



Canada

CRTC WORKSHOP

Discussion Guide for CRTC Workshops
on Defining Canadian Content



Canadian Radio-television and
Telecommunications Commission

Conseil de la radiodiffusion et des
télécommunications canadiennes

INTRODUCTION TO THE WORKSHOPS

PURPOSE OF THE WORKSHOPS

The CRTC has a mandate to regulate in respect of Canadian programs (Canadian content). Since the last time Canadian content was defined by the CRTC:

- The *Broadcasting Act* has changed;
- The Canadian demographics have changed significantly;
- The Canadian audio-visual broadcasting system has fundamentally shifted as Canadians now have greater choice and access to a variety of Canadian and non-Canadian audio-visual services and platforms.

These workshops will help the CRTC develop the questions for an upcoming full, public consultation on definitions of Canadian content for audio-visual platforms. It is important to remember that these workshops are meant to help develop the approaches and considerations, and are not the public consultations themselves.

On workshop day, participants are invited to discuss:

- Key elements of Canadian content;
- The current dynamics of these elements and how they affect the Canadian audio-visual broadcasting system;
- Desired outcomes of the CRTC's review of Canadian content definitions and how they may benefit the Canadian broadcasting system as a whole;
- Traditional formats of Canadian film and television production and also innovative or other online-first productions.

DISCUSSION GUIDE

This Discussion Guide was developed for participants' use before and during the workshops. It is not intended to limit the discussion, but to provide background information and suggested discussion questions on four key areas relevant to an evaluation of Canadian content definitions:

1. Economic Elements
2. Retention of Copyright
3. Cultural Elements
4. Diversity and Inclusion

Disclaimer

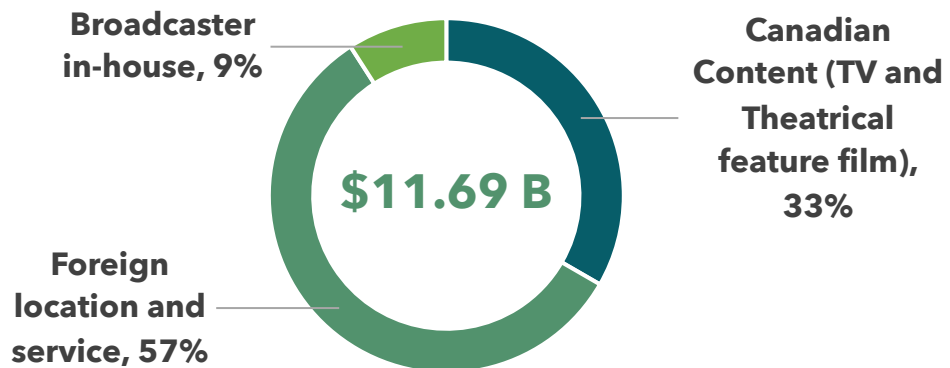
This document is for discussion purposes and does not necessarily represent the views or data of the CRTC.

ECONOMIC ELEMENTS *(1 of 3)*

ECONOMIC HIGHLIGHTS OF THE CANADIAN AUDIO-VISUAL BROADCASTING SYSTEM¹

- The total volume of film and television production in Canada **increased by 28% to \$11.69 billion** in 2021/22¹.
- Canadian content production (i.e. tv and theatrical feature film production) **increased by 39.4% to \$3.90 billion**.
- The total volume of foreign location and service (FLS) production in Canada **increased by 27.3% to an all-time high of \$6.71 billion** (in 2022).
- Broadcaster in-house production **increased by 1.9% to \$1.09 billion**.

TOTAL FILM AND TELEVISION PRODUCTION (2021-22)



FLS PRODUCTION

- The FLS production segment is primarily comprised of **films and television programs filmed in Canada mainly by foreign producers**.

¹ Please note that data included in this section is from the [CMPA 2022 Profile report](#)

² The COVID-19 pandemic significantly affected the production sector in broadcasting year 2020-2021, which could account for the fluctuation from 2020-21 and 2021-22.

ECONOMIC ELEMENTS *(2 of 3)*

- While these projects often employ a significant number of Canadians and make important economic contributions to Canada, the vast majority **are not considered to be Canadian productions** as they don't meet the necessary criteria related to the hiring of key creative personnel and Canadian spending thresholds and the producer is generally non-Canadian.
- These projects **do not necessarily make use** (or may make limited use) of **above-the-line³** Canadian creative resources.

Quick facts on FLS production:

- In 2021-2022, FLS production grew by \$1.44 billion from the previous year, accounting for **56% of the overall growth** in film and television production in Canada of \$2.58 billion.

ONLINE-FIRST PRODUCTIONS

As more and more Canadians are consuming their video content online, the dynamics of the broadcasting and production industries are changing. Many Canadian producers have been increasingly premiering their films and television programs on online streaming services, as well as producing content primarily intended for online consumption. Also, some creators produce content exclusively for online platforms in all kinds of different formats.

THE IMPACT ON LABOUR IN CANADA

- As of 2021-2022, the entire screen sector value chain (including film and television production, distribution, exhibition, television broadcasting and broadcasting distribution), directly generated an estimated **337,610 jobs, \$16.6 billion in labour income and \$23.3 billion in GDP** for the Canadian economy.

³ "Above-the-line" refers to individuals who guide and influence the creative direction, process and voice of a given film or series in the screen industry (i.e. have creative control of the production). These roles include showrunner, producer, screenwriter, director, lead cast.

ECONOMIC ELEMENTS *(3 of 3)*

- The labour income impact of film and television production in Canada is rapidly increasing, rising from \$9.1 billion in 2020-21 to **\$11.2 billion in 2021-22**.

CERTIFICATION OF CANADIAN CONTENT

The CRTC has criteria to certify content as Canadian. This helps ensure that all certified Canadian programs **use mainly Canadian companies, crews and talent**. Criteria include:

- Producers and those that fill production roles such as co-producers, line producers and production managers must be Canadian;
- Most of the above-the-line positions in a production must be Canadian;
- Minimum Canadian expenditure requirements (75%) on production services and post-production costs.

SUGGESTED QUESTIONS

QUESTION 1

How can the certification of Canadian content help encourage investment in the Canadian audio-visual broadcasting system?

QUESTION 2

How can the Canadian audio-visual broadcasting system benefit more directly from foreign location service production?



RETENTION OF COPYRIGHT (1 of 3)

WHAT IS COPYRIGHT?

A form of intellectual property recognizing certain legal rights of authors in their fixed, original literary, artistic, dramatic or musical works or other subject matter (like performer's performances) for a set number of years. In Canada, copyright applies without authors needing to register their works, and there are two types of legal rights recognized – economic and moral rights.

- *Economic rights* allow creators to control the reproduction, performance and publication of their works and to be paid for their use.
- *Moral rights* protect the author's integrity, such as their association with the creative work by name and by preserving the integrity of the work and intent behind the work.

WHO HOLDS THE COPYRIGHT?

- Typically, the first owner of copyright in a work is its creator (the author or joint authors).
- Rightsholders can **assign part or all of** their copyright to another party. The assignment may be for a part of or the whole term of the copyright.
- Rightsholders can also **license others** to use their work for a certain purpose and under certain conditions. The rightsholder retains ownership.
- Licensed rights can be **shared or exclusive**, and depending on the agreements between parties, these rights can also be exclusively held for a **limited or prolonged period of time**.

When a creator assigns or licenses all or part of its copyright to another person, that other person becomes a “rights holder.”

DISTRIBUTION OF MATERIAL UNDER COPYRIGHT

- Distribution involves **delivering copyrighted material**, like TV shows, films, music, or other creative works, to audiences through various means, for example through television broadcasts and/or online services.

RETENTION OF COPYRIGHT (2 of 3)

- The broadcaster or service distributing the content must **acquire the necessary rights** and permissions **from the copyright owners**.
- Various rights can be held and licensed or assigned domestically and internationally.

HOW DOES COPYRIGHT FACTOR INTO CANADIAN CONTENT DEFINITIONS?

CRTC

The CRTC's current definitions of Canadian content focuses mostly on the nationality of key personnel and creative control and does **not include a copyright requirement** for certification.

FUNDING

To qualify for Canada Media Fund (CMF) funding, Telefilm Canada funding and for certain Certified Independent Production Fund (CIPF) funding, **copyright must be retained** in Canada for a certain amount of time.

TAX CREDITS

To qualify for CAVCO (Canadian Audio-Visual Certification Office) tax credits, the Canadian production company **must be the copyright owner for 25 years**.

The recently amended *Broadcasting Act* and the 2023 Policy Direction to the CRTC⁴ have introduced new considerations for the CRTC in respect of defining Canadian content, including supporting Canadian ownership of intellectual property.

⁴ Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework), P.C. 2023-1125, 9 November 2023.

RETENTION OF COPYRIGHT *(3 of 3)*

SUGGESTED QUESTIONS

QUESTION 1

Should copyright be considered in the CRTC's review of Canadian content definitions, and if so, how?

QUESTION 2

How can the CRTC help support Canadian ownership of intellectual property, and what does that mean for the overall system?



CULTURAL ELEMENTS (1 of 2)

WHAT MAKES IT CANADIAN?

Canada is a **vast country** that includes a multitude of **geographical and regional** realities. For example, we have big cities, rural and remote communities, coastal communities, Indigenous communities, Prairies, Rockies and northern territories.

Canada is a **culturally diverse population**, shaped by a mix of various heritages, ethnicities, two official languages, third languages, Indigenous Peoples and Indigenous languages. According to Statistics Canada, immigrants make up the largest share of the population in over 150 years and continue to shape who we are as Canadians⁵.

As this workshop is about discussing **Canadian** content in the audio-visual sector, the following question is inevitable: ***what makes it Canadian?***

HOW DOES THE CULTURAL ELEMENT CURRENTLY FIGURE INTO CANADIAN CONTENT DEFINITIONS?

- The CRTC's certification of Canadian content does not expressly contemplate the **"cultural contribution" or "Canadian cultural reflection"** of a work.
- Certification of Canadian content is largely geared toward the support for **Canadian employment and investment in Canada.**

⁵ <https://www150.statcan.gc.ca/n1/daily-quotidien/221026/dq221026a-eng.htm>

CULTURAL ELEMENTS *(2 of 2)*

SUGGESTED QUESTIONS

QUESTION 1

What makes a production distinctly Canadian, compared to others in a globalized broadcasting environment?

QUESTION 2

Does having financial and/or creative control by Canadians ensure certified audio-visual productions contain or reflect Canadian attitudes, opinions, ideas, values, creativity, experience or a “Canadian point of view”? If not, which cultural elements could be explicitly considered for defining Canadian content?



DIVERSITY & INCLUSION (1 of 3)

A CHANGED COUNTRY, A CHANGED BROADCASTING SYSTEM

The way that Canadian content is defined may need to evolve to ensure:

- the **full reflection and participation** of persons from diverse and equity-deserving groups in the Canadian audio-visual broadcasting system;
- creators from these groups can **tell stories that are relevant and reflective** for these communities and broader audiences;
- diverse and equity-deserving groups are an important part of the Canadian audio-visual broadcasting system.

*The recent amendments to the Broadcasting Act include a number of new policy objectives including some relating to **diversity and inclusion**.*

- For instance, a new policy objective in the Broadcasting Act states that the Canadian broadcasting system, through its programming and the employment opportunities arising out of its operations, should serve the needs and interests of all Canadians – including Canadians from Black or other racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages – and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples and languages within that society.

DIVERSITY & INCLUSION (2 of 3)

DATA	
BLACK AND OTHER RACIALIZED PERSONS	Racialized groups in Canada are all experiencing growth. In 2021, these groups represented 16.1% of Canada's total population ⁶ .
INDIGENOUS PEOPLES	The 2021 Census counted 1.8 million Indigenous People, now accounting for 5.0% of the total population in Canada ⁷ .
2SLGBTQI+	As of 2021, approximately 1 million people reported being a part of 2SLGBTQI+ communities, accounting for 4% of the total population aged 15 and older ⁸ .
WOMEN	According to the 2021 census, women make up for 50.7% of the Canadian population ⁹ .
PERSONS WITH DISABILITIES	In 2017, 6.2 million Canadians aged 15 and older (B of total population) had a disability. The majority (71%) of people have two or more types of disabilities ¹⁰ .
OFFICIAL LANGUAGE MINORITY COMMUNITY (OLMC)	As of 2021, 3% of Canadians were Francophones living outside Quebec and 2.2% were Anglophones living in Quebec. Mother tongue by geography, 2021 Census (statcan.gc.ca) ¹¹ .

⁶ <https://www.statcan.gc.ca/en/census/census-engagement/community-supporter/ethnocultural-and-religious-diversity>

⁷ <https://www150.statcan.gc.ca/n1/daily-quotidien/221026/dq221026b-eng.htm>

⁸ <https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2021062-eng.htm>

⁹ [Age, Sex at Birth and Gender Reference Guide, Census of Population, 2021 \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2021062-eng.htm)

¹⁰ [Measuring disability in Canada \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2021062-eng.htm)

¹¹ [Mother tongue by geography, 2021 Census \(statcan.gc.ca\)](https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2021062-eng.htm)

DIVERSITY & INCLUSION *(3 of 3)*

SUGGESTED QUESTIONS

QUESTION 1

Are there barriers in the current Canadian audio-visual broadcasting industry arising out of the definitions of Canadian content that could impede the creation and production of Canadian content by and for equity-deserving groups that reflects, represents and is relevant to them?

QUESTION 2

What role, if any, does the CRTC's definition of Canadian content have in supporting the creation and production of programming by and for Canada's equity-deserving groups?



FORWARD-LOOKING DISCUSSION

TO SUMMARIZE:

- Canada and the broadcasting system have changed in many ways.
- Global companies are making international content available to Canadians in a multitude of ways.
- The *Broadcasting Act* sets out objectives for the CRTC to consider when modernizing its approach to defining and regulating Canadian content. The Policy Direction provides further guidance related to some of these objectives.
- The definitions of Canadian content might need to adapt to be:
 - more flexible and forward-looking;
 - representative of Canadian society and culture;
 - economically supportive of the Canadian broadcasting system and its members; and
 - supportive of the creation, production, and distribution of high-quality Canadian content on traditional and online platforms.

SUGGESTED QUESTION

Let's project into a future where new modernized Canadian content definitions are in place and are reaching desired outcomes.

- What are the main benefits for the Canadian broadcasting system?
- What are the measures of success?
- How are important elements such as copyright, diversity and inclusion, economic and cultural elements, and others co-existing in this updated approach?
- How is this updated approach flexible enough to be beneficial for all members of Canada's audio-visual broadcasting system?
- How is this updated approach flexible enough to ensure that Canadian stories get told?

APPENDIX

WHY GET CONTENT CERTIFIED?

- To meet CRTC regulatory requirements (minimum Canadian program exhibition requirements, Canadian programming expenditure minimums)
- To get tax credits
- To access certain funds (Canada Media Fund, Certified Independent Production Funds)
- To certify international treaty co-productions (Telefilm Canada, Canadian Audio-Visual Certification Office (CAVCO) and co-ventures (CRTC).



FORWARD-LOOKING DISCUSSION (3 of 4)

CERTIFICATION CRITERIA

CRTC and CAVCO have similar criteria and a “points test” to certify content¹².

	CRTC	CAVCO
PRODUCER	Must be Canadian	Must be Canadian
PRODUCTION COSTS	75% paid to Canadians	75% paid to Canadians
COPYRIGHT	N/A	Canadian production company must be copyright owner for 25 years
POINTS	<p>6/10 + at least one of either the director or screenwriter positions and at least one of the two lead performers must be Canadian.</p> <p><i>Live action and continuous action animated productions</i>¹³</p> <ul style="list-style-type: none"> • Director (2 points) • Screenwriter (2 points) • First Lead Performer or Voice (1 point) • Second Lead Performer or Voice (1 point) • Production Designer or Art Director (1 point) • Director of Photography or Chief Camera Operator (1 point) • Music Composer (1 point) • Picture Editor (1 point) 	<p>6/10 + at least one of either the director or screenwriter positions and at least one of the two lead performers must be Canadian.</p> <p><i>Live action productions</i></p> <ul style="list-style-type: none"> • Director (2 points) • Screenwriter (2 points) • Lead performer for whose services the highest remuneration was payable (1 point) • Lead performer for whose services the second highest remuneration was payable (1 point) • Director of Photography (1 point) • Art Director (1 point) • Music Composer (1 point) • Picture Editor (1 point)

¹² For further details on criteria, please see the [Application guidelines - Canadian Film or Video Production Tax Credit](#) from CAVCO and the CRTC [Canadian Program Certification Guide](#).

¹³ Animated productions (other than continuous action animation) have slightly different points: [Canadian Program Certification Guide | CRTC](#)

FORWARD-LOOKING DISCUSSION (4 of 4)

CERTIFICATION CRITERIA (cont'd)

	CRTC	CAVCO
PROGRAM CATEGORIES	Certifies programs under all eligible program category	News and current affairs, sports, reality programming, and awards shows do not qualify
OTHER		Requires that the project be shown in Canada within two years after completion via either a Canadian distributor or CRTC-licensed broadcaster.

