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CANADA MEDIA FUND

Funding Mechanisms Working Group

Date: October 10, 2013

The Funding Mechanisms Working Group will examine the following topics, for the Convergent Stream only:

1. CMF's use of licence fee top-ups and equity investments;
2. its funding formula and standard recoupment policy;
3. licence fee thresholds; and
4. project selection processes.

1. CMF's use of licence fee top-ups and equity investments

Between 2002-2003 and 2012-2013, the CMF invested $946.6 million dollars in television production in the form of equity investments (32.4%), and provided $1.9 billion dollars in the form of licence fee top-ups (67.6%). Notably, the proportion of licence fee top-ups has increased steadily since the introduction of broadcaster envelopes in 2004-2005.

Figure 1: Total CMF Television Production Assistance, 2002-2003 to 2012-2013, $M

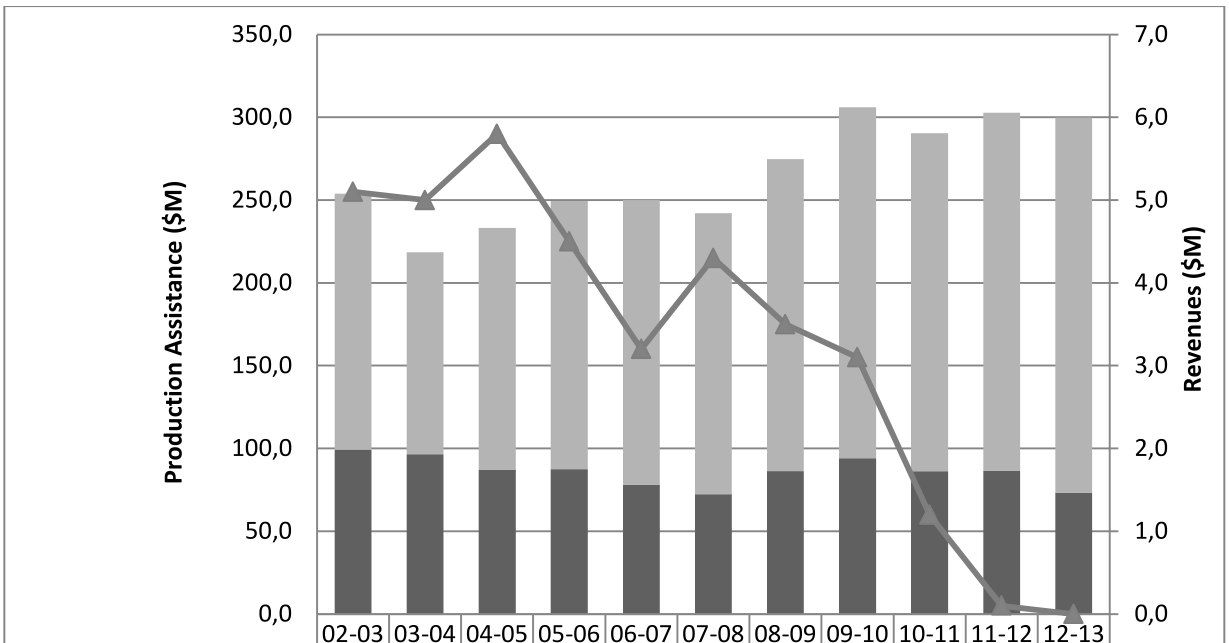
Signature Year	Licence Fee Top-up		Equity		Total Production Assistance
2002-2003	$154.5	61%	$99.3	39%	$253.8
2003-2004	$122.1	56%	$96.4	44%	$218.5
2004-2005	$146.1	63%	$87.1	37%	$233.2
2005-2006	$162.1	65%	$87.4	35%	$249.5
2006-2007	$172.0	69%	$78.0	31%	$250.0
2007-2008	$169.9	70%	$72.2	30%	$242.1
2008-2009	$188.4	69%	$86.3	31%	$274.7
2009-2010	$212.1	69%	$94.0	31%	$306.1
2010-2011	$204.2	70%	$86.2	30%	$290.4
2011-2012	$216.3	71%	$86.5	29%	$302.8
2012-2013	$226.7	76%	$73.1	24%	$299.8
Totals	**$1,974.4**	**68%**	**$946.6**	**32%**	**$2,920.9**

Note: excludes Diverse Languages Program

Of the $946.6 million dollars invested by the CMF in television productions in the form of equity between 2002-2003 and 2012-2013, only a modest percentage has been recouped.
When recoupment data is presented based on the year in which projects were funded, as shown in the set of charts below, only $35.8 million in revenues, or 3.8%, has been recouped. In this scenario, the downwards trend is at least in part attributable to the fact that projects funded in recent years, may not have yet made it to the market.

When recoupment data is presented based on the year it was received by the CMF, as shown in Appendix A, then CMF has recouped $46.2 million, or 4,8%. In this scenario, the downwards trend is less pronounced but remains nonetheless.

Figure 2: Total CMF Television Production Assistance and Revenues: 2002-2003 to 2012-2013



	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13
Licence Fee Top-up	154,5	122,1	146,1	162,1	172,0	169,9	188,4	212,1	204,2	216,3	226,7
Equity	99,3	96,4	87,1	87,4	78,0	72,2	86,3	94,0	86,2	86,5	73,1
Revenue	5,1	5,0	5,8	4,5	3,2	4,3	3,5	3,1	1,2	0,1	0,0

Note: includes all languages

Figures 3 through 7 provide further details on CMF's equity investments by language market and genre, demonstrating that the CMF has recouped mostly on productions from the English-language market, and particularly English drama. English children's and youth, however, represents the language/genre category with the highest rate of return on investment.

Figure 3: Overview of Equity Investments and Recoupment by Language Market, 2002-2003 to 2012-2013

	English-Language Market	**French-Language Market**	**Aboriginal-Languages Market**
CMF Equity Investments (millions $)	601.9	332.9	11.8
Cumulative Amount Recouped (millions $)	31.6	4.1	0.1
Return on Investment*	5%	1%	1%

* Revenues as a percentage of equity investments

Figure 4: CMF Production Assistance, Equity Investments by Genre, English-language Market

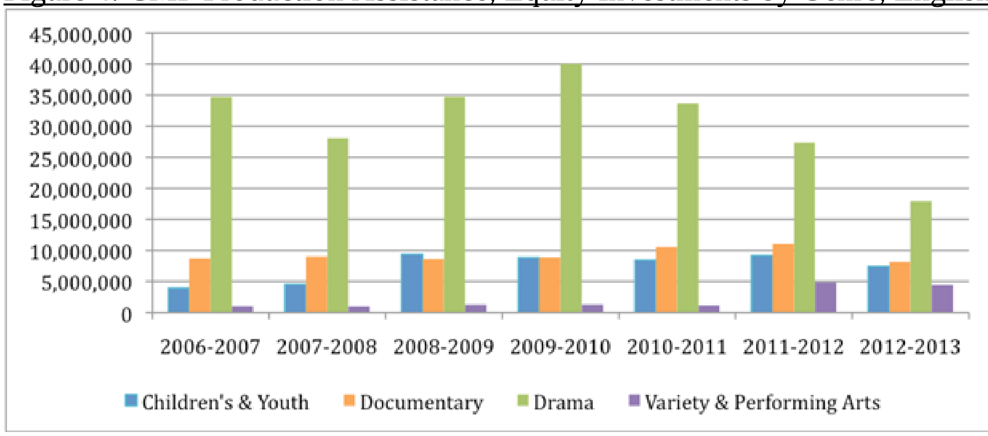


Figure 5: CMF Production Assistance, Equity Investments by Genre, French-language Market

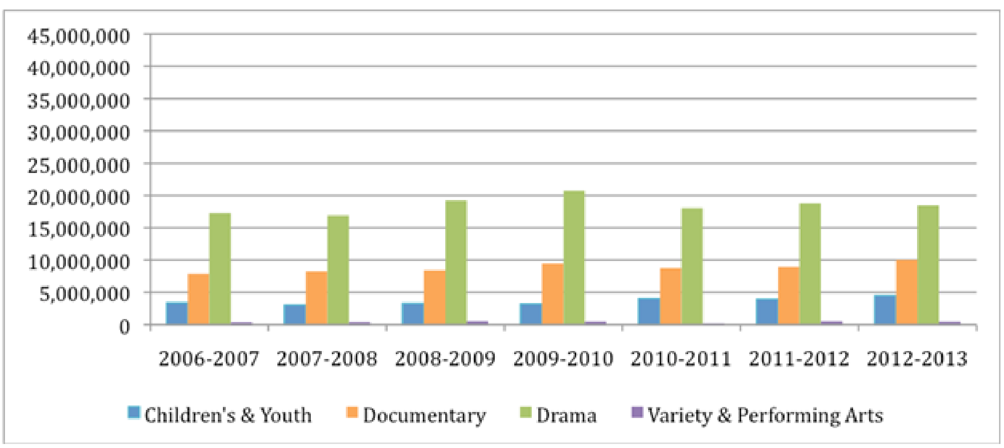


Figure 6: Overview of Equity Investments and Recoupment by Language Market and Genre, 2002-2003 to 2012-2013

Language Market	Genre	CMF Equity Investments (millions $)	Cumulative Amount Recouped (millions $)	Return on Investment*
English-Language Market	Drama	391.5	19.6	5%
	Children's & Youth	86.4	6.6	8%
	Documentary	104.6	5.2	5%
	Variety & Performing Arts	19.4	0.2	1%
English-Language Market Sub-Total		601.9	31.6	5%
French-Language Market	Drama	198.9	3.0	2%
	Children's & Youth	41.3	0.4	1%
	Documentary	87.3	0.6	1%
	Variety & Performing Arts	5.4	0.1	1%
French-Language Market Sub-Total		332.9	4.1	1%
Aboriginal-Languages Market	All Genres	11.8	0.1	1%
Aboriginal Languages Market Sub-Total		0.0	0.0	1%
Total		**946.6**	**35.8**	**4%**

* Revenues as a percentage of equity investments

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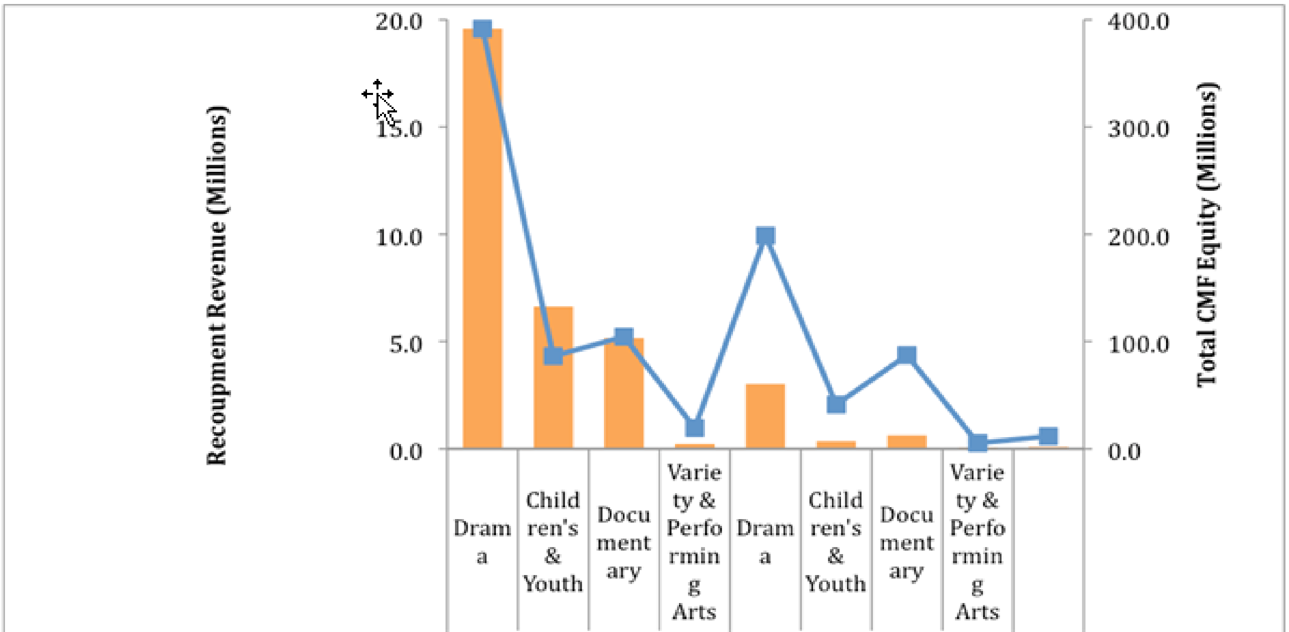
Figure 7: Revenues Recouped by Language Market and Genre, in CMF Convergent Stream, 2002-2003 to 2012-2013



	English				French				Aboriginal
	Drama	Children's & Youth	Documentary	Variety & Performing Arts	Drama	Children's & Youth	Documentary	Variety & Performing Arts	
Cumulative recoupment revenue	19.6	6.6	5.2	0.2	3.0	0.4	0.6	0.1	0.1
Total CMF equity	391.5	86.4	104.6	19.4	198.9	41.3	87.3	5.4	11.8

2. CMF's funding formula and standard recoupment policy

Results shown previously are a function of a number of elements, including the funding formulas used in CMF's various programs, as well as CMF's standard recoupment policy.

In a context of declining revenues, the CMF may wish to re-examine its funding formulas and standard recoupment policy with the objective of increasing its recoupment.

At the same time, CMF may also wish to make certain changes to streamline current approaches in the spirit of ongoing simplification.

Funding formula

CMF's current funding formula for television projects is stated in section 2.2. of the Performance Envelope program Guidelines[1]:

> 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 non-negotiable recoupment schedule.
>
> 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 with the exception of the following Drama projects, for which the maximum licence fee top-up contribution is 25% of the component's Eligible Costs:
>
> - Projects in which the Eligible Costs of the Television Component are $800,000 per hour or more and which are:
>   - English-language 1-hour series or one-offs (excluding MOWs and mini-series);
>   - English-language returning 1-hour series (excluding mini-series);
>   - French-language ½-hour and 1-hour series.; and
> - English-language 1-hour pilots in which the Eligible Costs of the Television Component are $1.75 million per hour or more.
>
> Amounts in excess of this maximum will be in the form of an equity investment up to a maximum of 49% of Eligible Costs, licence fee top-up and equity investment combined. 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.

As a result of this formula, broadcasters (and producers, to the extent that they can negotiate on this point with broadcasters) in essence determine how much CMF equity will be contributed to a television project.

Questions for discussion:

Should the CMF review its funding formula, for example by reducing the percentage of its first contribution in the form of a licence fee top-up?

Should the formula be tailored by language, genre, project type or budget size?

Note: CMF is mindful that equity investments currently "grind" the federal tax credit, and has raised the issue on a number of occasions with Canadian Heritage.

[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.

Standard Recoupment Policy (SRP)

CMF's standard recoupment policy (included as Appendix B) aims to achieve two distinct objectives: equitable financial return to the CMF on its equity investments, and administrative efficiency. These are stated in the policy as follows:

Equitable financial return:
Producers receiving equity financing must provide to the CMF the opportunity to recoup its equity participation in a manner no less favourable than pro rata and pari passu with Other Financial Participants. If a more preferential recoupment position is negotiated by any of the Other Financial Participants than outlined below, the CMF will require similar treatment (pro rata and pari passu).

Administrative efficiency:
The Standard Recoupment Policy 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.

Over the years, CMF (and prior to it, CTF) has made a number of changes to its SRP in accordance with the two aforementioned objectives. For example :

In 2009-2010, distribution fees were updated to market levels, increasing them in most instances and specifying fee amounts for different forms of exploitation. Also, a collection cost of 5%, previously only available to producers who had an arm's length relationship with their distributor, was made available to all producers. Finally, the rule related to interest charged on distribution advances and minimum guarantees was eliminated.

In 2012-2013, pursuant to an analysis of historical trends for recoupment revenues, CMF streamlined its SRP by introducing a seven year limit on its recoupment and profit participation (except in cases of syndication).

However, the SRP has not been subject to complete review since prior to 2006-2007.

In a context of declining revenues, and in the spirit of ongoing simplification, CMF may wish to amend its SRP with a view to:

- Aligning with current market standards;
- Streamlining administration costs for CMF and applicants; and
- Ensuring an equitable distribution of recoupment revenues between all investors.

CMF's recoupment revenues are currently a function of the producer's recoupment revenues. As a result, CMF recognizes that any changes it may choose to make to its SRP alone will be of no effect if producers are left with little or no rights to exploit.

CMF also recognizes that certain components of its SRP currently favour producers, at the disadvantage of CMF and other investors, such as the preferential recoupment of provincial tax credits.

Stakeholder feedback received to-date pertaining to the SRP, and that would likely reduce CMF's recoupment, include the following:

- Distribution fees should be aligned to market realities;
- Fees to sub-distributors (pyramidal commissions) should be allowed;

- The 10% cap on distribution expenses should be increased, particularly for projects with a theatrical release The current two-year exemption on the 10% cap on distribution expenses should be increased to three years;
- Cross-collaterization between territories should be allowed;
- Cross-collaterization between seasons of a given program should be allowed;
- Broadcast licence fees should be allowed to be recoupable (see proposal from Groupe TVA).

Stakeholder feedback received to-date pertaining to the SRP, and that would likely increase CMF's recoupment, include the following:

- Preferential recoupment of provincial tax credits for producers should be eliminated;
- Tax credits should not be considered at all as equity to producers;
- Distribution advances should not continue to have priority over equity investments;
- The treatment of distribution advances from producer-affiliated companies should be changed;
- The definition of eligible distribution expenses should be clarified.

Other stakeholder feedback includes:

- How should crowdfunding be treated?
- Given the seven year limit on its recoupment and profit participation, should CMF introduce a term limit on its rights to audit the distributors' accounts for a production?
- Producers are sometimes obliged to choose between CMF funding and support from independent production funds and/or provincial agencies, given incompatibility between recoupment policies.
- Despite its flaws, it is preferable to have a clear and stable SRP as it allows established ground rules around which negotiations with other partners can occur.

Questions for discussion:

Should the CMF continue to apply a standard "one-size-fits-all" distribution policy or streamline its approach for certain projects such as projects with smaller budgets, minority co-productions (where CMF equity can represent less than 10% of the TV budget), or projects with no international sales potential (such as international format-buys)?

Would it be advisable and at all possible to devise a harmonized standard recoupment policy with independent production funds and/or provincial funding agencies?

Rather than reviewing the SRP in its current structure, would it be preferable to devise an entirely new and simpler model? Would this be possible given the presence of Canadian and international private sector partners in production financing and distribution?

3. Licence Fee Thresholds

A Licence Fee Threshold is the minimum amount of fees that a project must receive from one or more Canadian broadcasters to be eligible for CMF funding[2].

[2] The inclusion of new funding triggers (non-Canadian broadcasters and/or non-broadcast triggers) being able to contribute to thresholds was discussed at the Performance Envelopes Working Group, and is not discussed in this memo.

The Licence Fee Threshold amounts currently applicable to each genre/language category for television projects are stated in section 3.2.TV.5.1 of the Performance Envelope program Guidelines. They are provided for convenience in Appendix C of this memo. There are currently 37 different thresholds in the Performance Envelope program Guidelines.

CMF regularly receives requests from stakeholders to alter certain threshold amounts, and some changes have been made as a result of these requests over the last few years. However, the CMF has not performed a systematic review of these amounts since at least 2006-2007.

The inclusion of thresholds in CMF's programs continues to be a matter of debate. Some stakeholders consider that thresholds constitute an unnecessary intervention in the market by the CMF, and consider that broadcasters' regulatory obligations would be sufficient to ensure an appropriate allocation of licence fees and CMF funding. Others consider that thresholds remain necessary in general, but would like certain thresholds reduced in the hope that a greater number of projects would be triggered. Others still consider that thresholds in general should be increased, given what they perceive as the increased rights demanded in exchange for the same threshold amounts.

Stakeholder feedback received to-date pertaining to thresholds include the following:

English market:

- Documentary: reduce thresholds, particularly for feature-length docs;
- MOWs: reduce thresholds

French market:

- Variety programs: implement a lower threshold at 20% for regional producers
- Animation projects: introduce a specific threshold at 10% in the Francophone Minority Program

Other potential changes raised by the CMF include the following:

- In the English market, thresholds are calculated either as a % of eligible costs or a minimal amount per hour or in certain categories, the lesser of the two. In the French market, all thresholds (with the exception of one) are calculated as a % of eligible costs. Should the English market approach be harmonized with the simpler approach used in the French market?
- In the French market, should the CMF reduce from 2 to 1 the number of thresholds for feature-length documentaries?

To assist in discussion of this issue, CMF has provided in Appendix D a chart which compares, for each "project type" category, the minimum licence fee threshold with the average licence fees actually paid for two reference periods, namely 2008-2009 and 2013-14. The chart provides perspective on whether average licence fees paid for each "project type" category are above threshold or not, and whether this has changed between 2008-2009 and 2013-2014.

Question for discussion:

What changes should CMF make to current licence fee threshold amounts?

4. Selection processes

CMF currently utilizes a number of different approaches to access its various funding programs and incentives. These currently include envelope programs, selective programs and first-come, first-served programs[3]. All funding programs are currently project-based, as per the requirements of the CMF's Contribution Agreement.

Programs/Incentives	Type of selection	Over/undersubscription
Development Program	Envelope	Under
Performance Envelope Program	Envelope	n/a
Anglophone Minority Incentive	First-come first-served	Over
Convergent Digital Media Incentive	First-come first-served	Over
Digital Media Co-production Incentive	First-come first-served	Over
English Production Incentive	First-come first-served	Over
English regional pre-development	First-come first-served	Over
French regional development and pre-development	First-come first-served	Over
French Regional Incentive	First-come first-served	Over
Northern Incentive	First-come first-served	Under
Versioning Program	First-come first-served	Under
Aboriginal Program	Selective	Over
Diverse Languages Program	Selective	Over
English POV Program	Selective	Over
Francophone Minority Program	Selective	Under

In determining which approach to utilize when introducing or reviewing a given program, CMF considers a number of different aspects, including: the funding mechanism's ability to deliver on the program's policy objective(s), the program's budget allocation, program administration costs and (in the case of the review of an existing program only) prior demand on program funds.

In general, selective programs entail higher administration costs, but enable the CMF to retain greater control on the outcome of program funding than either envelopes or first-come, first-served programs.

CMF regularly receives feedback from its stakeholders (both positive and negative) about each of the three selection processes currently employed. Some of this feedback includes, in very summarized terms:

Envelope programs: Many advantages including greater predictability and the ability to apply throughout the funding year. However, the sheer size of the Performance Envelope program's budget allocation and the requirement for a broadcast trigger provide broadcasters with very significant leverage.

First-come, first-served: Administratively effective and provides equal access to all projects that are ready to be submitted at the opening deadline (particularly with CMF's right to limit the number of projects per applicant and pro-ration mechanisms). Multiple deadlines have been proposed as a means to address the need for access throughout the year, particularly for FCFS programs with larger budget allocations. Qualitatively, may not result in the strongest projects being supported.

[3] The addition of new funding programs or abolition of existing programs is not discussed in this memo. That issue is however discussed in the CMF's focus groups across the country, under the topic "Objects of CMF financing".

Selective programs: Enables projects that are most aligned with specific policy objectives to be chosen for support. Outcomes may not always align with decisions that would be made by the market. Ongoing discussions pertaining to eligibility criteria, and the application of these criteria by the program administrator during the selection process. Access limited to one or two deadlines per year. More costly to administer.

Questions for discussion:

Should the CMF change the funding mechanisms currently employed for some of its programs and incentives?

Should new mechanisms be introduced?

On a longer term perspective, should the CMF consider corporate-based funding as opposed to project-based funding (and initiate discussions with Canadian Heritage accordingly)? What would be the potential advantages and risks associated with such an approach?

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APPENDIX A

Recoupment Revenue

Fiscal Year	Convergent	Experimental	Total
2006-2007	7 369 136	0	7 369 136
2007-2008	7 636 061	0	7 636 061
2008-2009	5 266 583	0	5 266 583
2009-2010	5 342 765	0	5 342 765
2010-2011	5 826 206	0	5 826 206
2011-2012	5 875 653	0	5 875 653
2012-2013	5 210 312	698 937	5 909 249
2013-2014*	3 656 155	1 111 964	4 768 119
TOTAL	**46 182 871**	**1 810 901**	**47 993 772**

* up to September 30, 2013

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APPENDIX B

This policy applies to the CMF's equity investments in television components of projects in the Convergent Stream. The policy relating to the Experimental Stream is available in a separate document on the CMF's website.

STANDARD RECOUPMENT POLICY

Producers receiving equity financing (i.e., that portion of CMF participation in excess of the licence fee top-up) must provide to the CMF the opportunity to recoup its equity participation in a manner no less favourable than pro rata and pari passu with Other Financial Participants (as defined below). If a more preferential recoupment position is negotiated by any of the Other Financial Participants than outlined below, the CMF will require similar treatment (pro rata and pari passu).

The Standard Recoupment Policy 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 recognizes that in the case of official treaty co-productions financial structures, distribution arrangements, marketability and other elements vary considerably. The CMF in its sole discretion will consider alternative recoupment proposals in these situations on a case-by-case basis, but no such deal will be approved by the CMF unless it can be demonstrated that it provides an expectation of revenue that is no less favourable than that provided through Model B, described below.

The mandate and objectives of the CMF include maximizing the CMF's return on investment when it is an equity investor. The CMF will apply the Standard Recoupment Policy in an adaptable and purposive manner with this objective in mind. In particular, the CMF may:

- Reject a distribution arrangement where it determines that the entity to do the distribution is unable, or likely will not, exploit the rights in an effective and/or timely manner;
- Require that a distribution arrangement includes and expresses all terms and conditions necessary for the CMF to meaningfully assess the arrangement—this may include requiring that distribution arrangements be provided for in a separate legal agreement; and/or
- Take different approaches to distribution of traditional distribution rights (e.g. television rights for non-Canadian markets, theatrical, non-theatrical, DVD/Blu-ray, and traditional ancillary rights such as merchandising and music publishing) and digital distribution rights (e.g. electronic sell-through, Internet distribution, mobile/wireless distribution, and digital ancillary rights such as interactive rights).

CMF-APPROVED RECOUPMENT MODELS

Projects without an Eligible Distributor attached must comply with the recoupment schedule outlined in Model A. Projects with an Eligible Distributor attached, regardless of the level of their distribution advance, must comply with the recoupment schedule outlined in Model B.

Model A – No Eligible Distributor Attached

CMF – English and French-Language Productions
Territory: Worldwide

	PRODUCER (PROVINCIAL TAX CREDITS)	PRODUCER (FEDERAL TAX CREDITS)	CANADA MEDIA FUND	OTHER FINANCIAL PARTICIPANTS*
Tier 1 (200% of provincial tax credit)	100% of the provincial tax credit participation (equal to 50% of total net revenue in Tier 1)	% = tax credit participation as % of recoupable sources of production financing multiplied by 50%	% = CMF's Equity as % of recoupable sources of production financing multiplied by 50%	% = financial participation as % of recoupable sources of production financing multiplied by 50%
Tier 2 (balance of recoupable financing	% =	balance of federal tax credit	balance of CMF Equity	Balance of Other Financial Participants' participation

* "Other Financial Participants" include, but are not limited to: broadcaster investment, producer deferral, private fund and provincial agency investment, craft and creative deferrals (whether or not by related parties) and any form of producer-related financial participation which is directly or indirectly supported by producer fees or corporate overhead ("Other Financial Participants").

Model B – An Eligible Distributor is attached

"Net Distribution Revenue" (as explained in more detail in Appendix A) is briefly defined as world-wide gross revenue received from the sale of the CMF project to end users less:

- distribution fees/commissions;
- distribution expenses to a maximum of 10%;
- administration fee of 5% to the production company.

Eligible Distributors

Eligible Distributors are given a sole first Tier recoupment position.

CMF and Other Financial Participants

Until full recoupment of the provincial tax credits, this amount will recoup at an amount equal to 50% of all Net Distribution Revenue in Tier 2. Other Financial Participants, with the exception of Federal Tax Credits, will share in the remaining 50% in an amount equivalent to their portion of the overall recoupable sources of production financing (excluding the distribution advance and tax credits). Amounts not recouped in Tier 2 will recoup pro rata and pari passu in Tier 3. Federal tax credits will recoup in Tier 4.

CMF – English and French Language Productions
Territory: Worldwide

	ELIGIBLE DISTRIBUTOR	PRODUCER (TAX CREDITS)	CANADA MEDIA FUND	OTHER FINANCIAL PARTICIPANTS
Tier 1	100% = Distribution advance	% = 0	% = 0	% = 0
Tier 2	% = 0	100% of the provincial tax credit (equal to 50% of total net revenue in Tier 2	% = CMF's Equity as % of recoupable sources of production financing (excluding the distribution advance) multiplied by 50% of remaining revenue in the Tier	% = financial participation as % of recoupable sources of production financing (excluding distributors and tax credits) multiplied by 50% of remaining revenue in the Tier
Tier 3	% = 0	% = 0	balance of CMF Equity	balance of Other Financial Participants' participation (except tax credits)
Tier 4	% = 0	100% = federal tax credits	% = 0	% = 0

Note: The Standard Terms and Conditions (Appendix A) must be adhered to.

The following applies to all CMF recoupment, whether under Model A, Model B, or an alternative model:

- The CMF will stop recouping its investments and participating in profits after 7 years from the date of the submission of the first exploitation report for the project. However, where revenues are generated by the project pursuant to a syndication arrangement, the CMF may, at its sole discretion, elect to continue to recoup and/or participate in profits beyond 7 years.
- The CMF will consider "gap" financing (a financial guarantee against future revenues) from a recognized gap financier as distribution advances, for the purposes of determining their recoupment position, and will ensure that the terms of such gap financing are in accordance with the Standard Terms and Conditions.
- In all cases, approved budget over-runs, facilities and service deferrals (deferred payments to commercial laboratories, equipment rental companies and post-production facilities) may be recouped only after the CMF has recouped.
- The CMF in its discretion may consider approving "star breakage" (where additional expenditure beyond that originally budgeted is required to contract marquee cast) to recoup preferentially, but only on a case-by-base basis.
- Profit Participation: The CMF will continue to receive a share of Net Distribution Revenue after full recoupment by all participants in accordance with the final recoupment schedule. The CMF will receive an amount equivalent to the CMF's equity participation as a percentage of total equity participation in the production multiplied by Net Distribution Revenue. The CMF's profit participation shall be calculated no less favourably than any Other Financial Participant, and will be calculated before any profit participation entitlement of a non-equity participant. The CMF will forego 50% of its profit participation for the benefit of the Producer. Other Financial Participants are not obliged to similarly forego any portion of their profit participation.

Standard Terms and Conditions

1. ELIGIBLE DISTRIBUTOR

The preferential recoupment position will only be provided to Eligible Distributors. An eligible distributor ("Eligible Distributor") is one that has demonstrated to the CMF's satisfaction:

- A level of experience and expertise sufficient to arrange for the distribution of the Canadian television production in question;
- A sufficient volume of business and a business plan to ensure the company's future financial viability;
- That it regularly attends relevant international television markets;
- That it has distributed productions of a similar size and nature; and
- That for projects that the distributor will distribute in Canada or Canada plus other territories, the distributor is Canadian-controlled within the meaning of the Investment Canada Act, as amended from time to time.

A producer who is unsure of this process should contact their appropriate regional Telefilm office for more information.

International distribution rights must be offered to appropriately qualified Canadian international sales companies, which must be given the right and opportunity of first offer. In cases where comparable offers are made by Canadian and non-Canadian companies, CMF will seek to ensure that priority is given to Canadian international sales companies.

An agency, Crown corporation, broadcaster, or other entity which is financed primarily through provincial or federal public funding may be recognized by the CMF as an Eligible Distributor (such as the National Film Board of Canada) or a gap financier. Such a publicly funded Eligible Distributor may recoup its distribution advance and receive fees/commissions and expenses in accordance with those outlined herein for Eligible Distributors. The CMF will monitor this policy to ensure that private sector distributors are not compromised. The CMF may, in its discretion, apply a less favourable recoupment standard to publicly funded Eligible Distributors in the event that there is an increase in the distribution advances being provided at the expense of historical levels of broadcast licenses and equity investments from these same organizations.

2. BROADCASTER-AFFILIATED ELIGIBLE DISTRIBUTORS

An Eligible Distributor affiliated to a broadcaster (whether public or private sector) may distribute a project in which CMF invests if it meets the requirements outlined herein, and the following safeguards. The goal of these safeguards is to ensure fair dealing for producers and for other distribution companies in situations in which the trigger broadcaster(s) is affiliated with an eligible distribution company. The CMF will use the definition of "affiliate" set out in the *Canada Business Corporations Act.*

SAFEGUARDS:

The negotiation process for traditional distribution rights (e.g. television rights for non-Canadian markets, theatrical, non-theatrical, DVD/Blu-ray, traditional ancillary rights, etc.) must be conducted separately from the negotiation process for a broadcaster licence fee commitment to a project. There should be a two-week delay after the producer and broadcaster have completed a short form broadcast agreement and before the broadcaster-affiliated distributor and producer commence negotiation of a distribution commitment.

This delay is to allow the producer to solicit offers from other distributors. In the event the producer elects to grant distribution rights to another distributor, the broadcaster shall not reduce its licence fee commitment.

The broadcaster-affiliated distribution company is prohibited from accessing information from its affiliated broadcaster that would give it an undue advantage in the negotiating process with the producer.

The CMF will ensure that these safeguards are enforced, acting as an arbiter as required. This entails receiving and assessing complaints and enforcing other measures at its own discretion.

In the event that the CMF determines that a broadcaster-affiliated distribution company has used undue leverage or coercion in the negotiation processes described above, the CMF at its discretion may elect to disqualify the distribution company as an Eligible Distributor for two years. The CMF will conduct an annual review to ensure that the eligibility of broadcaster-affiliated distribution companies does not have an adverse impact on the distribution industry in general.

3. DISTRIBUTOR FEES

Fees deducted must not exceed the following percentages of gross revenues:

- Television (conventional, pay) 30%
- Television (syndicated) 35%
- Theatrical 35%
- Home video (rental or sell-through) 30% (or 20% royalty payable to producer)
- Electronic sell-through or digital rental 30%
- Free Internet broadcast/distribution 30%
- Paid Internet broadcast/distribution 30%
- Mobile/wireless distribution 30%
- Foreign (regardless of medium) 35%
- Non-theatrical 50%
  - "Non-theatrical" includes airlines, military bases, hotels, hospitals, schools, museums, libraries, etc. For distributors acquiring only non-theatrical rights without access to commissions from any other media, the commission will be raised to the historical standard of a 70% royalty payable to the Distributor.

In exceptional situations, or as described at section 3.2.TV.5.3(1)(a) of the guidelines for the applicable production Program (i.e. the 50/50 revenue share), the CMF will evaluate requests for royalties on Gross Revenues as opposed to these Standard Terms and Conditions.

All distributor fees must be inclusive of fees/commissions payable to sub-distributors, agents and local distributors.

The CMF will also allow for production companies without an affiliated distribution entity to receive 15% of revenues regardless of medium, language or territory, for sales they directly complete (with the exception of pre-sales included in the financing of the production). This also applies to non-eligible distributors.

Fees for sales of ancillary rights (e.g. merchandising, music publishing, format sales) are subject to negotiation on a case-by-case basis.

4. DISTRIBUTION EXPENSES

Distribution expenses incurred in connection with the exploitation of a production must be actual and verifiable and include only those reasonably incurred to a maximum of 10% of gross receipts, with the exception of standard guild and union royalties/residuals and net versioning expenses. Versioning expenses are limited to the costs incurred in the creation of a language master and a sub-master for the purposes of creating dubs.

Distribution expenses may exceed 10% of gross receipts in the first two years of reporting on the production, provided that a reconciliation is made at the end of the second year of reporting (the fourth reporting period). At that time, the cumulative total of the distribution expenses must not exceed 10% of the cumulative total of the gross receipts for the two-year period.

Allowable distribution expenses are costs related to campaign creation, publicity, material production costs, printing, dubs and other related costs. Other related costs include packing, transportation, insurance customs tariffs, import taxes and those related to censorship requirements and festival entries/market costs (i.e., the Geminis), including travel accommodation/living expenses for actors and directors. Distribution expenses must be net of any non-recoupable financial assistance the distributor has received from Telefilm, the CMF or elsewhere.

Expenses for sales of ancillary rights (eg. merchandising, music publishing, format sales) and digital rights are subject to negotiation on a case-by-case basis.

Inadmissible Distribution Expenses are any costs (other than costs for sales of ancillary and digital rights) not specifically listed above and include travel/accommodation/living expenses for producers, distributors and their employees.

The CMF will also allow for production companies without an affiliated distribution entity to deduct distribution expenses on sales which they directly complete in the same manner as for distributors as outlined above.

5. COLLECTION COSTS

Production Companies may take 5% of the Net Distribution Revenue payable to the CMF after allowable fees/ expenses are calculated. This 5% is to compensate for administrative costs related to the collection, reporting and remitting of distribution revenues and retransmission royalties.

6. OTHER REQUIREMENTS

1.1 Withholding taxes are to be included in distributor's gross receipts for the period in which the taxes were returned to the distributor (i.e. a distributor may only calculate fees/commissions and expenses on Gross Receipts when actually paid to the distributor and not on any amounts withheld by government sources). As such, withholding taxes are not considered to be Distribution Expenses.

1.2 The CMF's share of television retransmission and music (i.e., SOCAN) royalties must be paid directly to the CMF without deduction. Producers are responsible to collect and distribute retransmission and music royalties for the benefit of investors.

1.3 Cross-collateralization of North American revenues and expenses with that of other territories is not allowed.

1.4 Cross-collateralization of revenues and expenses against other titles carried by the distributor is not allowed.

1.5 Finder's fees for the arranging of the production financing or commercial exploitation of the production (including excessive gap financing fees) must be included in the calculation of producers fees and corporate overhead. Additionally, any fees for responsibilities of a producer payable to financiers (including broadcaster, distributors and agencies) must either be included within the cap or alternatively reduce the level of recoupable financing from such financier.

1.6 A production may be sold as part of a package of productions provided that:

A. the distributor has made its best efforts to maximize revenues for the production by selling the production separately;

B. the allocation of revenues and expenses among the productions sold as a package will be fair and reasonable; and

C. distribution reports (via notes) disclose any package sales and the allocation of the revenues and expenses to the production.

1.7 Distributors must maintain books and accounts in accordance with generally accepted accounting principles and the CMF must have unrestricted rights, without time limitations, to audit the distributor's accounts for a production.

1.8 No limitation may be placed on the producer's right to contest revenue reports.

1.9 The producer should also include within the production budget sufficient resources to acquire exploitation rights within Canada and for at least 5 years in the rest of the world for all elements of the production including music, stock footage, stars, writers, etc. unless otherwise approved by the CMF. Exploitation rights must be purchased for a period of at least 5 years for all territories in which pre-sales have been made or for which a distributor has acquired exploitation rights. The cost of acquiring extended exploitation rights are excluded from the calculation of the cap on distribution expenses.

1.10 Revenues must be reported to Telefilm Canada on behalf of the CMF twice a year.

1.11 Distribution agreements must provide for the producer to recover the distribution rights to a production in the event of bankruptcy or insolvency of the distributor.

1.12 The initial licence term of the distribution agreement(s) entered into with the producer shall only be renewable subject to mutual written approval between producer and distributor.

1.13 Distribution agreements must provide that all expenses deducted are net of any non-recoupable financial assistance the distributor has received from the CMF or elsewhere.

APPENDIX C

LICENCE FEE THRESHOLDS

DRAMA PROGRAMMING

LANGUAGE	TYPE	PROJECT ELIGIBLE COSTS	LICENCE FEE THRESHOLD
ENGLISH	½ -hour series or one-offs	Less than $800K per hour	45% of Eligible Costs or $315K per hour, whichever is less
		$800K per hour or more	$315K per hour
	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
	1-hour series or one-offs (excl. MOWs and mini-series)	$800K per hour or more	$315K per hour
	Returning 1-hour series (excl. mini-series)	$800K per hour or more	$315K per hour
	Returning ½-hour series (excl. mini-series)	$800K per hour or more	$315K per hour
	Movies of the Week (MOW)	$800K per hour to $1,857,143 per hour	$325K per hour
		More than $1,857,143 per hour	17.5% of Eligible Costs
	Mini-series	$800K per hour to $1,857,143 per hour	$325K per hour
		More than $1,857,143 per hour	17.5% of Eligible Costs

	½-hour pilots*	More than $700K per ½ hour	$205K per ½ hour
	1-hour pilots*	More than $1.75 M per hour	$525K per hour
FRENCH	Drama projects excl. MOWs and mini-series	Less than $250K per hour	50% of Eligible Costs
	Drama projects excl. MOWs and mini-series	$250K per hour or more but less than $800K per hour	23% of Eligible Costs
	Drama projects excl. MOWs, mini-series, & series	$800K per hour or more	20% of Eligible Costs
	½-hour and 1-hour drama series	$800K per hour or more	20% of Eligible Costs
	Mini-series	All	18% of Eligible Costs
	MOWs	All	$150,000 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	**ELIGIBLE COSTS**	**LICENCE FEE THRESHOLD**
ENGLISH	Variety and Performing Arts	Less than $750K per hour	40% of Eligible Costs or $240K per hour, whichever is less
		$750K or more per hour	$240K per hour
FRENCH	Variety	Less than $750K per hour	50% of Eligible Costs
		$750K or more per hour	25% of Eligible Costs
	Performing Arts	All	20% of Eligible Costs

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APPENDIX D

AVERAGE LICENSE FEES
Performance Envelope program projects

Project Types		Guideline Licence Fee Thresholds (both 2008-2009 and 2013-2014)	2008-2009 Historic Average Licence Fees	2013-2014 Historic Average Licence Fees		Increase/decline between 2 historic average licences
Format	Eligible Costs	% of eligible costs or $K per hour (except as noted)	% of eligible costs or $K per hour	% of eligible costs or $K per hour	# of projects	
Drama						
English						
1/2 hour series or 1-offs	< $800K/hour	45% or $315, whichever is less	45%	44%	15	Slight decline
New 1/2 hour series or 1-offs	≥ $800K/hour	$315	$375	$451	13	Increase
1-hour series or 1-offs (incl. MOWs & mini-series)	< $800K/hour	45% or $315, whichever is less	45%	45%	4	Stable
New 1-hour series or 1-offs (excl. MOWs & mini-series)	≥ $800K/hour	$315	$324	$366	11	Increase
Returning 1-hour series (excl. mini-series)	≥ $800K/hour	$315	$316	$385	28	Increase
Returning 1/2-hour series (excl. mini-series)	≥ $800K/hour	$315	$343	$410	26	Increase
Movies of the Week (MOW)	$800K/hour - $1857K/hour	$325	$325	$400	1	Insufficient data
	> $1857K/hour	17.5%	18.5%	24.0%	6	Increase
Mini-series	$800K/hour - $1857K/hour	$325	$325	N/A	0	Insufficient data
	> $1857K/hour	17.5%	17.5%	31.3%	2	Insufficient data
1/2-hour pilots	> $700K/ 1/2 hour	$205 / 1/2 hour	$205 / 1/2 hour	$593 / 1/2 hour	8	Increase
1-hour pilots	> $1.75M/hour	$525	$525	$722	6	Increase
French						
All excl. MOWs & mini-series	< $250K/hour	50%	57%	55%	9	Decline

Project Types		Guideline Licence Fee Thresholds (both 2008-2009 and 2013-2014)	2008-2009 Historic Average Licence Fees	2013-2014 Historic Average Licence Fees		Increase/decline between 2 historic average licences
	$250K/hour - < $800K/hour	23%	37%	37%	58	Stable
All excl. MOWs, mini-series & series	≥ $800K/hour	20%	N/A	N/A	0	Insufficient data
1/2-hour & 1-hour series	≥ $800K/hour	20%	32%	31%	5	Slight decline
Mini-series	All	18%	19%	28%	3	Insufficient data
MOWs	All / per project	$150 / project	$225 / project	$151 / project	7	Decline
Variety & Performing Arts						
English						
All	< $750K/hour	40% or $240, whichever is less	48%	48%	35	Stable
All	≥ $750K/hour	$240	$380	$301	10	Decline
French						
Variety	< $750K/hour	50%	53%	55%	95	Slight increase
	≥ $750K/hour	25%	25%	63%	2	Insufficient data
Performing Arts	All	20%	38%	45%	7	Increase
Documentary						
English						
≤ 6 eps.	< $400K/hour	30% or $100, whichever is less	38%	38%	140	Stable
≥ 7 eps	< $400K/hour	40% or $100, whichever is less	48%	49%	46	Slight increase
All	≥ $400K/hour	$100	$155	$150	160	Decline
French						
All (excl. feature-length	< $100K/hour	35%	45%	42%	28	Decline
	$100K - $400K /hour	20%	28%	28%	220	Stable
	> $400K - $750K /hour	15%	20%	19%	18	Slight decline
	> $750K/hour	10%	18%	10%	1	Insufficient data
Feature-length	$100K - $750K	12%	21%	23%	21	Increase
Feature-length	> $750K	10%	13%	12%	4	Slight decline

Project Types		Guideline Licence Fee Thresholds (both 2008-2009 and 2013-2014)	2008-2009 Historic Average Licence Fees	2013-2014 Historic Average Licence Fees		Increase/decline between 2 historic average licences
Children's & Youth						
English						
All	< $750K/hour	25% or $160, whichever is less	33%	28%	97	Decline
	≥ $750K/hour	$160	$197	$227	28	Increase
French						
Live-action	< $750K/hour	35%	43%	43%	87	Stable
	≥ $750K/hour	15%	15%	N/A	0	Insufficient data
Animation	All	10%	29%	17%	6	Decline

Source notes: Current averages derived from licence fee data as at Sept. 30, 2013 from licence fees of 2010-2011, 2011-2012, and 2012-2013. 2008-2009 averages derived from data at 2008 from licence fees of 2005-2006, 2006-2007, and 2007-2008. One average ($ or %) was chosen for each category according to which average was over threshold. Projects using selective funds (different thresholds) were not included.
Licence Fee thresholds in 2013-2014 have not changed from 2008-2009, with the exception of a new project type added to French drama: "All excl. MOWs, mini-series & series ≥ $800K/hour".