

**A REVIEW OF PROGRAMS AND POLICIES REGARDING DOCUMENTARY
PRODUCTION IN CANADA**

Prepared for the Documentary Policy Advisory Group

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With the collaboration of the Canadian Television Fund

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EXECUTIVE SUMMARY

In undertaking this project, the Documentary Policy Advisory Group, composed of organizations representing producers, filmmakers, broadcasters, funding agencies and policy makers, had several objectives in mind, with the one goal, which was to review the funding policies and programs for Canadian documentary programming, and get a sense of what it would take to remedy any inequities.

In order to satisfy this goal a report has been drafted, identifying issues, and presenting the stakeholders with a number of findings to assist them in forging a strategy, which could culminate in an action plan for Canadian documentary production.

In order to achieve this, a Canada-wide consultation took place with various organizations and individuals involved in the making, funding or regulating of documentary programming. Two discussion guides were prepared, one for producers, and another for funders, policy makers and regulators, in order to elicit the best possible information. Those interviewed were also asked to share any other information which would be pertinent.

The consultation objectives were to:

- Conduct a review of existing documentary policies and programs
- Compare the definition, eligibility criteria and guidelines with respect to documentary production
- Help clarify funding policies and requirements; identify possible efficiencies, and possible overlaps and gaps in documentary funding
- Determine performance measures to be used across the board

The main issues identified through the consultative process were as follows:

The perceived limitations in the definition of documentary and of Canadian, which make international sales and partnerships difficult.

The difficulties in making one-offs and POV documentaries, both from a lack of pre-development funding, and broadcaster interest in such programming; and the challenges in making feature length documentaries.

The recent changes in related party rules for production and post-production equipment, and the caps imposed on the allowance for producer fees and corporate overhead.

The increasing demand that tax credits form part of the production financing.

The lack of interim financing sources for documentary filmmakers, in view of the budgets involved, and the length of the process.

The disconnects, gaps and overlaps between policies, regulations, and funding bodies.

Solutions were identified, and are reflected above, and in the main body of the report; however, some of the overarching conclusions include the following:

Beyond the work of the Advisory Group, there needs to be an overall review of policies supporting documentaries. The confusion about cultural vs. industrial objectives, the kinds of productions that are “culturally significant”, and the ultimate goal of support to documentary production could be resolved through a review by Canadian Heritage of the mandate and purpose of the public monies and policies with respect to documentaries

The ultimate objective of tax credits and why tax credits were put in place should be examined. Tax credits were initially meant as a vehicle by which the producers could build up their companies, and develop new slates. Tax credit agencies could consider examining whether the original mandate still stands, and make the necessary administrative or policy changes.

A review of the definition of “Documentary” and “Canadian” was a priority for most stakeholders consulted, with a preference for one definition which could be used by all agencies and policy makers. This could only be done if all involved parties, including Canadian Heritage, the CRTC and CAVCO, were to form a committee to study this question. This process could include examining the changes in the types of production which are seen as “documentaries”.

1.0 INTRODUCTION

This report was prepared for the Documentary Policy Advisory Group created in the summer of 2004, to discuss issues regarding documentary financing, funding, and policies. This group is composed of 16 organizations, representing producers and filmmakers, broadcasters, funding agencies, regulators and policy-makers.¹ The Advisory Group undertook a research plan in the fall of 2004, in order to develop an environmental scan of documentaries, assess their social impact, and consider the programs and policies in support of documentary production. This research is expected to culminate in an action plan for Canadian documentary production.

1.1 Objectives of this Study

The Advisory Group determined that a key component of its research would involve a review of the programs and policies that support documentary production. In its terms of reference, the Advisory Group identified the following objectives for the study:

- Conduct a review of existing documentary policies and programs
- Compare the definition, eligibility criteria and guidelines vis-à-vis documentary production
- Help clarify funding policies and requirements
- Identify possible efficiencies
- Identify possible overlaps and gaps in documentary funding
- Determine performance measures to be used across the board

It was agreed that the study would include two deliverables: an inventory of funding programs and policies relating to documentary production in Canada, and a report that would identify issue areas for the funding agencies and policymakers to consider in order to streamline the funding process. The Canadian Television Fund (CTF) agreed to manage this study on behalf of the Advisory Group. The inventory of programs and policies (presented as Appendix C) was prepared by Mary Henricksen of the CTF. Industry consultations and conclusions for this report were conducted by Mireille Watson of Entertainment-Media Consulting.

¹ Member organizations are: the National Film Board of Canada (NFB), Telefilm Canada, the CTF, the Department of Canadian Heritage, the Canadian Radio-television and Telecommunications Commission (CRTC), the Association of Provincial Funders (APF), the Canadian Association of Broadcasters (CAB), the Canadian Broadcasting Corporation/Société Radio-Canada (CBC/SRC), the Canadian Film and Television Production Association (CFTPA), the Documentary Organization of Canada (DOC), the Association des producteurs des films et de la télévision du Québec (APFTQ), the Observatoire du documentaire, the Canadian Independent Film and Video Fund (CIFVF), the Société du développement des entreprises culturelles (SODEC), the Canada Council of the Arts (CCA), the Rogers Documentary Fund, ...

1.2 Study Methodology

Using publicly available documentation, an initial inventory of programs was prepared. This initial document was augmented with interviews with numerous funding bodies, public and private, federal and provincial.

In addition, in January and February 2005, the consultant undertook a series of Canada-wide consultations with producers, policy makers, funders and industry organizations. An interview guide (see Appendix B) was sent to these stakeholders prior to the consultations.

Producer consultations were held in Vancouver, Montreal and Toronto through group meetings and in the Maritimes and Prairies via teleconference. In addition, the Documentary Organization of Canada (DOC), the Observatoire du documentaire and the Association des producteurs des films et de la télévision du Québec (APFTQ) made the interview guide available to their members, which generated individual responses to the questionnaire.

Consultations with funders, policy makers and organizations took place in February and March 2005, on an individual basis, through a personal interview or telephone discussion. In total, over 40 producers and producer organizations were consulted for this study. As well, 20 funders and policymakers were also consulted.

Broadcaster consultations were not part of the consultant's terms of reference as only direct users and administrators of funding programs, were targeted for the purpose of this report.

1.3 Report Structure

This report is structured around a number of themes that were discussed during the consultations. These themes are as follows:

- Definitions of “documentary” and “Canadian”
- Financing challenges
- The needs of different types of documentaries
- The effectiveness of policies and programs

Under each of these themes, we have summarized the views of the individuals consulted. In addition, a separate section entitled “Consultant’s Observations” contains suggestions to the Advisory Group for further lines of inquiry or action.

Finally, the report includes several appendices, including:

- A list of persons and organizations consulted
- Interview guides used for the consultations

- A chart of documentary funding and policy resources (the program inventory)
- Definitions of “documentary”

1.4 Consultant’s Observations

It is anticipated that the chart of documentary funding and policy resources could form a standalone piece, and be updated and published periodically, as a resource for the documentary community.

2.0 DEFINING KEY TERMS

It was clear to the Advisory Group from the outset that the definitions used by various funders and the regulator were under scrutiny and subject to debate. Therefore, the consultations and program inventory looked first at the definitions of “documentary” and “Canadian.”

2.1 What is a “Documentary”?

There is a variety of definitions of “documentary” in the industry, each serving a different purpose (these definitions are provided as Appendix D to this report). The CTF, the CRTC, the SODEC, and CAVCO, all define “documentaries” differently, or distinguish them from other kinds of non-fiction programming. “lifestyle”, “human interest”, “reality television”, “public affairs”, “magazines”, “current events” and other forms of non-fiction programming can overlap with documentaries in form, but are often distinguished from documentaries by funders and regulators. Documentary production is considered important to the achievement of cultural or industrial public policy objectives. And the definition of “documentary” is key to determining the kinds of production that are eligible for funding and regulatory incentives.

Generally speaking, there is a tension between filmmakers and producers on the one hand who, in the interest of creative freedom and the particular needs of the story they are telling, would prefer that the definition be fairly broad and inclusive. On the other hand, certain (not all) funders and the regulator use a narrow definition (or interpretation of their definition), thus enabling them to better manage scarce resources, be they funds or airtime.

During the producer consultations, and with some of the funding agency consultations, there was a certain consensus with regard to the definition of “documentary.” The following working definition emerged:

“A documentary is a production that documents people or events, over a period of time, to tell a story through the eyes of a director/producer.”

Some stakeholders further isolated the “deeply researched, auteur-driven or complex issue driven, or aesthetically driven, one-off documentary” as worthy of special attention from funders.

It was generally agreed that the definition used by the CTF is among the narrowest currently in use by any funding body. The CTF defines both “documentary” and “point-of-view documentary”, with the latter benefiting from certain exceptions to requirements that would otherwise be expected of a “documentary”. Some producers felt that the definition had to be loosened and made less subjective, to take into account the evolving nature of documentaries.

From the funders’ perspective, clear, objective definitions are preferable to subjective, complex ones. Many of the provincial agencies agreed that “documentaries” should be defined in the least restrictive manner possible, and other funders acknowledged that it would be easier and less contentious to be able to allow many forms of non-fiction programming to receive funding. In an environment where funds are limited, as for the CTF definitions, however, are one means of restricting demand to productions that meet a specific public policy purpose. It was suggested that tax credit programs are less hampered by the availability of funds, and so could be more permissive in the types of productions supported.

2.2 What is “Canadian”?

For most support programs, public policy objectives are achieved when funds are targeted to productions which meet Canadian (or provincial) ownership and creative requirements. Most support programs start with a definition of “Canadian” that reflects the nationality of key creative functions (with the Canadian Audiovisual Certification Office, or CAVCO, responsible for determining those functions and their relative weight in the definition of “Canadian”). Provincial tax credit programs, the CTF, Telefilm Canada, private funders, and the CRTC use the CAVCO system of allocating points to key creative functions, albeit occasionally with some adaptations (see the chart in Appendix C).

Because the CAVCO system is relatively objective, it focuses on the nationality of the individuals in key creative functions, and not on the content of the production, and was favoured by most of the producers consulted. Indeed, most determined that “Canadian” content is reflected by the fact that the producer and director are Canadian, and are therefore bringing a Canadian perspective.

It was suggested, however, that such a definition is fine for industrial policies – encouraging economic activity and the creation of jobs for Canadians – but it does not have a specific cultural focus, which would consider the type of story being told, its location, and development. The CTF has explicit content-related eligibility requirements, in addition to using the CAVCO system. Like the definition of “documentary”, the CTF’s essential requirements are intended to direct funding to productions that meet the CTF’s public policy mandate of supporting productions that are “distinctively and identifiably Canadian.” Producers argued that any production made by a Canadian by its very nature presents a Canadian perspective; subjective considerations regarding content

were therefore unnecessary. Indeed, when documentaries were limited to having Canadian themes and subject matter (per the CTF's essential requirements), these productions would have limited appeal to the international market, and therefore a limited shelf life.

2.3 Consultant's Observations

A documentary is, by its nature, an evolving product, which is difficult to assess until the editing process. Predetermined notions of how events will unfold are often irrelevant when the filming takes place. It can therefore be difficult to define the documentary until it is actually produced. As the production evolves, it might no longer resemble what was proposed to the funding agencies – which poses problems for both funder and producer.

During consultations, marked differences were found among regions with respect to the type of documentaries produced. Most evident was the Prairies compared to the Maritimes (except for NS), with the Prairies favouring a more liberal approach to defining a documentary, and the Maritimes defining documentaries as cultural and social issue vehicles.

A review of the definition of documentary was a priority for most stakeholders consulted, with a preference for one definition which could be used by all agencies and policy makers. This could only be done if all involved parties, including Canadian Heritage, the CRTC and CAVCO, were to form a committee to study this question. This process could include examining the changes in the types of production which are seen as “documentaries”.

3.0 FINANCING CHALLENGES

Although many programs exist to support Canadian documentary production, producers and funders agreed that documentaries remain difficult to finance. The most-cited challenges in the course of our consultations were the needs of different types of documentaries; the use of tax credits for production financing; the participation of broadcasters; particular issues with respect to project development funding, and the requirements of the various funders.

Timing was also identified as problem, as documentary producers are often faced with having to cover events as they are happening, and by the time financing is in place, one has lost the opportunity.

3.1 Do Different Types of Documentaries have Different Needs?

The producer and agency representatives consulted, did not generally feel that differentiation for funding purposes was necessary among different types of documentaries. There was recognition that the genre has evolved, and newer

elements such as dramatic re-enactments, special effects, and crossing the boundaries toward lifestyle, public affairs, human interest, variety programs and others are increasingly common. This evolution was considered typical for this genre of production, and it was argued that funders should treat all types of documentaries in the same way, without content-related distinctions.

However, when probed to discuss issues relating to the funding agencies, some of the individuals consulted did, in fact, identify specific types of documentaries that required special policy and funding support. These types of documentaries included “point-of-view” or social impact documentaries, one-hour documentary one-offs, and feature films.

3.1.1 POV Documentaries

This type of documentary has been defined by the CTF (see Appendix D) as providing “perspective, context, and interpretation of relevant events, themes or subject matters as seen through an independent auteur filmmaker or creative team whose project provides a view of such events, themes or stories.” It is typically considered to be the form of documentary in which Canadian filmmakers have excelled, be it via the NFB, the Canada Council for the Arts, independent production, or broadcaster in-house production. Producers involved in this type of documentary, and agencies supporting it, recognize that POV documentaries are relatively more expensive to produce because they tend to be one-offs that do not have the economies of scale that series productions have. As well, they can be risky in the marketplace, if they address contentious issues or if the filmmaker takes a contentious stand on an issue.

Some POV documentary producers felt that the CTF’s interpretation of its own definition was too broad, forcing “true” documentaries (presumably those closer to the CTF’s point-of-view definition) to compete for funding with cheaper factual programming. This in turn would imply that some producers would favour special initiatives for POV documentaries.

3.1.2 One-Hour Documentary One-Offs

The issues raised with respect to this type of documentary mirrored the issues of POV documentary production, in terms of costs and market interest. Producers observed that broadcasters have come to prefer licensing limited series “big event” documentaries, such as an historical event. In anticipation of these concerns, for 2004-05 the CTF established separate licence fee thresholds and contribution caps for documentary one-offs and series. Producers did not elaborate as to the additional measures that funders needed to take to support this type of documentary. Some expressed a preference for the CIFVF model, as its funding is not

contingent on having a broadcaster attached, and is therefore relied upon by many of the smaller filmmakers.

3.1.3 Feature-Length Documentaries

Two main, and related, areas of concern came up with respect to feature-length documentaries:

- the need for producers to force-fit their longer documentaries into broadcast windows
- the absence of dedicated funding for feature-length documentaries

It was observed that most of the documentaries funded in Canada are intended for television. This is due in part to the absence of funding for documentary features intended for theatrical release. As a result, many feature-length documentaries start out as broadcast-length one-offs that are then adapted to become feature films. Ideally, the producers would make both a television production and a feature production, but this is difficult without funding that encourages such cross-collateralization of the original television content. One interviewee suggested that funders and policy-makers consider creating a special initiative for television documentaries that have demonstrated theatrical potential (e.g. theatrical distributor or film festival interest), to be adapted into feature-length documentaries. The incremental cost for funders would be less than if separate television and feature film productions were made, while the potential for reaching audiences could be greater through both television and theatrical windows.

Some producers face the opposite dilemma. These producers find they must adapt productions that are longer than 60 minutes into 52-minute or 48-minute broadcast time slots, thus compromising story-telling and content. However, because funding is available only for television documentaries, it is difficult to interest broadcasters in productions that have theatrical potential.²

The conclusion in both cases was that Telefilm should open up the CFFF to allow support for feature-length documentaries intended for theatrical release.

It was further recommended that any project which gets a broadcast license should automatically qualify for versioning funding. Also, funding programs which support the making, marketing and distribution of DVDs were deemed essential.

² CTF support for feature film is in effect subsumed under Telefilm's administration of the CFFF.

3.2 Tax Credits

The issues raised relating to tax credits were not specific to documentary producers – they affect all producers seeking tax credits. Nonetheless, tax credit issues were without doubt the most critical irritant for documentary producers. In every roundtable consultation, producers felt that tax credits, both provincial and federal, were not being used for their intended purpose, i.e. to enable the capitalization of production companies. Instead, producers indicated that they were being required to use the tax credits in production financing. Certain provincial agencies made the same observation.

More often, producers cited broadcasters as being responsible for requiring this practice, supported by Telefilm and CTF policy which did not disallow tax credits going to finance production.

3.3 The Role of Broadcasters

In its fiscal year 2004-05, the CTF introduced broadcaster performance envelopes for most genres of production, including English and French-language documentaries. These envelopes reserve monies for projects licensed by certain broadcasters. A broadcaster licensing an eligible production in essence asks the CTF to direct monies from that broadcaster's envelope to the producer.

Envelopes are recalibrated each year, rewarding broadcasters for their past access to CTF funds, their licence fees, their regional licensing activity, their "leverage" (i.e. triggering lower levels of CTF funding, thus enabling the CTF to support more projects), and their audience success.

With the introduction of this system, producers felt that broadcasters had even more control in determining which projects could receive funding. It was further suggested that, because broadcasters decide which projects will obtain CTF funding, and because the envelopes reward broadcasters for audience success, such practices have led to an increasing homogenization of documentaries. It was felt that broadcasters did not want to licence more creative or auteur documentaries, for fear that such productions would not garner sufficient audience and, therefore, generate less CTF envelope monies. It was therefore suggested that series, one-offs and auteur documentaries each have separate funding envelopes at the CTF, to help preserve the auteur one-off genre and encourage producers to commission such projects.³

Once again, we saw a marked difference between those producers who want to pursue new and emerging forms of documentaries and those who want to protect the more traditional types of documentaries such as POVs.

³ One agency further suggested that the CBC play a greater role in documentaries, perhaps through more joint ventures between the CBC and the NFB (e.g. a dedicated fund or other arrangement whereby the CBC would license and broadcast NFB-produced projects).

3.4 Funding for Development

The development stage carries with it numerous risks, for producers, funders, and broadcasters or distributors. In some cases, a development project eventually culminates in a production and a return on investment; in others, the development project does not advance to production, and the financiers see no return on their investment. The development stage for documentaries is very often much longer than other genres, in that it often requires a series of pre-interviews and the shooting of footage, as well as in depth research. At the same time, development funding that targets multiple genres tends to be insufficient to support documentaries through this prolonged development period. It was suggested that Telefilm-administered funding for television development be made more flexible, by increasing as necessary for documentaries, and by allowing certain costs (e.g. legal fees for rights acquisition).

3.5 Requirements of the Various Funding Bodies

Both producers and agencies highlighted the “disconnects” that make it difficult to cobble together financing from different sources. Producers further raised numerous issues they face in dealing with specific funding bodies. Each of these sets of issues is described below.

3.5.1 Dealing with Individual Funders

Producers expressed concerns about grant and equity funders, rather than the administration of tax credits. These concerns are shared by many producers of lower-budget productions, and are not specific to documentary production. CTF and Telefilm policies for television production were typically cited. Some specific examples of policies include:

- CTF and Telefilm requirements that producers obtain errors and omissions (E&O) insurance, which producers found expensive and unnecessary in most cases.
- Caps imposed on the allowance for producer fees and corporate overhead in production budgets. It was found that the current caps (expressed as a percentage of budget) are too low, especially for low-budget productions, where the percentage cap amounts to a very small dollar amount for the producer to cover fees and overheads. Producers suggested that the cap be increased, especially for documentaries budgeted at less than \$100,000.
- The new CTF/Telefilm ruling that requires producers to amortise the cost of production and post production equipment as opposed to being able to bill the production at “their” face value. Producers can

open an arms length company where 50% of revenues must come from unrelated sources; however, producers suggested that this would be too onerous on many small producers.

Producers suggested an amendment allowing production companies under a certain annual revenue level to continue this practice, or that agreement be reached with respect to an agreed-upon cost of services.

Consultant's Note: Producers have typically used the ability to deduct the cost of equipment as a way to add to the revenues of their companies. It is possible that this is more of a Revenue Canada issue than Telefilm or the CTF.

- The ability of the CTF to withdraw funding after broadcaster approval if the project is found not to reflect the original proposal

3.5.2 Disconnects Among Funders

Most independent documentary production is supported with funding from several funders, which creates challenges for producers seeking to comply with different eligibility, paperwork, reporting, and delivery requirements. Producers and agencies highlighted a number of “disconnects” that made it difficult for producers to secure these multiple sources of financing.

These disconnects included:

- The sheer volume of **paperwork** that producers must complete for each funder. Given that many of the funding bodies have the same documentation and eligibility requirements, the need to file the same documents at different times for different agencies was seen as unnecessarily onerous. It was proposed that there be a central coordinating system to allow for one set of paper work meeting the requirements of all investors in a project, and fewer changes to funding rules, which can disqualify documentaries longer to produce, mid stream. Alternatively it was proposed that special funding be made available for small, independent production houses to hire support staff to deal with the paperwork.
- Canadian content **certification** by CAVCO. Currently certification is based on the nationality of key creative functions, and CAVCO's system is the same for most types of production. Some key creative functions such as Screenwriter, Lead and Second Lead Performers, Art Director etc., that are important for dramas, theatrical feature films, etc. do not exist for documentaries. It was suggested that the system be modified for documentaries to take

this fact into consideration by replacing some of the key creative functions with some more specific to documentaries (as an example note the Animation point criteria). Because the CRTC also certifies Canadian content, using a scale similar to CAVCO's, any changes at the CAVCO level should, in the interest of harmonization, be reflected at the CRTC level.

- Tax credit “**grinds**”. Productions financed with contributions or equity from a public agency (e.g. Telefilm, CIFVF, provincial funders) have their federal tax credits reduced commensurate with the level of public funds in the production.
- Differences in the mandates of the **Canada Council for the Arts and the National Film Board of Canada** make for a difficult harmonization of policies and practices. The policies of the Canada Council for the Arts are such that the artist (ie. in this case the filmmaker -- director) holds all copyrights (as well as all other rights) and editorial and creative control over his or her production. Whereas the NFB's legislated mandate is that of a producer. As a producer, it applies generally accepted standard procedures and practices, and as such holds all rights to its productions and right of final editorial and creative approval. This creates a conflict in cases where the NFB accepts to produce the work of a filmmaker who has received Canada Council funding. In these cases, the filmmaker must return the grant to the Canada Council.
- Different **deadlines** for different programs. Producers seeking funding from different grant or equity programs encounter different and changing deadlines for each program, and lining up the deadlines is difficult. For example, the Nova Scotia Film Development Corporation (NSFDC) has three deadlines per year, in February, May and September, and commitments are held for 90 days. SODEC has a deadline in March, prior to the announcement of CTF broadcaster envelope amounts. Missing a deadline as a producer waits for another program's doors to open can cause critical delays in production and require the producer to seek creative ways of interim financing the production
- **Interprovincial co-productions** require the producer to deal with different tax credit and other programs. Some of these may have local content and copyright requirements (e.g. SODEC has a points scale for key Quebec creatives, similar to the CAVCO scale, and it requires copyright of the production to be held by the production company), while others (e.g. SaskFilm, which has no copyright ownership requirements for tax credit applicants) do not.

3.6 Consultant's Observations

Documentaries often involve multiple funders or financiers, as well as multiple broadcasters. A focus on the disconnects, with respect to policy, timing, and recoupment, might be an issue for the agencies to isolate. At the same time, however, provincial tax credit programs might be difficult to harmonize seeing that it is competition for business, and the Advisory Group is limited by the fact that each province has its own mandate. Nonetheless, some consideration could be given to the grind down factor between federal and provincial programs.

There are some other possible ways to alleviate producers' concerns about the availability of financing. For example, it is possible to consider a different type of financing structure, which would consist of a 25% licence fee from the broadcaster and 25% from the CTF, which would allow individual projects to go to the financial market to seek private investors who would get a tax break for their investment in the production. The tax credits could then be reduced and used as intended, as financing for companies between projects.

Also, some consideration could be given to making interim financing easier, particularly when producers must seek different financing sources with different deadlines and requirements. Currently, interim financing for documentary projects is difficult to access and expensive when available. One possible alternative is for the CTF to allocate some monies for interim financing. The monies provided to the producer could then be deducted from the final disbursement of CTF funds to the project.

Moreover, despite the large number of funding sources available, it was observed that most documentary producers, when it came to funding, sought only the traditional CTF, broadcast license and -- depending on the production -- CIFVF or CCA support. Several producers did not know about the Rogers Documentary Fund, for example. The chart which was prepared as part of this report, should be made public and updated regularly.

The Advisory Group might consider examining whether some documentary genres, such as POV and social issue documentaries, could benefit from a development fund which would fund the pre-development stage. As an example, BC Film, upon a broadcaster pre-approval of the development and related expenditures, will contribute 50% of the broadcaster's advance (up to \$10,000 per phase of development), for eligible costs such as acquisition/rights; research; location scouting interviewing, and demotaping.

4.0 POLICY AND REGULATION

While most of the consultations focussed on financing issues, some questions probed the agencies' and producers' experiences with CRTC regulation. Also, a

series of questions were devoted to performance measurement. The responses to these questions are summarized below.

4.1 CRTC Regulation

Most comments indicated that there are no measurement mechanisms to ensure that broadcasters who have been issued licences or renewals are diligent in fulfilling their promises of performance. The CRTC, however, does require regular reporting from conventional broadcasters, including their spending by genre (including documentaries). Specialty service expenditures are not broken out in the same way, but their spending on programming is presented in reports prepared by the Commission. These reports are available to the public.

In a similar vein, regarding broadcaster expenditures on programming, producers felt that there is a CRTC bias towards broadcasters, and that it is too lenient with respect to broadcasters' spending on foreign acquisitions. Producers concerned about declining broadcaster licence fees felt the CRTC should devise means of encouraging broadcasters to pay higher licence fees.

Harmonization is also necessary so that the CRTC, when assigning credit quotas, can be fairly certain that CTF envelopes will allow broadcasters to be able to finance the programming.

4.2 Performance Measures

Most of the agencies consulted recognized the increasing emphasis on public accountability and reporting on the use of public funds. Performance measures enable policymakers to determine whether key policy objectives are being met, and enable funders to target their support to areas that require measurable change.

At the federal level, the CTF and Telefilm are required to implement performance measures developed by the government, and to report regularly on their "outputs" (productions supported, funds spent) and "outcomes" (the economic, social or cultural impact of the funding). These organizations can use internal data sources to measure their outputs (e.g. databases that record and track applications, budgets, recoupment, and so on), but rely on outside sources of information for "outcome" reporting (e.g. audience data, box office data).

At the provincial level, not all agencies have a measurement mechanism in place. Those that do usually measure economic impacts, such as:

- the cost of crew and cast and whether they are Canadian
- percentage of shooting done in the province
- the number of people employed in the production

- the amount of additional production funding generated by provincial tax credits
- recoupment on equity investments and loans

Program evaluations occur periodically for some of the agencies, and assess the programs in terms of having encouraged new talent and helping diversity (linguistic, cultural, audience and social impact) in programming.

There was little discussion of data sources, although one agency noted that Statistics Canada is not often used; this might be worth exploring further.

4.3 Consultant's Observations

Given that federal agencies have the most funds and the widest impact, they should take a leading role in creating a viable performance measure model.

5.0 CONSULTANT'S SUMMARY OBSERVATIONS

Throughout this report there are ideas for possible areas of action by the Advisory Group. Beyond the work of the Advisory Group, however, there needs to be an overall review of policies supporting documentaries. The confusion about cultural vs. industrial objectives, the kinds of productions that are "culturally significant", and the ultimate goal of support to documentary production could be resolved through a review by Canadian Heritage of the mandate and purpose of the public monies and policies with respect to documentaries, including the CRTC, CAVCO, CTF, and Telefilm.

The ultimate objective of tax credits is also worth a review. As noted in this report, several producers and agencies brought up the issue of how tax credits are so often put into production financing. And yet, the tax credits were originally seen as a vehicle by which the producers could build up their companies, and develop new slates. Tax credit agencies could consider examining whether the original mandate still stands, and make the necessary administrative or policy changes.

APPENDIX A CONSULTATION LIST

Producers – 40 producers across Canada

The consultation process consisted of three face to face group meetings in Vancouver, Toronto and Montreal. Two teleconference calls with Maritime and Prairie producers were also held. Consultations via postings by DOC, APFTQ and l'Observatoire du documentaire supplemented the group consultations. Consultations were also held with the CFTPA Documentary Committee Chair, and the Director of the Observatoire du documentaire.

Funders – private, public (national)

Telefilm Canada
Canadian Independent Film and Video Fund
Canadian Television Fund
Canada Council for the Arts
Rogers Documentary Fund

Funders – provincial

Nova Scotia Film Development Corporation
Yukon Film
New Brunswick
SODEC
BC Film
Manitoba Film and Sound
SaskFilm
Ontario Media Development Corporation
Alberta Film

Other organizations

National Film Board
CFTPA
L'Observatoire du documentaire

Policy Makers

CRTC
Canadian Heritage (no response)
CAVCO

APPENDIX B INTERVIEW GUIDES

(i) PRODUCER INTERVIEW GUIDE*

1. What is your definition of a Documentary and what in your opinion makes a Documentary Canadian?
2. Thinking back to your last production, what was your overall experience financing your project? Do the present funding programs available to the documentary filmmakers work? Did you encounter any problems? If so, what?
3. Is there a need to differentiate between genres of documentaries with respect to program guidelines? If so, how and with what hoped for result.
4. What are your thoughts about present CRTC policies with respect to documentaries? I.e. inclusion as “priority programming”, definition of a documentary and licensing of documentary channels.
5. What do you think the funding agencies or programs could do, concretely, to address these problems?

In pondering the above question, you may also want to think in terms of exiting funding mechanisms and policies; how these presently work together, and what efficiencies can be suggested; as well as emerging trends, i.e. melding of fiction and non-fiction elements in documentary production, and its likely effect on the agencies and funding bodies. I would also be interested in hearing if you feel that one type of documentary is easier to finance than another, and why.

(ii) FUNDERS, POLICY MAKERS AND INDUSTRY ORGANIZATIONS INTERVIEW GUIDE *

1. Apart from Tax Credits what type of programs do you offer for Documentary projects? (Applicable to funders)
2. What do you feel are the disconnects between your policies and/or guidelines, and other programs? What might be the solution (s)?
3. Do you think there should be different guidelines/policies for different genres of documentaries? If so, what?
4. We have a number of tax credit structures at the federal and provincial level. Are the present structures effective? Do they work in cases of provincial co-productions?
5. Do we need to have a look at CRTC policies with respect to documentaries i.e. their definition of “documentary”, inclusion as “priority programming”, licensing of documentary channels?
6. A trend seems to be emerging which melds fiction and non-fiction into a single documentary production – Do you agree? How do you plan to deal with this, if it becomes a common occurrence?
7. Do you have a way of determining performance measurement? If so what method(s) do you use?

* Please note that these interview guides were used to direct the discussions

APPENDIX C DOCUMENTARY FUNDING RESOURCES

BRIEF DESCRIPTIONS*

NATIONAL

CTF

Public/Private partnership which provides a top-up licence fee to productions which are distinctly and identifiably Canadian.

Telefilm

Public equity funding for 10 out of 10 productions, except for Aboriginal Programming, unless the project applies to other envelopes.

CIFVF

A private not for profit grant program for production and development for programming which is educational/informational.

Rogers Documentary Fund

Private not-for-profit core funding grant and top-up non-recoupable advances for one-off documentaries, or limited series of 5 or less.

CRTC

Public policy maker and one of the two bodies (CAVCO) which decides what constitutes Canadian content. The CRTC also licenses Canadian broadcasters and determines the licensee's Canadian content requirements.

CAVCO

CAVCO reviews the Canadian content of productions applying for tax credits.

PROVINCIAL

Alberta Film

Provides a grant program, which is not genre specific.

BC Film

Administer a tax credit program and provides limited funding for development, market support, and special initiatives.

Manitoba Film and Sound

Provide tax credits and equity production (up to 8% of budget) and development funding. Manitoba Film and Sound has its own point system.

New Brunswick Film

Tax credit program as well an equity development fund.

Newfoundland and Labrador Film

Tax credit and equity investment programs.

Nova Scotia Film and Development

Tax credit program, as well as industrial loans and equity investment.

Ontario Media Development

Tax credit program with some funds for market access, research and the Al Waxman Calling Card Program.

Technology PEI

A labour rebate program based upon PEI resident labour, as well as an Equity investment program, for indigenous producers.

SaskFilm

In addition to a tax credit program, Saskfilm has a documentary equity program, a development program, and a market access program.

Societe de developpement des entreprises culturelles

Provide tax credits, equity investment, grants and recoupable advances. These include development, production and marketing and distribution.

Yukon Film

Assistance comes in the form of a rebate program based upon Yukon labour, as well as training, and travel.

OTHER**Canada Council for the Arts**

Script and production grants to directors, and indirect funding through production centres.

National Film Board

Although not a funder, the NFB provides grants through its FAP/ACIC Grant Program for small filmmakers, as well as technical assistance. The NFB, as a Producer, invests up to 100% in a project, and participates in co-productions.

* Only reflects funders and policymakers that were consulted.

[insert chart here]

APPENDIX D DOCUMENTARY DEFINITIONS

Definitions used by various organizations are presented here, by organization, in alphabetical order.

CANADIAN TELEVISION FUND

Documentary

A non-fiction representation of reality that contains the following elements:

- Informs or engages in critical analysis of a specific topic or point of view
- Provides an in-depth treatment of the subject
- Is meditative and reflective
- Is primarily designed to inform but may also entertain
- Treats a specific topic over the course of at least 30 minutes
- Requires substantial time in preparation, production and post-production
- Has an original narrative and visual contribution (which may include scenes of dramatic re-enactments)
- Has enduring appeal and, therefore, a long shelf life

Projects presenting information primarily for its entertainment value are not considered to be documentaries.

POV Documentary

POV documentary provides perspective, context, and interpretation of relevant events, themes or subject matters as seen through an independent auteur filmmaker or creative team whose project provides a view of such events, themes or stories.

POV excludes the following:

- A docu-drama, docu-soap, re-enactment or performance piece with people playing themselves or with professional actors
- Factual projects
- Profile or biography
- Segmented or capsular one-off or series
- A video “diary” of social events
- A project dependent on light “information” format
- “Surveillance” television

CAVCO (excluded productions)

CAVCO does not define “documentary” per se. Instead, Regulations 1106 (1) and 9300 of the *Income Tax Act* list the following genres as "excluded productions" for tax credit purposes:

1. news, current events or public affairs programming, or a programme that includes weather or market reports
2. a talk show
3. a production in respect of a game, questionnaire or contest (other than a production directed primarily at minors)
4. a sports event or activity
5. a gala presentation or an awards show
6. a production that solicits funds
7. reality television
8. pornography
9. advertising
10. a production produced primarily for industrial, corporate or institutional purposes
11. a production, other than a documentary, all or substantially all of which consists of stock footage
12. a production for which public financial support would, in the opinion of the Minister of Canadian Heritage, be contrary to public policy (currently applies only to the Canadian Film or Video Production Tax Credit)

Definitions of excluded categories [excerpts]:

News, current events or public affairs programming, or a programme that includes weather or market reports

- i. News: Production that consists of live or pre-recorded news reports and/or analysis, including investigative journalism and that relates to subjects or events of topical interest, whether local, national or international in scope.
- ii. Current events: Production that consists of live or pre-recorded presentations, interviews, discussions or investigative journalism devoted chiefly to summarizing or analysing news relating to subjects or events of topical interest, including programming commonly known as news magazines, infotainment and daily morning shows.
- iii. Public affairs: Production that consists of live or pre-recorded presentations, interviews or discussions about public policies or programs, or social, political and/or economic issues.

Reality television

- Production that consists of scenes recorded on amateur home video cameras or private or public authority surveillance equipment. This category also includes programming currently known as court television and similar formats.

Production, other than a documentary, all or substantially all of which consists of stock footage

- Production, other than a documentary, that consists of re-packaged or adapted versions of previously produced programs, and which is not linked by an original narrative and visual construction, unless such footage originated with the same production entity and constitutes a series' "best of" production.

CRTC

The *Television Broadcasting Regulations* provide the following definition:
Category 2b) Long-form documentary

Original works of non-fiction, primarily designed to inform but may also educate and entertain, providing an in-depth critical analysis of a specific subject or point of view over the course of at least 30 minutes.... These programs shall not be used as commercial vehicles.

RENCONTRES INTERNATIONALES DU DOCUMENTAIRE MONDIAL

When we speak of point-of-view documentaries we usually refer to the point of view of the director. Yet we all know how the director's vision is mediated and sometimes saved by the talent and sensitivity of his or her crew. Compelling images and sensitively recorded sound are often as much, if not more, an integral part of the film's vision as is the director's point of view. Add to this the role of the editor who shapes the material and the musicians and mixers who enhance it – and we begin to understand the role of collaboration in documentary production.

SODEC

Documentary: Any audiovisual production that takes a non-fictional approach to representing reality informs the audience and offers an analysis of a given subject may be considered a documentary.

POV Documentary:

Personal point-of-view documentaries meet the general definition of a documentary and also have the following features:

- the documentary project is based on an original narrative and cinematographic construction and a treatment of the subject that are strongly influenced by the personal vision of the director; the project generally forms part of a continuum with regard to previous works;
- the director not only has total control over the project during the shoot, but is also the instigator of the project and, whatever the production framework, retains editorial independence and creative control at all times during project development and realization up to and including the first print. ”

TELEFILM CANADA

To decide eligibility for the Canadian Broadcast Program Development Fund (later folded into the CTF), Telefilm Canada defined documentaries as follows:

Creative works in which a topic is presented from the author’s point of view though an original narrative and visual construction. Eligible documentaries are those which treat a specific topic, and their duration should be at least 30 minute. This does not include sponsored programs, magazines, talk shows, public affairs broadcasts (factual programs, often used as inserts and generally intended to be part of an information program or news bulletin, dealing with current events or topics based on journalistic investigation, which may have an editorial bias), or productions that are part of an educational program.

DEFINITION ADOPTED FOR THE STUDY ON THE SOCIAL IMPACTS OF DOCUMENTARIES (2005)

A production that takes a non-fiction approach to representing reality by providing an original audiovisual treatment, informing the audience and offering an analysis (perspective, context, interpretation) on a given subject.