

# **NATIONAL FILM BOARD OF CANADA**

**Broadcasting and Telecom Notice of Consultation CRTC 2011-344**

## **CRTC fact-finding exercise on the over-the-top programming services in the Canadian broadcasting system**

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## **CRTC fact-finding exercise on the over-the-top programming services in the Canadian broadcasting system**

### **INTRODUCTION**

1. This document constitutes the National Film Board (NFB) of Canada's response to the CRTC's request for information as set out in Broadcasting and Telecom Notice of Consultation CRTC 2011-344, *CRTC fact-finding exercise on the over-the-top programming services in the Canadian broadcasting system*. It is designed to present information and analysis derived from NFB's experience and interests in regard to over-the-top programming services (OTT) and their potential impact on the Canadian broadcasting system.

2. The purposes for which the NFB was established include the production and distribution of audio-visual works in the national interest and to act as an audio-visual laboratory engaging in research in film activity and making the results available to interested parties. The head of the National Film Board, the Government Film Commissioner, is also legislatively tasked with advising the Governor-in-Council of matters relating to audio-visual activities.

3. Over the past few years the NFB has taken on a leadership role in responding and adapting to the digital revolution. It has developed new ways of engaging with audiences on all digital platforms. It has understood that digital media are more than new platforms of distribution for tradition audio-visual content; they are also media of creation and that we are in the early days of the formation of the new art and entertainment forms of the future. In the process, the NFB has pioneered new working methods and work flows, new business models and new forms of production. Today, the NFB is increasingly recognized in Canada and around the world as of the great cultural laboratories for innovation in the digital sphere. We have developed new systems of digitizing our library collection that is exciting interest by major media companies and the NFB has been asked to make presentations on our methods at major industry conferences like SMPTE and NATPE. Our on-line platform has elicited interest from other public bodies like the Danish Film Institute. Similarly, we are much sought after to give presentations and master classes at festivals and conferences around the world on the creation of original interactive works. At the same time the NFB continues its strong tradition of innovating in such classic areas as point-of-view (POV) documentaries and auteur animation. It pushes boundaries and form and content and undertakes important work that neither the private sector nor public broadcasting can do or do readily because of the nature of the form, subject matter or inexistent business models. In the analysis below we will focus specifically on those aspects of the NFB's activities as they shed light on the larger question of OTT services.

## OTT SERVICES

4. OTT services have the potential to transform the broadcasting system by creating new business opportunities for existing stakeholders and facilitating many new entrants. OTT services are a key enabler of the personalisation of audio and video services tailored to consumers. To this end, new service and business models are emerging facilitated by the integration of products and technologies in the area of digital rights management and device interconnection. In their November 2009 paper, Moyler and Hooper identify four main challenges for OTT TV:

- the lack of Internet connections to television monitors;
- limitations of bandwidth affecting video quality;
- the lack of business models; and
- the challenge for consumers of navigating through millions of video programs and content clips.<sup>1</sup>

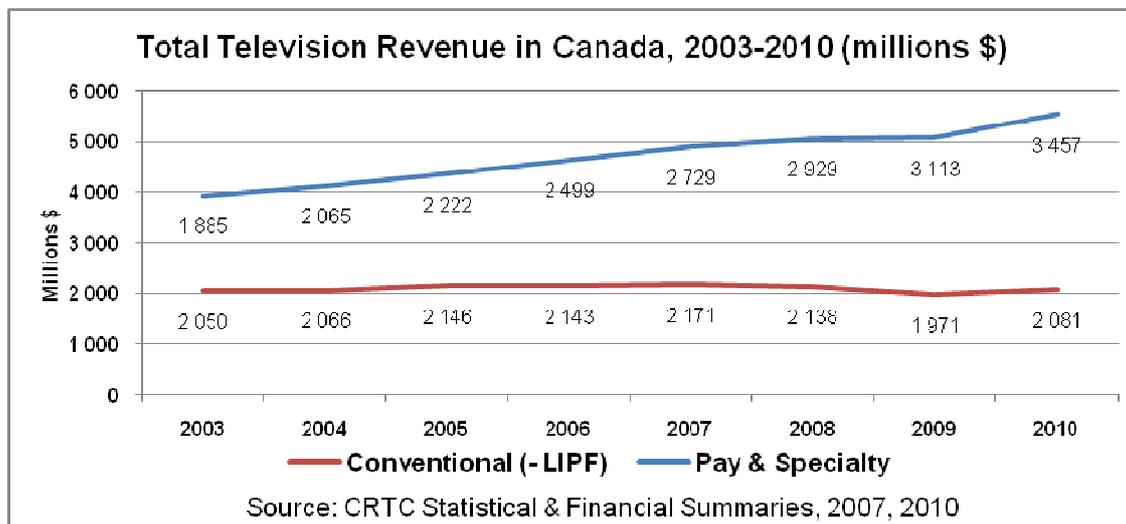
5. All of these challenges can be addressed but the substitution of traditional broadcast services in Canada by OTT programming services appears, so far, to be happening very slowly. This is demonstrated in the following chart drawn from recently-published CRTC data. Using stacked lines, Chart 1 indicates the progression of total television revenues over the last eight years for which data are available. The television services indicated in the chart include conventional (excluding the contribution of the Local Programming Improvement Fund (LPIF) in 2010), specialty, pay, pay-per-view and video-on-demand (VOD).

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<sup>1</sup> Andrew Moyler and Mark Hooper, "Over the Top TV (OTT TV) Platform Technologies". Bci Ltd. & Endurance Technology Ltd., 20 November 2009, p.2. <http://www.bci.eu.com/wp-content/uploads/2010/04/over-the-top-television-white-paper-bci-rel-1-v1.pdf>

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Chart 1



6. It appears from the data in Chart 1 that OTT programming services have yet to have an appreciable affect, if any, on the total revenue generated by regulated Canadian television programming services. In inspecting the chart, it should be remembered that other trends are also in play, including the following:

- the transfer of revenues from conventional services to specialty and pay services;
- the transfer of revenues from linear conventional, specialty and pay services to regulated pay-per-view and video-on-demand services; and
- the effects of the recession in 2009.

7. Separating out these trends from the effects of OTT programming services alone on regulated Canadian television programming services has not been attempted here.

8. This said, it seems likely that OTT programming services will eventually have a negative impact on the revenue growth of regulated broadcasting programming services, particularly the linear services, and by extension, on the acquisition and exhibition of Canadian programming by these services. This could well affect subscriptions to broadcasting distribution undertakings (BDUs). Already, there are reports that increasing numbers of households in Europe are unsubscribing from cable television for more sophisticated Internet TV, or IPTV, where content is available directly through Web browsers.<sup>2</sup> In Canada, according

<sup>2</sup> See, for example, Madhubanti Rudra, "Europe Cable Operators Fight Over-the-Top TV Platforms". 17 February 2011. <http://cable.tmcnet.com/topics/cable/articles/145819-europe-cable-operators-fight-over-the-top-tv.htm>

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to a recent study, “Netflix subscribers report watching less broadcast TV, but virtually all still subscribe to cable TV, satellite and other methods. As a result, it is too early to conclude that Netflix will change how Canadians receive TV content.”<sup>3</sup>

**NFB’S ACTIVITIES**

**9.** On January 21, 2009, after eighteen months of preparatory work, the NFB launched its on-line screening room: NFB.ca/ONF.ca. It was the first fully bilingual video service in the world. On launch date it offered well over five hundred films from shorts to feature-length films to audiences in Canada and around the world for free by streaming. Nine months later, in October 2009, the NFB launched its iPhone app which was so successful that at launch it became the number one downloaded app in its category. Six weeks after launch iTunes declared it one of the top ten apps of the year. The iPhone app was followed by the iPad app with the release of the iPad and earlier this year with the Android app. In April of this year, the NFB partnered with RIM to launch an integrated NFB app for the Playbook. Currently, the NFB is in partnerships with LG to develop an integrated NFB app for LG’s connected television sets.

**10.** Today, there are over 2,000 films and original interactive works available and audiences for these works grow daily. Currently, there have been over 11 million views of NFB films on NFB/ONF platforms. In addition, the NFB has branded channels or programs on partner sites like YouTube, Dailymotion, SnagFilms and others. These have generated another 10 million plus views of NFB films.

**11.** The point here is that the NFB has become an OTT service. We are providing professional programming services that bypass the traditional broadcast system. Although, the offer is currently free by streaming we have over the last year developed a fully transactional system that will make NFB.ca a service similar in many respects, for example, to Netflix. We will elaborate on the transactional service and its implications below.

**12.** The debate around OTT has been framed for the most part in terms of risk to the Canadian system and the ability to continue to offer high quality Canadian programming. We will come back to the question of potential threats posed by OTT, but it is important to note here that OTT also offers the possibility of opportunities and alternatives and choices for Canadian audiences that the broadcast system has been unable to deliver. This is the NFB experience.

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<sup>3</sup> Netflix, Inc. is an U.S.-based provider of on-demand internet streaming video in the United States and Canada via an Xbox 360, PS3, Wii, iPhone, iPad, PC or Mac, as well as via many Internet-connected Blu-ray players and HDTVs. See also, Media Technology Monitor, “The Rise of Netflix and How the Internet TV Market Has Changed”. 2 June 2011. <http://www.mtm-otm.ca/files/Reports/mini/2011-05-Netflix-PressRelease.pdf>

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13. Ten years ago NFB documentaries were available on Canadian television in one form or another. There were slots available on CBC, TVOntario, Radio-Canada, Tele-Quebec and on commercial and specialty channels. The paradox was that while the work may have been, in some respects, widely available the NFB remained increasingly invisible. A significant part of the reason for that lay in the nature of broadcast system. To connect with audiences NFB had decided that it must produce programming that fit the constraints of the television system. That meant it had to make significant compromises on the types of works it could undertake (fewer works with marginal groups such as aboriginal and emerging filmmakers) and on the forms of those works. The documentaries had to conform to broadcast demands on length, commercial breaks, and the structure of the documentary form. The ability to innovate and push boundaries was severely constrained. It became more difficult to produce short films and feature documentaries became constrained. As a result, the work became increasingly indistinguishable from the mass of other documentary and factual work being shown on television. The distinctiveness of the NFB and what it could and had to offer Canadians was being eroded.

14. The possibilities of on-line video allowed the NFB to explore opportunities that were and are simply not available within the traditional broadcast system whether it is experimental short works, auteur animation, demanding feature-length documentaries and, increasingly today, original interactive work. The NFB here is an exemplar of the possibilities that OTT offer. It has the potential to enlarge the sphere of choices for Canadian audiences of professional Canadian works that are considered too off-track or too niche for mainstream broadcasting. The nature of the viewing experience on-line is also different from a broadcast one. It tends to be more engaged viewing with the immediate possibilities of commenting on the work, sharing and discussing through social networks. Again, what the NFB experience shows is that there are significant audiences for such work.

15. NFB's digital audiences have been on a continuous growth curve since the launch of NFB.ca/ONF.ca. Younger audiences have grown exponentially. In other words, there has been a pent-up and unsatisfied demand for alternatives to traditional broadcasting. This is not to say that it replaces traditional broadcasting only that it offers other choices that make for a richer audio-visual environment. Interestingly, international audiences have been growing substantially as well, which points to the possibility of creating a Canadian export OTT model. This, of course, depends on developing workable business models

**A NATIONAL PRIVATE-SECTOR CANADIAN OTT SERVICE**

16. From the start the NFB's strategy has been to work towards a fully functional business model. The first step was to launch a full-fledged on-line

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screening room, not a web-site for videos. The intent was to create a unique and engaging viewing experience using all the potentialities of digital platforms. We realized that it was crucial to develop our relations with audiences in this new sphere and to build the presence of the brand in virtual space; brand credibility would be the key to establishing a valuable presence in the on-line space. We did this by making programming freely available by streaming. There is also a public policy rationale for maintaining a free-by-streaming service. As a public agency it is our mandate to make our works available to Canadians and the world. However, it does not preclude the NFB from developing a premium transactional service.

**17.** Over the last year the NFB has been developing all the complex functionalities for a fully transactional on-line service for computers and mobile platforms that will allow viewers to purchase works to download and enable VOD, subscription, digital gift cards and other services. In parallel to the technical work necessary to set this up, the NFB developed a very detailed business plan mapping out the commercial potential of the transactional offer. We brought on PriceWaterhouseCooper to validate the assumptions and the results we projected for our business plan. In sum, that work showed there was significant commercial potential in the move to micro-payments and “freemium” (free and premium) transactional system. The new system will officially launch later this year. In essence, the transactional capabilities will make the NFB a full-fledged OTT service on a par with a Netflix.

**18.** NFB has invested considerable sums of money over last year to move to this transactional on-line system for NFB.ca. All the functionalities of the system can be cloned or reproduced at significantly less investment to create a “national screening room” for private sector Canadian content that cannot find its place or an adequate space on other OTT services.

**19.** NFB can work with the private sector to develop a “national screening room”—a fully functional OTT service that would welcome all Canadian content. It would be non-exclusive so that producers could make works available on many platforms. It would be controlled and run by the private sector but powered by NFB’s back-end architecture. It would not be competitive with other Canadian commercial services because it would tend to offer works on a non-exclusive basis and works that normally would not find its place in other services such as back catalogues of Canadian dramatic productions.

**20.** Such a service could be set up as a consortium of public and private sector partners; the public sector to help finance the initial set-up and aid in the ongoing needs of marketing and promotion. The private sector would control editorial, programming, pricing models, ad rates and so on.

**21.** From a policy perspective, it would make accessible works that, although produced by the private sector, for the most part have been financed to a greater

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or lesser degree by public funds. It would help build audiences for Canadian works and have positive impact on newer works available on commercial Canadian sites. It would offer the possibility of important residual revenues for Canadian independent producers through a business model based on purchase, subscription, rental and ad revenues. Established first in Canada, the service could be exported to other countries in much the same way Netflix is exporting their service thus helping reinforce the well-received brand of Canadian programming.

**ENCOURAGING INNOVATION**

**22.** Among the most critical questions that we have to ask is why has the broadcast sector been so late to respond to the perceived threat of OTT services and why it has not seen any opportunities why these kind of services? Four years ago when the President of the CRTC convened a New Media Advisory Group, the current Government Film Commissioner raised the possibility that internet services could one day soon bypass traditional broadcasting system undermining the regulatory and economic basis for Canadian broadcasting. That concern was then dismissed as unrealistic. As late as one year ago, senior broadcasters at the Broadcast Invitational Summit (June, 2010) dismissed the threat of OTT as unlikely. Within weeks Netflix had made a significant Hollywood deal and shortly thereafter launched its Canadian service. Why has the broadcast sector not been more innovative and farsighted? Why has it not seen fit to prepare for the rapidity and power of technological change? What are the impediments in the system itself that constrain innovation? It seems to be a systemic issue because our broadcasters are no less talented, innovative and sharp than counterparts elsewhere. Have the complexities of our existing system channeled our innovation in certain directions and not others so that today the first response to the perceived threat of OTT is regulatory rather than competitive?

**23.** And current OTT services are only the starting point. Connected televisions may shift the landscape even more dramatically. By allowing consumers to directly connect their large screen tvs to the rich video offerings on line it will make OTT indistinguishable from traditional television. Bandwidth concerns are probably only a short-term impediment to such offers. The full implementation of cloud computing and the seamless ability to transfer program viewing among a wide range of platforms will alter consumer behaviour even more. So the urgent question remains: how can we ensure that we are responding imaginatively and innovatively to the ongoing disruption of technological change to strengthen and benefit the Canadian broadcast system?

## CONCLUSION

24. OTT offers opportunities that the traditional broadcast system has not been able to accommodate, such as a much broader palette of programming, the ability to deliver a much broader range of rich niche programming such as feature documentaries and auteur animation, as well as the potential for much greater exploitation of deep back-end catalogues of Canadian programming that otherwise is lost to view.

25. OTT can also provide access to a whole new range of programming types that are technically not feasible within the traditional broadcast sector, specifically original interactive works. The NFB's award winning works are laying the ground work for these new art and entertainment forms of the future, works such as *Pine Point* (<http://pinepoint.nfb.ca> ; double Webby award winner) and *Out My Window* (<http://outmywindow.nfb.ca>; International Digital Emmy) and so on.

26. There is room to create an alternative Canadian OTT service that would not compete with the existing commercial sector but provide unique opportunities for the Canadian private production industry and for Canadians. Such a service can be enormously advantageous in promoting the value of Canadian programming at home and abroad.

27. Current foreign OTT services like Netflix are not having an immediate impact on the economic fortunes of the Canadian broadcast system but the potential for such an impact is very real. There are also real concerns that as an unregulated service that mimics broadcast system, such foreign services can benefit substantially from the Canadian system without contributing to that system. There is the possibility that it can create an unfair economic advantage to those players.

28. Given that OTT was predictable, even if the economic conditions were not totally propitious, we need to understand why Canadian broadcasters were not able to respond earlier. We need to figure out in what ways we can adjust our system to encourage ongoing innovation given that the technical disruption and consumer response to it that enabled OTT is not going away.

29. Thus, a regulatory response to existing OTT services, and these may be necessary to some extent, should not have as an unintended consequence the erection of strong barriers that create disincentives for innovation.

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