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# Canada Feature Film Fund

## Guidelines

### Development and Production Program For French-Language Productions



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**Ce document est également disponible en français.**

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# 1. CANADA FEATURE FILM FUND – DEVELOPMENT & PRODUCTION FOR FRENCH-LANGUAGE PRODUCTIONS

## 1.1. Guidelines

These guidelines pertain to Development and Production program for French-language productions. Guidelines specific to the Marketing program, complementary programs as well as to English-language productions are available on the Telefilm Canada (Telefilm) [website](#).

These guidelines take into account the distinct realities of Canada’s English-and French-language markets. The differences between these two markets have resulted in asymmetrical policies designed to meet their particular needs and objectives.

While compliance with the guidelines is a prerequisite to eligibility for funding, compliance does not guarantee entitlement to Telefilm funds. Telefilm may make adjustments to its guidelines and application forms from time to time as required. Telefilm has full discretion in the application of, or exception to, these guidelines to ensure that its funding is provided to those projects that meet its spirit and intent. In all questions of interpretation of either these guidelines, or the spirit and intent of this program, Telefilm’s interpretation shall prevail.

## 1.2. Goal, Spirit and Intent

The primary objective of the CFFF is to increase Canadian audiences in theatres for Canadian feature films.

The programs are designed to support the development and production of Canadian feature films with strong domestic box office potential. To encourage diversity in feature film production, Telefilm supports a wide range of genres and budgets from varied companies and regions. Telefilm also promotes the forging of alliances among producers, distributors, exhibitors and international partners. Telefilm’s financial assistance through these programs contributes to the overall growth and the professional and economic development of the Canadian film industry.

The programs are delivered through two financing instruments: a selective component and a performance component. Resources in the form of performance envelopes are reserved mainly for producers and distributors who achieve success at the domestic box office. Producers with envelopes have greater autonomy, discretion and flexibility in using the funds to develop and produce Canadian feature films.

The selective component is primarily for producers without a box office track record sufficient to obtain a performance envelope. In the selective component, Telefilm prioritizes and selects from among projects in a highly competitive and oversubscribed environment.

Resources within the program are first allocated on a linguistic basis: one-third for French-language and two-thirds for English-language productions. Within each language allocation, funds are earmarked for those producers qualifying for a performance envelope, with the balance of resources flowing to the selective component. The percentage of resources allocated between the selective and performance components is directly related to the performance of Canadian films at the box office.

## 2. ELIGIBLE APPLICANTS

### 2.1. Basic Criteria

In order to be considered eligible, an applicant must be a Canadian-owned and controlled corporation, as determined under sections 26 to 28 of the [Investment Canada Act](#), with its head office based in Canada. In addition, when assessing an applicant's eligibility, Telefilm will evaluate whether:

- the applicant's activities take place in Canada;
- the financial stability of the applicant (with appropriate exceptions for new production companies without established parent companies); and
- the applicant operates principally as a feature film production entity.

Furthermore, individual producers and other key production personnel exercising creative and financial control over the project submitted to Telefilm must be Canadian citizens, within the definition of the [Citizenship Act](#), or permanent residents within the definition of the [Immigration and Refugee Protection Act](#).

Eligible production companies must demonstrate to Telefilm's satisfaction a commitment to producing Canadian feature films and must possess the experience and level of expertise necessary to complete the production. Telefilm's specific requirements will vary depending on the nature and scope of the project.

For full details of the producer eligibility criteria for the CFFF, see the business policy titled Telefilm's [Procedure for Determining Producer Eligibility](#) for CFFF Funding on Telefilm's website. Please note that this procedure applies only to producers submitting an application to Telefilm's Quebec office.

### 2.2. Broadcaster-Affiliated Companies <sup>1</sup>

Broadcaster-affiliated production companies are not eligible to apply to the Development and Production program for French-language productions.

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<sup>1</sup> A company is considered to be broadcaster-affiliated if it, or a corporate group of which it is a member, receives more revenue from CRTC-regulated operations (including without limitation, broadcasting, cable, satellite) than from combined production and distribution operations. For the purposes of the above, **corporate group** means two or more affiliated corporations. Telefilm will use the definition of **affiliate** set out in the *Canada Business Corporations Act*.

### 3. ELIGIBLE PROJECTS

In administering the CFFF, Telefilm seeks to support the development and production of feature films that are owned and controlled by eligible applicants and which contain significant Canadian creative elements. While Telefilm does not intend to restrict filmmakers in their choices of stories, or their natural settings, it will, wherever possible, give priority to projects that present a distinctly Canadian point of view.

#### 3.1. Basic Criteria

To be considered eligible, a project must:

- be aimed primarily at Canadian audiences and for the Canadian theatrical market;
- be under Canadian ownership, that is, its copyright must be owned by a Canadian;
- be under Canadian financial and creative control, as well as its rights and options necessary for the full and complete exploitation of the project must be held by an eligible production company; and
- not contain any element of serious and gratuitous or explicit and excessive violence, any element which is predominantly characterized by the undue exploitation of matters of a sexual nature, or matters of a sexual nature and one or more of the following subjects: crime, horror, cruelty and violence, or any other sexual offence under the [Criminal Code](#) or any matter which is libelous, obscene or in any other way unlawful.

#### 3.2. Additional Criteria for Development

To be considered eligible, a development project must also:

- be a French-language project or a script intended as a feature-length fictional film<sup>2</sup>
- plan to have Canadians in the roles of scriptwriter, director and lead performer<sup>3</sup>; and
- with respect to Canadian content certification, **plan to be either:**
  - certified by the Canadian Audio-visual Certification Office (CAVCO) as a “Canadian film or video production” with a minimum of 8 out of 10 points under the provisions of the [Income Tax Act](#) (Canada) ; **or**
  - certified as an official treaty coproduction by the Minister of Canadian Heritage (refer to Telefilm’s guidelines entitled [International Coproductions](#));

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<sup>2</sup> The project is at least 75 minutes in duration. Projects whose first window is more likely home video, or television broadcast, are ineligible.

<sup>3</sup> Telefilm will continue to consider appropriate exceptions to these criteria on a case by case basis particularly where the level of financial request to the CFFF is low, and there are other significant Canadian creative elements including a distinctly Canadian

### 3.3. Additional Criteria for Production

To be considered eligible, a production project must also:

- be a French-language feature-length fictional film;
- with respect to Canadian content certification, upon completion **be either**:
  - certified by the Canadian Audio-visual Certification Office (CAVCO) as a “Canadian film or video production” with a minimum of 8 out of 10 points under the provisions of the [Income Tax Act](#) (Canada) ; **or**
  - certified as an official treaty coproduction by the Minister of Canadian Heritage (refer to Telefilm’s guidelines entitled [International Coproductions](#));
- be written by a Canadian scriptwriter and directed by a Canadian director. Appropriate exceptions will be made for otherwise eligible projects requesting a lower level of financial participation from Telefilm. In the case of a writer, Telefilm will consider indicators in determining eligibility that include: the degree of involvement of the Canadian writer (which must be meaningful and collaborative); and whether the underlying property and story are Canadian;
- have a Canadian performer in the lead role. Telefilm will continue to allow for flexibility in assessment of the Canadian performer in a lead role in co-protagonist and ensemble situations, as well as where the non-Canadian actor is integral to the market potential of the film (that is, marquee cast);
- if budgeted at more than \$1.25 million, have a hard commitment from an eligible Canadian distribution company<sup>4</sup> for theatrical release in Canada within one year of delivery;
- for all funding requests – selective and performance - of \$2 million and above, the threshold requirements for the Canadian distributor’s minimum guarantee for the Canadian territory are the lesser of 6% of the Canadian budget, or \$400,000; and
- conform to the Canadian Association of Broadcasters (CAB) Code of Ethics and to all other programming standards endorsed by the CAB or the Canadian Radio-television and Telecommunications Commission (CRTC).

### 3.4. Additional Criteria for Official Coproductions

Telefilm will evaluate appropriate requests for exceptions to the eligible applicant and eligible project rules for international coproductions. However, an advance ruling or certification as an official coproduction does not render an applicant or project automatically eligible for CFFF program funding. In assessing whether to grant an exemption from these rules, Telefilm will take into consideration the amount requested from the CFFF, the producer’s ownership and control in the creative, financial and distribution process, the level of Canadian elements and whether the underlying property and story are Canadian.

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point of view.

<sup>4</sup> The criteria for an eligible distributor are outlined in the CFFF Marketing program [guidelines](#).

## 4. SELECTIVE COMPONENT

Companies with a performance-based envelope, production or development, may not apply to the CFFF selective component for development support.

### 4.1. Development Financing

#### 4.1.1. Eligible costs

Eligible costs are as follows:

- Costs related to each development phase as detailed in these guidelines. The standard development budget is available from Telefilm's offices or on its [website](#).
- For non- small and medium-sized companies (SMEs<sup>5</sup>), producers' fees and overhead are not considered eligible costs.
- For SMEs, producer fees and overhead (PFOH) are allowable costs as long as they do not exceed 20% each of eligible direct costs (although over-scale writing fees can be considered eligible direct costs, the over-scale amount is not included for purposes of the PFOH cap).

Expenses incurred and/or paid previous to submission of the application are not eligible.

Only Canadian costs are eligible, with the following exceptions:

- non-Canadian costs eligible in official coproductions (see section 4.1.2 below); and
- for all phases of development, non-Canadian script editors and consultants whose services do not result in any copyright ownership interest in the script.

#### 4.1.2. Official coproductions

Telefilm wishes to support the development of projects suitable to become official coproductions with scripts that reflect the stories, characters and settings of the coproducing countries, and to encourage greater financial participation by its foreign counterpart funding agencies.

At the scriptwriting stage, Telefilm considers writing fees for a non-Canadian writer eligible for support when: the project is intended to be an official coproduction; the writer is from the coproducing country; and the development budget is also supported by the coproducing country's competent authority or other funding agency. However, at Phase 3, Telefilm requires that the attached director be Canadian.

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<sup>5</sup> Small and medium-sized companies have gross annual consolidated (including related companies) revenues of less than \$25 million, averaged over the past three years or less depending on the age of the company, and are not related to any company that exceeds the above threshold. Telefilm will use the *Handbook of the Canadian Institute of Chartered Accountants* as a guide

#### 4.1.3. Financing Phases for Development

Financing is available for all development phases and for packaging. Applications should be made one phase at a time, in line with the key writing phases with the following required material:

DESCRIPTION OF SCRIPTWRITING PHASES	MATERIAL REQUIRED WITH THE APPLICATION FORM
<p><b>PHASE 1: Outline or Treatment to First Draft</b>            Outlines or treatments must be 10 to 15 pages long and well detailed setting out the scene-by-scene development of the full narrative in screen terms. This phase covers the writing of a first draft script. For the adaptation of a novel, life story or other existing source, the outline must include the proposed film treatment and not merely summarize the source work. Applications for an adaptation must be accompanied by the source work.</p>	<ul style="list-style-type: none"> <li>• 10-15 line summary</li> <li>• detailed outline (10-15 page) or treatment</li> <li>• original source work, if any</li> </ul>
<p><b>PHASE 2: First Draft to Second Draft</b>            First draft script accompanied by a rewrite proposal setting out the changes to be made to the story, narrative, structure, characters, dialogue, etc.</p>	<ul style="list-style-type: none"> <li>• 10-15 line summary</li> <li>• script</li> <li>• rewrite proposal</li> </ul>
<p><b>PHASE 3: Subsequent Draft to Shooting Script and Project Packaging</b>            Subsequent draft to shooting script to be submitted for production support. A rewrite proposal setting out the changes to be made (typically polishing). Some project packaging costs are eligible.</p>	<ul style="list-style-type: none"> <li>• 10-15 line summary</li> <li>• script</li> <li>• rewrite proposal</li> </ul>

#### 4.1.4. Evaluation criteria

Telefilm will base its decisions on the following criteria:

- the originality and quality of the creative materials and potential of success in theatres; and
- the track record of the creative team, in particular the producer and scriptwriter.

Files without full and final documents will not be processed.

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in determining when two companies are related.

## 4.2. Production Financing

### 4.2.1. Selection process and evaluation criteria

French-language projects from across Canada must be received, evaluated and compared at the Telefilm office in Montréal. Projects are compared against others within the same budgetary range. In selecting films for financing, Telefilm seeks to ensure that a significant portion of the projects demonstrate box office potential. To this point, Telefilm will look to ensure genre and budget diversity in its investment portfolio. Priority in the Selective decision-making process will be given to production companies without a performance envelope.

This CFFF program accepts applications for projects budgeted at more than \$1.5 million, and earmarks a portion of its French-language production funds for projects with budgets of between \$1.5 million and \$2.5 million, which are evaluated against each other.

The Low Budget Independent Feature Film Assistance Program (LBIFFAP) supports projects budgeted at \$1.5 million or less. Telefilm seeks to establish a portfolio of lower budget feature films that encourage diversity of viewpoint, culture and genre. The guidelines for the LBIFFAP are available on Telefilm's [website](#).

Projects will be assessed on the following criteria:

EVALUATION CRITERIA	
Creative	<ul style="list-style-type: none"><li>• Originality of the project.</li><li>• Quality and production-readiness of the script.</li><li>• Director's vision for the film.</li><li>• Director's track record.</li><li>• Scriptwriter's track record.</li><li>• Producer's vision of the film and control over its creative elements.</li><li>• Reflection of Canadian society and cultural diversity.</li></ul>
Audience	<ul style="list-style-type: none"><li>• Potential for success in theatres (with consideration given to size and type of film). If the project is an official coproduction, its foreign box office potential will also be considered.</li><li>• Marquee value of key project elements (director, performers, original work from which the film has been adapted, source material, etc.).</li><li>• Potential for success in international markets.</li><li>• Potential for success at festivals.</li><li>• Distributor's vision of the project and of the marketing plan, and of costs related to the film's theatrical launch (P&amp;A).</li><li>• Track record of distributor and producer in achieving box office results for films of a similar genre; and track record of foreign sales agent, if applicable.</li></ul>
Financial/Recoupment	<ul style="list-style-type: none"><li>• Optimization of available funding sources.</li><li>• Projected Canadian box office revenues, other Canadian revenues (DVD, television,</li></ul>

	<p>etc.) and international revenues.</p> <ul style="list-style-type: none"> <li>• Favourable recoupment schedule and distribution terms.</li> <li>• Production budget and production values.</li> </ul>
Corporate Development	<ul style="list-style-type: none"> <li>• Production company's corporate development (business plan, strategic direction) and level of control over the project's financial elements as well as over marketing.</li> <li>• If an official coproduction: strategic alliances developed between partners.</li> <li>• Producer's track record.</li> </ul>

As an investor, Telefilm negotiates its participation, which varies from project to project and may be less than requested.

## 5. PERFORMANCE COMPONENT

### 5.1. Envelope System

The CFFF recognizes achievement at the Canadian box office by earmarking resources for successful production and distribution companies for their subsequent eligible activities (i.e. performance envelopes). The portion of CFFF resources allocated to performance envelopes is directly related to the box office performance of Canadian films during the reference period.

Taking into account the box office efficiency ratio, the envelope system is governed by the following as a means to achieve the overall goal of the CFFF:

- envelopes should only be earmarked for those companies with the most distinguished track record of performance at the Canadian box office;
- performance envelope amounts must be sufficiently large to avoid the companies having to apply to the selective component for top-up resources; and
- envelopes should afford these exceptional companies greater predictability of financial support, decision-making autonomy and flexibility in using the resources, as compared to companies that must apply to the selective component.

In the event of changes in management or ownership of a company for which an envelope has been earmarked (such as a sale, merger, change in management, etc.) Telefilm, at its sole discretion, will review the degree to which those involved in creating the exceptional track record in Canadian box office remain involved and, thus, merit the increased autonomy and flexibility provided by performance envelopes. In the event that Telefilm, in its sole discretion, is not satisfied that the ongoing earmarking of the performance envelope will meet the spirit and intent of the CFFF, these funds will be transferred for use in the selective component to which all production companies will be eligible to apply.

Clients, and especially those producers who have been offered performance envelopes in a given fiscal year, are hereby advised that they should not rely on past guidelines and practice for anticipating or predicting an envelope for the following year and beyond.

### 5.1.1. Development envelopes

The principles and features of the envelope system for development are as follows:

- for a period of one year, \$600,000 of the performance-based resources will be earmarked to finance a maximum of six development envelopes of \$100,000 each;
- eligibility for development envelopes will be based on:
  - the number of a company's films theatrically released in the previous five years, i.e., between July 1 and June 30, and the related box office revenue;
  - total box office revenue of at least \$500,000 earned by the company's films, and at least three films having had theatrical release. In the event that more than six companies meet the basic criteria, the criteria will be applied in the following order: 1) the number of films produced over five years and, as needed, 2) the box office revenue;
- companies with a development envelope may not apply to the selective component for development support;
- companies with a production envelope are not eligible for a development envelope;
- a company may choose to use its development envelope for production purposes but will not have access to development from the selective component; and
- a company eligible for a development envelope may choose to forego such an envelope and apply instead for selective development support.

## 5.2. Accessing Envelopes

Producers with performance envelopes have conditional privileges that are not provided to companies that must apply to the highly oversubscribed and competitive selective component. Access to an envelope is a privilege, not a right. **Under no circumstances are the envelopes transferable.** Funds available in a performance envelope must be used in the fiscal year in which the envelope is obtained.

A company that does not meet the eligibility criteria set forth in Section 2, at the time a project is submitted, shall not have access to any performance envelope generated by the exploitation of the resulting film for as long as that performance envelope shall last. Consequently, if a film is made as a coproduction involving:

- a (majority) company eligible for funding from the CFFF; and
- a (minority) company ineligible for funding from the CFFF.

and if the exploitation of the film results in a performance envelope, only the company eligible for CFFF funding at the time the project was submitted shall have access to the performance envelope funds (calculated in proportion to the eligible company's financial participation in the project).

### **5.2.1. Meaningful involvement**

Telefilm will ensure that producers access their envelopes in support of projects in which they are meaningfully involved. Telefilm considers meaningful involvement a safeguard to prevent envelopes from being traded as assets. Performance envelopes provide greater autonomy, discretion and flexibility in the use of CFFF funds. Telefilm expects producers to apply their strong track record of box office performance to the use of their performance envelopes. The producer must take responsibility and retain decision-making authority for the project from development through pre-production, production, post-production and marketing.

Within this context, the following are Telefilm's minimum requirements to demonstrate a producer's meaningful involvement in a project or projects. Telefilm may apply additional requirements to ensure meaningful involvement as deemed necessary. Producers with performance envelopes must:

- acquire copyright ownership in the eligible project, at least commensurate with the level of participation from the performance envelope relative to the size of the Canadian production budget, but, in any case, no less than 20% copyright ownership;
- receive a share of producer's fees and corporate overhead commensurate with their ownership interest;
- retain control commensurate with their ownership in the development, production, marketing and subsequent revenue reporting of the production;
- retain future access to a performance envelope commensurate with their ownership interest should the film be successful at the Canadian box office;
- enter into meaningful collaboration with partners at the development stage as demonstrated by a signed co-ownership or co production agreement that includes a description of all of the above; and
- must be signatories to the Telefilm production financing agreement.

### **5.2.2. Accessing financing from the selective component for producers with envelopes**

Producers with an envelope may not split their envelope between two or more eligible projects with the intention of applying to the selective component for top up financing for these projects.

Telefilm requires that producers with a performance envelope fully contract their envelope amount before applying for financing from the selective component.

Companies with a development envelope cannot access the selective component for additional development support.

Producers with an envelope may commit resources from the envelope to one project and at the same time apply for partial or full financing for another project from the selective component. In the event that the application to the selective component is successful, Telefilm will freeze the resources committed within the performance envelope for six months or until November, whichever is sooner. If

the project for which resources have been conditionally committed does not fulfill the conditions and proceed to contract by the deadline, the producer will not be allowed to transfer the funds to another project. Instead, Telefilm will deduct the amount from the producer's envelope and apply it against the selective assistance granted to the other project.

In assessing applications for projects with similar box office potential within the selective component, Telefilm will give priority to those received from producers without a performance envelope.

In addition to demonstrating meaningful involvement, producers who partner with a producer seeking financing from the selective component are required to provide the lesser of the following amounts to the eligible project: the balance of their envelope (less any reserve for development), or an amount corresponding to the percentage of their ownership interest in the film applied to the total funding requested from the CFFF (performance and selective components combined).

Production performance envelopes earned in one genre (i.e. fiction or documentary) must be used for the production of a film in that same genre, i.e. a production performance envelope earned for a fiction film must be used for the production of a fiction film and a envelope earned for a non-fiction/documentary film must be used for the production of a non-fiction/documentary film.

Production envelopes based on the performance of French-language films must be used only to produce other films in French. However, in order to allow some flexibility in the use of envelopes, producers may apply French performance envelope funds to the development of an English-language film and vice versa.

### **5.3. Development Financing for Producers with Envelopes**

#### **5.3.1. Access to performance funds for development**

Telefilm does not assess the producer's track record or creative elements of projects submitted for development financing through a producer's performance envelope. The only criteria applied are those concerning eligibility.

A company may use up to a maximum of \$150,000 from their production envelope to finance project development. However, Telefilm may allow the company to use up to \$200 000 of their production envelope towards project development should the company not apply for funding in the selective component.

#### **5.3.2. Multi-phase applications**

Telefilm accepts applications covering multiple development phases when development projects are financed through a performance envelope.

## 6. FINANCIAL PARTICIPATION

### 6.1. Development Financing

Telefilm's financing will be in the form of a non-interest bearing advance, to a maximum of 60% of the eligible Canadian costs at each development phase, but not exceeding \$150,000 per project over all phases.

In determining the amount of its participation, Telefilm will take into account all advances made to the project and the applicant. Projects may not be submitted for more than one phase at a time, except when financed through a performance envelope. In the selective component, if a project is rejected at one phase, it may not be resubmitted for that same phase. For example, a project rejected at phase 1 may be resubmitted only for phase 2 or 3.

Phases	Maximum \$
Phase 1: Outline or treatment to first draft.	60%
Phase 2: First draft, with rewrite proposal, to second draft.	60%
Phase 3: Subsequent draft, with rewrite proposal, to shooting script. Packaging fees are also admissible.	60%
<b>Total for the three phases</b>	Cumulative total of up to \$150,000

In the current competitive, overly subscribed environment, and limited resources, not all eligible applications submitted to the selective component will be supported. Also, Telefilm may support selected projects at a level less than the maximum.

### 6.2. Production Financing

Telefilm's financing is provided in the form of an equity investment of up to 49% of the eligible Canadian production costs.

#### 6.2.1. Selective component

Production financing from the French-language selective component is capped at \$3.5 million per project (including any performance envelope money), or 49% of the Canadian production costs, whichever is less.

In exceptional circumstances, Telefilm may provide financing beyond 49%, up to 64% of the eligible Canadian production costs, but not exceeding the \$3.5 million cap.

### 6.2.2. Performance component

There is no dollar cap in the performance component unless the producer is also seeking financing from the selective component, in which case the cap specified applies.

Telefilm's financing from a producer's envelope can be as much as 64% of the eligible Canadian production costs if the project meets the following criteria.

### 6.2.3. Financing requests above 49%

Any amount above 49% will be provided in the form of a producer equity advance<sup>6</sup>.

Feature films for which the producer is seeking financing in excess of 49% must:

- have a hard P&A commitment from an eligible distributor commensurate with the typical amount for films at a similar budget level; and demonstrate an exceptional potential for success with Canadian audiences;
- demonstrate a distinctly Canadian point of view; and
- exhibit exceptional creative merit.

Telefilm will determine, at its sole discretion, if the project meets the above mentioned criteria.

## 7. REPAYMENT

### 7.1. Development Financing

Development advances for the development of French-language projects are repayable in accordance with the contract that Telefilm and the producer enter into<sup>7</sup>.

In the event a project goes into production with financial support from Telefilm participation wholly drawn against the producer's performance envelope, the amount in development is converted into an equity investment.

In the event that the project proceeds into production **without** financial support from Telefilm or **does not proceed** into production, the advance will be treated as a non-equity repayable advance similar to a development advance at the scriptwriting and packaging stages.

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<sup>6</sup> A producer equity advance is an interest-free advance to the production company to be invested by it in the production. It is payable on the same schedule as Telefilm's investment. Recoupment by Telefilm of such advance is subject to negotiation but in no event will it be recoup less favourably than its equity investment.

<sup>7</sup> Generally on the earlier of: the first day of principal photography, or any other use of the script, or the sale, assignment or other disposition of the rights to the project.

## 7.2. Production Financing

Telefilm will recoup its financing according to the conditions of the contract it enters into with the production company.

### 7.2.1. Minimum recoupment practices for production investments

Telefilm will recoup its investments no less favourably than *pro rata* and *pari passu* with all other financial contributions (except as noted below), including:

- producer investment, private fund and provincial agency investment, broadcaster investment, craft and creative deferrals (whether or not by related parties) and any form of producer-related financial participation which is directly or indirectly supported by producer fees, corporate overhead or federal or provincial tax credits.

For projects whose financing structures include distribution advances/minimum guarantees, pre-sales for non-Canadian territories or other similar forms of participation including gap financing, the producer must offer Telefilm a deal that will not unfairly limit Telefilm's ability to recoup its investment, and that will permit a reasonable expectation of recoupment.

Although a producer may sell worldwide distribution rights in return for an advance/minimum guarantee to be included in the project's financial structure, or arrange gap financing of unsold territories, the advance/guarantee/gap may not recoup from worldwide revenues ahead of Telefilm's investment. The following are the two most typical kinds of recoupment arrangements that can satisfy the requirement:

<b>Open territory</b>	A major territory or territories is or are excluded from the recoupment of the advance/guarantee/gap to allow for Telefilm's investment to recoup in first position (shared with other investors entitled to recoup in the same position as Telefilm) from net revenue generated from these territories, without being subject to prior recoupment of the advance/guarantee/gap. The open territory must be a territory or territories that represent reasonable revenue potential to Telefilm. An open territory arrangement does not mean that the provider (usually a distributor) of the advance/guarantee/gap cannot be granted the right to sell in the open territory simply that the advance/guarantee/gap does not recoup from the open territory.
<b>Revenue corridor</b>	The producer negotiates a deal with the provider of the advance/guarantee/gap (usually the distributor) such that the advance/guarantee/gap is recoupable, not from 100% of revenue but from some lesser share of the revenue. The remaining portion of revenue flows to Telefilm (and other investors entitled to the same position as Telefilm).

When an advance/guarantee/gap is provided by a company related to, or affiliated with, the producer,

Telefilm may require a recoupment position for the advance/guarantee/gap that is more consistent with that of other financial contributions (i.e., *pro rata* and *pari passu*).

Since financing structures, distribution arrangements, marketability and most other elements vary considerably from project to project, Telefilm considers different deals acceptable on a case-by-case basis. In every case, Telefilm is seeking a reasonable expectation of recoupment in light of its objectives as outlined above.

Approved budget over-runs and service deferrals may be recouped only after Telefilm has recouped.

For productions where Telefilm deems certain budget items to be excessive (including producer's fees and corporate overhead and third party cast, crew, or service deferrals), Telefilm requires a recoupment position that ensures that such items do not negatively affect Telefilm's recoupment.

### **7.2.2. Incentive to encourage private investment**

In order to encourage producers seeking non-traditional sources of Canadian private financing for their projects, Telefilm will offer the following incentive to productions benefiting from such funding.

Until full recoupment of eligible private investments, eligible private investors may receive 50% of revenues *pro rata* and *pari passu*. The other 50% will be shared *pro rata* and *pari passu* with the remaining first tier investors.

Such a preferred position will not apply to: suppliers deferring payments; broadcasters and other CRTC licencees; funds established as a requirement of the CRTC; and Canadian investors eligible to receive accompanying benefit from their participation, such as distribution or licensing rights, payment for services provided to the production or the fulfilment of regulatory requirements, or entities receiving a producer credit. Furthermore, any portion of the said private investment that is directly or indirectly supported by remuneration from the budget may not recoup more favourable than Telefilm's participation.

Applicants wishing to take advantage of this incentive are strongly advised to contact the [Canada Revenue Agency](#) for details how on third party loans and investments may affect qualification for tax credits.

### **7.2.3. Special recoupment requirements of private funds**

Telefilm does not accept an arrangement that provides it with less favourable recoupment than *pro rata* and *pari passu* with all other financial contributions included in the financial structure for the production.

#### 7.2.4. Incentive for producers of French-language productions

In recognition of the difficulties faced by producers of French-language productions in gaining access to the global marketplace, and therefore in contributing to the capitalization of their companies through recoupment, Telefilm provides the following incentive:

- until full recoupment by the producer of a provincial tax credit and an investment made by a producer used towards financing a French-language production, the producer will receive 50% of net production revenues. The other 50% will be shared *pro rata* and *pari passu* among the remaining investors.

Following recoupment of Telefilm's full investment amount, the producer will recoup 100% of the federal tax credit amount.

#### 7.2.5. Standard distribution terms and conditions

Telefilm may impose caps or limitations on deductible distribution fees and expenses.

## 8. APPLICATION PROCESS

**All applicants must now apply on-line.** Applicants should submit the appropriate application form, duly completed and signed, together with the Telefilm standard budget and all required documentation, via eTelefilm by the applicable deadline(s). [Application forms](#) and the [Client Service Charter](#) are available on Telefilm's [website](#).

### 8.1. How to Apply

#### Apply on-line

To apply, applicants must use the on-line services of [eTelefilm](#). Applicants who do not have the access code for our eTelefilm services can request one online or by contacting eTelefilm's Technical Support available between 8:00 AM to 8:00 PM (EST) at 1-800-567-0890 extension 3911.

eTelefilm offers users a range of secure, simple, and speedy on-line services that are available from anywhere and on any platform, between 6 a.m. and 1 a.m. (EST). Among other functions, eTelefilm allows applicants to submit an application electronically, follow the progress of the file, and have access to the direct deposit of funds. In addition, applications sent to Telefilm via eTelefilm can be submitted until 11:59 p.m. (EST) on the application cut-off date.

Applicants in remote communities without access to the internet may continue to apply by mail and should contact their local office for address details.

## 8.2. When to Apply

### 8.2.1. Development financing

For deadlines associated with French-language projects (all regions), please refer to Telefilm's [website](#).

### 8.2.2. Production financing

For deadlines associated with French-language projects (all regions), please refer to Telefilm's [website](#). All applications for production funding must be submitted well in advance of commencement of principal photography. Telefilm will not accept applications for production funding after principal photography has begun.

### 8.2.3. Performance component

For a detailed explanation of performance envelope disbursement requirements, and relevant dates, please refer to the document [Date References for Performance Envelope Calculations and Disbursements](#) on Telefilm's website. Please note that the Telefilm's fiscal year runs from April 1 to March 31.

Performance envelopes must be fully committed, contracted and no less than 90% drawn down (disbursed) by March 31. For Telefilm's cash management purposes, those companies that have not fully committed their performance envelope by early October (production), and early January (development) will be required to submit formal applications for funding of projects that will fully draw down any remaining envelope amount by March 31 (save for an amount representing no more than 10% of the total envelope, which is not required to be draw down).

In order to satisfy Telefilm's cash management requirements that portion, of a performance envelope that is not contracted by the required date will no longer be available to the company. Furthermore, that portion of the performance envelope that is not expected to be drawn down (save for the amount representing no more than 10% of the total envelope, which is not required to be drawn) by March 31, **will no longer be available to the company**. That portion of a performance envelope that will not be contracted and drawn down<sup>8</sup> by March 31 will be reallocated to the selective component.

Applications for projects that are the subject of an undertaking must be submitted to Telefilm no later than early October (production) and early January (development). Any amount that is undertaken to be drawn down, and is not, will no longer be available to the company. Should such a company qualify for a performance envelope for a subsequent fiscal year, an amount equal to the amount not drawn down will be deducted from the envelope to which the company would otherwise be entitled. For those companies that do not qualify for an envelope in a subsequent fiscal year, Telefilm may have to consider restricting such companies' access to the selective component for that same subsequent year.

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<sup>8</sup> Save for a maximum of 10% of the total performance envelope that need not be drawn down.

## **ANNEX I – CALCULATION & ALLOTMENT OF PERFORMANCE ENVELOPES FOR PRODUCTION**

The method used in the calculation of performance envelope amounts for production in French-language is described in this Annex.

For purposes of these calculations, **Gross Canadian Box Office** is defined as the box office figures supplied to Telefilm by the Motion Picture Theatre Association of Canada (MPTAC). **Adjusted Box Office** is defined as the Gross Canadian Box Office as it is adjusted per the description contained in Part A, below.

Part B describes the process whereby Telefilm identifies the films that will qualify a producer for an envelope. Part C details the calculation and methodology applied in arriving at the amount of an envelope. Part D describes how envelopes are allotted to companies. Finally, Part E outlines the caps that are applied to companies with envelopes.

### **PART A: What is Adjusted Box Office**

The Gross Canadian Box Office is the primary criterion used for the calculation of envelope amounts. However, these amounts are adjusted depending on the film's level of Canadian content, as well as to incorporate a new criterion focused on efficiency. Box office is further adjusted to take account of the number of screenings, as well as awards received at festivals and award ceremonies, and on the basis of a film whose primary audience is children. The result of these adjustments is the Adjusted Box Office, used by Telefilm to determine which films qualify their producer(s) for an envelope and the amount of such envelopes.

#### **Stage 1: Adjustment on the basis of Canadian content**

Box office receipts are first divided according to language market. Gross Canadian box office receipts for companies that make the greatest use of Canadian talent are then weighted as follows:

- gross box office receipts for a film that achieves a score of 8 out of 10 points using the CAVCO point scale, or for one that is a minority partner in an official coproduction, will be multiplied by 0.8;
- gross box office receipts for a film that achieves a score of 9 out of 10 points using the CAVCO point scale, or for one that is a 50% official Canadian coproduction, will be multiplied by 0.9; and
- gross box office receipts for a film that achieves a score of 10 out of 10 points using the CAVCO point scale, or for one that is a majority partner in an official coproduction, will be multiplied by 1.0.

#### **Stage 2: Adjustment on the basis of an efficiency ratio**

In a context of limited resources, available funds must be used as optimally as possible. To this end, an efficiency ratio has been built in to the calculation of envelopes. For each dollar that Telefilm invests in a

production, returns in the form of box office receipts are calculated and a ratio is established. Films are then sorted on the basis of their efficiency ratio, in descending order from highest to lowest, and are then ranked in a list of all eligible films. Rankings thus obtained for each film are then converted into percentages, corresponding to each film's relative position in the list. This percentage is then applied to the box office receipts obtained at the end of Stage A, described above.

### **Stage 3: Adjustment for prestige/exposure bonus**

To acknowledge critical acclaim and excellence (in addition to box office), the figure for box office receipts adjusted on the basis of the Canadian content point system and the efficiency ratio will be weighted favourably based on the number of screenings and awards at selected international and Canadian film festivals, as well as nominations and awards at selected Canadian and international awards ceremonies.

Each award received at one of the festivals listed below will yield a bonus of 5% towards the Gross Canadian Box Office amount for the eligible film; nominations received at the following festivals will yield a bonus of 5% towards the Gross Canadian Box Office amount, to a maximum of 10% per festival, up to an overall total of 40%.

#### **List of festivals where selection qualifies a film for a 5% bonus:**

Films for children:        Amsterdam, Kinderfilmfest, Giffoni and Zlin  
Other films:                Berlin, Cannes, Park City (Sundance) and Venice

#### **List of festivals where winning an award qualifies a film for a 5% bonus:**

Amsterdam (children)

Berlin -- International Filmfestspiele Berlin

- Official Selection
- Panorama (non-competitive)
- Forum (equivalent to Directors' Fortnight)
- Kinderfilmfest (for family films, but aimed at audiences 14 and over)

Cannes Film Festival

- Official Competition
- *Un certain regard*
- Directors' Fortnight
- International Critics' Week

Chicago

Giffoni (children)

Karlovy Vary

Locarno

Malmo (children)

New York

Park City (Sundance)

Pusan, South Korea

Rotterdam, The Netherlands

San Sebastian

Shanghai

Sydney

Tokyo

Venice

- *La Biennale di Venezia – Mostra Internazionale del Cinema*
- *Venice Days* (equivalent to Directors' Fortnight)

Zlin (children)

In addition, the 5% bonus applies for:

- awards received at the major international festivals listed above;
- awards received for Best Motion Picture and Achievement in Direction at Les Prix Jutra and the Academy of Canadian Cinema and Television Film Awards (Genies);
- selected awards received at key Canadian festivals listed below; and
- nominations and awards received at the Academy Awards (Oscars®), the Golden Globe Awards and the *Césars*.

**List of Canadian festivals where a film qualifies for a 5% bonus when it wins a specific award:**

- World Film Festival (*Grand Prix des Amériques*, Air Canada Award, Golden Zenith for Best Canadian Film, Award for Most Popular Canadian Film);
- Toronto International Film Festival (People's Choice Award, the Toronto City Award for Best Canadian Feature Film, the City TV Award for Best Canadian First Feature Film, the Discovery Award and the FIPRESCI Award);
- Atlantic Film Festival (People's Choice Awards for Best Feature and Best Canadian Feature); and
- Vancouver International Film Festival (Most Popular Canadian Film).

**Stage 4: Adjustment for children's films**

A film aimed primarily at a children's audience is disadvantaged when compared with other films because of the ticket price differential. In order to compensate for this differential, Telefilm adjusts the Gross Canadian Box Office of a film for children up by 25%.

It is the responsibility of the producer to advise Telefilm whether they wish their film to be considered as a children's film, with appropriate documentation in support of the claim. Notification should be made three months following the theatrical release of the film.

Telefilm, in its sole discretion, will use one or more of the following indicators to help identify children's films for the purposes of a Gross Canadian Box Office adjustment, including, but not limited to:

- films that receive a General Audience (G) or a Parental Guidance Suggested (PG) rating;
- the film's target audience is clearly identified by the producer and/or distributor as children under the age of 13;
- the film's marketing campaign is clearly targeted to children 13 years or younger;
- the story is told from the point of view of an individual(s) who is 13 years of age or younger;
- the distributor, in cooperation with a primary school(s), organizes a special screening for children 13 years of age or younger;
- films that are officially presented in at least two internationally recognized children's film festivals (a list of Telefilm-recognized children's festivals can be found at Telefilm's [website](#); and
- films based on a pre-existing property (such as a book), generally recognized to be aimed at children.

## **PART B: How Does a Film Qualify**

### **Reference period**

Please refer to the document [Date References for Performance Envelope Calculation and Disbursements](#) for specific references for this year's envelope calculations. Generally performance envelopes are based on Canadian films released in Canadian theatres over the span of three years. The calculation period of a year runs from July 1, and ends June 30. The films must be at least 8/10 on the CAVCO scale or are official coproductions.

A film qualifies its producer(s) for an envelope if it meets both of the two following performance criteria:

- the film ranks within the top 15% of films in the list of all eligible films, as measured by the Adjusted Box Office<sup>9</sup>; and
- the film earned at least \$500,000 in Gross Canadian Box Office, adjusted only for children's films.

The number of production envelopes has been limited to a maximum of five, unless the rights to a production are shared.

## **PART C: Calculating the Envelope Amount**

When a film is deemed to qualify, its producer(s) and distributor(s) **may be** entitled to a performance envelope, subject to the following:

Each film that qualifies for the purpose of a French-language production envelope generates for its producer(s) an amount equivalent to the Adjusted Box Office multiplied by the box office reward rate in effect. The reward rate is based on the available budget and the Adjusted Box Office of all qualifying titles. Producers of record are identified for each qualifying film, and the envelope amount is allotted to

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<sup>9</sup> Films with box office of less than \$2000 will not be counted.

the appropriate production companies. The envelope amount is equivalent to the cumulative total of the amounts allotted to the production company or companies holding the rights to the qualifying film.

In the case of double shoots, where a film earns both English-language and French-language box office receipts, the production company will advise Telefilm of the preferred language of production for the envelope. Such envelopes will continue to be calculated based on the reward ratios in effect in each language market in which the film earns box office receipts.

#### **PART D: How Envelopes Are Allotted**

Envelopes are allotted to the Canadian company or companies that own the copyright in the film. If more than one company owns the copyright, the allotment is made pro rata to the copyright ownership unless the copyright owners have made other arrangements for sharing the envelope between them.

In the event that the copyright in the film is owned by a single-purpose company that is in turn wholly owned by another company, the envelope to which that single-purpose company is entitled may be transferred to the parent company, provided that Telefilm is satisfied with the documentation supporting such ownership. In the event that more than one individual or company owns the production company of record (which owns the copyright in the film), Telefilm will allot the envelope value of the qualifying film among the companies the parent companies that own the subsidiary production company, according to the ownership information on record.

Only those companies holding the five largest envelopes will be allocated an envelope. Application of this regulation is subject to the following exceptions:

- In the event of rights-sharing of a film, the total amount of the envelope generated by the film and not the portion allotted to each co-producer will determine how the envelope ranking.
- A company A cannot combine several lower-ranked films to outrank a company B that owns a film that is more highly ranked, even if company A's envelope is greater than company B's. In this case, company B will receive an envelope, but not company A.

#### **PART E: Application of Caps**

Telefilm will limit the annual amount allocated to performance envelopes as follows: a production company, together with any related company(ies), may not be allocated more than \$3.5 million based on the calculation using French-language films.

While a company may be eligible to receive three separate performance-based envelopes in the same year (English-language production, French-language production, and distribution), the total amount that may be allocated to one company, together with any related company(ies), will not be allowed to exceed \$6 million. In the case where this cap is to be applied, Telefilm will consult with the company in determining how to apply it.