



OFFICIAL COPRODUCTIONS
FREQUENTLY ASKED QUESTIONS

Please read the revised 2000-2001 official coproduction guidelines which can be accessed on the Telefilm Canada Web site. Application forms are also available on this site.

APPLICATION AND REQUIRED DOCUMENTS

Q. "Do I have to submit a preliminary (advance ruling) request 30 days before principal photography for a drama, feature film or documentary; at the time of key animation in the case of an animation project; on production of a video master of the first episode for series?"

A. Telefilm Canada believes that every possible effort should be made to respect the deadline set out in the agreements. However, the Corporation can allow a certain amount of flexibility. A producer who is unable to respect a deadline should contact Telefilm Canada's International Coproduction Department. It is important to note that no project will be evaluated if it is submitted after shooting or key animation has begun.

Q. "If I am unable to provide all the documents required when I file my application for a preliminary recommendation (advance ruling), will my project be evaluated?"

A. Telefilm Canada has identified certain documents essential to opening an application. These documents are included in the preliminary recommendation (advance ruling) application form in the list of required documents and are marked with an asterisk ([FormPreliminary.pdf](#)). Any application which does not include these essential documents will not be opened and will be returned to the applicant.

Q. "Can I submit a preliminary recommendation (advance ruling) request without having signed a coproduction contract with my partner?"

A. No. Telefilm Canada absolutely must evaluate documents signed by the coproducers. However, the Corporation does accept a short-form of the coproduction contract (Deal Memo) (see [minimum-required.pdf](#)) so long as it is signed and contains the following information: the sharing of the copyright, the budget, the structure of the financing, the territories and the revenues accorded to each coproducer.

Q. "I am coproducing a 26-episode animation series. Of course I have not hired all the scriptwriters for the project. I think that we will use 15 Canadian and 11 British scriptwriters. Do I have to supply all the contracts and all the affidavits, even for scriptwriters that I have approached but with whom I have not yet signed? Furthermore, do I have to fill out the Canadian Producer and Canadian Creator Affidavit?"

A. Telefilm Canada expects to receive all the writing contracts, regardless of the nationality of the scriptwriter, and all the affidavits for the Canadian writers within 21 days of these documents being signed. Note, however, that the Corporation only requires that contracts and affidavits be available when the preliminary recommendation (advance ruling) request is submitted. If, for example, only 13 scriptwriters have been hired at that time, we would require a contract and an affidavit (if the writer is Canadian) for each of the 13 scriptwriters. All remaining affidavits (scriptwriter and producer sections duly completed) must be supplied to Telefilm Canada when the final approval request is submitted. The remaining writing contracts should be provided within 21 days of their signature.

EVALUATION PROCESS FOR A PRELIMINARY REQUEST

Q. "What is the process once an application is received?"

A. Once a preliminary recommendation (advance ruling) application is received, Telefilm Canada evaluates if the application form is properly and fully completed and signed and if the essential elements are included with the application (these are indicated by an asterisk on the application form). Producers who send incomplete applications will be immediately advised to provide the proper application form and/or missing essential documents within one week; failure to do so will result in the application being returned. Once the application is complete, a risk assessment of the project is usually done within 48 hours. Producers receive a fax acknowledging receipt of the application unless the risk evaluation reveals a major problem in which case the applicant is advised of such problem by telephone. Then, the file is assigned to an analyst which triggers the evaluation process. Applicants should allow for a minimum of four to six weeks to receive an advance ruling, or a longer period in cases where applicants are unable to provide the documents necessary to complete the file's evaluation.

CITIZENSHIP / RESIDENCY

Q. "I would like to submit a request for certification under the Canada–France Agreement and my scriptwriter is a permanent resident of France who at the time of writing the script had not received his citizenship. Is my project eligible?"

A. No. The scriptwriter must have Canadian or French nationality or be a national of the European Union when he or she undertakes creative work.

Q. "If I have dual citizenship, to which country will my participation be attributed?"

A. Normally where you are resident and where your income taxes are collected determines the choice.

Q: "I would like to hire a creative staff member from a third party country. He has submitted an application for permanent resident status in Canada but is still waiting for his legal papers. May I hire him?"

A: Yes, but on condition that this person receive his permanent resident papers prior to the commencement of the production's principal photography. To this effect, proof of permanent resident status in Canada must be provided to us.

Q. "I am a Canadian director but I reside in the United States. May I participate in a coproduction as part of the Canadian creative staff?"

A. Yes, as you have Canadian citizenship.

Q. "I am still a citizen of another country. Will I lose that citizenship if I become a Canadian?"

A. A Canadian is allowed to be a citizen of another country as well. Some countries will not let you keep their citizenship if you become a Canadian. You can find this out from a consulate or embassy of your homeland.

For information on Canadian citizenship, we invite you to visit the "CITIZENSHIP AND IMMIGRATION CANADA" Web site at <http://www.cic.gc.ca>

THIRD PARTY COUNTRY PARTICIPATION

Q. "My coproducer and I have obtained the rights for a work published in a third-party country. We have hired the author of the book in question, an American, as a consultant for our production. Is this allowed under the Canadian audiovisual agreements and Telefilm Canada's revised 2000-2001 coproduction guidelines?"

A. The participation of personnel from third-party countries in a coproduction project must always be approved ahead of time by the appropriate authorities, in this case Telefilm Canada. In no case can an American author make a significant creative contribution to the production. In this case, the Canadian coproducer must supply Telefilm Canada with the contract between the producers and the American consultant. This contract absolutely must contain all the relevant information about the tasks to be performed by the consultant. Note that the Corporation may request any other document deemed essential to determine the nature of the participation of third-party country personnel. Each participation request is evaluated on a case-by-case basis, according to the entire file submitted.

Q. "If I have all the rights to a television series that originates in a third party country and I want to produce a follow-up or a remake of the series, is this acceptable?"

A. No. Projects developed for an audiovisual medium and by a citizen of a third-party country cannot be accepted.

Q. "Do I automatically have the right to incur 25% of my expenses in a third-party country?"

A. No. Generally speaking, expenses in third-party countries are only permitted if the script involves filming in a third-party country, if one of the principal actors is a citizen of a third-party country, or if, for technical reasons, certain post-production work cannot be done in the coproducing countries. It is important to note that all third-party country expenses must be approved by Telefilm Canada. At the same time, in consideration of the specific conditions involved in the production of an animation project, Telefilm Canada allows subcontracting of technical animation work in a third-party country up to a maximum value of 25% of the total project budget.

Q. "I am coproducing an animation series with Hong Kong but the key animation work is being done in China, are these considered as third party country expenses?"

A. The competent authorities of Hong Kong have advised Telefilm Canada that expenses in China are considered as third party country expenses. However, to obtain an exemption, it is recommended you communicate directly with the competent Hong Kong authorities.

KEY CREATIVE POSITIONS

Q. "I would like to produce a Canada/United Kingdom coproduction. The British producer will finance 50% of the production and I will finance the other 50%. How should I divide up the key creative positions?"

A. The contribution of key creative positions by coproducers must correspond with their respective financial contributions. Telefilm Canada has identified a certain number of key creative positions which are listed in the coproduction guidelines. In the above-mentioned case, of the eight positions identified, four must be filled by Canadians and four by British citizens. Telefilm Canada is aware that a certain amount of flexibility is essential during the evaluation of the division of key creative positions which is why we include the shooting and post-production locations in our analysis. If uncertain, producers are invited to contact Telefilm Canada to discuss the division of key creative positions.

Q. "Are performers' leading roles based on screen time or on fees paid? And what about feature roles? Are they both treated the same way?"

A. Whereas in the case of entirely Canadian productions, actors' fees and a point system are used by the Canadian Audio-Visual Certification Office (CAVCO), with official coproductions there is no point system and both leading and feature roles are defined based on screen time.

FINANCING

Q. "I am a producer with a Canadian company, 25% of whose shares are held by a foreign conglomerate that holds 100% of the shares of the company with which I want to coproduce. Is this a problem?"

A. There is no one answer to this question. The Canadian producer must provide the corporate documents required to evaluate the control of the Canadian company by a foreign conglomerate. Telefilm Canada will study the list of shareholders and the shareholders agreement, and if it believes that effective control of the company is not in Canadian hands, it will refuse the advance ruling request. If control is deemed to be in Canadian hands, Telefilm Canada will agree to evaluate the request.

Q: "Is there a relationship between the financial, creative and technical elements of a project? For example, a Canadian producer providing 60% of a project's financing must receive how much of its revenues and provide how much of its creative and technical elements?"

A: Yes, there is a definite relationship between these elements. According to Telefilm's international coproduction guidelines, each coproducer's relative percentage of copyright ownership, financing, expenses, revenues and key creative and technical personnel must be similar. For example, if a project is 60% financed by a Canadian producer, that producer should retain 60% of the copyright ownership, provide 60% of the financing, receive 60% of world revenues, and provide 60% of the key creative and technical personnel. In other words, the creative and technical participation must be in the same proportion as the financial contribution of each coproducer.

Q. "I coproduced a television series for which I provided 45 % of the production financing, and my Canadian expenses represent 40 % of the total budget. Should I be concerned?"

A. There is a fundamental principle in coproduction: royalties, financing, creative participation and expenses should generally, be equal. In the above-mentioned case, the Canadian producer has 45% of the royalties, he or she has contributed 45% of the financing, 45% of the key creative positions are held by Canadians and his or her expenses should represent 45% of the total budget. In other words, the Canadian producer is contributing to non-Canadian expenses. In a situation like this, the Canadian coproducer should contact Telefilm Canada as soon as possible to discuss the situation. Telefilm Canada evaluates each case on an individual basis and will determine, together with the Canadian producer, what steps to take.

Q. "My French partner in France and I are trying to complete the financing for a feature film project. We have had a few problems but fortunately an American distribution company has shown interest in our project and will provide us with an advance on the receipts, which represents 60% of the total budget for our production. In return, the distribution company wants 50% of net revenues from around the world—excepting Canada, of course! Is this allowed?"

A. It is important to remember that participation of third-party country investors is allowed. However, Telefilm Canada's coproduction guidelines stipulate that "third-party country investors may claim no more than 10% of the Canadian share of net revenues generated outside of Canada by a certified coproduction." It would be important to inform Telefilm Canada of such a situation because the Corporation could refuse to evaluate the project. It should be recognized that Telefilm Canada is ready to adapt to the realities of the international coproduction market, which is why projects with such financial structures are evaluated on a case-by-case basis.

FOREIGN PARTNERS

Q. "I would like to coproduce a tripartite production with a country that has signed a coproduction agreement with Canada and with another country, which does not have a coproduction agreement with Canada. Would this project be eligible?"

A. Yes, provided that the foreign countries have signed a coproduction agreement with each other.

Q. "How do I find a coproduction partner?"

A. There are many resources that a Canadian producer may use in determining a coproduction partner. Here are a few: consult Telefilm Canada's Web site – see the directory/coproduction section, participate in events and conferences offered by the feature film and television industry, register in international festivals and markets as well as Immersion programs organized by Telefilm Canada's European office (consult the Europe section of Telefilm Canada Web site). Canadian producers that are members of associations like the CFTPA www.cftpa.ca and the APFTQ www.apftq.qc.ca may be guided in their efforts by these associations. Ask for references from producers you know who have successfully coproduced. Be sure to meet your partner(s) face to face to ensure you can work well together, and view their work to make sure their standards are as high as your own.

Q. "Why is there no coproduction agreement with the United States?"

A. The coproduction agreements between Canada and its partners are intended to be agreements that allow the recognition of international coproductions as national productions, thus giving them the rights and privileges of this status in the coproducing countries. Unlike Canada, the United States does not require a particular status for a production to be broadcast and American broadcasters are not obliged to present a specific percentage of national content. It is important to mention, however, that Canadian producers who participate in American productions in Canada can take advantage of the Film or Video Production Services Tax Credit (PSTC) administered by the Canadian Audio-Visual Certification Office (CAVCO).

Q. Is there an Agreement with the Community of Independent States (ex-USSR)?

A. No. The Agreement concerning Audio-visual Relations between the Government of Canada and the Government of the Union of Soviet Socialist Republics” (USSR), which was signed on November 20, 1989, and which includes the independent republics of Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, was suspended in 1991.

As a continuing state, Russia could have kept the Agreement in force, however, the Russian Federation chose to sign a new agreement with Canada on October 5, 1995, entitled “Agreement between the Government of Canada and the Government of the Russian Federation concerning Audio-Visual Relations.”

In accordance with the principle of succession of states, no agreement was automatically extended between the fourteen (14) other independent republics and Canada. To date, of these independent republics, only Estonia and Latvia have signed an audio-visual coproduction agreement with Canada.

Q. Who is responsible for negotiating international coproduction treaties?

A. On behalf of the Canadian government, Telefilm Canada administers all official international audio-visual co-production agreements. Negotiations of international co-production agreements are the responsibility of the Ministry of Canadian Heritage. For more information, please contact the International Co-production Unit of the Ministry of Canadian Heritage at (819) 956-9961.