



Backgrounder

Modern Pirates: The Impact on Creative Canada

- Canada's cultural industries contribute \$54.6 billion annually to GDP and account for more than 630,000 jobs. Film and TV production in particular contributed a total of \$8.5 billion and over 140,000 jobs in 2015-2016 to the Canadian economy. These contributions are being put at risk by online piracy.
- While the illegal copying and distribution of creative content is not new, the borderless nature of digital piracy, which relies on the anonymous and global nature of the Internet, has made the tools for fighting it currently available in Canadian law ineffective.
- According to a 2017 MUSO report, there were 1.88 billion visits to illegal piracy websites in Canada in 2016.
- According to Sandvine, illegal add-ons to access piracy websites were found on KODI devices in seven per cent of North American households (approximately one million Canadian households) in 2017, while devices configured to access illegal pirated TV subscription services were also found in seven per cent of households.
- International online piracy websites are profiting from millions of dollars in advertising and subscriptions from hosting stolen content, undermining both the creation of uniquely Canadian cultural content and the work of thousands of Canadians employed by the creative industries.

Lead by Example: How Other Countries are Taking Action

- Since 2001 more than 20 countries have adopted regimes enabling rights holders to request ISPs disable access to piracy sites, including Australia, Denmark, France, Norway, Portugal, Spain, South Korea and the United Kingdom, effectively shifting consumers away from illegal sources of digital content and back to legal sources.
- In 2001, the European Union issued a directive requiring all member states to make it possible to obtain a mandatory order against intermediaries whose services are used to infringe copyright.
- In Britain alone, disabling access to just 19 piracy sites in 2013 led to a 12 per cent increase in traffic to legal streaming services. Implementation of the coalition's proposal would result in hundreds of millions of dollars in value that is currently destroyed or flowing to illegal sites in foreign jurisdictions instead of returning to benefit Canada's digital economy.

Modernizing the Tools Available in Canada: How the IRPA would work

- The CRTC would establish the Independent Piracy Review Agency (IPRA) to consider applications identifying piracy sites, hear evidence from all sides, conduct a hearing if necessary, and make recommendations to the CRTC on which sites can be appropriately addressed with this new tool.
- If the CRTC followed the IPRA's recommendation, all ISPs would then be required to disable access to the identified sites, making it more difficult for them to reach Canadians.
- Alleged piracy sites would have recourse to object to applications to the IPRA, through the IPRA process, as well through the oversight of the CRTC itself and judicial review by the Federal Court of Appeal.



THE FAIRCHILD GROUP



New creative coalition urges CRTC action against online theft



OTTAWA, January 29, 2018 – FairPlay Canada (www.fairplaycanada.ca), a coalition of Canadian artists, content creators, unions, guilds, producers, performers, broadcasters, distributors, and exhibitors is asking the Canadian Radio-television and Telecommunications Commission (CRTC) to take action to address the theft of digital content by illegal piracy websites.

The jobs of hundreds of thousands of Canadians who work in the creative sector are at risk as a result of increasing online piracy, from songwriters and set builders to makeup artists and local news reporters. Payments from legitimate streaming services, broadcasters, distributors, and exhibitors help support these artists and creators.



“We know Canadians love digital content, whether it’s watching their favourite TV show or sports team, or streaming their favourite playlist online,” said Dr. Shan Chandrasekar, President and CEO of Asian Television Network International Limited (ATN), who is filing the coalition’s application. “Often, they are the biggest supporters of Canada’s own creative content. However, online theft is hurting Canadians’ ability to enjoy the content they love and protect the jobs of the artists who create it.”

FairPlay Canada wants the CRTC to modernize the tools used to protect Canadian artists from online piracy. The coalition is proposing that the CRTC establish an independent agency, the Independent Piracy Review Agency (IPRA), to assist it in identifying websites blatantly engaged in content theft. The CRTC would require Canadian Internet Service Providers (ISPs) to take measures to prevent such sites from reaching Canadians. The IPRA and CRTC process would be subject to oversight by the Federal Court of Appeal.

“What we are proposing has been effective in countries like the UK, France, and Australia,” added Dr. Chandrasekar. “We are ardent supporters of this incredible coalition that has been formed to propose a new tool to empower the CRTC to address online piracy in Canada. We have great faith in Canadian regulators to modernize the tools available to help creators protect the content they make for Canadians’ enjoyment.”

FairPlay Canada is a coalition of more than 25 organizations representing every aspect of Canada’s film, TV, radio, sports entertainment, and music industries, including: Academy of Canadian Cinema and Television, Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), Association québécoise de l’industrie du disque, du spectacle, et de la vidéo (ADISQ), Asian Television Network (ATN), Association québécoise de la production médiatique (AQPM), Bell, Canadian Association of Film Distributors and Exporters (CAFDE), CBC / Radio-Canada, Les Cinémas Ciné Entreprise Inc., Cinémas Guzzo, Cineplex, Canadian Media Producers Association (CMPA), Cogeco Connexion, Corus, Directors Guild of



Canada (DGC), DHX Media, Entertainment One, Ethnic Channels Group, Fairchild Media Group, International Alliance of Theatrical Stage Employees (IATSE), Landmark Cinemas, Maple Leaf Sports and Entertainment (MLSE), Movie Theatre Association of Canada (MTAC), Quebecor, Rogers Media, Television Broadcasts Limited (TVB), TIFF, Unifor, and *Union des artistes* (UDA).

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For more information, please visit www.fairplaycanada.ca.

Supporting Statements

“The Canadian Academy stands with our partners in FairPlay Canada against the online theft of creative content. Our members are hard-working men and women who drive Canada's creative and screen industries and who deserve to be compensated fairly for their work. We want them to continue producing quality films and TV shows, and inspire the next generation of Canadians to create the kind of world-class content that the Canadian Academy celebrates without the concern of digital piracy.” - **Beth Janson, CEO, Academy of Canadian Cinema & Television**

“Canadian performers work incredibly hard to pursue their craft and tell unique Canadian stories. Online piracy steals their work and the paychecks they rely on. It's time to follow the lead of countries like the UK and Australia and take action against illegal operators.” – **David Sparrow, National President, Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)**

“The Association québécoise de l'industrie du disque, du spectacle, et de la vidéo (ADISQ) is proud to support this initiative to fight online piracy. For more than 15 years, the music sector has been a part of changing consumer habits, but artists are more vulnerable than ever to the loss of income due to online piracy. All Canadians and the rest of the world lose access to great content if the music community is no longer able to offer a rich and diverse music offering.” - **Claude Larivée, President, Association québécoise de l'industrie du disque, du spectacle, et de la vidéo (ADISQ)**

“The Association québécoise de la production médiatique (AQPM) is pleased, on behalf of Quebec's independent producers of audiovisual content, to join this initiative, which actively engages internet service providers in the fight against the illegal downloading of works. The piracy of audiovisual content is indeed a scourge for all components of the industry as well as for the consumers themselves.” - **Hélène Messier, President and CEO, Association québécoise de la production médiatique (AQPM)**

“Digital content piracy hurts everyone, those who watch and listen to content from legal sources and those in the creative industry that produce it. Digital rights holders need up-to-date tools to combat piracy where it's happening, on the Internet, and the process proposed by the coalition will provide just that, fairly, openly and effectively. Bell is pleased to work with our partners across the industry and the CRTC on this important step in ensuring the long-term viability of the Canadian creative sector.” **Randy Lennox, President, Bell Media**

“While illegal content piracy is not a new problem, it is growing – and its economic effects continue to harm thousands of creators and other creative industry stakeholders in both Canada and globally. On behalf of CAFDE (Canadian Association of Film Distributors and Exporters), we're committed to working alongside our industry peers and the Canadian government to establish a long-overdue process for combatting illegal content piracy.” - **Emily Harris, President, Canadian Association of Film Distributors and Exporters (CAFDE)**

"We support efforts to stop piracy of copyrighted content. Groups who steal and re-sell content without permission are breaking the law and undermining financial support for culture." - **Hubert T. Lacroix, President and CEO, CBC/Radio-Canada**

"Our cinemas are the hearts of the communities which they service. There are over 11,000 Canadians who work in cinemas across the country and film theft is a very significant threat to their livelihood. We fully support any initiatives that will curtail the access to illegally obtained content through the internet." - **Raffaele Papalia, President, Les Cinémas Ciné Entreprise Inc.**

"As proud players and employers in Canada's film industry, our number one job is to make sure Canadians continue to have the opportunity to see the movies they love. This proposal is not about taking away Canadians' enjoyment of movies from legitimate services, but about fighting theft. There are over 600 employees in our theatres who rely on the film industry for their living – does that factor at all into the equation for these illegal piracy websites?" - **Vincent Guzzo, President and CEO, Cinémas Guzzo**

"The theft of films through illegal downloading is the primary concern to Cineplex, but the impact is felt by every Canadian business operating as part of the ecosystem. Our focus is to do whatever we can to prevent others from benefiting financially by illegally stealing the creativity and significant contributions of those in the industry. Innovation is not going away but there is no doubt that having a review agency like the IPRA would help block and shutdown Internet sites offering pirated and stolen content and assist industry players in their drive to further develop new technologies, applications and services for Canadians and the world." **Ellis Jacob, President and CEO, Cineplex**

"Simply put, piracy hurts Canada and Canadians. It harms our production sector, shrinks economic output, eliminates jobs, increases prices for Canadian audiences, decreases domestic content production, and reduces our cultural influence around the world. Piracy is illegal and it should not be allowed to continue." – **Reynolds Mastin, President and CEO, Canadian Media Producers Association (CMPA)**

"The impact that piracy has on the television industry extends much further than lost revenue, it impacts our ability to continue to invest in great Canadian content, and makes it harder to sustain the jobs of the thousands of Canadians who make that content. It's time to take more concrete actions towards protecting the rights of Canadian creators, broadcasters and distributors, and we're looking forward to working with the CRTC and our industry partners to do just that." – **Doug Murphy, President and CEO, Corus Entertainment**

"FairPlay is about a simple principle. Canadian creators should be paid for their work like anyone else. We need to modernize our laws and take on this new generation of piracy sites, raking in millions trafficking in content stolen from Canadian creators." – **Tim Southam, President, Directors Guild of Canada (DGC)**

"As a company largely focused on the creation of quality content for kids, we believe content creators are owed the respect and recognition they deserve, which includes protecting their intellectual property. Part of supporting a vibrant Canadian creative community, requires stronger tools for creators to protect their stories from content pirates. At DHX Media, we believe that Canada must adopt proven international measures to ensure storytellers are fairly compensated for their creativity and work." – **Steven DeNure, President and COO, DHX Media**

"As the largest distributor of international TV, online piracy continues to affect our business across multiple consumer markets. Immigration levels are increasing in Canada, however the pay TV business has seen a decline over the years on account of content piracy. This has a

direct impact on our ability to create compelling Canadian content, hire more personnel. The unregulated digital market coupled with lax enforcement is a boon to pirates. Better regulation and strict enforcement is the need of the hour to protect the entire Canadian broadcasting industry. We look forward to working with the CRTC and our partners on this initiative.” – **Slava Levin, CEO, Ethnic Channels Group**

“Fairchild TV welcomes the concerted efforts of stakeholders in the Canadian film and television marketplace to combat the pernicious effects streaming pirated content services are having on our businesses. As the largest Canadian producer/creator of Chinese television content, we have been very vocal about the detrimental impact such unauthorized use of our content is having on our bottom line,” he added, “and like other Canadian ethnic broadcasters, who pay to secure Canadian rights to foreign material that ends up on these streaming services, we are pleased to be part of a much larger effort to educate the public and remedy this situation.” – **Joe Chan, President, Fairchild Media Group**

“Piracy is not a victimless crime. It's taking money out of workers' pockets and it's reducing the amount of work that is available. That's why the IATSE supports the creation of an independent Internet Piracy Review Agency (IPRA). Canada needs to take action to help protect and create jobs, stimulate the economy, and attract new investment.” **John M. Lewis, International Vice President and Director of Canadian Affairs, International Alliance of Theatrical Stage Employees (IATSE)**

“The impact of piracy extends well beyond the actors on screen. Movie exhibition is the culmination of efforts by hard working film crews, talented production staff, and our dedicated theatre cast and management. Our industry embraces technological innovation but sees a role for the CRTC in ensuring that measures to prevent the theft of digital product such as movies is commiserate to the penalties imposed with the theft of all other goods and services, and doing so will alter the present consumer mindset, one that does not recognize or equate that the theft of digital content, is in fact theft.” - **Bill Walker, CEO, Landmark Cinemas**

“The prevalence of online piracy is a growing threat to an industry that has brought so much pride to Canada, and so much enjoyment to viewers, over the years. We applaud the partners working together to call for new regulations to help protect all those affected, today and in the future, and we are proud to support their efforts as part of FairPlay Canada.” – **Michael Friisdahl, President and CEO, Maple Leaf Sports and Entertainment (MLSE)**

“Movie theft is one of the most serious issues facing all sectors of the film industry in Canada and on a global level. The members of the Movie Theatre Association of Canada stand behind these efforts to block and shut down Internet sites that offer illegally obtained content.” - **Nuria Bronfman, Executive Director, Movie Theatre Association of Canada (MTAC)**

“Quebecor Content invests heavily in the production of original content that reflects Quebec's culture and values. These high-quality productions differentiate us from the U.S.-based giants. It is important that our governments take action to prevent piracy in order to safeguard our ability to finance the production of high-quality content and protect the work of our cultural workers.” - **France Lauzière, President and CEO, TVA Group; Chief of Content, Quebecor**

“We're all for new ways of watching content, but piracy means that the content creators don't get paid for their work. We believe this proposal represents a balanced and proven approach that goes after the people who illegally rebroadcast content. Taking action against piracy will ensure we can continue making and broadcasting the programming that Canadians love, while protecting the jobs of the Canadians who create it.” – **Rick Brace, President, Rogers Media**

“TV content providers in Canada will soon be put out of business by the serious streaming piracy problem. The regime proposed by the coalition is an efficient system to require ISPs to

disable access to infringing streams. It is an effective means to address the piracy problem and it should be established as soon as possible." - **Desmond Chan, Deputy General Manager, Legal and International Operations, Television Broadcasts Limited (TVB)**

"Online theft of digital content not only impacts those of us working in the creative industries – it hurts all Canadians. There are incredible artists working hard every day to make new and exciting content, but they can't keep making that content if they aren't getting paid. We want the CRTC to work with FairPlay Canada in developing the best possible solution to this pressing issue, starting with this proposal." - **Piers Handling, Director & CEO, Toronto International Film Festival (TIFF)**

"Canadian media is losing millions to Internet piracy, and hundreds of jobs are at risk if the CRTC doesn't do something to block access to blatantly illegal sites hosted on foreign soil. Twenty other countries have taken action to protect their cultural industries so why are we sitting on our hands?" **Jerry Dias, National President, Unifor**

"For too long now, artists' rights have been violated by hacker sites that fraudulently host thousands of television and film productions. The UDA condemns such practices. Pirating not only denies audiovisual artisans their right to have their work acknowledged, but also trivializes the privileged relationship they entertain with the public through their work. This in turn cruelly impoverishes our culture." - **Sophie Prégent, President, Union des artistes (UDA)**

ONLINE PIRACY

The Impact on Creative Canada

**\$ 54.6
BILLION**
630,000 JOBS

Canada's cultural industries contributed to the Canadian economy¹

 **\$260
BILLION**

Commercial value of movie, music and software piracy in 2015²

 **1.88
BILLION**

Visits to piracy websites in Canada in 2016³



ONLINE PIRACY IS THEFT, PLAIN AND SIMPLE.



WHO'S AFFECTED



Everyone who works in the creative industries, from songwriters and set builders to makeup artists and local news reporters. When big piracy websites steal the world-class content Canadians create, creators and consumers lose.

WHY SHOULD YOU CARE?



More and more Canadians are embracing the consumption of creative content online, but international piracy websites are taking advantage of that trend. Online piracy websites continue to profit off the millions of dollars in advertising and subscriptions they can attract by stealing and hosting content illegally. This takes away from payments that would support the people who create the content, which means less great content is being made for your enjoyment.

THE NEED FOR MODERN TOOLS

- ▶ International piracy websites operate anonymously from anywhere in the world.
- ▶ Canadian artists and independent production companies often don't have the resources to take on these piracy websites when their content is stolen.
- ▶ Canada's existing copyright rules don't provide the right tools to help artists and creators protect their content from online theft by these piracy websites.
- ▶ A new approach is required to make it more difficult for these piracy websites to reach Canadians and hurt Canadian creators.

THE SOLUTION

Create a not-for-profit Independent Piracy Review Agency (IPRA) under the supervision of the Canadian Radio-television and Telecommunications Commission (CRTC).

HOW IT WORKS

► A complaint is submitted to the IPRA regarding a blatant piracy website stealing content.

► IPRA reviews evidence from all parties, holds a hearing if required, and makes a recommendation to the CRTC.

► CRTC considers the evidence and recommendation and, if it agrees, requires ISPs to disable access to the site.

STEP TWO

STEP ONE

STEP THREE

WHO'S ACCOUNTABLE?

The IPRA process is a fair and independent way to help protect content creators from illegal acts of online piracy. All decisions are made by the independent regulator, the CRTC, which can revisit a decision at the request of any party at any time. The process is subject to oversight by the Federal Court of Appeal. Consistent with the principles of net neutrality, ISPs never act unilaterally.

WHO'S TAKING ACTION?

More than 20 countries have taken action to protect creative content and ensure artists are fairly compensated. As a result, consumers are shifting to legal streaming services and away from illegal piracy websites.



UK: 22% decrease in piracy; 6%-10% increase to legal streaming services⁴

Portugal: 10% decrease in usage of the top 250 piracy sites despite traffic to those sites increasing 31% globally during the same period⁵

South Korea: 15% decrease in total piracy in 2015⁶

ABOUT FAIRPLAY CANADA

FairPlay Canada is a coalition of more than 25 organizations representing every aspect of Canada's film, TV, radio, sports entertainment, and music industry, including: Academy of Canadian Cinema and Television, Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), Association québécoise de l'industrie du disque, du spectacle, et de la vidéo (ADISQ), Asian Television Network (ATN), Association québécoise de la production médiatique (AQPM), Bell, Canadian Association of Film Distributors and Exporters (CAFDE), CBC / Radio-Canada, les Cinémas Ciné Entreprise Inc., Cinémas Guzzo, Cineplex, Canadian Media Producers Association (CMPA), Cogeco Connexion, Corus, Directors Guild of Canada (DGC), DHX Media, Entertainment One, Ethnic Channels Group, Fairchild Media Group, International Alliance of Theatrical Stage Employees (IATSE), Landmark Cinemas, Maple Leaf Sports and Entertainment (MLSE), Movie Theatre Association of Canada (MTAC), Quebecor, Rogers Media, Television Broadcasts Limited (TVB), TIFF, Unifor, and *Union des artistes (UDA)*.



Key messages

- We want to ensure Canadians can continue to enjoy the programming they love and protect the jobs of the people who create it.
- Online piracy harms creators and consumers by stealing the world-class content Canadians create and distribute.
- As a result, the jobs of hundreds of thousands of Canadians who work in the creative sector are at risk, from songwriters and set builders to makeup artists and local news reporters. Payments from legitimate streaming services, broadcasters, distributors, and exhibitors help support these artists and creators.
- The ways that content is stolen are constantly changing in the digital environment. We need modernized tools to protect against illegal acts of online piracy.
- That's why FairPlay Canada proposes a system, similar to other countries like the UK and Australia, empowering the CRTC to identify blatantly illegal piracy websites and remove their ability to operate in Canada. This would be subject to oversight by the Federal Court of Appeal.
- Under our proposal, internet service providers remain entirely neutral. They have no independent choice regarding which sites to block. That power rests entirely with the CRTC and the oversight of the courts.
- FairPlay Canada is a coalition of more than 25 organizations representing every aspect of Canada's film, TV, radio, sports entertainment, and music industries.

N.B. Each member of the coalition should speak in support of the initiative on their own behalf and from their own perspective.

Question and Answer

1. What are you announcing?

FairPlay Canada proposes a system similar to other countries like the UK, Australia and France, that would empower the CRTC to identify and disable access to illegal piracy websites.

This would be subject to oversight by the Federal Court of Appeal.

2. Why are you proposing this?

We want to ensure Canadians continue to enjoy the programming they love and protect the jobs of the people who create it.

The livelihood of thousands of Canadians working in our creative sector is at risk because of online piracy.

3. Why now?

Piracy is getting worse. Like everything else, the nature of piracy has changed dramatically in an era of constant digital innovation. We need modernized tools to protect against illegal acts of online piracy.

4. Why is site-blocking necessary to combat piracy?

The approach FairPlay Canada proposes is a practical way to address a growing problem.

Piracy websites and services are operated anonymously online from jurisdictions all over the world, making it difficult or impossible to identify the people responsible for them or to bring enforcement actions.

It is unreasonable to expect an artist or a small Canadian production company to track down and sue multiple anonymous parties operating in other countries every time they identify their content being stolen. A solution that instead focuses on making it harder for those sites to make content available illegally in Canada is just common sense.

5. Is this an attack on net neutrality?

The proposal has nothing to do with net neutrality. In fact, the coalition strongly supports net neutrality and the free flow of legal content on the Internet. What we want to stop is illegal acts of online piracy that deny Canadians fair compensation for their work.

6. Is piracy truly a problem?

Piracy is a problem and it's getting worse. In 2016, there were 1.88 billion visits to illegal piracy sites in Canada. International piracy websites are profiting from millions of dollars in advertising and subscriptions based on hosting stolen content, undermining both the creation of uniquely Canadian cultural content and the work of thousands of Canadians employed in those industries.

7. Won't this give big telecom and big media too much power?

The agency would be independent and work with the CRTC to identify egregious piracy sites. Final decisions will rest with the CRTC, and be reviewable by the court. Telecom and media companies would have no ability to unilaterally disable access to a site.

8. Aren't there already protections in place / laws to prevent piracy?

Piracy is already illegal but the tools to address it have not kept up with constant digital innovation. We need modernized tools to reduce the impact of illegal acts of online piracy.

9. Isn't there a danger that legal websites will be targeted / affected?

Applications would only target blatant piracy sites, and anyone who thinks they may be impacted would have recourse to object through the established process. Courts that have reviewed similar regimes in other countries have found that they are effective and that there is no evidence of over-blocking.

Objections could occur through the IPRA process, as well as through the oversight of the CRTC itself, and judicial review by the Federal Court of Appeal.

10. Isn't the coalition just a front for big telecom or big media?

FairPlay Canada is an unprecedented coalition of more than 25 organizations representing every aspect of Canada's film, TV, radio, sports entertainment, and music industries.

It is a coalition of Canadian artists, unions, guilds, content creators, producers, performers, distributors, and exhibitors.

11. Who is paying for the campaign?

The campaign relies on all members contributing their individual expertise, perspective, time, and resources.

12. Why do we need a new agency; can't the CRTC do this already?

The CRTC will make the final decisions, while the IPRA will be able to develop expertise and provide all parties with a more expeditious and efficient, and less costly, process.

13. When do you hope the agency will be in place?

Obviously the CRTC will need time to consider the proposal. Given the urgency of the problem, however, we are hopeful that the proposal will be reviewed expeditiously.

14. Doesn't this undermine freedom of expression?

On the contrary, this protects the right to freedom of expression by Canadian artists and content creators. They have the right to be compensated for their work.

15. How does this fit into the government's *Copyright Act* / *Broadcasting Act* reviews?

Obviously, the proposal is being made while the government is doing work in this area. The proposal, however, is not tied to those reviews.

16. Will the IPRA cost taxpayers money? How will it be funded?

The goal would be to ensure the IPRA is self-funded through application fees. The coalition is prepared to provide some seed funding to establish the IPRA's initial setup.