

2005



Report of the
**Auditor General
of Canada**
to the House of Commons

NOVEMBER

Chapter 5
Support to Cultural Industries



Office of the Auditor General of Canada

The November 2005 Report of the Auditor General of Canada comprises Matters of Special Importance—2005, Main Points—Chapters 1 to 8, eight chapters, and appendices. The main table of contents is found at the end of this publication.

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Ce document est également publié en français.

© Minister of Public Works and Government Services Canada 2005
Cat. No. FA1-2005/2-5E
ISBN 0-662-41994-4



Chapter

5

Support to Cultural Industries

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

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Support to Cultural Industries

Main Points

What we examined

Canadian Heritage supports the cultural industries of film, television, publishing, sound recording, and new media to encourage them to create, produce, and disseminate Canadian cultural content. Its assistance includes such measures as grants and contributions as well as rules governing copyright and Canadian ownership of cultural enterprises. The government also supports the audiovisual industry through tax credits.

We examined the Department's strategic direction, governance, control, results measurement, and accountability reporting mechanisms for managing its support to cultural industries. We also examined how the Department and organizations that support cultural industries ensure that feature film and television producers who receive financial assistance have satisfied Canadian content requirements and eligibility rules for expenses.

Why it's important

Canadian Heritage and other organizations such as Telefilm Canada, the Canadian Television Fund Corporation, and the Canada Revenue Agency provide more than \$800 million yearly to cultural industries in the form of investments, grants, contributions, and tax credits. This support for the creation and production of Canadian content is aimed at helping to develop Canadians' sense of belonging and building the country's national identity.

Cultural industries employ about 600,000 people in Canada each year, according to Statistics Canada—among them writers, musicians, publishers, actors, producers, and technical specialists. By supporting these industries, Canadian Heritage helps them face foreign competition and contributes to the cultural and economic vitality of Canada.

What we found

- Canadian Heritage recently developed its first strategic plan in its Cultural Affairs Sector. However, the Department has not yet defined clearly enough an overall vision of the results it wants to attain over the coming years with its support to cultural industries. In the absence of a more clearly defined strategy for the entire cultural sector, each of the branches in its Cultural Affairs Sector risks developing its own plans, priorities, and production schedules

independently for the industry it supports. Within the Sector, there are few horizontal management mechanisms through which the branches share experience, knowledge, and best practices. For the most part, the Department has not established targets by which to measure its performance and so is unable to give Parliament a clear picture of what it wants to achieve, what it has achieved, and the progress made through the financial support it has provided to cultural industries.

- Canadian Heritage has considerable influence over the governance of the Canadian Television Fund and Telefilm Canada through its contribution agreements with these two organizations.
- Despite several efforts made to improve the situation, the governance of the Canadian Television Fund remains complex. It requires the involvement of two boards of directors in decision making: the Board of the Canadian Television Fund (CTF) and the Board of Telefilm Canada. CTF program objectives are broad and lack precision. They do not provide the Board of Directors with specific direction for making strategic decisions. Further, the composition of the CTF Board is a potential source of conflict of interest, and its conflict-of-interest guidelines are not applied rigorously. Current arrangements make the administration of the CTF program cumbersome—for example, a producer receiving assistance from both components of the CTF program must sign separate contracts with the two corporations.
- Under its current contribution agreements with Canadian Heritage, Telefilm Canada has little leeway to interpret its mandate and determine the best way of carrying it out. This degree of government oversight is unique among Crown corporations. Furthermore, a proposal to modify the governance structure of the Canadian Television Fund may significantly limit both Telefilm Canada's role in the development of the television industry and its ability to account to Parliament on this aspect of its expanded mandate.
- Canadian Heritage, Telefilm Canada, the Canadian Television Fund Corporation, and the Canada Revenue Agency have put in place a control framework appropriate to the nature of operations in the audiovisual sector. However, Canadian Heritage and Telefilm Canada do not apply their controls rigorously enough to ensure that Canadian content requirements are met, projects are selected in accordance with criteria, and only eligible expenses are reimbursed. The CRA does not apply its controls rigorously enough to ensure that tax credits are paid only for eligible expenses. Weaknesses in the

sharing of information among all the organizations involved, including the Canadian Radio-television and Telecommunications Commission, also limit the effectiveness of controls.

The organizations have responded. Canadian Heritage, the Canadian Television Fund, the Canada Revenue Agency, Telefilm Canada, and the Canadian Radio-television and Telecommunications Commission have accepted our recommendations. Their detailed response follows each recommendation in the chapter.

Introduction

Cultural industries play an important role in promoting Canadian cultural content

5.1 For decades, the federal government has supported the cultural sector through several cultural institutions, laws and regulations, and various programs. The Government of Canada believes that cultural goods and services help to develop Canadians' sense of belonging and build the country's national identity. The government's supports are also intended to foster the development of Canadian cultural enterprises within a limited market dominated by multinational firms.

5.2 Cultural industries of film, television, publishing, new media, and sound recording play an important role in the creation, production, and distribution of Canadian cultural works and productions. They are able to mobilize creators (writers, artists, composers, screenwriters, and directors), publishers, producers, and distributors to provide Canadians with their own cultural goods and services.

5.3 Canadian Heritage supports cultural industries in order to encourage them to create, produce, and disseminate Canadian cultural products. This support takes different forms: contributions to film and television producers, editors, and music producers; rules about Canadian ownership of cultural enterprises; and legislative provisions about copyright. In addition, the government provides financial assistance to the audiovisual industry through two tax credit programs: one for Canadian audiovisual productions, and one for film or video production services that are provided in Canada but do not have sufficient Canadian content to qualify for the Canadian film or video production tax credit. In order to put its support measures in place, the Department relies on various organizations. Exhibit 5.1 provides a list of the key financial support linked to the Department's programs for 2004–05 and the organizations responsible for administering them.

Several federal organizations support Canadian cultural content

5.4 Developing policies and programs to support cultural industries must take into account the actions of all federal organizations that encourage the creation, production, and distribution of Canadian cultural goods (Exhibit 5.2). For example, the Canadian Radio-television and Telecommunications Commission (CRTC) helps create demand for Canadian content by

- requiring public and private broadcasters to broadcast Canadian programs during prime time,
- licensing 49 digital specialty television channels,

- requiring cable and satellite distribution companies to contribute to funding the production of Canadian programs, and
- providing incentives for the production of English-language television dramas.

Exhibit 5.1 Financial support for Canadian Heritage programs and organizations involved in program delivery, 2004–05

Cultural sectors	Financial support for programs	Financial resources ¹ (in thousands)	Organizations involved in program delivery ²
Film, video, and television	New Policy Directions for Canadian Feature Film		Telefilm Canada, Canada Council for the Arts, Library and Archives Canada, AV Preservation Trust, Canadian Independent Film, and Video Fund
	• Canada Feature Film Fund	\$84,355	
	• Support to Policy	\$1,550	
	• National Training Program in the Film and Video Sector	\$2,550	
Canadian Television Fund Program	• Equity Investment Program	\$114,000	Telefilm Canada
	• Licence Fee Program	\$161,000 ³	Canadian Television Fund
	Canadian Film or Video Production Tax Credit	\$196,000	Co-administered by the Canadian Audio-Visual Certification Office and the Canada Revenue Agency
	Film or Video Production Services Tax Credit	\$106,000	Co-administered by the Canadian Audio-Visual Certification Office and the Canada Revenue Agency
Publishing	Book Publishing Industry Development Program	\$38,743	Canadian Heritage, Association for the Export of Canadian Books
	Publications Assistance Program	\$49,400	Canada Post Corporation
	Canada Magazine Fund	\$21,000	Canadian Heritage
New media	Canadian Culture Online	\$7,500 ⁴	Canadian Heritage
	Electronic Copyright Fund	\$1,500	
	Applied Research in Interactive Media Program	\$1,000	CANARIE
	Canada New Media Fund	\$8,150	Telefilm Canada
Sound recording	Canada Music Fund	\$24,354	FACTOR, Musicaction, AV Preservation Trust, Library and Archives Canada, SOCAN Foundation, Telefilm Canada, and Canada Council for the Arts
Total		\$817,102	

¹ Estimates, 2004–05, Parts I and II, and Supplementary Estimates A and B; Canada Revenue Agency; Canadian Television Fund

² The majority of the organizations deliver programs through memoranda of understanding and contribution agreements with Canadian Heritage

³ Includes \$125 million in contributions from the cable and satellite distribution industry

⁴ Includes about \$5 million in contributions to not-for-profit community organizations to provide access to Canadian cultural content on the Internet

The Canadian Broadcasting Corporation (CBC) and the National Film Board also influence production and distribution of Canadian content through their television programs, documentaries, and animated films. As well, Foreign Affairs Canada promotes Canadian artists abroad.

Exhibit 5.2 Roles and responsibilities of the federal organizations that support Canadian cultural content

Organization	Roles and responsibilities
Canadian Heritage, including the Canadian Audio-Visual Certification Office	<p>Develop and evaluate policies to support cultural industries and implement programs.</p> <p>Administer the Canadian Film or Video Production Tax Credit and the Film or Video Production Services Tax Credit, in conjunction with the Canada Revenue Agency.</p> <p>Certify that a production is Canadian.</p>
Canadian Radio-television and Telecommunications Commission	<p>Regulate and supervise the broadcasting and telecommunications industries.</p> <p>Ensure availability of Canadian content and programming that reflects Canadian creative talent; Canada's linguistic duality; cultural diversity; social values; and national, regional, and local characteristics.</p>
Telefilm Canada	<p>Develop and promote the film and audiovisual industry by offering financial and strategic support for the production of high-quality works, such as feature films, documentaries, television dramas, children's programs, and new media.</p> <p>Administer the Equity Investment Program in feature film and television.</p>
National Film Board	<p>Produce and distribute distinctive and challenging audiovisual works that reflect cultural diversity and provide Canada and the world with an authentic Canadian perspective.</p>
Canadian Broadcasting Corporation	<p>As a Crown corporation, offer a wide range of Canadian radio and television programming that informs, enlightens, and entertains in both official languages.</p>
Canada Post	<p>Ensure the distribution of Canadian magazines in Canada.</p>
Canadian Television Fund Corporation*	<p>Oversee the policies, objectives, and guidelines of the CTF program. Support the production and broadcast of quality television programs, with distinctively Canadian content.</p> <p>Administer the Licence Fee Program.</p>
Canada Revenue Agency	<p>Administer the Canadian Film or Video Production Tax Credit and the Film or Video Production Services Tax Credit, with the Canadian Audio-Visual Certification Office.</p> <p>Process applications for the two tax credit programs.</p>
Canada Council for the Arts	<p>Foster and promote the study, enjoyment, and production of works in the arts.</p>
National Arts Centre	<p>Develop the performing arts in the National Capital Region, and assist the Canada Council for the Arts develop the performing arts elsewhere in Canada.</p>
Foreign Affairs Canada	<p>Promote Canadian values and culture abroad, through various programs.</p>

* The Canadian Television Fund Corporation is a private corporation, not a federal organization.

5.5 According to Statistics Canada, the federal government spent about \$2.2 billion in 2002–03 to support cultural industries, including \$1.6 billion for broadcasting and television. This figure would include the CBC's \$1 billion parliamentary appropriation in 2002–03. It does not include tax credits for audiovisual producers or contributions from the cable and satellite distribution industries (around \$400 million).

5.6 Some provincial governments, most notably Quebec, Ontario, and British Columbia, also support cultural industries through tax credits, grants, and contributions. Statistics Canada reports that cultural industries employ around 600,000 people in Canada.

5.7 Each cultural industry has particular characteristics (size, growth, profitability), faces unique challenges, requires different supports, and is at a different stage of maturity. Canadian Heritage must take these needs and characteristics into account when considering the type and level of support to provide. For example, the new media industry is in its infancy, requiring different support than the publishing industry, which is centuries old.

5.8 Technological progress greatly affects the development of cultural industries and raises the issue of common interests. Several businesses that specialized in television or film in the past now work in both sectors. Programmers and graphic artists used to design educational video games; now programmers, graphic artists, composers and producers are needed to create them. In the field of sound recording, production and distribution methods for CDs have changed dramatically over the past few years. The Internet has become a prime distribution method, in addition to retail stores.

5.9 Other challenges, such as cultural diversity, social cohesion, and international trade, apply continual pressure on the Department, which must constantly adapt its policies and programs as a result. Over the last few years, Canada and a number of other countries, under the direction of UNESCO, have been developing an international convention to protect cultural diversity. This convention would enable signatory countries to establish and maintain cultural policies, including those designed to support national cultural industries, without fear of provoking trade challenges.

Focus of the audit

5.10 We examined the extent to which Canadian Heritage has put in place appropriate strategic direction, governance, control, results measurement, and accountability reporting mechanisms to manage its

support for film, television, publishing, new media, and sound recording industries. We also examined the controls that Canadian Heritage and other organizations that support cultural industries have established to ensure that the funds they provide to feature film and television producers satisfy Canadian content requirements and expenses' eligibility criteria.

5.11 Chapter 4 of this Report, *Managing Horizontal Initiatives* discusses the necessity to put effective governance mechanisms in place and outlines the role of central agencies in managing horizontal initiatives.

5.12 More details about the audit's objectives, scope, approach, and criteria are included at the end of the chapter, in **About the Audit**.

Observations and Recommendations

Strategic management

5.13 Over the past five years, Canadian Heritage has revised several policies and programs that support cultural industries. The Department launched a new policy, *From Script to Screen*, in October 2000. One of its goals is to increase audiences for Canadian films to five percent of the Canadian market share, from its original 2.3 percent, over a five-year period. In the area of television, the Department renewed its financial commitment to the Canadian Television Fund program. Under the *Tomorrow Starts Today* initiative, the federal government expanded the scope of its support programs for the publishing, periodicals, and sound recording industries, targeting intervention measures more closely. Finally, the Department implemented an initiative called *Canadian Culture Online*, which supports the digital production and Internet availability of Canadian cultural content in both official languages. During this same period, Canadian Heritage supported the work of Parliament's Standing Committee on Canadian Heritage in the areas of publishing, copyright, and broadcasting.

5.14 In the coming years, the Department must recommend to the government whether or not to renew several industry support programs. It will also have to implement measures the government proposed in response to the Standing Committee on Canadian Heritage's June 2003 report, *Our Cultural Sovereignty, the second century of Canadian broadcasting*. The Department must also develop a new audiovisual policy.

5.15 Given the complexity of developing policies and programs that support cultural industries and respond to the demands of the public, legislators, and the industry itself, and limited departmental resources, we expected the Department to have adopted a strategic direction to guide the way it manages cultural supports. We also expected the Department to have established priorities and drafted action plans.

5.16 We examined the Department's plans and the co-ordination mechanisms at its disposal to support cultural industries. Through case studies, we also examined the way the Department dealt with issues involving consultation, distribution, technology, and data gathering. We chose these issues because they represent common challenges to the Department's ability to support cultural industries.

Sustained, coherent efforts will be required to strategically manage support to cultural industries

5.17 Within the Department, the Cultural Affairs Sector delivers policies and programs that support cultural industries. Seven branches share responsibility for developing and monitoring policies and programs in the areas of film, video and sound recording, television and broadcasting, publishing, new media, copyright, foreign investments, and the arts. An eighth branch is responsible for strategic planning and co-ordination of the sector.

5.18 Since November 2004, Canadian Heritage's Cultural Affairs Sector has been working to equip itself with the management framework necessary to develop a strategic plan and adopt a strategic approach to work. The sector has strengthened its planning and co-ordination ability. It has developed the first sectoral strategic plan linked to its new Program Activity Architecture (PAA). The PAA links an organization's strategic outcomes to its activities organizational structure. The Department is currently working on a research strategy. These initiatives testify to the sector's commitment and desire to improve its management practices.

5.19 However, the sector needs to take additional steps before it can achieve a true strategic management culture and a real change in sectoral operations. It needs to develop a global vision and adopt a strategic plan that outlines the way its priorities and strategies will enable it to reach its objectives. The sector also needs to establish performance indicators. The current strategic plan includes four priorities, but has 45 activities or projects, called "strategies," designed to attain them. In addition, the plan lists another set of more than 50 strategies linked to other activities, such as human resources

management, finance, and technology. The Department needs to clarify the first 45 strategies related to the priorities, since they say little about expected results, required resources, and timetables. For example, the documents we consulted provided few details about how the Department plans to implement a new audiovisual policy for the 21st century. The Department has not defined the research it needs to do or the consultations it must hold, nor has it set target dates.

Horizontal management needed

5.20 The absence of a global vision for the Cultural Affairs Sector affects the way it responds to issues common to each cultural industry. Developing or strengthening horizontal management mechanisms could help the sector work in a more strategic way. Exhibit 5.3 lists issues that are common to all cultural industries. The Cultural Affairs Sector and the Department could deal with these issues horizontally.

5.21 Although all branches pay attention to these important issues, we found that the Cultural Affairs Sector did not have horizontal management procedures that would allow branches to combine resources and share lessons learned from managing specific files. Although each branch carried out the same policy development and program management tasks, it dealt with issues and challenges of common concern in its own way. Instead of working together, each branch independently developed plans, set priorities, and established information and consultation needs. This approach allowed each branch to specialize in its respective field, to understand industry issues, and to adopt appropriate measures. But it does not favour horizontal management of common issues. Our analysis of consultation and data gathering activities revealed gaps in this area.

Exhibit 5.3 Common issues affecting cultural industries that could be dealt with horizontally

Issues	Challenges to address
Distribution of cultural products	Examine what happens to cultural products once they have been produced.
New technologies	Promote the transition to digital technology, which enables creators to communicate and interact directly with their audiences.
Delivery mechanisms	Establish a decision framework to evaluate the best method of delivering services.
Consultation	Establish a management and decision-making framework.
Strategic information	Define a strategy and priorities to obtain the information necessary to develop policies.
Development of performance indicator	Define performance indicators for the short, medium, and long term.

5.22 Consultation activities. The Cultural Affairs Sector makes consultation a priority, as this activity is essential to policy and program development. However, it does not apply a management framework that defines types of consultation, parties to be consulted, purpose of consultation, and timetables for consultation. This type of framework would enable the sector to select the best possible methods to reach its desired results. A management framework would, among other things, take into account the views of those organizations who are key players in delivering programs. Over the years, these organizations have acquired experience and knowledge and have direct access to producers. They play a key role in enabling the Department to reach its objectives. It is therefore important to solicit their point of view regularly.

5.23 The sector had no procedures to translate their results more generally or to share best practices. Most of the consultations were one-time occasions, discussed specific issues, and benefited only one branch of the sector.

5.24 Data gathering activities. The availability of up-to-date statistical data is essential to developing and evaluating departmental policies and programs that support cultural industries. This sector has developed its own data-gathering mechanisms to meet its most urgent needs and to compensate for delays in the production of Statistics Canada's data on film, video, publishing, and sound recording industries. However, these branches must also satisfy other information needs, and significant financial resources must be allocated to this effect.

5.25 We found that neither the Cultural Affairs Sector nor the overall Department had clearly defined its information needs and priorities or established a strategy to obtain this information. Such a plan would be useful in situations where resources are limited and developing and acquiring data requires a lot of time and resources. Canadian Heritage must make choices and prioritize the kind of data it needs for its analyses, strategic choices, and performance measures.

5.26 By not clearly determining its future direction and the results it wants to achieve by supporting cultural industries, the Department risks being unable to respond effectively to demands and constant pressures from cultural industries. The Department also risks being unable to obtain the information it requires to change policies and programs in an environment that is increasingly technological and competitive. Finally, Canadian Heritage risks losing opportunities to improve its efficiency by not co-ordinating its efforts or profiting from lessons learned.

Some departmental management mechanisms need strengthening

5.27 The Cultural Affairs Sector cannot adopt a more strategic approach without the Department's support. It can demonstrate leadership, but it must be able to count on proven departmental mechanisms: strategic planning, an integrated risk management framework, and program evaluation. Based on our analysis, we noted that the Department needs to strengthen the following:

- **Program Activity Architecture.** In 2005, the Department equipped itself with a Program Activity Architecture that updates the link between its strategic outcomes and activities and will guide its planning and performance management efforts over the next few years. The Department has informed us that work is under way to develop performance indicators and targets and integrate them in its Program Activity Architecture. Several tools, such as departmental strategies for research, performance measurement, and data gathering, need to be developed to help implement strategic planning.
- **Integrated risk management framework.** Canadian Heritage has not yet adopted an integrated risk management framework, as the Treasury Board Secretariat requested in its April 2001 guidelines. However, it has put in place certain risk management elements: a centre of excellence to manage grants and contributions, an integrated planning and reporting system, environmental analysis, and an internal risk-based audit plan. But the Department has not yet integrated these measures into a coherent approach or established a strategy on how to do so.
- **Program evaluation.** The Department administers about 60 programs in the areas of cultural industries, arts, heritage, citizenship, sports, and official languages. The Treasury Board Secretariat's Policy on Transfer Payments requires that departments evaluate each contribution program every five years. The number and diversity of programs presents the Department with the challenge of equipping itself with an evaluation strategy that allows it to horizontally evaluate results from various programs with common or similar objectives. The Department has recognized there would be advantages in identifying possibilities for shared evaluations and has recently begun a pilot project.

5.28 Recommendation. Canadian Heritage should

- determine the results it wants to attain by supporting cultural industries over the next few years;
- put in place horizontal management mechanisms to address selected common issues in support of cultural industries; and
- strengthen departmental mechanisms for strategic planning, risk management, and program evaluation.

Canadian Heritage's response. The Department's Program Activity Architecture, as described in its *2005–06 Report on Plans and Priorities*, identifies Canadian Heritage's strategic outcomes and defines its expected results for all program activities, including those supporting the cultural industries. The Department recognizes the need to further clarify the results statements and associated performance indicators for its support to cultural industries and intends to do so through the course of the fiscal year.

In addition, the Cultural Affairs Sector has been making improvements to its strategic management approach since November 2004. The Sector has developed a fully integrated approach for the management of its core functions and has started to identify additional horizontal management mechanisms to make this approach more strategic. These mechanisms include, for example, executive roundtables that will address horizontal policy and management issues in an integrated fashion.

The Department is in the final stages of implementing a departmental planning and reporting framework that will integrate risk-based strategic and operational planning with performance measurement and reporting. This framework, approved by the departmental executive committee in September 2003, has been shared with the Office of the Auditor General. The Department has an initial approved Integrated Risk Management Framework policy and has already taken steps to integrate key risk management practices into its strategic and operational planning processes (e.g. corporate risk profile, legal risk assessment, certain accountability accords, and risk-based audit and evaluation planning). More recently, the Department has established a focal point for Integrated Risk Management, independent of Internal Audit, to fully integrate risk management as part of the management culture and processes.

Following a large volume of program renewal-related evaluation work in the past year and a half that complied with Treasury Board Secretariat transfer payment policy requirements, the Department has

approved a 2005–06 Audit and Evaluation Plan, which includes a number of horizontal program cluster evaluations. This will test the ability of the present Program Activity Architecture to tell a meaningful performance story. At the same time, work is underway to use audits and evaluations to better inform the Management Accountability Framework. The Department has also launched an assessment of its program evaluation function with a view to enhancing its contributions to strategic management.

Governance framework

5.29 The governance framework covering relations between the Department and delivery organizations is outlined in a series of four memoranda of understanding (MOU)s and 16 contribution agreements. We examined MOUs and contribution agreements worth more than \$3.5 million per year negotiated between the Department and delivery organizations in the areas of feature film, television, sound recording, publishing, and new media. We also examined how and to what extent Canadian Heritage ensured the MOUs and contribution agreements were properly implemented.

Governance arrangements with other organizations could be better defined

5.30 Overall, the contribution agreements we examined respected most of the criteria that we identified in our November 1999 Report, Chapter 23, Involving Others in Governing: Accountability at Risk. However, we noted that these agreements did not clearly define program objectives and performance expectations. These deficiencies make it difficult to measure results and weaken the credibility of the organization's performance reports. Moreover, the contribution agreements we examined contained reporting and accountability requirements that did not take into account the relative importance of the projects funded. These agreements often included the same reporting standards for both small and large projects. Reporting requirements that do not take into account the level of risk involved unduly increase the design and administration costs of information systems for those organizations that deliver support measures.

5.31 We found that the Department used reports that its partners had provided, as well as internal audits, to monitor the way its agreements were implemented. Canadian Heritage followed up on issues the audit reports raised and took these into account in making decisions.

The governance of the Canadian Television Fund is complex

5.32 This section presents our concerns about the agreements with the Canadian Television Fund and Telefilm Canada.

5.33 The Canadian Television Fund: The corporation and the program. The Canadian Television Fund (CTF) is a non-profit corporation initially formed in 1994 under the name the Cable Production Fund/Le Fonds de Production des câblodistributeurs. At the time, the CTF administered contributions the cable industry made in accordance with CRTC decisions. In this chapter we identify the CTF corporation as the “CTF” or the “Canadian Television Fund.”

5.34 In 1996, the government created the Canadian Television Fund Program (the CTF program) by combining the program administered by Cable Production Fund/Le Fonds de Production des câblodistributeurs with the Canadian Broadcast Program Development Fund, which Telefilm Canada had administered since 1983.

5.35 The CTF program, a public-private partnership, received an additional \$100 million per year in federal funding and turned the two original funding programs into one program with two components:

- the Licence Fee Program, which “tops up” the licence fees broadcasters pay to producers, and
- the Equity Investment Program, under which Telefilm Canada invests directly in the production of a television program or series.

Through contribution agreements with Canadian Heritage, the CTF is responsible for the Licence Fee Program and Telefilm Canada is responsible for the Equity Investment Program.

5.36 The contribution agreement with the CTF also stipulates that the CTF oversees the policies, objectives, and guidelines of both programs and all of its activities. However, as we note in paragraph 5.40, Telefilm Canada’s board must approve, among other things, the CTF program guidelines because of Telefilm Canada’s responsibility for the Equity Investment Program.

5.37 The objectives of the CTF program are to assist in the creation and broadcast of high-quality television programs in prime time that contain Canadian cultural content, in both official languages, in the following four genres: dramas, documentaries, children’s and youth programming, and variety and performing arts. The CTF program must also support Aboriginal-language productions, allocate one third of its funds to French-language productions, and promote regional

productions in both official languages. From 1999–2000 to 2003–04, the CTF supported nearly 2,400 productions representing 12,000 hours of television programming. Those television programs included *The Newsroom*, *Cold Squad*, *Infoman*, and *Annie et ses hommes*.

5.38 In 2004–05, the CTF had a budget of \$275 million. Of that budget, \$39 million came from Telefilm Canada’s parliamentary appropriation, \$11 million from return on investments from Telefilm Canada, \$100 million from Canadian Heritage contributions, and \$125 million from cable and satellite distributors. See Appendix A for information about the financing structure of the Canadian Television Fund program.

5.39 Over the last few years, Canadian Heritage, Telefilm Canada, and the Canadian Television Fund have taken several steps to improve, among other things, transparency and accountability of the CTF. However, some governance and operations management issues remain outstanding.

5.40 Two boards of directors. Two boards are involved in administering the CTF program. According to the responsibilities stipulated in their own contribution agreement with the Department, the boards of both Telefilm and the CTF must approve the Equity Investment Program’s administrative budgets, business plans, and the CTF program guidelines. Both the CTF and Telefilm told us that these approval requirements have created inefficiencies and that developing proposals likely to be acceptable to two boards has sometimes been time-consuming. It is not always easy for two boards with different mandates and sometimes divergent concerns to achieve a common understanding of a program’s objectives.

5.41 CTF board’s conflict of interest, confidentiality, and independence guidelines are not applied rigorously. The Canadian Television Fund’s board of directors consists of 20 directors—5 appointed by the government, 14 appointed by audiovisual industry associations and the 1 appointed as Chair, selected either from among the directors or outside the board. The other directors formally elect the chair. The industry representation provides the board with expertise in the audiovisual field. However, it also opens the door to potential conflicts of interest, because the majority of the board directors are nominated by associations whose members receive CTF program funding or have direct or indirect interests in the broadcasting or production of television programs.

5.42 The presence of a Canadian Heritage representative and the Chairman of the Telefilm Canada board on the CTF board of directors raises another potential conflict. These directors have a fiduciary duty and duty of care to the CTF. However, they may also consider themselves to be accountable to the Deputy Minister of Canadian Heritage and the Telefilm board respectively. These duties could conflict with their duties as CTF directors.

5.43 We examined the procedures the Canadian Television Fund has put in place to manage the potential for conflicts of interest within its board of directors. The CTF adopted guidelines and procedures for managing conflict of interest, first in 1998, and then modified them in 2002 and 2004. In 2001, it formed a committee to ensure these guidelines were applied.

5.44 CTF guidelines and procedures cover personal conflicts of interests—that is, conflicts where CTF directors may have a direct or indirect interest in certain projects financed by the CTF. They do not cover sectoral interests—that is, the interests of the group that appointed the director.

5.45 The board establishes and oversees CTF program funding guidelines, which determine the eligibility and the level of funding of each genre. According to CTF's conflict of interest guidelines, in principle, CTF staff, not the board, make all decisions on contracts, projects, and applications.

5.46 The guidelines establish that if it becomes necessary for the board to consider any project financed by the CTF, directors should declare personal or corporate interests in the particular project; refrain from participating in the discussion, unless permitted by the Chair of the meeting; and refrain from voting on the matter. The minutes of the applicable meeting should reflect that this has been done.

5.47 We found that these guidelines and procedures were not rigorously applied. Although the minutes recorded occasions where directors identified a conflict of interest prior to the discussion and have abstained from voting on the issue, the minutes did not always indicate whether these guidelines have been followed. For example, on one occasion, discussion occurred before directors were asked to declare a conflict of interest. Although directors who had declared a conflict of interest were eventually excluded from voting, the full board discussed the proposal before the vote, contrary to the guidelines. In addition, we found that the minutes did not always record the reasons why directors had conflicts of interest in a particular matter or whether

directors that had a conflict of interest had declined to participate in the discussion about the relevant issue.

5.48 The CTF also has a protocol for sharing confidential information with non-authorized individuals. CTF documents indicate that in 2004–05, some directors did not comply with the protocol. The documents did not specify, however, what the directors had failed to do.

5.49 In 2004, the CTF identified five positions on the board of directors, including the chair, which must be filled by persons deemed “independent.” This refers to a person who has no direct or indirect financial interest in the allocation of the CTF resources and no material sectoral interest in the outcome of the board deliberations on the program’s guidelines. The role of these independent directors in an “independent committee” is, among other things, to fulfill certain responsibilities with respect to the Conflict of Interest Guidelines. The board is required to determine annually that the independent directors satisfy the requirements in the CTF Policy on Independence of Directors. We found that the board had done so; however, it had not recorded the information that was the basis of its determination. Consideration should be given to clarifying the policy to ensure that this information is documented in the future.

5.50 Unclear CTF program objectives. In a public-private partnership, where priorities can sometimes compete, clear objectives are needed to provide specific direction to the board of directors in making strategic decisions. We found that CTF program objectives are broad and lack precision. For example, it is not clear whether a regional production is a production made in a particular region or one that depicts a region. Similarly, the objectives do not define Aboriginal-language productions. Are Aboriginal producers required, or should the production be about Aboriginal culture? In addition, it can be difficult to achieve simultaneously the objective of funding high-quality productions and other objectives to support Aboriginal and regional productions. In order to increase the number of productions from under-represented communities, CTF may support projects from inexperienced producers. The board must balance these sometimes competing objectives.

Administering the Canadian Television Fund program remains cumbersome

5.51 Until 2004, producers of television programs seeking funding under the Licensing Fee and Equity Investment programs had to submit one application to Telefilm Canada and another to the Canadian Television Fund (CTF). Following a report in June 2003 by

the House of Commons Standing Committee on Canadian Heritage—which recommended, among other things, simplifying the operations and structure of the Canadian Television Fund—the two organizations created a single entry point for producers seeking funding under both programs. The CTF also created three separate streams, each drawing from both programs' funding sources: the English-Language Drama Stream, the Broadcaster Performance Envelope Stream (French-language drama, documentaries, children's and youth programming, and variety and performing arts), and the Special Initiatives Stream. Implementing the single entry point and the three funding streams required Telefilm Canada and the CTF to establish an administrative protocol, whereby Telefilm Canada manages the English-Language Drama Stream and the Special Initiatives Stream, and the CTF manages the Broadcaster Performance Envelope Stream.

5.52 The single entry point was successful in reducing the administrative burden for producers and the overlap of some operations in the two organizations. However, the requirements in the contribution agreements, which still divide in the same way the responsibilities of Telefilm Canada and the CTF, hinder efforts to simplify the system. Currently, 58 percent of applications by producers receive funding from both programs. They submit a single application but are required to sign two contracts for the same production, one with Telefilm Canada and another with the CTF. To process the applications, files and analyses go back and forth between Telefilm Canada and the CTF for approval, signature, and payment, which reduces the operational efficiency of both organizations. Moreover, the preparation of integrated financial statements for the CTF program has been a continuous source of difficulty for both organizations due to the different accounting methods used by Telefilm Canada and the CTF.

5.53 We found that, since its creation in 1996, the CTF program has changed in ways intended to simplify its structure and operations. However, despite definite improvements over the last 10 years, these changes have not sufficiently reduced the complexity in the governance structure of the CTF or resolved important operational efficiency issues. The current management structure of the Canadian Television Fund limits further improvement.

5.54 Proposed governance change. In June 2005, Canadian Heritage announced its intention to simplify the CTF governance structure and operations. According to its proposal, one board of directors—that of the CTF—would govern, manage, and be accountable for all television production programming and resources. Telefilm Canada would become a service provider. Under a service agreement with the CTF, Telefilm

Canada would administer the project selection process and inform the CTF of project decision funding. At the time of our audit, Canadian Heritage had not submitted its proposal to the government for approval.

5.55 Recommendation. Canadian Heritage should

- simplify the management structure of the Canadian Television Fund program; and
- clarify the objectives of the Canadian Television Fund program.

Canadian Heritage's response. Canadian Heritage agrees with this recommendation to clarify the objectives and results of the Canadian Television Fund program. Consultations have already been conducted to improve the governance of this public-private partnership.

5.56 Recommendation. The Canadian Television Fund should rigorously apply its conflict of interest, confidentiality, and independent committee guidelines and procedures and should ensure that it documents information supporting board decisions.

Canadian Television Fund's response. In the *Report of the Independent Committee for 2004–2005* dated 21 July 2005 (the Independent Committee Report), the Independent Committee indicated that it would take steps to ensure that all of the members of the board of the Canadian Television Fund (CTF) are aware (a) of their obligation *not* to disclose “Confidential Information” related to the CTF or its programs, except as permitted by the *Protocol on the Sharing of Confidential Information*, and (b) that Confidential Information related to the CTF's program guidelines and to certain other matters can only be shared with certain identified individuals if those individuals provide the CTF with a confidentiality undertaking in the required form.

In accordance with the recommendations in the Independent Committee Report, the board of the CTF now requires that, where a director declares that he or she has a conflict of interest or a potential conflict of interest, or the Independent Committee determines that a director or directors have conflicts of interest or potential conflicts of interest in respect of a particular matter, the minutes of the relevant meeting record the reasons for the declaration or determination.

In the future, individuals who have been nominated as “independent” directors will be required to provide information related to the criteria set out in CTF's *Policy on the Independence of Directors* to the CTF in writing before the board meeting, at which the board will make a determination about whether the individual is “independent” under the policy. This information will also be provided to the board before the relevant board meeting.

The board of the CTF and its Independent Committee will continue to manage conflicts of interest in accordance with CTF's *Conflict of Interest Guidelines*.

Concerns about Telefilm Canada's autonomy and implementing its new mandate

5.57 Telefilm Canada is a Crown corporation with a mandate, updated in March 2005, to foster and promote the development of the audiovisual industry in Canada and to act under agreements with Canadian Heritage.

5.58 In addition to its activities regarding feature film, Telefilm Canada administers, on behalf of Canadian Heritage, programs that support television, sound recording, and new media cultural industries. Memoranda of Understanding (MOUs) and contribution agreements between these two organizations govern the way both organizations administer these programs. MOUs and agreements on the Canadian Television Fund program date from 1996, while those in the sound recording and new media sectors date from 2001. An MOU on feature film was also ratified in 2001. These MOUs and contribution agreements were signed when Telefilm Canada's mandate covered only feature film. They enable Canadian Heritage to carry out these programs and account for the use of the funds received to support cultural industries.

5.59 Telefilm Canada receives about \$200 million a year to carry out its mandate and implement the MOUs and contribution agreements. Of this amount, about \$130 million comes from its parliamentary appropriations and \$70 million comes from Canadian Heritage through contribution agreements. The MOUs on feature film and television require Telefilm Canada to, among other things, allocate specific portions of its parliamentary appropriation to the Canada Feature Film Fund and to the Canadian Television Fund program.

5.60 Lack of a clear mandate for the audiovisual sector and the significance of Telefilm Canada's activities in television, sound recording, and new media led us to qualify our audit opinion about the financial statements of Telefilm Canada and to make an observation on this matter in our November 2004 Report to Parliament. The government has subsequently resolved this situation, and in March 2005, Parliament broadened the Crown corporation's mandate to include these activities. Today, in light of this new mandate and the government's proposals on the governance of Crown corporations, we question whether it is still relevant for Canadian Heritage to maintain

the MOUs and contribution agreements with Telefilm Canada in their current form.

5.61 These MOUs and contribution agreements contain detailed provisions requiring Telefilm Canada to do the following:

- Prepare separate annual business plans and audited financial statements for programs funded through contribution agreements. This task adds to the corporation's obligations to prepare a corporate business plan and audited financial statements, and entails changes to its organizational structure and its accounting and management systems in order to meet the agreements' requirements.
- Be subject to audits and evaluations by Canadian Heritage.
- Report on its activities to the Department and to the Canadian Television Fund, a private corporation, in addition to being accountable to Parliament, as its Crown corporation status requires.

5.62 Telefilm Board autonomy. A board of directors of a Crown corporation is responsible for managing of the corporation's activities. Directors must approve, among other things, the corporation's strategic direction and monitor performance. They are ultimately accountable to Parliament through a minister, normally referred to as the "responsible minister." Some members of the Telefilm Board have expressed concerns about the extent of the oversight that Telefilm Canada is subjected to, which leaves the board with little leeway to interpret its mandate and determine the best way to accomplish it. None of the other eight Crown corporations in the Canadian Heritage portfolio is subject to such a tight degree of oversight and monitoring. Moreover, no other Federal Crown corporation is evaluated and audited in this way by a department. This is a unique situation.

5.63 Governance framework of Crown corporations. In our view, the relative importance of the financing provided through contribution agreements and the extent of the oversight they require do not respect the spirit of the governance framework for federal Crown corporations. Normally, the framework provides direct financing from Parliament and allows the corporation considerable autonomy to manage operations. Furthermore, it is difficult to reconcile the extent of this oversight with Parliament's desire to insulate the creation of Canadian content from political interference by granting increased autonomy to Crown corporations with a cultural mandate, such as Telefilm Canada.

5.64 Efficiency of the entities. Finally, this oversight reduces the overall efficiency of Canadian Heritage and Telefilm Canada. On the

one hand, the Department has to allocate resources to create monitoring procedures and to analyze the Crown corporation's operations. On the other hand, Telefilm Canada's requirements to abide by MOUs and contribution agreements, and to satisfy Canadian Heritage monitoring requirement add to its workload.

5.65 Telefilm Canada's ability to realize its mandate. In our view, Canadian Heritage must rigorously assess the impact of its June 2005 proposal to simplify the operations and structure of the Canadian Television Fund had on Telefilm Canada—in particular, Telefilm Canada's ability to implement Parliament's March 2005 decision to give Telefilm Canada the mandate to promote and foster the development of the audiovisual industry in Canada. According to this proposal (see paragraph 5.54), the CTF would become the only body responsible for the implementation of the CTF program, which is the main support instrument for television. Telefilm Canada would become an executing agency of the CTF, and its role would be limited to selecting and administering projects in accordance with criteria the CTF establishes. Thus, Telefilm Canada would have little influence on the design and orientation of television support programs. We recognize that this proposal could partly solve the oversight problem mentioned previously. However, in the absence of any other responsibilities in the television area, the implementation of the proposal could significantly limit Telefilm Canada's role in developing the television industry and also limit its ability to account to Parliament for this aspect of its expanded mandate.

5.66 It will be important to ensure that the agreements among Canadian Heritage, Telefilm Canada, and the Canadian Television Fund respect both Canadian Heritage's mandate to formulate policies in the audiovisual field, and Telefilm Canada's ability to deliver its mandate to develop the audiovisual industry in Canada.

5.67 Recommendation. Canadian Heritage should review and simplify the governance and delivery structure of support programs for the audiovisual industry, including film, television, and new media, in order to respect the mandate and accountability responsibilities of the Department and Telefilm Canada.

Canadian Heritage's response. Canadian Heritage agrees with this recommendation. The Department provides public policy leadership in the audiovisual sector. In that context, the Department will make proposals to improve the governance of the Canadian Television Fund as a public-private partnership in which Telefilm Canada's role will be clarified.

Telefilm will continue to play a key role in fostering and promoting the development of the audiovisual industry in Canada, including television, feature film, and new media. Consistent with its mandate, which shall be exercised in the broader context of the cultural policies of the Government of Canada, Telefilm assists in the development, production, and distribution of audiovisual projects; supports professional development in the audiovisual industry; supports the Canadian presence at audiovisual markets and festivals in Canada and abroad; and administers international audiovisual co-production agreements.

Application of controls

5.68 Defining “Canadian content” in the audiovisual sector. In Canada, the financing of audiovisual productions is directly tied to “Canadian content” requirements. Canadian content is a broad concept that includes the attribution of key creative functions to individuals who are Canadian citizens or permanent residents of Canada, and who are involved in productions that are effectively controlled by Canadian producers and distributed in Canada by Canadian distributors and broadcasters. The requirements for hiring Canadian key creative personnel vary depending on whether producers apply for tax credits or for financing of feature films or television programs (Exhibit 5.4).

Exhibit 5.4 Key creative functions points system for a Canadian audio-visual production*

Key creative functions	Points
Director	2 points
Screenwriter	2 points
Lead performer	1 point
Second lead performer	1 point
Director of photography	1 point
Art director	1 point
Music composer	1 point
Picture editor	1 point

A production must be allotted a minimum of

- 6 points to be eligible for tax credits (CAVCO)
- 8 points to be eligible for financing of feature films (Telefilm Canada)
- 10 points to be eligible for financing of television programs (CTF and Telefilm Canada)

*Canadian Audio-Visual Certification Office (CAVCO) and the CRTC

5.69 In 2004–05, the federal government spent more than \$650 million in contributions and tax credits to support the production of feature films and television programs.

5.70 We examined the controls that Telefilm Canada and the Canadian Television Fund (CTF) have in place to ensure that the productions they finance meet Canadian content requirements and that producers are only reimbursed for eligible expenses. At the Canadian Audio-Visual Certification Office (CAVCO) in Canadian Heritage and at the Canada Revenue Agency (CRA), we examined the controls that ensure that tax credits are provided for eligible expenses incurred by Canadian producers for productions certified as Canadian. At the CRTC, we reviewed the controls in place to ensure that cable or satellite distribution companies pay their dues to the CTF. We tested the application of these controls by examining processes, reviewing files, and interviewing analysts and managers.

5.71 In the Canadian audiovisual field, the key risks Telefilm Canada and the CTF face include funding productions that are not Canadian and reimbursing ineligible production expenses. Another risk for Telefilm Canada is investing in productions with no prospect of public success. The key risks CAVCO and the CRA face is that they might issue tax credits to non-Canadian productions or to productions with significant foreign investment that are not under the effective control of Canadians.

A control framework appropriate to the nature of operations in the audiovisual sector

5.72 The Canadian Audio-Visual Certification Office, Telefilm Canada, the Canadian Television Fund, and the Canada Revenue Agency have processes, guidelines, and administrative policies in place to evaluate funding applications or assess tax credit claims. These rely on the following:

- Producers provide documentation. This includes the script, a list of the cast and crew, the chain of titles, the production budget, the project's financial structure, distribution agreements, an audited statement of production costs, an income tax return, and audited financial statements. At the time of the application, the documentation is accompanied by a declaration the producer signs attesting to the validity of the documents and stating that the information provided meets the funding agencies' requirements.
- An analysis of the information provided by producers.
- Audits and quality control reviews for some organizations.

Application of controls is not sufficiently rigorous

5.73 The Canadian Audio-Visual Certification Office. Canadian Heritage's CAVCO is responsible for certifying that a production is Canadian and thereby eligible for the Canadian film or video production tax credit. CAVCO certifies a production as Canadian if it satisfies criteria stated in the *Income Tax Act* and its regulations, including the requirement that a high percentage of the expenses are paid in Canada and to Canadians. CAVCO issues a certificate in two steps:

- It supplies Certificate (Part A) before or during the production, after examining the producer's documentation and checking it against the Canadian content requirement including the points system in Exhibit 5.4
- It supplies a Certificate of Completion (Part B) once the production is finished, based on documents illustrating the actual costs and compliance with Canadian content requirements. If a production does not have the second certificate (Part B), it will not qualify for the tax credit.

5.74 Our examination of CAVCO's controls and business processes showed it has identified certain risks but has not put in place formal control process and analytical tools. For example, CAVCO told us that it sorts files according to its perception of risks and assigns the most risky cases to experienced analysts. But it does not document this practice. A committee also reviews cases identified as problematic. In 2001, CAVCO produced a training manual for its staff. However, these measures do not allow analysts to identify and assess risks, systematically apply required controls, and document their analyses.

5.75 CAVCO does not have an independent quality control procedure. Although Canadian Heritage examined CAVCO's management practices in its 1999 review of the management practices of federal government mechanisms in support of film and television production, and again in a 2000 follow-up, it has not subjected CAVCO to an internal audit. As a result, the Department does not have recent data about the risk level of CAVCO's operations.

5.76 CAVCO never requires key creative personnel to submit documentation supporting their declaration of citizenship or permanent residence, even though it has the right to (Exhibit 5.4). Thus, this fundamental requirement for receiving Canadian certification is essentially based on the honour system.

5.77 Since September 2001, CAVCO has retained the Canada Revenue Agency's (CRA) services to conduct audits of files that it considers most at risk of not meeting Canadian content requirement. Between 2002 and the end of 2004, CAVCO referred 210 files to the CRA; it was concerned about the level of production spending in Canada and extent of Canadian producers' control. The CRA expressed concerns about 8 files out of 210 that, in its view, could have led to the revocation of Canadian certification. CAVCO disagreed with CRA concerns in four cases. Its officials explained to us that the CRA had not discovered any new facts justifying the certificates' revocation in these cases. CAVCO did not inform the CRA when it disagreed with its audit findings and did not act on them.

5.78 CAVCO communications with the CRA were deficient. Between 2002 and 2005, CAVCO did not forward the list of certified productions to the CRA and did not systematically inform the Agency when it revoked a certificate. During that period, the Agency relied on the Part A certificate received by fax from producers to issue the tax credits, without a guarantee of the certificates' validity. Producers rarely send the Agency the final Part B certificate, which they receive after the tax credit has been paid.

5.79 Without communication between CAVCO and the CRA about the issuance or revocation of certificates, the CRA cannot be assured that all the tax credits it allowed were for eligible Canadian productions. These controls are particularly important since CAVCO has identified foreign control of Canadian productions as a major risk. In early 2005, CAVCO resumed its practice of providing the CRA with monthly lists from its database showing the status of certification of productions. However, CRA employees told us CAVCO needs to improve these reports to facilitate access and retrieval of information about the status of certification or revocation of productions.

5.80 Recommendation. The Canadian Audio-Visual Certification Office of Canadian Heritage should

- document its business procedures and business risks, establish controls to mitigate those risks, and implement a quality control process;
- obtain documents supporting the Canadian citizenship or permanent resident declaration for each key creative personnel who participates in an audiovisual production for the first time, and keep this information for future reference; and

- clarify and resolve its differences of opinion with the Canada Revenue Agency on Canadian content audits that the CRA conducted.

Canadian Heritage's response. We agree with this recommendation. The Canadian Audio-Visual Certification Office (CAVCO) has started working to improve its risk management strategy and quality control processes, including declarations of citizenship for key creative employees. This strategy will include maintaining the Canadian Content Certification Audit Program (CCCAP), which audits selected certificates on the basis of the risks identified. The measures adopted as a result of this exercise will provide analysts with better tools to identify and assess risks, and will allow them to apply control measures and document their analyses.

The Department also agrees to make CAVCO's business relations with the Canada Revenue Agency more efficient in order to optimize information sharing between the two parties and to ensure a consistent interpretation of CAVCO's policies with respect to the CCCAP.

Canada Revenue Agency's response. The Canada Revenue Agency and the Canadian Audio-Visual Certification Office have agreed on a strategy to improve communication between both parties in order to resolve differences of opinion.

5.81 Telefilm Canada. Under the Canadian Feature Film Policy, Telefilm Canada invests in feature films that must reach a box-office receipt target. It is also responsible for selecting television projects (subject to the Canadian Television Fund (CTF) program requirements) in the following genres: English drama, Aboriginal-language productions, and French-language productions outside Quebec. In its selection process, Telefilm Canada assesses the creative content, including the quality of the script and the director's vision, in addition to its financial elements and Canadian content eligibility. To help make these selections, Telefilm has created a national comparative process, in which staff evaluate projects according to a scale containing common criteria. Decisions based on qualitative data need to have a justification, especially given that Telefilm Canada rejects far more projects than it selects. It is therefore important that decisions rely on a rigorous process and are well documented.

5.82 Over the last few years, Telefilm Canada has extensively reviewed its policies and procedures and has put in place a good control framework, based on risks. Each year, Telefilm audits a sample of about 30 files to ensure that cost reports submitted by the producers

conform to its requirements. Finally, an external accounting firm acts as internal auditor to implement a risk-based audit plan.

5.83 Our examination of the way Telefilm Canada applies its controls revealed the following gaps:

- Project selection was not always justified through supporting documentation. Telefilm could not provide us with written justification on its decision to select some feature films in 2002. At the time of our examination, the organization had tightened its requirements for documenting decisions.
- Some files were particularly disorganized, which made it difficult to determine whether the procedures had been followed correctly.
- The Canadian citizenship of key creative personnel was not systematically confirmed. Telefilm explained that it assumed CAVCO undertook this task on its behalf, which is not the case (see paragraph 5.76).
- Analysts did not uniformly apply controls for the financial analysis of projects. This was especially true for reports about production costs, where there was limited documentation of the analysis. Telefilm did not have clear and up-to-date guidelines for its analysts, leaving them a lot of latitude. In addition, the Telefilm and Canadian Television Fund joint guidelines for production costs—Accounting and Reporting Requirements—were vague, especially for transactions by related parties. This, combined with the absence of clear guidelines, increased the risk of overbilling going undetected.

5.84 In 2005, Telefilm conducted a quality control review of the processing of English television drama applications. At the time of our examination, it had drafted recommendations to address weaknesses and was working on an action plan. To evaluate the value of the information on which it based financing decisions, Telefilm had also initiated a post-mortem on the selection of some English-language feature films that had failed at the box office.

5.85 Recommendation. Telefilm Canada should

- ensure that analysts apply controls rigorously, document decisions and analyses, and organize files uniformly;
- clarify, with the Canadian Television Fund, the guidelines on accounting and reporting requirements of production costs; specify what costs are acceptable, particularly regarding related-party transactions, and communicate this information to its analysts, producers, and their external auditors; and

- follow up on recommendations from its 2005 quality control review and ensure that this review becomes part of its permanent internal control procedure.

Telefilm Canada's response. In consultation with the Canadian Television Fund, Telefilm Canada has reviewed and clarified its policy regarding the accounting and reporting requirements. This new version was submitted to the producer associations, and will be disclosed to analysts, producers, and internal auditors through seminars.

Telefilm Canada has already reacted to the recommendations, which resulted from the quality control exercise. A first version of the quality control program has been issued. The program will be in effect during the next financial year. This permanent program should also reassure us that the controls are rigorously applied, that the analyses are well documented, and that the files are evenly organized.

5.86 The Canadian Television Fund (CTF). The CTF must ensure that the television projects it finances meet essential requirements. Each episode must reflect Canadian themes and subject matter, be shot and set primarily in Canada, and have achieved the maximum number of points (10) on the CAVCO scale for key creative functions. CTF staff must also ensure that the licence fee broadcasters pay complies with the threshold stated in the CTF guidelines for each genre. However, the CTF does not judge a project's creative content since the project already has the agreement of a broadcaster who reviewed the content when agreeing to broadcast the program.

5.87 We observed that the CTF provides a good framework to ensure that analysts address requests based on risk management principles. Procedures are documented, risks are identified and linked to controls, and analysts have tools to guide them in their examination and decisions, including access to a database showing how problems were resolved in previous cases.

5.88 Our audit revealed that the procedures were applied well. Files contained analyses verifying whether producers had met their initial commitments regarding CTF essential requirements. Staff conducted detailed reviews of budgets and financial reports, including related-party transactions. However, Telefilm Canada and CTF joint guidelines for production costs—Accounting and Reporting Requirements—were vague (see paragraph 5.83). Without clear guidelines that would, among other things, define the variances and unusual items that require explanation, these controls provide only limited assurance that production costs claimed were eligible.

5.89 As a quality control measure, the CTF reviews a sampling of files its analysts have processed. However, we found that the organization does not draw conclusions from these reviews. This prevents the CTF from fully benefiting from these controls and subsequently improving its practices. Since 2002, the CTF has referred an average of 40 potentially risky files a year to an external accounting firm for review, including two forensic reviews. The CTF did not have a formal procedure in place to inform the board of directors about risks these controls identified.

5.90 Recommendation. The Canadian Television Fund should

- strengthen its quality control procedure to ensure that the results are well-documented and acted on to improve business practices; and
- clarify, with Telefilm Canada, the guidelines for production costs—Accounting and Reporting Requirement; specify what is acceptable in terms of costs, particularly regarding related-party transactions; and communicate this information to its analysts, producers, and their external auditors.

Canadian Television Fund's response. There are two components to the CTF's quality control mechanism (a) internal file reviews (IFRs) concluded by the CTF's compliance manager, and (b) the approximately 40 files a year that are referred to an independent accounting firm. The IFRs are intended to audit compliance with the CTF's program guidelines and other policies and to evaluate consistency of interpretation and application of the guidelines. The reviews conducted by the independent accounting firm are financial audits of productions that have been funded by the CTF's programs.

(a) Internal file reviews. The CTF's compliance manager selects the files to be reviewed based on criteria that have not been formally documented. In general, the compliance manager has made these selections so as to ensure that the files reviewed represent a broad cross-section of analysts, types of productions (e.g., budget size and complexity), genres and producers. The compliance manager reports to the President/CEO and, where problems are identified, remedial action is taken.

In the future, the CTF will follow the following procedure for its IFRs, (i) on an annual basis, the compliance manager will prepare a compliance review plan that will set out the criteria to be used to select files for review and present the plan to the President/CEO and the Finance Committee for review and approval, and (ii) after the end of each financial year, the compliance manager

will provide a written report to the President/CEO and the Finance Committee summarizing results of the IFRs conducted in the financial year which will include, if appropriate, recommendations for changes or remedial actions.

- (b) Production reviews. The criteria used to select the files for review by the independent accountants have not been documented. In the past, these files have been selected by the compliance manager based on her assessment of risk. In recent years, the focus has been on related party costs.

When the independent accountants have completed the review of files for a particular year, a report on each file as well as a comprehensive report summarizing the results of the review and identifying problem areas and potential solutions has been delivered to the President/CEO. The most recent report, which relates to the 2001 slate of productions was delivered on 28 September 2005.

The CTF has engaged the independent accounting firm to assist it to develop a clearly articulated set of criteria for selecting files for financial audit. These criteria will be responsive to the risks, identified by the CTF in consultation with the independent accounting firm, related to the financial aspects of productions funded by the CTF. When this process is completed, the selection criteria will be reviewed/approved by the Finance Committee.

In the future, the comprehensive report from the independent accounting firm (including any recommendations for changes) will be presented to the Finance Committee for review.

The CTF and Telefilm have been working on revisions to the Accounting and Reporting Requirements policy for the past year. In keeping with the practices and policies of the CTF and Telefilm, the development of the revised policy has involved lengthy consultations with organizations representing producers. A revised draft of the policy was circulated to the producer organizations for comment in August 2005. The revised policy is modelled on the CRA's policies to the extent these policies are relevant and applicable. It is expected that this draft will be acceptable to the producer organizations with relatively few modifications. Once the policy is finalized, it will be posted on the CTF's Web site. In addition, the producer organizations will be given advance notice of the publication of the revised policy and will notify their members.

5.91 The Canada Revenue Agency. The Agency's policy is to review all Canadian Film or Video Production Tax Credit claims before issuing

tax credits. Depending on the outcome of this review, claims are accepted as is or undergo a more in-depth audit for which the Agency allocates the necessary resources. Since 2001–02, the Agency has audited about 60 percent of the 1,100 tax credit claims it receives annually. Following these audits, it reduced the tax credit amounts claimed by about 5 percent each year, representing \$7 million, in addition to other audit adjustments.

5.92 The Agency explained to us that its supervisors base their decisions to audit tax credit claims on several factors, including the size of the amount claimed, the claimant’s history, and whether the claimant is new to the program. However, the Agency had not documented these risk factors, depending instead on the experience of the supervisors in each of its regional offices to determine which cases required audit. Furthermore, the Agency has not implemented a control system to review the quality of supervisor decisions. Given the importance of these decisions and considering the supervisor’s role in determining the need for an audit, these decisions should be subject to quality control. In mid-2005, the CRA was working on a draft risk management policy for federal film tax credit programs that set the stage to better identify, document, and manage risks.

5.93 The files we consulted did not contain justifications for the audit decisions. In addition, decisions not to audit a claim were not always based on the risk criteria explained to us. In one file, the Agency granted a sizable tax credit without auditing the claim. The file did not justify the decision not to audit, or provide any supporting elements that would have showed a preliminary review of the claimant’s information. A note in the file stated that a tax credit should be issued as soon as possible. The Agency explained that this production urgently required funds because it was approaching the end of its fiscal year. The Agency also stated that officials had considered many risk factors before deciding not to audit the claim. However, as none of this was documented in the file, we had to rely on the verbal explanation and could not conclude that the CRA had applied its controls.

5.94 We found that, as a result of its audit of the same project two years later, Telefilm had identified a substantial overbilling and had consequently billed the producer to recover part of its investment. The CTF had also detected overbilling during its first analysis of the project and had reduced the amount claimed. The same statement of production costs had been submitted to all three entities: Telefilm Canada, CTF, and CRA. Given that the expenses producers claim could have an impact on their tax credits, CRA could benefit in the

future from being aware of Telefilm and the CTF analyses, which it has the right, under the *Income Tax Act*, to obtain.

5.95 Recommendation. The Canada Revenue Agency should

- examine and document the risks it faces in administering the Canadian Film or Video Production Tax Credit, review its audit strategy accordingly, set up key controls, and document them;
- create a procedure to review the quality of supervisor decisions; and
- establish a procedure that would allow it to benefit from the results of analyses done by Telefilm Canada and the Canadian Television Fund that have identified overbilling by producers.

Canada Revenue Agency’s response. The CRA agrees and, as part of its risk assessment framework and audit strategy, has implemented a risk management policy for federal film tax credit programs. This comprehensive policy includes risk assessment criteria, key controls, and guidelines for processing claims. The policy was implemented nationally in October 2005.

The CRA has finalized and implemented the use of a “Risk Assessment Control Sheet,” which is included in the CRA’s risk management policy for federal film tax credit programs. The information captured will provide the CRA with a mechanism to review the quality of decision making of supervisors.

The Agency will determine the degree to which the “over-billing” information compiled by Telefilm and the CTF is beneficial to the CRA for purposes of administering the Canadian Film or Video Production Tax Credit. If beneficial, the CRA will establish a mechanism with Telefilm and the CTF to obtain this information.

5.96 The Canadian Radio-television and Telecommunications Commission. The CRTC requires each cable or satellite distribution company to contribute five percent of its gross annual revenues from broadcasting activities to the creation of Canadian programming. The company must allocate a minimum of 80 percent of this contribution to the Canadian Television Fund, after deducting any contribution to its community channel that year.

5.97 To ensure companies comply with this requirement, the CRTC requires each distribution company to submit an audited financial report of each of its undertakings’ gross annual revenues related solely to broadcasting activities, indicating the amount each company undertaking has paid to the CTF.

5.98 We observed that the CRTC checks the accuracy of the amounts distribution companies report they are required to contribute to the CTF against the amounts they report having paid. The analyses are rigorous and well documented. However, the CRTC does not inform the CTF of the amounts that it should receive from these companies. In our view, without reconciling the amounts the companies declared and the amounts CTF received, the CRTC cannot be assured that the amounts due to CTF were paid. The Canadian Television Fund explained to us that it has no way to verify whether the amounts it receives from the distribution companies match the amounts they report to the CRTC.

5.99 Recommendation. The Canadian Radio-television and Telecommunications Commission should inform the Canadian Television Fund of the amount each cable or satellite distribution company should have paid it the previous year, and should require confirmation from the Canadian Television Fund that it received those amounts.

Canadian Radio-television and Telecommunications Commission's response. The CRTC concurs with the recommendation and, commencing with the 2005 broadcast year, undertakes, as part of its annual verification of the amounts distribution companies are required to contribute to the Canadian Television Fund (CTF), to inform the CTF of the amounts it should expect to have received each year. The information will be made available to the CTF on a licensee-specific basis on the understanding that the CTF will keep it confidential and will not share it with other parties. Upon confirmation by the CTF of the amounts it has effectively received, the CRTC will follow-up as necessary with those distribution companies who have not contributed the expected amounts.

Overall efficiency of controls can be increased

5.100 Overall efficiency of controls. In 1999, following the disclosure of an alleged fraud case involving Cinar, Canadian Heritage examined the management practices of various federal organizations that support film, video, and television production. The ensuing report recommended that the Canadian Audio-Visual Certification Office (CAVCO), the Canada Revenue Agency (CRA), and the other organizations should be able to share their information more freely in order to minimize the risks of abuse and ensure better expenditure control.

5.101 In 2001 Canadian Heritage, Telefilm Canada, the Canadian Television Fund, and the Canada Revenue Agency set up a System Council to discuss topics of common interest, such as effectiveness of controls, information producers should be required to provide, and ways to share information.

5.102 Our examination showed that these discussions did not frequently translate into concrete action plans. However, they allowed Telefilm Canada and the Canadian Television Fund to improve co-ordination, harmonize some of their policies and management practices, and, exchange information about projects they fund with agreement from producers.

5.103 Nevertheless, problems involving communications and co-operation among these organizations persist:

- Despite improvements in 2005, CAVCO and the CRA, two government agencies that co-administer the same program and related provisions of the *Income Tax Act*, work largely independently in areas where they are interdependent and have no structured and sustained procedures to exchange information. This weakens both the controls and the efficiency of the Canadian Film or Video Production Tax Credit program.
- Since 2001, Finance Canada, in consultation with Canadian Heritage, has been trying to get the *Income Tax Act* amended to increase transparency and to make public key information about the Canadian certification of audiovisual productions, including identifying the individuals who were allocated points for occupying key creative functions. The amendment would also allow Canadian Heritage, the Canada Revenue Agency, Telefilm Canada, and the Canadian Television Fund to share information about a production. At the time of our audit, Finance Canada had not submitted the amendments to the Act to Parliament.
- Analyzing the audited statement of final production costs is an important control. It allows officials to determine the eligibility of submitted costs and, in some cases, to detect overbilling. The Telefilm and CTF joint guidelines for production costs—Accounting and Reporting Requirements—need to be clarified (see paragraphs 5.83 and 5.88). These guidelines need to be strengthened, and the CRA's expertise in this area could help.
- Three entities—CAVCO, Telefilm Canada, and the CTF—must ensure that audiovisual projects respect certain standards on the hiring of Canadians in key creative functions (Exhibit 5.4). We

noted that the verification of Canadian citizenship or permanent resident status is essentially based on an honour system. Only CAVCO, by virtue of the *Income Tax Act*, could obtain reliable documentation to confirm Canadian citizenship or permanent resident status. To improve the quality of controls and efficiency of the system, one organization could verify this on behalf of the others.

5.104 Recommendation. Canadian Heritage should, in collaboration with

- the Canada Revenue Agency, put in place procedures to share, systematically and in a sustained manner, all information necessary to administer tax credits; and
- Telefilm Canada and the Canadian Television Fund, develop and adopt a common approach, based on reliable information, to certify the Canadian citizenship or permanent resident status of those accorded points for holding key creative functions in a production.

Canadian Heritage's response. We agree with this recommendation. Canadian Heritage will carry on with the work undertaken with respect to the System Council's mandate to improve (where possible) the information-sharing mechanisms between the Department and federal agencies and programs. The Department agrees to make the Canadian Audio-Visual Certification Office's (CAVCO) business relations with the Canada Revenue Agency more efficient in order to optimize information-sharing between the two parties and to ensure a consistent interpretation of the Office's policies with respect to the Canadian Content Certification Audit Program (CCCAP).

In its second response to the Lincoln Report, the government shared its intent to make CAVCO responsible for all of the Canadian content certification work on behalf of the federal agencies and programs. This measure will provide for the implementation of a single document validation system for the certification of key creative employees.

Canada Revenue Agency's response. The Canada Revenue Agency (CRA) and the Canadian Audio-Visual Certification Office (CAVCO) have agreed on a mechanism to optimize information sharing between both parties. CAVCO will provide the CRA with copies of all revocation letters it issues to applicants, in a timely manner.

Measuring and reporting results

5.105 Canadian Heritage's goal in assisting cultural industries is to support the creation of and access to Canadian content and to encourage participation in cultural life in Canada. The Department has pursued these objectives for several years.

5.106 We examined the procedures the Department has put in place to measure and communicate its results to Parliament, including results-based management and accountability frameworks, evaluations of cultural industry support programs completed since 2001, and the *2003–04 Departmental Performance Report*.

Tools to measure results and progress are inadequate

5.107 The Department has information on the production and consumption of Canadian content, but it knows little about the impact of its support measures on cultural industries (Exhibit 5.5). Information about results can be placed within a timeframe, with departmental support programs linked to actual results in terms of production (short term) and consumption (medium term) of Canadian content, and the effects of that production and consumption (long term).

5.108 Performance measures to develop and targets to set. Our analysis of production and consumption indicators showed that Canadian Heritage had not established targets or commitments to ensure that its support programs reach their objectives in helping to

Exhibit 5.5 Information on results

Cultural industry support measures	Production of Canadian content (short term)	Consumption of Canadian content (medium term)	Impact of support measures for Canadians (long term)
Feature film	●	◐	Little or no data available
Television	●	◐	
Publishing—books	●	◐	
Publishing—magazines	●	●	
Sound recording	●	●	
New media	●	◐	

● Reasonably complete data available ◐ Limited data available

create, produce, and distribute Canadian content. For example, the production of Canadian content can be illustrated by the following results:

- CAVCO has certified on average 65 feature films per year over the past five years;
- the CTF has financed an average 2,400 hours of television per year over the same period;
- publishing firms supported by the Book Publishing Industry Development Program produced 6,098 new titles by Canadian authors in 2004–05; and
- Canadian record producers produced 2,059 Canadian CDs in 2003.

Although interesting, these results do not provide much information on the Department's performance or progress in providing support for the production and access to Canadian content. In the absence of targets, we do not know how to interpret or evaluate these results or the progress made.

5.109 We can appreciate the usefulness of targets by looking at the feature film industry. In 2000 the Department established an objective: increase audiences for Canadian films to five percent of the Canadian market, over a five-year period. Canadian films made up 4.55 percent of box-office returns generated in the Canadian market in 2004. Targets give program administrators direction. They also provide parliamentarians with a basis of comparison by which to judge the Department's performance and the results it achieved with its financial resources.

5.110 Current performance measures of the feature film policy only track movie theatre audiences. Since the policy's objective is to build larger audiences at home and abroad for Canadian feature films, the box office measure underestimates a film's audience because it does not take into account distribution by broadcasters, the revenue that DVD and video sales generate, and sales abroad. Furthermore, this measure does not separate the two linguistic markets in Canada.

5.111 Management frameworks need improvement. Our analysis of results-based management and accountability frameworks revealed that the definition of results in the short, medium, and long term, as well as the definition of performance indicators, lacked precision. The Cultural Affairs Sector of Canadian Heritage has improved its definition of expected results and corresponding indicators in two

frameworks that it revised in 2005 (the Canada Music Fund and the Canadian Television Fund program). However, these programs still need to include measurable targets.

5.112 Long-term impacts. The Department does not have information about the long-term impacts of its programs (Exhibit 5.5). Information of this type is generally produced as part of a Department's program evaluations.

5.113 Canadian Heritage evaluated the Book Publishing Industry Development Program in 2004 and presented the results in its 2003–04 *Departmental Performance Report*. In 2005, it evaluated its Publications Assistance Program. It is currently completing an evaluation of the Canadian Television Fund program and is preparing to evaluate the Feature Film Policy.

5.114 Our analysis of the two completed evaluation reports showed that the Department found it very difficult to measure the programs' performance because it did not have the necessary data available at the time of the evaluations. The evaluation of the Book Publishing Industry Development Program recommended that the Department needed to improve its ability to measure progress on the program's cultural objectives. The evaluation of the Publications Assistance Program revealed a lack of clarity and consistency among various stated program objectives, and a lack of valid and reliable performance data at the time the Department conducted the evaluation.

5.115 We recognize it is difficult to measure the long-term effects of cultural industry support programs and to know to what extent any observed progress is attributable to departmental programs. However, this difficulty does not diminish the importance of continuing research and evaluation efforts. Program evaluations should allow the Department to obtain a clearer picture of its performance and the results it has achieved, and should allow the Department to determine the best way to improve its programs.

The departmental performance report needs improvement

5.116 The departmental performance report is the preferred vehicle for informing Parliament of results achieved during the period just ended. We evaluated the quality of the Canadian Heritage performance report for the year ended 31 March 2004, using an evaluation tool that our Office developed and published in 2002.

5.117 We found that the *2003–04 Performance Report* was deficient in several respects:

- there was no clear link between the Department’s strategic objectives, the major results expected, and actual results achieved;
- there were no concrete expectations established for desired results; and
- information about results achieved was incomplete, based on volume and economic measurements, and did not provide much information about long-term impacts.

Our previous observations about weaknesses in results-measurement tools explain this situation in part. It means that Canadian Heritage is not able to adequately inform Parliament about its performance. The new Program Activity Architecture (see paragraph 5.27) could serve as a foundation for revising the Department’s performance report.

5.118 Recommendation. Canadian Heritage should

- clarify its program objectives for support to cultural industries in relation to Department objectives;
- develop a performance measurement strategy that would specify, among other things, performance indicators and targets to monitor, assess, and account for its performance to Parliament;
- develop data-gathering strategies required to implement performance indicators; and
- include in its departmental performance report of its accomplishments, progress, and actual results through previously selected performance indicators and targets.

Canadian Heritage’s response. The Department’s Program Activity Architecture, as described in its *2005–06 Report on Plans and Priorities*, identifies Canadian Heritage’s strategic outcomes and defines its expected results for all program activities, including those supporting the cultural industries. The Department recognizes the need to further clarify the results statements and associated performance indicators for its support to cultural industries and intends to do so through the course of the fiscal year.

An executive roundtable has been established within the Cultural Affairs Sector to define more precisely the results, performance indicators and targets for programs supporting the cultural industries.

Building on the performance measurement framework of the Program Activity Architecture, the Department will, this fiscal year, develop a performance measurement strategy that will specify, among other things, performance indicators, targets, and data-gathering mechanisms. This information will improve the Department's capacity to monitor and assess its performance and to report its accomplishments, progress, and actual results to Parliament in the departmental performance report. Work has been underway over the past six months to develop a department-wide data acquisition and development plan with Statistics Canada in the area of cultural statistics. A gap analysis is being conducted by Statistics Canada at Canadian Heritage request of what is currently collected on behalf of the Department and what may be required under the new Program Activity Architecture. This is an essential step in identifying and implementing appropriate performance indicators. A corporate review of Canadian Heritage Public Opinion Research has also been completed in the past year to better identify research and information that can address departmental strategic priorities. This was also shared with the Office of the Auditor General. Finally, a departmental research plan has been developed and approved by the Executive Committee that integrates all policy research activities for all Sectors, including that of programs supporting the cultural industries

Conclusion

5.119 Canadian Heritage needs to strengthen its strategic direction, results measurement, and accountability structures for its cultural industry support programs if it wants to improve the efficiency and effectiveness of its programs and operations. The Cultural Affairs Sector also needs to

- clarify the results it expects to achieve in supporting cultural industries over the coming years,
- define performance targets, and
- better account for the achievements and results it lists in the departmental performance report.

5.120 Canadian Heritage has considerable influence over the governance of the Canadian Television Fund (CTF) and Telefilm Canada through its contribution agreements with these two organizations. Although these agreements respond to the Department's legitimate need to report on the administration of its programs, they make the governance of the CTF and the relationships

among these three organizations complex. They also significantly reduce Telefilm Canada's autonomy and its ability to achieve its mandate.

5.121 The Canadian Audio-Visual Certification Office of Canadian Heritage, Telefilm Canada, the Canadian Television Fund, and the Canada Revenue Agency have put in place a control framework appropriate to the nature of operations in the audiovisual sector. However, with the exception of the CTF, they do not apply their control rigorously enough. In the absence of a more systematic approach to risk management and to how decisions are documented, these organizations cannot be assured that Canadian content requirements are met, that projects are selected in accordance with criteria, that only eligible expenses are paid, or that tax credits are paid only for eligible expenses. Weaknesses in the sharing of information among all the organizations involved, including the Canadian Radio-television and Telecommunications Commission, also limit the effectiveness of controls.

About the Audit

Audit objectives

Our objectives were to determine whether

- Canadian Heritage has appropriate strategic direction, governance, control, results measurement, and accountability mechanisms to manage its cultural industries support;
- the Canadian Audio-Visual Certification Office of Canadian Heritage has controls to obtain reasonable assurance that audiovisual producers' projects meet the Canadian content requirements of the *Income Tax Act* and its regulations;
- Telefilm Canada and the Canadian Television Fund have controls to ensure that they are applying their contribution agreements with Canadian Heritage correctly;
- the Canada Revenue Agency has controls to obtain reasonable assurance that tax credits for Canadian film or video productions apply only to eligible expenditures; and
- the Canadian Radio-television and Telecommunications Commission has controls to obtain reasonable assurance that cable and satellite distribution companies paid the required percentage of their annual revenues to the Canadian Television Fund.

Scope and approach

Our examination focussed on the management of the support the Government of Canada provides to the film, television, publishing, sound recording, and new media industries.

We conducted our examination at the following organizations:

- Canadian Heritage and its Canadian Audio-Visual Certification Office,
- the Canada Revenue Agency,
- the Canadian Radio-television and Telecommunications Commission,
- Telefilm Canada, and
- the Canadian Television Fund.

Our audit methodology included analyzing various documents and reports, such as strategic plans, program evaluations, contribution agreements between the Department and with delivery partners, and databases, including the Canadian Audio-Visual Certification Office database; examining files; and meeting representatives from the audited entities, the industry, academia, or other jurisdictions involved in the business of supporting cultural industries.

We did not audit program recipients (producers, publishers, screenwriters).

To obtain an overview of support for cultural industries, we first focussed on the Department, its role and responsibilities in developing policies, monitoring their implementation, and measuring results, and its accountability procedures to Parliament. Then, we drew connections among organizations involved in the

delivery of support measures and the way they discharge their responsibilities. Thus, we audited certain elements of the organizations' management; we did not examine the overall management of each organization.

Criteria

We expected Canadian Heritage to have strategic direction, in the form of

- a strategic approach to guide the Department in the management of its support for cultural industries;
- implementation strategies;
- relevant information and analyses, consultation with its main stakeholders, including third parties, and effective program co-ordination procedures on which to base its strategic direction and implementation strategies; and
- priorities and action plans.

We expected Canadian Heritage to have a governance framework for delivery organizations, established by

- developing a governance framework that promotes credible reporting, effective accountability, adequate transparency, and the protection of the public interest, including provisions addressing conflicts of interest;
- putting in place controls to ensure that memoranda of understanding and contribution agreements were complied with; and
- ensuring that memoranda of understanding and contribution agreements with Telefilm Canada preserve the autonomy and independence of the Crown Corporation.

We expected Canadian Heritage to have control of funds it pays producers in the audiovisual sector, by having obtained reasonable assurance that

- its delivery partners allocated funds in compliance with program terms and conditions;
- feature film and television projects satisfied Canadian content certification requirements, project selection criteria, and expense eligibility criteria; and
- the control framework put in place in collaboration with its delivery partners was efficient.

We expected Canadian Heritage to have performance measurement and reporting by

- setting clear and concrete performance expectations for support to cultural industries;
- assessing the results and impacts of its support programs;
- using information about performance to improve its programs; and
- communicating those results and the impact of the support provided to Parliament.

We expected Telefilm Canada to have controls to ensure that the feature film and television projects it funds satisfied Canadian content certification requirements, project selection criteria, and expense eligibility criteria.

We expected the Canadian Television Fund to have controls to ensure that the television projects it funds satisfied Canadian content certification requirements, project selection criteria, and expense eligibility criteria.

We expected the Canada Revenue Agency to have an effective control system to assess the tax credit claims that film and television producers filed.

We expected the Canadian Radio-television and Telecommunications Commission to have an effective control system to monitor the amounts cable and satellite distribution companies paid to the Canadian Television Fund.

These audit criteria are drawn from our work on accountability, results measurement, and management of grants and contributions.

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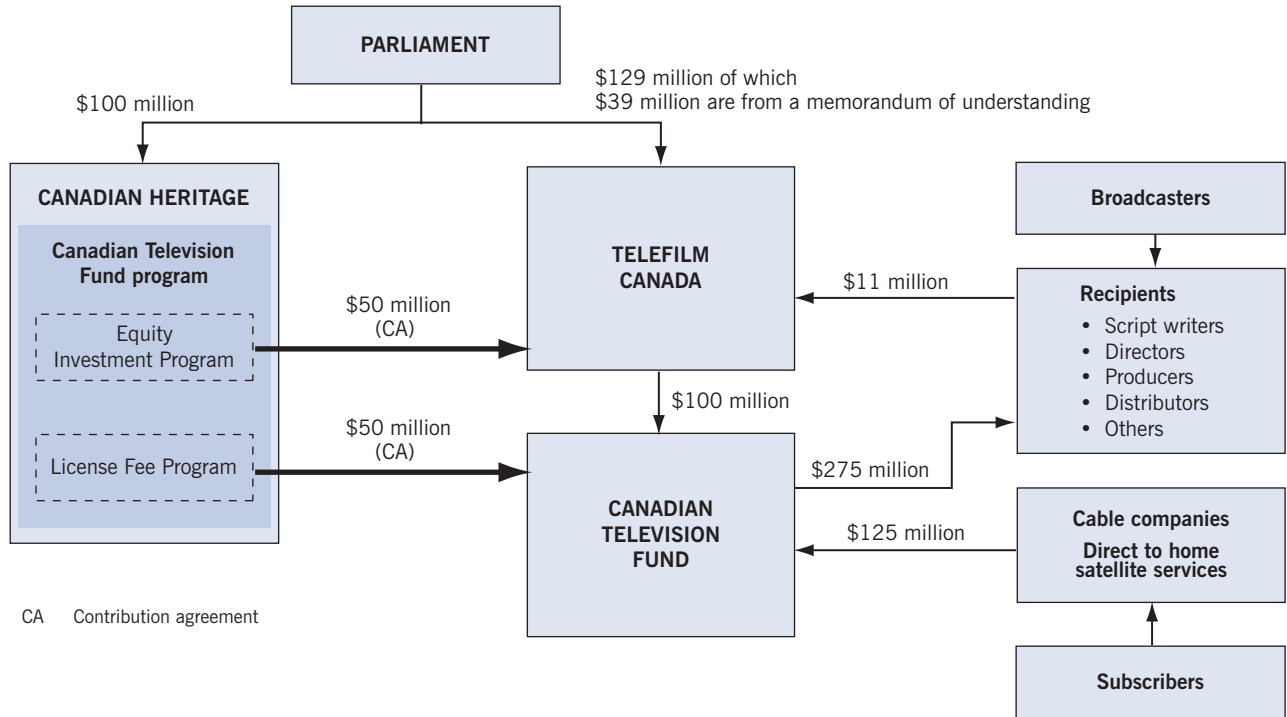
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Appendix A Financing structure of the Canadian Television Fund program, 2004–05



Source: Data from Canadian Heritage, Canadian Television Fund, and Telefilm Canada

Appendix B List of recommendations

The following is a list of recommendations found in Chapter 5. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Department's response
Strategic management	
<p>5.28 Canadian Heritage should</p> <ul style="list-style-type: none"> • determine the results it wants to attain by supporting cultural industries over the next few years; • put in place horizontal management mechanisms to address selected common issues in support of cultural industries; and • strengthen departmental mechanisms for strategic planning, risk management, and program evaluation. <p>(5.27)</p>	<p>The Department's Program Activity Architecture, as described in its <i>2005–06 Report on Plans and Priorities</i>, identifies Canadian Heritage's strategic outcomes and defines its expected results for all program activities, including those supporting the cultural industries. The Department recognizes the need to further clarify the results statements and associated performance indicators for its support to cultural industries and intends to do so through the course of the fiscal year.</p> <p>In addition, the Cultural Affairs Sector has been making improvements to its strategic management approach since November 2004. The Sector has developed a fully integrated approach for the management of its core functions and has started to identify additional horizontal management mechanisms to make this approach more strategic. These mechanisms include, for example, executive roundtables that will address horizontal policy and management issues in an integrated fashion.</p> <p>The Department is in the final stages of implementing a departmental planning and reporting framework that will integrate risk-based strategic and operational planning with performance measurement and reporting. This framework, approved by the departmental executive committee in September 2003, has been shared with the Office of the Auditor General. The Department has an initial approved Integrated Risk Management Framework policy and has already taken steps to integrate key risk management practices into its strategic and operational planning processes (e.g. corporate risk profile, legal risk assessment, certain accountability accords, and risk-based audit and evaluation planning). More recently, the Department has established a focal point for Integrated Risk Management, independent of Internal Audit, to fully integrate risk management as part of the management culture and processes.</p>

Recommendation	Department's response
	<p>Following a large volume of program renewal-related evaluation work in the past year and a half that complied with Treasury Board Secretariat transfer payment policy requirements, the Department has approved a 2005–06 Audit and Evaluation Plan, which includes a number of horizontal program cluster evaluations. This will test the ability of the present Program Activity Architecture to tell a meaningful performance story. At the same time, work is underway to use audits and evaluations to better inform the Management Accountability Framework. The Department has also launched an assessment of its program evaluation function with a view to enhancing its contributions to strategic management.</p>
<p>Governance framework</p>	
<p>5.55 Canadian Heritage should</p> <ul style="list-style-type: none"> • simplify the management structure of the Canadian Television Fund program; and • clarify the objectives of the Canadian Television Fund program. <p>(5.51–5.54)</p>	<p>Canadian Heritage agrees with this recommendation to clarify the objectives and results of the Canadian Television Fund program. Consultations have already been conducted to improve the governance of this public-private partnership.</p>
<p>5.56 The Canadian Television Fund should rigorously apply its conflict of interest, confidentiality, and independent committee guidelines and procedures and should ensure that it documents information supporting board decisions.</p> <p>(5.51–5.54)</p>	<p>In the <i>Report of the Independent Committee for 2004–2005</i> dated 21 July 2005 (the Independent Committee Report), the Independent Committee indicated that it would take steps to ensure that all of the members of the board of the Canadian Television Fund (CTF) are aware (a) of their obligation <i>not</i> to disclose “Confidential Information” related to the CTF or its programs, except as permitted by the <i>Protocol on the Sharing of Confidential Information</i>, and (b) that Confidential Information related to the CTF’s program guidelines and to certain other matters can only be shared with certain identified individuals if those individuals provide the CTF with a confidentiality undertaking in the required form.</p>

Recommendation	Department's response
<p>5.67 Canadian Heritage should review and simplify the governance and delivery structure of support programs for the audiovisual industry, including film, television, and new media, in order to respect the mandate and accountability responsibilities of the Department and Telefilm Canada. (5.57–5.66)</p>	<p>In accordance with the recommendations in the Independent Committee Report, the board of the CTF now requires that, where a director declares that he or she has a conflict of interest or a potential conflict of interest, or the Independent Committee determines that a director or directors have conflicts of interest or potential conflicts of interest in respect of a particular matter, the minutes of the relevant meeting record the reasons for the declaration or determination.</p> <p>In the future, individuals who have been nominated as “independent” directors will be required to provide information related to the criteria set out in CTF’s <i>Policy on the Independence of Directors</i> to the CTF in writing before the board meeting, at which the board will make a determination about whether the individual is “independent” under the policy. This information will also be provided to the board before the relevant board meeting.</p> <p>The board of the CTF and its Independent Committee will continue to manage conflicts of interest in accordance with CTF’s <i>Conflict of Interest Guidelines</i>.</p> <p>Canadian Heritage agrees with this recommendation. The Department provides public policy leadership in the audiovisual sector. In that context, the Department will make proposals to improve the governance of the Canadian Television Fund as a public-private partnership in which Telefilm Canada’s role will be clarified.</p> <p>Telefilm will continue to play a key role in fostering and promoting the development of the audiovisual industry in Canada, including television, feature film, and new media. Consistent with its mandate, which shall be exercised in the broader context of the cultural policies of the Government of Canada, Telefilm assists in the development, production, and distribution of audiovisual projects; supports professional development in the audiovisual industry; supports the Canadian presence at audiovisual markets and festivals in Canada and abroad; and administers international audiovisual co-production agreements.</p>

Recommendation	Department's response
<p>Application of controls</p> <p>5.80 The Canadian Audio-Visual Certification Office of Canadian Heritage should</p> <ul style="list-style-type: none"> document its business procedures and business risks, establish controls to mitigate those risks, and implement a quality control process; obtain documents supporting the Canadian citizenship or permanent resident declaration for each key creative personnel who participates in an audiovisual production for the first time, and keep this information for future reference; and clarify and resolve its differences of opinion with the Canada Revenue Agency on Canadian content audits that the CRA conducted. (5.73–5.79) <p>5.85 Telefilm Canada should</p> <ul style="list-style-type: none"> ensure that analysts apply controls rigorously, document decisions and analyses, and organize files uniformly; clarify, with the Canadian Television Fund, the guidelines on accounting and reporting requirements of production costs; specify what costs are acceptable, particularly regarding related-party transactions, and communicate this information to its analysts, producers, and their external auditors; and 	<p>We agree with this recommendation. The Canadian Audio-Visual Certification Office (CAVCO) has started working to improve its risk management strategy and quality control processes, including declarations of citizenship for key creative employees. This strategy will include maintaining the Canadian Content Certification Audit Program (CCCAP), which audits selected certificates on the basis of the risks identified. The measures adopted as a result of this exercise will provide analysts with better tools to identify and assess risks, and will allow them to apply control measures and document their analyses.</p> <p>The Department also agrees to make CAVCO's business relations with the Canada Revenue Agency more efficient in order to optimize information sharing between the two parties and to ensure a consistent interpretation of CAVCO's policies with respect to the CCCAP.</p> <p>The Canada Revenue Agency and the Canadian Audio-Visual Certification Office have agreed on a strategy to improve communication between both parties in order to resolve differences of opinion.</p> <p>In consultation with the Canadian Television Fund, Telefilm Canada has reviewed and clarified its policy regarding the accounting and reporting requirements. This new version was submitted to the producer associations, and will be disclosed to analysts, producers, and internal auditors through seminars.</p> <p>Telefilm Canada has already reacted to the recommendations, which resulted from the quality control exercise. A first version of the quality control program has been issued. The program will be in effect during the next financial year. This permanent program should also reassure us that the controls are rigorously applied, that the analyses are well documented, and that the files are evenly organized.</p>

Recommendation	Department's response
<ul style="list-style-type: none"> • follow up on recommendations from its 2005 quality control review and ensure that this review becomes part of its permanent internal control procedure. (5.81–5.84) <p>5.90 The Canadian Television Fund should</p> <ul style="list-style-type: none"> • strengthen its quality control procedure to ensure that the results are well-documented and acted on to improve business practices; and • clarify, with Telefilm Canada, the guidelines for production costs—Accounting and Reporting Requirement; specify what is acceptable in terms of costs, particularly regarding related-party transactions; and communicate this information to its analysts, producers, and their external auditors. (5.86–5.89) 	<p>There are two components to the CTF's quality control mechanism (a) internal file reviews (IFRs) concluded by the CTF's compliance manager, and (b) the approximately 40 files a year that are referred to an independent accounting firm. The IFRs are intended to audit compliance with the CTF's program guidelines and other policies and to evaluate consistency of interpretation and application of the guidelines. The reviews conducted by the independent accounting firm are financial audits of productions that have been funded by the CTF's programs.</p> <p>a) Internal file reviews. The CTF's compliance manager selects the files to be reviewed based on criteria that have not been formally documented. In general, the compliance manager has made these selections so as to ensure that the files reviewed represent a broad cross-section of analysts, types of productions (e.g., budget size and complexity), genres and producers. The compliance manager reports to the President/CEO and, where problems are identified, remedial action is taken.</p> <p>In the future, the CTF will follow the following procedure for its IFRs, (i) on an annual basis, the compliance manager will prepare a compliance review plan that will set out the criteria to be used to select files for review and present the plan to the President/CEO and the Finance Committee for review and approval, and (ii) after the end of each financial year, the compliance manager will provide a written report to the President/CEO and the Finance Committee summarizing results of the IFRs conducted in the financial year which will include, if appropriate, recommendations for changes or remedial actions.</p>

Recommendation	Department's response
	<p>b) Production reviews. The criteria used to select the files for review by the independent accountants have not been documented. In the past, these files have been selected by the compliance manager based on her assessment of risk. In recent years, the focus has been on related party costs.</p> <p>When the independent accountants have completed the review of files for a particular year, a report on each file as well as a comprehensive report summarizing the results of the review and identifying problem areas and potential solutions has been delivered to the President/CEO. The most recent report, which relates to the 2001 slate of productions was delivered on 28 September 2005.</p> <p>The CTF has engaged the independent accounting firm to assist it to develop a clearly articulated set of criteria for selecting files for financial audit. These criteria will be responsive to the risks, identified by the CTF in consultation with the independent accounting firm, related to the financial aspects of productions funded by the CTF. When this process is completed, the selection criteria will be reviewed/approved by the Finance Committee.</p> <p>In the future, the comprehensive report from the independent accounting firm (including any recommendations for changes) will be presented to the Finance Committee for review.</p> <p>The CTF and Telefilm have been working on revisions to the Accounting and Reporting Requirements policy for the past year. In keeping with the practices and policies of the CTF and Telefilm, the development of the revised policy has involved lengthy consultations with organizations representing producers. A revised draft of the policy was circulated to the producer organizations for comment in August 2005. The revised policy is modelled on the CRA's policies to the extent these policies are relevant and applicable. It is expected that this draft will be acceptable to the producer organizations with relatively few modifications. Once the policy is finalized, it will be posted on the CTF's Web site. In addition, the producer organizations will be given advance notice of the publication of the revised policy and will notify their members.</p>

Recommendation	Department's response
<p>5.95 The Canada Revenue Agency should</p> <ul style="list-style-type: none"> • examine and document the risks it faces in administering the Canadian Film or Video Production Tax Credit, review its audit strategy accordingly, set up key controls, and document them; • create a procedure to review the quality of supervisor decisions; and • establish a procedure that would allow it to benefit from the results of analyses done by Telefilm Canada and the Canadian Television Fund that have identified overbilling by producers. (5.91–5.94) 	<p>The CRA agrees and, as part of its risk assessment framework and audit strategy, has implemented a risk management policy for federal film tax credit programs. This comprehensive policy includes risk assessment criteria, key controls, and guidelines for processing claims. The policy was implemented nationally in October 2005.</p> <p>The CRA has finalized and implemented the use of a “Risk Assessment Control Sheet,” which is included in the CRA’s risk management policy for federal film tax credit programs. The information captured will provide the CRA with a mechanism to review the quality of decision making of supervisors.</p> <p>The Agency will determine the degree to which the “over-billing” information compiled by Telefilm and the CTF is beneficial to the CRA for purposes of administering the Canadian Film or Video Production Tax Credit. If beneficial, the CRA will establish a mechanism with Telefilm and the CTF to obtain this information.</p>
<p>5.99 The Canadian Radio-television and Telecommunications Commission should inform the Canadian Television Fund of the amount each cable or satellite distribution company should have paid it the previous year, and should require confirmation from the Canadian Television Fund that it received those amounts. (5.96–5.98)</p>	<p>The CRTC concurs with the recommendation and, commencing with the 2005 broadcast year, undertakes, as part of its annual verification of the amounts distribution companies are required to contribute to the Canadian Television Fund (CTF), to inform the CTF of the amounts it should expect to have received each year. The information will be made available to the CTF on a licensee-specific basis on the understanding that the CTF will keep it confidential and will not share it with other parties. Upon confirmation by the CTF of the amounts it has effectively received, the CRTC will follow-up as necessary with those distribution companies who have not contributed the expected amounts.</p>

Recommendation	Department's response
<p>5.104 Canadian Heritage should, in collaboration with</p> <ul style="list-style-type: none"> the Canada Revenue Agency, put in place procedures to share, systematically and in a sustained manner, all information necessary to administer tax credits; and Telefilm Canada and the Canadian Television Fund, develop and adopt a common approach, based on reliable information, to certify the Canadian citizenship or permanent resident status of those accorded points for holding key creative functions in a production. <p>(5.100–5.103)</p>	<p>We agree with this recommendation. Canadian Heritage will carry on with the work undertaken with respect to the System Council's mandate to improve (where possible) the information-sharing mechanisms between the Department and federal agencies and programs. The Department agrees to make the Canadian Audio-Visual Certification Office's (CAVCO) business relations with the Canada Revenue Agency more efficient in order to optimize information-sharing between the two parties and to ensure a consistent interpretation of the Office's policies with respect to the Canadian Content Certification Audit Program (CCCAP).</p> <p>In its second response to the Lincoln Report, the government shared its intent to make CAVCO responsible for all of the Canadian content certification work on behalf of the federal agencies and programs. This measure will provide for the implementation of a single document validation system for the certification of key creative employees.</p> <p>The Canada Revenue Agency (CRA) and the Canadian Audio-Visual Certification Office (CAVCO) have agreed on a mechanism to optimize information sharing between both parties. CAVCO will provide the CRA with copies of all revocation letters it issues to applicants, in a timely manner.</p>
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<p>Measuring and reporting results</p>	
<p>5.118 Canadian Heritage should</p> <ul style="list-style-type: none"> clarify its program objectives for support to cultural industries in relation to Department objectives; develop a performance measurement strategy that would specify, among other things, performance indicators and targets to monitor, assess, and account for its performance to Parliament; develop data-gathering strategies required to implement performance indicators; and 	<p>The Department's Program Activity Architecture, as described in its <i>2005–06 Report on Plans and Priorities</i>, identifies Canadian Heritage's strategic outcomes and defines its expected results for all program activities, including those supporting the cultural industries. The Department recognizes the need to further clarify the results statements and associated performance indicators for its support to cultural industries and intends to do so through the course of the fiscal year.</p> <p>An executive roundtable has been established within the Cultural Affairs Sector to define more precisely the results, performance indicators and targets for programs supporting the cultural industries.</p>

Recommendation	Department's response
<ul style="list-style-type: none"> include in its departmental performance report of its accomplishments, progress, and actual results through previously selected performance indicators and targets. (5.116–5.117) 	<p>Building on the performance measurement framework of the Program Activity Architecture, the Department will, this fiscal year, develop a performance measurement strategy that will specify, among other things, performance indicators, targets, and data-gathering mechanisms. This information will improve the Department's capacity to monitor and assess its performance and to report its accomplishments, progress, and actual results to Parliament in the departmental performance report. Work has been underway over the past six months to develop a department-wide data acquisition and development plan with Statistics Canada in the area of cultural statistics. A gap analysis is being conducted by Statistics Canada at Canadian Heritage request of what is currently collected on behalf of the Department and what may be required under the new Program Activity Architecture. This is an essential step in identifying and implementing appropriate performance indicators. A corporate review of Canadian Heritage Public Opinion Research has also been completed in the past year to better identify research and information that can address departmental strategic priorities. This was also shared with the Office of the Auditor General. Finally, a departmental research plan has been developed and approved by the Executive Committee that integrates all policy research activities for all Sectors, including that of programs supporting the cultural industries</p>

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