



MOTION PICTURE ASSOCIATION - CANADA
ASSOCIATION CNÉMATOGRAPHIQUE - CANADA



CONSULTATION ON CANADIAN CONTENT IN A DIGITAL WORLD

INTRODUCTION

As leading creators of film and television enjoyed by audiences around the world, the members of the Motion Picture Association of Canada are pleased to participate in the Minister of Heritage's consultation on Canada's cultural and creative industries.

Canada's policies to promote film and television production have fostered an ecosystem that delivers economic and cultural success, and has supported the development of a wide range and deep pool of Canadian talent, from creative to technical artists.

Since the election, the government has shown welcome ambition for accelerating growth in Canada's cultural industries. At a time of intense global competition and rapid technological change in the creation and consumption of entertainment, we applaud the timely call for a fresh conversation, and a forward-looking approach to achieving Canadian goals.

This is an important agenda and an important moment in time.

Around the world, consumers are showing unprecedented demand for compelling content, and Canadians are well positioned to reap the benefits of a global marketplace for great movies, television, and new original digital content.

Producers are responding to the rising demand: more content is being produced today than ever before, with global spending on filmed entertainment forecast to reach \$113 billion next year.

The expansion of the global content market has fostered the development of critical measures by more than 30 jurisdictions around the world that wish to harness foreign investment in production in the screen-based industries as a catalyst for expanding opportunity for the broadest possible segment of the local production community. As a result of such programs, new collaborations are bringing together talented artists and filmmakers from different nations, on every continent.

Notwithstanding more global competition than ever before, the opportunity for Canada is real: Canada's advantage results from a unique combination of competitive and stable production incentives, a deep pool of Canadian

creators, talent and crews, developed infrastructure, desirable locations that are camera-ready and industry-friendly, and technology-reliant animation, post production and special effects capabilities that are amongst the best in the world.

We hope that the ideas discussed in this paper convey our enthusiasm for the goals of the policy reviews now underway.

BUILDING MUTUAL OPPORTUNITY

Our Members – Walt Disney Studios Motion Pictures, Paramount Pictures, Sony Pictures Entertainment, Twentieth Century Fox, Universal City Studios, and Warner Bros. Entertainment - are among the most dynamic and entrepreneurial global companies in the film and television business.

We are enthusiastic about creating jobs and building mutual opportunity wherever we do business. Our investments support Canadian creators, talent, and technical artists. We work to reinforce the importance of intellectual property rights which are fundamental to future creation and innovative distribution models. We believe in the enduring power of film and television to entertain and enrich audiences.

Our relationship with the Canadian marketplace has been important to our success and the benefits for Canada have been significant too. We look forward to building upon this successful spirit of partnership across borders.

In 2014-15, film and television production spending in Canada was \$7.1 billion and supported 148,500 full-time equivalent (FTE) jobs. Over \$2.6 billion of that total was generated by production projects from foreign producers, of which US producers represented the vast majority.

This production boom has been a driving force in Canada's broader economic growth and amplifies Canada's global reputation as a desirable creative center in which to live and work.

Canada's film and television industry has developed because of a distinctive creative ecosystem that comprises domestic productions defined as "Canadian content", Canadian broadcasting co-ventures, international treaty co-productions, and foreign location and service productions.

This ecosystem has been supported federally through a mixture of public policies, which include:

1. funding streams [e.g. Canadian Media Fund, Telefilm] available only to Canadian producers for “Canadian Content”, designed with an overarching cultural objective; and
2. tax incentives designed with an industrial/economic orientation.

Together these policies have helped Canada become one of the world’s leading production locations, enjoying a diverse production portfolio that is critical to Canada’s success.

The federal tax incentive approach features two distinct credits calculated exclusively on Canadian production labour: The Production Services Credit that foreign producers utilize (at 16%) and the Domestic Credit for “Canadian content” (at 25%).

US based producers are ineligible to access the federal funding streams. The federal policy tool that stimulates investment in productions in Canada by foreign producers is the Production Services Tax Credit. The economic returns tied to the Production Services Credit are extensive and well-proven over time.

Foreign production creates jobs for local performers, technical and creative artists, crews, and other dependent businesses. Foreign production also generates significant revenues for vendors and suppliers –composed predominantly of small and medium sized businesses across Canada-- and the government via direct and indirect tax revenues.

Our members’ productions spend an average of \$225,000 (USD) per day in local communities—employing hundreds of local cast and crew, renting hotel rooms, hiring caterers and truck drivers, using dry cleaners, and buying lumber and construction supplies to build sets.

The upsides for Canada survive well beyond the initial spending on a single production.

Foreign producers are a critical catalyst for permanent industry infrastructure development across Canada, from Calgary to Montreal, with British Columbia alone now claiming a range of purpose built studios and converted warehouses providing 2.5 million+ square feet of studio and support space.

The extensive activity of foreign producers promote skills development in many fields, and business activity in numerous related industries. Film-induced tourism, recognized as a significant economic development tool in locations around the world, is now a focus for communities across Canada which are actively working to exploit the industry’s proven positive impact in visitors drawn by film and television productions.

The scale of impact of our productions is highlighted in examples from this year:

FEATURE FILMS

TITLE	SPEND IN CANADA (CAD)	JOBS FOR CANADIANS
SUICIDE SQUAD [98 Days]	Over \$80 million	Over 4,700
X-MEN APOCALYPSE [94 Days]	Over \$105 million	Over 1750 (excluding extras)
STAR TREK BEYOND [78 Days]	Over \$90 million	Over 3925

To elaborate on the significant economic benefits our productions provide to local businesses, consider the Canadian spend on **Suicide Squad** included:

<p>+\$12.5 million</p> <p>Over \$12.5 million on all rentals, including truck and car rentals;</p>	<p>\$4.2 million</p> <p>More than \$4.2 million on lumber and construction supplies;</p>	<p>\$2 million</p> <p>Close to \$2 million on catering, bakery goods, and other food items;</p>	<p>\$785,000</p> <p>More than \$785,000 on local wardrobe and dry cleaning services.</p>
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TELEVISION

<p>Suits</p> <p>Over \$100 million spent in Canada over the first 5 seasons</p>	<p>Once Upon A Time</p> <p>Over \$275 million spent in Canada over the first 5 seasons</p>	<p>Supernatural</p> <p>Close to \$2 million on catering, bakery goods, and other food items;</p>
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The economic benefits for Canada are powerful and easy to see.

Over the last decade, the innovative digital animation, visual effects, post-production, 3D conversion facilities and other technical innovations connected with film and television production have amplified foreign producers' economic investment in Canada. Productions with shooting locations as far as Iceland to Northern Ireland, from iconic series like Game of Thrones to blockbusters like Fantastic Beasts, all used talented creators in Canada for visual effects/post-production.

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But less well understood and sometimes overlooked in past government policy is the fact that our investments also support the country's cultural objective: to support opportunities for Canadian creators to succeed at home and around the world.

A great many Canadian creators have developed their talents in front of and behind the camera on foreign productions, leading to greater opportunities and international success in a wide range of areas—visual effects, cinematography, art direction, production design, sound editing and mixing, animation, set design, makeup, composing, and so much more. Foreign productions offer a unique training ground for Canadian talent who, in turn, use those acquired skills on future productions in Canada, both foreign and domestic.

Domestic Canadian producers have long recognized that foreign production is an essential support for the Canadian production community -- a source of knowledge and technical transfer, affording Canadians the opportunity to work with global talent, and a vital element in the development of a sustainable production community.

With more content being produced than ever before, the creative opportunities for Canadians are greater than ever

A robust film and TV ecosystem in Canada, one which delivers economic opportunity and cultural support, should continue to nurture and attract foreign production. With more content being produced than ever before, the creative opportunities for Canadians are greater than ever: Warner Bros. alone has more than ten of their 2015-2016 television series in production in Canada, including the popular DC properties Arrow, The Flash, Supergirl, and Legends of Tomorrow.

Content that is about Canada, and content made by Canadians, are mutually reinforcing. The connective tissue has become stronger over time. The main elements are the wide scale of infrastructure in Canada and the myriad of opportunities for Canadians who want to pursue careers in the field of filmed entertainment.

Canadian talent and creative and technical artists benefit from working with globally successful production enterprises while remaining in Canada, acquiring a richer, deeper understanding of the content business, and the craft of film making, and developing networks of collaborators around the world. Canadians working on leading movies and television series have the opportunity to be recognized as among the best in the world, with numerous Emmy and Academy Award nominations to their credit.

The next generation of Canadian creators, technicians, cinematographers, animators, and innovators are attracted by the opportunities offered by large-scale productions, computer animation, post-production, and visual effects studios that have emerged as critical elements in the new high-tech wave of production development in Canada fueled by foreign investment. Studios like Sony Pictures Imageworks and Industrial Light and Magic (ILM) have established Canadian presence with state-of-the-art facilities utilizing cutting-edge technology, onsite training programs to develop artistic talent, designed to create an escalating range of entertainment experiences.

PUBLIC POLICY INNOVATION TO STIMULATE GROWTH IN A GLOBAL MARKET

Each element of Canada's production ecosystem provides real value for the country. The optimal public policy measures will strengthen Canadian content, and stimulate investment and collaboration with foreign partners.

Canada was one of the first international jurisdictions to design public policies to attract investment in the production of film and television content.

Canada was one of the first international jurisdictions to design public policies to attract investment in the production of film and television content. Over time, a combination of federal and provincial incentives developed, with key provinces further adapting their credits in both application and in extending the credits to visual effects, animation, and post-production.

On the federal side, however, there have not been changes to reflect new approaches to film and television production and innovative measures adopted by Canada's global competition. Both of these factors suggests rethinking Canada's approach to ensure it remains competitive in an increasingly competitive global marketplace.

Production tax-credits are now widely available across the US, creating several thriving production hubs in New York, Georgia, New Mexico, and many other states where strategic incentive programs have been developed.

Established international jurisdictions like the UK and Australia now aggressively compete to create positive conditions with Canada for both physical production and animation, visual effects, and post-production projects. Locales such as New Zealand, Hungary, and the Czech Republic also boast progressive incentive frameworks to attract foreign film and television producers. Looking ahead, China's Dalian Wanda Group is poised to complete a \$10 billion mega-development in Qingdao that will be the world's largest all-inclusive film and TV production center, and has just announced the establishment of a film fund with the municipal government for qualifying productions using the Qingdao facility.

Competitive jurisdictions like the UK, Australia, and New Zealand, now extend their tax credits to all labour employed by a production (not just the labour resident in the country of production), to all expenditures made by the production, and these incentive programs extend not just to physical production but to animation, post-production and visual effects.

By contrast, as things stand today, federal Canadian tax incentives apply only to labour employed by the production (as opposed to production expenses in general), and are further limited by applying only to “Canadian” qualifying labour.

The Minister’s consultation document showed an awareness of the dynamic and global environment in which Canada now competes.

In proposing new ideas to encourage foreign investment that supports Canada’s creators and cultural industries, we are mindful of three key factors:

1. THE POTENCY OF CANADA'S PRODUCTION ECOSYSTEM

With a stable and mature incentive framework; deep talent pools of Canadian creators, performers, artists, and crew; high-quality stage and equipment infrastructure; first-class creative hubs for post-production, animation, and special effects; and a spirit of entrepreneurship; Canada has a chance to outperform many other parts of the world with policy adjustments that will create opportunities to build on its competitive advantage.

2. THE NEW GLOBAL LANDSCAPE FOR FILM AND TV PRODUCTION

Competition for foreign investment in physical production, special effects, post-production, and animation work all take place in an interconnected global economy. Because many jurisdictions around the world now compete to attract this kind of work, it’s imperative to remain in touch with how public policy is used to attract film and television projects elsewhere. Since Canada’s incentive policies were first conceived, the nature of film and TV production has changed in fundamental ways. Productions themselves are increasingly reflecting the global potential of the film and television industry as collaborations bring together the talents of artists and filmmakers from many different nations.

Further, as consumer viewing habits are being fragmented with ever-evolving entertainment choices, Canada’s incentive framework must be nimble enough to adapt as the industry embraces new formats such as short-form digital content, technological advances in audio-visual storytelling, and emerging distribution platforms.

CANADA'S AMBITION TO DRAW GLOBAL INVESTMENT

Canada has 53 coproduction treaties that facilitate investment and partnership between Canadian creators and collaborators around the world. These co-productions bring talent and financing together to create critical and commercial success.

While American producers cannot participate directly in coproduction treaties worked out by national governments (given that the USA does not have any formal agreements), we are strong supporters of the benefits of using talent, financing, and expertise from around the world to produce internationally successful entertainment.

Given the broader agenda of Canada's new government to stimulate an increased flow of investment and job creation in Canada, we welcome the opportunity to propose measures that would increase investment in Canada, seize the potential for further growth, and help generate more opportunities for Canadian creators.



“ When we collaborate across cultural sectors and with foreign partners, we create new opportunities for our creators to showcase their talents and find new pathways to audiences around the world ”

—Minister of Canadian Heritage

POLICY INNOVATIONS

Our members are pleased to share our thoughts about how to strengthen the collaboration with Canadian enterprises, governments and the hundreds of thousands of Canadians we work with every year. Our ideas are intended to catalyze reflection and discussion, rather than a series of policy requests:

1. Modernize the “Canadian content” tax credit to incorporate a broader vision of the opportunities in production investments in Canada

Canada’s two tiers of tax credits (the Services Tax Credit at 16% for foreign producers and 25% for the production of “Canadian Content”) are intended to maximize the number and type of investments in production. The availability of the 16% federal Services Tax Credit is fundamental to ensuring Canada remains a competitive jurisdiction for film and television production.

The test to determine what qualifies as “Canadian Content”, however, is based on a handful of criteria, including the nationality of certain creative personnel who work on a film or TV project. There is no requirement that the content itself is reflective of Canada, the experience of Canadians, or nurtures a sense of place and common purpose.

This approach lacks the flexibility of comparable credits available among some of Canada’s key international competitors and does not reflect the modern approach to content creation that seeks to combine talent, financing, and creativity from around the world.

Drawing from a comprehensive study commissioned by the Canadian Media Producers Association, a few changes to incorporate a broader set of criteria to qualify for the “Canadian” credit and thus develop a more contemporary view of value to Canada, would encourage greater production.

As we see it, a two-tiered structure would remain in place with the lower Services Tax Credit serving as the baseline minimum to encourage investment. The opportunity to qualify for the higher credit, however, could be scaled and employ a more flexible test that values a range of factors that draw from the strengths of other jurisdictions' programs to incentivize productions that bring extraordinary value for Canada. This would include a new look at questions of nationality of personnel, spending levels; restrictions around production company and copyright of the production; and more flexible distribution requirements.

2. Explore innovative approaches that can incentivize unique large-scale productions

A progressive innovation in attracting foreign investment in production is an “uplift credit” employed where governments and content producers agree to a project-specific set of significant economic benefits.

A government-negotiated suite of benefits can be targeted to support marketing and tourism, local employment and job training, infrastructure development outside of primary production centers, and community development objectives – all tailored to current government needs and responsive to unique opportunities.

In New Zealand, for example, a recently introduced uplift credit of 5% is structured on a points test, with points available for factors such as marketing, promoting and showcasing New Zealand or its screen industry; investment in infrastructure, innovation, technology, or knowledge transfer; and skills and talent development.

Such an approach allows for flexibility to consider appealing opportunities that may arise for a single or multiple related productions, but not fit neatly into established structures and processes. This is a particularly good idea for an era when disruptive technologies and globalization are a new normal.

3. Expand the opportunities of co-production treaties through modernization

We propose two measures to modernize the co-production treaty framework to increase the opportunities and investment in the Canadian production community. The merit of these changes from a US studio point of view is increased international opportunities for the distribution of commercially and critically viable global content produced through co-productions. Given the proliferation of filmmaking talent across the global production community, expanding opportunities for Canadian producers, actors and creators to cross collaborate with their contemporaries in co-production countries can

be achieved by working with partner countries to update key, current treaties: (i) Enhance the opportunities for greater participation of non-co-producing countries in creating the conditions for international success; and (ii) Update the flexibility of co-production treaties consistent with the post-2014 approach to the Ireland-Canada coproduction treaty.

COPYRIGHT: A FOUNDATION STONE

Today, the film and television industry, like many creative industries, stands at a crossroads. Copyright and intellectual property protections are prerequisites for success and a premise upon which economically valuable investments in film production will be made.

We appreciate that the Copyright Act will undergo a thorough review in 2017 as mandated in the legislation itself, and thus the opportunity for full participation in a thoughtful conversation will take place in the months ahead. For the purposes of this submission, therefore, we wish to fundamentally confirm our willingness and enthusiasm for a review that recognizes the importance of copyright to the creative community.

We appreciate the Minister's recognition of the importance of copyright in allowing creators to both seize the opportunities and meet the challenges of the digital environment. The Internet has provided extraordinary and innovative ways for content creators and audiences to connect. The legitimate, licensed marketplace for film and television content is growing every day, with more viewers accessing entertainment through more dissemination channels than ever before.

Our studios have embraced the opportunities to offer their content through a wide and growing array of platforms, and are committed to the continued growth of the online marketplace. But the Internet also has made it possible for piracy to flourish on a scale not previously imaginable.

For Canadian creators and all creators to thrive in the digital world, Canada's copyright laws must be adaptable to technological change and effective in addressing the challenges associated with online piracy.

As creators, we want to work with government to embrace the political challenge of fostering enlightened policy in this area. Copyright protection is about providing the right incentives to make sure producers can continue to employ the tens of thousands of Canadians who work in the film industry, and create the next great film or television story for audiences to enjoy in an ever-changing digital environment.

CONCLUSIONS

Canada has one of the world's strongest platforms for continued success in the content business.

We salute the government for its leadership in undertaking this policy review and appreciate the opportunity to be part of the discussion.

Canada has one of the world's strongest platforms for continued success in the content business, with deep talents, strong infrastructure and extensive experience in physical production. Innovative policy through competitive incentives has expanded Canada's reputation for production as it has grown to be amongst the world's leading digital entertainment clusters, with skilled and innovative post, visual effects and animation sectors.

Our members are the leading global investors in production of film and television and we have enjoyed a strong relationship with our Canadian friends and partners. The projects our members work on in Canada employ many Canadians, strengthen the Canadian economy, and nurture and support the Canadian cultural sector writ large.

Global demand for content is rising quickly, and competition to attract production is also more intense than ever before. Canada has a unique opportunity to modernize policies which would help ensure the country remains positioned competitively with other international jurisdictions.

Creative adjustment of public policy has the potential to put Canada on a path towards even greater success in the future. Canada can be, in this sector as in others, a place where the world looks to invest, to locate, and to succeed.

The Motion Picture Association of Canada looks forward to working with the Minister and departmental officials on next steps following the close of the consultation process.

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