Writers Guild of Canada

Written Submission to the
House of Commons
Standing Committee on Canadian Heritage (CHPC)

Regarding the
Review of the Canadian Feature Film Industry

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RE: REVIEW OF THE CANADIAN FEATURE FILM INDUSTRY BY THE HOUSE OF COMMONS STANDING COMMITTEE ON CANADIAN HERITAGE

INTRODUCTION

1. The WGC is the national association representing over 2,100 professional screenwriters working in English-language film, television, radio and digital media production in Canada. We are pleased to submit this written brief to the House of Commons Standing Committee on Canadian Heritage (the Committee) in respect of its Review of the Canadian Feature Film Industry (the Review). Our comments in this brief focus primarily on the English-language Canadian feature film industry.
2. We understand that the Committee initiates this Review with a belief in the economic, cultural and social value of Canadian feature film, and in the important role that the federal government has in supporting the medium. As such, we will limit our comments to specific measures that the Committee may recommend to further build upon the successes of our industry, and maintain its status as a job creator and voice for Canadian stories and Canadian values.

POSITIONS OF THE CMPA

3. The WGC would like to support several proposals that the Canadian Media Production Association (CMPA) and some of its members have made to this Committee in this Review, as follows.
4. We support the CMPA's proposal to increase federal funding to Telefilm Canada by at least 5%, reversing the funding cut that the agency received several years ago. The Committee has heard—and we agree—that Canadian feature film faces increased challenges to be financed and distributed. In this climate, Telefilm Canada is ever more important in delivering funding and supporting promotion. It needs more resources to achieve those goals.
5. We also support the CMPA's proposal to reduce or eliminate "the grind"—the reduction of the Canadian Film or Video Production Tax Credit (CPTC) that occurs when any deemed "assistance" is also received in respect of the production. Assistance can be "any financial assistance from public or private Canadian sources or from foreign sources, where it is in the form of grants, subsidies, provincial tax credits, forgivable loans, services and any other similar form of assistance."[1] The grind reduces the amount of the CPTC available to many productions and can be a disincentive to obtain further financing.
6. We also support the reduction of "red tape" within federal funding and/or certification agencies, such as requirements that may obligate applications to re-supply identical information to multiple federal bodies. We fully understand and support the government's need to properly assess applications and paperwork. But if ways are available to streamline processes or eliminate redundancies, the efficiencies gained may be passed on to the benefit of the feature film sector.

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[1] CPTC Guidelines, section.5.02

7. Finally, we strong support the proposal to pay out more of the CPTC sooner, rather than at the end of the production process as it currently the case. As the Committee has heard from others, the CPTC is only paid to applicant production companies after the production in respect of the tax credit has been completed. Tax credits like the CPTC are typically used as project financing, which means that producers must borrow money from a bank to cash-flow the production until the tax credits are paid out. This is typically referred to as interim financing. Producers pay interest on the tax credits in order to convert them into useable production financing, and these costs divert money "off the screen" and towards financial institutions, effectively reducing the proportion of the credit that can be spent on the sector it was designed to support. We understand the impact of this to be millions of dollars per year.
8. Paying out the CPTC sooner and thereby reducing interim financing costs would be a win-win for government and for the sector. It would require no greater government expenditure, yet result in more money for film production. Telefilm Canada and the Canada Media Fund (CMF) already pay out funding earlier without unduly placing their funding at risk. The CMF, for example, pays out 60% of a project's CMF funding upon successful application. Additional payments of 30% are made upon receipt of "rough cut"—an initial, rough edit of the production—and 10% upon receipt of final documentation at completion. The CMF mitigates financing risk in this way, while injecting cash into production sooner. We recommend that the Canada Revenue Agency explore similar methods with respect to the CPTC.

CANADIAN CONTENT POINTS SYSTEM

9. Some witnesses appearing before the Committee argued that Canada's definition of "Canadian content" should be reviewed, particularly with regard to the "points system". As the Committee may be aware, the "points system" is a 10-point scale administered by the Canadian Audio-Visual Certification Office (CAVCO) under which the degree of Canadian key creative personnel on a film or television production is measured. The points system is used to determine eligibility for the CPTC, and has been adopted by other organizations like Telefilm Canada and the CMF as part of their assessment for funding. Some witnesses in this Review have suggested that the points system requirements should be lowered, to allow for greater participation of non-Canadians in Canadian productions.
10. The WGC strongly believes that the points system is fundamental to our support system for Canadian film, and it should not be weakened. While there may be numerous ways to define whether a film is "Canadian", we submit that the fact that it's made by Canadians should be fundamental. The points system requires a critical mass Canadian talent before a film is certified Canadian. If we reduce or eliminate that system, we risk no longer be supporting Canadian film—we could wind up supporting other countries' films.
11. For one thing, we should be clear on how the 10-point scale is currently used. Any filmmaker, Canadian or otherwise, is currently free to create, produce and distribute a film in Canada. There is no general requirement that films must use or meet the CAVCO point scale. The point scale is used to determine whether a production is sufficiently Canadian to qualify for one or more public mechanisms designed to support *Canadian* films. One of these is the CPTC.

Another is the Canada Feature Film Fund of Telefilm Canada. Another is the CMF. Both of these funders use on the CAVCO scale. All of these supports involve Canadian taxpayer dollars which subsidize production costs. The WGC believes that when Canadian public money is involved, it should be directed to Canadian films—films made by Canadians. There are already other incentives to encourage Hollywood or other international producers to shoot in Canada. These incentives have lower requirements and typically employ fewer Canadian creative resources. But when we're talking about Canadian film, we're talking about Canadian creative personnel, which involves a robust application of the CAVCO scale.

12. We also note that there is already significant flexibility built into the current CAVCO points system. To access the CPTC, a production need not achieve all 10 of the possible 10 CAVCO points. Only 6 out of the 10 points are required to qualify (though it must receive at least two of the four points allotted for the director and the screenwriter positions, and obtain one of the two points allotted for lead performers). This allows a non-Canadian performer in the lead or second-leading role. Other funders such as Telefilm Canada or the CMF may have higher point requirements, but even in the case of the CMF, which requires 10-out-of-10 points, flexibility exists in certain circumstances. Even more flexibility is possible in the case of an audiovisual treaty coproduction. The current system is not rigid, it is flexible, and we submit that it should not be made more flexible at the cost of Canadian creative personnel.
13. We would also note for your information that in the WGC's experience, lowered points requirements often affect writing positions moreso than other roles. For one thing, Canadian screenwriters simply do not participate in so-called "service" productions—the productions developed in Hollywood or elsewhere that then come to Canada to shoot. While such work benefits many Canadian cast and crew positions, and the industry as a whole, Canadian screenwriters are typically excluded. This may be simply the nature of service work, but it's important to note how certain types of production affects certain creative roles differently. It's likely only from Canadian writers that true Canadian stories will emerge. Yet as those writers consider their career options—how they feed their families while looking for ways to enrich their country's culture—service work is generally closed to them.

DEVELOPMENT

14. A crucial stage in the creation of feature film is the development stage, which is the phase during which initial ideas for a film are developed into characters, plotlines, themes, tone and, finally, into a screenplay. This is the domain of the screenwriter, and while the expensive production phase sometimes gets more popular and policy attention, the scriptwriting and development phase is very important for the ultimate success of any film.
15. The WGC believes that we have consistently undervalued development in Canada. Funding earmarked for development has traditionally been much less than for production. While that makes sense to a degree—development is a much less resource-intensive phase of creation—it has also too often led to diminution of the importance of development.
16. For one thing, this results in lower fees for feature film writers. It is our members' experience that feature film simply pays far less than television. And while screenwriters work to express

themselves creatively, they also work to pay their mortgages and feed their families. Where a certain type of work doesn't pay, writers—and, in particular, experienced writers—will avoid that work. This is a loss both for that medium and for the writers who would otherwise want to contribute to it.

17. The WGC believes that more resources should be put into feature film development. We noted with interest the comments of J. Joly regarding his CineCoup platform, which he made to the Committee earlier in the course of this Review. We note that Mr. Joly's approach is fundamentally an early-stage approach, finding out what works on the page before it committed to the screen. We believe that is essentially a development-focused model, and we are encouraged that such a model is being used to produce new types of Canadian content, using new media platforms.
18. While we are encouraged by the work of Mr. Joly and others like him, we believe that funding bodies like Telefilm Canada should take a similarly more aggressive approach to development, addressing more resources to writing. As such, if the Committee recommends increasing Telefilm's allocation as we and others have proposed earlier, we would support more of that increase being earmarked to development funding.

DISTRIBUTION

19. Like all content, feature film production happens within a value chain, typically with several different entities inputting at each link in the chain. In Canada, public funding typically works with private distribution companies, the latter of which have the role of connecting films with exhibition opportunities in Canada and internationally. Distributors may make a "distribution advance" or "minimum guarantee" in the production, which forms a type of investment, often crucial to production in the first place. Alternatively distributors may simply commit to bring the film to market, and make it available for exhibition. Public funding such as that of Telefilm Canada often require that distributors are attached to a production as a condition of funding. This indicates the importance of this link between production and distribution. Distributors that invest of production do so expecting to make money on their investment down the road. The ability to make money depends on a number of market factors.
20. The WGC compares feature film with television in this respect. Television is federally regulated under the *Broadcasting Act*, and the broadcasting system is required by law to be "effectively owned and controlled by Canadians"[2]. Broadcasters were licenced, and with Canadian broadcasting policy in mind, the Canadian Radio-television and Telecommunications Commission (CRTC) developed a series of policies which included the requirement that Canadian broadcasters contribute to the production and broadcast of Canadian programming. This requirement is currently expressed, among other ways, in the "group-based policy", which obligates large broadcast corporate groups to spend a minimum of 35% of their broadcasting revenue on the production of Canadian programming.[3]

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[2] *Broadcasting Act,* s. 3(1)(a)
[3] Broadcasting Regulatory Policy CRTC 2010-167

21. We contrast that with how feature film distribution has been treated historically. Early in its history, the Canadian film distribution market became dominated by Hollywood studios, who operated more-or-less freely in Canada. Canadian film production—and Canadian film policy—was not as fast to catch up to this reality, perhaps in part due to a lack of clear federal jurisdiction over feature film exhibition. Whatever the cause, however, the result was that national attempts to exert control over the Canadian feature film distribution sector were being hammered out as recently as 1988, in a film distribution policy that attempted to establish some control of the market for Canadian distributors (even as one of its core components was struck down by heavy U.S. lobbying).
22. As a result, we know have a system in which Canadian distributors control approximately 25%-35% of the Canadian distribution market. According to a recent Nordicity study[4], those distributors reinvested only 10.4% of their revenues into Canadian production in 2009[5]. Compare that with 35% that broadcasters reinvest under the *Broadcasting Act*.
23. Canadian distributors told this Committee that they wanted more robust enforcements of the 1988 distribution policy, and we support that aim. But it may be of little help to Canadian film if money generated by Canadian distribution in Canada does not go back into Canadian production. We believe that Canadian distributors have certain protections via the 1988 policy and certain supports via the links between distribution and public funding. They must do more to reinvest in Canadian feature film.

<u>SUMMARY OF RECOMMENDATIONS</u>

A. Increase federal funding to Telefilm Canada by at least 5%.
B. Reduce or eliminate "the grind" on the CPTC.
C. Reduce "red tape" in federal certification and funding agencies.
D. Accelerate payment of the CPTC so as to reduce interim financing costs to productions.
E. Do not weaken the CAVCO "points system" for assessing creative personnel on Canadian content productions.
F. Place greater emphasis on the development phase of feature film production.
G. Encourage Canadian distributors to reinvest more in Canadian feature film.

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[4] *Study of the Audiovisual Distribution Sector in Canada*, Nordicity, March 31, 2011
[5] *Ibid*, pg. 47