

Submission to the Heritage Committee
Submitted by
The Racial Equity Media Collective (REMC)

REMC Amendments to the Broadcasting Act, Bill C-11

MAY 13, 2022
Final Version

Submitted with the support of the following organizations:

ADVANCE, Canada's Black Music Business Collective
BIPOC TV & Film
Black Screen Office
Breakthroughs Film Festival
CaribbeanTales
Canadian Independent Screen Fund for BPOC Creators
Coalition M.É.D.I.A.
Creatives Empowered
Documentary Organization of Canada
I.M.P.A.C.T
Indigenous Screen Office
OYA Black Arts Coalition
POV
Racial Equity Screen Office
Reelworld Screen Institute
Toronto Palestine Film Festival
Toronto Reel Asian Film Festival
Women In View

The Racial Equity Media Collective

The Racial Equity Media Collective (REMC) is a national not-for-profit organization committed to equity for Black, Indigenous, and People of Colour (BIPOC) creators in Canada's film, television, and digital media industries. Fueled by research and rooted in community engagement, the REMC's mission is to remove barriers to access and increase the production, export and sustainability of BIPOC content and BIPOC-led production companies. The REMC convenes a coalition of national BIPOC organizations in the screen sector, including the Black Screen Office, Coalition M.É.D.I.A., BIPOC TV & Film, Reelworld Screen Institute, the Indigenous Screen Office and the Canadian Independent Screen Fund, and works closely with several regional and provincial BIPOC organizations and stakeholders.

The Need For Amendment

The REMC is pleased with many of the proposed changes introduced in Bill C-11 and commend the overall effort to see BIPOC communities valued in the broadcast system. However, as with Bill C-10, we feel **critical amendments are needed to ensure that the Government's stated objective to see greater equity and inclusion in the broadcasting system is achieved**. Thus we have prepared this brief in consultation with many BIPOC organizations working in the screen and music sectors to articulate the needs of BIPOC creators with respect to the Broadcasting Act and to propose specific amendments. We would like to note that this submission and recommendations work in tandem with the advocacy efforts of the Indigenous Screen Office. The REMC is aware of and supports the specific policies and directives being pursued to recognize the distinct rights of First Nations, Metis and Inuit peoples of Canada.

We understand that Bill C-11 is framework legislation - with key details left to Government Directives through regulations. While the Minister of Canadian Heritage has expressed a clear intention to recommend that the Governor in Council direct the CRTC to support programs created and produced by Indigenous, Black and People of Colour groups, official language minority communities, women and LGBTQ+ communities, **there is no legislative mechanism to ensure accountability**. Without a statutory imperative to see that commitments towards greater equity are sustained, monitored and evaluated over the long term, the Bill is unlikely to lead to tangible changes on the ground. For this reason, we feel amendments should be made to Bill C-11 to strengthen its impact on equity and inclusion in the broadcasting sector.

In this submission, we propose specific amendments that are intended to work together with proposed changes to Government Directives to ensure that the equity and inclusion objectives of the Act are achieved. The aim of our recommended amendments is to ensure support for BIPOC Canadian creators is crystalized in the law. **Accountability requires four fundamental elements** through both legislation and regulation to ensure a more inclusive broadcasting sector in Canada:

1. **Equity Oversight:** Senior staff within the CRTC and Department of Canadian Heritage must be tasked with ensuring the government's equity goals are achieved.

2. **Collection of Race-Based Data:** There must be mandatory collection of race-based data by broadcasters and funders that is accessible by the BIPOC community and all Canadians, to ensure that equity in the sector is measurable.
3. **Including a clear objective and developing targets to increase BIPOC production and programming in Canada:** The Department of Canadian Heritage and the CRTC must work with BIPOC creators to develop benchmarks, targets and incentives to increase BIPOC programming.
4. Regular and transparent **monitoring, reporting and consultation** to ensure equity and inclusion targets must be met and achieved.

Overview of Key Themes

Greater Accountability

While the proposed language in Bill C-11 clearly articulates strong intentions; similar language has existed in the law for over 30 years. The language in C-11 must go further. It must shift from aspirational to actionable. The REMC believes the law must lay the groundwork for clear accountability mechanisms to be introduced that ensure the obligations to BIPOC communities are being met through data collection, representative leadership and a framework towards measurable targets.

Industry stakeholders and funders (i.e. Telefilm, The National Film Board, the Canada Media Fund, FACTOR, Music Action, Radio Starmaker and the Community Radio Fund), public and private broadcasters, and other organizations receiving significant federal government funding should have accountability measures that ensure the inclusion of BIPOC communities as a part of their internal governance, funding, and operations.

Implementation, Monitoring and Evaluation

CRTC plays a considerable role in monitoring, reporting and regulating the Bill's goals. We see an opportunity to strengthen the CRTC's capacity for effective implementation of the Government's equity and inclusion objectives by establishing a focal point for accountability and equipping the CRTC with data to monitor and evaluate progress. Several key institutions have already identified this necessary work and are creating a data-collection framework as we speak. Additionally, targets and benchmarks should be developed to track progress towards achieving the Government's goals.

Community Engagement

Based on REMC's robust community consultations, it is clear that BIPOC creators and entrepreneurs continue to feel they are on the outside looking in on Canada's broadcast industry. This Bill must ensure that consistent and perpetual community engagement is a mandatory part of any new process or policy implemented to meet the Bill's equity objectives. Consulting and engaging with BIPOC communities must be normalized across the broadcast sector; however, such engagement must not be used as a placeholder or alternative to actual policy change. Instead, consistent community consultation must happen simultaneously to specific policy implementation.

Recommendations for Amendments to Bill C-11

The REMC offers the following text amendments that move the bill from aspirational to accountable.

BILL C-11	Proposed REMC Amendments	Rational
Definitions 2 (1) <i>Indigenous peoples</i> has the meaning assigned by the definition <i>aboriginal peoples of Canada</i> in subsection 35(2) of the <i>Constitution Act, 1982</i> ; (<i>peuples autochtones</i>)	Consider adding definitions of the words Black and Racialized.	It is important for the Bill to clearly define who Black and Racialized persons are. As such definitions should be added in consultation with communities.
Broadcasting policy for Canada 3 (1) It is hereby declared as the broadcasting policy for Canada that: (3) Subparagraph 3(1)(d)(iii) of the Act is replaced by the following: (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — including Canadians from racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses,		

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<p>abilities and disabilities, sexual orientations, gender identities and expressions, and ages—and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples within that society,</p> <p>Start of inserted block (iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings, (iii.2) support the production and broadcasting of original programs in French,</p>	<p><i>(iii.2a) provide opportunities to Black and racialized persons in Canada and support and assist their development by taking into account their specific needs and interests through supporting the production and broadcasting of original programs by and for Black and racialized communities, *</i></p> <p>* REMC recommends that all uses of the term ‘racialized’ in Bill C-11 be replaced with “Black and racialized.”</p>	<p>It is important the Bill state a clearer objective to provide opportunities to Black and racialized communities, consistent with its approach to indigenous programming</p>
<p>Regulatory policy</p> <p>The Canadian broadcasting system should be regulated and supervised in a flexible manner that</p> <p>(2) Paragraph 5(2)(e) of the Act is replaced by the following:</p> <p>(e) facilitates the provision to Canadians of Canadian programs created and produced in both official languages, including those created and produced by English and French linguistic minority communities in Canada, as well as in Indigenous languages; (e.1) facilitates the provision of programs that are accessible without barriers to persons with disabilities;</p>	<p><i>(e.2) facilitates the provision to Canadians of programs that are created and produced by Black and racialized communities.</i></p>	<p>The Bill's equity and inclusion objectives must be stated more clearly when it comes to regulatory policy.</p>

<p>Consultation</p> <p>5.2 (1) The Commission shall consult with English and French linguistic minority communities in Canada when making decisions that could adversely affect them.</p> <p>Objectives of consultations</p> <p>(2) When engaging in consultations required by subsection (1), the Commission shall</p> <p>(a) gather information to test its policies, decisions and initiatives;</p> <p>(b) propose policies, decisions and initiatives that have not been finalized;</p> <p>(c) seek the communities' opinions with regard to the policies, decisions or initiatives that are the subject of the consultations;</p> <p>(d) provide them with all relevant information on which those policies, decisions or initiatives are based;</p> <p>(e) openly and meaningfully consider those opinions;</p> <p>(f) be prepared to alter those policies, decisions or initiatives; and</p> <p>(g) provide the communities with feedback, both during the consultation process and after a decision has been made.</p>	<p><i>5.2(2) The Commission shall consult with Black and racialized communities in Canada when making decisions that could adversely affect them.</i></p> <p><i>(a) gather information, including relevant race-based and other demographic data, to test its policies, decisions and initiatives;</i></p>	<p>It is imperative that the bill include a direct reference to gathering race-based data as a key element of ensuring accountability. Consultation with Black and racialized communities on key decisions should be mandatory as it is with linguistic minorities.</p>
<p>Conditions</p> <p>9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting</p>		

<p>(a) the proportion of programs to be broadcast that shall be Canadian programs and the proportion of time that shall be devoted to the broadcasting of Canadian programs;</p> <p>(b) the proportion of Canadian programs to be broadcast that shall be original French language programs, including first-run programs;</p> <p>(c) the proportion of programs to be broadcast that shall be original French language programs;</p> <p>(d) the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure the diversity of programming;</p> <p>(e) the presentation of programs and programming services for selection by the public, including the showcasing and the discoverability of Canadian programs and programming services, such as French language original programs;</p> <p>(f) a requirement for a person carrying on a broadcasting undertaking, other than an online undertaking, to obtain the approval of the Commission before entering into any contract with a <i>telecommunications common carrier</i>, as defined in the <i>Telecommunications Act</i>, for the distribution of programming directly to the public;</p> <p>(g) a requirement for a person carrying on a distribution undertaking to give priority to the carriage of broadcasting;</p>	<p><i>(d.1) The proportion of programs to be broadcast that are produced by Canadians from Black and racialized communities.</i></p>	<p>Accountability requires consequences for non-compliance. This amendment will provide incentive for positive change throughout the industry.</p>
<p>Provision of Information by Commission</p> <p>Minister or Chief Statistician</p> <p>25.1 The Commission shall, on request, provide the Minister or the Chief Statistician of Canada</p>	<p><i>25.1(a) The Commission shall, on request, provide the Minister or the Chief</i></p>	<p>Regular monitoring and reporting is essential to ensuring</p>

with any information submitted to the Commission in respect of a broadcasting undertaking. Access to information 25.2 Subject to section 25.3, the Commission shall make available for public inspection any information submitted to the Commission in the course of proceedings before it.	<i>Statistician with a report on progress towards meeting the equity and inclusion objectives of the Act as defined by (3 (1) (d) (iii)).</i>	accountability and measuring progress.
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Conclusion

For years BIPOC communities have felt underrepresented and undervalued within the Canadian broadcast landscape. Skepticism and outright denial have met the community's claims and efforts to address the issue. Our communities' anecdotal evidence has been dismissed, and our efforts to address systemic racism are seen as ingratitude. For years, the default position of the Canadian broadcast ecosystem has been one that is overwhelmingly white, and those of us from BIPOC communities who break through should be grateful for a seat at the table. This cannot continue. BIPOC Canadians have just as much right to produce content and see and hear themselves on-screen and on air as any other Canadian. Seeing ourselves and our stories on screens profoundly impacts our sense of self-worth and our Canadian identity. For too long, BIPOC Canadians have had to turn to other markets for content about our communities. This must change. Our broadcast ecosystem must reflect the country we live in.