
2020 PRE-BUDGET SUBMISSION

TO THE HOUSE OF COMMONS

STANDING COMMITTEE ON FINANCE

2 August 2019

ACTRA

- **Recommendation 1:** The government should require all services offering online programming to Canadians, including OTT services and music streaming services, to:
 - a. Register for, collect and remit the GST/HST on their Canadian subscriptions, and to pay corporate taxes on Canadian revenues; and
 - b. Contribute an appropriate percentage of their gross Canadian revenues from broadcasting-related activities to the creation of Canadian audiovisual and music programming through a publicly administered fund.

- **Recommendations 2:** The government increase funding to the Canada Media Fund (CMF) and Telefilm Canada, two artistic and economic drivers that spread Canadian cultural product around the globe while simultaneously kick-starting job creation at home.

- **Recommendation 3:** The government should continue to provide stable funding to public institutions and programs, such as the CBC/Radio-Canada and the National Film Board, that help drive and sustain our digital economy.

Who we are

This is the submission of ACTRA (Alliance of Canadian Cinema Television and Radio Artists) in response to the Standing Committee on Finance's call for submissions as part of its consultations on the 2020 Federal Budget. ACTRA brings to this process the perspective of over 25,000 professional performers working in English-language recorded media in Canada. For more than 75 years, ACTRA has represented performers living and working in every corner of the country who are pivotal to bringing Canadian stories to life in film, television, radio, sound recording and digital media.

The importance of the film, television and digital media industry to Canada's economy

Canada's film, television and digital media industry is thriving and could play an even greater economic role in the future. The industry is creating clean, green, high-end jobs that are crucial to our economic growth and sustainability. In 2017/18, the \$8.92 billion film and television production industry generated 179,500 full-time equivalent jobs across all regions of the country and contributed \$12.77 billion to the national GDP.ⁱ

There is a mix of foreign and domestic production across the country. Although total volume of film and television production increased by 5.9 per cent over the previous year, virtually all this growth was due to an increase in foreign service production. Canadian feature film production also rose by \$17 million, or 13.9 per cent, in 2017/18. These increases were partially offset, however, by a \$309 million decrease in Canadian television production and a \$201 million decrease in broadcaster in-house production.ⁱⁱ Beyond their commercial value, these Canadian productions also have a profound social and cultural value. The professionals who work in these high-value jobs make programs that provide audiences with a Canadian perspective on our country, our world, and our place in it.

This submission looks at measures that could positively impact the film, television and digital media sector and support Canada's transition to a more diversified, low-carbon economy.

Sustainable funding for film and television production

ACTRA welcomed the opportunity to contribute to the work of the Broadcasting and Telecommunications Legislative Review (BTLR) Panel when it was launched in 2018. For Canadian performers, modernizing our legislative framework is vital. Canada's film and television industry has developed and grown thanks to the vision laid out in the Broadcasting Act, one that prioritizes Canadian content and ensures broadcasters contribute to its production.

Everyone understands the global television broadcasting industry is experiencing fundamental change and Canada is no exception. The business models that built and sustained television for over 50 years are breaking down. Canadian broadcasters are increasingly challenged by unregulated online competitors that are gradually capturing their audiences.

More Canadians are watching programs via Internet broadcasters. According to an Angus Reid poll, the percentage of people subscribing to cable or satellite television service steadily declined from 88.3 per cent to 71 per cent between 2012 and 2016 (the most recent date for which Statistics Canada data is available).ⁱⁱⁱ

Canada has the third-highest percentage of Netflix subscribers in the world (behind only the U.S. and Norway). More than half (56.3 per cent) of Canadians reportedly watch Netflix at least once a month.

Many other jurisdictions are grappling with this challenge as they look to maintain sustainable domestic film and television industries. Internationally, Internet-based services are increasingly subject to rules and regulations and are required to pay taxes.

In early 2018, the European Commission published proposals for a tax on the revenues of all large Internet companies. While this is unlikely to achieve the unanimous support of all 28-member countries (including the U.K.), four European Union (EU) states have already adopted such taxes and the U.K., Spain and Italy are looking to introduce their own digital tax.

In July 2018, Australia required foreign businesses to charge Goods and Services Tax on imported services and digital products supplied to Australian consumers. Argentina, Brazil, Japan, New Zealand, South Africa, Taiwan, Russia and several U.S. states also impose sales taxes.

The G7 finance ministers reached an agreement in principle in July 2019 to “tax activities without physical presence, in particular digital activities.” It still requires further talks with other Organisation for Economic Co-operation and Development (OECD) countries before implementation.

With respect to over-the-top (OTT) and other Internet-based broadcasting services, the EU is further along. In the fall of 2018, all three pillars of the EU governance structure approved a new Audiovisual Directive, which seeks “to strengthen the competitiveness of the European audiovisual industry and thus promote cultural diversity and heritage in Europe.” When the Directive is officially published, member states will have 21 months to comply with the regulations.

Under the Directive, video-on-demand services, including Netflix and Amazon Prime Video, must devote at least 30 per cent of their catalogue to European content. Video-on-demand platforms must also contribute to the development of European audiovisual productions, either through a direct investment in content or a contribution to national funds. The level of contribution in each country will be proportional to the on-demand revenues in that country. While some argue the services could meet the quota in part by reducing the program offerings from the Americas and Asia, Netflix announced it will “reluctantly” adhere to the new rules.

EU member states may choose to increase the video-on-demand European quota to 40 per cent and/or set a smaller sub-quota for national content. The film fund option is already in place in Germany after Netflix lost a lawsuit against a requirement that it contribute 2.5 per cent of revenues generated from its German subscribers to the country’s national subsidy system. In France, OTT services are required not only to have substantial French and European content in their catalogues, they are also required to have space for and actively promote this content on their websites. They are also required to contribute to France’s national film agency. Netflix recently made its first payment to the fund so we know it will comply with such laws instead of simply exiting that market.

Canada has a long history of supporting Canadian content production given the social, economic and cultural benefits. We need to continue to financially invest in Canadian content production and support our artists, creators and producers in their mission to bring our stories and perspectives to Canadian and global audiences. Production funds, like the CMF, provide key sources of financing to Canadian film and television production. While traditional broadcasters are required to contribute to these funds, since 1999 digital/Internet broadcasters, such as Netflix, Amazon Prime and Google, have been exempted from regulation and oversight

under the CRTC's Digital Media Exemption Order. Nearly two decades later, it is clear this is unsustainable. ACTRA believes we need to continue to have government funding programs, public/private partnerships, and funding agencies created by requirements on private sector companies to invest in Canadian content.

The funding programs need to evolve in response to the changes in the broadcasting and production industries as well as new technologies. A key problem to address is the fact that as cable companies' revenues continue to decline so too do their contributions to Canadian content production. The budget of the CMF was 5.8 per cent lower in 2017 because of this development and the reduction will continue in the coming years.

Netflix and other foreign OTT streaming services are the latest disruptors in the marketplace and competition from these foreign services is only expected to grow. NBCUniversal, Disney, Apple and WarnerMedia are just some of the U.S. corporations launching streaming services within the next year. Foreign OTT services continue to enjoy a powerful competitive advantage over similar Canadian services. They are not collecting and remitting Goods and Services Tax (GST) and relevant provincial consumption taxes (PST/HST), they are not subject to Canadian content rules or expenditure requirements, nor do they contribute to Canadian content production.

Netflix revenues in Canada, for example, were estimated to be \$709 million in 2016. Assuming a blended GST/HST rate of 11 per cent and a five per cent contribution rate to a Canadian production fund, Netflix should have paid over \$113 million to our governments and to production funds that year alone. As Netflix revenues grow over the next five years as their subscriber base expands and subscription fees increase, so too will the amount of foregone revenues.

Ottawa's reluctance to tax foreign vendors of digital streaming and video content cost the federal government \$169 million in GST revenue in 2017, according to the Auditor General's 2019 Spring Reports (Taxation of e-commerce).^{iv}

RECOMMENDATION:

The government should require all services offering online programming to Canadians, including OTT services and music streaming services, to:

- a. Register for, collect and remit the GST/HST on their Canadian subscriptions, and to pay corporate taxes on Canadian revenues; and
- b. Contribute an appropriate percentage of their gross Canadian revenues from broadcasting-related activities to the creation of Canadian audiovisual and music programming through a publicly administered fund.

A major reason for the success of original Canadian programming like Letterkenny, Anne with an E, Kim's Convenience and Schitt's Creek in finding audiences at home and around the world is because of the CMF. In 2017-2018, CMF funding triggered \$1.4B in production activity across the country and generated over 171,000 jobs.^v

Last year, Telefilm Canada celebrated over 50 years of success. Even though Telefilm's mandate and priorities have expanded over the years (e.g., Indigenous and diverse communities, gender parity, emerging producers, marketing, promotion, discoverability, innovation, coproduction and exports), its Parliamentary appropriation has not increased in 15 years. Accounting for inflation, its "power to spend" today is the same as it was in

2002/03, thus its capacity to support the industry has decreased considerably over time. Telefilm's production support is a primary driver to secure other sources of financing from within Canada and abroad.

RECOMMENDATION:

The government increase funding to the Canada Media Fund and Telefilm Canada, two artistic and economic drivers that spread Canadian cultural product around the globe while simultaneously kick-starting job creation at home.

The CBC/Radio-Canada and the National Film Board are essential players in the Canadian economy, stimulating jobs and businesses across Canada as well as producing uniquely Canadian content.

RECOMMENDATION:

The government should continue to provide stable funding to public institutions and programs, such as the CBC/Radio-Canada and the National Film Board, that help drive and sustain our digital economy.

ⁱ Canadian Media Producers Association (CMPA) - [Profile 2018: Economic Report on the Screen-Based Media Production Industry in Canada](#), produced in collaboration with the Association québécoise de la production médiatique (AQPM), the Department of Canadian Heritage and Telefilm Canada;

ⁱⁱ Ibid, p.8;

ⁱⁱⁱ Angus Reid Institute, [Pulling the plug: Three-in-ten Canadians are forgoing home TV service in favour of online streaming](#), October 18, 2018;

^{iv} Office of the Auditor General of Canada, [2019 Spring Reports](#), May7, 2019;

^v Canada Media Fund, [Message from the President and CEO](#).