

ACTRA Alliance of Canadian Cinema,
Television and Radio Artists

Written Submission to
The House of Commons Standing Committee on Finance
Pre budget Consultations, 2004

November 9, 2004

Introduction

The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) welcomes the opportunity to participate in the pre-budget consultation hearings of the Standing Committee on Finance. ACTRA is a national organization of professional performers working in the English language recorded media in Canada. ACTRA represents the interests of more than 21,000 members across Canada - the foundation of Canada's highly acclaimed professional performing community.

For over sixty years ACTRA has represented its members, the acting professionals that bring to life the creativity of Canada's screenwriters, directors, and producers. ACTRA's principal function is looking after the collective bargaining needs of its members and others, whose performances in movies, television programs, sound recordings and digital media entertain, educate and inform Canadians and global audiences.

ACTRA is also a vocal advocate for the preservation and strengthening of Canadian culture and creativity. It plays a leading role in coalitions for the advancement of Canadian cultural programs and in international bodies working for the protection of cultural diversity in a global economy.

ACTRA members have a vital stake in Canada's cultural future. Performers benefit professionally when work opportunities are strong. ACTRA members also believe passionately that Canada needs a strong Canadian presence wherever entertainment and information services are created and however these are provided to Canadians. We believe in our own creativity; our capability to tell and perform our own stories. It is this belief that motivates ACTRA's participation in the public processes about the future of Canadian television, film and other media that make up the cultural industries.

The Canadian film and television sector generates \$4.93 billion of production activity annually. This sector employs over 133,400 Canadians in highly skilled jobs. It also averaged an annual growth rate from 1997 to 2002 of 8.5%. This sector has surpassed the 3.6% growth level for the overall economy. Canadian film and television works provide \$237 billion in annual export value including \$635 million annually in treaty co-productions according to the *Report on the Canadian Film and Television Production Industry*, February 2004. Public funding provided on average, over the years from 1996-2003 about 16% of the total value of all Canadian productions certified by Canadian Audio-Visual Certification Office. Each dollar of government support leverages over six dollars in other types of financing.

We recognize that past governments have put in place essential support programs that have proven to be effective to generate performance from cultural industries and the film and television production industries in particular. The growth of the film and television sector of the cultural industries is due in measure to funding programs that rely on government contributions. Without these funding programs

there would be no base for growth and consequently fewer jobs for Canadian creators and less expression of our national identity.

We are very concerned that the current expenditure review exercise will result in further budget reductions that inevitably will have a serious and negative impact on the film and television industries in particular and the cultural industries in general. All of our submissions that follow are prefaced by this concern.

ACTRA has requested an opportunity to participate in the pre budget hearing process and wishes to comment on the following issues:

- proposals for adjustments to the taxation system to reflect the working reality of professional Canadian performing artists; and
- the need for the government to maintain and enhance programs and funding for Canadian film and television production.
- commitments to contribute to UNESCO for development of the Convention on the Protection of the Diversity of Cultural Content and Artistic Expression.

Tax Incentives for Creativity

Performers and others who are self employed in the arts and media do not benefit from the same social welfare programs as employees who are entitled, for example, to collect employment insurance. As well, the income of a performer is not regular because it usually depends on short term engagements. The nature of performers work means that their income from performing can vary greatly: this leaves performers subject to paying income tax at a high bracket when they are working. The disadvantage for performers and other artists that are self employed is that they end up paying more tax on income that may have to last them years. Tax averaging performers' income from performances would rectify this unfairness.

Tax averaging was available to self employed workers until it was abolished by the Trudeau government in 1982. Up until that time self employed workers could spread their taxes over more than one tax year so that they were not penalized by the system while others benefited from lower taxes on regular incomes and benefits for unemployment.

The arts are an integral part of our social environment that enrich and reward our society with cultural achievement that should be rewarded by fair and equitable tax laws that encourage creativity and value cultural productivity. Performers and other self employed creators are highly motivated self starters that contribute to Canada's national identity by writing, telling and performing stories about Canadians for Canadians. Our cultural industries are dependant on the creativity of the self employed artists and performers. The multi-million dollar budgets of the entertainment industries such as broadcasters, film studios and theatre distribution chains would not exist but for the performer and artists.

There are many international examples of tax relief in countries that value cultural productivity and the dedicated performers and creators that contribute to the richness of their national identity. UNESCO has reported that income averaging for

cultural professionals such as performers and artists in varying forms is practised in : Germany, Denmark, the Netherlands, Greece, France, the United Kingdom and Luxemburg. In Australia the Income Tax Assessment Act for example allows artists with fluctuating incomes to average their income for tax purposes for a period of up to five years, as a measure – “to alleviate detrimental tax implications where a performer might earn a good income in one year but receive little performance related income in other years”.

The reaction to Income averaging in Canada has been favourable with experts in the field recommending that it be reinstated. In an article for The Financial Post (November 1, 2000), in the wake of mini-budget presented by Paul Martin then Minister of Finance, Arthur Drache, QC and eminent tax lawyer stated :

"The Carter Commission study of the Canadian tax system made the point that no progressive tax system can be considered fair if there is no system to average what has come to be known as 'lumpy' income."

In 2000 the Canadian Tax News [vol XXVIII (2000)] published by Price Waterhouse Coopers noted :

"In any progressive system of income taxation, fairness would seem to dictate that there should be some form of income averaging.... There are many other sources of income that may be received sporadically (authors or artists come to mind) and it seems unfair that a large income in one year (that may have been many years in the making) should fall prey to high marginal rates without some relief. Various forms of income averaging have been tried over the years and then discarded, presumably because of administrative difficulties. But the answer is not to say that income-averaging is too hard to administer. Rather, the challenge is to develop a system that is administratively feasible."

The tax measures announced by the Liberal government of the Province of Quebec in March 2004 include a new provision for tax averaging for performers and other artists that will permit qualifying artists to defer the tax on a portion of their income. Artists who acquire an eligible income averaging annuity will be able to spread their income over a maximum of seven years.

Income averaging is supported by most arts organizations. ACTRA is a member of the Canadian Conference of the Arts and supports its submission to the Standing Committee concerning the taxation status of self-employed professional artists. It is very difficult to make a living as a professional artist in Canada, due to the vagaries of the industry and the unfair treatment cultural entrepreneurs receive under the current tax rules.

Providing income-back averaging would be a useful step toward correcting an historic imbalance and would give substance to the government's support of UNESCO's declaration on the status of the artist. It would ensure that our cultural

professions become an attractive career option and as a result, all Canadians would benefit culturally and economically.

Recommendation: The government of Canada institute, without delay, a system of income-back averaging over a 5 year period, as a method of providing fair and equitable tax treatment for self-employed Canadians.

Funding for Canadian Film and Television

ACTRA appreciates that the annual pre-budget consultations are an important vehicle through which Canadians can communicate to the federal government their priorities and values as the next budget is developed. We want to specifically note that Finance Minister Goodale restored the government contribution to the CTF in his last budget. ACTRA is seeking a commitment from the government to maintain and enhance its contribution to the Canadian Television Fund (CTF), Telefilm Canadian Feature Film Fund and the CBC in the next budget.

CBC

The CBC enjoys the venerable distinction as Canada's national public broadcaster. It has a special mandate, to showcase Canada's national identity. The *Broadcasting Act*, requires that programming on the CBC is predominantly Canadian; which actively contributes to the flow of cultural expression; a shared national consciousness and identity; and which reflects Canada, its regions, its linguistic duality, and its multicultural and multiracial diversity.

Developing, producing, and broadcasting high-quality Canadian dramatic programming is one of the best means through which the CBC can meet its mandate. Unfortunately, the CBC's ability to carry forward its mandate and to build on its history of producing and broadcasting excellent Canadian drama has been materially damaged by a series of budget cuts over the last decade. Although the past two Budgets have included increases to the CBC allocation, these have not restored the \$390 million cut over the 1990s, and the recent increases were not routed to drama production in any case. To further compound the shrinking of CBC drama funds, the CBC guarantee of up to 50% of the Canadian Television Fund was eliminated in 1999.

The CBC's role within the broadcasting system has been weakened by underfunding. It cannot create and implement long-term strategies to succeed because it faces continued uncertainty about its future funding levels. The public broadcaster must be given the resources and stable, multi-year commitments it needs to meet its obligation to reflect and promote Canada's national identity.

Recommendation: The upcoming federal budget include an increased, stable funding commitment to the CBC for at least the next five years.

Telefilm - Canadian Feature Film Fund

The development and promotion of the Canadian audiovisual industries and support of the audiovisual sector's role in producing and distributing high-quality works that reflect Canadian society in all its diversity is the mandate of Telefilm Canada. Telefilm initiatives aim to ensure the widest possible audience for Canadian audiovisual productions, both here and abroad, through support for distribution, export, versioning, marketing and industry promotion at Canadian and foreign festivals, markets and other events.

Telefilm helps develop and promote feature films through its Canadian Feature Film Fund (CFFF). The spirit and intent of the Canada Feature Film Fund's development, production and marketing programs is to encourage the making and marketing of Canadian feature films that have high box office potential, while supporting a range of genres, budgets, companies and regions. The CFFF's key role in developing drama production is more important than ever at a time of crisis in English-language drama production.

To ensure that Telefilm can carry out its mandate and plan for the long-term viability of Canada's audiovisual sector it requires certainty of its funding levels over that period. Long-term, stable budgetary commitments are needed to ensure that Telefilm can make lasting and meaningful contributions to the growth of the Canadian audiovisual sector in general, and of drama production in particular.

Recommendation: The upcoming federal budget contain a 5-year funding commitment to Telefilm Canada. The federal contribution should be at least at the current level of approximately \$230 million for each of the next five years.

Canadian Television Fund

The Canadian Television fund (CTF) is a public/private partnership with an annual budget of approximately \$250 million supported by Government of Canada, cable companies and direct-to-home satellite service providers. The CTF is instrumental in the production of high quality, distinctively Canadian programming for television. Since its creation in 1996, the CTF has supported over 2600 projects, producing more than 13,700 hours of new Canadian television programming in the essential categories of drama, variety, children's shows, documentaries, and performing arts in English, French and Aboriginal languages. Hit shows such as *Da Vinci's Inquest*, *The Eleventh Hour*, *Degrassi the Next Generation*, *This Hour has 22 Minutes*, *Co ld Squad*, *W atatow* and *Les Bo ugon s-C'est aussi ç a la vie* would not have been made were it not for the CTF.

On February 18, 2003, the Federal Government reduced its financial commitment to the CTF by \$50 million over two years, exacerbating an already precarious existence for Canadian television drama productions and for the Canadian performing artists. ACTRA was very relieved that the Government reversed that decision in the last budget by restoring the CTF to previous levels of \$100 million a year for the next two years. A disaster in the television industry with negative spin off effects was averted. The consequences, had the government not restored the CTF, would have been far reaching. In a Nordicity Group study commissioned by the CFTPA it was estimated that the reduction in the CTF would have caused the loss of 2,400 jobs for Canadians, a loss of 277 hours of production and \$88 million lost in production activity.

The CTF is critical if Canadian-produced programming, especially drama productions, written, directed and performed by Canadians, are to continue to be available to Canadian audiences. Government assistance of domestic television drama productions is not unique to the Canadian experience. European governments assist domestic television productions through, among other vehicles, direct funding from the tax base. Arguably, the United States and India are probably the only countries that do not directly fund domestic television productions because their own domestic and export markets are large enough to sustain new productions without government investment. The fact is that in many European countries where the government provides direct funding for domestic production, notably the United Kingdom, Germany, and France as well as in Australia, the top-10 television drama series were domestically produced. It is alarming to note that in Canada, there was not one English Canadian dramatic series among the top 10 in 2003 or 2004.

The nurturing of Canada's cultural industries, for both economic and social reasons, has been a long-standing goal of the federal government. Stable and long-term funding of the CTF must be maintained and enhanced to ensure economic growth and job creation in the television production sector of the cultural industries.

The CTF contributed \$269 million to Canadian production in 2003. Other financing (comprised largely of contributions from production companies, broadcasters, other government sources and distributors) contributed \$571 million to CTF supported productions. In total, the CTF supported \$840 million in production budgets in 2003. Moreover, the CTF supports more than 40% of the English and more than 50% of the French language priority programs that broadcasters are required, by the CRTC, to make available to Canadian audiences.

Funding of Canadian television drama production is an investment for all members of Canadian society. After sleeping and working, watching television is the chosen activity of most Canadians and drama remains a popular choice of television programming.

Television drama allows the creativity of writers and directors to be brought to life through Canadian performing artists where they can be shared with Canadians across the country. Dramas give Canadians the pleasure to see themselves and their values on television, reinforcing our cultural and national identity. Indeed, they are the principle way that Canadians tell and share their stories with one another, strengthening and enriching the broadcasting system that links Canadians in a common medium.

Canadian drama is produced on location throughout Canada and contributes significantly

to local economies through job creation and spending. CTF-funded programming plays a

critical role in initiating production. Stable and long-term funding of television production will help ensure continued investment in the infrastructure of studios and other facilities. Without a thriving domestic production industry, making film and television remains particularly vulnerable to other economic and external forces. Toronto is a case in point. According to the Ontario Media Development Corporation (OMDC) over the past decade, the percentage of Canadian to non-Canadian productions in Ontario (Toronto) declined from 80% in 1992 to 40% in 2002 while foreign-service productions increased inversely during the same period (60% foreign / 40% Canadian). This means fewer and less rewarding acting jobs for Canadians as foreign-service productions favour foreign actors for principal roles. This past year, the combination of a higher Canadian dollar and the SARS epidemic in 2003 has continued to have a devastating effect on the number of foreign productions in Toronto, threatening the futures of numerous production companies and dramatically impacting the incomes of performers and thousands of others that rely on the film and TV industry.

ACTRA recognizes that direct funding through the CTF alone will not magically solve the problem of ensuring a steady supply of domestic television drama productions. Fair and effective content and investment regulations must be imposed by the Canadian Radio-Television Telecommunications Commission (CRTC) in conjunction with stable and efficient direct government funding of the CTF. CRTC chair Charles Dalven has noted,

"... that Canadian drama is a priority not just from a national identity perspective but also because it creates an infrastructure in the country for other production. 'In doing drama, all the trades and guilds are engaged - actors, writers, producers and so on. It creates experience and jobs and the ability to have a bit of infrastructure in the country that you can build upon and rely on.'"

Chairman Dalven has also pointed out that the CRTC does not control the amount of funding contributed by Heritage Canada. Without the support of programs such as the CTF, there would not be sufficient resources to finance distinctly Canadian productions.

Recommendation: That the government maintain its commitment to contribute to the CTF and to enhance the government's contribution to the CTF in the next budget.

Production Services Tax Credit (PSTC)

Canada must remain an attractive and competitive location for foreign productions. To encourage foreign productions all expenditures on Canadian goods and services, not just labour costs should form the base of the Production Services Tax Credit (PSTC). As well to help sustain the service sector of film and television production in Canada the PSTC rate should be maintained at no less than its current level, of 16% of Canadian labour expenditures.

Our domestic film and television industry benefits from foreign productions that are an important contributor to create jobs, training and infrastructure. It is an ongoing challenge to attract foreign production to Canada. Some factors that influence location, such as fluctuations in the Canadian dollar, are out of our control.

Despite Canada's geographic proximity to the United States there is competition from other locations that are aggressively trying to attract foreign production. Tax credits, similar to those in Canada are now being enacted by many countries and U.S. states. This is compounded by mounting, political pressure to keep productions in Hollywood.

Recommendation: That the government to keep the PSTC rate stable and broaden the base to contribute to the long-term growth and stability of the Canadian film and television production industry and keep Canada competitive in the international market.

Canadian Film or Video Production Tax Credit (CFVPTC)

Although there is a need to continue to attract foreign production the Canadian tax credit system should above all support productions that exhibit high levels of Canadian cultural content and employ high levels of Canadian labour. The CFVPTC is an important force behind Canadian drama and other production that furthers the cultural goals outlined above. Moreover, it furthers those goals by rewarding Canadian creative participation, rather than just the use of Canadian labour in foreign productions. The rate of the CFVPTC should be increased to strongly encourage Canadian production using Canadian creative talent.

ACTRA is pleased that the Department of Finance Canada acted in November of 2003 to reverse changes that had been made to the CFVPTC in the Federal Budget earlier that year. Despite the reversal of those changes it still remains, a critical time for the Canadian film and television industry.

Recommendation: The CFVPTC rate should be increased to between 27% and 30% to maintain an appropriate gap between it and the PSTC.

A New Labour Tax Credit for Film Development

Introducing a labour tax credit for film development would allow producers to hire directors and other creative professionals more often during the development process of film and television projects. This would ensure better employment of Canadian creative professionals and would bring more resources to a critical stage in film and television production. Greater use of creative consultants during the development stage would, in turn, have a beneficial effect on the overall quality of Canadian production and would help ensure the success of these projects.

Recommendation: That the government introduce a new Labour Tax Credit for Film Development, applicable to expenditures on Canadian labour employed as creative consultants during the development stage of film and television projects.

Fund Canada's Commitment to the International Convention on Cultural Diversity

The Government of Canada is playing an important role in the creation of the International Convention on the Protection of the Diversity of Cultural Content and Artistic Expression, the multilateral agreement to exempt culture from international trade agreements currently being developed by UNESCO.

ACTRA applauds the government's commitment to the UNESCO process. Creating an international instrument on Cultural Diversity is very important for all Canadians, it will help ensure a future for our cultural workers and industries – it will foster freedom of expression and broaden access to culture and it will help to counterbalance the continuing effects of commercialization of the cultural sector.

An international convention on cultural diversity will help Canada to safeguard existing cultural policies and enact new ones. Policy measures such as broadcasting regulations, film tax credits and funding institutions are examples that foster a strong Canadian film and television sector and could be threatened under international trade agreements. Canada and other nations have to be able to maintain the freedom to determine cultural policy and to defend cultural expression by exempting the cultural sector from international trade agreements.

Canada is already recognized internationally for its leadership role and our support for the Convention. This is also an important element of our efforts to project Canada's profile and values internationally. The federal government underlined its strong support for the Convention this year by committing \$350,000 to UNESCO to finance intergovernmental meetings to enable the Convention's development. It has also created the position of Special Envoy of the Prime Minister to act as our lead negotiator.

Recommendation: That the Budget contain renewed commitments of funding to both the Canadian Coalition for Cultural Diversity and to Canada's contribution to UNESCO for development of the Convention, to at least current levels of financing.

Conclusion

The Federal Budget should include the measures outlined above to support Canada's audiovisual sector. We submit that in doing so, the government will advance important Canadian economic, cultural, and strategic policy goals.

In the overall scope of Canada's annual budget, the expenditures and tax measures we have recommended are not major elements, however they will generate large rewards in productive activity, employment, skills and technology development, and export value. And more than that, they will contribute massively to our nation-build in efforts, to our cultural sovereignty, and to our role on the world stage.

Summary of ACTRA Pre Budget hearing Recommendations

1. The government of Canada institute, without delay, a system of income-back averaging over a 5 year period, as a method of providing fair and equitable tax treatment for self-employed Canadians.
2. The upcoming federal budget include an increased, stable funding commitment to the CBC for at least the next five years.
3. The upcoming federal budget contain a 5-year funding commitment to Telefilm Canada. The federal contribution should be at least at the current level of approximately \$280 million for each of the next five years.
4. That the government maintain its commitment to contribute to the CTF and to enhance the government's contribution to the CTF in the next budget.
5. That the government keep the PSTC rate stable and broaden the base to contribute to the long-term growth and stability of the Canadian film and television production industry and Canada competitive in the international market.
6. The CFVPTC rate should be increased to between 27% and 30% to maintain an appropriate gap between it and the PSTC.
7. That the government introduce a new Labour Tax Credit for Film Development, applicable to expenditures on Canadian labour employed as creative consultants during the development stage of film and television projects.

8. That the Budget contain renewed commitments of funding to both the Canadian Coalition for Cultural Diversity and to Canada's contribution to UNESCO for development of the Convention, to at least current levels of financing.