



**Writers Guild of Canada Submission to the  
Government of Canada's Consultation on the Implementation of Canada's Policy on  
Audiovisual Treaty Coproduction  
March 23, 2011**

## **Introduction**

The Writers Guild of Canada ("WGC") represents over 2000 screenwriters working in film, television, radio and digital media. WGC members are engaged on treaty co-productions such as the feature film *Barney's Version*, television animation such as *Producing Parker* and children's television series such as *Doodlebops*. However, given the high number of minority Canadian television co-productions, fewer WGC members are engaged on treaty co-productions than we would like.

## **Overview**

The WGC welcomes the opportunity participate in the government's public consultation on Canada's policy on Audiovisual Treaty Coproduction. This is a timely review from our perspective because we are very concerned about the recent trend in minority co-productions filling Canadian prime time broadcast schedules. Treaty coproductions are important mechanisms that allow Canadian companies access to international financing and markets without losing status as domestic productions. The WGC supports the policy objective of positioning 'Canada as an audiovisual coproduction partner of choice'. We agree that coproductions have the potential to attract foreign investment, increase production budgets and employ more Canadians. They can increase the creation of Canadian cultural content and allow for greater access to international markets. The WGC firmly supports any mechanism that encourages the creation of more Canadian cultural content. However, as mentioned above, we do have some concerns about how the Audiovisual Treaties are being implemented and the very serious consequences currently being felt in the television sector. As the Canadian independent production industry is primarily a television industry, any impact on television in fact has a serious impact on the entire Canadian independent production sector.

## **The Data**

The WGC has reviewed the available data on co-productions including a list of certified coproductions from 2005 to August 2010 which was received from Telefilm Canada. An excerpt of our analysis is attached hereto as Appendix "A". When we look at all coproductions in that time period there are more minority productions than majority<sup>1</sup>. The real balance problem is more evident when the productions are broken down into the genres of drama (including comedy), children's, variety and documentary and between film and television. Film drama is almost equally balanced<sup>2</sup> but television drama<sup>3</sup> is not. In fact, if you look at the last two years,

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<sup>1</sup> Telefilm Canada data, 168 majority coproductions, 220 minority coproductions

<sup>2</sup> Ibid, 50 majority film drama, 55 minority film drama

2009 and 2010, the data for television drama is startling with 4 and 5 minority coproductions respectively to 1 or 2 majority coproductions in each year. It should also be noted that as the WGC is aware of productions from the script stage, as opposed to Telefilm's data which counts projects from certification after the project is done, we anticipate that this trend will continue and in fact increase into the future. On March 21, 2011 Playback reported that Global would be airing the co-production "Titanic" in Spring, 2012. This television program will not yet have shown up in Telefilm's data but is clearly a Canada-UK-Hungary co-production. As production will take place in Hungary and the screenwriter is British it would be safe to assume that "Titanic" is a minority Canadian co-production.

Documentaries are also imbalanced in both film and television. There is also an imbalance on a country basis when you look in particular at Canada's top two coproduction partners, the United Kingdom and France<sup>4</sup>. In recent years there has been a drop in coproductions with the UK and France. This decrease is one of the issues that this new policy framework is trying to address. However the drop may make it impossible to redress the imbalance between majorities and minorities in the near future. In the meantime, the imbalance problem in these territories as well as television drama and documentaries, brings into question the existing administration of the coproduction treaties that allowed such imbalances to occur year after year.

### **Co-Production Imbalance – the Impact**

As the above data demonstrates, not enough majority coproductions are being approved in television. This imbalance impacts many aspects of the film and television sector. It is only with a majority coproduction that substantial numbers of Canadian talent are engaged. The easiest and most common way for minority coproducers to contribute to a budget is to be responsible for post-production. This allows filming, the most expensive part of the production process, to be undertaken in the country of the majority partner. The result is that minority coproductions hire editors and composers and other post-production personnel but the bulk of the production crew, including above the line talent like screenwriters, are engaged by the majority producer. Excessive Canadian minorities therefore sustain little more than a domestic post-production industry.

It must be kept in mind that treaty coproduction policy is both an economic instrument and a cultural instrument and as such it is about both jobs for Canadians and providing opportunities for Canadian stories to be told at home and around the world. European costume dramas are not Canadian stories nor do they reflect a Canadian perspective. Where are the Canadian costume dramas? Where is the Canadian-led big budget event programming? Minority coproductions would be acceptable if for every "Pillars of the Earth" there was a majority coproduction, an "Adventures of Sam Steele"<sup>5</sup> or "Famous Last Words"<sup>6</sup>, which engaged substantial numbers of Canadian talent. That is not currently the case.

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<sup>3</sup> Ibid, 14 majority tv drama, 22 minority tv drama

<sup>4</sup> Ibid, 54 majority France, 90 minority France, 41 majority UK, 68 minority UK

<sup>5</sup> Major-General Sam Steele was one of the first North West Mounted Police officers and participated in many of the battles that shaped western Canada, helped to maintain order in the Yukon and was the first commander of Lord Strathcona's Horse

An increase in minority coproductions in television means that Canadian broadcasters can add predominantly foreign content to their prime time schedule while at the same time fulfilling their Canadian content obligations. Instead of another “Flashpoint” or “Heartland”, prime time slots are now being filled by minority coproductions such as “The Tudors”, “Pillars of the Earth”, “The Borgias” and “Camelot”. These are successful programming strategies for broadcasters because they can license them at a fraction of the cost of domestic productions and these big budget dramas are popular with audiences. But these productions had minor Canadian involvement both in terms of financial participation and talent. Only a few Canadians were engaged. They had minimal impact on the growth and sustainability of the Canadian film and television industry. The independent production community is struggling to require broadcasters by regulation to air sufficient volume of Canadian drama to offer Canadians real choice. Meanwhile, broadcasters are able to bypass the spirit of regulation by using minority coproductions to fill their Canadian Content quotas. The impact of excessive minority coproductions, particularly over the last few years, has made it harder and harder for Canadians to find truly Canadian productions in prime time.

These minority coproductions also use up scarce domestic resources. Treaty coproductions can access domestic funding such as tax credits and Canada Media Fund funding as if they were Canadian productions. Again, this would be acceptable if there were equal numbers of majority and minority productions because they can also access the other party’s domestic financing. However, when there is a trend to primarily minority productions, then these heavily foreign productions are using up Canadian resources at a time when there clearly is not enough money in the system for domestic programming.

Minority coproductions can also have a negative impact on the talent pool. A strong and healthy talent pool is essential to the long term success of Canada’s domestic film and television industry. When prime time slots are filled with coproductions which make minor use of that talent pool there are fewer job opportunities. Inevitably those talented screenwriters, performers and directors move to Hollywood to create audience-pleasing content there rather than at home. Government policy should support the growth and maintenance of a domestic talent pool to ensure a long term sustainability of a domestic production industry.

The WGC’s comments in this consultation are directed towards improving the implementation of the Coproduction Policy Framework to ensure that there is an appropriate balance between majority and minority coproductions. The WGC is also concerned that the policy framework adequately balances the needs of foreign producers and foreign countries with sustaining and growing Canada’s domestic film and television industry. In this submission we will only address the consultation questions which are most relevant to the WGC’s concerns.

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<sup>6</sup> “Famous Last Words” by Timothy Findley is a sprawling story that takes place in many European countries before and during WWII

## **1. Model Treaty**

We were initially concerned by the dropping of the minimum contribution in the Model Treaty to 15%. Given that we are overall concerned by the number of minority coproductions, and in particular the more recent trend to minority coproductions in television drama, this change seemed to us to be aimed at allowing Canadian producers to have even less involvement in a production. We understand from Heritage Department staff that the intention behind the change is to be able to entice new coproduction partners who might not be able to finance 20% from their country but could possibly finance 15%. We support the expansion of possible treaty coproduction partners. With all European Union countries now being one domestic market, there appears to be a lesser need by EU countries for coproduction partners and the financing that they can bring to a production. It is very appropriate for Canada to be seeking out new partners and offering enhanced flexibility should that be necessary. However we would like to remind Heritage that this additional flexibility does have the risk of negatively impacting the Canadian film and television industry and allowing more foreign investment and creative control in our broadcast schedule if there is an imbalance between minority and majority coproductions. Appropriate administration of treaty coproductions to avoid an overall lessening of Canadian participation would be essential to ensuring that this change in the policy has the intended effect without serious unintended consequences.

We would also like to comment on the revision of the key creative categories from the original 8 categories for live action, documentaries and 2 D animation (11 for 3D animation) to the simpler 4 categories for fiction, animation and documentary. Limiting 'key' creative positions to (in the case of fiction) director, screenwriter, lead actor and second lead actor recognizes that these are truly the key creative positions for a production. All other positions are conducted under the creative leadership of the screenwriter and director. We hope that this change will mean that future minority coproductions will not be able to meet the coproduction requirements by hiring only a composer or editor from the minority partner.

## **2. Key countries to negotiate and renegotiate treaties.**

The WGC recommends that given the risk to Canada's domestic film and television industry from lowering the minimum percentage while coproductions are still imbalanced between majority and minority, that Heritage focus on negotiating with new partners before it renegotiate the existing agreements. This would allow Heritage, Telefilm and the industry to adjust to the need for more Canadian majority television coproductions before lowering the minimum contribution. As the goal of the lowering of the minimum contribution was to entice new production partners, prioritizing these new partners would be logical.

## **5. Policy Monitoring**

In order to redress the current imbalance between majority and minority coproductions within the television formats, and in particular television drama, the WGC recommends

that appropriate balance be added to the performance indicators to be assessed in evaluating the effectiveness of the policy. As the domestic television industry generates \$2 billion in television production in comparison to \$308 million in feature film production<sup>7</sup>, it is essential to the viability of the domestic independent production industry that the coproduction policy sustains the television industry as well as the feature film industry. If the current imbalance in favour of foreign majority productions continues, the coproduction policy objective of positioning Canada as the coproduction partner of choice may be met but at the cost of our domestic industry.

Specifically the WGC recommends that Heritage require Telefilm staff to conduct, every two years, a review of approved coproductions over the previous 5 year period from the perspective of balance in film, television, television drama, television documentary, television children's, the top 3 coproduction partners and such other subcategories of coproductions as staff shall deem appropriate. Should staff determine that significant imbalances do exist, Telefilm shall advise its staff and the production community in a timely manner that it will seek to redress that imbalance and that productions which assist that goal will receive approval while projects that do not will have to wait until the imbalance is addressed before they can apply for approval. Telefilm should report to Heritage on progress being made to redress imbalance. Telefilm and/or Heritage may have other solutions to this problem but it is essential that the requirement to review be partnered with a solution to solve any imbalance.

## **Conclusion**

We encourage Heritage to take our concerns into consideration in determining how to implement the new coproduction policy framework and measure its effectiveness. An imbalance in treaty coproductions, particularly in the television sector, has a significant impact on film and television jobs, Canadian content available to Canadians and a domestic talent pool. While this submission has demonstrated the evidence of imbalance, the frequent announcements in the trade press of more international coproductions with Canadian companies as minority partners, such as "Titanic" this week, has convinced the WGC that this trend is serious and getting worse. The department has proposed a number of positive new steps aimed at increasing Canada's position as a coproduction partner of choice however while these steps may help producers make more coproduction deals, they cannot be undertaken at the expense of our domestic industry.

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<sup>7</sup> CMPA Profile 2010 page 4

**Appendix "A"**

**Majority and Minority Co Productions Division by Genre 2005-2010**

|                | Maj. TV Drama       | Min. TV Drama       | Maj. Film Drama       | Min. Film Drama       | Equal TV Kids        | Maj. TV Children | Min. TV Children | Maj. Film Children | Min. Film Children |
|----------------|---------------------|---------------------|-----------------------|-----------------------|----------------------|------------------|------------------|--------------------|--------------------|
| 2005           | 0                   | 1                   | 5                     | 8                     | 0                    | 8                | 10               | 0                  | 1                  |
| 2006           | 2                   | 4                   | 7                     | 11                    | 0                    | 9                | 8                | 0                  | 0                  |
| 2007           | 4                   | 3                   | 9                     | 15                    | 1                    | 6                | 11               | 0                  | 0                  |
| 2008           | 5                   | 5                   | 11                    | 9                     | 0                    | 9                | 16               | 1                  | 2                  |
| 2009           | 1                   | 4                   | 9                     | 2                     | 2                    | 4                | 5                | 0                  | 1                  |
| 2010 (Jan-Aug) | 2                   | 5                   | 9                     | 10                    | 0                    | 1                | 3                | 0                  | 0                  |
| <b>Total</b>   | <b>14</b>           | <b>22</b>           | <b>50</b>             | <b>55</b>             | <b>3</b>             | <b>37</b>        | <b>53</b>        | <b>1</b>           | <b>4</b>           |
|                |                     |                     |                       |                       |                      |                  |                  |                    |                    |
|                | Maj. TV Documentary | Min. TV Documentary | Maj. Film Documentary | Min. Film Documentary | Equal TV Documentary | Maj. TV Variety  | Min. TV Variety  | Maj. Film Variety  | Min. Film Variety  |
| 2005           | 10                  | 18                  | 0                     | 3                     | 1                    | 0                | 0                | 1                  | 0                  |
| 2006           | 7                   | 13                  | 0                     | 1                     | 0                    | 0                | 0                | 0                  | 0                  |
| 2007           | 8                   | 14                  | 1                     | 0                     | 0                    | 0                | 0                | 0                  | 0                  |
| 2008           | 17                  | 15                  | 1                     | 0                     | 0                    | 1                | 0                | 0                  | 0                  |
| 2009           | 11                  | 10                  | 0                     | 0                     | 0                    | 1                | 0                | 0                  | 0                  |
| 2010 (Jan-Aug) | 4                   | 9                   | 1                     | 0                     | 0                    | 1                | 0                | 0                  | 0                  |
| <b>Total</b>   | <b>57</b>           | <b>79</b>           | <b>3</b>              | <b>4</b>              | <b>1</b>             | <b>3</b>         | <b>0</b>         | <b>1</b>           | <b>0</b>           |

Note: Raw data of approved projects provided by Telefilm Canada and analyzed by WGC