



# Communication & Cultural Policy in the Age of the Platform: White Paper

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**CNMAP**



Communications Governance Observatory

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### Introduction

In May 2021, the “Communication & Cultural Policy in the Age of the Platform” conference, hosted virtually at McMaster University, examined the impact of digital platforms on Canadian communications and cultural policy in the public interest.<sup>1</sup> The event featured five keynote speakers and over 70 presenters discussing a variety of platform and policy issues based on cutting-edge research. The presentations and discussions generated by this event addressed a rapidly changing landscape of regulatory considerations around digital platforms that continue to reshape communication and culture.

This White Paper is one of the outcomes of the conference; it distills what we heard over the five-day event into a set of policy recommendations. These recommendations reflect research from fields including communications policy, critical data studies, software studies, and cultural studies. They revolve around how regulation can help support a vibrant set of cultural and media industries in Canada, given the significant impacts of primarily US-based internet platforms on the sector. As such, the recommendations consider the central themes of: reconciliation; equity, diversity & inclusion; the public interest; platforms & algorithms; platform regulation; and impacts of the COVID-19 pandemic. Thinking critically about platforms and algorithms is crucial for addressing how governments might regulate a changing media landscape in light of the challenges and opportunities it raises for democracy, Indigenous sovereignty, and cultural sovereignty.

One note about the recommendations that follow: they emanate from distinct speakers representing diverse perspectives. These are not a set of agreed recommendations that were discussed and approved collectively by the conference or the authors of the report, but rather a collection of

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<sup>1</sup> This event originated as a follow-up to the April 2019 conference, “Cultural Policy Research in Canada,” at the University of Ottawa.

recommendations drawn out of individual presentations at the conference. If some of the recommendations thus appear to be somewhat contradictory, this is the reason why. We hope that the recommendations are nonetheless useful for capturing some of the central themes of the event and generating further discussion.

## Indigenous Sovereignty

The conference was opened and closed by Darlene LaForme, from the Cayuga Nation Turtle Clan. She noted that we were meeting virtually from McMaster University on lands that have been inhabited by Indigenous peoples from the beginning, and thanked the generations of people who have taken care of this land for thousands of years. She emphasized the importance of recognizing the contributions and historic importance of Indigenous peoples. These acknowledgements, she stressed, must take place within the context of genuine and ongoing work towards real understanding of the legacies of colonialism. She encouraged a good mind for conference participants, taking time to think about how the work of the conference might benefit others as participants move forward from the week spent together. McMaster Chancellor Santee Smith, the Dean of Humanities Pamela Swett, and McMaster Department of Communication Studies and Multimedia chair Christina Baade all added their welcomes.

One of the themes of the conference was cultural sovereignty and the importance of storytelling and reconciliation. As the 2015 Truth and Reconciliation Commission Report points out, the oppression and genocide carried out in residential schools involved the disruption and even erasure of many of the oral histories that are central to Indigenous self-governance.<sup>2</sup> Indigenous peoples have their own distinct needs for communication and cultural policy that recognizes Indigenous sovereignty and respects their cultural heritage, which is especially crucial in a context of deep and ongoing colonial oppression.

- Jesse Wente's (Executive Director, Indigenous Screen Office) keynote talk revolved around the concept of narrative sovereignty as a policy goal for Indigenous artists and creators, whose stories are central to the identity of Canada. Narrative sovereignty includes creative control, intellectual property rights, and production control.

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<sup>2</sup> Truth and Reconciliation Commission of Canada (2015), Honouring the Truth, Reconciling for the Future (p. 17): [http://www.trc.ca/assets/pdf/Honouring\\_the\\_Truth\\_Reconciling\\_for\\_the\\_Future\\_July\\_23\\_2015.pdf](http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf)

- Narrative sovereignty could be supported by prioritizing resources for Indigenous broadcasting in the Broadcasting Act, as well as by advancing an Indigenous Strategy at the CBC, similar to the one being developed at the National Film Board.
- In a global political economy sense, digital platforms must be mandated to respect data sovereignty (as per Gwen Phillips of the British Columbia First Nations' Data Governance Initiative and First Nations Information Governance Centre). Indigenous data sovereignty involves self-determination through collective intellectual property ownership.<sup>3</sup>
- For all policy proceedings, regulatory agencies must fulfil their duty to consult actively and in good faith with Indigenous peoples and community organizations.

## Equity, Diversity, & Inclusion (EDI)

In a broader sense, and pursuant to the goals of the Broadcasting Act, equitable, diverse, and inclusive representation in both cultural content and cultural labour are crucial initiatives for Canadian cultural and media policy. In the wake of the #MeToo movement and associated airing of harassment and discrimination within homogenous (white, male) production cultures, equity initiatives have become all the more pressing. The systemic exclusions that pervade cultural and media industries are important to recognize at the policy level to help address the continued reinforcement of sexism, racism, ableism, and other societal divides.

- Joan Jenkinson's (Executive Director, Black Screen Office) keynote talk noted that Black creators have had their IP appropriated, exacerbated by streaming sites retaining control, so there should be copyright resources for small-scale producers to be able to maintain their intellectual property even when their material is circulated through digital platforms.
- Jenkinson also advocated for explicitly anti-racist labour and hiring practices and policies in the screen industries that have perpetuated anti-Black racism in upholding systemic barriers that have historically disenfranchised Black creators.

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<sup>3</sup> For more, see the resources produced by the British Columbia First Nations' Data Governance Initiative: <https://www.bcfndgi.com/>, and The First Nations Principles of OCAP: <https://fnigc.ca/ocap-training/>



- Similar to regulators' duty to consult with Indigenous peoples, they should also actively seek input from racialized minorities in cultural policy consultations, which, as Jenkinson noted, is an imperative that the CRTC recently introduced for certain consultations.
- Sharon McGowan and Susan Brinton (Co-Chairs, Advocacy Committee, Women in Film and Television-Vancouver) similarly outlined the gender discrimination that continues to result in inequitable access to training and funding in Canada's screen industries - all of which are supported by tax dollars.
- McGowan and Brinton's keynote talk further noted that there could be more robust government support (e.g., awarding costs) for the ongoing advocacy work it takes to influence policymaking to encourage or even mandate the diversification of homogenous cultural industries.<sup>4,5</sup>
- McGowan and Brinton proposed that EDI quotas should be required for tax credits, subsidies, and other arts funding schemes. Examples of such initiatives can be found in the UK<sup>6,7</sup> and at the Swedish Film Institute.<sup>8</sup>
- Social supports like childcare subsidies and universal basic income should be considered among the levers of cultural policy, as they support the ability of more diverse groups to create cultural content.
- There should be supports for equity-seeking groups to form coalitions to help inform cultural policymaking and to conduct research on gender discrimination, needs of non-white creators, preferences of non-white audiences, how to create inclusive content, and other pillars of equity and multiculturalism promoted by Canadian legislation.

<sup>4</sup> Their response to CRTC Notice of Consultation CRTC 2019-379: Renewal of CBC/Radio Canada Broadcasting Services: [https://www.womeninfilm.ca/Library/2020\\_Advocacy\\_Pages/CRTC\\_Submission\\_Final\\_re\\_CBC\\_Renewal\\_2020\\_02\\_08.pdf](https://www.womeninfilm.ca/Library/2020_Advocacy_Pages/CRTC_Submission_Final_re_CBC_Renewal_2020_02_08.pdf)

<sup>5</sup> Their submission to the Broadcast & Telecom Review Panel 2019: [https://www.womeninfilm.ca/Library/2020\\_Advocacy\\_Pages/WIFTV\\_Review\\_Panel\\_Submission\\_2019\\_01\\_11.pdf](https://www.womeninfilm.ca/Library/2020_Advocacy_Pages/WIFTV_Review_Panel_Submission_2019_01_11.pdf)

<sup>6</sup> In 2018, The Labour Party introduced an alteration to production funding rules to incentivize EDI and equal representation standards in audiovisual productions (Thorpe, April 2018: <https://www.theguardian.com/politics/2018/apr/21/labour-new-tax-relief-rules-boost-diversity-film-industry>)

<sup>7</sup> The UK Government also publishes an annual Diamond Report which measures creative diversity on an annual basis: <https://creativediversitynetwork.com/diamond>

<sup>8</sup> Swedish Film Institute (2021), "Towards Gender Equality in Film Production": <https://www.filminstitutet.se/en/about-us/swedish-film-institute/gender-equality/>

## The Public Interest

Regulation of communication and culture in Canada has long sought to balance economic goals such as industry growth with democratic objectives such as equity and access to information. The public interest imperative behind regulating media and cultural sectors as enshrined in existing legislation like the *Broadcasting Act* (1991) and *Telecommunications Act* (1993) tends to revolve around the objectives of diverse representation, cultural sovereignty, and access. While there are multiple, often competing, versions of the public interest, we heard in several presentations that there is still room for more public interest ideals within cultural policy.

- Edward Greenspon's (President and CEO, Public Policy Forum) keynote discussed how local news, which is often undermined through the consolidation of news via large digital platforms, is particularly crucial for democratic empowerment across the country. He argued that investment in local news needs to be incentivized, for example through journalistic organizations being able to take charitable donations and benefit from labour tax credits.
- Many presenters cited the Australian model for redistributing platform revenues to support journalism, passed in 2021 as the News Media and Digital Platforms Mandatory Bargaining Code,<sup>9</sup> as a potential model that could be explored for Canada, albeit with some different parameters to avoid regulatory capture and strengthen enforcement mechanisms. Provider remuneration frameworks could also be developed for Canadian cultural content.<sup>10</sup>
- Similarly, the government could require platforms on which CBC content is aired (e.g., YouTube) make co-production arrangements with the CBC.
- If the government wants to support the development of Canada-based platforms - which it should at least through the CBC or provincial broadcasters like TVO - there needs to be stable funding available and not just seed funding. Additionally, conference panelists argued for the

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<sup>9</sup> Parliament of Australia (February 2021):

[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6652](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6652)

<sup>10</sup> France is a second international jurisdiction requiring reimbursement by large digital platforms by being first to adopt the EU's Directive on Copyright in the Digital Single Market (Directive 2019/790/EU): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0593>

requirement of creating such platforms through open-source protocols or cooperatives/public ownership that would be more structurally democratic.

- Discoverability is a central media policy goal for Canadian content and artists; there could be stronger content quotas as in the EU.<sup>11</sup>
- Archives are also crucial cultural resources impacted by digital platforms. There is a need for grant programs that could support community-led archives and carefully considered digitalization of offline archives.

## Platforms & Algorithms

Canadian media, communications, and cultural policy are in a process of continual adaptation to the ongoing expansion of digital platforms. Presentations at the conference discussed how these platforms take on, or fail to take on, regulatory roles in the production and distribution of journalism and cultural content. Given that the larger platforms dominating the landscape tend to be based in the US (or China), the broader issue of the international political economy of platforms – including surveillance capitalism and copyright regimes – was a key theme. As presenters noted, platforms have redefined relationships between regulators, producers, cultural organizations, and audiences.

- Existing policy silos are not effective at dealing with new combinations of regulatory concerns posed by platforms; there needs to be a new framework or even institution for regulating platforms and addressing market failures in cultural production that is platform dependent.
- Algorithmic decision-making must be open to evaluation and oversight on the basis of: the inputs being used in automated filtering and decision-making; the ways that algorithms mediate access to culture, information, and communication resources; and whether algorithmic decision-making is appropriate to particular contexts.
- Major digital platforms operate on a surveillance capitalism model, where extensive audience/user data is collected and used in targeted

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<sup>11</sup> The minimum threshold for EU content quotas in Europe is 30 percent, derived from the Audiovisual Media Services Directive (AVMSD), latest revisions of the AVMSD passed in 2018 (Directive (EU) 2018/1808): [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2020.223.01.0010.01.ENG&toc=OJ:C:2020:223:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2020.223.01.0010.01.ENG&toc=OJ:C:2020:223:TOC)

advertising and programming. Support for homegrown Canadian platforms should include “no-tracking” mandates; public broadcasting over US-based platforms (e.g., CBC content on YouTube) should not include advertising; any support for US-based platforms should require improved privacy protections for Canadian users.

- Online hate and misinformation are key considerations in regulating digital platforms. Many presenters shared research on the ways that extremist views (such as white supremacy) gain traction in these online spaces. There should be a procedure where online hate is able to be deplatformed not only through the private content policies of platform companies, but also with the help of the courts.<sup>12</sup>
- Social media platforms, under Sec. 230 of the *Communications Decency Act* (1996) in the US, are not liable for information that users post, and so platforms have developed their own in-house policies to deal with speech issues; Canadian attempts to regulate online speech (e.g., proposed amendments to the Criminal Code, the Canadian Human Rights Act, and the Youth Criminal Justice Act<sup>13</sup>) will need to include fostering relationships with these internal policy divisions at major platform companies.
- Digital copyright and intellectual property (IP) are another key concern. Historically, increased copyright protections have disproportionately benefitted large industry rightsholders more than individual creators. New copyright regimes need to redress the balance back in favour of artists.

## Platform Regulation

In Spring 2021 when the conference took place, the Liberal government was working to pass the controversial Bill C-10 to amend the *Broadcasting Act*. This Bill, first introduced in November 2020, sought to bring digital streaming platforms in line with Canadian broadcasting rules for Canadian content and contributions to Canadian cultural production. Even though the Bill was sent back to committee by the Senate, which was followed by a snap election call that has effectively killed it, its implications for a discussion of how the

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<sup>12</sup> For more about regulating online hate, see Cynthia Khoo (April 2021), “Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence” Women’s Legal Education and Action Fund (LEAF):

<https://www.leaf.ca/publication/deplatforming-misogyny/>

<sup>13</sup> See Department of Canadian Heritage (July 2021): <https://www.canada.ca/en/canadian-heritage/campaigns/harmful-online-content.html>



government will seek to regulate platforms into the future are significant. As such, many of the conference talks addressed Bill C-10 and other initiatives to curb the power of primarily US-based platforms like Facebook, YouTube, and Netflix; that have altered the landscape of Canadian culture and media.

- Bill C-10 was acknowledged to include some progressive initiatives, for example in updating broadcasting for a digital age and better prioritizing production opportunities for Indigenous creators, and the provision of resources for programming reflecting Indigenous cultures and programming in Indigenous languages, but it also fell short of requiring foreign platforms to adhere to Canadian regulatory processes for adequate CanCon or complaints resolution. It also failed to require that Canadian media conglomerates contribute more significantly to homegrown cultural production. In other ways, the Bill was seen as overreaching in giving the Canadian Radio-television and Telecommunications Commission (CRTC) new powers to intervene in the streaming marketplace. Finally, public consultation on the Bill was also lacking.
- Different institutions for platform regulation, including Parliament, the CRTC, Innovation, Science and Economic Development (ISED) Canada, and Heritage Canada, tend to operate in uncoordinated silos, introduce policies without effective enforcement mechanisms, and hide the corporate lobbying that has resulted in particular policy proposals. These are all fundamental structural issues that will hinder platform regulation in Canada.
- Public consultation during the development of cultural policy is critical. There needs to be more transparency around what regulators heard during consultations and how specific points have been considered. A coordination of consultations across regulators would also be beneficial for public interest groups, who face barriers to participation due to limited resources compared to those of industry players. To that end, cost award processes like the CRTC's are necessary to ensure broader participation.<sup>14</sup>
- The Canada Media Fund (CMF) has been developing positive initiatives for arts funding in general that could be expanded to further support Canadian content on digital platforms, for example in funding first-time

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<sup>14</sup> Past CRTC Vice Chair, Peter Menzies, has remarked of the benefits for policymakers to travel across Canada to hold consultations to ensure a balanced public consultation which is not weighted to those within a half-day's drive of Ottawa-Gatineau. Menzies was speaking on Michael Geist's "Law Bytes Podcast" (June 2021):

<https://www.michaelgeist.ca/2021/06/law-bytes-podcast-episode-94/>

creators, Black, Indigenous, People of Colour (BIPOC) creators, and supporting the distribution of Canadian Content on the Encore+ YouTube channel.

- It was also clear that telecommunications policy – particularly policy that supports the provisioning of high quality, affordable broadband across the country – is central to ensuring adequate infrastructure for Canadian cultural production, distribution, and consumption.

## **Impacts of the COVID-19 Pandemic**

While this discussion of the impact of digital platforms on media and cultural industries was taking place, another massive disruption to these sectors was precipitated by the global COVID-19 pandemic. The conference itself had to be postponed from its initial May 2020 dates to accommodate pandemic restrictions on travel and in-person events. Over the year that followed, it became clear how much media and cultural production and distribution/exhibition had to be rethought and remediated online when audiences could no longer gather together. Many of the conference presentations reflected on the ways that these abrupt changes could herald new possibilities for communication and cultural policy.

- In general, the pandemic was seen to have exacerbated many of the inequalities already plaguing Canada's cultural industries, from stable employment to equity in childcare, from broadband connectivity to adequate arts funding. Many of these issues could be addressed by a holistic version of cultural policy that includes social supports more generally.
- On a more positive note, as Jesse Wentz argued, the pandemic has made storytelling more valuable than ever. Some organizations, such as the CMF and Canada Council for the Arts, have acknowledged this and opened up their eligibility criteria – more such initiatives would benefit the sector into the future.

## Additional Resources

Below are a few more resources shared by presenters during the conference that have been helpful in framing many of these issues:

Canada Council. (April 2021). *Art, now more than ever: Strategic Plan 2021-26*. <https://canadacouncil.ca/spotlight/2021/04/2021-26-strategic-plan>

Canada Media Fund. (February 2021). *Pause and Rethink: Annual Trends Report in the Audiovisual Industry*. <https://cmf-fmc.ca/now-next/research-reports/pause-and-rethink/>

Fauteux, Brian, et al. (December 2018). *Putting Users and Small-Scale Creators First in Canadian Copyright Law and Beyond*. Presented to The Standing Committee on Canadian Heritage, Remuneration Models for Artists and Creative Industries. <https://winnspace.uwinnipeg.ca/handle/10680/1599>

Greenspon, Edward, and Owen, Taylor. (August 2018). *Democracy Divided: Countering Disinformation and Hate in the Digital Public Sphere*. Public Policy Forum. <https://ppforum.ca/publications/social-marketing-hate-speech-disinformation-democracy/>

Internet Society (October 2020). *2020 Indigenous Connectivity Summit Policy Recommendations*. <https://www.internetsociety.org/resources/doc/2020/2020-ics-policy-recommendations/>

Kretschmer, Martin, et al. (June 2021). *The emergence of platform regulation in the UK: An empirical-legal study*. <https://www.pec.ac.uk/discussion-papers/the-emergence-of-platform-regulation-in-the-uk>

Mansell, Robin. (February 2018). *Transformative Communication Technologies: The Accountability Challenge*. 36th Boehm-Bawerk Lecture Inauguration of the Department of Media, Society and Communication, Innsbruck University. <https://library.oapen.org/handle/20.500.12657/29676>

Puppis, Manuel, and Winseck, Dwayne. (June 2021). *Platform Regulation Inquiries, Reviews and Proceedings Worldwide*. [https://docs.google.com/document/d/1AZdh9sECGfTQEROQjo5fYeiY\\_gezdf11B8mQFsuMfs/edit](https://docs.google.com/document/d/1AZdh9sECGfTQEROQjo5fYeiY_gezdf11B8mQFsuMfs/edit)

Savage, Phillip, et al. (2020). *Universalism in Public Service Media*. Nordicom. <https://www.nordicom.gu.se/en/publications/universalism-public-service-media>

Selman, Brianne, et al. (March 2021). A User-Centric Case for Rights Reversions and Other Mitigations: The Cultural Capital Project Submission to ISED Consultation on Term Extension. Presented to Innovation, Science, and Economic Development Canada, Consultation on how to implement an extended general term of copyright protection in Canada. <https://winnspace.uwinnipeg.ca/handle/10680/1907>

Singh, Spandana. (March 2020). Why Am I Seeing This?: How Video and E-Commerce Platforms Use Recommendation Systems to Shape User Experience. *Open Technology Institute*.  
<https://www.newamerica.org/oti/reports/why-am-i-seeing-this/>

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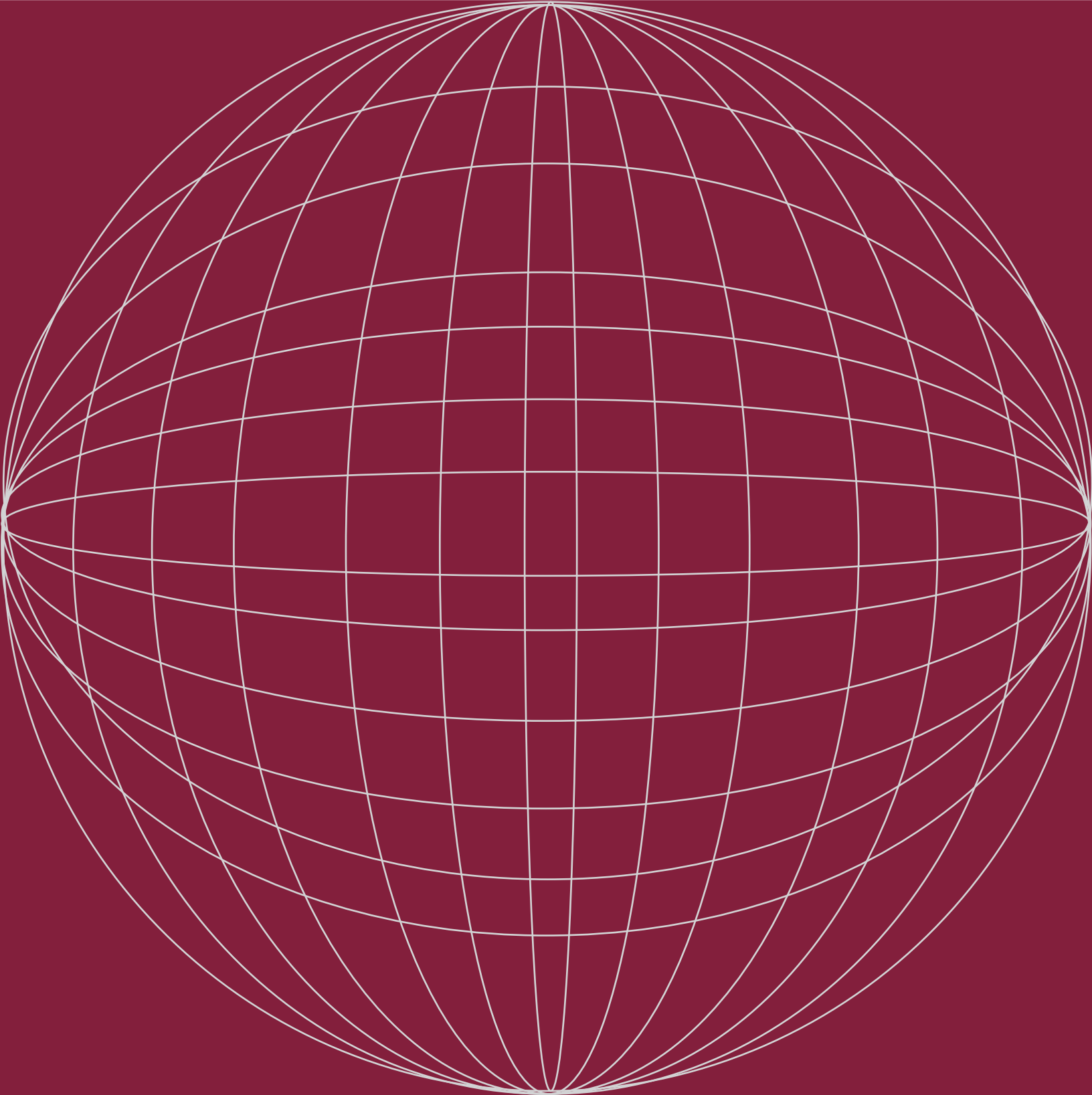
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