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Canadian Content in the 21st Century

A discussion paper about Canadian content
in film and television productions

March 2002

Canada 

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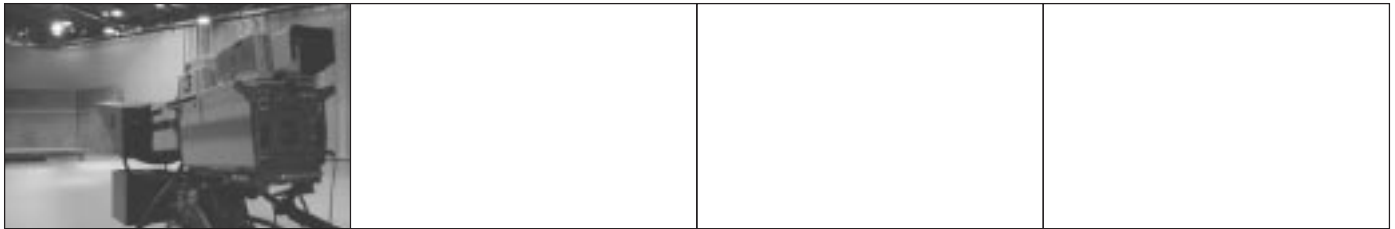
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INTRODUCTION

Purpose of this discussion paper

Defining Canadian content is a challenge for all cultural industries in Canada. Numerous federal initiatives require that cultural products must have a certain level of Canadian content to qualify for funding, to retain licencing or to qualify for tax credits. Canadian content definitions for film and television productions, sound recording, book publishing, magazines and new media are based on a mix of criteria regarding the ownership of the company, nationality of the key creative personnel and Canadian location of expenditures.

This discussion paper has been developed as a first step to initiate a public dialogue on Canadian content. This paper focuses specifically on film and television productions and seeks to generate a contemporary discussion on "What is a Canadian film or television production?" It places the issue into context from both an international and national point of view, provides a brief retrospective of the Government of Canada's milestones in the development of the concept of Canadian content and an overview of current definitions and regulations, and raises a number of key questions.

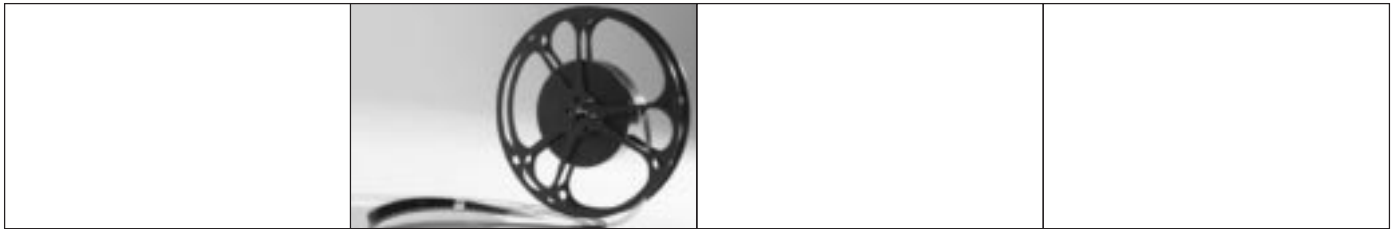
This paper is intended as a starting point. The views of all Canadians are welcome. Details on how to participate can be found in the Call for Submissions section on page 15.

Reassessing Canadian content

Considering the changes in the industry and in the government's approach to the industry, the time has come to reassess the definition of Canadian content and ensure that the approach that is chosen is up to date and well suited to the challenges ahead.

As a matter of fact, for more than 30 years, the Government of Canada has responded to the challenges of producing and distributing Canadian film and television productions through a system of Canadian content measures predominantly based on ownership of the production company, nationality of the producer and the key creative personnel and cost requirements for services paid to Canadians or incurred in Canada. This Canadian content system is used for two main purposes: i) to determine access to federal support programs; ii) to measure television broadcasters' conformity with CRTC regulations.

Financial and regulatory government intervention in the film and television industry has succeeded in fostering a relatively robust indigenous production



industry. Over the past eight years, the volume of Canadian production activity in Canada has more than doubled to \$3.2 billion in 2000-01.¹

At the same time, numerous reports and consultations have explored whether the current Canadian content measures are still appropriate and meet the government objectives for film and television. These consultations and reviews include:

- A Review of Canadian Feature Film Policy (1998-2000);
- the Standing Committee on Canadian Heritage's study entitled "A Sense of Place, A Sense of Being: The Evolving Role of the Federal Government in Support of Culture in Canada" (1999);
- the CRTC's Canadian Private Television Policy Review (1998-2000);
- the CRTC's Review of the Definition of a Canadian Program (1999-2000);
- Report of the Review of Management Practices of Federal Mechanisms in Support of Film and Television Production (2000);
- Follow-up Report on the Review of the Federal System of Support to Film and Television Production (2000);
- the consultations on the guidelines for the Canada Feature Film Fund (2000-01);
- the review of the co-production guidelines at Telefilm Canada (2000-01);
- the Canadian Audio-Visual Certification Office's (CAVCO) consultations on the simplification of the tax credit (2000);
- the Standing Committee on Canadian Heritage's study on the state of the Canadian broadcasting system (in progress).

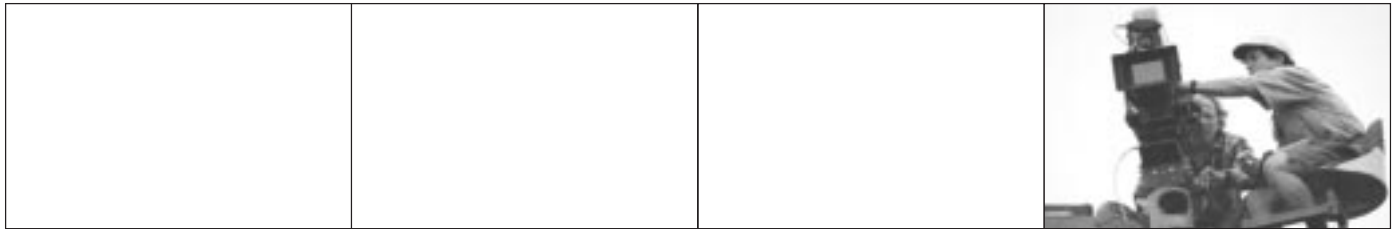
While the Canadian content system for film and television productions has remained relatively unchanged for almost 30 years, the film and television production and broadcast industries have grown and changed considerably. The means of government intervention in the industry have also changed over time to a more consultative approach where the decision-making sphere has been broadened to engage the industry on policy and program objectives. For instance, assistance for distinctly Canadian television programming is dispersed through the Canadian Television Fund, a public-private partnership, governed by a board of directors from the private and public sector. The new Feature

¹ Canadian Film and Television Production Association (CFTPA) and the Association des producteurs de films et de télévision du Québec (APFTQ), "The Canadian Film and Television Production Industry: Profile 2002". February 2002. (Canadian production activity includes Canadian-certified production through the Canadian Audio-Visual Certification Office (CAVCO), Canadian non-CAVCO production and private and public broadcaster in-house production).



Film Advisory Group, composed of individuals working in Canada's feature film industry, provides advice to the Minister of Canadian Heritage and Telefilm Canada on how best to achieve the goals of the new Canadian Feature Film Policy.

It appears therefore timely to engage Canadians on the effectiveness of a cornerstone of government programs and initiatives to support film and television productions: the definition of Canadian content.



CONTEXT

Cultural diversity in a global economy

In today's knowledge-based economy, global trends such as trade liberalization, convergence, technological developments and industry consolidation offer great opportunities for growth but also pose fundamental challenges, such as:

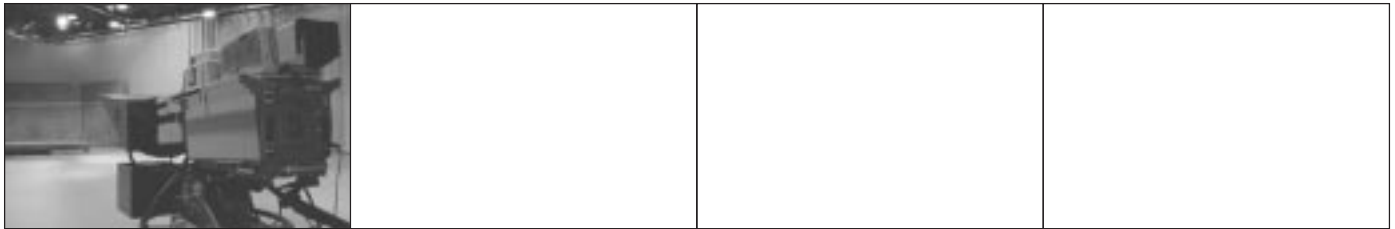
- i) ensuring that all cultures have the means to express their voices and opinions in a changing world;
- ii) achieving a balance between participating fully in the global environment while nurturing national and local identities;
- iii) ensuring the fair and equitable sharing of the opportunities and benefits for all.

These challenges call for the respect and embracement of the concept of cultural diversity, which refers to the variety of human experience and achievement. It is a broad concept based on interconnectivity of people despite linguistic, cultural, social, economic and regional differences, but which also includes the pluralism of ideas, access and participation, and freedom of expression and choice. In an increasingly global world, our diversity expresses who we are and represents our creative capital. It is an important resource, since sustainable growth is predicated on the ability to generate ideas and innovate. Cultural diversity is a resource essential to human development, social cohesion and the prosperity of societies.

International situation

Other countries are also investing significantly in domestic film and television production for similar reasons. They have developed public initiatives to foster their national industry, be it in the form of direct financial support, tax advantages, or quotas of films or television programs. As such, determining what makes a film or a television production domestic is very much an issue many countries struggle with.

For instance, France, like Canada, determines a national production through a system based on the nationality of the production undertaking and creative personnel as well as the location of expenditures. In the United Kingdom, a national film is defined on the basis of the nationality of the production undertaking and the location of studio shooting and expenditures. There is no point system for key creative personnel. In the Netherlands, the definition of a national film is much wider since financial support is given to films where the creative personnel is either of Dutch nationality or considered to be connected to the Dutch cultural domain (e.g. a foreigner established in the Netherlands for a long time or a person who once had Dutch nationality and lives in a foreign



country). In Norway, eligibility requirements are even less restrictive. The production undertaking must be a Norwegian independent audiovisual producer. Financial support is awarded either selectively to those films with artistic aspirations or automatically in the form of a box-office bonus.

Canadian situation

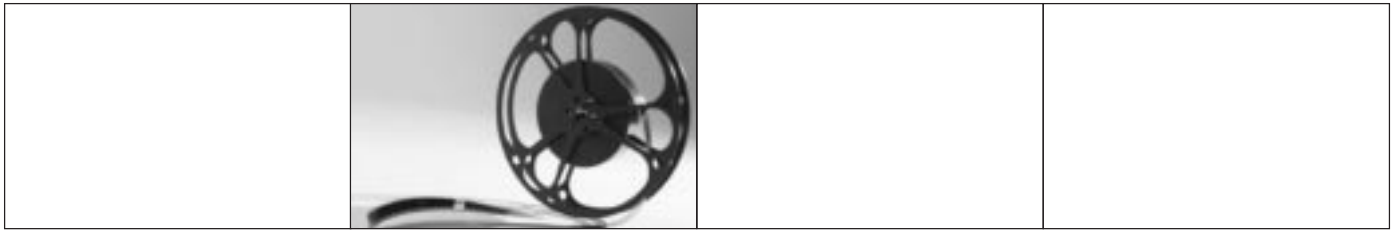
Recognizing the challenges of producing and distributing Canadian content film and television productions and the importance of these to Canadians, the Government of Canada has encouraged Canadian production activity through several policies and programs over the past three decades. It has tried to find the optimal balance between the cultural goals of creating Canadian film and television productions that reflect Canadian subjects and perspectives with the commercial trend to work with foreign co-producers and to engage foreign performers. At times, commercial concerns lead in directions different from those consistent with our cultural objectives.

The current Canadian content rules have been structured to offer producers a certain degree of flexibility. This is in recognition of the fact that every production is structured differently – beyond finding attractive stories to tell, producers are responsible for assembling both the right creative personnel and the necessary financing to complete the project.

Scope of the discussion

Having the cultural diversity agenda and the potential implications for almost all cultural sectors in mind, this review is limited to the definition of Canadian content in the film and television sector. The various assistance programs supported by the Government in the film and television sector will be central to this debate and may be redefined as a result of this review.

Furthermore, the definition of a Canadian content production used by the Department of Canadian Heritage's Canadian Audio-Visual Certification Office (CAVCO) is an industry standard for many federal, provincial and private funding programs for the film and television industry. CAVCO certifies productions as Canadian content for purposes of the Canadian Film or Video Production Tax Credit. At the same time, the CRTC is responsible for determining productions as Canadian content for broadcasting purposes. While CAVCO and the CRTC processes have been harmonized to a large degree, there are still some differences; therefore, discussion about the definition of Canadian content could have consequences for CAVCO's related regulations, and likely, by implication, for the CRTC and the various federal, provincial and private film funding organizations that also use CAVCO's definition.



Finally, the debate will include the international implications of the concept of Canadian content, more specifically with respect to Canada's international co-production policy.

The following section outlines the history of Canadian content for the film and television industry. For more detailed information on the current Canadian content definitions according to the various federal departments and organizations, please consult annex B.



THE EVOLUTION OF CANADIAN CONTENT

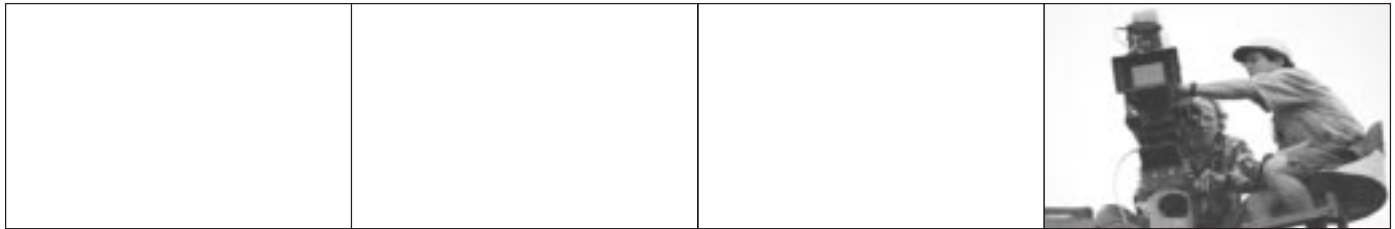
Government measures to support Canadian films began with the establishment of the National Film Board of Canada (NFB) in 1939. Production occurring at the NFB was the first time that films about Canada by Canadians were made in any great quantity. Beginning in 1958, the Government established the Board of Broadcast Governors (BBG) – which was superseded by the Canadian Radio-television and Telecommunications Commission (CRTC) – to promote the broadcast of Canadian productions through regulatory measures and policies. Later, through federal financial support programs such as the capital cost allowance (CCA), the Canadian Film or Video Production Tax Credit (CPTC), and the various programs of Telefilm Canada, the Government aimed to support the Canadian production industry and ensure that Canadians have access to high-quality productions in all program categories.

Regulatory measures

The first Canadian content regulations were put in place by the BBG in 1959 at about the same time as the first privately-owned, independent television stations were licensed in the major centres of Canada. Content regulations were required to ensure that a minimum quantitative percentage of the air time would be devoted to Canadian programs. Prior to this, all privately-owned television stations were affiliated with either the English language or the French language network of the Canadian Broadcasting Corporation, and as affiliates, were required to broadcast the CBC's program offerings; thereby ensuring a level of Canadian content.

To assist television broadcasters determine whether an acquired program (i.e. one not produced by the broadcaster) would qualify for credit towards Canadian content requirements, the BBG introduced in 1960 a certification system whereby individual television programs could, at the request of the producer, be reviewed and certified as Canadian. In these early years, the definition of Canadian content was rather broadly defined. It included productions made in Canada as well as the broadcast of events of interest which occurred outside of Canada in which Canadians participated (e.g. NHL hockey), or which were of special interest to Canadians (e.g. The World Series). The BBG also permitted a Canadian content credit for productions produced in the United Kingdom and France.

The BBG drew its powers from the *Broadcasting Act* of 1957. This legislation set forth Canada's overall objectives for the broadcasting system, which were subsequently updated and modified in the *Broadcasting Act* of 1967 and the *Broadcasting Act* of 1991. In 1968, the Canadian Radio and Television Commission took over the regulatory duties from the BBG (the CRTC added



the regulation of telecommunications in 1976, and changed its name to the Canadian Radio-television and Telecommunications Commission). The current legislation requires among other things that the Canadian broadcasting system encourage the development of Canadian expression. Public, private and community broadcasters must contribute to the creation and presentation of high quality Canadian programming that is varied and comprehensive. The Commission's Canadian content requirements are one of the fundamental aspects of Canadian broadcasting regulation. They contribute to the development of a healthy Canadian independent production industry.

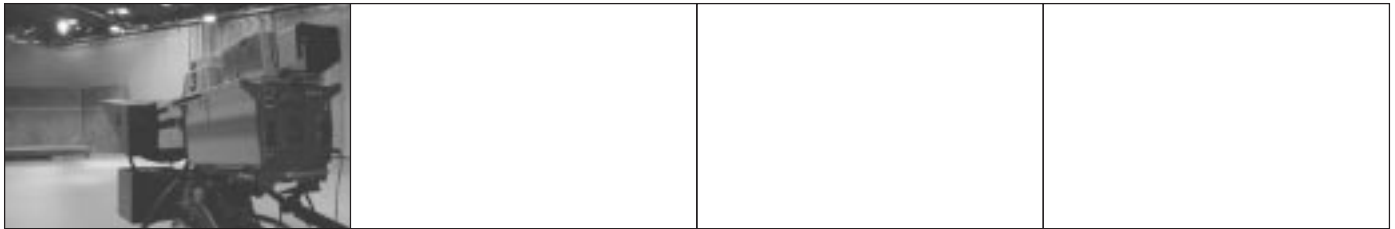
The CRTC recognizes productions that have been certified by CAVCO as Canadian content for broadcasting purposes. It also certifies as "Canadian" individual productions which are either ineligible for or do not take advantage of the CAVCO tax credit process (e.g. sports, talk shows, news, video clips). The CRTC also certifies co-ventures as Canadian. Co-ventures are defined as international co-productions which are not included under the various treaties signed by the Government of Canada. Co-ventures are generally required to meet the same Canadian content minimum of six points and 75% cost requirements as under CAVCO to obtain credit as Canadian content. However, co-ventures with Commonwealth or member countries of the La Francophonie have less demanding guidelines and thus provide additional flexibility for producers.²

The CRTC requires a minimum amount of Canadian programming to be shown by Canadian broadcasters, depending on the type of broadcaster and individual licenses. Over the years, these requirements have risen from 45% of broadcast hours to be devoted to Canadian programs in 1959 to the present day regulations requiring, among other things, 60% Canadian content overall and 50% in prime time for conventional private stations.

Financial support programs

In 1967, the Canadian Film Development Corporation (now Telefilm Canada) was created in order to help finance the production of Canadian content feature films. The *Canadian Film Development Corporation Act* defined a Canadian production as one with "a significant Canadian creative, artistic and technical content" and copyright was owned by a Canadian individual or corporation. International treaty co-productions are also deemed to be Canadian within the definition in the *Canadian Film Development Corporation Act*.

²It should be noted that, in its 2000 Review of the definition of a Canadian program, the CRTC rejected as impractical the unification or complete harmonization of the certification processes of CAVCO and the CRTC due to the different mandates of the organizations. However, the CRTC noted that since 1984, it has adopted numerous CAVCO definitions and interpretations where appropriate.



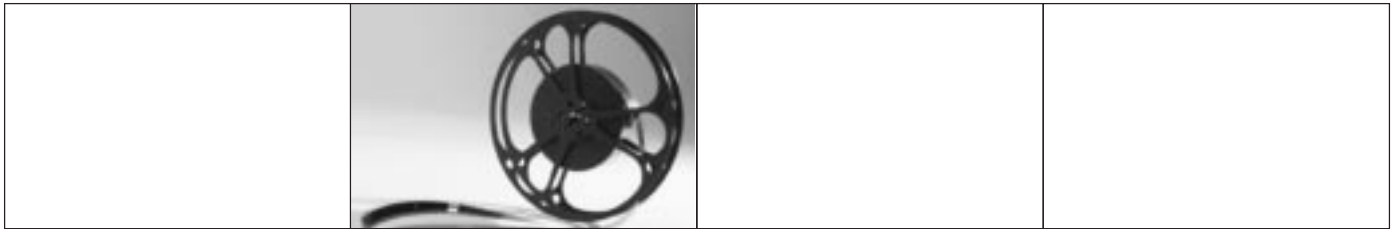
In 1974, the Canadian content point system was first introduced, for purposes of the CCA for feature films. Administered by CAVCO, the CCA program was intended to create a Canadian-owned and -controlled industry and create jobs for Canadians. Prior to this time, the CCA program made no distinction regarding the origin of the film; therefore, there was no incentive for Canadian investors to risk capital in Canadian content films. The CAVCO points system, which defines a Canadian production as one in which the producer and certain key creative positions are Canadian, has been slightly modified since its creation in 1974. Today it is used by CAVCO to administer the Canadian Film or Video Production Tax Credit (CPTC) which replaced the CCA in 1995.

Federal support programs to ensure the production of high-quality Canadian television programming in the various program categories began with the establishment of Telefilm Canada's Canadian Broadcast Program Development Fund (CBPDF) in 1983. The CBPDF noted that three program genres (drama, variety and children's programs) were experiencing difficulty in raising financing in the Canadian marketplace. Documentaries were made eligible for assistance in 1985.

In 1996, the resources of the CBPDF, the private sector's Cable Production Fund and an annual Government of Canada contribution were combined to create the Canadian Television and Cable Production Fund, a government-industry partnership, which is now known as the Canadian Television Fund (CTF). CTF's objective is to assist the creation and broadcast in prime time of high-quality, culturally-significant Canadian television programs in both official languages and Aboriginal languages in the genres of drama, variety, children's, documentaries and performing arts.

Since its creation, the demand for the CTF has continuously outstripped its available resources. Therefore, beginning in 1998-99, the CTF Board refocused the Fund and introduced more stringent Canadian content requirements in keeping with its cultural mandate. In 1999-2000, the Fund created the four essential requirements as the basis for entry to the Fund, giving the CTF the highest Canadian content entry threshold of any federal assistance program. The four essential requirements are as follows:

- i) the project speaks to Canadians about, and reflects, Canadian themes and subject matter;
- ii) the project has 10 out of 10 points (or the maximum number of points appropriate to the project), as determined by the CTF using the CAVCO scale (treaty co-productions are also eligible);
- iii) underlying rights are owned, and significantly and meaningfully developed, by Canadians;
- iv) the project is shot and set primarily in Canada.



Finally, in order to assist with the creation of Canadian feature films, the Government created the Canada Feature Film Fund (CFFF) in 2000. The CFFF supports feature films that score at least 8 out of 10 points on the CAVCO scale with priority to projects with significant creative elements, including Canadian stories, themes, talents, and technicians.

Unlike the CPTC, the CFFF and the CTF have raised the bar on Canadian content. For instance, the minimum points requirement under the CPTC is 6 points. For the CFFF and the CTF, a production must earn 8 points or 10 points, respectively. Furthermore, the CPTC requires that either the position of director or screenwriter be filled by a Canadian. The other two programs require that both positions be filled by Canadians in order to be eligible. Finally, the CPTC requires that either the first or second lead performer be Canadian while an eligible production under the CFFF must have a Canadian performer in the lead role. By virtue of the fact that the CTF requires 10 points, both the first and second lead performer must be Canadian.

International treaty co-productions

Part of the Government of Canada's tool kit for film and television are Canada's international co-production treaties. Canada signed its first co-production treaty with France in 1963. Currently, Canada has co-production treaties with 57 countries. Individual co-production treaties seek to achieve over time a balance between the creative, financial and technical contributions of each country. Canada's objectives for international treaty co-productions are to:

- i) develop bilateral relations in the audiovisual sector;
- ii) contribute to the promotion of Canadian culture;
- iii) allow producers to pool financial and creative resources.

Co-productions enable Canadian and foreign producers to pool their creative and financial resources in order to co-produce audiovisual works. These productions enjoy national status in their respective countries and as such, are able to access federal programs and are recognized as 100% Canadian content for broadcasting purposes. Treaty co-productions are certified by the Minister of Canadian Heritage upon the recommendation of Telefilm Canada.

Co-production activities have grown very significantly during the last decade reaching a total of 98 coproductions in 2000 accounting for a total budget of \$779.6 million. Over the past five years, co-productions budgets have increased by 218%.³

³Telefilm Canada, September 2001. See Annex C for a graph of the Volume of International Co-production, by year.



The National Film Board of Canada

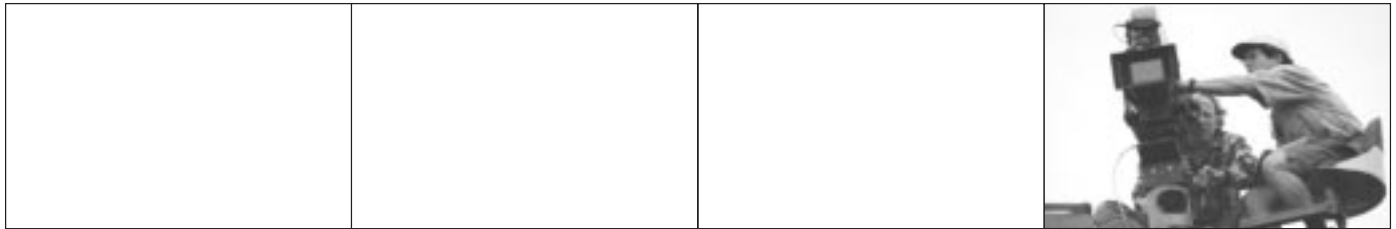
The mandate of the National Film Board of Canada (NFB) is to promote the production and distribution of audiovisual works that "interpret Canada to Canadians and other nations." By virtue of the fact that a production is produced by the NFB, it is automatically defined as a Canadian production (for broadcast purposes). The NFB requires Canadian citizenship or permanent resident status for all individuals working on a production. However, there may be exceptions for certain professional development opportunities with people from other countries and in cases where shooting occurs outside of Canada, some of the crew may not be Canadian. Furthermore, when the NFB co-produces with private Canadian companies, they do not necessarily have to hire all Canadians. However, should the company also apply to federal programs, such as the CPTC, it would be subject to the Canadian content point system; therefore ensuring the involvement of Canadians in key creative positions.

The Canada Council for the Arts

The Canada Council for the Arts assists Canadian citizens or permanent residents of Canada who are professional artists and have committed themselves to the disciplined process of making art. Although the applicant to a Canada Council program must be Canadian, the Canada Council does not have any nationality requirements for others working on the project.

Canadian Broadcasting Corporation

Under the *Broadcasting Act*, the Canadian Broadcasting Corporation (CBC) must reflect Canadian stories and values, reflect Canada's regions to themselves and to each other, strive to be of equivalent quality in English and French, meet the needs of minority language communities in English and French, reflect the multicultural and multiracial nature of Canada, and reach Canadians wherever they live, by the most efficient means available. In-house CBC productions are automatically considered as Canadian content for broadcast purposes.



PUBLIC POLICY CONSIDERATIONS

Over the past 30 years, the Canadian government has responded to the basic market realities of the film and television industry with support initiatives (whether regulatory measures, direct assistance programs or tax incentives) through a system of Canadian content predominantly based on the ownership of the production company, the nationality of the producer and the key creative personnel and cost requirements for services paid to Canadians or incurred in Canada. In addition, the CTF requires that a production "speaks to Canadians about, and reflects, Canadian themes and subject matter", and that the project be shot and set in Canada. This system has helped the industry grow significantly over the years. Any definition system would have to contribute to the government public policy objectives in film and television which are first and foremost cultural, that is to ensure that Canadians have diverse and accessible Canadian choices and to connect Canadians to one another and to the world.

In order to achieve these objectives, the Government of Canada remains committed to nurturing Canadian talent and to fostering a vibrant domestic film and television industry in Canada which produces, distributes, broadcasts and exhibits distinctly Canadian productions. Furthermore, the Government is also committed to provide a high degree of predictability, consistency and fairness in funding program guidelines, broadcast regulations, assessment processes as well as funding and certification decision; to ensure that public funds will be administered as efficiently as possible; and to provide effective and reasonable opportunities to mitigate the risk of abuse or error.

The Government must ensure that the limited public funds allocated for this purpose are dispersed fairly and produce the best possible results for Canadians. The question is how best to define Canadian content so that it fosters government objectives. In order to define a Canadian content film or television production, there is a variety of considerations that can be taken into account, including the following:

- nationality of the production company and the producer;
- nationality of the key creative personnel (e.g. writers, directors, actors)
- location of production and post-production service expenditures;
- copyright and underlying rights ownership;
- distribution rights in Canada and internationally;
- theme and subject matter;
- where the production is shot and set.

This list of considerations may not be exhaustive. A combination of only some of them or even one may be deemed sufficient and effective to define Canadian content.

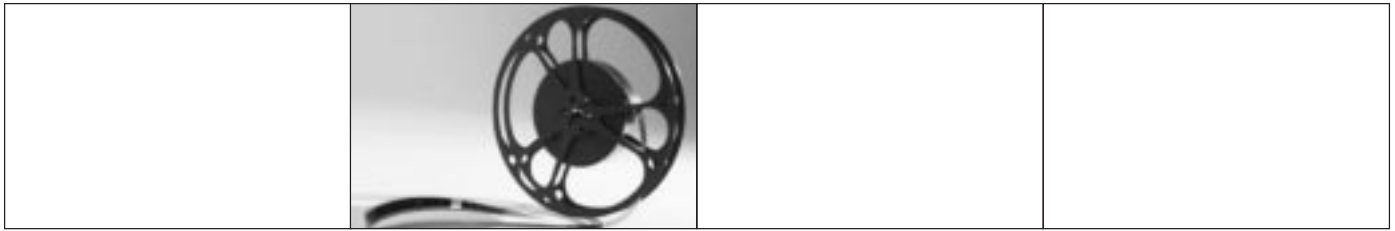


ISSUES AND QUESTIONS

There are many issues and questions that need to be discussed in a review of Canadian content definitions. The following list of questions is intended to stimulate debate but should not be considered exhaustive nor representative of any *a priori* positions or preferences by the Government with respect to the outcome of this review.

Questions to be considered

1. How should a revised Canadian content system establish an appropriate balance between different perspectives (e.g. developing Canadian cultural stories, fostering new talent, building industrial capacity, increasing domestic market shares and maximizing international market potential)?
2. Should the general approach of the current system be retained or should a new approach to assess Canadian content be developed?
 - a) Should it be required that ownership of intellectual property rights and distribution of a production be controlled by Canadian interests?
 - b) Are all key creative positions of the current Canadian content point system still sufficient, appropriate and relevant, and are the proper weights being allotted to each position?
 - c) Should the minimum point system requirements be increased?
 - d) Is it necessary to require Canadian residency or is Canadian citizenship sufficient for key creative positions?
 - e) Should the system be redesigned to adapt to differences among the various production genres? Should the Canadian content system be limited to only certain genres?
 - f) What changes, if any, need to be made to the point system for animation?
 - g) Should the production and post-production expenditure requirements be amended?
 - h) What should be the basis of a new approach to define Canadian content, if deemed required?
 - i) A new Canadian content system would conceivably require the design of vastly different program criteria and administrative processes. How should this new approach work?
 - j) What are the commercial and cultural consequences of the proposed system?
3. Should international treaty co-productions continue to qualify as 100% Canadian content?



4. Should NFB, CBC in-house and Canada Council supported productions continue to be automatically recognized as 100% Canadian content?
5. Who should assess the Canadian content of a production and how should this be done? Should there be greater harmonization between the approaches taken by the federal departments and agencies involved in the determination of Canadian content? Should the assessment of Canadian content be centralized?
6. Should the administration body have the discretion to accommodate exceptional situations?
7. Should there be a mechanism to appeal Canadian content decisions?



CALL FOR SUBMISSIONS

This discussion paper has provided a brief outline of the public policy context for the revision of the definition of Canadian content of films and television productions and has attempted to identify some current related issues. It is not meant to be exhaustive.

The Government of Canada invites submissions and comments from all interested Canadians. The questions posed in the discussion paper are meant to serve as a starting point for a national debate which will assist in developing specific policy and program changes, and establish priorities for action, if required.

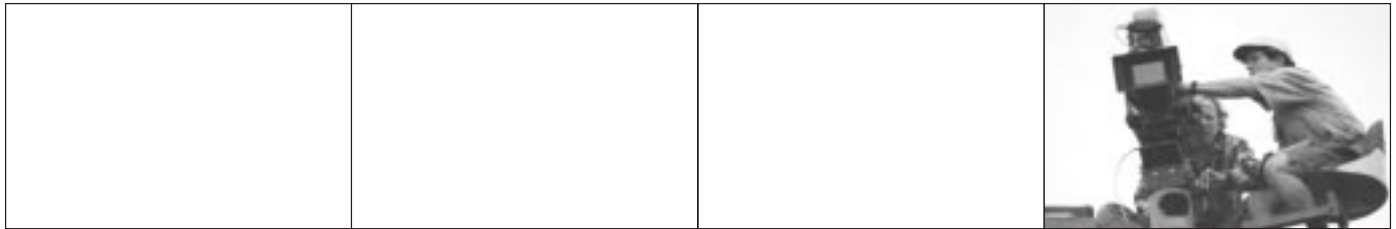
Historically, discussions pertaining to the definition of a Canadian content film or television production have involved various points of view. This review will consider the diverse interests and opinions of those who make submissions and comments. At the same time, those involved in the process need to consider the fact that inevitably, the ideas brought forth will need to be reconciled and ultimately, some compromises and trade-offs will need to occur in order to determine the best possible Canadian content system.

In order to complete this review in a timely fashion, the Government requests that all submissions be received, in writing, by May 31, 2002. Following this deadline, comments on the submissions received may be provided by July 31, 2002. To facilitate the consultation process, we ask that, to the extent possible, all submissions and comments be provided to the Department in an electronic format that can be adapted for use on the Internet.

Submissions and comments received, including the name of the person or organization making the submission, will be posted, in the official language in which they were submitted, on the Web site of the Film, Video and Sound Recording Branch, Department of Canadian Heritage at <http://www.canadianheritage.gc.ca>. If you do not wish for your submission to be so used, please expressly indicate so therein. Paper copies of the submission will be made available on request.

Submissions and comments may be e-mailed to the following address:

canadiancontent@pch.gc.ca



Submissions may be also sent by mail or fax to this address:

Canadian Content Review
c/o Director, Film and Video
Department of Canadian Heritage
15 Eddy Street, 6th Floor
Hull, Quebec
K1A 0M5

Telephone: (819) 997-5857

Facsimile: (819) 997-5709

Should you require any further information on the review of the definition of Canadian content, you may wish to contact the director, Film and Video, at the phone number listed above.

Acceptable use policy

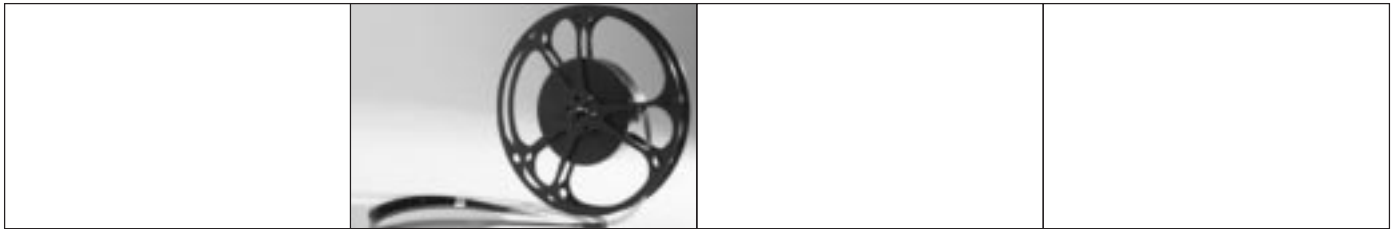
This review is intended to promote constructive debate. Submissions or comments of an inflammatory nature such as personal or slanderous/libelous attacks, threatening messages or hate speech will be neither accepted nor displayed.



ANNEX A

MILESTONES IN CANADIAN CONTENT FOR THE FILM AND TELEVISION SECTOR

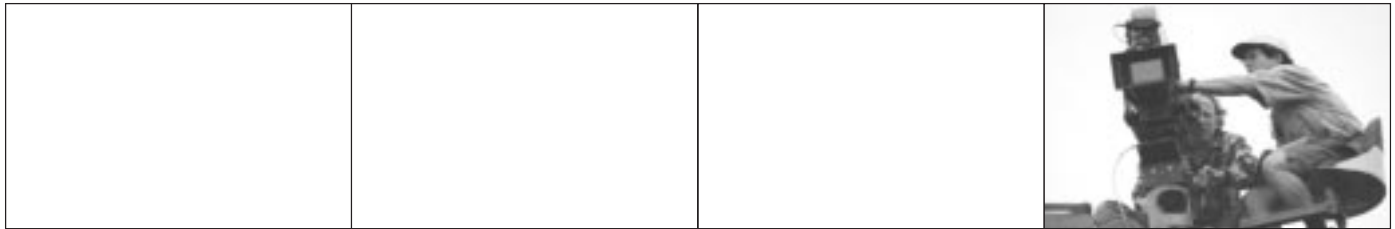
Date	Milestones
1939	Creation of the National Film Board of Canada. <i>First time that films about Canada by Canadians were made in any quantity.</i>
1954	Introduction of the 60% capital cost allowance (CCA) for film. <i>To encourage private investment in feature film. No distinction made regarding the origin of the film (or later videotape).</i>
1959-61	Introduction of the Board of Broadcast Governors' (BBG) Television Regulations. The BBG was created in 1958. <i>At least 45% of broadcast hours to be devoted to Canadian programs.</i>
1960	BBG certification of Canadian television programs. <i>A "Canadian" production is generously defined, includes any program produced by a licensee, productions made in Canada as well as the broadcast of events taking place outside Canada in which Canadians were participating (e.g. NHL hockey), or which were of special interest to Canadians (e.g. The World Series).</i>
1962	Revision of BBG Television Regulations. <i>Minimum Canadian content rises to 55% of broadcast hours.</i>
1963	The Government of Canada signs its first co-production treaty with a foreign government – France. <i>Co-productions are recognized as Canadian content for broadcast purposes and later for financial support programs.</i>
1967	Canadian Film Development Corporation is created to support the Canadian feature film industry. <i>The Canadian Film Development Act defines a "Canadian" film as one with significant Canadian creative, artistic, and technical content and Canadian copyright ownership.</i>
1972	Adoption of CRTC Television Regulations. <i>Minimum Canadian content rises to 60% of broadcast hours. Adds prime time (6 p.m. to midnight). Requirement of 50% for privately-owned stations.</i>



- 1972 CRTC defines a Canadian program.
Updates criteria based on Canadian talent and Canadian facilities, but no points system.
- 1974 Canadian content point system first introduced (for purposes of the CCA, administered by CAVCO).
CCA program distinguishes between Canadian and other productions for the first time. The points system has been modified slightly over time.
- 1982 CRTC licenses the first pay television services. The first specialty services will be licensed in 1984.
Canadian content requirements set by individual conditions of licence.
- 1983 Creation of the Canadian Broadcast Program Development Fund (administered by Telefilm Canada).
To ensure the production of high-quality Canadian television programming in the under-represented categories of drama, variety, children's and documentary.
- 1984 CRTC revises definition of a Canadian program.
Introduces 10-point system which is harmonized, but not identical, to the CAVCO system.
- 1987 Revision of CRTC Television Regulations.
Reaffirms 60% overall / 50% prime time Canadian content requirements. Indicates a greater reliance on conditions of license to fine-tune Canadian content contributions.
- 1988 CRTC expands the definition of Canadian content to include animation productions.
CAVCO follows suit in 1990.
- 1993 Creation of the Cable Production Fund.
Provides a financial incentive to both Canadian producers and broadcasters in order to increase the volume and quality of Canadian content television programming in the under-represented program categories. Based on an objective, first come first served process.
- 1995 Creation of the Canadian Film or Video Production Tax Credit (CPTC).
The CPTC replaces the CCA. The tax credit program is designed to encourage Canadian content productions and to develop an active domestic production sector.



- 1996 Creation of the Canada Television and Cable Production Fund, a private, non-profit corporation (now the Canadian Television Fund).
Combines the resources of the Canadian Broadcast Program Development Fund and the Cable Production Fund, and adds a government contribution.
- 1996 Telefilm only supports Canadian productions that obtain at least 8 out of 10 points.
Prior to this time, Telefilm usually required 8 points but there was no formal requirement to do so.
- 1998 Canadian Television Fund (CTF) refocuses on Canadian content due to oversubscription of the Fund.
CTF's Licence Fee Program adopts a voluntary "Distinctly Canadian Bonus."
- 1999 CTF replaces the bonus system with the four essential requirements which are the highest Canadian content entry threshold of any federal assistance program.
Requires that all projects must reflect Canadian themes and subject matter, achieve 10 out of 10 points, be owned by Canadians, and be shot and set primarily in Canada.
- 1999-2000 Revision of CRTC's Canadian Television Policy.
First comprehensive review since 1986. Retains 60% Canadian content overall and 50% in prime time for private stations. Adds peak time Canadian content requirements (7 p.m. to 11 p.m.) for largest Canadian television groups. Effective in 2000.
- 2000 CRTC Review of Canadian Program Recognition Process.
Review and revision of CRTC definition of a Canadian program to reflect interpretation established by the CRTC over the last 15 years. CAVCO-certified projects continue to be generally recognized by CRTC as Canadian content.
- 2001 Establishment of the Canada Feature Film Fund.
Requires projects to have a minimum of 8 out of 10 points. Telefilm seeks to support films with significant Canadian creative elements (includes Canadian stories, themes and talents).



ANNEX B

CANADIAN CONTENT RULES FOR FILM AND TELEVISION

Canadian Audio-Visual Certification Office (CAVCO)

CAVCO recommends to the Minister of Canadian Heritage the certification as Canadian for productions that meet the criteria set out in the *Income Tax Act* and its Regulations. Certification allows the production to have access to the Canadian Film or Video Production Tax Credit (CPTC).

In order for a production to qualify for the credit, it must be produced and owned by a qualified taxable Canadian corporation. As well, the producer must be Canadian, the production must obtain a minimum of six "Canadian content" points for key creative personnel and it must meet certain production and post-production expenditure requirements.

CAVCO uses one "Canadian content" points scale for live-action production and another for animation. A maximum of 10 points are available under each scale.

Live-action

A live-action production of any length must earn six points, based on the following key creative people qualifying as Canadian:

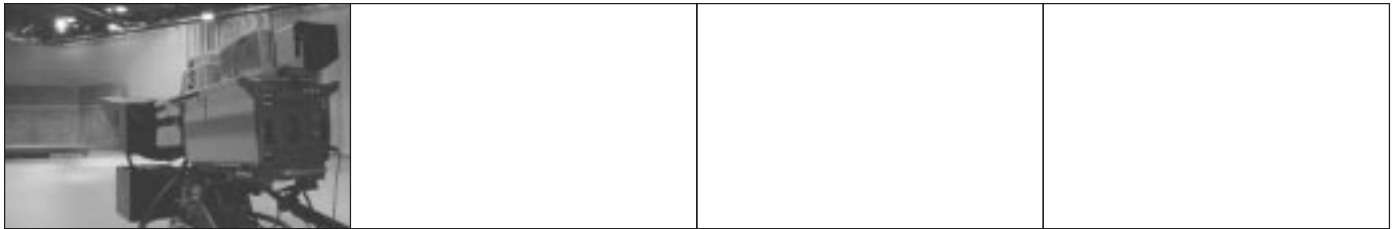
Director	2 points
Screenwriter	2 points
Highest paid actor	1 point
Second highest paid actor	1 point
Head of Art Department	1 point
Director of photography	1 point
Music composer	1 point
Picture editor	1 point

Two mandatory criteria must be respected: 1) director or screenwriter must be Canadian, and 2) the highest or second highest paid actor must be Canadian.

In the case of a television series the points system is applied to each episode.

Animation

An animation production must earn six points, based on the following key creative people qualifying as Canadian, or the location where the function is performed is in Canada:



Persons

Director	1 point
Scriptwriter <u>and</u> storyboard supervisor	1 point
First <u>or</u> second voice (or 1st <u>or</u> 2nd leading performer)	1 point
Design supervisor (art director)	1 point
Music composer	1 point
Picture editor	1 point

Locations where functions are performed

Layout <u>and</u> background	1 point
Key animation	1 point
Assistant animation/In-betweening	1 point

Persons and location where function is performed (i.e. the camera operator must be Canadian and the work must be performed in Canada)

Camera operator	1 point
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Three mandatory criteria must be respected: 1) director or scriptwriter and storyboard supervisor must be Canadian, 2) key animation must be performed in Canada, and 3) first or second voice (or first or second leading performer) must be Canadian.

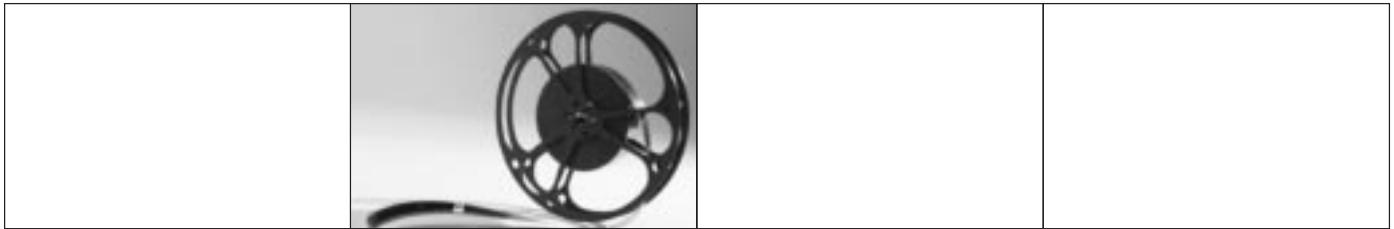
In the case of a television series the points system is applied to each episode.

Producer requirement

The producer (i.e. the individual who controls and is the central decision-maker of the production from beginning to end) must be a Canadian. Provision is made for the extension of a courtesy Executive Producer credit to non-Canadians under certain specific conditions, such as when the non-Canadian arranges for financing and/or assists with the foreign distribution of the production.

Cost requirements

The cost requirements provide that 1) 75% of total amounts paid in the production services category is paid to Canadians, and 2) 75% of all expenses incurred in the laboratory and post-production work category is incurred for services in Canada.



Production requirement

Among the production requirements of the CPTC, the production must be completed within two years after the end of the taxation year in which the principal photography began and there must be an agreement to have the production shown in Canada by a Canadian distributor or Canadian broadcaster in the two years following its completion.

The following genres will not qualify as Canadian productions for the purpose of the CPTC:

1. news, current events or public affairs, weather or market reports
2. talk shows
3. games, questionnaires or contests (except if directed primarily at minors)
4. sports
5. gala or awards
6. production that solicits funds
7. reality television
8. pornography
9. advertising
10. produced for industrial, corporate or institutional purposes
11. primarily stock footage (except if documentary), and
12. production for which public financial support would, in the opinion of the Minister of Canadian Heritage, be contrary to public policy.

Canadian Television Fund

The objective of the Canadian Television Fund (CTF) is to assist the creation and broadcast in prime time of high-quality, culturally-significant Canadian television programs in both official languages and Aboriginal languages in the genres of drama, variety, children's, documentaries and performing arts.

In 1998-99, the CTF's Licence Fee Program introduced a "Distinctly Canadian Bonus" which required productions to achieve a minimum of three out of seven criteria which included: 10 out of 10 on the CAVCO scale; are primarily shot in Canada; are based on Canadian history or a Canadian event or issue, or an actual Canadian individual. In 1999-2000, the CTF replaced the bonus system with the four essential requirements as basis for entry to the Fund. To access the CTF, a production must meet all of the following four essential requirements:

1. The project speaks to Canadians about, and reflects, Canadian themes and subject matter.



2. The project has 10 out of 10 points (or the maximum number of points appropriate to the project), as determined by the CTF using the CAVCO scale. (Feature length films supported by the CTF require 8 points and treaty co-productions are also eligible.)
3. Underlying rights are owned and significantly and meaningfully developed by Canadians.
4. The project is shot and set primarily in Canada.

Telefilm Canada

Both Telefilm Canada's Canada Feature Film Fund (CFFF) and the CTF use the same basic requirements as those used by CAVCO for the CPTC, but require that a production obtain at least eight points or 10 points, respectively. The CPTC requires that either the position of director or screenwriter be filled by a Canadian. The other two programs require that both positions be filled by Canadians in order to be eligible. Finally, the CPTC requires that either the first or second lead performer be Canadian while an eligible production under the CFFF must have a Canadian performer in the lead role. By virtue of the fact that the CTF requires 10 points, both the first and second lead performer must be Canadians.

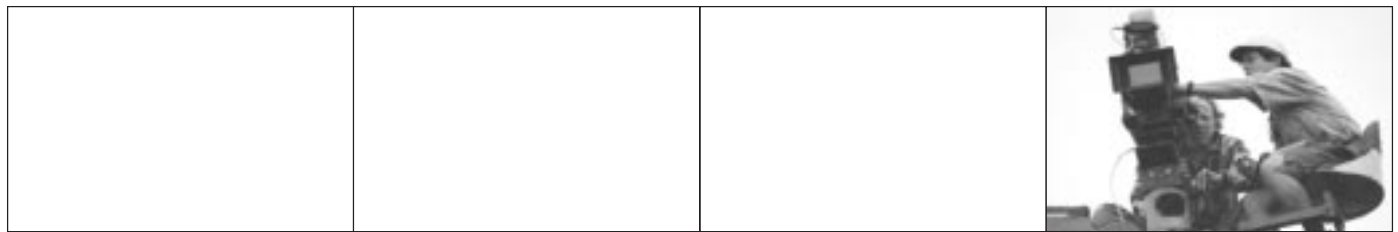
Official international co-productions

Telefilm Canada administers co-production treaties on behalf of the Government of Canada and can provide financial assistance with regard to the Canadian portion of the budget.

Official co-production agreements are binding international legal accords between governments. They are intended to encourage production by pooling creative, technical and financial resources under carefully prescribed conditions. Canada currently has more than 50 official co-production agreements with various countries around the world.

Official international co-productions receive 100% Canadian content credit; however, no points system is applied to co-productions. The creative portion must be equal to the financial portion. In other words, if a Canadian producer is responsible for 20% of the financing of a co-production, it is expected that the Canadian producer will have control over at least 20% of the creative elements of the production and 20% of the production costs must be spent in Canada.

Under these agreements, productions with a minimum of 20% Canadian participation (i.e. creative and financial) are recognized as Canadian content for broadcasting purposes. Moreover, the Canadian portion of the budget can have full access to the CPTC and access to the CTF under certain conditions.



Canadian Radio-television and Telecommunications Commission (CRTC)

The CRTC was established pursuant to the *Broadcasting Act* to provide for the licensing regulation and supervision of the Canadian broadcasting system. The Commission specifies that Canadian broadcast licensees must broadcast a certain percentage of Canadian content productions (i.e. Canadian content quota).

Today, the CRTC uses the same basic criteria as those used by CAVCO in determining whether a production is Canadian, and also requires the producer to be Canadian. In addition to those production genres eligible under CAVCO, the Commission also recognizes sports, talk shows, news, video clips, etc., using an identical points scale. Also, unlike CAVCO, the CRTC certifies co-ventures as Canadian. The CRTC defines co-ventures as international co-productions which are not included under the treaties signed by the Government of Canada.

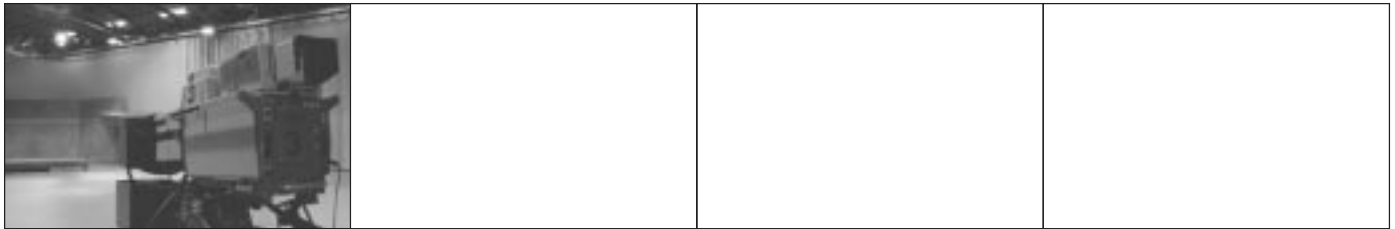
In its 2000 Review of Canadian Program Recognition Process, the CRTC rejected as impractical the unification or complete harmonization of the certification processes of CAVCO and the CRTC due to the different mandates of the organizations. However, the CRTC noted that since 1984, it has adopted numerous CAVCO definitions and interpretations where appropriate.

For the largest multi-station conventional television broadcasters, the CRTC has introduced a requirement of a minimum of eight hours of priority programming per week between 7 p.m. and 11 p.m. The eligible categories of priority programs are: Canadian drama, music and dance, and variety programs, long-form documentaries, entertainment magazine programs, and regionally produced programs in all categories except news, current affairs and sports.

The CRTC also sets Canadian content obligations for pay and specialty broadcasters, tailoring the requirement according to the service, setting individual levels of Canadian content as conditions of licence. This takes two forms – a minimum percentage of programming, and a specific level of expenditure for Canadian programming. The Weather Network/Météomédia, for example, has a 100% Canadian content requirement and 100% of its programming expenditures goes to Canadian programming. YTV has a condition of licence that requires it to exhibit 60% Canadian programming during broadcast day as well as during evening broadcast period and to expend 35% of annual gross revenues on Canadian programs.

International co-ventures

Co-ventures are generally required by the CRTC to meet the same minimum six points and 75% cost requirements as under CAVCO to obtain credit as Canadian content. The increased flexibility with a co-venture stems from the fact that a non-Canadian producer is allowed an equal decision-making responsibility on



creative elements of a production along with a Canadian producer. In such a case, however, the Canadian producer is responsible for the Canadian elements of the production budget.

Co-ventures with Commonwealth or member countries of La Francophonie provide additional flexibility. The production will be considered Canadian if the director or the writer, and at least one of the two leading performers, are Canadian, and if:

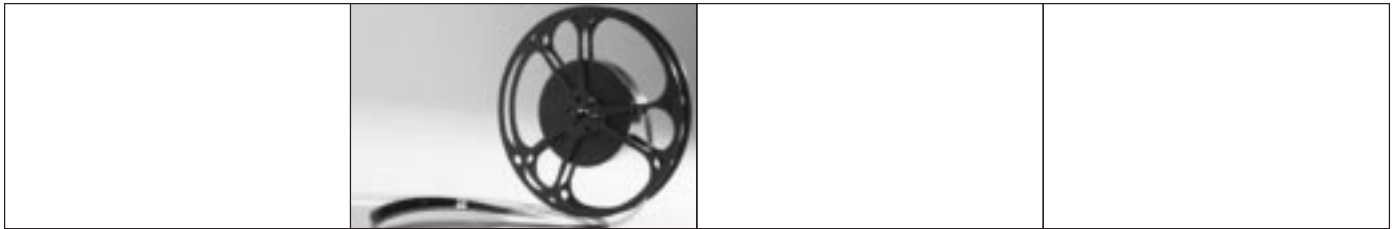
1. it meets a minimum of 5 points for key creative personnel;
2. a minimum of 50% of the total remuneration is paid to Canadians;
3. at least 50% of processing and final preparation costs are paid for services in Canada.

Canadian content bonuses

For the purpose of a broadcaster's Canadian content quota, the CRTC provides an incentive for broadcasting certain production types and genres. For example, a non-Canadian program that is produced either in French, English or in a native Canadian language, and is dubbed in any other of those languages using Canadian resources, will be awarded a 25% Canadian content credit.

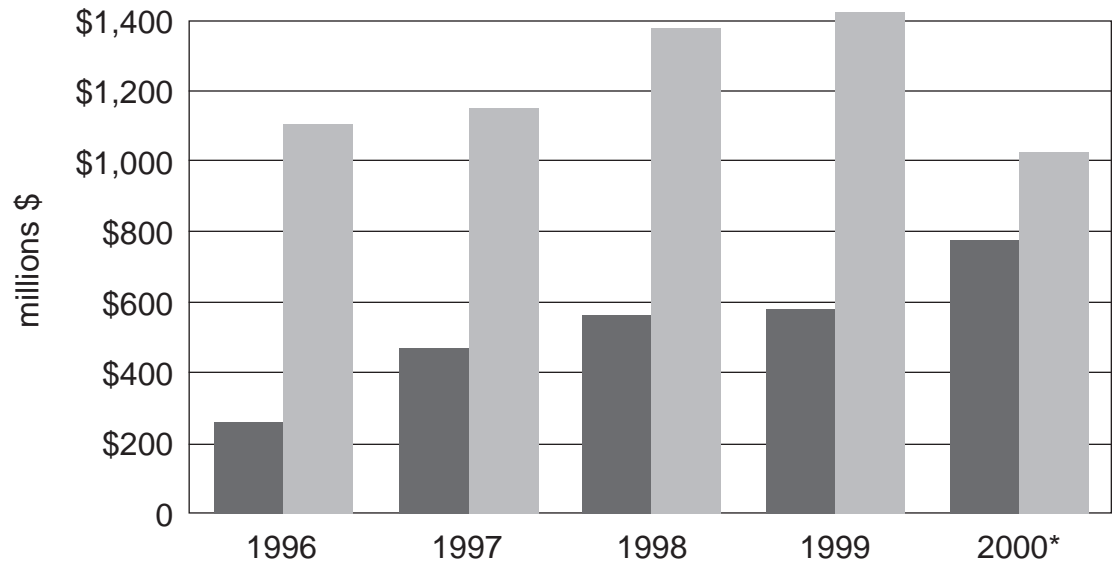
On September 1, 2000, the CRTC implemented new Canadian content provisions for the largest multi-station conventional television groups for the peak viewing period of 7 p.m. to 11 p.m.

- These broadcasters will be required to schedule a minimum of eight hours a week in the "priority programming categories of Canadian drama, music, variety, long- form documentaries and regionally produced programs in genres other than news, current affairs and sports."
- A bonus for Canadian drama programs;
 1. 150% for a 10 out of 10 drama;
 2. 125% for a 6 out of ten to 9 out of 10 drama.



ANNEX C

VOLUME OF INTERNATIONAL CO-PRODUCTION



Total Co-production Budgets	\$254.1	\$467.7	\$575.5	\$585.3	\$779.6
Total Other Canadian Production Budgets	\$1,109.3	\$1,156.5	\$1,385.3	\$1,413.6	\$1,007.5

Source:

Total Co-production Budgets from Telefilm Canada, September 2001.

Total Other Canadian Production Budgets from CAVCO, January 2002.

Note: * 2000 data is not yet complete.