



**DEFINING CANADIAN CONTENT:  
APPROACHES TAKEN IN OTHER  
JURISDICTIONS AND LESSONS  
LEARNED FOR CANADA**

# BACKGROUND

## WHO CONDUCTED THE RESEARCH?

The research was conducted by Maria De Rosa and Marilyn Burgess of Communications MDR, which has two decades of experience serving Canadian cultural funders, policy makers, associations, and companies.

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**mdr**

## WHO COMMISSIONED THE RESEARCH?

This study was commissioned by the Motion Picture Association – Canada (MPA-Canada), the Canadian affiliate of the MPA, which represents global studios including Disney, Netflix, NBCUniversal, Paramount Global, Sony Pictures Entertainment, and Warner Bros. Discovery.



NETFLIX



# WHY IS THE RESEARCH RELEVANT TO THE ONLINE STREAMING ACT (BILL C-11)?

**THE OSA'S NEW FRAMEWORK WILL REQUIRE GLOBAL STREAMING SERVICES TO CONTRIBUTE TO CANADIAN POLICY GOALS THROUGH SPENDING ON "CANADIAN" PROGRAMS.**

The way in which this contribution is defined for the future will be determined by the Canadian Radio-television and Telecommunications Commission (CRTC) after the OSA is enacted.

The Minister of Canadian Heritage has stated he will direct the CRTC to modernize the definition of "Canadian programs" in the upcoming policy direction.

The existing definition was created more than thirty years ago to apply to Canadian broadcasters in a market that was completely different from that which exists today.

Throughout the legislative process, some groups who benefit under the old system have argued that the same requirements imposed on Canadian broadcasting groups should be extended to global streaming services, including maintaining the antiquated definition of what qualifies as a Canadian program.

**UNDER THIS DEFINITION, TITLES THAT ARE PRODUCED OR SOLELY FINANCED BY GLOBAL STREAMING SERVICES DO NOT QUALIFY, EVEN WHEN THE PRODUCTION IS MADE IN CANADA, WITH THE MAJORITY OF KEY CREATIVE ROLES HELD BY CANADIANS, A STORY IS SET IN CANADA, OR ONE THAT IS CREATED BY A WELL-KNOWN CANADIAN AUTHOR.**

During the debates over the future of the OSA, those who advocated that there should be no changes to the definition of Canadian programs often made reference to the approaches taken in other international jurisdictions, yet much of what was said was based on anecdotes or simple misinformation.

MPA-Canada thus sought to commission a comprehensive research study to support evidence-based policymaking as the legislative process comes to an end and the CRTC embarks on its new mandate.

# WHAT WERE THE OBJECTIVES OF THE RESEARCH?

## THERE WERE THREE OBJECTIVES:

1. Document how other countries define national content (i.e., as found in their national certification systems, tax incentive or funding programs).
2. Assess whether international systems which allow a broad range of factors to be considered in their definitions lead to more opportunities for national talent (i.e., key creatives, cast and crew) and creative ecosystems.
3. Consider lessons learned about how a modern, more flexible approach to defining Canadian content could help achieve Canadian policy objectives.

# WHAT APPROACH DID THE RESEARCHERS TAKE AND WHY?

The study focused on definitions of national content in the national certification systems applied to tax credit programs, production incentives and national funding programs in ten international jurisdictions.

In each of these jurisdictions, definitions of national content exist in the certification systems associated with these public support programs.

The legislative regimes governing the broadcasting systems in the jurisdictions examined are, on the other hand, focused on supra-national objectives.



# WHAT WERE THE KEY FINDINGS?

All nineteen programs examined across ten national content systems allowed producers wider flexibility than is currently allowed under the Canadian system to qualify as national content. In their definitions, these content systems recognize both the *economic* and *cultural* value of screen content.

- Most jurisdictions do not require the production company to own the copyright in the production beyond the production stage. This approach encourages global producers to invest in local talent and create national content to be shared with audiences around the world. Where ownership requirements exist, they are limited.

- The Canadian system for defining national content is unusually restrictive and does not reflect the maturity and world-class excellence of the Canadian production sector. It provides no room for consideration for broader cultural criteria. This means Canada is out of step with global production trends and every other jurisdiction examined.
- By using such a narrow definition of national content, Canada is losing opportunities to promote Canadian stories and culture to the world.
- More flexibility in the Canadian content system would support a helpful evolution of business and financing models in Canada, which would be more in keeping with the maturity of the sector and matching the level of sophistication of its production companies.
- By using such a narrow definition of national content, Canada is losing opportunities to promote Canadian stories and culture to the world.

# WHAT DO THE RESEARCHERS RECOMMEND TO HELP CANADA BE MORE COMPETITIVE IN A GLOBAL MARKET IN THE FUTURE?

By modernizing Canada's national content approach to be more in line with that of other jurisdictions, Canadians would enjoy a greater array of benefits from screen-based production in Canada.

The study recommends consideration of the following measures:

1. Remove the current copyright ownership requirements as a determinant factor, allowing Canadian producers the flexibility to decide with financing partners the best business deals for their respective companies.

2. Expand the Canadian points system to include cultural criteria, with particular emphasis on meeting Canada's cultural objectives.

3. Expand the Canadian points system to recognize the contributions of all Canadian cast and crew.

4. Revise the Canadian points system to include a significantly larger number of available points with graduated scales that are aligned to the realities of the modern global production environment; and

5. Reduce the current thresholds of minimum production expenditures on par with international approaches (i.e., between 10% and 50% of production budgets).

Each of these changes would better align the Canadian content system to the realities of global production and to the systems in other jurisdictions.



# HOW DOES CANADA'S APPROACH TO DEFINING NATIONAL CONTENT DIFFER FROM OTHER JURISDICTIONS?

In Canada, a single Canadian content certification system is used by the federal tax credit, national funding programs, and the broadcasting regulatory regime to define national content.

Canada's narrow 10-point *cultural test* focuses on only a handful of key creative positions rather than a broader array of national talent, or other cultural criteria.

No other jurisdiction has a test which is as restrictive, dated, and ill-suited to achieving modern cultural policy goals.

That test, coupled with restrictive ownership requirements make Canada's system different, and out of step with today's market for content:

**CANADA'S RESTRICTIVE OWNERSHIP REQUIREMENT IS A DETERMINANT FACTOR, MEANING, EVEN WHERE ALL OTHER REQUIREMENTS ARE MET, PRODUCTIONS THAT DO NOT SATISFY THE REQUIREMENT OF CANADIAN OWNERSHIP CANNOT QUALIFY AS CANADIAN CONTENT.**

- To determine what constitutes a Canadian program under Canada's current Broadcasting Act, Canada's narrow 10-point *cultural test*:

- ✗ Fails to value the contributions of the vast majority of Canadian film and television workers, whose talent and creativity bring stories to life behind-the-scenes;

- ✗ Fails to value wider economic benefits to Canada's creative economy and the country; and

- ✗ Fails to consider cultural criteria that other jurisdictions consider important to achieving their cultural policy goals. For example, in Canada there are no points for being based on a novel or story written by a Canadian, or with Canadian setting, characters, language, contribution to culture or history, or considering the underlying artistic or historical material on which the production is based.

In all of the other jurisdictions examined, cultural tests are more flexible and afford producers multiple ways to satisfy requirements, which help deliver national economic benefits and meet cultural objectives.

# WHAT DOES THE STUDY REVEAL ABOUT DESIGN OF CULTURAL TESTS IN OTHER JURISDICTIONS?

Flexibility is a guiding principle in the design of the cultural tests used in other jurisdictions.

The study shows that these tests are organized around three categories or types of criteria: *the cultural contribution of the production, the nationality of cast and crew, and the proportion of the production budget spent locally.*

CULTURAL TEST CATEGORIES IN INTERNATIONAL JURISDICTIONS	
Cultural contribution of the production	National or cultural content (e.g., characters, settings, stories, themes, etc.), language of production
Nationality of personnel	Expenditures (production spending) on citizens or residents employed on the production: Key creatives, cast and crew
Local expenditures	Local spending on shoots and productions or post-production facilities

The international points-based tests outlined in the research are built on a wide range of scales – from 18 to 210 possible points. The majority of points-based tests require productions to meet half or fewer available points to pass. A combination of points can be achieved across the three cultural test categories.

# WHAT DOES THE RESEARCH TELL US ABOUT WHY THE CANADIAN SYSTEM IS FAILING TO ACHIEVE CANADA'S CULTURAL AND ECONOMIC GOALS?

The research found that the Canadian content system, which was created half a century ago to support a nascent production sector, does not reflect the maturity of the industry and its competitiveness around the world.

The Canadian approach to defining national content is:

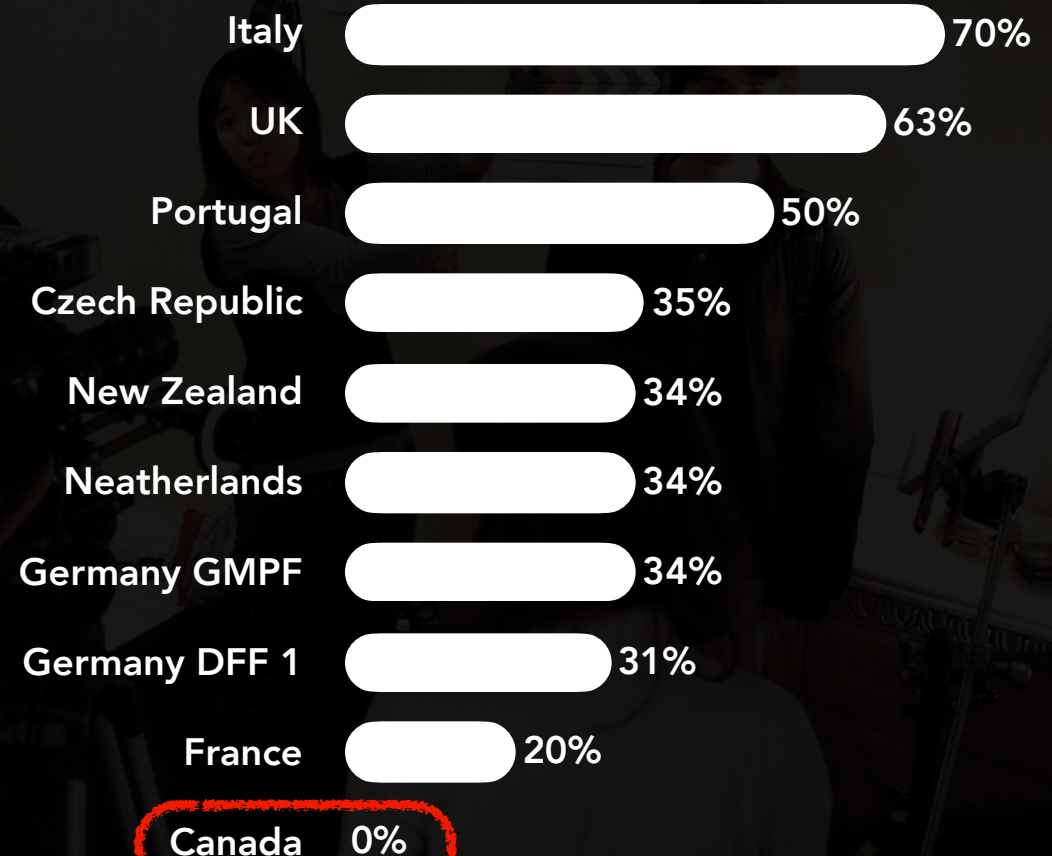
- poorly adapted to the realities of global production trends;
- difficult to reconcile with international models of high budget production that must be attractive to audiences in many markets;
- ill-suited to the increased production opportunities afforded by the global market;
- based on a restrictive test with a 10-point scale, without consideration for broader cultural criteria;
- excludes the contributions of the majority of Canadian film and television workers;
- is out of step with how Canadian producers are working today; and
- fails to encourage wider economic and cultural benefits for Canadians.

# HOW DO OTHER JURISDICTIONS COMPARE TO CANADA IN TERMS OF FLEXIBILITY?

In determining what constitutes a Canadian program, Canada's 10-point *cultural test* has 0 points for the *cultural contribution of the production*. It is focused solely on industrial considerations.

The international models examined are fundamentally different: affording producers multiple ways to satisfy national content certification requirements, and recognizing both the economic and cultural contributions of screen production.

PERCENTAGE OF POINTS AVAILABLE TO CULTURAL CRITERIA, BY JURISDICTION



# DO OTHER JURISDICTIONS HAVE MANDATORY REQUIREMENTS FOR CULTURAL CRITERIA?

In some jurisdictions, productions must satisfy cultural requirements by achieving a minimum number of cultural points.

In some cases, language is a cultural criterion amongst others that can be used to satisfy cultural requirements. In other cases, productions must be shot in the language of the country.

# WHAT COMMON FACTORS WERE OBSERVED ACROSS MODERN, FLEXIBLE INTERNATIONAL MODELS THAT BRING THE MOST BENEFIT TO CREATIVES AND THE CREATIVE ECONOMY?

- ✓ Where ownership is not a determinant factor in defining national content.
- ✓ Where there is recognition of the cultural and economic value of content.
- ✓ Where producers have multiple avenues by which to satisfy requirements.

The international systems examined are adapted to a modern, changing global production landscape, and business models that help grow local production ecosystems.

More flexible content systems recognize that high-budget productions competitive in multiple markets afford greater opportunities for skilled talent to seize international work opportunities.



**FOR FURTHER INFORMATION ABOUT  
THE STUDY, PLEASE CONTACT:**

**MATTHEW WILSON**  
**Communications Coordinator**

Motion Picture Association - Canada (MPA-Canada)  
[matthew\\_wilson@motionpictures.org](mailto:matthew_wilson@motionpictures.org)