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# Summative Evaluation of the Canadian Film or Video Production Tax Credit (CPTC)

Office of the Chief Audit and Evaluation Executive  
Evaluation Services Directorate

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## List of Acronyms

ACTRA	Alliance of Canadian Cinema, Television and Radio Artists
APFTQ	Association des producteurs de films et de télévision du Québec
AFC	Australian Film Commission
CALQ	Conseil des arts et des lettres du Québec
CAVCO	Canadian Audio-Visual Certification Office
CCA	Capital Cost Allowance
CFFF	Canadian Feature Film Fund
CNMF	Canada New Media Fund
CFTPA	Canadian Film and Television Production Association
CNC	Centre National de la Cinématographie (France)
CPTC	Canadian Film or Video Production Tax Credit
CRA	Canada Revenue Agency
CRTC	Canadian Radio-television and Telecommunications Commission
CTF	Canadian Television Fund
DoF	Department of Finance
DPR	Departmental Performance Report
EC	European Community
ESD	Evaluation Services Directorate
EWG	Evaluation Working Group
FFC	Film Finance Corporation (Australia)
FPC	Film Production Company (UK)
FLIC	Film Licensed Investment Company (Australia)
OCAEE	Office of the Chief Audit and Evaluation Executive
MOW	Movie-of-the-week
OCASE	Ontario Computer Animation and Special Effects
OFTTC	Ontario Film and Television Tax Credit
PAA	Program Activity Architecture
PCH	Department of Canadian Heritage
PDV	Post-production Digital and Visual Effects (Australia)
PSTC	Film or Video Production Services Tax Credit
QAPE	Qualifying Australian Production Expenditure
RMAF	Results-based Management and Accountability Framework
RPP	Report on Plans and Priorities
SODEC	Société de développement des entreprises culturelles du Québec
SOFICA	Sociétés pour le financement du cinéma et de l'audiovisuel (France)
SR&ED	Scientific Research and Experimental Development (tax credit program)
TBS	Treasury Board Secretariat
TOR	Terms of Reference



## Executive Summary

### Background

On December 12, 1995 the Minister of Finance introduced the Canadian Film or Video Tax Credit (CPTC) program for the Canadian film and video production industry, which came into force in 1996. Co-administered by the Canadian Audio-Visual Certification Office (CAVCO) in the Department of Canadian Heritage (PCH) and the Canada Revenue Agency (CRA), the CPTC is a fully refundable tax credit for eligible films and videos produced and owned by qualified Canadian production companies.

The CPTC is available at a rate of 25 per cent of qualified labour costs to a maximum of 60 per cent of the eligible cost of production, net of assistance for Canadian content programming. The credit therefore can provide up to 15 per cent of the total cost of a production (60 per cent x 0.25 = 15 per cent). The CPTC is available to all applicants that meet the eligibility criteria.

The objectives of the CPTC are provided in the December 1995 news release that announced the program:

“...the primary objective of the (CPTC) program remains the encouragement of Canadian programming and the development of an active domestic independent production sector.”

“The credit is designed to encourage a more stable financing environment and longer-term corporate development for production companies, rather than focus simply on single project financing.”

Today, the CPTC is one of the largest single federal government program devoted to stimulating the production of Canadian films and television programs. Between 1994-1995 and 2005-2006, the CPTC provided tax-credit support totalling more than \$1.6 billion to some 9,754 production projects. Overall, these film and video projects accounted for over \$17.3 billion in production budgets in Canada.

This study of the CPTC was launched more than ten years after the introduction of the program. The CPTC had never been evaluated since its inception. The purpose of the study was to conduct a summative evaluation of the CPTC in accordance with the requirements of a Treasury Board commitment to report on the success, cost-effectiveness and ongoing rationale of this program.

The study was managed by Evaluation Services Directorate, Office of the Chief Audit and Evaluation Executive (OCAEE), PCH, and carried out by Kelly Sears Consulting Group in association with the survey firm, TNS Canadian Facts. An Evaluation Working Group guided the conduct of the study, and was composed of representatives from OCAEE; Film and Video Policy and Programs, PCH; Canadian Audio-Visual

Certification Office (CAVCO), PCH; Department of Finance. The Evaluation Working group also included an external member, an economist from the University of Alberta. The evaluation involved several data collection methods, including a review of the domestic and international literature; a review of a sample of CAVCO CPTC project files; interviews with 60 key informants from throughout the film and television production sectors; a web-based survey of some 126 CPTC recipients; and, case studies of eight CPTC recipient companies.

PCH commissioned a separate economic analysis study of the CPTC, which was conducted by Nordicity Group Ltd. The purpose of the economic analysis study was to assess the “success and impacts” issues. The main focus was to assess the incremental impacts of the CPTC, in terms of stimulating Canadian film and television production. The results from the economic analysis study have been integrated into this summative evaluation report.

The evaluation study began in February 2007 and was completed in April 2008.

## **Main Findings**

The main findings of the study are organized according to the three evaluation issues: rationale and relevance; success and impacts; and, cost-effectiveness and alternatives.

### ***Rationale/Relevance***

#### **1. The CPTC is consistent with departmental and Government of Canada objectives**

The primary objective of the CPTC is to encourage the production of Canadian programming and an active independent production sector. Support for the independent production sector is formally enshrined in the *Broadcasting Act*, which specifies that “the programming provided by the Canadian broadcasting system...should include a significant contribution from the Canadian independent production sector.” The CPTC’s objective is aligned with the overall strategic outcome of PCH, to ensure that Canadians have access to diverse cultural content.

#### **2. The CPTC was well designed to support the production of Canadian programming but its “corporate development” objective lacks clarity**

The CPTC has two central objectives: 1) Support the production of Canadian programming; and 2) Encourage a more stable financing environment and longer-term corporate development for production companies. Both of these concepts are highlighted in the original news release that announced the program and in the evaluation study’s terms of reference.

The CPTC was well designed to support increased production activity on the part of Canadian production companies. Once the CPTC program was introduced in the mid-

1900s, the tax credit quickly became an integral and important component of the financing of film and television productions – thus confirming this aspect of the CPTC’s rationale.

The corporate development concept was not well defined (e.g., it was not discussed in the RMAF), and the mechanism by which it was to be achieved was not clear. If the intent was for the refundable tax credit to be kept outside the financing structure of a production and to directly affect the company’s balance sheet, then likely this has not occurred in the majority of cases. Shortly after the CPTC was introduced, other funding sources required that the CPTC be included as part of the production financing structure. However, key informants noted that production tax credit programs both in Canada and in other countries operate primarily to stimulate production activity. In conclusion, “corporate development” probably was not a valid objective for the CPTC.

### **3. There is a continued need for the CPTC**

All of the production companies interviewed were unanimous in stating that the CPTC together with the provincial tax credits have had an incremental impact on the number of film and television productions over the years (discussed further below under finding #5). Note that producers view the CPTC and associated provincial tax credit as a single package on each production and were unable to separate out the separate effect of each program. Together, the CPTC and the provincial tax credit typically account for 25 per cent to 30 per cent of the total cost of each production – a significant portion. For domestic productions with a high level of Canadian cultural content, there are limited “back end” international sales, and therefore the share of financing provided by the tax credits could not be replaced by other sources of financing. Several producers also emphasized the importance of the CPTC in helping to land international production deals. Overall, producers strongly emphasized that had the CPTC not been available, then the impact on the Canadian production sector would have been significant.

### ***Success/Impacts***

#### **4. The CPTC has had an incremental impact on the production budgets for Canadian programming**

PCH commissioned a separate economic analysis study to estimate the incremental impacts of the CPTC on the production of Canadian programming. The results of the Economic Analysis study provided no basis to reject the hypothesis that the tax credit assistance had no effect – positive or negative – on private financing for film and television production budgets. In other words, the study concluded that there was no evidence of “crowding out” (or “crowding in”) and, therefore, there was an incremental increase in the size of English language production budgets in the treatment group following the increase in tax credit assistance.

This issue also was examined via the key informant interviews, a large survey of 126 CPTC recipient companies and eight case studies of CPTC-recipient firms. Overall,

recipients of the tax credit report that the CPTC has had an incremental impact on the production of Canadian programming; however, it should be noted that these results may be biased upwards due to the fact they rely on the views of tax credit recipients. Producers specializing in productions with a high level of Canadian cultural content (such as a television biography of a famous Canadian) noted that there are limited “back-end” international sales. Producers of television programs and movies-of-the-week (MOWs) intended for US markets emphasized that the tax credits are pencilled in first and are critical to persuading the US network to invest. Furthermore, several producers stated that had the CPTC not been available, then their companies would either be much smaller or would no longer be in business.

**5. The CPTC appears to have had some effect on corporate development but not in the way that apparently was intended**

A second objective of the CPTC was to “encourage longer-term corporate development for production companies, rather than focus solely on project financing.” The original intent, while not clearly stated in program documentation, apparently was for the tax credit to be received by the production company following completion of the production and filing of the corporate tax return, so that it could be used to develop future projects or be re-invested in the company. However, in most cases the tax credit is an integral component of the financing of a particular production and is often interim financed via a bank loan. The Economic Analysis study was not able to assess trends in various quantitative measures of corporate development (e.g., balance sheet measures), due to a lack of data.

The summative evaluation investigated this issue via the key informant interviews, case studies and survey of producers. The CPTC likely has had some effect on corporate development due to the benefits from increased production activity, but the more direct link that program designers originally intended does not appear to have occurred.

***Cost-Effectiveness/Alternatives***

**6. CPTC application costs incurred by producers are low relative to the size of production budgets**

The evaluation estimated that producers incur costs of about \$6,365 in order to access the CPTC, which is about 0.37 per cent of the average production budget. Although this is an approximate estimate, it still appears small relative to production budgets. In addition, the majority of producers did not raise any major concerns about the costs incurred in applying to CAVCO for the CPTC.

**7. A number of CPTC design issues were raised during the evaluation**

The basic elements of the CPTC’s design are highly respected by the film and television industries, particularly the fact that the CPTC is both “predictable and bankable.” A major issue to producers is the high cost of interim/bridge financing. The tax credit is

often included in the financing structure and is interim financed with a bank loan. Since the tax credit refund does not arrive for many months following the start of a production, producers incur significant interest charges on their bank loans – monies which otherwise could be invested in the production. Several factors contribute to these interest charges, including: submission of incomplete and/or inaccurate applications to CAVCO and issues identified by CRA in the audits of corporate tax returns. The evaluation study proposes a number of options to address this issue. Another design issue is whether the CPTC should shift to total production spending as the basis for the calculation of the tax credit. Finally, the role of the federal government in supporting the production of Canadian cultural content intended for distribution via the Internet and other new media platforms is receiving increasing attention. Producers are expecting that the CPTC will adapt to the rapidly growing new media environment.

## **8. The evaluation study examined three alternatives to the tax credit model**

The evaluation study examined three alternatives to the tax credit approach. With the non-discretionary grant program model (currently used in Canada only by the province of Alberta), program delivery is simpler, and the administrative costs are very low. Producers receive payment much faster compared to the tax credit model. However, such programs pose considerable financial management challenges. Also, it could be argued that a grant program has fewer checks and balances compared to the tax credit model and is thus more open to abuse.

A second option would be to transfer the estimated value of the tax credit program to existing discretionary programs, such as the Canadian Feature Film Fund (CFFF) and the Canadian Television Fund (CTF). This could lead to fewer but larger production projects. In terms of the types of projects, there would be a shift to more projects being funded that are of “high cultural content.” This could be viewed as positive by those who believe that the Government should only be supporting this type of content. Producers were not in favour of this option, due to the subjectivity involved in such programs and the fact that demand is greater than the funds available. Such programs do not adjust to the production cycles in the industry, whereas a tax credit program does. However, an advantage of a grant and contribution program is that the government can obtain results-related information from funded recipients. Currently, no result-related information is available on CPTC-supported projects (discussed further below).

Finally, the tax shelter model existed in Canada beginning in 1974. While tax shelters were very popular and had certain positive features (e.g., cash resources were made available at the commencement of a production), they were very costly. The benefits were largely shared in equal proportions by producers, investors and shelter promoters. The basic issue is that large sums of money for a cultural initiative were not going directly into film production. Producers had mixed views on tax shelters, and indicated that the Government would likely not be interested in reinstituting them. In conclusion, none of the alternatives examined by the evaluation appears to be a superior mechanism for achieving the primary objective of the CPTC, which is to encourage the production of Canadian programming.

## **9. Other countries have adopted the tax credit model, but with some different design features**

A common aspect of policy evolution in Australia, the United Kingdom, and France is increased reliance on tax credit schemes to support film and audiovisual production. The tax credits in all three countries have all recently adopted a more comprehensive expenditure base rather than labour expenditures as used in the CPTC model. These countries have also not adopted the CPTC's restrictions on the sale of copyright by the producer, nor stipulated a minimum producers' share of net receipts earned in foreign markets. Unlike the CPTC, foreign companies with permanent establishments may qualify for the French, British, and Australian tax credit programs supporting national productions.

An innovative feature of the British tax credit is the additional support that it offers to production companies that pay taxes. This program provides cash rebates to new ventures or struggling established companies while nourishing the corporate development of successful firms by providing them even larger tax benefits.

The replacement of grant and tax shelter programs with tax credits by these countries reveals that foreign policy-makers looked favourably on Canada's experience with this mode of support. The wider adoption of tax credits has also been accompanied by more generous support for national production in each of the countries.

The new directions of support policy in these three countries resulted from reviews of national and international experience by their policymakers. While Canada's situation has unique elements, there is sufficient commonality to warrant the Government to assess if there are net benefits in altering the CPTC by: 1) broadening the expenditure base and adopting the total production spend model instead of the labour-based model; 2) making foreign-owned Canadian production companies eligible; 3) modifying the copyright ownership and minimum income shares from foreign sale requirements; and, 4) extending the tax credit approach to new media. Most of the changes in policies in Australia, France and the United Kingdom have been recently adopted. Assessing their actual, as compared to their expected impact, should be part of the assessment process.

## **10. Insufficient performance measurement information is being provided on the CPTC**

The most public report on the CPTC is CAVCO's annual activity report, which provides information on trends in CPTC activity (productions) over time. This report provides input into the CFTPA's annual economic profile of the film and television industry. CAVCO's report would be made even more useful if it included information on other pertinent indicators pertaining to operational performance, such as the amount of time that passes before the application is assessed.

Turning to the measurement of results, no information is currently being provided on the financial performance of CPTC-supported productions and companies, or on the

audiences for these productions. Although the CPTC is a large government program, PCH does not provide any results information on the CPTC in its *annual Departmental Performance Report* to Parliament.

#### **11. No major overlap/duplication issues were identified**

Regarding the fact that a producer applies separately to the federal and provincial tax credit programs for the same production, no producers identified this as an issue, as the overall view is that the federal and provincial programs complement each other. A few producers wondered why there are two Canadian content certification systems (CRTC and CAVCO). PCH stated that, following significant study of this issue, it determined in November 2007 that it was not administratively feasible to pursue the centralization initiative at this time. Producers submit similar information to multiple government agencies, at the federal and provincial levels and to the private sector assistance programs. Key informants were aware of the provisions of Bill C-10, which if passed by Parliament, would permit increased information sharing between agencies. But while CAVCO will be able to share some information, the provincial privacy laws may hamper the provinces sharing in return.

#### **12. CAVCO is viewed as the appropriate organization to continue administering the CPTC**

The evidence indicates that CAVCO should continue to administer the CPTC. It has a generally good reputation among its clientele and the current CAVCO director was viewed as being highly responsive to industry issues and has done an excellent job of improving the operation over the years.

The evaluation study's online survey of producers found that CAVCO received its highest ratings for: helpfulness of its staff (70 per cent were satisfied), followed by appropriateness of eligibility criteria (57 per cent satisfied), and ease of completing the application (48 per cent satisfied). Respondents were more critical of CAVCO's timeliness of delivery (26 per cent were satisfied and 39 per cent were dissatisfied).

Further improvements to service delivery are desired by producers. Some stated that it still takes too long for CAVCO to "open the envelope," i.e., to start processing the application. CAVCO stated that this perception is incorrect: applications are processed starting on the day they are received. Several producers commented that CAVCO's application forms are cumbersome to complete, e.g., they don't incorporate the features of spreadsheet software, such as automatic calculation of sums and percentages. Presumably these issues will be addressed once CAVCO moves to an on-line application system.

A formal government-industry consultation mechanism is recommended to enable the federal government to regularly obtain feedback from industry on proposed policy changes, service delivery, etc.

## **Recommendations and Management Response**

### **1. A formal government-industry consultative committee should be formed to provide ongoing feedback on the design and delivery of the CPTC**

PCH should work with Department of Finance (DoF), Canada Revenue Agency (CRA), provincial governments and relevant industry associations to form a government-industry consultative committee to provide ongoing input to the Government on changes to the CPTC. The role of this committee would be to: 1) Discuss issues pertaining to CAVCO's assessment of CPTC applications and CRA's assessment of tax returns; 2) Discuss possible modifications to the CPTC and provide input into policy development; 3) Provide feedback on service delivery; and, 4) Review performance metrics, targets and results. The committee should meet at an appropriate interval, e.g., two or three times a year. Minutes of each meeting, including recommendations and the Government's responses, should be posted on the CPTC website.

#### **Management Response: partially accepted**

The Branch strongly agrees that a consultative approach to both design and delivery issues affecting the CPTC is warranted.

The CPTC was designed by the Department of Finance. Responsibility for the administration of the program is shared between CAVCO and Canada Revenue Agency (CRA). More specifically, CAVCO certifies productions based on a labour-based points system; while CRA reviews applicants' claims for eligible expenditures and issues tax returns.

The Branch has worked consistently to ensure that all interested parties are consulted on matters relating to the design and delivery of the CPTC under the purview of PCH. Depending upon the nature of the issue, consultation approaches include applicant surveys, outreach initiatives and in several cases, full public consultations led by PCH or in conjunction with Finance. This kind of flexible approach allows the Branch to adapt to circumstances and maximize the quality of stakeholder input.

Given the division of responsibilities for the CPTC and the range of issues involving different industry stakeholders, the Branch does not feel it is necessary or productive to implement a large formal mechanism. In the past, the Branch has established formal consultative committees, such as the Feature Film Advisory Committee, and found them to be expensive and unwieldy. Ultimately, a smaller, more customized approach to consultations is equally effective. That being said, the Branch will explore, in consultation with the CRA and Finance, whether alternative consultative processes are required to ensure adequate consultation, in Fall 2008.

#### **Implementation Schedule**

Fall 2008

## **2. Several CPTC design issues should be examined**

The evaluation study raised several issues pertaining to the overall design and structure of the CPTC, which now should be examined further by PCH. These issues include the following:

- The analysis of tax credit programs in other countries indicates that a number of features should be assessed to determine if their adoption in Canada would increase the effectiveness of the CPTC. These include: 1) adopting the total production-spend model making foreign-owned Canadian production companies eligible; 3) modifying the copyright ownership and minimum income shares from foreign sale requirements; and 4) extending the tax credit approach to new media.
- Whether to issue a portion of the CPTC tax credit to production companies at an earlier stage, e.g., upon receipt of Part A certification by CAVCO and commencement of principal photography. The advantage of this change would be that the interest charges incurred by producers on their interim financing bank loans would be reduced, which would free-up funds to be invested in the production. This would require an amendment to the *Income Tax Act*. On the other hand, there would be an opportunity cost to the Government in terms of foregoing interest income. There may also be higher administration costs and potentially a higher level of risk due to fraud. A more detailed examination of the pros and cons of this change is recommended.

### **Management Response: accepted**

The Branch agrees that there are design issues pertaining to the CPTC that warrant further examination.

Program design has remained essentially unchanged since the CPTC was introduced in 1995. The evaluation identifies several areas of the design that merit further review by comparing the CPTC with tax-based incentives in other countries. Specifically, the evaluation identifies certain features of these programs, "...from which Canada might benefit".

The Branch will develop a work plan in Fall 2008 to examine some of the design issues identified by the evaluation. The Branch will consult with the Department of Finance on the work plan prior to implementation, given that Finance maintains primary authority for the program. The CRA will also be consulted given its co-administrative role during that time.

### **Implementation Schedule**

Winter 2008-2009

### **3. A comprehensive performance measurement strategy for the CPTC should be developed, along with an updated RMAF**

An RMAF for the CPTC was prepared in 2003 and needs to be updated. The program rationale and the objectives of the CPTC need to be clarified. The corporate development objective does not appear to be a valid objective for the program and should be removed. The RMAF should also outline the CPTC's performance measurement strategy to support the collection of results-related information as well as help management to improve operational performance. By having a performance measurement framework in place, it would address one of the challenges of the evaluation study: the lack of available data required to assess the financial performance of both CPTC-supported projects and companies. By collecting appropriate information, this would permit a future evaluation of the CPTC to investigate these issues.

PCH should establish a working group to develop the performance measurement framework. This working group should include representatives from PCH, CAVCO, DoF and CRA as well as industry representatives.

In terms of measuring the results of the CPTC, information is required on such indicators as the following:

- The profitability of CPTC-supported productions – CPTC recipients should be required to submit data on the revenues and costs of their productions.
- The financial performance of CPTC-supported companies.
- The audience reach of CPTC-supported productions.

CAVCO's user fee structure may need to be amended to cover the additional costs, if any, for the collection and maintenance of this new data and for the relevant analysis and reporting activities.

In order to ensure recipients comply with the requirement to provide performance information, this could be a condition of receiving future CPTC certification (that is, an application would not be considered unless performance information was provided for previous completed productions).

Turning to operational performance measurement, some potential performance indicators would include: number of days an application is in the queue before being initially assessed by an analyst; level of completeness of applications (which would help monitor problem areas of the application); cost per application; client satisfaction; etc. Also, CPTC applicants should be required to provide their Business Number (BN) in the application form to enable linkage between databases.

Once an appropriate performance measurement framework has been designed and implemented, information on both results and operational performance should be

added to the CAVCO annual report and to the annual *Departmental Performance Report*.

**Management Response: accepted**

The Branch agrees with the evaluation findings related to the shortcomings of data, which restricted a comprehensive assessment of the CPTC. The Branch will develop a performance measurement strategy for the CPTC, in collaboration with the Department of Finance, in 2008-2009, to be implemented in 2009-2010. This work will include an evaluation of ways to measure audience and production performance data.

The Branch is working with Statistics Canada and CRA to review options for improving the availability and reliability of production company data provided by Statistics Canada. There are currently data limitations due to company structuring practices which we will attempt to overcome. To improve the collection of survey data, the Branch is exploring ways to share CAVCO data with Statistics Canada, which is permitted under the *Income Tax Act*.

The Branch also acknowledges that there is a need to improve the manner in which indicators of effective service delivery are captured and reported and expects that CAVCO's move to an on-line application system in 2009 will facilitate this process.

While the audio-visual industry and policy environment has evolved considerably over the years, the program's objectives have not. The Branch agrees with the need to update the CPTC's RMAF.

The Branch will review the objectives of the CPTC in support of the film and video sector and an updated RMAF will be prepared in collaboration with the CRA and the Department of Finance in 2009-2010.

**Implementation Schedule**

2009-2010



# **1. Background and Study Overview**

This section provides an overview of the Canadian Film or Video Production Tax Credit (CPTC), a summary of the context and purpose of the evaluation and an outline of the evaluation issues.

## **1.1 The CPTC**

On December 12, 1995 the Minister of Finance introduced the Canadian Film or Video Tax Credit (CPTC) program for the Canadian film and video production industry, which came into force in 1996. Co-administered by the Canadian Audio-Visual Certification Office (CAVCO), Department of Canadian Heritage (PCH) and the Canada Revenue Agency (CRA), the CPTC is a fully refundable tax credit for eligible films and videos produced and owned by qualified Canadian production companies.

The CPTC is available at a rate of 25 per cent of qualified labour costs to a maximum of 60 per cent of the eligible cost of production, net of assistance for Canadian content programming. The credit therefore can provide up to 15 per cent of the total cost of a production (60 per cent X 0.25 = 15 per cent). The CPTC is automatic for productions that qualify.

The objectives of the CPTC are provided in the December 1995 news release that announced the program:

“...the primary objective of the (CPTC) program remains the encouragement of Canadian programming and the development of an active domestic independent production sector.”

“The credit is designed to encourage a more stable financing environment and longer-term corporate development for production companies, rather than focus simply on single project financing.”

Today, the CPTC is one of the largest single federal government program devoted to stimulating the production of Canadian films and television programs. Between 1994-1995 and 2005-2006, the CPTC provided tax-credit support totalling more than \$1.6 billion to some 9,754 production projects. Overall, these film and video projects accounted for over \$17.3 billion in production budgets in Canada.

## **1.2 Scope and Objectives of the Evaluation**

The CPTC has never been evaluated since its inception in 1995. The purpose of the study was to conduct a summative evaluation of the CPTC in accordance with the requirements of a Treasury Board commitment to report on the success, cost-effectiveness and ongoing rationale of this program.

The evaluation was managed by the Evaluation Services Directorate (ESD), Office of the Chief Audit and Evaluation Executive (OCAEE), PCH and carried out by Kelly Sears Consulting Group in association with the survey firm, TNS Canadian Facts. An Evaluation Working Group guided the conduct of the study, and was composed of representatives from OCAEE and Film and Video Policy and Programs, PCH; the Canadian Audio-Visual Certification Office (CAVCO), PCH; Department of Finance (DoF); and, Canada Revenue Agency (CRA)<sup>1</sup>. The Evaluation Working group also included an external member, an economist from the University of Alberta.

As described in Section 2, the evaluation involved several data collection methods, including a review of the domestic and international literature; a review of a sample of CAVCO CPTC project files; interviews with over 50 key informants from throughout the film and television production sectors; a web-based survey of 126 CPTC recipients; and, case studies of eight CPTC recipient companies.

PCH commissioned a separate economic analysis study of the CPTC, which was conducted by Nordicity Group Ltd. The purpose of the economic analysis study was to assess the “success and impacts” issues (listed below). The main focus was to assess the incremental impacts of the CPTC, in terms of stimulating Canadian film and television productions. The results from the economic analysis study have been integrated into the summative evaluation report.

The evaluation study began in February 2007 and was completed in April 2008.

The specific issues and questions examined by the evaluation were provided in a Request for Proposal issued by ESD on January 12, 2007:

### **Rationale and Relevance**

- 1) Is the CPTC consistent with Government of Canada priorities and the Department’s strategic and cultural objectives and expected outcomes?
- 2) Are the CPTC’s stated objectives and its purpose well defined and appropriate?
- 3) Is there a continued need for the federal government to support the Canadian film and video production industry?

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<sup>1</sup> While CRA was consulted by PCH at the outset of the study, the organization officially joined the Evaluation Working Group in September 2007.

## **Success and Impact**

- 4) What difference has the CPTC made with respect to:
  - a. Canadian programming and the development of an active domestic independent production sector; and,
  - b. A more stable financing environment and longer-term corporate development for production companies?
- 5) To what extent has the CPTC contributed to achieving the Department's other cultural objectives and expected outcomes?<sup>2</sup>
- 6) Have there been any unexpected (positive or negative) impacts of the CPTC?

## **Cost-Effectiveness/Alternatives**

- 7) Are the most appropriate and efficient means being used to achieve the government's objectives relative to alternative design and delivery approaches?
- 8) Does the CPTC complement, duplicate or overlap other federal and provincial support programs and, if so, how?
- 9) Is PCH the most appropriate organization to manage the CPTC or should it be transferred to another federal, provincial or private sector organization?

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<sup>2</sup> The Terms of Reference noted that there may be limited information available to assess this issue, particularly the impact of the CPTC on the PCH objective of "building audiences" for Canadian film and television productions. The Evaluation Working Group decided that this issue would not be addressed by the evaluation, due to the lack of sufficient audience data for individual productions. This subject is discussed in Section 2.

## **2. Methodology**

This section describes the methodology that was used for the Summative Evaluation of the Canadian Film or Video Production Tax Credit (CPTC).

### **2.1 Methods Used by the Evaluation**

#### **2.1.1 Document Review**

The review of documents pertaining to the history and operations of the CPTC provided background on the Government's policies with respect to the film and video industry and how they have evolved over time, the policy objectives for the CPTC and how the CPTC is delivered. Official documents (e.g., Treasury Board submissions; press releases, policy and operating procedures; business plans; guidelines and criteria; management frameworks; contribution agreements and annual reports) were reviewed. The document review permitted a profile of the CPTC program to be prepared, which is provided in Section 2.

#### **2.1.2 Review of the Canadian and International Literature**

As noted in Section 1, the principal objectives of the CPTC are to encourage production of more Canadian television programming and films and the development of an active domestic independent production sector and support the longer-term development of Canadian film and television production companies. The impact of the CPTC on these goals depends on its structure and enforcement, its interaction with other Canadian support policies for film and television program production, economic factors such as interest rates and exchange rates, the development of new audiovisual delivery mechanisms, the atrophying of traditional delivery channels like cinemas, the indirect effects of other countries' audiovisual tax credit policies, and access to foreign markets for Canadian content.

The mix of economic and cultural goals and the extensive list of other factors affecting their attainment make it difficult to draw inferences about the CPTC's impact. Nonetheless, studies or commentaries related to the program's goals, structure and impact have been published by House and Senate Committees, Canadian Heritage, Industry Canada, the Department of Finance, Telefilm Canada, the Canadian Television Fund (CTF), the CRTC, provincial cultural agencies, Canadian broadcasters, Canadian cable and satellite television service providers, industry associations, consulting firms, and advocacy groups. The annual activity reports of CAVCO provide an annotated quantitative record of the CPTC's activities. Informative special reports are regularly published in the trade press. The commentary and answers of invited stakeholders of the CPTC to questions posed at Hearings of the Standing Committee on Canadian Heritage also provide useful information about the program's efficacy.

The committee has issued two major reports: *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, June 2003; and *Scripts, Screens and Audiences: A New Feature Film for the 21st Century*, November 2005. The 2003 report recommended “the appropriate department investigate the feasibility of developing a more flexible tax credit system for Canadian television production (e.g., levels of support that increase with more involvement by Canadian creators).” The 2005 report made twelve recommendations, none of which were specific to the CPTC. One recommendation, “Canadian content definitions for feature film production should be modified to more closely resemble the criteria used for Canada’s book publishing and sound recording industries,” would affect the CPTC as well as the CFFF and broadcasting policy.

In summary, the literature is a mix of description, data gathering, analysis, and advocacy for more support or modifications. Appendix F contains the bibliography of the materials reviewed.

### **2.1.3 Interviews with Key Informants**

A total of 40 in-depth interviews with key individuals involved in the delivery of the CPTC were to be undertaken in order to obtain feedback on a variety of evaluation issues, including the rationale and continued relevance of the program, project outcomes, and program design and delivery. Following commencement of the interview program, the number of interviews was increased, due to a request from the CFTPA that additional producers be interviewed and suggestions made by key informants who had been interviewed. In the end, 47 meetings were held that involved over 60 individuals.

The list of organizations is provided in Appendix B. Interviews in Ottawa, Montreal, Toronto, and Vancouver were undertaken primarily in person, with telephone interviews used for interviewees located in other cities. The interview guide is included in Appendix C.

### **2.1.4 Survey of Recipients on Application Costs**

The core issue in the survey of a sample of CPTC recipients was to determine the amount of time devoted to applying for the tax credit. The time estimate provided by each recipient firm was converted to a cost estimate, based on data on average hourly earnings provided by firms in the survey. Where a recipient firm relies on an outside party to prepare the application, the costs of this outside support were requested as well.

This survey permitted an analysis of how compliance and administrative costs vary by size and type of firm.

#### **a) The survey sample**

With CAVCO’s assistance, a sample was drawn of production companies that have claimed CPTC tax credits over the last five years. The sample that was selected was a stratified random sample over-representing the large claimants who account for a high

fraction of total CPTC claims. Our conclusions used weighted data in order to be representative of the universe of CPTC claimants.

To meet the information requirements of this study most effectively, we decided to use an internet survey to gather the data. The sample of firms was developed from CAVCO administrative data listing recent claimants.

As noted above, we developed a stratified sample with random selection within two of the three strata. This approach was implemented using data on CPTC claims over the last five years. Our plan for sampling was as follows:

- Include all of the top 75 claimants in the sample frame, termed the “large claim firms.” We requested data on the top 150 with the goal of getting 75 completions.
- For claimants in the “medium” size category (rank from 150 to bottom of third quintile by size of claim), we randomly selected enough firms to provide 75 completions. This was another 150 firms.
- For claimants in the “small” category by size of claim (bottom two quintiles), we randomly selected sufficient firms to provide 50 completions. We requested data on 100 firms.

The total sample therefore consisted of 400 companies. The evaluation team developed this stratified sampling plan because it believed that the distribution of dollar value of claims was skewed in the direction of many small claimants.

#### **b) The survey questionnaire**

The survey questionnaire asks respondents questions about a particular CPTC claim. A pre-test of a small sample of companies was conducted, which yielded no issues.

The survey questionnaire is included in Appendix C.

#### **c) Survey execution**

The first step was for PCH to email a letter of introduction to the sampled recipients, asking for their co-operation. CAVCO then emailed the survey invitation message, which included the URL to the survey website. Two reminder e-mail messages were issued by CAVCO.

#### **d) Response rate**

Note that in developing this sample, repeat firms (firms that claimed the tax credit in more than one year could only enter the list of sampled firms once) were removed as were firms for whom the CAVCO records did not contain an e-mail address. In total, completed questionnaires were received from 126 of the 400 sample firms. Because CAVCO distributed the e-mail invitations, the number of undelivered invitations is

unknown; therefore it is not possible to calculate the effective response rate. CAVCO stated that many email messages were not delivered, particularly for recipients in earlier years.

Issues of data confidentiality at CAVCO (as required under the *Income Tax Act*) meant that data on the universe and sample of recipient firms could not be supplied directly to TNS Canadian Facts. The evaluation team is grateful to CAVCO for their work in selecting the sample and distributing the survey invitations.

#### **e) Profile of respondents**

A profile of survey respondents is provided in Appendix D. According to data tabulated by CAVCO, the sample of responding firms appears to be fairly representative of the population of recipients. Of the 126 responses, 102 were in English and 24 were in French. The breakdown of the sample by region is as follows:

BC	23
Prairies (Alberta, Sask., MB)	22
Ontario	39
Quebec	30
Maritimes (NS, NB, PEI, NF/Labrador)	<u>12</u>
Total	126

#### **2.1.5 Case Studies of Companies**

Case studies of eight production companies were carried out. In developing the sample, the goal was to obtain a mix of: different sizes of companies (based on production volume); companies involved in film or television; companies from the two language markets; and, companies located in various regions of Canada. The companies interviewed are listed in Appendix B.

The case studies supplemented the information received from the other lines of investigation. They provided more detailed information on how the tax credit program actually works, the application costs incurred by producers, the impacts of the CPTC on each company and any problems that are encountered in the delivery process.

Interviews were conducted in person or via telephone, depending on the preference of the respondent, using a structured interview guide that addressed the relevant study issues (Appendix C). Within each company, an interview was carried out with the president/CEO, vice-president of production or equivalent, and/or the individual who was most knowledgeable about the company's experience with the tax credit (often the CFO). Where necessary, additional interviews within a company were conducted to ensure that responses were obtained to the main study questions.

In order to encourage co-operation, the views of individual companies were kept confidential, and the report integrates the major findings from the case studies in total.

### **2.1.6 Comparison of Alternative Delivery Mechanisms**

One of the main evaluation issues relates to an assessment of alternatives to the CPTC, in order to determine what other policy options could achieve the same or greater level of cost-effectiveness.

This method involved comparing the administrative and compliance costs of the CPTC to other major funding programs for the film and television production industry and other possible support mechanisms, including tax shelters and grant and contribution programs.

This analysis used information obtained from all of the lines of investigation, i.e., the key informant interviews, documents on tax credit and other government programs in other jurisdictions, the literature review and the survey.

The pros and cons of supporting the industry through a tax credit versus other support mechanism in terms of audit and control and administration costs were part of the assessment.

### **2.1.7 Program File Review and Review of Performance Information**

A random sample of 50 CAVCO files was reviewed in order to help understand how the program operates in practice and to identify any issues pertaining to the effective and efficient delivery of the program.

The availability and quality of existing performance information was also reviewed, as contained in such documents as the CAVCO annual activity report and the PCH *Departmental Performance Report*.

## **2.2 The Economic Analysis Study**

A separate economic analysis study was commissioned by PCH and conducted by Nordicity Group Ltd.<sup>3</sup>

The focus of the economic analysis study was to assess the difference made by the CPTC in achieving its main objective: To support the production of Canadian programming and the development of an active domestic independent production sector.

The economic analysis study thus attempted to analyze the *incrementality* of the program. As the report describes, an ideal analysis of the incrementality of the CPTC would identify a treatment and a control group existing before and after the introduction of the CPTC in 1995, and then compare the levels of production activity within each group, before and after the introduction of the program to determine if the level of production activity in terms of total annual number of projects and expenditures did indeed increase.

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<sup>3</sup> Nordicity Group Ltd., *Economic Analysis of the Canadian Film or Video Production Tax Credit*, final draft, prepared for Department of Canadian Heritage, March 18, 2008.

The study team was prevented from employing this ideal approach because of the absence of suitable data.

In light of this data challenge, Nordicity developed an alternative analysis that was more generalized in its approach. Instead of analysing the impact of the introduction of the CPTC on productions *per se*, the alternative approach analyzed the effect that an increase in film and video tax credit rates, in general, had on the size of production budgets for projects in the English-language market. While this approach was not ideal, it did allow the study team to design a quasi-experimental approach based on the type of data available. Note that Nordicity's approach did not, in fact, allow the study team to examine the impact of the tax credit on the annual number of Canadian film and television projects produced. Furthermore, it did not permit the study team to investigate the impact of the CPTC in the French-language market.

Further details on the econometric model used in the Economic Analysis study are provided in Section 4.2.1.

## 2.3 Challenges and Limitations

The main challenges and limitations of the evaluation study were the following:

- **The broad scope of the evaluation** – The CPTC is a complex program and many issues surfaced during the course of carrying out the evaluation that were not part of the study's terms of reference. Given the limitations of time and resources, it was impossible to fully analyze each and every issue and arrive at a conclusion. For example, issues such as the "grind", the Canadian content points system and CPTC eligibility criteria are subjects that have been examined at various points in time by the Standing Committee on Canadian Heritage. However, the onus was on the evaluation study to highlight the most important issues affecting the success of the program and to provide direction on how they can be addressed by the Government in the future.
- **The time period covered by the evaluation focused on the recent past** – The evaluation study was to cover the entire history of the program, i.e., from the program's inception in 1995 to the end of FY 2005-2006. Data on CPTC activity (i.e., number of recipients and the characteristics of their companies and projects) is available from CAVCO for this entire period. However, the various primary data collection methods of the evaluation, i.e., the surveys, key informant interviews and case studies focused on the 2001 to 2006 timeframe. The main reason is that it would not have been practical to ask CPTC-recipient companies questions about production projects undertaken prior to 2001 (some companies would no longer exist or the knowledgeable personnel are no longer with the company).
- **Challenges in estimating the incremental impacts of the CPTC on the production of Canadian programming** – As described above, the absence of

suitable data made it impossible for the separate Economic Analysis study conducted by Nordicity Group Ltd. to conduct an ideal experimental design analysis that included control and treatment groups existing before and after the introduction of the CPTC to determine if the level of production activity in terms of number of projects and expenditures did indeed increase. In light of this data challenge, the Economic Analysis study developed an alternative analysis that was more generalized in its approach. An econometric model was developed to analyze the degree to which an increase in tax credit assistance led to a “crowding out” (or “crowding in”) of private financing for film and television production for individual projects. If one assumes that other forms of public assistance for overall production remain unchanged in response to any increase in tax credit assistance, then the only way for production activity to remain unchanged, following the increase in assistance, would be due to a decrease in private sector financing for production. Nordicity’s approach did not permit the study team to rigorously analyse the impact of the CPTC on the annual number of Canadian film and television projects. To supplement the econometric analysis, Nordicity and Kelly Sears developed questions pertaining to the incremental impacts of the CPTC, which were included in the survey of CPTC recipients and the interviews with producers.

- **The CPTC’s success in supporting “corporate development” could not be fully assessed** – A second objective of the CPTC is to “encourage longer-term corporate development for production companies.” The Economic Analysis study had envisioned a longitudinal analysis of financial statement data as the primary methodology for tackling this issue. The plan was to use CRA Business Numbers (BNs) as a basis for linking data on CPTC recipients to financial statistics available from Statistics Canada and CRA. The goal was to compare the performance of CPTC recipients on the basis of selected indicators to the performance of other Canadian film and video production companies and other companies in the information and cultural industries. However, this longitudinal analysis could not be conducted for several reasons. Some data was only available back to 2000. It was also not possible to separate financial data for production companies from the activities of large media companies. As an alternative approach, subjective questions about corporate development were included in the survey of CPTC recipients and interviews with production companies.
- **Estimating the costs incurred by producers in accessing the CPTC was an ambitious undertaking for a web-based survey** – The online survey of CPTC recipients attempted to estimate the costs incurred by producers in accessing the CPTC tax credit. Companies were asked to estimate the amount of time (number of hours) devoted to accessing the CPTC, and to provide labour costs for each category of personnel (the questionnaire is included in Appendix C). This was an ambitious undertaking for a web-based survey. The survey generated cost estimates based on a common template of cost

categories. However, the results should be treated with caution, as there may be costs related to the CPTC that might or might not have been included by each producer. To some extent, this issue was mitigated via the case studies and key informant interviews, where the interviewer had an opportunity to guide the respondent through the estimation process.

- **The TOR required the evaluation study to consult with recipients (producers), who would be expected to have a positive view of the CPTC**  
– The TOR required the evaluation team to consult with stakeholders to obtain their views about the CPTC. Most of the stakeholders contacted were tax credit recipients. Producers would be expected to have a positive view of the CPTC, since it is a significant component of production financing.
- **Absence of audience data** – PCH was planning on analyzing the audiences of a sample of CPTC-supported productions and to feed the results into the evaluation study. Information on audiences is available for Telefilm-supported Canadian feature films (box office data is available from the Motion Picture Theatre Association of Canada) and on television programs certified by the CRTC (e.g., from such monitoring services as BBM Nielsen Media Research). However, no analysis is conducted or disclosed with respect to CPTC recipients, because the provisions of the Income Tax Act make it unlawful to disclose which productions benefit from the CPTC. There also are several challenges to audience measurement. One is determining the particular metrics to be used, e.g., how to measure and report on audiences for television programs that may receive multiple broadcasts on multiple networks over time. Another is how to collect and interpret data on the consumption of audio-visual products distributed via multiple distribution channels (i.e., downloads from the internet, video-on-demand, DVD sales and rentals, screenings at festivals, etc.). Generating appropriate audience data for any distribution platform was therefore not possible within the timeframe of the evaluation study and will not likely become possible for PCH to carry out such analysis, at least in the short term.

## 3. Program Profile

### 3.1 Overview of the CPTC

#### 3.1.1 Introduction

Film and television production is a prominent and significant part of the Canadian economy. During the 2005-2006 fiscal year, the total volume of film and television production (the sum of expenditures on production budgets) totalled \$4.8 billion.<sup>4</sup> Of this total, the volume of *Canadian* films and television programs made by *Canadian* production companies accounted for \$2.1 billion. These films and television programs are considered Canadian because they meet the minimum thresholds for Canadian content; Canadian production companies are production companies that are essentially controlled by Canadians. The CFTPA estimated that this production employed an estimated 21,300 workers on a full-time equivalent (FTE) basis in production-industry jobs.<sup>5</sup>

Over the past four decades, the federal and provincial governments have introduced a variety of programs that provide financial support to Canadian film and television production.

The Government of Canada recognizes that Canadians benefit from a strong film and television production industry. Film and television are both highly effective forms of cultural expression. Film and television programs entertain, educate and enlighten. Public opinion surveys have confirmed that a vast majority of Canadians agree that it is important that Canadian films and television programs be available and accessible in Canada.<sup>6</sup>

Internationally, Canada has been a strong supporter of the importance of promoting cultural diversity. Canada was the first country to ratify the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which re-affirms the right of governments to adopt policies in support of diverse cultural expression.

Over the years, the federal government has put in place a comprehensive framework of policies to foster Canada's audio-visual sector. This framework includes programs and policies administered by PCH as well as by Telefilm Canada, the National Film Board of Canada, the Canada Council for the Arts, the Canadian Television Fund (CTF), the Canadian Broadcasting Corporation, and Library and Archives Canada, as well as copyright legislation, international co-production treaties, the *Investment Canada Act*, the

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<sup>4</sup> Canadian Film and Television Production Association, *Profile 2007: An Economic Report on the Canadian Film and Television Industry*, p. 11.

<sup>5</sup> Ibid, pp. 32, 52.

<sup>6</sup> For example, the 2005 Canadian Film and Music Opinion Study found that more than 80% of respondents agreed that it is important that Canadian films be available in movie theatres and on television in Canada; report is available at: [http://www.pch.gc.ca/pc-ch/sujets-subjects/arts-culture/film-video/pubs/07-2005/tdm\\_e.cfm](http://www.pch.gc.ca/pc-ch/sujets-subjects/arts-culture/film-video/pubs/07-2005/tdm_e.cfm).

*Broadcasting Act* with its Canadian content provisions, and, the *Income Tax Act* as it relates to tax credit programs.

One of the federal government's largest programs in support of the audio-visual industry is the CPTC, which, according to the DoF estimate, provided some \$185 million in financial support to Canadian production companies in 2006.

The following pages describe the history and key features of the CPTC's design.

### **3.1.2 History**

The principal incentive-based government support program, originally established in 1974 for films with substantial Canadian content and designed to attract financing from third parties, was the accelerated Canadian Capital Cost Allowance (CCA). The CCA essentially permitted private investors to write-off their investment in a film project against other income, thereby reducing taxes owed to government. At one point the write-off was 100 per cent: investors could claim their entire investment amount in the year of the investment. Thus the CCA provided a very effective way for private individuals to shelter income from government taxation by investing in film projects.

The CCA did have some success in attracting private investment to Canadian film production.<sup>7</sup> In a matter of a few years following its introduction, the number of feature films made in Canada rose from three per year to over thirty per year. However, a large proportion of the films made were of low quality: most did not attract large audiences, and many did not even find their way into cinema theatres. But the most serious criticism of the CCA mechanism is that it was not efficient in flowing funds into production. The complex tax shelters required an infrastructure of bankers and lawyers to design and execute the financing deals, which were structured as limited partnerships. These third parties incorporated substantial fees for themselves into the financing deals and thus severely reduced the amount of capital devoted to production.

During the 1980s, the Government started to clamp down on the CCA tax shelters, and began to introduce several direct funding programs as mechanisms to support film and television production. In 1983, the Government introduced the Canadian Broadcast Program Development Fund, which provided direct funding support to independently produced Canadian television programming. The Feature Film Fund followed in 1986, and, later, the Feature Film Distribution Fund was established.

The February 25, 1995 Budget proposed to replace the then CCA tax incentive for Canadian certified productions with a fully refundable tax credit ("Canadian film credit") for eligible films produced by qualified taxable Canadian corporations.<sup>8</sup> At the close of 1995, the federal government introduced the Canadian Film or Video Production Tax

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<sup>7</sup> Department of Canadian Heritage, *A Review of Canadian Feature Film Policy: Discussion Paper*, February 1998. Available at: <http://www.pch.gc.ca/progs/ac-ca/pol/cinema-film/pubs/epart3.htm>.

<sup>8</sup> Department of Finance Canada, "Budget in Brief", February 24, 1995, available at: <http://www.fin.gc.ca/budget95/binb/brief.pdf>.

Credit (CPTC) for the Canadian film and television production industry. The introduction of the CPTC was accompanied by a coordinated withdrawal of the tax shelter program.<sup>9</sup>

In the mid-1990s, the Canadian Radio-television and Telecommunications Commission (CRTC) began licensing several new specialty-television services, with each new service bringing with it recurring subscription revenues and expenditure requirements for Canadian television programming.

In 1996, the federal government formed the CTF, by merging the Cable Production Fund (operated by the cable companies since 1994) with the publicly-funded Broadcast Program Production Fund. This augmented the previous separate programs with an additional \$100 million in annual funding.

For Canadian television production, the late 1990s featured a boom in foreign demand and financing for its product. According to the CFTPA, the export value (the value of foreign financing) of Canadian television programs rose quickly to the order of \$500 million to \$600 million annually in the late 1990s.<sup>10</sup> Since then, the export value has fluctuated and fallen well below the previous peak levels, and was valued at \$200 million in 2005-2006. This drop in the export value of Canadian television programming was a reflection of changes in the international marketplace in the early 2000s. Television audiences around the world shifted their interests to indigenous programming and away from imported programming.<sup>11</sup> Audiences' heightened interest in reality programming also played a role in the shift away from imported to indigenous fare.

The combination of increased domestic and foreign stimulus contributed to a wave of corporate activity in Canada's film and television production sector. At one time during the late 1990s, eight of the leading ten production companies in Canada had their shares trading on public stock exchanges.<sup>12</sup> Today, Canada has only one independent production company that is publicly traded: DHX Media Ltd.<sup>13</sup>

During the 2000s, the federal government turned its attention to the feature film sector. In 2001-2002, it doubled the financial resources – from \$50 million to \$100 million – in theatrical feature film production, under its new Canadian Feature Film Policy, *Script to Screen*. The centrepiece of the new policy was and is the \$92 million CFFF, which provides selective and performance-based subsidies to Canadian producers making large-budget feature films for distribution in Canadian theatres.

Today, the CPTC is the largest single federal government program devoted to stimulating the production of Canadian films and television programs, which in 2005-2006 provided approximately \$185M in financial support to Canadian production companies.

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<sup>9</sup> See PCH website, Corporate Review Branch, "CAVCO Background", for a summary of the historical rates of the CCA, at: [http://www.pch.gc.ca/progs/em-cr/eval/archive/sftp-pct/background/index\\_e.cfm](http://www.pch.gc.ca/progs/em-cr/eval/archive/sftp-pct/background/index_e.cfm).

<sup>10</sup> CFPTA, *Profile 2007*, p. 16.

<sup>11</sup> CFPTA, *Profile 2006*, p. 4.

<sup>12</sup> KPMG Consulting LP, Peter Fleming Consulting, and Wall Communications Inc., *Report of the Review of the Canadian Television Fund*, prepared for Department of Canadian Heritage, March 2000, p. 8.

<sup>13</sup> Ibid.

The CPTC was not the first tax credit program in Canada for film and video production. The Government of Quebec introduced the first film and video tax credit program in 1991, and Nova Scotia introduced its program in 1995. Today, governments in eight of Canada's ten provinces offer a tax credit program, while Alberta offers a grants program, and PEI and the Yukon Territory offer a rebate program.

Over the past several years, the provinces have increased their tax credit rates, and today all of them exceed the federal rate. Most Canadian productions actually receive more tax credit assistance from the provinces than from the federal government.

The other major development at the federal level was the introduction of the Film or Video Production Services Tax Credit (PSTC) in 1997, which has a rate of 16 per cent of salaries and wages paid to Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents), less any assistance. This puts the PSTC rate below that of the CPTC.

### **3.1.3 The production process**

Before describing the details of the CPTC, this section describes the typical process for a television production from the producer's perspective, focusing on the financing aspects.<sup>14</sup>

For a typical production project, the producer's cash inflows tend to lag behind the cash outflows. As described further below, the tax credit is not received until after the project is completed and such public funding sources as the CTF operate on a draw-down basis. However, the producer's financial obligations, including wages and other costs, are paid out during the shooting. This means that the producer must self-finance within its corporate structure or obtain interim financing from its suppliers, licensees through adjusting advances, or financial institutions to meet current obligations in advance of future payments.

In setting up the production financing structure, the first step is for the producer to "pre-sell" the television program to broadcasters and distributors, both inside and outside of Canada. These pre-sale agreements often stipulate progress payments against milestones, including delivery of the final television program. Other funding sources are then integrated into the financing, including the CTF, if the project scores 10 points, and the genre qualifies, and the various private funds (e.g., Bell, COGECO, Harold Greenberg, Rogers). With these monies earmarked, the producer can estimate the federal and provincial tax credits.

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<sup>14</sup> This section is based on interviews with producers and on two publications: 1) Ontario Development Corporation and Telefilm Canada, *Canadian Production Finance: A Producer's Handbook*, by Kathy Avrigh Johnson, Summer 2001, available at: <http://www.omdc.on.ca/Page3599.aspx>; and Department of Canadian Heritage, *Study on Completion Guarantees and Financing Tools in the Audio-Visual Industry*, prepared by Nordicity Group Ltd., April 27, 2005, available at: [http://www.patrimoinecanadien.gc.ca/progs/ac-ca/progs/rc-tr/market/publications/etude\\_sur\\_les\\_garanties-bond\\_study/CBS\\_e.pdf](http://www.patrimoinecanadien.gc.ca/progs/ac-ca/progs/rc-tr/market/publications/etude_sur_les_garanties-bond_study/CBS_e.pdf).

Once the Canadian broadcaster commits and the main financing is in place, the producer usually sets up a single purpose corporate entity for the production, called a “prodco.” This means the only activity of this company is to produce this one project. This structure limits liability. It also ensures that the CPTC requirement that an applicant is primarily a Canadian film or video production business is met. Most, but not all, producers set up a separate prodco for each and every production. This is a straightforward, low-cost process under either federal or provincial law. Since the prodco will have no taxes payable, it will receive the tax credit. There are special provisions in the tax credit regulations allowing expenses paid by the parent company to be recognized as production costs by the subsidiary prodco for the purpose of calculating the tax credits.

The producer applies to CAVCO to receive a Canadian film or video production certificate (“Part A certificate”), which is based on an analysis of detailed cost estimates, the production financing structure and Canadian content requirements. It is an important step because the Part A certificate facilitates interim financing in respect of the CPTC amount. Once the production is completed, the producer applies to CAVCO to receive the certificate of completion (“Part B certificate”). The Part B certificate must be applied for by the final regulatory deadline applicable to the production to ensure the Part A certificate remains in full force and effect and to prevent the production from becoming an “excluded production” for the CPTC. (Note that a producer may apply for the Part A and B certificates at the same time if there is no need for interim financing of the anticipated CPTC amount.)

In order to obtain interim financing, the producer’s accountant prepares a formal tax credit estimate. Several large Canadian banks are active in interim financing, including RBC and National Bank. Producers indicated that there were no major difficulties encountered in obtaining interim financing.

However, the pre-production stage can be very challenging for producers. Producers and broadcasters sign short-form contracts that trigger applications to government agencies. Canadian producers will thus often begin pre-production on the basis of the short form contract. The banks, however, will only offer interim financing against the detailed long form contracts. A larger, well-established producer can usually self-finance the pre-production; smaller producers often cannot. The long form contract can take several months to finalize. Thus the in-between state between the short form contract and the long form contract puts the producer in a vulnerable position. Some private equity firms have stepped in to help producers through this period, by offering “early interim financing” at rates that are somewhat higher than the rates for the subsequent interim financing loan.

The producer’s production and accounting departments are instructed on how to track the production costs, so as to not be “offside” with respect to the various requirements of the federal and provincial tax credit programs. For example, in the case of the provincial program, the amount of the spend within and outside the province needs to be tracked and monitored; in the case of the CPTC, the foreign spend needs to be tracked and monitored

to ensure it is kept within the maximum amount allowable according to the Income Tax Regulations.

The producer receives some monies from the licensing broadcaster and any public assistance at the outset of the project. This gives the producer the funds needed to launch the pre-production phase of the project, which typically lasts a few weeks. The start of shooting will then trigger additional funds, but these funds will not be sufficient to meet the substantial weekly expenditures incurred during this phase. Shooting can last several weeks and will generate substantial outflows as the producer pays performers, crews and service providers. It is during this phase that the producer most needs interim financing.

Once shooting is completed, the producer will often receive another instalment of funds from the broadcaster or distributor and other funding sources such as the CTF. But these payments cover only a portion of the shooting costs. The producer continues to pay interest on the interim financing loan.

The post-production phase can last several months. During this phase, the producer will pay for editing, sound, special effects and other post-production services.

About 30 weeks after the project was launched, the producer delivers the final product to the broadcaster and distributor. The delivery will trigger significant payments from buyers, as well as the CTF and other sources of public funding. The sum of these payments will still leave the producer with a gap of about 25 per cent that requires interim financing, as the producer must wait for the tax credit refunds.

Once the production is completed, a final cost report is prepared, which must be audited (for larger productions). The producer chooses the tax year end for the prodco. The producer applies to CAVCO for a Part B certificate of completion. The payment of the tax credits occurs after the production company files its corporate tax returns to CRA and to the provincial revenue agency. The producer does not need to wait for receipt of the Part B certificate in order to submit a tax credit claim, but CRA does require a certificate (either Part A or B) in order to complete the processing of the return. CRA has published service standards for both unaudited and audited claims.

Producers indicated that their interim financing loan can last between 12 and 18 months before the tax credit refund cheque is received. Later in this report the issue of the costs of interim financing is discussed in detail.

### **3.1.4 How the CPTC works**

The CPTC provides Canadian production companies with a refundable tax credit based on the labour expenses incurred in making a television program, film or video production.

When it was introduced, the CPTC rebated an amount equal to 25 per cent of eligible labour expenses or an equivalent amount creditable against corporate taxes owed by the company, or any combination of refund paid and crediting. The tax credit earned could not exceed 48 per cent of total eligible expenses, which were the project's total expenses

less any financial assistance received by the applicant (grants, subsidies, provincial tax credits, forgivable loans, contributions, services or any similar forms of public assistance).<sup>15</sup> For the purpose of calculating the estimates, any deferrals are not included in the eligible cost of production. The maximum amount of the tax credit, therefore, was 12 per cent of a project's total cost.

At the end of 2003, the ceiling on the labour expenses was raised from 48 per cent to 60 per cent of total eligible expenses. The maximum credit correspondingly rose to 15 per cent of the project's total eligible expenses. CAVCO's statistics indicate that the CPTC accounted for 10.3 per cent of CPTC-supported production expenditures in Canada in 2005-2006 (additional statistics are provided later in this section). Thus, while the CPTC provides for a maximum rate equal to 15 per cent of a particular project's production budget, the budget structure of supported projects for 2005-2006 actually resulted in an effective tax credit rate that was only two-thirds of the maximum (i.e., 10.3 divided by 15).

Both the producer's direct labour expenses as well as the labour expenses incurred by a production service provider under contract to the producer are eligible for the credit. When the CPTC was introduced, only labour costs incurred "after the final script stage" could earn a credit. The 2003 reforms allow for eligible labour expenditures to be claimed possibly up to two years prior to the commencement of principal photography. Claiming the credit does not preclude "some production corporations" from calculating the capital cost of a film (net of the credit and assistance) and claiming capital cost allowance where allowable.<sup>16</sup>

### **3.1.5 Who is eligible**

Only Canadian film or video production companies that are owned and controlled by Canadians and have a permanent establishment in Canada are eligible to apply for the CPTC.<sup>17</sup> Organizations that are sheltered from tax obligations as well as labour-sponsored venture capital corporations are not allowed to benefit from the CPTC.

Multiple-interest Canadian media and broadcasting companies initiate many production film and television production projects. If the extent of their other interests prevents them from qualifying as film or video production companies, they or any other Canadian

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<sup>15</sup> Eligible labour costs and total expenses are defined in section 125.4 of the *Income Tax Act*. Support under the Licence Fee Program of the Canadian Television Fund, described later in this review, is not deducted from the eligible expenses.

<sup>16</sup> CAVCO, Canadian Film or Video Production Tax Credit, Guidelines, 1 September 1997, p. 1.

<sup>17</sup> "It is important to note that the corporation's primary activity must be in relation to the production of Canadian films or videos. Consequently, if the business of a corporation includes other activities such as, the rental of equipment or studios, or the distribution of films and videos, or if the corporation is carrying on business outside of Canada, it may not be considered a qualified corporation for the purposes of the tax credit program. Furthermore, if the corporation produces films or videos that do not qualify as Canadian film or video productions, the corporation may also be considered as a non-qualifying corporation." Canadian Audio-Visual Certification Office (CAVCO), Canadian Film or Video Production Tax Credit Guidelines July 1997. Operationally, the CRA requires that a company incur 50 per cent of its production costs in making Canadian films or videos to qualify.

company may create a qualified Canadian film or video production corporation to gain access to tax credits. Eligible production companies affiliated to broadcasters have access to the CPTC, but the broadcaster is expected to respect historical patterns of purchasing programming from the independent production sector.<sup>18</sup>

A separate CPTC application is required for each project that produces a Canadian film, video or television program or series. Production companies usually establish a special purpose company for each production (known as a “prodco”), which is a long-standing industry practice in order to limit liability. Producers indicated to the evaluation team that the parent company typically absorbs the special purpose entity at some point (which could be several years) after production is completed and the tax credit has been claimed.

A 2007 study by the Department of Finance examined the distribution of CPTC support between projects generated by corporate groups (typically through special purpose production companies) versus independent production companies.<sup>19</sup> It also examined the concentration of applications among entities within each source of applications. The summary statistics presented in the report are based on CAVCO records of CPTC tax credits earned in the six fiscal years from 2000 to 2005. Key findings of the study were:

- The CPTC allocated \$984 million to 3,303 production companies for 5,391 production projects from fiscal 2000 to 2005.
- Corporate groups, as compared to independent production companies, received \$818 million (83 per cent of the total credits) over the six-year period.
- Over the same period, the top 10 media corporate groups accounted for \$241 million (30 per cent of the credits granted to media corporate groups) while the top recipient for the six-year period claimed \$73 million (9 per cent of the credits granted to corporate groups) through 139 subsidiaries. In fiscal 2005, the top corporate media group recipient received \$3.9 million in credits.
- The leading independent recipients had a small share of the credit compared to corporate groups, with the top independent collecting just over \$5.6 million (0.6 per cent of the total) in credits from 2000 to 2005.
- The concentration within each of the independent and corporate groups during the period covered is similar, with the top 5 per cent of firms receiving 45 per cent of credits among independent firms and 42 per cent of the credits among corporate groups.

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<sup>18</sup> “... I would not expect private broadcaster access to the credit to diminish their acquisition of independent production or reduce the broadcasters' participation in Telefilm financed productions. I will be asking the Executive Director of Telefilm Canada to monitor this closely. I will also be asking the Chairman of the CRTC to ensure that expenditures on independent production are assessed and weighed carefully in the context of future broadcast licence renewals.” from Minister Dupuy’s attached statement to the 12 December 1995 news release (see notes 1 and 2).

<sup>19</sup> Department of Finance, *The Canadian Film or Video Production Tax Credit: Descriptive Statistics for Fiscal Years 2000 to 2005*, December 2007 (unpublished).

- Broadcaster-affiliated productions received only 4 per cent of the credit in fiscal 2000 to 2005, and that share fell to 2.5 per cent in the last year of the period.

### **3.1.6 What is eligible**

Whether a domestic film or television program is considered Canadian or not depends on a point system and a Canadian expenditures test, as assessed by the Canadian Audio-Visual Certification Office (CAVCO). An official co-production (a co-production that is assessed by Telefilm Canada to meet the conditions of one of Canada's bilateral co-production treaties) qualifies for the CPTC based on the Canadian partner's portion of the budget.<sup>20</sup>

For a non-treaty project to qualify as Canadian, it must have a Canadian producer.<sup>21</sup> The CAVCO point system requires that the film or television production earns at least 6 of a potential 10 points according to specific key creative positions on the production being filled by Canadian citizens or permanent residents of Canada. Canadian citizens are not required to reside in Canada to fulfil the point system requirements.

Different Canadian content point systems apply to live-action and animation projects. For live action productions, points are earned if the director (two points), screenwriter (two points), two leading actors (one point each), art director (one point), director of photography (one point), music composer (one point), and editor (one point) are Canadian. One of the director or the screenwriter and one of the two leading actors must be Canadian.

For traditional animation, points are earned if the director (1 point), scriptwriter and storyboard supervisor (1 point), first or second voice<sup>22</sup> (1 point), art director (1 point), music composer (1 point), and film editor (1 point) are Canadian. Either the director or screenwriter and storyboard supervisor must be Canadian, the first or second lead voice must be performed by a Canadian, and the key animation must occur in Canada. In contrast to the live-action point system, earning the remaining four points depends on the

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<sup>20</sup> A list of the 53 coproduction treaties that Canada has negotiated and a summary of their properties is available on pages 16 and 17 of *Official Coproductions Mandate Policies and Requirements 2000-2001 (last update January 25, 2007)*.

<sup>21</sup> "The producer controls and is the central decision maker of the production from beginning to end. The producer is involved in and ultimately responsible for: the acquisition and/or meaningful development of the story; the commissioning of the writing of the screenplay/series bible; the selection, hiring and firing of key artists and creative personnel; the preparation, revision and final approval of the budget; all overages; the binding of the production company to talent and crew contracts; the arranging of the production financing; the supervision of the filming/taping and post-production; final creative control (as per contract), production expenditures (as per contract), production bank accounts (sole and unfettered cheque signing authority); and the arranging of the commercial exploitation of the production." Public Notice CAVCO 2006-02, Ottawa 8 June 2006, para 22. and "Non-Canadian prior rights holders may have ongoing involvement in the production in terms of consultation rights only, provided that such involvement does not otherwise encroach on any of the rights and responsibilities of the producer as outlined in the producer definition." Ibid p. 11 (part of Addendum).

<sup>22</sup> Or first or second leading performer.

location of the work. Key animation, mandatory to be performed in Canada, is allotted a point. Single points are allotted if the camera operator is Canadian AND the camera work is done in Canada, the layout and background work is done in Canada or the assistant animation (in-betweening) is done in Canada.

A high proportion of currently produced animation is based on computer software rather than traditional processes such as cell animation. Film and Video Policy is planning to review the point system for animation in recognition of the evolution of this industry. At present, CAVCO assesses computer-generated animation projects by adapting the existing animation rating system to the project.<sup>23</sup>

In addition to receiving a rating of 6 to 10 points, a project must also meet Canadian spending requirements to qualify as Canadian. At least 75 per cent of the cost of services must be paid to, or on behalf of, Canadians and at least 75 per cent of post-production costs must be incurred in Canada.

After consultations with the industry, CAVCO has proposed that courtesy credits to foreign professionals in a CPTC-supported production be allowed on a one-for-one basis when Canadians also fill producer-related roles “as long as prominence is assured for Canadians.”<sup>24</sup> An exception is the credit for producer and co-producer, which can only apply to a Canadian.

All content genres that are not listed as ineligible qualify for support by the CTPC. Among the genres that do not receive support are game shows, public affairs, sports and pornography. In addition, Bill C-10, which is before Parliament at the time of writing, includes a provision that would exclude productions for which public financing is deemed to be contrary to public policy. Many of the ineligible genres have evolved to the point where hybrid versions of the genres now exist. These hybrids may not strictly be ineligible. PCH will review these definitions of these genres to ensure that they properly reflect the state of the industry.

### **3.1.7 Copyright**

To be eligible for the refundable credit, the production company, or a related prescribed taxable Canadian corporation, must own the exclusive worldwide copyright of the production for a minimum of 25 years after production is completed. In 2006, CAVCO proposed that the minimum be reduced to 10 years and invited comments.<sup>25</sup> In a 2007 public notice, CAVCO announced that “...it continues to be a requirement that the

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<sup>23</sup> See Evidence provided by Robert Soucy, Director of CAVCO, to the Standing Committee on Canadian Heritage, 24 February 2005, p. 12:

“One must understand that there are five, six or seven different ways to create digital animation. Obviously, in the end, there must be agreement on the concept that will best represent each one of these types of animation, whether it be 2D, Flash 2D or 3D.

Ultimately, a point system must be adopted. We are thinking about one.” Available at:

<http://cmte.parl.gc.ca/Content/HOC/Committee/381/CHPC/Evidence/EV1667404/CHPCEV20-E.PDF> .

<sup>24</sup> Public Notice CAVCO 2006-02 8 June 2006, paragraph 26.

<sup>25</sup> Public Notice CAVCO 2006-02, paragraph 15.

eligible Canadian production corporation (whether alone or jointly with prescribed persons) retains the “exclusive worldwide copyright ownership in the production for all commercial exploitation purposes for the 25-year period that begins at the earliest time after the production was completed that it is commercially exploitable.”<sup>26</sup> Exceptions to this rule are the sharing of copyright ownership with a Canadian co-producer or with a partner in an official co-production.

CAVCO also reported in the same 2007 public notice that “(t)he Department of Finance is presently considering a proposal from the Department of Canadian Heritage to clarify, in the *Income Tax Regulations*, the circumstances under which copyright ownership may be shared with other eligible entities and the conditions under which investors can participate in the profits of exploitation of the production.”<sup>27</sup>

The production corporation (or a related prescribed taxable Canadian corporation) must have full control over the initial licensing of the production’s exploitation rights. CPTC support also requires the producer of the project to contract with a Canadian broadcaster or with a Canadian-owned and controlled distributor to air or exhibit the program to Canadian audiences within two years of the completion of production. The licence or distribution payment must reflect “fair market value,” which is difficult to determine because there is often a wide spread on the offers to license programs in a category. The Canadian producer can agree to sell the broadcaster an equity position in the production. Foreign distributors may not act on behalf of the producer in selling any Canadian rights of a film or program that has received CPTC support for two-years after the completion of production.<sup>28</sup>

## 3.2 Rationale

A review of government documents is the usual starting point for obtaining an understanding of a program’s rationale, i.e., why it was introduced. However, in the case of the CPTC, the Evaluation Working Group noted that no formal program approval documentation, i.e., memorandum to Cabinet or Treasury Board submission, is available from the time when the CPTC was introduced. In addition, a result-based management and accountability framework (RMAF) was not prepared for the CPTC when it was introduced (neither a memorandum to Cabinet, Treasury Board submission nor RMAF

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<sup>26</sup> Public Notice CAVCO 2007-01, paragraph 1.

<sup>27</sup> Ibid, paragraph 1.

<sup>28</sup> This restriction was partly relaxed on December 31, 2006. Canadian distributors can now subcontract specified distribution services related to DVDs and videos to foreign distributors operating in Canada.

The services that can be contracted out include, but are not limited to:

- a. The procurement and manufacturing of videograms and their packaging;
- b. Storage of the videograms;
- c. Order entry and order processing through computer and inventory control systems;
- d. Shipping of the videograms to customary sales and retail outlets;
- e. Accounting to distributor with respect to all videogram sales to customers.

Public Notice CAVCO 2006-03 Ottawa, December 17, 2006, paragraph 5.

were requirements for approval at the time). An RMAF subsequently was prepared in 2003, which provides some information on the program's rationale.<sup>29</sup>

The RMAF states that the CPTC was introduced because the tax shelters that had been in place since the 1970s had become an ineffective means of support for the production industry. Because the CPTC is available to all productions that qualify and has no fiscal expenditure limit, it is a funding mechanism that allows all Canadian producers access. The RMAF also notes the role played by the CPTC in supporting the development of the industry:

The tax credit program contributes to the winning conditions needed to build a strong industry infrastructure by providing stable financing for production companies. This federal government investment contributes to job creation and increased economic activity in Canada.

The Terms of Reference (TOR) for the summative evaluation specifies the CPTC objectives, which are based on a December 12, 1995 news release by PCH:

...the primary objective of the new program remains the encouragement of Canadian programming and the development of an active domestic independent production sector.

The credit is designed to encourage a more stable financing environment and longer-term corporate development for production companies, rather than focus simply on single project financing.<sup>30</sup> (Underline added for emphasis.)

The Minister's notes attached to the press release identifies some ancillary goals, which were to avoid "excessive" margins earned by "middle-men" marketing limited partnership units under the prior tax shelter scheme, and to enhance transparency for the benefit of taxpayers and Government officials overseeing the integrity of the program.<sup>31</sup>

Today, while the CPTC does not involve the "middle-men" who were intimately associated with the prior tax shelter era, it has led to the extensive involvement of accountants, banks and other service companies (e.g., specialists in the completion of applications to the many government programs, both federal and provincial) that enable production companies to access the CPTC. This issue is discussed in Section 4.

Regarding the goal of enhancing transparency and ensuring integrity, while the provisions of the *Income Tax Act* prohibit information about individual recipients to be disclosed to third parties, the CPTC does require a commitment from a CRTC-licensed broadcaster or a Canadian-controlled distributor to have the production shown in Canada within the first two years from when the production was first completed and

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<sup>29</sup> Department of Canadian Heritage, Corporate Review Branch, *Results-based Management and Accountability Framework, Canadian Film or Video Production Tax Credit (CPTC)*, April 24, 2003.

<sup>30</sup> Canadian Heritage News Release, 12 December 1995. Available at [http://www.pch.gc.ca/newsroom/index\\_e.cfm?fuseaction=displayDocument&DocIDCd=5NR172](http://www.pch.gc.ca/newsroom/index_e.cfm?fuseaction=displayDocument&DocIDCd=5NR172).

<sup>31</sup> See Minister Dupuy's attached statement to the 12 December 1995 news release. It describes the new program as "simpler", "more efficient" and "direct".

commercially exploitable. Thus it can be argued that the CPTC is linked to the PCH strategic outcome of providing Canadians with access to diverse cultural content (discussed further in Section 3.3). The lack of a requirement for a CCA-supported production to be officially exploited in Canada was a major deficiency of the tax shelter program, as described earlier. Further, as described in Section 4, Bill C-10, currently before Senate, contains provisions that would permit increased information sharing among prescribed agencies and permit CAVCO to publish a list of production titles benefiting from the CPTC.

The rationale for the introduction of the CPTC, as based on the news release, consisted of several elements. First, it is clear that the primary objective of the CPTC was to support the production of Canadian cultural content.

Second, in order to achieve this objective, the CPTC was intended to assist Canadian production companies with project financing and provide them with a more stable financing environment – a direct response to the failure of the prior tax shelter regime.

Supporting the long-term corporate development of production companies was stated as a goal; however this term was not defined, thus making this aspect of the program's rationale unclear. While it can be argued that a string of production projects can help build a successful company, the intent of the program was to enable companies to move beyond a "project-to-project" existence (as explicitly stated in the news release). Section 4 provides an analysis of the program's rationale.

### **3.3 Intended Results**

The RMAF for the CPTC prepared in 2003 included a program logic model, reproduced in Figure 1. The chain of immediate and intermediate outcomes provides the basis for the evaluation study's methodology design for assessing the impacts of the program, outlined earlier in Section 2.

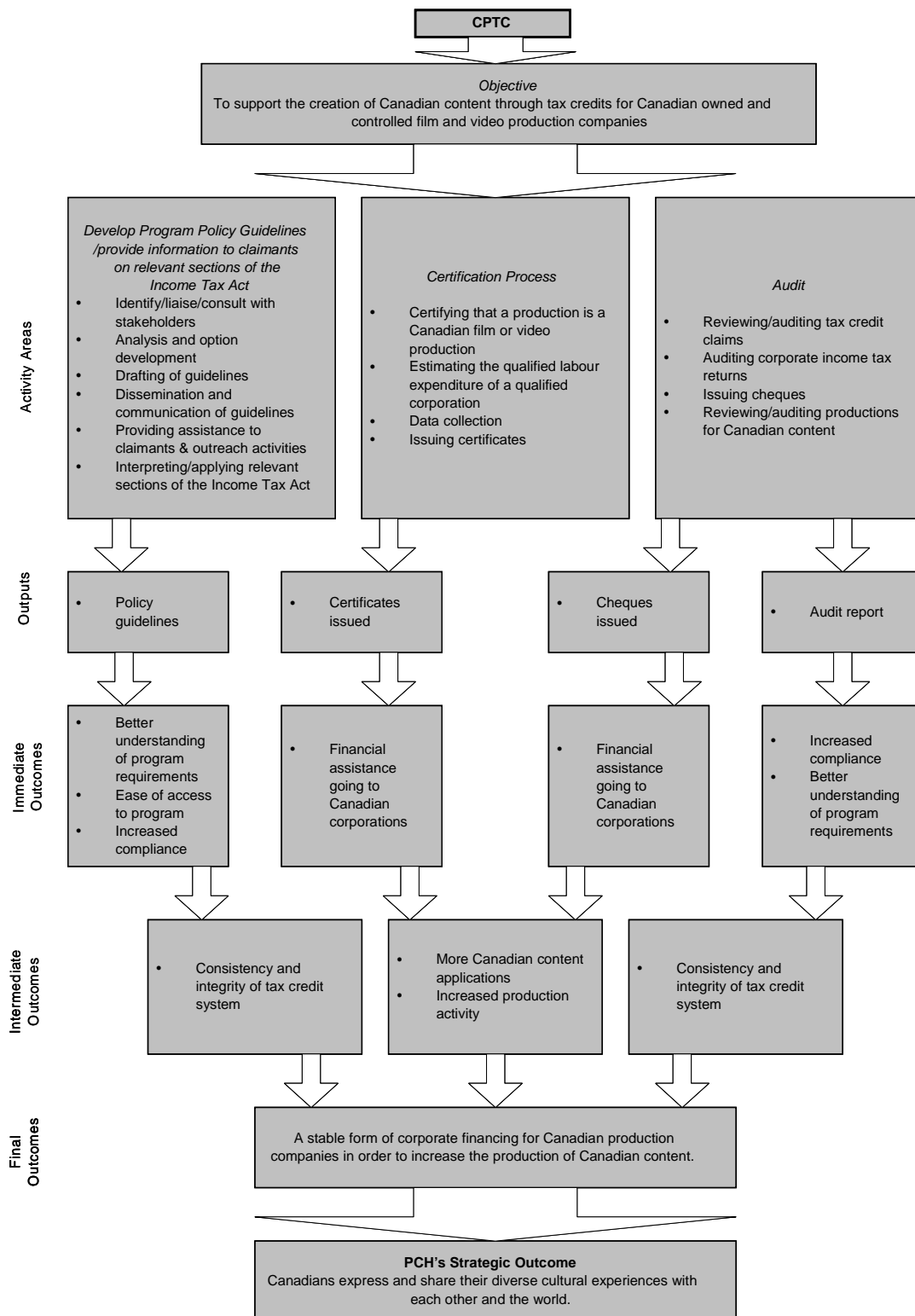
The central intermediate outcomes are "more Canadian content applications" and "increased production activity." Information on trends in the number of CPTC-supported productions is presented later in this section. And as discussed in Section 4, the CPTC plays an important role in enabling producers to assemble the various sources of financing required to launch a production.

As will be discussed further in Section 4 under Rationale and Relevance, while the original news release announcing the program included a "corporate development" objective, this outcome is not included in the logic model, nor is it discussed in the RMAF.

While the logic model does include an outcome pertaining to the central "increased production activity" objective noted in the press release, there is no mention of the other objective of encouraging the "development of an active domestic independent production sector."

As described earlier in the rationale discussion, the program has a number of ancillary objectives, including transparency, which is implied by the intermediate outcome, “consistency and integrity of the tax credit system.” The model also reflects a number of concepts pertaining to the delivery of the tax credit, such as “better access” and “better understanding”. Again, Section 4 provides information on the program’s performance in these areas.

**Figure 1**  
**CPTC Logic Model**



### 3.4 Government Policies

The CPTC is part of a complex federal and provincial support system for the production and distribution of Canadian films, television programmes and videos. Appendix E provides descriptions of the main organizations, policies, legislation and programs that make up this system.

This sub-section describes the other federal tax credit program, the Film or Video Production Services Tax Credit and the three largest provincial tax credit programs. Table 1 summarizes the financing sources of CAVCO-approved Canadian content television and feature film productions over the 2001-2002 to 2005-2006 timeframe.<sup>32</sup> Note that the figures presented for the value of the federal tax credit are somewhat different from the data in the annual CAVCO activity report.<sup>33</sup>

#### 3.4.1 Film or Video Production Services Tax Credit (PSTC)

On July 30, 1997, the Canadian Government introduced a second refundable tax credit program, the Film or Video Production Services Tax Credit (PSTC), which is co-administered by CAVCO and the Department of Finance. Its main objective is to attract foreign location shooting to Canada and to encourage the use of Canadian labour on these productions. This helps Canada to have an international film and television production infrastructure. Foreign location production includes all films and television programs shot by non-Canadian producers in Canada. Often, American or other foreign producers will work with a Canadian service or line producer. The service producer is a Canadian resident who coordinates and executes the production of the film or television program. Many Canadian production companies work on both CPTC- and PSTC-supported productions. Both Canadian and foreign-owned companies that have premises and pay taxes in Canada are eligible.

The PSTC does not require that projects qualify as Canadian under the points system. The tax credit base is salaries and wages spent directly or indirectly (through a taxable Canadian corporation) on Canadian residents for their work in Canada on an accredited film or video production. The total budget of a single production (excluding series pilots or episodes which have a lower budget threshold) must exceed one million dollars Canadian. The tax credit rate is currently 16 per cent.

To take an example, consider a feature film production with a budget of \$30 million. All relevant rights have been acquired. The shoot is located in Canada where \$15 million is spent, of which \$6.75 million is spent directly or indirectly on labour. The parallel provincial tax credit program has granted support of \$1.5 million, which reduces or

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<sup>32</sup> The data in Table 1 are based on data in the CFTPA *Profile 2007*, pp. 40, 58.

<sup>33</sup> The CAVCO annual activity report provides an explanation for the differing estimates of the federal tax credit in the CAVCO report and in the CFTPA Profile report. For any particular fiscal year, CAVCO might receive applications after the activity report is prepared, since CAVCO's guidelines permit producers to submit their applications up to 24 months after the end of the fiscal year in which a project's principal photography commenced. The statistics in the CFTPA Profile include an estimate for production activity that had not yet applied to CAVCO.

“grinds” the eligible tax base (the issue of the “grind” is discussed later in this report). The credit is 16 per cent of \$5.25 million (the Canadian labour spend less assistance) or \$840,000.

A taxable corporation with a permanent establishment in Canada may claim a credit as long as it is primarily a corporation that produces film or television programs or provides production services. As with the CPTC, CAVCO provides information and processes applications for the PSTC. Similarly, CAVCO issues a certificate, the accredited film or video production certificate (“AC certificate”), on behalf of the Minister of Canadian Heritage that the applicant uses to make a claim for the PSTC to CRA.

Originally the PSTC paid a tax credit of 11 per cent of direct and indirect payments to Canadian personnel less assistance received.<sup>34</sup> There was and is no ceiling on the amount of eligible labour expenses that can be claimed. The rate for the PSTC was raised in 2003 to 16 per cent, an increase of over 45 per cent in the tax credit rate.<sup>35</sup> Americans own the copyright of most of the productions supported by the PSTC.<sup>36</sup>

The annual CAVCO activity report provides information on the volume of PSTC-supported productions annually. In 2005-2006, a total of 146 projects claimed support under the PSTC, generating a total of \$1.6 billion in production expenditures in Canada.<sup>37</sup>

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<sup>34</sup> Assistance is the amount received in total assistance from other sources that depends on the same base of eligible labour expenses as the PSTC. See section 125.5 of the *Income Tax Act*.

<sup>35</sup> This change raised the expected number and value of claims for two reasons -- the higher rate and the increase in Canadian workers hired because of the reduction in the “after tax credit” cost of labour. In contrast, under the CPTC, if the ceiling of 60 per cent of total eligible production expenses (less assistance) had been reached and the rate increased, as it was, the expansion of labour hiring in response to a fall in the after tax credit cost of adding Canadian workers would be constrained by the ceiling. The new rate applied after 18 February 2003.

<sup>36</sup> CAVCO, 2004-05 Activity Report (Available at [http://www.patrimoinecanadien.gc.ca/progs/ac-ca/progs/bcpac-cavco/pubs/2004-05/index\\_e.cfm](http://www.patrimoinecanadien.gc.ca/progs/ac-ca/progs/bcpac-cavco/pubs/2004-05/index_e.cfm)). “Overwhelmingly, the originating copyright holder of CAVCO certified PSTC productions is from the United States at 95 per cent. Other countries of origin were Germany, the United Kingdom and France.”

<sup>37</sup> CAVCO 2005-06 Activity Report, p. 33.

**Table 1 -- Financing of Canadian Television and Theatrical Production****(i) Canadian Television Production**

	2001/02		2002/03		2003/04		2004/05		2005/06	
	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions
Private broadcaster licence fees	16	294	19	356	22	371	23	407	22	392
Public broadcaster licence fees	7	135	9	159	10	172	11	187	12	223
Federal tax credit	9	162	9	165	10	174	11	191	11	189
Provincial tax credit	11	194	11	209	12	205	12	222	15	266
Canadian distributor	11	196	7	128	8	128	6	102	5	87
Foreign	22	403	19	349	15	249	12	210	10	175
Production company	4	78	4	71	4	67	3	57	2	44
Public*	8	146	9	157	8	141	9	153	9	156
Other private**	11	200	13	241	12	204	14	248	15	264
<b>TOTAL</b>	<b>100</b>	<b>1,808</b>	<b>100</b>	<b>1,837</b>	<b>100</b>	<b>1,711</b>	<b>100</b>	<b>1,776</b>	<b>100</b>	<b>1,795</b>

**(ii) Canadian Theatrical Production**

	2001/02		2002/03		2003/04		2004/05		2005/06	
	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions
Private broadcaster licence fees	1	3	2	5	3	12	1	2	2	8
Public broadcaster licence fees	<1	1	<1	1	<1	1	<1	1	1	2
Federal tax credit	6	13	7	19	7	24	7	12	7	23
Provincial tax credit	12	28	11	31	14	48	14	26	15	50
Canadian distributor	19	41	21	63	8	28	15	28	9	30
Foreign	18	41	20	59	29	100	10	19	26	83
Production company	10	22	4	13	7	25	6	9	5	15
Public*	27	60	27	78	24	84	37	68	28	91
Other private**	7	15	9	26	6	22	11	20	7	21
<b>TOTAL</b>	<b>100</b>	<b>224</b>	<b>100</b>	<b>294</b>	<b>100</b>	<b>343</b>	<b>100</b>	<b>184</b>	<b>100</b>	<b>323</b>

**(iii) Canadian Television and Theatrical Production**

	2001/02		2002/03		2003/04		2004/05		2005/06	
	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions	%	\$ millions
Private broadcaster licence fees	15	297	17	361	19	383	21	409	19	400
Public broadcaster licence fees	7	136	8	160	8	173	10	188	11	225
Federal tax credit	9	175	9	184	10	198	10	203	10	212
Provincial tax credit	11	222	11	240	12	253	13	248	15	316
Canadian distributor	12	237	9	191	8	156	7	130	6	117
Foreign	22	444	19	408	17	349	12	229	12	258
Production company	5	100	4	84	4	92	3	66	3	59
Public*	10	206	11	235	11	225	11	221	12	247
Other private**	11	215	13	267	11	226	14	268	13	285
<b>TOTAL</b>	<b>100</b>	<b>2,032</b>	<b>100</b>	<b>2,131</b>	<b>100</b>	<b>2,054</b>	<b>100</b>	<b>1,960</b>	<b>100</b>	<b>2,118</b>

Source: CFTPA, *Profile 2007: An Economic Report on the Canadian Film and Television Production Industry*, pp. 40, 55.

\* Public includes financing from Telefilm Canada (including CFFF), CTF (Equity Investment Program), provincial governments and other government departments and agencies.

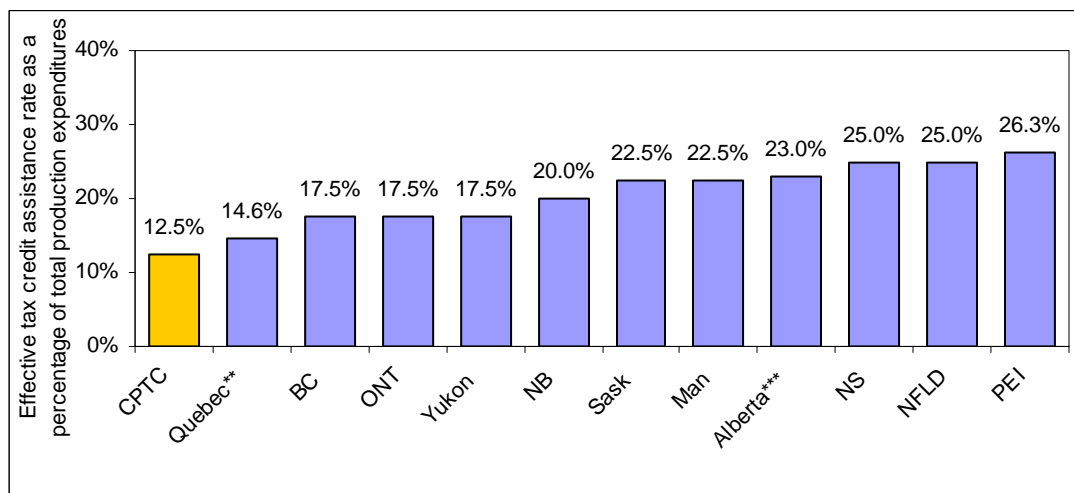
\*\*Other Private includes financing from the Canadian Television Fund (Licence Fee Program), independent production funds, broadcaster equity, and other private investors.

### 3.4.2 Provincial tax credits overview

The *Economic Analysis of the CPTC* report provides a summary chart, reproduced in Figure 2, of the effective rates of support granted by provincial tax credit programs and the CPTC, as of January 2008.<sup>38</sup>

The rates shown in Figure 2 are indicative only, as the design of each program will affect the actual rate on a particular project (as explained in the footnote under the chart). For example, the actual rate of the CPTC across all CPTC projects supported in 2005-2006 averaged 10.31 per cent.<sup>39</sup> The maximum rate of CPTC support that could have been received for a CPTC project in that year was 15 per cent. The effective rate of 12.5 per cent for the CPTC in Figure 2 lies in the range between these two values, and reflects a situation where qualified labour comprises 50 per cent of the production budget. Note also that the effective rate for Alberta refers to a production grant program rather than a tax credit. The Alberta grants are scaled to the degree of Alberta ownership and the hiring of Alberta film and television production professionals and technicians.

**Figure 2**  
**Effective Rates\* for Film and Video Tax Credit and Labour Rebate Programs in Canada (as of January 2008)**



Source: *Playback*, "Provincial Funding Sources in Canada," March 17, 2008.

\* Effective tax credit assistance rates expressed as a percentage of total production costs; rates available for Canadian-content production; rates assume that labour expenditures are equal to 50% of production costs; rates reflect base rates and exclude bonuses for regional production and frequent filming; certain rates only apply to resident or deemed-resident labour.

\*\* The base rate is capped at 14.6%; there is a cap of 19.7% for computer animation and special effects, large-format films, and French-language feature films, single documentaries, youth programming.

\*\*\* The rate of 23% is the maximum rate available to a project with 51% Alberta ownership and four or more Albertans in key creative positions. There is a funding cap of \$1.5 million per annum for a TV series.

<sup>38</sup> Nordicity Group Ltd., *Economic Analysis of the CPTC*, Figure 8 on p. 11.

<sup>39</sup> Ibid, Table 3, p.14. This table also provides annual regional breakdowns.

The regional incidence of the CPTC varies from year to year. From 1994-1995 to 2005-2006, Ontario and BC applicants together generated \$9.3 billion (53.6 per cent of the total) and Quebec applicants generated \$6.5 billion of supported production (37.4 per cent of the total). The Prairie Provinces, the Far North and Atlantic Canada together accounted for the remaining \$1.6 billion or 9.0 per cent of CPTC-supported production during this period.<sup>40</sup>

Brief summaries of the British Columbia, Ontario and Quebec tax credit programs follow. They identify some of the differences among provincial tax credits and the characteristics that distinguish them from the CPTC.

**a) British Columbia Film and Tax Credit**

Under the provincial Film and Television Tax Credit program a BC-controlled Canadian production company may receive a refundable tax credit for making a film or television program that qualifies as Canadian content if it locates at least 75 per cent of principal photography in the province and pays to people or companies based in the province at least 75 per cent of its total production costs and 75 per cent of post-production costs (documentaries, official co-productions, and inter-provincial co-productions are not required to meet the provincial spending requirements to qualify).

The basic component (Film Incentives BC) of the Film and Television Tax Credit program provides a refundable tax credit of 30 per cent of labour expenditure in British Columbia.<sup>41</sup> Unlike the CPTC, non-repayable assistance from other sources is not deducted from the base. The labour expenditure that can be claimed is capped at 48 per cent of total production expenses.

There are three add-on provincial tax credit programs. One rewards producers that spend on labour in designated regions of the province (additional 12.5 per cent of the share of production time spent in these regions). A second add-on credit is earned by registering BC workers in training programs (additional 30 per cent applied to the relevant labour expenditure subject to a ceiling of 3 per cent of provincial labour expenditures). A third applies to BC expenditure on digital animation or special effects (additional 15 per cent applied to the expenditure on labour directly involved in these activities). Official and national co-productions are eligible with the credit based on labour expenditure in the province. Interviews conducted in BC during the evaluation indicated that the digital animation or special effects add-on has been particular popular, and has been a major factor in building this sector of the industry in the province.

The BC government conducted a review of its program during 2007. On October 19, 2007, the BC Premier announced that the program would be extended for another five years. On January 25, 2008, the Finance Minister proposed that the tax credit rate would

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<sup>40</sup> Ibid. p. 30.

<sup>41</sup> Before January 1, 2005 the rate was 20 per cent. The 50 per cent increase to 30 per cent on that date represented a significant change. It provided a windfall gain to projects that had begun under the former rate and could claim on expenses after January 1, 2005 based on the new rate.

be increased from 30 per cent to 35 per cent, matching a similar increase in Ontario (see below).

**b) Ontario Film and Television Tax Credit (OFTTC)**

The Ontario Film and Television Tax Credit (OFTTC) program was introduced in the provincial budget of 1996. It has a similar structure to the CPTC. The rate of support was raised from 20 per cent to 30 per cent as of January 1, 2005. The base is eligible Ontario labour expenditures (payments to individuals who were resident in Ontario at the end of the calendar year prior to commencement of principal photography qualify) adjusted for assistance (excluding equity positions of government agencies). The producer must be a resident of the province. Regional Ontario productions receive a higher tax credit rate of 40 per cent. First time producers receive 40 per cent on the first \$240,000 dollars of eligible expenditures. Some productions will also be eligible for the Ontario Computer Animation and Special Effects (OCASE) Tax Credit that provides an additional 20% tax credit on labour expenses associated with computer animation and special effects (capped at the lesser of \$500,000 or 48% of total expenses in this expenditure category).

Originally, only expenditures made from the final script stage to post production were eligible. Productions beginning after November 13, 2003 may claim expenses on labour beginning two years before principal photography starts. These include expenses on writing and developing a script.

Only a Canadian owned and controlled film or video production company with an establishment in Ontario may apply. Subsidiaries of broadcasting, cable or satellite broadcasting distribution companies are also eligible if their parent is not the initial Canadian broadcaster of the production. The Canadian content points system is the same as for the CAVCO system. The genre must not be on the proscribed list. In addition at least 85 per cent of the total number of days of principal photography or key animation must take place in Ontario; 95 per cent or more of the cost of post-production work for the production must be incurred in Ontario; and at least 75 per cent of the total final costs must be located in the province. Eligibility also depends on the producer contracting with a Canadian broadcaster in Ontario to air the production in prime time or an Ontario distributor to exhibit it cinematically in the province within two years of completion.<sup>42</sup>

On December 14, 2007, the Government of Ontario announced that the tax credit rate would be increased from 30 to 35 per cent, effective January 1, 2008.

**c) Refundable Tax Credit for Quebec Film or Television Production<sup>43</sup>**

The eligible genres of film and television programming are feature films, documentary films, and some magazine-type and variety shows.<sup>44</sup> The credit can be claimed only if the

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<sup>42</sup> See Ontario Media Corporation, Ontario Film and Television Tax Credit (OFTTC) Information/Application Package February 2007.

<sup>43</sup> See Refundable Tax Credit for Quebec film and television production, which is available at [http://www.sodec.gouv.qc.ca/documents/cinema\\_en/mesures/tax\\_prod\\_cinetv/tax\\_filmtv\\_info.pdf](http://www.sodec.gouv.qc.ca/documents/cinema_en/mesures/tax_prod_cinetv/tax_filmtv_info.pdf).

film or program qualifies as Quebec content. The categories of key professionals and their point weight is the same as in the CAVCO system. In contrast to CAVCO certification, Quebec content depends on residency of key professionals in the province on Dec. 31 of the year preceding the year of application. The producer, either the director or the scriptwriter, and at least one of the two leading actors must meet the residency requirement for the production to be Quebec content. Productions that exceed 75 minutes in length must either receive at least 6 of 10 points in the CAVCO system or score a minimum 7 of 10 points with at least 5 of those points earned by professionals who were residents of Quebec on Dec. 31 of the year preceding the year of application<sup>45</sup> and meet provincial spending requirements to be Quebec content.<sup>46</sup> A film that is less than 75 minutes only has to satisfy provincial spending requirements to be a Quebec film. A co-production under an agreement between another country and the Quebec government qualifies for a Quebec refundable credit if at least 75 per cent of the Quebec share of production costs net of financing costs is spent on residents of Quebec.

An eligible production must also have a licence to be broadcast in Quebec by a Canadian broadcaster or a distribution contract to provide cinematic exposure in the province. If the production is not shot in French, the producer must dub it into French in Quebec. Only independent Quebec-based production companies may apply; broadcaster-affiliated production companies are not eligible to receive the Quebec tax credit. The companies must, in addition, be controlled by Quebec residents for two years before photography is completed and exercise creative control over the production. In-house production divisions or related companies of a Canadian broadcaster are not eligible unless approved by the program administrator, SODEC.<sup>47</sup>

The base of the calculation of the tax credit is labour expenditure in Quebec adjusted for some assistance programs. Support from SODEC, CALQ, the Canada Council, the Canadian Independent Film and Video Fund, Telefilm, CTF, and the National Film Board is not subtracted in calculating either eligible labour expenses or production expenses. The tax credit rate is 29.1667 per cent. Eligible labour expenses are capped at 50 per cent of production expenses implying a maximum credit equal to 14.58 per cent of production expenses less assistance. The maximum credit rate rises if the film is a French-language feature or documentary, if Quebec-sourced computer animation technology is used, or the project is filmed in large format. It increases further for productions that spend a

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<sup>44</sup> Recognition of film as Quebec films, Regulation respecting the, R.Q. c. C-18.1, r.0.1.6. Version available as of 2006-11-17 (Last update on CanLII: 2006-11-17). Available at:

<http://www.canlii.org/qc/laws/regu/c-18.1r.0.1.6/20061117/whole.html>.

<sup>45</sup> See Règlement sur la reconnaissance d'un film comme film québécois), available at :

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C\\_18\\_1/C18\\_1R0\\_1\\_6.HTM](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C_18_1/C18_1R0_1_6.HTM).

<sup>46</sup> A minimum of 75 per cent of the production cost net of the remuneration of the producer and professionals earning points must be paid to Quebec residents and a minimum of 75 per cent of total post-production costs including laboratory work must be paid for services provided in province. The spending requirement is waived if a production is shot in 15/70 format films. Expenditures on production services that are not available in the province are excluded from production costs.

<sup>47</sup> SODEC, Refundable Tax Credit for Québec Film and Television Production, updated May, 2006, p. 4; available at:

[http://www.sodec.gouv.qc.ca/documents/cinema\\_en/mesures/tax\\_prod\\_cinetv/tax\\_filmtv\\_info.pdf](http://www.sodec.gouv.qc.ca/documents/cinema_en/mesures/tax_prod_cinetv/tax_filmtv_info.pdf).

minimum of 60 per cent of total expenses outside the Montreal region and are produced by eligible regional producers. The amount of support available to a project is capped at \$2,187,500.<sup>48</sup>

### **3.5 Roles and Responsibilities**

Within PCH, the Film and Video Policy and Programs Directorate, Cultural Affairs Sector, focuses on cultural policy. CAVCO within PCH handles the CPTC certification process, including policy responsibilities with respect to this program. Department of Finance (DoF) is concerned with the tax credit's fiscal integrity effectiveness. CRA processes the corporation's T2 income tax return, reviews and audits CPTC claims and issues the tax credit refund cheques.

The roles and responsibilities of the two main organizations involved in the delivery of the CPTC, i.e., CAVCO and CRA, are described below.

#### **3.5.1 CAVCO**

At an administrative level, CAVCO provides information to applicants to help them comply with the relevant Income Tax Act Regulations, estimates, on request, the base (qualified labour expenses) for the tax credit of a project that appears to be in compliance,<sup>49</sup> protects the privacy of applicants, and recommends issuance of certificates that allow a qualifying producer to claim the credit by filing the certificates, and a completed CRA form T1131, with the production corporation's income tax return for the relevant fiscal year. While CAVCO issues one Canadian film or video production certificate (Part A certificate) and one certificate of completion (Part B certificate) per project (i.e. application), the CPTC is claimed in each fiscal year that eligible labour expenses were incurred.

As well as determining whether a project is Canadian content, CAVCO mentors applicants on tax credit requirements and processes applications. It also consults the industry on proposed changes to the Regulations or guidelines of the CPTC. In 2005, for example, CAVCO provided background information and asked the industry to comment on proposed interpretations of the pending legislation with respect to such matters as copyright ownership, acceptable share of revenues and producer control guidelines.<sup>50</sup> In June 2007, CAVCO released a Public Notice announcing the decisions arrived at with respect to these matters.<sup>51</sup>

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<sup>48</sup> Ibid.

<sup>49</sup> The estimate was required before the 2003 revisions of the CPTC. Since being made optional it is requested "in virtually all cases." Source: Soucy testimony.

<sup>50</sup> Public Notice CAVCO 2005-001.

<sup>51</sup> Public Notice CAVCO 2006-02 8 June 2006 paragraph 26. Some of the decisions on how to proceed have been mentioned in other sections. A question that remained open was the best way to avoid copyright ownership being compromised by contracts that transfer beneficial ownership to other parties.

In her 2005 report, Canada's Auditor General examined CAVCO's procedures and recommended that it:

- Document its business procedures and business risks, establish controls to mitigate those risks, and implement a quality control process,
- Obtain documents supporting the Canadian citizenship or permanent resident declaration for each key creative personnel who participates in an audiovisual production for the first time, and keep this information for future reference.
- Clarify and resolve its differences of opinion with the Canada Revenue Agency on Canadian content audits that the CRA conducted.<sup>52</sup>

CAVCO has implemented several service delivery improvements over the years, including the following:

- Simplification of the application process, such as the elimination of redundant and unnecessary application requirements.
- Conduct of a periodic client satisfaction survey, based on Treasury Board's "common measurement tool."
- Periodic public consultations to obtain input on such issues as: definitions of excluded production genres, producer control guidelines and copyright ownership.
- An online application service strategy has been underway since 2005. Process mapping studies were carried out, which resulted in more efficient application processing. The launch date of the online application system is now targeted for January 2009.

With respect to delays in processing applications, CAVCO's standard has evolved. The current expected processing time of CPTC applications from both domestic and co-production producers is within 8 to 10 weeks from receipt of a complete application barring any non-compliance issues. Applications are being processed more quickly than in the past. The 2005-2006 Activity Report of CAVCO notes that "between 2000-01 and 2005-06, the average processing time for CPTC applications improved by 52 per cent, even as the annual number of applications grew by 48 per cent."<sup>53</sup>

As noted above, CAVCO plans to move to an on-line application system in January 2009. Once implemented, such a system should lead to further reductions in CAVCO processing times, as online systems eliminate errors in applications (the file review found that the manual applications frequently have missing information and calculation errors).

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<sup>52</sup> Report of the Auditor General of Canada to the House of Commons, 22 November 2005 Paragraph 5.80.

<sup>53</sup> CAVCO 2005-06 Activity Report, p. 10.

### 3.5.2 CRA

Like CAVCO, CRA has the responsibility for assisting applicants and protecting their privacy. It reviews, corrects, and enforces through audits the relevant sections of the *Income Tax Act* and associated Regulations. The CRA strives to issue a refund within 60 days unless there is an audit, in which case the target is within 120 days.

Since 2001, the CRA cooperates with CAVCO in the Canadian Content Certification Audit Program to verify claims of meeting Canadian content requirements. CRA performs audits on a subset of files selected by CAVCO. In 2004-2005, three of fifty-nine files audited, or 5%, had their certification revoked.<sup>54</sup>

The Auditor General reported on the CRA's fiscal auditing activity over a longer period in her November 2005 report:

Since 2001–02, the Agency has audited about 60 percent of the 1,100 tax credit claims it receives annually. Following these audits, it reduced the tax credit amounts claimed by about 5 percent each year, representing \$7 million, in addition to other audit adjustments.<sup>55</sup>

In the same report, the Auditor General criticized the relationship between the CRA and CAVCO. PCH and the CRA agreed to improve communication and coordination.<sup>56</sup> In addition, CRA was asked to:

- Examine and document the risks it faces in administering the Canadian Film or Video Production Tax Credit, review its audit strategy accordingly, set up key controls, and document them;
- Create a procedure to review the quality of supervisor decisions; and
- Establish a procedure that would allow it to benefit from the results of analyses done by Telefilm Canada and the Canadian Television Fund that have identified overbilling by producers.

In response, the CRA has implemented a risk management policy for its role in administering the two federal tax credit programs.<sup>57</sup>

## 3.6 Information Sharing

The Auditor General's report also examined the issue of information sharing between the various federal organizations that support film, video and television production. In 1999, following the disclosure of an alleged fraud case involving Cinar, PCH examined the

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<sup>54</sup> CAVCO 2004-05 Activity Report, p. 6.

<sup>55</sup> Auditor General of Canada, Report, Ottawa, November 2005, Chapter 5, para 5.91.

<sup>56</sup> Ibid, Chapter 5, paras 5.77 to 5.80.

<sup>57</sup> Ibid, Chapter 5, paras 5.92 to 5.95.

management practices of the various federal organizations that support film and television production, and recommended that these organizations needed to share their information more freely in order to minimize the risks of abuse. In 2001, PCH, Telefilm Canada, the CTF, the CRTC and CRA set up the “System Council” to discuss this topic, among others.

One barrier to increased information sharing between organizations relates to provisions of the *Income Tax Act* respecting confidentiality of claimants’ information. Bill C-10, before Senate as of January 2008, would, if passed by Parliament, result in changes to Section 241 of the *Income Tax Act* pertaining to the sharing of information by CAVCO about CPTC recipients with other administrators of funding programs. Also, CAVCO would be able to publish a list of companies as well as the titles of productions for which they had received Part A and Part B certificates. The names of the key creative personnel for whom points have been accorded, as well as the total points accorded to productions would also be made available. This type of information is generally available under the terms of other grant and contribution programs that support the cultural industries, and would help to increase the level of transparency of the CPTC program.

### 3.7 The Canadian Production Sector

The *Economic Analysis of the CPTC* report presents an overview of the Canadian film and television production sector. Membership statistics for Canada’s two leading trade bodies for independent production: the CFTPA and Association des producteurs de films et de télévision du Québec (APFTQ) – indicate that there are an estimated 500 independent production companies. Statistics published by Statistics Canada support this estimate: a 2004-05 survey of the industry found that there were a total of 475 production companies operating in Canada that focused on the production of television programs, theatrical films, or were unspecialized in their production activity. Not included among these 475 companies are an additional 213 companies that reported their production focus as advertising, government and education programming, or industrial videos.

Of the 475 production companies that focused on CPTC- and PSTC-type audiovisual programming, 240 companies focused on the production of television programs for licensing to conventional broadcasters and pay television services. A small minority of companies, 22, focussed on production of theatrical movies. A large share, 213, in fact, had no specialization: they produced audiovisual for more than market.

The production industry consists of a large number of independent production companies, many of which do only one project every year or two, as well as a small number of diversified production companies with a couple of dozen employees – which maintain a slate of television and feature film projects across several genres. Statistics from a survey conducted by *Playback* shows just how fragmented the Canadian production industry is.<sup>58</sup> Table 2 provides a list of the leading Canadian production companies. The survey found that Canadian production companies generated a volume of just under \$1.35

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<sup>58</sup> The 2007 Playback survey results are available at:  
<http://www.playbackonline.ca/articles/magazine/20070514/indiecos.html>.

billion<sup>59</sup> during the 2006 calendar year. Only one company, Insight Film Studios (which was interviewed as a case study), reported more than \$100 million in production. Only 5 companies posted more than \$50 million in production; these top five companies accounted \$422 million in production, or 31 per cent of the total. The top ten companies accounted for 46 per cent of total production in 2006. The other 54 per cent of production volume was spread across some 200 other companies that responded to *Playback's* survey.

Among the top 20 production companies in 2006 were four companies that focus on French-language production. Zone3, Sphère Média Plus, Incendo Productions, and Vérité Films combined for just under \$118 million in production volume in 2006.

### **3.8 CPTC Activity**

The following pages provide information on trends relating to CPTC activity and production budgets over the history of the program. Much of the information is drawn from CAVCO's annual activity reports and from the *Economic Analysis of the CPTC* report.

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<sup>59</sup> The total reported in the *Playback* is actually \$1.49 billion. Nordicity adjusted this total to exclude Alliance-Atlantis Communications Inc. expenditures for its popular American television series, *CSI*.

**Table 2****The Top 20 Canadian Production Companies, 2006**

<b>Rank</b>	<b>Name</b>	<b>Volume of television production (\$ millions)</b>	<b>Volume of feature film production (\$ millions)</b>	<b>Volume of service production (\$ millions)</b>	<b>Total volume of production (\$ millions)</b>
1.	Insight Film Studios	93.6	26.8	--	120.4
2.	Blueprint Entertainment	99.4	--	--	99.4
3.	Muse Entertainment Enterprises Inc.	38.5	--	40.0	78.5
4.	Shaftesbury Films	52.9	--	14.4	67.3
5.	Nelvana Enterprises*	57.0	--	--	57.0
6.	DECODE Entertainment Inc.	45.6	--	--	45.6
7.	Zone3	45.5	--	--	45.5
8.	Barna-Alper Productions Inc.	24.9	--	16.0	40.9
9.	Lionsgate Entertainment*	26.1	9.5	--	35.6
10.	Sphère Média Plus	33.5	--	--	33.5
11.	Cookie Jar Entertainment	32.0	--	--	32.0
12.	Nomadic Pictures	10.0	21.2	--	31.2
13.	Breakthrough Films and Television	24.1	--	--	24.1
14.	Epitome Pictures	23.1	--	--	23.1
15.	Infinity Features	--	20.5	--	20.5
16.	Incendo Productions	20.0	--	--	20.0
17.	Chesler/Perlmutter Productions Inc.	--	19.9	--	19.9
18.	Verité Films	18.9	--	--	18.9
19.	Whalley-Abbey Media	18.0	--	--	18.0
20.	Brightlight Pictures	--	17.0	--	17.0
	Total (adjusted**)				1,349.0
	Share - Top 5				31%
	Share - Top 10				46%

Source: Nordicity, *Economic Analysis of the CPTC*, based on the *Playback* 2006 survey.

\* Playback estimates.

\*\* Nordicity adjusted the total to exclude \$142 million in production reported by Alliance-Atlantis Communications Inc. that was attributed to the American television series, *CSI*.

### 3.8.1 Total Production

Between 1994-95 and 2005-06, the CPTC provided a total of \$1.6 billion in tax credits to 9,754 production projects, as shown in Table 3. Overall, these projects had a total of \$17.3 billion in production budgets in Canada.

The number of projects grew steadily between 1994-95 and 2002-03, and has remained relatively static in the subsequent years, although there was a 10 per cent decline in 2005-06.

The annual volume of total production budgets grew quickly following the introduction of the CPTC in 1995. However, starting in 1998-99, the total volume has remained relatively flat (and, in real dollar terms, has declined).

**Table 3**  
**CPTC-Supported Production Activity, 1994-95 to 2005-06**

Fiscal year	Number of projects	Production budgets (\$)	CPTC amounts (\$)	CPTC rate
1994/95	108	93,139,681	6,182,270	6.64%
1995/96	346	569,710,734	46,105,971	8.09%
1996/97	597	1,239,290,602	107,905,409	8.71%
1997/98	565	1,185,813,928	105,922,094	8.93%
1998/99	766	1,728,947,599	160,540,444	9.29%
1999/00	875	1,828,365,447	171,142,878	9.36%
2000/01	959	1,733,379,235	160,542,479	9.26%
2001/02	1,043	1,750,512,719	153,801,524	8.79%
2002/03	1,138	1,828,721,553	161,697,129	8.84%
2003/04	1,132	1,792,761,982	178,179,621	9.94%
2004/05	1,172	1,724,375,384	182,746,132	10.60%
2005/06	1,053	1,797,189,325	185,359,046	10.31%
<b>Total</b>	<b>9,754</b>	<b>17,272,208,189</b>	<b>1,620,124,999</b>	<b>9.38%</b>
Average, 1994/95 to 2002/03	--	--	--	<b>9.00%</b>
Average, 2004/05 to 2005/06	--	--	--	<b>10.45%</b>

Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 19.

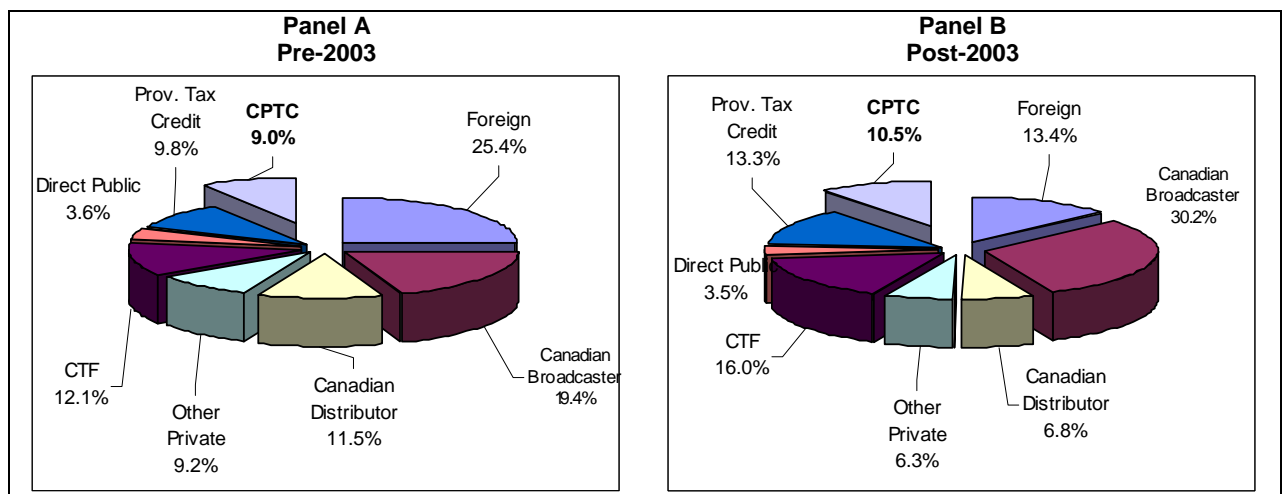
November 2003 marked a significant juncture in the history of the CPTC. Although the tax credit rate did not change, the ceiling was raised on the labour share that was eligible for the tax credit. This change, along with new rules regarding the effect of non-government prescribed persons' equity on tax credit estimates served to raise the effective CPTC rate for supported projects. Between 1994-95 and 2002-03, the CPTC rate ranged from 6.64 per cent to 9.36 per cent, and averaged 9.00 per cent over this period. In the two years following the November 2003 changes, the average CPTC rate increased to 10.45 per cent.

### 3.8.2 Financing Sources

The flat trend in production expenditures masks significant shifts in the sources of financing for Canadian film and television production. As shown in Figure 3, comparing the pre- and post-2003 period, there has been a pronounced shift in financing from foreign and private-sector sources to domestic and public-sector sources. The major changes were as follows:

- The increased role of domestic demand and financing is exemplified by the rise in Canadian broadcasters' financing share – from 19.4 per cent to 30.2 per cent.
- Foreign financing decreased from 25.4 per cent to 13.4 per cent. As noted in the CFTPA's Profile 2007, the annual export value (value of foreign pre-sale financing) of Canadian television programs and theatrical films dropped by some \$400 million between 1999-2000 and 2005-2006.
- Canadian distributor financing (partly a function of foreign demand) decreased from 11.5 per cent to 6.8 per cent.
- Public-sector domestic sources other than the CPTC increased their share of financing from 25.5 per cent to 32.8 per cent.

**Figure 3**  
**Trends in Financing Sources for CPTC-Supported Productions, pre-2003 vs. post-2003**



Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 22.

### 3.8.3 Market Segments

The vast majority (85 per cent) of CPTC-supported production volume over the history of the program was made for primary release in the television market, as shown in Table 4.

**Table 4**  
**CPTC-supported Production Budgets, by Release Market, 1994-1995 to 2005-2006 (\$)**

Fiscal Year	Television	Theatrical	Other	Total
1994/95	74,539,468	18,600,213	0	93,139,681
1995/96	460,085,930	104,800,693	4,824,111	569,710,734
1996/97	1,048,875,019	188,213,272	2,202,311	1,239,290,602
1997/98	936,658,926	242,522,957	6,632,045	1,185,813,928
1998/99	1,515,500,878	205,874,570	7,572,151	1,728,947,599
1999/00	1,587,154,875	228,751,048	12,459,524	1,828,365,447
2000/01	1,500,606,361	225,998,730	6,774,144	1,733,379,235
2001/02	1,513,822,075	231,636,677	5,053,967	1,750,512,719
2002/03	1,521,898,435	295,083,378	11,739,740	1,828,721,553
2003/04	1,433,024,593	332,132,723	27,604,666	1,792,761,982
2004/05	1,522,430,500	178,827,591	23,117,293	1,724,375,384
2005/06	1,472,307,240	313,775,067	11,107,018	1,797,189,325
Total	14,586,904,301	2,566,216,919	119,086,970	17,272,208,189
Percentage of total	84.5%	14.9%	0.7%	100.0%

Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 23.

As shown in Table 5, the CPTC supported a total of 736 theatrical productions between 1994-1995 and 2005-2006. On average, the CPTC accounted for 7.5 per cent of the total financing for these projects, which was lower than the rate for television projects (9.7 per cent). The difference in CPTC financing rates is due to the relative proportions of public assistance for television and theatrical projects. As noted in Table 1, public assistance (other than the CPTC) for Canadian television projects comprises 24 per cent (provincial tax credit of 15 per cent + direct public of 9 per cent = 24 per cent) of total financing. Public assistance for theatrical projects represents 43 per cent (provincial tax credit of 15 per cent + direct public of 28 per cent = 43 per cent). Because the calculation of the CPTC claim requires the producer to deduct public assistance from production costs when calculating net production costs, higher levels of public assistance drive down the base upon which producers can apply the 60 per cent labour-share cap. In effect, the higher level of public assistance within theatrical budgets lowers the production-cost and qualified-labour-expenditure base upon which the CPTC rate of 25 per cent is applied; and pushes down the effective CPTC assistance rate when compared to television production.

**Table 5**  
**CPTC Funding and Rates, by Release Market, 1994-1995 to 2005-2006 (\$)**

	Television	Theatrical	Other	Total
Number of projects	8,922	736	96	9,754
Production budget (\$)	14,586,904,301	2,566,216,919	119,086,970	17,272,208,189
CPTC amount (\$)	1,416,330,189	191,673,405	12,121,406	1,620,124,999
CPTC rate, 1994/95 to 2005/06	9.7%	7.5%	10.2%	9.4%
CPTC rate, 1994/95 to 2002/03	9.2%	7.6%	9.7%	9.0%
CPTC rate, 2004/05 to 2005/06	11.0%	7.3%	10.4%	10.5%

Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 23.

The CPTC rate for theatrical productions declined slightly following the November 2003 changes: from an average of 7.6 per cent for 1994-1995 to 2002-2003, to 7.3 per cent for 2004-2005 to 2005-2006. This may have been due to an increase in the amount of public assistance available to theatrical projects via the CFFF that took place around the same time as the CPTC changes. While the November 2003 CPTC changes did eliminate the equity grind associated with non-government prescribed persons' equity, it did not remove the adjustment associated with public equity, which is now treated as assistance within the financing structure.

### **3.8.4 Language of Production**

The vast majority, 73.3 per cent, of CPTC-supported production volume (i.e., production expenditures) over the years was attributable to the English language market, as shown in Table 6. In recent years, Canada's French-language production sector has steadily increased its share of total production volume, rising from 19 per cent in 1999-2000 to 28 per cent in 2005-2006.<sup>60</sup>

<sup>60</sup> CAVCO 2005-06 Activity Report, p. 22.

**Table 6****CPTC-Supported Production Expenditures\*, by Language, 1994-1995 to 2005-2006 (\$)**

<b>Fiscal year</b>	<b>English</b>	<b>French</b>	<b>Bilingual and other languages</b>	<b>Total</b>
1994/95	45,161,564	47,978,117	0	93,139,681
1995/96	333,392,650	236,318,084	0	569,710,734
1996/97	958,706,675	275,002,049	5,581,878	1,239,290,602
1997/98	930,675,979	237,705,423	17,432,526	1,185,813,928
1998/99	1,416,803,893	289,672,258	22,471,448	1,728,947,599
1999/00	1,431,003,218	340,188,957	57,173,272	1,828,365,447
2000/01	1,272,258,863	330,517,814	130,602,558	1,733,379,235
2001/02	1,246,203,737	413,235,375	91,073,607	1,750,512,719
2002/03	1,326,189,317	432,479,855	70,052,381	1,828,721,553
2003/04	1,234,878,769	465,883,297	91,999,916	1,792,761,982
2004/05	1,207,002,447	471,495,592	45,877,345	1,724,375,384
2005/06	1,250,221,110	505,479,658	41,488,557	1,797,189,325
<b>Total</b>	<b>12,652,498,222</b>	<b>4,045,956,479</b>	<b>573,753,488</b>	<b>17,272,208,189</b>
Percentage of total	73.3%	23.4%	3.3%	100.0%

Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 25.

\* Estimates based on budgets submitted with applications.

## 4. Findings

This section presents the findings of the evaluation study, which are presented for each of the following evaluation issues and questions:

### ***Rationale and Relevance***

- 1) Is the CPTC consistent with Government of Canada priorities and PCH's strategic and cultural objectives and expected outcomes?
- 2) Are the CPTC's stated objectives and its purpose well defined and appropriate?
- 3) Is there a continued need for the federal government to support the Canadian film and video production industry?

### ***Success/Impacts***<sup>61</sup>

- 4) What difference has the CPTC made with respect to:
  - a. Canadian programming and the development of an active domestic independent production sector; and,
  - b. A more stable financing environment and longer-term corporate development for production companies?
- 5) Have there been any unexpected (positive or negative) impacts of the CPTC?

### ***Cost-Effectiveness/Alternatives***

- 6) Are the most appropriate and efficient means being used to achieve the government's objectives relative to alternative design and delivery approaches?
- 7) Does the CPTC complement, duplicate or overlap other federal and provincial support programs and, if so, how?
- 8) Is PCH the most appropriate organization to manage the CPTC or should it be transferred to another federal, provincial or private sector organization?

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<sup>61</sup> A third success/impacts issue ("to what extent has the CPTC contributed to achieving the Department's other cultural objectives and expected outcomes") was included in the Terms of Reference, but could not be examined by the evaluation study, as explained in Sections 1.2 and 2.3.

## 4.1 Rationale and Relevance

### 4.1.1 *Is the CPTC consistent with Government of Canada and departmental objectives?*

As described in Section 3, the primary objective of the CPTC is to encourage the production of Canadian programming and an active independent production sector. Support for the independent production sector is formally enshrined in the *Broadcasting Act*, which specifies that “the programming provided by the Canadian broadcasting system ... should include a significant contribution from the Canadian independent production sector.”<sup>62</sup>

The CRTC requires that broadcasters obtain at least 75 per cent of their priority programming from the independent production sector. [Interestingly, some key informants from the larger integrated media companies challenged this requirement. This issue is discussed further in Section 4.1.2.]

Turning to the question of whether the CPTC “belongs” within the Department of Canadian Heritage, the CPTC is formally situated within the PCH Program Activity Architecture (PAA), which was approved by Treasury Board. The PAA is currently undergoing modifications.

In the existing PAA (2005-2008), the CPTC is listed under Strategic Outcome #1: “*Canadians express and share their diverse cultural experiences with each other and the world.*” (This Strategic Outcome is included in the program logic model, presented in Figure 1 in Section 3). The CPTC is logically linked to this Strategic Outcome, since the CPTC support requires the producer to contract with a Canadian broadcaster or distributor to air or exhibit the program to Canadian audiences within two years of the completion of production. This addressed a major deficiency of the previous CCA tax shelter mechanism, i.e., that few films were getting made and reaching Canadian audiences.

At the organizational (sector) level within PCH, the objective of the sector is “*the creation/production of Canadian cultural content*”, with the “*strengthening of the film and television industry*” as an expected result.

The importance of the production of Canadian programming goal is regularly supported by Government announcements. For example, recent speeches by the Minister of Canadian Heritage have re-affirmed the importance of this government objective.

At the September 2007 release screening of the film *Shake Hands With the Devil*, the Minister described the importance of supporting cultural content:

Canada’s New Government believes in the importance of culture and keeping it Canadian. We need to see our own history, our own values, our own experiences and our own faces reflected in our art, theatre, literature, and film and television productions.

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<sup>62</sup> Section 3.(1) (i) of the *Broadcasting Act*, available at: <http://laws.justice.gc.ca/en/ShowFullDoc/cs/B-9.01///en>.

We recognize the significant cultural and economic contribution that film makes to our society, and we are committed to supporting our filmmakers in their efforts to build larger audiences, both at home and abroad.

Our government is proud to support the development of Canada's feature film industry...<sup>63</sup>

At the November 2007 convention of the Canadian Association of Broadcasters, the Minister stated that Canadian programming is the foundation of a strong broadcasting system and a strong production sector.<sup>64</sup>

At the CFTPA's "Prime Time" conference in February 2008, the Minister introduced the importance of ensuring that Canadian content reaches Canadians in the rapidly expanding multi-platform world:

Your industry is important to Canada and to Canadians. It contributes to our rich cultural life, helps craft our national identity, and is a valuable driver for our economy ...

In today's digital environment, the old ways of doing business won't work any more. New platforms and evolving consumption habits are fundamentally transforming your sector...

In an open, global, and multi-platform world, success at reaching Canadians with Canadian content is the single most important objective. Content is the main reason for our Government's support...

The Government of Canada provides significant support to content creation with several programs, such as the Canadian Film and Video Production Tax Credit, the Canadian Television Fund, the Canada New Media Fund, or the Canada Feature Film Fund. We will continue to provide support, but will do so by adapting to the changing technological and business environment.<sup>65</sup>

**Summary: Is the CPTC aligned with Government and departmental objectives?** – *The primary objective of the CPTC is to support the production of Canadian content and an active independent production sector. This objective also is formally enshrined in the Broadcasting Act. This CPTC objective is aligned with the overall strategic outcome of the Department of Canadian Heritage, to ensure that Canadians have access to diverse cultural content.*

#### **4.1.2 Are the CPTC's stated objectives and purpose well-defined?**

Most key informants were knowledgeable of the history of the CPTC as well as the previous Capital Cost Allowance (CCA) mechanism. They were familiar with the two "formal" CPTC

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<sup>63</sup> Available at: [http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2007/verner/2007-09-26\\_e.cfm](http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2007/verner/2007-09-26_e.cfm).

<sup>64</sup> Available at: [http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2007/verner/2007-11-06\\_e.cfm](http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2007/verner/2007-11-06_e.cfm).

<sup>65</sup> Available at: [http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2008/verner/2008-02-20\\_e.cfm](http://www.canadianheritage.gc.ca/pc-ch/discours-speeches/2008/verner/2008-02-20_e.cfm).

objectives: 1) support the production of Canadian programming and an active independent production sector; and 2) encourage longer-term corporate development for production companies.

All key informants who were familiar with the subject of production financing agreed that once the CPTC was introduced in the mid-1990s, it quickly became an integral and important component of the financing of a film or television production – thus confirming the importance of this aspect of the CPTC’s rationale. As evidence, many noted that following introduction of the CPTC, Telefilm immediately began requiring that the federal tax credit be listed as a source of financing in the production budget. This set the precedent, and it quickly became standard practice for all productions financed by various funding bodies, both public and private. For example, it was reported that today the CBC requires up to 90 per cent of tax credits to be included in the financial structure of a production. One long-time producer summarized the views of all producers: *“The tax credit is baked into the economics of film and television productions.”* Many informants were quick to emphasize, recognizing that the tax credits are a standard component of a production’s financing structure, that this is completely logical, and noted that the same experience has occurred in other countries.

Turning to the second CPTC objective, key informants had a variety of perspectives regarding whether the CPTC could conceivably have led to increased corporate development on the part of Canadian production companies. Several commented that the term “corporate development” is a fuzzy concept that has never been clearly defined. Many tended to define it as growth in the revenues, profitability and retained earnings of production companies. As discussed in Section 3, the concept was not defined in the original news release or in the 2003 RMAF. According to individuals interviewed who were involved in the design of the CPTC, the original thinking apparently was that the tax credit would not be part of production financing, and that the tax refund, received after completion of the production and submission of the corporate tax return to CRA, would provide a cash “bonus” that could be used in a variety of ways. One option would be to help develop future film/television productions: a mark of a well-developed, mature production company would be the ability to carry out multiple productions simultaneously. Another would be to re-invest the funds back into the company, to build the company’s corporate functions (e.g., marketing, finance, training, etc.). Instead, what happened, as noted above, is that the tax credit immediately became integrated into the financing structure for most productions. Some key informants noted that, for productions with a high level of cultural content, the only usual buyers are the domestic broadcasters and the potential for international pre-sales is very limited. Thus, because of the lack of financing sources, the tax credit is commonly incorporated into the financial structure of the production. They argued that, without the CPTC, many of these projects would not be financially viable.

In response to this issue, some other government programs have set a rule to keep a percentage of the tax credit outside the financial structure of a production. For example, key informants in Quebec noted that the provincial tax credit program administered by SODEC requires that 10 per cent of the provincial tax credit must be kept outside of the financial structure. This was reported to have had a positive impact on the financial health of producers in that province. Similarly, it was reported that the CTF had made a policy change to require that a maximum of 90 per cent of

the federal and provincial tax credits can be included in the financial structure of the production. It was also noted that a recommendation of the report made by the June 2007 CRTC Task Force on the CTF is that 50 per cent of the CPTC should remain outside of the financial structure. In its July 2007 response, the CTF noted, however, that if this recommendation were to be implemented, the effect, assuming no increase in other funding sources, would be a reduced number of productions (thus reducing the effectiveness of the CPTC).<sup>66</sup> The National Film Board (NFB) stated that it no longer requires the CPTC to be included in the production's financial structure for NFB co-productions with Canadian production companies. Some key informants called on the Government to legislate a similar requirement for all productions supported by the CPTC. Whether the CPTC should institute such a regulation would require further research. As noted above, while the program had an objective of corporate development (according to the original news release), it is not clear from the design of the program how this was to be accomplished. This is a gap in the program's rationale and logic.

Surprisingly, the program logic model presented earlier in Section 3 (Figure 1) does not contain an outcome pertaining to "corporate development", even though it was listed as a central objective in the original news release. The model does include the term "stable financing environment" but it is not clear from the model how this was to be achieved. A review of historical documents provided by CAVCO indicates that the phrase "stable financing environment" was simply a reference to the fact that the CCA tax shelters did not result in much funding going to producers. As discussed later in this section, the CPTC has certainly accomplished this objective, given it is available to all productions that qualify.

An issue raised in the literature is whether the CPTC is an industrial development program or a cultural program. This issue was examined in the work of the Standing Committee of Canadian Heritage that led to its 2005 report on a new feature film policy. In discussing this issue during one of the hearings, the perspective of PCH officials was that the CPTC is an "industrial cultural program." It was argued that since it is given in the form of a labour tax credit, it does have an industrial quality, but the use of the points system means that Canadian content has to be demonstrated. In contrast, the PSTC was stated to be strictly an industrial program, as it is designed to employ Canadian labour and entice foreign production companies to shoot in Canada.

An issue raised by a few producers concerning the rationale of the program is the use of the CPTC by independent producers versus production companies affiliated with broadcasters. Some independent producers who had provided input into the design of the CPTC in the mid-1990s commented that the CPTC was originally intended to support the independent production industry. This view is supported by the original CPTC news release. They suspected, however, that broadcasters (particularly specialty broadcasters) have made extensive use of the CPTC via their affiliated production companies.

As noted in Section 3, the original news release stated that eligible production companies affiliated to broadcasters would have access to the CPTC, but the broadcaster would be expected

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<sup>66</sup> Canadian Television Fund, *Response to the CRTC Task Force Report on the Canadian Television Fund Broadcasting Notice 2007-70*, July 27, 2007, p. 15.

to respect historical patterns of purchasing programming from the independent sector. As explained in the accompanying statement from the Minister, this was to prevent the CPTC from becoming an unfair advantage to broadcaster-affiliated production companies. The statement also indicated that private broadcasters were expected to maintain their level of support in Telefilm-financed productions. The Minister expressed his intent to ask the CRTC and Telefilm Canada to monitor and hold to account private broadcasters in this regard. We are not aware of any subsequent public reporting on this issue.

The Department of Finance statistical study of the CPTC (described in Section 3) for the six years 2001 to 2005 reports the actual incidence of support for broadcaster-affiliated producers. The study found that broadcaster-affiliated productions have received a very small share of the tax credit over the years, and that this share has declined over time:

Only a small number of productions that received the credit were broadcaster affiliated. Overall, the CPTC allocated \$43 million (4%) to broadcaster-affiliated productions over the six year period. The share of credit claimed by broadcaster-affiliated companies has been steadily declining – sliding from the 2001 high of \$13 million to \$4 million in 2005.<sup>67</sup>

The DoF study classified a CPTC-supported production as broadcaster-affiliated if the broadcaster had a controlling interest (50 per cent +), directly or indirectly, in a corporation that had received a tax credit. Other organizations (i.e., CAVCO, CRTC, SODEC, etc.) have different definitions. This issue would require further study because no definitive data is available regarding the extent to which broadcasters are benefiting from the CPTC.

From another perspective, whether integrated corporate media groups source their Canadian programming from independents or from affiliated production companies may not be an important policy issue. Given the CPTC is intended to contribute to the PCH ultimate strategic objective of ensuring Canadian films and television programs are seen by Canadians and the world, what difference does it make if the program originated from an independent company or a large corporate integrated media group? A representative of one of the integrated media companies interviewed was not in favour of the CRTC rule that an in-house broadcaster cannot purchase more than 25 per cent of its programming from its in-house production arm. This company stated that if the Government wants to support the development of large integrated media companies (similar to the successful US companies, such as Disney), then this rule should be rescinded. This issue likely will be debated as part of the upcoming CRTC review of conventional television broadcaster licences originally scheduled to begin in November 2007 but postponed to the fall of 2008.

At the provincial level, some provinces have established constraints on the participation of broadcasting companies. In Ontario, subsidiaries of broadcasting, cable or satellite broadcasting distribution companies are eligible if they are not the initial Canadian broadcaster of the production. In Quebec, the applying company cannot have been controlled directly, indirectly or in any way whatsoever by a CRTC-licensed broadcaster, unless approved by SODEC (the administrator). British Columbia has no restrictions.

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<sup>67</sup> Department of Finance, *The Canadian Film or Video Production Tax Credit: Descriptive Statistics*.

**Summary: Are the CPTC's stated objectives and purpose well defined?** *The CPTC was well designed to lead to increased production activity, since the CPTC quickly became an integral part of production financing. The CPTC had corporate development as one of its objectives, but the mechanism by which this goal was to be achieved was not clear. The program's RMAF and logic model are not entirely consistent with the original news release that provided the Government's objectives for the CPTC; for example, they do not describe the "corporate development" objective and the mechanism by which it was to be achieved. In conclusion, part of the CPTC's purpose was well defined (i.e., to support the production of Canadian programming) but the link between this objective and corporate development was not developed.*

#### **4.1.3 Is there a continued need for the federal government to support the Canadian film and television production industry via the CPTC?**

As described earlier, the main purpose of the tax credit is to support the production of Canadian programming, so that Canadians can share their diverse cultural experiences with each other and with the world.

In responding to a question about whether there is still a need for the federal government to provide funding support via the CPTC, key informants and the case study companies were unanimous in stating that the CPTC and the provincial tax credits are critically important elements of production financing. As will be discussed in detail in section 4.2.1, had the tax credits not have been available, they stated that fewer productions would have been made. Note that producers view the CPTC and the associated provincial tax credit as a single package on each production and were unable to separate out the effects of each program.

Several reasons were given for stating that the CPTC is still required. Together, the CPTC and the corresponding provincial tax credit typically account for 25 per cent to 30 per cent of the total cost of the production—a significant portion. For domestic productions with a high level of Canadian cultural content, e.g., a television series sold to the CBC, there are limited "back-end" international sales, and therefore the share of financing provided by the tax credits could not be replaced by other sources of financing. Several producers emphasized the importance of the CPTC in generating international production deals. For productions intended for international markets, e.g., television mini-series and movies-of-the week (MOWs) sold to US cable networks, producers emphasized that the tax credits are pencilled in first and are essential in order to convince the US network to invest in the production. (Indeed, one large producer showed the interviewer his notebook containing details on various productions and their financing structures, and the tax credits were always the first items listed in the financing plan.)

Producers emphasized that had the CPTC (and the provincial tax credits) not been available, then the impact would have been significant. For example, one medium-sized producer stated that his company would be about one-third smaller. Another large producer simply stated that he would not be in the business of making productions, and would have pursued another line of business. An animation producer stated that, in the absence of the CPTC, his company would have moved all of their productions to China, due to the very low labour costs in that country and the high use of computers in the production process. Two key informants estimated that had the CPTC not

been in place, the film and television industry today would consist of thirty per cent fewer companies.

A related question is: if the funding that is currently provided via the CPTC were instead provided via a different type of program, would the level of impact on production be different? This question is examined later (Section 4.3). One of the main advantages of the tax credit model from the industry's perspective is that the decision on what to produce is made by those in the industry who have the most information about its market value, as opposed to discretionary grant and contribution programs, where appropriation constraints, application requirements and subjectivity are integral parts of the government process. The tax credit approach is asserted to be particularly important for international production deals: producers emphasized that the tax credits are pencilled in first and are essential in order to convince the foreign broadcaster to invest in the production.

**Summary: Is there a continued need for the CPTC?** – *If the CPTC did not exist, there likely would be fewer Canadian productions, as the financing provided by the CPTC through its entitlement process could not effectively be replaced in many cases. Producers were unanimous in stating that the CPTC, together with the provincial tax credits, are critical to the survival of the Canadian production industry.*

## **4.2 Success/Impacts**

This section outlines the findings of the evaluation on the CPTC's success in achieving its two central objectives (as specified in the study TOR): 1) Support the production of Canadian programming; and 2) Encourage the longer-term corporate development of production companies.

### **4.2.1 Impacts on Canadian programming and development of an active domestic independent sector**

As described in Section 3, the key objective of the CPTC was to “encourage Canadian programming.” The evaluation study assessed the success of the program in this area via several lines of inquiry.

In approaching the investigation of the impacts of a particular program, an evaluator attempts to assess the *incrementality* of the introduction of the government program. In the case of the CPTC, the goal was to assess the incremental impact on the production of Canadian programming. This is defined as the difference between the level of production that occurred compared to the level of production that would have occurred in the absence of the tax credit. As outlined in Section 2, in order to investigate this issue, PCH commissioned a separate economic analysis study of the CPTC, which was carried out by Nordicity Group Ltd.<sup>68</sup>

As the report describes, an ideal analysis of the incrementality of the CPTC would identify a treatment and a control group existing before and after the introduction of the CPTC in 1995, and

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<sup>68</sup> Nordicity Group Ltd., *Economic Analysis of the CPTC*.

then compare the levels of production activity within each group, before and after the introduction of the program to determine if the level of production activity in terms of total annual number of projects and expenditures did indeed increase. The study team was prevented from employing this ideal approach because of the absence of suitable data.

In light of this data challenge, Nordicity developed an alternative analysis that was more generalized in its approach. Instead of analysing the impact of the introduction of the CPTC *per se* on the number and volume of productions, the alternative approach analyzed the effect that an increase in film and video tax credit rates, in general, had on production in the English-language television market. While this approach was not ideal, it did allow the study team to design a quasi-experimental approach based on the type of data available. Note that Nordicity's approach did not, in fact, allow the study team to examine the impact of the tax credit on the annual number of Canadian film and television projects produced. Furthermore, it did not permit the study team to investigate the impact of the CPTC in the French-language market.

The framework that governed the Economic Analysis study is as follows. To be successful, an increase in tax credit assistance for film and television production should lead to a higher level of spending on each production. As noted above, this is the essence of incrementality in the context of the CPTC or any other tax credit program: the degree to which it can stimulate production in excess of what would have occurred in the absence of tax credit assistance. If one assumes that other forms of public assistance for production remain unchanged in response to any increase in tax credit assistance, then the only way for overall production activity to remain unchanged following the increase in assistance, would be for private-sector financing to decrease. As such, one test of incrementality is through analysis of the degree to which an increase in tax credit assistance led to the "crowding out" of private financing on budgets for film and television production.

Nordicity developed an econometric model to investigate the impact that higher tax credit assistance had on private financing levels for CPTC projects. The model was designed to test the hypothesis that an increase in tax credit assistance has no effect on private financing of film and television production budgets. The alternative situation in which the credit does reduce private financing is referred to as crowding out. (Where the tax credit leads to an increase in private financing, the situation can be referred to as crowding in.)

The generalized approach allowed the study team to design a quasi-experimental analysis that exploited provincial variations over time in combined (i.e., federal and provincial) tax credit assistance rates.

The provincial variations arose from a set of changes to the federal and provincial programs in recent years:

- In November 2003, the federal government made several changes to the CPTC (described in Section 3 of the present report) that resulted in an increase in the effective tax credit assistance for many types of film and video production.

- Just prior to the November 2003 changes to the CPTC, the Government of Quebec reduced its tax credit rate by 12.5 per cent and applied a cap to tax credit claims. These changes in Quebec are important because they neutralized, to some degree, the changes to the CPTC. As a result, the overall tax credit assistance rate in Quebec did not increase in an appreciable way.
- In January 2005, the governments in Ontario and British Columbia implemented changes to their film and video tax credit programs that saw the statutory tax credit rates in each province rise from 20 per cent to 30 per cent of eligible expenditures. These simultaneous and identical policy reforms form the basis for the provincial variation used in this analysis.

Table 7 shows the annual average tax credit assistance for English-language CPTC projects in Ontario, British Columbia and Quebec. The rates in Ontario do climb gradually between 1996-1997 and 2005-2006, but there is a clear jump in the tax credit assistance rates following the January 2005 policy reforms. In Quebec, however, there is very little variation in the rates throughout the entire period.

**Table 7**  
**Combined tax credit assistance rates for English-language CPTC projects in Ontario, British Columbia and Quebec, 1996-97 to 2005-06**

	Ontario	British Columbia	Quebec (English projects only)
1996/97	0.1140	0.0674	0.2263
1997/98	0.1264	0.0793	0.2243
1998/99	0.1435	0.1360	0.2273
1999/00	0.1489	0.1433	0.2292
2000/01	0.1678	0.1462	0.2348
2001/02	0.1652	0.1501	0.2430
2002/03	0.1701	0.1599	0.2478
2003/04	<b>0.2046</b>	<b>0.1803</b>	0.2418
2004/05	<b>0.2315</b>	<b>0.2097</b>	0.2459
2005/06	<b>0.2646</b>	<b>0.2217</b>	0.2490

Source: Nordicity Group Ltd., *Economic Analysis of the CPTC*, p. 47.

The noticeable variation in Ontario and British Columbia, and the lack of variation in Quebec provided the basis for the design of the econometric model. A control group was defined that comprised English-language projects in Quebec. The treatment group was defined as projects produced in Ontario and British Columbia. The latter were exposed to the policy reform; in this case, the increase in effective tax credit assistance rates resulting largely from the January 2005 increases to the statutory tax credit assistance rates.

The study employed a “difference-in-difference” econometric model to isolate the effect of the provincial tax credit reforms on private sector financing for film and television production budgets in the sample. This model enabled the analyst to control for the effect of time trends on

the control and treatment groups; it also controlled for any time-invariant differences that might have existed between the control and treatment groups.

For the details on the design of the econometric model and the results of the analysis, the reader is encouraged to refer to the *Economic Analysis* report.

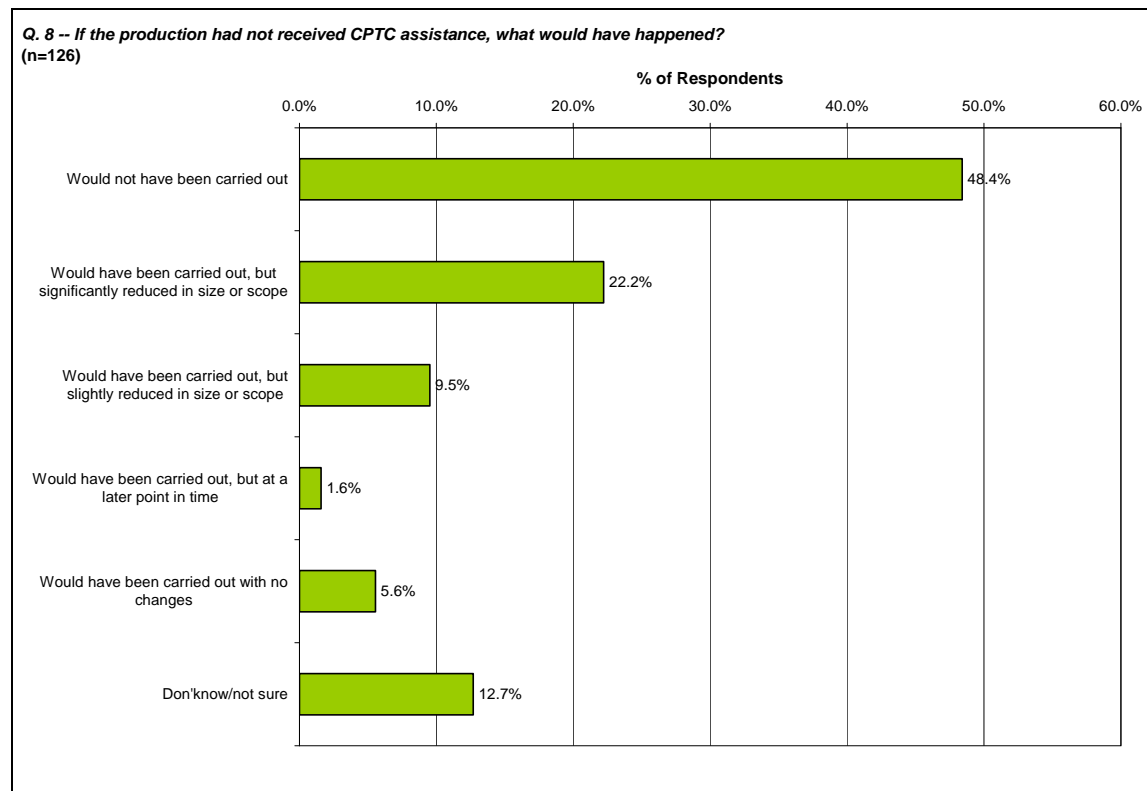
The results of the model indicate that the policy exposure had no impact – positive or negative – on levels of private financing in CPTC project budgets. That is, the estimation provided by the econometric model provided no evidence of crowding out (or crowding in) of private financing for production budgets following exposure to the increase in tax credit assistance. Thus the model provided no basis to reject the null hypothesis that the tax credit assistance had no effect on private financing for film and television production budgets. The study concluded that there was no evidence of crowding out and, therefore, that there was an incremental increase in the size of English-language television budgets in the treatment group following the increase in tax credit assistance. From this result, the Nordicity study team inferred that overall production activity was indeed higher following the increase in the tax credit.

While the results of the *Economic Analysis* study point to tax credit assistance as not leading to any crowding out of private financing, the authors noted that the results should be approached with caution. This is due to the fact it was not possible to construct an experimental design for testing the impact of the introduction of the CPTC in 1995.

As noted above, in addition to the *Economic Analysis* study, other data collection methods also investigated the issue of the incremental impacts of the CPTC on the production of Canadian programming.

The survey of CPTC recipients included a question about the incremental impact of the program on productions. Each producer was asked about a particular production that had received CPTC support, and was posed the following question: “*If the production had not received CPTC assistance, what would have happened to this production?*” The results are summarized in Figure 4.

**Figure 4**  
**Incremental Impact of CPTC on Productions (survey results)**

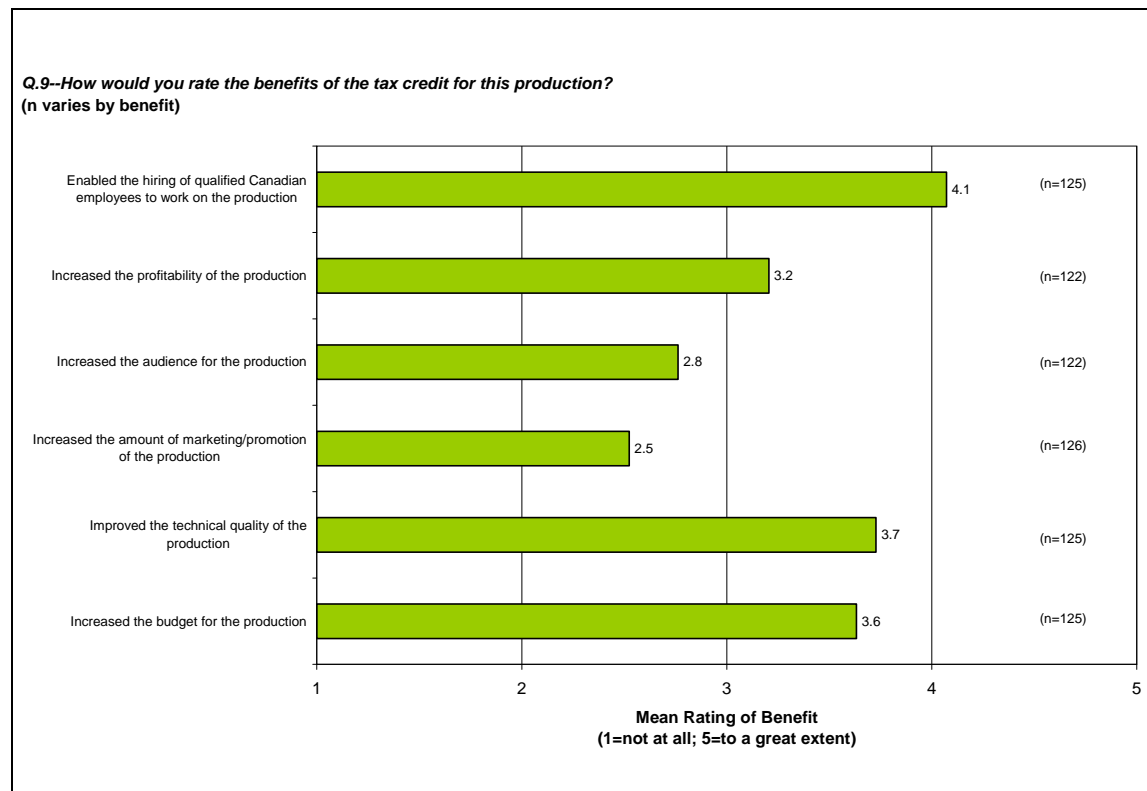


About one-half (48 per cent) of recipients stated that their projects would not have been carried out at all in the absence of the CPTC tax credit. Another 22 per cent stated that the project would have been carried out, but significantly reduced in scope. Only 6 per cent stated that the project would have been carried out with no changes. Overall, the survey findings suggest that the CPTC has had a significant incremental impact on the number of Canadian productions.

The producers interviewed via the case studies and key informant interviews were unanimous in stating that the CPTC and the provincial tax credits have had an incremental impact on the number of productions over the years. Producers view the CPTC and the associated provincial tax credit as a single package on each production and were unable to separate out the effects of each program.

The survey also asked a question about the benefits of the CPTC on the particular production selected for the survey. The results are shown in Figure 5. The main benefits of the CPTC were, in order: 1) Enabled the hiring of qualified Canadian employees to work on the production; 2) Improved the technical quality of the production; and, 3) Increased the budget for the production. These highly-rated benefits were confirmed by the key informant interviews and case studies and make intuitive sense. The CPTC is structured to encourage producers to employ Canadians in the key creative and technical positions. Producers emphasized that the CPTC has had a positive impact on the technical quality of productions. Regarding budgets, if the CPTC had not been available, it would be difficult to replace this source of financing.

**Figure 5**  
**Benefits of the CPTC on the Production (survey results)**



**Summary: Impacts on production of Canadian programming** – *The results of the Economic Analysis study provided no basis to reject the null hypothesis that the tax credit assistance had no effect on private financing for film and television production budgets. In other words, the study concluded that there was no evidence of “crowding out,” and, therefore, there was an incremental increase in the size of English language production budgets in the treatment group following the increase in tax credit assistance. The issue of incremental impacts was also examined via the key informant interviews, survey of CPTC recipients and case studies. This ancillary evidence supports the view that the CPTC has had an incremental impact on the production of Canadian programming.*

#### **4.2.2 Impacts on corporate development**

The evaluation study also examined the success of the program in achieving the objective of “encouraging longer-term corporate development for production companies, rather than focus simply on single project financing.”

Originally, the *Economic Analysis* study intended to assess the impacts of the CPTC on corporate development by analyzing trends in companies’ operating and financial data. Positive trends in

such variables as revenues, profitability, retained earnings and shareholders' equity would provide evidence that a company is developing into a larger enterprise.

The *Economic Analysis* study team had envisioned a longitudinal analysis of financial statement data as the primary methodology for measuring corporate development among CPTC recipients. The study planned to use CRA Business Numbers (BNs) as a basis for linking data on CPTC recipients to financial statistics available from Statistics Canada. Using these linked databases, the study planned to measure how exposure to the CPTC affected a variety of financial statement indicators, which would be measures of corporate development. Three categories of indicators were identified: income, employment and compensation, and balance sheet.

The study team intended to source the income, employment and compensation indicators from Statistics Canada; it intended to source the balance-sheet indicators from CRA's General Index of Financial Information (GIFI). The analysis would have compared the performance of CPTC recipients on the basis of the above indicators to the performance of other Canadian film and video production companies and other companies in the information and cultural industries during the 1997-to-2004 period.

However, this analysis was not possible for several reasons. First, the GIFI only provided data back to 2000; furthermore, it did not permit the study team to separate financial data for production activities of large media companies. This weakness of the GIFI effectively ruled out any analysis of balance-sheet indicators; Statistics Canada could not provide a substitute data source.

The Statistics Canada data also presented limitations. An investigation of the BN linking by Statistics Canada revealed that there was only limited overlap between the CPTC-recipient data from CRA and Statistics Canada's own database of financial-statement data. On the basis of the BN, Statistics Canada could not establish suitable coverage of CPTC recipients. While a more exhaustive investigation may ultimately point to suitable coverage, the linkage and data tabulation exercise could not be completed during the study's schedule.

Due to the above data limitations, another line of pursuit was required. As part of the summative evaluation, a sample of producers was interviewed, via the key informant interviews and case studies of a sample of producers. Interestingly, many interviewees were aware that corporate development was a key objective of the program. They stated that, at the time of its introduction in the mid-1990s, they believed that the goal was to build several large Canadian production companies. Interviewees were of the general view that this goal had not been met. While a number of companies had grown over the decade following the introduction of the CPTC, some of them no longer existed, and the largest Canadian production company, Alliance Atlantis Communications Corporation, exited the production business in 2003. On the other hand, some informants pointed out that the film and television production industry continues to expand, and there are many successful smaller and medium-size players. [As described in Section 3,

*Playback's* survey of independent Canadian companies' production for 2006 indicates that 17 companies had annual production volumes of \$20M or more.<sup>69]</sup>

The larger producers interviewed generally stated that the tax credits had played an important role in the development of their companies. As described earlier, a producer usually sets up a special purpose entity for each production, and certain costs (e.g., corporate overhead and producer's fees) are allocated by the parent company to the prodco as direct costs of production. As a needed source of financing that is both predictable and bankable, the CPTC has aided in securing financing for more production projects than would have been produced in its absence. The larger number of productions results in economies of scale for the parent company, thus helping to reduce corporate overhead and providing synergies in production. Given a volume of several productions annually, the total contribution to general corporate development was reported to be significant for several of the larger companies interviewed.

The smaller producers (i.e., those making one or a few productions annually), however, explained that most productions break even or make a slight profit; as one such producer noted, "*it is difficult to build a company based on content.*" In the case of a CTF-financed television production (high Canadian cultural content) intended for Canadian broadcasters, the producer has little opportunity to generate revenues from back-end sales. In the case of a theatrical feature film, once the exhibitor takes its share of box office receipts (typically 50 per cent) and the distributor recoups its investment, there may be no surplus remaining from which the producer can recoup his investment. A few key informants mentioned the financial results for one of the highest-grossing Canadian feature films of all time, *Bon Cop Bad Cop*. The producers stated in a presentation made at the *Prime Time* conference in 2007 that this film did not make a profit at the box office.<sup>70</sup> While subsequent sales and rentals of the film may have pushed this film into the black (although no public data are available), the challenges of achieving a return on investment are clearly demonstrated by this example.

One smaller producer stated that he attempts to keep a portion of the tax credit outside of the production financing, so that the tax refund cheque can tide the company over ("pay the bills") until the next production is underway. This reinforces the common view that many Canadian producers work from "project to project."

Another potential factor contributing to the large number of smaller Canadian production companies is that, for most productions, the producer's income is derived from his fees, i.e., his share of the budget of a production. For example, in the case of a theatrical feature film with a \$6M budget, the total of B+C could be in the range of \$4.5M, and the producer's share might be 20 per cent, or \$900K. Assuming the producer completes one film every 18 months or so, this makes for a "good living" – even for producers who are not able to expand to a larger size. As discussed earlier in Section 4.1.2, some producers recommended that the CPTC set a rule to keep a percentage of the tax credit outside the financial structure of a production, which is a

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<sup>69</sup> Playback, "19<sup>th</sup> Annual Report on Independent Production," May 14, 2007; available at: <http://www.playbackonline.ca/articles/magazine/20070514/indiecos.html>.

<sup>70</sup> The financial results for the film *Bon Cop, Bad Cop* were presented at the 2007 CFTPA Prime Time Conference. The film was reported to have grossed \$12.4 million and a loss of \$130,937.

feature of the Quebec tax credit program, for example. The pros and cons of such a rule would require further research.

The interviews and case studies indicated that as a company has existed for some years and has built up a library of several film and television products, it becomes more interested in managing the library. A business model of interest to several producers was to acquire (or sell) titles. In the television sector, the growth in the number of specialty channels in Canada and the United States has created a high demand for content. For example, one producer stated that a television title can generate \$10K to \$15K per year in licensing revenues, requiring minimal selling costs. Even old titles can generate significant revenues after many years. The U.S. market was viewed as more profitable compared to the market for worldwide rights, due to the higher selling costs for the latter (e.g., attendance at the major international TV markets is expensive). [Note that our interviews were conducted before the Canadian dollar achieved parity with and then exceeded the value of the US dollar.]

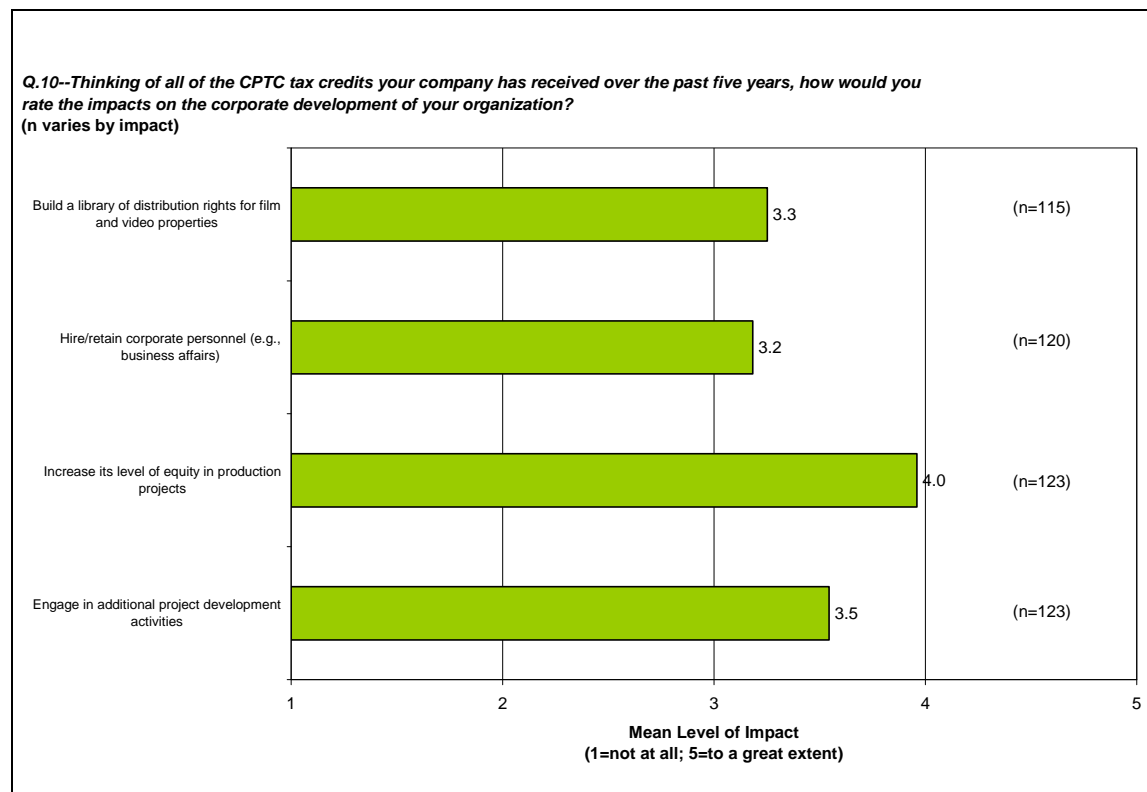
The survey of CPTC recipients also asked a question about the impacts of the CPTC on corporate development. Respondents were asked to rate the cumulative impacts of all of their CPTC-supported projects over the past five years along a number of dimensions. The mean ratings for the specified impacts are shown in Figure 6; the main findings are as follows:

- **Increase the level of equity in production projects** – This impact was the highest rated, with a mean of 4.0 out of 5, and 51 per cent of respondents rated the impact of the CPTC to “a great extent” (the maximum of 5 on the rating scale). This result is not surprising: within the financing structure of a project, any tax credit financing is deemed to be producer equity.
- **Engage in additional project development activities** – This was the second highest-rated impact, with a mean rating of 3.5 out of 5. Some 56 per cent of respondents rated this impact as 4 or 5 on the rating scale, with 29 per cent reporting that the impact was weak (1 or 2 on the scale).
- **Build a library of distribution rights for film and video production** – The mean rating was 3.3 out of 5. Some 41 per cent of respondents reported that the CPTC had a strong impact (4 or 5 on the rating scale), but another 28 per cent reported a weak impact.
- **Hire/retain additional corporate personnel** – The mean rating was 3.2 out of 5, with some 47 per cent of respondents stating that the CPTC has had a strong impact. Approximately 35 per cent reported that the CPTC has had a weak impact; 22 per cent reported that it has had no impact at all. This was the lowest rated impact of the four categories.

As part of the survey analysis, these ratings on corporate development were analyzed by size of company (measured by number of employees) and whether the company had an international scope as opposed to strictly a domestic scope. The impact of the CPTC on corporate development appears to vary according to the size of the production company. A higher

proportion of large production companies reported strong impacts on each of the four indicators of corporate development. Similarly, production companies with an international scope were also more likely to experience a strong impact from the CPTC on their ability to increase their equity in projects and to build distribution libraries.

**Figure 6**  
**Impacts of CPTC on Corporate Development (survey results)**



**Summary: Impacts on corporate development** – One of the objectives of the CPTC was to “encourage longer-term corporate development for production companies, rather than focus solely on project financing.” The original intent, while not clearly stated in program documentation, apparently was for the tax credit to be received by the production company following completion of the production and filing of the corporate tax return, so that it could be used to develop future projects or be re-invested in the company. However, in most cases the tax credit is an integral component of the financing of a particular production and is interim financed via a bank loan. The Economic Analysis study was not able to assess trends in various quantitative measures of corporate development (e.g., balance sheet measures), due to a lack of data. The summative evaluation investigated this issue via the key informant interviews and case studies. The CPTC likely has had some effect on corporate development as a result of increased production activity, but the more direct link that program designers apparently intended does not appear to have occurred.

### **4.2.3 Unintended Impacts**

Some unintended impacts of the CPTC are outlined below.

A positive impact of the CPTC as reported by key informants is that it has helped build a solid financial infrastructure that supports the Canadian production sector. Many producers mentioned the emergence of several banks that specialize in the entertainment industry along with many financial services professionals, including accounting firms and specialists in assisting producers in applying for tax credits and other forms of government assistance.

A negative impact of the CPTC is that it has helped to create a fragmented production industry and a dependency on government support, whereby many Canadian production companies rely time and time again on the CPTC and other government programs in order to finance their productions. This was viewed by a few key informants as an unfortunate situation, particular given the industry's strengths, including its world-class technological infrastructure. However, some producers noted that it is difficult to penetrate international markets; for example, several European countries have encouraged domestic productions, which has reduced imports and co-productions with Canada.

Several key informants stated that the federal tax credit has indirectly supported broadcasters, as they believe that broadcasters have reduced their share of production financing over time, since once the program was introduced, they required that the tax credit be incorporated into the production financing structure. For example, one Ontario producer had examined his many productions over the past two decades, comparing the financing sources in the pre-CPTC and post-CPTC eras. He found that prior to the CPTC, broadcaster licence fees accounted for 33 per cent of the financing; today it is 22 per cent.

The analysis of CPTC-supported production financing presented earlier in Section 3.8.2 showed that Canadian broadcasters have actually increased their financing share of CPTC-supported productions over time. The Economic Analysis report examined trends in broadcaster licence fees for various CPTC-supported genres. Fiction production accounted for just over one-half of total CPTC-supported production between 1994-1995 and 2005-2006.<sup>71</sup> The analysis found that broadcasters did, in fact, substantially reduce their licence fees for CPTC-supported fiction production following the 1999 Television Policy. In the first year following enactment of the policy, conventional broadcasters reduced their licence fees by 29 per cent, and it was not until 2004-2005 that licence fees recovered to match their 1999-2000 level. In 2005-2006 licence fees rose sharply, due to expenditure requirements associated with a major merger in the broadcasting industry. In conclusion, due to the significant variation in licence fee expenditures over the years, it is possible that any one producer might have experienced a decline in support from broadcasters.

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<sup>71</sup> Nordicity Group Ltd., *Economic Analysis of the CPTC*, pp. 28-30.

**Summary: Unintended impacts** – *Only a couple of unintended impacts were identified. The CPTC has helped to build a solid financial infrastructure supporting the Canadian production industry. Some key informants believe that the CPTC had helped to create fragmented production industry that is dependent on government support. Some key informants also stated that the federal tax credit has indirectly supported broadcasters, as they believe that broadcasters have reduced their share of production financing over time. However, available data suggests that this is not an industry-wide trend.*

## 4.3 Cost-Effectiveness and Alternatives

The final set of evaluation issues and questions are as follows:

Are the most appropriate and efficient means being used to achieve the government's objectives relative to alternative design and delivery approaches:

- What is the administrative efficiency of the CPTC?
- Are there any program design issues?
- Are there any program delivery issues?
- What are the approaches taken by other countries to support their film and television industries?
- What are the alternatives to the tax credit model?
- Is sufficient performance measurement information available for the CPTC?

Does the CPTC complement, duplicate or overlap other federal and provincial support programs and, if so, how?

Is PCH the most appropriate organization to manage the CPTC or could it be transferred to another federal, provincial or private sector organization?

### 4.3.1 Administrative Efficiency

This section provides information on the costs of delivering the program, which covers the administrative costs of CAVCO and the costs incurred by recipients in accessing the tax credit.

#### a) CPTC Administrative Costs

Table 8 summarizes the costs incurred by CAVCO and CRA in administering the CPTC for the period 2001-2002 to 2005-2006.

The CAVCO administrative costs are “full” costs, i.e., they include salaries, O&M and an overhead allocation. In accordance with the TBS policy on user fees and the *User Fee Act*, CAVCO reports to Parliament annually on its costs and revenues from user fees via the PCH *Departmental Performance Report*. The CRA costs include the costs of personnel and O&M only.

The CPTC administrative cost ratio (administrative costs divided by the value of CPTC claims) is an average of 2.4 per cent for the five-year period. This is a low administrative cost ratio compared to other PCH grant and contribution programs in the cultural industries (and low compared to the administrative costs for grant and contribution programs generally<sup>72</sup>). The administrative cost ratios for four other programs in the cultural industries in 2005-2006 were as follows:

- Canadian Feature Film Fund, administered by Telefilm Canada: 10.0 per cent.<sup>73</sup>
- Canadian Television Fund, administered by the CTF: 5.8 per cent.<sup>74</sup>
- Canada New Media Fund, administered by Telefilm Canada: 14.0 per cent.<sup>75</sup>
- Canada Music Fund, administered by PCH and third-party administrators: 15.0 per cent.<sup>76</sup>

This subject is discussed further in the section on alternatives to the CPTC.

**Table 8: CPTC Administration Costs, 2001-2002 to 2005-2006 (\$'000)**

	2001-02	2002-03	2003-04	2004-05	2005-06
CAVCO Costs	1,868	2,183	2,300	2,476	2,677
CRA Costs	1,529	1,732	1,974	2,027	2,001
<b>Total Admin. Costs</b>	<b>3,397</b>	<b>3,915</b>	<b>4,274</b>	<b>4,503</b>	<b>4,678</b>
Value of CPTC claims	153,801	161,697	178,180	182,746	185,359
<b>Admin. Costs as a % of CPTC claims</b>	<b>2.21</b>	<b>2.42</b>	<b>2.40</b>	<b>2.46</b>	<b>2.52</b>

Source: CAVCO and CRA

<sup>72</sup> Looking at the federal government as a whole, the 2006 Blue Ribbon Panel report on federal grant and contribution programs (“*From Red Tape to Clear Results*”) estimated that the federal personnel costs of administering some \$26.9 billion of grant and contribution programs was at least 5 per cent of the total, or \$1.5 billion; see <http://www.brp-gde.ca/en/report.cfm>, p. 4.

<sup>73</sup> Telefilm Canada, *2006-07 Annual Report*, p. 67.

<sup>74</sup> Canadian Television Fund, *Annual Report 2005-06*, p. 6.

<sup>75</sup> Telefilm Canada, *2006-07 Annual Report*, p. 67.

<sup>76</sup> Department of Canadian Heritage, *Evaluation of the Canada Music Fund*, prepared by Kelly Sears Consulting Group, August 30, 2007.

## b) Application Costs Incurred by Recipients

One of the central goals of the evaluation was to estimate the costs incurred by production companies in applying to CAVCO for the CPTC. Information was obtained via the survey of CPTC recipients, the case studies and key informant interviews (which included some production companies).

The survey of CPTC recipients contained a series of questions pertaining to the costs of applying to CAVCO for the CPTC (Appendix C contains the survey questionnaire). They were first asked whether their CAVCO applications were prepared in-house, through an outside company or both. A series of questions then generated data on these application costs, including employee benefits and on external costs. The results are summarized in Table 9.

Most applications (83 of the 126, or 66 per cent) were prepared in-house and these applications were the least costly. Outside companies prepared 10 of the 126 applications in the survey sample and 33 applicants used both internal and external resources. These 33 applications, generally from the large firms in the sample, were the most costly, at about \$15,000 per application. Larger firms will generally be associated with larger productions and larger tax credits. This larger scale means that more dedicated staff are required and more legal and accounting personnel will be involved with the preparation of the applications.

The overall weighted average cost per application for the 126 companies was \$6,365. The average production budget for all CPTC-supported productions was approximately \$1.71 million in 2005-2006, and the average tax credit claim was \$176,030. Therefore this application cost of \$6,365 equates to about 0.37 per cent of the average production budget and 3.62 per cent of the average tax credit claim.

Note that this application cost incurred by producers does not include the CAVCO user fee charge (discussed further below).

**Table 9**  
**Costs Incurred by Producers in Accessing the CPTC**

	<b>Number of responses</b>	<b>Average Cost</b>
Prepared in-house	83	\$2,471
Outside company prepared application	10	\$9,761
Used both in-house and outside resources	33	\$15,131
<b>Weighted mean</b>	126	\$6,365

Source: Survey of CPTC recipients.

The interviews with producers provided additional insights into the costs incurred in applying to CAVCO. Larger companies have in-house departments that handle applications to all of the federal and provincial tax credit programs as well as the many available grant and contribution programs (both public and private). Smaller companies sometimes hire outside specialists to prepare all of their applications (including the “long forms”) to the federal and provincial tax credit programs, as well as other public (e.g., CTF, Telefilm) and private programs (e.g., Rogers, Harold Greenberg). For these smaller companies, the application costs were reported to be in the range of \$2,500 to \$5,000 per production.

In addition to the costs incurred in applying to CAVCO, producers incur a variety of other related costs in order to ultimately receive the tax credit from CRA.

For example, in order to obtain interim financing, the bank requires an opinion (comfort letter) on the estimated tax credit prepared by an accountant. Producers noted that banks require this opinion to ensure that the production does not go offside with respect to the CPTC eligibility requirements (particularly with respect to ensuring the foreign spend does not exceed 25 per cent of total production costs). The typical cost to the producer to obtain the comfort letter was reported by several producers to be in the range of \$1,500 to \$1,600.

Once the production is completed, an accountant must prepare an audited statement of production costs, which is required by CAVCO for larger productions.<sup>77</sup> Audited statements may also be required by other financing sources (e.g., Telefilm). The accountant also prepares the corporate tax return for the single purpose production entity (“prodco”). It was estimated that accountants charge about \$10,000 for all of these services. [A few survey respondents suggested that CAVCO raise the threshold for a formal audit, which would reduce the costs incurred for smaller productions.]

The CAVCO application fee levy was amended on April 1, 2004 following consultation with the national producers’ associations. The Minister of Canadian Heritage approved the current fee structure, which is set at 0.15 per cent of the eligible cost of a production for a Part A application; 0.15 per cent of the eligible cost of the production for a Part B application; and, 0.30 per cent of the eligible cost of the production for a combined Part A/B application.

CAVCO operates on a full cost-recovery basis and it stated that its cost recovery practices are in accordance with Treasury Board’s cost recovery policy.

Most producers (but not all) stated that the CAVCO costs are not significant, particularly when compared to the value of the production budget. This view was supported by the survey of producers. When asked (Q. 18) whether they had any comments regarding CPTC application costs, the vast majority (83 per cent) of respondents had no comments. A small percentage (9 per cent) stated that the costs were “expensive” or “the fees were too high.”

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<sup>77</sup> An audited schedule of production costs is required for productions with a final cost of \$500K or more. For productions with a final cost under \$200K, an original notarized Affidavit is required. For productions with a final cost from \$200,000 to \$499,999, a Review Engagement Report is required. The latter two options are less costly for the producer.

A few key informants who stated that the CAVCO costs are too high noted that CPTC applications for television series with multiple episodes have large budgets (e.g., \$10M or more), which results in significant CAVCO fees. For example, for a \$10M budget, the CAVCO fees could be a maximum of \$30,000 for the Part A and Part B certifications (the actual fee depends on the amount of other assistance, which reduces the qualified labour expenditures and thus the CAVCO fee). Producers believe that the amount of effort devoted by CAVCO to these applications is not commensurate with the fees charged, since only one budget is provided (covering all episodes) and the Canadian content is often identical or very similar for all episodes. CAVCO stated, however, that its analysis of applications for series television often demands a high level of labour-intensive work, especially on those with larger budgets and which utilize foreign personnel. Although a single application is made for a cycle of a series, each episode must be analyzed and qualify for the CPTC on its own merits.

Another factor affecting the perception towards CAVCO's fees is that producers also apply for provincial tax credits, and some stated that the fees are lower. For example, in BC, the fee is the greater of 0.05 per cent of production costs and \$200, plus \$200 for a preliminary eligibility certificate. Ontario has a similar formula: the greater of 0.06 per cent of the production budget and \$100 (maximum of \$5,000). The fee in Quebec is \$1.75 per \$1,000 of Quebec production costs; the minimum fee is \$100 and the maximum fee is \$25,000. There is no application fee in Alberta, Saskatchewan, Manitoba and New Brunswick.

However, comparisons in user fees between programs are affected by several factors. CAVCO operates on a full cost-recovery basis while some of the provincial administrators do not, as they receive government budget allocations. Also, the base for the calculation of user fees differs from program to program: for example, the CPTC and Nova Scotia use eligible production costs (which are lower), while BC, Ontario and Quebec use total production costs.

To take an example, consider a \$5 million dollar production by an Ontario producer. The administration fee for the Ontario Film and Television Tax Credit would be \$3,000 (\$5 million x 0.06 per cent). For the CPTC, suppose this production had an eligible production cost of \$2.5 million. The fee for the CPTC (combined Part A and Part B application) would be \$7,500 (\$2.5 million x 0.30 per cent).

A couple of key informants commented that CAVCO's application fees are actually too low, and should be increased (to add resources in order to speed up processing). However, other producers noted that it was critical to maintain a high level of integrity in the system (particularly given the bad reputation garnered by the previous tax shelter system), and that CAVCO should not increase service efficiency at the expense of due diligence.

Note that there are significant other costs incurred by producers in setting up a prodco, e.g., legal fees are in the range of \$1,500, but producers noted that these prodcos would be required in the absence of the tax credit, due to liability concerns (e.g., possible lawsuits from actors regarding residuals). (Interestingly, one major Canadian production company stated that it does not set up a prodco for each production, preferring to submit one corporate tax return covering all of its productions, which reduces its administration costs). Producers also noted the significant

administrative fees charged by banks to set up the interim financing loan (the subject of interim financing is discussed later in this report).

**Summary: Administrative efficiency** – *The administrative cost ratio for the CPTC was about 2.4 per cent over the 2001-2002 to 2005-2006 period, which is low compared to the cost of administering federal grant and contribution programs. On average, producers estimated that they incur costs of about \$6,365 per production in applying to CAVCO for the CPTC (about 0.37 per cent of the average total production budget and 3.62 per cent of the average tax credit claim). Although this figure may under-estimate actual application costs, these costs still appear small relative to budgets. The majority of producers did not raise any major concerns about the costs incurred in applying to CAVCO for CPTC certifications.*

#### **4.3.2 Program Design**

The main findings regarding the overall design of the CPTC are described below.

##### **a) The CPTC's design is viewed by stakeholders as having numerous strengths**

The basic elements of the CPTC's design are highly respected by the industry. Many key informants emphasized that the CPTC is "predictable and bankable." Several Canadian producers were very familiar with the programs available in many US states and in other countries, and noted that some of them are not bankable, as the jurisdiction states in the application that the tax credit is not guaranteed (which affects the likelihood of obtaining interim financing from a bank).

Many key informants stated that the CPTC is well understood throughout the industry. In contrast to many other government programs that tend to become more cumbersome over time, CAVCO has streamlined its process over the years.

A well-developed infrastructure has emerged to support producers, including a large number of accounting firms as well as companies that handle the application process (with all financing sources, both public and private).

The involvement of two federal departments, PCH and CRA, in administering the program provides a system with inherent checks and balances, and the system is viewed as having a high degree of integrity. Other financing sources, including the provincial funding programs and the private sources (e.g., Rogers) automatically recognize the CPTC.

Several key informants stated that the risk to the Government has traditionally been very low, i.e., very few tax credit applications have been found to be fraudulent and in the vast majority of cases, the CRA audits result in relatively minor adjustments.

Many key informants stated that the Canadian model has been copied around the world – a testimony to its design. More than forty US states have established tax credit programs.

Another perceived strength of the CPTC is that it is not capped, i.e., there is no upper limit to the total value of tax credits claimed in a particular year. This is in contrast to programs in other jurisdictions (New York State was frequently mentioned) that have a cap.<sup>78</sup> As discussed later, key informants were comfortable with the tax credit model compared to various alternatives, such as a grant rebate program (used by Alberta) which, in times of high demand, requires the administering agency to borrow against future years' budgets. The issue of possible alternatives to the CPTC is discussed in detail later.

Most key informants were supportive of the copyright rules incorporated in the CPTC, i.e., the fact that the producer must retain copyright for 25 years. Some did note that this timeframe is based on the model for motion pictures, which is less applicable to television shows, which tend to have a shorter shelf-life.

#### **b) The cost of interim/bridge financing is a concern to producers**

Most producers, both small and large, indicated that in order to begin production of a particular film or television program, they obtain a loan from a bank (or other financial intermediary, such as a private equity firm). As outlined in Section 3, a film or television project is similar to a construction project: the lender advances funds to the borrower as the project progresses. The reason for requiring interim financing is that producers immediately incur significant costs, and most do not have the internal equity with which to be able to fund these expenses. Even some of the largest production companies rely on interim financing; the exception being some of the larger integrated media conglomerates, where the parent loans operating capital to the prodco. For a production involving Telefilm or CTF financing, both organizations operate on a "draw down" basis, i.e., they advance funds at certain stages of the production cycle.

For producers with a track record, the bank typically lends anywhere from 30 to 50 per cent of the total budget and from 75 to 90 per cent of the value of the expected tax credit, with the higher percentage for companies with a track record with their banks. The borrowing rate is typically prime plus one or two per cent (but can be higher). For a large production, e.g., a \$13 M television series, the interest charges on just the tax credit portion of the loan over 18 to 24 months can reach \$100K or more. The CFTPA stated that about 5 per cent of the average production budget is devoted to interim financing charges.

Producers often stated, "*the tax credit is the last piece of financing to come in*" – i.e., the tax refund cheque from CRA is the final payment to arrive, and the producer continues to pay interest charges on the tax credit portion of the bank loan.

Producers emphasized that timing of the loan is critical. Because banks have a rigorous due diligence process, which includes the requirement for approval from a credit committee, sometimes the producer is not able to obtain the financing in time. Some private equity firms (such as Aver in Toronto) have entered the market, responding to this timing issue. Having

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<sup>78</sup> The Empire State Film Production Tax Credit has a cap of \$60 million (and an additional \$30 million is allocated by New York City), which is distributed on a first-come, first-served basis. If either amount is exceeded, applicants "roll over" into the next funding cycle. For further details, see: <http://www.nylovesfilm.com/tax/>.

secured the financing upfront can save the producer money, e.g., better rates can be negotiated for renting studio time.

A major issue raised by producers concerning the CPTC is the high cost of this interim (bridge) financing of the tax credit, due to the substantial elapsed time between the date the production starts and the date that the tax refund from CRA is ultimately received. Note that a variety of factors may delay the receipt of Part A certification from CAVCO, including incomplete applications (discussed in Section 4.3.5). Similarly, a delay in receipt of the tax refund from CRA could be affected by incomplete returns, compliance issues, etc.

Note that the requirement to borrow existed in the pre-CPTC, tax shelter days. However, financial intermediaries would often provide 10 per cent of the financing up front. The result is clear: the need for producers to obtain interim financing results in significant interest charges and administrative fees, which are built into the production budget and thus reduce the amount of the budget devoted to the production itself.

For large corporations producing dozens of productions each year, delays in receiving the tax refund can have significant impact on the financial position of the corporation, since the expected tax refund is considered as a receivable and the corporation's debt levels can rise to considerable levels. In the case of a public company, this could have a negative impact on its share price.

Interestingly, a few of the larger production companies have negotiated an arrangement with CRA to obtain "pre-assessment refunds," whereby CRA will process the tax return prior to completing its audit of the tax credit claim. Under this arrangement, CRA pays out 75 per cent of the tax refund on a pre-assessed basis. Once the audit is subsequently completed, the remaining 25 per cent balance is paid out, subject to any adjustments. It was reported, however, that this pre-assessment refund provision is not well known in the industry.

The CRA noted that the *Income Tax Act* (sub-paragraph 164(1)(a)(ii)) contains a provision that allows CRA to pay pre-assessment refunds. The use of this provision is discretionary to the CRA. Its policy is to generally apply this provision for large qualified corporations with a good claim history, where the audit has commenced and is expected to go beyond the 120 day target, and where the claimant is experiencing cash flow difficulties.

Several producers referred to the process in the province of Ontario, whereby up to 85 percent of the estimated tax refund will be paid within six weeks from the time the tax return is submitted, so that the audit is not a pre-requisite for issuing the refund. Any adjustments to the tax return are made when issuing the final refund for the 15 per cent balance. Ontario introduced this service commitment in 2003 due to a serious backlog in applications at one time. However, it was noted that this service commitment provision is not incorporated in legislation (it is specified only in the service guidelines), and thus might be vulnerable to being removed. Another factor is that an agreement has been reached between CRA and the Ontario Ministry of Finance, whereby CRA will take over the administration of Ontario corporate returns in 2009. CRA presumably will want to harmonize the processing for both federal and Ontario tax returns.

Given the importance of the interim financing issue to producers, some possible solutions were discussed with producers.

One option would be for CRA to adopt the Ontario government approach outlined above. The downside, from CRA's perspective, is that this would increase CRA's costs (and perhaps processing times), as two assessments would be required for each production (the pre-refund self-assessment and the final assessment of the corporate tax return). And, as noted above, given CRA will be administering Ontario corporate returns in 2009, presumably CRA will establish a single process for both federal and provincial returns.

A second option would be for the federal government to set up its own fund whereby loans would be issued to producers at the time the Part A certification is accepted. Telefilm was identified as a potential home for such a fund, given its role in equity financing. However, this option received lukewarm support from key informants, the main reason being that the federal government should not be duplicating services already available from the private sector (the issue is not the lack of availability of financing; the issue is that the tax credit is built into the production financing and producers must borrow against it).

A third option would be for CRA to advance a certain percentage of the tax credit (e.g., the suggestions ranged from 25 per cent to 75 per cent) at an early stage but after Part A of the CAVCO process has been submitted, e.g. upon commencement of principal photography. Producers suggested that this approach could be taken for producers with a track record with CRA, e.g., two years of submitting corporate tax returns with no major issues. They believe that the risk for the CRA would be very low, for several reasons. First, given principal photography has commenced, the financing is in place. Second, in order to obtain interim financing from a bank, the producer must obtain a comfort letter from an accounting firm, which provides an estimate of the expected tax credit amount. And the banks interviewed indicated that they do considerable due diligence on each loan. Third, history has shown there is a very low level of known fraud with the program, i.e., the final audited costs are very close to the audited production cost statement submitted to PCH when applying for the Part B certification.

Producers stated that a suitable form of guarantee could be furnished to CRA should the final assessment disallow certain costs.

Regarding the downside of this option, there would be a number of factors to consider. Since the Government would be forwarding the tax refund monies sooner, there would be an opportunity cost to the Government in terms of foregone interest income. There could also be higher administrative costs on the part of CRA. A potential risk is that should a particular producer owe money to the Crown following the CRA audit, it might prove difficult for CRA to collect (e.g., instances where the producer has gone bankrupt, has left the country or the corporation simply has no financial assets). However the form of guarantee could be such that comfort could be achieved all around.<sup>79</sup> In order to facilitate this mechanism for the pre-payment of the tax credit,

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<sup>79</sup> Comfort could be achieved in a variety of ways, e.g., 1) The bank could subordinate its position up to the value of the tax credit to CRA, pending clearance through audit; 2) The prodco could grant CRA a security interest in the

an amendment to the *Income Tax Act* would be necessary in order to give CRA the authority to issue payments based on both the submitted budget for the Part A certificate and the form of guarantee. For those corporations with a proven track record of filing T-2 corporate tax returns and compliance, should the Government be willing, there should not be any risk of accommodation. For new and start up companies there would be more difficulty and greater reluctance to pre-pay. The reason for the difficulty would be primarily associated with the fact that tax programs generally run off expended dollars, whereas this approach would be based on budgets and anticipated spending. As such payments by CRA would in most circumstances exceed expended dollars on qualifying film and video.

In summary, further examination by the Government of these options is warranted.

### **c) The Canadian content points system**

The Canadian content points system has been examined by several previous studies of the broadcasting and production sectors. The findings of some of these previous studies are presented, followed by the views of key informants consulted during the evaluation study.

A newcomer to the study of Canadian cultural policy might assume (incorrectly) that the Canadian content points system considers the Canadian content of the programs being considered for support. As a few key informants noted, “*a more accurate name would be the Canadian labour-content points system.*” Indeed, one concern raised in the literature with the CAVCO (and CRTC) systems is that they do not consider the actual *content* of a program or film in classifying whether it is or is not Canadian. (The federal government toolkit of support for film and video production in Canada includes discretionary funding by Telefilm and the CTF whose mandates are based on content.)

The Standing Committee on Canadian Heritage in its 2003 study of Canadian broadcasting in the 21<sup>st</sup> century promoted pursuit of “programs that are not only made-in-Canada but also made-for-Canada.”<sup>80</sup> In testimony before the same committee two years after that report, Robert Soucy, the Director of CAVCO, and Jean-François Bernier, the Director General of Film, Video and Sound Recording at Canadian Heritage emphasized that “made-for-Canada” plays no part in the existing system of determining Canadian content for the CPTC. They stated that the tax credit is based not on the actual content of the production, but on the people who create the work.<sup>81</sup>

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copyright until CRA completes its audit; or, 3) CRA could require an independent auditor’s certification and/or due diligence report by the bank before issuing a specified percentage of the auditor’s certified report of expenses.

<sup>80</sup> Standing Committee on Canadian Heritage, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, Ottawa June 2003, Chapter 1, p. 6. Two years later, the same Committee’s report on the feature film industry: *Scripts, Screens and Audiences: A New Feature Film Policy for the 21st Century*, Ottawa, November 2005, advocated that “(e)xisting Canadian content definitions for feature film production should be modified to more closely resemble the criteria used for Canada’s book publishing and sound recording industries.” p. 101.

<sup>81</sup> Standing Committee on Canadian Heritage, Evidence, 24 February 2005, p. 8

Later in the same hearings, Bev Oda, a member of the Committee at the time and subsequently Minister of Canadian Heritage stated that she was struggling with how the program is achieving a cultural objective. She then asked rhetorically whether she was correct in understanding that if Canadians create the content, then “whatever is Canadian about you” will come through in your work.<sup>82</sup>

The issue of whether the tax credit program should support cultural content was not directly addressed in the Government’s response to the Standing Committee report. Instead, the response stated that the focus would be on improving CAVCO’s efficiency, and also make the CPTC a “more efficient instrument to support the production of Canadian content.”<sup>83</sup>

An earlier study focused exclusively on the subject of Canadian content. PCH solicited opinions from stakeholders on how to amend and reform the Canadian content system in its call for submissions on “Canadian Content in the 21st Century” (March 2002).

The appeal for submissions included a set of suggested questions designed to focus but not restrict the responses.<sup>84</sup> One question asked whether the Canadian Television Fund’s approach of taking into account whether a program or film was “visibly Canadian” as a factor influencing funding decisions should be included in determining Canadian content. Those who addressed the issue were “virtually unanimous” in recommending that any future Canadian content definition not adopt this approach.<sup>85</sup> Almost without exception respondents favoured a system that was objective, simple and predictable. ACTRA’s position was representative of the consensus opinion that the citizenship of the makers imparted national sensitivity to a program or film:

A Canadian program is one conceived, written, performed, directed and produced entirely by Canadians – such a program will look and feel Canadian, regardless of what the story is about, or where it is set.<sup>86</sup>

Today, the view of the Government appears to be that the definition of Canadian content is defined primarily by who is making it and where it is made.

Key informants consulted during the evaluation covered some of the ground examined by the above earlier studies.

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<sup>82</sup> Ibid, p. 8.

<sup>83</sup> Department of Canadian Heritage, *Reinforcing our Cultural Sovereignty – Setting Priorities for the Canadian Broadcasting System, Second Response to the Report of the Standing Committee on Canadian Heritage*, 2005, p. 11.

<sup>84</sup> For example: “How should a revised Canadian Content system establish an appropriate balance between different perspectives (e.g., developing Canadian cultural stories, fostering new talent, building industrial capacity, increasing domestic market shares and maximizing international market potential)?”

<sup>85</sup> Macerola, François, *Canadian Content in the 21<sup>st</sup> Century in Film and Television Productions: A Matter of Cultural Identity*, Canadian Heritage, June, 2003, (Later referred to as the Macerola report). The phrase in quotation marks and the indented statement are on p. 106. Available at: [http://www.pch.gc.ca/progs/ac-ca/progs/cc21c/telefilm\\_e.cfm](http://www.pch.gc.ca/progs/ac-ca/progs/cc21c/telefilm_e.cfm).

<sup>86</sup> Ibid, Annex B, p. 105.

Some stated that the points system had been in place for many years and was doing what it was supposed to do, i.e., ensuring that Canadians are employed in the key creative positions. And they advised that it would be very difficult to achieve consensus on the design of a replacement system.

A few key informants stated that the system should consider the content of the production. For example, some suggested that a production with a high level of Canadian cultural content should receive the maximum CPTC rate (perhaps higher than the current rate). However, any attempt to incorporate a subjective assessment of Canadian cultural content likely would not be well received by producers, as it would detract from the strengths of the current tax credit assessment process. This is in addition to the practical problem of trying to develop a quantitative measure of Canadian cultural content.

A few key informants recommended a graded Canadian content system that would reward productions that employed more Canadians in the key creative positions. Such a system has been proposed by various interest groups over the years. For example, Crescent Entertainment, a small BC producer made a submission to the PCH Canadian content study.<sup>87</sup> Its proposal stated that support from the CPTC would be conditional on the points received between 6 and 10. A 6-point project would earn 20 per cent on eligible labour expenses (up to the cap of 60% of production expenses). The rate would rise by 2.5 per cent for each additional point and peak at 30 per cent for a 10-point production. Such a system could be designed to be cost-neutral in terms of tax expenditures by the Government. The Independent Production Fund suggested a similar system.<sup>88</sup> A much more complex reward system was developed in the Macerola Report, but was never implemented. The Government noted that in consultations conducted following publication of the report, no consensus could be reached on either the need for or a better way to revise the existing points system.<sup>89</sup>

Finally, one of the animation producers interviewed commented that the points system could be tweaked to better reflect trends in the technology used for animation productions. For example, currently one Canadian content point is allotted to a camera operator, which applies to the traditional “pen and paper” production method but not to modern computerized animation technologies. This issue was also discussed as part of the work of the Standing Committee on Canadian Heritage that led to its 2005 report.<sup>90</sup>

#### **d) The “grind”**

The CPTC calculation is capped at 60 per cent of the total production cost, “net of assistance.” The assistance includes government sources of assistance, such as provincial tax credits, Telefilm assistance, CIDA assistance, and private assistance such as grants. The effect is to

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<sup>87</sup> Crescent Entertainment Ltd., Submission to Canadian Content Review, 28 May 2002. The company added that “(t)his proposed weighting is intended to be cost neutral to Treasury, it is not a suggestion to increase federal tax credit support overall.”

<sup>88</sup> Independent Production Fund, Submission to Canadian Content Review, 30 May 2002.

<sup>89</sup> Department of Canadian Heritage, *Reinforcing our Cultural Sovereignty*, p. 11.

<sup>90</sup> Standing Committee on Canadian Heritage, Evidence, Thursday, February 24, 2005; available at: <http://cmte.parl.gc.ca/Content/HOC/Committee/381/CHPC/Evidence/EV1667404/CHPCEV20-E.PDF>.

reduce the base upon which the tax credit is calculated. This practice is commonly referred to as “the grind”, and it has long been a flash point within the industry.

DoF stated that it is a basic tax policy principle that credits and deductions are based on net costs incurred by the taxpayer. The principle applies to all investment tax credits, such as the Government’s largest program, the Scientific Research and Experimental Development (SR&ED) Tax Incentive Program.

Many key informants complained about the grind, since it reduces the value of the tax credit that is ultimately received by producers. It seems to be a particular issue with Quebec producers; a few key informants from that province stated that the availability of other sources of government funding tends to severely reduce the value of the tax credit.

In order to examine the situation in Quebec, the evaluation study turned to the *Economic Analysis* study report, which provides data on the CPTC assistance rate for English-language and French-language projects.<sup>91</sup> Prior to the November 2003 CPTC changes, French-language projects had an average CPTC assistance rate that was much lower compared to English-language projects: 7.8 per cent compared to 9.3 per cent respectively. However, for the post-2003 period, the CPTC assistance rates are almost identical for the two language markets: 10.4 per cent for English-language projects and 10.6 per cent for French-language projects.

Prior to 2003, public assistance accounted for 41.1 per cent of the total financing for French-language projects; for English-language projects, public assistance accounted for 21.3 per cent of total financing. However, in the post-2003 period, the public assistance share for the two language markets became much closer: 39.7 per cent for French-language productions compared to 30.1 per cent for English-language productions. A major difference between the two language markets is that the Canadian broadcaster-share of total financing is much higher in Quebec: 40.6 per cent for French-language productions versus 26.2 per cent for English-language productions.

Key informants also noted that other PCH programs for the cultural industries, such as the book publishing grant program, do not reduce the size of the grant if other government funding sources have been accessed. (However, as discussed later, key informants still preferred the tax credit model over a discretionary grant program.)

Several provincial government representatives stated that they are frustrated with this policy, since whenever a province raises the provincial tax credit rate, it reduces the amount of the federal tax credit, and producers complain to the provincial funding bodies. They noted that the provincial programs do not deduct assistance received from other government programs and thus it was not clear why federal and provincial revenue agencies have different policies. Some stated that the provincial tax credit programs have, in effect, subsidized the federal program over the past several years. One of the provincial agencies recommended that the grind could continue for federal assistance, but should not include provincial assistance.

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<sup>91</sup> Nordicity Group Ltd., *Economic Analysis of the CPTC*, pp. 25-26.

Another impact of the grind is that it may have the effect of increasing the level of disagreement between producers and CRA on eligible production expenditures, since producers may counteract the grind by maximizing total production costs in order to reach the 60 per cent cap. A few key informants recommended that the cap as well as the CPTC rate be increased, to counteract the effect of the grind and the increasing difficulties encountered in obtaining international sales. It was noted that in December 2006 a number of witnesses to the Standing Committee on Finance recommended an increase in the CPTC rate from 25 per cent to 30 per cent.<sup>92</sup>

In summary, the grind issue is a major flashpoint throughout the production sector and many key informants were critical of the Government for its policy.

#### **e) Labour costs versus total production spending**

The original CPTC design was based on labour costs and not on total production spending. According to historical documents provided by CAVCO, there were several reasons for this decision.<sup>93</sup> First, the CPTC was based on the existing Quebec model, which used labour costs. Second, there was the belief that labour was simpler and easier to verify and accountable, since wages and salaries are tied to T4s, and also the labour of service providers could be tracked. Third, there was an implied labour incentive built into the CPTC, i.e., to employ Canadians in the key creative positions.

Some key informants commented that it might be time to switch to total production spending. Producers are currently required to provide information on both total production costs and labour costs as part of their CPTC application so that qualified labour expenditures can be determined.

This issue was examined in the past by DoF and CAVCO as part of an initiative to simplify the CPTC, which took place between 1999 and 2002. CAVCO provided the evaluation team with several documents pertaining to this initiative, including internal government working documents and submissions from industry. In Budget 2000, the Government announced its intention to simplify the CPTC by adopting the simpler PSTC model which was “based more closely on labour content.”<sup>94</sup> In an internal discussion paper, PCH noted that industry had proposed to simplify the CPTC by adopting the simpler PSTC model, which would involve removing the 48 per cent cost cap and applying a labour-based calculation only.<sup>95</sup> In a discussion paper prepared by DoF and PCH and distributed to stakeholders for comment on March 6, 2001, it was proposed that the 48 per cent production cost cap be removed, although there is no mention of applying a labour-based model only.<sup>96</sup> In a subsequent presentation made by Ernst & Young, the CFTPA and the APFTQ on November 1, 2002, a “new option” for the CPTC was

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<sup>92</sup> Report of the Standing Committee on Finance, *Competing to Win*, December 2006, p. 104.

<sup>93</sup> Ernst & Young, “Proposals for Modifications to the Base and Rates for the CPTC,” prepared on behalf of the CFTPA and APFTQ, November 1, 2002.

<sup>94</sup> Department of Canadian Heritage, “Canadian Film or Video Production Tax Credit: Simplification Options, Internal Discussion Paper,” December 7, 2000.

<sup>95</sup> Ibid.

<sup>96</sup> Department of Finance and Department of Canadian Heritage, “Simplification Proposals for the Canadian Film or Video Production Tax Credit,” Discussion Paper, March 6, 2001.

proposed, to base the CPTC on “all spending (total production costs).”<sup>97</sup> No subsequent documentation is available to explain why this proposal from industry was not accepted.

One factor not discussed in the literature is that a total production-spend base model would provide incentives for Canadian developers of equipment and systems as well as labour. The total production spend basis is neutral in its encouragement of innovations that would lower Canadian labour and non-labour expenditures. For example, a Canadian innovation to develop motion-capture technology might significantly lower labour expenditures in a production. With a labour-based tax credit, a producer might delay in adopting this innovation.

Application and enforcement costs would not be increased, as the total production cost has to be reported in the application for the CPTC to calculate the ceiling on labour expenses. Other countries, such as Australia and the United Kingdom recently have introduced tax credit programs based on total production spend (the tax credit programs in other countries are discussed later).

However, other key informants were comfortable with the labour-based model, noting that many provincial tax credit programs use this approach, and confirming the ease with which these expenditures can be verified by CRA.

Thus, no conclusion can be reached based on the limited sample of producers interviewed by this study. The evaluation team recommends further research by the Government on this option.

#### **f) Copyright**

As explained in Section 3, to be eligible for the CPTC, the production company must own the exclusive worldwide copyright of the production for a minimum of 25 years after production ends. In 2007, after inviting feedback, CAVCO announced that the 25-year requirement would remain in force.

Most key informants were supportive of the current copyright rules incorporated in the CPTC. For example, producers who are interested in foreign sales noted that this provision gives them leverage in their negotiations.

Some did note that this timeframe is based on the model for motion pictures, which is less applicable to television shows, as the latter tend to have a shorter shelf-life.

However, the main concern of producers is being able to earn income from these rights. In some cases, Canadian producers told us that they would like to sell their copyrights to firms that have the capabilities to extract more value from them. This option is precluded by the 25-year copyright ownership rule. Canadian producers could achieve the same goal (but at a different cost) by legally maintaining ownership of the copyright while licensing for the full term of copyright “all of the film, television, allied, subsidiary and ancillary rights to the Property.”<sup>98</sup> If

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<sup>97</sup> Ernst & Young, “Proposals for Modifications to the Base and Rates for the CPTC.”

<sup>98</sup> Kathy Avrich Johnson, *A Producer’s Handbook*, Ontario Media Development Corporation and Telefilm Canada, 2001, p. 13.

a production company would rather sell the copyright rather than deal with a number of different licences, it is because that option presumably would be more profitable. Thus a question is: why should it not be able to realize that additional income?

In adopting this strategy or a modified version of it, the producers have to ensure that they receive at least 25 per cent of the net proceeds from licensing international rights of a CPTC-supported production.<sup>99</sup> Thus another question is: why should the production company not be allowed to make any international licensing arrangement that is profitable?

The Producers' Roundtable of Ontario expressed a concern with the ownership and foreign licensing restrictions:

Limiting or confining Canadian producers to minimum copyright ownership thresholds that are either time based (in the case of the so-called 25 year rule) or percentage based (by prescribing a minimum percentage ownership threshold or a pre-set across the board share of revenue in non-Canadian markets) is out of step with the current financing and distribution realities faced by Canadian producers of indigenous feature films.<sup>100</sup>

#### **g) Excluded genres**

As described in Section 3, the CPTC supports films and television programming genres that are not proscribed. The genres that are not supported include news, current events or public affairs; talk shows; game shows, sports events; awards shows; programs that solicit funds; reality television; corporate or training videos; advertising; and pornography.

Overall, key informants were generally supportive of the proscribed list. This corresponds to the findings of the literature review.

However, one exception is the reality television genre, which is currently defined by CAVCO as a: production that consists of scenes recorded on amateur home video cameras or private or public authority surveillance equipment. This category also includes programming currently known as court television and similar formats.<sup>101</sup>

The Canadian Association of Broadcasters expressed concern with the prohibition of this genre when CAVCO solicited comments on "excluded productions:

The CAB fails to understand the policy rationale for excluding these types of programs, which garner significant viewership, and involve a tremendous amount of Canadian skill,

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<sup>99</sup> Public Notice CAVCO 2006-02 paragraph 16.

<sup>100</sup> The Producers' Roundtable of Ontario, Submission to CAVCO with respect to Guidelines to be Adopted by the Department of Canadian Heritage announced on Public Notice 2005-001, April 29, 2005, p. 20.

<sup>101</sup> CAVCO, Definitions of "Excluded Productions" (proposed) – downloaded from [http://www.pch.gc.ca/progs/ac-ca/progs/bcpac-cavco/definition\\_e.cfm](http://www.pch.gc.ca/progs/ac-ca/progs/bcpac-cavco/definition_e.cfm) on 8 May 2007.

craft and labour to produce, when even foreign content programming can access the service tax credit.<sup>102</sup>

There continues to be much confusion concerning the genre of “reality television” as a proscribed genre. In fact, the definition provided by CAVCO recognizes that what is called “reality television” is an evolving genre of production that has given rise to any number of hybrid formats. Its definition states that only certain specific types of these productions will be considered reality television for purposes of the tax credit.

#### **h) The CPTC and new media**

The subject of the role of the federal government in supporting the production of Canadian cultural content to be accessed via various new digital platforms is receiving increasing attention. A prime example is the CRTC’s study of new media, to be issued in May 2008.

A topic that arose in several key informant interviews is whether and how the CPTC should apply to the production of Canadian cultural content to be distributed via alternate, non-traditional platforms, such as the Internet, iPods and smartphones. The CPTC requires that productions be exhibited in Canada by a broadcaster licensed by the CRTC or by a Canadian-controlled distribution company. Increasingly, producers are expected to use alternative platforms to deliver their productions, thus supplementing or potentially bypassing conventional broadcasting and distribution channels. For example, a popular emerging channel on the Internet, “Joost”, is foreign-owned but available to Canadians. A Canadian production company that reaches a licensing agreement with Joost to broadcast its productions would currently not be eligible for CPTC support.<sup>103</sup>

Thus an issue is whether the CPTC should be broadened to cover the costs of productions intended for distribution via these new distribution channels.

This goes beyond broadcasters’ recent experience with making conventional television productions available on their websites the day after broadcast. A few producers are experimenting with the production of high quality cultural content productions intended specifically for distribution via the Internet. For example, as reported at the CFTPA’s “Prime Time” 2008 conference, Epitome Productions in Toronto is producing “webisodes” for its popular *Degrassi: The Next Generation* television series.<sup>104</sup> Each webisode is three minutes long, but these are audiovisual dramas that are fully scripted, featuring all of the key actors and with specially-commissioned music. Given their short duration, these webisodes are much less

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<sup>102</sup> Canadian Association of Broadcasters, Letter to Mr. Robert L. Soucy, Director, Canadian Audio-Visual Certification Office, 7 February 2003.

<sup>103</sup> The CPTC guidelines are quite explicit:

There must be an agreement in writing for consideration at the fair market value with: 1) a corporation that is Canadian and is a distributor of film or video production; or, 2) a corporation that holds a broadcasting licence issued by the CRTC for television markets, to have the production shown in Canada within the two-year period that begins at the first time the production has been completed and is commercially exploitable.

<sup>104</sup> “Reinventing the Cultural Tool Kit: Canadian Content on New Media”, Peter S. Grant, Senior Counsel, McCarthy Tétrault LLP, a presentation to CFTPA “Prime Time in Ottawa”, February 22, 2008.

expensive to produce than the regular TV episode: while each 22 minute TV episode costs about \$700,000 to produce, each webisode costs about \$25,000. However, the volume is greater. Adding up the costs across many webisodes during a season yields a substantial figure (about 50 webisodes have been produced over the past two years).

Another emerging category noted by key informants is productions developed using web-based tools. A recent example given by key informants is the short-form documentary on “Second Life”, a virtual reality world on the web with millions of participants. The documentary (a US production) is being shot within Second Life, using a process known as “machinima”. Some experts forecast that animation will soon start using these sorts of tools. Given most of the costs of this type of process are for post-production, this type of production would currently not be eligible for the CPTC.

At present, the main federal government intervention with respect to new media is the Canada New Media Fund (CNMF), funded by PCH and administered by Telefilm Canada. However, its emphasis is on supporting the development of interactive new media *products*, such as interactive online games and convergent websites (a website that complements a television program). Kelly Sears conducted an evaluation of the CNMF on behalf of PCH in 2006.<sup>105</sup> As outlined in that report, some CNMF recipients also received support from a private fund, the Bell Broadcast and New Media Fund, which focuses on supporting convergent websites. At the provincial level, the Ontario government has decided to use a tax credit model rather than a grant program, as it introduced the Interactive Digital Media Tax Credit. Both foreign and Canadian owned Canadian corporations are eligible and content is restricted not by the nationality of content but by genre: games, educational and informational products. Other countries are also introducing tax credits for digital media (see section 4.3.3 below).

The CRTC’s investigation into new media will examine whether there should be imposition of expenditure requirements on the private sector. This would be in addition to the Bell Broadcast and New Media Fund noted above, which is financed by a contribution of about \$9 million per year from Bell ExpressVu as well as the interest from a \$10 million endowment from the BCE-CTV benefits.<sup>106</sup> The contribution from Bell ExpressVu forms part of the 5 per cent expenditure requirements imposed by that company and on other broadcasting distribution undertakings (BDUs) back in 1997. That levy is based on the principle set forth in paragraph 3(1)(e) of the *Broadcasting Act*, which states that “each element of the broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.” Some will argue that a similar levy should apply to the Internet world, given about 50 per cent of the traffic on the Internet may be broadcasting, and the Internet is becoming an element of the Canadian broadcasting system.

In summary, there is an expectation from stakeholders that the CPTC will be modified in order to adapt to the rapidly growing new media environment. They also recommended that the CPTC

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<sup>105</sup> Department of Canadian Heritage, *Summative Evaluation of the Canada New Media Fund*, prepared by Kelly Sears Consulting Group, 2006. Available at: [http://pch.gc.ca/progs/em-cr/eval2006\\_e.cfm](http://pch.gc.ca/progs/em-cr/eval2006_e.cfm).

<sup>106</sup> “Reinventing the Cultural Tool Kit”, Peter S. Grant.

eligibility criteria need to be kept sufficiently general so as not to exclude future technological developments.

**Summary: “Program Design”** – *The basic elements of the CPTC’s design are highly respected by the film and television industries, particularly the fact that the CPTC is seen as both “predictable and bankable.” The main issue is the high cost of interim/bridge financing, which is a concern to many producers, since the tax credit is often included in the financing structure and is interim financed with a bank loan. Since the tax credit refund does not arrive for many months following the start of a production, producers incur significant interest charges on their bank loans. Another design consideration is whether the CPTC should shift to total production spending as the basis for the calculation of the tax credit. Finally, the role of the federal government in supporting the production of Canadian cultural content intended for distribution via the Internet is becoming a pressing concern. Producers are expecting that the CPTC will adapt to the rapidly growing new media environment. Some other jurisdictions have introduced special tax credits for digital media.*

### **4.3.3 Approaches Taken by Other Countries**

This section summarizes the approaches taken by Australia, the UK and France to support their film and television industries.

#### **a) Australia**

Until recently the Australian government depended on a mix of policy approaches – discretionary grants, tax shelters, broadcast licensing requirements, and refundable tax credits – to support the film and television program production industry.

The Australian Film Commission (AFC) financially supported the development of film, television and new media projects and generally promoted the industry. It also administered Australia’s official co-productions.

The Film Finance Corporation (FFC) provided public funding for Australian feature film, mini-series, MOWs, and documentary projects that had received financing from broadcasters, distributors, and private investors and met its investment guidelines. Its financing was a mix of equity, loans and guarantees.

Film Licensed Investment Companies (FLICs) were authorized for specific periods to raise money from investors to finance production. The FLIC shares granted investors a deduction against taxes of 100 per cent of their cost. The first provisional program began in 1999 and was followed by a second FLIC initiative in 2005. The revenue raised for production by FLICs did not meet expectations.<sup>107</sup> The recent introduction of new tax credit initiatives was accompanied

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<sup>107</sup> In looking back at FLIC from the perspective of 2006, the AFC remarked: “... the Film Licensed Investment Company (FLIC) Scheme Pilot – neither achieved the quantum planned for nor the diversification of the investor base sought, with the Scheme attracting only a small number of investors. The new FLIC has failed to reach its investment target in 2005-06.” AFC, Review of Australian Government Film Funding Support, August 2006.

by an announcement that no further FLICs will be licensed and all FLIC supported productions must be finished by mid 2009.

In addition to the FLICs, investors have benefited from two other tax shelters. Australian residents could invest in a Division 10BA tax shelter, which applied only to films certified as Australian, and deduct from taxable income their share of 100 per cent of the production's capital cost. Under the Division 10B tax shelter, investors in films that are not certified as Australian could deduct their share of the production's capital cost over two taxable years rather than one.

Australia introduced its first tax credit program in 2001. The Refundable Film Tax Offset initially applied to feature films but was later extended to cover movies distributed as videos or CDs, and television movies, mini-series, and series. An Australian resident company or a foreign company with a permanent establishment in Australia could apply for the tax credit.

To be eligible, a film had to have a Qualifying Australian Production Expenditure (QAPE), which included both services and goods, of A\$15 million. Film projects with total production spending that is more than the minimum but less than A\$50 million must have a QAPE of at least 70% of the total production spend to qualify.<sup>108</sup> Films with a total spend of over A\$50 million are not subject to a minimum QAPE. The QAPE of a television series has to average at least \$A1 million of QAPE per hour across the series in order to qualify for the offset.<sup>109</sup> The initial rate of support was 12.5% of QAPE. The Refundable Film Tax Offset was designed to attract large budget productions organized by either foreign or national firms.

In 2007, the Australian system of support was significantly revised. The Location Offset has replaced the Refundable Film Tax Offset. The main structural features of its predecessor were retained and the rate of support was raised to 15 per cent. In addition, two new tax credit programs were introduced.

The new Producer Offset refundable tax credit supports the production of Australian feature films, MOWs, TV series (minimum of two and maximum of 65 episodes), documentaries and television animation shows by Australian or foreign production companies with permanent establishments in Australia. Both broadcaster in-house production units and independent producers are eligible for support. The base of the credit is spending on Australian goods and services. The rate of support is 40 percent of QAPE on feature films and 20 per cent on the QAPE of other eligible productions.

Whether a production is Australian is determined by the Australian film authority, which must consider the production's subject matter, the location of its production, and the nationalities and residencies of the people who made it in determining whether it is Australian or not. In addition,

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<sup>108</sup> The production may nominate one person whose remuneration is to be disregarded in calculating total production costs if that makes it possible to meet the percentage calculation.

<sup>109</sup> Drama, comedy, documentary or reality series are eligible. *Fact sheet: Refundable film tax offset for screen production in Australia*, Department of Communications, Information Technology and the Arts (DCITA), March 2007.

minimum national expenditure requirements are required for a production to qualify for the Producer Offset. For example, documentaries of a length equal to or greater than a commercial half hour must have a QAPE that is at least A\$250,000 per hour.

It is worth noting that the QAPE for the Producer Offset includes some development costs. The share of “above-the-line” costs included in the QAPE cannot exceed 20 per cent.

A television series must be based on “a new creative concept” to receive support. The statute instructs the film authority to consider whether the series has substantially different characters, settings, production locations, and production team than any other series in deciding whether its creative concept is new or not.

The second new tax credit program, the Post-production Digital and Visual Effects (PDV) Offset, supports PDV work done in Australia on films and television programs. Eligibility for the tax credit does not require that the film or television series be developed or shot in Australia or be Australian content. A production cannot claim a credit from both the Location Offset and the PDV offset. Domestic companies or foreign companies that are eligible to pay taxes in Australia are eligible.

Expenditure in Australia on PDV must be at least A\$5 million to qualify for this credit. The rate of support is 15 per cent of QAPE that relates to PDV activities. The PDV tax credit program helps finance a segment of the sequential process of film production that has distinct characteristics and has been experiencing rapid technical change.

A production does not qualify for any of the three tax credits if it also receives support from either the 10BA or the 10B tax shelter programs. The 10B and 10A tax shelters have been repealed (Applications stopped being accepted on 30 June 2007).

The administrative framework of audiovisual support in Australia has also been revamped. Screen Australia will emerge as the federal government film authority in mid-2008 and absorb functions of the AFC and the FFC.

The Australian States also support film and television program production. Queensland’s Pacific Film and Television Commission (PFTC), for example, has a production fund for Australian content productions that provides investment in a project equal to a maximum 10 per cent of the spend in the state up to a ceiling of A\$350,000. If the budget is sufficiently high these constraints may be relaxed. The PFTC notes in the terms of support that it expects to recoup 30 per cent from first dollar. To be eligible a production must spend at least 70 per cent of its budget in the state but exceptions to that rule may be made.<sup>110</sup>

New South Wales offers “a broad and flexible grant to encourage production, post production, and the employment of local cast and crew in New South Wales that is determined on a case-to-

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<sup>110</sup> From the Pacific Film and Television Fund web site:  
<http://www.pftc.com.au/pftc/funding/content.asp?pageid=179&top=2&menuparent=21> .

case basis by the Attraction Fund Committee.<sup>111</sup> Support requires a minimum spend of A\$3 million in the state and is capped at A\$500,000. As is the case in Queensland, descriptions of the New South Wales program note that exceptions are made.

## **b) UK**

The UK has developed a new film tax and credit scheme that applies to British feature films. It came into force on 1 January 2007.

Only a film production company (FPC) is eligible for this support program. To qualify as an FPC, a production company must have an “active involvement” in the development, production and post-production of the film. An FPC does not have to own the copyright to apply for the tax credit but it must have contracted for and been responsible for paying the suppliers of services and the acquisition of rights required to produce the film. If more than one company is involved, the FPC that qualifies for support under the new tax credit is the one that dominates development, production and post-production decisions. The FPC need not be British owned or controlled but must be “in the charge to” UK corporation tax.

Pre-production, principal photography and post-production spending are “core expenditure” under the tax relief program. “UK expenditure” is “core expenditure” on UK goods or services. The base of the tax credit is “qualifying expenditure,” which is UK expenditure capped at 80 per cent of “core expenditure.”

The “ordinary losses” of the FPC are the core expenditures, which are deductible against income for British business tax. An eligible FPC may also claim “enhanced losses” for tax purposes. If the film’s core expenditure is £20m or less (a limited budget film), the “enhanced losses” are equal to its “qualifying expenditure.” If the budget is larger, “enhanced losses” are equal to 80 per cent of “qualifying expenditure.” An FPC may deduct from income for business tax purposes “total losses”, which are equal to “ordinary losses” plus “enhanced losses.” The amount of “total losses” that are not claimed as deductions for business tax can be turned in for a rebate equal to 25 per cent of their value for limited budget films and 20 per cent for films with higher budgets.

To illustrate, consider a limited budget film with core expenditure of £15m and £12m of that figure is UK core expenditure. The FPC’s ordinary losses would be £15m and its “enhanced losses” would be £12m generating “total losses” of £27m. If revenues of the producer were £12m in the fiscal year, the production company could apply £12m of its “total losses” against the income and have no business tax liability. In addition, it could “trade in” its remaining “total losses” of £15m for a cash rebate of £3.75m. The cash rebate would be 31.25% of the UK expenditure and 25 per cent of core expenditure in the example.

More generally, a production company, which has sufficient income to use its total losses as a deduction, reduces its tax bill by the corporate tax rate (now 30%) times the total losses. If the

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<sup>111</sup> See information on New South Wales Film and Television Office web site at: <http://filming.fto.nsw.gov.au/content.asp?content=8&Id=29>.

same company were in a loss position, it could receive 25 per cent of its total losses in a cash rebate.

Before the new policy was introduced, a film was British if produced by a UK controlled UK company in the European Economic Area, spent 70 per cent of its production costs in the UK and paid more than 70% of its labour costs to citizens/residents of the Commonwealth or EU.<sup>112</sup> This simple system has been scrapped and a more complex approach to determining a British film has been adopted. The new process depends on a point system that has cultural as well as economic elements.

A British film must obtain at least 16 of a possible 31 points. The sources of points are organized into four categories. The cultural content<sup>113</sup> and cultural contribution<sup>114</sup> categories generate a possible 20 points in total. A “cultural hub” grouping includes spending on particular production services in the UK<sup>115</sup> (3 points) and a cultural practitioners’ category (8 points in total), which is similar but not identical to the set of professionals used in the Canadian point system.<sup>116</sup> A point is also earned in this category for each of three “group participants” in a production if a majority of the group resides in the expanded European Union.<sup>117</sup>

There is a discretionary element in the new system of determining what is a British film. Projects of exceptional cultural value may be deemed British and eligible for the tax scheme even if they do not accumulate the 16 points required for certification. At a finer level, creativity, which is difficult to measure, is rewarded in the cultural contribution category.

The European Commission, which must approve the terms of a proposal that subsidises production in a member country of the European Community, required modifications in the UK’s point system before approving it.<sup>118</sup> According to the contribution of Lord Evans of Temple Guiting to the debate in the House of Lords, the following modification has been made.

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<sup>112</sup> The second and fourth requirements may be met by locating expenditures in a country with which the European Community has signed an Association Agreement. See Oxford Economic Forecasting, *The Economic Contribution of the UK Film Industry*, 20 September 2005 (Study supported by the UK Film Council and Pinewood/Shepperton PLC).

<sup>113</sup> Cultural content: the film is set in the UK (up to 4 points); lead characters are British citizens or residents (up to 4 points); the film is based on British subject-matter or underlying material (up to 4 points); and/or the original dialogue is recorded mainly in the English language or a recognised regional or minority language (up to 4 points).

<sup>114</sup> Cultural contribution: Cultural contribution if the film contributes to the promotion, development and enhancement of British culture (up to 4 points). These points were to reflect: creativity (with regards to the film’s content, including cinematography, music, animation or special effects), cultural heritage (if a film reflects on British cultural heritage), and/or cultural diversity (if the subject matter of a film explores issues of cultural diversity).

<sup>115</sup> Cultural hub: 50% of spending on any one of principal photography, visual effects or special effects is carried out in the United Kingdom earns 2 points and 50% of spending of any one of performing and recording the music score, audio post production or picture post production earns 1 point.

<sup>116</sup> A point is earned for each of five specified key positions: director (1 point), scriptwriter (1 point); producer (1 point); composer (1 point); a lead actor (1 point).

<sup>117</sup> The majority of the cast (1 point); key staff (1 point); and the majority of the crew (1 point).

<sup>118</sup> Department for Culture, Media and Sport, *Cultural Test for Films, Revised Guidance*, 23 November 2006. See also the European Commission release IP/06/1611 dated 22 November 2006 available at

*Where a film scores all four points for being in English, and all available points in the cultural hubs and cultural practitioners sections—that is a total of 15 points—it must then score at least two points in one of the remaining parts of the cultural content section. This exception arose to address the European Commission's concern that a film that achieved these 15 points, which do not reflect the purely cultural content aspects of film-making, could qualify with a minimal amount of British cultural content.*<sup>119</sup>

Except for that addition, the points total and the number of points required for a film to qualify as British remains as before.<sup>120</sup>

A foreign-owned film company that is liable for British taxes may also produce a film that is eligible for the new tax benefits.

The UK has also applied lottery funds to support the film industry. The UK Film Council, a national lottery franchise company, administers three funds that support British film: the Premiere Fund, the New Cinema Fund, and the Development Fund. Three other lottery franchise companies are DNA Films, Pathé, and the Film Consortium. Their franchises have a term of six years subject to a mid-term assessment. The funding of a franchise company is £8 million in each of the first 3 years and up to £5 million in each remaining year. The lottery funds can contribute 33 per cent to 50 per cent of a film's budget. There are two layers of competition, one to gain a franchise and the second for proposals to gain support from a franchised company. A contender for a franchise must make British films with the funds received from the lottery.

Since 1997, sale-and-leaseback tax shelters have supported the financing of British films. There were two plans known as section 42 and section 48 partnerships. Both structures involved the creation of a limited partnership. In the section 48 framework, which applied to films costing less than £15 million, the number of investors was restricted to 19 or less. The partnership bought the rights to a British film (or films) and rented the distribution rights to its producer on a multi-year lease with an annual leasing fee that typically rose per annum. The limited partners put up a percentage of the cost of the rights plus administrative expenses and the rest was borrowed from a bank by the partnership. Each film was subject to rapid depreciation (with section 48 fully in the year of the production expense and with section 42 over three years). The leasing charges were set equal to the interest plus loan capital repayment charges. The tax write-off in the production period outweighed in present value terms the recapture of depreciation that occurred in later periods when the partnership received the lease payments.

As has been the experience in other countries the development of increasingly more sophisticated ways of generating tax benefits from the UK shelters elicited a negative political response.<sup>121</sup> In 2004 measures were introduced to phase out the use of Section 48 shelters.

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<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1611&format=HTML&aged=0&language=EN&guiLanguage=en> .

<sup>119</sup> House of Lords debates of Films (Definition of “British Film”) Order 2006, 7 December 2006.

<sup>120</sup> See <http://www.planispheres.com/index.htm?FAQs.htm~mainFrame> .

<sup>121</sup> In February 2004 however UK Paymaster General, Dawn Primarolo announced new rules designed to prevent manipulation of trading losses for tax purposes, which commentators said could jeopardise up to twenty films currently in production in the country.

Governmental responses prompted by industry reaction to the resulting decline in funding and production over the next two years led to the new tax credit regime for the production of films.

British broadcasters provide significant support for television program production. The British regulator, the Office of Communications (Ofcom) enforces compliance with licensing requirements that are tailored to a service's broadcasting mandate. These typically include contracting for a specified percentage of broadcast hours in general and in prime time from independent producers, some of which must be located outside of London. Public and some private broadcasters have "public service broadcasting" (PCB) obligations included in their remit. The PCB commitments may include the licensing or in-house production and subsequent broadcasting of children's programming, regional news and informational programming, presentations of multicultural perspectives on issues, and drama. The exact nature of the PCB obligations varies with the role of the broadcaster in the system. For example, Channel 4, a publicly owned channel that does not receive public funding and is not allowed to produce its own programming, is required to provide "a range of innovative, creative and distinctive content to cater for the rapidly changing society" of its viewers. It has been on an organizational odyssey to find an appropriate framework for pursuing those objectives since its creation in 1982.

### **c) France**

The Centre National de la Cinématographie (CNC), a French Government agency, provides most of the direct public financing available to the French production industry. A large number of small local and regional agencies augment this support. The CNC's program, "Compte de soutien financier de l'industrie cinématographique et de l'industrie audiovisuelle," finances film and television programming production and distribution. It is funded from taxes on cinema tickets and the sale of DVDs/video cassettes, levies on pay television, and taxes on the advertising of private broadcasters.<sup>122</sup>

Terms of licensing are another important source of funds for the film and television programming production industry. Currently Canal+ "must invest 4.5% of its revenue in audiovisual works (television fiction, documentaries, series, etc.)."<sup>123</sup> Canal+ also has a five-year agreement with all of the French film industry organizations to expand exposure of French works and to coordinate releases on its traditional and digital offerings with the cinematic exhibition of French films.

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"These schemes exploit tax reliefs that are intended for people who risk their own money in running genuine businesses, but the schemes manipulate tax relief to create claims for losses in excess of the capital at risk," explained Primarolo. From United Kingdom: Film Partnerships <http://www.lowtax.net/lowtax/html/offon/uk/ukfilm.html>.

<sup>122</sup> La Taxe Spéciale Additionnelle, TSA, is 11% of ticket price. In 2006 tax receipts were 112.85 million Euros. The levies on television raised 227.92 million Euros in 2006. The tax on DVDs and videos generated 44 million Euros in 2006. From <http://www.romainpetit.fr/blog/index/2006/09/12/12-compte-de-soutien-au-cinema-et-a-l-audiovisuel-cnc>.

<sup>123</sup> Vivendi, Annual Report 2006, p. 42.

The CNC also oversees the Sociétés pour le financement du cinéma et de l'audiovisuel (SOFICA) program, which provides tax shelter funding for movies through limited companies that invest in a portfolio of films.

SOFICAs are specialised companies that can only be formed with the approval of the CNC. The companies invest or become partners in film productions approved by the CNC. Thirty-five percent of the funds invested by a SOFICA must support independent productions. Individuals or corporations that invest in the SOFICA may deduct the amount invested from their taxable income in the same year. An individual investor cannot own more than 25% of a SOFICA. Georgieva (2006) provides this example of the tax benefit to an individual investor:

... an individual in the highest tax bracket (48.09% of income in 2005) who invests EUR 18000 in a SOFICA will make a saving of EUR 8656, reducing the cost of his investment to EUR 9344.<sup>124</sup>

Companies that invest in a SOFICA can deduct 50% of their investment against business tax in the first year of their investment. They also participate in the returns earned by the SOFICA's portfolio of films. To obtain the tax benefit a SOFICA shareholder must hold the shares for five years before selling them. SOFICAs are liquidated and their net assets distributed to their shareholders after 10 years.

In December of 2006, changes were made in the program that increased the effective tax break for SOFICA investors.<sup>125</sup>

A SOFICA provides intermediation between the investor who is interested in tax relief and production companies seeking financing. The necessary catalyst for increasing value is a management specialised in the identification of promising projects. In 2005, SOFICAs collected €46 million and invested €41.4 million in 76 film and 20 audiovisual productions. This is a 90% pass through rate. Tax deductions were €45m and refunds were €42m resulting from the program in the same year.<sup>126</sup> A positive feature of the program for the film or audiovisual producer is the provision of subsidised financing at the development stage of a project when there are few private and public funding sources.

The CNC also administers a tax credit for audiovisual projects that became operational in 2004. The tax credit offers a refundable payment equal to 20% of eligible expenses, adjusted for other assistance, to production companies licensed by the CNC. To be licensed the companies must be subject to French corporate taxes.

The tax credit has a ceiling that depends on genre and duration. The ceiling is 1150 Euros per minute for fiction programming or documentaries and 1200 Euros per minute for animation. A

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<sup>124</sup> Tanya Georgieva, Fiscal support measures for the film and audiovisual industry in France, Luxembourg and Belgium, European Audiovisual Observatory, July-September 2006, p. 2.

<sup>125</sup> Hasan Bermek, Tax Incentives for Films and Audiovisual Works in France, European Audiovisual Observatory, October 2007, p. 21.

<sup>126</sup> Ibid, p. 8.

feature film is limited to a credit of 1,000,000 Euros.<sup>127</sup> Each participating company in a domestic co-production submits an application based on its share of the budget. The French partner in an official co-production also submits an application based on its eligible expenditures.

An eligible production must be shot in French or a regional language of France and the shoot and post-production work must be located in France. Exceptions are allowed for shooting in another country to accommodate a project's creative imperatives. Demonstrating that a production will creatively add to French cinema and its diversity provides another path to eligibility. The cost base on which the tax credit is calculated include payments for lead and supporting actors, technical staff and crew, computer-generated special effects and other production services, authors' and composers' rights, film stock and lab expenses, and post-production costs including special effects. The base of the credit is also adjusted for some state subsidies.

A production must meet or exceed specified duration and minimum cost thresholds to qualify for the tax credit.<sup>128</sup> Fiction, programming for children and young viewers, animation, and documentary projects must also have costs per minute that exceed specified values. The minima are generally higher for fiction as compared to documentary projects.<sup>129</sup>

The French production tax credit is partly a response to the increased attraction of locating European co-productions in Belgium and East European countries because of lower wages, qualified professionals, and generous fiscal incentives.<sup>130</sup>

On December 30, 2006, the French government initiated a new tax credit for French distribution companies for which European productions represent 80% and French productions represent 60% of their turnover. The credit applies to the distribution of French works. The eligible costs include international marketing, dubbing and related costs of versioning a work for another market, and some managerial and professional training for marketing expenses. The tax credit rate is 20 per cent of these costs with a cap at 80 per cent of the total distribution budget.

In extending support to new media, the French government has also granted tax credits to producers of video games with a cultural dimension that would finance 20 percent of production costs, capped at 3 million euros (US\$3.91 million). According to a Reuters article, a Ministry spokesperson stated that the initiative "... recognizes the cultural character of the video game, which involves several branches of artistic talent: writers, directors, graphic artists, musical and sound creators."<sup>131</sup>

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<sup>127</sup> Tanya Georgieva, Fiscal support measures for the film and audiovisual industry in France, Luxembourg and Belgium, European Audiovisual Observatory, July-September 2006, p. 4.

<sup>128</sup> A fiction program must be at least 45 minutes long. Animation programs or documentaries must be at least 24 minutes in duration.

<sup>129</sup> See information at the Centre national de la cinématographie web site <http://www.cnc.fr/Site/Template/T11.aspx?SELECTID=849&ID=508&t=2>.

<sup>130</sup> Nordicity noted in its study of Canada's co-production treaties that "France's new tax credit system is designed to arrest the flow of production/post production to these countries." Nordicity Group Ltd., *Canada's Competitiveness in Treaty Co-Production*, Ottawa, Feb. 2004, p. 15.

<sup>131</sup> Reuters, France to offer tax credits on video games, dateline Paris 1 February 2007.

**Summary: Approaches taken by other countries** – *A common aspect of policy evolution in Australia, the United Kingdom, and France is increased reliance on tax credit schemes to support film and audiovisual production. The tax credits in all three countries have all adopted a more comprehensive expenditure base rather than labour expenditures as used in the CPTC model. These countries have also not adopted the CPTC's restrictions on the sale of copyright by the producer, nor stipulated a minimum producers' share of net receipts earned in foreign markets. Unlike the CPTC, foreign companies with permanent establishments may qualify for the French, British, and Australian tax credit programs supporting national productions.*

*The breadth of activities covered by the tax credits also differs. The British tax credit only applies to the production of national feature films while television programming dominates the payouts under the CPTC. France has extended tax credits to distribution activities and to video game production, which are not covered by federal tax credits in the other three countries. Australia has developed a tax credit to support producers of post-production digital and visual effects.*

*An innovative feature of the British tax credit is the additional support that it offers to production companies that pay taxes. This program provides cash rebates to new ventures or struggling established companies while nourishing the corporate development of successful firms by providing them even larger tax benefits.*

*The replacement of grant and tax shelter programs with tax credits by these countries reveals that foreign policy-makers looked favourably on Canada's experience with this mode of support. The wider adoption of tax credits has also been accompanied by more generous support for national production in each of the countries.*

*The new directions of support policy in these three countries resulted from reviews of national and international experience by their policymakers. While Canada's situation has unique elements, there is sufficient commonality to warrant the Government to assess if there are net benefits in altering the CPTC by:*

- *Broadening the expenditure base and using the total production cost model instead of the labour-based model – Also discussed in Section 4.3.2 e).*
- *Making foreign-owned Canadian production companies eligible – Allowing foreign companies to apply could increase the quantity and perhaps the quality of Canadian content. It would add producers who might be better able to raise financing abroad through pre-sales or non-controlling investments. The producers would still have to have a Canadian broadcaster license the production or a Canadian distributor to ensure its exhibition.*
- *Modifying the copyright ownership and minimum income shares from foreign sale requirements – Also discussed in Section 4.3.2 f).*
- *Extending the tax credit approach to new media – Also discussed in Section 4.3.2 i).*

Most of the changes in policies in Australia, France and the United Kingdom have been recently adopted. Assessing their actual, as compared to their expected impact, should be part of the assessment process.

#### **4.3.4 Alternatives to the Tax Credit Model**

The evaluation study examined whether an alternative public policy instrument would be more cost-effective compared to the particular program under study, particularly from the perspectives of administrative costs and audit and control.

The following alternatives to the CPTC were identified for analysis:

- Deliver the tax credit via a non-discretionary grant program.
- Eliminate the CPTC and transfer the funds to discretionary grant and contribution programs, such as the CTF and CFFF.
- Eliminate the CPTC and establish a tax shelter program.

The following pages present the pros and cons of the three alternatives.

##### **a) Deliver the tax credit via a non-discretionary grant program**

Under this option, the tax credit would be delivered as a non-discretionary grant program. There would no cap on the size of the program, i.e., all qualified projects are funded.

As noted in Section 3, at the provincial level, the non-discretionary grant program model currently exists only in Alberta (called the Alberta Film Development Program<sup>132</sup>). It also operates in some other jurisdictions in the US (such as New York State). The evaluation team interviewed representatives of the Alberta Ministry of Tourism, Parks, Recreation and Culture, which administers the program. Some other key informants also commented on the pros and cons of the grant program model.

The tax credit rate of the Alberta program is based on 14 per cent to 23 per cent of total production expenses (i.e., not just labour) incurred in the province, dependent on the level of Alberta ownership. In 2006-2007, the total value of the program was \$26.5 million.

The Alberta program is actually quite similar to the tax credit model. For example, producers submit their applications to the Ministry, which has similar information requirements to the CPTC (e.g., documentation on ownership structure, chain of title, listing of key creative personnel, copy of broadcast licence, financial structure, detailed production budget, breakout of the Alberta spend, etc.). Applications must be submitted prior to the commencement of principal photography. Payments are not made until after the delivery of all materials (e.g., a DVD of the

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<sup>132</sup> The URL for the website of the Alberta Film Development Program is:  
<http://culture.alberta.ca/filmdevelopment/default.aspx>.

production) and the submission of audited financial statements.<sup>133</sup> The Ministry stated that payments typically are made within a few weeks. A main difference from a tax credit program is that the Ministry that cuts the cheque – the provincial revenue agency has no involvement. Thus a major advantage from the producer's perspective is that payment is received faster compared to the tax credit model (where payment is not received until after the corporate tax return is filed and assessed, and which may be subject to audit).

Administration costs are very low: the Ministry stated that they are in the range of 1.0 to 1.5 per cent of the total budget of the program. There are no user fees (in comparison, the CPTC operates on the basis of full cost recovery and receives no government budget allocation).

There is no program cap, but there is a project cap (\$1.5 million). This cap is high enough to accommodate all but the largest of foreign-service (Hollywood) productions.

The main downside of a grant program is the considerable financial management challenges. Since there is no program cap, demand can fluctuate wildly from year to year, which results in either lapsed funds or the need to borrow against next year's budget. In 2006-07, for example, the program had to obtain a one-time increase of \$12.5 million to address the backlog of approved grants for projects that had been carried over from the previous year.<sup>134</sup> But perhaps the main issue is that it requires an annual allocation of funding from the government, and thus the program is vulnerable should the government of the day decide to cut expenditures.

From the perspective of audit and control, a grant program based on the Alberta model could be perceived to have fewer checks and balances compared to the tax credit model. For example, the government does not carry out audits of recipients, although as noted above producers are required to submit audited production cost statements. Thus it could be argued that a grant program is more open to abuse.

As a variation, a grant program could be designed to include an *ex post* audit component.<sup>135</sup> However, given that the audits would take place after the grant monies have been expended, it could prove difficult in some instances for the government to recoup grant money for ineligible expenses. In addition, because most productions are produced through single purpose corporations, it would be difficult to deny access to the grant program for future applications through new single purpose corporations but essentially by the same producers.

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<sup>133</sup> Similar to the CPTC, the Alberta program varies the requirement according to the size of the production budget. An audited production cost statement is required for productions where the final cost exceeds \$500,000; for projects between \$200,000 and \$500,000, a review engagement report is required; and, for projects less than or equal to \$200,000, an uncertified final cost report is acceptable. For further details, see the program guidelines, available at:

[http://culture.alberta.ca/filmdevelopment/pdf/AFDP\\_GuidelinesAndSubmissionInformation\\_Feb7\\_2008.pdf](http://culture.alberta.ca/filmdevelopment/pdf/AFDP_GuidelinesAndSubmissionInformation_Feb7_2008.pdf)

<sup>134</sup> Alberta Tourism, Parks, Recreation and Culture, *2006-07 Annual Report*, p. 9.

<sup>135</sup> Note that federal grant programs usually do not involve audits of recipients; audits are often included in contribution programs. The 2006 report of the Independent Blue Ribbon Panel on grant and contribution programs outlines the features of both types of programs; see: <http://www.brp-gde.ca/en/report.cfm>.

**b) Eliminate the CPTC and transfer the funds to discretionary grant and contribution programs**

Under this alternative, the CPTC would be eliminated and the funds transferred to existing discretionary grant programs, such as the Canadian Television Fund (CTF) and Canadian Feature Film Fund (CFFF).

Overall, producers were much less supportive of discretionary programs compared to the tax credit model; a key feature of the CPTC is its accessibility: assuming the producer complies with the program guidelines, access is guaranteed. In contrast, discretionary programs involve subjectivity on the part of the funding organization. Another factor is that demand for CTF and CFFF funds is greater than the supply available.

Transferring funds from the CPTC to the CFFF and CTF would have impacts on the number and type of productions. The following analysis assumes that there would no changes to the eligibility criteria and selection processes of the two programs.

In terms of numbers, fewer productions likely would be made. In 2005-2006, the CPTC provided \$23.6 million of support to 80 feature films, an average of \$0.295 million per production. In the same year, the CFFF contributed \$48 million to the production of 31 feature films, an average of \$1.55 million per production.<sup>136</sup> Assuming that the CPTC amount of \$23.6 million was transferred to the CFFF, this would fund about 15 productions, a decrease of 65. Turning to television, the CPTC provided \$160.7 million of support to 963 television projects in 2005-2006, an average of \$0.167 million per production. In the same year, the CTF contributed \$263.7 million to the production of 492 television projects, an average of \$0.536 million per production.<sup>137</sup> Assuming that the CPTC amount of \$160.7 million was transferred to the CTF, this would fund about 300 productions, a decrease of 663.

In terms of impacts on the type of projects, there could be a shift to more projects being funded that are of “high cultural content.” This could be viewed as a positive by those who believe that the government should only be supporting this type of content. However, the existing CPTC projects that score lower on the Canadian content points system would not be supported (unless changes were made to the CFFF and CTF). This could have negative impacts on producers who currently produce television programs and feature films that target foreign sales, since the inclusion of the tax credit in the financing structure is viewed by producers as essential in order to secure foreign financing.

An advantage of a grant and contribution program compared to the tax credit model is that additional information is usually available on the results or outcomes of funded projects, as project recipients can be required to supply this information upon request. As noted elsewhere in this report, no information is available on the results of CPTC projects, e.g., revenues, costs and profits, and audiences.

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<sup>136</sup> CFTPA and APFTQ, *Profile 2007: An Economic Report on the Canadian Film and Television Industry*, p. 62.

<sup>137</sup> Canadian Television Fund, Annual Report 2005-06, p. 14. Available at: <http://www.canadiantelevisionfund.ca/archives/0506/publications/report0506.pdf>.

Looking at administrative costs, discretionary grant and contribution programs are somewhat more expensive to administer compared to the tax credit model, as discussed earlier. In the case of the CFFF, Telefilm's administration cost ratio was 8.8 per cent in 2006-2007 (a decline from 10.0 per cent in 2005-2006).<sup>138</sup>

Comparable data are not available for the CTF for 2006-2007, as it was a transition year (in August 2006, Telefilm was engaged by the CTF to administer the program). In 2005-2006, the CTF's administration cost ratio was 5.8 per cent.<sup>139</sup>

Grant and contribution programs attract more costs for several reasons. In the case of the CFFF, Telefilm undertakes a creative analysis of each file, which includes preparing a written assessment of the strengths and weaknesses of the script, as well as participating in meetings with the production team. Telefilm also operates regional offices, in order to provide personal service to applicants. Time also is devoted to meeting with unsuccessful applicants.

Thus, eliminating the CPTC and transferring the funds to a discretionary grant and contribution program would likely reduce the amount of money flowing to producers. Assuming \$200 million were to be transferred, administrative costs could increase from \$5 million (the 2.5 per cent administrative cost ratio of the CPTC in 2005-2006) to roughly \$14 million (assuming a 7 per cent administrative cost ratio).

This option would provide a cost savings for CRA, as the audits of the corporate tax returns would be eliminated. As noted earlier, CRA estimates that this audit activity costs about \$2 million annually. On the other hand, the audits also reduce the value of the tax credit claims. Eliminating the federal tax credit would likely have negative impacts on the provinces, e.g., the provincial tax credit programs could be viewed as vulnerable. The tax credit model has also become very popular throughout the US and around the world, thus Canada would be out-of-step with its competitors. The political backlash on the federal government would no doubt be considerable from many stakeholder groups.

In summary, there is a mix of pros and cons associated with this option. Given that the primary objective of the tax credit is to produce Canadian programming and to support an active production sector, the volume of production could decrease under this option, with a resulting negative impact on Canadian production companies and a reduction in the amount of Canadian content being broadcast and exhibited. Tax credit programs, in contrast, automatically adjust to changes in production cycles. The annual budgets of grant and contribution programs are difficult to adjust and such programs are more susceptible both to budget cuts and political priorities. The CPTC derives its legislative authority from the *Income Tax Act* and as a result provides producers with the comfort of an entitlement program in the tax system that is stable and can be relied upon as an essential element in the financing structure of productions. Finally, Canadian production companies are highly supportive of the CPTC: they much prefer the tax credit model where the market determines which projects get financed compared to discretionary grant and contribution programs where the government "picks the winners."

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<sup>138</sup> Telefilm Canada. *2006-07 Annual Report*.

<sup>139</sup> Canadian Television Fund, *Annual Report 2005-06*, p. 6.

**c) Tax shelters**

As described in Section 3, a CCA tax shelter incentive was originally introduced by the federal government in 1974 and was designed to assist Canadian film producers to attract financing from third party investors. The form of the incentive for films with a high Canadian cultural content was accelerated capital cost allowance (CCA). Investors would depreciate in the year of acquisition up to 100 per cent of the cost of a “certified production”. The vehicle for attracting investors was generally a limited partnership, whereby investors acquired a unit of the partnership through which flowed all deductions to the investor in proportion to their ownership interest. If and when the film made money, income flowed through to the investors. The limited partnership vehicle was a suitable structure because of limited liability for investors, not a taxable entity in itself and flow through of income and expense deductions to investors in proportion to their ownership interest. At the termination of the income flow, often the units of the partnership were sold either to the production company or other third parties resulting in capital gains treatment.

From an investor’s perspective the tax shelter approach provided benefits of deductions against income that would otherwise be taxed at the top marginal rate and, with a levered investment through a bank loan or otherwise the investor was able to maximize tax benefits while minimizing cash outlays.

From the producer’s perspective cash resources were made available at the commencement of a production and thus were a valuable source of financing.

Promoters were richly rewarded because investors had a strong appetite for product. The packaging of the investment, including the ultimate buy back of the partnership units for capital gains treatment, rapidly gained acceptance in the tax shelter investment community.

Another major advantage from the industry’s perspective was the absence of a ceiling for investment. Whatever could be raised found a studio willing to produce product. In that context it was a successful program that yielded increasing numbers of productions.

But at what cost? The tax shelter program was a very costly initiative for government where the benefits were largely shared in equal proportions by the producers, the investors and the shelter promoters. The basic problem was that large sums of money for a cultural initiative were not going directly into film production. In addition it was difficult for the government to sustain shelter investments in one policy area to the exclusion of others.

In commenting on tax shelters, several producers did note that many productions do not have any private financing, and a tax shelter would encourage the private sector to invest in Canadian productions. Some producers suggested that such a program should exist in parallel with the tax credit. While some producers were in favour, others had gone through the tax shelter era and commented on the problems described above. Several key informants suspected that the federal government would have little appetite for re-instituting a tax shelter program.

#### **d) Other Options**

In addition to the above three options, the Evaluation Working Group noted in its review of the draft evaluation report that other potential programming alternatives are theoretically possible, depending on the policy priorities of the Government. For example, a new discretionary grant and contribution program could be designed that would target smaller producers who may be having difficulty in obtaining funding compared to larger producers (e.g., those associated with corporate groups). The funding could be made more targeted over time, by, for example, providing greater support to companies with a successful track record.

Another variation would be to offer repayable grants based on the financial success of funded productions – although there would be the challenge of defining “success” for a given film or television production.

These and other potential options were not investigated by the evaluation study and thus would require further research.

**Summary: Alternatives to the CPTC** – *The evaluation study examined three alternatives to the tax credit approach. With the non-discretionary grant program model, program delivery is simpler, and the administrative costs are very low. Producers receive payment much faster compared to the tax credit model. However, such programs pose considerable financial management challenges.*

*A second option would be to transfer the estimated value of the tax credit program to existing discretionary programs, such as the CFFF and CTF. This could lead to fewer but larger production projects. In terms of the types of projects, there would be a shift to more projects being funded that are of “high cultural content.” This could be viewed as positive by those who believe that the Government should only be supporting this type of content. Producers were not in favour of this option, due to the subjectivity involved in such programs and the fact that demand is greater than the funds available. Such programs do not adjust to the production cycles in the industry, whereas a tax credit program does. However, grant and contribution programs do provide the opportunity for the government to collect results-related information from recipients; in contrast, no such information is currently available for CPTC-supported projects.*

*Finally, the tax shelter model existed in Canada beginning in 1974. While they were very popular and had certain positives (e.g., cash resources were made available at the commencement of a production), they were very costly. The benefits were largely shared in equal proportions by producers, investors and shelter promoters. The basic issue is that large sums of money for a cultural initiative were not going directly into film production. Producers had mixed views on tax shelters, and indicated that the Government would likely not be interested in reinstituting them.*

*In conclusion, none of the alternatives appears to be a superior mechanism for achieving the primary objective of the CPTC, which is to encourage the production of Canadian programming.*

### **4.3.5 Performance Measurement**

The final evaluation question pertains to whether sufficient information is being generated and used on the performance of the CPTC.

The evaluation study team reviewed the public reports of all federal government organizations involved with the CPTC.

Within PCH, there are two main reports that pertain to the CPTC. The first is the annual *Departmental Performance Report* (DPR). The only information on the CPTC in this report is with respect to CAVCO user fees and administration costs (TBS requires departments to provide information on user fees). Although a large government program, the PCH DPR does not provide any information on the results achieved by the CPTC.

The 2006-07 CRA annual report was also reviewed (it does not publish a DPR).<sup>140</sup> It provides limited information on its administration of the CPTC, focusing on its performance in meeting its service standards for processing tax returns, for both audited and unaudited claims.

The main source of information on CPTC performance is the annual CAVCO activity report. The most recent report was for FY 2005-2006 and was provided to the evaluation team in July 2007. The report provides detailed information on the level of program activity; recent changes to the *Income Tax Act* and Regulations; trends in the film and television sectors; and, statistics on processing times.

The CAVCO annual activity report provides a useful and informative overview of the operation of the CPTC. Regarding coverage, the current CAVCO activity report, as its name implies, focuses on CPTC activity and outputs, i.e., information on the total number of productions over time, broken down in various ways (regions, language, etc.).

While there is some operational performance information available on the CPTC, there is a gap in the provision of results-based information. Information is required on such results measures as:

- The financial performance of CPTC-supported productions (e.g., revenues, costs, profits, etc.).
- Trends in the financial performance of companies that receive CPTC support (various balance sheet metrics).
- The audience reach of CPTC-supported productions.

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<sup>140</sup> Canada Revenue Agency, *CRA Annual Report to Parliament 2006-2007*, p. 62.

In order to support the future analysis of the financial performance of CPTC-supported companies, CAVCO should require applicants to provide their business numbers, in order to link data from other government databases.

A performance measurement framework for the CPTC should be developed as a next step. It should include a mix of operational and results-based measures. The framework should be presented on a one-page chart. (Many other government agencies as well as other PCH programs have adopted this approach, such as the Canada Music Fund).

In preparing the performance measurement framework, it would be important to consult with stakeholders (both externally and internally) to find out their information needs. Certainly, one metric is average processing times, and the CAVCO activity report provides information on trends in this measure.

Another metric often mentioned by producers consulted during the evaluation was the wait-time preceding analysis (defined as “the number of days the application is in the queue before being initially assessed by the CAVCO analyst.” Several producers commented that they would like CAVCO to start reviewing each application sooner after it is submitted, since delays increase the interest charges they incur as part of the interim financing of the production. We noted that in reviewing the sample of CPTC files, there were a few instances where the applicant had called CAVCO to find out why there had been no communications for several months. CAVCO confirmed that in infrequent cases, administrative error had resulted in longer-than-average wait times, but that in a majority of cases, its own analysts experience lengthy delays related to applicants responding to CAVCO’s requests for additional information. CAVCO analysts frequently spend time sending reminders to applications that their application is still missing crucial documentation and that they have been awaiting their response.

Another likely area of interest would be the time and cost incurred in processing CPTC applications, so that productivity can be monitored, and to ensure that CAVCO’s user fees are consistent with the costs incurred. A time reporting system for employees would be required in order to accurately measure cost per application.

Another area typically covered by program performance measurement frameworks is client satisfaction. At present, CAVCO does not have an ongoing formal client satisfaction measurement process. One-off client surveys have been conducted in the past. CAVCO also emphasizes ongoing consultations with stakeholders, which is a positive feature of the delivery process. Going forward, following receipt of Part B certification, the producer could be surveyed online, and asked to rate various key indicators, such as: overall satisfaction with the process, timeliness, responsiveness, level of professionalism, etc., and to provide improvement suggestions.

**Summary: Performance Measurement** – *The most useful performance report for the CPTC is CAVCO’s annual activity report, which provides information on trends in CPTC activity (productions) over time. This report provides input into the CFTPA’s annual economic profile of the film and television industry. CAVCO’s report would be made even more useful if it included*

*information on other pertinent indicators. There is currently a gap in the provision of results-based information for the CPTC. A performance measurement framework needs to be developed, that would include both operational and results-based performance indicators.*

#### **4.3.6 Overlap and Duplication**

Only a few overlap/duplication issues were identified and are discussed below.

Regarding whether the CPTC overlaps with the various provincial government tax credit programs, no key informants raised this as an issue. The general view is that the federal and provincial programs complement each other. Over the years, producers have become accustomed to dealing with both programs for each production. For example, their financial personnel and outside advisors use special software that provides the templates required to apply to both programs and to help ensure that budgets and expenditures comply with eligibility requirements (e.g., the split between domestic versus foreign expenditures).

Nonetheless, producers must submit similar information to both the federal and provincial governments and to the private sector assistance programs. Several producers suggested that the provinces and CAVCO should harmonize their production cost forms. CAVCO stated that this suggestion was thoroughly examined in the past by the provinces and CAVCO and the outcome was that, because of differing mandates and legislative/regulatory requirements, an amalgamation of the application forms would result in a larger, more complex application form that would not be simpler at all in practical terms.

Another option in the long term might be to consider a single-window approach, whereby CAVCO administers both the federal and provincial tax credit applications (much like CRA is doing for the administration of federal and provincial corporate tax returns in some provinces). In this way there would be one centre of administrative knowledge of the differing requirements between the federal and provincial programs, which would aid in reducing processing times and would streamline the entire process.

As described in Section 3, Bill C-10, currently before the Senate as of January 2008, would, among other things, result in changes to Section 241 of the *Income Tax Act*, pertaining to the sharing by PCH of taxpayer information with respect to Canadian film or video productions that it has certified. Key informants would like to see more information sharing about specific productions between federal and provincial government agencies, as it would decrease the application burden. However, CAVCO noted that privacy laws in the provinces may prohibit sharing of their information with CAVCO. The bill would also provide for more transparency, e.g., CAVCO would be permitted to publish a list of certified productions on its website. (Key informants in Quebec stated that a list is available of companies receiving the provincial tax credit.)

One issue raised by a few producers pertains to the coexistence of the CRTC and CAVCO Canadian content certifications for the same productions. They stated that for certain productions they must submit similar information to both organizations. Producers must apply to the CRTC

to obtain Canadian content status as part of the broadcaster's licensing requirements. The CRTC will recognize productions as Canadian content if already certified by CAVCO. However, CAVCO does not recognize the CRTC's assessment of Canadian content.

For international co-productions, Telefilm decides if the project is in conformity with the relevant co-production treaty. If it is, Telefilm recommends that the project be recognized by the Minister of Canadian Heritage as Canadian content, for purposes of the CPTC if the regulatory deadlines are met, and for the CRTC. There is no duplication issue for official co-productions.

In response to recommendations made by PricewaterhouseCoopers, a System Council with senior representatives from the CTF, Telefilm Canada, CAVCO, CRTC, CRA, and PCH was established to coordinate departmental and agency responses to emerging technologies and content convergence in the television, film and new media industry. The PCH 2007-2008 *Report on Plans and Priorities* authorizes the System Council to take a lead role in preparing CAVCO to be the central organization to certify core elements of Canadian content. PCH was authorized to pursue the legislative and regulatory amendments that would be necessary to achieve this goal. However, upon considerable examination of this matter, in cooperation with CRTC and other members of the System Council, PCH ultimately determined in November 2007 that it was not administratively feasible to pursue the centralization initiative at this time.

Producers would like to see more information sharing between the various government organizations. For example, they noted that the Government (CAVCO) mails the Part A certification to the producer, who must append it to its corporate tax return and mail it back to the Government (CRA). CRA noted that sometimes the Part A certification is missing (producers noted that they sometime send in the corporate tax return before receiving the certification from CAVCO), which delays processing of the tax return (which in turn leads to higher bank interest charges to the producer). CAVCO noted that it already provides CRA with monthly reports that list all of the CPTC certifications. Perhaps the corporate tax return could simply require the corporation to sign a statement indicating that the Part A certification had been received from CAVCO. This could be easily verified by CRA, if it had real-time access to the CAVCO list of certifications.

It was noted that certain improvements are being made over time in the tax credit processes in the federal government and in the provinces. For example, in British Columbia, the provincial tax credit program is administered by BC Film, an independent not-for-profit society established by the provincial government. CRA administers both the federal and provincial corporate tax returns in BC, which is a saving for producers, as they incur lower accounting fees (CRA will start administering Ontario tax returns in 2009). In addition, in BC, CRA conducts the audit of both the federal and provincial tax credits. (It was reported that other provinces are planning on moving to the BC model.)

**Summary: “Overlap and Duplication”** – *No major overlap/duplication issues were identified. A few producers wondered why there are two Canadian content certification systems (CRTC and CAVCO). PCH determined in November 2007 that it was not administratively feasible to pursue the centralization initiative at this time. Producers submit similar information to multiple*

*government agencies, at the federal and provincial levels and to the private sector assistance programs. Key informants are interested in seeing increased information sharing between agencies. Should Bill C-10 receive Royal Assent, CAVCO will be able to share some information, but the provincial privacy laws may hamper the provinces sharing in return.*

#### **4.3.7 Is PCH the Most Appropriate Organization to Manage the CPTC?**

Information was collected by several data collection methods on the performance of PCH and CAVCO in administering the CPTC. A number of delivery issues are also discussed.

When asked about program delivery, CPTC recipients commented on the complete program cycle, i.e., from application to CAVCO all the way through to receiving the tax refund cheque from CRA. Thus this section provides information on the views of producers towards CRA as well as CAVCO.

##### **a) CAVCO received positive feedback but further improvements in service delivery are desired**

The survey of CPTC recipients asked a question about the level of satisfaction with several aspects of CAVCO's delivery of the CPTC. The results are summarized in Table 9. CAVCO received its highest ratings for: helpfulness of its staff (70 per cent were satisfied), followed by appropriateness of eligibility criteria (57 per cent satisfied), and ease of completing the application (48 per cent satisfied). Respondents were more critical of CAVCO's timeliness of delivery (only 26 per cent were satisfied).

**Table 9**  
**Level of Satisfaction with CAVCO (per cent of respondents)**

<b>Satisfaction Level</b>	<b>Ease of completing application</b>	<b>Appropriateness of eligibility criteria</b>	<b>Helpfulness of CAVCO staff</b>	<b>Timeliness of delivery</b>	<b>Reporting requirements</b>
Satisfied (4+5)	47.6	57.1	69.8	26.2	37.3
Dissatisfied (1+2)	15.9	6.3	8.7	38.9	20.6

The findings of the case studies and key informant interviews supported the survey findings.

Key informants were highly complimentary towards CAVCO, stating that PCH and CAVCO had encouraged a culture of consultation over the years (on such topics as producer guidelines and screen credits for non-Canadians). Many producers noted the attendance by PCH and CAVCO representatives at the CFTPA's annual Prime Time conference, which provides a good opportunity for industry and government representatives to discuss the CPTC.

CAVCO's service was viewed to have improved over the years; at one time, there were serious delays in processing but this has largely been resolved. In particular, the current CAVCO Director was viewed as being highly responsive to industry concerns and has done an excellent job of improving the operation over the years.

However, some producers stated that it still takes too long for CAVCO to "open the envelope," i.e., to start processing the Part A certification. (CAVCO stated that it begins processing applications the day there are received.) And obtaining the Part A certification is key, as it is required in order to obtain interim financing. Some producers stated that it takes sixty days before a CAVCO analyst starts the review, and then there can be lots of back and forth, resulting in considerable delays before the Part A certification is received. These delays, in turn, lead to increased interest charges on the interim financing loan. The Part A certificate is also required in order to submit the corporate tax return, so any delays will also extend the amount of time to ultimately obtain the tax refund from CRA.

CAVCO stated that delays are often the result of late and incomplete applications and poor compliance by the applicant with the CPTC requirements. A complete, compliant application could very likely be issued its certificates well within an 8 to 10 week turnaround. CAVCO believes that a huge onus is on the applicant to achieve a better processing timeframe.

Several producers commented that CAVCO's application forms are cumbersome to complete, e.g., they don't incorporate the features of Microsoft Excel, such as automatic calculation of sums and percentages. Presumably these issues will be addressed once CAVCO moves to an on-line application system, which is scheduled to occur in the winter of 2009.

#### **b) Foreign deals are more complex**

Several of the Canadian producers interviewed do considerable business with US television broadcasters, such as the Discovery Channel and Lifetime. A few producers who produce television programs intended for US broadcasters noted that it can be difficult to obtain Part A certification by CAVCO. Some stated that CAVCO provides inconsistent treatment of this type of application, particularly when a different case officer is involved in each time. Any requirements for changes by CAVCO result in the producer having to re-negotiate the contract with the US broadcaster, which provides the opening for the buyer to negotiate more favourable terms. This leads to reduced revenues and increased costs (more time, legal fees, etc.) for the Canadian producer.

CAVCO noted that these US deals can be difficult. Of significant importance to CAVCO is ensuring that Canadians retain control over the production.

An example provided by a case study company with operations in the US identified issues with CAVCO's assessment of ownership and control. The company believes CAVCO is "overly suspicious" of the company's international status, even though all employees are Canadian and the company maintains all rights. The company believes that CAVCO is too "project-based" and

not sufficiently interested in how different business arrangements can help Canadian firms to prosper in the US market.

**c) Producers had a variety of comments about the CRA**

While some producers were complementary towards the CRA, others expressed frustration with CRA's assessments of their corporate tax returns. Several survey respondents also took the time to write detailed comments on issues with the CRA's treatment of their tax returns.

Their overall view is that the CPTC was introduced to benefit producers, but that the CRA's approach is to attempt to reduce the amount of the tax credit. The CRA was viewed as becoming more "suspicious" of corporate tax returns in the past year or so. Some producers stated that 100 per cent of their productions were being audited, whereas a few years ago, the percentage was much lower. The OAG reported that CRA audits 60 per cent of returns. CRA noted that some producers may experience a higher rate of audits than others, and that this is due to its risk assessment criteria.

While a number of technical issues pertaining to the eligibility of production-related costs were raised by several producers, the Evaluation Working Group determined that such issues were outside the scope of the evaluation, since the focus of the evaluation was on PCH's role in administering the CPTC.

**d) A formal government-industry consultation mechanism is recommended**

While key informants stated that they did not expect the evaluation study to investigate and resolve the sorts of technical issues noted above, they recommended that PCH and CRA form a joint government-industry consultative committee, so that issues could be discussed and debated, and provide input to policy decisions by the Government. It was noted that such a committee used to exist but had been disbanded.

A formal industry advisory committee could consist of representatives from CAVCO, CRA, Department of Finance and the provincial culture and finance/revenue agencies, together with industry representatives. The objectives could include: 1) Discuss recent issues pertaining to CAVCO's review of CPTC applications and CRA's assessment of corporate tax returns; 2) Discuss possible changes to the CPTC and provide input into policy development; 3) Provide feedback on service delivery; and, 4) Review performance metrics, targets and results. The scope of this committee would need to be determined, e.g., should it focus on the federal and provincial tax credit programs, and should it cover all government support (i.e., CTF, CFFF, etc.)?

**Summary: Is PCH the most appropriate organization to deliver the CPTC?** – *The analysis indicates that CAVCO should continue to administer the CPTC. It has a generally good reputation among its targeted clientele. However, further improvements to service delivery are desired. A formal government-industry consultation mechanism is recommended so that the federal government can obtain feedback from industry on proposed policy changes, service delivery issues, etc.*

## 5. Conclusions, Recommendations and Management Response

### 5.1 Conclusions

The main conclusions of the study are organized according to the three evaluation issues.

#### ***Rationale/Relevance***

##### **1. The CPTC is consistent with departmental and Government of Canada objectives**

The primary objective of the CPTC is to encourage the production of Canadian programming and an active independent production sector. Support for the independent production sector is formally enshrined in the *Broadcasting Act*, which specifies that “the programming provided by the Canadian broadcasting system...should include a significant contribution from the Canadian independent production sector.” The CPTC’s objective is aligned with the overall strategic outcome of PCH, to ensure that Canadians have access to diverse cultural content.

##### **2. The CPTC was well designed to support the production of Canadian programming but its “corporate development” objective lacks clarity**

The CPTC has two central objectives: 1) Support the production of Canadian programming; and 2) Encourage a more stable financing environment and longer-term corporate development for production companies. Both of these concepts are highlighted in the original news release that announced the program and in the evaluation study’s terms of reference.

The CPTC was well designed to support increased production activity on the part of Canadian production companies. Once the CPTC program was introduced in the mid-1900s, the tax credit quickly became an integral and important component of the financing of film and television productions – thus confirming this aspect of the CPTC’s rationale.

The corporate development concept was not well defined (e.g., it was not discussed in the RMAF), and the mechanism by which it was to be achieved was not clear. If the intent was for the refundable tax credit to be kept outside the financing structure of a production and to directly affect the company’s balance sheet, then likely this has not occurred in the majority of cases. Shortly after the CPTC was introduced, other funding sources required that the CPTC be included as part of the production financing structure. However, key informants noted that production tax credit programs both in Canada and in other countries operate primarily to stimulate production activity. In conclusion, “corporate development” probably was not a valid objective for the CPTC.

### **3. There is a continued need for the CPTC**

All of the production companies interviewed were unanimous in stating that the CPTC together with the provincial tax credits have had an incremental impact on the number of film and television productions over the years (discussed further below under finding #5). Note that producers view the CPTC and associated provincial tax credit as a single package on each production and were unable to separate out the separate effect of each program. Together, the CPTC and the provincial tax credit typically account for 25 per cent to 30 per cent of the total cost of each production – a significant portion. For domestic productions with a high level of Canadian cultural content, there are limited “back end” international sales, and therefore the share of financing provided by the tax credits could not be replaced by other sources of financing. Several producers also emphasized the importance of the CPTC in helping to land international production deals. Overall, producers strongly emphasized that had the CPTC not been available, then the impact on the Canadian production sector would have been significant.

#### ***Success/Impacts***

### **4. The CPTC has had an incremental impact on the production budgets for Canadian programming**

PCH commissioned a separate economic analysis study to estimate the incremental impacts of the CPTC on the production of Canadian programming. The results of the Economic Analysis study provided no basis to reject the hypothesis that the tax credit assistance had no effect – positive or negative – on private financing for film and television production budgets. In other words, the study concluded that there was no evidence of “crowding out” (or “crowding in”) and, therefore, there *was* an incremental increase in the size of English language production budgets in the treatment group following the increase in tax credit assistance.

This issue also was examined via the key informant interviews, a large survey of 126 CPTC recipient companies and eight case studies of CPTC-recipient firms. Overall, recipients of the tax credit report that the CPTC has had an incremental impact on the production of Canadian programming; however, it should be noted that these results may be biased upwards due to the fact they rely on the views of tax credit recipients. Producers specializing in productions with a high level of Canadian cultural content (such as a television biography of a famous Canadian) noted that there are limited “back-end” international sales. Producers of television programs and movies-of-the-week (MOWs) intended for US markets emphasized that the tax credits are pencilled in first and are critical to persuading the US network to invest. Furthermore, several producers stated that had the CPTC not been available, then their companies would either be much smaller or would no longer be in business.

### **5. The CPTC appears to have had some effect on corporate development but not in the way that apparently was intended**

A second objective of the CPTC was to “encourage longer-term corporate development for production companies, rather than focus solely on project financing.” The original intent, while

not clearly stated in program documentation, apparently was for the tax credit to be received by the production company following completion of the production and filing of the corporate tax return, so that it could be used to develop future projects or be re-invested in the company. However, in most cases the tax credit is an integral component of the financing of a particular production and is often interim financed via a bank loan. The Economic Analysis study was not able to assess trends in various quantitative measures of corporate development (e.g., balance sheet measures), due to a lack of data.

The summative evaluation investigated this issue via the key informant interviews, case studies and survey of producers. The CPTC likely has had some effect on corporate development due to the benefits from increased production activity, but the more direct link that program designers originally intended does not appear to have occurred.

### ***Cost-Effectiveness/Alternatives***

#### **6. CPTC application costs incurred by producers are low relative to the size of production budgets**

The evaluation estimated that producers incur costs of about \$6,365 in order to access the CPTC, which is about 0.37 per cent of the average production budget. Although this is an approximate estimate, it still appears small relative to production budgets. In addition, the majority of producers did not raise any major concerns about the costs incurred in applying to CAVCO for the CPTC.

#### **7. A number of CPTC design issues were raised during the evaluation**

The basic elements of the CPTC's design are highly respected by the film and television industries, particularly the fact that the CPTC is seen as both "predictable and bankable." A major issue to producers is the high cost of interim/bridge financing. The tax credit is often included in the financing structure and is interim financed with a bank loan. Since the tax credit refund does not arrive for many months following the start of a production, producers incur significant interest charges on their bank loans – monies which otherwise could be invested in the production. Several factors contribute to these interest charges, including: submission of incomplete and/or inaccurate applications to CAVCO and issues identified by CRA in the audits of corporate tax returns. The evaluation study proposes a number of options to address this issue. Another design issue is whether the CPTC should shift to total production spending as the basis for the calculation of the tax credit. Finally, the role of the federal government in supporting the production of Canadian cultural content intended for distribution via the Internet and other new media platforms is receiving increasing attention. Producers are expecting that the CPTC will adapt to the rapidly growing new media environment.

#### **8. The evaluation study examined three alternatives to the tax credit model**

The evaluation study examined three alternatives to the tax credit approach. With the non-discretionary grant program model (currently used in Canada only by the province of Alberta),

program delivery is simpler, and the administrative costs are very low. Producers receive payment much faster compared to the tax credit model. However, such programs pose considerable financial management challenges. Also, it could be argued that a grant program has fewer checks and balances compared to the tax credit model and is thus more open to abuse.

A second option would be to transfer the estimated value of the tax credit program to existing discretionary programs, such as the Canadian Feature Film Fund (CFFF) and the Canadian Television Fund (CTF). This could lead to fewer but larger production projects. In terms of the types of projects, there would be a shift to more projects being funded that are of “high cultural content.” This could be viewed as positive by those who believe that the Government should only be supporting this type of content. Producers were not in favour of this option, due to the subjectivity involved in such programs and the fact that demand is greater than the funds available. Such programs do not adjust to the production cycles in the industry, whereas a tax credit program does. However, an advantage of a grant and contribution program is that the government can obtain results-related information from funded recipients. Currently, no result-related information is available on CPTC-supported projects (discussed further below).

Finally, the tax shelter model existed in Canada beginning in 1974. While tax shelters were very popular and had certain positive features (e.g., cash resources were made available at the commencement of a production), they were very costly. The benefits were largely shared in equal proportions by producers, investors and shelter promoters. The basic issue is that large sums of money for a cultural initiative were not going directly into film production. Producers had mixed views on tax shelters, and indicated that the Government would likely not be interested in reinstituting them.

In conclusion, none of the alternatives examined by the evaluation appears to be a superior mechanism for achieving the primary objective of the CPTC, which is to encourage the production of Canadian programming.

## **9. Other countries have adopted the tax credit model, but with some different design features**

A common aspect of policy evolution in Australia, the United Kingdom, and France is increased reliance on tax credit schemes to support film and audiovisual production. The tax credits in all three countries have all recently adopted a more comprehensive expenditure base rather than labour expenditures as used in the CPTC model. These countries have also not adopted the CPTC’s restrictions on the sale of copyright by the producer, nor stipulated a minimum producers’ share of net receipts earned in foreign markets. Unlike the CPTC, foreign companies with permanent establishments may qualify for the French, British, and Australian tax credit programs supporting national productions.

An innovative feature of the British tax credit is the additional support that it offers to production companies that pay taxes. This program provides cash rebates to new ventures or struggling established companies while nourishing the corporate development of successful firms by providing them even larger tax benefits.

The replacement of grant and tax shelter programs with tax credits by these countries reveals that foreign policy-makers looked favourably on Canada's experience with this mode of support. The wider adoption of tax credits has also been accompanied by more generous support for national production in each of the countries.

The new directions of support policy in these three countries resulted from reviews of national and international experience by their policymakers. While Canada's situation has unique elements, there is sufficient commonality to warrant the Government to assess if there are net benefits in altering the CPTC by: 1) broadening the expenditure base and adopting the total production spend model instead of the labour-based model; 2) making foreign-owned Canadian production companies eligible; 3) modifying the copyright ownership and minimum income shares from foreign sale requirements; and, 4) extending the tax credit approach to new media. Most of the changes in policies in Australia, France and the United Kingdom have been recently adopted. Assessing their actual, as compared to their expected impact, should be part of the assessment process.

#### **10. Insufficient performance measurement information is being provided on the CPTC**

The most public report on the CPTC is CAVCO's annual activity report, which provides information on trends in CPTC activity (productions) over time. This report provides input into the CFTPA's annual economic profile of the film and television industry. CAVCO's report would be made even more useful if it included information on other pertinent indicators pertaining to operational performance, such as the amount of time that passes before the application is assessed.

Turning to the measurement of results, no information is currently being provided on the financial performance of CPTC-supported productions and companies, or on the audiences for these productions. Although the CPTC is a large government program, PCH does not provide any results information on the CPTC in its annual *Departmental Performance Report* to Parliament.

#### **11. No major overlap/duplication issues were identified**

Regarding the fact that a producer applies separately to the federal and provincial tax credit programs for the same production, no producers identified this as an issue, as the overall view is that the federal and provincial programs complement each other. A few producers wondered why there are two Canadian content certification systems (CRTC and CAVCO). PCH stated that, following significant study of this issue, it determined in November 2007 that it was not administratively feasible to pursue the centralization initiative at this time. Producers submit similar information to multiple government agencies, at the federal and provincial levels and to the private sector assistance programs. Key informants were aware of the provisions of Bill C-10, which if passed by Parliament, would permit increased information sharing between agencies. But while CAVCO will be able to share some information, the provincial privacy laws may hamper the provinces sharing in return.

## **12. CAVCO is viewed as the appropriate organization to continue administering the CPTC**

The evidence indicates that CAVCO should continue to administer the CPTC. It has a generally good reputation among its clientele and the current CAVCO director was viewed as being highly responsive to industry issues and has done an excellent job of improving the operation over the years.

The evaluation study's online survey of producers found that CAVCO received its highest ratings for: helpfulness of its staff (70 per cent were satisfied), followed by appropriateness of eligibility criteria (57 per cent satisfied), and ease of completing the application (48 per cent satisfied). Respondents were more critical of CAVCO's timeliness of delivery (26 per cent were satisfied and 39 per cent were dissatisfied).

Further improvements to service delivery are desired by producers. Some stated that it still takes too long for CAVCO to "open the envelope," i.e., to start processing the application. CAVCO stated that this perception is incorrect: applications are processed starting on the day they are received. Several producers commented that CAVCO's application forms are cumbersome to complete, e.g., they don't incorporate the features of spreadsheet software, such as automatic calculation of sums and percentages. Presumably these issues will be addressed once CAVCO moves to an on-line application system.

A formal government-industry consultation mechanism is recommended to enable the federal government to regularly obtain feedback from industry on proposed policy changes, service delivery, etc.

## **5.2 Recommendations and Management Response**

### **1. A formal government-industry consultative committee should be formed to provide ongoing feedback on the design and delivery of the CPTC**

PCH should work with Department of Finance (DoF), Canada Revenue Agency (CRA), provincial governments and relevant industry associations to form a government-industry consultative committee to provide ongoing input to the Government on changes to the CPTC. The role of this committee would be to: 1) Discuss issues pertaining to CAVCO's assessment of CPTC applications and CRA's assessment of tax returns; 2) Discuss possible modifications to the CPTC and provide input into policy development; 3) Provide feedback on service delivery; and, 4) Review performance metrics, targets and results. The committee should meet at an appropriate interval, e.g., two or three times a year. Minutes of each meeting, including recommendations and the Government's responses, should be posted on the CPTC website.

### **Management Response: partially accepted**

The Branch strongly agrees that a consultative approach to both design and delivery issues affecting the CPTC is warranted.

The CPTC was designed by the Department of Finance. Responsibility for the administration of the program is shared between CAVCO and Canada Revenue Agency (CRA). More specifically, CAVCO certifies productions based on a labour-based points system; while CRA reviews applicants' claims for eligible expenditures and issues tax returns.

The Branch has worked consistently to ensure that all interested parties are consulted on matters relating to the design and delivery of the CPTC under the purview of PCH. Depending upon the nature of the issue, consultation approaches include applicant surveys, outreach initiatives and in several cases, full public consultations led by PCH or in conjunction with Finance. This kind of flexible approach allows the Branch to adapt to circumstances and maximize the quality of stakeholder input.

Given the division of responsibilities for the CPTC and the range of issues involving different industry stakeholders, the Branch does not feel it is necessary or productive to implement a large formal mechanism. In the past, the Branch has established formal consultative committees, such as the Feature Film Advisory Committee, and found them to be expensive and unwieldy. Ultimately, a smaller, more customized approach to consultations is equally effective. That being said, the Branch will explore, in consultation with the CRA and Finance, whether alternative consultative processes are required to ensure adequate consultation, in Fall 2008.

## **Implementation Schedule**

Fall 2008

### **2. Several CPTC design issues should be examined**

The evaluation study raised several issues pertaining to the overall design and structure of the CPTC, which now should be examined further by PCH. These issues include the following:

- The analysis of tax credit programs in other countries indicates that a number of features should be assessed to determine if their adoption in Canada would increase the effectiveness of the CPTC. These include: 1) adopting the total production-spend model rather than the labour-based model for calculating the tax credit on productions; 2) making foreign-owned Canadian production companies eligible; 3) modifying the copyright ownership and minimum income shares from foreign sale requirements; and 4) extending the tax credit approach to new media.
- Whether to issue a portion of the CPTC tax credit to production companies at an earlier stage, e.g., upon receipt of Part A certification by CAVCO and commencement of principal photography. The advantage of this change would be that the interest charges incurred by producers on their interim financing bank loans would be reduced, which would free-up funds to be invested in the production. This would require an amendment to the *Income Tax Act*. On the other hand, there would be an opportunity cost to the Government in terms of foregoing interest income. There may also be higher

administration costs and potentially a higher level of risk due to fraud. A more detailed examination of the pros and cons of this change is recommended.

### **Management Response: accepted**

The Branch agrees that there are design issues pertaining to the CPTC that warrant further examination.

Program design has remained essentially unchanged since the CPTC was introduced in 1995. The evaluation identifies several areas of the design that merit further review by comparing the CPTC with tax-based incentives in other countries. Specifically, the evaluation identifies certain features of these programs, "...from which Canada might benefit".

The Branch will develop a work plan in Fall 2008 to examine some of the design issues identified by the evaluation. The Branch will consult with the Department of Finance on the work plan prior to implementation, given that Finance maintains primary authority for the program. The CRA will also be consulted given its co-administrative role during that time.

### **Implementation Schedule**

Winter 2008-2009

#### **3. A comprehensive performance measurement strategy for the CPTC should be developed, along with an updated RMAF**

An RMAF for the CPTC was prepared in 2003 and needs to be updated. The program rationale and the objectives of the CPTC need to be clarified. The corporate development objective does not appear to be a valid objective for the program and should be removed. The RMAF should also outline the CPTC's performance measurement strategy to support the collection of results-related information as well as help management to improve operational performance. By having a performance measurement framework in place, it would address one of the challenges of the evaluation study: the lack of available data required to assess the financial performance of both CPTC-supported projects and companies. By collecting appropriate information, this would permit a future evaluation of the CPTC to investigate these issues.

PCH should establish a working group to develop the performance measurement framework. This working group should include representatives from PCH, CAVCO, DoF and CRA as well as industry representatives.

In terms of measuring the results of the CPTC, information is required on such indicators as the following:

- The profitability of CPTC-supported productions – CPTC recipients should be required to submit data on the revenues and costs of their productions.

- The financial performance of CPTC-supported companies.
- The audience reach of CPTC-supported productions.

CAVCO's user fee structure may need to be amended to cover the additional costs, if any, for the collection and maintenance of this new data and for the relevant analysis and reporting activities.

In order to ensure recipients comply with the requirement to provide performance information, this could be a condition of receiving future CPTC certification (that is, an application would not be considered unless performance information was provided for previous completed productions).

Turning to operational performance measurement, some potential performance indicators would include: number of days an application is in the queue before being initially assessed by an analyst; level of completeness of applications (which would help monitor problem areas of the application); cost per application; client satisfaction; etc. Also, CPTC applicants should be required to provide their Business Number (BN) in the application form to enable linkage between databases.

Once an appropriate performance measurement framework has been designed and implemented, information on both results and operational performance should be added to the CAVCO annual report and to the annual *Departmental Performance Report*.

### **Management Response: accepted**

The Branch agrees with the evaluation findings related to the shortcomings of data, which restricted a comprehensive assessment of the CPTC. The Branch will develop a performance measurement strategy for the CPTC, in collaboration with the Department of Finance, in 2008-2009, to be implemented in 2009-2010. This work will include an evaluation of ways to measure audience and production performance data.

The Branch is working with Statistics Canada and CRA to review options for improving the availability and reliability of production company data provided by Statistics Canada. There are currently data limitations due to company structuring practices which we will attempt to overcome. To improve the collection of survey data, the Branch is exploring ways to share CAVCO data with Statistics Canada, which is permitted under the *Income Tax Act*.

The Branch also acknowledges that there is a need to improve the manner in which indicators of effective service delivery are captured and reported and expects that CAVCO's move to an on-line application system in 2009 will facilitate this process.

While the audio-visual industry and policy environment has evolved considerably over the years, the program's objectives have not. The Branch agrees with the need to update the CPTC's RMAF.

The Branch will review the objectives of the CPTC in support of the film and video sector and an updated RMAF will be prepared in collaboration with the CRA and the Department of Finance in 2009-2010.

### **Implementation Schedule**

2009-2010

## **Appendices**

- A. Evaluation Matrix**
- B. List of Key Informants and Case Studies**
- C. Bibliography**

## Appendix A – Evaluation Matrix

Evaluation Issues and Questions	Measurement Indicators	Data Collection Methods
<b>Rationale and Relevance</b> 1. Is the CPTC consistent with Government of Canada priorities and the Department's strategic and cultural objectives and expected outcomes? These are reflected in the strategic priorities for the Cultural Affairs Sector, i.e., 1) reaching audiences; 2) reflecting ourselves; 3) investing in excellence; 4) harnessing the opportunities of new technologies; and, 5) reaching the world.	<ul style="list-style-type: none"> <li>Extent to which the production of Canadian programming is reflected in Government priorities.</li> </ul>	Document and literature review Key informant interviews
2. Are the CPTC's stated objectives and its purpose well-defined and appropriate?	<ul style="list-style-type: none"> <li>Clarity of CPTC's logic model (linkage between activities and objectives) and rationale</li> </ul>	Document and literature review Key informant interviews
3. Is there a continued need for the federal government to support the Canadian film and video production industry?	<ul style="list-style-type: none"> <li>Potential impact on industry if CPTC were to be discontinued</li> <li>Success of the CPTC in achieving its two objectives: production of Canadian content and corporate development.</li> </ul>	Document and literature review Key informant interviews Survey of recipients Case studies Economic analysis study (Nordicity)

<b>Success/Impacts</b> 4. What difference has the CPTC made with respect to: <ul style="list-style-type: none"> <li>➤ Canadian programming and the development of an active domestic independent production sector?</li> <li>➤ A more stable financing environment and longer-term corporate development for production companies?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Impact of the CPTC on the production of Canadian film and television projects</li> <li>▪ Trends in the financial health of companies and the role played by the CPTC</li> <li>▪ Extent to which industry consolidation has occurred and role played by CPTC</li> </ul>	Document and literature review Survey of CPTC recipients Key informant interviews Case studies Economic analysis study (Nordicity)
5. To what extent has the CPTC contributed to achieving the Department's cultural objectives and expected outcomes, i.e., 1) reaching audiences; 2) reflecting ourselves (linguistic, regional); 3) investing in excellence; 4) harnessing the opportunities of new technologies; 5) reaching the world.	<ul style="list-style-type: none"> <li>▪ Breakdown of CPTC-supported productions by, e.g., region, language, domestic/international pre-sales</li> <li>▪ Note: Analysis of audiences for CPTC-supported productions was not possible due to absence of audience data</li> </ul>	Economic analysis study (Nordicity)
6. Have there been any unexpected (positive or negative) impacts of the CPTC?	<ul style="list-style-type: none"> <li>▪ Evidence of unintended impacts in literature</li> <li>▪ Views of CPTC recipients, key informants</li> </ul>	Document and literature review Survey of recipients Key informant interviews Case studies Economic analysis study (Nordicity)
<b>Cost-Effectiveness/Alternatives</b> 7. Are the most appropriate and efficient means being used to achieve the government's objectives relative to alternative	<ul style="list-style-type: none"> <li>▪ Pros and cons of CPTC compared to alternative direct and indirect programs, e.g., grants, tax shelters</li> <li>▪ Costs of CPTC delivery, and opportunities for reducing administration costs</li> </ul>	Document and literature review File and database review Key informant interviews Survey of recipients Case studies

design and delivery approaches?		
8. Does the CPTC complement, duplicate or overlap other federal and provincial support programs, and, if so, how?	<ul style="list-style-type: none"> <li>Views of CPTC recipients, key informants, etc.</li> </ul>	Document and literature review File and database review Key informant interviews Survey of recipients Case studies
9. Is PCH the most appropriate organization to manage the CPTC, or could it be transferred to another federal, provincial or private sector organization?	<ul style="list-style-type: none"> <li>Views of CPTC recipients, key informants, etc.</li> </ul>	Document and literature review Key informant interviews Survey of recipients Case studies
10. Is appropriate information being collected and managed to support reporting and evaluation requirements?	<ul style="list-style-type: none"> <li>Extent to which project reporting system used by CAVCO captures results information</li> <li>Extent to which CPTC performance reports (e.g., CAVCO annual report, DPRs of PCH, DoF, CRA) provide information on results</li> </ul>	File and database review Document and literature review Key informant interviews

## Appendix B – List of Key Informants and Case Studies

### *List of Key Informants*

NAME*	TITLE AND ORGANIZATION	CITY
DEPARTMENT OF CANADIAN HERITAGE, CULTURAL INDUSTRIES		
1. Jean-François Bernier	Director General Cultural Industries	Gatineau, QC
Jean-Pierre Gauthier	Director Film and Video Policy and Programs	
Annette Gibbons	Deputy Director General Cultural Industries	
DEPARTMENT OF CANADIAN HERITAGE, CAVCO		
2. Robert Soucy	Director Canadian Audio-Visual Certification Office (CAVCO) Department of Canadian Heritage	Gatineau, QC
CRTC		
3. Nick Ketchum	A/Senior Director TV Policy and Applications CRTC	Gatineau, QC
CANADA REVENUE AGENCY		
4. Anne Wilson	A/Manager Film Advisory Services	Ottawa, ON
Pierre Mercier	Senior International Auditor Film Advisory Services	
TELEFILM CANADA		
5. Elizabeth Friesen	Chief Operating Officer	Vancouver, BC
6. Danny Chalifour	Director, Industry Development Operations	Montreal, QC
NATIONAL FILM BOARD		
7. Claude Joli-Cœur	Deputy Commissioner	Ville Saint-Laurent, QC
Deborah Drisdell	Director, Strategic Planning & Government	

NAME*	TITLE AND ORGANIZATION	CITY
	Relations	
<b>CANADIAN TELEVISION FUND</b>		
8.	Canadian Television Fund	Montréal, QC
<b>SECTOR ASSOCIATIONS</b>		
9.	Film Ontario (Board Members)	Toronto, ON
10.	Motion Picture Production Industry Association of British Columbia (Board Members)	Vancouver, BC
11.	Manitoba Motion Picture Industry Association (MMPIA)	Winnipeg, MB
12.	Canadian Film and Television Producers Association (CFTPA)	Ottawa, ON
13.	Association des producteurs de films et de télévision du Québec (APFTQ)	Montréal, QC
14.	Présidente Alliance des producteurs francophones du Canada	Moncton, NB
15.	Canadian Motion Pictures Distributors Association	Toronto, ON
<b>UNIONS</b>		
16.	ACTRA	Toronto, ON
17.	Association des réalisateurs et réalisatrices du Québec	Montréal, QC
18.	Writers Guild of Canada Executive	Toronto, ON
19.	Union des artistes	Montréal, QC

NAME*	TITLE AND ORGANIZATION	CITY
20.	Société des Auteurs de Radio, Télévision et Cinéma (SARTEC)	Montréal, QC
21.	Canadian Association of Film Distributors and Exporters	Toronto, ON
22.	Directors Guild of Canada	Toronto, ON
23.	International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts	Toronto ON
<b>PROVINCIAL GOVERNMENTS/FUNDING BODIES</b>		
24.	BC Film	Vancouver, BC
25.	Ontario Media Development Corporation (OMDC)	Toronto, ON
26.	Société de Développement des Entreprises Culturelles (SODEC)	Montréal, QC
27.	Corporate Income Tax B.C. Ministry of Provincial Revenue	Victoria, BC
28.	Alberta Film	Edmonton, AB
<b>PRIVATE FUNDS</b>		
29.	Rogers Documentary Fund and Cable Network Fund	Toronto, ON
30.	Bell Broadcast and New Media Fund	Toronto, ON
<b>OTHER INDUSTRY INTERVIEWS</b>		
31.	Alliance Atlantis	Toronto, ON
32.	Premiere Bobine Inc.	Montréal, QC

NAME*	TITLE AND ORGANIZATION	CITY
33.	Corus Entertainment	Toronto, ON
33.	Prospero Pictures	Toronto ON
35.	Ellis Entertainment	Toronto, ON
36.	Equinoxe Films	Montréal, QC
37.	Cirque de Soleil	Montréal, QC
38.	White Pine Pictures	Toronto, ON
39.	Cookie Jar	Montréal, QC
40.	Aver Media/Aver Partners	Toronto, ON
41.	Keatley Entertainment Ltd.	Vancouver, BC
42.	imX communications	Halifax, NS
43.	Silvertip Pictures	Canmore AB
<b>BANKS, LAW FIRMS AND ACCOUNTING FIRMS</b>		
44.	Borden Gervais Ladner	Montréal, QC
45.	National Bank of Canada	Montréal, QC
46.	Royal Bank of Canada	Toronto, ON
47.	Kay & Warburton Chartered Accountants	Toronto, ON

\* In accordance with PCH policy, names of individuals interviewed outside of the federal government have been withheld.

## List of Case Studies

Company Name	Location	Description**	Production Volume (2006)*
Brightlight Pictures	Burnaby BC	Develops, finances and produces independent feature films and television projects for the domestic and international marketplace	\$17M
Insight Film Studios	Vancouver BC	An independent television and film production studio	\$120M
Original Pictures	Winnipeg MN	An independent television and film production studio	\$9M
Blueprint Entertainment Corp.	Toronto ON	A television production company involved in the development financing, production and packaging of entertainment for the North American and international markets	\$99M
Epitome	Toronto ON	Producer of dramatic, educational and documentary television series, broadcast in Canada and internationally	\$23M
Tout Écran	Montreal QC	Independent producer of television documentaries, youth-oriented programming and lifestyle programming	NA
Cinémaginaire	Montreal QC	Independent producers of feature films and documentaries for film and television	\$14M
Muse Entertainment	Montreal QC	Produces television movies and series and feature films	\$39M

\* Source: *Playback*, available at: <http://www.playbackonline.ca/articles/magazine/20070514/indiecos.html>.

\*\* Obtained from company websites or from interviews.

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