



Submission to
Canada Media Fund Industry Consultation

September 4, 2009

ACTRA welcomes the opportunity to make this submission to the Canada Media Fund (CMF) Industry Consultation process on behalf of our 21,000 members. We bring the particular perspective of professional performers working in the English-language recorded media in Canada. Our members bring Canadian stories to life in film, television, radio and new media. ACTRA also represents the interests of thousands of singers and musicians through the work of the ACTRA Performers' Rights Society which collects and distributes royalties from the public performance of musical recordings.

As the voice of Canadian performers whose livelihoods and creative opportunities are directly impacted by the decisions that will be made in the coming months, ACTRA is pleased to participate in these consultations. The Board and staff of the current Canadian Television Fund (CTF) and the Canada New Media Fund (CNMF) along with the new CMF will face numerous challenges and questions in the coming months and we look forward to discussing these further in the National Roundtables.

The CTF has evolved over the years and has proven itself to be responsive to industry needs and evolution. While obviously some immediate changes are required to reflect the increased emphasis on multiple platforms and digital media, we do not feel that there is any need for a major re-think or re-writing of the rules. There will be future opportunities for refinement and to adjustment as necessary, especially in given the CMF's commitment to ongoing consultations with industry stakeholders.

For the purpose of this written submission, we will restrict our comments to issues directly impacting on the production of English-language TV drama. ACTRA's key concerns with regard to the Canada Media Fund are:

- We support moves to increase Canadian content in digital media; however any efforts to do so must not contribute to the erosion of conventional programming, particularly TV drama. Therefore until new sources of revenue are realized, the CMF's program allocation must reflect current allocation levels for the CMF and CNMF as combined.
- Productions financed by Canadians' taxes and cable subscriber fees must be by Canadians, for Canadians. The Four Essential Requirements continue to be an appropriate measure of a project's Canadian content. In particular we believe all projects supported by the CMF – no matter the distribution platform – must achieve 10 out-of -10 Canadian content points.
- The emphasis for CMF Convergent Stream monies must be to support original, first-run drama for broadcast in prime time.

PERFORMERS STANDING WITH THE CTF/CMF

ACTRA has been an ardent supporter of the CTF since its creation and has defended it vigorously against repeated government cut-backs and threats from stakeholders. We recognize that the CTF is the single most important source of funding for Canadian programming. As a catalyst for the funding of thousands of hours of interesting, innovative and entertaining Canadian programs for Canadians to enjoy, the CTF has

been a success story since its inception. It is essential to our culture, to our industry and to the lives of Canadian performers.

We recognize that our industry is changing rapidly as a result of quickly evolving technology. In a world where people have immediate access to a limitless array of content from around the globe, it becomes even more critical to ensure that there is space for Canadian stories, and content to fill that space. Canadians must be able to tell our own stories and share them with each other and around the world, wherever stories are being told – on TV, on radio and on the web. For that reason, we applaud the creation of the CMF and the forward-thinking strategy of encouraging the distribution of programming across multiple platforms.

The greatest challenge for the production of Canadian audio-visual production continues to be financing. We have the talent, the creativity, and the technical skills to produce projects that compete with the best in the world. Unfortunately, the one element that continues to elude us is adequate financial resources. The CTF has been invaluable in helping to bridge that gap. It is hard to think how the 5,400 productions and 27,000 hours of high-quality television that the CTF has supported over the past 12 years would have been realized without the CTF's \$2.7 billion contribution.

Unfortunately the establishment of the CMF does not fill the chronic funding gap that has plagued Canadian television production. In some ways, the new, merged Fund makes the challenges even more acute as we try to take advantage of new technology and opportunities without new resources. Only the allocation of new resources, both public and private, will help secure Canada's place in the digital age to the benefit of the nation's culture and economy without cutting into the funding available for production for conventional platforms. To that end, ACTRA will continue to call on the federal government to commit to increased, long-term, stable funding for the CMF as we did most recently in our pre-budget submission to the Department of Finance.

ACTRA recognizes that direct funding through the CTF alone will not ensure that Canadians have access to a diverse slate of quality Canadian programming. Private broadcasters have demonstrated since 1999 that without strong expenditure and programming requirements they will fill Canadian prime time schedules with U.S. simulcasts and cheap reality- and magazine-style programming. ACTRA has played a leading role along with our colleagues in the creative unions in bringing the CRTC's 1999 *Television Policy's* devastating impact on drama to light. We will be bringing that message to the CRTC's policy hearings again this fall as we urge the Commission to order private broadcasters to put more Canada on Canadian TV by reinstating expenditure and programming requirements for drama.

MOVING FORWARD

We support moves to increase Canadian content in digital media; however any efforts to do so must not contribute to the erosion of conventional programming, particularly TV drama

ACTRA recognizes the intrinsic value of all forms of audio-visual production and the critical contribution each makes to our industry and our shared Canadian identity. We are also well aware of the multiple challenges confronted by creators of all genres to

make projects happen. Whether it's a TV series, feature film, animated short, videogame or a documentary, piecing together the financing and pulling the project together in Canada is often nothing short of a miracle. The unfortunate fact is more energy can be spent financing projects than creating them.

However, ACTRA's primary concern with regard to audio-visual production has been, and continues to be, Canadian English-language television drama. TV drama continues to be both the most influential cultural medium and the most expensive to produce. Canadians must be able to see ourselves and our experiences through innovative programming on all distribution platforms. However, ACTRA believes that Canadian stories must be available to the widest audiences possible, and that can only happen through conventional, over-the-air broadcasting.

Despite the exponential growth of the Internet, TV remains the most popular cultural medium and the most effective way of learning about ourselves, our neighbours and our world. According to *Communications Monitoring Report*, Canadians still watched an average of 26.6 hours of television per week in 2008, down only 12 minutes per week from the year earlier.

Conventional television production, particularly dramatic series, has been chronically under-funded. While we applaud moves to increase Canadian content in digital media, this must not contribute to the erosion of conventional programming, particularly drama.

For Canada to meet its potential to be a world-leader in digital content creation, new sources of funding must be identified. ACTRA has called on the CRTC to require that Internet Service Providers (ISP) pay a levy of 3% of their gross revenues to an arms-length digital media production fund reflecting the fact that more than 50% of the material on the Internet is programming as defined in the *Broadcasting Act*. Based on 2007 ISP revenues, such a levy would generate \$99 million annually. We believe this amount is fair, equitable, sustainable and essential to ensure there is an adequate supply of Canadian programming content. Should such a levy come to fruition it is plausible that the CMF might have a role in administering the fund.

ACTRA therefore recommends that until new sources of revenue are realized, the CMF's program allocation should reflect current the allocation levels for the CTF and CNMF as combined. That is, the starting point for appropriation to the Experimental Stream could be to combine the budgeted allotments for the digital media program and the Canada New Media Fund (CNMF) legacy funding for a total of approximately \$25 million. The remaining funds would be allocated to the Convergent Stream.

Productions financed by Canadians' taxes and cable subscriber fees must be by Canadians, for Canadians. The Four Essential Requirements continue to be an appropriate measure of a project's Canadian content. In particular we believe all projects supported by the CMF – no matter the distribution platform – must achieve 10-out-of-10 Canadian content points.

The Industry Consultation Briefing Notes ask: "Should the policy objective of favouring projects with potential to achieve success, in terms of audience and ROI, be considered in this discussion?"

Any suggestion that CanCon requirements need to be reduced to achieve greater success is not only false, it is an insult to the thousands of Canadians whose talent has provided the foundation of our industry.

ACTRA believes that the Four Essential Requirements continue to be an appropriate measure of a project's Canadian content and must not only be maintained for the Convergent Stream, but also expanded to the Experimental Stream. There are plenty of other avenues and support for service production and projects intended primarily for foreign distribution. Projects funded by the CMF must be Canadian productions created for a Canadian audience.

ACTRA will vigorously oppose any move to reduce the number of CanCon points that a production must obtain in order to qualify for funding from the CMF. Canada has the talent to make television, including drama that attracts audiences at home and around the world. In fact, the most successful Canadian TV series have been 10-out-of-10 dramatic series, going back to *Due South*, *Street Legal*, and *ENG* right up to *Degrassi*, *Corner Gas*, *Being Erica* and *Flashpoint*.

There is some fear that the recent increased reliance on U.S. broadcasting partners to finance Canadian dramatic series is increasing pressure to allow more U.S. stars in lead roles. There is nothing preventing producers from creating a project with a foreign star, screenwriter or director – but they should not be able to access already scarce public funds to do so. We believe the current CTF guidelines provide adequate flexibility to acquire international partners.

We see no reason why the 10-out-of-10 requirement should not apply to all projects being produced with the support of the CMF. Canadian talent has been a driving force in the success of Canada's digital media industry. ACTRA members and other Canadian creative unions are already working in digital media. ACTRA was the first and only creative union in the world to go on strike – and win – to conclude a collective agreement on working in digital media.

We appreciate that it is challenging to have an accurate measurement of Canadian participation in digital media projects in the absence of an equivalent to the Canadian Audio-Visual Certification Office (CAVCO) points system for digital media projects. We urge the federal government to expand CAVCO's mandate to determine the Canadian involvement in digital media projects in the future. In the meantime, it would be appropriate for the CMF to measure to the best of its ability based on documentation provided by applicants.

The bottom line is, the use of Canadians in Canadian productions should be the norm, particularly where Canadian taxpayers are footing a good part of the bill.

The emphasis for CMF Convergent Stream monies must be to support original, first-run drama for broadcast in prime time.

ACTRA agrees with the CMF's emphasis on drama, comedy, and children's programming, and commitment to supporting documentaries and variety and performing

arts programming only if it can be demonstrated that the market alone would not support its creation.

One of the guiding principles of this consultation is to *'Focus the investment on what Canadians want'*. Clearly, Canadians want high-quality, made-in-Canada television programming if it is made available to them and they know when it's on. A Harris-Decima poll conducted in January/February of 2008 found that over three-quarters of Canadians felt that it was important to have a choice of television programs that reflect Canadian society, values and perspectives.¹

To that end, we support any mechanisms to reward broadcasters through their Broadcaster Performance Envelopes (BPEs) for airing first-run, original Canadian dramatic programming in prime time.

However, we would like to be clear on the definition of 'prime time'. The current definition of prime time as 7-11 Monday to Sunday is too broad. We urge the CMF to define prime time as 8-11 Sunday to Friday; the same definition that we are urging the CRTC to adopt. It is hoped that providing a bonus for scheduling Canadian drama in this narrower window, will serve as an incentive to broadcasters to put our programs when more Canadians are watching. Too often Canadian dramas are buried and shuffled around in the schedule so even if they find an audience – the audience can't find them.

We support looking at alternative definitions of prime time for children's and youth programming to times more appropriate to reach those intended demographics.

Like any artist who pours themselves into their craft, performers want their work to be seen and enjoyed by as wide an audience as possible. For that reason we support the inclusion of audience success as one of four factors used to calculate BPEs. The ability to attract an audience depends heavily on timeslot, consistent scheduling and promotion. Including audience success as a factor in selection process provides incentives for broadcasters to schedule Canadian projects at a time when people are watching TV and to invest in promotion.

In order to ensure diversity, encourage creativity and support smaller broadcasters we would urge that audience size remain just one of several criteria. We believe that any measurement of success – be it audience or return on investment – be flexible to account for variations between genres and distribution platforms.

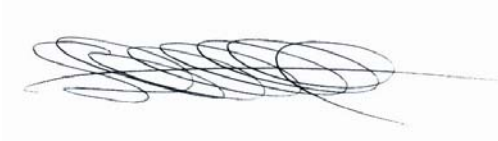
ACTRA also supports incentives that would lead to greater broadcaster investment in marketing and publicity. However, we do not believe that marketing and publicity should be an eligible expense. Funding from the CMF must be seen on the screen, the onus for marketing and publicity is on the broadcaster.

¹ Harris-Decima. *Canadian Attitudes Towards Canadian Programming and CTF Issues Prepared for the CFTPA, WGC, DGC, and ACTRA, 2008*. A further 86% of those polled agree that the government should help finance Canadian programming and 81% agree or strongly agree that Broadcasting Distribution Undertakings (BDUs) – cable and satellite companies – should contribute to financing Canadian programming.

CONCLUSION

ACTRA is pleased to be invited to participate in this initial phase and we look forward to working with the CMF as part of the ongoing industry consultation process.

Thank you.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Stephen Waddell
National Executive Director