

**Department of Canadian Heritage**

**Review of the Management Practices of  
Federal Government Mechanisms in  
Support of Film and Television Production**

**Submitted December 31, 1999**

This report sets out the findings, conclusions and recommendations from an independent review of the management practices of the federal government mechanisms that support television and film production.

This review was conducted in November and December 1999 at the request of the Minister of Canadian Heritage. The review was overseen by a committee of senior officials from Canadian Heritage, Treasury Board, Revenue Canada, Finance Canada and Justice Canada.

This report fulfills the requirements of the terms of reference for this review and is submitted for consideration on December 31, 1999.

**1.0 Objective and Methodology**

This review was conducted to provide the Minister of Canadian Heritage with information on the status of the management framework of the following organizations and mechanisms that provide support to Canadian film and television production:

- **The Canadian Audio-Visual Certification Office (CAVCO)**, which provides certification that allows access to a tax credit and provides Canadian content recognition for access to other public and private funds.
- **The Canada Customs and Revenue Agency (CCRA)**, which applies section 125.4 and all other provisions of the Income Tax Regulations that have an impact on the tax credit.
- **The Canadian Television Fund (CTF)**, which operates two complementary Programs in support of audio visual production: the License Fee Program and the Equity Investment Program.
- **Telefilm Canada**, which administers a number of programs, including the Feature Film Fund, the Feature Film Distribution Fund, the Multimedia Fund and, in conjunction with the Canadian Television Fund, the Equity Investment Fund. Telefilm also administers co-production agreements on behalf of the Minister of Canadian Heritage.

The review included an examination of their practices for:

- the administration of programs, roles and responsibilities,
- compliance and control measures, and
- risk assessment.

The analysis was based on the Control, Accountability and Governance Framework of the Canadian Institute of Chartered Accountants (CICA). This Framework includes four major analytical components, focusing on the following areas:

1. Purpose and objectives,
2. Commitment, authority, responsibility and accountability,
3. Capability, and
4. Monitoring and learning.

This framework is a well-recognized approach to examining management control, accountability and governance. In terms of risk assessment, the application of the CICA framework provides for an examination of compliance and control measures that mitigate risk. The framework does not identify risks.

The review findings were based on interviews and a review of documentation. However, the review findings relied most heavily on the information contained in documents, since they provided the strongest indication of actual management practices. Interviews were essential to provide context and clarification to the information in the documentation.

The following section of this report sets out the review's findings, conclusions and recommendations. The management response of each organization follows the recommendations.

## **2.0 Findings and Conclusions**

The findings and conclusions related to the management framework are set out for each individual organization and then, overall, for government support mechanisms.

### **2.1 The Canadian Audio-Visual Certification Office (CAVCO)**

CAVCO co-administers the Canadian Film or Video Production Tax Credit program (CPTC) and the Film or Video Production Services Tax Credit program (PSTC) with the Canada Customs and Revenue Agency; it does not

provide funding. CAVCO performs two distinct functions: 1) Canadian content recognition; and 2) estimation of the eligible expenses of production. CAVCO certification allows access to the tax credit and is used by other agencies to grant access to other public and private funds. This certification is also recognized by the CRTC for broadcast purposes.

For fiscal year 1998-99, total production costs of CAVCO-certified productions amounted to \$1.29 billion. Based on that amount, tax credits amounting to \$118 million could be paid out by the Canada Customs and Revenue Agency for that certification period under the Canadian Film or Video Tax Credit Program.

The review of CAVCO's management practices determined that, overall, important elements of a sound management framework are in place, but some improvements would help to mitigate risks. Specific elements following the CI CA's framework are presented below.

### **Purpose and Objectives**

- CAVCO's objectives are clearly defined and set out. Statements of these objectives are available to interested parties through publications and websites.
- Officers within CAVCO communicate among themselves to discuss and resolve substantive issues, and they also consult with outside experts when necessary to obtain an opinion or clarification.
- CAVCO does identify risk elements related to their activities and it discusses these internally among officers and with other organizations that are involved in CAVCO's program. For example, officers have discussed with CCRA specific cases where the applicant's financing involves debt or

equity with unusual characteristics. They will discuss the project to ensure that the application is eligible and that all aspects of risk are clearly understood and consistent with the intent of CAVCO certification. CAVCO also meets with CCRA to discuss identified risk issues and to ensure a common understanding of industry dynamics.

- A formal process is not in place to provide CAVCO with an independent identification and analysis of risks. A formal independent risk analysis would:
  - identify all financial and business risks that relate to the program,
  - examine the risks to determine which are the most important and which are most likely to occur,
  - examine the mechanisms now in place to help mitigate the most important risks, and
  - identify additional management practices (e.g., additional documentation requirements, audit, evaluation, etc.) that should be considered in order to minimize the occurrence of the most important risks.

An example of financial risk includes the potential for fraud. Business risks relate to issues like performance measurement or the achievement of program success. Examples include the potential of applying an incorrect mix of eligibility criteria, or relying on inappropriate performance measures.

### **Commitment, Authority, Responsibility and Accountability**

- The roles and responsibilities of all officers within CAVCO are explicitly and clearly defined.

- CAVCO's analyses are conducted by an officer, under the direction of a mentor if required (e.g., for newer officers). The analyses are then reviewed by a supervisor, then by the Chief of CAVCO, who makes the final recommendation.
- This approach, together with frequent internal dialogue, contributes to a shared understanding of the purposes of the CAVCO program, how the work is to be done, and how to interact with applicants.

### **Capability**

- CAVCO has well-defined procedures to support the ongoing sharing of knowledge, to ensure consistency across the organization, contributing to the achievement of its objectives.
- Process steps are documented, clear, supported by automated systems, and help to ensure that all those concerned are kept informed.

### **Monitoring and Learning**

- The transaction flow through CAVCO is well monitored and the organization tracks the work allocation across officers.
- As indicated earlier, a formal process to provide CAVCO with an independent identification and analysis of risks is not in place. CAVCO officers do identify and discuss the risks that come to their attention through transaction processing. However there is no independent process to help identify and examine potential risk areas that CAVCO may not yet have encountered in a transaction. An independent risk review process would be useful to help identify risks to the organization and the program. Compliance audits and a periodic review of CAVCO criteria and

processing, and of industry practices would be main components of the risk review process.

- CAVCO's transactions involve an examination of budget estimates and other documentation provided by applicants to determine eligibility (referred to as Part A). This estimate provides the basis for certification. After the production is complete, CAVCO examines the actual expenditure documentation to ensure that the production actually met the criteria for certification (called Part B). At the moment, the same officer examines both the budget estimates and the actual expenditures. This practice could be perceived as a potential conflict of interest, inasmuch as one could argue that the officer might have a vested interest in ensuring that the actual production information supports the estimate that he or she developed in Part A.
- Whether or not the current practice does represent a conflict of interest, CAVCO could mitigate this potential risk by having different officers undertake the Part A and Part B analyses of a transaction.
- Also, CAVCO does not currently have an independent ex-post audit program to verify, based on a sampling methodology, whether applicants were in full compliance with CAVCO requirements. The Part B analysis includes an examination of documentation on the production project. However, the Part B analysis is not, and is not intended to be an in-depth audit examination.
- A formal audit program would provide CAVCO with useful information on applicants' practices, and on the significance of potential risk areas. An audit program would further encourage applicants to fully comply with the program requirements. The current absence of such an audit discipline

represents a missed opportunity for CAVCO to identify potential areas for improvement in their practices.

- This review identified a potential issue related to the access of independent reviewers to CAVCO transaction files, since the CAVCO file information is protected under the Income Tax Act. Opinions indicated that the CAVCO files are considered tax information and, therefore, unavailable to personnel who were not authorized by the Canada Customs and Revenue Agency. It appears from discussions that options may be available for enabling access to tax files for special purposes, such as compliance audits. These alternatives would need to be examined by the Department of Canadian Heritage and the Canada Customs and Revenue Agency to ensure that the privacy elements of relevant legislation are complied with.

### **CAVCO - Conclusion and Recommendations**

Overall, CAVCO currently has many of the important elements of a complete management framework. CAVCO would benefit from the knowledge gained through an independent analysis of risks and an ex-post transaction audit function. Furthermore, potential risks would be mitigated by assigning the Part A and Part B analyses of any one transaction to two separate officers.

- **Recommendation 1:** To help CAVCO identify risks to the organization and the program, it should establish an independent risk review process.
- **Recommendation 2:** To enable CAVCO to benefit from an in-depth analysis of transactions, and to encourage applicants to comply with all requirements, CAVCO should establish an independent ex-post audit program.

- **Recommendation 3:** To ensure there is no real or perceived conflict of interest in transaction processing, CAVCO should assign the Part A and Part B analyses of any one transaction to two separate officers.

### **CAVCO Response:**

CAVCO is pleased with the findings of the review and its strong endorsement of existing management practices. The report's high rating for the rigour of our certification review process, the thorough documentation of policies and procedures, the sound structure of governance and accountability, in relation to CICA standards reflects very favourably on the competence and commitment of CAVCO personnel.

We support the recommendations for improvements to existing practices and will work to implement them as quickly and completely as possible. In particular, an advisory committee to review certification issues will be established, as well as a program of independent, ex-post audit for Canadian content certification. Separating the review of Part A and B certifications will be implemented as resources permit.

## **2.2 The Canada Customs and Revenue Agency (CCRA)**

The CCRA receives income tax returns that include a CAVCO certification and all pertinent income tax information. The responsibilities of the CCRA are to provide assistance to claimants and apply section 125.4 and all other provisions of the Income Tax Regulations that may have an impact on the film tax credit; to review or audit the film tax credit claims (i.e., those with CAVCO certification); and to provide refund cheques.

As indicated earlier, tax credits amounting to \$118 million could be paid out by the Canada Customs and Revenue Agency for fiscal year 1998-99 based on certification provided by the Canadian Film or Video Tax Credit Program.

Documentation from CCRA, and interviews with CCRA officers indicated that the management framework used to assess tax credits in support of Canadian television and film production reflects the standard practices of the Agency. The main elements of the framework are set out below.

With respect to purpose and objectives, CCRA has a clearly defined mandate set out in its legislation and regulations. As for certain other specialized tax-based incentives, CCRA has established a special organization for assessing, reviewing, and auditing tax returns that include a CAVCO certification. This special unit meets with CAVCO to understand the industry developments and to discuss areas of potential risk. CCRA indicated that, as a standard practice, it is more vigilant for new programs until they fully understand the risk areas, from an income tax perspective. CCRA indicated that, from their perspective, CAVCO is still a relatively new program. The process for selecting and examining files for audit relies on standard CCRA audit approaches and guidelines for identifying risks.

With respect to the other three areas of the CICA framework (i.e., commitment, authority, responsibility, and accountability; capability; and monitoring and learning), two factors provide a satisfactory level of confidence that the necessary management practices are in place within CCRA. First, CCRA has established a specially-focused and trained internal organization to review CAVCO-related tax returns from the film and television production sector. This indicates that CCRA is assertive in examining and addressing potential risk areas

from a taxation perspective, including the risk of tax fraud.

Second, CCRA's approach to using standard filing assessment, risk analysis, and audit procedures indicates that the Agency's long-standing expertise is being applied to these returns. This approach includes an ongoing analysis of tax-related issues and risks, which in turn contributes to continuous improvement.

### **CCRA - Conclusion**

CCRA has taken assertive steps to identify the risks and issues related to income tax returns that include CAVCO certification, and to enable it to stay abreast of changes in the industry.

No recommendations are directed to CCRA at this time.

## **2.3 The Canadian Television Fund (CTF)**

The Canadian Television Fund is a public-private partnership created by the Government of Canada and the Canadian cable industry. It is one fund with two complementary Programs: the License Fee Program (LFP) and the Equity Investment Program (EIP). The EIP is administered by Telefilm Canada. The CTF works to increase the quality and quantity of distinctively Canadian television productions while supporting the production and broadcasting sectors and the employment opportunities they create.

The CTF's combined budget for 1998-99 was \$210 million, split about evenly between the EIP and the LFP.

At the time of this review, a separate, independent evaluation of the CTF was underway. The evaluation was launched in the summer of 1999 and expected to be completed early next year. To avoid duplication and unnecessary disruption to the CTF, this review reflects

the evaluation analysis available to date that relates to the CTF's management framework.

The Office of the Auditor General (OAG) recently released a chapter on new governance arrangements (Chapter 23, 1999) that included observations on the CTF. The chapter examined the governance of federal organizations representing alternative service delivery models. It set out many conclusions related to all the organizations included in the audit scope. Specific references to the CTF in the chapter indicated that the CTF's targets, measures, and indicators are focused mainly on outputs, rather than what has been accomplished in relation to objectives. On a positive note, the chapter also indicated that the CTF was one of only two organizations examined that had undertaken a program evaluation, and that federal provisions for access to information apply only to the government's ongoing operational involvement in the Canadian Television Fund and one of the other organizations examined.

The above-mentioned evaluation analysis to date identified a number of areas relevant to this review. These are summarized below in the context of the specific elements of the CI CA's Control, Accountability and Governance Framework.

### **Purpose and Objectives**

- The CTF has clear objectives, which are set out in its Activity Report and other documentation.
- Evaluation analysis indicated that the CTF needs to communicate more clearly the linkage between its objectives and how the objectives apply to programs, in particular project selection for the EIP.
- The evaluation research indicated that progress has been made in improving the transparency of

decision-making through the development and dissemination of an application evaluation grid. However, the CTF still needs to explain how EIP criteria are actually applied within the decision-making process.

### **Commitment, Authority, Responsibility and Accountability**

- The evaluation analysis also indicated that the authorities, accountability, and administrative structures need to be clarified further. The CTF involves two Boards of Directors (CTF and Telefilm Canada), two program administrations (CTF and Telefilm Canada), and two geographic locations (CTF in Toronto, Telefilm in Montreal). The evaluation research indicated that this situation might contribute to inefficiencies in processing and decision-making.
- The lack of clear communication of objectives and criteria, as well as the lack of clear authorities and accountabilities, also affect aspects of application processing. The evaluation research found that applicants, and by extension the industry, would benefit significantly from increased clarity in these areas. This all suggests that the CTF needs to focus on improving process and administrative simplicity.

### **Capability**

- The information available for this review did not include comments on the CTF's capability.

### **Monitoring and Learning**

- The conduct of the evaluation itself is an important contribution to the CTF's monitoring and

learning management practice. The CTF should take advantage of the evaluation research and analysis to reconsider and continually improve all aspects of its management framework.

- The Office of the Auditor General (OAG) indicated in a recent chapter that CTF was one of two entities from the entire sample of alternative service delivery organizations examined where federal provisions for access to information apply. This indicates that CTF meets that OAG criterion for transparency, which contributes to oversight. This is an important feature of the CTF's current management framework and indicates that the CTF's activities are open to oversight (e.g., review and audit) if required.
- The evaluation analysis indicated that the CTF's performance measurement regime needs to be more complete. The evaluation analysis provides useful direction on next steps that should be taken by CTF in this regard.
- Research indicates that important parts of the monitoring and learning regime are in place. However, elements of the regime still need to be thought through and completed.

### **CTF - Conclusions and Recommendation**

Based on the research information available, it appears that the CTF has some elements of a management framework in place, and that important elements of the management framework need attention.

The evaluation launched in the summer of 1999 will include a number of recommendations, including some that will apply to the CTF management framework. Without prejudging those recommendations, we believe that the CTF should move quickly to address the

concerns that the evaluation may identify related to the clarity and communication of objectives, decision-making criteria, process improvements, and performance measurement.

- **Recommendation 4:** To enable the CTF to improve its management framework with as little delay as possible, it should move quickly on any recommendations it receives from the independent evaluation currently underway as they relate to improving the clarity and communication of objectives, decision-making criteria, process improvements, and performance measurement.

#### **Canadian Television Fund Response:**

The Fund has established a very cooperative and positive working relationship with the Department of Canadian Heritage and the Government, most recently via the work in the “Involving others in Governing: Accountability at Risk” report by the Auditor General of Canada and the independent evaluation of the Fund currently underway.

We are determined in our efforts to constantly improve our management framework and welcome the comments contained in this report. As always, we look forward to working with the Department, the Government and the other Funds reviewed in the report to address any concerns brought forward.

#### **2.4 Telefilm Canada (Telefilm)**

Telefilm Canada administers a number of programs, including the Feature Film Fund, the Feature Film Distribution Fund, the Multimedia Fund, and the Equity Investment Program of the Canadian Television Fund. Telefilm also administers co-production agreements on

behalf of the Minister of Canadian Heritage. Under co-production agreements, producers are required to comply with the applicable treaties established between Canada and over 54 countries and the guidelines established by Telefilm Canada.

Telefilm's financial assistance takes the form of direct cash investments, advances, loans or grants, depending on the program. Most of the funding is provided to production activities where Telefilm takes an equity position of up to 49% of an eligible production. Its average investment in recent years has not exceeded 30%.

Telefilm's overall budget for 1998-99 was about \$200 million.

The Office of the Auditor General of Canada conducts an annual financial audit against the Financial Administration Act and the Telefilm Act.

During the past year, Telefilm Canada has retained an accounting firm to provide direction and assistance. The general terms of reference for that engagement include the following:

- to identify and assess Telefilm's financial and business risk areas,
- to prepare an audit plan covering a three-year cycle, and
- to develop an internal audit program for each of the audit projects identified in the plan.

Telefilm has indicated that the Audit Committee of its Board of Directors is actively involved in this project.

The following findings relate to Telefilm's current status with respect to the CICA Control, Accountability and Governance Framework.

### **Purpose and Objectives**

- Telefilm's corporate purpose and objectives are clearly set out in its Annual Report and other literature. As indicated earlier under the discussion of the CTF, the objectives of the Equity Investment Program (EIP) need to be clarified, and this observation involves both the CTF and Telefilm Canada.
- Telefilm undertook an internal analysis of business risks at the end of 1998. This effort is being reinforced by the current engagement with the accounting firm.
- Telefilm does have internal policies related to human resources and financial procedures. Future audits will determine whether these policies need updating.
- Policies related to some specific programs exist. However, corporate-level policies to support the organization's objectives, which incorporate management of risk, still need to be developed. Also, Telefilm's current performance targets and indicators focus mostly on the measurement of outputs, and measures for "results" still need to be developed fully. These two aspects are expected to be identified in the risk analysis and audit planning now underway by Telefilm Canada.

### **Commitment, Authority, Responsibility and Accountability**

- The documentation indicates that information is shared across the organization through formal correspondence and meetings. This contributes to

shared ethical values and a common understanding of business objectives, policies and practices. However, more systematic and structured information exchange would contribute to improved coordination and continuous learning.

- The roles and responsibilities of Telefilm's corporate officers are explicitly and clearly defined. The roles and responsibilities and hierarchy of program-related decision-making were not formally set out in documentary form.
- A complete audit risk assessment and audit program will lead to recommendations for improvement in these areas.

### **Capability**

- Telefilm has tools to guide and assist officers in some program areas. However, a comprehensive knowledge-base, information-sharing approach, and set of process-improvement tools still need to be completed.
- As these are developed, the communication and coordination of decisions and actions of different parts of the organization should improve. Also, the related control activities will, over time, become an integral part of the organization.
- The impetus for these improvements would also result from the implementation of a complete internal audit program.

### **Monitoring and Learning**

- Telefilm has conducted evaluations of its programs in past years. This discipline is a very important management practice for monitoring the organization's activities and implementing corrective measures. Evaluations contribute to monitoring external and internal environments to

obtain information that may signal a need to re-evaluate Telefilm's objectives and control.

- Telefilm has also been participating for several years in the Canadian Heritage Portfolio Heads of Audit and Review Committee. This committee is a forum for exchanging evaluation- and audit-related information and approaches among the portfolio organizations, which all contribute to a common public policy purpose.
- A complete internal audit function, which includes follow-up mechanisms, together with management commitment, will actively encourage continuous improvement throughout the organization. The audit function will also ensure periodic assessment of the effectiveness of control, and communicate the results to Telefilm's Board of Directors.

### **Telefilm Canada - Conclusion and Recommendation**

Telefilm's current initiative to obtain an external, independent risk assessment, develop an audit plan, and develop audit programs for upcoming audits is an important step. A complete internal audit function will, over time, provide an examination, conclusions and recommendations for improving all the elements of Telefilm's management framework. Telefilm Canada's Board of Directors and management team should continue to support actively all efforts in this area.

One important caveat is that it will take several years for internal audit to address all the areas of the management framework. As a result, on its own, Telefilm may not be able to progress as quickly as it should in filling gaps identified in its management framework.

It is important to recognize that organizational change, whether driven by internal audit or other efforts, takes time. However, to delay important changes increases the risks to Telefilm.

To accelerate the improvements to management systems and practices and complete its management framework within a shorter timeframe, Telefilm may wish to turn to other agencies for direction and assistance on best practices.

- **Recommendation 5:** To accelerate its pace in improving its management control framework, Telefilm Canada should seek guidance and assistance from external sources, particularly with regard to best practices.

#### **Telefilm Canada Response:**

Telefilm Canada endorses without hesitation Recommendation 5, and agrees that it will continue to improve its management mechanisms, in keeping with the observations outlined in Section 2.4.

We will therefore ensure that new measures proposed in the report are put in place in the short term. In addition, we will attempt to accelerate, as much as possible, the various efforts already under way to enhance our management framework, with the active participation of the internal audit team, among others, as suggested in the report. Finally, we will seek outside advice concerning best practices.

We believe that these measures will help Telefilm Canada maintain rigorous management systems designed to ensure that investment decisions reflect major public policy objectives and that appropriate use is made of public funds.

#### **2.5 General Observations Related to this Review**

This review found, overall, that the four organizations and mechanisms reviewed have, individually, elements of a

sound and complete management framework, and that some important elements need strengthening.

If we consider the four organizations/mechanisms as one combined system intended to provide support to the industry, two areas of the overall management framework need particular attention.

First, risk analysis needs to be conducted for the entire support system to ensure that the industry and the government are protected from the highest financial and business risks. As indicated earlier, risk analysis would:

- identify all the financial and business risks that relate to the support provided,
- examine the risks to determine which are the most important and which are most likely to occur,
- examine the mechanisms now in place to help mitigate the most important risks, and
- identify additional management practices (e.g., additional documentation requirements, audit, evaluation, etc.) that should be considered in order to minimize the occurrence of the most important risks.

Currently, CCRA conducts risk analysis, and CAVCO, the CTF, and Telefilm individually need improvement in this area. A system-wide risk analysis would provide a comprehensive perspective that is essential to the government and important to the industry. Furthermore, such a risk analysis could contribute to improving other system-wide elements and behaviours, such as:

- helping to establish a more integrated approach to managing and providing support to the Canadian television and film industry,

- identifying opportunities to better link the objectives, decision-making criteria and processing of all support mechanisms,
- expanding communication and coordination across the four organizations, and
- sharing good management practices and tools across the organizations.

A risk analysis should be conducted relatively soon so that the most important risks are mitigated, and improved management controls put into place.

- **Recommendation 6:** To enable the government to mitigate against the highest business and financial risks, a system-wide risk analysis of the overall federal support mechanisms to television and film production should be conducted.

On a system-wide basis, the practices for information sharing need to be improved. Currently, the four organizations do not share information on a continuous basis as a matter of common practice and, indeed, there may be some regulatory impediments to doing so. The review determined that communication and knowledge sharing between Telefilm and the CTF should be stronger. This situation generally weakens the management framework for the overall system. Also, as discussed earlier under CAVCO, the possible legal barrier to information sharing related to the Income Tax Act needs to be addressed. Effective information sharing will help to improve all elements of the management framework, particularly the management of risk.

- **Recommendation 7:** To ensure compliance and control and mitigate significant risks, the Department of Canadian Heritage should ensure that CAVCO and CCRA share information as necessary.

- **Recommendation 8:** To improve the system-wide management framework, all four organizations need to improve the sharing of information. Barriers to information sharing should be eliminated.

**Department of Canadian Heritage Response:**

Canadian Heritage will work with the Canadian Customs and Revenue Agency to establish means of enhancing monitoring and auditing activities at the federal level and sharing results in order to reinforce existing compliance and control measures.

The Corporate Review Branch of the Department of Canadian Heritage will work with colleagues at CAVCO, Telefilm, and the CTF to establish an appropriate action plan flowing from the findings and recommendations of the review. In particular, action will be taken on improved information exchange, possible joint risk analysis on a system-wide basis and technical support for audit planning, performance measurement and clearer reporting.