



Canadian Television Fund

CANADIAN TELEVISION FUND PRODUCER'S FEES & CORPORATE OVERHEAD ("PFCO") POLICY 2006-2007

Spirit and Intent of Policy

The vast majority of producers and projects encounter significant challenges in raising development and production financing and as a result their ability to receive reasonable compensation is often compromised. This policy seeks to ensure that producers will be adequately compensated for their role in productions by requiring minimum levels of producer fees and corporate overhead in production budgets and by limiting the deferral of these fees.

This policy is also written in an attempt to strike a balance between reasonable compensation, accrual of benefit to non-arm's length individuals and limited resources within the Canadian Television Fund. This policy will ideally avoid negotiation between the production company and the CTF by providing producers with clear guidance on costs that can reasonably be included within their production budget.

In all cases, where it appears this policy is being used inappropriately to place fees outside the Producer's Fees and Corporate Overhead Cap, the CTF will apply the definition of a Producer to determine if a person's fees should be placed within the cap.

Safeguards to Ensure Adequate Compensation for Producers

The CTF does not encourage the reduction or deferment of PFCO to close the production financing.

To this end, in the English- language market, the CTF will not permit deferrals or producer investments of PFCO that exceed 25% of total eligible PFCO, unless the producer is able to demonstrate a viable financial structure. The broadcaster should also use their best efforts to close the production financing without deferrals. The broadcaster's best efforts could be demonstrated by:

- Broadcast licence fees in the financing that exceed historical average fees for the genre and format of the production and,
- The maximum Broadcaster Performance Envelope contribution has been committed to the production (or, if the broadcaster does not have sufficient funds remaining in their envelope to commit the maximum BPE contribution, they have used the remaining available funds).

In the French-language market, deferrals or producer investment of producer fees or corporate overhead in the financing of documentary productions (other genres will not be affected) for which the maximum CTF contribution has not been granted by the broadcaster, will be subtracted from broadcast licence fees for purposes of calculating the licence fee threshold and for calculating the licence fee above historical average factor in the envelope recalibration.

The CTF expects that all projects will be fully financed at application. These deferral safeguards are not intended to restrict the producers' ability to submit an alternate viable financial structure with a producer investment or deferral in excess of 25% of the PFCO, which can later be replaced with other funding once it is confirmed.

The CTF will actively monitor the level of deferrals and producer investment included in the financial structures of CTF funded projects. If deferrals and producer investments exceed the threshold set out above on a consistent basis, then the CTF will consider amending this Producer Fees and Corporate Overhead policy in order to implement additional safeguards.

Producer's Fees and Corporate Overhead Cap

This policy seeks to ensure that producers will be adequately compensated for their role in productions by requiring a specific level of producer fees and corporate overhead in production budgets. In order to ensure producers receive adequate compensation for their role in a production, production budgets must include 100% of eligible producer fees and corporate overhead.

The PFCO included within the production budget must be equivalent to 20% of Sections B+C of the production budget, with the exception of productions with budgets of less than \$500,000 (Low Budget Productions) for which the percentage is 30%.

Beyond these percentages, there is a maximum dollar amount of \$1.2 million per project which is pro-rated up for series of more than 13 hours (13 one-hour episodes or 26 half-hour episodes).

These percentages and dollar amounts represent both a minimum and a maximum eligible amount and are hereafter referred to as "the Cap". The Cap is calculated on the Canadian portion of Sections B+C, in the case of an Official Co-production, and is applicable only to the Canadian producer's fees and corporate overhead.

Fees to be Included in the Cap

The following rules apply to all persons with an Ownership Interest in a production even if they are not receiving a producer credit.

All producer fees (i.e. executive producer, producer, co-producer, associate producer), other production management fees (e.g. production manager, post production supervisor) and fees paid for roles that are not clearly outside the responsibilities of a

producer (e.g. consultant fees) paid to persons with an Ownership Interest in the production company must be included in the Cap.

The portion of fees for other production roles (e.g. writer, showrunner, director, actor), which exceed scale rates will be placed within the Cap, if paid to persons with an Ownership Interest. The CTF will use its average historical level of fees in cases where scale rates do not exist

Fees Allowed Outside the Cap

Fees paid to producers and other production managers who do not have an Ownership Interest in the production (including staff producers) may be outside the Cap provided that the spirit and intent of this policy is respected. All other fees paid to production personnel, who do not have an Ownership Interest in the production, may be outside the Cap.

Persons with an Ownership Interest may receive payment outside the Cap for roles beyond the definition of a producer (e.g. writer, showrunner, director, actor), provided that any fees in excess of scale rates will be placed within the Cap. The CTF will use its average historical level of fees in cases where scale rates do not exist.

Any amounts exceeding these limits will be included in the Cap.

Fees Paid to Financiers

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 Cap. 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.

Placement of Fees in the Production Budget

Fees paid to a person with an Ownership Interest for producer roles (i.e. executive producer, producer, co-producer, associate producer) or production management roles (e.g. production manager, post production supervisor) must be placed in section A of the production budget for purposes of calculating the Producer Fees and Corporate Overhead Cap (they are also included in cap).

Producer or production management fees that are outside the Cap may be placed in sections B or C of the production budget.

Corporate Overhead Costs

Corporate overhead is an umbrella allocation for an apportionment of corporate overhead expenses (e.g. rental of corporate office space, maintenance and repair expenses, office equipment, supplies, administrative staff salaries, industry association fees that are not specifically related to the production) and is a fixed amount that the

CTF will allow without supporting justification ("Fixed Corporate Overhead"). The global amount charged to Fixed Corporate Overhead must not, however, exceed the PFCO Cap. Producers must justify any administrative expenses charged to other budget items of the production in addition to the Fixed Corporate Overhead and such additional administrative expenses are subject to CTF's prior written approval. Administrative expenses specific to the Production are typically allowed outside of Fixed Corporate Overhead (e.g. rental of temporary production office space, salaries paid to production company staff for time spent working on the production, CAVCO user fees [providing tax credits are included in the production financing]).

Development Applications

The PFCO Cap for Development applications is 20% of Direct Costs for producer's fees and 20% of Direct Costs for corporate overhead. Direct Costs include all eligible development expenses, except the following:

- Producer fees and corporate overhead
- Writer's fees over scale

The following fees are ineligible costs in development budgets:

- Option or rights acquisition fees paid to a person with an Ownership Interest;
- Over-scale writer's fees paid to a person with an Ownership Interest (exceptions may be made if the writer has a sufficient track record to command over-scale fees from non-related producers);
- Fees for any role typically included in the responsibilities of a Producer.

Definitions

Ownership Interest:

A direct or indirect ownership interest in the production company itself, or in any entity with a direct or indirect ownership interest in the production company, including affiliates, subsidiaries and parent entities, granting the holder decision-making authority for, or meaningful influence on, the significant matters of the production company.

Producer: an individual who controls and is one of the central decision makers in respect of the production from beginning to end. The following indicators are used to determine when a person is performing the role of a central Producer. The producer is normally involved in and is ultimately responsible for:

- The acquisition and/or meaningful development of the story;
- The commissions of the writing of the screenplay/series bible;
- The selection, hiring and firing of the key artists and creative personnel;
- The preparation, revision and final approval of the budget;
- All overages;
- The binding of the production company to talent and crew contracts;
- The arranging of the production financing;
- The supervision of the filming/taping and post-production;
- Final creative control;
- Production expenditures;
- Production bank accounts (sole and unfettered cheque signing authority);
- And arranging of the commercial exploitation of the production.

The functions of line producer and production manager, in and of themselves, are not sufficient to confer producer status.