



DEFINING CANADIAN CONTENT – WORKSHOPS WITH STAKEHOLDERS AND INDUSTRY

What We Heard Report

September 2024

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ISBN: 978-0-660-73536-8

Cat. No.: BC92-136/2024E-PDF

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The CRTC Certification system¹

The CRTC certifies programs as “Canadian” – this includes film and television productions that use mainly Canadian crews and talent. These certified programs help Canadian broadcasters meet their requirements given that they have to devote a certain percentage of their broadcast to Canadian programming.

However, certifying Canadian content is not only tasked to the CRTC, but the following institutions also certify content for tax credit and funding purposes: Canadian Audio-Visual Certification Office (CAVCO), Telefilm and the Canada Media Fund. While all have similar approaches to certifying content as Canadian, there are some differences between them.

The CRTC uses a point system, with 6 out of 10 points being the minimum number of points to achieve certification². Each point is associated with a key creative position (i.e. director, screenwriter, picture editor, etc.). These positions are central to the creative aspects of a production.

The CRTC requires that the Canadian producer retain creative and financial control of a production. On the other hand, CAVCO requires the Copyright to be held by a Canadian individual or company for at least 25 years. All in all, ownership and control of the intellectual property rights is an essential part of some of the other Canadian content definitions³.

¹ <https://crtc.gc.ca/canrec/eng/guide1.htm>

² Other institutions in the system may require higher minimums for their own policy reasons.

³ The CRTC does not currently have any requirements relating to intellectual property rights within its Canadian content definition.

Executive Summary

This report summarizes the learnings from workshops with members of the audiovisual (AV) industry in Canada regarding the CRTC's definition of Canadian Content (CanCon). The workshops form part of the CRTC's preparatory work for a wider public consultation on this issue.

A total of 382 participants took part in seventeen workshops between February and March of 2024. A total of ten in-person workshops were held in Montreal, Toronto, Halifax, Vancouver, Winnipeg, and Calgary. An additional seven virtual workshops were held to ensure that those not living in those cities or unable to attend on set dates, could take part. Workshops were held separately in English and French given the notable differences in the two language markets, as well as differences in creators' experiences and views. Workshops included diverse opinions from the AV industry, including the perspectives of Indigenous Peoples⁴, official language minority communities (OLMCs), equity-deserving creators, online creators, small and large producers, domestic broadcasters, trade union representatives, and others. The composition of workshops also included representatives from foreign streaming services.

Participants were invited to share their perspectives on several issues related to CanCon including a series of proposed questions on the cultural, economic, intellectual property and diversity & inclusion dynamics of what the future of CanCon could look like. Moreover, they offered commentary on the desired outcomes of a modernized CanCon definition and whether and how a future definition should be flexible and adaptive for the benefit of the Canadian broadcasting system. While this report presents the views of persons already involved in and benefiting from the existing CanCon definition, the CRTC plans to use other tools to engage with Canadians on their viewpoints of the definition.

⁴ Please note that the definitions of Indigenous content will be established through the efforts linked to the co-development of the [Indigenous Broadcasting Policy](#). The CRTC is in collaboration with First Nations, Inuit and Métis peoples to co-develop an Indigenous broadcasting policy that meets the needs and interests of Indigenous audiences, broadcasters and content creators.

Highlights

Cultural elements: What makes it “Canadian”

Participants generally agreed that what makes a production “Canadian” is the direct result of having a majority of Canadians holding the key creative roles in a production (which gives most of the creative and financial control to Canadians). Also, there was support among some participants for an expanded list of creative roles that could be included in a new definition, some of which include visual effects (VFX) director, costume designer or make-up artist. When questioned on adding specific cultural elements to the definition, participants were mostly of the view that it would be challenging. They worried that trying to identify a set of cultural elements (e.g., ethnicity, values, cultural symbols) to be included within the definition would introduce subjectivity in the process and could stifle creativity. They also feared that it would add a bureaucratic burden to a certification process that some believe is already overly complex.

Many expressed concern that including such cultural elements in an updated CanCon definition could lead to uneasy discussions about which groups could be considered “more” or “less” Canadian. Francophone participants, whether in Quebec or those living as a part of an OLMC, were concerned that adding cultural elements to a revamped definition could dilute the importance of the French language in the Canadian audiovisual broadcasting system.

Economic elements: How to best increase investments

Participants were almost unanimous in their desire to see increased investment in the Canadian audiovisual broadcasting system. They were less unanimous regarding how that could be done. There was broad recognition of the contribution of foreign location service productions to the livelihoods of workers who are employed by them and local economies. When looking at the bigger picture, investments in those productions were generally seen as beneficial to the Canadian audiovisual industry. They were seen to create jobs and to be key training grounds for Canadian industry members. This positive viewpoint was strongest among participants representing industry workers and streamers.

While broadcasters, producers and creators generally saw those benefits, many among them thought that these types of productions were, and needed to remain, distinct from CanCon certified productions. They were more likely to stress that CanCon certification should continue to support the domestic creative industry. They looked to regulatory measures and funding contribution requirements for foreign online streamers to encourage greater investment.

Intellectual property (IP): More equitable sharing of financial benefits

IP ownership was seen by most producers, creators and broadcasters as fundamental in enabling Canadians to fully reap the economic benefits of their work. When asked if IP should be included in a new version of the CRTC’s CanCon definition, their response was generally yes. On the other hand, online streamers mentioned that IP ownership is a core aspect of their business model, and as such they did not support incorporating it within an updated definition. As discussions unfolded, less entrenched and more nuanced perspectives emerged. For example, some were willing to explore solutions put forth in other countries regarding the sharing of IP rights or imposing time limits on those rights to ensure all parties benefitted. Some suggested that IP rights could be incorporated in the definition by adding additional points for it as opposed to making it a mandatory condition.

Diversity and inclusion: using the right tool

While many participants believed existing systemic barriers limited the full participation of creators from equity-deserving groups, few participants felt that the definition of Canadian content was the source of the problem, nor did they believe it was the proper tool to address those barriers. They raised concerns over the possibility that using the definition to favour inclusivity may in fact lead to stereotyping and tokenism, creating a “tick box” approach to inclusivity. Indigenous participants generally mentioned that they would like to see a new definition that is more respectful of their cultures, although they often shared concerns about the risk of tokenism.

Lack of awareness of the value of certification and limited resources to complete the certification process were some of the challenges faced by creators from equity-deserving groups. Members of smaller communities, including OLMCs and Indigenous Peoples, noted that a limited pool of talent from their groups often made it hard to fill key roles in productions. They and others also mentioned that the requirement for spending 75% of production costs in Canada can be hard to meet for stories based in locations where no co-production treaties exist. This requirement was deemed by some to represent a significant limitation for content creators from equity-deserving groups. Some participants felt some consideration could be given to allowing for more flexibility in such instances (e.g., allowing for more production spending outside of Canada and/or increasing the percentage of post-production spending in Canada). Indigenous participants also noted that their communities often span multiple countries, further complicating things for creators or producers wanting to tell their stories.

Introducing flexibility and adaptability: for whom and for what?

Discussions on how flexibility and adaptability could be integrated in an updated CanCon definition were at times emotionally charged. At the heart of the debate was the question of “Who benefits from greater flexibility?”. Some Canadian creators and producers who had long-standing experience with the current CanCon certification process equated flexibility with “diluting” or “weakening” the process. They feared this would benefit the non-Canadian online streaming industry, mostly at the expense of the homegrown Canadian creative industry and Canadian culture.

Some streamers and participants who were newer to the broadcasting system, including online creators, were more open to adding elements to the current points system provided that an updated definition continues to incentivize productions to fill a majority of key creative positions with Canadians. Several participants also saw opportunities for integrating flexibility in the definition in ways to benefit regional creators, creators who belong to equity-deserving groups and Canadian productions companies who are more likely to reinvest in the Canadian AV system.

Common aspirations for an updated CanCon definition

There was general agreement around the outcomes that a modernized CanCon definition should contribute to, and regarding measures of success. It is worth noting that feedback was sometimes related to general aspirations or improvements to the Canadian broadcasting system in its entirety. Participants tended to focus on:

- **High quality content** “made by Canadians”.
- Supporting the **financial viability** of the different players within the AV ecosystem.
- Broadcasters, including foreign online streamers, **should pay their fair share**⁵.
- The importance of a Canadian broadcasting system that **develops Canadian talent and builds a Canadian star system**. The Quebec star system was often raised as an example of success in promoting Canadian talent.
- **Global reach and competitiveness** through the promotion of Canadian content worldwide and by ensuring Canada remains competitive on a global scale.
- **A transparent and accountable system** through better data resources, clarity on the funding and distribution of Canadian productions and appropriate measures of success.

⁵ Please note that the purpose of these sessions was not to determine what a “fair share” is or might be, it was not a subject of discussions.

1. Introduction and approach

As emerging online services and platforms continue to be adopted by viewers and listeners across the country, the consumption of traditional television is declining. These major changes taking place in the Canadian broadcasting system have led the government to amend the *Broadcasting Act* (the Act).

1.1 Why did the CRTC undertake these workshops?

To implement the objectives of the updated Act, the CRTC created a regulatory plan⁶ which includes multiple processes. As part of this plan, the CRTC commissioned Ipsos to conduct workshops with members of the audiovisual (AV) industry across the country to hear participants' concerns, opinions, and points of view regarding the definition of Canadian content (CanCon). These sessions took place during February and March of 2024.

The information shared by workshop participants and summarized in this report will help the CRTC design the approach for a broader future public consultation on the topic.

1.2 What were the objectives of the workshops?

The CRTC sought to give an opportunity, particularly for members of the Canadian production and broadcasting ecosystem, to discuss the dynamics surrounding the CRTC's CanCon definition, and the possibility that it might need to be adapted given the fundamental changes the broadcasting industry has seen in the past decades. Four key areas of discussion were explored with participants: cultural elements, economic elements, diversity and inclusion, and Intellectual property (IP) (including copyright). Following discussions on those four areas, participants were asked to look into the future and focus on the desired outcomes that a modernized definition should generate.

⁶ <https://crtc.gc.ca/eng/industr/modern/plan.htm>

To elicit reflection and generate discussions, the CRTC prepared a discussion guide that included questions and some publicly available data points which was then shared with confirmed participants prior to the workshops in the form of a *Discussion Guide* (included in its entirety as an appendix to this report). Participants were not expected to reach consensus on any of the prepared questions. They were invited to share their viewpoints and provide the CRTC with key ideas to consider as part of its efforts to review the CanCon definition for AV content. In the same manner, this *What We Heard* document does not report on consensus views only. It is meant to summarize the different ideas collected by Ipsos.

1.3 Who did we hear from?

A total of 382 stakeholders participated in seventeen workshops that were held across the country and virtually. Ten were full-day in-person workshops and seven were half-day virtual workshops. The in-person engagements were held in Montreal, Toronto, Halifax, Vancouver, Winnipeg, and Calgary. All efforts were undertaken to ensure that each workshop included a broad range of participants within the AV industry. This included thorough outreach to equity-deserving groups including but not limited to creatives within Official Language Minority Communities (OLMCs). Unfortunately, the response was not as strong from all regions or segments of the industry, most notably the French-language market and certain OLMC markets. In light of this low attendance rate, certain in-person OLMC targeted workshops had to be consolidated into a virtual workshop.

Workshops were held separately in French (three) and English (14) given the notable differences in experiences and views between the two language markets. Participants included various members of the Canadian AV sector including domestic broadcasters, showrunners, producers, directors, screenwriters, digital first creators, actors, foreign online streaming services, screen composers, editors, directors of photography, animators, content distributors, domestic online broadcasters and funding bodies, among others. These workshops only discussed issues relating to AV content such as television programs, films, documentaries, or various content available on online platforms and

services. Issues pertaining to audio content such as music and talk radio, audiobooks, or podcasts were excluded. In addition to the workshops, participants had until the end of April 2024 to submit to Ipsos clarifying comments, feedback, or statements to a dedicated email address created for these sessions.

1.4 What was the approach of these workshops?

Invitations for these workshops were coordinated by CRTC staff in collaboration with an event management firm (Oxygen events Ltd). Outreach efforts also included various English and French-language screen industry associations and organizations, including those that support and serve the needs of OLMCs and equity-deserving groups to ensure inclusivity and to collect a breadth of perspectives. Specific efforts were made to invite stakeholders with whom the CRTC has had few or no interactions to date as well as established stakeholders and industry associations.

Approximately 2,500 invitations were sent starting in December of 2023 throughout the winter of 2024 to ensure that a variety of voices from the AV industry in both official languages were heard and had an opportunity to participate. Initial contact was established through email, inviting members of the AV industry to express their interest in attending either the in-person or virtual events via a provided link. To maximize participation, the link displayed a range of dates, times, and locations – including virtual sessions – for participation, and facilitated an option to request specific accommodations. The email invitations and link generated a snowball effect and some forwarded or re-distributed it to their members or those they considered would be interested in attending.

Obstacles such as email invitations being blocked by firewalls or difficulties in obtaining updated contact information were overcome with ad hoc emails, going through agents or representatives, and direct calling. When there were cancellations to in-person workshops those interested were invited to virtual workshops and additional outreach was made to fill as many available seats as possible.

In-person workshops were hosted at centrally located venues in each city. CRTC representatives accompanied Ipsos to these engagement sessions as observers only. No

CRTC representative participated in the discussions during the workshops. Before all workshops, prospective participants were informed that the discussions would be audio recorded for reporting purposes. Only Ipsos had access to these recordings. During workshops, participants remained at their assigned roundtable for the duration of the event with an opportunity to share back during plenary sessions. Virtual half-day workshops followed a similar structure, with adjustments made to accommodate the online format and a smaller number of participants.

1.5 Note to readers

This report summarizes the diverse perspectives of the participating stakeholders of the Canadian AV industry, gathered through focused discussions rather than a public consultation. Participants explored various aspects and potential impacts related to the CanCon definition for AV content. Many participants noted that the CRTC's CanCon definition is just one piece of an intricate system when determining whether a production can be certified as Canadian. Therefore, isolating the CRTC's CanCon definition from other factors proved challenging for some.

The information presented is organized thematically, not hierarchically. While descriptive terms provide a sense of the frequency of ideas, they don't reflect the relative importance of any viewpoint among members of the Canadian AV broadcasting industry. This qualitative, exploratory approach aimed to capture a range of perspectives and opinions. Given the number of participants and the engagement method, the results offer valuable insights but may not be generalizable to the broader industry without further research.

1.6 List of Acronyms

AI – Artificial Intelligence

AV industry – Audiovisual industry

CanCon – Canadian Content

CAVCO – Canadian Audiovisual Certification Office

CIPF – Certified Independent Production Fund

CMF – Canada Media Fund

CRTC – Canadian Radio-television and Telecommunications Commission

FLS – Foreign Location Services

IP – Intellectual Property

OLMC – Official Language Minority Community

POV – Point of View

2. Cultural Elements

The following questions pertaining to cultural elements were provided to participants before they attended the sessions, and again during workshops, along with relevant data points and contextual information. Please refer to the appendix for further details.

Discussion Questions

- What makes a production distinctly Canadian, compared to others in a globalized broadcasting environment?
- Does having financial and/or creative control by Canadians ensure certified audiovisual productions contain or reflect Canadian attitudes, opinions, ideas, values, creativity, experience or a “Canadian point of view”? If not, which cultural elements could be explicitly considered for defining Canadian content?

Cultural elements: What makes it “Canadian”?

Many participants struggled to define what cultural elements contribute to making a production distinctly Canadian. Attempts to establish which elements should be considered often proved quite challenging. While participants often referenced Canada’s constantly evolving and diverse social fabric with pride, they were quick to note that this diversity also meant that clearly identifying a common set of ideas or values was not without challenges: “there are many ways of being Canadian”. Despite this, most agreed that this was an important conversation to have to ensure that Canada’s cultural identity is maintained and continues to thrive, particularly in the face of omnipresent competing cultural influences – anglophone participants focused on the influence of content from the United States while francophone participants focused on influences of English-language content.

“There are many ways of being Canadian”

Additionally, the simple reference to ‘Canadian content’ was at times problematic across Canada for some who noted that rather than being a common unifying thread, CanCon could be interpreted as an attempt at ‘standardizing’ or worse yet excluding certain distinct perspectives (i.e., Indigenous and newcomers’ points of view among others).

Canadian Creators: essential to defining Canadian content.

Participants agreed that a uniquely Canadian sensibility or distinctiveness most often results from having Canadians working in key creative roles (e.g., directors, showrunners and screenwriters) within productions. That is, if a Canadian creator is kept at the heart of the creative process, then the distinct point of view or “Canadian perspective” will come across in the production. Moreover, most agreed that the use of Canadian directors and screenwriters – more so than other factors – are key in ensuring a production maintained its Canadian point of view. Essentially, key decision makers should be Canadian.

“It’s not the subject matter that makes it Canadian”

While our diverse cultural mosaic is often cited as a source of pride, participants noted that it can at times represent a challenge for the author, or storyteller. However, according to some participants, what matters is that the story is being told from an authentically ‘Canadian’ perspective. It was suggested that it may be useful to emphasize whether the author or Canadian creatives have ‘meaningful Canadian lived experience’. Canadian creatives should not be limited in the stories they can tell. They could bring their unique point of view to stories that originate elsewhere or that are set in non-Canadian settings. Documentaries were seen as a good example of that, as it can be important to work in international settings. Many also believed that Canadian creators should have no creative restrictions: “We want to have the ability to make what we want to make with no restrictions or bureaucracy in the way.... It’s not the subject matter that makes it Canadian.”.

Some Canadian creators stated that the lack of recognition (under the current CanCon definition) for the role played by other creative personnel in productions can be problematic. For example, a visual effects (VFX) supervisor can have a wide range of

influence on a given AV production. In the end, several participants believed that the more Canadian creative personnel are involved at all levels in productions, the more likely it is that the production will reflect a distinctly Canadian perspective.

Creative and financial control are essential to ensuring productions are distinctly Canadian

There was widespread agreement amongst many Canadian creators that to ensure productions are distinctly Canadian (in addition to creative control) the financial control needs to mostly be in Canadians' hands. But these participants acknowledged that whoever makes it has a right to own it and that obtaining funding within Canada is quite challenging. Consequently, there is often a pursuit of funding from outside sources who are focused on global audiences. As a result, and in the interest of having their story told, Canadian creatives mentioned that they sometimes had to trade off some of their control to secure funding. They mentioned that this reality blurs the lines between financial and creative control and leads to creators being under pressure to sometimes alter content at the expense of the creators' uniquely Canadian perspective.

"Canadian ownership is critical; it has to be Canadian owned, and it has to employ Canadian talent."

CanCon in the context of our Canadian reality

The CanCon definition should be stringent enough to limit cases of "Canadian in name only". Creators benefiting from advantages the system may provide, while being flexible enough to allow for meaningful stories to be told from a wide range of perspectives. This includes perspectives of landed immigrants, Indigenous Peoples from beyond our borders with shared identity with Indigenous Peoples here in Canada, as well as Canadian creators who reside outside of Canada and who have their own Canadian perspective to share.

While the introduction of explicit cultural requirements could potentially assist with efforts to clearly define Canadian content, there was a sense that such an approach may in fact bring about more challenges than benefits. Potential challenges raised included: the

introduction of subjective bias (how and who would determine what is Canadian); the potential for some groups to be considered more or less Canadian than others; the possibility of limiting the ability to create content that is commercially viable and internationally marketable; concerns that the relative importance and support measures surrounding French-language content could be minimized by the addition of cultural elements within the definition, and worries that the introduction of cultural requirements in the certification process could lead to more paperwork. Some equity-deserving creators noted that it's hard to fit themselves into a box of what constitutes to be "Canadian."

If we try to define what the cultural elements are... it may limit one's persons experiences as opposed to what others could be."

Language as a determinant of Canadian culture

Interestingly, francophone participants generally were of the view that complying with the current definition of CanCon was perhaps somewhat easier for them. French-language productions tend to be inherently Canadian as their creatives, crew and location are usually Canadian.

Most readily acknowledged the fundamental importance of both of Canada's official languages as part of CanCon considerations. French-speaking participants made a point of emphasizing that ensuring a continued strong French-language presence on Canadian services was of fundamental importance. This was highlighted by French-language OLMC participants. These creators state that they are struggling to obtain resources within the current system and already feel isolated and feared that efforts to adapt the existing definitions and include new players could end up further diminishing OLMC creators and producers' access to limited resources.

3. Economic Elements

The following were the prepared discussion questions pertaining to economic elements. Please refer to the appendix for further details on accompanying materials that were shared with participants to provide context for those questions.

Discussion Questions

- How can the certification of Canadian content help encourage investment in the Canadian audiovisual broadcasting system?
- How can the Canadian audiovisual broadcasting system benefit more directly from foreign location service (FLS) production⁷?

What is the role of foreign location service productions?

The questions above were seen as two very different issues by most participants. On the one hand, there was widespread recognition of the positive economic impact of FLS productions. Many participants recognized that such productions are an important source of income for crews and creative personnel and have a positive impact on local economies. Most also recognized that FLS productions provide an important ground for training and professional development opportunities for members of the AV industry.

“Everybody is getting squeezed”

On the other hand, the need for more investment to support productions from Canadian creators from both official language markets was evident throughout the discussions. However, there were diverging views on the source of those investments. Producers highlighted the reality that “everybody is getting squeezed.” Some Canadian producers felt that linear broadcasters are reducing their spending in terms of productions - mostly CanCon productions. Others stated that streamers are not immune either, with many

⁷ Films and television programs filmed in Canada mainly by foreign producers

increasingly prioritizing their bottom line. Meanwhile, creators working outside of Toronto or Montreal mentioned they have had more success obtaining funds from abroad than from Canadian funding bodies. They also lamented that Canadian funding bodies tend to be Toronto or Montreal-centric, saying more “Toronto-Con” is being created than CanCon. Moreover, the perceived impacts of decreased funding were the creation of a more risk-averse environment favouring certain types of productions or “playing safe”, the quality of productions decreasing, and productions not getting off the ground.

Opinions varied as to how the AV broadcasting system could benefit more from FLS and added investments from non-Canadian sources. Discussions revealed that for some participants the link between the CRTC’s CanCon certification and foreign investments was unclear. This was especially true among those who were less familiar or less experienced with the CanCon certification process, like producers who create online content.

Support domestic investment

Participants generally saw value in fostering the growth and financial health of mid-sized Canadian production companies. These companies are seen as likely to reinvest profits into future Canadian productions and into the broader creative industry. Indeed, there was a perception that too often the focus is on FLS productions, which can have a detrimental impact on domestic productions. For example, some mentioned FLS can contribute to a lack of crew availability and increased labour costs.

Some participants highlighted that a possible modification to the certification system could enable a broadening of the scope of current Canadian content policies to consider all genres of Canadian-produced programming, particularly for institutions like the Canada Media Fund (CMF). More specifically, participants hoped that a potential modification to the CanCon definitions would “push” the CMF to widen the pool of formats that can trigger Canadian Media Fund applications. Securing that financial support for Canadian production companies would allow them to retain more creative control when dealing with international entities. They pointed out that a thriving domestic production industry would provide greater job security for Canadian creatives, reducing the likelihood of an event like the Writers Guild strike in the US in 2023.

The importance of supporting Canadian broadcasters and distributors was also highlighted in discussions with Canadian creators. They noted the significant role Canadian broadcasters have played in investing in CanCon productions. One suggestion was to enable broadcasters to create libraries of content that they can license to streamers. This could increase available funds for broadcasters to invest in productions. With respect to distributors, the limited number of Canadian distributors was seen to open the door to situations where Canadian content is being sold abroad while Canadians are unable to access it.

Most were of the view that more investment would allow top-talent and content to grow, generating better content for Canadians as well as encouraging risk-taking and innovative content.

Expand regulation and contribution requirements

Participants made a clear distinction between the domestic creative industry versus FLS productions. They forcefully expressed the need for CRTC certification to not only safeguard Canadian culture but also generate job opportunities for Canadian creatives. They feared that the Canadian creative industry could simply become a service production arm of American content. They viewed regulation as the key support mechanism to enable the creative industry to thrive in this new broadcasting environment moving forward.

Some participants focused on contribution requirements that should be set for foreign online streamers and FLS productions. Participants recalled that CRTC certification works in tandem with requirements for broadcasting CanCon. Hence, many viewed streamers as the new broadcasters, and concluded that streamers should abide by Canada's regulatory requirements. For participants, this meant requiring streamers to spend on a certain amount of certified Canadian content, in line with requirements in place for broadcasters. Beyond economics, requiring streamers to "show" CanCon would mean more CanCon is

discoverable by Canadian audiences. There was emphatic support for streamers to contribute to a fund that could be accessed by Canadian creators, or to CIPFs⁸.

Most participants other than streamers were unpersuaded by arguments that more regulation could result in streamers or FLS productions exiting the Canadian market. They pointed to the various benefits that Canada offers, including the size of Canada’s audience market, the attractiveness of Canadian creative talent and favourable currency exchange rates. Participants also noted that streamers have not left countries where further regulation and contributions requirements have been placed on foreign streaming platforms. They suggested Canada to follow suit.

Leverage incentives and supports

By contrast, other participants, including streamers, saw greater opportunity in a “more carrots than sticks” approach. There was some unease regarding the potential negative economic implications that may result from greater regulation of FLS productions, in part due to the highly competitive global landscape for cities around the world offering incentives to attract FLS productions. Since FLS productions have served as the training ground for the robust domestic creative industry that exists today, one frequent suggestion was to support and encourage large FLS productions to offer additional, or more comprehensive, mentoring and shadowing opportunities for Canadian creatives. This type of experience can be lacking among creators in smaller regional centres and equity-deserving groups.

Participants also suggested offering incentives to encourage more pre- or post-production (in the FLS sector) to be carried out in Canada. Often decisions on above-the-line creative roles are made at a very early stage of the process, limiting the influence of the CRTC’s CanCon definition. Better marketing of what Canada’s creative industry can offer beyond “great crews” could be effective alongside incentives.

⁸ To note that the CRTC’s decision regarding Contributions ([The Path Forward – Supporting Canadian and Indigenous content through base contributions](#)) was not yet published when the workshops took place. In this decision, the Commission is requiring online streaming services to contribute to existing funds.

Several suggestions focused on streamers specifically. Participants wondered whether there may be opportunities to encourage mutually beneficial partnerships between streamers and broadcasters.

Reduce administrative burden

Participants suggested streamlining and aligning the CRTC and CAVCO CanCon definitions and their administrative processes. These comments were largely underpinned by the belief that complicated or confusing regulatory requirements have become an important business cost. For participants, investment in the industry could therefore be stimulated by making the certification system easier to understand and more accessible. This would also benefit creators from equity deserving groups who are less familiar with existing processes, an issue that was also raised during the diversity and inclusion portion of the workshops.

"Simplification tends to attract more investment. Not just in this industry but generally dollars want to go where they can go without too much administrative costs. You want to avoid spending money hiring experts or consultants to help with navigating the system."

Expansion of CanCon definition

There was cautious support for amending CanCon definitions to stimulate investment. Several participants conceded that the drastic changes to how Canadians consume content necessitate a rethink of the current approach to certification. The current certification process was described as “all or nothing” given that it does not provide flexibility with regards to certain creative functions (i.e., producer roles, director/screenwriter). Though the current “all or nothing” system may be easier to administer, some felt that it may act as a deterrent to more investment in Canadian productions.

Participants discussed the possibility of expanding the number of points and creating more tiers in the CanCon points systems. One suggestion was to expand the type of

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creative roles that can be awarded points. The hope with these suggestions was to incrementally incentivize productions made by non-Canadian players like streamers to hire more local Canadian talent.

An important caveat raised was the need to retain a minimum threshold of points to be certified as Canadian. In other words, most participants believed that increasing the number of points in the points system should not be equated with a lax process that dilutes the “Canadian-ness” of a certified production.

4. Copyright⁹

The following were the prepared discussion questions pertaining to copyright. Please refer to the appendix for further details on the context and additional information that were shared with participants pertaining to those questions.

Discussion Questions

- Should copyright be considered in the CRTC's review of Canadian content definitions, and if so, how?
- How can the CRTC help support Canadian ownership of intellectual property, and what does that mean for the overall system?

Participants debated the pros and cons of including the requirement of copyright being held in Canada as part of the CRTC's CanCon definition and unsurprisingly, positions were in part driven by stakeholder type.

Fundamental nature of Canadian ownership

There was strong support in certain quarters, most notably from producers, for the CRTC to consider including Canadian copyright ownership as part of the CanCon definition. These participants again raised the point of contrasting FLS productions versus CanCon productions and viewed Canadian intellectual property ownership as another distinguishing feature between the two. They saw an opportunity to strengthen the CRTC's definition to prevent what they considered to be loopholes that could be leveraged by foreign streamers, whilst enabling Canadians to accrue the economic benefits of their work. They felt this would in turn generate more financial stability to the broader AV ecosystem, as Canadian companies are seen as more likely to reinvest into the system.

⁹ Copyright is a form of intellectual property recognizing certain legal rights of authors in their fixed, original literary, artistic, dramatic or musical works or other subject matter (like performer's performances) for a set number of years. For more information, see page 8 in the appendix.

Challenges arising from business models of streamers

At the opposite end of the spectrum, streamers were clear that copyright ownership is at the core of their business models which allows them to monetize and promote content across their platforms and in multiple countries. They considered that there are different models for copyright ownership that could be considered rather than mandating it as a component to the CRTC's CanCon definition. Some streamers preferred that copyright ownership be incentivized instead, for example, by providing additional credit if the copyright is owned by a Canadian. A few also considered that streamers could be excluded from copyright ownership if the production benefited from a Canadian subsidy outside of tax credits. Some said that the outright addition of a Canadian copyright requirement would potentially limit their interest in investing in Canadian stories.

Presentation of more nuanced and neutral positions

Some participants recognized that giving up copyright is part of the reality of working with foreign streaming services. Yet, the prospect of obtaining funding and showcasing content to a global audience via streamers was an exciting one. It was noted that there are different ways to structure deals with streamers. This could include other types of rights that bring in revenue in various stages of a project and/or even long after a project is completed. These revenues can be shared between the involved parties instead of copyright ownership remaining in the hands of Canadian companies. For instance, the Canadian producer could own the Canadian distribution rights, and the foreign owned company can own the distribution rights outside of Canada.

"A big disadvantage of having intellectual property or Canadians having to own it is that we don't get the big streaming deals. That's the whole point of bringing in a more experienced producers or production company. [...] If we have to own intellectual property and copyright, we don't get to be on HBO, we don't get to be on Amazon. You won't be able to get a distribution deal and won't be able to make any money."

The feedback from broadcasters was similarly nuanced. On the one hand, some appreciated the flexibility of Canadian copyright ownership not being part of the CRTC's

CanCon certification requirements, as it allows them to cast a wider net on the type of content they can broadcast. The counterpoint to this was that the inclusion of copyright ownership in CanCon certification could possibly open more opportunities for more partnerships between broadcasters and foreign streamers.

Some felt that incorporating copyright into the CRTC's definition may negatively affect smaller and medium sized production companies. To them, the CRTC should be mindful that any definition should not limit their options for selling and leasing rights to foreign entities or being commissioned by a streamer for a production.

Others considered permitting the retention of a percentage of the copyright ownership instead of an outright requirement to hold all of it. Similarly, an alternative requirement discussed was the possibility that a Canadian producer must hold a majority of the copyright, but not necessarily all of it, for their production to receive Canadian certification (for instance, audiovisual treaty co-productions require a sharing of the copyright/intellectual property between producers). The intent would be to give the Canadian producer as much economic control as possible without requiring complete copyright ownership, which some felt could potentially dissuade investment. They were inspired by a sliding scale type of agreements that distributors often make, and by their understanding of approaches used by other countries regarding copyright ownership arrangements (Denmark, France, and the UK were mentioned as examples).

Many participants held a neutral position on the topic of copyright, and often expressed a desire for additional information to arrive at a considered opinion. There was a perception that increasing awareness and knowledge around copyright was necessary to help Canadian creators benefit more fully from negotiations on copyright.

Suggestions of simplicity and flexibility for incorporating copyright in CanCon certification

Most felt that incorporating copyright within the CRTC'S CanCon definition would align well with the definition used by CAVCO. Matching definitions was seen as a good way to simplify the system. This was stressed more clearly by those who are less familiar with the overall certification process, as they admitted it could feel like a labyrinth.

What We Heard Report

That said, the CAVCO requirement that copyright should rest with a Canadian entity for a 25-year period was highlighted by some as restrictive. This led to discussions regarding a more flexible approach that could be adopted, yet it was difficult for participants to formulate precise solutions. Nonetheless, some suggested that by significantly reducing the 25-year period, it could provide an incentive for foreign investors to fund Canadian productions.

5. Diversity and Inclusion

The following were the prepared discussion questions pertaining to diversity and inclusion. Please refer to the appendix for further details on the contextual information provided to participants.

Discussion Questions

- Are there barriers in the current Canadian audiovisual broadcasting industry arising out of the definitions of Canadian content that could impede the creation and production of Canadian content by and for equity-deserving groups that reflects, represents and is relevant to them?
- What role, if any, does the CRTC's definition of Canadian content have in supporting the creation and production of programming by and for Canada's equity-deserving groups?

Barriers faced by equity-deserving creators: a systemic challenge

Participants acknowledged that equity-deserving creators deal with systemic barriers within the Canadian AV broadcasting industry. Those were seen to go much beyond the context of a CanCon definition. Participants most often characterized the challenges they face as deeply rooted in all aspects of the Canadian AV industry, just as in other industries in Canada.

More inclusivity in certification: opportunities exist

Participants identified specific actions that could be taken by the CRTC to raise awareness and familiarity of the certification process among equity-deserving groups. Some called for the CRTC to proactively reach out to those representing these communities to emphasize the value and process associated with certifying productions as CanCon. In addition, some felt that the CRTC should dedicate more effort to explaining the ins and outs of the CanCon application process.

“I’m still figuring out what the system is. There are these curtains. I open one curtain, just to find another curtain, then another one and what’s next.”

Some suggested efforts be made to compile best practices documents to be used by industry stakeholders with a view to ensure more inclusive production sets.

Need for a better understanding of the current landscape

Participants noted that there is a need to gain a better understanding of the current situation as it relates to diversity and inclusion in the industry. However, some acknowledged that gathering reliable data could take time and may not be entirely accurate due to voluntary – not mandatory – self-identification and privacy concerns. The Persona-ID self-identification system used by the CMF was considered a good industry practice, although some had reservations. Some producers mentioned that existing diversity, equity and inclusion demands from broadcasters could be very hard to meet and were sometimes counterproductive.

Need to hear equity-deserving creators’ voices

Participants in all locations acknowledged significant challenges equity-deserving creators face daily, not the least of which being their representation or underrepresentation within the industry’s workforce. Several noted that the current composition of creative industry workers fails to accurately reflect the diversity which exists within Canada’s population. Accordingly, there was a sense that additional efforts should be undertaken by the CRTC to actively consult with members from a broad range of equity-deserving groups to gain a better understanding of their needs and lived experiences with a view to ensuring that Canadian content is an accurate reflection of Canada’s population.

Fundamental need to address systemic barriers

There tended to be agreement that if the barriers were dealt with at a systemic level, there would be no need for the CRTC definition to evolve to include diversity, equity, and

inclusion requirements. According to participants, some of the challenges equity-deserving creators regularly face include:

- Stereotyping and tokenism – “tick box” approach to content creation;
- Assumptions of topics/narrative based on presumptions of equity-deserving groups;
- Limited training opportunities for equity-deserving creators;
- Heightened risk of failure resulting from a lack of training, support and consequently experience;
- The lack of support measures for equity-deserving creators who may wish to produce materials in languages other than English or French (Of note: there was acknowledgment by some of amendments made to the *Broadcasting Act* to allow for Indigenous People's languages and cultures to be heard);
- Challenges associated with lack of awareness of funding opportunities; and,
- Limited long-term employment opportunities as compared to non-diverse counterparts, hindering career opportunities and professional growth for those in equity-deserving groups.

Challenges for equity-deserving creators

Some participants from equity-deserving groups spoke of such things as challenges associated with accessing funding, language of production limitations, restrictions related to the ability to partner with non-Canadian production and distribution companies or challenges associated with using local talent who may not meet certain credit criteria.

Equity-deserving participants noted that in this industry “who you know” matters. They highlighted certain challenges that limit their ability to fully partake in opportunities available to others. For some, these challenges include their lack of knowledge in the system – for others it was their limited access to industry gatekeepers.

What We Heard Report

A few participants suggested that consideration could be given to awarding additional points to productions that have diverse creatives and crew. However, tokenism, privacy and self-identification issues were promptly raised following these suggestions.

Indigenous Creators and productions in the context of CanCon

Some Indigenous participants were somewhat bewildered by what they saw as current CanCon bureaucratic requirements, which they felt discouraged efforts to have more Indigenous productions. More specifically, there were concerns about Indigenous productions developed in an Indigenous language by Indigenous owned production companies or broadcasters having to fully demonstrate that they were indeed making Canadian content. Others questioned whether Indigenous productions could be awarded additional points to encourage increased production of Canadian content by Indigenous creators.

6. Additional Themes for CRTC's Consideration

At the beginning of the workshops, participants had the opportunity to share in real-time, via a digital platform, any additional themes they thought the CRTC should consider in their review of the CanCon definition. Some of the themes mentioned included: talent-recognition, discoverability, Indigenous representation, mentorship, sustainability and AI. Overall, there was agreement that the four key areas and the forward-looking discussions offered a comprehensive review. As far as the CRTC goes, participants wished to see the CRTC get a better understanding of the spectrum of challenges they face, like the administrative burden posed by the system for independent productions or their concerns regarding technological advancements such as the introduction of AI. Participants also believed that knowledge-sharing opportunities like these workshops could happen more often, and in more locations.

7. Looking to the Future

7.1 Benefits and measures of success

The following were the prepared discussion questions pertaining to the first part of the Looking to the Future discussion. To properly set up the discussion and get participants to think creatively as they tried to answer those questions, they were asked to “look to a future in which new, modernized definitions of Canadian content have been put in place and help achieve desired results”. Please refer to the appendix for further details on contextual information provided to participants.

Discussion Questions

- What are the main benefits for the Canadian broadcasting system?
- What are the measures of success?

The desired benefits shared by participants were generally focused on their general aspirations for the broader Canadian audiovisual industry, as opposed to the positive impacts of CRTC’s CanCon definition specifically. After this initial ‘blue-sky’ brainstorming, participants were asked to consider how those benefits could be measured or become performance indicators that would demonstrate success of the CanCon definition review process. The following is a list of benefits and ways to measure them in the future.

Financial health for the audiovisual industry

The ultimate outcome identified by most participants was an AV industry that is financially viable and stable. Participants believed that to get there, more CanCon should be created and appear across all platforms.

One way of achieving this, according to some participants from the creative industry, would be if there were a larger number of thriving small and midsize Canadian production companies. These could offer more diverse viewpoints and would ultimately make the industry more sustainable in the long run by spreading risk across more players. These

participants felt it was imperative that companies that profit the most from Canadian viewership pay their “fair share” back into the Canadian AV broadcasting system. As such, many believed that online foreign streaming platforms are the biggest economic beneficiaries of Canadian viewership and therefore, needed to increase their monetary contribution.

Another desired outcome would be that more production companies should be owned by equity-deserving groups. Others felt that the broadcasting system should take more risks in creating original content while employing local, diverse and aspiring talent. Participants felt that these measures could help promote diversity in topics and viewpoints shown on screen as this local talent would be more sensible to Canadian culture in all its forms. This would counter the tendency for larger players to focus on immediate financial return on investment.

Many participants mentioned that crew members often aspire to participate in more “indie” and local productions but cannot since they need to focus on their financial needs, making them choose FLS productions over local work. Local opportunities are seen to act as springboard to display talent, grow careers, and move on to participate in bigger projects. As such, one of the desirable outcomes would be more balance in the remuneration for workers between Canadian projects and FLS ones. Another positive effect of this outcome that was mentioned would be retaining talent and straying away from “Hollywood style”¹⁰ working hours and conditions, which can be challenging.

High-quality and highly desirable authentic audiovisual products

Another outcome mentioned by many participants was higher-quality content produced in Canada and ensuring that the production value of Canadian products be just as good as high budget foreign offers. Additionally, certain participants highlighted the importance of new performance indicators to measure the impact of a production and how it resonates with audiences (i.e. virality of productions, audience growth, awards received and other

¹⁰ During the discussions, there was no definition of “Hollywood style” hours, but it seemed to include anecdotes of 16 hour or more working days.

critical acclaim). That includes the extent to which Canadians are having conversations about CanCon and if they feel a sense of pride about them. The success of Quebec’s francophone star system was often presented as a great example of what a thriving Canadian AV broadcasting and production industries should aspire to be.

“At the end of the day, we are here to serve Canadian communities, families, the people of Canada. They should have the option to watch content that looks and feels Canadian, that reflects themselves on television.”

Enhanced presentation of Canadian productions

Increased awareness of what is CanCon versus American content was frequently mentioned not only as an outcome but as a challenge. Beyond discoverability in streamers’ top suggested programs, many wished there was more promotion of CanCon across all platforms. Independent producers liked the idea of improving how CanCon is showcased on platforms but were hesitant about the potential cost implications for them. Consequently, they hoped there would be a way to reduce the costs of promotions, or the inclusion of other incentive measures to entice platforms to increase their promotion of CanCon.

To measure how CanCon is showcased, some suggested that broadcasters and streamers could report how many dollars were spent on promotion and/or how much funding was dedicated to promotion. Strengthening the “made in Canada” branding was another suggestion.

Competitiveness on a global scale

Participants were generally of the opinion that a greater number of authentic Canadian productions that showcase national talent and captivate more viewers would lead to more global discovery and acclaim. Tracking exports and international distribution of CanCon was seen as a good way to measure the success of the Canadian AV broadcasting industry.

Participants explained that keeping pace and remaining competitive is multifaceted. One of those facets is a distinct national style that includes visual aesthetics and sounds or music. Though not every release needs to abide by a national style, there was a sense that the stronger the industry, the stronger a national style would become. Countries like South Korea, Mexico, India, France, and the UK were considered to have that distinct national style. Quebec was also mentioned as possessing its own powerful style. Many participants felt that when international viewers get to know and appreciate a nation's style, it generates "more appetite" or demand for that nation's content.

Another perceived benefit of increasing demand for CanCon was projecting Canada's values, ideals and culture to the world. This could translate into more recognition and goodwill towards Canadians in general, while for the AV industry it could mean strengthening partnerships, more collaborations to tell more Canadian stories or stories with a Canadian point of view.

Modernizing and futureproofing the industry

There was broad agreement that futureproofing the industry would help achieve desired outcomes and support measures of success of a modernized CRTC's CanCon definition. As technological advances are continuously impacting how audiovisual productions are made and watched, many understood it is a major challenge for regulations to keep up with these changes. Some mentioned mechanisms should be put in place so that the CRTC is allowed to evolve its approach to certification over time without having to ask for legislative changes each time.

7.2 Flexibility

The following were the prepared discussion questions pertaining to the last part of the Looking to the Future discussion. Participants were asked to "look to a future in which new, modernized definitions of Canadian content have been put in place and help achieve desired results". These questions were circulated with participants before and again

during workshops along with data points and context of why these questions were being asked. Please refer to the appendix for further details.

Discussion Questions

- How is this updated approach flexible enough to be beneficial for all members of Canada’s audiovisual broadcasting system?
- How is this updated approach flexible enough to ensure that Canadian stories get told?

Reactions to “flexibility” being added to CRTC’s CanCon definition

Many participants (especially producers, directors and writers) reacted negatively at the idea of introducing more flexibility in CanCon definitions. These participants were concerned that there is likely already enough flexibility in the current points system and that any further flexibility could “dilute” CanCon. Some went on to repeat their concern that increased flexibility would result in greater foreign presence and in turn undermine the historical importance of the French language in Canada. These participants were vocal and called for retaining or even strengthening current CanCon definitions.

Nevertheless, as highlighted in previous sections, there remained some openness to adding flexibility within the CRTC’s CanCon definition in the future. If the benefits of flexibility resulted in more opportunities for Canadian production companies and creators, then these would be welcomed as it would contribute to safeguarding Canadian-made content moving forward.

Rethinking CanCon definitions’ point-based systems

How points could be allocated in a modernized CanCon definition was at the centre of many discussions on flexibility.

As mentioned above, some participants had suggestions on expanding the number of points, creating more tiers and expanding the type of creative roles or genres that qualify for points. These ideas were stretched to include the suggestion for awarding additional or bonus points and half points, or the possibility of swapping points.

Greater clarity in the industry: a challenging, but important task

Participants with more experience in the industry and the certification process acknowledged that the CRTC has a challenging task ahead. They repeated the importance of not adding complexity to the system and building upon what has existed in the past.

Those newer to the industry or who have been operating outside of the certification process were interested to find out more about the system of different certifications and why these are important or add value to their work. They saw an opportunity for the CRTC to further engage with young creators and other groups on the fringes of the more established and traditional broadcasting industry.

8. Conclusion

The workshops highlighted how discussions on modernizing the CRTC’s CanCon definition can be emotionally charged, especially when participants were asked to consider how flexibility may be integrated in a future definition. Some participants were wary that changes to the current definition may benefit foreign online streamers and FLS productions at the expense of the Canadian creative industry and Canadian culture.

There were a few points that participants tended to agree with each other on. First, when it comes to Canadian creators holding key creative positions, many participants felt that this approach should be retained in future - in that creators bring a unique perspective that make productions distinctly Canadian. Second, certain common themes in relation to a modernized CanCon definition emerged across the discussions. For instance, the need to modernize the broader broadcasting regulatory framework, not just the definition of CanCon, as well as the notion that the definition might not necessarily be the right tool to support diversity content and creators. Finally, participants also generally agreed on the need to attract more investment into the Canadian audiovisual broadcasting system, but their opinions differed on how this can be achieved.

As a final point, the workshops showed the importance of getting the framing of future public consultation right and providing foundational information to accompany consultation questions for those who might be newer to the system and less familiar with the process.

Appendix: Discussion Guide

Read the discussion paper on defining Canadian content [PDF (size)] developed for participants to consult before and during workshops.



Ipsos-CRTC CanCon
Definition Worksho