

ACTRA
**Alliance of Canadian Cinema,
Television and Radio Artists**

**Written Submission to
The House of Commons Standing Committee on Finance
Pre-budget Consultations 2006**

September 5, 2006

Executive Summary

The soul of a nation is its culture. Television, film and other audiovisual productions remain the most pervasive cultural expressions in our society. Growth and stability of the film and television sector is due in large 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.

In the nine recommendations contained in this brief ACTRA has addressed the four questions posed by the Finance Committee in its document entitled *Canada's Place in a Competitive World*. Specifically we have asked the Committee to support funding and Federal tax programs that are necessary to keep Canadian cultural industries competitive in our domestic market, as well as internationally. We have asked the Committee to support existing and new tax measures, and personal tax exemptions that will benefit the skills and livelihoods of working artists' and performers' in Canada. The programs that ACTRA has asked the Committee to support are essential to maintaining the necessary cultural infrastructure for Canada. Finally the nine recommendations that ACTRA proposes for the Committee are achievable within the Federal expenditures.

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

- The Government must continue and enhance funding programs for Canadian film and television production to ensure that Canadians have access to their own cultural and national identity.
- Canadian performers who work in the cultural sector as individual entrepreneurs or as employees in the cultural industries must have access to adequate funding to develop and exercise their unique skills so that Canada will remain competitive in a global information and entertainment market.
- Adjustments to the taxation system are needed to reflect the working reality of professional Canadian performing artists; and
- Commitments to contribute to UNESCO for development of the Convention on the Protection of the Diversity of Cultural Content and Artistic Expression are needed to keep cultural industries competitive in a global marketplace.

The following are the nine recommendations that ACTRA requests that this Committee's support in its pre-budget report for the next Federal budget.

1. That the Government makes a permanent commitment to contribute to the Canadian Television Fund (CTF) in the next budget, to enhance the Government's contribution to the CTF and include annual increases indexed to inflation.
2. That the next Federal budget contains 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.
3. That the next Federal budget must include an increased, stable funding commitment to the Canadian Broadcasting Corporation (CBC) for the next five years so that it can produce Canadian dramas, comedies and other programming.
4. The Canadian Film or Video Production Tax Credit (CFVPTC) rate should be increased to 30% to maintain appropriate support to Canadian productions as recommended in the last report of the FINA.
5. That the Government keep the Production Services Tax Credit (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 for foreign locations.
6. That the Government introduces 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.
7. The Government of Canada institute, without delay, a system of income averaging over a five year period, as a method of providing fair and equitable tax treatment for self-employed Canadians.
8. Recommendation: That the Government change the *Income Tax Act* to exempt creative and interpretive artists from paying income tax on a percentage of income derived from copyright, neighbouring rights, and/or other income derived from the sale of any creative work.

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

Introduction

The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) welcomes the opportunity to participate in the 2006 pre-budget consultation hearings of the Standing Committee on Finance (FINA). 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 60 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. 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. 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.

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.

Canadian Film and Television

In 2003-04 the Federal Government spent \$3.5 billion on culture. However, Federal spending on the film and video industry was \$386.2 million in 2003/04.

In its report *Moving Forward: Balancing Priorities and Making Choices for the Economy of the Twenty First Century* dated December 2004, the previous Finance Committee made the following statements about the need for support of culture.

The Committee believes that culture is central to our quality of life. It helps to define who we are as individuals and who we are as a nation. It is pervasive, and extends beyond a discussion of arts and culture to include discussions of how we do business, what we value and why we act in the manner that we do.

The Committee was struck by the broad range of initiatives that exist to support arts and culture in Canada and, like a number of our witnesses, believe that long-term and stable funding in a number of areas is required in order that activities can be planned appropriately. We are proud of what our artists — regardless of their medium — have accomplished domestically and internationally, and feel that continued Federal support of arts and culture is both desirable and in the best interests of Canadians. Like many of the witnesses who made presentations related to arts and culture, certain initiatives seem to be particularly desirable, and specific support should be directed to them.

We want to thank this Committee for its past support and ask that it again endorse support of culture in its report this year.

Last year (2004-05) the Canadian film and television sector generated \$4.50 billion of production activity a decline of 9% from the previous year. This sector employs over 119,500 Canadians many in highly skilled jobs but this is 11% less than the previous year. The average annual growth rate from 1997 to 2002 was 8.5% for this sector which surpassed the 3.6% growth level for the overall economy but that growth has slowed in the last few years.

Canadian film and television provide \$1.76 billion in annual export value but this was a drop of 24% from the previous year according to the *Report on the Canadian Film and Television Production Industry, February 2006*. The decline is due in part to policy changes in Europe and the United States that brought treaty co-production down by 39% in 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 (CAVCO). Direct public funding in 2004/05 accounted for 26% of CAVCO-certified production financing, up from 20% the previous year. Although it is difficult to calculate, each dollar of Government support leverages approximately six dollars in other types of financing.

Past Governments have put in place essential support programs that have proven to be effective in generating performance from cultural industries, including the film and television production industries. Growth and stability of the film and television sector is due in large 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.

Despite the support that culture has received from this Committee, we are nevertheless very concerned that future Government expenditure reviews could result in 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.

Funding for Canadian Film and Television

ACTRA is seeking a commitment from the Government to maintain and enhance its contribution to the CTF, Telefilm Canadian Feature Film Fund and the CBC in the next budget.

a) Canadian Television Fund

The Canadian Television Fund (CTF) is a public/private partnership with an annual budget of approximately \$251 million, supported by \$100 million from the Government of Canada and the remaining \$151 million from cable companies and direct-to-home satellite service providers. The CTF contributed \$251 million to Canadian production in 2004/05 that supported \$841 million in production. Other financing, comprised largely of contributions from production companies, broadcasters, other Government sources and distributors contributed \$510 million to CTF supported productions.

The CTF supports 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 *This is Wonderland*, *DaVinci's Inquest*, *The Eleventh Hour*, *Degrassi the Next Generation*, *This Hour has 22 Minutes*, *Cold Squad*, *Watatatow* and *Les Bougons-C'est aussi ça la vie* would not have been made were it not for the CTF. Moreover, the CTF supports the English and 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 that benefits 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 Canadian television programming.

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

The CTF is essential to financing most of the production of high quality, distinctively Canadian programming for television, as noted in this Committee's report dated December 2004 and as reflected in the recommendation 11 of that report that the *"...Federal Government provide stable, long term funding to ... the Canadian Television Fund"*.

In the 2003 Federal budget the Government announced that it would extend the CTF funding but at reduced levels from \$100 million to \$87.5 million in 2003-04 and to \$62 million in 2004-05. A disaster in the television industry was averted because the Government reversed that decision in the 2004 budget by restoring the CTF to previous levels of \$100 million annually for the next two years. Had the Government not restored the CTF, the consequences 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. The nurturing of Canada's cultural industries for both economic and social reasons has been a long-standing goal of Federal Governments. 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 provision of Government assistance to 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, many of the most popular television drama series are domestically produced.

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 including studios and other facilities. Without a thriving domestic production industry, making film and television remains particularly vulnerable to other economic and external forces. This means fewer and less rewarding acting jobs for Canadian performers as foreign-service productions favour foreign actors for principal roles.

ACTRA recognizes that direct funding through the CTF alone will not solve the problem of ensuring a steady supply of domestic television drama productions. Fair and effective content and investment regulations must also be imposed by the Canadian Radio-Television Telecommunications Commission (CRTC) in conjunction with stable and efficient direct Government funding of the CTF. However, without the support of programs such as the CTF, there would not be sufficient resources to finance distinctly Canadian productions.

Recommendation: That the Government make a permanent commitment to contribute to the CTF in the next budget to enhance the Government's contribution to the CTF with increases indexed to inflation.

b) Telefilm - Canadian Feature Film Fund

Last year the Parliamentary Standing Committee on Canadian Heritage had undertaken a thorough review of the Canadian feature film industry. In addition, the Department of Canadian Heritage has undertaken a review of its film policies. These two review processes underlie the importance of Canadian feature films which many believe to be the purest form of the audiovisual arts and a standard for all other audiovisual media. It is important that Government funding help films written, directed and performed by Canadians continued to be made.

The mandate of Telefilm Canada is the development and promotion of the Canadian audiovisual industries and support of the audiovisual sector's role in producing and distributing high-quality films that reflect Canadian society in all its diversity. 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, Telefilm 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: That the next 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.

c) CBC

The CBC 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 and in the past two years has suffered financially as a result of the National Hockey League strike and a crippling lockout of CBC workers by CBC management.

Although past Federal budgets have included increases to the CBC allocation, these have not restored the \$390 million in cuts over the 1990s, and the recent increases in funding 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.

We were very pleased that this Committee recommended that the Government should increase funding of the CBC in its report of December 2004,. We request that this Committee renew that recommendation. The CBC's role within the broadcasting system has been weakened by under-funding. It cannot create and implement long-term strategies to succeed because it faces continued uncertainty about its future funding levels which have lead to drastic measures by management that in turn will further weaken our national public broadcaster. 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 with new Canadian drama's, comedies and other programming.

Recommendation: The next Federal budget must include an increased, stable funding commitment to the CBC for the next five years so that it can continue to provide Canadian dramas, comedies and other programming.

d) Canadian Film or Video Production Tax Credit (CFVPTC)

We were very pleased that this Committee recommended that the CFVPTC be increased to 30% in its pre-budget report in 2004. We ask that this Committee renew that recommendation.

ACTRA was relieved that the Departments of Finance and Canadian Heritage acted together 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 and the increase of tax credits granted by the provinces, it still remains, a critical time for the Canadian film and television industry.

The Federal 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 cultural goals. Moreover, it rewards Canadian creative participation, rather than just the use of Canadian labour in foreign productions. The CFVPTC should be increased to keep pace with provincial tax credits and to encourage Canadian production using Canadian creative talent.

Recommendation: The CFVPTC rate should be increased to 30% to maintain appropriate support to Canadian productions.

e) Production Services Tax Credit (PSTC)

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. This is compounded by mounting, political pressure to keep productions in Hollywood and a weaker US dollar which drive up costs of production in Canada.

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.

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.

f) A New Labour Tax Credit for Film Development

Introducing a labour tax credit for film and television development would allow producers to hire writers, 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 'tax based' Canadian labour employed as creative consultants during the development stage of film and television projects.

Tax Incentives for Creativity

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 self-employed artists and performers. The multi-million dollar budgets of broadcasters, film studios and theatre distribution chains would not exist but for the performer and other creators.

Performers and others who are self-employed in the arts and media do not benefit from the same social welfare programs as employees. 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. The current tax 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.

There are many international examples of tax relief in other countries that clearly 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* 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”*.

Until 1982 when tax averaging was abolished in Canada, 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 could rely on benefits for unemployment. We have been told by the Department of Finance that reducing the number of tax “brackets” and introducing tax deferrals for contributions to a registered retirement savings plan (RRSP's) has replaced the need for income tax averaging.

While the use of RRSPs to defer taxes may be possible, the purpose of the RRSP deferral was to encourage and assist Canadians to plan for retirement and to shift valuable public resources to public welfare programs where it is needed. Independent contractors in the arts who most need to plan for future income because careers can be fickle should not be forced to jeopardize their futures by using their RRSP's to supplement incomes in the times when there is no work. Further the RRSP is limited by a yearly maximum contribution; therefore performers or artists that had to stretch a large single income over a number of years could not effectively do this using the RRSP.

The reaction to income averaging in Canada has been favourable with experts in the field recommending that it be reinstated. The Carter Commission study of the Canadian tax system endorsed income tax averaging implementation as the only progressive and fair approach to 'lumpy' income.

The tax measures implemented in 2004 in the Province of Quebec included a provision for tax averaging for performers and other artists that will allow them to defer the tax on a portion of their income. Artists in the province of Quebec 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. It is important however that entitlement to averaging is not tied to copyright income because after the initial fixation of a performance in an audiovisual work, the performer no longer has a copyright interest and residuals for subsequent uses would arguably not be considered copyright income.

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

In 1982, the Canadian Government commissioned a study of the cultural sector called the Applebaum-Hébert report. One of this reports overall findings was that the largest subsidy to cultural life in Canada comes not from Governments, corporations or other patrons, but from the artists themselves for their unpaid or underpaid work. The average income of artists in this country is less than \$25,000 a year. The Government should celebrate and encourage Canada's magnificent and diverse culture by changing the *Income Tax Act* to exempt creative and interpretive artists, including film and television performers, from paying income tax on a percentage of income derived from copyright, neighbouring rights, and/or other income derived from the sale of any creative work. The precedents are there for this kind of exemption. Ireland has an absolute exemption for income tax for creators and other artists. A similar exemption for has been in place in the province of Quebec.

Recommendation: That the Government change the *Income Tax Act* to exempt creative and interpretive artists from paying income tax on a percentage of income derived from copyright, neighbouring rights, and/or other income derived from any creative work.

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

The Government of Canada continues to play 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 currently being developed by UNESCO. An international convention on cultural diversity will help Canada to safeguard existing cultural policies such as broadcasting regulations, film tax credits and funding institutions are examples that foster a strong Canadian film and television sector.

A 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 commercialization of the cultural sector. Now that Canada has signed and ratified the cultural diversity treat, it is important that the Government continue to support the international adoption of the treaty.

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

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, technology development, and export value. More than that, they will contribute massively to our nation-building efforts, to our cultural sovereignty, and to our role on the world stage.

-End of Document -