

# Journalism and Written Media Independent Panel of Experts

## Mandate

### Objectives of the Independent Panel of Experts

The Journalism and Written Media Independent Panel of Experts will provide recommendations to the Minister of Canadian Heritage and Multiculturalism and the Minister of Finance in order to contribute to the effective and equitable implementation of the tax measures in support of Canadian news media that were announced in the Fall 2018 Economic Statement and for which additional details were provided in Budget 2019.

The tax measures consist of:

- allowing journalism organizations to register as qualified donees;
- a refundable labour tax credit for qualifying journalism organizations; and
- a non-refundable tax credit for subscriptions to Canadian digital news.

Legislative proposals to implement these three tax measures are included in Bill C-97, which is currently under consideration by Parliament.

To deliver its mandate, the Panel, in accordance with its operating procedures outlined below, will be required to:

- propose definitions for specific terms with respect to the Qualified Canadian Journalism Organization (QCJO) status and the Refundable Labour Tax Credit (RLTC), as described in more details below.<sup>1</sup>
- in addition, the panel will make recommendations to the Ministers regarding the composition of a second panel, which will assess the eligibility of journalistic organizations as QCJOs for the purpose of administering the tax measures stated above. The recommendations of the independent panel of experts are expected to take into account the Government priority to reflect Canada's diversity, the need to have expertise in the administration of the tax measures and the objective of having a functional and efficient panel.

### Specific definitions and eligibility criteria to be examined by the Panel

As a starting point, the Panel will propose definitions on specific terms described as part of the criteria listed under the RLTC made public as part of Budget 2019. The list includes:

- What is *original news content*?
- What constitutes an *eligible newsroom employee*? In this respect, the Panel will be asked to provide an operational definition for the following legislative criterion, including a discussion

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<sup>1</sup> A list of the criteria from Budget 2019 can be found in annex A to this document.

of any grey zones, and guidelines with respect to what would be admissible as “otherwise preparing content”:

- “An individual who spends at least 75% of their time engaged in the production of news content, including by researching, collecting information, verifying facts, photographing, writing, editing, designing and otherwise preparing content” in the definition of *eligible newsroom employee* for the purpose of the RLTC.

In the context of the criteria involved in determining QCJO status, the following criteria will need to be scrutinized:

- The text of Budget 2019 indicates that for a written news media to be certified as a QCJO, “it is primarily engaged in the production of original news content and in particular the content must be primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and must not be primarily focussed on a particular topic (...)”. The Panel is asked to propose precise guidelines for QCJO to meet that criteria, not only in terms of the diversity of content produced but as it relates to the portion of the total publication that must demonstrate the general interest of the content it publishes.
- The Panel is also expected to review the eligibility criteria stating that a QCJO “regularly employs two or more journalists in the production of its content (...)”, and provide clarifications or definitions. The panel could also recommend adjustments as deemed appropriate, which would need to be considered by the Government and further legislative changes would need to be proposed at a future date.
- As stated in Budget 2019, if deemed necessary, the Panel could also propose additional criteria for eligibility as QCJO.

### **Major quantifiable criteria**

In general, the Panel will focus its efforts on examining eligibility criteria rather than the characteristics of the tax measures. The role of the Panel is to review criteria, propose definitions and make recommendations to support the fair and efficient administration of the tax measures and to ensure that these measures are reasonably aligned with the general business practices of the industry. Panel members are not expected to discuss the key quantifiable criteria included in Budget 2019, such as the percentage of labour costs reimbursed through the RLTC or criteria already defined in legislation or regulations.

The Panel will need to take into consideration the fact that to qualify for the RLTC and the subscription tax credit, a QCJO must be a corporation, partnership or trust primarily engaged in the production of original written news content.

A journalistic organization carrying on a broadcasting undertaking (as defined in the *Broadcasting Act*) will not qualify for these two measures. A QCJO will also not qualify for the refundable labour tax credit in a taxation year if it receives funding from the Aid to Publishers component of the Canada Periodical Fund in that taxation year.

To carry out its mandate, the Panel, in accordance with its operating procedures, will be required to:

- reach a consensus among its members on definitions and eligibility criteria;
- prepare a report with recommendations for the Minister of Canadian Heritage and Multiculturalism and the Minister of Finance. In the objective of fulfilling its mandate, the Panel may seek and consider advice from outside parties, including industry stakeholders.

#### **Membership of the Panel**

The Panel is composed of 8 independent members who are experts in journalism, news production and/or print media publication, print or digital.

The members will consist of experts proposed by various associations representing written media publishers in Canada and Canadian journalists (see Annexe B).

Panel members cannot be employees, independent contractors or consultants to the Government of Canada, or cannot have a direct and substantive relationship with the Government of Canada that may undermine or may reasonably be perceived as undermining their ability to make an independent judgment or to carry out their responsibilities as members of the independent group of experts.

#### **Duration**

Once established, the Panel will have one month (30 days) to complete its work and submit its recommendations to the Ministers.

#### **Chairperson**

The members of the group (8) will select the Panel's chairperson, from among themselves.

#### **Secretariat**

The departments of Heritage and Finance will provide secretariat services to the Panel.

## Annex A: Criteria for the measures in support for journalism from Budget 2019

### Qualified Canadian Journalism Organizations (QCJO)

A QCJO will be required to be organized as a corporation, partnership or trust. It will need to operate in Canada and meet additional conditions, depending on how it is organized. To qualify as a QCJO, a corporation will be required to be incorporated and resident in Canada. In addition, its chairperson (or other presiding officer) and at least 75 per cent of its directors must be Canadian citizens. In general, in order for a partnership or trust to qualify, such corporations, along with Canadian citizens, must own at least 75 per cent of the interests in it.

In addition, an organization will be required to meet the following conditions to be a QCJO:

- it is primarily engaged in the production of original news content and in particular, the content
  - must be primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and
  - must not be primarily focused on a particular topic such as industry specific news, sports, recreation, arts, lifestyle or entertainment;
- it regularly employs two or more journalists in the production of its content who deal at arm's length with the organization;
- it must not be significantly engaged in the production of content
  - to promote the interests, or report on the activities, of an organization, an association or their members,
  - for a government, Crown corporation or government agency, or
  - to promote goods or services; and
  - it must not be a Crown corporation, municipal corporation or government agency.

### Qualified Donee Status

Registered journalism organizations will be required to be corporations or trusts and to have purposes that exclusively relate to journalism. Any business activities carried on by these organizations will be required to be related to their purposes.

For example, the sale of news content and advertising would be considered activities related to journalism. These organizations will not be permitted to distribute their profits, if any, or allow their income to be available for the personal benefit of certain individuals connected with the organization.

To ensure that registered journalism organizations are not used to promote the views or objectives of any particular person or related group of persons, a registered journalism organization:

- will be required to have a board of directors or trustees, each of whom deals at arm's length with each other;
- must not be factually controlled by a person (or a group of related persons); and
- must generally not, in any given year, receive gifts that represent more than 20 per cent of its total revenues, including donations, from any one source (excluding bequests and one-time gifts made on the initial establishment of the particular registered journalism organization).

### **Refundable Labour Tax Credit**

To qualify for this credit, a QCJO must be a corporation, partnership or trust primarily engaged in the production of original written news content. A QCJO carrying on a broadcasting undertaking (as defined in the *Broadcasting Act*) will not qualify for this credit. A QCJO will also not qualify for this credit in a taxation year if it receives funding from the Aid to Publishers component of the Canada Periodical Fund in that taxation year.

A QCJO that is a corporation will be required to meet the following additional requirements in order to qualify:

- if it is a public corporation, it must be listed on a stock exchange in Canada and not be controlled by non-Canadian citizens; and
- if it is a private corporation, it must be at least 75-per-cent owned by Canadian citizens or by public corporations described above.

As noted above, an independent panel will be established to consider eligibility criteria for purposes of this measure. Initially, an eligible newsroom employee will generally be an employee of a QCJO who works for a minimum of 26 hours per week, on average, and is employed by the QCJO (or is expected to be employed) for at least 40 consecutive weeks. In addition, an eligible newsroom employee will be required to spend at least 75 per cent of their time engaged in the production of news content, including by researching, collecting information, verifying facts, photographing, writing, editing, designing and otherwise preparing content. These rules will be amended if necessary, pending the work completed by the independent panel.

Eligible expenses will include salary or wages paid to eligible newsroom employees in respect of a taxation year and will be reduced by the amount of any government or other assistance received by the QCJO in the taxation year.

In addition, salary or wages will be eligible expenses of an organization only if they are in respect of a period throughout which it is a QCJO.

A registered journalism organization, which will be exempt from income tax, may also be entitled to this refundable tax credit in respect of its eligible expenses.

#### **Personal Income Tax Credit for Digital Subscriptions**

Eligible digital subscriptions are those that entitle a taxpayer to access content provided in a digital form by a QCJO that is primarily engaged in the production of written content. A subscription with a QCJO carrying on a broadcasting undertaking (as defined in the *Broadcasting Act*) will not qualify for this credit.

Amounts paid to an organization will be eligible only if, at the time they are paid, the organization is a QCJO. If an organization ceases to qualify as a QCJO, that will not cause amounts paid by individuals for subscriptions prior to the loss of QCJO status to cease to qualify for the credit.

## **Annex B: Associations representing print media publishers in Canada and Canadian journalists.**

### **News Media Canada**

37 Front Street East, Suite 200  
Toronto, ON  
M5E 1B3

### **Association de la presse francophone**

267, rue Dalhousie  
Ottawa (ON)  
K1N 7E3

### **Quebec Community Newspaper Association**

400 Maloney E, Suite 205  
Gatineau, QC  
J8P 1E6

### **National Ethnic Press and Media Council of Canada**

P.O. BOX 266, Don Mills Postal Station  
70 Wynford Dr.  
Toronto, ON  
M3C 2S2

### **Canadian Association of Journalists**

P.O. Box 117, Station F  
Toronto, ON  
M4Y 2L4

### **Fédération professionnelle des journalistes du Québec**

3802 boulevard Saint-Laurent  
Bureau 1  
Montréal (QC)  
H2W 1X6

### **UNIFOR**

205 Placer Court  
Toronto, ON  
M2H 3H9

### **Fédération nationale des communications**

1601, avenue De Lorimier  
Bureau 2312  
Montréal (QC)  
H2K 4M5

