



DOCUMENTARY
ORGANIZATION OF CANADA
DOCUMENTARISTES
DU CANADA

DOC Final Submission to CMF Consultations 2015

We appreciate the opportunity to contribute to the CMF's 2015 consultation process and to be part of the Working Groups reviewing various policy and guideline issues. It has been our pleasure to work with other stakeholders and the CMF to bring forward areas of mutual concern.

In our final submission as part of this 2015 process, we would like to review the issues that remain vital to DOC. We have broken our submission down into two sections – the first reflecting on the CMF's summary of themes that evolved from the consultation process, and then secondly a review of other issues that remain of concern to DOC.

1. Themes Identified by the CMF

At the final Working Group on November 10th, the CMF put forward a briefing document that summarized a number of themes that had emerged during the consultation process.

This included, in the longer term:

- The ability for different platforms (foreign, digital or both) to contribute to the CMF's Licence Fee Threshold and/or trigger CMF funding;
- Importance of development and pre-development;
- The CMF's definition of "landmark" content.

And in the shorter term:

- Measures to incentivize marketing, promotion and discoverability;
- Modifications to the CMF's definition of "Regional";
- Changes in CMF Guidelines to address the relationship between Broadcasters and Producers in light of the coming expiration of Terms of Trade agreements;
- The ability for additional platforms (foreign, digital or both) to contribute to the CMF's Licence Fee Threshold and/or trigger CMF funding (short-term);
- Different methods for applicants to access CMF funding.

These themes resonate with DOC and we look to the CMF to continue the dialogue in respect to these central areas, as the Working Groups were only able to scratch the surface in a number of areas. We appreciate the work that the CMF has undertaken to date and believe it is important that the dialogue continues before any final changes to the CMF policies or guidelines are implemented for the 2016/17 fiscal year.

We offer our further comments on some of these themes.

Licence Fee Thresholds (long and short term)

From the perspective of documentary producers, the ability to cast a wider net to pull together financing that can trigger CMF funding is of vital importance. The CMF noted there was demand for possible short-

term changes to expand the diversity of platforms that could either trigger CMF funding or contribute to a project's Licence Fee Threshold. The CMF stated it will be examining strategies the CMF could implement in 2016-2017 to potentially expanding the ability of foreign platforms to participate in CMF projects, and we look forward to reviewing and providing input on these strategies.

Development and Pre-Development

DOC remains concerned with the CRTC's directive to reduce the number of small production companies and that the CMF may be considering slate development funding for large production companies. While this may be relevant in the drama genre, DOC members are largely small entities that pursue filmmaker driven projects. In many scenarios this is an excellent model for producing critically acclaimed documentaries.

As such, development funds are critical for documentary producers. The number of documentary applicants for CMF's Regional Pre-development Fund is a demonstration of the high level of need for documentary development funding. This fund was created because regional producers in many provinces have limited access to broadcasters and to a large degree are small-to-medium sized companies. These issues remain and we encourage the CMF to keep this fund for regional producers, and in fact request an increase to its resources.

We further request that the CMF work to reduce the rather cumbersome and complicated nature of development funding applications and expand market triggers beyond broadcasters, as many other stakeholders suggested.

Landmark content

We would like to echo the sentiments expressed in the CMF's briefing document for November 10th, that the definition of "landmark" can be subjective and much easier to recognize in hindsight. From a documentary perspective, "landmark" needs to be defined as more than just broadcast audience success, and that other criteria, including festival awards and audiences, social and digital media presence and engagement, and foreign financing reflect the value of a program as well.

Marketing and Promotion

We could not agree more that marketing and promotion expenses are necessary to engage and build audiences and generate financing options, commencing right at the development stage. We support the CMPA's proposal whereby "promotional digital media" content would be a separate line item in the television production budget, under a revised marketing and promotion category with a higher cap.

Regional

DOC is a national organization and our members come from across the country. However, as noted in the development section, we support regional development and pre-development funding. In reviewing the information provided by the CMF, we have concerns that in the BPEs more than half the one-off projects are from Toronto, and 81% of documentary one-off projects are from Toronto, Montreal and BC. This means our members in the smaller chapters, particularly the Atlantic and Prairie regions, struggle due to lack of regional broadcast support. We believe it is very important to look at regional diversity in programming funded by the CMF in order to truly reflect the diverse nature of our country.

Terms of Trade

We support the CMF's position that it will review its Guidelines in advance of the expiration of the Terms of Trade agreements and will be seeking a balanced approach to this issue. Documentary producers are usually not in a position to negotiate freely with larger broadcasters, and we note the alarming trend of broadcasters to take all rights, including international and digital rights, as part of their licence fee contribution. This leaves no room for either the documentary producer or the CMF to recoup any of their own investment.

Different Methods for Applications

We also support the position that smaller companies do not have the necessary corporate infrastructure to manage the current CMF application process and we urge the CMF to find ways to streamline the process.

2. DOC Recommendations

First of all, we wish to thank the CMF for its acknowledgement of the importance of documentaries to the Canadian system, and especially their essential place in the Canadian broadcast schedule. Documentaries play a unique role in presenting Canadian cultural programming, diversity, regional programming, and programs in the public interest.

A few of our recommendations have been folded into the discussions above, and we are pleased to see discussion and progress in the areas of Terms of Trade, marketing expenses, regional development and additional platforms to be considered as triggers. We urge the CMF to continue discussions along these lines with stakeholders.

Areas that remain of concern to DOC, and as we put forward in our original submission in September, are as follows:

- Allocations for one-offs in the BPEs
- Educational and small broadcasters
- The POV Fund
- Recoupment and In-house production

Allocations for One-Offs

We return to our recommendation that a portion of the documentary funding in broadcaster envelopes be allotted to license one-off documentaries, from within the broadcasters' BPE documentary genre allocations. POV films are a sub-category in the one-off genre and the POV fund should not be seen as the ONLY way to finance and support one-off documentaries.

As discussed at one of the Working Group meetings, a valuable first step to address this situation is to adopt the French-language envelope calculation process that separately rewards one-offs versus series in the documentary genre calculation. While we would prefer to see a separate and distinct allotment to one-off documentaries within the BPEs, we consider this to be a useful first step in the English-language BPEs.

We appreciate the CMF's support in looking for further ways to incentivise broadcasters to licence one-offs and look forward to continuing to explore this with the CMF. We would like to provide encouragement to broadcasters, particularly conventional broadcasters, to provide documentary streams on their schedules.

We believe that one-off documentaries need increased CMF support because they promote Canadian culture, diverse voices, regional perspectives, innovative creative filmmaker perspectives and subjects that are in the public interest. We suggest that it is now more vital than ever that CMF guidelines protect these programs given the current trend toward large international programming.

Educational Networks and Small Broadcasters

We continue to argue that the audience factors continue to impact the size of educational networks' envelopes and that factor is influencing their decisions. The current system fails to provide the incentives needed to support these small broadcasters in licencing one-off and POV documentaries. It is the measure

of success based on audience that still penalizes the smaller channels, both commercial and educational, that do support documentaries..

The smaller channels need a different formula applied to them for envelope calculations. They are instrumental in preserving the genre, which we deem a unique part of our Canadian cultural heritage. We would like to explore further options for supporting smaller independent and educational broadcasters in the BPEs. We suggest that CMF's current envelope calculations put too much weight on audience ratings and at the very least other factors should be included, including festival success and foreign interest.

We propose that the system be adapted to recognize the value of programming that delivers Canadian cultural content and programs in the public interest and rewards broadcasters for programming such programs.

The POV Fund

We believe that the POV Fund requires more discussion with the CMF. At the Working Group level there was not enough time to delve into the particulars of this stand-alone fund. We very much appreciate and value what the POV Fund is set up to achieve, but are concerned that there is not enough funds allocated to the POF fund. Furthermore, some elements of the fund's eligibility and administrative requirements work against the intent of the fund. In particular, the jury system causes concern, and it appears that some projects being funded through the POV Fund are not what DOC would consider POV documentaries. We are happy to work with the CMF on clarifying the POV definition.

The marketing expenses cap is also problematic in the POV fund and makes it exceeding difficult for feature-length documentaries to secure distribution and adequately promote their projects domestically and internationally. This relates to the problem of marketing as a part of the assessment requirements in the POV fund. As noted previously, marketing expenses and digital media expenses are often required in the development stage and should be folded into production budgets.

We would also like to reiterate that documentary filmmakers and producers engage with their audience on social media at the moment of the project's inception. We urge the CMF to consider this an allowable digital media (DM) activity, and consider this to be part of the development and production budget. Social media presence and audience engagement campaigns builds awareness for a project, create buzz and expand the audience before the project is completed and enhances distribution activities afterwards.

Of major importance to DOC is to urge the CMF to reintroduce the incentive of points for licence fees over thresholds (LFOT). As we have stated before, and is documented by several examples from prior years, LFOT provided a valuable incentive to broadcasters to increase their financing of POV documentaries. DOC continues to advocate for the return of this incentive.

Recoupment and In-house Production

We are concerned that the CMF's proposed standardized recoupment schedule will have a negative impact on independent producers of one-off documentaries. DOC understands the economic imperative behind recoupment but it should be considered only one factor of success, not the only factor.

Documentaries are a hybrid of cultural significance as well as small business job creators. Each production employs many individuals and of course documentary producers would like to recoup from their projects. In particular, projects that have strong Canadian content are often less likely to sell in the international market but they are important to Canadian audiences. We would hope that CMF recoupment policies would not be detrimental to producers who create this type of programming. We continue to welcome the opportunity to meet with CMF to discuss this more fully and model the impact of the CMF's recoupment strategy.

Tied to recoupment is the valuation of “other rights”, which has been acknowledged to be problematic. We support the proposal that broadcasters are able to act as distributors and garner 50/50 revenue splitting with producers on these other rights, contingent on the broadcasters providing a distribution strategy up front detailing their approach to exploiting these rights. In any event, any and all rights should revert to the producer after 12 months of inactivity by the broadcaster.

Furthermore, smaller broadcasters such as Blue Ant and Vice are producing their own content in-house which is also impacting independent documentary production. CMF has a key role to play in ensuring that opportunities exist within the system for small producers and production companies from across the country to fairly recoup their investments. It is also important to note that production centres across Canada, with significant investment from provincial government agencies, have been created based on this essential business model and are relying on CMF policies and guidelines to support their sustainability.

Summary

We continue to believe that there is a strong appetite for one-off docs on Canadian television when they are given a place in the primetime schedule and promoted adequately. We appreciate that the CMF recognizes the inherent cultural value of one-off documentaries to Canadian audiences and is willing to work with us to ensure documentaries have a place in the broadcast schedule and ultimately across all distribution channels.

In addition to our comments in the first section of this submission, DOC recommends:

- 1) that BPE envelope calculations be less weighted on audience ratings and that CMF find new ways to provide increased support for one-off documentaries;
- 2) that the CMF find a different formula for small broadcaster envelopes
- 3) that the CMF model the recoupment impact on documentarians and return to its previous envelope cap for broadcaster in-house production;
- 4) increasing the funding to feature documentaries within the POV Fund, changes to the DM requirement, greater flexibility for admissible financing and elimination of the cap on marketing funds, especially within the feature film budget;

Thank you for inviting our organization to participate in these consultations. We look forward to on-going discussions with the CMF in anticipation of the finalization of CMF 2016/17 Guidelines. Please do not hesitate to contact us for any additional feedback or information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Penka Penka". The signature is stylized with large, sweeping loops.

Executive Director
Documentary Organization of Canada