
ACTRA SUBMISSION

DEPARTMENT OF CANADIAN HERITAGE

CONSULTATIONS ON CANADIAN CONTENT

IN A DIGITAL WORLD

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Who we are

This is the submission of ACTRA (Alliance of Canadian Cinema, Television and Radio Artists) in response to the Department of Canadian Heritage consultations on Canadian Content in a Digital World. ACTRA brings to these deliberations the perspective of 23,000 professional performers working in the English-language recorded media sector in Canada. For close to 75 years, ACTRA has represented the performers living and working in every corner of the country who are pivotal in bringing Canadian stories to life in film, television, sound recording, radio and digital media.

The ACTRA Performers' Rights Society (PRS) secures and disburses use fees, royalties, residuals and other forms of performers' compensation. The ACTRA Recording Artists' Collecting Society (RACS) administers the royalty and private copying levy owed to performers from sound recordings.

The roots of Canadian cultural policies

As Canada emerged from World War II, Canadian arts and culture were in an anemic state. There were few Canadian books, our cinemas showed only Hollywood movies and our music sector was moribund. In 1949, the government appointed the *Royal Commission on National Development in the Arts, Letters and Sciences* (the "Massey Commission"). The Massey Commission galvanized opinion on the need for Canada, as a mature nation, to have a vibrant arts and culture sector. It also released a report that forcefully argued that Canadian governments have an essential role to play in their development.

Since that landmark report was tabled in 1951, successive Canadian governments of all political stripes, at every level, have embraced that premise and Canada as a nation has developed among the most comprehensive cultural policies in the world.

From the beginning, the objective of our cultural policymaking has been to support Canadian artists and cultural producers in their mission to tell our stories and bring our perspectives to audiences. It has never been exclusionary; Canada remains one of the most open markets in the world for the cultural productions of others. Our cultural policymaking is about ensuring our storytellers have the capacity and opportunity to bring high-quality works to the market, and ensuring that audiences in Canada and abroad have access to these works.

In this context, ACTRA is pleased to acknowledge that the fundamental purpose of the Department of Canadian Heritage consultations is "to build a new model that reflects a broad consensus – a social contract – of how we support the creation, discovery and export of Canadian content in the digital world."

Our policy tools have worked effectively in the analogue world and they should remain largely unchanged during the transition period. They can also be effective in the digital world if we retain the core underlying principles, adapt them appropriately, and have the courage and foresight to wield them.

Canada has a healthy and successfully media production industry

Even with the challenges of the digital world, things are working well in our film and television industry, which is at the heart of the current discussion. Canada's film and television industry is thriving. There is

a healthy mix of service and domestic production. People are working. According to Profile 2015,¹ total film and television production in Canada was \$7.1 billion in the previous year (primarily 2015 with some 2014 data) and this represented 148,500 full-time equivalent jobs. Production volume was up by 20 per cent from the previous year. Canadian content production reached \$3.0 billion in the year, a nine per cent increase over the previous year. The volume of convergent digital media productions increased 250 per cent from five years earlier.

Canadian programs are becoming increasingly popular in Canada. *Murdoch Mysteries*, *Motive*, *Saving Hope* and *Rookie Blue* each regularly have drawn more than 1.4 million viewers. The television adaptation of *The Book of Negroes* attracted nearly two million viewers for its premiere. *The Rick Mercer Report*, *Heartland* and many other series are also well-established on the Canadian landscape.

Many of our television programs have attracted audiences around the world. While English-language Canadian programs have always found markets in other countries, we've also seen growing interest and significant exposure in the United States: *Degrassi*, *Due South*, *Flashpoint*, *Rookie Blue*, *Killjoys* to *Wynonna Earp*. Most recently, we all celebrated ACTRA Member Tatiana Maslany's Emmy Award win for her stunning performances on *Orphan Black*. International successes in children's and youth programming are also growing, including the *Degrassi: The Next Generation* series, *The Next Step* and *Odd Squad*. Our filmmakers regularly receive international acclaim and major awards for their works, although audiences are somewhat harder to find.

While the music industry everywhere has been challenged by the emergence of digital technologies and the Internet, Canada still has a robust industry and is the seventh largest recorded music market in the world according to the International Federation of the Phonographic Industry (IFPI).

The Canadian music industry is the textbook success for Canadian content requirements. Nicholas Jennings wrote in *Before the Gold Rush* about the formative years of Canadian rock, pop and folk music from the 1960s through the early 1970s. While musicians from Leonard Cohen, Joni Mitchell, Gordon Lightfoot, Buffy Saint Marie to Neil Young were developing creatively, their works were ignored by Canadian radio and they were little known beyond their bohemian community. But that changed radically in 1971 when the Canadian Radio-Television Commission (now the Canadian Radio-television and Telecommunications Commission (CRTC)) implemented a Canadian content rule for radio broadcasters against howls of protest from the broadcasters. The creative success turned rapidly into market success. And the Canadian music industry has never looked back. Our musicians now enjoy unprecedented successes globally and frequently dominate charts around the world.

Our film and television policies include a balanced range of measures:

- Canadian content rules that require providing viewers with audiovisual content to ensure Canadian works are included in the mix;
- Direct and indirect funding support to help level the playing field for Canadian producers against foreign competitors. This provides producers with a tremendous competitive advantage so they can recoup their investment in their home market;
- Public institutions – Canadian Broadcasting Corporation, Telefilm and the National Film Board, the public-private Canadian Media Fund and others;

¹ [Profile 2015: Economic Report on the Screen-based Media Industry in Canada](#), produced by CMPA in collaboration with AQPM, the Department of Canadian Heritage and Telefilm Canada, 2015;

- Support for training and professional development, including for the artists and technicians whose skills are essential to the industry;
- Requirements for our highly-successful media companies, which have grown under the protection of various preferential measures, to make reasonable contributions to Canadian content production;
- Investment rules that protect Canadian firms;
- Preferential copyright rules.

These measures are not static; they have changed substantially over the years in response to developments in the industry. For example, content quotas have been adapted quite successfully to reflect changes in the marketplace such as new broadcasters, specialty services, the 500 channel universe, new markets or new forms of distribution. This includes the transition from content quotas being based only on time to including commitments for Canadian programming expenditures.

There is also a continuum of policy measures along a line from those designed to promote industrial development to those designed to promote cultural development. The tax credit available to foreign producers, which is based on dollars spent in the country, makes Canada an attractive location for the foreign producer. This work helps sustain the performers, writers, directors, technicians, suppliers and others whose skills are then available for Canadian content productions.

Key principles of the Broadcasting Act remain a sound foundation for government audiovisual policymaking, including in the digital world:

“D) the Canadian broadcasting system should:

- (i) Serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;
- (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity by displaying Canadian talent in entertainment programming, and by offering information and analysis concerning Canada and other countries from a Canadian point of view;
- (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality, and multicultural and multiracial nature of Canadian society and the special place of Aboriginal Peoples within that society, and;

E) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;

F) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming.”

A fundamental underpinning of cultural policymaking is the definition of Canadian content. Canada has developed a system that is based on the principle, which we strongly support, that Canadian music and Canadian stories are those written, performed and told by Canadian creators. In the film, television and digital media world, it is one where Canadians are the writers, directors, actors and other creative talent who bring the story to the screen. While this seems to be under some challenge in relation to the recorded media sector, we note there is no ambiguity in publishing. The distinguished author Lawrence Hill can write about slaves seeking freedom in the United States at the end of the American Revolution, or about an African refugee runner in a fictional Indian Ocean nation, and there is no debate about

whether these are Canadian works. They are because Lawrence Hill brings to these stories a sensibility and perspective he acquired growing up in a Toronto suburb.

We have an incredibly talented and diverse talent pool in every artistic category. And while we welcome the opportunities to work alongside foreign artists in our robust service industry, it is essential for us to have the leading roles in Canadian productions. And surely it is not too much to ask that when Canadian tax dollars are directly funding the productions, these should flow exclusively to Canadian creators.

For many decades, ACTRA has been a strong advocate for greater diversity in our broadcasting system and our media production industry. We continue to advocate for gender equity and our Women's Committee has worked for more than 30 years "to explore the concerns of all female Members, raise awareness of these concerns, and support women both within ACTRA and the industry." This has led to concrete changes in our industry, including strong rules in our collective agreements. Since 2011, ACTRA has convened the Canadian Unions for Equality on Screen (CUES), which recently released a study that shows that women receive only 16 per cent of the work as directors on film and television productions shot in Canada.

ACTRA has also been at the forefront of efforts to promote cultural diversity: to ensure there is a diversity of voices and adequate space for all our cultures with special attention to our First Nations. Our Diversity Committee "advocates for support structures for diverse artistic communities to help create an inclusive environment and to right historical inequities within Canada's recorded media sector." Since the early 1980s, ACTRA has promoted and facilitated casting diversity, including race, age, ethnicity, gender identity, and (dis)ability through the publication of information about the wealth of diverse performing talent in Canada. The latest iteration of this long-standing effort can be found at www.diversity.actraonline.ca.

Film and television production is a positive form of economic development because it is generally: labour intensive rather than capital intensive; environmentally benign; high wage; based on intellectual property rather than the use of finite natural resources; and socially beneficial. But, these characteristics of the sector also mean it is a fragile industry inherently susceptible to capital flight. The producer is only here for the current production; they could easily decide for myriad reasons to move to a different location next time. For this reason, there needs to be long-term consistency in the policies and measures we use.

Digital technologies and the Internet-based platforms are disruptive

Digital technologies are ubiquitous and the Internet is on the way to becoming the principal vehicle through which creative works of all kinds are distributed. Music, books, magazines, movies, television and radio programs, games and other creative works are already widely available online. Internet distribution has grown exponentially in the past decade and the growth rates continue to soar. Aside from some forms of visual arts and crafts, all other creative works can easily and quickly be digitized.

As with every new medium that has emerged since Gutenberg developed moving type in 1468, this newest medium creates challenges and opportunities for artists and the cultural industries. Some artists have used the Internet to gain new audiences, both at home and around the world. But, a 2015 UNESCO

report² confirmed that piracy is a serious problem. The report also shows that new business models and regulatory regimes are still being developed everywhere.

Consumers, particularly those who have grown up in the digital age, have come to enjoy instant access to a wide range of artistic works, often for free. The ease of copying and manipulating digital works also means that some artists experience difficulty protecting their work against unauthorized uses. In this process, there has been an erosion of the perceived value of the creative endeavour. This reinforces the urgent need to have copyright laws robust enough to ensure that the creators whose work is distributed via the Internet are adequately compensated for that work. Copying a work has value, and some of that value needs to find its way to the work's creators.

Widespread and stable income flows do not yet exist in the digital world. This will not change until the new business models are further developed and firmly established. These models may well develop in the near term, particularly as the globally dominant firms secure their positions, and this is likely to reinforce the position of existing dominant players in the music and audiovisual industries. History teaches us that, in the absence of strong measures to promote diversity of content, consolidation in these industries brings homogenization.

As American author Tim Wu wrote in *The Master Switch*, every new communications technology has been seen as a free and open space that would unleash citizen creativity and connectivity, only to become closed and centralized as corporations took control. This same transition is underway today with the Internet as Facebook, Amazon, Apple, Netflix and Google, together with their Chinese counterparts Tencent/WeChat, Baidu and Alibaba, are increasingly in control of the digital space.

In a recent report in *Variety*,³ John Landgraf, CEO of FX Networks, “sounded the alarm about the potential for Netflix to exert ‘monopoly’ power over the creative community.” He compared Netflix’s meteoric rise as a “purveyor of programming” to the overall trend where single companies, such as Facebook, Google and Paypal are now dominating their sectors.

Australian academic Julianne Schultz recently spoke about the profound cultural implications of the phenomenon she calls “The Age of Fang” (Facebook, Amazon, Apple, Netflix, Google). She notes that the technology companies are making unprecedented amounts of money from the marriage of technology and culture. “As a result we are seeing a massive redistribution of wealth from the cultural sector, where meaning is created, to the technology sector, which has figured out how to market, distribute, reach and make money out of it in ways the cultural industries never imagined possible ... in the Age of Fang there are a handful of global companies shaping tastes, distributing and exploiting information we didn’t even know we generated.”⁴

In response to those who argue that the new technologies are enabling artists to find new audiences, Ms. Schultz responds: “It is true that the internet has made a long tail of information more accessible than ever before. There is more, but most of it remains invisible. When the habits of human nature are combined with the algorithms designed to recognise patterns, it becomes inevitable that increasingly we

² [Full Analytic Report on the implementation of the UNESCO 1980 Recommendation concerning the Status of the Artist](#), by Garry Neil, 2015;

³ [FX’s John Landgraf Sounds Alarm About Potential Netflix ‘Monopoly,’ Overall Series Growth](#), by Daniel Holloway and Cynthia Littleton, *variety.com*, August 9, 2016;

⁴ [Australia must act now to preserve its culture in the face of global tech giants](#), by Julianne Schultz, *theconversation.com*, May 2, 2016;

go back to the same handful of sources. There is a long tail but it is an odd shaped tail – more like a fat sausage with a tiny sliver of the intestine it was stuffed into, dangling at the end. And it is in that sliver that most of our [Australian] cultural product resides, virtually invisible to the rest of the world, and increasingly hard to find at home.”

While this is not central to ACTRA’s work, we are acutely aware the Internet is decimating services that have provided local news and information to local communities across Canada. Local broadcasters and local newspapers are struggling to survive. We believe that, as citizens, we have a right to have access to local news and information. ACTRA would support policies and measures that would help us to achieve this objective.

In the face of digital developments, ACTRA believes governments will inevitably need to intervene for a variety of public policy reasons, not the least of which is to counter erosion of our tax systems, because corporations can easily shift profits to lower tax jurisdictions. The challenge will be to ensure that when governments begin to regulate the new digital giants, they also ensure there is reasonable access for all artists and for the rich diversity of cultural works from around the world, and to ensure citizens can find them. Europe has already begun to tackle some important issues, like taxes and requirements for search engines to ensure “the right to be forgotten,” and anti-trust cases against Google.

In Canada, the issues are compounded by the fact that Internet broadcasters operate entirely outside the regulated system at the present time, in part due to the CRTC’s Digital Media Exemption Order. Thus, we have broadcasters in the traditional system working with regulations, paying taxes and meeting regulatory requirements and other broadcasters, specifically Netflix, in the same market, which are completely exempt. Broadcasting Distribution Undertakings, which provide their subscribers with access to programming from a broad range of suppliers, make contributions to Canadian productions and face other regulatory obligations. Meanwhile, Internet Service Providers, which, as part of what they do, also provide their subscribers with access to programming from a broad range of suppliers, have no similar obligations. We also emphasize that in Canada’s media industry, BDUs, ISPs and broadcasters are increasingly integrated into huge media giants that, overall, continue to be profitable.

As part of this discussion, the role of the CBC is important to consider. ACTRA fully supports the mandate of the Canadian Broadcasting Corporation and believes it provides broad scope for the CBC to be online. The Broadcasting Act provides that the Corporation should have a “wide range of programming that informs, enlightens and entertains” and it should make these available “by the most appropriate and efficient means and as resources become available for the purpose.” Like all public service broadcasters, the CBC must have a strong presence on the Internet. ACTRA also rejects the position of some that the CBC should be the only place where Canadian programming will be found in the future. Canada’s system is, and must continue to be, balanced.

With respect to all public cultural agencies, ACTRA believes the Board of Directors should be significantly changed both to reflect Canada’s diversity and to include people who fundamentally support the institution on whose board they are serving. We applaud the government’s commitment to a transparent and increasingly open process for making public appointments and look forward to this process being used on all upcoming appointments to the cultural agencies.

ACTRA firmly believes the solution to the digital age is simply to maintain the core principles of our cultural policymaking and continue to adapt and change our regulations and financial supports in a way that is balanced and measured. This is the way forward for the next decade.

What policies do we need in the digital age?

ACTRA RECOMMENDATIONS

Maintain core policies

Maintain existing regulations on broadcasters and broadcasting distribution undertakings. While the profits of broadcasters are declining, and this is likely to happen over time to the cable companies as consumers move away from that form of program delivery, the regulatory regime from which they have benefitted for 50 years has allowed them to develop into very large and vertically-integrated companies that remain profitable overall. Gradually shift funding programs to be agnostic as to producer and primary release market.

ACTRA recommends we gradually begin to require federal cultural agencies to open all funding programs. As we recommend below, they should implement funding arrangements that maximize the ability of creative talent to develop the story, initiate the partnerships, and to find a producer and distribution channel. They should fund audiovisual works that are being produced for any primary release market, and not just television and cinema.

ACTRA believes Canada's broadcasters, both public and private, should embrace Canadian content as their competitive advantage. As they do so, and as funding programs become increasingly agnostic as to who is producing the work, we recommend private broadcasters be allowed to access funding programs for their own productions or for those made by affiliated production companies.

Put the creator at the heart of the process

Ensure artists are valued and appropriately supported to unleash their creativity. Writers, showrunners, directors and performers should have access to funding to develop the story, initiate partnerships that are essential for any audiovisual work, and find a producer and distribution channel most appropriate for the work.

Canada's Status of the Artist Act (1992) contains this proclamation. We believe it is time to act on it:

"2. The Government of Canada hereby recognizes:

- (a) the importance of the contribution of artists to the cultural, social, economic and political enrichment of Canada;
- (d) that artistic creativity is the engine for the growth and prosperity of dynamic cultural industries in Canada; and
- (e) the importance to artists that they be compensated for the use of their works, including the public lending of them."

Artists work in an atypical way. Before the term "precarious work" came into general use, "atypical" characterized how artists have worked. While some of these characteristics are shared by other professions, taken as a whole they lead to a pattern of work very different from most others in the labour force.⁵

⁵ [Status of the Artist in Canada](#), by Garry Neil and Guillaume Sirois, Canadian Conference of the Arts, September 2010;

- Most become an artist because of their love of the art form not because it could be a profession;
- They can spend a substantial amount of time preparing to earn income, in training, rehearsal, study, research, auditioning, writing, or in creating a finished product;
- They sometimes work for a number of engagers simultaneously, or for none at all. They may sell nothing for long periods and then suddenly a great deal;
- Experience and skills are no guarantees of marketplace success. The creative element of the work is difficult to define and perhaps impossible to teach;
- Many professional artists must supplement their income with revenue generated from part-time work outside their area of professional expertise in order to survive economically;
- Because of the creative nature of the work, they often have an ongoing economic interest in their completed work, either through copyright law or contracts, and can receive income from it long after the work is finished.

According to census data and studies on the cultural labour force, the number of professional artists is growing rapidly. A high proportion of artists are self-employed and, while many artists are highly-educated, their earnings are low compared to other Canadians. The latest analysis⁶ confirms the average income of the more than 136,000 Canadian artists is \$32,800, 32 per cent lower than the overall labour force. The median income for artists is only \$21,600, which is 43 per cent lower than the median income of all Canadian workers. This is also five per cent lower than what Statistics Canada used to call the “poverty line.”

A key feature of the work pattern of many artists is that their income fluctuates from one year to the next. An actor may spend many years training, attending auditions and working in small parts before enjoying one or two good years when she obtains a lead role in a television series or a major stage production. This can be followed by several lean years before the next significant contract. A writer working on a novel or a screenplay, a music composer, or a visual artist preparing for a solo exhibit may have several low income years during which they are creating works, followed by a year of increased income when the book is released, the painting is sold, or the movie is produced. A 2004 government study of the tax returns of 14,000 Québec artists found that income of over one quarter of artists fluctuated by at least 50 per cent from year to year due to the nature of their work.⁵

A study commissioned by ACTRA in 2011 found that an artist resident in British Columbia with a moderate net income (\$30,000 per year) from artistic activities would pay 12.3 per cent more tax if the income fluctuates over a four-year period than if the same total amount is earned on a steady basis. An artist resident in Nova Scotia in the same situation would pay 15.8 per cent more. An artist resident in Ontario with a high net income (\$90,000) from artistic activities would pay 4.5 per cent more tax if the income fluctuates over a four-year period than if the same total amount is earned on a steady basis. An artist resident in Alberta in the same situation would pay 2.4 per cent more.

To promote creativity, ACTRA recommends the government implement the following tax measures for professional artists in Canada:

- *Provide the first \$5,000 of professional artistic income as tax free.* This would be a powerful and effective mechanism to encourage creativity, and would most benefit artists with lower incomes, including young and emerging artists, as well as those exploring a new medium. ACTRA notes that Québec allows certain deductions for artists’ royalty income. In Ireland, the first €40,000 of income earned by creative artists is tax free.

⁶ [A Statistical Profile of Artists and Cultural Workers in Canada](#), by Kelly Hill, Hill Strategies, December 10, 2014;

- *Introduce a four-year income-back averaging system to ensure tax fairness for Canadian artists.* Under this system, an artist would be required to pay taxes on net income calculated as the lesser of the current year, or the average of the current year plus the three preceding years. The mechanism to achieve this objective could be through amendments to the Canada Revenue Agency Interpretation Bulletins IT-525R for Performing Artists, and IT-504R2 for Visual Artists and Writers. ACTRA notes that artists in Québec have a system that allows them to purchase an income averaging annuity for exceptional income received in one year and receive it over a maximum of seven years. There are numerous international examples of income averaging for artists as well.

In response to those who argue that special rules in the Income Tax Act are inappropriate, ACTRA notes that there are already special rules for a wide variety of people, including farmers, fishers, hairdressers, parents, clergy, northern residents, taxi drivers, members of the Canadian Armed Forces serving in war zones, persons with disabilities, persons who have taken a vow of perpetual poverty, expenses for employees of railway companies, employees of certain international organizations, Members of Parliament and others. Two Canada Revenue Agency Interpretation Bulletins currently establish rules and principles that respond to certain elements of the working reality of writers and visual artists, and musicians and performers. Developing further measures relevant to the working situation of artists in Canada's tax system is entirely appropriate.

ACTRA recommends the Copyright Act be amended to extend the rights of performers in audio works to performers in audiovisual works. This is in keeping with the World Intellectual Property Beijing Audiovisual Performances Treaty, which will become the new international norm over the coming years.

ACTRA also recommends that, when the Copyright Act is reviewed in 2017, the private copying levy be extended to include media now used to copy works, including iPods, USB keys and hard drives.

Rescind the Digital Media Exemption Order

The Digital Media Exemption Order must be rescinded. The government (cabinet) may do this either through its power under the Broadcasting Act to issue a policy direction to the CRTC, or through appropriate amendments to the Act.

In one of the most short-sighted decisions in broadcasting history, in 1999 the CRTC issued an order that "exempts from regulation, without terms or conditions, all new media broadcasting undertakings that operate in whole or in part in Canada. New media broadcasting undertakings are those undertakings that provide broadcasting services delivered and accessed over the Internet."

In his opening comments to the CRTC public hearings into this issue on December 1, 1998, ACTRA's then-president said: "So, you can count ACTRA squarely among those appearing before you who favour the regulation of new media distribution services, including Internet Service Providers (ISPs). ACTRA recognizes that the nature of the regulation to be imposed will and should be different.... But, we favour the adoption of regulations, which, at a minimum, require that distributors contribute to the creation of a development fund to be made available to producers of Canadian digital media content." In its written submission, ACTRA recommended that a new licence class be created for ISPs. It predicted that, unless regulations were introduced, Canadian broadcasters and BDUs would be exposed to unfair competition and would begin to seek relief from their own regulatory obligations based on this unfairness. This is precisely what has happened.

Find new sources of funding for Canadian content productions and for the creative people who are the key storytellers

Netflix and other over-the-top (OTT) services enjoy a powerful competitive advantage over analogue Canadian services. There are two elements to this advantage. The first is that they are not collecting and remitting the Goods and Services Tax, and relevant provincial consumption taxes (GST/HST). The second is that they are not subject to Canadian content rules or expenditure requirements, nor do they make a contribution to Canadian content production. ACTRA notes the recent announcement of the global expansion plans of Amazon Prime Video. For many years, Amazon has collected and remitted GST/HST on its Canadian operations and we fully expect this will continue when its online streaming service comes to Canada.

ACTRA recommends that OTT services offering subscriptions to Canadians be required to register for the GST/HST, and collect and remit taxes on all of their Canadian revenues. We highly suspect that enforcement will not be an issue since the companies offering these services generally want to be known as good corporate citizens.

ACTRA recommends that OTT services, if they act as broadcasting distribution undertakings that have more than 2,000 subscribers, should contribute five per cent of their gross revenues from broadcasting-related activities to the creation of Canadian programming through publicly- or independently-administered funds.

Over the past 18 years, ACTRA has also consistently argued that Internet Service Providers are providing access to “programs,” as defined in the Broadcasting Act, as at least part of what they do. In 1998, we recommended ISPs be subject to a new licence class that would recognize that they are both “telecommunications common carriers,” as provided in the Telecommunications Act and Broadcasting Distribution Undertakings, and as provided in the Broadcasting Act. ACTRA continues to take this position and therefore recommends that ISPs should make a contribution to Canadian programming that is proportional to the extent to which consumers are accessing programming content through their ISP. ACTRA understands this will require legislative action by the government.

ACTRA believes access to the Internet is essential today and supports efforts to ensure that every Canadian has access to a high-speed broadband service. With due respect to the critics of our proposal to provide an ISP contribution to Canadian content production, we do not accept that this incremental cost will mean Internet access will become out of reach for many Canadians. Still, to avoid any possibility of this outcome and to speed the rollout of Internet access to all Canadians, we recommend the government provide appropriate subsidies or tax incentives to ensure all Canadians have access to the Internet.

As we have advocated for more than five years, ACTRA also recommends the government amend S. 19.1 of the Income Tax Act to give Canadian advertisers a tax deduction only for advertising on Canadian-owned websites that feature homegrown content. We would also support other incentives for private companies that feature Canadian digital content on their websites.

Finally, ACTRA supports the proposal that part of the fees government receives from the sale of spectrum as well as the licensing fees should be directed toward content production. We also believe

this would be an appropriate source of revenue to provide the subsidies to ensure affordable access to Internet services.

Embrace our diversity as a competitive advantage in the digital world

Canada’s screen-based industries are far better positioned to tackle inequality in the recorded media industries than anywhere else. Canadian funding programs should promote diversity. They should specifically mandate the achievement of gender equity in the positions of screenwriter, showrunner, director and producer by 2020.

In response to the question of why he has appointed a gender-balanced cabinet, Prime Minister Justin Trudeau answered “because it’s 2015.” It will soon be 2017 and we are a long way from achieving gender balance in Canada’s screen-based sector. ACTRA believes this must change. A modest proposal is to establish a target date of 2020 for our various funding programs to ensure there is gender equity in the positions of screenwriter, showrunner, director and producer.

Canada is one of the most diverse countries in the world. We should embrace this diversity as a competitive advantage. As the Prime Minister said in a November 2015 speech in London, England: “One-fifth of Canadians were born elsewhere and chose to immigrate to Canada. In our largest city, more than half were born outside Canada... Canadians understand that diversity is our strength. We know that Canada has succeeded – culturally, politically, economically – because of our diversity...” The funding programs should promote the full range of Canadian diversity in our industry, including in the positions of screenwriter, showrunner, director and producer.

We understand better than most that ensuring diversity in casting is more challenging than in other categories since a role may require certain skills, or physical, vocal or other attributes. However, ACTRA has been working for more than 30 years to promote diversity in casting. After all, it is the job of the actor to convince you that they are the character they are playing, whether or not they share any characteristics.

The Canadian Broadcasting Corporation must have a robust presence on the Internet

The Canadian Broadcasting Corporation has an obligation to provide its programs on the Internet. But, the CBC should become commercial-free across all of its services and platforms when it receives adequate and secure long-term funding sufficient to execute its mandate fully as a public service broadcaster, including on the Internet.

Since the Radio Artists of Toronto Society (RATS) first appeared in the early 1940s, later to be joined by radio performers in Montreal, Winnipeg and Vancouver, we have taken the position that Canada needs a strong and effective public service broadcaster to provide news, information and entertainment programs that are in the public interest. Our commitment to that principle continues today and we believe it is essential for Canada that broadcaster have a robust presence on the Internet.

This submission is not the appropriate place for ACTRA to provide a detailed analysis of the Canadian Broadcasting Corporation. On the macro level, we will only say that we believe the CBC has lost its way, and needs to be reinvigorated and modernized. The first step is to appoint a diverse and gender balanced Board of Directors with members who have experience in the arts and the cultural industries.

All must be committed to the principle that Canada needs a strong and effective public service broadcaster.

The CBC has an effective presence on the Internet and it needs to increase its focus on this distribution method since it is the “most appropriate and efficient means” to distribute its programs. While its mandate is to deliver news, information and entertainment programs to Canadians, the Internet provides the CBC with access to global audiences. In ACTRA’s view, this is positive since these audiences will have an opportunity to see the world from a Canadian perspective and watch excellent Canadian stories. If the CBC does not continue to be available online, it will gradually become irrelevant.

Many intervenors have noted that advertisers are increasingly focusing on the reaching potential consumers via the Internet. This is logical since this is where audiences are moving. The other side of this equation of course is that the legacy media, including radio, television, newspapers and magazines, are losing ground and this is undercutting their long-established business models. All of this has exacerbated the long-standing complaint that the publicly-funded CBC is competing unfairly with private media companies. ACTRA recommends the CBC should become commercial-free across all of its services and platforms on the condition that it receive adequate and long-term funding that would, at the very least, replace lost advertising revenues. In ACTRA’s view, such a policy would be in everyone’s interest because the CBC would then be free to make decisions based exclusively on the public interest rather than a commercial imperative.

While ACTRA welcomed the commitment in 2016 federal budget to invest \$675 million over five years in the CBC, this is not nearly sufficient to permit the Corporation to become commercial-free in that period. Furthermore, even with this increase, there remains a significant gap between the per capita public funding that goes to the CBC compared to other public service broadcasters.

Build our export markets

Encourage more exports of digital media works by building new partnerships between the industry and government, establishing that culture is an important pillar of Canadian foreign policy, and building capacity in Canada’s Foreign Service to promote Canadian artists and cultural producers.

It is because Canada has world-class film, television and digital media content that many producers have international partners. Some even have significant foreign sales. ACTRA believes that increasing collaboration between the government and the industry will bring more foreign successes for our productions, including increased sales.

ACTRA notes it is a participant in the nascent Canadian Screen-Based Industries Council, which is being developed as a joint industry-government initiative. We recommend the government agree to participate in this Council, providing industry participants are selected in some representative manner, and providing there is a healthy mix of producers, associations representing the creative and technical talent, and other relevant industry players. This would be a useful forum in which to discuss a range of issues respecting the digital transition as well as consider ways to develop our export markets.

ACTRA welcomes the recent announcement of the formation of the Canadian Association of Content Exporters|Association Canadienne des Exportateurs de Contenu (CACE-ACEC). We will work with this new industry association and encourage all Canadian producers to join.

Public agencies all have programs that assist producers who want to build contacts abroad, which is positive. In the past, the CBC has aggressively marketed its programs through CBC Enterprises. But, these efforts have eroded over the past few years.

On the government side, ACTRA notes that Canada is substantially behind other western nations that consider culture to be an essential pillar of foreign policy, alongside security and economic development. This has not been the case for Canada for many years. For decades, the British Council, l'Institut français (and l'Alliance françaises) and the Goethe Institute have, respectively, promoted British, French and German culture abroad. In the space of only a few years, China has established more than 500 Confucius Institutes around the world. In the face of this tsunami, Canada has retreated and reduced its promotion of its artists abroad.

Thus, ACTRA was delighted with the announcement in the 2016 federal budget that Canada will invest \$35 million over two years to support the promotion of Canadian artists and cultural industries abroad. But this can only be the very beginning of efforts to catch up. We recommend the government formally recognize in policy that culture is a pillar of foreign policy and an essential diplomatic tool. The government must reinvigorate its own efforts by substantially training and deploying more cultural attachés abroad. The government may also want to examine how the role of the Export Development Canada could be adjusted to provide meaningful support to digital media content producers and distributors.

ACTRA recommends the industry, public agencies and government convene in 2017 for a gathering of all cultural industries to focus specifically on how all players can collaborate better to promote our artists and cultural productions abroad.

The Economist magazine lauded Canada as a positive example to the world in a recent edition⁷ because it is showing the world that “tolerance and openness are wellsprings of security and prosperity.” ACTRA believes the current government’s commitment and its early actions to reengage in a positive and collaborative way in the world creates a wonderful opportunity that we cannot afford to miss.

⁷ The Economist, October 29-November 4 edition, London.