

Court File No.

FEDERAL COURT OF APPEAL

B E T W E E N:

CANADIAN MEDIA PRODUCERS ASSOCIATION

Applicant/Moving Party

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**MOTION RECORD OF THE APPLICANT/MOVING PARTY,
CANADIAN MEDIA PRODUCERS ASSOCIATION**

(Motion for Leave to Appeal under
section 31 of the *Broadcasting Act*, SC 1991, c. 11 and
Rule 352 of the *Federal Court Rules*)

VOLUME I

Date: December 16, 2025

Stohn Hay Cafazzo Heim Finlay LLP
133 King Street East, 2nd Floor
Toronto, ON M5C 1G6

Erin Finlay LS #: 48054B
erin@stohnhay.com

Madeleine Brown LS #: 74928F
mbrown@stohnhay.com

Tel: 416.961.2020

Lawyers for the Applicant/Moving Party,
Canadian Media Producers Association

TO: **The Chief Administrator**
Federal Court of Appeal
180 Queen Street West, Suite 200
Toronto ON M5V 3L6

AND TO: **Department of Justice** c/o
The Administrator Federal
Court of Appeal 180 Queen
Street West Suite 200
Toronto, Ontario M5V 3L6

Solicitors for the Respondent,
Attorney General of Canada

AND TO: **Canadian Radio-television and
Telecommunications Commission**
Les Terrasses de le
Chaudiere Central Building 1
du Portage Dr. Gatineau QC
J8X 4B1

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INDEX

Tab	Document	Page
VOLUME I		
1	Notice of Motion dated December 16, 2025	1
2	Broadcasting Regulatory Policy 2025-299 issued by the Canadian Radio-television and Telecommunications Commission dated November 18, 2025	9
3	Affidavit of Alain Strati affirmed December 16, 2025	92
A	Excerpt of Bill C-11 as introduced at First Reading (February 2, 2022)	98
B	Excerpt of Bill C-11 as amended by the Standing Committee on Canadian Heritage, Working Copy for Report Stage (reported June 15, 2022)	104
C	Second Report of the Standing Committee on Canadian Heritage respecting Bill C-11	110
D	Government Order concerning amendments to the Online Streaming Act (Bill C-11) placed before the House of Commons (March 8, 2023)	117
E	Statement of the Honourable Marc Gold (Government Representative in the Senate) during Senate Debates concerning Clause 11 of Bill C-11 (April 18, 2023)	121
F	Broadcasting Notice of Consultation CRTC 2024-288	132

Tab	Document	Page
G	Canadian Media Producers Association Intervention dated January 20, 2025, with appendix, in CRTC BNOC 2024-288	163
H	Opening Remarks by Canadian Media Producers Association	218
I	Canadian Media Producers Association final written submission dated June 23, 2025, with appendices, in CRTC BNOC 2024-288	232
J	Broadcasting Regulatory Policy CRTC 2025-299	260
K	Audiovisual Co-Production Treaty between the Government of Canada and the Government of Ireland	344
L	Telefilm Canada – Guidelines for Audiovisual Coproductions governed by Canadian treaties in force before July 1, 2014	351
M	Telefilm Canada – Guidelines for Audiovisual Coproductions governed by Canadian treaties in force after July 1, 2014	361
N	Canada Media Fund – Linear Content Programs Core Production Guidelines 2025–2026	372
O	Canadian Film or Video Production Tax Credit (CPTC) Application Guidelines – Canadian Audio-Visual Certification Office (CAVCO)	396
P	CRTC Canadian Program Certification Guide (as of March 3, 2023)	516
4	Memorandum of Fact and Law dated December 17, 2025	550
A	Appendix A – Statutes and Regulations	570

Tab	Document	Page
VOLUME II		
B	Appendix B – Book of Authorities of the Applicant/Moving Party	1

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Rule 352 of the *Federal Court Rules*)

TAKE NOTICE THAT the Applicant will make a motion to the Court in writing under Rule 352 of the *Federal Courts Rules*.

THE MOTION IS FOR AN ORDER:

- (a) granting the Applicant leave to appeal to this Court from Broadcasting Regulatory Policy CRTC 2025-299 (the “**Decision**”), and any regulation and order made by the Canadian Radio-television and Telecommunications Commission (the “**Commission**”) implementing the Decision;
- (b) An Order dispensing with the service requirement set out in Rule 339(1)(c) of the *Federal Courts Rules*, SOR/98-106;
- (c) its costs of this motion; and

(d) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The ability of Canada’s broadcasting system to safeguard, enrich, and strengthen Canada’s cultural, political, social, and economic fabric depends on Canadians’ ability to benefit from Canadian programming. A clear, robust, and effective definition of “Canadian program” is central to fulfilling those objectives.

2. The Canadian Media Producers Association (“**CMPA**”) seeks leave to appeal Broadcasting Regulatory Policy 2025-299 issued by the Canadian Radio-television and Telecommunications Commission (“**Commission**”) on November 18, 2025 (the “**Decision**”). The Decision redefines what constitutes a “Canadian program” for the purposes of the *Broadcasting Act*, SC 1991, c 11 (the “**Act**”).

3. The CMPA has an arguable case that the Decision is based on errors of law in the Commission’s interpretation and application of the statutory requirements of the Act. The threshold for leave is met. Leave should be granted.

A. Background

4. The Applicant and Moving Party, CMPA, is Canada’s leading trade association for independent media producers. It represents over 600 member companies engaged in the development, production and distribution of English-language content for television, feature film, and digital media channels, and advocates on their behalf on a wide range of policy and regulatory issues. The CMPA participated in the proceedings which resulted in the Decision, and its members have a direct interest in the outcome.

5. In 2023, Parliament enacted the *Online Streaming Act*, SC 2023, c 8. Among other things, the *Online Streaming Act* amended the Act to confirm the Commission’s jurisdiction over foreign-owned online undertakings operating in Canada’s broadcasting system (i.e. online streaming services such as Amazon Prime Video, Apple, and Netflix).

6. The *Online Streaming Act* also amended the Act to add section 10(1.1) of the Act, which for the first time prescribes mandatory statutory factors the Commission must consider when defining a “Canadian program”:

- a) whether Canadians, including independent producers, have a right or interest in relation to a program, including intellectual property rights, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;
- b) whether key creative positions in the production of a program are primarily held by Canadians;
- c) whether a program furthers Canadian artistic and cultural expression; and
- d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of intellectual property rights in musical works or in sound recordings.

7. Immediately after the new legislation was adopted, the Commission launched a three-step consultation process to establish a “modernized framework” that, once implemented, will establish the contributions that broadcasting undertakings, including online undertakings, will be required to make to support the creation, distribution, promotion and discoverability of Canadian and Indigenous audio and audiovisual content.

8. Step 1 of the consultation process set the initial (financial) contribution obligations for foreign online undertakings to support the creation and discoverability of Canadian and Indigenous content.¹

¹ The CRTC released its decision in step 1 of the consultation on June 4, 2025. See Broadcasting Regulatory Policy CRTC 2024-121. Various online streamers, including Amazon and Apple, sought and obtained leave to appeal the Base Contribution Decision to the Federal Court of Appeal; see Federal Court of Appeal file nos. A-34-25 (Lead Appeal), and A-225-24 (Lead Application). The Appeals and Applications were heard in June 2025. The decision is currently under reserve.

9. On November 9, 2023, the Governor-in-Council issued a direction to the CRTC (SOR/2023-239) on how to design and implement the new regulatory framework (the “**Cabinet Order**”).

10. Section 13 of the Policy Direction includes the following mandatory direction:

In its determination of what constitutes Canadian programming, the Commission is directed to

[...]

(c) support Canadian ownership of intellectual property.

11. The Policy Direction is binding on the Commission pursuant to section 7(1) of the Act.

B. The Proceeding

12. In November 2024, the Commission initiated the second phase of its modernization process, *“Defining ‘Canadian program’ and supporting the creation and distribution of Canadian programming in the audio-visual sector”* by way of Broadcasting Notice of Consultation CRTC 2024-288 (the “**Proceeding**”).

13. The framework and definition for a “Canadian program” (and thus the factors outlined in section 10(1.1) of the Act), were central issues in the Proceeding.

14. The definition of a “Canadian program” is and will continue to be a key structural element of Canada’s audiovisual sector, which interacts with various other financing and funding elements, and thus has consequences across Canada’s entire broadcasting system.

15. Over 480 intervenors, including the CMPA, participated in the Proceeding.

C. The Decision

16. The Commission released its Decision on November 18, 2025.

17. Among other things, the Decision addresses the certification framework for a

“Canadian program” and introduces a new copyright-ownership criterion requiring that Canadian(s) retain at least 20% of the copyright for a program to qualify as a “Canadian program”.

18. In the Decision, the Commission acknowledges that the Act requires it to consider all of the factors set out in subsection 10(1.1) of the Act and section 13 of the Policy Direction when defining “Canadian program”.

19. Notwithstanding, the Decision does not reference the mandatory criterion set out in section 10(1.1)(d) of the Act. Nor does it explain how a 20% copyright interest ensures Canadians are able to control and benefit from the exploitation of their programs in a significant and equitable manner, as required by section 10.(1.1)(a).

20. The Decision also fails to explain how its definition of “Canadian program” supports Canadian ownership of intellectual property, as required by section 13 of the Policy Direction.

21. The Decision notes the Commission will be issuing a further notice of consultation in the “near future” calling for “comments on proposed new regulations to implement its decisions regarding the criteria for defining ‘Canadian program’”. That notice has not yet been issued.

D. Grounds for Leave to Appeal

22. The Decision is a “decision” as defined in subsection 2(1) of the Act.

23. A decision is appealable to the Federal Court of Appeal on a question of law or jurisdiction, with leave of the Court. Leave will be granted where there is an arguable case the decision was based on an error of law or jurisdiction.

24. Leave should be granted because there is an arguable case that the Decision includes the following errors of law:

- (a) Misinterpreted and failed to apply the mandatory statutory factors enumerated in 10(1.1) of the Act;

- (b) Failed to consider and apply section 13 of the binding Policy Direction;
and
- (c) Failed to exercise its powers in accordance with its statutory mandate.

25. The result of these errors is a framework and definition of “Canadian program” that does not meet the statutory requirements and policy objectives of the Act.

E. Dispensing with Service

26. Approximately 480 parties participated in the Proceeding. It would be impractical, extremely costly, and an undue burden on the CMPA to personally serve every individual and group who participated in the Proceeding. The CMPA therefore respectfully requests an Order dispensing with the service requirement set out in Rule 339(1)(c) of the *Federal Courts Rules* or such other relief as this Honourable Court deems appropriate.

F. Statutes and Regulations Relied Upon

27. The Applicants rely on the following statutes, order and rules:

- (a) *Online Streaming Act*, SC 2023, c. 8;
- (b) *Broadcasting Act*, SC 1991, c. 11;
- (c) *Copyright Act*, RSC 1985, c. C-42;
- (d) Order issuing directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework), SOR/2023-239; and
- (e) Rules 352 of the *Federal Courts Rules*, SOR 98/106;

28. Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used on this motion:

- (a) Broadcasting Regulatory Policy CRTC 2025-299 dated November 18, 2025;
- (b) The affidavit of Alain Strati sworn December 16, 2025, with exhibits; and
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

December 16, 2025

Stohn Hay Cafazzo Heim Finlay LLP
133 King Street East, 2nd Floor
Toronto, ON M5C 1G6

Erin Finlay LS #: 48054B
erin@stohnhay.com

Madeleine Brown LS #: 74928F
mbrown@stohnhay.com

Tel: 416.961.2020

Lawyers for the Applicants/Moving Party
Canadian Media Producers Association

TO: **The Chief Administrator**
Federal Court of Appeal
180 Queen Street West, Suite 200
Toronto ON M5V 3L6

AND TO: **Department of Justice** c/o
The Administrator Federal
Court of Appeal 180 Queen
Street West Suite 200
Toronto, Ontario M5V 3L6

Lawyers for the Respondent,
Attorney General of Canada

(service to be effected by filing
duplicate copies in the Registry
pursuant to Rule 133 and Section 48
of the *Federal Courts Act*)

AND TO: **Canadian Radio-television and
Telecommunications Commission**
Les Terrasses de le
Chaudiere Central Building 1
du Portage Dr. Gatineau QC
J8X 4B1



Broadcasting Regulatory Policy CRTC 2025-299

PDF version

References: 2024-288, 2024-288-1, 2024-288-2, 2024-288-3 and 2024-288-4

Gatineau, 18 November 2025

Public record: 1011-NOC2024-0288

The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements

Summary

The *Online Streaming Act* made significant changes to the *Broadcasting Act* that require the Commission to modernize the Canadian broadcasting framework and ensure that broadcasting undertakings, including non-Canadian undertakings, meaningfully support Canadian programs and talent.

As part of its broader regulatory plan to implement the modernized *Broadcasting Act*, the Commission launched a public consultation to modernize its definition of “Canadian program” and ensure the sustainability and growth of Canada’s broadcasting system.

As part of this consultation, the Commission received 480 written submissions and held a public hearing within a three-week period in May 2025 with 78 appearing parties.

Today, based on the public record, the Commission is addressing four issues that were considered in the consultation (Broadcasting Notice of Consultation 2024-288): the certification framework for Canadian programs; artificial intelligence (AI); data collection and publication; and reporting requirements. Canadian programming expenditures, including expenditures on news, and supports for the independent production sector will be addressed in a regulatory policy to be issued in the near future.

In this regulatory policy, the Commission recognizes how much the broadcasting industry has changed, while also taking key actions to ensure that Canadian creative voices in English and French are well supported. This regulatory policy introduces greater flexibility for producers and broadcasters while helping protect Canadian cultural objectives and jobs. It also takes into account the differences between English-language and French-language production in Canada, while ensuring that the business models present in both markets continue to be recognized.

The modernized certification framework will apply to audio-visual content that meets the criteria set out in this regulatory policy. The content may be broadcast by any

broadcasting undertaking, whether traditional or online. In the Commission's view, its modernized framework will strongly support Canadian creative voices and allow the Canadian production and creative industries to continue to make and distribute content to Canadians and the world.

To this end, the Commission has recognized a greater number of key creative positions. The Commission is expanding the points system used to recognize "Canadian programs" to provide more paths for Canadian certification. In doing so, the Commission has recognized the importance of having Canadians occupy a wide range of positions in programming. It has also recognized that the way in which productions are made has changed over time, and that this needs to be reflected in the points system.

The Commission further recognizes that the key creative positions used in any Canadian production need to be staffed by humans and not by AI. Having heard the concerns about the use of AI in creating content and the transparency of AI use, the Commission is striking a balance by recognizing the usefulness and potential benefits of AI as a creative tool to assist producers and creators, while also recognizing the importance of human control being maintained. In doing so, the Commission emphasizes that Canadian creators continue to be at the heart of the Canadian broadcasting system.

The Commission is introducing requirements regarding minimum Canadian copyright ownership while providing a path for non-Canadian companies to share copyright in a production, with enhanced commitments to employing Canadian creators and using Canadian talent. This regulatory policy introduces a flexible copyright model that draws inspiration from international co-production treaties signed by the Government of Canada. This approach will lead to possibilities created by a broad spectrum of productions, and of business models and broadcasting and distribution models, while maintaining important safeguards. These safeguards include minimum Canadian copyright retention and best practices for fair negotiations.

This regulatory policy also levels the playing field in regard to the publication of financial data, thereby promoting transparency and accountability in the broadcasting industry. It also streamlines a number of reports filed by some broadcasting undertakings, thereby alleviating administrative burden and ensuring more consistency in disclosure requirements across broadcasters. To ensure transparency, the Commission has decided that Canadian broadcasting revenues and Canadian programming expenditures made by all players in the Canadian broadcasting system, including non-Canadian online undertakings, will be aggregated by entity and made public. This will provide Canadians with insight into how players in the broadcasting system are making meaningful contributions to Canadian creative industries and to the overall Canadian economy.

For ease of reference, the Commission has set out in Appendix 1 to this regulatory policy the detailed criteria of the certification framework. In Appendix 2, the Commission has set out its approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1.

To implement its decisions regarding the criteria for defining “Canadian program,” the Commission intends to issue in the near future a notice of consultation calling for comments on proposed new regulations defining “Canadian program” in the audio-visual sector and on consequential amendments to the *Television Broadcasting Regulations, 1987* and to the *Discretionary Services Regulations*. The Commission invites interested persons to consult that notice of consultation for further details.

Introduction

1. In Broadcasting Notice of Consultation 2024-288 (the Notice), the Commission launched a public consultation to modernize its definition of “Canadian program” for the audio-visual sector. This proceeding is part of the Commission’s broader regulatory plan to implement the *Online Streaming Act* and ensure the sustainability and growth of Canada’s broadcasting system.
2. In the Notice, the Commission sought comments on:
 - how to modernize the current definition of “Canadian program” in the audio-visual sector;
 - whether and how to adjust Canadian programming expenditure (CPE) and programs of national interest (PNI) expenditure requirements in the audio-visual sector and the funding of at-risk programming (including news content);
 - whether and how to address the use of artificial intelligence (AI) by audio-visual creators and broadcasters; and
 - how to ensure that the Commission, the broadcasting industry and Canadians have access to data and information to make informed choices about Canadian programs.
3. Throughout this proceeding, the Commission was guided by the following objectives:
 - to better support and promote Canadian stories through audio-visual programming that makes use of Canadian creativity and other resources, including French-language, Indigenous and news content;
 - to facilitate flexible audio-visual Canadian programming and a financial support ecosystem that encourages a variety of productions, and a variety of business models and broadcast and distribution models;
 - to better recognize the role played by Canadian key creators in the creation, broadcast and distribution of audio-visual Canadian programming;
 - to foster a sustainable Canadian broadcasting system where Canadian creators are able to profit from their creations, including through intellectual property rights;

- to further the exportability and discoverability of Canadian programming; and
 - to ensure that Canada’s diversity is reflected in the Canadian broadcasting system.
4. This regulatory policy is the first of two covering the issues examined during this proceeding. In the Commission’s view, defining what constitutes a “Canadian program” is a necessary step before establishing financial or policy measures to support its creation and distribution in the audio-visual sector. Accordingly, the Commission is issuing this regulatory policy to provide key determinations as to what constitutes a “Canadian program” in the audio-visual sector, in addition to making determinations on the use of AI in Canadian programming and on the collection and publication of financial and other data and information.
 5. Building on the foundations set out in this regulatory policy and in Broadcasting Regulatory Policy 2024-121,¹ the Commission will issue a regulatory policy in the near future that will focus on the funding and support for Canadian programming, including funding for news and at-risk programming. The Commission will address financial contributions, including contributions that could benefit the independent production sector, as part of its second regulatory policy.

Interventions

6. The Commission received 480 interventions in response to the Notice. A total of 78 parties appeared at the public hearing that was held from 14 to 27 May 2025. Several parties responded to requests for information and filed final submissions.
7. Parties to this consultation included Canadian and non-Canadian audio-visual undertakings, distributors, public broadcasters, private broadcasters, the creative and production sector, equity-deserving groups,² groups representing official language minority communities (OLMCs) and Indigenous peoples, screen offices, public interest and research groups, and numerous individuals.
8. The public record of this proceeding also includes [reports from industry workshops](#) held by the Commission in early 2024 on defining Canadian content and [a report on public opinion research](#) conducted in November 2024 by Phoenix SPI on the views of people across the country in regard to Canadian programming.

¹ The Commission’s decisions set out in that regulatory policy were finalized by Broadcasting Regulatory Policy 2024-121-1/Broadcasting Order 2024-194.

² Including but not limited to racialized people, people with disabilities, individuals who identify as 2SLGBTQI+, and women. The Government of Canada uses 2SLGBTQI+ (2S: at the front, recognizes Two-Spirit people as the first 2SLGBTQI+ communities; L: Lesbian; G: Gay; B: Bisexual; T: Transgender; Q: Queer; I: Intersex, considers sex characteristics beyond sexual orientation, gender identity and gender expression; +: is inclusive of people who identify as part of sexual and gender diverse communities, who use additional terminologies).

Legal framework

9. The *Online Streaming Act* came into force on 27 April 2023 and made significant changes to the *Broadcasting Act* (the Act). Those changes require the Commission to modernize the Canadian broadcasting framework and ensure that Canadian and non-Canadian audio-visual broadcasting undertakings, including online undertakings,³ contribute to the Canadian broadcasting system by, among other things, investing in Canadian and Indigenous audio and audio-visual content.
10. On 9 November 2023, the Government of Canada issued [*Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)*](#) (the Policy Direction). The Policy Direction emphasizes the need to support Canadian and Indigenous content and ensure equitable contributions by all players. It also provides specific guidance for determining what constitutes a Canadian program.⁴
11. Subsection 5(2) of the Act identifies the regulatory policy the Commission must consider when determining how to regulate the broadcasting system. Notably, the Commission must regulate and supervise the Canadian broadcasting system in a flexible manner that takes into account the diversity of Canadian society, as well as the different characteristics of English-, French- and Indigenous-languages broadcasting, and the nature and diversity of services, along with their size and impact on the Canadian creation and production industry. It must also facilitate providing Canadians with Canadian programs made in both official languages, including content made by and for OLMCs. In addition, under paragraphs 5(2)(a.2) and (g) of the Act, regulations applicable to the broadcasting system must ensure that broadcasting undertakings that cannot make maximum use of Canadian resources in the creation, production and presentation of programming contribute to those resources in an equitable manner, and that the Commission is sensitive to administrative burden.
12. Under paragraph 10(1)(b) of the Act, the Commission may make regulations that define “Canadian program” and, in doing so, must consider the factors set out in subsection 10(1.1) of the Act and section 13 of the Policy Direction. Paragraphs 9.1(1)(n) and (o) of the Act authorize the Commission to require that it be provided with various types of information, while subsections 25.3(4) and (5) authorize the Commission to make certain information provided to it available in the public interest.

³ As set out in the Act, “online undertaking” means “an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus.” Pursuant to subsection 2(1) of the Act, the definition of “broadcasting undertaking” includes an online undertaking. For clarity, audio and audio-visual creators, whether amateur or professional, are not broadcasting undertakings or online undertakings and are therefore not subject to the Act. This means that the Commission cannot make regulatory requirements that apply directly to content creators.

⁴ See section 13 of the Policy Direction.

13. French-language content and content creators are an important part of the Canadian broadcasting system. Paragraph 3(1)(c) of the Act stipulates that English- and French-language broadcasting, while sharing common aspects, operate under different conditions – in particular, the minority context of French in North America – and may have different requirements. The Commission recognizes the importance of French-language content for Canadians, especially in a context where online undertakings that operate in Canada predominantly offer English-language content. The Commission took into consideration these particularities in making the determinations in this regulatory policy.
14. Throughout this proceeding, the Commission has taken into account the needs and interests of OLMCs and the need to protect and promote the French language, consistent with the Commission’s obligations under the Act, the Policy Direction and the *Official Languages Act*. The Commission continues to consider these elements in its deliberations regarding financial supports for the creation of Canadian programs.
15. Finally, under paragraph 3(1)(d)(iii) of the Act, the Canadian broadcasting system, through the employment opportunities arising out of its operations, should serve the needs and interests of all Canadians and reflect the special place of Indigenous peoples within Canadian society. The Commission recognizes the distinct contributions of Indigenous creators and aims to harmonize the regulatory framework for Canadian programs with broader policy initiatives that support Indigenous storytelling, governance, and participation in the broadcasting system. Of note, Indigenous content-related issues are currently under consideration by the Commission as part of the ongoing co-development of an Indigenous Broadcasting Policy.⁵

Issues

16. After examining the record for this proceeding, the Commission considered the following issues in regard to a modernized definition of “Canadian program”:
 - modernizing the certification framework for Canadian audio-visual programs;
 - the use of AI in Canadian productions;
 - data collection and publication; and
 - the streamlining of reporting requirements.

⁵ See Broadcasting Notice of Consultation 2024-67.

Modernizing the certification framework for Canadian audio-visual programs

17. The criteria set out in the current certification framework for Canadian audio-visual programs⁶ form the basis for the definition of “Canadian program.”⁷ These criteria support the reflection of Canadian creativity, decision-making, and storytelling. While these criteria also set clear requirements for Canadian creative and financial control, they do not ensure minimum copyright retention.
18. The certification framework includes a points system for key creative positions and functions along with requirements to focus production and post-production spending in Canada. It also includes conditions ensuring that Canadian producers retain control over the production of Canadian audio-visual content by ensuring that they are the central decision makers of a production from beginning to end. Other elements of the Canadian production system, including funds such as the Canada Media Fund (CMF) and certification bodies such as the Canadian Audio-visual Certification Office (CAVCO), also have certain requirements that help ensure, among other things, that copyright in relation to funded programs is retained by Canadians.
19. In the Notice, the Commission invited interested persons to comment on how the certification framework should be modernized to better reflect the state of the broadcasting industry, while ensuring Canadians maintain creative and financial control over their Canadian audio-visual productions. As such, the following issues are addressed below:
 - what the certification threshold(s) should be in regard to key creative positions and functions filled and performed by Canadians;⁸
 - whether it should continue to be mandatory for certain key creative positions to be filled by Canadians, and whether to provide flexibility for certain positions when filled by multiple individuals;
 - whether it would be appropriate to add new key creative positions to the points system;
 - whether the number of points awarded to key creative positions and functions should be reviewed;

⁶ The current certification criteria are described in further detail in the appendices to Broadcasting Regulatory Policy 2023-90 and paragraphs 128 to 130 of Broadcasting Regulatory Policy 2015-86.

⁷ The definition of “Canadian program” in the *Television Broadcasting Regulations, 1987* (SOR/87-49) and in the *Discretionary Services Regulations* (SOR/2017-159) refers to criteria for certification in Appendices 1 and 2 to Broadcasting Regulatory Policy 2023-90, paragraphs 128 to 130 of Broadcasting Regulatory Policy 2015-86, or programs in respect of which a *Canadian film or video production certificate*, as defined in subsection 125.4(1) of the *Income Tax Act*, has been issued.

⁸ For the purposes of defining a “Canadian program”, a “Canadian” is a person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate. People who are First Nations, Inuit or Métis peoples in Canada meet any certification requirement that applies to a “Canadian.”

- whether, for animated productions, certain functions that must now be performed in Canada should instead be performed by Canadians, regardless of where they are located;
- whether incentives (such as bonus points) should be added for the use of Canadian works, characters and settings in productions;
- whether current requirements relating to production costs should be maintained;
- whether and how Canadian intellectual property ownership, and more specifically, Canadian copyright ownership, should be embedded in the certification framework; and
- whether and, if so, how the Commission should simplify and update other elements relating to certification.

20. The determinations set out in the following sections address those areas of the certification framework that the Commission believes need to be modernized. For greater clarity, elements from the current certification framework that are not addressed in this regulatory policy remain in place. The modernized certification framework will establish the criteria for qualifying a production as a Canadian program and form the basis of the new definition of “Canadian program.”

Threshold for certification

21. The Commission’s Canadian program certification framework seeks to ensure that Canadian stories are told from a Canadian perspective. By requiring that a number of key creative positions and functions be filled and performed by Canadians, the certification framework also supports Canadian creativity, employment, and skills development of Canadian talent across the wider audio-visual industry.
22. The current certification framework includes a points system mostly based on the key creative positions and functions filled and performed by Canadians. To qualify for certification, productions must generally reach a minimum of 6 points out of a maximum total of 10 points for positions and functions filled and performed by Canadians. If a production does not have a sufficient number of key creative positions or functions to attain the minimum 6 points, the Commission requires that all key creative positions and functions be filled and performed by Canadians to achieve a perfect score.⁹
23. In the Notice, the Commission sought comments on its preliminary view that, in order to receive Canadian program certification, a production (either live action productions and continuous action animated productions,¹⁰ or animated productions other than

⁹ For example, a perfect score requirement of 5/5, 4/4, 3/3, etc.

¹⁰ Referred to collectively as “live action productions” in this regulatory policy.

continuous action animation¹¹) should be required to attain at least 9 points out of a proposed maximum total of 15 points. The Commission's preliminary view was also to maintain the existing perfect score requirement when certain key creative positions or functions are not used.

Positions of parties

24. The Canadian Broadcasting Corporation (CBC) supported the current 10-point system given that it ensures stability and consistency with the requirements of CAVCO. Telefilm Canada added that alignment with CAVCO's criteria would ensure the creation of Canadian-led productions that reflect the country's unique cultural and artistic perspectives.
25. BCE Inc. (BCE), the Documentary Organization of Canada (DOC) and the Independent Broadcast Group (IBG) submitted that requiring 9 out of 15 points (i.e., 60%) for certification of a production as Canadian would unfairly disadvantage documentaries, given that many key creative positions are absent from this type of production. To address this, the DOC, supported by the Canadian Media Producers Association (CMPA), proposed a separate 7-point scale for documentaries, with a minimum of 6 points needed for certification as Canadian. Other interveners including the Directors Guild of Canada (DGC) and TLN Media Group Inc. (TLN Media) stated their preference for maintaining the current threshold of 6 out of 10 points, for consistency and predictability.
26. Certain interveners proposed a threshold based on the percentage of points attained rather than the number of points. The Motion Picture Association of Canada (MPA-C) proposed a 51% certification threshold for non-Canadian online platforms as this would align with the requirement of the Act to make the greatest practicable use of Canadian talent. Rogers Communications Inc. (Rogers) also considered that a majority of Canadian key creative points (over 50%) should be enough to qualify a production as Canadian. Quebecor Media Inc. (Quebecor) proposed a 70% certification threshold to ensure broad Canadian creative control and to grant flexibility that would allow up to three key creative positions in a production to still be filled by non-Canadians.

Commission's decisions

27. In the Commission's view, the modernized certification framework should be sufficiently flexible and adaptable given that many types of productions differ in regard to their genre, the size of their budgets, and the multitude of business models in the Canadian broadcasting system. For example, smaller Canadian productions may not include the full array of key creative positions, which means that establishing overly restrictive criteria for defining "Canadian program" would place an undue burden on those producers. As such, the Commission recognizes that the needs of productions and producers may vary and that they may use different key creative

¹¹ Referred to as "animated productions" in this regulatory policy

elements. Accordingly, the Commission considers that it would be appropriate to introduce greater flexibility in the points system for key creative positions and functions.

28. This framework must also continue to ensure the significant involvement of Canadian key creative talent and that the overall creative direction of Canadian programs is strongly influenced by Canadians.
29. As noted above, under the current framework, a production must generally be awarded a minimum of 6 points to meet the definition of “Canadian program.” The Commission considers that this approach can be challenging, especially for smaller productions that may not make use of all possible key creative elements. A minimum threshold requirement set in terms of a percentage of points would provide greater flexibility for productions that do not have a sufficient number of key creative positions to attain a minimum number of points.
30. For this reason, the Commission considers that it would be appropriate to establish a minimum percentage threshold based on the number of points a production attains, as opposed to a minimum number of points. In terms of establishing what that percentage should be, the Commission considers that a minimum threshold of 60% would provide sufficient flexibility to suit various types of productions while ensuring consistency with CAVCO’s requirements. This approach would support the policy objectives set out in paragraphs 3(1)(f) and 3(1)(f.1) of the Act, which state that Canadian broadcasting undertakings must employ and make maximum use of Canadian creative and other human resources in the creation of programming, and that non-Canadian online undertakings must make the greatest practicable use of such resources. At the same time, it would allow the framework to apply to the widest variety of productions, without unduly impacting smaller productions.
31. The sections that follow discuss the points to be awarded when various positions and functions of the certification framework are filled and performed by Canadians.¹² The following examples illustrate the application of the minimum percentage threshold based on certain of those positions and functions in a production.
32. A live action production that uses the key creative positions of Director (2 points), Screenwriter (2 points), First Lead Performer (1 point), Second Lead Performer (1 Point), Director of Photography (1 point), Music Composer (1 point) and Picture Editor (1 point) would be awarded a perfect score of 9 out of 9 points if all of the key creative positions used are filled by Canadians. However, if only the Director (2 points), Screenwriter (2 points) and First Lead Performer(1 point) positions are filled by Canadians (and the other key creative positions are filled by non-Canadians), the production would be awarded 5 out of 9 points. This production would therefore

¹² For complete information on these positions and functions and the points to be awarded, see Appendices 1 and 2 to this regulatory policy.

achieve a percentage threshold of 55.6% and would not qualify and be certified as a Canadian program as it would not meet the minimum percentage threshold of 60%.

33. By contrast, if a Canadian filled the position of Music Composer (1 point) in this same production, it would be awarded 6 out of 9 points, or 66.7%, thereby meeting the minimum percentage threshold for certification.
34. Another example is a production with fewer key creative positions that allow for a maximum of 4 points in total. In this case, the number of Canadians filling these positions must be sufficient to achieve 3 out of 4 points (75%), which exceeds the 60% threshold. Similarly, for a larger-scale production with a total of 12 points available, the number of Canadians filling key creative positions must be sufficient to achieve 8 out of 12 points (66.7%).
35. As discussed below, the modernized certification framework introduces bonus points, whereby a production could be awarded extra points if it meets certain criteria that contribute to the wider distribution and discovery of Canadian cultural works, characters and settings. The awarding of bonus points should not negatively impact the score a production attains. That is, it should increase the total number of points a production earns (i.e., the numerator) and not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator). For example, where a production is awarded 5 out of 9 points (5/9) for key creative positions or functions filled or performed by Canadians and is also awarded 1 bonus point, the total score for the production will be 6 out of 9 points (6/9, or 66.7%), thereby meeting the minimum percentage threshold of 60%.
36. For greater clarity, for the production to qualify and be certified as a Canadian program, the number of points awarded must always reach or exceed the required threshold, regardless of the value of the denominator, which may change based on the specific type of production and the positions and functions filled and performed by Canadians (as such, scores of 6/10, 7/11, 8/12, 8/13 and 9/14 would reach or exceed the 60% threshold). For a score that results in a percentage below the required threshold, that percentage will not be rounded up to meet that threshold.
37. Accordingly, the Commission determines that to qualify as a Canadian program, a production must meet, at a minimum, the 60% threshold of points possible for the production, based on the number of points it is awarded. This minimum threshold is contingent on copyright ownership in the program, which is addressed below.

Key creative positions, functions and elements

38. Having set a threshold, the Commission now addresses mandatory key creative positions in productions; flexibility on who can fill certain of those positions; the addition of new key creative positions to the certification framework; amendments to existing key creative positions and functions in animated productions; and the awarding of bonus points for other key creative elements of a production.

Mandatory key creative positions

39. A production requires various individuals to play a large variety of roles, from creative positions to post-production functions. Some of these roles are considered essential for the production, while the use of others may depend on the type of production. In the Commission's view, it is important to ensure that the roles that shape the creative vision and storytelling of a production (such as writers and directors) be given the appropriate weight to reflect their importance in conveying Canadian expression as referred to in the Act.
40. In the Commission's view, for live action productions, the key creative positions of Director and Screenwriter are essential in defining and guiding the creative control of a production. As such, where a production makes use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian. Further, the points awarded to and the prominence of these key creative positions in the current certification framework, and their status as mandatory positions for a production, should be maintained in the modernized certification framework. Accordingly, for live action productions, the Commission will continue to award the points noted below for the following key creative positions, when filled by Canadians:
- Director (2 points); and
 - Screenwriter (2 points).
41. For animated productions, the Commission considers that the key creative positions of Director, and Scriptwriter and Storyboard Supervisor are essential in defining and guiding the creative control of a production. As such, where an animated production makes use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian.
42. Further, the Commission determines that it would be appropriate to align the points allocated to the key creative positions Director, and Scriptwriter and Storyboard Supervisor with those awarded for comparable positions in live action productions (i.e., Director and Screenwriter), given their comparable level of influence on the creative direction of a production. Accordingly, for animated productions, the Commission will now award 2 points (instead of 1 point) for each of the key creative positions Director, and Scriptwriter and Storyboard Supervisor, when filled by Canadians.
43. In addition, the key creative positions of First and Second Lead Performers (or first and second voices) for live action productions, and First and Second Voice (or first and second lead performers) for animated productions, which communicate Canadian cultural expression to audiences of audio-visual programs, are key to the look and feel of Canadian productions. As such, where live action or animated productions make use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian.

44. Currently, for live action productions, the positions of First Lead Performer (or first voice) and Second Lead Performer (or second voice) must be filled by Canadians for each to be awarded 1 point towards certification. This Commission maintains this approach in the modernized certification framework.
45. For animated productions, either the First Voice (or first lead performer) or Second Voice (or second lead performer) must be Canadian, but only 1 point is awarded if either or both positions are filled by Canadians. In the Commission's view, these key creative positions in animated productions should also benefit from greater recognition in the certification framework for their contributions to Canadian storytelling. Accordingly, the Commission will now award 1 point for each of the positions First Voice (or first lead performer) and Second Voice (or second lead performer) in an animated production if these positions are filled by Canadians, as is currently the case for comparable key creative positions in live action productions.
46. Therefore, for animated productions, the Commission will award the points noted below for the following key creative positions, when filled by Canadians:
- Director (2 points; previously 1 point);
 - Scriptwriter and Storyboard Supervisor (2 points; previously 1 point); and
 - First Voice (or first lead performer) and Second Voice (or second lead performer) (1 point each; previously 1 point for one or the other, but not both).
47. As with the current approach to certification, the Commission is of the view that the following key creative positions and functions must be filled or performed by Canadians for a production to qualify and be certified as Canadian:
- for live action productions: Director **OR** Screenwriter, and either the First Lead Performer (or first voice) **OR** Second Lead Performer (or second voice); and
 - for animated productions: Director **OR** Scriptwriter and Storyboard Supervisor, and either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer), and Key Animation **AND** Camera Operator.¹³
48. In this regulatory policy, the Commission introduces new rules regarding copyright ownership. To ensure that the overall Canadian creative vision for a production is maintained and that Canadians retain prominent roles in Canadian productions, adjustments to the rules on the key creative positions set out above will be discussed alongside the determinations on copyright ownership.

¹³ The Commission's decisions regarding criteria for Key Animation and Camera Operator are discussed in greater detail below.

Flexibility on who can fill certain mandatory key creative positions

49. In the Notice, the Commission proposed a new, flexible approach where the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor would be awarded points even if filling each position is shared by Canadians and non-Canadians, provided that at least 80% of the individuals filling the position are Canadian. Currently, a production only receives points for a given position where all of the individuals filling that position are Canadian.

Positions of parties

50. The CMPA and the Black Screen Office (BSO) supported lowering the requirement for Canadian control over key creative positions from 100% to 80% for shared roles, as this would preserve Canadian creative control while creating more space for international collaboration. The BSO also noted benefits for working with the global Black diaspora, provided Black Canadian talent remains prioritized.

51. Some interveners¹⁴ opposed the change, arguing that it could weaken Canadian control over key creative positions. They noted that co-production treaties already allow international collaboration and stressed the need to protect Canadian cultural and economic benefits. Broadcasters including Quebecor and Corus Entertainment Inc. (Corus) agreed, while the MPA-C and major studios considered the 80% threshold too rigid, proposing a more flexible threshold of 50% for shared roles.

Commission's decisions

52. The Commission is of the view that it is important to ensure that key creative positions in a production are filled by Canadians. This ensures that a Canadian production is built on Canadian ideas, perspectives and creativity and that these elements are broadcast to Canadians and the world. At the same time, the Commission has considered other goals and outcomes in making its decisions.

53. The Commission has traditionally viewed significant Canadian key creative input into productions as important. The Commission maintains this view. It notes, however, that imposing a requirement that all individuals filling the totality of key creative positions be Canadian could unduly restrict producers from making use of non-Canadian resources that could bring value to improving a production and to training or mentoring Canadian talent.

54. The use of non-Canadian talent may be particularly important for productions that leverage co-production arrangements with different countries. This consideration also stands for racialized and newly arrived Canadian producers who may have elaborate networks in other countries and who, absent certain flexibilities, may not be able to use their networks when making programming that would otherwise be eligible for

¹⁴ The Alliance des producteurs francophones du Canada, the Association québécoise de la production médiatique, the Producers Roundtable of Ontario, and the Writers Guild of Canada (WGC).

Canadian certification. The use of non-Canadian talent may also be necessary in certain genres of audio-visual content, such as documentaries, when shot in locations outside Canada.

55. In the Commission's view, it is appropriate to introduce some flexibility into the points system to allow for the use of non-Canadian talent for certain key creative positions. This could facilitate mentorship opportunities that strengthen Canadian productions through the sharing of expertise. Mentors from diverse backgrounds could contribute by sharing distinct perspectives, values and visions, thereby advancing inclusion and innovation at each step of a production.
56. The Commission also considers, however, that contributions made by Canadian talent should not be diluted. As such, it finds that in allowing the use of non-Canadian talent, safeguards should be put in place. Limiting the applicability of flexibility to only certain key creative positions will mitigate the risk of diluting the contributions of Canadians to a production and still provide sufficient support to the overarching goal of having primarily Canadians in key creative positions.
57. In the Commission's view, granting flexibility only to the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor is likely to be used in larger productions that employ multiple individuals in these key creative positions and where training and mentoring is likely to be valuable. This approach would strike a balance between introducing flexibility and ensuring strong support for the use of Canadian talent.
58. Further, requiring not less than 80% of the individuals filling each of those positions to be Canadian would ensure the inclusion and prominence of Canadian talent in these key creative positions and would stimulate growth within the Canadian film and television industry. This would, in turn, lead to increased employment opportunities and the development of homegrown expertise. The Commission also considers that using certain non-Canadian resources with name recognition in other jurisdictions, without unduly diminishing the Canadian character of these key creative positions, may facilitate the discoverability of a program abroad, which could also enhance its appeal.
59. In light of the above, the Commission determines that where each of the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor is filled by multiple individuals, points will be awarded where at least 80% of all individuals filling a given position are Canadians.

Additional key creative positions

60. The key creative positions that are included as part of the modernized certification framework will influence the extent to which Canadian creative control is predominant in a production. The recognition of key creative positions in a production can also support the employment and development of Canadian talent and incentivize producers to hire Canadians to meet the certification requirements.

61. While the key creative elements currently included in the certification framework remain appropriate to further the objectives of the Act, there are other key creative elements often present in a production that could influence the overall direction, look and feel of a production. In the Commission's view, the addition of new key creative positions would better reflect how the broadcasting industry is evolving and would maintain a certain balance in the allocation of points to ensure that positions related to creative vision and storytelling remain predominant.

62. In the Notice, the Commission proposed to add, as key creative positions in the modernized certification framework, the following roles:

- Showrunner;
- Heads of Department Responsible for Costume Design, Make-up Artists and Hair Artists; and
- Visual Effects Director and Special Effects Director.

63. The Commission addresses these proposals below.

Role and definition of Showrunner

Positions of parties

64. Unifor, the Public Interest Advocacy Centre (PIAC) and the Indigenous Screen Office (ISO) expressed support for the Commission's preliminary view to add Showrunner as a key creative position. Unifor and PIAC added that if a production includes a Showrunner, this position should be filled by a Canadian. Certain interveners¹⁵ supported the Commission's preliminary view to add the position Showrunner but also expressed concerns. According to the DGC, recognizing this position could replace or diminish the key creative positions of Director and Screenwriter.

65. Several interveners opposed adding Showrunner to the list of key creative positions. Quebecor considered that adding this position would be more problematic in the French-language market, where it is essentially non-existent. The Association québécoise de la production médiatique (AQPM) questioned the relevance of the position given that showrunners are not widely used in Canada. Lionsgate Canada (Lionsgate) noted that a Showrunner is not a credited position within the Canadian production industry. The Shaw Rocket Fund noted that the position is uncommon in children's and youth programming and is rarely found in animation productions, while Telefilm Canada noted that it is uncommon in feature film productions, including long-form documentaries.

¹⁵ The IBG, the DGC, and the CBC.

66. Certain interveners¹⁶ noted possible ambiguity in regard to defining Showrunner. Apple Canada Inc. (Apple) and Lionsgate, for example, indicated that the position can mean different things depending on the nature of the production.
67. According to the MPA-C, if Showrunner is included as a key creative position, it should be optional within the certification framework, earning only a bonus point¹⁷ or counting as a CPE credit¹⁸ if the position is filled by a Canadian. The MPA-C further proposed that a point (or points) should be awarded to a production for the Showrunner position if at least one of two individuals filling the position is Canadian or if at least 51% of three or more individuals filling the position is Canadian. Netflix Services Canada ULC (Netflix), Amazon, and Paramount Global (Paramount) opposed mandating Canadian Showrunners, citing limits on creative flexibility, genre exclusions, and obstacles to mentorship and financing. Apple noted the mixed support expressed for the Commission's preliminary view of including Showrunners in the certification framework and proposed focusing on other cast, crew, and creative positions instead.
68. Netflix noted that its Canadian productions "Wayward" and "North of North" involved non-Canadian showrunners, while Paramount noted that a Canadian showrunner worked on the non-Canadian production "Beauty and the Beast".

Commission's decisions

69. A showrunner in a production is typically responsible for helping to shape and maintain the overall vision, tone, and narrative of a production. The showrunner provides oversight of the creative process, plays a significant role in the development of the script and concept at pre-production stage, and has significant oversight in regard to the final edit of a production in post-production. The showrunner collaborates closely with a production's directors, writers, actors, producers, financiers, and broadcasters.
70. In the Commission's view, recognizing Canadian showrunners in the points system would reflect the increased importance of this position in the creation of some programming and would support Canadian artistic and cultural expression. This would further better align the criteria for qualifying a production as a Canadian program with global production practices, particularly for larger productions.
71. The Commission further expects that the presence of showrunners in Canadian productions will grow and that the role will become more widespread over time. Recognizing the contribution this position makes in the creative process by including

¹⁶ The AQPM, Reelworld Screen Institute, On Screen Manitoba, Apple Canada Inc., and Lionsgate.

¹⁷ The awarding of bonus points is discussed below.

¹⁸ The Commission's determinations regarding the modernization of the CPE regulatory framework will be set out in the above-noted regulatory policy that will focus on funding and support for Canadian programming.

it in the points system would likely accelerate the introduction of showrunners in more productions and support the hiring and development of Canadian talent.

72. The Commission acknowledges that the Canadian French-language market operates differently from the Canadian English-language market when it comes to the use of showrunners. Based on the public record, the use of showrunners in French-language productions is currently limited. The Commission is mindful of this difference and considers that any determinations it makes on the introduction of the position Showrunner into the point system should not undermine the distinctive conditions of the French-language market. Furthermore, in considering adding Showrunner as a key creative position to the points system, the Commission's objectives are to recognize the importance of that position in a production and to foster the growth of Canadian creative talent in this capacity. Accordingly, the Commission considers that it would be appropriate to include the position Showrunner as a key creative position in the points system, but that its presence should not be mandatory for certification purposes.
73. In light of the above, the Commission determines that the position Showrunner will be included, on a non-mandatory basis, as a key creative position in the points system for both live action productions and animated productions. As such, productions not using a Showrunner will not be penalized in that points for the Showrunner position will not be used to determine whether the production should be certified as Canadian. Where a production uses a non-Canadian showrunner, the production could still be certified as Canadian if it meets the minimum threshold for certification using other Canadian key creative elements. In such a case, it will be incumbent on the production to ensure that other key creative positions and functions are filled and performed by Canadians to meet that threshold.
74. A showrunner on a production plays a crucial role in shaping the overall creative direction of the production. In supporting other functions, namely, those of the directors, actors and writers, and in translating concepts and ideas in ways that engage audiences, the showrunner's importance in a production is comparable to that of those other creative positions. The Commission considers that this should be reflected in the weight awarded to the position of Showrunner. Accordingly, the Commission determines that a production will be awarded 2 points when the Showrunner position is filled by a Canadian.¹⁹ Where one or more non-Canadian individuals fill this position, no points will be awarded.
75. For the purposes of meeting the Canadian certification criteria, the Commission determines that the key creative position of Showrunner should be defined as follows:

¹⁹ The Commission notes there should be no double-counting of points awarded based on the multiple roles that a Showrunner may play in a production. That is, if the Showrunner directs, writes the screenplays and/or provides the written treatment for a production, points will be awarded for only one position, either Showrunner, Writer or Director. In a case where a Showrunner writes or directs individual episodes of a series, at least 80% of the episodes must be written or directed by others for a production to be eligible to be awarded the writing and directing points as well as the points for the position of Showrunner.

- a Showrunner is the creative leader of a production, overseeing its vision, tone, and style;
- a Showrunner manages the production process and ensures quality from start to finish, working closely with Writers to keep the narrative aligned with the creative direction from inception to final delivery;
- while they provide oversight on a production and act as a liaison between various elements of the production, which may include certain key creative positions and functions, producers, financiers and the broadcaster commissioning the programming, a Showrunner is subordinate to a producer in terms of exercising the overall control of a production;
- a Showrunner is often called on to ensure that the creative direction of a production aligns with the creative vision and cultural relevance that is intended for the production;
- in pre-production, a Showrunner is the key creative authority that guides the development of the final script and concept of a production. In post-production, a Showrunner is the key creative authority that oversees the final edit of a production, providing notes on picture, sound, music and visual effects to shape the finished product for delivery; and
- while a Showrunner may be present in production meetings, in the Writer's room or at the Director's table, a Showrunner's role is viewed as distinct from those roles in a production.

Roles and definitions of Heads of Department Responsible for Costume Design, Make-up Artists and Hair Artists

Positions of parties

76. The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada (IATSE) and the CMPA supported the inclusion of positions relating to costumes, make-up and hair in the points system.

77. Certain interveners²⁰ noted that these positions are rarely used in smaller productions and documentaries. According to Digital First Canada, adding these positions to the certification framework could disadvantage smaller productions given that team members for such productions often occupy many positions or collaborate with non-Canadian professionals.

²⁰ The DOC, TLN Media, Blue Ant Media Inc. (Blue Ant), and Digital First Canada.

78. Quebecor considered that adding these positions to the certification framework could lead to some productions being certified despite a significant and influential non-Canadian presence.
79. According to Corus, adding these positions as key creative positions to the points system and awarding them points when filled by Canadians should not disqualify productions that currently qualify as Canadian, should not affect the eligibility of programs that are already recognized as Canadian under existing frameworks, and should remain harmonized with existing systems, such as that of CAVCO.

Commission's decisions

80. The heads of the departments responsible for a production's costume design, make-up and hair play a key role in shaping a production's artistic vision. In particular, these positions contribute to the overall look and feel of a production, support actors in performing their roles, and ultimately reinforce the creative vision communicated to the audience. Their functions support other Canadian professionals in a production who might have been inadequately represented in the points system, including women and individuals from underrepresented groups, in better defining the production's visual identity.
81. The Commission considers that it would be appropriate to better recognize the contributions that Heads of Departments Responsible for Costume Design, Make-up Artists and Hair Artists make to Canadian productions. Adding these positions to the points system would better reflect the current audio-visual production environment and support the development of Canadian creative talent. It would also ensure greater Canadian control over the look and feel of a production and its overall artistic and aesthetic vision, in a way similar to the existing recognition of Production Designer or Art Director as a key creative position.
82. In light of the above, the Commission adds as key creative positions in the certification framework the following three positions: Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists.
83. Further, given that these positions taken together ensure, as a singular unit, an overall cohesive, artistic vision for a production, the Commission will consider these positions to form a group and will award 1 point if each position is filled by a Canadian.
84. Where not all of these positions are used on a production, the point will be awarded only if all persons employed in the position(s) that is used is Canadian. For example, if only one of the positions is credited on a production, a point will be awarded if the person filling the position is Canadian. This provides flexibility for numerous production and business models and does not unfairly penalize a production where only one individual heads each of the three possible departments and receives credit on the production. Similarly, where two or three department heads exist and are

credited, this ensures that the point is only awarded where Canadians fill all of the positions.

85. Based on views heard from industry stakeholders and during workshops held prior to the launch of this proceeding in regard to what is involved in filling these positions, for the purposes of the certification framework, the Commission defines these positions as follows:

The Head of Department Responsible for Costume Design is responsible for overseeing the costume department in a production. Their duties may include conceptualizing and designing costumes that align with the Director's vision, managing the costume department team, coordinating with other departments, sourcing or creating costumes, and ensuring that all costumes are completed on time and within budget.

The Head of Department Responsible for Make-up Artists is responsible for overseeing and executing the make-up design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Make-up Artists manages a team of assistants or technicians and ensures the consistency and quality of the make-up throughout the project.

The Head of Department Responsible for Hair Artists is responsible for overseeing and executing the hair design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Hair Artists manages a team of assistants or technicians and ensures the consistency and quality of the hair throughout the project.

86. In light of the above, the Commission also amends the definition of the key creative position of Production Designer or Art Director to remove the reference to that position being in charge of costumes.

Roles and definitions of Visual Effects Director and Special Effects Director

Positions of parties

87. Amazon noted the significant economic contributions made by visual effects directors and special effects directors to Canada's production and post-production sectors. It noted the extensive use of Canadian talent and the integral role these positions play in large-scale productions.
88. Other interveners²¹ raised concerns over the applicability of these positions to documentaries and lower-budget or unscripted productions, noting that such productions rarely employ visual or special effects. The MPA-C and The News

²¹ TLN Media, Blue Ant, and the DOC.

Forum Inc. (TNF) supported adding the position Special Effects Director to the certification framework, stressing that this is a distinct, specialized discipline whose artistic and technical contributions should be recognized. TNF also recommended a flexible points system that accounts for the broader team contribution, allowing Canadian certification points even when department heads are non-Canadian, but the majority of the team is Canadian.

Commission's decisions

89. Canada is known as a leader in terms of audio-visual post-production capacity. The Commission recognizes that as AI tools become integrated into the production process, the supervision of the artistic vision and technical execution of visual and special effects, in both production and post-production, will play an increasingly important role in the business of a production. Further, recognizing the Canadian oversight of the departments responsible for these visual and stylistic elements helps to ensure that Canadian creativity continues to receive appropriate weight in the creation of Canadian productions.
90. Visual and special effects directors help ensure the creation of the most compelling and immersive visual experiences. This is because visual and special effects significantly enhance storytelling and contribute to overall production quality, making stories more engaging and visually captivating. In the Commission's view, adding Visual Effects Director and Special Effects Director as key creative positions in the certification framework would enhance the representation of Canadian creators in productions. These additions would also acknowledge the industrial importance of these positions for the competitiveness of the Canadian audio-visual sector and would help to contribute to Canada being a world leader in this domain, including in terms of post-production capacity.
91. In light of the above, the Commission adds Visual Effects Director and Special Effects Director to the list of key creative positions. A production that uses a Visual Effects Director and a Special Effects Director will be awarded 1 point only if all individuals filling these positions are Canadians. Where a production uses either a Visual Effects Director or a Special Effects Director, but not both, 1 point will be awarded only if the person(s) filling the position is Canadian.
92. For the purposes of the certification framework, the Commission defines the key creative positions Visual Effects Director and Special Effects Director as follows, to be consistent with existing collective agreements in the industry:

The Visual Effects Director is responsible for overseeing and managing the creation and integration of visual effects in a production. The Visual Effects Director collaborates with the producer(s), the Director and the Showrunner (where applicable) to ensure that visual effects enhance the storytelling, meet artistic and technical standards, and are executed efficiently. The Visual Effects Director directs the visual effects team(s), oversees the design and implementation

of effects, reviews work for quality and consistency, and ensures that visual effects are completed on time and within budget.

The Special Effects Director is responsible for creating and overseeing the practical effects in a production. These effects include anything manually or mechanically manipulated, such as explosions, car crashes, animatronics, etc. The Special Effects Director collaborates closely with the producer(s), the Director and the Showrunner (where applicable) to ensure the effects align with the creative vision, meet artistic and technical standards, and are executed safely and efficiently. The Special Effects Director directs the special effects team(s), oversees the design and implementation of effects, reviews work for quality and consistency, and ensures that special effects are completed on time and within budget.

Amendments to existing key creative positions and functions in animated productions

93. One purpose of modernizing the certification framework is to ensure that certification requirements are flexible and in line with the current Canadian audio-visual environment and industry practices. As such, the Commission considered the following issues for animated productions:

- **Location requirements:** Whether the key creative function of Key Animation and the key creative position of Camera Operator (person) and Operation (location), as well as the key creative functions Layout and Background and Assistant Animation/In-betweening, in animated productions, should be filled or performed “by Canadians” instead of “in Canada” and, if so, whether this should be mandatory for certification.
- **Virtual Camera Operator:** Whether the key creative position Camera Operator and Operation in animated productions should include Virtual Camera Operator.

Positions of parties

94. Certain interveners²² noted that the role of the traditional camera operator is no longer current in modern animation methods and/or productions.

95. The BSO, the AQPM and Corus submitted that the Key Animation function should be performed by Canadians, but not necessarily in Canada. Corus argued that the Commission’s proposed amendment would provide animated productions with greater flexibility in terms of remote work. According to the BSO, the proposed amendment would be consistent with similar requirements for other key creative positions.

²² The CMPA, 9 Story Media Group Inc., Corus, Andromedia Distribution Inc., and the MPA-C.

96. The MPA-C and Apple welcomed the shift from “performed in Canada” to “by Canadians” for reasons of flexibility and recognizing the global nature of animation work. The MPA-C also noted that residency requirements make it more difficult for non-Canadian online undertakings to obtain Canadian program certification for their productions, which, it argued, is inconsistent with the objectives of the Act.²³
97. The IATSE stated that maintaining the “in Canada” requirement “offers the best opportunities for Canadian resident animators – particularly more junior animators seeking training experiences – to develop their skills and careers in Canada and contribute to truly Canadian productions.”

Commission's decisions

98. The key creative functions of Key Animation, Layout and Background Design, and Assistant Animation/In-betweening and the key creative position of Camera Operator and Operation play important roles in the creation of Canadian animated programs. They shape the visual style, pacing, and overall storytelling of a production, ensuring that the final work reflects a distinctly Canadian cultural voice.
99. The Commission is mindful of modernizing its approach to the framework related to the recognition of these key creative positions and functions to better align with industry practices. As such, the Commission finds that placing the emphasis on positions and functions in animated productions to be filled and performed by Canadians, rather than in Canada, would align with the principle of fostering Canadian talent while recognizing that Canadians may choose to live and work abroad. Accordingly, the Commission amends the criteria for animated productions to be certified as Canadian programs such that the key creative functions of Key Animation, Layout Artist and Background, and Assistant Animation/In-betweening and the key creative position of Camera Operator must be performed and filled “by Canadians” rather than “in Canada” for each to be awarded 1 point.
100. In regard to adding Virtual Camera Operator to the key creative position Camera Operator, the Commission notes that technological advancements have not only impacted Canadian workforce mobility but have also contributed to automating and improving camera functions. Images are increasingly being generated by virtual means. Accordingly, the Commission considers that it would be appropriate to adopt a regulatory approach that offers greater flexibility and adaptability to evolving industry practices, and particularly in the context of animation, where greater flexibility is required to adjust to technological advancements in methods and tools used in the creation of animated productions.

²³ Specifically, the objective set out in paragraph 3(1)(f.1), which states that “each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve.”

101. The Commission further considers that amending the position Camera Operator to add the position Virtual Camera Operator to the points system would also align with CAVCO's approach.²⁴
102. In light of the above, the Commission includes Virtual Camera Operator as part of the key creative position Camera Operator. This amended position will be awarded 1 point if filled by a Canadian.
103. The Commission notes that CAVCO, in its certification framework, recognizes the use of technology as part of its definitions for these positions. Accordingly, for the purposes of Canadian certification and to be consistent with CAVCO's approach, the Commission defines Virtual Camera Operator as follows:

A Virtual Camera Operator manages digital cameras within virtual environments, directing scenes and creating dynamic camera movements in a production. They also collaborate with the Director and visual effects teams to ensure camera work aligns with the creative vision.

For digitally animated productions, the Commission will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the position Camera Operator will be examined by the Commission on a case-by-case basis.

Bonus point for the use of Canadian characters and settings

104. In the Notice, the Commission expressed the preliminary view that cultural elements should not be included within the certification framework but also noted that it was open to other views and alternate proposals. As such, the Commission sought comments on whether additional cultural elements should be added to the criteria for qualifying and certifying a production as a Canadian program.

Positions of parties

105. While parties generally commented on the importance of incorporating cultural elements in Canadian programs, several interveners²⁵ opposed using cultural elements for certifying a production as Canadian as they considered such elements to be subjective. The ISO stated that adding cultural elements would be highly restrictive for Indigenous screen-based storytelling and would negatively impact the sovereignty of Indigenous narrative. The AQPM supported the Commission's preliminary view that cultural elements should not form a criterion. It cited the 2024 report entitled [Defining Canadian Content – Workshops with Stakeholders and Industry: What We](#)

²⁴ For digitally animated productions, CAVCO will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the camera operator position are examined by CAVCO on a case-by-case basis.

²⁵ The CMPA, the DGC, the CBC, the APFC, the AQPM, the WGC, Unifor, Telefilm Canada, and the ISO.

[Heard Report](#), which notes challenges with considering cultural elements given that “there are many ways of being Canadian.”

106. According to the Alliance des producteurs francophones du Canada (APFC), requiring key creative positions to be filled by Canadians already guarantees a Canadian viewpoint in a production seeking certification. In its view, adding intellectual property requirements instead of adding a criterion relating to cultural elements would further strengthen Canadian cultural expression by empowering producers and creators.
107. The IATSE, on the other hand, stated that the cultural criteria used in the certification frameworks of other countries²⁶ “generally include cultural content criteria that are objective and simple to verify.” It explained that such criteria include, among other things, whether the story takes place in the country, whether characters are identified as being from the country, the language spoken in the program, and whether the program is based on underlying library, artistic or historical material that originates from the country.
108. Other interveners²⁷ stated that cultural elements should be part of the definition of “Canadian program” but should not be the basis for a mandatory requirement. In their view, this would provide greater flexibility for ways in which productions can meet the criteria for certification as a Canadian program. Instead, they proposed recognizing such elements through bonus points or via CPE credits, so as to emphasize markers of Canadian experience and expression and incentivize contributions to Canadian cultural expression. Intervenors noted that this proposal is partly based on observations made in non-Canadian jurisdictions that recognize a cultural element in their domestic certification systems.

Commission’s decisions

109. The certification framework for Canadian audio-visual programs is both a powerful cultural policy tool and a catalyst for Canadian employment in the Canadian production industry. When it comes to cultural policy objectives and ensuring that the broadcasting system serves to safeguard, enrich and strengthen the cultural fabric of Canada, cultural elements in a production could play a role as they could be leveraged in a production to further enhance the recognition of Canadian experience and expression.
110. [Public opinion research](#) shows that Canadian locations, actors and stories are important markers for Canadian viewers, and that their use in productions helps Canadians better relate to Canadian programming.

²⁶ Citing the research report conducted on behalf of the MPA-C, “[Defining Canadian Content: Approaches Taken in Other Jurisdictions and Lessons Learned for Canada](#)”, published 23 February 2023 (filed in this proceeding as Appendix E of the MPA-C’s intervention).

²⁷ The MPA-C, Netflix, Apple, Google LLC, and the Forum for Research and Policy in Communications (FRPC).

111. Generally speaking, the record of the proceeding demonstrates a desire by many parties to recognize and reward efforts to promote markers of Canadian identity in Canadian programs while preserving the independence of creators' artistic expression. While not all parties supported the inclusion of cultural elements in the definition, those who did generally favoured doing so as a non-mandatory bonus point.
112. Identifiable characters and settings reinforce Canadian identity, support audience engagement, and enhance the domestic and international presence of Canadian programming. Canadian productions can tell a variety of stories. In many instances, the stories that are told may be about international events from a Canadian perspective or may be about fantastical settings made by Canadians. In other instances, plots and story lines may not lend themselves to using Canadian characters or settings. The Commission must nevertheless be mindful that Canadian characters and settings can resonate with domestic and world audiences in ways that help to support key markets and storytelling that would otherwise have been undervalued in the current certification framework.
113. In the Commission's view, awarding a bonus point for the use of these cultural elements would recognize the benefits of adding some markers of Canadian identity to a production without diluting the points allocated to key creative positions and functions. It would also avoid unfairly penalizing Canadian creators that choose to focus on characters and settings that may not be identifiably Canadian but who continue to display a Canadian perspective in telling those stories. This approach would appropriately promote Canadian identity, while maintaining the primacy of key creative positions in ensuring that Canadian perspectives are reflected in audio-visual productions.
114. In light of the above, the Commission will award 1 bonus point where identifiable Canadian characters and identifiable Canadian settings are included in a production.
115. The Commission heard the concerns of some interveners that assessing "cultural elements" could be too subjective for the purpose of awarding points. However, in the Commission's view, the submission of the IATSE in regard to the objective and verifiable nature of cultural criteria, if properly defined, is compelling. As such, the Commission determines that, to be awarded a bonus point for Canadian characters and settings, a production must meet the following three criteria:

Characters:

- i. All lead characters (up to 5 main fictional characters in dramatic productions) must be identified as Canadian or members of First Nations, Inuit or Métis in Canada.
- ii. All persons on screen in non-dramatic productions, such as presenters, musicians, dancers or hosts, and all persons who are the main subjects

of documentaries must be Canadian or members of First Nations, Inuit or Métis in Canada.

Synopsis: The synopsis of the production must be centred on or include these lead characters/subjects. The production must identify them as Canadian or members of First Nations, Inuit or Métis in Canada.

Location: The location of the story must be set in Canada. The story or narrative must take place entirely in an identified Canadian city/region/province/territory. The location can be identified by a Canadian landmark or by identification on screen or otherwise identified overtly in the narrative or text of the program.

Bonus point for productions based on Canadian written works, and removing pilot projects from the definition of Canadian program

116. In Broadcasting Regulatory Policy 2015-86,²⁸ the Commission announced that it would be launching two pilot projects to recognize as Canadian live-action drama/comedy productions that are based on the adaptation of best-selling, Canadian-authored novels or that have a budget of at least \$2 million/hour. It noted that this would encourage governments and partner agencies to consider more flexible and forward-looking approaches to the production and financing of high impact Canadian programs in the future.
117. Pilot projects are special high-impact Canadian productions that still qualify as Canadian programs even though they do not meet the current certification criteria. To reduce the barriers to qualification, some certification criteria are waived for these riskier projects under certain conditions.
118. A key element of the pilot project component of the certification framework is the recognition of live-action drama/comedy productions based on the adaptation of best-selling, Canadian-authored novels as Canadian. As reflected by the record of this proceeding, this approach did not yield the benefits that were initially anticipated when pilot projects were first put in place (only three applications for the Canadian certification of pilot projects have been received since 2015, none of which successfully qualified as a Canadian program).
119. As part of this proceeding, the Commission sought comments on whether points or other incentives should be included for the use of pre-existing Canadian source material. It also invited parties to comment on the possible removal of pilot projects from the definition of “Canadian program.”

²⁸ See paragraphs 128-131 of that regulatory policy.

Positions of parties

120. Various interveners²⁹ opposed awarding points or creating other incentives for the use of pre-existing Canadian source material. They cited the risk of having source material falling into the hands of large non-Canadian players, who may distort Canadian stories. According to the AQPM, there is no guarantee that adapting a pre-existing Canadian work will preserve its Canadian cultural essence on screen. The CMPA stated that awarding points for the use of pre-existing Canadian source material could allow larger players to secure certification without surrendering creative and financial control of the production itself.
121. Telefilm Canada and The Ontario Educational Communications Authority (TVO), on the other hand, considered that it would be appropriate to encourage the production of audio-visual productions based on pre-existing Canadian source material. The MPA-C, Apple, the CMF, and Lionsgate supported the consideration of pre-existing Canadian source material as part of the certification process. The CMF proposed awarding up to 1 point for Canadian-authored material.
122. While some interveners³⁰ agreed with the Commission's preliminary view to discontinue the certification of pilot projects as Canadian, others considered that their certification should be maintained.³¹ The Canadian Association of Broadcasters (CAB) supported maintaining their certification for flexibility purposes.

Commission's decisions

123. The use of Canadian written works and other pre-existing source material in the creation of audio-visual programs remains of cultural and policy value today. These works contribute directly to several policy objectives of the Act, including serving to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada (subparagraph 3(1)(d)(i)), providing Canadians with the opportunity to see and hear Canadian stories (subparagraph 3(1)(d)(ii)), and ensuring that the programming provided includes a significant contribution from the Canadian independent production sector (subparagraph 3(1)(i)(v)). In this respect, Canadian written works help to promote Canadian stories, enhance discoverability of Canadian content, reinforce Canadian identity and heritage, and support a sustainable Canadian broadcasting system where creators can profit from their works.
124. In particular, the Commission considers that adaptations of Canadian written works of fiction and non-fiction can strengthen the presence of Canadian perspectives in audio-visual content, increase access to Canadian creativity and resources,

²⁹ Including the CMPA, Rogers, the CBC, Quebecor, the AQPM, and the ISO.

³⁰ Including the DGC, the BSO, the CMF, the Bell Fund, the Deaf Wireless Canada Committee (DWCC), Canada Deaf Grassroots Movement (CDGM), the Disability Screen Office (DSO), and Irene Berkowitz.

³¹ This includes the MPA-C, Apple, Paramount, Buena Vista International, Inc. (Buena Vista), Discovery Digital Ventures, LLC (Discovery+), the DWCC, and BIPOC TV & Film.

showcase Canadian heritage domestically and internationally, and support Canadian authors and the discoverability and monetization of their written work.

125. Accordingly, the Commission finds that recognition of Canadian written works is better achieved through the points system and offers a more effective mechanism to advance cultural and policy outcomes than the current pilot project framework.
126. In light of the above, the Commission determines that 1 bonus point will be awarded for the use of Canadian written works as source material. For certification purposes, “written work” is defined as follows:

A written work of fiction or non-fiction (such as a novel, short story, graphic novel, novella, play, biography, autobiography, or poem), in either digital or print form, that is authored by a Canadian(s). This excludes written works such as manuals, programming text, pamphlets, tables and compilations, government publications, and blog posts. For further clarity, material developed solely and specifically to support the development of scripts and concepts as part of a production is not eligible to receive a point.

127. Further, the Commission will no longer recognize as Canadian programs pilot projects, that is, live-action drama/comedy productions based on the adaptation of best-selling, Canadian-authored novels and live-action drama/comedy productions with a budget of at least \$2 million per hour of content created.

Bonus point for Canadian musical selections

128. In the Notice, the Commission sought comments on whether to amend the key creative position of Music Composer so that a point could be awarded either for a Canadian Music Composer or the Canadian rights holders of pre-existing or pre-recorded music.

Positions of parties

129. The Screen Composers Guild of Canada (SCGC), supported by hundreds of individual Canadian music creators, strongly opposed expanding the music point as proposed by the Commission. It argued that doing so would result in giving key creative points for the purchase of rights as opposed to the employment of Canadian individuals. The Association des professionnels de l'édition musicale (APEM) also opposed changing the point for the position Music Composer. Both interveners proposed instead the addition of a criterion requiring that not less than 75% of the budget allocated to pre-existing music be devoted to Canadian musical selections. The APEM added that the 75% budget allocation could take the form of a production expenditure or of a contribution to a fund supporting Canadian music.
130. According to the National Film Board and BIPOC TV & Film, a point should be awarded for music originally composed by Canadian or Indigenous artists, even if the rights are held by both Canadian and non-Canadian owners.

131. Rogers supported awarding a point for the position of Music Composer when filled by a Canadian or to the rightsholders of pre-existing or pre-recorded music when purchased from both Canadian and non-Canadian rights holders as this would provide producers with more flexibility.

Commission's decisions

132. Supporting the inclusion of Canadian Music Composers and existing Canadian music in the certification framework recognizes the role of key Canadian creators. It also fosters a sustainable Canadian broadcasting system and ensures that Canadian creators can profit from their work, including through intellectual property rights. Further, it advances Canadian artistic and cultural expression and provides employment opportunities for Canadians, consistent with subparagraphs 3(1)(d)(ii) and (iii) and paragraphs 3(1)(f) and (f.1) of the Act.
133. In the Commission's view, hiring Canadian Music Composers for Canadian programs remains important. Maintaining a point for Canadian Music Composers would continue to support the policy objectives of promoting Canadian artistic and cultural expression. Accordingly, the Commission will continue to award 1 point for the key creative position of Music Composer when that position is filled by a Canadian.³²
134. That said, the Commission acknowledges that the current points system can have the unintended consequence of penalizing smaller productions that do not have the financial means to hire a Music Composer and must instead purchase music rights. In the Commission's view, there exists an opportunity to address this unintended consequence and also to support Canadian music in ways that it has not done in the past. Recognizing the inclusion of pre-recorded or pre-existing Canadian music in the certification system would support the discoverability of Canadian talent and would further the above-noted objectives of Act. As such, the Commission finds that it would be appropriate to allow for the inclusion of pre-recorded or pre-existing Canadian music in the certification framework, while continuing to recognize Canadian Music Composers. Through such an approach, producers may rely on different musical accompaniments to help support the overall narrative of their productions. Such an approach could also enhance the discoverability of Canadian music, not only for Canadians but also on the world stage.
135. In light of the above, a production will be eligible to receive 1 bonus point to count toward the threshold for certification if more than 50% of the pre-recorded or pre-existing musical selections featured in the production, including an excerpt of the musical selections of any duration of time, are Canadian. These musical selections

³² As specified in Appendices 1 and 2 to Broadcasting Regulatory Policy 2023-90, "The point [for Music Composer] is awarded only if a Canadian has been commissioned to compose the original music specifically for the production. The rearrangement of existing music, even if it is Canadian, utilizes the position but does not earn the point. Existing stock, library, or archival music may be used in addition to the original music. The position of Music Director is not accepted as equivalent to Music composer."

must not include original music specifically composed for the production for the bonus point to be awarded. Further, to qualify for the bonus point, the musical selections in question must meet the criteria of a “Canadian selection” as defined in subsection 2.2(2) of the *Radio Regulations, 1986* (the Regulations).³³ The point will be awarded only if there is no Music Composer specifically hired for that production, or, in the alternative, if there is a Canadian Music Composer hired for that purpose. For clarity, no point will be awarded if there is a non-Canadian Music Composer or if 50% or more of the music selections are non-Canadian.

Conclusion

136. For ease of reference, the Commission has set out in Appendix 1 to this regulatory policy the detailed criteria of the certification framework. In Appendix 2, the Commission has set out its approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1.

Production costs

137. Requirements relating to Canadian production costs are key safeguards for promoting Canadian employment in the broadcasting system and for encouraging the use and development of Canadian creative talent, ultimately fostering Canadian cultural expression. In the Notice, the Commission sought comments on its preliminary view that it should maintain the current requirement that at least of 75% of a production’s services costs be paid to Canadians and that at least 75% of the production’s post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies.³⁴

Positions of parties

138. Rogers, Quebecor, and several associations representing the creative sectors and funding organizations³⁵ generally expressed support for maintaining the current 75% requirement regarding a production’s service costs. Certain interveners³⁶ proposed lowering the threshold requirement for non-Canadian online undertakings such that from 10% to 50% of a production’s service costs be paid to Canadians, with a lower percentage for post-production and laboratory costs.

³³ The Commission notes that the Regulations define “musical selection” as “any live or recorded music of one minute or more in duration that is broadcast uninterrupted, and includes a medley and a montage.” The definition of “Canadian musical selection” is currently under review as part of Broadcasting Notice of Consultation 2025-52. Determinations to be made in that proceeding regarding that definition will apply here.

³⁴ The Commission’s [Canadian Program Certification Guide](#) defines a Canadian production company either as a licensee of the Commission or as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians.

³⁵ Including the BSO, the SCGC, the Bell Fund, and FilmOntario.

³⁶ The MPA-C, Apple, Paramount, Buena Vista, the Racial Equity Media Collective (REMC), and Discovery Digital Ventures, LLC (Discovery+).

Commission's decisions

139. The 75% thresholds for production service costs and for post-production and laboratory costs ensure that a substantial portion of the economic activity associated with production and post-production remains in Canada, thereby reinforcing Canadian employment and expertise in both technical and creative sectors for audio-visual productions. This is consistent with the objective of the Act relating to safeguarding, enriching and strengthening the cultural, political, social and economic fabric of Canada (subparagraph 3(1)(d)(i)).
140. As such, the Commission is concerned that lowering the thresholds for these costs would not be consistent with supporting Canadian creative control and key creators in their role of shaping Canadian storytelling. In the Commission's view, the current 75% thresholds for production service costs and post-production and laboratory costs continue to provide sufficient flexibility within the system to encompass Canadian and non-Canadian costs, while ensuring that most of these costs are paid to Canadians.
141. Accordingly, the Commission maintains the requirements that at least 75% of a production's service costs be paid to Canadians and that at least 75% of a production's post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies.

Intellectual property ownership and producer control

142. Under its current approach to Canadian program certification, the Commission does not take the Canadian ownership of intellectual property into consideration. Nor does the Commission extend any protections to support Canadian copyright retention in the way that other organizations do (including the CMF and Telefilm Canada) or in the way contemplated in co-production treaties signed between Canada and various international jurisdictions.
143. In the Notice, the Commission sought comments on a modernized approach where intellectual property rights retention, specifically, copyright retention, would be applied to maintain, strengthen, expand, and protect Canada's competitiveness in the audio-visual production industry, while ensuring continued international investment in the Canadian broadcasting production system. The Commission expressed the preliminary view that such an approach should foster Canadian financial control but be flexible enough to accommodate diverse business models and distribution methods, facilitate the exportability of Canadian programming and formats, and encourage all types of players to make Canadian programming discoverable both domestically and abroad, on traditional and online platforms.

Position of parties

144. In general, interveners' views on copyright requirements were divergent. Some interveners³⁷ proposed different models recognizing that different levels of Canadian copyright ownership can be included in Canadian programs. Several Canadian interveners³⁸ supported aligning copyright ownership requirements with those of CAVCO, including a 25-year retention period. Other interveners³⁹ urged the Commission to require 100% Canadian copyright ownership as a certification requirement, while some⁴⁰ favoured flexibility in regard to copyright sharing, with a requirement that most copyright remains Canadian. Conversely, the MPA-C and Netflix opposed mandatory Canadian copyright ownership, favouring instead flexible copyright models to foster investments and align with current industry practices and European trends. The MPA-C proposed incentivizing Canadian copyright ownership through bonus points or CPE credits.
145. Among interveners who stressed the importance of an approach focusing on strong Canadian copyright ownership retention, the Writers Guild of Canada (WGC) noted the relationship at law between “authors” and “works” under the *Copyright Act* and considered that no other factor is more determinative to the nature and character of a creative work than the creator(s) of the work. Corus proposed adopting CAVCO's approach of requiring copyright to be held by a Canadian producer for 25 years, while the CMPA proposed a model under which copyright ownership would be entirely with Canadian independent producers.
146. The IATSE, on the other hand, submitted that financial control and copyright ownership should only be part of the definition of “Canadian program” when included with other criteria, such as an expanded list of key creative positions and the inclusion of cultural elements as part of the certification framework. According to Netflix, existing models are in place where certification is achieved even when flexible copyright ownership is shared between producers in different territories. Other interveners⁴¹ also favoured flexibility in regard to copyright sharing, with a requirement that most copyright remains Canadian.
147. Rogers expressed the view that Canadians must hold more than 50% of intellectual property rights. It proposed that Canadian broadcasting undertakings be eligible to own intellectual property rights and that programming produced or commissioned by a Canadian broadcasting undertaking automatically qualify as Canadian. Rogers explained that its proposed flexible approach would give Canadian broadcasters enhanced flexibility to work with non-Canadian undertakings to produce programming for Canadian audiences that could then be exploited globally on non-Canadian platforms.

³⁷ The CMPA and the AQPM.

³⁸ Quebecor, the CAB, Blue Ant, the DGC, the CBC, and the Bell Fund.

³⁹ The AQPM, the IBG, Meridian Artists, and the SCGC.

⁴⁰ The REMC, Rogers, and the DOC.

⁴¹ *Ibid.*

Commission's decisions

Canadian control and benefit in programs

148. Intellectual property is an umbrella term for a set of legal rights and protections that include copyright under the *Copyright Act*. Under that statute, copyright ownership provides creators with a series of exclusive rights to exploit their works, including the right to reproduce, publish and perform Canadian programs and authorize such uses among others. In Canada, producers are generally the owners of copyright in programs for broadcast. The Commission notes that participation in copyright ownership enables creators to have control in and benefit from the creation of programming.
149. The Commission acknowledges that other forms of intellectual property, such as trademark ownership, can be involved in an audio-visual production and lead to financial benefit for Canadians. It is notable, however, that the Act makes particular mention of copyright as a consideration. Various parties, including the CMPA and Corus, emphasized the importance of copyright ownership as a criterion for Canadian programs to meet the objectives of the proceeding. A focus on copyright, among other forms of intellectual property, in defining “Canadian program” aligns with other Canadian content policies, such as those of Telefilm Canada, that have copyright protections.
150. The record of the proceeding did not yield any consensus on an appropriate model for copyright ownership. Many interveners who commented on this issue expressed the view that copyright should fully remain with Canadian creators, while others took the contrary view that no rules should be introduced. The Commission is not convinced that either position is appropriate as neither meets the objectives of reaching a balance between incentivizing international partnerships and maximizing the benefits to Canadians.
151. Paragraph 10(1.1)(a) of the Act states that in defining Canadian programs, the Commission must consider whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program. Further, the Policy Direction requires the Commission to support Canadian intellectual property ownership in defining “Canadian program” and to consider how its determinations will complement other Canadian content policies, including those regarding audio-visual tax credits and government funding.⁴²
152. While the Commission recognizes that copyright ownership is an important determinant of financial control in a production, there are ways other than copyright through which the Commission currently enables Canadian creators to retain fair and equitable financial control of and benefit from their productions. These include the following:

⁴² See paragraphs 13(c) and 13(g) of the Policy Direction.

- **Canadian producer control:** Canadian programs must always involve Canadian producers.
- **Employing Canadians in a broad range of key creative positions and functions:** Requiring that the majority of key creative positions and functions of a production be filled or performed by Canadians significantly contributes to creative control.
- **Production costs:** Requiring that at least of 75% of a production's services costs be paid to Canadians and that at least 75% of the production's post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies ensures that a substantial portion of the economic activity associated with production and post-production remains in Canada, reinforcing economic benefits to Canadians.

153. In addition to the safeguards arising from the Commission's certification framework, there are other mechanisms within the larger Canadian content ecosystem that offer protections for Canadian producers to control and benefit financially from their productions in a significant and equitable manner. Importantly, this includes the following protections that specifically support Canadian copyright ownership of Canadian programs:

- Most Certified Independent Production Funds (CIPFs), which are certified by the Commission, require Canadian producers to hold all rights to their productions.⁴³
- The CMF includes eligibility requirements for funding on copyright, financial control and creative control. Certain CIPFs also impose similar requirements, although the specific criteria may vary from fund to fund.⁴⁴
- Productions that are certified as eligible for federal tax credits require a Canadian production company to hold 100% copyright ownership for 25 years for a production to be eligible for tax credits.⁴⁵
- Certain provincial tax credit programs also include Canadian and/or provincial copyright provisions as part of their eligibility criteria, with

⁴³ The Eastlink TV Independent Production Fund Program is an exception in that it requires producers to own and control at least 20% of rights and revenues.

⁴⁴ For example, the Bell Fund requires rights to be owned and meaningfully developed by Canadians and that creative and financial control remain with the Canadian producer throughout the production and post-production.

⁴⁵ See [Section 3 Copyright Ownership](#) of CAVCO's Application guidelines for the Canadian Film or Video Production Tax Credit.

some offering higher tax credits when Canadian ownership meets or exceeds defined thresholds.⁴⁶

154. Still, in the Commission's view, requirements relating to copyright should be included in the criteria for defining "Canadian program." Such requirements would provide long-term tangible benefits to Canadians by ensuring that the economic and cultural value of Canadian programming remains tied to Canadian creators. Including copyright ownership requirements in the certification framework would also offer additional and stronger support for Canadians' works than would the existing co-venture model, which does not include such safeguards relating to Canadian intellectual property.
155. The Commission recognizes the presence of safeguards ensuring that Canadian creators retain creative and financial control of their works in the larger ecosystem, and in a context where international partnerships in audio-visual productions are sought as ways to, notably, fund expensive productions and facilitate their exportation and discoverability abroad. As such, the Commission considers that copyright ownership requirements should be flexible and responsive to different business models, including international partnerships. The Commission is considering this flexibility in setting an appropriate threshold for Canadian copyright ownership in Canadian programs.
156. In establishing a new Canadian copyright ownership threshold, the Commission notes that such requirements are found in many co-production treaties already in place between Canada and other countries.⁴⁷ In the Commission's view, aligning the Canadian copyright ownership threshold with the provisions found in these treaties would be simpler to administer and would reduce confusion in the industry. Accordingly, the Commission determines that for a production to qualify as a Canadian program, Canadians must retain at least 20% of the copyright ownership in the program. In the Commission's view, this determination complements other Canadian content policies and ensures that Canadian creators retain fair and equitable control over and benefit from the exploitation of their productions without unduly deterring international investments.
157. However, the Commission is also of the view that where Canadians do not hold a majority of the copyright in a program, other measures must be put in place to ensure that the overall creativity, direction, and look and feel of a Canadian production remains Canadian. As noted above, to qualify as a Canadian program, a production must meet, at a minimum, the 60% threshold of points possible for the production, based on the number of points awarded. However, when 50% or less of the copyright in the program is retained by Canadians, the Commission finds that a greater number of Canadian key creative elements must be present in a production and that a greater

⁴⁶ Including in British Columbia, Alberta, Saskatchewan, Ontario, Quebec, New Brunswick, and Nunavut.

⁴⁷ For example, many treaties, including those with Austria, Brazil, Germany, Greece, Hong Kong, and South Africa, allow co-producer contributions to range from 20% to 80% of the budget, with a requirement that copyright ownership must match their respective contributions.

number of points must be attained. The Commission also considers that copyright ownership should be recognized whether it is retained by Canadian producers or by Canadian broadcasters, who would work in partnership with non-Canadians.

158. The Commission is of the view that it would be appropriate to introduce support for Canadian copyright ownership in programs as a criterion of defining “Canadian program.” Accordingly, the Commission adopts the following approach for Canadian copyright ownership, oversight and control in the Canadian program certification framework:

Minimum copyright requirement

- For a production to be eligible to qualify as a Canadian program, not less than 20% of the copyright in the program must be retained by a Canadian(s). This could mean a Canadian broadcaster or a Canadian producer.

Where Canadians own not less than 20% and not more than 50% of the copyright in a program, for the production to qualify as a Canadian program:

- it must attain not less than 80% of the maximum number of points possible for the production, based on the points awarded for key creative positions and functions along with any bonus points that may be awarded for other key creative elements;
- for live action productions, both the Director **AND** the Screenwriter positions in addition to either the First Lead Performer (or first voice) **OR** Second Lead Performer (or second voice) position must be filled by Canadians; and
- for animated productions, both the Director **AND** Scriptwriter and Storyboard Supervisor positions in addition to either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer) position must be filled by Canadians. Further, the Key Animation function **AND** the Camera Operator/Virtual Camera Operator position must be performed or filled by Canadians.

Where Canadians own more than 50% of the copyright in a program, for the production to qualify as a Canadian program:

- it must attain not less than 60% of the maximum number of points possible for the production, based on the points awarded for key creative positions and functions along with any bonus points that may be awarded for other key creative elements;
- for live action productions, either the Director **OR** Screenwriter position in addition to either the First Lead Performer (or first voice) **OR** Second

Lead Performer (or second voice) position must be filled by Canadians;
and

- for animated productions, either the Director **OR** Scriptwriter and Storyboard Supervisor position in addition to either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer) position must be filled by Canadians. Further, the Key Animation function **AND** the Camera Operator/Virtual Camera Operator position must be performed or filled by Canadians.

Producer creative and financial control

159. As an additional safeguard measure to strengthen Canadian creative and financial control, the Commission considers that there is merit in continuing to support Canadian producer decision-making control. This has been present in the criteria for defining a Canadian program to date, as well as in the Commission's co-venture system, which is addressed below. Canadian producers are not captured under the key creative positions. However, the Commission recognizes the importance of the role of Canadian producers among other creative resources used in Canadian productions. Accordingly, in instances of shared copyright, to qualify as a Canadian program, the production must be produced by a Canadian production company⁴⁸ that has no less than equal measure of decision-making responsibility⁴⁹ with partners on all creative elements of the production.

160. Currently, the roles of producer, co-producer, line producer and production manager must be entirely occupied by Canadians for a production to be eligible for certification as Canadian. A flexible copyright ownership model as implemented in this regulatory policy allows non-Canadian producers to work alongside Canadian producers on a Canadian program. Accordingly, it would be appropriate to ease the requirements relating to the nationality of the producers who take part in a production in cases of shared copyright ownership in the program. However, the Commission needs to balance the fostering of partnerships with international producers while ensuring that Canadian producers continue to play a vital role in Canadian productions.

161. In light of the above, for programs with 100% Canadian copyright ownership, the Commission maintains that the roles of producer, co-producer, line producer and production manager must be occupied by Canadians. As discussed below, courtesy credits are available for non-Canadians in producer-related roles. For productions involving shared copyright ownership, the Commission amends the current requirement to read as follows:

⁴⁸ A Canadian company carrying on business in Canada, with a Canadian business address, that is owned and controlled by Canadians.

⁴⁹ Decision-making responsibilities could include determining the production schedule, selecting and hiring above- and below-the-line cast and production personnel, and selecting and contracting production services (camera package, sound package, post-production facilities, and post-production elements).

Not less than 50% of persons occupying the roles of producer, co-producer, production manager and line producer, and all producer-related roles (such as executive producer, associate producer and supervising producer), must be Canadian.

Copyright retention period

162. In regard to a Canadian copyright retention period, the Commission notes that in the case of international treaties administered by Telefilm Canada, no retention period is imposed. The Commission finds it important to grant some flexibility to incentivize collaboration with international partners and to allow for all parties involved in a production to negotiate their own copyright retention periods. Accordingly, the Commission determines that it would not be appropriate to include a copyright retention period requirement as part of the criteria for defining a production as a Canadian program.

Guiding principles in negotiations among production partners

163. The Commission acknowledges the close relationship between copyright ownership, financial control and shared participation by all parties involved in a production. In the Commission's view, while aligning these three aspects of a production may be a good practice, it would not be appropriate to limit non-Canadian financial participation or financial participation of Canadian partners in a production. Being overly prescriptive about financial arrangements of productions would run counter to regulating in a flexible manner. Further, it would undermine the goal of fostering partnerships that further the exportability and discoverability of Canadian programs and of fostering a financial support ecosystem. It would also undermine the different ways that producers may choose to structure production agreements and may discourage some productions.
164. The Commission considers that it must balance the goals of regulatory flexibility so as to encourage a variety of productions, and of business models and broadcast and distribution models, while fostering a broadcasting system in which Canadian producers can retain significant, equitable control of their works and benefit from their long-term exploitation. The Commission is mindful, however, of its role and authority in respect of the business and trade arrangements among production partners involved in audio-visual productions and that being overly prescriptive can undermine flexibility. Accordingly, the Commission adopts the following guiding principles in negotiations among production partners:
- **Fair compensation and exploitation:** Ensure that remuneration, rights, and revenues are allocated in a way that fairly reflects the financial and human contributions to the production, while ensuring Canadian producers retain significant, equitable control and benefit from long-term exploitation.

- **Good-faith negotiation:** Production partners negotiate in good faith.⁵⁰

165. The Commission may assess the effectiveness of these non-binding principles in the future.

Co-ventures

166. Currently, there is a co-venture model⁵¹ that offers flexibility for Canadian producers who wish to work with non-Canadian producers, by sharing creative and financial decision-making responsibilities. The copyright provisions as introduced in this regulatory policy are meant to incentivize co-productions with non-Canadian partners and provide protections for Canadian creative and financial control that are not found in the current co-venture model. Accordingly, the measures adopted in this regulatory policy replace the co-venture framework.

Other criteria and issues relating to certification

167. The current certification framework includes incentives, such as the granting of time credits for the broadcast of certain types of certified programs, along with requirements, such as those relating to foreign courtesy credits and affidavits. In addition, the framework allows for specific types of productions and programming to be certified, including production packages⁵² and twinings.⁵³ Adult programming is also included in the scope of certification.

168. To simplify and modernize the certification framework in a way that aligns with a wide variety of business models, the Commission explored in the Notice⁵⁴ the possibility of amending or eliminating the above-noted elements.

Positions of parties

169. Most of the interveners who commented on time credits⁵⁵ stated that they should be discontinued given that they are less relevant in an on-demand environment. The

⁵⁰ The Commission acknowledges that defining the concept of “good faith” in negotiations is being considered in another proceeding to implement the modernized Act (see Broadcasting Notice of Consultation 2025-2). Any definition resulting from that proceeding will be applicable in the context of these guiding principles for negotiations in respect of Canadian programs.

⁵¹ This model includes ventures with co-producers from a foreign country that does not have a film or television production treaty with Canada and ventures with co-producers of a treaty country that do not otherwise meet Telefilm Canada’s eligibility requirements.

⁵² A production package is defined as two or more co-productions or co-ventures by a Canadian production company with one or more non-Canadian production companies, where a production with minor foreign involvement that qualifies as a Canadian production is matched with a foreign production with minor Canadian involvement.

⁵³ Twinning refers to the practice of pairing a fully Canadian production with a foreign production in which any Canadian participation is primarily financial and in which there is little to no Canadian participation in the creative or production aspects.

⁵⁴ See paragraphs 62 to 80 of the Notice for a detailed description for these items and the Commission’s related preliminary views.

AQPM and the Société de télédiffusion du Québec, among others, proposed adding new incentives for Canadian dubbing if time credits are removed. The CAB stated that since dubbing uses production resources, time credits should remain as long as exhibition requirements exist. BCE and Corus noted that time credits for dubbed productions continue to be especially valuable for French-language broadcasters.

170. Many interveners⁵⁶ supported the Commission's preliminary view that foreign courtesy credits should be streamlined. They proposed consolidating the credits into a single list and removing the Commission's equivalency approach. Intervenors also agreed with the Commission's proposal to replace the notarized affidavit with an attestation of duties.⁵⁷
171. Finally, intervenors generally agreed with discontinuing the Canadian certification of adult programming. Rogers, however, proposed maintaining the certification of adult programming while excluding it for the purpose of meeting CPE requirements. Kate Sinclair, a producer of adult programming, opposed the exemption of adult programming from certification. In this intervenor's view, "[a]rbitrarily exempting adult programming from Canadian designation will harm creative workers, harm film training, harm creativity, harm public opinion of sex workers, help monopolies, and open the Commission up to jurisdictional and Charter-based legal challenges."

Commission's decisions

Time credits

172. Currently, when a production is certified as Canadian, it also receives a time credit that broadcasters use to meet certain regulatory requirements. The time credit represents the percentage of time that a broadcaster can claim as Canadian content in its program logs. Supplementary time credits are also granted for productions dubbed in Canada using Canadian resources and for certain drama productions that hire Canadians for all key creative positions (i.e., the 150% drama time credit).
173. The Commission acknowledges that time credits are generally unsuitable in an on-demand environment, where programs are accessible by viewers at a time of their choosing rather than at any scheduled time, which makes it impossible to track for time credit purposes. As such, time credits no longer represent a strong incentive for broadcasting Canadian programming. In addition, the removal of time credits would

⁵⁵ Including the BSO, the Bell Fund, Rogers, Quebecor, the Société de télédiffusion du Québec, the CMF, , the AQPM, the DWCC, the DSO, the FRPC, and Irene Berkowitz.

⁵⁶ This includes the BSO, the MPA-C (supported by Buena Vista and Paramount), Rogers, the AQPM, the CMF, the Bell Fund, the DWCC, the DSO, CDGM, Discovery Digital Ventures, LLC (Discovery+), and Irene Berkowitz.

⁵⁷ As indicated at paragraph 70 of the Notice, this form would specify that the duties of the non-Canadian do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. The attestation would clearly state that the Commission has the right to audit and ask for additional documentation in relation to the foreign courtesy credit and has the right to revoke the certification if the requirements are not met.

reduce the administrative burden on certain broadcasters by simplifying reporting when they file their program logs. Finally, the Commission notes that very few traditional broadcasting undertakings are eligible to use the 150% drama time credit, especially since large English- and French-language broadcasters operating under the group-based approach are not eligible to claim them.

174. In regard to dubbing, the Commission has recognized in the past the contribution that artists and production resources in Canada's dubbing industry make to the production of Canadian programs. It has also recognized that Canadian dubbing reinforces the identification of Canadian viewers with dubbed Canadian programs. The contribution of the dubbing industry remains important today, especially in the French-speaking Quebec market. The dubbing industry in Quebec plays a vital role not only in sustaining local employment and economic activity, but also, and more importantly, in preserving and promoting distinctly Canadian French-language cultural expression by making audio-visual productions accessible to Quebec and Francophone audiences across the country, including those in OLMCs.
175. The Commission acknowledges that since dubbing uses production resources, time credits for dubbing should remain as long as exhibition requirements for traditional broadcasting undertakings exist. Moreover, maintaining time credits for dubbed content aired on linear services would ensure continued support for the Canadian dubbing industry. As such, the Commission maintains the following credits for programs broadcast on linear services:
 - for Canadian programs:
 - o 100% + 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada;⁵⁸ and
 - o no time credit if dubbed outside of Canada; and
 - for foreign programs:
 - o 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada; and
 - o 50% Canadian time credit if dubbed in Canada using Canadian resources, from a language other than an official language of Canada or an Indigenous language in Canada into an official language of Canada or an Indigenous language in Canada.

⁵⁸ Two forms of dubbing processes are recognized by the Commission when done in Canada using Canadian resources: lip synchronization or voice-over translation.

176. Further, the Commission determines that it will discontinue the use of other time credits as part of its regulatory tools. With the exception of the dubbing credits noted above, Canadian programs will count for no more than full time duration (i.e., 100%) for the purpose of Canadian content exhibition requirements. This means that the 150% time credit for certain Canadian drama programs is discontinued and that a program under this category will count for 100% of its time duration.

Foreign courtesy credits and affidavits

177. Currently, to ensure that Canadians are clearly recognized as the central decision-makers for a domestic production, non-Canadians cannot receive a producer, co-producer, line producer, or production manager credit. They can however be awarded courtesy credits under certain conditions.⁵⁹

178. Notarized affidavits are currently required for all non-Canadians receiving foreign courtesy credits. The Commission currently separates producer-related roles into two distinct groups based on the importance of their creative and financial control on a production, and reviews any courtesy credits given to a non-Canadian to ensure that their duties do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. If a non-Canadian obtains a foreign courtesy credit in a producer-related role from either of these groups, the Commission requires that a Canadian occupy a similar producer-related role also from these groups. This is known as an equivalency scope. In the Notice, the Commission proposed to simplify this criterion by consolidating the foreign courtesy credits into a single list (as opposed to having two distinct groups), thus eliminating the need to require equivalencies. It also proposed to simplify the affidavit requirement with a standardized attestation of duties form.

179. Parties that intervened on this issue generally agreed with the Commission's proposed approach. In the Commission's view, this simplified and streamlined approach would lighten the administrative burden for applicants without impacting Canadian productions. The framework includes safeguards (such as high-level requirements for Canadian key creative positions and production costs) that ensure Canadian creative and financial control are well supported.

180. Accordingly, the Commission amends the certification framework as follows for productions that are characterized by 100% Canadian copyright ownership:

- The foreign courtesy credits will be consolidated into a single list, without requiring equivalencies between the two above-noted distinct groups of producer-related roles. The Commission therefore requires that for every non-Canadian obtaining a foreign courtesy credit from the producer-

⁵⁹ Courtesy credits may be awarded to non-Canadians for non-creative, non production-related functions that in no way interfere with the financial and creative authority of the Canadian producer and either relate to the arranging of foreign distribution or financing or services to the production under the strict supervision and control of the Canadian producer.

related roles of the consolidated list, a Canadian also needs to be credited in a producer-related role from this same consolidated list.

- The notarized affidavit requirements will be replaced with an attestation of duties form. This form will specify that the duties of the non-Canadian do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. The form will clearly state that the Commission has the right to audit and ask for additional documentation in relation to the foreign courtesy credit and has the right to revoke the certification if the requirements are not met.

Production packages and twinings

181. The Commission has received very few applications for the certification of production packages and twinings since their implementation decades ago. As such, the Commission is of the view that certifying such productions does not add value to the flexibility or versatility of the certification framework. Accordingly, the Commission discontinues the certification of production packages and twinings.

Adult programming

182. In the Notice, the Commission stated that adult programming is an element of the production industry that does not require regulatory support for its overall economic stability. Further, the certification or non-certification of this type of programming does not impact the Canadian production industry associated with the creation or availability of such content. As such, the Commission confirms its preliminary view that it will no longer certify adult programming as Canadian for the purposes of the certification framework. The Commission notes that this determination does not materially affect the Commission's jurisdiction over that type of programming, as adult programs would remain "programs" under the Act.

183. The Commission notes that other existing requirements relating to the broadcast of adult programming by discretionary services remain in place, in particular, the standard condition of service⁶⁰ requiring a licensee that broadcasts adult programming to adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*.⁶¹ The Commission further notes that on-demand services continue to be subject to the requirement to maintain a code governing the broadcast of adult programming, and that other applicable programming codes, including those relating to equitable portrayal and related standards, remain in force. The Commission clarifies that, while it will no longer certify these programs as Canadian, this does not constitute the elimination or easing of any existing regulatory requirements.

⁶⁰ See Broadcasting Regulatory Policy 2023-306 for further details.

⁶¹ Broadcasting Public Notice 2003-10.

Conclusion on modernizing the certification framework

184. In brief, the Commission has considered the factors set out in the Act and in the Policy Direction and is satisfied that its decisions set out above for modernizing the certification framework for Canadian programs will adequately support Canadian artistic and cultural expression by ensuring that Canadian stories, perspectives, and creative talent remain central to the audio-visual sector, while also helping generate Canadian employment opportunities across key creative and technical positions. By setting clear criteria for Canadian programs, the framework strengthens the capacity of the Canadian production industry to develop distinctive programming that reflects national identity. A modernized framework that incorporates flexible Canadian copyright ownership provisions further enhances these benefits by safeguarding Canadian creative rights, thereby enabling Canadian creators to retain greater control over their programs while providing opportunities to foster partnerships with non-Canadian creators and other partners.

Next steps – Implementation of the modernized certification framework

185. To implement its decisions regarding the criteria for defining “Canadian program,” the Commission intends to issue in the near future a notice of consultation calling for comments on proposed new regulations defining “Canadian program” in the audio-visual sector and on consequential amendments to the *Television Broadcasting Regulations, 1987* and to the *Discretionary Services Regulations*. The Commission invites interested persons to consult that notice of consultation for further details.

186. In view of the time required to make regulations, the Commission will assess Canadian program certification applications that it received before the date of this regulatory policy under the certification framework currently in place, and not under the modernized certification framework, which will be implemented only once the above-noted new regulations come into force. For applications received between the date of this regulatory policy and the date the above-noted new regulations come into force, the Commission will also apply the certification framework currently in place. However, an applicant who submits an application during that same time period and wishes to be certified under the modernized criteria set out in this regulatory policy can indicate this in its application. In such cases, the application will be put on hold and subsequently evaluated when the new regulations come into force. The Commission further notes that once the new regulations come into force, the new criteria will apply to all applications received on or after that coming into force date.

The use of AI in Canadian productions

187. As part of this proceeding, the Commission sought comments on the growing use of AI-generated content and on the appropriateness of considering AI-generated content as Canadian. More specifically, the Commission wished to examine AI in light of, among other things, the impact it may have on various elements in the audio-visual production industry (such as dubbing, animation and scriptwriting) in so far as

that impact relates to Canadian programming and pre-production and post-production practices.

Positions of parties

188. Interveners including Unifor and the Conseil provincial du secteur des communications du Syndicat canadien de la fonction publique (CPSC-SCFP) called for clear boundaries around the use of AI, to protect Canadian jobs, uphold creative standards, and ensure the integrity of Canadian content. Broadcasters emphasized the need for flexibility and innovation in regard to their use of AI in programming production, so as to improve efficiency by automating tasks that allow for faster and more cost-effective production.
189. Several interveners expressed concerns over the integration of AI into the Canadian broadcasting system, particularly in regard to the potential replacement of media workers, loss of creative control, and the implications on eligibility for Canadian program certification. The DGC, Unifor, the CPSC-SCFP, Music Canada, and the Société professionnelle des auteurs compositeurs du Québec et des artistes entrepreneurs emphasized the critical need to ensure the primacy of human creators over AI, and for AI to serve only as a support tool. According to Accessible Media Inc., the use of AI should not replace human intervention, especially in regard to captioning, and American Sign Language (ASL) and Langue des signes québécoise (LSQ) (a position shared by the Disability Screen Office and by the Deaf and Hard of Hearing Coalition), but should be used as a tool to streamline production processes, reduce costs, and enhance accessibility.
190. The Computer & Communications Industry Association submitted that questions regarding copyright and authorship as they relate to AI-generated material remain unsettled and that determining the nationality of AI outputs is impractical. Broadcasters and producers, including Channel Zero Inc. (Channel Zero), Rogers and the IBG, expressed differing views on AI in broadcasting. Channel Zero cautioned against the Commission making hard and fast rules on broadcaster use of AI, urging it instead to encourage experimentation. Rogers stated that the Commission must take a cautious view toward the use of AI. It expressed support for the use of AI in programming production, but only to the extent that it improves efficiency. Rogers added that although technological innovation has always been an important part of Canadian broadcasting, content must truly strengthen Canada's cultural, political, social and economic fabric. The IBG argued that AI-generated material or elements within a production should not affect the qualification of a production that would otherwise meet the Canadian certification criteria, as long as the persons using that tool are Canadian. Finally, Pelmorex Weather Networks (Television) Inc. stated that AI-generated or AI-assisted content (including its AI-assisted avatar, when produced by its Canadian staff) should be considered Canadian content.

Commission's decisions

191. The use of AI in the broadcasting system is in its early stages; however, the impact of this technology is anticipated to grow. Many non-Canadian jurisdictions

have initiated public consultations regarding AI and are establishing guidelines or have adopted regulatory frameworks for the technology.⁶² In Canada specifically, the use of AI is not currently contemplated in the Act or in its broadcasting policy objectives. However, the Commission notes that broad discussions are ongoing in Canada on the legislative framework for AI.

192. The Canadian broadcasting industry is adapting to the growing presence of AI and is taking measures to set boundaries. Protective measures have been introduced in several collective agreements, notably those of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and the WGC.
193. The Commission heard during this proceeding how AI is being integrated into certain functions throughout the content production cycle, and how its use can raise concerns. The Commission also heard concerns about the transparency of AI content and whether users are able to tell what is AI-generated and what is not.
194. In the Commission's view, the record of this proceeding did not yield any clear policy proposals in response to the AI-related issues identified in the Notice, or any specific clear path forward in regard to addressing the use of AI in the broadcasting system. However, the Commission is mindful of the need to emphasize the importance of human input and creative control in the production of Canadian audio-visual programming.
195. It is the Commission's view that the key creative positions and functions of the modernized certification framework should be filled and performed by humans. While AI may serve as a potential tool to assist in the creation of Canadian content, the Commission is of the view that humans should hold creative control to support economic opportunities and remuneration for Canadians creators. The Commission will apply this lens when evaluating whether a production meets the criteria for key creative positions and functions, and other criteria used to certify productions as Canadian programs.

Data collection and publication requirements

196. In the Notice, the Commission sought comments on how to ensure that the Commission, the broadcasting industry and Canadians have access to appropriate data for accountability and transparency purposes.
197. As part of this proceeding, the Commission has considered the publication of financial data and CPE data collection requirements.

⁶² For example, the United Kingdom launched a public consultation on copyright that closed in February 2025. In January 2025, the United States Copyright Office issued guidelines on the copyrightability of AI-generated works, which reinforces the policy that only human authorship qualifies for copyright protection. China, the European Union and Korea have adopted regulatory frameworks on AI.

Positions of parties

198. Non-Canadian online undertakings⁶³ and the MPA-C generally did not oppose being required to file CPE-related data with the Commission where they are subject to such obligations. However, they opposed making such financial information public. According to Roku, Inc., collecting and making public information about the revenues and expenditures of online undertakings could jeopardize the competitive position of smaller and growing services. Amazon stated that publishing undertaking-level data would be competitively harmful. Google LLC proposed publishing only aggregate CPE-related data to show system-level spending and trends. Many interveners noted that the Commission had determined, with respect to base contributions,⁶⁴ that these undertakings' financial information could be treated as confidential.
199. Organizations that represent public-interest and equity-deserving groups⁶⁵ submitted that comprehensive data collection and publication for all undertakings is necessary for accountability, market transparency and public participation. Friends of Canadian Media argued that the online undertakings that opposed these measures failed to demonstrate how the current obligations cause competitive harm. It called for the Commission to apply the current disclosure requirements to online undertakings.
200. The CAB considered the Commission's current category groupings for programming and production expenditures to be reasonable and expressed support for the public disclosure of aggregate CPE-related data where there is a clear public policy interest. Broadcasters including Rogers and Quebecor, however, argued that the current requirements are excessive and hinder content production, and should be reduced and harmonized with other sectors.
201. Certain producer associations including the CMPA and the APFC expressed support for the Commission's proposal endorsing the mandatory disclosure of disaggregated revenue and expense data from all broadcasters subject to CPE requirements.

Commission's decisions

Publication of financial data

202. Access to relevant data and information promotes transparency and accountability among industry players. Such access is also necessary for the Commission to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in the Act. The Commission has a responsibility to regulate and supervise the Canadian broadcasting system. In doing

⁶³ Including Netflix, Apple, and Roku, Inc.

⁶⁴ See Broadcasting Regulatory Policy 2024-121-1.

⁶⁵ Including the BSO, the REMC, PIAC, Friends of Canadian Media, and the Quebec English-language Production Council.

so, it must take into account the nature and the diversity of the services provided by broadcasting undertakings, as well as their size, their impact on the Canadian creation and production industry (particularly with respect to employment in Canada and Canadian programming), and their contribution to implementing the broadcasting policy set out in the Act.⁶⁶ Further, the Policy Direction directs the Commission to provide information to the public on a periodic basis regarding the achievement of the Canadian broadcasting policy objectives.⁶⁷

203. Accordingly, the Commission finds that there is a clear public interest in ensuring sufficient and transparent reporting by all players (Canadian or non-Canadian) in the Canadian broadcasting industry, of all sizes and regardless of origin, so that all broadcasters and Canadians are informed. Also, it is important for the Commission, as the regulator, to facilitate fair and equitable disclosure of data and information. This is achieved by balancing the public interest in disclosing information versus any potential harm that could result from its disclosure.

204. Under paragraph 9.1(1)(o) of the Act, the Commission may make orders requiring persons carrying on all types of broadcasting undertakings, including online undertakings, to provide any information to the Commission that it considers necessary for the administration of the Act, including financial or commercial information, and information related to programming or expenditures.⁶⁸ Currently, most online undertakings are required to submit information requested by the Commission consistent with their conditions of service,⁶⁹ while traditional broadcasting undertakings are subject to various similar provisions set out in regulations or orders, including exemption orders. Transparency is the default under the Act; only limited types of information submitted to the Commission may be designated as confidential. Under section 25.3 of the Act, the Commission is required to balance the protection of such confidential data and disclosure of information in the public interest, thereby maximizing transparency while safeguarding sensitive information.

205. Online undertakings are currently required to publicly disclose only limited financial information, with the Commission solely publishing aggregated information on Canadian broadcasting revenues across all online undertakings in the audio and

⁶⁶ See paragraph 5(2)(a.1) of the Act.

⁶⁷ Under section 18 of the Policy Direction, the Commission is directed to provide information to the public on a periodic basis regarding the progress made in achieving the objectives of the broadcasting policy set in subsection 3(1) of the Act, including progress on the inclusion and participation of Indigenous persons, members of OLMCs and members of equity-seeking groups and ethnocultural groups in the Canadian broadcasting system.

⁶⁸ The Commission makes ad hoc requests for information and conducts routine data collection notably through annual surveys, annual and quarterly reports, and annual production reports. Information submitted to the Commission in its proceedings is proactively made publicly available and information filed in the above-noted surveys and reports to be treated as confidential is generally identified in advance by the Commission.

⁶⁹ See Broadcasting Order 2023-332, set out in the appendix to Broadcasting Regulatory Policy 2023-331, and Broadcasting Order 2024-194, set out in the appendix to Broadcasting Regulatory Policy 2024-121-1.

audio-visual sectors.⁷⁰ In contrast, some large broadcasting ownership groups are subject to more extensive disclosure requirements, including for annual aggregate returns, service-specific financial summaries, and annual production reports.⁷¹

206. The Commission acknowledges having taken a more cautious approach to the disclosure of information by online undertakings prior to their express inclusion in the Act. This approach continued after their inclusion and extended to the Commission's determinations set out in Broadcasting Regulatory Policies 2024-121 and 2024-121-1/Broadcasting Order 2024-194. With online undertakings being fully integrated into the Canadian broadcasting system as the Commission continues to implement the modernized Act, its current light approach to data publication for online undertakings limits the ability of the Commission and the public to monitor and adjust to changes in the system. The Commission considers that it must update its approach.
207. In the Commission's view, broadcasters' annual CPE and other contributions,⁷² and the total annual Canadian gross broadcasting revenues less excluded revenue⁷³ as they relate to audio-visual activities⁷⁴ in the Canadian broadcasting system, aggregated at the entity level,⁷⁵ should be public information and not routinely treated as confidential. This approach would better align the data publication requirements between online and traditional players and offer valuable information to the public.
208. The Commission acknowledges the concerns raised by interveners that some information, and in particular financial data, is competitively sensitive, and that its disclosure could place the competitive position of smaller broadcasters – especially small independent Canadian undertakings – at risk. The Commission also notes that large traditional players in the Canadian broadcasting system have for many years been, and still are, required to publish financial data at the ownership group level, and in some cases, for their individual undertakings.
209. In Broadcasting Regulatory Policies 2024-121 and 2024-121-1/Broadcasting Order 2024-194, the Commission required certain online undertakings to make base contributions: those whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of more than \$25 million, and those whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue,

⁷⁰ Estimates from Omdia for the period 2018-2020 are publicly available, but actual revenues, collected as part of the Commission's Annual Digital Media Survey, have been published, on an aggregated basis, since 2021.

⁷¹ See Broadcasting Regulatory Policy 2009-560.

⁷² This refers to expenditures to be made pursuant to the Act for Canadian content, including any contributions to be made as contemplated in Broadcasting Regulatory Policy 2024-121-1.

⁷³ As defined in Broadcasting Order 2024-194.

⁷⁴ Confidentiality and publication of data and information in respect of the audio sector is being considered in the proceeding initiated by Broadcasting Notice of Consultation 2025-52 (see in particular Broadcasting Notice of Consultation 2025-52-3).

⁷⁵ This refers to either the individual operator level or the broadcasting ownership group level if the operator forms part of such a group, as set out in Broadcasting Regulatory Policy 2024-121-1.

annual Canadian gross broadcasting revenues of more than \$25 million. This threshold approach has merit for the purpose of setting a disclosure threshold as it balances fairness, simplicity and equity based on the size of undertaking. However, the Commission considers that it would be appropriate, in setting a threshold for the public disclosure of data, to consider total annual Canadian gross broadcasting revenues rather than “annual contributions revenues”,⁷⁶ since that is the data to be disclosed.

210. In the Commission’s view, it is necessary to balance the needs of meeting public interest and protecting smaller entities, taking into account existing practices for publication of traditional undertakings’ data and information. Accordingly, the Commission finds it appropriate to publish information on broadcasters’ annual CPE and other contributions, and on their annual Canadian gross broadcasting revenues less excluded revenue as it relates to the audio-visual activities in the Canadian broadcasting system, from both online undertakings and traditional broadcasting undertakings. This applies to online and traditional broadcasting undertakings whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more, and those whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more. For greater clarity, this publication will be at the entity level, which, depending on each undertaking’s ownership structure, is either an individual broadcasting undertaking or a broadcasting ownership group.
211. The Commission recognizes that large online undertakings are not always part of a broadcasting ownership group, and that in such cases, the data disclosure above would apply to a single undertaking. Certain online undertakings have expressed concerns that data disclosure could affect their level of competitiveness in the market. In the Commission’s view, it is unlikely that any harm resulting from disclosure of that data would outweigh the public interest, given the relatively large size of the online undertakings whose information is intended to be made public and their associated large impact on the Canadian broadcasting system.
212. In light of the above, the Commission intends to publish the following information as it relates to audio-visual activities on an annual basis, aggregated at the entity level:
- annual Canadian gross broadcasting revenues less excluded revenue;
 - CPE; and
 - other contributions.

⁷⁶ Annual contributions revenue is based on online undertakings’ activities, whereas annual Canadian gross broadcasting revenues encompass broader broadcasting activities in Canada. The threshold applied will be aligned with that approach taken in regard to base contributions, to maintain consistency and simplicity.

213. This general approach would apply going forward, beginning with data collected in regard to the 2025-2026 broadcast year.
214. Leveling the playing field by modifying the publication requirements as described above is in the public interest as it fosters transparency and provides stakeholders with a more comprehensive view of market trends. As such, better informed interveners will be in a better position to fully participate in the Commission's proceedings, thereby supporting the Commission's efforts in making its decisions. This public input is critical to the Commission properly taking into account broadcasting undertakings' impact on the Canadian broadcasting system in keeping with paragraph 5(2)(a.1) of the Act.⁷⁷

CPE data collection requirements

215. The Commission collects detailed CPE data annually from broadcasters, which include breakdowns of expenses directed to overall programming production, closed captioning, and programming production by Indigenous or OLMC producers. To date, CPE-related information currently collected and published by the Commission only reflects activities of traditional broadcasting undertakings and not online undertakings. Online undertakings, however, are active in creating programming in Canada and making that programming available to Canadian audiences. As such, the Commission and the public have access to only partial information on this important element of Canadian programming in the Canadian broadcasting system, which limits the Commission's ability to effectively regulate and supervise the Canadian broadcasting system to support various objectives outlined in the Act.
216. In regard to the granularity of the CPE data collected, the Commission considers that there is value in continuing to collect expenditure data on Canadian programs by program category. This allows for a more comprehensive picture of how CPE are allocated and amortized and offers valuable information to monitor and assess elements of the Canadian broadcasting system for which regulatory support might be necessary.
217. In light of the above, the Commission determines that operators of all broadcasting undertakings that currently are or may become subject to CPE requirements will be required to file with the Commission, via the annual returns, data on CPE. For the purposes of that requirement, the data collection approach requiring programming expenditure data divided by program category will be maintained.⁷⁸

⁷⁷ Specifically, "[t]he Canadian broadcasting system should be regulated and supervised in a flexible manner that takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size [and] their impact on the Canadian creation and production industry [...]."

⁷⁸ The full list and definitions of program categories are set out in the appendix to Broadcasting Regulatory Policy 2010-808.

218. In regard to the applicability and scope of CPE requirements, the Commission will issue its determinations in the above-noted separate regulatory policy that will focus on funding and support for Canadian programming.

Streamlining of reporting requirements

219. The Commission recognizes the importance of balancing data publication and collection requirements with the goal of streamlining reporting and reducing administrative burdens on broadcasters.

Positions of parties

220. Several interveners⁷⁹ supported the filing of a single, standardized production report for undertakings subject to CPE requirements.
221. The MPA-C supported a requirement to submit a streamlined production report focused solely on compliance monitoring. Apple noted that existing production reports are not standardized and considered that a single template would not suit diverse online models. It further stated that publication requirements should include confidentiality safeguards and limit disclosure to aggregate data.
222. Quebecor stated that the current reporting requirements are overly burdensome and hinder content production as they consume significant resources. It requested a substantial reduction in administrative burden and a harmonization of obligations with those in other sectors. Similarly, the CAB noted the burden of reporting and proposed a single, streamlined report.
223. Certain interveners⁸⁰ proposed the addition of sufficient fields to the current production report to assess outcomes for equity-deserving groups and OLMCs. The APFC and the Quebec English-language Production Council proposed adding language-market data collection to the report.

Commission's decisions

224. The Commission is mindful of the overall burden that data reporting and data publication requirements impose on the industry, and especially on traditional undertakings that, as noted above, file annual returns and a number of reports with the Commission. With that in mind, the Commission considers that it would be appropriate to alleviate some of that burden where there is duplication in the collection or publication of data.

⁷⁹Knowledge Network, Apple, the DSO, the BSO, the REMC, Rogers, and PIAC.

⁸⁰ The BSO, the DSO, PIAC, and the REMC.

225. Currently, vertically integrated broadcasters⁸¹ are required to disclose annual aggregate financial returns, as well as revenues and subscriber totals for each of their discretionary services. The filing and publication of these aggregate financial returns and service-specific financial summaries result in duplicated activities as the data is also collected as part of the annual returns in a disaggregated form. Furthermore, the Commission's current disclosure practices placed on large traditional broadcasting undertakings result in regulatory asymmetry given that online broadcasting undertakings are not subject to the same level of disclosure. This, in the Commission's view, can put the traditional broadcasters at a competitive disadvantage.
226. Some broadcasting undertakings are also currently required to file with the Commission [annual production reports](#).⁸² These reports provide detailed information⁸³ on an individual program basis for broadcasters' production expenditures, except those for programming in the news and sports categories. The reports offer insights on broadcasters' spending on programming, including that produced by OLMCs and by Indigenous producers, and on the presence of women in key production roles. The data is published on an aggregated basis, by large English- and French-language broadcasting ownership groups. Production expenditures by online undertakings are not currently included in the reports.
227. Consistent with subparagraph 3(1)(d)(iii) of the Act, the broadcasting system should serve the needs and interests of a wide range of Canadian equity-deserving groups, including through its programming and employment opportunities. In the Notice, the Commission stated its goal of ensuring that Canada's diversity is reflected in the Canadian broadcasting system and that a range of creators is supported. In the Notice, equity-deserving groups were defined as racialized people, people with disabilities, individuals who identify as 2SLGBTQI+ and women. As such, and to better monitor progress towards meeting that objective and to meet the stated needs of the public for such data, the Commission is of the view that collecting data on key creative positions filled by Canadians that are part of equity-deserving groups is necessary, in addition to reporting on OLMC, Indigenous and women creators.
228. Given the success in tracking data on some equity-deserving groups (namely, women in production), OLMCs and Indigenous peoples through the production reports, the Commission is of the view that the report lends itself well to be expanded to gather information on all equity-deserving groups (specifically, racialized people,

⁸¹ As noted in Broadcasting Regulatory Policy 2011-601, vertical integration can refer to the ownership or control by one entity of both programming services and distribution services, or of both programming undertakings and production companies.

⁸² See Broadcasting Information Bulletin 2019-304 for details on current production reports.

⁸³ For example, original, first-run programming and other content; content produced by OLMC producers as defined in Broadcasting Information Bulletin 2019-304, and Indigenous producers; and the commissioning of programming made by women occupying the roles of producer, director, writer, cinematographer and editor and women occupying the roles of first and second lead performer.

people with disabilities and individuals who identify as 2SLGBTQI+, in addition to women).

229. Accordingly, starting in the 2025-2026 broadcast year, the Commission will collect, as part of the annual production report, information on the presence, in key creative positions, of people who self-identify as members of the above-noted equity-deserving groups, members of OLMCs, and Indigenous peoples.
230. The Commission acknowledges the concerns raised during the proceeding regarding the administrative burden associated with compiling data for the production reports. Specifically, it can be difficult to track information for older, repeat programming where such data was not originally identified. Furthermore, reporting on the same content for multiple years (i.e., repeat programming) results in data duplication.
231. Accordingly, production reports to be filed with the Commission starting with the 2024-2025 broadcast year will only report on broadcasters' data relating to original first-run Canadian programming⁸⁴ that they license or commission, excluding news and sports programming. The Commission acknowledges that this will reduce the information publicly available on spending directed to older, repeat programming at the level of granularity the production report currently provides. However, CPE data will continue to be made publicly available, notably in the [Open Data portal](#) and the [broadcasting financial summaries](#) on the Commission's website. This, in combination with the original, first-run Canadian programming information from the production reports, will continue to provide sufficient information to interested parties to understand how various entities allocate their programming budget. Production information generally covering broadcasters operating in the Canadian broadcasting system is crucial to the Commission, industry stakeholders and the public to monitor compliance and trends and to ensure policy goals are met, especially when it comes to representation of equity-deserving groups. Currently, the Commission does not collect that data for online undertakings. This lack of data results in a partial picture of production spending and representation of equity-deserving groups in the production sector.
232. The Commission considers that online undertakings, given their strong presence in the Canadian broadcasting system, should also be required to submit production reports on an annual basis to provide a more fulsome picture of the diversity of people represented in that system.
233. Accordingly, the Commission determines that the requirement to file production reports with the Commission will apply to online undertakings and other broadcasting undertakings whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues

⁸⁴ For these purposes, this means the original exhibition of a program that has not been broadcast or distributed by another broadcasting undertaking.

of \$25 million or more and to online undertakings and other broadcasting undertakings whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more, and that currently are or will be subject to CPE requirements.

234. The Commission will require both a publicly available abridged version and a non-abridged confidential version of the production report to be filed at the entity level (i.e., single report per entity for groups) in a machine-readable format. The Commission will publish the aggregated abridged production reports by program (excluding financial data) provided by each entity subject to this reporting requirement.
235. Finally, while financial data (i.e., expenditures at the individual production level) will not be disclosed as part of published production reports, the Commission will publish broadcasters' aggregated regional production data in instances where data entries are provided by at least three entities in a given region, to preserve the confidentiality of the financial information.
236. To level the disclosure requirements across broadcasters, streamline regulatory processes, alleviate administrative burden, and ensure more consistency in disclosure requirements across broadcasters, the Commission will, beginning with data collected in regard to the 2025-2026 broadcast year:
- eliminate the requirements to file and disclose annual aggregate financial returns imposed on vertically integrated broadcasters; and
 - discontinue its publication of individual discretionary services' financial summaries.

Secretary General

Related documents

- *The Path Forward – Supporting Canadian and Indigenous audio content*, Broadcasting Notice of Consultation CRTC 2025-52, 20 February 2025, as amended by Broadcasting Notices of Consultation CRTC 2025-52-1, 24 March 2025; 2025-52-2, 4 April 2025; 2025-52-3, 15 April 2025; 2025-52-4, 26 May 2025; and 2025-52-5, 3 October 2025
- *The Path Forward – Working towards a sustainable Canadian broadcasting system*, Broadcasting Notice of Consultation CRTC 2025-2, 9 January 2025, as amended by Broadcasting Notices of Consultation CRTC 2025-2-1, 24 March 2025, 2025-2-2, 31 March 2025, 2025-2-3, 23 July 2025, and 2025-2-4, 1 August 2025

- *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector*, Broadcasting Notice of Consultation CRTC 2024-288, 15 November 2024, as amended by Broadcasting Notices of Consultation CRTC 2024-288-1, 26 February 2024; 2024-288-2, 24 March 2024; 2024-288-3, 31 March 2025; and 2024-288-4, 29 May 2025
- *The Path Forward – Supporting Canadian and Indigenous content through base contributions*, Broadcasting Regulatory Policy CRTC 2024-121, 4 June 2024, as finalized by *The Path Forward – Supporting Canadian and Indigenous content through base contributions – Finalization of conditions of service*, Broadcasting Regulatory Policy CRTC 2024-121-1 and Broadcasting Order CRTC 2024-194, 29 August 2024
- *Call for comments – Co-development of an Indigenous Broadcasting Policy*, Broadcasting Notice of Consultation CRTC 2024-67, 22 March 2024
- *Review of exemption orders and transition from conditions of exemption to conditions of service for broadcasting online undertakings*, Broadcasting Regulatory Policy CRTC 2023-331 and Broadcasting Order CRTC 2023-332, 29 September 2023
- *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023
- *Change to the treatment of stock footage costs as part of the evaluation of applications for Canadian program certification*, Broadcasting Regulatory Policy CRTC 2023-90, 23 March 2023
- *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019
- *Let’s Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2025
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, as corrected by *Regulatory framework relating to vertical integration – Correction*, Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011
- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010

- *Public disclosure of aggregate financial data for owners of large broadcasting distribution undertakings, multi-system operators and conventional television and radio ownership groups*, Broadcasting Regulatory Policy CRTC 2009-560, 4 September 2009
- *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003

Appendix 1 to Broadcasting Regulatory Policy CRTC 2025-299

Criteria for qualifying and certifying a Canadian audio-visual program

This appendix sets out the consolidated criteria for determining which audio-visual productions will qualify and be certified as Canadian programs.

The following requirements apply to live action and continuous action animation productions (referred to collectively as “live action productions” in this appendix) and to animated productions other than continuous action animation (referred to as “animated productions” in this appendix), unless specified otherwise.

Appendix 2 sets out the Commission’s approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in this appendix.

1. General requirements

To qualify and be certified as a Canadian program, the following requirements must be met in all cases:

- a) **Canadian production company:** The production must be produced by a Canadian production company.
- b) **Minimum Canadian expenses:** At least 75% of the production’s services costs must be paid to Canadians.⁸⁵ At least 75% of the production’s post-production/laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies.
- c) **Canadian copyright ownership – Minimum threshold:** Not less than 20% of the copyright in the program must be retained by a Canadian, which for this purpose could mean a Canadian broadcaster or a Canadian producer.
- d) **Key creative positions and functions, and other Canadian key creative elements – Minimum percentage threshold:** A production must attain a minimum threshold of either 60% or 80% of the points possible for a production as detailed in Section 2 below. Further, where a production makes use of certain key creative positions and functions, those positions and functions must be filled or performed by Canadians for the production to qualify and be certified as a Canadian program (i.e., mandatory Canadian positions and functions). The specific minimum percentage threshold and the mandatory positions and functions

⁸⁵ For the purposes of defining a “Canadian program”, a “Canadian” is a person who is, at all relevant times, a Canadian citizen as defined in the Citizenship Act or a permanent resident as defined in the Immigration and Refugee Protection Act who has received a Permanent Residence Certificate. People who are First Nations, Inuit or Métis peoples in Canada meet any certification requirement that applies to a “Canadian.”

will depend on the Canadian copyright ownership share in the program, as set out in Section 3 below.

2. The points system

Points are awarded for the key creative positions and functions set out in Tables 1 and 2 below when filled and performed by Canadians, up to the maximum possible points for each type of production.

Tables 1 and 2 also set out bonus points that are awarded for other Canadian key creative elements, which are added to the points awarded for key creative positions and functions. For greater clarity, bonus points increase the total number of points a production earns (i.e., the numerator) and do not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator).

Where bonus points are used to qualify and certify a production as a Canadian program, the mandatory key creative positions and functions must still be filled or performed by Canadians for the production to be certified as a Canadian program.

If a production does not use certain key creative positions and functions, the points associated with those positions and functions are not included (in the numerator and denominator) when calculating whether the production meets the applicable minimum threshold for Canadian certification.

Table 1 – Live action productions: Key creative positions, points to be awarded when filled by Canadians, and bonus points for Canadian key creative elements (see notes below)

Key creative positions and points (maximum number of points possible: 14)	• Director – 2 points • Screenwriter – 2 points • Showrunner – 2 points • First Lead Performer (or first voice) – 1 point • Second Lead Performer (or second voice) – 1 point • Director of Photography – 1 point • Production Designer or Art Director – 1 point • Picture Editor – 1 point • Music Composer – 1 point • Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists – 1 point • Visual Effects Director/Special Effects Director – 1 point
Key creative elements and bonus points (maximum number of points possible: 3)	• Canadian musical selections – 1 point • Canadian written works – 1 point • Canadian characters and settings – 1 point

Table 2 – Animated productions: Key creative positions and functions, points to be awarded when filled or performed by Canadians, and bonus points for Canadian key creative elements (see notes below)

Key creative positions/ functions and points ⁸⁶ (maximum number of points possible: 15)	• Director – 2 points • Scriptwriter and Storyboard Supervisor – 2 points • Showrunner – 2 points • First Voice (or first lead performer) – 1 point • Second Voice (or second lead performer) – 1 point • Design Supervisor – 1 point • Layout Artist and Background – 1 point • Key Animation – 1 point • Assistant Animation/In-betweening – 1 point • Camera Operator or Virtual Camera Operator – 1 point • Music Composer – 1 point • Picture Editor – 1 point
Key creative elements and bonus points (maximum number of points possible: 3)	• Canadian musical selections – 1 point • Canadian written works – 1 point • Canadian characters and settings – 1 point

Multiple persons filling a key creative position

Other than for the positions of Director and Screenwriter (live action productions)/Scriptwriter and Storyboard Supervisor (animated productions), points are awarded for a particular position if all persons sharing the duties of and credited in that position are Canadian.

If more than one person fills any of the Director or Screenwriter (live action productions)/Scriptwriter and Storyboard Supervisor (animated productions) positions, at least 80% of the individuals filling the same position must be Canadian for the points to be awarded.

In animated productions that use Scriptwriters or Storyboard Supervisors, but not both, 2 points will be awarded if at least 80% of the persons filling the position are Canadian.

Notes on the awarding of points for key creative positions and functions

Writer (Screenwriter [live action productions]/Scriptwriter and Storyboard Supervisor [animated productions])

All individuals involved in any stage of developing the screenplay (including outline or treatment, various drafts, dialogue polishing, and final shooting script) must be Canadian

⁸⁶ While the following functions play a significant role in animated productions, no points are awarded to them: Tracer/Photocopier, Opaquer and Animation Director.

to be awarded 2 points for the Screenwriter, Scriptwriter and Storyboard Supervisor positions.

To assess the qualification for the Screenwriter, Scriptwriter and Storyboard Supervisor positions, the Commission will examine on-screen credits, including the following:

- Story Editor (Executive, Senior, Junior);
- Creative Consultant;
- Story Consultant, Executive Story Consultant; and
- Creative Producer.

Showrunner

Showrunner points cannot be double counted. That is, if the Showrunner directs or writes the screenplays for a program, points may be awarded for either the Showrunner position or for the Director or Screenwriter positions, but not both.

Where a Showrunner writes or directs individual episodes of a series, at least 80% of the episodes must be written or directed by others for the writing and directing points to be awarded separately from the Showrunner points.

First and Second Lead Performers (or first and second voices) [live action productions], and First and Second Voices (or first and second lead performers) [animated productions]

Adding Canadians in minor roles is not sufficient for a production to qualify for the points for these positions. A production in which non-Canadians are the only lead performers or voices will not qualify or be certified.⁸⁷

For live action productions, determining the First and Second Lead Performer (or first and second voice) positions must take into account billing, on-screen time (or off-screen time for voices) and remuneration of the performers.

For animated productions, determining the First and Second Voice (or first and second lead performer) positions must take into account billing, on-screen time (or off-screen time for voices), number of lines and payment.

In non-dramatic productions, the Second Lead must have at least 50% of the on-screen time (or off-screen time where narrators or interviewers are involved) and at least 50% of the remuneration of the First Lead, plus billing appropriate for a Second Lead, in order to be awarded the point. Persons not meeting these criteria are considered to be filling minor roles.

⁸⁷ See 1.d) in the “General requirements” section above and Tables 3 and 4 regarding mandatory positions.

Music Composer

The position of Music Composer is awarded 1 point only if a Canadian has been commissioned to compose the original music specifically for the production. The rearrangement of existing music by the Music Composer, even if such music is Canadian, will not qualify for the point. Existing stock, library, or archival music may be used in addition to the original music.

Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists

If a production uses all three Head of Department positions, 1 point will be awarded only if all persons filling these positions are Canadian. In productions that do not use all three positions, the point will be awarded only if all persons in the positions that are used by the production are Canadian.

Visual Effects Director/Special Effects Director

If a live action production uses both a Visual Effects Director and a Special Effects Director, 1 point will be awarded only if all persons filling these positions are Canadian. If the production uses only one of these positions, the person filling the position must be Canadian for the production to be awarded the point.

Notes on the awarding of bonus points

Bonus point for Canadian musical selections

A bonus point for Canadian musical selections may be awarded where more than 50% of the pre-recorded or pre-existing musical selections featured in the production, including an excerpt of any duration of time, are Canadian musical selections. For greater clarity, original music specifically composed for a production is not eligible to count toward this point.

This bonus point will be awarded only if there is no Music Composer or, in the alternative, if there is a Canadian Music Composer. It will not be awarded where there is a non-Canadian Music Composer and where 50% of the musical sections in the production are non-Canadian.

Bonus point for Canadian written works

A bonus point may be awarded for the use of Canadian written works as source material for a production. For the purposes of this bonus point, a Canadian written work is defined as follows:

A written work of fiction or non-fiction (such as a novel, short story, graphic novel, novella, play, biography, autobiography, or poem), in either digital or print form, that is authored by a Canadian(s). This excludes written works such as manuals, programming text, pamphlets, tables and compilations, government publications, and blog posts. For

further clarity, material developed solely and specifically to support the development of scripts and concepts as part of a production is not eligible to receive a point.

Bonus point for Canadian characters and settings

A bonus point for Canadian characters and settings may be awarded if a production includes identifiable Canadian characters and identifiable Canadian settings. For the purposes of this bonus point, the following criteria must be met (for a series, they must be met for each and every episode):

Character:

- i. All lead characters (up to 5 main fictional characters in dramatic productions) must be identified as Canadian or members of First Nations, Inuit or Métis in Canada.
- ii. All persons on screen in non-dramatic productions, such as presenters, musicians, dancers or hosts, and all persons who are the main subjects of documentaries must be Canadian or members of First Nations, Inuit or Métis in Canada.

Synopsis: The synopsis of the production must be centred on or include these lead characters/subjects. The production must identify them as Canadian or members of First Nations, Inuit or Métis in Canada.

Location: The location of the story must be set in Canada. The story/narrative must take place entirely in an identified Canadian city/region/province/territory. The location can be identified by a Canadian landmark or by identification on screen or otherwise identified overtly in the narrative or text of the program.

3. Calculating the minimum percentage threshold

To qualify and be certified as a Canadian program, a production must meet a minimum percentage threshold. This threshold is calculated by dividing the points a production is awarded (based on the key creative positions and functions filled or performed by Canadians, along with any bonus points) by the points that are possible for the production (based on the positions and functions the production uses). This would first be expressed as a fraction (where the numerator represents the points awarded and the denominator represents the points possible) and then converted to a percentage. This minimum threshold may be 60% or 80%, depending on the level of Canadian copyright ownership in the program, as explained in Section 4 below.

For example, a live action production that uses the key creative positions of Director (2 points), Screenwriter (2 points), First Lead Performer (1 point), Second Lead Performer (1 point), Director of Photography (1 point), Music Composer (1 point) and Picture Editor (1 point) would be awarded a perfect score of 9 out of 9 points if all of the key creative positions used are filled by Canadians. However, if only the Director (2 points),

Screenwriter (2 points) and First Lead Performer (1 point) positions are filled by Canadians (and the other key creative positions are filled by non-Canadians), the production would be awarded 5 out of 9 points. This production would therefore achieve a percentage threshold of 55.6% and would not qualify and be certified as a Canadian program as it would not meet the minimum percentage threshold of 60%.

By contrast, if a Canadian filled the position of Music Composer (1 point) in this same production, it would be awarded 6 out of 9 points, or 66.7%, thereby meeting the minimum percentage threshold for certification.

Another example is a production with fewer key creative positions that allow for a maximum of 4 points in total. In this case, the number of Canadians filling these positions must be sufficient to achieve 3 out of 4 points (75%), which exceeds the 60% threshold. Similarly, for a larger-scale production with a total of 12 points available, the number of Canadians filling key creative positions must be sufficient to achieve 8 out of 12 points (66.7%).

Where bonus points are awarded, this should not negatively impact the score a production attains. That is, the bonus points should increase the total number of points a production earns (i.e., the numerator) and not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator). For example, where a production is awarded 5 out of 9 points (5/9) for key creative positions or functions filled or performed by Canadians and is also awarded 1 bonus point, the total score for the production will be 6 out of 9 points (6/9, or 66.7%), thereby meeting the minimum percentage threshold of 60%.

For greater clarity, for the production to qualify and be certified as a Canadian program, the number of points awarded must always reach or exceed the required threshold, regardless of the value of the denominator, which may change based on the specific type of production and the positions and functions filled and performed by Canadians (as such, scores of 6/10, 7/11, 8/12, 8/13 and 9/14 would reach or exceed the 60% threshold). For a score that results in a percentage below the required threshold, that percentage will not be rounded up to meet that threshold.

4. Canadian copyright ownership and the minimum percentage thresholds

4.1. Requirements based on Canadian copyright ownership levels

Tables 3, 4 and 5 below set out various requirements of the certification framework under three different levels of Canadian copyright ownership in a program.

Table 3 – Canadian copyright ownership in the program: 100%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 60% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁸⁸	Director OR Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director OR Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	All persons occupying producer, co-producer, line producer and production manager roles must be Canadian (foreign courtesy credits for non-Canadians occupying producer-related roles, which are available under certain conditions, are discussed below).	

Table 4 – Canadian copyright ownership in the program: More than 50% and less than 100%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 60% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁸⁹	Director OR Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director OR Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	Not less than 50% of persons occupying producer, co-producer, line producer and production manager and producer-related roles ⁹⁰ must be Canadian. AND The production must be produced by a Canadian production company that has no less than equal measure of decision-making responsibility with partners on all creative elements of the production.	

⁸⁸ This means that these key creative positions/functions, when used in a production, must be filled/performed by Canadians for the production to qualify and be certified as a Canadian program.

⁸⁹ *Ibid.*

⁹⁰ These roles are set out in the following section on foreign courtesy credits.

Table 5 – Canadian copyright ownership in the program: Not less than 20% and not more than 50%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 80% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁹¹	Director AND Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director AND Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	Not less than 50% of persons occupying producer, co-producer, line producer and production manager and producer-related roles ⁹² must be Canadian. AND The production must be produced by a Canadian production company that has no less than equal measure of decision-making responsibility with partners on all creative elements of the production.	

4.2. Foreign courtesy credits

The use of foreign courtesy credits applies only to programs with 100% Canadian copyright ownership.

To use foreign courtesy credits, applicants must submit an attestation of duties form.

Courtesy credits are available only for the following producer-related roles:

- Executive Producer, Senior Executive, Executive in Charge of Production, Supervising Producer, Associate Producer, Supervising Executive, Production Supervisor, Production Executive, Production Associate, Executive Consultant, Production Consultant and Creative Consultant.

For every non-Canadian obtaining a courtesy credit, a Canadian also needs to be credited in any producer-related role from the list above.

Non-Canadians may receive courtesy credits for producer-related roles provided that:

- the remuneration to the Canadian producer(s) exceeds the aggregate remuneration to non-Canadians in producer-related roles;

⁹¹ *Ibid*, footnote 88.

⁹² *Ibid*, footnote 90.

- with the exception of a non-Canadian lead performer, non-Canadians in producer-related roles must limit their time on the set to 25% of principal photography, and limit their role solely to that of observers;
- the duties of non-Canadians in producer-related roles shall be limited to non-creative, non-production-related functions. Such functions could include arranging financing or foreign distribution; and
- non-Canadians in producer-related roles may not interfere with the administrative financial and creative authority of the Canadian producer(s)/Canadian production company.

5. Certification criteria specific to certain types of productions

As set out below, different types of productions have specific criteria to qualify and be certified as Canadian programs.

Series

For a series to qualify and be certified as a Canadian program, the following criteria must be met, in addition to the general requirements listed in Section 1:

- a) The principal photography for all episodes must be completed within a 12-month period.
- b) The program must have a title, theme, and situation or set of characters common to each episode.
- c) Each episode must be of similar duration.

The production elements of a series can vary, and some individual episodes might not meet the minimum requirements of the points system. For a series in which some episodes do not meet the minimum percentage threshold to be considered a Canadian program:

- a) At least 60% of the series' episodes must meet or exceed the applicable minimum percentage threshold based on the points possible for the series, and the average percentage threshold for the entire series, based on the points awarded for each individual episode, must meet the applicable minimum percentage threshold.
- b) The episodes must be broadcast or otherwise distributed at equitable times.
- c) For live action series and animated series, each episode must meet the two mandatory requirements for the positions of Director or Screenwriter/Scriptwriter and Storyboard Supervisor, and First or Second Lead Performer (live action productions)/ First or Second Voice (animated productions) [for a minimum of 3 points for key creative positions]. For

animated productions, each episode must also fulfill the mandatory requirements regarding the Key Animation function and the position of Camera Operator/Virtual Camera Operator.

Episodes that are ineligible for qualification and certification as a Canadian program for any reason will not be segregated from the remainder of the episodes.

Live or live-to-tape productions of sports events or tournaments

Live or live-to-tape productions of sports events or tournaments will be considered Canadian if the following criteria are met:

- a) A Canadian production company exercises control over the production and provides the commentators.
- b) One of the major on-camera personalities (commentators, analysts or hosts) must be Canadian.

If the event or tournament takes place outside Canada, the production will qualify and be certified as a Canadian program only if Canadian-based teams or Canadian athletes participate in the sporting event or tournament. Other types of sports programs are assessed under the general requirements in Section 1.

Music video clips

Music video clips played in their entirety will be considered Canadian programs if the following criteria are met:

- a) The music is a Canadian musical selection.
- b) The music video clip meets at least one of the following conditions:
 - i. the video director or producer is Canadian;
 - ii. the video production facilities are located in Canada; or
 - iii. the video has already been qualified as a Canadian selection under regulations previously in effect.
- c) The music video clip must be played in its entirety. It will not be credited if played in part as an opening, a bridge or a closing, or as a backdrop for program credits.

To be considered Canadian programs, all performances exceeding five minutes in length, including commercially released music videos appearing outside music video clip

programs and logged as program category 8(b) Music video clips,⁹³ require a certification number from the Commission.

Music video programs

A music video program will be considered a Canadian program if all elements other than the music video clips qualify as Canadian, and if a minimum of 30% of those music video clips are Canadian. This is not applicable to music specialty services.

6. Dubbing

For programs broadcast on linear services, broadcasting undertakings may claim a Canadian program time credit in respect of certain dubbed programs, as set out below:

- a) for Canadian programs:
 - i. 100% + 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada;⁹⁴ and
 - ii. no time credit if dubbed outside of Canada.
- b) for foreign programs:
 - i. 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada; and
 - ii. 50% Canadian time credit if dubbed in Canada using Canadian resources, from a language other than an official language of Canada or an Indigenous language in Canada into an official language of Canada or an Indigenous language in Canada.

7. Treatment of other programs

A. Programs generally recognized as Canadian programs without formal certification

Programs that are produced solely by Canadian broadcasting undertakings (which include Canadian online undertakings) and that meet the Canadian program criteria set out in this appendix will be recognized as Canadian programs without formal certification.

⁹³ The program categories and their definitions are set out in the appendix to *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010.

⁹⁴ Two forms of dubbing processes are recognized by the Commission when done in Canada using Canadian resources: lip synchronization or voice-over translation.

Interstitials (program category 12) and public service announcements (program category 13) that meet the criteria and are not produced solely by a Canadian broadcasting undertaking will also be recognized as Canadian programs without formal certification.

News and public affairs programs produced solely by Canadian broadcasting undertakings automatically qualify as Canadian programs and, therefore, are not subject to the criteria set out in this appendix and will be recognized as Canadian programs without formal certification.

B. Programs that will not qualify or be certified as Canadian programs

Infomercials, promotional and corporate videos (program category 14), such as those produced by groups and businesses for public relations reasons, recruitment, or other reasons, and other forms of advertising material will not qualify or be certified as Canadian programs.⁹⁵

Productions made up of pre-existing content will not qualify or be certified as Canadian programs, as follows: except for documentaries, productions that are made up predominantly of existing footage (stock, archival, library, B-roll, etc.) produced by a foreign producer, even if assembled or edited in Canada with Canadian narration.

Also, existing foreign productions or program segments will not qualify or be certified as Canadian programs or as Canadian documentaries by repackaging or adapting them using any of the following techniques:

- excerpts from an original foreign production;
- the use of a significant portion of the original foreign production in essentially unedited chunks; and
- the mention of the original foreign production in the credits.

Productions that have not used such mechanisms require more intense editing of stock footage. Relatively short portions of such footage are carefully selected from a variety of sources to illuminate and develop the subject.

Adult programming will not be certified as Canadian programs (see paragraphs 182-183 of *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements*, Broadcasting Regulatory Policy CRTC 2025-299, 18 November 2025).

⁹⁵ See *Definitions for new types of priority programs; revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999.

C. Exception to qualification

Upon application, where an applicant has provided compelling reasons why a production should qualify and be certified as a Canadian program as an exception to the criteria set out above, the Commission may certify, as a Canadian program, a production in which the following positions are filled by non-Canadians:

- a) Director and Writer positions, or
- b) First and Second Lead Performer/Voice positions,

as long as Canadians fill and perform all other key creative positions and functions.

Appendix 2 to Broadcasting Regulatory Policy CRTC 2025-299

Certification, verification, assessment and interpretation in regard to qualifying and certifying an audio-visual production as a Canadian program

This appendix sets out the Commission's approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1 to Broadcasting Regulatory Policy 2025-299.

For the purposes of this appendix, "live action productions" refers to live action productions and continuous action animation productions, whereas "animation" and "animated productions" refers to animated productions other than continuous action animation productions.

1. Commission certification

The Commission will issue a final certification ("C" number) for a production that meets the criteria for certifying audio-visual productions as Canadian programs set out in Appendix 1 to *The Path Forward – Defining "Canadian program" and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements*, Broadcasting Regulatory Policy CRTC 2025-299, 18 November 2025 (Broadcasting Regulatory Policy 2025-299).

To be certified, the production must be underway, with all key creative personnel under contract and committed budgets in place.

For programs generally recognized as Canadian without formal certification, and for News and public affairs programs produced solely by Canadian broadcasting undertakings (which include Canadian online undertakings) as set out in Section 7 of Appendix 1 to Broadcasting Regulatory Policy 2025-299, Canadian broadcasting undertakings do not need to apply for certification or submit production information unless the Commission requests that they do so or if they are requesting a time credit for those programs.

The Commission will also recognize as Canadian programs those productions that are certified as Canadian by the Minister of Canadian Heritage on recommendation of Telefilm Canada, or by the Canadian Audio-Visual Certification Office (CAVCO).

2. Verification

The Commission may require audited statements, affidavits and other legal documents in support of an application for Canadian certification of a production. For example, to verify producer control of a production, the producer must be prepared to demonstrate the necessary decision-making power by submitting, upon Commission request, ownership documents, contracts, attestation of duties forms, or other relevant information. The producer must also submit, upon Commission request, an independent legal opinion

confirming that financial and creative control of the production lies in the hands of Canadians.

3. Assessment of certain animated productions

A. Assessment of computer-animated productions

Depending on the nature of the production, computer-assisted animation is assessed using either the criteria for frame-by-frame animation or those for live action productions set out in Appendix 1 to Broadcasting Regulatory Policy 2025-299. Computer-generated animation is assessed on a case-by-case basis, generally using the criteria for frame-by-frame animation.

B. Assessment of productions that mix live action and animation formats

Productions may include a mix of live action and animation formats. The Commission will assess such productions based on the following considerations:

- A documentary on or including animation will be dealt with as a documentary under the criteria for live action productions. A documentary exclusively in animation format will be dealt with under the criteria for animated productions.
- Non-documentary productions with scenes combining live action and animation will generally be considered live action productions.
- Productions combining a mix of forms of traditional animation or less commonly used forms of traditional animation will be dealt with on a case-by-case basis according to the most applicable scheme for traditional animation (e.g., cell, puppet, pixilation or camera-less).
- Productions that include a mix of live action and animation formats will be assessed according to the criteria of the predominant format. If more than 20% of the production is in the minor format, both sets of criteria will be used.

4. Policy regarding artificial intelligence

As set out in Broadcasting Regulatory Policy 2025-299, key creative positions and functions should be filled and performed by humans. While artificial intelligence may serve as a potential tool to assist in the creation of Canadian content, humans should hold creative control.

5. Guiding principles for financial participation negotiations

As set out in Broadcasting Regulatory Policy 2025-299, negotiations among production partners regarding financial participation in Canadian programs should reflect the following principles:

- **Fair compensation and exploitation:** Ensure that remuneration, rights, and revenues are allocated in a way that fairly reflects the financial and human contributions to the production, while ensuring Canadian producers retain significant, equitable control and benefit from long-term exploitation.
- **Good faith negotiation:** Production partners negotiate in good faith.

6. Interpretation notes

The following interpretation notes assist the Commission in assessing and defining the various elements of the certification framework set out in this appendix and in Appendix 1 to Broadcasting Regulatory Policy 2025-299. Where the Commission does not have detailed specific descriptions or interpretations, those set out in the CAVCO certification guidelines may be used.

Animation: The process of creating the illusion of motion through the use of inanimate or still images. Animation can be produced using either traditional methods or digital synthesis in computer-assisted or computer-generated animation. Animation includes computer animation and traditional animation.

A. Computer animation

- **Computer-assisted animation:** The technique of revising existing animated material using computer technology.
- **Computer-generated animation:** The technique of generating animated movement principally or wholly through digital image synthesis using computers and computer programs.

B. Traditional animation: Traditional animation is referred to as either “continuous” or “frame-by-frame”.

- **Continuous action animation:** The process of filming real figures, shapes or objects as they are manipulated using mechanical or other devices. When the film or the recording is played, the rapid projection of the multiple images gives the illusion of movement.
- **Frame-by-frame animation:** The process of filming or otherwise recording a series of poses of figures, objects or shapes, or drawings, each slightly displaced from the preceding pose, or of drawing them in sequence on successive frames of recording material, one or more frames at a time. When the film is projected or the recording is played, the rapid projection of the multiple images gives the illusion of movement.

Among the many types of traditional animation are the following:

- **Pixilation animation:** The technique of using live action shots of real people in real locations, manipulated to achieve the effect of having actors

jump, jerk or twitch as if they were being animated. The three ways to obtain this effect are:

- by editing live action film to remove single frames;
 - by taking single-frame photographs of actors posed as puppets; and
 - by taking one frame at a time during normal action (speed-up) or slowed-down action (normal).
- **Cell animation:** “Cell” refers to a single piece of transparent celluloid material on which a drawing is made and subsequently recorded, exposing one or more frames of film for each such cell.
- **Puppet animation:** Puppet animation is accomplished by two methods:
 - In the first method, sometimes referred to as stop-motion animation, the manipulation of two- or three-dimensional figures is recorded frame-by-frame.
 - In the second method, real figures controlled by a puppeteer are filmed continuously in real time. This latter form of animation is subject to the same criteria as live action productions.
- **Camera-less animation:** This technique involves drawing or painting directly on film frames.
- **Other forms of traditional animation:** Less common forms of traditional animation include pin-screen, silhouette, anaform and sand (drawing and form) techniques. The Commission will generally consider these styles to be frame-by-frame animation.

Animation Director: For large feature productions, this role is sometimes created to supervise the animation of entire sequences. For television specials and series, the Animation Director will sometimes be responsible for supervising the entire production. (Also see Director [animated productions].)

Assistant Animation/In-betweening: The person(s) performing these key creative functions completes the breakdown drawings and in-between work once the key characters or figures have been determined by the animator and the animation has been completed. Breakdown drawings are the main drawings between the key animation drawings that help to define the path of action. In-between drawings are done after the main path of action breakdown drawings are completed.

Background: The person performing this key creative function provides finished backgrounds for individual scenes of a film.

Camera Operator: The person filling this key creative position operates the camera for the purpose of recording the sequences of cells and backgrounds according to instructions from the director.

Canadian: A person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate.

For the purposes of eligibility for the criteria of a Canadian program, First Nations, Inuit or Métis peoples in Canada meet any requirement that applies to a “Canadian.”

“At all relevant times” refers to the commencement of the person’s duties in relation to the production, and for the entire course of the filming or taping and post-production.

Canadian expenses: All expenses related to services and post-production and laboratory (including remuneration, fringe or employee benefits, and travel and living expenses incurred in Canada or abroad) paid to or in respect of Canadians or for services rendered by Canadian companies in Canada. This includes travel and living expenses for Canadians, even if spent outside of Canada. For greater clarity, this does not include non-Canadian expenses.

Canadian musical selection: A musical selection that conforms to the criteria in the definition of “Canadian selection” set out in subsection 2.2(2) of the *Radio Regulations, 1986*, as amended from time to time.

Canadian production company: A Canadian company carrying on business in Canada, with a Canadian business address, that is owned and controlled by Canadians and whose principal business is the production of film, videotape or live programs for distribution on television or in theatrical, industrial or educational markets.

Design Supervisor (sometimes referred to as Art Director or Character Designer): The person filling this key creative position is responsible for style, visual character, colour theme and colour continuity; develops the tones of the backgrounds, figures and textures; can sometimes create the actual characters jointly with the director; and prepares visual proportion charts of the characters to safeguard uniformity during the production.

Director (animated productions): The person filling this key creative position has overall control of the artistic and creative aspects of the production; establishes the instructional workbook for the production from script and storyboard; times the action and supervises the creative and technical aspects of the work in the various stages of production; provides shot-by-shot and frame-by-frame details of the camera movement and shot punctuation by preparing the timing of each individual scene at the storyboard stage; and prepares the bar-sheets or exposure sheet instructions for the animator. These functions may also be performed in collaboration with or by the person performing the function Key Animation or the role of Animation Director.

Director (live action productions): The person filling this key creative position controls the action and dialogue in front of the camera and is therefore responsible for realizing the intentions of the scripted concept.

Director of Photography or Chief Camera Operator: The person filling this key creative position is in charge of the camera and lighting crews working on a film. This person is responsible for making artistic and technical decisions related to the image. If there is no Director of Photography, the equivalent is Chief Camera Operator.

Dubbing: Refers to dubbing processes of lip synchronization or voice-over translation.

First Lead Performer/Voice and Second Lead Performer/Voice (live action productions/animated productions): The persons filling these key creative positions speak lines of dialogue, mime a scene, or interpret a character even where there is no dialogue. The First or Second Voice is an actor reading a character voice.

For program categories⁹⁶ 7 Drama and Comedy, 8 Music and dance, Music video clips and Music video programs, and 9 Variety, the leads are the actors, musical performers, singers, or dancers, etc. The hosts of these productions are not considered lead performers unless the hosts also perform.

In other program types, the leads will usually be the host, narrator, moderator, quizmaster, commentator or interviewer (a performer engaged to perform narrative material or commentary on- or off-camera), off-camera performer (a performer other than the narrator or commentator engaged to perform a role in a dramatic work off-camera), or the person who performs or reads the voice of a character in a film or animated production.

Guests on a magazine program or the subjects of biographical documentaries are not considered performers for certification purposes.

Head of Department Responsible for Costume Design: The person filling this key creative position is responsible for overseeing the costume department in a production. Their duties may include conceptualizing and designing costumes that align with the Director's vision, managing the costume department team, coordinating with other departments, sourcing or creating costumes, and ensuring that all costumes are completed on time and within budget.

Head of Department Responsible for Make-up Artists: The person filling this key creative position is responsible for overseeing and executing the make-up design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Make-up Artists manages a team of assistants or technicians and ensures the consistency and quality of the make-up throughout the project.

⁹⁶ The program categories and their definitions are set out in the appendix to *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010.

Head of Department Responsible for Hair Artists: The person filling this key creative position is responsible for overseeing and executing the hair design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Hair Artists manages a team of assistants or technicians and ensures the consistency and quality of the hair throughout the project.

Key Animation: The person performing this key creative function (sometimes referred to as the animator) is primarily responsible for the creative vitality of the production. This person draws the key phases of movement that determine the life and expression of the characters; creates the movement of figures or objects; roughs out the timing path or sequence of the animation; and provides on dope sheets technical information to the camera operator about the order in which individual animation phases should be photographed. This person depicts extremes of movement to provide key drawings and sets the style and character of the sequence. This person's work is part of the final print.

Layout Artist: The person filling this key creative position works from the storyboard to outline the graphic organization of an animated production in the form of line drawings of background environment and by staging action for the animators' and background artists' reference. This person also draws up camera field references. In feature work, this person will also provide a detailed tonal rendering for the background department. (A related role is that of the poser. The poser, however, is an animator whose work is preliminary and ephemeral and does not form part of the final print.)

Music Composer: The position of Music Director is not accepted as equivalent to Music Composer.

Music video clips: Short films, videotape productions or concert excerpts (clips) not produced primarily for the program in which they are presented, and which normally contain one musical selection with visual material.

Non-Canadian expenses: All expenses paid to or in respect of non-Canadians or paid to non-Canadian companies. This includes any remuneration (and fringe/employee benefits) paid to non-Canadians, even if earned in Canada. This also includes travel and living expenses for any non-Canadians involved in the production, whether incurred in Canada or abroad.

Opaquers: The person occupying this role applies paint to the inked-in outlines of acetate drawings or cells or does the equivalent using electronic methods.

Picture Editor (animated productions): The person filling this key creative position assembles individual shots and sequences in continuity and fits them to the various soundtracks; provides the sound effects track; analyzes the characteristics of the music or dialogue track; provides information to animators in terms of timed film frames; supervises the dubbing, the separate soundtracks; and liaises with laboratories to obtain prints.

Picture Editor (live action productions): Means Film Editor. The positions of Sound or Music Editor will not be acceptable in the place of Picture Editor. For videotape productions, the equivalent to Picture Editor is the Off-Line Editor.

Post-production/laboratory costs: Includes all costs for the post-production, including laboratory work, sound recording, and sound and picture editing, but excludes the costs for the key creative position of Picture Editor.

Producer: The person occupying this role is expected to, among other things, be involved in acquiring and developing the story, selecting and hiring the persons to fill and perform the key creative positions and functions, preparing the budget, obtaining financing, and controlling expenditures on and the distribution of the production.

Producer and key creative personnel costs: Includes:

- remuneration for producer(s), co-producer(s), and key creative personnel eligible for points but does not include remuneration for producer-related roles; and
- related fringe or employee benefits, and travel and living expenses for the above-noted individuals.

Production Designer or Art Director: For a live action production, the Art Director will be considered equivalent to Production Designer. The person filling this key creative position is in charge of a production's artistic design, which consists of everything that appears on the screen, including sets and properties. This person is generally responsible for the conception, planning and supervision of the overall visual design of the production.

Series: A program with two or more episodes produced by the same production company or producer.

Service costs: The total cost of a production including the costs related to the “non-key” creative personnel (i.e., production labour, executive producers), rentals and acquisition rights. Service costs do not include the following:

- producer and key creative personnel costs;
- costs for the acquisition of stock footage;
- post-production/laboratory costs;
- accounting and legal fees;
- insurance brokerage and financing costs;
- indirect expenses;
- contingency costs; and

- costs for goods purchased and other costs not directly related to production (such as overhead, financing, interest, legal, insurance, auditing, contingency, distribution and publicity, etc.).

Showrunner: A Showrunner is the creative leader of a production, overseeing its vision, tone, and style. A Showrunner manages the production process and ensures quality from start to finish, working closely with Writers to keep the narrative aligned with the creative direction from inception to final delivery. While a Showrunner provides oversight on a production and acts as a liaison between various elements of the production, which may include certain key creative positions and functions, producers, financiers and the broadcaster commissioning the programming, it is subordinate to a producer in terms of exercising the overall control of a production. A Showrunner is often called on to ensure that the creative direction of a production aligns with the creative vision and cultural relevance that is intended for the production. In pre-production, a Showrunner is the key creative authority that guides the development of the final script and concept of a production. In post-production, a Showrunner is the key creative authority that oversees the final edit of a production, providing notes on picture, sound, music and visual effects to shape the finished product for delivery. While a Showrunner may be present in production meetings, in the Writer's room or at the Director's table, a Showrunner is viewed as distinct from those roles on a production.

Special Effects Director: The person filling this key creative position is responsible for creating and overseeing the practical effects in a production. These effects include anything manually or mechanically manipulated, such as explosions, car crashes, animatronics, etc. The Special Effects Director collaborates closely with the producer(s), Director and Showrunner (where applicable) to ensure the effects align with the creative vision, meet artistic and technical standards, and are executed safely and efficiently. The Special Effects Director directs the special effects team(s), oversees the design and implementation of effects, reviews work for quality and consistency, and ensures that special effects are completed on time and within budget.

Tracer/Photocopier: The person occupying this role copies the animated line drawings onto acetate sheets or does the equivalent using electronic methods.

Virtual Camera Operator: The person filling this key creative position manages digital cameras within virtual environments, directing scenes and creating dynamic camera movements in a production. This person also collaborates with Directors and visual effects teams to ensure that camera work aligns with the creative vision for the production.

Visual Effects Director: The person filling this key creative position is responsible for overseeing and managing the creation and integration of visual effects in a production. The Visual Effects Director collaborates with the producer(s), the Director and the Showrunner (where applicable) to ensure that visual effects enhance the storytelling, meet artistic and technical standards, and are executed efficiently. The Visual Effects Director directs the visual effects team(s), oversees the design and implementation of

effects, reviews work for quality and consistency, and ensures that visual effects are completed on time and within budget.

Writer: This includes the following key creative positions:

- **Screenwriter (live action productions):** The person who fills this key creative position is involved in any stage of developing the screenplay (including outline or treatment, various drafts, dialogue polishing, and final shooting script).
- **Scriptwriter (animated productions):** The person who fills this key creative position provides the written treatment; outlines the continuity of the story, dialogue or action and the parts the various characters will play in it; and elaborates upon the script during the process of visual development at the storyboard stage.
- **Storyboard Supervisor (animated productions):** Depending on the type of production and studio organization, the person filling this key creative position (either in co-operation with or instead of the Writer) creates a series of pictures to illustrate the development of the story in parallel with the written text; determines the flow of action from one scene to another; and creates a series of drawings with associated continuity showing the major action and scene changes.

In the case of a dance production, the choreographer will be considered equivalent to the Writer.

Court File No.

FEDERAL COURT OF APPEAL

B E T W E E N:

CANADIAN MEDIA PRODUCERS ASSOCIATION

Applicant/Moving Party

- and -

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF ALAIN STRATI

**(Motion for Leave to Appeal under
section 31 of the *Broadcasting Act*, SC 1991, c. 11 and
Rule 352 of the *Federal Court Rules*)**

I, Alain Strati, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am the Senior Vice-President; Industry, Policy and General Counsel of the Applicant/Moving Party, the Canadian Media Producers Association (the “**CMPA**”). Nothing in this affidavit is meant to waive any privilege of the CMPA, and rather, is given solely in my capacity as the Senior Vice-President; Industry, Policy and General Counsel.

A. The CMPA

2. The CMPA is Canada’s leading trade association for independent English-language media producers. We represent over 600 member companies engaged in the development, production and distribution of English-language content for

television, film, and digital media channels.

3. The purposes of the CMPA are manifold. We build awareness of the cultural and economic value of our industry, support our membership by negotiating labour agreements with key unions and guilds, promote diversity and growth within our industry, and advocate on behalf of our membership before federal and provincial governments on a wide range of policy and regulatory issues.

B. The *Online Streaming Act*

4. Bill C-11, *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts* was introduced in the House of Commons in or about February 2022.

5. Clause 11 of Bill-C11 proposed amendments to section 10 of the *Broadcasting Act*, SC 1991, c. 11 (the “**Act**”).

6. Clause 11 of Bill C-11 was amended at various stages prior to the Bill receiving Royal Assent. The following documents are attached in chronological order:

- a) Clause 11 of Bill C-11 as it appeared upon First Reading (February 2, 2022) is attached as Exhibit “**A**”;
- b) Clause 11 of Bill C-11 as amended by the Standing Committee on Canadian Heritage as a Working Copy for the use of the House of Commons at Report Stage, as Reported to the House of Commons on June 15, 2022 is attached as Exhibit “**B**”;
- c) The Second Report of the Standing Committee on Canadian Heritage (CHPC) regarding the Bill is attached as Exhibit “**C**”;
- d) A copy of the Government Order concerning amendments to the *Online*

Streaming Act (Bill C-11) put before the House of Commons on March 8, 2023, is attached as Exhibit “**D**”.

- e) A copy of the Statement of the Honourable Marc Gold (Government Representative in the Senate), made during Senate Debates on April 18, 2023, concerning Clause 11 of Bill C-11 is attached as Exhibit “**E**”.

7. The Bill received Royal Assent as the *Online Streaming Act* on April 27, 2023.

C. Procedural History

8. The Canadian Radio-television and Telecommunications Commission (“**Commission**”) is an administrative tribunal, established by the Act, that regulates and supervises the broadcasting industry in Canada.

9. Immediately after the *Online Streaming Act* was adopted, the Commission launched a three-step consultation process to modernize Canada’s broadcasting framework under the Act.

10. The Commission launched the first phase of its consultation process by Broadcasting Notice of Consultation dated May 12, 2023 (BNOC 2023-138). This first step set the initial contribution obligations for certain online undertakings to support the creation and discoverability of Canadian and Indigenous content.

11. On November 9, 2024, the Commission launched the second phase of its consultation process by way of Broadcasting Notice of Consultation CRTC 2024-288 (“**BNOC 2024-288**”). In BNOC 2024-288, the Commission invited public

comment (called an intervention) on various elements of the definition of Canadian content (referred to as “Canadian program” and “Canadian programming” in the Act) as well as on the types of expenditures that traditional broadcasting undertakings and online undertakings should make towards this content. A copy of BNOC 2024-288 is attached as Exhibit “**F**”.

12. The CMPA intervened in the public consultation process under BNOC 2024-288 (the “**Proceeding**”) and has a direct interest in the outcome. Copies of the CMPA’s written submissions in the Proceeding are attached as follows:

- a) Submission by the CMPA dated January 20, 2025 with appendix, is attached as Exhibit “**G**”;
- b) The CMPA’s presentations at the hearing (May 23, 2025) are attached as Exhibit “**H**”;
- c) The CMPA’s final written submission dated June 23, 2025, with appendices, is attached as Exhibit “**I**”.

13. The full public record of the Proceeding is too large to append to this affidavit, but can be found at the following URL:

https://applications.Commission.gc.ca/portail-portal/eng/listes-lists/public-proceedings/18?_ga=2.125417676.715861549.1765386789-1254679558.1764805448#2024-288

D. The Decision

14. The Commission released its decision on the definition of “Canadian program” on November 18, 2025 (the “**Decision**”). A copy of the Decision is attached as Exhibit “**J**”.

15. Among other things, the Decision introduced a new framework and definition for a “Canadian program”.

16. At paragraphs 149 and 162 and Appendix 2 of the Decision, the Commission references and states that it drew inspiration from international audiovisual co-production treaties signed by the Government of Canada. An example of one such treaty, *Audio Visual Co-Production Treaty between The Government of Canada and The Government of Ireland* is attached as Exhibit “K”.

17. Telefilm Canada’s *Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force before July 1, 2014*, are attached as Exhibit “L”. Telefilm Canada’s *Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force after July 1, 2014*, are attached as Exhibit “M”.

18. The Decision also makes reference to various other federal funding and financing systems. The following documents related to these other federal funding and financing systems are attached as follows:

- a) Canada Media Fund (CMF) *Liner Content Programs Core Production Guidelines 2025-2026* are attached as Exhibit “N”;
- b) Canada’s *Application Guidelines – Canadian Film or Video Production Tax Credit (CPTC) – Canadian Audio-Visual Certification Office (CAVCO)* are attached as Exhibit “O”.
- c) The Commission’s *Canadian Program Certification Guide* as of March 3, 2023 is attached as Exhibit “P”.

19. I make this affidavit for the purpose of the CMPA's Motion for Leave to Appeal the Decision and for no other purpose.

AFFIRMED remotely by Alain Strati in Toronto, Ontario, before me at the City of Toronto, in the Province of Ontario on December 16, 2025, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*.


Commissioner for Taking Affidavits

ALAIN STRATI

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits

First Session, Forty-fourth Parliament,
70 Elizabeth II, 2021-2022

Première session, quarante-quatrième législature,
70 Elizabeth II, 2021-2022

HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-11

PROJET DE LOI C-11

An Act to amend the Broadcasting Act and to
make related and consequential
amendments to other Acts

Loi modifiant la Loi sur la radiodiffusion et
apportant des modifications connexes et
corrélatives à d'autres lois

FIRST READING, FEBRUARY 2, 2022

PREMIÈRE LECTURE LE 2 FÉVRIER 2022

MINISTER OF CANADIAN HERITAGE

MINISTRE DU PATRIMOINE CANADIEN

Canadian original French language programs

(7) In making an order under paragraph (1)(c), the Commission shall ensure that Canadian original French language programs represent a significant proportion of the original French language programs to be broadcast.

Restriction — computer algorithm or source code

(8) The Commission shall not make an order under paragraph (1)(e) that would require the use of a specific computer algorithm or source code.

Good faith negotiation

(9) The person carrying on an online undertaking to whom an order made under paragraph (1)(i) applies and the person carrying on the broadcasting undertaking whose programming services are specified in the order shall negotiate the terms for the carriage of the programming services in good faith.

Facilitation

(10) The Commission may facilitate those negotiations at the request of either party to the negotiations.

11 (1) The portion of subsection 10(1) of the French version of the Act before paragraph (a) is replaced by the following:

Règlements

10 (1) Dans l'exécution de sa mission, le Conseil peut prendre des règlements :

(2) Paragraph 10(1)(a) of the Act is repealed.

(3) Paragraph 10(1)(b) of the French version of the Act is replaced by the following:

b) définissant « émission canadienne » pour l'application de la présente loi;

(4) Paragraph 10(1)(c) of the Act is replaced by the following:

(c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);

(5) Paragraph 10(1)(d) of the French version of the Act is replaced by the following:

d'entreprises de radiodiffusion ont le contrôle de la programmation.

Émissions originales canadiennes en français

(7) Pour la prise d'une ordonnance en vertu de l'alinéa (1)c), le Conseil veille à ce que les émissions originales canadiennes de langue française représentent une proportion importante des émissions originales en français.

Restriction — algorithme informatique ou code source

(8) L'alinéa (1)e) n'autorise pas le Conseil à prendre une ordonnance qui exige l'utilisation d'un algorithme informatique ou d'un code source particulier.

Négociation de bonne foi

(9) L'exploitant d'une entreprise en ligne visé par une ordonnance prise en vertu de l'alinéa (1)i) et l'exploitant de l'entreprise de radiodiffusion dont les services de programmation sont visés par celle-ci sont tenus de négocier de bonne foi les conditions de la fourniture de ces services.

Facilitation

(10) Le Conseil peut faciliter les négociations entre les exploitants sur demande de l'un ou l'autre d'entre eux.

11 (1) Le passage du paragraphe 10(1) de la version française de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

Règlements

10 (1) Dans l'exécution de sa mission, le Conseil peut prendre des règlements :

(2) L'alinéa 10(1)a) de la même loi est abrogé.

(3) L'alinéa 10(1)b) de la version française de la même loi est remplacé par ce qui suit :

b) définissant « émission canadienne » pour l'application de la présente loi;

(4) L'alinéa 10(1)c) de la même loi est remplacé par ce qui suit :

(c) concernant les normes des émissions sur lesquelles un exploitant d'entreprise de radiodiffusion exerce un contrôle de la programmation et l'attribution du temps d'antenne pour mettre en œuvre la politique canadienne de radiodiffusion;

(5) L'alinéa 10(1)d) de la version française de la même loi est remplacé par ce qui suit :

d) concernant la nature de la publicité et le temps d'antenne qui peut y être consacré;

(6) Paragraph 10(1)(e) of the Act is replaced by the following:

(e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates;

(7) Paragraphs 10(1)(f) to (h) of the French version of the Act are replaced by the following:

f) prescrivant les conditions d'exploitation des entreprises de programmation faisant partie d'un réseau ainsi que les conditions de radiodiffusion des émissions de réseau et concernant le temps d'antenne à réserver à celles-ci par ces entreprises;

g) concernant la fourniture de services de programmation — même étrangers — par les entreprises de distribution;

h) pourvoyant au règlement — notamment par la médiation — de différends concernant la fourniture de programmation et survenant entre les entreprises de programmation qui la transmettent et les entreprises de distribution;

(8) Paragraphs 10(1)(i) and (j) of the Act are replaced by the following:

(h.1) respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person;

(i) respecting the registration of broadcasting undertakings with the Commission;

(j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and

(9) Paragraph 10(1)(k) of the French version of the Act is replaced by the following:

k) concernant toute autre mesure qu'il estime nécessaire à l'exécution de sa mission.

(10) Subsections 10(2) and (3) of the Act are replaced by the following:

d) concernant la nature de la publicité et le temps d'antenne qui peut y être consacré;

(6) L'alinéa 10(1)e) de la même loi est remplacé par ce qui suit :

e) concernant, en ce qui a trait aux entreprises de radiodiffusion autres que les entreprises en ligne, la proportion du temps d'antenne pouvant être consacrée à la radiodiffusion d'émissions — y compris les messages publicitaires et annonces — de nature partisane ainsi que la répartition équitable de ce temps entre les partis politiques et les candidats;

(7) Les alinéas 10(1)f) à h) de la version française de la même loi sont remplacés par ce qui suit :

f) prescrivant les conditions d'exploitation des entreprises de programmation faisant partie d'un réseau ainsi que les conditions de radiodiffusion des émissions de réseau et concernant le temps d'antenne à réserver à celles-ci par ces entreprises;

g) concernant la fourniture de services de programmation — même étrangers — par les entreprises de distribution;

h) pourvoyant au règlement — notamment par la médiation — de différends concernant la fourniture de programmation et survenant entre les entreprises de programmation qui la transmettent et les entreprises de distribution;

(8) Les alinéas 10(1)i) et j) de la même loi sont remplacés par ce qui suit :

h.1) concernant la discrimination injuste qu'un exploitant d'entreprise de radiodiffusion établit et la préférence ou le désavantage indu ou déraisonnable qu'il accorde ou fait subir;

i) concernant l'enregistrement des entreprises de radiodiffusion auprès du Conseil;

j) concernant la vérification et l'examen des livres de comptes et registres des exploitants d'entreprises de radiodiffusion par le Conseil ou ses représentants;

(9) L'alinéa 10(1)k) de la version française de la même loi est remplacé par ce qui suit :

k) concernant toute autre mesure qu'il estime nécessaire à l'exécution de sa mission.

(10) Les paragraphes 10(2) et (3) de la même loi sont remplacés par ce qui suit :

Regulations — Canadian programs

(1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:

- (a) whether Canadians own copyright in relation to a program, control the exploitation of a program and retain a material and equitable portion of its value; 5
- (b) whether key creative positions in the production of a program are primarily held by Canadians;
- (c) whether a program furthers Canadian artistic and cultural expression;
- (d) whether persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs or with producers associated with Canadian broadcasting undertakings; and 10 15
- (e) any other matter that may be prescribed by regulation.

Regulations

(1.2) The Governor in Council may make regulations prescribing matters that the Commission is required to consider under paragraph (1.1)(e). 20

Application

(2) A regulation made under subsection (1) may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation. 25

Publication and representations

(3) A copy of each regulation that the Commission proposes to make under subsection (1) shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. 30

12 The Act is amended by adding the following after section 10:

For greater certainty

10.1 For greater certainty, the Commission shall make orders under subsection 9.1(1) and regulations under subsection 10(1) in a manner that is consistent with the 35

Règlements — émissions canadiennes

(1.1) Pour la prise de tout règlement en vertu de l'alinéa (1)b), le Conseil tient compte des questions suivantes :

- a) la question de savoir si les Canadiens détiennent les droits d'auteur à l'égard des émissions, contrôlent l'exploitation de ces émissions et conservent une partie importante et équitable de leur valeur; 5
- b) la question de savoir si les postes de création clés dans la production des émissions sont principalement occupés par des Canadiens;
- c) la question de savoir si les émissions contribuent à l'avancement de l'expression artistique et culturelle canadienne; 10
- d) la question de savoir si les exploitants d'entreprises en ligne ou d'entreprises de programmation collaborent, selon le cas, avec des producteurs canadiens indépendants, des exploitants d'entreprises de radiodiffusion canadiennes qui produisent leurs propres émissions ou des producteurs associés à des entreprises de radiodiffusion canadiennes; 15
- e) toute autre question prévue par règlement. 20

Règlements

(1.2) Le gouverneur en conseil peut prendre des règlements prévoyant les questions dont le Conseil doit tenir compte en application de l'alinéa (1.1)e). 20

Application

(2) Les règlements pris en vertu du paragraphe (1) s'appliquent soit à tous les exploitants d'entreprises de radiodiffusion, soit à tous les exploitants d'entreprises de radiodiffusion de certaines catégories d'entre elles établies par le Conseil dans les règlements. 25

Publication et observations

(3) Les projets de règlement d'application du paragraphe (1) sont publiés dans la *Gazette du Canada*, les exploitants d'entreprises de radiodiffusion et autres intéressés se voyant accorder la possibilité de présenter leurs observations à cet égard. 30

12 La même loi est modifiée par adjonction, après l'article 10, de ce qui suit : 35

Précision

10.1 Il est entendu que le Conseil prend des ordonnances en vertu du paragraphe 9.1(1) et des règlements en vertu du paragraphe 10(1) de manière compatible avec la liberté d'expression dont jouissent les utilisateurs des

THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits

First Session, Forty-fourth Parliament,
70-71 Elizabeth II, 2021-2022

Première session, quarante-quatrième législature,
70-71 Elizabeth II, 2021-2022

HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-11

PROJET DE LOI C-11

An Act to amend the Broadcasting Act and to
make related and consequential
amendments to other Acts

Loi modifiant la Loi sur la radiodiffusion et
apportant des modifications connexes et
corrélatives à d'autres lois

REPRINTED AS AMENDED BY THE STANDING COMMITTEE ON CANADIAN HERITAGE AS A WORKING COPY FOR THE USE OF THE HOUSE OF COMMONS AT REPORT STAGE AND AS REPORTED TO THE HOUSE ON JUNE 15, 2022

RÉIMPRIMÉ TEL QUE MODIFIÉ PAR LE COMITÉ PERMANENT DU PATRIMOINE CANADIEN COMME DOCUMENT DE TRAVAIL À L'USAGE DE LA CHAMBRE DES COMMUNES À L'ÉTAPE DU RAPPORT ET PRÉSENTÉ À LA CHAMBRE LE 15 JUIN 2022

MINISTER OF CANADIAN HERITAGE

MINISTRE DU PATRIMOINE CANADIEN

Facilitation

(10) The Commission may facilitate those negotiations at the request of either party to the negotiations.

11 (1) The portion of subsection 10(1) of the French version of the Act before paragraph (a) is replaced by the following:

Règlements

10 (1) Dans l'exécution de sa mission, le Conseil peut prendre des règlements :

(2) Paragraph 10(1)(a) of the Act is repealed.

(3) Paragraph 10(1)(b) of the French version of the Act is replaced by the following:

b) définissant « émission canadienne » pour l'application de la présente loi;

(4) Paragraph 10(1)(c) of the Act is replaced by the following:

(c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);

(5) Paragraph 10(1)(d) of the French version of the Act is replaced by the following:

d) concernant la nature de la publicité et le temps d'antenne qui peut y être consacré;

(6) Paragraph 10(1)(e) of the Act is replaced by the following:

(e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates;

(7) Paragraphs 10(1)(f) to (h) of the French version of the Act are replaced by the following:

f) prescrivant les conditions d'exploitation des entreprises de programmation faisant partie d'un réseau ainsi que les conditions de radiodiffusion des émissions de réseau et concernant le temps d'antenne à réserver à celles-ci par ces entreprises;

Facilitation

(10) Le Conseil peut faciliter les négociations entre les exploitants sur demande de l'un ou l'autre d'entre eux.

11 (1) Le passage du paragraphe 10(1) de la version française de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

Règlements

10 (1) Dans l'exécution de sa mission, le Conseil peut prendre des règlements :

(2) L'alinéa 10(1)a) de la même loi est abrogé.

(3) L'alinéa 10(1)b) de la version française de la même loi est remplacé par ce qui suit :

b) définissant « émission canadienne » pour l'application de la présente loi;

(4) L'alinéa 10(1)c) de la même loi est remplacé par ce qui suit :

c) concernant les normes des émissions sur lesquelles un exploitant d'entreprise de radiodiffusion exerce un contrôle de la programmation et l'attribution du temps d'antenne pour mettre en œuvre la politique canadienne de radiodiffusion;

(5) L'alinéa 10(1)d) de la version française de la même loi est remplacé par ce qui suit :

d) concernant la nature de la publicité et le temps d'antenne qui peut y être consacré;

(6) L'alinéa 10(1)e) de la même loi est remplacé par ce qui suit :

e) concernant, en ce qui a trait aux entreprises de radiodiffusion autres que les entreprises en ligne, la proportion du temps d'antenne pouvant être consacrée à la radiodiffusion d'émissions — y compris les messages publicitaires et annonces — de nature partisane ainsi que la répartition équitable de ce temps entre les partis politiques et les candidats;

(7) Les alinéas 10(1)f) à h) de la version française de la même loi sont remplacés par ce qui suit :

f) prescrivant les conditions d'exploitation des entreprises de programmation faisant partie d'un réseau ainsi que les conditions de radiodiffusion des émissions de réseau et concernant le temps d'antenne à réserver à celles-ci par ces entreprises;

g) concernant la fourniture de services de programmation — même étrangers — par les entreprises de distribution;

h) pourvoyant au règlement — notamment par la médiation — de différends concernant la fourniture de programmation et survenant entre les entreprises de programmation qui la transmettent et les entreprises de distribution;

(8) Paragraphs 10(1)(i) and (j) of the Act are replaced by the following:

(h.1) respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person;

(i) respecting the registration of broadcasting undertakings with the Commission;

(j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and

(9) Paragraph 10(1)(k) of the French version of the Act is replaced by the following:

k) concernant toute autre mesure qu'il estime nécessaire à l'exécution de sa mission.

(10) Subsections 10(2) and (3) of the Act are replaced by the following:

Regulations — Canadian programs

(1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:

(a) whether Canadian producers, including independent producers, have a right or interest in relation to a program, including copyright or any other right or interest, that allows them to control and benefit in a fair and equitable manner from the exploitation of the program;

(b) whether key creative positions in the production of a program are primarily held by Canadians;

(c) whether a program furthers Canadian artistic and cultural expression;

(d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated

g) concernant la fourniture de services de programmation — même étrangers — par les entreprises de distribution;

h) pourvoyant au règlement — notamment par la médiation — de différends concernant la fourniture de programmation et survenant entre les entreprises de programmation qui la transmettent et les entreprises de distribution;

(8) Les alinéas 10(1)i) et j) de la même loi sont remplacés par ce qui suit :

h.1) concernant la discrimination injuste qu'un exploitant d'entreprise de radiodiffusion établit et la préférence ou le désavantage indu ou déraisonnable qu'il accorde ou fait subir;

i) concernant l'enregistrement des entreprises de radiodiffusion auprès du Conseil;

j) concernant la vérification et l'examen des livres de comptes et registres des exploitants d'entreprises de radiodiffusion par le Conseil ou ses représentants;

(9) L'alinéa 10(1)k) de la version française de la même loi est remplacé par ce qui suit :

k) concernant toute autre mesure qu'il estime nécessaire à l'exécution de sa mission.

(10) Les paragraphes 10(2) et (3) de la même loi sont remplacés par ce qui suit :

Règlements — émissions canadiennes

(1.1) Pour la prise de tout règlement en vertu de l'alinéa (1)b), le Conseil tient compte des questions suivantes :

a) la question de savoir si les producteurs canadiens, y compris les producteurs indépendants, ont des droits ou des intérêts à l'égard des émissions, y compris un droit d'auteur ou tout autre droit ou intérêt leur permettant de contrôler l'exploitation de celles-ci et d'en tirer profit de manière juste et équitable;

b) la question de savoir si les postes de création clés dans la production des émissions sont principalement occupés par des Canadiens;

c) la question de savoir si les émissions contribuent à l'avancement de l'expression artistique et culturelle canadienne;

d) la mesure dans laquelle les exploitants d'entreprises en ligne ou d'entreprises de programmation collaborent, selon le cas, avec des producteurs canadiens

with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings made in Canada; and

(e) any other matter that may be prescribed by regulation.

Regulations

(1.2) The Governor in Council may make regulations prescribing matters that the Commission is required to consider under paragraph (1.1)(e).

Application

(2) A regulation made under subsection (1) may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation.

Publication and representations

(3) A copy of each regulation that the Commission proposes to make under subsection (1) shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation.

12 The Act is amended by adding the following after section 10:

For greater certainty

10.1 For greater certainty, the Commission shall make orders under subsection 9.1(1) and regulations under subsection 10(1) in a manner that is consistent with the freedom of expression enjoyed by users of social media services that are provided by online undertakings.

13 (1) The portion of subsection 11(1) of the French version of the Act before paragraph (a) is replaced by the following:

Règlements : droits

11 (1) Le Conseil peut prendre des règlements :

(2) Paragraphs 11(1)(a) to (d) of the Act are replaced by the following:

(a) with the approval of the Treasury Board, establishing schedules of fees to be paid by persons carrying on broadcasting undertakings of any class;

indépendants, des exploitants d'entreprises de radiodiffusion canadiennes qui produisent leurs propres émissions, des producteurs associés à des entreprises de radiodiffusion canadiennes, ou toute autre personne qui participe à l'industrie de la production d'émissions canadiennes, y compris les titulaires de droits d'auteur sur des œuvres musicales ou des enregistrements sonores produits au Canada;

e) toute autre question prévue par règlement.

Règlements

(1.2) Le gouverneur en conseil peut prendre des règlements prévoyant les questions dont le Conseil doit tenir compte en application de l'alinéa (1.1)e.

Application

(2) Les règlements pris en vertu du paragraphe (1) s'appliquent soit à tous les exploitants d'entreprises de radiodiffusion, soit à tous les exploitants d'entreprises de radiodiffusion de certaines catégories d'entre elles établies par le Conseil dans les règlements.

Publication et observations

(3) Les projets de règlement d'application du paragraphe (1) sont publiés dans la *Gazette du Canada*, les exploitants d'entreprises de radiodiffusion et autres intéressés se voyant accorder la possibilité de présenter leurs observations à cet égard.

12 La même loi est modifiée par adjonction, après l'article 10, de ce qui suit :

Précision

10.1 Il est entendu que le Conseil prend des ordonnances en vertu du paragraphe 9.1(1) et des règlements en vertu du paragraphe 10(1) de manière compatible avec la liberté d'expression dont jouissent les utilisateurs des services de médias sociaux fournis par des entreprises en ligne.

13 (1) Le passage du paragraphe 11(1) de la version française de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

Règlements : droits

11 (1) Le Conseil peut prendre des règlements :

(2) Les alinéas 11(1)a) à d) de la même loi sont remplacés par ce qui suit :

a) avec l'approbation du Conseil du Trésor, établissant les tarifs des droits à acquitter par les exploitants d'entreprises de radiodiffusion de toute catégorie;

THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to read 'AUBO', is written over a horizontal line.

Commissioner for Taking Affidavits

CHPC COMMITTEE REPORT

If you have any questions or comments regarding the accessibility of this publication, please contact us at accessible@parl.gc.ca.

Committee Report

Reports (CHPC)



Second Report

Standing Committee on Canadian Heritage (CHPC)

44th Parliament, 1st Session

Study

Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts

Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts

In accordance with its Order of Reference of Thursday, May 12, 2022, your committee has considered Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, and agreed on Tuesday, June 14, 2022, to report it with the following amendments:

Clause 2

That Bill C-11, in Clause 2, be amended by replacing lines 21 to 26 on page 2 with the following:

“community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a not-for-profit broadcasting

undertaking that is managed by a board of directors elected by the community;”

That Bill C-11, in Clause 2, be amended by adding after line 29 on page 2 the following:

“*decision* means any measure of any kind taken by the Commission. (*décision*)”

That Bill C-11, in Clause 2, be amended by adding after line 33 on page 2 the following:

“*official language minority community* means English-speaking communities in Quebec and French-speaking communities outside Quebec; (*communauté de langue officielle en situation minoritaire*)”

That Bill C-11, in Clause 2, be amended by replacing line 35 on page 3 to line 1 on page 4 with the following:

“enhance the vitality of official language minority communities and to support and”

Clause 3

That Bill C-11, in Clause 3, be amended by replacing lines 7 to 10 on page 4 with the following:

“(a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians, and it is recognized that it includes foreign broadcasting undertakings that provide programming to Canadians;”

That Bill C-11, in Clause 3, be amended by adding after line 22 on page 4 the following:

“(2.1) Subparagraph 3(1)(d)(ii) of the Act is replaced by the following:

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view, and foster an environment that encourages the development and export of Canadian programs globally;”

That Bill C-11, in Clause 3, be amended by adding after line 40 on page 4 the following:

“(iii.11) provide opportunities to Black and other racialized persons in Canada by taking into account their specific needs and interests, namely, by supporting the production and broadcasting of original programs by and for Black and other racialized communities;”

That Bill C-11, in Clause 3, be amended by replacing line 42 on page 4 with the following:

“original French language programs;”

That Bill C-11, in Clause 3, be amended by replacing lines 43 and 44 on page 4 with the following:

“(iii.3) enhance the vitality of official language minority communities in Canada and”

That Bill C-11, in Clause 3, be amended by replacing lines 7 to 12 on page 5 with the following:

“served, including with respect to the languages in use within those communities and to their ethnocultural and Indigenous composition, and the high engagement and involvement in community broadcasting by members of those communities, including with respect to matters of public concern;”

That Bill C-11, in Clause 3, be amended by adding after line 15 on page 5 the following:

“(iii.6) support the production and broadcasting of programs in a diversity of languages that reflect racialized communities and the diversity of the ethnocultural composition of Canadian society, including through broadcasting undertakings that are carried on by Canadians from racialized communities and diverse ethnocultural backgrounds,

(iii.7) provide opportunities to Canadians from racialized communities and diverse ethnocultural backgrounds to produce and broadcast programs by and for those communities;”

That Bill C-11, in Clause 3, be amended by replacing lines 6 and 7 on page 6 with the following:

“production and broadcasting of original French language programs, including those from French lin-”

That Bill C-11, in Clause 3, be amended by adding after line 22 on page 6 the following:

“(5.1) Subparagraph 3(1)(i)(iv) of the Act is replaced by the following:

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern

and to directly participate in public dialogue on those matters including through the community element; and”

That Bill C-11, in Clause 3, be amended by adding after line 22 on page 6 the following:

“(5.1) Subparagraph 3(1)(i)(v) of the Act is replaced by the following:

(v) include the greatest possible contribution from the Canadian production sector, whether it is independent or affiliated with or owned by a broadcasting undertaking;”

That Bill C-11, in Clause 3, be amended by adding after line 30 on page 6 the following:

“(6.1) Subparagraph 3(1)(m)(iv) of the Act is replaced by the following:

(iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the specific needs and interests of official language minority communities;”

That Bill C-11, in Clause 3, be amended by replacing lines 37 and 38 on page 6 with the following:

“digenous persons — within community elements, which are positioned to serve smaller and remote communities, and other elements of the Canadian broadcasting system;”

That Bill C-11, in Clause 3, be amended by replacing line 41 on page 6 with the following:

“Canadian broadcasting system, including through community broadcasting, as well as the opportunity for them to develop their own content and voices;”

That Bill C-11, in Clause 3, be amended by adding after line 41 on page 6 with the following:

“(p.1) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including without limitation, closed captioning services and video services available to assist persons living with a visual impairment;”

That Bill C-11, in Clause 3, be amended by replacing line 3 on page 7 with the following:

“cluding original French language programs, in an”

That Bill C-11, in Clause 3, be amended by adding after line 9 on page 7 the following:

“(iii) ensure the delivery of programming at affordable rates;”

That Bill C-11, in Clause 3, be amended by adding after line 14 on page 7 the following:

“(s) the programming provided by the community element should

(i) be innovative and complementary to the programming provided for mass audiences,

(ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences and include programs devoted to culture, politics, history, health and public safety, local news and current events, local economy and the arts,

(iii) reflect Canada’s communities, regions, Indigenous and multicultural nature, including through third-language programming,

(iv) support new and emerging Canadian creative talent, as a cost-effective venue for learning new skills, taking risks and exchanging ideas,

(v) through community participation, strengthen the democratic process and support countering disinformation, and

(vi) be available throughout Canada so that all Canadians can engage in dialogue on matters of public concern; and”

Clause 4

That Bill C-11, in Clause 4, be amended by replacing line 3 on page 8 with the following:

“in respect of which this Act applies, in a manner that is consistent with freedom of expression.”

Clause 5

That Bill C-11, in Clause 5, be amended by replacing lines 32 and 33 on page 8 with the following:

“— and the specific needs and interests of official language minority communities in Canada and”

That Bill C-11, in Clause 5, be amended by replacing line 38 on page 8 with the following:

“ation and production industry, particularly with respect to employment in Canada and Canadian programming, their contribution to”

That Bill C-11, in Clause 5, be amended by replacing lines 11 and 12 on page 9 with the following:

“guages, including those created and produced by official language minority communities in”

That Bill C-11, in Clause 5, be amended by adding after line 15 on page 9 the following:

“(e.2) facilitates the provision to Canadians of programs created and produced by members of Black or other racialized communities;”

Clause 6

That Bill C-11, in Clause 6, be amended

(a) by replacing lines 30 and 31 on page 9 with the following:

“the Commission shall enhance the vitality of official language minority communities in Canada and”

(b) by replacing lines 33 and 34 on page 9 with the following:

“5.2 (1) The Commission shall consult with official language minority communities in Canada when”

That Bill C-11, in Clause 6, be amended by replacing, in the French version, lines 1 and 2 on page 10 with the following:

“c) obtenir l’opinion des communautés de langue officielle en situation minoritaire concernant les politiques, déci-”

Clause 8

That Bill C-11, in Clause 8, be amended by replacing lines 25 and 26 on page 10 with the following:

“(b) publish the representations”

Clause 10

That Bill C-11, in Clause 10, be amended

(a) by replacing, in the French version, line 38 on page 11 with the following:

“doivent être des émissions de langue originale”

(b) by replacing, in the French version, line 4 on page 12 with the following:

“émissions de langue originale française;”

(c) by replacing lines 9 and 10 on page 12 with the following:

“grams and programming services, such as original French language programs;”

That Bill C-11, in Clause 10, be amended by replacing line 27 on page 12 with the following:

“person carrying on an online undertaking that provides the programming services of other broadcasting undertakings in a manner that is similar to a distribution undertaking to carry pro-”

That Bill C-11, in Clause 10, be amended by replacing, in the French version, line 6 on page 14 with the following:

“portion importante des émissions de langue originale française.”

Clause 11

That Bill C-11, in Clause 11, be amended

(a) by replacing lines 3 to 5 on page 16 with the following:

“(a) whether Canadian producers, including independent producers, have a right or interest in relation to a program, including copyright or any other right or interest that allows them to control and benefit in a fair and equitable manner from the exploitation of the program;”

(b) by replacing line 10 on page 16 with the following:

“(d) the extent to which persons carrying on online undertakings”

(c) by replacing lines 14 and 15 on page 16 with the following:

“their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings made in Canada; and”

Clause 13

That Bill C-11, in Clause 13, be amended by replacing lines 12 and 13 on page 18 with the following:

“to a broadcasting undertaking shall be fees that relate to the recovery”

Clause 14

That Bill C-11, in Clause 14, be amended by replacing line 15 on page 19 with the following:

“cated to French language original programs in”

Clause 17

That Bill C-11, in Clause 17, be amended by replacing line 33 on page 20 with the following:

“17 (1) Section 20 of the Act is amended by adding the following after subsection (1) :

(1.1) The Chairperson of the Commission may appoint members of the Commission to a panel if it is determined that the panel would otherwise have fewer than three members.

(1.2) Members of the Commission may participate in any panel, unless this participation would place them in a conflict of interest.

(2) Subsection 20(4) of the Act is replaced by the”

Clause 22

That Bill C-11, in Clause 22, be amended by replacing line 23 on page 22 with the following:

“25.2 Subject to section 25.3, the Commission shall proactively make”

That Bill C-11, in Clause 22, be amended by replacing line 34 on page 23 with the following:

“may, while protecting the privacy of Canadians,”

That Bill C-11, in Clause 22, be amended by replacing line 3 on page 24 with the following:

“fore it, the Commission may, while protecting the privacy of Canadians,”

Clause 28

That Bill C-11, in Clause 28, be amended

(a) by adding after line 34 on page 30 the following:

“(1.1) The Commission shall, in a timely manner, issue a decision with respect to subsection (1) confirming that the person is deemed to have committed the violation.”

(b) by replacing line 18 on page 31 with the following:

“made under subsection (1.1), (2) or (3) to be issued and served”

Clause 30

That Bill C-11, in Clause 30, be amended by replacing line 15 on page 37 with the following:

“ternational service that includes the creation, production and presentation of programming intended for audiences outside of Canada and provided in English, French and any other language deemed appropriate, in accordance with any directions that”

New Clause 31.1

That Bill C-11 be amended by adding after the heading "Related Amendments" after line 9 on page 38 the following:

"1992, c. 33

Status of the Artist Act

31.1 Section 6 of the *Status of the Artist Act* is amended by adding the following after subsection (2):

(3) This Part does not apply in respect of an *online undertaking*, as defined in subsection 2(1) of the *Broadcasting Act*."

Your committee has ordered a reprint of Bill C-11, as amended, as a working copy for the use of the House of Commons at the report stage.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 23 to 31 and 34 to 36) is tabled.

Respectfully submitted,

Hon. Hedy Fry
Chair

THIS IS EXHIBIT "D"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

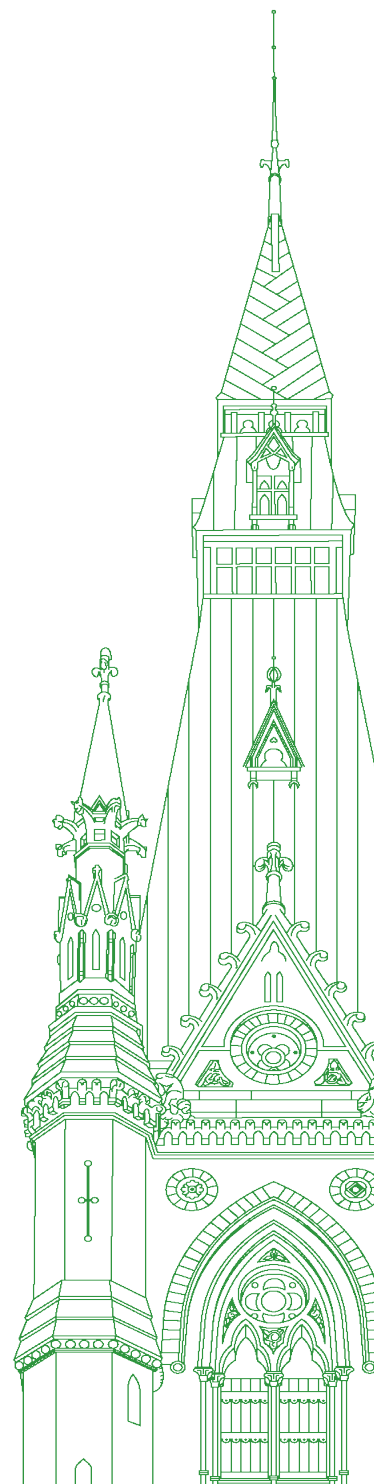
44th PARLIAMENT, 1st SESSION

House of Commons Debates

Official Report
(Hansard)

Volume 151 No. 166
Wednesday, March 8, 2023

Speaker: The Honourable Anthony Rota



GOVERNMENT ORDERS

● (1715)

[*English*]

ONLINE STREAMING ACT

Hon. Pascale St-Onge (for the Minister of Canadian Heritage) moved:

That a message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the House:

agrees with amendments 1(a)(ii), 1(b), 2(a), 2(b), 2(c), 2(d)(i), 2(e), 4, 5, 7(b)(i), 8, 9(a), 10 and 12 made by the Senate;

respectfully disagrees with amendment 1(a)(i) because the amendment does not refer to broadcasting undertakings that comprise components of the broadcasting system which may cause interpretative issues in the application of the Act;

respectfully disagrees with amendment 2(d)(ii) because the amendment seeks to legislate matters in the broadcasting system that are beyond the policy intent of the bill, the purpose of which is to include online undertakings, undertakings for the transmission or retransmission of programs over the Internet, in the broadcasting system;

Government Orders

respectfully disagrees with amendment 3 because this would affect the Governor in Council's ability to publicly consult on, and issue, a policy direction to the CRTC to appropriately scope the regulation of social media services with respect to their distribution of commercial programs, as well as prevent the broadcasting system from adapting to technological changes over time;

respectfully disagrees with amendment 6 because it could limit the CRTC's ability to impose conditions respecting the proportion of programs to be broadcast that are devoted to specific genres both for online undertakings and traditional broadcasters, thus reducing the diversity of programming;

proposes that amendment 7(a) be amended to read as follows:

"(a) On page 18, replace lines 29 to 34 with the following:

"(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;"

respectfully disagrees with amendment 7(b)(ii) because the principle that Canadian programs are first and foremost content made by Canadians is, and has been, at the centre of the definition of Canadian programs for decades, and this amendment would remove the ability for the CRTC to ensure that that remains the case;

proposes that amendment 9(b) be amended by deleting subsection 18(2.1) because the obligation to hold a public hearing both before and after decisions are taken by the CRTC will entail unnecessary delays in the administration of the Act;

respectfully disagrees with amendment 11 because the amendment seeks to legislate matters in the broadcasting system that are beyond the policy intent of the bill, the purpose of which is to include online undertakings, undertakings for the transmission or retransmission of programs over the Internet, in the broadcasting system, and because further study is required on how best to position our national public broadcaster to meet the needs and expectations of Canadians.

THIS IS EXHIBIT "E"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits



DEBATES OF THE SENATE

1st SESSION



44th PARLIAMENT



VOLUME 153



NUMBER 112

OFFICIAL REPORT
(HANSARD)

Tuesday, April 18, 2023

The Honourable GEORGE J. FUREY,
Speaker

This issue contains the latest listing of Senators,
Officers of the Senate and the Ministry.

“(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;”;

respectfully disagrees with amendment 7(b)(ii) because the principle that Canadian programs are first and foremost content made by Canadians is, and has been, at the centre of the definition of Canadian programs for decades, and this amendment would remove the ability for the CRTC to ensure that that remains the case;

proposes that amendment 9(b) be amended by deleting subsection 18(2.1) because the obligation to hold a public hearing both before and after decisions are taken by the CRTC will entail unnecessary delays in the administration of the Act;

respectfully disagrees with amendment 11 because the amendment seeks to legislate matters in the broadcasting system that are beyond the policy intent of the bill, the purpose of which is to include online undertakings, undertakings for the transmission or retransmission of programs over the Internet, in the broadcasting system, and because further study is required on how best to position our national public broadcaster to meet the needs and expectations of Canadians.

Hon. Marc Gold (Government Representative in the Senate) moved:

That, in relation to Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts, the Senate:

- (a) agree to the amendments made by the House of Commons to its amendments; and
- (b) do not insist on its amendments to which the House of Commons disagrees;

That the Senate take note of the Government of Canada's stated intent that Bill C-11 will not apply to user-generated digital content and its commitment to issue policy direction to the Canadian Radio-television and Telecommunications Commission accordingly; and

That a message be sent to the House of Commons to acquaint that house accordingly.

He said: Honourable colleagues, I rise today to speak to the motion proposing that the Senate accept the other place's message in response to the Senate's amendments to Bill C-11 and bring the online streaming act to Royal Assent.

Before I begin my remarks, there is one person that I would very much like to mention. Unfortunately, Senator Dennis Dawson's retirement date did not coincide with the passage of the bill, but I want to thank him again for the important work he did and his leadership in getting us here today. Having worked behind the scenes with Senator Dawson on Bill C-10 and Bill C-11 for what now seems like a very long time, I can attest

to the fact that he has not only vigorously defended this bill in this place, but he has also defended the Senate's views with the government both on policy and on process.

The other place's response to Senate amendments would simply not be what it is today without his consistent outreach and advocacy. I cannot thank him enough, and I very much look forward to inviting him here for Royal Assent.

Honourable senators, the Senate has three possible practical responses to this message. It can concur, insist on its amendments or make a new proposal within the scope of the disagreement. Today I am asking this chamber to concur with the decision of our fellow parliamentarians in the other place, a decision that is clear, informed and carefully considered and which comes to us following a robust and vigorous debate in a minority Parliament — and a decision, I would add, to accept in part or in full close to 80% of the amendments the Senate made to the bill. Indeed, the other place has accepted amendments proposed by senators representing all recognized parties and parliamentary groups in this place.

In addition, given the importance of the issue of user-generated content, the motion before us also proposes that we as a Senate collectively underscore to members of Parliament that we have taken note of the Government of Canada's commitment that Bill C-11 will not apply to user-generated digital content as well as the government's commitment to issue policy direction to the CRTC accordingly.

For Canada's cultural sector, it has been a long road and a long wait, but the finish line is in sight. For many in the industry, an important source of their income is inextricably linked to the passage of this bill. By concurring with the message received from the other place, we will finally usher into law a modernized Broadcasting Act that is built for today's world, an act that is forward-looking and one that is sufficiently flexible to adapt to an unpredictable digital landscape that has real-life impacts on the lives of Canadian artists.

• (1510)

And in so doing, colleagues, at long last, we would make good on the government's electoral commitment to reform the Broadcasting Act to ensure that web giants contribute to the creation and promotion of Canadian stories and music, a commitment that also formed part of the written platforms of the Bloc Québécois and the New Democratic Party during the most recent federal election.

In my remarks today, I will first turn to the context that has led us to receive this message, because that perspective is important to situate our debate and to understand why the response of the other place is worthy of our support.

Second, I will address each Senate amendment, beginning with the many that have been accepted by our elected counterparts and ending with those that our colleagues considered but ultimately decided to support an alternative policy choice.

Finally, I will contribute a few observations about the role of the Senate at this stage of the parliamentary process.

Colleagues, it is with immense pride that I speak today, because I genuinely think that the Senate did really good work on this bill and that this work was acknowledged and acted on by the other place.

As I see it, the message before us is yet another example of the meaningful contribution that the Senate can make, and indeed is making, to the legislative process. It's a respectful response from the other place, and one which — once again — shows the government's preparedness to propose that the other place accept recommendations of the Senate on any range of its signature legislative measures.

Bill C-11 is a better bill today because of our work, and I commend all of you for the work you did on this.

Now I have a few words on the context. To my mind, understanding how we got here is critically important to understanding the stakes. At this message stage, it is easy to lose sight of the forest for the trees, so part of my argument today is that we must not lose sight of the proverbial forest that is Bill C-11 — a good bill, a bill desperately needed and long overdue.

It is important to acknowledge that the two chambers of Parliament have agreed to approximately 99% of the content of Bill C-11 with the narrow issue before us being a disagreement on a few clauses. But it's equally the case that at this stage of the process, and until the bill reaches Royal Assent, the totality of Bill C-11 — the forest as a whole — is hanging in the balance.

Let me remind colleagues of what the primary objectives are of Bill C-11. Above all, it clarifies the scope of the Broadcasting Act to include online broadcasting. It updates broadcasting and regulatory policies to better reflect Canada's diversity, it ensures equitable treatment of players through regulation and, finally, it provides modernized tools for effective oversight and enforcement.

Modernizing the Broadcasting Act is a long-standing ask from the creative and cultural sectors in Canada, and it responds to the issues that are top of mind for so many Canadians such as affordability, economic competitiveness, cultural sovereignty, accessibility, consumer rights and privacy.

Artistic and cultural communities across the country as diverse as the Screen Composers Guild of Canada, the *Fédération culturelle canadienne-française* and Indigenous news organizations are eagerly awaiting its adoption into law.

The last time the Broadcasting Act was modernized was in 1991. To put this in perspective, Google went live in 1998, and Facebook in 2004; YouTube launched in 2005; in 2007, Netflix began streaming directly to TVs and computers; and in 2008, Spotify began streaming music internationally and expanded to Canada in 2014. Colleagues, changes to the Broadcasting Act are long overdue.

The genesis of Bill C-11 lies in the report prepared by the Broadcasting & Telecommunications Legislative Review Panel, chaired by Janet Yale, one of Canada's most respected telecommunications experts. The panel, established by the government in June 2018, was mandated to undertake an

independent and exhaustive review of Canada's communications laws, including the Broadcasting Act, to determine how the legislative framework could not only be updated but be able to adapt to emergent communications technologies.

The single most important message the report sought to convey was that there was an urgent need to adapt our legislative framework and regulatory tools so that Canada can be in a position for success in today's dynamic digital environment.

In January 2020, the panel presented its findings and recommendations to both the Minister of Innovation, Science and Industry and the Minister of Canadian Heritage. In November of that year, the Honourable Steven Guilbeault, who was Minister of Canadian Heritage at the time, included several recommendations from the Yale report in the tabling of Bill C-10, the predecessor to Bill C-11, during the Forty-third Parliament. Along with calling for a renewal of the institutional framework, the recommendations focused on reducing barriers to advanced telecommunications networks; supporting the creation, production and discoverability of Canadian content; improving the digital rights of Canadians and enhancing trust in the digital environment.

As part of the Liberal Party of Canada's electoral platform during the 2021 federal election and its 2021 Speech from the Throne, the government again committed to modernizing the Broadcasting Act. An improved bill, the bill currently before us, was tabled in the Forty-fourth Parliament in February of 2022.

In the other place, the bill underwent an extensive study that led to more than 40 amendments receiving the support and endorsement of the New Democratic Party and the Bloc Québécois.

Meanwhile, senators started their work on this key piece of legislation even before it arrived in the Senate. The Standing Senate Committee on Transport and Communications began its examination of the bill as part of a pre-study last June. Over the course of 31 meetings, 9 of which were devoted to clause-by-clause consideration, it heard from 138 witnesses and received 67 written submissions. In meeting time alone, the committee clocked over 67 hours, and we can only imagine the long hours that senators devoted to meeting with stakeholders and in corresponding with Canadians over the course of the same period.

I now turn to the amendments at issue. Colleagues, our labour bore fruit. As mentioned, the Senate proposed 26 amendments to the bill, 20 of which were accepted by the other place and 2 of which were accepted with minor modifications. With your indulgence, I wish to highlight the amendments the other place agrees with and has accepted.

One area where the committee made important improvements is in the broadcasting policy objectives by making the bill more inclusive and more responsive to the needs of minority communities. In amendments 2(a)(ii), 2(a)(iv), 2(b)(ii), and 2(c)(i), Senator Clement put forward proposals to standardize references to Black and racialized communities throughout the bill. These amendments will strengthen the presence of Black and racialized communities in Canada's broadcasting system.

Senator Clement also brought forward amendments to better recognize the place of Indigenous people, cultures and languages in our broadcasting system.

In amending subsection 2(a)(iii), the bill now recognizes both Indigenous peoples and the importance of emphasizing Indigenous languages in our efforts to revitalize them.

In modifying amendment 2(c)(ii), Senator Clement's changes support the production and broadcasting of Indigenous language programming in line with the United Nations Declaration on the Rights of Indigenous Peoples, and the Truth and Reconciliation Commission's Calls to Action.

The committee also ensured in amendment subsection 2(d)(i) that the lived experience of Indigenous peoples who live on- and off-reserve, in urban areas and in a variety of geographic spaces across this country are more adequately served by our broadcasting system.

These amendments will not only ensure the realities of Indigenous peoples are better reflected in our broadcasting system, but they also further our commitment to advancing reconciliation, and they are being supported by the government.

[Translation]

In addition to paying attention to the needs and realities of Indigenous Canadians, Black Canadians, and Canadians from other racialized groups, the committee also made improvements to French programming that will benefit French-language minority populations. The changes proposed by Senator Cormier in amendment 8(b) clarify what constitutes "original French language programs" produced in French compared to programs produced in other languages and dubbed in French. This amendment will ensure that original programs that are dubbed in French aren't taken into account in the associated requirements. The government supports this amendment.

• (1520)

The government also agreed to another amendment proposed by Senator Cormier to ensure the financial viability of public interest broadcasters, such as APTN, CPAC, ICI TOU.TV, AMI-télé and TV5, and to help these broadcasters meet their strategic objectives, which are consistent with the inclusion objectives of the Broadcasting Act.

Amendment 8(a) will give the Canadian Radio-television and Telecommunications Commission the power to allocate funds to initiatives such as the development of accessible technologies for people with disabilities, the improvement of the discoverability of Canadian content and the creation of online broadcasting and monetization tools for content creators.

Finally, Senator Dasko added the words "reflect and be responsive to the preferences and interests of various audiences" to section 3 of the act so that it is recognized that Canada's broadcasting objectives must take into account the diversity of the Canadian public. The government supports that objective and agreed to the amendment.

[English]

Looking out for the integrity of journalism in this country was another area where the Senate brought improvements to the bill. Senator Wallin's proposal to ensure that the policy goals set out in section 3(1)(d) of the Broadcasting Act ensure "freedom of expression and journalistic independence" — thereby further entrenching freedom of expression in the act — was another amendment that was accepted by the other place and by the government.

In addition, the government has agreed to Senator Simons' amendment to strike the language that called for community programming aimed at "countering disinformation" and replace it with the phrase to "support local journalism." Senator Simons' amendment clarifies the original intention of an amendment adopted in the other place, and it reinforces that Canada's broadcasting policy goals must include the support of local journalism. This will be a notable benefit for journalism in this country.

Protecting the privacy of individuals is another area where the Senate brought some important improvements and needed clarification to the bill. The amendment proposed by Senator Miville-Dechêne in clause 2 aims to ensure that the Canadian Radio-television and Telecommunications Commission, or CRTC, regulates in a manner that respects the privacy of individuals. This amendment complements another one put forward by the Senate's sponsor and our former colleague Senator Dawson at amendment 4(b). Both amendments are in line with testimony provided by the Privacy Commissioner at our committee hearings, and the government has accepted both.

[Translation]

In closing, honourable colleagues, I'd like to talk about some of the amendments that made the bill clearer, others that are more technical in nature and others still that are more general in scope.

First, in amendments 2(a)(i), 2(b)(iv) and 4(a), Senator Dasko proposed wording confirming that Canada's broadcasting system must encourage innovation.

The change proposed by Senator Cormier in amendment 2(c)(iii) restores the wording from a passage of the Broadcasting Act to which changes had been made. Only the mention of independent Canadian producers remains, in order to bring Canada closer to its objective of growing the independent production sector.

As far as the Status of the Artist Act is concerned, amendment 12 proposed by Senator Cormier makes a clarification to a change made at the other place by indicating that the Status of the Artist Act applies only to federally regulated organizations. This change gives more flexibility to the legislation and prevents interference in a provincial jurisdiction.

[English]

In amendment 1(b), Senator Plett put forth a proposal to broaden the interpretative clause on freedom of expression to include creators, which the government agreed to. The government also accepted an amendment tabled by Senator Batters which will harmonize the definition of “decision” with the one existing in the Telecommunications Act.

Senator Simons’ initiative to delete subsection 7(7) brings clarity and removes ambiguity from the bill, an important amendment, to be sure. Finally, in amendment 10, Senator Quinn’s amendment will require that the CRTC’s consultation reports be tabled in both houses of Parliament. This ensures that parliamentarians — and senators alike — will stay apprised of the CRTC’s consultation process. Both of these amendments have been accepted by the other place.

Colleagues, up to this point, I have detailed 18 amendments that the other place accepted, including amendments proposed by all four recognized parties and parliamentary groups in the Senate. I would now like to focus our attention on an additional two amendments the Senate proposed which were supported with modifications.

The first can be found in section 18 of the Broadcasting Act, proposed by Senator Cormier, and this is item 9 in the message. With respect to this provision, the government has proposed to keep the requirement proposed by the Senate that public hearings be held and remove subsection 2.1. The proposed amendment to add subsection 2.1 to section 18 would have required that the public hearing be held after a proposed regulation or order is published. The reason that the government respectfully disagreed with this component of the proposed amendment is because the CRTC — a quasi-judicial tribunal — consults interested parties before a regulation is developed, not afterwards. The public hearing is used to gather the evidence record upon which a regulation or an order is based. From the government’s perspective, requiring a second public hearing after decisions are taken by the CRTC during regulatory proceedings will entail unnecessary delays in the administration of the act and will ultimately impede the CRTC’s regulatory efficiency.

With respect to the second amendment accepted with modifications, one proposed by Senator Cormier, the government proposes an amendment to item 7(a) of the message, which would amend clause 11 of the bill. The government’s amendment aims to underscore the importance of supporting creators and to sustain and build Canada’s creative sectors. It allows the CRTC to make sure that Canadians are benefiting in a significant manner from the exploitation of a given program by broadcasters.

[Translation]

In summary, esteemed colleagues, the Senate proposed significant improvements to the bill to strengthen privacy, promote innovation, maintain the crucial role of independent producers in our broadcasting system, increase production of original French-language programs, normalize the presence of Black and racialized communities, better reflect the realities of Indigenous peoples in the Canadian broadcasting system, and increase the accountability of the CRTC by requiring the commission to table its reports in Parliament.

[Senator Gold]

[English]

I turn now to the few amendments that the other place has opted not to support. In doing so, it is important to understand, colleagues, that in debating the Senate’s message, the other place was asked to debate and pronounce itself specifically on the Senate’s amendments. I underscore this point because it is important to understand that what we are dealing with are informed decisions by members of Parliament on the areas of Bill C-11 that the Senate proposed be amended.

The government respectfully disagrees with amendment 1(a)(i) proposed by Senator Batters to modify the definition of “community element.” Currently, the community element would include both not-for-profit entities but also community channels that are operated by for-profit broadcasters, as is the case for Rogers, for example, where the corporation gives broadcasting space to community organizations to produce their own programming.

The government heard from a range of key stakeholders, including community-based stakeholders such as the Canadian Association of Community Television Users and Stations — it is a great acronym, CACTUS — who have requested to keep the wording “broadcasting undertaking” in the definition of “community element,” as proposed in Bill C-11. Rejecting this amendment will ensure that the definition in the bill and the act properly refers to community elements in the broadcasting system.

The government also respectfully disagrees with the proposed amendment 2(d)(ii) put forward by Senator Miville-Dechéne to compel online undertakings to implement methods such as age verification to prevent children from accessing explicit sexual material. Colleagues, protecting children is a priority of this government, and it is looking forward to introducing legislation on online safety with the goal of keeping all Canadians safe online. In the government’s view, however, Bill C-11 is not the appropriate vehicle to advance this important issue.

• (1530)

The parliamentary committees that have studied Bill C-11, and its predecessor Bill C-10, heard from many witnesses on the issues addressed by the bill. The safety of minors was not the focus of those deliberations, and to be done right, we would have had to hear from the spectrum of voices of those directly engaged and impacted by this issue. We did not, nor did they in the other place. For these reasons, the government cannot support this amendment, which goes beyond the policy intent of this legislation.

It is, however, worth highlighting that Bill S-210, which seeks to achieve similar policy objectives, is currently at third-reading stage in the Senate and is advancing as part of the normal parliamentary process.

The government equally disagrees with the addition of subsection 46(1.1) to the act as proposed by Senator Downe, which seeks to prohibit the CBC/Radio-Canada from broadcasting an advertisement or announcement on behalf of an advertiser that is designed to resemble journalistic programming. Here again, the government’s respectful disagreement takes us

back to the core objectives of the bill. Bill C-11 did not open up important questions around the CBC/Radio-Canada and its mandate. They're important questions, and it remains a key priority for the Minister of Canadian Heritage to modernize CBC/Radio-Canada. However, the government believes this should be done in a holistic way and not in a piecemeal fashion.

Although branded advertisement is an important issue, the government is of the view that this amendment is not appropriate in the context of this bill. Moreover, colleagues, CBC/Radio-Canada needs to be able to fund operations through advertising and other initiatives, and, ultimately, this proposed amendment would likely increase its reliance on government funding.

Taken together, the amendments regarding age verification and CBC/Radio-Canada are, in the government's view, a departure from the key policy intent of Bill C-11 and should be considered and debated elsewhere.

The government further respectfully disagrees with Senator Manning's proposal to remove paragraph 9.1(1)(d) of the act because of concerns that it could be interpreted as limiting the CRTC's ability to impose conditions respecting the proportion of programs to be broadcast that are devoted to specific genres of programming, including children's programming or French language dramas. Some genres, such as documentaries, have been important entry points for emerging and diverse Canadian talent. We should also remember, colleagues, that several stakeholders, including the Documentary Organization of Canada and the Canadian Media Producers Association, raised concerns about this particular amendment.

Whether in stories or song, whether traditional or online broadcasting, limiting genres could have the impact of reducing the diversity of programming in Canada, and such an outcome would go against the primary policy objective of the Broadcasting Act.

The government also respectfully disagrees with Senator Manning's proposal to add subsection 10(1.11) to the act, which proposes that no factor is determinative in establishing the definition of Canadian program. The bill sets out factors to be considered by the CRTC in its determination of a Canadian program. The amendment risks confusing matters and disrupting CRTC's regulatory process for arriving at an evidence-based determination of what Canadian content is. It places restrictions that, frankly, could prevent the CRTC from arriving at the definition that best advances the broadcasting policy objectives. In brief, the government rejected this amendment, as it would unduly restrict the CRTC's flexibility in determining the definition of Canadian program. The CRTC should be able to, following open and public processes, determine the most efficient, effective and equitable definition in light of the considerations set out in the bill.

Finally, we turn our attention to the social media services as part of section 4.2(2) of the act. Both in committee and at third reading, the issue of user-generated content on social media platforms generated much discussion and much interest. In response, an amendment was adopted at committee and by the Senate to clarify the issue. Colleagues, as many of you will know, numerous stakeholders representing Canadian artists have warned that the proposed amendment would create a major

loophole in the act — a loophole that would enable social media platforms to avoid contributing to Canadian culture in an equitable fashion.

[Translation]

There is a long list of industry spokespersons who pointed out the risks of the amendment to section 4.2(2). This list includes the Society of Composers, Authors and Music Publishers of Canada, or SOCAN, the Union des artistes, UDA, the Professional Music Publishers' Association, APPEM, the Guilde des musiciens et musiciennes du Québec, GMMQ, the Regroupement des artisans de la musique, RAM, the Collective Society for the Rights of Makers of Sound Recordings and Music Videos, SOPROQ, the Société professionnelle des auteurs et des compositeurs du Québec, SPACQ, and the Association québécoise de l'industrie du disque, du spectacle et de la vidéo, ADISQ.

I would like to start by establishing the government's position and reasoning in the context of this proposal.

[English]

I begin with the overarching legislative objectives of Bill C-11, which is to modernize the Broadcasting Act to ensure a fair, neutral and level playing field for all those who are engaged in broadcasting, whether traditional broadcasters or those new social media platforms who are acting as broadcasters. Otherwise put, Bill C-11 is designed to ensure that the modernized Broadcasting Act be agnostic as to what platform is being used to engage in broadcasting and neutral with respect to the technology being used to do that broadcasting.

Now, when Bill C-11 was tabled in February 2022, an important element in the proposed approach to platforms was to focus on the commercial programs uploaded to those services, thereby providing for equitable treatment of commercial programming consumed on different platforms, whether they're transmitted by television stations, through radio waves or on digital platforms, like Spotify or YouTube. It is not the intent of the bill to regulate social media platforms in relation to the programs of social media creators. In all cases, broadcasting regulations or requirements imposed by the CRTC must reflect and respect the freedom of expression and the overarching policy objectives set out in section 3 of the legislation.

Bill C-11 provides that regulation would not apply in the following areas: programs that do not generate revenues; everyday uses of social media, including posting amateur programs to those services; social media users and individual creators who remain exempt from the act; and, lastly, social media services except in relation to certain commercial programs.

Section 4.2 of the act lists three factors that the CRTC must consider in identifying commercial programs. It will consider the revenues generated by commercial programs, whether the programs are available on other traditional broadcasters and whether the programs have been assigned an international standard code number. The purpose of these three factors is to

ensure fairness across broadcasting platforms and to provide direction to the CRTC on how section 4.2 is to be applied in practice.

Bill C-11 provides that when social media platforms are being used to distribute commercial programs, they be required to contribute to the support of Canadian stories and Canadian music. Certain social media platforms substantially act as substitutes for other broadcasters, including streaming services. As such, the social media platform would have regulatory responsibilities, but only with respect to commercial content it distributes on its service.

The modernized Broadcasting Act will not apply to individual users of social media services. Bill C-11 does not and will not apply to user-generated content because, simply put, using a social media service does not make you a broadcaster. Rest assured, colleagues, that this legislation will not interfere with or stifle the expression of Canadian voices. The government has made this clear on several occasions, including at our committee hearings.

• (1540)

As we know, during the Senate's study of Bill C-11, the Standing Senate Committee on Transport and Communications adopted an amendment to subsection 4.2(2) of the Broadcasting Act. When it was presented, it was stated that the intent of the amendment was to narrow the scope of programs that can be regulated on social media services with a particular focus on the regulation of music on social media. Although well-intentioned, the amendment, in the government's view, is problematic for several reasons, and these reasons explain why it is opposed to by numerous stakeholders, by the government and by both the New Democratic Party and the Bloc Québécois. The central problem is that the amendment creates loopholes for social media platforms to avoid contributing to Canadian culture in an equitable manner and, by so doing, would undermine a core policy objective of the online streaming act. Let me cite two examples of why and how this is so.

First, by focusing on the regulation of sound recordings on social media, the amendment is too narrow in scope. To be sure, social media platform services are frequently used as a substitute for other music streaming services. However, commercial content is not simply restricted to music produced by the large record labels. It also includes content such as full-length movies, TV shows, sports broadcasts, award shows and live concerts, all of which typically contain music as part of the broadcast. By narrowing the scope of the clause to capture only professional sound recordings uploaded in very specific circumstances, the proposed amendment sought to make the exclusion of user-generated content more explicit.

However, in its application it would introduce interpretive uncertainty into the act, it would undermine the platform-agnostic and technology-neutral nature of the Broadcasting Act, and that could result in web giants escaping their obligations under the act. In effect, the amendment would have the effect of excluding a range of commercial audio-visual content, such as livestreamed professional sports games, full-length movies, television shows and even professional music videos from the contributions that social media platforms will and should be

required to make to support Canadian culture. The proposed amendment would not give the CRTC the ability to clearly scope in such audio-visual commercial content because it would be constrained and would only be able to do so based on the presence of soundtracks or audio elements.

Senators, please consider the following examples of when social media platforms broadcast commercial content, acting just like conventional broadcasters or online streaming platforms. For example, sports events are very valuable to broadcasters. Brands pay top dollar for advertising. For example, Facebook acquired exclusive broadcasting rights for several baseball games during the 2018, 2019 Major League Baseball seasons. Consider how millions of people watched the 2022 World Cup finals live on YouTube. There are other events, such as the upcoming finals of the popular Eurovision Song Contest, which will be broadcast on TikTok for a second year in a row. Last year, they attracted hundreds of millions of viewers. When they make money from these activities, social media companies must be obliged to reinvest in our creators and into local content creation.

The amendment could also fail to achieve its own stated purpose to capture commercial sound recordings broadcast by social media platforms. This follows from the amendment that removes the reference to monetization in the act and that allows content to be scoped in only if it is uploaded by exclusive rights holders. This effectively creates a loophole given that commercial content is often uploaded by third parties. YouTube and the rights holders often make money from content uploaded in this way thanks to their content ID system, which identifies and gives rights holders royalties and control over whether that content stays on the platform or not. The effect of this amendment would be to reduce YouTube's obligations to contribute to Canadian content. It would benefit their specific business model and it would encourage the distribution of more content in a manner that frees them from the obligations that this bill was designed to establish.

Consider the popular song "Big Yellow Taxi" composed by the great Canadian artist Joni Mitchell. A quick survey of YouTube shows several official versions of Joni Mitchell singing her song. These would be clearly captured by the amendments in question. But among the song search results there are also "unofficial lyric videos" and slide show videos set to her music that come up as options. These videos are almost entirely uploaded by third parties with no relation to Joni Mitchell and no relation to any other rights holders. As previously mentioned, YouTube's content ID system allows the platform to identify these videos as containing Mitchell's music and therefore pays royalties to the respective rights holders. However, revenues from these videos, which many Canadians use every day to listen to their music, would be excluded under the proposed amendment. The original version of the bill provides more certainty to the CRTC while still excluding user-generated content from regulation.

Colleagues, the clause as drafted in Bill C-11 was designed in such a way to allow for a degree of flexibility in the system. For example, the government formulation provides factors under section 4.2(2) for the CRTC to consider when it prescribes programs to be regulated on online platforms as per paragraph 4.1(2)(b) of the bill. As mentioned earlier, the bill requires the CRTC to consider the revenues generated by commercial programs, whether the programs are available on

other traditional broadcasters, such as CTV or Spotify, and whether the program had been assigned an international standard code number.

The proposed amendments to section 4.2 — by removing the monetization criteria and adding the criteria that only commercial music uploaded by the rights holder on social media services would count towards a platform's obligations — would introduce a new set of factors. In so doing, the amendment poses a real risk that the central objectives of the act would be compromised by the loophole it introduces. Furthermore, the amendment also restricts the flexibility that the act intended to confer upon the CRTC to ensure that it applies its discretion in a manner consistent with the overall purposes and objectives of the act.

Colleagues, I acknowledge that for some critics of the CRTC, this is the point. They do not believe that the CRTC should have as much or, for some, any discretion on how it applies the act. Indeed, some do not believe that the CRTC or any government institution should have any role regulating social media platforms at all. That's not the view of this government, nor is it the view of the majority of the members of the House of Commons.

Honourable senators, the effective modernization of our Broadcasting Act cannot be achieved simply by the passage of Bill C-11 alone, important and critical though it is. The legislation needs to be supplemented with policy directives and regulations to make it work and to allow it to adapt to a rapidly changing technological framework. This is necessary to ensure that the CRTC has both the tools and the policy guidance to give effect to the purposes of the act. Colleagues, the clause as drafted in Bill C-11 was designed in such a way to allow for this critical flexibility in the system.

The government has acknowledged from the outset that additional detail on the scope of commercial programs that could lead to regulation of online platforms would be provided to the CRTC by policy direction. Allow me to take a moment to outline what that means and what the process around this is.

Following Royal Assent, the Governor-in-Council will issue a policy direction to the CRTC on how the new legislative framework should be applied, and that is a standard legislative practice. At that point, the policy direction will be publicly available in its draft form. As required and as expected, there will be a consultation period of 30 days at a minimum. During this period, stakeholders and other interested persons may provide comments, raise concerns and make recommendations regarding the policy direction. Following that, the policy direction will be finalized and issued to the CRTC, at which point — let me remind you, colleagues — the CRTC will lead its own independent consultations and outreach. This provides yet another opportunity for engagement and an avenue for all interested parties including artists, producers, radio broadcasters, online streaming platforms, distributors, stakeholders and industry groups to provide input.

To summarize, the issue of a policy direction would follow an open public consultation on the proposed wording and content of that direction, but this important process would be undermined were section 4.2 of the bill to be amended as has been proposed. The choice to add the additional detail and clarification through a policy direction not only ensures the appropriate public

consultations on the exact wording, but also ensures that the broadcasting system remains adaptable to technological changes over time. Ultimately, this is the very matter that Bill C-11 seeks to address.

• (1550)

Colleagues, the government's approach regarding the factors in proposed section 4.2(2) will ensure that an equitable approach is maintained with respect to commercial content on those social media services when they behave like traditional broadcast undertakings. The original legislative language of this provision reflects a balanced approach that respects the work of online content creators, while ensuring that large corporations do not have a shortcut to avoid regulation or avoid contributing to the Canadian creative ecosystem.

That is why, colleagues, the House was not able to support this particular amendment.

Having said all of that, let me be clear for the record once again on behalf of the government: It is a commitment of the Government of Canada to appropriately scope out digital-first creators and user-generated content from Bill C-11 through the policy directive process. Indeed, Minister Pablo Rodriguez has insisted on this point on several occasions:

We will not regulate users or online creators through the bill or our policy, nor digital-first creators, nor influencers, nor users.

I know that we have all heard the minister clearly on that point on many occasions. I, for one, take him at his word, and I fully expect the government to follow through.

In that spirit, I am proposing that the Senate make clear that although it is now prepared to defer to the will of the other place, we have taken note of the government's clear commitment to issue policy direction to the CRTC in order to ensure that Bill C-11 does not apply to user-generated digital content. The message we would send to the other place — with this motion — is that we, in the Senate, will be watching the government's next steps very carefully with the expectation that they will be consistent with the promises they have made and that I have repeated to you in this chamber.

Colleagues, we can be proud of the work that the Senate has done on this bill. We've improved this bill. We should be pleased — and we can be pleased — that the House has taken the time to carefully consider our work, and has accepted so many of our amendments. We have done excellent legislative work, and it is a credit to the important role that the Senate plays in the Canadian public policy and legislative processes.

The vast majority of amendments proposed have been agreed to by the government and accepted by our colleagues in the other place. There are only six amendments with which the government respectfully disagrees. The fact that there are so few points of disagreement is a testament to the collaboration and hard work that we have done. We have worked collectively in the interests of all Canadians.

I want to take a moment to acknowledge that reaching this stage today is a great success for the Senate and for the Canadian legislative process. Again, I want to thank you all for your role in bringing us to this place.

Bill C-11 is a better bill today because of the work that the Senate has done. In my humble opinion, with all of the amendments that have been accepted, the Senate has now contributed significantly and tangibly to Bill C-11 — and that is consistent with our role as a complementary legislative body of sober second thought.

Furthermore, to my mind, the other place's response to the Senate amendments to Bill C-11 is part and parcel of a broader story of successful reform toward a more independent and less partisan Senate. As we saw with the major changes accepted for legislation concerning medical assistance in dying, the legalization of cannabis, reforms to the Citizenship Act and legislation regarding impact assessments for development projects, to list just a few examples, the Senate has been making a positive mark on public policy in a way that is, if not unprecedented, certainly significant in the modern era — which has been seen and appreciated by the public.

In my view, the considered nature of the House's response to Senate amendments is reason enough to declare "mission accomplished," and to finally move this bill to Royal Assent.

I understand that some colleagues may remain unhappy with this outcome. I pass no judgment on those feelings; they're entirely legitimate, and I understand them. I do feel that the government has done a good job at being an active listener, both publicly and behind the scenes, particularly on proposed section 4.2, where we now have firm and reliable commitments around regulatory policy direction.

But I can understand why some of us — who have a genuine conviction that the Senate changes were better — may still be struggling and unhappy. To those of you who don't want to see this bill killed, but who are still dissatisfied with the response from the members of Parliament, I want to suggest to you that there are foundational principles that underpin the role of the Senate in our constitutional order that should tip the balance on the side of accepting the democratic verdict of the other place.

In making this pitch to you, colleagues, I choose not to rely upon one set rule or convention but, rather, on a principle that I have applied in my own decision making in this place long before I took on the role of Government Representative in the Senate. I don't know why I get choked up when I speak about the role of the Senate — I guess that's why I signed on for this gig; it's true.

This is a principle that I have applied from day one since I've been here, and it's a principle of senatorial self-restraint. It's a principle that I believe lies at the core of our responsibilities as senators, and it's at the core of the Senate's intended design by the founders of Confederation. As Sir John A. Macdonald famously said in a frequently referenced dictum, the Senate:

... must be an independent House, having free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular

branch and preventing any hasty or ill considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

In other words, the Senate was meant to be neither a rival to the elected representatives of Canada, nor a rubber stamp for the government. It is intended not to compete, but rather to complete the work of the lower house.

The Supreme Court of Canada reaffirmed the nuances of the Senate's intended function in 2014 when it decided that implementing consultative elections for the Senate would require a constitutional amendment. For context, colleagues, in a unanimous opinion, the court explained that under the constitutional architecture adopted at Confederation, the Senate was carefully designed with the expectation that it would exercise voluntary self-restraint in its relationship with the House of Commons:

... the choice of executive appointment for Senators was also intended to ensure that the Senate would be a *complementary* legislative body, rather than a perennial rival of the House of Commons in the legislative process. Appointed Senators would not have a popular mandate — they would not have the expectations and legitimacy that stem from popular election. This would ensure that they would confine themselves to their role as a body mainly conducting legislative review, rather than as a coequal of the House of Commons. . . .

The appointed status of Senators, with its attendant assumption that appointment would prevent Senators from overstepping their role as a complementary legislative body, shapes the architecture of the *Constitution Act, 1867*. It explains why the framers did not deem it necessary to textually specify how the powers of the Senate relate to those of the House of Commons or how to resolve a deadlock between the two chambers.

This, the court explained, was why consultative elections for senators would upset the architecture of the Constitution and, therefore, require a constitutional amendment with provincial buy-in. The court stated:

The proposed consultative elections would fundamentally modify the constitutional architecture we have just described and, by extension, would constitute an amendment to the Constitution. They would weaken the Senate's role of sober second thought and would give it the democratic legitimacy to systematically block the House of Commons, contrary to its constitutional design.

• (1600)

It's this principle of senatorial self-restraint — which, in my opinion, is a constitutional expectation designed into our architecture — that I firmly believe should guide our decision making here today. Unlike a rule, the principle of senatorial self-restraint does not necessarily, or automatically, determine the decision one way or the other. Indeed, it must be weighed and balanced with all other relevant considerations.

Colleagues, allow me to put to you four factors that I believe are compelling — all of which, in my humble opinion, call for a high level of restraint in the context before us. The first factor is this is a message on a bill that comes with a significant democratic imprimatur. It is an explicit 2021 election platform commitment made not only by the governing party, but also by the New Democrats and the Bloc Québécois.

The second factor is that the message from the other place in response to Senate amendments is respectful, carefully considered and, indeed, has actioned most of the Senate's recommendations. As the Senate's role is one of complementary review, that role is largely fulfilled with the other place's initial response.

The third factor is, at the message stage, once the other place's wishes have been made clear, it has been customary for the Senate to exercise deference and accept the will of the members of Parliament. As a matter of fact, since 1960, only seven bills involved a decision by the Senate to insist on some, or all, of its amendments once the House had rejected them.

The fourth factor is that level of deference ought to be even higher in a minority context, where the government cannot act unilaterally, and the message here is reflective of the wishes of multiple political parties representing a significant share of the popular vote. Legislation to achieve the commitment to modernize the Broadcasting Act has now received a positive vote in the other place three times in two separate minority parliaments, with the support of three parties: once at third reading of Bill C-10, once at third reading of Bill C-11 and once again at the message stage just a few short weeks ago.

Colleagues, I hope we can all agree that the other place's message back to the Senate is carefully considered and respectful. Where the other place has expressed a difference of opinion, I have endeavoured — to the best of my ability — to provide the government's perspective. While it is my hope that I can persuade all of you that the other place has made the right call, I am under no illusion. I know that some of you will continue to disagree on certain points, and, in the context of a healthy dialogue between the two chambers, that's to be expected.

To you, I ask that you agree to disagree, but recognize that — at this stage of the process — the responsible choice, as senators, is to support this message. For all of these reasons, I ask you to support this motion and accept this message. To my mind, we have successfully fulfilled our constitutional mandate as a complementary chamber of sober second thought. We have thoroughly reviewed Bill C-11. We have considerably improved Bill C-11. We have asked the other place to think twice and reconsider certain aspects of Bill C-11, and the other place has pronounced itself clearly and specifically on these matters.

There comes a point where our responsibility is to defer to the democratic will. On Bill C-11, we have reached that point. The time has come to bring Bill C-11 to Royal Assent. Thank you very much.

THIS IS EXHIBIT "F"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUB', is written over a horizontal line.

Commissioner for Taking Affidavits



Broadcasting Notice of Consultation CRTC 2024-288

PDF version

Ottawa, 15 November 2024

Public record: 1011-NOC2024-0288

Notice of hearing

31 March 2025

Gatineau, Quebec

The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector

Deadline for the submission of interventions: 20 January 2025

[\[Submit an intervention or view related documents\]](#)

The Commission will hold a hearing starting on **31 March 2025 at 9:00 a.m. at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec.**

[Attend the hearing or listen to it online.](#)

Summary

The Commission is launching a consultation to modernize its definition of Canadian content as part of its broader regulatory plan to implement the *Online Streaming Act* and ensure the sustainability and growth of Canada’s broadcasting system.

In this notice, the Commission seeks comments on the various elements of the definition of Canadian content (referred to as “Canadian program” in the *Broadcasting Act*) as well as on the types of expenditures that traditional broadcasting undertakings and online undertakings should make towards this content.

The Commission believes that a modernized definition should support and incentivize the creation and distribution of diverse Canadian content, in both official languages, by a diverse range of creators, including those from Indigenous and official language minority communities and creators from equity-deserving groups.¹ To that effect, the Commission recognizes the importance of supporting French-language content and the need to further support its creation and distribution, in addition to news programming.

¹ Racialized people, people with disabilities, individuals who identify as 2SLGBTQ+ and women.

The Commission also believes that a modernized definition should make room for flexible business models and different types of programming, and facilitate the

discoverability and exportability of Canadian content, both within Canada and globally. It should also enable innovation brought about by technological advancements in a manner that supports creativity and employment in the industry.

The Commission will accept comments that it receives on or before **20 January 2025**.

The Commission will also hold a public hearing in Gatineau, Quebec, to begin **31 March 2025**. Following the public hearing, parties will have an opportunity to file brief final submissions, in which they will be able to respond to interventions received or comments raised during the proceeding, and, if applicable, responses to undertakings.

This proceeding will take into consideration information from forthcoming public opinion research and the recently published report entitled [Defining Canadian Content – Workshops with Stakeholders and Industry: What We Heard Report](#).

Introduction

1. The Canadian broadcasting system is composed of various elements that support the creation and distribution of Canadian programming.
2. Paragraph 10(1)(b) of the *Broadcasting Act* (the Act) states that the Commission may make regulations prescribing what constitutes a Canadian program for the purposes of the Act. In making such regulations, the Act sets out that the Commission must consider the following matters:²
 - whether Canadians, including independent producers, have a right or interest in relation to a program, including intellectual property rights, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;
 - whether key creative positions in the production of a program are primarily held by Canadians;
 - whether a program furthers Canadian artistic and cultural expression; and
 - the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of intellectual property rights in musical works or in sound recordings.

² Subsection 10(1.1) of the Act.

3. The Commission relies on such regulations to certify audio-visual content created for viewing on traditional audio-visual broadcasting undertakings and online

undertakings as Canadian programming.³ The Commission also supports the financing and broadcast of Canadian content and the employment of Canadian industry creators. Specifically, the Commission requires broadcasters, through their audio-visual broadcasting undertakings, to contribute to Canadian programming through expenditure requirements (Canadian programming expenditures, or CPE), including programming that is risky to produce and difficult to monetize (known as programs of national interest, or PNI). The Commission also requires certain broadcasters to make expenditures on news and information programming.

4. The definition of “Canadian program” and the expenditure requirements framework used by the Commission have remained unchanged for decades, even though Canada, Canadians and the broadcasting landscape have changed during the same period. The size and diversity of Canada’s population has grown, and the way Canadians consume content has shifted dramatically. With options available online, Canadians now have access to a world of content made available to them by both Canadian traditional broadcasting undertakings and online undertakings. Further, competition for audiences is stronger than ever as traditional and online creators, broadcasters and distributors must identify and develop audiences to ensure their content can be found.

Scope of the proceeding

5. The purpose of this proceeding is to review some of the existing regulatory tools used to help support the creation, funding and distribution of audio-visual Canadian programming,⁴ including the definition of “Canadian program” and expenditure requirements.
6. This proceeding is part of a larger suite of proceedings to implement the recent amendments to the Act. The Commission’s overall plan for the implementation of these changes may be found in the [Regulatory plan to modernize Canada’s broadcasting framework](#). The Commission encourages all interested persons to consult this regulatory plan.
7. Through this proceeding, the Commission will determine how to:
 - better support and promote Canadian stories through audio-visual programming that makes use of Canadian creativity and other resources, including French-language, Indigenous and news content;

³ Producers can get tax credits provincially or through the Canadian Audio-Visual Certification Office (CAVCO), which also certifies content as Canadian. At the same time, treaty-based co-productions are administered by Telefilm Canada. These co-production agreements facilitate partnerships between Canadian and foreign producers.

⁴ The Commission notes that it will address the issue of defining “Indigenous content” as part of the Indigenous Broadcasting Policy proceeding, announced in Broadcasting Notice of Consultation 2024-67.

- facilitate flexible audio-visual Canadian programming and a financial support ecosystem that encourages a variety of productions, and a variety of business, broadcast and distribution models;
 - better recognize the role played by Canadian key creators in the creation, broadcast and distribution of audio-visual Canadian programming;
 - foster a sustainable Canadian broadcasting system where Canadian creators are able to profit from their creations, including through intellectual property rights;
 - further the exportability and discoverability of Canadian programming; and
 - ensure that Canada’s diversity is reflected in the Canadian broadcasting system.
8. To that effect, the Commission is seeking comments on:
- how to modernize the current definition of “Canadian program” in the audio-visual sector;
 - whether and how to adjust CPE and PNI expenditure requirements on audio-visual Canadian programming and the funding of at-risk programming (including news content). The policy framework developed in this proceeding will set the stage for the imposition of regulatory obligations, notably for Canadian and foreign audio-visual undertakings, operating on traditional platforms or online;
 - whether and how to address the use of artificial intelligence (AI) by audio-visual creators and broadcasters, given the impact of its increased use in the audio-visual production industry; and
 - how to ensure that the Commission, the broadcasting industry and Canadians have access to data and information to make informed choices about Canadian programs.
9. This proceeding will build on and take into consideration information from the proceeding initiated by Broadcasting Notice of Consultation 2023-138 (including the resulting Commission decisions set out in Broadcasting Regulatory Policy 2024-121 as finalized by Broadcasting Regulatory Policy 2024-121-1/Broadcasting Order 2024194), along with the proceeding initiated by Broadcasting Notice of Consultation 2023-139, and the resulting Commission decisions set out in Broadcasting Regulatory Policy 2023-329/Broadcasting Order 2023-330. This proceeding will also take into consideration information from forthcoming public opinion research and the recently published report entitled [Defining Canadian Content – Workshops with Stakeholders and Industry: What We Heard Report](#).

10. The Commission notes that decisions flowing from this proceeding could have an impact on official language minority communities (OLMC) and other stakeholders, and that this proceeding provides a means by which interested OLMCs and other stakeholders may provide their input. Decisions flowing from this proceeding could be implemented in related proceedings by way of orders or regulations, as appropriate, made under the Act.⁵ This proceeding is to be part of the consultation for such future regulatory measures.⁶

Definition of “Canadian program”

11. Considering the goals and factors identified above, the Commission sets out below its preliminary views on how to amend the current definition of “Canadian program” regarding:

- key creative positions;
- cultural elements;
- the definition of “showrunner”;
- certain mandatory key creative positions; and
- intellectual property rights.

Key creative positions

12. The current definition of a Canadian program is based on specific criteria and a system of points, which focus on the financial and creative control of productions by Canadians.⁷ Currently, under the [key creative point system](#), productions must generally earn a minimum of six points out of a possible ten points to be considered Canadian programs.⁸

13. It is the Commission’s preliminary view that adding new key creative positions (with proposed points) would better align the definition of “Canadian program” with evolving industry practices and positions that have emerged over the years. It would also recognize other key creative positions that have control over the production’s look and feel, as well as its narrative direction. The Commission considers that having Canadians responsible for key creative decisions will enhance Canadian stories while introducing additional ways to ensure that a program is Canadian.

⁵ Subsections 9.1(1) or 11.1(2).

⁶ That is, orders and/or regulations made under the Act. This includes notice of matters to be addressed in orders as required by subsections 9.1(4) and 11.1(7) of the Act.

⁷ Details on the current certification criteria and a detailed list of the key creative positions with associated points for both live action and continuous action animation productions, and animation productions other than continuous action animation, can be found in the [Canadian Program Certification Guide](#).

⁸ See also Broadcasting Regulatory Policy 2023-90.

14. The Commission proposes to add new key creative positions, and to amend certain existing key creative positions, as follows (additions and amendments in bold):

Key creative positions: Live action and continuous action animation productions – Total possible points: 15

- **Canadian Showrunner (2 points)**
- Director (2 points)
- Screenwriter (2 points)
- First and Second Lead Performers (performer or voice) (1 point each)
- Production Designer or Art Director (1 point)
- Director of Photography or Chief Camera Operator (1 point)
- Picture Editor (1 point)
- **Head of Costume Design (1 point)**
- **Key Make-up/Hair Artist (1 point)**
- Music composer **or the rights holders of the pre-existing or pre-recorded music for which the rights were purchased must be Canadian, rather than requiring an original composed song for the production** (1 point)
- **Visual Effects Director or Special Effects Director (1 point)**

Key creative positions: Animation productions (other than continuous action animation) – Total possible points: 15

- **Canadian Showrunner (2 points)**
- Scriptwriter and Storyboard Supervisor **(2 points; previously 1 point allocated)**
- Director **(2 points; previously 1 point allocated)**
- Picture Editor (1 point)
- Design Supervisor (1 point)
- First **and** Second Voice (or First **and** Second Lead Performer) **(1 point each; previously 1 point for one or the other, but not both)**
- Camera Operator and Operation **or Virtual Camera Operator** (1 point)

- Music composer **or the rights holders of the pre-existing or pre-recorded music for which the rights were purchased must be Canadian, rather than requiring an original composed song for the production** (1 point)

In addition, animation productions are also awarded points when key creative functions are performed **by a Canadian**.⁹

- Key Animation (1 point)
 - Layout Artist and Background (1 point)
 - Assistant Animation/In-betweening (1 point)
15. It is the Commission's preliminary view that, in order to receive Canadian program certification from the Commission, a production should be required to attain at least **9 out of a possible 15 points** for both types of productions detailed above. When productions (such as documentaries) do not use certain key creative positions, the Commission will grant Canadian certification provided that Canadians fill all key creative positions and the production therefore earns a perfect score.
 16. As part of that preliminary view, for live action and continuous action animation productions, either the director or the screenwriter must be Canadian. For animation productions, either the scriptwriter and storyboard supervisor or the director must be Canadian, the key animation function must be performed by a Canadian, and the camera operator/virtual camera operator must be Canadian. Where there is a showrunner, that position must be occupied by a Canadian, and the first or second lead performer must be Canadian. Further, in regard to the music composer key creative position, the Commission considers that the point could also be achieved through the purchase or use of pre-existing or pre-recorded music from a Canadian rights holder.
 17. Bearing in mind the Commission's public policy objectives, the Commission invites interested persons to respond to the following questions:
 - Q1. Currently, if a production does not have a sufficient number of key creative positions to attain the minimum 6 points, the Commission's approach has been to require that all key creative positions of a production be filled by Canadians. Should the Commission continue with this approach? If not, under the Commission's preliminary view above, what should be the minimum threshold for a production to be certified Canadian?
 - Q2. In productions where rights for pre-existing or pre-recorded music were purchased from both Canadian and foreign rights holders, should the Commission still grant a point? If not, please explain.

⁹ Currently, this point refers to key creative functions that are performed **in** Canada.

Q3. Does the Commission's preliminary view regarding key creative positions help ensure that the creative direction and control of a Canadian program remain Canadian? If not, how should this preliminary view be modified?

Definition of "showrunner"

18. Showrunners help to ensure that the creative control of a production remains Canadian. The prominence of this position has grown over time. Given its importance, the Commission is of the preliminary view that this position should be occupied by a Canadian.
19. In light of the above, the Commission invites interested persons to respond to the following questions:

Q4. The Commission currently does not have a definition for the position of a "showrunner." Please provide details on what such a definition should entail.

Q5. Please comment on the Commission's preliminary view that if a production includes a showrunner, a Canadian must occupy that position.

Cultural elements

20. In early 2024, workshops were carried out with members of the audio-visual production industry.¹⁰ Participants were questioned on whether cultural elements should be added to the factors that should be considered when recognizing a program as Canadian. Cultural elements could include, for example, Canadian stories and history. One key takeaway from these workshops was that "what makes something Canadian" is hard to define and that there are in fact many ways of defining what is Canadian.
21. Although it is the Commission's preliminary view that cultural elements should not be included within the certification framework, the Commission is open to other views and alternate proposals.
22. In light of the above, the Commission invites interested persons to respond to the following question:

Q6. Should the Commission include cultural elements within the certification framework? If yes, please describe what would constitute a "cultural element." Further, how should the Commission identify such elements in an objective way and incorporate those elements into the definition?

¹⁰ See the section below entitled "Reports the Commission will rely on during this proceeding".

Creative control

23. Currently, where multiple people share duties for a particular position, or multiple people share screen credits for a single position, the production only earns the point if all of the people are Canadian.
24. The Commission recognizes that this approach may disincentivize collaborations between Canadian and foreign production partners and, consequently, limit the ability of productions and artists to access international audiences.
25. As a preliminary view, the Commission proposes a new, flexible approach where the key creative positions of director and screenwriter/scriptwriter/storyboard supervisor could be awarded points when these positions are shared by both Canadians and non-Canadians. The proposed approach would continue to require a high threshold of Canadians in certain key creative functions. However, the Commission also considers that some flexibility could be warranted. Under its proposed approach, the Commission proposes that for positions occupied by more than one person (such as director or screenwriter), points be assigned to these positions if at least 80% of the people occupying a particular position are Canadian.
26. Canadians would still need to be firmly in control of the creative process, but this approach would allow a production to make use of foreign talent, where appropriate, and pursue international partnership opportunities. For example, a production could leverage a minority of foreign resources to help with its discoverability abroad, or enhance its marketability.
27. In light of the above, the Commission invites interested persons to respond to the following questions:
 - Q7. Would this new flexible approach incentivize more collaboration and partnerships between Canadian and foreign creators?
 - Q8. Would this new, flexible approach facilitate the exportability and discoverability of Canadian programming domestically and abroad?
 - Q9. Would this new flexible approach ensure that a production remains culturally relevant and reflective for Canadians, and that Canadians continue to exercise significant creative input and control in a production?
 - Q3. Currently, the director **or** screenwriter/scriptwriter/storyboard supervisor position must be filled by a Canadian for a production to be eligible for certification. Please comment on whether the Commission should maintain this approach on top of the new flexibility proposed above (i.e., 80% of Canadians). Should other key creative positions be opened to this flexibility?
 - Q4. Currently, for a production to be certified, the following positions must be filled by a Canadian:

- (a) the first or second lead performer (performer or voice); and
- (b) camera operator (for animation productions other than continuous action animation).

Please comment on whether the Commission should maintain this approach.

Q12. Currently, for an animation production to be certified, the following functions must be performed in Canada:

- (a) Key Animation (1 point)
- (b) Camera Operator (1 point)

Please comment on whether the Key Animation function should now be performed “by Canadians” instead of “in Canada,” and whether this should be mandatory for certification. Also, please comment on whether the Commission should continue to require that the “Camera Operator” function be performed in Canada as a mandatory requirement for certification.

Financial control

28. Control over the creative and financial aspects of a production are important elements of what makes a program Canadian. The Commission currently requires the roles of producer, co-producer, line producer and production manager to be filled by Canadians. It does so to ensure that Canadians are placed in the roles of key decision makers in a production.
29. Traditionally, Canadian producers must demonstrate that they retain control of the production through the following indicators for their production to receive certification: development, creative and financial control, financing, and producer remuneration.
30. In making regulations defining Canadian programs, paragraph 10(1.1)(a) of the Act requires the Commission to consider whether Canadians, including independent producers, have a right or interest in relation to a program, including intellectual property rights, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program. The Government of Canada’s policy direction¹¹ directs the Commission to, among other things, support Canadian ownership of intellectual property. However, the current definition of “Canadian program” has no express requirements relating to intellectual property rights.^{12 13}

¹¹ Section 13 of [Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)](#).

¹² Except for production packages and twinings, where the intellectual property rights for both productions must be held by Canadians.

¹³ The Commission’s approach to intellectual property rights ownership differs from CAVCO’s approach to copyright (a form of intellectual property rights), which must be held by a Canadian for the 25-year period beginning when the production is completed and commercially exploitable. See the CAVCO’s [Canadian Film or Video Production Tax Credit \(CPTC\) – Application Guidelines](#).

31. The Commission recognizes that a share in or the outright ownership of the intellectual property rights for a program would ensure that Canadians have control not only over the creation of the content but also over its monetization, including in the future. Different models could help it achieve that goal:
- models where intellectual property rights in programs are fully Canadian-owned and key creative roles are all held by Canadians;
 - models that demonstrate a natural “give-and-take” symmetry, where the greater the flexibility of ownership of a program, the greater the number of Canadian points and Canadians occupying key creative roles would be required to balance out the elements of Canadian control and overall Canadian creative influence (for example, if all intellectual property rights rest outside of Canada but all creative control is Canadian); and
 - models that support investment and balance the economic benefits of holding/sharing the intellectual property of a production with incentives to collaborate and partner between Canadians, including Canadian undertakings, and foreign online undertakings.
32. There is currently a co-venture model that offers flexibility for Canadian producers who wish to work with foreign producers, by sharing creative and financial decision-making responsibilities.¹⁴ However, there are no intellectual property rights provisions within the current model.
33. The Commission envisions a modernized approach where intellectual property rights retention in the program is applied to maintain, strengthen, expand, and protect Canada’s competitiveness in the audio-visual production industry as well as to ensure continued international investment in the Canadian production system. This approach would be flexible enough to accommodate diverse business models and distribution methods, facilitate the exportability of Canadian programming and formats, and encourage all types of players to make Canadian programming discoverable both domestically and abroad, on traditional and online platforms. It would also facilitate the ownership of content by Canadian entities, including Canadian broadcasters.
34. In light of the above, the Commission invites interested persons to respond to the following requests and questions:

Q13. Please provide an intellectual property rights model (or models) for the Commission to consider based on the different ways that a definition of “Canadian program” would account for intellectual property rights as set out in paragraph 31. Please explain how the proposed model(s) would incentivize

¹⁴ This model includes ventures with co-producers from a foreign country that does not have a film or television production treaty with Canada and ventures with co-producers of a treaty country that do not otherwise meet Telefilm Canada’s eligibility requirements.

collaborations and foreign equity investments, and ensure that Canadian programming is competitive in the global market.

Q14. In light of an approach based on Canadian intellectual property rights retention, should the Commission maintain the requirement that the key producer roles (producer, co-producer, line producer and production manager) be filled by Canadians to ensure Canadian financial and creative control? If not, please explain why.

Q15. How can the Commission incorporate the use of ownership and financial control of Canadian programs to help ensure the exportability of Canadian programming and formats through its modernized regulatory framework?

Q16. Is the current co-venture model used by the Commission relevant to a modernized definition of “Canadian program” that includes a requirement relating to the retention of intellectual property rights?

Q17. Are there any special considerations that the Commission should give to the ownership of intellectual property rights by public broadcasters?

Expenditures on Canadian programming

35. The Act authorizes the Commission to require persons carrying on broadcasting undertakings to make expenditures on the development, financing, production and promotion of Canadian programs, including independent productions.¹⁵ The regulations can be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation.

36. The Commission may also make orders imposing conditions of service¹⁶ on particular persons carrying on broadcasting undertakings for the same purposes as set out above.

37. Whether making expenditure regulations or orders, the Commission must prescribe the minimum level of expenditures that are to be allocated to Canadian original programs (including French-language programs in the case of broadcasting undertakings that offer programs in both official languages).

38. CPE and PNI expenditure requirements are the current primary regulatory tools for supporting the production of Canadian programming.

¹⁵ See paragraph 11.1(1)(a) of the Act.

¹⁶ Formerly known as “conditions of licence”. Under subsections 49(1) and 50(2) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to subsection 9.1(1) of the new *Broadcasting Act*, or subsection 11.1(2) in the case of expenditures. As such, conditions of licence became conditions of service and continue to apply to licensees of broadcasting services, except to the extent that they have been modified by a Commission decision.

Canadian programming expenditures (CPE)

39. CPE requirements ensure that traditional broadcasting undertakings invest directly in the production of Canadian programming. Almost all licensed private Canadian television broadcasters must devote a minimum percentage of their gross revenues from the previous broadcast year to Canadian programming. However, the required levels vary depending on the broadcaster and its size and role in the broadcasting system.
40. Current CPE requirements (as a percentage of gross revenues of the previous broadcast year) for large, French-language private television ownership groups range from 26% to 45%. For large English-language private television ownership groups, they are generally set at 30%. Smaller English-language broadcasting ownership groups and smaller undertakings are generally required to contribute less.¹⁷
41. In Broadcasting Regulatory Policy 2024-121-1,¹⁸ the Commission set out for online undertakings a base contribution requirement to support the creation of Canadian and Indigenous content. Specifically, registered undertakings¹⁹ that, after deducting excluded revenue,²⁰ have \$25 million or more in annual Canadian gross broadcasting revenues and that are not affiliated with a Canadian broadcaster must contribute 5% of those revenues to certain funds. As part of the amount that must be devoted to the Canada Media Fund (i.e., 2% of annual contributions revenues²¹), online undertakings may deduct up to 75% (i.e., up to 1.5% of their annual contributions revenues) by investing directly in certified Canadian content.
42. In a changing broadcasting environment in which audiences are turning more and more towards online content, and in a broadcasting system that now includes both Canadian and foreign undertakings and traditional and online content, the Commission considers that it must review and modernize the current CPE framework to help determine:
- what the verifiable needs are in the Canadian programming production industry;
 - how these needs should be addressed and how expenditures should be attributed throughout the system to fulfill those needs;

¹⁷ This policy review is not considering existing or new expenditure requirements for the Canadian Broadcasting Corporation or exempt undertakings.

¹⁸ More specifically, see Broadcasting Order 2024-194, set out in the appendix to Broadcasting Regulatory Policy 2024-121-1. That regulatory policy finalized the orders proposed in Broadcasting Regulatory Policy 2024-121 that establish conditions of service for particular online undertakings.

¹⁹ That is, registered with the Commission pursuant to the *Online Undertakings Registration Regulations*.

²⁰ As defined in the appendix to Broadcasting Regulatory Policy 2024-121-1.

²¹ As defined in the appendix to Broadcasting Regulatory Policy 2024-121-1.

- how to ensure that traditional broadcasting undertakings and online undertakings contribute equitably to the creation and distribution of Canadian programming; and
- how best to incentivize the creation and distribution of various types of Canadian programming, including those that may need more regulatory support given the changed dynamics and financial strains in the Canadian broadcasting system.

43. It is the Commission's preliminary view that an updated framework for expenditures on Canadian programming should apply a broadcasting ownership group approach, such as that used for base contributions as set out in Broadcasting Regulatory Policy 2024-121. More specifically, the Commission is of the preliminary view that:

- both online and traditional audio-visual undertakings that have \$25 million dollars (or more) in annual Canadian gross broadcasting revenues less excluded revenue, either individually or as part of a broadcasting ownership group,²² should be required to make expenditures on Canadian programming;
- online audio-visual undertakings affiliated with a traditional Canadian broadcasting ownership group that earn \$25 million (or more) in annual Canadian gross broadcasting revenues less excluded revenue should also be required to make expenditures on Canadian programming;²³ and
- both online and traditional audio-visual undertakings that have less than \$25 million dollars in annual Canadian gross broadcasting revenues less excluded revenue, either individually or as part of a broadcasting ownership group, would not be required to make expenditures (data available to the Commission suggests that this approach would have minimal impact on the overall expenditures for Canadian programming and would lessen the burden for smaller undertakings).

Expenditures on programs of national interest (PNI)

44. PNI expenditures are a subset of CPE; as such, PNI expenditures count towards CPE requirements. Whereas CPE provide general financial support for the production of Canadian programming, expenditures on PNI support the production of programs that are "central vehicles for communicating Canadian stories and values,"²⁴ but that are

²² The definitions of "annual Canadian gross broadcasting revenues", "excluded revenue" and "broadcasting ownership group" are set out in the appendix to Broadcasting Regulatory Policy 2024-121-1.

²³ As set out in Broadcasting Order 2024-194, base contributions for online undertakings do not apply to online undertakings whose operator is (i) a licensee; or (ii) affiliated with a licensee; or (iii) a person operating, or affiliated with a person operating an exempt broadcasting undertaking that operates pursuant to an exemption order that requires the undertaking to be licensable.

²⁴ See Broadcasting Regulatory Policy 2010-167.

also generally expensive to produce and difficult to monetize.²⁵ PNI expenditure requirements may be imposed if the widespread availability of PNI to Canadians is necessary for the achievement of the objectives of the Act. They may also be imposed where, in the absence of regulatory support, such programming would not otherwise be available to Canadians.

45. Current PNI expenditure requirements (as a percentage of gross revenues of the previous broadcast year) for large, French-language private television ownership groups range from 15% to 18%. For large, English-language private television ownership groups, they range from 5% to 13.5%.
46. While support for risky to produce and difficult to monetize programming is crucial to meeting the objectives of the Act, there have been important changes to the Canadian broadcasting system since PNI expenditure requirements were put into place. In this context, it is the Commission's preliminary view that:
 - in an “on-demand” system driven by online undertakings whose business models are based on the programs that underscore the current definition of PNI, such as drama and documentaries, the current approach to PNI is no longer needed;
 - news programming,²⁶ which is risky to produce and difficult to monetize in the current broadcasting system, is of particular importance and crucial to meeting the objectives of the Act; and
 - although support for news programming should be a priority, it may not be necessary for such support to be provided by all broadcasting undertakings.

Questions relating to expenditures on Canadian programming

47. In light of the above in regard to the current CPE and PNI expenditure frameworks, the Commission invites interested persons to respond to the following questions:

Q18. How does the Commission's view regarding PNI align (or not align) with business models and the availability of programming in the current broadcasting system?

²⁵ In the English-language market, PNI includes long-form documentaries, drama and comedy programs, and award shows. In the French-language market, PNI includes the same program categories as for English-language PNI, but with the addition of music, dance and variety shows. The program categories for television and their definitions are set out in the appendix to Broadcasting Regulatory Policy 2010-808. PNI does not include news and information programming, although large traditional broadcast groups as well as many local private television stations are subject to expenditure requirements on news programming (that is, locally reflective and locally relevant news).

²⁶ Program category 1 set out in both the *Television Broadcasting Regulations, 1987*, and the *Discretionary Services Regulations*.

Q19. Would the proposed changes to the definition of “Canadian program” ensure continued financial support for Canadian programs previously supported through the Commission’s approach to PNI? Would the proposed changes ensure that those Canadian programs are not only made available to Canadians, but also exported internationally?

Q20. Should the CPE requirements for traditional Canadian broadcasters and foreign online undertakings be similar or different? How can the Commission impose equitable requirements that respect the different business models of the various undertakings and broadcasting groups?

Q21. Please explain how the Commission should determine:

- (a) what types of expenditures would fulfill the needs in the broadcasting system relating to Canadian programming, in particular news programming; and
- (b) how these expenditures should be allocated.

Q22. Should different approaches be undertaken for the English- and French-language markets in a modernized CPE framework? For example, should the Commission impose a minimum expenditure requirement for Canadian original English- and French-language programs? If yes, should the approaches differ in both official language markets?

Q23. How can a modernized expenditure framework support Indigenous content and content created by and for equity-deserving groups,²⁷ OLMCs and Canadians of diverse backgrounds?

Q24. In the modernized CPE framework, what programming, such as news, should be viewed as risky and expensive to produce and difficult to monetize but exceptionally important to the achievement of the objectives of the Act? How is such programming not already supported by the various business models in operation in the Canadian broadcasting system?

Q25. How should expenditures on news programs be incorporated into a modernized CPE framework?

²⁷ Racialized people, people with disabilities, individuals who identify as 2SLGBTQ+ and women.

Q26. What other incentives, such as CPE credits,²⁸ could be used to support certain types of programming (for example, original first-run programs and/or independent productions²⁹)?

Applications from broadcasters seeking relief from expenditure requirements

48. Over the last two years, the Commission has received several applications from broadcasters operating under the group-based licensing approach seeking relief in regard to their CPE and/or PNI expenditure requirements.³⁰ The Commission has added these applications, and the interventions received on those applications, to the public record for this proceeding. The issues raised in those applications will be considered by the Commission in the context of this proceeding, and a policy framework will follow. The Commission will then launch further proceedings to implement the policy determinations. At that time, broadcasting undertakings subject to any revised policy will have the opportunity to comment on the proposed requirements, including updating any previously filed requests accordingly, and interested persons will be able to comment on those applications (as modified, if applicable).

Data-related issues, including reporting and performance measurement

49. Under paragraph 9.1(1)(o) of the Act, the Commission may make orders requiring persons carrying on broadcasting undertakings to provide information to the Commission. Section 25.3 of the Act specifies information filed with the Commission that may be designated as confidential.

50. Any policy establishing CPE requirements must take into consideration data collection and reporting to enable the Commission to monitor compliance and policy effectiveness. Currently, the Commission collects detailed CPE data annually from broadcasters, which include breakdowns of programming expenses, including those for closed captioning, and production by Indigenous or OLMC producers.

51. The Commission publishes an aggregate of the CPE data it collects. The current data collected from broadcasters is sizeable.

²⁸ Currently, large English- and French-language private television ownership groups have a CPE credit provision in their conditions of service to incentivize the creation of Canadian programming by Indigenous (50% credit) and OLMC (25% credit) producers. See Broadcasting Decisions 2017-143 (French-language groups) and 2017-148 (English-language groups).

²⁹ Produced by an independent production company, defined as a Canadian company that is carrying on business in Canada with a Canadian business address, that is owned and controlled by Canadians, whose business is in the production of film, videotape or live programs for distribution, and in which the licensee and any company related to the licensee owns or controls, directly or indirectly in the aggregate, less than 30% of the equity.

³⁰ Rogers Communications Canada Inc. ([2023-0373-3](#)), Bell Media Inc. ([2023-0379-1](#) and [2023-0380-9](#)), Quebecor Media Inc., on behalf of TVA Group Inc. ([2022-0986-6](#)), Corus Entertainment Inc. ([2022-0946-0](#)) and Blue Ant Media Inc. ([2024-0385-6](#)).

52. With due regard to confidentiality, the Commission publishes verified data on its website, not only to inform, but also to foster accountability and transparency. In doing so, the Commission strives to enable transparency throughout the broadcasting system, which ultimately supports a more informed and engaged public. This also ensures that broadcasting undertakings are able to meet their reporting requirements and the objectives of the Act through the data they provide to the Commission.
53. With this in mind, the Commission is of the preliminary view that the collection of data relating to the revenues and the programming expenditures of broadcasting undertakings should be made public, to provide transparency and ensure the Commission's ability to monitor the broadcasting system. Further, applying this practice for Canadian and foreign broadcasting undertakings that operate on traditional platforms and online would work towards treating all broadcasting undertakings operating in Canada equally.
54. The Commission also considers that the data provided to the Commission by those broadcasting undertakings should be published on the Commission's website, which would be in line with requirements currently in place for large ownership groups regarding the provision of production reports.³¹
55. The Commission also recognizes the importance of streamlining reporting and reducing administrative burdens on broadcasters to file such reports while still providing the industry and the public with comprehensive and easy to read data that ensures accountability throughout the broadcasting system.
56. To streamline the tracking and analysis of content across platforms and to make it easier to access information about a program's origin, funding sources, and community impact (for example, where a production was made and by whom), the Commission wishes to explore creating for each program a unique identifier, which would be similar to a serial number.
57. In light of the above, the Commission invites interested persons to respond to the following questions:
- Q27. Should the Commission set out reporting requirements, as described above (for example, through a requirement to provide production reports), for all broadcasting undertakings operating in Canada, whether they are Canadian or foreign, and whether they operate on traditional platforms or online?
- Q28. Should the Commission require the public disclosure of the revenues and programming expenditures of all broadcasting undertakings subject to CPE requirements? Should the information be collected and published by the Commission or published by the undertakings themselves?

³¹ See Broadcasting Information Bulletin 2019-304.

Q29. Should the published revenue and CPE data be broken down? Should it be published by service, by ownership group, or further, for example, by program category, language, or other elements?

Q30. What type of data should the production report include or not include (for example, language, region, producer information, and Canadian certification number)? Please explain.

Q31. To make it easier to work with industry data and to compare such data, should the production report include an identifier that is unique for each program? If yes, please explain how this identifier should work (for example, a serial number or alphanumeric text). Should the identifier itself carry any metadata (that is, data providing information about one or more aspects of the data)?

Q32. If the Commission decides to use unique identifiers, how could the production report be linked to audience measurement sources, providing information about the viewing patterns and availability of content produced?

Q33. How should the Commission collect data regarding key creative positions, producer positions and intellectual property for Canadian programming owned by people from the following groups:

- Indigenous peoples;
- equity-deserving groups; and
- OLMCs?

Q34. How should the Commission address concerns regarding privacy and self-identification issues? Could the use of a unique identifier help in addressing those concerns?

Q35. Should certain types of data (relating to, for example, programming or the operation of undertakings) provided by broadcasting undertakings be presumed to be confidential when filed? If yes, please explain why.

Q36. What is the best way to measure and evaluate the success of the new framework for expenditures on Canadian programming?

Q37. Given the Commission's preliminary view with respect to PNI, how can future data collection practices help track which types of programming are risky to produce and difficult to monetize, and consequently require regulatory incentives?

Q38. How can the Commission measure whether the future modernized definition of "Canadian program" is meeting the desired goals as specified in paragraph 7 of this notice?

Q39. The *Official Languages Act* requires the Commission to establish evaluation and monitoring mechanisms for any positive measures taken in this regard. How can the Commission measure and evaluate the success of the framework for achieving the objectives relating to promoting and protecting the French-language and supporting the vitality and development of OLMCs?

Artificial Intelligence

58. Recent developments in artificial intelligence (AI) have led to the creation of tools capable of generating audio-visual content from, among other things, text prompts and streamlining processes in post-production. The Commission needs to ensure that Canadian programs continue to support the objectives set out in the Act.
59. It is the Commission's preliminary view that AI should be examined in this proceeding by considering the following issues:
- the impact that AI may have on various elements in the audio-visual production industry (such as dubbing, animation and scriptwriting) as it relates to Canadian programming;
 - the ways in which AI can be used to maximize efficiencies and provide cost-cutting effects; and
 - transparency surrounding the use of AI within the production industry.
60. The consideration of the impact of AI as it relates to the modernization of the broadcasting system is in the early stages.
61. In light of the above, the Commission invites interested persons to respond to the following exploratory questions:
- Q40. Can AI-generated material be considered Canadian content? If yes, on what basis? Please explain.
- Q41. What could the potential impact of AI be on pre- and post-production, including but not limited to tasks such as visual effects?
- Q42. How could the use of AI impact discoverability of Canadian content?

Other criteria and issues relating to certification

Production costs

62. Under the Commission's current approach regarding [production costs](#), at least 75% of a production's service costs must be paid to Canadians and at least 75% of the production's post-production and laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies. In the Commission's view, this approach should be maintained as it enables flexibility within the system to encompass

both Canadian and foreign costs, while ensuring that the majority of these costs are paid to Canadians.

63. In light of the above, the Commission invites interested persons to respond to the following question:

Q43. If the 75% threshold should not be maintained, please explain why and provide an alternative that would ensure continued and significant investment in Canadian resources.

Time credits

64. [Time credits](#) have traditionally been used as an incentive to broadcast and distribute Canadian programming under regulatory frameworks that emphasized the regulation of exhibition over the regulation of expenditures. The Commission also grants supplementary time credits for productions [dubbed](#) in Canada using Canadian resources.³²

65. However, the Commission has moved away from exhibition-based regulation, reflecting the fact that Canadians rely less on the linear system to consume programming. The Commission proposes to discontinue the use of time credits, including for dubbed productions, as an incentive to the broadcast of certain types of content. While the Commission recognizes the value of dubbing in Canada, and in particular in Quebec, it also notes that time credits could be used to meet obligations, reducing investment in original programming. The Commission wishes to explore the impact of eliminating time credits.

66. In light of the above, the Commission invites interested persons to respond to the following questions:

Q44. Should the Commission discontinue the use of time credits as an incentive to make Canadian programming available? If no, please explain why.

Q45. Is there still a need for the Commission to continue incentivizing the dubbing of productions in Canada by Canadians? Please explain.

Q46. If you reply “Yes” to Q45, what types of incentives should be used to ensure that Canada’s dubbing industry continues to thrive? What types of regulatory tools could the Commission use to incentivize the dubbing of productions in Canada by Canadians in a modernized expenditure framework?

Foreign courtesy credits and affidavits

³² A certified Canadian production dubbed in Canada receives a supplementary time credit of 33% for the original production. Any foreign production dubbed from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada receives a 33% Canadian time credit. Any foreign production dubbed in Canada from any other language receives a 50% Canadian time credit.

67. [Foreign courtesy credits](#) may be awarded to non-Canadians for non-creative, non-production-related functions that in no way interfere with the financial and creative authority of the Canadian producer.³³ Notarized affidavits are required for all non-Canadians receiving foreign courtesy credits, outlining the duties they performed and declaring that those duties were carried out only under the direction, control, and with the full knowledge of the Canadian producer.
68. The Commission currently separates production-related positions into two distinct groups³⁴ based on the importance of their creative and financial control on a production, and reviews any courtesy credits given to a non-Canadian to ensure that their duties do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer.
69. To ensure that Canadians are the central decision makers in a production, the Commission applies an equivalency scope when considering foreign courtesy credits. As such, if a non-Canadian obtains a foreign courtesy credit in a production-related position, the Commission requires that a Canadian occupy a similar production-related position.
70. To simplify this criterion, the Commission proposes to consolidate the foreign courtesy credits into a single list, without requiring equivalencies. Further, the Commission proposes to simplify the affidavit requirement with a standardized attestation of duties form. This form would specify that the duties of the non-Canadian do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. The attestation would clearly state that the Commission has the right to audit and ask for additional documentation in relation to the foreign courtesy credit and has the right to revoke the certification if the requirements are not met.
71. In light of the above, the Commission invites interested persons to respond to the following question:

Q47. Do you agree with the Commission's proposal to consolidate the foreign courtesy credits, remove the equivalency-based approach, and replace the notarized affidavit with an attestation of duties for each person who receives a courtesy credit? If not, please explain.

Discontinuation of Canadian certification for certain types of productions
Production packages and twinning

72. [Production packages](#) include two or more co-productions or co-ventures by a Canadian production company with one or more foreign production companies, where a

³³ Other than the producer, co-producer, line producer and production manager positions, non-Canadians may only receive courtesy credits for producer-related functions under specific conditions.

³⁴ Group A includes Executive Producer, Senior Executive, Executive in Charge of Production, Supervising Producer and Associate Producer. Group B includes Supervising Executive, Production Supervisor, Production Executive, Production Associate, Executive Consultant, Production Consultant and Creative Consultant.

production with minor foreign involvement that qualifies as a Canadian production is matched with a foreign production with minor Canadian involvement.

73. [Twinning](#) refers to the practice of pairing a fully Canadian production with a foreign production in which any Canadian participation is primarily financial and in which there is little to no Canadian participation in the creative or production aspects. Essentially, Canada contributes financially to the foreign project, but the foreign project remains largely independent of Canadian influence, aside from financial support.
74. The Commission sees little value in continuing to certify production packages and twinings given that it rarely receives any applications relating to their certification as Canadian, resulting in very few Canadian producers and broadcasters benefitting from the flexibilities granted by these two types of certifications.
75. In light of the above, the Commission invites interested persons to respond to the following question:

Q48 Given that the Commission rarely receives applications for Canadian certification of production packages and twinings, should the Commission discontinue certification of these types of productions? Please explain.

Pilot projects

76. The Commission currently waives some of the Canadian certification criteria for [pilot projects](#), for live-action drama or comedy productions based on adaptations of best-selling, Canadian authored novels or live-action drama or comedy productions with a budget of at least \$2 million per hour of content created. However, the Commission has never certified a production as Canadian under the pilot project framework.
77. In light of the above, the Commission invites interested persons to respond to the following question:

Q49. Should the Commission eliminate pilot projects from the definition of a Canadian program? Please explain.

Adult programming

78. Broadcasting ownership groups that operate in Canada and make over \$25 million in gross revenues generally do not rely on adult programming to generate those revenues. Further, adult programming is an element of the production industry that requires no regulatory support for its overall economic stability. While past business models in the traditional Canadian broadcasting system may have relied on the certification of adult programming, it is the Commission's view that there is no industrial or public policy imperative requiring the continued recognition of this type of programming as a Canadian program or eligible for certification.

79. Further, it is the Commission's view that no longer recognizing adult programming as Canadian under the certification framework would not materially affect the Commission's jurisdiction over that type of programming, as adult programs would remain "programs" under the Act.
80. In light of the above, the Commission invites interested persons to respond to the following question:

Q50. By reference to the factors set out in subsection 10(1.1) of the Act or section 13 of the Government of Canada's policy direction, should adult programming continue to be recognized as Canadian programming? Please explain.

Reports the Commission will rely on during this proceeding

81. To have a fulsome public record, the Commission wishes to engage with Canadians within and outside the audio-visual production industry. To do this, the Commission will also take into consideration reports stemming from the above-noted workshops with industry members and public opinion research.

Workshops with the industry

82. In February and March 2024, as part of the first phase of its review of the definition of "Canadian program," the Commission hired a third party to hold multiple workshops across the country, in-person and virtually, with 382 broadcasting industry members to start discussions on that definition. The Commission decided to hold these workshops to engage with industry members first as they must work with the definition on a regular basis. These industry members have "on the ground" experience and information on the dynamics that the definition is currently creating and on what could be reviewed to the benefit of the Canadian broadcasting system.
83. The Commission used the services of IPSOS, a third party specializing in qualitative research, to facilitate the discussions and write a report summarizing what was said. On 25 September 2024, the Commission published the report entitled [Defining Canadian Content – Workshops with Stakeholders and Industry: What We Heard Report.](#)

Public opinion research

84. Concurrent with the public consultation initiated by this notice, a third party hired by the Commission is conducting public opinion research to ensure that the points of view of Canadians and Indigenous peoples are fully included on the public record. The Commission intends to publish the report on this public opinion research before the public hearing. The Commission will place the report on the public record for this proceeding to allow interveners to comment on it. These comments will form part of the public record.

Procedure

85. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to the present proceeding. The Rules of Procedure set out, among other things, the rules for content, format, filing and service of interventions, answers, replies and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website under "[Statutes and Regulations.](#)" The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
86. The Commission will hold a public hearing commencing on **31 March 2025** at Gatineau, Quebec, to address the matters set out in this notice.
87. The Commission invites comments that address the issues and questions set out above. The Commission will accept comments that it receives on or before **20 January 2025**.
88. Interested persons who require assistance submitting comments can contact the Commission's Hearings & Public Proceedings group at hearing@crtc.gc.ca.
89. The Commission considers that efficiency, balance and fair participation is necessary for this policy making proceeding in order to swiftly facilitate the additional proceedings necessary to implement the policy determinations.
90. To help ensure that interveners send only comments relevant to the questions included in the notice and to help ensure timelines can be met for this process, the Commission limits interventions to **20 pages**. If interveners wish to provide any supplementary documents for their submissions, such as reports or appendices, the number of pages for those documents will not form part of the 20-page limit for interventions. Further, any appendices should each be provided as a separate document accompanying the intervention.
91. Following the public hearing, parties will have an opportunity to file brief final submissions and, if applicable, responses to undertakings. Details regarding the filing of final submissions will be provided at a later date.
92. Further, the Commission does not intend to grant any requests for extensions of time to provide comments except in truly exceptional circumstances where requests are supported by sufficient evidence.
93. The Commission will also indicate before the hearing which of the questions included in this notice will be addressed at the hearing. Some elements may be addressed only through written interventions and final submissions.

94. The Commission requests that, whenever possible, parties provide evidence in support of their comments or proposals. The questions in this notice are numbered, and the Commission asks that parties identify the number for each of the questions to which they are responding. In addition, the Commission may ask parties to respond to additional questions. These questions and the responses will be placed on the public record. Public interest and consumer groups that need help with the cost of participating in this proceeding can apply to the Broadcasting Participation Fund (BPF). Information on this fund can be found on the [BPF website](#).
95. The intervention must include one of the following statements in either the first or the last paragraph:
1. I request to appear at the public hearing.
 2. I do not want to appear at the public hearing.
96. Interested persons who request to appear at the public hearing must indicate whether they prefer to participate
- virtually from their home or office; or
 - at the main location for the public hearing in Gatineau.
97. Parties who wish to appear at the public hearing must provide reasons why their written intervention is not sufficient and why an appearance is necessary. In addition, parties requiring communications support must state their request for such support on the first page of their intervention.
98. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the hearing.
99. Interested persons are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position but do not wish to appear at the hearing. Information on how to file this type of submission, known as a joint supporting intervention, as well as a template for the covering letter to be filed by the parties, can be found in Broadcasting Information Bulletin 2010-28-1.
100. The Commission encourages interested persons and parties to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
101. Submissions longer than five pages should include a summary, which will not be counted toward the 20-page limit for interventions. Each paragraph of all submissions should be numbered, and the line ***End of document*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

102. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that allow text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention/comment/answer form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

103. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing, or where required, service of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed or served. The Commission advises parties who file or serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
104. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
105. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.
106. Persons requiring communications support such as assistive listening devices and sign language interpretation are requested to inform the Commission at least 45 days before the commencement of the public hearing so that the necessary arrangements can be made.

Important notice

107. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, fax, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, email addresses, postal/street addresses, and telephone and fax numbers.
108. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
109. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
110. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

111. Links to interventions filed for this proceeding, as well as other documents referred to in this notice, are available on the Commission's "[Consultations and hearings: have your say](#)" page.
112. Documents are available upon request during normal business hours by contacting:

Documentation Centre
Examinationroom@crtc.gc.ca
 Tel.: 819-997-4389
 Fax: 819-994-0218

Client Services
 Toll-free telephone: 1-877-249-2782
 Toll-free TTY: 1-877-909-2782

Secretary General

Related documents

- *The Path Forward – Supporting Canadian and Indigenous content through base contributions*, Broadcasting Regulatory Policy CRTC 2024-121, 4 June 2024, as finalized by *The Path Forward – Supporting Canadian and Indigenous content through base contributions – Finalization of conditions of service*, Broadcasting Regulatory Policy CRTC 2024-121-1 and Broadcasting Order CRTC 2024-194, 29 August 2024
- *Call for comments – Co-development of an Indigenous Broadcasting Policy*, Broadcasting Notice of Consultation CRTC 2024-67, 22 March 2024

- *Online Undertakings Registration Regulations, and exemption order regarding those regulations*, Broadcasting Regulatory Policy CRTC 2023-329 and Broadcasting Order CRTC 2023-330, 29 September 2023
- *Call for comments – Proposed Regulations for the Registration of Online Streaming Services and Proposed Exemption Order regarding those Regulations*, Broadcasting Notice of Consultation CRTC 2023-139, 12 May 2023
- *Notice of hearing – The Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content*, Broadcasting Notice of Consultation CRTC 2023-138, 12 May 2023, as amended by Broadcasting Notice of Consultation CRTC 2023-138-1, 9 June 2023, and Broadcasting Notice of Consultation CRTC 2023-138-2, 1 February 2024
- *Change to the treatment of stock footage costs as part of the evaluation of applications for Canadian program certification*, Broadcasting Regulatory Policy CRTC 2023-90, 23 March 2023
- *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019
- *Renewal of licences for the television services of large English-language ownership groups – Introductory decision*, Broadcasting Decision CRTC 2017-148, 15 May 2017
- *Renewal of licences for the television services of large French-language ownership groups – Introductory decision*, Broadcasting Decision CRTC 2017-143, 15 May 2017
- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010

THIS IS EXHIBIT "G"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

Commissioner for Taking Affidavits

A handwritten signature in black ink, appearing to be 'AUBO', written in a cursive style.



Broadcasting Notice of Consultation CRTC 2024-288

The Path Forward - Defining “Canadian programs” and
supporting the creation and distribution of
Canadian programming in the audio-visual sector

Submission by the
Canadian Media Producers Association

January 20, 2025

Executive Summary	1
Introduction and Overview	7
Key Creative Positions	7
Showrunner – Q4 & Q5	8
Other Key Creative Positions.....	9
Terminology.....	9
Music Composer – Q2	11
Minimum Thresholds	11
Important Differences Between Live Action and Animation.....	11
Recognition for Diverse Genre Requirements – Q1.....	12
Cultural Elements	12
Shared Creative Positions.....	13
Contributions to Canadian Programming (CPE).....	13
Applicability to Online Services.....	13
Applicability to Broadcaster-affiliated Online Services.....	13
Contribution Levels for Broadcasters and Online Services – Q20	13
Programs of National Interest – Q18 and Q19.....	14
Independent Production	16
Original Programming – Q22.....	17
Support for Indigenous Content and Content Created by and for Equity-deserving Groups, OLMCs and Canadians of Diverse Backgrounds – Q23.....	18
Support for Canadian Programming not Supported by Existing Business Models – Q24.....	18
Sports – Q24	19
News – Q24 and Q25.....	20
CPE Commitments, not Bonus Credits – Q22, Q23 and Q26	20
Redirection of a Portion of the Base Contribution to Production Funding	21
Financial Control - Ownership	21
Canadian Ownership of a Canadian Program – Q13	21
Flexible Production Models – Q13	22

A Significant Contribution from the Independent Production Sector	23
In All Cases: Canadian Producer Control – Q14.....	23
Existing Models - Co-ventures – Q16.....	24
Codes of Practice	24
Collection and Disclosure of Financial Information – Q27 to Q30	25
Artificial Intelligence – Q40 to Q41	26

Executive Summary

Broadcasting Notice of Consultation 2024-288

A. Key Creative Positions (Points System)

- e1. Clarifications to the terminology proposed by the CRTC for newly recognized key creative positions are necessary. This will ensure that a modernized Points System properly reflects industry practices. The CRTC should, wherever possible, adopt terminology that conforms with known credited positions and represent genuine creative functions in the production sector.
- e2. The addition of “Showrunner” within an expanded Points System is redundant given the role and function of producers on Canadian productions. The position is not formally credited in Canada and is used predominantly in association with U.S.-produced live-action scripted drama series. The limited adoption or use of the position renders the CRTC’s proposed expansion to a 15-point system of limited practical use for most types of production.
- e3. The CMPA agrees that the CRTC should not grant points for subjective “cultural elements” within a modernized Points System.

B. Canadian Programming Expenditures (CPE)

- e4. CPE requirements should apply to Broadcasters, including their affiliated online services as well as discrete non-Canadian Online Services. The current group-based approach to regulatory expenditure requirements is an effective means of providing flexibility and should remain the standard policy tool under the CRTC’s revised framework.
- e5. The CRTC’s proposed threshold of \$25M is an appropriate benchmark for CPE requirements.

C. Programs of National Interest (PNI)

- e6. The PNI policy remains a critically important policy tool to ensure that certain genres of programming are made by Canadians. The CRTC’s preliminary view that Online Services who offer on-demand programming in categories currently

contemplated by the existing PNI policy does not account for shifting programming strategies and priorities.

- e7. The CRTC has not indicated what kinds of contributions would replace PNI, and how Online Services and Broadcasters would support specific genres and categories of Canadian programming going forward. The CRTC should not change its policy regarding PNI until, and only after such time as, a new policy for Canadian programming contributions has been reviewed and put in place.
- e8. Existing PNI requirements include a mandate for Broadcasters to allocate at least 75% of PNI expenditures to independent production companies. Eliminating PNI requirements could undermine contributions to independent production, and no clear replacement mechanism has been proposed by the CRTC.
- e9. A discreet Independent Production Expenditure (IPE) requirement could ensure that both Broadcasters and Online Services allocate funding to independent producers, particularly for at-risk programming genres.

D. Financial Control (Ownership Considerations)

- e10. Amendments to the *Broadcasting Act* together with the federal government's Policy Direction to the CRTC indicate that equitable ownership rights are a priority for Canadian program regulations. The CRTC should include majority Canadian ownership as a fundamental requirement of Canadian program certification. This change will ensure that Canadians, including independent producers, control and benefit in a significant and equitable manner from the exploitation of the programs they create.
- e11. Flexible ownership models should be considered within a revised framework - the CRTC's recognition of co-ventures provides a template for developing a flexible "give-and-take" ownership framework. Specific ownership requirements should be determined according to various special recognitions that consider, among other factors, sources of program financing, the source of origination, and the level of Canadian creative inputs in the program.
- e12. While certain production models could provide opportunities and incentives for varying degrees of ownership, Canadians must retain a majority ownership interest and beneficial right in relation to the program.

- e13. A minimum percentage of CPE requirements should be allocated to Independent Production Expenditures that are excluded from the “give-and-take” model. Within this independent production requirement, 100% of the IP and ongoing exploitation rights would remain with the independent producer together with a significant and equitable revenue share.

E. Codes of Practice

- e14. Codes of Practice are necessary to respond to the significant power imbalance between Canadian independent producers and Broadcasters and Online Services, which often prevent producers from retaining ownership and control of intellectual property and exploitation rights.
- e15. The CRTC should require Broadcasters and Online Services to adopt and adhere to Codes of Practice either by embedding these standards directly in the definition of Canadian programs or otherwise as a Condition of Service.
- e16. Codes of Practice should be negotiated between producer associations and broadcasting undertakings, with the aim of establishing equitable, baseline ownership and remuneration rights.

F. Collection and Disclosure of Financial Information

- e17. The CMPA supports the CRTC’s proposal to publicly disclose data filed by online services regarding revenues, programming expenditures, and spending by category, as is done for broadcasters, subject to appropriate confidentiality designations.
- e18. The CMPA recommends updates to production reports to provide detailed insights into policy objectives, such as Indigenous content, original programming, and regional production.

G. Artificial Intelligence

- e19. Artificial Intelligence (AI) should be viewed as a tool to enhance, not replace, human creativity in the production of Canadian programs. AI should be considered a valuable tool to improve efficiency in technical areas like visual effects and editing and to enhance discoverability of Canadian programs, while emphasizing its role as a complement to human creativity.

- e20. At all times, Canadian programs must retain meaningful human agency and creative input, aligning with the Broadcasting Act's goal of fostering authentic Canadian stories and voices.

Introduction and Overview

1. The Canadian Media Producers Association (CMPA) is the country's leading member-based advocacy organization for independent producers producing content in the English language. We represent more than 600 hundred companies engaged in the development, production, and distribution of content made for television, cinema, and digital media channels. The CMPA works to promote the continued success of the Canadian production sector and to ensure a future for the diverse content made by Canadians for both domestic and international audiences.
2. The CMPA is pleased to provide the following comments with respect to the above-noted notice of consultation. The CMPA requests to appear at the public hearing, to elaborate on our positions in these comments.
3. Overall, the CMPA has focused its submission on four core subjects, including: Key Creative Positions, Canadian Programming Expenditures (CPE), Programs of National Interest (PNI), and Financial Control (ownership models). The CMPA's position on these topics is summarized as follows:
 - The CMPA is generally supportive of a modernized and expanded list of key creative positions, provided there are additional clarifications and amendments.
 - The CMPA strongly supports establishing CPE requirements on both Broadcaster Groups and Online Services.
 - The CMPA does not support eliminating PNI requirements in the absence of alternative policies to ensure ongoing support for at-risk Canadian programming and independent production.
 - The CMPA strongly supports a definition of Canadian programming that requires Canadian ownership of intellectual property (IP), as well as a significant and equitable share in the exploitation of a program by Canadians, including Canadian independent producers.

Key Creative Positions

4. The key creative points system (Points System) is used for Canadian program certification by multiple Canadian screen industry regulatory and funding bodies. The Canadian Audio-Visual Certification Office (CAVCO), Telefilm Canada and the Canada Media Fund (CMF) each rely on the Points System to assess eligibility within the respective regulatory and financing frameworks that they administer.

5. Through this consultation, the CRTC contemplates a modern reframing of the Points System to introduce greater flexibility into Canadian program certification. The CMPA is broadly supportive of this objective; however, the CMPA submits that the CRTC must ensure that proposed changes reflect industry practice in contemporary film and television production. This includes properly characterising creative positions and assigning appropriate point allocations that correspond to the position's creative impact. The CMPA has highlighted specific matters for the CRTC's consideration to aid in this effort.

Showrunner – Q4 & Q5

6. In response to the CRTC's request for details as to how the newly proposed position of "Showrunner" should be defined, the CMPA anticipates that the CRTC will receive a wide range of proposals – for good reason. The term carries vastly different meanings depending on the context in which it is used.
7. The term "Showrunner" is widely understood in the United States (where it is most used) to denote the central authority overseeing the creative vision and day-to-day operations of a series.¹ Even in the United States, however, there is no specific "Showrunner" credit. In Canada, these same responsibilities primarily reside with the producer (more specifically, an Executive Producer) who must demonstrate both creative and financial control over a production to meet Canadian program certification requirements. "Showrunner" is rarely credited in Canada as a direct result of these responsibilities being so clearly vested with the producer. Where the term is employed in a Canadian production, it is typically used to emphasize the specific creative input of a producer. In this scenario, the producer may have assumed directing or screenwriting responsibilities on top of managing the production, including its personnel and budget. Even in this expanded role, the existing Points System is already structured to recognize these expanded responsibilities since points are granted for both Directors and Screenwriters.
8. Since Canadian program certification already requires the involvement of a Canadian producer, the addition of Showrunner is redundant. In this context, it is unclear what additional policy objective would be achieved by introducing the Showrunner position as a separate point-eligible role.
9. There are also practical concerns about the limited applicability of a "Showrunner" point. Most Canadian productions do not use a showrunner, meaning this proposed change is likely to only benefit a small subset of productions, namely, live-action scripted drama series. While the CRTC has proposed expanding to a flexible 15-point system, the "Showrunner" position would not benefit other types of productions, such as feature films, animation, and documentaries. For most

¹ The term "Showrunner" is almost exclusively used in connection with a series. Its suitability for a general-purpose Points System, intended to apply to all manner of production formats, is limiting, as a result.

productions, the expanded Points System would effectively consist of only 9 out of 13 available points, rather than 15, raising the threshold for meeting Canadian content requirements to nearly 70 per cent as opposed to the existing threshold of 60 per cent.

10. While the CRTC has asked for assistance in defining the "Showrunner" position, this exercise is secondary to addressing the broader considerations outlined herein. Given the redundancies outlined above, there is little need to include this role in an expanded list of key creative positions. As a result, the CMPA does not support the addition of "Showrunner" as a point-eligible key creative position, nor the CRTC's preliminary view that the position be made mandatory for productions that use the role.

Other Key Creative Positions

11. In proposing additional key creative positions, the CRTC has notably excluded other well known (and credited) creative functions. For example, it is unclear why "Key Make-up/Hair Artist" and "VFX Director" would be included within the Points System to the exclusion of, for example, "Sound Mixing", "Sound Design", "Casting Director", "Music Supervisor" and "Stunt Coordination". Given that these newly proposed positions are optional, it would be more appropriate to allow for an expanded list of creative positions to provide genuine flexibility for a more inclusive variety of productions.

Terminology

12. With respect to other creative positions proposed by the CRTC, the CMPA has identified opportunities to improve the terminology used to describe them. The CMPA's recommended amendments, outlined below, are designed to promote clarity, fairness, and adaptability for a diverse range of productions.
13. "Key Make-up/Hair Artist" should be amended. "Key Makeup Artist" and "Key Hair Stylist" is more appropriate terminology for these roles. These are separate credited functions that perform distinct roles. The CMPA also submits that the CRTC should clarify, as it has for other positions, whether this point is conjunctive or disjunctive, namely whether a point is awarded when both positions are filled by a Canadian, or where at least one of the two positions are filled by a Canadian. The CMPA recommends that a point only be awarded where both positions are filled by a Canadian.
14. "Visual Effects Director or Special Effects Director" should be amended. Visual Effects (VFX) Director is not a commonly credited position in Canada and, as written, implies that the position exercises a degree of creative control when that may not always be true. "Visual Effects Supervisor" is more appropriate terminology yet, even as amended, this role is typically subordinate, or subject

to, the creative oversight of the Director, Production Designer or Art Director. Furthermore, visual effects work is often subcontracted to third party studios, where several individuals may perform the work of a VFX Supervisor, outside of a producer's direct control. Similarly, "Special Effects Director", which is not a commonly credited position, should also be amended to "Special Effects Coordinator". Like hair and make-up, the CRTC should clarify whether the proposed point for visual effects and special effects is conjunctive or disjunctive and acknowledge the distinct functions of these positions. In amending the terminology for both positions, the CRTC should clarify what specific creative function this role is intended to capture that is not already contemplated by existing creative positions. Moreover, the CMPA recommends that a point be awarded where either position is filled by a Canadian.

15. "Camera Operator and Operation or Virtual Camera Operator" should be amended. This is outdated terminology that does not accurately reflect current practices in animated productions. The CMPA recommends that the CRTC consider how CAVCO defines similar functions, such as recognizing the role of "Lead Compositor" in 3D digital animation or "Layout Supervisor" in 2D digital animation. Amending this terminology would provide a more accurate representation of the creative roles within animated productions.
16. "Scriptwriter and Storyboard Supervisor" should be modified. While both positions should be held by Canadians, the positions themselves should be separated to recognize the distinct creative functions these roles perform. Whereas a scriptwriter is responsible for developing the narrative, dialogue, and overarching story structure, a storyboard supervisor oversees the visual interpretation of the script, ensuring that the storytelling aligns with the director's vision and the production's artistic goals. Conflating these two positions fails to acknowledge the unique creative contributions of each role.
17. Further to the last paragraph, the proposed point allocation amendments for Scriptwriter and Director in animation productions should be amended. The CRTC's proposed allocation implies equivalency with scripted live-action production, which does not account for the unique demands and creative processes of animation. In animation, roles such as storyboard supervision, animation direction, design, and editing are equally critical to the production process and should be reflected in the Points System.
18. The terminology for "Key Animation," "Layout Artist and Background," and "Assistant Animation/In-betweening" should be amended to reflect that these are typically departmental functions rather than positions occupied by a single individual. Clarifying this distinction will better align the terminology with industry practices and ensure accurate representation of these roles within the Points System.

Music Composer – Q2

19. The CRTC must reexamine how to approach its proposed change to the Music Composer point. There are significant administrative challenges associated with allowing a point for using pre-existing or pre-recorded Canadian music. The CRTC is silent on which rights, specifically, are contemplated by the amended point. Composition, lyrics, performance, all three? These distinct rights are frequently transferred or assigned and held by distinct parties, including music publishers or record labels, that may or may not be Canadian subsidiaries of American companies. A song could be entirely non-Canadian but owned by a Canadian company. Conversely, a song could be written and performed by a Canadian but owned by an American company. Without more specificity in definition, this addition may not have the effect of incentivizing the use of Canadian created music.
20. In contrast, Music Composers score the entire production, not just a song or songs, and contribute significantly to the creative direction of a project. Without clear minimum thresholds or rules for Canadian ownership, it is not clear whether a limited use of songs is creatively equivalent to the contribution of a Music Composer.

Minimum Thresholds

21. Several of the CRTC's newly proposed points may require minimum thresholds to qualify for a point. For example, is it sufficient to license a 3-minute "Canadian" song for inclusion in a 2-hour feature film? How will the CRTC treat a series where a single sequence or scene relies on VFX? Having previously noted that several newly proposed animation points are commonly held by groups of people rather than a single person, the CRTC should clarify whether both individuals and creative teams can qualify for points and what an appropriate threshold is to determine whether a creative team is "Canadian".
22. These considerations support the need for the CRTC to clarify that points will only be awarded for creative functions that make a significant or meaningful creative impact. If the CRTC were to adopt this requirement, it may wish to balance the requirement with an expanded inventory of credited positions (e.g. Sound Design and Mixing, Casting Director, Stunt Coordinator, Music Supervisor) to preserve flexibility.

Important Differences Between Live Action and Animation

23. The CRTC has proposed revisions to the Points System in a manner that aims to maintain parity between the live action and animation point rubrics. While alignment is valuable, the CRTC must acknowledge the unique differences between live-action and animation productions. Strict adherence to a uniform 15-

point structure for both types of productions fails to adequately reflect the distinct creative and technical demands of animation. By applying the same, or a substantially similar, framework to both live-action and animation, the CRTC risks overlooking the specialized roles and processes involved with each form of production. Animation productions are equally deserving of a deliberately formulated Points System. The same is true of specific genres of programming, like documentaries, which is discussed further below.

Recognition for Diverse Genre Requirements – Q1

24. The introduction of new creative positions, like VFX, hair, and make-up, could have unintended consequences for certain types of productions, such as documentaries. Whereas in the current system, a documentary could be certified as Canadian if the core creative team, consisting of a Director, Director of Photography, Picture Editor and Composer were all Canadian, it would no longer qualify if the positions of “Key Makeup Artist” or “Key Hair Stylist” were occupied by non-Canadians. This is despite these roles generally have minimal impact on the creative or narrative direction of the production (in most cases).
25. Documentaries frequently consist of smaller teams in key creative roles. In this context, expanding to a 15-point system, or a 50-point system for that matter, would rarely, if ever, be of any practical use to documentary producers.
26. The CMPA submits that the CRTC should acknowledge that the specific circumstances and practical realities of production, documentary production in particular, are variable. In this regard, the CMPA supports the Documentary Organization of Canada’s position that documentary productions should be subject to a seven-point system, certification being granted to productions obtaining 6/7 points, for the following key creative positions:
 - Director (2 points)
 - Editor (2 points)
 - Screenwriter (1 point)
 - Director of Photography (1 point)
 - Music Composer (1 point)
27. Within this framework, the “perfect score” allowance for productions that do not use each of the listed positions above, would continue to apply.

Cultural Elements

28. The CMPA is broadly supportive of the CRTC’s decision not to include subjective “cultural elements” in the Points System. The CMPA is firmly of the view that a program should qualify as Canadian only when the creative input and perspectives of the people involved in making it are Canadian. This is how we sustain a thriving

production and broadcasting sector and how we ensure a diversity of Canadian perspectives inform the programs Canadians watch and enjoy.

Shared Creative Positions

29. The CMPA supports the CRTC's overall effort to introduce flexibility into the Points System but emphasizes the importance of additional clarifications. The CRTC recognizes that requiring a high threshold of Canadians in certain key creative functions (such as Director or Screenwriter) is sufficient to ensure the overall creative impact or distinct Canadian nature of a program. The CRTC's proposal to require an 80 per cent Canadian threshold for certain key creative positions is a welcome acknowledgment of modern production realities.

Contributions to Canadian Programming (CPE)

Applicability to Online Services

30. The CRTC has already established a baseline revenue threshold for Online Services of \$25 million in annual revenue, recognizing that services with revenues above that threshold would make a material contribution to the broadcasting policy objectives set out in subsection 3(1) of the *Act*. Consistent with that approach, the CMPA supports the CRTC's preliminary view that Online Services should also be required to make expenditures on Canadian programming, on that same basis. These services benefit from the distribution of their services and generate significant revenues from Canadian subscriptions and advertising. Commensurate with these benefits, they must also contribute their fair share to the development and production of Canadian programming. Their revenue-based contributions to Canadian programming will have a material effect on the implementation of the broadcasting policy objectives set out in the *Act*.

Applicability to Broadcaster-affiliated Online Services

31. The CMPA also supports the CRTC's preliminary view that Online Services affiliated with Broadcaster Groups whose revenues surpass the \$25 million revenue threshold should also be required to make expenditures on Canadian programming. Broadcaster-affiliated online services operate both as complementary and distinct platforms for the distribution of content. The CRTC's approach acknowledges this multiplatform structure and will require Canadian programming contributions to reflect the revenues generated from these different platforms.

Contribution Levels for Broadcasters and Online Services – Q20

32. Broadcasting is no longer limited to linear, ad-supported content. Broadcasters are now multiplatform content providers, with multiple sources of revenue, and the business models of Online Services are continuing to evolve. At first, the online distribution of content was limited to non-linear, video-on-demand. Broadcasting services are now offering ad-supported online versions of linear programming and increasingly turning to sports and live events to drive new subscribers and/or revenues. From a consumer perspective, there is increasingly little to differentiate Broadcasters from Online Services and any distinctions that remain will continue to fade with time.
33. The Commission should treat undertakings equitably. The overall contribution commitment of Online Services should be comparable to that of Broadcasters, whenever they serve comparable functions. Otherwise, the CRTC risks preferring one over the other and / or establishing a regulatory advantage for one over the other.
34. CPE requirements for Broadcasters and Online Services should be similar, considering the following:
- Large Broadcaster Groups contribute 30% of their revenues to Canadian programming.²
 - A relatively lower CPE requirement is applied to smaller Broadcaster Groups.³
35. Contribution requirements should strike an appropriate balance between reflecting the programming mix and strategic focus of the services making up the group, while also ensuring that key policy priorities, such as ensuring appropriate contributions towards at-risk genres and independent production, are achieved.⁴

Programs of National Interest – Q18 and Q19

36. Broadcaster commitments to PNI were initially put in place in 2010, at the same time that the CRTC introduced the flexible Group-licensing policy and the resulting contributions to Canadian programming. As a result of that framework, Broadcasters may pool their Canadian content spending across all of their services (as opposed to on a service-by-service basis). By extension, CPE spending for a particular service may be limited (or completely absent), even though the Group may nonetheless generate significant subscription/advertiser revenues from that service. This framework effectively grants Broadcasters significant flexibility in how they choose to allocate resources to operate their services and fulfill Canadian programming requirements across their portfolio.

² Such as, Bell, Rogers and Corus

³ Such as, Wild Brain and Blue Ant

⁴ *Ibid*

37. Consistent with that new policy, the CRTC removed the exhibition requirements for Canadian priority programming and replaced them with specific Group expenditure requirements, for both CPE and PNI.
38. The operational flexibility from the Group structure remains in effect today. In fact, the CRTC has indicated that the structure will be extended to Online Services and their contributions to Canadian programming.
39. Beginning with the Group policy in 2010, the CRTC has consistently recognized the policy rationale for supporting PNI. It has also identified and applied the criteria to be used in the designation of programming as PNI.⁵
40. However, rather than also extending PNI requirements to Online Services, the CRTC is of the preliminary view that the current approach to PNI is no longer needed, on the basis that the business models and programming offered by Online Services is specifically geared towards the categories of programming contemplated by PNI.
41. This preliminary view is, the CMPA submits, premature. The CRTC has not indicated what kinds of contributions would replace PNI, and how Online Services and Broadcasters would support specific genres and categories of Canadian programming going forward. The CRTC should not change its policy regarding PNI until, and only after such time as, a new policy for Canadian programming contributions has been put in place.
42. In assuming that Online Services will continue to focus on PNI-type content, the CRTC is also assuming that these services will maintain static business models. Online Services are evolving quickly, not only in terms of the revenues they generate, and their packaging / retail offers to Canadian consumers, but even more so in regard to the categories of programming they offer. Online Services are increasingly focusing on appointment viewing, including sports, live programs and special events.
43. We have seen this before. In 2010, the CRTC introduced expenditures on PNI to replace the exhibition of priority programming. It did so in response to the declines in Broadcaster spending in the PNI categories. While the programming strategy of many Online Services is focused on PNI, the overall programming budgets are also exponentially larger. As such, they will have the flexibility and opportunity to commit significant amounts of CPE to Canadian programming in other categories.
44. Moreover, Broadcasters are still a critical platform for the promotion of Canadian content, including programs in the PNI categories. The CRTC should adopt a balanced policy that involves Canadian content contributions from Broadcasters

⁵ CRTC Broadcasting Regulatory Policy 2015-86 "Let's Talk TV", at para 296

as well as Online Services. Together, they can more effectively contribute to, and provide, a greater diversity of Canadian content.

Independent Production

45. Of concern, the CRTC's preliminary view regarding PNI overlooks the commitment to independent production embedded within it, even though this requirement is articulated as a specific Condition of Service. In addition to CPE and PNI, Broadcasters must ensure that at least 75% of the expenditures on PNI are to be directed towards programming produced by independent production companies.
46. Eliminating PNI requirements has the potential to impact existing contributions to independent production. These requirements were specifically put in place to recognize a broadcasting policy objective in the *Act*, namely that the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.⁶
47. As a result of amendments from Bill C-11 and the Policy Directions that followed it, there are now additional legislative and federal Cabinet requirements that support the contribution of independent production to the Canadian broadcasting system. The CRTC's definition of a Canadian program must now consider whether Canadians, including independent producers, have a right or interest in relation to a program, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program.⁷ In exercising its powers under the *Act*, the federal Cabinet directed the CRTC to support the Canadian ownership of intellectual property⁸ and consider, as it relates to audio-visual programming, the vital role of Canadian independent producers.⁹
48. However, as with our comments relating more specifically to PNI, the CRTC has not indicated how changes to the PNI policy would not adversely affect independent production, nor what regulatory support mechanism would replace it.
49. In our submission, the CRTC should consider a specific contribution requirement related to independent production. An Independent Production Expenditure (IPE) requirement would more effectively fulfill the legislative policy objectives and directions outlined above, while also offering a more flexible and adaptable contribution framework for Broadcaster and Online Service contributions.

⁶ Subparagraph 3(1)(i)(v) of the *Broadcasting Act*.

⁷ *Ibid*, at Paragraph 10(1.1(a)).

⁸ Canada, Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework), SOR/2023-239, (2023) C Gaz II, 157.24, at para 13(c).

⁹ *Ibid*, at para 13(f).

50. In Step 3, Broadcasters and Online Services will outline their proposals for contributions to Canadian programming. The CRTC should consider the application of this new IPE requirement and apply it to the tailored contribution proposals from Broadcasters and Online Services. An IPE requirement should ensure that the proposed programming commitments by these services will appropriately contribute to furthering the policy objectives for the entire broadcasting system, including, for example, ensuring that Canadians have access to at-risk genres of programming, such as dramas, documentaries and children's programming.
51. As noted above, the CRTC should not change its policy regarding PNI until and unless a new mechanism for Canadian programming contributions has been put in place. As is the case now, such a replacement must specify the commitments to independent production.
52. Of note, in assessing a requirement for IPE, the CRTC must distinguish Broadcaster-affiliated producers from other independent producers. An IPE requirement should ensure that Online Services and Broadcasters allocate an appropriate portion of their Canadian programming contributions to independent producers who are unaffiliated to *any* Broadcaster or Online Service.
53. The CRTC has established policies for similar situations and should apply the same rationale for doing so here. In fulfilling a requirement to carry independent programming services, the CRTC has defined "independent" to mean services that are not affiliated with any broadcasting distribution undertaking (BDU), and not just the BDU in question. In defining the criterion in that manner, the CRTC understood that many large BDUs also own programming services, thereby creating the potential for BDUs to collaborate and trade off the carriage of each other's programming services by their respective BDUs. Absent an equivalent safeguard, any IPE requirement could easily be undermined by Broadcasters and Online Services commissioning programs from their own, or each other's, affiliated production companies.

Original Programming – Q22

54. In considering contributions to Canadian programming, the CRTC reiterated the necessity of prescribing original programming.¹⁰ That assertion reflects a number of Bill C-11 amendments highlighting the importance of original programming.
55. Investment in original content triggers production activity. It provides a contemporary viewpoint on Canadian society, reflecting the current interests and demands of Canadian viewers and subscribers. While we recognize the need for programming flexibility, redirecting a disproportionate portion of much-needed production resources to the acquisition of existing content runs contrary to these

¹⁰ CRTC Broadcasting Notice of Consultation 2024-288, at para 37.

stated policy objectives. A primary purpose for contributions to Canadian programming must be to support the development and production of new original programming.

56. Contribution proposals must include a minimum expenditure commitment to original Canadian programming, including independent production. Such an approach should not differ as between both official language markets. The principles and objectives are the same and should apply to both.

Support for Indigenous Content and Content Created by and for Equity-deserving Groups, OLMCs and Canadians of Diverse Backgrounds – Q23

57. Canadian independent producers continue to work towards meaningful change, breaking down systemic barriers to increase equity, diversity and inclusion that will benefit representation and participation in Canada's screen-based industries. Those efforts must enable access for a much greater diversity of producers and creators across Canada, including those of different experience levels, sizes and scales of companies, genres and formats of production.

58. As a result of Bill C-11, the *Act* now includes specific policy objectives whereby the CRTC must provide Indigenous, equity-deserving and OLMC communities with more opportunities for representation and participation, by taking into account their specific needs and interests.¹¹ A modernized CPE framework should support content from these groups and communities through specific commitments to Canadian programming, and not merely in the form of bonus CPE credits. The broadcasting system should provide results, not incentives. While the third phase will allow Online Services and Broadcasters to tailor their programming proposals, they must include specific and direct contributions to fulfill these important policy and objectives for the future evolution of the Canadian broadcasting system.

Support for Canadian Programming not Supported by Existing Business Models – Q24

59. As a result of the *Let's Talk TV* review process, the CRTC eliminated genre protection and must-carry access rights for most Canadian programming services. It also required BDUs to offer pick-packs to Canadian consumers, putting restrictions on the compilation of large numbers of programming services in extended basic, theme or tiered packages.

60. While there were benefits, these changes negatively impacted certain genres, notably children's and documentary programming. At the same time, while the Group policy and changes in the CMF's envelope system allow Broadcasters to allocate contributions and funding resources to programming priorities, they have severely diluted the support for these same genres.

¹¹ See *Broadcasting Act*, subparagraphs 3(1)(d)(iii.1) and (iii.11).

61. The CRTC must take specific and special consideration of children's programming as a vulnerable genre in the Canadian broadcasting system. Children's programming is a core contributor to our social, political, cultural and economic fabric. Children's programming can help shape future Canadian generations, ensuring that the interests of young people are not ignored. However, dedicated children's programming services are experiencing significant revenue decline or have closed altogether.
62. Likewise, documentaries that challenge our conscience and societal assumptions are critically important to supporting an informed citizenry. Despite their vital importance, both types of programming are at risk.¹²
63. The importance of children's programming to future generations and the influence of documentaries on our civic discourse mean that regulatory action should be taken to maintain a place for them in our system and on our screens. Whether through access to production funding and/or revenue-based contributions, the CRTC must ensure that an appropriate level of programming resources is available for the development and production of high-quality Canadian content in these vulnerable genres.

Sports – Q24

64. While most Online Services are not focused on sports, a growing number have adjusted their programming strategy to include sports content. And that involvement is not limited to fringe sports or lower tier leagues. Online Services are increasingly buying rights for top tier professional sports leagues, including specific rights for Canada.
65. The impetus and strategic rationale for more sports content from Online Services will only increase. Many Online Services offer versions of their programming service with advertising content. Live sports content from the major North American sports leagues are key drivers for advertising revenue. As but one example, the NHL national rights package at Sportsnet will expire at the end of next season and negotiations for these expensive rights will occur as the CRTC is reviewing this CPE contribution framework.
66. While the Group policy was being considered, many organizations in the production industry, including the CMPA, emphasized the need for the CRTC to impose regulatory guardrails around sports. Ultimately, the CRTC excluded mainstream sports services from the group-based framework. That will not be feasible for most Online Services that are not part of a group. As such, other

safeguards, namely commitments to at-risk genres and independent production, take on an even more significant role in fulfilling the CRTC's policy objectives.

News – Q24 and Q25

67. News is also of particular importance to the achievement of the objectives of the *Act*. And that is why the existing CPE framework for Broadcaster Groups also includes specific requirements for the exhibition of news content and expenditures for news-gathering and news production. Other contributions to Canadian programming only take up a relatively small portion of overall programming expenses. The vast majority of Broadcaster CPE is available for News and other Canadian content.
68. Broadcasters can also take advantage of operational synergies, and other regulatory benefits. News groups often include other affiliated news-focused discretionary services as well as digital services. Taken together, the stations, services and online platforms provide a more well-rounded view of the financial picture and the Broadcaster capacity to monetize news content. Recent benefits such as the elimination of Part II fees, online news funding from Bill C-18 and the Base Contribution from Online Services have the potential to build upon existing support from the redirection of BDU contributions to affiliated local stations.
69. While news programming is risky, expensive to produce, and difficult to monetize, almost all categories of Canadian programming face those same challenges. Regulatory measures to better support Canadian news content must not come at the expense of independent productions and at-risk genres of programming. Simply put, it is not a reasonable policy outcome for news programming to replace programming expenditure requirements currently set out within PNI obligations. Broadcasters generate billions of dollars in revenue from Canadian viewers and subscribers. While news is a priority, it must be balanced with other policy priorities enshrined in the *Act*.

CPE Commitments, not Bonus Credits – Q22, Q23 and Q26

70. The CRTC points to CPE bonus credits as potential incentives for contributions in certain areas. The CMPA does not support the application of bonus credits. Broadcasters have not used past bonuses that have been offered by the CRTC, thereby frustrating the purpose of the bonuses. At the same time, however, such bonuses are by their nature 'zero sum', given that they are premised on Broadcasters and Streamers being permitted to commission less Canadian programming in return for meeting the bonus criteria. The attainment of key policy objectives, as enshrined in the *Act* and the Policy Directions, should not fall into the regulatory equivalent of 'nice to have', nor should the mechanism of

attaining these objectives reduce the amount of Canadian programming offered to Canadians.

Redirection of a Portion of the Base Contribution to Production Funding

71. As part of the Base Contribution decision, Online Services are required to contribute 5% of their revenues to several identified funding recipients. In that decision, given the CMF's proven track record of successful support for Canadian content, the CRTC concluded that the contribution to the CMF should at least be 2% of revenues. However, to provide flexibility and to encourage Online Services to produce Canadian content while the framework was itself being reviewed, the CRTC also permitted these services to redirect up to 75% of that CMF contribution (i.e., 1.5% of revenues) directly to the production or acquisition of Canadian programming.
72. The Commission is now turning its attention to these same CPE contributions. Having concluded that Online Services will be required to make these contributions, there is no longer a need for the CRTC to continue to provide incentives for doing so. Once CPE contributions are put in place, we expect that the flexibility to redirect 1.5% of revenues to Canadian programming expenditures would revert to being specific contributions to the CMF. In effect, the flexibility afforded to Online Services was an interim measure that will soon no longer be necessary once the full contributions are put in place.

Financial Control - Ownership

Canadian Ownership of a Canadian Program – Q13

73. Following amendments to the *Act*, Online Services are now recognized as part of the Canadian broadcasting system and will soon be required to contribute to the development and production of Canadian programming. To accommodate these systemic changes, the federal government recognized that a review of CRTC Canadian program certification would be necessary.
74. In response to legislative requirements and explicit policy direction,¹³ we submit that the CRTC should add Canadian ownership as a fourth essential element in a modernized definition of Canadian content. Put simply, a Canadian program must be owned by Canadians. Only in this way can the CRTC ensure that "Canadians, including independent producers, have a right or interest in relation to a program that allows them to control and benefit in a significant and equitable manner from

¹³ Section 10 (1.1) (a), *Broadcasting Act*, S.C. 1991, c. 11 and *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*, SOR/2023-239, (2023) C Gaz II, 1577, online: <https://canadagazette.gc.ca/rp-pr/p2/2023/2023-11-22/html/sor-dors239-eng.html>.

its exploitation".¹⁴ With that in place, the CRTC will also ensure that production funding supports Canadian programs owned by Canadians, and not foreign-owned productions.

Flexible Production Models – Q13

75.The CRTC has indicated that both a "share in" and the "outright ownership of the intellectual property right for a program would ensure that Canadians have control not only over the creation of the content but also over its monetization, including in the future". In BNC 2024-288, the CRTC states, among other important criteria, that ownership models should be "flexible enough to accommodate diverse business models and distribution methods"¹⁵.

76.In providing that flexibility, the CRTC may look to the existing exceptions and special recognitions permitted within the current certification process. Co-ventures are specially recognized as non-treaty co-productions that offer greater flexibility for the involvement of non-Canadian producers.

77.In BNC 2024-288, the CRTC proposes various ownership models that promote varying degrees of Canadian ownership. Two models contemplate flexible ownership requirements, allowing for rights to be held by non-Canadians, when certain conditions, like higher Canadian creative input, are present.

- In a "give-and-take" model, more rights could be obtained (the "take") in return for more Canadians occupying key creative positions (the "give"). A similar model could reflect an Online Service making greater financial contributions to a production (a different form of "give").
- In a model supporting investment, the CRTC would balance the economic benefits of holding or sharing rights with incentives to collaborate with Canadians on these productions.

78.Acknowledging that a range of potential business models and commercial arrangements can result in the production of Canadian programs is necessary. While certain production models could provide opportunities and incentives for varying degrees of ownership, Canadian ownership must be established as a new baseline requirement. The CMPA accordingly submits that Canadians must retain a majority beneficial right or interest in relation to the program. The precise level of ownership would be determined according to enumerated special recognitions, authorised by the CRTC, that would take into consider, among other factors, sources of program financing, program origination (i.e. was it developed in-house

¹⁴ *Supra*, note 13, above.

¹⁵ BNC 2024-288, at para 31

by a Broadcaster, Online Service, or by an independent producer), and the level of Canadian creative inputs in the program.

A Significant Contribution from the Independent Production Sector

79. While flexible baseline requirements are important, the CRTC must also ensure that Canadian independent producers are not forced to accept a bare majority, or 51 per cent ownership, as the best-case scenario in all instances.
80. A completely open give-and-take model is unlikely to ensure that Canadians “control and benefit in a significant and equitable manner from the exploitation of the program” since both Broadcaster Groups and Online Services are likely to seek to maximize the ownership in a program wherever possible. As a result, and as part of an overall commitment to CPE, Broadcasters and Online Broadcaster must be required to commit a specific portion of their Canadian programming expenditures to independent production.
81. Within this independent production requirement, 100% of the IP ownership in the program should remain with the independent producer. It would also be necessary for the producer to obtain a significant and equitable revenue share that expressly takes into account the producer’s 100% ownership of the program. The inherent flexibility of a give-and-take structure, that would otherwise permit greater shares of ownership for Broadcaster Groups and Online Services, would not apply within this specific requirement.

In All Cases: Canadian Producer Control – Q14

82. Regardless of the ownership model (or models) ultimately endorsed by the CRTC, a Canadian producer, acting as the central decision-maker from the development stage until the production is ready for commercial exploitation, must remain a mandatory requirement.
83. The CRTC has acknowledged, at paragraph 28, that control over the creative and financial aspects of a production are important elements of what makes a program Canadian. The CRTC requires that the roles of producer, co-producer, line producer and production manager to be filled by Canadians. It does so to ensure that Canadians are placed in the roles of key decision makers in a production.
84. While ownership reasonably ought to ensure creative and financial control, the CMPA’s proposal does not serve as a substitute for the Canadian producer requirement. Quite the opposite – it represents an endorsement of the critical role that Canadian producers already serve and builds on that recognition by granting equitable ownership rights.

Existing Models - Co-ventures – Q16

85. The CRTC's co-venture model is a model that is already recognized and used as a path to Canadian program certification. As noted by the CRTC, it offers flexibility for Canadian producers to work with foreign producers, by sharing creative and financial responsibilities.
86. The co-venture should serve as an example to the CRTC that multiple avenues to Canadian program certification can co-exist, so long as the terms and conditions attached to the model lead to the attainment of the broadcasting policy contributions.

Codes of Practice

87. The legislative requirement that Canadian ownership and exploitation rights be considered as part of this modernization effort represents an acknowledgment of the skewed bargaining power between Canadian producers and Broadcasters. It is almost impossible for independent producers to negotiate with Broadcasters and Online Services, let alone retain ownership and control of IP and exploitations rights. The extent of such a market imbalance provides both Online Services and Broadcasters with a structure that enables them to effectively expropriate from producers the rights in their own programs.
88. Given the market imbalances noted above, the Commission must carefully consider how ownership models that support IP and exploitation rights can be operationalized. Policies that counteract outsized negotiating power are necessary for Canadian companies to own their own programs, so that they can exploit those rights, capitalize their companies, and invest in new Canadian programming.
89. Codes of Practice between Canada's independent producers and Online Services and Broadcasters is the most appropriate tool to fulfill that objective. These codes would establish a set of baseline conditions to ensure negotiations can be concluded in good faith. This is not merely an aspirational objective. We know from other jurisdictions, like the United Kingdom, that Codes of Practice have been instrumental in developing and growing domestic production industries with high-quality content.¹⁶¹⁷ Since Codes of Practice were first introduced in 2004, the independent production sector in the United Kingdom has grown revenues by 150 per cent.¹⁸ Even more impressive is the dramatic growth in international revenues,

¹⁶ See <https://www.gov.uk/government/publications/up-next-the-governments-vision-for-the-broadcasting-sector/up-next-the-governments-vision-for-the-broadcasting-sector#chapter-3-a-new-system-of-public-service-broadcasting-for-a-new-era>

¹⁷ See <https://www.uspa.fr/actualites/actualites-secteur/le-groupe-m6-animfrance-le-satev-le-spect-luspa-le-sedpa-et-la-scam-signent-un-nouvel-accord-en-faveur-de-la-creation>

¹⁸ Oliver & Ohlbaum Associates Ltd, *Celebrating 20 Years of Terms of Trade: A Report for Pact* (December 2023) at pg. 4 (also at Appendix "B")

which increased by 649 per cent between 2004 and 2022.¹⁹ A report published by Oliver & Ohlbaum Associates Ltd, "Celebrating 20 Years of Terms of Trade: A Report for PACT" is included with this submission as Appendix "A".

90. Codes of Practice would establish baseline terms not only for not IP ownership, but also for the exploitation of its rights and benefits. They would ensure that contributions to Canadian programming are meaningful and can more appropriately provide the IP commercialization conditions needed to sustain a strong and vibrant domestic production industry.
91. To ensure these flexible models and their conditions are respected, along with the specific requirements set out in the *Act* and the *Policy Direction* to the CRTC, the CRTC must mandate the development of Codes of Practice to ensure that baseline / minimum standards are put into place. To do so, the CRTC could either include these baseline terms and conditions in the definition of Canadian program itself or it could require that Online Services and Broadcasters separately negotiate Codes of Practice as a Condition of Service.
92. In addition, it is notable that paragraph 10(1.1)(d) of the *Act* requires the Commission to consider "the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers." The CMPA submits that this requirement to "collaborate" is not fulfilled where Broadcasters or Online Services take undue advantage of their market power when negotiating Canadian program ownership and exploitation rights with independent producers. Conversely, a Condition of Service relating to the establishment and adherence to a Code of Practice would serve as a clear and practical indicator of collaboration, and therefore provide a tangible benchmark of compliance with paragraph 10(1.1)(d) of the *Act*.

Collection and Disclosure of Financial Information – Q27 to Q30

93. Consistent with its current approach for Broadcasters, the CRTC is of the preliminary view that data filed by Online Services regarding revenues, programming expenditures and spending by programming category should also be disclosed publicly on its website. We agree, as the disclosure of this information is critical to the transparency and accountability of the CRTC's modernized contribution framework. Additional details in an updated production report would provide further insights regarding policy objectives and priorities (e.g., Indigenous content, original programming and regional production).

¹⁹ *Ibid*, at pg. 4

Artificial Intelligence – Q40 to Q41

94. Artificial intelligence (AI) should be recognized as a tool, *not* a substitute for human creativity. To qualify as a Canadian program, AI-generated material must retain a minimum level of human agency and creative input. This aligns with the *Broadcasting Act's* aim to foster authentic Canadian stories and voices. Criteria for Canadian content should focus on the cultural and creative roles fulfilled by Canadians, rather than the mere generative output from AI models. AI is, for the most part, derivative by its very nature. While AI has the potential to enhance efficiency in tasks like visual effects, editing, and sound design, and could serve as an effective tool to enhance the discoverability of Canadian programs, it should be seen as an adjunct to, not a replacement for, human creativity.

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December 2023

Celebrating 20 Years of Terms of Trade

A report for Pact
prepared by Oliver & Ohlbaum Associates Ltd



Contents

Key findings	4
Prior to 2003 the sector suffered from market failure and indies were being squeezed	4
Under ToT indies have achieved growth in sector revenues of 150 per cent	4
Indies have continued to thrive under ToT as the sector has evolved	4
The outlook for the sector is positive and ToT will continue to play a key role	5
1 Introduction	6
1.1 The scope of this report	6
1.2 About the authors	6
2 In 2003 the sector was a missed opportunity	8
2.1 The UK independent production sector was restricted by market failure	8
2.2 The incentives for producer broadcasters meant indies would remain squeezed	8
2.3 The indie market was relatively unprofitable and it was shrinking	9
2.4 The value of successful programmes was not being fully realised	10
2.5 Intervention would be required to unleash the potential of the UK independent production sector	10
2.6 Terms of Trade were introduced to enable sector growth	11
3 Under ToT the sector has grown significantly	13
3.1 ToT levelled the playing field and indies seized the chance for domestic success	13
3.2 Indies have created an international market which benefits the UK	13
3.2.1 UK indies have taken UK creativity to the world	14
3.2.2 International success has seen the UK establish itself as a global production hub	14
3.2.3 Commissions from overseas make up the vast majority of international revenues	14
3.3 Indie entrepreneurialism has driven sustained sector growth	15
4 Indies are thriving in a changing landscape	18
4.1 The first ten years demonstrated the success of Terms of Trade	18
4.2 Indies have enabled broadcasters to increase the quality of their content	18
4.3 'Creative renewal' is the engine driving innovation and growth	18
4.4 The number of active producers in the sector is steadily increasing	19
4.5 The balanced ecosystem allows companies of all sizes to thrive	20
4.6 Production hubs have developed in the Nations and Regions	20
4.7 The relationship between indies and UK PSBs is vital to the health of both	21
4.8 Indies are finding new opportunities working for global SVOD services	22
5 The outlook for the future	25
5.1 The sector faces some challenges	25
5.2 Demand for UK originated content is likely to remain high	25
5.3 Developments in regulation could provide necessary further support	25

Table of Figures

Figure 1: Indie share of main network qualifying output spend, 2001 (£m)	9
Figure 2: Indie producers' main network commissioning revenue, 1998 and 2001 (£m)	10
Figure 3: Timeline of events preceding the negotiation of Terms of Trade in 2004	11
Figure 4: UK indie sector domestic revenues, 2004 - 2022 (£m, % of total domestic production market)	13
Figure 5: Growth in UK TV programme rights & production exports, 1998 – 2020 (£m / indexed 1998 = 100)	14
Figure 6: UK independent production sector international revenues, 2004 - 2022 (£m)	15
Figure 7: UK independent production sector revenues by type, 2004 – 2022 (£m)	16
Figure 8: Number of new UK production companies per year, 2013 - 2021	19
Figure 9: Estimated total number of qualifying independent producers in the sector, 2013 - 2021	19
Figure 10: Share of the number of UK producers by size, 2013 - 2021	20
Figure 11: Share of UK commissions by producer location, 2022 (%)	21
Figure 12: UK independent producers primary commissions revenue by UK broadcaster type, 2013 - 2021 (£m)	22
Figure 13: UK independent producers international VOD commissioning revenues 2016 - 2022 (£m)	23

Key findings

Terms of Trade (ToT) have seen the UK production sector change beyond recognition, unleashing the entrepreneurialism of independent producers to change the narrative – from a cottage industry undermined by market failure to a jewel in the crown of the UK's creative sector.

The Terms of Trade are a set of regulations introduced following the Communications Act 2003 which set out the principles that each of the UK's PSBs will apply when agreeing terms for the commissioning of independent productions for their licensed PSB channels.

Prior to 2003 the sector suffered from market failure and indies were being squeezed

- Prior to the Terms of Trade, the UK PSBs accounted for approximately 90 per cent of all commissioning spending; this buyer concentration meant indies were not well placed to negotiate terms
- The differentiated positioning of the PSBs meant that programme pitches were specific to the commissioner, meaning that indies could not easily repurpose ideas, further strengthening the power of the buyers
- The existence of the BBC's and ITV's large in-house production capabilities meant they were not incentivised to use indies beyond the level mandated by the 25 per cent independent production quota
- As a result, the UK production sector was highly fragmented and relatively unprofitable. Indie revenues declined by 10 per cent between 1998 and 2001, with the profitability of the sector also declining
- Indies were being squeezed and were typically unable to share in the risks and rewards of their productions; without healthy margins or back-end rights they had no foundation to attract investment and grow

Under ToT indies have achieved growth in sector revenues of 150 per cent

- Under Terms of Trade, PSBs reached a negotiated minimum position with UK indies on how programme rights would be shared – Terms of Trade rebalanced negotiating power, correcting the market failure
- Indies seized the opportunity, and between 2004 and 2022 domestic revenues grew by 77 per cent, reaching £2.2 billion in 2022, having bounced back following a downturn due to the COVID-19 pandemic
- Prior to Terms of Trade, UK TV exports were on a small scale and growth was relatively slow; indies seized the opportunity, heralding a new era of UK programme formats which were sold around the world
- The success of the indies helped establish the UK as a global content hub, taking UK content to the world and attracting inward investment from those serving UK audiences and accessing worldclass talent and facilities
- This has seen international revenues increase by 649 per cent between 2004 and 2022 – across inward investment commissions, programme and format exports, pre-production and other TV-related revenue

Indies have continued to thrive under ToT as the sector has evolved

- Indies contribute to funding original UK content through deficit finance, pre-sale agreements and co-productions made possible by producers having more control over back-end and international rights – this reduces the cost of programming to UK commissioners giving the public high quality content on-screen
- This 'deficit finance' from indies has enabled UK PSBs to offer audiences high quality content which they could not otherwise afford. In doing so, they have been better able to compete with global SVOD services, whose spending has shifted audience expectations, while reflecting the daily lives of communities across the UK.

- The possibility of growth through monetising IP has seen international businesses emerge through acquisition. They now form part of a delicately balanced cycle of ‘creative renewal’, with production entrepreneurs motivated to set up new companies and pursue growth, with in some cases, the hope of being acquired by a larger player
- Through this, the number of producers in the sector has grown steadily – from 391 in 2013 to 479 in 2021 – adding to the competition and diversity of the sector
- Recent years have seen strong development in production outside of London, with production hubs across the Nations and Regions, and 47 per cent of commissioning spending out of London in 2022, up from 34 per cent in 2016
- This helps broadcasters to fulfil their regulatory requirements and ambitions to increase the share of made out of London programming and reflect the daily lives of audiences from across the UK
- Terms of Trade remains key to supporting a healthy production sector, particularly given the continued strength of PSBs as commissioners of content. It is a flexible regime, which has been adapted to reflect the emerging role of BVOD, and can further evolve as required to continue to support the sector

The outlook for the sector is positive and ToT will continue to play a key role

- While the sector will face some challenges in the coming years, the outlook is positive and demand for UK content is likely to be high – Terms of Trade will be key to sustaining the health of the sector
- Commissions from UK PSBs remain significant for UK indies, accounting for 46 per cent of all commissioning revenues earned in 2022, underlining the important role that Terms of Trade plays in supporting UK indies
- It remains a flexible regime that has already supported negotiations between PSBs and Pact on their detailed Terms of Trade to reflect the changing role that PSB BVOD services play in commissioning and distribution
- The Media Bill will bring further updates to extend independent production quotas and the commissioning Codes of Practice to PSB BVOD in legislation; it will also be important to ensure a fair, reasonable and consistent approach to IP terms and tariffs across a PSB’s services
- Sustaining a robust and up to date Terms of Trade regime empowers the UK independent production sector to drive innovation and growth; showcasing content that reflects UK culture and daily life to audiences both in the UK and around the world, playing its part in the wider success of the UK creative industries

1 Introduction

July 2023 marks the twentieth anniversary of the requirement by regulator to develop agreed trading principles governing how the UK PSBs commission programmes from independent producers. These principles – the Terms of Trade (ToT) – paved the way for the transformation of the UK independent production sector from a cottage industry into a ‘jewel in the crown’ of the UK’s creative industries. In this report, we set out the journey that the sector has been on and celebrate the ToT.

1.1 The scope of this report

This report covers the impact of the ToT on the UK production sector by looking at the sector’s success and growth since their introduction in 2004. In particular we cover:

- The context for the introduction of the ToT
- How the sector has evolved in the last 20 years, since the introduction of the ToT
- How the wider AV landscape has evolved over the same period
- The outlook for the UK production sector

Ultimately, it is clear that the introduction of the ToT heralded a period of sustained growth for the UK independent production sector, and despite a rapidly changing landscape, the ToT remain as relevant and important as ever. With a supportive regulatory approach, we expect the UK independent sector to continue to thrive and drive economic and cultural benefits across the UK.

1.2 About the authors

O&O is a leading independent advisor to the media, entertainment, and sport sectors, with complementary practice areas across policy, strategy, investment, and commercial advisory. We have an in-depth understanding of the competitive dynamics of the UK’s TV and film industries, and have been a specialist advisor on the production sector for over two decades. As part of this, O&O has worked on buy and sell side transactions, competition assessments, market sizing and value chain analysis, production and commissioning strategies, and public policy around fiscal incentives, territoriality of rights, and production regulation including the Terms of Trade. In doing so, O&O has worked for major broadcaster and VOD commissioners, Pact, independent producers, investors, trade associations, Ofcom, DCMS and the European Commission. O&O maintains its own in-house *Producer Database* and has carried out an annual Census of the UK production sector on behalf of Pact for over ten years.

Prior to the Terms of Trade, the independent production sector was hampered by market failure

2 In 2003 the sector was a missed opportunity

Prior to Terms of Trade, the sector represented a missed opportunity for the UK. In this part we look at the factors which led to the introduction of Terms of Trade.

2.1 The UK independent production sector was restricted by market failure

Prior to 2003, the UK market opportunity for independent production companies looked very different to today. Companies within the sector were highly dependent on the main PSB network groups which – prior to Channel 5's launch in 1997 – meant there were only three main commissioning bodies (as ITV's schedule was largely controlled from its corporate centre). Even after the launch of Channel 5, over 90 per cent of UK commissioning spend was coming via the four main PSB groups.

This level of buyer concentration in the market for UK original programming meant that producers had very little scope to negotiate on production fees or take strong positions in back end (i.e. post primary transmission) rights. Compounding the squeeze on the independent sector at this time was the fact that the two largest commissioning broadcasters in the market – the BBC and ITV – both retained large in-house production divisions, and production companies tied to other broadcast groups were also taking a significant share of the market.

Finally, given the differentiated market positioning and associated content requirements of the commissioning broadcasters, UK indies' pitches were typically tailored to meet the specific requirements of a given broadcaster. This meant that, in reality, there was effectively only one buyer, and it was costly, time consuming, or impossible for indies to repurpose pitches and ideas for other broadcasters. This dynamic essentially created a cost to indies of not accepting the terms offered by the broadcaster, seriously hindering their ability to negotiate reasonable terms.

2.2 The incentives for producer broadcasters meant indies would remain squeezed

The strategies of the integrated producer / broadcasters at this time were relatively clear. For the BBC, there was a strong incentive to retain and defend the scale of its in-house production activities, with plans to reinvigorate the capabilities of its inhouse production teams¹. As a result, its use of the independent sector was designed to meet the regulated quota for qualifying programming (which was set at 25 per cent of qualifying hours) but not to substantially exceed it. In fact, prior to the introduction of Terms of Trade, the BBC missed the 25 per cent quota for qualifying hours two years running². For ITV there was potentially a dual motivation, as retaining a large in-house production division also benefited it in picking up 3rd party commissions from other UK broadcasters.

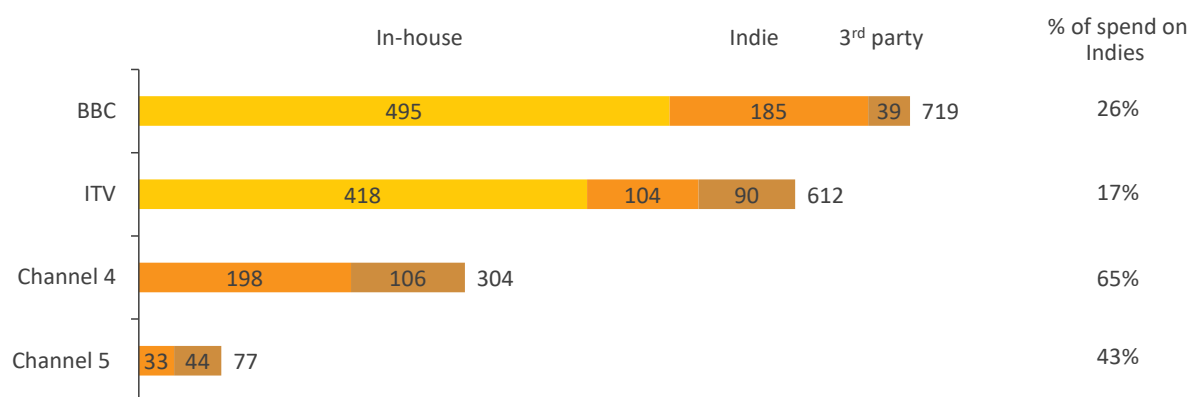
This combination of incentives meant that independent producers would remain limited in their market share, had few opportunities to grow commissioning hours beyond the independent production quota, and found it difficult to grow production margins. Effectively, although the UK market for original content was growing strongly – main network spending increased by 5.9 per cent per year between 1998 and 2001 as competition from pay TV and DTT channels increased – independent producers were being squeezed.

¹ BBC Annual Report 2000/21, p42, set out plans for the coming years which involved spending millions more on in-house production

² <https://www.theguardian.com/media/2003/mar/16/broadcasting.bbc>. Note that the BBC argued it missed the target due to changes in the status of some indies; nevertheless, this highlights the BBC's intention at the time was to meet but not exceed the quota – it had no margin for error

Figure 1 shows indies' share of the market in terms of revenues in 2001. Across the BBC and ITV, indies accounted for just 22 per cent of spending, with the broadcasters' in-house production capabilities accounting for 69 per cent of spending. These PSBs kept spending in-house to a large extent, and indies did not have the opportunity to grow.

Figure 1: Indie share of main network qualifying output spend, 2001 (£m)

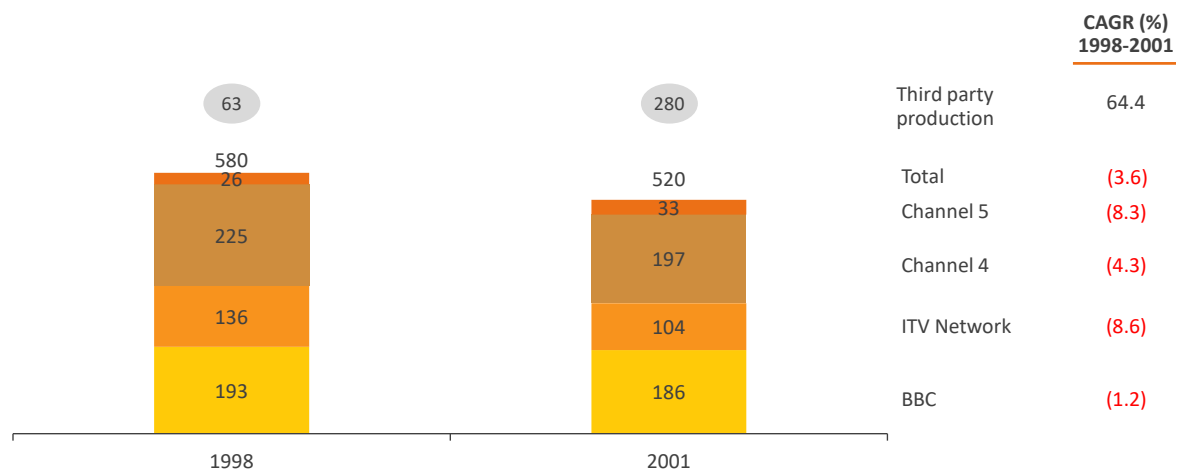


Source: ITC, Channel 4, BBC, Oliver & Ohlbaum analysis

2.3 The indie market was relatively unprofitable and it was shrinking

At the start of the 2000s, the Independent Television Commission's (ITC, a forerunner of Ofcom) undertook a review of the Programme Supply Market (published in 2002 as part of the evidence for regulatory change), prompted by lobbying efforts from Pact, which the review found to be correct. The review observed that the long-term growth of the UK independent sector had reversed between 1998 and 2001. It found that the combined profits of the top 50 independent producers in the market had declined from £8.2 million in 1998 to £3.5 million in 2001. This shows that even the largest independent producers at that time suffered from a lack of bargaining power with commissioners and that – as a result – the sector remained highly fragmented, was generating only a small annual surplus, and hence had only a very limited capability to reinvest in development and production.

As shown in **Figure 2**, despite quotas to ensure PSBs used the independent sector for 25 per cent of qualifying hours, the size of the UK independent production sector shrank by 10 per cent between 1998 and 2001, while third party production by broadcaster owned studios grew strongly – up by around 64 per cent. It was clear that while PSB quotas and ownership-based definitions of qualifying companies helped, they were not sufficient on their own to create the market conditions under which the UK independent production sector could grow and – through that growth – be able to contribute more directly to content investment.

Figure 2: Indie producers' main network commissioning revenue, 1998 and 2001 (£m)

Source: ITC, BBC, Oliver & Ohlbaum analysis

2.4 The value of successful programmes was not being fully realised

The PSBs, apart from ITV, high share of the UK commissioning market and roles in production meant that independent producers did not typically retain any of the rights to their productions. They were essentially operating as production for hire, working on behalf of the commissioners – which retained all rights and, at the same time, could use their market position to keep upfront commissioning payments low. Yet broadcasters were failing to fully exploit these rights overseas, with the UK export market remaining small – as we explore in Part 3. It was only with *Who wants to be a Millionaire?* in 1998 that it became apparent there was a global market for UK programmes and formats, with Celador owning the rights and revenues. This was followed by the success of *Pop Idol* in 2001, but the PSBs lacked the incentives and entrepreneurial spirit to fully capitalise on these opportunities. So, the growth of the independent sector was essentially stifled while the PSBs failed to fully capture the value held in the IP they retained.

With low producer fees coupled with a limited possibility of retaining any of the rights, producers could not share in the risk and rewards associated with the performance of their programmes. As such, they were not able to attract investment capital and grow beyond the confines of their position in the vertically integrated UK commissioning market – to do so, they needed to be able to participate more in rights ownership and trading.

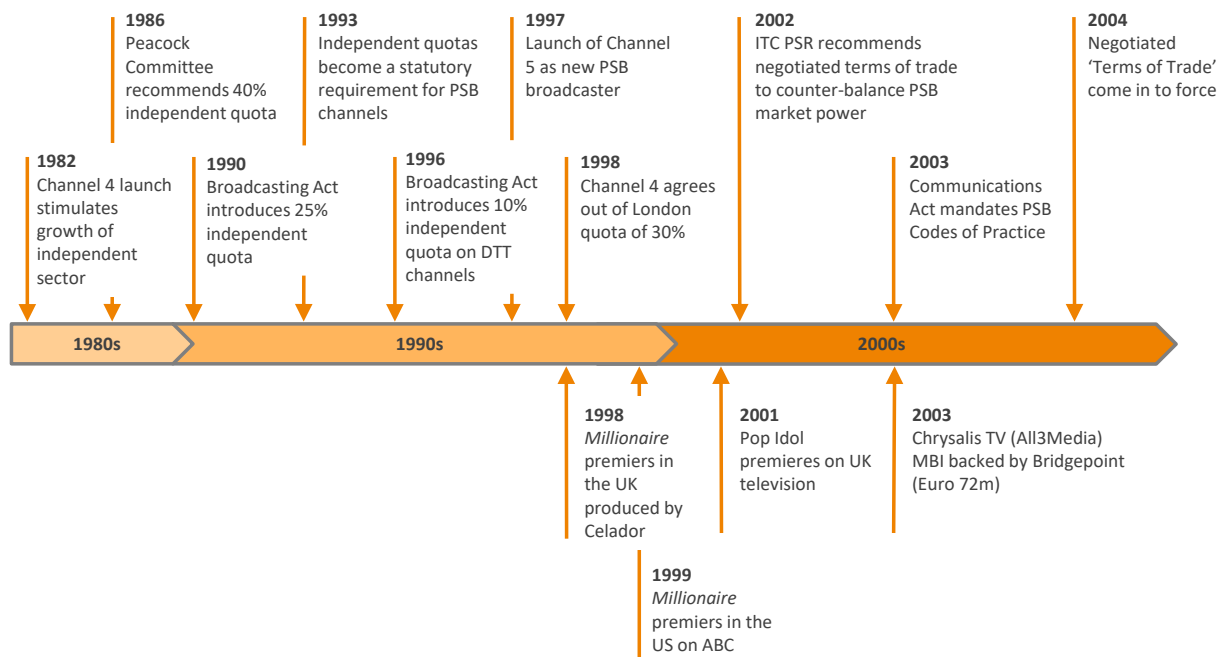
2.5 Intervention would be required to unleash the potential of the UK independent production sector

There was no sustainable platform for the evolution of the sector from small UK focused companies to international leaders in creative development, innovation, and IP exploitation. Intervention would give them the chance to share in the risks and rewards of their work, and thus raise the funds necessary to capitalise on a liberalised global market for programme IP and formats. Independent producers needed three market conditions to change:

- Limits to PSBs' dominance in rights and their incentives to warehouse them – providing indies with the opportunity to own their creative assets in the long-term
- A greater opportunity to compete for PSB commissioning hours over and above the minimum independent production quota
- The opening up of supply relationships in other countries driven by PSB sharing of risk with indies, which had the commercial incentives to maximise exports

Figure 3 sets out the timeline of events leading up to the introduction of the ToT, and immediately following it. As we have seen, the independent production quotas introduced in the 1990s were insufficient in themselves to allow producers to grow as genuinely ‘independent’ businesses. The sector still lacked the capacity to invest, both in funding expansion and in recycling funds back into the development of new content. It is this market issue that the UK Terms of Trade directly address.

Figure 3: Timeline of events preceding the negotiation of Terms of Trade in 2004



2.6 Terms of Trade were introduced to enable sector growth

The Terms of Trade delivers for the UK independent production sector a set of standard commercial templates for revenue sharing with broadcasters and the opportunity to retain ownership of commissioned IP in the long-term. Producing such Codes is a condition of each PSB licence and must be agreed with Ofcom, in line with Ofcom guidance. In particular, Ofcom guidance establishes the principle that the rights to a programme belong to the producer unless explicitly sold to the PSB. The Codes then specify the minimum primary rights to which the PSB acquires a licence as part of a commission and indicative tariffs for those rights. Any other rights are subject to commercial agreement.

The overall effect is that the PSB negotiating power in production contacts was lowered, and transparency and legal certainty were increased. In addition, as asset-owning companies, qualifying indies were better able to attract 3rd party funding for expansion and investment. ToT set the foundations for independent producers to innovate and grow and – in some cases – become global leaders in their field.

The ToT originally related specifically to the main PSB channels (BBC1, ITV1, Channel 4 and Channel 5) and to the portfolio channels of the BBC and Channel 4. They were subsequently extended to include the PSB broadcasters' video on demand services (VOD), in acknowledgment of broadcasters increasingly commissioning content which might be seen as 'online first'.

To access the terms of trade, producers must be 'qualifying' independents, meaning that they are not wholly or partly owned (to a 25 per cent threshold) by a broadcaster operating in the UK market. Despite the focus on PSB services and qualifying indies, the ToT have influenced wider market expectations, meaning that producers of all types, working on commissions from all broadcasters, have a stronger starting point for negotiations.

Indies have seized the opportunity created by Terms of Trade and sector revenues have grown by 150 per cent

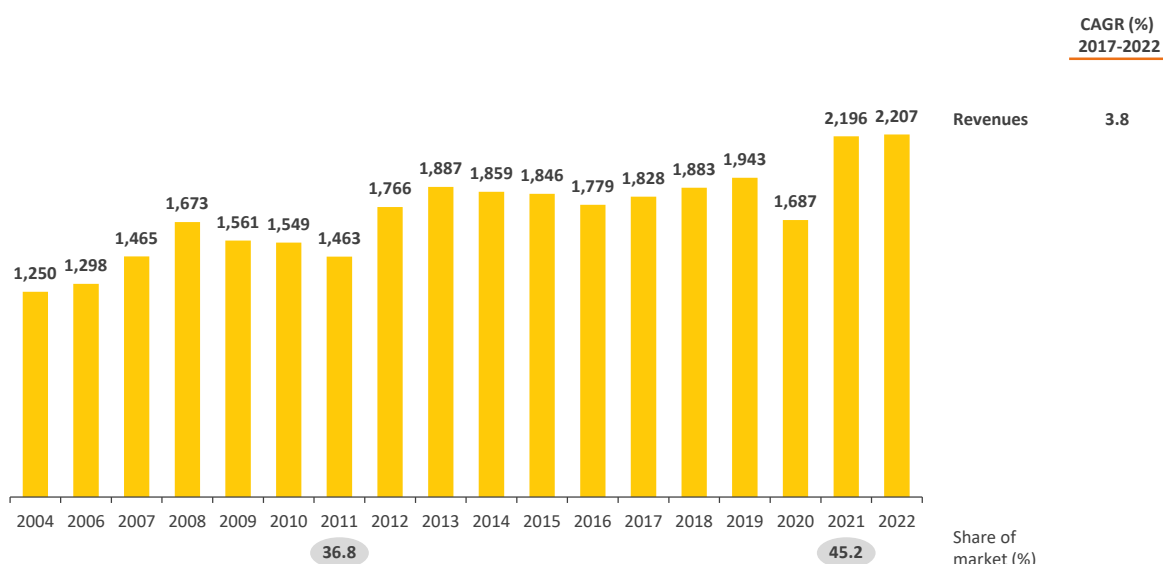
3 Under ToT the sector has grown significantly

Terms of Trade are now 20 years old, and the indies have changed the sector beyond recognition, achieving strong growth both domestically and internationally, while putting UK creativity on the world stage.

3.1 ToT levelled the playing field and indies seized the chance for domestic success

The effect of the Terms of Trade was to correct the market failure which had held the independent production sector back. The agreed rights position meant UK indies could take on more risk in exchange for the opportunity to share in any success of their programmes commissioned by the PSBs. UK independent producers have seen domestic revenues grow steadily from 2004 onwards, reaching £2.2 billion in 2022. The independent share of the total UK domestic production market has also increased, from 37 per cent in 2011 to 45 per cent in 2021.

Figure 4: UK indie sector domestic revenues, 2004 - 2022 (£m, % of total domestic production market)



*Note: Data for the independent share of the total UK domestic production market is unavailable pre 2011 and in 2022
Source: Pact UK Television Production Census 2023, Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis*

Of course, indies' success in the UK comes hand in hand with their success in exploiting content rights overseas – these international revenues are recycled into R&D which enables them to offer UK broadcasters innovative programming, growing their domestic revenues.

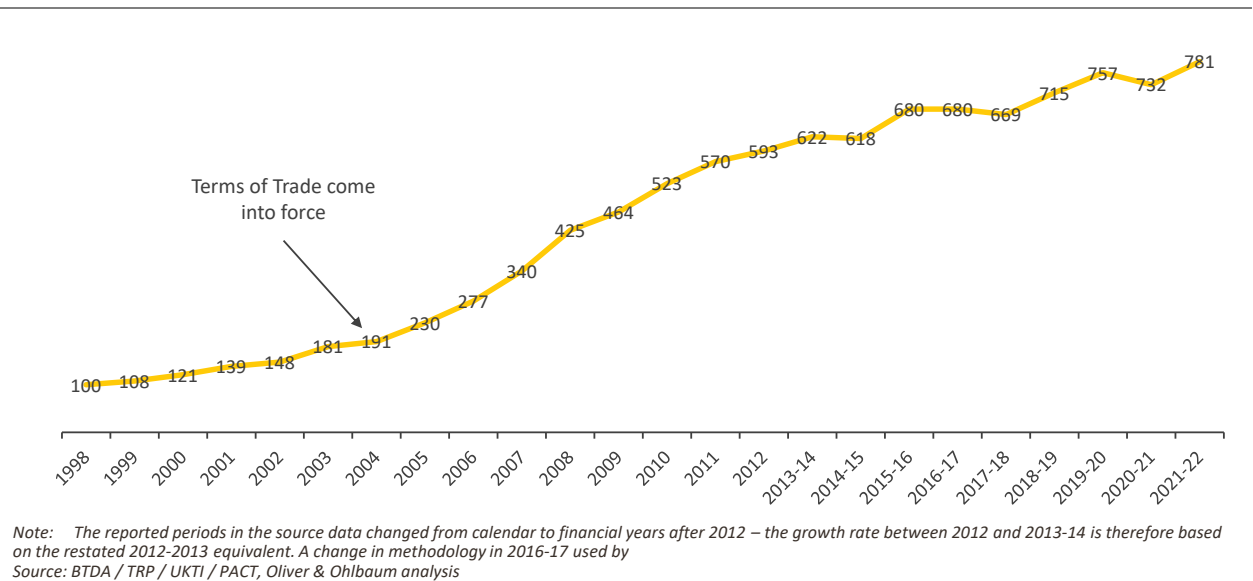
3.2 Indies have created an international market which benefits the UK

By supporting indies in the UK market, ToT also laid the foundations for international success, enabling them to diversify revenues. Under ToT, indies retain secondary domestic and international rights to their PSB-commissioned productions and can license these commercially, meaning that while their programme's initial success may be on the PSB in the UK, much of the commercial opportunity lies in monetising the rights overseas. This may be through the sale of finished programmes, or via format sales – where the programme idea is reproduced for local markets. Having built an international reputation, the other opportunity, of course, is commissions from overseas broadcasters and VOD services – this is now the main source of international income.

3.2.1 UK indies have taken UK creativity to the world

Figure 5 shows that international exports of UK TV programme rights and programmes, across all producer types, grew steadily but weakly between 1998 and 2003. The growth accelerated following the introduction of the Terms of Trade, kick-starting a sustained period of strong growth. Indeed, Terms of Trade heralded a new era of international programme formats leading to the likes of *Great British Bake Off*, *Gogglebox*, and *MasterChef* being sold all over the world. This growth in exports enabled production companies to generate stable income from their IP and supported them in building successful businesses of scale.

Figure 5: Growth in UK TV programme rights & production exports, 1998 – 2020 (£m / indexed 1998 = 100)



3.2.2 International success has seen the UK establish itself as a global production hub

The growth in programme exports coincided with UK independent producers establishing a reputation for creating high quality content. The UK is now a major production hub, with international activity contributing to growth in the creative sector and the UK economy more broadly. Indeed, indies have played a key role in the UK becoming an attractive destination for creative talent, supporting employment opportunities within the sector, as well as generating broader benefits for the economy.

Game of Thrones is a major example of this. While it was an HBO commission, UK producers were involved, and it made extensive use of UK talent; British fashion designers, makeup artists, and other behind the camera talent also received acclaim. For example, Michele Clapton won five Emmys for her costume design work on *Game of Thrones*, while Barrie Gower won three Emmys for his prosthetics work and has gone on to win further awards on *The Last of Us* and *Stranger Things*. In 2021, Tourism NI reported that the series had generated an estimated £251 million for the Northern Ireland economy and in 2018 alone it helped attract around 350,000 visitors, spending over £50 million.

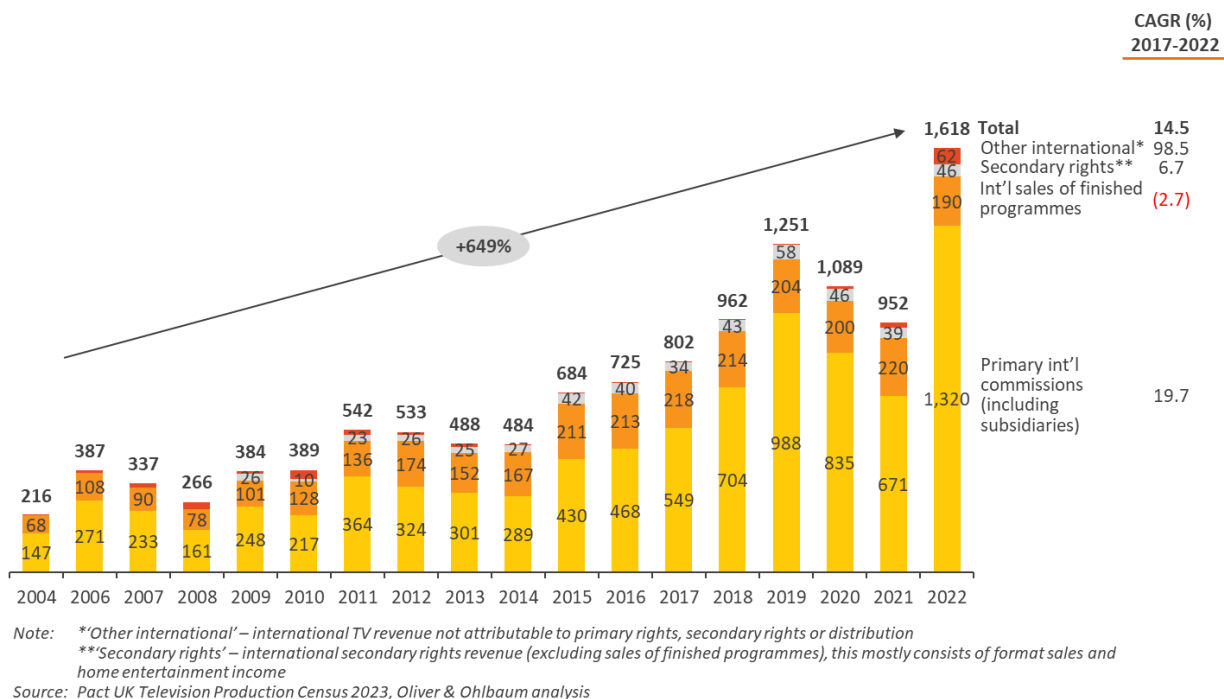
Furthermore, international success has brought new skills and innovative ideas to the UK, enriching content creation in the country. This, in turn, has facilitated greater investment in domestic UK content, benefiting both UK audiences and broadcasters including the PSBs.

3.2.3 Commissions from overseas make up the vast majority of international revenues

As a result of these developments, the UK independent production sector experienced a major increase in revenues from international clients, as shown in **Figure 6**, reaching more than £1.6 billion in 2022 – growing from around 13

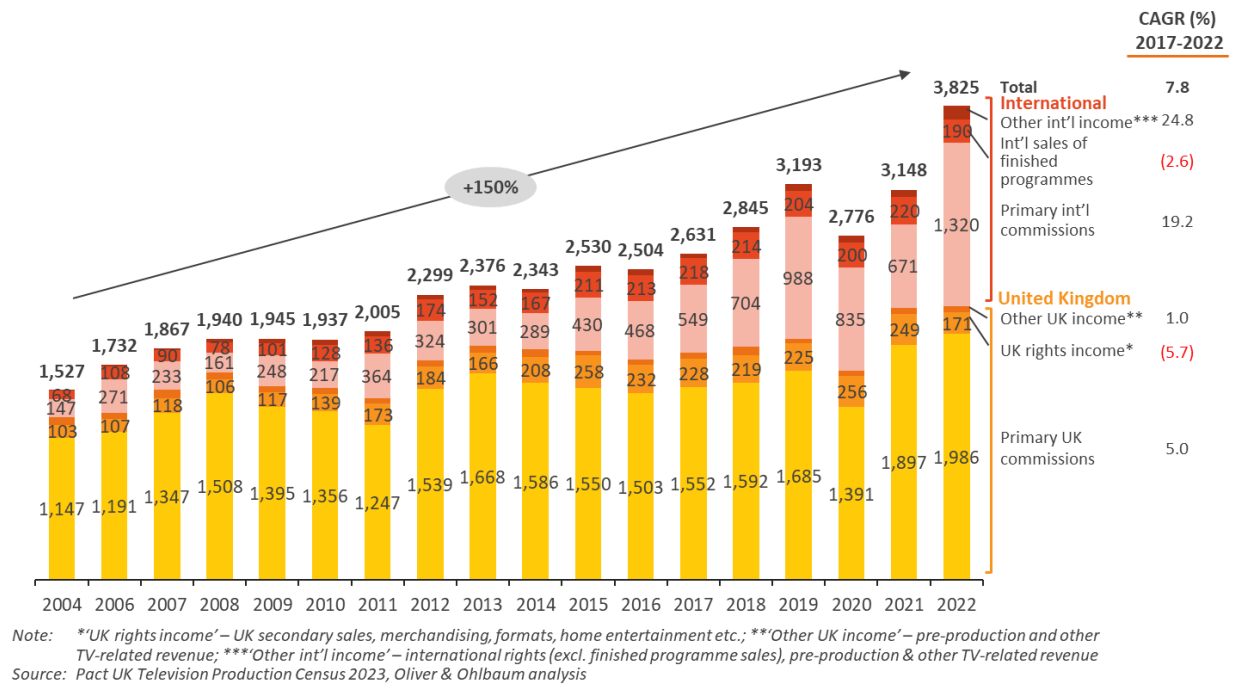
per cent of total sector revenues in 2004 to around 42 per cent in 2022. The recent strong growth in international revenues has primarily been driven by increases in commissioning to compete for UK audiences as well as to serve consumers in international markets; this revenue stream rose by an average of 19.7 per cent per year between 2017 and 2022 – recovering strongly in 2022 following a slowdown which coincided with the COVID-19 pandemic. Within this, international co-production activity has also increased, as UK producers' expertise has seen them develop into attractive production partners.

Figure 6: UK independent production sector international revenues, 2004 - 2022 (£m)



3.3 Indie entrepreneurialism has driven sustained sector growth

After a period of decline prior to the introduction of Terms of Trade, sector revenues have grown strongly since 2004. Since then, the average annual growth rate has been 4.7 per cent, illustrating the change in the sector's fortunes. **Figure 7** shows that while there was a significant decline in 2020, due to the COVID-19 pandemic, and some fluctuations between years, there has been an unambiguously upward trajectory since 2004 – and the sector bounced back strongly in 2021, as filming resumed.

Figure 7: UK independent production sector revenues by type, 2004 – 2022 (£m)

As well as domestic and international production revenues, **Figure 7** shows that indies have successfully diversified their revenues to include other UK income as well as international income from commissions and programme sales, along with merchandising, format sales, and home entertainment.

Indies have successfully navigated changing market conditions, and ToT continue to support the health of the sector

4 Indies are thriving in a changing landscape

Under Terms of Trade, indies have continued to thrive in a rapidly evolving sector. Today a harmonious balance exists within the UK production market, with a process of ‘creative renewal’ driving innovation.

4.1 The first ten years demonstrated the success of Terms of Trade

As seen in our 2013 report *The importance of terms of trade in sustaining UK content investment and sector economic growth*, and the revenue figures presented in the previous part, ToT enabled independent producers to expand their presence in the UK commissioning market and build international businesses, with many becoming global players across a range of genres. The increase in international projects helped bolster growth in the wider UK creative sector. Ultimately, over the course of the first decade of ToT, the UK emerged as one of the leading global content production hubs, developing a reputation for high quality content, with total UK independent production sector revenues growing by 64 per cent to surpass £2.6 billion in 2013.

4.2 Indies have enabled broadcasters to increase the quality of their content

Improved digital infrastructure fuelled disruption, with new distribution methods including connected TV (CTV), and IPTV, facilitating the wide adoption of VOD services. The emergence of VOD, and of the UK into a highly mature VOD market, has intensified competition for consumers' attention. One of the main outcomes of this has been a rise in content investment from both new and traditional players alike, and an associated increase in consumer expectations around content. This has created new opportunities in the independent production sector and the UK production sector more generally.

The indies have played a key role in enabling UK broadcasters to compete with the big spending global SVOD services. Faced with growing consumer expectations, broadcasters have sought to increase their own spending on content. Of course, their total content budgets are more limited compared to the major global SVOD services, and the need to fill their schedules and provide for a broad audience means they have relied on other ways to increase on-screen value. By deficit financing productions – that is, taking on some of the upfront financial risk and aiming to cover this through the commercial exploitation of the back end and/or international rights – indies have underwritten some of the commissioning risk and in doing so, have supported UK broadcasters in offering their audiences programming they couldn't otherwise afford.

This approach typically applies to higher budget programming with international appeal; this represents the Terms of Trade working as intended, and as the market has evolved the resulting dynamic has become even more important in supporting PSBs' ability to offer their audiences the best content.

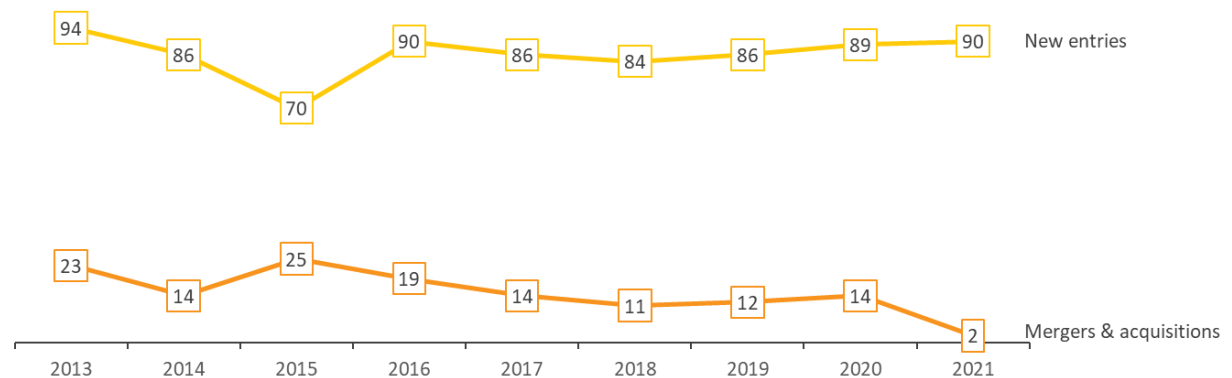
4.3 ‘Creative renewal’ is the engine driving innovation and growth

Above all else, Terms of Trade unlocked the indie sector by creating the possibility of growth. With the ability to raise capital and incentives to invest in new ideas, indies had the opportunity to grow into international businesses. The nature of television production as a ‘hit or miss’ business means that building scale is appealing to diversify risk; this can best be done by acquiring smaller companies, giving access to new talent, ideas, and IP. As such, we have seen a trend for consolidation which is crucial to the health of the sector.

The possibility of being acquired by a larger producer plays an important role in sustaining the health of the sector; it is one of the key drivers of ‘creative renewal’, which in turn drives innovation and growth in the sector. While there are many motivators for participation in the production sector, for some, the opportunity to build production businesses before selling to a larger player and starting the process again, is important. Other enablers and

incentives include the relatively low barriers to entry and the regulatory landscape, including Terms of Trade and the 25 per cent indie quota. The effect of this can be seen in **Figure 8**, which shows that between 70 and 94 new companies entered the sector each year between 2013 to 2021. This high level of SMEs entering the market, alongside the incumbent medium-sized and larger competitors, is the hallmark of the ‘creative renewal’ cycle.

Figure 8: Number of new UK production companies per year, 2013 - 2021

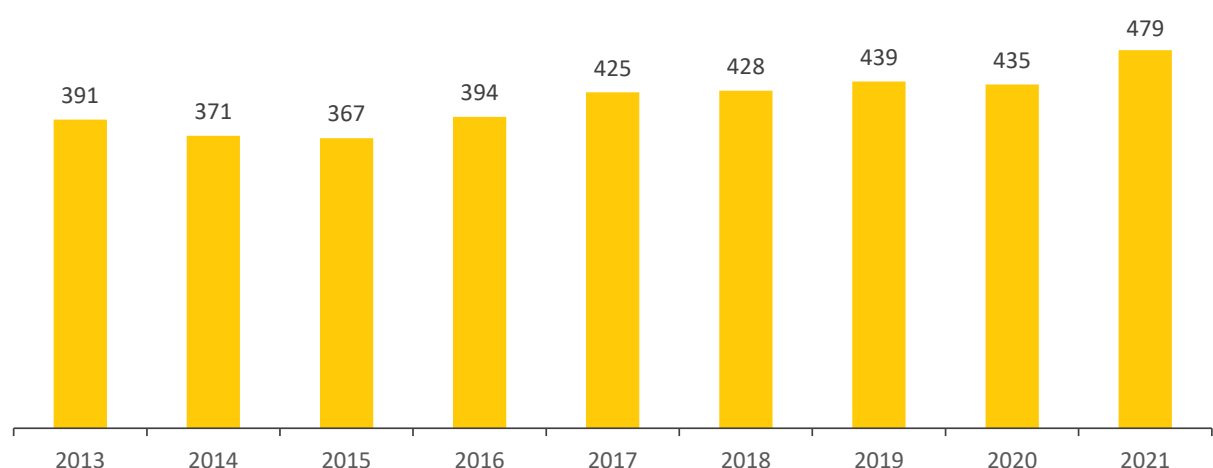


Note: New entries are defined as not previously active in our dataset. New entries for 2011 and 2012 are estimated based on the average for 2013-2021
Source: Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

4.4 The number of active producers in the sector is steadily increasing

The result has been a steady increase in the number of companies operating in the sector, demonstrating the sector’s health and competitiveness. **Figure 9** shows that the estimated number of independent producers increased by around 23 per cent between 2013 and 2021. This has necessarily brought in new ideas and creativity into the market, increasing diversity and incentivising innovation – the increased competition also gives broadcasters and audiences more choice and, ultimately, better programming.

Figure 9: Estimated total number of qualifying independent producers in the sector, 2013 - 2021

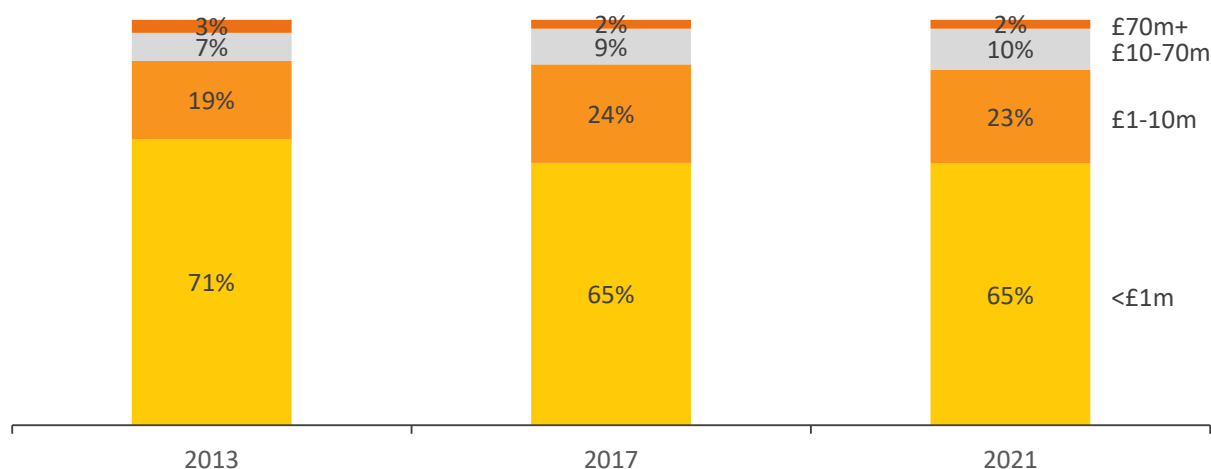


Source: Ampere Analysis, Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

4.5 The balanced ecosystem allows companies of all sizes to thrive

The makeup of the sector is very much focused around a large number of small entrepreneurs, and this has remained the case between 2013 and 2021. As demonstrated below in **Figure 10**, following a period of consolidation, the sector is characterised by a small group of larger production companies achieving an annual turnover of more than £70 million, such as All3Media and Banijay, with a sizeable vibrant cohort of smaller independents. The largest cohort of companies are those with a turnover of £1 million or less; they represented 65 per cent of the sector in 2021. The growth cohort, since 2013, has been the mid-sized companies, demonstrating the success of SMEs in growing into larger companies.

Figure 10: Share of the number of UK producers by size, 2013 - 2021



Source: Broadcast Indie Survey, O&O Programme Database, Pact, Oliver & Ohlbaum analysis

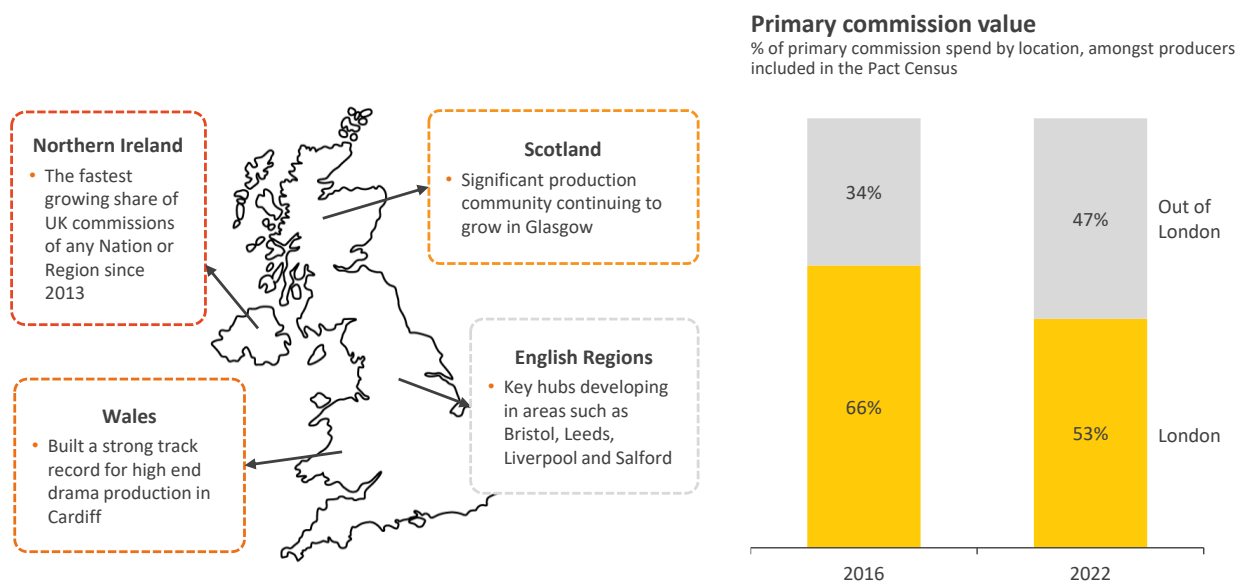
4.6 Production hubs have developed in the Nations and Regions

Over the last decade the production sector has flourished outside of London, with multiple production hubs developing across the Nations and Regions, often supported by the local presence of the PSBs. Although London still accounts for the majority of UK production revenue, there is a significant level of production activity outside of London, as seen in **Figure 11**. In 2022, 47 per cent of production spend with producers included in the Pact census was on projects filmed outside of London – this represents a significant increase since 2016 when just 24 per cent of production spending was outside of London. Thinking about production budget spending – i.e. the cost to producers rather than their revenues – 52 per cent was spent outside of London in 2022, compared to 32 per cent in 2016.

The introduction of policy interventions such as the Made outside London quota (MoL), which ensures each of the UK PSBs meet a set of criteria for broadcasting UK first-run programmes produced outside the M25, have been instrumental in fostering this growth of production communities outside of London. Alongside these policy interventions, each of the UK PSBs have reemphasised their commitment to shifting commissioning to the Nations and Regions. Notably, both the BBC and Channel 4 have set ambitious targets that go beyond their 35 per cent MoL quota. The BBC aims to achieve a 60 per cent commissioning spend in the Nations and Regions by 2027, while

Channel 4 is targeting 50 per cent by 2023. Meanwhile, both ITV and Channel 5 each delivered an average for the period 2017-2021 of around 8-10 per cent above their respective MoL quotas.³

Figure 11: Share of UK commissions by producer location, 2022 (%)

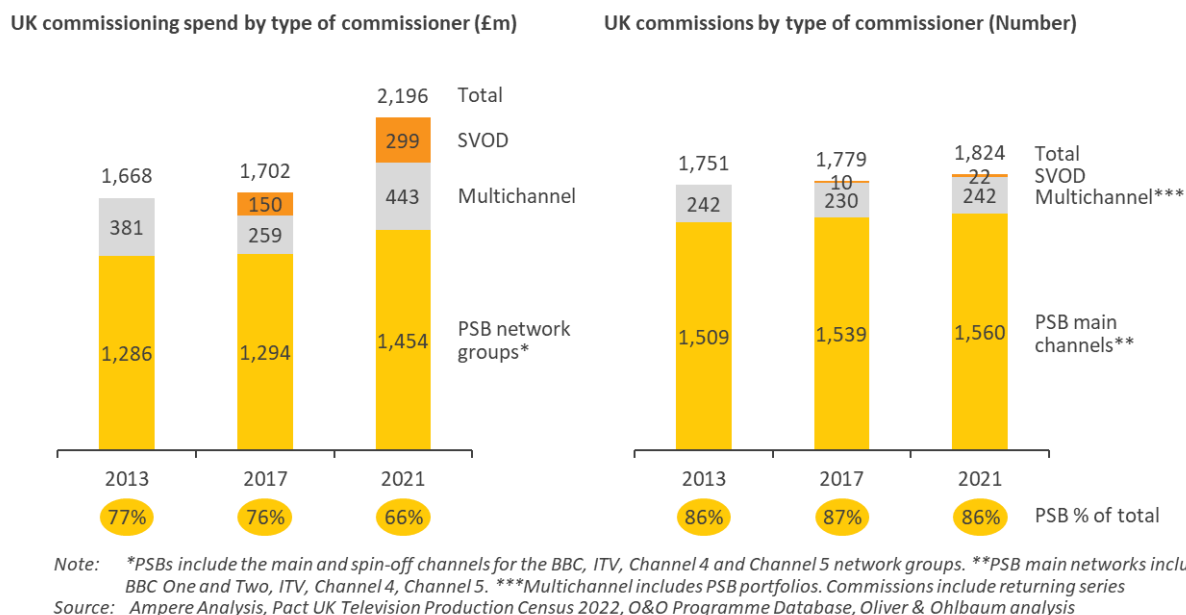


Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

4.7 The relationship between indies and UK PSBs is vital to the health of both

Over the past decade, UK PSBs have continued to invest a significant proportion of their content budgets each year on original programming from UK independent production companies. As shown in **Figure 12**, UK PSBs have consistently accounted for the vast majority of domestic primary commissions revenue earned by UK independent production companies since 2013, demonstrating the important role the PSBs have played over the past decade in supporting UK independents. Similarly, when looking at the number of UK commissions by each commissioner type each year, it is clear to see the importance of the PSBs in supporting UK production, with the main five UK PSB channels accounting for 86 per cent of all UK commissions in 2021.

³ Ofcom PSB Annual Report 2022

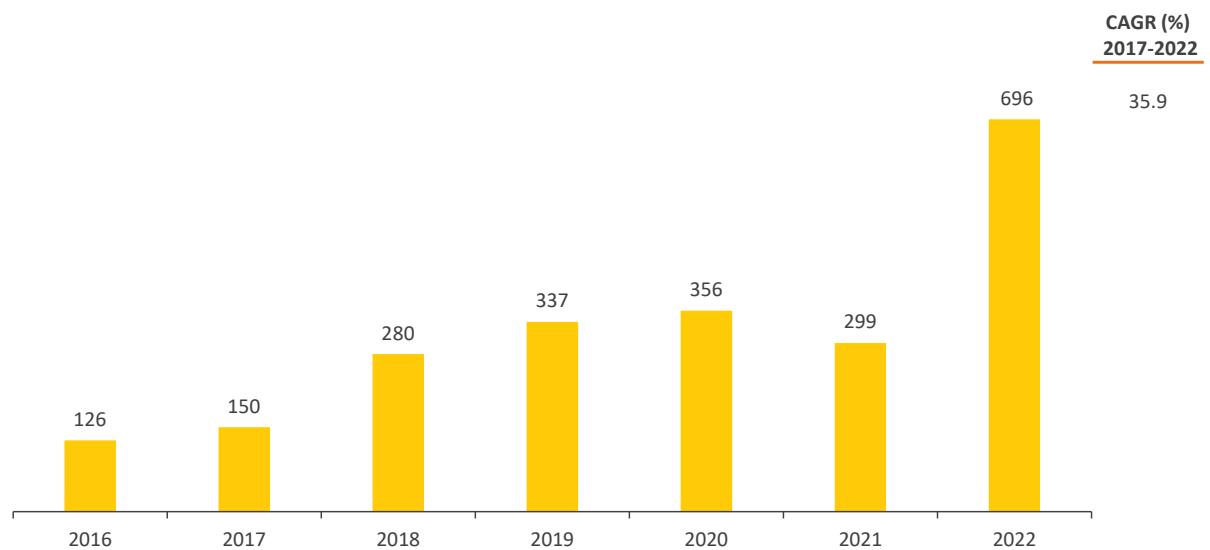
Figure 12: UK independent producers primary commissions revenue by UK broadcaster type, 2013 - 2021 (£m)

Of course, the value flows both ways, and the UK independent production sector is a vital source of content for PSBs. It offers a wealth of choice, ideas, and financing, enabling broadcasters to offer audiences plurality and diversity of high quality content.

4.8 Indies are finding new opportunities working for global SVOD services

The SVOD commissioning market remains small in terms of the number of commissions, in 2021 SVOD accounted for just 22 commissions from UK producers, compared to 1,802 from UK broadcasters. So, UK broadcasters remain the major buyers of content from independent producers. That said, the maturing SVOD market has created new opportunities for independent producers to win commissions and generate secondary rights sales by licensing finished programmes or formats.

As **Figure 13** shows, SVOD spend on commissions with UK independent producers has increased significantly since 2016, growing to account for just over 18 per cent of the UK independent sector's total revenues in 2022, at around £700 million. This highlights the increasing demand that global SVODs have developed for independently produced UK original content in recent years. As SVOD spending has increased, their content focus has evolved and they commission a more diverse range of genres; while much of the spend in the earlier years centred on original drama, more recently we have seen a number of high-profile commissions in genres such as specialist factual and comedy.

Figure 13: UK independent producers international VOD commissioning revenues 2016 - 2022 (£m)

Source: Pact UK Television Production Census 2023, Oliver & Ohlbaum analysis

SVOD commissioners and traditional broadcasters serve complementary roles when investing in content and serving UK audiences. FTA broadcasters offer audiences access to quality local programming across a broad range of genres and budgets, including news, live events, and films and TV programmes with culturally specific approaches – pay TV providers also invest in locally relevant genres. Meanwhile, global SVOD services have brought consumers increased choice, providing access to an expansive range of international programmes, especially in high-end drama and factual, in addition to local commissions and library content to engage with UK consumers in a focused set of genres – which now includes more than the original focus on high-end drama, e.g. specialist factual and comedy.

The independent production sector is able to serve both of these groups, with the experience, expertise and reputation that comes with delivering major SVOD commissions, helping to showcase UK creativity and entrepreneurialism across international markets.

While some challenges exist,
the outlook for the UK
production sector is positive

5 The outlook for the future

As the AV sector continues to evolve at pace, there will be further challenges and opportunities for the UK independent production sector, with ToT helping ensure it remains well placed to thrive.

5.1 The sector faces some challenges

There are signs of a slowdown in growth in content investment from traditional players and VOD services alike. For broadcasters, this is largely due to a steady decline in the core revenue streams of both commercial and public service broadcasters as a result of a long-term decline in the linear advertising market and downward pressure on public funding. In the case of VOD services, the difficult economic conditions have contributed to a change in focus, from subscriber growth to profitability; this has ushered in a period of experimentation with new business models, and new price points, with content investment carefully scrutinised. For all services, the wider economic turbulence is also having an effect.

Beyond these broad trends, the sector continues to face long-term issues present in the sector which have been exacerbated by recent events such as Brexit and the COVID-19 pandemic; these issues include rising production cost inflation and skills/staff shortages, which have led to increased pressure on production budgets and difficulties in finding skilled talent and crew for productions in the UK.

The future of Channel 4, a crucial supporter of the UK independent production sector, has also come under discussion, with suggestions that the broadcaster may open-up to in-house production. Doing so could have a significant impact on UK indies, with the change likely to lead to an erosion of an important segment of their commissioning market, requiring careful consideration of appropriate safeguards if this proceeds.

5.2 Demand for UK originated content is likely to remain high

More than three-quarters of UK households subscribed to an SVOD service in 2022, and 70 per cent of UK adults regularly used BVOD services such as BBC iPlayer and ITVX in 2022. It is expected that the landscape will continue to mature with the popularity of streaming continuing to grow. While linear commissioning from the FTA broadcasters will remain the largest market segment for the independent production sector, VOD services represent an opportunity for UK independent producers to win new commissions and further monetise their catalogue of content in new markets, likely driving further investment in UK production.

Furthermore, given the popularity of UK content among global audiences, and the strong competition for audiences in the wider media landscape, opportunities will likely continue to develop with international commissioners. Particularly as global SVOD services continue to expand their commissioning habits beyond the original focus on premium drama and into areas such as specialist factual, providing opportunities to a wider set of producers. These opportunities could come from international co-productions in new areas and markets, given the UK production sector's established track record, and its experience and expertise making UK independents sought-after partners.

5.3 Developments in regulation could provide necessary further support

Potential shifts in the regulatory landscape could help further support independent producers as the media sector continues to evolve in the future. We have already seen the publication of the draft Media Bill by the UK Government in early 2023, which proposed changes to ToT and the QI quota to extend their current remit to cover the PSB BVOD services. This is in recognition of the changing nature of broadcasters' commissioning behaviour, with digital-first commissions becoming increasingly commonplace.

The draft Media Bill also included a proposal to extend prominence and inclusion rules (currently afforded to PSB linear channels) to the PSB BVOD services. These changes could help secure the position of the UK PSB BVOD services in the changing media environment, ensuring the availability, reach and consumption of these services. This security would support the PSBs to continue to play a key role in commissioning original UK content from UK independent producers.



O&O

THIS IS EXHIBIT "H"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to read 'AUBO', is written over a horizontal line.

Commissioner for Taking Affidavits



Broadcasting Notice of Consultation CRTC 2024-288

The Path Forward

Defining “Canadian Programs” and supporting the creation and distribution of Canadian programming in the audio-visual sector

Opening Remarks by the Canadian Media Producers Association (CMPA)

May 23, 2024

Good morning, Chairperson Eatrides, Commissioners, and Commission Staff.

[DAMON D'OLIVEIRA]

1. My name is Damon D'Oliveira, I'm the co-founder of Conquering Lion Pictures and chair of the Board of Directors at the Canadian Media Producers Association.
2. To my left is Reynolds Mastin, President and CEO of the CMPA; Alain Strati, CMPA's Senior Vice-President, Industry, Policy and General Counsel; Erin Haskett, President of Lark Productions and Executive Producer of *Law & Order Toronto: Criminal Intent*, *Allegiance* and *Farming for Love*, major successes in both the scripted and unscripted programming categories; and the CMPA's Director of Regulatory Affairs, Patrick Smith.
3. To my right is Mark Montefiore, Founder and President of New Metric Media and Executive Producer of the hit Canadian comedies *Letterkenny* and *Shoresy*; and Lisa Broadfoot, Vice-President, Industry and Business Affairs. We are also pleased to introduce Amanda Borghino, Deputy General Delegate of the Union Syndicale de la Production Audiovisuelle, who joins us today, virtually, from France.

4. This proceeding is about more than regulatory reform. It is about setting the conditions under which Canadian stories, talent, and businesses will thrive in an era of global platforms and shifting economic models. At its core, this hearing is about the future of Canadian programming: who makes it, who owns and controls it, and who benefits from its success.
5. Canadian independent producers navigate the front lines of creativity and risk. Our experiences illustrate what's at stake and what's possible when policy supports long-term value creation in Canada. That includes support for formats that require dedicated support from the regulatory framework, like feature film, documentaries and children's programming. Online Services are not just exhibitors or distributors – they operate across the spectrum of audiovisual storytelling. The Commission must take a similarly comprehensive approach to supporting Canadian programming. And it must prioritize Canadian ownership of that programming.

6. For example, my company's most recent feature film, *Brother*, opened TIFF and resonated with audiences in a way that was deeply meaningful to me. Its success also had a surprising side effect: it reignited interest in our very first film, *Rude*, which premiered at the Cannes Film Festival in 1995 and later screened at TIFF, Sundance and Locarno.
7. That experience reinforced the importance of intellectual property ownership. Because we retained the rights to *Rude*, we were able to reintroduce the film, to new audiences, on our terms.

[MARK MONTEFIORE]

8. The Commission may be familiar with *Letterkenny* and *Shoresy*. While I doubt either series will be screening at the Cannes Film Festival anytime soon, Damon and I have more in common than you might think. We're both executive producers business owners, and entrepreneurs who have been able to reinvest, grow and create long-term value for our companies and the Canadian production sector by retaining the rights to our work.

9. Our companies are built on great creative; I can't praise our creative teams enough, but long-term success depends on retaining IP and building on that creative foundation. That ownership has allowed New Metric to build capital beyond the programming we produce.
10. Thanks to IP ownership, we've expanded *Letterkenny* and *Shoresy* into live tours, licensed merchandise and international sales. Those revenues enable producers to build our companies, and most crucially, to invest in developing a slate of new shows that we believe Canadian and global audiences will love.

[ERIN HASKETT]

11. Producers, and producing, are all about partnerships. Core to our role is to bring to the table partners – financial and creative – that are the right ones for a show.

12. And in any good partnership, when you score a homerun – or, since the producer of *Letterkenny* is here – when you go “*Bar down, Bardowski*”¹ - and a show is a hit, all the partners should share in its success. This must include producers, who under the *Broadcasting Act*, are supposed to retain a significant and equitable share of the IP in their own shows.
13. I am very proud of what Lark, working with our partners, has been able to achieve in the last year: *Law & Order Toronto: Criminal Intent* became a number one prime time drama on Rogers, *Allegiance* resonated with CBC’s audiences and introduced a police procedural to South Asian communities, *Family Law* was a major success on Corus and found a home on the CW in the US. But most importantly, Lark created thousands of jobs, and countless new opportunities for Canadian creative talent. That’s what the system should be about.

¹ “An impressive hockey shot where the puck hits the bottom of the crossbar and shoots down into the net, often sounding a ping in the process”, from *Letterkenny Wiki, Slang Terms*:
https://letterkenny.fandom.com/wiki/Slang_Terms

[ALAIN STRATI]

14. When Canadian independent producers are empowered, they deliver compelling, resonant storytelling that drives cultural impact and economic growth. But creative ambition alone is not enough. We must also have a regulatory framework that provides the conditions for strong Canadian businesses that support Canadian talent and Canadian storytelling.
15. That's why a modernized contribution model – one that reinforces the foundational role of revenue-based obligations – must remain as a crucial component of the Commission's regulatory framework.
16. Many Online Services focus on programming from PNI categories. A strong contribution to PNI is entirely consistent with their service mandates and programming strategies. This is why we do not agree with the Commission's preliminary view to eliminate PNI. The Commission's financial reporting also demonstrates the extent to which Broadcasters allocate their programming budgets on non-Canadian PNI.

17. The Commission's approach should prioritize contributions from both Broadcasters and Online Services and while flexibility may be considered, it cannot come at the expense of meaningful investment in original, high-quality Canadian programming.
18. PNI also currently serves as the only mechanism to articulate independent production requirements. Yet this is not mentioned in the Commission's proposed new framework, nor in the comments from Broadcasters and Online Services.
19. We propose that the Commission shift its approach to CPE:
 - It should first set a contribution level for independent production expenditures, an "IPE".
 - Then, it should consider a contribution to PNI, based on the programming spend and strategy of the services in question.
20. Contributions matter, but so does their purpose. The Commission needs practical models that reflect different production types while protecting Canadian creative authorship and economic participation.

[REYNOLDS MASTIN]

21. At last, we come to the question on everyone's mind: "what constitutes a Canadian program?". With key modifications, the CMPA believes that your proposed modernized point system will embed Canadian creative perspectives in their stories – not as a standalone "cultural test," but as a tool for authentic Canadian expression.
22. But this responds only partly to the requirements set out in subsection 10 (1.1) of the *Act*, since Canadian programs are not solely defined by their creative inputs. Parliament also gave due consideration to the economic dimensions of Canadian programs. While familiar, the CAVCO framework has limitations, particularly when it comes to ensuring that Canadian producers receive "significant and equitable" financial participation in a program. The Commission has an opportunity to create a robust, enforceable standard that reflects the realities of modern production.
23. The complexity of this task is due in large part to the nature of paragraph 10 (1.1)(a), what we call the "IP paragraph". Simply put, there's a lot in there – and it's all new. To assist the Commission in unpacking and applying this provision, the CMPA

has further refined the IP proposals from our written submission, and we recommend that the CRTC require IPE requirements be met through two models.

24. In each model, the standard requirements for certification remain – Canadian producer control, creative inputs, and production spend. The models would, however, be differentiated by varying degrees of Canadian control over copyright, licence terms, exploitation rights and back-end participation. This approach allows the Commission to recognize the diverse ways Canadian programs are financed and structured, while still ensuring that certified programming delivers on the requirement of paragraph 10(1.1)(a) that Canadian independent producers share in the economic success of their own shows.
25. Model A would apply to programs commissioned for the purpose of meeting new IPE requirements, for both Canadian broadcasters and foreign online services, adhering to the specific rights and interests outlined in Appendix A.
26. Model B is intended for productions involving domestic and international partners where a highly flexible approach could be applied to IP ownership.

27. There are several potential options under Model B: it includes the existing model for co-ventures, buyouts of producer sourced and developed concepts, and the Commission's "give and take" model of greater Canadian creative control to reasonably justify increased non-Canadian ownership in certain cases.
28. Once fully articulated, Models A and B would provide a complete operational definition of what constitutes a "*significant and equitable benefit*" for Canadian producers – aligning with both the *Act* and industry best practices.
29. To ensure fairness across Models A and B, the CMPA proposes a CRTC-approved Code of Practice to mitigate power imbalances while maintaining a clear, consistent standard for what constitutes Canadian creative and economic control.
30. For phase 3, the Commission will specify how CPE requirements should be allocated across the models we've proposed today. For illustrative purposes only, if the Commission were to impose a 20% CPE requirement on an online service, the Commission should also specify what portion of that 20% should be devoted to Models A and B. Our view is that an appropriate contribution to independent production requires the majority share of CPE requirements be met through Model A.

CONCLUSION

[DAMON D'OLIVEIRA]

31. We like to say in this business that it all starts with a script. And that's true. But someone still needs to bring that script to life. To raise the financing, to hire the creators and crew members - including, crucially, the craft service providers, who provide the potato salad on set – and then manage the actual making of the show, shepherd the footage through post and ultimately deliver it on time and on-budget to a platform where audiences can find and enjoy it. That's what producers do. We make it happen.
32. We encourage you, as you write this new script for our system, that it be inspired by a vision that embraces Canada's creative and commercial potential. A vision that's optimistic and aspirational, that has its core themes Canadian talent, Canadian creative entrepreneurship and Canadian ownership. A vision that places big bets like we do - on Canadians and on Canadian IP.
33. And to the extent that you place bets on producers, we will take your words on the page and bring to them to life. We will deliver. We will make it happen.

34. The CMPA thanks the Commission for its attention to these issues and welcomes any questions they may have.

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THIS IS EXHIBIT "I"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

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Commissioner for Taking Affidavits



Broadcasting Notice of Consultation CRTC 2024-288

The Path Forward - Defining “Canadian programs” and
supporting the creation and distribution of
Canadian programming in the audio-visual sector

Final Reply of the
Canadian Media Producers Association

June 23, 2025

A. Introduction and Key Themes

1. The Commission must seize this opportunity to modernize the broadcasting system such that broadcasting undertakings, Canadian and foreign, meaningfully participate in the development and production of programming that showcases the talents of Canadian creators and producers.
2. While many stakeholders have emphasized the need for flexibility, it is critical to recall that flexibility is not an objective in and of itself. Rather, flexibility simply refers to how the Commission can fulfill its regulatory and supervisory mandate under the *Broadcasting Act* (the “Act”). Subsection 5(2) of the *Act* confirms this.

The Canadian broadcasting system should be regulated and supervised in a flexible manner [...]

3. As the Commission works to define the regulatory framework for the support of Canadian production, it is essential to resist pressure from foreign platforms seeking to shape this definition in a way that would effectively allow foreign location service (FLS) production to count as Canadian programming. Many of these services are advocating for a redefinition of Canadian content that would dilute its scope and significantly weaken the contribution of Canadian talent and businesses.
4. It is also essential to maintain the obligations of Canadian conventional broadcasters, who are seeking regulatory relaxations that could compromise both the quantity and diversity of Canadian content offered. By combining these demands with their desire to significantly reduce reporting requirements, these companies are demanding a blank cheque, with only their word that they will continue to invest in Canadian programming as they always have. Existing obligations must not only be maintained but also accompanied by rigorous and transparent monitoring mechanisms.
5. During the oral phase of these proceedings, Commissioners were clear that regulatory discretion must be anchored by the requirements of the *Act* – a particular broadcaster’s or streamer’s demands for flexibility cannot override the legislative mandate of the *Act*.
6. The same principle applies to stakeholder comments on audience demand. Demand for scripted content from Canadian audiences is as strong as ever. The Commission should remain wary of submissions that suggest foreign online streamers are “best equipped” to service this segment of the market. Requirements imposed on a broadcaster must reflect its programming mandate and strategic direction, including its overall programming mix. Comments about supposed “audience demand” speak more to a broadcaster’s commercial preferences rather than any lack of interest. To put it plainly, it would be a policy

failure for licensed Canadian broadcasters (the “Broadcasters”) to supply the demand for scripted programming with predominantly non-Canadian produced content.

7. As Commissioners noted on a number of occasions at the hearing,¹ letting the market decide may not be enough. In assessing the contributions to be made, the Commission must also be guided by the broadcasting policy objectives set out in the *Act*, as the Commission is required to regulate and supervise the Canadian broadcasting system on that basis.
8. Consistency, clarity and enforceability must guide the Commission’s design of this modernized broadcasting framework. A regulatory system with meaningful flexibility is not about lowering expectations but about making responsive regulatory choices. The Commission is empowered to draw on its full range of regulatory tools and apply them in a way that reflects the realities of specific broadcasting undertakings.

B. Contribution Standards in the *Broadcasting Act*

9. Paragraphs 3(1)(f) and (f.1) establish requirements for the creation, production and presentation of programming. The former applies to all Canadian broadcasting undertakings, while the latter is limited to foreign online undertakings. The provisions are similar in that they both include a standard applicable to the use of creative and human resources. They differ in that paragraph 3(1)(f.1) also provides a second standard, relating more specifically to equitable contributions.
10. The Motion Picture Association of Canada – Canada (MPA-C) and foreign online undertakings² advance an interpretation that attempts to establish a hierarchical legal standard as between Canadian broadcasting undertakings and foreign online undertakings. In effect, they assert that foreign online undertakings must be subject to lower requirements, both in terms of making use of Canadian creative and human resources as well as the equitable contributions to that programming.
11. In asserting a lower contribution standard for foreign online undertakings, the CMPA submits that the MPA-C ignores that part of paragraph 3(1)(f.1) which specifically sets out a requirement to “contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming”.
12. Turning first to the standard applicable to the use of creative and human resources, a closer examination of these two provisions reveals key distinctions.

¹ See, for example, the public hearing transcripts at Volume 1 - para. 352; Volume 3 - paras. 1782 and 2668; Volume 5 - para. 4639; and Volume 6 - para. 5186.

² Netflix, Amazon, Apple and Disney. In our reply, we refer to MPA-C, but our comments could just as much also relate to the comments of these other foreign online undertakings.

- While both provisions refer to the use of creative and human resources, paragraph 3(1)(f) also states that Canadian broadcasting undertakings must “employ” them. This makes sense for a Canadian Broadcaster, who will employ Canadians to operate the broadcasting facilities of their Canadian services. The same is not required of foreign online undertakings. There is no requirement for them to “employ” Canadians at all. Presumably, they may use employees and facilities already established in their own market, with no need to replicate those operations for the distribution of their services in Canada.
- The provisions also differ in terms of what the standards are applicable to. In paragraph 3(1)(f), the “employ and make use” standard for Canadian broadcasting undertakings applies to all “programming”. Being located here, Canadian broadcasting undertakings use Canadian-based facilities and infrastructure to provide the entirety of their service offering. In contrast, paragraph 3(1)(f.1) refers only to “Canadian programming”. As with the distinction above, given that foreign services already carry other non-Canadian programming, there is no need to also replicate those efforts here.

13. At paragraph 41 of their responses to the Commission’s requests for information (RFIs), the MPA-C quotes an exchange from a legislative debate where a Senate Committee member interprets paragraph 3(1)(f.1) as providing “different hiring requirements”. While Canadian companies must make maximum use of Canadian creative and human resources, foreign companies “have to do what they can”.
14. We agree, with the caveat, of course, that foreign online undertakings “doing what they can” is, and must be understood to mean, that they are doing the “greatest that they practically can” in the use of Canadian resources. The onus is on foreign undertakings to submit evidence that demonstrates that their proposed standard meets the threshold of doing the greatest they practically can, and up to the Commission to determine whether such evidence warrants the application of a standard different than the one that applies to Broadcasters. The CMPA notes that at no point in these proceedings has an online undertaking offered a meaningful justification for why contributions to Canadian programming are not practicable.
15. That all being said, the interpretation put forward by the MPA-C goes much further. They argue that paragraph 3(1)(f.1) not only imposes a lower requirement when it comes to the use of Canadian resources, but also when it comes to the financial contribution that foreign undertakings make to the Canadian broadcasting system. In effect, the MPA-C is asserting that Canadian broadcasting undertakings should be required to make “maximum” contributions, while foreign online undertakings only have to make “greatest practicable” ones.

16. Contrary to the comments made by the MPA-C and others, foreign online undertakings should not be subject to a lower contribution standard than that applicable to Canadian broadcasting undertakings. Consistent with paragraph 3(1)(f.1) of the *Act*, contributions must be made “in an equitable manner to strongly support” Canadian programming. That is the standard to be applied.
17. Granted, there is no specific reference to contributions in paragraph 3(1)(f). But no such reference is needed. Canadian broadcasting undertakings already make financial and non-financial contributions that strongly support Canadian programming. The same is not true for foreign online undertakings. They are new to the system. And that is why paragraph 3(1)(f.1) further specifies that they “contribute in an equitable manner”. The distinct standard is the foundation by which the Commission can establish contributions as further described in other sections of the *Act*.³
18. We further submit that our interpretation is consistent with the policy directions provided by the Governor-in-Council. At Policy Direction #4,⁴ the Commission is specifically instructed to ensure that requirements, both financial and non-financial, be equitable “given the size and nature of the undertaking” and “as between foreign online undertakings and Canadian broadcasting undertakings”.
19. It follows that the Commission must ensure that comparable foreign and Canadian undertakings are treated equitably.⁵ While the MPA-C specifically recognizes the need for equitable treatment, its interpretation of what this means is incorrect. For example, the MPA-C argues that foreign online undertakings are comparable to Canadian hybrid video-on-demand (HVOD) services. They even go so far as to assert that the Crave HVOD service is the closest competitor to large foreign streaming services like Netflix or Disney+.
20. That is clearly not true. These services are not comparable.
- First and foremost, the development of HVOD services has been quite limited, and this is because they fulfill a limited purpose. In fact, there have only been a very small number of HVOD services. For example, the Crave HVOD service (aka “Base Crave”) only carries programming content from previously aired seasons or shows no longer in production. Much of the Crave HVOD has been discontinued, and has been rolled up into the library of content for the major retail Crave product, available on a subscription basis either from licensed broadcasting distribution undertakings (BDUs) or online direct-to-consumer (DTC). A quick review of the retail offers from large BDUs shows that the Crave HVOD service is no longer available.

³ For example, section 11.1 which allows the Commission to establish regulations for the revenue-based expenditure contributions to be made by foreign online undertakings.

⁴ Provide reference for Policy Directions.

⁵ And that is why such an evaluation is noted in the Regulatory Impact Analysis Statement for this Policy Direction.

Subscribers can only choose the much larger Crave service. (In truth, they can buy that same service on an Internet direct-to-consumer basis.)

- In any event, Crave is not just an HVOD service. It is also a licensed discretionary service, reporting revenues of more than a hundred million dollars, making significant financial and non-financial contributions to Canadian programming. That's because The Movie Network was rebranded as Crave+ back in 2018.
- Crave is also available on a DTC basis. While those revenues are not subject to the same contributions noted above, a specific objective of the modernization of the Commission's regulatory framework is to also include the revenues of affiliated online undertakings for contributions to Canadian programming.
- These two versions of the Crave service provide the overwhelming majority of its revenues. Crave has significantly evolved in a number of stages since it was first launched as an HVOD service. Following the combination of Crave+ with Super Écran in 2021, the clear focus of the service is on the expansive retail Crave offer, available either from BDUs or on an Internet DTC basis.

21. The Policy Direction specifically requires the Commission to compare foreign online undertakings with Canadian broadcasting undertakings. HVOD services are not in any way comparable to foreign online undertakings. Rather, the comparison should be made with the programming and online undertakings operated by Broadcasters like Bell Media, including the discretionary and online revenues generated for a service like Crave. And that is precisely what the Commission has indicated it will do through the modernization of its regulatory framework, including the contributions to be made for services like Crave.
22. HVOD services are not subject to contribution requirements because they do not contribute in a material manner to the implementation of the broadcasting policy objectives and are, thus, exempt. The MPA-C appears to be seeking comparable treatment for foreign online undertakings, yet foreign online undertakings are not comparable to HVOD services, and their capacity and ability to make meaningful contributions to the attainment of the broadcasting policy objectives is materially different. Exempting them would not be equitable in any way.
23. The MPA-C refers to Commission comments in a recent decision which noted the similarities between online undertakings and HVOD services and how Canadians likely view these services as "comparable". The MPA-C then asserts that HVOD services are the closest competitors to large streaming services.

24. This argument is superfluous and its reference to Commission precedent is completely out of context. The stated purpose for making any kind of comparison between these undertakings related specifically to the disclosure of aggregated financial information in the Commission's *Annual Digital Media Survey*.⁶ More to the point, the Commission's comments about "comparable" undertakings are provided only to justify its decision to include data from a "small number" of HVOD services in the same data set as online undertakings.⁷
25. The standard set out in the Policy Direction is the right one. In assessing equitable contributions, foreign online undertakings are to be compared with Canadian broadcasting undertakings. Of course, the latter can include both a programming undertaking as well as an online undertaking.
26. The Commission has used this basis of comparison in establishing the foundational elements of its regulatory framework. While Broadcasters already make significant financial contributions that strongly support Canadian programming, Broadcaster-affiliated online undertakings should also make contributions, based on the revenues they generate. That said, because their Broadcaster affiliates already contribute at a much higher level, these same affiliated undertakings are not required to also make base contributions to production and news funds.
27. To this point, the Commission is following the objectives set out in the Act and in the Policy Directions. It is assessing how foreign online undertakings should contribute in an equitable manner to strongly support Canadian programming. In so doing, it is appropriately comparing the contributions made by Broadcasters, both for their traditional licensed services as well as exempt affiliated online undertakings, to ensure equitable treatment of foreign online undertakings.
28. The MPA-C submits that the "text, context, and purpose" of the *Act* supports a lower standard of financial contribution for foreign online undertakings, yet in doing so, they engage in a selective reading of the statute.⁸ A faithful application of this methodology would not isolate paragraph 3(1)(f.1) from the broader legislative framework. The provision ought to be read in conjunction with the full scheme of the *Act*. Notably, the Commission is instructed to not only consider different business models⁹ when shaping regulations, but to also regulate in a manner that ensures that contributions are equitable.¹⁰
29. Attempts to read any single policy objective in isolation represents a selective and self-serving interpretive strategy, particularly in light of paragraph 3(1)(a.1) which affirms that *each* broadcasting undertaking must contribute to the *Act's*

⁶ Decision 2023-34.

⁷ *Ibid.*, at paras. 42 and 44.

⁸ Para 29

⁹ Broadcasting Act, SC 1991, c 11, s 5 (2)(a.1)

¹⁰ *Ibid.*, at s 5 (2)(a.2)

policy objectives, "in a manner that is appropriate in consideration of the services provided by the undertaking".¹¹ While this grants the Commission the ability to regulate contextually, it does not authorize reduced obligations. Rather, when read together with paragraph 5(2)(a.1), "context" means an undertaking's size, impact, the nature of the services offered, or "any other characteristic that may be relevant in the circumstances".¹² The CMPA submits that the composition of an undertaking's contribution, not the quantum, is where the Commission's flexibility resides – this is how equity is achieved in this regulatory framework.

C. Treatment of Broadcaster-Affiliated Online Undertakings

30. Representing an important share of the large Broadcaster groups, BCE and Rogers argue that Canadian programming expenditure (CPE) requirements should continue to apply only to licensed broadcasting revenues. At the same time as the Commission is considering the application of these requirements to foreign online undertakings, these Broadcasters assert that their online undertakings, and their significant, growing revenues, should remain exempt.
31. This is in spite of the fact that the Commission has specifically indicated, at every step in this consultation process, that Broadcaster-affiliated Online Services, and their revenues, are to be specifically included in Broadcaster Groups.
32. The CMPA fundamentally disagrees with such an approach. A modernized framework must apply CPE contributions to the revenues of Broadcaster services and their affiliated online undertakings. Broadcasters are now multiplatform content providers, with multiple sources of revenue, including a significant focus on digital. Limiting a contribution framework to licensed revenues does not reflect the business realities of Broadcasters, nor the policy objectives of the *Act* and a modernized regulatory framework that will implement those objectives.
33. Broadcaster-affiliated online undertakings compete with foreign undertakings in the Canadian market. As BCE noted in its results for Q4 2024: "Digital revenues represented 42% of total Bell Media revenue in 2024, up from 35% in 2023". Contribution requirements only on foreign online undertakings would not ensure equitable treatment between competing undertakings in the Canadian broadcasting system.
34. Assessing contributions on the basis of broadcasting and online revenues would also thwart regulatory shell-games that push subscribers to online direct-to-consumer options of the same programming service and/or allocate more revenues to broadcaster-affiliated online undertakings. Turning again to Crave, financial information published by the Commission shows that revenue for the

¹¹ *Ibid*, at s 3 (1)(a.1)

¹² *ibid*

regulated linear version of service has decreased by \$82 million, from \$197 million to \$115 million. This represents a revenue decrease of over 42%.¹³

35. While these same Commission reports indicate about two million BDU subscribers,¹⁴ Bell Media recently announced that Crave had surpassed the four million subscriber mark.¹⁵ Obviously, there are a lot of Crave direct-to-consumer subscribers. But there is little to differentiate the Crave offer. In fact, in many cases, BDU subscribers of Crave will also use the online product to access Crave online, whether via the Crave app or its website. It is precisely because of these business realities that a modernized framework must apply contribution requirements on total revenues, including online revenues.

D. Definition of Canadian Content

Financial Control and Canadian IP Ownership

36. The Commission's preliminary views on financial control and ownership appropriately recognize that creative authorship is no longer the sole consideration when determining whether a program can be certified as Canadian. The Commission must also consider whether Canadians, including Canadian independent producers, retain a meaningful economic stake in the programming they produce.
37. Amendments to the *Act*, particularly the inclusion of paragraph 10(1.1)(a),¹⁶ signal that economic considerations are now a distinct and complementary part of Canadian program certification. Creative authorship and economic benefits must be considered together to answer 'who made this program' and also, 'who benefits from its success'. As discussed throughout this consultation process, the Commission can supplement existing authorship tests with enforceable standards that reflect the economic realities of Canadian production and ensure the long-term sustainability of the independent production sector.
38. Across various sectors of the production industry, the importance of IP ownership was supported by Canadian creators, producers, broadcasters and industry associations.

¹³ CRTC – *Individual Discretionary and On-Demand Services Statistical and Financial Summaries, 2019-2023*.

¹⁴ *Ibid.*

¹⁵ Bell Media press release dated June 5, 2025. See also approximately 3.8 million subscribers reported by BCE for Q1 2025.

¹⁶ Subsection 10(1.1)(a) states that the Commission shall consider whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program[.]

Models proposed by the CMPA

39. As noted in our oral submissions, the CMPA submits that a foundational mechanism for ensuring compliance with the requirements under subsection 10(1.1) is to institute an independent production expenditure (IPE) requirement. An IPE requirement would ensure that a meaningful share of the overall CPE requirement is reserved for programs made by Canadian independent producers who retain meaningful ownership and economic interests in the programs they produce. This requirement would also operationalize the requirement set out in paragraph 3(1)(v) of the *Act*, which calls for a significant contribution from the independent production sector.
40. The CMPA proposed that IPE requirements be met through specific financial control and ownership models ("Model A" and "Model B", attached as Appendixes A and B). In Model A, full Canadian ownership and control would be required. In order to ensure that such ownership is meaningful, Model A also embeds additional requirements, including, for example, that the independent producer retain exploitation rights in the program. Absent such requirements, it would be possible for an independent producer to own 100% of the copyright in a program, but with the commissioning broadcasting or online undertaking appropriating most, or even all, of the associated exploitation rights. Such an outcome would be contrary to paragraph 10(1.1) (a), which goes beyond copyright ownership to stipulate that the independent producer derive a "significant and equitable economic benefit" from the exploitation of their own program.
41. In Model B, greater flexibility is contemplated, including the participation of foreign or vertically integrated partners. Consistent with both models is the requirement that Canadian independent producers retain a meaningful economic stake in the success of the programs they create, whether through copyright ownership, back-end participation, or enhanced remuneration for originating and developing the underlying property. The CMPA has also proposed that both models be subject to a Commission-approved Codes of Practice as a mechanism to guide reasonable application of, and permitted deviations from, the models and the baseline rights being proposed.

Model A – Canadian Ownership and Control

42. Model A applies to programs financed through Independent Production Expenditures (IPE), a category of spending that should form the majority share of CPE spending by both Broadcasters and online undertakings.
43. This model offers a direct response to paragraph 10(1.1)(a) and reflects the successful business strategies of Canadian producers across genres, as presented

in our submissions. As several producers articulated before the Commission, control over IP rights has enabled them to reinvest revenues, develop new content, and scale Canadian companies. It is this long-term, cumulative value creation that builds equity and momentum for the Canadian production sector.

Model B: Structured Flexibility

44. Model B provides a pathway for Canadian programs to be structured with varying degrees of foreign or broadcaster-affiliated ownership, including co-ventures, service productions, or direct buyouts of Canadian-originated IP. In recognition of the Commission's "give-and-take" approach, this model ensures that where ownership rests outside of Canada, greater Canadian creative input and/or additional remuneration is required.
45. Model B is not an open-ended exception, but rather a structured alternative that accounts for the complexities of modern financing and rights negotiations. While foreign ownership is accommodated under Model B, this flexibility must be accompanied by enforceable standards that ensure Canadian independent producers retain a meaningful stake in the success of the programs they help create. Where Canadian intellectual property rights are relinquished, other forms of economic participation, such as adequate up-front and back-end remuneration, must be provided. This reflects the spirit and intent of paragraph 10(1.1)(a), which requires more than service-level engagement from Canadian production companies.
46. Of note, the CMPA is now also proposing a change to the Model B we provided to the Commission at our in-person appearance on May 23, 2025. In response to concerns that all programming produced under Model B could involve the use of no Canadian IP whatsoever, we are proposing that at least 50% of the expenditures eligible under Model B must relate to programs that were originated or developed by a Canadian producer. The proposed change is highlighted in the revised version of Model B filed as Appendix B.

Codes of Practice

47. In both Models A and B, Codes of Practice serve as an essential safeguard to ensure that independent producers can negotiate from a position of relative parity. Codes of Practice, where approved by the Commission and developed through mandated negotiations between producer associations and broadcaster representatives, would establish baseline standards for licence terms, revenue participation, and IP rights.
48. Codes of Practice would bundle and maintain minimum baseline terms to provide contractual clarity while addressing the asymmetrical bargaining dynamics that otherwise limit Canadian participation in high-value productions. They are not a

substitute for regulation, but an implementation tool that ensures that the Commission's policy objectives are respected in practice. The successful negotiation of Codes of Practice would also further paragraph 10(1.1)(d), which seeks to determine, in part, the extent to which Canadian and foreign broadcasting undertakings are collaborating with Canadian independent producers.¹⁷

Model Proposed by the MPA-C

49. In their response to RFI #14, the MPA-C submits that, "[it] is in the best interests of Canadian creative talent, and the Canadian broadcasting system in general, if foreign online undertakings are permitted to own the IP and equity in Canadian programs, as this will incentivize them to create large scale productions in Canada."¹⁸
50. Canadian ownership of copyright and the ability to benefit from the exploitation of Canadian programs are not aspirational goals — they are legal requirements that the Commission is expressly directed to consider under paragraph 10(1.1)(a) of the *Act*. Parliament has recognized that Canadians, including independent producers, must have a right or interest in a program that enables them to control and benefit in a significant and equitable manner. Any regulatory framework that treats Canadian ownership as a discretionary or bonus element fails to meet this statutory threshold.
51. The CMPA further cautions against the proposal advanced by MPA-C to apply non-mandatory "bonus" credits to incentivize Canadian IP ownership.¹⁹ This is a fundamental mischaracterization of the broadcasting policy objectives set out in the *Act*. The suggestion that foreign online undertakings should be rewarded for not requiring producers to relinquish their intellectual property rights in a program flies in the face of paragraph 10(1.1)(a)'s express requirement that producers significantly and equitably benefit from the exploitation of their programs.
52. We have previously submitted that Canadian ownership should be the starting point, not an add-on or something eligible for "bonusing" or to be "credited". Instead, we have presented two models with flexible options for IP ownership, with the potential of providing a transparent and enforceable pathway to ensure that Canadian producers obtain an equitable share of the economic value in the programs they help create.

17 Paragraph 10(1.1)(d) states that the Commission shall consider the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings[.]

¹⁸ *Supra*, note 1, at para 24

¹⁹ *Supra*, note 1, at para 100

Creative Control and the Points System

53.The CMPA supports the Commission’s proposed expansion of the Canadian program certification criteria (the “Points System”) provided it is built on a coherent framework that reflects genuine creative contributions, preserves the integrity of Canadian program certification, and maintains a clear connection to Canadian authorship and control. Any changes to the Points System must ensure that Canadian stories are told by Canadians, not merely serviced by Canadian crews. The CMPA is cognizant of the Commission’s directive to introduce flexibility into the certification framework. We submit that this can be achieved while preserving the core policy function of the Points System.

54.Revisions to the Points System should retain the following foundational elements:

- Mandatory Canadian authorship: Either the Director or Screenwriter must be Canadian, along with at least one Lead Performer.
- A 60% certification threshold: Programs must earn a minimum of 9 out of 15 points to qualify.

55.To assist the Commission, the CMPA has enclosed two appendices which outline our recommended amendments to the respective points systems for live-action programs (Appendix C) and animation (Appendix D). These appendices reflect the CMPA’s comments and proposed revisions throughout these proceedings, including in our initial intervention and our responses to the Commission’s RFIs.

Canadian Authorship is Essential

56.The CMPA categorically opposes proposals that would enable the certification of programs that were effectively produced as FLS projects with minimal Canadian authorship. MPA-C, for example, has proposed a 15/29 point system for foreign online undertakings, with no mandatory Canadian creative positions.²⁰ MPA-C proceeds to outline various “bonuses” that would allow foreign studios and streamers to further dilute the 51% Canadian personnel threshold.

57.Under the MPA-C proposal, such changes to the Points System would merely establish a “personnel” threshold, not one based on key creative functions, since many of the positions MPA-C has proposed to include in a revised point system are not creative functions at all. MPA-C’s proposal constitutes a rejection of the broadcasting policy objectives and would represent a troubling erosion of the Canadian program certification standard.

²⁰ MPA-Canada. *Appendix D re: Canadian Content Consultation (BNC 2024-288)*, at page 1-2

Pre-existing Canadian source material

58. The CMPA reiterates its position, expressed in response to the Commission's RFI process, that Canadian source material should not be eligible for a point within the certification framework.²¹ While it may be a desirable policy outcome to see an increased number of Canadian stories adapted for the small and big screen, there is no market failure that warrants regulatory intervention. Canadian and international producers freely option and develop Canadian-authored novels, plays, and other works, when there is a perceived creative or commercial impetus to do so. There are also interpretive challenges associated with introducing Canadian source material into the certification framework.

59. If the Commission nevertheless intends to proceed with this additional point, it must be optional. It should not, as some have also suggested, replace a Canadian Writer as one of the potential mandatory points.

Animation Departments – Risk of Misclassification

60. The CMPA has concerns about the Commission's proposed shift in how animation department functions are evaluated. The transition from location-based to personnel-based points for Key Animation, Layout and Background, and Assistant Animation introduces a clear risk of regulatory evasion. These are departmental functions, not singular roles. A production could nominally designate a Canadian supervisor while much of the work is conducted outside of Canada, compromising the labour and/or economic, and cultural policy objectives the *Act* is intended to address. To put this in perspective, it is not uncommon for a key animation department to consist of 50-100 team members on an animated feature film. The CMPA urges the Commission to revert to its prior practice of awarding points based on whether these activities are substantially performed in Canada.

Existing Points System

61. The CMPA supports the Commission's effort to modernize the definition of Canadian content by recognizing additional creative roles and functions, and, in so doing, provide greater flexibility in a revised certification process.

62. Given the number of disparate views relating to the Commission's proposed changes to the Point System, we also note that the current 10-point scale remains a viable and effective certification framework. The 10-point scale aligns with both the Canadian Audio-Visual Certification Office ("**CAVCO**") framework and the Canada Media Fund ("**CMF**") eligibility criteria. It is well understood and already differentiates between authorship and service roles.

²¹ Canadian Media Producers Association. *CMPA Response to CRTC RFIs (BNC 2024-288)*, at pg. 20.

63. Other stakeholders have argued that the existing 10-point certification process should be maintained by the Commission.²² The CMPA would also support that approach.

D. Contributions to Canadian Programming

Appropriate Contribution Levels for Canadian Programming Expenditures

64. Throughout this process, the Commission has sought proposals from Broadcasters and Online Services for their revenue-based expenditure contributions to Canadian programming. For their part, Broadcasters and foreign Online Services are proposing to do a lot less, or even nothing at all.

- Corus has suggested a significant decrease of 33% in CPE, from 30% of revenues to 20%.
- Bell Media trumpets maintaining its existing contribution to CPE, at 30%, even though that CPE requirement would continue to only apply to the revenues of their traditional licensed services.
- With little regulatory explanation or justification, Rogers has proposed a precipitous decrease of more than 83%, from a 30% CPE to only 5%. This is in spite of the fact that they recently acquired major programming rights for distribution in Canada from Warner Brothers Discovery (away from Bell Media and Corus) and launched a slate of new Canadian services.
- The MPA-C and operators such as Netflix, Amazon and Apple continue to focus on arguments opposing the imposition of requirements of any kind.

65. The Broadcasters are consistent in their proposals to significantly decrease their contributions to Canadian programming. Of concern, these proposals are devoid of financial information or justification, especially in relation to online activities and revenues. Comments are limited to traditional broadcasting, even though the Commission has initiated this consultation process with the specific purpose of modernizing its regulatory framework to incorporate online services into the Canadian broadcasting system.

66. Of greater concern, the CMPA fails to understand how lower CPE contributions would benefit the Canadian system or fulfill the policy objectives of the *Act*. Programming is a foundational component for Canadian services. In a crowded and increasingly integrated foreign content rights market, the importance of domestic content will only increase. Audiences are looking for more content, not less. Significant decreases in CPE are not responsive to that audience demand.

²² See, for example, Blue Ant and Lionsgate.

67. Moreover, Broadcaster programming budgets are not limited to Canadian content. We are particularly concerned that any decrease in CPE would simply facilitate an increase in the programming budgets for the acquisition of more foreign content.

68. As for Rogers, there is no policy rationale for their proposal, other than to equate their contribution to that of the recent 5% base contribution imposed on foreign Online Services. That kind of a proposal is unserious and does not align in any way with the Commission's existing framework, nor the principles and objectives of this review and consultation process.

69. The CMPA submits that the current CPE framework is appropriate. Existing CPE requirements for Broadcasters should be maintained, and equitable contributions applied to comparable Online Services. This is supported by a greater variety and diversity of Canadian industry stakeholders. The Commission's current approach is already responsive to the variations between undertakings and allows for certain precisions and adjustments to be made within the overall aggregate composition of an undertaking's CPE requirement.

Production Industry Data from the Profile 2024 Report

70. In its responses to RFIs, the MPA-C provides an appendix with trends in Canadian content production from the *Profile 2024* report. Based on that data, the MPA-C asserts that Canadian content production has "grown extensively over time".

71. The MPA-C's conclusions are misleading.

- They do not highlight stronger growth in the French-language television market, and weaker growth in the English language market (i.e., 0.36% over five years).
- That "growth" is not inflation-adjusted. Inflationary cost pressures, including the increased costs of interim production financing, have been a difficult strain on the production industry over the last five years. That impact is highlighted at Exhibit 1-1b of the report.
- The financing graphs provided by the MPA-C rename a source of financing to "Global Studios and Streamers". In the report, that source is more appropriately labelled "Foreign Pre-sales and advances".²³

²³ In *Profile 2024*, "Foreign pre-sales and advances" include broadcast licence fees, minimum guarantees, advances and other forms of financing from non-Canadian broadcasters, distributors or other organizations based outside of Canada, including streaming services, other VOD services, TV networks and public broadcasters. See, for example, Exhibit 3-18, at page 52.

- Corus has obtained Commission approval to significantly reduce PNI expenditures and further extend underspending to future years. Those effects are not reflected in the production activity data for 2023/24.

Commitments to Canadian Programming

72. As is the case now, the programming mix or “the nature of the services” offered by an undertaking or broadcasting group should inform their regulatory contribution requirements. The Commission has typically addressed this by adjusting the CPE requirement and its constituent components. In Phase 3, Broadcasters and Online Services will outline their proposals for contributions to Canadian programming.

73. While the Commission has indicated the need to apply a tailored approach, it must also assess how these proposed contributions respond to the broadcasting policy objectives in the *Act*.

(i) Programs of National Interest

74. Beginning with the Group policy in 2010, the Commission has consistently recognized the policy rationale for supporting PNI. It has also identified and applied the criteria to be used in the designation of programming as PNI.²⁴

75. However, rather than extending PNI requirements to Online Services, the Commission is of the preliminary view that the current approach to PNI is no longer needed, on the basis that the business models and programming offered by Online Services is specifically geared towards the categories of programming contemplated by PNI.

76. We disagree with that initial position. Our point in view is shared with a significant number of industry stakeholders.²⁵ In truth, this is perhaps the single most galvanizing issue in this consultation process.

77. In our submission, the elimination of PNI requirements is premature. The Commission has not indicated what kinds of contributions would replace PNI, and how Online Services and Broadcasters would support specific genres and categories of Canadian programming going forward. These services have provided little in the way of specific programming commitments of any kind throughout this proceeding, let alone one focused on the important categories that make up PNI.

78. Broadcasters are still a critical platform for the promotion of Canadian content, including programs in the PNI categories. The Commission should adopt a

²⁴ CRTC Broadcasting Regulatory Policy 2015-86 “Let’s Talk TV”, at para 296

²⁵ See, for example, the AQPM, DGC, WGC, the CMF, the ISO, NFB and Friends of Canadian Media

balanced policy that involves Canadian content contributions from Broadcasters as well as Online Services. Together, they can more effectively contribute to, and provide, a greater diversity of Canadian content.

79. Moreover, the CMPA has very real concerns about any kind of gap in the production of PNI. Many stakeholders in this proceeding have clearly and specifically articulated that PNI are examples of “at risk” programming. The level of risk increases precipitously if changes are made to PNI requirements prior to the review and implementation of a new contribution framework. Regulatory foundations are needed to sustain the production of PNI. At the very least, the Commission should not consider changes to its PNI policy until and unless a new contribution framework for Canadian programming has not only been considered but actually been put into place.

(ii) Independent Production

80. The Commission’s preliminary view regarding PNI overlooks the commitment to independent production embedded within it, even though this requirement is articulated as a specific Condition of Service. In addition to CPE and PNI, Broadcasters must ensure that at least 75% of the PNI expenditures are directed towards programming produced by independent production companies.

81. Eliminating PNI requirements has the potential to impact existing contributions to independent production. These requirements were specifically put in place to recognize a broadcasting policy objective in the *Act*, namely that the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.²⁶

82. As a result of amendments from Bill C-11 and the Policy Directions that followed it, there are now additional legislative and federal Cabinet requirements that support the contribution of independent production to the Canadian broadcasting system. The Commission’s definition of a Canadian program must now consider whether Canadians, including independent producers, have a right or interest in relation to a program, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program.²⁷ In exercising its powers under the *Act*, the federal Cabinet directed the Commission to support the Canadian ownership of intellectual property²⁸ and consider, as it relates to audio-visual programming, the vital role of Canadian independent producers.²⁹

²⁶ Subparagraph 3(1)(i)(v) of the *Broadcasting Act*.

²⁷ *Ibid*, at Paragraph 10(1.1(a)).

²⁸ Canada, Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework), SOR/2023-239, (2023) C Gaz II, 157.24, at para 13(c).

²⁹ *Ibid*, at para 13(f).

83. However, the Commission has not indicated how changes to the PNI policy would affect independent production, nor what regulatory support mechanism would replace it. As noted above, the Commission should not change its policy regarding PNI until and unless a new mechanism for Canadian programming contributions has been put in place. As is the case now, such a replacement must specify the commitments to independent production.

84. In our submission, as part of a modernized framework, the Commission should establish a specific contribution requirement related to independent production. An IPE requirement would ensure that the programming commitments proposed by these services will appropriately contribute to fulfilling the *Act's* broadcasting policy objectives and the Government's Policy Directions, while also offering a more flexible and adaptable contribution framework for Broadcaster and Online Service contributions.

(iii) *Support for Indigenous Content and Content Created by and for Equity-deserving Groups*

85. Canadian independent producers continue to work towards meaningful change, breaking down systemic barriers to increase equity, diversity and inclusion that will benefit representation and participation in Canada's screen-based industries. Those efforts must enable access for a much greater diversity of producers and creators across Canada, including those of different experience levels, sizes and scales of companies, genres and formats of production.

86. The *Act* now includes specific policy objectives whereby the Commission must consider more opportunities for representation and participation.³⁰ A modernized CPE framework should support content from these groups and communities through specific commitments to Canadian programming, and not merely in the form of bonus CPE credits. While the third phase will allow Broadcasters and Online Services to tailor their programming proposals, they must include specific and direct contributions to fulfill these important policy objectives to continue the evolution of the Canadian broadcasting system.

(iv) *Feature Film*

87. Feature films play an important role in the programming strategies of Online Services. The *JustWatch* website provides data breaking down the types of content carried by many Online Services. We have constructed a graph based on that data and attached it as Appendix E. Examining the available content from the largest Online Services, it is clear that a significant portion of these programming libraries is dedicated to feature film.

³⁰ See *Broadcasting Act*, subparagraphs 3(1)(d)(iii.1) and (iii.11).

88. That interest is not limited to acquisitions of existing film titles. Quite the opposite, original features have become a key programming strategy, both for online-only releases and multi-platform efforts with theatrical releases.
89. The important role played by feature film must be taken into consideration by the Online Services (and Broadcasters) when making their Canadian programming proposals in Phase 3 contribution proposals. In assessing them, the Commission must ensure that they provide for a proportionate contribution to Canadian feature film.

(v) Children's Programming

90. In our intervention, we outlined how changes to the regulatory system have negatively impacted the production of children's programming. In response to a Commission RFI, we provided CRTC published financial information from large Broadcaster Groups showing the precipitous decline in CPE spending in this programming category.
91. At the public hearing, a significant number of industry stakeholders sounded the alarm about children's programming. While also acknowledging the concern, Broadcasters and Online Services emphasized the significant changes in consumer behaviour, as other online platforms (e.g., YouTube) now dominate the market. For its part, Google argued that CPE requirements should be limited only to Broadcasters and foreign Online Services that "commission or actively program their content offering".
92. Despite these challenges, regulatory action must be taken to maintain a place for Canadian children in our system and on our screens. There must be an industry solution to this important issue. Whether through direct access to production funding, dedicated revenue-based contributions and/or some other initiative, the Commission must ensure that an appropriate level of programming resources is available for the development and production of high-quality Canadian children's content.

E. Other Issues

Definition of "Independent Producer"

93. In assessing a requirement for IPE, the Commission must distinguish Broadcaster-affiliated producers from other independent producers. An IPE requirement should ensure that Online Services and Broadcasters allocate an appropriate portion of their Canadian programming contributions to independent producers who are unaffiliated to *any* Broadcaster or Online Service.

94. The Commission has established policies for similar situations and should apply the same rationale for doing so here. In fulfilling a requirement to carry independent programming services, the Commission has defined “independent” to mean services that are not affiliated with any BDU, and not just the BDU in question. In defining the criterion in that manner, the Commission understood that many large BDUs also own programming services, thereby creating the potential for BDUs to collaborate and trade off the carriage of each other’s programming services by their respective BDUs. Absent an equivalent safeguard, any IPE requirement could be undermined by the collaboration of Broadcasters and/or Online Services in regard to the acquisition or commissioning of programs.
95. That said, we also reviewed the comments filed by Blue Ant Media, as to size and scale of Canadian companies. In assessing the application of the definition, the Commission could apply the restriction only to large Broadcaster and Online Service Groups, as concerns regarding commercial relationships apply more in earnest to groups and entities of that size.

Contributions to Industry Training and Development Programs

96. In our responses to the Commission’s RFIs, we indicated that a small portion of contributions could be directed to recognized, third-party industry training and development programs. There are several training projects and initiatives that would benefit from ongoing support and stable funding, given their material impact on the growth and development of the industry.
97. A number of respondents proposed a specific allocation contribution, to ensure these programs are appropriately funded. We support a more structured approach and agree that 2.5% of total contributions should be specifically allocated to these programs. A similar approach, and funding allocation, has been successfully put in place in France, as part of their overall regulatory approach for domestic production contributions.

F. Conclusion

98. We thank the Commission for the opportunity to provide further comments in this important process.

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APPENDIX “A” MODEL A “CANADIAN PROGRAM” – FINANCIAL CONTROL & OWNERSHIP

A. Independent Production Model

- **Majority (70%) of Canadian Programming Expenditures (CPE) by a licensee or online undertaking**

1. Canadian Producer Control

- As per existing CRTC Canadian program certification requirements

2. Copyright ownership

- 100% owned by Canadian independent producer

3. Upfront Remuneration

- Current Canadian industry standard 20% of certain budgeted costs

4. Initial Licence

- Maximum initial licence term of five years
- Licence term extensions to be negotiated no earlier than six months prior to expiry of initial licence term
- Initial licence term shall be exclusive for first 18 months on licensee’s or online undertaking’s own platforms, non-exclusive thereafter

5. Exploitation Rights

- Canadian independent producer exclusively owns, controls and benefits from all other exploitation rights, including:
 - the exhibition rights in the program
 - all other related rights, e.g. merchandising rights, format rights

6. Code of Practice

- Where a program has been licensed pursuant to a Code of Practice approved by the Commission, its terms will prevail to the extent of any inconsistency with sections 4-5 above.

APPENDIX “B” MODEL B “CANADIAN PROGRAM” – FINANCIAL CONTROL & OWNERSHIP

B. 1) Flexible Collaborative Model

- **Minority (30%) of CPE (and IPE)**

1. Copyright ownership

- Ownership can be shared between a Canadian independent production company and a licensee and/or an online undertaking, up to and including 100% by any party

2. Upfront Remuneration

- Current Canadian industry standard 20% of certain budgeted costs

3. Made by Canadians

- Must be produced by a Canadian independent production company
- All individual producer positions must be held by Canadians
- Creative points/positions held by Canadians on a sliding scale relative to Canadian ownership.

4. Exploitation Value

- The entitlement to exploitation rights and back-end can vary.

5. Canadian-developed Projects

- Where a Canadian independent production company sources and develops the underlying property of the program, it would be entitled to additional “significant and equitable” economic benefit - i.e. over and above the remuneration in section 2 above. Examples: enhanced fees from budget, cost-plus premium, back-end share.
- at least 50% of the expenditures eligible under this Model B must relate to programs that were originated or developed by a Canadian producer.

6. Codes of Practice

- Where a program is commissioned under Model B, it would be subject to a Code of Practice, respecting the parameters outlined in sections 1-5 above.

B. 2) CRTC Co-Venture Model

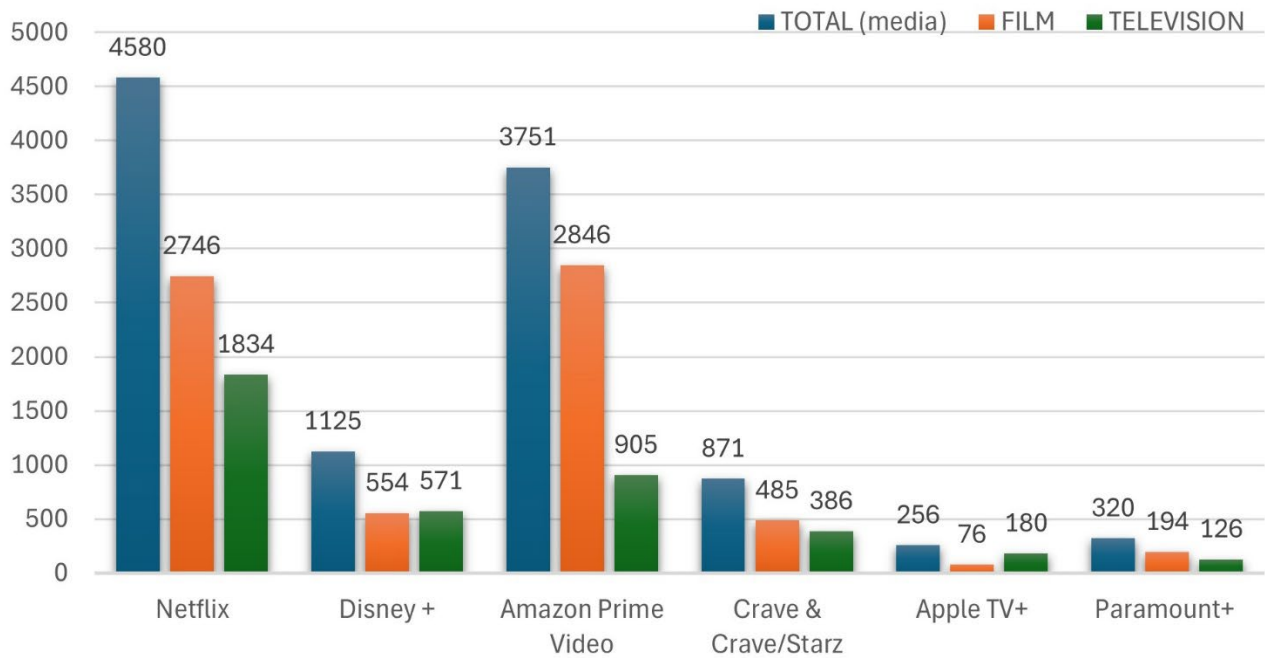
- **Minority of CPE (and IPE)**

Use of CRTC Co-Venture Model by a licensee or online undertaking would be subject to a Code of Practice to ensure equitable sharing of copyright ownership and economic benefits for the Canadian independent production company.

Position	15 points	Minimum 9 points 3 Mandatory points	Notes
Director	2 points	<u>Mandatory</u> – one of Director and Scriptwriter must be Canadian	Flex = 80% of people occupying the positions
Scriptwriter	2 points	<u>Mandatory</u> – one of Director and Scriptwriter must be Canadian	
Showrunner		<u>N/A</u>	
First <u>or</u> Second Lead Performers	1 point each	<u>Mandatory</u>	One of these positions must be Canadian
Production Designer or Art Director	1 point		No change
Director of Photography	1 point		No change
Picture Editor	1 point		No change
Head of Costume Design	1 point		New position
Key Makeup	1 point		New position
Key Hair Stylist	1 point		New position
Music Composer	1 point		Rightsholders are not key creatives; no change to existing requirement for Canadian music composer
Visual Effects Supervisor	1 point		New position
Special Effects Coordinator	1 point		New position
Casting Director	1 point		New position
Sound Mixing	1 point		New position
Sound Design	1 point		New position
Music Supervisor	1 point		New position
Stunt Coordinator	1 point		New position

Position	15 points	Minimum 9 points 3 Mandatory points	Notes
Director	1 point	Mandatory – one of Director and Scriptwriter must be Canadian	Flex = 80% of people occupying the positions
Screenwriter	1 point	Mandatory – one of Director and Scriptwriter must be Canadian	
Storyboard Supervisor	1 point		Not mandatory. Storyboard Supervisor is a distinct creative role
Showrunner	NA	NA	Showrunners are not common in animation production
First or Second Lead Performers	1 point	Mandatory either 1 st or 2 nd lead must be Canadian to get the point	
Music Composer	1 point		Rightsholders are not key creatives; no change to existing requirement for Canadian music composer
Camera Operator and Operation or Virtual Camera Operator	1 point	These are outdated terms in modern animation; should have flexible application in 2D and 3D animation	Not mandatory; allow "Lead Compositor" in 3D digital animation or "Layout Supervisor" in 2D animation
Design Supervisor	1 point		No change
Picture Editor	1 point		No change
VFX Supervisor or Special Effects Coordinator	1 point		New position
Casting Director	1 point		New position
Voice Director	1 point		New position
Animation Supervisor	1 point		New position
In addition, animation productions are also awarded points when key creative functions are performed in Canada:			
Key Animation	1 point	This is a departmental function, not a position occupied by an individual	Flex = 80% of people occupying the positions
Layout Artist and Background	1 point	This is a departmental function, not a position occupied by an individual	Flex = 80% of people occupying the positions must be Canadian
Assistant Animation and In-Betweening	1 point	This is a departmental function, not a position occupied by an individual	Flex = 80% of people occupying the positions must be Canadian

Film & TV Title Offerings by Online Services: Release dates, 2020-25



Source: JustWatch.com

THIS IS EXHIBIT "J"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits



Broadcasting Regulatory Policy CRTC 2025-299

PDF version

References: 2024-288, 2024-288-1, 2024-288-2, 2024-288-3 and 2024-288-4

Gatineau, 18 November 2025

Public record: 1011-NOC2024-0288

The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements

Summary

The *Online Streaming Act* made significant changes to the *Broadcasting Act* that require the Commission to modernize the Canadian broadcasting framework and ensure that broadcasting undertakings, including non-Canadian undertakings, meaningfully support Canadian programs and talent.

As part of its broader regulatory plan to implement the modernized *Broadcasting Act*, the Commission launched a public consultation to modernize its definition of “Canadian program” and ensure the sustainability and growth of Canada’s broadcasting system.

As part of this consultation, the Commission received 480 written submissions and held a public hearing within a three-week period in May 2025 with 78 appearing parties.

Today, based on the public record, the Commission is addressing four issues that were considered in the consultation (Broadcasting Notice of Consultation 2024-288): the certification framework for Canadian programs; artificial intelligence (AI); data collection and publication; and reporting requirements. Canadian programming expenditures, including expenditures on news, and supports for the independent production sector will be addressed in a regulatory policy to be issued in the near future.

In this regulatory policy, the Commission recognizes how much the broadcasting industry has changed, while also taking key actions to ensure that Canadian creative voices in English and French are well supported. This regulatory policy introduces greater flexibility for producers and broadcasters while helping protect Canadian cultural objectives and jobs. It also takes into account the differences between English-language and French-language production in Canada, while ensuring that the business models present in both markets continue to be recognized.

The modernized certification framework will apply to audio-visual content that meets the criteria set out in this regulatory policy. The content may be broadcast by any

broadcasting undertaking, whether traditional or online. In the Commission's view, its modernized framework will strongly support Canadian creative voices and allow the Canadian production and creative industries to continue to make and distribute content to Canadians and the world.

To this end, the Commission has recognized a greater number of key creative positions. The Commission is expanding the points system used to recognize "Canadian programs" to provide more paths for Canadian certification. In doing so, the Commission has recognized the importance of having Canadians occupy a wide range of positions in programming. It has also recognized that the way in which productions are made has changed over time, and that this needs to be reflected in the points system.

The Commission further recognizes that the key creative positions used in any Canadian production need to be staffed by humans and not by AI. Having heard the concerns about the use of AI in creating content and the transparency of AI use, the Commission is striking a balance by recognizing the usefulness and potential benefits of AI as a creative tool to assist producers and creators, while also recognizing the importance of human control being maintained. In doing so, the Commission emphasizes that Canadian creators continue to be at the heart of the Canadian broadcasting system.

The Commission is introducing requirements regarding minimum Canadian copyright ownership while providing a path for non-Canadian companies to share copyright in a production, with enhanced commitments to employing Canadian creators and using Canadian talent. This regulatory policy introduces a flexible copyright model that draws inspiration from international co-production treaties signed by the Government of Canada. This approach will lead to possibilities created by a broad spectrum of productions, and of business models and broadcasting and distribution models, while maintaining important safeguards. These safeguards include minimum Canadian copyright retention and best practices for fair negotiations.

This regulatory policy also levels the playing field in regard to the publication of financial data, thereby promoting transparency and accountability in the broadcasting industry. It also streamlines a number of reports filed by some broadcasting undertakings, thereby alleviating administrative burden and ensuring more consistency in disclosure requirements across broadcasters. To ensure transparency, the Commission has decided that Canadian broadcasting revenues and Canadian programming expenditures made by all players in the Canadian broadcasting system, including non-Canadian online undertakings, will be aggregated by entity and made public. This will provide Canadians with insight into how players in the broadcasting system are making meaningful contributions to Canadian creative industries and to the overall Canadian economy.

For ease of reference, the Commission has set out in Appendix 1 to this regulatory policy the detailed criteria of the certification framework. In Appendix 2, the Commission has set out its approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1.

To implement its decisions regarding the criteria for defining “Canadian program,” the Commission intends to issue in the near future a notice of consultation calling for comments on proposed new regulations defining “Canadian program” in the audio-visual sector and on consequential amendments to the *Television Broadcasting Regulations, 1987* and to the *Discretionary Services Regulations*. The Commission invites interested persons to consult that notice of consultation for further details.

Introduction

1. In Broadcasting Notice of Consultation 2024-288 (the Notice), the Commission launched a public consultation to modernize its definition of “Canadian program” for the audio-visual sector. This proceeding is part of the Commission’s broader regulatory plan to implement the *Online Streaming Act* and ensure the sustainability and growth of Canada’s broadcasting system.
2. In the Notice, the Commission sought comments on:
 - how to modernize the current definition of “Canadian program” in the audio-visual sector;
 - whether and how to adjust Canadian programming expenditure (CPE) and programs of national interest (PNI) expenditure requirements in the audio-visual sector and the funding of at-risk programming (including news content);
 - whether and how to address the use of artificial intelligence (AI) by audio-visual creators and broadcasters; and
 - how to ensure that the Commission, the broadcasting industry and Canadians have access to data and information to make informed choices about Canadian programs.
3. Throughout this proceeding, the Commission was guided by the following objectives:
 - to better support and promote Canadian stories through audio-visual programming that makes use of Canadian creativity and other resources, including French-language, Indigenous and news content;
 - to facilitate flexible audio-visual Canadian programming and a financial support ecosystem that encourages a variety of productions, and a variety of business models and broadcast and distribution models;
 - to better recognize the role played by Canadian key creators in the creation, broadcast and distribution of audio-visual Canadian programming;
 - to foster a sustainable Canadian broadcasting system where Canadian creators are able to profit from their creations, including through intellectual property rights;

- to further the exportability and discoverability of Canadian programming; and
 - to ensure that Canada’s diversity is reflected in the Canadian broadcasting system.
4. This regulatory policy is the first of two covering the issues examined during this proceeding. In the Commission’s view, defining what constitutes a “Canadian program” is a necessary step before establishing financial or policy measures to support its creation and distribution in the audio-visual sector. Accordingly, the Commission is issuing this regulatory policy to provide key determinations as to what constitutes a “Canadian program” in the audio-visual sector, in addition to making determinations on the use of AI in Canadian programming and on the collection and publication of financial and other data and information.
 5. Building on the foundations set out in this regulatory policy and in Broadcasting Regulatory Policy 2024-121,¹ the Commission will issue a regulatory policy in the near future that will focus on the funding and support for Canadian programming, including funding for news and at-risk programming. The Commission will address financial contributions, including contributions that could benefit the independent production sector, as part of its second regulatory policy.

Interventions

6. The Commission received 480 interventions in response to the Notice. A total of 78 parties appeared at the public hearing that was held from 14 to 27 May 2025. Several parties responded to requests for information and filed final submissions.
7. Parties to this consultation included Canadian and non-Canadian audio-visual undertakings, distributors, public broadcasters, private broadcasters, the creative and production sector, equity-deserving groups,² groups representing official language minority communities (OLMCs) and Indigenous peoples, screen offices, public interest and research groups, and numerous individuals.
8. The public record of this proceeding also includes [reports from industry workshops](#) held by the Commission in early 2024 on defining Canadian content and [a report on public opinion research](#) conducted in November 2024 by Phoenix SPI on the views of people across the country in regard to Canadian programming.

¹ The Commission’s decisions set out in that regulatory policy were finalized by Broadcasting Regulatory Policy 2024-121-1/Broadcasting Order 2024-194.

² Including but not limited to racialized people, people with disabilities, individuals who identify as 2SLGBTQI+, and women. The Government of Canada uses 2SLGBTQI+ (2S: at the front, recognizes Two-Spirit people as the first 2SLGBTQI+ communities; L: Lesbian; G: Gay; B: Bisexual; T: Transgender; Q: Queer; I: Intersex, considers sex characteristics beyond sexual orientation, gender identity and gender expression; +: is inclusive of people who identify as part of sexual and gender diverse communities, who use additional terminologies).

Legal framework

9. The *Online Streaming Act* came into force on 27 April 2023 and made significant changes to the *Broadcasting Act* (the Act). Those changes require the Commission to modernize the Canadian broadcasting framework and ensure that Canadian and non-Canadian audio-visual broadcasting undertakings, including online undertakings,³ contribute to the Canadian broadcasting system by, among other things, investing in Canadian and Indigenous audio and audio-visual content.
10. On 9 November 2023, the Government of Canada issued [*Order Issuing Directions to the CRTC \(Sustainable and Equitable Broadcasting Regulatory Framework\)*](#) (the Policy Direction). The Policy Direction emphasizes the need to support Canadian and Indigenous content and ensure equitable contributions by all players. It also provides specific guidance for determining what constitutes a Canadian program.⁴
11. Subsection 5(2) of the Act identifies the regulatory policy the Commission must consider when determining how to regulate the broadcasting system. Notably, the Commission must regulate and supervise the Canadian broadcasting system in a flexible manner that takes into account the diversity of Canadian society, as well as the different characteristics of English-, French- and Indigenous-languages broadcasting, and the nature and diversity of services, along with their size and impact on the Canadian creation and production industry. It must also facilitate providing Canadians with Canadian programs made in both official languages, including content made by and for OLMCs. In addition, under paragraphs 5(2)(a.2) and (g) of the Act, regulations applicable to the broadcasting system must ensure that broadcasting undertakings that cannot make maximum use of Canadian resources in the creation, production and presentation of programming contribute to those resources in an equitable manner, and that the Commission is sensitive to administrative burden.
12. Under paragraph 10(1)(b) of the Act, the Commission may make regulations that define “Canadian program” and, in doing so, must consider the factors set out in subsection 10(1.1) of the Act and section 13 of the Policy Direction. Paragraphs 9.1(1)(n) and (o) of the Act authorize the Commission to require that it be provided with various types of information, while subsections 25.3(4) and (5) authorize the Commission to make certain information provided to it available in the public interest.

³ As set out in the Act, “online undertaking” means “an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus.” Pursuant to subsection 2(1) of the Act, the definition of “broadcasting undertaking” includes an online undertaking. For clarity, audio and audio-visual creators, whether amateur or professional, are not broadcasting undertakings or online undertakings and are therefore not subject to the Act. This means that the Commission cannot make regulatory requirements that apply directly to content creators.

⁴ See section 13 of the Policy Direction.

13. French-language content and content creators are an important part of the Canadian broadcasting system. Paragraph 3(1)(c) of the Act stipulates that English- and French-language broadcasting, while sharing common aspects, operate under different conditions – in particular, the minority context of French in North America – and may have different requirements. The Commission recognizes the importance of French-language content for Canadians, especially in a context where online undertakings that operate in Canada predominantly offer English-language content. The Commission took into consideration these particularities in making the determinations in this regulatory policy.
14. Throughout this proceeding, the Commission has taken into account the needs and interests of OLMCs and the need to protect and promote the French language, consistent with the Commission’s obligations under the Act, the Policy Direction and the *Official Languages Act*. The Commission continues to consider these elements in its deliberations regarding financial supports for the creation of Canadian programs.
15. Finally, under paragraph 3(1)(d)(iii) of the Act, the Canadian broadcasting system, through the employment opportunities arising out of its operations, should serve the needs and interests of all Canadians and reflect the special place of Indigenous peoples within Canadian society. The Commission recognizes the distinct contributions of Indigenous creators and aims to harmonize the regulatory framework for Canadian programs with broader policy initiatives that support Indigenous storytelling, governance, and participation in the broadcasting system. Of note, Indigenous content-related issues are currently under consideration by the Commission as part of the ongoing co-development of an Indigenous Broadcasting Policy.⁵

Issues

16. After examining the record for this proceeding, the Commission considered the following issues in regard to a modernized definition of “Canadian program”:
 - modernizing the certification framework for Canadian audio-visual programs;
 - the use of AI in Canadian productions;
 - data collection and publication; and
 - the streamlining of reporting requirements.

⁵ See Broadcasting Notice of Consultation 2024-67.

Modernizing the certification framework for Canadian audio-visual programs

17. The criteria set out in the current certification framework for Canadian audio-visual programs⁶ form the basis for the definition of “Canadian program.”⁷ These criteria support the reflection of Canadian creativity, decision-making, and storytelling. While these criteria also set clear requirements for Canadian creative and financial control, they do not ensure minimum copyright retention.
18. The certification framework includes a points system for key creative positions and functions along with requirements to focus production and post-production spending in Canada. It also includes conditions ensuring that Canadian producers retain control over the production of Canadian audio-visual content by ensuring that they are the central decision makers of a production from beginning to end. Other elements of the Canadian production system, including funds such as the Canada Media Fund (CMF) and certification bodies such as the Canadian Audio-visual Certification Office (CAVCO), also have certain requirements that help ensure, among other things, that copyright in relation to funded programs is retained by Canadians.
19. In the Notice, the Commission invited interested persons to comment on how the certification framework should be modernized to better reflect the state of the broadcasting industry, while ensuring Canadians maintain creative and financial control over their Canadian audio-visual productions. As such, the following issues are addressed below:
 - what the certification threshold(s) should be in regard to key creative positions and functions filled and performed by Canadians;⁸
 - whether it should continue to be mandatory for certain key creative positions to be filled by Canadians, and whether to provide flexibility for certain positions when filled by multiple individuals;
 - whether it would be appropriate to add new key creative positions to the points system;
 - whether the number of points awarded to key creative positions and functions should be reviewed;

⁶ The current certification criteria are described in further detail in the appendices to Broadcasting Regulatory Policy 2023-90 and paragraphs 128 to 130 of Broadcasting Regulatory Policy 2015-86.

⁷ The definition of “Canadian program” in the *Television Broadcasting Regulations, 1987* (SOR/87-49) and in the *Discretionary Services Regulations* (SOR/2017-159) refers to criteria for certification in Appendices 1 and 2 to Broadcasting Regulatory Policy 2023-90, paragraphs 128 to 130 of Broadcasting Regulatory Policy 2015-86, or programs in respect of which a *Canadian film or video production certificate*, as defined in subsection 125.4(1) of the *Income Tax Act*, has been issued.

⁸ For the purposes of defining a “Canadian program”, a “Canadian” is a person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate. People who are First Nations, Inuit or Métis peoples in Canada meet any certification requirement that applies to a “Canadian.”

- whether, for animated productions, certain functions that must now be performed in Canada should instead be performed by Canadians, regardless of where they are located;
- whether incentives (such as bonus points) should be added for the use of Canadian works, characters and settings in productions;
- whether current requirements relating to production costs should be maintained;
- whether and how Canadian intellectual property ownership, and more specifically, Canadian copyright ownership, should be embedded in the certification framework; and
- whether and, if so, how the Commission should simplify and update other elements relating to certification.

20. The determinations set out in the following sections address those areas of the certification framework that the Commission believes need to be modernized. For greater clarity, elements from the current certification framework that are not addressed in this regulatory policy remain in place. The modernized certification framework will establish the criteria for qualifying a production as a Canadian program and form the basis of the new definition of “Canadian program.”

Threshold for certification

21. The Commission’s Canadian program certification framework seeks to ensure that Canadian stories are told from a Canadian perspective. By requiring that a number of key creative positions and functions be filled and performed by Canadians, the certification framework also supports Canadian creativity, employment, and skills development of Canadian talent across the wider audio-visual industry.
22. The current certification framework includes a points system mostly based on the key creative positions and functions filled and performed by Canadians. To qualify for certification, productions must generally reach a minimum of 6 points out of a maximum total of 10 points for positions and functions filled and performed by Canadians. If a production does not have a sufficient number of key creative positions or functions to attain the minimum 6 points, the Commission requires that all key creative positions and functions be filled and performed by Canadians to achieve a perfect score.⁹
23. In the Notice, the Commission sought comments on its preliminary view that, in order to receive Canadian program certification, a production (either live action productions and continuous action animated productions,¹⁰ or animated productions other than

⁹ For example, a perfect score requirement of 5/5, 4/4, 3/3, etc.

¹⁰ Referred to collectively as “live action productions” in this regulatory policy.

continuous action animation¹¹) should be required to attain at least 9 points out of a proposed maximum total of 15 points. The Commission's preliminary view was also to maintain the existing perfect score requirement when certain key creative positions or functions are not used.

Positions of parties

24. The Canadian Broadcasting Corporation (CBC) supported the current 10-point system given that it ensures stability and consistency with the requirements of CAVCO. Telefilm Canada added that alignment with CAVCO's criteria would ensure the creation of Canadian-led productions that reflect the country's unique cultural and artistic perspectives.
25. BCE Inc. (BCE), the Documentary Organization of Canada (DOC) and the Independent Broadcast Group (IBG) submitted that requiring 9 out of 15 points (i.e., 60%) for certification of a production as Canadian would unfairly disadvantage documentaries, given that many key creative positions are absent from this type of production. To address this, the DOC, supported by the Canadian Media Producers Association (CMPA), proposed a separate 7-point scale for documentaries, with a minimum of 6 points needed for certification as Canadian. Other interveners including the Directors Guild of Canada (DGC) and TLN Media Group Inc. (TLN Media) stated their preference for maintaining the current threshold of 6 out of 10 points, for consistency and predictability.
26. Certain interveners proposed a threshold based on the percentage of points attained rather than the number of points. The Motion Picture Association of Canada (MPA-C) proposed a 51% certification threshold for non-Canadian online platforms as this would align with the requirement of the Act to make the greatest practicable use of Canadian talent. Rogers Communications Inc. (Rogers) also considered that a majority of Canadian key creative points (over 50%) should be enough to qualify a production as Canadian. Quebecor Media Inc. (Quebecor) proposed a 70% certification threshold to ensure broad Canadian creative control and to grant flexibility that would allow up to three key creative positions in a production to still be filled by non-Canadians.

Commission's decisions

27. In the Commission's view, the modernized certification framework should be sufficiently flexible and adaptable given that many types of productions differ in regard to their genre, the size of their budgets, and the multitude of business models in the Canadian broadcasting system. For example, smaller Canadian productions may not include the full array of key creative positions, which means that establishing overly restrictive criteria for defining "Canadian program" would place an undue burden on those producers. As such, the Commission recognizes that the needs of productions and producers may vary and that they may use different key creative

¹¹ Referred to as "animated productions" in this regulatory policy

elements. Accordingly, the Commission considers that it would be appropriate to introduce greater flexibility in the points system for key creative positions and functions.

28. This framework must also continue to ensure the significant involvement of Canadian key creative talent and that the overall creative direction of Canadian programs is strongly influenced by Canadians.
29. As noted above, under the current framework, a production must generally be awarded a minimum of 6 points to meet the definition of “Canadian program.” The Commission considers that this approach can be challenging, especially for smaller productions that may not make use of all possible key creative elements. A minimum threshold requirement set in terms of a percentage of points would provide greater flexibility for productions that do not have a sufficient number of key creative positions to attain a minimum number of points.
30. For this reason, the Commission considers that it would be appropriate to establish a minimum percentage threshold based on the number of points a production attains, as opposed to a minimum number of points. In terms of establishing what that percentage should be, the Commission considers that a minimum threshold of 60% would provide sufficient flexibility to suit various types of productions while ensuring consistency with CAVCO’s requirements. This approach would support the policy objectives set out in paragraphs 3(1)(f) and 3(1)(f.1) of the Act, which state that Canadian broadcasting undertakings must employ and make maximum use of Canadian creative and other human resources in the creation of programming, and that non-Canadian online undertakings must make the greatest practicable use of such resources. At the same time, it would allow the framework to apply to the widest variety of productions, without unduly impacting smaller productions.
31. The sections that follow discuss the points to be awarded when various positions and functions of the certification framework are filled and performed by Canadians.¹² The following examples illustrate the application of the minimum percentage threshold based on certain of those positions and functions in a production.
32. A live action production that uses the key creative positions of Director (2 points), Screenwriter (2 points), First Lead Performer (1 point), Second Lead Performer (1 Point), Director of Photography (1 point), Music Composer (1 point) and Picture Editor (1 point) would be awarded a perfect score of 9 out of 9 points if all of the key creative positions used are filled by Canadians. However, if only the Director (2 points), Screenwriter (2 points) and First Lead Performer(1 point) positions are filled by Canadians (and the other key creative positions are filled by non-Canadians), the production would be awarded 5 out of 9 points. This production would therefore

¹² For complete information on these positions and functions and the points to be awarded, see Appendices 1 and 2 to this regulatory policy.

achieve a percentage threshold of 55.6% and would not qualify and be certified as a Canadian program as it would not meet the minimum percentage threshold of 60%.

33. By contrast, if a Canadian filled the position of Music Composer (1 point) in this same production, it would be awarded 6 out of 9 points, or 66.7%, thereby meeting the minimum percentage threshold for certification.
34. Another example is a production with fewer key creative positions that allow for a maximum of 4 points in total. In this case, the number of Canadians filling these positions must be sufficient to achieve 3 out of 4 points (75%), which exceeds the 60% threshold. Similarly, for a larger-scale production with a total of 12 points available, the number of Canadians filling key creative positions must be sufficient to achieve 8 out of 12 points (66.7%).
35. As discussed below, the modernized certification framework introduces bonus points, whereby a production could be awarded extra points if it meets certain criteria that contribute to the wider distribution and discovery of Canadian cultural works, characters and settings. The awarding of bonus points should not negatively impact the score a production attains. That is, it should increase the total number of points a production earns (i.e., the numerator) and not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator). For example, where a production is awarded 5 out of 9 points (5/9) for key creative positions or functions filled or performed by Canadians and is also awarded 1 bonus point, the total score for the production will be 6 out of 9 points (6/9, or 66.7%), thereby meeting the minimum percentage threshold of 60%.
36. For greater clarity, for the production to qualify and be certified as a Canadian program, the number of points awarded must always reach or exceed the required threshold, regardless of the value of the denominator, which may change based on the specific type of production and the positions and functions filled and performed by Canadians (as such, scores of 6/10, 7/11, 8/12, 8/13 and 9/14 would reach or exceed the 60% threshold). For a score that results in a percentage below the required threshold, that percentage will not be rounded up to meet that threshold.
37. Accordingly, the Commission determines that to qualify as a Canadian program, a production must meet, at a minimum, the 60% threshold of points possible for the production, based on the number of points it is awarded. This minimum threshold is contingent on copyright ownership in the program, which is addressed below.

Key creative positions, functions and elements

38. Having set a threshold, the Commission now addresses mandatory key creative positions in productions; flexibility on who can fill certain of those positions; the addition of new key creative positions to the certification framework; amendments to existing key creative positions and functions in animated productions; and the awarding of bonus points for other key creative elements of a production.

Mandatory key creative positions

39. A production requires various individuals to play a large variety of roles, from creative positions to post-production functions. Some of these roles are considered essential for the production, while the use of others may depend on the type of production. In the Commission's view, it is important to ensure that the roles that shape the creative vision and storytelling of a production (such as writers and directors) be given the appropriate weight to reflect their importance in conveying Canadian expression as referred to in the Act.
40. In the Commission's view, for live action productions, the key creative positions of Director and Screenwriter are essential in defining and guiding the creative control of a production. As such, where a production makes use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian. Further, the points awarded to and the prominence of these key creative positions in the current certification framework, and their status as mandatory positions for a production, should be maintained in the modernized certification framework. Accordingly, for live action productions, the Commission will continue to award the points noted below for the following key creative positions, when filled by Canadians:
- Director (2 points); and
 - Screenwriter (2 points).
41. For animated productions, the Commission considers that the key creative positions of Director, and Scriptwriter and Storyboard Supervisor are essential in defining and guiding the creative control of a production. As such, where an animated production makes use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian.
42. Further, the Commission determines that it would be appropriate to align the points allocated to the key creative positions Director, and Scriptwriter and Storyboard Supervisor with those awarded for comparable positions in live action productions (i.e., Director and Screenwriter), given their comparable level of influence on the creative direction of a production. Accordingly, for animated productions, the Commission will now award 2 points (instead of 1 point) for each of the key creative positions Director, and Scriptwriter and Storyboard Supervisor, when filled by Canadians.
43. In addition, the key creative positions of First and Second Lead Performers (or first and second voices) for live action productions, and First and Second Voice (or first and second lead performers) for animated productions, which communicate Canadian cultural expression to audiences of audio-visual programs, are key to the look and feel of Canadian productions. As such, where live action or animated productions make use of these key creative positions, the positions must be filled by Canadians for the production to qualify and be certified as Canadian.

44. Currently, for live action productions, the positions of First Lead Performer (or first voice) and Second Lead Performer (or second voice) must be filled by Canadians for each to be awarded 1 point towards certification. This Commission maintains this approach in the modernized certification framework.
45. For animated productions, either the First Voice (or first lead performer) or Second Voice (or second lead performer) must be Canadian, but only 1 point is awarded if either or both positions are filled by Canadians. In the Commission's view, these key creative positions in animated productions should also benefit from greater recognition in the certification framework for their contributions to Canadian storytelling. Accordingly, the Commission will now award 1 point for each of the positions First Voice (or first lead performer) and Second Voice (or second lead performer) in an animated production if these positions are filled by Canadians, as is currently the case for comparable key creative positions in live action productions.
46. Therefore, for animated productions, the Commission will award the points noted below for the following key creative positions, when filled by Canadians:
- Director (2 points; previously 1 point);
 - Scriptwriter and Storyboard Supervisor (2 points; previously 1 point); and
 - First Voice (or first lead performer) and Second Voice (or second lead performer) (1 point each; previously 1 point for one or the other, but not both).
47. As with the current approach to certification, the Commission is of the view that the following key creative positions and functions must be filled or performed by Canadians for a production to qualify and be certified as Canadian:
- for live action productions: Director **OR** Screenwriter, and either the First Lead Performer (or first voice) **OR** Second Lead Performer (or second voice); and
 - for animated productions: Director **OR** Scriptwriter and Storyboard Supervisor, and either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer), and Key Animation **AND** Camera Operator.¹³
48. In this regulatory policy, the Commission introduces new rules regarding copyright ownership. To ensure that the overall Canadian creative vision for a production is maintained and that Canadians retain prominent roles in Canadian productions, adjustments to the rules on the key creative positions set out above will be discussed alongside the determinations on copyright ownership.

¹³ The Commission's decisions regarding criteria for Key Animation and Camera Operator are discussed in greater detail below.

Flexibility on who can fill certain mandatory key creative positions

49. In the Notice, the Commission proposed a new, flexible approach where the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor would be awarded points even if filling each position is shared by Canadians and non-Canadians, provided that at least 80% of the individuals filling the position are Canadian. Currently, a production only receives points for a given position where all of the individuals filling that position are Canadian.

Positions of parties

50. The CMPA and the Black Screen Office (BSO) supported lowering the requirement for Canadian control over key creative positions from 100% to 80% for shared roles, as this would preserve Canadian creative control while creating more space for international collaboration. The BSO also noted benefits for working with the global Black diaspora, provided Black Canadian talent remains prioritized.

51. Some interveners¹⁴ opposed the change, arguing that it could weaken Canadian control over key creative positions. They noted that co-production treaties already allow international collaboration and stressed the need to protect Canadian cultural and economic benefits. Broadcasters including Quebecor and Corus Entertainment Inc. (Corus) agreed, while the MPA-C and major studios considered the 80% threshold too rigid, proposing a more flexible threshold of 50% for shared roles.

Commission's decisions

52. The Commission is of the view that it is important to ensure that key creative positions in a production are filled by Canadians. This ensures that a Canadian production is built on Canadian ideas, perspectives and creativity and that these elements are broadcast to Canadians and the world. At the same time, the Commission has considered other goals and outcomes in making its decisions.

53. The Commission has traditionally viewed significant Canadian key creative input into productions as important. The Commission maintains this view. It notes, however, that imposing a requirement that all individuals filling the totality of key creative positions be Canadian could unduly restrict producers from making use of non-Canadian resources that could bring value to improving a production and to training or mentoring Canadian talent.

54. The use of non-Canadian talent may be particularly important for productions that leverage co-production arrangements with different countries. This consideration also stands for racialized and newly arrived Canadian producers who may have elaborate networks in other countries and who, absent certain flexibilities, may not be able to use their networks when making programming that would otherwise be eligible for

¹⁴ The Alliance des producteurs francophones du Canada, the Association québécoise de la production médiatique, the Producers Roundtable of Ontario, and the Writers Guild of Canada (WGC).

Canadian certification. The use of non-Canadian talent may also be necessary in certain genres of audio-visual content, such as documentaries, when shot in locations outside Canada.

55. In the Commission's view, it is appropriate to introduce some flexibility into the points system to allow for the use of non-Canadian talent for certain key creative positions. This could facilitate mentorship opportunities that strengthen Canadian productions through the sharing of expertise. Mentors from diverse backgrounds could contribute by sharing distinct perspectives, values and visions, thereby advancing inclusion and innovation at each step of a production.
56. The Commission also considers, however, that contributions made by Canadian talent should not be diluted. As such, it finds that in allowing the use of non-Canadian talent, safeguards should be put in place. Limiting the applicability of flexibility to only certain key creative positions will mitigate the risk of diluting the contributions of Canadians to a production and still provide sufficient support to the overarching goal of having primarily Canadians in key creative positions.
57. In the Commission's view, granting flexibility only to the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor is likely to be used in larger productions that employ multiple individuals in these key creative positions and where training and mentoring is likely to be valuable. This approach would strike a balance between introducing flexibility and ensuring strong support for the use of Canadian talent.
58. Further, requiring not less than 80% of the individuals filling each of those positions to be Canadian would ensure the inclusion and prominence of Canadian talent in these key creative positions and would stimulate growth within the Canadian film and television industry. This would, in turn, lead to increased employment opportunities and the development of homegrown expertise. The Commission also considers that using certain non-Canadian resources with name recognition in other jurisdictions, without unduly diminishing the Canadian character of these key creative positions, may facilitate the discoverability of a program abroad, which could also enhance its appeal.
59. In light of the above, the Commission determines that where each of the key creative positions of Director, Screenwriter, and Scriptwriter and Storyboard Supervisor is filled by multiple individuals, points will be awarded where at least 80% of all individuals filling a given position are Canadians.

Additional key creative positions

60. The key creative positions that are included as part of the modernized certification framework will influence the extent to which Canadian creative control is predominant in a production. The recognition of key creative positions in a production can also support the employment and development of Canadian talent and incentivize producers to hire Canadians to meet the certification requirements.

61. While the key creative elements currently included in the certification framework remain appropriate to further the objectives of the Act, there are other key creative elements often present in a production that could influence the overall direction, look and feel of a production. In the Commission's view, the addition of new key creative positions would better reflect how the broadcasting industry is evolving and would maintain a certain balance in the allocation of points to ensure that positions related to creative vision and storytelling remain predominant.

62. In the Notice, the Commission proposed to add, as key creative positions in the modernized certification framework, the following roles:

- Showrunner;
- Heads of Department Responsible for Costume Design, Make-up Artists and Hair Artists; and
- Visual Effects Director and Special Effects Director.

63. The Commission addresses these proposals below.

Role and definition of Showrunner

Positions of parties

64. Unifor, the Public Interest Advocacy Centre (PIAC) and the Indigenous Screen Office (ISO) expressed support for the Commission's preliminary view to add Showrunner as a key creative position. Unifor and PIAC added that if a production includes a Showrunner, this position should be filled by a Canadian. Certain interveners¹⁵ supported the Commission's preliminary view to add the position Showrunner but also expressed concerns. According to the DGC, recognizing this position could replace or diminish the key creative positions of Director and Screenwriter.

65. Several interveners opposed adding Showrunner to the list of key creative positions. Quebecor considered that adding this position would be more problematic in the French-language market, where it is essentially non-existent. The Association québécoise de la production médiatique (AQPM) questioned the relevance of the position given that showrunners are not widely used in Canada. Lionsgate Canada (Lionsgate) noted that a Showrunner is not a credited position within the Canadian production industry. The Shaw Rocket Fund noted that the position is uncommon in children's and youth programming and is rarely found in animation productions, while Telefilm Canada noted that it is uncommon in feature film productions, including long-form documentaries.

¹⁵ The IBG, the DGC, and the CBC.

66. Certain interveners¹⁶ noted possible ambiguity in regard to defining Showrunner. Apple Canada Inc. (Apple) and Lionsgate, for example, indicated that the position can mean different things depending on the nature of the production.
67. According to the MPA-C, if Showrunner is included as a key creative position, it should be optional within the certification framework, earning only a bonus point¹⁷ or counting as a CPE credit¹⁸ if the position is filled by a Canadian. The MPA-C further proposed that a point (or points) should be awarded to a production for the Showrunner position if at least one of two individuals filling the position is Canadian or if at least 51% of three or more individuals filling the position is Canadian. Netflix Services Canada ULC (Netflix), Amazon, and Paramount Global (Paramount) opposed mandating Canadian Showrunners, citing limits on creative flexibility, genre exclusions, and obstacles to mentorship and financing. Apple noted the mixed support expressed for the Commission's preliminary view of including Showrunners in the certification framework and proposed focusing on other cast, crew, and creative positions instead.
68. Netflix noted that its Canadian productions "Wayward" and "North of North" involved non-Canadian showrunners, while Paramount noted that a Canadian showrunner worked on the non-Canadian production "Beauty and the Beast".

Commission's decisions

69. A showrunner in a production is typically responsible for helping to shape and maintain the overall vision, tone, and narrative of a production. The showrunner provides oversight of the creative process, plays a significant role in the development of the script and concept at pre-production stage, and has significant oversight in regard to the final edit of a production in post-production. The showrunner collaborates closely with a production's directors, writers, actors, producers, financiers, and broadcasters.
70. In the Commission's view, recognizing Canadian showrunners in the points system would reflect the increased importance of this position in the creation of some programming and would support Canadian artistic and cultural expression. This would further better align the criteria for qualifying a production as a Canadian program with global production practices, particularly for larger productions.
71. The Commission further expects that the presence of showrunners in Canadian productions will grow and that the role will become more widespread over time. Recognizing the contribution this position makes in the creative process by including

¹⁶ The AQPM, Reelworld Screen Institute, On Screen Manitoba, Apple Canada Inc., and Lionsgate.

¹⁷ The awarding of bonus points is discussed below.

¹⁸ The Commission's determinations regarding the modernization of the CPE regulatory framework will be set out in the above-noted regulatory policy that will focus on funding and support for Canadian programming.

it in the points system would likely accelerate the introduction of showrunners in more productions and support the hiring and development of Canadian talent.

72. The Commission acknowledges that the Canadian French-language market operates differently from the Canadian English-language market when it comes to the use of showrunners. Based on the public record, the use of showrunners in French-language productions is currently limited. The Commission is mindful of this difference and considers that any determinations it makes on the introduction of the position Showrunner into the point system should not undermine the distinctive conditions of the French-language market. Furthermore, in considering adding Showrunner as a key creative position to the points system, the Commission's objectives are to recognize the importance of that position in a production and to foster the growth of Canadian creative talent in this capacity. Accordingly, the Commission considers that it would be appropriate to include the position Showrunner as a key creative position in the points system, but that its presence should not be mandatory for certification purposes.
73. In light of the above, the Commission determines that the position Showrunner will be included, on a non-mandatory basis, as a key creative position in the points system for both live action productions and animated productions. As such, productions not using a Showrunner will not be penalized in that points for the Showrunner position will not be used to determine whether the production should be certified as Canadian. Where a production uses a non-Canadian showrunner, the production could still be certified as Canadian if it meets the minimum threshold for certification using other Canadian key creative elements. In such a case, it will be incumbent on the production to ensure that other key creative positions and functions are filled and performed by Canadians to meet that threshold.
74. A showrunner on a production plays a crucial role in shaping the overall creative direction of the production. In supporting other functions, namely, those of the directors, actors and writers, and in translating concepts and ideas in ways that engage audiences, the showrunner's importance in a production is comparable to that of those other creative positions. The Commission considers that this should be reflected in the weight awarded to the position of Showrunner. Accordingly, the Commission determines that a production will be awarded 2 points when the Showrunner position is filled by a Canadian.¹⁹ Where one or more non-Canadian individuals fill this position, no points will be awarded.
75. For the purposes of meeting the Canadian certification criteria, the Commission determines that the key creative position of Showrunner should be defined as follows:

¹⁹ The Commission notes there should be no double-counting of points awarded based on the multiple roles that a Showrunner may play in a production. That is, if the Showrunner directs, writes the screenplays and/or provides the written treatment for a production, points will be awarded for only one position, either Showrunner, Writer or Director. In a case where a Showrunner writes or directs individual episodes of a series, at least 80% of the episodes must be written or directed by others for a production to be eligible to be awarded the writing and directing points as well as the points for the position of Showrunner.

- a Showrunner is the creative leader of a production, overseeing its vision, tone, and style;
- a Showrunner manages the production process and ensures quality from start to finish, working closely with Writers to keep the narrative aligned with the creative direction from inception to final delivery;
- while they provide oversight on a production and act as a liaison between various elements of the production, which may include certain key creative positions and functions, producers, financiers and the broadcaster commissioning the programming, a Showrunner is subordinate to a producer in terms of exercising the overall control of a production;
- a Showrunner is often called on to ensure that the creative direction of a production aligns with the creative vision and cultural relevance that is intended for the production;
- in pre-production, a Showrunner is the key creative authority that guides the development of the final script and concept of a production. In post-production, a Showrunner is the key creative authority that oversees the final edit of a production, providing notes on picture, sound, music and visual effects to shape the finished product for delivery; and
- while a Showrunner may be present in production meetings, in the Writer's room or at the Director's table, a Showrunner's role is viewed as distinct from those roles in a production.

Roles and definitions of Heads of Department Responsible for Costume Design, Make-up Artists and Hair Artists

Positions of parties

76. The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada (IATSE) and the CMPA supported the inclusion of positions relating to costumes, make-up and hair in the points system.

77. Certain interveners²⁰ noted that these positions are rarely used in smaller productions and documentaries. According to Digital First Canada, adding these positions to the certification framework could disadvantage smaller productions given that team members for such productions often occupy many positions or collaborate with non-Canadian professionals.

²⁰ The DOC, TLN Media, Blue Ant Media Inc. (Blue Ant), and Digital First Canada.

78. Quebecor considered that adding these positions to the certification framework could lead to some productions being certified despite a significant and influential non-Canadian presence.
79. According to Corus, adding these positions as key creative positions to the points system and awarding them points when filled by Canadians should not disqualify productions that currently qualify as Canadian, should not affect the eligibility of programs that are already recognized as Canadian under existing frameworks, and should remain harmonized with existing systems, such as that of CAVCO.

Commission's decisions

80. The heads of the departments responsible for a production's costume design, make-up and hair play a key role in shaping a production's artistic vision. In particular, these positions contribute to the overall look and feel of a production, support actors in performing their roles, and ultimately reinforce the creative vision communicated to the audience. Their functions support other Canadian professionals in a production who might have been inadequately represented in the points system, including women and individuals from underrepresented groups, in better defining the production's visual identity.
81. The Commission considers that it would be appropriate to better recognize the contributions that Heads of Departments Responsible for Costume Design, Make-up Artists and Hair Artists make to Canadian productions. Adding these positions to the points system would better reflect the current audio-visual production environment and support the development of Canadian creative talent. It would also ensure greater Canadian control over the look and feel of a production and its overall artistic and aesthetic vision, in a way similar to the existing recognition of Production Designer or Art Director as a key creative position.
82. In light of the above, the Commission adds as key creative positions in the certification framework the following three positions: Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists.
83. Further, given that these positions taken together ensure, as a singular unit, an overall cohesive, artistic vision for a production, the Commission will consider these positions to form a group and will award 1 point if each position is filled by a Canadian.
84. Where not all of these positions are used on a production, the point will be awarded only if all persons employed in the position(s) that is used is Canadian. For example, if only one of the positions is credited on a production, a point will be awarded if the person filling the position is Canadian. This provides flexibility for numerous production and business models and does not unfairly penalize a production where only one individual heads each of the three possible departments and receives credit on the production. Similarly, where two or three department heads exist and are

credited, this ensures that the point is only awarded where Canadians fill all of the positions.

85. Based on views heard from industry stakeholders and during workshops held prior to the launch of this proceeding in regard to what is involved in filling these positions, for the purposes of the certification framework, the Commission defines these positions as follows:

The Head of Department Responsible for Costume Design is responsible for overseeing the costume department in a production. Their duties may include conceptualizing and designing costumes that align with the Director's vision, managing the costume department team, coordinating with other departments, sourcing or creating costumes, and ensuring that all costumes are completed on time and within budget.

The Head of Department Responsible for Make-up Artists is responsible for overseeing and executing the make-up design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Make-up Artists manages a team of assistants or technicians and ensures the consistency and quality of the make-up throughout the project.

The Head of Department Responsible for Hair Artists is responsible for overseeing and executing the hair design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Hair Artists manages a team of assistants or technicians and ensures the consistency and quality of the hair throughout the project.

86. In light of the above, the Commission also amends the definition of the key creative position of Production Designer or Art Director to remove the reference to that position being in charge of costumes.

Roles and definitions of Visual Effects Director and Special Effects Director

Positions of parties

87. Amazon noted the significant economic contributions made by visual effects directors and special effects directors to Canada's production and post-production sectors. It noted the extensive use of Canadian talent and the integral role these positions play in large-scale productions.
88. Other interveners²¹ raised concerns over the applicability of these positions to documentaries and lower-budget or unscripted productions, noting that such productions rarely employ visual or special effects. The MPA-C and The News

²¹ TLN Media, Blue Ant, and the DOC.

Forum Inc. (TNF) supported adding the position Special Effects Director to the certification framework, stressing that this is a distinct, specialized discipline whose artistic and technical contributions should be recognized. TNF also recommended a flexible points system that accounts for the broader team contribution, allowing Canadian certification points even when department heads are non-Canadian, but the majority of the team is Canadian.

Commission's decisions

89. Canada is known as a leader in terms of audio-visual post-production capacity. The Commission recognizes that as AI tools become integrated into the production process, the supervision of the artistic vision and technical execution of visual and special effects, in both production and post-production, will play an increasingly important role in the business of a production. Further, recognizing the Canadian oversight of the departments responsible for these visual and stylistic elements helps to ensure that Canadian creativity continues to receive appropriate weight in the creation of Canadian productions.
90. Visual and special effects directors help ensure the creation of the most compelling and immersive visual experiences. This is because visual and special effects significantly enhance storytelling and contribute to overall production quality, making stories more engaging and visually captivating. In the Commission's view, adding Visual Effects Director and Special Effects Director as key creative positions in the certification framework would enhance the representation of Canadian creators in productions. These additions would also acknowledge the industrial importance of these positions for the competitiveness of the Canadian audio-visual sector and would help to contribute to Canada being a world leader in this domain, including in terms of post-production capacity.
91. In light of the above, the Commission adds Visual Effects Director and Special Effects Director to the list of key creative positions. A production that uses a Visual Effects Director and a Special Effects Director will be awarded 1 point only if all individuals filling these positions are Canadians. Where a production uses either a Visual Effects Director or a Special Effects Director, but not both, 1 point will be awarded only if the person(s) filling the position is Canadian.
92. For the purposes of the certification framework, the Commission defines the key creative positions Visual Effects Director and Special Effects Director as follows, to be consistent with existing collective agreements in the industry:

The Visual Effects Director is responsible for overseeing and managing the creation and integration of visual effects in a production. The Visual Effects Director collaborates with the producer(s), the Director and the Showrunner (where applicable) to ensure that visual effects enhance the storytelling, meet artistic and technical standards, and are executed efficiently. The Visual Effects Director directs the visual effects team(s), oversees the design and implementation

of effects, reviews work for quality and consistency, and ensures that visual effects are completed on time and within budget.

The Special Effects Director is responsible for creating and overseeing the practical effects in a production. These effects include anything manually or mechanically manipulated, such as explosions, car crashes, animatronics, etc. The Special Effects Director collaborates closely with the producer(s), the Director and the Showrunner (where applicable) to ensure the effects align with the creative vision, meet artistic and technical standards, and are executed safely and efficiently. The Special Effects Director directs the special effects team(s), oversees the design and implementation of effects, reviews work for quality and consistency, and ensures that special effects are completed on time and within budget.

Amendments to existing key creative positions and functions in animated productions

93. One purpose of modernizing the certification framework is to ensure that certification requirements are flexible and in line with the current Canadian audio-visual environment and industry practices. As such, the Commission considered the following issues for animated productions:

- **Location requirements:** Whether the key creative function of Key Animation and the key creative position of Camera Operator (person) and Operation (location), as well as the key creative functions Layout and Background and Assistant Animation/In-betweening, in animated productions, should be filled or performed “by Canadians” instead of “in Canada” and, if so, whether this should be mandatory for certification.
- **Virtual Camera Operator:** Whether the key creative position Camera Operator and Operation in animated productions should include Virtual Camera Operator.

Positions of parties

94. Certain interveners²² noted that the role of the traditional camera operator is no longer current in modern animation methods and/or productions.

95. The BSO, the AQPM and Corus submitted that the Key Animation function should be performed by Canadians, but not necessarily in Canada. Corus argued that the Commission’s proposed amendment would provide animated productions with greater flexibility in terms of remote work. According to the BSO, the proposed amendment would be consistent with similar requirements for other key creative positions.

²² The CMPA, 9 Story Media Group Inc., Corus, Andromedia Distribution Inc., and the MPA-C.

96. The MPA-C and Apple welcomed the shift from “performed in Canada” to “by Canadians” for reasons of flexibility and recognizing the global nature of animation work. The MPA-C also noted that residency requirements make it more difficult for non-Canadian online undertakings to obtain Canadian program certification for their productions, which, it argued, is inconsistent with the objectives of the Act.²³
97. The IATSE stated that maintaining the “in Canada” requirement “offers the best opportunities for Canadian resident animators – particularly more junior animators seeking training experiences – to develop their skills and careers in Canada and contribute to truly Canadian productions.”

Commission's decisions

98. The key creative functions of Key Animation, Layout and Background Design, and Assistant Animation/In-betweening and the key creative position of Camera Operator and Operation play important roles in the creation of Canadian animated programs. They shape the visual style, pacing, and overall storytelling of a production, ensuring that the final work reflects a distinctly Canadian cultural voice.
99. The Commission is mindful of modernizing its approach to the framework related to the recognition of these key creative positions and functions to better align with industry practices. As such, the Commission finds that placing the emphasis on positions and functions in animated productions to be filled and performed by Canadians, rather than in Canada, would align with the principle of fostering Canadian talent while recognizing that Canadians may choose to live and work abroad. Accordingly, the Commission amends the criteria for animated productions to be certified as Canadian programs such that the key creative functions of Key Animation, Layout Artist and Background, and Assistant Animation/In-betweening and the key creative position of Camera Operator must be performed and filled “by Canadians” rather than “in Canada” for each to be awarded 1 point.
100. In regard to adding Virtual Camera Operator to the key creative position Camera Operator, the Commission notes that technological advancements have not only impacted Canadian workforce mobility but have also contributed to automating and improving camera functions. Images are increasingly being generated by virtual means. Accordingly, the Commission considers that it would be appropriate to adopt a regulatory approach that offers greater flexibility and adaptability to evolving industry practices, and particularly in the context of animation, where greater flexibility is required to adjust to technological advancements in methods and tools used in the creation of animated productions.

²³ Specifically, the objective set out in paragraph 3(1)(f.1), which states that “each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve.”

101. The Commission further considers that amending the position Camera Operator to add the position Virtual Camera Operator to the points system would also align with CAVCO's approach.²⁴
102. In light of the above, the Commission includes Virtual Camera Operator as part of the key creative position Camera Operator. This amended position will be awarded 1 point if filled by a Canadian.
103. The Commission notes that CAVCO, in its certification framework, recognizes the use of technology as part of its definitions for these positions. Accordingly, for the purposes of Canadian certification and to be consistent with CAVCO's approach, the Commission defines Virtual Camera Operator as follows:

A Virtual Camera Operator manages digital cameras within virtual environments, directing scenes and creating dynamic camera movements in a production. They also collaborate with the Director and visual effects teams to ensure camera work aligns with the creative vision.

For digitally animated productions, the Commission will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the position Camera Operator will be examined by the Commission on a case-by-case basis.

Bonus point for the use of Canadian characters and settings

104. In the Notice, the Commission expressed the preliminary view that cultural elements should not be included within the certification framework but also noted that it was open to other views and alternate proposals. As such, the Commission sought comments on whether additional cultural elements should be added to the criteria for qualifying and certifying a production as a Canadian program.

Positions of parties

105. While parties generally commented on the importance of incorporating cultural elements in Canadian programs, several interveners²⁵ opposed using cultural elements for certifying a production as Canadian as they considered such elements to be subjective. The ISO stated that adding cultural elements would be highly restrictive for Indigenous screen-based storytelling and would negatively impact the sovereignty of Indigenous narrative. The AQPM supported the Commission's preliminary view that cultural elements should not form a criterion. It cited the 2024 report entitled [Defining Canadian Content – Workshops with Stakeholders and Industry: What We](#)

²⁴ For digitally animated productions, CAVCO will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the camera operator position are examined by CAVCO on a case-by-case basis.

²⁵ The CMPA, the DGC, the CBC, the APFC, the AQPM, the WGC, Unifor, Telefilm Canada, and the ISO.

[Heard Report](#), which notes challenges with considering cultural elements given that “there are many ways of being Canadian.”

106. According to the Alliance des producteurs francophones du Canada (APFC), requiring key creative positions to be filled by Canadians already guarantees a Canadian viewpoint in a production seeking certification. In its view, adding intellectual property requirements instead of adding a criterion relating to cultural elements would further strengthen Canadian cultural expression by empowering producers and creators.
107. The IATSE, on the other hand, stated that the cultural criteria used in the certification frameworks of other countries²⁶ “generally include cultural content criteria that are objective and simple to verify.” It explained that such criteria include, among other things, whether the story takes place in the country, whether characters are identified as being from the country, the language spoken in the program, and whether the program is based on underlying library, artistic or historical material that originates from the country.
108. Other interveners²⁷ stated that cultural elements should be part of the definition of “Canadian program” but should not be the basis for a mandatory requirement. In their view, this would provide greater flexibility for ways in which productions can meet the criteria for certification as a Canadian program. Instead, they proposed recognizing such elements through bonus points or via CPE credits, so as to emphasize markers of Canadian experience and expression and incentivize contributions to Canadian cultural expression. Intervenors noted that this proposal is partly based on observations made in non-Canadian jurisdictions that recognize a cultural element in their domestic certification systems.

Commission’s decisions

109. The certification framework for Canadian audio-visual programs is both a powerful cultural policy tool and a catalyst for Canadian employment in the Canadian production industry. When it comes to cultural policy objectives and ensuring that the broadcasting system serves to safeguard, enrich and strengthen the cultural fabric of Canada, cultural elements in a production could play a role as they could be leveraged in a production to further enhance the recognition of Canadian experience and expression.
110. [Public opinion research](#) shows that Canadian locations, actors and stories are important markers for Canadian viewers, and that their use in productions helps Canadians better relate to Canadian programming.

²⁶ Citing the research report conducted on behalf of the MPA-C, “[Defining Canadian Content: Approaches Taken in Other Jurisdictions and Lessons Learned for Canada](#)”, published 23 February 2023 (filed in this proceeding as Appendix E of the MPA-C’s intervention).

²⁷ The MPA-C, Netflix, Apple, Google LLC, and the Forum for Research and Policy in Communications (FRPC).

111. Generally speaking, the record of the proceeding demonstrates a desire by many parties to recognize and reward efforts to promote markers of Canadian identity in Canadian programs while preserving the independence of creators' artistic expression. While not all parties supported the inclusion of cultural elements in the definition, those who did generally favoured doing so as a non-mandatory bonus point.
112. Identifiable characters and settings reinforce Canadian identity, support audience engagement, and enhance the domestic and international presence of Canadian programming. Canadian productions can tell a variety of stories. In many instances, the stories that are told may be about international events from a Canadian perspective or may be about fantastical settings made by Canadians. In other instances, plots and story lines may not lend themselves to using Canadian characters or settings. The Commission must nevertheless be mindful that Canadian characters and settings can resonate with domestic and world audiences in ways that help to support key markets and storytelling that would otherwise have been undervalued in the current certification framework.
113. In the Commission's view, awarding a bonus point for the use of these cultural elements would recognize the benefits of adding some markers of Canadian identity to a production without diluting the points allocated to key creative positions and functions. It would also avoid unfairly penalizing Canadian creators that choose to focus on characters and settings that may not be identifiably Canadian but who continue to display a Canadian perspective in telling those stories. This approach would appropriately promote Canadian identity, while maintaining the primacy of key creative positions in ensuring that Canadian perspectives are reflected in audio-visual productions.
114. In light of the above, the Commission will award 1 bonus point where identifiable Canadian characters and identifiable Canadian settings are included in a production.
115. The Commission heard the concerns of some interveners that assessing "cultural elements" could be too subjective for the purpose of awarding points. However, in the Commission's view, the submission of the IATSE in regard to the objective and verifiable nature of cultural criteria, if properly defined, is compelling. As such, the Commission determines that, to be awarded a bonus point for Canadian characters and settings, a production must meet the following three criteria:

Characters:

- i. All lead characters (up to 5 main fictional characters in dramatic productions) must be identified as Canadian or members of First Nations, Inuit or Métis in Canada.
- ii. All persons on screen in non-dramatic productions, such as presenters, musicians, dancers or hosts, and all persons who are the main subjects

of documentaries must be Canadian or members of First Nations, Inuit or Métis in Canada.

Synopsis: The synopsis of the production must be centred on or include these lead characters/subjects. The production must identify them as Canadian or members of First Nations, Inuit or Métis in Canada.

Location: The location of the story must be set in Canada. The story or narrative must take place entirely in an identified Canadian city/region/province/territory. The location can be identified by a Canadian landmark or by identification on screen or otherwise identified overtly in the narrative or text of the program.

Bonus point for productions based on Canadian written works, and removing pilot projects from the definition of Canadian program

116. In Broadcasting Regulatory Policy 2015-86,²⁸ the Commission announced that it would be launching two pilot projects to recognize as Canadian live-action drama/comedy productions that are based on the adaptation of best-selling, Canadian-authored novels or that have a budget of at least \$2 million/hour. It noted that this would encourage governments and partner agencies to consider more flexible and forward-looking approaches to the production and financing of high impact Canadian programs in the future.
117. Pilot projects are special high-impact Canadian productions that still qualify as Canadian programs even though they do not meet the current certification criteria. To reduce the barriers to qualification, some certification criteria are waived for these riskier projects under certain conditions.
118. A key element of the pilot project component of the certification framework is the recognition of live-action drama/comedy productions based on the adaptation of best-selling, Canadian-authored novels as Canadian. As reflected by the record of this proceeding, this approach did not yield the benefits that were initially anticipated when pilot projects were first put in place (only three applications for the Canadian certification of pilot projects have been received since 2015, none of which successfully qualified as a Canadian program).
119. As part of this proceeding, the Commission sought comments on whether points or other incentives should be included for the use of pre-existing Canadian source material. It also invited parties to comment on the possible removal of pilot projects from the definition of “Canadian program.”

²⁸ See paragraphs 128-131 of that regulatory policy.

Positions of parties

120. Various interveners²⁹ opposed awarding points or creating other incentives for the use of pre-existing Canadian source material. They cited the risk of having source material falling into the hands of large non-Canadian players, who may distort Canadian stories. According to the AQPM, there is no guarantee that adapting a pre-existing Canadian work will preserve its Canadian cultural essence on screen. The CMPA stated that awarding points for the use of pre-existing Canadian source material could allow larger players to secure certification without surrendering creative and financial control of the production itself.
121. Telefilm Canada and The Ontario Educational Communications Authority (TVO), on the other hand, considered that it would be appropriate to encourage the production of audio-visual productions based on pre-existing Canadian source material. The MPA-C, Apple, the CMF, and Lionsgate supported the consideration of pre-existing Canadian source material as part of the certification process. The CMF proposed awarding up to 1 point for Canadian-authored material.
122. While some interveners³⁰ agreed with the Commission's preliminary view to discontinue the certification of pilot projects as Canadian, others considered that their certification should be maintained.³¹ The Canadian Association of Broadcasters (CAB) supported maintaining their certification for flexibility purposes.

Commission's decisions

123. The use of Canadian written works and other pre-existing source material in the creation of audio-visual programs remains of cultural and policy value today. These works contribute directly to several policy objectives of the Act, including serving to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada (subparagraph 3(1)(d)(i)), providing Canadians with the opportunity to see and hear Canadian stories (subparagraph 3(1)(d)(ii)), and ensuring that the programming provided includes a significant contribution from the Canadian independent production sector (subparagraph 3(1)(i)(v)). In this respect, Canadian written works help to promote Canadian stories, enhance discoverability of Canadian content, reinforce Canadian identity and heritage, and support a sustainable Canadian broadcasting system where creators can profit from their works.
124. In particular, the Commission considers that adaptations of Canadian written works of fiction and non-fiction can strengthen the presence of Canadian perspectives in audio-visual content, increase access to Canadian creativity and resources,

²⁹ Including the CMPA, Rogers, the CBC, Quebecor, the AQPM, and the ISO.

³⁰ Including the DGC, the BSO, the CMF, the Bell Fund, the Deaf Wireless Canada Committee (DWCC), Canada Deaf Grassroots Movement (CDGM), the Disability Screen Office (DSO), and Irene Berkowitz.

³¹ This includes the MPA-C, Apple, Paramount, Buena Vista International, Inc. (Buena Vista), Discovery Digital Ventures, LLC (Discovery+), the DWCC, and BIPOC TV & Film.

showcase Canadian heritage domestically and internationally, and support Canadian authors and the discoverability and monetization of their written work.

125. Accordingly, the Commission finds that recognition of Canadian written works is better achieved through the points system and offers a more effective mechanism to advance cultural and policy outcomes than the current pilot project framework.
126. In light of the above, the Commission determines that 1 bonus point will be awarded for the use of Canadian written works as source material. For certification purposes, “written work” is defined as follows:

A written work of fiction or non-fiction (such as a novel, short story, graphic novel, novella, play, biography, autobiography, or poem), in either digital or print form, that is authored by a Canadian(s). This excludes written works such as manuals, programming text, pamphlets, tables and compilations, government publications, and blog posts. For further clarity, material developed solely and specifically to support the development of scripts and concepts as part of a production is not eligible to receive a point.

127. Further, the Commission will no longer recognize as Canadian programs pilot projects, that is, live-action drama/comedy productions based on the adaptation of best-selling, Canadian-authored novels and live-action drama/comedy productions with a budget of at least \$2 million per hour of content created.

Bonus point for Canadian musical selections

128. In the Notice, the Commission sought comments on whether to amend the key creative position of Music Composer so that a point could be awarded either for a Canadian Music Composer or the Canadian rights holders of pre-existing or pre-recorded music.

Positions of parties

129. The Screen Composers Guild of Canada (SCGC), supported by hundreds of individual Canadian music creators, strongly opposed expanding the music point as proposed by the Commission. It argued that doing so would result in giving key creative points for the purchase of rights as opposed to the employment of Canadian individuals. The Association des professionnels de l'édition musicale (APEM) also opposed changing the point for the position Music Composer. Both interveners proposed instead the addition of a criterion requiring that not less than 75% of the budget allocated to pre-existing music be devoted to Canadian musical selections. The APEM added that the 75% budget allocation could take the form of a production expenditure or of a contribution to a fund supporting Canadian music.
130. According to the National Film Board and BIPOC TV & Film, a point should be awarded for music originally composed by Canadian or Indigenous artists, even if the rights are held by both Canadian and non-Canadian owners.

131. Rogers supported awarding a point for the position of Music Composer when filled by a Canadian or to the rightsholders of pre-existing or pre-recorded music when purchased from both Canadian and non-Canadian rights holders as this would provide producers with more flexibility.

Commission's decisions

132. Supporting the inclusion of Canadian Music Composers and existing Canadian music in the certification framework recognizes the role of key Canadian creators. It also fosters a sustainable Canadian broadcasting system and ensures that Canadian creators can profit from their work, including through intellectual property rights. Further, it advances Canadian artistic and cultural expression and provides employment opportunities for Canadians, consistent with subparagraphs 3(1)(d)(ii) and (iii) and paragraphs 3(1)(f) and (f.1) of the Act.
133. In the Commission's view, hiring Canadian Music Composers for Canadian programs remains important. Maintaining a point for Canadian Music Composers would continue to support the policy objectives of promoting Canadian artistic and cultural expression. Accordingly, the Commission will continue to award 1 point for the key creative position of Music Composer when that position is filled by a Canadian.³²
134. That said, the Commission acknowledges that the current points system can have the unintended consequence of penalizing smaller productions that do not have the financial means to hire a Music Composer and must instead purchase music rights. In the Commission's view, there exists an opportunity to address this unintended consequence and also to support Canadian music in ways that it has not done in the past. Recognizing the inclusion of pre-recorded or pre-existing Canadian music in the certification system would support the discoverability of Canadian talent and would further the above-noted objectives of Act. As such, the Commission finds that it would be appropriate to allow for the inclusion of pre-recorded or pre-existing Canadian music in the certification framework, while continuing to recognize Canadian Music Composers. Through such an approach, producers may rely on different musical accompaniments to help support the overall narrative of their productions. Such an approach could also enhance the discoverability of Canadian music, not only for Canadians but also on the world stage.
135. In light of the above, a production will be eligible to receive 1 bonus point to count toward the threshold for certification if more than 50% of the pre-recorded or pre-existing musical selections featured in the production, including an excerpt of the musical selections of any duration of time, are Canadian. These musical selections

³² As specified in Appendices 1 and 2 to Broadcasting Regulatory Policy 2023-90, "The point [for Music Composer] is awarded only if a Canadian has been commissioned to compose the original music specifically for the production. The rearrangement of existing music, even if it is Canadian, utilizes the position but does not earn the point. Existing stock, library, or archival music may be used in addition to the original music. The position of Music Director is not accepted as equivalent to Music composer."

must not include original music specifically composed for the production for the bonus point to be awarded. Further, to qualify for the bonus point, the musical selections in question must meet the criteria of a “Canadian selection” as defined in subsection 2.2(2) of the *Radio Regulations, 1986* (the Regulations).³³ The point will be awarded only if there is no Music Composer specifically hired for that production, or, in the alternative, if there is a Canadian Music Composer hired for that purpose. For clarity, no point will be awarded if there is a non-Canadian Music Composer or if 50% or more of the music selections are non-Canadian.

Conclusion

136. For ease of reference, the Commission has set out in Appendix 1 to this regulatory policy the detailed criteria of the certification framework. In Appendix 2, the Commission has set out its approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1.

Production costs

137. Requirements relating to Canadian production costs are key safeguards for promoting Canadian employment in the broadcasting system and for encouraging the use and development of Canadian creative talent, ultimately fostering Canadian cultural expression. In the Notice, the Commission sought comments on its preliminary view that it should maintain the current requirement that at least of 75% of a production’s services costs be paid to Canadians and that at least 75% of the production’s post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies.³⁴

Positions of parties

138. Rogers, Quebecor, and several associations representing the creative sectors and funding organizations³⁵ generally expressed support for maintaining the current 75% requirement regarding a production’s service costs. Certain interveners³⁶ proposed lowering the threshold requirement for non-Canadian online undertakings such that from 10% to 50% of a production’s service costs be paid to Canadians, with a lower percentage for post-production and laboratory costs.

³³ The Commission notes that the Regulations define “musical selection” as “any live or recorded music of one minute or more in duration that is broadcast uninterrupted, and includes a medley and a montage.” The definition of “Canadian musical selection” is currently under review as part of Broadcasting Notice of Consultation 2025-52. Determinations to be made in that proceeding regarding that definition will apply here.

³⁴ The Commission’s [Canadian Program Certification Guide](#) defines a Canadian production company either as a licensee of the Commission or as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians.

³⁵ Including the BSO, the SCGC, the Bell Fund, and FilmOntario.

³⁶ The MPA-C, Apple, Paramount, Buena Vista, the Racial Equity Media Collective (REMC), and Discovery Digital Ventures, LLC (Discovery+).

Commission's decisions

139. The 75% thresholds for production service costs and for post-production and laboratory costs ensure that a substantial portion of the economic activity associated with production and post-production remains in Canada, thereby reinforcing Canadian employment and expertise in both technical and creative sectors for audio-visual productions. This is consistent with the objective of the Act relating to safeguarding, enriching and strengthening the cultural, political, social and economic fabric of Canada (subparagraph 3(1)(d)(i)).
140. As such, the Commission is concerned that lowering the thresholds for these costs would not be consistent with supporting Canadian creative control and key creators in their role of shaping Canadian storytelling. In the Commission's view, the current 75% thresholds for production service costs and post-production and laboratory costs continue to provide sufficient flexibility within the system to encompass Canadian and non-Canadian costs, while ensuring that most of these costs are paid to Canadians.
141. Accordingly, the Commission maintains the requirements that at least 75% of a production's service costs be paid to Canadians and that at least 75% of a production's post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies.

Intellectual property ownership and producer control

142. Under its current approach to Canadian program certification, the Commission does not take the Canadian ownership of intellectual property into consideration. Nor does the Commission extend any protections to support Canadian copyright retention in the way that other organizations do (including the CMF and Telefilm Canada) or in the way contemplated in co-production treaties signed between Canada and various international jurisdictions.
143. In the Notice, the Commission sought comments on a modernized approach where intellectual property rights retention, specifically, copyright retention, would be applied to maintain, strengthen, expand, and protect Canada's competitiveness in the audio-visual production industry, while ensuring continued international investment in the Canadian broadcasting production system. The Commission expressed the preliminary view that such an approach should foster Canadian financial control but be flexible enough to accommodate diverse business models and distribution methods, facilitate the exportability of Canadian programming and formats, and encourage all types of players to make Canadian programming discoverable both domestically and abroad, on traditional and online platforms.

Position of parties

144. In general, interveners' views on copyright requirements were divergent. Some interveners³⁷ proposed different models recognizing that different levels of Canadian copyright ownership can be included in Canadian programs. Several Canadian interveners³⁸ supported aligning copyright ownership requirements with those of CAVCO, including a 25-year retention period. Other interveners³⁹ urged the Commission to require 100% Canadian copyright ownership as a certification requirement, while some⁴⁰ favoured flexibility in regard to copyright sharing, with a requirement that most copyright remains Canadian. Conversely, the MPA-C and Netflix opposed mandatory Canadian copyright ownership, favouring instead flexible copyright models to foster investments and align with current industry practices and European trends. The MPA-C proposed incentivizing Canadian copyright ownership through bonus points or CPE credits.
145. Among interveners who stressed the importance of an approach focusing on strong Canadian copyright ownership retention, the Writers Guild of Canada (WGC) noted the relationship at law between “authors” and “works” under the *Copyright Act* and considered that no other factor is more determinative to the nature and character of a creative work than the creator(s) of the work. Corus proposed adopting CAVCO's approach of requiring copyright to be held by a Canadian producer for 25 years, while the CMPA proposed a model under which copyright ownership would be entirely with Canadian independent producers.
146. The IATSE, on the other hand, submitted that financial control and copyright ownership should only be part of the definition of “Canadian program” when included with other criteria, such as an expanded list of key creative positions and the inclusion of cultural elements as part of the certification framework. According to Netflix, existing models are in place where certification is achieved even when flexible copyright ownership is shared between producers in different territories. Other interveners⁴¹ also favoured flexibility in regard to copyright sharing, with a requirement that most copyright remains Canadian.
147. Rogers expressed the view that Canadians must hold more than 50% of intellectual property rights. It proposed that Canadian broadcasting undertakings be eligible to own intellectual property rights and that programming produced or commissioned by a Canadian broadcasting undertaking automatically qualify as Canadian. Rogers explained that its proposed flexible approach would give Canadian broadcasters enhanced flexibility to work with non-Canadian undertakings to produce programming for Canadian audiences that could then be exploited globally on non-Canadian platforms.

³⁷ The CMPA and the AQPM.

³⁸ Quebecor, the CAB, Blue Ant, the DGC, the CBC, and the Bell Fund.

³⁹ The AQPM, the IBG, Meridian Artists, and the SCGC.

⁴⁰ The REMC, Rogers, and the DOC.

⁴¹ *Ibid.*

Commission's decisions

Canadian control and benefit in programs

148. Intellectual property is an umbrella term for a set of legal rights and protections that include copyright under the *Copyright Act*. Under that statute, copyright ownership provides creators with a series of exclusive rights to exploit their works, including the right to reproduce, publish and perform Canadian programs and authorize such uses among others. In Canada, producers are generally the owners of copyright in programs for broadcast. The Commission notes that participation in copyright ownership enables creators to have control in and benefit from the creation of programming.
149. The Commission acknowledges that other forms of intellectual property, such as trademark ownership, can be involved in an audio-visual production and lead to financial benefit for Canadians. It is notable, however, that the Act makes particular mention of copyright as a consideration. Various parties, including the CMPA and Corus, emphasized the importance of copyright ownership as a criterion for Canadian programs to meet the objectives of the proceeding. A focus on copyright, among other forms of intellectual property, in defining “Canadian program” aligns with other Canadian content policies, such as those of Telefilm Canada, that have copyright protections.
150. The record of the proceeding did not yield any consensus on an appropriate model for copyright ownership. Many interveners who commented on this issue expressed the view that copyright should fully remain with Canadian creators, while others took the contrary view that no rules should be introduced. The Commission is not convinced that either position is appropriate as neither meets the objectives of reaching a balance between incentivizing international partnerships and maximizing the benefits to Canadians.
151. Paragraph 10(1.1)(a) of the Act states that in defining Canadian programs, the Commission must consider whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program. Further, the Policy Direction requires the Commission to support Canadian intellectual property ownership in defining “Canadian program” and to consider how its determinations will complement other Canadian content policies, including those regarding audio-visual tax credits and government funding.⁴²
152. While the Commission recognizes that copyright ownership is an important determinant of financial control in a production, there are ways other than copyright through which the Commission currently enables Canadian creators to retain fair and equitable financial control of and benefit from their productions. These include the following:

⁴² See paragraphs 13(c) and 13(g) of the Policy Direction.

- **Canadian producer control:** Canadian programs must always involve Canadian producers.
- **Employing Canadians in a broad range of key creative positions and functions:** Requiring that the majority of key creative positions and functions of a production be filled or performed by Canadians significantly contributes to creative control.
- **Production costs:** Requiring that at least of 75% of a production's services costs be paid to Canadians and that at least 75% of the production's post-production and laboratory costs be paid for services provided in Canada by Canadians or Canadian companies ensures that a substantial portion of the economic activity associated with production and post-production remains in Canada, reinforcing economic benefits to Canadians.

153. In addition to the safeguards arising from the Commission's certification framework, there are other mechanisms within the larger Canadian content ecosystem that offer protections for Canadian producers to control and benefit financially from their productions in a significant and equitable manner. Importantly, this includes the following protections that specifically support Canadian copyright ownership of Canadian programs:

- Most Certified Independent Production Funds (CIPFs), which are certified by the Commission, require Canadian producers to hold all rights to their productions.⁴³
- The CMF includes eligibility requirements for funding on copyright, financial control and creative control. Certain CIPFs also impose similar requirements, although the specific criteria may vary from fund to fund.⁴⁴
- Productions that are certified as eligible for federal tax credits require a Canadian production company to hold 100% copyright ownership for 25 years for a production to be eligible for tax credits.⁴⁵
- Certain provincial tax credit programs also include Canadian and/or provincial copyright provisions as part of their eligibility criteria, with

⁴³ The Eastlink TV Independent Production Fund Program is an exception in that it requires producers to own and control at least 20% of rights and revenues.

⁴⁴ For example, the Bell Fund requires rights to be owned and meaningfully developed by Canadians and that creative and financial control remain with the Canadian producer throughout the production and post-production.

⁴⁵ See [Section 3 Copyright Ownership](#) of CAVCO's Application guidelines for the Canadian Film or Video Production Tax Credit.

some offering higher tax credits when Canadian ownership meets or exceeds defined thresholds.⁴⁶

154. Still, in the Commission's view, requirements relating to copyright should be included in the criteria for defining "Canadian program." Such requirements would provide long-term tangible benefits to Canadians by ensuring that the economic and cultural value of Canadian programming remains tied to Canadian creators. Including copyright ownership requirements in the certification framework would also offer additional and stronger support for Canadians' works than would the existing co-venture model, which does not include such safeguards relating to Canadian intellectual property.
155. The Commission recognizes the presence of safeguards ensuring that Canadian creators retain creative and financial control of their works in the larger ecosystem, and in a context where international partnerships in audio-visual productions are sought as ways to, notably, fund expensive productions and facilitate their exportation and discoverability abroad. As such, the Commission considers that copyright ownership requirements should be flexible and responsive to different business models, including international partnerships. The Commission is considering this flexibility in setting an appropriate threshold for Canadian copyright ownership in Canadian programs.
156. In establishing a new Canadian copyright ownership threshold, the Commission notes that such requirements are found in many co-production treaties already in place between Canada and other countries.⁴⁷ In the Commission's view, aligning the Canadian copyright ownership threshold with the provisions found in these treaties would be simpler to administer and would reduce confusion in the industry. Accordingly, the Commission determines that for a production to qualify as a Canadian program, Canadians must retain at least 20% of the copyright ownership in the program. In the Commission's view, this determination complements other Canadian content policies and ensures that Canadian creators retain fair and equitable control over and benefit from the exploitation of their productions without unduly deterring international investments.
157. However, the Commission is also of the view that where Canadians do not hold a majority of the copyright in a program, other measures must be put in place to ensure that the overall creativity, direction, and look and feel of a Canadian production remains Canadian. As noted above, to qualify as a Canadian program, a production must meet, at a minimum, the 60% threshold of points possible for the production, based on the number of points awarded. However, when 50% or less of the copyright in the program is retained by Canadians, the Commission finds that a greater number of Canadian key creative elements must be present in a production and that a greater

⁴⁶ Including in British Columbia, Alberta, Saskatchewan, Ontario, Quebec, New Brunswick, and Nunavut.

⁴⁷ For example, many treaties, including those with Austria, Brazil, Germany, Greece, Hong Kong, and South Africa, allow co-producer contributions to range from 20% to 80% of the budget, with a requirement that copyright ownership must match their respective contributions.

number of points must be attained. The Commission also considers that copyright ownership should be recognized whether it is retained by Canadian producers or by Canadian broadcasters, who would work in partnership with non-Canadians.

158. The Commission is of the view that it would be appropriate to introduce support for Canadian copyright ownership in programs as a criterion of defining “Canadian program.” Accordingly, the Commission adopts the following approach for Canadian copyright ownership, oversight and control in the Canadian program certification framework:

Minimum copyright requirement

- For a production to be eligible to qualify as a Canadian program, not less than 20% of the copyright in the program must be retained by a Canadian(s). This could mean a Canadian broadcaster or a Canadian producer.

Where Canadians own not less than 20% and not more than 50% of the copyright in a program, for the production to qualify as a Canadian program:

- it must attain not less than 80% of the maximum number of points possible for the production, based on the points awarded for key creative positions and functions along with any bonus points that may be awarded for other key creative elements;
- for live action productions, both the Director **AND** the Screenwriter positions in addition to either the First Lead Performer (or first voice) **OR** Second Lead Performer (or second voice) position must be filled by Canadians; and
- for animated productions, both the Director **AND** Scriptwriter and Storyboard Supervisor positions in addition to either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer) position must be filled by Canadians. Further, the Key Animation function **AND** the Camera Operator/Virtual Camera Operator position must be performed or filled by Canadians.

Where Canadians own more than 50% of the copyright in a program, for the production to qualify as a Canadian program:

- it must attain not less than 60% of the maximum number of points possible for the production, based on the points awarded for key creative positions and functions along with any bonus points that may be awarded for other key creative elements;
- for live action productions, either the Director **OR** Screenwriter position in addition to either the First Lead Performer (or first voice) **OR** Second

Lead Performer (or second voice) position must be filled by Canadians;
and

- for animated productions, either the Director **OR** Scriptwriter and Storyboard Supervisor position in addition to either the First Voice (or first lead performer) **OR** Second Voice (or second lead performer) position must be filled by Canadians. Further, the Key Animation function **AND** the Camera Operator/Virtual Camera Operator position must be performed or filled by Canadians.

Producer creative and financial control

159. As an additional safeguard measure to strengthen Canadian creative and financial control, the Commission considers that there is merit in continuing to support Canadian producer decision-making control. This has been present in the criteria for defining a Canadian program to date, as well as in the Commission's co-venture system, which is addressed below. Canadian producers are not captured under the key creative positions. However, the Commission recognizes the importance of the role of Canadian producers among other creative resources used in Canadian productions. Accordingly, in instances of shared copyright, to qualify as a Canadian program, the production must be produced by a Canadian production company⁴⁸ that has no less than equal measure of decision-making responsibility⁴⁹ with partners on all creative elements of the production.

160. Currently, the roles of producer, co-producer, line producer and production manager must be entirely occupied by Canadians for a production to be eligible for certification as Canadian. A flexible copyright ownership model as implemented in this regulatory policy allows non-Canadian producers to work alongside Canadian producers on a Canadian program. Accordingly, it would be appropriate to ease the requirements relating to the nationality of the producers who take part in a production in cases of shared copyright ownership in the program. However, the Commission needs to balance the fostering of partnerships with international producers while ensuring that Canadian producers continue to play a vital role in Canadian productions.

161. In light of the above, for programs with 100% Canadian copyright ownership, the Commission maintains that the roles of producer, co-producer, line producer and production manager must be occupied by Canadians. As discussed below, courtesy credits are available for non-Canadians in producer-related roles. For productions involving shared copyright ownership, the Commission amends the current requirement to read as follows:

⁴⁸ A Canadian company carrying on business in Canada, with a Canadian business address, that is owned and controlled by Canadians.

⁴⁹ Decision-making responsibilities could include determining the production schedule, selecting and hiring above- and below-the-line cast and production personnel, and selecting and contracting production services (camera package, sound package, post-production facilities, and post-production elements).

Not less than 50% of persons occupying the roles of producer, co-producer, production manager and line producer, and all producer-related roles (such as executive producer, associate producer and supervising producer), must be Canadian.

Copyright retention period

162. In regard to a Canadian copyright retention period, the Commission notes that in the case of international treaties administered by Telefilm Canada, no retention period is imposed. The Commission finds it important to grant some flexibility to incentivize collaboration with international partners and to allow for all parties involved in a production to negotiate their own copyright retention periods. Accordingly, the Commission determines that it would not be appropriate to include a copyright retention period requirement as part of the criteria for defining a production as a Canadian program.

Guiding principles in negotiations among production partners

163. The Commission acknowledges the close relationship between copyright ownership, financial control and shared participation by all parties involved in a production. In the Commission's view, while aligning these three aspects of a production may be a good practice, it would not be appropriate to limit non-Canadian financial participation or financial participation of Canadian partners in a production. Being overly prescriptive about financial arrangements of productions would run counter to regulating in a flexible manner. Further, it would undermine the goal of fostering partnerships that further the exportability and discoverability of Canadian programs and of fostering a financial support ecosystem. It would also undermine the different ways that producers may choose to structure production agreements and may discourage some productions.
164. The Commission considers that it must balance the goals of regulatory flexibility so as to encourage a variety of productions, and of business models and broadcast and distribution models, while fostering a broadcasting system in which Canadian producers can retain significant, equitable control of their works and benefit from their long-term exploitation. The Commission is mindful, however, of its role and authority in respect of the business and trade arrangements among production partners involved in audio-visual productions and that being overly prescriptive can undermine flexibility. Accordingly, the Commission adopts the following guiding principles in negotiations among production partners:
- **Fair compensation and exploitation:** Ensure that remuneration, rights, and revenues are allocated in a way that fairly reflects the financial and human contributions to the production, while ensuring Canadian producers retain significant, equitable control and benefit from long-term exploitation.

- **Good-faith negotiation:** Production partners negotiate in good faith.⁵⁰

165. The Commission may assess the effectiveness of these non-binding principles in the future.

Co-ventures

166. Currently, there is a co-venture model⁵¹ that offers flexibility for Canadian producers who wish to work with non-Canadian producers, by sharing creative and financial decision-making responsibilities. The copyright provisions as introduced in this regulatory policy are meant to incentivize co-productions with non-Canadian partners and provide protections for Canadian creative and financial control that are not found in the current co-venture model. Accordingly, the measures adopted in this regulatory policy replace the co-venture framework.

Other criteria and issues relating to certification

167. The current certification framework includes incentives, such as the granting of time credits for the broadcast of certain types of certified programs, along with requirements, such as those relating to foreign courtesy credits and affidavits. In addition, the framework allows for specific types of productions and programming to be certified, including production packages⁵² and twinings.⁵³ Adult programming is also included in the scope of certification.

168. To simplify and modernize the certification framework in a way that aligns with a wide variety of business models, the Commission explored in the Notice⁵⁴ the possibility of amending or eliminating the above-noted elements.

Positions of parties

169. Most of the interveners who commented on time credits⁵⁵ stated that they should be discontinued given that they are less relevant in an on-demand environment. The

⁵⁰ The Commission acknowledges that defining the concept of “good faith” in negotiations is being considered in another proceeding to implement the modernized Act (see Broadcasting Notice of Consultation 2025-2). Any definition resulting from that proceeding will be applicable in the context of these guiding principles for negotiations in respect of Canadian programs.

⁵¹ This model includes ventures with co-producers from a foreign country that does not have a film or television production treaty with Canada and ventures with co-producers of a treaty country that do not otherwise meet Telefilm Canada’s eligibility requirements.

⁵² A production package is defined as two or more co-productions or co-ventures by a Canadian production company with one or more non-Canadian production companies, where a production with minor foreign involvement that qualifies as a Canadian production is matched with a foreign production with minor Canadian involvement.

⁵³ Twinning refers to the practice of pairing a fully Canadian production with a foreign production in which any Canadian participation is primarily financial and in which there is little to no Canadian participation in the creative or production aspects.

⁵⁴ See paragraphs 62 to 80 of the Notice for a detailed description for these items and the Commission’s related preliminary views.

AQPM and the Société de télédiffusion du Québec, among others, proposed adding new incentives for Canadian dubbing if time credits are removed. The CAB stated that since dubbing uses production resources, time credits should remain as long as exhibition requirements exist. BCE and Corus noted that time credits for dubbed productions continue to be especially valuable for French-language broadcasters.

170. Many interveners⁵⁶ supported the Commission's preliminary view that foreign courtesy credits should be streamlined. They proposed consolidating the credits into a single list and removing the Commission's equivalency approach. Intervenors also agreed with the Commission's proposal to replace the notarized affidavit with an attestation of duties.⁵⁷
171. Finally, intervenors generally agreed with discontinuing the Canadian certification of adult programming. Rogers, however, proposed maintaining the certification of adult programming while excluding it for the purpose of meeting CPE requirements. Kate Sinclair, a producer of adult programming, opposed the exemption of adult programming from certification. In this intervenor's view, "[a]rbitrarily exempting adult programming from Canadian designation will harm creative workers, harm film training, harm creativity, harm public opinion of sex workers, help monopolies, and open the Commission up to jurisdictional and Charter-based legal challenges."

Commission's decisions

Time credits

172. Currently, when a production is certified as Canadian, it also receives a time credit that broadcasters use to meet certain regulatory requirements. The time credit represents the percentage of time that a broadcaster can claim as Canadian content in its program logs. Supplementary time credits are also granted for productions dubbed in Canada using Canadian resources and for certain drama productions that hire Canadians for all key creative positions (i.e., the 150% drama time credit).
173. The Commission acknowledges that time credits are generally unsuitable in an on-demand environment, where programs are accessible by viewers at a time of their choosing rather than at any scheduled time, which makes it impossible to track for time credit purposes. As such, time credits no longer represent a strong incentive for broadcasting Canadian programming. In addition, the removal of time credits would

⁵⁵ Including the BSO, the Bell Fund, Rogers, Quebecor, the Société de télédiffusion du Québec, the CMF, , the AQPM, the DWCC, the DSO, the FRPC, and Irene Berkowitz.

⁵⁶ This includes the BSO, the MPA-C (supported by Buena Vista and Paramount), Rogers, the AQPM, the CMF, the Bell Fund, the DWCC, the DSO, CDGM, Discovery Digital Ventures, LLC (Discovery+), and Irene Berkowitz.

⁵⁷ As indicated at paragraph 70 of the Notice, this form would specify that the duties of the non-Canadian do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. The attestation would clearly state that the Commission has the right to audit and ask for additional documentation in relation to the foreign courtesy credit and has the right to revoke the certification if the requirements are not met.

reduce the administrative burden on certain broadcasters by simplifying reporting when they file their program logs. Finally, the Commission notes that very few traditional broadcasting undertakings are eligible to use the 150% drama time credit, especially since large English- and French-language broadcasters operating under the group-based approach are not eligible to claim them.

174. In regard to dubbing, the Commission has recognized in the past the contribution that artists and production resources in Canada's dubbing industry make to the production of Canadian programs. It has also recognized that Canadian dubbing reinforces the identification of Canadian viewers with dubbed Canadian programs. The contribution of the dubbing industry remains important today, especially in the French-speaking Quebec market. The dubbing industry in Quebec plays a vital role not only in sustaining local employment and economic activity, but also, and more importantly, in preserving and promoting distinctly Canadian French-language cultural expression by making audio-visual productions accessible to Quebec and Francophone audiences across the country, including those in OLMCs.
175. The Commission acknowledges that since dubbing uses production resources, time credits for dubbing should remain as long as exhibition requirements for traditional broadcasting undertakings exist. Moreover, maintaining time credits for dubbed content aired on linear services would ensure continued support for the Canadian dubbing industry. As such, the Commission maintains the following credits for programs broadcast on linear services:
 - for Canadian programs:
 - o 100% + 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada;⁵⁸ and
 - o no time credit if dubbed outside of Canada; and
 - for foreign programs:
 - o 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada; and
 - o 50% Canadian time credit if dubbed in Canada using Canadian resources, from a language other than an official language of Canada or an Indigenous language in Canada into an official language of Canada or an Indigenous language in Canada.

⁵⁸ Two forms of dubbing processes are recognized by the Commission when done in Canada using Canadian resources: lip synchronization or voice-over translation.

176. Further, the Commission determines that it will discontinue the use of other time credits as part of its regulatory tools. With the exception of the dubbing credits noted above, Canadian programs will count for no more than full time duration (i.e., 100%) for the purpose of Canadian content exhibition requirements. This means that the 150% time credit for certain Canadian drama programs is discontinued and that a program under this category will count for 100% of its time duration.

Foreign courtesy credits and affidavits

177. Currently, to ensure that Canadians are clearly recognized as the central decision-makers for a domestic production, non-Canadians cannot receive a producer, co-producer, line producer, or production manager credit. They can however be awarded courtesy credits under certain conditions.⁵⁹

178. Notarized affidavits are currently required for all non-Canadians receiving foreign courtesy credits. The Commission currently separates producer-related roles into two distinct groups based on the importance of their creative and financial control on a production, and reviews any courtesy credits given to a non-Canadian to ensure that their duties do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. If a non-Canadian obtains a foreign courtesy credit in a producer-related role from either of these groups, the Commission requires that a Canadian occupy a similar producer-related role also from these groups. This is known as an equivalency scope. In the Notice, the Commission proposed to simplify this criterion by consolidating the foreign courtesy credits into a single list (as opposed to having two distinct groups), thus eliminating the need to require equivalencies. It also proposed to simplify the affidavit requirement with a standardized attestation of duties form.

179. Parties that intervened on this issue generally agreed with the Commission's proposed approach. In the Commission's view, this simplified and streamlined approach would lighten the administrative burden for applicants without impacting Canadian productions. The framework includes safeguards (such as high-level requirements for Canadian key creative positions and production costs) that ensure Canadian creative and financial control are well supported.

180. Accordingly, the Commission amends the certification framework as follows for productions that are characterized by 100% Canadian copyright ownership:

- The foreign courtesy credits will be consolidated into a single list, without requiring equivalencies between the two above-noted distinct groups of producer-related roles. The Commission therefore requires that for every non-Canadian obtaining a foreign courtesy credit from the producer-

⁵⁹ Courtesy credits may be awarded to non-Canadians for non-creative, non production-related functions that in no way interfere with the financial and creative authority of the Canadian producer and either relate to the arranging of foreign distribution or financing or services to the production under the strict supervision and control of the Canadian producer.

related roles of the consolidated list, a Canadian also needs to be credited in a producer-related role from this same consolidated list.

- The notarized affidavit requirements will be replaced with an attestation of duties form. This form will specify that the duties of the non-Canadian do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer. The form will clearly state that the Commission has the right to audit and ask for additional documentation in relation to the foreign courtesy credit and has the right to revoke the certification if the requirements are not met.

Production packages and twinings

181. The Commission has received very few applications for the certification of production packages and twinings since their implementation decades ago. As such, the Commission is of the view that certifying such productions does not add value to the flexibility or versatility of the certification framework. Accordingly, the Commission discontinues the certification of production packages and twinings.

Adult programming

182. In the Notice, the Commission stated that adult programming is an element of the production industry that does not require regulatory support for its overall economic stability. Further, the certification or non-certification of this type of programming does not impact the Canadian production industry associated with the creation or availability of such content. As such, the Commission confirms its preliminary view that it will no longer certify adult programming as Canadian for the purposes of the certification framework. The Commission notes that this determination does not materially affect the Commission's jurisdiction over that type of programming, as adult programs would remain "programs" under the Act.

183. The Commission notes that other existing requirements relating to the broadcast of adult programming by discretionary services remain in place, in particular, the standard condition of service⁶⁰ requiring a licensee that broadcasts adult programming to adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*.⁶¹ The Commission further notes that on-demand services continue to be subject to the requirement to maintain a code governing the broadcast of adult programming, and that other applicable programming codes, including those relating to equitable portrayal and related standards, remain in force. The Commission clarifies that, while it will no longer certify these programs as Canadian, this does not constitute the elimination or easing of any existing regulatory requirements.

⁶⁰ See Broadcasting Regulatory Policy 2023-306 for further details.

⁶¹ Broadcasting Public Notice 2003-10.

Conclusion on modernizing the certification framework

184. In brief, the Commission has considered the factors set out in the Act and in the Policy Direction and is satisfied that its decisions set out above for modernizing the certification framework for Canadian programs will adequately support Canadian artistic and cultural expression by ensuring that Canadian stories, perspectives, and creative talent remain central to the audio-visual sector, while also helping generate Canadian employment opportunities across key creative and technical positions. By setting clear criteria for Canadian programs, the framework strengthens the capacity of the Canadian production industry to develop distinctive programming that reflects national identity. A modernized framework that incorporates flexible Canadian copyright ownership provisions further enhances these benefits by safeguarding Canadian creative rights, thereby enabling Canadian creators to retain greater control over their programs while providing opportunities to foster partnerships with non-Canadian creators and other partners.

Next steps – Implementation of the modernized certification framework

185. To implement its decisions regarding the criteria for defining “Canadian program,” the Commission intends to issue in the near future a notice of consultation calling for comments on proposed new regulations defining “Canadian program” in the audio-visual sector and on consequential amendments to the *Television Broadcasting Regulations, 1987* and to the *Discretionary Services Regulations*. The Commission invites interested persons to consult that notice of consultation for further details.

186. In view of the time required to make regulations, the Commission will assess Canadian program certification applications that it received before the date of this regulatory policy under the certification framework currently in place, and not under the modernized certification framework, which will be implemented only once the above-noted new regulations come into force. For applications received between the date of this regulatory policy and the date the above-noted new regulations come into force, the Commission will also apply the certification framework currently in place. However, an applicant who submits an application during that same time period and wishes to be certified under the modernized criteria set out in this regulatory policy can indicate this in its application. In such cases, the application will be put on hold and subsequently evaluated when the new regulations come into force. The Commission further notes that once the new regulations come into force, the new criteria will apply to all applications received on or after that coming into force date.

The use of AI in Canadian productions

187. As part of this proceeding, the Commission sought comments on the growing use of AI-generated content and on the appropriateness of considering AI-generated content as Canadian. More specifically, the Commission wished to examine AI in light of, among other things, the impact it may have on various elements in the audio-visual production industry (such as dubbing, animation and scriptwriting) in so far as

that impact relates to Canadian programming and pre-production and post-production practices.

Positions of parties

188. Interveners including Unifor and the Conseil provincial du secteur des communications du Syndicat canadien de la fonction publique (CPSC-SCFP) called for clear boundaries around the use of AI, to protect Canadian jobs, uphold creative standards, and ensure the integrity of Canadian content. Broadcasters emphasized the need for flexibility and innovation in regard to their use of AI in programming production, so as to improve efficiency by automating tasks that allow for faster and more cost-effective production.
189. Several interveners expressed concerns over the integration of AI into the Canadian broadcasting system, particularly in regard to the potential replacement of media workers, loss of creative control, and the implications on eligibility for Canadian program certification. The DGC, Unifor, the CPSC-SCFP, Music Canada, and the Société professionnelle des auteurs compositeurs du Québec et des artistes entrepreneurs emphasized the critical need to ensure the primacy of human creators over AI, and for AI to serve only as a support tool. According to Accessible Media Inc., the use of AI should not replace human intervention, especially in regard to captioning, and American Sign Language (ASL) and Langue des signes québécoise (LSQ) (a position shared by the Disability Screen Office and by the Deaf and Hard of Hearing Coalition), but should be used as a tool to streamline production processes, reduce costs, and enhance accessibility.
190. The Computer & Communications Industry Association submitted that questions regarding copyright and authorship as they relate to AI-generated material remain unsettled and that determining the nationality of AI outputs is impractical. Broadcasters and producers, including Channel Zero Inc. (Channel Zero), Rogers and the IBG, expressed differing views on AI in broadcasting. Channel Zero cautioned against the Commission making hard and fast rules on broadcaster use of AI, urging it instead to encourage experimentation. Rogers stated that the Commission must take a cautious view toward the use of AI. It expressed support for the use of AI in programming production, but only to the extent that it improves efficiency. Rogers added that although technological innovation has always been an important part of Canadian broadcasting, content must truly strengthen Canada's cultural, political, social and economic fabric. The IBG argued that AI-generated material or elements within a production should not affect the qualification of a production that would otherwise meet the Canadian certification criteria, as long as the persons using that tool are Canadian. Finally, Pelmorex Weather Networks (Television) Inc. stated that AI-generated or AI-assisted content (including its AI-assisted avatar, when produced by its Canadian staff) should be considered Canadian content.

Commission's decisions

191. The use of AI in the broadcasting system is in its early stages; however, the impact of this technology is anticipated to grow. Many non-Canadian jurisdictions

have initiated public consultations regarding AI and are establishing guidelines or have adopted regulatory frameworks for the technology.⁶² In Canada specifically, the use of AI is not currently contemplated in the Act or in its broadcasting policy objectives. However, the Commission notes that broad discussions are ongoing in Canada on the legislative framework for AI.

192. The Canadian broadcasting industry is adapting to the growing presence of AI and is taking measures to set boundaries. Protective measures have been introduced in several collective agreements, notably those of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and the WGC.
193. The Commission heard during this proceeding how AI is being integrated into certain functions throughout the content production cycle, and how its use can raise concerns. The Commission also heard concerns about the transparency of AI content and whether users are able to tell what is AI-generated and what is not.
194. In the Commission's view, the record of this proceeding did not yield any clear policy proposals in response to the AI-related issues identified in the Notice, or any specific clear path forward in regard to addressing the use of AI in the broadcasting system. However, the Commission is mindful of the need to emphasize the importance of human input and creative control in the production of Canadian audio-visual programming.
195. It is the Commission's view that the key creative positions and functions of the modernized certification framework should be filled and performed by humans. While AI may serve as a potential tool to assist in the creation of Canadian content, the Commission is of the view that humans should hold creative control to support economic opportunities and remuneration for Canadians creators. The Commission will apply this lens when evaluating whether a production meets the criteria for key creative positions and functions, and other criteria used to certify productions as Canadian programs.

Data collection and publication requirements

196. In the Notice, the Commission sought comments on how to ensure that the Commission, the broadcasting industry and Canadians have access to appropriate data for accountability and transparency purposes.
197. As part of this proceeding, the Commission has considered the publication of financial data and CPE data collection requirements.

⁶² For example, the United Kingdom launched a public consultation on copyright that closed in February 2025. In January 2025, the United States Copyright Office issued guidelines on the copyrightability of AI-generated works, which reinforces the policy that only human authorship qualifies for copyright protection. China, the European Union and Korea have adopted regulatory frameworks on AI.

Positions of parties

198. Non-Canadian online undertakings⁶³ and the MPA-C generally did not oppose being required to file CPE-related data with the Commission where they are subject to such obligations. However, they opposed making such financial information public. According to Roku, Inc., collecting and making public information about the revenues and expenditures of online undertakings could jeopardize the competitive position of smaller and growing services. Amazon stated that publishing undertaking-level data would be competitively harmful. Google LLC proposed publishing only aggregate CPE-related data to show system-level spending and trends. Many interveners noted that the Commission had determined, with respect to base contributions,⁶⁴ that these undertakings' financial information could be treated as confidential.
199. Organizations that represent public-interest and equity-deserving groups⁶⁵ submitted that comprehensive data collection and publication for all undertakings is necessary for accountability, market transparency and public participation. Friends of Canadian Media argued that the online undertakings that opposed these measures failed to demonstrate how the current obligations cause competitive harm. It called for the Commission to apply the current disclosure requirements to online undertakings.
200. The CAB considered the Commission's current category groupings for programming and production expenditures to be reasonable and expressed support for the public disclosure of aggregate CPE-related data where there is a clear public policy interest. Broadcasters including Rogers and Quebecor, however, argued that the current requirements are excessive and hinder content production, and should be reduced and harmonized with other sectors.
201. Certain producer associations including the CMPA and the APFC expressed support for the Commission's proposal endorsing the mandatory disclosure of disaggregated revenue and expense data from all broadcasters subject to CPE requirements.

Commission's decisions

Publication of financial data

202. Access to relevant data and information promotes transparency and accountability among industry players. Such access is also necessary for the Commission to regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in the Act. The Commission has a responsibility to regulate and supervise the Canadian broadcasting system. In doing

⁶³ Including Netflix, Apple, and Roku, Inc.

⁶⁴ See Broadcasting Regulatory Policy 2024-121-1.

⁶⁵ Including the BSO, the REMC, PIAC, Friends of Canadian Media, and the Quebec English-language Production Council.

so, it must take into account the nature and the diversity of the services provided by broadcasting undertakings, as well as their size, their impact on the Canadian creation and production industry (particularly with respect to employment in Canada and Canadian programming), and their contribution to implementing the broadcasting policy set out in the Act.⁶⁶ Further, the Policy Direction directs the Commission to provide information to the public on a periodic basis regarding the achievement of the Canadian broadcasting policy objectives.⁶⁷

203. Accordingly, the Commission finds that there is a clear public interest in ensuring sufficient and transparent reporting by all players (Canadian or non-Canadian) in the Canadian broadcasting industry, of all sizes and regardless of origin, so that all broadcasters and Canadians are informed. Also, it is important for the Commission, as the regulator, to facilitate fair and equitable disclosure of data and information. This is achieved by balancing the public interest in disclosing information versus any potential harm that could result from its disclosure.
204. Under paragraph 9.1(1)(o) of the Act, the Commission may make orders requiring persons carrying on all types of broadcasting undertakings, including online undertakings, to provide any information to the Commission that it considers necessary for the administration of the Act, including financial or commercial information, and information related to programming or expenditures.⁶⁸ Currently, most online undertakings are required to submit information requested by the Commission consistent with their conditions of service,⁶⁹ while traditional broadcasting undertakings are subject to various similar provisions set out in regulations or orders, including exemption orders. Transparency is the default under the Act; only limited types of information submitted to the Commission may be designated as confidential. Under section 25.3 of the Act, the Commission is required to balance the protection of such confidential data and disclosure of information in the public interest, thereby maximizing transparency while safeguarding sensitive information.
205. Online undertakings are currently required to publicly disclose only limited financial information, with the Commission solely publishing aggregated information on Canadian broadcasting revenues across all online undertakings in the audio and

⁶⁶ See paragraph 5(2)(a.1) of the Act.

⁶⁷ Under section 18 of the Policy Direction, the Commission is directed to provide information to the public on a periodic basis regarding the progress made in achieving the objectives of the broadcasting policy set in subsection 3(1) of the Act, including progress on the inclusion and participation of Indigenous persons, members of OLMCs and members of equity-seeking groups and ethnocultural groups in the Canadian broadcasting system.

⁶⁸ The Commission makes ad hoc requests for information and conducts routine data collection notably through annual surveys, annual and quarterly reports, and annual production reports. Information submitted to the Commission in its proceedings is proactively made publicly available and information filed in the above-noted surveys and reports to be treated as confidential is generally identified in advance by the Commission.

⁶⁹ See Broadcasting Order 2023-332, set out in the appendix to Broadcasting Regulatory Policy 2023-331, and Broadcasting Order 2024-194, set out in the appendix to Broadcasting Regulatory Policy 2024-121-1.

audio-visual sectors.⁷⁰ In contrast, some large broadcasting ownership groups are subject to more extensive disclosure requirements, including for annual aggregate returns, service-specific financial summaries, and annual production reports.⁷¹

206. The Commission acknowledges having taken a more cautious approach to the disclosure of information by online undertakings prior to their express inclusion in the Act. This approach continued after their inclusion and extended to the Commission's determinations set out in Broadcasting Regulatory Policies 2024-121 and 2024-121-1/Broadcasting Order 2024-194. With online undertakings being fully integrated into the Canadian broadcasting system as the Commission continues to implement the modernized Act, its current light approach to data publication for online undertakings limits the ability of the Commission and the public to monitor and adjust to changes in the system. The Commission considers that it must update its approach.
207. In the Commission's view, broadcasters' annual CPE and other contributions,⁷² and the total annual Canadian gross broadcasting revenues less excluded revenue⁷³ as they relate to audio-visual activities⁷⁴ in the Canadian broadcasting system, aggregated at the entity level,⁷⁵ should be public information and not routinely treated as confidential. This approach would better align the data publication requirements between online and traditional players and offer valuable information to the public.
208. The Commission acknowledges the concerns raised by interveners that some information, and in particular financial data, is competitively sensitive, and that its disclosure could place the competitive position of smaller broadcasters – especially small independent Canadian undertakings – at risk. The Commission also notes that large traditional players in the Canadian broadcasting system have for many years been, and still are, required to publish financial data at the ownership group level, and in some cases, for their individual undertakings.
209. In Broadcasting Regulatory Policies 2024-121 and 2024-121-1/Broadcasting Order 2024-194, the Commission required certain online undertakings to make base contributions: those whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of more than \$25 million, and those whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue,

⁷⁰ Estimates from Omdia for the period 2018-2020 are publicly available, but actual revenues, collected as part of the Commission's Annual Digital Media Survey, have been published, on an aggregated basis, since 2021.

⁷¹ See Broadcasting Regulatory Policy 2009-560.

⁷² This refers to expenditures to be made pursuant to the Act for Canadian content, including any contributions to be made as contemplated in Broadcasting Regulatory Policy 2024-121-1.

⁷³ As defined in Broadcasting Order 2024-194.

⁷⁴ Confidentiality and publication of data and information in respect of the audio sector is being considered in the proceeding initiated by Broadcasting Notice of Consultation 2025-52 (see in particular Broadcasting Notice of Consultation 2025-52-3).

⁷⁵ This refers to either the individual operator level or the broadcasting ownership group level if the operator forms part of such a group, as set out in Broadcasting Regulatory Policy 2024-121-1.

annual Canadian gross broadcasting revenues of more than \$25 million. This threshold approach has merit for the purpose of setting a disclosure threshold as it balances fairness, simplicity and equity based on the size of undertaking. However, the Commission considers that it would be appropriate, in setting a threshold for the public disclosure of data, to consider total annual Canadian gross broadcasting revenues rather than “annual contributions revenues”,⁷⁶ since that is the data to be disclosed.

210. In the Commission’s view, it is necessary to balance the needs of meeting public interest and protecting smaller entities, taking into account existing practices for publication of traditional undertakings’ data and information. Accordingly, the Commission finds it appropriate to publish information on broadcasters’ annual CPE and other contributions, and on their annual Canadian gross broadcasting revenues less excluded revenue as it relates to the audio-visual activities in the Canadian broadcasting system, from both online undertakings and traditional broadcasting undertakings. This applies to online and traditional broadcasting undertakings whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more, and those whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more. For greater clarity, this publication will be at the entity level, which, depending on each undertaking’s ownership structure, is either an individual broadcasting undertaking or a broadcasting ownership group.
211. The Commission recognizes that large online undertakings are not always part of a broadcasting ownership group, and that in such cases, the data disclosure above would apply to a single undertaking. Certain online undertakings have expressed concerns that data disclosure could affect their level of competitiveness in the market. In the Commission’s view, it is unlikely that any harm resulting from disclosure of that data would outweigh the public interest, given the relatively large size of the online undertakings whose information is intended to be made public and their associated large impact on the Canadian broadcasting system.
212. In light of the above, the Commission intends to publish the following information as it relates to audio-visual activities on an annual basis, aggregated at the entity level:
- annual Canadian gross broadcasting revenues less excluded revenue;
 - CPE; and
 - other contributions.

⁷⁶ Annual contributions revenue is based on online undertakings’ activities, whereas annual Canadian gross broadcasting revenues encompass broader broadcasting activities in Canada. The threshold applied will be aligned with that approach taken in regard to base contributions, to maintain consistency and simplicity.

213. This general approach would apply going forward, beginning with data collected in regard to the 2025-2026 broadcast year.
214. Leveling the playing field by modifying the publication requirements as described above is in the public interest as it fosters transparency and provides stakeholders with a more comprehensive view of market trends. As such, better informed interveners will be in a better position to fully participate in the Commission's proceedings, thereby supporting the Commission's efforts in making its decisions. This public input is critical to the Commission properly taking into account broadcasting undertakings' impact on the Canadian broadcasting system in keeping with paragraph 5(2)(a.1) of the Act.⁷⁷

CPE data collection requirements

215. The Commission collects detailed CPE data annually from broadcasters, which include breakdowns of expenses directed to overall programming production, closed captioning, and programming production by Indigenous or OLMC producers. To date, CPE-related information currently collected and published by the Commission only reflects activities of traditional broadcasting undertakings and not online undertakings. Online undertakings, however, are active in creating programming in Canada and making that programming available to Canadian audiences. As such, the Commission and the public have access to only partial information on this important element of Canadian programming in the Canadian broadcasting system, which limits the Commission's ability to effectively regulate and supervise the Canadian broadcasting system to support various objectives outlined in the Act.
216. In regard to the granularity of the CPE data collected, the Commission considers that there is value in continuing to collect expenditure data on Canadian programs by program category. This allows for a more comprehensive picture of how CPE are allocated and amortized and offers valuable information to monitor and assess elements of the Canadian broadcasting system for which regulatory support might be necessary.
217. In light of the above, the Commission determines that operators of all broadcasting undertakings that currently are or may become subject to CPE requirements will be required to file with the Commission, via the annual returns, data on CPE. For the purposes of that requirement, the data collection approach requiring programming expenditure data divided by program category will be maintained.⁷⁸

⁷⁷ Specifically, "[t]he Canadian broadcasting system should be regulated and supervised in a flexible manner that takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size [and] their impact on the Canadian creation and production industry [...]."

⁷⁸ The full list and definitions of program categories are set out in the appendix to Broadcasting Regulatory Policy 2010-808.

218. In regard to the applicability and scope of CPE requirements, the Commission will issue its determinations in the above-noted separate regulatory policy that will focus on funding and support for Canadian programming.

Streamlining of reporting requirements

219. The Commission recognizes the importance of balancing data publication and collection requirements with the goal of streamlining reporting and reducing administrative burdens on broadcasters.

Positions of parties

220. Several interveners⁷⁹ supported the filing of a single, standardized production report for undertakings subject to CPE requirements.
221. The MPA-C supported a requirement to submit a streamlined production report focused solely on compliance monitoring. Apple noted that existing production reports are not standardized and considered that a single template would not suit diverse online models. It further stated that publication requirements should include confidentiality safeguards and limit disclosure to aggregate data.
222. Quebecor stated that the current reporting requirements are overly burdensome and hinder content production as they consume significant resources. It requested a substantial reduction in administrative burden and a harmonization of obligations with those in other sectors. Similarly, the CAB noted the burden of reporting and proposed a single, streamlined report.
223. Certain interveners⁸⁰ proposed the addition of sufficient fields to the current production report to assess outcomes for equity-deserving groups and OLMCs. The APFC and the Quebec English-language Production Council proposed adding language-market data collection to the report.

Commission's decisions

224. The Commission is mindful of the overall burden that data reporting and data publication requirements impose on the industry, and especially on traditional undertakings that, as noted above, file annual returns and a number of reports with the Commission. With that in mind, the Commission considers that it would be appropriate to alleviate some of that burden where there is duplication in the collection or publication of data.

⁷⁹Knowledge Network, Apple, the DSO, the BSO, the REMC, Rogers, and PIAC.

⁸⁰ The BSO, the DSO, PIAC, and the REMC.

225. Currently, vertically integrated broadcasters⁸¹ are required to disclose annual aggregate financial returns, as well as revenues and subscriber totals for each of their discretionary services. The filing and publication of these aggregate financial returns and service-specific financial summaries result in duplicated activities as the data is also collected as part of the annual returns in a disaggregated form. Furthermore, the Commission's current disclosure practices placed on large traditional broadcasting undertakings result in regulatory asymmetry given that online broadcasting undertakings are not subject to the same level of disclosure. This, in the Commission's view, can put the traditional broadcasters at a competitive disadvantage.
226. Some broadcasting undertakings are also currently required to file with the Commission [annual production reports](#).⁸² These reports provide detailed information⁸³ on an individual program basis for broadcasters' production expenditures, except those for programming in the news and sports categories. The reports offer insights on broadcasters' spending on programming, including that produced by OLMCs and by Indigenous producers, and on the presence of women in key production roles. The data is published on an aggregated basis, by large English- and French-language broadcasting ownership groups. Production expenditures by online undertakings are not currently included in the reports.
227. Consistent with subparagraph 3(1)(d)(iii) of the Act, the broadcasting system should serve the needs and interests of a wide range of Canadian equity-deserving groups, including through its programming and employment opportunities. In the Notice, the Commission stated its goal of ensuring that Canada's diversity is reflected in the Canadian broadcasting system and that a range of creators is supported. In the Notice, equity-deserving groups were defined as racialized people, people with disabilities, individuals who identify as 2SLGBTQI+ and women. As such, and to better monitor progress towards meeting that objective and to meet the stated needs of the public for such data, the Commission is of the view that collecting data on key creative positions filled by Canadians that are part of equity-deserving groups is necessary, in addition to reporting on OLMC, Indigenous and women creators.
228. Given the success in tracking data on some equity-deserving groups (namely, women in production), OLMCs and Indigenous peoples through the production reports, the Commission is of the view that the report lends itself well to be expanded to gather information on all equity-deserving groups (specifically, racialized people,

⁸¹ As noted in Broadcasting Regulatory Policy 2011-601, vertical integration can refer to the ownership or control by one entity of both programming services and distribution services, or of both programming undertakings and production companies.

⁸² See Broadcasting Information Bulletin 2019-304 for details on current production reports.

⁸³ For example, original, first-run programming and other content; content produced by OLMC producers as defined in Broadcasting Information Bulletin 2019-304, and Indigenous producers; and the commissioning of programming made by women occupying the roles of producer, director, writer, cinematographer and editor and women occupying the roles of first and second lead performer.

people with disabilities and individuals who identify as 2SLGBTQI+, in addition to women).

229. Accordingly, starting in the 2025-2026 broadcast year, the Commission will collect, as part of the annual production report, information on the presence, in key creative positions, of people who self-identify as members of the above-noted equity-deserving groups, members of OLMCs, and Indigenous peoples.
230. The Commission acknowledges the concerns raised during the proceeding regarding the administrative burden associated with compiling data for the production reports. Specifically, it can be difficult to track information for older, repeat programming where such data was not originally identified. Furthermore, reporting on the same content for multiple years (i.e., repeat programming) results in data duplication.
231. Accordingly, production reports to be filed with the Commission starting with the 2024-2025 broadcast year will only report on broadcasters' data relating to original first-run Canadian programming⁸⁴ that they license or commission, excluding news and sports programming. The Commission acknowledges that this will reduce the information publicly available on spending directed to older, repeat programming at the level of granularity the production report currently provides. However, CPE data will continue to be made publicly available, notably in the [Open Data portal](#) and the [broadcasting financial summaries](#) on the Commission's website. This, in combination with the original, first-run Canadian programming information from the production reports, will continue to provide sufficient information to interested parties to understand how various entities allocate their programming budget. Production information generally covering broadcasters operating in the Canadian broadcasting system is crucial to the Commission, industry stakeholders and the public to monitor compliance and trends and to ensure policy goals are met, especially when it comes to representation of equity-deserving groups. Currently, the Commission does not collect that data for online undertakings. This lack of data results in a partial picture of production spending and representation of equity-deserving groups in the production sector.
232. The Commission considers that online undertakings, given their strong presence in the Canadian broadcasting system, should also be required to submit production reports on an annual basis to provide a more fulsome picture of the diversity of people represented in that system.
233. Accordingly, the Commission determines that the requirement to file production reports with the Commission will apply to online undertakings and other broadcasting undertakings whose operator forms part of a broadcasting ownership group that has, after deducting any excluded revenue, annual Canadian gross broadcasting revenues

⁸⁴ For these purposes, this means the original exhibition of a program that has not been broadcast or distributed by another broadcasting undertaking.

of \$25 million or more and to online undertakings and other broadcasting undertakings whose operator does not form part of a broadcasting ownership group and that have, after deducting any excluded revenue, annual Canadian gross broadcasting revenues of \$25 million or more, and that currently are or will be subject to CPE requirements.

234. The Commission will require both a publicly available abridged version and a non-abridged confidential version of the production report to be filed at the entity level (i.e., single report per entity for groups) in a machine-readable format. The Commission will publish the aggregated abridged production reports by program (excluding financial data) provided by each entity subject to this reporting requirement.
235. Finally, while financial data (i.e., expenditures at the individual production level) will not be disclosed as part of published production reports, the Commission will publish broadcasters' aggregated regional production data in instances where data entries are provided by at least three entities in a given region, to preserve the confidentiality of the financial information.
236. To level the disclosure requirements across broadcasters, streamline regulatory processes, alleviate administrative burden, and ensure more consistency in disclosure requirements across broadcasters, the Commission will, beginning with data collected in regard to the 2025-2026 broadcast year:
- eliminate the requirements to file and disclose annual aggregate financial returns imposed on vertically integrated broadcasters; and
 - discontinue its publication of individual discretionary services' financial summaries.

Secretary General

Related documents

- *The Path Forward – Supporting Canadian and Indigenous audio content*, Broadcasting Notice of Consultation CRTC 2025-52, 20 February 2025, as amended by Broadcasting Notices of Consultation CRTC 2025-52-1, 24 March 2025; 2025-52-2, 4 April 2025; 2025-52-3, 15 April 2025; 2025-52-4, 26 May 2025; and 2025-52-5, 3 October 2025
- *The Path Forward – Working towards a sustainable Canadian broadcasting system*, Broadcasting Notice of Consultation CRTC 2025-2, 9 January 2025, as amended by Broadcasting Notices of Consultation CRTC 2025-2-1, 24 March 2025, 2025-2-2, 31 March 2025, 2025-2-3, 23 July 2025, and 2025-2-4, 1 August 2025

- *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector*, Broadcasting Notice of Consultation CRTC 2024-288, 15 November 2024, as amended by Broadcasting Notices of Consultation CRTC 2024-288-1, 26 February 2024; 2024-288-2, 24 March 2024; 2024-288-3, 31 March 2025; and 2024-288-4, 29 May 2025
- *The Path Forward – Supporting Canadian and Indigenous content through base contributions*, Broadcasting Regulatory Policy CRTC 2024-121, 4 June 2024, as finalized by *The Path Forward – Supporting Canadian and Indigenous content through base contributions – Finalization of conditions of service*, Broadcasting Regulatory Policy CRTC 2024-121-1 and Broadcasting Order CRTC 2024-194, 29 August 2024
- *Call for comments – Co-development of an Indigenous Broadcasting Policy*, Broadcasting Notice of Consultation CRTC 2024-67, 22 March 2024
- *Review of exemption orders and transition from conditions of exemption to conditions of service for broadcasting online undertakings*, Broadcasting Regulatory Policy CRTC 2023-331 and Broadcasting Order CRTC 2023-332, 29 September 2023
- *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023
- *Change to the treatment of stock footage costs as part of the evaluation of applications for Canadian program certification*, Broadcasting Regulatory Policy CRTC 2023-90, 23 March 2023
- *Production Report to be completed annually by large English- and French-language ownership groups*, Broadcasting Information Bulletin CRTC 2019-304, 29 August 2019
- *Let’s Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2025
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, as corrected by *Regulatory framework relating to vertical integration – Correction*, Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011
- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010

- *Public disclosure of aggregate financial data for owners of large broadcasting distribution undertakings, multi-system operators and conventional television and radio ownership groups*, Broadcasting Regulatory Policy CRTC 2009-560, 4 September 2009
- *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003

Appendix 1 to Broadcasting Regulatory Policy CRTC 2025-299

Criteria for qualifying and certifying a Canadian audio-visual program

This appendix sets out the consolidated criteria for determining which audio-visual productions will qualify and be certified as Canadian programs.

The following requirements apply to live action and continuous action animation productions (referred to collectively as “live action productions” in this appendix) and to animated productions other than continuous action animation (referred to as “animated productions” in this appendix), unless specified otherwise.

Appendix 2 sets out the Commission’s approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in this appendix.

1. General requirements

To qualify and be certified as a Canadian program, the following requirements must be met in all cases:

- a) **Canadian production company:** The production must be produced by a Canadian production company.
- b) **Minimum Canadian expenses:** At least 75% of the production’s services costs must be paid to Canadians.⁸⁵ At least 75% of the production’s post-production/laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies.
- c) **Canadian copyright ownership – Minimum threshold:** Not less than 20% of the copyright in the program must be retained by a Canadian, which for this purpose could mean a Canadian broadcaster or a Canadian producer.
- d) **Key creative positions and functions, and other Canadian key creative elements – Minimum percentage threshold:** A production must attain a minimum threshold of either 60% or 80% of the points possible for a production as detailed in Section 2 below. Further, where a production makes use of certain key creative positions and functions, those positions and functions must be filled or performed by Canadians for the production to qualify and be certified as a Canadian program (i.e., mandatory Canadian positions and functions). The specific minimum percentage threshold and the mandatory positions and functions

⁸⁵ For the purposes of defining a “Canadian program”, a “Canadian” is a person who is, at all relevant times, a Canadian citizen as defined in the Citizenship Act or a permanent resident as defined in the Immigration and Refugee Protection Act who has received a Permanent Residence Certificate. People who are First Nations, Inuit or Métis peoples in Canada meet any certification requirement that applies to a “Canadian.”

will depend on the Canadian copyright ownership share in the program, as set out in Section 3 below.

2. The points system

Points are awarded for the key creative positions and functions set out in Tables 1 and 2 below when filled and performed by Canadians, up to the maximum possible points for each type of production.

Tables 1 and 2 also set out bonus points that are awarded for other Canadian key creative elements, which are added to the points awarded for key creative positions and functions. For greater clarity, bonus points increase the total number of points a production earns (i.e., the numerator) and do not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator).

Where bonus points are used to qualify and certify a production as a Canadian program, the mandatory key creative positions and functions must still be filled or performed by Canadians for the production to be certified as a Canadian program.

If a production does not use certain key creative positions and functions, the points associated with those positions and functions are not included (in the numerator and denominator) when calculating whether the production meets the applicable minimum threshold for Canadian certification.

Table 1 – Live action productions: Key creative positions, points to be awarded when filled by Canadians, and bonus points for Canadian key creative elements (see notes below)

Key creative positions and points (maximum number of points possible: 14)	• Director – 2 points • Screenwriter – 2 points • Showrunner – 2 points • First Lead Performer (or first voice) – 1 point • Second Lead Performer (or second voice) – 1 point • Director of Photography – 1 point • Production Designer or Art Director – 1 point • Picture Editor – 1 point • Music Composer – 1 point • Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists – 1 point • Visual Effects Director/Special Effects Director – 1 point
Key creative elements and bonus points (maximum number of points possible: 3)	• Canadian musical selections – 1 point • Canadian written works – 1 point • Canadian characters and settings – 1 point

Table 2 – Animated productions: Key creative positions and functions, points to be awarded when filled or performed by Canadians, and bonus points for Canadian key creative elements (see notes below)

Key creative positions/ functions and points ⁸⁶ (maximum number of points possible: 15)	• Director – 2 points • Scriptwriter and Storyboard Supervisor – 2 points • Showrunner – 2 points • First Voice (or first lead performer) – 1 point • Second Voice (or second lead performer) – 1 point • Design Supervisor – 1 point • Layout Artist and Background – 1 point • Key Animation – 1 point • Assistant Animation/In-betweening – 1 point • Camera Operator or Virtual Camera Operator – 1 point • Music Composer – 1 point • Picture Editor – 1 point
Key creative elements and bonus points (maximum number of points possible: 3)	• Canadian musical selections – 1 point • Canadian written works – 1 point • Canadian characters and settings – 1 point

Multiple persons filling a key creative position

Other than for the positions of Director and Screenwriter (live action productions)/Scriptwriter and Storyboard Supervisor (animated productions), points are awarded for a particular position if all persons sharing the duties of and credited in that position are Canadian.

If more than one person fills any of the Director or Screenwriter (live action productions)/Scriptwriter and Storyboard Supervisor (animated productions) positions, at least 80% of the individuals filling the same position must be Canadian for the points to be awarded.

In animated productions that use Scriptwriters or Storyboard Supervisors, but not both, 2 points will be awarded if at least 80% of the persons filling the position are Canadian.

Notes on the awarding of points for key creative positions and functions

Writer (Screenwriter [live action productions]/Scriptwriter and Storyboard Supervisor [animated productions])

All individuals involved in any stage of developing the screenplay (including outline or treatment, various drafts, dialogue polishing, and final shooting script) must be Canadian

⁸⁶ While the following functions play a significant role in animated productions, no points are awarded to them: Tracer/Photocopier, Opaquer and Animation Director.

to be awarded 2 points for the Screenwriter, Scriptwriter and Storyboard Supervisor positions.

To assess the qualification for the Screenwriter, Scriptwriter and Storyboard Supervisor positions, the Commission will examine on-screen credits, including the following:

- Story Editor (Executive, Senior, Junior);
- Creative Consultant;
- Story Consultant, Executive Story Consultant; and
- Creative Producer.

Showrunner

Showrunner points cannot be double counted. That is, if the Showrunner directs or writes the screenplays for a program, points may be awarded for either the Showrunner position or for the Director or Screenwriter positions, but not both.

Where a Showrunner writes or directs individual episodes of a series, at least 80% of the episodes must be written or directed by others for the writing and directing points to be awarded separately from the Showrunner points.

First and Second Lead Performers (or first and second voices) [live action productions], and First and Second Voices (or first and second lead performers) [animated productions]

Adding Canadians in minor roles is not sufficient for a production to qualify for the points for these positions. A production in which non-Canadians are the only lead performers or voices will not qualify or be certified.⁸⁷

For live action productions, determining the First and Second Lead Performer (or first and second voice) positions must take into account billing, on-screen time (or off-screen time for voices) and remuneration of the performers.

For animated productions, determining the First and Second Voice (or first and second lead performer) positions must take into account billing, on-screen time (or off-screen time for voices), number of lines and payment.

In non-dramatic productions, the Second Lead must have at least 50% of the on-screen time (or off-screen time where narrators or interviewers are involved) and at least 50% of the remuneration of the First Lead, plus billing appropriate for a Second Lead, in order to be awarded the point. Persons not meeting these criteria are considered to be filling minor roles.

⁸⁷ See 1.d) in the “General requirements” section above and Tables 3 and 4 regarding mandatory positions.

Music Composer

The position of Music Composer is awarded 1 point only if a Canadian has been commissioned to compose the original music specifically for the production. The rearrangement of existing music by the Music Composer, even if such music is Canadian, will not qualify for the point. Existing stock, library, or archival music may be used in addition to the original music.

Head of Department Responsible for Costume Design, Head of Department Responsible for Make-up Artists, and Head of Department Responsible for Hair Artists

If a production uses all three Head of Department positions, 1 point will be awarded only if all persons filling these positions are Canadian. In productions that do not use all three positions, the point will be awarded only if all persons in the positions that are used by the production are Canadian.

Visual Effects Director/Special Effects Director

If a live action production uses both a Visual Effects Director and a Special Effects Director, 1 point will be awarded only if all persons filling these positions are Canadian. If the production uses only one of these positions, the person filling the position must be Canadian for the production to be awarded the point.

Notes on the awarding of bonus points

Bonus point for Canadian musical selections

A bonus point for Canadian musical selections may be awarded where more than 50% of the pre-recorded or pre-existing musical selections featured in the production, including an excerpt of any duration of time, are Canadian musical selections. For greater clarity, original music specifically composed for a production is not eligible to count toward this point.

This bonus point will be awarded only if there is no Music Composer or, in the alternative, if there is a Canadian Music Composer. It will not be awarded where there is a non-Canadian Music Composer and where 50% of the musical sections in the production are non-Canadian.

Bonus point for Canadian written works

A bonus point may be awarded for the use of Canadian written works as source material for a production. For the purposes of this bonus point, a Canadian written work is defined as follows:

A written work of fiction or non-fiction (such as a novel, short story, graphic novel, novella, play, biography, autobiography, or poem), in either digital or print form, that is authored by a Canadian(s). This excludes written works such as manuals, programming text, pamphlets, tables and compilations, government publications, and blog posts. For

further clarity, material developed solely and specifically to support the development of scripts and concepts as part of a production is not eligible to receive a point.

Bonus point for Canadian characters and settings

A bonus point for Canadian characters and settings may be awarded if a production includes identifiable Canadian characters and identifiable Canadian settings. For the purposes of this bonus point, the following criteria must be met (for a series, they must be met for each and every episode):

Character:

- i. All lead characters (up to 5 main fictional characters in dramatic productions) must be identified as Canadian or members of First Nations, Inuit or Métis in Canada.
- ii. All persons on screen in non-dramatic productions, such as presenters, musicians, dancers or hosts, and all persons who are the main subjects of documentaries must be Canadian or members of First Nations, Inuit or Métis in Canada.

Synopsis: The synopsis of the production must be centred on or include these lead characters/subjects. The production must identify them as Canadian or members of First Nations, Inuit or Métis in Canada.

Location: The location of the story must be set in Canada. The story/narrative must take place entirely in an identified Canadian city/region/province/territory. The location can be identified by a Canadian landmark or by identification on screen or otherwise identified overtly in the narrative or text of the program.

3. Calculating the minimum percentage threshold

To qualify and be certified as a Canadian program, a production must meet a minimum percentage threshold. This threshold is calculated by dividing the points a production is awarded (based on the key creative positions and functions filled or performed by Canadians, along with any bonus points) by the points that are possible for the production (based on the positions and functions the production uses). This would first be expressed as a fraction (where the numerator represents the points awarded and the denominator represents the points possible) and then converted to a percentage. This minimum threshold may be 60% or 80%, depending on the level of Canadian copyright ownership in the program, as explained in Section 4 below.

For example, a live action production that uses the key creative positions of Director (2 points), Screenwriter (2 points), First Lead Performer (1 point), Second Lead Performer (1 point), Director of Photography (1 point), Music Composer (1 point) and Picture Editor (1 point) would be awarded a perfect score of 9 out of 9 points if all of the key creative positions used are filled by Canadians. However, if only the Director (2 points),

Screenwriter (2 points) and First Lead Performer (1 point) positions are filled by Canadians (and the other key creative positions are filled by non-Canadians), the production would be awarded 5 out of 9 points. This production would therefore achieve a percentage threshold of 55.6% and would not qualify and be certified as a Canadian program as it would not meet the minimum percentage threshold of 60%.

By contrast, if a Canadian filled the position of Music Composer (1 point) in this same production, it would be awarded 6 out of 9 points, or 66.7%, thereby meeting the minimum percentage threshold for certification.

Another example is a production with fewer key creative positions that allow for a maximum of 4 points in total. In this case, the number of Canadians filling these positions must be sufficient to achieve 3 out of 4 points (75%), which exceeds the 60% threshold. Similarly, for a larger-scale production with a total of 12 points available, the number of Canadians filling key creative positions must be sufficient to achieve 8 out of 12 points (66.7%).

Where bonus points are awarded, this should not negatively impact the score a production attains. That is, the bonus points should increase the total number of points a production earns (i.e., the numerator) and not increase the number of points needed to meet the minimum percentage threshold (i.e., by increasing the denominator). For example, where a production is awarded 5 out of 9 points (5/9) for key creative positions or functions filled or performed by Canadians and is also awarded 1 bonus point, the total score for the production will be 6 out of 9 points (6/9, or 66.7%), thereby meeting the minimum percentage threshold of 60%.

For greater clarity, for the production to qualify and be certified as a Canadian program, the number of points awarded must always reach or exceed the required threshold, regardless of the value of the denominator, which may change based on the specific type of production and the positions and functions filled and performed by Canadians (as such, scores of 6/10, 7/11, 8/12, 8/13 and 9/14 would reach or exceed the 60% threshold). For a score that results in a percentage below the required threshold, that percentage will not be rounded up to meet that threshold.

4. Canadian copyright ownership and the minimum percentage thresholds

4.1. Requirements based on Canadian copyright ownership levels

Tables 3, 4 and 5 below set out various requirements of the certification framework under three different levels of Canadian copyright ownership in a program.

Table 3 – Canadian copyright ownership in the program: 100%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 60% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁸⁸	Director OR Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director OR Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	All persons occupying producer, co-producer, line producer and production manager roles must be Canadian (foreign courtesy credits for non-Canadians occupying producer-related roles, which are available under certain conditions, are discussed below).	

Table 4 – Canadian copyright ownership in the program: More than 50% and less than 100%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 60% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁸⁹	Director OR Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director OR Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	Not less than 50% of persons occupying producer, co-producer, line producer and production manager and producer-related roles ⁹⁰ must be Canadian. AND The production must be produced by a Canadian production company that has no less than equal measure of decision-making responsibility with partners on all creative elements of the production.	

⁸⁸ This means that these key creative positions/functions, when used in a production, must be filled/performed by Canadians for the production to qualify and be certified as a Canadian program.

⁸⁹ *Ibid.*

⁹⁰ These roles are set out in the following section on foreign courtesy credits.

Table 5 – Canadian copyright ownership in the program: Not less than 20% and not more than 50%

Requirement	Live action productions	Animated productions
Minimum percentage threshold (includes bonus points)	Not less than 80% of the maximum number of points possible for the production.	
Mandatory Canadian positions and functions⁹¹	Director AND Screenwriter AND First Lead Performer (or first voice) OR Second Lead Performer (or second voice)	Director AND Scriptwriter and Storyboard Supervisor AND First Voice (or first lead performer) OR Second Voice (or second lead performer) AND Key Animation AND Camera Operator or Virtual Camera Operator
Canadian producer(s)	Not less than 50% of persons occupying producer, co-producer, line producer and production manager and producer-related roles ⁹² must be Canadian. AND The production must be produced by a Canadian production company that has no less than equal measure of decision-making responsibility with partners on all creative elements of the production.	

4.2. Foreign courtesy credits

The use of foreign courtesy credits applies only to programs with 100% Canadian copyright ownership.

To use foreign courtesy credits, applicants must submit an attestation of duties form.

Courtesy credits are available only for the following producer-related roles:

- Executive Producer, Senior Executive, Executive in Charge of Production, Supervising Producer, Associate Producer, Supervising Executive, Production Supervisor, Production Executive, Production Associate, Executive Consultant, Production Consultant and Creative Consultant.

For every non-Canadian obtaining a courtesy credit, a Canadian also needs to be credited in any producer-related role from the list above.

Non-Canadians may receive courtesy credits for producer-related roles provided that:

- the remuneration to the Canadian producer(s) exceeds the aggregate remuneration to non-Canadians in producer-related roles;

⁹¹ *Ibid*, footnote 88.

⁹² *Ibid*, footnote 90.

- with the exception of a non-Canadian lead performer, non-Canadians in producer-related roles must limit their time on the set to 25% of principal photography, and limit their role solely to that of observers;
- the duties of non-Canadians in producer-related roles shall be limited to non-creative, non-production-related functions. Such functions could include arranging financing or foreign distribution; and
- non-Canadians in producer-related roles may not interfere with the administrative financial and creative authority of the Canadian producer(s)/Canadian production company.

5. Certification criteria specific to certain types of productions

As set out below, different types of productions have specific criteria to qualify and be certified as Canadian programs.

Series

For a series to qualify and be certified as a Canadian program, the following criteria must be met, in addition to the general requirements listed in Section 1:

- a) The principal photography for all episodes must be completed within a 12-month period.
- b) The program must have a title, theme, and situation or set of characters common to each episode.
- c) Each episode must be of similar duration.

The production elements of a series can vary, and some individual episodes might not meet the minimum requirements of the points system. For a series in which some episodes do not meet the minimum percentage threshold to be considered a Canadian program:

- a) At least 60% of the series' episodes must meet or exceed the applicable minimum percentage threshold based on the points possible for the series, and the average percentage threshold for the entire series, based on the points awarded for each individual episode, must meet the applicable minimum percentage threshold.
- b) The episodes must be broadcast or otherwise distributed at equitable times.
- c) For live action series and animated series, each episode must meet the two mandatory requirements for the positions of Director or Screenwriter/Scriptwriter and Storyboard Supervisor, and First or Second Lead Performer (live action productions)/ First or Second Voice (animated productions) [for a minimum of 3 points for key creative positions]. For

animated productions, each episode must also fulfill the mandatory requirements regarding the Key Animation function and the position of Camera Operator/Virtual Camera Operator.

Episodes that are ineligible for qualification and certification as a Canadian program for any reason will not be segregated from the remainder of the episodes.

Live or live-to-tape productions of sports events or tournaments

Live or live-to-tape productions of sports events or tournaments will be considered Canadian if the following criteria are met:

- a) A Canadian production company exercises control over the production and provides the commentators.
- b) One of the major on-camera personalities (commentators, analysts or hosts) must be Canadian.

If the event or tournament takes place outside Canada, the production will qualify and be certified as a Canadian program only if Canadian-based teams or Canadian athletes participate in the sporting event or tournament. Other types of sports programs are assessed under the general requirements in Section 1.

Music video clips

Music video clips played in their entirety will be considered Canadian programs if the following criteria are met:

- a) The music is a Canadian musical selection.
- b) The music video clip meets at least one of the following conditions:
 - i. the video director or producer is Canadian;
 - ii. the video production facilities are located in Canada; or
 - iii. the video has already been qualified as a Canadian selection under regulations previously in effect.
- c) The music video clip must be played in its entirety. It will not be credited if played in part as an opening, a bridge or a closing, or as a backdrop for program credits.

To be considered Canadian programs, all performances exceeding five minutes in length, including commercially released music videos appearing outside music video clip

programs and logged as program category 8(b) Music video clips,⁹³ require a certification number from the Commission.

Music video programs

A music video program will be considered a Canadian program if all elements other than the music video clips qualify as Canadian, and if a minimum of 30% of those music video clips are Canadian. This is not applicable to music specialty services.

6. Dubbing

For programs broadcast on linear services, broadcasting undertakings may claim a Canadian program time credit in respect of certain dubbed programs, as set out below:

- a) for Canadian programs:
 - i. 100% + 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada;⁹⁴ and
 - ii. no time credit if dubbed outside of Canada.
- b) for foreign programs:
 - i. 33% Canadian time credit if dubbed in Canada using Canadian resources, from an official language of Canada or an Indigenous language in Canada into the other official language of Canada or an Indigenous language in Canada; and
 - ii. 50% Canadian time credit if dubbed in Canada using Canadian resources, from a language other than an official language of Canada or an Indigenous language in Canada into an official language of Canada or an Indigenous language in Canada.

7. Treatment of other programs

A. Programs generally recognized as Canadian programs without formal certification

Programs that are produced solely by Canadian broadcasting undertakings (which include Canadian online undertakings) and that meet the Canadian program criteria set out in this appendix will be recognized as Canadian programs without formal certification.

⁹³ The program categories and their definitions are set out in the appendix to *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010.

⁹⁴ Two forms of dubbing processes are recognized by the Commission when done in Canada using Canadian resources: lip synchronization or voice-over translation.

Interstitials (program category 12) and public service announcements (program category 13) that meet the criteria and are not produced solely by a Canadian broadcasting undertaking will also be recognized as Canadian programs without formal certification.

News and public affairs programs produced solely by Canadian broadcasting undertakings automatically qualify as Canadian programs and, therefore, are not subject to the criteria set out in this appendix and will be recognized as Canadian programs without formal certification.

B. Programs that will not qualify or be certified as Canadian programs

Infomercials, promotional and corporate videos (program category 14), such as those produced by groups and businesses for public relations reasons, recruitment, or other reasons, and other forms of advertising material will not qualify or be certified as Canadian programs.⁹⁵

Productions made up of pre-existing content will not qualify or be certified as Canadian programs, as follows: except for documentaries, productions that are made up predominantly of existing footage (stock, archival, library, B-roll, etc.) produced by a foreign producer, even if assembled or edited in Canada with Canadian narration.

Also, existing foreign productions or program segments will not qualify or be certified as Canadian programs or as Canadian documentaries by repackaging or adapting them using any of the following techniques:

- excerpts from an original foreign production;
- the use of a significant portion of the original foreign production in essentially unedited chunks; and
- the mention of the original foreign production in the credits.

Productions that have not used such mechanisms require more intense editing of stock footage. Relatively short portions of such footage are carefully selected from a variety of sources to illuminate and develop the subject.

Adult programming will not be certified as Canadian programs (see paragraphs 182-183 of *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements*, Broadcasting Regulatory Policy CRTC 2025-299, 18 November 2025).

⁹⁵ See *Definitions for new types of priority programs; revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999.

C. Exception to qualification

Upon application, where an applicant has provided compelling reasons why a production should qualify and be certified as a Canadian program as an exception to the criteria set out above, the Commission may certify, as a Canadian program, a production in which the following positions are filled by non-Canadians:

- a) Director and Writer positions, or
- b) First and Second Lead Performer/Voice positions,

as long as Canadians fill and perform all other key creative positions and functions.

Appendix 2 to Broadcasting Regulatory Policy CRTC 2025-299

Certification, verification, assessment and interpretation in regard to qualifying and certifying an audio-visual production as a Canadian program

This appendix sets out the Commission’s approach to the certification, verification and assessment of certain types of productions as well as the interpretation of terms used in Appendix 1 to Broadcasting Regulatory Policy 2025-299.

For the purposes of this appendix, “live action productions” refers to live action productions and continuous action animation productions, whereas “animation” and “animated productions” refers to animated productions other than continuous action animation productions.

1. Commission certification

The Commission will issue a final certification (“C” number) for a production that meets the criteria for certifying audio-visual productions as Canadian programs set out in Appendix 1 to *The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector – Part 1 – Certification framework for Canadian programs, artificial intelligence, data collection and publication, and reporting requirements*, Broadcasting Regulatory Policy CRTC 2025-299, 18 November 2025 (Broadcasting Regulatory Policy 2025-299).

To be certified, the production must be underway, with all key creative personnel under contract and committed budgets in place.

For programs generally recognized as Canadian without formal certification, and for News and public affairs programs produced solely by Canadian broadcasting undertakings (which include Canadian online undertakings) as set out in Section 7 of Appendix 1 to Broadcasting Regulatory Policy 2025-299, Canadian broadcasting undertakings do not need to apply for certification or submit production information unless the Commission requests that they do so or if they are requesting a time credit for those programs.

The Commission will also recognize as Canadian programs those productions that are certified as Canadian by the Minister of Canadian Heritage on recommendation of Telefilm Canada, or by the Canadian Audio-Visual Certification Office (CAVCO).

2. Verification

The Commission may require audited statements, affidavits and other legal documents in support of an application for Canadian certification of a production. For example, to verify producer control of a production, the producer must be prepared to demonstrate the necessary decision-making power by submitting, upon Commission request, ownership documents, contracts, attestation of duties forms, or other relevant information. The producer must also submit, upon Commission request, an independent legal opinion

confirming that financial and creative control of the production lies in the hands of Canadians.

3. Assessment of certain animated productions

A. Assessment of computer-animated productions

Depending on the nature of the production, computer-assisted animation is assessed using either the criteria for frame-by-frame animation or those for live action productions set out in Appendix 1 to Broadcasting Regulatory Policy 2025-299. Computer-generated animation is assessed on a case-by-case basis, generally using the criteria for frame-by-frame animation.

B. Assessment of productions that mix live action and animation formats

Productions may include a mix of live action and animation formats. The Commission will assess such productions based on the following considerations:

- A documentary on or including animation will be dealt with as a documentary under the criteria for live action productions. A documentary exclusively in animation format will be dealt with under the criteria for animated productions.
- Non-documentary productions with scenes combining live action and animation will generally be considered live action productions.
- Productions combining a mix of forms of traditional animation or less commonly used forms of traditional animation will be dealt with on a case-by-case basis according to the most applicable scheme for traditional animation (e.g., cell, puppet, pixilation or camera-less).
- Productions that include a mix of live action and animation formats will be assessed according to the criteria of the predominant format. If more than 20% of the production is in the minor format, both sets of criteria will be used.

4. Policy regarding artificial intelligence

As set out in Broadcasting Regulatory Policy 2025-299, key creative positions and functions should be filled and performed by humans. While artificial intelligence may serve as a potential tool to assist in the creation of Canadian content, humans should hold creative control.

5. Guiding principles for financial participation negotiations

As set out in Broadcasting Regulatory Policy 2025-299, negotiations among production partners regarding financial participation in Canadian programs should reflect the following principles:

- **Fair compensation and exploitation:** Ensure that remuneration, rights, and revenues are allocated in a way that fairly reflects the financial and human contributions to the production, while ensuring Canadian producers retain significant, equitable control and benefit from long-term exploitation.
- **Good faith negotiation:** Production partners negotiate in good faith.

6. Interpretation notes

The following interpretation notes assist the Commission in assessing and defining the various elements of the certification framework set out in this appendix and in Appendix 1 to Broadcasting Regulatory Policy 2025-299. Where the Commission does not have detailed specific descriptions or interpretations, those set out in the CAVCO certification guidelines may be used.

Animation: The process of creating the illusion of motion through the use of inanimate or still images. Animation can be produced using either traditional methods or digital synthesis in computer-assisted or computer-generated animation. Animation includes computer animation and traditional animation.

A. Computer animation

- **Computer-assisted animation:** The technique of revising existing animated material using computer technology.
- **Computer-generated animation:** The technique of generating animated movement principally or wholly through digital image synthesis using computers and computer programs.

B. Traditional animation: Traditional animation is referred to as either “continuous” or “frame-by-frame”.

- **Continuous action animation:** The process of filming real figures, shapes or objects as they are manipulated using mechanical or other devices. When the film or the recording is played, the rapid projection of the multiple images gives the illusion of movement.
- **Frame-by-frame animation:** The process of filming or otherwise recording a series of poses of figures, objects or shapes, or drawings, each slightly displaced from the preceding pose, or of drawing them in sequence on successive frames of recording material, one or more frames at a time. When the film is projected or the recording is played, the rapid projection of the multiple images gives the illusion of movement.

Among the many types of traditional animation are the following:

- **Pixilation animation:** The technique of using live action shots of real people in real locations, manipulated to achieve the effect of having actors

jump, jerk or twitch as if they were being animated. The three ways to obtain this effect are:

- by editing live action film to remove single frames;
 - by taking single-frame photographs of actors posed as puppets; and
 - by taking one frame at a time during normal action (speed-up) or slowed-down action (normal).
- **Cell animation:** “Cell” refers to a single piece of transparent celluloid material on which a drawing is made and subsequently recorded, exposing one or more frames of film for each such cell.
- **Puppet animation:** Puppet animation is accomplished by two methods:
 - In the first method, sometimes referred to as stop-motion animation, the manipulation of two- or three-dimensional figures is recorded frame-by-frame.
 - In the second method, real figures controlled by a puppeteer are filmed continuously in real time. This latter form of animation is subject to the same criteria as live action productions.
- **Camera-less animation:** This technique involves drawing or painting directly on film frames.
- **Other forms of traditional animation:** Less common forms of traditional animation include pin-screen, silhouette, anaform and sand (drawing and form) techniques. The Commission will generally consider these styles to be frame-by-frame animation.

Animation Director: For large feature productions, this role is sometimes created to supervise the animation of entire sequences. For television specials and series, the Animation Director will sometimes be responsible for supervising the entire production. (Also see Director [animated productions].)

Assistant Animation/In-betweening: The person(s) performing these key creative functions completes the breakdown drawings and in-between work once the key characters or figures have been determined by the animator and the animation has been completed. Breakdown drawings are the main drawings between the key animation drawings that help to define the path of action. In-between drawings are done after the main path of action breakdown drawings are completed.

Background: The person performing this key creative function provides finished backgrounds for individual scenes of a film.

Camera Operator: The person filling this key creative position operates the camera for the purpose of recording the sequences of cells and backgrounds according to instructions from the director.

Canadian: A person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate.

For the purposes of eligibility for the criteria of a Canadian program, First Nations, Inuit or Métis peoples in Canada meet any requirement that applies to a “Canadian.”

“At all relevant times” refers to the commencement of the person’s duties in relation to the production, and for the entire course of the filming or taping and post-production.

Canadian expenses: All expenses related to services and post-production and laboratory (including remuneration, fringe or employee benefits, and travel and living expenses incurred in Canada or abroad) paid to or in respect of Canadians or for services rendered by Canadian companies in Canada. This includes travel and living expenses for Canadians, even if spent outside of Canada. For greater clarity, this does not include non-Canadian expenses.

Canadian musical selection: A musical selection that conforms to the criteria in the definition of “Canadian selection” set out in subsection 2.2(2) of the *Radio Regulations, 1986*, as amended from time to time.

Canadian production company: A Canadian company carrying on business in Canada, with a Canadian business address, that is owned and controlled by Canadians and whose principal business is the production of film, videotape or live programs for distribution on television or in theatrical, industrial or educational markets.

Design Supervisor (sometimes referred to as Art Director or Character Designer): The person filling this key creative position is responsible for style, visual character, colour theme and colour continuity; develops the tones of the backgrounds, figures and textures; can sometimes create the actual characters jointly with the director; and prepares visual proportion charts of the characters to safeguard uniformity during the production.

Director (animated productions): The person filling this key creative position has overall control of the artistic and creative aspects of the production; establishes the instructional workbook for the production from script and storyboard; times the action and supervises the creative and technical aspects of the work in the various stages of production; provides shot-by-shot and frame-by-frame details of the camera movement and shot punctuation by preparing the timing of each individual scene at the storyboard stage; and prepares the bar-sheets or exposure sheet instructions for the animator. These functions may also be performed in collaboration with or by the person performing the function Key Animation or the role of Animation Director.

Director (live action productions): The person filling this key creative position controls the action and dialogue in front of the camera and is therefore responsible for realizing the intentions of the scripted concept.

Director of Photography or Chief Camera Operator: The person filling this key creative position is in charge of the camera and lighting crews working on a film. This person is responsible for making artistic and technical decisions related to the image. If there is no Director of Photography, the equivalent is Chief Camera Operator.

Dubbing: Refers to dubbing processes of lip synchronization or voice-over translation.

First Lead Performer/Voice and Second Lead Performer/Voice (live action productions/animated productions): The persons filling these key creative positions speak lines of dialogue, mime a scene, or interpret a character even where there is no dialogue. The First or Second Voice is an actor reading a character voice.

For program categories⁹⁶ 7 Drama and Comedy, 8 Music and dance, Music video clips and Music video programs, and 9 Variety, the leads are the actors, musical performers, singers, or dancers, etc. The hosts of these productions are not considered lead performers unless the hosts also perform.

In other program types, the leads will usually be the host, narrator, moderator, quizmaster, commentator or interviewer (a performer engaged to perform narrative material or commentary on- or off-camera), off-camera performer (a performer other than the narrator or commentator engaged to perform a role in a dramatic work off-camera), or the person who performs or reads the voice of a character in a film or animated production.

Guests on a magazine program or the subjects of biographical documentaries are not considered performers for certification purposes.

Head of Department Responsible for Costume Design: The person filling this key creative position is responsible for overseeing the costume department in a production. Their duties may include conceptualizing and designing costumes that align with the Director's vision, managing the costume department team, coordinating with other departments, sourcing or creating costumes, and ensuring that all costumes are completed on time and within budget.

Head of Department Responsible for Make-up Artists: The person filling this key creative position is responsible for overseeing and executing the make-up design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Make-up Artists manages a team of assistants or technicians and ensures the consistency and quality of the make-up throughout the project.

⁹⁶ The program categories and their definitions are set out in the appendix to *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010.

Head of Department Responsible for Hair Artists: The person filling this key creative position is responsible for overseeing and executing the hair design for a production. They collaborate closely with the Director, costume designers, and other creative team members to develop looks that enhance characters or themes. The Head of Department Responsible for Hair Artists manages a team of assistants or technicians and ensures the consistency and quality of the hair throughout the project.

Key Animation: The person performing this key creative function (sometimes referred to as the animator) is primarily responsible for the creative vitality of the production. This person draws the key phases of movement that determine the life and expression of the characters; creates the movement of figures or objects; roughs out the timing path or sequence of the animation; and provides on dope sheets technical information to the camera operator about the order in which individual animation phases should be photographed. This person depicts extremes of movement to provide key drawings and sets the style and character of the sequence. This person's work is part of the final print.

Layout Artist: The person filling this key creative position works from the storyboard to outline the graphic organization of an animated production in the form of line drawings of background environment and by staging action for the animators' and background artists' reference. This person also draws up camera field references. In feature work, this person will also provide a detailed tonal rendering for the background department. (A related role is that of the poser. The poser, however, is an animator whose work is preliminary and ephemeral and does not form part of the final print.)

Music Composer: The position of Music Director is not accepted as equivalent to Music Composer.

Music video clips: Short films, videotape productions or concert excerpts (clips) not produced primarily for the program in which they are presented, and which normally contain one musical selection with visual material.

Non-Canadian expenses: All expenses paid to or in respect of non-Canadians or paid to non-Canadian companies. This includes any remuneration (and fringe/employee benefits) paid to non-Canadians, even if earned in Canada. This also includes travel and living expenses for any non-Canadians involved in the production, whether incurred in Canada or abroad.

Opaquers: The person occupying this role applies paint to the inked-in outlines of acetate drawings or cells or does the equivalent using electronic methods.

Picture Editor (animated productions): The person filling this key creative position assembles individual shots and sequences in continuity and fits them to the various soundtracks; provides the sound effects track; analyzes the characteristics of the music or dialogue track; provides information to animators in terms of timed film frames; supervises the dubbing, the separate soundtracks; and liaises with laboratories to obtain prints.

Picture Editor (live action productions): Means Film Editor. The positions of Sound or Music Editor will not be acceptable in the place of Picture Editor. For videotape productions, the equivalent to Picture Editor is the Off-Line Editor.

Post-production/laboratory costs: Includes all costs for the post-production, including laboratory work, sound recording, and sound and picture editing, but excludes the costs for the key creative position of Picture Editor.

Producer: The person occupying this role is expected to, among other things, be involved in acquiring and developing the story, selecting and hiring the persons to fill and perform the key creative positions and functions, preparing the budget, obtaining financing, and controlling expenditures on and the distribution of the production.

Producer and key creative personnel costs: Includes:

- remuneration for producer(s), co-producer(s), and key creative personnel eligible for points but does not include remuneration for producer-related roles; and
- related fringe or employee benefits, and travel and living expenses for the above-noted individuals.

Production Designer or Art Director: For a live action production, the Art Director will be considered equivalent to Production Designer. The person filling this key creative position is in charge of a production's artistic design, which consists of everything that appears on the screen, including sets and properties. This person is generally responsible for the conception, planning and supervision of the overall visual design of the production.

Series: A program with two or more episodes produced by the same production company or producer.

Service costs: The total cost of a production including the costs related to the "non-key" creative personnel (i.e., production labour, executive producers), rentals and acquisition rights. Service costs do not include the following:

- producer and key creative personnel costs;
- costs for the acquisition of stock footage;
- post-production/laboratory costs;
- accounting and legal fees;
- insurance brokerage and financing costs;
- indirect expenses;
- contingency costs; and

- costs for goods purchased and other costs not directly related to production (such as overhead, financing, interest, legal, insurance, auditing, contingency, distribution and publicity, etc.).

Showrunner: A Showrunner is the creative leader of a production, overseeing its vision, tone, and style. A Showrunner manages the production process and ensures quality from start to finish, working closely with Writers to keep the narrative aligned with the creative direction from inception to final delivery. While a Showrunner provides oversight on a production and acts as a liaison between various elements of the production, which may include certain key creative positions and functions, producers, financiers and the broadcaster commissioning the programming, it is subordinate to a producer in terms of exercising the overall control of a production. A Showrunner is often called on to ensure that the creative direction of a production aligns with the creative vision and cultural relevance that is intended for the production. In pre-production, a Showrunner is the key creative authority that guides the development of the final script and concept of a production. In post-production, a Showrunner is the key creative authority that oversees the final edit of a production, providing notes on picture, sound, music and visual effects to shape the finished product for delivery. While a Showrunner may be present in production meetings, in the Writer's room or at the Director's table, a Showrunner is viewed as distinct from those roles on a production.

Special Effects Director: The person filling this key creative position is responsible for creating and overseeing the practical effects in a production. These effects include anything manually or mechanically manipulated, such as explosions, car crashes, animatronics, etc. The Special Effects Director collaborates closely with the producer(s), Director and Showrunner (where applicable) to ensure the effects align with the creative vision, meet artistic and technical standards, and are executed safely and efficiently. The Special Effects Director directs the special effects team(s), oversees the design and implementation of effects, reviews work for quality and consistency, and ensures that special effects are completed on time and within budget.

Tracer/Photocopier: The person occupying this role copies the animated line drawings onto acetate sheets or does the equivalent using electronic methods.

Virtual Camera Operator: The person filling this key creative position manages digital cameras within virtual environments, directing scenes and creating dynamic camera movements in a production. This person also collaborates with Directors and visual effects teams to ensure that camera work aligns with the creative vision for the production.

Visual Effects Director: The person filling this key creative position is responsible for overseeing and managing the creation and integration of visual effects in a production. The Visual Effects Director collaborates with the producer(s), the Director and the Showrunner (where applicable) to ensure that visual effects enhance the storytelling, meet artistic and technical standards, and are executed efficiently. The Visual Effects Director directs the visual effects team(s), oversees the design and implementation of

effects, reviews work for quality and consistency, and ensures that visual effects are completed on time and within budget.

Writer: This includes the following key creative positions:

- **Screenwriter (live action productions):** The person who fills this key creative position is involved in any stage of developing the screenplay (including outline or treatment, various drafts, dialogue polishing, and final shooting script).
- **Scriptwriter (animated productions):** The person who fills this key creative position provides the written treatment; outlines the continuity of the story, dialogue or action and the parts the various characters will play in it; and elaborates upon the script during the process of visual development at the storyboard stage.
- **Storyboard Supervisor (animated productions):** Depending on the type of production and studio organization, the person filling this key creative position (either in co-operation with or instead of the Writer) creates a series of pictures to illustrate the development of the story in parallel with the written text; determines the flow of action from one scene to another; and creates a series of drawings with associated continuity showing the major action and scene changes.

In the case of a dance production, the choreographer will be considered equivalent to the Writer.

THIS IS EXHIBIT "K"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUB', is written over a horizontal line.

Commissioner for Taking Affidavits

Audiovisual Co-production Treaty between the Government of Canada and the Government of Ireland

The government of Canada and the government of Ireland (the “Parties”),

Recognizing that quality audiovisual treaty co-productions contribute to the vitality of the audiovisual industries of the Parties and to the development of their economic and cultural exchanges;

Appreciating that cultural diversity is nurtured by constant exchanges and interaction between cultures and that it is strengthened by the free flow of ideas;

Considering that, in pursuit of international cooperation, the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, done at Paris on 20 October, 2005, encourages audiovisual co-production treaties as a means of promoting international cooperation;

Agreeing that these exchanges may enhance the relations between the Parties;

Recognizing that these objectives may be achieved by granting, insofar as possible, domestic benefits to qualified audiovisual treaty co-productions;

Have agreed as follows:

Article 1

Definitions

For the purpose of this Treaty:

- a. “audiovisual” means a film, television, and/or video work on any production support known or not yet known for any distribution platform intended for viewing;
- b. “competent authority” means for each Party, the authority which has the overall responsibility for the implementation of this Treaty;
- c. “administrative authority” means for each Party, the designated authority which administers this Treaty;
- d. “national” means a natural or legal person as defined by the law of the respective States and which, under that law, has the right to benefit from the application of this Treaty;
in the case of Ireland, “national” also includes:
 - i. a national of a Member State of the European Union; or
 - ii. a national of another Contracting Party to the *Agreement on the European Economic Area* of 2 May, 1992;
 and “Irish”, in this context, shall mean any one or more of the same;
- e. “producer” means a national managing the production of a work;
- f. “third-State” means a State which has a co-production treaty or memorandum of understanding with at least one of the Parties;
- g. “non-party” means a State which does not have a co-production treaty or memorandum of Understanding with either Party;
- h. “work” means an audiovisual work to be subsequently recognized as an audiovisual treaty co-production by each Party and includes every version of that work;

- i. “Canadian elements” means expenditures made in Canada by the Canadian producer or expenditures on Canadian creative and technical personnel made in another State or States by the Canadian producer, in the course of the production of a work;
- j. “Irish elements” means expenditures made in Ireland by the Irish producer or expenditures on Irish creative and technical personnel made in another State or States by the Irish producer, in the course of the production of a work.

Article 2

General Conditions

1. Each Party shall consider every work as if it were its own production in establishing whether that work is entitled to the same benefits as that Party’s own audiovisual industry.
2. Each Party shall grant the benefits referred to in paragraph 1 to the producers of a work who are its own nationals.
3. Each Party shall strive to achieve overall balance of the financing of works co-produced over a period of five years.
4. Each Party shall ensure that its producer fulfills, at a minimum, the requirements set out in articles 3 to 5 for a work to be considered eligible for the benefits of this Treaty.
5. The provisions relevant to the administration of this Treaty will be set out in the Annex.

Article 3

Participating Producers

1. To be eligible under this Treaty, a work shall be jointly produced by producers of both Parties.
2. In addition to producers of Canada and Ireland, third-State producers may also participate in a work.

Article 4

Proportionality

1. The share of work expenditures spent on Canadian elements shall be in reasonable proportion to the Canadian financial participation.
2. The share of work expenditures spent on Irish elements shall be in reasonable proportion to the Irish financial participation.
3. The Parties, through the mutual written consent of their administrative authorities, may recommend exemptions from paragraphs 1 and 2, notably for storyline and creative purposes.

Article 5

Nationality of Participants

1. Every participant in a work shall be a national of one of the Parties save as otherwise specifically provided in the Annex to this Treaty.
2. The Parties, through the mutual written consent of their administrative authorities, may in addition to the provisions of the Annex to this Treaty recommend exemptions from paragraph 1, notably to allow third-State nationals or non-party nationals to participate in a work for storyline, creative, or production purposes.

Temporary Entry and Residence

Subject to their respective laws and regulations, each Party shall facilitate the following:

1. the temporary entry into and residence in their respective territories of the creative and technical personnel engaged by the producer of the other Party for the purpose of the work;
2. the temporary entry and re-export of any equipment necessary for the purpose of the work.

Article 7

Copyright and Revenues

The Parties, through their administrative authorities, shall ensure that the sharing of copyright and revenues is, in principle, proportional to their producer's financial contribution, and no lesser than the minimum financial contribution identified in the Annex.

Article 8

Distribution

1. Each Party, through its administrative authority, shall ensure that its producer demonstrates the existence of a distribution or broadcasting commitment for the work in the territories of each Party and, if third-State producers are involved in the work, in the territory of each of their respective States.
2. The Parties, through the mutual written consent of their administrative authorities, may accept an alternative distribution commitment in lieu of the commitment described in paragraph 1.

Article 9

Material Changes

Each Party shall ensure that its producer promptly advises its administrative authority of any material change to a work that may affect its qualification for benefits under this Treaty.

Article 10

Communication

1. Each Party, through its competent authority, shall promptly notify the other of any amendment or judicial interpretation of domestic law that may affect benefits available under this Treaty.
2. Each Party, through its administrative authority, shall collect and share statistical information on the performance, distribution or exhibition, on its territory, of the work receiving benefits under this Treaty.

Article 11

Annex

1. The Annex to this Treaty is for administrative purposes and is not legally binding.
2. The Annex may be modified by the Parties, through the mutual written consent of their competent authorities, provided that these modifications do not conflict with this Treaty.

Article 12

Meetings and Amendments

1. Meetings will be held as needed between representatives of the competent authority of each Party to discuss and review the terms of this Treaty.
2. The Parties may amend this Treaty by mutual written consent. Each Party shall notify the other Party in writing of the completion of the domestic procedures required for the entry into force of the amendments. The amendments shall enter into force on the first day of the first month following the date of the second of these notifications.

Article 13

Transitional Provisions

1. A Party shall not discontinue benefits granted for a work for a period of two years following termination of this Treaty, solely due to that termination.
2. This Treaty replaces the *Agreement on Film and Video Relations between the Government of Canada and the Government of Ireland*, done at Dublin on 4 April 1989 (the “1989 Agreement”). A Party may continue to confer benefits pursuant to the 1989 Agreement in relation to a work which qualified for benefits under that earlier treaty, provided that:
 - a. the producer of the work, which qualified under the 1989 Agreement, notifies each administrative authority, in writing, that it elects to continue receiving such benefits under that earlier treaty; and
 - b. the election is made within six months of the date of the entry into force of this Treaty.

Article 14

Settlement of Disputes

The Parties shall endeavor to resolve, by mutual consent, any dispute regarding the interpretation or application of this Treaty. They shall do so through consultations.

Article 15

Entry into Force

1. Each Party shall notify the other Party in writing of the completion of its internal procedures required for the entry into force of this Treaty. This Treaty shall enter into force on the first day of the first month following the date of the second notification of the completion of the procedures required for the entry into force.
2. This Treaty shall remain in force for a period of five years from the date of entry into force.
3. This Treaty shall renew automatically at the end of five years from the date of entry into force and at the end of every subsequent five-year period.
4. A Party wishing to terminate this Treaty shall give written notice of termination to the other Party at least six months before the end of the fifth year following entry into force or, if this Treaty is renewed, at least six months before the end of any subsequent five-year period.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Government, have **349** signed this Treaty.

DONE at Ottawa on the 4 day of February 2016, in duplicate, in the English and French languages, each version being equally authentic.

Mélanie Joly, Minister of Canadian Heritage

**FOR THE GOVERNMENT
OF CANADA**

Dr. Ray Bassett, Ambassador of Ireland to Canada

**FOR THE GOVERNMENT
OF IRELAND**

Annex

This Annex is for administrative purposes and is not part of the *Audiovisual Co-Production Treaty between the Government of Canada and the Government of Ireland* (the “Treaty”).

The Parties understand that:

1. Definitions

The definitions of the Treaty apply to this Annex.

In this Annex:

(a) “key position” includes the following eight (8) positions, set out below by type of work:

- i. animation: director, screenwriter, music composer or sound designer, lead actor (voice) or second lead (voice), animation director, storyboard supervisor or picture editor, special effects director or stereoscopy director, and layout director;
- ii. documentary: director, screenwriter or researcher, music composer, lead actor or narrator, second lead actor or narrator, director of photography, art director or production designer, and picture editor;
- iii. fiction: director, screenwriter, music composer, lead actor, second lead actor, director of photography, art director or production designer, and picture editor;
- iv. for types of work, other than those described above, such as non-linear digital works, the positions to be included as key positions will be determined by mutual consent of the administrative authorities;

(b) “dubbing” means the production of any version of the work in a language other than its original language or languages.

2. Minimum financial contribution by producers

- a. The Canadian producer of a work will contribute a minimum of fifteen (15) percent of the total production budget.
- b. The Irish producer of a work will contribute a minimum of fifteen (15) percent of the total production budget.
- c. In the case of a multipartite work with a third-State producer, the minimum contribution of each of the producers will not be lower than ten (10) percent of the total production budget.

All eight (8) key positions may be filled by one or more nationals of either Party or as follows:

- a. At least seven (7) of the eight (8) key positions in the production of a work will be filled by:
 - i. one or more Canadian nationals; and
 - ii. one or more Irish nationals.
- b. (b) The remaining key position in the production of a work from subparagraph (a) may be filled by a third-State national or a non-party national.
- c. (c) Notwithstanding subparagraph (a), in a high budget work, a second key position out of the eight (8) in the production of the work, may be filled by a third-State national or a non-party national. Thresholds for high production budgets will be defined by the administrative authority of each Party.

4. Location and technical services

- a. A work will be produced in the territory of a Party and may also be produced in the territory of a third-State producer.
- b. The administrative authorities may, by mutual written consent, allow a work to be produced in the territory of a third-State or a non-party for storyline and/or creative reasons.
- c. The administrative authorities may, by mutual written consent, allow technical services to be provided in the territory of one or more third-State or non-parties provided that producers demonstrate the non-availability of those services in the territory of either Party and provided that the value of such services does not exceed twenty-five (25) percent of the total production budget of a work.

5. Dubbing

- a. All dubbing services of a work, in English and French or the other Party's official language(s), will be performed in the territory of one of the Parties or of a third-State producer.
- b. Where a producer can reasonably demonstrate that the dubbing capacity does not exist in the territory of either Party or of a third-State producer, the administrative authorities may by mutual consent allow the dubbing to be performed elsewhere.

6. Modification

The Parties may modify the provisions of this Annex, through the mutual written consent of their competent authorities, provided that these modifications do not conflict with the Treaty.

THIS IS EXHIBIT "L"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to read 'AUB', is written over a horizontal line.

Commissioner for Taking Affidavits

**AUDIOVISUAL TREATY
COPRODUCTIONS GOVERNED
BY CANADIAN TREATIES
THAT HAVE
ENTERED INTO FORCE
BEFORE JULY 1ST, 2014**

GUIDELINES

Preamble

These guidelines apply **only** to Canadian audiovisual treaties¹ that have entered into force **before July 1st, 2014**.

As each treaty is distinct, producers must ensure they acquaint themselves fully with the applicable treaties before consulting these guidelines. In the event of a discrepancy between these guidelines and the terms of the applicable coproduction treaty, the terms of the coproduction treaty will prevail.

The goal of these guidelines is to inform Canadian producers of the requirements and procedures to follow when submitting an application for a project to be recognized as an audiovisual treaty coproduction. Telefilm Canada reserves the right to require additional documents as necessary.

1. MANDATE AND INTENT

1.1. Mandate

Telefilm Canada (Telefilm) is a federal cultural agency dedicated to the development and promotion of the Canadian audiovisual industry.

Telefilm is the administrative body responsible for examining projects to assess whether they can eventually be recognized as audiovisual treaty coproductions. A recommendation to that effect is sent by Telefilm to the Minister of Canadian Heritage via the Canadian Audio-Visual Certification Office ([CAVCO](#)). The Minister is responsible for rendering the final decision on whether a production is an audiovisual treaty coproduction.

Recognition of a project as an audiovisual coproduction must also be obtained from the authority of each coproducing country relevant to the project.

A project that is recognized as such by all the coproducing countries is granted a national production status, which enables Canadian producers to access incentives available in Canada for the Canadian expenses that are eligible and it also enables foreign producers to access their own country's incentives, if any. Canadian producers are responsible for ensuring that their projects comply with the requirements of the various funding programs and federal and provincial tax credits to which they wish to apply.

In addition to applying to Telefilm for a recommendation as a coproduction, producers must apply to the Canadian Film or Video Production Tax Credit (CPTC) program, through CAVCO, to obtain a "Canadian film or video production certificate". This certificate gives the production national status and can be used to obtain a federal tax credit. If a production meets the terms of the treaty, but does not meet the requirements of the CPTC, or if the producer does not wish to apply for the CPTC, the producer may request an attestation of coproduction status² instead of the CPTC certificate. This request must

¹ The expressions "audiovisual coproduction treaty," "coproduction treaty" and "treaty" are used interchangeably throughout this document and refer to international treaties and memoranda of understanding between Canada and a foreign country that stipulate the terms regarding recognition of audiovisual treaty coproductions governed by treaties between signing countries. Similarly, the expressions "audiovisual treaty coproduction", "audiovisual coproduction" and "coproduction" are also used interchangeably.

² The attestation confers the national production status.

also be made through CAVCO.

For more information on the CPTC program and the attestation process, please consult the CAVCO guidelines and the [public notice #2004-01](#) issued by CAVCO to that effect.

1.2. Text and intent of treaties

Coproduction treaties between Canada and other countries allow Canadian and foreign producers to pool their resources in order to coproduce projects that will benefit from national production status in their respective countries. Countries participating in these coproduction treaties expect that an overall balance between minority and majority coproductions, recognized as such by each of the coproducing countries, be maintained over time. Information regarding [coproduction treaties](#) is available on Telefilm's website.

Coproducers are required to respect the text and intent of the coproduction treaties, as well as all administrative requirements arising from these treaties.

2. ELIGIBILITY CRITERIA

Eligible projects must be coproduced with foreign producers from States that have signed an audiovisual coproduction treaty with Canada. In cases where the coproducers wish to undertake multipartite coproductions, the additional foreign producers must come from a State that has signed a coproduction treaty or memorandum of understanding with at least one of the coproducing countries.

The coproducers must own the rights and options necessary for the production and exploitation of the project. Please refer to article 3.1 for further information.

2.1. Eligible Canadian applicants and their personnel

The application for a recommendation as an audiovisual coproduction must be submitted by a Canadian-controlled production company, as determined under sections 26 to 28 of the [Investment Canada Act](#). The applicant must also have its headquarters and carry out its activities in Canada.

Furthermore, individuals acting as producers and other key production personnel exercising creative and financial control over the project must be Canadian citizens as defined in the [Citizenship Act](#) or permanent residents as stated in the [Immigration and Refugee Protection Act](#).

All participants in the project must be nationals from the coproducing countries, subject to the terms set out in the applicable coproduction treaties and the approval of the authorities of the coproducing countries. The status of "Canadian national" must be maintained throughout the participants' involvement in the coproduction.

2.2 Eligible projects

Audiovisual work

An audiovisual work that meets the requirements and conditions described in the applicable coproduction treaty or established by the authorities can be recognized as an audiovisual coproduction.

An audiovisual work is defined as a film and/or a television production of any length and genre³, including a live-action (fiction or documentary) or animation production, which complies with the provisions of the audiovisual industry in each coproducing country.

The producers must ensure their project meets the requirements of the funding programs and tax credits to which they wish to apply (notably in terms of genre, type of work, support, length, etc.).

Origin of the project

A project may be originally conceived for any type of work provided that the creative, financial and technical control remains vested with the coproducers.

A project previously conceived in a non-coproducing country⁴ may be eligible subject to the coproducer(s) demonstrating that since acquiring the underlying rights, they have substantially developed and scripted the project. The coproducers must be fully and directly responsible for the development and implementation of the creative, artistic, technical and financial elements, and all credited scriptwriters must, for Canada, be citizens or permanent residents, and for other coproducing countries, be citizens or residents as required by the authorities of the coproducing countries.

Projects conceived, developed or scripted by professionals from non-coproducing countries and then entrusted to the coproducers for financing and shooting are not eligible to be recognized as treaty coproductions.

3. RECOMMENDATION REQUIREMENTS

In order to ensure an overall balance of the financial, technical and creative participation from each of the coproducing countries, minimal contribution requirements and conditions are set out in the coproduction treaties. In the case of coproductions made with multiple coproducing countries, a minimal creative and technical contribution is required from each participating country.

Since audiovisual coproductions are intended to benefit the coproducing countries, the participation of nationals from non-coproducing countries will only be considered if the treaty allows it.

3.1. Intellectual property

Subject to the terms set out in the applicable coproduction treaty, intellectual property rights must be shared between the coproducers in proportion to their financial participation.

3.2. Creative and technical participation

The creative and technical participation must be, in principle, proportional to the financial contribution of each coproducing country. For instance, if the financial contribution of the Canadian producer represents 25% of the total budget, 25% of the creative and technical positions must be filled by Canadians.

³ Under the [Income Tax Act](#), certain genres can be excluded from certification by CAVCO.

⁴ A “non-coproducing country” means any country that does not have a coproduction treaty with the coproducing countries or that is not participating in the production as a coproducing country.

Eligible personnel

The proportionality between the financial contribution and the creative and technical participation is measured against a selected number of key positions.

Key personnel

Subject to the provisions of the coproduction treaties, all key personnel for live-action (fiction or documentary) or animation productions must be citizens or permanent residents of Canada or of the coproducing country(ies) or, in the case of coproductions with an EU member country, citizens or permanent residents of an EU country.

Key personnel for live-action productions (fiction and documentary)	Key personnel for animation Conventional animation (2D)	Key personnel for animation 3D animation
• Director • Scriptwriter(s) • 1st lead performer or narrator (based on on-screen time) • 2nd lead performer or narrator (based on on-screen time) • Director of photography • Production designer/Art Director • Picture editor (off-line) • Music composer	• Director • Scriptwriter(s) • Storyboard supervisor • Design supervisor (art director) • Voice of lead performer (based on on-screen time) • Voice of 2nd lead performer (based on on-screen time) • Picture editor (off-line) • Music composer	• Director • Scriptwriter(s) • Storyboard supervisor • Design supervisor (art director) • Character model supervisor • Motion capture supervisor • Animation director • Voice of lead performer (based on on-screen time) • Voice of 2nd lead performer (based on on-screen time) • Picture editor (off-line) • Music composer

Non-creative personnel from non-coproducing countries when location shooting is done in non-coproducing countries

Subject to the provisions of the applicable coproduction treaties, the participation of non-creative personnel from a non-coproducing country can only be authorized by each country's authorities if:

- The position is a non-creative technical position or a role as an extra;
- The authorities have approved location shooting in a non-coproducing country; AND
- The participation of the non-creative personnel is deemed necessary for the location work to be undertaken in a non-coproducing country.

The participation of all non-creative personnel in a non-coproducing country must be approved by the authorities of all coproducing countries.⁵

⁵ Please consult Telefilm Canada's [website](#) for the list of non-creative technical positions.

Performers from non-coproducing countries

Subject to the provisions of the applicable coproduction treaties, the coproducers may request the participation of performers from non-coproducing countries if they are able to demonstrate, to the satisfaction of both Telefilm and the coproducing country's authority, that the participation of a performer from a non-coproducing country is indispensable to the storyline, financing and/or commercial success of the project. However, projects must respect the requirement for the maximum number of performers allowed in the applicable coproduction treaty. In all cases, the participation of performers from non-coproducing countries must be approved by the authorities of the coproducing countries.

For reference purposes and only where the applicable treaty allows for more than one performer from a non-coproducing country, the following table indicates the number and type of performers from a non-coproducing country usually allowed by type of project:

Type of project	Feature film or Made-for-TV movie	Television Series		
		of up to 6 episodes	of 7 to 13 episodes	of 14 to 26 episodes
Number and type of performers from a non-coproducing country	1 lead performer and 1 cameo ⁶	1 lead performer present during the entire series and one guest star ⁷ present only during one episode	1 lead performer present during the entire series and a maximum of 2 guest stars present throughout the entire series in up to 2 episodes.	1 lead performer present during the entire series and a maximum of 4 guest stars present throughout the entire series in up to 4 episodes.

3.3. Financing and expenditures

The minimum financial contributions that must be provided by each of the coproducers are set out in the applicable coproduction treaties.

All financing received from Canadian individuals or companies should be allocated primarily to Canadian expenditures⁸.

3.4. Distribution and revenue sharing

Distribution control

Subject to the applicable treaty's provisions, all exploitation and distribution rights on the Canadian market must be under the effective control of the Canadian producer or the Canadian distributor/broadcaster.

Revenue sharing

⁶ Cameo means the brief appearance of an internationally known personality from a non-coproducing country in a feature film or made-for-TV movie and, generally, the cameo's participation does not involve more than three shooting days.

⁷ Guest star means an internationally known personality that makes a brief appearance in one or more episodes of a series.

⁸ All eligible expenses related to services provided by or to Canadians, in or outside of Canada, for the purpose of the production.

Subject to the applicable treaty's provisions, the Canadian producer must retain a fair share of the revenues collected from all territories, including those of the coproducing country or countries.

After recoupment of the production costs, the Canadian producer's revenue share should be at least equivalent to the applicable treaty's minimum financial contribution or to the Canadian financial contribution in the coproduction, whichever is greater.

3.5. Shooting and production locations

The following rules apply subject to the terms set forth in the applicable coproduction treaties and the approval of the authorities.

Exceptions to these rules can only be granted if the applicable treaties allow for such exceptions to be made.

Location shooting

Location shooting in a non-coproducing country may be authorized if the storyline so requires.

Studio shooting

Studio shooting must take place in the territory of the coproducing countries. Studio shooting in a non-coproducing country is not permitted.

Versioning and dubbing

The production must be available for exploitation in French and/or English. The coproducers must ensure that versioning and dubbing in French or English is always carried out in either coproducing country, subject to the treaty's requirements.

3.6. Screen credits

Subject to the applicable treaties' provisions, screen credits provided to any individual or corporation should not reduce the prominence of the coproducers or give the impression that a project is a coproduction produced with a country other than the coproducing countries.

Audiovisual works produced as treaty coproductions must be presented with the mention "A Canada-[coproducing country] Coproduction" or "A [coproducing country]-Canada Coproduction".

Canadian and foreign coproducers (individuals) must be clearly, predominantly and equally identified in the credits since, in principle, credits should not imply that the control of the production rests with anyone other than the Canadian producer and the foreign coproducer(s).

The coproducers' copyright must also appear in the credits.

Screen credits for non-coproducing country personnel

Subject to the applicable treaties' provisions, participants from a non-coproducing country, as described in section 3.2, may receive screen credits according to their role in the project (as performers or technicians).

Producer-related credits may be granted as a courtesy to non-coproducing country participants, provided that their functions have not interfered with the coproducers' financial and creative authority and that these functions are connected either to the distribution or financing of the project, through the allotment of production services under the strict control of the coproducers. An [affidavit](#) to this effect must be submitted to Telefilm no later than at the time of submission of the provisional screen credits.

A list of a producer-related courtesy credits is available on Telefilm's [website](#).

4. PROCESS AND DEADLINES

Telefilm's recommendation process for audiovisual coproductions comprises two stages:

- Application for a preliminary recommendation
- Application for a final recommendation

To obtain a recommendation, applicants must complete the relevant forms and submit their request electronically via [eTelefilm](#).

A production may not be recognized as an audiovisual coproduction unless it is recognized as such by all the authorities involved in the production.

Please note that each authority has its own administrative procedures and determines the documentation necessary for it to recognize a project as a coproduction.

The list of foreign authorities is available on Telefilm's [website](#). Information and documents provided by the applicant in the application process may be shared between the various authorities of the countries that are party to the coproduction treaty.

4.1. Preliminary recommendation applications

Applications for preliminary recommendations, duly completed and signed by the Canadian producer (or his or her authorized representative), must be submitted as follows:

- For live-action projects (fiction or documentary): **at least 30 days before** the start of the principal photography.
- For animation projects: at the time of key animation, or, for a series, at the latest when the master video of the first episode is produced.

In the case of projects that include a funding application to the [Canada Feature Film Fund](#): please note that the preliminary recommendation application is now incorporated into the funding application – consequently, you are no longer required to submit separate application forms.

4.2. Final recommendation applications

Telefilm suggests that Canadian producers submit their final recommendation application as soon as possible after completing the production, provided they have all the required documents in hand (see the [list of documents](#) on Telefilm's website).

Telefilm will examine the completed final recommendation applications so as to ensure that the project

still respects the applicable treaty and the conditions set out in the preliminary letter of recommendation. Following evaluation of the application and once final approval from the foreign authorities is received, Telefilm will convey its final recommendation letter to the Minister of Canadian Heritage via CAVCO.

Producers are responsible for verifying and respecting the applicable deadlines for the funding programs and tax credits to which they wish to apply. Please note that Telefilm's processing time for complete final recommendation applications is approximately 8 weeks.

4.3 Major changes

Producers must inform Telefilm as soon as possible of any change to the project that may have an impact either on the project's eligibility or the eligibility of its applicants according to the applicable coproduction treaty. Such changes could include corporate changes and/or changes made to the budget, key personnel, the coproducer, etc.⁹

5. GENERAL INFORMATION

For further information regarding audiovisual treaty coproductions, please consult Telefilm's website as well as the [FAQs](#), which form an integral part of these guidelines.

Telefilm reserves the right to modify its guidelines, application forms and FAQs as necessary. The implementation and interpretation of these guidelines are made entirely at Telefilm's discretion, which ensures that any recommendation as a coproduction be granted to projects that respect the text and intent of the applicable coproduction treaties. For all questions regarding the interpretation of these guidelines, Telefilm's interpretation will prevail.

All information provided, obtained, created or conveyed as part of the application or of the project is subject to the [Access to Information Act](#) and the [Privacy Act](#).

In the event of a discrepancy between these guidelines and the terms of the applicable coproduction treaty, the terms of the coproduction treaty will prevail.

⁹ Consult the [FAQ](#) for other examples of major changes that must be declared to Telefilm.

THIS IS EXHIBIT "M"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be "AUBJ", is written over a horizontal line.

Commissioner for Taking Affidavits

GUIDELINES

AUDIOVISUAL TREATY COPRODUCTIONS GOVERNED BY CANADIAN TREATIES THAT ENTERED INTO FORCE FROM JULY 1, 2014 ONWARDS:¹

[BELGIUM \(BELGIAN COMMUNITIES\)](#)

[CHINA](#)

[FRANCE](#)

[INDIA](#)

[IRELAND](#)

[JORDAN](#)

[LUXEMBOURG](#)

[NEW ZEALAND](#)

[UKRAINE](#)

¹ In some cases, the [guidelines](#) for audiovisual treaties that entered into force **before** July 1, 2014 may also apply to certain provisions of the treaties listed above (see notably the treaties with India and China). Please see the webpage of the treaty applicable to your project for more details.

Preamble

These guidelines follow the implementation of [Canada's Policy on Audiovisual Treaty Coproduction](#) by Canadian Heritage, in February 2011, the objective of which is to position Canada as an audiovisual coproduction partner of choice.

These guidelines apply **only** to Canadian audiovisual treaties² that entered into force **as of July 1, 2014**. Guidelines applicable to audiovisual coproduction treaties in force before that date will continue to apply.

As each treaty is distinct, producers must ensure they acquaint themselves fully with the applicable treaties before consulting these guidelines. In the event of a discrepancy between these guidelines and the terms of the applicable coproduction treaty, the terms of the coproduction treaty will prevail.

The goal of these guidelines is to inform Canadian producers of the requirements and procedures to follow when submitting an application for a project to be recognized as an audiovisual treaty coproduction. Telefilm Canada reserves the right to require additional documents as necessary.

1. MANDATE AND INTENT

1.1. Mandate

Telefilm Canada (Telefilm) is a federal cultural agency dedicated to the development and promotion of the Canadian audiovisual industry.

Telefilm is the administrative body responsible for examining projects to assess whether they can eventually be recognized as audiovisual treaty coproductions. A recommendation to that effect is sent by Telefilm to the Minister of Canadian Heritage via the Canadian Audio-Visual Certification Office ([CAVCO](#)). The Minister is responsible for rendering the final decision on whether a production is an audiovisual treaty coproduction.

Recognition of a project as an audiovisual coproduction must also be obtained from the authority of each coproducing State³ relevant to the project.

A project that is recognized as such by all the coproducing States is granted a national production status, which enables Canadian producers to access incentives available in

² The expressions “audiovisual coproduction treaty,” “coproduction treaty” and “treaty” are used interchangeably throughout this document and refer to international treaties and memoranda of understanding between Canada and a foreign State that stipulate the terms regarding recognition of audiovisual treaty coproductions governed by treaties between signing States. Similarly, the expressions “audiovisual treaty coproduction,” “audiovisual coproduction” and “coproduction” are also used interchangeably.

³ The expression “coproducing State(s)” means the States participating in the coproduction and governed by a specific treaty or memorandum of understanding with Canada, along with third-States when applicable. See FAQs for more details.

Canada for eligible Canadian expenses and also enables foreign producers to access their own State's incentives, if any. Canadian producers are responsible for ensuring that their projects comply with the requirements of the various funding programs and federal and provincial tax credits to which they wish to apply.

In addition to applying to Telefilm for a recommendation as a coproduction, producers must apply to the Canadian Film or Video Production Tax Credit (CPTC) program, through CAVCO, to obtain a "Canadian film or video production certificate". This certificate gives the production national status and can be used to obtain a federal tax credit. If a production meets the terms of the treaty, but does not meet the requirements of the CPTC, or if the producer does not wish to apply for the CPTC, the producer may request an attestation⁴ of coproduction status instead of the CPTC certificate. This request must also be made through CAVCO.

For more information on the CPTC program and the attestation process, please consult the CAVCO guidelines and the [Public Notice #2004-001](#) issued by CAVCO on this subject.

1.2. Text and Intent of Treaties

Coproduction treaties between Canada and other States allow Canadian and foreign producers to pool their resources in order to coproduce projects that will benefit from national production status in their respective States. States participating in these coproduction treaties expect that an overall balance between minority and majority coproductions, recognized as such by each of the coproducing States, be maintained over time. Information regarding [coproduction treaties](#) is available on Telefilm's website.

Coproducers are required to respect the text and intent of the coproduction treaties, as well as all administrative requirements arising from these treaties. Please note that coproducers must also comply with the requirements of the annex of the applicable treaty.

2. ELIGIBILITY CRITERIA

An eligible project must be coproduced with a foreign producer from a State that has signed an audiovisual coproduction treaty with Canada.

In a case where those coproducers wish to undertake a multipartite project, the additional foreign producer must come from a State that has a coproduction treaty or memorandum of understanding with at least one of the coproducing States. Producers are responsible for apprising their respective authorities of the treaties being used in the production of a work in a timely fashion.

The coproducers must own the rights and options necessary for the production and exploitation of the project. Please refer to section 3.1 below for further information.

⁴ The attestation confers the national production status.

2.1. Eligible Canadian Applicants

The application for a recommendation as an audiovisual coproduction must be submitted by a Canadian-controlled production company, as determined under sections 26 to 28 of the [Investment Canada Act](#). The applicant must also have its headquarters and carry out its activities in Canada.

Furthermore, individuals acting as producers must be Canadian citizens as defined in the [Citizenship Act](#) or permanent residents as stated in the [Immigration and Refugee Protection Act](#).

2.2. Eligible Projects

Subject to the terms established in the applicable coproduction treaty, and to the consent of the authorities of each of the coproducing States, an audiovisual work must be:

- 1) a **film** intended for theatrical release, television broadcast (including Video-on-Demand), or DVD distribution, which may be accompanied by one or more online video works or applications; *
- 2) a **television** production intended for television broadcast (including Video-on-Demand) or DVD distribution, which may be accompanied by one or more online video works or applications; *
- 3) an **online video work or application**** that engages the user in a storytelling experience, and is designed for and made available to the public by way of a digital network, including Internet and mobile.

* Please note that for options 1) and 2), **online video works or applications** refer to original content that are separate and distinct from the film or television work produced for a traditional platform. They must be:

- i) associated with the traditional audiovisual work seeking certification;
- ii) created to extend, enhance or complement the storytelling experience; and
- iii) designed for and made available to the public by way of a digital network, including Internet and mobile.

**** Online video works and applications** may include, but are not limited to the following:

- original linear content including films, television productions, webisodes, mobisodes, and other productions made exclusively for consumption online;
- original non-linear content, including immersive or interactive websites, mobile content or applications.

The producers must ensure their project meets the requirements of the funding programs and tax credits to which they wish to apply (notably in terms of genre, type of work, support, length, etc.).

3. RECOMMENDATION REQUIREMENTS

Each coproduction treaty sets out the minimum requirements in terms of the financial, technical and creative participation of each of the coproducing States, as well as the conditions that must be met for a work to be recommended as a coproduction.

3.1. Copyright and Revenues

The sharing of copyright and revenues must be, in principle, proportional to the percentage of financial participation of each of the coproducers and may not be less than the minimum percentage set out in the applicable coproduction treaty.

Coproducers may assign part of their copyright and revenues to other individuals or corporations not involved in the work so long as they respect the conditions set out above and comply with the terms set out in the applicable coproduction treaty.

Canadian producers are responsible for ensuring that the allocation of their copyright meets the requirements of other funding programs and tax credits to which they wish to apply.

3.2. Nationality of Key Participants

All participants in the work must be nationals⁵ of the coproducing States, subject to the terms set out in the applicable coproduction treaties and the approval of the authorities of the coproducing States. The participation of nationals from a State other than the coproducing States may only be authorized if the treaty allows it. The “Canadian national” status must be maintained throughout the participants’ involvement in the coproduction.

Most treaties list key positions by type of production, and set out specific rules regarding

⁵ In Canada, a “national” is defined as being a Canadian citizen as set out in the *Citizenship Act* or a permanent resident as set out in the *Immigration and Refugee Protection Act*.

the nationality of the participants occupying these key positions. It is important to review the terms of the treaty applicable to your project to ensure that your project meets these requirements.

In general, there are eight key positions listed in the treaty that can be filled as follows:

- 1) all of the eight key positions must be held by one or more nationals of the coproducing States;
- 2) a national of each coproducing State must hold at least one **full**⁶ key position. The other key positions can be divided among the nationals of the coproducing States;
- 3) one of those key positions can be filled by a national from a State other than the coproducing States;
- 4) in the case of a high budget production⁷, and only if allowed by the applicable treaty, a second national from a State other than the coproducing States can be assigned to fill one of those key positions, with the written consent of the administrative authorities of the coproducing States.

When the same key position has two designations (for example, the position of storyboard supervisor or picture editor in animation projects), those two designations count as one position only.

Note that, in the case of coproduction television series, the producer must ensure that at least **one full key position** is held by a Canadian in each episode. However, in some circumstances, exceptions to this principle could be granted, with the consent of the authorities of each of the coproducing States.

3.3. Nationality of Non-Key Personnel from States other than the Coproducing States

Subject to the provisions of the applicable coproduction treaty, the participation of personnel from a State other than the coproducing States can only be permitted upon the mutual written consent of the authorities of each of the coproducing States and if:

- 1) the position is a non-key position;
- 2) it is clearly demonstrated that the participation of that personnel is essential to the storyline; and
- 3) the authorities have approved location shooting in a State other than in the coproducing States.

3.4. Financing and Expenditures

The minimum financial contributions that must be provided by each of the coproducers are set out in the applicable coproduction treaties.

⁶ A full key position is a position or function that must be held by one person only and that cannot be shared between a number of people.

⁷ Please contact Telefilm to determine if your project qualifies as "high budget".

Any source of funding in the Canadian financial structure must be allocated primarily to expenditures on Canadian elements⁸. Expenditures on Canadian elements must be, in principle, proportional to the Canadian financial participation. For purposes of calculation, the expenditures paid by the Canadian producer on non-Canadian elements allowed by the applicable treaty and approved by Telefilm will be excluded from the total Canadian budget.

Exceptions to this principle of proportionality between the expenditures and the financial contribution may be granted upon mutual written consent of the authorities, notably for storyline and creative purposes.

3.5. Distribution

When presenting the project to Telefilm for review, the Canadian producer must be able to provide proof of a commitment to the eventual distribution or broadcast of the project in Canada and in the coproducing State. In the case where the coproducing partner is unable to obtain such a commitment in his State, a distribution or broadcast commitment in a State other than the coproducing State can be an acceptable alternative, with the mutual written consent of the authorities of the coproducing States.

A commitment for the distribution or broadcast of the project may include commitments with broadcasters, distributors or digital network providers, including via the Internet and mobile applications. In all cases, the coproducers must have a written commitment from these entities to the eventual distribution or broadcast of the project.

For distribution or broadcast of the work online, the Canadian producer must:

- 1) inform Telefilm of the selection of this alternate option when presenting the project for review;
- 2) confirm via Telefilm the eligibility of the online distributor (online video services); and
- 3) provide Telefilm with the proof of this alternative method of distribution before Telefilm makes its final recommendation.

The Canadian producers are responsible for ensuring that their distribution commitments meet the requirements set out in the various funding programs and tax credits to which they wish to apply.

3.6. Shooting and Service Locations

The following rules apply subject to the terms set forth in the applicable coproduction treaties and the approval of the authorities.

⁸ Expenditures on Canadian elements are expenditures made in Canada by the Canadian producer and expenditures related to Canadian creative and technical personnel made in another State by the Canadian producer in the course of production of the project.

Exceptions to these rules can only be granted if the applicable treaties allow for such exceptions to be made.

Location and Studio Shooting

The production shoot must take place in one of the coproducing States.

Location shooting in a State other than in the coproducing States may be authorized by the authorities of each of the coproducing States for storyline and/or creative reasons.

Studio shooting is only permitted in the coproducing States.

Technical Services

Technical services⁹ may be carried out in a State or States other than the coproducing States, provided that the coproducers demonstrate that these services are not available in any of the coproducing States and the value of these services does not exceed 25 per cent of the project's total budget.

Dubbing

The production must be available for exploitation in French and/or English. The coproducers must ensure that dubbing in French or English is always carried out in one of the coproducing States, unless the coproducers can demonstrate that these services are not available in any of the coproducing States. Exceptions are subject to the approval of the authorities of the coproducing States.

3.7. Screen Credits

Telefilm expects that the screen credits of audiovisual works undertaken as coproductions include the following elements:

- the mention “a Canada-[coproducing State] coproduction” or “a [coproducing State]-Canada coproduction”;
- the coproducing corporations' copyright;
- clear, equal and predominant identification of the Canadian and foreign coproducers (individuals); and,
- identification of the people occupying the required key positions according to the applicable coproduction treaty.

Screen credits provided to any individual or corporation should not reduce the prominence of the coproducers or give the impression that the project is a coproduction produced with a State other than the coproducing States.

⁹All services linked to post-production (images, sound, subtitling and special effects), and services carried out in music recording and sound animation studios are considered technical services.

4. PROCESS AND DEADLINES

Telefilm's recommendation process for audiovisual coproductions comprises two stages:

- Application for a Preliminary Recommendation
- Application for a Final Recommendation

To obtain a preliminary or final recommendation, applicants must submit their application electronically via [Dialogue](#).

A production may not be recognized as an audiovisual coproduction unless it is recognized as such by all the authorities involved in the production.

Please note that each authority has its own administrative procedures and determines the documentation necessary for it to recognize a project as a coproduction.

Information and documents provided by the applicant in the application process may be shared between the various authorities of the States that are party to the coproduction treaty.

4.1. Preliminary Recommendation Applications

Applications for preliminary recommendations, duly completed by the Canadian producer (or his/her authorised representative), must be submitted:

- For live action projects (fiction or documentary): **at least 30 days before** the start of the principal photography. Please note that, for documentary projects, limited filming at the development stage, to create a promo reel, or to record time-sensitive events will not be considered as part of principal photography.
- For animation projects: at the time of key animation, or, for a series, at the latest when the master video of the first episode is produced.

4.2. Final Recommendation Applications

Telefilm suggests that Canadian producers submit their final recommendation application as soon as possible after completing the production, provided they have all the required documents in hand (see the [list of documents](#) on Telefilm's website).

Telefilm will examine the **completed** final recommendation applications so as to ensure that the project still respects the applicable treaty and the conditions set out in the preliminary letter of recommendation. Following evaluation of the application and once final approval from the foreign authorities is received, Telefilm will convey its final recommendation letter to the Minister of Canadian Heritage via CAVCO.

Producers are responsible for verifying and respecting the applicable deadlines for the funding programs and tax credits to which they wish to apply. Please note that Telefilm's processing time for **complete** final recommendation applications is approximately 8 weeks.

4.3 Major Changes

Producers must inform Telefilm as soon as possible of any change to the project that may have an impact either on the project's eligibility or the eligibility of its applicants according to the applicable coproduction treaty. Such changes could include corporate changes and/or changes made to the budget, key personnel, the coproducer, etc.¹⁰

5. GENERAL INFORMATION

For further information regarding audiovisual treaty coproductions, please consult Telefilm's [website](#) as well as the [FAQs](#), which form an integral part of these guidelines.

Telefilm reserves the right to modify its guidelines, application forms and FAQs as necessary. The implementation and interpretation of these guidelines are made entirely at Telefilm's discretion, which ensures that any recommendation as a coproduction be granted to projects that respect the text and intent of the applicable coproduction treaties. For all questions regarding the interpretation of these guidelines, Telefilm's interpretation will prevail.

All information provided, obtained, created or conveyed as part of the application or of the project is subject to the [Access to Information Act](#) and the [Privacy Act](#).

In the event of a discrepancy between these guidelines and the terms of the applicable coproduction treaty, the terms of the coproduction treaty will prevail.

¹⁰ Consult the [FAQ](#) for other examples of major changes that must be declared to Telefilm.

THIS IS EXHIBIT "N"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to read 'AUBO', is written over a horizontal line.

Commissioner for Taking Affidavits



CANADA
MEDIA FUND

FONDS DES MÉDIAS
DU CANADA

LINEAR CONTENT PROGRAMS

CORE PRODUCTION GUIDELINES

2025-2026

TABLE OF CONTENTS

1. GENERAL INFORMATION	3
Interpretation, Application, Disclaimer, and other Important Information	3
Provision of Documentation	3
Failure to Comply	3
Misrepresentation	4
PERSONA-ID self-identification information	4
2. OVERVIEW	5
2.1 INTRODUCTION	5
2.2 DEFINITIONS	5
2.3 FLEXIBILITY FOR INDIGENOUS-LED PROJECTS	6
2.4 LANGUAGE OF PROJECTS	6
2.4.1 Original Language of Production	6
2.4.2 Versioning	6
3. ELIGIBILITY	7
3.1 ELIGIBLE APPLICANTS	7
3.1.1 Additional Applicant Requirements	7
3.2 ELIGIBLE PROJECTS	7
3.2.1 Essential Requirements	8
3.2.1.1 Audiovisual Treaty Coproductions	8
3.2.2 Genres of Programming	9
3.2.3 Ownership and Control Requirements	9
3.2.4 Eligible Triggering Commitment Requirements and Conditions	9
3.2.4.1 Eligible Triggering Commitment Requirements and Conditions – Production	9
3.2.4.2 Eligible Triggering Commitment Threshold	14
3.2.4.3 Maximum Terms	14
3.2.4.4 Treatment of Other Exploitation Rights	14
3.2.5 Miscellaneous Requirements	15
4. CMF CONTRIBUTION	17
4.1 NATURE OF CONTRIBUTION	17
4.2 AMOUNT OF CMF CONTRIBUTION	17
4.2.1 Eligible Costs	17
4.2.2 Eligible Digital Content	18
4.2.3 Related-Party Transactions	18
4.2.4 Marketing Expenses	18
4.2.5 Pilots and Series	19
4.2.6 Prizes	19
5. DECISION PROCESS	20
SCHEDULE A	21

1. GENERAL INFORMATION

Interpretation, Application, Disclaimer, and other Important Information

These Guidelines are for the information and convenience of Applicants (as defined in section 3.1) to the Canada Media Fund (CMF). They provide an overview of the objectives of the CMF, the manner in which the CMF is administered, and information on typical administrative practices of the CMF. Compliance with these Guidelines is a prerequisite to eligibility for any CMF funding.

The CMF has full discretion in the administration of its Programs, and in the application of these Guidelines, to ensure funding is provided to those Projects that contribute to the fulfillment of its mandate. In all questions of interpretation of its Programs, Guidelines, Agreements and whether Applicants and/or Projects meet the spirit and intent of any CMF policy, the CMF interpretation shall prevail.

All Applicants and broadcasters (where relevant) must abide by the Accounting and Reporting Requirements (ARR) of the CMF and follow applicable business policies as created and amended from time to time. Business policies, including the ARR, may be found in [Appendix B](#) of these Guidelines and are also available from the CMF website at www.cmf-fmc.ca. Information included in [Appendices A](#) and [B](#) is an integral part of these Guidelines.

Projects that receive CMF funding in a given year are subject to the Guidelines and CMF policies in effect for that fiscal year. To be clear, changes to CMF Guidelines and/or policies made in a subsequent fiscal year will not apply retroactively, unless specifically stated. The CMF fiscal year is April 1 to March 31.

Please note: These Guidelines may be changed or modified as required, without notice. Please consult the CMF website at www.cmf-fmc.ca for the latest Guideline news and documentation.

Provision of Documentation

It is the responsibility of the Applicant to ensure that the CMF receives all relevant documentation and to update such documentation and information after a material change. The CMF may request other documentation and information to conduct an assessment and evaluation of the project and, once assessed, to complete CMF file reviews. For the purposes of project assessment and evaluation, the CMF reserves the right to rely solely on the written and audiovisual materials initially submitted by the Applicant.

Failure to Comply

If an Applicant fails to comply with these Guidelines, as determined by the CMF, then the CMF may refuse the application, revoke the eligibility status of the Applicant's Project and may demand repayment of any sums paid to the Applicant.

Misrepresentation

If, at any time, an Applicant, as required by the Guidelines or as requested by the CMF, provides false information or omits material information in connection with an Application, the Applicant may suffer serious consequences. These may include, among other outcomes:

- Loss of eligibility for funding of the current Project;
- Loss of eligibility for funding of future Projects;
- Repayment of any funds already advanced, with interest; and/or
- Criminal prosecution, in the case of fraud.

These measures may be imposed not only on the Applicant but also on related, associated and affiliated companies and individuals (as determined by the CMF at its sole discretion). Any Applicant receiving approval for funding will be required to sign a legally enforceable agreement, which includes further provisions concerning misrepresentations, defaults, and related matters.

PERSONA-ID self-identification information

The PERSONA-ID self-identification is provided on a voluntary basis, and, if provided allows individuals to disclose their demographic information directly and securely to the Canada Media Fund (CMF).

The CMF shall rely on the self-identification information associated with each individual's PERSONA-ID number to determine (as applicable) eligibility for dedicated Programs, exclusive reserved portions of Program budgets, Broadcaster Envelope credit, Evaluation Grid points, ranking position in selective programs, and/or for statistical and analytical purposes. Additionally, in certain cases, this information is used to cross-reference/validate other documentation connected to the Project (e.g., the Project's application form, Broadcaster Envelope Program Status Reports, etc.).

As any changes to Key Personnel (as defined in [Appendix A](#)) could impact Project eligibility, selection, and Broadcaster Envelope calculations, the CMF must be informed of any changes to Key Personnel throughout (i) the application process and (ii) throughout the lifecycle of the Project and submission of the Final Cost deliverables.

Repeatedly providing incorrect information connected to the Key Personnel on Projects may result in serious consequences for the Applicant per the Misrepresentation section above.

All PERSONA-ID self-identification information in connection with the Project is provided in accordance with the [PERSONA-ID Terms of Use & Privacy](#).

For more information about PERSONA-ID, please visit the [CMF's PERSONA-ID page](#).

2. OVERVIEW

Starting in 2025-2026, Indigenous Production Funding will be administered by the Indigenous Screen Office (ISO). Applications should be directly and solely submitted to the ISO who will process and evaluate applications, and contract Applicants. Documentation required at application is described on the ISO's website found [HERE](#).

2.1 INTRODUCTION

When applying to the CMF for production funding of a Linear content project¹, Applicants must comply with the eligibility criteria contained in the following key documents:

1. **Linear Content Programs – Core Production Guidelines (THIS document)**
2. **Linear Content – Program Guidelines**
3. [Appendix A](#) – Definitions and Essential Requirements
4. [Appendix B](#) – Business Policies

While the Linear Content Programs – Core Production Guidelines (**Core Guidelines**) set out *general eligibility* requirements applicable to *all* CMF Linear Programs, the Linear Content - Program Guidelines (**Program Guidelines**) set out the *specific* eligibility requirements for *each* CMF Linear Program.

The Production Program Guidelines are:

Linear Production Programs

- [Broadcaster Envelope Program – English and French](#)
- [Broadcaster Envelope Program – Diverse Languages](#)
- [Distributor Program](#)
- [Official Language Minority Communities \(OLMC\) Production Funding](#)
 - Anglophone Minority allocation
 - Francophone Minority allocation
- [Program for Black and Racialized Communities](#)
- [POV Program](#)
- [Regional Production Funding](#)
 - English Regional Production Bonus
 - Northern Production Incentive
 - Quebec French Regional Production Incentive

2.2 DEFINITIONS

Please see [Appendix A](#) for definitions on the following terms found in these Core Guidelines:

- Broadcaster-Affiliated Programming
- Canadian Broadcaster
- Circumpolar North
- Eligible Canadian Distributor
- Eligible International Entity
- In-house Programming
- Related Digital Content
- Related Party

¹With the exception of the Digital Creator Pilot Program, Indigenous Program and some CMF Partnership Programs. Please see those specific Program Guidelines for more information.

2.3 FLEXIBILITY FOR INDIGENOUS-LED PROJECTS

Projects from companies owned and controlled by individuals who are First Nations, Inuit or Métis will be granted additional flexibility. Please see Schedule A below for more information.

2.4 LANGUAGE OF PROJECTS

2.4.1 Original Language of Production

The CMF applies different Eligible Triggering Commitment Threshold Amounts, Maximum Contribution amounts, Maximum Terms and other calculations depending on the original language of production of the Eligible Project.

The applicable language category is a single language determined by the original language of production of the Project. With some reasonable exceptions for documentaries, where a Project is versioned into another language, the language into which the Project was versioned is not the original language of production.

In cases where there are multiple languages in a production, the CMF will evaluate a variety of factors (e.g., proportion of the different languages in the production, language of development materials, language of submitted creative materials, language of the first-window broadcaster, etc.) to determine the Project's original language of production.

Eligible Projects where the original language of production is in English, French, or a Diverse or an Indigenous language may include other language(s) in the Project if it is for artistic purposes and/or its use is integral to the story (e.g., it is the first language of an expert in a documentary), provided the vast majority of the Project is in the original language of production (as determined by the CMF in its sole discretion). The CMF will look at the Project in its entirety to determine if, as a whole (e.g., purpose, content, dialogue, context, etc.), it meets the spirit of the specific Program's language requirements.

For clarity, in the case of animated productions, the original language of production will be determined by which individual CMF triggering entity (e.g., Canadian Broadcaster, Eligible Canadian Distributor) commits the highest market commitment to the Project.

The specific language requirements for Eligible Projects varies by CMF Program and is detailed in the applicable Program Guidelines.

2.4.2 Versioning

For versions of the Eligible Project broadcast in Canada, prior to delivery to the first window broadcaster or platform, the CMF requires all versioning (i.e., dubbing or subtitling) be performed in Canada using Canadian artists, actors, employees and technicians (as applicable). Exceptions may be made in the case of audiovisual treaty coproductions.

The CMF requires that versioning costs be included in the budget if it is required contractually by one of the Eligible Project's financiers. The CMF will only support versioning costs normally incurred by distributors to assist in foreign market sales under Eligible Marketing Expenses in section 4.2.4 below.

3. ELIGIBILITY

3.1 ELIGIBLE APPLICANTS

In addition to any further requirements/qualifications noted in the specific Linear Content – Program Guidelines, an Eligible Applicant to the CMF is either a for-profit (i.e., a taxable Canadian corporation, within the meaning of Canada's *Income Tax Act*) production company or Canadian Broadcaster (defined in [Appendix A](#)) that:

- a) Is Canadian-controlled as determined in sections 26 to 28 of the *Investment Canada Act*.
- b) Has its head office in Canada.
- c) Is in good standing with all applicable talent and industry associations and guilds.
- d) Has affirmed and attested that the Project submitted for funding complies with the [CMF's Narrative Positioning Policy](#).

Applicants must own and control all rights necessary to produce and exploit the Eligible Project. Entities that provide services but do not own applicable rights are not eligible to apply to the CMF.

Note: For the purposes of the Linear Content Guidelines, the term Applicant includes all co-applicants, and/or all Related Parties (defined in [Appendix A](#)), associated, affiliated or parent companies and/or individuals (as determined by the CMF at its sole discretion), as applicable.

The CMF encourages all Applicants to review its Default Policy in [Appendix B](#) as it contains important information that could impact the eligibility of a Project and/or Applicant.

3.1.1 Additional Applicant Requirements

While participation in the PERSONA-ID process is voluntary, Applicants should note it is the self-identification information associated with each individual's PERSONA-ID number that will allow the CMF to assess any specific demographic initiatives in the Project including:

- Designated Programs aimed at Diverse Communities;
- Gender and/or Diverse Community Evaluation Grid points in selective Programs; and
- Reserved allocations or carve-outs for Diverse Communities in first-come/first-served Programs.

3.2 ELIGIBLE PROJECTS

In addition to any further requirements/qualifications noted in the specific Linear Content – Program Guidelines, an Eligible Project must be linear audiovisual content that meets the following requirements (as further explained in this Section):

- the Essential Requirements;
- the Eligible Genre Requirements (as set out in [Appendix A](#));
- the Ownership and Control Requirements;
- the Eligible Triggering Commitment Requirements and Conditions; and
- the Miscellaneous Requirements.

3.2.1 Essential Requirements

An Eligible Project must meet the Essential Requirements listed here. For a series (or mini-series, as applicable), the Essential Requirements apply to each episode of the cycle, even if all episodes are not submitted for CMF funding. The CMF solely decides whether an Eligible Project meets the Essential Requirements, and its interpretation shall prevail.

- 1) The Eligible Project will be certified² by the Canadian Audio-Visual Certification Office (CAVCO) and has achieved 10/10 points³ (or the maximum number of points appropriate to the Eligible Project), as determined by the CMF using the CAVCO scale.

Note: For In-house Programming only, CRTC project certification as a “Canadian program” will be accepted in lieu of CAVCO certification for the purposes of meeting Essential Requirement #1.

- 2) Underlying rights are owned⁴, and significantly and meaningfully developed, by Canadians.
- 3) The Eligible Project is shot and set primarily in Canada.

Further details on Essential Requirements and permissible genre-specific exceptions are in [Appendix A](#).

3.2.1.1 Audiovisual Treaty Coproductions

With respect to the CMF- eligibility of audiovisual treaty coproductions, these Essential Requirements shall be interpreted so as to treat the treaty coproduction partner as “Canadian.”

Accordingly, the term “Canadians” in Essential Requirement 2, and the term “Canada” in Essential Requirement 3 include the coproduction country. Additional requirements for Regional Production Projects to meet Essential Requirement 3 are set out in the [Regional Production Funding Guidelines](#). The 10/10 points referenced in Essential Requirement 1 must be attained by citizens of Canada or the coproducing country.

Notwithstanding the above, once an Eligible Project has received its preliminary recommendation from Telefilm Canada’s Business Affairs and Coproduction Department to be certified by CAVCO as an official audiovisual treaty coproduction, such Eligible Project will not be required to meet the Essential Requirements listed herein.⁵

For audiovisual treaty coproductions, any CMF calculations, including the:

- a) Eligible Triggering Commitment Threshold;
- b) Maximum Contribution;
- c) PFCO; and
- d) Market and Distribution commitments in selective Programs

for an Eligible Project will be based on the Eligible Costs of the Canadian portion of the Eligible Project’s global budget (or global Final Costs). Applicants should consult the specific Program Guidelines for more details.

²Exceptions may be granted by the CMF for exempt broadcasters regulated by the CRTC via *Broadcasting Order CRTC 2015-88*.

³Some exceptions exist for projects from Applicants owned and controlled by individuals who are First Nations, Inuit or Métis. Please see Schedule A below for more information.

⁴For content created with the assistance of AI technology, it is the responsibility of the Applicant to ensure that (i) all underlying rights to Eligible Projects are owned and meaningfully developed by Canadians and (ii) Eligible Projects have unobstructed access to all underlying rights.

⁵Should an Eligible Project receive a preliminary recommendation to be certified by Telefilm’s Business Affairs and Coproduction Department - but not ultimately receive audiovisual treaty coproduction certification by CAVCO - the failure of such Eligible Project to meet all applicable CMF eligibility criteria will be considered an Event of Default pursuant to [Appendix B](#) and the CMF Financing Agreement.

For information on audiovisual treaty coproductions between Canada and other territories please see [Telefilm Canada's treaty coproduction guidelines](#).

3.2.2 Genres of Programming

The CMF supports the following genres: Drama, Documentary, Children and Youth, and Variety and Performing Arts. The CMF defines each in [Appendix A](#) (some flexibility exists for Children and Youth programming and Indigenous content).

3.2.3 Ownership and Control Requirements

- a) It is under Canadian ownership and Canadian executive and creative control.
- b) It is under the financial control of Canadian citizens or permanent residents.
- c) It is, and has been, controlled creatively and financially by a Canadian production company during all phases of production, from development through post-production. Moreover, all distribution and exploitation rights are owned and initially controlled by a Canadian production company.
- d) Generally, no more than 49% of the production financing/final costs is provided by a single non-Canadian entity, person or related entity (via licence fees, distribution advances, goods and services and/or equity investment). Interim lending of more than 49%, however, may be provided by a non-Canadian arm's-length entity in the business of lending money and taking security.
- e) The Applicant retains and exercises all effective controls or approvals necessary for any stage of the development and/or production of the Eligible Project. This includes control and final approval of creative decisions and development and/or production financing, distribution and exploitation, and preparation and final approval of the budget, subject to reasonable and standard approval rights customarily required by arm's-length financial participants, including Canadian Broadcasters and distributors.
- f) The Applicant owns all rights (including copyright) and options necessary for the development and/or production and distribution in Canada and abroad (with appropriate case-by-case exceptions for a purchased format) and retains an ongoing financial interest in the Eligible Project.

3.2.4 Eligible Triggering Commitment Requirements and Conditions

3.2.4.1 Eligible Triggering Commitment Requirements and Conditions – Production

With limited exceptions⁶, applications for Linear production financing are required to have an Eligible Triggering Commitment which must be comprised of an Eligible Licence Fee from a Canadian Broadcaster. Applicants should consult the specific Program Guidelines for more details on any exceptions.

An Eligible Triggering Commitment may also include:

- an Eligible Market Contribution from an Eligible Canadian Distributor; and/or
- in the **Children & Youth genre only**, an Eligible Market Contribution from an Eligible International Entity (as defined in [Appendix A](#)) of up to 25% of the Eligible Triggering Commitment Threshold (noted in section 3.2.4.2)

For clarity, **Eligible International Entities** may contribute up to 25% of the Eligible Triggering Commitment Threshold used to finance the production of an Eligible Project in the Children and Youth genre only, provided the Eligible Licence Fees of

⁶The Distributor Program and Digital Creators Pilot Program are the only two CMF Linear production-stage Programs that do not require an Eligible Licence Fee from a Canadian Broadcaster.

the Canadian Broadcaster (and, if applicable, Eligible Market Contributions of the Eligible Canadian Distributor) represent the larger share of the Project's Threshold (i.e. at 75% or above). This flexibility only applies to Eligible International Entities that meet the CMF's definition in [Appendix A](#).

This Eligible Triggering Commitment must meet or exceed a minimum amount, expressed as a percentage of the Eligible Costs of the Project (i.e., Eligible Triggering Commitment Threshold is explained in greater detail below) to be eligible for CMF production funding. Please see section 3.2.4.2 for more information on the Eligible Triggering Commitment Threshold.

Eligible Triggering Commitments in production are:

- a) Cash contributions
- b) Paid by a Canadian Broadcaster (and, if applicable, an Eligible Canadian Distributor and/or an Eligible International Entity)
- c) Paid to the CMF Applicant
- d) Which are in exchange for enumerated exploitation rights
 - i. Canadian Broadcaster – Canadian Broadcast Right
 - ii. Eligible Canadian Distributor/Eligible International Entity – International Territory Exploitation Right
- e) All of which is subject to one or more current, legally binding contract(s) (e.g., a broadcast licence agreement, distribution agreement, etc.).

Note: The CMF will consider the applicability of this section to In-house Programming on a case-by-case basis.

Aspects of an Eligible Triggering Commitment in production:

a) Cash contributions

Cash contributions must be genuine, industry standard, for fair market value and cannot be reduced once the CMF has entered into a production financing agreement with the Applicant.

Cash contributions for (i) Canadian Broadcasters and Eligible International Entities are non-recoupable licence fees and for (ii) Eligible Canadian Distributors are minimum guarantees/distribution advances that can be recouped within the parameters of what is generally and customarily followed by distributors of linear content in the audiovisual industry (and the CMF's Distributor requirements set out in [Appendix B](#) – Chapter 9).

Cash contributions cannot include facilities, goods or services, equity, an Applicant time-buy, donations or corporate sponsorship monies negotiated and obtained by the Applicant, tax credits or any arrangement which, in the CMF's assessment, does not constitute a genuine cash contribution. The foregoing does not preclude a Canadian Broadcaster (and if applicable, Eligible Canadian Distributor and/or Eligible International Entity), from contributing an equity investment, services, facilities, or other fees in addition to cash contributions that make up the Eligible Triggering Commitment.

In cases where the provision of a cash contribution is wholly or partially dependent on a buyback of services from the provider of the contribution, the CMF may elect to deduct the value of the services or facilities from the total value of the contribution, for the purposes of determining Eligible Triggering Commitment amounts for the Eligible Triggering Commitment Threshold assessment; this determination will be made on a case-by-case basis.

b) Canadian Broadcaster (and, if applicable, Eligible Canadian Distributor and/or Eligible International Entity)

A Canadian Broadcaster, Eligible Canadian Distributor and Eligible International Entity as defined in [Appendix A](#).

c) Applicant to the CMF

Eligible Triggering Commitments in production may be paid by the Canadian Broadcaster (and, if applicable, Eligible Canadian Distributor and/or Eligible International Entity) directly to the Applicant. The CMF will also allow Eligible Licence Fees to be paid by Canadian Broadcaster indirectly via an intermediary Canadian corporation affiliated with both the Applicant and the Canadian Broadcaster.

d) Enumerated Exploitation Rights

i. *Canadian Broadcaster – Canadian Broadcast Right*

The Eligible Licence Fees of a Canadian Broadcaster are in exchange for an Eligible Project's Canadian Broadcast Right.

The Canadian Broadcast Right is the right of a Canadian Broadcaster to broadcast and/or make the Eligible Project available on any broadcast and online platforms the Canadian Broadcaster owns, operates and controls in Canada in the language of the Broadcaster in question during the Maximum Term (defined below).

The Canadian Broadcast Right cannot include:

- Broadcast rights for non-Canadian territories.
- Other Exploitation Rights (as detailed further below) for Canadian or non-Canadian territories.
- An ownership, profit, repayment or recoupment position in the Eligible Project.
- Rights in excess of the Maximum Term as described below.

For clarity, while Canadian Broadcasters are free to negotiate and may acquire *separate* rights other than the Canadian Broadcast Right (i.e., International Broadcast rights, Other Exploitation Rights), these separate financial contributions made by Canadian Broadcasters must be valued and paid for separately and will not count towards the Eligible Triggering Commitment Threshold requirement necessary to unlock CMF production financing.

Further, regardless of whether the CMF has made an equity investment in a project, Other Exploitation Rights (discussed further below in section 3.2.4.4) shall only apply to the various subsidiary and ancillary exploitation rights of the project and not merely consist of additional access to revenue or recoupment to the Canadian Broadcast Right or Other Exploitation Rights themselves. Broadcasters may only recoup on exploitation revenues if they are making a financial investment in a project's financial structure.

In order for an Eligible Project to unlock CMF production financing, Canadian Broadcasters must comply with all the applicable sections of the Linear Content Production Guidelines (i.e., these Core Guidelines, applicable Program Guidelines, [Appendix A](#) and [Appendix B](#)), including but not limited to meeting the designated Eligible Triggering Commitment Threshold (either on their own or in combination with an Eligible Canadian Distributor's and/or Eligible International Entity's Eligible Market Contribution).

Finally, if the Canadian Broadcaster does not secure the world premiere rights of an Eligible Project and a non-Canadian premiere occurs first, the Canadian premiere of the Eligible Project must occur within 12 months of the non-Canadian premiere (**Canadian Premiere Requirement**).

ii. *Eligible Canadian Distributor and Eligible International Entity – International Territory Exploitation Right*

The Eligible Market Contributions of an Eligible Canadian Distributor and Eligible International Entity are in exchange for an Eligible Project's International Territory Exploitation Right.

The International Territory Exploitation Right is the right to exploit the Eligible Project in territories outside of Canada.

While a variety of different exploitation rights may form part of the International Territory Exploitation Right, in order to count towards a Project's Eligible Triggering Commitment Threshold, Eligible Canadian Distributors and Eligible International Entities must at a minimum secure the right to make the Eligible Project available to be seen on either broadcast television or an online platform in territories outside of Canada as part of this Right.

Applicants and Eligible Distributors/Eligible International Entities are free to negotiate one or multiple territories outside of Canada for the International Territory Exploitation Right.

In order for an Eligible Project to unlock CMF production financing, Eligible Canadian Distributors and Eligible International Entities must comply with all the applicable sections of the Linear Content Production Guidelines (i.e., these Core Guidelines, applicable Program Guidelines, [Appendix A](#) and [Appendix B](#)), including but not limited to meeting the designated Eligible Triggering Commitment Threshold (in combination with the Canadian Broadcaster's Eligible Licence Fee).

For clarity, while Eligible Canadian Distributors and Eligible International Entities are free to negotiate *separate* rights other than the International Territory Exploitation Right, these separate financial contributions made by Eligible Canadian Distributors/Eligible International Entities will not count towards the Eligible Triggering Commitment Threshold requirement necessary to unlock CMF production financing.

e) Legally binding contract

i. A Canadian Broadcaster's broadcast licence agreement for the Canadian Broadcast Right:

- Must include an unconditional commitment by the Canadian Broadcaster to broadcast and/or make the Eligible Project available to be viewed in the language in which the Broadcaster is licensed to operate on any of the broadcast and online platforms the Canadian Broadcaster owns, operates and controls, in peak viewing hours⁷ and closed captioned⁸, within eighteen (18) months of completion and delivery of the Eligible Project⁹ and meeting the Canadian Premiere Requirement. Should the Canadian Broadcaster fail to comply with these requirements, the licence fee will be deemed not to be an Eligible Licence Fee. The CMF will consider requests for an extension to this period case by case. "Peak viewing hours" is defined by the CMF as 7:00 pm to 11:00 pm, with an exception for some Children and Youth programming as described in [Appendix A](#). For second and subsequent window Broadcasters, the commitment to broadcast the Eligible Project in peak viewing hours (or, if applicable, make the Eligible Project available to be viewed) within eighteen (18) months will start at the beginning of those Broadcasters' licence periods.

Notes: The CMF may waive the broadcast/availability requirement for pilots where both the Canadian Broadcaster and Applicant agree, upon completion and delivery of the Eligible Project, that the pilot should not be broadcast/or made available.

⁷For clarity, an Eligible Project must meet the 'peak viewing hours' requirement only when it is broadcast by an entity that meets section (a) of the "Canadian Broadcaster" definition in [Appendix A](#).

⁸As applicable, based on the respective platform.

⁹For dual-language productions, this requirement shall be interpreted to mean eighteen (18) months from the first completed version.

- Cannot restrict the Applicant's ability to exploit non-Canadian broadcast rights, with the exception of traditional broadcast spill-over protections and exclusive world premiere rights. Where exclusive world premiere rights are taken by a Canadian Broadcaster, licence agreements must provide for waiver of the world premiere rights if a bona fide sale to a foreign entity is made, provided the foreign entity agrees not to broadcast the program within six (6) months of delivery to the Canadian Broadcaster. To be clear, a Canadian Broadcaster cannot hold world premiere rights longer than six (6) months from delivery if a bona fide sale has been made to a foreign broadcaster.
 - With the exception of dual-language broadcast channels, can only include the language rights of the language in which the Canadian Broadcaster is licenced to operate. For example, the contract cannot include the acquisition of French-language rights by an English-language Canadian Broadcaster or of English-language rights by a French-language Canadian Broadcaster. The dual-language Canadian Broadcaster in such cases must specify to the CMF the licence fee paid for each language right acquired. No single-language licence shall prevent the exploitation of the other language rights by the Applicant.
 - Cannot confer upon the Canadian Broadcaster a right of last refusal for any rights other than additional broadcast windows for the currently licensed Eligible Project cycle. This means a Canadian Broadcaster cannot acquire a right of last refusal for broadcast windows for future cycles or versions of the Eligible Project. Canadian Broadcasters may acquire the right of first negotiation and/or last refusal for additional broadcast windows for the currently licensed Eligible Project cycle.
 - For the purposes of series, cannot include co-terminus rights clauses. Co-terminus clauses (i.e., clauses that extend the terms of existing licences to the end of the term of the renewal licence with no additional payment) are prohibited in eligible licence agreements for renewed series, but these licences may include rights of first negotiation and/or last refusal for extension of licences for existing episodes of the series.
 - A payment schedule that aligns with the Broadcaster Business Policy in [Appendix B](#);
- ii. An Eligible Canadian Distributor's distribution agreement for the International Territory Exploitation Right:
- Must include parameters and practices that are generally and customarily followed by distributors of linear content in the audiovisual industry, including but not limited to an outline of:
 - all exploitation rights being licensed or acquired,
 - the amount being paid for each exploitation right,
 - the territory(ies),
 - the term,
 - all relevant terms and conditions.
 - Must align with all Eligible Canadian Distributor responsibilities outlined in Chapter 9 of [Appendix B](#);
- iii. An Eligible International Entity's licence agreement for the International Territory Exploitation Right:
- Must include parameters and practices that are generally and customarily followed by broadcasters/streaming services of linear content in the audiovisual industry, including but not limited to an outline of:
 - all exploitation rights being licensed or acquired,
 - the total amount being paid for the Project,
 - the territory(ies),
 - the term,
 - all relevant terms and conditions.

3.2.4.2 Eligible Triggering Commitment Threshold

An Eligible Triggering Commitment Threshold (“**Threshold**”) is the minimum amount of financial contributions an Eligible Project must receive from the marketplace in order to unlock CMF funding for that project.

In production, the Eligible Triggering Commitment Threshold is the minimum amount of Eligible Licence Fees from a Canadian Broadcaster (and, if applicable, Eligible Market Contributions from an Eligible Canadian Distributor and/or an Eligible International Entity) that an Eligible Project must receive to be eligible for CMF funding.

Please refer to the applicable Program Guidelines for the applicable Threshold for the Eligible Project.

The entirety of the Eligible Triggering Commitment contributing to the Threshold must be used in the production financing of the Eligible Project.

3.2.4.3 Maximum Terms

In production, the CMF shall assess the maximum allowable period of all broadcast windows granted to the Canadian Broadcaster(s) for the Canadian Broadcast Right.

Please refer to the specific Program Guidelines for the applicable Maximum Terms per CMF Linear Program.

The start of the licence term shall begin at the contractually agreed-upon term commencement date, as negotiated between the Applicant and the Canadian Broadcaster. The licence term is the period in which a Canadian Broadcaster has the right to exploit a Project. In the case of a series (or mini-series, as applicable), the term is measured from the commencement date of the first episode of the series and not the commencement dates of each episode.

For clarity, the start of the term and the first air date may not always coincide. By way of example, a Canadian Broadcaster’s term may be from September 1, 2025 to September 1, 2031, but the Broadcaster may choose to make the first broadcast date November 15, 2025. For eligibility purposes, the licence term begins on September 1, 2025. In no case will the term commence later than the first airing of the first episode.

Applicants can incorporate contributions in excess of the Maximum Term within the financial structure. Only the portion of the contributions, however, within the Maximum Term will be used for the purposes of all CMF calculations, including Threshold assessment, and, if applicable, allowable Broadcaster Envelope contributions and Broadcaster Envelope calculations. Contributions that commence within the Maximum Term but extend beyond it will be pro-rated to match the Maximum Term set for each genre.

The Maximum Term does not apply to (i) licences acquired by Canadian Broadcasters for Broadcaster-Affiliated Programming and In-house Programming or (ii) Eligible Canadian Distributors and Eligible International Entities for the International Territory Exploitation Right.

3.2.4.4 Treatment of Other Exploitation Rights

In production, all other rights that are not part of the Canadian Broadcast Right (and, if applicable, International Territory Exploitation Right) must be separately identified and valued.

Other Exploitation Rights include (but are not limited to) the following:

- i) Free Internet broadcast/distribution.
- ii) CRTC-licenced VOD.

- iii) Paid Internet broadcast/distribution (including Subscription Video on Demand)
- iv) Mobile/wireless distribution.
- v) Electronic sell-through and/or digital rental.
- vi) DVD, Blu-ray, or other compact video device distribution.
- vii) Theatrical distribution.
- viii) Non-theatrical distribution (e.g., educational institutions and airlines).
- ix) Merchandising and ancillary rights.

All of the above-listed Other Exploitation Rights and any exploitation right which is not encompassed by the above, whether currently existing or developed in the future, shall be ascribed the meaning as commonly understood and in accordance with the standards of the television, digital media and communications industries. Canadian Broadcasters, Eligible Canadian Distributors, Eligible International Entities and Applicants are free to further delineate separate rights within or in addition to these categories, but the above list represents the minimum degree of distinct rights valuation in the legally binding contract connected to an Eligible Project.

For Canadian Broadcasters that commit an Eligible Licence Fee to an Eligible Project:

- all Other Exploitation Rights that are acquired must be subject to a “use it or lose it” provision that requires the rights to be exploited within twelve (12) months of the first broadcast/premiere of the Eligible Project, failing which the rights revert to the Applicant without restriction.
- For Other Exploitation Rights that are not acquired, the agreement with the Applicant cannot restrict the Applicant's ability to exploit the Other Exploitation Rights for longer than twelve (12) months from the first broadcast/premiere of the Eligible Project.
- Where the CMF provides an Equity Investment to the Eligible Project, Other Exploitation Rights acquired must:
 - Be exploited in accordance with the CMF's Standard Recoupment Policy (with the Canadian Broadcaster acting as a distributor for the purposes of that policy). For rights under paragraphs i-v above only, the CMF may consider a 50/50 gross revenue sharing arrangement between the Applicant and the Canadian Broadcaster (or other arrangement that is no less preferable to the CMF than a 50/50 gross revenue share); or
 - For rights under paragraphs i-iv above only, be paid for at a reasonable, fair-market value.

The CMF will apply this section in an adaptable and purposive manner, with the objectives of promoting transparency in the rights market, maximizing the availability of CMF-funded content on multiple platforms for the benefit of Canadian audiences, and maximizing the CMF's return on investment when the CMF is an equity investor.

3.2.5 Miscellaneous Requirements

The Eligible Project must meet these criteria:

- a) It conforms to the Canadian Association of Broadcasters' (CAB) Code of Ethics and to all programming standards endorsed by the Canadian Radio-television and Telecommunications Commission (CRTC), including the CAB Violence Code and the CAB Equitable Portrayal Code.
- b) It cannot contain elements of excessive violence, hate propaganda, sexual violence, or sexual exploitation or elements which are obscene, indecent or child pornography within the meaning of the Criminal Code (as amended

from time to time), and is not libellous or in any other way unlawful, and is in compliance with all applicable privacy and other laws and regulations.

- c) It is closed-captioned¹⁰ if it contains narrative, dialogue or lyrics. Exceptions may be permitted for Eligible Projects targeting children under the age of five, Projects in Indigenous languages that do not use the Roman alphabet, and live-to-air productions.
- d) It is a new production. A new production is one which is not substantially a repackaged version of a previously produced production. In the case of a series, the CMF will consider the entire cycle to determine if the project is a repackaging (e.g., some “making-of”, “best-of” and/or “catch-up” episodes may be permitted). Projects comprised mainly of stock footage may be new productions provided the footage is not merely repackaged in whole or from large segments for the Project.
- e) Generally, the CMF expects a production to begin principal photography/key animation within the fiscal year in which it is funded or within three (3) months thereafter. Special considerations may be made, for example, for Eligible Projects that need to capture a time-sensitive event or ones that are required to commence production during the period in which the CMF is closed to funding applications (e.g., December to March).

Note: An Applicant commencing production before CMF funding is confirmed does so at its own risk.

- f) It, or any version of it, has not been broadcast/presented on any platform prior to its application for CMF funding.
- g) When working with First Nations, Inuit, and Métis communities, cultures, concepts and stories, the CMF encourages all Applicants to respect the guiding principles and best practices set out in the [On-Screen Protocols & Pathways Media Production Guide](#).
- h) The CMF encourages all Applicants to implement more environmentally-sustainable practices and cleaner technologies – and reduce the use of unsustainable resources – in the development, production and exploitation of their Projects.
- i) All live-action Eligible Projects with Eligible Costs over the following Eligible Cost thresholds must use a carbon calculator to track the carbon emissions generated by their Project:
 - Drama: \$800,000 or more per hour
 - Children & Youth and Variety and Performing Arts: \$750,000 or more per hour
 - Documentary: \$400,000 or more per hour
- j) For content that is created with the assistance of Artificial Intelligence (AI) technology:
 - the CMF encourages all Applicants to respect the CMF’s [AI Guiding Principles](#); and
 - it is the responsibility of the Applicant to ensure that (i) all underlying rights to Eligible Projects are owned and meaningfully developed by Canadians and (ii) Eligible Projects have unobstructed access to all underlying rights.
- k) All English- and French-language Eligible Projects at the production phase, with Eligible Costs over \$500,000 are required to make their Projects available in described video. For clarity, this requirement will not apply to live-to-air productions or Eligible Projects in Indigenous or Diverse languages.

¹⁰ As applicable, based on the respective platform.

4. CMF CONTRIBUTION

4.1 NATURE OF CONTRIBUTION

While the below section offers a general overview on the types of CMF contributions, the specific type of a CMF contribution to an Eligible Project varies by CMF Program and is detailed in the applicable Program Guidelines.

In Linear content production¹¹, depending on the Program, Eligible Projects may receive different types of contributions from the CMF:

- A Licence Fee Top-Up supplements a successful Applicant's Canadian Broadcaster cash licence fees. This type of contribution forms part of the Canadian Broadcaster's licence fee for the Eligible Project and is non-recoupable.
- An Equity Investment is a cash investment which results in the CMF acquiring an undivided copyright ownership interest in all versions of the Eligible Project. Equity Investments are recoupable, and subject to a standard and non-negotiable recoupment schedule, as described and subject to, any exceptions in the CMF Standard Recoupment Policy (see [Appendix B](#)).

The initial CMF contribution to an Eligible Project will be in the form of a Licence Fee Top-Up, up to a maximum percentage of the Project's Eligible Costs. Please refer to the applicable Program Guidelines for this specific percentage.

CMF contribution amounts in excess of the Licence Fee Top-Up cap will be in the form of an Equity Investment up to the maximum amounts (Licence Fee Top-Up and Equity Investment combined) noted in the applicable Program Guidelines. The CMF considers an eligible Equity Investment request of less than \$100,000 too small for equity participation. Such requests will be automatically converted to a Licence Fee Top-Up.

For audiovisual treaty coproductions, the CMF Maximum Contribution for the Eligible Project will be calculated on the lesser of the Eligible Costs of the Canadian portion of the Eligible Project's global budget and the Eligible Costs of the Canadian portion of the global final costs of the Eligible Project, as certified by Telefilm Canada's Business Affairs and Coproduction Department.

4.2 AMOUNT OF CMF CONTRIBUTION

The specific amount of CMF contribution to an Eligible Project varies by CMF Program and is detailed in the applicable Program Guidelines.

4.2.1 Eligible Costs

Eligible Costs are costs set out in the development or production budget for the Eligible Project or the final cost report as applicable (including both related-party and non-related-party costs) – plus costs the CMF considers necessary and minus costs the CMF considers excessive, inflated or unreasonable.

CMF participation is calculated on the Eligible Costs of a Project and assessment of a Project's Eligible Costs is at the CMF's sole discretion. The CMF estimates Eligible Costs at the time of application, based on budgets for the Project. Eligible Costs may include cost increases between budget and approved final costs.

The CMF will allow reasonable costs related to environmentally-sustainable activities, practices and personnel connected to a project funded through the Linear Programs.

¹¹With the exception of the Distributor and Digital Creators Pilot Programs, please see the different CMF contribution types in those Programs' respective Guidelines.

While gifts to the public are ineligible as marketing expenses per section 4.2.3 below, gifts made to Indigenous communities recognized as cultural practice and referenced in the [On-Screen Protocols & Pathways Media Production Guide](#) will be accepted as Eligible Costs.

4.2.2 Eligible Digital Content

While no longer a required element for CMF Linear content funding, producers can continue to include costs for the production of digital media content related to their linear project ("**Related Digital Content**"). For more information on the parameters of Related Digital Content, please see the full definition in [Appendix A](#).

If applicable, Related Digital Media Content costs (including budgeted upkeep and enhancement costs for the related project for a period of up to twelve (12) months after the launch of the content) must be submitted as line item #85 in the Eligible Project's application budget.

Additional CMF Business Policies relating to Eligible Costs are in [Appendix B](#).

4.2.3 Related-Party Transactions

All Related-Party fees, Related-Party allowances and any other Related-Party transactions must be:

- a) Disclosed to the CMF; and
- b) In accordance with the current CMF Accounting and Reporting Requirements in [Appendix B](#).

4.2.4 Marketing Expenses

Eligible Costs of the Eligible Project may include:

- Unit publicity expenses incurred during production (e.g., production photographs, hiring a publicist to arrange interviews);
- Versioning costs to assist in foreign market sales¹²;
- Attendance at national and international markets to generate sales or other revenues from the Eligible Project; and
- Submission/registration to a relevant awards show/event.

The maximum allowable Eligible Projects' eligible marketing expenses shall be the lesser of 5% of Categories B+C of the production budget or \$400,000. In the case of eligible marketing expenses of \$10,000 or less, no budget percentage cap will be imposed.

All marketing expenses of the Eligible Project – including those for Related Digital Content, if applicable – should be allocated to budget account # 70 in the production budget.

Non-eligible marketing costs include:

- Costs already financed or paid for by another financier or funding body.
- Wrap party, crew or cast gifts, and gifts to the public (e.g., t-shirts, mugs).

¹²Under the Marketing Expenses cap, the CMF will accept up to 90 minutes of versioning costs to assist in foreign market sales of an Eligible Project.

4.2.5 Pilots and Series

Eligible Costs for a series may include costs related to enhancements to a previously produced pilot where the series is consequent to that pilot.

4.2.6 Prizes

Any prize that is won, awarded, presented, or granted to individuals in connection with any CMF-funded production, in any genre, shall be an ineligible cost, even if such prize is deemed to be educational in nature.

5. DECISION PROCESS

The CMF utilizes a combination of automatic (i.e., the CMF Envelope system), selective and first-come-first-served (FCFS) decision processes in its Linear Programs. Please refer to each set of Program Guidelines for specifics on how decisions are made.

For selective and FCFS Programs, the CMF reserves the right to limit how many Projects are awarded funding to a single Applicant in a given funding application round

For selective Programs,

- the CMF reserves the right to not fund Projects below a minimum score based on the evaluated and ranked Projects in that application round.
- the CMF will not accept a revision to any material element of the Project or Applicant that would affect its final weighting or eligibility.



CANADA
MEDIA FUND

FONDS DES MÉDIAS
DU CANADA

SCHEDULE A

FLEXIBILITY FOR

INDIGENOUS-LED PROJECTS

2025-2026

Introduction

The CMF offers three flexibility measures to reflect the experiences of Indigenous Peoples in Canada (defined in [Appendix A](#)) and to recognize the unique circumstances of the Indigenous production community. These measures will apply to all CMF Linear Content Programs.

Indigenous Applicants Based in the Circumpolar North¹³

1. Essential Requirement #1 Flexibility

Essential Requirement #1 requires that an Eligible Project receiving Linear content funding must be certified by the Canadian Audio-Visual Certification Office (CAVCO) and has achieved 10/10 points (or the maximum number of points appropriate to the project), as determined by the CMF using the CAVCO scale.

Eligible Projects from Eligible Applicants that are owned and controlled by individuals who are First Nations, Inuit or Métis working in Canada's North will be granted the following flexibility on this requirement as determined on a case-by-case basis:

- Provided the majority of the Project's CAVCO scale positions are filled by Canadians, the CMF will also allow a minority of the Project's CAVCO scale positions to be filled by individuals working in the Circumpolar North (defined in [Appendix A](#)) who are not Canadian.

This flexibility will apply to all CMF Linear Programs across all genres at the predevelopment, development and production stages.

2. Eligible Triggering Commitment Flexibility (Production)

An Eligible Triggering Commitment Threshold is the minimum amount of financial contributions an Eligible Project must receive from the marketplace in order to unlock CMF funding for that project.

While the CMF allows Canadian Broadcasters (and, if applicable, Eligible Canadian Distributors and/or Eligible International Entities¹⁴) (each defined in [Appendix A](#)) to contribute to a Project's Eligible Triggering Commitment Threshold¹⁵, Eligible Projects from Eligible Applicants that are owned and controlled by individuals who are First Nations, Inuit or Métis working in Canada's North will be granted the following flexibility on this requirement, determined on a case-by-case basis:

- Non-Canadian broadcasters from the Circumpolar North may contribute to a Project's Eligible Triggering Commitment Threshold (either in combination with Canadian Broadcasters and, if applicable, Eligible Canadian Distributors and/or Eligible International Entities, or acting as a sole trigger).

The applicable rights, Maximum Term and other material elements connected to Projects where a non-Canadian broadcaster from the Circumpolar North contributes to the Eligible Triggering Commitment Threshold are subject to CMF approval and will be evaluated on a case-by-case basis.

¹³Please see [Appendix A](#) for the definition of Circumpolar North as defined by the [University of the Arctic](#).

¹⁴ Eligible International Entities may contribute the minority share of the Eligible Triggering Commitment Threshold for Children and Youth Eligible Projects only.

¹⁵ Additional exceptions exist for some selective Production Programs – please consult the specific Program Guidelines for more details.

For clarity, all CMF-funded production-stage Projects must be made available to Canadian audiences within 18 months of completion and delivery of the Eligible Project. Therefore, if a non-Canadian broadcaster from the Circumpolar North is the only entity that contributes to a Project's Eligible Triggering Commitment, the Applicant must still ensure that the Project meets the Canadian Premiere Requirement (defined in section 3.2.4.1 above) and is made available in Canada via a Canadian Broadcaster within eighteen (18) months of completion and delivery of the Project or it will be considered an Event of Default pursuant to [Appendix B](#) and the Applicant's CMF Financing Agreement.

All Indigenous Applicants

3. Genre Flexibility

Provided an Eligible Project meets the other applicable requirements of the Documentary definition (set out in section 4 of [Appendix A](#)), documentaries from Applicants owned and controlled by individuals who are First Nations, Inuit or Métis may include "how-to" programming related to Indigenous cultural elements (e.g., content related to Indigenous food, dance, language, etc.).

This flexibility will be extended to all Linear Programs at the pre-development, development, and production stages.

THIS IS EXHIBIT "O"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUBJ', is written over a horizontal line.

Commissioner for Taking Affidavits



[Canada.ca](#) › [Canadian Heritage](#) › [Funding - Culture, history and sport](#)

› [Film and video tax credits - CAVCO](#) › [Canadian Film or Video Production Tax Credit](#)

Application guidelines - Canadian Film or Video Production Tax Credit (CPTC)

Canadian Audio-Visual Certification Office (CAVCO)

Published March 3, 2020

► [Document change log \(last updated November 4, 2025\)](#)

On this page

[Overview](#)

[1. Administration of the CPTC Program](#)

[2. Corporate Eligibility Requirements](#)

[3. Copyright Ownership](#)

[4. Ineligible Production Genres](#)

[5. Treaty Coproductions](#)

[6. Key Creative and Producer-Related Personnel](#)

[7. Financial Information](#)

[8. Exploitation of a Production](#)

List of tables

Table 1: Key creative point system for live action productions

Table 2: Key creative point system for animation productions

List of figures

Figure 1: Stages for review of applications at CAVCO

Figure 2: A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors).

List of acronyms and abbreviations

BBC

British Broadcasting Corporation

CAVCO

Canadian Audio-Visual Certification Office

CMF

Canada Media Fund

CPA

Chartered Professional Accountant

CPTC

Canadian Film or Video Production Tax Credit

CRA

Canada Revenue Agency

CRTC

Canadian Radio-television and Telecommunications Commission

DG

Director General

DVD

Digital Versatile Disc

PSTC

Film or Video Production Services Tax Credit

VOD

Video on Demand

VR

Virtual Reality

Overview

What is the Canadian Film or Video Production Tax Credit?

The Canadian Film or Video Production Tax Credit (CPTC) is a refundable corporate tax credit designed to encourage the creation of Canadian film and television programming and the development of an active domestic independent production sector in Canada. The CPTC program is jointly administered by the Department of Canadian Heritage, through the Canadian Audio-Visual Certification Office (CAVCO), and by the Canada Revenue Agency (CRA).

The CPTC is governed by section 125.4 of the *Income Tax Act* (the “Act”) and section 1106 of the *Income Tax Regulations* (the “Regulations”). Links to the full text of the Act and Regulations are available on [CAVCO’s website](#).¹ The Act and Regulations take precedence, to the extent of any inconsistency with these guidelines.

What information is in these guidelines?

These guidelines focus on the requirements a production must meet to be certified as a Canadian film or video production under the CPTC program.

They also explain how the tax credit for a production is calculated, and the CRA's role in reviewing claims for the tax credit following the certification of a production through CAVCO.

Who can apply for the CPTC?

The CPTC is available only to a Canadian production company that is a qualified corporation. A qualified corporation is one that is throughout a given taxation year a prescribed taxable Canadian corporation with a permanent establishment in Canada, and that primarily carries on the activities of a Canadian film or video production business. A Canadian film or video production in this context is a production meeting the requirements of section 1106 of the Regulations.

How do I submit an application to CAVCO?

Applications for CPTC certification must be submitted through the CAVCO Online application system. See the [CPTC section of CAVCO's website](#) for more information.

Production companies must apply to CAVCO for both a Canadian film or video production certificate (Part A certificate) and a certificate of completion (Part B certificate) for each production.

How is the CPTC calculated?

The CPTC is available at the rate of 25% of the qualified labour expenditure for an eligible production in a given taxation year.

The qualified labour expenditure represents the eligible labour expenses incurred for a production, capped at 60% of the production's total cost once funding amounts considered assistance are deducted. The maximum CPTC available for a production is therefore 15% of the total cost of production net of assistance. The rules for calculating the tax credit are set out in section 125.4 of the Act.

Are all types of audiovisual content eligible for the CPTC?

To be eligible for CPTC certification, a production must be a linear, non-interactive film or video production.

An interactive project requiring some form of viewer intervention to progress the storyline is not eligible. A 360/virtual reality (VR) production can be eligible, as long as the storyline progresses in a linear way without needing any active viewer intervention. Viewer involvement outside of the context of the audiovisual project – for example, through online voting – is acceptable.

Websites, games, apps, and any similar products are **not** eligible for the CPTC.

What is the Film or Video Production Services Tax Credit (PSTC)?

The PSTC is the other federal audiovisual tax credit program co-administered by CAVCO and the CRA. It promotes Canada as a location of choice for foreign- and Canadian-owned film and television productions and supports the existence of a production infrastructure of international calibre in Canada.

It is available to Canadian-based production companies or production service companies at a rate of 16% of the qualified Canadian labour expenditure for a production. The qualified Canadian labour expenditure is equal to all eligible labour expenses (expenses payable to Canadian residents for services rendered in Canada) minus the total of all financing amounts considered assistance.

Productions eligible for the PSTC generally feature non-Canadian creative control and non-Canadian copyright ownership.

For more information on PSTC program requirements, see the [PSTC section of CAVCO's website](#).

Note that a corporation cannot receive both the PSTC and the CPTC for the same production.

What are the requirements for a production to be eligible for the CPTC?

For a production to be eligible under the CPTC program, it must meet all of the requirements set out below. Each is further described in the noted section of the guidelines. These requirements are found in section 125.4 of the Act and section 1106 of the Regulations, under the definitions for “Canadian film or video production,” “Canadian film or video production certificate” and “excluded production.”

1. Application and certification deadlines

CAVCO has a two-part application process. There is no deadline to submit a Part A application for a production. A Part B application must be received by CAVCO within 24 months of the production company's first taxation year end following the start of principal photography. The Part B certificate for a production must be issued by CAVCO within six

months of this application deadline. These deadlines can be extended by 18 months if valid T2029 waivers are filed with the CRA. (See [section 1.09](#))

2. Canadian production company

The production company must be a prescribed taxable Canadian corporation and a qualified corporation. (See [sections 2.01-2.02](#))

3. Canadian copyright ownership

Only the production company or a prescribed person may own copyright in the production during the 25-year period beginning when the production is complete and commercially exploitable. (See [sections 3.01-3.03](#))

4. Production genres

The production cannot fall under any of the ineligible production genres. (See [sections 4.01-4.03](#))

5. Key creative points for Canadians

The production must obtain a minimum number of points given for key creative positions occupied by Canadian citizens or permanent residents, and obtain certain points that are mandatory. (See [sections 6.01-6.08](#))

6. Canadian producer

All producer-related personnel (other than those receiving exemptions permitted in limited circumstances) must be Canadian. (See [sections 6.09-6.13](#))

7. Canadian cost requirements

At least 75% of the total of all costs for services related to producing the production (other than certain excluded costs) must be payable for services provided to or by individuals who are Canadian. (See section 7.10) ⁴⁰⁴

At least 75% of the total of all post-production costs for a production (other than certain excluded costs) must be incurred for services provided in Canada. (See section 7.10)

8. Canadian control over exploitation rights

Only the production company or a prescribed person may control the initial licensing of commercial exploitation rights for the production. (See section 8.01)

9. Exploitation in Canada

Either a Canadian distributor or a CRTC-licensed broadcaster must provide written confirmation that the production will be shown in Canada within the two-year period beginning when the production is complete and commercially exploitable. (See sections 8.02-8.06)

10. No distribution in Canada by non-Canadians

The production cannot be distributed in Canada by a non-Canadian entity within the two-year period beginning when the production is complete and commercially exploitable. (See section 8.08)

11. Acceptable share of revenues

The production company or a related prescribed taxable Canadian corporation must receive an acceptable share of revenues from the exploitation of the production in non-Canadian markets. (See section 8.09)

Note that requirements 3, 5-8 and 11 do not apply to treaty coproductions.

A treaty coproduction must meet all other requirements, and must conform to the terms of the applicable coproduction treaty. See [Chapter 5](#) for more information on the certification of treaty coproductions under the CPTC program.

1. Administration of the CPTC Program

► In this section

1.01 Contacting CAVCO

Information relevant to the CPTC program, including program guidelines, forms, and the online application portal, is available on the [CPTC section of CAVCO's website](#).

Contact information:

Canadian Audio-Visual Certification Office (CAVCO)
Canadian Heritage
25 Eddy Street
Gatineau, Quebec
J8X 4B5

Telephone:

1-888-433-2200 (toll-free)

TTY (Teletypewriter):

1-888-997-3123

E-mail:

bcpac-cavco@pch.gc.ca

Website:

1.02 Overview

On behalf of the Minister of Canadian Heritage, CAVCO issues certificates for productions meeting all certification requirements under the CPTC program. (See [section 1.03](#))

Production companies submit these certificates to the Canada Revenue Agency (CRA), as part of their T2 Corporation Income Tax Returns, to receive the tax credit. (See [section 1.04](#))

1.03 Role of CAVCO

1.03.01 General

CAVCO is responsible for assessing whether a production meets the requirements for CPTC certification set out in section 125.4 of the Act and section 1106 of the Regulations. CAVCO then recommends to the Minister of Canadian Heritage whether or not to issue a “Canadian film or video production certificate” (a “Part A certificate”) for the production.²

Once a production is completed, CAVCO is responsible for assessing whether the production continues to meet the requirements of the Act and Regulations. CAVCO recommends to the Minister whether or not to issue a “certificate of completion” (a “Part B certificate”) for the production. A production for which a certificate of completion is not issued loses its status as a Canadian film or video production. More information on each certificate can be found in [sections 1.03.02-1.03.03](#).

A previously issued Part A certificate may be revoked by the Minister of Canadian Heritage if an omission or incorrect statement was made for the purpose of obtaining the certificate, or where, for any reason, the

production is found not to be a Canadian film or video production. A revoked certificate is deemed never to have been issued. See [section 1.11](#) for more information on revocations.

1.03.02 Canadian film or video production certificate (Part A certificate)

This certificate confirms that a production is a “Canadian film or video production.”

The certificate also provides estimates of the production costs and labour expenditures associated with a production, as well as the tax credit applicable to the production. These estimates are based on an analysis of budget and financing information for the production.

The Part A certificate is generally issued before or during production, to help production companies secure other production financing and to allow them to claim a tax credit at the end of the first year of production. Note that it is not necessary for a production company to have received both the Part A and Part B certificates before applying for the tax credit with the CRA. A claim can be filed with just the Part A certificate.

If CAVCO cannot conclusively determine whether one or more types of financing for a production are assistance (see [section 7.06](#)), this financing will be treated as assistance for the purpose of CAVCO’s estimate of the tax credit for the production.

The estimate provided by CAVCO is not binding on the CRA, and is not a commitment as to the final value of the tax credit. A final determination of the qualified labour expenditure and tax credit for a production is made by the CRA during its review of a tax credit claim for a given year.

1.03.03 Certificate of completion (Part B certificate)

A Part B certificate is issued where a production is completed and continues to meet the requirements for being certified under the CPTC program. If this certificate is not issued within the prescribed time frame (see [section 1.09](#)), the CRA will refuse any tax credit claim for the production and reassess the corporation's tax returns for any tax credit previously allowed.

3

An applicant may apply at the same time (with a "Part A/B application") for both the Canadian film or video production certificate and the certificate of completion, once a production is completed.

1.03.04 Certification of episodes in a series

For the purpose of CPTC certification, each episode in a series or mini-series, or film in an anthology of short films, is considered a distinct production.⁴ If an application to CAVCO is for a series, only one certificate is issued, with the suffix of the certificate number indicating the total number of eligible episodes. For example, 45678-010 means that 10 episodes have been certified.

1.04 Role of the CRA

1.04.01 General

The CRA is responsible for:

- applying the sections of the Act relevant for determining the CPTC (this includes confirming the qualified labour expenditure amount, calculating the tax credit amount, and confirming that a corporation is a qualified corporation);
- reviewing and auditing CPTC claims within a reasonable time frame;
- assessing the company's T2 Corporation income tax return; and
- issuing timely refund cheques where applicable.

To claim the tax credit for a certified production, a qualified corporation must file with its T2 Corporation Income Tax Return:

- a. the Part A certificate issued for the production; and
- b. a CRA T1131 "Canadian Film or Video Production Tax Credit" form.

CAVCO informs the CRA if, for any reason, a Part B certificate is not subsequently issued for the production. As previously noted, the CRA will in these cases refuse any new tax credit claim for the production and reassess the corporation's tax returns for any tax credit previously allowed.

The CPTC is a refundable tax credit. This means that the qualified corporation will be refunded the amount of the tax credit, to the extent that it exceeds the total of any tax payable for the year, and subject to the CRA's right to offset any other amount the corporation owes.

Note that under subsection 164(1) of the Act, a tax credit for a given taxation year can only be issued in the form of a refund if the T2 Corporation Income Tax Return for that year was filed within three years of the end of that year.

As part of its review of a tax credit claim, the CRA may request any additional information it deems necessary, including in the course of a full fiscal audit of the production. This may include, but is not limited to, the books and records of the corporation and the full applications filed with CAVCO.

More information on the CRA's role in co-administering the CPTC program, as well as its Form T1131 and its publication Canadian Film or Video Production Tax Credit – Guide to Form T1131, can be found on CRA's website.

1.04.02 Claiming a capital cost allowance for a CPTC-certified production

A CPTC-certified production is a Class 10(x) property under Schedule II of the *Income Tax Regulations*, and is eligible for an accelerated Capital Cost Allowance (CCA). For more information, see the [Claiming capital cost allowance \(CCA\)](#) webpage or contact the applicable regional CRA [Film Services Unit](#).

1.05 Certification of Treaty Coproductions under the CPTC Program

Treaty coproductions involving a Canadian production company can be eligible for the CPTC.

For a treaty coproduction to be considered a Canadian film or video production, the Canadian production company coproducing it must apply to Telefilm Canada (Telefilm) for Preliminary and Final Recommendations, as well as to CAVCO for a Part A certificate and a Part B certificate.

Telefilm is the administrative authority responsible for evaluating whether a production meets the criteria set out in the relevant coproduction treaty. It provides CAVCO with both a Preliminary Recommendation and a Final Recommendation as to whether a production meets treaty requirements.

CAVCO makes a recommendation to the Minister of Canadian Heritage as to whether or not the coproduction should be certified under the CPTC program.

See [Chapter 5](#) for more information on treaty coproductions.

1.06 Submitting an Application to CAVCO

1.06.01 Complete application

Applicants are responsible for submitting complete CPTC applications to CAVCO. ⁴¹¹

Production companies must file complete applications through the CAVCO Online application system, accessible through the CPTC section of CAVCO's website. Part of submitting a complete application includes paying the application fee (see section 1.07).

Supporting documentation must be included as part of a complete Part A or Part B application to CAVCO. A list of this documentation can be found in the "How to apply" section of the CPTC page on CAVCO's website. Note that CAVCO does not accept redacted documents.

Incomplete applications will not proceed for analysis with a tax credit officer unless all required information and documents are received and the application fee is paid.

If information or documentation required to determine the eligibility of a production is not provided to CAVCO upon request, CAVCO could recommend the file for denial or revocation at any time. For more information on the process for denials or revocations, see section 1.11.

1.06.02 Requests for additional information

CAVCO reserves the right to request any additional information, affidavits or sworn statements necessary to ensure that a CPTC certificate should be issued for a production.

CAVCO may also ask the production company to provide any necessary records or financial documents for auditing purposes. The production company must ensure that adequate space and time are provided, and that all relevant documents are made available, for an audit.

While a copy of a production (three representative episodes for a series) is always required at the Part B application stage, CAVCO may also request a copy at the Part A stage (a rough cut is acceptable) where necessary. This may occur, for example, where there is a potential concern related to the production meeting genre or lead performer eligibility requirements.

Where a copy of the production is requested at the Part A stage, note that a final copy of the production is still required with the Part B application for the production.

CAVCO also reserves the right to request more episodes of a series at any stage of analysis. This may occur, for example, where there is a concern with the eligibility of one or more of the episodes submitted originally. In rare cases, CAVCO may ask to see all episodes in a series.

1.07 Application Fees

A fee is required for each application to CAVCO.

The fee amount for an application may be adjusted by CAVCO prior to certification, where a change to the production budget or production financing affects the eligible production cost. In the event this results in an additional fee being owed by the applicant, the outstanding amount must be paid before the certificate is issued. Overpayments will be refunded after Part B certification for the production.

More information on application fees is available on the [Fees — Film and Video Tax Credits](#) webpage.

As of April 1, 2025, applicants may be eligible for a partial refund of the fee paid if CAVCO does not meet its service standard commitment. For information on CAVCO's service standard and processing times, see [CAVCO's Fee Remissions Policy](#) webpage.

1.08 Application Review Process

When an application is received by CAVCO, it is reviewed for completeness, including verifying that the application fee has been paid. Once an application is complete, it is placed in a queue to be assigned to a tax credit officer.

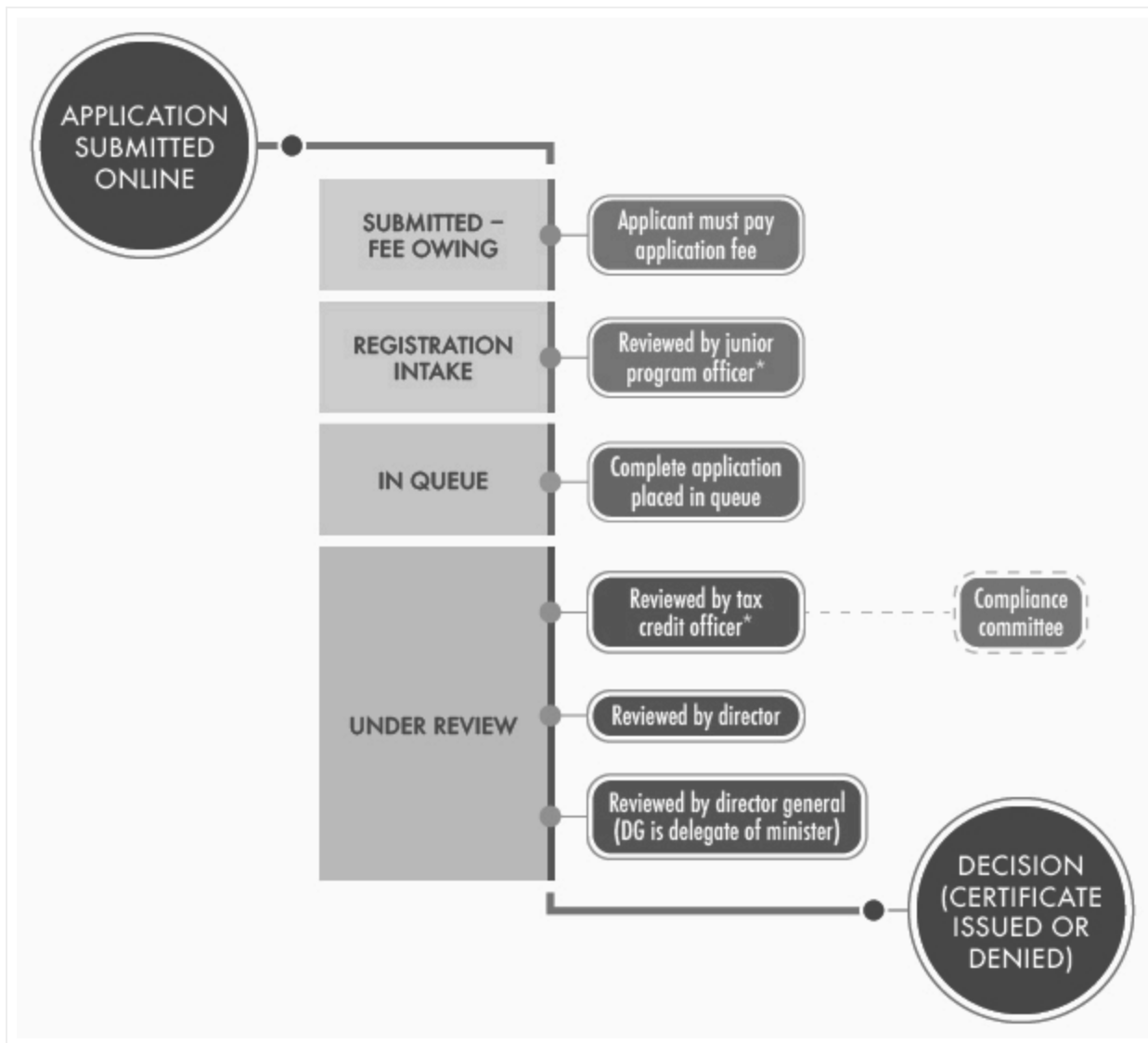
When the application is assigned to a tax credit officer, they will review it and contact the applicant if additional information or clarification is needed.

Once the tax credit officer's review is complete, the file is advanced for further approvals, ending with a final recommendation being made to the Director General, Audiovisual Branch to either certify the production, or deny or revoke the certification of the production, on behalf of the Minister of Canadian Heritage. The applicant is notified as soon as possible of the decision.

Notifications from CAVCO are sent to the applicant's Message Centre in the CAVCO Online system. It is therefore important for the applicant to check their messages on a regular basis. Applicants should also ensure that all contact information for their applications (including e-mail address, phone number and mailing address) is kept up to date.

See Figure 1 below for more details on CAVCO's application review process.

Figure 1: Stages for review of applications at CAVCO



► **Figure 1: Stages for review of applications at CAVCO - Text version**

Figure 1: Stages for review of applications at CAVCO - Notes

The four boxes on the left side of the diagram represent different file status messages that an applicant sees in the CAVCO Online system.

* Officers may request missing information or additional clarification for a file, in which case applicants will see the status message “Amendment in progress – not submitted”. The application does not progress to the next

stage of analysis until all required information is received.

For information on CAVCO's service standard and processing times, see [CAVCO's Performance Results webpage](#).

1.09 Part B Application and Certification Deadlines

1.09.01 Overview

While there is no deadline for applying to CAVCO for a Part A certificate for a production, there are deadlines for applying for a Part B certificate, and for this certificate being issued by CAVCO to the applicant.

1.09.02 Part B application deadline / CRA waiver requirements

The initial Part B application deadline is **24 months** from the end of the corporation's taxation year in which the production's principal photography began (the "24-month deadline").⁵

This deadline can be extended to **42 months** from the first taxation year end date (the "42-month deadline"), as long as the applicant files valid T2029 waivers with the CRA **for both the first and second taxation years ending after principal photography began**. CAVCO verifies directly with the CRA that valid waivers, when required, have been filed.

See the [T2029 waiver form](#) webpage for more information on how to fill out and file these waivers, and to view a sample waiver.

For clarity purposes:

- The Part B application must be filed with CAVCO by the 42-month deadline.

- The two properly completed waivers for the production must be filed with the CRA by the 42-month deadline, and within the normal reassessment period for the two taxation years. A waiver should not be filed for a taxation year if that year has not yet been assessed by the CRA.
- If a waiver is not completed correctly or is submitted when the relevant taxation year has not yet been assessed, the form will be returned to the claimant, causing potential delays with CPTC certification.

The normal reassessment period for a taxation year is three years from the date of the mailing of the notice of assessment for Canadian-controlled private corporations, and four years from this date for public corporations.

A failure to meet the final 42-month deadline, or to file valid waivers when required, will result in a previously issued Part A certificate being revoked, or a Part A/B application being denied.

Note that an application must be submitted no later than 11:59 p.m. Pacific Time on the applicable application deadline. When the application deadline falls on a Saturday, Sunday or statutory holiday, CAVCO will consider the application to be received on time if it is submitted by 11:59 p.m. Pacific Time on the next business day. For CAVCO purposes, statutory holidays are those listed on the CRA's website.

1.09.03 Part B application deadline for domestic coproductions

When two or more Canadian production companies enter into a domestic coproduction arrangement (see [section 2.03](#)), the deadlines for applying to the CPTC are determined using the taxation year end of the primary applicant. If the primary applicant is submitting a Part B application after the 24-month deadline, the coproducing partner will also have to file waivers with the CRA.

1.09.04 Part B certification deadline

A Part B certificate must be issued within 6 months of a production's application deadline. The 48-month deadline is therefore the final date by which CAVCO must issue a Part B certificate for a production.

An applicant must submit a complete application and respond to all requests for information or clarification from CAVCO in a timely manner, so that CAVCO's analysis can be completed, and a certificate issued, by this final deadline.

If no Part B certificate is issued by the 48-month deadline, a previously issued Part A certificate will be revoked, or a Part A/B application will be denied.

1.09.05 Calculation of deadlines – Example

Corporate Taxation Year End

December 31

Start of Principal Photography

February 3, 2015

End of taxation year in which principal photography began

December 31, 2015

End of following taxation year

December 31, 2016

24-month Part B application deadline

December 31, 2017

42-month Part B application deadline

June 30, 2019

48-month Part B certification deadline

December 31, 2019

In this example, if the Part B application is being submitted after the 24-month deadline:

- The Part B application must be submitted to CAVCO by June 30, 2019; **and**
- Valid CRA T2029 waivers, for each of the taxation years ending December 31, 2015 and December 31, 2016, would need to be filed with the CRA within the normal reassessment period for each of those two years.

1.09.06 Ensuring that the taxation year end date is correct

The applicant is responsible for ensuring that all Part B deadlines are met. As a courtesy to applicants, CAVCO does issue reminder notices of Part B application deadlines at the **22-month, 24-month, 40-month, and 41-month** marks based on dates submitted in the Part A application.

When the taxation year end provided by the applicant with a Part A application is incorrect, or is later changed ⁶ without CAVCO being informed, CAVCO reminder notices may also be incorrect.

Note that once the first taxation year end has been confirmed through a company's first filing of a T2 return for that year, Part B deadlines will continue to be calculated by reference to this date, even if the company later changes its taxation year.

Additional extension to Part B application deadline due to COVID-19

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible for an additional extension to their Part B application and certification deadlines for the production.

See [CAVCO Public Notice 2022-03](#) for more information.

1.10 Compliance Reviews

If CAVCO determines that a production may not be eligible under the CPTC program, the file is submitted to CAVCO's Compliance Committee for review of the issue(s) of ineligibility.

Based on this review, additional information or clarification may be requested from the applicant, or the file may be recommended for denial (for a Part A or Part A/B application) or revocation (for a Part B application). For more information on the process for denials or revocations, see [section 1.11](#).

1.11 Denials and Revocations

If an application is for a Part A certificate, or for both Part A and Part B certificates at the same time, and the production does not meet the requirements for CPTC certification, the production will be denied certification.

Where a Part A certificate has already been issued for a production, it may be revoked by the Minister of Canadian Heritage where:

- a. an omission or incorrect statement was made for the purpose of obtaining the certificate; or
- b. the production is not a Canadian film or video production.

Where a review of an application reveals an issue of ineligibility, CAVCO sends the applicant an advance notice detailing the reasons why the production appears to be ineligible. The applicant is provided the opportunity to submit additional information that may impact the final evaluation of the application.

If, after considering the additional information, CAVCO makes a final recommendation that the production not be certified, or if the applicant fails to provide a response within the allotted time frame, the applicant is sent a final notification of denial or revocation issued by the Director General, Audiovisual Branch, on behalf of the Minister.

A certificate that is revoked is deemed never to have been issued. CAVCO provides a copy of the final notice to the CRA for all denials and revocations.

Applicants may apply to the Federal Court for judicial review of a final decision within 30 days of being notified by CAVCO of the decision. To apply for judicial review, an applicant must send a completed Form 301, Notice of Application (Federal Court website) (PDF (Portable Document Format) format), with the appropriate filing fee, to the registrar of the Federal Court. For more information on how to file an application for judicial review, or other general enquiries, visit the Courts Administration Services website.

1.12 Internal CAVCO Audits

Each year, CAVCO performs a more in-depth review of a select number of applications. CAVCO reserves the right to request any additional information necessary for a complete audit of the application.

1.13 Preliminary Opinions of Eligibility (Pre-assessments)

A production company may ask CAVCO to provide a preliminary opinion on the eligibility of a production for CPTC certification with respect to a specific issue. This opinion is based strictly on the information made available at the time to CAVCO, and is not binding on whether or not the production will ultimately be eligible, including with respect to the specific issue identified in the pre-assessment request. Full Part A and B applications for a production must ultimately be received for CAVCO to provide a final recommendation to the Minister of Canadian Heritage regarding the production's eligibility.

A request for a pre-assessment may be submitted to CAVCO only if a CPTC application for the production has not yet been submitted, and if the production has been substantially developed.

Requests for pre-assessments can be sent to CAVCO's Compliance Committee at bcpacc-cavcoc@pch.gc.ca.

All pre-assessment requests must include:

- the name of the production company (or parent company if a production company has not yet been incorporated);
- the title of the production and, where applicable, the number and length of episodes;
- the broadcaster or distributor involved or being contemplated; and
- the specific eligibility issue to be addressed (e.g., a question about lead performer, genre, etc.).

If no specific eligibility concerns are identified and explained, CAVCO will not be able to proceed with a pre-assessment.

If the concern relates to whether a production falls under an ineligible genre category, the request must include, in addition to the specific genre(s) of concern:

- a detailed treatment and/or series bible (note that a one-page synopsis or concept is not sufficient);
- for series, a sample episodic breakdown providing the details and length of each segment in the episode, to show what each segment will look like once produced; and
- if available, a copy of the completed production or, for a format production, a copy of the original version of the production it is based on.

CAVCO's pre-assessment letter must be attached to any future CPTC application made to CAVCO for the production.

1.14 Confidentiality of Taxpayer Information

1.14.01 General

All information provided by an applicant under the CPTC program is subject to the taxpayer confidentiality provisions in section 241 of the *Income Tax Act*. This section restricts how government officials can use or communicate information obtained for the purpose of administering the Act. The full text of section 241 of the *Income Tax Act* can be found on the Department of Justice website.

1.14.02 Publication of titles of certified productions

Subsection 241(3.3) of the Act allows the communication of limited information regarding productions that have been Part A certified under the CPTC program. Accordingly, CAVCO publishes a list of titles and

associated production companies for all Part A certified productions. A link to the list is available on [CAVCO's website](#).

1.14.03 Sharing information with other federal or provincial government entities

Under section 241 of the Act, CAVCO can share information with:

- a. other entities directly involved with the co-administration of the CPTC, including the CRA and, in the context of treaty coproductions, Telefilm Canada;
- b. any federal or provincial government office or agency whose mandate includes the provision of assistance for film or video productions, to the extent that the information is shared for the purpose of administering or enforcing of the program under which the assistance is offered; or
- c. the CRTC, to the extent that it is being provided for the purpose of the administration or enforcement of a regulatory function of the CRTC.

1.15 Screen Credit Requirements

The Canadian production company, as well as the individual(s) occupying the producer position, must be clearly identified and given prominence on screen in the main titles, and in all billing blocks.

The Canadian copyright notice must also appear in the tail-end screen credits.

The “Canada” wordmark logo, accompanied by the wording “Canadian Film or Video Production Tax Credit,” must appear on all domestic and international versions of each certified production, and in all related advertising, publicity and promotional materials. More information can be found on the [“Electronic screen credit” page](#) on CAVCO's website.

1.16 Canadian Content Certification through the Canadian Radio-television and Telecommunications Commission (CRTC)

The CRTC has a Canadian content certification program that is similar in many respects to the CPTC certification process. However, no tax credit is provided through the CRTC.

For the purpose of CRTC program logs, broadcasters can submit a CPTC certificate number for a production, in lieu of the certification (“C”) number issued through the CRTC’s Canadian Program Certification section.

For more information, visit the [CRTC’s website](#).

2. Corporate Eligibility Requirements

► In this section

2.01 Prescribed Taxable Canadian Corporation

2.01.01 Overview

The production company producing a film or video production and applying for CPTC certification must demonstrate that it is a “prescribed taxable Canadian corporation,” as defined in the Regulations.

This means the corporation must be a taxable Canadian corporation⁷ that is:

- a. Canadian-controlled, based on sections 26 to 28 of the Investment Canada Act;

- b. not controlled directly or indirectly in any manner by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the *Income Tax Act* (for example, tax-exempt non-profit corporations, charitable organizations, etc.); and
- c. not a prescribed labour-sponsored venture capital corporation, as defined in section 6701 of the Regulations.

For the purpose of sections 26 to 28 of the *Investment Canada Act*, “Canadian” means:

- a. a Canadian citizen;
- b. a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act* who has been ordinarily resident in Canada ⁸ for not more than one year after the time at which he or she first became eligible to apply for Canadian citizenship; ⁹
- c. a Canadian government, whether federal, provincial or local, or an agency thereof; or
- d. an entity that is Canadian-controlled, as determined under subsection 26(1) or (2) and in respect of which there has been no determination made under any of subsections 26(2.1), (2.11) and (2.31), or declaration made under subsection 26(2.2) or (2.32).

2.01.02 How CAVCO assesses control of a corporation

For a production company to meet the Canadian ownership and control requirements of the CPTC program, there must be control in law (“*de jure*” control) of the company by Canadians, with respect to shareholders’ voting rights. It must also be clear that this extends to control in fact (“*de facto*” control), having regard for the nature of shareholders’, officers’ or directors’ involvement with, or influence within, the company. In other

words, *de facto* control may exist when another corporation, person or group of persons has any direct or indirect influence that, if exercised, would result in control in fact of the corporation.

The assessment of a company's eligibility is based primarily on information provided by the applicant in the "Shareholders" section of an application.

CAVCO may in some cases request additional information to confirm the control of a corporation based on the rights, privileges and decision-making authority of shareholders (e.g., through articles of incorporation, shareholder agreements, trust agreements, legal opinions, organization charts or similar documentation).

CAVCO may request additional supporting documents for a publicly traded company, such as the company's articles of incorporation, its notice of registered office, or a certified list of shareholders. Additional documents may also be required if a shareholder is an entity such as a sole proprietorship, a partnership or a trust.

Any corporate shareholder (or a shareholder such as a partnership or a trust) owning a majority of voting shares in the production company must also be shown to be Canadian-controlled.

Where there are several minority shareholders that are corporations or other business entities, it must be shown that a majority of shares are owned by Canadian-controlled entities.

2.02 Qualified Corporation

A company applying for the tax credit under the CPTC program must be a "qualified corporation," as defined in the Act.

Under this definition, a corporation must be one that is, throughout a given taxation year, a prescribed taxable Canadian corporation (see section 2.01) whose activities consist primarily of carrying on a Canadian film or video production business, through a permanent establishment in Canada.

Where the business of a corporation consists primarily of other activities such as the rental of equipment or studios, the distribution of audiovisual productions, or the production of films or videos that are not Canadian film or video productions, the corporation is not considered a qualified corporation.

If a corporation engages in more than one business, the assessment of its primary activity is based on evaluating factors such as the revenues generated by each business, the capital employed in each business, and the time spent by employees, agents or officers on each business.

The CRA determines whether a production company is a qualified corporation. If a production company is unsure whether or not it is a qualified corporation for tax credit purposes, it may contact its regional Film Services Unit of the CRA prior to submitting an application to CAVCO.

2.03 Domestic Coproductions

A domestic coproduction is a production for which more than one Canadian production company incurs expenses.

Only one application for certification is submitted to CAVCO through the company designated by the coproducers as the primary applicant for the application. However, information on all coproducing companies must be included with the application. Each production company must be a prescribed taxable Canadian corporation and a qualified corporation.

For domestic coproductions, CAVCO issues only one CPTC certificate. Each production company may then claim their own portion of the tax credit with the CRA.

Note that where two or more partnering Canadian production companies incorporate a subsidiary company to be the sole production company for a production, the production should not be identified as a domestic coproduction in an application to CAVCO.

3. Copyright Ownership

► In this section

3.01 General

Unless a production is a treaty coproduction, only the Canadian production company or a “prescribed person” can be a copyright owner of the production for all commercial exploitation purposes, for the 25-year period beginning when the production is completed and commercially exploitable.

No other person or entity can place any restriction on the ability of the production company or prescribed person to exercise full copyright ownership rights in the production during this period. This is verified by CAVCO through its review of documents such as exploitation, financing and chain-of-title agreements.

3.02 Copyright owner

Under the Regulations, a “copyright owner” for the purpose of the CPTC can be:

- a. the maker, as defined in section 2 of the *Copyright Act*, who at that time owns copyright in relation to the production, within the meaning of section 3 of that Act; or
- b. a person to whom that copyright has been assigned, under an assignment described in section 13 of the *Copyright Act*, either wholly or partially, by the maker or by another owner to whom this paragraph applied before the assignment

For greater certainty, the granting of an exclusive licence within the meaning of the *Copyright Act* (for example, to a broadcaster or a distributor) is not an assignment of copyright.

3.03 Prescribed person

3.03.01 Overview

In the Regulations, a “prescribed person” is defined as:

- a. a corporation that holds a television, specialty or pay-television broadcasting licence issued by the Canadian Radio-television and Telecommunications Commission;
- b. a corporation that holds a broadcast undertaking licence and that provides production funding as a result of a “significant benefits” commitment given to the [CRTC];
- c. a person to which paragraph 149(1)(l) of the Act applies ¹⁰ and that has a fund that is used to finance Canadian film or video productions;
- d. a Canadian government film agency,
- e. in respect of a film or video production, a non-resident person that does not carry on a business in Canada through a permanent establishment in Canada and whose interest (or, for civil law, right) in the production is acquired to comply with the certification requirements of a treaty coproduction twinning arrangement; and
- f. a person
 - i. to which paragraph 149(1)(f) of the Act applies ¹¹,
 - ii. that has a fund that is used to finance Canadian film or video productions, all or substantially all of which financing is provided by way of a direct ownership interest (or, for civil law, right) in those productions, and
 - iii. that, after 1996, has received donations only from persons described in paragraphs (a) to (e).
- g. a prescribed taxable Canadian corporation;
- h. an individual who is a Canadian; and
- i. a partnership, each member of which is described in any of paragraphs (a) to (h).

Note that if an entity other than the Canadian production company is a copyright owner of a production, this may have an impact on how a Capital Cost Allowance for the production is claimed. Production companies may consult with their regional CRA Film Services Unit office for further information on this issue.

3.03.02 Documentation demonstrating that an individual or entity is a “prescribed person”

- a. **A prescribed taxable Canadian corporation** must provide a “Private Company Declaration” (available on the Forms — Canadian Film or Video Production Tax Credit webpage) completed and signed by an authorized representative of the corporation.¹²
- b. **Individuals** that are prescribed persons must demonstrate that they are Canadian citizens or permanent residents by either:
 - i. providing a completed and signed “Individual Declaration – Prescribed Person” (available on the Forms — Canadian Film or Video Production Tax Credit webpage); or
 - ii. providing a CAVCO Personnel Number (see section 6.01.03).

For other entities acting as prescribed persons, CAVCO will ask the applicant to provide documentation where necessary.

3.03.03 Involvement of an individual or entity that is not a prescribed person

A non-prescribed person may make an investment in a production or participate in profits generated from a production, but cannot be a copyright owner of the production, or have any control over the initial licensing of commercial exploitation rights for the production.

Note that in cases where a non-prescribed person invests in a production without being a copyright owner, CAVCO examines relevant agreements to ensure that their involvement does not raise any concerns related to:

- a. production control (see [section 6.10](#)) or
- b. the retention by the production company of an acceptable share of revenues (see [section 8.09](#)).

4. Ineligible Production Genres

► In this section

4.01 List of ineligible genres

There is not a list of production genres that are eligible under the CPTC program. Instead, the *Income Tax Regulations* outline ten genres (listed below) that are **not** eligible for the program. Additional clarifications on how CAVCO assesses ineligible genres, including relevant definitions, can be found in [section 4.03](#).

- a. news, current events or public affairs programming, or a program that includes weather or market reports;
- b. a production in respect of a game, questionnaire or contest (other than a production directed primarily at minors);
- c. a sports event or activity;
- d. a gala presentation or an awards show;
- e. a production that solicits funds;
- f. reality television;
- g. pornography;
- h. advertising;

- i. a production produced primarily for industrial, corporate or institutional purposes;
- j. a production, other than a documentary, all or substantially all of which consists of stock footage.

4.02 How CAVCO assesses whether a production falls under an ineligible genre definition

At the Part A application stage, CAVCO reviews the synopsis for the production. If the synopsis does not provide sufficient information about a production's genre, CAVCO may also request other script material (for example, a treatment, a screenplay, or an episodic breakdown) or, in some cases, a preliminary copy of the production.

At the Part B application stage, CAVCO reviews a copy of the production.

Note that when CAVCO is reviewing an application for a new season of a series that has been certified in previous seasons, the genre of the new season is still assessed.

See [section 1.13](#) for more information on requesting a pre-assessment related to genre eligibility.

4.03 Additional clarifications (including definitions) for each ineligible genre

4.03.01 News, current events or public affairs programming, or a program that includes weather or market reports

Definition:

A production that:

- a. presents local, regional, national or international news in the form of a newscast;
- b. is presented in the form of specialized news programming, including, but not limited to, business news, sports news or entertainment news;
- c. presents live or pre-recorded coverage of current events;
- d. presents discussions or analysis of current political or public policy issues in the form of one-on-one, round-table or panel discussions, debates, open forums or town hall meetings;
- e. includes weather or market reports; or
- f. includes a combination of any of the above elements.

Key things to know:

1. Clarification regarding each section of the definition:

Element 1: A production that... presents local, regional, national or international news in the form of a newscast.

- This section of the definition captures traditional newscasts and clarifies that it applies to all types of newscasts, regardless of their territorial scope.
- Included within this category are daily news, evening news and 24-hour news channel programming.
- Examples: 6 p.m. news, ABC World News Tonight

Element 2: A production that... is presented in the form of specialized news programming, including, but not limited to, business news, sports news or entertainment news.

- This section of the definition covers specialized news programming dealing with a more narrow scope of news than a traditional newscast.

- While this section identifies the most popular types of specialized news programming (business, sports and entertainment), it is not limited to those. For example, a specialized news production focusing on the video gaming industry, or on science-related news, would be included within this section.
- For clarity: To be included within this section, a show has to predominantly present news on a given subject matter. This section does not include lifestyle/human interest shows that deal with a specific subject matter (e.g., fishing, golfing, video gaming) in a broader way.
- Examples: Entertainment Tonight, ESPN SportsCentre

Element 3: A production that... presents live or pre-recorded coverage of current events.

- This section of the definition refers to coverage of events that are typically covered by reporters or news divisions of broadcasters, but that are not presented in the form of a traditional newscast.
- This section does not include live performing arts shows.
- Examples: Election coverage, royal weddings, parades, political conventions

Element 4: A production that... presents discussions or analysis of current political or public policy issues in the form of one-on-one, round-table or panel discussions, debates, open forums or town hall meetings.

- This section of the definition is designed to capture “public affairs programming.”
- This includes any production that predominantly consists of discussions of political news or government policy.

- Such productions are typically produced through the news division of a broadcaster.
- Examples: Meet the Press, State of the Union

Element 5: A production that... includes weather or market reports.

- Any production that includes a weather or market report, regardless of the length of that segment, will be ineligible. For example, a talk show that includes a weather report will not be eligible.
- Productions with fictional weather or market reports will not be deemed to fall within this section of the definition.
- Example: The Today Show

Element 6: A production that... includes a combination of any of the above elements.

- This section of the definition clarifies that a production consisting of a mixture of any of the above elements will also fall under this genre and therefore be ineligible.

4.03.02 A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors)

Definition:

A production where individuals or teams participate in a game, quiz, or contest that has an objective outcome (e.g., right/wrong, complete/incomplete, fastest time, highest score) to determine a winner, whether or not a prize is awarded.

A production that combines tasks that are measured objectively with tasks that are measured subjectively is included in this genre.

A production that includes competitive elements but features character development over the course of a series (e.g., by starting with a group of participants who are competing against each other and who are eliminated as the series progresses) is not included in this genre.

Key things to know:

1. The definition does not apply to productions directed primarily at minors.
2. The presence of prizes is not a consideration when deciding whether a production falls under this genre. Whether or not a prize is awarded, or the monetary value of a prize, does not change the basic premise of a show and is not used by CAVCO as a determining factor for eligibility.

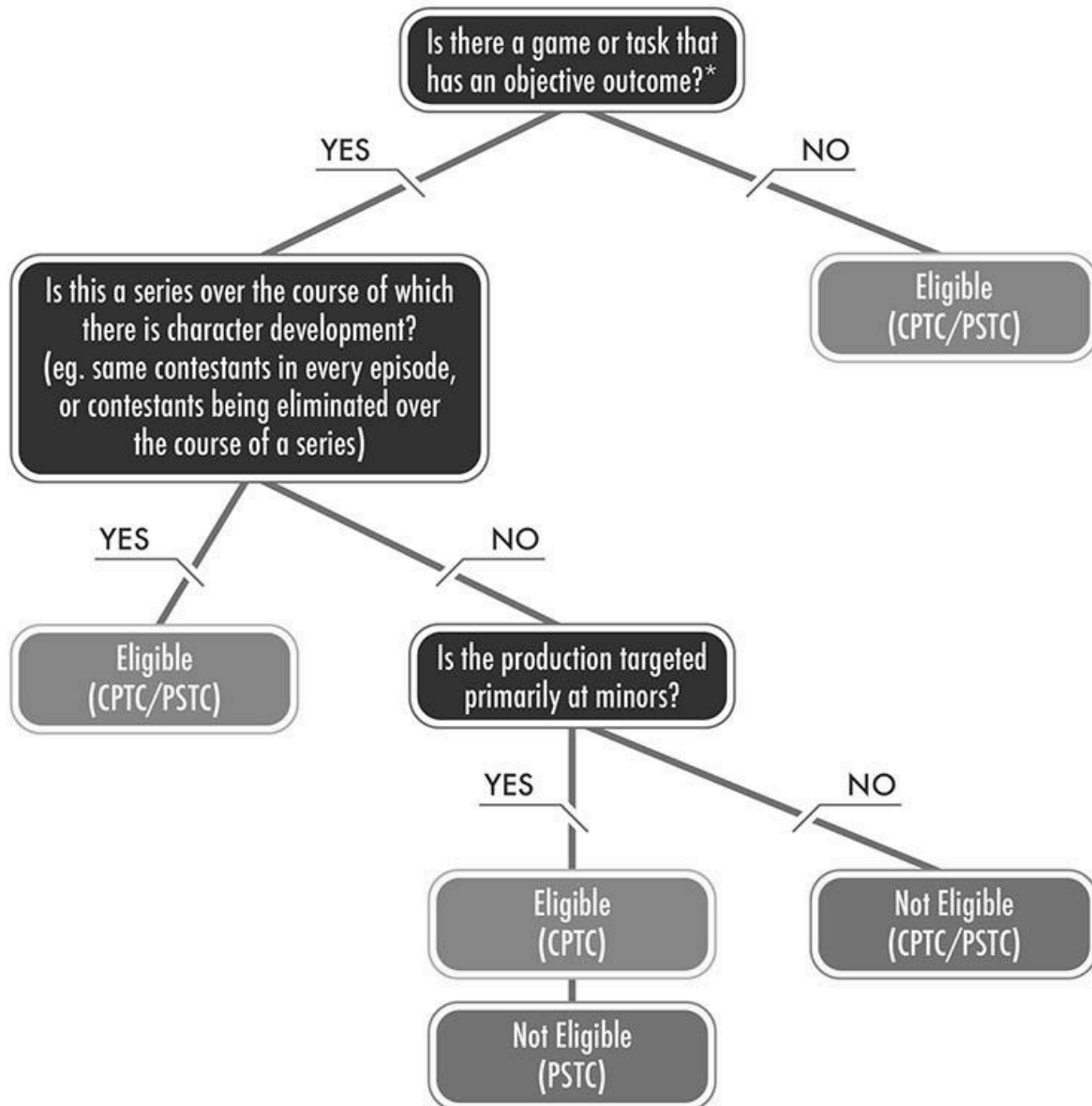
Examples:

Competition-based lifestyle/human interest programs with character development over the course of a series (which can therefore be eligible): Survivor, Amazing Race or American Idol

Productions that would be ineligible: Jeopardy, The Price is Right, Who Wants to be a Millionaire, Let's Make a Deal, American Ninja Warrior, Fear Factor, Des chiffres et des lettres

See Figure 2 below for more information on how CAVCO evaluates whether productions fall under this genre.

Figure 2: A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors)



► **Figure 2: A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors) – Text version**

Figure 2: A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors) – Notes:

*If there is a mix of objective and subjective outcomes, then choose “YES” for the first question.

- A “subjective outcome” is one determined by a decision-maker such as a judge or the audience.
- An “objective outcome” is one that is right/wrong, complete/incomplete, fastest time, etc.
- Whether or not there is a prize does not factor into the decision.
- Prolonged set-up to a game should still be considered part of the game.
- If the winner of each episode of a series returns in the next episode until they are defeated by a new challenger, the series is still considered to have new contestants in every episode (i.e. not an elimination series), since such a series still wouldn’t have the requisite character development.

4.03.03 A sports event or activity

Definition:

A production that consists of:

- live or pre-recorded coverage of a professional or amateur game, match, competition, or tournament; and/or
- pre- and post-game shows for sports events or activities.

Key things to know:

1. This genre includes coverage of traditional sporting events or activities (e.g., hockey, football, tennis, the Olympics, motocross racing, darts, etc.) as well as coverage of other competitive tournaments (e.g., chess, poker, eSports or similar activities commonly known as “mind sports”).

2. This genre does not include:

- documentaries about sports;
- lifestyle/human interest productions focused on a sport or recreational activity (e.g., skiing, fishing, snowboarding) that are informational, instructional or educational in nature; or
- a regularly scheduled, stand-alone sports talk show.

4.03.04 A gala presentation or an awards show

Definition:

A production that consists of:

- live or pre-recorded coverage of a gala presentation or an awards show; and/or
- pre- and post-event coverage of these events.

Key things to know:

1. An award includes any type of honour or recognition.
2. This genre includes all awards shows, whether or not they also contain other elements such as comedy or musical performances.
3. This genre includes related pre- or post-event coverage (e.g., the red-carpet Oscar pre-show).
4. This genre does not include behind-the-scenes or “making-of” productions about these events.

Examples:

Gala presentation: gala dinners, gala screenings, gala performances, Miss America pageant, Kennedy Center Honors

4.03.05 A production that solicits funds

Definition:

A production that includes a segment of any length aimed at soliciting funds or other contributions from viewers.

Key things to know:

1. This genre includes productions that visually or verbally solicit funds for any purpose (including, but not limited to, a charity or social cause) by directing viewers to a website, phone number or address through which they can make donations.
2. Verbal requests are generally done by a representative of the show such as a host, announcer or regular panelist. The genre does not include productions featuring incidental soliciting of funds by guests on a show.

Examples:

Hope for Haiti Now telethon, Jerry Lewis MDA Labor Day telethon, Le téléthon de l'Association française contre les myopathies

4.03.06 Reality television

Definition:

A production that consists of:

- scenes recorded on private or public authority surveillance equipment; or
- the recording of any sort of official proceedings such as live or live-to-tape coverage of courtroom trials or governmental proceedings.

Key things to know:

1. This genre refers to productions assembling pre-existing footage from public or private cameras.
2. This genre does not refer to what viewing audiences have generally considered “reality television” since the late 1990’s, subsequent to the naming of this genre (e.g., Survivor, Keeping Up with the Kardashians, etc.).

4.03.07 Pornography

Definition:

A production that contains explicit depictions or descriptions of a sexual nature, without regard to artistic merit.

4.03.08 Advertising

Definition:

A production that:

- is a commercial or infomercial;
- includes a call to action soliciting the viewer to purchase a good or service (e.g., directing the viewer to a store or website other than the production’s website);

- promotes broadcast schedules or programming; or
- combines information or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. The sale or promotion of goods or services includes extolling the virtues of one or more products, services, events, organizations or businesses, or the prominent use of logos or other brand identifiers.

Key things to know:

1. CAVCO assesses whether a production is “advertising” based on what is on-screen, using the elements set out in the definition. CAVCO does not assess the primary intent or “true nature” of a production in determining whether it is advertising.

In CAVCO’s experience, the presence of an agreement between an advertiser or sponsor and a producer or broadcaster, including where the former provides financing to a production, does not necessarily translate into any overt on-screen promotional content in the production. Similarly, the absence or non-disclosure of such contracts does not mean there will be no advertising on-screen.

2. For greater certainty, the following elements do **not** automatically make a production advertising:
 - The name of a brand is in the title of the production;
 - A brand is involved in the creation of the program;
 - A brand has the right to final factual review of the production;
 - The production is named after a book, video game or toy;
 - The viewer is directed to the production's website for more information;
 - There is a link in the tail credits to a sponsor's website or to a website where products can be purchased;

- The production is broadcast with commercial breaks or other promotional content (e.g., on a website) that is related to a brand featured in the production;
- The production is filmed at the brand's place of business; or
- The production is partially or fully funded by a brand.

3. The involvement of any advertiser or sponsor in a production must respect CAVCO's producer control guidelines. These entities cannot, for example, have final creative or editorial control over a production, and are restricted to having customary consultation and approval rights. For more information on CAVCO's assessment of producer control, see section 6.10.

4. Clarification regarding each section of the definition:

Element 1: A production that is a commercial or infomercial.

- This part of the definition refers to the most traditional types of advertising – a television commercial and a longer-form infomercial.
- A commercial may or may not include a "call to action". In fact, most commercials do not include a clear "buy this" message.

Element 2: A production that includes a call to action soliciting the viewer to purchase a good or service (e.g., directing the viewer to a store or website other than the production's website).

- This part of the definition refers to an explicit verbal or visual solicitation directed at viewers to purchase a product or service. Viewers may be directed to a production's website for general information purposes.

Element 3: A production that promotes broadcast schedules or programming.

- This part of the definition includes:

- a television production including any on-screen visual presentation of upcoming broadcaster schedules; and
- a television production – whether a stand-alone production, or a special episode of a series – focusing on the promotion of broadcaster schedules or programming throughout the show. An example of this would be a show featuring stars or personalities promoting other programming on the same network.

Element 4: A production that combines information or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. The sale or promotion of goods or services includes extolling the virtues of one or more products, services, events, organizations or businesses, or the prominent use of logos or brand identifiers.

- “Extolling the virtues” involves praising the features of the presented products or services, portraying them in an exclusively positive fashion.
- “Extolling the virtues” can be done visually (often in conjunction with verbal messaging) by presenting lingering “glamour” shots of products, services, logos or other brand identifiers.
- Productions that follow the structure of a “brochure” for a product or service will typically fall within this category. For example, if a large portion of a show dealing with a certain type of product or service is dedicated to highlighting multiple features or amenities of a specific example of that product or service, it is very likely that the production will be considered advertising.
- On-screen logos or other brand identifiers will not be taken into account if they are presented in an incidental and occasional fashion in the background, and are not focused on visually.

5. Clarification regarding review shows:

CAVCO does not consider a bona fide review of a product or service to be “extolling the virtues” of a product or service. To distinguish between these two situations, CAVCO will consider the following questions:

- i. Is the product or service presented in a balanced way?
- ii. Is the product or service compared to any competitors’ products, either within an episode, or over the course of a series?
- iii. Is there an evaluation of the product or service that goes beyond simply providing a list of all its features?

Affirmative answers to these questions are expected for CAVCO to consider the presentation of a product or service to be a review. If CAVCO determines that a production is a review show, or that a segment within a production features the review of a product or service, the positive references to these products or services, as well as any shots of logos appearing during reviews, will not be considered when assessing whether the production falls under element 4 of the definition.

4.03.09 A production produced primarily for industrial, corporate or institutional purposes

Definition:

A production primarily made to meet the specific industrial, corporate or institutional needs of a business, organization, government entity, or industrial sector.

Productions such as, but not limited to, recruitment videos, corporate training videos, public service announcements and promotional videos are included in this genre.

Key things to know:

1. Productions in this genre are generally, but not necessarily, commissioned by a corporate entity for internal purposes or for promotional purposes. They are usually informational, instructional or educational with respect to the commissioning group's activities.
2. As there can be some overlap between this genre and the ineligible genre of "advertising," a production may in some cases be ineligible on the basis of falling under both genres.

4.03.10 A production, other than a documentary, all or substantially all of which consists of stock footage

Definition:

A production, other than a documentary, all or substantially all of which consists of pre-existing footage.

5. Treaty Coproductions

► In this section

5.01 Overview

An audiovisual coproduction is a production created by pooling the creative, technical and financial resources of coproducers.

Coproductions produced according to the terms of a coproduction treaty between Canada and another country are granted national status in each country, and are eligible for the CPTC where they meet all other applicable requirements under the Regulations.

The recognition of a project as a treaty coproduction must be obtained from the designated authority in each coproducing country.

5.02 Roles of Telefilm Canada and CAVCO in coproduction certification

Telefilm Canada: As the administrative authority for coproduction treaties involving Canada, Telefilm reviews coproduction applications to determine whether they meet the provisions of the applicable coproduction treaty. Telefilm provides CAVCO with a preliminary and a final recommendation on whether or not the production meets the terms of the relevant treaty.

The full text of all current coproduction treaties, as well as Telefilm's policies, guidelines and online application portal, are available on [Telefilm's website](#).

CAVCO: CAVCO will assess the production's compliance with the treaty, taking into account the recommendation made by Telefilm. CAVCO recommends to the Minister of Canadian Heritage to certify a coproduction as a "Canadian film or video production" where it meets the requirements of the treaty **and** all other applicable CPTC requirements under the Act and Regulations.

The Minister is responsible for rendering the final decision as to whether a production is a treaty coproduction that can be certified under the CPTC program.

For clarity: **a production company must submit separate applications to both Telefilm and CAVCO** to have a production certified as a treaty coproduction pursuant to the Act and Regulations.

5.03 Requirements for CPTC certification of a treaty ⁴⁴⁹ coproduction

The following requirements in the Act and Regulations do **not** apply to treaty coproductions:

- a. All individuals occupying the producer position must be Canadian.
- b. The production must meet key creative point requirements.
- c. The production must meet minimum Canadian expenditure requirements for prescribed production and post-production costs.
- d. Only the Canadian production company or a prescribed person may own copyright in the production.
- e. Only the Canadian production company or a prescribed person may control the initial licensing of commercial exploitation rights for the production.
- f. The Canadian production company (or a related prescribed taxable Canadian corporation) must retain an acceptable share of revenues from foreign exploitation of the production.

All other CPTC requirements still apply to treaty co-productions.

5.04 Treaty Coproduction Attestation Process

A CPTC certificate may be used by Canadian funding programs, broadcasters or regulatory authorities as recognition that a production has been granted treaty coproduction status by the Minister of Canadian Heritage.

However, there may be cases where a production is not eligible for the CPTC, despite conforming to the requirements of a coproduction treaty. This may occur, for example, where a CPTC application or certification deadline is not met, or where the production is an interactive digital media production that is not eligible for the CPTC.

Upon request by the production company, CAVCO may in these cases issue a “coproduction attestation” letter, which provides a “CP” number for the production. This letter from the Director General, Audiovisual Branch on behalf of the Minister, confirming that the project has achieved treaty coproduction status outside of the framework of the Act, may then be filed with funders, broadcasters or other authorities as necessary.

Contact CAVCO for details on how to apply for a coproduction attestation letter.

5.05 International Co-ventures

Co-ventures are international productions that are not produced in accordance with an audiovisual coproduction treaty. Co-ventures do not qualify for the CPTC.

Additional information on co-ventures can be found in the Guide to the CRTC Canadian Program Certification Application Process.

6. Key Creative and Producer-Related Personnel

► In this section

6.01 Requirements for Proof of Canadian Citizenship or Permanent Residency

6.01.01 Overview

To be eligible for CPTC certification, a production must meet requirements related to the staffing of Canadian key creative and producer-related personnel on the production. See sections 6.02 to 6.12 for more information on these requirements.

An applicant must provide proof that individuals for whom key creative points are being requested, as well as individuals occupying producer-related positions, are Canadian. This is demonstrated through the applicant providing CAVCO Personnel Numbers (also known as CAVCO IDs) for these individuals, within their application. ¹³

The term "Canadian," in this context, refers to a person who is a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident as defined in the *Immigration and Refugee Protection Act*. The person must be Canadian during the entire time they perform any duties in relation to the production.

Note that this use of the term "Canadian" is different from the definition of "Canadian" found in the *Investment Canada Act*, used for determining whether a production company is Canadian-controlled (see section 2.01).

6.01.02 Permanent residents of Canada

A permanent resident of Canada is a person who has acquired permanent resident status pursuant to the *Immigration and Refugee Protection Act*. To maintain this status, the person must meet certain minimum residency requirements during each five-year period.

Permanent residents may apply for Canadian citizenship once they have been ordinarily resident in Canada for at least three of the previous five years, and have met certain other requirements.

For more information on permanent residency status or obtaining Canadian citizenship, consult the [Immigration, Refugees and Citizenship Canada website](#).

6.01.03 CAVCO Personnel Numbers

To obtain a CAVCO Personnel Number, an individual occupying a key creative or producer-related position must submit an application with a document demonstrating Canadian citizenship or permanent residency. More information on the application process for CAVCO Personnel Numbers is available on the [CAVCO Personnel Number](#) webpage.

Each individual confirmed as a Canadian citizen or permanent resident is assigned a unique CAVCO Personnel Number. Production companies applying to CAVCO for a production must obtain these numbers directly from individuals occupying key creative or producer-related roles. CAVCO does not provide these numbers to production companies.

Canadian citizens need to apply only once for a CAVCO Personnel Number.

Permanent residents need to resubmit proof of permanent residency status when their permanent resident card expires. CAVCO Personnel Numbers issued to permanent residents have a zero as the first digit in their numerical portion (e.g., ABCD0123).

CPTC applicants must ensure that any Canadian filling a producer-related or key creative role in their production has obtained a CAVCO Personnel Number. Production companies are encouraged to obtain the numbers at the time of hiring any individuals occupying these positions.

If the CAVCO Personnel Number provided to a production company identifies an individual as a permanent resident, the production company should ensure that the individual can demonstrate, with a valid permanent

resident card, that they have permanent resident status at the time they⁴⁵³ are providing services to the production.

Applicants are strongly encouraged to submit CAVCO Personnel Numbers at the time of their Part A application. The numbers are mandatory for all Part B or Part A/B applications. Note that the failure of an applicant to submit one or more CAVCO Personnel Numbers with a Part B or Part A/B application will result in fewer points being allotted to the production and, in some cases, in a production being ineligible.

6.01.04 Acceptable proof of citizenship or permanent residency

The following documents are accepted as proof of Canadian citizenship or permanent residency:

a. For Canadian citizens:

- Birth certificate from a Canadian province or territory (issued under the applicable *Vital Statistics Act*)
- Canadian Certificate of Registration of Birth Abroad (issued prior to 1977)
- Certificate of Canadian Citizenship or Certificate of Naturalization (not commemorative issue)
- Certificate of Indian Status
- Registered Indian Record (must be certified)
- Canadian Passport

b. For permanent residents:

- Valid Permanent Resident Card (front and back)

6.02 Key Creative Personnel – Live Action Productions⁴⁵⁴

To be a Canadian film or video production, a live action production other than a treaty coproduction (see [Chapter 5](#)) or a documentary (see [section 6.04](#)) must be allotted a total of at least six points based on the table below. Points are allotted only if all individuals occupying the position are Canadian.

In addition, the following requirements must be met:

- a. Either the director or screenwriter position must be occupied by a Canadian.
- b. At least one of the two highest paid lead performers must be Canadian.

14

There are 10 possible key creative points available for a production. If some points are not applicable, the total number of available points is reduced accordingly. For example, if a production has only one lead performer, and this person and all others occupying key creative positions are Canadian, the production will receive 9 out of 9 points.

Table 1: Key creative point system for live action productions

Key creative position	Number of points	Additional information
Director	2 points	Mandatory (Production must obtain at least two of these four points)
Screenwriter (see section 6.06)	2 points	

Key creative position	Number of points	Additional information
Lead performer for whose services the highest remuneration was payable (see section 6.07)	1 point	Mandatory (Production must obtain at least one of these two points)
Lead performer for whose services the second highest remuneration was payable (see section 6.07)	1 point	
Director of photography	1 point	-
Art director	1 point	-
Music composer (see section 6.08)	1 point	-
Picture editor	1 point	-

6.03 Key Creative Personnel – Animation Productions

To be a Canadian film or video production, an animation production must (other than if it is a treaty coproduction – see [Chapter 5](#)) be allotted a total of at least six points based on the table below. A point will be allotted only if all individuals occupying the position are Canadian or, in the case of location-based points, where the work is performed solely in Canada.

In addition, the following requirements must be met:

- The director, or the principal screenwriter and storyboard supervisor, must be Canadian.
- The lead voice receiving the highest or second highest remuneration must be Canadian. ¹⁵
- The key animation must be done in Canada.

Table 2: Key creative point system for animation productions

Key creative position / Location	Number of points	Additional information
Director	1 point	Mandatory (Production must obtain at least one of these two points)
Principal screenwriter and storyboard supervisor	1 point	
Lead voice for which the highest or second highest remuneration was payable (see section 6.07)	1 point	Mandatory
Design supervisor (art director)	1 point	-
Camera operator (if work done in Canada) ¹⁶	1 point	-
Music composer (see section 6.08)	1 point	-
Picture editor	1 point	-
Points allotted if the work is performed solely in Canada:		
Key animation	1 point	Mandatory
Layout and background	1 point	-
Assistant animation and in-betweening	1 point	-

6.04 Key Creative Point Requirements for Documentaries

For the purpose of the CPTC program, a documentary is defined as an original work of non-fiction, primarily designed to inform but that may also educate and entertain, providing an in-depth critical analysis of a specific subject or point of view.

If a documentary production does not have lead performers or other positions such as art director or music composer, it can still meet the key creative point requirements even if it has not been allotted the six points, or has not obtained one of the two points allotted for lead performers. However, all the filled key creative positions must be occupied by Canadians. For example, a documentary production can receive 5 out of 5 points and be eligible.

6.05 General Rules for Evaluating Key Creative Points

- a. When confirming who is occupying key creative or producer-related roles on a production, CAVCO will take into account information submitted within the application, including relevant supporting documents such as lists of onscreen credits, performer agreements, budgets, and exploitation agreements.
- b. Regardless of the specific position title they are given, the head individual(s) for each department will be the individual(s) evaluated when determining whether the applicable key creative point(s) for a production will be allotted. For example, on some productions, the position of “technical director” or “lighting director” may be equivalent to that of “Director of Photography.” As well, the head of the art department often receives the credit “Production Designer.”

- c. Any individuals grouped under the same position title in a production's credits will be presumed to be performing the same role for the production.
- d. No points will be allotted for a Canadian who shares the functions of a key creative position with one or more non-Canadians.
- e. Where the functions of a position are carried out by more than one Canadian, only the specified number of points for that position will be allotted. For example, only one point would be awarded for the position of director of photography, even if the position is shared by two Canadians.
- f. For a series, each episode is considered a separate production under the CPTC program. Applicants must therefore provide the names of individuals occupying key creative positions for any and all episodes. If key creative positions or locations vary from episode to episode, different episodes may receive different numbers of points. In these instances, the CAVCO certificate will indicate a range of points for the series (e.g., 7 to 8 out of 10 points).
- g. Where a production consists of both live action elements and animation elements, the production's key creative points will be based on the point scale for the predominant production type.

6.06 Screenwriters

To obtain the two points for the position of screenwriter, a live-action production must meet one of the following conditions:

- a. Every individual involved in the preparation of the screenplay for the production – in other words, everyone, including writers, showrunners, story editors and story consultants, involved in developing the screenplay, from the outline or treatment through the various drafts

and dialogue polishes to the final shooting script – must be Canadian;

or

- b. The principal screenwriter must be Canadian, and the screenplay for the production must be based on a work authored by a Canadian and published in Canada.

6.07 Lead Performers (live action) / Lead Voices (animation)

6.07.01 Determination of lead performers and allotment of points – Live action

At least one point must be allotted to either the lead performer with the highest remuneration or the lead performer with the second highest remuneration ¹⁷, for a production to qualify for CPTC certification.

It is rare for a production (other than a documentary) to have no lead performer. If CAVCO reviews a production and concludes that there are no lead performers, the requirement to have a lead performer point will not apply. The production must still meet the requirement of having at least six points or, in the case of documentaries (see section 6.07.09), having all key creative positions occupied by Canadians.

6.07.02 Step 1 – Are there lead performers?

Allotting points to lead performers is a two-step process.

The first step is to determine who the lead performers are in a production. There may not be any lead performers, or there could be several. There is no ranking of performers at this step and their citizenship is not taken into account. There is only a determination of which individuals, if any, are giving lead performances.

As indicated in the Regulations:

A lead performer in respect of a production is an actor or actress who has a leading role in the production having regard to remuneration, billing and time on screen

It is important to note that in practice these three elements do not always run in parallel. For example, the performer with the highest remuneration could have the third longest screen time and receive the second highest billing.

While non-fiction productions may not have an "actor or actress," this does not mean there are no performances being given or no leading roles. For example, hosts, narrators, dancers, singers, specialty act performers, featured experts, judges on a panel, and subjects in lifestyle/human interest productions will all be considered performers. The determination that needs to be made in these cases is whether they have leading roles, and are therefore lead performers. See [section 6.07.06](#) for more information on lead performers in non-fiction productions.

A lead performer should be an individual (whether performing as a character or not) who carries the story in a fiction or non-fiction production. A performer who has only a minor or peripheral role will not be considered a lead performer by CAVCO. This will be the case even if the character or individual in question may be considered crucial to a pivotal plot point or is otherwise integral to the production.

While this approach means that a Canadian will not be allotted a key creative point for a minor role, it also means that a non-Canadian will not be considered a lead performer when they are in a minor role.

The elements of time on screen, remuneration and billing are not necessarily weighed equally in making a determination of lead performance. See below for more information on the factors that CAVCO considers with respect to each element.

In considering these three elements, CAVCO examines the claims made by the applicant with respect to which performers are leads, while also considering performers not claimed as lead performers, to determine if they should in fact be considered leads.

Time on screen - Generally speaking, the "time on screen" element is a very important factor in the determination of whether a performance is a lead performance. While there is no set minimum time on screen for a performer to be considered a lead performer, it should be obvious when viewing the production who the lead performers are, and they must have more than a brief, incidental presence in the production. Remuneration and billing are expected to be roughly in line with what is seen on screen.

CAVCO considers the total time of the performance (whether on-screen or off-screen) in determining whether the role should be considered a lead performance or a minor role. Time spent by a performer in the background of a scene will not be counted towards the total time.

Remuneration - CAVCO takes into account direct and indirect financial compensation, as well as additional benefits, residuals, contingent compensation, travel or living expenses, and any similar expense incurred in relation to an individual. The remuneration for a performance must not be allocated to other duties to make it lower (e.g., by entering into a second contract with the person for consulting or other services).

While there is no minimum threshold for remuneration for a lead performance, and no requirement for lead performers to be paid equally or have similar remuneration, the relative remuneration of performers will be

used as an indicator in determining whether or not an individual is a lead performer.

CAVCO recognizes that there are many factors that come into play when production companies determine remuneration for a performer, and remuneration (either relative or absolute) will never be used in isolation to determine whether a given performer is a lead performer. However, it can be looked at in combination with the other two elements to either support or refute the notion that a given performer is a lead performer.

Billing - The primary consideration for this element is how the performers are billed in the screen credits. For non-fiction productions in particular, CAVCO will also consider how the claimed lead performers are featured in publicity for the production. For example, if the claimed first lead is promoted heavily in connection with the production and the claimed second lead is only promoted minimally or not at all, this will be used as an indicator that the claimed second lead may not truly be a lead performer. The same principle applies where a claimed first lead is not promoted at all, while other individuals are heavily promoted as being the stars or featured performers in the production.

While it is understood that production companies are not always in control of all publicity surrounding a production, experience has shown that a review of the publicity for a non-fiction production often supports preliminary conclusions based on an evaluation of the time on screen element. Information found in publicity will never be used on its own to conclude that an individual is, or is not, a lead performer.

6.07.03 Step 2 – Who are the lead performers with the highest and second highest remuneration?

Once the lead performers in a production have been established, their respective remunerations are used to rank them in order of highest to lowest paid. One point is then allotted if a Canadian is receiving the highest remuneration, and one point is allotted if a Canadian is receiving the second highest remuneration. At this step, the time on screen and billing are no longer considered; only remuneration is relevant.

In cases where a Canadian and a non-Canadian lead performer are remunerated equally, the non-Canadian lead performer will be ranked above the Canadian.

For example, if the total remuneration for Canadian lead performer A is \$50,000, and the remuneration for Canadian lead performer B and non-Canadian lead performer C is \$40,000 each, a point will go to Canadian A as the highest paid, but no point will be allotted for the second highest paid, since the position will be deemed to be occupied by the non-Canadian. Canadian lead performer B will be ranked third.

As another example, if there are three lead performers all being remunerated equally at \$50,000 each but two of them are non-Canadian and one is Canadian, the two non-Canadians will be ranked first and second in remuneration, with the Canadian third. Therefore, no lead performer points will be allotted and the production will be ineligible.

6.07.04 Determination of lead performer/lead voice and allotment of point – Animation

For animation productions, there is only one point available for the lead voice. It is allotted if the lead voice that was paid either the highest or second highest remuneration is Canadian. The point must be given for the production to qualify.

In the rare situation where there is no lead voice in an animated production, there is no requirement to have the lead voice point. The production must still have at least six points.

As with live action productions, allotting a point to a lead voice (who can be performing one or multiple characters) is a two-step process.

The first step of determining who the lead voices are is the same as the determination of lead performances for live action productions, except that “billing” is not one of the considerations.

As indicated in the Regulations:

A lead voice in respect of an animation production is the voice of the individual who has a leading role in the production having regard to the length of time that the individual's voice is heard in the production and the individual's remuneration.

The allotment of the point is based on the remuneration of the lead voice(s), as with Step 2 for live action productions.

As noted above, there is only one point available for the first or second highest remunerated lead voice; even if both the first and second highest remunerated lead voices are Canadian, only one point can be allotted. As with the approach for live action productions, if a Canadian and a non-Canadian lead voice are remunerated equally, the non-Canadian will be ranked ahead of the Canadian.

6.07.05 Guest appearances and cameos

A guest appearance is a substantial role in one episode or a few episodes of a series, performed by someone who is not a part of the regular cast. A guest performer will be evaluated using the same criteria outlined above for other performers, in determining whether the performance in question

is a lead performance. If it is a lead performance, the remuneration of that performer will be compared to the remuneration of the other lead performers to determine if they are the first or second lead for the purpose of allotting key creative points.

A cameo is a brief appearance of a known person in a production, generally in a single scene. By definition this would be a minor role, and the individual in question will not be considered a lead performer.

6.07.06 Lead performer issues related to non-fiction genres - General

In a non-fiction series, any distinct, recurring individual who carries the story, or upon whom the story is based, will generally be considered a lead performer. This is the case even if the production is unscripted or if the individual is being followed while going about their regular life or doing their job, unless they are the subject of a biographical documentary - see section 6.07.09.

In a non-fiction series where different individuals are receiving help from a specialist in each episode (for example, in a home design show), the individuals receiving help will not be considered lead performers.

In a competitive lifestyle/human interest series that (a) eliminates participants over the course of the series, or (b) features different participants in each episode, these participants will not be considered lead performers.

6.07.07 Lead performer issues related to non-fiction genres – Performing arts productions

The lead performers for live theatre, musicals, opera, dance, and other similar productions are determined in the same fashion as for other live action productions.

In music performances featuring a single solo artist, that artist will be a lead performer. For a performance by a band, the band leader (as determined by contract) will be the lead performer. For performances by an orchestra (with no featured solo artist) the lead is generally the concert master.

If a production is a recording of a live performance that is taking place regardless of the fact that it is being recorded, the remuneration that can be claimed for the production, and considered for the purpose of allotting lead performer points, is the amount that the performer is receiving for being recorded, not for the actual live performance. For example, an actor may be paid a fee for their performance in a play over the course of a two-week run. If one of those performances is recorded, the actor will be paid a supplementary fee for the recording. It is only this additional fee that can be counted as remuneration in the production budget and for the purpose of allotting lead performer points.

6.07.08 Lead performer points for productions with different versions

Where two or more versions of a production are produced concurrently (up to the end of the post-production stage), the lead performers for all versions must be Canadian to receive the required lead performer point(s). For example, the narrators of a documentary with both French and English versions must both be Canadian.

6.07.09 Clarification of the “documentary exception”

As noted previously, a documentary production obtaining fewer than six⁴⁶⁷ points due to certain key creative positions being unoccupied is still eligible for certification, if all occupied key creative positions are held by Canadians.

This applies only to documentary productions that have fewer than six points, and has no bearing on the requirement for a Canadian lead performer. Documentaries can, and often do, have lead performers. For example, a host, narrator, or other individual who is seen or heard throughout the production and who advances the storyline is usually considered a lead performer. This assessment is carried out in the usual manner for determining lead performers in live-action productions. If there is only one lead performer in a documentary, that person must be Canadian. If there are two lead performers, one of them must be Canadian.

The subject of a biographical documentary will not be considered a performer.

Voice-over by a subject or an interviewee in a documentary (i.e., content from an interview that is heard over other images, rather than in sync) will not be considered narration or a performance. However, if an interviewee is also providing scripted narration for the production, the total time on screen (for on-screen interview, voice-over, and narration) will be considered, along with billing and remuneration, in evaluating whether the individual is a lead performer.

As with all genres of production, if there is no lead performer, there is no requirement to have a lead performer point to be eligible for certification.

6.07.10 Examples of performances that are generally not lead performances ¹⁸

1. Instances in which a co-host is operating in a minor role of expertise, e.g., the carpenter in a home renovation show, the nutrition expert in a

food show, a technical expert on a technology-oriented show, or a clothes/hair/makeup consultant on a fashion or make-over show. These will not be considered lead performances if the individual in question:

- only appears on screen for a short period of time,
- does not interact with the individuals being helped,
- only appears in a short segment, with or without the main host; or
- does not make any significant contribution.

2. A narrator in a minor role that adds little or no additional information or commentary and does not help advance the storyline, e.g., in a television production where a voice-over serves primarily to maintain continuity or to buffer commercial breaks. This type of voice-over does not provide anything in-depth, instead serving only to situate or resituate the viewer within the context of the show. In such cases, the individual is not truly a narrator, and is more like an announcer.

Announcers are not lead performers.

3. A host of a performing arts, variety, or stand-up comedy production who does nothing more than introduce the performer(s).
4. A minor role in a fiction production, even if that character is crucial to the narrative. A minor role is still a minor role even if the character in question is responsible for a pivotal plot point.
5. A participant in an elimination-style series.
6. Background performers that serve only to add a visual element to a narrated storyline (often in re-creations of actual events), particularly when they are not remunerated and billed as lead performers.
7. Subjects of a biographical documentary and interviewees in a documentary (see [section 6.07.09](#)).

6.07.11 Examples of Performances that generally are lead performances

1. In a non-fiction series, individuals that are being followed throughout the course of the series while doing their job or going about their daily lives.
2. Hosts and judges on elimination-style series.
3. Hosts, narrators, or other individuals with a significant on-screen presence in a documentary (e.g., Michael Moore in "Sicko" or Morgan Freeman in "March of the Penguins").

6.08 Music Composer

The point for the position of music composer is allotted only if all original music created for a production is composed by a Canadian.

Note that where original music created by a Canadian for the first season of a series continues to be used for subsequent seasons of the series (with no new additional original music by a non-Canadian), the production company may continue to claim the music composer point for later seasons.

6.09 Producer-related Personnel

A producer is the individual who:

- controls and is the central decision maker in respect of the production;
- is directly responsible for the acquisition of the production story or screenplay and the development, creative and financial control and exploitation of the production; and
- is identified in the production as being the producer of the production.

All positions related to the producer function must be held by Canadians unless the production is a treaty coproduction, or an exemption for a foreign producer-related credit is granted by CAVCO. **Note that exemptions are not granted for the functions of producer, coproducer or line producer, as these positions must be held by Canadians.**

Sections 6.09-6.13 do not apply to treaty coproductions. For information on producer-related personnel requirements for treaty coproductions, refer to the relevant coproduction treaty and Telefilm Canada's coproduction guidelines. See Chapter 5 for more information on treaty coproductions.

6.10 Production Control

The following five indicators provide further guidance on how control over a production is assessed, based on the definition of "producer." ¹⁹

Where documentation (e.g., chain-of-title, financing, exploitation or key creative / producer personnel agreements) suggests that a production does not adhere to one of these indicators, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and ultimate creative and financial control over the production.

6.10.01 The Canadian producer must have and maintain full control over the development of the project from the time at which the producer has secured underlying rights.

- a. The producer must demonstrate full responsibility for the development of the underlying rights of the project from the date on which the underlying rights were secured.
 - CAVCO reviews documentation such as chain-of-title (see section 6.11), exploitation and/or financing agreements to confirm that the

producer is responsible for the development of the project, including with respect to creative decision-making and the hiring of creative talent (writers, directors, consultants, script editors, etc.). Provision will be made for industry-standard third-party approval rights (for distributors, broadcasters, financiers, completion bonders, etc.).

- b. While initial development of a project by non-Canadians is permitted, the ongoing involvement of prior rights owners in the development, production or exploitation of the project, subsequent to the producer securing the underlying rights, will be presumed to indicate that the prior rights owner retains a degree of responsibility and control.
 - i. The producer must demonstrate control over the development of the project, and that it was not materially completed by, or with the involvement of, non-Canadians.
 - ii. Non-Canadian prior rights holders may generally have ongoing involvement in the production through consultation rights only.

6.10.02 The Canadian producer must have and maintain full responsibility and control over all creative aspects of the project, and expenditures related to the production of the project.

- a. Documentation must demonstrate that, with the exception of standard approval rights from broadcasters, distributors, financiers or completion bonders, the producer exercises full control (direct or indirect), and holds final decision-making authority, over creative and financial aspects of the production, including:
 - i. the project budget;
 - ii. the production schedule;

- iii. the selection and hiring of above- and below- the-line cast and production personnel and the negotiation of the terms thereof;
 - iv. the selection and contracting for production services (e.g., camera package, sound package, post-production facilities, etc.) and the negotiation of terms thereof;
 - v. the negotiation of agreements with unions and guilds; and
 - vi. the post-production elements.
- b. A non-Canadian individual or entity cannot have the right to overrule any decision by the producer with respect to creative aspects or expenditures for the production.

6.10.03 The Canadian producer must have and maintain full responsibility and control over all aspects of production financing.

- a. Documentation must demonstrate that the producer has exercised full control (direct or indirect) and holds final decision-making authority over the financing plan of the project; the securing of all third-party financing including domestic and foreign equity, domestic and foreign subsidies, domestic and foreign pre-sales and the negotiation of the terms thereof; the securing of interim financing and the negotiation of the terms thereof; the cash-flow schedule of the project; and the management of the banking of the project and sole and unfettered control over the bank account(s) of the project and cheque-signing authority.
- i. Where a non-Canadian has the right to overrule any decision by the producer, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control. Provision will be made for industry-standard third-party approval rights (distributors, broadcasters, financiers, completion bonders, etc.).

- ii. Delegation of banking authority by the producer to a person(s) over whom the producer exercises final authority shall not be deemed to contravene this indicator.
- b. Documentation must demonstrate that the producer has assumed and retained the commercial risks associated with the financing and production of the project.

Where

- i. a significant share of production financing is provided by a single non-Canadian party (or multiple non-Canadian parties with common ownership and/or control);
- ii. a single non-Canadian party (or multiple non-Canadian parties with common ownership and/or control) has acquired exploitation rights to territories representing most or all of the exploitable value of the production (with the exception of Canada); or
- iii. a non-Canadian party has agreed to reimburse or indemnify the producer (e.g. for budget overages),

the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control. Provision will be made for industry-standard completion guarantees.

6.10.04 The Canadian producer must have and maintain full responsibility and control over the negotiation of initial exploitation agreements.

- a. Documentation must demonstrate that the producer has exercised full control (direct or indirect) and holds final decision-making authority over the initial licensing of exploitation rights to the project to any other party, regardless of territory, media or term.

- i. Where there is evidence of any arrangements between third parties for the exploitation of the project (a) that are made prior to the acquisition of rights to the project by the producer; and (b) that are to remain effective following such date (i.e., a third party remains involved with the exploitation of the project subsequent to the producer's acquisition of rights), the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.
- ii. Where the non-Canadian prior owner of the underlying rights retains exploitation rights to one or more significant territories (e.g., United States, Europe, Asia, Latin America) after the producer has acquired the underlying rights, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.

6.10.05 The Canadian producer is entitled to a reasonable and demonstrable monetary participation in terms of budgeted fees and overhead, and participation in revenues of exploitation.

- a. The production company must retain at least 25% of the net profits from the exploitation of the production in non-Canadian markets.
- b. Where, in addition to acquiring broadcast rights in the production, an entity acquires distribution rights or holds an interest in the production, the producer must demonstrate that amounts advanced for those rights or that interest have been allocated at fair market value as between the non-recoupable broadcast licence fee, the distribution rights and the interest.

6.11 Chain-of-title Documentation

The applicant must ensure that the production company has the full, unencumbered right to develop and produce the production, most often demonstrated through chain-of-title documentation.

Examples of chain-of-title documents include, but are not limited to,

- option and purchase agreements,
- writer's agreements (where these demonstrate the transfer or licensing of underlying rights held by another entity or individual),
- assignment agreements, and
- domestic coproduction agreements.

Applicants may be required to provide, at the request of CAVCO, all such documents covering the time period from the creation of the concept to when the production company acquires all the rights necessary to produce the production.

6.12 Exemptions for Non-Canadian Producer-Related Personnel

6.12.01 Use of non-Canadian producer-related personnel

An exemption for a credit for a non-Canadian individual occupying a producer-related position is granted only where:

- the person's functions in no way interfere with the financial and creative authority of the Canadian producer, and
- relate either to the arranging of foreign broadcast, distribution or financing for the production, or to the provision of services to the production, under the strict supervision and control of the Canadian producer.

A non-Canadian granted a producer-related screen credit, other than a lead performer or an individual working in the story department (including a showrunner), is limited to being on set for a maximum of 25% of principal photography.

Any non-Canadian individual receiving a producer-related credit must file a CAVCO affidavit (Form 01F12, or Form 01F13 for a showrunner) outlining the duties performed, and declaring that those duties have been or will be carried out only under the direction and control of, and with the full knowledge of, the Canadian producer. Note that Form 01F12 is not required when the individual is also a lead performer in the production.

These forms can be found on the [Forms — Canadian Film or Video Production Tax Credit](#) webpage and should be submitted at the Part A application stage.

See also [section 6.13](#) for information on non-Canadian showrunners.

6.12.02 Group A and Group B producer-related credits

Permitted exemptions for non-Canadian producer-related screen credits are generally limited to those in Group A or Group B, as set out below. Note that if a credit consists of one of these credits with the addition of the prefix “co-”, CAVCO will view this as being equivalent. For example, “Co-Executive Producer” will be considered the same as “Executive Producer.”

Group A:

Executive Producer
Senior Executive in Charge of Production
Executive in Charge of Production
Supervising Producer
Associate Producer

Group B:

Supervising Executive
Production Supervisor
Production Executive
Production Associate
Executive Consultant
Production Consultant
Creative Consultant

While credits for non-Canadians may be chosen from either group, they cannot exceed the number of credits given to Canadians from the same group, or in the case of Group B credits, from the same group or Group A.

For example, if a non-Canadian is given one Group A credit, at least one Canadian must be given a Group A credit. If two non-Canadians are given a Group B credit, at least two Canadians must be given a credit from either Group A or Group B.

6.12.03 Use of different producer-related credits

While production companies most commonly use the credits listed above, a non-Canadian can receive a different credit similar to those in the Group A or B lists, as long as the individual's role is consistent with the requirements set out in [section 6.12.01](#), and the credit being given is matched by an identical credit, or a Group A credit, given to a Canadian.

6.12.04 Credits for representatives of broadcasters / distributors

A production company may be contractually required to give an individual a producer-related credit strictly in relation to their role as a representative of a broadcaster or distributor, even though the individual may have no direct

involvement in the specific production. These credits include the name of the broadcaster or distributor (e.g. Executive in Charge of Production, BBC), and appear in the tail credits.

In these cases **only**, CAVCO does not require applicants to list these individuals in their application, or to provide supporting documentation such as CAVCO Personnel Numbers (for Canadians) or affidavits (for non-Canadians). These individuals will also not be taken into account in verifying whether a production meets the matching Group A and Group B credit requirements. CAVCO may ask for additional information where necessary to confirm the nature of the individual's involvement in a production.

Note that representatives of broadcasters or distributors cannot be given the credit "producer" – for example, "Producer, BBC".

6.13 Non-Canadian Showrunners

Any non-Canadian working as a showrunner for a production, regardless of the actual credit they are receiving, must file a CAVCO showrunner affidavit (Form 01F13) declaring that any work performed is done under the direction and control, and with the full knowledge, of the Canadian producer. The producer must also submit to CAVCO the contract entered into with the individual, outlining the work to be performed and the conditions of employment.

If a non-Canadian showrunner is working on a production, the production will usually not be eligible for the two screenwriter points. See [section 6.06](#) for more information.

7. Financial Information

► In this section

7.01 Qualified Labour Expenditure

7.01.01 General

The **qualified labour expenditure** for a Canadian film or video production is the lower of the following two amounts:

- a. the **eligible production cost** for the production (see [section 7.02](#)); **and**
- b. the **net labour expenditures** for the production (see [sections 7.03 to 7.05](#)).

The tax credit for a production is equal to 25% of the qualified labour expenditure for the production.

The Part A certificate issued by CAVCO for a production provides estimates of the eligible production cost, the net labour expenditures, and the tax credit ²⁰.

Production costs and labour expenditures are verified by CAVCO through its review of the “Financial Information” and “Breakdown of Costs” sections of an application, including attached documents such as the production budget, the audit report and other relevant documents.

A sample tax credit calculation can be found in [section 7.08](#).

7.01.02 Calculation of qualified labour expenditure for different years

CAVCO provides an estimate of the **total** qualified labour expenditure and tax credit, including for productions for which expenses are incurred in more than one taxation year.

For information on the calculation of the tax credit when expenses are incurred in more than one year, consult the CRA's guide *Canadian Film or Video Production Tax Credit – Guide to Form T1131*. The guide also provides additional information on production costs and labour expenditures.

7.01.03 Domestic coproductions

Where two or more Canadian production companies share ownership of a production, only one certificate is issued by CAVCO, with the names of each production company listed. Each company must calculate their respective production costs and labour expenditures to determine their respective tax credits. See section 2.03 for more information on domestic coproductions.

7.01.04 Treaty coproductions

For the purpose of the CPTC, only production costs and labour expenses incurred by the Canadian production company are considered when calculating the tax credit for a production.

7.02 Eligible Production Cost

7.02.01 Calculation

The eligible production cost is the cap on a production's labour expenditures that can be claimed for the purpose of the CPTC. It is equal to 60% of the total production costs, once financing source amounts considered "assistance" are deducted. See section 7.06 for more information on assistance.

Non-deductible expenses (expenses not allowed as business expense deductions, such as certain catering, meal or entertainment expenses) and deferrals ²¹ should also be deducted from the total production costs prior to the 60% calculation.

7.02.02 Production costs

Production costs include all amounts incurred by the production company to create the production, including, but not limited to, development costs, the salary, wages or other remuneration of production personnel, costs for the rental of production equipment, and post-production costs. Production costs **do not include** expenses related to advertising, distribution or other types of products associated with a production (e.g., a video game, a website, etc.).

In cases where there is more than one final version of a production, one of which is interactive and one of which is linear and non-interactive, only the linear production is eligible for the CPTC. Production costs tied exclusively to an ineligible version of the project need to be removed from all budget and financing documents submitted to CAVCO as part of an application.

7.03 Net Labour Expenditures

The eligible labour expenditures of a qualified corporation for a Canadian film or video production are those meeting the following criteria:

- a. They must be reasonable in the circumstances;
- b. They must be included in the cost to, or in the case of depreciable property, the capital cost to, the corporation, or any other person or partnership, of the production;
- c. They must be incurred for the stages of production of the property from the production commencement time (see section 7.04) to the end of the post-production stage;

- d. They must be directly attributable to the production of the property;⁴⁸²
and
- e. They must be incurred in the taxation year, or the preceding taxation year, and paid by the corporation in the taxation year or within 60 days after the end of that year (other than amounts incurred in the preceding year that were paid within 60 days after the end of that year).

The “net labour expenditures” amount is the total of all eligible labour expenditures (based on the above criteria) minus amounts that are labour deferrals.

Applicants must include the labour expenditure total in their application. In certain circumstances, including pursuant to an internal audit, CAVCO may request additional documentation that reflects how this amount was calculated.

7.04 Production Commencement Time

The “production commencement time” is relevant for determining the time frame in which eligible labour expenses must be incurred on a production. It is defined as the earlier of:

- a. The commencement of principal photography **and**
- b. The latest of:
 - i. The first script labour expenses
 - ii. The time at which rights to a property on which a production is based are acquired
 - iii. Two years before the commencement of principal photography

**Extension to the “production commencement time”
due to COVID-19**

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible to have the production commencement time for the production extended to be as much as **three years** before the commencement of principal photography.

See [CAVCO Public Notice 2022-03](#) for more information.

7.05 Types of Labour Expenditures

7.05.01 General

The labour expenditure of a qualified corporation on a production is equal to the total of the following three types of payments:

- salaries or wages;
- remuneration other than salary or wages; and
- reimbursements by a wholly-owned corporation to its parent.

7.05.02 Salaries or wages

Salaries or wages (defined in subsection 248(1) of the Act) must be paid to Canadian citizens or residents of Canada as the latter is defined for taxation purposes. Vacation pay, statutory holiday pay or other taxable benefits may be included as part of this amount. Salaries or wages in this context do not include share option benefits or amounts determined by reference to profits or revenues.

Production companies may consult with their regional CRA Film Services ⁴⁸⁴ Unit office for further information on which amounts qualify as salary or wages.

7.05.03 Remuneration other than salary or wages

Remuneration other than salary or wages is a labour expenditure when it is paid to:

- a. **An individual who is not an employee of the corporation**, to the extent that the amount paid relates to services rendered by the person for the production, or to the salary and wages of the person's employees who are providing services for the production.

Where a payment to non-employees includes a non-labour component (e.g., goods provided by a service provider, a profit margin, or the employer's share of government deductions), this portion is not part of the remuneration and cannot be claimed as a labour expenditure.

- b. **Another taxable Canadian corporation**, to the extent that the amount paid is attributable to, and does not exceed, the salary or wages of the corporation's employees for providing services for the production.

If the exact amount paid by the corporation to its employees is unknown, CAVCO and the CRA will generally consider 65% of the labour portion of the invoice to be a reasonable estimate of the labour expenditures paid directly to employees and directly attributable to the production.

Where payments to a service provider are for both labour and non-labour costs, but no breakdown of these amounts is provided, the production company should estimate the labour part of the invoice

before applying the 65% rate that applies for payments to corporations, when totaling its labour expenditures.

Note that claimed amounts for labour are potentially subject to a more detailed CRA review. When the CRA is conducting a fiscal audit of a CPTC claim, for example, it may request that the production company obtain from service providers a breakdown of the labour component on their invoices.

- c. **Another taxable Canadian corporation, all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual and the activities of which consist mainly of the provision of the individual's services,** to the extent that the amount paid is attributable to services rendered by the individual for the production. For these corporations, the whole remuneration qualifies as a labour expenditure.
- d. **A partnership** carrying on business in Canada, to the extent that the amount paid relates to services rendered to the production by an individual who is a member of the partnership, or to the salary or wages of the partnership's employees rendering services to the production.

Note that for any type of remuneration to be eligible as a labour expenditure, it must be paid in respect of services rendered by Canadian citizens or by individuals who are residents of Canada for taxation purposes.

Remuneration does not include amounts determined by reference to profits or revenues or an amount to which section 37 of the Act (scientific research and experimental development work) applies.

Producers may consult with their regional CRA Film Services Unit office for further information on which amounts qualify as remuneration.

7.05.04 Reimbursements by a wholly-owned corporation⁴⁸⁶ to its parent

A production company that is a wholly-owned subsidiary company of another taxable Canadian corporation may, under the terms of a written agreement, reimburse its parent company for labour expenditures incurred by the parent company for a production. These reimbursement amounts have to be amounts that would be eligible under sections 7.05.02 and 7.05.03 (above) if incurred directly by the production company.

Amounts paid to a parent company that do not qualify under this section are treated as payments to another taxable Canadian corporation. See section 7.05.03 b.

7.06 Financing Sources

7.06.01 General

Various types of public or private financing may be used to fund a production.

As funding considered “assistance” (see section 7.06.02) affects the estimate of a production’s eligible production cost (and therefore the estimated qualified labour expenditure), CAVCO does not issue a Canadian film or video production certificate until all the components of a production’s financing plan are in place, and copies of all financing agreements have been submitted as part of an application.

Accordingly, a production must be fully financed even at the time of a Part A application. Applicants should list the full amounts of all financing sources for the production, even if they exceed the total production budget when combined.

In applications for treaty coproductions, applicants should only reflect the financing sources that cover the Canadian production company's production costs.

If a production company is covering more than 15% of the production budget with its own operating funds, additional documentation such as a loan agreement, a financial statement, a shareholder agreement, or a similar form of documentation may be requested by CAVCO.

7.06.02 Assistance

Assistance refers to any type of production financing received from public or private Canadian or foreign sources, in the form of grants, subsidies, provincial tax credits, forgivable loans or similar types of funding.

Financing received from a federal, provincial, territorial or municipal government entity, including Crown corporations or film agencies, will generally be treated as assistance. This includes funding through provincial tax credits, provincial government grants or equity investments from federal agencies. Note that licence fees received from public broadcasters such as CBC / Radio-Canada or TV Ontario, or licence fee top-ups received from the Canada Media Fund, are not considered assistance.

In addition, funding from a private source will be treated as assistance where it is given in a form such as a grant or a forgivable loan.

Applicants must report any assistance that has been received, or is anticipated, at the time of submitting an application. The CRA, during their review of a CPTC claim, has the final authority to determine whether a source of funding is assistance. Applicants are encouraged to consult the CRA's [Application Policy FMTC 2017-01](#) for more information on assistance.

7.07 Financing from the Canada Media Fund (CMF) 488

7.07.01 CMF agreements

CMF funding for a production is considered assistance for the purpose of the tax credit, unless it is in the form of a licence fee top-up. CMF financing agreements indicate funding received as a licence fee contribution (not assistance) and funding received in other forms, including equity investments, repayable advances, recoupable investments or recoupable advances (all considered assistance). CPTC applicants should ensure that the correct types of CMF funding are selected in their application. ²²

7.07.02 Clarification on CMF Digital Media (DM) components

If a production is receiving CMF funding, and an amount is entered in the DM Component section (line 85) of the CMF budget, the applicant should ensure that the separate budget provided to the CMF with details of this line item is included with their application to CAVCO.

If the DM Component reflected in line 85 includes any costs ineligible for the CPTC (e.g., for interactive productions, video games, websites, apps, etc.), these costs must be removed from the total budget amount included in the application to CAVCO.

Any CMF financing received in respect of such costs must also be removed from the application. This can be done by proportionately reducing the total of each type of financing the CMF is providing (licence fee top-up and equity investment). For example, if the cost of an ineligible DM component represents 10% of the total production budget, then the amount of equity

investment and license fee contribution should also be reduced by 10% **489**
each. Note that these amounts will be verified by CAVCO based on
documentation provided in the application.

7.08 Sample Tax Credit Calculation

Total production cost	\$1,000,000
Less deferrals, assistance *	- \$200,000
Net production cost	\$800,000
Maximum %	X 60%
Eligible production cost	\$480,000

***** e.g. provincial tax credit or grant

Total labour expenditures	\$550,000
Labour deferrals	- \$50,000
Net labour expenditures	\$500,000

The **qualified labour expenditure** is equal to the lower of the two final
numbers: **\$480,000**

The **tax credit** is equal to the qualified labour expenditure X 25%: **\$120,000**

7.09 Audit Requirements

7.09.01 General

An audited schedule of production costs is required at the Part B application stage for all productions with a final cost of \$500,000 or more. Note that in the case of a treaty coproduction, this cost threshold is by reference to the total costs incurred by the Canadian production company.

7.09.02 Audit requirements – Overview

The auditor must be a Chartered Professional Accountant in Canada and must be an independent third party not related to the production company.

The auditor's report must be addressed to the directors of the production company or the producer(s) of the production. The auditor's name, address and telephone number must be listed and the report must be dated as at the completion of the audit fieldwork.

The audit must be performed in accordance with generally accepted auditing standards and the auditor must be familiar with accounting principles and practices generally recognized in the film and television industry.

Audit reports must include all of the information set out below in sections 7.09.03 to 7.09.05. Reports not conforming to the following guidelines will not be accepted.

7.09.03 Identification of the production

The title of the production and, where applicable, the episode numbers, must be indicated. The title of the schedule must indicate the type of costs being reported ("Schedule of Production Costs"). The period during which costs were incurred must also be indicated.

7.09.04 Cost report

The cost report included as part of a full audit must be in Canadian dollars, and should conform to the line items in the standard Telefilm live action budget template (Excel format) as much as possible.

CAVCO will accept audit results being presented on the appropriate breakdown of costs form available on the Forms — Canadian Film or Video Production Tax Credit webpage, as long as it is accompanied by the required standard disclosures and explanatory notes.

Only expenditures that were incurred for the specific production can be recorded as production costs, and they must be charged to the proper budget line item.

Refunds and credit notes received for discounts, rebates, invoicing errors and purchase returns must be credited to the production costs. Similarly, proceeds from the sale of props or other production assets must be deducted from the costs presented in the cost report. Where production assets are kept in inventory for future productions, they must also be deducted, at fair market value, from the costs presented in the cost report.

Completion bond expenditures must reflect any "no-claims rebate" received. The amortization of series costs must be allocated to specific cost categories.

7.09.05 Notes

The following supporting notes must be included in the audit:

a. Sources of funds

All sources of funds used to finance the production must be disclosed, including any non-monetary transactions. ²³

Non-monetary transactions must be disclosed at fair market value. The nature of the services provided and the consideration given in exchange for the services must be disclosed.

If there were no non-cash transactions, the schedule must include a note to this effect.

b. Non-Canadian costs

All non-Canadian costs, including the budget line item and the amount, must be disclosed. The determination of whether a cost is Canadian or non-Canadian is based on the rules outlined below in section 7.10. For the purpose of “producer / key creative personnel” expenses (see section 7.10.03a) or “other” expenses (see section 7.10.03d) in this context, the Canadian vs. non-Canadian breakdown follows the approach outlined for “services” costs in section 7.10.03b.

Production costs incurred in foreign currencies must be converted into Canadian dollars at the rate of exchange in effect at the time of the transaction.

If there are no non-Canadian costs, the schedule must include a note to this effect.

c. Accounts payable, accrued charges and deferrals

All accounts payable, accrued charges and deferrals must be presented separately. If there are no accounts payable, accrued charges or deferrals, the cost report must include a note to this effect.

d. Related party transactions

The notes must provide a breakdown of all related party transactions ²⁴, and include:

- i. the name of the related party;

- ii. the nature of the relationship between the related party and the production company;
 - iii. the nature of the transaction; and
 - iv. the amount of the transaction (measured at the carrying amount).
- If there are no related party transactions, the schedule must include a note to this effect.

7.10 Minimum Canadian Expenditure Requirements

7.10.01 General

A production (other than a treaty coproduction) must meet the following two requirements related to Canadian expenditures:

1. Not less than 75% of all costs for services provided in respect of producing the production (other than excluded costs – see section 7.10.03b) must be payable for services provided to or by individuals who are Canadian. The term "Canadian," in this context, refers to a person who is a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident as defined in the *Immigration and Refugee Protection Act*.
2. Not less than 75% of the total of all post-production costs, including for laboratory work, sound re-recording, sound editing and picture editing (other than excluded costs – see section 7.10.03c) must be incurred in respect of services provided in Canada.

7.10.02 Breakdown of Costs

For Part B applications to CAVCO, applicants must complete the Breakdown of Costs. This section is not applicable to treaty coproduction applications.

The Breakdown of Costs is used by CAVCO to verify that production expenses meet the minimum Canadian spend requirements outlined above.

The Breakdown of Costs in an application for a series should reflect the total cost for the series. Note however that each episode must meet the minimum cost requirements for that episode to be eligible. In certain cases, CAVCO may ask that a Breakdown of Costs form (available on the Forms — Canadian Film or Video Production Tax Credit webpage) be completed for each episode.

The Breakdown of Costs divides production costs into four categories:

- a. Producer / Key creative personnel expenses,
- b. Services costs,
- c. Post-Production / Laboratory costs, and
- d. Other expenses.

Only in the Services and Post-Production / Laboratory categories are costs broken down by whether they are Canadian or non-Canadian.

7.10.03 Breakdown of Costs - Categories of expenses

a. Producer / Key creative personnel expenses

This category includes the remuneration, including travel and living expenses and fringe benefits, of the Canadian producer(s) or coproducer(s). The costs for other producer-related functions, such as associate producer or executive producer, should be listed in the Services category.

The category also includes the remuneration, including travel and living expenses and fringe benefits, for all those occupying key creative positions (see sections 6.02 to 6.03) on the production. Payments to

assistants to these individuals, or to those acting in supporting roles in the same key creative department, must be entered in the appropriate Services or Post-production / Laboratories category.

b. Services costs

At least 75% of the total of all costs for services provided toward producing the production (other than “excluded costs” as defined below) must be payable in respect of services provided to or by individuals who are Canadian.

Excluded costs are:

- costs determined by reference to the amount of income from the production;
- remuneration payable to, or in respect of, the producer or key creative personnel;
- amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts; and
- post-production / laboratory costs.

Note that for animation productions, the costs associated with location-based points (i.e., layout and background, assistant animation and in-betweening, and key animation) are **not** excluded costs.

The services category includes the remuneration of those occupying producer-related positions other than a Canadian producer or coproducer, the remuneration of most creative and technical production personnel (other than key creative personnel) and any associated benefits, and travel or living expenses.

A travel or living expense is considered Canadian when it is incurred for a Canadian individual. For example, if expenses are incurred for a Canadian to travel on a non-Canadian airline and stay in a hotel

abroad, these expenses are considered Canadian. If these same expenses are incurred for a non-Canadian – even if paid to a Canadian airline or hotel – they are considered non-Canadian.

The Services category also includes amounts paid for story rights or music rights, as well as costs related to equipment rentals, location and office expenses, and purchases of film stock, videotape, cards, hard drives or similar recording media needed for principal photography. The determination as to whether these expenses are in the Canadian or non-Canadian category is based on the nationality of the supplier.

Completion bond expenses are also included in this category. The determination as to whether they are Canadian or non-Canadian is based on the nationality of the individual who makes the decision whether or not to issue the bond.

c. Post-Production / Laboratory costs

At least 75% of the total of all costs for post-production, including laboratory work, sound rerecording, sound editing and picture editing, must be incurred for services provided in Canada.

Excluded costs for the purpose of this calculation are:

- costs determined by reference to the amount of income from the production;
- remuneration payable to, or in respect of, the producer or key creative personnel;
- costs for services; and
- amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts.

All post-production services provided in Canada, whether or not they are provided by a Canadian individual or entity, are categorized as Canadian.

All such services provided outside Canada, even where provided by a Canadian, are categorized as non-Canadian.

d. Other expenses

This category includes all costs not covered in the preceding categories, including those for insurance, financing, legal services, accounting and auditing, corporate overhead, and stock footage.

Note that for productions starting principal photography on or before October 31, 2022, applicants can choose to enter stock footage costs in either the “Services” or the “Other” column of the Breakdown of Costs.

For productions starting principal photography after October 31, 2022, applicants must enter stock footage costs in the “Other” column.

7.10.04 Completing the Breakdown of Costs

All costs incurred within a given budget account (line item) should be entered in the correct column as designated by the clear cells within the row. Grayed-out areas should not be filled in.

All service and post-production / laboratory costs must be divided into Canadian and non-Canadian costs and entered in the appropriate column.

Where one budget account provides for entries being made within both the Producer / Key Creative column and an additional column, costs related to key creative or producer-related personnel should be listed in the Producer / Key Creative column. Costs related to individuals performing supporting roles in the same department should be listed in the other column.

For the following budget accounts allowing for entries in more than one column, the following additional guidance is provided:

a. Live Action Productions:

6. Stars / Lead Performers

- Producer/Key Creative column for amounts paid to first and second lead performer
- Services column for amounts paid to all other lead performers (Amounts paid to all other performers should be included in the Services column for account 10 or 11, as appropriate)

27. Fringe benefits

- Producer/Key Creative column for amounts paid to art director / production designer and director of photography (accounts 21 or 22)
- Services column for amounts paid to all other personnel reflected in accounts 12 to 26

33. Travel and living expenses

- Producer/Key Creative column for expenses related to art director / production designer and director of photography
- Services column for expenses related to all other personnel reflected in accounts 10 to 32

b. Animation Productions:

27. Fringe benefits

- Producer / Key Creative column for fringe benefits paid to the storyboard supervisor, first or second voice, design supervisor, picture editor, and camera operator
- Services column for fringe benefits paid to personnel in accounts 10 to 26 (excluding accounts 15-17, and benefits included in the producer / key creative column)
- Laboratory column for fringe benefits paid to personnel of accounts 15-17 (excluding benefits related to the picture editor already included in the producer / key creative column)

28. Travel and living expenses

- Producer / Key Creative column, where related to storyboard supervisor, first or second voice (or first or second performers), design supervisor, picture editor, and camera operator
- Services column, where related to personnel of accounts 10 to 26 (excluding accounts 15-17, and expenses already included in the producer / key creative column)
- Laboratories column where related to personnel of accounts 15-17 (excluding expenses related to the picture editor already included in the producer / key creative column)

7.11 Tax Shelter Investments

A production is not eligible for the CPTC if it (or an interest in a person or partnership that has an interest in the production) is a tax shelter investment under section 143.2 of the Act.

The CRA confirms that a production does not involve a tax shelter investment. For more information on this issue, production companies may contact their regional CRA [Film Services Unit](#).

8. Exploitation of a Production

► In this section

8.01 Control over Exploitation Rights

8.01.01 General

The production company or a prescribed person (see [section 3.03](#)) must control the initial licensing of all commercial exploitation rights related to the 25-year period beginning when the production is completed and commercially exploitable.

8.01.02 Limitation on original exploitation term

At times, an agreement relating to the transfer or licensing to a production company of underlying rights tied to a production may appear to restrict the production company's ability to control its initial licensing of exploitation rights for the 25-year period. It is acceptable for the term to be less than 25 years only where the agreement gives the production company the right to extend the term once the original term has ended. This would occur for instance where, on an ongoing basis, the term can be extended automatically upon payment of an agreed-to fee, or where there is a right to negotiate subsequent term renewals, until the end of the 25-year period.

8.01.03 Requirement for exploitation agreements

Applicants must submit copies of all major distribution or broadcast agreements for a production. This includes any sub-distribution/licence agreements for major territories, particularly where they represent a source of financing for the production, or where the terms of the agreements are relevant to confirming that acceptable net revenues (see [section 8.09](#)) are ultimately being retained by the production company or a related entity.

For productions involving distribution by a related party, or a distribution agreement related to a series or one-off production not intended for theatrical release, CAVCO may ask for further information about where a production will be shown, and ask for relevant sub-distribution or licence agreements.

For treaty coproductions, it is generally only necessary for applicants to provide exploitation agreements if they are for the Canadian territory, or where they are a source of financing for the Canadian production company's production costs.

8.02 Canadian Distribution and Broadcast Rights (the “shown in Canada” requirement)

For each production, there must be an agreement in writing, for consideration at fair market value, with either:

- a. a Canadian distributor (see [section 8.04](#)) or
- b. a CRTC-licensed broadcaster ²⁵ (see [section 8.05](#))

to have the production shown in Canada within the first two years after it is completed and commercially exploitable. This commitment to show the production is also known as the “two-year clause.”

Extension to two-year “shown-in-Canada” time frame due to COVID-19

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible to have the two-year period for having their production shown in Canada extended to a **three-year** period.

See [CAVCO Public Notice 2022-03](#) for more information.

8.03 Platforms that can be used to meet the “shown in⁵⁰² Canada” requirement

A production is considered to be shown in Canada by being broadcast on television (through conventional, specialty or pay television services, or licensed VOD services), shown in a movie theatre, distributed on DVD, or being made available on an online platform meeting the criteria outlined in section 8.07.

8.04 Using an Agreement with a Canadian Distributor

8.04.01 General

A production can be shown on any platform noted in section 8.03, if the production company has an agreement in writing, for consideration at fair market value, with a Canadian distributor to have the production shown in Canada within two years of the production being completed and becoming commercially exploitable.

8.04.02 What is a distributor?

For the purpose of the CPTC, a distributor is not considered the entity that actually "shows" a production. A distributor functions as an intermediary between the production company and the entity that ultimately makes the production available to audiences, and is responsible for overseeing more broadly all aspects of a production's exploitation, including marketing and promotion, setting release dates, entering into licence agreements, creating sub-distribution agreements where necessary, overseeing pricing, etc.

If a distribution company has not previously been confirmed by CAVCO as a Canadian-owned and -controlled corporation, the applicant must submit a Private Company Declaration (CAVCO Form 01F16, available on the [Forms — Canadian Film or Video Production Tax Credit](#) webpage) for the distributor as part of the application. A new copy of the form is also requested by CAVCO if more than three years have passed since the company was last confirmed Canadian.

While a production company itself cannot act as the distributor for the purpose of providing the two-year clause, note that it is acceptable for the production company to be related to the distribution company.

8.05 Using an Agreement with a CRTC-licensed Broadcaster

A production can be shown on any platform (for example, TV, VOD, an online service) offered by a CRTC-licensed broadcaster, if the production company has an agreement in writing, for consideration at fair market value, from that broadcaster to show the production in Canada within two years of it being completed and becoming commercially exploitable.

Note that agreements with broadcasting services falling under CRTC licensing exemption orders cannot be used for the purpose of meeting the two-year clause requirement.

8.06 Fair Market Value

In determining whether a given agreement with a broadcaster or distributor is for “fair market value,” CAVCO follows the general principle outlined by the Canada Revenue Agency in its Summary Policy (CSP-F02) dated October 25, 2002:

“Fair market value is the highest price, expressed in dollars, that a property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.”

8.07 Online-only productions

8.07.01 General

As noted in section 8.05, a production can be shown exclusively on an online service of a CRTC-licensed broadcaster.

In all other cases where a production is being shown exclusively on an online video service, the service must:

- be an online video service carrying other content pre-screened or pre-qualified by either (a) the online service or (b) the distributor, under an arrangement with the online service;
- be readily accessible to Canadians in Canada; and
- have Canada as a part of its target audience (i.e., be a service where Canadians would likely look for linear audiovisual content, as opposed to a service primarily intended for foreign territories).

CAVCO will review online video services on a case-by-case basis to determine whether they meet the above criteria. In assessing whether there is an acceptable amount of “other content” as per the first criterion, CAVCO considers various factors such as the number of titles available on the service, and the proportion of titles provided by third parties. Online services consisting substantially or exclusively of in-house or related-party content ²⁶ will not generally meet this criterion.

On its website, CAVCO provides a [list of acceptable online services](#) that is updated on an ongoing basis. The list should be consulted often, as services may be added, or removed if the nature of a service changes.

Requests for CAVCO to assess the acceptability of an online service should be sent to bcpacc-cavcoc@pch.gc.ca.

8.07.02 Providing agreement with online service

For any production being shown exclusively on a non-broadcaster online platform, the applicant must provide its agreement with the distributor as well as the duly executed exhibition agreement between the distributor and the online service showing the production. ²⁷

8.07.03 Credits for online-only productions

Given that some web-based series do not include on-screen credits in every episode, CAVCO requests that at least one of the episodes submitted with an application have credits, or that the applicant provide a link to where the full credits for all episodes are publicly accessible.

8.08 Distribution in Canada by a non-Canadian entity

8.08.01 General

A distribution cannot be made in Canada by a non-Canadian entity during the two-year period beginning when the production is completed and commercially exploitable.

This includes any situation where a non-Canadian has distribution rights to the Canadian territory, whether acquired under the terms of a primary distribution agreement or a sub-distribution agreement.

CAVCO requires that any entity with distribution rights in Canada during the two-year period be confirmed as Canadian. See [section 8.04.02](#) for more information on this requirement.

8.08.02 Non-Canadian exhibitors

The entity showing a production (the “exhibitor”) can be non-Canadian if it is exclusively performing this role. Where, based on CAVCO’s examination of the distribution and exhibition agreements for a given production, an exhibitor (such as an online service) also, or alternatively, appears to have been granted rights in line with the traditional functions of a distributor (see [section 8.04.02](#)), this may be considered a distribution by a non-Canadian.

In cases where a production company is working with a Canadian distributor, an exhibition agreement (i.e., the agreement to “show” the production) must be directly between the Canadian distributor and the exhibitor. In other words, the involvement of a non-Canadian distributor directly, or as an intermediary by way of a sub-distribution agreement, will be considered a distribution by a non-Canadian.

Acceptable:

Production Company → CDN Distributor → Exhibitor

Not Acceptable:

Production Company → CDN Distributor → Non-CDN Sub-distributor → Exhibitor

Production Company → Non-CDN Distributor → CDN Sub-distributor → Exhibitor

8.08.03 Using non-Canadian service agents for the exploitation of productions on videograms (DVDs / Blu-

rays) or on online platforms

The use of a non-Canadian service agent to prepare productions for exploitation in Canada during the two-year period will not be considered a distribution by a non-Canadian if their services are provided under the control of a Canadian distributor, and are limited to the functions set out below:

1. For the purpose of videograms (DVDs or Blu-rays), these services may include:
 - the procurement and manufacturing of videograms and their packaging;
 - the storage of the videograms;
 - order entry and order processing through computer and inventory control systems;
 - the shipping of the videograms to customary sales and retail outlets; and
 - accounting to the distributor for all videogram sales to customers.
2. For the purpose of preparing files for digital download or online streaming platforms, these services should be restricted to technical functions including the reformatting, encoding or uploading of files for exploitation on these platforms. This includes industry-standard commercial arrangements made for this purpose with entities commonly known as “aggregators.”

A Canadian distributor may enter into an agreement with a non-Canadian service agent for the provision of these services in Canada provided that, within the two-year period following completion of the production:

- a. There is a contract between the Canadian production company and the Canadian distributor to distribute the production in Canada;
- b. Canadian distribution rights are retained at all times by a Canadian-owned and -controlled corporation;

- c. The Canadian distributor remains at all times responsible for performing the customary functions of a distributor, as outlined above in section 8.04.02.

The agreement with the non-Canadian service agent must be made for a standard service fee.

The production company will also be asked to provide CAVCO with any agreement between the Canadian distributor and the non-Canadian service agent and/or demonstrate that the production has been made available.

8.09 Acceptable Share of Revenues

Other than where a production is a treaty coproduction, the applicant must demonstrate that an acceptable share of revenues from the exploitation of the production in non-Canadian markets is retained by:

- a. a qualified corporation that owns or owned an interest in the production,
- b. a prescribed taxable Canadian corporation related to the qualified corporation, or
- c. any combination of (a) and (b).

To meet the acceptable revenues requirement, the production company (or a related prescribed taxable Canadian corporation) must retain at least 25% of the net profits from the exploitation of the production in non-Canadian markets. In determining whether this requirement has been met, CAVCO will consider a number of relevant factors, including, among other things:

- a. whether distribution fees and expenses are contracted at rates consistent with established industry standards;
- b. where a broadcasting entity is also granted distribution rights, whether the allocation of funds between the broadcast licence and the distribution licence is commercially reasonable; and

- c. whether the profit participation in any non-Canadian territory granted by the producer to investors is in keeping with established industry standards.

Note that the production company must also retain an acceptable share of revenues in Canada.

8.10 Format Programs

8.10.01 General

Format programs are based on popular concepts or formats initially produced and exploited in another territory. Format programs produced in Canada by a Canadian production company, under a licence issued by the non-Canadian owner of the underlying rights, are eligible for the CPTC. ²⁸

8.10.02 Clarifications regarding the eligibility of format productions

- a. **Exploitation rights can be restricted to Canada only.** The terms of the format license agreement can restrict the exploitation of a format program to the Canadian territory only, or to a specific territory in Canada (one province, for instance).
- b. **The length of the exploitation term granted to the Canadian production company cannot be restricted to less than 25 years.** The format licence agreement cannot limit the length of time during which the production company can exploit the production in territories granted to it under the terms of the agreement. For instance, the format owner cannot indicate that the right to exploitation in Canada is limited to a period of 5 years. See also section 8.01.02.
- c. **The Canadian production company must have control over the exploitation rights of its production in any other territories.** If the

production is being exploited in additional territories outside Canada, the Canadian production company must control the initial licensing of commercial exploitation rights in these territories. In other words, an agreement cannot indicate that the format rights holder has chosen to retain these foreign exploitation rights as part of the terms of the original licensing of rights.

- d. **The production must continue to meet all the usual requirements for CPTC eligibility.** A format program must continue to meet all CPTC requirements, including with respect to copyright ownership, production control and the retaining of an acceptable share of revenues from any exploitation of the production in non-Canadian territories.

Footnotes

- 1 Note that when extended parts of Acts or Regulations are directly quoted in these guidelines, they appear in block quotes.
- 2 The Director General of the Audiovisual Branch in the Department of Canadian Heritage has been delegated the authority to certify productions on behalf of the Minister.
- 3 This would occur after the CRA has received notice from CAVCO that a previously issued Part A certificate is being revoked, or, in the case of combined Part A and B applications, that the applications are being denied.

- 4 Subsequent references in these guidelines to “series” will be deemed to include “mini-series” and “anthology”. “Episode” will be deemed to include a film in the case of an anthology of short films.
- 5 On rare occasions, principal photography for a production may have begun before a production company was incorporated. For greater certainty, the first taxation year end will be the first one following incorporation of the company.
- 6 CAVCO recognizes that a tentative taxation year end date listed in a Part A application may change by the time the production company first files a T2 Corporation Income Tax return with the CRA.
- 7 The production company must be incorporated in Canada. For information on federal incorporation, visit the website of the Corporations Canada division of Innovation, Science and Economic Development. For provincial or territorial incorporation, contact the appropriate government ministry.
- 8 This means that individuals have taken residence in Canada in their usual day-to-day routine.
- 9 This interpretation of permanent resident applies only in the context of assessing Canadian control of a corporation. For other purposes such as the evaluation of producer-related or key creative positions, an individual who has been a permanent resident for any length of time is considered Canadian.
- 10 This would generally include non-profit organizations.

- 11 This would generally include registered charities.
- 12 This does not apply if the corporation also falls under another part of the “prescribed person” definition. For example, the form is not required if a corporation is also a Canadian broadcaster.
- 13 Key creative personnel and producer-related personnel requirements are different in the context of treaty coproduction applications. However, the names of all individuals occupying any of these positions (as well as their CAVCO Personnel Numbers, if they are Canadian) must still be included in applications to CAVCO. For information regarding key creative personnel requirements in treaty coproductions, please consult the relevant coproduction treaty and Telefilm Canada’s coproduction guidelines on [Telefilm Canada’s website](#).
- 14 In the rare situation where there is no lead performer in a production, this requirement does not apply. See [section 6.07](#) for more information on the lead performer position.
- 15 In the rare situation where there is no lead voice in a production, this requirement does not apply. See [section 6.07](#) for more information on the lead voice position.
- 16 For digitally animated productions, CAVCO will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the camera operator position will be examined by CAVCO on a case-by-case basis.

- 17 In everyday discussions with CAVCO, and in the CPTC application, the "lead performer with the highest remuneration" is commonly referred to as the "first lead performer", and the "lead performer with the second highest remuneration" as the "second lead performer." In the context of the CPTC, the "first lead" and "second lead" designations relate specifically to the allotment of points according to the Regulations, and do not necessarily align with how these expressions may be used in other contexts in the industry.
- 18 The examples in sections 6.07.10 and 6.07.11 are not additional criteria, but an illustration of how the lead performer policy applies in the context of specific situations.
- 19 Note that for the purpose of this section, the term "producer" is also deemed to refer to the production company more broadly, as there may be a combination of producer-related personnel performing these functions.
- 20 As noted in section 1.03.02, these estimates are not binding on the CRA, and not commitments as to the final value of the tax credit. A final determination of the qualified labour expenditure and tax credit for a production is made by the CRA during its review of a tax credit claim for a given year.
- 21 A deferral is an amount – whether labour or non-labour related – that is a contingent liability for a production company. In other words, its payment is contingent upon the occurrence of a future event, such as revenue generation from a production's exploitation.

- 22 Prior to updates outlined in the CMF's 2019/2020 guidelines, a separate CMF Digital Media Financing Agreement was provided for many productions. This financing, appearing generally as either "*Performance Envelope Program*", "*Convergent Digital Media Incentive*," or a combination of both, is treated as assistance.
- 23 Defined in section 3831 of the Chartered Professional Accountants (CPA Canada) handbook.
- 24 Defined in section 3840 of the CPA Canada handbook.
- 25 For ease of reading, "CRTC-licensed broadcaster" in these guidelines means a "corporation that holds a broadcasting license issued by the [CRTC] for television markets", the terminology used in the Regulations.
- 26 A related-party supplier of content is one that is related to the online service, whether through ownership, common shareholders, or common board members. Related-party content will also be deemed to include content in which principals of the online service are involved, even if the content is produced by a third-party supplier.

- 27 An agreement between the distributor and an aggregator may instead be provided, as long as this agreement identifies the specific online service on which the production is being shown, and the service is on the list of acceptable online services. See section 8.08.03 for more information on the use of aggregators.
- 28 While section 8.10 focuses on format productions created outside Canada, the same principles will apply where rights to a Canadian-originated format production are licensed to a different territory within Canada.

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Date modified: 2025-11-04

A handwritten signature in black ink, appearing to be 'AUBO', with a stylized flourish at the end.

THIS IS EXHIBIT "P"
TO THE AFFIDAVIT OF ALAIN STRATI
AFFIRMED BEFORE ME, THIS 16th DAY OF DECEMBER 2025

A handwritten signature in black ink, appearing to be 'AUB', is written over a horizontal line.

Commissioner for Taking Affidavits



Canadian Program Certification Guide

This guide outlines the eligibility requirements and application process for Canadian program certification.

Table of contents

Canadian Productions: An Overview

[What is a 'Canadian' program?](#)

[What are the roles of the CRTC, CAVCO and Telefilm Canada in the certification process?](#)

[Why are Canadian productions certified?](#)

[What makes a production eligible to be certified as Canadian by the CRTC?](#)

[What productions do not require CRTC certification?](#)

[What kinds of productions are not eligible to be certified as Canadian?](#)

[Is advertising content eligible to be certified as Canadian?](#)

[What about product reviews and incidental use of a product or service?](#)

Applying for Certification

[Before you apply](#)

[Choosing the right application form](#)

[Appendices for Animation \(205\) and Live Action \(206\)](#)

[Submitting your application form](#)

[What happens after you submit your application](#)

[Receiving your certification letter](#)

[Ongoing supervision by CRTC](#)

Certification Numbers and Time Credits

[Certification Numbers - Definition](#)

[Time Credits – Definition](#)

Certification Numbers and Time Credits by Production Type

- Domestic Productions
- 150% Dramatic Program Credit
- Dubbed Productions
- Live or Live-to-Tape Productions of Sports Events
- International Co-Ventures
- Production Packages and Twinning

Eligibility

Key Creative Definitions and Requirements

- Live Action or Continuous Action Animation Productions
- Animation Productions

Point System

- Point System – Definitions
- Point System – Criteria
- Point System – Points Awarded Per Key Creative Position
- Point System – Exceptions

Foreign Courtesy Credits

- Foreign Courtesy Credit – Groups
- Foreign Courtesy Credit – Affidavits

Canadian Producer Control for Domestic Productions

- Determining Producer Control

Production Costs

- Service Costs
- Post-Production and Laboratory Costs
- Excluded Costs

Program Categories

FAQ

Glossary

Canadian Programs: An Overview

What is a certified 'Canadian' program?

Programs certified as 'Canadian' are film and television productions that use mainly Canadian crews and talent.

What are the roles of the CRTC, CAVCO and Telefilm Canada in the certification process?

- **CRTC:** Certifies domestic television and film productions, dubbed versions of Canadian and foreign programs, and international co-ventures (international co-productions that are not included under the treaties administered by Telefilm Canada). Producers seeking Canadian content certification, but who do not seek a federal tax credit, should apply to the CRTC.
- **Canadian Audio-Visual Certification Office (CAVCO):** Certifies domestic television and film productions and international treaty co-productions applying for the Canadian film or video production tax credit (CPTC). CAVCO also issues accreditation certificates to taxable Canadian corporations or foreign-owned corporations applying for the Film or Video Production Services Tax Credit (PSTC). Producers seeking a federal tax credit should apply to CAVCO.
- **Telefilm Canada:** Recommends international treaty co-productions that involve a Canadian-controlled production company and a producer in a country with which Canada has an official co-production treaty. Producers must apply first to Telefilm, and then to CAVCO to have the production certified as an international treaty co-production.

Why are Canadian productions certified?

A certain percentage of content broadcast and financed by CRTC-licensed television broadcasters must be made by Canadians. Broadcasters can only count programs with Canadian certification towards meeting these requirements.

What makes a production eligible to be certified as Canadian by the CRTC?

The CRTC only certifies Canadian film or television productions that meet the following criteria:

- The producer must be a Canadian and must act as the central decision-maker from the development stage until the production is ready for commercial exploitation.
- The production must earn a minimum number of points based on the key creative functions that are performed by Canadians. Usually, a minimum of 6 out of 10.
- At least 75% of the production's services costs must be paid to Canadians and at least 75% of the production's post-production and laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies.
- The production must qualify for certification under an eligible program category.

What productions do not require CRTC certification?

Domestic productions and international treaty co-productions that get a CAVCO Part A or B certificate are automatically recognized as Canadian by the CRTC. These productions do not need to be submitted to the CRTC for certification.

Other types of productions that are automatically recognized as Canadian by the CRTC (as long as they meet the other eligibility criteria):

- Programs produced in-house solely by a CRTC-licensed or exempt broadcaster.
- Commercially released music video clips of 5 minutes or less.
- Federal and provincial government productions.
- Public service announcements, interstitials, and any other productions of less than 5 minutes.

What kinds of productions are not eligible for CRTC certification?

Certain productions are ineligible for certification as Canadian programs:

- Infomercials, promotional and corporate videos/films (such as PR or recruitment productions by groups and businesses), and other forms of advertising material.
- Repackaged or adapted versions of existing foreign productions or program segments that use some or all of the following:
 - Excerpts from an original foreign production.
 - A significant portion of the original foreign production in unedited or minimally edited chunks.
 - The mention of the original foreign production in the credits.
- A production that contains more than 50% of non-Canadian stock footage with the exception of documentaries.

When it comes to certification, the CRTC assesses whether a production is intended to directly or indirectly promote a good or service (includes endorsement, message, advertisement, solicitation, product review, sponsorship beyond incidental use of a corporate name/logo, the use of addresses, telephone numbers or website addresses) by considering the balance between information, entertainment, and promotion.

If the CRTC determines that the intention of a production is to sell or promote, we consider that production to be advertising material, which is not eligible for Canadian program certification.

When analysing a production, we consider:

- Whether the production has elements in its discussion or display of the subject matter that directly or indirectly serve to sell or promote goods or services.
- Whether the production includes “ordering opportunities,” also known as “calls to action.”

Example: An on-screen personality, voice-over, or text on the television screen encourages viewers to purchase goods or services featured in the program by providing contact information (including websites) to facilitate a sale.

For more information, see [Broadcasting Information Bulletin CRTC 2017-434](#).

What about product reviews and incidental use of a product or service?

A program may still be eligible for Canadian program certification even if it mentions or displays a good or service, as long as the producer ensures there is no clear intention to sell or promote that good or service. The producer must also demonstrate that the mention or display of the good or service is necessary for providing information and reporting on the subject matter. Such content is typically found for example in unbiased objective review programs and expert commentary in information programming.

Applying for Certification

Before you apply

With the exception of live broadcasts*, you must meet the following three requirements to process your application:

1. The principal photography has started.
2. All key creative personnel are under signed contract.
3. The committed budgets are in place.

***Live broadcasts:** For live broadcasts, you must meet requirements 2 and 3 before you submit your application. Since live broadcasts are produced and broadcast simultaneously, we have waived requirement 1.

Choosing the right application form

Producers have 6 application forms to choose from. You can find all 6 application forms at [Canadian Program Certification application forms](#).

Please note each form gives you a sample copy of the form to help you better understand the information you'll need to provide, as well as giving you access to the actual application form. You must provide all of the required information and attach any appendices when you file your application.

Live Action - Form 206

- For live action and continuous action animated productions (including domestic productions and international co-ventures) where more than 50% of the program duration consists of live action content.
- See Appendices for Animation (205) and Live Action (206) for more information about this form.

Animation - Form 205

- For animated productions other than continuous action animation (including domestic productions and international co-ventures).
- Productions that mix both live action and animation: Submit the application form according to the predominant format of the program.
- See Appendices for Animation (205) and Live Action (206) for more information about this form.

Dubbing - Form 201

- For the dubbing of:
 - Canadian production certified by the CRTC
 - Foreign production
 - Canadian production recognized by CAVCO or Telefilm Canada

Live or Live-to-Tape Sports Events - Form 204

- For a live or live-to-tape production of sports events and tournaments.

- All other types of sports programs, such as documentaries on sports-related topics or programs on leisure and recreational sports are assessed under the point system and expenditure rules for live action productions. Applicants for certification of these types of sports programs must use Live Action - Form 206.

Twinning - Form 202

- For twinned productions.

Production Package - Form 203

- For production packages.

Appendices for Animation (205) and Live Action (206)

For Animation (205) and Live Action (206) applications, you may need to provide supporting documents. When you're completing the application form, a message will prompt you if you need to provide supporting documents and will detail what information you must provide. You must submit all appendices when you file the application.

You can find all appendices at [Canadian Program Certification application forms](#).

Submitting your application form

You must submit your application online using your [My CRTC Account](#). Here's how:

1. Get an activation code

If this is your first submission for certification with the CRTC, you need an activation code to register for your My CRTC Account. You can get an activation code by calling the CRTC Monday to Friday (except holidays) from 07:00 to 18:00 Eastern Standard Time at:

1-866-893-0932

TTY (toll free) 1-877-909-2782

For DCS: 819-997-4597

Once you have your activation code, you can register online for your My CRTC Account.

2. Log in to your My CRTC Account

If you already have a My CRTC Account, simply log in using your username and password.

3. Submit your application

To submit application forms for Dubbing, Twinning, Production Package, Live or Live-to-Tape Sports Events, and Animation (Forms 201 to 205):

1. Go to [Canadian Program Certification Application Forms](#).
2. Download the appropriate application form.
3. Complete the form electronically and save it to your computer.
4. Log into your My CRTC Account and complete the [Canadian Program Certification Application Cover Page](#).
5. Submit your application form and appendices, if applicable.

To submit a Live Action application (Form 206): Please note that the Form 206 application is an electronic form ("SmartForm") that lets you complete your application online in your My CRTC Account as follows:

1. Log into your My CRTC Account.
2. Access the form and cover page at [Canadian Program Certification Application 206 Online Form and Cover Page](#).
3. Complete the form and cover page online.
4. You can save your application in your My CRTC Account and make changes before submitting it. Note, however, that once you've submitted the application, you no longer have access to it.
5. Before you submit your application, save a PDF version of it on your computer. You're given this option on the final review page.
6. Submit your application form and appendices, if applicable.

What happens after you submit your application

Once you submit your application, we e-mail you a confirmation ID within 24 hours. If you do not receive an e-mail confirmation, please contact us by telephone at 819-997-4699 or by e-mail [Canadian Program Certification group](#). We process applications in the order in which we receive them.

In the case of incomplete information:

- If your application is incomplete or missing required appendices at the time of submission, we'll notify you by e-mail that the application has not been accepted.
- If your application at the time of processing is incomplete, or if we need additional information, it could delay processing or cause the application to be returned. Additional information could include audited financial statements to confirm production costs, contracts or agreements to establish producer control, affidavits for non-Canadian courtesy credits, independent legal

opinions, proof of citizenship or certificates of permanent residency, invoices, or a link of the program.

- If we don't receive the additional information within a reasonable amount of time, we will return your application. If you choose to re-submit it, it goes back into the queue to be processed in the order in which it was received.

In the case of incorrect/amended information:

- We make certification decisions based on the information in the application and supporting documentation. If any of the information is subsequently found to be inaccurate or incomplete, or if the production evolves significantly from what is represented in the application, we reserve the right to revoke the certification.
- If, after submitting the application or after the application is certified, you amend the original production, you are responsible for advising the certification group. This would be the case, for example, if you add episodes to a season, add someone occupying a key creative role to the production, or create another duration of the production.

Receiving your certification letter

If the CRTC approves your application, we send your certification letter to the e-mail address you provided in section 2.1 of the application form.

You must provide a copy of the certification letter to the broadcaster that is broadcasting the production.

If there are any material changes to the production or if you have questions regarding the certification after the production has been certified, please contact the CRTC's Certification Group.

Ongoing supervision by CRTC

As part of its supervision mandate, the CRTC monitors the broadcast of certified productions. If the CRTC determines that any material changes, omissions, inaccurate statements or the inclusion of non-certifiable program material has taken place, such that the program no longer meets the parameters under which it was certified, the original certification will be revoked.

Certification Numbers and Time Credits

Certification Numbers - Definition

When a production is certified as a Canadian program by the CRTC, it is assigned a certification number:

- C: A domestic Canadian production or the dubbing of a Canadian production.
- SR (special recognition): An international co-venture.
- D: Dubbing of a foreign production.

If the production is a series:

- Individual certification numbers are issued for each season of a series; you must therefore submit an application form for each season.

If there is more than one duration or language version:

- Re-cut versions of differing lengths or multiple language versions require a separate certification number for each version. The application allows you to include different durations and language versions.

Time Credits - Definition

When a production is certified, it also receives a time credit that will be used by broadcasters to meet certain CRTC regulatory requirements.

The time credit refers to the actual running time that a broadcaster can claim as Canadian content in its program logs. This timeframe will usually represent 100% of the program duration, with some exceptions as noted below.

Certification Numbers and Time Credits by Production Type

Domestic Productions

A domestic Canadian production that meets the certification eligibility requirements receives a “C” number and a 100% time credit. The majority of applications to certify original programs fall into this category.

150% Dramatic Program Credit

A broadcaster will receive a 150% time credit for each airing of a qualifying drama within a two-year period from the date of the first program broadcast. Productions that are a series are eligible for the credit for a single two-year period for each cycle of the series, starting with the broadcast of the first episode of that cycle.

In order to be eligible for the 150% time credit, the drama production must meet the following criteria:

1. It contains a minimum of 90% dramatic content.
2. It achieves 10 points.

3. Proof of citizenship is provided with the application for all Canadian persons filling the role of the producer, producer-related personnel, and all individuals filling key creative positions.

Dubbed Productions

Dubbed productions include certified Canadian productions and foreign productions whose audio is converted in Canada, using Canadian resources, into either official language of Canada or an Indigenous Canadian language by lip synchronization or voice-over.

The dubbing time credit is valid for a period of two years from the date of first broadcast of the dubbed version. After this period, the dubbed version receives the same time credit as the original version.

Productions that use subtitles are not eligible for the dubbing credit.

Canadian productions dubbed in Canada:

- Receive a “**C**” number for a certified Canadian production dubbed in Canada, along with a supplementary time credit of 33% of that for the original production.

Example: a certified Canadian production dubbed from English to French.

- To be considered a Canadian production, the original production must be certified by the CRTC or CAVCO (with a Part A or B certificate).

Foreign productions dubbed in Canada:

- Receive a “**D**” number for the dubbing in Canada of a foreign program along with a time credit based on the duration of the original program. Two possible time credits are available for this type of production:

1. Foreign production dubbed from an official language of Canada or an Indigenous Canadian language into the other official language of Canada or an Indigenous Canadian language: broadcaster may claim a 33% Canadian time credit.

Example: a foreign production dubbed from English to French or Cree.

2. Foreign production dubbed from a language other than an official language of Canada or an Indigenous Canadian language into an official language of Canada or an Indigenous Canadian language: broadcaster may claim a 50% Canadian time credit.

Example: a production dubbed from Japanese to English, French or Cree.

Canadian productions dubbed outside Canada

- No additional time credits are given to Canadian productions dubbed outside of Canada. Broadcasters can claim the time credit associated with the original version of the program.

Live or Live-to-Tape Productions of Sports Events

Live or live-to-tape productions of sports events or tournaments are considered Canadian if a Canadian production company exercises control over the production and provides the commentators. If the event takes place outside Canada, the production can qualify only if Canadian-based teams or athletes participate. In all cases, one of the major on-camera personalities (commentators, analysts or hosts) must be Canadian. Those who qualify receive a “C” number and are eligible for a 25% time credit.

One-quarter (25%) of the program time of broadcasts of sports events originating outside Canada that involve only non-Canadian teams or athletes is recognized as Canadian if a Canadian producer or production company provides commentary in a language other than English.

International Co-Ventures

International co-ventures involving Canadian and foreign producers are assigned an “SR” number by the CRTC. These productions include:

- Ventures with co-producers from a foreign country that does not have a film or television production treaty with Canada.
- Ventures with co-producers of a treaty country that do not otherwise meet Telefilm Canada’s eligibility requirements.

International co-ventures offer greater flexibility for Canadian producers who wish to work with foreign producers, by sharing creative and financial decision-making responsibilities.

Although non-Canadians can be credited as “producers” on international co-ventures, in order to be certified as Canadian, the director or the screenwriter/scriptwriter and at least one of the two lead performers must be Canadian. These productions must also score a minimum of 6 key creative points, as well as meeting specific eligibility requirements:

- As with domestic productions, a minimum of 75% of the co-venture production’s services costs incurred to produce the production must be paid to Canadians and at least 75% of the co-venture production’s post-production and laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies.
- An application for CRTC certification as an international co-venture must be submitted by the Canadian production company, and must be accompanied by a signed co-venture agreement.
- The relationship between the Canadian and non-Canadian producers must respect the following criteria:

1. **Decision-making responsibility:**

For international co-ventures, the Canadian production company must have no less than equal measure of decision-making responsibility with partners on all creative elements of the production and must be responsible for administering the Canadian element of the production

budget. The Canadian production company must also have either sole or co-signing authority on the production bank account:

- Co-ventures shot entirely in Canada: The production bank account must be in Canada.
- Co-ventures shot partially in Canada: The elements of the portion shot in Canada are paid from a Canadian bank account.
- Co-ventures shot entirely outside Canada: The Canadian elements of the program are paid from a Canadian bank account.

2. Financial participation and profit-sharing:

The Canadian production company in a co-venture must retain financial participation of at least 50%. This means that at least 50% of the financing required for the production must have been raised or acquired by the Canadian production company. It may take the form of licence fees, equity, debt, production fund funding, etc. The Canadian production company must also retain the right to at least 50% of the profits.

3. Special recognition co-venture - Exceptions

A co-venture involving a co-producer from a Commonwealth or French-speaking country, or a country with which Canada has a film or television production treaty, may be considered for special recognition. We will grant Canadian certification if, in addition to meeting the foregoing requirements:

- The program attains 5 points.
- At least 50% of the costs for services are paid to Canadians.
- At least 50% of post-production and laboratory costs (except for the picture editor) are paid for services provided in Canada by Canadians or by Canadian companies.

In addition to the above, the director or the writer and at least one of the two lead performers must be Canadian. All other criteria for certification of a Canadian program still apply to such co-ventures.

Production Packages and Twinning

Production package: Two or more co-productions or co-ventures by a Canadian production company with one or more non-Canadian production companies, where a production with minor foreign involvement that qualifies as a Canadian production is matched with a foreign production with minor Canadian involvement.

Minor foreign involvement: Any amount up to the maximum foreign involvement that a co-venture could have and still qualify as Canadian under the CRTC's co-venture criteria.

Minor Canadian involvement: A minimum of 20% financial participation and profit sharing, but can be any amount up to the maximum a foreign co-production or co-venture could have before

it no longer qualifies as Canadian under the CRTC's co-venture criteria.

Twinning: Matching a fully Canadian production with a foreign production that has virtually no Canadian involvement other than financial.

What qualifies as a Canadian production package or twinning production?

The following conditions must be met in order for the production package or twinning to qualify as Canadian:

1. The Canadian copyright for both productions is held by Canadians.
2. The budgets of both Canadian and foreign productions are approximately equal, within 15%.
3. Co-production agreements/contracts between the Canadian production company and the foreign producers are submitted to the CRTC with the applications.
4. The Canadian production company must have financial participation and profit sharing (at least 20%) in the Canadian and foreign productions.
5. A broadcaster may receive credit for a production with fewer Canadian elements if it broadcasts the production with more Canadian elements at an equitable time.
6. All productions in production packages and twinings must fall within the same program category.
7. Production package or twinning programs are acceptable only in the categories of drama and comedy, variety, documentary and children's. Animated productions are excluded.
8. Matched (or twinned) productions must be approximately equal in duration.
9. Matched (or twinned) productions must receive equitable scheduling on the same Canadian station or network.
10. 10-point productions in production packages or a twinning will not qualify for the dramatic program credit of 150%.

While there is no requirement that the production with major Canadian involvement receive exposure in the other country, we expect that the Canadian co-producer would include such an arrangement in the agreement with the non-Canadian co-producer.

We assign a “**C**” or “**SR**” number for a production package or a twinning.

Eligibility

Key Creative Definitions and Requirements

Live Action or Continuous Action Animation Productions

For the purpose of Canadian program certification, continuous action animation is treated the same as live action programs.

Director

Person who controls the action and dialogue in front of the camera and is therefore responsible for realizing the intentions of the scripted concept.

Screenwriter

The role of the writer includes screenwriters, scriptwriters, story editors, creative consultants, story consultants, and creative producers.

All individuals involved in any stage of developing the screenplay (including outline or treatment, various drafts, dialogue polishing, and final shooting script) must be Canadian, or alternatively, the principal writer must be Canadian, and the screenplay must be based on a work authored by a Canadian and published in Canada.

In the case of a dance production, the choreographer will be considered to be equivalent to the writer.

First and Second Lead Performers or Voices

Lead performers speak lines of dialogue, mime a scene, or interpret a character even where there is no dialogue.

For variety, music and dance productions, the leads are the musical performers, singers, or dancers, etc. The host of these productions is not considered a lead performer unless the host also performs.

In other program types, the leads will usually be the host, narrator, moderator, quizmaster, commentator or interviewer (a performer engaged to perform narrative material or commentary on- or off-camera), off-camera performer (a performer other than the narrator or commentator engaged to perform a role in a dramatic work off-camera), or the person who performs or reads the voice of a character in a film or animated production.

Guests on a magazine program, or the subjects of biographical documentaries, are not considered performers for certification purposes.

At least one of the two lead performers must be Canadian. A production in which one or more non-Canadians are the only lead performers will not be certified as Canadian. Adding Canadians in minor roles is not sufficient for a production to qualify.

Determining lead performers must take into account billing, screen-time and remuneration.

In non-dramatic productions, the second lead must have at least 50% of the on-screen time (or off-screen time where narrators or interviewers are involved) and at least 50% of the remuneration of the first lead, plus billing appropriate for a second lead, in order to be awarded the point. Individuals not meeting these criteria are considered to be filling minor roles.

Production Designer or Art Director

The individual in charge of a production's artistic design, which consists of everything that appears on the screen, including sets, costumes and properties. This person is generally responsible for the conception, planning and supervision of the overall visual design of the production.

For a live action or continuous action animated production, the Art Director is considered equivalent to the Production Designer.

Director of Photography (“DOP”) or Chief Camera Operator

The individual(s) in charge of the camera and lighting crews working on a film. This person is responsible for making artistic and technical decisions related to the image.

If there is no DOP, the equivalent is Chief Camera Operator.

Music Composer

This point is only awarded if the production commissions a Canadian to compose original music specifically for the production. Music composed by Canadians for the first season of a television series may also be claimed for the music composer point for subsequent seasons.

Rearranging existing music, even if it is Canadian, uses the position but does not earn the point. The production can use existing music in addition to the original music.

The position of Music Director is not accepted as equivalent to Music Composer.

No point is given when producers use existing music and do not engage the services of a Canadian music composer to create original music for the production being certified.

Picture Editor

The person responsible for synchronizing and cutting together a work's various visual and sound elements recorded at different times, whether in a studio or elsewhere.

The equivalent of the Picture Editor is the Film Editor.

The positions of Sound or Music Editor are not accepted in place of the Picture Editor. For videotape productions, the equivalent to Picture Editor is the Off-line Editor.

Animation Productions

Animation is the process of creating an illusion of motion using still images.

Director

Has overall control of the creative aspects of the production, creates the instructional workbook for the production, times the action and supervises the creative and technical aspects of the work, provides shot-by-shot and frame-by-frame details of the camera movement and shot punctuation by

preparing the timing of each individual scene at the storyboard stage, and prepares the bar-sheet or exposure sheet instructions for the animator. These functions may also be performed by, or in collaboration with, the key animator or animation director.

Scriptwriter and Storyboard Supervisor

The scriptwriter provides the written treatment, outlines the continuity of the story, dialogue or action and the parts the various characters will play in it, and elaborates on the script during the storyboard stage.

The storyboard supervisor, in cooperation with or in place of the scriptwriter (depending on the type of production and studio organization), creates a series of pictures to illustrate the story in parallel with the written text, determines transitions from one scene to another, and creates a series of drawings showing the major action and scene changes.

In productions that employ scriptwriters or storyboard supervisors, but not both, the point will be awarded only if everyone performing the function is Canadian.

Picture Editor

Assembles individual shots and sequences in continuity and fits them to the various soundtracks, provides the sound effects track, analyses the music or dialogue track, informs animators about timed film frames, supervises the dubbing and the separate sound tracks, and liaises with laboratories to obtain prints.

First or Second Voice (or first or second lead performer)

To determine the lead performers in an animated production, the production must take into account the account billing, on-screen time (or off-screen time for voices), the number of lines, and payment.

Design Supervisor

Responsible for style, visual character, colour theme and colour continuity; develops the tones of the backgrounds, figures and textures; can sometimes create the actual characters jointly with the director; and prepares visual proportion charts of the characters to safeguard uniformity during the production.

This position is sometimes referred to as Art Director or Character Designer.

Camera Operator and Operation

Operates the camera for the purpose of recording the sequences of cells and backgrounds according to instructions from the director. Both the camera operator and the location of the camera operation must be Canadian to earn the point in an animated production.

Music Composer

See [Live Action section](#) above.

Key animation

The key animator is primarily responsible for the creative vitality of the production; draws the key phases of movement that determine the life and expression of the characters; creates the movement of figures or objects; roughs out the timing path or sequence of the animation; and provides, on dope sheets, technical information to the camera operator about the order in which her or she should photograph individual animation phases. The animator depicts extremes of movement to provide key drawings and sets the style and character of the sequence. The key animator's work is part of the final print.

Assistant animator and in-betweening

Completes the breakdown drawings and in-between work once the animator determines the key characters or figures and the animation is complete. Breakdown drawings are the main drawings between the key animation drawings that help to define the path of action. In-between drawings are done after the main path of action breakdown drawings is complete.

Layout artist and background artist

Working from the storyboard, they outline the graphic organization in the form of line drawings of background environment and staging of action for the animators' and background artists' reference. The layout artist also draws up camera field references. In feature work, the layout artist will also provide a detailed tonal rendering for the background department. The background layout provides finished backgrounds for individual scenes of a film. A related position is that of the poser. The poser, however, is an animator whose work is preliminary and ephemeral and does not form part of the final print.

Key Creative Point System

Point System - Definitions

Domestic productions, as well as international co-ventures, are awarded points when Canadians occupy certain key creative functions involved in making the production.

Canadian (individual)

A Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate.

An individual must have citizenship or permanent residency before the start of principal photography and must retain it until the end of post-production in order for us to award points to people in key creative positions.

Canadian (production company)

Either a licensee of the CRTC or a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians. **535**

Point System - Criteria

We award points for live action productions, continuous action animated productions, and animation productions based on key creative functions being performed by Canadians.

Productions must generally earn at least 6 points out of a possible 10 to be eligible for certification.

Of the minimum 6 points:

- The director or screenwriter position (for live action or continuous action animated productions) or the scriptwriter or storyboard supervisor position (for animated productions) must be filled by a Canadian.
- First or second lead performer position must be filled by a Canadian.
- These mandatory points must be achieved for one-off productions and for each episode in a series.

Where multiple people share duties for a particular position, or multiple people share screen credits for a single position, the production only earns the point if all of the people are Canadian.

Example: For a production with 2 picture editors, one of whom is Canadian and the other non-Canadian, the position is considered non-Canadian and does not earn a point. Similarly, if there are 10 writers and one of those 10 writers is non-Canadian, the position is considered non-Canadian and doesn't earn a point.

Point System – Points Awarded Per Key Creative Position

The points awarded for key creative positions filled by Canadians required to certify a Canadian production:

Live action and continuous action animated productions

- Director (2 points)
- Screenwriter (2 points)
- First and Second Lead Performers (performer or voice) (1 point each)
- Production Designer or Art Director (1 point)
- Director of Photography or Chief Camera Operator (1 point)
- Music Composer (1 point)
- Picture Editor (1 point)

Animated productions (other than continuous action animation)

- Scriptwriter and Storyboard Supervisor (1 point)
- Director (1 point)
- Picture Editor (1 point)
- First or Second Voice (or first or second lead performer) (1 point)
- Design Supervisor (1 point)
- Camera Operator and Operation (1 point)
- Music Composer (1 point)

In addition, animated productions are also awarded points when key creative functions are performed in Canada:

- Key animation (1 point)
- Layout artist and background (1 point)
- Assistant animation/in-betweening (1 point)

For animation productions (excluding continuous action animated productions), it is mandatory that the following persons or locations are Canadian. Where the point is assigned to a location, it will be awarded only if that function is performed entirely in Canada.

- The people occupying the role of the director, or the combination of scriptwriter/storyboard supervisor, must be Canadian.
- The location of the key animation, excluding pixilation, must be in Canada.
- The people occupying the role of the first or second lead performers or voices must be Canadian.
- The people occupying the role of the camera operator must be Canadian, and the location of the camera operation, for pixilation only, must be done in Canada.

Point System - Exceptions

We do not award key creative points in the following cases:

- Dubbed Canadian productions where the original production was certified by CAVCO.
- Foreign productions dubbed in Canada.
- Live or live-to-tape sports events.

We may grant certification in the following instances to productions that do not meet the minimum key creative point requirement:

- **Fully Canadian productions:** In productions that do not use some key creative positions (such as documentaries), making it impossible to meet the 6-point minimum, we will grant Canadian certification provided that Canadians fill all key creative roles.

Example: A documentary may earn 3/3 points or 5/5 points.

- **Co-ventures:** A co-venture involving a co-producer from a Commonwealth or French-speaking country, or a country with which Canada has a film or television production treaty, may be considered for special recognition. We grant these productions Canadian certification if, among other requirements, the program attains 5 points.

However, in such cases, the co-venture must also meet the normal co-venture requirements.

- **Series:** The production elements of a series can vary, and some individual episodes might not meet the minimum requirements of the point system. Accordingly, we may certify any episodes in a series that do not meet the six-point requirement, so long as:
 - At least 60% of the series episodes attain 6 points or more.
 - The episodes are broadcast or otherwise distributed at equitable times.
 - The entire series attains an average of 6 points per episode.

Episodes that are ineligible for certification for any reason will not be segregated from the remainder of the episodes.

- **Live action or continuous-action animated series:** Each episode must meet the two mandatory requirements for screenwriter or director, and first or second lead performer (minimum of 3 points).
- **Animated series:** Each episode must fulfill the three mandatory requirements for scriptwriter and storyboard supervisor or director, first or second voice/performer, and key animation (minimum of 3 points).

Note that episodes that are ineligible for certification for any reason will not be segregated from the remainder of the episodes.

- **Sports productions:** We do not award key creative points for productions of live or live-to-tape sports events. These type of productions are considered Canadian if a Canadian production company exercises control over the production and hires the commentators. If the event takes place outside Canada, the production would qualify only if Canadian-based teams or athletes participate. In all cases, one of the major on-camera personalities (commentators, analysts or hosts) must be Canadian.

Foreign Courtesy Credits

In order to ensure that Canadians are clearly recognized as the central decision-makers for a domestic production, in no circumstances can non-Canadians receive a producer, co-producer, line producer, or production manager credit.

Courtesy credits may be awarded to non-Canadians for non-creative, non-production-related functions that in no way interfere with the financial and creative authority of the Canadian producer and either relate to the arranging of foreign distribution or financing or services to the production

under the strict supervision and control of the Canadian producer.

The CRTC's approach to foreign courtesy credits differs from that of CAVCO. The CRTC does not allow any non-Canadian to receive a foreign courtesy credit if they are also credited as a writer for the production.

We review any courtesy credit given to a non-Canadian that does not appear in the list of Group A and B credits below, to ensure that their duties do not interfere in any way with the administrative, creative or financial decisions of the Canadian producer.

Accordingly, non-Canadians may only receive courtesy credits for producer-related functions as long as:

- The remuneration to the Canadian producer(s) exceeds the aggregate remuneration to non-Canadians in producer-related positions.
- With the exception of a non-Canadian lead performer, non-Canadians in producer-related positions must limit their time on the set to a maximum of 25% of principal photography and their role solely to that of observers.

Foreign Courtesy Credit - Groups

Note: If a non-Canadian receives a Group A credit, at least one Canadian must be given a Group A credit. If two non-Canadians are given a Group B credit, at least two Canadians must be given a credit from either Group A or Group B. Credits within the same group are interchangeable.

Group A:

Executive Producer

Senior Executive

Executive in Charge of Production

Supervising Producer

Associate Producer

Group B:

Supervising Executive

Production Supervisor

Production Executive

Production Associate

Executive Consultant

Production Consultant

Foreign Courtesy Credit - Affidavits

- With the exception of a lead performer, all other non-Canadians granted a courtesy credit must file an affidavit outlining the duties they performed and declaring that those duties have been/will be carried out only under the direction, control, and with the full knowledge of the Canadian producer.
- Non-Canadians in producer-related positions cannot assume any responsibility for the expenditure of any production money or order any goods or services of any kind in connection with the production.
- Non-Canadians in producer-related positions cannot be present for more than 25% of principal photography.
- Affidavits are required for all foreign courtesy credits.

Canadian Producer Control for Domestic Productions

To be certified as a domestic Canadian production, everyone receiving a producer credit must be Canadian. The producer must be the central decision-maker, from the development stage until the production is ready for commercial exploitation.

In all instances, producers must have Canadian citizenship or Canadian permanent residency before the start of principal photography and retain this status until the end of post-production.

We review chain-of-title documentation if necessary to confirm that a producer is responsible for developing the project. This documentation may include agreements with writers and producers, consultants and other production companies. These agreements demonstrate that the production company has the necessary rights for it to develop, produce and exploit the finished work.

We make allowances for industry-standard third-party approval rights, like those typically found in agreements with distributors, broadcasters, financiers, and completion bonders. Such approvals do not interfere with producer control.

Determining Producer Control

The CRTC uses four indicators to determine producer control:

1. **Development:** The producer must demonstrate full responsibility for the development of the project from the date the producer secures the underlying rights. If development has been materially completed by or with the involvement of non-Canadians, the producer must establish that these activities did not interfere with the producer's responsibilities and control. If necessary, the CRTC will review the chain-of-title documentation to confirm that the producer is responsible for the development of the project.

Any ongoing involvement of prior rights-owners in development, production or exploitation of the project subsequent to the producer securing the underlying rights is presumed to indicate that this party retains a degree of responsibility and control.

2. **Creative and Financial Control:** Documentation must demonstrate that, with the exception of standard approval rights from broadcasters, distributors, financiers and completion-bonders, the producer has exercised full control and holds final decision-making authority over creative and financial aspects of the production, including:

- The project budget.
- The production schedule.
- Selecting and hiring above- and below-the-line cast and production personnel and the negotiation of the terms thereof.
- Selecting and contracting production services (camera package, sound package, post-production facilities, and the negotiation of agreements with unions and guilds, and post-production elements).

3. **Financing:** Documentation must demonstrate that the producer has exercised full control and holds final decision-making authority over:

- The financing plan.
- Securing all third-party financing, including, without limitation, domestic and foreign equity, domestic and foreign subsidies, domestic and foreign pre-sales and the negotiation of the terms thereof.
- Securing interim financing (i.e. production financing) and negotiating the terms thereof.
- The cash-flow schedule of the project.
- Managing banking for the project and maintaining sole and unfettered control over the bank account(s) of the project and cheque-signing authority.

Note: International co-ventures are subject to specific requirements with regard to financing.

4. **Producer Remuneration:** The Canadian producer's remuneration (in the aggregate) must exceed the total aggregate remuneration paid to all foreign producer-related positions.

Where contractual conditions related to areas outlined above limit the Canadian producer, the production will be considered ineligible for certification. We make determinations on a case-by-case basis, giving due regard to all contractual obligations, facts and representations.

Production Costs

In order to encourage the use and development of Canadian creative talent, at least of 75% of the production's services costs must be paid to Canadians and at least 75% of the production's post-production and laboratory costs must be paid for services provided in Canada by Canadians or

Applicants must provide a completed Breakdown of Costs form for any productions that include non-Canadian costs.

Services Costs

Services costs include all costs that are incurred for services provided in respect of the making of the production:

- Development
- Story
- Music rights
- Non-key creative personnel
- All producer positions (other than producer and co-producer)
- Production staff
- All production labour
- All rentals
- Transportation
- Shipping
- Customs and communications
- Animals
- Video studio facilities
- Video remote technical facilities
- Second unit crew
- Completion guarantee
- Unit publicity
- Amortization (in the case of a series)

A services cost is deemed Canadian or non-Canadian based on the citizenship* of the person whose account incurred the cost or the person providing the service.

Example: If costs are incurred for a Canadian citizen or permanent resident travelling on production-related business to a location, whether inside or outside Canada, all of the costs incurred for this person's travel, including food and lodging while traveling and on-location, would be considered

Canadian costs since they were incurred for a Canadian citizen or permanent resident. If these same costs were incurred for a non-Canadian, even if they were incurred in Canada, they would be considered non-Canadian expenditures.

In the case of services provided by an incorporated company, the company must have a Canadian business in Canada, a Canadian address, and be owned and controlled by a Canadian in order for the cost to be considered Canadian.

*Or date of landing for permanent residents who are not Canadian citizens

Post-Production and Laboratory Costs

Post-production and laboratory costs include costs for:

- Videotape stock and production laboratory (other than purchases)
- Voice edit labour and other editorial labour
- Editorial equipment rentals
- Post-production picture and sound labour
- Special effects
- Computer graphics
- Music labour and other music expenses
- Titles/optical
- Versioning
- Amortization (in the case of a series)

In order for a post-production or laboratory cost to be considered Canadian, it must have been incurred for post-production or laboratory services provided in Canada by Canadians or by a Canadian company. All services provided by non-Canadians, including services provided by Canadians outside Canada, are considered non-Canadian.

A Canadian company for the purpose of post-production and laboratory costs is a company incorporated and carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians.

Excluded Costs

To allow Canadian producers greater flexibility, the following costs are excluded from both service and post-production/laboratory costs:

- Remuneration (including fringe benefits) for producer, co-producer, director, screenwriter/scriptwriter, production designer, DOP/chief camera operator, picture editor, first

lead performer, second lead performer, music composer, storyboard supervisor and design supervisor.

- Purchased goods and all non-related production expenses (including accounting, legal fees, bank charges, insurance, auditing, corporate overhead, interim financing, interest and contingency).
- In order to help the production and development of Canadian documentaries, stock footage acquisition costs are also excluded from service costs.

Program Categories

Program categories are defined in Broadcasting Regulatory Policy [2010-808](#).

We assign all certified productions a program category. To determine the program category, we review the production synopsis you submit as part of your application. As the applicant, you are responsible for clearly explaining in this synopsis how the production meets the program category you are requesting, including a detailed description of the program type, format and the theme or subject matter.

In addition to the synopsis, we may request a link, DVD, or USB, that allows us to review the finished production.

In the case of a series, you must submit two episodes that will be broadcast as a part of the season for which you are seeking certification.

Note that applicants seeking program category 2a (Analysis and Interpretation), 2b (Long-form documentary) or 5b (Informal education/Recreation & Leisure) must always provide a link, DVD, or USB with their application.

FAQ

Expand all topics

Hide all topics

General certification questions

► **What's the difference between CRTC certification and CAVCO certification?**

► **If a production is certified by CAVCO, does it need to be certified by the CRTC?**

► **Is there an application fee for certification?**

► When can I apply for certification?

► Is there a deadline to apply for certification?

► Do I need to submit separate applications for different durations or different language versions of my production?

► Do I need to submit separate applications for each season of a series?

► My production is a domestic co-production. Who submits the application form?

► Do I need to provide a web link for my production?

► My production did not incur any non-Canadian costs. Do I need to submit a breakdown of costs form (BOC)?

► How do I complete a breakdown of costs (BOC) form?

► How long will it take to process my application?

► How can I find out the status of my application?

► Why was my application returned?

► Where can I find a list of productions certified by the CRTC?

Questions regarding eligibility

► Does the CRTC provide advance rulings or preliminary certifications?

► Do I need to have an agreement with a Canadian broadcaster or distributor to be eligible for certification?

► My production will only be shown online. Can it still be certified?

► Can I film my production abroad and still receive Canadian program certification?

► How many key creative points must a production score for CRTC certification?

► Why did my production receive fewer key creative points than I expected?

► Why did my production not receive certification for the program category indicated in my application?

- ▶ Can a non-Canadian fill the role of the producer, co-producer, line producer, or production manager?
- ▶ Can a non-Canadian receive a courtesy credit?
- ▶ When do I need to provide proof of Canadian citizenship (or Canadian permanent residency status) for my key creative personnel?
- ▶ What types of programming do not require CRTC certification?
- ▶ What types of programming are ineligible for CRTC certification?
- ▶ How does the CRTC define advertising?
- ▶ What is the difference between a documentary and a reality program?

Technical questions:

- ▶ What is GCKey?
- ▶ How do I sign-up for a GCKey?
- ▶ Do I need an activation code?
- ▶ I already have a Government of Canada GCKey.
- ▶ Can I go back to an application and revise information?
- ▶ The SmartForm is not working (i.e. technical difficulties); who do I call?
- ▶ I no longer have my GCKey registration information (username, password) because I have lost, forgotten, or misplaced it. Is there any way that I can recover the information?
- ▶ Does my GCKey expire?
- ▶ Can I use someone else's GCKey account?
- ▶ I have received a message indicating that my session has expired.

All other questions:

- ▶ Where can I get more information about Canadian Program Certification?

Animation (Traditional)

The process of filming or recording: a series of poses of figures, objects or shapes; drawings, each slightly displaced from the preceding pose; or drawing created in sequence on successive frames of recording material, one or more frames at a time. When the film is projected or the recording is played, the rapid projection of the multiple images gives the illusion of movement.

Animation (Computer)

Computer-assisted animation revises existing animated material using computer technology. Computer-generated animation uses computer technology to synthesize digital images in order to generate animated movement.

Canadian (Individual)

A person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act* or a permanent resident as defined in the *Immigration and Refugee Protection Act* who has received a Permanent Residence Certificate.

“At all relevant times” means that an individual must be Canadian at the time they begin their duties in relation to the production and during the entire course of the filming or taping and post-production. An individual cannot acquire permanent resident status in order to qualify as Canadian at any point during a production; such status must be confirmed before the individual begins engaging in any activity related to the production. An individual acquiring permanent resident status after he or she begins engaging in any activity related to the production will be considered a non-Canadian for the entire production. Likewise, a corporation must be a Canadian-controlled corporation during the same time period.

It is important that applicants confirm the status of each person who will occupy a key creative position before the person begins engaging in any activity related to the production.

Canadian (Production Company)

A Canadian company carrying on business in Canada, with a Canadian business address, that is owned and controlled by Canadians.

Certification letter

Once a production is certified, applicants will receive a letter outlining the details of the certification, including the title of the production, the certification number, the points awarded (if applicable), the program category, and the time credit. The letter also contains other important information on the certification, such as any conditions on which the certification was granted.

Certification number

Refers to the unique number assigned to a certified production that Canadian broadcasters must include in their programming logs. There are three types of numbers: a “C” number for a domestic Canadian production or the dubbing of a Canadian production, an “SR” number (special recognition) for an international co-venture, or a “D” number for the dubbing of a foreign production.

Co-production (Domestic)

A Canadian production produced by more than one Canadian company.

Co-production (International Treaty)

An audiovisual work produced jointly by a Canadian producer and a producer from a foreign country with which Canada has a co-production treaty administered by Telefilm Canada. The production must be produced in accordance with the terms and conditions of the treaty.

Co-venture

International co-productions that aren't included under the treaties administered by Telefilm Canada. These include all ventures with co-producers of foreign countries that either do not have a film or television production treaty with Canada or, if there is a treaty, the co-production is not specifically covered by the treaty.

Continuous action animation

The process of filming real figures, shapes or objects as they are manipulated using mechanical or other devices. When the film or recording is played, the rapid projection of the multiple images gives the illusion of movement. Examples of continuous action animation include puppets controlled by a puppeteer and filmed continuously in real time and pixilation animation using live action shots of real people in real locations, manipulated to achieve the effect of having actors jump, jerk or twitch as if they were being animated.

Existing music (pre-recorded music)

Music or other sounds not specifically created for the production in question. This includes stock, archival or library music.

Existing (non-original) footage

Footage not specifically created for the production in question. This includes stock, library or archival footage. For Canadian certification, foreign-produced stock footage must be limited to less than 50% of the running time of all programs except for documentaries.

Existing segments from an original program

Original segments or versions of previously produced programs not specifically created for the production in question.

Key creative personnel

Persons filling the “key” creative functions involved in the making of the production for which points are awarded when they are performed by Canadians.

Live action

Programs involving real people or animals as actors, host, subjects, narrators, etc., as opposed to animations.

Music video clip

Short films, videotape productions or concert excerpts (clips) not produced primarily for the program in which they are presented, and which normally contain one musical selection with visual material.

Music video program

A program consisting predominantly (i.e. more than 50%) of music video clips and, in some cases, including a host and other programming elements.

One-off

A television program that is a stand-alone, single production, other than a pilot, that is not part of a series or any other type of production.

Pilot episode

A production that is produced as a forerunner to a television series. It is produced to secure the interest and eventual financing of broadcasters and other participants for the production of a series or anthology.

Post-production

The set of activities that follows the shooting of a film or television program including editing, special effects, mixing of soundtracks and dubbing.

Principal photography

The phase during which the production is actually filmed, distinct from pre-production and post-production. Principal photography begins with the first day of filming the production or, in the case of a series, the first episode. For an animation, it is the beginning of key animation.

Producer-related personnel

Any person working in a production capacity other than the producer, co-producer, line producer, or production manager.

Series

A program with two or more episodes produced by the same production company or producer. The program must have a title, theme, and situation or set of characters common to each episode. Each episode must have the same duration.

Reference (Relevant Circulars and Public Notices)

Policies related to program certification

- [Broadcasting Regulatory Policy 2023-90](#)
- [Broadcasting Information Bulletin CRTC 2017-434](#)
- [Broadcasting Regulatory Policy 2010-905](#)
- [Public Notice CRTC 2000-42](#)
- [Broadcasting Regulatory Policy 2010-808](#)

Policies related to broadcasting

- [Broadcasting Regulatory Policy 2015-86 Creating compelling and diverse Canadian programming](#)

Regulations related to broadcasting

- [Circular 350 To Licensees of all Television Broadcasting Undertakings](#)

Date modified:

2023-03-23

Court File No.

FEDERAL COURT OF APPEAL

B E T W E E N:

CANADIAN MEDIA PRODUCERS ASSOCIATION

Applicant/Moving Party

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**MEMORANDUM OF FACT AND LAW OF THE APPLICANT/MOVING PARTY,
CANADIAN MEDIA PRODUCERS ASSOCIATION**

(Motion for Leave to Appeal under
section 31 of the *Broadcasting Act*, SC 1991, c. 11 and
Rule 352 of the *Federal Court Rules*)

Date: December 16, 2025

Stohn Hay Cafazzo Heim Finlay LLP
133 King Street East, 2nd Floor
Toronto, ON M5C 1G6

Erin Finlay LS #: 48054B
erin@stohnhay.com

Madeleine Brown LS #: 74928F
mbrown@stohnhay.com

Tel: 416.961.2020

Lawyers for the Applicant/Moving Party,
Canadian Media Producers Association

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TABLE OF CONTENTS

PART I— STATEMENT OF FACTS	3
Overview	3
The Facts	3
A. The Applicant	3
B. The <i>Online Streaming Act</i>	4
C. The Definition of “Canadian Program” is Foundational to Canada’s Broadcasting System	6
D. Procedural History	8
E. The Proceeding.....	9
F. The Decision	9
PART II— ISSUES	9
PART III— LAW AND ARGUMENT	10
The Decision is appealable under section 31(2) of the Act.....	10
Leave to Appeal is Warranted	10
A. An arguable case: The Commission erred in law by failing to consider and apply the full text of section 10(1.1)	11
B. An arguable case: The Commission erred in law by failing to consider and apply section 13 of the Cabinet Order.....	17
C. An arguable case: The Commission failed to exercise its powers in accordance with its statutory mandate	18
PART IV— ORDER SOUGHT.....	19
PART V— LIST OF AUTHORITIES	20

PART I—STATEMENT OF FACTS

Overview

1. The ability of Canada’s broadcasting system to safeguard, enrich, and strengthen Canada’s cultural, political, social, and economic fabric¹ depends on Canadians’ ability to benefit from Canadian programming. A clear, robust, and effective definition of “Canadian program” is central to fulfilling those objectives.
2. The Canadian Media Producers Association (“**CMPA**”) seeks leave to appeal Broadcasting Regulatory Policy 2025-299 issued by the Canadian Radio-television and Telecommunications Commission (“**Commission**”) on November 18, 2025 (the “**Decision**”). The Decision redefines what constitutes a “Canadian program” for the purposes of the *Broadcasting Act*, SC 1991, c 11 (the “**Act**”).
3. The CMPA has an arguable case that the Decision is based on errors of law in the Commission’s interpretation and application of the statutory requirements of the Act. The threshold for leave is met. Leave should be granted.

The Facts

A. The Applicant

4. The CMPA is Canada’s leading trade association for independent English-language media producers. It represents over 600 member companies engaged in the development, production and distribution of English-language content for television, film, and digital media channels.²
5. This motion for leave to appeal concerns a recent decision of the Commission regarding the definition of “Canadian program”. The definition of “Canadian program” establishes which creators, producers and stories receive the regulatory support and financial investment that underpin the domestic audiovisual industry, and which content qualifies as “Canadian” for broadcasting undertakings’ (including online undertakings’)

¹ *Broadcasting Act*, SC 1991, c 11 (the “**Act**”) at [s. 3\(1\)\(d\)](#).

² Affidavit of Alain Strati affirmed December 16, 2025 at para 2, Motion Record of the Canadian Media Producers Association (“**Motion Record**”) at Tab 3, p. 92.

programming expenditures and other obligations.³ As a result, the definition drives substantial industry investment—amounting to hundreds of millions of dollars annually—towards the productions that qualify and the people that make them.⁴

6. The relevant legislative history is as follows.

B. The *Online Streaming Act*

7. Bill C-11, *An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts* (the “**Bill**”), was introduced in February 2022. It received Royal Assent in April 2023 as the *Online Streaming Act*, on April 27, 2023.⁵

8. Among other things, the *Online Streaming Act* amended the Act to affirm the Commission’s jurisdiction over foreign-owned online undertakings operating in Canada (i.e. online streaming services such as Amazon Prime Video, Apple, and Netflix). One of Parliament’s objectives in amending the Act was to ensure that all elements of the Canadian broadcasting system, including online undertakings, contribute appropriately to the creation, presentation, and sustainability of “Canadian programming”.⁶

9. At the time the Bill was introduced, the Commission’s definition of “Canadian program” did not include any requirements regarding copyright ownership.⁷ That omission reflected the regulatory reality at the time: all entities subject to the Commission’s Canadian programming regulations were Canadian. No foreign undertakings were involved.⁸ It was therefore assumed that copyright in a certified “Canadian program” would remain with Canadians.⁹

³ Broadcasting Notice of Consultation [CRTC 2024-288](#) (“**Notice of Consultation**”) at [paras 3, 35](#) and [39](#), Motion Record at Tab 3F, pp. 135 and 144-145.

⁴ [Notice of Consultation](#) at [paras 39-41](#), Motion Record at Tab 3F, pp. 144-145.

⁵ Affidavit of Alain Strati at para 7, Motion Record at Tab 4, p. 94.

⁶ Broadcasting Regulatory Policy [CRTC 2025-299](#) (“**Decision**”) at [paras 9](#) and [143](#), Motion Record at Tab 3J, pp. 265 and 293.

⁷ [Decision](#) at [para 17](#), Motion Record at Tab 3J, p. 267.

⁸ Direction to the CRTC (ineligibility of Non-Canadians), [SOR/97/192](#).

⁹ The only exception to this rule was for “special recognition co-ventures”, which do not require copyright ownership by Canadians. [Canadian Program Certification Guide](#) as of March 3, 2023 at s. 3, Motion Record at Tab 3P, p. 529.

10. Significantly, the *Online Streaming Act* introduced section 10(1.1) of the Act, which for the first time prescribes mandatory statutory factors the Commission must consider, including copyright ownership, when defining a “Canadian program”:

(1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:

(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;

(b) whether key creative positions in the production of a program are primarily held by Canadians;

(c) whether a program furthers Canadian artistic and cultural expression;

(d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings; and

(e) any other matter that may be prescribed by regulation.¹⁰

11. As introduced in Bill C-11, s. 10(1.1) required the Commission to consider whether Canadians “own copyright in relation to a program”, control its exploitation and “retain a material and equitable portion of its value”.¹¹ That language was replaced at committee stage by the Standing Committee on Canadian Heritage with a requirement that the Commission consider whether “Canadian producers, including independent producers, “have a right or interest in relation to a program, including copyright or any other rights or

¹⁰ [Act](#) at [s. 10\(1.1\)](#).

¹¹ Clause 11, Excerpt of [First Reading of Bill C-11, An Act to amend the Broadcasting Act and the make related and consequential amendments to other Acts](#) dated February 2, 2022, Motion Record at Tab 3A, p. 102.

interest, that allows them to control and benefit in a *fair and equitable* manner from the exploitation of the program.”¹²

12. During the House of Commons’ consideration of Senate amendments to Bill C-11, the government amended s. 7(a) by formal motion, substituting the requirement that Canadian producers benefit in a “fair and equitable manner” with a requirement that they benefit in a “**significant and equitable manner**.”¹³ The Government’s amendment was adopted by the House and subsequently accepted by the Senate, where it was described as intended to “make sure that Canadians are benefitting in a significant manner from the exploitation of a given program by broadcasters”.¹⁴

13. This legislative history confirms Parliament’s consistent and clear intent: rights held by Canadians in a program must confer genuine control and deliver tangible, “significant and equitable” economic benefits from its exploitation.

C. The Definition of “Canadian Program” is Foundational to Canada’s Broadcasting System

14. In addition to directing broadcasting undertakings’ regulatory obligations, the Commission’s definition of “Canadian program” also interacts with parallel federal funding and financing systems, including Telefilm Canada, the Canadian Audio-Visual Certification Office (“**CAVCO**”), and the Canada Media Fund (“**CMF**”), which together form the interconnected policy, funding and financing framework upon which Canada’s broadcasting industry relies.

¹² [Second Report of the Standing Committee on Canadian Heritage regarding Bill C-11](#), June 14, 2022, 44th Parliament, 1st Session, Motion Record at Tab 3C, p. 114; Excerpt of [Bill C-11 as amended by the Standing Committee on Canadian Heritage as a Working Copy for the use of the House of Commons at Report Stage as Reported to the House of Commons on June 15, 2022](#) at Clause 11, Motion Record at Tab 3B, p. 107.

¹³ Government Order, “[House of Commons Debates, Official Report \(Hansard\)](#)”, 1st Sess. 44th Parl., 151:166, pp. 12091-12092 (March 8, 2023), Motion Record at Tab 3D, p. 120.

¹⁴ Statement of Honourable March Gold (Government Representative in the Senate), “[Senate Debates, Official Report \(Hansard\)](#)”, 1st Sess. 44th Parl., 153:112, p. 3274 (April 18, 2023), Motion Record at Tab 3E, p. 126.

15. As a general principle, each element of this broader framework requires that Canadians not only own the copyright in a program but can also exploit it and related intellectual property through a comparable share of revenues, markets, profits, and associated rights.

16. CAVCO requires substantive Canadian creative and financial control as a condition of certifying a production as Canadian, including requirements that Canadians control the initial licensing of all commercial exploitation rights in a production for 25 years and that the production company retains at least 25% of the net profits from the exploitation in non-Canadian markets, reflecting the expectation that Canadians will hold and exploit the copyright in programs that qualify for the Canadian Film or Video Production Tax Credit (CPTC).¹⁵ The CMF conditions its funding on demonstrable Canadian ownership and control of exploitation rights, reinforced by recoupment and revenue-sharing requirements designed to ensure Canadian participation in commercial success.¹⁶ Telefilm Canada similarly assesses ownership, control, and exploitation rights in allocating federal production financing, based on the longstanding premise that Canadian producers will hold and commercially exploit copyright on a continuing basis.¹⁷ Even the Commission's own co-venture model requires that the Canadian production company must retain the rights to at least 50% of the profits of a production.¹⁸

17. Taken together, and informed by the legislative history of section 10(1.1), these instruments reflect a coherent federal policy: Canadian intellectual property ownership in

¹⁵ Application Guidelines – Canadian Film or Video Production Tax Credit (CPTC) – Canadian Audio-Visual Certification Office (CAVCO) at s. 3, Motion Record at Tab 3O, p. 403.

¹⁶ See e.g., Canada Media Fund (CMF) Liner Content Programs Core Production Guidelines 2025-2026 at s. 3.1, Motion Record at Tab 3N, p. 379.

¹⁷ Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force before July 1, 2014 at ss. 3.1-3.4, Motion Record at Tab 3L, p. 355-356; Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force after July 1, 2014 at s. 3.1, Motion Record at Tab 3M, p. 366.

¹⁸ Canadian Program Certification Guide as of March 3, 2023 at s. 2, Motion Record at Tab 3P, p. 529. The only exception to this rule was for “special recognition co-ventures”, which do not require copyright ownership by Canadians.

a program must be paired with the ability to control and exploit those rights and interests in a “significant and equitable manner”, as required by subsection 10(1.1)(a) of the Act.

D. Procedural History

18. Immediately after the new legislation was adopted, the Commission launched a three-phase consultation process to modernize Canada’s broadcasting framework under the amended Act.

19. In May 2023, the Commission launched Step 1 of its consultation process. This first step set the initial contribution obligations for certain online undertakings to support the creation and discoverability of Canadian and Indigenous content.¹⁹ The resulting decision is now the subject of multiple appeals and judicial review proceedings before this Court.²⁰

20. In November 2023, the Governor in Council published its *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*: SOR/2023-239 (the “**Cabinet Order**”).²¹ Among other things, the Cabinet Order directs the Commission to impose requirements on broadcasting undertakings that ensure that the Canadian broadcasting system strongly supports a wide range of Canadian programming and Canadian creators.²²

21. The Cabinet Order also directs the Commission to “support Canadian ownership of intellectual property” and consider the vital role of Canadian independent producers when determining what constitutes Canadian programming.²³ The Cabinet Order is binding on the CRTC.²⁴

¹⁹ Affidavit of Alain Strati at para 10, Motion Record at Tab 3, p. 94.

²⁰ See Federal Court of Appeal file nos. A-34-25 (Lead Appeal), and A-225-24 (Lead Application).

²¹ *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)*: [SOR/2023-239](#) (the “**Cabinet Order**”).

²² [Cabinet Order](#) at s. 4.

²³ [Cabinet Order](#) at s. 13(b) and (f).

²⁴ [Act](#) at s. [7\(3\)](#).

E. The Proceeding

22. In March 2025, the Commission launched the second phase of its regulatory framework under CRTC BNC 2024-288 (the “**Notice of Consultation**”),²⁵ a consultation to modernize the definition of “Canadian program” and establish the Canadian programming expenditures (“**CPE**”) applicable to both traditional broadcasting undertakings (i.e., television broadcasters and cable companies) and online undertakings in the audiovisual sector.

23. Over 480 intervenors, including the CMPA, participated in the public consultation process under BNC 2024-288 (the “**Proceeding**”).

F. The Decision

24. The Commission bifurcated its determinations and issued the Decision on November 18, 2025.²⁶

25. Among other things, the Decision addresses the certification framework for a “Canadian program” and introduces a new copyright-ownership criterion requiring that Canadian(s) retain at least 20% of the copyright for a program to qualify as a “Canadian program”.²⁷

PART II—ISSUES

26. The issue before the Court is whether the CMPA has established an arguable case that the Decision is based on an error(s) of law.

27. The CMPA has met this threshold. The Court should grant leave to appeal.

²⁵ [Notice of Consultation](#), Motion Record at Tab 3F, p. 132.

²⁶ The Decision deals only with the framework and definition for “Canadian program”. The Decision notes the Commission will issue a companion decision, regarding its determination on the CPE issues raised during the Proceeding, in a separate regulatory policy.

²⁷ [Decision](#) at [para 158](#), Motion Record at Tab 3J, p. 298. The Decision introduced a sliding scale under which lower levels of Canadian copyright ownership are offset by higher creative-point allocations for key creative positions. As examples, where Canadians own between 20-50% of the copyright in the program, it must attain at least 80% of the maximum number of points for the program to qualify. Where Canadians own more than 50% of the copyright in a program, it must attain at least 60% of the points.

PART III— LAW AND ARGUMENT

The Decision is appealable under section 31(2) of the Act

28. As a preliminary matter, section 31(2) of the Act permits a decision of the Commission to be appealed to the Federal Court of Appeal, with leave, on a question of law or jurisdiction.²⁸ The Act defines a “decision” as including a “determination made by the Commission in any form”.²⁹

29. The Decision is a “determination made by the Commission” within the meaning of section 2(1) of the Act. It reflects the culmination of a lengthy and comprehensive consultation process and the Commission’s regulatory framework provides no further opportunity to comment on or amend its substance. Accordingly, the Decision is properly appealable to the Federal Court, on a question of law, with leave under section 31(2).

Leave to Appeal is Warranted

30. Leave will be granted where the Applicant establishes an “arguable case that the decision of the Commission...was based on an error of law or jurisdiction”.³⁰

31. A motion for leave to appeal does not involve a full determination of the merits of the matter. Motions for leave to appeal are supposed to be summary; “a quick assessment whether a full review of the administrative decision is warranted.”³¹

32. A party moving for leave need only show a fairly arguable case.³² In this context, a “fairly arguable case” requires a functional, purposive assessment that ultimately turns on a simple question: *has enough been raised in the motion for leave to appeal to warrant a full review of the administrative decision?*³³

²⁸ [Act](#) at s. [31\(2\)](#).

²⁹ [Act](#) at s. [2\(1\)](#).

³⁰ *CKLN Radio Incorporated v. Canada (Attorney General)*, [2011 FCA 135](#) at [para 6](#); See also *BCE Inc. v. Québecor Média Inc.*, [2022 FCA 152](#) at [para 39](#); *Lukács v. Swoop Inc.*, [2019 FCA 145](#) at [para 15](#).

³¹ *Lukács v. Swoop Inc.*, [2019 FCA 145](#) at [para 15](#).

³² *Lukács v. Swoop Inc.*, [2019 FCA 145](#) at [para 15](#); *BCE Inc. v. Québecor Média Inc.*, [2022 FCA 152](#) at [para 39](#).

³³ *Lukács v. Swoop Inc.*, [2019 FCA 145](#) at [para 15](#).

33. In this case, the answer is “yes”.

A. An arguable case: The Commission erred in law by failing to consider and apply the full text of section 10(1.1)

34. The issue of whether the Commission erred in its application of section 10(1.1) raises a question of statutory interpretation, which is a question of law.

35. Section 10(1.1) of the Act requires the Commission, when prescribing what constitutes a Canadian program, to consider **all** of the enumerated factors in subsections (1.1)(a) through (d). The Decision does not fully address subsection 10(1.1)(a) and does not address subsection 10(1.1)(d) at all. The Commission therefore erred in law.

i. The Commission failed to apply the second part of subsection 10(1.1)(a) to ensure that Canadians benefit from a program’s exploitation

36. Subsection 10(1.1)(a) requires the Commission to consider two distinct matters when considering the definition of “Canadian program”: first, whether Canadians hold a right or interest in a program, including copyright, and second, whether that right or interest allows Canadians to control and benefit in a significant and equitable manner from the program’s exploitation.

37. The Commission was required to read the subsection in its full grammatical and ordinary sense, and in light of the scheme and objects of the Act, the legislative history of the *Online Streaming Act*, the Cabinet Order governing the Commission’s exercise of its regulatory authority, Parliament’s intent and the broader federal policy framework.³⁴ The Commission did not apply this interpretative approach. Instead, it collapsed the two statutory requirements into a single inquiry focused on copyright ownership. As a result, it misinterpreted subsection 10(1.1)(a) by ignoring the mandatory requirement that the right or interest held by Canadians must allow them “to **control and benefit in a**

³⁴ *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998 CanLII 837 \(SCC\)](#) at [para 21](#); *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019 SCC 65](#) at [para 117](#).

significant and equitable manner from the *exploitation* of the program” [emphasis added].³⁵

38. That error is evident from the Commission’s analysis, which addresses copyright ownership but does not assess whether that ownership (or any other right or interest) actually enables Canadians to control and benefit in a significant and equitable manner from the exploitation of the program.

39. The evidence presented by the CMPA and others during the Proceeding was not only that copyright ownership as a criterion was important to meet the objectives of the Act,³⁶ but also that Canadian producers face a significant bargaining-power imbalance with broadcasting undertakings, an imbalance that is amplified when dealing with foreign online undertakings.³⁷ This imbalance allows broadcasting undertakings to “effectively expropriate” producers’ rights: a producer could legally own as much as 100% of a program’s copyright yet have “most, or even all” of the exploitation rights and benefits appropriated by a broadcasting undertaking.³⁸

40. The Commission did acknowledge the importance of financial control and shared participation by parties in a production, and its role in “fostering a broadcasting system in which Canadian producers can retain significant, equitable control of their works and benefit from their long-term exploitation.”³⁹ It nevertheless concluded that “guiding” (i.e. non-binding) principles of fair compensation and exploitation, and good-faith negotiation, would suffice.

41. Subsection 10(1.1)(a) requires more. It mandates an assessment of whether Canadians can actually exploit those rights over an appropriate period of time and

³⁵ [Act](#) at [s. 10\(1.1\)\(a\)](#).

³⁶ [Decision](#) at [para 149](#), Motion Record at Tab 3J, p. 295.

³⁷ CMPA Intervention dated January 20, 2025 (“**CMPA Intervention**”) at paras 73-75 and 87-88, Motion Record at Tab 3G, pp. 185 and 188; CMPA Opening Remarks at para 29, Motion Record at Tab 3H, p. 229.

³⁸ CMPA Final Written Submissions dated June 23, 2025 at para 40, Motion Record at Tab 3I, p. 242.

³⁹ [Decision](#) at [para 164](#), Motion Record at Tab 3J, p. 300.

whether the resulting control, rights and benefits are both significant and proportional (or “equitable”) to that ownership interest.

42. By failing to undertake the full assessment, the Commission adopted a definition that allows copyright in name only to satisfy subsection 10(1.1)(a), even where the copyright owner lacks any practical ability to exploit a program through revenues, markets, profits, or associated rights. Nowhere else in the federal policy framework does mere copyright ownership suffice or satisfy Canadian programming requirements. Exploitation is not incidental; it is the means by which Canadians build sustainable businesses, generate cultural and economic value, and which helps to advance the cultural, industrial, economic and competition policy objectives of the Act.⁴⁰

43. The Commission’s failure to ensure Canadian-held rights provide control and significant and equitable benefit reflects a misreading of subsection 10(1.1)(a). The Act requires a modern, purposive interpretation: ownership must be substantive and real, such that it enables Canadians to meaningfully exploit their programs. By ignoring the text, context, purpose and legislative intent, the Commission erred in law.

a. The Commission misinterpreted Canada’s audiovisual co-production treaties

44. In reaching its conclusion, the Commission states that its copyright model was inspired by Canada’s international audiovisual co-production treaties, which are administered by Telefilm Canada.⁴¹

45. The Commission relies on this asserted alignment as support for its conclusions that first, the 20% copyright requirement ensures Canadians “retain “fair and equitable” control over, and benefit from, the exploitation of their productions”⁴² and second, no copyright retention period is necessary.⁴³ This reliance reflects a misinterpretation of the co-production treaties.

⁴⁰ [Act](#) at [s. 3\(1\)](#).

⁴¹ [Decision](#) at summary, Motion Record at Tab 3J, p. 262.

⁴² [Decision](#) at [para 156](#), Motion Record at Tab 3J, p. 297.

⁴³ [Decision](#) at [para 162](#), Motion Record at Tab 3J, p. 300.

46. Canada's international co-production treaties do not operate on the basis of a bare minimum copyright percentage. Properly understood, these treaties provide Canadians with the ability to control and benefit from the exploitation of their productions because they are expressly premised on a proportional allocation of copyright, markets, and revenues. This proportional allocation, which is integral to the treaty framework, gives Canadians meaningful and ongoing control over exploitation rights and markets along with an equitable share of revenues.

47. Similarly, these treaties do not expressly specify a copyright retention period not because one does not exist, but because copyright is presumed to be held by a Canadian *in perpetuity*. To maintain treaty status, Telefilm Canada requires that exploitation and distribution rights in the Canadian market **remain** under effective Canadian control.⁴⁴ This requirement limits how much of the copyright can be transferred without affecting the production's treaty status. If a transfer of copyright leaves the Canadian co-producer with less than the required copyright or control, the production no longer qualifies as a treaty co-production. In practice, this means the copyright must be retained by Canadian(s) in perpetuity.

48. The evidence before the Commission was that retention of copyright, including limitations on licensing windows, was essential to allowing Canadians to benefit significantly and equitably from the exploitation of a program. This point was emphasized by the CMPA and other parties throughout the proceeding.⁴⁵ In addition, as noted by the Commission, interveners such as Québecor, the Canadian Association of Broadcasters, Blue Ant Media, the Directors' Guild of Canada, the CBC, the Bell Fund and Corus all

⁴⁴ See, e.g., *Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force before July 1, 2014* at ss. 3.1-3.4, Motion Record at Tab 3L, pp. 355-357; *Guidelines for Audiovisual Coproductions Governed by Canadian treaties that entered into force after July 1, 2014* at s. 3.1, Motion Record at Tab 3M, p. 366.

⁴⁵ CMPA Intervention at paras 73-75 and 87-88, Motion Record at Tab 3G, pp. 185-186 and 188; CMPA Opening Remarks at para 29, Motion Record at Tab 3H, p. 229; and CMPA Final Written Submissions dated June 23, 2025 at para 40, Motion Record at Tab 3I, p. 242.

supported aligning copyright ownership requirements with those of CAVCO, which requires a 25-year retention period.⁴⁶

49. The term of copyright retention by Canadians matters. It ensures that Canadians maintain meaningful control over their programs. Contrary to the Commission's conclusions, without a retention period, Canadians have no practical or lasting ability to exploit a program. This consequence does not satisfy the statutory requirements in subsection 10(1.1)(a).

50. By taking only the minimum ownership percentage from the audiovisual co-production treaties and framework, and omitting both the proportionality and retention mechanisms implicit in it, the Commission misconstrued the model it relied upon. This was an error of law.

b. Bare copyright ownership on its own does not provide significant and equitable benefits

51. In the Decision, the Commission also states that “participation in copyright ownership enables creators to have control in and benefit from the creation of programming”;⁴⁷ and that copyright requirements “would provide long-term tangible benefits to Canadians by ensuring that the economic and cultural value of Canadian programming remains tied to Canadian creators”.⁴⁸

52. The Commission's conclusion that a 20% copyright interest alone satisfies subsection 10(1.1)(a) rests on an incomplete and/or incorrect understanding of copyright law. Copyright is inherently divisible and assignable, allowing an owner to grant any interest by licence.⁴⁹ As noted above, evidence from the CMPA and others demonstrated that existing safeguards such as those applied by CMF and CAVCO was not sufficient: broadcasting undertakings often “effectively expropriate” the beneficial rights and

⁴⁶ [Decision](#) at [paras 144-145](#), Motion Record at Tab 3J, p. 294.

⁴⁷ [Decision](#) at [para 148](#), Motion Record at Tab 3J, p. 295.

⁴⁸ [Decision](#) at [para 154](#), Motion Record at Tab 3J, p. 297.

⁴⁹ [Copyright Act](#), RSC 1985, c. C-42 at [s. 13\(4\)](#). See also [s. 2.7](#), which defines an “exclusive licence” as an authorization to do any act that is subject to copyright to the exclusion of all others including the copyright owner.

interests in a program, reducing the Canadian producer's ownership to title only.⁵⁰ In those circumstances, it is challenging for the Canadian producer to control, exploit, or enforce the copyright, regardless of their percentage share of formal ownership.

53. This evidence directly engaged the purpose of subsection 10(1.1)(a). Yet, the Commission failed to account for the effects of copyright law and these power imbalances in its framework and definition of "Canadian program". The Decision treats a 20% copyright ownership, without any minimum retention period or mandatory exploitation rights, as sufficient to ensure that Canadians can control and benefit in a significant and equitable manner from the exploitation of a program. That conclusion misinterprets and misapplies the statutory criteria, misinterprets the application and effect of copyright law, and therefore constitutes an error of law.

c. The Commission got the test wrong: the Act requires that Canadians benefit in a "significant and equitable manner"

54. In the Decision, the Commission also stated that a 20% ownership requirement "ensures that Canadian creators retain *fair and equitable* control over and benefit from the exploitation of their productions".⁵¹

55. This statement does not reflect the statutory requirements in subsection 10(1.1)(a), which requires that the Commission consider whether Canadians have a right or interest that allows them to control and benefit in a "significant and equitable" (not "fair and equitable") manner from a program's exploitation.

56. The history is clear that "significant and equitable" was a deliberate legislative choice intended to ensure that Canadians could benefit "in a significant manner" from the exploitation of their programs. The Commission erred by considering the wrong test.

⁵⁰ CMPA Intervention at paras 73-75 and 87-88, Motion Record at Tab 3G, pp. 185-186 and 188; CMPA Opening Remarks at para 29, Motion Record at Tab 3H, p. 229; and CMPA Final Written Submissions dated June 23, 2025 at para 40, Motion Record at Tab 3I, p. 242.

⁵¹ [Decision](#) at [paras 152](#) and [156](#), Motion Record at Tab 3J, pp. 296 and 297.

ii. The Commission failed to consider subsection 10(1.1)(d)

57. Section 10(1.1) is mandatory and requires the Commission to consider all of its enumerated factors. The Decision clearly addresses subsections (a) through (c) but makes no mention of subsection 10(1.1)(d) whatsoever.

58. The Commission's failure to consider subsection 10(1.1)(d) was a significant error. That provision requires the Commission to assess the extent to which online and programming undertakings collaborate with independent Canadian producers, other Canadian broadcasters, or any participants in the Canadian program production industry. By disregarding this factor, the Commission ignored a key aspect of Parliament's intent and the Act's design to ensure meaningful Canadian participation and collaboration in the production of Canadian programming, thereby undermining the statutory scheme. This is an error of law.

B. An arguable case: The Commission erred in law by failing to consider and apply section 13 of the Cabinet Order

59. The Commission erred in law by failing to properly apply the binding Cabinet Order. Subsection 7(3) of the Act requires the Commission to exercise its powers in accordance with directions of the Governor in Council. A failure to do so is an error of law.

60. The Cabinet Order requires the Commission to "support Canadian ownership of intellectual property"⁵² and consider the vital role of Canadian independent producers⁵³ when determining what constitutes Canadian programming.

61. In the Notice of Consultation, the Commission stated that an objective of the Proceeding was to determine how to "foster a sustainable Canadian broadcasting system where Canadian creators are able to profit from their creations, including through intellectual property rights".⁵⁴ Throughout the Notice, the Commission recognized its

⁵² [Cabinet Order](#) at s. 13(c).

⁵³ [Cabinet Order](#) at s. 13(f).

⁵⁴ [Notice of Consultation](#) at [para 7](#), Motion Record at Tab 3F, pp. 135-136.

inquiry must focus on intellectual property,⁵⁵ a broader set of rights and interests than copyright alone.

62. Yet, in the Decision, the Commission narrowed the scope of its analysis and determination to copyright ownership alone. The obligation to “support Canadian ownership of intellectual property” plainly contemplates meaningful ownership, not bare legal title. The Commission failed to consider whether the ownership interest it deemed sufficient confers any real control, exploitation rights, or equitable participation in a program’s exploitation: factors directly relevant to whether the intellectual property ownership requirement actually achieves the Cabinet Order’s stated direction. By treating nominal copyright ownership as sufficient, the Commission embraced a definition for “Canadian program” that does not support Canadian intellectual property ownership in any meaningful or purposive sense. In doing so, the Commission breached a binding Cabinet Order, which is an error of law.

C. An arguable case: The Commission failed to exercise its powers in accordance with its statutory mandate

63. Finally, in light of all the above, the Commission failed to exercise its powers in accordance with its statutory mandate under the Act to ensure the broadcasting system safeguards, enriches, and strengthens the cultural, political, social, and economic fabric of Canada⁵⁶, and to advance the other policy objectives of the Act.⁵⁷ By failing to fully consider subsection 10(1.1)(a), failing to consider subsection 10(1.1)(d) at all, failing to follow the Cabinet Order, and by treating nominal Canadian copyright ownership as sufficient—without any minimum retention period or enforceable exploitation rights—the Decision allows Canadians to be stripped of meaningful control and benefit from the exploitation of their programs. This failure to ensure that Canadian programming genuinely serves the public and policy objectives of the Act constitutes a reviewable error of law and clear grounds for leave to appeal.

⁵⁵ [Notice of Consultation](#) at, e.g., [paras 2, 7, 11, 30-34, 57](#), Motion Record at Tab 3F, pp. 134-135, 137, 142-143 and 150.

⁵⁶ [Act](#) at [s. 3\(1\)\(d\)\(i\)](#).

⁵⁷ [Act](#) at [s. 3\(1\)](#).

PART IV—ORDER SOUGHT

64. For the reasons set out in this memorandum, CMPA respectfully requests:
- a. An Order granting the Applicant/Moving Party leave to appeal to this Court from the Decision;
 - b. An Order dispensing with the service requirement set out in Rule 339(1) of the Federal Courts Rules;
 - c. Its costs of this motion; and
 - d. Such further and other relief as this Honourable Court deems appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 16th day of December, 2025.

A handwritten signature in black ink, appearing to be a combination of 'EF' and 'MB', written over a horizontal line.

Erin Finlay
Madeleine Brown

PART V—LIST OF AUTHORITIES

A.	STATUTES AND REGULATIONS
	<i>Broadcasting Act</i> , SC 1991, c. 11
	<i>Copyright Act</i> , RSC 1985, c. C-42
	Direction to the CRTC (ineligibility of Non-Canadians), SOR/97/192
	<i>Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)</i> : SOR/2023-239
B.	JURISPRUDENCE
	<i>Canada (Minister of Citizenship and Immigration) v. Vavilov</i> , 2019 SCC 65
	<i>CKLN Radio Incorporated v. Canada (Attorney General)</i> , 2011 FCA 135
	<i>BCE Inc. v. Québecor Média Inc.</i> , 2022 FCA 152
	<i>Lukács v. Swoop Inc.</i> , 2019 FCA 145
	<i>Rizzo & Rizzo Shoes Ltd. (Re)</i> , 1998 CanLII 837 (SCC)

APPENDIX A - STATUTES AND REGULATIONS

CANADA

CONSOLIDATION

CODIFICATION

Broadcasting Act

Loi sur la radiodiffusion

S.C. 1991, c. 11

L.C. 1991, ch. 11

Current to November 27, 2025

À jour au 27 novembre 2025

Last amended on June 22, 2023

Dernière modification le 22 juin 2023

PART I

General

Interpretation

Definitions

2 (1) In this Act,

affiliate, in relation to any person, means any other person who controls that first person, or who is controlled by that first person or by a third person who also controls the first person; (*affilié*)

barrier has the same meaning as in section 2 of the *Accessible Canada Act*; (*obstacle*)

broadcasting means any transmission of programs — regardless of whether the transmission is scheduled or on demand or whether the programs are encrypted or not — by radio waves or other means of telecommunication for

PARTIE I

Dispositions générales

Définitions

Définitions

2 (1) Les définitions qui suivent s'appliquent à la présente loi.

affilié À l'égard d'une personne, toute autre personne qui soit la contrôle, soit est contrôlée par elle ou par le tiers qui la contrôle. (*affiliate*)

communauté de langue officielle en situation minoritaire S'entend des communautés d'expression anglaise du Québec et des communautés d'expression française à l'extérieur du Québec. (*official language minority community*)

Conseil Le Conseil institué par la *Loi sur le Conseil de la radiodiffusion et des télécommunications canadiennes*. (*Commission*)

reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (*radiodiffusion*)

broadcasting receiving apparatus means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (*récepteur*)

broadcasting undertaking includes a distribution undertaking, an online undertaking, a programming undertaking and a network; (*entreprise de radiodiffusion*)

Commission means the Canadian Radio-television and Telecommunications Commission established by the *Canadian Radio-television and Telecommunications Commission Act*; (*Conseil*)

community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community; (*élément communautaire*)

control, in the definition *affiliate*, in paragraph 9.1(1)(m) and in subparagraph 9.1(1)(n)(i), includes control in fact, whether or not through one or more persons; (*contrôle*)

Corporation means the Canadian Broadcasting Corporation continued by section 36; (*Société*)

decision includes a determination made by the Commission in any form; (*décision*)

distribution undertaking means an undertaking for the reception of broadcasting and its retransmission by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking, but does not include such an undertaking that is an online undertaking; (*entreprise de distribution*)

encrypted means treated electronically or otherwise for the purpose of preventing intelligible reception; (*encodage*)

Indigenous peoples has the meaning assigned by the definition *aboriginal peoples of Canada* in subsection 35(2) of the *Constitution Act, 1982*; (*peuples autochtones*)

licence means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (*licence*)

contrôle À la définition de *affilié* ainsi qu'à l'alinéa 9.1(1)m) et au sous-alinéa 9.1(1)n)(i), est assimilé au contrôle le contrôle de fait, que ce soit par l'intermédiaire d'une ou de plusieurs personnes ou non. (*control*)

contrôle de la programmation Contrôle exercé sur le choix des émissions en vue de leur transmission, à l'exclusion de celui exercé sur le choix des services de programmation destinés à être retransmis. (*programming control*)

décision Toute mesure prise par le Conseil, quelle qu'en soit la forme. (*decision*)

élément communautaire L'élément communautaire comprend l'élément du système canadien de radiodiffusion dans le cadre duquel les membres d'une communauté participent à la production d'émissions dans une langue utilisée dans la communauté, y compris une entreprise de radiodiffusion sans but lucratif qui est gérée par un conseil d'administration des administrateurs élus par la communauté. (*community element*)

émission Les sons ou les images — ou leur combinaison — destinés à informer ou divertir, à l'exception des images, muettes ou non, consistant essentiellement en des lettres ou des chiffres. (*program*)

encodage Traitement électronique ou autre visant à empêcher la réception en clair. (*encrypted*)

entreprise de distribution Entreprise de réception de radiodiffusion pour retransmission, à l'exclusion d'une entreprise en ligne, à l'aide d'ondes radioélectriques ou d'un autre moyen de télécommunication, en vue de sa réception dans plusieurs résidences permanentes ou temporaires ou locaux d'habitation, ou en vue de sa réception par une autre entreprise semblable. (*distribution undertaking*)

entreprise de programmation Entreprise de transmission d'émissions, à l'exclusion d'une entreprise en ligne, soit directement à l'aide d'ondes radioélectriques ou d'un autre moyen de télécommunication, soit par l'intermédiaire d'une entreprise de distribution, en vue de leur réception par le public à l'aide d'un récepteur. (*programming undertaking*)

entreprise de radiodiffusion S'entend notamment d'une entreprise de distribution ou de programmation, d'une entreprise en ligne ou d'un réseau. (*broadcasting undertaking*)

entreprise en ligne Entreprise de transmission ou de retransmission d'émissions par Internet destinées à être

Broadcasting Policy for Canada

Declaration

3 (1) It is hereby declared as the broadcasting policy for Canada that

(a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians, and it is recognized that it includes foreign broadcasting undertakings that provide programming to Canadians;

(a.1) each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking;

(b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;

(c) while sharing common aspects, English and French language broadcasting operate under different conditions — in particular, the minority context of French in North America — and may have different requirements;

(d) the Canadian broadcasting system should

(i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by

Politique canadienne de radiodiffusion

Politique canadienne de radiodiffusion

3 (1) Il est déclaré que, dans le cadre de la politique canadienne de radiodiffusion :

a) le système canadien de radiodiffusion doit être, effectivement, la propriété des Canadiens et sous leur contrôle, et il est reconnu que celui-ci comprend des entreprises de radiodiffusion étrangères qui fournissent également de la programmation aux Canadiens;

a.1) chaque entreprise de radiodiffusion est tenue de contribuer à la réalisation des objectifs de cette politique, de la manière appropriée en fonction de la nature des services qu'elle fournit;

b) le système canadien de radiodiffusion, composé d'éléments publics, privés et communautaires, utilise des fréquences qui sont du domaine public et offre, par sa programmation essentiellement en français et en anglais, un service public essentiel pour le maintien et la valorisation de l'identité nationale et de la souveraineté culturelle;

c) les radiodiffusions de langues française et anglaise, malgré certains points communs, diffèrent quant à leurs conditions d'exploitation — en particulier, le contexte minoritaire du français en Amérique du Nord — et, éventuellement, quant à leurs besoins;

d) le système canadien de radiodiffusion devrait :

(i) servir à sauvegarder, enrichir et renforcer la structure culturelle, politique, sociale et économique du Canada,

(ii) favoriser l'épanouissement de l'expression canadienne en proposant une très large programmation qui traduise les attitudes, les opinions, les idées, les valeurs et la créativité artistique

offering information and analysis concerning Canada and other countries from a Canadian point of view, and foster an environment that encourages the development and export of Canadian programs globally,

(iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — including Canadians from Black or other racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages — and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples and languages within that society,

(iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings,

(iii.11) provide opportunities to Black and other racialized persons in Canada by taking into account their specific needs and interests, namely, by supporting the production and broadcasting of original programs by and for Black and other racialized communities,

(iii.2) support the production and broadcasting of original French language programs,

(iii.3) enhance the vitality of official language minority communities in Canada and support and assist their development by taking into account their specific needs and interests, including through supporting the production and broadcasting of original programs by and for those communities,

(iii.4) support community broadcasting that reflects both the diversity of the communities being served, including with respect to the languages in use within those communities and to their ethnocultural and Indigenous composition, and the high engagement and involvement in community broadcasting by members of those communities, including with respect to matters of public concern,

(iii.5) ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system,

(iii.6) support the production and broadcasting of programs in a diversity of languages that reflect

canadiennes, qui mette en valeur les divertissements faisant appel à des artistes canadiens et qui fournisse de l'information et de l'analyse concernant le Canada et l'étranger considérés d'un point de vue canadien, et créer un environnement propice au développement de programmes canadiens et à leur exportation à l'échelle mondiale,

(iii) par sa programmation et par les chances que son fonctionnement offre en matière d'emploi, répondre aux besoins et aux intérêts de l'ensemble des Canadiens — notamment des Canadiens qui sont issus des communautés noires ou d'autres communautés racisées ou qui représentent la diversité de par leurs antécédents ethnoculturels, leur statut socio-économique, leurs capacités et handicaps, leur orientation sexuelle, leur identité ou expression de genre et leur âge — et refléter leur condition et leurs aspirations, notamment l'égalité sur le plan des droits, la dualité linguistique et le caractère multiculturel et multiracial de la société canadienne ainsi que la place particulière qu'y occupent les peuples et les langues autochtones,

(iii.1) offrir des possibilités aux Autochtones en vue de l'exploitation d'entreprises de radiodiffusion et de la production d'une programmation en langues autochtones, en français, en anglais ou toute combinaison de ces langues,

(iii.11) offrir des possibilités aux Noirs et aux autres personnes racisées au Canada en tenant compte de leurs besoins et intérêts propres, c'est-à-dire en soutenant la production et la radiodiffusion d'émissions originales provenant des communautés noires et des autres communautés racisées et leur étant destinées,

(iii.2) soutenir la production et la radiodiffusion d'émissions de langue originale française,

(iii.3) favoriser l'épanouissement des communautés de langue officielle en situation minoritaire du Canada et appuyer leur développement en tenant compte de leurs besoins et de leurs intérêts propres, notamment en soutenant la production et la radiodiffusion d'émissions originales provenant de celles-ci et leur étant destinées,

(iii.4) soutenir la radiodiffusion communautaire qui témoigne à la fois de la diversité des communautés desservies, y compris en ce qui a trait aux langues couramment utilisées au sein de ces communautés et à leur composition ethnoculturelle et autochtone, et de l'engagement et de la participation accrus dans la radiodiffusion communautaire

Black and other racialized communities and the diversity of the ethnocultural composition of Canadian society, including through broadcasting undertakings that are carried on by Canadians from Black or other racialized communities and diverse ethnocultural backgrounds,

(iii.7) provide opportunities to Canadians from Black or other racialized communities and diverse ethnocultural backgrounds to produce and broadcast programs by and for those communities,

(iv) promote innovation and be readily adaptable to scientific and technological change,

(v) reflect and be responsive to the preferences and interests of various audiences, and

(vi) ensure freedom of expression and journalistic independence;

(e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;

(f) each Canadian broadcasting undertaking shall employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

(f.1) each foreign online undertaking shall make the greatest practicable use of Canadian creative and other human resources, and shall contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve;

(g) the programming over which a person who carries on a broadcasting undertaking has programming control should be of high standard;

(h) all persons who carry on broadcasting undertakings have a responsibility for the programs that they broadcast and over which they have programming control;

(i) the programming provided by the Canadian broadcasting system should

des membres de ces communautés, y compris en ce qui a trait aux enjeux d'intérêt public,

(iii.5) veiller à ce que les entreprises de radiodiffusion canadiennes indépendantes continuent d'être en mesure d'y occuper un rôle essentiel,

(iii.6) soutenir la production et la radiodiffusion d'émissions dans une variété de langues qui reflètent les communautés noires et les autres communautés racisées et la diversité de la composition ethnoculturelle de la société canadienne, notamment par l'intermédiaire d'entreprises de radiodiffusion exploitées par des Canadiens qui sont issus des communautés noires ou d'autres communautés racisées ou qui représentent la diversité de par leurs antécédents ethnoculturels,

(iii.7) offrir des possibilités aux Canadiens issus des communautés noires ou d'autres communautés racisées ou aux antécédents ethnoculturels divers de produire et radiodiffuser des émissions provenant de celles-ci et leur étant destinées,

(iv) favoriser l'innovation et demeurer aisément adaptable aux progrès scientifiques et techniques,

(v) refléter les préférences et intérêts de publics variés et y être réceptif,

(vi) veiller à la liberté d'expression et à l'indépendance en matière de journalisme;

e) tous les éléments du système doivent contribuer, de la manière qui convient, à la création et la présentation d'une programmation canadienne;

f) les entreprises de radiodiffusion canadiennes sont tenues d'employer des ressources humaines — créatrices et autres — canadiennes et de faire appel à celles-ci au maximum, et dans tous les cas au moins de manière prédominante, pour la création, la production et la présentation de leur programmation, à moins qu'une telle pratique ne s'avère difficilement réalisable en raison de la nature du service — notamment, son contenu ou format spécialisé ou l'utilisation qui y est faite de langues autres que le français ou l'anglais — qu'elles fournissent, auquel cas elles devront faire appel aux ressources en question dans toute la mesure du possible;

f.1) les entreprises en ligne étrangères sont tenues de faire appel dans toute la mesure du possible aux ressources humaines — créatrices et autres — canadiennes et de contribuer fortement, de façon équitable, à la création, à la production et à la présentation

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of all ages, interests and tastes,

(i.1) reflect and support Canada's linguistic duality by placing significant importance on the creation, production and broadcasting of original French language programs, including those from French linguistic minority communities,

(ii) be drawn from local, regional, national and international sources, including, at the local level, from community broadcasters who, through collaboration with local organizations and community members, are in the unique position of being able to provide varied programming to meet the needs of specific audiences,

(ii.1) include programs produced by Canadians that cover news and current events — from the local and regional to the national and international — and that reflect the viewpoints of Canadians, including the viewpoints of Indigenous persons and of Canadians from Black or other racialized communities and diverse ethnocultural backgrounds,

(ii.2) reflect the importance of Indigenous language revitalization by supporting the production and broadcasting of Indigenous language programming, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and in response to the Truth and Reconciliation Commission of Canada's Calls to Action,

(iii) include educational and community programs,

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern and to directly participate in public dialogue on those matters including through the community element, and

(v) include a significant contribution from the Canadian independent production sector;

(j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system;

(k) a range of broadcasting services in English and in French shall be extended to all Canadians;

(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide broadcasting services incorporating a wide range of programming that informs, enlightens and entertains;

de programmation canadienne en tenant compte de la dualité linguistique du marché qu'elles desservent;

g) la programmation sur laquelle les exploitants d'entreprises de radiodiffusion exercent le contrôle de la programmation devrait être de haute qualité;

h) les exploitants d'entreprises de radiodiffusion assument la responsabilité des émissions qu'ils diffusent et sur lesquelles ils exercent un contrôle de la programmation;

i) la programmation offerte par le système canadien de radiodiffusion devrait à la fois :

(i) être variée et aussi large que possible en offrant à l'intention de personnes de tous âges, intérêts et goûts une programmation équilibrée qui renseigne, éclaire et divertit,

(i.1) refléter et appuyer la dualité linguistique canadienne en faisant une place importante à la création, à la production et à la radiodiffusion d'émissions de langue originale française, y compris celles provenant des minorités francophones,

(ii) puiser aux sources locales, régionales, nationales et internationales et notamment, à l'échelle locale, provenir de diffuseurs communautaires, lesquels, grâce à leur collaboration avec des organisations locales et des membres de la communauté, sont singulièrement à même d'offrir une programmation variée qui réponde aux besoins de différents publics,

(ii.1) renfermer des émissions axées sur les nouvelles et l'actualité — du niveau local et régional jusqu'au niveau national et international —, qui sont produites par des Canadiens et qui reflètent leurs points de vue, notamment ceux des Autochtones et des Canadiens issus des communautés noires ou d'autres communautés racisées ou aux antécédents ethnoculturels divers,

(ii.2) refléter l'importance de la revitalisation des langues autochtones en soutenant la production et la radiodiffusion d'émissions dans ces langues, en conformité avec la Déclaration des Nations Unies sur les droits des peuples autochtones et en réponse aux appels à l'action de la Commission de vérité et réconciliation du Canada,

(iii) renfermer des émissions éducatives et communautaires,

(m) the programming provided by the Corporation should

- (i)** be predominantly and distinctively Canadian,
- (ii)** reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,
- (iii)** actively contribute to the flow and exchange of cultural expression,
- (iv)** be in English and in French, reflecting the different needs and circumstances of each official language community, including the specific needs and interests of official language minority communities,
- (v)** strive to be of equivalent quality in English and in French,
- (vi)** contribute to shared national consciousness and identity,
- (vii)** be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
- (viii)** reflect the multicultural and multiracial nature of Canada;

(n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it shall be resolved in favour of the objectives set out in paragraphs (l) and (m);

(o) programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided — including through broadcasting undertakings that are carried on by Indigenous persons — within community elements, which are positioned to serve smaller and remote communities, and other elements of the Canadian broadcasting system in order to serve Indigenous peoples where they live;

(p) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including through community broadcasting, as well as the opportunity for them to develop their own content and voices;

(p.1) programming that is accessible without barriers to persons with disabilities should be provided within

(iv) dans la mesure du possible, offrir au public l'occasion de prendre connaissance d'opinions divergentes sur des sujets qui l'intéressent et de participer activement au débat public sur ces sujets y compris au moyen de l'élément communautaire,

(v) faire appel de façon notable aux producteurs canadiens indépendants;

j) la programmation éducative, notamment celle qui est fournie au moyen d'installations d'un organisme éducatif indépendant, fait partie intégrante du système canadien de radiodiffusion;

k) une gamme de services de radiodiffusion en français et en anglais doit être offerte à tous les Canadiens;

l) la Société Radio-Canada, à titre de radiodiffuseur public national, devrait offrir des services de radiodiffusion qui comportent une très large programmation qui renseigne, éclaire et divertit;

m) la programmation de la Société devrait à la fois :

(i) être principalement et typiquement canadienne,

(ii) refléter la globalité canadienne et rendre compte de la diversité régionale du pays, tant au plan national qu'au niveau régional, tout en répondant aux besoins particuliers des régions,

(iii) contribuer activement à l'expression culturelle et à l'échange des diverses formes qu'elle peut prendre,

(iv) être offerte en français et en anglais, de manière à refléter la situation et les besoins particuliers des collectivités de langue officielle, y compris les besoins et les intérêts propres aux communautés de langue officielle en situation minoritaire,

(v) chercher à être de qualité équivalente en français et en anglais,

(vi) contribuer au partage d'une conscience et d'une identité nationales,

(vii) être offerte partout au Canada de la manière la plus adéquate et efficace, au fur et à mesure de la disponibilité des moyens,

(viii) refléter le caractère multiculturel et multiracial du Canada;

n) les conflits entre les objectifs de la Société énumérés aux alinéas l) et m) et les intérêts de toute autre entreprise de radiodiffusion du système canadien de

the Canadian broadcasting system, including without limitation, closed captioning services and described video services available to assist persons living with a visual or auditory impairment;

(q) online undertakings that provide the programming services of other broadcasting undertakings should

(i) ensure the discoverability of Canadian programming services and original Canadian programs, including original French language programs, in an equitable proportion,

(ii) when programming services are supplied to them by other broadcasting undertakings under contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

(iii) ensure the delivery of programming at affordable rates;

(r) online undertakings shall clearly promote and recommend Canadian programming, in both official languages as well as in Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery;

(s) the programming provided by the community element should

(i) be innovative and complementary to the programming provided for mass audiences,

(ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences and include programs devoted to culture, politics, history, health and public safety, local news and current events, local economy and the arts,

(iii) reflect Canada's communities, regions, Indigenous and multicultural nature, including through third-language programming,

(iv) support new and emerging Canadian creative talent, as a cost-effective venue for learning new skills, taking risks and exchanging ideas,

(v) through community participation, strengthen the democratic process and support local journalism, and

(vi) be available throughout Canada so that all Canadians can engage in dialogue on matters of public concern; and

radiodiffusion doivent être résolus dans le sens de l'intérêt public ou, si l'intérêt public est également assuré, en faveur des objectifs énumérés aux alinéas l) et m);

o) le système canadien de radiodiffusion devrait offrir une programmation en langues autochtones ainsi qu'une programmation qui reflète les cultures autochtones du Canada — notamment par l'intermédiaire d'entreprises de radiodiffusion exploitées par des Autochtones — au sein des éléments communautaires, qui sont positionnés pour desservir les communautés plus petites et éloignées, et d'autres éléments du système canadien de radiodiffusion afin de desservir les peuples autochtones là où ils résident;

p) le système devrait offrir une programmation accessible et exempte d'obstacles aux personnes handicapées, et la possibilité, pour celles-ci, de développer leur propre contenu et de s'exprimer, notamment par la radiodiffusion communautaire;

p.1) le système devrait offrir une programmation accessible aux personnes handicapées et exempte d'obstacles, y inclus des services de sous-titrage codé et des services de vidéodescription afin d'aider les personnes ayant une déficience visuelle ou auditive;

q) les entreprises en ligne qui fournissent les services de programmation provenant d'autres entreprises de radiodiffusion devraient, à la fois :

(i) assurer la découvrabilité des services de programmation canadienne ainsi que des émissions canadiennes originales, notamment les émissions de langue originale française, dans une proportion équitable,

(ii) offrir des conditions acceptables relativement à la fourniture, à la combinaison et à la vente des services de programmation qui leur sont fournis, aux termes d'un contrat, par d'autres entreprises de radiodiffusion,

(iii) assurer la fourniture de la programmation à des tarifs abordables;

r) les entreprises en ligne doivent clairement mettre en valeur et recommander la programmation canadienne, dans les deux langues officielles ainsi qu'en langues autochtones, et veiller à ce que tout moyen de contrôle de la programmation génère des résultats permettant sa découverte;

s) la programmation offerte par l'élément communautaire devrait à la fois :

(t) distribution undertakings

(i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,

(ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,

(iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

(iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

(i) être innovatrice et complémentaire à celle offerte au grand public,

(ii) répondre aux intérêts et aux goûts qui ne sont pas suffisamment pris en compte par la programmation destinée au grand public et comprendre des émissions consacrées à la culture, à la politique, à l'histoire, à la santé et à la sécurité publiques, aux nouvelles locales et à l'actualité, à l'économie locale ainsi qu'aux arts,

(iii) refléter les communautés, les régions et le caractère autochtone et multiculturel du Canada, notamment par la programmation en langues tierces,

(iv) soutenir le développement de nouveaux talents créatifs canadiens, en tant que milieu efficient permettant l'acquisition de nouvelles compétences, la prise de risques et l'échange d'idées,

(v) par la participation des membres de la collectivité, renforcer le processus démocratique et favoriser le journalisme local,

(vi) être offerte dans tout le Canada afin que tous les Canadiens puissent établir un dialogue sur des questions d'intérêt public;

t) les entreprises de distribution :

(i) devraient donner priorité à la fourniture des services de programmation canadienne, et ce en particulier par les stations locales canadiennes,

(ii) devraient assurer efficacement, à l'aide des techniques les plus efficaces, la fourniture de la programmation à des tarifs abordables,

(iii) devraient offrir des conditions acceptables relativement à la fourniture, la combinaison et la vente des services de programmation qui leur sont fournis, aux termes d'un contrat, par les entreprises de radiodiffusion,

(iv) peuvent, si le Conseil le juge opportun, créer une programmation — locale ou autre — de nature à favoriser la réalisation des objectifs de la politique canadienne de radiodiffusion, et en particulier à permettre aux minorités linguistiques et culturelles mal desservies d'avoir accès aux services de radiodiffusion.

Further declaration

(2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and

Déclaration

(2) Il est déclaré en outre que le système canadien de radiodiffusion constitue un système unique et que la meilleure façon d'atteindre les objectifs de la politique canadienne de radiodiffusion consiste à confier la

supervision of the Canadian broadcasting system by a single independent public authority.

1991, c. 11, s. 3; 2023, c. 8, s. 3.

réglementation et la surveillance du système canadien de radiodiffusion à un seul organisme public autonome.

1991, ch. 11, art. 3; 2023, ch. 8, art. 3.

Policy directions

7 (1) Subject to subsection (2) and section 8, the Governor in Council may, by order, issue to the Commission directions of general application on broad policy matters with respect to

- (a) any of the objectives of the broadcasting policy set out in subsection 3(1); or
- (b) any of the objectives of the regulatory policy set out in subsection 5(2).

Exception

(2) No order may be made under subsection (1) in respect of the issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence.

Directions binding

(3) An order made under subsection (1) is binding on the Commission beginning on the day on which the order comes into force and, subject to subsection (4), shall, if it so provides, apply with respect to any matter pending before the Commission on that day.

Exception

(4) No order made under subsection (1) may apply with respect to a licensing matter pending before the Commission where the period for the filing of interventions in the matter has expired unless that period expired more than one year before the coming into force of the order.

Instructions du gouverneur en conseil

7 (1) Sous réserve du paragraphe (2) et de l'article 8, le gouverneur en conseil peut, par décret, donner au Conseil, au chapitre des grandes questions d'orientation en la matière, des instructions d'application générale relativement à l'un ou l'autre des objectifs de la politique canadienne de radiodiffusion ou de la réglementation et de la surveillance du système canadien de radiodiffusion.

Effet limité

(2) Le décret ne peut toutefois prévoir l'attribution nominative d'une licence ni la modification, le renouvellement, la suspension ou la révocation d'une licence en particulier.

Effet obligatoire

(3) Le décret lie le Conseil à compter de son entrée en vigueur et, en cas de mention expresse à cet effet, s'applique, sous réserve du paragraphe (4), aux affaires alors en instance devant lui.

Idem

(4) Le décret ne s'applique, à la date de sa prise d'effet, aux affaires en instance devant le Conseil qui touchent aux licences et à l'égard desquelles le délai d'intervention est expiré que si l'expiration a eu lieu plus d'un an auparavant.

Regulations generally

10 (1) The Commission may, in furtherance of its objects, make regulations

(a) [Repealed, 2023, c. 8, s. 10]

(b) prescribing what constitutes a Canadian program for the purposes of this Act;

(c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of

Rèlements

10 (1) Dans l'exécution de sa mission, le Conseil peut prendre des règlements :

a) [Abrogé, 2023, ch. 8, art. 10]

b) définissant « émission canadienne » pour l'application de la présente loi;

c) concernant les normes des émissions sur lesquelles un exploitant d'entreprise de radiodiffusion exerce un contrôle de la programmation et l'attribution du

broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);

(d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising;

(e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates;

(f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings;

(g) respecting the carriage of any foreign or other programming services by distribution undertakings;

(h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings;

(h.1) respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person;

(i) respecting the registration of broadcasting undertakings with the Commission;

(j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and

(k) respecting such other matters as it deems necessary for the furtherance of its objects.

Regulations — Canadian programs

(1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:

(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;

temps d'antenne pour mettre en œuvre la politique canadienne de radiodiffusion;

d) concernant la nature de la publicité et le temps d'antenne qui peut y être consacré;

e) concernant, en ce qui a trait aux entreprises de radiodiffusion autres que les entreprises en ligne, la proportion du temps d'antenne pouvant être consacrée à la radiodiffusion d'émissions — y compris les messages publicitaires et annonces — de nature partisane ainsi que la répartition équitable de ce temps entre les partis politiques et les candidats;

f) prescrivant les conditions d'exploitation des entreprises de programmation faisant partie d'un réseau ainsi que les conditions de radiodiffusion des émissions de réseau et concernant le temps d'antenne à réserver à celles-ci par ces entreprises;

g) concernant la fourniture de services de programmation — même étrangers — par les entreprises de distribution;

h) pourvoyant au règlement — notamment par la médiation — de différends concernant la fourniture de programmation et survenant entre les entreprises de programmation qui la transmettent et les entreprises de distribution;

h.1) concernant la discrimination injuste qu'un exploitant d'entreprise de radiodiffusion établit et la préférence ou le désavantage indu ou déraisonnable qu'il accorde ou fait subir;

i) concernant l'enregistrement des entreprises de radiodiffusion auprès du Conseil;

j) concernant la vérification et l'examen des livres de comptes et registres des exploitants d'entreprises de radiodiffusion par le Conseil ou ses représentants;

k) concernant toute autre mesure qu'il estime nécessaire à l'exécution de sa mission.

Règlements — émissions canadiennes

(1.1) Pour la prise de tout règlement en vertu de l'alinéa (1)b), le Conseil tient compte des questions suivantes :

a) la question de savoir si des Canadiens, y compris les producteurs indépendants, ont des droits ou des intérêts à l'égard des émissions, y compris un droit d'auteur leur permettant de contrôler l'exploitation de celles-ci et d'en tirer profit de manière significative et équitable;

(b) whether key creative positions in the production of a program are primarily held by Canadians;

(c) whether a program furthers Canadian artistic and cultural expression;

(d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings; and

(e) any other matter that may be prescribed by regulation.

b) la question de savoir si les postes de création clés dans la production des émissions sont principalement occupés par des Canadiens;

c) la question de savoir si les émissions contribuent à l'avancement de l'expression artistique et culturelle canadienne;

d) la mesure dans laquelle les exploitants d'entreprises en ligne ou d'entreprises de programmation collaborent, selon le cas, avec des producteurs canadiens indépendants, des exploitants d'entreprises de radiodiffusion canadiennes qui produisent leurs propres émissions, des producteurs associés à des entreprises de radiodiffusion canadiennes, ou toute autre personne qui participe à l'industrie de la production d'émissions canadiennes, y compris les titulaires canadiens de droits d'auteur sur des œuvres musicales ou des enregistrements sonores;

e) toute autre question prévue par règlement.

Decisions and Orders

Decisions and orders final

31 (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive.

Appeal to Federal Court of Appeal

(2) An appeal lies from a decision or order of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction if leave therefor is obtained from that Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court under special circumstances allows.

Entry of appeal

(3) No appeal lies after leave therefor has been obtained under subsection (2) unless it is entered in the Federal Court of Appeal within sixty days after the making of the order granting leave to appeal.

Document deemed decision or order

(4) Any document issued by the Commission in the form of a decision or order shall, if it relates to the issue, amendment, renewal, revocation or suspension of a licence, be deemed for the purposes of this section to be a decision or order of the Commission.

Décisions et ordonnances

Caractère définitif

31 (1) Sauf exceptions prévues par la présente partie, les décisions et ordonnances du Conseil sont définitives et sans appel.

Cas d'appel : Cour fédérale

(2) Les décisions et ordonnances du Conseil sont susceptibles d'appel, sur une question de droit ou de compétence, devant la Cour d'appel fédérale. L'exercice de cet appel est toutefois subordonné à l'autorisation de la cour, la demande en ce sens devant être présentée dans le mois qui suit la prise de la décision ou ordonnance attaquée ou dans le délai supplémentaire accordé par la cour dans des circonstances particulières.

Délai d'appel

(3) L'appel doit être interjeté dans les soixante jours suivant l'autorisation.

Assimilation à des décisions ou ordonnances du Conseil

(4) Les documents émanant du Conseil sous forme de décision ou d'ordonnance, s'ils concernent l'attribution, la modification, le renouvellement, l'annulation, ou la suspension d'une licence, sont censés être, pour l'application du présent article, des décisions ou ordonnances du Conseil.



CANADA

CONSOLIDATION

CODIFICATION

Copyright Act

Loi sur le droit d'auteur

R.S.C., 1985, c. C-42

L.R.C. (1985), ch. C-42

Current to November 27, 2025

À jour au 27 novembre 2025

Last amended on November 7, 2024

Dernière modification le 7 novembre 2024

Exclusive licence

2.7 For the purposes of this Act, an exclusive licence is an authorization to do any act that is subject to copyright to the exclusion of all others including the copyright owner, whether the authorization is granted by the owner or an exclusive licensee claiming under the owner.

1997, c. 24, s. 2.

Licence exclusive

2.7 Pour l'application de la présente loi, une licence exclusive est l'autorisation accordée au licencié d'accomplir un acte visé par un droit d'auteur de façon exclusive, qu'elle soit accordée par le titulaire du droit d'auteur ou par une personne déjà titulaire d'une licence exclusive; l'exclusion vise tous les titulaires.

1997, ch. 24, art. 2.

Ownership of Copyright

Ownership of copyright

13 (1) Subject to this Act, the author of a work shall be the first owner of the copyright therein.

(2) [Repealed, 2012, c. 20, s. 7]

Work made in the course of employment

(3) Where the author of a work was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine or similar periodical.

Assignments and licences

(4) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations relating to territory, medium or sector of the market or other limitations relating to the scope of the assignment, and either for the whole term of the copyright or for any other part thereof, and may grant any interest in the right by licence, but no assignment or grant is valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by the owner's duly authorized agent.

Ownership in case of partial assignment

(5) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, with respect to the rights so assigned, and the assignor, with respect to the rights not assigned, shall be treated for the purposes of this Act as

Possession du droit d'auteur

Possession du droit d'auteur

13 (1) Sous réserve des autres dispositions de la présente loi, l'auteur d'une œuvre est le premier titulaire du droit d'auteur sur cette œuvre.

(2) [Abrogé, 2012, ch. 20, art. 7]

Œuvre exécutée dans l'exercice d'un emploi

(3) Lorsque l'auteur est employé par une autre personne en vertu d'un contrat de louage de service ou d'apprentissage, et que l'œuvre est exécutée dans l'exercice de cet emploi, l'employeur est, à moins de stipulation contraire, le premier titulaire du droit d'auteur; mais lorsque l'œuvre est un article ou une autre contribution, à un journal, à une revue ou à un périodique du même genre, l'auteur, en l'absence de convention contraire, est réputé posséder le droit d'interdire la publication de cette œuvre ailleurs que dans un journal, une revue ou un périodique semblable.

Cession et licences

(4) Le titulaire du droit d'auteur sur une œuvre peut céder ce droit, en totalité ou en partie, d'une façon générale ou avec des restrictions relatives au territoire, au support matériel, au secteur du marché ou à la portée de la cession, pour la durée complète ou partielle de la protection; il peut également concéder, par une licence, un intérêt quelconque dans ce droit; mais la cession ou la concession n'est valable que si elle est rédigée par écrit et signée par le titulaire du droit qui en fait l'objet, ou par son agent dûment autorisé.

Possession dans le cas de cession partielle

(5) Lorsque, en vertu d'une cession partielle du droit d'auteur, le cessionnaire est investi d'un droit quelconque compris dans le droit d'auteur, sont traités comme titulaires du droit d'auteur, pour l'application de la présente loi, le cessionnaire, en ce qui concerne les droits cédés, et le cédant, en ce qui concerne les droits non cédés, les

the owner of the copyright, and this Act has effect accordingly.

Assignment of right of action

(6) For greater certainty, it is deemed always to have been the law that a right of action for infringement of copyright may be assigned in association with the assignment of the copyright or the grant of an interest in the copyright by licence.

Exclusive licence

(7) For greater certainty, it is deemed always to have been the law that a grant of an exclusive licence in a copyright constitutes the grant of an interest in the copyright by licence.

R.S., 1985, c. C-42, s. 13; 1997, c. 24, s. 10; 2012, c. 20, s. 7.

dispositions de la présente loi recevant leur application en conséquence.

Cession d'un droit de recours

(6) Il est entendu que la cession du droit d'action pour violation du droit d'auteur est réputée avoir toujours pu se faire en relation avec la cession du droit d'auteur ou la concession par licence de l'intérêt dans celui-ci.

Licence exclusive

(7) Il est entendu que la concession d'une licence exclusive sur un droit d'auteur est réputée toujours avoir valu concession par licence d'un intérêt dans ce droit d'auteur.

L.R. (1985), ch. C-42, art. 13; 1997, ch. 24, art. 10; 2012, ch. 20, art. 7.



CANADA

CONSOLIDATION

CODIFICATION

**Direction to the CRTC
(Ineligibility of Non-Canadians)**

**Instructions au CRTC
(inadmissibilité de non-
Canadiens)**

SOR/97-192

DORS/97-192

Current to November 27, 2025

À jour au 27 novembre 2025

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (3) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

...

Inconsistencies in regulations

(3) In the event of an inconsistency between a consolidated regulation published by the Minister under this Act and the original regulation or a subsequent amendment as registered by the Clerk of the Privy Council under the *Statutory Instruments Act*, the original regulation or amendment prevails to the extent of the inconsistency.

LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

NOTE

This consolidation is current to November 27, 2025. Any amendments that were not in force as of November 27, 2025 are set out at the end of this document under the heading “Amendments Not in Force”.

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (3) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

[...]

Incompatibilité — règlements

(3) Les dispositions du règlement d'origine avec ses modifications subséquentes enregistrées par le greffier du Conseil privé en vertu de la *Loi sur les textes réglementaires* l'emportent sur les dispositions incompatibles du règlement codifié publié par le ministre en vertu de la présente loi.

MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

NOTE

Cette codification est à jour au 27 novembre 2025. Toutes modifications qui n'étaient pas en vigueur au 27 novembre 2025 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

TABLE OF PROVISIONS**Direction to the CRTC (Ineligibility of Non-Canadians)**

- 1 Interpretation
- 2 Direction
- 4 Repeal
- 5 Coming into Force

TABLE ANALYTIQUE**Instructions au CRTC (inadmissibilité de non-Canadiens)**

- 1 Définitions
- 2 Instructions
- 4 Abrogation
- 5 Entrée en vigueur

Registration
SOR/97-192 April 8, 1997

BROADCASTING ACT

Direction to the CRTC (Ineligibility of Non-Canadians)

P.C. 1997-486 April 8, 1997

Whereas, pursuant to subsection 26(4) of the *Broadcasting Act*^a, the Minister of Canadian Heritage has consulted with the Canadian Radio-television and Telecommunications Commission with regard to the annexed *Direction to the CRTC (Ineligibility of Non-Canadians)*;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Canadian Heritage, pursuant to subsection 26(1) of the *Broadcasting Act*^a, hereby issues the annexed *Direction to the CRTC (Ineligibility of Non-Canadians)*.

Enregistrement
DORS/97-192 Le 8 avril 1997

LOI SUR LA RADIODIFFUSION

Instructions au CRTC (inadmissibilité de non-Canadiens)

C.P. 1997-486 Le 8 avril 1997

Attendu que, conformément au paragraphe 26(4) de la *Loi sur la radiodiffusion*^a, la ministre du Patrimoine canadien a consulté le Conseil de la radiodiffusion et des télécommunications canadiennes au sujet des *Instructions au CRTC (inadmissibilité de non-Canadiens)*,

À ces causes, sur recommandation de la ministre du Patrimoine canadien et en vertu du paragraphe 26(1) de la *Loi sur la radiodiffusion*^a, Son Excellence le Gouverneur général en conseil donne les *Instructions au CRTC (inadmissibilité de non-Canadiens)*, ci-après.

^a S.C. 1991, c. 11

^a L.C. 1991, ch. 11

Direction to the CRTC (Ineligibility of Non-Canadians)

Interpretation

1 The definitions in this section apply in this Direction.

acquiring corporation means a corporation referred to in paragraph 17(2)(a) of the *Canadian Telecommunications Common Carrier Ownership and Control Regulations* as they read on October 25, 1994, registered as SOR/94-667. (*acquéreur*)

affiliate corporation means, in relation to a qualified successor,

- (a) a Canadian carrier referred to in subsection 16(2) of the *Telecommunications Act* or any of its subsidiary corporations;
- (b) an acquiring corporation or any of its subsidiary corporations; or
- (c) a corporation that controls the corporations referred to in paragraphs (a) and (b), or any of its subsidiary corporations. (*société affiliée*)

Canadian means

- (a) a citizen within the meaning of subsection 2(1) of the *Citizenship Act* who is ordinarily resident in Canada;
- (b) a permanent resident within the meaning of subsection 2(1) of the *Immigration Act* who is ordinarily resident in Canada and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship;
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof, subject to the *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*;
- (d) a corporation without share capital where a majority of its directors are appointed or designated, either by their personal names or by their names of office, by one or more of the following, namely,
 - (i) a federal or provincial statute or any regulation made thereunder,

Instructions au CRTC (inadmissibilité de non-Canadiens)

Définitions

1 Les définitions qui suivent s'appliquent aux présentes instructions.

acquéreur Personne morale visée à l'alinéa 17(2)a) du *Règlement sur la propriété et le contrôle des entreprises de télécommunication canadiennes*, dans sa version du 25 octobre 1994, portant le numéro d'enregistrement DORS/94-667. (*acquiring corporation*)

action avec droit de vote Action d'une personne morale comportant — quelle qu'en soit la catégorie — un droit de vote en tout état de cause ou en raison soit de la surveillance d'un fait qui demeure, soit de la réalisation d'une condition. Y sont assimilés :

- a) la valeur mobilière convertible en une telle action au moment où est calculé le pourcentage des actions qui sont la propriété de Canadiens et sous contrôle canadien;
- b) l'option ou le droit d'acquérir une telle action ou la valeur mobilière visée à l'alinéa a), qui peuvent être exercés au moment où le calcul mentionné à cet alinéa est effectué. (*voting share*)

administrateur Personne qui est membre du conseil d'administration d'une personne morale ou, à défaut, personne exerçant des fonctions similaires à celles d'un tel poste. (*director*)

ayant droit qualifié Personne morale visée aux alinéas 17(2)b) ou c) du *Règlement sur la propriété et le contrôle des entreprises de télécommunication canadiennes*, dans sa version du 25 octobre 1994, portant le numéro d'enregistrement DORS/94-667, qui a été constituée ou prorogée sous le régime des lois fédérales ou provinciales et qui est directement contrôlée par une entreprise canadienne visée au paragraphe 16(2) de la *Loi sur les télécommunications* ou par son acquéreur, lorsque les conditions suivantes sont réunies :

- a) le contrôle de l'entreprise canadienne et de son acquéreur n'a subi aucun changement depuis la date d'entrée en vigueur des présentes instructions;
- b) le premier dirigeant de la personne morale ou, à défaut, la personne exerçant des fonctions similaires à

(ii) the Governor in Council or the lieutenant governor in council of a province, and

(iii) a minister of the Crown in right of Canada or a province;

(e) a qualified corporation;

(f) a qualified mutual insurance company;

(g) a qualified pension fund society;

(h) a qualified cooperative; or

(i) a qualified successor

(i) for the purpose of holding a broadcasting distribution undertaking licence, or

(ii) for the purpose of beneficially owning, directly or indirectly, 50 per cent or less of all the issued and outstanding voting shares, and 50 per cent or less of the votes, of a qualified corporation that holds a broadcasting licence for a distribution undertaking only. (*Canadien*)

control means control in any manner that results in control in fact, whether directly through the ownership of securities or indirectly through a trust, an agreement or arrangement, the ownership of a corporation or otherwise. (*contrôle*)

director means a person who is a member of the board of directors of a corporation or, where the corporation has no directors, a person performing functions that are similar to the functions performed by directors. (*administrateur*)

independent member means a person who is not an officer or employee of, or a contractor who provides goods or services to, a qualified successor or any of its affiliate corporations, who is not a director of any affiliate corporations of the qualified successor, and in respect of whom there are no considerations that could reasonably be anticipated to interfere with the person's ability to act in the best interests of the qualified successor. (*membre indépendant*)

non-Canadian means a person or entity that is not a Canadian. (*non-Canadien*)

qualified cooperative means a cooperative, not less than 80 per cent of the members of which are Canadians, that is established under an Act of Parliament or under any provincial legislation that relates to the establishment of cooperatives. (*coopérative qualifiée*)

celles d'un tel poste, ainsi que tous ses administrateurs, sont des Canadiens;

c) les actions avec droit de vote de la personne morale dont l'entreprise canadienne ou son acquéreur ne détient pas la propriété effective et le contrôle sont toutes la propriété effective de Canadiens et sous contrôle canadien;

d) dans le cas d'une personne morale visée au sous-alinéa i)(ii) de la définition de « Canadien », les actions avec droit de vote de la personne morale qualifiée dont la propriété effective n'est pas détenue par la personne morale sont toutes la propriété effective de Canadiens et sous contrôle canadien;

e) la personne morale exerce ses activités exclusivement dans le territoire d'exploitation de l'entreprise canadienne;

f) la personne morale ne détient, directement ou indirectement, la propriété effective d'aucune action avec droit de vote d'une personne morale titulaire d'une licence d'exploitation d'entreprise de distribution de radiodiffusion qui exerce ses activités à l'extérieur du territoire d'exploitation de l'entreprise canadienne;

g) les administrateurs de la personne morale et ses dirigeants exercent un contrôle complet et exclusif sur les décisions de programmation et à la fois :

(i) au moins 33 1/3 pour cent des administrateurs sont des membres indépendants,

(ii) au moins un membre indépendant fait partie du quorum de toutes les réunions des administrateurs ou des comités de ceux-ci;

h) les décisions de programmation de la personne morale ne sont ni contrôlées ni influencées par aucune de ses sociétés mères et sociétés affiliées. (*qualified successor*)

Canadien Selon le cas :

a) un citoyen au sens du paragraphe 2(1) de la *Loi sur la citoyenneté* qui est un résident habituel du Canada;

b) un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration* qui est un résident habituel du Canada depuis une période maximale d'un an à compter de l'expiration de la date où il est devenu pour la première fois admissible à demander la citoyenneté canadienne;

c) le gouvernement fédéral, un gouvernement provincial ou une administration municipale au Canada, ou

qualified corporation means a corporation incorporated or continued under the laws of Canada or a province, where

(a) the chief executive officer or, where the corporation has no chief executive officer, the person performing functions that are similar to the functions performed by a chief executive officer, and not less than 80 per cent of the directors are Canadians;

(b) in the case of a corporation having share capital, Canadians beneficially own and control, directly or indirectly, in the aggregate and otherwise than by way of security only, not less than 80 per cent of all the issued and outstanding voting shares of the corporation and not less than 80 per cent of the votes; and

(c) in the case of a corporation that is a subsidiary corporation,

(i) the parent corporation is incorporated or continued under the laws of Canada or a province,

(ii) Canadians beneficially own and control, directly or indirectly, in the aggregate and otherwise than by way of security only, not less than 66 2/3 per cent of all of the issued and outstanding voting shares of the parent corporation and not less than 66 2/3 per cent of the votes, and

(iii) the parent corporation or its directors do not exercise control or influence over any programming decisions of the subsidiary corporation where

(A) Canadians beneficially own and control, directly or indirectly, in the aggregate and otherwise than by way of security only, less than 80 per cent of the issued and outstanding voting shares of the parent corporation and less than 80 per cent of the votes,

(B) the chief executive officer of the parent corporation or, where the parent corporation has no chief executive officer, the person performing functions that are similar to the functions performed by a chief executive officer is a non-Canadian, or

(C) less than 80 per cent of the directors of the parent corporation are Canadian. (*personne morale qualifiée*)

qualified mutual insurance company means a mutual insurance company, the head office and principal place of business of which are in Canada and not less than 80 per cent of the board of directors and of each committee of

un organisme de l'un d'eux, qui est assujéti aux *Instructions au CRTC (Inadmissibilité aux licences de radiodiffusion)*;

d) une personne morale sans capital-actions dont la majorité des administrateurs sont nommés ou désignés — que ce soit par mention de leur nom ou du titre de leur poste — par une ou plusieurs des lois ou autorités suivantes :

(i) une loi fédérale ou provinciale ou un règlement d'application de celle-ci,

(ii) le gouverneur en conseil ou le lieutenant-gouverneur en conseil d'une province,

(iii) un ministre fédéral ou provincial;

e) une personne morale qualifiée;

f) une société mutuelle d'assurance qualifiée;

g) une société de caisse de retraite qualifiée;

h) une coopérative qualifiée;

i) un ayant droit qualifié :

(i) s'il s'agit de détenir une licence d'exploitation d'entreprise de distribution de radiodiffusion,

(ii) s'il s'agit de détenir, directement ou indirectement, la propriété effective d'au plus 50 pour cent des actions avec droit de vote émises et en circulation et d'au plus 50 pour cent des votes d'une personne morale qualifiée titulaire d'une licence de radiodiffusion autorisant seulement l'exploitation d'une entreprise de distribution. (*Canadian*)

contrôle Situation qui crée une maîtrise de fait, soit directe, par la propriété de valeurs mobilières, soit indirecte, notamment au moyen d'une fiducie, d'un accord, d'une entente ou de la propriété d'une personne morale. (*control*)

coopérative qualifiée Coopérative établie sous le régime d'une loi fédérale ou provinciale ayant trait à l'établissement des coopératives et dont au moins 80 pour cent des membres sont des Canadiens. (*qualified cooperative*)

filiale Personne morale placée sous le contrôle d'une autre personne morale. (*subsidiary corporation*)

membre indépendant Personne qui n'est ni un dirigeant, ni un employé de l'ayant droit qualifié ou de ses sociétés affiliées, ni un entrepreneur qui leur fournit des

the directors of which are Canadians. (*société mutuelle d'assurance qualifiée*)

qualified pension fund society means a pension fund society, not less than 80 per cent of the board of directors of which and of each committee of the directors of which are Canadians, and that is established under *An Act to incorporate the Guarantee and Pension Fund Society of the Dominion Bank*, S.C. 1887, c. 55, *An Act to incorporate the Pension Fund Society of the Bank of Montreal*, S.C. 1885, c. 13, the *Pension Fund Societies Act*, R.S., 1985, c. P-8, or under any provincial legislation that relates to the establishment of pension fund societies. (*société de caisse de retraite qualifiée*)

qualified successor means a corporation referred to in paragraph 17(2)(b) or (c) of the *Canadian Telecommunications Common Carrier Ownership and Control Regulations* as they read on October 25, 1994, registered as SOR/94-667, incorporated or continued under the laws of Canada or a province and directly controlled by a Canadian carrier referred to in subsection 16(2) of the *Telecommunications Act*, or by its acquiring corporation, where

- (a) the control of the Canadian carrier and its acquiring corporation has remained unchanged since the date of the coming into force of this Direction;
- (b) the chief executive officer of the corporation or, where the corporation has no chief executive officer, the person performing functions that are similar to the functions performed by a chief executive officer, and all its directors are Canadians;
- (c) all the voting shares of the corporation that are not beneficially owned and controlled by the Canadian carrier or its acquiring corporation are beneficially owned and controlled by Canadians;
- (d) in the case of a corporation referred to in subparagraph (i)(ii) of the definition **Canadian**, all the voting shares of the qualified corporation that are not beneficially owned by the corporation are beneficially owned and controlled by Canadians;
- (e) the corporation operates only in the operating territory of the Canadian carrier;
- (f) the corporation does not beneficially own, directly or indirectly, voting shares of a corporation that holds a broadcasting distribution undertaking licence and that operates outside of the operating territory of the Canadian carrier;

biens ou services, ni un administrateur des sociétés affiliées, et à l'égard de laquelle il n'existe aucun facteur qui pourrait vraisemblablement compromettre son aptitude à agir dans les meilleurs intérêts de l'ayant droit qualifié. (*independent member*)

non-Canadien Personne ou entité qui n'est pas un Canadien. (*non-Canadian*)

personne morale qualifiée Personne morale constituée ou prorogée sous le régime des lois fédérales ou provinciales qui remplit les conditions suivantes :

- a) le premier dirigeant ou, à défaut, la personne exerçant des fonctions similaires à celles d'un tel poste et au moins 80 pour cent des administrateurs sont des Canadiens;
- b) dans le cas d'une personne morale avec capital-actions, des Canadiens détiennent dans l'ensemble la propriété effective et le contrôle directs ou indirects d'au moins 80 pour cent des actions avec droit de vote émises et en circulation et d'au moins 80 pour cent des votes, à l'exception de celles détenues uniquement à titre de sûreté;
- c) dans le cas d'une personne morale qui est une filiale :
 - (i) la société mère est une personne morale constituée ou prorogée sous le régime des lois fédérales ou provinciales,
 - (ii) des Canadiens détiennent dans l'ensemble la propriété effective et le contrôle directs ou indirects d'au moins 66 2/3 pour cent des actions avec droit de vote émises et en circulation de la société mère et d'au moins 66 2/3 pour cent des votes, à l'exception de celles détenues uniquement à titre de sûreté,
 - (iii) ni la société mère ni ses administrateurs ne contrôlent ou n'influencent les décisions de la filiale en matière de programmation dans l'un ou l'autre des cas suivants :
 - (A) des Canadiens détiennent dans l'ensemble la propriété effective et le contrôle directs ou indirects de moins de 80 pour cent des actions avec droit de vote émises et en circulation de la société mère et de moins de 80 pour cent des votes, à l'exception de celles détenues uniquement à titre de sûreté,

(g) the directors of the corporation and its officers have complete and exclusive control over all programming decisions and

(i) at least 33 1/3 per cent of the directors are independent members, and

(ii) a quorum at any meeting of the directors or of any committee of the directors must include at least one independent member; and

(h) no parent corporation or affiliate corporation of the corporation exercises any control or influence over any programming decisions of the corporation. (*ayant droit qualifié*)

subsidiary corporation means a corporation that is controlled by another corporation. (*filiale*)

voting share means a share of any class of shares of a corporation carrying voting rights under all circumstances or by reason of any event that has occurred and is continuing or by reason of a condition that has been fulfilled, and includes

(a) a security that is convertible into such a share at the time a calculation of the percentage of shares owned and controlled by Canadians is made; and

(b) an option or a right to acquire such a share, or the security referred to in paragraph (a), that is exercisable at the time the calculation referred to in that paragraph is made. (*action avec droit de vote*)

SOR/98-378, s. 1.

Direction

2 The Canadian Radio-television and Telecommunications Commission is hereby directed that no broadcasting licence may be issued, and no amendments or renewals thereof may be granted, to an applicant that is a non-Canadian.

3 Where the Canadian Radio-television and Telecommunications Commission determines that an applicant is controlled by a non-Canadian, whether on the basis of personal, financial, contractual or business relations or any other considerations relevant to determining control, other than the beneficial ownership and control of the

(B) le premier dirigeant de la société mère ou, à défaut, la personne exerçant des fonctions similaires à celles d'un tel poste est un non-Canadien,

(C) moins de 80 pour cent des administrateurs de la société mère sont des Canadiens. (*qualified corporation*)

société affiliée Quant à un ayant droit qualifié, s'entend :

a) d'une entreprise canadienne visée au paragraphe 16(2) de la *Loi sur les télécommunications* ou de l'une de ses filiales;

b) d'un acquéreur ou de l'une de ses filiales;

c) d'une personne morale qui contrôle les filiales et l'acquéreur visés aux alinéas a) et b), ou d'une filiale de cette personne. (*affiliate corporation*)

société de caisse de retraite qualifiée Société de caisse de retraite dont au moins 80 pour cent des membres du conseil d'administration et de chaque comité d'administrateurs sont des Canadiens et qui a été constituée en vertu de la *Loi concernant la société de la Caisse de Pensions de la Dominion Bank*, S.C. 1887, ch. 55, de l'*Acte constituant en corporation la Société de la Caisse de Retraite de la Banque de Montréal*, S.C. 1885, ch. 13, de la *Loi sur les sociétés de caisse de retraite* ou d'une loi provinciale visant la constitution des sociétés de caisse de retraite. (*qualified pension fund society*)

société mutuelle d'assurance qualifiée Société mutuelle d'assurance dont le siège social et l'établissement principal sont situés au Canada et dont au moins 80 pour cent des membres du conseil d'administration et de chaque comité d'administrateurs sont des Canadiens. (*qualified mutual insurance company*)

DORS/98-378, art. 1.

Instructions

2 Il est ordonné au Conseil de la radiodiffusion et des télécommunications canadiennes de ne pas délivrer de licences de radiodiffusion ni d'accorder de modification ou de renouvellement de telles licences aux demandeurs qui sont des non-Canadiens.

3 Dans les cas où le Conseil de la radiodiffusion et des télécommunications canadiennes détermine que le demandeur est sous contrôle non canadien en raison de relations personnelles, financières, contractuelles ou d'affaires, ou de tout autre facteur utile à la détermination du contrôle, sauf la propriété effective et le contrôle, par une

voting shares of a qualified successor by a Canadian carrier or its acquiring corporation, the applicant is deemed to be a non-Canadian.

Repeal

4 The *Direction to the CRTC (Ineligibility of Non-Canadians)*¹ is repealed.

Coming into Force

5 This Direction comes into force on April 8, 1997.

entreprise canadienne ou son acquéreur, des actions avec droit de vote d'un ayant droit qualifié, le demandeur est réputé être un non-Canadien.

Abrogation

4 Les *Instructions au CRTC (inadmissibilité de non-Canadiens)*¹ sont abrogées.

Entrée en vigueur

5 Les présentes instructions entrent en vigueur le 8 avril 1997.

¹ SOR/96-192

¹ DORS/96-192



CANADA

CONSOLIDATION

CODIFICATION

Order Issuing Directions to the
CRTC (Sustainable and
Equitable Broadcasting
Regulatory Framework)

Décret donnant des instructions
au CRTC (cadre réglementaire
durable et équitable pour la
radiodiffusion)

SOR/2023-239

DORS/2023-239

Current to November 27, 2025

À jour au 27 novembre 2025

to the achievement of the broadcasting policy set out in subsection 3(1) of the Act;

(j) consider the importance of sustainable support by the entire Canadian broadcasting system for news and current events programming, including a broad range of original local and regional news and community programming; and

(k) support activities and services — including training and development activities, conferences, the activities of organizations that represent creators and the development of digital and open-source tools and solutions — that support and promote Canadian creators of audio or audio-visual programs for broadcasting by broadcasting undertakings, including social media creators.

Determination of Canadian programming

13 In its determination of what constitutes Canadian programming, the Commission is directed to

(a) consult Canadians, the creative and production sectors and other interested parties;

(b) support Canadians holding a broad range of key creative positions, in particular those with a high degree of creative control or visibility;

(c) support Canadian ownership of intellectual property;

(d) recognize the distinctions between broadcasting undertakings that distribute audio programs and those that distribute audio-visual programming;

(e) recognize that the Act applies to foreign broadcasting undertakings;

(f) consider, as it relates to audio-visual programming, the vital role of Canadian independent producers and of the Canadian creative resources that are being used by both Canadian and foreign broadcasting undertakings; and

h) de tenir compte du besoin d'un financement durable et prévisible pour soutenir la participation des personnes, des groupements ou des organisations qui représentent l'intérêt public dans le cadre des affaires dont le Conseil est saisi au titre de la Loi;

i) de soutenir les entreprises de radiodiffusion offrant des services de programmation qui revêtent une importance exceptionnelle pour la réalisation des objectifs de la politique canadienne de radiodiffusion énoncée au paragraphe 3(1) de la Loi;

j) de tenir compte de l'importance d'un soutien durable, offert par le système canadien de radiodiffusion dans son ensemble, à la programmation axée sur les nouvelles et l'actualité, notamment à un large éventail de nouvelles locales et régionales et de programmation communautaire originales;

k) de soutenir les activités et les services — notamment les activités de formation et de développement, les conférences, les activités d'organisations représentant les créateurs et le développement d'outils et de solutions numériques et à code source libre — qui appuient et promeuvent les créateurs canadiens d'émissions audio ou audiovisuelles destinées à être radiodiffusées par les entreprises de radiodiffusion, y compris les créateurs pour les médias sociaux.

Établissement de ce qu'est une émission canadienne

13 Il est ordonné au Conseil, dans l'établissement de ce qui constitue une émission canadienne :

a) de consulter les Canadiens, les secteurs de la création et de la production et d'autres parties intéressées;

b) d'appuyer la détention, par des Canadiens, d'un large éventail de postes de création clés, en particulier les postes avec un degré élevé de contrôle créatif ou de visibilité;

c) d'encourager la propriété canadienne de propriété intellectuelle;

d) de reconnaître les distinctions entre les entreprises de radiodiffusion qui distribuent des émissions audio et celles qui distribuent des émissions audiovisuelles;

e) de reconnaître que les entreprises de radiodiffusion étrangères sont régies par la Loi;

f) de tenir compte, à l'égard de la programmation audiovisuelle, du rôle essentiel des producteurs indépendants canadiens et de celui des ressources créatives canadiennes auxquelles les entreprises de radiodiffusion canadiennes et étrangères font appel;

(g) consider whether its determination of what constitutes a Canadian program complements other Canadian content policies that are applicable to the Canadian broadcasting system, including those pertaining to audio-visual tax credits or government funding.

g) d'examiner si son exercice de ce pouvoir complémente les autres politiques de contenu canadien applicables au système canadien de radiodiffusion, y compris les politiques liées aux crédits d'impôt pour l'audiovisuel ou au financement accordé par le gouvernement.

FEDERAL COURT OF APPEAL
B E T W E E N

**CANADIAN MEDIA PRODUCERS
ASSOCIATION**

Applicant/Moving Party

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**MEMORANDUM OF FACT AND LAW
OF THE APPLICANT/MOVING PARTY,
CANADIAN MEDIA PRODUCERS
ASSOCIATION**

Stohn Hay Cafazzo Heim Finlay LLP
133 King Street East, 2nd Floor
Toronto, ON M5C 1G6

Erin Finlay LS #: 48054B
erin@stohnhay.com

Madeleine Brown LS #: 74928F
mbrown@stohnhay.com

Tel: 416.961.2020

Lawyers for the Applicant/Moving Party,
Canadian Media Producers Association

FEDERAL COURT OF APPEAL

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**MOTION RECORD OF THE APPLICANT/
MOVING PARTY, CANADIAN MEDIA
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VOLUME I

Stohn Hay Cafazzo Heim Finlay LLP
133 King Street East, 2nd Floor
Toronto, ON M5C 1G6

Erin Finlay LS #: 48054B
erin@stohnhay.com

Madeleine Brown LS #: 74928F
mbrown@stohnhay.com

Tel: 416.961.2020

Lawyers for the Applicant/Moving Party,
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