Association des Producteurs de Films et de Télévision du Québec

August 11, 2011

The Honourable James Flaherty
Minister of Finance – Finance Canada
East Tower, 19th Floor, L'Esplanade Laurier
140 O'Connor Street
Ottawa, Ontario K1A 0G5

By email

Subject: 2011 Pre-budgetary Consultations

Dear Mr. Flaherty:

Please find enclosed the brief submitted by the Association des producteurs de films et de télévision du Québec (APFTQ) as part of the 2011 pre-budgetary consultations.

First, the APFTQ, on behalf of its entire membership, wishes to thank the government for making the funding for the Canada Media Fund permanent and for maintaining funding for the CBC/SRC. These decisions will help stabilize the production of audiovisual content for television across all platforms. We also wish to acknowledge the government's efforts at improving the status of co-productions in Canada (lifting the moratorium, negotiating new international treaties and holding public consultations on co-productions).

We are aware that on the way back to balanced budgets, the tendency is to cut rather than to invest. However, we do believe that Canada's film and television industry is an important economic engine. Our industry accounts for $5 billion in annual overall volume and close to 118,000 jobs in Canada. We are therefore asking the government to protect the gains we have made, to continue its efforts to promote international co-production, and to develop a three-year plan to provide for short-term economic growth and encourage job creation.

In closing, the APFTQ would like to thank the Department of Finance and the House of Commons Standing Committee on Finance for giving it the opportunity to present our industry's priorities.

Sincerely,

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2011 PBC

Brief Submitted by the ASSOCIATION DES PRODUCTEURS DE FILMS ET DE TÉLÉVISION DU QUÉBEC

(APFTQ)

To the
Department of Finance

Of the Government of Canada
and House of Commons Standing Committee on Finance

As Part of the
2011 Pre-budgetary Consultations

ASSOCIATION DES PRODUCTEURS DE FILMS ET DE TÉLÉVISION DU QUÉBEC

EXECUTIVE SUMMARY

The Association des producteurs de films et de télévision du Québec (**APFTQ**) comprises over 140 independent film and television production companies—in other words, the majority of Quebec companies producing film and television in both English and French for the big and small screens.

In 2009–2010, the total volume of film and television production in Canada increased slightly by 1% over the previous year to almost **$5 billion**.

Overall, the industry provided some **117,200 direct and indirect full-time equivalent jobs** (FTEs) in Canada in 2009–2010, including 46,100 direct jobs (FTEs) in film and television production. During that period, GDP directly attributable to film and television production totalled $2.8 billion, and secondary contributions to production totalled roughly $4 billion. In all, film and television production in Canada added slightly more than **$6.8 billion to Canada's GDP** in 2009–2010.

As Canada returns to balanced budgets, here are our priorities:

Priority #1 Protect the gains made

Priority #2 Continue to support international co-production

Priority #3 Develop a three-year plan for economic growth:

(a) Create a new fund for the production and digital use of content

(b) Fund research and development for the audiovisual industry, which now must produce across all platforms;

(c) Increase the Canada Feature Film Fund budget and create a separate envelope for the Feature-length Documentary Program

(d) Provide an incentive for private investment in the audiovisual industry

(e) Update the Canadian Film or Video Production Tax Credit Program

Introduction

The audiovisual sector has always been in need of stable funding, along with policies and regulations that enable it to successfully take up the challenges it faces. In recent years, these challenges grew to include the new digital economy while at the same time solidifying the industry so it can begin to grow again.

The audiovisual industry is a cultural one that nevertheless wields significant economic clout. In 2008–2009, the total volume of film and television production in Canada increased slightly by about 1% to close to $5 billion.[1] Similarly, the volume of Canadian production increased slightly, totalling close to $2.3 billion.

Overall, the sector provided some 117,200 direct and indirect full-time equivalent jobs (FTEs) in Canada in 2009–2010 (a slight drop in relation to 2008–2009) including 46,100 direct jobs (FTEs) in film and television production. The jobs created in our industry are for highly qualified professionals (artists, technicians, writers and managers) from both the technical and artistic fields. During the period, employment income from film and television production in Canada totalled $5.1 billion.

Below are our industry's priorities, particularly in response to the question asked Canadians by the Standing Committee on Finance on how to create quality sustainable jobs.

(1) Protect the gains made

In 2010,[2] the federal government noted that cultural Crown corporations had undertaken strategic reviews of their direct program spending. These strategic reviews determine whether programs are achieving their intended results, whether they are effectively managed and whether they are appropriately aligned with the priorities of Canadians and with federal responsibilities. Based on these reviews, the government concluded that reallocations were not necessary as programs delivered by these organizations were aligned with the priorities of Canadians.

This was also the conclusion in Budget 2011, which stated that in order to implement the next phase of the government's Economic Action Plan, the government will continue to focus on jobs and growth. In this budget, not only was funding for these Crown corporations not reallocated, but also the federal government made funding for the Canada Media Fund (CMF) permanent. We are pleased that television production across all platforms was recognized. Cultural Crown corporations are undeniably a source of jobs and growth.

We contend that in addition to the CMF, all other programs continue to be effectively managed and are still appropriately aligned with the priorities of Canadians and with federal responsibilities. In our view, the next federal budget should continue to protect the gains made, without reallocating funding. Existing jobs would thereby be maintained, and the film and television industry could remain on track and be ready to contribute to Canada's continued economic growth.

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[1] Information and data taken from the *Profile 2010: An Economic Report on the Screen-Based Production Industry in Canada*, a study conducted by Nordicity Group Ltd in February 2010, commissioned by the Canadian Media Production Association (CMPA) and the APFTQ in conjunction with the Department of Canadian Heritage.

[2] Page 305 of Budget 2010, Annex 2 on Responsible Spending.

(2) Continue to support international co-production

The APFTQ is pleased to note the significant steps made by the federal government on international co-production over the past year. First there was the lifting of the moratorium, which had suspended all efforts to update existing international treaties and negotiate new ones. The government is now able to proceed, and it has already begun negotiating with new countries. This will be followed, we hope, by a round of negotiations to update existing treaties to open eligibility to all audiovisual production, including for digital platforms. Then, Canadian Heritage challenged co-production management agencies to streamline the entire certification process. Once completed, this streamlining effort will promote partnerships with Canada. Lastly, Canadian Heritage held a public consultation on co-production, which provided industry stakeholders with an opportunity to present their vision for the future of co-production and what they need for relaunching this business model. The outcome of this consultation should soon lead to the implementation of a Canadian policy on audiovisual co-production governed by treaties and by streamlined, improved co-production management in Canada.

All of this is essential for Canada in order to resume its position as an ideal international co-production partner. All that is missing is a dedicated fund to help finance the Canadian part of co-productions. Currently, co-productions must seek funding from the same sources as all Canadian productions. Each year, most of the available funding is allocated to entirely Canadian productions, which we have no problem with. However, if one of the government's objectives is to relaunch the co-production business model, as the most recent developments seem to suggest, creating a dedicated co-production fund is needed. In our view, an annual fund of $30M needs to be earmarked for co-productions.

(3) Develop a three-year plan for economic growth

As a way to create new jobs and stimulate Canada's economic growth, we advocate developing a three-year plan for the audiovisual industry. We present the outline below, and we are available to take part in any consultation, meeting or working group in order to expand further on its concept and implementation.

In order to clarify what investments are made by film and television production companies, we refer you to Appendix 1, in which we present their activities and business models. You will see that the business model needs to be considered as a whole, in order to understand that it is difficult for a production company to invest more in its business and film and television activities than it is currently doing.

Our industry's economic growth depends on increased government support and private investment incentives. Below are the various components of our recommended three-year plan:

(a) Create a new fund for the production and digital use of content

Canadian cultural content is clearly valued by Canadians. In order to produce our own cultural content, encourage digital use while adequately compensating rightsholders, we recommend creating a Canadian Digital Cultural Fund (CDCF), which would be established to fund Canadian cultural content that could be exploited digitally.

<u>Funding:</u> We see two funders: the government, and intermediaries.

1. The government could contribute part of the money that will be raised during the next spectrum auction in Canada, particularly in the 700-MHz spectrum planned for 2012. The last

auction, in 2008, raised over $4 billion; the next auction(s) would conceivably raise at least that much. For each auction, consideration could be given to investing into the CDCF an amount so large that simply the interest generated would be used annually as a source of program funding.

2. Intermediaries (Internet service providers, hosting services, mobile Internet companies, search tools and all other network services providers) must be required to contribute a percentage of their annual revenues to this fund, a bit like how broadcasting distributors contribute to the Canada Media Fund for television. That way, all beneficiaries of the significant digital use of Canadian cultural content by consumers would contribute to funding its production and use.

Programs: Two key components should be developed: one to fund Canadian cultural content, and another to compensate for digital use.

The first component would fund project development, the production of Canadian cultural content that could be exploited digitally, its marketing and promotion, and the tracking and maintenance of digital content. It could be administered for example like CMF funding programs to determine whether an applicant and the cultural content qualify, to analyze and approve budgets, and to track exploitation of the produced content in order to recoup any investments. Rather than create the CDCF, there is nothing preventing the government from modifying the scope, funding and existing programs of the CMF to meet the requirements of this component.

The second component would compensate rightsholders for the digital use of their works. This compensation could be established by the government or administered by the Copyright Board in order to set the applicable rates for the digital use of works and determine how to distribute royalties among rightsholders based on the amounts that would be allocated to this second component.

(b) Fund research and development for the audiovisual industry, which now must produce across all platforms

Research and development funding for information and communications technologies (ICT) is available through tax credits or funding programs. Currently, this funding is not available to film and television production companies. However, they need to explore and learn how to use ICT tools, develop content that can be distributed across all digital platforms, and create and test new business models. This funding must be made available to production companies to encourage and support them during the transition to digital. This fits perfectly under the government's objectives to "continue to make targeted investments to promote and encourage research and development in Canada's private sector" and to "look for ways to support innovation."[3]

(c) Increase the Canada Feature Film Fund budget and create a separate envelope for the Feature-length Documentary Program

We believe that an additional $20M for film in Canada is needed to promote industry growth: an additional $15M for the Canada Feature Film Fund (CFFF), and an additional $5M for Telefilm

[3] Speech from the Throne, June 3, 2011, page 4.

Canada's Feature-length Documentary Program in partnership with the Rogers Group of Funds, which would change the program's status from an initiative to a permanent program for theatrical documentaries.

Over half of the funding structures for film productions come from public sources. Since its beginnings, the CFFF has provided the Canadian industry with the resources to produce high-quality feature films. It is the main federal support program and the largest funder of Canadian film. Over the past few years, funding levels have no longer met needs. Since 2007, the Telefilm and Rogers Funds initiative has confirmed Canadians' interest in theatrical documentaries. Let's support this industry so it can truly emerge and consolidate.

(d) Provide an incentive for private investment in the audiovisual industry

The audiovisual industry requires continually increased funding to cope with ever-rising labour and production costs, produce across all platforms and compete internationally. We showed earlier that the investment limit by production companies has almost been reached, and we are aware that public funding is limited. In order to continue providing for the production of high-quality Canadian content, why not review private investment rules? Investments in audiovisual are high risk, but they could be combined with tax breaks or other incentives to encourage private investors, businesses and individuals, to support our industry and see it as an attractive high-risk investment area instead of ignoring it. We therefore ask the government to look into this.

(e) Update the Canadian Film or Video Production Tax Credit (CPTC) Program

To better fulfill the key objective of the CPTC, which is to "support the growth of a viable indigenous film and video production industry in Canada,"[4] we recommend two measures:

<u>Set out government assistance for feature film</u>

Feature film production continues to be in great need of additional support from the federal government. We therefore call on the government to relax CPTC program rules for theatrical productions (fiction and documentary feature films) so that they can qualify for a larger tax credit. For example, the provisions concerning government and non-government assistance, with the exception of provincial tax credits, could be amended so as to not affect funding amounts, i.e., assistance of any sort would no longer reduce the cost of production used to determine eligible labour costs under the tax credit. We have estimated the cost of such a measure to be at just over $16 million.

<u>Make labour costs associated with the production of digital content eligible</u>

At national consultations in 2010 on the new digital economy, the federal government announced its intention to ensure that Canadian content is featured in digital media. Furthermore, the Canada Media Fund (CMF) rules force producers to provide television program content on at least one other broadcasting platform. Audio-visual content creators and producers are delighted to have this opportunity and have admirably stepped up to the challenge. It is sometimes difficult however to fund the production of additional content for broadcast on other digital platforms since few

[4] Preamble to the CPTC Program Guidelines, published March 31, 2010

business models are currently viable and most existing funds are not geared to this new context. The tax credit program must be modified to ensure that all labour costs required for the additional production of digital content are eligible. This measure should be inexpensive for the Canadian government and will help the government meet its objective of becoming a world leader in the new digital economy.

APPENDIX 1

Investment by Production Companies in the Film and Television Industry

The producers we represent believe in what they do and in the industry they defend passionately during this difficult period of transition to digital and of economic slowdown. An overall view of the business and activities of a given company is needed in order to better understand the business model of an independent[5] film or television production company.

The production company's investment starts with the project development phase, with most projects never getting off the ground. Depending on the type of production, the die-off rate can be anywhere between 3–4 and 7–8 projects developed for 1 product. Little funding is available at the development stage; it is up to the company to develop the projects it believes in and provide most of the funding in order to bring the project to as advanced a stage as needed to persuade funders, broadcasters and distributors to invest in the production of the resulting audiovisual work. Project development can take several years before a single project is chosen and produced.

When a project begins, the production company continues to invest during the production stage until the funding package is assembled and the amounts are cashed. Any cost overruns are also absorbed by the company, while any surpluses are considered income recoverable by investors. A company's investment in a production often does not end until about a decade later when it is no longer exploited.

Investment by a production company could also include any amounts spent on exploring and harnessing the new area of digital media to produce digital content, which is indispensible today when producing, presenting or promoting film or television. These days, almost no funding sources are available for research, development or production of this content, or for presentation and promotion on digital platforms. This necessary changeover must be paid for by production companies.

A key component of their activities is networking and maintaining business relationships with potential production, presentation and distribution partners throughout the world. Generally, the producer will present its production or format at various international festivals and markets where it is looking to exploit them. These tools help promote Canadian production abroad. The cost of this is also borne by the production company.

When a producer is looking to enter into a co-production with one or more foreign partners, this involves another set of costs, particularly to meet with potential co-producers, present the project, establish the complex legal structures often necessary for co-productions, and develop the content with foreign partners. Most of these costs must be covered by the production company looking to co-produce.

Lastly, the production company also needs to capitalize the project by covering significant capital costs, interest on interim funding when a production's funding sources are late in arriving, overhead (considering that overhead in the production budget covers costs directly attributable to the

[5] In other words, not related to a broadcasting undertaking.

production), costs of managing production exploitation and of the human resources required to permanently run business activities.

Where does the funding to pay for all of this come from? For all practical purposes, the production company's only source of income is the production fees included in a production's budget. Unfortunately, they are too often significantly reduced without any of this reduction showing up as an additional investment by the production company. The production phase is the only one for which a production company can obtain the funding needed to produce a work and earn income. This income (production fees) first goes to pay everyone who worked as a producer (e.g., producer, executive producer or associate producer) on the production. Then, what is left is taxable income for the production company, which allows it to invest in all the production's side activities. In rather exceptional cases, the exploitation of a production may bring in enough for investors to recoup their investment and, in some cases, turn a profit.

Having a well-funded production company is a step toward industry stability and growth, which promotes diverse, high-quality production, greater employment and economic prosperity.

Over the years, production companies have increased investment more significantly than it appears in response to several factors affecting the industry: convergence of the major players, the shift to digital, and static funding, just to name a few. Their way of doing business has been, and continues to be, transformed significantly in order to adapt to all these changes. This is why we believe that the business model as a whole needs to be looked at in order to understand how it is difficult for a production company to invest more than it already is in its business and in its film and television activities.