Submission to the Standing Senate Committee on Transport and Communications

Study of Bill C-11, the Online Streaming Act

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Key Facts about Netflix

- *Netflix is an entertainment company. We produce and invest in films, television shows and games. Netflix primarily offers scripted drama, comedy and long-form documentary content to our members.*
- *Netflix competes vigorously with all types of entertainment video from everywhere - and globally, this competition is intensifying.*
- *Netflix collects and remits sales tax across Canada and is supportive of the OECD Two Pillar solution for addressing the tax challenges of digitalization.*
- *Netflix places an emphasis on content protection and partnerships, helping creators access new, global audiences.*
- *Netflix does not have a single model for rights agreements, and negotiates these terms on a case-by-case basis with producers.*

Netflix welcomes this opportunity to inform the Standing Senate Committee on Transport and Communications' study of Bill C-11. Our key observations and recommendations are summarized below:

- Netflix brings some of the best content made by Canadians to our members here and around the world, investing significantly in jobs and the economy across the country, while offering our service at a competitive price.
- Bill C-11, as adopted by the House of Commons, aims to create a flexible framework that will enable the CRTC to recognize the different ways that online services contribute, and to tailor conditions of service applied to online undertakings. Netflix believes that is the right approach, as it recognizes today's dynamic and competitive global market for entertainment content.
- Netflix remains concerned about a rigid approach that would simply transpose the current programming expenditure requirements of Canadian broadcasting groups and current definitions of Canadian content to online streaming services.
- This would not create a level playing field, nor would it be fair or equitable. Given the specific programming focus of our service, Netflix cannot benefit from the current flexibility in the CRTC's regulatory rules which allows Canada's large private sector broadcasters to dedicate a majority of their Canadian content spending through the categories of news and sports programming.
- Netflix is an active participant in Canada's film and television industry. However, titles produced or solely financed by Netflix are not recognized as Canadian content - even when the majority of key creative roles are held by Canadians. We look forward to engaging in future conversations about this regulatory restriction with the aim of producing more Canadian content.
- An overly restrictive, complex or burdensome legislative and regulatory framework could result in reduced opportunities for Canadian creators to reach a global audience.
- Netflix supports the recommendations, including proposed amendments to Bill C-11, made by the Motion Picture Association - Canada (MPA-Canada) in its submission.
- Netflix encourages committee members to evaluate proposals for amendments to Bill C-11 with a view to achieving the Government of Canada's ambition to create a world-class communications sector for Canada, and ensuring that an appropriate balance is struck between the objectives of enabling and promoting Canadian culture, contributing to economic

growth, and safeguarding the interests of Canadian consumers - including affordability and choice.

Netflix in Canada

"The density of talent in Canada is remarkable, and we've found that everywhere we shoot in Canada"
— Ted Sarandos, Co-CEO and Chief Creative Officer, Netflix[1]

Netflix launched in Canada in 2010. We offer our Canadian members a wide variety of series, films and games from around the world, on a vast array of internet-connected devices.

Our extensive library of titles produced in Canada continues to grow. In the past year alone, several new Netflix titles like *The Adam Project*, *Maid, Virgin River S4* and *The Umbrella Academy S3* were released on the service to our members in Canada and around the world, and others like*, Firefly Lane S2, The Mother* and *Slumberland* will soon be released.

Canada's independent producers, broadcasters and distributors are valued partners and we continue to collaborate on great Canadian stories like:

- the series *Fakes* (launched in other countries around the world in September and coming to Netflix in Canada early next year), produced by Reality Distortion Field and co-licensed with CBC Gem. The 10-episode, half-hour series, created by Canadian David Turko and set in Vancouver, is the story of two teenage best friends who accidentally build one of the largest fake ID empires in North America;
- our upcoming feature film *Code 8, Part II,* directed by Canadian Jeff Chan, with Canadian production company Collective Pictures, and Canadians Robbie and Stephen Amell reprising their roles from the iconic first film; and
- our upcoming stand-up special with rising Quebec comedian Mathieu Dufour, produced by Juste pour rire, and recorded during Montréal's Just For Laughs festival last July.

We also continue to license new and classic series and films from Canada, in English and in French. On the series front, our members can enjoy classics like *Due South, Rookie Blue*, *Les Filles de Caleb* and *La vie, la vie* as well as new favourites like *Moonshine*.

As for films, in June 2021, we licensed 25 Québécois features from Les Films Séville, including *La Chute de l'empire américain*, *Incendies* et *Laurence Anyways*. And to celebrate National Canadian Film Day in April 2022, we added 21 classic Canadian films including *Atanarjuat*, *Café de Flore* and *Away from Her*. We're also licensing newer hits, like *Le Guide de la Famille Parfaite*.

We also continue to license Canadian documentaries, including Rezolution Pictures' *Rumble: The Indians Who Rocked The World*, and unscripted series, like Marblemedia's *Blown Away* (3 seasons), *Restaurants on the Edge* and the upcoming *Drink Masters*.

[1] Victoria Ahearn. "Netflix plans to open office in Canada and 'grow our relationship' with Canadian creative community". The Globe and Mail. February 11, 2021. https://www.theglobeandmail.com/business/article-netflix-plans-to-open-office-in-canada-and-grow-our-relationship-with/

In fact, since 2017, we've invested more than 3.5 billion dollars in Canada for films and series that have launched on Netflix. This reflects the high quality, diversity and competitiveness of Canadian creators, talent, crews and facilities.

Additionally, Netflix continues to support our more than 20 partners - including the Indigenous Screen Office, the Fabienne Colas Foundation's Being Black in Canada program and imagineNATIVE - investing in the next generation of Canadian creators from underrepresented groups, and helping bring their stories to life.

In October 2021, we opened our corporate office in Toronto, and hired our first in-country content executives, Danielle Woodrow and Tara Woodbury. The primary goal of their work is to find great Canadian stories from Canadian talent and share them with the world. Over the past year, they've been busy engaging with creators across the country, traveling to eight provinces and territories, and participating in over 400 meetings.

We're excited by the opportunity and look forward to working with new and established creators to tell high-quality, Canadian stories that will resonate with our members everywhere.

Made in Canada, Seen by the World

> "*Il y a plus de place qu'avant pour les séries non anglophones. Et pour ça, je dis merci à Netflix, parce qu'au cours des dernières années, on a tous regardé des shows sous-titrés. C'est eux qui ont lancé la mode.*"
>
> — Nicola Merola, président de Pixcom[2]

Great stories can come from anywhere and be loved everywhere. With members in more than 190 countries around the world, we know that authentically told stories will resonate with viewers no matter where they live.

Canadian collections, genre categories, dedicated URLs and search functions, as well as marketing and social campaigns, make it easy for all our members to discover Canadian titles.

Netflix also offers subbing and dubbing in more than 30 languages - and that number continues to grow - making Netflix's Canadian films and TV series more accessible on a global scale.

Between January 2016 and May 2020, there were more than 800 Canadian and Canadian-made titles available on Netflix globally and more than 90% of view hours of these titles occurred outside of Canada.

Viewing Canadian stories also draws visitors to our country. In September 2021, we launched *Netflix in Your Neighbourhood*, a microsite dedicated to celebrating the diverse Canadian locations used for many of our productions across the country, "*making it easy for fans to find and maybe even plan a trip to a favourite filming location.*" [3] Our research found that Netflix content made in Canada has a huge

[2] Marc-André Lemieux. "La planète plus ouverte aux séries du Québec". Le Journal de Montréal. October 14, 2019. https://www.journaldemontreal.com/2019/10/14/la-planete-plus-ouverte-aux-series-du-quebec

[3] Dana Gee. "Neighbourly Netflix: Check out online the Canadian locations for your favourite shows". Vancouver Sun. September 28, 2021. https://vancouversun.com/entertainment/television/neighbourly-netflix-check-out-online-the-canadian-locations-for-your-favourite-shows

effect on cultural affinity and desire to travel here. Further, the research showed that people who watch Netflix are 1.8x more likely to have seen Canadian programming than those that don't.[4]

Netflix and Canadian Production

"Une production québécoise a-t-elle déjà pu rejoindre un aussi large public international en si peu de temps? Il est permis d'en douter. Pour Patrice Laliberté [director of Jusqu'au Déclin] , ces données revêtent un caractère vertigineux" [5]

Netflix is producing original content in Canada; co-licensing Canadian stories with Canadian broadcasters; and acquiring Canadian content being loved by audiences around the world and recognized with the industry's most prestigious awards - in English and in French. Each of these models contributes to the system.

However, there are examples of titles on Netflix that meet six or more CAVCO key creative requirements but cannot be certified as Cancon because the projects were financed exclusively by Netflix, from development to delivery.

- *Jusqu'au Déclin,* shot in the Laurentians with its all-Québec cast and crew, resulted in $5.8M in direct investment in the Province of Québec. The film was viewed by over 21 million subscribers in the first four weeks of its release to global audiences.
- *The Willoughbys*, co-written and directed by Canadian Kris Pearn, produced by Vancouver-based Bron Studios and featuring the voices of singer-songwriter Alessia Cara (making her acting debut as the voice of Jane), Martin Short (Father), and comedian Seán Cullen (twins Barnaby A & B), resulted in over $54 million in direct investment in Canada. The film was viewed by over 37 million members in the first four weeks of its release to global audiences.

Current definitions of Canadian content do not acknowledge the full contributions of streaming services to Canadian programming. We are encouraged by the fact that the Minister of Canadian Heritage has stated his intention to ask the CRTC to look at and modernize the definition of Canadian content.[6]

Netflix and Production in Canada: Direct and Indirect Impacts

Film and Television Production in Canada remains robust

[4] https://www.netflixinyourneighbourhood.ca/tourism-and-filming-in-canada/
Methodology: In November 2020, BASIS research evaluated the impact of Canadian content on cultural affinity towards the culture of and tourism to Canada. The report aggregates findings from research studies in Brazil, France, Germany, Australia and Sweden. In total 13,500 people were surveyed and 20 Netflix titles were tested.
[5] Marc-André Lussier. "21 millions de visionnements sur Netflix pour Jusqu'au déclin". La Presse. May 15, 2020. https://www.lapresse.ca/cinema/2020-05-15/21-millions-de-visionnements-sur-netflix-pour-jusqu-au-declin
[6] Marie Woolfe. "What's Canadian? Minister to update definition of Canadian film and TV productions". Canadian Press. May 3, 2022. https://www.cbc.ca/news/politics/defining-canadian-broadcast-content-1.6440074

The Canadian Media Producers Association and Association québécoise de la production médiatique's most recent Industry Profile[7] reports:

- *Total film and television production in Canada remained above $9B, experiencing a slight COVID-related contraction from the previous year's all-time high of $9.3B;*
- *Canadian foreign and location services production remained stable at over $5B, sustaining employment for Canadian creators, crews and businesses during this challenging period; and*
- *Foreign investment in production in Canada remained above $6B, similar to the previous year's all-time high of $6.1B.*

Netflix is proud of its substantial contributions to the Canadian film and television industry.

"As far as direct-spending, it's definitely been the biggest that we've had in Victoria. Reverberations from the nine-month shoot will likely be felt for years to come."[8]
— Kathleen Gilbert, film commissioner, Vancouver Island South Film and Media Commission, about the series *Maid.*

Netflix has established physical production hubs in the Toronto and Vancouver areas - leasing over 25 stages as well as office and support space - bringing our production footprint in Canada to over 800,000 square feet. In March 2022, we extended our lease agreement with Canada's largest film studio, Martini Film Studios in Langley, BC, for five years.

We've invested in films and series produced all over the country including places like Victoria, Cochrane, Brandon, Hamilton, St. Catharines, Coburg, Sudbury, Ste-Agathe, Bromont, Lunenburg, Charlottetown and St. John's.

- Over the course of producing *The Adam Project* -starring Vancouver's Ryan Reynolds and directed by Montréal's Shawn Levy- Netflix provided employment for a cast and crew of around 1,200 people featuring key Canadian talent, and worked with around 150 businesses based in Vancouver, of which more than three-quarters were small and medium sized businesses. In total, Netflix's spending with Canadian businesses contributed around $40M to Canadian GDP.
- The production of *Maid* created over 200 full-time jobs for crew and generated an economic impact of approximately $10M to the Greater Victoria area. The series was shot entirely on-location. More than 160 locations were used during filming.
- The production of *Black Summer S2* in southern Alberta, Netflix provided $17M in wages and created 207 full-time jobs for cast and crew.
- The production of *Locke and Key S1* in Ontario and Nova Scotia provided $38M in wages to Canadian residents, created 277 full-time jobs for cast and crew, and over 5,000 days of work for background positions (extras) and daily hires. Total production investment in Canada amounted to $80M.

[7] Canadian Media Producers Association. "Economic report on the screen-based media production industry in Canada". 2021. https://cmpa.ca/wp-content/uploads/2022/04/Profile-2021-EN.pdf
[8] Mike Devlin. "In streaming series Maid, you'll recognize locations from all over Greater Victoria". Times Colonist. October 1, 2021.
https://www.timescolonist.com/entertainment/in-streaming-series-maid-youll-recognize-locations-from-all-over-greater-victoria-4692466

Netflix continues to collaborate with top Canadian animation studios on titles like *The Last Kids on Earth, My Little Pony: Make Your Mark* and the upcoming *Sonic Prime*, and several of Canada's leading VFX companies worked their magic on shows such as *The Adam Project* and *Stranger Things*.

In November 2021, we acquired Scanline VFX, a global VFX provider. Scanline has 1,200 employees worldwide, including 400 in Vancouver and 200 in Montréal.[9] Netflix will invest in Scanline's pipeline, infrastructure and workforce in Canada. And last July, we announced we were acquiring Animal Logic, a leading animation studio with employees in Sydney, Los Angeles and Vancouver (the transaction has yet to close).[10]

In November 2021, we launched our first selection of mobile games, including several titles from Canadian game developers. And last May, we launched The Queen's Ball, an in-person immersive experience based on our hit series *Bridgerton*, which was conceived and produced by teams from Netflix, Shondaland, and Fever who collaborated from Montréal, Los Angeles and Madrid. Much of the production was developed by local talent, including creative director Carl Fillion, production director Simon Vigneau and costume designer Marie-Chantale Vaillancourt. The sets were built by Montréal's Studio Artefact.[11]

The Queen's Ball will launch in Toronto on October 6, and is currently scheduled to run through December 2022.

Advancement of Canadian Creators and Talent

"Also consider the streamers; while a threat to legacy players, they haven't said no to us for 30 years. Who were among ISO's first partners? Netflix and Amazon. There's an eagerness from our communities to explore options that don't have a history of excluding or presenting false images of us. Onboarding those folks into our system means an avenue of representation for our communities." [12]
- Jesse Wente, Executive Director, Indigenous Screen Office.

Netflix is supporting the development and advancement of the next generation of Canadian creators - with a focus on BIPOC, LGBTQ+, Francophone and women screenwriters, directors and producers.

- To-date, Netflix has committed to more than 20 partnerships with both English and French organizations across the country. These partnerships reflect our commitment to diversity and creative growth for Canadian talent.
- Through initiatives with partner organizations, we have supported over 1,000 emerging, mid-career, and established Canadian creators from every province and territory.
- Of those, over 300 creators are from Québec and more than 150 are Indigenous.
- We're also launching our own initiatives including Advancing Voices, a paid development program to teach emerging writers from underrepresented groups how to develop for

[9] https://about.netflix.com/en/news/bringing-more-vfx-magic-to-our-members-with-scanline-vfx
[10] https://about.netflix.com/en/news/netflix-acquisition-animal-logic
[11] Leah Collins. "Betting on the Bridgerton Ball — immersive pop-up experiences are back". CBC Arts. May 26 2022. https://www.cbc.ca/arts/betting-on-the-bridgerton-ball-immersive-pop-up-experiences-are-back-1.6467016
[12] https://playbackonline.ca/2022/03/15/the-sessions-episode-4-diversity-representation-and-the-online-streaming-act/

streamers. The seven selected participants will receive direct mentorship for the pitches optioned by Netflix.[13]

Netflix is also providing opportunities for Canadian talent to secure their break-out roles:

- Maitreyi Ramakrishnan, born and raised in Mississauga, Ontario, burst onto the scene after being selected by Mindy Kaling to star in the Netflix series *Never Have I Ever.* Less than a year after the release of season 1, Maitreyi appeared on Time Magazine's 100 Next list in 2021, in addition to being presented with this year's Radius Award by The Academy of Canadian Cinema and Television, which honours a Canadian whose work is making waves globally. In September 2022, Maitreyi joined Netflix's Head of Global TV, Bela Bajaria at the Canadian Embassy in Washington D.C. for a discussion about how shows like *Never Have I Ever* are helping more people see their lives reflected on-screen. During the 30 minute discussion that was moderated by Canada's Consul General for Los Angeles, Zaib Shaikh, Maitreyi and Bela spoke of their excitement for how TV is changing and the opportunities for new and diverse storytelling. The event was attended by more than 100 guests and was hosted by Ambassador Kirsten Hillman.
- Looking ahead to upcoming releases, two young Canadian talents were announced as lead roles in the epic live-action series which is currently in production in B.C., based on the iconic animated title *Avatar: The Last Airbender*. Filipino-Canadian actor Gordon Cormier and Mohawk actress Kiawentiio will showcase our country's extraordinary talent by bringing this beloved story to life for audiences globally. Additional young Canadian talent on the show include Joel Oulette and Lucian-River Chauhan.

Netflix is also providing opportunities for below-the-line personnel. During production of *The Adam Project*, we partnered with Ryan Reynolds and Blake Lively's Group Effort Initiative, which exists to create a pipeline for members of the BIPOC and other marginalized communities to get real experience towards a lasting career within the entertainment industry. Eight Canadian trainees were placed in a number of roles. They were paid a salary and accommodation was also provided for those living outside Vancouver.

Supporting Canadian creators and crews through the COVID-19 pandemic

"Notre organisation favorise toute création d'emplois, quelle qu'elle soit : québécoise, canadienne-anglaise ou américaine . Il faut embrasser la croissance de l'industrie de l'audiovisuel. Ça crée des opportunités incroyables. Ça peut contribuer à relancer l'économie post-pandémique du Québec."

— Christian Lemay, President, AQTIS 514 IATSE [14]

In March 2020, Netflix announced a COVID-19 emergency fund[15] to support the hardest hit workers from the creative community worldwide, including $1.5 million for Canada. The AFC received $1 million and the Fondation des artistes (FDA) received $500,000. In November 2021, Netflix renewed

[13] Sadaf Ahsan. The Globe and Mail. June 16, 2022. Netflix launches development program for diverse Canadian writers. https://www.theglobeandmail.com/arts/article-netflix-launches-development-program-for-diverse-canadian-writers-2/
[14] Marc-André Lemieux. "Une année 2022 plus tranquille se profile". La Presse. May 19, 2022. https://www.lapresse.ca/arts/television/2022-05-18/tournages-etrangers/une-annee-2022-plus-tranquille-se-profile.php
[15] Ted Sarandos. "Emergency support for workers in the creative community". Netflix. March 20, 2020. https://about.netflix.com/en/news/emergency-support-for-workers-in-the-creative-community

its support to the FDA with an additional donation of $250K. Overall, our support has enabled over 1,000 Canadian creators to make it through this difficult period.

Bill C-11

> *"We love shooting in Toronto. We just opened an office there. Our talent wants to go there. You can shoot a wide range of budgets, with expert creatives at every level. You have robust urban and rural locations. There are animation services, post-production services, an incredible amount of talent and creativity."*
>
> — Amy Reinhard, Vice-president of Studio Operations, Netflix[16]

Canada is one of the countries in which Netflix is most active in terms of production. This is attributable to the wealth of creative talent in the country, its highly-skilled crews, state-of-the-art infrastructure and breathtaking and diverse locations. It is also attributable to the fact that Canada's entertainment industry is globally competitive.

Bill C-11, as adopted by the House of Commons, aims to create a flexible framework that will enable the CRTC to recognize the different ways that online services contribute, to tailor conditions of service applied to online undertakings, and to modernize the definition of Canadian content. Netflix supports such an approach, as it recognizes today's dynamic and competitive global market for entertainment content.

Netflix remains concerned about a rigid approach that would simply transpose the current programming expenditure requirements of Canadian broadcasting groups and current definitions of Canadian content to online streaming services.

This would not create a level playing field, nor would it be fair or equitable. Given the specific programming focus of our service, Netflix cannot benefit from the current flexibility in the CRTC's regulatory rules which allows Canada's large private sector broadcasters to dedicate a majority of their Canadian content spending through the categories of news and sports programming.

Nor would the current definitions of Canadian content recognize titles that are produced or solely financed by Netflix, even when the majority of key creative roles are held by Canadians.

As the Committee considers amendments being proposed to Bill C-11, we encourage it to continue to approach the legislation and its implementation through a modern lens - one that takes into account the fundamental changes in how Canadians are choosing to access entertainment content, as well as the differences between traditional broadcasters and online streamers.

Netflix also hopes that the value of the significant and sustained investment of online entertainment services in Canada will continue to be recognized, as well as the positive impacts those investments have had for Canadian creators, workers and consumers.

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[16] Johanna Schneller. "How streaming turned Toronto into studio city extraordinaire". The Globe and Mail. February 4, 2022. https://www.theglobeandmail.com/arts/article-how-streaming-turned-toronto-into-studio-city-extraordinaire

Proposed Amendments to Bill C-11

Netflix supports the recommendations, including proposed amendments to Bill C-11, made by the Motion Picture Association - Canada (MPA-Canada) in its submission. They are designed to add clarity and certainty to the flexible regulatory framework proposed in the legislation.

Netflix encourages committee members to evaluate proposals for amendments to Bill C-11 with a view to achieving the Government of Canada's ambition to create a world-class communications sector for Canada, and ensuring that an appropriate balance is struck between the objectives of enabling and promoting Canadian culture, contributing to economic growth, and safeguarding the interests of Canadian consumers.[17]

In addition, Netflix proposes amendments to the confidentiality provisions of Bill C-11. The amendments would expressly permit an applicant to confirm information designated as confidential, even if the CRTC determines that the public interest warrants disclosure. Consistent with the current practice under the CRTC's Rules of Practice and Procedure in broadcasting matters, such information would be inadmissible as evidence. The amendments are attached as an Appendix to this submission.

ABOUT NETFLIX

Netflix is one of the world's leading entertainment services with 221 million paid memberships in over 190 countries enjoying TV series, documentaries, feature films and mobile games across a wide variety of genres and languages. Members can watch as much as they want, anytime, anywhere, on any internet-connected screen. Members can play, pause and resume watching, all without commercials or commitments.

[17] Broadcasting and Telecommunications Legislative Review - Terms of Reference.

Appendix:
Proposed amendments to Bill C-11

Proposed Revisions to Section 25.3 Amendments

The following amendments are proposed for sections 25.3(4) (***in bold, underlined italics)***

Disclosure of information submitted in proceedings

(4) If designated information is submitted in the course of proceedings before the Commission,

(a) ***subject to subsection (a.1), the Commission may,*** while protecting the privacy of Canadians, disclose the information or require its disclosure if the Commission determines, after considering any representations from interested persons, that the disclosure is in the public interest;

(a.1) ***any information submitted to the Commission by a broadcasting undertaking pursuant to subsection 9.1(1)(j), other than information provided by a licensee or a person exempt from the requirement to hold a licence under an order made under subsection 9(4), shall be confidential and must not knowingly be disclosed or made available by the Commission unless such information is in an aggregated form that prevents information obtained from an identifiable person from being related to that person;***

(b) ***the Commission may*** disclose the information or require its disclosure to the Commissioner of Competition on the Commissioner's request if the Commission determines that the information is relevant to competition issues being considered in the proceedings; ***and***

(c) ***Notwithstanding subsection (a) and (b), if the person designating the information as confidential confirms the designation, the Commission must not disclose or require the disclosure of the information and the information is not admissible in evidence in a proceeding.***

The following amendments are proposed for sections 25.3(5):

Disclosure of other information

(5) If designated information is submitted to the Commission otherwise than in the course of proceedings before it,

(a) ***subject to subsection (a.1), the Commission may***, while protecting the privacy of Canadians, disclose the information or require its disclosure if, after considering any representations from interested persons, the Commission considers that the information is relevant to a matter arising in the exercise of its powers or the performance of its duties and functions and determines that the disclosure is in the public interest;

(a.1) ***any information submitted to the Commission by a broadcasting undertaking pursuant to subsection 9.1(1)(j), other than information provided by a licensee or a***

person exempt from the requirement to hold a licence under an order made under subsection 9(4), shall be confidential and must not knowingly be disclosed or made available by the Commission unless such information is in an aggregated form that prevents information obtained from an identifiable person from being related to that person;

(b) **the Commission may** disclose the information or require its disclosure to the Commissioner of Competition, on the Commissioner's request, if the Commission considers that the information is relevant to competition issues that are related to such a matter; ***and***

(c) ***notwithstanding subsection (a) and (b), if the person designating the information as confidential confirms the designation, the Commission must not disclose or require the disclosure of the information.***[18]

[18] The reference to "the information is not admissible in evidence in a proceeding" is inapplicable in the context of subsection 25.3(5) and has been deleted from the proposed amendment to 25.3(5)(c).