

# **Regulation of Online Music Streaming by the CRTC**

## *An Explainer for Canadian Artists*

You have probably heard talk in the media about Bill C-11 (the Online Streaming Act) or that online streaming is now being regulated in Canada by the CRTC. There's a lot of confusion out there and you likely have some questions. Let's take a look at how this will affect the music you make.

### **Why are platforms being regulated?**

With the passage of the Online Streaming Act in April 2023, music and AV streaming platforms are now regulated and will eventually need to contribute financially to the creation of Canadian content (CanCon) and Indigenous content and make it “discoverable” on their platforms.

This is an extension of Canada's broadcasting framework which has existed for decades. Currently, broadcasters pay portions of revenues into funding bodies such as FACTOR and Radio Starmaker which are then dispersed to artists and companies creating Canadian music. Broadcasters are also required to play certain levels of CanCon on air. This new legislation aims to update and bring broadcasting regulation into the streaming era.

### **What is the CRTC and what is its role regulating streaming?**

The Canadian Radio-television and Telecommunications Commission (CRTC) is Canada's broadcasting and telecommunications regulator. In the music industry, the CRTC has been responsible for regulating radio for decades.

The CRTC is now engaged in a multi-year process to translate the goals of the Online Streaming Act into a framework for regulating online platforms. This includes which platforms will need to contribute, how much they will need to pay, what qualifies as Canadian and Indigenous content, and what platforms need to do to make this content discoverable to Canadians.

### **Will my fans still be able to find my music?**

In terms of discoverability, the policies must respect user choice and minimize the need to change algorithms so your fans will still arrive at your music when they search for it. The regulations should not restrict user choice on streaming platforms. Consumers are used to the convenience and accuracy of their favourite platforms - and if that is hindered, some listeners may resort to accessing music through sites that don't license music or pay creators. That outcome would run counter to the aims of the legislation.

### **Will this be the same as CanCon on the radio?**

Canada's commercial radio regulatory framework, developed five decades ago, was crucial to today's successful Canadian music industry. As we know, radio is not only different from on-demand streaming, it's the opposite. Radio play is finite whereas online streaming is infinite.

We can learn from the best of the radio framework – but this new framework must be specifically developed for the digital world. This regulatory process is an important opportunity to create an environment that protects and grows the streaming marketplace for our artists.

### **What would investments from the platforms look like?**

Financial contributions from the platforms would be one way they could contribute to the ecosystem, but the platforms should also be incentivized to continue to invest in their Canadian teams who play an important role in the success of Canadian artists in a global marketplace.

### **How will this affect funding via programs like FACTOR and Starmaker?**

This new framework offers an opportunity to examine our funding programs and how to best support and grow our domestic marketplace. A review of existing funds along with consideration of independent new funds for music (with new eligibility and criteria) will help ensure that we not only build measurable commercial success and export opportunities for Canadian artists, but that we also support diverse voices and emerging talent.

### **I've heard a lot about regulating cat videos. What about that?**

There are some rules from the government to guide the work of the CRTC. For example, the CRTC is directed to *not* regulate user-generated content (UGC) - like everyone's favourite ubiquitous cat videos.

### **Is it true that the CRTC is regulating podcasts?**

The CRTC has released decisions on which platforms will have to register with the CRTC and what information such platforms need to provide as a condition for operating in Canada. Who is required to "register" is important because it tells us who may eventually be subject to regulation.

In these decisions, the CRTC chose to cast a wide net in determining who should register. Platforms with Canadian revenues of \$10 million or greater are required to register, with the only exception being those that solely offer video game or audiobook services. This means that many platforms offering podcasts and social media services will need to register. The onus is on platforms, not users. Individual podcast creators and social media users do not need to register.

At this stage, the platforms must only provide basic information to register. It has not been determined yet whether all registered platforms will be subject to further regulation, such as financial contribution and discoverability requirements. This will be decided as the CRTC builds out its framework

### **How can I contribute my opinion and input?**

Anyone can participate in CRTC consultations. The next round will likely launch in Winter 2024 and will deal with issues such as the definitions of Canadian and Indigenous content, the contributions of the platforms and how platforms should make Canadian music more "discoverable".

### **What is at stake?**

The new regulatory framework being developed by the CRTC is a once-in-a-generation opportunity to leverage the power and breadth of streaming to create new and meaningful opportunities for Canadian artists and the businesses who invest in them. At the end of this process, we want to see and hear more Canada from the platforms. But it's equally important that the success of licensed, subscribed to and paid for music is not hindered, or that commercial investment in our country is not substituted for government programs.