Cultural Policy for the Digital Age

Pillars of the Approach

Executive Summary

The Minister of Canadian Heritage has initiated a major review of cultural policy to see how best **"to strengthen the creation, discovery and export of Canadian content"** in the digital age.

Over the last ten years, digital media have opened new worlds of opportunity to creators and consumers of Canadian content.

New platforms have emerged (YouTube, Facebook, Twitter, Instagram), along with powerful search engines (Google), high speed video streaming (Netflix), on-line shopping (Amazon) and sophisticated internet content sites (Huffington Post, Tyee).

Novel forms of content have also emerged from blogs to tweets to multi-player video games and YouTube channels.

Traditional media are evolving in this environment. Many newspapers now reach larger audiences through their websites than they do in print. Canadians spend almost as much time with digital content as they do watching television. Younger Canadians, in fact, spend dramatically more time on-line than they do in front of the TV.

These sets of changes have created important new opportunities for the development of Canadian culture. At the same time, they have created significant challenges for traditional media.

The central policy question is how to adapt the existing support measures to ensure that Canadian digital content flourishes and that the more traditional media can make the transition into the new online world.

The paper, "Cultural Policy for the Digital Age", proposes a significant set of changes to the existing production and distribution support measures to make them future-facing. **In particular, it assumes that nobody can predict what future business models will succeed or how consumer demand will evolve.** The wisest course it argues is, therefore, to make all future support measures:

PLATFORM AGNOSTIC to permit the financing of content for the new platforms;

PRODUCER AGNOSTIC to expand the potential pool of investors in Canadian content; and

CONTENT AGNOSTIC, so that news, magazines and digital content can be supported.

To accomplish this requires the creation of a new "arms-length" agency - The Canadian Content Investment Agency (CCIA) - that would be responsible for all federal financial support to Canadian content.

The Agency would replace Telefilm Canada (TFC) and the Canada Media Fund (CMF). It would only offer tax credits to support the production, promotion and export of Canadian content. In effect, the Agency would amount to an extension of the Canadian Audio Visual certification Office (CAVCO).

To succeed in the digital age, it is, as the Minister of Canadian Heritage notes, essential that Canada have **"strong, adaptable and competitive businesses that are able to manage risk effectively, diversify revenue and attract investment from many sources"**.

To ensure that Canadian media companies can be strong requires that they operate in a market that functions fairly and efficiently. It is essential that all competitors play by the same set of rules. This requires that:

- Netflix and others like them pay HST and make a financial contribution to the production of Canadian content;
- Digital advertising pay HST; and
- Production subsidies to foreign competitors be abolished.

These changes would ensure that Canadian companies do not operate at a disadvantage in their home market. They would also yield significant new revenues to the federal government and the provinces.

The federal government would have gained somewhere between $288-354 million in 2014 had this proposed changes been in effect , rising to $350-464 million in 2020. For their part, the provinces would have gained between $188-294 million in 2014, rising to $296-478 million by 2020.

If the federal government were also to apply section 19.1 of the Income Tax Act to digital advertising as it has to traditional advertising, it would have increased the revenues of Canadian media companies by between $482-820 million in 2014, rising to $827-1.4 billion in 2020. Injections of amounts of money of this magnitude would also clearly strengthen Canadian media companies and increase their capacity to finance Canadian content.

Download the full paper here: http://roge.rs/2feQGo9

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Pillars of the Approach

In *Canadian Content for a Digital World: Focussing the Conversation,* the Minister lays out three pillars or principles that should underpin future policy. For each of these pillars, the Minister poses some important questions.

PRINCIPLE #1: FOCUSING ON CITIZENS AND CREATORS

Pillar 1.1: Enabling choice and access to content

How can we reflect the expectations of citizens and enable Canadians to choose the content that they want to see, hear and experience?

The Minister notes that in the new digital world, “Canadians actively seek out content and do not want to be restricted in what they can access”. Canadians, in other words, want to be able to get all content, including Canadian content, however and wherever it is most convenient for them.

At the present time, the vast majority of the federal government’s financial support to Canadian media goes to television and film. In 2015, the government spent $644 million on direct subsidies, along with another $1 billion to the CBC and slightly more than $60 million to the NFB. Almost all of this money can only be spent making content for the traditional platforms of TV and film.

Traditional print media, on the other hand, receives very little funding. Magazine received $75 million in federal support in 2015, while newspapers have never received anything. By way of comparison, the subsidy to the magazine industry represents about 3% of its revenues, while the subsidies to the television industry are about 15% of its revenues.

Any content that is made exclusively for the new platforms does not qualify for government support. Thus, Canadian YouTube channels, blogs, games or shows that are not associated with traditional media do not qualify.

The Minister is right, therefore, when she notes that any new cultural policy must be “PLATFORM AGNOSTIC”.

Pillar 1.2: Supporting our creators

How can we fairly support creators in the creation and production of content that stands out? What partnerships will be needed to achieve this? How can we help creators have successful and vibrant careers in a digital world?

The most important way to help creators is to ensure that the cultural ecosystem in which they work is healthy and vibrant. The most important part of the ecosystem is the traditional media companies. The broadcasters and newspapers produce the vast majority of Canadian content. Their health, along with that of the other, smaller players is central to Canada’s cultural future.

To repeat the Minister, “Canada will need strong, adaptable and competitive businesses that are able to manage risk effectively, diversify revenue and attract investment from many sources". Inevitably, this means encouraging the growth of large, well-capitalized companies that have the size to be able to take risks and make multiple bets.

In Canada, we have traditionally favored small, independent film and television producers. They have prioritized access to the $644 million in federal subsidies. But they are, in fact, the weakest, most poorly capitalized part of the system.

In Britain and the United States, the situation is very different. The large television producers are typically associated with the networks. BBC, for example, has BBC Studios, ABC has Disney and NBC has NBC Universal. The United States is the largest exporter of cultural products in the world. For its part, the value of UK cultural exports is six times greater per capita than Canada's.

In the future, it is important to be PRODUCER AGNOSTIC, as well as platform agnostic. Allowing the broadcasters, for example, to have unfettered access to the television production subsidies would bring the Canadian system in line with the British and American systems. It would also bring to the table the best capitalized media companies and the ones that have the greatest interest in making shows that will reach large audiences, both at home and around the world.

To succeed in making better and more exportable content will require that the system be opened to everyone who is prepared to take the necessary financial risks.

PRINCIPLE #2: REFLECTING CANADIAN IDENTITIES AND PROMOTING SOUND DEMOCRACY

Pillar 2.1: Redefine Canadian content for contemporary Canada

With so much online content available today and given Canada's diverse and multicultural makeup, does the concept of Canadian content resonate with you? What does Canadian content mean to you? Do we need to be more flexible in how we support the production of content by Canadians?

Canadian content can take many forms. It can include traditional media products like TV shows, newspapers or films. It can also include digitally-based products like YouTube channels, blogs, on-line content sites, webisodes or games. What makes it Canadian is simply that it is made by Canadians, who will inevitably make things that reflect their history, social circumstances and cultural pre-occupations.

In keeping with the general principle that it is impossible to predict what types of content will succeed, it is wise to also make future cultural policy CONTENT AGNOSTIC. There is no reason to restrict support to the traditional categories of film and TV. Indeed, to do so would make the future hostage to the past.

If the new support measures are to be content agnostic, then the "points" system that determines how much financing a project can receive will have to be renovated. As it works now, points are assigned for Canadian writers, actors, directors and the other creative jobs associated with making TV and films. The more points a project has, the more financing it can receive.

In the future, the system will have to be broadened to recognize that other types of content will require other types of skills. Actors may not be required, but journalists, systems engineers and software designers may be.

To accommodate these requirements, the simplest thing to do would be to award points on the basis of who the highest paid workers are. If the top 10 persons are Canadian, the project is 10/10 and qualifies for maximum support; If the top 6 are Canadian, it is a 6/10 and qualifies for less support; if it is less than 6/10, it is ineligible. This direct correlation between the number a production is awarded and the degree of financial support it receives is how the current system works.

In an ultra-competitive global market, how can the private sector support the production of content made by Canadians? What is the role of Canada's national cultural institutions, such as CBC and the National Film Board?

For the private sector to succeed, it is essential that the market function fairly and efficiently. Right now, the Canadian market is structured in a way that disadvantages Canadian firms at home.

Netflix

One glaring example of the problem is Netflix. It buys and distributes TV shows in Canada, very much like a cable company. Unlike its Canadian competitors, however, it does not remit HST nor does it contribute 5% of its gross revenues to support Canadian television production. The Canadian cable companies face burdens in their home market that Netflix does not. That is inequitable and simply unfair.

Having Netflix pay HST and the 5% contribution would have generated an estimated $45 million at the federal level in 2014. Requiring Netflix to pay the same taxes as everyone else is not a "Netflix tax". A "Netflix tax" would be one that was applied uniquely to Netflix. Paying taxes of general application does not single out Netflix in that way. It would simply reflect the requirement that everyone play by the same rules.

Digital Advertising

Advertising revenue is the most important source of support for the creation of Canadian content. The Canadian advertising market is becoming increasingly digital. Digital advertising mostly goes to foreign companies - Google and Facebook - that make no contribution to Canadian content,

Canadian companies selling advertising in Canada have to pay HST while those companies - Google and Facebook - that are non-resident in Canada and are selling advertising here do not. This clearly puts the Canadian companies at a disadvantage in their home market in relation to these foreign companies. If the digital advertising sold in Canada had attracted HST in the same way as conventional advertising, it would have generated between $95-160 million in new federal revenue in 2014, rising to an estimated $160-275 million in 2020. The provinces would have enjoyed a windfall gain of between $150-260 million in 2014, rising to $260-440 million in 2020.

In other jurisdictions, governments have moved to deal with these anomalies. Along with the European Union, New Zealand, Australia, Norway, South Korea, Japan, Switzerland and South Africa have introduced measures to begin collecting GST or HST equivalents (VAT) on digital on-line services.

Having Netflix and digital advertising pay HST as a way of raising revenues for the cultural sector is much preferable to imposing a tax on the ISPs. This is true for a number of reasons. First, advertising revenues have always been the most important source of private support for the creation of Canadian content. Second, the Supreme Court has ruled that an ISP tax cannot be used to finance content. Third, if Canada wants to succeed in the development of digital culture, it seems unwise to create disincentives to the adoption of high speed data services.

The Production Services Tax Credit

Foreign companies receive subsidies to shoot television and movies in Canada. Both the federal and provincial governments encourage them to do so by offering Production Service Tax Credits (PSTC). This is very expensive. Over that last 10 years, it cost the federal government on average more than $110 million per year.

Providing financing to foreign production companies advantages Canada's most important competitors and does so in a way that provides no direct benefit for Canadian creators and audiences.

It is clear that withdrawing the PSTC would not end the shooting of foreign shows and films in Canada. The differential in the exchange rate between the value of the Canadian and US dollars is far more valuable to foreign producers than the tax credits. In 2015, the exchange rate differential was 3.5 times more valuable than the credits.

At the same time, if the federal government were to abandon the PSTC, the provincial tax credits would remain to support foreign productions. Indeed as noted earlier, the new HST revenues that would come with taxing digital advertising would yield the provinces a windfall gain of at $150 million, which could be used to make up the lost federal credits.

Section 19.1

In 1976, Bill C-58 was passed, amending section 19.1 of the Income Tax Act to deal with a problem that perfectly parallels the difficulty that confronts Canadian media companies now. In the 1970s, advertising dollars were flowing out of Canada and being spent with American border broadcasters whose signals were available in Canada.

To preserve the integrity of the Canadian advertising market and its ability to support the creation of Canadian content, the government made advertising expenses incurred outside the country ineligible as legitimate expenses for tax purposes. This repatriated an estimated 25% of the revenue that was otherwise leaving the country. Despite enormous pressure from the US government to repeal section19.1, both the Liberal and Conservative governments of the period held firm, deeming it essential to Canada's cultural policy.

It would be wise to extend section 19.1 of the Income Tax Act to foreign digital advertising, making it also ineligible as a business expense for Canadian companies. This would put it on the same footing as conventional advertising purchased from foreign sources. Doing so would have repatriated somewhere between $480-820 million in 2014 for Canadian media companies. By 2020, the estimated amount could rise as high as $820 million- $1.4 billion.

Collectively, these measures would not only ensure a level playing field for Canadian companies in their home market, they would also strengthen them financially. They would, as well, provide significant new revenues to the federal government, which could use them to strengthen its support of Canadian digital content.

Pillar 2.2: Strengthen the availability of quality news and information in local markets

What models can we build to support the creation of and access to local information and news in a global context.

The most important providers of local news in Canada are the conventional television networks and the newspaper chains controlled by Postmedia (previously the Sun and Southam papers). They are all in financial difficulty.

Newspaper companies are in trouble around the world. In Canada, the sector is additionally weighed down by a high concentration of ownership in one company, Postmedia, which has been struggling with a high level of debt.

The four major English language conventional TV networks - Global, CTV, CITY and CBC - are all losing money. Two of the three French language conventional networks were unprofitable in 2015 and revenues are decreasing. Conventional TV networks remain the only commissioners of local news and are the biggest commissioners of original Canadian drama and comedy.

Extending section 19.1 of the Income Tax Act should have a beneficial effect for both newspapers and conventional TV. If the repatriated revenues were to be apportioned pro rata the current apportionment of advertising revenues in Canada, the newspapers would have received an extra $104-176 million in 2014 and conventional television an extra $140-238 million. These amounts would have been of significant assistance in supporting the creation of local news.

At the same time, considering how important news is to Canadian democracy, it may be wise to consider extending direct financial support to its creation. At present, local TV news does not qualify for either CMF or tax credit financial assistance. Newspapers, as noted earlier, have never received any financial support from the government.

If financial support were extended, it would have to be done in a way that was completely transparent and at "arms length" from the government. To ensure freedom of expression and independence from government pressure, the administration of the support would have to be managed outside any government department and be automatic in character.
The simplest way of doing this would be as a form of tax credit.

PRINCIPLE #3: CATALYZING ECONOMIC AND SOCIAL INNOVATION

Pillar 3.1: Positioning Canada as a culture and digital content leader

Canadians make great content; how can we build our exceptional cultural industries and support the growth of new creative enterprises as part of Canada's innovation agenda? What tools do the government and the private sector already have at their disposal? What new tools could we consider?

The most important tools that government has at its disposal to support the creation and export of Canadian content are:

- Telefilm Canada (TFC) for the support of films;
- The Canada Media Fund (CMF) for the support of TV; and
- The Canadian Audio Visual Certification Office (CAVCO) for films and TV.

These organizations, as noted earlier, do not provide any support to newspapers, TV news or digital content (unless it is associated with a TV show). As well, the overwhelming bulk of their funding is reserved exclusively for the traditional platforms of television and cinema screens.

TFC and the CMF have had limited success in meeting the Minister's goals of "strengthening the creation, discovery and export of Canadian content". Viewership for Canadian television shows and films in English Canada is low compared with the enthusiasm of English Canadians for foreign cultural products. Canada has also had very limited export success. As noted earlier, Great Britain exports six times as much content as Canada on a per capita basis.

- platform agnostic;
- producer agnostic; and
- content agnostic.

The most straight forward way to meet these requirements is to create a new agency. The new agency - The Canadian Cultural Investment Agency (CCIA) - would be responsible for supporting the production, promotion and export of Canadian content. It would be established by winding up TFC and the CMF and financed with the resources currently financing TFC, the CMF and CAVCO.

The CCIA would stand at "arms length" from the government to guarantee the independence of its decision-making. It would, as well, only offer labour-based tax credits to support the production, promotion and export of Canadian cultural content. The advantages of a pure tax credit model is that it is simpler, saving considerable administrative expense ($32 million annually for both the government and producers); more responsive to market developments; and more transparent.

The CCIA would finance television and films on the traditional platforms, as the former agencies did in the past. It would also finance news on TV, digital content made for the new platforms, newspapers and magazines. This would allow Canadian content to evolve as the markets and technology evolve, without requiring the government to pick winners and losers. In effect, the new system will be self-equilibrating, responding as demand for different types of content changes.

To access the credits, producers will have to be Canadian owned and controlled, as they are now. At the same time, if they are creating content for non-traditional platforms - YouTube, Facebook, Snapchat - the platforms will have to be paying tax in Canada. They must, as well, contribute to the financing of the content in the same way that broadcasters do now when they pay license fees.

Money would be allocated on the basis of the new points system with 10/10s receiving the most valuable level of tax credits, 8/10s a lesser amount and 6/10s the lowest level. The support arrangements whether for production, promotion or export assistance would all follow the same logic.

There is enough money in the system once the three agencies are combined to maintain the current volumes of television and film production. The federal government would also have an extra $350-464 million available if it pursues the measures described earlier. This money could be used to expand the kinds of content being supported and its export.

Pillar 3.2: Leveraging Canada's national cultural institutions

How do we ensure that our national cultural institutions, such as the CBC/Radio-Canada and the National Film Board, are a source of ingenuity and creativity for the creative sector more broadly?

At the present time, there are impediments to the CBC accessing the existing support measures. As well, the CBC cannot hold the copyright in the shows that it commissions, which limits its ability to build "back end" revenue streams.

The creation of the CCIA would aid the CBC. It would allow the corporation to find support for its news and digital content strategies. It would, as well, permit the corporation to become a producer - like the BBC - and strengthen its revenue position.

More broadly, the CBC has two fundamental problems:

1. There is no consensus on what it should do. In the UK, the BBC's role is made very clear through the Royal Charter and contracts that it signs with the government every ten years. The Charter defines what it will do and the funding that will be available. It would be immensely helpful for the CBC to have a Canadian Royal Charter.
2. The CBC is very poorly funded compared to other public broadcasters. A Charter would be the ideal instrument to determine what the CBC should do and how much funding it needs.

Pillar 3.3 Promoting Canadian content globally

What is needed to best equip Canadian creators and cultural industries to thrive in a global market and exploit the country's competitive advantages? In a global market, what conditions need to be in place to encourage foreign investment in Canada's cultural industries? How can we better brand Canadian content internationally??

The key to global success is to have great companies that are properly capitalized so that they can take the kinds of risks that will lead to the creation of great products. This means that the support measures must be opened to the big companies and not just to the small ones. The competitors are all enormous on the global stage. They are Disney, NBC Universal and the BBC.

It means, as well, that Canadian companies should not be disadvantaged in their home markets. The competitors are very large, whether Netflix for subscription revenue or Google for advertising revenue. It is essential that within the Canadian market, everyone plays by the same set of rules.

If the rules are made the same, it will create new revenue sources that will permit the government to make new cultural investments. It will also inject significant new advertising revenue into Canada's major media companies.

Finally, the government's support measures must be future facing, flexible, responsive to changes in demand and simple to administer. It is important to bear in mind that nobody can predict the outcome of the vast digital wave that is transforming our culture. The greatest competitive advantage that Canada can have is to be nimble with the ability to innovate quickly and easily.