

# French-language

PRODUCTION OUTSIDE QUEBEC

# Guidelines

2007-2008



Canadian Television Fund  
Fonds canadien de télévision

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## Disclaimer:

These Guidelines are for the information and convenience of Applicants (as defined in Section 3.1) to the Canadian Television Fund (CTF). They provide an overview of the objectives of the Fund, the manner in which the Fund is administered, and information on typical administrative practices of the Fund. Compliance with these Guidelines is a prerequisite to eligibility for any CTF funding.

The CTF has full discretion in the administration of its programs and in the application of these Guidelines to ensure funding is provided to those projects that meet its Spirit and Intent. In all questions of interpretation of either these Guidelines or the Spirit and Intent of the CTF, the interpretation by the CTF shall prevail.

All Applicants and broadcasters (where relevant) must abide by the Accounting and Reporting Requirements (ARR) of the CTF and follow applicable business policies as created and amended from time to time. Business policies, including the ARR, may be found at Appendix B of these Guidelines and are also available from the CTF website at [www.canadiantelevisionfund.ca](http://www.canadiantelevisionfund.ca). Information included in Appendices A and B is an integral part of these Guidelines.

Productions that receive CTF funding in a given year are subject to the Guidelines and the CTF policies that are in effect for that fiscal year. For greater clarity, changes to CTF Guidelines and/or policies made in a subsequent fiscal year will not be applied retroactively, unless specifically stated. The CTF fiscal year is April 1 to March 31.

**Please note:** These Guidelines may be changed or modified as required, without notice. Please consult the CTF website at [www.canadiantelevisionfund.ca](http://www.canadiantelevisionfund.ca) to receive the latest Guideline news and documentation.



## 1.1 ▶ History and General Information

The Canadian Television Fund was created in 1996 as a federal government/industry initiative. A private, not-for-profit corporation, the CTF is responsible for funding contributed by the Department of Canadian Heritage, the Canadian cable industry, and the direct-to-home satellite industry by way of broadcast distribution undertakings. The CTF is not an agent of the Department of Canadian Heritage nor of Her Majesty the Queen in right of Canada.

The Board of Directors of the CTF is composed of members representing the Canadian production and distribution communities, the Federal Government, Canadian broadcast distribution undertakings and Canadian broadcasters.

## 1.2 ▶ Spirit and Intent

The Spirit and Intent of the CTF is to support the production and broadcast of a specific type of culturally significant television production. These productions speak to Canadians about themselves, their culture, their issues, their concerns and their stories. The programs reflect the lives of Canadians across the country and reveal Canadians and their society to the viewer.

The CTF supports a high volume of distinctively and identifiably Canadian broadcast programming, reflecting Canadian culture, stories and themes. These productions are in English, French and Aboriginal languages, and include Documentary, Children's and Youth, Variety and Performing Arts, and particularly Dramatic programming in peak viewing hours.

The CTF focuses its support on currently licenced projects intended primarily for Canadian audiences and seeks to encourage Canadian viewing of these productions. These projects must be initiated by Canadian companies, under Canadian ownership, which exercise creative and financial control from development through production to distribution and exhibition.

The CTF is a cultural programming fund. It does not support “industrial” or “foreign service” productions or those that cede control to foreign entities.

The CTF is dedicated to all of the public policy objectives associated with its mandate, including support for regional production, Aboriginal-language productions and French-language productions across Canada.

The administrative direction of the CTF is based on four guiding principles:

- Drive audience success for Canadian programming in the CTF’s traditional genres of Drama, Children’s and Youth, Documentary and Variety and Performing Arts;
- Allow for language market-specific approaches to CTF funding;
- Leverage funding to increase private-sector funding of television programming;
- Deliver effective and efficient administration of our services to our clients.

The Spirit and Intent of the French-Language Production Outside Quebec Stream is to ensure that stories from French-language communities outside of Quebec are told on Canadian television. For that reason, the Stream is only available to Applicants and productions that are clearly products of those French communities, as determined by the CTF at its sole discretion.

The CTF interprets and applies these Guidelines in such a manner to ensure that its funding is provided to those projects meeting its Spirit and Intent.



**2.1 ► Introduction**

The French-Language Production Outside Quebec (FLPOQ) Stream is designed to encourage official minority-language production in Canada by Canadian companies who operate and have head offices located outside the province of Quebec, who produce primarily in French. The CTF contributes to Eligible Projects in this Stream in two ways (see [Section 3.2](#)). Of the total FLPOQ resources available, 37% are allocated to the SRC/RDI envelope. The SRC/RDI then decides to which projects it will allocate funds. The remainder of FLPOQ resources are administered under a selective process where the CTF evaluates applications according to an Evaluation Grid (see [Section 2.4](#)). Eligible Projects may receive funds subject to per-project Maximum Contribution amounts (see [Section 2.3.1.1](#)) and other specified limitations.

In order to be funded from the FLPOQ Stream, a project must meet all eligibility and genre requirements under the CTF Guidelines. In addition, the broadcaster must pay an Eligible Licence Fee (see [Section 3.2.5](#)) that meets the Licence Fee Threshold amount applicable (see [Section 3.2.5.1](#)). Maximum Contribution and Licence Fee Threshold amounts are calculated based upon a project's Eligible Costs (see [Section 2.3.2](#)).

Projects licensed by the SRC/RDI may apply to the final closing date of the selective process (for consideration during the final selective evaluation for the fiscal year), provided the SRC/RDI has fully expended its FLPOQ envelope. The CTF, however, will give priority to Eligible Projects licenced by other broadcasters over those licenced by the SRC/RDI in the selective process.

**2.2 ► Nature of Funding Contribution**

The French-Language Productions Outside Quebec Stream may provide a mix of licence fee top-ups and equity investments.

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 production and is non-recoupable. An equity investment is a cash investment in the production, which results in the CTF acquiring an undivided copyright ownership interest in all versions of the production. Equity investments are recoupable, and subject to a standard and non-negotiable recoupment schedule (as described and subject to any exceptions set out in the CTF Standard Recoupment Policy, see [Appendix B](#)).

In general, the first CTF contribution to an eligible project will be in the form of a licence fee top-up. This contribution may reach up to a maximum of 35% of an Eligible Project's Eligible Costs. Amounts in excess of 35% of an Eligible Project's Eligible Costs, and more than \$10,000 will be in the form of an equity investment. The CTF considers any eligible equity investment request of less than \$10,000 to be too small for equity participation. Accordingly, any such requested amount will be automatically converted into a licence fee top-up.

Access to CTF equity investment is additionally governed by the following criteria:

- ▶ Maximum equity participation shall not exceed 49% of the production's Eligible Costs;
- ▶ When an Applicant beneficially owns more than 10% of a broadcaster, on a fully diluted basis, either directly or indirectly, its productions are eligible for equity investment only if the licence fees payable by that broadcaster are clearly outside the financial structure of the production and do not contribute to fulfilling the CTF's licence fee requirements;
- ▶ An Applicant is ineligible for equity investment if it, or a corporate group\* of which it is a member, receives less revenues from combined production and distribution operations than from CRTC-regulated operations (including, and without limitation, broadcasting, cable and satellite).

\*For the purposes of this subsection, a "corporate group" is defined as two or more affiliated corporations.





## 2.3 ▶ Amount of Funding Contribution

### 2.3.1 ▶ CTF Contribution

#### **SRC/RDI Envelope Contribution**

The SRC/RDI decides what proportion of their envelope to allot to an Eligible Project, up to a specified Maximum Contribution amount as detailed below. Expenditure targets by genre have been established for the FLPOQ Stream. SRC/RDI will use their best efforts to meet these expenditure requirements.

#### **Selective Process Contribution**

The CTF may adjust the level of its dollar contribution from the FLPOQ Stream, depending on the quality of the projects and the number of requests received, up to a specified Maximum Contribution amount as detailed below. In addition, the CTF has flexibility in the selective process in this Stream, and its contribution may be lower or higher than the Maximum Contribution depending on whether funding requests per program genre exceed or fall short of available resources for each genre.

#### **Maximum Contribution**

The CTF's Maximum Contribution to Eligible Projects in the French-Language Production Outside Quebec Stream shall be 84% of the project's Eligible Costs (comprised of up to 35% licence fee top-up and up to 49% equity investment) or the following amounts, as applicable, whichever is less.



Genre	FLPOQ Maximum Contribution Amounts
Drama	\$1,200,000
Children's and Youth	\$550,000
Documentary:	
One-off	\$150,000
Series/Limited series	\$400,000
Variety and Performing Arts	\$400,000

For official treaty co-productions, the CTF Maximum Contribution will be calculated on the lesser of the Canadian portion of the production's global budget and the Canadian portion of the global final costs as certified by Telefilm Canada's International Co-productions Department.

#### 2.3.1.1 ▶ Combining Funds from the FLPOQ and Broadcaster Performance Envelope Streams

Broadcasters may combine funds from their Broadcaster Performance Envelopes with funding from the FLPOQ Stream. In such a case, Licence Fee Threshold and Maximum Contribution amounts for the Broadcaster Performance Envelope portion will be calculated by the CTF by determining the ratio of the Eligible Costs in proportion to the CTF Broadcaster Performance Envelope contribution, compared with the total CTF contribution to the production. For example, if the CTF Broadcaster Performance Envelope contribution represents 60% of the total CTF contribution, the Eligible Costs will be pro-rated to 60% for the Broadcaster Performance Envelope and 40% for this Stream.

Calculations relating to the Licence Fee Threshold and Maximum Contribution amounts will conform to the applicable requirements of the Broadcaster Performance Envelopes for the related portion of Eligible Costs and the other portion of Eligible Costs will conform to the requirements of this Stream.

Calculations relating to the Evaluation Grid will be based on the total Eligible Costs.



### 2.3.2 ▶ Eligible Costs

“Eligible Costs” are the costs set out in the production budget for the project or the final cost report, as applicable (including both related-party and non-related party costs), plus any costs the CTF considers necessary, minus any costs that the CTF considers excessive, inflated or unreasonable. Assessment of a project’s Eligible Costs shall be done at the CTF’s sole discretion. The participation of the CTF is calculated based on an Eligible Project’s Eligible Costs. The CTF estimates Eligible Costs at the time of application, based upon the production budget for the project.

Productions receiving financing from the CTF must have insurance and completion protection safeguards in a form and amount acceptable to the CTF. The insurance and completion protection requirements are defined in the CTF business policies (see [Appendix B](#)).

Additional CTF business policies relating to Eligible Costs are in [Appendix B](#) of this document.

#### 2.3.2.1 ▶ Related-Party Transactions

All related-party fees, related-party allowances and any other related-party transactions must be:

- ▶ Disclosed to the CTF; and
- ▶ In accordance with the *CTF/Telefilm Canada Accounting and Reporting Requirements* of January 1, 2006, more specifically, but not limited to, Sections 3 and 4.



#### 2.3.2.2 ▶ Versioning

For those projects that have been licenced or will be licenced for Canadian broadcast in English prior to delivery of the project to the first window Canadian broadcaster, the CTF requires that all versioning (i.e., dubbing or subtitling) of the project will be performed by a Canadian-owned and controlled company using Canadian artists, actors, employees and technicians (as applicable). Exceptions may be made in the case of official treaty co-productions.

The CTF requires that English versioning costs be included in the budget if it is required contractually by one of the Canadian financiers. The CTF will not support versioning costs normally incurred by distributors to assist in foreign market sales.

#### 2.4 ▶ Project Assessment in the Selective Process

Outside of the 37% allocation to the SRC/RDI, all other projects in the French-Language Productions Outside Quebec Stream compete for funding according to a selective process.

To make its funding decisions, the CTF uses an Evaluation Grid, which allows evaluations to be conducted based on transparency.

The CTF will not accept a revision to the evaluated elements of a project that would detrimentally affect its final weighting.

**Note:** If the SRC/RDI expends its 37% allocation entirely, projects licenced by the SRC/RDI may also participate in the final selective evaluation for the fiscal year (see [Section 2.1](#)).



## Evaluation Grid

<b>Broadcaster Interest</b>	<b>30</b>
Licence fees over applicable Licence Fee Threshold amount	
<b>Audience</b>	<b>20</b>
Performance Ratio	
<b>Content</b>	<b>50</b>
Originality of the project	
Track record of the creative team	
Production values	
Marquee	
<b>Total</b>	<b>100</b>

## Evaluation Grid Criteria Descriptions:

### Broadcaster Interest

This refers to the Licence Fee Threshold that is 20% of Eligible Costs for Dramas, 15% of Eligible Costs for Documentaries, 25% of Eligible Costs for Children's and Youth projects, and 30% of Eligible Costs for Variety and Performing Arts projects.

Each additional percentage above the Licence Fee Threshold will be worth the following:

Genre	Points for additional 1%	Maximum licence fees to achieve 30 points
Drama	1.5 points	40%
Children's and Youth	1.5 points	45%
Documentary	1.2 points	40%
Variety and Performing Arts	2 points	45%

### Audience

Performance ratio measures the project's projected audience relative to the proportion of the FLPOQ Stream contributed to the project. For series renewals, the past performance of the series



is used. For new programs, the CTF relies on projected audience numbers obtained by a similar program in the same genre for a similar type of broadcaster.

To note, a project that has a low projected audience could still receive points in this section if the funding requested from this Stream is relatively low.

### **Content**

Within the framework of this section, the CTF favours projects that demonstrate originality and creativity in both content and genre. These qualities are assessed in terms of subject matter, themes, issues and narrative elements. The track record of the creative team behind the project is also a significant consideration.

In addition, the CTF assesses the appropriateness of the size of the budget relative to the creative material. To ascertain if the budget level is adequate, the CTF also considers such elements as special effects, the number of on-location shoots and casting, among others.

In order to reach larger Canadian audiences, the CTF favours projects able to demonstrate a high level of cultural diversity.

## **3**      ▶ Eligibility for Funding

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### **3.1**      ▶ Eligible Applicants

An Applicant eligible under the FLPOQ Stream:

- ▶ Must operate and have its head office outside the province of Quebec for at least three years (unless the company is an emerging one) and with its major shareholder residing outside the province of Quebec for at least three years;

- ▶ Must use French as the original language of production for the majority of its production slate;
- ▶ Must have produced, solely or in co-production with other eligible Applicants, three programs originally in the French-language. These programs must have been broadcast on Canadian television within the last four years. The CTF may use its discretion and allow for a smaller number of programs to have been produced, if there is ample evidence that the production company is an emerging one. The CTF may look at the production company's owners and/or producer's track record to see if their experience has largely been French-language production;
- ▶ Must demonstrate with its business plan, as well as with its development and production slate, that the Applicant is in the business of producing projects mainly using French as the original language of production;
- ▶ Cannot be a broadcaster-affiliated company (the CTF will use the definition of "affiliate" set out in the *Canada Business Corporations Act*);
- ▶ Must have initiated and meaningfully participated in the project's development. Furthermore, the Applicant must exercise full control of the creative, artistic, technical and financial aspects of the project and hold all copyrights to the project; and
- ▶ Must hold all copyrights to the production on a permanent basis and retain an ongoing financial interest in the project.

### 3.1.1 ▶ Independent Production Companies

Each Applicant\* to the CTF must be a corporation that is Canadian-controlled, as determined for the purposes of sections 26 to 28 of the *Investment Canada Act*, with its head office based in Canada. In addition, when assessing an Applicant's eligibility, the CTF may choose to look at factors, including:



- ▶ If the Applicant's activities take place in Canada;
- ▶ The financial stability of the Applicant (with appropriate exceptions for new production companies without established parent companies); and
- ▶ Whether or not the Applicant operates principally as a television or film production entity.

\* For the purposes of these Guidelines, the term "Applicant" is deemed to mean and include all co-applicants and/or parent companies as applicable.

### 3.2 ▶ Eligible Projects

An "Eligible Project" in this Stream means a project that meets all of the criteria of Section 3.2 and all its subsections.

Eligible Projects for this Stream must use French as the original language of production. The project concept, treatment, research report and outline must be written and submitted in French.

Either the screenwriter or the director of an Eligible Project must reside outside Quebec. An exception may be made, on a case-by-case basis, for a Quebec resident to co-direct or co-write the project if it is demonstrated that the individual's contribution will foster the development of francophone talent outside Quebec.

#### 3.2.1 ▶ Essential Requirements

Given the Spirit and Intent of the CTF, a production must meet all of the Essential Requirements listed below. In the case of a series, the Essential Requirements are applicable to every episode. The CTF has full discretion to decide whether a project meets the Essential Requirements; the interpretation of the CTF shall prevail.





1. The project speaks to Canadians about, and reflects, Canadian themes and subject matter.
2. The project will be certified by the Canadian Audio-Visual Certification Office (CAVCO) and has achieved 10/10 points (or the maximum number of points appropriate to the project), as determined by the CTF using the CAVCO scale.
3. Underlying rights are owned, and significantly and meaningfully developed, by Canadians.
4. The project is shot and set primarily in Canada.

Further details on these Essential Requirements and permissible genre-specific exceptions are provided in the [Appendix A](#) to these Guidelines. This Appendix includes additional important information and is an integral part of these Guidelines.

#### 3.2.1.1 ▶ Official Treaty Co-Productions

With respect to the eligibility of official treaty co-productions to access the CTF, these Essential Requirements shall be interpreted so as to treat the treaty co-production partner as “Canadian.”

Accordingly, the terms “Canadian” and “Canadians” in Essential Requirements 1 and 3, and the term “Canada” in Essential Requirement 4 will be deemed to include the co-production country. The 10/10 points referenced in Essential Requirement 2 must be attained by citizens of Canada or the co-producing country.

For Essential Requirement 2: in the case of a co-production between Canada and a European country that is part of the European Union, the CAVCO points positions may be filled by a citizen of Canada or any country of the European Union.



If a production submitted to the CTF as an official treaty co-production is unable to obtain final approval as an official treaty co-production from the competent authorities, the final production must meet all Essential Requirements under [Section 3.2.1](#) above (and under the applicable genre of programming, see [Appendix A](#)) and all other eligibility requirements applicable to projects that are not official treaty co-productions in order to remain eligible for CTF funding.

### 3.2.2 ▶ Genres of Programming

The CTF supports the following programming genres: Drama, Documentary, Children's and Youth programming, and Variety and Performing Arts programming. The CTF's definition of each of these genres is contained in [Appendix A](#) to these Guidelines.

The following is a non-exhaustive list of genres and programming formats that are **not** eligible to apply to the CTF: sponsored productions, sports, news, game shows, current affairs, public affairs, lifestyle productions, "how-to" productions, reality television, instructional television, infomercials, music videos, formal or curriculum-based educational programming, format buys, magazine productions, talk shows, "talkshows culturels", award shows, special event celebrations, galas, reporting and current events, religious programming, fundraising productions, benefits, tributes, promotional productions, pep-rallies, travelogues and interstitials.

Projects comprised mainly of stock footage are eligible, provided they satisfy the CTF's genre and category definitions and are new productions (i.e., not repackaged or adapted versions of previously-produced productions).

The CTF defines "stock footage" as footage that was:

- ▶ Originally shot for purposes other than the production submitted for funding; and
- ▶ Edited for use in the production and not simply repackaged in whole or in large segments for the production.



### 3.2.3 ▶ Canadian Ownership and Control

An Eligible Project must meet the following criteria:

- ▶ It is under Canadian ownership and Canadian executive and creative control;
- ▶ It is under the financial control of Canadian citizens or permanent residents;
- ▶ It is, and has been, controlled creatively and financially by a Canadian production company during all phases of production, from development through post-production, and all distribution and exploitation rights are owned and initially controlled by a Canadian production company;
- ▶ A project formerly produced in-house by a broadcaster is eligible as long as the Applicant is an independent production company and has full control of the proposed project;
- ▶ Generally, no more than 49% of the production financing/final cost is provided by a single non-Canadian entity, person or related entity (via licence fees, distribution advances, goods and services and/or equity investment). Interim lending of more than 49%, however, may be provided by a non-Canadian arm's-length entity in the business of lending money and taking security;
- ▶ The Applicant retains and exercises all effective controls or approvals consistent with those of a producer. This includes control and final approval of creative decisions and production financing, distribution and exploitation, and preparation and final approval of budget, subject to reasonable and standard approval rights customarily required by arm's-length financial participants, including Canadian broadcasters and distributors;
- ▶ The Applicant owns all rights (including copyright) and options necessary for the production and its distribution in Canada and abroad, and retains an ongoing financial interest in the project;



- ▶ In the case of co-productions with a company not eligible for the French-Language Production Outside Quebec Stream, the eligible Applicant must have initiated the project and must own at least 75% of the copyright in the production. If the eligible Applicant initiated the project and owns between 51% and 74% of the copyright in the production, it can only apply to the Stream for a portion equal to its share of the co-production budget.

### 3.2.4 ▶ Technical Requirements

An Eligible Project must meet the following criteria:

- ▶ It conforms to the Canadian Association of Broadcasters' Code of Ethics and to all programming standards endorsed by the Canadian Radio-television and Telecommunications Commission (CRTC), including those related to sex-role portrayal and violence;
- ▶ It has a broadcast length of at least 30 minutes (including commercial breaks), although a package of children's programming "shorts" may be eligible if the package equals or exceeds a broadcast length of 30 minutes. This is not applicable for youth programming;
- ▶ It is closed-captioned if it contains narrative, dialogue or lyrics. Exceptions may be permitted for projects targeted to children under the age of five, projects in Aboriginal languages that do not use the Roman alphabet, and live-to-air productions;
- ▶ If a television series, it includes all episodes of the cycle and may not include episodes from any other cycle. It may not be a split cycle. The CTF assesses split cycles and multiple cycles by examining numerous factors such as production scheduling and broadcast airing patterns. In particular, multiple cycles will not be accepted if they do not air continuously;



- ▶ Only one application for a given television series may be made per CTF fiscal year;
- ▶ Generally, the CTF expects a production to begin principal photography/key animation within three months after the end of the fiscal year in which it is funded. Special considerations may be made for documentaries that need to capture a time-sensitive event.

### 3.2.5 ▶ Eligible Licence Fee Requirements and Conditions

An Eligible Project must have a current licence agreement(s) with a Canadian broadcaster(s) licencing the right to broadcast the production in Canada that meets all the requirements of Section 3.2.5 and all its subsections, and which entitles the Applicant to cash fees in exchange for the licenced rights (Eligible Licence Fees). Such licences must be genuine, industry standard, fair market value and non-recoupable. Canadian broadcasters include all private, public and educational broadcasters and all specialty, pay and pay-per-view undertakings.

Eligible Licence Fees must be paid in cash, and may not include facilities, goods or services, equity, a producer time-buy, donations or corporate sponsorship monies negotiated and obtained by the Applicant, tax credits or any arrangement which, in the CTF's assessment, does not constitute a genuine cash licence fee.

In cases where provision of a licence is wholly or partially dependent on a buyback of services from the broadcast licence provider, the CTF may elect to deduct the value of the services or facilities from the total value of the licence, for the purposes of determining Eligible Licence Fee amounts for Licence Fee Threshold assessment (see [Section 3.2.5.1](#)). This determination will be made on a case-by-case basis.

The foregoing does not preclude a Canadian broadcaster from contributing, as financing, an equity investment, services, or facilities to an eligible production, in addition to a cash Eligible Licence Fee.



The acquisition of French-language rights by an English-language broadcaster and of English-language rights by a French-language broadcaster will not be accepted in licences containing Eligible Licence Fees, with the exception of licences from dual-language broadcast channels. In such cases, the dual-language broadcaster must specify to the CTF the licence fee paid for each language right acquired. No single-language licence shall prevent the exploitation of the other language rights by the producer.

A broadcast licence agreement containing an Eligible Licence Fee must include an unqualified commitment by the broadcaster to broadcast the production closed captioned, in peak viewing hours, within 18 months of completion and delivery of the production. Should the broadcaster fail to comply with these broadcast requirements the licence fee will be deemed not to be an Eligible Licence Fee. The CTF will consider requests for extension to this period on a case-by-case basis. “Peak viewing hours” are normally defined by the CTF as 7 p.m. to 11 p.m., with an exception for some Children’s and Youth programming as described in [Appendix A](#). For second and subsequent window broadcasters, the commitment to air the production in peak viewing hours within 18 months will begin at the start of those broadcasters’ licence periods.

### 3.2.5.1 ▶ Licence Fee Thresholds

A “Licence Fee Threshold” is the minimum amount of Eligible Licence Fees that a project must receive from a broadcaster to be eligible for CTF funding. The Licence Fee Threshold amounts for the French-Language Production Outside Quebec Stream are as follows:

Genre	Licence Fee Threshold
Drama	20% of Eligible Costs
Children’s and Youth	25% of Eligible Costs
Documentary	15% of Eligible Costs
Variety and Performing Arts	30% of Eligible Costs

For official treaty co-productions, CTF Licence Fee Threshold amounts will be calculated on the greater of the Canadian portion of the production's global budget and the level of Canadian participation as certified by Telefilm Canada's International Co-productions Department.

The entirety of the Eligible Licence Fees contributing to meeting the Licence Fee Threshold must be used in the production financing.

### 3.2.5.2 ▶ **Additional Rights**

An Eligible Licence Fee cannot confer upon a Canadian broadcaster any of the following rights:

- ▶ An ownership, profit, repayment or recoupment position in the production;
- ▶ Broadcast rights for non-Canadian territories or restrictions on the Applicant's ability to exploit these rights, with the exception of traditional broadcast spill-over protections and exclusive world premiere rights. Where exclusive world premiere rights are taken by a broadcaster, licence agreements must provide for waiver of the world premiere rights if a bona fide sale to a foreign entity is made provided the foreign entity agrees not to broadcast the program within six months of delivery to the Canadian broadcaster. For greater clarity, under no circumstances shall a broadcaster hold world premiere rights longer than six months from delivery where a bona fide sale was made to a foreign broadcaster; or
- ▶ Other Rights (including, but not limited to home video, merchandising, new media, non-theatrical, on-line distribution, on-line broadcast/streaming or any form of video on demand) for Canadian or non-Canadian territories.

A broadcaster may acquire an ownership, profit, repayment or recoupment position in the production, as long as these additional rights do not form part of the Licence Fee. All such rights must be valued and paid for separately.



A broadcaster or an Eligible Distributor (as defined in the CTF Standard Recoupment Policy, see [Appendix B](#)) associated with the broadcaster may acquire Other Rights or broadcast rights for non-Canadian territories as long as these additional rights are not part of the rights being acquired in exchange for the Eligible Licence Fee. All such rights must be valued and paid for separately.

### **Safeguards for Negotiations of Other Rights**

The CTF recognizes that significant technological changes are occurring in the broadcast landscape that affect rights negotiations between broadcasters, producers and creators. To help ensure proper governance of negotiations pertaining to Other Rights, the CTF has created these temporary Safeguards. They are meant to be reviewed periodically as the industry progresses in settling guild agreements, and in determining the impact of the technological changes on the value of different platform rights, etc.

The CTF requirements regarding the negotiation and acquisition of Other Rights (as described in [bullet point #3 of Section 3.2.5.2](#)) differ according to the geographic location of the producing company.

#### **1. Productions produced by a company based outside the province of Quebec**

The following requirements apply to all production companies based outside of Quebec regardless of the language of production, the language of the producer, or the province of the licensing broadcaster(s):

- ▶ Negotiation for Other Rights may commence no earlier than two weeks after the execution of a long-form licence agreement for broadcast rights in Canada. Such negotiation, must therefore be separate and distinct from the broadcast rights negotiation. The producer and broadcaster may negotiate any exploitation arrangement for Other Rights if the arrangement is mutually agreed upon. If no mutual agreement is reached, the exploitation of Other Rights by either party is forbidden for one year from the earlier of the exploitation of rights date and the first telecast, and the licence agreement for broadcast rights in Canada must remain in





force. In regard to the foregoing negotiation for Other Rights, if both the producer and broadcaster agree that the negotiation for Other Rights be concurrent with the negotiation of the licence agreement, a letter addressed to the President of the CTF, signed by both parties, may be used as the basis to waive the two-week delay in the negotiation for Other Rights.

## **2. Productions co-produced with a company based in the province of Quebec**

For productions co-produced with a company based in the province of Quebec, the governance of negotiations for Other Rights differs from the previous section.

The following requirements apply to all production companies based in the province of Quebec regardless of the language of the producer or the province of the licensing broadcaster(s):

- ▶ Licence agreements may not unreasonably restrict the producer's exploitation of "Other Rights-Traditional Distribution" defined as merchandising, home video, DVD, or any other method of distribution analogous to these.
- ▶ For Drama, the maximum allowable time restriction on exploitation of Other Rights-Traditional Distribution is two broadcasts or one year from delivery, whichever occurs first. In the case of a series, this refers to two broadcasts of the first episode or one year from delivery of the first episode, whichever occurs first. For all other genres, the maximum time restriction is three months after the first broadcast of the project or the first episode.
- ▶ For "Other Rights-New Platform" defined as new media, on-line distribution, on-line broadcasting/streaming, any form of video on demand, or any other method of distribution analogous to these, a producer may not assign or sell Other Rights-New Platform to a third party for the same territory and term for which a broadcaster(s) has acquired the exclusive broadcast right (by providing an Eligible Licence Fee) without first having obtained the assent of the aforementioned broadcaster(s).



### 3.2.5.3 ▶ Licence Terms

The CTF shall assess the maximum allowable time period of all broadcast windows granted in consideration for Eligible Licence Fees (Maximum Term). The Maximum Term, in the aggregate and including both exclusive and non-exclusive terms is:

- ▶ Children's & Youth, Documentary, and Variety & Performing Arts Projects: 6 years.
- ▶ French-language Drama projects: 5 years.

The start of the licence term shall begin at the contractually agreed-upon term commencement date, as negotiated between the Applicant and the broadcaster. The term is the period of time in which a broadcaster has the right to exploit a program. In the case of a series, the term is measured from the commencement date of the first episode and not the commencement dates of each episode.

For clarity, the start of the term and the first airdate may not always coincide. By way of example, a broadcaster's term may be from September 1, 2007 to September 1, 2011, but the broadcaster may choose to make the first broadcast date November 15, 2007. For eligibility purposes, the licence term begins on September 1, 2007.

Applicants continue to have the flexibility to incorporate licences in excess of the Maximum Term within the financial structure. Only that portion of the licences, however, within the Maximum Term will be used for the purposes of all CTF calculations, including Licence Fee Threshold assessment. Those licences that commence within the Maximum Term but extend beyond it will be pro-rated to match the Maximum Term set for each genre.



Broadcasters may acquire, in addition to the Maximum Term, the right of first negotiation and last refusal for additional broadcast windows for the currently licenced project/cycle. The right of first negotiation may not be exercised prior to delivery of the program for the first broadcast window. Broadcasters may not acquire the right of last refusal for any other rights, including broadcast windows for future cycles or versions of the project (including currently licenced projects/cycle).

For the purposes of series television, licences containing Eligible Licence Fees may not include co-terminus rights clauses. Co-terminus clauses (i.e., clauses that extend the terms of existing licences to the end of the term of the renewal licence with no additional payment) are prohibited in eligible licences for renewed series, but these licences may include rights of first negotiation and/or last refusal for extension of licences for existing episodes of the series.

## 4 **► Compliance and Representations**

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### 4.1 **► Provision of Documentation**

It is the responsibility of the Applicant to ensure that the CTF is in receipt of all documentation relevant to its application, and to update such documentation and information after material change. The CTF may request other documentation and information as required in order to conduct an assessment and evaluation of the project and, once assessed, to complete CTF file reviews. For the purposes of project assessment and evaluation, the CTF reserves the right to rely solely on the written and audiovisual materials initially submitted by the Applicant.



#### 4.2 ▶ **Failure to Comply**

If an Applicant fails to comply with these Guidelines, as determined by the CTF, then the CTF may refuse the application, revoke the eligibility status of the Applicant's project and may demand repayment of any sums advanced to the Applicant.

#### 4.3 ▶ **Misrepresentation**

If at any time, an Applicant, as required by the Guidelines or as requested by the CTF, provides false information or omits material information in connection with an application, the Applicant may suffer serious consequences. These may include, among others:

- ▶ Loss of eligibility for funding of the current project;
- ▶ Loss of eligibility for funding of future productions;
- ▶ Repayment of any funds already advanced, with interest;
- ▶ Criminal prosecution, in the case of fraud.

These measures may be imposed not only on the Applicant but also on related, associated and affiliated companies and individuals (as determined by the CTF at its sole discretion). Any Applicant receiving approval for funding will be required to sign a legally enforceable agreement, which includes further provisions concerning misrepresentations, defaults and related matters.



## 5 ▶ Application Submissions

### APPLICATION DEADLINES

FLPOQ	First Closing Date	Final Closing Date
Selective Process	March 1, 2007	September 6, 2007
SRC/RDI	n/a	December 7, 2007

#### Deadline Definitions:

##### First Closing Date

For applications to the selective process, no more than 75% of the allocation for the fiscal year in this Stream shall be committed to Eligible Projects submitted by the first closing date.

##### Final Closing Date

For applications to the selective process, the remainder of the allocation for the fiscal year in this Stream may be committed to Eligible Projects submitted by the final closing date.

For applications to the SRC/RDI envelope, the final closing date is the deadline for submitting applications for the fiscal year. Any amount remaining in the SRC/RDI envelope in this Stream for which the CTF has not received a complete, eligible application by the final closing date will be transferred into the CTF's reserve fund.

#### Application Offices

As of the 2006-2007 fiscal year, the Television Business Unit at Telefilm Canada administers French-Language Production Outside Quebec applications on behalf of the Canadian Television Fund.

Applicants may submit their CTF funding application through **eTelefilm** at [www.telefilm.gc.ca](http://www.telefilm.gc.ca).



Applications for CTF funding from across Canada can also be forwarded to the Television Business Unit at Telefilm Canada's Québec regional office.

**Montreal**

**Television Business Unit**

360 Saint-Jacques Street, Suite 700  
Montreal, Quebec H2Y 4A9  
Toll Free: 1 800 567 0890  
T: (514) 283 6363  
F: (514) 283 8212

**For inquiries regarding CTF policies**, please contact the Canadian Television Fund at 1 877 975 0766 or at [flpoq@canadiantelevisionfund.ca](mailto:flpoq@canadiantelevisionfund.ca).

**To Contact the Canadian Television Fund:**

**Canadian Television Fund**

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(as of April 1, 2007)

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For additional information, updates and to learn more about CTF policies, please visit [www.canadiantelevisionfund.ca](http://www.canadiantelevisionfund.ca).

