

Making Sense of the Media Distribution Multiverse

Paths to Consumers, Key Concepts and Definitions



Making Sense of the Media Distribution Multiverse

Paths to Consumers, Key Concepts and Definitions

A Canada Media Fund initiative

On-demand video and music, over-the-top television or IPTV, podcasting, live streaming, downloading, digital rentals... The terms used these days to designate the many paths that audiovisual works can follow on their way to their respective audiences seem to multiply, overlap and cause confusion. In such a context, it may be difficult to properly plan and negotiate the distribution of a film, a television series, a video game or an album. It is no easier to make sure that all of the stakeholders are in agreement regarding the same thing.

Several Canadian industry players have talked to us about the difficulties that stem from this terminological confusion, namely when it comes to negotiating contracts. We therefore asked the team at ROBIC, a Canadian firm that specializes in intellectual property and business law, to come up with a reference guide on the multitude of possible distribution scenarios and paths in today's digital environment.

The guide presents a series of tables that map the main channels through which video, audio and interactive

works can be distributed (in other words, the technical means to reproduce and transmit content to consumers). Canadian and international examples are provided for each channel. Also, the tables identify the various rights (reproduction, performance or making-available rights) that apply to each channel pursuant to applicable Canadian laws. Finally, the tables come with a full glossary that proposes a definition for each of the terms employed.

This guide is intended as a practical resource for stakeholders in the Canadian media industries. We hope that you find it useful, for example to plan the marketing of your content or to clarify the wording of your distribution agreements.

We would like to thank our partners for their financial support to produce this guide: Telefilm Canada, the National Film Board of Canada, the Société de développement des entreprises culturelles du Québec and the Canadian Media Producers Association.

The opinions, observations, conclusions, and recommendations contained in this document are those of the author and do not necessarily reflect the views of the Canada Media Fund, Telefilm Canada, the National Film Board of Canada, the Société de développement des entreprises culturelles du Québec or the Canadian Media Producers Association. These organizations and the Governments of Canada and Quebec and their agencies are in no way bound by the recommendations contained in this document.

This report contains general information only. Before making a decision that could have an impact on your organization, we recommend consulting appropriate qualified professionals.

This document is the exclusive property of the Canada Media Fund. It may not be used or reproduced without prior written consent from the Canada Media Fund.

© Canada Media Fund, 2019

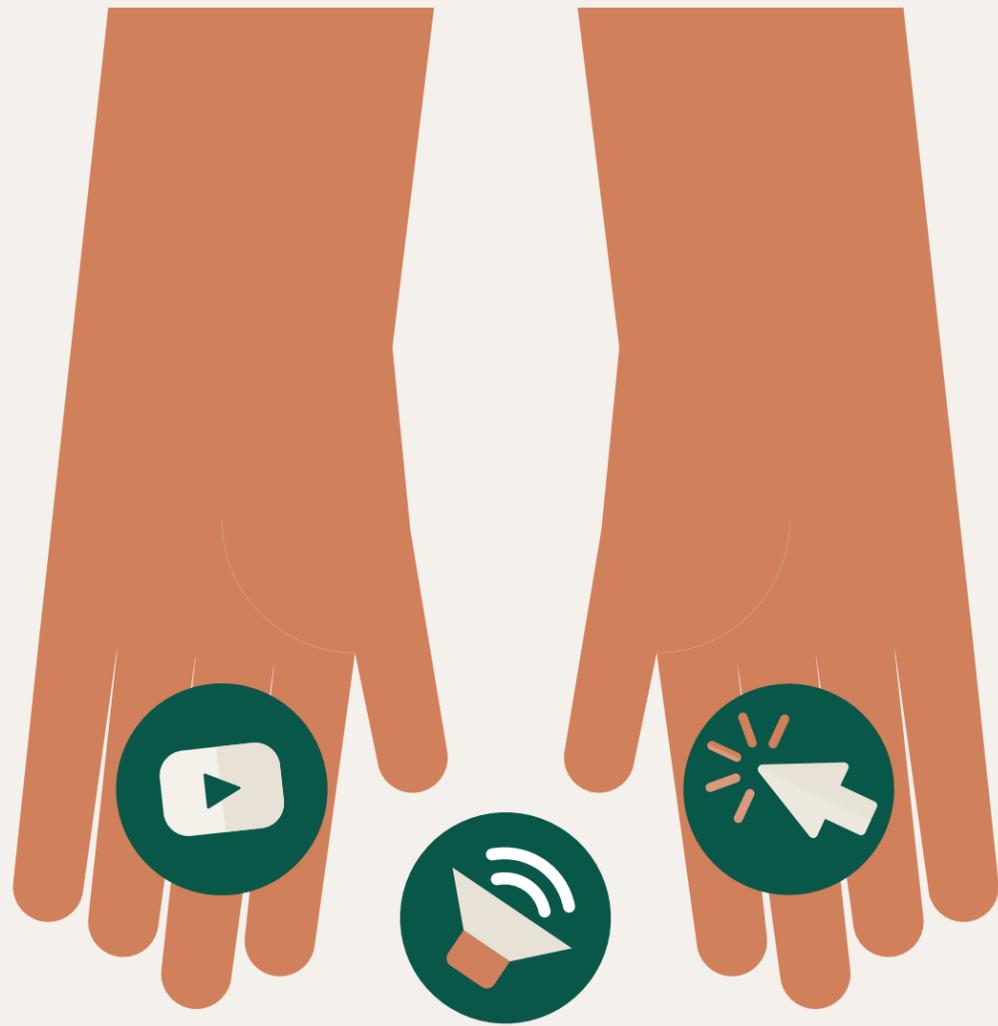


Content distribution

from producers to end users

This table presents a general diagram illustrating the distribution of content from producers to end users. It regroups all of the terms used in the other tables and separates them according to the different stages through which content passes.

Content	Accessibility			Distribution Path				Distribution Platforms		Notes
Content Type	Availability	Monetization	Scheduling	Means of Distribution	Technical Distribution Method	Routing	Destination	International examples	Canadian examples	
Video	Electronic	Free	Scheduled Viewing	Internet	Broadcast	Unicast	PC	iTunes	Cineplex	<ul style="list-style-type: none"> – Internet includes all means of accessing the internet, such as mobile data, wi-fi, ethernet, etc. – Amateur content is excluded, considering the focus on paths between producers and End users. – Physical copies of content are excluded. – Theatrical distribution and public performance/exhibition are excluded.
Audio	Sell-through	Ads	(content may only be accessed while it is broadcast to a mass audience)	Over the Air	Streaming	Multicast	Smartphone	Netflix	Illico	
Interactive Content (involving active participation from the End User)	Transactional on Demand	Freemium	On Demand	Multichannel Distribution	Download	Broadcast	Tablet	Twitch	tou.tv	
	Subscription	Subscription	Recording (temporary)				Smart Speakers	Spotify	Stingray	
	Catch-up	Pay Per View	Recording (permanent)				Digital Media Player	iHeartRadio	NFB Interactive	
	Remote	Pay Once					Video Game Console	App Store		
	Scheduled						Smart TV			
							Set-top Box			
							TV			



Distribution methods

Most used methods by content type



This table describes in greater detail the main paths by which the three main types of content—namely video, audio and interactive content—are distributed to consumers, whether through the web or over-the-air broadcasting, cable or satellite. It also identifies the rights (reproduction or performance rights) that apply to each of these methods of reproducing and transmitting content to end users by virtue of the legal framework that governs copyright in Canada.

Notes on rights information

Copyright is a complex field. This chart provides only a general mapping of distribution methods and the copyrights associated with them. It is intended as a general reference guide on the most frequent and standard situations. It does not reflect the many copyright exceptions provided for in copyright law that may apply. Before making any decision based on this chart, seek counsel from a qualified professional, such as an intellectual property lawyer.

For example, copyright exceptions apply in the following cases:

- An end user may record one copy of a live broadcast legally accessed from a television, a radio or the Internet in order to watch or listen to it later but cannot give that copy away to someone else and must keep it only for the time he or she needs to consume it. This exception does not apply to content accessed “on demand,” for instance, through an on-demand streaming service.
- Exceptions apply to temporary reproductions made as part of a technological process such as buffering. A temporary reproduction made for the sole purpose of facilitating the use of a work does not constitute copyright infringement, provided the reproduction exists only for the duration of the technological process and provided the work is solely used in connection with the technological process. Such reproductions may occur at different steps in the content distribution process and are necessary to make content transmission faster and more stable.

Also, the chart includes information on the making available right, which is an exclusive right of the copyright owner. The making available right is triggered when a content provider makes content available to the public in a way that allows an end user to have access to it from a place and at a time of his or her choosing, regardless of whether the content is accessed or not. However, it is not a distinct right and it should be interpreted as a part of performance rights, especially when a piece of content is made available for streaming. It should also be noted that this specific question is still being debated before the Federal Court of Appeal. Again, we encourage readers to seek professional counsel on all rights-related matters before making decisions.

Type	Means of Distribution	Availability	Reachability	Distribution Type	Monetization	Content Examples	Distribution Platforms		Rights Layering (copyright)		
							International	Canada	Original Source of the Content Content Provider	Distribution By Content Provider or Third Party	Consumption of Content* By the End User
 Video	Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	Digital movie copy	iTunes	Zik.ca (discontinued), Cineplex	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights
		Transactional on Demand	Recording (temporary)	Download	Free, Pay Per View, Subscription	Digital movie rental	iTunes, Netflix	Illico, Cineplex	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights
		Subscription	On Demand	Streaming	Free, Subscription, Ads	Subscription-based streaming service	Netflix, Hulu, tubi.TV	tou.TV, Club Illico, Crave, NFB	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	
		Scheduled	Scheduled Viewing	Streaming	Free, Subscription, Ads	Online TV	Twitch, PlayStation Vue	Bell Alt TV	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	
	Multichannel Distribution	Transactional on demand	On Demand	Download	Free, Subscription, Ads	Digital movie rental		Shaw on Demand	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights
		Catch-up	Recording (temporary)	Broadcast + Download	Free, Subscription, Ads	Temporary recording of real-time TV show		Illico	Reproduction Rights (copy(ies) of the work) + Making Available Right (for downloading)	Reproduction Rights (if copies on additional servers for downloading)	Reproduction Rights (for downloading)
		Scheduled	Scheduled Viewing	Broadcast	Free, Subscription, Ads	Scheduled TV show		Bell Fibe / Alt TV	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	
	Over the Air	Scheduled	Scheduled Viewing	Broadcast	Free, Ads	Scheduled TV show		CBC	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	

* The rights triggered by the consumption of Content by End Users are usually cleared by the distributor and do not create an obligation for End Users to clear additional rights themselves.

Type	Means of Distribution	Availability	Reachability	Distribution Type	Monetization	Content Examples	Distribution Platforms		Rights Layering (copyright)			
							International	Canada	Original Source of the Content Content Provider	Distribution By Content Provider or Third Party	Consumption of Content* By the End User	
 Audio	Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	Digital music album	iTunes, Amazon	Zik.ca (discontinued)	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights	
		Transactional on Demand	Recording (temporary)	Download	Free, Ads	Podcasts	Spotify, Apple Music, iHeartRadio	CBC	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights	
		Subscription	On Demand	Streaming	Free, Subscription, Ads	Subscription-based streaming service	Spotify, Apple Music, iHeartRadio	Zik.ca (discontinued)	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)		
	Multichannel Distribution	Scheduled	Scheduled Viewing	Broadcast	Free, Subscription, Ads	TV-Radio channels		Stingray Music	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)		
							Satellite radio	SiriusXM	SiriusXM Canada	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	
							Broadcast radio		CBC	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	
Over the Air	Scheduled	Scheduled Viewing	Broadcast	Free, Ads	Broadcast radio		CBC	Reproduction Rights (copy(ies) of the work)	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)			
 Interactive content	Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	Digital videogame copy	Steam, App Store, Google Play, Nintendo Store		Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights	
		Subscription	Recording (temporary)	Download	Free, Subscription	Subscription-based service	Xbox Game Pass		Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers)	Reproduction Rights	
		Remote	On Demand	Streaming	Free, Subscription, Ads, Freemium	Browser-based games	facebook.com, miniclip.com	NFB Interactive	Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)		
							Console-based games	PlayStation Now		Reproduction Rights (copy(ies) of the work) + Making Available Right	Reproduction Rights (if copies on additional servers) + Performance Rights (communication to the public by telecommunication)	

*The rights triggered by the consumption of Content by End Users are usually cleared by the distributor and do not create an obligation for End Users to clear additional rights themselves.



Typical distribution paths

for different contents

This table presents information that is similar to the information provided in table 2, but it is presented differently. It illustrates the paths taken by different types of specific content, for example, digital films, podcasts, browser games or yet satellite radio. Although not exhaustive, the table does cover most of the main types of video, audio and interactive content that are distributed today.

Content examples	Type	Means of distribution	Availability	Scheduling	Distribution type	Monetization	Distribution Platforms	
							International	Canada
Digital movie	Video	Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	iTunes	Zik.ca (discontinued), Cineplex
Digital movie rental		Internet	Transactional on Demand	Recording (temporary)	Download	Free, Pay Per View, Subscription	iTunes, Netflix	Illico, Cineplex
Subscription-based streaming service		Multichannel Distribution	Transactional on Demand	Recording (temporary)	Download	Free, Subscription, Ads		Shaw on Demand
Online TV		Internet	Subscription	On Demand	Streaming	Free, Subscription, Ads	Netflix, Hulu, tubi.tv	tou.tv, Club Illico, Crave, NFB
Temporary recording of real-time TV show		Multichannel Distribution	Catch-up	Recording (temporary)	Broadcast + Download	Free, Subscription, Ads		Illico
Scheduled TV show	Multichannel Distribution	Scheduled	Scheduled Viewing	Broadcast	Free, Subscription, Ads		Bell Fibe / Alt TV	
Digital album	Audio	Over the Air	Scheduled	Scheduled Viewing	Broadcast	Free, Ads		CBC
Podcast		Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	iTunes, Amazon	Zik.ca (discontinued)
Subscription-based streaming service		Internet	Transactional on Demand	Recording (temporary)	Download	Free, Ads	Apple Music, Spotify, iHeartRadio	CBC
TV-Radio channel		Internet	Subscription	On Demand	Streaming	Free, Subscription, Ads	Spotify, Apple Music, iHeartRadio	Zik.ca (discontinued)
Satellite radio		Multichannel Distribution	Scheduled	Scheduled Viewing	Broadcast	Free, Subscription, Ads		Stingray
Broadcast radio	Multichannel Distribution	Scheduled	Scheduled Viewing	Broadcast	Free, Subscription, Ads	Free, Subscription, Ads	SiriusXM	SiriusXM Canada
Digital videogame copy	Interactive Content	Over the Air	Scheduled	Scheduled Viewing	Broadcast	Free, Ads		CBC
Subscription-based service		Internet	Electronic Sell-through	Recording (permanent)	Download	Free, Pay Once	Steam, App Store, Google Play, Nintendo Store	
Browser-based game		Internet	Subscription	Recording (temporary)	Download	Free, Subscription	Xbox Game Pass	
Console-based game		Internet	Remote	On Demand	Streaming	Free, Subscription, Ads, Freemium	facebook.com, miniclip.com	NFB Interactive
Console-based game	Internet	Remote	On Demand	Streaming	Free, Subscription, Ads, Freemium	PlayStation Now		

Making Sense of the Media Distribution Multiverse | Typical distribution paths for different contents





Glossary

This glossary provides definitions for all of the terms presented in the tables. These definitions are intended to be concise and relevant. ROBIC's professionals drafted them based on their expertise and Canadian jurisprudence, and they also consulted different Canadian and international sources including the Canadian Radio-television and Telecommunications Commission (CRTC), the U.S. Federal Communications Commission (FCC), European Union agencies as well as large tech companies such as IBM.

Advertised Content

Monetization method where Content is available for free, but either the platform or the Content itself include advertising which can be displayed before, during or after the playback of Content, or superimposed on the Content.

Audio

Sound or the reproduction of sound.

Broadcast

Content that is distributed indiscriminately and that is accessible to everyone who has the right device to receive and Consume the signal. No copy is made on End User's device.

Buffering

Temporary storage that occurs when a device is saving small portions of a Streaming media file to local storage for playback. It is often used when the available bandwidth does not match the presentation's required bandwidth and is intended to smooth video display.

Catch-up

System that allows the End User to make a temporary Recording of Content for Consumption at a later time.

CDN (Content Delivery Network)

Third party that delivers Content between the Content provider and the End User via an intelligent distributed network. For Streaming services providers, this means that Audio or Video streams will be delivered more reliably, with less Buffering and time outs.

Content

Any content that is deemed a work or other subject matter under the Copyright Act, which is available for Consumption by an End User by any means of distribution (Download, Streaming or Broadcast).

Consumption

With regard to an End User, the act of listening to, watching or otherwise making a personal use of Content.

Digital Media Player

Device that connects to a network to Download or Stream digital media (e.g. Apple TV, Chromecast, etc.).

Download

Method of distribution where the entire Content is delivered from an online service to the End User's device, which results in the End User having a permanent copy of the Content to keep as their own.

Electronic Sell-through

Method of media distribution whereby the End User pays a one-time fee to Download Content for permanent storage on a storage unit, such as a hard drive.

End User

Canadian natural person who Consumes distributed Content.

Free

Method of Consumption where Content is provided free of charge.

Freemium

Content that is provided free of charge, but typically with limited functionality, with advertising or with additional features which are only available if the End User pays an additional fee.

Interactive Content

Content that allows the End User to actively interact in real time, to varying degrees.

Internet

Globally connected network system providing a variety of information and communication facilities that uses standardized communication protocols (TCP/IP, i.e. Transmission Control Protocol/Internet Protocol). It connects millions of computers together globally, forming a network in which any computer can communicate with any other computer as long as they are both connected to the Internet.

IPTV (Internet Protocols Television)

Televised Content that, instead of being delivered through traditional formats, uses a two-way digital broadcast signal that is sent through a network by way of a broadband connection, along with a Set-top Box programmed with software that can handle viewer requests to access Content sources. Although IPTV uses an Internet connection for the transmission, it is not considered to be delivered and accessed on the Internet, as its signal is only available for specific users, and is tied to a specific address.

Making Available Right

Exclusive right of the owner of copyright that is triggered when a Content provider makes Content available to the public in a way that allows an End User to have access to it from a place and at a time of their choosing, regardless of whether such Content is accessed or not.

Multicast

Online communication process where the destination nodes (the End Users) notify the central server (Content provider and/or distributor) if they want to join or leave the communication. Whilst using Multicast, multiple nodes can access the same cast at the same time.

Multichannel Distribution

Content distributed with either cable, satellite, Internet or IPTV.

On Demand

The absence of time restriction for accessing Content, as long as such Content is in the provider's library.

Over the Air

Content distributed with radio waves in conformity with ATSC (Advanced Television Systems Committee) standards. End Users can receive and Consume the signals without subscribing to a broadcasting service.

Pay Once

Monetization method generally related to Electronic Sell-through distribution, where the End User generally pays a one-time fee to access Content for an unlimited number of times and period of time.

Pay Per View

Monetization method generally used in digital Video rental, where the End User pays a one-time fee to access Content for a limited time.

PC

Personal computer or laptop, generally with Internet connectivity.

Peer-to-peer (P2P)

Online distribution process where interconnected nodes (“peers”) share resources, including Content, amongst each other without the use of a centralized administrative system.

Performance Rights

The exclusive right to communicate copyrighted Content to the public (the End Users) by any means of telecommunication, in accordance with the Copyright Act.

Recording

Content distributed to an End User that has been recorded on a device’s storage unit, which results in the creation of a new readable copy of such Content that may be available permanently or for a predetermined period of time.

Remote

Method of Consumption where Interactive Content is hosted on a server or device that is different from the device from which the Interactive Content is played.

Reproduction Rights

The exclusive right to reproduce copyrighted Content in tangible or digital form, in accordance with the Copyright Act.

Set-top Box

Device that converts external source signal into Content displayed on a Television.

Scheduled

Content that is distributed according to a predetermined schedule.

Scheduled Viewing

Content that may only be accessed while it is broadcast to a mass audience, or available through a platform for Streaming at a specific time.

Smartphone

Handheld device that integrates mobile phone capabilities with Internet connectivity.

Smart Speaker

Device that integrates Internet connectivity to Stream digital media Content, respond to voice commands and play Audio Content through an integrated speaker.

Smart TV

Television that integrates Internet connectivity to provide features like online browsing, Streaming services, digital Broadcasting, video games, etc.

Streaming

Technique for transferring Content in a continuous flow to allow it to be viewed before the entire file has been Downloaded to the End User’s device. For Streaming to work, the End User side receiving the data must be able to collect the data and send it as a steady stream to the application that is processing the data and converting it to Audio, Video or pictures.

Subscription

Recurring membership model to access a platform, for a fee or at no cost, providing services which allow the End User to Consume Content from the provider’s library.

Tablet

Notebook computer or similar device with a touchscreen that has Internet connectivity.

Transactional on Demand

Method of Content distribution whereby the End User can, at the time of their choosing, pay a one-time fee to Download Content for temporary storage on a hard drive or other storage unit. The Content can be accessible for a fixed period of time and is automatically deleted after a set number of hours after the End User starts Consuming the Content, or after a set number of days after the Content is Downloaded.

Television (TV)

Refers to a device shaped like a box with a screen that receives electrical signals and changes them into Audio or Video.

Unicast

Communication that takes place over a network between a single sender (individual node) and a single central receiver.

Video

Recording produced with any device that captures full motion and may include Audio (excluding amateur user-generated Content, which should be independently defined if to be considered in a distribution agreement for professional content).

Video Game Console

Device specially designed for game play, where the End User interacts with Content (generally videogames) through a controller. Video Game Consoles generally have Internet connectivity.

Webcast

Content that is Streamed live or delayed using the Internet on a specific online application or platform to which the End Users must be connected at the time of the Webcast.

