November 23, 2017, states that Comcast's investment in Xfinity was $39.6 billion.

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71. As the CCSA does in Canada, the National Cable Television Cooperative ("NCTC") acts as a buying group for smaller and mid-sized video distributors in the US. A number of NCTC's members are delivering content to customers today using the Tivo platform with Netflix and other OTT content integrated with their more traditional linear and VOD offerings.

72. CCSA members have been able to benefit from the NCTC's work in this area and, over the past couple of years, some have been able to implement integrated content offerings, including Netflix, through the TiVo platform. An example is Westman Communications, a distributor with fewer than 20,000 video customers based in Brandon, Manitoba.

73. Another platform especially developed to respond to the needs of smaller video distributors is Evolution Digital's eVue, a hosted and managed service.

74. According to a sponsored 2017 article in MultiChannel News:

> . . . eVUE-TV, available on eBOX, offers a deep library of IP Video on Demand content with capability for IP linear, network DVR and Pay-Per-View programming that can be viewed at home or on the go. At the same time, with TiVo's world-renowned interface and functionalities on eBOX, these MVPDs can offer customers OTT services such as Netflix and Hulu.[23]

75. The Evolution Digital solution is accompanied by hybrid Set-Top Boxes that support both QAM and IP signal delivery, a feature that permits smaller distributors with legacy QAM network architecture to pursue a gradual conversion to IP architectures.

76. As of September 2017, 23 small and mid-sized video distributors in the US had implemented the relatively new Evolution Digital solution.

77. The point here is to emphasize that new solutions providers are emerging who are addressing the needs of smaller distributors. As video distribution technology undergoes a fundamental shift toward IP architecture, such solutions already are enabling the many new forms of content offerings, including a range of OTT services, which consumers now demand.

[23] *Ibid*.

78. This is a highly competitive space. We expect the range of such products and solutions to increase and their pricing to decrease in the coming years.

79. All of which is to say that the technology solutions that will permit smaller distributors to respond to changing content consumption patterns and "stay in the game" are already here and will improve and become more affordable over time.

Q7. What are the characteristics of a vibrant domestic content creation and distribution market?

80. See CCSA's response to Question 5, above.

Q8. Will new business models support a vibrant domestic content and distribution market? If so, which ones and why? If not, what content or distribution services would be missing?

81. See CCSA's response to Question 2, above.

Q9. What are the legislative, public policy or regulatory measures currently in place that will facilitate or hinder a vibrant domestic market? What needs to stay in place? What needs to change?

82. The smaller BDUs play a vital role in bringing content, including local Canadian content, to Canadians outside the major centres. That role can and should continue far into the future.

83. For those distributors, the biggest hurdle to a vibrant distribution market is the cost imposed by ever-increasing wholesale prices for traditional discretionary television services that continue to trade, in the form of legacy contract provisions, on their old, protected regulatory privileges.

84. The hollowing out of the middle observed by BCG, and referenced earlier, invites questions about the role of policy and regulation in relation to the Canadian networks that present the bulk of the "mid-level quality content produced for a mass market audience" that, for consumers, is decreasing in importance and value.

85. As a general proposition, most of that traditional content, in Canada, is in the offerings of the large stables of discretionary services operated by the VI companies.

86. In that respect, a 2015 C.D. Howe Institute Policy Conference Report noted that:

> As well, some participants contended that vertical integration represented a risk for the provision of Canadian content, arguing that communications conglomerates were unlikely to deploy capital for risky content production.[24]

87. The C.D. Howe report said, in addition, that:

> The session flagged concerns regarding market foreclosure to competitors through vertical integration and discriminatory content pricing . . . .[25]

88. Despite the introduction of various regulatory changes introduced as a result of the Commission's "Let's Talk TV" proceeding, the VI companies continue to sell their services as large blocks of channels which include not only the top tier (e.g. sports) services but also the high number of channels that rest upon that "mid-level quality content produced for a mass market audience".

89. As a result of their market power, the VI companies continue to raise prices for both premium and mid-level content in a manner that is increasingly out of step with consumer demand.

90. A policy framework for video distribution in Canada should continue to force existing "traditional" channels to compete on the merits of their content rather than on the basis of privileges they import from protections they enjoyed in the legacy regulated system. Quite simply, the legacy "protectionist" model is less and less sustainable as customer choices and behaviours evolve. It must change in practice as well as in theory.

Conclusion

91. Independent distributors will remain a vital component of Canada's content creation and delivery infrastructure for years to come.

[24] C.D. Howe Institute Policy Conference Report: "The Future of Canadian Telecommunications and Broadcasting", November 30, 2015 at 19, accessed at https://www.cdhowe.org/sites/default/files/attachments/other-research/pdf/telecommunication%20Conference%20Report_2015_final_0.pdf on November 21, 2017.
[25] *Ibid*. at 25.

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92. Those independent distributors can:

1) prosper by distributing, and helping Canadians to navigate and discover, content from a multitude of sources including linear television, their own community channel and on-demand platforms and OTT sources; and

2) play a powerful role in the creation and exhibition of local content to meet growing consumer demand, especially in relation to communities outside the major urban markets.

93. While independent distributors face technological challenges in developing those services, it is the economic challenges that present the greatest obstacles.

94. The most formidable challenge to the independent distributors' ability to adapt to and grow in the future video environment is the continuing drag imposed on them by "old world", "big bundle" content packaging and pricing models that the traditional, licensed linear programmers (especially the VI companies) continue to force on them.

95. Despite the recent "Let's Talk TV" changes, this VI company behaviour continues to be a pressing problem that represents a threat to the broadcasting system. A system that perpetuates "bloated cable bundles and exorbitant prices" will not survive in the new content environment.

96. That problem needs to be addressed through a firm application of the principles underlying the *Wholesale Code* in both policy decisions and adjudication in the dispute resolution setting.

97. In a similar vein, in an environment in which regulated and unregulated players now compete, the costs of participation in the regulated system must be minimized.

98. In setting a content creation and distribution policy framework for the future, Canada should be very careful not to impose new or increased content funding obligations which would increase the costs for Canadians who actually choose to remain within our broadcasting system.

99. In particular, the policy framework should not impose new costs that would undermine investments by independent distributors that are needed to extend

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broadband services to currently unserved or underserved Canadians in rural and remote parts of this country.

100. We must continue to re-think our legacy protectionist assumptions. In particular, it is time to ensure that calls for continued monetary support and protection do not actually damage the ability of the regulated system to respond to the new realities of content distribution in Canada and abroad.

101. CCSA thanks the Commission for the opportunity to provide these comments.

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