

An International Comparative Study

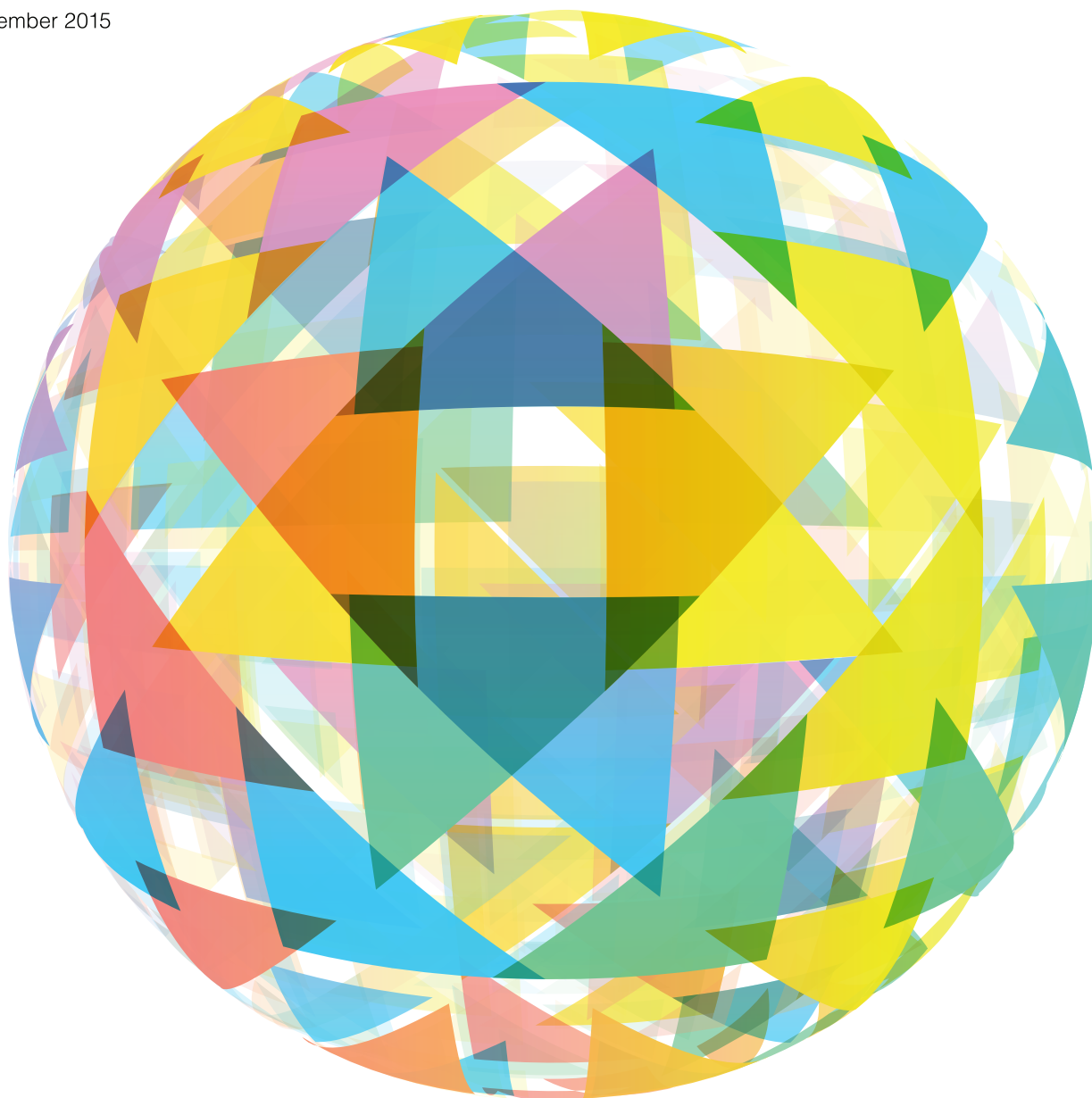
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How National Content is Defined in Canada and
Selected Countries for the Purpose of Providing
Access to Public Support

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December 2015



Acknowledgements

The Canadian Media Production Association (CMPA) wishes to thank the funders of this study: the Canada Media Fund, Telefilm Canada and the Ontario Media Development Corporation.

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Executive Summary

Introduction

On an international level, the landscape of public support systems has undergone significant changes in the last few years because of globalization and rapid technological change. These have made the competitiveness of national feature film and television industries a key priority for many countries. The overall goal of this study is to assess whether Canada is on par with other countries in terms of how national content is defined for the purpose of accessing public funding and hence, whether its approach is globally competitive.

1. Objectives of the Study

The objectives of the study were threefold:

- to undertake a review of the different approaches being applied by selected jurisdictions in their definitions of national content for the purpose of accessing public funding (national funding and tax credits);
- to provide comparative points of analysis with the Canadian context;
- to identify opportunities to ensure that the Canadian approach is competitive on the global stage.

2. Scope and Methodology

In addition to Canada, a total of ten jurisdictions were included in this study: Australia, Belgium, France, Germany, Italy, the Netherlands, New Zealand, Norway, Spain, and the United Kingdom (the UK).

The study examined 1) national funding programs and 2) fiscal incentives that support domestic, independently produced feature films and television production. For the Canadian context, the Canadian Film and Video Production Tax Credit (CPTC), administered by the Department of Canadian Heritage through the Canadian Audio-Visual Certification Office (CAVCO), Telefilm Canada's Feature Film Fund and the Canada Media Fund's Performance Envelope Program, were examined.

The following were outside the scope of this study: 1) funding programs that are available on a regional basis, incentives aimed at foreign production and 2) official treaty co-productions.

Eight of the ten foreign jurisdictions examined have in place tax credits or rebates. The UK, France, Italy, Spain, Australia and New Zealand offer incentives to both film and television productions, while, Germany and the Netherlands exclusively target film. Norway and Belgium do not provide a tax credit or rebate, although Norway has announced its intention to launch a film rebate in 2016. For its part, Canada provides a tax credit for both film and television productions.

All ten foreign jurisdictions examined, as well as Canada, provide direct support to film production through national funding programs.

In addition to Canada, national funding programs that support television production are offered by the following six jurisdictions examined: the UK, France, Belgium, Norway, Australia and New Zealand.

Figure 1 provides an overview of the jurisdictions examined and the type of funding included in the analysis undertaken for this study.

Figure 1: Overview of Jurisdictions and Type of Funding Examined

	Tax Credit		Rebate		National Funding Program	
	Film	Television	Film	Television	Film	Television
UK	✓	✓			✓	
France	✓	✓			✓	✓
Italy	✓	✓			✓	
Spain	✓	✓			✓	
Australia	✓	✓			✓	✓
New Zealand			✓	✓	✓	✓
Germany			✓		✓	
Netherlands			✓		✓	
Belgium					✓	✓
Norway					✓	✓
Canada	✓	✓			✓	✓

The study was conducted primarily through a review of web-based literature. Representatives of the various agencies in the international jurisdictions included in the study were also consulted.

In comparing Canada to other jurisdictions, the following areas were examined: 1) the nationality of the production company; 2) cultural criteria, as established through the use of a cultural test; 3) minimum spending requirements; and 4) other considerations such as distribution.

3. Canada Compared

3.1 Canadian Producers Do Not Have the Same Level of Flexibility in Accessing the Canadian Film and Video Production Tax Credit

Other jurisdictions have more flexible cultural tests

All jurisdictions examined that have tax credits or rebates make use of a cultural test. These tests offer many different opportunities to satisfy requirements by obtaining a wide variety of points across three general categories: 1) the cultural content of the production, 2) the nationality of the personnel, and 3) the location of production. Figure 2 below shows the categories employed in the cultural tests of the jurisdictions examined. Within each category, there is a fair degree of flexibility in how producers choose to meet requirements.

Figure 2: Use of Cultural Test to Access Film and Television Tax Credits and Rebates, by Jurisdictions Examined

	Use of Cultural Test		
	Cultural Content	Nationality of Personnel	Location of the Production
UK	✓	✓	✓
France	✓	✓	✓
Italy	✓	✓	✓
Spain	✓	✓	✓
Australia	✓	✓	✓
New Zealand	✓	✓	✓
Germany	✓	✓	✓
Netherlands	✓	✓	✓
Belgium	n/a	n/a	n/a
Norway	n/a	n/a	n/a
Canada		✓	

Cultural tests use a points-based system in seven of the ten foreign jurisdictions examined. Their scales (total number of points) vary between jurisdictions and between film and television, ranging from a minimum of 31 available points (for UK television projects) to 200 available points (for Dutch films).

By comparison, CAVCO's scale is small, having only ten points concentrated in a single category for the personnel involved in the production. This affords considerably less flexibility in how the cultural test is to be met. However, it should be noted that by limiting its analysis to the nationalities of personnel, the Canadian point system provides a greater degree of predictability.

Other jurisdictions have less restrictive requirements regarding the nationality of personnel

Requirements regarding the nationality of personnel involved in productions are less restrictive in foreign jurisdictions examined.

In Europe, producers can meet the requirements regarding the nationality of personnel by drawing on a talent pool that stretches across all the countries that are signatory to the European Economic Area (EEA), including Iceland, Lichtenstein, and Norway and the 28 EU Member States. It is not necessary for these persons to be citizens of member countries. It is enough that they are residents who normally reside in a given EEA jurisdiction.

In the UK, France, Italy, Spain, Netherlands and New Zealand, producers can qualify for funding by filling only a few creative and technical positions within a wide range of options.

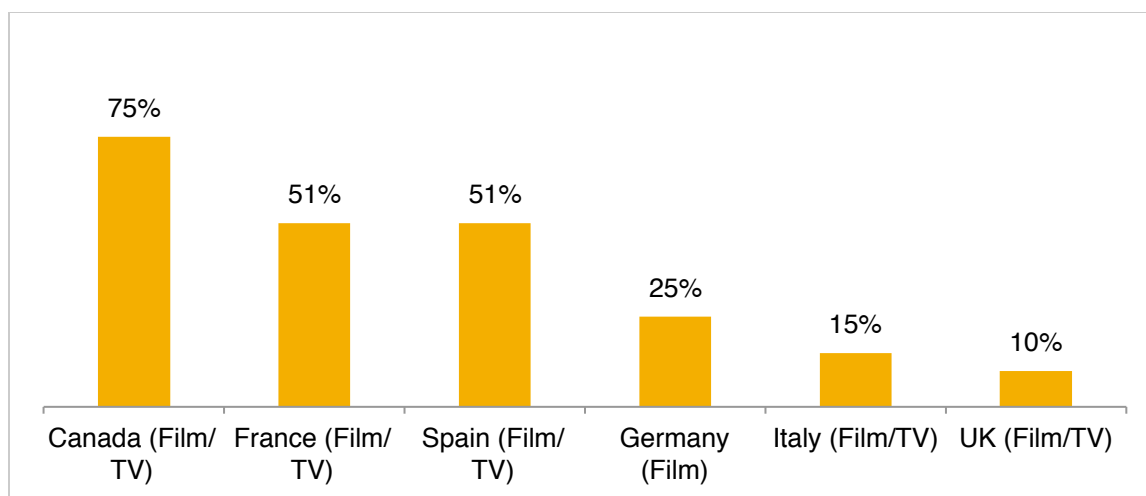
For its part, Australia does not have any set requirements that must be met, but rather undertakes a holistic evaluation of each project.

By contrast, Canada's use of a ten-point system focused on personnel, combined with minimum spending requirements of 75% of production and post-production costs, respectively, imposes a higher, less flexible, requirement with respect to the nationality of key personnel.

Other jurisdictions have lower spending requirements

Domestic spending requirements are significantly lower in other jurisdictions than those required in Canada. Six of the foreign jurisdictions examined express minimum spending requirements as a percentage of the total production budget. These range from a low of 10% of the production budget in the UK, to a high of 51% of the production budget in France and Spain. Compared to these six jurisdictions, Canada has the highest requirement for domestic spending, at 75% of the production budget and 75% of the post-production budget, respectively. Figure 3 compares the minimum spending requirements of Canada with the six jurisdictions examined where minimum spending requirements are expressed as a percentage of the total production budget.

Figure 3: Comparison of Minimum Spending Requirements in Percentages (Canada and other jurisdictions)



We note that minimum spending requirements expressed as dollar amounts range from a low of €100,000 (CAD \$143,000) in the Netherlands to a high of NZ \$ 2.5 million (CAD \$2.2 million) in New Zealand.

Fewer restrictions regarding the production company and copyright of the production

The requirements with regard to the production company appear to be less restrictive in other jurisdictions as compared to those of Canada. All countries examined require producers to be based in their respective jurisdictions. Within the EEA, rules are in place that allow companies from all Member States to compete without undue barriers. For this reason, EEA-based companies are eligible in all Member States in which they have a base of operations.¹ Foreign companies with a base of operations in either Australia or New Zealand may be eligible for the Australian tax credit or New Zealand production rebate, respectively.

Canadian producers are required to hold exclusive worldwide copyright on their production for 25 years, a requirement that was not found in the other jurisdictions examined.

Some jurisdictions are more flexible with regard to distribution requirements

Most jurisdictions require domestic distribution. With the exception of Spain, the jurisdictions examined require that films be theatrically released in the country, and that television productions have a domestic broadcaster attached. However, we note that some jurisdictions examined (the UK, Italy, Australia and New Zealand) allow digital platforms to trigger television production funding.

¹ European Commission, “State aid: Commission adopts new film support rules – frequently asked questions,” Memo, Brussels, 14 November 2013, retrieved from http://europa.eu/rapid/press-release_MEMO-13-993_en.htm.

3.2 Criteria to Access the Canada Feature Film Fund and Canada Media Fund are Comparable to Other Jurisdictions

Generally, the approach taken in other jurisdictions is comparable to that of the Canada Feature Film Fund (CFFF) and the Canada Media Fund (CMF), which apply flexibility in the application of the rules governing eligible national productions.

For the most part, the jurisdictions examined provide support through their national funding programs to culturally significant film productions. As such, they place a greater emphasis on the cultural content of the project and the cultural expression of the directors and/or writers. The CFFF applies similar approaches to defining eligible national content, exercising flexibility as needed to meet cultural objectives. The priorities of Telefilm Canada resemble the national funds in the jurisdictions examined.

Television funding programs in the jurisdictions examined are aimed at strengthening local production industries. As such, they tend to have fewer cultural content requirements and focus more on the nationality of personnel and the location of the production. While the CMF requires productions to obtain 10 out of 10 points on the CAVCO scale, it too exercises flexibility and makes exceptions.

It is important to point out however that Canadian film and television producers do not have the kind of flexibility available to European producers who can draw on personnel residing in a member country of the EEA, and make productions using European content and technical industries. Canadian producers are more limited in their use of non-Canadians in key roles and restricted in their choice of technical industries by their minimum domestic spending requirements.

4. Summary Conclusions

4.1 Overall Findings

Overall, there are key differences between the approach being used by jurisdictions and Canada in how national content is defined for the purposes of accessing public support for feature film and television production. Figure 4 below provides a general overview of the key differences between the jurisdictions examined in this study and Canada.

Figure 4: Summary Overview of Key Differences Between Other Jurisdictions and Canada

- ✓ **More flexible cultural tests**
- ✓ **Fewer restrictions regarding the nationality of personnel**
- ✓ **Lower spending requirements**
- ✓ **Fewer restrictions regarding the production company and copyright of the production**
- ✓ **More flexible distribution requirements**

4.2 It May Be Timely to Review the Flexibility Afforded to Producers Through the CPTC

Given the findings of this study, it may be timely to review the degree of flexibility being afforded Canadian producers to access the CPTC. It is interesting to note that a study published in 2003, which evaluated Canada's approach to how Canadian content is defined by federal agencies, recommended that producers generally be given greater flexibility.²

A consideration could be that the definition of distribution be broadened so as to expand the market opportunities for Canadian content. In this scenario, producers could utilize more forms of distribution, such as Internet-based and mobile platforms, and enlarge their market reach.

4.3 The Flexibility Exercised by the CFFF and the CMF Compares Favourably with Other Jurisdictions

Generally, the approach taken in other jurisdictions is comparable to that of the Canada Feature Film Fund. We observe that all jurisdictions are being challenged by evolving distribution models, by an increasing array of consumer choices, and by increased competition for financing. In this context, jurisdictions are adapting by providing greater flexibility to producers to support the development of their domestic industries and increase economic activity by attracting bigger budget productions.

As this study shows, the definition of cultural content continues to evolve towards greater flexibility. With respect to the CMF, it may be timely to review the essential requirement that a television show be "shot and set primarily in Canada". While this is included as a criterion in the cultural tests of a number of jurisdictions, such as the UK, Germany, Italy, Belgium and the Netherlands, it is not a pre-requisite to accessing funding. It is instead one criterion among several from which a producer can choose to meet the requirements of the cultural test.

Set against a backdrop of greater competition both at home and abroad, the Canadian feature film and television production industry requires the right conditions to succeed. Looking forward, Canadian content will continue to face great challenges in standing out in a crowded global market place. In a world that knows no borders, the industry must have sufficient flexibility to fuel innovation, adopt ground-breaking business models and create enduring content for the world.

² Francois Macerola, *Canadian Content in the 21st Century in Film and Television Productions: A Matter of Cultural Identity*, Department of Canadian Heritage, June, 2003, page 65.

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Introduction

1. Context

In Canada and in many jurisdictions around the world, the feature film and television sectors are characterized by a tradition of public funding support. Most countries have over the years put in place a support framework in which culturally focused funds coexist with industrially oriented tax incentives. In order to develop and promote domestic talent, many jurisdictions make access to public funding conditional on the “nationality” of the talent, spending requirements and other criteria. Most countries apply some kind of criteria in defining the “nationality” of films and television programs and impose requirements for producers to qualify for public support.³

On an international level, the landscape of public support systems has undergone significant changes in the last few years because of globalization and rapid technological change. These have made the competitiveness of national feature film and television industries a key priority for many countries. The overall goal of this study is to assess whether Canada is on par with other countries in terms of how national content is defined for the purpose accessing public funding and hence, whether its approach is globally competitive.

2. Objectives and Methodology

2.1 Objectives

The objectives of the study are threefold:

- to undertake a review of the different approaches being applied by selected jurisdictions in their definitions of national content for the purpose of accessing public funding (national funding and tax credits);
- to provide comparative points of analysis with the Canadian context;
- to identify opportunities to ensure that the Canadian approach is competitive on the global stage.

2.2 Methodology

2.2.1 Scope of Study

A total of ten jurisdictions are included in this study: Australia, Belgium, France, Germany, Italy, the Netherlands, New Zealand, Norway, Spain, and the United Kingdom.

This study focuses on national funding programs and fiscal incentives that support domestic, independently produced feature films and television production. The following areas were outside the scope of this study: 1) funding programs that are available on a regional basis and 2) incentives aimed at foreign production and official treaty co-productions.

³ Public funding is taken here to mean both direct funding programs (e.g., grants, loans, equity investments) and indirect funding mechanisms (e.g. tax credits). Source: Francois Macerola, *Canadian Content in the 21st Century in Film and Television Productions: A Matter of Cultural Identity*, June 2003.

For the Canadian context, examined were the Canadian Film and Video Production Tax Credit (CPTC) administered by the Department of Canadian Heritage, through the Canadian Audio-Visual Certification Office (CAVCO), Telefilm Canada's Feature Film Fund and the Canada Media Fund's Performance Envelope Program.

2.2.2 Methodology

The consultants conducted a web-based literature review of the definitions and requirements imposed by the countries mentioned above, focusing specifically on direct national subsidy programs and indirect funding through tax incentives for film and television production. Representatives of the various agencies in the international jurisdictions examined were also consulted.

In conducting our research and analysis and in order to provide comparative points of analysis with the Canadian context, we were guided by the following questions:

1. Are there requirements regarding the nationality of the production company?
2. Is a cultural test being applied to determine eligibility of the project and of the applicant?
3. Are there requirements regarding the cultural criteria of the production? For the purpose of this study, cultural criteria is taken to mean cultural requirements regarding the story, setting, the nationality of the characters, the nationality of personnel involved in the production, and the location of the production.
4. Are there requirements regarding minimum spending?
5. Are there other considerations such as distribution?

3. Structure of this Report

This report is structured into the following three sections:

- Section A provides an overview analysis of the approaches being taken in the ten selected jurisdictions with respect to funding programs and tax incentives for feature film and television;
- Section B presents the comparative points of analysis with the Canadian context;
- Section C concludes with summary observations on opportunities to ensure that supports for Canadian feature film and television are competitive in a global context.

A. An Overview of the Approaches Taken By Selected Jurisdictions in Defining “National Content” for the Purpose of Providing Access to Public Funding

Preamble

This section begins with a brief “big picture” view of the overall rationale for the establishment of tax credits, production rebates and direct funding programs to support feature film and television production by the ten jurisdictions examined. These incentives exist within broader national policy frameworks aimed at supporting film and television production. This is then followed by descriptions of the approaches being taken by each jurisdiction in defining national content for the purposes of access to funding. A summary overview of findings concludes this section.

1. The Overall Policy Context

The jurisdictions examined in this study have national funding programs to support feature film and/or television programs and tax credits or production rebates. The general rationale for establishing tax credits or production rebates by these jurisdictions is to stimulate local production, grow their industries and attract larger budget projects within their borders.

For the European jurisdictions that are Member States of the European Union (EU), there are requirements imposed by the Cinema Communication 2013⁴ and the *Audiovisual and Media Services Directive (AMVS)* in order to access tax credits and funding for feature film and television. These requirements help explain the definition of the nationality of feature films and television programs, particularly the use of a cultural test. It should be noted that these requirements extend to the European Economic Area (EEA) states, such as Norway.⁵

1.1 Use of Cultural Tests by Jurisdictions in the European Union

Seven countries (United Kingdom, France, Germany, Italy, Spain, the Netherlands and Belgium) examined in this study are Member States of the European Union and as such, must abide by the trade rules enacted by the European Union that provide for a cultural exception to competition law. Article 107 of the Treaty on the Functioning of the European Union prohibits Member States from providing aid, such as tax credits, to selected

⁴ The Cinema Communication 2013 is a regulation intended to ensure fair competition under the Treaty on the Functioning of the European Union issued by the European Commission. It provides a general set of principles that form the basis of interpretation as to what qualifies as a cultural production, which is reflected in the enabling legislation on cinema and audiovisual funding within each Member State of the European Union.

⁵ As a member of the European Economic Area (EEA), Norway participates in the EU’s internal market, including the adoption of all relevant EU legislation, with the exception of agriculture and fisheries. This means that Norway is part of the EU as regards the free movement of goods, capital, services and people. Thus, the discussion above regarding the use of cultural tests by Member States of the EU applies to Norway as well. Source: European Council, Council of the European Union, Agreement on the European Economic Area (1992), cited in https://en.wikipedia.org/wiki/European_Economic_Area; Wikipedia, Norway-European Union Relations, retrieved from : https://en.wikipedia.org/wiki/Norway-European_Union_relations.

industries if such aid has the potential to distort competition and affect trade between Member States. There is an exemption, however, for aid that promotes culture.

It is important to point out that audiovisual works play an important role in shaping European identities because they reflect the cultural diversity of the different traditions and histories of the EU Member States. Support provided to the cultural sector by Member States must obtain the approval from the European Commission.⁶

Thus, jurisdictions have put in place “cultural tests” in order to demonstrate that their state funding programs are justified and support their domestic objectives without infringing on competition law.⁷

1.1.1 Cinema Communication 2013

The Cinema Communication 2013 requires that maximum levels of overall state support be capped at 50% of the production budget. For films that are deemed to be “difficult”, which jurisdictions are free to define, or for low budget films, support can represent up to 80% of the production budget.⁸

As a condition of eligibility, Member States can require that a minimum level of production activity be carried out in their territory. This requirement cannot exceed 50% of the production budget.⁹

In addition, to promote cross-border activity, producers have the ability to spend at least 20% of their film budgets in other Member States without facing any reduction in the support they receive from EU Member States.¹⁰

Finally, Member States can require production companies to spend up to 160% of the aid they receive for a production in the Member State’s jurisdiction. This allows Member States to develop their own industries.¹¹

1.1.2 The Audiovisual and Media Services Directive

The Audiovisual and Media Services Directive (formerly the Television Without Frontiers Directive) governs the coordination of national legislation on traditional broadcasts and on-demand services throughout the EU. The Directive requires Member States to ensure that

⁶ European Free Trade Association (EFTA) Surveillance Authority, Part IV: Sector Specific Rules - State aid for films and other audiovisual works, (“2014 Film and Audiovisual Guidelines”), Consolidated Version, July 16, 2014.

⁷ European Free Trade Association (EFTA) Surveillance Authority, Part IV: Sector Specific Rules - State aid for films and other audiovisual works, (“2014 Film and Audiovisual Guidelines”), Consolidated Version, July 16, 2014.

⁸ European Commission, Press Release, “State aid: Commission adopts new film support rules,” November 14, 2013.

⁹ European Commission, Press Release, “State aid: Commission adopts new film support rules,” November 14, 2013.

¹⁰ Francisco Javier Cabrera Blázquez & Amélie Lépinard, “The New Cinema Communication: All’s Well That End’s Well?,” Iris Plus, 2014-1, 2014.

¹¹ We note that of the jurisdictions examined for this study, very few have such requirements.

¹² European Commission, *Revised Guidelines for Monitoring the Application of Articles 16 and 17 of the Audiovisual Media Services (AVMS) Directive*, July 2011.

broadcasters within their jurisdiction devote a majority of transmission time to programs produced in Europe, at least 10 % of which (or 10% of their programming budget) must be devoted to European works made by independent producers.

As defined by the Directive, "European works" are works originating in Member States. This can include works originating in European third party States to the *European Convention on Transfrontier Television* of the Council of Europe.

Audiovisual content is deemed to originate in the EU if it is mainly made with European key creative personnel and crew that is, residing in one or more of these countries and the creative process is controlled primarily by EU producers. The latter means that works must be made by producers established in the EU, who must supervise and control the production of the works.¹³ Member States may establish more detailed definitions of European works providing they comply with EU law.

Under current legislation, qualifying European audiovisual works include fiction, documentaries and magazine shows.¹⁴

As with film, some Member States use cultural tests to determine access to national funding programs targeted at television production.

2. The United Kingdom

2.1 Requirements for Access to Film and Television Tax Incentives and National Funding Programs

2.1.1 A Tax Credit for Film and Television¹⁵

The government of the United Kingdom (UK) offers a tax incentive to qualifying British films and television programs. The incentive takes the form of an enhanced tax deduction and a cash (refundable) tax credit on qualifying UK production expenditures.¹⁶ The tax credit is available to production companies that pay tax in the UK. The production company is responsible for the production and delivery of the film. There is no requirement for the rights to be owned by the company.

Tax credits are available on qualified UK production expenditures. The tax credit is available on eligible production costs expended in the UK to a maximum of 80% of the total production costs.

¹³ Ewelina D. Sage, *European Audiovisual Sector: Where business meets society's needs*, Centre for Antitrust and Regulatory Studies, University of Warsaw, Warsaw: Faculty of Management Press, 2011.

¹⁴ David Graham, Attentional, et al, "Study on the implementation of the provisions of the *Audiovisual Media Services Directive* concerning the promotion of European works in audiovisual media services", Audiovisual Media Services Directorate, European Commission, December 13, 2011. Page 209.

¹⁵ *UK Film Tax Relief* and *UK High-End Television Tax Relief*, retrieved from <http://www.bfi.org.uk/film-industry/british-certification-tax-relief/about-tax-relief>.

¹⁶ HM Treasury, Creative Sector Tax Reliefs, Response to Consultation, December 11, 2012.

The film tax credit is available at a rate of 25% on the first £20 million (CAD \$40 million) of eligible production costs incurred in the UK and 20% for production costs exceeding this amount, for all British films. The minimum UK expenditure required to access the film tax credit is 10% of the budget including expenditures that are made outside the UK for goods and services that are used or consumed in the UK. Films must be intended for theatrical release.¹⁷

The television tax credit is available at a rate of 25% of eligible expenditures in the UK for television and animation projects. Productions must spend £1million (CAD \$2 million) per hour minimum to be eligible. Television programs and animation must be made for domestic broadcast on television or over the Internet.

There is no cap on the amount that can be claimed as a tax credit for either film or television.

2.1.1.1 Cultural Test for Film

A tax credit is available to films that qualify as “British” by satisfying a points-based cultural test overseen by the British Film Institute (BFI). Qualifying as “British” is also the main criterion to accessing film funding from the British Film Institute.

The cultural test considers the extent to which the UK or the EEA are represented in the following areas: 1) the cultural content of the production (story, setting, lead characters and underlying materials or subject matter) and the original language of production; 2) the nationality of the personnel; 3) the location of production (principal photography and technical services used by the production) and 4) cultural contribution of the production (that is, the project reflects British creativity, heritage, or diversity).¹⁸

Each category is comprised of sub-elements for which points can be earned, to a maximum of 35 points. For example, with respect to the cultural content of the project, up to four points can be obtained for the setting of the film and up to four points can be obtained if the subject matter of the film is British or from the EEA. It is therefore possible in each category to obtain between 1 and a maximum number of points available for that category, based on the points earned for each sub-element of the category.

Feature films must obtain at least 18 out of a possible 35 points. Projects must achieve at least two points from the cultural content section, other than language. Please see Figure 5.

The implication of these rules is that a film such as *Gravity*, which features two Hollywood stars and is a narrative set in space about American characters, qualifies as British. This qualification was possible because the producer was British, the director although Mexican

¹⁷ UK Trade and Investment, Creative Sector Tax Reliefs, April 2014.

¹⁸ British Film Institute, British Certification and Tax Relief, retrieved from <http://www.bfi.org.uk/film-industry/british-certification-tax-relief>.

in nationality lived in London, the film was shot in the UK and the personnel were based in the UK.¹⁹

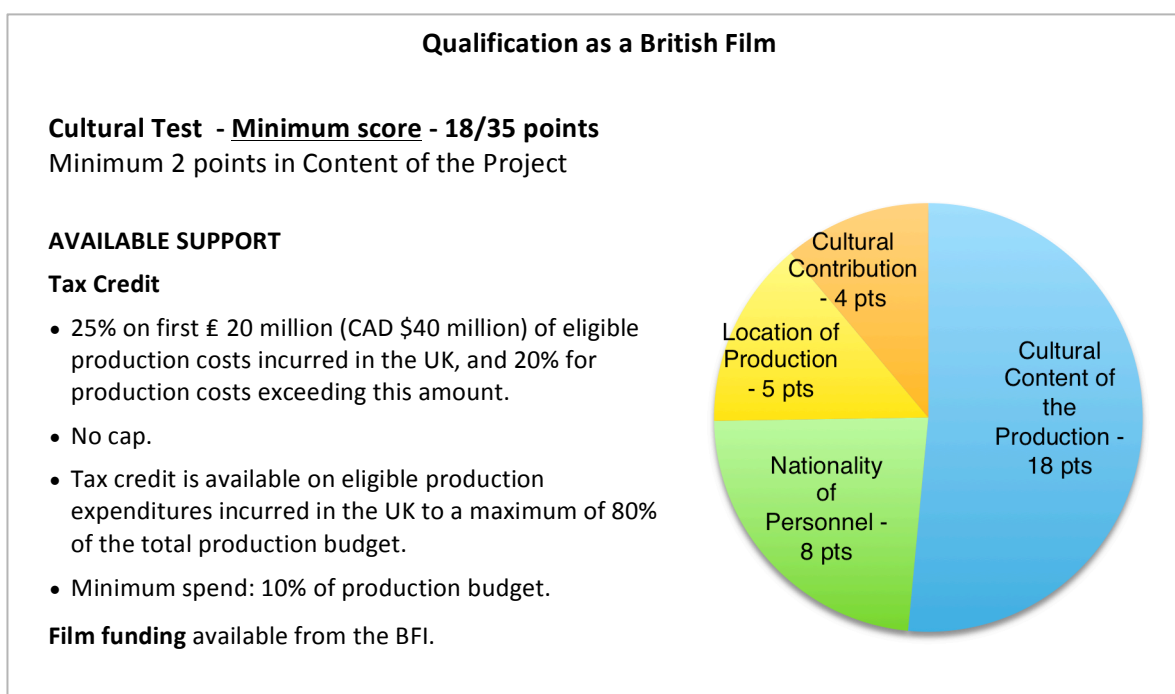
2.1.1.2 Cultural Test for Television

The cultural test for television (drama, animation and documentary) is similar to the one being used for film in that it uses the same four categories as described in 2.1.1.1. Television productions must achieve at least 16 out of a possible 31 points. The cultural test for television favours English-language productions. Four points can be earned if the television program is shot in English. Please see Figure 6.

2.1.2 Access to National Funding for Film

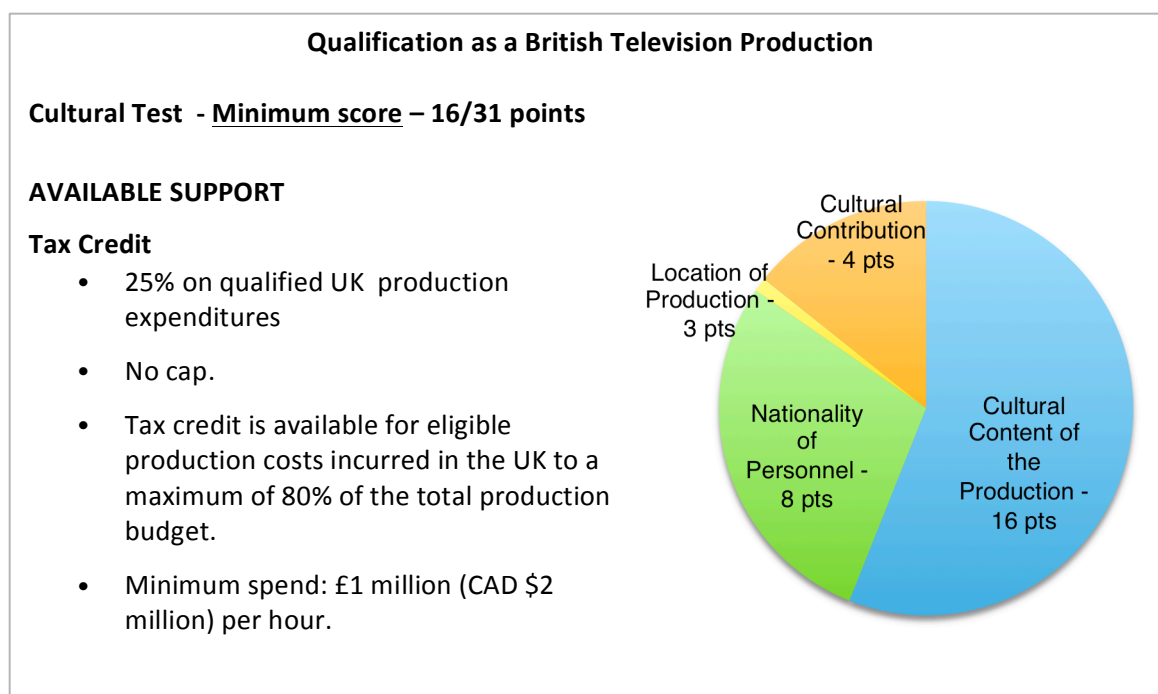
The British Film Institute provides funding to British or EU producers for the production of feature films that qualify for certification as a British film through the cultural test as described in 2.1.1, above. See Figure 5.

Figure 5: Requirements for Accessing Tax Credit and Funding Programs for Film in the United Kingdom



¹⁹ Sam Bevin, "Film Gravity Shows Significance of Creative Industries," *The Positive*, retrieved from <http://thepositive.com/film-gravity-shows-significance-of-creative-industries/>; Leo Barraclough, "Measures Should Attract More Hollywood Pics to Shoot in the U.K., and Benefit U.K Indie Films," *Variety*, December 5, 2013, retrieved from <http://variety.com/2013/film/global/u-k-government-ups-tax-credit-for-bigger-budget-pix-1200921539/>.

Figure 6: Requirements for Accessing the Tax Credit For Television in the United Kingdom



3. France

3.1 Requirements for Access to Tax Credits and National Funding for Film and Television²⁰

In France, only film and television productions that have qualified for national production funding from the National Centre for Cinema and the Moving Image (CNC) can apply for a film or audiovisual tax credit. In other words, the tax credit is reserved for the benefit of CNC-approved productions that qualify for national funding for feature films and/or television programs.²¹

Production companies must be based in France or have a subsidiary based in France. Corporate control must rest with French or European individuals, including those from member states of the EU, and European countries with which the EU has signed agreements relating to the audiovisual sector.²² To access the film or audiovisual tax credit, producers

²⁰ Crédit d'impôt cinéma et audiovisuel (CICA).

²¹ CNC, *Crédit d'impôt cinéma*, retrieved from <http://www.cnc.fr/web/fr/credit-d-impot-cinema1>; and CNC, *Crédit d'impôt audiovisuel*, retrieved from <http://www.cnc.fr/web/fr/credit-d-impot-audiovisuel>.

²² The production company's president, directors or managers must be French nationals or residents, or nationals of a member state of the European Union (EU), or a European signatory state - party to the EU

must be subject to French corporation tax and be in compliance with all applicable social legislation.

The production company must be controlled by European persons and must own rights to the production in keeping with his or her financial participation in the project. Films must be produced for theatrical release.

In addition, producers must be meaningfully involved in the financing, technical and artistic aspects of the production and guarantee its completion. They must own rights to the production commensurate with their financial participation in the project.

Television production companies may not be in any way controlled or under the influence of a broadcaster. Projects must have a French broadcaster attached.

To access funding, productions must pass a cultural test.

3.1.1 Cultural Test for Film

The cultural test examines the extent to which France or the EEA are reflected in the following: 1) the cultural content of the production (the original language of production - either French or a regional language of France); 2) the nationality of the personnel (the authors - directors, writers and composers, and cast and crew); 3) the location of production; and 4) the production company, which if it is eligible, automatically earns 10 points.²³ Please see Figure 7.

Each category is comprised of sub-elements for which points can be earned. It is therefore possible in each category to obtain between 1 and a maximum number of points available for that category, based on the points earned for each sub-element of the category.

Film projects must achieve a minimum of 25 points out of a possible 100 points. Obtaining a higher level of points provides access to higher levels of funding. Access to selective funding is only available to productions that shoot in the French-language.

Like the UK, the fact that the personnel's nationality can include not only French but also personnel from EEA member states affords a project much flexibility. Twenty-five points can easily be achieved by meeting only a few requirements, for example, if the production company were based in France and the production shot in the French language, a project would achieve 30 points.

convention on cinema coproduction, the Television Without Frontiers Directive of the Council of Europe, or a third party (non-European) nation having concluded audiovisual agreements with the European community. The production company may not be controlled by any individual or corporation of any nation other than those mentioned here. Foreigners qualifying as resident in France are treated as French citizens.

²³ A party to the *EU convention on cinema coproduction*, the *Television Without Frontiers Directive* (now replaced with the *Audiovisual Media Services Directive*) of the Council of Europe, or a third party (non-European) nation having concluded audiovisual agreements with the European community.

3.1.2 Cultural Test for Television

The cultural test for television examines the extent to which France or the EEA are represented in the following: 1) the nationality of the personnel, and 2) the location of the production. Each category is comprised of sub-elements for which points can be earned and it is therefore possible to obtain between 1 and a maximum number of points available for each category.

To pass the cultural test, productions must obtain two-thirds of the total available points. Television drama must obtain a minimum of 13 points out of a possible 18. Documentaries must obtain a minimum of 9 points on a scale of 14. Animations must obtain a minimum of 14 points out of a possible 21.

For example, a documentary production that incurred half of its shooting and post production costs in Europe, expended half of the crews' salaries on Europeans and was edited in Europe would qualify for funding, achieving 9 points. Please see Figure 8.

3.2 Cultural Test for CNC Approved Films Seeking a Tax Credit

Only film productions having been approved for funding are eligible to apply for a tax credit. The CNC provides films a tax credit of 20% on eligible costs incurred in France. The tax credit is available for qualified production costs expended in France, to a maximum of 80% of the total production budget. The tax credit is capped at €4 million (CAD \$5.7 million).

To access the tax credit, productions must achieve a higher number of points on the cultural test applied for status as a CNC-approved production as described in section 3.1. Productions must be primarily shot (51%) in France in the French-language. They must achieve a minimum of 61 points out of 100 on the cultural test of which 20 points will be awarded for meeting the French-language requirement.²⁴ Please see Figure 9.

The film tax credit requires a minimum spend in France of 51% of the total production budget.

The French government announced its intention to modify the film tax credit in 2016 to be more competitive with other European jurisdictions. The value of the tax credit for French-language films will be increased from 20% to 30%.

The tax credit will furthermore be open to foreign-language works which are oriented towards the international market".²⁵ The impetus for this change comes from increased competition within the EU to attract large budget productions. The most recent example is Luc Besson's film *Valerian and The City of a Thousand Planets*, which will be shot in English

²⁴ Conversation with Rémy Sauvaget, Chargé de mission, CNC.

²⁵ Fabien Lemerrier, "A new lease of life for the cinema tax credit," *Cineuropa*, October 1, 2015, retrieved from <http://www.cineuropa.org/nw.aspx?t=newsdetail&l=en&did=299622>.

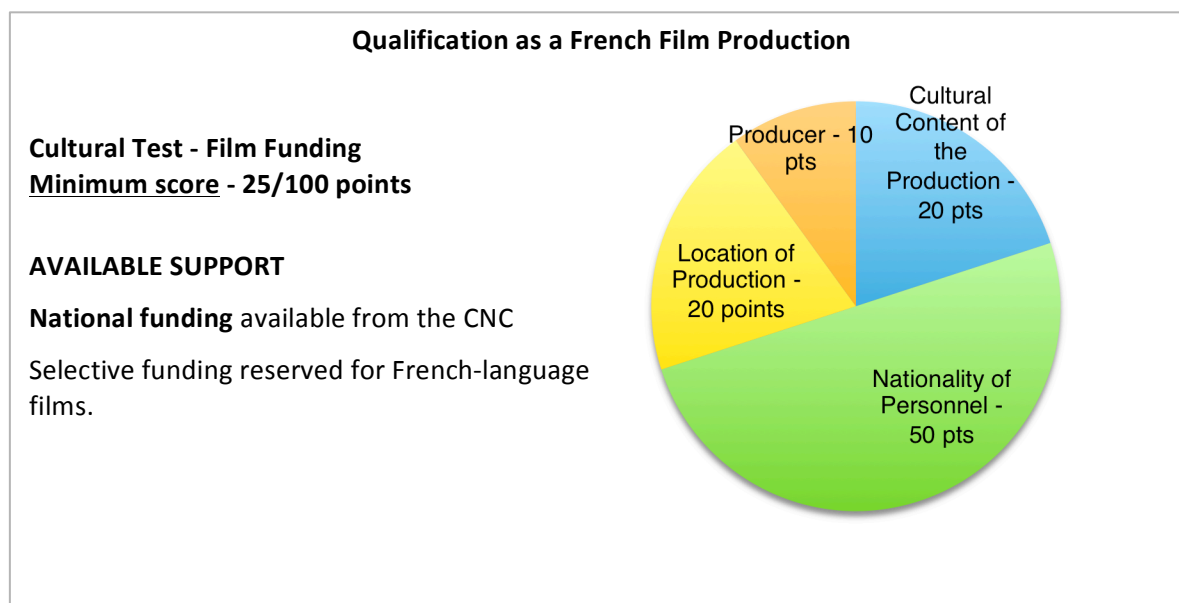
with a budget of €170 million (CAD \$243 million). Under the current requirements, this film would not have been eligible for the tax credit.²⁶

3.3 Cultural Test for CNC Approved Television Seeking a Tax Credit

Only productions having been approved for CNC funding are eligible to apply for a tax credit. The CNC provides a television tax credit of 20% of eligible costs incurred in France, to a maximum of 80% of the total production budget.

To access the tax credit, television productions must pass a second cultural test based on the 100-point scale that is applied to films, as described above in section 3.1. To access the television tax credit, productions must be primarily shot (51%) in France and must be shot in the French-language. They must achieve a minimum of 61 points out of 100 on the cultural test of which 20 points will be awarded for meeting the French-language requirement.²⁷ Please see Figure 10.

Figure 7: Requirements for Accessing CNC's National Film Funding



²⁶ Martin Dale, "Exchange rate swing and new legislation expected to increase production in 2015-2016," *Variety*, February 3, 2015, retrieved from <http://variety.com/2015/film/news/frances-revamped-tax-rebate-scheme-to-boost-domestic-and-international-shoots-1201420810/>.

²⁷ Conversation with Rémy Sauvaet, Chargé de mission, CNC.

Figure 8: Requirements for Accessing CNC's National Television Funding

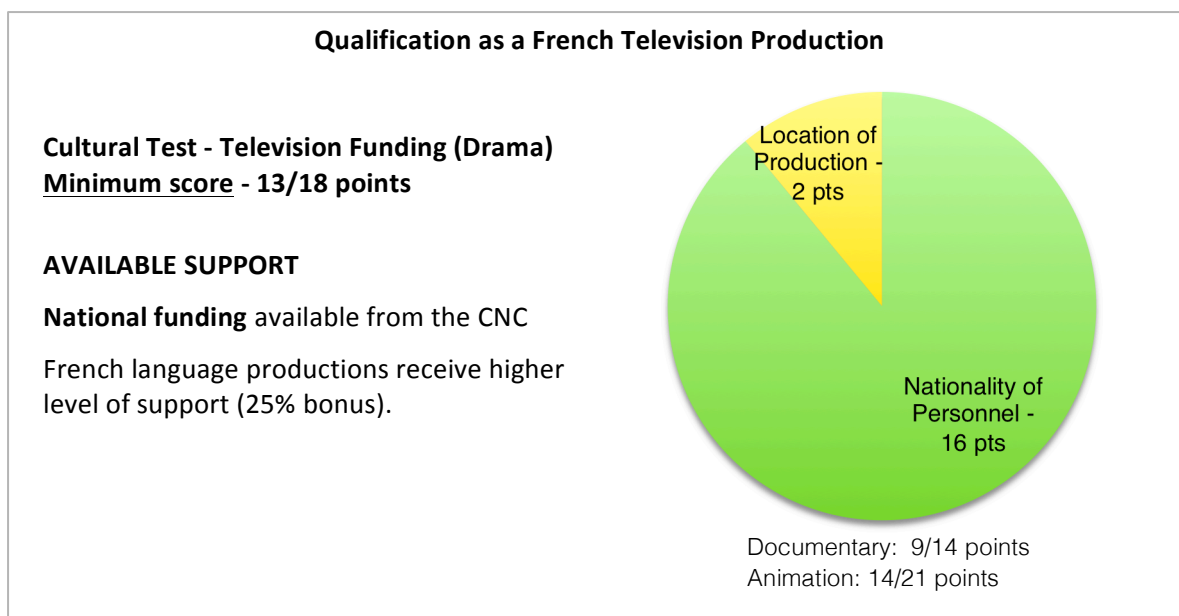


Figure 9: Requirements for Accessing the Film Tax Credit in France

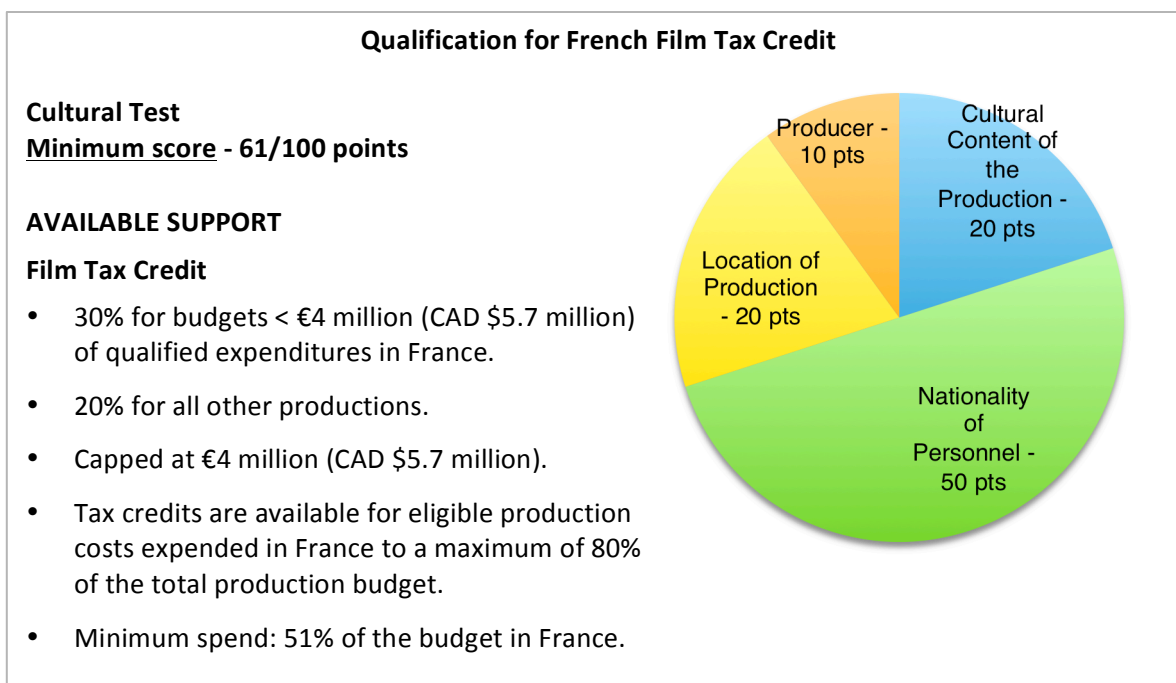
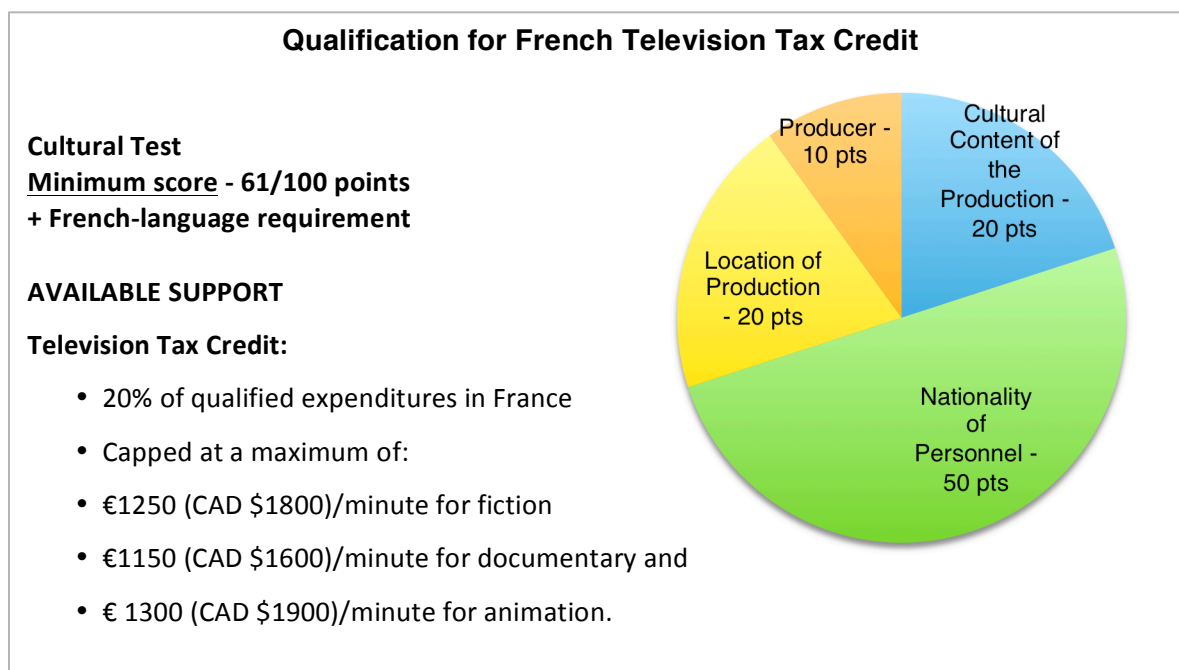


Figure 10: Requirements for Accessing the Television Tax Credit in France



4. Germany

4.1 Requirements for Access to the Film Production Rebate

The German Federal Film Fund (DFFF) provides a production rebate for feature films. A producer can either be based in Germany or in another EEA member state, with an office in Germany. A producer based outside the EEA must work through a German subsidiary or establishment.²⁸

The rebate can be applied to 80% of the production expenditure in Germany to a maximum of 40% of the production budget. The incentive is capped at €4 million (CAD \$5.7 million). However, under certain conditions, productions can access up to €10 million (CAD \$14.3 million).

Film projects must spend a minimum of 25% of the production budget in Germany. For projects with production budgets of more than €20 million (CAD \$28.6 million), at least 20% of the production budget must be spent in Germany.

²⁸ The Federal Government Commissioner for Culture and the Media, *Guideline Issued by the Federal Government Commissioner for Culture and the Media* "Incentive to Strengthen the Film Industry in Germany" (German Federal Film Fund), 17 September 2012.

Productions must be distributed in Germany by a distributor with experience in distributing films in Germany.²⁹

To be eligible for the rebate, productions must satisfy a cultural test.

4.1.1 Cultural Test

The cultural test considers the extent to which the production reflects Germany or another EEA member state according to the following criteria: 1) the cultural content of the production, 2) the nationality of the personnel, and 3) the location of the production. Each category is comprised of sub-elements for which points can be earned. It is therefore possible for a production to obtain between 1 and the maximum number of points available in each category.

Fiction films must achieve a minimum of 48 out of 94 points, animated films must obtain at least 41 points out of a possible 78, while documentaries must obtain 27 points out of a possible 52. Fiction features must satisfy at least four out of 10 cultural content criteria, while animated films and documentaries must satisfy at least 2 cultural content criteria.

Cultural content criteria could include that the language of the film is German, that there is a use of German or EEA landmarks and locations, that the story's main characters are German or from an EEA state or that more generally, the content is about art, culture, history, religion, philosophy or social issues.³⁰ Please see Figure 11 below.

In order to pass the test, it is not necessary for the director, scriptwriter or marquee cast to be German, nor for the story to be German. For example, a fiction film produced by a subsidiary of a foreign production company may pass the test if the story and setting are European and feature European landmarks and characters, if the production and post-production take place primarily in Germany and the crew are Germans or Europeans.

At the discretion of the DFFF, films obtaining two thirds of available points on the cultural test and spending 35% of their budget in Germany may be eligible for a higher level of funding, to a maximum of €10 million (CAD \$14.3 million). For example, the 2011 film, *Cloud Atlas*, produced by Warner Bros., accessed €10 million from the DFFF.³¹

4.2 Requirements for Access to National Film Funding

The German Federal Film Board (FFA) provides funding for German films with significant German elements. The goal of the fund is to strengthen the German film industry and the quality and the diversity of German films. Producers must have a business established in Germany have a business established in Germany.³² There are no minimum spending requirements and in order to be eligible, films must meet a cultural test.

²⁹ Olswang Germany LLP, *The German Federal Film Fund*, January 2014.

³⁰ The Federal Government Commissioner for Culture and the Media, *Guideline Issued by the Federal Government Commissioner for Culture and the Media*

"Incentive to Strengthen the Film Industry in Germany," German Federal Film Fund, September 17, 2012.

³¹ Olswang Germany LLP, *The German Federal Film Fund (DFFF)*, January 2014.

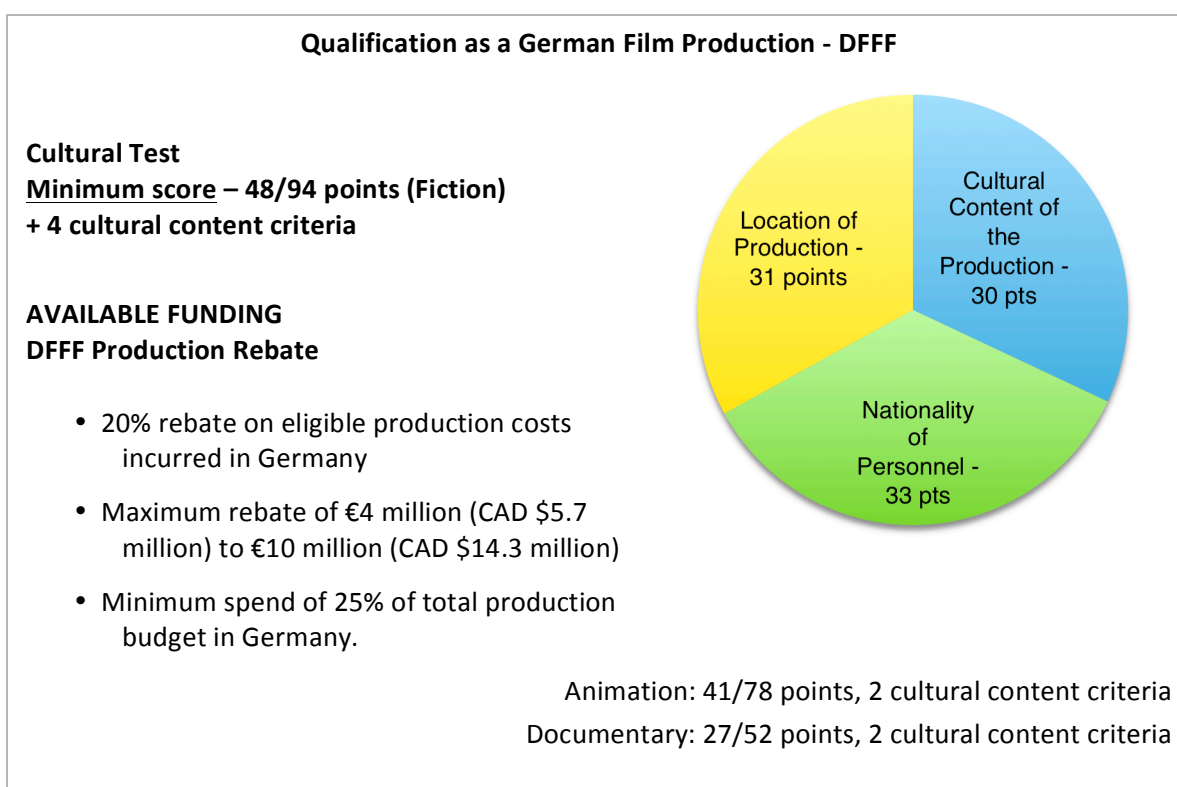
³² European Commission, State aid N 477/2008 – Germany German Film Support Scheme, Brussels, December 12, 2008.

Cultural Test

The FFA does not use a points-based analysis, but rather makes a case-by-case decision. However, productions must fill the positions of director, or writer, or up to 2 lead roles with citizens or residents of Germany or another member state of an EEA. In addition, at least two of seven cultural content criteria must be met.³³ These criteria are aimed at supporting German culture, promoting cultural heritage in general and strengthening European culture. Please see Figure 12 below.

Films must also premiere in Germany, in the German language, or at an internationally significant festival, for example, Cannes, Berlin, or Venice.

Figure 11: Requirements for Accessing the DFFF's Production Rebate in Germany



³³ German Federal Film Board, *Funding*, retrieved from <http://www.ffa.de/funding.html>.

Figure 12: Requirements for Accessing the FFA's National Film Funding in Germany

Qualification as a German Film Production - FFA

AVAILABLE SUPPORT			
Film funding from the FFA			
Cultural Test			
Cultural Content of the Production	Nationality of Personnel	Location of Production	Other
<ul style="list-style-type: none"> At least 2 cultural criteria must be satisfied German language release. 	<ul style="list-style-type: none"> Director, or writer, or up to 2 lead roles must be occupied by a German national, or resident of a member EEA state Crew: primarily Germans or residents of an EEA member state. 	<ul style="list-style-type: none"> Production technical services should primarily be located in Germany or a member state of the EEA. 	<ul style="list-style-type: none"> Premiere of the film must be in Germany in German language OR As a German entry to a major international festival.

5. Italy

The Italian Ministry of Culture, Heritage and Tourism (MiBAC) provides a tax credit to films and television productions and national film funding that qualify as Italian productions.³⁴

5.1. Requirements to Access a Tax Credit for Film and Television

The film and television tax credit in Italy provides a 15% credit on eligible production costs incurred in Italy. Qualified expenditures are limited to 80% of the total eligible production costs expended in Italy. The tax credit is available to any EEA company with an established business in Italy and subject to taxation in Italy.³⁵

³⁴ Tax credit for Italian Films and Tax Credit for Films of Cultural Interest. Source: European Commission, *State aid N595/08 – Italy*

Film production tax incentives: State aid approval, Brussels, December 18, 2008.

³⁵ To obtain the tax credit, the independent producers must hold rights for the audiovisual works for which benefits are being requested as set forth in art. 8, paragraph 5, law no. 91, 8 August 2013, converted, with

There is no project cap. There are two annual corporate caps applicable to each tax credit, respectively. The annual corporate cap for film is €3.5 million (CAD \$5 million). The television tax credit is capped at the same amount, for a combined annual corporate cap of €7 million (CAD \$10 million).

At least 15% of the film production budget must be spent in Italy and films must have theatrical distribution in Italy.

Television productions must spend no less than 50% of their eligible costs in Italy and must be intended for domestic television broadcast or distribution on a digital platform.³⁶

There are two distinct cultural tests for film and television, respectively, that productions must satisfy in order to access a tax credit from Italy.

5.1.1 Cultural Test for Accessing the Film Tax Credit

To pass the cultural test, films must score at least 50 out of 100 points and satisfy at least 2 requirements from among the following cultural content criteria that include Italian or European underlying literary works, history, legends, society, art or culture and shooting locations.³⁷

Films deemed to be of “cultural interest” are eligible for a higher level of support. To obtain this designation, films must obtain a minimum of 70 points on an additional test that examines the quality of the proposal (script, team and feasibility) and the track record of the director and the writer, such as critical acclaim, awards and prizes.

In each test, the categories are comprised of sub-elements for which points can be earned. It is therefore possible for a production to obtain between 1 and the maximum number of points available in each category. Please see Figure 13 below.

5.1.2 Cultural Test for Accessing the Television Tax Credit

Italian television productions must obtain a minimum of 70 points out of a possible 100 on a cultural test. The test considers the extent to which the production reflects Italy or the EEA based on the following categories: 1) the nationality of the personnel, and 2) the location of the production. Points can be earned for the sub-elements, which comprise each category. Productions may also score 5 points if the language of the production is Italian or in the language of a linguistic minority in Italy.³⁸ See Figure 14.

5.2 Requirements to Access National Film Funding

In order to qualify for national film funding, producers must be based in Italy or the EEA. EEA-based producers must have a subsidiary based in Italy and operate mainly in Italy.

amendments, by law no. 112, 7 October 2013. Source: Ministry of Cultural Heritage and Activities and Tourism, *Decree 5 February 2015*.

³⁶ Ministry of Cultural Heritage and Activities and Tourism, *Decree 5 February 2015*.

³⁷ European Commission, *State aid N595/08 – Italy*

Film production tax incentives: State aid approval, Brussels, December 18, 2008.

³⁸ Ministry of Cultural Heritage and Activities and Tourism, *Decree 5 February 2015*.

Projects must pass a cultural test.

5.2.1 Cultural Test

The cultural test for national film funding is not points-based, but rather identifies minimum criteria that must be met with respect to the nationality of personnel, and the location of production. These must be Italian or from an EEA member state. Please see Figure 15.

At least 30% of the costs relating to the crew, shooting, studios and technical industries must be spent in Italy.

Films must have theatrical distribution in Italy.³⁹

Films deemed to be of “cultural interest” are eligible for a higher level of support. To obtain this designation, films must pass an additional cultural test as described above in 5.1.1.

³⁹ Ministry of Cultural Heritage and Activities and Tourism, *Decree 5 February 2015*.

Figure 13: Requirements for Accessing the Film Tax Credit in Italy

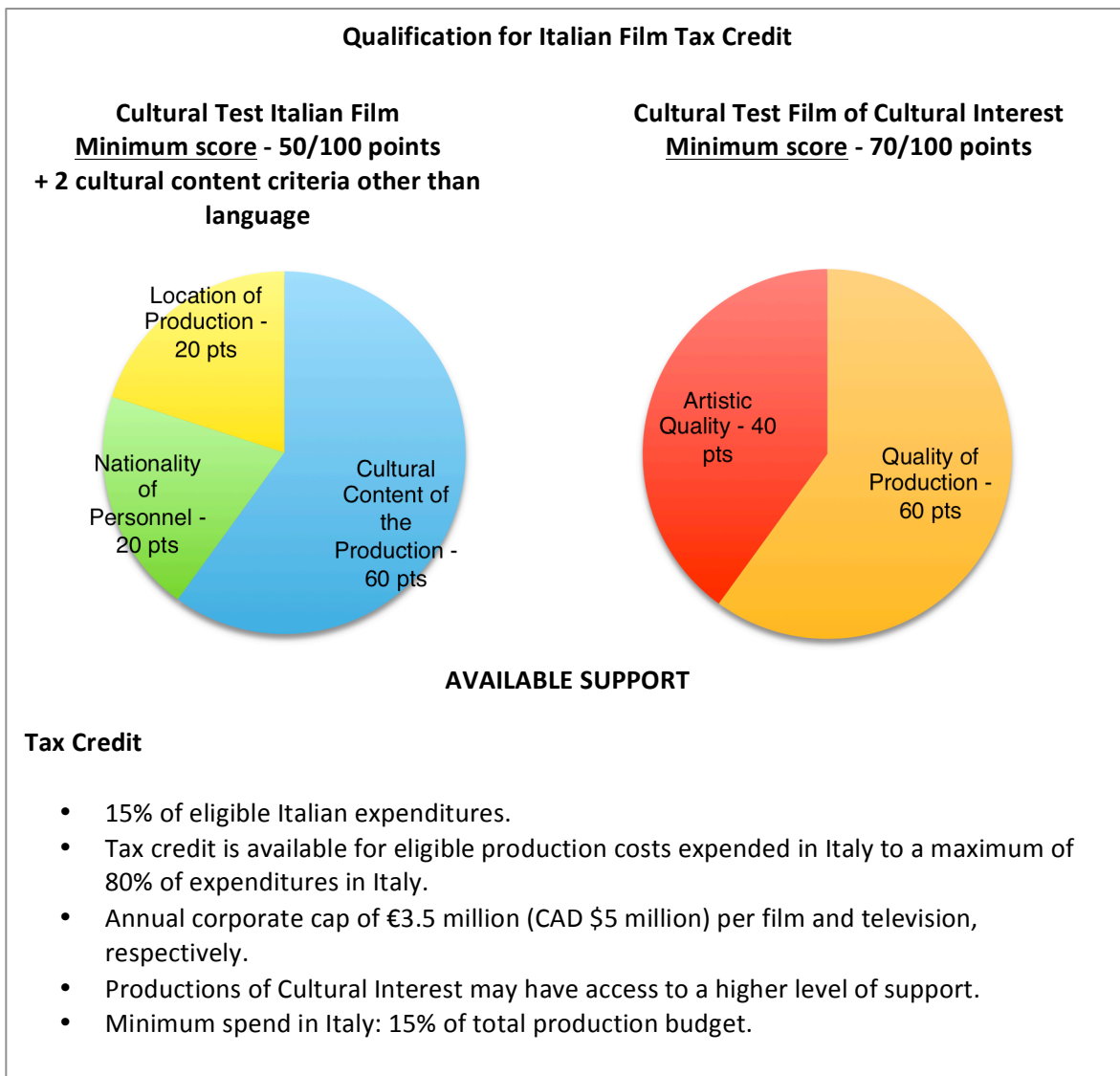


Figure 14: Requirements for Accessing the Television Tax Credit in Italy

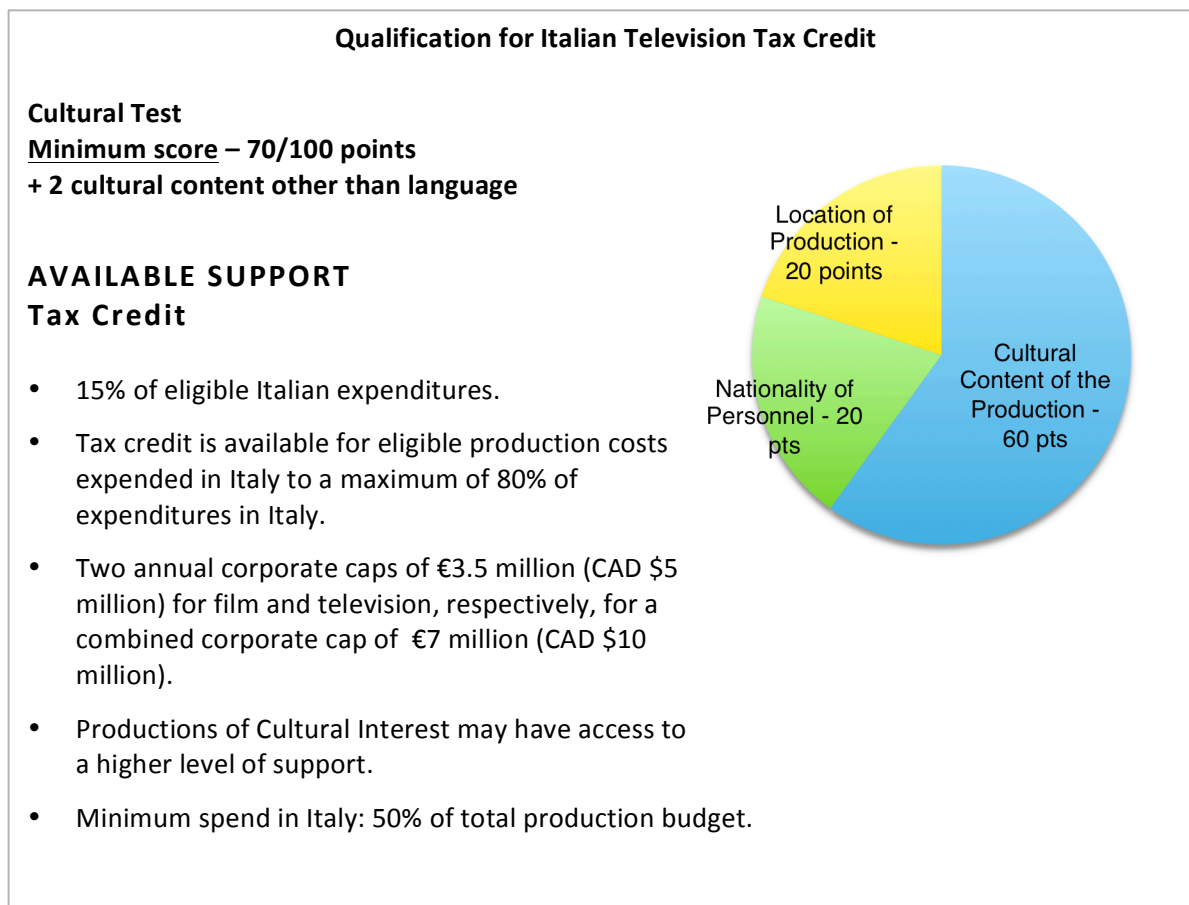


Figure 15: Requirements for Accessing National Film Funding in Italy

Qualification for National Film Funding in Italy

AVAILABLE SUPPORT Film Funding available from the Ministry of Culture, Heritage and Tourism	
Cultural Test	
Nationality of Personnel	Location of Production
<ul style="list-style-type: none"> Must be Italian or resident of EEA: <ul style="list-style-type: none"> Director, Author, Scriptwriter, Live Recording, Crew At least 3 of 4: <ul style="list-style-type: none"> Majority of principal actors Three quarters of cast Cinematographer Editor At least 2 of 3: <ul style="list-style-type: none"> Composer Set designer Costume designer 	<ul style="list-style-type: none"> At least 1 of 2: <ul style="list-style-type: none"> Filming and use of studios in Italy Use of Italian technical industries At least 30% of the following costs must be spent in Italy: <ul style="list-style-type: none"> Italian or European crew Filming and use of studios in Italy Use of Italian technical industries

6. Spain

6.1 Requirements for Accessing the Tax Credit for Films and Television Productions

The Institute of Cinematography and Audiovisual Arts (ICAA) in Spain provides tax credits for film and television productions.⁴⁰ Producers can either be based in Spain or in an EEA member state with an office in Spain. They must also pay tax in Spain.

A tax credit of 20% is available on the first €1 million (CAD \$1.4 million) of qualified production and promotion expenditures in Spain and 18% on qualified expenditures

⁴⁰ Spanish Film and Audiovisual Tax Credit. Retrieved from <http://www.mecd.gob.es/cultura-mecd/areas-cultura/cine/industria-cine/incentivos-fiscales.html>.

exceeding this amount.⁴¹ Tax credits are capped at €3 million (CAD \$4.3 million) per project. Promotion expenditures may not exceed 40% of the production budget.

At least 50% of eligible expenditures on the first €1 million (CAD \$1.4 million) of qualified production costs must be incurred in Spanish territory.

To access the tax credit, productions must pass a cultural test.

6.1.1 Cultural Test for Film

The cultural test is not points-based. To pass the test, projects must meet all of the following requirements: 1) cultural content of the production: projects be produced, preferably, in Spanish in their original version, or in any of the official Spanish languages; 2) nationality of the personnel: at least 75% of the personnel must be either Spanish citizens, or citizens of a member state of the EEA; and 3) the location of the production: principal photography and technical facilities used in the production (i.e. studios or labs) must be in Spain or in a EEA member state.

With respect to personnel, the ICAA seeks to ensure that particularly the director of a production is Spanish or a resident of an EEA country.⁴² Please see Figure 16 below.

The tax credit applies to fiction, animation and documentary film productions.

6.1.2 Cultural Test for Television

Projects must pass the same cultural test as described above for film (in 6.1.1).

Please see Figure 17.

6.2 Requirements to Access National Funding for Films

National funding is available to Spanish film productions in fiction, animation or documentary genres from the ICAA. Projects seeking national funding must qualify as a Spanish film by meeting the cultural test described in section 6.1.1. They must also meet additional criteria based on the content of the project. In assessing additional cultural content, the ICAA does not apply a points-based test, but rather considers the cultural character of the content, its link with Spanish culture and/or contribution to enriching the cultural diversity of films exhibited in Spain. Please see Figure 17.

⁴¹ PWC, “Spain – Corporate Tax Credits and Incentives,” retrieved from PWC website: <http://taxsummaries.pwc.com/uk/taxsummaries/wwts.nsf/ID/Spain-Corporate-Tax-credits-and-incentives>.

⁴² European Commission, *State aid No N 587/2009 – Spain: Spanish national film support scheme*, January 27, 2010. Page 3.

Figure 16: Requirements for Accessing the Film or Television Tax Credit in Spain

Qualification for a Spanish Film or Television Tax Credit		
AVAILABLE SUPPORT Tax Credit <ul style="list-style-type: none"> • 20% on first €1 million (CAD \$1.4 million) of eligible production and promotion costs and 18% on additional costs. • Eligible promotion expenditure capped at 40% of total budget. • €3 million (CAD \$4.3 million) cap per production. • Minimum spend: 50% on first €1 million (CAD \$1.4 million) in eligible expenditures. 		
Cultural Test		
Cultural Content of the Production	Nationality of Personnel	Location of Production
<ul style="list-style-type: none"> • Film is produced in Spanish or other official Spanish language. 	<ul style="list-style-type: none"> • 75% of the authors, technical and artistic personnel are citizens of Spain or an EEA Member State. 	<ul style="list-style-type: none"> • Shooting, post-production and laboratory work must be performed in Spain or an EEA member state.

Figure 17: Requirements for Accessing National Film Funding in Spain

Qualification for Spanish National Film Funding	
AVAILABLE SUPPORT Film Funding from the ICCA	
Cultural Test	
Cultural Content of the Production	Other
<ul style="list-style-type: none"> • Content is of a cultural nature • Content has link with Spanish culture • OR • Content contributes to enriching the cultural diversity of films exhibited in Spain. 	<ul style="list-style-type: none"> • Film meets the criteria to qualify as a Spanish Film as applied by the Film Tax Credit

7. The Netherlands

7.1 Requirements for Accessing a Production Incentive for Film

The Netherlands Film Fund Foundation provides a production incentive aimed at feature films. Producers must be based in the Netherlands or an EEA member country or Switzerland⁴³, with an office in the Netherlands.

The Netherlands Production Incentive provides a 30% cash rebate on eligible production costs incurred in the Netherlands, to a maximum of 80% of the total production costs. The production incentive is capped at €1 million per project (CAD \$1.4 million), and €2 million (CAD \$2.7 million) annually per production company.

Productions must spend a minimum of €100,000 in the Netherlands.

Films must have a theatrical release in the Netherlands.

To be eligible for the production incentive, projects must pass a cultural test.

7.1.1 Cultural Test for Accessing the Production Incentive for Film

Film productions must obtain a minimum number of points on the cultural test with respect to 1) nationality of the personnel (key creative and heads of departments who must either reside in the Netherlands or have strong ties to Dutch culture), and 2) the location of production and post-production technical services. The categories are comprised of sub-elements for which points can be earned. It is therefore possible for a production to obtain between 1 and the maximum number of points available in each category. The minimum number of points to obtain is set each year by the Netherlands Film Fund Foundation, and will never be set higher than 75 points out of a total of 200 points. In addition, at least two key creative positions amongst the director, screenwriter, director of photography or editor must be filled by residents of the Netherlands or by personnel with strong ties to Dutch film culture.

Unique to the Netherlands, points can be earned for the international standing of director, writer and lead actor as well as for the level of foreign financing, for the potential positive economic impact of the production on Netherlands's film industry, and for the promotion of the Netherlands, and European cultural diversity. It is interesting to note that unlike most other jurisdictions examined that use sliding scales in attributing points, the system employed in the Netherlands is binary, which means that productions can earn either zero or one point for each of the elements in the test. Please see Figure 18 below.

In addition to the points system, films must satisfy a minimum of 3 out of a possible 10 criteria for cultural content. These include the extent to which the Netherlands, or EEA country, or Switzerland are reflected in 1) the setting, 2) the nationality of the director or the screenwriter, 3) the principal characters, 4) the language of the production, 5) the underlying work, 6) a theme relating to art, 7) a theme relating to historical persons or events, 8) current social or cultural themes relevant to the Netherlands, 9) the film's

⁴³ Switzerland has a series of bilateral agreements with the EU which allow it to participate in the internal market.

contribution to cross-border promotion of Dutch locations or 10) its contribution to the promotion of Dutch or European culture and diversity.

7.2 Requirements for Accessing National Funding for Film

7.2.1 Requirements for Accessing National Film Funding

The Netherlands Film Fund Foundation provides national funding to film productions.

Film funding is capped at 30% of the production budget and subsidies must be spent in the Netherlands.⁴⁴

Films must pass a cultural test, which is focused on the content of the project.

To pass the cultural test, films must satisfy at least three of the following seven cultural criteria, which examine the extent to which the Netherlands or an EEA country or Switzerland are reflected in: 1) the setting, 2) the characters, 3) the Dutch language of the script, 4) the Dutch nationality of the underlying literary work, 5) a theme based on art or artists, 6) a theme relating to historical figures or events, or 7) a theme relating to current cultural, social or political issues relevant to the Dutch population. Please see Figure 19 below.

⁴⁴ Netherlands Film Fund Foundation, *Supplementation Sub-Regulations of the Netherlands Film Fund Foundation*, 1 January 2015

Figure 18: Requirements for Accessing the Film Production Incentive in the Netherlands

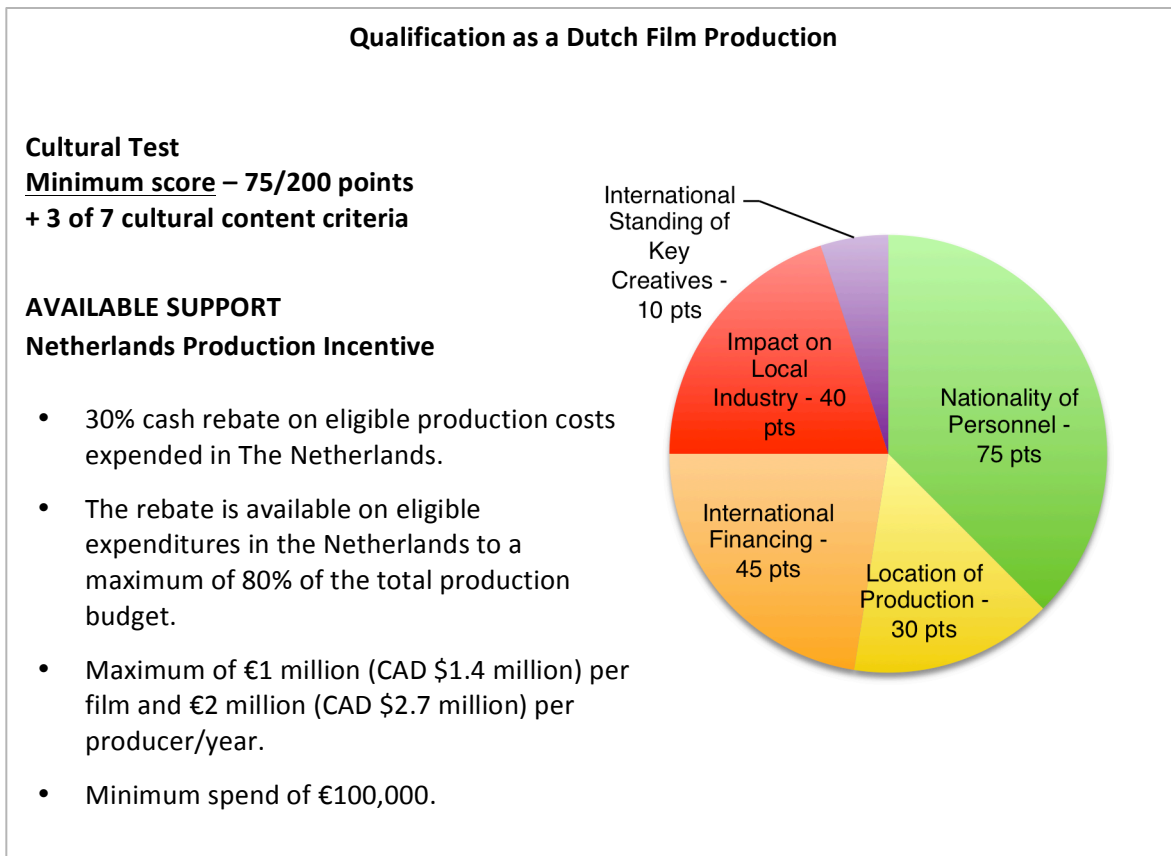


Figure 19: Requirements for Accessing Funding for National Netherlands Film

Qualification for Dutch Film Funding

AVAILABLE SUPPORT Film funding available from Netherlands Film Fund Subsidy must be spent in the Netherlands.
Cultural Test
Cultural Content of the Production
<p>3/7 cultural criteria must reflect Netherlands, EEA country or Switzerland:</p> <ul style="list-style-type: none"> • Setting • Principle characters • Language of the production • Underlying work • Theme related to art • Theme related to historical persons or events • Social or cultural themes relevant to the Netherlands.

8. Belgium

8.1 Requirements to Access National Funding for Film

In Belgium, national film funding is provided by the Flanders Audiovisual Fund (VAF) and the Centre du Cinema et de l'Audiovisuel Film Fund of the Fédération Wallonie-Bruxelles (CCA). Both funds are open to producers based in Belgium, or with an office in Belgium.

Films must be intended for theatrical distribution.

Producers may access production funding from both funds provided that they meet the cultural and spending requirements.

The funds awarded through the CCA and the VAF must be spent in Wallonia and Flanders, respectively. The CCA requires that 100% of the film funding be spent in Belgium. All funding allocated through the VAF must be spent on production costs in Flanders. For projects receiving €400,000 (CAD \$572,000) or more, at least €250,000 (CAD \$358,000) must be spent in Flanders.

To qualify for funding as a Belgian production, each fund applies a different cultural test.

8.1.1 Cultural Test to Access National Film Funding from the CCA

Eligible productions for funding from the CCA must be largely shot in French, and the director, principal roles or voices (in the case of animation) and senior technical positions must be occupied by Belgians or residents of an EEA member country. See Figure 20.

8.1.2 Cultural Test to Access National Film Funding from the VAF

The cultural test of the VAF aims to establish whether a proposed film will enrich the cultural patrimony of Flanders. To be eligible, productions must satisfy a minimum of four of the test's possible cultural criteria. These consider the extent to which Belgium or other member of the EEA are reflected in: 1) the setting, 2) the nationality of the director or screenwriter, 3) the characters, 4) lead and supporting roles, 5) script in an official language of Belgium, 6) underlying literary work, 7) main theme concerns art or artists, 8) historical people or events, 9) social themes of relevance to Belgium or another member of the EEA, and 10) contributes to a revaluation of the Belgian or European audiovisual heritage.⁴⁵ See Figure 22.

8.2 Requirements to Access National Funding for Television

Both the Flanders Audiovisual Fund (VAF) and the Centre du Cinema et de l'Audiovisuel Film Fund (CCA) of the Fédération Wallonie-Bruxelles provide television funding. Producers may not be owned or be under the influence of a broadcaster.

Television productions seeking support from these funds must have domestic broadcasters attached (VAF requires a Flemish broadcaster).⁴⁶ The CCA requires that an amount equal to 200% of the television funding be spent in Belgium.

8.2.1 Cultural Test to Access Television Funding from the CCA

Eligible productions for funding from the CCA must be largely shot in French, and either the director or the screenwriter must be European (EEA). Similarly, Europeans must occupy either the lead role or two second principal roles. Projects where Belgians occupy these key positions are given priority for access to funding, and to higher funding levels. Documentaries that are directed by a Flemish national and that otherwise meet the cultural criteria, are also eligible. Please see Figure 2471.

8.1.1 Cultural Test to Access Funding from the VAF

The VAF applies the same cultural test to television productions as it does to film productions, as described above in section 8.1.2. See Figure 22.

⁴⁵ Screen Flanders, *Procedure Manual for the 2015 Calls*.

⁴⁶ <http://www.kftv.com/country/belgium/guide/incentives>

⁴⁷ CCA, *Dispositions Generales*, October 2014.

Figure 20: Requirements for Accessing National Film Funding From the CCA in Belgium

Qualification as a Belgian Film Production - Wallonia	
AVAILABLE SUPPORT	
Film funding available from the CCA Film Fund	
Cultural Test	
Nationality of Personnel	
Must be Belgian or reside in EEA country:	
<ul style="list-style-type: none"> • Director • 1 lead role or 2 major secondary roles • 1 senior technical position. 	

Figure 21: Requirements for Accessing National Television Funding from the CCA in Belgium

Qualification as a Belgian Television Production - Wallonia	
AVAILABLE SUPPORT	
Film Funding available from the CCA Film Fund	
Cultural Test	
Nationality of Personnel	
Must be Belgian or reside in EEA country:	
<ul style="list-style-type: none"> • Director • 1 lead role or 2 major secondary roles • 1 senior technical position. 	

Figure 22: Requirements for Accessing National Funding Programs From the VAF in Belgium

Qualification as a Belgian Film or Television Production - Flanders	
AVAILABLE SUPPORT	
Funding for television and low budget film productions from VAF	
Cultural Test	
Cultural Content of the Production	
4/10 cultural criteria that must reflect Belgium or EEA:	
<ul style="list-style-type: none"> • Setting • Director or writer • Lead role or 3 supporting roles • Main character • Language • Adaptation • Art • History • Society • Belgian or European audiovisual heritage 	

9. Norway

9.1 Requirements for Access to National Funding for Film and Television

The Norwegian Film Institute provides access to national funding support for the production of films and television series. Producers with a business registered in Norway, another EEA country or Switzerland with an office in Norway are eligible to apply. Television producers must be independent of any broadcaster.

Films receiving support must be released theatrically in Norway, while television productions must have a domestic broadcaster attached.

Both films and television productions must pass a cultural test.

9.1.1 Cultural Test to Access National Film Funding

The cultural test has four criteria, of which productions must satisfy either three or all four, depending on the type of funding that is being sought. Productions seeking selective funding must satisfy at least three of four criteria, while those seeking retroactive, performance-based funding must satisfy all four.

Three of the criteria are focused on the cultural content of the production. These include the Norwegian or Sami language of the script, the main theme of the film, which is connected to Norwegian history, culture or social conditions, or the setting of the film, either in Norway, in another EEA country or Switzerland (at least half of the film must be set in one of these locations).

The fourth criterion concerns the personnel working on the production, who must reside in Norway, another EEA country or in Switzerland. To satisfy this criterion, productions must obtain a minimum of 6 out of 11 points, as follows: director (3 points), scriptwriter (2 points), photographer, master animator on animated films, production designer, editor and composer (1 point each) and actors in a leading role (1 point in all).⁴⁸ Please see Figure 23 below.

9.1.2. Cultural Test for Access to National Television Funding

To be eligible, projects must pass the same cultural test as is applied to film, discussed above in section 9.1.1.⁴⁹

9.2 Production Incentive

The Norwegian government announced its intention to introduce a new production incentive in 2016. The production incentive will be based on a reimbursement of costs incurred during a film's production in Norway.⁵⁰

⁴⁸ NFI, *Interpretation of Culture Test*, June 9, 2015; Royal Norwegian Ministry for Cultural and Church Affairs, Regulations on Support for Audiovisual Productions, 7 September 2009.

⁴⁹ NFI, *Interpretation of Culture Test*, June 9, 2015; Royal Norwegian Ministry for Cultural and Church Affairs, Regulations on Support for Audiovisual Productions, 7 September 2009.

⁵⁰ Jorn Rossing Jensen, "Norway launches film incentives," Screen Daily, May 29, 2015.

Figure 23: Requirements for Accessing National Film or Television Funding Programs in Norway

Qualification as a Norwegian Film or Television Production

AVAILABLE SUPPORT Film and television funding available from the Norwegian Film Institute	
Cultural Test – Minimum 3 or 4 of 4 criteria	
Cultural Content of the Production	Nationality of Personnel
<ul style="list-style-type: none"> • Script or underlying literary work originally written in Norwegian or Sami language • Main theme is connected to Norwegian history, culture or social conditions • 3. Action set in Norway, EEA country or Switzerland (at least half). 	<p>A minimum of 6 points from:</p> <ul style="list-style-type: none"> • Director (3 points) • Scriptwriter (2 points) • Lead actors (1 point) • Photographer (1 point) • Master animator (1 point) • Production designer (1 point) • Editor (1 point) • Composer (1 point)

10. Australia

10.1 Requirements to Access Tax Credit for Film and Television

Screen Australia provides a tax credit⁵¹ for producers of Australian feature films and television projects.⁵² Producers must be either based in Australia, or if based in a foreign country, have an office in Australia. Producers must pay tax in Australia. A producer is responsible for all activities necessary to the making of the production.

The film tax credit is provided at a maximum rate of 40% of qualifying Australian costs of production and there is no cap. However, qualifying “above-the-line”⁵³ costs are capped at 20% of the production budget.

⁵¹ Australia refers to its production tax credit as a “producer offset”.

⁵² *Screen Australia Producer Offset*, retrieved from https://www.screenaustralia.gov.au/producer_offset/default.aspx.

⁵³ Typically, “above the line” costs refer to the costs for the screenwriter, producer, director, and actors.

To be eligible for the film tax credit, projects must meet or exceed the relevant spending threshold of AUD \$500,000 (CAD \$469,000).

For television productions, the credit is worth up to 20% of qualifying Australian production costs, to a maximum of 40% of the production budget.

To be eligible, projects must meet following minimum spending thresholds:

- television series: AUD \$1 million (CAD \$940,000) total and AUD \$500,000 (CAD \$469,000) per hour;
- single episode programs: AUD \$500,000 (CAD \$469,000); and
- short-form animation: AUD \$250,000 (CAD \$234,000).

Films must be released theatrically in Australia while television productions must have a domestic broadcaster attached.

In order to be certified by Screen Australia as eligible for the tax credit, a film or television program must meet the Significant Australian Content (SAC) test.⁵⁴

10.1.1 Cultural Test to Access the Film Tax Credit

Australia does not apply a points-based cultural test. In determining whether a film has significant Australian content, Screen Australia takes a holistic approach in considering the following: 1) the content of the production; 2) nationality or residency of the key creative and other personnel; 3) the location of the production; and 4) any other matters that Screen Australia considers to be relevant. In considering the nationality of the personnel and location of the production, Screen Australia will take into account the production expenditure. Please see Figure 24 below.

Screen Australia weighs these considerations on a case-by-case basis. For example, the film *The Great Gatsby*, which is based on an American novel, has an American setting and American and British stars in leading roles qualified as an Australian film in 2013. The film was directed by an Australian director and was shot in Australia. In explaining this decision, the association representing producers noted that, “the theme of the film (the corrupting influence of money, class and influence) is a universal one and therefore, should not be constrained by international borders in theme or content.”⁵⁵

10.1.2 Cultural Test to Access the Television Tax Credit

In order to be certified by Screen Australia as eligible for the tax credit, a television project must meet the same Significant Australian Content (SAC) test as is applied to film, discussed above in section 10.1.1.⁵⁶ See Figure 25.

⁵⁴ Screen Australia, *Producer Offset Guidance on Significant Australian Content*, September 2009

⁵⁵ “What Makes a Film Australian?,” *The Hoopla*, January 31, 2014, retrieved from <http://thehoopla.com.au/australian-american/>.

⁵⁶ Screen Australia, *Producer Offset Guidance on Significant Australian Content*, September 2009

10.2 Requirements to Access National Funding for Feature Film⁵⁷

Screen Australia provides support to Australian films in the genres of drama, documentary and animation. To be eligible, production companies must be based in Australia.

Screen Australia's Feature Film Production program aims to support a diverse slate of Australian films that reflect the unique characteristics of Australian identity. See Figure 24.

10.2.1 Cultural Test to Access National Funding for Film

Screen Australia applies a cultural test that considers the same criteria as above for the producer tax credit, and is similarly applied on a case-by-case basis.

10.3 National Funding Programs for Television

Screen Australia provides support to Australian television in the genres of drama, documentary and animation. A broadcaster and/or an online platform must trigger television projects.⁵⁸ See Figure 25.

10.3.1 Cultural Test to Access National Funding for Television

Screen Australia applies a cultural test that considers the same criteria as above for the producer tax credit, which is applied on a case-by-case basis.

⁵⁷ Screen Australia website: <https://www.screenaustralia.gov.au/funding/default.aspx>.

⁵⁸ Screen Australia website: <https://www.screenaustralia.gov.au/funding/default.aspx>.

Figure 24: Requirements for Accessing the Tax Credit and National Funding for Film in Australia

Qualification as an Australian Film Production

AVAILABLE SUPPORT			
Australian Production Tax Credit <ul style="list-style-type: none"> • 40% of qualified production expenditures. • No project cap. • Above-the-line costs capped at 20% of total budget. • Minimum spend: 1 million \$AUD (CAD \$940,000). 			
Cultural Test			
Cultural Content of the Production	Nationality of Personnel	Location of Production	Other
<ul style="list-style-type: none"> • Content of the production (subject matter). 	<ul style="list-style-type: none"> • Nationality of directors, authors, scriptwriters, composers, actors, editors, directors of photography, production designers and other film technicians • Contribution of expenditure to the Australian industry and spending on Australians. 	<ul style="list-style-type: none"> • Location of the production • Contribution of expenditure to the Australian industry and spending on Australians. 	<ul style="list-style-type: none"> • Any other matters that Screen Australia considers relevant.

Figure 25: Requirements for Accessing the Tax Credit and National Funding for Television in Australia

Qualification as an Australian Television Production

AVAILABLE SUPPORT			
Australian Producer Offset			
<ul style="list-style-type: none"> • 20% of qualified production expenditures • Capped at 40% of the production budget • Minimum spend: AUD \$250K (CAD \$234,000 - AUD \$1 million (CAD \$940,000)). 			
Cultural Test			
Cultural Content of the production	Nationality of Personnel	Location of Production	Other
<ul style="list-style-type: none"> • Content of the production (subject matter). 	<ul style="list-style-type: none"> • Nationality of directors, authors, scriptwriters, composers, actors, editors, directors of photography, production designers and other film technicians) • Contribution of expenditure to the Australian industry and spending on Australians. 	<ul style="list-style-type: none"> • Location of the production • Contribution of expenditure to the Australian industry and spending on Australians. 	<ul style="list-style-type: none"> • Any other matters that Screen Australia considers to be relevant.

11. New Zealand

11.1 Requirements for Accessing the New Zealand Film and Television Production Incentive

The New Zealand Film Commission (NZFC) administers the New Zealand Screen Production Grant (NZSPG), a production incentive that offers a cash grant to feature film and television productions. Producers must be either a New Zealand company or a foreign company with an office in New Zealand.

Unlike other jurisdictions examined, the rebate excludes post-production expenses.

Productions may access a grant equivalent to 40% of eligible production costs expended in New Zealand. The rebate is capped at NZ \$20 million (CAD \$17.4 million).⁵⁹ A feature film must have minimum production expenditure in New Zealand of NZ \$2.5 million (CAD \$2.2 million) and must be theatrically released in New Zealand.

Television productions may access a grant equivalent to 40% of qualifying New Zealand production expenditures. A television production must have a domestic broadcaster attached or commercial distribution on another digital platform (DVD/Blu-ray, online or mobile).

Television productions must meet the following minimum spending requirements:

- Television series: NZ \$1 million (\$0.9 million) total and NZ \$500,000 (CAD \$434,000) per hour;
- Single episodes: NZ \$1 million (CAD \$0.9 million) total and NZ \$800,000 (CAD \$695,000) per hour.
- Short form animation: NZ \$250,000 (CAD \$217,000).

The grant for television is capped at NZ \$6 million (CAD \$5.2 million).⁶⁰

To be eligible, productions must meet significant New Zealand content criteria.

11.1.1 Cultural Test to Access a Production Incentive for Film

To assess if a film has significant New Zealand content, productions must pass a 32-point cultural test that examines the following: 1) the cultural content of the project, 2) the nationalities and places of residence of the key creative and other personnel, 3) the location of production (including the ownership and location of equipment and technical facilities); and 4) ownership and sources of financing. Each category is comprised of sub-elements for which points can be earned. It is therefore possible for a production to obtain between 1 and the maximum number of points available in each category.

A feature film that receives at least 20 points out of 32 would generally be considered to have significant New Zealand content. In addition, film productions are generally expected

⁵⁹ New Zealand Commission, *New Zealand Screen Production Credit Criteria for New Zealand Productions*, April 1, 2014

⁶⁰ New Zealand Commission, *New Zealand Screen Production Credit Criteria for New Zealand Productions*, April 1, 2014

to obtain a minimum of 3 points related to the New Zealand cultural content of the project and at least 3 out of a total of 6 points for New Zealanders in the positions of director, producer and scriptwriter. Please see Figure 26.

11.1.2 Cultural Test to Access a Production Incentive for Television

Television productions are tested on the same basis as film, described above in section 11.1.1. A television production that obtains at least 15 out of 32 points is generally considered to have significant New Zealand content. In addition, television productions must obtain a minimum of 2 points related to New Zealand cultural content of the production and to receive at least 3 out of the total of 6 points available for the positions of director, producer and scriptwriter. Each category is comprised of sub-elements for which points can be earned. It is therefore possible for a production to obtain between 1 and the maximum number of points available in each category. Please see Figure 27.

11.2 Requirements to Access National Funding for Feature Film

The NZFC provides feature film production funding to qualifying companies. To access film funding from the NZFC, applicant producers must be New Zealand citizens or permanent residents. Films must have significant New Zealand content to be eligible.⁶¹

11.3.1 Cultural Test for Accessing National Film Funding

To assess if a film has significant New Zealand content for the purpose of accessing national film funding, the Commission considers the same categories and criteria as are considered for the production incentive. In applying the test, the New Zealand Film Commission retains flexibility, and as such prioritizes certain cultural elements over others in lieu of a points-based system. In order of priority, the NZFC considers the following: 1) The nationalities and places of residence of producers, directors, and writers, and copyright owners, as well as the subject matter and locations where the film is made; 2) the nationalities and places of residence of other key creative personnel (lead actors, director of photography, editor and music composer) and 3) the nationalities and places of residence of technical personnel and cast involved in the film, and location of equipment and technical facilities used to make the film. (Figure 28.)

An analysis based on these priorities was used to determine that the *Lord of the Rings* trilogy had “significant New Zealand content.”⁶²

11.4 Requirements to Access National Funding for Television

NZ on Air provides funding to producers of television programs for drama and documentary for broadcast on New Zealand’s television channels. The aim of NZ on Air is to help ensure that New Zealand-made programs that would otherwise not be provided in a commercial market are made. Producers must have a New Zealand broadcaster attached.

11.4.1 Cultural Test

NZ On Air considers the following criteria: 1) the cultural content of the production (whether the program reflects the diverse nature of New Zealand’s population and its

⁶¹ New Zealand Film Commission, *Feature Film Production Financing Guidelines*, December 18, 2014

⁶² Email exchange with Mladen Ivancic, Chief Financial Officer, New Zealand Film Commission.

culture); and 2) financial elements such as the budget and third party financing. Producers must be based in New Zealand.

Funding supports the government's goals to promote programs about New Zealand and promote Maori language and culture.

Under the *Broadcasting Act*, special priority is given to drama as a way to reflect and develop New Zealand culture and identity. Priority is given to New Zealand stories, talent and locations. See Figure 29.

Figure 26: Requirements for Accessing the Film Production Incentive in New Zealand

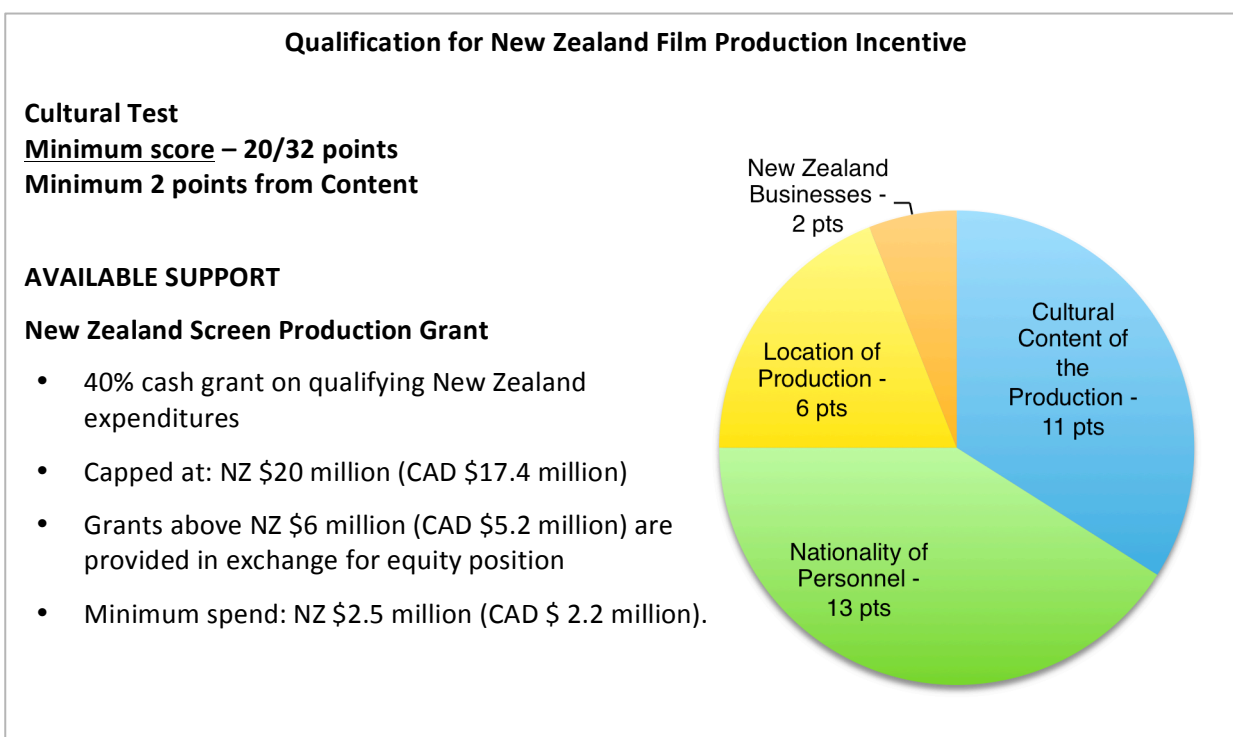


Figure 27: Requirements for Accessing the Television Production Incentive in New Zealand

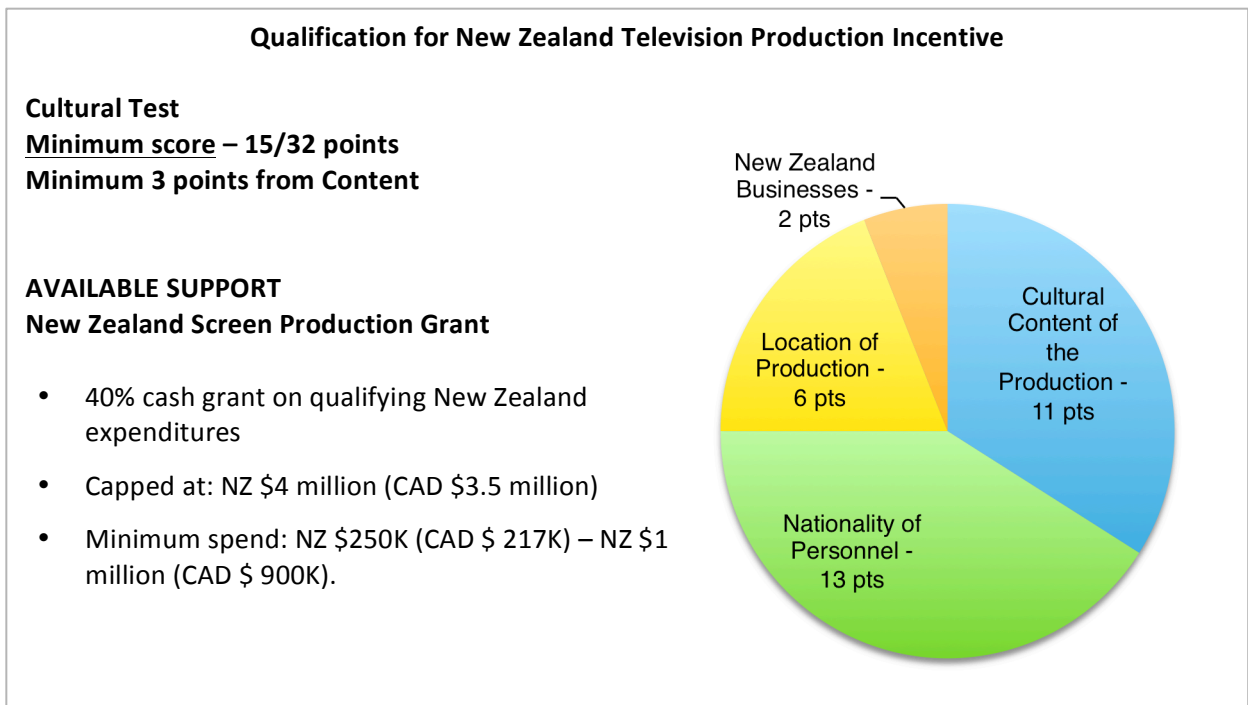


Figure 28: Requirements for Accessing National Film Funding Programs in New Zealand

Qualification for New Zealand National Film Funding

AVAILABLE SUPPORT			
Film Funding available from New Zealand Film Commission			
Cultural Test			
Cultural Content of the Production	Nationality of Personnel	Location of Production	Other
<ul style="list-style-type: none"> Subject of the film Locations or intended locations of the production. 	<ul style="list-style-type: none"> Nationalities and places of residence of: Authors, scriptwriters, composers, producers, directors, actors, technicians, editors and anyone else who has or will be involved; (minimum 3 of 6 points). 	<ul style="list-style-type: none"> Ownership and location of equipment and technical facilities that will be used. 	<ul style="list-style-type: none"> Nationalities and places of residence of: Ownership or planned ownership of shares or capital of any company, partnership, or joint venture that is concerned with making the film Those who have, or will have, copyright in the film Sources of financing (both present and future).

Figure 29: Requirements for Accessing National Television Funding Programs in New Zealand

Qualification for New Zealand National Television Funding

AVAILABLE SUPPORT			
Television funding available from New Zealand On Air			
Cultural Test			
Cultural Content of the Production	Nationality of Personnel	Location of Production	Other
<ul style="list-style-type: none"> Whether the production reflects the diverse nature of New Zealand's population and its culture Priority for New Zealand stories. 	<ul style="list-style-type: none"> Priority for New Zealand talent. 	<ul style="list-style-type: none"> Priority for New Zealand locations. 	<ul style="list-style-type: none"> Production budget Level of funding from other sources.

12. Summary Overview

12.1 A Range of Approaches to Defining National Content For the Purpose of Accessing Tax Credits and Rebates

Eight of the ten jurisdictions examined have in place tax credits or rebates. The UK, France, Italy, Spain, Australia and New Zealand offer incentives aimed at both film and television productions, while Germany and the Netherlands exclusively target film. Norway and Belgium do not provide a tax credit or rebate, although Norway has announced its intention to launch a film rebate in 2016.

Our analysis shows that approaches to defining national content for the purpose of accessing these tax credits and rebates are based on consideration for: 1) the nationality of the production company; 2) cultural criteria, as established through the use of a cultural test; 3) minimum spending requirements; and 4) other requirements such as distribution.

The incentives examined differ in their levels of support and the types of expenditures that qualify. New Zealand, Germany and Italy provide higher levels of funding to projects that meet additional spending or cultural requirements.

12.1.1 Eligibility of the Production Company

In order to be eligible for a tax credit or rebate, all jurisdictions require production companies to have an established business in the country. EEA-based companies are eligible in all Member States in which they have a base of operations. Australia and New Zealand can exercise flexibility in extending a tax credit or rebate, respectively, to foreign companies (for example, American companies) with a domestic base of operations.

12.1.2 Prominence of the Use of a Cultural Test

The UK, France, Germany, Italy and the Netherlands use a points-based system in determining access by producers to their respective tax credits and rebates. The points scales (total number of points) used to evaluate cultural criteria vary between jurisdictions and between film and television. They range from a minimum of 31 available points (for UK television projects) to 200 available points (for Dutch films).

Belgium, Spain and Australia, while they use a cultural test, do not apply a points-based system. Belgium and Spain base their assessment on a total count of desired elements, while Australia takes a more holistic approach, weighing the requirements on a case-by-case basis.

Three General Categories That Afford Considerable Flexibility

For all eight jurisdictions with tax credits or rebates (UK, France, Germany, Italy, Spain, the Netherlands, Australia and New Zealand), the cultural tests include requirements in three general categories: 1) the cultural content of the production, 2) the nationality of the personnel, and 3) the location of production.

There is a fair degree of flexibility in how producers choose to meet the requirements of the cultural tests. In terms of the cultural content of the production, it is possible to pass most cultural tests on the basis of the setting of the film, the use of recognizable landmarks, and/or the language of the funder country. Jurisdictions typically provide a broad range of cultural content criteria from which productions must satisfy a sub-set to pass.

Producers also have flexibility in meeting requirements with respect to personnel involved in the productions. In Europe, producers can meet the requirements of the cultural tests by drawing on a talent pool that stretches across all the countries that are signatory to the European Economic Area, including Iceland, Lichtenstein, and Norway (and of course the EU). It is not necessary for these persons to be citizens of member countries. It is enough that they are residents who normally reside in a given jurisdiction.

In the UK, France, Italy, Spain, Netherlands and New Zealand, producers can qualify for funding by filling only a few creative and technical positions within a wide range of options.

12.1.3 A Wide Range of Minimum Spending Requirements

Productions must meet minimum spending requirements in their jurisdictions to access tax credits or rebates. With the exception of Australia, these are calculated as a percentage of

the entire production budget.⁶³ Spain is notable in that its tax credit extends to promotion expenditures, to a maximum amount representing 40% of the production budget.

Minimum spending requirements for films range from lows of 10% of the budget (UK) or €100,000 (CAD \$143,000) (Netherlands) to a high of NZ \$2.5 million (CAD \$2.2 million) (New Zealand).

For television productions, minimum spending requirements range from the low €100,000 (CAD \$143,000) (Netherlands) to a high of £1 Million (CAD \$2 million) per hour (UK).

12.1.4 Most Jurisdictions Require Domestic Distribution

With the exception of Spain, the jurisdictions examined require that films be theatrically released in the country, and that television productions have a domestic broadcaster attached. In certain jurisdictions, notably the UK, Italy, Australia and New Zealand, projects may be triggered by a digital platform, for example, distributed over the Internet or mobile technologies.

Films must be released in Germany by an approved distributor and with a minimum number of prints. Films must also have their premiere in Germany or as a German entry in a major international film festival.

12.2 National Funding Programs for Feature Films and Television Favor Domestic Productions

National funding programs that support feature film productions are provided by all ten jurisdictions. National funding programs that support television production are offered by the following six jurisdictions examined: the UK, France, Belgium, Norway, Australia and New Zealand.

12.2.1 National Programs for Feature Film Favor Culturally Significant Domestic Productions

National funding programs examined for this report are intended to support culturally significant national productions. As such, they place a greater emphasis on the cultural content of the project and the cultural expression of the directors and/or writers.

This is demonstrated in the national funding programs offered by France and Italy, which provide greater access to funding for films that are more culturally significant. In determining access, Spain assesses the cultural character of the content and its link with Spanish culture. The Netherlands similarly assesses the Dutch or European cultural content of productions, including consideration for the Dutch language of the production, a Dutch underlying literary property and themes or subjects of relevance to Dutch culture.

To access Norwegian funding, productions must be either in a Norwegian language or based on an underlying Norwegian literary work; or have a main theme connected to Norwegian history, culture or social conditions; or both. The VAF in Belgium is unique in that it requires only that productions satisfy at least four of ten cultural content criteria.

⁶³ Australia has two tax credits: one for production and post-production.

Requirements for personnel and the location of the production are addressed through a requirement to spend any funding obtained in the region.

Funding from the FFA in Germany requires that either the positions of director or writer or 2 lead roles be occupied by residents of Germany or an EEA member state. In Belgium, the CCA requires that the production be shot in French, and that the director and at least 1 lead role or 2 secondary roles; or the writer and 1 secondary role; and 1 senior technical position, be filled by residents of Belgium or an EEA country.

Australia and New Zealand do not assign specific weightings to their assessment of cultural criteria. However, both countries consider the cultural content, the nationality of personnel and the location of the production (i.e. equipment and technical facilities) in their assessments.

In France, productions that achieve a higher score on the cultural test (above the minimum of 25 points) are eligible for higher rates of funding through their automatic subsidies. The rate of funding increases with the number of points achieved. In Italy, films deemed to be of cultural interest, which is largely based on the track record of the director and writer, are eligible for a higher level of support. Spain provides complementary funding to productions that satisfy additional criteria, for example based on genre or when introducing a new director.

12.2.2 Some Jurisdictions Apply Minimum Spending Requirements to their National Funding Programs

Three of the jurisdictions examined have minimum spending thresholds in their country. Italy requires that 30% of production costs on personnel and technical industries must be expended in Italy. Belgium requires that its funding be spent in Belgium (VAF funds must be spent in Flanders). For its part, the UK has a minimum spending requirement of 10% of the production budget.

12.2.3 National Funding Programs for Television Favour Industry Development

Six of the ten jurisdictions examined (the UK, France, Belgium, Norway, Australia and New Zealand) provide national funding for television to productions. These require the attachment of a domestic broadcaster. Television funding programs tend to have fewer cultural content requirements and focus more on the nationality of personnel and the location of the production. These programs are aimed at strengthening local production industries.

B. Canada Compared

Preamble

This section compares Canada's approach in its definition of a national film and television project to the jurisdictions examined in this study. For the Canadian context, examined is the criteria being used by the Canadian Audio-Visual Certification Office (CAVCO) in its administration of the Canadian Film and Video Production Tax Credit (CPTC), the criteria used by Telefilm Canada in its administration of the Canada Feature Film Fund and the criteria being applied by the Canada Media Fund in its administration of the Performance Envelope Program, in particular its essential requirements.

In comparing Canada to other jurisdictions, it is useful to keep in mind that the contexts in which support measures have been developed are unique to each jurisdiction. At the same time, there are points of comparison that can be made in terms of the following: 1) the nationality of the production company; 2) cultural criteria, as established through the use of a cultural test; 3) minimum spending requirements; and 4) other considerations such as distribution.

1. Access to Canada's Film and Video Production Tax Credit (CPTC) Compared to Access to Tax Credits and Rebates Examined in Other Jurisdictions

The Canadian Film and Video Production Tax Credit (CPTC) is a refundable tax credit made available to qualifying Canadian film and television productions. The tax credit is provided at a rate of 25% on qualified labour expenses. Qualified labour expenditures are limited to 60% of the total budget, net of assistance, resulting in a maximum tax credit equal to 15% of the total budget of the production (net of assistance).⁶⁴

To qualify for the tax credit, film and television projects must be certified as Canadian productions by CAVCO, by satisfying the following requirements:⁶⁵

- 1) Be produced by a taxable Canadian company controlled by Canadians.
- 2) Satisfy a points-based test focused on key creative personnel.
- 3) Spend a minimum 75% of their total production costs for services provided to⁶⁶ or by Canadians (excluding Canadian producer fees); and 75% of their post-production and laboratory costs for services provided in Canada. Positions for which points have been obtained in the Canadian cultural test (CAVCO scale) are excluded from the calculation of minimum expenditures.
- 4) Producers hold the worldwide copyright for a Canadian production for a period of 25 years from the time the production becomes commercially exploitable.

Please see Figure 30.

⁶⁴ KPMG, *Film Financing and Television Programming: A Taxation Guide*, Sixth Edition, 2012, page 76.

⁶⁵ Department of Canadian Heritage, *Canadian Film or Video Production Tax Credit (CPTC)*, program guidelines retrieved from <http://www.pch.gc.ca/eng/1268752355851>.

⁶⁶ An example of services provided to Canadians is in the case of production shooting in a foreign country that provides services to its eligible Canadian personnel on location. Source: Conversation with Linda Anton, CAVCO analyst.

Figure 30: Requirements for Accessing the Canadian Film and Video Production Tax Credit

Qualification as a Canadian Film or Television Production

<p>AVAILABLE SUPPORT Film or Television Tax Credit.</p> <ul style="list-style-type: none"> • 25% of qualified Canadian labour expenditures • Tax credit is available on qualified expenditures to a maximum of 60% of the total production budget • Minimum spend: 75% of production budget and 75% of post-production budget.
<p>Cultural Test</p> <p>Nationality of Personnel</p> <ul style="list-style-type: none"> • 2 points each for: <ul style="list-style-type: none"> • Director • Writer • 1 point each for: <ul style="list-style-type: none"> • 1st lead performer • 2nd lead performer • Director of photography • Art director • Music composer • Picture editor • Director or screenwriter, and one of the two lead performers must be Canadian (live action film and video) • Director, or screenwriter and storyboard supervisor, must be Canadian, as well as two lead voices (animation).

In addition to gaining access to the CPTC, certification as a Canadian production is a minimum requirement for accessing national film funding from Telefilm Canada's Canada Feature Film Fund and the Canada Media Fund's Performance Envelope Program, which are discussed below in sections 2.1 and 2.2.

1.1 Less Flexibility for Canadian Producers

Compared to the other jurisdictions examined, producers in Canada do not gain access to the production tax credit as easily as their counterparts in other countries.

Canadian producers are required to hold exclusive worldwide copyright on their production for 25 years, a requirement that was not found in the other jurisdictions examined.

CAVCO's point system is a "cultural test" which is based on a scale of 10 available points (the "CAVCO scale"). There is also a 10-point test adapted for animation productions. Both tests are focused exclusively on the key creative personnel. To pass these tests, projects must achieve a minimum of six points, or 60% of available points. Documentaries that do not fill six of the ten positions may be certified with a lower score.

The cultural tests of the UK, France, Germany, Italy, the Netherlands and New Zealand have scales ranging from 31 available points (in the UK) to 200 available points (in the Netherlands). By comparison, Canada's 10-point test affords significantly less flexibility to Canadian productions. These systems afford producers with many different opportunities to pass, by scoring points across a diverse set of categories that reflect the cultural content of the production, the nationality of the personnel and the location of the production (i.e. technical industries used). The minimum percentage of points required to pass these tests is comparable to Canada, varying between 50% and 63%.

The Netherlands appears to provide the greatest flexibility, with 200 points and a pass mark of 37.5% of available points. Italy has a 100-point test, for which 50% is the pass mark. Germany's test is based on 94 points, for which obtaining 51% of points is a pass. The UK and New Zealand have 35- and 32-point scales, respectively. The UK requires a 50% score to pass, while New Zealand requires a 63% score. For its part, France requires productions to obtain at least 61% of 100 points to pass.

In the jurisdictions examined, the cultural tests comprise three key areas of analysis: the cultural content of the project, the nationality of the personnel hired for the production, and the location of the production. By comparison, the CAVCO cultural test examines only the nationality of the personnel involved in the production. This approach allows for a more objective and predictable analysis. On the other hand, Canada provides little flexibility as regards the location of production, given its high minimum spending requirements. Productions seeking certification must spend a minimum of 75% of their production and post-production costs in the country or in respect of Canadians. This 75% spending rule is further restricted in that it cannot include any positions for which points are awarded in the cultural test (CAVCO scale).⁶⁷ This means that where producers in other countries can select from criteria regarding technical personnel and services to satisfy their cultural tests, Canadian producers seeking certification must almost exclusively hire Canadian personnel and technical services in Canada.

With respect to personnel, the cultural tests of other jurisdictions examined for this report afford producers greater flexibility than Canadian requirements. As noted above, Canadian productions must spend at least 75% of their production costs on services provided to or by

⁶⁷ Department of Canadian Heritage, *Canadian Film or Video Production Tax Credit (CPTC)*, program guidelines retrieved from <http://www.pch.gc.ca/eng/1268752355851>.

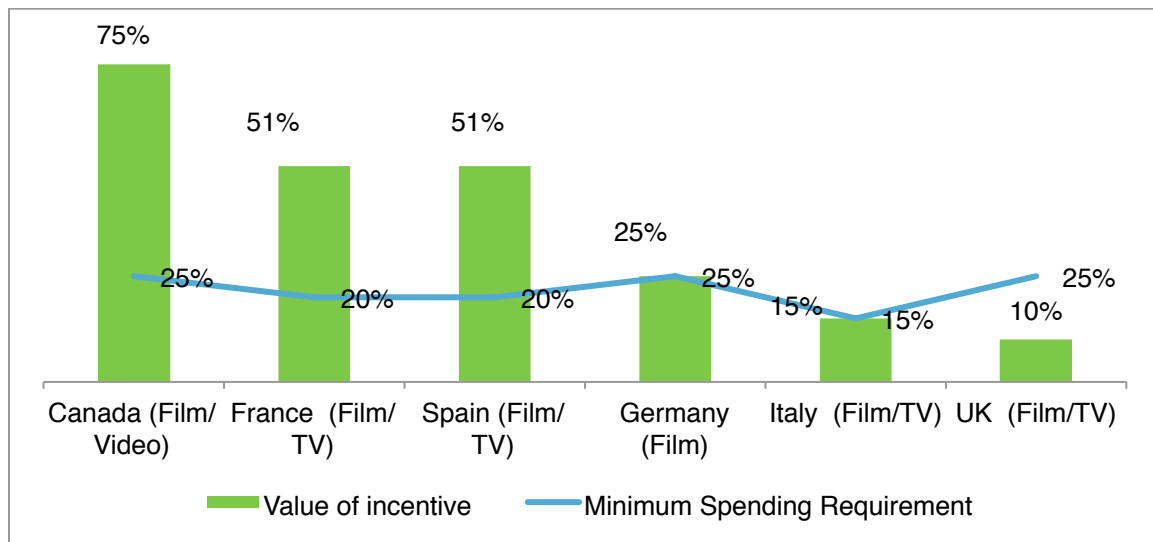
Canadians. By contrast, European productions must fill a majority of positions with skilled personnel, which they may draw from across the EEA trading area, and including Switzerland in the case of Norway. New Zealand allows non-New Zealand personnel (other than key creative and cast) who work inside the country for 14 days or more to qualify as New Zealand expenditures.⁶⁸

1.2 Higher Spending Requirements in Canada

Canada's minimum spending requirements are significantly higher than those in other jurisdictions. All of the countries examined that have a tax credit or a rebate have minimum spending requirements, expressed either as a percentage of the budget or a dollar amount. These range from the lows of 10% of the production budget (in the UK) or €100,000 (CAD \$143,000) in the Netherlands, to a high of 51% of the budget (France) or NZ\$2.5 million (CAD \$2.2 million) (New Zealand).

Figure 31 compares the Canadian requirements for minimum spending with those of other jurisdictions that use a percentage of the production budget to establish eligibility. As can be seen, Canada has the highest requirement for domestic spending at 75% of the production (and post-production) budget, followed by France and Spain at 51%.

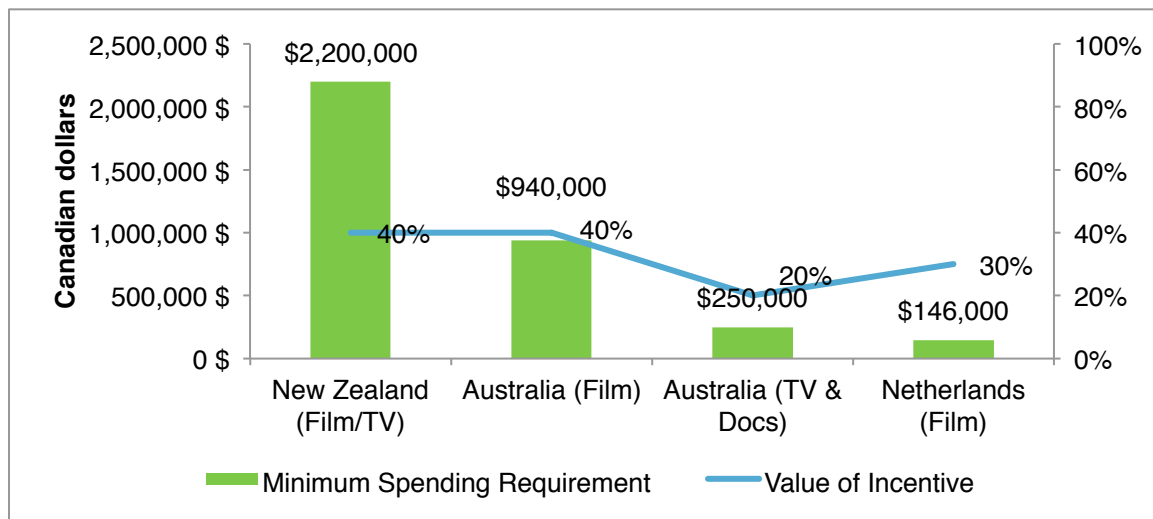
Figure 31: Comparison of Minimum Spending Requirements in Percentages (Canada and other jurisdictions)



⁶⁸ New Zealand Film Commission, NZSPG – New Zealand, retrieved from: <http://www.nzfilm.co.nz/funding/feature-films/production-funding/new-zealand-screen-production-grant/nzspg-new-zealand-productions>.

With respect to minimum spending requirements expressed as dollar amounts, we note that New Zealand requires the highest amount of spending, at NZ \$ 2.5 million (CAD \$2.2 million). Australia requires a minimum spend of AUD \$1 million (CAD \$940K). The Netherlands has the lowest spending requirement for film, at €100,000 (CAD \$143,000). However, this low threshold is reflected in the limited rebate amount provided by the Netherlands Production Incentive, which is capped at €1 million (CAD \$1.43 million). See Figure 32.

Figure 32: Comparison of Minimum Spending Requirements in Dollars (excludes Canada)



2. Canada's National Funds Compared to Jurisdictions Examined

2.1 The Canada Feature Film Fund

The Canada Feature Film Fund (CFFF) administered by Telefilm Canada is designed to support Canadian content productions made by Canadian production companies with Canadian talent.

2.1.1 Requirements Comparable to Other Jurisdictions

Overall, the approach taken in Canada to define eligible productions for the purpose of providing access to national film funding resembles that taken in other jurisdictions. With respect to feature film funding, Telefilm Canada requires that a higher number of points be obtained on the CAVCO scale. Productions must obtain at least 8 points on the CAVCO scale, and both the writer and director must be Canadian. In addition, a Canadian must perform one of the lead roles.⁶⁹ Telefilm also requires that an eligible Canadian distributor theatrically distribute in Canada projects with budgets greater than \$2.5 million.

Telefilm exercises its judgment to apply appropriate flexibility with respect to requirements that are over and above those needed to obtain certification as a Canadian production. For example, Telefilm can make appropriate exceptions with respect to the director and writer for projects requesting lower levels of support. In the case of the writer, Telefilm will consider the degree of involvement of the Canadian writer, which must be meaningful and collaborative, and whether the underlying property and story are Canadian. With respect to a Canadian lead performer, Telefilm allows for flexibility in co-protagonist and ensemble situations, as well as where the non-Canadian actor is integral to the market potential of the film (i.e. marquee cast).⁷⁰ Figure 33 provides a view of the requirements to access the CFFF.

As compared to other jurisdictions examined, Telefilm's cultural test has a higher level of requirements with respect to using Canadian citizens or permanent residents in key creative roles. The cultural tests examined in European jurisdictions can be passed using European content, personnel and technical industries.

Telefilm does not impose cultural content requirements on the productions it supports. However, it will, wherever possible, give priority to projects that present a distinctly Canadian point of view.

⁶⁹ Telefilm Canada, *Canada Feature Film Fund Production Program Guidelines*, February 21, 2012.

⁷⁰ Telefilm Canada, *Canada Feature Film Fund Production Program Guidelines*. February 21, 2012.

Figure 33: Requirements to Access the Canada Feature Film Fund

Qualification to Access the Canada Feature Film Fund

AVAILABLE SUPPORT	
Film funding available from Telefilm Canada. Minimum spend: 75% of production and 75% of post-production budget.	
Cultural Test - Minimum Score – 8/10 points on CAVCO scale	
Nationality of Personnel	Other
Must be Canadian citizens or permanent residents. <ul style="list-style-type: none"> • 2 points each for: <ul style="list-style-type: none"> • Director • Writer • 1 point each for: <ul style="list-style-type: none"> • 1st lead performer • 2nd lead performer • Director of photography, • Art director • Music composer • Picture editor • Director and screenwriter must be Canadian; • One of the two lead performers must be Canadian. 	Must be distributed in Canada by a Canadian distributor.

2.2 The Canada Media Fund

The Canada Media Fund (CMF) is Canada's most important funder of television and convergent productions. A large majority of CMF resources are allocated through the Convergent Stream, and most of the financing in this stream is made available through the Performance Envelope Program.

2.2.1 Requirements Comparable to Other Jurisdictions

To be eligible for funding from the CMF, television productions must have a commitment from a Canadian broadcaster⁷¹ for a minimum license fee and meet three “essential requirements”:

- 1) Projects must be certified as Canadian productions and obtain 10 out of 10 points on the CAVCO scale.
- 2) The underlying rights must be owned and meaningfully developed by Canadians.
- 3) The project must be shot and set primarily in Canada.

While the CMF requires productions to obtain 10 out of 10 points on the CAVCO scale, it does make exceptions. The CMF provides flexibility with respect to the requirement to obtain 10/10 points on the CAVCO scale based on the genre. For example, 8/10 points are allowed in animation programs. For a live-action drama, one CAVCO point may go to a non-Canadian performer who has significant recognition among Canadian audiences and does not play the protagonist role in the production. For a documentary, the program may be shot and set in a non-Canadian location if it is integral to the story being told. For live-action and animation programming with generic or fantasy settings: the setting must not be identifiably foreign.⁷² In the case of format programs where productions do not obtain 2 points for writers on the CAVCO scale, projects may be eligible if Canadians are significantly involved in the writing, for which they are credited, and if Canadians meaningfully control the adaptation of the format. Figure 34 provides a description of the requirements to access the Canada Media Fund.

⁷¹ A Canadian broadcaster, public or private, licensed to operate by the Canadian Radio-television and Telecommunications Commission (CRTC), including a CRTC-licensed VOD service. Source: Canada Media Fund, Performance Envelope Program Guidelines 2015-2016, retrieved from http://www.cmf-fmc.ca/documents/files/programs/2015-16/guidelines/2015-16_perf_env_guidelines.pdf.

⁷² Canada Media Fund, *Appendix A: Definitions and Essential Requirements 2015-2016*, March 2015.

Figure 34: Requirements to Access the Canada Media Fund

Qualification to Access the Canada Media Fund

AVAILABLE SUPPORT		
Television funding available from the Canada Media Fund. Minimum spend: 75% of production and 75% of post-production budget.		
Cultural Test		
Cultural Content of the Production	Nationality of Personnel	Other
<ul style="list-style-type: none"> Production is shot and set primarily in Canada Underlying rights are owned and meaningfully developed by Canadians. 	10 points for positions filled by Canadians: <ul style="list-style-type: none"> 2 points each for: <ul style="list-style-type: none"> director, writer 1 point each for: <ul style="list-style-type: none"> 1st lead performer 2nd lead performer Director of photography Art director Music composer Picture editor Director and screenwriter must be Canadian; One of the two lead performers must be Canadian. 	<ul style="list-style-type: none"> Must have a broadcaster pre-sale with a minimum license fee and a commitment to be broadcast on Canadian television.

It is important to point out that Canadian television producers do not have the kind of flexibility available to European producers who can draw on personnel residing in a member country of the EEA, and make productions using European content and technical industries. Canadian producers are more limited in their use of non-Canadians in key roles.

3. Summary Observations

3.1 The CPTC is Less Flexible Than the Tax Credits and Rebates in Other Jurisdictions

As has been shown, the CAVCO scale does not afford the same level of flexibility as the cultural tests examined in other jurisdictions.

Canadian spending requirements are more restrictive, requiring a greater portion of the production to take place in the country.

It is interesting to note that Spain allows marketing expenditures to qualify for a tax credit.

The requirement that Canadian producers hold exclusive worldwide copyright for 25 years was not found in the other jurisdictions examined.

One point of similarity with the Canadian context is the requirement for a theatrical release for feature films and a domestic broadcast for television production although we note that in the UK, Italy, Australia and New Zealand, broadcast extends to online platforms, which is currently not the case for accessing the CPTC.

3.2 Criteria to Access the Canada Feature Film Fund and the Canada Media Fund are Comparable to Other Jurisdictions

For the most part, the jurisdictions examined provide support through their national funding programs to culturally significant films and television productions. In this regard the priorities of Telefilm Canada and the Canada Media Fund resemble the national funds in the jurisdictions examined. These two Canadian funders apply similar approaches to defining eligible national content, exercising flexibility as needed to meet cultural objectives.

C. Concluding Summary Observations

1. It May Be Timely to Review the Flexibility Afforded to Producers Through the CPTC

Our study finds that there are differences between the jurisdictions examined in this study and Canada in terms of the approaches being taken to define the nationality of films and television productions for the purpose of accessing tax credits, rebates, and national funding programs. The most significant difference is the greater flexibility afforded to film and television productions in the following areas:

- The design of cultural tests, which offer many different opportunities to satisfy requirements by obtaining a wide variety of points across diverse categories. By comparison, CAVCO's point scale is small, having only ten points in all, while the point scales used by other jurisdictions ranges from 31 to 200 points. However, it should be noted that the Canadian point system provides a greater degree of objectivity and hence predictability by limiting its analysis to the nationalities of personnel.
- The less restrictive requirements regarding the nationality of personnel involved in productions, whom can be drawn from across the EEA trading area (28 EU Member States, plus Norway, Iceland and Lichtenstein). For its part, Australia does not have any set requirements that must be met, instead conducting a holistic evaluation of projects, while New Zealand requires only that two key positions be filled by New Zealanders.
- Domestic spending requirements, which are significantly lower in other jurisdictions than those required in Canada. Canada has the highest requirement for domestic spending at 75% of the production budget and 75% of the post-production budget;
- Eligibility of the production company, which appears to be less restrictive than in Canada, and the term of ownership of the copyright (which is 25 years in Canada);
- Distribution requirements, which allow digital platforms to trigger television production funding in some jurisdictions examined.

Within this context, it may be timely to review the degree of flexibility being afforded Canadian producers to access the CPTC. As a point of reference, we note that a study conducted in 2003, which evaluated Canada's approach to how Canadian content is defined by federal agencies, recommended that producers generally be given greater flexibility.⁷³

A consideration could be that the definition of distribution be broadened so as to expand the market opportunities for Canadian content. In this scenario, producers could utilize more forms of distribution, such as Internet-based and mobile platforms, and enlarge their market reach. We note that four jurisdictions examined, the UK, Italy, Australia and New Zealand, allow digital platforms to trigger television production funding.

⁷³ Francois Macerola, *Canadian Content in the 21st Century in Film and Television Productions: A Matter of Cultural Identity*, Department of Canadian Heritage, June, 2003, page 65.

2. The Flexibility Exercised by the CFFF and the CMF Compares Favourably with Other Jurisdictions

2.1 The CFFF

Our study finds that the nationality requirements for accessing national funding programs for feature film are generally intended to support culturally significant productions. As such, a greater emphasis is placed by some jurisdictions on the cultural content of the project and the cultural expression of the directors or writers.

Generally, the approach taken in other jurisdictions is comparable to that of the Canada Feature Film Fund. We observe that all jurisdictions are being challenged by evolving distribution models, by an increasing array of consumer choices, and by increased competition for financing. In this context, jurisdictions are adapting by providing greater flexibility to producers to support the development of their domestic industries and increase economic activity by attracting bigger budget productions.

2.2 The CMF

As this study shows, the definition of cultural content continues to evolve towards greater flexibility. We note that the CMF no longer requires that a program “speak to Canadians and be primarily intended for a Canadian audience.” In the CRTC’s review of television policy in 2014, the Commission recommended that governments and partner agencies consider more flexible and forward-looking approaches to the production and financing of high impact Canadian programs in the future in order to ensure higher-quality Canadian programming with more success both domestically and internationally. The findings of the present study support this direction if Canada and its funding system are to be more competitive internationally.

It may be timely to review the essential requirement that a television show be “shot and set primarily in Canada”. While this is included as a criterion in the cultural tests of a number of jurisdictions, such as the UK, Germany, Italy, Belgium and the Netherlands, it is not a prerequisite to accessing funding. It is instead one criterion among several from which a producer can choose to meet the requirements of the cultural test.

Conclusion

In conclusion, we believe that the CFFF and the CMF will go far in ensuring that Canadian producers are on par with their counterparts in other jurisdictions to the degree that they provide producers with flexibility in meeting their respective requirements.

Set against a backdrop of greater competition both at home and abroad, the Canadian feature film and television production industry requires the right conditions to succeed. Looking forward, Canadian content will continue to face great challenges in standing out in a crowded global market place. In a world that knows no borders, the industry must have sufficient flexibility to fuel innovation, adopt ground-breaking business models and create enduring content for the world.

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Annex 2: Glossary

Animation: A production type that consists of the creation of a sequence or series of graphic images or frames together to give the appearance of continuous movement.

Audiovisual Media Services Directive (2010): formerly the Television Without Frontiers Directive (1989) of the European Union (EU), which governs the coordination of national legislation of broadcasters and on-demand services throughout the EU. Under this authority, the EU has issued guidelines on the interpretation of a European program, for the purpose of monitoring broadcasters' compliance with programming quotas.⁷⁴

Cinema Communication (2013): is a regulation intended to ensure fair competition under the Treaty on the Functioning of the European Union⁷⁵ issued by the European Commission. It provides a general set of principles that form the basis of interpretation as to what qualifies as a cultural production, which is reflected in the enabling legislation on cinema and audiovisual funding within each Member State of the European Union.

Cultural Test: is a tool used by jurisdictions to determine a film or television production's eligibility for tax credits, production incentives and national funding programs. Tests are generally administered by a government department or agency.

Documentary: An original work of non-fiction, primarily designed to inform but may also educate and entertain, providing in-depth critical analysis of a specific subject or point of view.

Drama: Entertainment productions of a fictional nature, including dramatizations of real events which are comprised primarily of dramatic performances.

European Economic Area (EEA): An agreement in which Iceland, Liechtenstein and Norway are considered equal partners in the EU internal market, on the same terms as the EU Member States. This includes having access to the internal market's four freedoms: the free movement of goods, persons, services and capital.

European Union: There are twenty-eight Member States in the European Union.

⁷⁴ This Directive applies to media service providers when: 1) the head office of the provider and the editorial decisions taken about the audiovisual media services are located in the same Member State; 2) the head office and audiovisual media services are located in different Member States; 3) the service provider has its head office in a Member State, whereas decisions on the audiovisual media services are taken in a third country; 4) the service provider uses a satellite up-link situated in a Member State; 5) the service provider uses satellite capacity appertaining to a Member State. Source: European Union, Audiovisual Media Services Directive Summary, 2010, retrieved from: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aam0005>.

⁷⁵ Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE VII: COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS - Chapter 1: Rules on competition - Section 2: Aids granted by States - Article 107 (ex Article 87 TEC). Retrieved from <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12008E107>.

European work: The *Audiovisual Media Services Directive* defines European works as productions originating in a EU Member States or in countries that are signatories to the *European Convention on Transfrontier Television*.

Feature film: is scripted, developed, produced, and marketed with the intention of being released first in cinemas. A feature film generally runs at least 75 minutes.

Member State: In this report, is used to mean the twenty-eight members of the European Union plus three members of the European Economic Area – Iceland, Liechtenstein and Norway.

Minimum spend: Amount that must be spent by a film or television production in the jurisdiction in order to qualify for an incentive.

Post-production: Set of activities that follow the shooting of a film, television program or video, for example: editing, special effects, mixing of soundtracks and dubbing.

Pre-production: Step that precedes the shooting and that includes writing the final version of the script, hiring performers and crew, choosing settings, scouting locations and determining the shooting schedule and final budget.

Principal photography: Refers to the phase of film production during which a movie is actually shot, as distinct from pre-production and post-production. Principal photography involves the first day of shooting of significant scenes that involve the main photography unit. For animation, it is specified as being the beginning of key animation.

Producer: The individual who: a) controls and is the central decision maker in the production; b) is directly responsible for the acquisition of the production story or screenplay and the development, creative and financial control and exploitation of the production

Production: Refers to the activities involved in making a feature film, a television program or series. Includes pre-production, principal photography, and all subsequent shooting, post-production and follow-up once the production has been completed.

Rebate: are driven by production spending rather than levels of investment – repaying productions a percentage of their qualifying budget items according to a clear set of regulations. The payment is normally made after the production expenditure has been completed and audited.

Refundable: Applies only to tax credits. If a tax credit is refundable, it means the production does not need to have actual state tax liability for the “credit” to be issued. When a tax credit is refundable, it acts more like a rebate, although a state tax return must be filed before the refund is issued.

Tax credit: A tax credit is similar to a rebate in that they are designed to repay a percentage of qualifying production costs based on a pre-determined formula. However, rather than being paid from a demarcated fund, the incentive is instead set against the producer’s tax liabilities when a corporate annual return is filed. In doing so, the incentive will reduce the amount of tax due.

Television: refers to productions and programs (fiction, documentary, animation, etc) specifically made for television transmission.

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