

**REPORT OF THE CRTC TASK FORCE ON THE  
CANADIAN TELEVISION FUND**

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# REPORT OF THE CRTC TASK FORCE ON THE CANADIAN TELEVISION FUND

## EXECUTIVE SUMMARY

Following extensive consultations with all sectors of the television broadcasting industry, the CRTC Task Force on the Canadian Television Fund affirms the important role played by the Canadian Television Fund (CTF) and the independent production sector in producing quality Canadian television programs. The Task Force also affirms the importance of the government's contributions to the CTF and considers that the existing Contribution Agreement between the Department of Canadian Heritage (DCH) and the CTF is an appropriate mechanism to ensure that government funding is directed to support culturally significant Canadian programs and other special initiatives.

However, given the increasingly competitive environment facing Canadian broadcasting, the Task Force considers that changes should be made in order that the CTF direct the funds contributed by broadcasting distribution undertakings (BDUs) to a more flexible and market-oriented funding stream providing further support for Canadian hits. This new private sector funding stream would fulfill the following objectives:

- Qualifying Canadian programming would be broadcast in prime time, would meet a minimum of 8/10 Canadian content points on the Canadian Audio-Visual Certification Office of the Department of Canadian Heritage (CAVCO) scale, and would continue to fall within the CTF's traditional genres of drama, children's and youth, documentary and variety/performing arts programming;
- Audience success would be the primary criteria for continued funding;
- Actual and potential return on investment would be a factor in allocating funding and taking into account the different realities of English and French markets.

In order to ensure early implementation, the Task Force proposes that the CRTC amend the *Broadcasting Distribution Regulations* (the BDU Regulations) so that BDU contributions are directed to this new private sector funding stream. The amendment would also ensure that BDUs make their contributions on a monthly basis.

The CTF Guidelines governing the private sector funding stream would be simplified by focusing on the following essential criteria:

- Underlying rights are owned and significantly and meaningfully developed by Canadians;

- Projects must reflect Canadian experiences;
- Projects must be certified by CAVCO and attain a minimum of 8/10 points.

The Task Force has also made a number of recommendations to increase the efficiency and effectiveness of the CTF itself. These include:

- The creation of an envelope to support Canadian programs for new media platforms;
- More flexibility for CRTC-certified independent funds to invest in Canadian programs for new media platforms;
- Equal sharing between producers and broadcasters of net revenues from new media platforms – unless the parties agree to an alternative arrangement;
- The allocation by the CRTC of a portion of television benefits to the CTF;
- CTF equity investments in programs supported through the new funding stream;
- Increased broadcaster licence fees; and
- A reduction in the amount of federal tax credits to be included in the financing structure of productions.

Finally, with respect to governance and conflict of interest issues, the Task Force recognizes that while a smaller Board could be more efficient, significant change to the structure of the CTF Board could take a substantial amount of time to implement. It also recognizes the important contributions that stakeholder representatives make to the Board. Accordingly, the Task Force has made a number of recommendations designed to encourage greater participation by BDU representatives and to clarify the roles of the Board and the CTF staff. The Task Force also reviewed allegations of conflicts of interest at the CTF and is satisfied that the steps taken by the Board in recent years have been appropriate and effective. Nevertheless, the Task Force recommends that, to avoid the perception of conflict, direct recipients of CTF funds not sit on the CTF Board. Key recommendations dealing with governance set out in the report include:

- The addition of a second Board member to represent the DTH sector;
- The removal of direct recipients from the CTF Board while ensuring that the perspectives of the independent production sector continue to form a part of CTF deliberations;
- The creation of a nominating committee consisting of contributing members;

- A clear policy identifying the respective roles of Board and staff;
- The designation of the President as President and CEO of the Corporation; and
- The reconsideration of the need for a paid Chair and the recommendation that the Chair be nominated from the independent members or members representing contributors on the Board.

## **BACKGROUND**

On 20 February 2007, the Commission established the Task Force in response to concerns raised by Shaw Communications (Shaw) and Quebecor inc. (Quebecor) regarding the operations and governance of the CTF. These licensees had withheld their monthly payments to the CTF. Payments are required from major BDUs under sections 29 and 44 of the BDU Regulations. Coincident with the establishment of the Task Force, Shaw and Quebecor resumed their payments.

## **THE TASK FORCE MANDATE**

The mandate of the Task Force was to investigate issues related to the funding of Canadian programming and the governance of the CTF, including the following specific issues:

- The most effective use of the required contributions from BDUs;
- The most appropriate size and structure of the CTF Board; and
- The most appropriate mechanisms to deal with real or perceived conflicts of interest at the CTF.

The aim of the Task Force, as described in a 20 February 2007 press release, was to develop a consensus to resolve the concerns raised by stakeholders or, failing that, to set out possible options to resolve any remaining issues.

## **THE TASK FORCE CONSULTATIONS**

Between 22 February and 8 May 2007, the Task Force met with 61 groups and 144 individuals representing all sectors of the Canadian television industry. A complete list of the parties consulted by the Task Force is attached as Appendix A.

The meetings with interested parties were conducted on a confidential basis in order to encourage an open and frank sharing of information and discussion of views. No notes were taken.

The Task Force thanks all the parties who met with it and took the time to help it better understand the issues relevant to its mandate.

## **PARLIAMENTARY COMMITTEE REPORTS**

In preparing this report, the Task Force has also taken into consideration the March 2007 report issued by the Standing Committee on Canadian Heritage and the May 2007 report issued by the Standing Senate Committee on Transport and Communications. These reports addressed many issues that fall under the mandate of the CRTC Task Force.

In particular, the Task Force notes that the Senate report concludes as follows:

*A subsequent and more fundamental step will address the question: Can an alternative fund, with a different structure and different operating procedures, produce more and better Canadian television programs? This is another way of asking whether the CTF is as efficient in its spending as it could be.*

In the report that follows, the Task Force addresses this fundamental question.

## **SEEKING CONSENSUS**

In order to determine whether consensus on the major issues was possible, the Task Force made sure that it fully understood the points of views of the CTF and the BDUs whose actions precipitated the review. Accordingly, an early meeting was held with the Chair and the President of the Fund. This was followed by separate meetings with CTF senior staff and with members of the independent committee of the Board.

The Task Force also met with senior staff from Quebecor and Shaw. Mr. Jim Shaw, CEO of the company, attended a second meeting.

In order to understand the position of the government, the Task Force met with the Deputy Minister and senior officials from the DCH.

Having conducted these meetings and having heard from a broad range of other industry stakeholders, the Task Force has not been able to find sufficient common ground to develop any form of consensus on the major issues.

Parties agreed on the need for the broadcasting system to create high-quality Canadian television programming. However, their views on the best mechanisms to achieve that goal were widely divergent.

The Task Force identified the following as major areas of unresolved friction between the CTF and its BDU contributors. It is also noteworthy that other parties consulted often expressed concerns over these same matters.

- Disagreement over the appropriate objectives for the CTF;
- The influence that BDU contributors have on defining the mission and direction of the Fund and the lack of effective accountability and communication between the Fund and its BDU contributors;
- The complexity of the CTF program Guidelines;
- The CBC envelope; and
- The structure and membership of the CTF Board.

The Task Force's consultations gave rise to a large number of proposals designed to clarify the objectives of the CTF and improve its governance and operations. The Task Force has taken these into consideration in making the findings and recommendations set out below.

## **THE ORIGINS OF THE CTF**

The CTF began its existence as the Cable Production Fund (CPF) created in 1994 following the CRTC's 1993 Structural Public Hearing. In Public Notice 1993-74, the Commission determined that contributing to the development of Canadian programming was an important Canadian broadcasting policy objective and laid the groundwork for the creation of a fund based upon voluntary contributions by BDUs.

Building on a proposal by the Canadian Cable Television Association (CCTA), cable BDUs were permitted to voluntarily pay into a fund. The Commission would then suspend the reductions required under the *Cable Television Regulations, 1986* for licensees who contributed 50% of the amount by which the basic monthly fee would otherwise have been reduced. BDUs that contributed to the fund were permitted to keep the remaining 50%.

The CPF was designed to support Canadian programs in the under-represented program categories that received 8 out of 10 Canadian content points. Disbursements were made to qualifying independent productions that had commitments from a licensed programming undertaking to acquire the project. The CRTC set out the broad objectives for the CPF and required it to be administered by a stakeholder Board of Directors with representation from broadcasters, BDUs and producers. Applications were to be appraised using objective criteria and the Board was to report annually to the Commission.



In 1995, the Governor in Council issued a Direction to the CRTC indicating that the contributions of direct-to-home (DTH) BDUs should include a financial contribution of more than five per cent of their gross annual revenues to the production of Canadian programming. The Commission implemented this Direction by imposing a condition of licence on DTH undertakings requiring them to contribute to an existing, independently administered Canadian production fund.

In 1996, the Minister of Canadian Heritage announced the creation of the Canadian Television and Cable Production Fund (the CTCPF), which incorporated the CPF and Telefilm's Broadcast Development Fund and was to be supplemented by new government funding. As a result, the Commission, in Public Notice 1996-159, agreed to transfer its oversight of the CPF to the DCH. In 1998, the name of the CTCPF was changed to the Canadian Television Fund. The DCH exercises its oversight of the CTF through a contribution agreement that sets out in considerable detail the objectives and operational criteria of the CTF. Under the terms of the Contribution Agreement, the DCH applies these objectives and criteria to the funds received from BDUs as well as to those received from government.

In 1998, the revised BDU Regulations required that all Class 1, Class 2 and DTH licensees make set contributions to independent production funds for the development of Canadian programming. Of the required amounts, 80% must be directed to the CTF and 20% to one or more approved independent production funds.

## **THE RECENT EVOLUTION OF THE CTF**

In response to a letter from the DCH dated 12 June 2005, there has been a significant restructuring of the CTF and Telefilm Canada in order to harmonize their respective mandates and administration.

The key features of the CTF today are as follows:

### **a) Objective**

The objective of the CTF, as set out in the Contribution Agreement, is “to assist the creation and broadcast in peak viewing hours of high quality, culturally significant Canadian television programs in both official languages in the genres of drama, children’s and youth, documentary and variety/performing arts, and build audiences for these programs.”

In fulfilling this objective, the CTF is required to accomplish a wide variety of tasks, including:

- Supporting aboriginal productions;
- Providing an envelope for the CBC;
- Providing incentives for regional productions;
- Supporting Francophone producers in minority situations; and
- Supporting educational broadcasters.

b) Governance

The CTF is a non-profit corporation with membership representing government, the CBC, and major industry associations. The Board of Directors consists of 20 persons nominated by the member organizations as follows:

CCTA	3 Directors – one of whom must be independent
CAFDE	1 Director
CFTPA	2 Directors
APFTQ	1 Director
ATEC	1 Director
CBC	1 Director
DCH	5 Directors – 3 of whom must be independent
CAB	4 Directors
DTH	1 Director
Chair	1 – must be independent

*Note:* on 31 May 2007, the CTF Board had 7 independent members – 4 from the DCH, 1 from the CCTA, 1 from the CAFDE, and the Chair.

c) Conflict of Interest Guidelines

The CTF has detailed conflict of interest guidelines that include a requirement for a double-majority vote on all major issues. The double-majority requires that a motion be approved by a majority of all Directors and a majority of the Independent Directors.

d) Administration

CTF staff prepares the Program Guidelines, negotiates the Contribution Agreement with the DCH, and provides reports, research and other information as requested by the Board.

The CTF has a Services Agreement with Telefilm Canada under which Telefilm administers the CTF programs.

e) Program Guidelines

The CTF publishes detailed Program Guidelines annually. These guidelines set out the essential requirements that any production seeking funding must meet. The guidelines also set out rules and definitions governing all the funding streams managed by the CTF. The guidelines can be found on the CTF website at:

<http://www.canadiantelevisionfund.ca/producers/guidelines/bpe0708.pdf>

f) Allocation of CTF Funds

The bulk of the CTF funds are allocated through a Broadcaster Performance Envelope (BPE) stream. Funds are allocated to broadcasters annually based upon the broadcasters' track records of support for CTF programs, audience success, level of regional production and licence fees that exceed required minimums. The envelopes are subdivided by program genre, although broadcasters have some flexibility to move funds between genres and between other broadcaster envelopes belonging to the same corporate group.

The CBC has a guaranteed envelope amounting to 37% of the BPE stream. This envelope is not subject to audience success criteria.

In addition to the BPE stream, the CTF allocates funds through a Special Initiatives Stream. This includes:

- Aboriginal-language productions;
- French-language productions outside Quebec;
- Development financing; and
- Versioning assistance (subtitling and dubbing).

The CBC also has access to 37% of this stream.

## **WHAT THE TASK FORCE HEARD**

### **1. THE MOST EFFECTIVE USE OF THE REQUIRED CONTRIBUTIONS FROM BDUS**

#### **1.1 The Objectives of the CTF**

The Task Force heard a variety of comments with respect to the objectives of the CTF. A common concern related to the fact that, since 1996, the CTF has operated under a Contribution Agreement that has governed not only the public funds transferred from the DCH, but also the funds contributed by BDUs pursuant to CRTC regulation. While a number of parties expressed the view that the objectives set out in the Contribution Agreement were appropriate for all CTF funds, others proposed that the BDU contributions could and should be treated differently.

Some parties made the point that the variety of objectives set out in the Contribution Agreement may have the effect of diluting the focus of the Fund and encouraging the CTF to develop excessively complex program guidelines. According to these parties, the Fund would benefit from more clearly defined objectives and much simpler program guidelines.

In this regard, it was also noted that the objective of “building audiences” seems to have been added on to the primary goal of supporting culturally significant programming. Further, the essential requirements set out in the CTF program guidelines do not include any criteria designed to ensure success with audiences.

Parties recognized that when government allocates public funds it has the right and duty to ensure that these funds are spent in support of government objectives. Further, the agency dispersing public funds must be accountable to government with respect to the mechanisms used and the evaluation of the program against the government’s objectives.

In this regard, several parties noted the value of Special Initiatives streams that support aboriginal productions and French-language productions outside Quebec as well as development and versioning assistance.

However, many parties were of the view that if the CRTC were able to re-establish oversight of the BDU contributions, these funds could be dispersed in a more focused and flexible manner. The parties suggesting this approach generally considered that the broadcasting system, and the Canadian public, would benefit from financial support for programs with more market-driven objectives. The CTF, in this view, should focus the BDU contributions more directly on assisting producers and broadcasters to develop hits. The government’s contribution, on the other hand, could continue to be focused on the important public policy objectives set out in the Contribution Agreement. Such objectives, of course, may change as government policy evolves.

## **1.2 The CTF Program Guidelines**

A large number of parties expressed the view that the CTF's program guidelines have become excessively complex and restrictive.

Examples given were the requirement for 10 out of 10 Canadian content points, the requirement that the project be shot and set in Canada, the fact that pilots funded through the CTF must be broadcast regardless of their quality, and requirements that restrict the negotiation of other rights.

Certain broadcasters were also concerned about limitations on access to the CTF for in-house and broadcaster-affiliated production companies.

In the view of these parties, the complex guidelines make it more difficult for producers and broadcasters to develop and sustain Canadian projects that will focus on audience success.

Other parties, particularly producers, made the point that many of the complex guidelines serve to protect the producers' interests in their negotiations with broadcasters.

Finally, a number of parties expressed concern that the allocation of funds under the broadcaster envelope system has recently seen a significant reduction in allocations for certain French-language over-the-air broadcasters that could have a serious impact on their program production.

## **1.3 The CTF and New Media**

According to Quebecor, a major reason for its temporary withdrawal of contributions to the CTF was "... the Fund's failure to date to recognize the role of video on demand (VOD) in the financing and dissemination of Canadian content." Quebecor noted that its licensed VOD service in Quebec logged nearly 20 million orders for VOD programs in 2006. The vast majority were for Canadian productions.

In its consultations with all parties, the Task Force raised the issue of the most appropriate role for the CTF in supporting new media activities (including VOD). It heard a wide variety of views.

All parties recognized that providing quality Canadian content suitable for the new digital platforms is a necessary business strategy consistent with public policy goals. There were, however, a variety of views on the role of the CTF in supporting such activities.

The Task Force was told that in many cases producers invest in various new media applications as an integral part of the television production. In some cases, broadcasters require these additional elements and may participate in their financing. Producers and broadcasters negotiate the appropriate sharing of rights and revenues.

Broadcasters expressed concerns that the CTF rules do not permit a broadcaster's licence fee to include other rights such as digital platforms and VOD. Some parties indicated that they are having difficulty in negotiating with producers a reasonable sharing of these rights.

Producers, on the other hand, maintained that broadcasters are unwilling to pay additional fees for these other rights and that revenues from the exploitation of such rights are key to the future survival of independent production companies.

Some parties agreed that the CTF could help break this apparent logjam by requiring, on an interim basis, a simple 50/50 split of net revenues from new media platforms – at least until the parties agree to an alternative arrangement.

A number of parties also pointed out that the funding of new media projects by the CTF would dilute the focus on its primary objective of supporting culturally significant Canadian television programs. It was noted that the Fund is currently over-subscribed and that new resources should be made available if it is required to support new objectives. Parties also noted that there are other sources of financial support for new media projects. For example, the Bell New Media Fund allocates approximately \$8M per year to such projects.

On the other hand, the Task Force heard from many parties that the CTF must find ways to help support new media projects. Several participants suggested that a minimum of 10% of the CTF's disbursements should be directed to this end. Others suggested that revenues from CTF equity investments could be allocated to new media projects.

#### **1.4 Sources of New Funding for the CTF**

A large number of parties pointed out to the Task Force that the CTF is consistently over-subscribed and that insufficient resources to meet the demand from producers and broadcasters may account for the growing complexity of CTF program guidelines. As noted above, inadequate resources may be one reason for the CTF's apparent reluctance to support new media projects.

A concern emphasized by Shaw, but also raised by others, was that CTF support provides a significant subsidy for Canadian private broadcasters. It was noted that Canadian broadcasters pay very low licence fees in comparison with other similar jurisdictions and that this may be, in part, the result of the CTF's licence fee top-up program, whereby in order to qualify for CTF support, a broadcaster must pay a minimum licence fee based upon the genre and production budget of the project. For instance, for a one-hour drama series costing more than \$800,000 per hour, the minimum licence fee is \$315,000.

Some parties proposed that an increase in the minimum fees would allow the CTF to fund more projects or to allocate more money to those projects most likely to succeed. Others suggested that the CTF take into consideration any CRTC benefit spending when establishing that licensee's annual BPE. Another suggestion was that CTF support be contingent upon the broadcasters' commitment to minimum levels of promotional support for the production. Actions such as these would increase the broadcaster's risk in CTF-supported productions, thus motivating the broadcaster to take the necessary actions to augment the project's chance of success.

Several parties also suggested that the CTF should be prepared to make equity investments in the programs it supports. The return on such investments would provide additional resources to the CTF and encourage it to fund programs with a greater chance of audience success.

The Task Force also heard from producers, in particular documentary producers, who expressed concern that CTF rules permit a maximum of 90% of the federal tax credits to be included in the financial structure of the production. In the producers' view, this maximum has become a minimum required by broadcasters. The effect is that producers must borrow the money since the tax credits are not payable until approximately two years after the completion of the project. This means that significant dollars flow to financing charges and are not available for Canadian programming. Even more important, the tax credits that were designed to support independent production companies between projects are not being used for their original purpose. In the view of producers, if broadcasters assumed more of the risk, more of the tax credits would be available to support production companies, allowing them to invest in the development of new projects.

Several broadcasters and producers made the point that the CTF should also support more than 13 episodes of a drama series in a given funding cycle. The maximum number often suggested was between 19 and 22.

Finally, the Task Force heard widespread support for the CRTC to amend its BDU Regulations to require contributions on a monthly basis.

## **2. THE MOST APPROPRIATE SIZE AND STRUCTURE OF THE CTF BOARD**

### **2.1 Advantages and Disadvantages of a Stakeholder Board**

Parties had strong and divergent views on the most appropriate size and composition of the CTF Board.

There was general consensus that the ideal size for a board with responsibilities such as the CTF is between 5 and 11 persons. Larger boards are more difficult to manage, are more expensive, and tend to be dominated by a smaller group of active members.

The nature of Board membership, and in particular the value of membership from sectors with a clear financial interest in Board decisions, was, however, the subject of divergent views.

The Task Force met with a large number of individuals who had been Board members or senior CTF staff at various times in the organization's history. It also met with current Board members, including 6 of the 7 independent Board members.

Generally speaking, those with experience on the CTF Board were impressed with the knowledge, dedication and fiduciary responsibility that members brought to their task. They recognized the challenges facing a large Board and in particular, the possibility for conflict of interest that a stakeholder Board inevitably entails. Nevertheless, the impression given by those with direct experience was that the CTF Board had made serious efforts to rise above these obstacles and, in almost all circumstances, had succeeded. The Task Force addresses conflict of interest concerns in section 3 of this report.

Other parties, however, expressed serious concerns about the current stakeholder Board. In some cases, these concerns related to a lack of presence on the Board or a perceived lack of influence. Others noted that while broadcasters and producers selected their representatives through their respective industry associations, BDUs have not had a similar organization since the collapse of the CCTA. It was noted that members nominated by industry associations represent those associations, not any individual private company.

The Task Force heard many positive comments about the value of stakeholder representation on the CTF Board. There was acknowledgment that industry Board members were usually senior executives with a detailed knowledge of their sectors. This knowledge and experience has, in the view of many parties, enabled the CTF to deal with the complex issues that arise in a fast-changing environment.

The Task Force did hear some concerns expressed with respect to the participation on the Board of a senior DCH staff person as an independent Board member. Some questioned how a representative of a major contributor to the CTF could be considered to be independent.

Parties recognized that Board members have been involved – through working groups, committees and at the full Board – in highly detailed discussions with respect to CTF operations. In some respects this level of detail is unusual – some said inappropriate – for a Board. It may also give rise to confusion with respect to the relative roles of the CTF Board and staff. On the other hand, it was pointed out that these discussions took place while the organization was undergoing a metamorphosis and making major changes to the way it operated. Many parties felt that the experience of individual Board members and the need for the different sectors to work together to find mutually acceptable solutions was invaluable and made possible the transition accomplished in recent years.



Other parties, however, felt that the disadvantages of a stakeholder Board outweighed any advantages. They argued, in particular, that recipients of CTF funding should not be Board members. These parties also maintained that industry expertise could be brought to the Board through consultative mechanisms and through a more expert and responsible staff.

## **2.2 Alternative Governance Models**

The Task Force heard from many parties that the most appropriate governance structure for the CTF would be a small, independent Board of Directors operating under a clear and focused mandate and supported by an expert staff. These parties were convinced that independent Board members could be found with the necessary expertise in both financial management and broadcasting and communications. Such a structure would eliminate concerns over conflict of interest, would encourage a strong focus on policy and strategic direction, and would be more efficient and less expensive.

A small Board composed only of representatives of the major contributors – both government and the BDUs – was proposed by some parties. A slightly different model could also include independent members. Parties considered that, with a majority of members being contributors, such a Board would be more focused on the efficient and effective use of the funds contributed.

Many parties suggested that two separate funds would be appropriate – one to allocate DCH contributions and a second to allocate the BDU contributions. Such a model would permit the government to oversee its contributions, while the CRTC could oversee the BDU fund. The latter fund could be administered by a small board, perhaps composed of independent directors and/or BDU contributors.

Finally, some parties argued that the current stakeholder Board should be increased in size so as to ensure representation from areas such as the creative community, unions, documentary producers, the regions and the aboriginal community.

The Task Force also heard from DCH officials that any change to the existing Contribution Agreement would require the approval of the Treasury Board. Changes to the current structure of the CTF Board would have to be approved by Cabinet.

## **2.3 The Chair of the Board**

A number of parties commented on the fact that the Chair of the CTF Board is now paid a fixed monthly fee for his services.

Until recently, the Chair of the CTF Board was an unpaid position, elected by Board members. In recognition of its origins it was a long-standing tradition that the Chair be a nominee of the CCTA – normally the CEO of the association. With the collapse of the CCTA, that tradition is no longer possible. In 2004, the CTF decided to change the position to that of a paid Chair.

The Task Force heard that this decision might have been taken in order to ensure that the Chair was able to devote the maximum amount of time possible to the affairs of the CTF during the period of restructuring. However, it also heard that the position of paid Chair tends to blur the roles between that position and that of the President.

The Task Force also heard that the need for a paid Chair may not be as great now that the CTF has completed its transition and has settled into a more stable mode of operation. Parties suggested that reverting to the previous practice of appointing an unpaid Chair might have several advantages. It could provide an opportunity to clarify the roles and responsibilities of the Chair and president. It would save the Corporation significant expenses, would provide an opportunity for the CTF to recognize its BDU contributors by considering a BDU representative as Chair, and would reduce the overall size of the Board.

#### **2.4 Selecting CTF Board Members**

The Task Force heard concerns from many parties that because there is no longer an association representing the interests of the large BDUs that are required to contribute to the CTF, their presence on the Board is not as effective as it used to be. The CCTA, which has not been active since 27 February 2006, ceases to exist as of 10 August 2007. After that date the BDUs will have no membership in the Corporation and no way to nominate Directors.

Further, the Task Force heard that the seat designated for a DTH representative had not been filled. It was suggested that this was because Shaw had been unwilling or unable to work out an appropriate method of sharing this seat with its competitor, Bell ExpressVu.

The Task Force also heard from some parties that the way in which industry associations nominate Directors makes these individuals more dependent on the views of the members of these associations and less able to act independently in the furtherance of the objectives of the CTF.

#### **2.5 The Role of CTF Staff**

The Task Force heard from a variety of parties that there has not been enough effort to clearly define the role of CTF staff vis-à-vis that of the Board. This seemed particularly a concern with respect to the roles of President and Chair.

## **2.6 Accountability and Communications**

The Task Force heard from certain parties that the CTF has not been directly accountable to its major BDU contributors. While the CTF publishes an annual report with information that is required under the Contribution Agreement, this document does not provide a separate accounting for the contributions from BDUs.

In addition, there was a general consensus that the CTF should pay greater attention to its communications with its contributors, the government, the industry and the general public.

## **3. THE MOST APPROPRIATE MECHANISMS TO DEAL WITH REAL OR PERCEIVED CONFLICTS OF INTEREST AT THE CTF**

Real or perceived conflicts of interest on the Board of the CTF were an important area of concern for the Task Force. Both Shaw and Quebecor alleged the existence of such conflicts in their public statements justifying their temporary withdrawal of funding. Also, in her 2005 report on the Cultural Industries, the Auditor General cited the composition of the CTF Board as a potential source of conflict of interest.

The Task Force heard from many parties who pointed out that membership on the Board by individuals who worked for companies that benefited from CTF funding could clearly give rise to perceived conflicts of interest. However, no instances of actual conflict were presented, a fact attributed in large part to the efficacy of the conflict of interest provisions that have been implemented by the Board.

Some parties mentioned that although the current Chair has met the CTF criteria for independence, the fact that he is President of a production services company may give rise to a perception of conflict.

On the other hand, the Task Force was made aware of the detailed conflict of interest guidelines approved and implemented by the Board since the Auditor General's 2005 report. These policies and procedures include the requirement for a double majority on important votes taken by the Board.

The Task Force also notes that a governance review of the CTF was conducted by the independent firm Renaud Foster and delivered to the government in June 2006. This review concluded that the CTF's Conflict of Interest Guidelines present a comprehensive framework for managing conflicts of interest and is more detailed than those adopted by many boards of directors with stakeholder nominees.

## **GENERAL CONCLUSIONS**

### **THE IMPORTANCE OF THE CTF**

The Task Force affirms the importance of initiatives that provide supplemental financial support for the production of Canadian television programming. Much of this support is currently directed to the independent production sector by way of federal and provincial tax credits, federal and BDU contributions to the CTF, and independent production funds created largely through CRTC benefits. Such initiatives help to address the unique economic factors faced by the broadcasting system in Canada, a country with a small population with two major languages situated next door to the world's largest producer of popular television programs. These popular programs are available to Canadian broadcasters for a fraction of their production cost and generate significant profits. Canadian entertainment programs of comparable quality, on the other hand, are expensive to produce and are generally not able to recover their costs in the domestic market.

In this regard, the Task Force notes that public financial support for the production and distribution of television programs is consistent with long-standing Canadian policies and practices. In virtually all areas of the arts and culture, government programs provide significant financial support to both the creators and the distributors of the creative works. This applies in such sectors as feature film production, magazine and book publishing, music and the visual arts. Canadian governments – both federal and provincial – have considered it appropriate and necessary to support Canadian culture through a variety of support mechanisms.

The Task Force also considers that a healthy independent production sector is one of the key elements of the Canadian broadcasting system. Independent producers compete for access to broadcasters' schedules and thus maximize the opportunities for successful programs while minimizing costs. Successful independent production companies employ significant numbers of Canadians in high-value jobs.

The CTF has become a key element in the production of Canadian programs, with its investments of over \$260M per year, which are in addition to provincial and federal tax credits of approximately \$455M per year and spending by broadcasters of approximately \$1.8B per year. Other independent production funds certified by the CRTC allocate approximately \$36M per year. The CTF money is directed only to programming in the genres of drama, children's and youth programming, documentaries and variety/performing arts. Tax credits apply to most program genres other than news, sports and contests, while much of broadcasters' spending is on news, sports and human interest programming.

BDUs are required to contribute 5% of their gross annual revenues derived from broadcasting activities to Canadian programming. Less the amount permitted to be allocated to the BDU's community channel, 80% of the contribution must go to the CTF and 20% to one or more independent production funds. While the Task Force was asked to consider alternate contribution ratios between the CTF and certified independent production funds, it maintains the view that the current ratio is appropriate. This requirement remains an effective mechanism to ensure that BDUs contribute to the fulfillment of the objectives of the *Broadcasting Act*.

In the view of the Task Force, the CTF – or an organization with similar objectives – will remain a vital element of the broadcasting system for the foreseeable future.

However, the Task Force considers that changes designed to improve the effectiveness of the CTF are appropriate. The Canadian broadcasting system operates in an increasingly competitive global environment. In the Task Force's view, the broadcasting system will benefit from a greater focus on funding for Canadian programs that demonstrate support from Canadian viewers. There is now an opportunity to create, within the CTF, a more market-oriented, private sector funding stream dedicated to developing and supporting Canadian hits. The program criteria for such a stream should be simple and flexible and should require greater financial risk on the part of broadcasters. The creation of such a stream within the CTF will allow the funds received from the DCH to continue to support culturally significant Canadian programs that may not garner mass audiences, as well as special initiatives to support aboriginal production and French-language production outside Quebec.

In formulating its recommendations, the Task Force is sensitive to the fact that the DCH is the public body that oversees the CTF. The DCH has indicated that major changes to the objectives of the Fund or to the Board structure would have to be approved by Treasury Board and/or Cabinet. The timeframe for this process is unknown. However, it is CRTC regulations that ensure BDU contributions to the Fund. The Commission, therefore, has the ability to take certain independent actions to clarify the purpose and timing of these contributions.

The Task Force is also conscious that any recommended changes should be implemented quickly. The CTF has already been through several years of major change. Consequently, several key recommendations of the Task Force are directed to the CRTC in anticipation that it will act expeditiously.

Finally, the Task Force recommends that any changes to CTF operations and the disbursement of its funds be carefully introduced so as not to interfere unnecessarily with the production cycle.

## **FINDINGS AND RECOMMENDATIONS**

### *Objectives for the CTF and CTF Program Guidelines*

As stated above, the Task Force finds that the current objectives of the CTF, while appropriate for achieving certain public policy objectives, should be broadened to include more support for Canadian television programs that succeed with Canadian audiences.

The Task Force recognizes that public funds contributed by government should continue to be spent in the furtherance of government objectives, including support for the CBC. The current Contribution Agreement is an effective instrument in this regard. However, given the increasingly competitive environment faced by Canadian broadcasting, the Task Force considers that the achievement of broad public policy objectives would be enhanced if the funds contributed by BDUs were allocated to support Canadian programs within a separate and a more market-oriented, private sector funding stream that specifically includes the key criteria of audience success and investment return. These funds should be allocated using the BPE system and implemented by way of the simplest possible program guidelines.

In order for the CTF to repurpose the use of BDU contributions to reflect such a market orientation, the Task Force notes that it would first be necessary for the CTF to receive clear objectives. The CRTC itself could create such objectives by amending sections 29 and 44 of the BDU Regulations to include a description of the objectives of the private sector funding stream to which monies must be contributed.

In the Task Force's view, the key objectives to be contained in sections 29 and 44 when amended would include the following:

- Qualifying Canadian programming must meet a minimum of 8/10 points using the CAVCO scale, be broadcast in prime time and continue to fall within the CTF's traditional genres of drama, children's and youth, documentary and variety/performing arts programming;
- Audience success must be the primary criteria for continued funding; and
- Actual and potential return on investment must be a factor in allocating funding while taking into account the different realities of English and French markets.

Further, with respect to simplified and more flexible program guidelines, the Task Force considers that the "essential requirements" currently set out in section 3.2.1 of the BPE Guidelines of 2007/2008, as well as certain provisions contained in the section dealing with the "Spirit and Intent" of the CTF set out in section 1.2, should be revised to permit a more flexible approach for the private sector funding stream.

The Task Force considers that the essential requirement that the underlying rights remain owned and significantly and meaningfully developed by Canadians must be maintained. It also considers that the requirement that each project must be certified by CAVCO should be carried over, albeit reduced from 10/10 to 8/10 points. However, the two remaining essential requirements, namely that the project be shot and set primarily in Canada and that the project speak to Canadians about, and reflect, Canadian themes and subject matter, are, in the view of the Task Force, unnecessary for more market-driven Canadian productions. Furthermore, in section 1.2, the CTF restricts qualifying projects to, among other things, “productions that speak to Canadians about themselves, their culture, their issues, their concerns, and their stories” and “identifiably Canadian broadcast programming, reflecting Canadian culture, stories and themes.” The Task Force would suggest replacing all such restrictions with a restriction to “programming that reflects Canadian experiences.”

In order to ensure that the CTF takes immediate steps to create a private sector funding stream, the Task Force recommends the following:

#### Recommendations

1. The CRTC should undertake a public review leading to the establishment of a clear statement of the objectives for BDU contributions to the CTF and the BDU Regulations should be amended so that sections 29 and 44 include a description of the objectives of the private sector funding stream to which monies must be contributed. The Task Force proposes the following as draft objectives:
  - Qualifying Canadian programming must meet a minimum of 8/10 points using the CAVCO scale, be broadcast in prime time, and continue to fall within the CTF’s traditional genres of drama, children’s and youth, documentary and variety/performing arts programming;
  - Audience success must be the primary criteria for continued funding; and
  - Actual and potential return on investment must be a factor in allocating funding while taking into account the different realities of English and French markets.
2. The CTF should establish a market-oriented private sector funding stream consistent with the draft objectives proposed by the Task Force for inclusion in the amended sections 29 and 44 of the BDU Regulations.

3. The CTF should develop a plan for the administration of the proposed private sector funding stream, including simple and flexible program guidelines. The Task Force proposes the following as essential criteria for the new funding stream:
  - Underlying rights are owned and significantly and meaningfully developed by Canadians;
  - Projects must reflect Canadian experiences; and
  - Projects must be certified by CAVCO and attain a minimum of 8/10 points.
4. The CRTC should conduct ongoing reviews, on a regular basis, to ensure that the CTF implements this private sector funding stream.

#### *The CTF and New Media*

The Task Force considers that the CTF must play a more active role in supporting Canadian programming that will be distributed on various new media platforms. However, the Task Force recognizes that CTF funds are limited and over-subscribed. Any support for new media projects should come from new revenue sources and/or be capped so that the CTF's primary goal of supporting television programming be maintained.

The CTF should consider the following strategies in order to provide support for new media projects:

- Establish a new media funding stream of up to \$25 million from current CTF revenues;
- Allocate an appropriate portion of new sources of revenue to the new media funding stream;
- Waive the broadcast licence fee for projects destined for mobile platforms; and
- Require projects destined primarily for VOD platforms to have a second window on a licensed over-the-air or specialty TV service.

The Task Force is convinced that one of the issues preventing adequate private investment in new media projects has been the inability of producers and broadcasters to agree upon a method for allocating rights and revenues relating to the exploitation of new platforms. Currently, the CTF rules regarding such additional rights are under review. The Task Force considers that the CTF can play a useful role in addressing these rights issues.



A proposed interim step could be to permit a broadcaster's licence fee to include the exploitation of new media rights as long as any resulting net revenues are shared 50/50 with the producer. Such a rule would be a default position where the parties have not been able to negotiate an acceptable alternative. That being said, the Task Force is also aware that, in the United States for example, copyright holders are beginning to use the Internet to offer downloads of episodes of popular series the day after a given episode has been broadcast by a U.S. network. Parties and the CTF would be well advised, as a starting point, to look at the pertinent agreements among interested parties in other jurisdictions and, particularly, to these U.S. instances. The Task Force notes as well that timely efforts by the DCH to amend the *Copyright Act* to deal with such matters as digital rights management would be of assistance in permitting parties to agree on how to allocate rights and revenues relating to the exploitation of new platforms.

The Task Force recognizes that government may decide that supporting new media projects is a priority for a portion of its contribution to the CTF. Such funds could also be added to a new media funding stream.

Finally, new media projects related to television programs can also be supported by the independent production funds that are overseen by the CRTC. These funds use contributions from BDUs as permitted by CRTC regulations. The Task Force considers it appropriate to recommend that the CRTC amend its policies governing these Funds so that they have greater flexibility to invest in new media projects.

#### Recommendations

1. The CTF should establish a new funding stream of up to \$25 million from current CTF revenues to support Canadian programs designed for new media platforms. In addition, the CTF could allocate an appropriate portion of any new sources of revenue to this new media funding stream.
2. The CTF should explore new means of permitting broadcasters and producers to exploit new media platforms related to CTF projects by investigating appropriate measures or agreements originating within other jurisdictions or, should this experience not prove sufficiently relevant, by establishing, on an interim basis, a 50/50 sharing of net revenues – unless the parties agree to an alternative arrangement.
3. The CRTC should amend its policy with respect to certified independent production funds in order to provide such funds with greater flexibility to support new media projects.

#### *Sources of New Funding for the CTF*

The Task Force recognizes that the CTF is currently over-subscribed and that additional resources would help solve some of its current administrative problems. Additional resources, effectively spent, would also benefit the broadcasting system as a whole.

While increased contributions could, theoretically, come from government and/or the BDUs, the Task Force considers that the CTF can take immediate steps to increase available resources.

In principle, the Task Force considers that the CTF should investigate the feasibility of making equity investments in all projects consistent with the private sector funding stream. The return on such investments could provide an additional source of revenue to fund new media or other projects. In the Task Force's view, it may be appropriate for the CTF to expand its financing mechanisms by considering, in addition to grants, such funding sources as loans, guaranteed loans and/or equity investments. Such investments could be made following the first year of production and once the project has demonstrated audience success.

Furthermore, the Task Force considers that it is appropriate for broadcasters to assume greater risk and support for CTF projects. This could be done by increasing the minimum licence fee required to trigger CTF funding.

The Task Force also considers that the CTF should review the annual BPE of broadcasters who have been given the privilege of self-administering CRTC-approved programming benefits. Benefit dollars allocated to programs qualifying under the CTF guidelines, if not self-administered, would be transferred to an independent production fund and the resulting programs made available to any licensed broadcaster. In the case of self-administered benefits money, the licensee has the privilege of ensuring that the resulting programs are available only to its services. As a consequence the Task Force considers that it would be appropriate for the CTF to take this into consideration when establishing the annual BPE, with a view to reducing the BPE during the life of any self-administered benefits.

The CTF policy of permitting up to 90% of the federal tax credits to be included in the financial structure of the project means that these funds are not being used for their original purpose. The CTF should consider reducing the amount to a maximum of 50%.

Finally, the Task Force agrees that the CRTC should take action to ensure the financial stability of the CTF. It should amend the BDU Regulations to ensure that BDU undertakings are required to remit their contributions on a monthly basis. Further, in the context of the CRTC's upcoming Diversity of Voices Proceeding, the Commission will consider proposals to amend its benefits policy. The Task Force recommends that these considerations include a policy amendment so that a portion of future television benefits be directed to the CTF.

## Recommendations

1. The CTF Board should explore the feasibility of equity investments or other forms of financial participation in all projects funded through the private sector stream.
2. The CTF Board should increase the minimum licence fee paid by broadcasters for CTF-supported productions.
3. The CTF Board should consider, when establishing the BPE, any self-administered benefits money approved by the CRTC to be allocated during that year.
4. The CTF Board should reduce the amount of federal tax credits permitted to be included in the financing structure of a production to a maximum of 50%.
5. The CRTC should amend its benefits policy so that an appropriate portion of tangible television benefits be allocated to the CTF.
6. The CRTC should amend the BDU Regulations in order to require all contributing BDUs to pay the required amount to the CTF on a monthly basis.

### *Governance of the CTF*

The Task Force is of the view that changes to the governance structure of the CTF are of less importance than the changes to its objectives and operations recommended above.

It is clear that a large, stakeholder Board can be unwieldy, prone to involvement in detailed operational issues and subject to lengthy debates before resolving (or not resolving) controversial issues. A smaller, independent Board could theoretically correct these problems. Further, it is clear that an independent Board would eliminate any perceptions of conflict of interest.

Nevertheless, the Task Force is convinced that there are advantages to the current structure that should not be lightly dismissed. The individuals nominated by the various associations bring an expertise to the Board that may be difficult to replace.

The Task Force has also considered recommending that the CTF be split into two separate corporations. Such a proposal could, however, put at risk the public/private partnership upon which the government's contributions are based. The Task Force is of the view that any recommendations that could threaten the continuation of the government's support for Canadian television programming would certainly not be in the interest of the Canadian broadcasting system.

However, the Task Force considers that certain governance issues can and should be resolved quickly. The first relates to the presence on the Board of effective representation from the BDU sector. The bylaws permit four Board members representing this sector. The Task Force is of the view that this should be increased to five in order to include two representatives from the DTH sector. Without an industry association to propose nominees, there is no mechanism to ensure that BDU members represent the sector. The Task Force strongly recommends that BDU licensees that contribute to the CTF (cable, DTH and wireline telcos) enter into an arrangement that would permit them to equitably nominate the sector representatives to the Board. Absent taking appropriate steps to cooperate to ensure a strong voice, individual licensees have no cause to complain about a lack of influence over the direction of the CTF.

The Task Force notes and supports the decision by the DCH at the recent CTF annual meeting not to nominate a DCH staff representative as an independent member of the CTF Board.

The Task Force has also examined the process by which Board members are elected. In fact, directors are appointed, for a one-year term, by the member organizations. This method can result in a lack of continuity. The Task Force also notes that certain associations rotate CTF Board membership among major companies, which could lead to under-representation of smaller companies.

The Task Force considers that the CTF Board should appoint a nominating committee whose role would be to identify members eligible to serve on the Board. The nominating committee should be made up of the contributing members in proportion to their financial contributions. Contributing members are representatives of BDUs and DCH. Member associations should provide the nominating committee with a list of potential candidates for Board membership.

Based on these proposals, the nominating committee would then recommend, for ratification at the annual general meeting:

- a) the names of the new Board members (other than the five members to be appointed by DCH) and,
- b) the names of the Chair and other members of the Executive Committee (two vice-Chairpersons, Treasurer).

In addition, DCH would nominate its five new directors prior to or at the annual general meeting.

The Task Force also has concerns about the CTF's decision to move to a paid Chair. The Task Force notes that administrative expenses could be reduced by reverting to the long-time practice of maintaining a Chair who is unpaid (save for such reimbursements as may be authorized for any Board member) and who focuses on the typical functions of a board Chair.

There also appears to be a lack of clarity with respect to the roles of the Chair and the President of the Corporation. The Task Force notes that neither position appears to have responsibility for the functions of a Chief Executive Officer. In the view of the Task Force, the role of CEO should properly be undertaken by the President of the Corporation.

#### Recommendations

1. The CTF should create an additional position on the Board for a second representative of the DTH sector.
2. The CTF Board should form a nominating committee consisting of contributing members. Member association should provide the nominating committee with a list of potential candidates for Board membership.

The nominating committee would propose for ratification at the annual general meeting based on these proposals;

- a) the names of new Board members (other than the five members to be appointed by DCH) and,
- b) the names of the Chair and other members of the Executive Committee (2 Vice-Chairpersons, Treasurer).

DCH would nominate its five new directors prior to or at the annual general meeting. These nominations are not subject to ratification.

3. The BDU contributors should organize themselves for the purpose of membership in the CTF and of proposing directors.
4. The CTF Board should develop and implement a policy identifying the different and complementary roles of the Board and staff.
5. The Chair and President and CEO of the CTF Board should be nominated from the independent Board members or from those members representing contributors. The Chair should be remunerated on the same basis as other directors.

6. The CTF should amend its by-laws to specify that:
  - a) the title and functions of the President shall be changed to “President and CEO;”
  - b) the President and CEO shall be hired by the Board and will report to it;
  - c) the President and CEO shall be an ex-officio member of the Board, without voting privilege;
  - d) the President and CEO shall hire the CTF’s staff, which will report to the President and CEO.
7. The CTF Board should clearly define the respective roles of Chair and President and CEO.

#### *Accountability and Communications*

The Task Force recommends that, with the establishment of a private sector funding stream, the CTF provide an accounting of the use of BDU contributions and the performance against objectives of the programs funded through this stream.

The Task Force is of the view that the CTF Board should meet at least once per year with senior representatives of the DCH and the major contributing BDUs in order to solicit feedback on the way the corporation is achieving the objectives set out by the DCH and the CRTC.

The CTF should assign a senior staff member the responsibility for implementing a communications strategy so that goals, activities and successes of the Corporation are well known by decision makers and the Canadian public.

#### *Recommendations*

1. In addition to the reporting requirements set out in the Contribution Agreement with the DCH, the CTF should develop an annual public reporting mechanism with respect to all funds using BDU contributions. Such annual reports should include information setting out the objectives of the Fund and, broken out by performance envelopes, the projects receiving CTF support, the reasons why these projects were supported, and the available evidence to demonstrate the success of these projects in attracting audiences.

2. The CTF Board should devise and implement a clear communications strategy designed to ensure that contributors, government and the Canadian public are made aware of the objectives of the Fund and its progress in achieving these objectives. The Board should invest in a senior staff position to be responsible for such ongoing communications and government relations.

#### *Conflicts of Interest*

The Task Force is convinced that the steps taken by the CTF to deal with conflicts of interest have been effective. These procedures set a very high standard and have been reviewed by an independent body and found to be entirely appropriate. The Task Force received no evidence of specific instances of conflicts since the new procedures have been put into effect.

Nevertheless, the Task Force recognizes that the perception of conflict will always remain with a stakeholder Board and especially with recipients sitting on the Board. It is unusual for an organization that allocates substantial sums to the independent production sector to have on its Board representatives of the recipients of these funds. One way of addressing this perception of conflict would be a move to an independent Board. A second approach would be to remove representatives of the independent production sector from the Board. However, the Task Force recognizes the knowledge and experience that producer representatives have brought to the CTF and considers that these benefits should be retained. This could be achieved through the creation of a producer advisory committee that would work through CTF staff to ensure that perspectives of the independent production sector are brought to the Board and included in the development of program guidelines.

The Task Force's preferred approach would be the second option. The Task Force notes that this would have the additional benefit of reducing the overall size of the CTF Board.

#### Recommendations

1. The CTF should take steps to ensure that direct recipients of CTF funding no longer be members of the CTF Board while also ensuring that the perspectives of the independent production sector continue to form an important part of the CTF deliberations.
2. The Task Force also recommends that the Chair of the CTF Board be nominated from the independent Board members or from those members representing contributors. This will remove any possibility of perceived conflict of interest arising from the Chair being a direct or indirect recipient of CTF funds and will serve to reinforce the integrity of CTF decision-making.

### *The CBC*

The Task Force recognizes that access by the CBC to CTF funds is currently governed by the Contribution Agreement negotiated between DCH and the CTF – hence, beyond the purview of the Task Force. In the Task Force’s view, projects qualifying for the new private sector funding stream should be eligible for licensing by the CBC.

### *Special initiatives stream*

The Task Force notes that funding for special initiatives, including Aboriginal-language productions, French-language production outside Quebec, development financing and versioning assistance, is governed by the Contribution Agreement. As such, it is also outside the purview of the Task Force. The Task Force considers that funding for such important initiatives should remain part of the Contribution Agreement negotiated between the DCH and the CTF.

### *Proposed implementation schedule*

The Task Force considers that action on recommendations to the CRTC with respect to establishing the new private sector funding stream should take place as quickly as possible. At the same time, the CTF Board should act quickly to make the recommended changes to its governance structures, to establish a private sector funding stream, and to establish appropriate program guidelines for the private sector funding stream. Accordingly, the Task Force recommends that the CRTC adopt the implementation schedule set out in Appendix B, on the condition that the CTF implement the steps set out for it in the timeframe described in Appendix B.

## **Summary of Recommendations**

### **A. CTF**

1. The CTF should establish a market-oriented private sector funding stream consistent with the draft objectives proposed by the Task Force for inclusion in the amended sections 29 and 44 of the BDU Regulations.
2. The CTF should develop a plan for the administration of the proposed private sector funding stream, including simple and flexible program guidelines. The Task Force proposes the following as essential criteria for the new funding stream:
  - Underlying rights are owned and significantly and meaningfully developed by Canadians;



- Projects must reflect Canadian experiences; and
  - Projects must be certified by CAVCO and attain a minimum of 8/10 points.
3. The CTF Board should explore the feasibility of equity investments or other forms of financial participation in all projects funded through the private sector stream.
  4. The CTF Board should increase the minimum licence fee paid by broadcasters for CTF-supported productions.
  5. The CTF Board should consider, when establishing the BPE, any self-administered benefits money approved by the CRTC to be allocated during that year.
  6. The CTF Board should reduce the amount of federal tax credits permitted to be included in the financing structure of a production to a maximum of 50%.
  7. The CTF should establish a new funding stream of up to \$25 million from current CTF revenues to support Canadian programs designed for new media platforms. In addition, the CTF could allocate an appropriate portion of any new sources of revenue to this new media funding stream.
  8. The CTF should explore new means of permitting broadcasters and producers to exploit new media platforms related to CTF projects by investigating appropriate measures or agreements originating within other jurisdictions or, should this experience not prove sufficiently relevant, by establishing, on an interim basis, a 50/50 sharing of net revenues – unless the parties agree to an alternative arrangement.
  9. In addition to the reporting requirements set out in the Contribution Agreement with the DCH, the CTF should develop an annual public reporting mechanism with respect to all funds using BDU contributions. Such annual reports should include information setting out the objectives of the Fund and, broken out by performance envelopes, the projects receiving CTF support, the reasons why these projects were supported and the available evidence to demonstrate the success of these projects in attracting audiences.
  10. The CTF Board should devise and implement a clear communications strategy designed to ensure that contributors, government and the Canadian public are made aware of the objectives of the Fund and its progress in achieving these objectives. The Board should invest in a senior staff position to be responsible for such on-going communications and government relations.

11. The CTF Board should form a nominating committee consisting of contributing members. Member association should provide the nominating committee with a list of potential candidates for Board membership.

The nominating committee would propose for ratification at the annual general meeting based on these proposals;

- a) the names of new Board members (other than the five members to be appointed by DCH) and,
- b) the names of the Chair and other members of the Executive Committee (2 Vice-Chairpersons, Treasurer).

DCH would nominate its five new directors prior to or at the annual general meeting. These nominations are not subject to ratification.

12. The CTF should create an additional position on the Board for a second representative of the DTH sector.
13. The CTF should take steps to ensure that direct recipients of CTF funding no longer be members of the CTF Board while also ensuring that the perspectives of the independent production sector continue to form an important part of CTF deliberations.
14. The Chair and President and CEO of the CTF Board should be nominated from the independent Board members or from those members representing contributors. The Chair should be remunerated on the same basis as other directors.
15. The CTF should amend its by-laws to specify that:
  - a) the title and functions of the President shall be changed to “President and CEO”;
  - b) the President and CEO shall be hired by the Board and will report to it;
  - c) the President and CEO shall be an ex-officio member of the Board, without voting privilege;
  - d) the President and CEO shall hire the CTF’s staff, which will report to the President and CEO.

16. The CTF Board should clearly define the respective roles of Chair and President and CEO.
17. The CTF Board should develop and implement a policy identifying the different and complementary roles of the Board and staff.

## **B. Broadcast Distribution Undertakings**

18. The BDU contributors should organize themselves for the purpose of membership in the CTF and of proposing directors.

## **C. The CRTC**

19. The CRTC should undertake a public review leading to the establishment of a clear statement of the objectives for BDU contributions to the CTF and the BDU Regulations should be amended so that sections 29 and 44 include a description of the objectives of the private sector funding stream to which monies must be contributed. The Task Force proposes the following as draft objectives:
  - Qualifying Canadian programming must meet a minimum of 8/10 points using the CAVCO scale, be broadcast in prime time, and continue to fall within the CTF's traditional genres of drama, children's and youth, documentary and variety/performing arts programming;
  - Audience success must be the primary criteria for continued funding; and
  - Actual and potential return on investment must be a factor in allocating funding while taking into account the different realities of English and French markets.
20. The CRTC should amend the BDU Regulations in order to require all contributing BDUs to pay the required amount to the CTF on a monthly basis.
21. The CRTC should conduct ongoing reviews, on a regular basis, to ensure that the CTF implements this private sector funding stream.
22. The CRTC should amend its benefits policy so that an appropriate portion of tangible television benefits be allocated to the CTF.
23. The CRTC should amend its policy with respect to certified independent production funds in order to provide such funds with greater flexibility to support new media projects.
24. The CRTC should adopt the implementation plan set out in Appendix B.

## APPENDIX A

Aboriginal Peoples Television Network	Epitome Pictures
Alberta Motion Pictures Industries Association	Fédération Nationale des Communications
Alliance Atlantis Communications Inc.	Haddock Entertainment
Alliance des producteurs francophones du Canada	Independent Production Fund
Alliance of Canadian Cinema, Television and Radio Artists	Keatley Productions
Alliance pour l'enfant et la télévision	Les Productions Sovimage inc.
Association des producteurs de films et de télévision du Québec	MusiquePlus/MusiMax
Association for Tele-Education in Canada / TV Ontario	NABET 700
Astral Media Inc.	Office National du Film du Canada
Barna-Alper Productions	Paperny Films
Bell Broadcast and New Media Fund	Quebecor Media Inc.
Bell ExpressVu	Rogers Communications Inc.
Big Motion Pictures	Sandra MacDonald
Canadian Broadcasting Corporation	Saskatchewan Educational TV
Canadian Cable Systems Alliance	Shaw Communications Inc.
Canadian Conference of the Arts	Shaw Rocket Fund
Canadian Film and Television Production Association	Société des Auteurs de Radio, Télévision et Cinéma
Canadian Independent Film and Video Fund	Société Radio-Canada
Canadian Media Guild	Star Choice
CanWest Global Communications Corp.	S-Vox (Vision TV)
Cogeco Inc.	Syndicat canadien de la fonction publique, Conseil provincial du secteur des communications
Cogeco Program Development Fund	Telefilm Canada
Corus Entertainment Inc.	Télé-Québec / Association des télédiffuseurs éducatifs du Canada
CTF Chair & President	Telus Inc.
CTF Independent Directors	The Knowledge Network
CTF Staff	TQS Inc.
CTV Television Inc.	TV5 Québec Canada
Department of Canadian Heritage	Union des Artistes
Directors Guild of Canada	Writers Guild of Canada
DOC Atlantic	Zone 3 Inc.
Documentary Organisation of Canada	

## APPENDIX B

### PROPOSED IMPLEMENTATION SCHEDULE

#### Steps for the CTF

##### Prior to 15 November 2007

- Provide the CRTC with the CTF implementation plan to create a market-oriented, private sector funding stream consistent with the draft objectives proposed by the Task Force in Recommendation 19.
- Develop and provide to the CRTC draft Broadcaster Performance Envelope Guidelines for the private sector funding stream. These guidelines should include revised essential requirements consistent with the Task Force Recommendation 2 and the proposed objectives in Recommendation 19.
- Amend the bylaws to:
  - establish a nominating committee (Recommendation 11);
  - add a DTH member to the Board (Recommendation 12);
  - remove direct recipients from the CTF Board while ensuring that the perspectives of the independent production sector continue to form part of CTF deliberations (Recommendation 13);
  - select the Chair from contributors or independent board members and change the remuneration of the Chair (Recommendation 14); and
  - give the responsibilities of CEO to the President of the CTF, make the position ex-officio to the Board without voting rights, and make the President responsible for staffing (Recommendation 15).
- Provide the CRTC with a report on CTF plans for implementing the following:
  - Increasing financial participation in CTF projects (Recommendation 3);
  - Increasing minimum licence fees (Recommendation 4);
  - Taking into consideration any self-administered benefits money approved by the CRTC to be allocated that year, when establishing the BPE (Recommendation 5);

- Reducing to 50% the amount of federal tax credits permitted in the financing structure (Recommendation 6);
- Creating a new media funding stream (Recommendation 7);
- Putting in place a 50/50 net revenue sharing, as a default, to exploit new media platforms (Recommendation 8);
- Developing enhanced annual public reporting mechanisms (Recommendation 9);
- Developing and implementing an enhanced communications strategy (Recommendation 10); and
- Developing and implementing a policy identifying the different and complementary roles of the Board and Staff (Recommendation 17).

### **By 31 March 2008**

- Approve revised “essential requirements” in revised Broadcaster Performance Envelope Guidelines that conform to the objectives established by the CRTC for private sector sourced contributions to be included in revised Sections 29 & 44.

### **Steps for BDUs**

#### **Prior to 15 November 2007**

The BDU contributors should organize themselves for the purpose of nominating directors for the CTF Board.

### **Steps for CRTC**

#### **29 June 2007**

- Issue a Public Notice launching a written public process to obtain comments by 27 July 2007 on Task Force Recommendations and its Proposed Implementation Schedule.

### **15 September 2007**

- Issue a Decision that will finalize the CRTC's determinations on the Task Force recommendations, establish the objectives for the purpose of inclusion in revised sections 29 & 44, and announce a definitive implementation schedule for implementing the recommendations.
- Issue a Public Notice seeking comment on proposed changes to the Independent Fund policy so as to provide such funds with greater flexibility to support new media projects.

### **17 September 2007**

- In the context of the Diversity of Voices policy proceeding, discuss changes to the Commission's benefits policy including the possibility of allocating an appropriate portion of television tangible benefits to the CTF.

### **30 November 2007**

- Make determinations regarding acceptability of reports filed by the CTF.
- Make determinations regarding changes to the CRTC Benefits Policy.

### **December 2007**

- If the CRTC determines that the responses from the CTF are acceptable, it will publish draft regulatory amendments (including objectives for private sector contributions to the CTF and requirement for monthly payments).
- Issue Decision on the process launched in September regarding changes to the Independent Fund policy.

### **Early January 2008**

- Conclude the process to amend the BDU Regulations (including objectives for private sector contributions to the CTF and requirement for monthly payments).