

**CANADA MEDIA FUND**  
**Performance Envelope Working Group**

**Date: September 22, 2022**

## **1. Introduction**

As Canada's screen-based industry continues to experience significant change, the CMF is mindful of the impacts its policies have on stakeholders and recognizes the role it plays in offering stability in a time of disruption.

Balancing this predictability, however, is the objective of being proactive and ensuring its Programs and policies continue to remain relevant to the industry.

In light of the fact that changes to the *Broadcasting and Telecommunications Acts* through Bill C-11 (and the corresponding Cabinet policy direction to the CRTC on how it should implement its new regulatory powers) have not yet occurred, we anticipate there will not be significant changes to the level of flexibility permitted in the CMF's Contribution Agreement with the Department of Canadian Heritage for the 2023-2024 Program year.

As such, the CMF's approach for 2023-2024 focuses on continuity combined with transitional elements the CMF can implement without Government of Canada approval that set the stage for future changes. This combination aims to provide stakeholders with both predictability and a preview of larger policy shifts that will be introduced once the implementation of Bill C-11 begins.

The goal of this Working Group is to solicit stakeholder opinion from a cross-section of Canadian broadcast and production representatives in connection with the CMF's largest Program, the Performance Envelope (PE) Program.

While many stakeholders like the PE Program's predictability, transparency and cost-efficiency, some stakeholders from both the broadcast and production side hold that it's primacy in the CMF's programming architecture needs to be re-evaluated as the market has changed dramatically since its introduction in 2004.

## Topics for Discussion:

- Performance Envelope Factors (focus on OTT First-Run and Diverse Communities)
- Gender Balance Requirement
- Accountability in Content Creation and Authorship
- Distinctiveness of Language Markets
- Balanced PE Program/Alternative Automatic System
- COVID-19 Flexibility Measures

## **2. Performance Envelope Factors**

### *a. OTT First Run Licences Factor*

As a way to incentivize Broadcasters to licence content through their related online platforms, in 2019-2020, the CMF introduced an Over the Top (“**OTT**”) First Run Licences Factor which rewards content licensed through Broadcasters and Broadcast Distribution Undertakings’ (“**BDU**”) online services, and also eliminated the Digital Media Investment Factor (which rewarded Broadcasters’ licensing of related digital media content)<sup>1</sup>.

As noted on numerous occasions in previous Working Groups, rewarding programming which attract audiences has been one of the key performance measures guiding CMF policy since the inception of its predecessor, the Canadian Television Fund.

While the largest percentage of PE weight is attributed to the Audience Success Factors, these Factors are solely based on figures from Numeris, an independent and verifiable third-party measurement system. It is important to note that Numeris currently only tracks and reports linear viewing data from traditional broadcasters, not all audiences are captured by their measurement system and not all broadcasters subscribe and participate in its data tracking.

Despite these limitations, there is currently no other widely-used, industry standard metric to capture audiences over non-linear platforms that has Numeris’ industry acceptance. Therefore, as a transition step and until an agreed upon digital audience measurement system is in place, the OTT Factor is calculated on (i) the full licence provided by the broadcaster/ BDU and (ii) whether the particular project exclusively “premieres” on the online service for 7 days.

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<sup>1</sup>A history of PE Factors and Weights is provided for reference in Appendix A, Table 1.

As noted in Figures 1 and 2 in Appendix A<sup>2</sup>, in 2022-2023, some Broadcasters have benefitted from both the Audience Success and OTT PE Factors, while other Broadcasters have primarily (or exclusively) benefitted from only one of these Factors. This trend has been consistent since the implementation of the OTT Factor in 2019-2020.

- **Given the habits and preferences of Canadian audiences to consume content on multiple platforms, is the presence of a distinct OTT Factor still relevant?**
- **Do the requirements to premiere the project on a Broadcaster’s owned and operated OTT service make sense for the market and audience consumption patterns? In other words, could this credit remain, but operate in a different way?**
- **As not all Broadcasters subscribe to Numeris, how much has the OTT Factor helped them compete since it came into effect?**
- **Does the OTT Factor align with programming strategies of broadcasters?**

*b. Diverse Community Production Licences Factor*

In order to help redress the systemic lack of participation and representation of historically underrepresented communities in Canada’s broadcasting industry, the Diverse Community Production Licences PE Factor was introduced in 2021-2022 and rewards broadcasters that licence projects from production companies that are owned and controlled (i.e., at least 51%) by members of “Diverse Communities”.

Diverse Community was defined in 2021-2022 as individuals who are (i) First Nations, Inuit and Métis or (ii) members of a racialized community and this definition was expanded in 2022-2023 to include (iii) persons with disabilities and (iv) members of the 2SLGBTQI+ community. This PE Factor has a weight of 10% in both the English- and French-language markets.

In addition to projects supported through the PE Program, content licensed through the Pilot Program for Racialized Communities (“**PPRC**”) and Indigenous Programs count for this PE Factor Weight, as well as content licensed through other CMF Programs designed for specific stakeholders (e.g., Francophone Minority Program, Northern Incentive).

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<sup>2</sup>Please see the CMF’s [website](#) for a complete list of 2022-2023 Performance Envelope Credit Shares by Factor.

The objective of the Diversity Community Production Licenses Factor is to incentivize the licensing of content from underrepresented communities through all CMF Programs, including the PE Program that supports the overwhelming majority of linear content at the CMF.

In 2021-2022, the CMF focused exclusively on the ownership/control of CMF Applicant companies in its approach to equity, diversity and inclusion initiatives. In 2022-2023, with the help of the formal roll-out of PERSONA-ID – depending on the Program – the CMF expanded how its Diverse Community definition would be applied in an effort to both advance diversity on projects and recognize collaboration between different stakeholders.

While the PE Program retained its emphasis on diversity through the lens of ownership & control, other Programs (some selective and some first-come/first-served) focused on the makeup of Producers, Directors and Writers engaged on the project, mirroring the CMF's approach for gender diversity<sup>3</sup>.

Finally, in the Indigenous Program and Pilot Program for Racialized Communities, the CMF mandated both (i) an ownership & control requirement and (ii) a requirement where a percentage of key personnel (as described above) were also required to be First Nations, Inuit or Métis or racialized (as applicable) in order to be eligible for those Programs.

Through these different approaches, the CMF is attempting to balance increased ownership and control of projects from Diverse Communities while also encourage collaborations from all parts of the industry.

### **Looking to 2023- 2024, should the CMF adjust its criteria for the Diverse Community Production Licenses Factor?**

- **Should it shift from ownership & control to start focusing more on key personnel attached to the project (similar to the approach in CMF selective Programs)?**
- **Or should it move closer to the approach adopted in the Indigenous Program and PPRC and require both (i) ownership & control and (ii) key creative personnel?**

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<sup>3</sup>Projects are eligible for Diverse Community carve-outs in first-come/first-served Programs and Diverse Community evaluation points in selective Programs if, of all the enumerated cumulative Producer, Director and Writer positions on a Project, at least 40% of the total number of positions are held by members of Diverse Communities.

- **Alternatively, should there be a different approach other than the options presented above?**
- **Should the Diverse Community Production Licenses Factor Weight change?**

### **Factor Weights Generally**

- **If there is a consideration of changes to the OTT Factor and/or the Diverse Community Production Licences Factor, what impact – if any – should that have on the other Factors?**

### **3. Gender Balance**

- a. *Gender Balance Initiative:* In 2017-2018, the CMF launched a 3-year initiative that aimed to increase the representation of women in key roles on CMF-funded projects.

A key element of this initiative is that broadcasters are required to direct at least 50% of their respective Performance and Development Envelope Allocation dollars (as applicable) to Eligible Projects where, of all the enumerated cumulative Producer, Director and Writer positions on a TV Component, at least 40% of the total number of positions are held by individuals that identify as women<sup>4</sup>.

In the years since this initiative was launched, the CMF has seen that producers and writers that identify as women are represented in CMF-funded projects, whereas the representation of directors that identify as women still has room to improve (see Figures 5 and 6 in Appendix A).

- **In light of the above, should the CMF maintain its current strategy of mandating broadcasters to commit a designated percentage of their envelope to projects where individuals that identify as women occupy key enumerated positions?**

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<sup>4</sup>Up until 2022-2023, this initiative was strictly aimed at women. In 2022-2023, the CMF broadened the policy to “individuals that identify as women”.

- **Alternatively, should the CMF pivot away from a mandated Gender Balance initiative and instead create a new Performance Factor that rewarded broadcasters for supporting projects where individuals that identify as women occupied key positions?**
- **Should any CMF gender initiative continue to focus on producers, directors and writers? Or should there also be some ownership & control requirement?**

#### **4. Accountability in Content Creation and Authorship**

While the CMF's policies have sought to balance the interests of regional and official language minority community stakeholders, help ensure audiences of Canada's official, Indigenous and diverse languages are served and assist underrepresented creators expand their footprint in Canada's audiovisual industries, outside of mandating the genre of a project, the CMF has not, until recently<sup>5</sup>, implemented any parameters on what type of stories get told and who should tell them.

As the inclusion and participation of stakeholders from underrepresented communities grows across our industry, important questions concerning accountability in content creation as it relates to community engagement, identity, authorship and access emerge and need to be considered.

The CMF recognizes that creators from sovereignty- and equity- seeking communities have experienced historical barriers to access funding and these barriers have led to both (i) a significant lack of diversity in Canadian storytelling and, (ii) for the diverse stories that were being told, a significant lack of authentic representation both on- and off- screen.

The CMF has a variety of policy objectives requiring the adherence and respect of Applicants. Unlike verifying where an Applicant is from, the language of a project or how an Applicant self-identifies, wading into the complexity of identity and the appropriateness of whether some stakeholders are well-suited to tell a given story is a nuanced and delicate exercise requiring sensitivity and a balanced approach.

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<sup>5</sup>In 2021-2022, the CMF introduced its Producer Statement for the Indigenous Program and Pilot Program for Racialized Communities.

Beginning in 2020-2021, all CMF Applicants were encouraged to respect the guiding principles and best practices set out in *On-Screen Protocols & Pathways: A Media Production Guide to Working with First Nations, Metis, and Inuit Communities, Cultures, Concepts & Stories*.

It is not the role of the CMF to police content creation. It is our role to encourage greater accountability, transparency and community engagement as it relates to the positionality of key creators. The CMF's 2021-2023 *Equity and Inclusion Strategy* states that:

*“The CMF’s mandate to ‘enable a diversity of voices’ includes a responsibility to widen support to Canada’s talent and creators from underrepresented communities in order to amplify their voices, stories, and perspectives through content creation and exploitation.”<sup>6</sup>*

Given the current climate nationally and internationally, and in order for the CMF to fulfill its responsibility in a meaningful way, we will consult and work with industry stakeholders to implement further elements of this strategy.

While this topic will be discussed more comprehensively with a broader cross-section of stakeholders in other CMF consultations, the Performance Envelope Program is currently the CMF's single largest Program and accesses the largest number of available financial resources. Accordingly, the CMF is interested in hearing the views of the Working Group on this topic.

While the CMF has flexibility to adopt a more hands-on approach in its selective Programs, a semi-automatic system like the Performance Envelope Program creates administrative limitations on how a particular project can be evaluated due to both the parameters of the Program and the significant volume of CMF Applicants. Increased costs for evaluation also need to be taken into account and recognizing the complexity of the current client application process is also a critical consideration.

Project evaluation concerns are not new and should not be a barrier to the implementation of new requirements. The CMF's current random audit approach to exploitation reporting is an example of a possible answer to this kind of challenge.

- **Could the current Producers Statement used in some of the CMF's Selective Programs be expanded to include more information on authorship for Applicants to all CMF Programs?**
- **Would this approach provide Applicants with an opportunity to elaborate further on why they feel well-positioned and well-equipped to create their proposed content or focus on particular story lines?**
- **What other means of accountability could the CMF consider as it relates to community engagement, identity and authorship of the content?**

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<sup>6</sup> Please find CMF's Equity and Inclusion Strategy on the [CMF's website](#).

- **How can the broadcasters and the CMF work together to consider a joint approach to authorship in the Performance Envelope Program or alternatively explore an authorship approach through other methods?**

These are some of the thoughts for the discussion today. The CMF is asking stakeholders to deliberate, discuss internally and communicate your thoughts to the CMF in the coming months as the CMF continues to develop its thinking and action on this important question.

## **5. Distinctiveness in Language Markets**

Under the Contribution Agreement, 1/3 of the Program Budget is intended to support French-language content. The government has signalled through their pre-election platform that the ratio of support for French-language project should be increased to 40%.

In the past, the industry has recognized that there are differences between the English- and French-language markets. Generally, the approach to audio-visual funding has been similar as production methods and financing are similar, but there are practical differences in business and opportunity between the two markets. For example, the average budgets, licence fees, distribution advances, foreign financing, gross sales, and audience engagement of CMF-funded projects vary widely between the two language markets.

The CMF has tried to apply a fair and flexible approach to how to best support these different markets based on data and input from industry stakeholders. For example, there are different Licence Fee Thresholds by genre and language.

In the past, both English and French stakeholders have agreed that different approaches can be considered.

- **In an effort to better serve the distinctiveness of the language markets, what additional measures should the CMF consider for PE?**
- **If increasing production budgets is key, what changes must be made? (for example: licence fee thresholds, expansion of eligible costs, etc.)**
- **How should bilingual projects, or projects that are funded in both markets be factored in?**
- **How can the CMF better enable exportability and international opportunities specific to each language market? What can be done to stimulate sales and interest?**



- **What measures of success should be considered? How can this be rewarded or incentivized? (for example: international sales, etc.?)**
- **In keeping with the CMF Equity and Inclusion Strategy, what considerations should be made to support equity and sovereignty-seeking communities in the different markets?**

## **6. Complementary Automatic System**

The CMF's Performance Envelope system has been around for almost for almost 20 years and as the CMF looks to possible future legislative and regulatory change, it wants to ensure that it is still providing the right types of financial resources to the industry in an efficient and effective manner.

As the PE Program is an automatic funding system, it is administratively efficient, predictable and cost-effective, but one that is controlled exclusively by Canadian Broadcasters. As the industry continues to evolve, the linear side of the CMF's funding support is no longer balanced as the primacy of Canadian Broadcasters within the CMF funding ecosystem does not reflect how an increasingly larger share of Canadians consume content. This has been shared by stakeholders for numerous years and most recently captured in the CMF's ["What We Heard"](#) report which summarized an extensive consultation with the industry in Spring 2021.

If there is an allowance from the Government of Canada to widen the CMF's current linear funding trigger to beyond Canadian Broadcasters, there will be more options for producers to seek funding and, with "more doors to knock on", the CMF will open itself up to a wider pool of applicants and bring talent into the tent that may not have participated in the CMF's funding ecosystem in the past.

A corollary to widening the CMF tent is that it will help previously shut-out/underrepresented producers (often from equity-seeking and sovereignty-seeking groups) have more options to obtain CMF funding as additional market tests will help reduce barriers to entry for underrepresented applicants that have not had the same opportunities to create content in Canada under the current, narrower Canadian Broadcaster model.

Broader triggers also have the potential to develop new markets and enhance the exposure (and viability) of Canadian production companies.

While any significant change like the broadening of CMF funding triggers will not happen overnight, if implemented, there will be a need to introduce an Alternative Automatic Funding Program where Broadcasters are not the only mechanism to unlock CMF funds allocated to linear content.

The goal is not to eliminate the Broadcaster Performance Envelopes, but to gradually and eventually provide an alternative model that introduces more balance to Canada's current funding model.

- **What market test or “CMF trigger” should be considered this alternative system (e.g., distributors? Canadian platforms not owned by Canadian Broadcasters or BDUs? foreign broadcasters collaborating with a Canadian trigger? community support? Other?)**
- **What is an appropriate balance between PE and an alternative system? Should the CMF wait to receive new funding to introduce new triggers or models?**

## **7. COVID flexibility measures – including Genre Flex**

In May 2020, the CMF introduced a number of flexibility measures were to support the industry through the disruption of the COVID pandemic.

These flexibility measures were extended in 2021-2022 and 2022-2023<sup>7</sup> in order to continue to support the industry as the pandemic continues to have impacts on society and productions.

- **As the world shifts into an endemic phase of COVID, what measures need to remain in place?**
- **Are there flexibility measures that should be considered for permanent changes to CMF Programs? (for example: genre flexibility, increased maximum PE allocations, decreased licence-fee thresholds for certain genres, etc.)**

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<sup>7</sup>Please find the CMF's 2022-2023 Flexibility Measures on the [CMF's website](#).

## APPENDIX A

Table 1 - History of PE Factors and Weights (%)  
English

	<i>2013-2014 to 2019- 2020</i>	<i>2020-2021</i>	<i>2021-2022</i>	<i>2022-2023</i>
<b>Audience Success-Total Hours Tuned</b>	40	40	N/A: Due to COVID Flexibility Measures, no factors were used.	35
<b>Audience Success-Original First Run</b>	15	15		10
<b>Historic Performance</b>	15	5		5
<b>Regional Production Licences</b>	20	30		30
<b>Digital Media Investment</b>	10			
<b>OTT First Run Licences</b>		10		10
<b>Diverse Community Production Licences</b>				10
<b>Total</b>	100	100		100

French

	<i>2013-2014 to 2019- 2020</i>	<i>2020-2021</i>	<i>2021-2022</i>	<i>2022-2023</i>
<b>Audience Success-Total Hours Tuned</b>	40	40	N/A: Due to COVID Flexibility Measures, no factors were used.	35
<b>Audience Success-Original First Run</b>	15	15		10
<b>Historic Performance</b>	25	20		20
<b>Regional Production Licences</b>	10	15		15
<b>Digital Media Investment</b>	10			
<b>OTT First Run Licences</b>		10		10
<b>Diverse Community Production Licences</b>				10
<b>Total</b>	100	100		100

Figure 1 - Allocations from the OTT First Run Factor compared to Audience Success Factors 2022-2023 - English

Note: Total Hours Tuned is combined with Original First Run; all genre allocations are combined.

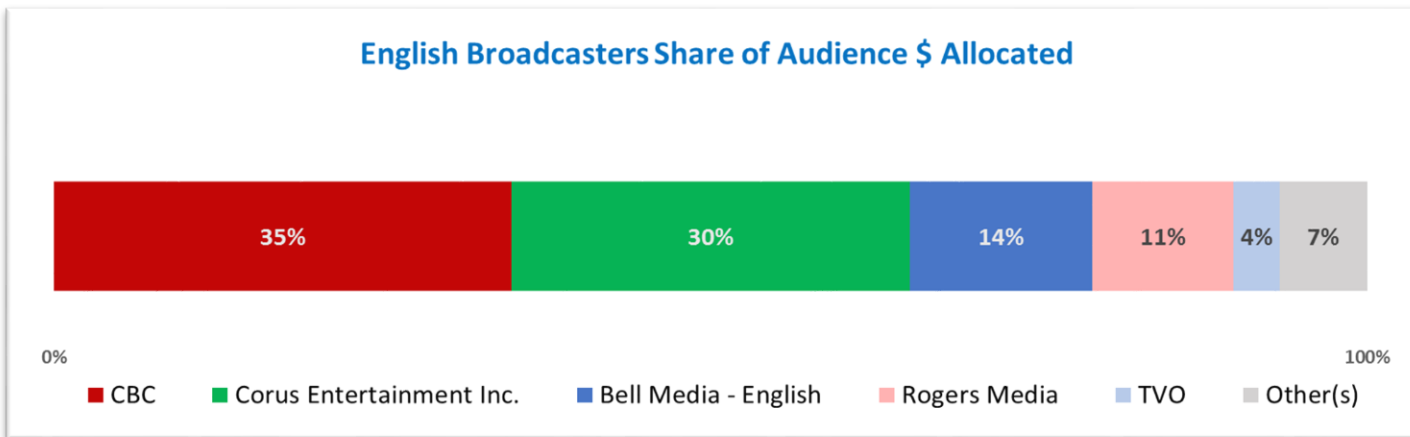
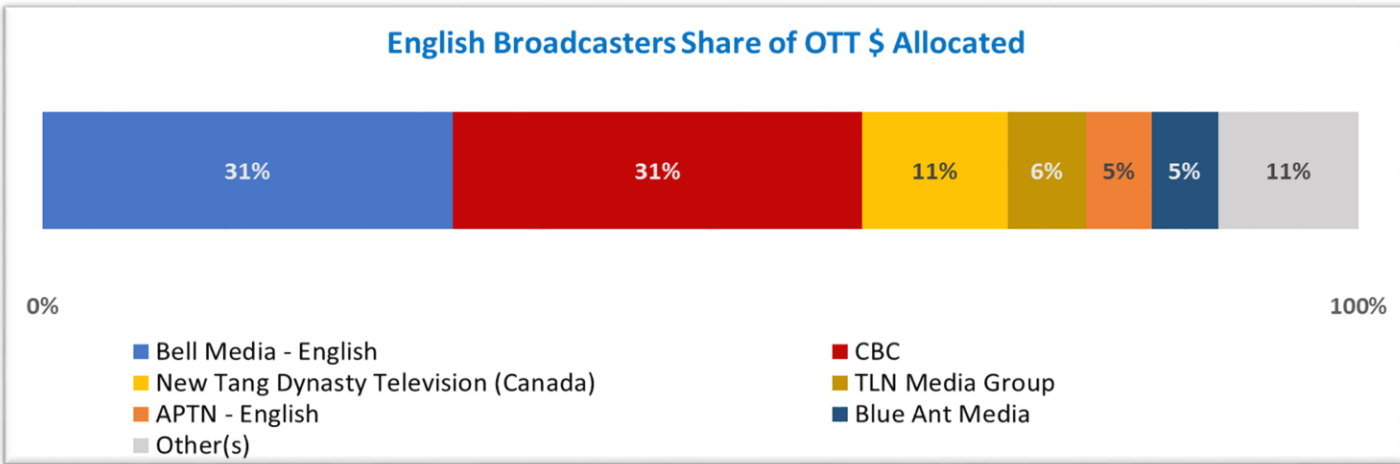


Figure 2 - Allocations from the OTT First Run Factor compared to Audience Success Factors 2022-2023 - French

Note: Total Hours Tuned is combined with Original First Run; all genre allocations are combined.

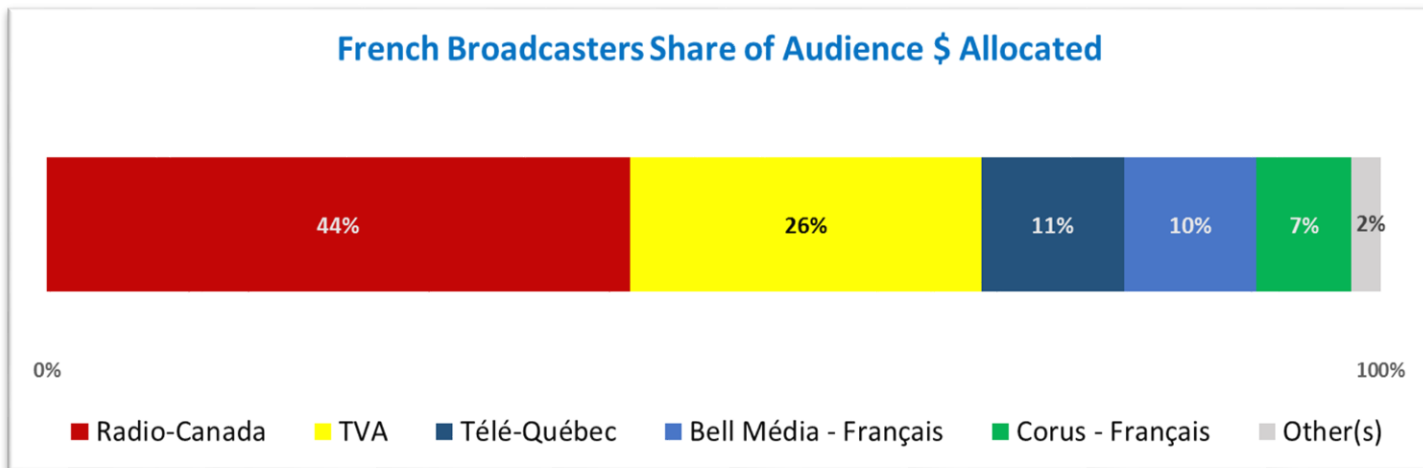
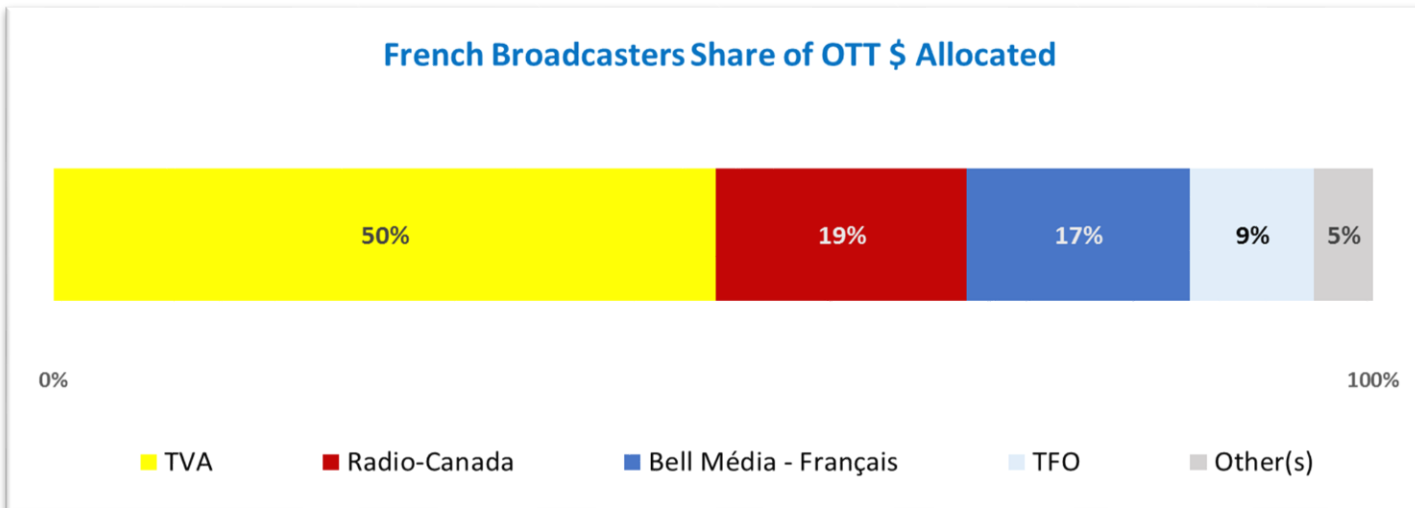


Figure 3 - 2022-2023 Diverse Community Factor Allocations - English

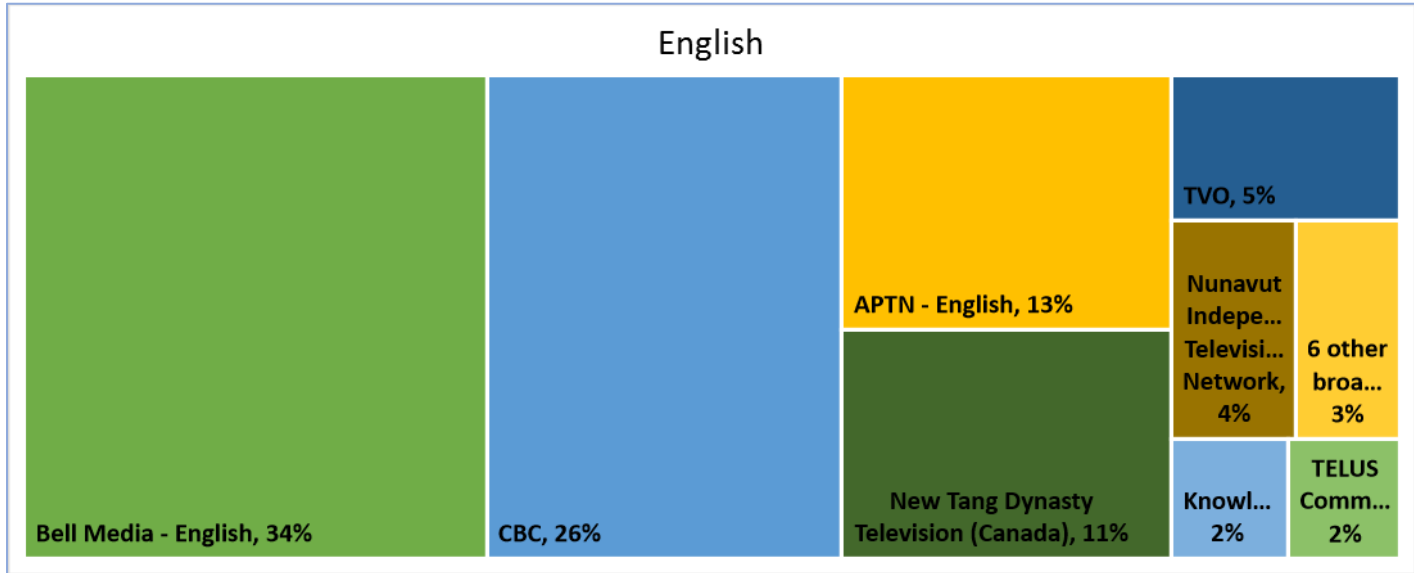


Figure 4 - 2022-2023 Diverse Community Factor Allocations - French

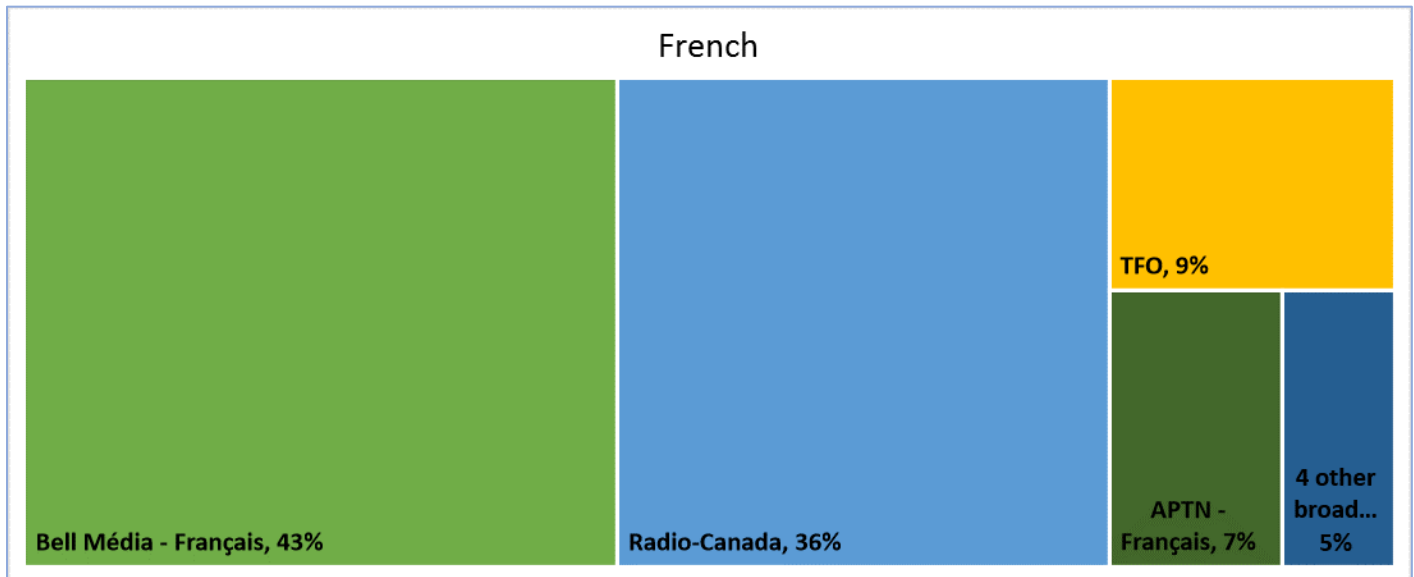


Figure 5 - Gender Balance results in PE Key Personnel – 2021-2022 funded projects - English

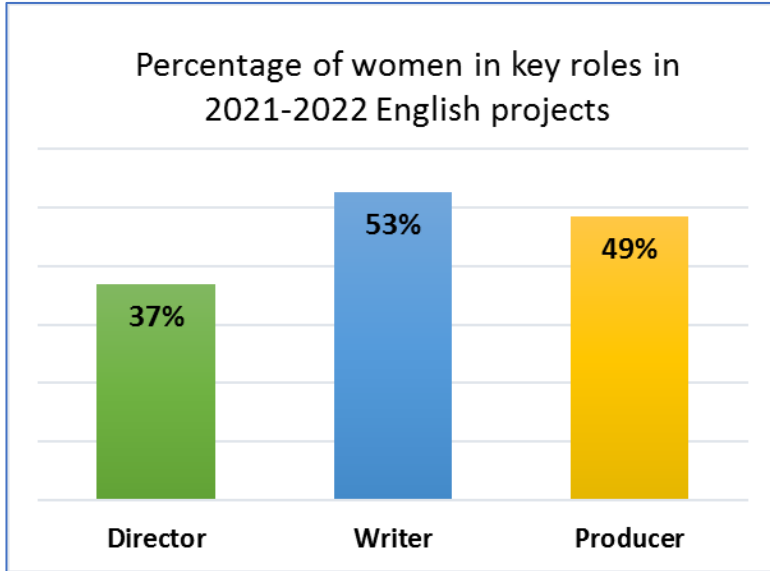


Figure 6 - Gender Balance results in PE Key Personnel – 2021-2022 funded projects - French

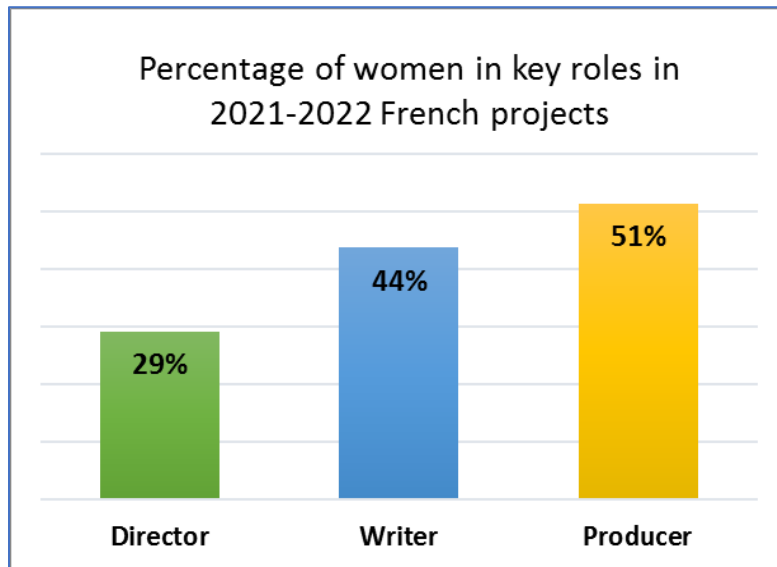


Figure 7 - Financing of English PE funded projects – 2021-2022  
 Note: all genres combined; projects with PE and regional incentive funding only

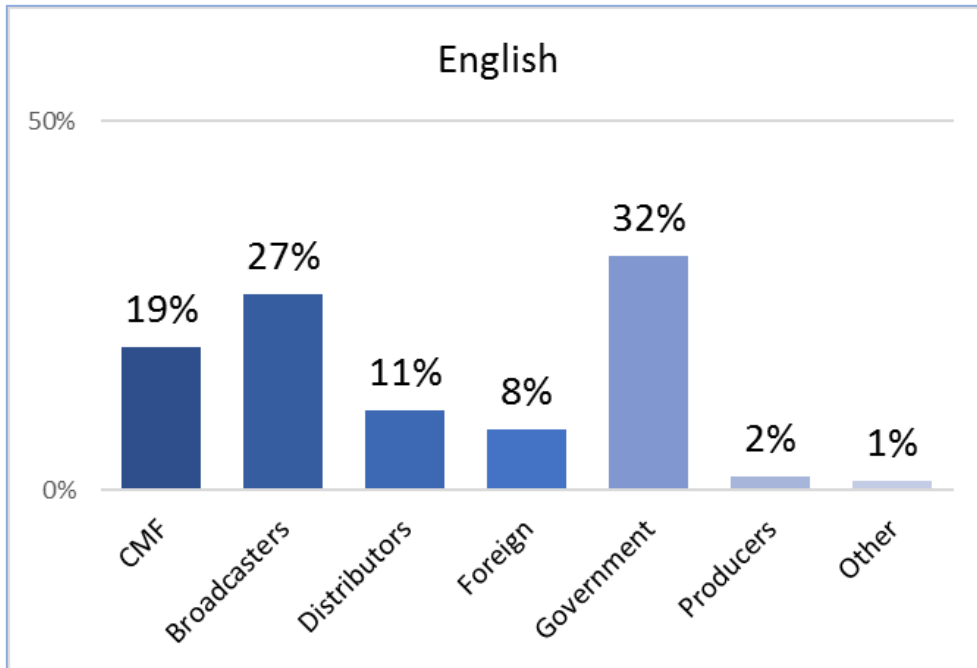


Figure 8 - Financing of French PE funded projects – 2021-2022  
 Note: all genres combined; projects with PE and regional incentive funding only

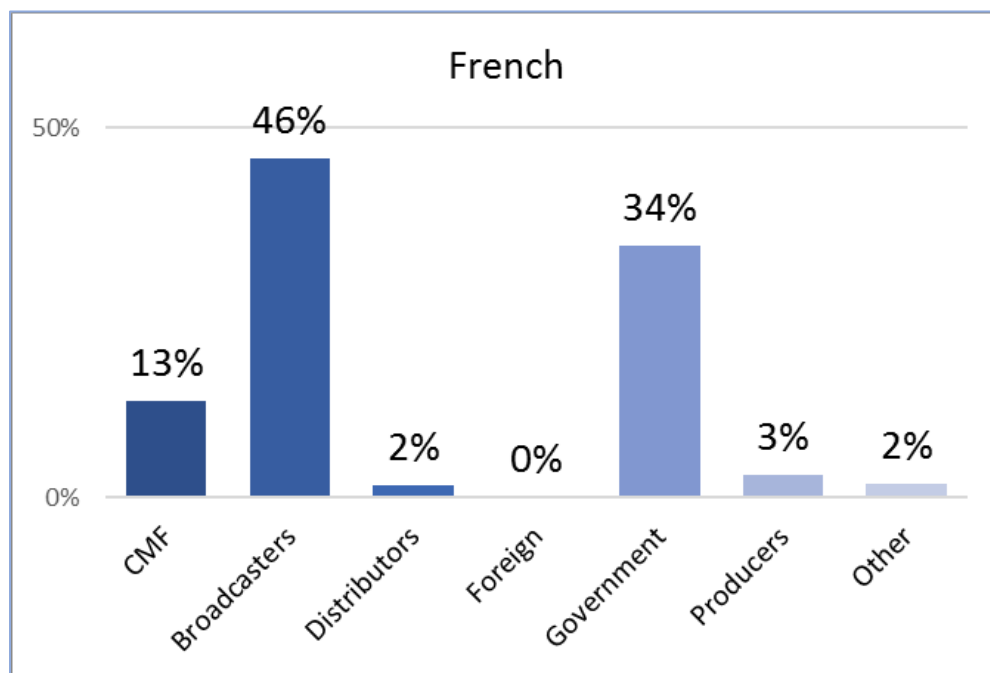




Table 2 – Budgets and Number of Projects funded through the PE Program in 2021-2022

<b>English</b>	<b>Average budget per hour \$K</b>	<b>Highest budget per hour \$K</b>	<b># of projects</b>
<b>Children's &amp; Youth</b>	1,037	3,571	38
<b>Documentary</b>	367	1,025	99
<b>Drama</b>	2,285	4,938	53
<b>Variety &amp; Performing Arts</b>	417	2,020	8
<b>French</b>	<b>Average budget per hour \$K</b>	<b>Highest budget per hour \$K</b>	<b># of projects</b>
<b>Children's &amp; Youth</b>	258	960	27
<b>Documentary</b>	151	777	149
<b>Drama</b>	623	4,111	56
<b>Variety &amp; Performing Arts</b>	345	1,789	44

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Figure 8 - Genre Shares in PE commitments – 2021-2022 – English

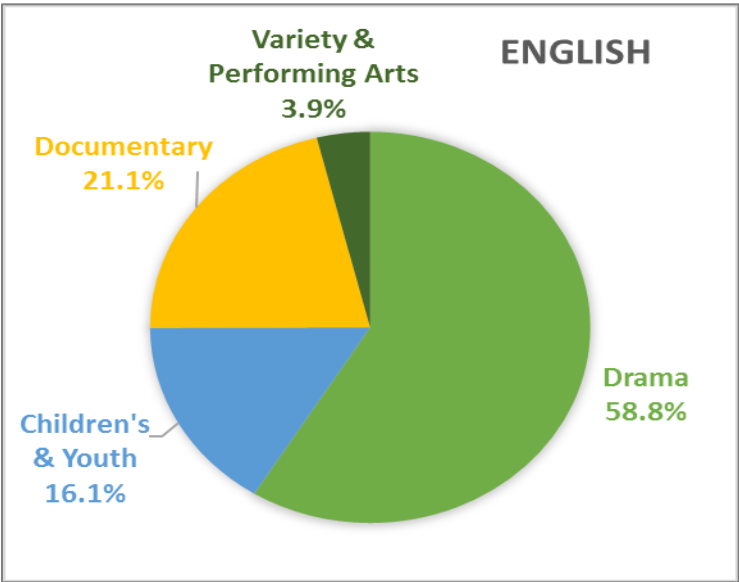


Figure 9 - Genre Shares in PE commitments – 2021-2022 – French

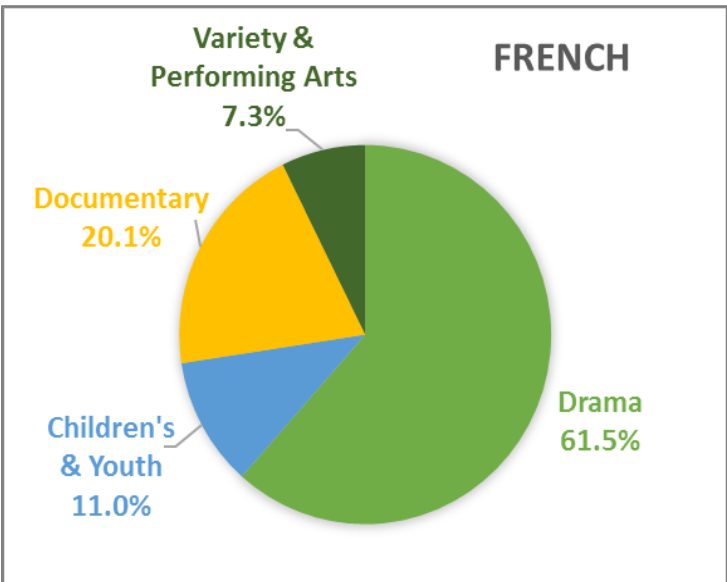


Table 3 - 2022-2023 PE allocations - English

English \$ Envelope Allocation Holder	Total Allocation
Alternative Access	\$1,500,000
Accessible Media Inc.	\$964,811
Allarco Entertainment 2008 Inc.	\$477,939
Anthem Sports & Entertainment Corp.	\$423,527
APTN - English	\$7,366,955
Bell Media - English	\$28,184,826
Blue Ant Media Inc.	\$2,096,390
CBC	\$54,211,056
Corus Entertainment Inc.	\$25,996,212
Hollywood Suite Inc.	\$580,522
Knowledge	\$1,804,876
New Tang Dynasty Television (Canada)	\$5,422,118
Nunavut Independent Television Network	\$2,278,101
Rogers Media	\$10,739,193
Telelatino Network Inc.	\$954,470
TELUS Communications Inc.	\$1,493,169
TVO	\$7,360,996
WildBrain Television Ltd.	\$1,766,488
YES TV	\$202,734
ZoomerMedia Inc.	\$338,693
<b>Total</b>	<b>\$154,163,077</b>

Table 4 - 2022-2023 PE allocations - French

French \$ Envelope Allocation Holder	Total Allocation
Alternative Access	\$500,000
Accessibilité Média Inc	\$338,575
APTN - French	\$795,678
Bell Média – French	\$12,042,995
Corus Média - French	\$3,039,942
Radio-Canada	\$26,843,549
Télé-Québec	\$4,620,791
TFO	\$3,521,864
TV5	\$3,698,713
TVA	\$17,702,316
<b>Total</b>	<b>\$73,104,423</b>