

Broadcasting Notice of Consultation CRTC 2015-467

**A review of the policy relating to Certified Independent
Production Funds**

Comments of CBC/Radio-Canada

18 December 2015

Introduction

- 1 CBC/Radio-Canada is pleased to provide its comments on the Commission's proposal to review its policies on Certified Independent Production Funds (CIPFs) to provide greater flexibility in the funding of Canadian programs. As Canada's national public broadcaster, CBC/Radio-Canada plays a prominent role in nurturing and cultivating distinctly Canadian programming and is involved in more independent productions than any other Canadian broadcaster. Consequently, CIPFs are an area of significant concern to the Corporation.
- 2 As part of this policy review, the Commission is proposing to develop strategies to incent:
 - international co-productions and co-ventures;
 - promotion;
 - international distribution; and
 - audience success.
- 3 In addition, the Commission is proposing the removal of the requirement for a producer to have a broadcast licence agreement with a traditional Canadian broadcaster in order to obtain funding for Canadian productions.
- 4 As the Commission has recognized in the *Let's Talk TV Policy*¹, the funding of Canadian programming is a highly complex model of direct and indirect financial supports, including licence fees from Canadian broadcasters, tax credits from the federal and provincial governments, funding from the Canadian Media Fund (CMF) and CIPFs, venture capital loans and equity investment. These financial supports are critical to cultivating and nurturing a strong Canadian production sector.
- 5 CIPFs are an important element in the Canadian broadcasting system. The monies administered by these funds enable independent producers to provide a wide range of high quality, distinctively Canadian programming. Each fund has a distinct mandate and expertise in the type of content that they produce.
- 6 This complex support system has fostered and developed the Canadian programming industry and should continue to do so in the new multi-platform environment. In CBC/Radio-Canada's submission, the CRTC is proposing a number of fundamental changes to the CIPFs that would materially jeopardize the effective support mechanisms already in place and, if implemented, would have serious negative implications for the regulated Canadian broadcasting system.

¹Broadcasting Decision CRTC 2015-86.

- 7 In this submission, CBC/Radio-Canada addresses the following key issues:
- diversity of voices in the Canadian broadcasting system;
 - the significance of the broadcast licence agreement in the Canadian broadcasting ecosystem;
 - the important role the Canadian broadcaster plays in the execution of international co-productions;
 - the need for the recalibration of targeted funds; and
 - the need for clarity on reporting mechanisms and for audience data in the digital environment supported by these funds.

Diversity of Voices in the Canadian Broadcasting System

- 8 The Commission has asked whether audience success should be taken into account in funding decisions by CIPFs. The Corporation has significant concerns with respect to a possible over-emphasis on audience success, especially given the growing importance of CIPFs in the funding of Canadian programming. CBC/Radio-Canada respectfully submits that the Commission's goal with respect to CIPFs should be to further the cultural and social policy objectives under the *Broadcasting Act*. In this respect there is a significant tension between a focus on audience success and fostering a diversity of voices in the Canadian broadcasting system.
- 9 CBC/Radio-Canada's strategy, *A space for us all*, outlines our plans to intensify the public broadcaster's relationship with Canadians by delivering relevant and "distinctly Canadian" content and services, with an emphasis on digital and mobile services. We are significantly reducing in-house production – excluding news and current affairs – while continuing to promote acquired or commissioned content from the Canadian creative sector. Given CBC/Radio-Canada's position as a key platform for independently produced programming, the Commission's proposals are a matter of serious concern to the Corporation.
- 10 The Commission has a statutory obligation under section 5(1) of the *Broadcasting Act* to regulate so as to achieve the policy objectives set out in section 3 of the Act. The Act outlines the role of the Canadian broadcaster to encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity. In addition, it outlines CBC/Radio-Canada's special role when it comes to informing, enlightening, and entertaining Canadians. Those policy objectives identify the need for CBC/Radio-Canada to provide a wide range of programming that reflects Canada to Canadians in all their diversity.
- 11 It is important to recognize that while audience success is a relevant measurement of program success, it is not the only nor should it be the leading criterion. The nature of the target audience varies with the nature of the programming and that audience

need not always be mainstream or large. That is a significant part of what diversity of voices is about.

- 12 It is also important to recognize that, in all cases, reaching and connecting with the intended audience is a critical cultural and social objective under the *Broadcasting Act*, namely, bringing Canadian programming to Canadians. CBC/Radio-Canada submits that these objectives should help guide the Commission's approach to support the creation of compelling and diverse programming through CIPFs. An undue emphasis on audience success would compromise the achievement of that goal.

The Significance of the Broadcast Licence Agreement

- 13 As part of this policy review, the Commission is proposing the removal of the requirement for a producer to have a broadcast licence agreement with a traditional Canadian broadcaster in order to be eligible for funding from CRTC created funds such as CIPFs. CBC/Radio-Canada is concerned with this proposal for the following five reasons.
- 14 First, traditional television continues to play an important role in the Canadian broadcasting system. Viewership to content on traditional linear platforms remains relatively stable with Canadians watching nearly 26.5² hours a week or almost 4 hours a day. The vast majority of content consumed on online platforms such as Netflix is acquired content that was originally financed with support of either the traditional broadcast sector or the feature film industry³. While the broadcasting system and Canadian viewing habits are no longer limited to traditional television, the Commission's policies should promote access to quality Canadian programming on both Canadian linear *and* digital platforms.
- 15 Second, and related to the first point, traditional television continues to be important as a showcase window for content discovery. Broadcasters play an essential role in helping to create recognizable brands that are essential to discoverability, which is key in our changing environment. Broadcasters' invest significant sums in promotion on a number of third-party platforms. In addition they also promote on their own platforms. These platforms represent recognizable destinations which are able to bring audiences to Canadian programming. Before a brand can exist on its own

² BBM Canada, *Broadcast Year 2014-15, Canada 2+*.

³ CBC/Radio-Canada is aware of only three Canadian programs that have been produced with the support of Netflix: two of which were curated, supported and promoted by a Canadian traditional broadcaster, and the third of which was a continuation of a long-standing multiple-season series which was also created through the traditional Canadian broadcasting system.

merit, it needs to be extensively promoted in order to become a recognizable destination for a significant volume of Canadian programming.

- 16 Third, licensed Canadian broadcasters must meet certain regulatory requirements that help ensure their programming choices and priorities come from a broad spectrum of sources in a variety of genres. These regulatory requirements include conditions of licence to broadcast specific amounts and types of Canadian content and, in many cases, to spend specific amounts on Canadian content. This strategy promotes Canadian talent and preserves a diversity of voices for Canadian audiences.
- 17 The existing funding mechanisms, including CIPFs, play a key role in supporting the Canadian programming landscape. CIPFs help fund programming for Canadian audiences and allow Canadian broadcasters to achieve their regulatory exhibition and spending requirements. Both the funding and exhibition/spending tools work in tandem. Accordingly, the trigger for almost all funds was, and still is, a broadcast licence agreement with a traditional Canadian broadcaster which includes a commitment to telecast the program within a certain timeframe during peak viewing hours. Since Canadian audiences continue to watch programming content in the regulated environment, we strongly believe that this trigger is still fundamental to the Canadian broadcasting system as a whole.
- 18 Why is that the case? Simply put, as curators, broadcasters are able to assess not only the financial viability of projects but as cultural stakeholders in these projects we are able to nurture and develop emerging Canadian producers and thus contribute to a diversity of voices. While no one knows for certain what shows may grow and build with audiences, broadcasters have the experience to identify Canadian audience tastes and assess how to meet their expectations.
- 19 Fourth, there are limited funds available to support Canadian content in the Canadian broadcasting system. In CBC/Radio-Canada's view, it would be deeply troubling if the Commission were to grant access to Canadian funding to unregulated producers who could then, directly or via a third party, use that content on totally unregulated platforms that might have no connection with Canada or the Canadian broadcasting system. In our submission, projects funded by CIPFs should continue to require a broadcast licence agreement with a Canadian broadcaster to trigger funding.
- 20 This is consistent with the position taken by Canadian Heritage in its recent evaluation of the CMF⁴ (the Heritage Report on the CMF). This report concludes

⁴ *Canadian Heritage - Evaluation of Canadian Media Fund 2010-2011 to 2013-2014; Evaluation Services Directorate July 9, 2015 (page 79).*

that there is no rationale for the CMF's policy to be expanded to include foreign broadcasters or other foreign media distributors as funding triggers at the present time.

- 21 Finally, given the evolving landscape, the Commission should look into ways to relieve restrictions on Canadian broadcasters. In particular, Canadian broadcasters should have flexibility on how they exploit their programming and on whatever platform they chose. Accordingly, CBC/Radio-Canada recommends that the Commission introduce rules that favour projects that offer new scheduling strategies which includes *On Demand* first windows provided this first window is exploited by a licensed Canadian programming service and telecast within a reasonable timeframe on whatever platform they deem appropriate.

The Importance of the Broadcasting Licence Agreement on International Co-productions

- 22 In this policy review the Commission wants to assess how it can allow greater flexibility in the funding of Canadian programs to foster a more robust Canadian production sector that is better able to offer compelling high-quality content to Canadians and global audiences on multiple platforms and incent international co-productions. CBC/Radio-Canada has concerns that this strategy will be detrimental to the existing Canadian ecosystem.
- 23 International treaty co-productions have evolved over recent years and will continue to evolve in this ever-changing multi-platform environment. CBC/Radio-Canada has supported a number of successful co-productions, including *The Book of Negroes*, (Canada/South Africa), *X Company* (Canada/Hungary), *The Tudors* (Canada/Ireland), *La valse des continents* (Canada/France), and *Wild Canada/Canada grandeur nature* (Canada/UK) for both CBC and Radio-Canada.
- 24 These co-productions would not have happened without a Canadian broadcaster at the table. International production companies expect Canadian broadcast partners to provide the key financial contributions through their licence fees (along with triggering other financial contributions such as CMF and CIPFs) to get the project off the ground. In addition, Canadian broadcasters have the needed experience in developing and nurturing projects and can promote and deliver programs on all platforms to Canadian audiences.
- 25 CBC/Radio-Canada anticipates that the financing of international co-productions will be more difficult if the Commission's proposal proceeds. According to Profile 2014⁵,

⁵ Profile 2014, *Economic Report on the Screen Based Media Production Industry in Canada*, CMPA, AQPM and Canadian Heritage, Exhibits 2-45, 2-46.

in 2013-14, broadcast licences comprised on average 29% of the financing of Canadian productions. In addition, broadcast licences triggered tax credits which comprised an additional 29% of financing. Accordingly, if a Canadian producer were to secure CIPFs funding without a broadcast licence, it would be missing an average of 58% of the financing needed to move forward.

- 26 As the national public broadcaster, we balance our licence fees across a wide variety of genres and support projects that we feel best serve our mandate under the *Broadcasting Act* and our programming strategy. Similarly, our colleagues in the private sector support projects that fall within their needs. Altogether the broadcast sector serves as a curator of projects to be considered by the CIPFs. Without this type of curation, the CIPFs could expect to receive hundreds, if not thousands of submissions at each funding deadline, creating a system that would be impossible to manage.
- 27 CBC/Radio-Canada supports the development of strategies to incent co-productions and the international distribution of Canadian programs but the Commission should not lose sight of the key role Canadian broadcasters play in the process. If our role is diminished, it will be to the detriment of the existing Canadian ecosystem.

The Need to Recalibrate Targeted Funds

- 28 We believe that CIPFs should pay greater attention to and reserve a greater portion of their funding for Canadian television content.
- 29 This content will always be the key pillar of the Canadian broadcast system. What is needed is flexibility to assist the industry in experimenting and adapting to ongoing changes to different windowing and scheduling strategies of content on linear, digital and On Demand platforms, in order to continue reaching Canadian audiences effectively.
- 30 CBC/Radio-Canada believes that there should be a recalibration between funding of such content and interactive content financed by CIPFs Bell Broadcast and New Media Fund and the Quebecor Fund. These two funds provide either small amounts or no funding at all to the financing of the television content component. Broadcasters should not have to essentially game-ify online content to create an interactive experience just to get funding since not all genres are suited to interactivity. Accordingly, if the Commission's desired strategies are to incent international co-productions, distribution, promotion, and ultimately audience success of programming content, such recalibration is advised to ensure that CIPFs support Canadian television content.

- 31 In addition, CBC-Radio-Canada believes more support is needed for web series. According to the MTM study published by CBC/Radio-Canada in April 2015⁶, viewing of online videos⁷ is one of the most popular online activities, after researching and emailing. The study demonstrates that 7 out of 10 Francophones and 8 out of 10 Anglophones watch online videos, and 42% of Francophones and 47% of Anglophones reported watching online television. In addition, the time Canadians spend watching videos online is climbing and stands at nearly 6 hours a week for Francophones and 8 hours a week for Anglophones. YouTube is currently the top source for Canadians in both linguistic markets who watch video content. The need for more support for web series has also been recognized as an industry issue and is one of the key recommendations in the Heritage Report on the CMF.⁸
- 32 By providing more support for web series we will be developing the next generation of drama writers, directors actors and producers of television content - the key pillar of the Canadian broadcast system.
- 33 In the French-language market, there are additional hurdles to contend with. In light of the economic realities of French-language production, it is nearly impossible to find new sources of funding for drama series to increase either the number of episodes or level of production budgets to approach international standards. Therefore, improved funding is needed for French Canadian drama series as a prerequisite for any objective aimed at supporting distribution abroad. Accordingly, if re-calibration is considered by the Commission, we submit that such re-calibration in the French-language market should be allocated to support the creation of drama series with budgets of over \$700,000 per hour.

Reporting Requirements

- 34 Most CIPFs publish annual reports on their activities and funding initiatives on their websites. However, some do not. These reports vary greatly so it is difficult to determine if they are operating in a manner consistent with the Commission's policies. CBC/Radio-Canada urges the Commission to require CIPFs to report annually on the following:
- amounts spent on the administration of the fund;
 - amounts dedicated to digital media specific projects (e.g. interactive, web series);
 - amounts of funding allocated based on linguistic markets;

⁶ *Media Technology Monitor (MTM) CBC-Radio-Canada, Viewing of Streaming Video Content, English-language and French-language Market Analysis, posted on April 8, 2015 (Francophones and Anglophones 18+).*

⁷ *Online video content includes the following activities: viewing videos on YouTube, viewing television programs, watching news broadcasts, watching sports news or sports event, and watching movies or other types of online video content such as Netflix.*

⁸ *Heritage, op. cit., page 81.*

- amounts of funding given to regional, national and/or international productions; and
- the number of funded projects in relation to the number of applications received.

35 Through Numeris, Broadcasters have access to television audience data but not digital data. CIPFs have supported digital media specific projects for years, however, there is no measurement system in place to determine their success rate. The industry needs a collective understanding about the performance of projects being funded in the digital environment and how success can be defined. As such, CBC/Radio Canada recommends that the Commission require CIPFs to provide audience data on digital initiatives and that harmonization be undertaken among all funding mechanisms, including the Canadian Media Fund, in terms of methodology and key performance indicators. This is consistent with one of the recommendations in the Heritage Report on the CMF⁹.

Conclusion

36 We urge the Commission to keep in mind that the current system of the existing funding mechanisms is not broken. As discussed in the Canadian Heritage Report on the CMF, there is no evidence to support expanding funding mechanisms to include foreign broadcasters or foreign media distributors as funding triggers. We need to recalibrate the targeted funding not remove it from Canadian broadcasters.

37 It is our recommendation that:

- projects funded by CIPFs should continue to require a broadcast licence agreement with a Canadian broadcaster to trigger funding;
- rules be introduced that favour projects that offer new scheduling strategies so long as the first window is exploited by a licensed Canadian programming service;
- CIPFs should reserve a greater portion of their funding for television content and web series;
- there should be a recalibration of the French-language funding mechanisms to allocate more support for drama series with budgets of over \$700,000; and
- CIPFs should be required to develop a new reporting mechanism and report on digital audiences.

⁹ *Ibid.* page 82.

- 38 This broadcaster/production support system has fostered and developed the Canadian programming industry since its inception and should continue to do so in the new multi-platform environment. However, we should move strategically into this new environment so we do not jeopardize an industry already struggling to find its way in an ever-changing landscape.
- 39 CBC/Radio-Canada appreciates this opportunity to provide comments in the first phase of this proceeding.