CANADA MEDIA FUND

Working Group of the National Focus Group

November 1, 2010

SUBJECT: Return on Investment and CMF Equity Investments

ISSUE:

How should the CMF implement its mandate to favour projects that have achieved and demonstrated the most potential to achieve success, in terms of return on investment (ROI)?

DISCUSSION:

The Mandate

On March 9, 2009, the Department of Canadian Heritage (DCH) announced the creation of the Canada Media Fund. At that time DCH said:

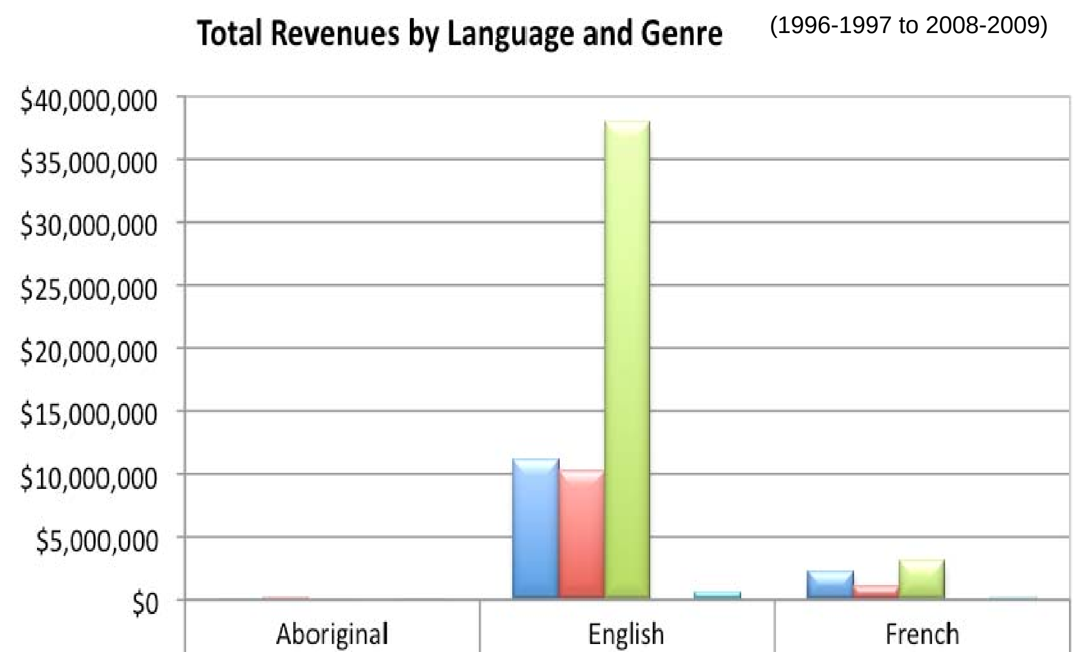
> The realigned fund will favour projects…that have achieved and demonstrated the most potential to achieve success, in terms of audience and return on investment.

Multiple discussions between CMF staff and DCH have confirmed that the CMF has a mandate to improve its ROI. These discussions have made it clear that this means increasing the amount of financial return to the Fund. While it's possible to characterize "ROI" as being about things other than money—jobs created, a healthy audiovisual industry, Canadian content available to Canadians, awards and prestige at home and abroad—DCH has been clear on this point: it's about money, and it's about money returned to the CMF itself (as opposed to money returned to producers, broadcasters, or the broadcasting system as a whole).

With this understanding, it becomes clear that the CMF has limited options to increase its ROI. The only way the CMF is able attain a return at all on its investments is through recoupment of, and participation in profits from, recoupable investments made in funded projects that are exploited in the marketplace—equity investments. There is no other way for the CMF to achieve ROI.

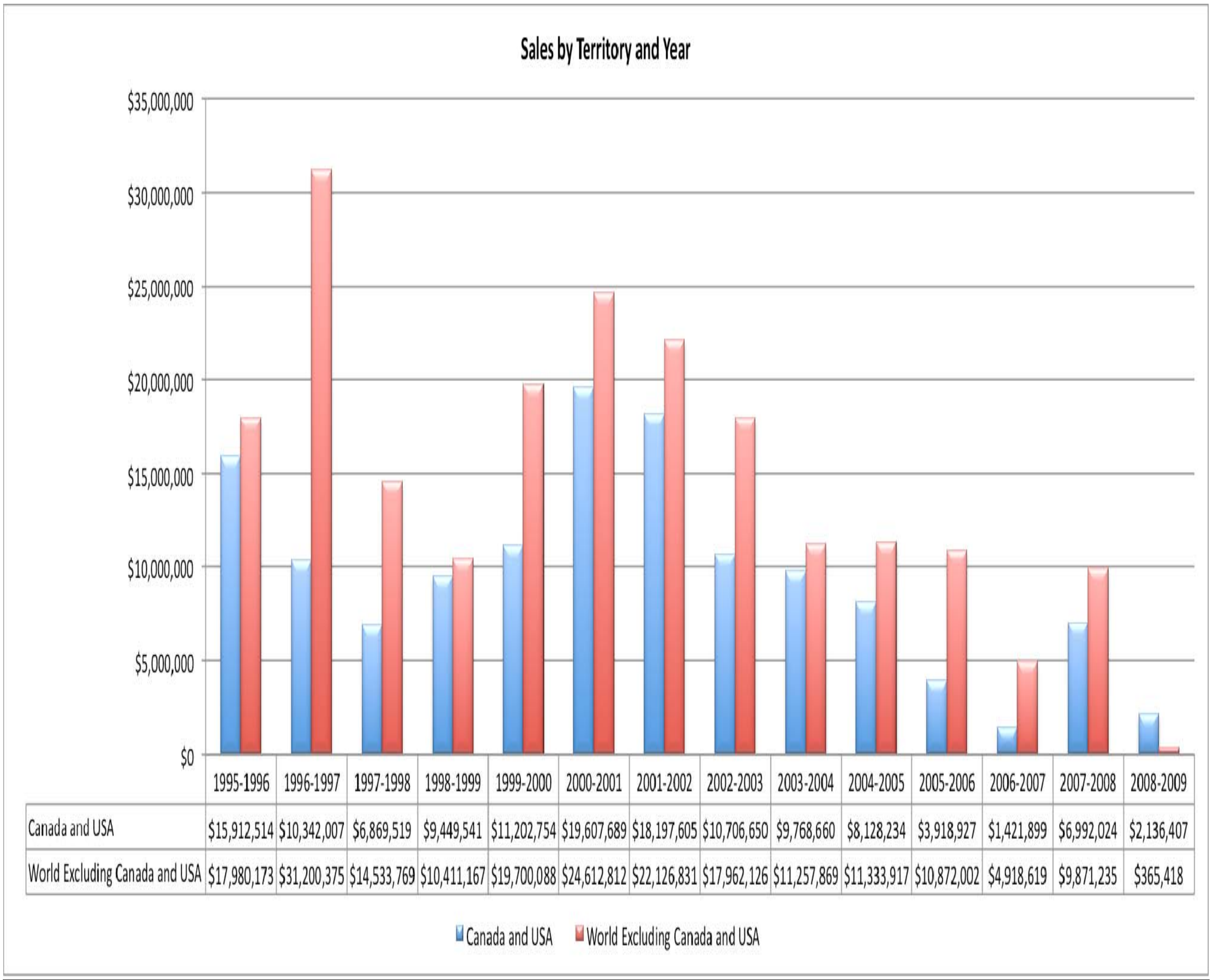
<u>Context</u>

The following are statistics relating to the CMF's equity recoupment performance in the past.

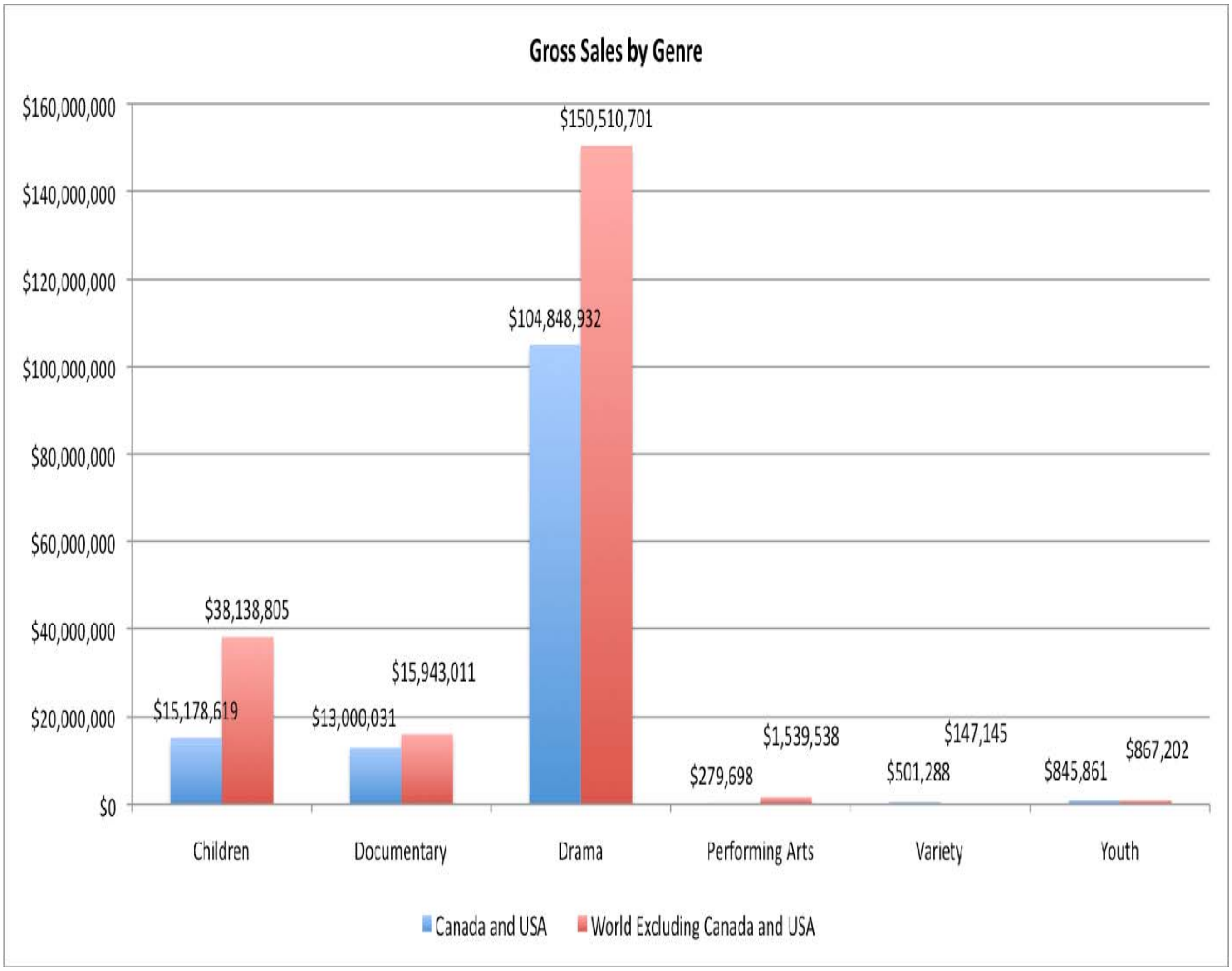


	Aboriginal	English	French
Children & Youth	$18,776	$11,057,309	$2,241,650
Documentary	$121,305	$10,235,903	$1,105,675
Drama	$3,602	$37,891,040	$3,052,104
Drama (Film)			$2,277
Variety and Performing Arts	$4,485	$604,392	$112,661

Children & Youth, Documentary, Drama, Drama (Film), Variety and Performing Arts



	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Canada and USA	$15,912,514	$10,342,007	$6,869,519	$9,449,541	$11,202,754	$19,607,689	$18,197,605	$10,706,650	$9,768,660	$8,128,234	$3,918,927	$1,421,899	$6,992,024	$2,136,407
World Excluding Canada and USA	$17,980,173	$31,200,375	$14,533,769	$10,411,167	$19,700,088	$24,612,812	$22,126,831	$17,962,126	$11,257,869	$11,333,917	$10,872,002	$4,918,619	$9,871,235	$365,418



Canadian TV Funding Program Commitment Totals

$ million		**1996-1997**	**1997-1998**	**1998-1999**	**1999-2000**	**2000-2001**	**2001-2002**	**2002-2003**	**2003-2004**
Production									
	Licence Fee Top-up	79.7	85.8	112.5	96.1	105.5	130.8	154.5	122.1
	Equity Investment	101.9	75.4	86.7	85.1	86.6	96.1	99.8	96.7
	Subtotal	**181.6**	**161.2**	**199.2**	**181.2**	**192.1**	**226.9**	**254.3**	**218.8**
Development		2.4	3.1	3.4	3.8	3.9	4.5	5.6	8.0
Versioning		0	0	0	0	0	0	n.a.	1.1
Total		**184.0**	**164.3**	**202.6**	**185.0**	**196.0**	**231.4**	**259.9**	**227.9**

$ million		2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Production							
	Licence Fee Top-up	146.1	162.1	172.0	169.9	188.4	212.1
	Equity Investment	89.4	86.7	79.8	72.4	86.8	94.9
	Subtotal	**235.6**	**248.7**	**251.8**	**242.4**	**275.2**	**307.0**
Development		11.2	13.3	9.0	8.9	9.3	9.8
Versioning		1.0	1.0	0.7	1.1	0.5	1.3
Digital Media		n.a.	n.a.	n.a.	2.0	2.0	9.6
Total		**247.8**	**263**	**261.5**	**252.4**	**287.1**	**327.7**
Administration Expenses		$16.7	$15.0	$15.3	$14.1	$13.5	

Options

1. Increasing Equity Investments

If ROI can only be attained via exploitation of content in which the CMF has an equity investment, then it follows that the CMF must at the very least maintain, and more likely increase its equity stake in funded projects if it is to increase its ROI. The CMF's equity stake must be meaningful in order to have any chance of receiving meaningful returns.

The CMF's current approach is well stated in section 2.2 of the Performance Envelope Guidelines[1] as follows:

> A licence fee top-up supplements a successful Applicant's Canadian broadcaster cash licence fees. As such, this type of contribution forms part of the broadcaster's licence fee for the Television Component and is non-recoupable. An equity investment is a cash investment in the project, which results in the CMF acquiring an undivided copyright ownership interest in all versions of the project. Equity investments are recoupable, and subject to a standard and nonnegotiable recoupment schedule (as described and subject to any exceptions set out in the CMF Standard Recoupment Policy, see Appendix B).
>
> <u>The first CMF contribution to the Television Component will be in the form of a licence fee top-up to a maximum of 20% of the component's Eligible Costs</u> unless otherwise specified (see section 2.4). <u>Amounts in excess of this maximum will be in the form of an equity investment up to a maximum of 49% of Eligible Costs</u>. However, the CMF considers any eligible equity investment request of less than $10,000 to be too small for equity participation. Accordingly, any such requested amount shall be automatically converted into a licence fee top-up. [Emphasis added]

In the Performance Envelope Program broadcasters—and producers, to the extent that they can negotiate with broadcasters—can exert a fair degree of control over how much CMF equity will be contributed to a project by only providing 20% of the budget from their envelope, or not much more. As a result, approximately 30% of the CMF's contributions to production funding in the Convergent Stream is currently in the form of equity investment. 70% is licence fee top-up—a non-recoupable form of financing that is effectively a grant.

[1] Other CMF production programs in the Convergent Stream use different formulas, but since the Performance Envelope Program is by far the largest funding program, it is the focus of this memo. The CMF will consider separately its approach to the Aboriginal, Francophone Minority, English POV, and Diverse Languages Programs based on its finally determined approach in the Performance Envelope Program in combination with the specific objectives of those other Programs.

It seems unlikely that the CMF can ever expect a meaningful return on its investment when it is more-or-less guaranteed that 70% of its contributions will never be recouped. Indeed, this is born out by the data, which shows that, on investments made by the CMF of more than $1.2 billion between 1996-1997 and 2009-2010, revenues recouped represent a 5.5% rate of recoupment and profits represent 0.3%.

There are downsides to increased equity investment in the Convergent Stream. Recoupment entails reporting and other activities that cost money to carry out, both to producers and to the CMF itself. The CMF understands that the equity investment reduces, or "grinds", the Canadian Film or Video Production Tax Credit (federal tax credit), thereby reducing the amount of financing available for production.

A more nuanced way to implement this change would be to have different equity investment levels by genre and language of programming. For example, historically English drama has a relatively high recoupment rate, while French variety & performing arts (VAPA) does not. The CMF could increase equity levels for English drama but retain or lower current levels for French VAPA. This approach would have pros and cons. On the one hand, it would maximize ROI to the CMF in the places where the highest potential exists, while not subjecting historically low-recoupment language/genres to the effects of the "grind". On the other hand, stakeholders involved in higher-recoupment language/genres like English drama may find it unfair that their genre is subject to the burden of higher equity levels while others are not. It could also be read as a statement by the CMF that it funds certain genres for which it has low expectations, or which have no chance of success in terms of ROI. Questions might then be raised about why the CMF funds such genres if it feels they are likely, or certain, to fail in the marketplace.

Finally, the CMF could also consider making funding to the Digital Media Components in the Convergent Stream equity investments, or some other form of recoupable financing. Currently, the CMF provides this financing in the form of "non-repayable contribution". If the CMF is increasing equity investments for TV components in the Convergent Stream and has implemented a robust equity strategy in the Experimental Stream, it may want to do the same for DM components in the Convergent Stream.

2. Assertive Approach to Rights

Equity investments only return funds to the CMF where there is exploitation of rights in relation to the project by the producer.[2] An approach to equity investments will be of no effect if producers are left with little or no rights to exploit. It is now common knowledge that, whereas 5-10 years ago broadcasters only took very limited rights in exchange for their licence fee, today broadcasters are seeking a wide ambit of broadcast-related and non-broadcast-related rights, often with the right to obtain/retain all or a significant portion of revenues generated from their exploitation. Such arrangements are often reached though negotiations in which the producer may be at a disadvantage, since the entirety of the broadcast deal is made contingent on the broadcaster obtaining these "additional" rights. As such, the CMF could couple an increase to equity with the continued assertive approach to ensuring that rights are effectively valued and exploited, with the maximal potential for revenue to be returned to the producer and via the producer to the CMF. In this sense, the CMF sees its ROI mandate, equity investments, and an assertive position on rights to be inextricably linked to each other.

The CMF already has rights-related rules in place, most of which are present in section 3.2.TV.5 of the production programs (appended to this memo as Appendix "A"). Most significantly, section 3.2.TV.5.3, introduced in 2010-2011, created a non-broadcast rights framework for rights to be separately valued, and prescribed several options by which these rights could be exploited.

[2] To be clear, the CMF can only participate in revenues generated from rights exploitation to the extent that the producer participates in those revenues. The CMF's Financing Agreement is between the CMF and the producer, and it is to the producer that the CMF is providing its equity investment. So, for example, where a broadcaster (or other entity) buys certain rights—let's say for digital sell-through (e.g. iTunes)—from the producer for $1,000 and then generates revenue of $100,000 from those rights, the CMF would only participate in the $1,000 (provided that it was outside the financing structure—if it wasn't, the CMF would get nothing) and not the $100,000. Revenue generated by the broadcaster benefits the broadcaster, and may contribute to the "success" of the project overall, but since it does not return revenue to the CMF it cannot assist with the CMF's ROI mandate.

In addition to the current rules, the following is partial list of places where the CMF could clarify or further tighten its approach to program rights:

- Paid Internet. Currently, the CMF would likely categorize paid Internet VOD services such as Netflix under category "ii)" at section 3.2.TV.5.3 of its Guidelines. As such, broadcasters could obtain such rights from the producer for an up-front fee and, provided that they exercised them within 12 months, exploit the rights themselves with no obligation to share revenues generated thereby with the producer. This could be a potentially large loss of potential revenue by the producer and, by extension, the CMF. As such, the CMF is considering making such a right exploitable only subject to a back-end revenue sharing arrangement.

- Sublicensing. Currently, there are no limits on broadcasters obtaining broadcast rights for all of Canada for all types of broadcast and then, for territories/channels/time periods for which the broadcaster cannot exploit the rights, sublicensing them to other broadcasters and retaining the revenues generated thereby. The CMF is considering limiting or prohibiting this practice, so that the sale of programming to broadcasters for subsequent window, other territories, and/or channels must be done by the producer.

- Term lengths. Some producers have argued that 6-year or longer broadcast licence terms have effectively eliminated the possibility of the producer to sell subsequent window rights in Canada. The CMF is considering looking at this issue, with the possibility of implementing further limitations. The Canadian Media Production Association (CMPA) has suggested 3 years.

- Non-broadcast Rights Categorization. Section 3.2.TV.5.3 currently breaks down non-broadcast rights into 9 categories. The CMF is considering revisiting these categories to ensure that they are up-to-date and effective.

The above list is not exhaustive.

The CMPA has made specific proposals to the CMF regarding rights issues, namely:

- In the 2011/2012 CMF Guidelines, the safeguards for CMF equity-funded projects should be enhanced and extended to all projects

- Key enhancements should include:
  - A maximum three year licence term for programming licensed on any platform, with no co-terminus permitted. Ever-longer licence terms in recent years have reduced recoupment from second and third window sales
  - Appropriate revenue sharing (e.g. 50/50) between producer and broadcaster on digital rights licensed by broadcaster
  - The holdback window should be reduced from twelve to six months to encourage multiplatform content distribution
  - A "hands-off" prohibition on broadcasters acquiring, or receiving profit participation from, the following rights:
    - Merchandising
    - DVD
    - home video
    - permanent download
    - international
    - format
    - distribution
    - music publishing
    - retransmission
    - games
    - website
    - other languages

3. Eliminating Certain Maximum Contribution Amounts

Section 2.4 of the Performance Envelope Program contains a variety of Maximum Contribution amounts that apply per project category and to various aspects of the CMF's contribution. Section 2.4 is appended to this memo for your information as Appendix "B".

Given the impacts of increasing the CMF's equity stake in Convergent Projects, particularly the federal tax credit "grind", the CMF could lift most of these restrictions from the Performance Envelope Program. In addition to allowing greater flexibility for providing extra CMF financing where the "grind" reduces overall project financing, the CMF believes this step could also simply a rather complicated area of the CMF's Program. Currently, there are 78 different Maximum Contribution amounts presented in section 2.4, with up to six different amounts applicable to a single project. Removing this various caps is a step towards simplifying a generally complex CMF Program.[3]

Generally, the objectives of maximum contributions are to:

1. ensure that there is a balance between CMF/public financing and private financing; and/or
2. "spread the wealth" amongst various applicants, so that too few projects do not receive too much funding.

The CMF believes that the basic top-up and equity caps, combined with the Performance Envelope system itself, could ensure achievement of the first objective.[4] In addition, and perhaps more significantly, broadcasters have a limited amount in their envelopes and broadcast schedules to fill with quality programming. No broadcaster can spend more than they have in their genre-specific envelope, and the market itself will almost certainly regulate the use of funds. Most broadcasters need to produce several shows in order to fill their schedules and meet their CRTC CanCon requirements. It seems unlikely that broadcasters will manage CMF funds so as to overfeed one show while starving all others. In any event, the CMF also has a mandate to, "rely on market forces to the extent possible". "Spreading the wealth" is no longer, if it ever was, an objective of the CMF. Reducing the number of Maximum Contribution amounts applicable to funded projects is, amongst other things, a move in a "market forces" direction.

4. Marketing and Promotion Support

As part of an overall effort to increase the success of CMF-funded programming, including the potential for sales, the CMF could provide additional support to the marketing and promotion of that content. This is consistent with the DCH's statement that, "Since building audience demand means investing in…marketing, and promotion, the Fund will ensure that these activities occur."

To accomplish this, marketing costs could be considered Eligible Costs in its production programs in the Convergent Stream. These costs could be eligible in production budgets and supported by the CMF as part of the overall budget.

However, only certain costs would be eligible. The CMF does not wish to displace promotion activities already undertaken by broadcasters. As such, the following could be eligible marketing costs:

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[3] For example, for an English-language ½ hour drama series, three different Maximum Contributions apply, some of which have two sub-components. The licence fee top-up to the project cannot exceed 20% of Eligible Costs or $2.25 million, whichever is less. The equity investment in the project cannot exceed 49% of Eligible Costs or $153,846 per episode or $2 million for the whole project, whichever is less. And both types of CTF contribution are limited to a total of $4.25 million per project. For a French-language MOW, each BPE contribution cannot exceed 55% of Eligible Costs for the project. The amount of licence fee top-up cannot exceed 20% of Eligible Costs, and there is no stated Maximum Contribution amount for equity investment, but a total CTF cap of $1.75 million for the project.

[4] The CMF also has caps on broadcaster-affiliated and in-house production spending.

- Costs related to a digital media marketing campaign controlled by the producer (or an entity designated by the producer, other than the broadcaster). This includes promotional websites, social media campaigns such as Twitter and Facebook, or other on-line promotional activities.
- Costs related to attendance at national and international festivals and markets where sales of the program may be generated.

Another option would be to create a new CMF marketing and promotion program, to which producers and/or other applicants would apply separately and directly for marketing support.

5. Selective Process Based on ROI

Currently, the bulk of funding in the Convergent Stream is done through the Performance Envelope Program, in which broadcasters make the decisions as to which eligible projects should receive CMF funding. If the CMF wanted to act as a true equity investor, it could repatriate this decision-making power, and select projects for funding based on its own assessment of which had the highest potential for ROI.

Such a process could significantly increase the administrative costs to the CMF, since additional skilled staff would have to be hired to evaluate hundreds of applications, involving more time to analyze with potential approval delays as a consequence. In addition, there is a question, given the high-risk nature of television production, of whether the CMF would do a better job of "picking winners" than the broadcasters who are generally closer to the market(s) that they serve.

6. Negotiate individual recoupment deals

Currently, the CMF has a Standard Recoupment Policy (SRP) which "was developed to eliminate negotiation of recoupment deals between the CMF and Producers, to save time, and to provide producers with predictability in the form of pre-approved recoupment structures." The CMF could eliminate the SRP and return to individual, case-by-case negotiation of recoupment contracts with the hope that this extra attention to detail could increase CMF recoupment.

Similar issues to the above-mentioned selective option come into play, namely potential for increased administrative costs and time involved in negotiating individual deals.

7. Remove the preferential recoupment position for provincial tax credits

Currently, the CMF SRP provides a preferential recoupment position for provincial tax credits. This inures for the benefit of the producer and is at the expense of the CMF. The CMF could remove this preferential treatment.

8. Adjust distribution fee/expenses caps

Currently, the SRP caps the amounts that distributors may deduct from gross revenues as distribution fees and expenses. Generally speaking, fees for eligible distributors are capped at 30% and non-eligible distributors are capped at 15%. Expenses are capped at 10%, except during the first two years or exploitation. The CMF could lower those caps, permitting distributors to take fewer fees and/or expenses and thereby increasing revenue to the producer and to the CMF.

9. Increase audit/enforcement activies

Currently, the CMF has a stable of enforcement and compliance procedures to ensure that it receives revenue due to it under the SRP and under the Financing Agreement entered into between the CMF and producers. These include regular reporting requirements and audit procedures.

10. Reduce Canadian Content requirements

Currently, the CMF requires relatively high levels of Canadian content in the Television Component of projects it funds in the Convergent Stream. These requirements are primarily expressed in the 4 Essential Requirements, and include 10/10 CAVCO points, the project is shot and set in Canada, and the content of the project speaks to Canadians. It has been argued that since most recoupment revenue is generated on international sales, that by reducing these requirements—such as to allow American or other international stars to play leading roles—the international marketability of CMF-funded projects would increase thereby increasing ROI.

The CMF is not recommending this option. While possibly true, the CMF has other mandates, including the production of content that is truly Canadian. The CMF's Contribution Agreement requires that all funded projects be 10/10 point productions (with appropriate exceptions) and that they reach Canadian audiences.

In addition, some have argued that it is the very "Canadianness" of CMF-funded programming that distinguishes it and makes it interesting to international buyers, rather than generic content with no discernable flavour or sense of place.

In any event, the CMF believes that its ROI mandate has not displaced it cultural mandate and, as such, is not recommending the reduction of CanCon requirements in this context. This issue was discussed at length in last year's consultation process and it was determined to remain at current levels.

11. Producer ROI Incentive/Producer Envelopes

The CMF has made public its ongoing consideration of various ways to reward producers who return revenues to the CMF, including producer envelopes that successful producers/production companies could build and they apply to funding future CMF programs.

The CMPA has provided a proposal in this regard, namely:

- For 2012/2013, a parallel system of performance envelopes for independent producers should be implemented
- The resources allocated should be equally split between the producer and broadcaster performance envelopes
- The methodology for calculating the broadcaster performance envelopes should remain the same
- The methodology for calculating the producer performance envelopes could include factors such as:
    - Total domestic audience success
    - Success in foreign markets
    - Historical ROI to the CTF/CMF
- To enable producers to use their new envelopes in a manner that best facilitates multiplatform distribution, the triggers for performance envelope funding should be expanded in 2012/13 beyond the current requirement that projects have a television broadcast licence
    - Additional triggers could include obtaining a minimum financial commitment from a digital or traditional distributor or equivalent market channel partner
    - Expanding the list of eligible triggers would better achieve Minister Moore's stated objective of ensuring the production of quality content and making it available on multiple platforms

- It would also provide greater opportunities for innovation in content production and distribution

12. Experimental Stream

Most of this memo focuses on ROI for production projects in the Convergent Stream. In the Experimental Stream, the CMF already provides 100% of production financing in the form of equity investments, as well as a recoupment approach that some have characterized as overly assertive.

The Canadian Interactive Alliance (CIAIC) has proposed a number of changes to the Experimental Stream involving equity financing and ROI. In particular, the CIAIC has proposed that the CMF reduce its focus on innovation (be reducing its weighting in the evaluation grid from 40% to 15%) in order to improve ROI by supporting more mainstream content that is more likely to succeed in the marketplace. The CIAIC has also asked for the CMF to revisit its equity approach, arguing that overly assertive IP ownership and/or recoupment/profit participation is a disincentive for potentially successful projects—particularly videogames—to apply to the Fund.

Alliance Numerique has also expressed concern about the "co-ownership" of IP. It is understood that a recoupment of CMF investment is desired by the Fund, but do not wish for the ownership of the IP of the project to be “divided” between the applicant and the CMF.

The Regroupement des producteurs multimedia (RPM) also has concerns about IP co-ownership, particularly with regard to the institutional and legal complexity that could be attached to buying-out CMF's interest in a property. RPM is also uncomfortable with the level of uncertainty regarding the conditions for buying-out CMF's interest in a project. RPM would like to establish standard terms or principles that will frame any buy-out.

RPM would like the CMF to recognize that any future investment made by the producer to ensure the continuity or upgrade for further exploitation will dilute CMF's share of earnings. RPM agrees, however, that these future investments should be submitted for approval to CMF before being made.

Finally, RPM would like to cap the CMF's participation to profit, under one of the following two proposed options:

- During the course of exploitation (which could last many years); CMF cannot earn more than 1.5 times of its initial investment (e.g. if CMF has invested $200,000, it can recoup the $200,000 investment plus earn $100,000 in profit, but no more).
- In the event of a "cash-flow event" such as selling the company or assets to a third party, the CMF would be entitled to the lesser of:
    - full recoupment of its initial investment plus a bonus of 25% (taking in account everything that will have already be returned to the fund before the event); or
    - a percentage of the total sale of asset based on CMF's share (but not exceeding 50%).

COMMENTS:

<u>Appendix "A"</u>

Section 3.2.TV.5.2 of the 2010-2011 Performance Envelope Program Guidelines

3.2.TV.5.3 Treatment of Other Rights

All Other Rights that a Canadian broadcaster or a Canadian VOD service chooses to acquire or to substantially restrict the Applicant from exploiting must be separately identified and valued, both from the Canadian Broadcast Right and Canadian VOD Right, and from each other. In particular, the CMF recognizes the following classification of rights which must be separately valued in a broadcast licence agreement containing Eligible Licence Fees:

i) Free Internet broadcast/distribution, whereby the Television Component is made available to the Canadian public on the Internet for free, either on a live, scheduled, or on-demand basis, and whether transmitted via streaming, download, or another method.

ii) Paid Internet broadcast/distribution, whereby the Television Component is made available to the Canadian public for a fee (be it transaction-based, subscription-based, or some other payment structure), either on a live, scheduled, or on-demand basis, and whether transmitted via streaming, download, or another method. For greater clarity, this does not include where an electronic copy is made available for repeated viewing by an end user (see paragraph v below).

iii) Mobile/wireless distribution, whereby the Television Component is made available to the Canadian public on a mobile or wireless device by a mobile/wireless service provider, including on a live, scheduled, or on-demand basis. For greater clarity, this refers to content made available directly by a mobile/wireless service provider; it does not include content made available via the Internet, whether or not that content is viewed on a mobile/wireless device. It also does not include where an electronic copy is made available for repeated viewing by an end user (see paragraph v below), regardless of whether this is done on a mobile/wireless device or by a mobile/wireless service provider.

iv) Original digital content rights, such as the right to produce and exploit digital interactive or digital linear content derived from the Television Component and distributed to the Canadian public by digital distribution.

v) Electronic sell-through and/or digital rental, whereby an electronic copy of the Television Component is sold or rented, via digital distribution, for repeated private viewing by an end user. For greater clarity, where a electronic copy is made available for repeated viewing by an end user this will be considered an electronic sell-through and/or digital rental right, regardless of whether this is done via the Internet, mobile/wireless distribution or another form of digital distribution, and regardless of platform/device.

vi) DVD, Blu-ray, or other compact video device distribution of the Television Component.

vii) Theatrical distribution of the Television Component.

viii) Non-theatrical distribution of the Television Component, such as to educational institutions and airlines.

ix) Merchandising and ancillary rights, such as the right to produce and exploit products, merchandise, or services derived from the Television Component, or the right to produce and exploit formats based on the Television Component. For greater clarity, this does not include original digital rights described at paragraph iv above.

Any right which is not encompassed by the above-listed rights, whether currently existing or developed in the future, must also be separately identified and valued. Broadcasters and producers are free to further delineate separate rights within or in addition to these categories, but the above list represents the minimum degree of distinct rights valuation in an eligible broadcast licence agreement.

Where the CMF provides an equity investment to the Television Component:

1) all Other Rights acquired by a Canadian broadcaster or Canadian VOD service must:

   a. Be exploited in accordance with the CMF's Standard Recoupment Policy, with the broadcaster acting as a distributor for the purposes of that policy. For rights under paragraphs i-v above only, the CMF may consider a 50/50 gross revenue sharing arrangement between the producer and the broadcaster (or other arrangement that is no less preferable to the CMF than a 50/50 gross revenue share); or

   b. For rights under paragraphs i-iv above only, be paid for at a reasonable, fair-market value and subject to a "use it or lose it" provision that requires the broadcaster/VOD service to exploit the right(s) within 12 months of first broadcast/premiere of the Television Component, failing which the rights revert to the producer without restriction;

and

2) for Other Rights not acquired by a Canadian broadcaster or Canadian VOD service, the broadcast licence agreement cannot restrict the Applicant's ability to exploit the Other Rights for longer than 12 months from the first broadcast/premiere of the Television Component.

The CMF will apply this section in an adaptable and purposive manner, with the objectives of promoting transparency in the rights market and maximizing the CMF's return on investment when the CMF is an equity investor.

Appendix “B”

Section 2.4 of the 2010-2011 Performance Envelope Program Guidelines

2.4 LICENCE FEE THRESHOLDS AND MAXIMUM CONTRIBUTIONS - TV COMPONENT

“Maximum Contribution (Performance Envelope)” refers to contributions from all Performance Envelopes from the Performance Envelope Program only, while “Maximum Contribution (CMF)” refers to the contributions from all CMF Programs (for example, combined contributions from the Francophone Minority and Performance Envelope Programs). All Eligible Costs in this section refer to the costs for the Television Component only.

DRAMA PROGRAMMING

LANGUAGE	PROJECT			MAXIMUM CONTRIBUTION		
	TYPE	ELIGIBLE COSTS	LICENCE FEE THRESHOLD	PERFORMANCE ENVELOPE	LICENCE FEE TOP-UP	CMF
ENGLISH	½ -hour series or one-offs	Less than $800K per hour	45% of Eligible Costs or $315K per hour, whichever is less	n/a	20% of Eligible Costs per project or $2.25M, whichever is less	$4.25M per project
		$800K per hour or more	$315K per hour	n/a		
	1-hour series or one-offs (incl. MOWs and mini-series)	Less than $800K per hour	45% of Eligible Costs or $315K per hour, whichever is less	n/a	20% of Eligible Costs per project or $2.25M, whichever is less	$5.25 M per project
	1-hour series or one-offs (excl. MOWs and mini-series)	$800K per hour or more	$315K per hour	n/a	25% of Eligible Costs per project or $4.2M, whichever is less	$507,692 per hour or $6.6M per project, whichever is less
	Returning 1-hour series (excl. mini-series)	$800K per hour or more	$315K per hour	n/a	25% of Eligible Costs per project or $5.8M, whichever is less	$507,692 per hour or $9.1M per project, whichever is less
	Returning ½-hour series (excl. mini-series)	$800K per hour or more	$315K per hour	n/a	20% of Eligible Costs per project or $3.1M, whichever is less	$5.88M per project
	Movies of the Week (MOW)	$800K per hour to $1,857,143 per hour	$325K per hour	n/a	20% of Eligible Costs per project or $750K, whichever is less	$1.75M per project
		More than $1,857,143 per hour	17.5% of Eligible Costs	n/a		
	Mini-series	$800K per hour to $1,857,143 per hour	$325K per hour	n/a	20% of Eligible Costs per project or $2M, whichever is less	$4.0M per project
		More than $1,857,143 per hour	17.5% of Eligible Costs	n/a		
	½-hour pilots*	More than $700K per ½ hour	$205K per ½ hour	n/a	20% of Eligible Costs per project	$350K per project
	1-hour pilots*	More than $1.75 M per hour	$525K per hour	n/a	25% of Eligible Costs per project	$850K per project
FRENCH	Drama projects excl. MOWs and mini-series	Less than $250K per hour	50% of Eligible Costs	20% of Eligible Costs per project	n/a	$1.3M per project
	Drama projects excl. MOWs and mini-series	$250K per hour or more but less than $800K per hour	23% of Eligible Costs	52% of Eligible Costs per project	20% of Eligible Costs per project	$5.5M per project
	Drama projects excl. MOWs, mini-series, & series	$800K per hour or more	20% of Eligible Costs	53% of Eligible Costs per project	20% of Eligible Costs per project	$545K per hour or $6.5 million per project, whichever is less
	½-hour and 1-hour drama series	$800K per hour or more	20% of Eligible Costs	53% of Eligible Costs per project	25% of Eligible Costs per project	$545K per hour or $6.5M per project, whichever is less
	Mini-series	All	18% of Eligible Costs	55% of Eligible Costs per project	20% of Eligible Costs per project	$4.0M per project
	MOWs	All	$150,000 per project	55% of Eligible Costs per project	20% of Eligible Costs per project	$1.75 million per project

** For English-language drama programming, a pilot and a series consequent to that pilot are treated as separate projects for the purposes of determining the applicable Maximum Contribution amounts, whether or not they are funded in the same fiscal year.*

VARIETY AND PERFORMING ARTS PROGRAMMING

LANGUAGE	PROJECT: TYPE	PROJECT: ELIGIBLE COSTS	PROJECT: LICENCE FEE THRESHOLD	MAXIMUM CONTRIBUTION: PERFORMANCE ENVELOPE	MAXIMUM CONTRIBUTION: CMF
ENGLISH	Variety and Performing Arts	Less than $750K per hour	40% of Eligible Costs or $240K per hour, whichever is less	n/a	$0.75 for every $1.00 of Eligible Licence Fees per Performance Envelope
		$750K or more per hour	$240K per hour	n/a	$1.25 for every $1.00 of Eligible Licence Fees per Performance Envelope
FRENCH	Variety	Less than $750K per hour	50% of Eligible Costs	25% of Eligible Costs per project	$1.1M per project
		$750K or more per hour	25% of Eligible Costs	35% of Eligible Costs per project	$1.1M per project
	Performing Arts	All	20% of Eligible Costs	43% of Eligible Costs per project	$500K per project

DOCUMENTARY PROGRAMMING

LANGUAGE	PROJECT: TYPE	PROJECT: LICENCE FEE THRESHOLD	MAXIMUM CONTRIBUTION: PERFORMANCE ENVELOPE	MAXIMUM CONTRIBUTION: CMF
ENGLISH	Projects of six episodes or less, and with Eligible Costs of less than $400K per hour*	30% of Eligible Costs or $100K per hour, whichever is less	n/a	$1.50 for every $1.00 of Eligible Licence Fees per Performance Envelope
	Projects of seven episodes or more, and with Eligible Costs of less than $400K per hour	40% of Eligible Costs or $100K per hour, whichever is less	n/a	$1.00 for every $1.00 of Eligible Licence Fees per Performance Envelope
	Projects with Eligible Costs of $400K per hour or more*	$100K per hour	n/a	$1.50 for every $1.00 of Eligible Licence Fees per Performance Envelope
FRENCH	Projects with Eligible Costs of less than $100K per hour	35% of Eligible Costs	35% of Eligible Costs per project	$700K per project
	Projects with Eligible Costs of $100K per hour to $400K per hour	20% of Eligible Costs	47% of Eligible Costs per project	$700K per project
	Projects with Eligible Costs of more than $400K per hour to $750K per hour	15% of Eligible Costs	47% of Eligible Costs per project	$700K per project
	Projects with Eligible Costs of more than $750K per hour	10% of Eligible Costs	50% of Eligible Costs per project	$700K per project
	Feature-length Documentary projects with Eligible Costs of $100K to $750K	12% of Eligible Costs	50% of Eligible Costs per project	$375K per project
	Feature-length Documentary projects with Eligible Costs of more than $750K	10% of Eligible Costs	50% of Eligible Costs per project	$500K per project

**For English-language feature-length documentaries, the project's running time will be rounded up to the nearest half-hour for the purposes of the CMF per-hour-based calculations in this section.*

CHILDREN'S AND YOUTH PROGRAMMING

LANGUAGE	PROJECT: TYPE	PROJECT: LICENCE FEE THRESHOLD	MAXIMUM CONTRIBUTION: PERFORMANCE ENVELOPE	MAXIMUM CONTRIBUTION: CMF
ENGLISH	Projects with Eligible Costs of less than $750K per hour	25% of Eligible Costs or $160K per hour, whichever is less	n/a	$1.50 for every $1.00 of Eligible Licence Fees per Performance Envelope
	Projects with Eligible Costs of $750K or more per hour	$160K per hour	n/a	$2.00 for every $1.00 of Eligible Licence Fees per Performance Envelope
FRENCH	Live-action projects with Eligible Costs of less than $750K per hour	35% of Eligible Costs	37% of Eligible Costs per project	$2.5M per project
	Live-action projects with Eligible Costs of $750K or more per hour	15% of Eligible Costs	47% of Eligible Costs per project	$545K per hour or $2.5M per series
	Animation	15% of Eligible Costs	30% of Eligible Costs per project	$2.0M per project