Writers Guild of Canada

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Global Affairs Canada
Trade Negotiations – North America
John G. Diefenbaker Building
111 Sussex Drive
Ottawa, Ontario
K1N 1J1

Re: Consulting Canadians on the operation of the Canada-United States-Mexico Agreement (CUSMA)

The Writers Guild of Canada (WGC) is a professional association of more than 2,500 English-language screenwriters. WGC members are the creative force behind Canada's successful TV shows, movies and web series. Every powerful show, movie or webseries requires an equally powerful script — and every powerful script requires a skillful, innovative screenwriter. WGC members are those screenwriters. They start with a blank page, and create entire worlds. Our members bring the diversity of Canadian life and culture to the world's screens, and they help drive a significant part of the Canadian economy. WGC members' work is critical to a domestic film and television industry that in 2023-2024 was worth $4.23 billion in GDP and generated over 71,000 jobs.[1]

We are pleased to provide our comments in this consultation on the operation of the Canada-United States-Mexico Agreement (CUSMA).

The WGC supports the comments of the Coalition for the Diversity of Cultural Expressions (CDCE)

The WGC has had the opportunity to review the comments of the Coalition for the Diversity of Cultural Expressions (CDCE) in this consultation, and we support those comments.

[1] *Profile 2024: An economic report on the screen-based media production industry in Canada*, Canadian Media Producers Association in collaboration with the Department of Canadian Heritage, the Canada Media Fund, Telefilm Canada and the Association québécoise de la production médiatique,(https://cmpa.ca/profile/), Exhibits 1-6 and 1-7.

366 Adelaide St. West, Suite 401
Toronto, Ontario M5V 1R9
416 979-7907
1-800-567-9974
info@wgc.ca
www.wgc.ca
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Maintain and strengthen the Cultural Exemption

Arts and culture is an extremely significant sector within the Canadian economy. According to an October, 2025 report by Canadian Chamber of Commerce's Business Data Lab:[2]

- Canada's arts and culture sector directly contributed $65 billion to the Canadian economy in 2024, accounting for 2% of Canada's nominal GDP.
- Over the past three years, GDP stemming from the arts and culture sector has grown almost 8%, outpacing Canada's overall economic growth of 4%.
- Arts and culture supports $131 billion of Canada's GDP and 1.1 million jobs across the country, when accounting for total impacts throughout the economy.
- The arts, entertainment and recreation sector supports more jobs per $1 million in output than trade, construction, agriculture, manufacturing, and oil and gas.

While these are incredibly important economic metrics, arts and culture is also more than that. Culture is not a mere commodity. It is also an expression of ideas, values, and identity. And *Canadian* culture is an expression of *Canadian* ideas, values, and identity. It is, among other things, an expression of the heart and soul of this country. Of what it means to be Canadian.

Cultural economics are peculiar. While the production, distribution, and consumption of cultural goods and services are subject to certain market forces like other goods and services, they also follow a so-called "curious economics" that is unique to the cultural sector. These "curious economics" have been detailed by experts and academics, including Peter S. Grant and Chris Wood in *Blockbusters and Trade Wars: Popular Culture in a Globalized World*.[3]

As Grant and Wood point out, "the basic nature of a cultural product like a book or a film is to communicate ideas and emotions, whereas an ordinary product serves a utilitarian purpose."[4] "Cultural products typically involve an expensive, time-consuming but one-time process of creation, in which almost all of the cost is incurred to make the first or master copy."[5] And with respect for consumer demand:

> Most ordinary commodities operate in a market in which demand is to some extent predictable. In many cases, the need for the same production keeps

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[2] *Artworks: The Economic and Social Dividends from Canada's Arts and Culture Sector*, Canadian Chamber of Commerce's Business Data Lab, October 2025 (https://businessdatalab.ca/wp-content/uploads/2025/10/BDL_Artworks_Report_October2025_FINAL.pdf).
[3] Peter S. Grant and Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Vancouver: Douglas & McIntyre, 2004).
[4] *Supra*, pg. 46.
[5] *Ibid.*

> recurring as older units are consumed. At the same time, having consumed a product once, consumers know what to expected and, if it was satisfactory, can be confident in ordering it again.
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> ...By contrast, each cultural work is unique. Each consumer can judge the work's merits only in the consumption (watching the movie, reading the book). As a result, the demand for any proposed cultural product is extremely difficult to predict in advance of incurring the cost of its creation.
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> ...The risk factor in launching new works of popular culture is impossible to overestimate. Simply put, the great majority of cultural products do not succeed: few people buy the [album] or watch the movie, and the investment in the creation of the intellectual property is not recouped. Adding to the risk is the blunt fact that research and pre-testing are notoriously ineffective in the realm of popular culture. Until audiences actually experience a creative product, it simply cannot be evaluated.[6]

From these, among other attributes, the following observation follows:

> [C]ultural products that are attractive to consumers in a large geographical market have a lower risk and a much greater potential reward than do those that are produced for a smaller market. The reason is that with the larger market, there are a greater number of potential customers over which to amortize the fixed costs of the master copy, after which the product can go into profit. If a product is culturally specific to consumers in a small country or society, however, and the cost is comparable to that of a product produced for a larger market, it is much more difficult to reach a break-even point even if the product is quite popular in the small market, simply because there are fewer potential consumers that may be interested in the product.[7]

This is fundamentally the position that Canada faces vis-à-vis the United States. And while export success can be found for certain cultural products, it is limited by something called the "cultural discount," in which its desirability in another country/culture is reduced to the extent that the "importing" culture does not recognize its values, style, history, myths, institutions, or way of life.[8] "Cultural discount" does not apply evenly across all countries, nor does it necessarily apply in both directions with respect to any two countries. For example, decades of global dominance by the cultural industries of the United State have resulted in very little cultural discount when it comes to consuming its cultural products around the world, including in (English) Canada. However, it is widely accepted that

[6] *Supra,* pg. 48.
[7] *Supra*, pg. 55-56.
[8] *Supra*, pg. 123-124.

Americans apply a very high cultural discount to non-American cultural products, including to Canadia cultural products. Certain exceptions, like Japanese animation or recent Korean pop culture, do not negate this phenomenon.

It is for all these reasons that Canada has not treated — and cannot treat — culture like other commodities in trade agreements. This has been recognized for decades, and has resulted in the so-called "cultural exemption," which is now set out at Article 32.6 of CUSMA, and states that the agreement, "does not apply to a measure adopted or maintained by Canada with respect to a cultural industry…".

Maintaining the cultural exemption is fundamental to the health — indeed, to the very existence — of cultural industries in Canada. For the reasons above, the production of Canadian cultural goods and services often represents a market failure, in that the market alone fails to produce such goods and services at the quantity and/or quality that their importance to Canadian culture and the economy would otherwise indicate.

This is particularly the case in film and television production, and especially in the high-cost, high-risk genres of fiction/drama, animation, children's programming, and long-form documentary. A 2018 report by the Canadian Radio-television & Telecommunications Commission (CRTC) set out the challenges for audiovisual content in the digital era, entitled "Harnessing Change: The Future of Programming Distribution in Canada" (Harnessing Change).[9] The report pointed out that while traditional television remained an important component of the media ecosystem,[10] Canadians were largely shifting their viewing habits to online digital platforms,[11] which in turn was driving the consumption of broadband Internet.[12] The Internet decouples content production and content distribution, which has benefitted the Internet access business, but largely at the expense of the content business.[13] Advertising revenue was flowing more to companies investing in platforms and data — which tend to be foreign companies — and less to media companies investing in content.[14] As subscription video becomes increasingly more important,[15] the pure-play online competitors best positioned to take advantage of this trend — again, largely foreign — harness global reach that legacy services cannot replicate domestically or even through international partnerships.[16] Meanwhile, the economics of long-form video production still favour large markets over smaller ones like Canada, even in the digital era.[17] Foreign content

[9] Harnessing Change: The Future of Programming Distribution in Canada, CRTC, May 31, 2018 https://crtc.gc.ca/eng/publications/s15/.
[10] Harnessing Change, Market Insight 12.
[11] Harnessing Change, Market Insight 1.
[12] Harnessing Change, Market Insight 3.
[13] Harnessing Change, Market Insight 7.
[14] Harnessing Change, Market Insight 8.
[15] Harnessing Change, Market Insight 9.
[16] Harnessing Change, Market Insight 13.
[17] Harnessing Change, Market Insight 18.

still has value to Canadian broadcasters, but there were signs it is weakening in the English-language market,[18] which has the consequence, among other things, of weakening the revenues of those broadcasters, upon which crucial regulatory supports of Canadian content, such as “Canadian programming expenditure” (CPE) rules, are based. Indeed, this change alone fundamentally threatened the basic model of regulatory support for Canadian content in private broadcasting. Yet this comes as federal spending on culture and broadcasting, as a share of the economy, falls to half what it was a generation ago.[19] Meanwhile, the CRTC recognized that public funding is an important component of Canada's media economy,[20] and that public policy is necessary to sustain the current level of domestic production, because the market alone will not.[21] Online providers may indeed be contributing to the audio and video market, but in ways that are unconventional and difficult to verify.[22] Meanwhile, broadcasting distribution undertakings (BDUs) are characterized as “mature”, with revenues, and their corresponding contributions to the Canada Media Fund, facing stagnation or decline,[23] while conventional TV is especially challenged due to declining audiences and lower advertising revenues.[24]

As a result of all this, Harnessing Change identified opportunities and risks, the latter of which include loss of Canadian content,[25] declining supports for Canadian video content,[26] and the disappearance of a distinct Canadian rights market.[27] Importantly, the CRTC did not recommend the status quo in the face of these changes, nor did it recommend deregulation of the sector. Rather, Harnessing Change supported the development of “new adaptable and innovative approaches that engage new players,” which include binding contribution requirements from online video services, both foreign and domestic.[28] Former CRTC Chairperson Ian Scott said:

> Today’s reality is that more than just traditional players benefit from the system. New actors draw significant revenues and should also contribute to the system. We are not suggesting they make identical contributions to traditional players, but they should certainly participate in an equitable way.

[18] Harnessing Change, Market Insight 19.
[19] Harnessing Change, Figure 31.
[20] Harnessing Change, Market Insight 11.
[21] Harnessing Change, Market Insight 20.
[22] Harnessing Change, Market Insight 23.
[23] Harnessing Change, Cable, Satellite and Fibre TV (BDU) and Discretionary Programming.
[24] Harnessing Change, Conventional Television.
[25] Harnessing Change, Risk 1.
[26] Harnessing Change, Risk 2.
[27] Harnessing Change, Risk 5.
[28] Harnessing Change, Conclusions and Potential Options.

> After all, there are social and cultural responsibilities that come with operating in Canada.[29]

These fundamental findings were again reflected in the January 29, 2020 report of the Broadcasting and Telecommunications Legislative Review Panel, *Canada's Communications Future: Time to Act*.[30] The report stated, under "Our Vision":

> Our work is firmly rooted in an overarching vision for the legislative framework: one that reaffirms Canada's sovereignty, supports our democratic values and inclusivity, and aims to realize the promise of advanced technologies for the benefit of Canada's economy and future prosperity, and Canadians as citizens, users, and creators. All Canadians deserve to live a connected life: to connect with ideas, opinions, content, news and information, people, cultures, services and economic opportunities locally, nationally and globally. And to do so in a trusted environment.
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> Overall, we have put forward a comprehensive set of recommendations for a modernized communications legislative and regulatory framework that would better prepare the country for an era of constant and rapid technological change. In this new regime, all undertakings, including international online platform providers not currently covered, would contribute fairly and proportionately to Canada's national objectives, whether with respect to cultural policy or the goal of universal broadband connectivity; users would be better served and their interests protected; the roll-out of advanced networks would be accelerated to spur innovation and provide affordable services to Canadians.
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> ...Culturally, the framework must ensure that Canada's creators continue to have the means for Canadian stories to be told and discovered in a world of so many choices – at home and on the world stage. And the national public broadcaster must be relevant and act as a strong Canadian cultural anchor in the face of technological change, changing viewing habits and evolving business models in the sector.
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> ...Simply put, Canada and its leaders have to act now to address these challenges and realize the promise of advanced communications technologies. Canada and its leaders need to get this right – the nation's

[29] Ian Scott to the annual conference of the Canadian Chapter of the International Institute of Communications, November 1, 2018 https://www.canada.ca/en/radio-television-telecommunications/news/2018/11/ian-scott-to-the-annual-conference-of-the-canadian-chapter-of-the-international-institute-of-communications.html.
[30] https://ised-isde.canada.ca/site/broadcasting-telecommunications-legislative-review/en/canadas-communications-future-time-act

cultural and national sovereignty, economic prosperity and democratic values are at stake.

Following this report, Parliament passed Bill C-11, the *Online Streaming Act*,[31] amending the *Broadcasting Act* to formally including non-Canadian streaming services within the Canadian broadcasting system and subject to regulation in support of Canadian programming. This legislation, currently in the process of being implemented by the CRTC, recognized the challenges, and seeks to advance the objectives, noted above. It joins the Canada Media Fund, Telefilm Canada, and the Canadian Film or Video Production Tax Credit in support of domestic film and television industry worth $4.23 billion in GDP and generated over 71,000 jobs, within an arts and culture sector worth $131 billion of Canada's GDP and 1.1 million jobs.

Canadians expect their government to support Canadian culture. In a recent poll, 87% of Canadians agree that recent threats from the U.S. make it more important than ever to protect Canadian culture, 85% feel the Government of Canada should support Canadian culture and creative industries financially, and 87% of Canadians support the *Online Streaming Act*.[32]

The cultural exemption is central to Canada's ability to safeguard its cultural sovereignty. As Canadian sovereignty, cultural or otherwise, becomes more vitally important than ever, protecting it through CUSMA remains equally vital. Canada must continue to support its cultural industries in every context, including in trade negotiations. In the context of CUSMA, this includes maintaining and, where possible, strengthening the cultural exemption.

Yours very truly,

Neal McDougall
Assistant Executive Director, WGC

[31] https://www.parl.ca/legisinfo/en/bill/44-1/c-11
[32] https://cmpa.ca/pressreleases/poll-finds-majority-of-canadians-want-canadian-culture-protected-in-the-face-of-u-s-threats/