

CANADA MEDIA FUND

Funding Mechanisms Working Group

Date: October 19, 2018

1. Introduction

Canada's screen-based industries have undergone significant upheaval over the last decade due to a number of factors: changes in technology, consumption habits, financing, and regulation & government policy. The CMF has made adjustments to its programs and policies to respond to market realities, within the parameters of the Contribution Agreement with Canadian Heritage. The current review of the *Broadcasting Act* and *Telecommunications Act* and eventual implementation of the outcome of the review will not be realized until at least 2020/2021.

The CMF's objective in the interim is to:

- Enact proactive and progressive change to its Programs that adapt to the current marketplace;
- Ensure that such changes are still (a) aligned with the CMF's Contribution Agreement and Canadian Heritage's "Creative Canada Policy Framework" and (b) flexible enough to adapt to any potential future changes to the *Broadcasting and Telecommunications Acts*; and
- Ensure as minimal disruption as possible to the existing funding system that is already under pressure.

The CMF views this as a gradual process, expecting more change to come once the new rules of engagement of content creation and distribution in Canada are known.

2. Expansion of Funding Triggers

In June 2018, Canadian Heritage announced that the CMF would explore options to implement further flexibility in eligible funding triggers to projects in its Convergent Stream. The current parameters of the Contribution Agreement hold that the CMF may only provide funding to expenditures of either a CRTC-licensed broadcaster or a Canadian (for-profit) corporation with a license agreement from a CRTC-licensed broadcaster.

Technology has significantly changed how content is consumed and, in turn, how content is created. New players have emerged and entrenched distribution methods have been upended as Canadian audiences have embraced the new world that is infinite and

on-demand.

While the CMF recognizes there have been increasing instances where the necessity for a Canadian broadcast licence (or development fee) in a project's financial structure is limiting, the conventional broadcast license agreement has played – and continues to play – a vital role in Canada's domestic ecosystem.

Beginning in 2019-2020, following the directive of Canadian Heritage and pending approval from the Treasury Board, the CMF will expand its current "broadcast trigger" to include online platforms owned and controlled by CRTC-licensed broadcasters and broadcast distribution undertakings (e.g., CraveTV, Illico, tou.tv, cbc.ca, GEM, Telus Optik TV).

Performance Measures

Currently, the PE Program represents the largest access point and vast majority of the CMF's Convergent Stream budget. These additional triggers will increase the opportunities for applicants to obtain CMF funding.

While the PE Program's Factors attempt to incentivize a range of broadcaster behaviour, 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 (Factors and their weights in calculation are shown in the Appendix, Figure 1).

Further, 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 that currently only tracks and reports *linear* viewing data from traditional broadcasters.

As there is currently no widely used, industry standard metric to capture audiences over non-linear platforms that has a similar stature and credibility like Numeris, there are a number of options (or combination of options) the CMF could consider to ensure these new platforms play an active role in licensing content.

Q1: In the absence of an agreed upon, industry-standard, non-linear measurement service,

- ***What are the potential advantages/disadvantages of the following measures to determine performance?***
 - ***proxy-data from a non-linear measurement service chosen by the CMF***
 - ***the total amount of committed license fees of the platform***

- *the total amount of Eligible Projects triggered by a platform*
- *the total amount of Eligible Project hours (produced) for the platform*
- *the total amount of Eligible Project hours (made available) by the platform*
- *the total amount of CMF funding triggered by the platform*

Integration into CMF Program Architecture

Regardless of which performance measure (or combination of performance measures) is determined, the CMF must integrate this new flexibility into its existing portfolio of Convergent Stream Programs.

Q2: What do stakeholders foresee as any potential barriers to triggering CMF funding via these new online triggers?

Q3: In terms of providing a sufficient incentive to license content through these new platforms,

- *Are the existing PE Program calculations relevant to these platforms?*
- *Should the CMF create new performance factors for these platforms?*
- *What would performance factors for these platforms be?*
- *Should the CMF consider creating a program available exclusively to online platforms to grow their funding allocations?*

Q4: In the future, what additional platforms or content investors should be able to trigger CMF funding?

Q5: As the CMF continues to examine its policies to keep step with the marketplace, what outcomes should be emphasized and to what degree to:

- *Ensure that Canadian producers have a license agreement with a Canadian platform/broadcaster in order to trigger CMF funding?*
- *Ensure Canadian producers are given every opportunity to create projects regardless of where that content is seen and allow foreign broadcasters, platforms and Canadian or foreign distributors, either alone or in tandem with a licensed Canadian broadcaster or related online platforms, to trigger CMF funding?*

Q6: What is the role of distributors in the CMF funding ecosystem?

Convergence with Digital Triggers

Despite the CMF's goal of content centric / platform agnostic, currently applicants still need to meet the CMF's convergence requirement which requires:

- a. a Television Component made available by a CRTC-licensed broadcaster or VOD service; and
- b. one or a combination of the following:
 - i. a second platform availability of a related Digital Media Component, or
 - ii. making the TV Component available for a CRTC-licensed VOD service, or
 - iii. making the TV Component available by a Canadian entity through non-simulcast digital distribution.

Q7: Should the CMF's definition of "convergence" be redefined?

Q8: Moving forward, as the CMF remains one of the last funding mechanisms to require convergence, how much emphasis should the CMF place on convergent content, if any?

3. Performance Envelope Program

Currently, the CMF's PE Program represents the vast majority of funding in the CMF's Convergent Stream.

Short Term

- *Genre Allocations and Flex*

One foundational CMF policy is support for programming in the genres of Drama, Documentary, Children & Youth and Variety and Performing Arts.

As seen in the Appendix, Figure 2, in the English market, Children & Youth Programming has experienced noticeable decreases as content consumption has shifted significantly from broadcasters to online platforms.

In the French market, it is the Documentary genre that has experienced a noticeable decrease. However, this decrease only appeared in 2017-2018 after few years of surpassing the "target". CMF will examine if last year was an anomaly or the beginning of a new trend.

For its 2018-2019 year, the CMF opted to maintain its Genre allocations.

Q9: Is the current genre allocations approach still relevant or should the CMF eliminate the allocations and provide greater flexibility to trigger in any of the four genres?

Q10: Should the CMF consider any adjustments to its In-House and Broadcaster Affiliated Production caps for 2019-2020?

New Entrants/Smaller Broadcaster policy

In 2018-2019, due to the low number of broadcasters that were able to grow their PE Allocations, the CMF discontinued the Minimum PE Allocation policy and broadcasters were no longer guaranteed an envelope of up to \$50K.

Q11: Should the CMF explore any alternative Programs to help broadcasters that are no longer eligible to access the PE Program, but do not currently meet the eligibility criteria of other CMF Programs?

Long Term

The CMF has begun to examine the current parameters of its PE Program and 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 is in need of consideration as the market has changed dramatically in the intervening 14 years.

Further, they held that if it is to remain as a funding mechanism, it needs to reflect the impact of vertical integration and the fierce competitiveness with the foreign OTT's that Canadian broadcasters are facing in the market (see the Appendix, Figures 3 and 4, for views of the distribution of PE allocations).¹

Q11: In light of the significant changes taking place in the industry, is the PE Program, implemented 14 years ago, still the right system?

Q12: One of the hallmarks of the "automatic" PE Program is that it is administratively efficient and cost-effective (see the Appendix, Figure 5, for the variety of projects funded through the PE program).

- ***If the CMF explored changes to the PE Program, are the current Performance Envelope Factor weights still relevant? Do they apply to all genres?***
- ***If the CMF explored alternatives and eventually eliminated the PE Program, what would the options be for a selection process to support a content-centric objective (e.g., a selective program, first-come/first-served, a matching fund to match the other financial contributors, a matching of the highest license fees, genre based decision making)?***
- ***As the current system is controlled by broadcaster licensing decisions, is this balance of power, given the pressure the whole ecosystem is facing, in the best interest of the creation of content?***

¹ Because broadcasters are notified of the amount of money available to them through the Performance Envelope Program to license the content produced, there is a misconception that this is a "broadcaster contribution" rather than CMF funding paid to the producer to support content. CMF funding agreements are made with producers.

- *Is there any mechanism that would equalize the power? Is that important?*
- *Since further industrial change is expected in 2-3 years, if the PE System remains should the % amounts by broadcaster be calculated as an average of the last 5 years or locked in at the 2018/2019 amounts for the next three years to provide stability and allow for longer term licensing decisions?*

4. CMF's Role and Approaches to Financing

When the Performance Envelope Program was first introduced in 2004-2005, Program Guidelines included parameters which delineated the rights that broadcasters were permitted to licence from producers (“**Eligible Licence Fees**” or “**ELF**”) and defined the minimum amounts that broadcasters were required to pay for these rights (“**Licence Fee Thresholds**” or “**LFTs**”), in order to trigger CMF (then CTF) funding.

Both the definition of Eligible Licence Fee and the Licence Fee Thresholds were based on observation of the market at the time², and set pursuant to consultation with industry stakeholders. As the majority of LFT's were set as a percentage of a production's Eligible Costs, the goal was that LFT's could adapt as the market changed.

Since that time, the definition of Eligible Licence Fee has remained essentially the same. Further, while some License Fee Thresholds have been amended over the years, the majority of LFT's have not changed (see the Appendix, Figure 6, for year-over-year trends of television financial structures).

Further, ELF's from Canadian Broadcasters³ are in exchange for the Canadian Broadcast or Canadian VOD Right⁴ and all other remaining rights that are not attached to the ELF are considered “Other Rights”. As technology and consumption patterns have changed significantly since 2010, many of these Other Rights have become exponentially more valuable.

Therefore, due to the number of changes in the industry noted above, the basket of potential rights that were traditionally licensed by the broadcaster (in contrast to those retained by the producer) has evolved.

² This observation was based on the dollar amounts evident in the CTF's Equity Investment Program (“EIP”): thresholds were set based on the average paid to projects that had received funding from the EIP, to which 20% was added in order to ensure that projects that had received above-average licences would continue to receive a “fair” licence.

³CRTC-licensed traditional, scheduled broadcasters or CRTC-licensed video-on-demand services

⁴ Per section 3.2.TV.5 (d) of the Guidelines, the Canadian Broadcast Right is the right of a Canadian Broadcaster to broadcast the Television Component of the Eligible Project on a traditional, scheduled broadcast platform in Canada in the language of that Canadian Broadcaster during the Maximum Term. The Canadian VOD Right is the right of a CRTC-licensed video-on-demand service to make the Television Component of the Eligible Project available on a CRTC-licensed video-on-demand service in Canada in the language of that VOD service during the Maximum Term.

Q13: Should the CMF continue to play a role in the trade negotiations between broadcasters (and/or platforms) and producers?

Q14: If the CMF decided to amend its policies and no longer prescribe some of the parameters around producers and broadcasters in negotiations for CMF-funded projects, which parameters should be eliminated:

- **License Fee Thresholds?**
- **Which rights attached to an eligible license fee?**
- **Maximum License Terms?**

Q15: If the CMF continued to prescribe some of the parameters around producer and broadcaster negotiations, which rights should the CMF require be in exchange for an Eligible Licence Fee?

- **Still just the Canadian broadcast or CRTC-licensed VOD right (and/or platforms)?**
- **Or should some Other Rights also be included, and if so at which value?**

Review of the Feature Film Licence Fee Threshold

In 2016-2017, in an effort to help foster greater television broadcaster participation in the financing of Canadian English-language, theatrically-released feature films, the CMF implemented, on a three-year pilot basis, a reduced LFT for feature films. The new LFT is the lesser of \$230K or 5% of a project's Eligible Costs.

This objective of the new LFT was to lead to increased support by broadcasters for English-language, dramatic feature films and was supported by Bell Media, Corus, Rogers Media, Shaw Media, Super Channel and the CBC.

As illustrated in the Appendix, Table 7, since its implementation in 2016-2017, 13 projects to date have been triggered by the new Feature Film LFT.

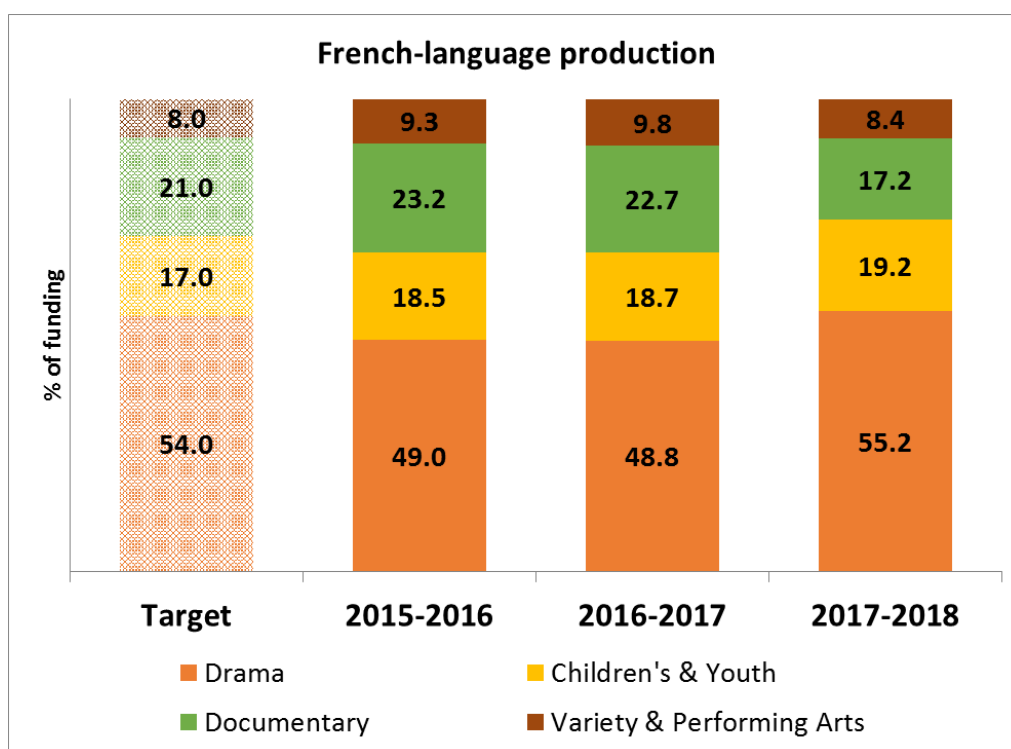
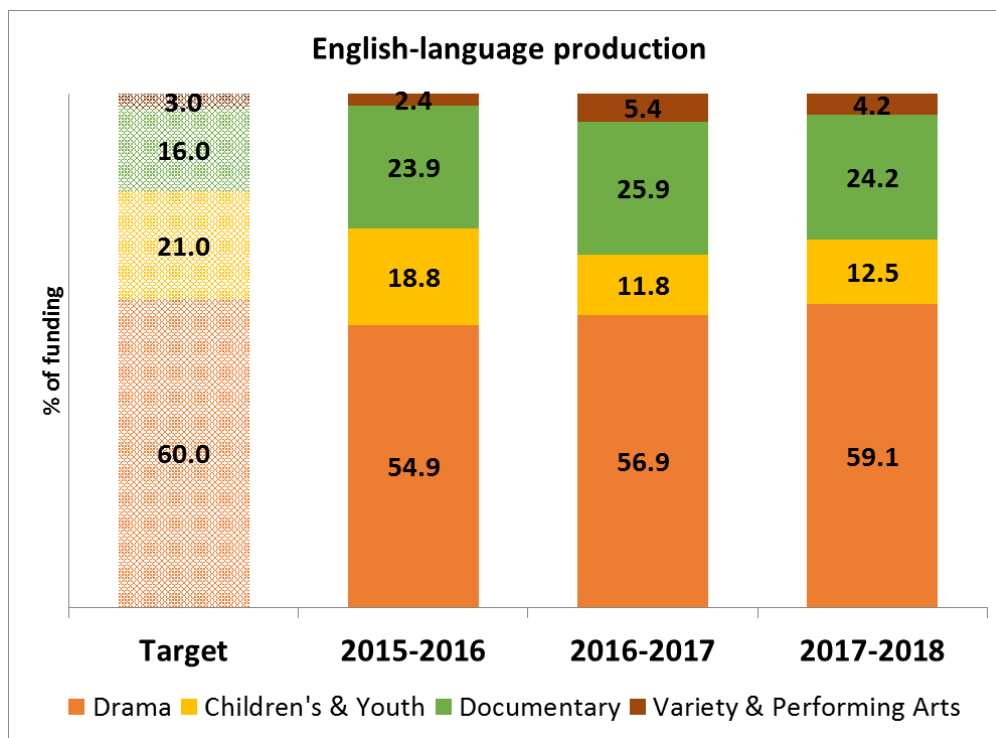
Q16: As the three-year pilot period has now concluded, should the CMF maintain this LFT on a permanent basis? If so are any adjustments required?

Appendix

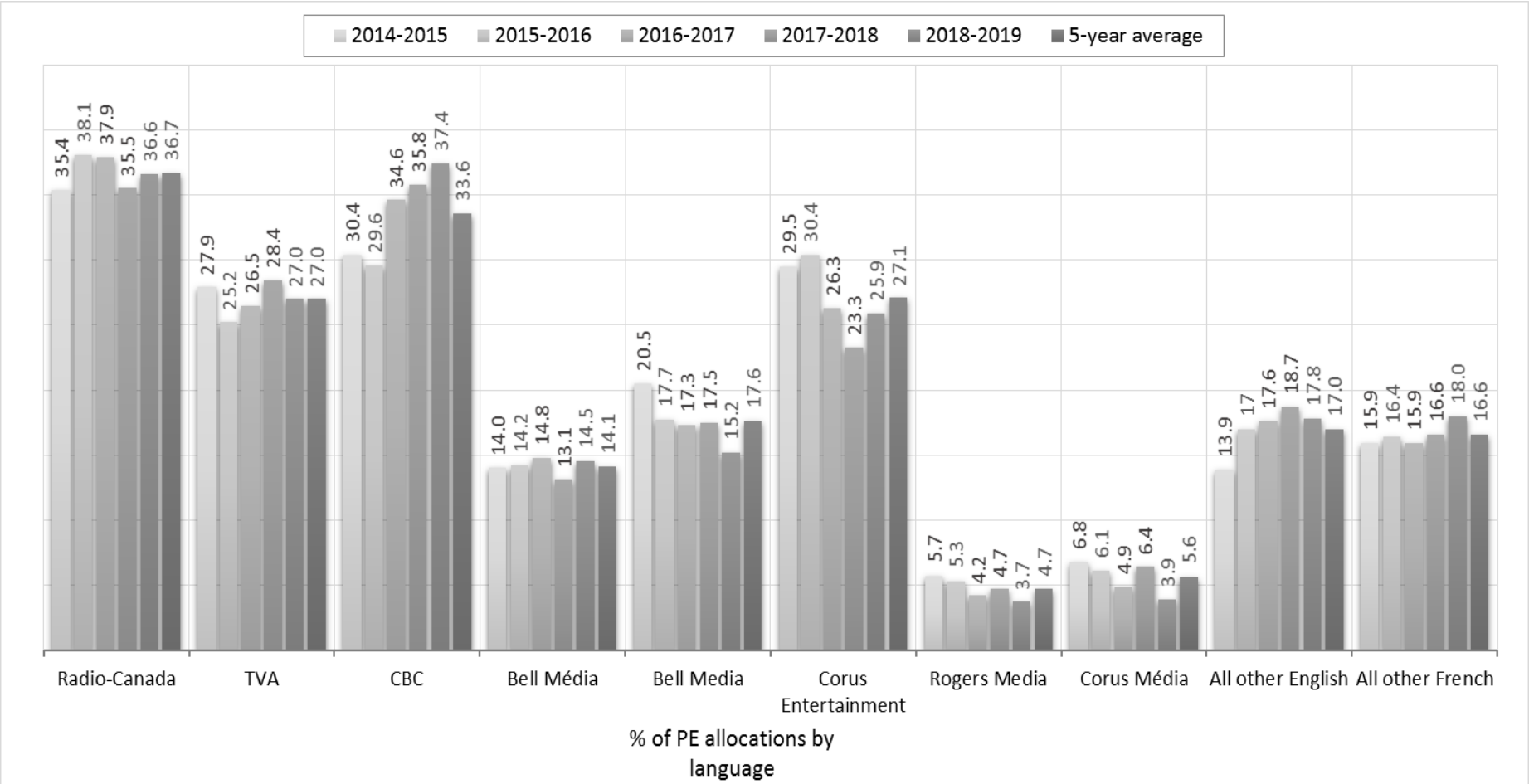
1. Performance Envelope Factors and Weights - %

2013-2014 to 2018-2019	Audience Success-Total Hours Tuned	Audience Success-Original First Run	Historic Performance	Regional Production Licensing	Digital Media Investment	Total
English	40	15	15	20	10	100
French	40	15	25	10	10	100

2. Genre funding shares by language (all convergent programs)

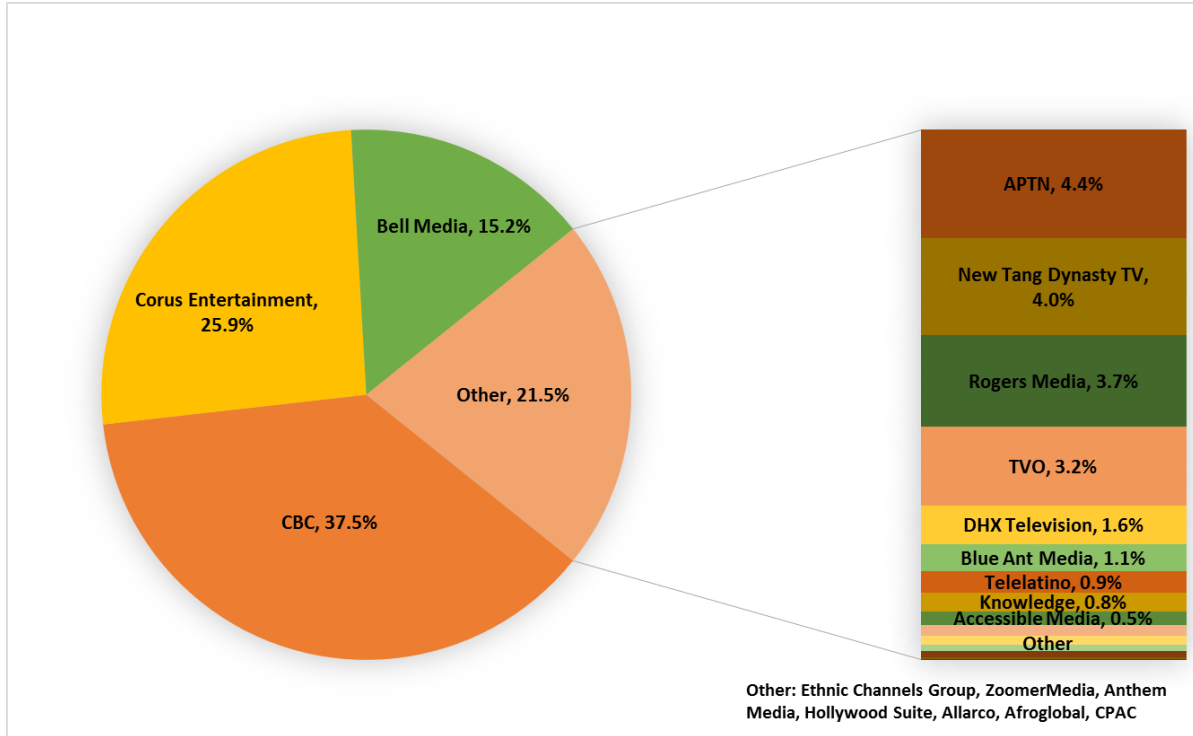


3. 5-year analysis of changes in major broadcaster shares of PE allocations

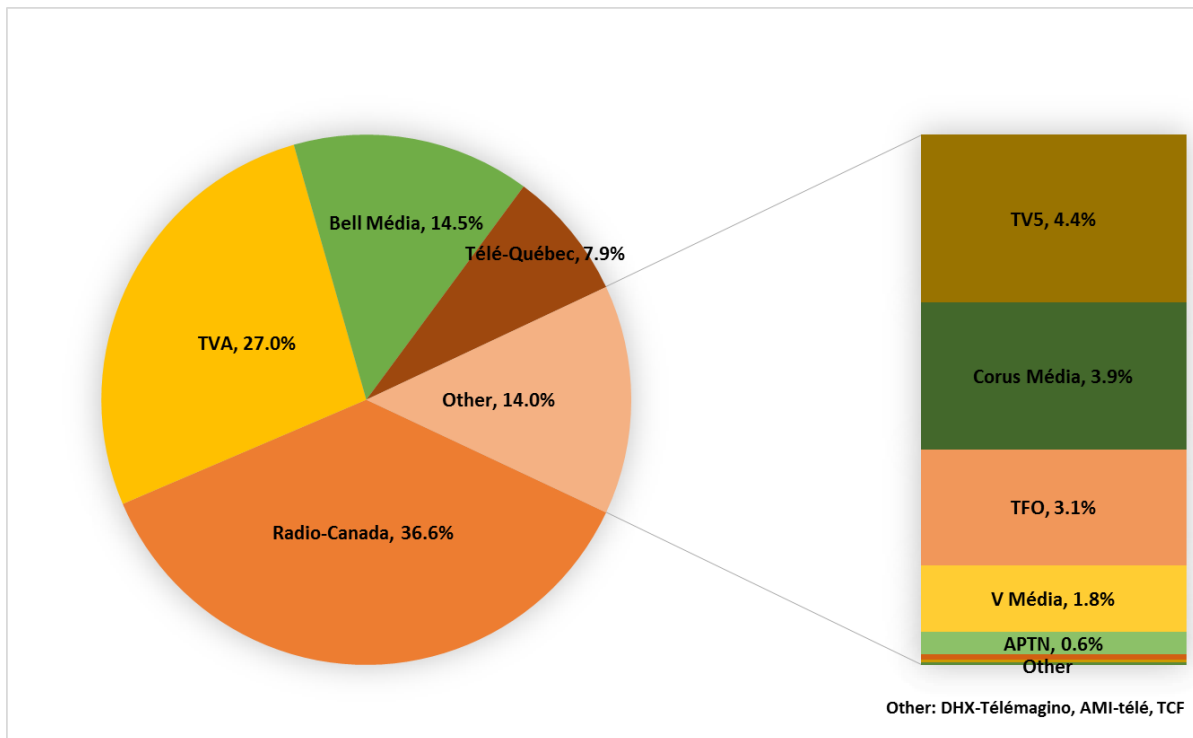


4. Distribution of allocations 2018-2019

English



French

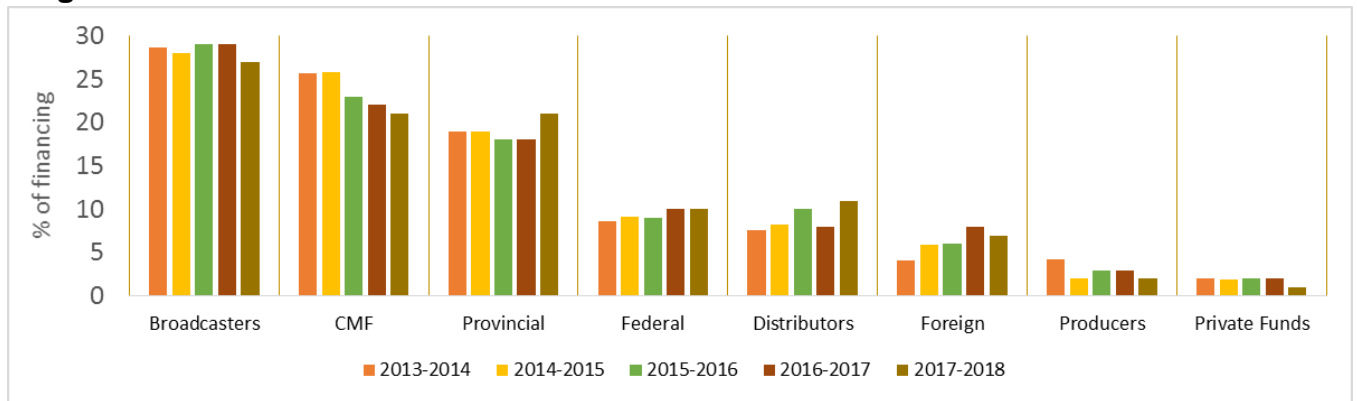


5. Performance Envelope Program – number of applications by type

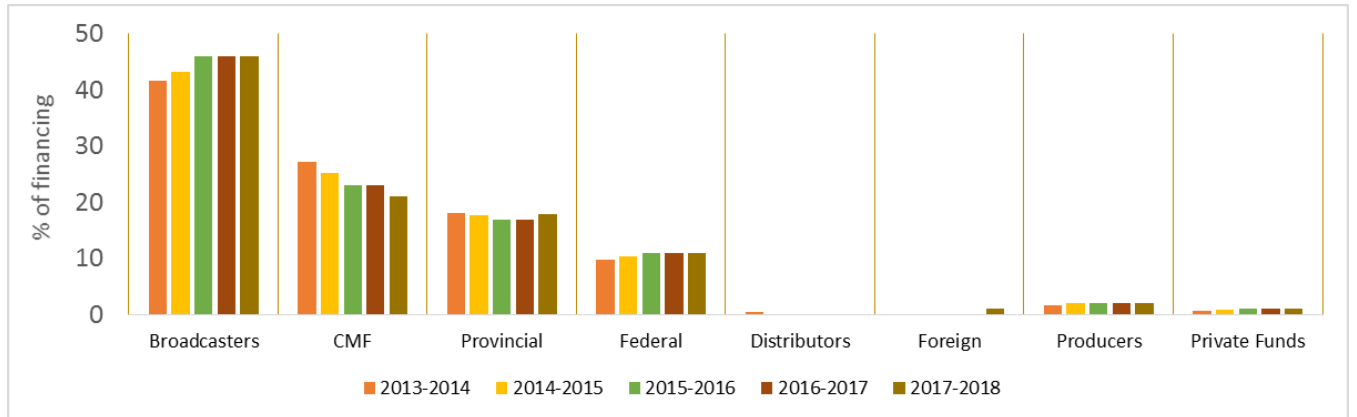
<i>Genre</i>	<i>Format</i>	<i>2013-2014</i>	<i>2014-2015</i>	<i>2015-2016</i>	<i>2016-2017</i>	<i>2017-2018</i>
Children's & Youth	Mini-series	-	1	-	1	2
	One-off	6	4	4	3	5
	Pilot	2	-	1	-	1
	Series	74	69	75	71	76
	TV Film	1	-	-	1	-
Documentary	Feature Length	32	31	54	30	36
	Mini-series	26	27	37	44	21
	One-off	88	100	104	100	78
	Pilot	2	2	2	-	1
	Series	77	85	92	95	87
Drama	Feature Film	-	-	-	3	4
	Mini-series	4	1	2	10	8
	MOW	4	2	3	1	1
	One-off	3	7	4	7	10
	Pilot	-	1	-	1	1
	Series	53	63	69	62	64
Variety & Performing Arts	Mini-series	4	3	8	8	2
	One-off	17	9	15	16	16
	Pilot	-	1	-	-	-
	Series	25	27	31	30	35
Total		418	433	501	483	448

6. Financing sources for television production

English



French



7. Feature Films using the English Drama Feature Film threshold

2016-2017

<i>Title</i>	<i>Applicant</i>	<i>CMF funding \$</i>	<i>Broadcasters</i>
<i>Bon Cop Bad Cop II</i>	Productions Julix Inc.	60,000	CBC
<i>Clara</i>	Serendipity Point Films Inc.	20,000	CBC
<i>Through Black Spruce</i>	Serendipity Point Films Inc.	50,000	CBC
3		130,000	

2017-2018

<i>Title</i>	<i>Applicant</i>	<i>CMF funding \$</i>	<i>Broadcasters</i>
<i>Blood Quantum</i>	Prospector Films	600,000	The Movie Network
<i>Carmilla: The Movie</i>	Shaftesbury Films Inc.	153,700	Hollywood Suite
<i>The Corruption of Divine Providence</i>	High Definition Pictures Inc.	196,061	Hollywood Suite
<i>Man Running</i>	Federgreen Entertainment / Burns Films	54,915	CBC
<i>Racetime</i>	Carpediem Film & TV	653,639	CBC
<i>Splinters</i>	Conciliatory Pictures Inc.	64,694	CBC
<i>The Song of Names</i>	Serendipity Point Films Inc.	25,000	CBC
7		1,748,009	

2018-2019 to date

<i>Title</i>	<i>Applicant</i>	<i>CMF funding \$</i>	<i>Broadcasters</i>
<i>Felix and the Treasure of Morgaa</i>	Félix et le trésor de Morgaa inc.	797,259	CBC, Radio Canada
2 others recommended to date in 2018-2019			