



**CFTPA**  
Representing television, film  
and interactive production in Canada

**ACPFT**  
Porte-parole de l'industrie de la production  
cinématographique, télévisuelle et interactive au Canada

April 29, 2005

Robert L. Soucy  
Director  
Canadian Audio-Visual Certification Office (CAVCO)  
100 Sparks Street, 4th Floor  
Ottawa, Ontario K1A 0M5

Dear Mr. Soucy:

The Canadian Film and Television Production Association ("CFTPA") is writing in response to CAVCO's Public Notice 2005-001 ("Public Notice") regarding the *Canadian Film or Video Production Tax Credit ("CPTC")*.

The CFTPA's membership includes Canadian producers of film and television productions, each of whom has a fundamental interest in ensuring that the CPTC guidelines ("Guidelines") are clear, capable of consistent application, and sensitive to the challenges and commercial realities facing Canadian film and television producers in the current domestic and international marketplace.

Before reviewing the suggested proposals in detail, there are a number of general comments which we would like to provide at the outset.

#### A. GENERAL COMMENTS

- **Need for accurate and consistently-applied terminology**

1. Guidelines used to determine eligibility for the certification of a "Canadian film and video production" must be technically accurate and consistently applied. The use of accurate and consistent terminology is of particular import in connection with the Draft Guidelines Proposal's discussion of "ownership". In this context, a clear distinction must be drawn between (i) an "equity" interest in a production – which is an indefeasible and permanent transfer of rights that customarily results in an entitlement to recoup the initial investment and participate subsequently in the profits of exploitation; and (ii) an interest in the nature of a "licence" (ie. a licence to distribute, broadcast or otherwise exploit certain rights in a production) – which is a grant of a right to exploit a production for a fixed term that does not necessarily result in a right to recoupment of consideration (other than recoupable distribution advances against contingent future revenues) and may or may not result in an entitlement to participate in profits.

- **Need to focus targets and limit collateral effect**

2. We support CAVCO's commitment to ensuring that only bona fide Canadian-controlled film and television projects are entitled to the benefits afforded by the CPTC. Unfortunately, in its efforts to "simplify" and provide for "greater certainty", CAVCO has raised proposals which will result in legitimate Canadian-controlled film and television projects failing to qualify for the CPTC. The Draft Guidelines Proposal must be revised so that the full range of Canadian content productions is recognized for its economic and cultural contribution to the Canadian film and television industry, and that appropriate policy objectives can be met without inadvertent adverse impact on Canadian producers' ability to conduct business and remain commercially competitive.

- **Need to recognize current legislative intention**

3. The Department of Finance ("Finance") published draft amendments to the *Income Tax Act* (Canada) ("Act") in 2003 which, among other things, proposed changes to the definition of "investor" found in Section 125.4 of the Act and the associated "investor rules". More specifically, the draft amendments would revise the Act so as to remove the general prohibition against investors claiming tax deductions in respect of a certified production and replace it with a specific prohibition against tax shelter investments (as defined by the Act). In addition, Finance removed the previous requirement relating to "property ownership" from the definition of "labour expenditure" in subsection 125.4(1).

4. These draft amendments can reasonably be interpreted as an intention by Finance to permit private investment in Canadian content productions. Unfortunately, while Finance released draft amendments to the Act itself, it did not provide for amendments to the Regulations thereto. As a result, a sharp inconsistency exists between the Regulations which continue to preclude an "excluded production" from receiving the CPTC ("excluded productions" are defined to include those for which a Canadian is not the owner of worldwide copyright of the certified production for the first 25 years following completion) and the draft amendments to the Act which propose the facilitation of private investment. As a result of this inconsistency, Canada Revenue Agency ("CRA") may currently disallow entirely an application for the CPTC where it is of the view that an investor has received a legal or so-called "beneficial" interest in copyright, notwithstanding the efforts by Finance to allow for private investment.

5. There should most certainly be a measured analysis of the current position of Finance so as not to implement Guidelines which are contrary to its legislative intentions.

- **Need to encourage Canadian competitiveness**

6. The proposed guidelines are, with few exceptions, more restrictive than those under which the production community has been operating for the last decade. The Government's original goal in implementing the CPTC was to provide assistance to the Canadian production community in growing this industry. The policies relating to the CPTC should, therefore, recognize the current difficulties and challenges facing Canadian film and television producers. In today's environment, where the financing of films and television productions has become increasingly difficult, and in the face of a marked increase in worldwide competition for film and television production activity and dollars, our Canadian producers must count on their domestic government and its industry agencies to actively support their efforts to remain competitive.

7. If access to the CPTC – one of Canada’s primary film and television support mechanisms – is made more difficult as a result of revised guidelines, the production community will be left behind, as traditional partners turn to other jurisdictions which offer more favourable production financing opportunities. The industry and its Government must work together to ensure the continued health and competitiveness of our community.

8. Government policy should facilitate access to international film and television financing opportunities. Where such access can be accomplished without compromising Canadian policy objectives, the Government and its agencies should actively support Canadian producers in their efforts to take advantage of foreign financing as an important part of their efforts to remain competitive.

▪ **Need to respect commercially negotiated terms**

9. Canadian producers are internationally recognized for their creative vision, sophisticated business knowledge and practices, and determination to successfully develop, finance, produce and distribute Canadian film and television productions around the globe - notwithstanding an increasingly challenging and competitive environment. CAVCO’s institution of guidelines and policies based on an assumption that the Minister of Canadian Heritage must ensure that Canadian producers make sufficiently good business deals for themselves is an assumption which warrants further examination. The policies and guidelines of CAVCO should, with certain exceptions outlined herein, be revised to remove provisions which would obligate Canadian producers to negotiate minimum commercial terms in order to access the CPTC.

▪ **Need for commercially relevant indicia of Canadian control**

10. Subject to our comments in respect of copyright ownership below, CAVCO’s Producer Control Guidelines should be replaced by the following conditions which, if satisfied, would result in eligibility for the CPTC (assuming that other requirements, including “points” requirements and production expenditure tests, are complied with):

- (i) the Canadian producer is meaningfully involved in development from the time at which it has secured underlying rights;
- (ii) the Canadian producer genuinely controls the production process;
- (iii) the Canadian producer was primarily responsible for the securing of production financing;
- (iv) the Canadian producer was primarily responsible for the negotiating of initial production financing and exploitation agreements; and,
- (v) the Canadian producer is entitled to a reasonable and demonstrable monetary participation in terms of budgeted fees and overhead and participation in revenues of exploitation.

We would be pleased to provide more detail on these conditions and work with CAVCO on appropriate implementation guidelines.

B. SPECIFIC COMMENTS:

For your convenience, we have set out our specific comments below with reference to the numbered headings of the Public Notice.

<b>II-A Copyright Ownership</b>
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11. Unlike the early days of the capital cost allowance tax shelters in the 1960's and 1970's when copyright ownership was thought to constitute the only valuable capital asset, today's commercial marketplace places very little economic value solely on the legal ownership of copyright. It is the ownership or control of the various exploitation rights in and to a production which yield real economic value. As a result, current Canadian copyright ownership requirements should be tempered with more commercially relevant indicia of control, such as the proposed set of conditions outlined in paragraph 10 of this document.

12. Until such time as there is consensus amongst all Government and private sector stakeholders regarding the possible elimination of the copyright ownership requirement, we recognize that at this time, copyright ownership remains a general criterion for eligibility for the CPTC. The CFTPA believes that such ownership must be grounded in section 3 of the *Copyright Act* (Canada) as opposed to the concept of "beneficial copyright ownership" that CRA and CAVCO currently employ.

13. In the event that the Canadian producer acquires the rights enumerated in section 3 of the *Copyright Act* and such acquisition is evidenced by the project's chain-of-title, the producer should have thereby satisfied the legislative copyright ownership requirement, and CAVCO's analysis of copyright ownership should be complete. Any subsequent analysis by CAVCO of what it and CRA have previously characterized as "beneficial copyright ownership" (more accurately described as the right to participate in the benefits of exploitation of the production including, among other things, revenues) should be reserved for consideration in the context of CAVCO's examination as to whether the requirements set forth in the draft amendments to Section 125.4(1) of the Act have been met. Section 125.4(1) requires that the Minister of Canadian Heritage be satisfied that the production corporation retains an acceptable share of revenues from the exploitation of the production in non-Canadian markets – and is considered more fully in part II-B below.

14. Even so, the CFTPA believes that CAVCO should be flexible where copyright ownership is concerned in order to recognize that special circumstances exist in the context of a Canadian producer's efforts to secure international financing through foreign financing sources. More specifically, we believe that CAVCO should provide an exemption to the general requirement of legal copyright ownership in order to facilitate Canadian producers' access to international financing incentives which may require that legal copyright ownership be owned by a non-Canadian on either an interim or permanent basis. We understand that the details of such an exception would be subject to further discussion and consideration, and recommend that the CFTPA play a leading role in the ongoing process.

15. CAVCO has raised a question as to whether Canadian broadcasters should retain their status as “prescribed investors” and thereby continue to be permitted to make equity investments in Canadian content productions. The CFTPA believes that a producer’s access to increasingly scarce equity should not be further curtailed by the removal of these broadcasters’ “prescribed investor” status. Canadian broadcasters’ equity investments in Canadian productions is not a practice which should be discouraged by the Department of Canadian Heritage since access to this equity is one of the few remaining sources of domestic financing available to Canadian producers.

16. In fact, given Finance’s efforts to facilitate private (non-tax shelter) investment in Canadian film and video productions, we query whether the characterization of any investor as “prescribed” remains necessary. Our position is that subject to a restriction against tax shelters, private investment in certified film or video productions should be encouraged, regardless of the nature or nationality of the investor, provided that such investor i) does not interfere with the Canadian producer’s authority and control over production, and ii) does not acquire legal copyright ownership in the production to a level that exceeds the level of its investment. We recommend that the details of such levels be tied into the discussions the CFTPA has alluded to in paragraph 14 above.

17. In the spirit of facilitating Canadian producers’ access to more financing options, we believe that the current requirement that the Canadian producer retain copyright ownership in and to the film or video production for a period of twenty-five (25) years should be substantially reduced, subject to further discussions on related copyright issues.

18. Finally, we wish to correct inexact terminology and statements in the Public Notice which are relevant to the issue of “ownership”:

- Paragraph 11 of the Public Notice suggests that it is normal for investors such as distributors, broadcasters and interim lenders to “provide financing in the form of distribution advances, broadcast pre-sales and loans”. While accurate, CAVCO goes on to suggest that it, *“is normal for such entities that advance substantial sums to recoup their investments, as well as seek to participate in net profits. We also recognize the risks that investments such as these may pose where the investors cross a certain threshold and take on the qualities of equity owners, that is, their rights extend far beyond normal recoupment arrangements between copyright owners and their investors.”* In fact, distributors, broadcasters and lenders are not investors, and payment by broadcasters and distributors of broadcast advances and minimum guarantees, respectively, do not constitute equity investments. Such payments are made on account of a grant of rights in the nature of a licence to broadcast and/or distribute a motion picture project.
- It is not “normal” in our industry for broadcasters to recoup their broadcast licence fees, or is it necessarily the case that broadcasters or distributors receive an entitlement to participate in profits, although there are indeed circumstances where such participations occur – a concept which CAVCO has historically recognized and approved. While it is certainly open to broadcasters and distributors to make equity investments in addition to acquiring rights of exploitation, such investments would be independent of amounts paid on account of distribution advances and broadcast licence fees.

- Interim lenders do not provide equity investments, they provide loans. Loans are, in the normal course, repaid with interest in first priority from various sources of financing including equity investment, domestic and foreign subsidy, territorial pre-sales to distributors and, in some cases, revenues of exploitation. Loans must generally be repaid in advance of any recoupment by equity investors. In no instance is a production's interim financier entitled to an ongoing participation in revenues after repayment of the loan.

<b>II-B Acceptable Share of Revenues from the Exploitation of the Production in Non-Canadian Markets</b>
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19. CAVCO proposes the revision of existing guidelines designed to require minimum profit participation by the Canadian producer, together with revisions and/or new restrictions on distributors' and/or broadcasters' right to exploit productions.

20. The CFTPA believes that with certain exceptions, the existing requirement which calls for the Canadian producer to retain a reasonable financial interest in the foreign exploitation of the production (normally not less than 25% of the worldwide value excluding Canada) should be retained. In respect the question raised by CAVCO in paragraph 32 of the Public Notice, we believe that the applicable definitions of "net profits" and/or "gross profits" should be left to the parties to negotiate, subject to perhaps CAVCO's right to ensure that distribution fees and expenses are contracted at rates which are in keeping with established industry standards. Our position is more specifically outlined in the following responses to the suggested eligibility criteria for "acceptable revenues" in the Draft Guidelines Proposal (Annex to the Public Notice):

- *A beneficial interest in the exploitation of the production in non-Canadian markets shall be retained by the eligible corporation, and in no event shall it be less than 25% of net profits in each of any major foreign territory*

Response: While we understand the intent of this suggested criteria, reliance on an arbitrary fixed threshold has inherent difficulties. In order for Canada's producers to secure financing of their budgets, they are required to settle agreements with a wide range of parties including, among others, underlying rights owners, writers, directors, performers, equity investors and financiers. While it is indeed unfortunate, producers must often assign an entitlement to participate in net profits in order to close both creative and financing arrangements and thereby facilitate production. We support the review of a Canadian producer's ongoing economic entitlement as part of the analysis; however, reliance by CAVCO on a fixed threshold of net profits "*in each of any major foreign territory*" does not provide the flexibility required to respond to commercial realities which bona fide Canadian producers are subject in their efforts to raise financing, attract and engage talent, and secure worldwide distribution of their productions. Guidelines should be flexible enough to respond to particulars faced by Canadian producers. For instance, for the overall financial viability of the production, a Canadian producer may wish to assign outright the revenues generated by the production in a particular territory. Where necessary to facilitate production, this commercial arrangement should be permitted.

- *A beneficial interest in the exploitation of ancillary and subsidiary rights in the production in non-Canadian markets shall be retained by the eligible corporation, and in no event shall it be less than 25% of the worldwide net profits from the exploitation of those rights*

Response: Our comments set out in the preceding paragraph are equally relevant to this proposed requirement. We believe that ancillary and subsidiary rights (including merchandising rights) should form part of the “worldwide value excluding Canada” of which the Canadian producer must retain 25%.

- *Subject to paragraphs (a) and (b) in this section, profit participation outside an investor’s territory shall not exceed its percentage of production financing*

Response: This proposed requirement fails to account for the complexities of international financing arrangements. Furthermore, it will be impossible to ensure compliance with this requirement given international collections and disbursements.

- *Broadcast licences are not recoupable in any territory and shall be negotiated separately from distribution licences*

Response: As mentioned above, it is not customary in our industry to recoup broadcast licence fees. In addition, we would seek clarification from CAVCO as to what it means in requiring that distribution terms and licensing terms are to be “negotiated separately”. How will Canadian producers, broadcasters and distributors evidence such “separate negotiations”? The arbitrary delineation between broadcast licence and distribution rights is unnecessary and unrealistic. Instead, we suggest that the allocation of funds as between broadcast licence fee and distribution minimum guarantee be commercially reasonable.

- *Except where the distribution entity is related to the eligible production entity, the term for the exploitation of the production by a distributor in non-Canadian markets shall be limited to 25 years*

Response: This requirement fetters a Canadian producer’s ability to attract and negotiate domestic and international distribution arrangements. We need to employ alternative criteria in order to achieve CAVCO’s goals without inadvertent restriction on the terms under which we may conduct business.

- *Distribution fees for the exploitation of the production by distributors in non-Canadian markets shall be reasonable and expenses shall be limited to direct, actual and out-of-pocket expenses*

Response: Restrictions in this regard should recognize industry standards and the customary deduction of some forms of overhead by distributors.

- *The Canadian territory shall not be cross-collateralized with non-Canadian territories, nor shall it constitute a source of revenues for non-Canadian investors*

Response: This requirement does not take into account the complexity of international finance negotiations or equity recoupment models. Tight domestic and international financing markets mean that Canadian producers must not be restricted in their ability to enter into a variety of production financing arrangements, including those which involve the cross-collateralization of the Canadian territory, in order to bring their projects to fruition. We are unclear as to how the adoption of this suggested requirement advances CAVCO's interests with regard to the certification of productions.

- *Federal tax credits shall not be included in the revenue stream of other investors*

Response: We seek clarification as to CAVCO's intentions in this regard. To the extent that these amounts are not included in production financing, they are customarily understood to constitute revenues and are allocated to recoupment of Canadian investors.

## **II-C Control of the Initial Licensing of Commercial Exploitation of the Production**

21. Current requirements mandate that a Canadian producer must demonstrate that it exercises full control over the initial licensing of its rights as a copyright owner from the time of the acquisition of the property. The CFTPA believes that the existing requirement has worked well in the past and that no revision is required. In fact, we find it difficult to see a connection between CAVCO's proposed "two simple rules" and its objective of Canadian control.

22. Firstly, CAVCO is proposing to categorically deny eligibility for the CPTC to any project which (i) has undergone any meaningful development by a non-Canadian; and/or (ii) has exploitation arrangements initiated by a non-Canadian, prior to the date on which the Canadian secures ownership of copyright. Secondly, CAVCO proposes that any project in respect of which a non-Canadian which has previously owned the underlying rights in a concept or project ultimately participates in the exploitation of the project "*under licence or otherwise after the production has been completed*" would be rendered ineligible for the CPTC.

23. While we understand the intention, CAVCO's "simple rules" will render bona fide Canadian productions ineligible for the CPTC. The Guidelines currently propose that the Canadian producer demonstrate that it is in control of the initial licensing from the time at which it acquires the project. Besides an inexact reference in paragraph 19 of the Public Notice to a Canadian producer's acquisition of "copyright" of a property (producers customarily acquire underlying rights to a motion picture project by way of licence), CAVCO's proposed rules wander dangerously off course in implementing requirements which relate to the characteristics of creative development *prior* to the time at which the Canadian producer secures rights, and impose obligations which are not relevant to the initial licensing of exploitation rights.

24. The first rule fails to recognize the fact that third party development of projects is commonplace in our industry. Projects are developed at different times and by different owners, and are bought, sold, optioned, assigned and licensed as independent commodities. Projects may be creatively restructured, creative participants may lose interest over time, businesses (and their assets) are bought and sold internationally, and producers' financial priorities may change. These realities tend to result in film and television projects being developed by various parties over time. There are a multitude of examples of "dyed-in-the-wool" certified Canadian film and television productions which received some level of development by a prior non-Canadian owner. It's hard to understand CAVCO's objection to a production that may have been initially developed by non-Canadians but which was ultimately acquired, developed and produced by Canadians in accordance with the Guidelines. In addition, it is counterproductive to institute rules which would prohibit Canadian producers from accessing third-party financial participation in development or production.

25. CAVCO's second "simple rule" is equally inconsistent with industry practice. The rule would serve to render ineligible a project which is based on an original screenplay written and directed by a Canadian which happened to receive initial development by a non-Canadian entity. In addition, if a Canadian producer wished to acquire the project and proceed to production, it would be reasonable and customary for the prior rights owner to require an entitlement to some involvement by way of a first right of negotiation for distribution rights, executive producer fees, credit, repayment of overhead, etc. While the two simple rules are proposed with all good intentions, there must be further effort made to ensure that the Guidelines do not inadvertently result in adverse impact to legitimate Canadian content projects. So-called "service productions" should be rendered ineligible for the CPTC through the implementation of effective rules and regulations which are sensitive to (and do not unfairly restrict) the ongoing business interests and opportunities of bona fide Canadian content producers.

<b>II-D Producer Control Guidelines</b>
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26. The restrictions set out in sub-paragraph (c) of the Draft Guidelines Proposal for "acceptable revenues" do not recognize customary commercial terms of industry agreements (eg. distribution agreements, broadcast licences, ...) which require that the relevant entities are entitled (i) to receive periodic expense reports, rushes, rough cuts, etc.; and (ii) to implement changes to the final picture. CAVCO must recognize that domestic and international distributors and broadcasters have a fundamental interest in monitoring production and ensuring a satisfactory result.

27. With respect to on-screen credits, we support CAVCO's proposed requirement that the number of credits accorded to non-Canadian executive producers and others not exceed similar credits accorded to Canadians. However, the restriction on non-Canadian courtesy or vanity credits being accorded only to those individuals who render services related to financing or exploitation is too restrictive and does not reflect the reality of today's marketplace where projects may pass through non-Canadian hands before being developed and produced by a Canadian. The CFTPA believes that CAVCO's proposed policy regarding the number of credits accorded to non-Canadian executive producers should also be applicable to non-Canadian courtesy or vanity credits.

## **II-E Limited Use Rights**

28. Sub-paragraph 2(c) of the Draft Guidelines Proposal for “limited use rights” does not recognize that there are numerous parties involved in the commercial exploitation of a film or television production. These parties will include any combination of producers, a master distributor, producer’s sales representatives, international sales agent(s), and local territorial distributors and broadcasters. In order to recognize this reality, the reference to “commercial exploitation” should be revised to reference “initial commercial exploitation”.

29. Pursuant to customary format licensing agreements, a Canadian producer is in complete control of the development and production of the Canadian version of the format. Contrary to CAVCO’s assertion, these productions do not constitute service deals. In fact, these Canadian versions of international formats are clearly Canadian – written, directed, produced and starring Canadians and directed primarily at the Canadian audience and marketplace. There is simply no good policy reason to exclude such programs from eligibility for the CPTC.

30. Since the Canadian format is less marketable outside Canada, and the owner of the relevant format will certainly be attempting to licence the format in other territories, CAVCO should provide for flexibility with respect to limitations which may be placed on the exploitation of the Canadian format outside of Canada. In this context, such limitations on exploitation in foreign markets reflect the reasonable efforts of the format’s owner to protect a valued brand, and are certainly not indicative of a service deal or of non-Canadian control over production and exploitation.

## **II-F Show Runners and Writers**

31. In our view, the proposed specific prohibition against non-Canadian “show runners” is unnecessary and would, in fact, make Canadian producers less competitive and potentially hinder their ability to consistently make and exploit world-class programs. There is no industry-standard definition for the term “show runner” and, in fact, this is not a formally recognized position or on-screen credit. Rather, it is a term that is typically applied, in a colloquial manner, to a writer, director or creative producer-for-hire that helps craft the look and feel of a television series. In this capacity, they help flesh-out and implement the overall style and direction of the show desired by the controlling producer and its financiers (i.e. broadcasters and distributors who have acquired rights to the production in advance). For the most part, there is only a handful of experienced “show runners” in Canada, particularly when it comes to higher budget or uniquely stylized types of programming.

32. In light of the above, it is sometimes necessary for Canadian producers to reach into the rich pool of experienced “show runners” in the United States to help ensure that a show turns out exactly as intended by the Canadian producer. To prevent Canadian producers from doing so might ultimately prevent a producer from getting a legitimate Canadian content project fully-financed or producing the highest quality show possible. Additionally, Canadian writers and other creative crew members would lose out on the opportunity to learn the craft of “show running” from a seasoned hand.

33. We recognize and appreciate CAVCO's concerns that in some situations a "show runner's" role may appear to encroach on the Canadian producer's control over a production. However, CAVCO can ensure that the Canadian producer remains legitimately in control of the production process by requiring that the Canadian producer retain final control over the creative and physical production process - both on a legal and practical level - and that the so-called "show runner" report - both legally and practically - to the Canadian producer. The continued use of CAVCO's current form of Affidavit should provide CAVCO with comfort on this point.

34. Where writers are concerned, CAVCO is well aware that current guidelines provide that all of the writers on a television series may be non-Canadian, provided that the project's director is Canadian.

35. Therefore, we assume that CAVCO is trying to say one or both of the following:

- Only one non-Canadian supervisory writer may receive an executive producer or related credit; and/or,
- The involvement of such a non-Canadian supervisory writer will not render all of the relevant scripts ineligible for the creative points assigned to Canadian writers (i.e. scripts written by Canadians under the supervision of such non-Canadian writer will qualify, with respect to the applicable episode, for the creative points assigned to the engagement of a Canadian writer).

36. The CFTPA generally supports both of these points. That said, CAVCO should recognize that it is not unusual for writers to work as a team of two or more. This collaboration is expressly recognized in the collective agreements of both the Writers Guild of Canada and the Writers Guild of America. It is imperative that where bona fide "teams" render services on the production, that the "team's" members be permitted to share the executive producer or related credit (on a single card). In any event, the intention and effect of this particular proposal requires clarification by CAVCO.

<b>II-G CAVCO Advisory Committee</b>
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37. The CFTPA supports the creation of an Advisory Committee to provide CAVCO with input and consultation from the production community. We recommend that the Advisory Committee be comprised of Canadian film and television producers who have significant experience in the development, production and distribution of projects which have successfully applied for and received certification by CAVCO as "Canadian film or video productions". The Advisory Committee should draw its membership from producers whose principal business activity is not that of "service production".

CONCLUSION

The revision of CAVCO's existing policies and procedures will have a significant and direct impact upon the CFTPA's membership. As a result, it is imperative that Canada's film and television production industry be well represented in forthcoming consultations with respect to CAVCO's CPTC Guidelines. The CFTPA would be pleased to participate in a substantive consultation process under which the CPTC guidelines are finalized and implemented.

Regardless of the final form of the Guidelines, CAVCO must provide transitional measures (grandfathering) for projects which have received approval under existing requirements and a reasonable period of notice in order to facilitate production of projects which are developed, financed and committed to production. In particular, special consideration should be given to projects which have been approved by CAVCO and which are subject to renewal provisions. Further related productions should not be deemed ineligible for the CPTC as a result of more restrictive policies and guidelines.

We will be pleased to meet with you and your staff at a mutually convenient time to discuss these issues in further detail.

Best regards,



Guy Mayson  
President and CEO

cc. Claire Samson, President and CEO, APFTQ  
Nathalie Leduc, Director – Financing Section, APFTQ