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A “Stream” of New Policies: CRTC Releases Decisions on Expenditure Requirements and Discoverability Obligations on Online Streaming Services

Stephen I. Selznick, Steven Henderson, Emma Fried

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The modernization of Canada’s broadcasting regulatory system has just experienced another big step forward. On May 21, 2026, the Canadian Radio-television and Telecommunications Commission (CRTC) released two new policy decisions: Broadcasting Regulatory Policy CRTC 2026-96, which imposes new and updated Canadian programming expenditure requirements applicable to broadcasters; and Broadcasting Regulatory Policy CRTC 2026-95, which addresses the discoverability of Canadian and Indigenous programming. Both policies, which will likely generate significant debate and potential legal challenges, are part of the CRTC’s broader strategy to implement the modernized *Broadcasting Act* and provide greater visibility and support to Canadian and Indigenous creators and programming.

Background

Since 2023, the CRTC has been focused on modernizing the regulatory framework for Canada’s broadcasting and media production industries. As discussed in a previous Cassels Comment, this process began with the *Online Streaming Act* receiving royal assent in April 2023. Following that, the CRTC launched a multi-year regulatory plan to update and modernize the Canadian broadcasting framework. Over the last three years, the CRTC has held numerous public consultations and released several policy decisions in service of that goal, including those relating to financial contributions that broadcasters should be required to make to the Canadian broadcasting and production industry, modernizing the definition of Canadian content, improving the accessibility of the broadcasting regulatory system, and increasing the discoverability of Canadian and Indigenous content.

The New CRTC Policy Decisions

The CRTC’s two latest policy decisions address two of the biggest remaining public consultations that had yet to result in regulatory decisions: one relating to updates to Canada’s existing rules for supporting the creation of Canadian programming, and one relating to increasing the promotion, visibility and discoverability of Canadian and Indigenous programming. Notably, neither policy decision imposes immediate obligations on broadcasting undertakings. Instead, both policy decisions outline the CRTC’s

upcoming plans, which will be formalized through future consultations, regulations, and conditions of service orders.

Broadcasting Regulatory Policy CRTC 2026-96: An Overhaul of the Canadian Programming Expenditure System

The bigger and arguably more immediately impactful decision released on May 21, 2026, is the CRTC decision proposing a new framework for Canadian programming expenditure (CPE) requirements applicable to broadcasting undertakings. Under the new framework, the CPE requirements that previously applied to traditional Canadian broadcasting undertakings will change, while a new set of CPE requirements will apply to foreign online undertakings (i.e., operators of streaming services). In crafting the new framework, the CRTC has expressed an intention for expenditure requirements on broadcasters to be proportional and equitable while still requiring broadcasters who benefit from their exposure to the Canadian market to contribute to the objectives of the *Broadcasting Act* and the health of the Canadian broadcasting system.

Under the current CPE system, large vertically integrated Canadian broadcasting ownership groups are subject to annual CPE requirements ranging from 30% to 45% of the group's annual revenue, depending on the language market in which their undertakings operate. Under the newly proposed framework, all Canadian broadcasting ownership groups that earned more than $25 million in Canadian broadcasting revenue during the previous broadcasting year will see their CPE contribution number reduced to a uniform 25% of the corresponding broadcasting ownership group's annual revenue derived from Canadian broadcasting activities.

This newly proposed CPE requirement will be accompanied by a new requirement on broadcasting ownership groups that operate "unaffiliated online undertakings." Unaffiliated online undertakings that will be subject to this requirement are online undertakings whose operator, *regardless of national origin*, is not a licensee under Canada's *Broadcasting Act* or an affiliate of a licensee and that earned more than $25 million in Canadian broadcasting revenue during the previous broadcasting year. These unaffiliated online undertakings will be required to devote at least 15% of their online revenue from Canadian broadcasting activities to CPE. This new requirement marks a significant departure in how online undertakings have been regulated in Canada to date, as they were previously not subject to *any* CPE contribution requirement before the introduction of a 5% base contribution requirement in 2024, which continues to be stayed by the courts pending the disposition of an ongoing appeal.

In an attempt to offer greater flexibility to smaller and less dominant undertakings, the CRTC's new CPE framework distinguishes between "large" broadcasting ownership groups and "medium" broadcasting ownership groups. "Large" groups, defined as those who earned at least $100 million in annual Canadian broadcasting revenue in the previous broadcasting year, will be subject to more targeted CPE contribution requirements in recognition of their more significant role and influence within the Canadian broadcasting system. Those requirements will, among other things, require large broadcasting ownership groups to

dedicate at least 30% of their CPE spending to “enhanced partnerships” (partnerships with Canadian broadcasters and independent producers that hold majority copyright ownership in a program), at least 15% to support Canadian news programming, at least 2% to official language minority community programming, and a set amount to French language programming depending on the type of undertaking.

By contrast, “medium” broadcasting ownership groups, defined as those who earned between $25 million and $100 million in annual Canadian broadcasting revenue in the previous broadcasting year, will have greater flexibility over how they allocate their required CPE spending. Specifically, “medium” size groups will be permitted to allocate their CPE to whichever combination of direct expenditures (i.e., costs associated with producing and acquiring Canadian programming) and indirect expenditures (i.e., payments to specified industry funds that support the Canadian broadcasting and production industries) they choose, subject to online undertakings still being required to dedicate 5% of their total 15% CPE to the base contribution requirement that was announced in 2024 and remains under appeal.

In addition to the specific types of CPE that have been built directly into the framework, the CRTC has also left the door open to introduce other types of eligible CPE. For example, the CRTC confirmed in its decision that spending by large ownership groups towards training and capacity building initiatives for Canadian creators of audiovisual programs may be recognized as CPE contributions on a case-by-case basis where the ownership group is able to demonstrate that the training provides a clear benefit to the Canadian broadcasting system and delivers tangible outcomes. The CRTC has also telegraphed that large broadcasting ownership groups will be required to create opportunities for producers from Indigenous communities and equity-deserving groups, although it has saved the details of such requirements for future consultations and policy decisions.

Broadcasting Regulatory Policy CRTC 2026-95: A Plan for New Discoverability Obligations

The second policy decision the CRTC released on May 21, 2026, addresses the visibility and discoverability of Canadian and Indigenous content and services by domestic and global audiences, and how to support services of exceptional importance (SEIs).

To address the first issue, the CRTC has introduced a discoverability framework to support the availability and visibility of Canadian and Indigenous content and services. The CRTC defines discoverability as the availability and visibility of Canadian and Indigenous content to audiences, even when users are not actively searching for such content. As there is currently no standardized or widely accepted methodology for measuring the availability and visibility of content and services on various platforms, the CRTC has endorsed a flexible approach that recognizes differences between traditional analog and online platforms.

Instead of imposing specific discoverability obligations on broadcasters at this stage, the CRTC employs its latest decision to establish broad discoverability outcomes that all broadcasting undertakings will be expected to support. Those include ensuring that audiences can easily find and consume a full range of

Canadian and Indigenous content, that Canadian and Indigenous content and services are prominently presented and promoted to audiences, and that transparent reporting systems are in place to measure the availability, prominence and consumption of Canadian and Indigenous content. The CRTC has stated that it will use these discoverability outcomes to guide future stages of its discoverability framework, which may include ordering broadcasters to adhere to specific and measurable discoverability commitments through conditions of service, requiring broadcasters to monitor and report on the effectiveness of their commitments, and a periodic review process for the framework.

To address the second issue in this decision, the support of SEIs, the CRTC announced that it will establish a Services of Exceptional Importance Fund (SEIF), which will replace previous requirements on broadcasting distribution undertakings (BDUs) to financially support SEIs. Under the SEIF system, all broadcasting ownership groups with annual Canadian broadcasting revenue of $100 million or more (except for CBC) will be required to contribute 1.55% of those revenues to the SEIF. The CRTC has framed the purpose of the SEIF as more equitably distributing the financial responsibility to support SEIs among all broadcasters, as it was no longer sustainable or appropriate for SEIs to be supported solely by BDUs.

Key Takeaways & Next Steps

While both of the CRTC's latest decisions have been telegraphed by the CRTC for some time, they are likely to be a significant source of debate and potential legal challenges now that they have landed. In particular, the modernized CPE contribution framework is likely to receive significant resistance from large international online streaming services, who will now be required to engage in significant mandatory increased CPE contribution spending. Some critics of the new CPE contribution framework have also expressed concerns that the new framework may inflame the already contentious trade standoff between Canada and the United States on the eve of the mandatory review of the *Canada-United States-Mexico Agreement* in July 2026.

The balancing act the CRTC faced in formulating these decisions will continue through the implementation stage. On the one hand, Canada wants to ensure that foreign online streaming services contribute to the growth and maintenance of Canada's domestic broadcasting and production industries in exchange for the value of the opportunity those streaming services receive by being entitled to compete in the Canadian market. On the other hand, Canada also wants to ensure that those same foreign services are not disincentivized from operating in Canada to the disadvantage of Canadian viewers. As noted above, neither decision has yet to be formally imposed on broadcasters. Thus, these issues and competing priorities will likely continue to inform the CRTC's work as it proceeds to the next implementation stages.

The Cassels Entertainment & Sports Group has been closely following the CRTC's updates to Canada's broadcasting system and has extensive experience assisting film and television industry participants in CRTC consultations. If you have any questions about the content of this article or how these latest CRTC

decisions may impact your business, please contact any member of our group.

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