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ONLINE STREAMING BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

Speech by:
The Honourable Patricia Bovey

Tuesday, October 18, 2022

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Hon. Patricia Bovey: Honourable senators, I support Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts. I thank all who have spoken on this bill's goals and complexities, which have come to the fore, in this chamber, as well as through the hundreds — no, thousands — of emails we have received.

Bill C-10 — not completed before we rose in the summer — has become Bill C-11. As Senator Dawson said, Bill C-11 reflects the issues raised, especially those around user-generated content. It now strengthens protections on free speech. Bill C-11 represents the first and long-overdue Canadian Broadcasting Act overhaul since 1991. The world of broadcasting has been through a sea change since then, and modernization is absolutely necessary in today's world, dominated by the internet and digital technology.

Canadians now access digital platforms for much of their entertainment, with Netflix being accessed by 62% of Canadian households. In 2019, that platform alone generated some \$1 billion. That success story is well-earned, but this digital shift created a significant imbalance. Online broadcasters are not required to support Canadian content like traditional broadcasters are. This is a major concern for Canada's arts and culture community. Bill C-11 seeks to redress this situation.

The changes we're discussing today, for the most part, have come from the 97 recommendations outlined in the Broadcasting and Telecommunications Legislative Review panel's 2020 report. Tasked to review the current situation, the panel's objective was to provide the government with recommendations to best modernize the Broadcasting Act in the digital age — in the Canadian context.

The purpose of this bill is to boost creative protection, support arts and culture in Canada and benefit millions of audiences. May we remember this goal as we study it. The three key desired — needed — outcomes are artist payments, production monies and discoverability.

Simply put, Bill C-11 clarifies that online broadcasting is within the scope of the Broadcasting Act. The changes better reflect Indigenous peoples, persons with disabilities and Canada's diversity. It underlines fair and equitable treatment between online and traditional broadcasters, introduces an administrative monetary penalties regime and adds more explicit information sharing and confidentiality provisions. We must determine if these objectives are met.

Key for me is that internet platforms will be regulated like broadcasters. This is very much supported by Canada's creators, for whom support for creation and presentation is essential. The

early internet was described as the information highway, and highways have rules and realities. Now, our living culture, the internet, presents the unique talents of Canadians.

[*Translation*]

Let me again remind you of the reality in this country. The arts and culture industries are the third-largest employer in Canada. They contribute significantly to our GDP, yet the startling anomaly is that our artists make up the largest percentage of the working poor living below the poverty line. This must be corrected. They, like any other professional, should be compensated fairly for their work and the development of new projects. This bill takes that step.

[*English*]

During COVID, artists created and shared their work using means they had at their disposal, including cellphones and internet platforms. Musicians, writers, storytellers and more gave us solace, inspiration, connections and hope through the pandemic and other recent tragedies. They did so earning nothing, as internet platforms don't pay. Indeed, a recent study showed that musicians who put their work on internet platforms during COVID earned an average of \$67 per year. Who in this chamber could live on \$67 per year — or even \$67 per week?

Canada's artists have supported and do support this country. Now Canada needs to support its creators fairly. This bill takes important steps for compensation to creators, producers and arts communities.

Colleagues, the arts are not a societal frill. As I frequently say, they are at the core of society — an anchor in myriad dimensions. They are not unimportant. They are essential.

[*Translation*]

During the debate on Bill C-10 last spring, I took you back through a bit of history. I underscored the consistency of the guiding principles that have been maintained nationally, for decades, even as new technologies have successively been developed. The broadcasting chapter in the 1951 *Massey Report*, chaired by future Governor General Vincent Massey, shows some equivalencies to today.

[*English*]

Back then, the general feeling was that television was becoming an important and dangerous rival to other mass media and the cinema. The *Massey Report* debunked that perception, saying:

There is television broadcasting today in a number of countries . . . Each of these countries follows in television the same policies as in radio broadcasting.

Colleagues, each update of the broadcasting regulations saw an increase in Canadian content — in the 1950s, the 1980s, the 1990s — and will again now. Protecting, encouraging and developing Canadian content, the goal of Bill C-11, is a goal supported by artists across Canada.

Piers Henwood, an esteemed musician and music manager working nationally and globally, underlined for me that support for Bill C-11 a few months ago. In his summer 2022 *Rifflandia Magazine* article “Creative Courage,” he talks of creative courage as:

. . . the courage to create art, but also the courage to enter a creative industry, the courage to support a creative economy, and the courage to face social judgment for taking creative risks.

He described music professionals’ livelihoods as “the ability to create and then monetize art.” He noted that a melody, “a uniquely mysterious and magical foundation for building a creative economy,” starts it all. The melody:

. . . cascades outwards to create an economic engine, moving from one head to millions Agents, managers, record labels, recording engineers, publishers, touring crew, and concert and festival promoters . . .

— and all media industries.

My experience corroborates his. It is the creators who generate content and, in turn, open doors for myriad professions, together making up a vital economic and social engine through anglophones, francophones, Indigenous artists and those of all diversities. Without artists, there would be no platforms. This bill updates regulations to ensure that, as with traditional broadcasters, the whole sector is fairly treated, with artists being paid.

As Piers emphasized to me, and as our Senate report *Cultural Diplomacy at the Front Stage of Canada’s Foreign Policy* pointed out, the benefit and impact of this sector are global. Production and digital presentation on air and online by Canadian artists enrich Canada’s perception at home and around the world. That, senators, should be compensated just as every industry compensates its innovators.

Colleagues, I truly believe Bill C-11 needs to be passed as quickly as possible. It is only right and fair that the same principles hold for today’s new technological platforms as they have with earlier ones. We saw in the early stages of CBC the early commissioning of thousands of commissioned and performed scripts and music scores. Some are in the archives, some not. But even George Woodcock in his book *Strange Bedfellows: The State and the Arts in Canada* noted:

Even the employment provided by the CBC to actors, musicians and writers assured in most cases only part of the money needed to survive.

In June of 2021, *National Post* voiced the question of protecting domestic cultural industries as more Canadians turned to internet companies for music and video programming. They

were concerned about stunting the influence of U.S. culture, a core principle of modern Canadian media law. They noted that for decades the government has required radio and television broadcasters to produce and distribute local content.

Hundreds of people I have spoken with, including Robin Sokoloski, director of organizational development at Mass Culture, expressed unwavering support for this bill, for the monies that should be paid for and to the arts and for the discoverability of art. Ms. Sokoloski told me the bill includes policy objectives needed to ensure the works of our creators are discoverable, and in this algorithm-driven online world, accountability isn’t just a consideration. We need to build in measures that both protect our artists and provide access to their work.

Many people also told me of the urgent need for the internet platforms to be within the purview of the CRTC. Without the due financial contributions that should be coming, our stories cannot and will not be told. I contend, colleagues, that their telling has never been more important. We must be able to see and hear the Indigenous, Black and immigrant histories that have never been part of the traditional Canadian histories. Further, it stands to reason that if we don’t have content creators, we won’t have internet platforms, and if that content is not created by and about Canadians, we won’t know our country, stories, places or ideas.

Senator Dawson said in this chamber:

The policy objectives . . . will ensure that our broadcasting system reflects Canadian society and that diverse and inclusive programming is available to everyone. That is essential to ensuring that the Canadian broadcasting system can help broaden people’s perspectives, spur empathy and compassion for others and celebrate our differences, while strengthening the common bonds that unite our unique Canadian society.

Now is not the first nor the last time new technologies have challenged broadcasters. Broadcasting legislation and regulation was addressed by the 1929 Aird Commission, the 1949-51 Massey Commission, the 1981 Applebaum-Hébert Federal Cultural Policy Review Committee, not to mention the Mulroney government’s well-handled concerns of Canadian periodicals when negotiating the first Canada-U.S. trade agreement. Today, in 2022, the issue is just as simple and just as complex as in former times.

[Translation]

This first modernization of our Broadcasting Act since 1991 would add three new requirements for digital media companies. They must provide information about their revenue sources, give a portion of their profits to a fund to support Canadian content and increase the visibility or discoverability of Canadian content.

[*English*]

Canada is not alone. The government has assessed and drawn from policies and actions of other countries, including Britain, Australia and the European Union. EU local content rules, for instance, require platforms to promote European cultural productions. At least 30% of their catalogues must be made in the bloc, and the EU requires video-on-demand services to prioritize local content.

As to freedom of speech, it is not curtailed by this bill. In fact, history has demonstrated many times that no members of society fight more for free speech than artists. Indeed, the foresight and courage of artists and scientists, as I have said in this chamber before, puts lights on issues our society must deal with, including those not always popular or heard, like raising the issues of residential schools and murdered and missing Indigenous women and girls long before the commissions for either were established, and long before the concerns were heard by society.

[*Translation*]

Colleagues, it is important to know what this bill actually contains. We must update the 1991 legislation to recognize and use modern technologies. The need to respect and compensate Canadian artists is key, as is the production and presentation of Canadian content, our stories, our issues and our perspectives.

[*English*]

We must do it so Canadian stories are told, celebrated and heard, so their creators and producers are recompensed and so there are budgets for more stories for the engagement and enjoyment of Canadians. Heaven knows we are in dire need of Canadian truths, insights and inspirations. Only then will we be able to fully understand who we are and what we need to do to honour our past and envision our futures. This bill provides for that. Without it, I fear we will lose so much about who we are. Without that content, we won't have platforms. Thank you.
