Broadcasting and Production Policy Mechanisms: An International Evaluation of Effectiveness

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Executive Summary

The recognition that broadcasting and production play an essential role in delivering public purposes has led nations to apply a variety of supply-and demand-side mechanisms to support indigenous broadcasting and production. These mechanisms include tax credits, production subsidies, broadcast quota requirements, and public service broadcasting. But not all mechanisms work equally well in all situations, and they must evolve with market and technological developments. The lessons of the past are instructive, but their implementation in another jurisdiction must take into account different local factors as well as the continuously evolving world of television.

This study explores the range of broadcasting and production mechanisms typically applied by Western countries to meet specific public policy objectives. Through selective case studies in countries including France, Germany, Canada, Spain and Australia we evaluate the ability of specific mechanisms to deliver against defined objectives, including generating audiences for indigenous programming, including regional content and priority programming such as drama and news, and supporting independent production, including for production outside of major production centres.

Our findings, outlined in Section 9, demonstrate that certain aspects of mechanisms can prove to be effective, despite a number of challenges. Specifically:

- Public Broadcasting is one of the more effective mechanisms across all objectives; however funding must be adequate, and generating audiences will continue to be a challenge in light of increased viewing competition;
- Targeted broadcasting quotas for private broadcasters can be quite effective; however, enforcement will be a challenge in the future without a ‘quid pro quo’ to offer as the value of public spectrum for broadcasting transmission wanes.;
- Subsidy funds can be highly effective, especially if they are market- or broadcaster- driven; they are also helpful in assisting broadcasters to meet quotas and driving new forms of media production, such as interactive media;
- Tax credits for domestic expenditures (mainly labour) have become the tax incentive of choice internationally to help finance production as they are cost-effective and market-driven;
- The application of supply-side mechanisms to complement demand-side mechanisms will increase in importance in the future;
- Finally, devolved regulation presents challenges in a national context due to the co-ordination multiple regulators and jurisdictions with divergent aims and priorities; moreover, like all regulation, the regulator can only be effective if it has a means to enforce regulatory requirements.

In sum, there are tools to promote and protect indigenous culture, and if applied intelligently they can work. However, they need constant attention, review, and updating to remain effective as television economics evolve.

1. Context and Introduction

In August 2007, the Scottish Government's First Minister, Alex Salmond, established the Scottish Broadcasting Commission (the "Commission") and tasked it "to conduct an independent investigation into the current state of television production and broadcasting in Scotland and define a strategic way forward for the industry."[1]

To date, the Commission has conducted three phases of its investigation, and has identified some key findings within each phase:

- **Economic phase:** In January 2008, the Commission noted a decline – from 6% in 2004 to 3% in 2006 – of Scotland's share of network television production;
- **Cultural phase:** The March 2008 report noted that programmes specifically aimed at Scottish audiences comprised only 5% of the schedules of BBC1 and BBC2 in Scotland;
- **Democratic phase:** The May 2008 report highlighted that a significant percentage of Scottish (36%) were fairly or very dissatisfied with the way Scotland is reported in UK television news.[2]

Overall, the Commission's findings thus far suggest that market forces and existing regulation and public policy in Britain will not generate the desired level of Scottish television. Therefore, there is a need for the Scottish Government[3] to investigate the feasibility of market intervention(s) to align the output and accessibility of Scottish television programming with national aspirations.

Such intervention is not uncommon around the world. Governments in many Western countries have, with varying degrees of success, implemented an array of supply- and demand-side interventions to promote the creation of domestic television content. These mechanisms are designed to achieve a number of objectives: economic, cultural, democratic and also educational.

To inform Scotland's development of future broadcast and production policies, the Commission retained Nordicity to assess the effectiveness of the various support mechanisms in place in other countries. This report presents the findings of this analysis, with a focus on three particular areas:

1. Supply- and demand-side public interventions which aim to extend or enhance production or viewing of culturally distinctive content;
2. Public policies put in place in different countries aimed at decentralising television production away from otherwise dominant centres; and

[1] Source: http://www.scottishbroadcastingcommission.gov.uk/about/History-Background
[2] Source: Scottish Broadcasting Commission, *Interim Report*
[3] Legally termed the "Scottish Executive"

3. Models for federated or devolved arrangements for governance and regulation of television.

2. Evaluating How Mechanisms Meet Objectives

2.1. Policy Purposes, Objectives and Mechanisms

For many years, governments - particularly in Western economies - have looked to the television broadcasting and production sector to fulfil a series of public policy purposes. These purposes can be economic, cultural, democratic, educational, or social / community in nature.[4] In order for governments to achieve these purposes via broadcasting and production systems, they typically set a series of specific and measurable objectives. For example, in order to fulfil an economic purpose, a government might set an objective of supporting the independent television production sector, which can create wealth and jobs.

The Scottish Broadcasting Commission has prioritised three purposes in their review: economic, cultural and democratic. In the table below, we identify specific objectives which are typically set for the broadcasting and production sectors in order to fulfil these priority purposes.

Figure 1: Objectives and purposes of broadcasting policy

Objectives	Purpose
Growing audiences	
… for indigenous content … for indigenous content in priority genres … for regional content	Economic: Audiences for local programming supports the local production industry. Cultural: Promotes national or regional culture and reflects national and regional society. Democratic: Indigenous news/current affairs inform citizens and hold civic leaders to account.
Stimulate independent production	
… of indigenous content … in priority genres … regionally	Economic: Generates new jobs and spin-off economic benefits – in both major centres and regions. Cultural: Use of independent producers permits more variety in the telling of a country's or region's own stories or talking about global themes from a local perspective. Democratic: Current affairs and news produced independently provide new perspectives.

In order to achieve these defined and measurable objectives, governments typically apply a combination of supply- and demand-side interventions, and also ensure adequate regulatory structures to guarantee enforcement of these interventions. We term such tools 'mechanisms'. These mechanisms can be applied at multiple points along the television-content value chain to achieve the desired policy outcomes. Supply-side interventions are applied at the development and production end of the

[4] Note that each government identified a series of different purposes. The BBC, for example, as articulated in *Building Public Value* identifies additional purposes 'or values' which also includes global value.

value chain; demand-side interventions are aimed at the distribution or exhibition components of the broadcasting value chain. The range of the most popular mechanisms used by governments is outlined below:

- **Exhibition and expenditure quotas:** Many western economies – including Canada, Australia, France, Denmark, Spain, the Philippines, South Africa, Ireland, and the United Kingdom – use some type of quota to promote the exhibition of indigenous television programming, thereby promoting viewing and production on often under-represented categories of television programming. Quotas may either specify exhibition requirements (such as number of hours within peak time) or expenditure requirements (such as the amount spent on indigenous programming); some countries apply both at the same time.
- **Subsidy funds:** Subsidy funds are applied by a number of countries like Canada, Australia and France. These can be tied to the broadcaster, such as in France and Canada, and can also be used for regional development purposes – for example, as stated within the goals of the Australia's Film Finance Corporation (FFC).
- **Tax credits and other tax incentives**: Several countries use the tax system to attract private financing to television production. Canada, Australia and the United Kingdom (UK) have all used some type of tax incentive scheme to entice private investors to consider very risky audiovisual properties. In recent years, refundable tax credits for production project expenditures have become the tax incentive of choice for governments seeking to use the tax system to promote independent television production.
- **Public broadcasting:** An independent public broadcaster is a fixture in many countries. In some countries, public broadcasters are (nearly) entirely publicly funded through direct grants or consumer licence fees (France, Germany, UK); we also find public broadcasters in other countries applying a mixed funding system. In some countries, public broadcasters are highly regionalised (Spain and Germany) and seek to achieve significant cultural objectives on a regional basis.
- **Multi-channel carriage and licensing mechanisms:** A range of other mechanisms are often applied to multi-channel broadcast providers, some for cultural purposes and others for fair-competition purposes. For example, to further ensure a place for Canadian content and Canadian-owned channels on TV, the Canadian regulatory body requires that cable and satellite providers carry a majority (51%) of Canadian channels in any package; and the regulator will not normally licence new channels that compete directly with existing Canadian services. In other countries, such as in the US, "must-carry" rules ensure that all subscribers have access to the compulsory channel – for example, all cable and satellite packages must carry PBS (Public Broadcasting Service).

Overall, many countries or regional jurisdictions apply a variety of these mechanisms to achieve certain objectives – be they audience-generating or production-focused.

2.2. Methodology

The mechanisms identified have met with varying degrees of success in various jurisdictions. Their effectiveness can be affected by a variety of factors, including how a mechanism is applied (sometimes in combination with other mechanisms), but also by other contextual factors such as the level of multi-channel penetration or the level of viewing of foreign content. This study examines these factors with a focus on determining if mechanisms achieve specific objectives, as identified earlier. The study also investigates the potential effectiveness of these mechanisms in the future, in light of technological and consumer change. Furthermore, the study explores the ability of regulators to actually enforce mechanisms and looks specifically at the ability of devolved regulators to accomplish cultural objectives.

In order to examine the mechanisms identified, we selected two or three case study countries that demonstrate particularly good examples of the application and effectiveness of each mechanism. Note that we focused specifically on mechanisms which can be applied to achieve sub-national objectives, and for this reason did not include multi-channel licensing and carriage requirements.

Several steps were taken in order to complete this evaluation, including:

- Conducting an extensive environmental scan of which mechanisms were applied by which countries;
- Identifying 2-3 countries for which sufficient data exists to allow evidence-based analysis and which have demonstrated success – or specific challenges – in applying the mechanisms;
- Conducting 5-6 interviews with key broadcasting and policy experts in key countries;
- Extensive secondary research and data analysis, including academic journals and government data sources.

Note that it is not within the scope of the study to conduct audience analysis of regional programmes and priority genres. Using an understanding of the exhibition quantity of certain genres and regionality of programming on certain channels, coupled with the general market share of channels, we have made inferences regarding the ability of the mechanisms to grow audiences. In other areas, similar inferences were made where data were lacking.

In the table below, we outline which mechanisms and countries we explore in this study, and the rationale for their inclusion.

Figure 2: Summary of support mechanisms for domestic television production

Mechanisms	Country	Rationale for inclusion in study
Quotas	Canada	- Use of both expenditure and exhibition quotas, with varying effectiveness
	Australia	- Use of points-based quota system to promote the exhibition of original programming in drama, documentary and children's genres
Production Funds	Canada	- Use of both broadcaster-linked and economic development funds provides an interesting model for a comparison of their effectiveness
	France	- Broadcaster-linked production funds have been recognised as highly successful for generating indigenous content
Tax Incentives	Australia	- Use of accelerated depreciation allowances to attract private capital to the production of domestics films and television production; now moving to refundable tax credits
	Canada	- Uses refundable tax credits to promote Canadian independent production across a broad range of television genres (excluding news and sports)
Public service broadcasting	Canada	- Two language-based national public broadcasters and regional educational broadcasters owned by provincial governments
	France	- Holding company operates four national public broadcasters, including one comprised of regional stations (France 3), plus an overseas broadcaster
	Germany	- A network of regional public broadcasters (ARD) along with a second national public broadcaster (ZDF)
Devolved regulation	Germany	- Broadcast regulation devolved to Länder
	Spain	- Catalonian broadcast regulator operating alongside federal regulator

3. Case Study Countries

In the following section, we provide a brief overview of the broadcasting systems for the countries we have selected as case studies. The context of a country's broadcasting environment can have a significant impact on the effectiveness of mechanisms.

- **France:** France's television broadcasting system includes 6 national analogue broadcast channels, 10 local analogue broadcast channels and more than 200 cable and satellite programming services.[5] The French broadcasting system is primarily regulated by the independent regulatory agency Conseil supérieur de l'audiovisuel (CSA). The French system applies quotas and production funds, and has a very strong public broadcasting legacy.

- **Germany**: Broadcast delivery in Germany occurs primarily through cable television and free-to-air (FTA) satellite. With 35-40 channels offered to cable customers at a very low price and more than 100 FTA channels available, pay satellite television has gained little traction despite the additional channels it provides. As a result, the major terrestrial channels capture 71% of viewing compared to 29% audience share for the multi-channel services. German broadcast regulation is unique in that the 16 German Länder (states) regulate their own public and private broadcasting. Issues of language, culture and identity have never been strong driving forces in German media policy.[6]

- **Spain**: Spain's broadcasting system consists of 6 national analogue terrestrial channels with multiple regional affiliates, 19 channels specific to the nation's various autonomous states, and more than 70 programming services.[7] The majority of channels are received free over-the-air, whilst cable, satellite and IPTV penetration in combination account for only 25%.[8] There is no dedicated independent national broadcast regulator in Spain, although the Comisión del Mercado de las Telecomunicaciones (Telecommunications Market Commission) and Secretaría de Estado de Telecomunicaciones have some power over broadcasting matters. However, at the regional level, Consell de l'Audiovisual de Catalunya (Catalonia Broadcasting Council) regulates broadcasting in the state of Catalonia. Cultural objectives are largely achieved through quotas imposed at the regional level.

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[5] Source: Open Society Institute: EU Monitoring and Advocacy Program, *Television across Europe: regulation, policy and independence Volume 2 2005*
[6] Source: Open Society Institute, Ibid
[7] Source: Persky: Directory of Television Channels in Europe, http://www.obs.coe.int/db/persky/es.html
[8] Source: Ofcom, Ibid

NB: Highly relevant to the European countries we examine is the European Union Directive, *Television without Borders* (TWF) agreement. It stipulates broadcasters operating in member states must devote at least 50% of their schedule – excluding news, sports, games, advertising, teletext and teleshopping – to European-produced television programmes. Member states must also adopt either 10% exhibition quota or a 10% expenditure quota (share of programme expenditures) for independent European television programmes.

- **Australia**: There are 54 commercial broadcasters, 2 national public broadcasters, and 17 pay TV drama channels broadcasting in Australia. The majority of Australians receive television FTA; subscription TV enjoys only a 26.1% penetration rate. The three major commercial networks enjoy a 77.9% viewing share, with the public networks capturing about 22% of the audience.[9] Indigenous content, particularly Australian sport, is very popular among Australian viewers. In 2006, 12 of the top 20 most watched programmes were Australian sporting events or sport-based broadcasts, and only 3 programmes were non-Australian.[10] Under the regulation of the Australian Communications and Media Authority (ACMA), Australian broadcasters adhere to a comprehensive framework designed to support and promote indigenous and regional production. The ACMA employs indigenous content exhibition quotas, federal and regional funding agencies, and tax incentives.
- **Canada:** As nearly 90% of Canadians subscribe to a cable or satellite service, the majority of Canadians have access to anywhere from 30 to 200+ channels.[11,12] Of these, the Canadian-owned services attract 78.7% of all viewing (7.7% to the public broadcaster, 31.4% to the private FTA channels and 36.2% to pay and specialty channels). However, on a specific programme basis, 48% of Canadian viewing on English-language channels is to indigenously-produced programming and 66% of viewing on French-language channels is to Canadian programming[13].

NB: The economics of programming in Canada highly affects the regulatory system. American-made television dramas often have budgets of US$2 million to US$10 million per one hour episode. Canadian broadcasters can license this programming for about C$200,000 to 250,000 per hour for 2 plays. It costs Canadian producers more than $1 million to produce one hour of high-quality television drama. Although Canadian broadcasters can license this programming for about 20% to 25% of its cost, it makes economic sense for them to license the established brand, and generally higher audience appeal programme from the US.

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[9] Source: Australian Film Commission: Get the Picture
[10] American reality shows
[11] Figure includes all regional channels of the major network operators
[12] Source: CRTC, *Broadcasting Policy Monitoring Report 2007*
[13] Source: Ibid

The below table summarises the broadcasting landscapes of those states outlined in this section.

Figure 3: Comparative broadcasting market environment

Country	Size of indigenous language market	Existence of and/or proximity to a larger country with the same language	Number of broadcasting services (estimate)	Subscription TV Penetration
France	60,700,000	No	216	43%[14]
Germany	82,400,000	No	150+	45%15
Spain	39,500,000	No[16]	95+	25%
Australia	20,400,000	Yes, U.S, U.K.	73	26%
Canada	32,800,000	Yes. U.S.	200+	90%
UK	59,600,000	Yes. U.S.[17]	300+[18]	49%[19]
Scotland	5,100,000	Yes. England and U.S.	300+	56%[20]

[14] Source: Ofcom, *Summary profiles of pay TV in France, Germany, Italy, Spain, Sweden and United States, December 2007*

[16] While there are larger Spanish speaking nations in terms of both area and population (e.g. Mexico), Spain is widely recognised as a cultural leader in the Spanish speaking world.

[17] The existence of a large market in a similar language does impact broadcasting economics ; albeit, to a lesser degree than if the U.S. was a neighbouring country as with the Canadian situation.

[18] Only available on Sky Digital

[19] Source: Ofcom, Communications Market Report (2008)

[20] Source: Ofcom, The Nations & Regions Communications Report 2008.

4. Exhibition and Expenditure Quotas

In this section, we focus on quotas in Canada, Australia, and France, all of which use quotas to promote exhibition of indigenous television programming. In these three countries, we examine two types of quotas:

- **Exhibition quotas** require broadcasters to include a certain minimum amount of indigenous television programming within their programme schedules. These quotas provide a demand-side stimulus for the creation of indigenous television programming. The very existence of an indigenous-programming exhibition quota indicates that the net return to private broadcasters is generally lower for exhibiting a indigenous programme than for an acquired foreign programme (this is because a foreign programme may be less popular but cost much less).
- **Expenditure quotas** can be used to ensure that broadcasters do not apply cost-minimisation strategies in meeting exhibition quotas. Expenditure quotas can include a minimum threshold amount for spending on indigenous programming within programming schedules, or they can be in the form of a minimum percentage of revenues.

For this study, we conclude that a quota system can be effective in achieving objectives in a number of ways:

- **Growing audiences for indigenous content**: Prime-time quotas with expenditure stipulations can increase programme production values and generate greater audiences at time periods when there are more viewers.
- **Supporting independent production**: This can be achieved if quotas specifically encourage independent production, if these quotas are met.

4.1. Canada

Canada introduced its first exhibition quota in the early 1960s as part of the licensing of its first commercial over-the-air television broadcasters;[21] in 1972 these quotas were revised and they remain in place today. These general exhibition quotas mandate that commercial free-to-air broadcasters must devote 60% of their total (all-day) schedule and 50% of their peak-time schedule (in this case, 6 pm to midnight) to Canadian television programmes.[22]

In the 1980s, the Canadian Radio and Television Commission (CRTC) tightened up the quotas by requiring private commercial over-the-air broadcasters to schedule specific original drama programming during peak time (7 p.m. to 11 pm); it also required over-the-air broadcaster to meet expenditure requirements. In 1999, after a

[21] Source: Grant, Peter S. and Chris Wood. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World.* Toronto: Douglas & McIntyre

[22] In most cases, a television program is considered Canadian if earns at least 6 out of 10 points on the Canadian content scale, either the writer or director is Canadian, and 75% of the production expenditures are made in Canada.

successful experience over several years, the CRTC removed the expenditure requirements. Since that time, broadcasters have been permitted to meet their Canadian-content obligations through a commitment to 8 hours of original programming in peak time in four designated priority categories – drama, documentary, children's, and variety. There is, however, no specification as to which priority genre must be exhibited, so broadcasters have lessened their commitment to the more-expensive genre – drama programming. Canada's over-the-air broadcasters are also required, as a condition of licence, to exhibit a minimum number of hours of local programming (local news and public affairs) per week. These local programming quotas are not uniform, however, as the CRTC sets quotas that reflect the particular market realities of the licensee.

As mentioned, the CRTC began implementing expenditure commitments in the early 1980s on both private commercial over-the-air broadcasters and pay and specialty channels. For pay and specialty services, exhibition quotas were set according to the market realities (e.g. cost of programmes for a particular genre) and the competitive application process. Similarly, the CRTC imposed expenditure commitments based on the financial and business situation of licence applicants and set as a percentage of revenues. For example, Slice (a lifestyle network) carries an 82.5% exhibition quota and a 71% expenditure quota. The Comedy Network carries a 58% exhibition and 41% expenditure quota[23].

Generating Audiences for Indigenous Programming

Canada's enforcement of exhibition quotas for over four decades has failed to have any measurable effect on audience levels in the English-language market. Despite the application of the general exhibition quotas, even higher exhibition quotas for certain specialty channels, and the 1999 introduction of priority-programming exhibition quotas, the audience share for Canadian programmes in English-language markets has remained at approximately 33% for over 4 decades.[24] One could argue either that the quotas have achieved little or that they have maintained the Canadian programming share of the market while the number of channels mushroomed from a few to hundreds.

One of the key features of Canada's 1999 Television Policy was the genre flexibility that the CRTC incorporated in its priority programming exhibition quota. This flexibility resulted in a move among over-the-air broadcasters toward lower-cost programming categories at the expense of drama programming. Therefore, it is evident that this type of flexible regulations is not effective in stimulating growth in drama programming.

To stave off the decrease in drama programming resulting from the introduction of the 1999 Television Policy, the CRTC introduced a drama-incentive scheme in

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[23] Source: Grant and Wood 2004, pp. 226-229
[24] A review of the top ten television series in Canada during the 2006-07 television season (September 2006 to March 2007) shows that they were all American shows (CFTPA 2008, p. 57).

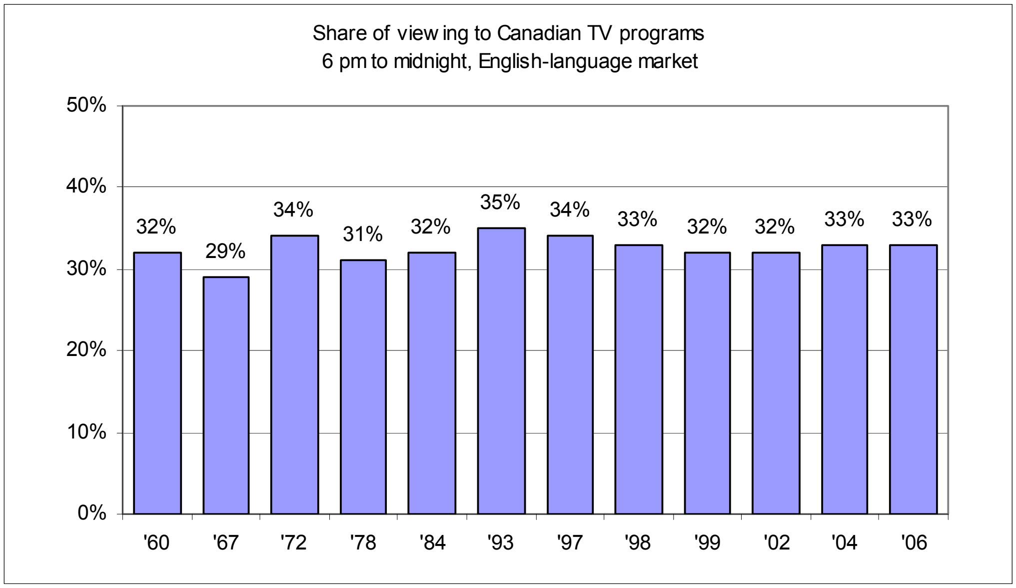
2004[25]. This incentive scheme rewarded broadcasters with additional advertising minutes (at the time, broadcasters were limited to 12 minutes per hour advertising) in exchange for meeting certain targets for expenditures and audience levels for indigenous drama programming. In 2007, however, the CRTC announced that it was phasing-out the limits on advertising minutes, and thereby, making the drama-incentive programme obsolete.[26]

From another perspective, however, viewership of Canadian programming has not declined in spite of the exponential growth of television channels available to Canadians. Perhaps without the exhibition quotas and other measures, the audience share would have declined as more and more television services were made available through multi-channel platforms.

[25] Source: CRTC, *Broadcasting Public Notice CRTC 2004-93*, 29 November 2004; CRTC, *Broadcasting Public Notice CRTC 2005-8*, 27 January 25; CRTC, *Broadcasting Public Notice CRTC 2005-81*, 10 August 2005; CRTC, *Broadcasting Public Notice CRTC 2006-11*, 27 January 2006

[26] Source: CRTC, *Broadcasting Policy Monitoring Report 2007,* p. 87

Figure 4: Share of viewing to Canadian TV programmes, 6 pm to midnight, English-language market



Notes to table
Source: BBM and Canadian Media Research Inc., *Trends in TV Audiences and Public Opinion 1996-2000*

Overall, it is difficult to ascertain whether the apparent limited success of quotas in Canada is because the mechanism is not necessarily effective in and of itself or because contextual factors and other mechanisms limit its impact. For example, a set of regulations called “simultaneous substitution” drives Canadian broadcasters to schedule their US-acquired programmes when they are exhibited by US border stations. These rules were created to protect the programming rights of Canadian broadcasters. Their practical impact is that Canadian broadcasters are able to increase their audience for such shows by about a third, thus enabling them to charge more for TV commercials. Therefore, whilst these mechanisms result in higher revenues for Canadian broadcasters, they have a perverse effect on the relative economics of Canadian shows, which cannot take advantage of simulcast.

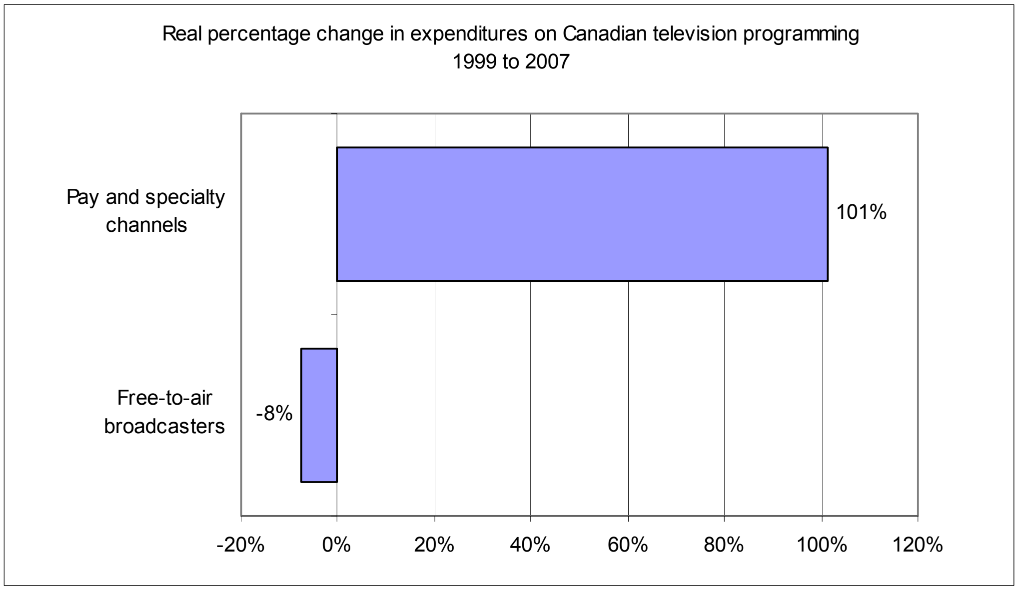
Instead of having American programmes imported and re-broadcast by domestic broadcasters (as in Australia or the UK), Canadian households receive American television signals directly, and most popular US shows are simulcast on Canadian television. This type of environment has made it extremely difficult for Canadian programmes to secure peak-time spots and grab the attention of Canadian viewers.

Stimulating Independent Production

Another objective of exhibition quotas is to stimulate demand for domestic programming among broadcasters {and hence stimulate domestic production}. They do this by compelling broadcasters to license or acquire television programmes that they would not otherwise license or acquire. The evidence from Canada over the last decade indicates that – when not implemented in tandem with expenditure quotas – exhibition quotas have failed to realise this objective. Whilst expenditures by

Canada's pay and specialty channels – which were subject to exhibition and expenditure quotas – increased by 101% in real-dollar terms between 1999 and 2007, expenditures by commercial over-the-air broadcasters – which were only subject to exhibition quotas – actually dropped by 8%.

Figure 5: Real percentage change in expenditure on Canadian television programming, 1999 to 2007



Notes to table
Source: Nordicity calculations based on data from CRTC and Statistics Canada

The figure (above) demonstrates that the expenditure quotas imposed on pay and specialty channels have grown, as they should, since they are based on a percentage of revenues. In this regard, the expenditure quotas have met the objective of supporting the *production* of domestic television programmes both through providing direct support for the commissioning of original programming and through supporting secondary demand for the licensing or acquisitions of other Canadian programming.[27]

Note that, in real dollar terms, Canadian television production doubled between 1991 and 1997. The data indicate that the introduction of newly-licensed, thematic channels – each with expenditure quotas for Canadian programming – added $140 million into the system. If these channels did not carry expenditure quotas, it is likely that much of their content would have been sourced from the US and thus independent production would not have increased to the same degree. Therefore, the expenditure quotas, coupled with the introduction of new channels, proved effective at increasing independent production in Canada.

[27] Many specialty and pay channels have specific targets for expenditures on independent original programming as part of the their general expenditure requirement.

When evaluating the expenditure quotas, it is also important to keep in mind that the CRTC is involved in regulating the prices charged by pay and specialty channels to the multi-channel services that resell them to Canadian households. The expenditure quotas work well and look effective in the Canadian environment (i.e. channels readily comply with them and they raise substantial financial resources for production) because the CRTC has tremendous influence over the future revenues of pay and specialty channels. Indeed, it sets the price that each channel can charge and thus effectively regulates each channel's revenues. In effect, the expenditure quota is met through a tax on households that subscribe to the service.

Enforcement and Future Viability

The Canadian system of quotas for its commercial over-the-air broadcasters and its pay and specialty channels is very much reliant on ensuring that these licensees receive benefits from the regulator. Without these benefits, the regulator has little case – and power – to be able to enforce quotas. Currently, the benefits received are as follows:

- **A closed broadcast system:** As most people in Canada view television via cable or satellite, the operation of a system which in essence blocks US cable and satellite providers and limits availability of US channels directly benefits over-the-air broadcasters and speciality and pay TV providers. The CRTC will not license US channels which are similar in genre to existing Canadian channels; it also ensures that Canadian channels are preponderant (51% precisely).
- **Guaranteed revenues for pay and specialty channels:** Because of the closed system, the CRTC has set per-user mandatory rates for a limited number of subscription which in essence guarantees revenues for channels. In exchange for these guaranteed revenues, channels adhere to Canadian content requirements.
- **Guaranteed carriage for most pay and specialty channels:** While most pay and speciality channels' rates are not set by the CRTC, there is a certain amount of 'quid pro quo.' In return for the 'stick' of mandatory expenditure quotas required of specialty channels, the CRTC requires subscription services to carry many of these channels.
- **Spectrum:** Whilst of limited value in itself due to the low levels of over-the-air viewing, Canadian broadcasters do receive spectrum from the government in exchange for certain broadcasting requirements, such as quotas. The benefit of being a spectrum-based broadcaster in Canada instead arises from the fact that such a position provides mandatory and preferential carriage on cable and satellite systems and the option to utilise the simultaneous substitution provision, which enhance the broadcasters advertising revenues.

As viewing of programming increases via other distribution mechanisms – such as online programming through iTunes and broadband streaming – the closed system which Canadian broadcasters has enjoyed to date becomes threatened. Therefore, it will be increasingly challenging for quotas to operate without this regulatory 'quid pro quo'. Currently, the CRTC is investigating whether to – and how to – regulate online content in light of these issues.

4.2. Australia

Australia introduced exhibition quotas for commercial over-the-air broadcasters beginning in the 1960s. In 1996, Australia increased its general exhibition quota from 35% to 55%.[28][29]

In Australia, a decade of general exhibition quotas (without specific genre targets) had a similar effect as in Canada: Australian television dramas comprised a small share of the television schedule.[30] In response, Australia implemented an additional layer of *mandatory* genre-specific exhibition quotas in 1990, including drama and children's programming. This additional layer of drama-exhibition quotas was designed to ensure that over-the-air broadcasters used first-release drama programming to fulfil part of their general exhibition quota

The genre-specific quotas also encourage broadcasters to acquire independent drama programming and meet certain minimum thresholds for licence fees when amassing first-release dramas. This layer of quotas comes in the form of a points system whereby broadcasters earn a certain number of points for each hour of first-release drama that they televise during peak time, depending on the type of programme and whether it is acquired from an independent producer, as the following examples illustrate:

- 3 points for a programme acquired from an independent producer for at least A$300,000 per hour;
- 1 point for a soap-opera-type television programme that is produced at a rate of more than one hour per week;
- 4 points for TV movies and mini-series, and feature films acquired for a fee of more than A$150,000 per hour.

There is also a specific expenditure quota on pay-TV channels which are comprised of more than 50% drama programming.[31] The Australian Communications and Media Authority requires these channels to devote 10% of their total programme expenditures to new, eligible Australian and New Zealand drama programmes.

In a 2000 review of Australia's broadcasting industry, the Australian Productivity Commission found that quotas for first-release drama and documentaries were

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[28] Source: FilmAustralia. (2007). "Content Quotas." *FilmAustralia Digital Learning.* Downloaded at <http://dl.filmaust.com.au/module/99/#background> on June 10, 2008

[29] Whilst Australia's general exhibition quota of 55% is very close to the rate for Canada, it is interesting to note that television programmes that receive funding from public funding bodies cannot be counted against the quota; Canada's exhibition quotas do not include such a condition.

[30] Source: Grant, Peter S. and Chris Wood. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World.* Toronto: Douglas & McIntyre

[31] Source: Ibid

essential for Australia to meet its cultural objectives.[32] Because of the relatively higher cost of drama and documentaries and the limited profit potential for broadcasters, the Productivity Commission concluded that without the targeted quotas there would likely not be a sufficient quantity of Australian programmes in these genres broadcast to Australians.[33] The quotas are essential, therefore, to generate audiences as well as stimulate independent production.

Generating Audiences for Indigenous Programming

Australia's exhibition and expenditure quotas appear to have had a more positive effect within the Australian broadcasting environment when compared to Canada. In fact, the positive impact can probably be attributed exclusively to the points-system quotas implemented in 1990.

Australian television viewing statistics indicate that the requirements for the exhibition and production of domestic content have been a success with Australian viewers. In 2001, 8 of the top 10 rated television programmes in the Melbourne and Sydney markets were Australian;[34] as recently as 2003, Australian dramas accounted for 5 of the top 10 rated prime-time dramas in Australia.[35]

The Productivity Commission found that Australia's only expenditure requirement – the pay-TV drama quota – was not designed to build audiences by promoting the broadcast of drama programmes, because the rule did not require pay-TV channels to actually air any funded programmes.

Stimulating Independent Production

The Productivity Commission concluded that whilst the general exhibition quota includes many genres (news and sports) that do not need any protection, it helps to maintain demand for programming that is outside of the targeted quotas (news and sports) but still has cultural value.[36] In other words, while the economic imperative (due to market failure) for supporting the production of news and sports programming may not strong, the support of these genres is still consistent with a culture-support policies. And, as above, the only expenditure requirement – the pay-TV drama quota – was found to stimulate production activity.[37] Carrying an expenditure requirement allows for sufficient funding for local production.

Most importantly, the Australian points system appears to be designed to have a significant impact on production. Giving points for meeting licence fees thresholds and licensing long-running programmes, such as soap operas, gives adequate

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[32] Source: Productivity Commission (Australia). (2000). *Broadcasting, Inquiry Report.* Report no. 11. March 3, 2000. Canberra: Commonwealth of Australia, 2000
[33] Source: Ibid
[34] Source: Nordicity Group Ltd. (2003). *Summary of Broadcasting Regulations and Television Viewing for Selected Foreign Countries*. Prepared for Department of Canadian Heritage. March 2003
[35] Source: Grant, Peter S. and Chris Wood. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World.* Toronto: Douglas & McIntyre
[36] Source: Productivity Commission (Australia). (2000). *Broadcasting, Inquiry Report.* Report no. 11. March 3, 2000. Canberra: Commonwealth of Australia, 2000
[37] Source: Ibid

financial and long-term security for independent producers; the points system, thereby, can support a strong industry. There is little data available, however, about the exact impact of such a points system on production.

Enforcement and Future Viability

First of all, compliance among Australian broadcasters is quite strong. ACMA keeps detailed tracking statistics on its Australian exhibition and expenditure quotas; recent figures indicate they are achieving, or are close to achieving, their desired goals of increasing the exhibition of Australian content by broadcasters. In 2006, all of Australia's metropolitan commercial television networks met all of the required exhibition quotas.[38] Pay-TV drama channels also met their required expenditure quotas in the most recent measured term (2006-2007) by spending a total of A$26.44 million on new eligible drama when the 10% requirement called for only a A$20.79 million investment. [39]

Similar to Canada, the challenges faced by Australia in ensuring compliance with its quotas will stem from the declining value of spectrum as well as the inability of regulators to operate a closed system with the advent of online viewing.

4.3. France

France has legislated that 60% of television network broadcasts must contain European-produced works[40], and 40% of broadcasts must contain French-language works, calculated as proportions of total annual broadcast hours.[41] These quotas must be met at all times (both during off-peak hours as well as during peak hours). The exhibition quotas apply to France's over-the-air broadcasters (including TF1, France 2, France 3, M6) as well as cable and satellite channels. Cable and satellite channels may have their French-language quotas reduced in exchange for a commitment to engage in the production of new French-language content.

Generating Audiences for Indigenous Programming

France's experience with exhibition and expenditure quotas has been a positive one in terms of raising audience levels and production of indigenous programming. Like other European countries, France's television screens were dominated by American programming.[42] It – and other major European countries – now experiences the reverse situation: home-grown drama now dominates television screens.[43] In 2001, the top 10 programmes in France were all of French origin.[44]

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[38] Source: ACMA 2003
[39] Source: Australian Communications and Media Authority (ACMA). (2008). "Pay TV boots expenditure on Australian drama." ACMA Media release 25/2008. March 18, 2008. Downloaded at <http://www.acma.gov.au/WEB/STANDARD/pc=PC_3110142006> on June 10, 2008
[40] This requirement is, in part, to meet the Television Without Frontiers Policy
[41] Source: <http://www.csa.fr/infos/controle/television_quotas_diffusion.php)>
[42] Source: Grant, Peter S. and Chris Wood. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World.* Toronto: Douglas & McIntyre
[43] Source: Ibid
[44] Source: Nordicity Group Ltd. (2003). *Summary of Broadcasting Regulations and Television Viewing for Selected Foreign Countries*. Prepared for Department of Canadian Heritage. March 2003

Stimulating Independent Production

With respect to independent production quotas, France has adopted the expenditure requirement option.[45] In parallel with its EU commitment, France has an extensive array of national expenditure quotas. Over-the-air broadcasters are required to invest 17% of the previous year's revenues in independent French-language programming, and 3% in European feature films (2.5% must be in French films).[46] In addition, over-the-air broadcasters must contribute 5.5% of their revenues to a feature-film support fund administered by CNC.[47] France's public broadcasters, France 2 and France 3, must contribute 11.5% of their cash flow to independent European production.[48] The subscription service Canal+ is required to invest 25% of its annual cash flow in European feature films, with 75% of this amount going into French films.[49]

4.4. Key Findings

Overall, quotas have met with mixed effectiveness in different countries, depending on the broadcasting context, the levels of specificity, and the combination of expenditure with exhibition quotas. In sum, the key conclusions we draw from our analysis are:

- In Australia and France, we see that quotas have created audiences for domestic content.
    - In France, success was achieved by using exhibition and expenditure quotas in tandem;
    - In Australia, mandatory genre quotas were implemented without any accompanying expenditure requirements to mitigate cost-minimisation behaviour.
- However, in Canada, whilst quotas have led to a certain increase in domestic production, they have been less successful in enlarging audiences:
    - The flexibility in genres for Canadian content has led to cost-minimisation strategies and avoidance of genres like drama;
    - Unlike Australia or any other English-speaking country, Canadian programming has to compete directly with American programming.

It is very important to note that, whilst quotas have met with success in the past, particularly in Australia and France, they may not prove to be very suitable to the changing audiovisual-content landscape. As more and more people use the Internet to access television programmes, the regulation of television schedules for – particularly – private broadcasters becomes less relevant and the quota as a tool

[45] Source: Grant, Peter S. and Chris Wood. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World.* Toronto: Douglas & McIntyre
[46] Source: Ibid
[47] Source: Ibid
[48] Source: Ibid
[49] Source: Ibid

loses its efficacy. The *quid pro quo* situation, in which regulatory benefits are offered in exchange for regulatory requirements, can likely not be maintained in an online world.

5. Subsidy Funds

In this section we review and evaluate the various funds instituted by governments and government agencies for the purpose of providing subsidies to indigenous television production. We focus on the experience of Canada, Australia and France – three countries where subsidy funds represent an important support mechanism within the indigenous-television-production ecosystem. Overall, there are three types of subsidy funds we have identified:

- Nationally administered television funds;
- Sub-nationally (regionally) administered economic and cultural development production funds;
- National or regional production funds financed by broadcasters or multi-channel services providers (i.e., cable- and satellite-television companies) as a regulatory requirement, which are found primarily in Canada.

5.1. National Funds

The three key national funds we examine are:

- **The Canadian Television Fund (CTF)** has as its primary objective the support of the production and broadcasting of high-quality Canadian television programming. It receives its annual funding from two sources: C$120 million comes from the federal government; and it collects an additional $150 million via a levy (from 4 to 5%) on the regulated revenues of multi-channel services providers (cable- and satellite-television companies).[50]
- **The Film Finance Corporation Australia (FFC)** supports independent filmmakers producing Australian films and television programmes.[51] The FFC's mission is both cultural and economic - to strengthen a sense of Australian identity by: entertaining and informing audiences with a diversity of Australian programmes; enhancing the commercial viability of Australia's independent screen production sector; and showcasing Australia's screen production industry to the world. In 2007/8, it planned to allocate approximately half of its A$70.5 million to TV programming in the drama, documentary and children's genres.[52]
- **France's CNC (Centre National de la Cinématographie),** in 2005, provided €1,240 million in financial assistance to the production of over 3,978 hours of

[50] The actual percentage of revenues remitted by multi-channel series is between 3% and 5%, as contributors have the option of directing a portion of the 5% levy to the production of community programming (if they are cable operators) or alternate funds supporting Canadian television programming. The pay-satellite services tend to pay the full 5% to the CTF.

[51] Between 1995 and 1998, Australia also had a A$20-million-per-year fund called the Commercial Television Production Fund. It was established by the Keating government and administered by the Australian Film Commission. It split its funding between broadcasters and independent producers. The John Howard government chose not to renew this fund at its three-year renewal date in 1998.

[52] Source: Film Finance Corporation (FFC). (2007). *Investment Guidelines 2007/08.* Downloaded at < http://www.ffc.gov.au/investment/0708_investment_guidelines.pdf> on June 10, 2008

feature films and television programmes. Through its COSIP programme,[53] the CNC provides financial assistance to television producers through automatic-aid (based on performance of their past projects) and selective funding (for producers which have not accessed funding before). Income for support programmes is derived through a levy on French broadcasters' revenues as well as through a tax on film theatre tickets, both for Hollywood and domestic films.[54]

Below, we evaluate how these national funds achieve their primary objectives of generating audiences for indigenous programming and stimulating independent production.

Generating Audiences for Indigenous Programming

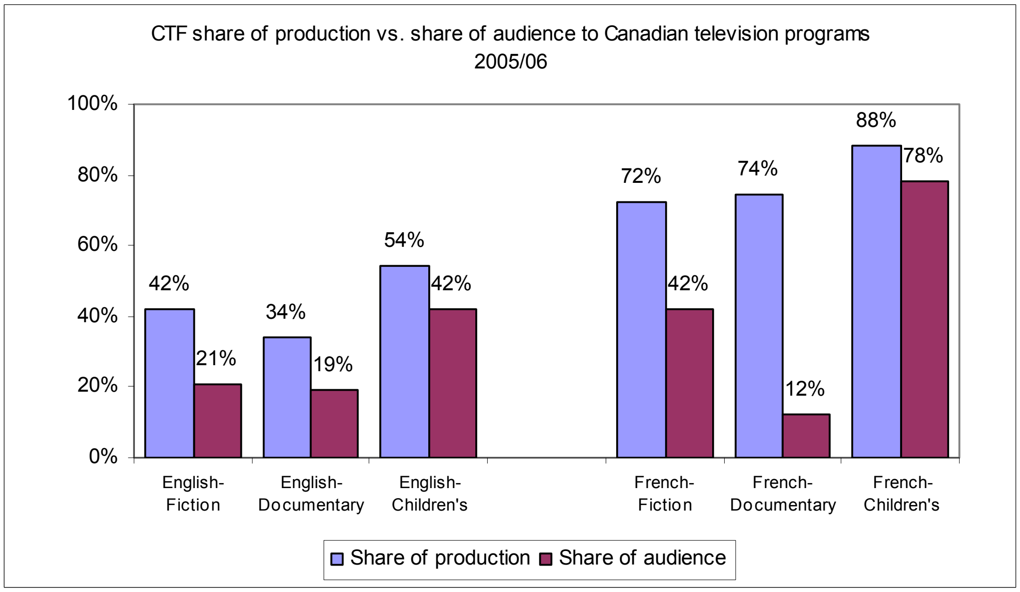
In raising the quality of television programmes, a further goal of many subsidy funds is to grow the audience of supported programmes. Available data suggest that Canada's CTF has had a difficult time achieving this objective. The figure below compares the CTF's share of 2006/07 production volume in three under-represented genres to the audience share of Canadian television programmes in these same genres. In every genre in both language markets, the audience share captured by CTF-supported television programmes was below the share of the annual volume of production (total production spending) in the genre. This result indicates that CTF-supported programmes failed to capture their proportionate share of audiences; instead, non-CTF-backed Canadian programmes accumulated much higher audience levels than CTF programmes.[55]

[53] COSIP: comptes de soutien financier de l'État à l'industrie cinématographique et à l'industrie des programmes audiovisuels),

[54] Source: Open Society Institute (2005). *Television across Europe: regulation, policy and independence.* Volume 2. Budapest: Open Society Institute. Downloaded at <www.soros.org/initiatives/media/articles_publications/publications/euroTV_20051011/voltwo_20051011.pdf> on June 11, 2008

[55] CTF- financed programmes stipulate 100% Canadian content, while non-CTF programmes can have foreign elements or even be international treaty co-productions with minority Canadian participation. Of course this difference gives producers of non-CTF programming greater flexibility in building in production values that have greater popular appeal.

Figure 6: CTF share of production vs. share of audience to Canadian television programmes



Notes to table
Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office and Canadian Television Fund

Recognising the need to become more successful in audience terms, the CTF has devised processes that are designed to generate greater audiences for such commissioned programming. In the past, the CTF relied on government officials and a peer-review process, which reviewed project applications and awarded funding to those that achieved the maximum Canadian-content score and also demonstrated that they were visibly Canadian in theme. However, in 2004, the CTF implemented a Broadcaster Performance Envelope (BPE) system whereby broadcasters are allocated a set amount of the fund to commission programmes from independent producers. The amount they are allocated is, in part, a function of the audience success of the programming they previously commissioned and aired. Thus, the BPE formula removes government officials and peer-review panels from the selection process, and rewards broadcasters for achieving higher ratings.[56] The new system, however, has not been around long enough to evaluate whether or not it has been a success.

Australia's FFC's funding decisions are both audience-focused and export-oriented. Funding recipients must secure: (i) at least 50% of their financing from private sources, (ii) a pre-sale with an Australian broadcaster (with a certain minimum licence fee), and (iii) a pre-sale in a major overseas market.[57] Moreover, Australian broadcasters may not count FFC-funded programmes towards their exhibition quota. These criteria give the FFC a project-selection process that is very market-driven.

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[56] Broadcasters' allocations are not completely free; they must make their allocation in accordance with CTF guidelines. These guidelines provide minimums and guidance for licence fees and genre allocations.
[57] The FFC also considers the commercial track record of the creative principals in the project.

In France, producers must secure at least 25% of their funding for a project from a French broadcaster before they can draw automatic aid. Therefore, the fund does not necessarily support audience growth *per se* but does support French broadcasters to commission indigenous French programming.

Stimulating Independent Production

The CTF budget of some C$250 million generates nearly C$900 million in Canadian programming via independent producers. This production amounts to about 2,200 hours of original programming on an annual basis. The injection of C$100 million in Parliamentary appropriations in the mid 1990s fuelled the rise of overall production in the later 1990s. The launch of new specialty television programming services, each with its expenditure commitment mandated by the regulator acted as a demand stimulus as well. Foreign markets have also exerted some demand on this kind of programming, while TV co-productions with other countries grew rapidly over a 5-year period. Thus, it was a combination of new subsidy funding and growth of foreign and domestic demand that led to the year-by-year strong growth of the Canadian production sector.

A 2002 study by PwC Consulting estimated that between 75 and 90% of the production supported by the CTF was incremental.[58] Therefore, we know that a significant amount of money from funds such as the CTF flows directly to independent producers. In addition, these types of funds can be targeted toward genres, under-represented segments of production, or regions. The CTF funds only programming in the four priority categories: drama, variety, children's (much of it animation), and documentary. The CTF also stays cognizant of the share of production activity outside of the major centres of Toronto and Montreal, and uses its financial resources and funding guidelines to address any imbalances that may arise.[59]

In sum, the primary objective of subsidy funds such as the CTF (Canada), FFC (Australia) and COSIP (France) is to increase the level and quality of domestic production. By doing so, the subsidy funds seek to ensure that there is a preponderance of under-represented programming available to domestic audiences and ultimately to raise the audience levels to such programming.

In evaluating the effectiveness of any subsidy programme, the key question is whether the broadcasters or the suppliers of labour 'capture' the subsidy, or whether the subsidy leads to more or higher value programming. The broadcasters and distributors that acquire rights to the television programme may have sufficient economic leverage to reduce the prices they pay for programming in response to the

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[58] Source: PwC Consulting, *Assessment of the Economic impact of the Canadian Television Fund,* prepared for the CFTPA, September 2002

[59] On May 5, 2008, the CTF announced that it will undertake initiatives to promote regional production in certain Canadian provinces that have experienced significant declines in their share of national production levels in recent years. See CTF press release, May 5, 2008 http://www.ctf-fct.ca/pressreleases/0805051.html.

introduction of the subsidy; in such a situation, it is the broadcaster and its shareholders that actually capture the subsidy.

Suppliers of labour and production services may also capture the subsidy in the form of higher real wages or prices for their services. Unionisation or a highly organised labour market is often a prerequisite for subsidy capture by labour. Where labour captures the subsidy through higher real wages, the subsidy will show up on-screen and in higher production spending; but the number of productions may not increase.

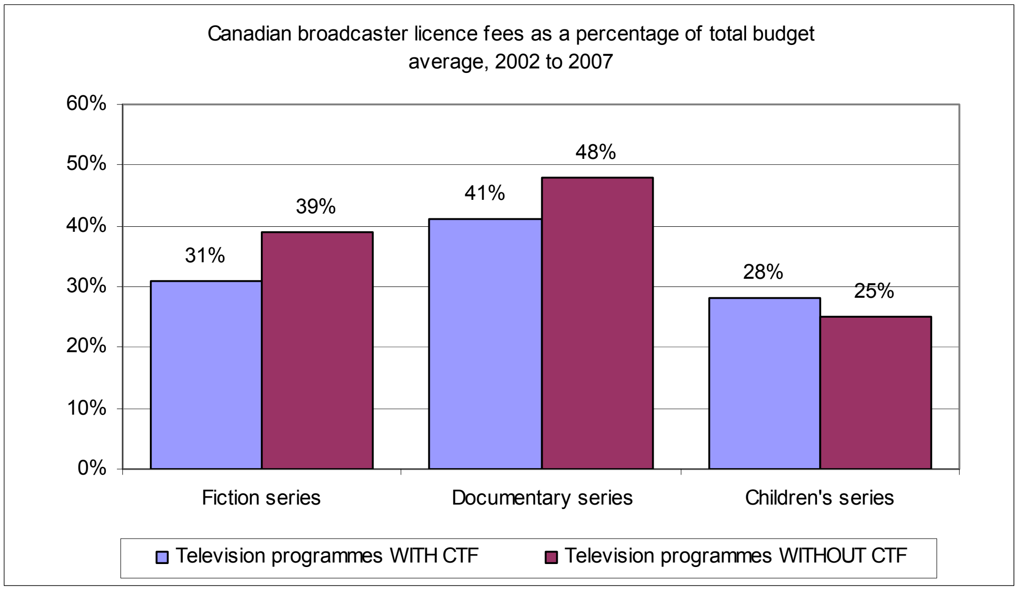
The first-order concern, therefore, in the analysis of the effectiveness of subsidy programmes for television production is whether broadcasters and distributors may have captured the subsidy in the form of lower prices paid for television content.

With the concern for broadcaster- or labour-capture of the subsidy, we compared the average broadcaster licence fees for Canadian television programmes with CTF funding to Canadian television programmes without CTF funding. All other things being equal, if Canadian broadcasters had indeed captured the CTF subsidy, then their licence fees should have been lower for Canadian television programmes with CTF funding than for those without CTF funding.

The data show that Canadian broadcasters' licence fees for CTF-supported fiction and documentary series were indeed lower, on average, between 2002 and 2007; but they were higher for CTF-supported children's programming. This result would point to subsidy capture by Canadian broadcasters in two of three genres. However, the licence fees for CTF-supported television programmes were not significantly lower than those for programmes outside the CTF. As such, one cannot conclude that Canadian broadcasters captured the subsidy, on average, in any significant way.[60]

[60] Despite the tendency of CTF-support programmes to attain a smaller market share (as represented in Figure 5), there is no *a priori* way for a broadcaster to predict if a particular programme will underperform. As such, this tendency does not affect that subsidy's capture in any significant way.

Figure 7: Canadian broadcaster licence fees as a percentage of total budget, average, 2002 to 2007



Notes to table
Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office.

5.2. Sub-National or Regional Funds

Canada's provincial governments offer an array of funding programmes for television production. Two of the largest such programmes are offered by the largest Canadian provinces: Ontario Media Development Corporation (OMDC) and the *Société de développement des entreprises culturelles du Québec* (SODEC). These arms-length agencies provide funding programmes for content producers across the creative industries, including project investments, grants, and repayable subsidies. This assistance can be used for project development, training, production, export assistance and other business-development activities. These agencies also administer provincial tax credits for production and other cultural sectors.

Similar to Canada, Australia's regional film and television production offices offer numerous assistance programmes ranging from direct grants to project and business development assistance; regional funding supports production companies' business development by fostering partnerships and offering financial assistance for script- and project-development activities. Regional agencies also provide direct funding for television production.

France also has numerous regional film commissions that facilitate television production outside of Paris.

Stimulating Independent Production

These programmes are not aimed at growing audiences; instead, they are focused on ensuring that local production companies are economically viable by providing them with financing which can help them develop projects to pitch to broadcasters. Moreover, they help finance, market, or export projects which have already been commissioned by broadcasters. In essence, they serve to decentralise production away from the natural production centres (e.g. by linking subsidies to certain regions) and grow the television production industry as a whole. They serve the additional purpose of fostering television production within their specific region with the hopes of reflecting the region's distinctive cultural identity.

In all of these situations, it is difficult to ascertain how much of this production is incremental and how much is simply a dispersal of production to other parts of the country. In Canada for example, the main production centre of Toronto worries that the high regional subsidies or tax incentives needlessly bleeds their opportunities. From the regional perspective, however, there are 3 or 4 regions in Canada outside Montreal and Toronto that have developed hundred-million-dollar-plus film and TV production businesses in their regions.[61]

Whilst there is little data available to demonstrate the level of effectiveness of these provincial funds in stimulating an economically strong industry, there is great debate about the best way to implement these subsidies in order to maximise economic success regionally. For example, in Canada, there is a debate focused on the effectiveness of project financing versus corporate financing of independent production companies. SODEC in Quebec offers funds for film which are directed to a company for general 'slate development' (e.g. C$125,000 over 3 years); OMDC in Ontario currently only offers financing for specific productions, and certain stakeholders in Ontario would like to see the slate approach adapted for TV and cross-platform productions.[62] In any future design of subsidies, this differentiation between project and corporate financing should be carefully considered.

5.3. Independent Production Funds

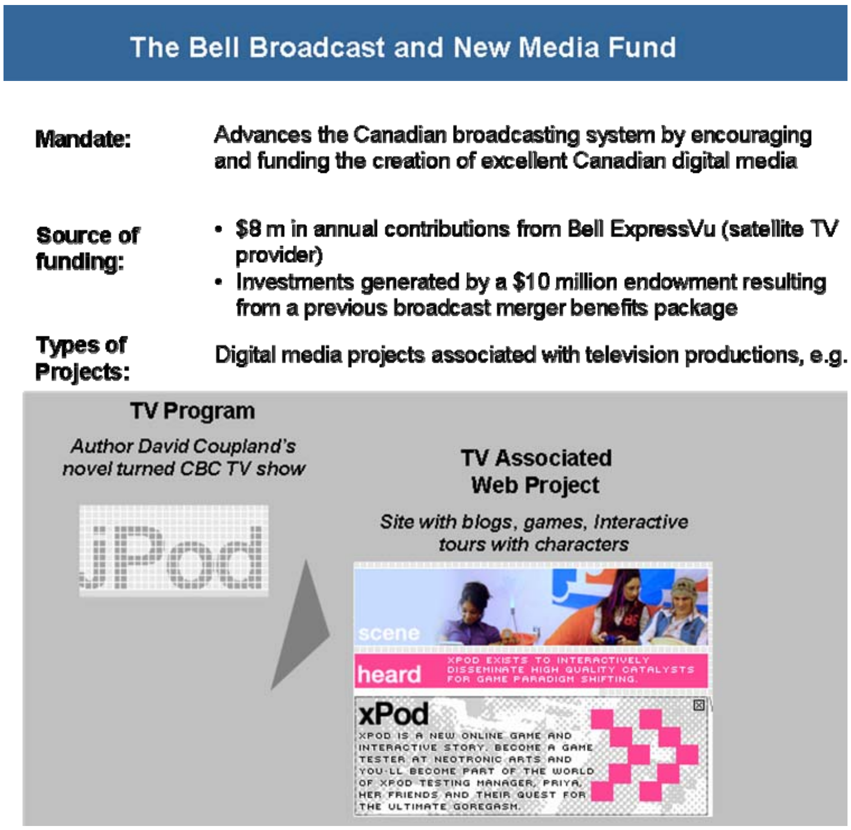
In addition to the national CTF, Canada has ten certified independent production funds. These independent funds are privately funded, in part through mandated contributions by Canada's cable and pay-satellite operators (see above). In addition, the CRTC traditionally mandates that 10% of the acquisition cost of broadcasting assets in any approved merger or acquisition is reinvested in the Canadian broadcasting system. Often, in meeting their 10% "tangible benefits" requirement, broadcasters direct funding to the certified production funds or create new ones.

Most of the funds are genre specific but traditional. However, the Bell New Media Fund, depicted below, is aimed at financing the interactive or web-based content that

[61] The issue of subsidy capture is pertinent in the case of regional funds as well, because broadcasters may benefit from these subsidies as well as producers.
[62] The Pricewaterhouse Coopers/Nordicity study Economic Study for the Film, Television, and Digital Media Sector in Ontario, October 2006, calls for increased funding to allow Ontario companies to focus on broader development slates in order to increase competitiveness.

supports specific shows. Small firms in Canada have demonstrated great innovation in new types of content, and have secured business for large corporate media giants such as Disney in the US after developing unique skills promoted by the fund.[63]

Figure 7: The Bell Broadcast and New Media Fund



5.4. Future Effectiveness of Subsidy Funds

Overall, subsidy funds can be a highly effective tool for supporting media production in the future. For example, as identified by the Bell New Media Fund outlined above, subsidy funds can be carefully targeted to support new forms of media production, such as interactive content associated with a broadcast programme. In addition, unlike quotas where the *quid pro quo* is regulatory, the direct benefit of funding is financial. The recipient absolutely must adhere to the requirements as defined by the designers of the fund in order to receive the funding, and therefore, unlike quotas, specifications guarantee 'enforceability'. For this reason, subsidy funds are a tool many governments will turn to in future to secure policy aims. The challenge, however, will always be in allocating funding towards these subsidies.

[63] Firms like Xenophile Media which has won Emmy Awards for its Bell New Media Funded projects has recently increased its presence in large markets like the US.

5.5. Key Findings

Overall, subsidies are an important tool for governments to encourage production and viewing of indigenous programmes. However, the manner in which the subsidies are administered, and the level to which the subsidy is captured by the producer rather than broadcaster, can impact upon its effectiveness. Key conclusions from our analysis of subsidy funds are:

- For television production, a key concern is that broadcasters may capture the subsidy in the form of lower licence fees; however, data from the Canadian market provides no concrete evidence of this result.
- Subsidy programmes whose allocation decisions are driven by the market should be better at growing audiences than decisions by government officials; however, there is little direct evidence to prove this outcome.
- Subsidy funds have great potential, as guidelines and selection criteria can be carefully defined to adapt to future changes in audiovisual technology and markets; however, increased eligibility for new forms of content means subsidies would have to be spread over a greater diversity of projects. This outcome means that either subsidies have to be increased or there will be less funding for traditional projects.

6. Tax Incentives

In this section we evaluate the role of tax incentives as a tool for stimulating television production. For the past three decades, numerous jurisdictions have introduced tax-incentive measures to stimulate film and television production within their borders, both for location production as well as original domestic production. In this evaluation, we focus on tax incentives for original domestic production in both Australia and Canada – two countries that have applied various tax-incentive measures in order to support film and television production.

The primary objective of tax incentives for domestic programming is to increase the production of films and television programmes that reflect domestic culture. This is achieved by providing incentives to private investors to invest in domestic films and television programmes or by enabling the independent producer to invest more in productions. Whilst it is not a primary objective of tax incentives, we also examine whether tax credits impact on audience levels for domestic programming.

6.1. Types of Tax Incentives and Relative Merits

In Australia and Canada, there have been, over the last three decades, two primary forms of tax incentives for films and television programmes:

- **Accelerated depreciation allowances (ADAs):** Under such measures, a private-sector investor acquires some ownership in a film or television programme. The tax codes in each country permit the investor to deduct the cost of her investment from her taxable income during the year of the investment (or over a certain number of years), thus lowering her taxable income and tax bill.
- **Refundable income tax credits ("Tax Credits"):** For each eligible production project, the independent producers are allowed to claim tax credits on their income filings (usually through special-purpose companies). The expenses permitted typically include labour expenditures in the country providing the tax credit and can include other expense categories depending on the make-up of the tax credit. Once the claim is processed and audited, the company receives the tax credit back, regardless of its profit.

Australia

In the past, Australia had two different types of ADA incentives. One, called 10B, was introduced first and was available for films shot in Australia. The second, 10BA, introduced later, was only available to Australian films that met the government's minimum requirement for 'Australian content'.[64] Division 10BA permitted investors to deduct 150% of their investment in an Australian film during the year of the

[64] Source: Clark, Braedon. (1999). "Using Tax Incentives to encourage Investment in the Australian Film Industry. Revenue Law Journal. Vol. 9. Downloaded at http://kirra.austlii.edu.au/au/journals/RevenueLJ/1999/3.pdf on June 1, 2008

investment;[65] the Australian government gradually reduced the deduction rate to 100% by 1988.[66] In 2007, the Australian government replaced Division 10BA with a refundable tax credit measure called the Producer Offset.[67]

The Producer Offset provides an Australian production company with a corporate income tax offset equal to 20% of Australian expenditures on Australian TV programmes and receives it after being audited. Feature films and television projects that qualify for the Producer Offset must also meet certain minimum budget levels.[68] A production company receives its offset following the assessment of its income tax return.

Canada

The Canadian government introduced its ADA tax measure, the Capital Cost Allowance (CCA), in 1974. Like Australia's Division 10BA, the CCA initially had a very aggressive depreciation rate, which the Canadian government reduced in stages during the 1980s. In 1996, the Canadian government replaced the CCA with a refundable tax credit called the Canadian Film or Video Production Tax Credit (CPTC).

At its introduction, the CPTC provided a production company with a refundable tax credit equal to 25% of Canadian labour expenditures. Production companies were not permitted to claim the tax credit on labour expenditures that exceeded 48% of a project's total budget. As such, the tax credit had a maximum effective rate of 12% of a project's budget. In 2003, the federal government raised the labour-expenditure cap to 60%, thus raising the maximum effective tax credit rate to 15% of a project's budget.

Most provincial governments in Canada have introduced their own tax credits for film and television production to encourage production away from the dominant production centres.[69] By early 2008, the combination of federal and provincial tax credits meant that Canadian production companies could claim tax credits in the range of range of 25% to 40% of a project's total budget.[70]

Relative Effectiveness in Stimulating Production

In Australia and Canada, the fact that investors could write off such a significant proportion of their investments led to a tremendous inflow of investor money into production. In Australia, film and television production supported by Division 10BA grew from A$60 million in 1981 to A$180 million in 1987. By comparison, such production stood at only A$38 million in 2006, partly in the absence of such

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[65] Source: Ibid
[66] Source: Australian Film Commission. (2007). *Get the Picture*
[67] Source: Ibid
[68] Feature film, A$1 million; documentary, A$250,000 per hour; television series, A$1 million and A$500,000 per hour; telemovies, A$1 million and A$800,000 per hour; and short-form animation, A$250,000 and A$250,000 per hour.
[69] Quebec and Nova Scotia already had tax credits in place for Canadian television production prior to the introduction of the federal government's tax credit.
[70] Assuming that Canadian labour expenditures comprised 50% of the project's total budget

incentives. In Canada, production shot up from C$27 million in 1976 to C$205 million in 1980. The historical evidence suggests that aggressive ADAs can be very effective in jump-starting a domestic production industry and drawing private capital into film and television production. However, whilst some of the money found its way into films that did indeed attract respectable audience levels and critical acclaim, many of the investor-funded films never made it into theatres.

Another shortcoming evidenced in Canada's ADA tax measure was that a large share of the money was not making it onto the screen. The nature of such tax incentives is that there is an enormous middleman-cost in lawyers who have to find investors and sign them up in a legally complex arrangement that will satisfy tax authorities.

In this regard, tax credits may, arguably, be a more effective tool in aligning funding with marketplace decisions. The use of ADAs in Canada shows that the supply of private money seeking shelter from taxes, rather than the demand by producers and broadcasters to create programmes, tends to drive production activity. Tax credits, on the other hand, tend to be more demand-driven, which can in turn affect audience performance and overall success in the market. As such, tax credits offer a greater chance for growth in production to be sustainable. In addition, the introduction of tax credits simplifies the process and limits the role that bankers and lawyers have to play in the system, meaning more of the money can make it onto the screen.

6.2. Effectiveness in Stimulating Production

Tax incentives, including tax credits, do supply new financing money to production activity. Even where the funding available from the tax-incentive measure does make it onto the screen, there is no guarantee that it will lead to more production in the form of more projects or more hours of television programming. To explore this correlation, we examine two elements:

- Whether broadcasters are in fact capturing the subsidy (i.e. reducing licence fees and hence payments to producers);
- Whether the existence of tax incentives has in fact led to growth of the independent production sector.

Impact on Broadcast Licence Fees

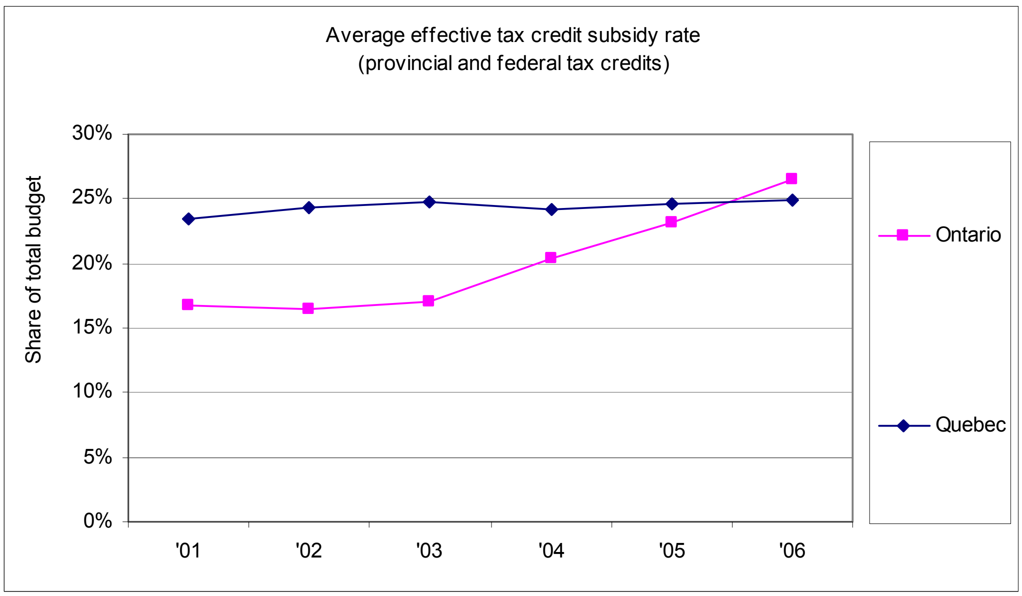
As with the section on subsidies, ultimately the effectiveness of a tax incentive for television production depends on the degree to which it is not captured by broadcasters in the form of lower licence fees. The fact that Canadian broadcasters often require producers to include the tax credit in the financing structure of a television project suggests that, over time, broadcasters may have lowered their licence fees in response to the introduction of the tax credits.[71] Whilst we could not

[71] It should be noted that a recent CRTC report on the CTF noted that the Fund should consider cutting back on the frequency of the CTF's inclusion of tax credits as a regular budget component.

go back a decade to determine the impact of the introduction of tax credits, we can assess the outcomes when tax credits are significantly increased.

As a result of changes to the federal and provincial tax credits between 2001 and 2006, the effective tax credit subsidy rate in the province of Ontario actually increased from an average of 17% to 26% – a rate jump of 58%. In the province of Quebec, however, the subsidy rate stayed relatively fixed, moving only slightly, from 23% to 25% (decreases in the provincial rate offset increases in the federal rate). In effect, Ontario and Quebec provide us with treatment and control groups that we can use to investigate the impact that an increase in tax credit subsidies has on broadcaster licence fees.

Figure 9: Average effective tax credit subsidy rate (provincial and federal tax credits)

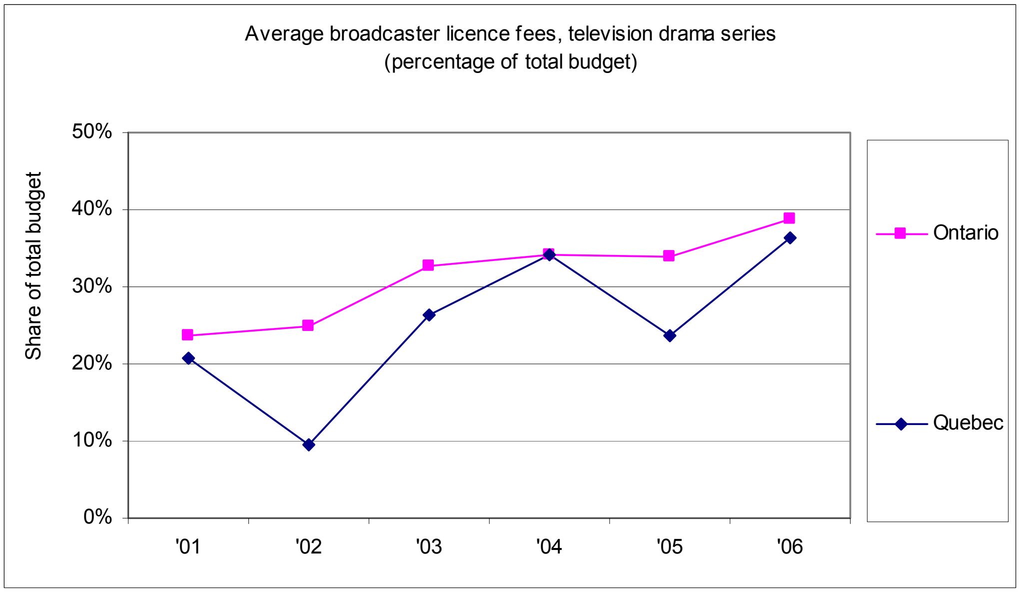


Notes to table
Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office.

In order to assess the effectiveness of the tax credit subsidies, we must examine whether Canadian broadcasters captured the subsidy by paying lower licence fees for Canadian programming than, all other things being equal, they would have paid prior to the increase in tax credits. Comparing Ontario to Quebec is possible because one province (Ontario) experienced an increase in its effective tax credit subsidy rate, whilst the other did not.

Whilst there is a fair amount of year-to-year fluctuation in the average broadcaster licence fees (measured as a percentage of the total project budget), in general we see no strong evidence of lower broadcaster licence fees for television drama series (see figure below). In both Ontario (treatment group) and Quebec (control group), broadcaster licence fees climbed from the 20-to-25% range in 2001 to just under 40% in 2006. It should be noted, however, that during this period broadcasters have tended to extract longer licence periods, more runs, and cross-platform licensing for their licence fees. Accordingly, while broadcasters have been paying out more, they have also been getting more.

Figure 10: Average broadcaster licence fees, television drama series (percentage of total budget)



Notes to table
Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office.

We also examined the trends in broadcaster licence fees for documentary series and children's series (see Appendix). In the documentary genre, we also found no evidence of lower licence fees in the treatment group. The same is true for the children's genre, provided one discounts the 2001 average as an anomaly.

It is worth noting, however, that the starting point of this analysis was a period when tax credits already existed in Canada. Therefore, there might be a correlation between the existence of tax credits and a lower licence fee paid by Canadian broadcasters, as the credits are now taken for granted as a component of a typical budget. This reduced licence fee also means that the original objectives behind introducing the tax credit are not necessarily achieved. In Canada, the original intention of the tax credit was for it to be a source of working-capital financing for Canadian production companies,[72] allowing them to engage in development and other business activities in between production projects. Now that the tax credit has become a regular budget component, the tax credit no longer serves as working capital.

Impact on Production Levels

Canadian television production was already growing at a strong pace during the first half of the 1990s, even before the federal government introduced the CPTC. In real

[72] Source: Canadian Heritage. (1995). "Film and Video tax Credit to Benefit Canadian Producers." News release, December 12, 1995

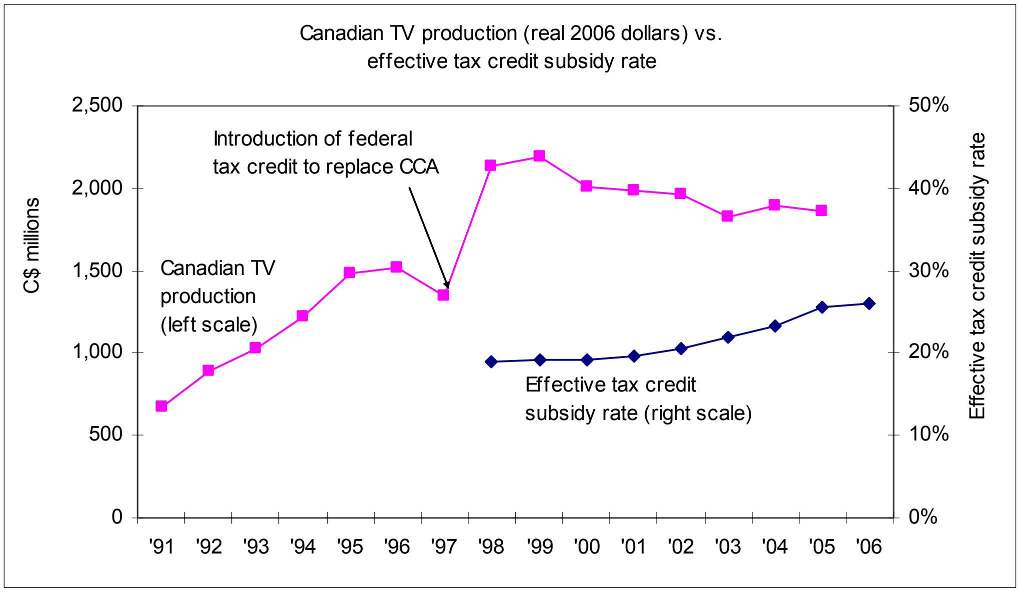
dollar terms, Canadian television production doubled between 1991 and 1997. Immediately following the introduction of the CPTC in 1996, Canadian television production rose by another 50%, or $750 million.

On the surface, it would appear that the introduction of the tax credit had a significant effect on Canadian television production activity; however, the introduction of the tax credit coincided with a number of other demand- and supply-side stimuli in the Canadian television industry, which included:

- The combination of federal and provincial tax credits accounted for some $250 million in the increase.
- The federal government doubled the size of the Canadian Television Fund, adding $100 million in new financing to the production industry.
- Several newly-licensed thematic channels – each with expenditure quotas for Canadian programming – added another $140 million into the system.
- The boom in international co-production probably injected $200 million into the Canadian production industry.

All told, about two-thirds of the increase in production can be traced back to sources independent of the tax credit. In the years following this jump in production, we see the real dollar value of the Canadian television production steadily decline, even as the effective tax credit rate steadily climbs. Therefore, while the initial introduction of the tax credit might have stimulated an increase in production, incremental increases in tax credits over the years were not able to stave off a decline in production. Different rates for different provinces may have influenced where production occurs in Canada, but probably did not affect the overall amount of production.

Figure 11: Canadian TV production (real 2006 dollars) vs. effective tax credit subsidy rate



Notes to table
Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office.

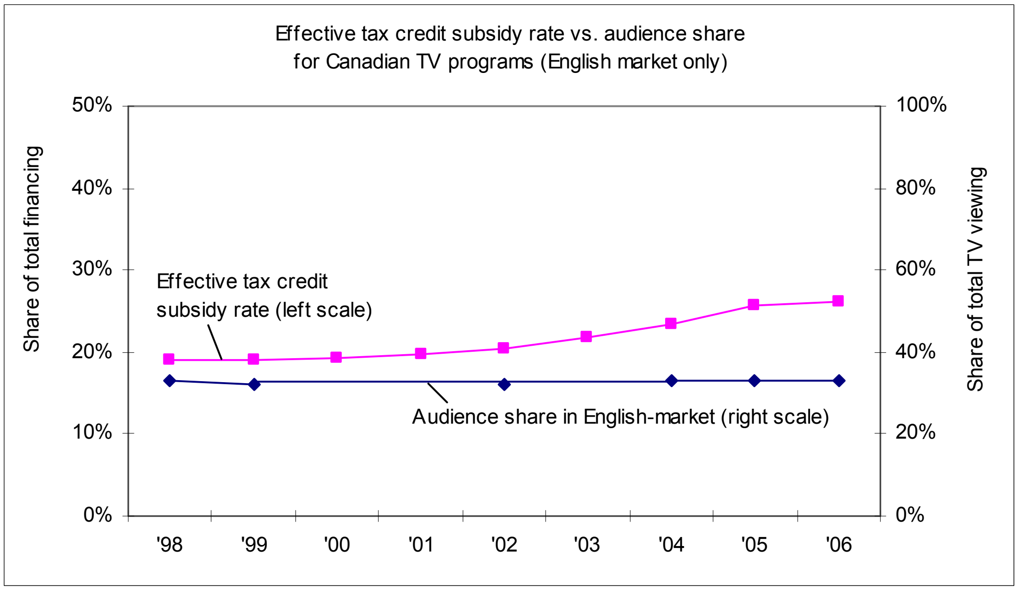
6.3. Effectiveness in Growing Audiences

A comparison of the tax credit subsidy rate for Canadian television programming and the audience share for Canadian television programmes between 1998 and 2006 indicates that the tax credit did not result in increasing the audience for Canadian programming.

Whilst the effective subsidy rate provided by Canadian tax credits rose from 18.9% to 26.1% between 1998 and 2006, Canadian television programmes' share of television viewing during prime time (6 pm to midnight) remained constant at approximately 33% of total television viewing in the English-language market. Indeed, statistics going as far back as 1960 show that Canadian television programmes have consistently had a 33% viewing share for several decades.[73] As such, the introduction of the Capital Cost Allowance (the Canadian accelerated depreciation scheme) in 1974 and tax credits in 1996 did not stimulate audience growth on an across-the-board basis. However, it might have been partly responsible for retaining market share as the number of channels was rapidly expanding.

[73] Source: Canadian Media Research Inc. (2007). *Trends in TV Audiences and Public Opinion 1996-2006*. Prepared on Behalf of Friends of Canadian Broadcasting for an Appearance before the House of Commons Standing Committee on Canadian Heritage in Vancouver on March 14, 2007

Figure 12: Effective tax credit subsidy rate vs. audience share for Canadian TV programmes (English market only)



Notes to table
Source: Nordicity calculations based on data from CAVCO; Canadian Media Research Inc. calculations based on data from Nielsen BBM.

Trade Policy Issues

Despite this lack of clear outcome, we do know that tax credits are more market-driven than other mechanisms, such as direct funding. For that reason, whilst tax incentives do not necessarily lead to growth, they support market-based decisions on which shows to fund, which should encourage the production of programming with a strong eye to audience appeal.

In contrast, subsidy funds often involve some type of decision-making process by government or an agency appointed by the government to distribute the funding. Subsidy funds are usually finite, while tax credits wax and wane based on the annual levels of eligible production. Tax credits provide more certainty for producers in their financial plans. In such an environment, programming decisions are left to producers and television-commissioning professionals, who are typically more motivated than government officials to satisfy commercial objectives (i.e. attracting larger audiences). In this regard, while tax incentives might not directly serve to support audience growth, they can do so indirectly.

6.4. Cost Effectiveness and Efficiency

Compared to subsidy funding, tax incentives offer potentially lower administrative costs for government. Subsidy funding programmes require an infrastructure that includes personnel and processes for selecting projects that will receive funding. They also require an infrastructure for ensuring the integrity of projects that will receive funding (fraud prevention) and that funded projects meet eligibility criteria. Tax incentive programmes do require administrative processes to check eligibility, process and audit tax claims, and pay out funds, but this is a less onerous overhead process.

A comparison of the administrative-cost ratios of Canada's major subsidy fund and tax credit measure shows that the latter is more cost-effective.

Between 2001/02 and 2006/07, the CTF – Canada's largest subsidy fund for television production – posted an average administrative-cost ratio of 6.7%. That is, it spent 6.7 (Canadian) cents for every Canadian dollar of subsidy funding provided to the production and development of television programming.

Figure 13: Programme administration costs for Canadian Television Fund (Canada's federal tax credit) (all amounts in thousands of Canadian dollars unless specified otherwise)

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	Total
Total administrative expenses (including amortisation)	13,965	17,003	17,087	15,423	17,504	15,413	96,395
Total funding for television production	226,900	254,300	218,900	235,500	248,900	251,800	1,436,300
Administrative cost percentage	6.2%	6.7%	7.8%	6.5%	7.0%	6.1%	6.7%

Source: CAVCO

In contrast, between 2000/01 and 2005/06, CAVCO – the government agency that administers Canada's federal tax credit for television production – posted an administrative-cost ratio of 1.0%. The *full* cost of administering the tax credit programme was probably somewhat higher, however, then represented by the application-processing costs alone: there was also a cost incurred by the tax-collection authority which processed the tax returns and issued the tax-credit payments to producers. Therefore the full administrative cost ratio was probably closer to 2.0%, but still well below the administrative-cost ratio displayed by the CTF.

Figure 14: Programme administration costs for CPTC (Canada's federal tax credit) (all amounts in thousands of Canadian dollars unless specified otherwise)

	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	Total
Salaries	1,051	1,352	1,449	1,537	1,246	1,520	8,155
Operation and maintenance	171	268	433	269	739	431	2,311
Total operating costs	1,222	1,620	1,882	1,806	1,985	1,952	10,467
Value of tax credit claims	160,542	153,802	161,697	178,180	182,746	185,359	1,022,326
Administrative cost percentage	0.8%	1.1%	1.2%	1.0%	1.1%	1.1%	1.0%

Source: CAVCO

The trade-off between subsidy programmes and tax credits lies mainly in flexibility and certainty (in the case of tax incentives), and more targeting (in the case of the subsidies). Theoretically, producers can use tax credits for any aspect of the production business (e.g. for development or marketing). In practice, the value of the tax credit is embedded in the financial structure of the project. Nevertheless, producers have the option of doing any kind of project they like (as long as it is eligible) and benefiting from the tax credit.

6.5. Economic Costs of Tax Incentives

Of course, the administration costs of tax incentives and subsidy funds are often small compared to the much larger *economic* costs. These larger economic costs arise from two sources: (i) the economic costs associated with raising the tax revenues required to finance such support programmes and (ii) the deadweight loss (DWL)[74] due to the inefficient allocation of resources within the economy resulting from the introduction of such support programmes.

Tax incentives and subsidy funds require governments to raise taxes elsewhere in the economy to fund such programmes (Government borrowing does not displace the need to raise taxes; it only delays it.) By increasing taxes elsewhere in the economy, the government alters households' and businesses' levels of consumption, savings and investment; such tax-altered decisions have a negative impact on national income. For example, a government may find that for every £1 of tax revenue that it must raise, national income falls by 20p.

A tax-incentive measure and a subsidy fund of equal sizes, say £100 million, would entail an equal taxation burden for the rest of the economy. Using the above

[74] The part of the cost of a particular policy that has to be incurred, but that does not further the objective of the policy (Dictionary of Economics ; 2003))

example, the foregone national income or cost to the economy of raising taxes would be £20 million. However, as noted above, subsidy funds can display higher administration costs. So the total cost of a £100 million subsidy fund would actually be closer to £107 million; whereas an equivalent-sized tax incentive would be closer to £102 million. In effect, the costs of raising the taxes for a subsidy fund (£21.4 million) would be slightly higher than that of the tax-incentive measure (£20.4 million).

The above costs reflect the distortions appearing in the economy due to the tax financing of the mechanisms. Tax incentives and subsidy funds cause further distortions in the economy because they draw resources from other sectors of the economy. Such transfers of resources to subsidised sectors lead to economic inefficiencies, whereby there is a loss of output in the overall economy, which is not compensated for by the higher output in the subsidised industry (e.g., the film and television production industry). This is the DWL associated with the tax incentive or subsidy. The magnitude of the DWL is a function of the increase in film and television production, and the relative elasticities of supply and demand for film and television production.

If one assumes that the film and television production market is characterised as having a horizontal supply curve[75], then the DWL can be approximated using the following formula[76]:

$$DWL = \tfrac{1}{2}(t^2 R \varepsilon)$$

Where: t is the effective subsidy rate associated with the tax incentive or subsidy fund; R is the size of market subject to the tax incentive or subsidy; and ε is the elasticity of demand among film and television producers.

Figure 15: Deadweight Loss of Subsidies and Tax Incentives

Subsidy / Tax incentive	Market size (*R*)	*t*	ε	Deadweight Loss (DWL)
£100	£500	20%	1.0	£10.0
£50	£250	20%	1.0	£5.0
£70	£250	28%	1.0	£9.8
£100	£250	40%	1.0	£20.0

[75] A horizontal supply curve would characterise a market where the average cost of producing a film did not rise as the number of films increased – to some limit. In other words, there would be unfettered supply of labour and other inputs to the production process that would keep the average real cost of producing a film constant, so long as the annual number of produced films stayed within a certain range.

[76] Source: Dennis Carlton and Jeffrey Perloff, *Modern Industrial Organization, Second Edition*, New York: Harper Collins College Publishers, 1994, p. 106.

Examining the DWL through this equation demonstrates that a subsidy fund targeted at cultural production could potentially yield a lower DWL than a tax-incentive measure available to a broad-based market of films.

Consider a £100 million tax incentive available to a broad base of film production; it would provide an effective subsidy rate, *t*, of 20%. Assume that producer's demand for film projects has an elasticity of one: in other words, if the average (real) cost of producing a film rises by 10%, producers will prefer to make 10% fewer films on an annual basis. Under these market conditions, the DWL would be approximately £10 million.

If the government adopted a targeted subsidy fund that was only available to £250 million of production – i.e., cultural production – then the DWL would invariably be lower, £4 million. This result assumes that the government held the effective subsidy rate constant at 20% and was able to target it at film projects of the highest cultural value. Moreover, the government could raise the effective subsidy rate to 28% and still experience a lower DWL – £9.8 million –than that experienced under a broad-based tax incentive. At an equivalent subsidy rate there are economic gains from devising an effectively targeted subsidy fund, even if it has a higher administration cost.

However, a targeted subsidy fund of £100 million – equal in size to the financial resources available for the tax-incentive measure – leads to a DWL of approximately £20 million. Thus, under this situation, the DWL for the subsidy fund is 20p per £1 of assistance versus only 10p under the tax-incentive scheme.

In summary, the relative economic costs of subsidy funds and tax incentive measures – and other support mechanisms – are often much larger than the observable administration costs. While the economic costs of raising tax revenues to finance a subsidy fund or a tax incentive measure are very similar, the DWLs caused by both programmes can be substantially and significantly different. The DWL for a tax-incentive measure can be double that of a smaller targeted subsidy fund that provide the same effective subsidy rate. However, the DWL of the tax-incentive measure can be one-half of an equivalent-sized subsidy fund targeted under a smaller market but offering a far higher effective subsidy rate.

6.6. Future Viability of Tax Incentives

Overall, tax incentives – namely credits – are increasingly being used in jurisdictions around the world to support not only television production, but also other forms of production such as digital media. Because the tax incentives can be used for different forms of content, these mechanisms in could in many ways prove to be effective in the future. For example, a producer can incorporate mobisodes or webisodes into the production budget, knowing that these additional production costs will be subsidised in part through tax credits.

Tax incentives (and subsidies) can potentially attract challenges for trade-agreement violation. However, long-standing exemptions for cultural industries make it unlikely that this would apply to television. For example, the UK Government recently threatened to lodge a trade complaint with the World Trade Organization in regards to Canada's tax incentives for videogame development – but videogames are much less defensible in cultural exemption terms.[77] However, US trade unions and creative guilds have attempted on more than one occasion since 2000 to launch remedial trade action against Canada on the basis of its tax incentives for film location production. At present, of course, several US states are racing to enact their own tax and subsidy incentive systems to mimic Canadian success in this field.

6.7. Key Findings

In sum, tax incentives are fairly effective in supporting production – particularly independent production – and to a lesser extent growing audiences for indigenous content. In particular:

- Evidence does indicate that the introduction of tax credits may have helped stimulate independent production, particularly in Canada.
- Unlike direct subsidies, tax incentives are market-driven and are free of government influence over programming decisions; however, they have not been enough by themselves to drive up overall audiences for Canadian programming in Canada.
- While broadcasters may have come to rely on tax credits as part of a programme budget, evidence from recent increases in effective tax credit subsidy rates indicates that Canadian broadcasters have not captured the benefit of the increased tax credits by way of lower licence fees for Canadian programming.
- Tax credits are relatively cost-effective when compared to subsidy funds: they do not require the costly project-selection infrastructure that is often required for subsidy funds, nor do they suffer from 'execution-fee' leakage such as the ADA programmes in Australia and Canada; they can entail a long payment period for producers, though, as they have to wait 12-18 months to receive payment.
- Because tax credits are based on actual production expenditures, they also have the built-in flexibility to adapt to changing technology and could therefore be very effective mechanisms in the future.

[77] The UK Ministry of Culture, Media and Sport launched a formal investigation in to the matter of Canadian game-industry tax credits in March 2008. Its decision to closely examine the legal standing of Canadian tax subsidies may be related to the relatively strict rules on tax subsidies set forth by the European Commission with respect to non-cultural products.

7. Regional Models for Public Broadcasting

Public broadcasting is a mechanism applied by the majority of Western democracies to meet public policy purposes through broadcasting. However, definitions do vary across countries. For example, in the UK, public broadcasters or 'public service broadcasters' (PSBs) are defined as those which receive broadcast spectrum in exchange for public service commitments. However, in most other countries – such as Canada and elsewhere in Europe – the public service broadcaster is state-owned. We use the latter definition in our assessment of public service broadcasting.

Three countries were selected for assessment of the ability of public broadcasting models to deliver against key broadcasting and production objectives on the national and regional level. Germany, France and Canada have varying degrees of regionalisation in their structures and their approaches to supporting indigenous and regional content.

While the effectiveness of all mechanisms is heavily influenced by the broadcasting environment, a public broadcaster is particularly limited in its effectiveness if particular constraints and conditions exist. These include:

- The size of the indigenous market and the potential size of a global market – which affects how broadcasters can amortise the cost of production.
- The existence of and/or proximity to a larger country with the same language and similar viewing tastes – which affects the level of competition from foreign TV services and the availability of TV programmes to acquire at low cost.
- Government funding per capita – which impacts the capacity of the programming budget to commission high-appeal national and regional content.
- Subscription television penetration – which affects the level of competition against the general-interest over-the-air PSB.

Of the three countries we have selected for evaluation, it is evident that Canada is disadvantaged compared to France, Germany, and for comparative purposes, the UK in terms of its broadcasting context (See Section 3, and Figure 16 overleaf). Its particular market situation – including its limited government funding per capita - in turn impacts its ability to meet specific objectives.

Figure 16: Comparative funding for public broadcasters

Country	Government funding per capita (2004)[78]
Canada	€ 20 [79]
France	€ 43
Germany	€ 82
UK	€ 76
Scotland	€ 30[80]

Notes to table
Source: Nordicity Group Ltd., *Analysis of Government Support for Public Broadcasting in Canada and Other Countries*

For this study, we conclude that a public broadcaster can be successful in achieving objectives in a number of ways:

- **Growing audiences for indigenous content**: If a PSB programmes a high level of indigenous and regional content and generates high levels of viewing share overall. While performance on a regional level is extremely important, evaluating viewing levels at a regional level is beyond the scope of this study.
- **Supporting independent production**: If a PSB plays a significant role in growing the sector by commissioning a certain amount of independent production, in certain genres, and regionally. This objective can be achieved either by meeting mandated requirements or through mechanisms (such as subsidy funds) which enhance the cost effectiveness of commissioning independent production.

7.1. Germany

The structure of the public broadcasting system in Germany was established after WWII as a means of protecting the diverse public opinions of its citizens through a system that is independent of direct government – particularly a central government - or other political influence.[81] It is the most regionally organised public broadcasting system of all major Western countries. Nearly all states (*Länder)* have their own public broadcaster and full regulatory jurisdiction over broadcasting (see section on regulation). Germany created a very regionalised structure in order to ensure that the central state has little direct involvement in broadcasting content, and to give the Länder more power to individually meet democratic purposes through broadcasting.

There are eight state broadcasting corporations that each contribute to one national broadcasting network known as the ARD. The ZDF is a second national broadcasting corporation organised at the federal level. Both are regulated by government

[78] Figures from 2006 Nordicity Study cited; exchange rate calculated at Euro-Canadian dollar exchange end of year 2004; Euro used in all cases for comparative purposes.
[79] Includes funding for only CBC, and not provincial educational broadcasters.
[80] Source: BBC Annual Review 2007. Note that this figure excludes a number of BBC Scotland-specific and UK-wide operational costs.
[81] Source: *Competition, Cultural Autonomy and Global Governance : The Audio-Visual Sector in Germany.* (2003)

legislation at the state level (see next section for details). The principal source of funding for these public broadcasters is derived from television and radio license fees paid by TV household owners.[82] An additional source of revenue is advertising.[83]

Effectiveness in Growing Indigenous Audiences

It is evident that the German public broadcasting system does well in delivering audiences for indigenous national and regional content. The ARD stations represent 14.4% of the total national audience share, while ZDF has an average of 13.1% of the share of national viewers; so approximately 27.5% of the overall share is held by the public broadcasters.[84] While no precise figures regarding the level of domestic content versus foreign content on these channels is available, one review conducted highlighted that, for example, public broadcaster ZDF broadcasts a far higher percentage of German content than its private rivals – 17.4% for films compared to 7% for privately owned VOX; for series programming it is 74.6% for ZDF compared to 15% for VOX.[85] And, as ARD is comprised of content from the Länder, we know that it must carry a significantly high proportion of Germany content.

In Germany, no clear targets are set regarding specific priority programming; guidelines are only suggested to public broadcasters. However, considering German broadcast objectives have tended to focus on providing democratic value, there is a relative priority placed on exhibiting 'information' programming. Therefore, the German public broadcasters could be deemed quite effective at meeting their objectives in priority programming; for example, nearly 50% of ARD's programming constitutes information (including current affairs and news) and the network secures a reasonable audience share (14.4%).

[82] Source: Ibid p. 4
[83] Source: Ibid p. 13
[84] Source: Competition, Cultural Autonomy and Global Governance : The Audio-Visual Sector in Germany. (2003)
[85] Competition, Cultural Autonomy, and Global Governance; The Audio Visual Sector in Germany' ; p. 6

Figure 17: German programming composition, 2001

German Programming Composition 2001 [86,87] (total hours per annum, in percentage)								
	Public		Private					
	ARD	**ZDF**	**RTL**	**SAT. 1**	**ProSieben**	**VOX**	**RTL II**	**Kabel I**
Information	49.5	53.9	31.9	31.9	24.9	17.7	5.8	7.4
Entertainment (non-fiction, game shows, etc.)	7.0	4.1	11.3	10.4	7.9	7.8	16.2	6.0
Fiction	35.1	31.9	34.4	29.2	49.7	46.7	57.0	62.0
Children's Programmes	8.4	6.6	5.5	3.4	5.5	0.0	15.7	0.0

Source: *Competition, Cultural Autonomy and Global Governance: The Audio-Visual Sector in Germany.* (2003)

In terms of levels of viewing of regional content, we know that the ARD network is primarily comprised of regional programming. The level of programming sourced from the individual Länder broadcasters is proportional to population (for example, Bavaria is home to 14.07% of Germany's total population, and approximately 15% of the national service ARD's programming is sourced from Bavaria's public broadcaster, the Bayerischer Rundfunk (BR).[88] Again, as overall share for ARD is reasonably high, the system can be deemed reasonably effective at driving audiences for regional content.[89] Having a dedicated regional network appears to be an effective means of supporting viewing of regional programming.

Effectiveness in Growing Independent Production

In Germany, there are no requirements for public broadcasters to license programming from independent producers over and above the EU regulation of 10%.[90] However, general interest TV stations (including public broadcasters) are legislated to "produce, co-produce or order a substantial part of their content" rather than acquire "off-the-shelf" programming. There are no hard quotas set for commissioning or producing new programming, but the Media Authorities suggest that networks commission approximately 10-33% original production.[91] However, this regulation is not enforced, and the interpretation of the law across the Länder is that stations need not meet this requirement if additional costs of original production are greater than those of acquisition.

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[86] Note: Columns sum up to more than 100 percent due to overlapping definitions for fiction and children's programs; Source: ALM, tab. 7/12/14; Based on a random sample of two weeks (2-8 April 2001).
[87] Source: Competition,Cultural Autonomy and Global Governance: The Audio-Visual Sector in Germany. (2003)
[88] Source: Competition,Cultural Autonomy and Global Governance: The Audio-Visual Sector in Germany. (2003)
[89] Source: ARD-Fernsehvertrag
[90] Television Sans Frontieres
[91] According to §6 II RSTV

As independent production is not uniformly required, neither is independent regional production. However, some Länder require broadcasters to produce part of their programming within the region. It is worth noting that, at times, such policies have been challenged by the European Commission as being 'discriminatory' against programming suppliers from other parts of the EU.[92] Beyond these specifications, as mentioned earlier, the national ARD service sets proportions for programming supplied by Länder. It is reasonable to assume that the source of much of this programming is indigenous to the region that supplied the programming. Overall, it is reasonable to assume that the high levels of German content aired on both ARD and ZDF, as well as the regional sourcing of content on ARD, stimulate independent production.

7.2. France

France Télévisions is the state-owned umbrella holding company which owns the public broadcasters France 2, France 3, France 4, France 5, and the international RFO. Each of these networks carries different target markets and programming remits, as outlined in the table below.

Figure 18: Public broadcasters in France

Network	Description and Remit	Share of licence fee	Regionalisation
France 2	Reach largest possible audience, original content	27%	Broadcast nationally
France 3	Local and regional news/information	35%	Network of regional stations
France 4	Focus on arts, culture and entertainment	13%	Broadcast nationally
France 5	Employment, education and health	7%	Broadcast nationally
Réseau France Outre-mer (RFO)	French language overseas service	10%	Network of stations operating in France's overseas territories

France Télévisions generates revenue from three principal sources: licensing fees from TV households (approximately 76%), advertising sales (20%), and other sources, such as programming sales (4%).[93] France's public service broadcaster funding is, to a certain degree, linked to performance in that funding can be increased by a modest amount - between 0.4 and 0.6% of total expenditures.

In the figure above, the share of the licence fees allocated demonstrates the relative importance placed on the regional network F3. The network has 12 regional

[92] Source: "Regulation of Broadcasting and Internet Services in Germany"; Hans-Bredown Institut; October 2002, p. 7
[93] Source: France Télévisions : comptes 2000 à 2003, rapport financier 2004, audit interne 2005, PLF 2006

directorates in mainland France, and is also responsible for scheduling some programming in France's regional languages (for example France 3 Ouest in Breton).

Effectiveness in Growing Audiences for Indigenous Content

In France, like Germany, public broadcasters hold a high share of viewing, being nearly level with private broadcasters. Whilst private TF1 carries a 31.6% audience share, the public networks combined carry 33.9% (F2 has a 19.2% audience share, and F3 a 14.7% audience share).[94] And these high levels of viewing are for indigenous content - currently, 80% of the public broadcasters' schedule during peak comprises indigenously produced content.[95]

Also, more so than in the case of Germany, it is possible to evaluate the effectiveness of generating audiences for domestic priority programming as well as for regional programming, as the specific channel remits map to these objectives. For example, the French priority genre of arts and culture programming is exhibited on France 4. France 3 is entirely responsible for regional programming, and enjoys a 14.7% share. In the French case, having dedicated networks to regional and priority genre content appears to be relatively successful – although the popular and all-genre network TF1 still continues to gain the highest audience share.

Effectiveness in Supporting Indigenous Production

Like many other public broadcasters, French public television has a mandate to facilitate the creation of domestic productions, with particular emphasis on creating innovative forms and new productions featuring the 'French nation'.[96] 11.5% of cash flow from F2 and F3 must go toward original independent European production. In addition, as France 3 is a regional network, it is comprised of content from all the various administrative regions. 35% of the French licence fee is allocated to France 3, demonstrating the high importance placed on regional programming.

7.3. Canada

In Canada, there is a single national public broadcasting corporation, CBC/Radio Canada, which provides television and radio broadcasting services in French and English and operates a Northern service with some Aboriginal language programming. Although there are common overhead and engineering functions, the French and English language services operate as separate entities, based in Montreal and Toronto respectively.

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[94] Source: Television : 2006 Audience Share Update. EBU : Strategic Information Service (SIS), pp. 2.
[95] Source: Review of Public Service Broadcasting Around the World. (2004) McKinsey & Company, pp. 8.
[96] Source: Décret 94-813 : 13378ff ; cited in « Machill, Marcel :Public Service Television's Mission in France: An Analysis of Media-Policy Instruments – Including the Use of the Internet as a New Distribution Channel; Mahill, Marcel. Changing Media, Changing Europe; 2008, Vol. 5, p.217-243.

Each year, the CBC receives a financial appropriation from the federal government (C$946 million in 2005-06). It also generates revenues from advertising on television (C$315 million in ’05-06); its radio is commercial-free.[97]

The CBC operates 28 different services, including 11 radio and satellite radio services, 9 television services, and 5 websites. The CBC programmes mainly Canadian content – over 80% for both French and English CBC - and operates local and regional affiliate stations as part of its national network in most major Canadian cities. The only divergence in programming across the network tends to be half-hour local news broadcasts.

Canada also has five provincial public broadcasters which provide largely educational and informational programming. These broadcasters are funded by their own provincial governments (except Alberta Access television), although some revenue is generated through sponsorship and donations.

Effectiveness in Growing Audiences for Indigenous Content

Relative to the public broadcasters in Germany and France, CBC’s conventional, national, over-the-air broadcast networks, particularly in English Canada, struggle to maintain audiences. Broadcast networks account for 7-8% of the market share in English Canada, while French CBC captures 14.5% of the French-language viewing share.[98] Certain programmes generate higher audiences – for example, the popular ‘Hockey Night in Canada’ which broadcasts hockey matches in a country where one sport – ice hockey – dominates the national psyche. Its rating would typically be in the top 20 and sometimes top 10 programmes in audience appeal. A CBC drama or comedy in English is considered very successful if it generates an audience of 800,000, and can stays on air if it draws even 400,000 to 500,000. The most popular US shows (like ER, Lost, and CSI) can attract 2-3,000,000 in audiences. As identified earlier, the context is unique: lower budgets, high multi-channel penetration, the perverse effect of “simultaneous substitution”, and the constant influx of US media promoting US entertainment. All these factors are barriers to higher audiences for the CBC.

Effectiveness in Supporting Independent Production

In Canada, the CBC has no independent production requirements *per se.* However, the existence of other mechanisms in the market, such as the aforementioned tax credits and the independent Canadian Television Fund, which can only be accessed via independent producers, leads to a high level of independent production commissioning by the CBC**.** The CTF Fund also has regional specifications; therefore, it also supports the commissioning of independent production in the regions.

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[97] Source: CBC/Radio-Canada Annual Report 2006-2007
[98] Source: CRTC, Broadcast Policy Monitoring Report 2007

It is important to note that the balance of production by the CBC was not always independent. In the 1970s, most production was in-house, and there was a growing feeling that such programming was feeling ‘stale’. However, the CBC was under-funded and it was felt that more money was needed to improve programming. Therefore, the idea for the Canadian Television Fund (CTF) was conceived (or at least its forerunner, the Broadcast Programme Production Fund). Initially purely government funded, it was later supplemented by a levy on cable companies (and later pay-satellite operators). It stimulated the growth of an independent production sector, and benefited the public broadcaster by giving it access to higher quality Canadian content.[99] Now the majority of CBC programming in drama, documentary, children’s and variety programming is created by independent producers commissioned by the CBC.

Currently, there is no requirement for regional production in the CBC, and it has closed certain local in-house production capability as well as downsized its local news operations. Nevertheless, CBC maintains large national programme commissioning centres on Canada’s East and West coasts, as well as the main production centres in Toronto and Montreal. Furthermore, the favourable tax credit regimes in the smaller provinces encourage the national production companies to co-produce with regional production companies to access additional funding, again stimulating regional production.

Therefore, while the CBC does not carry independent production requirements or independent regional requirements, other mechanisms – such as the CTF model and the existence of tax credits in the regions - has meant that, on the whole, commissioning independent production and regional programming can be cost-effective and is hence stimulated.

7.4. Public Broadcasting in the Future

Overall, there are both challenges and opportunities within the future of public broadcasting. For example, funding and concerns over this funding are increasingly a challenge. In Germany, there is a concern that the potential scope of operating PSB in a new media world could in fact be limitless, and could require resources significantly beyond an already very high licence fee.[100] Similar concerns exist in Canada, particularly as CBC government funding has been virtually capped over the last decade. In addition, the EU is increasingly querying funding for PSBs, particularly as definitions of public service vary by country and become more ambiguous in a digital world.[101] Extra funding could be deemed an illegal subsidy under state aid, further threatening funding.

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[99] Source: History courtesy of former CBC president Robert Rabinovitch
[100] Source: BVerfGE 83, 238 ; cited in ‘Beyond Convergence :Understanding Programming Strategies of Public Broadcasters in Competitive Environments’, p.345
[101] Source: http://www.rthk.org.hk/mediadigest/20051115_76_120677.html

7.5. Key Findings

In all the countries examined, the public broadcaster plays an essential role in both growing audiences for domestic content and in stimulating independent production. However, as a mechanism, it meets with varying levels of success in achieving these objectives for a number of reasons:

- Effectiveness in generating audiences is limited by the context in which a PSB operates – for example, levels of funding and viewing competition;
- When the conditions are right – namely, funding is adequate and competition is limited - dedicated channels focused on priority genre and regional content can be effective in generating audiences, as evidenced in Germany and France;
- Stimulating independent production can be easily achieved if required as a condition for the PSB; but equally without requirements if certain supply-side mechanisms make independent production cost-effective, as evidenced in Canada (see summary table below).

Figure 19: Independent production quotas for public broadcasters

	PSB Independent Production Quotas	PSB Independent Production Regional Quotas	Adherence/Enforcement
Canada	No –close to 80-90%	No	N/A;
Germany	Guidelines only 10-33%	Some PSBs in Länder do, but not overall	No requirements; 78-79% of hours are original vs. 58% for private broadcasters.[102]
France	Yes –11.5% of cash flow to independent European production	For France 3 only	Requirements met

[102] Data refers to the percentage of programming exhibited in a 24 hour period ; rather than percentage of spend or hours commissioned, annualised. Source: p. 25 ; 'Competition, Cultural Autonomy, and Global Governance; The Audio Visual Sector in Germany'

8. Devolved Regulatory Systems

It is necessary to use different parameters to evaluate the strengths and challenges of a devolved regulatory system, relative to the other mechanisms we have investigated so far. A devolved regulatory system is, in essence, a tool to allow enforcement of these other mechanisms. Therefore, in this section, we evaluate the ability of devolved regulatory systems to enforce compliance with mechanisms, rather than their ability to achieve specific objectives.

We have chosen Germany and Catalonia, Spain as case studies because they have highly devolved regulatory systems. We also highlight the case of Quebec, which has recently begun to explore devolution of broadcast regulation.

8.1. Germany

The German example represents a fully devolved national broadcasting system in that the majority of jurisdiction rests with the individual states. This situation is largely a result of a post-war structure designed to minimise the ability of the central government to control the airwaves for (anti-)democratic purposes. The democratic purpose carriers primacy in the German broadcasting system; the cultural importance of broadcasting is not included in federal German law.

8.1.1. Regional Arrangement

As a federal republic, Germany's legislative power is shared between the federation and the states. At a national level, the German constitution "guarantees the freedom of press and report by means of broadcasting and film." The federal state also has jurisdiction over telecommunications, and hence regulates multi-channel broadcast distribution, such as the technical infrastructure for cable and satellite provision. However, the functioning of the media system is controlled by the 16 states, or 'Länder'.[103]

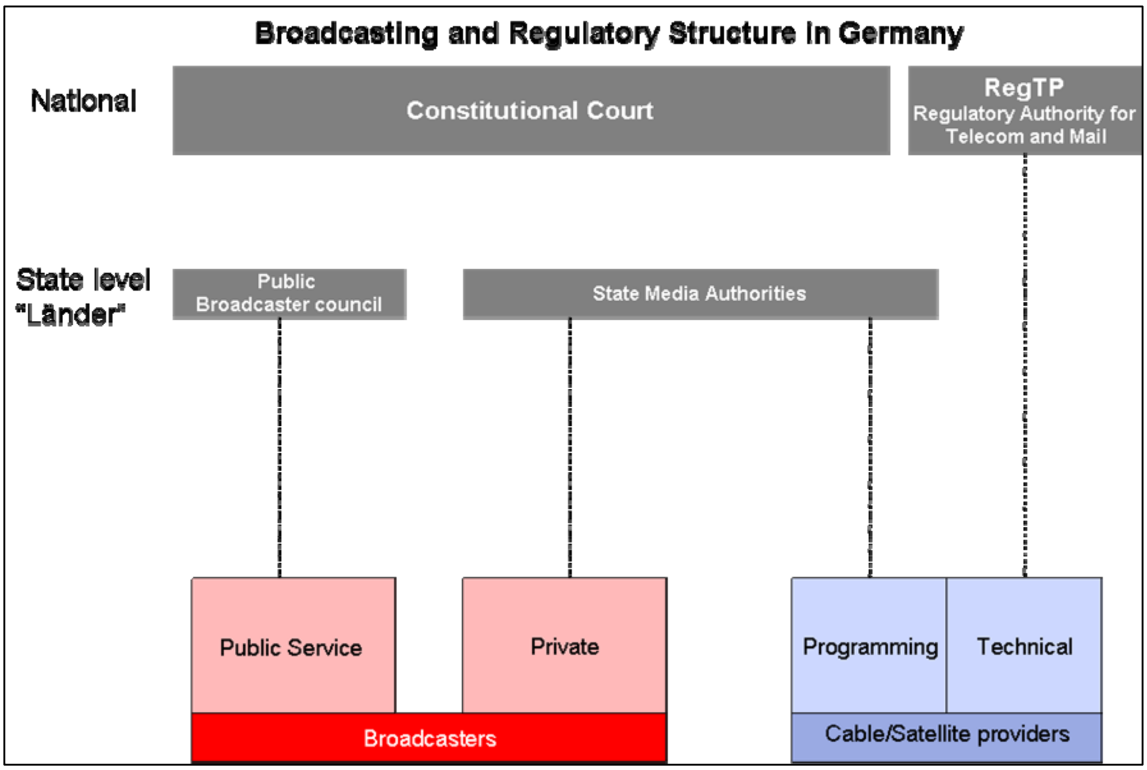
Each state has a Media Authority ("Landesmedienanstalt") which regulates broadcasting services. These authorities are independent from the overall state administration and are primarily responsible for licensing broadcasters; determining which content gets carried over regional cable systems; supervising broadcasters in areas such as the protection of minors, advertising, programme guidelines, and spectrum frequency management. Although the federal government's Regulatory Authority for Telecommunication and Mail (RegTP) is responsible for elements of regulation that concern broadcast carriers (e.g. cable companies), the various Länder Media Authorities have been empowered to define the types of programmes carried by cable operators. In terms of enforcement, the powers of the Media Authorities are fairly far reaching. They can use instruments such as sanctions, fines, and licence revocation.

[103]Source: Wolfgang Schulz/Stephen Dreyer. « Regulation of Broadcasting and Internet Services in Germany » , Hans-Bredow-Institut .; October 2002

The regulation of public broadcasting is also devolved to the state level, although not every Land has its own public broadcaster – there are 10 public broadcasters for 16 Länder. Each Land has full jurisdiction over the regulation of broadcasters based within them and each one has an internal governance structure, which includes a broadcasting commission representing the interests of the general public and influencing programming standards.[104] Figure 18 shows the makeup of the German broadcasting system.

Whilst most of the regulatory power is located within the Länder, the Association of State Media Authorities (ALM) increasingly plays a role in centralising some areas of regulation. For example, a commission was set up by the ALM to deal with issues pertaining to the Protection of Minors in the Media (KJM).

Figure 20: Regional broadcasting structure in Germany



Source: Competition, Cultural Autonomy and Global Governance: The Audio-Visual Sector in Germany (2003).

Of late, there has been a move to synchronise broadcast regulation across the Länder. In 1991, the Inter-State Agreement on Broadcasting was ratified by all state parliaments as the general framework for uniform state broadcasting. The Agreement prevents the Länder from adopting new laws that diverge substantially from the accord.[105]

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[104] Source: Competition, Cultural Autonomy and Global Governance : The Audio-Visual Sector in Germany (2003), pp. 13

[105] Source: Broadcasting Law in Germany, http://www.iuscomp.org/gla/literature/broadcst.htm#ToC13

8.1.2. Strengths and Challenges with Devolved Regulation

As the German regulatory structure was not culturally driven, its objectives have primarily focused on ensuring an appropriate arms-length distance of regulation from the central state. Objectives such as increasing domestic production and growing audiences for domestic content have not driven the design of the regulatory system itself.

The system's strengths lie in the ability of each Land to directly oversee regulation of broadcasters, including the provision of programming over multichannel service providers, such as cable. This is more regional power than in any other Western sub-national jurisdiction, which is largely reflective of the overall level of regional power that the Länder hold. Because of such power of the states, it has been possible for the highest level of government to collectively demand improved performance. For example, in 2001 the Prime Ministers of the Länder demanded that the PSBs exhibit more news and cultural programming in peak time.[106] If the Länder's own Media Authority did not have specific jurisdiction over the broadcasters, this case would have been harder to make.

However, there are also challenges with the system. First, there are often conflicts regarding media regulation between the federal and state governments. For example, the regulation of technical services (such as conditional access systems for subscription) can cause jurisdictional conflict.[107] The technical resides with the federal government; the content with the state. When an issue has blurred lines, and affects both content and technical aspects, conflicts arise.

Conflicts have also arisen regarding the regulation of 'new services', mainly those available on the Internet. Three new laws have been said to not be clearly defined, thus encouraging conflict: the Tele Services Act, the Inter-State Treaty on Broadcasting, and the Media Services Treaty both deal with a combination of technical and content rules online, and therefore carry blurred lines. For example, if a service is clearly considered 'broadcasting', it is covered by the 'Interstate broadcasting' treaty; if it is not clearly broadcasting, it is covered by the Media Services Act. Each defines jurisdiction differently for the Länder.

Conflicts also arise based on interpretations of the laws; for example, experts disagree on the type of activities which can be granted to public broadcasters via the legislative framework.[108]

Similar to many other countries, the Media Authorities struggle to implement rules. For instance, broadcasters can select a state Media Authority if they broadcast in more than one Land. This leads to what has been called 'forum shopping' where broadcasters opt for the Land with less stringent requirements and more lenient

[106] Source: (Morhaupt, 2001).cited in «Beyond Convergence», Meier; Henk Erik; European Journal of Communication. p.343
[107] Source: Regulation of Broadcasting and Internet Services in Germany, p. 7
[108] Source: Regulation of Broadcasting and Internet Services in Germany, p.9

enforcement.[109] For this reason, this system has resulted in little or no regulation of private sector broadcasters. Also, like all regulators, increasing technical convergence and the decreased value of public spectrum threatens the Media Authorities' ability to enforce compliance.

Finally, the issue of excessive administrative costs is a key factor when considering the relative strengths of a highly devolved regulatory body. In addition, there is the association body (ALM) which unites the Media Authorities, which carries its own administrative costs as well.

8.2. Catalonia

Like in Germany, broadcasting regulation was devolved in specific regions of Spain as a move away from an authoritarian, state-controlled broadcast system. However, devolution in Spain was also driven, unlike in Germany, by its regions' desire for cultural autonomy.

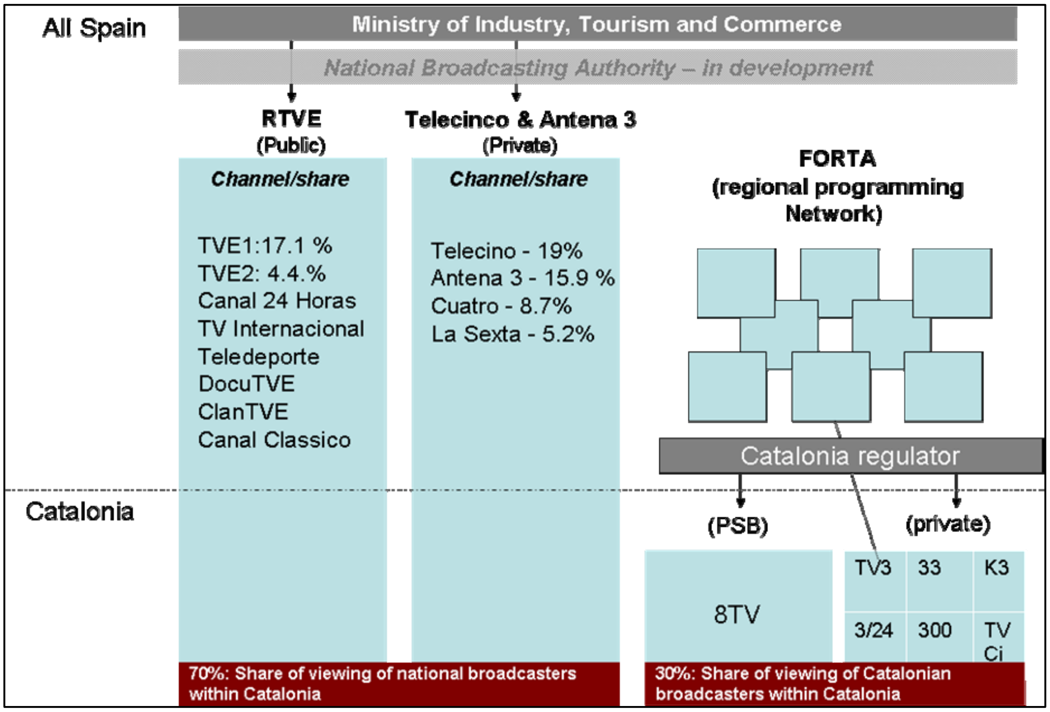
8.2.1. Regional Arrangement

Following the reorganisation of Spain as a state of autonomies in 1978, the regions began developing their own broadcasting systems. Specifically, the Basque country and Catalonian regions formed their own television systems in 1982 and 1983, respectively. These systems consisted of public broadcasters offering more programming in the unique languages of the regions.

Responding to the newly formed systems, the Spanish government enacted the Third Channel Law in 1984**,** allowing for the formation of new, regional broadcast networks. However, the central government insisted these new networks remain under the control of the state and within the RTVE infrastructure. Parliaments of Catalonia, the Basque country, and Galicia resisted central-state control and set up technical structures independent of the national network. In 1988, Spain abolished RTVE's control over the airwaves,[110] and in 1989, the newly-formed regional broadcasting systems merged to form the Federation of Autonomous Radio and Television Organisations (FORTA). In 1996, Catalonia created a Consell de l'Audiovisual de Catalunya (Catalonia Broadcasting Council), which assumes full regulatory authority over regional broadcasters in the region. No other region currently maintains such a system. The below graphic illustrates the make-up of the Spanish broadcasting environment.

Figure 21: Broadcasting and regulatory structure in Catalonia

[109] Source: Regulation of Broadcasting and Internet Services in Germany p. 9
[110] Source: Ibid



8.2.2. Strengths and Challenges of Devolved Regulation

A goal of the Catalonia Broadcasting Council is to ensure that a significant amount of Catalonian programming is broadcast in the Catalan language. It is estimated that 95% of Catalonia's residents understand Catalan. As such, the *General Linguistic Policy Act* in Catalonia states that 50% of private broadcasters' programming ought to be in Catalan. Public broadcasters must use Catalan as a normal communication language, and private broadcasters must guarantee music programmes include 25% Catalan language songs.[111]

The Catalonian system, however, is not a totally autonomous one. Spanish national programming broadcast in Catalonia, for instance, is not subject to the region's language requirements. As a result, it is estimated that of the 95% of Catalonians who speak Catalan, only 30% watch Catalan-language television programming [112]

Overall, it is evident that the Catalonian regulatory devolution is effective only in enforcing mechanisms for Catalonian-based broadcasters. It has no jurisdiction over national broadcasters and therefore plays no role in ensuring that nationally applied mechanisms are enforced or better implemented in Catalonia. Like in other countries, regional broadcasters face significant competition from other broadcast services over which it has no jurisdiction.

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[111] Source: Cultural Diversity Practices among Broadcasting Regulators, http://www.brcd.net/cac_brcd/AppPHP/modules/publications/files/brcd_report_cultural_diversity_practices_among_broadcasting_regulators_july_2007.pdf

[112] Source: The Museum of Broadcast Communications, Spain. This is not to suggest that Spanish-language programming is not also watched.

8.3. Quebec

Due to Quebec's distinct identity as a majority French-speaking province within Canada, broadcasters in Quebec are subject to focused regulations and treatment different from those in the rest of the country, but within the scope of the national broadcasting regulation. For instance, whilst the province does not have a separate regulatory body, two of the CRTC's current eight full-time commissioners are from Quebec, and the chair tends by practice to rotate between French and English speaking Canadians. However, there are regional commissioners appointed from all regions in Canada, and this practice does not lend itself to greater jurisdiction over broadcasting in Quebec or elsewhere in Canada.

Additional measures that serve to protect French language production tend to exist in the form of French-language regulations and programming guidelines, such as earmarking 30% of the Canadian Television Fund for French-language programming.[113]

Recently, sovereigntist parties and political leaders have begun to call for greater involvement by the CRTC and even greater jurisdiction over broadcasting requirements in Quebec. The most extreme suggestion has been to repatriate all broadcasting and telecommunications, which would require amending Canada's constitution.[114] The catalytic event was the intention of the new owners of Quebec broadcaster TQS to cancel its news programming due to its struggling financial situation; the new owners requested changes to its licence in order to eliminate local news requirements. Sovereigntist parties and political leaders have become involved as they are concerned that the CRTC will allow broadcasters to relax their local programming requirements.[115]

8.4. Key Findings

Overall, a devolved system can have significant benefits:

- An entirely devolved system, like Germany's, gives regional jurisdictions the most power and the ability to enforce mechanisms which can serve to deliver against objectives.
- A partly devolved system, such as seen in Catalonia, can be effective in regulating regional broadcasters and ensuring unique specifications are enforced when there is an absence of an overall regulator.

However, along with these benefits comes a series of challenges:

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[113] Source: Canadian Television Fund, Broadcast Performance Envelope, http://www.ctf-fct.ca/assets/bpe0809.pdf
[114] Source: Vancouver Sun, Quebec Parties Want out of CRTC
[115] The CRTC recently acceded to the request rather than risk bankruptcy, but only on an interim basis until its economic fortunes improve.

- In Catalonia, the lack of jurisdiction over national broadcasters means that whatever cultural specifications the region is able to enforce upon its own broadcasters, viewing competition will always exist and regional cultural specifications will not guarantee audiences.
- In Germany, the often ambiguous interpretations of the various inter-state treaties regarding broadcasting and media services can lead to jurisdictional conflict; therefore, in the advent of devolved regulation, specific responsibilities need to be very carefully defined.

Therefore, whilst partly devolved regulation can be effective at ensuring objectives such as independent production and exhibition, it is not necessarily effective at generating audiences for regional content. And, overall, all regulators – whether devolved or national - increasingly face challenges in their ability to enforce regulations as the value of spectrum declines.

9. Conclusions

9.1. Key Findings Regarding Effectiveness

In examining our five case study countries, it is evident that there are numerous factors which impact the effectiveness of policy mechanisms. For example, the size of the market, the proximity of other countries where the same language is spoken, the existence of other types of regulations which might carry contrary objectives, and the levels of funding directed toward policy objectives all contribute to effectiveness. It is possible, however, to draw some key conclusions from the analysis – these are outlined below and in Figure 20:

- **Public broadcasting is one of the more effective mechanisms across all objectives:** However, its effectiveness in regions depends on a number of factors – including governing bodies' commitment to implementing and enforcing very specific objectives (e.g. particular regional objectives of French and German PSBs) and access to funding (e.g. in Canada, regional commitments were lessened due to reduced funding). Additionally, levels of viewing can never be guaranteed – particularly at a sub-national level, where competition can be both national (e.g. national PSB content) and international (e.g. international programmes shown on multichannel platforms). Extremely regionalised broadcasting systems, such as Germany's, might produce more local content, but they can be very costly to run due to operational inefficiencies.
- **Devolved regulation can enhance implementation of certain mechanisms, but only for local broadcasters:** Evidence from Germany and Catalonia, Spain demonstrates that devolved regulation only works when the regulator has complete jurisdiction over broadcasters; this only happens when broadcasters are locally based. For example, the Catalonian regulator effectively regulates its own broadcasters; however, it has no control over national broadcasters which constitute 70% of Catalonian television viewing.
- **Quotas for private broadcasters are important and can be effective in raising standards across the board – however, these will wane in effectiveness with little 'quid pro quo' to offer:** Whether regulation is managed directly or indirectly, exhibition and expenditure quotas need to be part of any successful toolkit. Whilst national programming quotas may not been very successful in themselves in some countries (e.g. English Canada, although they have worked in French Canada), they have been very effective in other countries (e.g. exhibition quotas helped Australia win over its audiences to home-grown programming). France has used a combination of exhibition and expenditure quotas to convert audience tuning away from American programming to more French programming. As found in Canada and Australia, broad exhibition quotas are not very effective; if they are highly targeted, like Australia's genre-specific quotas, they work much better. Since

specific quotas such as for drama can be very costly for broadcasters, the broadcasting licenses must have privileges of significant value for the public quid for the private pro quo to be effective.

- **Subsidies can be effective, if funding can be sourced and if the appropriate execution mechanism is designed:** In designing subsidy programmes, better results could be achieved if project selection is market-driven rather than being a process adjudicated by government subsidy programme managers. Canada's CTF-BPEs, France's COSIP and Australia's FFC each offer slightly different models on how the design of funds includes elements that make them audience-oriented and market-driven. Note that the issue of subsidies raises the question of where the funds come from. One option is to raise funds indirectly through the equivalent of user levies (e.g. Canada's levy on the revenues of multi-channel services and France's theatre tax).
- **Tax credits are now the tax incentive of choice for governments around the world:** These are generally labour-based to ensure that the region/country captures the economic benefits. Because our evaluation demonstrates that they are more market-driven than other mechanisms – such as subsidies – they can be considered to be marginally effective in increasing viewing in addition to being very effective at increasing production.

9.2. Importance of Applying Mechanisms in Combination

After examining a range of countries which have applied both supply-side and demand-side mechanisms, it is evident that a system which has designed both types of mechanisms carefully to work complimentarily will be the most effective.

For example, the quota stick and the subsidy carrot seem to work well in tandem. In small markets such as Canada, broadcasters subject to exhibition and expenditure quotas may find that the economics of programming discourage commissioning high-cost productions on their own. Therefore, supply-side programmes like tax credits and subsidies can make quotas less onerous. Even in a large market such as France, policy makers have found it necessary to provide a subsidy fund to "top up" broadcaster expenditure commitments. Analysis suggests that subsidy funding ends up in the budget of the programming project rather than being captured by broadcasters in the form of lower license fees.

The same goes for the obligations of public broadcasters. If funding is squeezed, then often the commitment to regional broadcasting is also diminished. Therefore, combining PSB requirements with supply side incentives – such as user levy-funded subsidies or tax credits – can ensure that PSBs have no reason *not* to meet regional requirements. Similarly, creating highly regionalised domestic public broadcasters can be effective in ensuring regional representation only if coupled with adequate funding; note that creating highly regionalised broadcasters can be very cost inefficient, as evidenced in Germany, which, for this reason, has the highest licence fee of all of the public broadcasting systems

Figure 20: Effectiveness Evaluation of Key Policy Mechanisms

Legend

○	◔	◑	◕	●
Not at all effective	Marginally effective	Fairly effective	Very effective	Fully effective

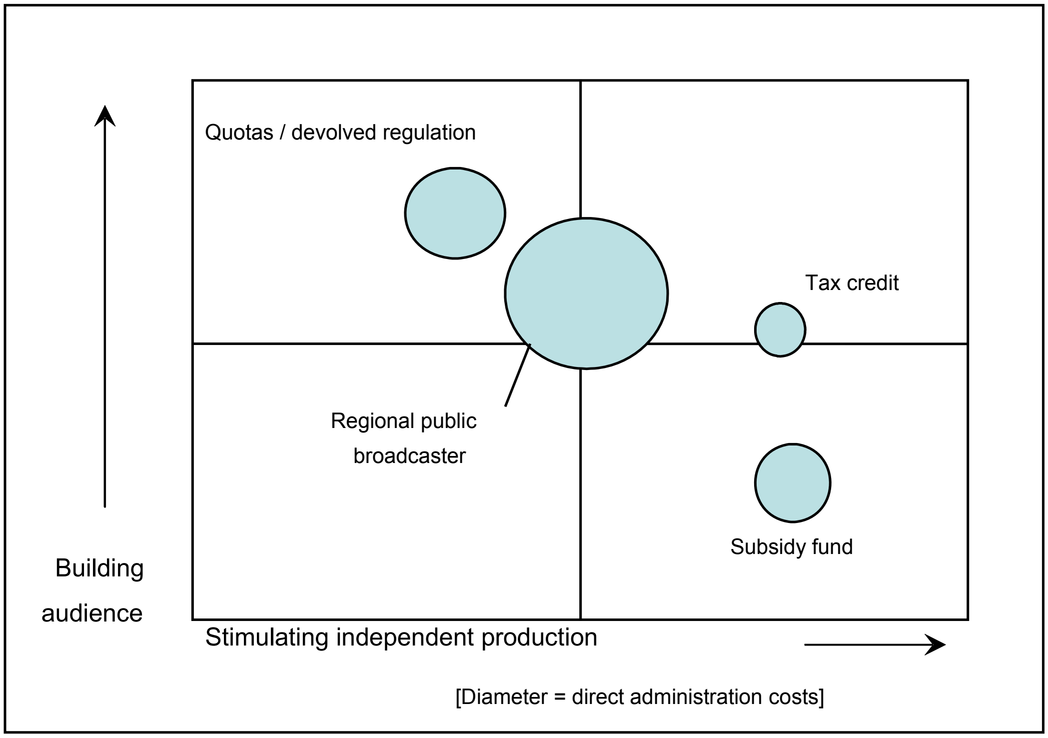
Grow audiences	...for indigenous content	...in priority genres	...for regional content	Increase independent production	... in priority genres	... regionally	Most effective in combination with
Tax incentives	◔	———	◔	◕	———	◕	
	Tax credits are more market driven than subsidies; therefore, in theory they hold more promise of audience-oriented programming.			Highly effective at increasing production, also in regions if higher credits are applied relative to the production centre. Has the potential to be effective to support specific genres, but has never been done.			Exhibition focused mechanisms, e.g. quotas + PSB
Subsidies	◑	◑	◑	◑	◑	◑	
	Automatic selection in the subsidy-winner-selection which is linked to audience performance process can increase audience growth.			Can be very effective at increasing independent production, in genre and in specific regions, depending on eligibility criteria. Level of funding impacts effectiveness.			Exhibition focused mechanisms, e.g. quotas + PSB
Quotas	◑	◑	◑	◑	◑	◑	
	Effective when exhibition quotas are specific (see Australia); and when there's a 'quid pro quo' offered (e.g. spectrum; closed market; funding).			Particularly exhibition combined with expenditure quotas can serve to increase production, particularly if indie production is specified.			Production support mechanisms: subsidies + tax credits
PSBs	◑	◑	◑	◕	◕	◕	
	Grows audiences when well-funded and operate in a more closed market. Can particularly help fill market gaps in priority genres. However, all content will always compete with national and international content for eyeballs.			Effective, with adequate funding and/or support from other mechanisms (such as tax credits/subsidies); and enforced quotas for independent production.			In under-funded regions, production support mechanisms: subsidies and tax credits

9.3. Cost Effectiveness

A lack of data and a proper framework for assessing the cost-effectiveness of some support mechanisms limited our ability to analyse the cost-effectiveness of all of the mechanisms; however, we did examine the cost-effectiveness of subsidy funds and tax incentives.

We compared the administrative-cost ratios for subsidy funds and tax credit measures in Canada to assess the cost-effectiveness of these two programmes. The comparison shows that tax credit measures are likely to be more cost-effective in terms of delivering funding to television programmes. Subsidy funds incurred administrative costs of 6.7 Canadian cents per dollar of distributed funding; Nordicity estimates that the rate for Canada's tax credit measure was 2.0 Canadian cents.

Figure 22: Relative cost effectiveness of mechanisms



The project-selection infrastructure that typically characterises subsidy funds appears to contribute to higher relative administrative costs and lower cost-effectiveness. Furthermore, given that tax credits are more market-driven, then there is strong likelihood that they can deliver better cost-effectiveness in terms of delivering audiences (e.g., higher audience rating per amount of funding).

Regional public broadcasters are likely to be less cost-effective than a centralised public broadcaster, when the latter is an alternative. However, when regional reflection is the key policy objective, then a regional public broadcaster has the potential to generate regional production and attract audiences to it. Exhibition and expenditure quotas potentially yield the same outcome set (increased regional production and audience access) as a regional public broadcaster. In terms of direct costs, however, the latter only require a compliance infrastructure as opposed to a full broadcaster administration.

A devolved regulatory regime would likely be built around a set of enforceable exhibition and expenditure quotas. The cost-effectiveness of this mechanism is, therefore, tied to relative effectiveness of quotas enforced at the regional level vs. the central level.

10. Glossary

ACMA: Australian Communications and Media Authority

ADA: Accelerated depreciation allowances (tax credits)

CBC: Canadian Broadcasting Commission

CCA: Capital cost allowance

CNC: Centre National de la Cinématographie

CPTC: Canadian Film/Video Production Tax Credit

CRTC: Canadian Radio-Television & Telecommunications Commission

CSA: Conseil supérieur de l'audiovisuel

CTF: Canadian Television Fund

FFC: Film Finance Corporation Australia

FTA: Free-to-air, also used interchangeable with OTA – over-the-air.

Multi-channel television: The reception, via pay or free-to-air, of an augmented service with multiple channels via analogue or digital. E.g. analogue/digital cable subscription, satellite, or digital terrestrial service.

OMDC: Ontario Media Development Corporation

OTA/Over-the-air broadcaster: A broadcaster which has received spectrum from government, and broadcasters over-the-air, via analogue or digital.

Pay and Specialty channels:: Each country uses different terminology to refer to channels carried by subscription over multichannel platforms including cable, digital terrestrial, satellite. These channels are also known as subscription channels, cable channels, subscription programming services

Peak time: Also known as prime time in some countries. The period between 6-11; in some countries it's 7-11.

PSB: Public Service Broadcaster/Broadcasting

Public service broadcaster: A broadcaster which receives funding from government; either through direct funding or a government sanctioned licence fee.

Remit: Often used interchangeably with 'mandate'.

Subscription television: Known as pay-TV in some countries.

UK: United Kingdom

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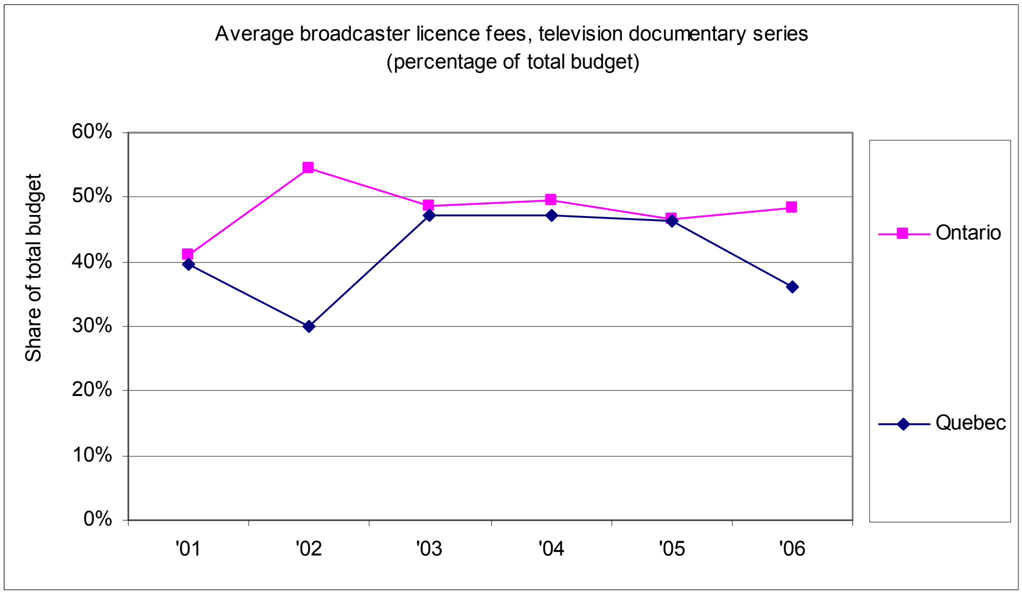
12. Appendix

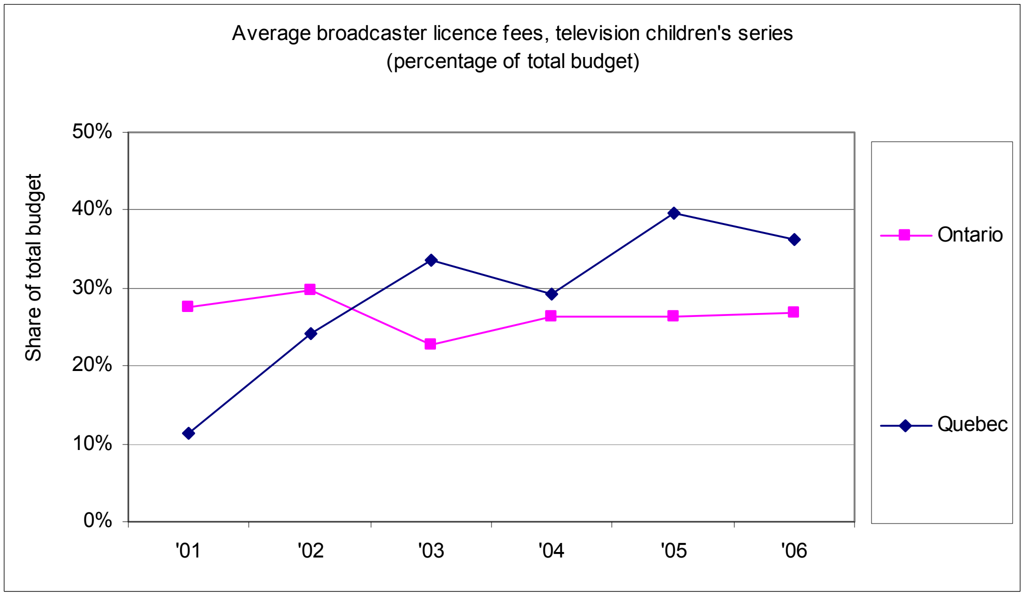
Average broadcaster licence fees, television documentary series (percentage of total budget)



Notes to table

Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office

Average broadcaster licence fees, television children's series (percentage of total budget)



Notes to table

Source: Nordicity calculations based on data from Canadian Audio-Visual Certification Office