

## COUNTING CANUCKS

COUNTING CANUCKS: CULTURAL LABOUR AND CANADIAN CULTURAL POLICY

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## Abstract

My research examines the political role of unions, as the collective voice of Canadian cultural workers, in connection to the cultural policies that shape their memberships' personal and professional lives. I use a labour-based analysis that foregrounds the interests and experiences of cultural workers in my case studies to understand how cultural policy shapes the quantity and quality of work in the independent film and television production sector. I examine the policy advocacy strategies of Alliance of Canadian Cinema, Television and Radio Artists; the Directors Guild of Canada; the Writers Guild of Canada; the Communication, Energy and Paperworkers Union of Canada; and the International Alliance of Theatrical and Stage Employees IATSE, as members of federal and provincial cultural policy networks.

I argue that changes in cultural policy influence the level of participation and the political strategies of the unions and guilds in federal and provincial cultural policy networks. Shifts in organizational and political strategies affect the ways that unions articulate their interests as policy problems; this, in turn, affects the ways in which issues and problems are understood and acted upon by decision-makers in policy reforms. While most of the unions and guilds, particularly at the federal level, have been active in cultural policy networks for several decades, unions at both federal and provincial levels are increasingly partnering with the employers – the independent producers – in their policy interventions. Analysis of my case studies leads me to conclude that this strategy is paradoxical for unions. While a partnership approach from a “production industry” standpoint arguably increases union access to and credibility with policy decision-makers, it can compromise or obscure how unions articulate cultural policy problems as *labour* problems. When unions engage in policy advocacy either independently or as a labour coalition, the direct relationship between cultural policy and its specific impact on labour markets and working conditions is most evident.

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Dr. Peter Graefe has deeply shaped my dissertation through his thoughtful comments and persistent support of this project. In particular, I would like to thank him for asking me to put more of myself in the dissertation, and for his advice to stay connected with the story I'm trying to tell. The labour-based analysis that I use to explain my case studies is a direct result of Peter's thoughtful feedback on, in particular, the theoretical aspects of my narrative. My dissertation is substantially more coherent thanks to Peter.

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Turns out that sometimes you *are* right.

### **Dedication**

My passion for Canadian politics is inspired by two women in whose impressive footsteps I have walked since the day I was born. I dedicate this as a personal project (which, as they taught me, is always political) to the enduring legacy of Lorraine Joyce Coles, and Joyce Scott Barber.

My analysis is deeply informed by my past and present relationships with industry workers who face gruelling and intense 13+ hour work days, five, six or seven days a week, sometimes for months on end, yet often with long gaps in between shows, and who struggle with chronic economic and employment insecurity, family breakdown, addiction, and physical and mental illness. It is to the crews, and the families and friends who love them, that I dedicate this as a political project.

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## List of Acronyms

ACTRA	Alliance of Canadian Cinema, Television and Radio Artists
CAB	Canadian Association of Broadcasters
CAVCO	Canadian Audio-Visual Certification Office
CCAU	Coalition of Canadian Audio-visual Unions
CEP	Communications, Energy and Paperworkers Union of Canada
CFTPA	Canadian Film and Television Production Association
CMF	Canada Media Fund
CMPA	Canadian Media Production Association (formerly CFTPA)
CPTC	Canadian Film or Video Production Tax Credit
CRTC	Canadian Radio-television and Telecommunications Commission
DGC	Directors Guild of Canada
FITC	Film Industry Tax Credit
IATSE	International Alliance of Theatrical and Stage Employees
NABET	The National Association of Broadcast Employees and Technicians
NSMPIA	Nova Scotia Motion Picture Industry Association
OFTTC	Ontario Film and Television Tax Credit
OPSTC	Ontario Production Services Tax Credit
PSTC	Film or Video Production Services Tax Credit
WGC	Writers Guild of Canada

## **DECLARATION**

I hereby declare that the dissertation submitted for the degree Doctor of Philosophy is my own original work.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my thesis committee and the Graduate Studies office, and that this thesis has not been submitted for a higher degree to any other University or Institution.

## Chapter 1: Why we need to account for cultural workers in Canadian cultural policy

In early 2003 Richard Florida, author of *The Rise of the Creative Class* (2002), lounged in an armchair on stage at the University of Minnesota, having a heavily marketed 'great conversation' with University President Robert Bruininks. Towards the end of the discussion, Bruininks posed one of a series of questions that my graduate student Martina Cameron and I had written at the President's request: "Just what do you see as the political role of the creative class? Will they step up to the plate and help lead this society in a better, fairer direction?" Florida was stumped (Markusen A., 2006, p. 1921).

Markusen's question to Richard Florida marks an important political intervention in academic thought that examines how we understand the relationship between the state and cultural workers. Despite a decade long political preoccupation with "creativity" as a buzz word that supposedly signals forward thinking policy development, mainstream public policy literature largely overlooks policy development processes in the arts and cultural sector. In both public policy – primarily, but not exclusively in cultural policy – and academic circles, discourses around the creative economy readily position cultural workers as economic agents driving the creative economy, yet chronically fail to account for the ways in which cultural workers are also *political* agents that shape the creative economy. The emerging body of scholarship known as creative labour, based largely out of the UK, pays more attention to the political role of cultural workers. In this body of work, the political capacity of cultural workers is largely theoretical, foregrounding the potentialities of culture workers' autonomy, solidarity and precarity in relationship to their subjective experiences of work, resistance and mobilization (de Peuter, 2011; Gill & Pratt, 2008; Hesmondhalgh & Baker, 2011; Neilson & Rossiter, 2008). These are important theoretical interventions, but they fail to account for concrete and historical examples of cultural workers' engagement in policy advocacy. This has led to an inadequate understanding of the relationships between the state, cultural workers, and cultural labour markets.

My research takes up Markusen's question, drilling down on the political role of unions as the collective voice of Canadian cultural workers in connection to the cultural policies that shape their memberships' personal and professional lives. My research contributes to the emerging field of cultural labour and the well-established field of cultural policy studies by offering an analysis of how cultural policy choices and changes shape the professional and personal lives of cultural workers, and in turn, how unions representing cultural workers participate in cultural policy networks as policy actors. As cultural workers and their unions are often exempt or excluded from key aspects of traditional Canadian labour law (chapter three), I argue that cultural policy functions as a primary form of labour market regulation for Canadian cultural workers. Consequently, unions that represent cultural workers are active members of cultural policy networks.

My comparative project examines the political advocacy strategies in federal and provincial cultural policy networks of the five unions and guilds representing workers in the English-

language Canadian film and television production sector: The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) representing on and off screen performers; the Director's Guild of Canada (DGC) representing key creative and logistical personnel in the film and television industry covering all areas of direction, design, production and editing; the Writer's Guild of Canada (WGC) representing writers; the Communication, Energy and Paperworkers Union (CEP) representing technical personnel in both independent and broadcaster in-house production; and the International Alliance of Theatrical and Stage Employees (IATSE) representing technical personnel in the independent production sector.

The unions engage in policy advocacy as representatives of their members' labour market interests. The political context that shapes their participation in policy networks is strongly informed by the discourses of creativity, and the creative economy as an economic development strategy. As I discuss in chapter two, while the creative economy has opened up political space for the cultural sector to advance its issues at the policy level, it simultaneously obscures the material conditions of work in the cultural sector. My research shows that the strategic decisions unions make as policy actors have broader socio-cultural and political-economic significance, in so far as their strategic decisions can either reinforce or challenge dominant discourses within policy networks, and consequently, our understanding of issues related to the quality of work, and quality of life for Canadian cultural workers.

I argue that changes in cultural policy influence the level of participation and the political strategies of the unions and guilds in federal and provincial cultural policy networks. Shifts in organizational and political strategies affect the ways that unions articulate their interests as policy problems; this, in turn, affects the ways in which issues and problems are understood and acted upon by decision-makers in policy reform. While most of the unions and guilds, particularly at the federal level, have been active in cultural policy networks for several decades, unions at both federal and provincial levels are increasingly partnering with the employers – the independent producers – in their policy interventions. Analysis of my case studies leads me to conclude that this strategy is paradoxical for unions. While a partnership approach from a "production industry" standpoint arguably increases union access to and credibility with policy decision-makers, it can compromise or obscure how unions articulate cultural policy problems as *labour* problems. When unions engage in policy advocacy either independently or as a labour coalition, the direct relationship between cultural policy and its specific impact on labour markets and working conditions is most evident.

I adopt a labour-based analysis of policy networks to understand why unions participate in particular policy networks, on specific issues, at particular times, and to what end. My labour-based analysis, which I explain in chapter two, is an analytical tool that focuses on the interests of cultural workers as the point of entry for understanding how cultural policy shapes labour markets, and why cultural workers engage in policy advocacy. The challenges unions face in articulating cultural policy problems as labour issues are tied to the power relationships between policy actors within cultural policy networks. I use Marsh and Smith's (2000) concept of dialectical policy networks to understand unions as policy actors whose participation in policy networks is deeply embedded within a contested set of political and economic power

relations in policy processes. In my federal case study that examines changes to Canadian content regulations in the Canadian Radio-television and Telecommunications Commission's (CRTC) 1999 Television Policy, the application of Marsh and Smith's concept includes an analysis of power relations between national union offices, the CRTC, the broadcasters and, to a lesser degree, the independent producers. In the provincial case studies that examine film and television tax credits, this includes analysis of power relations between union locals, provincial media development agencies, key government decision-makers, and, to a larger degree, the independent producers.

The complexity of the policymaking process makes me resistant to drawing direct, linear causal linkages between union advocacy and policy outcomes except where expressly noted by key policy decision-makers. My goal is to provide insight into the shifting and contested degree of power that organized labour holds in Canadian federal and provincial film and television policy networks, and how union resources, strategies, bargains and interactions with other members of policy networks are related to the articulation of labour issues at the policy level. I argue that although the creative economy has provided justification for state investment in the cultural industries, the market logic driving the creative economy places the productive labour of cultural workers largely in the service of capital for the purposes of economic development, and thus precludes the unions from having a seat at the policy table as equal industry stakeholders. My research shows that cultural development discourses within cultural policy are important to the current and potential collective political capacity of unions representing cultural workers as policy advocates. In closing, I connect the discourses of cultural development with Murray and Gollmitzer's concept of a creative ecology (2011) as alternative policy model that positions the interests of cultural workers as central to policy development, while expanding the policy jurisdictions in which their interests need to be considered.

### *Research framework*

My research is driven by two main sets of questions. The first set is related to public policy as a form of labour market regulation for the film and television production sector. How do public policies for the film and television production sector affect the daily lived experiences of film and television workers? Does the development of film and television public policy frameworks include a consideration of the possible qualitative impact on labour markets in the film and television production industry? How is policy for the industry evaluated over time? Is the impact of policy measured in any way other than its impact on volume of production? What do existing studies and reports say about the qualitative impact of policy frameworks on labour markets at provincial and federal levels?

The second set of questions focuses on organized labour's policy capacity and strategy. Is organized labour considered a key stakeholder in policy consultation processes? How has labour's relationship to policymakers changed over the past decade? What strategies and resources do the unions use in the development and articulation of their policy positions? What role does policy play in terms of overall union activity? As policy actors, what is the relationship between unions within a labour market? Do local or regional offices receive policy support from

national offices? What strategic alliances does labour make at provincial or federal levels as policy actors? Does this change over time, and why? What are the unions' short and long-term policy goals and political strategies for the Canadian film and television industry?

Canadian content regulations for the federally regulated broadcasting industry drive the domestic television production industry, while the work of film and television production remains rooted in local film and television production labour markets that are largely driven by provincial film and television tax credits. While Canadian content regulations and provincial tax credits are discreet cultural policy frameworks, a study of the Canadian film and television production industry should necessarily account for both given the degree to which federal and provincial cultural policies interact at the industry level. The independent production model that produces, on average, 75% of all television content in Canada (Canadian Film and Television Production Association, 2005; Canadian Media Production Association, 2010) creates an industrial landscape where broadcasters, as a condition of their broadcasting license and the regulatory framework in place at the CRTC, commission Canadian content programming from independent producers. Independent producers, in accordance with broadcaster approval, shop highly mobile projects across local labour markets in Canada, based on the competitive profile of provincial film and television tax credits, and the size and skill of the available crews.

One of the reasons that it is surprising that cultural policy is not more widely understood as a form of labour market regulation is that *cultural workers are the primary objects of both Canadian content regulations and film and television production tax credits*, two of the most important Canadian cultural policies supporting the English language independent film and television production sector. Broadcasters require a minimum amount of Canadian content in order to meet their conditions of licence set by the CRTC. Canadian content is defined by the number of key creative cultural workers involved in a production. Provincial film and television tax credits are designed to increase a region's competitive profile in a highly mobile industry by providing independent producers with an indirect subsidy on the wages paid to film and television workers. Canadian content regulations and tax credits connect to create a powerful incentive for Canadian broadcasters and independent producers to employ Canadian cultural workers in the development of Canadian content programming.

#### *Methodology, key concepts & limitations*

The evidence to examine the relationship between film and television policy frameworks, labour markets and unions representing workers in the Canadian English-language film and television production sector comes from a review of interdisciplinary academic literature from policy networks, Canadian politics and political economy, Canadian communication and cultural policy, labour studies and the growing field of cultural labour. Policy analysis is drawn from a review of key policy documents, industry reports, statistical information and interviews. Seventeen in-depth interviews were conducted with key federal and provincial bureaucrats and policy decision-makers, and national and regional labour leaders from ACTRA, DGC, WGC, NABET-CEP AND IATSE (Appendix A). The transdisciplinary nature of the research means it has the potential to speak to a wide range of scholarly and industry interests. Similarly, it runs the



risk of being exclusionary through the use of academic terminology that, often as a result of highly disciplined traditions (in the case of political science) or comparatively undisciplined traditions (in the case of cultural labour), obscures meanings and the significance of key concepts for readers outside of their conventional paradigm. In the interests of developing a meaningful conversation that bridges policy, communications and labour studies, it is important to clarify my use of some key concepts related to this particular research project.

I use the term *policy framework* to refer to a set of guiding principles and objectives to meet broadly stated policy goals and attendant regulations. The *Broadcasting Act* sets out the broadly stated policy goals of Canadians telling Canadian stories on a broadcasting system owned and operated by Canadians for the Canadian federal broadcasting policy agency, the Canadian Radio-television and Telecommunications Commission (CRTC). The CRTC's Canadian content policy framework is driven by two key principles through which it attempts to meet those broadly stated objectives. First, Canadian content regulations need to compensate for market failure in particular programming categories and reserve space for Canadian stories on broadcasters' schedules. Second, it defines Canadian stories as those which are made by Canadians in key creative positions. The policy or regulatory *instruments* the CRTC uses in meeting those objectives are expenditure requirements, exhibition requirements, targeted programming definitions and the Canadian content points system.

The impact of provincial film and television production tax credits is most evident in examining local labour market dynamics. However, provincial film and television production tax credits across Canada operate as part of a global system of regional and national tax credit policies and programs. As these policies operate in similar fashion on an intra- and international scales, share very similar guiding principles of discounting the cost of the labour of cultural workers, and are designed primarily to meet the broadly stated policy goals of industrial development through production volume, I refer to the tax credit system as a policy *regime*.

My research represents a first offering to connecting unionized cultural workers and their experiences of cultural labour markets with the ongoing development of Canadian cultural policy. As with any research project, time and resource limitations required me to make choices that affect the scope and scale of the analysis. This, in turn, affects the amount of material that is presented as well as the perspectives and voices that inform the analysis. My work is a first offering for a line of research that is rich in history and broad in scope. It also produces limitations that deserve acknowledgment.

As unions are generally understudied both in Canadian communications and cultural policy scholarship, my research offers only a small window into what is a long history and wide ranging scope of policy advocacy. For example, Edwardson (2010) suggests that ACTRA and the DGC were deeply involved in the formation of the Canadian content points system that was originally developed for the Canadian Film Development Corporation in 1974. While Canadian content regulations and tax credits are two of the most important policy measures that shape film and television production in Canada, the film and television production sector is influenced by a complex range of other cultural policy issues with which the unions also engage as policy

advocates. This includes, but is not limited to, free trade and the International Convention on Cultural Diversity, the Canadian Television Fund and Canada Media Fund, digital media, the Temporary Foreign Worker Program, foreign ownership in broadcasting, copyright reform, provincial status of the artist legislation, funding for professional development and training, and municipal policy support for local film and television markets.

Analysis of Canadian cultural policy is by necessity an examination in multilevel governance. Only two cultural policy portfolios – broadcasting and copyright – remain the exclusive jurisdiction of the federal government. However, while broadcasting policy *per se* falls under exclusive federal jurisdiction, it must be understood as necessarily related to policy for the film and television production industry that makes Canadian content. Film and television production policy is developed within cultural policy networks at federal, provincial and municipal levels, and each level of government exercises varying degrees of influence on specific labour market dynamics. For example, expenditure requirements on Canadian dramatic programming affect film and television workers in Toronto more than Vancouver, as levels of Canadian dramatic programming are relatively low in Vancouver, where the foreign service production sector dominates. Restrictions on interprovincial mobility produced by the provincial tax credit regime are more of an issue for workers and their unions in the Atlantic region seeking work than in Toronto due to lower production levels in Atlantic Canada. What is missing from my research is an analysis of the ways in which municipal cultural policy shapes local labour markets and how film and television unions influence municipal politics as policy actors. The presence, or absence, for example, of major studio facilities often requires municipal leadership and investment to leverage capital from private investors, as well as provincial and federal funds. The presence or absence of studio facilities shapes the volume and type of work that labour markets attract in having a production's technical and staging requirements met. While the creative cities literature I discuss in the following chapter points to the importance of municipal cultural policy and investment in the arts and cultural industries, there exists little analysis of the specific role of unions in the dynamics of cultural policymaking at the municipal level.

Film and television production is a significant economic and employment driver in Canada's cultural workforce, and the high union density of the independent film and television production sector, combined with a long policy history for the unions provides excellent case studies to begin understanding the interactive relationship between cultural policy, cultural labour markets and unions representing cultural workers. Over 75% of all film and television production in Canada is made by the independent production sector, which is the focus of this study (Canadian Media Production Association, 2010). The remainder of film and television production – largely news, sports and entertainment magazine shows, are done by film and television professionals directly employed by the broadcasters. These are also unionized workers, represented by the CEP and the Canadian Media Guild. My first case study includes NABET 700-CEP as members in the Coalition of Canadian Audio-visual Unions (CCAU). As NABET 700 has a total membership of 2,000 film and television technicians, my case study only reflects the interests of a small percentage of the CEP's 25,000 media workers (CEP, n.d.). The labour market and professional experiences of most CEP Media and Canadian Media Guild members, and the political advocacy of their unions, is not reflected in here. Furthermore, the cultural

sector more broadly has a number of other unions and professional organizations representing cultural workers who also remain under-studied in their political capacity. Future research on the policy advocacy of unions such as the American Federation of Musicians, Canadian Actors Equity, the Writers Union of Canada, and Canadian Artists' Representation/Le Front des artistes canadiens (CARFAC), would deepen and enrich this emerging line of study further.

My study is only focused on English-language film and television production markets in Canada. French-language programming shields the Quebec broadcasting industry from much of the competition from U.S. broadcasters, thus producing a political economy for French-language film and television production that is markedly different from that of English-language production. Furthermore, the Quebec state has a distinctly different legal and policy framework for collective bargaining for cultural workers in Quebec as well as a unique funding model for cultural production. While the unions in my case studies exercise some jurisdiction over English-language production in Quebec, and the French-language production unions were initially involved in the CCAU, my study does not engage with the specific dynamics of the relationship between Quebec cultural policy for the film and television industry, French-language production markets and French film and television unions, such as l'Union des artistes; l'Association des réalisateurs et réalisatrices du Québec; le Syndicat des techniciennes et techniciens du cinéma et de la vidéo du Québec; and la Société des auteurs de radio télévision et cinéma. If the dynamics of the relationships between English language cultural workers, labour markets and cultural policy have been largely overlooked, the academic attention paid to the French language production sector – certainly in English-language academic scholarship, is best characterized as entirely absent. A scholarly contribution in this field would greatly enrich and inform our understanding of Canadian cultural policy, cultural labour markets, and cultural workers.

Notably absent from this project is the voices of cultural workers themselves. While many of the union leaders I interviewed came to their elected or staff positions after a long career in the film and television industry, their subject positions at the time of interview reflected their positions as union representatives; positions which, at points throughout the research, demonstrated a disconnect from the 'war stories' that I hear as a result of the many personal relationships that I hold with film and television workers. As a former unionized freelance production coordinator and non-union craft service attendant, with many close family ties to the industry, the voice of cultural workers can be located in my conceptualization of this research as both an academic and a political intervention.

### *Outline*

Chapter two opens the thesis with a critique of the mobilization of "creative" discourses in both policy and academic literature. I argue that while the cachet of creativity has brought welcome political attention to the arts and cultural sector, the deployment of the creative economy and related concepts, such as creative class, creative cities, creative clusters and creative industries is overly romantic, conceptually vague and fails to accurately capture or reflect the nature of work and labour markets in the cultural sector. In support of scholars including Hesmondhalgh

and Pratt (2005), and Galloway and Dunlop (2007), I argue for conceptual clarity through a return to the descriptor of ‘cultural’ to describe both workers and the industries in which, “the main interest is the symbolic, aesthetic and...artistic...” (Galloway & Dunlop, 2007, p. 6). A shift from ‘creative’ to ‘cultural’ is theoretically useful for two main reasons. First, it acknowledges that many jobs in the cultural industries are primarily administrative, technical, logistical or manual rather than creative. Second, it connects workers with their collective labour that generates the goods that define their industry, rather than examining their careers as individualized occupations. Cultural workers are involved in the production of cultural goods and services. The production and distribution of cultural goods and services in Canada is closely linked to Canadian cultural policy. We need to develop an advanced understanding of the ways in which Canadian cultural policy shapes not only the production and distribution of cultural goods and services, but the professional careers, employment conditions and daily lived experiences of the workers who collectively create cultural content. I explain why a labour-based analysis is a useful tool for bridging cultural policy and cultural labour, and for locating cultural workers as both objects and agents of cultural policy.

Chapter three examines the precarious nature of work and employment in the independent production sector, introduces how this is shaped by Canadian cultural policy, and analyses the role the unions play as labour market actors that shape and are shaped by the (global) political economy of the Canadian film and television production industry. I examine working conditions and career management strategies for film and television professionals as a challenge to dominant discourses about work in the cultural or creative industries, which Banks and Hesmondhalgh (2009) refer to as “relentlessly upbeat”. This then moves onto an analysis of the role that unions play in the Canadian film and television production industry, including organizational profiles of ACTRA, DGC, WGC, CEP and IATSE. I examine the ways in which unions, as labour market institutions, represent their members, and how this is shaped by the legal framework in which they bargain; the structural power of major media enterprises; and the highly mobile and competitive nature of the film and television production sector. The chapter closes with an analysis of why workers have differential access to employment in the foreign service sector versus Canadian English-language television production sector as a step to understanding the motives and strategies of unions and guilds as cultural policy actors.

Chapter four opens with a review of the political economy of dramatic television programming in Canada and why the genre of drama has historically been a political issue for both the CRTC and for film and television production unions. I then explain why the CRTC’s 1999 Television Policy produced a decline in dramatic programming and the impact this policy shift had on the English-language independent film and television production sector labour markets. I examine union policy advocacy strategies prior to and after the 1999 Television Policy in relation to the prevailing policy discourses of the CRTC and the broadcasters. I argue that the sharp decline in dramatic programming after the 1999 Television Policy was a catalyst in the formation of the Coalition of Canadian Audio-visual Unions (CCAU). The CCAU was successful, over time, in situating the decline in Canadian drama as a political priority for the CRTC. I evaluate the conditions that contributed to the eventual dissolution of the CCAU and labour’s revised policy advocacy strategies as a product of the unions’ evolving policy capacity, which is embedded in a

demanding and rapidly changing policy environment. In closing, I argue that the formation and strategy of the CCAU both improved labour's credibility as key policy stakeholders, and precipitated an important policy shift that may have long-term beneficial impacts on film and television production labour markets across Canada.

Chapter five begins with an analysis of the design and impact of provincial film and television tax credit programs on labour markets and the daily lived experiences of cultural workers in Toronto and Halifax as major and regional production centres respectively. My analysis then turns to the role that labour plays in the policy networks involved in the ongoing development of the tax credit regime. I examine power relationships in Ontario and Nova Scotia provincial policy networks with a particular focus on the role of the provincial development agencies for the film and television industry in each province. I then examine the objectives and strategies of FilmOntario and the Nova Scotia Motion Picture Industry Association (NSMPIA) as industry stakeholder organizations embedded within these political power structures. My analysis focuses on the role of organized labour within the provincial industry associations, and the degree to which the industry association provides an avenue for the local and district unions to articulate their voices and issues at the policy level. I argue that the degree to which labour is able to leverage its influence in industry associations and the policy environment more broadly is a product of the size of the local labour markets in which they operate, which in turn shapes their organizational expertise and financial resources. My analysis leads me to conclude that union "success" in influencing policy is relative; while the advocacy of FilmOntario has produced desired policy changes, the core issues that the tax credit regime poses for the quality of work in Ontario's film and television production sector remain unaddressed. This stems from the fact the brokerage politics within industry associations have a silencing effect on labour issues which conflict with the interest of the independent producers who remain the primary clients of the provincial development agencies. In contrast, while the comparatively ineffectual advocacy of the NSMPIA means that it remains a marginalized political player, it is that very ineffectiveness that has inspired the Nova Scotia unions to engage in political advocacy outside of the industry association, specifically articulating policy problems as *labour* problems. This allows for the possibility of these much smaller unions to engage in policy advocacy that includes meaningful political debate about cultural policy as labour market regulation and why the quality of work matters to the creative economy.

Chapter six summarizes the key findings of the study, and argues the significance of the unions as cultural policy actors lies in their distinct interests as industrial stakeholders within policy networks. Only unions have the motivation and knowledge to clearly and consistently articulate the impact that cultural policies in Canada have on the professional and personal lives of cultural workers. I advance the Gollmitzer and Murray's (2011) model as a conceptual map which scholars and unions can use to advance the interests and issues of cultural workers as central to the policy process. Given that cultural production is labour-intensive, and that cultural production is an important site of social, cultural, and political communication and ideological struggle, principles of good public policy should take into account the ways in which cultural policy shapes cultural work, and why the national and local union offices need to include cultural policy advocacy as a pillar of their organizational operations.

A sophisticated understanding of the ongoing development of cultural policy accounts for the political role of the cultural workers. A sophisticated understanding of the operationalization of cultural policy accounts for the ways in which it not only meets industrial and cultural objectives through stimulating the production cultural goods and services, but how it shapes the lived daily experiences and professional lives of the cultural workers who make them. Examining the interactive relationship between the development and operationalization of cultural policy allows us to situate cultural workers as both objects *and* agents of cultural policy. The degree to which the unions are able to articulate cultural policy issues as issues affecting cultural workers has significant political import. Locating labour in cultural policy challenges dominant discourses around the ability of the creative economy to provide 'good' jobs and ameliorate the economic impact of deindustrialization. Locating labour in cultural policy provides cultural workers with a means by which they can understand the challenges their unions face in negotiating collective agreements not only as a function of the structural power of international capital, but also as a function of the policy choices made by their elected governments. Locating labour in cultural policy necessarily entails a critical examination of both the quantity and the quality of work in the cultural sector. Given the significant investment that provincial and federal governments in Canada make in supporting cultural production, understanding the role state plays in conditioning cultural labour markets is essential information for unions and other policy activists whose goals include the re-articulation of policy objective to include economic, political and social security for cultural workers, and not just market success for the goods they produce.

## Chapter 2: Creative class politics: Theories of work and workers in the creative economy

The term The Creative Economy has become extraordinarily widespread throughout the world. I mean, I've traveled all over the world now, and people, everybody wants to be creative, every country wants to be creative, every city wants to be known as creative. It's getting a little ridiculous (J. Howkins, quoted in Ghelfi, 2005).

Academic literature that engages with the creative economy is theoretically messy territory, with related concepts such as knowledge economy, creative cities, creative clusters, creative class and creative or cultural industries sharing overlapping and blurry conceptual boundaries. While the boundaries are contested, all these concepts are deeply connected to what I refer to as the discourse of creativity that has dominated academic and policy discussions related to the arts and cultural sector over the past decade. A unifying theme among the concepts, however, is the centrality of *labour*; the creative capacity of the labour force is, to varying degrees of emphasis, a central feature of the models and theories of the creative economy. With its theoretical foundations rooted in emphasizing the value of human creativity in generating and sustaining economic activity, the creative economy literature provides an important point of entry for examining work and workers in the arts and cultural industries. In its practical applications, the creative economy is intended to provide answers to economic development issues produced by a decline in the traditional manufacturing base of Canada's economy.

The cultural industries play a starring role in the creative economy literature, with cultural workers embodying the essence of creativity. The discourse of creativity that permeates creative economy literature is often embraced by cultural workers and their organizations, as it opens up political space for stakeholders in the arts and cultural industries to advance their interests at the policy level. It also means that the instrumental value of the arts and cultural industries has taken centre stage in a range of policy discussions, from neighbourhood revitalization, to regional economic development, to attracting highly mobile talent in internationally competitive labour markets. However, the discourse of creativity is deeply embedded within the framework of the creative *economy*, and thus is bounded by the logic of economic development as a primary goal. This consequently shapes the terms and conditions under which particular interests are heard and understood to be central to the policy discussion and the creative (city, class, cluster, industry) under consideration.

This chapter has three sections. The first section examines the problems associated with the discursive construction and mobilization of 'creativity' in academic and policy circles. The discourse of creativity romanticizes the nature of working in the cultural industries; masks significant power relations between key actors in the creative economy; and cloaks the risks associated with an economic development strategy that is based on precarious employment in a globally competitive, highly mobile industry; one that is extremely susceptible to changes in the political imagination as a result of its deep ties to the policy environment in which it operates. I engage with the debates in the emerging field of cultural labour over the use of

‘creative’ or ‘cultural’ to describe industries and workers. I argue the language of ‘cultural’ workers and ‘cultural’ industries most accurately captures the collective experiences of all workers in the cultural industries (and indeed in the arts sector more broadly), as well as the policy environment that shapes labour markets in which they work. I explain my choice to use the term creative economy for its ability to most accurately capture the prevailing policy environment in which cultural workers and their unions attempt to articulate labour problems as policy problems.

The second section of the chapter turns to the degree to which the emerging field of cultural labour and the well established field of cultural policy are in conversation with each other. The employment of cultural workers is a defining feature of film and television policy in Canada. It is thus surprising that the academic cultural policy community in Canada has largely overlooked the relationship that cultural policy shares with cultural labour markets and the daily lived experiences of cultural workers. This oversight has produced three basic shortcomings in the existing literature.

First, much of the work on Canadian cultural policy that examines the broadcasting, film and television production sector is intellectually preoccupied with tensions between the cultural goals and industrial goals of policymakers and stakeholders. Although the creative economy has considerable political traction in Canadian politics, particularly at the provincial level, Canada has not made the wholesale discursive shift from ‘cultural industries’ to ‘creative industries’, as has the UK, for example. This is because of the highly politicized nature of cultural production in Canada that is driven by a public policy framework as historically rooted in the discourses of cultural sovereignty and national identity as it is in industrial and economic development. The problem lies not in the identification of the tensions between cultural goals, such as the cultivation of a national identity through the dissemination of Canadian television programming, and industrial goals, such as stimulation of a vibrant industrial infrastructure to produce content. Rather, the problem lies in the analytical presumption that the two are necessarily competing at best or mutually exclusive at the most extreme.

The second issue stems from the first. Overlooking the deep connection between cultural and industrial objectives masks the labour market outcomes produced as a result of cultural policy implementation. Stemming from that, we understand even less about the political role that workers in the arts and cultural sector play in the development of cultural policies that shape their professional careers and daily lived experiences. The artificial separation of cultural and industrial policy objectives, a failure to connect cultural policy frameworks with labour market outcomes, and a general exclusion or misrepresentation of labour’s role as policy actors has produced a body of literature on the largest of the Canadian cultural industries that at its core fails to account for the inherently political subject positions of cultural workers and their unions as objects and agents of Canadian cultural policy.

The third section of the chapter sets out the theoretical lens and analytical framework for the case studies that provides the means by which the fields of cultural policy and cultural labour can engage in a deep conversation with each other. My use of a labour-based analysis is



inspired by the gender-based policy analysis framework used by the Canadian federal government to examine the differential ways in which policy design and implementation impact women and men. I argue that a labour-based policy analysis is one tool by which we can understand how the design and implementation of cultural policy has differential impacts on groups of workers based on their occupations, geographical location, and access to different sectors of the film and television production industry in Canada. A labour-based policy analysis also provides an analytical framework that accounts for how the broader political-economic environment shapes power relations between various stakeholder groups within film and television policy networks. This, in turn, allows us a means by which we can understand the various choices that unions make as policy actors in the discursive framing of their arguments, in their associational strategies, and as a product of the resources they bring to the policy table. In short, a labour-based analysis brings workers into the centre of the policy process as both objects and agents of cultural policy.

The objective of the chapter is to demonstrate that we need to look at labour as key industry stakeholders in the development of public policy processes for the Canadian cultural sector. There are three reasons for this: first, to develop a more complex understanding of the ways in which cultural and industrial objectives of Canadian cultural policy - and in particular, film, television and broadcasting policy - are mutually constitutive in their implementation, and how this might affect policy outcomes and evaluation; second, to understand the ways in which cultural policy operates as a form of labour market regulation; and third, to meaningfully situate the voices of cultural workers in the development of policy frameworks as a step to understanding the role they play in supporting, contesting and re-imagining the concept and construction of the creative economy.

### *The instrumentalization of creativity*

In 2001, John Howkins, the author quoted at the opening of this chapter, published *The Creative Economy: How people make money from ideas*, a work that has been widely credited for making a significant contribution to the popularization of the creative economy (Gollmitzer & Murray, 2008; Howkins, 2001; Landry, 2006; United Nations, 2008). The creative economy is characterized by the notion that creative assets – referencing both creative inputs, in terms of creative labour, and outputs, or products of, creative work – are *a priori* to a thriving post-industrial economy (Tepper, 2002). The framework is similar to theories of the knowledge-based economy in the sense that it is driven by human capital, whereby, “people with ideas – people who own ideas – have become more powerful than people who work machines and, in many cases, more powerful than people who own machines” (Howkins, 2001, p. ix). Whereas the knowledge-based economy literature emphasizes the need for highly skilled human capital, innovation and technological development as key elements for economic success (Beckstead & Vinodrai, 2003), the creative economy emphasizes the value of creativity as the key ingredient required for cultivating long-term economic development. Florida argues in his widely referenced *Rise of the Creative Class* that, “‘knowledge’ and ‘information’ are the tools and materials of creativity. ‘Innovation’, whether in the form of a new technological artifact or a new business model or methods, is its product” (Florida, 2002, p. 44).

The logic of the creative economy is summarized as follows. The creative economy is powered by ideas. These ideas are generated by highly talented, creative people. Creative people can be found across many sectors of the economy, but some sectors, people, and occupations, are more creative than others. Key works on the creative economy thus conceptualize the creative economy as encompassing much more than just the cultural industries, although the cultural industries feature prominently throughout models of the creative economy. The UN *Creative Economy Report 2008* identifies three areas of the economy<sup>1</sup> in which creativity is particularly concentrated.

Artistic creativity involves imagination and a capacity to generate original ideas and novel ways of interpreting the world, expressed in text, sound and image;

Scientific creativity involves curiosity and a willingness to experiment and make new connections in problem-solving;

Economic creativity is a dynamic process leading towards innovation in technology, business practices, marketing, *etc.*, and is closely linked to gaining competitive advantages in the economy (United Nations, 2008, p. 9)

While creative human capital is a key feature of the creative economy, the theoretical interest in the value of that human capital lies in its capacity to contribute to the economic development of a particular locale. In promoting the value of creativity, to business and to governments interested in developing creative economies, the discourse of creativity fashions a high-gloss picture of what work and labour relations in the creative economy look like. It is a project that serves two functions. One, it positions the creative economy as a viable, and *desirable*, economic development strategy for a post-industrial economy. In doing so, it normalizes and justifies prominent features of labour markets and employment relations based on a non-standard employment relationship; one that in its core characteristics is based on employment and income insecurity, excessive overtime, contract, freelance or self-employment, and where risk is both individualized and devolved from the employer to the worker. It is also a landscape that is largely devoid of unions and collective bargaining. The creative economy does not need unions; the individual labour market power of highly talented, creative workers makes the need for unions irrelevant by the logic of the creative economy. The widely popular work of Richard Florida exemplifies this logic.

In 2002, Richard Florida published *The Rise of the Creative Class*. Florida argues that the economic building blocks of the creative economy are the “Creative Class,” who can be categorized into the “Super Creative Core” and the “Creative Professionals”. The “Super-Creative Core” includes, “scientists and engineers, university professors, poets and novelists, artists, entertainers, actors, designers and architects...non fiction writers, editors, cultural figures, think-tank researchers, analysts and other opinion-makers.” “Creative Professionals”

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<sup>1</sup> The UN report simply argues this model applies to “today’s economy.” This is clearly problematic in failing to acknowledge vast differences in the profile of national, regional and local economies across the globe.

are those who “engage in creative problem solving, drawing on complex bodies of knowledge to solve specific problems,” and includes those who work in knowledge intensive industries such as high-tech sectors, financial services, the legal and health care professions and business management, as well as, “technicians and others who apply complex bodies of knowledge to working with physical materials” (Florida, 2002, pp. 66-67).

Florida’s Creative Class enjoys considerable autonomy and power both in the workplace and in labour markets. The Creative Class enjoys “horizontal hypermobility” in labour markets, moving from one company or project to the next “in search of what they want” (Florida, 2002, p. 104). Florida argues the unraveling of the standard employment model and the social contract is a liberatory development for the Creative Class when he says, “most believe that it’s better to move around: they get more options that way, and it is easier to move up by moving on. They understand that their only real job security comes from their capabilities and continued productivity” (Florida, 2002, 110). The Creative Class prefers the “no collar workplace” where Microsoft technicians, “want to dress like cosmopolitan, successful artists, befitting their status as the creative economic vanguard” (Florida, 2002, p. 119). The workplace has literally been transformed to meet the demands of the Creative Class – the office has become a “suburban campus [that has] virtually everything a worker would want or need – from espresso bars and free food to on-site day care, state of the art health facilities, outdoor Frisbee fields and concierge services” (Florida, 2002, p. 123).

Quality of place features front and centre in Florida’s arguments. The backbone of his creative class arguments is based on a series of indices that measure what attracts the creative class to a geographic area. His three T’s – technology, talent and tolerance – are the three primary characteristics that Florida contends regions require in order to attract the Creative Class. These three T’s are driven by, amongst other things, the presence of cultural workers. The Bohemian Index measures the “number of writers, designers, musicians, actors and directors, painters and sculptors, photographers and dancers” in a particular region. Florida argues their presence is a particularly strong predictor of “everything from a region’s high-technology base to its overall population and employment growth” (Florida, 2002, p. 260). Florida’s Bohemian Index thus does double duty in instrumentalizing the arts and cultural sectors by placing the workers within it at the “Super Creative Core” of his Creative Class model, and by using them as an indicator of a region’s attractiveness to the Creative Class.

The parsimony of Florida’s model made it politically attractive to furthering the agenda of the creative cities movement (Landry, 2006; Pratt, 2008). It is important at this point to note that the creative cities movement is, in significant ways, distinct from the discourse of creativity in the creative economy literature. The creative cities movement seeks to integrate arts, culture, and heritage as central to the policy planning and urban development processes across a broad range of policy areas (Duxbury, 2004). Creative cities use cultural resources to inform economic development, *as well as* social policy goals, including education, social services, health, housing and urban planning (Landry, 2000 in Gollmitzer & Murray, 2008). The creative cities literature emerged well before the popularity of the creative economy, dating back to the early 1990s (Landry, 2006). Vancouver released *Toward the Creative City* report in 1993, which neatly

articulates the inclusive and broadly conceptualized value of the arts and cultural industries in the creative cities model:

A city where: the arts are respected for their aesthetic importance and for their ability to foster understanding and communication; cultural diversity is embraced and the expression of creativity in all its forms is encouraged; people can enjoy creative activities in their everyday lives; the arts are viewed as an educational necessity and creativity is recognized as an invaluable skill in the Age of Information; the arts are valued for their important role in the economy as well as for their spiritual, intellectual and social benefits (quoted in Duxbury, 2004, p. 1)

However, as Pratt (2008) points out, “lay usage of Florida’s work is commonly deployed as the means by which cities may be made ‘creative’” (Pratt, 2008, p. 2). Florida’s model frequently appears in creative city planning documents. While Florida’s logic does not entirely eclipse the broadly conceptualized value of arts and cultural infrastructure, access to arts and cultural programming for underserved populations, and the ongoing development of public art programs, these aspects of the creative cities movement work largely in the service of the creative economy framework. The opening of the City of Toronto’s 2003 *Culture Plan for the Creative City* reflects the degree to which Florida’s arguments were quickly embraced as part of the creative cities planning process.<sup>2</sup>

The Culture Plan recognizes that great cities of the world are all Creative Cities whose citizens work with ideas, are intensely mobile and insist on a high quality of life wherever they choose to live. Such cities, and their citizens, have an overwhelming impact on the economies of their countries and compete with one another directly for trade, for investment and most of all, for talent. Toronto is already a Creative City: its competitors are now such major metropolises as Chicago, Milan, Barcelona, Montreal and San Francisco. These are cities with similar profiles: great cultural diversity, high percentages of adults with post-secondary education and high proportions of economic activity in the knowledge industries (City of Toronto Culture Division, 2003, p. 1)

Consequently, while creative cities planning documents and literature routinely feature the cultural industries as economic and employment drivers, there is little critical examination of *what kind of jobs these are*. The discourse of creativity frames working in the cultural industries as an “intrinsically progressive form of work” (Banks & Hesmondhalgh, 2009, p. 416). We can see evidence of this in contemporary academic scholarship on creative cities. In describing the local labour market dynamics and employment relations for freelance cultural workers Scott (2010) fails to capture the kind of chronic anxiety that stems from a career built on short-term contracts, and the ways in which social networking becomes a survival strategy, rather than a career strategy when he states that,

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<sup>2</sup> More currently, of the ten culture plan indicators the City of Toronto lists on its 2008 Culture Plan Progress Report, number five is listed as, “Toronto’s ranking on the Creativity Index developed by Richard Florida, as compared with other major North American cities.” (City of Toronto Culture Division, 2008, p. 10)

...Team work helps to stimulate individual creative activity and to promote joint creative synergies, and is therefore widely practiced where multidimensional but discrete projects are at stake...these projects invariably change their substantive content and design specifications from one instance to the next so that team rarely survives intact for very long. Instead, as any given team breaks up, the individual workers that were involved proceed with their accumulated experiences and know-how to recombine with other workers in other teams, thereby establishing the creative process anew (Scott, 2010, p. 123)

Scott's analysis reflects a simplistic understanding of the mobility of creative workers. This stems from an incomplete accounting of the ways in which public policy shapes work in the creative economy, particularly as it relates to labour and employment relations. This analytical gap is somewhat surprising, given the degree to which ideas of creativity are taken up in the context of the creative economy as an economic development model. For example, Scott refers to the importance of the literature on creative clustering when he refers to "inflows of talented migrants who recognize that their ambitions are most likely to be satisfied in specialized clusters where their aptitudes are most in demand" (Scott, 2010, p. 123). My case studies clearly demonstrate that borders – both internationally and inter-provincially – play an important role in shaping access to work for film and television professionals. Scott's contention that Hollywood is filled with creative talent from "all over the world" (p. 123) fails to acknowledge the barrier that getting a U.S. work permit poses to many cultural workers in pursuit of their 'creative' fulfillment.

*The Rise of the Creative Class* was Florida's first offering of several to follow based on the creative class model (Florida, 2005; 2007). Many scholars have directly engaged with the deeply problematic assumptions and assertions of Florida's model, (Markusen, 2006; Markusen, Wassall, DeNatale, & Cohen, 2008; Peck, 2005; Pratt, 2008). Perhaps the most succinct critique comes from Markusen *et. al.* (2008) in their rejection of Florida's methodology.

Florida's definition of the creative class [includes] large lumpy occupational categories that are defined by the government agencies that create them, largely on the basis of educational attainment and credentials. So, in Florida's usage, the creative class boils down to those who have received higher education, whether or not they are actually doing creative work, and excludes all creative workers without degrees. Because this definition is both crude and politically repugnant, we do not use the term *creative class* in our work (Markusen, Wassall, DeNatale, & Cohen, 2008, p. 27)

Despite widespread criticism from across the academic community for its lack of conceptual clarity, methodological problems and theoretical shortcomings, Florida's work has been an important development in the political life of the creative economy and in shaping the discourses of creativity. As Landry notes, the popularity of *The Rise of the Creative Class* gave the concept of creativity, "a dramatic lift with the danger of hyping the concept out of favour" (Landry, 2006, p. 6). While the discourse of creativity may be driven by the interests of capital,

they are also embraced by governments and arts and cultural advocacy groups for extremely pragmatic reasons. The historical trajectory of the creative economy is as much tied to political pragmatism in seeking new rationales for state support for the arts as it is to an evolution in economic development strategies. The UK made the discursive shift from cultural to creative industries in 1997 when the Blair Labour government came to office (Gollmitzer & Murray, 2008). Howkins recalls the reason for this shift.

The then Labour culture secretary, Chris Smith, had this notion that if he talked about the economic benefits of the arts he would get more money from the Treasury. If Chris Could say ‘I want £500 million or even £1 billion for the arts creating jobs, creating economic activity, paying taxes, etc.’, the Treasury would say ‘Oh, oh I see, right then...so...’ and that’s what he did. It was clearly a presentational ploy to get more money out of the government, and it was very successful. That was picked up, and everyone said ‘Oh my God, that arts are not only artistically valuable, but they are economically important as well.’ That’s a simple message and we all know that message now...” (Ghelfi, 2005).

Mobilization of the discourse of creativity within the framework of the creative economy allows the cultural sector to adopt arguments used to support international competitiveness based on innovation and, particularly when combined with the popularity of creative class arguments, make an economic case for public support of the cultural industries. Garnham (2005) argues that the uptake of creative discourses by the cultural sector is deeply tied to the policy environment. Garnham argues the discursive shift from “cultural industries” to “creative industries” reflects the “attempt by the cultural sector and the cultural policy community to share in its relations with the government, and in policy presentation for the media, the unquestioned prestige that now attaches to the information society and to any policy that supposedly favours its development” (Garnham, 2005, p. 20). Yet as Gollmitzer and Murray (2008) argue, the consequences of the instrumentalization of the arts and cultural industries in the service of the creative economy is that the policy framework privileges economic outcomes, with a diminished focus on the cultural or social outcomes of the production, distribution, and consumption of cultural goods and services. Banks and Hesmondhalgh (2009) further problematize the discourses of creativity at the policy level by directly engaging with questions around what kind of jobs drive the creative economy. The authors argue that the policy framework for the creative industries fails to account for the systemic problems associated with the “dark side” of cultural labour, including individualized risk assumption, self-exploitation, low income levels and chronic employment insecurity. Should these issues remain unaddressed, they argue the creative economy framework will “fail to prevent greater harm befalling those people who work within the sector, and that the potential for creative labour to contribute, at least in some way, to human flourishing under present conditions will be inhibited” (Banks & Hesmondhalgh, 2009, p. 419). Banks and Hesmondhalgh suspect that the question of the quality of work goes largely unaddressed in other national contexts, and in the case of Canada, they are correct. In order to understand the context in which the unions in my case study present their issues as policy problems, it is necessary to understand the ways in which the discourses of creativity engage with work and employment relations in the Canadian context, how this is taken up in the context of public policy, and what the implications are for workers.

In 2007, the Conference Board of Canada hosted the *International Forum on the Creative Economy* in association with the Department of Canadian Heritage. The conference marks an important moment in the political profile of the Canadian arts and cultural industries by bringing together internationally acknowledged scholars, business leaders and key policy decision-makers to discuss the potential of the arts and cultural industries in shaping the economic future of Canada. Despite a general consensus on the importance of cultivating a deep pool of highly skilled creative talent, the conference's focus on the creative economy as a business and economic development strategy came largely at the expense of a critical examination of labour market dynamics and the ways in which cultural policy shapes work in the cultural sector. Consequently, the conference report typifies the types of discourses associated with Florida's creative class model.

Talent is an indispensable driver of the creative economy. Skilled and knowledgeable creative people are essential to producing creative content, developing and deploying engaging delivery platforms, judging consumer demand, and designing creative responses to that demand. The creative economy, like any other segment of the economy, depends on a high-quality supply of talented people, sufficient quantities of workers with the right skill-sets, and efficient mechanisms for facilitating the flow of skilled workers into productive employment (Conference Board of Canada, 2008, p. 38)

In the creative economy, individuals and teams are valued for the diversity they bring individually and collectively to the projects they work on. Creative firms are valued in the marketplace for their *distinctive* goods and services, which are characterized by a *diversity* of expression, a *uniqueness* in the way they are delivered to the market, and their ability to resonate with *different* segments of the marketplace. In the creative economy, diversity can also refer to the mix of skill sets required to ensure a successful creative collaboration, one that taps the talents of creative individuals and teams, leverages the power of technologies, and commoditizes the creative experience to ensure that creative people are rewarded for their efforts and encouraged to bring forth new works to a waiting and demanding public (Conference Board of Canada, 2008, p. 41)

In 2008, Florida was commissioned by the Premier of Ontario to author a report and recommendations on "how to ensure Ontario's economy and people remain globally competitive and prosperous" (Martin Prosperity Institute, 2008, p. iv). In *Ontario in the Creative Age*, Florida calls for Ontario's economy to "harness the full creative potential of all Ontarians" and become the "first in the world with half [of the] workforce in the high-value, high-paying jobs of the creative economy by 2030" (Martin Prosperity Institute, 2008, p. v). His popularity in policy circles in Canada<sup>3</sup> is somewhat confusing given his persistent silence on the role that the state should play in attracting the creative class, with *Ontario in the Creative Age* being no exception. The report offers little by way of concrete steps that the province should take to pursue his broad recommendations.

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<sup>3</sup> Florida's work was also widely popular across the U.S. in terms of municipal and regional planning strategies. See Grodach & Loukaitou-Sideris (2007).

The Entertainment and Creative Industries are a featured sector in the Ontario provincial government's 2011 provincial progress report, and entirely as a result of its capacity as an economic and employment driver. The report highlights tax incentive programs, and, in particular, the film and television production tax credits I examine in chapter five, as key policy instruments that stimulate business investment and "create jobs in exciting new industries" (Government of Ontario, 2011).

Since 2003, employment in Ontario's entertainment and creative industries has grown faster than employment in the broader economy. The sector employed approximately 304,000 Ontarians in 2010, an increase of 15%, or 39,000 well-paying jobs, compared to 2003 (Government of Ontario, 2011).

Notably, the Progress Report does not elaborate on what constitutes a "well-paying job," nor is there any discussion of the quality of jobs in terms of employment or income security. These examples illustrate that, while discourses associated with the creative economy may serve to justify significant state investment in the arts and cultural industries, and improve the political profile of the arts and cultural sector, as Tepper (2002) notes, they do not necessarily produce deep understanding of the work and institutions, including policy frameworks, of which it is constituted. I will now review recent scholarship from the emerging field of cultural labour as an analytical alternative to the glamorization of work and employment relations in the discourse of creativity.

#### *Creative class dismissed: cue the cultural worker*

'Creative' may be a popular adjective to describe economies, workers, industries and cities in which the arts and cultural industries play a central role, but it is not the most appropriate. While the emerging discipline of cultural labour critically examines work in film, television, interactive digital media, sound recording, publishing and other sectors at the core of the creative economy, authors have yet to reach a consensus on whether the term 'cultural' or 'creative' most appropriately describes the nature of the work or the industries to which workers dedicate their professional lives. I argue that the term 'creative' as a descriptor for industries, workers and occupations in the film and television industry carries with it insufficient analytical tractability for three main reasons. First, it fails to adequately reflect the nature of work for film and television professionals. Second, it is fundamentally disconnected from the craft-based identity cultural workers share that forms the basis of their unions. Third, it obscures the specific and unique characteristics of producing cultural goods and disembeds labour markets from the highly politicized context that underpins policy support for the arts and cultural sector. The language of 'cultural workers' or 'cultural labour' provides a means by which we understand how the production of cultural products requires the inputs of a range of creative, administrative, logistical, technical and manual workers. It allows us to understand why union density in the film and television production sector defies current union density trends in the broader economy, despite the highly unstable and precarious nature of work that is often seen as a barrier to collective bargaining. The term cultural, particularly in the Canadian



context, also aligns with the historic roots of the policy frameworks that far predate the creative economy, and which at times serve as a source of discursive power for the unions in their policy interventions. My continuing use of the term *creative economy* is deliberate, reflecting the discursive logic of the current policy environment in which the unions engage as policy actors.

The creative labour literature makes an important contribution to challenging the discourses of the creative economy through a critical examination of labour from the shop floor. Contrary to creative economy discourses that position workers in the creative industries as well paid, highly autonomous and mobile, the creative labour literature engages with the professional lives of self-employed, freelance workers who experience chronic employment and income insecurity as a result of their close ties to highly unstable labour markets. Recent scholarship examines how long working hours, free labour and the ways in which risk and professional development is assumed by the individual worker are characteristic of professional careers in the screen-based industries (Dyer-Witheford & de Peuter, 2006; Hesmondhalgh & Baker, 2011; McKinlay & Smith, 2009; Ursell 2000). Helen Blair and Susan Christopherson examine the ways in which systemic gender, age and racialized discrimination is embedded in informal industry networks (Blair, 2001; Christopherson, 2008).

Susan Christopherson has made the most sustained contribution to linking cultural labour markets with the policy contexts in which they operate, noting that the broader literature tends to, “consider creative industries as *sui generis* and set apart from the context of the economic institutions that construct incentives in market economies” (Christopherson, 2009). Her work focuses on film and television production in the United States, examining the impact that regulatory frameworks and place-based incentives have on the overall industrial structures and strategies of large corporations and, in turn, how this shapes industrial strategies; sub-,national and international competition in film and television labour markets; labour power; and work experiences for production professionals.<sup>4</sup> Her conclusions from her

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<sup>4</sup> See also, for example:

Christopherson, S. (2009). Working in the Creative Economy: Risk, Adaptation, and the persistence of exclusionary networks. In A. McKinlay, & C. Smith (Eds.), *Creative labour: working in the creative industries* (pp. 72-90). New York, NY, USA: Palgrave MacMillan.

Christopherson, S. (2005). Divide and conquer : regional competition in a concentrated media industry in Elmer, Greg, & Gasher, Mike (Eds). *Contracting out Hollywood : runaway productions and foreign location shooting* / Rowman & Littlefield, Lanham, MD

Christopherson, S. (2004). The divergent worlds of new media: how policy shapes work in the creative economy. *Review of Policy Research* , 21 (4), 543-558.

Christopherson S, (2002). "Project work in context: regulatory change and the new geography of media" *Environment and Planning A* 34(11) 2003 – 2015

Storper, M. & Christopherson, S. (1987). Flexible Specialization and Regional Industrial Agglomerations: The Case of the U.S. Motion Picture Industry. *Annals of the Association of American Geographers*, 77(1), 104-117.

international comparison of new media workers in Sweden, Germany and the U.S. merit quoting.

While Sweden and Germany differ from one another in the political frameworks governing employment policy and industrial relations, they have some common features (such as employee voice in management decisions) that make for employment conditions significantly different from those in the United States. These policy-based differences affect the process of skill acquisition, the worker's control over time and tools, and expectations regarding relationships with clients and customers. By comparing the ways in which new media work is evolving in these different national settings we can begin to understand the influence of regulatory and policy frameworks on this new occupation (Christopherson S. , 2004, p. 545).

The most significant contribution in connecting cultural workers to the broader policy environment in the Canadian context comes from Mirjam Gollmitzer and Catherine Murray in two reports authored for the Canadian Conference of the Arts. In *From Economy to ecology: a policy framework for creative labour* (2008), the authors review the principal theories and models of the creative economy, and provide a thorough review of key policy instruments used internationally to support creative labour. They advance their own model of a 'creative ecology' that broadens the objectives well beyond the economic to the social and cultural. The authors reference the work of Charles Landry and his work on creative cities that adopts an integrated planning approach to urban development. They add to the creative cities literature by placing the daily lived experiences of workers, their labour markets and employment relations as a central aspect of the policy development process. Thus, a creative ecology framework, they argue, would embed discourses of the creative economy in the everyday experiences of life and work, noting that,

...despite the general assumption that the creative economy will produce a more flexible, multiskilled and mobile labour force which is increasingly self-employed and thus resembling the cultural sector in its core characteristics, most countries...have not yet developed an integrated conception of creative labour policy" (Gollmitzer & Murray, 2008, p. 4)

Gollmitzer and Murray are referring to a full complement of policy supports, including economic, social and cultural policy that would constitute a 'creative labour policy' as they outline it. In their 2009 follow up to the 2008 report, *Work Flows and Flexicurity: Canadian cultural labour in the era of the creative economy*, Gollmitzer and Murray focus on labour laws and policies, drawing on the 2006 Harry Arthurs report on federal labour standards for recommendations specific to the Canadian policy context. They also examine flexicurity policies<sup>5</sup> in the EU, calling for a comprehensive policy framework that would provide social and income security for workers in the Canadian arts and cultural sector. The authors note that a

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<sup>5</sup> The Employment, Social Affairs and Inclusion Division of the European Commission defines flexicurity as, "an integrated strategy for enhancing, at the same time, flexibility and security in the labour market. It attempts to reconcile employers' need for a flexible workforce with workers' need for security – confidence that they will not face long periods of unemployment" (European Commission, 2012).

creative labour policy requires a nuanced and holistic understanding of creative labour, arguing that, ‘the voices of creative workers themselves should make the single most important contribution when it comes to the design of effective and concrete policy instruments’ (Gollmizter & Murray, 2009, p. 8).

The glamorization of creativity permeates even those academic interventions whose express purpose is to critically evaluate the degree to which the dominant discourses around creativity reflect the daily lived experiences of cultural workers. In *Creative Labour: Media work in three cultural industries*, Hesmondhalgh and Baker (2011) make a substantial contribution to the emerging field of creative labour, their comprehensive examination of what constitutes good and bad work in the cultural industries. Their cross-sectoral, multi-sited qualitative research that spans television production, the music industry and magazine publishing contextualizes their findings in the broader organizational, social and political-economic environment. The result is a rich and complex analysis that combines structure, agency and resistance in its analysis of why work in the cultural industries is at times pleasurable and rewarding, while simultaneously displaying many characteristics of ‘bad’ work.

Even with the scope and depth of their research, the authors make claims about work in the cultural industries that more closely reflect a Floridian oasis than the daily lived experiences of many workers in the cultural industries. Hesmondhalgh and Baker (2011) conclude that, “jobs, occupations and careers in the cultural industries rarely involve grueling physical demands or tasks that endanger the person undertaking them. They hardly ever involve work of a kind that many others will find disgusting or disdainful...In fact, cultural-industry jobs are often thought of as desirable and intriguing, even glamorous” (Hesmondhalgh & Baker, 2011, p. 221). The authors are right. Working in the cultural industries is often thought of as glamorous. For some high profile industry celebrities, it is. However, as I will examine in further detail in chapter three, the reality of working in the cultural industries for most workers is a far cry from the red carpets ‘as seen on television’. Working irregular hours, a minimum of thirteen hours a day, five, six or seven days a week, for months at a time, is physically grueling, and has been directly linked to negative health outcomes (Wexler, 2006). Specific job requirements in the film and television production industry are physically grueling, from steadicam operators who wear body rigs weighing over 100 pounds in some configurations; to grips and electricians who load in, set up, move and load out trailers full of gear on a daily basis; to set dressers who routinely haul heavy set dressing in and out of a range of locations that may or may not have elevators. Work on set is dangerous, with cranes and heavy equipment, explosions, car crashes and stunts. Wardrobe, construction, paint and special effects departments routinely work with a range of chemicals, and not always in conditions that provide adequate ventilation. Wardrobe workers who are in intimate personal contact with a range of actors on a daily basis, locations production assistants who clear garbage, and the honeywagon operators who maintain the on-set bathroom facilities, may well hold jobs that many may find disdainful, if not at times disgusting.

At its most basic level, not all work directly involved in the production of a cultural good or service, such as a television series or feature film, is creative work. Such projects are driven by the creative inputs and visions of crew and cast at many levels, including the director,

cinematographer, editor, production designer and art department, set decoration and properties department, construction, hair, makeup, wardrobe and special effects teams. However, equally important to the daily execution of a day of filming is the production office and accounting staff who answer phones, distribute scripts and production related paperwork, oversee equipment orders, travel, insurance, cast and crew contracts, studio accounting reporting requirements, petty cash and payroll; the transportation department who is responsible for cast transportation, moving the fleet of equipment trucks from one location to the next, as well as the transportation requirements of the individual departments; assistant directors who schedule the film and manage on-set logistics; generator operators who provide power to the set; locations departments who scout and secure locations, execute contracts, organize location support logistics such as parking, washrooms and lunch rooms, and interface with local residents and businesses; and a variety of technicians who lay cable, put up stands, rig scaffolding and so on.

Overall the workplace is certainly one of creative problem solving and driven by a collaborative, creative process. However, the discourse of creativity masks the heterogeneous nature of the workforce, with some roles being deeply creative, other largely administrative, logistical or manual in term of their labour process, but all playing an essential role in the production of a cultural good or service. A script is only useful as long as everyone who needs it has it; a day of filming is unable to begin if the cast members have not been transported to set; a property master needs an accounting department to pay for the props they have purchased; and a production designer needs carpenters to build the set. Common amongst them is not their level of creativity, but their experience as workers collectively engaged in the production of a cultural good or service.

The collective experience of working on a film or a television program is also the foundation for a strong craft-based identity that drives unionism in the independent production sector, which enjoys a high union density across Canada and the U.S., particularly compared to the economy overall (Christopherson, 2008; Frommer, 2003). I discuss the challenges of organizing and representing film and television workers in detail in chapter three. It is worth noting here, for the purposes of this particular discussion, that the history of unions and collective bargaining in the film and television industry is historically linked to the rise of craft unions in the theatre. IATSE's history in Canada goes back as far as 1899, when Toronto Local 58 Stagecraft and Montreal Local 56 became part of the Alliance, which officially changed its name to the International Alliance in 1902 (International Alliance of Theatrical and Stage Employees, 1993). The collective identity of members of IATSE members, whose diverse membership includes generator operators who power the set, production secretaries who answer phones and distribute paperwork, and set decorators who work closely with the director and production designer, are not forged out of their inherently creative talents. ACTRA, DGC, IATSE, NABET and WGC are based on a strong craft tradition in the cultural industries that Banks (2010) argues offers, "an organizational frame for the cultivation of collective consciousness and a corpus of skills, competences and job roles (Banks, 2010, p. 311)

Furthermore, using the descriptor ‘creative’ to describe the industries that produce cultural goods fails to take into account the politically charged and highly contested nature of cultural policy frameworks that provide direct support and state investment for cultural production, and shape cultural labour markets. In their comprehensive edited volume on labour processes in the creative industries, McKinlay and Smith (2009) use the term creative industries to reflect the common features of “innovation, risk, uncertainty, performativity and differentiation from repeat or mass production sectors,” between traditional elements of the arts and cultural industries, such as film production or theatre, and what they describe as “new” media (McKinlay & Smith, 2009, p. 4). The authors argue that the term cultural industries is overly broad due to the complexity of the term ‘culture,’ the challenges associated with determining what falls under the umbrella of cultural production and how it is related to values, identity and social belonging (McKinlay & Smith, 2009, pp. 4-5). Yet it is the very complexity of the term ‘culture’ that McKinlay and Smith reject, and its associations with “tradition, identity, values, social belonging, with links to sub- and counter-cultural expressions,” that underpins the policy rationale for support for the development, production, distribution and consumption of cultural goods and services (McKinlay & Smith, 2009, pp. 4-5). This is particularly relevant in examinations of the relationship between Canadian cultural policy, cultural labour markets and cultural workers.

### *The politics of cultural production*

Even before the term ‘creative economy’ emerged, leading Canadian cultural policy scholars identified the importance of understanding the cultural industries in terms of their complex relationship to political, economic and social relations. Calling for the urgent development of a comprehensive Canadian federal cultural policy that has yet to materialize, Zemans (1996) succinctly makes connections between the nature of cultural goods and the work involved in their production when she argues,

The arts and cultural sector is key to understanding the changing roles of the citizen and the nation. It is central to education and preparation for life in the knowledge age; to job creation in a world in which traditional jobs are quickly disappearing, and to the way in which Canada will define itself in the 21st century (Zemans, 1996, p. 1)

Unlike the UK that has embraced the discursive shift to ‘creative’ industries, the term ‘cultural industries’ continues to dominate federal Canadian policy for the arts and cultural sector. It also continues to dominate Canadian scholarship on film, television, broadcasting, interactive digital media, newspaper, magazine and book publishing, and music sectors. Arguably, geography and politics has played a large role in this; proximity to the U.S. and the hegemony of the American media has meant that discourses of cultural nationalism, culture as a tool of national defense, and the need for cultural protectionism in the free trade era are characteristic of policy rationales for the Canadian arts and cultural sector. As authors including Armstrong (2010) Beaty and Sullivan (2006); Edwardson (2008); Grant and Wood (2004); Raboy & Shtern (2010), note, the broadcasting system has long been positioned as a primary means for constructing national identity and citizenship, and establishing the border not simply as a geopolitical

construct but a cultural one as well. Section 3 of the *Broadcasting Act* reflects a long political tradition of treating Canadian airwaves, and the content that fills them, as a public good of national significance.

3(b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty (Broadcasting Act, 1991).

In their comprehensive explanation of the economics of cultural production and the public policy rationale supporting the development, production, distribution, consumption of cultural goods and services, Grant and Wood note that,

To many people intimately involved in the creation of cultural goods, it is self-evident that cultural goods are different from widgets. Cultural goods embody ideas and stories. They wield a symbolic influence that goes far beyond the narrow marketplace of commodities to influence such subjective areas as social cohesion, national identity and cultural sovereignty (Grant & Wood, 2004, p. 59).

While Garnham (2005) is correct in his assessment that the arts and cultural sector supports the instrumentalization of creative economy discourses to encourage further policy development and state investment in the arts and cultural industries, my research shows that, in the Canadian context, cultural discourses are an essential component of labour's strategic political toolkit. In chapter four, I explain why the economics of Canadian drama create disincentives for broadcasters to commission and air original domestic dramatic programming. My case study shows that as policy actors, unions representing workers in Canadian independent film and television production draw heavily from the cultural nationalist discourses present in the *Broadcasting Act* when making arguments about the need for continued or increased regulatory support for the sector. As the domestic television production sector relies heavily on the broadcasting regulatory framework to sustain labour markets, the cultural goals of broadcasting policy are an important factor that shapes Canada's creative economy.

Provincial cultural policy has more openly embraced the discourse of creativity as a central feature of its policy rationale.<sup>6</sup> This is tied directly to policy jurisdiction under Canadian federalism. Trade issues surrounding U.S. access to Canadian markets, and in particular, radio and television signals, fall under federal jurisdiction<sup>7</sup>. Thus the political stakes are lower for adopting the discourse of creativity at the provincial level. Furthermore, provinces make substantial investments in the cultural industries totaling in the hundreds of millions of dollars annually. Discursively linking these investments to the creative economy more broadly speaking is one way to justify state

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<sup>6</sup> See Marontate & Murray, 2010 for an excellent analysis of the instrumentalization of creativity in provincial cultural policy in Nova Scotia and British Columbia.

<sup>7</sup> For an excellent summary and analysis issues surrounding Canadian cultural goods and services and international trade agreements, see Grant & Wood (2004).

expenditure in an era of fiscal restraint. Importantly, labour law and standards also falls under provincial jurisdiction. It is thus important to understand the degree to which work in the cultural industries is understood in a labour relations lens at the political level, and how political perceptions of work and employment relations in the cultural industries may be shaped by the discourse of creativity.

In the interests of both clarity and restoring usefulness to what has become a conceptually messy landscape of terms associated with analyses in the arts and cultural sector, Hesmondhalgh and Pratt (2005), supported by Galloway and Dunlop (2007) argue for a return to the term cultural industries to acknowledge that, “the main interest in such industries is the symbolic, aesthetic, and, for want of a better term, artistic nature of their output because these outputs can potentially have such a strong influence on the very way we understand society – including, of course, cultural production itself” (Galloway & Dunlop, 2007, p. 6). In this tradition, and in the interests of sustaining a discursive connection between cultural policy and work in the arts and cultural industries, my research uses the term ‘cultural worker’ to refer to those employed in creative, administrative, logistical, technical or manual labour processes in the English language film and television production sector.

I use the term creative economy to reflect the prevailing rationale for guiding policy development in both federal and provincial film and television policy networks. This logic privileges the economic interests of capital – at the federal level, the broadcasters; at the provincial level, the producers. This logic, however, is on contested ground, changes over time, and is influenced by previous policy decisions, the resources of the unions, and the power relations between stakeholder groups within the policy networks. As my case studies reveal, unions are active participants in policy networks, and use a range of discursive tactics that range from cultural nationalist arguments to those embedded in the framework of the creative economy to advance their interests at the policy level. This is because unions are pragmatic policy actors; they use the discursive tools available to them in the existing policy environment, taking into account the broader political economic environment, to articulate their issues and asks. Their goal is to improve labour market conditions for their memberships. The fact that the unions use a range of discursive tactics reveals the degree to which cultural and industrial objectives of Canadian cultural policy are mutually constitutive. It is thus surprising that so little attention has been paid to organized labour in the Canadian cultural policy literature, to which I now turn.

### *Two sides of the same loonie: cultural and industrial policy objectives*

Scholars of Canadian cultural policy have published at length on the absolutely essential role that public policy plays in the ongoing development of Canadian cultural industries, with a considerable amount of the existing literature using the Canadian broadcasting, film and television production sectors as case studies. A central theme in policy analyses of the Canadian broadcasting, film and television production sectors is the tension that arises in developing policy for cultural goods and services that represent economic, industrial and commercial interests while simultaneously displaying characteristics of public goods. Raboy describes this as, “the inherent conflict between culture and economics” (Raboy, 1996, p. 178). Edwardson argues that, “industrial activity cannot

be equated with culture, a national sense of self, or event opportunities for national expression; sales merely signify achievement in producing, marketing, and exporting goods” (2010, p. 22). Grant and Wood (2004) describe the challenges as the competition between ‘culture as idea’ and ‘culture as commerce’ whereby, “[t]he nature of its products as “goods” is at war with their nature as “stories,” which contain value only when infused with meaning by an audience’s emotional, psychological, religious, social and political state of mind” (Grant & Wood, 2004, p. 23).

The tensions posed by competing interests in the Canadian film, television and broadcasting industries – namely the economic interests of broadcasters and the public interests articulated in the policy and legislative framework – are real. The political economy of Canadian broadcasting creates disincentives for broadcasters to commission and air original Canadian programming, which compromises the fundamental cultural objectives of Canadians telling Canadian stories to Canadian audiences on Canadian airwaves. The problem with framing cultural interests as *necessarily* in competition with economic interests is that it associates economic interests in the production and distribution of Canadian content primarily with the broadcasters, and fails to capture the economic interests held by the creators of cultural content. A close reading of Section 3(d) of the 1991 *Broadcasting Act* reveals the degree to which the economic interests of cultural workers are directly linked with cultural objectives.

the Canadian broadcasting system should

(i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, *by displaying Canadian talent in entertainment programming* and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

(iii) through its programming *and the employment opportunities arising out of its operations*, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society... (Broadcasting Act, 1991).

In practice, cultural and industrial objectives in film and television policy frameworks share a mutually constitutive relationship that directly impacts television production labour markets, the ways in which work is organized, as well as how workers organize. For example, in the interests of meeting cultural goals of programming diversity as outlined in the *Broadcasting Act*, the CRTC expects television broadcasters to acquire minimum quantities of programming from independent producers (CRTC, 2008a). Independent production quotas also structure the industrial organization of the production sector, which in turn deeply affects film and television workers and their labour organizations. Independent production is characterized by chronic employment insecurity because of the need for a highly flexible workforce that operates on short-term contracts. The independent production sector relies heavily on freelancers who are classified as independent contractors or self-employed. Thus, by understanding cultural policy in relation to



the labour of cultural work, we are able to connect a policy that supports the cultural objectives of content diversity with an industrial impact that reinforces employment precarity for the workers who produce the content.

Finally, analyses of the development, implementation, contestation, evaluation and revision of cultural policy measures for the film and television production sector have failed to fully examine the role that labour plays as policy stakeholders. The follow section reviews the limited amount of scholarship that accounts for the role unions play as policy advocates. The treatment of unions as policy stakeholders generally puts them in the camp of cultural nationalists, or those who invoke arguments of cultural nationalism to mask pure self-interest. I argue that this reinforces the artificial separation of the cultural and industrial aspects of the broadcasting, film and television production sectors, and in doing so, overlooks the highly strategic and sustained role unions play as key industry stakeholders in cultural policy networks. The literature has yet to examine unions as serious stakeholders deeply invested in Canadian cultural policy processes.

### *Cultural labour and cultural policy*

The story of film and television unions as stakeholders in Canadian cultural policy for the film and television production sector policy processes is notable largely for its absence. In the few instances where labour is mentioned as policy actors, the superficial engagement with their policy interventions misses the highly strategic nature of labour's arguments that demonstrate the important connectivity of cultural and industrial objectives for the Canadian film and television production industry. Furthermore, academic analyses of labour as policy actors focus almost exclusively on the activities of ACTRA. Examining the positions of other unions that are active in cultural policy networks, such as the Directors Guild of Canada and the Writers Guild of Canada, allows us to understand the differential effects that policy regimes have on different workers, why and when unions choose particular association strategies as policy actors, and why those associational strategies change over time. It is also just as important for scholars to account for the unions that are largely inactive or absent in the policy arena. This allows for an advanced understanding of whose interests are not being represented at the policy level, what the implications of that might be in the articulation of policy issues, and the how decision-makers understand the impact policy implementation on cultural labour markets. Lastly, examinations of labour as policy actors largely focus on national policy regimes. Given the increasing importance of provincial policy measures, most notably the provincial film and television tax credit programs, locating the voice of labour in sub-national film and television policy networks is crucial to understanding the complexity of the policy landscape; how national regimes interact with local labour markets; and the role that labour plays in supporting and contesting policy supports for domestic and foreign service productions in an industry that is marked by intense intra- and international competition for work.

Marc Raboy, one of Canada's leading scholars on broadcasting regulation in Canada, conducted a five-year study on the policy making processes that led up to the creation of the 1991 Broadcasting Act (Raboy, 1995). The focus of this seminal work was to highlight the deeply contested nature of broadcasting policy in Canada. One output of this study was an examination of

how the resources and strategies of different policy actors affect the degree of influence they hold with policy decision-makers (Raboy, 1995). Raboy argued that the significant resources of the conventional broadcasters, cable and satellite providers provided them with privileged access to key civil servants and politicians, and allowed them to leverage additional influence on policy processes. Raboy rightly argued that the limited resources of other stakeholder groups, including unions, resulted in comparatively limited opportunities to directly influence policy.

In explaining his decision to categorize labour as a “non-industry” group, along with other organizations such as Friends of Canadian Broadcasting, the Canadian Ethnocultural Council and various First Nations Associations, Raboy argues that, “unions and associations representing creative and production personnel have clear economic interests in broadcasting but little direct economic leverage; their socio-cultural concerns, however, are significant” (Raboy, 1995, p. 415) While his analysis does an excellent job of revealing the power relations that exist in broadcasting policy networks that pose particular challenges for groups that are less well resourced, such as unions, it reproduces the artificial separation of cultural and economic interests and glosses over how labour’s strategic use of cultural discourses represents their attempt to defend their economic interests through the promotion of Canadian content regulations. Raboy’s decision to categorize labour as a “non-industry group” is also fundamentally inaccurate. The broadcasters, satellite and cable distributors rely on the unions and guilds to produce the content that drives advertising revenues for the industry; while their discursive strategies may align more closely with the public interest, or culturally driven arguments of non-governmental organizations such as the Friends of Canadian Broadcasting, they are at the centre of the industry model, if at the margins of power in policy processes.

In his overview of broadcasting regulation in Canada, Armstrong (2010) engages directly with the role unions play as key industry stakeholders. He notes that, in particular, the national offices of the major labour organizations routinely participate in the public hearings that the CRTC holds in developing policy and issuing licences. Similar to Raboy’s conclusions, Armstrong argues,

...there is no doubt the CRTC considers broadcasting programming and distribution undertaking licencees as its primary clients. It is therefore more sympathetic to their needs than it is to those representing labour: creators’ guilds, journalists’ associations, and technicians’ unions which are not viewed as ‘clients’ of the Commission” (Armstrong, 2010, p. 239).

This is an important, but brief contribution to understanding the unions as policy actors. As Armstrong’s book is intended as an overview of the history, structure and issues in the development of broadcasting policy for Canada, it offers little by way of detail on the strategic positions of unions, or the power struggles that continuously shape both broadcasting policy processes and outcomes.

Beaty and Sullivan also engage directly with the role that unions play in the development of policy for the film and television production sector. They analyze the discursive tactics of ACTRA in particular who, the authors argue, have played an important role in contributing to a policy framework where, “Canadian television has come to be understood as a unique manifestation

of the Canadian public sphere in need of protection” (Beaty & Sullivan, 2006, p. 35). The authors directly connect cultural workers, cultural policy and cultural labour markets noting that funding for and regulation of Canadian content has a direct impact on employment in the film and television production sector. Problematically, Beaty and Sullivan use the term “producers” to refer to artists, actors, writer directors and others involved in television production. In their analysis of ACTRA’s strong criticism of the federal government’s decision to emphasize a stronger subjective, content-based approach to evaluating funding applications to the Canadian Television Fund, the authors are critical of what they term ACTRA’s “have our cake and eat it too” attitude, whereby

...it seems that the positions of television producers is that the government should finance Canada’s television producers and also provide a broadcast platform in order to ensure the continuation of high-quality Canadian alternatives to international programming. At the same time, however, the government should stay out of the decision making process and simply allow cultural producers the freedom to produce works that they, and their broadcast counterparts, deem best...Cultural producers, the argument goes, serve the national good, even if the national doesn’t always realize it, and they should be funded and left to do their own thing (Beaty & Sullivan, 2006, pp. 38-39)

It is important to note that ACTRA, while the most high profile of the unions and guilds in both their public and political profiles, is only one of many labour voices active in the policy arena – a space where the unions often, but not necessarily, speak in concert or support of each other. Beaty and Sullivan’s use of term “cultural producers” fails to capture the heterogeneity of labour voices in the policy arena. Cultural policy interacts with labour markets and working conditions to affect different workers in different labour markets across the country. As my case studies show, this is reflected in their policy interventions.

In the film and television production sector, the title “producer” has a specific usage that refers to their role as employers of cultural workers. While this is not the way in which Beaty and Sullivan use the term, adopting such language in policy analyses does little to contribute to an understanding of the precarious nature of employment in the independent production sector in which ACTRA members and other cultural workers sell their labour to film and television producers in exchange for wages. Nor does it advance our understanding of the ways in which this precarity is shaped by cultural policy. Understanding the policy positions of unions as distinct from those of employers allows us to examine the specific effects of cultural policy on labour markets. Nevertheless, as my analysis of the cases in chapters four and five shows, the unions often decide to align their interests with those of the independent producers as policy actors. This is problematic for the ways in which the specific interests of union members and labour-based concerns become obscured through the lens of business interests. While the authors argue that ACTRA clings to the “federal lifeline of essentialist Canadian culture,” they fail to contextualize the debate in the broader historical context (Beaty & Sullivan, 2006, p. 40). As I review in detail in chapter four, Canadian content has, since 1974, been measured through a quantitative points system that *objectively* certifies a program as

Canadian based on the number of Canadians employed key creative positions. ACTRA's position on the more restrictive application of the *subjective* components of the CTF screening process stand is that, "a Canadian program is one conceived, written, performed, directed and produced entirely by Canadians – such a program will look and feel Canadian, regardless of what the story is about, or where it is set" (Canadian Film and Television Production Association, n.d.). A labour-based analysis of cultural policy allows us to understand the connection between what Beaty and Sullivan see as narrow industrial interests of the unions and broader cultural goals of the broadcasting regulatory framework. While the objective measurement of Canadian content based on the employment of Canadians serves the interests of cultural workers, it is also a policy that creates space for an expansive conceptualization of what constitutes 'Canadian' programming, 'Canadian' stories and by extension, (multicultural, multinational) Canadian cultural identity.<sup>8</sup> I now turn to an explanation of why a labour-based analysis allows those processes to be made evident, and to situate cultural workers and their unions both at the centre of the policy design and the policy network processes that created them.

*Locating labour in Canadian cultural policy: a labour-based analysis of cultural policy networks*

My theoretical framework is informed by the political economy tradition, which is well established in cultural policy analysis, as well as the policy network literature, which is less widely used in cultural policy studies. For that reason, I will review the key aspects of the policy network literature as they relate to my research, with particular attention to the scholarship of Marsh & Smith (2000) and Kisby (2007). I then explain how I apply these using a labour-based analysis of cultural policy networks.

Policy network theory seeks to explain change in the policy process through an analysis of the relationships between actors, ideas, interests and institutions in the articulation, design, implementation, evaluation and contestation of a policy area. Policy network theory also reflects important shifts in forms of governance through examining how relationships between state and non-state actors shape policy processes and policy outcomes (Atkinson and Coleman 1996; Pal 1997; Pross 1992; Sabatier 1991). While policy networks were historically conceived of as a set of horizontal groupings of both public and private actors engaged in some aspect of the policy process, the conceptualization of policy networks has been revised and adapted to account for the increasing complexity of policy-making in systems of multi-level governance and internationalized policy environments.

The collective aspect of policy making is the central focus of the theory; that is, an analysis of who is involved in policy making and to what extent; how policy actors interact with each other; under what conditions, and how the structures and relationships involved in policymaking effect policy outcomes. The theory's greatest strength comes from its (at times latent) recognition that changes in policy outcomes are both a product of the institutional contours of

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<sup>8</sup> For an excellent critical analysis of the problematic nature of defining, constructing, asserting and defending the concept of a Canadian cultural identity within Canada's colonial legacy, see Mackey (2002).

the policy network and the relationship between policy actors that are constructed in socially, politically, economically, and historically specific ways. Specifically, Marsh and Smith's (2000) model of dialectical policy networks makes an important contribution to understanding the complexity of factors that inform the interactions of actors, ideas, interests and institutions within policy networks through an acknowledgement of the ways in which power relations shape policy processes and the actions of those who are both included in and excluded from them. The emphasis becomes one of understanding policy variation as a product of deeply embedded and contested power relations and structured inequality where policy outcomes are not the product of a linear causal chain but are part of an iterative loop. Outcomes affect both network structure and actor agency; outcomes can affect membership and the balance of resources within a network; they can impact broader social structures which weaken or affirm the position of a particular set of interests within a policy network; and outcomes can also affect the behaviour of actors within a network (Marsh & Smith, 2000, p. 9).

Kisby (2007) contributes to Marsh and Smith's dialectical model by emphasizing the role that ideas play in addressing questions not only of how a policy was introduced, but why. Kisby calls for a greater focus on an "examination of why and how specific ideas have been persuasive to key actors at particular times and so have influenced the decision-making process" (Kisby, 2007, p. 80). He moves beyond the concept of ideas as merely discursive devices to argue that they share an interactive relationship with the material resources and constraints of policy actors. As such, he argues that policy analysts need to examine the resources available to actors in carrying out their objectives, as well as the degree of institutionalization of ideas in evaluating their impact on policy outcomes (2007, pp. 82-83).

My research seeks to expand our understanding of the relationship between cultural policy, cultural workers and labour markets in the arts and cultural sector. I do so, I apply the theoretical approach of the scholarship on dialectical policy networks through foregrounding the interests and issues of cultural workers in policy networks as the starting point for analysis. I call this approach a labour-based analysis of cultural policy. A labour-based analysis of cultural policy starts with examining how key cultural policies impact labour markets and the professional lives of cultural workers. It then goes on to examine which unions are involved in policy networks and why. A labour-based analysis of cultural policy focuses on how cultural workers and their unions participate in the contestation of power relations within policy networks; how that influences policy outcomes; the ways in which policy outcomes impact labour markets and, in turn, the policy strategies of the unions. It examines closely the interactions between unions and other policy actors, network structures, and the role ideas play as a product of those network dynamics. My application of a labour-based analysis in my case studies focuses on the role that occupations, geographical location, and access to different sectors of the film and television production industry play in shaping union activities as policy actors. However, a labour-based analysis also has the capacity to account for how gender, racialization, citizenship status, age and ability, for example, intersect with the work

experiences and labour market opportunities for Canadian cultural workers.<sup>9</sup> This is, indeed, an important and understudied aspect of Canadian cultural policy scholarship.

A labour-based analysis is a tool to assist in systematically integrating the specific interests of cultural workers into the policy, planning and decision-making processes. By foregrounding labour issues in cultural policy analysis, we create space for the needs, interests and concerns of cultural workers to be considered as central to a creative economy, or more hopefully, a creative ecology framework as advanced by Gollmitzer and Murray (2008; 2011). A labour-based analysis puts the interests of cultural workers and their unions at the heart of policy-making. It reveals the ways in which cultural policy functions as a form of labour market regulation for the cultural industries and in doing so, leads to better policy by positioning cultural workers and their unions as equal stakeholders in the policy process.

Measuring the impact that cultural policy has on work and labour markets in the cultural industries provides us with information necessary to engage with questions of the quality of work in the creative economy. It also allows us to understand how different groups of cultural workers are impacted differently by cultural policy implementation in terms of occupations, geographical location, and access to different sectors of the film and television production industry in Canada. It reveals how different groups of workers have different priorities and perspectives. It allows us to question who controls cultural policy decision-making processes and resources required for policy implementation through the lens of the specific impact this has on the cultural labour force. It reveals unintended consequences of policy through an analysis of whose interests are considered to be central in measuring a policy's objectives and impact. By placing cultural workers and their unions at the centre of the research question, a labour-based analysis incorporates a deep analysis of stakeholder power relations within cultural policy networks and provides a means by which we can study how policy *shapes and is shaped by* the shifting and contested nature of those power relations in relation to the broader political economic environment. This, in turn, allows us a means by which we can understand the various choices that unions make as policy actors in the discursive framing of their arguments, in their associational strategies, and as a product of the resources they bring to the policy table. In short, a labour-based analysis brings workers into the centre of the policy process as both objects and agents of cultural policy.

Film and television production is a labour intensive industry. This is reflected in the design of key federal and provincial cultural policies that (dis)count the labour of Canadian cultural workers. (Dis)counting describes the explicit and implicit features of policy for the independent film and television production sector that function in discrete, yet interconnected ways. First, both Canadian content regulations and the federal and provincial tax credit programs are quantitative in nature – that is to say, they are designed around the basic principle of counting

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<sup>9</sup> My labour-based analysis approach is inspired by and adapted from of Status of Women Canada's 2007 *An Integrated Approach to Gender-based Analysis*. The genesis of my analytical framework is credited to Marilyn Burgess, whose 2010 report, *Needs Assessment for Gender-Based Impact Analysis of the Canadian Feature Film Policy* thoroughly documents the need to examine the specific ways in which the design and implementation of Canadian cultural policy directly impacts women working in the Canadian feature film industry (Burgess, 2010).

the number of Canadians working on a project. I apply the prefix (dis) to refer to the discount on the cost of labour associated with a particular project that the tax credits offer producers in the form of an indirect subsidy. A labour-based analysis of the development and impact of cultural policy allows us to understand why the (dis)counting of Canadian cultural labour is both important and problematic for Canadian film and television workers and their unions. Cultural policy that targets employment volume plays a significant role in developing and maintaining labour markets and a large pool of film and television workers with a range of highly specialized and varied skill sets. On the other hand, cultural policy that discounts the labour incurred during the production process implicitly positions those same workers as an impediment to a competitive labour market profile in a highly mobile and global industry dominated by extremely powerful media conglomerates. This perspective which is deeply rooted in, albeit masked by, the creative economy model, privileges the interests of employers – broadcasters or independent producers – over those of cultural workers and their unions in the policy process. This complicates the unions' ability to articulate issues they identify as stemming from cultural policy design and implementation as policy problems. It also complicates their ability to act independently *as unions* in policy networks.

The creative economy is an important concept driving economic development policy. With its focus on creative human capital, the mobilization of creative economy discourses has the potential to open up political space for cultural workers to access and exercise power as key stakeholders in public policy processes. Understanding the impact of policy on cultural workers and the impact of cultural workers on policy becomes an essential step to developing a refined model of the creative economy, that I offer as a cultural ecology, that accounts for an grounded understanding of the nature of work in the cultural industries – creative, logistical, technical, administrative and manual – and the critical role that cultural objectives play in shaping industrial outcomes.

### **Chapter 3: Representing Canucks: unions and labour markets in the Canadian independent film and television production sector**

Canadian content regulations are the primary policy tools the CRTC uses to meet the cultural objectives of the *Broadcasting Act*. Film and television production tax credits attract foreign service productions and are critical financing tools for Canadian producers, meeting industrial development objectives. Canadian content regulations and tax credits also act as employment drivers for Canadian cultural workers as they are both designed around the simple principle of counting the number of Canadians working on a project. Most of those workers are members of one of the five unions in the Canadian English language independent film and television production sector.

Unions representing workers from across the production sector play an important role as labour market actors. Unions are well versed in the local, regional, national and international political and economic conditions that shape labour markets and the working lives of their members. However, the academic literature related to the political economy of the Canadian film and television industry has largely overlooked the critical role that unions play in reproducing, regulating and marketing the cultural workforce that drives the Canadian film and television production industry. Furthermore, capturing the extent to which the unions shape and are shaped by the political and economic conditions in which they operate is essential to understanding why workers are at the centre of Canadian content regulations and tax credits for the film and television production sector, and why unions and guilds engage in policy advocacy.

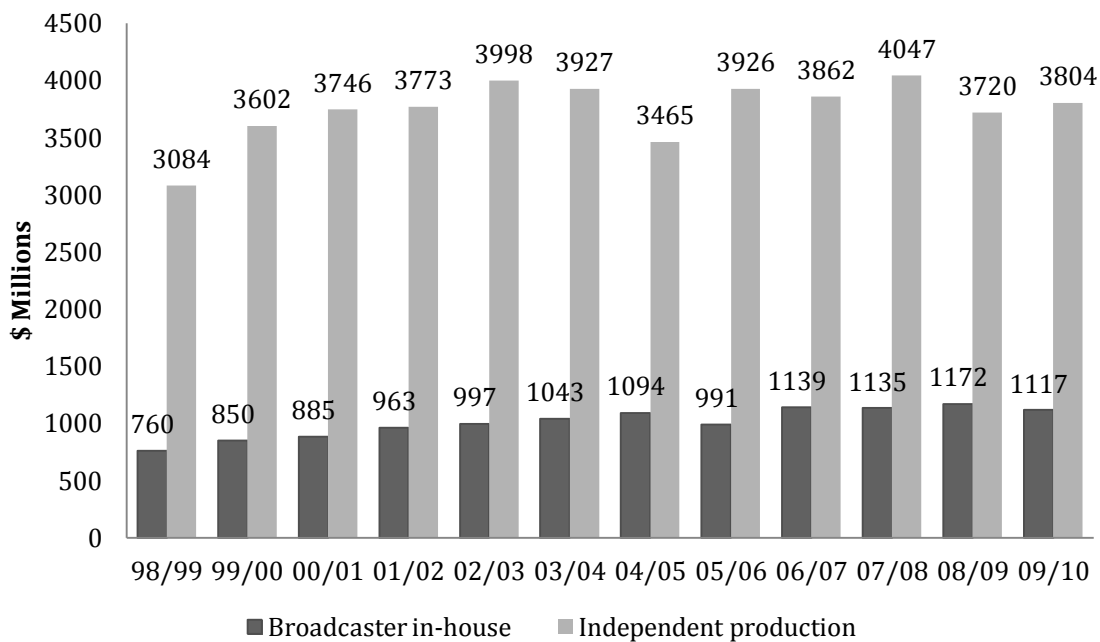
This chapter situates the unions as important labour market institutions in the Canadian film and television production industry. I begin with explaining the role that cultural policy plays in shaping the independent production model, and consequently, working conditions in the industry. I provide a brief profile of the five main unions representing workers in the independent production sector. I then turn to the challenges that unions are confronted with in their mandate to represent their members, with particular attention to the ambiguous legal standing of collective bargaining in the Canadian arts and cultural sector, the freelance work model, and the occupational identities of cultural workers. In order to explain high rates of union density in light of the unusual challenges unions face in this industry, I then examine the degree to which representing members' interests extends well beyond the workplace, looking at the broad range of services the unions provide to their members, and the important marketing role they play in promoting local labour markets. To provide context for the case studies in chapters four and five, I close the chapter with an examination of how the motives, strategies and resources of unions as policy actors are shaped by the structural power of major international media enterprises, the highly mobile and globally competitive nature of the film and television production sector, and access to employment in the foreign service and Canadian English-language television production sector.



*Independent film and television production in Canada*

Overall trends reflect a period of steady growth for the film and television production sector over the past decade. In 1998, film and television generated \$3.84 billion in production volume.<sup>10</sup> Production volume, measured in dollars, trended upwards to \$4.9 billion in 2009/10, having reached an all time high of \$5.18 billion in 2007/2008 (Canadian Media Production Association, 2010). As Figure 3.1 shows, the overwhelming majority of film and television production in Canada is done by the independent production sector.

Figure 3.1 Film and television production volume in Canada, 1998-2010



Adapted from Canadian Media Production Association, 2009, 2010.<sup>11</sup>

In 2009/10, the Canadian Media Production Association calculates film and television production to have generated 46,100 full time equivalent (FTE) jobs directly in film and television production and a further 71,100 spin-off FTEs in other industries, “driven by the purchase of goods, services related to production and the economic activity generated by the

<sup>10</sup> Production volume measured in dollars reflects the amount of money spent in a given time frame in a particular jurisdiction, but it does not tell us much about the specific dynamics of these labour markets. It does not say anything about the number or type of projects available for freelancers in the film and television sector; i.e. whether those dollars were spent on a host of low budget non-union reality or lifestyle programs, numerous unionized dramatic television series and/or a few major blockbuster features.

<sup>11</sup> Statistics have been taken from the 2009 and 2010 Profile reports published by the CFTPA. There are small differences in total production volume between the annual reports that result from updated information by the data sources the CFTPA uses to compile their statistics. In the case of a discrepancy in the value of production volume for the same reporting period between two reports, I have used the most recent statistics.

re-spending of income and profits within the Canadian economy” (Canadian Media Production Association, 2010, p. 7). The articulation of full time *equivalent* is important in understanding the nature of work. With most production happening under the independent production model, the notion of full time work is reflective of engaging largely self-employed freelancers to work in high-pressure environments for long hours on short contracts, and is not to be confused with standard notions of permanent full time employment.

Independent production is film and television projects that are not produced in-house by a broadcaster or motion picture studio, but rather by an independent production company. Commissioning programming from independent producers means that the studios and broadcasters are able to divest themselves of much of the financial risk associated with television production. Broadcasters are only responsible for contributing a percentage of the total cost of production in the form of licence fees. Due to difficulties in recycling returns from one project to the next, most production companies are set up as single cycle corporations or ‘one-offs’ that endure only for the duration of the project (Blair, Grey, & Randle, 2001, p. 171). The dominance of the independent production model in Canadian film and television production, and the precarious employment conditions it creates for Canadian cultural workers, is a direct result of cultural policy decisions.

### *Feature film*

With a short exception in the early 1960s when the National Film Board of Canada engaged in some feature film work, the Canadian feature film production sector is largely the product of public funding for private independent production (Magder, 1996). Early entreaties to develop a robust private film industry through public policy focused on Canada’s cultural and geographic proximity to the U.S., with unions and guilds playing a vocal role as advocates for federal support for film production.

In 1963, the Quebec-based Association professionnelle des cineastes joined forces with the recently formed Directors Guild of Canada to urge the federal government to provide support to the development of private-sector feature film production. Their plea was given added validity by Nat Taylor, one of the luminaries of Canada’s private film industry. Taylor suggested that the Hollywood studios were more interested than ever in securing independent production for their distribution businesses. According to Taylor, Canadian producers had an advantage over their European counterparts because they could produce films that were “practically indistinguishable” from American ones...” (Magder, 1996, p. 147)

Feature length dramatic and documentary film production in Canada is almost entirely executed by independent producers as a result of the policy emphasis on the private sector. Federal support for feature film production first occurred in 1968 with the creation of the Canadian Film Development Corporation (CFDC). The CFDC provided loans and grants for private sector producers and filmmakers, and administered the Capital Cost Allowance, introduced in 1974, to attract private investment in the feature film industry (Magder, 1996).

The CFDC became Telefilm in 1984. In 1986, new support for private sector feature film production came through the Feature Film Fund, which evolved into the Canada Feature Film Fund in 2000. The Canada Feature Film Fund emphasizes a market-driven rationale through supporting, “the making and marketing of Canadian feature films that have high box office potential, while supporting a range of genres, budgets, companies and regions” (Telefilm Canada, 2011). The Capital Cost Allowance was replaced by the Canadian Film or Video Production Tax credit in 1995, which I discuss in detail in chapter five. In 2009/10, the Canada Feature Film Fund, and the federal and provincial tax credits, were the two most significant sources of all public funding for private sector Canadian feature film production, each representing 22% of the total financing for all Canadian theatrical production (Canadian Media Production Association, 2010, p. 67).

Hopes that Canadian films would prosper on international markets have yet to materialize. The domestic feature film industry remains marginalized with a proportionally minimal amount of total production volume at 6% (Canadian Media Production Association, 2010). This results from the hegemony of the U.S. theatrical distribution system and the absence of a policy that secures access for Canadian films to Canadian theatrical screens. A weak exhibition and distribution infrastructure in domestic markets makes financing Canadian feature film production an extremely challenging undertaking, and is reflected in the negligible impact it has in terms of total production volume. As a result, most of the feature film production done in Canada is U.S. foreign service production.

Ironically, it is similar arguments around the “indistinguishable” nature of American and Canadian cultural products that supports the policy rationale for Canadian content programming, although the logic is inverted. The objective is not to facilitate access to U.S. markets for Canadian producers, but rather to prevent the domination of Canadian English-language television screen by U.S. programming through providing Canadian stories to Canadian viewers on Canadian airwaves. This is the driving rationale behind the Canadian content regulatory framework.

Unlike television, Canadian film production and exhibition remains unregulated in Canada. While television broadcasts represent an important window for the exhibition of Canadian feature films, the English language Canadian feature film industry is quite distinct from the English language Canadian broadcasting industry and the television production sector that creates Canadian television content. However, similar to the Canadian feature film industry, cultural policy decisions have played a key role in determining the independent production model as the dominant form of industrial organization in television production.

### *Television*

Broadcasting is a highly regulated industry in Canada. The CRTC is Canada’s regulatory body governing broadcasting and telecommunications systems, and primary venue for the development, implementation and negotiation of broadcasting policy. Established in 1968 as the Canadian Radio and Television Commission, its jurisdiction was expanded in 1976 to the

Canadian Radio-television and Telecommunications Commission (CRTC, 2008b). The CRTC is constituted through the Canadian Radio-Television and Telecommunications Commission Act, and is governed by Canada's Broadcasting Act of 1991, the Telecommunications Act of 1993 as well as the Bell Canada Act (CRTC, 2011). It is an independent, arms-length authority comprised of up to thirteen full time Commissioners and up to six part time Commissioners, all of whom are appointed by the Prime Minister for renewable terms of up to five years. The CRTC reports to Parliament through the Minister of Heritage, and is subject to orders from Cabinet in its directions (CRTC, 2012a). The mandate of the CRTC is, "to ensure that both the broadcasting and telecommunications systems serve the Canadian public [using] the objectives in the *Broadcasting Act* and the *Telecommunications Act* to guide its policy decisions" (CRTC, 2012b) Its vision as the federal broadcasting regulator is, "that all Canadians have access to a wide variety of high-quality Canadian programming as well as access to employment opportunities in the broadcasting system. Programming in the Canadian broadcasting system should reflect Canadian creativity and talent, our bilingual nature, our multicultural diversity and the special place of aboriginal peoples in our society (CRTC, 2012b).

The policy decisions that produced the independent production model in television production are closely linked with the historical development of Canadian content regulations. Canadian content quotas in television broadcasting date back to 1959 when the Board of Broadcast Governors – the regulatory precursor to the CRTC – introduced a regulatory framework designed to assist in "maintaining Canadian identity and strengthening Canadian unity" through a broadcasting system that was "basically Canadian in content and character" (Standing Committee on Canadian Heritage, 2003, p. 133). Prior to 1983 most television production in Canada was done in-house by broadcasters for two main reasons: one, there was no noteworthy independent production industry from which Canadian programming could be obtained; and two, there were no regulations against producing all content in-house (Standing Committee on Canadian Heritage, 2003). By the early 1980s, several developments produced a shift in the regulatory framework that would have a profound impact on the organization and future of the Canadian English-language television production industry.

First, most of the in-house production, with the exception of CBC production, was news and sports programming. As I will explore in detail in chapter four, although dramatic programming is the most popular television genre with viewers, it is expensive to produce. Private broadcasters, in particular, were purchasing American dramatic programming at a fraction of the cost of producing their own dramatic programming in-house. Second, the market disincentives for producing Canadian drama in-house were exacerbated by the growth of cable distribution that created an expanded channel universe. Broadcasters argued to the CRTC that audience fragmentation increased the scarcity of advertising revenues and by extension, the resources available to invest in original dramatic programming (Standing Committee on Canadian Heritage, 2003). Together, these two issues were seen by the CRTC to be compromising the ability of the private broadcasters in particular to meet the cultural objectives of the broadcasting system.

Third, policy trends in the early 1980s emphasized a much larger role for the private sector in the production and distribution of distinctively Canadian cultural goods. The 1982 Report of the Federal Cultural Policy Review Committee is a seminal document in Canadian cultural policy, predicated on a mutually constitutive relationship between cultural and industrial development policy objectives, particularly with respect to Canadian feature film and broadcasting industries. The report argued that Canadian cultural policy needed to re-calibrate the relationship between the private sector and the policy supports for the production and distribution of Canadian content on large and small screens. The report is highly critical in particular of the Capital Cost Allowance program (established in 1974) for the Canadian feature film industry.

Although the films in production in the late 1970s were financed by Canadian investors and subsidized by the Canadian public through tax shelters, they were films intended for a mass-market, North American audience, not a Canadian one, with the added presumption that Canadians preferred such films. Leading roles were played by U.S. stars. Toronto masqueraded as Washington; Montreal became Chicago. Such films did employ large numbers of Canadian actors and creative and technical personnel. Nonetheless, industry critics charged that Canadian talent was used chiefly in subordinate positions. *The Committee is convinced that the federal government's film policy should do more than fight unemployment.* If the two objectives of that policy are – as we believe they are and should continue to be – to enable Canadians to create fresh and distinctive films, and to enable audiences in Canada and abroad to see those films, then experience to date has proved that the film tax incentive cannot by itself achieve either of those objectives (Canada, 1982, p. 255, emphasis added).

The report continues on to note that the largest revenue source for Canadian film and video production companies at the time was the revenue stream available from the television market (Canada, 1982, p. 257). While the ideological commitment to cultural objectives remained at the heart of the report, what Berland (2012) refers to as a pragmatic approach to the production and distribution of distinctively Canadian film and television produced several key recommendations where the private sector played a much larger role in the production of Canadian film and television content. The Report recommended that National Film Board focus primarily on research and training in film and video production; and that the CBC close its television production facilities and commission its programming from independent production companies (Canada, 1982). While neither of these recommendations were fully implemented, the cultural policy decisions that followed the release of the Applebaum-Hebert report echoed their intent.

In 1983 the Department of Communications released *Towards a New Broadcasting Policy* in which they announced the creation of the Broadcast Development Fund. This new fund was to be administered by the Canadian Film Development Corporation which was renamed Telefilm in 1984 when it took on the additional role of administering funds for broadcast television. The objective of the Broadcast Development Fund was to support the production of Canadian content programming by the independent production sector (Armstrong, 2010). Three other developments in 1983 set the stage for the future growth of independent film and television production in Canada. The CBC announced that it was increasing its prime-time Canadian

content levels, from 70% to 80% over five years; the CRTC introduced the notion of using conditions of licence to ensure that television broadcasters would purchase or produce Canadian content from the independent production sector; and the CRTC imposed on the CBC a condition of licence that it was to purchase a portion of its programming from independent producers (Standing Committee on Canadian Heritage, 2003).

Since that time, the dramatic expansion of the channel universe, a proliferation of specialty channels, and Canadian content requirements for all licence holders has created substantial demand for programming from the independent production sector. The CRTC currently expects English-language conventional (over-the-air) television groups to “ensure that at least 75% of the priority programming they broadcast is produced by independent production companies (CRTC, 2010a). The independent production sector is also supported by: CRTC conditions of licence that require broadcasters to contribute to funds earmarked for the independent production sector; programming expenditure requirements for licence holders tied to independently produced content; licence expectations or requirements on regional independent production; and benefits packages<sup>12</sup> from licence ownership transfers that are earmarked for independent production (CRTC, 2010a).

The policy decision to stimulate the independent production sector did more than simply allow Canadian broadcasters to divest themselves of much of the risk and cost associated in producing television programming. It also fundamentally changed the nature of work and labour markets in film and television production. In understanding the labour market dynamics of the independent production model and the role unions play as labour market actors, it is first important to understand the fundamentals of freelance work in what is often considered to be a glamorous career.

### *Looking under the red carpet – working in the independent film and television production industry*

In studying an industry as labour-intensive as film and television production, it is necessary to understand the nature of employment and the role that unions play in the careers of film and television professionals. The core infrastructure of the independent production sector is a highly flexible workforce of key creative, logistical, technical, manual and administrative freelancers with specialized knowledge and skills. A standard work day for the shooting crew is

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<sup>12</sup> The CRTC's benefits policy “applies to all transfers of ownership or control involving conventional television stations, pay television services, pay-per-view television services and television services.” It is designed to ensure that the broadcasting system as a whole stands to benefit from the substantial financial transaction associated with a transfer of ownership or licence through requiring involved parties to reinvest in the broadcasting system. “Generally, applicants must commit clear and tangible benefits that represent a financial contribution of 10% of the value of the transaction, as accepted by the CRTC” (CRTC, 2005). For example, the CRTC's benefits valuation of BCE's \$1.3 billion takeover of CTVglobemedia in 2011 requires BCE to invest \$245 million over the seven year licence term. (Charkow, 2011).

twelve working hours (not including a one hour lunch break), although shooting beyond standard industry hours is routine practice. Some crew, such as production office staff, craft service personnel, transport departments and assistant directors, work well beyond the start and finish of the shooting day to meet the requirements of their jobs. Shooting hours and locations are dictated by a complex scheduling process that needs to accommodate cast and location availability as well as script requirements, such as interior and exterior shoots and day or night scenes. Worksites change regularly and are often in unusual (and at times uncomfortable) locations such as abandoned factories and warehouses, personal homes, downtown streets and highways, remote or rural landscapes, airports, restaurants, universities, open water vessels and moving vehicles. Filming takes places inside and outside, in any weather conditions, at any time of year. Work places can be hazardous, with stunts and special effects in addition to the environmental considerations of a particular location.

As Table 3.1 shows, precarity is a defining aspect of work and life for cultural workers. A 2010 report by the Conference Board of Canada for the Cultural Human Resources Council reports that 64 % of survey respondents from the film and television production sector are self employed, with only 36 % of respondents reporting annual earnings of more than \$50,000. Working patterns in the industry are bulimic. Workers may engage in a great deal of overtime for short periods – 48% of respondents averaged more than 40 hours a week, with 36% reporting that “too many working hours” affected them to a great extent - and then face no work at all (Conference Board of Canada, 2010, p. 61).

Table 3.1 Top Worker Trends and Issues – Film and Television Production

<b>Trend or Issue</b>	<b>Mean Impact Score (out of 5)</b>	<b>Percentage indicating “to a great extent”</b>
<b>Unstable earnings</b>	4.3	62
<b>Low job security</b>	4.2	60
<b>Not enough work</b>	4.0	55
<b>Insufficient earnings</b>	4.0	50
<b>Insufficient benefits</b>	3.7	44

Note: Adapted from Conference Board of Canada. (2010). *Cultural HR Study 2010 - HR Trends and Issues Report*. Ottawa: Cultural Human Resources Council, p. 60.

Each production requires a different mix of creative, logistical and technical expertise, and crews are hired based on a range of factors including budget, rates,<sup>13</sup> skill sets, script requirements, availability and personal relationships. Employment contracts vary widely in duration, ranging from a one day call for ‘daily’ crew or ‘day player’ actor and background performers to up to eight months for a key cast or crew member on a television series. Interpersonal networks and relationships play a major role both in management’s hiring practices and as a career strategy for freelancers. Blair (2001) examines how workers use the

<sup>13</sup> While minimum rates are set by the collective agreement, Department Heads and Assistant Department Heads often negotiate over-scale based on their experience and professional reputation.

formation of semi-permanent work groups, known as ‘teams’ in the industry, to mitigate employment precarity. These teams are informal connections between freelancers that operate on multiple layers. Producers have key creative and administrative crew, such as directors, cinematographers, production managers and accountants with whom they prefer to work. A production designer may have a team of keys (heads of department) who she brings with her from project to project (the art director, property master, set decorator, construction coordinator and key scenic artist). In turn, each of those keys may also have their own network of preferred crew members that they bring with them. Attachment to a team can assist in building the reputation of emerging professionals, provide solid references for future employment opportunities and mitigate employment insecurity to some degree (Blair, 2001; Christopherson, 2008; Saundary, Antcliff, & Stuart, 2006; McKinlay & Smith, 2009).

While work teams may help to shield workers from chronic employment insecurity, the networks on which these work teams are built can also be exclusionary. In her examination of how management uses hiring decisions as a tool of risk management in the U.S. film and television industry, Christopherson argues,

As middle-budget project opportunities have declined, persisting networks show a tendency to pull in and go with the reliable and familiar, despite the expansion of a large and diverse labor supply and its creative resources. So, one manifestation of workforce adaptation to new conditions is the persistence and strengthening of defensive exclusionary networks to dominate access to the least risky and most lucrative and prestigious end of the industry production spectrum. These networks are composed almost exclusively of white men (Christopherson, 2008, p. 89)

Work in the film and television sector also demonstrates qualities that are associated with high quality employment. Each script is distinctive, so the nature of the work, while exhausting and challenging, is rarely routine. Many workers are given a high degree of autonomy and discretion in how their jobs get done. Furthermore, innovation is actively encouraged, and the collaborative nature of film making encourages ‘brainstorming’ processes that feed the creative process (Hutton, O’Keefe, & Turner, 2005). However, while the industry may operate on a networked employment model, the intense pace and grueling schedules of film and television production function on rigidly hierarchical chains of creative and financial decision-making structures and job descriptions. Studio or network executives rank at the top with producers, directors, accountants and production managers as the top decision-makers on a daily basis related to the production process. This is followed by a pyramid-like structure within departments in charge of hierarchically organized crew members. At the bottom of the hierarchy are poorly paid entry level jobs such as (set, office, art department) production assistants, camera trainees, and location support personnel.

The dominance of independent production in the Canadian film and television production sector produces a precarious employment model whereby freelancers have very close ties to labour markets that offer an unpredictable volume of short-term contracts from one year to



the next, and where independent producers exercise considerable disciplinary authority over individual workers despite a high degree of union density. Unions play a major role in the professional lives of unionized freelancers as the labour market institution that both represents and, to some degree, regulates and reproduces the workforces that are the essential infrastructure of the production industry. Unions represent their members in the workplace, as industry ambassadors and marketing agents, and as policy advocates.

*Profile: Unions & Guilds in the Canadian Film and Television Production Sector*

Most domestic feature films, scripted television production and foreign service production in Canada is done in whole, or in part, by unionized film and television workers.<sup>14</sup> ACTRA, the Directors Guild of Canada, the Writers Guild of Canada, CEP and IATSE are the five national labour organizations that represent creative, technical, logistical, and administrative workers involved in the development, production and post-production stages of Canadian English-language independent film and television production.<sup>15</sup>

**ACTRA**

The Alliance of Canadian Cinema Television and Radio Artists (ACTRA) represents over 21,000 Canadian on and off screen performers in English language recorded media. Worker categories specific to English independent film and television production include actors, announcers, background performers, cartoonists, choreographers, dancers, singers, models, hosts, narrators, commentators, stunt performers, panelists, puppeteers, sportscasters, and vocal or dialogue coaches (ACTRA, 2010, sec. A201). ACTRA's history dates back to the very beginnings of performer organizing in Canada with its roots in the Radio Artists of Toronto Society (RATS) in the early forties. In 1943 the group expanded into a national coalition of performer groups,

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<sup>14</sup> Statistics Canada reports 2011 union density rates for "art, culture, recreation and sport" at 31.3%, but the broad nature of the category is of little analytical use for examining union density in the independent film and television production sector (Uppal, 2011). The most reliable statistics on the independent film and television production sector come from the Canadian Media Production Association (CMPA), who confirms anecdotally the assertion that union density in film and television sector is high, particularly for long format scripted television. Union density in some genres, such as documentaries, magazine and lifestyle programming is much lower due to much smaller budgets. Many union members regularly move between genres, and unions often give members dispensation to work on non-union projects that generally fall outside of their traditional jurisdiction. This produces a national labour market that is largely supported by film and television professionals who are members of a union, guild or professional association (Conference Board of Canada, 2010) but who may not always be working under a collective agreement. Commercials, music videos, interstitials or corporate videos are excluded from this study as these are not regarded to be part of the independent production sector *per se*, nor are they supported under the public policy framework under examination herein. Noteworthy is the increasing interconnection of interactive digital media and traditional film and television platforms, due in part to the revision of the Canadian Television Fund into the Canada Media Fund that requires both components as part of a successful funding application. The interactive Digital Media sector includes e-Learning, gaming, mobile applications, online television, and social media, and is largely non-union (Interactive Ontario, 2011).

<sup>15</sup> Other labour organizations have jurisdiction in localized regions, such as the Teamsters in Vancouver. The Canadian Media Guild also has jurisdiction in various public and private broadcasters across Canada, but does not represent workers in the independent production sector.

becoming the Association of Canadian Radio Artists. In 1984, three existing guilds – the Association of Canadian Television and Radio Artists (ACTRA) Media Guild, the ACTRA Performer’s Guild and the Writers Guild of Canada finalized a merger and officially became ACTRA– the Alliance of Canadian Cinema, Television and Radio Artists. The merger of the three parties did not last long – the writers left in 1993 to re-form the Writers Guild of Canada, and the ACTRA Media Guild membership lost its jurisdiction over freelance broadcasters at the CBC. The ACTRA Performers Guild restructured and took sole ownership of the ACTRA acronym (ACTRA, 2004).

Two bodies, the National Council and the National Executive, govern ACTRA national. The National Council is responsible for developing national bargaining objectives and all matters arising from collective agreements; overseeing all committee work; approving the budget; developing and implementing public policy objectives; international relations; and convening the annual general meeting. The National Executive, with the support of ACTRA National staff, is responsible for the business and financial administration of the National office, located in Toronto. The National Executive is also directly responsible for overseeing three key areas of ACTRA’s operations: The ACTRA Performer’s Rights Society, a subsidiary that was incorporated in 1984 as a non-profit organization to oversee performers royalties, fees, and other performance or tariffs entitled to members under the Copyright Act; *Face To Face*, the national promotional publication and website for ACTRA members; and the ACTRA Fraternal Benefit Society, which administers the national benefits plan (ACTRA, 2011a).

The ACTRA Constitution describes branch locals as “political units.” Branches are responsible for staffing the local, organizing performers, negotiating, enforcing and administering local and national agreements within their jurisdiction and other administrative duties related to union business at the branch level (ACTRA, 2011a). ACTRA Toronto is the largest branch local in the country with 15,000 members. ACTRA Maritimes represents 585 performers in the Atlantic region.

## **DGC**

The Directors Guild of Canada (DGC) was founded in 1962 with a total membership of eighteen film directors. At present, the DGC represents over 3,800 key creative and logistical personnel in the Canadian film and television industry. Nationally, the DGC represents Directors, Assistant Directors, Location Managers, Production Designers, Production Managers, and Editors. The Directors Guild also represents other categories regionally, such as Production Coordinators in Nova Scotia and Locations Security in Ontario.

As the governing body of the Directors Guild, the National Executive Board is responsible for membership; negotiation of all directors agreements; benefits plans; communication with members, the media and the government on all national and international issues; acting as a resource and information centre for the District Council Offices; forming national and international alliances; and representing the DGC on all national and international policy issues (DGC, 2012b). The national office works under the stewardship of the National Executive Board. The DGC’s national office is located in Toronto.

The District Council Offices of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec and Atlantic Region perform more administrative functions in upholding the national mandate, such as negotiating and administering regional collective agreements, implementing permit policies, procurement of production, promoting and marketing members and acting as an industry resource for producers. District Councils also play an increasing role in local and provincial policy matters, and lobbying and joint political action within their specific jurisdiction falls within their list of responsibilities (DGC, 2012a). The DGC Ontario District Council represents approximately 1500 members. The Atlantic Regional Council represents 145 members in Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island.

### **WGC**

The Writers Guild of Canada is a national association representing more than 2,000 screenwriters working in film, television, radio and interactive digital media in Canada. The WGC has been in existence in Canada for approximately forty years, starting off as an association of radio writers with the CBC. Evolving with the development of the Canadian film and television industry, the WGC partnered with the ACTRA Performers' Guild, working as an informal coalition until 1984 when the ACTRA Media Guild, ACTRA Performer's Guild and the Writers Guild of Canada finalized a merger and officially became ACTRA. The merger was not to last long and by 1993, with the membership of the WGC growing, and concerns increasingly differing from those of the other members, the Writers Guild broke away to re-form an independent labour organization (Coles, 2005).

The WGC has only one office, located in Toronto. Holding elections every two years, the WGC is governed by a seven member National Council, with regional interests represented by the National Forum with fifteen members from the five district regions across Canada (Atlantic, Quebec, Central, Western and Pacific). The National Council is responsible for overseeing all Guild activities and setting policies. The National Forum meets annually with the National Council to discuss issues of national and regional concern (Writers Guild of Canada, 2012).

### **CEP**

The Communication, Energy and Paperworkers Union was formed in 1992 through the merger of the Canadian Paperworkers Union, the Communications and Electrical Workers of Canada, and the Chemical Workers Union. The CEP is largest union in Canada's forestry, energy, telecommunications and media sectors, and has a total membership of over 130,000 (CEP, 2012). It is Canada's largest media union representing workers in the film, television, radio, magazine, book publishing and new media industries. The Media Division, overseen by the Vice President – Media, is engaged with all matters relating organizing, initiating programs and policies as related to the media sector and presiding over Media Sector Council meetings and elections. The Vice President – Media also acts as the CEP spokesperson to the public, media and government on media-related issues (Coles, 2005).

The CEP represents approximately 2000 technicians from the English independent film and television production sector through two locals: NABET 700 in Toronto and ACFC West 2020 in Vancouver, with approximately 1000 members in each local.<sup>16</sup> There is no CEP local that represents workers in the Nova Scotia independent film and television production sector. Local autonomy is central to the organization and political structure of the CEP. While adhering to the national constitution, programs and policies, each local is responsible for all its own affairs, including membership, dues, executive structure and elections, training, communication and political activity. The National Office provides policy support to locals for their work if it aligns with the objectives of the national office. Each local negotiates its own collective agreement, although all contracts must be ratified through the National Office.

### **IATSE**

The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada (IATSE) represents approximately 16,000 members working in the Canadian independent film and television production sector, largely technicians. IATSE represents over 110,000 cultural workers across Canada and the U.S. working in the following craft categories: animation, computer generated imagery, front of house, laboratory, make-up and hair, motion picture and television production, post production, projection and audio-visual, scenic artists, stagehands, television broadcast, trade show/exhibition, treasurers and ticket sellers, and wardrobe. IATSE has two characteristics that make it stand out from the other unions for our analytical purposes. First, IATSE is the oldest of the labour organizations representing film and television workers in Canada. Second, it is also the only labour organization in this study that is not entirely Canadian in its structure and governance.

Formed in 1893 with a local in New York City, IATSE admitted its first two Canadian locals in 1898 – local 56 in Montreal and local 58 in Toronto – and in 1902 officially changed its name from the National Alliance to the International Alliance (IATSE, 2011a). Headquartered in New York, NY, the IATSE International also runs a west coast office in Toluca Lake, CA, the Canadian Office in Toronto, ON and the Canadian West Coast office in Vancouver, BC. The IATSE governance structure is divided into fourteen district bodies, twelve across the U.S. and two in Canada. District Eleven covers all of Canada east of and including Ontario, and District Twelve covers the provinces west of Ontario. District conventions are held at least every two years, and a Canadian convention is held on an annual basis. The Canadian office, run by the Director of Canadian Affairs and one support staff, is responsible for overseeing the activities of the four locals in Quebec, seventeen in Ontario, three in British Columbia, two each in Alberta, Manitoba, Saskatchewan, Nova Scotia, Newfoundland and Prince Edward Island, and four locals whose jurisdiction covers more than one province.

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<sup>16</sup> Technician categories include grips, electricians, sound, hair, makeup, wardrobe, transport, props, set decoration, carpenters, painters, special effects and script supervisors.

Similar to the CEP, local autonomy is the cornerstone of IATSE's organizational philosophy. Locals are responsible for their own internal executive and administrative structure, constitutions, membership and dues, training, education, collective agreements, benefits, partnerships, affiliations and labour negotiations within the binding rules of the International. IATSE has three locals in the Toronto film and television production sector. IATSE local 873 represents 2030 Toronto based technicians. IATSE local 411 represents 244 members working as production coordinators, honeywagon drivers and crafts-service providers. The only union local to exercise jurisdiction in both provincial case studies, the International Cinematographers Guild IATSE local 667 represents 851 unionized camera technicians, publicists and still photographers east of the Manitoba/Ontario border, including Toronto and Halifax. Based out of Halifax, Nova Scotia, IATSE local 849 represents 420 technicians in New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island.

### *Unions and the politics of cultural policy*

All the unions and guilds under study here are politically active, although to varying degrees. ACTRA, the DGC and the WGC have the highest profile and longest history as policy actors on a national scale, although the IATSE and CEP have played important roles at specific moments in national policy advocacy for the independent film and television production sector, and are also more deeply involved in policy processes at the provincial level. The following section offers a general overview of the unions' engagement with cultural policy issues as context for the case studies to follow in chapters four and five.

The DGC describes itself as, "a visionary leader and partner in the development of the international Canadian film and television industry at a policy and professional level" (DGC, 2011a). Policy is written into the very fabric of the DGC's operations, whereby Article 2.02(h) of the constitution lists one of the objectives of the organization as, "to lobby for, encourage, advocate, advance and secure appropriate legislation, regulation, public policy and other government action to advance the welfare and interest of its members" (Directors Guild of Canada [DGC], 2009a). Early advocacy efforts in the sixties focused on the development of state financial support for the feature film industry. By the seventies, lobbying efforts had expanded to television broadcasting and engaged with Canadian content quotas. The economic impact of the recession of the nineties re-stimulated the DGC's participation as policy actors, and they have since been pressuring the federal government for improved fiscal and regulatory support for the Canadian film and television industry (DGC, n.d.). Recent issues on the DGC national office's policy agenda include interventions and submissions on copyright reform, international co-productions, the Canada Media Fund, federal budget briefs, Canada's National Digital Strategy, foreign ownership, and numerous CRTC filings on specific licence applications and ownership transfers (DGC, 2011b).

Policy advocacy is also at the core of ACTRA's organizational philosophy. One of the constitutionally stated responsibilities of the National Council is to develop and promote public policy objectives (ACTRA, 2011a). Further to this end, the National Office has devoted considerable resources specifically to public policy. ACTRA (as RATS) was involved in the

development of Canadian content regulations for radio, and throughout the 1960s was a strong proponent of increased, long-term, stable state funding for the Canadian film and television industry. ACTRA was a major supporter in the development of the Canadian Film Development Corporation (now Telefilm Canada) and in the early 1970s was consulted in the development of the system devised to determine eligibility for the feature film Capital Cost Allowance tax program. ACTRA has been involved in amendments to the Copyright Act, and ACTRA member and General-Secretary from 1965 to 1986, Paul Siren, co-chaired Canada's delegations to UNESCO meetings that resulted in the Declaration on the Status of the Artist in 1980. Paul Siren subsequently went on to chair a federal task force whose recommendations resulted in Canada's Status of the Artist Act in 1992 (Alliance of Canadian Cinema, Television and Radio Artists, 2004). Current public priorities for ACTRA include CRTC support for Canadian content including digital media, copyright reform, foreign ownership and "arguing for government policies and funding to nourish Canada's \$85 billion cultural industries and workers" (ACTRA, 2011b).

The CEP's advocacy approach reflects their broader membership base and interests, and a more traditional philosophical link to the social justice principles of the labour movement. One of their stated constitutional objectives is, "to assist in advancing the social, economic and general welfare of working people through political, educational, civic and other activities," as well as, "to engage in political activities to secure beneficial legislation and obtain the defeat and repeal of harmful legislation" (CEP, 2010). The CEP adopted its first official media policy at the 2004 National Convention. Echoing some of the foundational principles of the Broadcasting Act, the major themes driving the policy are, "Canadian identity. Democracy. Diversity. Information. Public service. Accountability. Community" (Communications, Energy and Paperworkers Union of Canada, 2004, p. 3). CEP recent policy advocacy includes CRTC interventions on media concentration and vertical integration, foreign ownership, local community television programming, and licence applications, renewals and ownership transfers.

As a strictly national organization with no district offices, the WGC is primarily and deeply involved in policy issues at the federal level. Their sole focus in lobbying is on the domestic film and television industry, as WGC members are rarely engaged on foreign service productions. Recent advocacy efforts focus on copyright reform, international co-productions, vertical integration and ownership transfers in broadcasting, a National Digital Strategy for Canada, and CBC funding (Writers Guild of Canada, 2011a).

Unlike the other unions in this study, political action and policy intervention are not at the core of IATSE's activities in Canada. Despite their industrial strength and size, IATSE is primarily a wages-and-benefits organization in Canada. Policy interventions by the Canadian national office include a submission to the Standing Committee on Canadian Heritage's Feature Film Policy Review; a brief submission to the consultative processes on the Canada Media Fund; an appearance before the Standing Senate Committee on Banking, Trade and Commerce with regard to the Conservative's omnibus Bill C-10 that included proposed changes to the federal film and television tax credits for the film and television industry; and consultations with Immigration Minister Jason Kenney to discuss the impact of changes to the Temporary Foreign

Worker program on the film and television production sector (J. Lewis, personal communication, December 3, 2009). As the case studies will show, IATSE locals are most active in provincial policy affecting local labour markets. The IATSE Canadian office is largely absent in federal cultural policy networks, and has never appeared before the CRTC on any issue.

Union engagement in cultural policy is linked directly to the labour market interests of their members. The unions' power in cultural policy networks is tied to the degree to which they are able to authoritatively represent the interests of cultural workers. As members of policy networks, unions make strategic alliances with other industry stakeholders. This largely involved alliances with other unions but also, and particularly in provincial cultural policy advocacy, the independent producers. In order to understand the significance of these relationships in policy networks we must also understand how they function in labour markets. While unions and producers organizations may be partners in policy advocacy, in their primary functions as workers and employers, they sit on opposite sides of the bargaining table.

*The basics: collective bargaining in the independent film and television production sector*

Collectively, the five national film and television unions represent over forty thousand workers in the Canadian English independent film and television production sector. Union jurisdiction is regionally specific and uneven across the country. For example, the DGC represents Production Coordinators in the Atlantic Region, but IATSE Local 411 represents this category in Ontario. Overall, the generally collegial relationships between unions is an extension of the highly collaborative nature of their members' workplaces; a fully unionized dramatic television series in Toronto will regularly sign contracts with ACTRA for on and off screen performers, DGC for key creative & logistical personnel, NABET 700-CEP or IATSE 873 for technicians, the WGC for writers and IATSE 667 and IATSE 411 for camera technicians and production coordinators, honeywagon drivers and craft service providers respectively.

The duration of scripted film and television projects occurs over a relatively short period of time. Television pilots are regularly shot in less than ten days, movies of the week under twenty. Feature film schedules average from two to four months of shooting, and a television series may run for up to six months. These are shooting schedules only, and some crew members are also involved in pre-production and / or post-production stages as well. Certifying the crews on individual productions through a labour board would be extremely difficult given the short-term nature of the contracts. In the interests of efficient bargaining, and bringing some predictability to labour markets in terms of rates and working conditions, the industry negotiates its collective agreements, as a sector, through pattern bargaining that runs on a three year cycle. Sectoral bargaining happens at the international, national, district and local labour market levels.

IATSE is the only one of the five unions and guild that is international in its jurisdiction, and the international reach of IATSE is significant. IATSE locals 873 Toronto and IATSE Local 891 negotiate three year term agreements with the major U.S. studios through the Association of

Motion Picture and Television Producers (AMPTP).<sup>17</sup> Bargaining with the major U.S. studios and independent producers allows IATSE to exercise considerable influence and jurisdiction over most of the foreign service production work in Canada. IATSE does not share a particularly close relationship with the independent Canadian producers. This leads to a division of labour in Vancouver and Toronto where the CEP locals do most of the Canadian content production, and the IATSE locals do most of the foreign service production. However, particularly in Toronto, the IATSE technicians union, local 873, has spent considerable efforts in recent years to expand their contractual reach over Canadian production,

The DGC, ACTRA and the Writers Guild of Canada all negotiate national agreements with the Canadian Media Production Association (CMPA), but ACTRA and the WGC are the only unions in this study which have national agreements that unilaterally cover all members across Canada. This forms the backbone of union solidarity between their members, ensures pay equity across local labour markets, and, particularly in the case of ACTRA members, works against the ability of producers to attempt to negotiate contract variances or rate concessions from specific regions that are competing with their union brothers and sisters to attract work into their labour markets.

The DGC, CEP and IATSE locals all have rate cards specific to their jurisdictions. The Directors Guild of Canada negotiates the Guild Basic Agreement with the CMPA which outlines basic working terms and conditions on a national scale, but which contains individual schedules for Alberta, the Atlantic Region, Manitoba, Ontario and Saskatchewan district councils. British Columbia has a separate agreement, and Quebec is currently negotiating one with the Quebec producers' association (DGC, 2011b). The CEP locals (NABET 700 in Toronto and ACFC 2020 in Vancouver) negotiate collective agreements for their jurisdictions with the CMPA as independent locals. The differences in rates across the country, even within a union covered under one basic agreement such as the Guild, allows producers considerable leverage when 'shopping' a project. As I examine in chapter five, this interacts with the tax credit structure in a race to the bottom situation that largely happens at the expense of the quality of work for union members.

Collective agreements in the film and television sector cover basic issues such as wages, overtime, work weeks, rest periods, workplace safety, meal breaks, travel, *per diem*, benefits and vacation pay, and grievance and arbitration procedures as well as industry and job specific items including terms of payment, copyright, credits, creative approvals, terms of use for creative output, work permits, minimum staffing requirements, protection of minors, limitations on nudity, cancellation or schedule change penalties, and health and risk management for stunt performers. The collective agreement is laid on top of individual employment contracts for each crew member engaged on the project. Cast and crew regularly

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<sup>17</sup> While the IATSE term agreements only specifically cover the Toronto and Vancouver labour markets in Canada, there is language in the contract that outlines that signatory companies will contact the appropriate IATSE office when shooting in regional labour markets such as Halifax. IATSE motion picture production locals across Canada and the U.S. are also covered under the low budget theatrical agreement for feature films under \$12 million.



attempt to negotiate rates and terms of employment above collective agreement minimums. This might include specific conditions such as those related to travel and transportation to and from set, accommodation, work-related expenses such as gear, computer or cell phone rentals, and screen credits. The ability of a crew or cast member to negotiate terms and conditions above those outlined in the collective agreements is directly tied to their labour market power, which is affected by their experience, reputation, project specific skills, and local production volume. In times of high production volume when skilled workers are in high demand, individuals are more readily able to negotiate “above scale” on a range of terms. However, in times of low production levels, even the most experienced and skilled cast and crew find their individual negotiating power markedly diminished, bringing the importance of the collective agreement into sharp focus in protecting wages and working conditions in a highly competitive and precarious employment landscape. Yet it is that same precarious employment and highly competitive nature of the industry that undermines the strength and unity of the unions. This is further complicated by an ill-defined legal standing for the unions under provincial labour law, to which we turn to now.

### *Challenges to collective bargaining*

Despite high rates of unionization, collective bargaining for the independent film and television production sector happens largely outside of the legal collective bargaining framework in Canada. A majority of work in the film and television production sector falls under provincial jurisdiction. Under provincial labour laws, historically only employees have been legally eligible to be a member of a union and engage in collective bargaining (Fudge & Vosko, 2003). Some of the unions in the independent production sector, such as IATSE, have been successful in securing status as certified bargaining agents for dependent contractors (J. Lewis, personal communication, December 3, 2009).<sup>18</sup> Others, however, have expressed reservations with this approach as Canada Revenue Agency has used employment status as determined by provincial labour boards as part of determining employment status for tax purposes (Neil, 2005). There are additional concerns related to the nature of the work and how this fits into existing labour relations statutes; as Geiger (2003) notes, labour relations legislation across Canada excludes employees who have managerial responsibility from representation under bargaining regimes. This has the potential to disqualify a host of key creative and administrative film and television professionals, such as Production Managers, Location Managers and Directors, from union representation.

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<sup>18</sup> Neil defines dependent contractor as “someone who, while they may work on a contractual basis and be considered to be self-employed for income tax purposes, is nonetheless “dependent” on one employer for their income and is considered, for labour relations purposes, to be equivalent to an employee” (Neil, 2010, p. 14). For a detailed analysis of the history of the concept of dependent contractor in labour relations across Canada, see Fudge & Vosko (2003).

Status of the Artist legislation in Canada has been one of the means by which the unique and challenging issues facing artists as workers has been engaged with at the policy level.<sup>19</sup> While Status of the Artist legislation at the federal level and in the province of Quebec has formalized collective bargaining specifically for the cultural sector, neither Ontario nor Saskatchewan included collective bargaining provisions in their Status of the Artist statutes, and none of the other provinces currently have Status of the Artist legislation. This has produced a landscape whereby, “much of the film industry operates in a legal no man’s land and has for many years” (Geiger, n.d., p. 5). Canadian cultural labour expert Garry Neil is worth quoting at some length in describing the challenges this poses to collective representation in the cultural sector.

A key difference between traditional union agreements and voluntary agreements in the cultural sector is that the legal basis for the artists’ agreements is contract law, rather than labour law.

Generally, an agreement entered into by a trade union is a legally binding instrument that can be enforced either by the employer or by the union. By virtue of the legal recognition as the bargaining agent, the union can become a legal party to the collective agreement and it has an obligation to administer the agreement on behalf of the individual members. Where the terms of the agreement have been breached, the aggrieved party can seek redress under its arbitration provisions and/or through a labour board. An arbitration award that is not respected can be filed in court and become a court order.

The legal situation has historically been much different in the cultural sector, although this has changed over time. Artists have created voluntary associations that are more in the nature of private clubs. When these associations negotiated agreements, they could not in the end be enforced in any court by the association acting in its own name. The engager groups that negotiated these agreements typically did not have the legal authority to act on behalf of their members in this way. As a consequence, artists’ associations require individual producers to become signatory to the collective agreements to ensure their adherence to the provisions...

Legal enforceability of the agreements arises through the individual contracts that are entered into between artists and the engagers. These have an equivalent status to any other written contract between two parties. Generally, when an artist signs a contract to provide services to an engager, the collective agreement will provide that its terms must be incorporated by reference into the individual contract. Typically, this will be through a clause that states something to the effect that “this contract is subject to the terms and conditions of the agreement entered into between the artists association and the engager.” *Thus, the legal enforceability of the agreement arises from the right of the individual artists to enforce the terms under laws governing private contracts, rather*

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<sup>19</sup> For a thorough analysis of the history, implementation and impact of Status of the Artist legislation in Canada, see Neil, Garry (2010). *Status of the Artist in Canada. An Update on the 30th Anniversary of the UNESCO Recommendation Concerning the Status of the Artist*. Ottawa: Canadian Conference of the Arts.

*than from the status of the collective agreement itself* (Neil, 2005, pp. 12-13, emphasis added).

This brings us to examine more closely some of the problems unions face in their mandate to represent their members' interests. The freelance nature of the employment relationship places members in competition with each other for jobs and encourages behaviour that often violates collective agreements. This is complicated by the tenuous connections that cultural workers have with a working-class identity, which is informed by and reinforces distant relationships between the unions and the solidarity-based principles and practices of the labour movement more generally. All of these interact to shape union behaviour as labour market actors and in policy advocacy which, at times, is most accurately described as parochial. This includes pressuring other locals within a labour market to concede to contract variances to secure work for their own members; failing to publicly support, or criticizing, other unions during times of job action; and taking policy positions that fundamentally contradict those of their labour colleagues. While conflict and disagreement between unions is to be expected, the degree to which unions in the film and television industry can work *against* each other at times reflects the degree to which precarity affects industry dynamics. Understanding precarity and its relationship to a strong craft tradition in union culture is important to developing an understanding of the relationship *between* unions as labour market actors; relationships which, as I will argue in the following chapters, carry over to their activities as policy actors.

#### *Artist or worker: Challenges with representing cultural workers*

The prestige associated with working in the cultural industries promotes strong self-identification with a project and a strong occupational identity in the sector overall, which McKinlay and Smith argue “reinforces the emotional and personal attachment between the individual and their work” (2009, p. 44). Strong individual identification with a project and workplaces that change routinely can be problematic for attachment to a collective such as a union. There is no consistent job site where workers can develop a deep and enduring sense of workplace solidarity with their colleagues. Workers face intense pressure from producers and department heads to ‘get the job done’ in extremely fast-paced work environments. Rapidly changing schedules, insufficient crew or financial resources, and unrealistic expectations from decision-makers create conditions under which workers must choose to violate the agreement in order to accommodate the show’s demands or risk developing a reputation of being difficult to work with. Workers are often willing to self-exploit and be seen as ‘production friendly’ by signing flat rate deals, failing to put actual hours worked on time sheets, or running a few work-related errands on the weekend at no charge to establish or maintain relationships and reputations, all of which are in violation of collective agreements.

The occupational identity of cultural workers also poses challenges to collective representation, as illustrated by Holmes’ account of the debates around unionization and affiliation with the American Federation of Labour that were part of the 1919 Broadway actors’ strike.

“We are not in the conditions of labor and capital because we do not work with our hands,” asserted the leading lady Blanche Bates in a speech that played upon both her femininity and the intangible qualities of performance as a commodity to distance actors from the blue-collar working class. “We work with the one thing God has given us, our hearts, our souls. . . . We are not laborers with calloused hands . . . and what we have is something that cannot be capitalized. What we give cannot be weighed or measured. Don’t let us do something that we will regret doing.” Advocates of affiliation articulated their position more prosaically, prioritizing not the product of their labor but the material conditions of its production. “It is not art to get up at four o’clock in the morning and catch a train,” declared Fred Niblo, a onetime vaudevillian who later became a prominent film director in Hollywood. “It is not art to travel in a vile-smelling day coach all day—a day coach so old and terrible that railroad companies only keep it to haul actors in. It is not art to spend your life on the Yazoo and Mississippi Valley Railroad and to find that after you have been travelling all day, that you have not gone fifty-two miles. . . . *It is downright labor*” (Holmes, 2005, p. 1298, emphasis added).

The artist or worker debate persists in shaping the organizational culture and structure of contemporary cultural unions and guilds (R. Haney, personal communication, September 16, 2009). The tenuous identification that cultural workers share with the broader labour movement means that the basic principles of unionism and solidarity are not always at play within memberships or between organizations, which has implications for union strength in the workplace and at the bargaining table.

The precarious nature of employment and the ambiguous legal standing of the collective bargaining regime not only undermine collective agreements in the workplace, but also appears to function as a constraint on labour power more generally. While NABET 700, ACFC 2020, the DGC, the WGC and ACTRA bargain with the CMPA, and the IATSE Canadian office is in preliminary discussions with the Canadian Media Producers Association (CMPA) over a national term agreement with Canadian producers, problematically, the CMPA does not bind their members to these agreements. This results in considerable additional negotiations and requests for concessions between producers and union locals on a project by project basis. Project based variances on rates or fringes by a local in one region can cause friction between locals and a source of conflict within national organizations.<sup>20</sup> The CMPA’s refusal to bind their members to national agreements is one of the primary reasons why IATSE has historically refused to bargain a national agreement with the CMPA. Current talks on a national agreement between IATSE and the CMPA hinge on this very issue.<sup>21</sup>

In the interests of providing a measure of stability and predictability in a volatile industry, the Directors Guild of Canada and IATSE, for example, take a ‘partners in production’ approach to bargaining, where the main goal is to approach contract negotiations with the intent of executing a swift and smooth round of negotiations based on pattern increases (generally 2 or 3

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<sup>20</sup> ACTRA is the only union that does not negotiate variances on rates or fringes on project by project basis.

<sup>21</sup> As noted earlier, as IATSE locals do the majority of the foreign service production in Canada, negotiating a national agreement with Canadian independent producers has not historically been a top priority for the union. IATSE locals have promulgated agreements that Canadian producers sign if they wish to access IATSE technicians.

percent wages and benefits per contract). Strikes are therefore not generally part of these unions' strategic repertoire. The net result of this is a basic cost of living increase with little real wage increases over the long-term, and a persistent failure to address other issues such as excessive hours, training and professional development resources, or equity bargaining.

While strikes are uncommon in the industry they are not unheard of. Technological innovation, corporate concentration, and cross platform distribution have significantly impacted the industry over the past several decades. These developments have had differential impacts on various occupations within the film and television industry. Writers, directors and actors receive residual payments for use of their work, whereas technical, administrative and logistical personnel do not have these provisions in their agreements. Securing rights for online distribution of content has been a highly contentious issue in recent bargaining, straining relations between labour and producers, and also within the labour community.

In early 2007 ACTRA went on strike for the first time in their history over online media residuals (ACTRA, 2011c). Due to the highly collaborative nature of the work, a strike by one union necessarily impacts the membership of all unions representing workers in the independent production sector. While ACTRA received solidarity support from Equity and the Union of British Columbia Performers (UBCP), the two other Canadian performers unions; the powerful U.S. based Screen Actors Guild (SAG); and the International Federation of Actors (FIA); they did not receive any open support from the WGC, DGC, CEP or IATSE. Later that same year, Writers Guild of America (WGA) members also went on strike over digital streaming and online media residuals, essentially shutting down Hollywood production for a little over three months.<sup>22</sup> SAG expressed solidarity with WGA members, but the strike also provoked openly hostile relations between unions. A 2007 open letter to Patric Verrone, Writers Guild of America West President, from IATSE International President Tom Short reads in part,

Ever since late last year when the WGAw<sup>23</sup> announced withdrawal from its own proposed negotiating date in January 2007, I have warned you and predicted the devastation that would come from your actions. Those predictions have now come true.

...Why hasn't this team...spent months preparing to negotiate a contract that would ensure the health and future of the motion picture and television industry?...

Its time to put egos aside and recognize how crucial it is to get everyone back to work, before there is irreversible damage from which this industry can never recover (Short, 2007).

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<sup>22</sup> See also Banks, Miranda J. (2010) 'The Picket Line Online: Creative Labor, Digital Activism, and the 2007-2008 Writers Guild of America Strike' Popular Communication, 8: 1, 20-33.

<sup>23</sup> WGAw refers to Writers Guild of America, West, based out of Los Angeles. The WGAe, East, is based out of New York.

President Short sent a clear message to the industry about IATSE's official position on the strike by not also penning an open letter to the Association of Motion Picture and Television Producers calling for a swift end to the strike. Such a public rebuke of another union representing cultural workers indicates that IATSE, despite its industrial strength and international reach, clearly has little intention to make any significant demands in bargaining that could lead to a work stoppage. It is also likely that, should an IATSE local proceed with strike action, they would not be seeking (or receive) significant support from the other unions and guilds with whom their members share a workplace as part of their professional lives.

The decision to strike, and the strained relations this produces between unions, is partly a function of leadership personalities, partly a function of organizational culture, and largely driven by the interests of their memberships. However, it is essential to understand the labour relations climate in the context of the structural power of capital. The tensions between the unions and guilds cannot be reduced to questions related to philosophical or occupational identifications with basic principles of the labour movement. They are clearly influenced by the precarious nature of work their members experience in unpredictable labour markets, produced by highly mobile capital and a globally competitive production base. We must also then understand the roles that unions play in the lives of their members that extend beyond collective bargaining. My primary research interest, of course, is on the political role of unions, and how their political advocacy strategies are driven by and shape the working lives of their members. Before proceeding to that, however, it is first important to understand the role that the unions play as key labour market actors in a complex and competitive political economic landscape.

*Beyond the basics: The role of unions as labour market actors*

The absence of a standard employment relationship in the independent film and television production sector leads unions and guilds to offer extended services to their members. In addition to negotiating and enforcing collective agreements, unions in the film and television production sector function are largely responsible for the maintenance and renewal of the pool of specialized labour that drives the industry. They function as hiring halls to varying degrees, provide workplace safety training, and administer health insurance, disability, parental leave, hardship funds, employee assistance plans, retirement benefits plans, and rights management for residuals. As self-employed freelancers, many union members are largely excluded from social benefits available to workers in a standard employment relationship. The programs and services offered by the unions and guilds offer some assistance in addressing this issue, allowing freelancers a better chance of maintaining their relationships with the film and television production sector over a longer period of time without needing to seek other sources of primary income.

Unions mitigate competition between their own members for jobs by restricting the number of new members or foreign workers in their jurisdiction through the permitting process. Unions also facilitate the movement of workers between jurisdictions, intra- and internationally through reciprocal agreements with other locals or international unions and guilds, although as

chapter five will show, this is complicated by the tax credit regime. The unions and guilds are also largely responsible for training and professional development of the workforce. Foreign producers have little stake in training a local labour force and domestic producers have too few resources to invest in the training and skills upgrading of a freelancer whom they might not engage again for months or years. Technology, such as digital and 3D cinema, is changing industry work models and workflows at an unprecedented pace, requiring rapidly changing and new skills in advanced or emerging technologies and cross-platform creative, artistic, and business developments. The highly specialized nature of many jobs is not covered in post-secondary training programs. Unions and guilds are thus, to a large extent, responsible for ensuring that the labour pool is suitably trained so as to remain globally competitive.

The highly mobile and globally competitive nature of the film and television production industry means that unions and guilds also play an important ongoing role in labour market development. Unions not only represent workers within labour markets; they are active players in attracting work *into* specific labour markets. Unions in Toronto go on regular ‘marketing trips’ to Los Angeles to develop and maintain close relationships with studio and labour relations executives. These trips routinely include local representatives from all the unions to demonstrate labour stability and a coordinated labour-based approach to industry development (M. Wolch, personal communication, March 4, 2011).

Government support plays an important role in these marketing trips. A 2011 trade mission to Los Angeles sponsored by the Ontario Media Development Corporation’s (OMDC) Film Commission, the City of Toronto’s Film and Television Office and the industry consortium FilmOntario invited key U.S. studio representatives to join labour leaders and other key industry players from the Toronto film and television industry in a private box at an LA Kings v. Toronto Maple Leafs game. The evening of informal networking was followed by a breakfast attended by over one hundred key industry stakeholders the following morning with a panel focusing on the strength of the industry-specific tax credit programs (OMDC, 2011a). One senior business agent described the purpose of these marketing trips as being “all about relationships...You’re trying to convince the producer with the suitcase full of money that they should spend it in Toronto” (M. Wolch, personal communication, March 4, 2011).

Unions and guilds tailor their marketing efforts to their specific labour markets and the type of projects they are seeking to attract. As with labour locals from the Greater Toronto Area, unions and guilds from Nova Scotia also do trips to LA, but without the same resources and not with the same frequency. They also market in Toronto to court Canadian producers to bring their projects to Halifax. Intra-national marketing trips can be a source of friction between locals in the same union in terms of ‘poaching’ work (T. Storey, personal communication, September 20, 2010). This is due to the highly competitive nature of labour markets that operates both inter- and intra-nationally.

*Highly mobile capital and global competition*

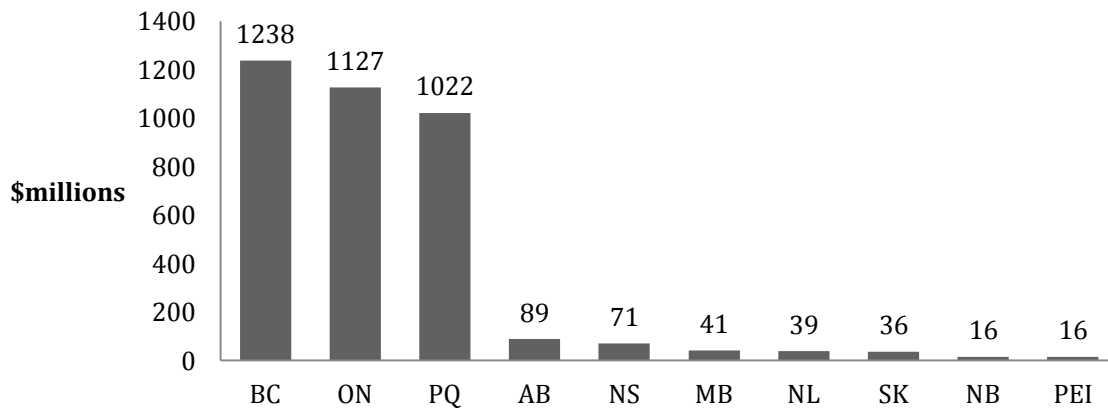
Union solidarity and labour power are complicated by the global political economy of the industry that produces intense competition between labour markets that operates on intra- and international scales. Chapter five examines in detail the ways in which the Canadian provincial film and television tax credit regime creates direct competition between local labour markets within Canada. Yet it is important to contextualize the Canadian film and television policy landscape as embedded within a global industry where the structural power of capital shapes labour markets. This provides a backdrop for understanding the political economy in which policy is developed and the broader context in which unions engage in cultural policy networks.

Globally there are over 300 Film Commissions operating worldwide, with a host of public policy instruments such as direct subsidies, tax incentives, or rebates designed to attract highly selective and mobile foreign film and television projects. Fiji, France, Germany, Hungary, Iceland, Ireland, Israel, Italy, Kenya, Malta, New Zealand, Norway, Singapore, South Africa, Trinidad & Tobago and the United Kingdom are stimulating their film and television service industries through building infrastructure and attractive tax credit structures that foreign studios, with their eye on the bottom line, find increasingly appealing (Ernst & Young, 2004; Randle & Culkin, 2005; Entertainment Partners, 2009). Building on the labour tax credit framework that was first developed in Canada, currently over forty U.S. states offer generous production incentive programs in the form of tax credits or rebate programs. New York, Louisiana and Michigan pose serious competition for major Canadian production centre such as Vancouver and Toronto (D. Hardy, personal communication, July 14, 2009; M. Wolch, personal communication, July 28, 2009).

Although Canada generally enjoys several key advantages in attracting foreign service sector work, including proximity to the U.S., skilled crews, shared language and cultural norms, a diversity of locations, and developed technical and support infrastructure, these factors lose their power in the context of increasing competition from within North America and internationally (Nordicity Group Ltd, in association with Duopoly Inc., 2004; PricewaterhouseCoopers, 2006; Randle & Culkin, 2005). Canada's historical advantage has been to combine the above noted factors with a favourable exchange rate for U.S. producers, although this is increasingly irrelevant with the Canadian dollar hovering around or above par with its U.S. counterpart in recent years. As Figure 3.2 indicates, within Canada, Toronto, Montreal and Vancouver compete for the majority of the available foreign service work as well as most of the domestic television production. Halifax, Winnipeg, Regina and Calgary compete with each other as the four leading 'regional' production centres; relatively speaking, these centres benefit from a proportionally minor share of the total production volume.



Figure 3.2 – Total independent film and television production volume, by province, 2009/2010



Source: Canadian Media Production Association, 2010<sup>24</sup>

Christopherson skillfully connects the structural power of capital with the lived daily experiences of film and television workers. Christopherson rejects Florida's model of the creative economy, arguing he makes simplistic relationships between capital and local labour market conditions (Christopherson, 2008). Christopherson argues that media companies do not simply passively accept (through investment) or reject (by leaving) labour market conditions in a production locale. She argues that in order to effectively understand labour market dynamics in the film and television production sector, scholars must account for the active role that transnational corporations play in *conditioning* labour markets.

...dominant transnational media conglomerates...do not passively accept the limitations or high costs associated with regional production complexes. Nor are they passive with respect to the need to solve key problems and costs associated with a creative labour force – workforce reproduction, wage control, and flexibility in production conditions. Instead, there is substantial evidence to demonstrate that transnational media conglomerates use their political power to reconstruct the production environment, regionally, nationally, and internationally, so as to increase both their profitability and their flexibility vis-a-vis product and labor markets...the shaping influence of the transnational firm is extensive, encompassing both the national and subnational (i.e, regional) state (Christopherson, 2008, p. 53)

Hollywood's ability to condition distant labour markets and working conditions made international headlines in 2010 with respect to a labour dispute on the MGM and Warner Bros / New Line Cinema production of *The Hobbit* shot on location in New Zealand. The Hobbit is the prequel to the hugely successful *Lord of the Rings Trilogy* which was also shot in New Zealand. On both projects, foreign actors were brought in under UK Actors Equity and/or Screen Actors

<sup>24</sup> Figures calculated from CMPA 2009/2010 Profile. The volume of total broadcaster in-house production was subtracted from the total production volume for the same period for each province. It is worth noting that in 2011, Ontario surpassed British Columbia for the first time in terms of total production volume. This is arguably due to changes in the tax credit regime as discussed in chapter five.

Guild contracts.<sup>25</sup> Other A-list crew brought in from around the globe were able to port their home contracts with them as well. Local cast and crew were non-union.

In spring 2010, New Zealand Actors Equity (NZAE) attempted to negotiate a union contract for local performers working on the two-part feature film project boasting a total production budget of \$500 million. Both the independent production company, and the New Zealand producers association, the Screen Development and Production Association (SPADA) flatly refused. SPADA argued that as actors are independent contractors under New Zealand labour law, bargaining with the NZAE would violate competition laws (Jess, 2011). Increasingly frustrated, NZAE turned to their international brothers and sisters for help. In June 2010 the International Federation of Actors (FIA) advised the production company they had passed the first-ever International Do Not Work order against the production, preventing FIA signatory members, including SAG key cast members, from accepting work on the production (ACTRA, 2011d).

The unprecedented and remarkable show of global solidarity by the actors outraged Director/Producer Peter Jackson and the studios. Jackson released a very public anti-union statement in New Zealand as well as in the Hollywood press, a union town (Jackson, 2010). Local New Zealand media coverage cast the unions as threatening the foundation of the entire film industry in New Zealand. This both fed and drew upon public demonstrations protesting the boycott by other (non-union) crew and locals. Despite FIA lifting the Do Not Work order in the fall of 2010 at the request of the NZAE, Peter Jackson and Warner Bros. announced they were seeking a new shooting location for *The Hobbit*, possibly in Eastern Europe (Jess, 2011). The resolution of this dispute highlights the global political power of U.S. media conglomerates, the vulnerability of local labour markets, and the chronically precarious employment conditions of film and television workers around the world. After a series of high level meetings between Warner Bros. executive and the New Zealand government, and without the normal process of referral to a parliamentary committee and public submissions, the New Zealand federal government passed legislation that clearly defines all workers in the film and television production industry as independent contractors rather than employees. The *Employment Relations (Film Production Work) Act 2010* confirms that, as independent contractors, film industry workers are not entitled to engage in collective bargaining under New Zealand labour law (Reuters, 2010). Members of the opposition expressed frustration with the government's

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<sup>25</sup> The portability of contracts across international borders traces directly back to the Screen Actors Guild's membership rule known as Global Rule One. Introduced May 1, 2002 as a direct response to the increasingly international dimensions of Hollywood film production, Global Rule One states "no member shall work as a performer or make an agreement to work as a performer for any producer who has not executed a basic minimum agreement with the Guild which is in full force and effect." (Screen Actors Guild, 2012). It applies to, "all members who are engaged by a producer that is a foreign entity to work outside of the United States on a theatrical motion picture, TV production, or commercial/industrial film that is shot entirely in a foreign country. It states that in order for a member to be in compliance with *Global Rule One*, and thereby cleared by the Guild to perform services, such producer must become signatory to a Screen Actors Guild *Global Rule One* agreement, providing for minimum wages, working conditions and protections for each such member" (Screen Actors Guild, 2012).

concessions to what academic Katherine Stone has aptly referred to as “location blackmail” (Stone, 2010).

What is the government going to do next – give in to any multinational that asks for a labour standard to be diluted in return for some form of investment?" said an opposition MP, Charles Chauvel. "This is a government which, in the words of the Financial Times today, has reduced New Zealand to client status of an American film studio" (Reuters, 2010).

The organization of film and television production through the independent production model by nature creates mobile capital. The power of that mobile capital, however, is intensified by corporate concentration in the media sector. Canada has one of the most concentrated telecom, media and internet markets in the world, dominated by six media conglomerates with a reach across the media landscape covering network infrastructure and content services that includes holdings in broadcasting, cable, satellite, radio, telecommunications, internet and print (Winseck, 2011). The dominance of a few extraordinarily powerful media corporations has reduced the number of sources that commission programs from independent producers. Fewer program commissioners intensify the risk that the independent producer faces in a highly competitive environment. That risk is, in turn, devolved to the workforce.

Christopherson (2009) notes that film and television production labour markets in the U.S. are increasingly bifurcated as a result of Hollywood's recent decisions, on the one hand, to focus on producing relatively few 'blockbuster' films rather than a range of niche films, while on the other, emphasizing cost-cutting measures as demonstrated by the proliferation of low-budget, non union productions in what she refers to as the Wal-mart model of film and television production. Christopherson argues this has resulted in a marked decrease in 'bread and butter' work opportunities (such as dramatic television series and medium-budget feature films) for unionized film and television professionals while escalating competition through a substantial increase in low-end labour demand. Industry reports from Canada confirm trends of decreasing budgets, smaller crews and an increased workload that leads to burnout and potential health and safety issues (Conference Board of Canada, 2010). Interviews with labour leaders in Canada support these findings, with widespread reports that significant reductions in budgets are not only exerting downward pressure on wages but are also responsible for an intensification of work.

When we started, a TV movie was 105 pages, 25 days shooting for \$5 million. Now they're \$2 million, 13 days shooting, 105 pages. 15 [days of shooting] is a good one, if you get three five-day weeks...How? Two locations, talking heads, long hours...the size of the script hasn't changed...(M. Wolch, personal communication, July 28, 2009)

Worth noting is that both intra- and international competition between labour markets is premised on relatively short-term gains. Litvak and Litvak describe the film and television industry as “floating factories,” the long-term effects of which “typically fall short from the type of benefits realized when attracting plants, warehouses and regional office operations that

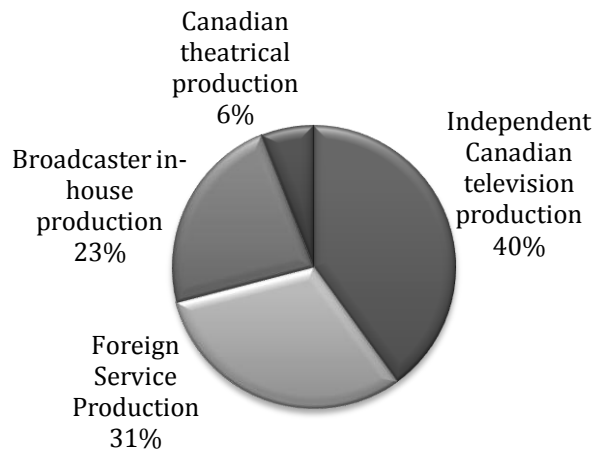
have not been set up with a future dissolution pre-determined – usually, in a time frame of less than a year” (Litvak & Litvak, 2006, p. 285). It is exactly the temporary nature of the economic benefits that ensures the competition framework remains in perpetual renewal.

The cultural policy framework that underpins the independent film and television production sector is equally as important as the structural power of capital in shaping labour markets. Both Canadian content regulations and the design of the tax credit regime stimulate investment and employment of Canadian film and television professionals. Cultural policy also shapes workers’ differential access to particular sectors of the film and television production industry. In order to proceed with an advanced analysis of the ways in which cultural policy operates as a form of labour market regulation, I will first examine the primary characteristics of, and differences between, the Canadian English-language television and foreign service production sectors. This provides a step to understanding why access to, and the type of work, in each sector has differential impacts on the professional lives of cultural workers. The different relationships that groups of unionized workers have with the foreign service and Canadian English-language television sector are, in turn, major factors in shaping the unions’ activities as policy actors.

#### *Foreign Service and Canadian television production sectors*

As Figure 3.3 indicates, the two leading labour market sectors in the independent film and television production sector are Canadian television production and foreign service production. In keeping with historical trends, in 2009/2010 Canadian television production was the leading economic and employment driver, accounting for 40% of total production worth just under \$2.0 billion and generating 18,600 full time equivalent direct (FTE) and 28,700 FTE indirect jobs. Of that, \$1.39 billion was English language television production, \$592 million was French language production and \$8 million was bilingual and other production. Foreign service production, largely U.S. studio and independent feature film and television production, accounted for 31% of all production in Canada, worth \$1.5 billion and generating 14,100 FTE direct and 21,800 indirect FTE jobs. A distant fourth was Canadian theatrical production at 6% of total production activity, worth \$308 million in total production volume (Canadian Media Production Association, 2010).

Figure 3.3 – Film and television production in Canada by sector, 2009/10



Source: Canadian Media Production Association, 2010

As I examine in detail in chapter four, the size of the Canadian television production sector is directly tied to Canadian content regulations designed to foster both the production and exhibition of Canadian content on Canadian airwaves. Canadian television is also driven by the support of key policy instruments such as the Canada Media Fund (until 2010 known as the Canadian Television Fund). As I examine in detail in chapter five, the size of the foreign service production sector is strongly tied to the federal and provincial film and television tax credits programs which are specifically designed, in part, to attract foreign productions (largely American) to Canada. We will now turn to why workers have differential access to the Canadian television and foreign service production sector. Many unionized workers, particularly those in technical, logistical, manual and administrative roles, regularly move between the Canadian television and foreign service sector over the course of their careers, or even over the course of a few months. The lucrative foreign service sector is not easily accessed, however, by Canadian cultural workers in key creative positions.

The foreign service sector is an important element of the independent film and television industry in Canada. The Canadian Media Production Association estimates that, in 2009/10, the foreign service sector generated \$754 million worth of income for Canadian cultural workers (Canadian Media Production Association, 2010, p. 81). Major U.S. feature films and network dramatic television series often far exceed, in budget and in scale, the kinds of projects that Canadian producers are able to undertake. As a result, the foreign service sector serves as an important training ground for Canadian crews; much larger budgets often mean access to a broader range of technical equipment and more complicated production requirements, stretching and enhancing the creative and technical abilities of crews. Larger budgets and more complex scripts can also mean larger crews and prolonged shooting periods, providing

extended contract durations and premium rates for freelancers.<sup>26</sup> Foreign service work does not, however, benefit all unionized Canadian film and television workers equally.

U.S. shows shot on location in Canada often come packaged with key creative personnel chosen by the U.S. studio. It is routine for American productions to engage American directors, cinematographers, editors and, particularly on larger feature films, for Americans to hold additional select creative, technical and administrative positions such as production accountant, costume designer, key hair stylists or makeup artists, production designer or first assistant director. U.S. productions are most often written in the U.S. under Writers Guild of America contracts, and no Writers Guild of Canada members are contracted whatsoever. U.S. shows come with principal or ensemble cast members attached. While ACTRA must grant permits for non-ACTRA members to work in their jurisdiction, and productions must agree to hire ACTRA members for any day players, minor roles and background performers, ACTRA is often under immense pressure from producers and other labour organizations to cede to U.S. casting requests. As noted earlier, IATSE's strong presence in the U.S. and long-term contracts with many of the major studios means that IATSE technicians generally benefit more from American foreign service production than CEP locals in the Canadian independent production sector.

Canadian television production is thus a critical sector for Canadians in key creative positions. When the Canadian Audio Visual Certificate Office (CAVCO) and the CRTC determine Canadian content through their points systems, the script content is not the basis for evaluation. Canadian content is determined by the number of Canadians in key creative positions – writer, director, lead performers, director of photography, art director, composer, and picture editor – who brought the project from script to screen. As Canadian writers, directors and actors rarely have regular access to work in the foreign service sector, Canadian content regulations play an important industrial function as a major employment driver for key Canadian creative talent.

### *Conclusion*

Cultural policy for the film, television and broadcasting sector has historically emphasized the role of the private sector, and within that, the importance of the independent production model as a means to ensure programming diversity and industrial development. The dominance of the independent production model in Canada produces a workforce at the centre of the creative economy that experiences chronic employment and income insecurity on top of extremely demanding working conditions.

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<sup>26</sup> The foreign service sector is an attractive source of employment for Canadian producers working on U.S. shows as local producers for its ability provide income and a source of capitalization for future domestic projects with relatively few attending risks (Davis & Kaye, in press). However, as Davis and Kaye argue, the foreign service sector is limited in its ability to meaningfully contribute to the development of the Canadian domestic production sector over the long-term, as Canadian producers engaged in foreign service production have no ownership over the intellectual property rights attached to the project. The foreign service sector also provides an important source of support for local suppliers including but not limited to hospitality, travel and equipment supply.

Unions are important labour market actors in the film and television production sector. Like organized labour more generally, they negotiate wages and working conditions through collective bargaining for their members. Yet the short-term, project based nature of work in the independent production sector means that unions play an extended role as labour market actors. Unions offer a range of benefits and services to their freelance members who, in many cases are not eligible for other social benefits, allowing many freelancers to maintain their ties to labour markets and their careers over the long-term. Unions provide training and professional development, and are important institutions in reproducing the workforce in the absence of a standard employment relationship. Unions play a prominent role in (competitively) marketing their labour markets across Canada and internationally, using the depth and expertise of their members as a flagship for creative excellence to attract work in a globally competitive industry. They do this in a labour relations landscape which is itself extremely precarious, functioning largely outside of standard labour relations law and under constant pressure from the influence of powerful multinational media enterprises.

Understanding the role unions play in regulating, reproducing and marketing their memberships provides important contextual information for the comparative approach to understanding the uneven effects that policy frameworks have on different categories of workers. It also provides a means by which we can understand how union structures, and relationships between unions and other industry stakeholders, influence unions strategies in policy networks. As the case studies in chapters four and five reveal, comparing the ways in which Canadian content regulations and provincial tax credits function as a form of labour market regulation reveals the degree to which policy shapes the volume of work as well as the type, location and quality of that work. It allows for a more nuanced understanding of the ways in which geography and scale influence power relations between unions and other members of policy networks, and how differences in the political economy of local labour markets shapes union resources, expertise and strategies in the political arena.

Cultural policy plays a central role in shaping labour market dynamics for the independent film and television production industry as a whole. As I have demonstrated, Canadian television production and foreign service production sectors are both important employment drivers, although not all workers share equal and open access across the two. Uncompetitive tax credits can seriously impact production levels in the foreign service production sector, where many IATSE technicians, particularly in Toronto, spend a majority of their careers. Changes in Canadian content regulations similarly facilitate or constrain work opportunities for Canadian in key creative positions. While Canadian television and foreign service production sectors, and the policies that support them, are quite different in their dynamics and objectives, cultural workers are at the centre of both. Cultural policy for the film and television production sector therefore needs to be understood as a primary form of labour market regulation *by design*.

It is because Canadian content regulations and tax credits situate the cultural worker as the object of policy, and also because the application of these policy programs shapes the labour markets and working conditions for cultural workers, that analyses of cultural work must

account for policy. The following chapters use a labour-based analysis to examine two case studies. Chapter four analyses the role of the unions in their policy advocacy efforts to undo the key changes to the Canadian content regulations in the CRTC's 1999 Television Policy. Chapter five compares the role unions play in the development and strategy of FilmOntario and the Nova Scotia Motion Picture Industry Association (NSMPIA) as they attempted to influence provincial film and television tax credit programs. My application of a labour-based analysis in these case studies foregrounds the interests and experiences of the unions' memberships as they are shaped by and shape the impact that cultural policy has on labour markets. In doing so, it plainly reveals the mutually constitutive relationship between cultural and industrial policy objectives. It also provides a clear understanding of the motivation and rationale for the unions in their role as policy actors, and allows us to examine whose interests are, and should be, considered central in the long-term development of the Canadian cultural industries.



#### **Chapter 4: Canadian content means counting Canucks**

Chapter three established a basic overview of the overall dynamics of labour markets in the independent film and television production sector, and the proactive role labour plays as labour market actors. Chapter three also examined the ways in which cultural policy decisions created the independent production sector as the dominant form of work organization for the Canadian film and television production industries. The rationale for this highlights the deeply intertwined nature of cultural and industries objectives in cultural policy. The main thrust behind the shift toward independent production was to draw on a greater range of Canadians talent in the production process, and in doing so, to offer a greater range of high-quality Canadian television programming to Canadian audiences. The industrial impact of this cultural objective was to increase the volume of work available to freelance film and television workers. The rise of the independent productions sector also benefitted the size, resources and labour market power of the unions representing freelance cultural workers in film and television production. However, it has also created a precarious employment model marked by employment and income security, excessive hours, and highly competitive labour markets.

As I discussed in chapter three, unions play an important role in mitigating the employment precarity cultural workers face by offering a range of membership services, aggressively marketing their labour markets, and regulating and reproducing a highly specialized labour pool. One of the other key means by which unions attempt to mitigate precarity for their members is through policy advocacy, which brings us to our first case study. This chapter uses a labour-based analysis of cultural policy to reveal how federal cultural policy decisions shape the volume of work and the quality of that work in the Canadian television production sector. I do this by analyzing the interests, issues, and actions of the unions as policy actors in the federal broadcasting policy network related to the Canadian Radio-television and Telecommunications Commission's (CRTC) 1999 Television Policy.

In 1999 the CRTC announced significant changes to the regulatory framework for Canadian content that changed the type of productions that conventional (over-the-air) were allowed to broadcasters to use in meeting their Canadian content requirements. Canadian content is defined by the number of Canadians employed in key creative positions on a show. Consequently, changes to the Canadian content regulatory framework necessarily impact the cultural workers who define Canadian content. Departing from an historical emphasis on original Canadian dramatic production that dates back to the early 1980s, the 1999 Television Policy allowed broadcasters to meet their Canadian content requirements with genres that are far less expensive than drama to produce. A sharp drop in dramatic program production directly resulted in a decline of the quantity and quality of work for unionized freelancers in the Canadian independent production sector.

The 1999 Television Policy represents a significant shift in the political rationality of the broadcasting regulatory framework that clearly privileged the market-based interests of the

private broadcasters. However, key aspects of the 1999 Television Policy were repealed by the CRTC in 2010. I use a labour-based analysis to examine the role that the unions played in the contestation and revision of the CRTC's 1999 Television Policy, which provides us with a lens for understanding the key changes to the Television Policy a decade later. The implementation of the 1999 Television policy had a devastating impact on dramatic production, and thus labour market outcomes for unionized film and television professionals. The unions responded to the labour market impact of the policy *as policy actors*. I examine the unions' use of a range of discursive and associational political advocacy strategies to reverse the deregulatory policy shift. I argue the unions are responsible for connecting the 1999 Television Policy with a decline in dramatic programming production, and consequently re-establishing drama as a policy priority for the CRTC. Their sustained advocacy efforts resulted in an admission by the CRTC that the policy was a mistake, marked by a return to a strong regulatory framework for Canadian dramatic programming in 2010. The case study is instructive for three reasons. First, it provides a concrete example of how cultural policy functions as labour market regulation. Second, it reflects the degree to which cultural and industrial objectives in cultural policy are mutually constitutive. The unions engage in policy networks as representatives of their members' labour market interests, yet the discursive tools they use to advance their rationales and recommendations routinely draw from the cultural objectives of the Broadcasting Act. Third, the ten year time frame of the case study provides the opportunity to examine changes in union strategy as members of policy networks who are seeking to disrupt dominant power relations and position themselves as vital industry stakeholders who deserve a front row seat in broadcasting policy processes.

Foregrounding the interests of cultural workers in policy design and implementation, and examining the tactics of their unions as policy stakeholders, reveals the interactive relationship that cultural workers have with cultural policy. The Canadian content regulatory framework both shapes and is shaped by the workers who define Canadian content. They do so as stakeholders in policy networks where they are at a relative disadvantage in terms of power and influence compared to the broadcasters, as other scholars have shown (Armstrong, 2010; Raboy, 1995). However, a deep analysis of stakeholder relations reveals that disadvantage is indeed *relative* – the unions have, over time, strategically shifted their discursive and associational strategies as policy actors, and successfully managed to leverage a decline in relative advantage within the broadcasters' ranks. While the objective of a labour-based policy analysis is not principally designed to be able to make direct, causal linkages between policy actors and policy outcomes, my research shows that within the CRTC's policy network on the 1999 Television Policy file, the unions clearly achieved, over a decade, some of their primary policy objectives. The long-term impact of this will be to provide a greater number of opportunities for 'good' work in dramatic series production for their members in years ahead.

The chapter opens with an analysis of the role that genre, and in particular drama, plays within the Canadian television production sector. I follow with an historical review of key moments in the regulatory history of Canadian content and its relationship to dramatic production to provide context for the current regulatory framework. I then proceed with details of the case study that examines the CRTC's 1999 Television Policy as a defining moment in Canadian

broadcasting policy in its approach to Canadian content and Canadian drama, the impact it had on labour markets, and its effects on the policy strategies of the unions and guilds. I analyze the power relations between major industry stakeholders in the federal broadcasting policy network, and I examine the formation and dissolution of the Coalition of Canadian Audio-visual Unions as an evolving attempt to disrupt an approach to broadcasting regulation that privileges the interests of the broadcasters over those of the workers who create the programming. My analysis concludes that the CCAU's "Campaign for Canadian Dramatic programming" worked to improve the political profile of ACTRA, the DGC and the WGC as policy network actors in the Canadian broadcasting policy network, reflected in the CRTC's recent emphasis on the input of, and impact, on the 'creative community' in policy development. The CEP's retreat from this particular campaign, and IATSE's total absence, however, have resulted in the representation of the 'creative community' at the policy level that excludes a majority of unionized workers in the independent film and television production sector.

### *Why unions care about dramatic programming*

The Canadian independent film and television production industry is largely driven by Canadian television production and foreign service production. Importantly, both of those sectors are internally differentiated in terms of genre. Independent Canadian television production includes drama, documentary, lifestyle, magazine show, reality television, award shows, animation, children and youth programming. The quality of employment varies significantly between genres in terms of the length of the contract, rates of pay, hours of work, the size of the crew, and whether that work falls under union jurisdiction and is performed under a collective agreement.

Documentary, reality or lifestyle programming shows are largely low budget, non-union productions where minimal crews work on flat rates with no overtime or fringe benefits such as RRSP or health plan contributions. Reality programming and documentaries, by design, preclude the use of professional actors. Other genres, such as television pilots and movies of the week, hire unionized professional actors and crew, but the length of the contract is short; under ten days of shooting for a TV pilot, and under twenty days for a movie of the week. By contrast, Canadian drama series production is considered a good job in a highly precarious employment landscape. A fully unionized Canadian dramatic television series engages the full range of Canadian on and off screen talent for contracts lasting between six and eight months with the possibility of renewal. TV series tend to be the most "family friendly" format, particularly when compared with the intense pace of movies of the week or the enormous scale of U.S. feature films that can lead to extremely long workdays, and six or seven day work weeks for the production team. Television series, and in particular, Canadian English-language television series that have budgets much smaller than their U.S. counterparts, generally keep to a standard 12 hour shooting day based on a regular five day week. A one week hiatus is a common feature of series work, generally taken mid-way through the production schedule, and is the closest approximation of (unpaid) vacation time available to industry freelancers. As noted in chapter three, Canadian production is extremely important for Canadian directors, actors, screenwriters and NABET-CEP technicians who do not enjoy the same access to the

foreign service sector labour markets as other unionized members of the film and television production sector.

*Why policymakers care about dramatic programming*

Canadian drama has also been a central feature of broadcasting policy in Canada. Although the rationale for supporting Canadian drama is linked to the public interest objectives of the *Broadcasting Act*, the development and application of Canadian content regulations has, over time, become closely associated with the cultural workers behind it. The current Broadcasting Act clearly articulates a position that the public interest objectives in programming are directly linked to the cultural workers who make it.

The Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty (*Broadcasting Act*, 1991)

the Canadian broadcasting system should

serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada (Section 3 (d)(i))

encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and *artistic creativity, by displaying Canadian talent in entertainment programming* and by offering information and analysis concerning Canada and other countries from a Canadian point of view (Section 3(d)(ii))

*through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society* (Section 3(d)(iii))

each broadcasting undertaking shall make *maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming...*(Section 3(f)) (emphasis added)

The interactive relationship that exists between the industrial impact of a regulatory focus on Canadian drama and the cultural impetus to support it explains the long history of union intervention in public policy in support of Canadian content regulations and in particular, Canadian dramatic programming. The challenge lies in that the political economy of the Canadian film and television production sector creates strong disincentives for the production and exhibition of original Canadian dramatic series production.

*The market failure of English-language Canadian dramatic programming*

With a total population of only 34.1 million people and the number of private households at only 12.4 million, the domestic market for Canadian English-language television is, particularly in comparison to our U.S. neighbours, very small. Ninety percent of households in Canada subscribe to multi-channel television programming services, such as cable television or direct-to-home satellite services (Canadian Media Production Association, 2010). The high saturation rate of multi-channel television programming services in Canada, with American stations enjoying premium channel allocations, has cemented the dominance of the private sector in the Canadian broadcasting system (Jeffrey, 1996). The dominance of private broadcasters, whose primary mandate is to maximize returns for shareholders, exacerbates the market failures associated with what Grant and Wood call the “small country problem” (2004, p. 56). The authors make three critical observations about the economics of cultural production that typify the challenges associated with producing Canadian content for the domestic market.

*The first is that most cultural products fail to achieve commercial success, and it is virtually impossible to predict ahead of time which products those will be...The second observation, however, is the converse of the first. If they are successful, cultural products can produce a much higher reward than any ordinary commodities can...But a third observation is [sic] cultural products that are attractive to consumers in a large geographical market have a lower risk and a much greater potential reward than do those that are produced for a smaller market...If a product is culturally specific to consumers in a small country or society [sic] and its cost is comparable to that of a product produced for a larger market, it is much more difficult to reach a break-even point even if the product is quite popular in the smaller market... (Grant & Wood, 2004, pp. 55-56, emphasis in original)*

Drama is the most watched genre on television, which is why Canadian broadcasters air drama during peak viewing hours. Yet most of what they air is U.S. drama. Several features of the Canadian broadcasting industry interact to create market disincentives for broadcasters to commission and schedule original Canadian dramatic programming during prime time. First, compared to lifestyle, reality or documentary genres, dramatic programming, and dramatic series production in particular, is expensive to produce. It uses the full range of unionized Canadian cast and crew; often includes complex production design elements and technical requirements; requires significant production resources, such as carpentry, paint, set decoration, props and wardrobe facilities, in addition to project-specific production administration and post-production editing offices; uses large equipment packages; and is generally filmed on location, as well as on custom-built standing sets.

Second, U.S. dramatic programming is available for purchase at a very low cost to Canadian broadcasters. This is because U.S. shows easily recover their initial production costs within their large domestic markets, and sell on international markets at significantly reduced prices. This means that heavily promoted high-demand U.S. shows are available for Canadian broadcasters to sell to domestic advertisers at premium rates for a comparatively low investment threshold. By comparison, in addition to the licence fees that Canadian broadcasters invest in

commissioning original Canadian dramatic programming, broadcasters must invest extra effort and expense in the promotion and marketing of Canadian dramatic series to *create* audience demand for a show that is much more expensive to licence and will generally bring in lower audience numbers, and thus, lower advertising revenue.<sup>27</sup>

The lack of Canadian drama on Canadian airwaves during prime time is both an historical and enduring problem despite a long and mixed history of regulatory approaches. The degree to which drama is both a product of, and problem for, Canadian broadcasting policy is elegantly phrased by Trina McQueen in her 2003 report on Canadian dramatic programming for the CRTC.

It's hard to reconcile the reality of our viewing with the objectives of the *Broadcasting Act*, which through all its many versions, has insisted that programming respond to the tastes and interests of Canadians. Drama is the most appealing form of television for most Canadians. If they are not watching Canadian drama, it is hard to see how the Act is being upheld (McQueen, 2003, p. 10)...No broadcaster has ever made money on drama. It exists entirely and only because of political and regulatory will (McQueen, 2003, p. 5).

A focus on dramatic programming is a central feature of the broader policy framework known as Canadian content. Canadian content regulations work toward the cultural objectives of the *Broadcasting Act* by cultivating Canadian cultural expression through ensuring shelf space for Canadian audio-visual content, and a production sector capable of creating that content. Canadian content regulations create shelf space by outlining, as CRTC conditions of licence, the minimum amount and type of original Canadian programming television licencees are required to schedule in prime time and throughout the broadcast day. Canadian content regulations target the growth of the production sector by defining Canadian content as that which is made by Canadian cultural workers. The history of Canadian content regulations dates back to 1959 when the BBG ruled that at least 55% of television stations' broadcast time in any four-week period would have to be "basically Canadian in content and character" (Standing Committee on Canadian Heritage, 2003, p. 747). Since then, the broadcast regulators have used Canadian content regulations as a primary means to meet their public service obligations as laid out in Section 3 of the *Broadcasting Act*.

#### *The first 40 years of CanCon: 1959-1999*

The Canadian state has historically viewed the broadcasting system not only as a means to facilitate communication amongst its citizens, but a means through which national culture and

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<sup>27</sup> This problem is exacerbated by the privilege of simultaneous substitution, a process which allows a "broadcasting distribution undertaking such as a cable system [to] insert the signal of a local or regional Canadian television station on the channel of a more distant station showing programming that is largely or substantially the same, at the same time" (CRTC, 2007). This is why if a popular television series is being shown on NBC, Canadian advertising appears during the commercials. Simultaneous substitution is intended to protect the program rights, or ability to sell advertising during programs to which they have purchased the Canadian broadcast rights. The net effect of simultaneous substitution has been to encourage the broadcasters to schedule U.S. programs during Canadian prime time to match the schedules of the U.S. networks.

identity are formulated. The importance of television broadcasting as a tool of social cohesion and nation building dates back to the Massey Commission of 1951. At the time of publication, television was only an emerging technology. The Commission foresaw the threat of private stations becoming vehicles for American programming, compromising the ability of Canadians to use the system as a tool for communicating Canadian ideas and stories. Forecasting the pervasiveness and popularity of television as a vehicle for mass communication, the Massey Commission was overt in its view that the principles that should govern Canadian television broadcasting should work primarily toward the needs and interests of the Canadian people – principles which continue to be reflected to present day in the *Broadcasting Act*.

The Commission recommended that the CBC play the central role in television policy development and licencing in Canada to ensure these cultural objectives would not be subordinated to private interests (Royal Commission on National Development in the Arts, Letters and Sciences, 1951, pp. 300-305). The 1958 *Broadcasting Act* adopted an arms-length approach to broadcasting policy and regulation, divesting the CBC of responsibility for television broadcasting policy and regulation through the creation of the Board of Broadcast Governors, which from the outset wrestled with the balance of public and private interests in the single system (Dorland, 1998). With foreign programming already dominating private broadcasters' schedules as a result of market disincentives for broadcasters to produce their own programming, the BBG initiated policy discussions on Canadian content regulations in the late 1950s. The discussions brought to the fore of policy debates questions regarding the amount of Canadian content required to meet the objectives of the Broadcasting Act, and whether Canadian content should be defined through the citizenship of the cultural artists who create the product, or the content of the programming itself (Dorland, 1998).

The BBG introduced the first set of Canadian content regulations for private broadcasters in 1959. The definition of a Canadian program was broad and encompassing, including any program produced in-house by a licensee or affiliate, all news broadcasts and commentaries; events occurring "outside of Canada in which Canadians are participating" or "special events outside Canada and of general interest to Canadians" as well as programs made in Canada by Canadian citizens or a Canadian company (Edwardson, 2008, p. 85). However, because the BBG did not have the authority to grant or revoke licences, they had little power to enforce regulations. This produced a situation whereby broadcasters made significant commitments to Canadian programming during ministerial licence hearings that failed to materialize over the course of the licence term (Edwardson, 2008).

The dominance of foreign dramatic programming on Canadian airwaves was a main focus of the Fowler Committee on Broadcasting, established by the Secretary of State in 1964. The committee report, released in 1965, found that the existing Canadian content specification and a weak broadcasting regulatory agency had produced programming that was inferior in quality and diversity, and failed to provide Canadians with a "true image of Canadian life" (Raboy, 1990, p. 162). In 1968 the Trudeau Liberals passed a new *Broadcasting Act*, an objectives based statute that laid clear foundations for the future of Canadian content regulations, and that also situates more clearly cultural workers as a focal point of the legislative objectives. The 1958

Broadcasting Act's declaration that the system should be 'predominantly Canadian content and character' was replaced by 'predominantly Canadian creative and other resources' (Edwardson, 2008, p. 198). The 1968 Broadcast Act also fundamentally altered the institutional profile and power structure of broadcasting regulation through the creation of the CRTC.

As explained in chapter three, the CRTC's role as regulator of broadcasting is, "to maintain a delicate balance - in the public interest - between the cultural, social and economic goals of the legislation" (CRTC, 2009a). The power to grant, renew and set the conditions for broadcasting licenses is one of the principal powers of the CRTC. The CRTC has a variety of tools it can employ in enforcing broadcaster compliance, ranging from soft encouragement in outlined expectations to more concrete measures including conditions of licence, short-term renewals, mandatory orders and rarely, suspension, revocation or non-renewal of the licence. Canadian content regulations continue to be a primary means by which the regulator seeks to fulfill its mandate "to ensure that both the broadcasting and telecommunications systems serve the Canadian public" (CRTC, 2009a). Licence renewals are the most opportune moment for the regulatory agency to address issues with broadcaster procedures and practices, hold broadcasters accountable to the CRTC for their commitments made in previous years, and require them to demonstrate their obligation to operate in the public interest (Raboy & Taras, 2004).

In 1970, the CRTC introduced new Canadian content requirements that were to be enforced through the regulatory and policy powers invested in the CRTC by the 1968 Broadcasting Act. The CRTC increased Canadian content requirements for private broadcasters to 60%, with a minimum of 50% during peak viewing hours from 6pm to midnight overall by 1972, and updated the definition of a Canadian program based on Canadian talent and Canadian facilities (Department of Canadian Heritage, 2002).<sup>28</sup> Despite a renewed regulatory commitment to the promotion of Canadian programming, little had changed on Canadian English-language television schedules by the end of the 1970s. With the definition of Canadian programming still including news and sports programming, the broadcasters could easily fill their Canadian content requirements with low-cost production and fill prime time schedules with U.S. drama that had high production values and television stars, delivered large audiences and with it, major advertising revenue. The financial imperative to do so is neatly described by Edwardson, drawing on the work of noted Canadian media scholar Robert Babe and his analysis of Global's performance following its 1972 licence renewal process in which the broadcaster made significant commitment to Canadian content:

Having secured its licence, the broadcaster responded with the simple – and profitable – solution of breaking its Canadian content promises and replacing domestic programs with American imports. The result was startling. Global's revenues went, Robert Babe has

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<sup>28</sup> While the stakeholder advocacy behind this shift is outside the purview of my study, the presence of the unions in supporting a quantitative approach to defining Canadian content based on the inputs of the workers who created it suggests to this scholar that they were key advocates for this shift. The impetus and processes behind the historical trajectory of the definition of Canadian content remains under theorized and deserving of academic analysis.



explained, 'from \$2.9 million for the eight months ended August 31, 1974 TO \$8.6 million for the year ended August 31, 1975, to \$15.4 million for 1976, and to \$22.1 million for 1977'...with Global now competing for the rights to American programming, the price of imports jumped by 35 to 40 percent between 1975-76 and 1976-77 years...now all the broadcasters had even less money in their programming budgets to spend on Canadian content" (Edwardson, 2008, p. 225)

In seeking to remedy the lack of original English-language Canadian drama on Canadian television, the CRTC first applied genre specific conditions of licence for Canadian content in CTV's 1979 licence renewal. The Commission had expressed concern about the dominance of foreign programming during prime time and "encouraged" CTV to develop more Canadian drama in its 1973 licence review. In CTV's 1976 licence renewal the CRTC "expects the network, in future schedules, to correct the deficiency of no weekly Canadian drama in the 1976-1977 network schedule" (CRTC Decision 1976-395, as quoted in McCarthy Tétrault LLP, 2009). The CTV 1979 licence renewal saw the commission use its full regulatory power to impose exhibition requirements of 26 hours of original Canadian dramatic programming during peak viewing periods for 1980-81, and 39 hours during the 1981-82 reporting period as a condition of licence (Nolan, 2001, p. 4). At the same time, the CRTC announced a full review of Canadian content regulations in their ability to, "achieve the objective of providing a wide range of high-quality, Canadian programs which can be enjoyed by a significant number of viewers..." (Canadian Radio-television and Telecommunications Commission, 1983). The result of the review was a policy shift on Canadian content programming that fundamentally redefined Canadian content and expanded the regulatory repertoire the CRTC used to serve the public interest objectives of the Act. The focus on drama, in particular, would have an impact on the cultural workers who became the very definition of Canadian content.

#### *What counts as Canadian means counting Canucks*

In 1983, drama represented 49% of viewing on English language television, and 66% of viewing in prime time. However, only 5% of the scheduled dramatic programming was Canadian, and Canadian-produced dramatic programming only represented 2% of all viewing time (Canadian Radio-television and Telecommunications Commission, 1983). Canadians were watching drama; they just weren't watching Canadian drama. In its policy statement, the CRTC discussed the cultural implications of the economic and industrial barriers to the production and exhibition of Canadian dramatic programming.

...if Canadians do not use what is one of the world's most extensive and sophisticated communications system to speak to themselves – if it serves only for the importation of foreign programs – there is a real and legitimate concern that the country will ultimately lose the means of expressing its identity. Developing a strong Canadian program production capability is no longer a matter of desirability but of necessity (Canadian Radio-television and Telecommunications Commission, 1983).

CRTC's 1983 Policy Statement on Canadian Content in Television marks a watershed policy development for three reasons. First, it marks the introduction of the points system for defining

a Canadian television program based on the number of Canadians in key creative positions; second, it introduces the concept of underserved programming categories, in particular dramatic programming, as a primary focus of Canadian content programming objectives; and third, it announces that the CRTC will consider using conditions of licence to impose *expenditure* requirements to support Canadian drama in addition to the exhibition requirements for drama the regulator imposed on the major broadcasters in the late 1970s.

The rationale of using a points system to create a streamlined definition of Canadian programming was premised on the notion that there were,

two observable aspects of any program: performance and production. With regard to the former, this would mean apportioning weighted points for the contribution of actors, singers and other performers, while the latter would take into account the various contributions of the production team, from the producer and editor to the set designer and camera operator... (Canadian Radio-television and Telecommunications Commission, 1983).

Implemented in 1984, the points system was based on the certification of Canadian programming used by the Capital Cost Allowance, the cultural policy instrument for the feature film industry that was the precursor to the federal labour tax credits. The system remains intact as it was introduced, a testament to the labour intensive nature of the film and television production process. The points system is used by both the Canadian Audio-Visual Certification Office (CAVCO) and the Canadian Radio-television and telecommunications Commission to determine whether a production qualifies as Canadian content.<sup>29</sup> Under both systems, points are determined through the following number of positions that are filled by Canadians: Director (2 points), Screenwriter (2), Lead Performer (1) 2<sup>nd</sup> Lead (1), Director of Photography (1), Art Director (1) Music Composer (1), Picture Editor (1). For a program to be certified Canadian with the CRTC it must meet a minimum of six out of the ten possible points, the producer must be Canadian, the director or screenwriter must be Canadian, and one of the two lead performers must be Canadian (CRTC, 2010b).

#### *Expenditure requirements for underserved programming*

The 1983 TV policy acknowledged that the points system alone was not a sufficient policy lever to mitigate the challenging circumstances that function as structural barriers to the production and scheduling of Canadian dramatic programming. The new policy articulated the Commission's intent to use conditions of licence to specifically address the under-representation of original Canadian drama (feature films, situation comedies, adventure series, plays, and serials) during prime time and to ensure sufficient resources for its development. The tools the commission would use to do this included imposing "a minimum percentage of revenues or total program budget to be spent on the programming" and setting specific

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<sup>29</sup> The Canadian Audio-Visual Certification Office uses the point system to determine certification for domestic production tax credits. The CRTC uses the points system for determining Canadian content that meets priority programming requirements set out by CRTC regulations.

conditions regarding “the number of hours devoted to certain program categories and to the scheduling of programs” (Canadian Radio-television and Telecommunications Commission, 1983).

This policy shift worked in concert with the Broadcast Development Fund, created in 1983 to support independently produced drama and variety programs scheduled for broadcast during prime time (Armstrong, 2010). The supply-side push for drama in the form of public subsidy for the dramatic programming, combined with a demand push from the regulatory side in the form of the new Canadian content regulations, was a significant development for Canadian cultural workers in the independent production sector. The redefinition of Canadian programming meant that for the first time, only the labour inputs of key creative workers were considered in determining what counted as Canadian. The focus on Canadian drama, and the regulator’s willingness to impose exhibition and expenditure requirements as conditions of licence attached to the production and scheduling of dramatic programming markedly shaped both the volume and quality of work available to the cultural workers who now defined Canadian programming. At the beginning of the 1990s, all of Canada’s major private English-language television broadcasters, including Global and CTV, were thus subject to expenditure requirements as conditions of licences and, in a number of cases, to additional exhibition requirements for Canadian dramatic programming (DGC, 2009b). The CRTC continued to use expenditure and exhibition requirements to target the production and scheduling of underserved program categories, and drama in particular, until 1999 when the CRTC took a new direction in their policy rationale indicative of a deregulatory thrust and a market-based approach to broadcasting regulation.

#### *Priority (programming) shift: 1999 Television Policy*

Following broader deregulatory trends characteristic of a market-based approach to the provision of public services starting in the late 1970s, and highly embedded in the political imagination by the late 1990s (Harvey, 2011), the CRTC announced a obvious shift in its approach to dramatic programming with the release of the 1999 Television Policy. This shift needs to be understood in relation to the power and influence of the broadcasters within the Canadian broadcasting policy network. This, in turn, needs to be understood in the context of the structure of the independent production sector as discussed in detail in chapter three.

The power structure of the Canadian broadcasting industry is organized like a pyramid (see Figure 4.1). Broadcasters, cable companies and satellite distributors occupy the top of that pyramid. As a result of corporate concentration and convergence the top of the pyramid is getting smaller and smaller, with record profits accruing to fewer and fewer players. Winseck (2011) reports that Bell/CTV, Shaw, Rogers and QMI own 52.2% of the market share for *all media* in Canada. If the current proposed merger between Bell/CTV and Astral goes through, Bell will control 40% of the pay and specialty television market; 34.4% of all Canadian television, and control just under 20% of all media industries revenues (excluding wired and wireless telecoms) (Winseck, 2012). Furthermore, Winseck’s research shows that television

broadcasting remains one of the most lucrative sectors of the economy, despite a recent decline in advertising revenues for conventional over-the-air broadcasters.

Profits for conventional television hovered between 10% and 15% from 1996 to 2006 and have declined for only the two most recent years. In addition, revenues have been steady for the past half-decade and have not fallen except for a slight decline in 2008. Moreover, the television universe as a whole has grown enormously. New distribution channels, as well as cable and satellite television, pay-per-view, video-on-demand, the Internet, and so forth, have proliferated and are exceptionally lucrative. There were 48 cable and satellite television services in 2000; today there are 189. Indeed, revenues for these services (\$3.1 billion) in 2008 were nearly four times those of a decade ago...

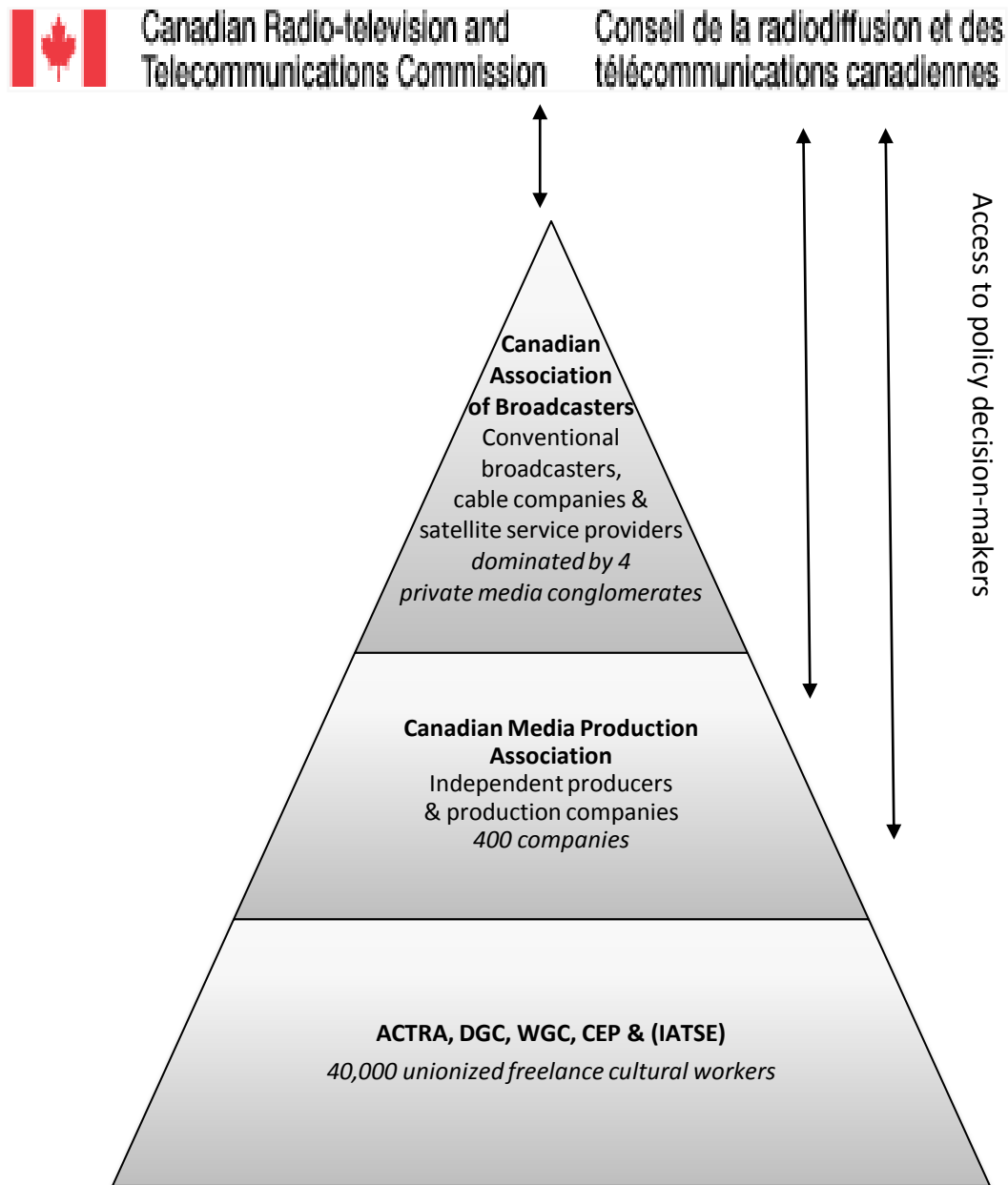
Overall, profits for specialty- and pay-television services have hovered between 21% and 25% annually since 2002—roughly two-and-a-half times the rate of profit for all industries as a whole and equalled by just three other economic sectors: banking (25.2%), alcohol and tobacco (23.6%), and real estate (20.9%) (sic). Even at the height of the financial crisis in 2008 and 2009, pay- and specialty television profits were 22% and 23%, respectively. Cable and satellite distributors are equally lucrative (sic). As a whole, the television universe has expanded from a \$5-billion market in 1984 to \$10.1 billion in 2000 and \$13.9 billion in 2008 (Winseck, 2010).

Broadcasters provide Canadian content programming to audiences as part of their conditions of licence as regulated by the CRTC. They commission Canadian television programming to meet their Canadian content requirements from independent Canadian producers. Canadian independent producers hire freelance cultural workers from the independent production sector to make the content. Figure 4.1 represents the pyramid of power in the Canadian broadcasting policy network specific to the private sector industry stakeholders directly involved in the production of Canadian television content. The figure illustrates both the distribution of power and profit in the Canadian broadcasting industry, as well as the relative access the various private industry stakeholders groups have to decision-makers at the CRTC. While my research does not expressly document the activities of the independent producers' association, the CMPA (formerly CFTPA), I have indicated that they have slightly more access to CRTC decision-makers due to their standing as representatives of private business interests, aligning with the prevailing creative economy policy environment discussed in chapter three. As I will examine later in this chapter, the economic interests of the independent producers also, at times, align with the labour market interests of the unions, which brings them together in their policy advocacy activities. Importantly, there is an inverse relationship between the number of constituents the stakeholder groups represent and the amount of resources they have available for policy advocacy.

The main power brokers in the federal broadcasting policy network are the CRTC and the private broadcasters and distribution undertakings, such as cable and satellite distributors. The CRTC clearly considers licence holders - the broadcasters, cable companies and satellite service providers – to be its primary clients (Armstrong, 2010; Arpin, 2010). The licence holders acknowledge and exploit their privileged access to the regulatory decision-makers. As former

Roger Communications vice-president Phil Lind stated, “The guy who gives you your licence is the guy you have to focus on...there’s only one. That’s the commission [CRTC]” (quoted in Raboy, 1995, p. 419).

Figure 4.1 – Pyramid of power and resources in the Canadian English-language broadcasting policy network



Former chief executive officer of the CAB David Bond describes the nature of the close-knit relationship between the CAB and the CRTC:

The CRTC talks with the major broadcasters on an almost continuous basis...there's a tremendous amount of interchanges between the broadcasters and the CRTC, both at the staff level and the commissioner level. It's incestuous almost to a degree (quoted in Raboy, 1995, p. 420).

The Canadian Association of Broadcasters (CAB), representing private radio and television stations, networks, specialty, pay and pay-per-view services (Canadian Association of Broadcasters [CAB], 2010) was historically the primary means through which the broadcasting industry presented its interests to the CRTC, and the 1999 Television Policy was no exception. Discursive framing was a key strategy for the broadcasters. Michael Hind-Smith, former head of the Canadian Cable Television Association, describes the primary goal of the broadcasters and distribution undertakings as policy advocates as an attempt to “reconcile the interests of our membership with public policy” (quoted in Raboy, 1995, p. 424). The CAB used the Television Policy review as an opportunity to discursively align their private corporate interests as being synonymous with the public interest through a virtuous circle of profit and investment, rather than regulation. As recalled by David Goldstein, former Vice-President of Government Relations for the CAB,

Our job is to make viewers happy. Public policy makers' job is to make sure that public policy goals are being met. Those are not, I would say, those are rarely in step with each other. And that was the master stroke, by the way, the whole point that [CAB president] McCabe made in the TV policy review was you have to give us the flexibility to try and bring the public policy and the viewer interest together. That the private sector broadcasters have a vested interest in the success of this programming because that is our only way out of this. The only thing that's going to distinguish us in a 500 channel universe is shows that in fact we own and that we can promote and that we can succeed, and that's where the viewer stuff all started.

[It] started with McCabe at the TV hearings saying the more viewers we get, the more advertising dollars we get. The more advertising dollars we get, the more we can invest in this kind of programming. And he created a whole circle of investment. And all of a sudden everybody went “Ah, I understand.” ... ‘Cause broadcasters, especially private broadcasters, have this total reputation of coming and saying [to the CRTC], “Oh the sky is falling! Give us a break.” They were the first ones who made it look like “help me – help you.” And the commission bought it (quoted in Savage, 2006, pp. 272-273).

The success of the broadcaster's framing strategy is represented by the market logic that informs the rationale of the 1999 Television Policy. The regulatory ‘light touch’ brought with it significant changes to the regulation of under-represented programming categories, and, in particular, dramatic production.

For broadcasters and producers to continue to adapt with success to an increasingly complex and competitive environment, the framework within which they operate

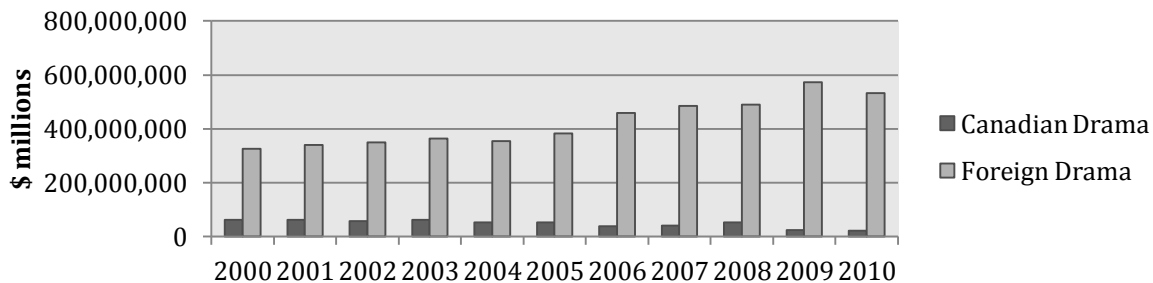
must be one that facilitates and enhances flexibility, diversity and choice. These elements will contribute to making the economics work. They will also ensure continued and substantial investment in Canadian programs which are characterized by their variety, quality and distinctiveness (CRTC, 1999).

Two of the most important changes to the regulatory structure under this new policy framework were the creation of priority programming categories and the removal of broadcaster expenditure requirements. The 1999 Television Policy included historically under-represented program categories such as drama, music, dance and variety in its definition of priority programming, but, importantly, also allowed broadcasters to use long-form documentaries; regionally produced programs in all categories other than news, information and sports; and Canadian entertainment magazine programs to meet their Canadian content requirements (CRTC, 1999). The 1999 Television Policy allowed broadcasters to meet their minimum exhibition requirements through genres significantly less expensive to produce than drama. By completely removing expenditure requirements, the 1999 Television policy allowed broadcasters to spend as much, or, more accurately, as little, on drama as they wished. David Goldstein, National Director of Government Affairs for CHUM, and previously of the Canadian Association of Broadcasters (CAB) describes the broadcasting industry's enthusiastic embrace of the 1999 Television Policy:

We couldn't have dreamed how good the decision was going to be! Like this was one of those things where the CRTC is going to ask for X and we want Y. We went and asked for Z hoping we'd get pulled back to Y. We got Z! (in Savage, 2006, p. 270).

Original Canadian drama experienced a serious decline after 1999. Broadcasters committed significantly fewer resources to Canadian drama while spending on U.S. drama skyrocketed. As a percentage of revenue the drama expenditure by conventional broadcasters dropped from 4% in 2000 to 1.5% in 2009 (Writers Guild of Canada, 2011b, p. 2). In 2000, private conventional broadcasters spent \$62 million on drama and the ratio of foreign drama to Canadian was 6:1. As shown in Figure 4.2, by 2009 private conventional broadcasters' expenditures on original Canadian drama dropped to \$23 million, and the ratio of spending on foreign drama to Canadian hit an all time high of 24:1 (Writers Guild of Canada, 2011b, p. 3).

Figure 4.2: Private English television spending on drama as a proportion of spending on foreign drama, 2000-2010



Source: WGC database 2011, compiled from CRTC statistics

The major networks' lack of commitment to Canadian dramatic programming under the new regulatory framework was also clear in their scheduling practices. In 1999, private conventional broadcasters scheduled 12 one-hour fully Canadian dramas totaling 186 hours of programming. By fall 2007, CTV and Global included no 1-hour fully Canadian dramas on their schedules (ACTRA, 2008). While the 2011 fall lineups from the private conventional broadcasters reveal this trend continues<sup>30</sup> there is reason to believe this trend will be reversed in the years to follow. In 2010 the CRTC reintroduced expenditure requirements for dramatic programming, in no small measure a result of the policy advocacy of the workers who were hardest hit by 1999 Television Policy that produced what they politicized as the 'Crisis in Canadian Drama'.

### *Unions and the Crisis in Canadian Drama*

As dramatic film and television production is highly unionized, unions were some of the first to notice the impact that the policy was having on labour markets. As noted above, Canadian dramatic television series production is considered a 'good job' in a highly precarious employment landscape, and a major employment driver for key Canadian creative positions. It is thus not surprising that the unions were the first to identify the impact that the 1999 Television Policy was having on dramatic production as a political problem in broadcasting policy networks. The unions, acting in a new political formation as the Coalition of Canadian Audio-visual Unions (CCAU), are broadly acknowledged by key stakeholders and decision-makers in the Canadian broadcasting policy network as responsible for politicizing the issue of Canadian drama and keeping it on the political agenda as a central problem in the regulatory framework. Between 2002 and 2009, the CCAU relentlessly framed a marked decline in dramatic production as an issue of cultural sovereignty and a matter of national interest, tying the health of the production community directly to the ability of the broadcasting system to meet the public service objectives of the *Broadcasting Act*. In 2010, the CRTC released a new Television Policy that reflected two main recommendations the unions had been asking for since the release of their first policy paper in 2002, and represents a significant, albeit not complete, win for the unions in influencing Canadian broadcasting policy.

Despite a generally collaborative working relationship in the workplace and as labour market actors, the unions do not always work in concert as policy actors. In the public consultations leading up to the 1999 Television Policy, the unions demonstrated general support for each other's positions, but there was no formal coordination in terms of their policy recommendations. The lack of coordination between unions was, both in their opinion and in that of key political figures, such as Minister of Canadian Heritage and then CRTC Chair Charles Dalfen, a significant factor in what former DGC Executive Director Pamela Brand referred to as their biggest defeat in the policy area (Coles, 2005). This defeat, and the impact that it had on film and television production labour markets, changed the way that unions interacted with each other and with production industry stakeholders in broadcasting policy networks.

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<sup>30</sup> See ACTRA National (2011, June 2). Broadcasters disappoint Canadians with fall skeds. Retrieved from [http://www.actra.ca/main/wp-content/uploads/2011.06.02-Conventional-Fall-Schedules\\_FIN.pdf](http://www.actra.ca/main/wp-content/uploads/2011.06.02-Conventional-Fall-Schedules_FIN.pdf).



ACTRA, the DGC, the WGC and CEP were all independently involved in the public consultation process that led to the formation of the 1999 Television Policy. The DGC submission called for the CRTC to exercise all the regulatory tools in its policy kit to increase both broadcaster financing and scheduling of first-run Canadian entertainment programming (drama, variety, children's, music, and dance programs) in prime time (CRTC, 1998a). The WGC proposal included financing minimums for programming development set as Conditions of Licence for the broadcasters upon licence renewal, a change to the CRTC's points system for determining Canadian content eligibility wherein a Canadian writer would be a required, rather than an optional component, and a request to raise the minimum points required to qualify as Canadian content from six out of ten to eight out of ten under CRTC regulations (CRTC, 1998b).<sup>31</sup> The WGC stated their support for the DGC's proposal, but did not go into great detail in that regard, focusing primarily on issues specific to writers. ACTRA also supported the DGC's proposal to increase financing and scheduling of Canadian entertainment programming, but proposed a different change to the points system from that of the WGC. ACTRA's revision would award two points for the lead performer and one each for the second and third if Canadian, as well as increase the minimum points to qualify as Canadian from six out of ten to ten out of twelve (CRTC, 1998c).

The CEP's submission was a clear reflection of their membership interests. With most CEP members in the film and television sector working as permanent employees for the broadcasters, the CEP argued for increased broadcaster in-house production and broadcaster access to public funds through Telefilm and other initiatives. Ignoring the historical record of the broadcasters and, it would appear, the basic political economy of the Canadian film and television production sector with regard to under-represented programming genres, the CEP argued that allowing broadcasters to produce more content in-house would result in significantly increased profitability as a result of their ability to exploit one hundred percent of the associated economic rights for a production. Increased profitability from in-house broadcasting, the CEP argued, would result in an increased desire to undertake more Canadian content programming. Furthermore, once this system was in place, the CEP argued the CRTC could reasonably increase Canadian content minimum to 70% and still have broadcasters operate on a profitable basis (CRTC, 1998d). With a relatively small proportion of their membership working in the independent production sector, the CEP did not feel this model would have an unduly negative impact on their membership, although they admitted to the Commission that they had not consulted with other members of the independent production sector prior to filing their submission.

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<sup>31</sup> The points system is used in two different areas of broadcasting. The Canadian Audio-Visual Certification Office (CAVCO) uses the points system to determine the amount of federal tax credit allowed. Provisional CAVCO certification is required for to qualify for funding from the Canada Media Fund, which only funds full ten point productions. The CRTC uses the same points system for determining Canadian content set out by CRTC regulations, which requires a production to meet only six out of a possible ten points. Of those six, the producer, either the director or screenwriter positions, and one of the two lead performers must be Canadian (CRTC, 2010b).

IATSE made no submission or intervention at all with regard to the Television Policy review. For those who did, the tendency for each organization to put forth proposals that benefited their particular membership and conflicted or sidestepped those proposed by their labour colleagues would not serve any of the organizations well in the long run. The release of the CRTC's 1999 Television Policy brought significant changes to the regulatory environment. The broadcasters were no longer obligated to Canadian content expenditure requirements, and expansion of the definition of priority programming allowed them to fill their exhibition requirements with programming genres that were much less expensive than drama. The policy included no changes to Canadian content points system or broadcaster scheduling obligations for original Canadian drama as requested by the various unions. The release and impact of the 1999 Television Policy had a significant impact on the policy advocacy strategy of the unions. Most striking is their adoption of a national, labour-based coalition, the Coalition of Canadian Audio-visual Unions (CCAU).

### *Formation of the CCAU*

The 1999 Television policy represents a significant shift in the political rationality of the broadcasting regulatory framework that clearly favoured the market-based interests of the private broadcasters. As Brodie argues, shifts in political rationalities create spaces of “friction, possibility and resistance” (2008, p. 151). The 1999 Television Policy provided the impetus for the unions to share resources and ideas in their collective attempt to undo the damage that the 1999 Television Policy had on the quantity and quality of work available to their members. By focussing our research attention on the role of unions in contesting this policy shift, we are also able to develop a more complex understanding of the power relations between stakeholder groups at all levels of the power pyramid (Figure 4.1 above) in broadcasting policy networks.

The formation of the CCAU represents an important site of resistance to the power relations in the broadcasting policy network. The CCAU functioned as a peak association that mirrored those of other major industry associations in broadcasting policy networks at the time, such as the CAB, and thus laid authoritative claim to representing the interests of 40,000 cultural workers whose productive labour defines Canadian content. This resistance drew its power from the unique position that cultural workers have in Canadian broadcasting policy networks. The employment of cultural workers defines Canadian content. The CCAU, as a *labour-based coalition*, discursively positioned themselves as the key defenders of the *cultural objectives* of the *Broadcasting Act* as a consequence of their *industrial interests* in the development, production and exhibition of Canadian dramatic television programming. The discursive strategies of the CCAU reveal the 1999 Television policy as deeply contested ground that linked their members' immediate labour market interests with the public interest objectives of the Canadian broadcasting system.

It was the Writers Guild of Canada who first sounded the alarm bells on the industrial impact of the CRTC's 1999 Television Policy. Since the development of dramatic programming, and particularly series television, begins many months and even years before the engagement of professionals related to the production stage, writers were the first film and television workers

to feel the impact of the new policy direction. The WGC immediately began to compile statistics detailing the decline in dramatic programming and initiated discussion with other labour organizations, although it would take several years before labour coalesced around the issue in a cohesive manner.

Although the writers were the first to feel the industrial impact of the new policy direction, it was not long after that the effects were being felt by all workers involved with Canadian dramatic programming. In 1999 the total number of broadcast hours of Canadian drama was 753. By 2000, that number had dropped to 661.5, in 2001 it fell again to 587 and by 2002, the total number of hours of Canadian drama broadcast had fallen a total of 36% to 486 (CCAU, 2003). In 1998, English-language stations spent \$73 million on original Canadian drama. By 2002, that number had dropped to \$58.6 million. The drama issue provided a common starting point on which all the unions could agree to begin to articulate a united policy position. Qualification levels for Canadian content and the number of points assigned to actors or writers were no longer relevant discussion points if the genre itself was in jeopardy.

There is general agreement amongst DGC, ACTRA, WGC and CEP that Heritage Minister Sheila Copps played a key role in the reformation of labour's strategy in the policy arena. The unions had met with the Liberal Minister of Canadian Heritage to voice their concerns on the impact that the 1999 Television Policy was having on dramatic programming. It was with the encouragement and support of the Minister of Canadian Heritage that the unions began initial discussions in early 2002 on the value of pooling their resources and speaking with one cohesive voice to the government (Coles, 2006). Maureen Parker, Executive Director of the Writers' Guild of Canada, comments on the value that a coalition strategy has for the unions as well as policy decision-makers.

...pre-CCAU, the WGC had little luck rallying support for Canadian TV. 'As a solitary union we've met with limited success, which is why we're very much in favor of the coalition. It's garnering attention we never received as the Writers Guild.'

Forming an umbrella group is especially important for unions who, on their own, might not be heard over the voices of powerful broadcasting lobbyists.

'Government only makes new policy or changes policies through consensus, and [Minister Copps] needs that in order to move ahead and make any changes,' says Parker. 'We have to be singing the same tune.' (Playback Staff, 2002)

Undertaking the advice of the Minister, the WGC, CEP, ACTRA and DGC were instrumental in organizing in a broad based labour coalition of those organizations as well as the American Federation of Musicians (AFM-Canada) representing musicians; l'Union des artistes (UDA) representing French speaking performers; l'Association des réalisateurs et réalisatrices du Québec (ARRQ) representing French language directors in Québec; le Syndicat des techniciennes et techniciens du cinéma et de la vidéo du Québec (STCVQ) representing private sector film and video technicians in Quebec; and la Société des auteurs de radio télévision et cinéma (SARTEC) representing French language writers. Collectively this coalition represented

fifty thousand cultural artists in Canada's film and television industry. The Coalition was the first of its kind in Canada, and noteworthy both for its formation and its strategy.<sup>32</sup> The Coalition represents a comprehensive and intentional strategic decision to maximize their financial resources, expertise, membership base and networks with other industry stakeholders. In doing so, the CCAU collectively and consistently laid claim to representing the workers at the heart of the Canadian film and television production industry.

### *Structure and strategy of the CCAU*

The CCAU was an issue-based ad-hoc coalition with no formal meeting schedule, mandate, constitution, membership guidelines, or financial structure. All work by the CCAU was done collaboratively and in a consensus based model, although the different unions played different roles within the coalition. The Writers Guild has a sophisticated database system and served as the source for much research material and statistical information related to the industry. As writers, they also drafted many of the submissions the CCAU made to various reporting bodies, ministerial offices, and the CRTC. The DGC brought regulatory legal expert Peter Grant of the internationally recognized McCarthy Tétrault law firm to the table as a research and legal resource in shaping the CCAU's policy proposals. The CEP's participation in the CCAU represented a new commitment to lobbying specifically for the independent film and television production sector, but, as a result of their broad membership base, the CEP brought substantial experience in policy advocacy across range of issues. ACTRA used the public profile of its membership extensively in the promotion of its issues both inside and outside the CCAU. ACTRA consistently engages high profile members to gather media attention in putting a public face on its policy issues. Politicians enjoy having their picture taken with high profile people, which is why ACTRA members such as Sarah Polley, Gordon Pinsent, Rick Mercer, Wendy Crewson and Paul Gross routinely participate in committee hearings, lobby days and dinners with key cabinet ministers, agencies, and critics in promoting ACTRA's message. ACTRA considers their members political ambassadors for Canadian culture in this capacity.

According to the DGC and the WGC, IATSE was invited to join the CCAU but declined. Other interviewees suggested that IATSE's American affiliation prevents them from participating in a coalition that is only concerned with Canadian dramatic programming and not the foreign service sector, or that since IATSE does relatively little domestic production, they have little interest in putting time or energy into the issue. According to IATSE, they accepted the WGC's invitation to join the CCAU, but were vetoed by the CEP and the DGC. IATSE views this as disappointing, but not particularly problematic; according to Director of Canadian Affairs John Lewis, "they didn't want our input, they wanted our wallet" (J. Lewis, personal communication, December 3, 2009). The CCAU's arguments rely heavily on cultural values and strong regulatory structures; whereas IATSE's political orientation focuses on business and economic models that do not necessarily include strong state intervention in the film and television industries (J.

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<sup>32</sup> In dealing with the implications of the 1999 Television Policy, the Coalition specifically addressed the English market. French members supported the positions of the English organizations, but only those organizations directly involved with English dramatic production contributed expertise and resources for the Coalition's activities for English-language production.

Lewis, personal communication, December 3, 2009). IATSE recognizes that domestic production levels have a much more significant impact on the members of the CCAU than most IATSE members working in the independent film and television production sector, and thus the CCAU views the issues facing the industry from a different perspective. However, the Director of Canadian Affairs considers the CCAU's focus on domestic production at the exclusion of the foreign service sector "myopic" (Coles, 2006).

Separately, the individual unions had devoted time and energy to creating political awareness on the decline in dramatic production within their membership and to policy decision-makers. In April 2002, the WGC had met with CRTC Chair Charles Dalfen to discuss the drama issue, introducing proposed solutions that would become the framework for the CCAU's policy platform (Coles, 2006). In June 2002, ACTRA held its first ever policy conference and launched its, "Campaign for Canadian programming" described as a broad based effort to take a leadership role in reviving Canadian drama. The issue was receiving attention in the unions' regularly published magazines/newsletters to the membership, but had yet to make it onto the policy agenda.

#### *Putting Drama on the Agenda – problems and solutions as identified by the CCAU*

In July of 2002, the CCAU released its first position paper that laid the discursive foundations for its advocacy strategy. Their primary objective was to bring the issue of the decline in dramatic programming and proposed solutions to the attention of the government and the CRTC. The three page policy brief filed directly with the CRTC tied the 50% drop in English language dramatic series production, and thus work opportunities for their members, directly to the (de)regulatory changes in the 1999 Television policy. The CCAU's framed the importance of dramatic production – and, reflecting the labour market interests of their members, dramatic *series* in particular – as a matter of national identity and of industrial development, drawing heavily on the discourses in the *Broadcasting Act*.

Canadians take pride in being able to choose from the very best in programming from around the world, including the United States. But to maintain our identity as a nation it is essential that a diverse range of Canadian stories be part of that range of viewing choices.

No other genre of programming has shown itself to have the sustained ability to capture the public imagination in the way that series drama does. It remains the most popular and compelling genre for conveying themes and experiences that resonate with all Canadians. And by expressing universal themes in stories reflecting daily life from all regions of the country, drama has the further ability to strengthen bonds among Canada's diverse peoples.

...

Drama series are also the most efficient genre of production for supporting a creative and production infrastructure capable of telling the full range of Canadian stories. They generate work opportunities for Canadian in all areas of the production community –

and they are an important training ground for the next generation of creative talent (Coalition of Canadian Audio-visual Unions [CCAU], 2002, p. 2).

The proposed solutions included two key recommendations that would inform the backbone of their policy campaign over the next six years: the reintroduction of broadcaster expenditure requirements as a percentage of broadcaster revenues, and revising priority programming definitions to “focus on culturally significant genres of programming – drama but also variety/arts entertainment, and genuine long-form point of view documentaries. Genres of programming that are culturally important but are also the most difficult to finance” (Coalition of Canadian Audio-visual Unions [CCAU], 2002). Other recommendations that would also inform their policy interventions on the issue of drama included minimum weekly scheduling requirements for original first-run drama and a focus on 10 point production – dramatic production that used exclusively Canadian talent in its key creative positions.

The CCAU achieved early success in putting a decline in original Canadian dramatic production on the political agenda. As a result of meetings with the unions over the issue, in October 2002 CRTC Chair Charles Dalfen commissioned former CTV President Trina McQueen to examine the issue of English Canadian dramatic programming (T. McQueen, personal communication, June 6, 2011).<sup>33</sup> The CCAU filed a preliminary version of its second report (their first major research report), “The Crisis in Canadian Drama,” with McQueen, and subsequently filed the final version at 140 pages directly with the Minister of Canadian Heritage. The report made a direct connection between the 1999 Television Policy and the decline in dramatic programming, an increase in the amount of priority programming other than drama, a decline in broadcaster expenditures on dramatic programming and compared the situation in Canada to other countries with a strong regulatory framework in place (CCAU, 2003). The CCAU expanded in great detail upon the solutions proposed in their brief three-page introductory paper of the previous year, calling for public hearings on the issue, increased funding from both the state and broadcasters for the genre, reinstatement of broadcaster expenditure requirements, greater transparency in broadcaster reporting for scheduling practices, and introduction of an incentive package designed to encourage broadcasters to develop and schedule Canadian drama (CCAU, 2003). The report also politicized the decline in Canadian drama as a problem linked to the ability of Canadians to critically understand their cultural, social and political contexts now and in future:

Dramatic programs are indeed the manner in which Canadians tell and share their stories with one another...In *Degrassi: The Next Generation*, we learn about the ups and downs of teenage life in multicultural Toronto. *Milgaard* shared the experience of David Milgaard and his suffering at the hands of our justice system. The *Trudeau* mini-series allowed a new generation of Canadians to learn more about one of our controversial Prime Ministers. And, every week, on *This Hour Has 22 Minutes*, we are invited to laugh at our Canadian idiosyncrasies, including those of our elected officials.

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<sup>33</sup> The report was co-financed by Telefilm Canada. According to McQueen, Telefilm’s interest in the issue stemmed from Executive Director Richard Stursberg’s focus on supporting production that achieved audience success. Drama, as a genre, achieves the highest ratings with audiences.

... [Dramatic programs] allow our outstanding writers and other creators to bring Canadian stories to the screen, where they can be shared with viewers from coast to coast. Canadian dramas also provide the production community with an opportunity to share their vision of our experiences, and to archive our Canadian stories for the future... (CCAU, 2003, p. 2)

McQueen's 2003 report, *Dramatic Choices*, secured the issue of dramatic programming as a policy priority on the regulatory agenda; supported the arguments advanced by the unions; and essentially charged the current system with having failed in its goals to operate in the public interest. McQueen commended the CCAU for their submission, noting it was, "the most comprehensive and well researched submission I received. I was impressed by the submission, by my meeting with the group, and their determination to work fiercely to change the situation for drama. Many of their ideas are reflected in my recommendations" (McQueen, 2003, p. 11). McQueen's recognition of the problem was further supported by the release of the Standing Committee on Canadian Heritage's 2003 major report on Canadian broadcasting. Taking the regulatory framework as a key component in meeting the cultural and social objectives of the Canadian broadcasting system, "Our Cultural Sovereignty: The Second Century of Canadian Broadcasting" recommended a full review of the 1999 Television Policy with a focus on its implications for Canadian dramatic programming (Standing Committee on Canadian Heritage, 2003). The report noted the CCAU's work as a significant contributor to the identification of the implications of the 1999 Television Policy, and accurately representative of the views of a significant segment of the industry (Standing Committee on Canadian Heritage, 2003, p. 172).

With multiple perspectives agreeing that the lack of drama was problematic for the Canadian public service broadcasting system, in September 2003 the CRTC issued a public call for comments on its proposed incentive package designed to, "ensure an appropriate quantity of original Canadian drama on English-language television," (CRTC, 2003). The CCAU's submission, "Addressing the Crisis in Canadian Drama," worked partially within the established policy paradigm that emphasized regulatory flexibility through recognizing the importance of a combination of incentives and regulations to increase the amount, quality and financing of Canadian dramatic programming (CCAU, 2003a). The emphasis, however, was on the importance of a robust regulatory framework. The CCAU was clear in its argument that, "the airing of Canadian drama must be seen as a fundamental obligation of all free-to-air television broadcasters, and not simply something that they should be lured into doing. Regulation is by far the most effective tool to achieve results..." (CCAU, 2003a, p. 3). In November of 2004 the CRTC released its final version of the incentive package designed to, "increase the production and broadcast of, the viewing to, and the expenditures on high quality, original, English language Canadian drama programming" (CRTC, 2004, para. 1). While many of the incentive proposals the CCAU recommended as part of an incentive/regulatory mix were reflected in the new program, there was no change to the regulatory structure at all.

In June 2005, the CCAU released their second major research report, focusing on the future of the Canadian broadcasting system should the 1999 Television Policy remain in place. "The Need

for a Regulatory Safety Net” was targeted at the CRTC in advance of 2007 conventional broadcaster licence renewal hearings, noting that private broadcaster spending on Canadian drama hit a seven year low in 2005, down to \$53.6 million from \$73.0 million in 1998 (CCAU, 2005). In contrast to their previous report that proposed a comprehensive, yet somewhat complex, mix of policy recommendations, the 2005 report recommends two key components of the “regulatory safety net” required to improve the amount of dramatic programming that formed the foundation of the CCAU’s messaging henceforth. The first component is a minimum expenditure requirement of 7% of gross ad revenue to be spent on Canadian drama, and the second a requirement that each station group commission at least two hours of original 10-point Canadian drama per week.

By 2006, the CRTC admitted that the mix of incentive and expenditure incentives programs for Canadian drama they had developed since the 1999 Television Policy was not working.<sup>34</sup> In a speech to major industry stakeholders at the 2006 Banff Television Festival, CRTC Chair Charles Dalfen announced a review of the 1999 Television Policy, including revisiting the possibility of expenditure requirements for broadcasters as a condition of licence (Dalfen, 2006). His comments are reflective of many of the arguments the CCAU had been advancing to the policy community since 2002.

On the social and cultural side, successful Canadian drama production helps to achieve so many of the objectives of Canadian broadcasting policy enshrined by Parliament in the *Broadcasting Act*. In particular, drama goes to the heart of the objectives that are most closely tied to ensuring that our broadcasting system is a place where Canadians will not only see the world on TV, but will also see themselves.

Think about it for a moment. Without home-grown drama productions, where would we be in relation to the *Broadcasting Act*’s objective of a broadcasting system that maintains our cultural sovereignty, while enriching and strengthening our social fabric?

Where would we be in relation to the objectives of reflecting Canadian artistic creativity, displaying Canadian talent and mirroring the circumstances and aspirations of Canadian men, women and children?

Where would we be in terms of maximizing the use of Canadian writing, acting and other creative resources; providing windows for Canadian independent producers; and creating a range of employment opportunities in broadcasting for Canadians? (Dalfen, 2006)

On June 12, 2006 the CRTC issued a notice of public hearing on the 1999 Television Policy, a primary objective of which was to explore avenues by which the regulatory framework should “ensure that OTA television licensees contribute, in the most effective manner possible, to the production, acquisition and broadcast of high quality Canadian programming...” (CRTC, 2006, para. 25). In the notice the CRTC posed several questions for discussion that indicate the CCAU’s arguments were gaining political traction. The CRTC requested comments on whether

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<sup>34</sup> See CRTC BPN 2004-32; 2004-93; 2005-81; 2006-11



conventional broadcaster licencees should be subject to expenditure requirements, and whether spending requirements should be based on “a percentage of revenues, of total program spending, or some other measure” (Canadian Radio-television and Telecommunications Commission, 2006, parag. 31).

In response, the CCAU filed another lengthy submission with the CRTC that documented the ongoing decline in drama. Spending on drama of a percentage of broadcaster advertising revenue had declined to 3.2% of total ad revenue, and the CCAU argued that, were it not for specific benefits tied to dramatic production from CRTC approvals of ownership transfers or new licences, the spending levels would have been even lower. Their submission streamlined their messaging even further: they reiterated their recommendation of a 7% expenditure requirement as “part of the fundamental regulatory bargain upon which OTA licences are granted” in addition to the drama incentive programs the CRTC was offering the broadcasters. They justify a ratio of ad revenue as working within the economic circumstances of the licencees, as it “automatically adjusts to new revenue levels...by reducing the amount required to be spent by broadcasters if revenue goes down” (CCAU, 2006, p. 39). The CCAU softens the firm recommendation that broadcasters should be required to air two hours of original of 10-point productions per week, replacing it with a recommendation that the number of hours of original drama should be “tailored to [the broadcasters’] size and circumstances,” that should be addressed at time of licence renewal (p. 42). The submission signals a willingness to work within the current policy environment. While their submission supports dramatic programming as, “central to our cultural sovereignty,” (p. 3) the rationale for the expenditure requirement draws heavily on the market logic within the 1999 Television Policy.

By setting a simple expenditure quote for drama, broadcasters are also given more flexibility. First, they have the flexibility to determine whether they want to focus on fewer high-cost productions or more lower-cost productions; since in the end the “cost” to them will be the same. Second, and expenditures quote allows broadcasters the flexibility to decide whether they want to focus on series drama, children’s drama, mini-series, theatrical movies, made for TV movies, animation, comedy, or other forms of scripted drama. A dollar spent would count toward the quota no matter which form of drama is supported (CCAU, 2006, p. 39).

In contrast to the 1999 Television Policy processes where the CAB presented a strong united position, for this review, each broadcaster filed individual submissions rather than appearing under the CAB umbrella. This signals a weakening of the internal cohesion of the CAB, to which we will return shortly. However, the conventional broadcasters offered predictable recommendations about the continued need for increased deregulation. For example, CanWest (Global) proposed expanding priority programming to include “all genres except news, sports and public affairs,” a reduction in the amount of programming broadcasters must commission from the independent production sector, and strong opposition to reinstating expenditure requirements or any other requirements for “programming that is economically feasible, e.g. drama” (CanWest MediaWorks, 2006, para. 4-6).

At this point it is useful to briefly return to the key aspects of the discourses of the creative economy discussed in chapter two. Recall that the creative economy is an economic development model, in which the production of cultural goods and services works first and foremost in the interests of capital and profit. When we apply such a lens to this case study, what emerges is an apparent rationale by the CRTC that the overall economic interests of the broadcasters had become synonymous with the health of the broadcasting system as a whole. The CCAU's arguments thus both draw upon and contest the discursive logic of the creative economy. They use their economic positions as representatives of "the creative class" (which was, in 2006, near the peak of its discursive popularity) to leverage political space to advance their interests at the policy level. Yet, while partially working within the creative economy paradigm, as also demonstrated by the CCAU's framing of their recommendations within a "flexible" regulatory framework, the unions are playing a key role in challenging the discursive logic of the creative economy. By calling on the state to exercise its full regulatory powers, the CCAU is directly refuting the logic that private interests are aligned with the public interest that informs the cultural objectives of the *Broadcasting Act*. The unions offer an alternate version of a virtuous circle to that cycle of profit and investment advanced by the broadcasters:

...broadcasters will do what is in their best financial interest. And from an economic standpoint, it is in their financial interest to broadcast the cheapest form of priority programming they can produce or acquire...this will inevitably mean that they will tend to avoid high-cost Canadian drama. Money saved by producing or acquiring chapter priority programs effectively drops to the bottom line. Shareholders will penalize managers that do not observe this simple logic.

By contrast, if it is made a condition of these valuable conventional TV licences that a certain level of expenditures be made on important by mostly unprofitable categories like indigenous drama, then shareholders will not penalize managers who comply with the conditions. In fact, they will reward managers that commission Canadian drama that garners higher ratings, since that will increase net revenue. Thus a virtuous circle will be created (CCAU, 2006, para 179-180).

It would take several more years, however, before the Commission would openly agree with the unions. In a 2007 decision, the CRTC stated that rather than changing the regulatory framework itself, it would examine broadcasters' commitments to Canadian programming overall (not just drama) at time of licence renewal. The CRTC reiterated its commitment to the principles outlined in the 1999 Television Policy, noting the "increasingly competitive environment" the broadcasters faced as adequate incentive to invest in "high quality programming to win audience loyalty" (CRTC, 2007, p. 92). The CRTC's decision not to revise the existing regulatory framework in early 2007 is not surprising when examined in what Marsh and Smith would refer to as the macro structures of the policy network and the political economic conditions in which it was functioning. The CRTC had recently undergone a change in leadership; Charles Dalfen had stepped down as Chair, replaced by Konrad Von Finkenstein, formerly of the Competition Bureau, as of January 2007. The new Chair needed some time to embed himself in the broadcasting policy landscape, which was experiencing significant pressures on a number of fronts. The 2008 global financial crisis was blamed for sharp declines

in broadcaster advertising revenues, as was the rise of online content. The conventional broadcasters were increasingly arguing that local programming, particularly local news, was increasingly unaffordable (Marlow, 2009). Canada was also slated to shift to digital transmission in 2011 which would radically alter the over-the-air transmission infrastructure, and a host of ownership transfers had resulted in considerable industry consolidation and concentration.

In response to the dramatic programming issue, von Finkenstein commissioned Laurence Dunbar and Christian Leblanc to conduct a review of the existing regulatory framework for television broadcasting. As Dunbar and Leblanc are prominent communications lawyers who regularly represent the interests of large media enterprises, the report's recommendations predictably follow market logic. The authors use the principles of "smart regulation" to frame their analysis, similar to the basic principles of the 1999 Television Policy whereby "the least costly or intrusive regulatory measure necessary to achieve the policy objective is preferable to more intrusive or costly measure" (Dunbar & Leblanc, 2007, p. vii). The report contained a host of deregulatory recommendations that emphasize a free market approach over regulation, such as to "allow market forces to play a greater role in responding to consumer demand for discretionary programming services"; "consider the feasibility of removing the (advertising) restrictions and allowing broadcasting undertakings to decide how best to offer their services to the public"; and "[let] market forces decide which broadcasters respond best to consumer needs" (Dunbar & Leblanc, 2007, pp. ix, x, xii, ). Yet even this report supported the opinions of the CCAU, McQueen and the Standing Committee on Canadian Heritage in stating that the genre of drama was poorly served by the existing regulatory regime:

It is not at all apparent that the economics of producing Canadian entertainment magazine or reality television programming suffer from the same challenges as Canadian drama programming, or that this type of programming merits specific regulatory incentives...Consideration should be given to targeting peak programming obligations to a narrow class of programs, such as drama, which are not supported by the marketplace, and imposing targeted exhibition obligations which require television services to broadcast a minimum number of hours of these types of Canadian programs... (Dunbar & Leblanc, 2007, p. xiii)<sup>35</sup>

While the CCAU's messaging was gaining traction at the policy level, the CRTC was expressing growing frustration with the Coalition's strategy. In public hearings, the CCAU would file to appear as the Coalition. Each member organization of the CCAU would also file to appear separately, reiterating key positions CCAU as representatives of their specific memberships. The CRTC's response to this was to put all the unions appearing a second time on a single panel, where, as a result of "elbowing your colleagues for airtime" (K.L. Ashton, personal communication, December 1, 2009), the specific membership interests that each of the organizations were attempting to articulate "got kind of rolled over" (B. Anthony, personal communication, November 13, 2009). The CRTC confirms that they were indeed frustrated with

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<sup>35</sup> Recall that the 1999 Television Policy expanded the historical focus on Canadian dramatic, documentary and children's programming to include entertainment magazine and reality television genres as part of its priority programming categories.

the CCAU strategy. Michael Arpin, Vice-Chair of Broadcasting says the decision to put the unions on one panel stemmed from the fact that, “they were saying exactly the same thing. What we want to hear is the specifics of those who want to express themselves. We want to hear how it will work for this group versus that one” (M. Arpin, personal communication, February 19, 2010). Clearly, the CRTC did not feel that the union strategy of appearing twice – once as the CCAU, and once as individual organizations – was the most efficient way for the unions to get their messages across.

The CRTC’s frustration with the Coalition’s messaging strategy in public hearings is also connected to the conversations the unions had been having with the CRTC outside of formal public processes. Although the unions do not have quite the same access to key decision-makers and bureaucrats as the broadcasters between hearings, there is a client relationship with the unions that gives them access to CRTC power structures outside of formal hearings and submissions processes. The unions have regular access to senior staff and meet with Commissioners outside of formal public processes. However, informal access to the Chair of the CRTC is limited to once a year. The DGC, ACTRA and the WGC hold an annual meeting with the CRTC Chair at the Banff World Media Festival. Kelly-Lynne Ashton, Director of Public Policy for the Writers Guild of Canada, describes these as “very productive” meetings where the Chair walks in and says, “This is what I need from you” (K.L. Ashton, personal communication, December 1, 2009). In the private meeting in 2008, Konrad Von Finckenstein privately admitted to the unions that the 1999 Television Policy was clearly not working, but that, in order to avoid to be seen to be “going backwards,” he wanted to see a new policy proposal to replace their long standing request for an expenditure requirement of 7% of gross ad revenue earmarked for dramatic programming (K.L. Ashton, personal communication, December 1, 2009); J. Deer, personal communication, December 11, 2009). The unions were deeply committed to a 7% expenditure requirement, however, and disregarded the Chair’s request for a new recommendation. In the 2009 meeting in Banff, prior to the upcoming 2009 broadcaster licence renewals, the unions’ disregard for the CRTC Chair’s advice caused the Chair to become, “personally angry. Angry enough that it sunk in” (K.L. Ashton, personal communication, December 1, 2009).

By 2008, the rapid pace of the policy environment, leadership changes in the unions, an unequal distribution of policy resources amongst members of the CCAU and the nature of consensus based policy advocacy combined to lead to the eventual dissolution of the historic coalition. With von Finkenstein as Chair, the pace at the CRTC had picked up considerably, and the CCAU was also filing submissions on ownership transfers, Canadian content on mobile devices, and foreign ownership in telecommunications sector in addition to the individual filings the unions were making on other issues. All CCAU representatives interviewed commented on the inherently challenging nature of working on a consensus based model – right down to the press release - with partners that each have specific membership interests and to whom they are accountable. When combined with the rapid pace of the policy environment that placed a significant strain on the unions’ human and financial resources earmarked for policy, it produced conditions which the organizations felt compromised in their ability to respond to their memberships and/or the policymakers. With local programming becoming a major policy

issue at the CRTC in 2008, the CEP withdrew from the CCAU to focus on advocacy that affected a greater portion of their membership (in-house broadcast employees) than those in the independent production sector. NABET 700 had comparatively few resources to spend on national policy advocacy compared to the resources of the other national offices, and chose to invest its limited advocacy budget in FilmOntario, the industry association that focused specifically on issues facing NABET-700 members in their own labour markets (D. Hardy, personal communication, July 14, 2009).

A leadership change at the DGC brought new connections to policy makers and a less adversarial approach to policy advocacy. Brian Anthony was appointed the Executive Director of the DGC in 2007. With a long career in key leadership and advisory positions in federal cultural policy,<sup>36</sup> Anthony brought with him advanced knowledge of cultural policy processes and an extensive network of relationships with key cultural policy makers, including decision-makers at the CRTC. He was also a strong advocate for a more cooperative, accommodating approach to policy advocacy than was characteristic the unions' strategy which, as some members of the policy network observe, at times more closely resembled the adversarial nature of collective bargaining. Several union representatives suggested that personality conflicts between union leaders added to the stress the CCAU was already facing as a result of the rapidly changing policy landscape.

At the time the CCAU was disbanding as a formal coalition, the ideas it had been advancing as to the future direction for Canadian broadcasting policy achieved the most concrete policy results since its formation. In 2009 the policy environment at the CRTC shifted again, putting the need for regulations specific to dramatic programming back on the policy agenda. Furthermore, the workers who define Canadian content also took a starring role in defining the health of the broadcasting system.

In their decision to renew CTV, Canwest and CITY-TV stations (operated by Rogers Broadcasting) licences for a one year period in May 2009, the CRTC announced the scope of a policy proceeding to be held in fall 2009 on a new group-based approach to the licensing of television services. With specific reference to dramatic production, the CRTC announced the group-based licences hearings will engage with how best to achieve "appropriate minimum levels of spending on Canadian programming by English-language television broadcasters and the regulatory mechanism to ensure these levels" (CRTC, 2009b). In July 2009, the Commission issued a notice of consultation detailing the terms of references for the public hearings which marks an important discursive shift in the policy rationale, reflecting the degree to which the unions and guilds – and their memberships – were positioned as key contributors to the broadcasting system as a whole. The Commission notes that the objectives of "providing all broadcasting groups with the flexibility to adapt to the rapidly changing communications

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<sup>36</sup> Anthony's professional history includes positions in the Department of Communications, the Canada Council for the Arts and the Canadian Conference of the Arts, as well as a range of advisory positions, including National Advisory Committee on Culture Statistics, the Advisory Committee on Employment and Training Opportunities in the Cultural Sector, and the Sectoral Advisory Group on International Trade (SAGIT) on the arts and cultural industries. See: <http://www.architecturehamilton.com/pdf/SpeakersConference2004.pdf>

environment while ensuring that the Canadian broadcasting system is distinctly Canadian in its content” could only be achieved if the regulators and industry stakeholders are, “mindful of the important role of Canadian creative talent and production in the broadcasting system” (CRTC, 2009c, para 2, 3). The Commission credits the unions, as the “creative sector,” for making the “correlation between the removal of spending requirements for conventional television stations and a decline in the number of drama productions as well as a sharp rise in the proportion of expenditures on non-Canadian programming” (CRTC, 2009c, para. 15). The Commission invited stakeholders to comment on a group-based Canadian programming expenditure and exhibition obligation to support original and under-represented programming. This marks a return to the earliest recommendations of the CCAU, and a clear signal from decision-makers that the foundations of the 1999 Television Policy were openly and fundamentally being called into question.

The response of the unions to the consultation notice is, as in the formation of the CCAU, notable again for its formation and strategy. For the first time since 2002 the unions did not file a single submission under the banner of the CCAU on the issue of dramatic programming. The dissolution of the CCAU as a formal organization did not, however, prevent the unions from continuing to align their key messages. The strategy they used, however, to advance their message departed from their labour roots. Building on relationships that the unions had developed with the independent producers association on other policy files, ACTRA, DGC, WGC joined with the independent producers through the Canadian Film and Television Production Association (CFTPA). The four stakeholders developed a “consensus response” that was filed by each organization individually. The unions had started to meet with the CFTPA in 2008 to develop a coordinated messaging strategy on issues of common interest, including the CRTC’s new media hearings and terms of trade negotiations between broadcasters and producers (B. Anthony, personal communication, November 13, 2009; K.L. Ashton, personal communication, December 1, 2009).

According to Michel Arpin, Vice Chair of Broadcasting at the CRTC, the unions’ decision to coordinate their messages outside of the CCAU, and incorporate the CFTPA as a partner in their recommendations was a good strategic move. Norm Bolen was appointed Chair and CEO to the CFTPA in 2008. As former Executive Vice President of Content for Alliance Atlantis, Bolen had been responsible for programming for thirteen Canadian specialty networks (Schulich School of Business, 2008), and brought with him advanced knowledge of issues from the other side of the table. The unions and the producers association successfully brokered common ground on the policy issues that affected the production community as a whole, and effectively presented a united position that signaled to the CRTC they were committed to proposing solutions that satisfied both the policy objectives of the CRTC and the business interests of the broadcasters (M. Arpin, personal communication, February 19, 2010). Coordinating policy messaging between the unions and the independent producers sent a strong message to the CRTC that their policy recommendations for dramatic programming regulations and group-based licensing reflected “industry wide” proposals (Binning, 2008). Pooling resources also allowed the production industry to produce substantial research to support their proposals. This included a Nordicity report, *Analysis of the Economics of Canadian Television Programming*, and a

comprehensive McCarthy Tetrault report on past CRTC measures to support drama and other underserved programming categories.<sup>37</sup>

The success of the joint policy strategy between two stakeholder groups who sit on opposite sides of the bargaining table lays in their shared labour market interests. As employers of cultural workers, the interests between producers and unions often compete due to the nature of the employer-employee relationship between their members. However, both groups require broadcaster investment at the top of the production pyramid to start with. As discussed in chapter three, the considerable risks involved in television production have been consistently devolved down through the production chain from broadcaster to independent producers, who, as small business owners, also experience considerable precarity in the Canadian film and television production industry. As also discussed in chapter three, this risk continues to be devolved down to the workforce, which can result in labour disputes. The timing of the joint strategy between the unions and the independent producers needs to be understood as a direct product of labour relations in the Canadian film and television production sector.

In early 2007, ACTRA went on strike over new media provisions for residual payments in the Independent Production Agreement it bargains with CFTPA. During the course of five months of tough bargaining, it became clear to ACTRA and the CFTPA that the root of the problem lay much farther up the pyramid. As John Barrack, National Executive VP, legal counsel, and chief negotiator recalls, “the elephant in the room was something neither of us controlled: the relationship the producers had with the broadcasters” (Vlessing, 2009). Stephen Waddell, National Executive Director and chief negotiator for ACTRA National neatly summarizes how the negotiations brought the power that the broadcasters have over both cultural workers and independent producers into sharp focus.

We didn't go on strike in order to get a percentage of the distributors' gross revenue in new media to find out that CTV, Global Television and the CBC are paying a nominal amount of money to independent producers for new media distribution. But that's what we're finding” (Vlessing, 2009).

Shortly after ratification of a new agreement in February 2008, the WGC, DGC, ACTRA and the CFTPA met to coordinate their policy messaging on issues of common interest (Vlessing, 2009). A major collaborative effort is demonstrated by their joint submission on the CRTC's proposal for a group-based approach to the licensing of television services

The regulatory framework the unions and producers proposed to the CRTC in response to its call for comments on the new regulatory framework is complex, representing a significant

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<sup>37</sup> See Nordicity Group Ltd. (2009). Analysis of the Economics of Canadian Television Programming. May. [http://www.writersguildofcanada.com/files/Canadian%20Programming%20Economics%202009\\_FINAL\\_2009-05-07.pdf](http://www.writersguildofcanada.com/files/Canadian%20Programming%20Economics%202009_FINAL_2009-05-07.pdf)

See also McCarthy Tetrault, LLP (2009). *The Story So Far: a review of past CRTC measures to encourage or require private English-language television broadcasters to commission the production of Canadian drama, long-form documentary and children's programming.* [http://www.mccarthy.ca/pubs/ACTRA\\_Report\\_Nov2009.pdf](http://www.mccarthy.ca/pubs/ACTRA_Report_Nov2009.pdf)

departure from the historically simple and straightforward asks of 7% of gross ad revenue. This is partially a response to a new licensing model proposed by the CRTC based on overall ownership group requirements rather than individual licences for specific markets. However, Brian Anthony of the DGC describes the complex submission as a paradigmatic shift that was also designed to demonstrate a willingness to work with the broadcasters as opposed to in opposition to them (B. Anthony, personal communication, November 13, 2009). Interviews with the WGC and ACTRA support this perspective, confirming the new strategy was also a reflection of the CRTC's firm and clear request for a new set of recommendations from the stakeholders that had come now to be known as the "creative community" (K. L. Ashton, personal communication, December 1, 2009; J. Deer, personal communication, December 12, 2009). The recommendations include retaining existing expenditure requirements for specialty services, reinstating a Canadian programming expenditure requirement for the conventional services, creating a minimum expenditure specifically for drama for all groups, eliminating the priority programming structure and returning to a focus on drama, a 75% quota for underserved programming from the independent production sector, and a "scheduling safety net" for dramatic programming on conventional broadcasters schedules (ACTRA, 2009, p. 4).

The strategic shift to a joint submission format that articulated a common set of policy recommendations, with each filing reflecting the particular interests and concerns of the respective memberships also produced a shift in the way that the unions were scheduled in the public hearings. For this hearing, the CRTC wanted to spread the unions out over the period of the hearing so the unions had an opportunity to hear and respond to the submissions of the other stakeholders. Comments by the Vice-Chair of Broadcasting Michel Arpin indicated that the partnership strategy and the tone of the proposal were well received during the hearings.

If you're a writer, you have a vision...if you're a director, you have another vision...Being part of a consensus means you have set aside some of your own concerns. As a commission, we need to hear those different points of view. From my own experience and what I've heard from other CRTC Commissioners, they like better to hear the different parties than the groups (M. Arpin, personal communication, February 19, 2010).

While the paradigmatic shift was well received by the CRTC, the comprehensive nature of the proposal is arguably a reflection of the advanced regulatory expertise of legal counsel Peter Grant rather than the policy capacity of any of the unions *per se*. Although the written submissions reflect a general consensus on the key aspects of the complicated regulatory proposals, the clarity of the message was considerably clouded during the public hearings when the unions were asked specific questions on the aspects of the policy framework they felt were most important, reflected the following exchange between CRTC Commissioner Cugini and ACTRA:

COMMISSIONER CUGINI: Just a point of clarification, in your exchange with the Chairman earlier regarding your proposal in terms of drama in primetime did you confirm with the Chair that your request includes two hours a week of drama or is it just a CPE [Canadian programming expenditure]?



Because I thought I heard you say two hours, Mr. Waddell.

MR. WADDELL: It's both. It's both CPE and two hours in real primetime.

COMMISSIONER CUGINI: Then explain to me why on page 6 of your oral presentation it says:

"It does not propose costs per hours or a number of hours. Licensees can opt for a few more expensive programs or additional less expensive programs. It also doesn't impose new requirements for exhibiting drama on services where it does not make sense."

---Pause.

MS. DEER: It's not an ultimate number of hours. I mean at the end of the day it's just two per week but, I mean, whether that's – you know I am doing some quick math on the spot here – times 52 times a year or, I mean, they could produce 3000 – sorry, 3,000 hours of dramatic programming with their expenditure requirements or they could do just enough to meet that two hours a week....

COMMISSIONER CUGINI: Right, but you can see why I am confused because you just said it doesn't – your script says it doesn't impose a number of hours but now you are saying two hours... (CRTC, 2009, para 11468-11474).

The timing of the shift in tone and strategy happened to coincide with another important development that shaped the power relations the broadcasting policy network. The long standing and powerful broadcasters lobby group, the Canadian Association of Broadcasters, was in the process of dissolving. Throughout the 1980s and 1990s the CAB had included cable and satellite service providers (as broadcast licensed undertakings) in its membership. While this broad membership base made the CAB a "powerhouse representing everyone who was anyone in broadcasting," competing interests within the membership would soon lead to serious internal dissonance on key policy issues (Careless, 2010). The CAB had started to fracture from within as a result of the fee-for-carriage issue that saw conventional broadcasters demand payment from the cable and satellite distributors for the right to carry over-the-air television signals (Canadian Press, 2010). The public nature of the dispute through a series of tv attack ads on the two sides of the issue "destroyed whatever little consensus was left in the CAB" (Careless, 2010) The broadcasters, for the first time in recent history in a major policy hearing on conventional television, and certainly in stark contrast to their approach to the 1999 Television Policy, did not present a united position or consensus on regulatory reform. With a well researched and submission from the unions and the CFTPA that included a comprehensive set of recommendations from Canada's leading expert on broadcasting regulation, and no unified equivalent from the broadcasters,<sup>38</sup> the Commission was of the view they had considerable discretion as to how to determine the best way to proceed with policy reform (Arpin, 2010).

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<sup>38</sup> For an overview of the diversity of issues and recommendations presented by the broadcaster ownership groups, see CRTC 2010-167.

*Aligning labour interests and national interests – the 2010 Broadcasting Regulatory Policy*

On March 22, 2010, the CRTC issued its Broadcasting Regulatory Policy for a group-based approach to the licensing of private television services (CRTC, 2010a). The new policy is a significant development in Canadian broadcasting regulation for two reasons. First, it signals a marked policy shift away from the deregulatory approach of the 1999 Television Policy toward a (return to a) strong regulatory emphasis on support for content creation, and in particular, Canadian dramatic programming. Second, in contrast to the degree to which the unions considered the 1999 Television Policy decision to be a “defeat,” the 2010 Broadcasting Regulatory Policy represents a policy victory for the unions, reflected by the CRTC’s rationale for the shift as well as the partial adoption of policy instruments that reflect the unions’ policy proposals.

The 2010 Broadcasting Policy reflects a continuation of the CRTC’s relationship with broadcasters as its primary clients, and takes into account the changing landscape of the broadcasting industry in terms of ownership consolidation, digital broadcasting and new distribution platforms as competition to conventional broadcasting models. Its response to the changing industrial landscape is to provide broadcasters with regulatory flexibility through a group-based approach to licensing. The CRTC argues group licencing will allow broadcasters, “greater flexibility in the allocation of resources amongst their various television platforms” (CRTC, 2010a, para. 26). However, the Commission is clear in its determinations around the overall vitality of the broadcasting system as being necessarily tied to the health of the communities that produce the content. They also directly link the unions’ politicization of the decline in Canadian drama as a key policy problem driving the regulatory review process:

The Canadian broadcasting system will succeed or fail to the degree that Canadian creative talent, producers, broadcasters and distributors provide a quality Canadian television experience for the viewer. At the heart of this experience is the ability of the system to continually create attractive new Canadian programs...a shift in regulatory focus from program exhibition to program creation will help to ensure the continued presence of Canadian programming options for Canadians, however the broadcasting system may evolve (CRTC, 2010a, para. 7, 9).

The Commission notes that various stakeholders, particularly representatives of the creative sector, have made a correlation between the removal of conventional television spending requirements in the Commission's 1999 Television Policy and a decline in the number of Canadian drama productions as well as a sharp rise in the proportion of expenditures devoted to non-Canadian programming... Accordingly, the Commission examined how a single, group-based CPE requirement could be applied with flexibility to allocate expenditures across all platforms of integrated corporate undertakings (CRTC, 2010a, para. 35).

The 2010 Broadcasting Policy uses two major policy instruments within the new licencing approach that had long been proposed by the unions: expenditure requirements for conventional broadcasters and a regulatory focus on Canadian dramatic programming. The

2010 Broadcasting Regulatory policy introduces a Canadian programming expenditure (CPE) requirement on all television services owned by CTV, Rogers and Canwest. It maintains existing expenditure requirements for the specialty services, and imposes a new CPE on the conventional television stations. Meeting a long standing request of the unions, the CPEs will be calculated as a percentage of previous year's revenues.<sup>39</sup> The 2010 Policy also replaces priority programming with regulatory requirements based on "programs of national interest." This includes a clear focus on dramatic programming, a clear commitment to showcasing Canadian cultural workers, and a clear success for the unions in (re)aligning their membership's labour market and industrial development interests with the broader cultural objectives of the *Broadcasting Act*.

The Commission notes that over 40% of all viewing to English-language television in Canada is to drama programs; drama is thus the genre of programming that Canadians choose to watch more than all others. Drama programs and documentary programs are expensive and difficult to produce, yet are central vehicles for communicating Canadian stories and values. In addition, the Commission considers that programs that celebrate Canadian creative talent in English Canada, such as *The Geminis*, *The Junos*, *The Giller Prize*, *The National Aboriginal Achievement Awards*, *The East Coast Music Awards*, and *The Aboriginal Peoples Choice Music Awards*, promote Canadian culture and are also of national interest...The Commission has therefore determined that the new designation of programs of national interest will consist of programs from program categories 7 Drama and comedy and 2(b) Long-form documentary, as well as specific Canadian award shows that celebrate Canadian creative talent (CRTC, 2010a, para. 70-71).

The Commission outlines that expenditure requirements for programs of national interest will be imposed as conditions of licence expenditure at the next licence renewal. This represents a significant improvement to the priority programming framework that allowed broadcasters to

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<sup>39</sup> The CRTC will calculate the group, specialty and conventional CPE expenditures as follows:

It is the Commission's preliminary view that the base spending level for each designated group, as an aggregate, should be a minimum of 30% of the group's gross revenues. The Commission considers that this is an appropriate level given the record of the groups' actual spending on Canadian programming in the years 2007, 2008 and 2009, and given the Commission's intention not to impose, at this time, additional obligations on the groups beyond their recent historical expenditures.

In order to establish the appropriate CPE for the conventional television services controlled by a designated group, the Commission will calculate the dollar amount of the CPE obligations for qualifying 6 Category A and Category B specialty services. This amount will be subtracted from the dollar amount of the group's 30% CPE obligation. The difference will be the dollar amount of the CPE obligation for the conventional television services controlled by the group.

The difference established in the above paragraph, calculated as a percentage of the average of the previous three years' gross revenues for the conventional television services, will constitute the CPE for the designated group's conventional television services and will be imposed as a condition of licence on those services. (Canadian Radio-television and Telecommunications Commission, 2010, para 50-52).

fill their schedules with low cost programming other than drama. Yet it also represents a partial win in terms of what the unions were asking from the CRTC, insofar as the policy *replaces* existing exhibition requirements with expenditure requirements. As the unions had clearly articulated in all their submissions, and indeed mirroring the Canadian content framework historically, expenditure requirements must work in concert with exhibition requirements in order to create shelf space for Canadian programming and support a production industry capable of creating high quality Canadian content. The policy further allows licensees to attribute their national interest expenditures on any conventional or specialty service within the group. Furthermore, the Commission lowered the Canadian content requirements from 60% to 55% overall, while maintaining a 50% requirement during the evening broadcasting period from 6:00pm to midnight. However, with no requirements for scheduling throughout the year, the policy allows conventional broadcaster to continue to shoulder Canadian drama in low viewing periods while keeping prime viewing slots for foreign drama, and in the process, perpetuating the notion that Canadian dramatic programming is both unpopular and unprofitable. The unions greeted the 2010 Broadcasting Regulatory Policy with a mixed response as reflected in a President's Message by ACTRA National President Ferne Downey:

**CRTC TV Policy: the new score**  
**Cancon: 2; Broadcasters: 3**

March 23, 2010: I awaited yesterday's new CRTC TV policy with bated breath. Ten years of action was coming down to one decision that would re-write the rules and hopefully bring Canadian TV drama back from death-watch. I was feeling optimistic, but equally prepared to launch into a victory dance or a stomp. Turns out I needed to do a bit of both. As I read through the documents online I was ticking off our 'asks' one by one – the CRTC was following our plan almost to a T. Canadian programming expenditures? Check.

A special spending requirement for Canadian drama and comedy? Check. A rule to make sure said dramas and comedies appear in our primetime schedules? Hello? Anyone? Sadly the CRTC took a pass on this one. Instead of guaranteeing Canadians that they would get two hours of scripted programming in prime time each week (a measly two out of 18 hours) the regulator gave broadcasters free licence to ship their dramas and comedies to their affiliated niche specialty channels.

Winning two out of three of our asks is definitely a step forward and a testament to the efforts of so many of you who helped get our message to the Commission. As recently as a year ago, the CRTC Chair Konrad von Finckenstein had suggested that we give up on our idea of making broadcasters spend a percentage of their prior year's gross revenues on scripted programming. But you know what? He listened. He admitted to us last fall that the CRTC's 1999 TV policy was a failure, and he made some big steps to abandon that disastrous policy – thanks, I am sure, to our efforts and those of our partners in this fight – the WGC, DGC and CFTPA.

The missing piece of the new policy, however, is a big concern. By not telling the broadcasters that they have to air a specific amount of scripted Canadian programming

in prime time on their conventional stations, the CRTC has once again left us ‘hoping’ it will happen. But we’ve seen time and time again, when broadcasters aren’t told to do something – they don’t.

Luckily, we will have a last kick at the can. The CRTC will look at each corporate broadcasting group when their licences are renewed in the spring of 2011 and will issue specific details and requirements for each. We’ll be there in full force pressing for requirements to make broadcasters make room for our stories in prime time and to stop feeding us that steady diet of made-in-the-U.S. programming.

So rather than dance or stomp, I’m looking at the new TV policy merely as “the floor” and when we get to licence renewals, we will push – hard.

In solidarity,

Ferne Downey (Downey, 2010)

### *Analysis and conclusion*

A labour-based analysis of what the unions successfully politicized as the ‘Crisis in Canadian Drama’ allows us to clearly see how policy outcomes are not the product of a linear causal chain, but rather a part of an iterative loop involving the power relations within networks; actor interactions, strategies, and resources; and the role of ideas and discourse. The output of the policy review process – the 1999 Television Policy – reflected the broader political environment that emphasized deregulation and market-based policy rationales. The power structures within the policy network favoured the broadcasters; this was reinforced by the coordinated advocacy strategy of the CAB that spoke to the CRTC decision-makers with a clear, consistent message. The 1999 Television policy reflects the CAB’s success in aligning their member’s interests with public policy objectives.

The 1999 Television policy had a major impact on Canadian English-language television production labour markets, producing a sharp decline in the amount of good work that is also a key source of employment for many Canadian cultural workers. The labour market shifts, produced by the new policy regime, shaped the policy advocacy strategies of the unions. By pooling resources, coordinating messages and drawing on the respective strengths of each of their organizations through the formation of the CCAU, the unions were able to succeed in putting the decline of drama on the political agenda as a major policy issue for the CRTC. The coalition strategy allowed the CCAU to hire leading experts and publish comprehensive reports that unequivocally linked the 1999 Television policy with a decline in dramatic production. A critical factor in the CCAU’S success was their ability to gain political traction by shifting the discursive framing of the regulatory approach. Through clearly and consistently connecting a decline in Canadian drama with the cultural development objectives of the Broadcasting Act, the CCAU was able to realign public policy objectives with the labour markets interests of their members. This realignment was possible in large part due to the degree to which cultural development objectives in the *Broadcasting Act* are highly institutionalized ideas in

broadcasting policy networks tied to the long policy history of the Canadian content policy framework.

Looking at the trajectory of the unions' policy advocacy over a ten year period allows us to examine how broader political economic changes and changes within the policy network impacted the unions' advocacy strategies and the policy outcome. A leadership change at the CRTC intensified the pace of the policy environment. This was exacerbated by the 2008 financial crisis and a decline in broadcaster advertising revenues. These two factors interacted to expand the range of policy issues on the agenda, placing considerable strain on the relatively limited policy resources of the unions. Eventually, the consensus based model of the CCAU was unable to effectively respond to the rapid pace of the policy environment at the CRTC in a timely fashion. Declining investment in local programming required the CEP to divert its policy resources from the issue of dramatic programming in the independent production sector, where a small percentage of their members work, to advocacy on local news programming, where a much larger percentage of their media members are concentrated. Without meaningful support from the national office, NABET 700-CEP felt it was best to concentrate their limited policy resources to influencing policy at the provincial level through FilmOntario, as will be discussed in detail in the following chapter.

The dissolution of the CAB also played a critical role on this policy file. As Michel Arpin notes, despite some inconsistencies in the presentation of the complex set of recommendations the production community put forth in the 2009 policy review, the unions and the CFTPA presented a much more unified position than the broadcasters. Arpin, himself a former CAB Chair, openly noted that the broadcasters presentation of "far from consensual" positions weakened their impact on the policy process and put the power firmly in the hands of the CRTC to determine what is best for the Canadian broadcasting system as a whole (M. Arpin, personal communication, February 19, 2010). The CRTC's decision to reintroduce expenditure requirements as a percentage of revenue shows the CRTC again considers that investing in Canadian drama and, by extension, key creative talent, is an essential element of the overall health of the broadcasting system.

The CRTC now regularly references the "creative community" in policy consultation processes as well as policy rationales, yet who is included in this community has important implications for the representation and articulation of interests in policy processes and the ways in which cultural policy is understood as a form of labour market regulation. The CRTC's "creative community" refers to ACTRA, the WGC, the DGC and the CFTPA as important stakeholders in the broadcasting policy network. This means that the labour market interests of actors, writers, directors and producers are represented in policy processes. The diverse nature of the DGC membership means the interests of their members in the art department, assistant directors, locations, accounting, production office, and editorial departments also have a voice at the policy level. By advocating specifically for dramatic series production, the unions are cultivating investment in what are relatively good jobs in a highly precarious employment landscape. The political advocacy of the DGC, ACTRA and WGC in particular play a very important role in protecting the labour market interests of *all* film and television workers in Canada, not just

those of their members. A strong Canadian English-language television production sector benefits all workers in the film and television industry by providing an alternative source of employment to the foreign service sector, which can be quite volatile.

Significantly, the interests of technicians through IATSE and CEP locals in the independent production sector are not represented at the policy level, nor considered as part of the CRTC's "creative community". This is problematic for two main reasons. First, the overall health of the independent production sector remains tied to the Canadian broadcasting regulatory framework. U.S. foreign service production is attracted to Canada in part because of the deep and highly skilled pool of labour as a whole. Second, it is precisely because the Canadian English-language television production sector represents an alternative source of employment to the volatile foreign service sector that technicians unions should be strong advocates for a robust Canadian production industry. While IATSE may consider the CCAU's exclusive focus on Canadian production to be myopic, the same can be said of the IATSE's decision not to engage in policy advocacy for the Canadian television production industry. The technicians, and IATSE technicians in particular, represent the largest group of cultural workers in the Canadian film and television production sector. IATSE's organizational focus on industrial and economic models, with a dismissive attitude toward the cultural nationalism arguments offered by the WGC, ACTRA and DGC reflects a lack of understanding about the relationship between the cultural development objectives of the Broadcasting Act and the labour market interests of cultural workers. This is not to argue that their labour colleagues are necessarily courting the IATSE to join them as policy advocates. IATSE's lack of cultural policy expertise and oppositional stance to that of their labour colleagues is fully reflected in their position on foreign ownership of the Canadian broadcasting sector:

During the [2011 federal] election, the Conservative Party floated the idea of loosening the restrictions on foreign ownership in the telecommunications sector and by inference, in the broadcasting sector. The prevailing wisdom for some is that foreign ownership of broadcasters means less money will be spent on Canadian programming. Other unions and guilds which operate in the entertainment industry have for years argued that foreign ownership of broadcasters will have a detrimental impact on Canadian culture as it will result in fewer "Canadian stories being told by Canadians". This argument completely ignores the existence of Canadian Content (CanCon) requirements, which are imposed by the CRTC. Foreign ownership in the telecommunication and broadcast sectors will become a major public policy debate during the upcoming term of the Conservative Majority government. The IATSE will take an active role in researching the issues and expressing a view that is supportive of our members even if that position runs contrary to the self-proclaimed voices of Canadian Culture. Our members deserve nothing less (IATSE, 2011b, p. 10).

IATSE's position is particularly puzzling and troubling given that outside of Toronto, Vancouver and Montreal, IATSE is the only technicians union representing cultural workers, including those on Canadian English-language television productions. Furthermore, there have been recent and concerted efforts by IATSE locals in major labour markets, and particularly in Toronto, to get a

larger share of the work in the Canadian production sector (J. Lewis, personal communication, December 3, 2009).

In chapter two, I argued that the discourses of creativity as embedded in the creative economy have provided political space for cultural workers to advance their interests at the policy level. However, as I note, this can be problematic, as the creative economy is conceptually focused on economic development as its primary goal, often at the expense of a broader conceptualization of the value of cultural production in relation to social and cultural development objectives. The 1999 Television Policy is an excellent example of the ways in which the capital accumulation interests of broadcasters, through the market logic of regulatory flexibility, became conflated with the public interests objectives of the *Broadcasting Act*. However, when we apply a labour-based analysis to this policy file, we can see how the unions were able to subvert the discourses of the creative economy through the political space that the creative economy provides cultural workers.

My research shows the unions, through invoking cultural discourses to protect their industrial interests, play a critical role in protecting the public service objectives of the *Broadcasting Act*. The Canadian content policy framework positions cultural workers as the objects of policy through defining Canadian content as that which is made by Canadians in key creative positions. A labour-based analysis contributes to an understanding of Canadian cultural policy as labour market regulation by arguing that unions, as policy actors, are much more than cultural nationalists who function as defenders of public service broadcasting model, or self-interested interveners who push an industrial development approach to cultural policy. They are, in a sense, both. The unions need to protect and cultivate Canadian English-language television production labour markets and their members' interests in the face of strong market disincentives to produce original domestic dramatic programming. Unions are, by necessity, major stakeholders in broadcasting policy networks who will necessarily defend the public interest objectives of the *Broadcasting Act* that provides the legislative foundation for the Canadian content policy framework. If left to the market, Canadian drama would not exist in any meaningful way. If there is no work, Canadian English-language television production labour markets will lose critical capacity. Clearly, cultural and industrial objectives are not only related, but mutually constitutive, and cultural workers are both objects and agents of cultural policy.



## **Chapter 5: (Dis)counting Canucks: unions, industry associations and provincial film and television tax credits in Ontario and Nova Scotia**

What kind of job you have – director, actor, writer, production designer, grip – shapes whether you make a living by working on Canadian content, U.S. foreign service production, or both. As a cultural worker, where you live also shapes your career in film and television production. Keeping with historical trends, in 2010, 66% of all English-language independent film and television production was filmed in Ontario and British Columbia. By contrast, the total production volume for Alberta, Nova Scotia and Manitoba was worth a combined total of only 6% (Canadian Media Production Association, 2010). Film and television labour markets across Canada are concentrated in the provinces' urban centres. The English-language film and television production sector in Canada is dominated by Toronto and Vancouver as the two major production centres, supported by much smaller regional production centres, such as Winnipeg, Calgary and Halifax, across the rest of the country. It is in these urban centres where most cultural workers live and spend much of their working lives (Conference Board of Canada, 2010). In view of that, my analysis now turns to an examination of the ways in which cultural policy for the film and television industry interacts with cultural workers at the local level.

The cultural policy that has the most impact on local film and television production markets is the provincial film and television tax credit regime.<sup>40</sup> Studying provincial tax credits also contributes to developing a larger body of scholarship on the increasingly important role of cultural policy at the sub-national level, and in particular, to the ascendancy of the creative economy as a regional economic development strategy. A labour-based analysis of the film and television tax credits, as a prominent policy feature of the creative economy at the provincial level, allows for an understanding of the impact of the tax credits that drills down on the actual conditions of work in the film and television industry. It brings into sharp focus how the discourse of creativity limits the range of issues that are considered as policy problems. A labour-based analysis of the tax credit regime also reveals the challenges the unions face in advancing their members interests at the policy level; and how those challenges are produced, in large part, by the hypermobility of capital and intense intra- and international competition that the tax credit regime produces.

As introduced in chapter three, the film and television tax credit regime plays a critical role in determining where a production will be filmed. Tax credits are particularly relevant useful for the purposes of a labour-based analysis of cultural policy because, as in the case of Canadian content regulations, cultural workers are the objects of the policy instrument. Tax credits subsidize the wages of cultural workers, and in doing so, stimulate their employment in substantial numbers. This is what I refer to as (dis)counting. The (dis)counting of cultural

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<sup>40</sup> Provincial film and television production tax credits offer significantly higher indirect subsidies than the federal tax credit. The federal tax credit is also calculated as a proportion of labour costs *after* the provincial tax credits have been calculated, significantly diminishing their value. This is known as “the grind” in the industry.

workers in the tax credit regime speaks directly to the logic of the creative economy by privileging business interests through substantial public subsidy of domestic and foreign private sector production companies. In doing so, the government is perceived to be creating, “clean, knowledge intensive jobs and bringing additional benefits to the economy in the form of multiplier effects, audio-visual trade and spin-off benefits in terms of tourism and image” (Christopherson & Righthor, 2010, p. 336).

The scholarship of economic geographers, in particular, has made a significant contribution to our understanding of the dynamics between capital and labour in the film and television production industry, highlighting the ways in which the tax credits encourage hypermobility of capital, and how this serves to position labour markets, union locals, and workers in direct competition with each other for work (Christopherson, 2005, 2006; Coe, 2001; Gasher, 2002; Randle & Culkin, 2005; Scott & Pope, 2007). The existing literature generally focuses on the U.S. “runaway production” phenomenon, and consequently, discussions of the Canadian experience focus primarily on the Vancouver film and television production sector, as Canada’s largest foreign service production centre. In order to develop a richer understanding of the complex relationship that tax credits share with labour markets in the Canadian context, we also need to examine the role that tax credits play in the Canadian television production sector and how that differs from the role they play in the foreign service sector; the links between federal broadcasting regulations and the provincial tax credit regime; and how the implementation of tax credits shapes work differently between major and regional production sectors that service both Canadian and foreign service production.

This chapter will build on the existing scholarship, using a labour-based analysis to examine how the design and implementation of the tax credit regime shapes the quantity and the quality of work available to cultural workers in Halifax and Toronto. After analyzing the ways in which the tax credits function as a form of labour market regulation at the provincial and local level, I then focus on the ways in which unions engage in policy advocacy on the tax credit file. My analysis evaluates the associational and discursive strategies the unions use to advance their interests within policy networks, how their strategies are related to the power relations between industry stakeholder groups and other members of the policy community; and the degree to which these strategies allow unions to advance their members’ interests at the policy level.

The chapter opens with an explanation of what film and television production tax credits are and how they work. I then examine the development of the tax credit regime across Canada, and explain the different roles that tax credits play in the foreign service and domestic production sectors. Research clearly shows that tax credits have made a positive impact on the quantity of work available to unionized cultural workers in Toronto and Halifax. For an industry as unpredictable as film and television production, production volume is critical in mitigating the precarity that cultural workers face by providing constant opportunities for work, even if that work continues to be based on short-term freelance contracts with no employment or income security. This is a large reason why the unions are strong supporters of the tax credit regime. However, the tax credit regime also creates unintended consequences for cultural workers. Based on in-depth interviews with union leaders in Toronto and Halifax, I explain three

key ways in which the implementation of the provincial tax credit regime in Canada has negatively impacted the quality of work in the independent film and television production sector.

First, while the tax credits have had a positive impact on total production volume, provincial residency requirements inhibit worker mobility between labour markets. Due to the comparatively small size of the Halifax film and television production labour market, inhibiting worker mobility between provinces poses problems for the long-term development of the production community in the Atlantic region in particular. Second, the regional bonuses that offer independent producers an additional discount on labour for shooting outside major urban centres create dangerous conditions of forced commuting for workers who already work excessive hours. Third, the competition produced by the provincial tax credit regime further intensifies precarity for cultural workers by exerting downward pressure on labour power and collective bargaining, and exacerbating pressures for cultural workers to self-exploit.

Having established that the (dis)counting of cultural labour in the tax credit regime is both important and problematic for Canadian film and television workers and their unions, I proceed to examine the role that the unions play in the ongoing development of the tax credits in Ontario and Nova Scotia. Unions are relatively new political players in provincial film and television policy networks, with their activities as policy actors largely tied to the increasing importance of the provincial tax credits in shaping the quantity and quality of work in local labour markets. The unions in Halifax and Toronto engage in policy advocacy primarily through industry associations, FilmOntario and the Nova Scotia Motion Picture Industry Association (NSMPIA). In foregrounding the interests of cultural workers in my analysis, I focus on the role that unions played in the formation and political strategies of FilmOntario and the NSMPIA. My research reveals that the unions played a critical leadership role in the formation of both of the industry associations. As with the tax credits, the industry association strategy is both important and problematic for the unions as policy actors.

In both case studies the unions decided to adopt the discourses of the creative economy through aligning the interests of cultural workers with those of the producers. In both cases, the formation of the industry associations represents labour's intention, along with their industry association partners, to gain direct access and develop a dialog with key policy decision-makers. The size of the production industry, and the resources the unions brought to Film Ontario, were key factors in the success that FilmOntario has had in their goal to establish themselves as a key policy stakeholder group that actively participates and influences the policymaking process. The much smaller size of the production community in Nova Scotia, and the concentration of industry power in the Film Nova Scotia office, created a chilling effect on the political will of the producers to boldly disrupt existing power relations within policy networks. This resulted in NSMPIA being a largely ineffective industry association as policy advocates. Comparing the two cases shows that union participation in these industry associations is not a particularly effective advocacy strategy. Adopting the discourses of the creative economy largely works to silence the labour specific issues at the policy level, and does

little to further the standing of unions as key stakeholders in provincial film and television policy networks

*Counting Canucks, Part Two: Film and television production tax credit*

Acknowledging the nature of film and television production as a labour-intensive industry, Canada was an international pioneer in developing labour tax credits. Tax credits provide independent producers with indirect subsidies on the labour-related production costs for the domestic and foreign service production sector. In broad terms, film and television production tax credits allow a production company to write off a specified percentage of the salaries and wages spent on a particular production. That figure is applied against the corporate tax payable and the balance is paid to the production company. As film and television production is largely expenditure driven with few taxes owing as a result of the production process, the tax credit refunds provide a substantial indirect subsidy to the production industry.

Tax credits are designed as an industrial development tool. In the context of the creative economy, provincial film and television tax credits are justified in terms of their job creation capacity, as well as the economic impact they have on a region. Public investments of over \$100,000,000 per year (in the case of Ontario) are rationalized using economic multiplier models that calculate the effect of the tax credits to be two to three times the amount of the public investment (Davis & Kaye, 2010; Intervistas Consulting, 2005; Nordicity Group, in association with Duopoly Inc., 2004). The Ontario Media Development Corporation claims that “\$1.26 billion in production activity accounted for almost 30,000 full-time direct and spin-off jobs, and that “every million dollars of film and TV production in Ontario generates 23 full-time direct and spin-off jobs” (OMDC, 2012). As I noted in chapter three, the ability of the tax credits to stimulate long-term economic development and investment is coming under increasing scrutiny by policymakers. In their detailed analysis of the claims made with regard to the tax credits as economic development and job creation instruments, Christopherson and Rightor argue,

Detailed information about production company expenditures during the shooting phase is critical to a credible examination of the impact of subsidies on the economies of states offering tax incentives. This should include specifics on the people employed and the products or services purchased, where those people or producers or services originated, how much time individual cast or crew members worked, how much they were paid, and where they reside (and spend their paychecks or pay taxes other than the state tax on that income).

Even as subsidy programs have proliferated, this vital information is rarely, if ever, made publicly available. As a consequence, there is scant analysis of the economic impact of subsidies based on real numbers. Thus, assertions of the efficacy of subsidy programs as an economic development tool remain speculation (Christopherson & Rightor, 2010, p. 349).

Important for our purposes here is the degree to which industry stakeholders promote the use of tax credits as an industrial development strategy. As I discuss in detail below, tax credits are a determining factor in attracting foreign service production, and critical elements in the financing strategies of Canadian content producers. At the political level, this has resulted in independent producers and unions (along with other industry stakeholders, such as post-production facilities, studio operators, and equipment suppliers) collectively advocating for a competitive tax credit program in jurisdictions across Canada. The unions are strong supporters of the tax credits because, similar to the Canadian content policy framework, the tax credit regime directly ties the development of the film and television production industry to the employment of on and off screen cultural workers. Before we move to a discussion of the ways in which the tax credits function as labour market regulation for unionized cultural workers in Toronto and Halifax, it is first important to understand their history and key characteristics.

### *Federal labour tax credits*

The federal government introduced the Canadian Film or Video Production Tax Credit (CPTC) in 1995 to replace the film and television industry tax shelter program, the Capital Cost Allowance. The CPTC is the largest single federal government program devoted to stimulating the production of Canadian films and television programs. The latest program evaluation reports that in 2005-2006 the CPTC provided approximately \$185M in financial support to Canadian production companies (Office of the Chief Audit and Evaluation Executive, 2008, p. 33). The objective of the CPTC is to encourage Canadian programming and to develop an active independent production sector by providing a 25% tax credit on qualified labour expenditures up to 15% of total cost of production (Office of the Chief Audit and Evaluation Executive, 2008). Jointly administered by Revenue Canada and the Canadian Audio-Visual Certification Office (CAVCO), the CPTC is only available to productions that meet a minimum number of Canadian content points. In determining eligibility for the CPTC, CAVCO uses the points system that was originally developed as part of the administration of the Capital Cost Allowance in 1974, and which was also adopted by the CRTC as part of its Canadian content regulations in 1983 as discussed in chapter four. In order to qualify for the CPTC, productions must meet six out of the possible ten points, three of which must include the director, screenwriter and one of the two lead performers. Additionally, at least 75% of the remuneration for all production costs and services must be paid to Canadians,<sup>41</sup> and at least 75% of all costs for processing, post-production and final preparation of the production must be incurred for services provided in Canada. The CPTC works within the broader Canadian content policy framework described in chapter four by supporting under-represented program categories such as drama, variety and children's programming. Accordingly, certain genres such as news, game shows, sports events,

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<sup>41</sup> The term "Canadian" is defined as a person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act*, a permanent resident within the meaning assigned by the *Immigration and Refugee Protection Act (2001)*, or a corporation that is Canadian-controlled, as determined for the purposes of sections 26 to 28 of the *Investment Canada Act* (Canadian Audio-Visual Certification Office, 2009).

and reality television are not eligible to apply for support under the CPTC (Canadian Audio-Visual Certification Office, 2009).<sup>42</sup>

In 1997, the federal government introduced the Film or Video Production Services Tax Credit (PSTC), the first Canadian cultural policy measure specifically targeting foreign service (read: U.S.) production sector. The PSTC is designed to attract foreign location shooting to Canada and to encourage the use of Canadian labour on these productions by offering a tax credit equal to sixteen percent of the salary and wages paid to Canadian residents, with no cap on the amount that can be claimed (Office of the Chief Audit and Evaluation Executive, 2008, p. 27). The PSTC does not use the points system, but, in keeping with the general policy support for the independent production sector, it does list the same genre exclusions as the CPTC.

### *Provincial labour tax credits*

In 1995, Nova Scotia was the first province to roll out a labour tax program in the English-language film and television production sector (Nordicity Group, in association with Duopoly Inc., 2004).<sup>43</sup> Since that time, all other nine provinces have rolled out tax credit programs that target labour expenditures as a means to promote their regions as competitive film and television production centres. There have been periods of a 'tax credit race' between the provinces, most notably in 2004, 2007 and 2009 where provinces raise tax credit limits in order to gain or maintain a competitive advantage with other jurisdictions.

True comparisons between tax credit programs are difficult. Some provinces have a ceiling on the total dollar amount that can be claimed. Some provinces, such as Manitoba and Nova Scotia, run frequent filming bonus programs, Ontario offers a first time filming bonus, BC offers a training incentive, and Saskatchewan offers a key creative positions bonus. Many provinces also operate complementary digital media, animation, and visual effects tax credit incentives (PricewaterhouseCoopers, 2011). Only Ontario, British Columbia, and Quebec, with Toronto, Vancouver, and Montreal as Canada's major production centres, have structured their tax credits programs to mirror the federal framework by offering separate programs for Canadian content and foreign service productions. This reflects the intense competition between these production centres for work; when Ontario developed its tax credit programs to reflect the federal programs, BC followed suit shortly thereafter (Esau, 2007). The intense competition between the rest of the provinces for the proportionally small remainder of the production volume is reflected by tax credit programs that do not distinguish between Canadian and foreign service production. Overall, the general baselines and regional production bonuses are

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<sup>42</sup> CAVCO lists the following genres as ineligible for the tax credit program: "news, current events or public affairs programming, or a programme that includes weather or market reports; talk show; production in respect of a game, questionnaire or contest (other than a production directed primarily at minors); sports event or activity; gala presentation or an awards show; production that solicits funds; reality television; pornography; advertising; production produced primarily for industrial, corporate or institutional purposes; production, other than a documentary, all or substantially all of which consists of stock footage" (CAVCO, 2009).

<sup>43</sup> Quebec introduced a provincial film and video tax credit in 1991 (Nordicity Group 2004), which served as the template for the CPTC (source).

understood in the industry as having the most impact on a region’s competitiveness in the film and television production sector. General baselines for provincial film and video tax credit incentives, as of April 2012, are listed in Table 5.1.

Table 5.1 – Provincial film and television production tax credits in Canada, as of April 2012

PROVINCE	TAX CREDIT	REGIONAL BONUS
<b>Alberta</b>	20-29% all spend <sup>44</sup>	
<b>British Columbia</b>	35% labour - Canadian content	12.5% outside Vancouver 6% distant location
	33% labour - foreign service	6% outside Vancouver 6% distant location
<b>Manitoba</b>	30% all spend	
<b>Newfoundland and Labrador</b>	40% labour	
<b>New Brunswick</b>	25-30% of eligible expenditures	
<b>Nova Scotia</b>	50% labour	10% outside Halifax
<b>Nunavut</b>	17-30% all spend	
<b>Ontario</b>	35% labour - Canadian content	10% outside GTA
	25% all spend – foreign service	No regional bonus
<b>Quebec</b>	Canadian content <sup>45</sup>	10-20% outside Montreal
	35%-45% labour	
<b>Saskatchewan</b>	45% labour	5% outside Saskatoon or Regina
<b>Yukon</b>	25% all spend	

### *Tax credits and Canadian content*

Tax credits play different roles in the Canadian content and foreign service production sectors. They are a crucial part of the financing structure for Canadian content productions, worth 27% of total financing in 2009/10 (Canadian Media Production Association, 2010). This is particularly relevant in light of the fact that Canadian broadcasters pay some of the lowest licence fees across Western industrialized countries. In the U.S. and the UK, broadcaster licence fees for programming range between 70-80% of production budgets. By comparison, the portion of broadcaster licence fees paid to Canadian independent producers as a percentage of total production financing dropped from 34% in 2008/09 to 30% in 2009/10 (Canadian Media

<sup>44</sup> The Alberta Multimedia Development Fund operates as a non-recoupable grant.

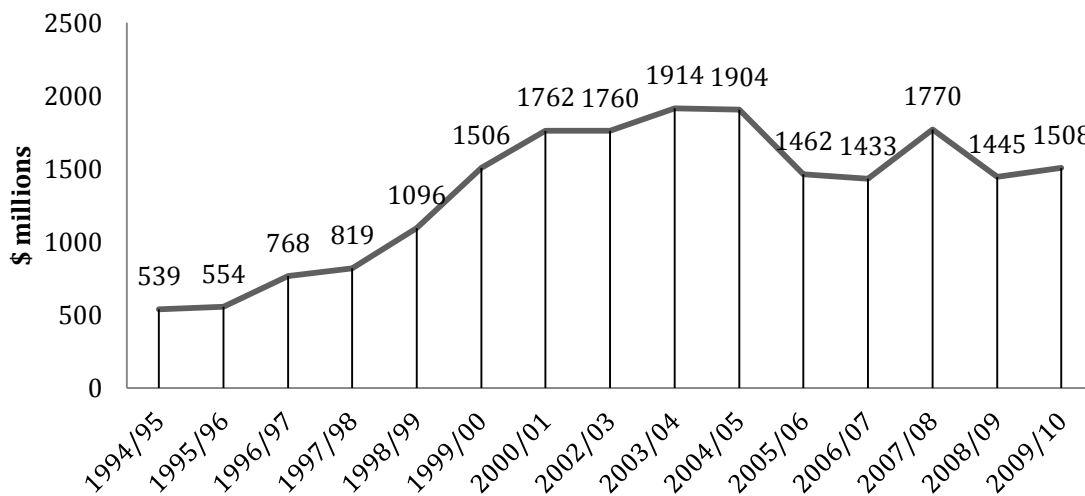
<sup>45</sup> Quebec’s tax credits use the SODEC points system which is similar in substance and structure to the Canadian content points system used by CAVCO and the CRTC. For details, see <http://www.sodec.gouv.qc.ca/fr/programme/route/cinema>.

Production Association, 2010, p. 44).<sup>46</sup> Tax credits therefore play a critical role in supporting Canadian cultural workers by defining Canadian content through the employment of Canadian cultural workers, and by financing their payroll.

*Tax credits and foreign service production*

As noted in chapter three, tax credits play a critical role in attracting foreign service work to a region, with U.S. studios dedicating entire departments to tax credit analysis. The Canadian tax credit regime’s success in attracting U.S. studio work was a central feature in the international debate over runaway production in the late 1990s and early 2000’s. The 1999 *Monitor Report on U.S. Runaway Film and Television* commissioned by the Screen Actors Guild and the Directors Guild of America charged the Canadian film and television production sector with siphoning jobs that belong in the U.S. (Monitor, 1999). U.S. labour’s campaign on runaway production encouraged a wave of state incentives across the U.S. designed to stimulate local production levels (Department of Canadian Heritage, 2005; Monitor, 1999). As the number of U.S. jurisdictions offering film and television tax credit programs increased, tax credit ‘races’ intensified producing ever more generous incentives to attract work into specific regions. This occurred at the same time that the Canadian dollar appreciated considerably. Figure 5.1 reflects the impact of the tax credit system, which was fully implemented across Canada by 2000, as well as the degree to which the foreign service production sector is vulnerable to shifts in international exchange rates and competition from other international jurisdictions.

Figure 5.1 - Total volume of foreign service production in Canada, 1994-2010



Source: (Canadian Film and Television Production Association, 2005, 2007; Canadian Media Production Association, 2010;)

<sup>46</sup> The remainder of financing is sourced from a mix of Canadian Television Fund monies, broadcaster equity investments, funding from independent production funds, as well as contributions from Canadian and foreign distributors (Canadian Media Production Association, 2010).



It is important to note that the foreign service production sector in Canada also *benefits* from changes to the international tax credit regime. With over forty American states, in addition to countries in Europe, Australia, the Caribbean, Asia Pacific, the Middle East and Central America using film and television production tax incentives to compete with each other to attract highly mobile capital, the value of these policy instruments as tools of economic development is increasingly under scrutiny (Entertainment Partners, 2011; Huffstutter & Verrier, 2009). As the global economic decline sees local, regional and federal governments closely examining their bottom lines, an increasing number of states across the U.S. are scaling back or outright cancelling their film and television production tax incentives (Huffstutter & Verrier, 2009; Weiner, 2009). During the early periods of retrenchment across the U.S., particularly at a time when the Canadian dollar was trading above par, provincial governments reinforced their commitment to the film and television production tax credit regime. In the spring of 2009 Quebec announced they were expanding their production services tax credits for foreign production from a labour tax credit to a tax credit on total production spend – a move that was matched by Ontario ten days later. Ontario also eliminated the sunset clause on the tax credits in 2009 sending a message of “predictability and stability” to domestic and international producers (Ontario Ministry of Finance, 2010). Worth noting is that British Columbia, as the third major production centre in Canada, has as of 2012 not followed suit with an ‘all spend’ credit. Many in the BC industry argue this places the province at a marked competitive disadvantage with the Ontario and Quebec. Since Ontario surpassed British Columbia in terms of total production volume for the first time in 2011 (OMDC 2011a), evidence suggests these arguments may have considerable merit.

It is worth noting, however, that the long-term viability of the provincial tax credit regime is also under question particularly in the smaller regional production centres. New Brunswick cancelled their film and television production tax credit program in March 2011, although replaced it with the New Brunswick Multimedia Initiative in November of that same year (Government of New Brunswick, 2012). In the March 2012 provincial budget, the government of Saskatchewan announced that it was cutting the Saskatchewan Film Employment Tax credit program. The program will no longer be accepting applications after July 1, 2012, with all funding to be wound down by December 2014.<sup>47</sup> Both the New Brunswick and Saskatchewan government justified their decisions as fiscally responsible, and expressed strong reservations around the ability of the tax credits to promote long-term economic investment in the province (The Canadian Press, 2012). Ontario, however, remains firmly committed to the tax credit regime. In February 2012, the Ontario provincial government announced a full review of the \$2.3 billion earmarked for tax credits to Ontario business, based on the the recommendations in a sweeping report for the Ontario government by former TD Bank chief economist Don Drummond. Liberal Finance Minister Dwight Duncan declared amnesty only for the production industry, when he announced “the only ones that we won’t touch are the film tax credits” (Benzie, 2012).

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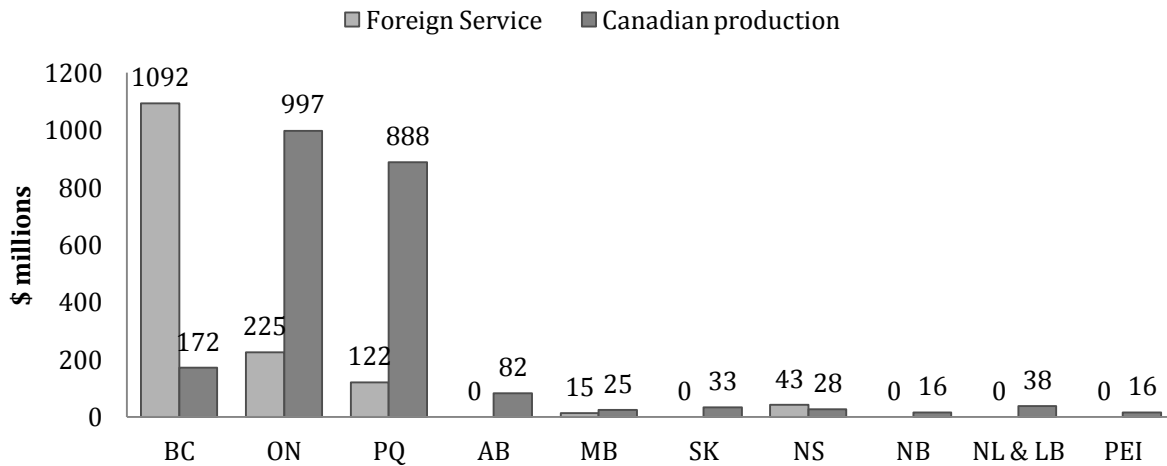
<sup>47</sup> The Directors Guild of Canada, ACTRA National and IATSE Local 295, Saskatchewan Motion Picture Technicians, swiftly responded with letter writing campaigns and petitions in response to this announcement.

*The geography of work*

As shown in Figure 5.2 below, the overall volume of work, and the distribution of work in the Canadian television and foreign service production sectors, varies considerably between major and regional labour markets. There are a number of factors that shape a production's decision to shoot in a particular production centre, including location specific requirements, cast preferences, and studio availability. Regional tax credits, and the labour pool on which they are based, are the key determinants. If producers want to make use of the tax credits, there needs to be an available pool of skilled labour that would qualify for the tax credits. The size and experience of the labour pool thus has an interactive relationship with the tax credit regime, due to the impact that tax credits have on the quantity and quality of work available in a local labour market.

The size and experience of the labour pool both reflect historic production levels and shape the competitiveness of a region in attracting future work. As a result of a relatively high and consistent volume of work that exposes crews to a wide range of projects, Toronto and Vancouver have a large pool of highly skilled, experienced crew with advanced creative and technical abilities. In comparison, regional production centres such as Halifax have much lower production levels, with considerable fluctuations in the distribution of work over the year. Film and television production workers in regional production centres therefore have less exposure to different types of projects and a much more precarious relationship to film and television labour markets. This produces a labour pool that is much smaller with a depth and breadth of experience and skill that is comparatively shallower than that of their colleagues in major production centres. I now turn to a labour-based analysis of the impact of tax credits in Ontario and Nova Scotia. The research clearly shows that tax credits play an important role not only in attracting work to a production centre, but shaping the quality of that work. The quality of work has important implications for the size and depth of the labour pool in a production centre, and thus, its competitive profile.

Figure 5.2 – Canadian independent television and foreign service production by province, 2009/10<sup>48</sup>



Source: (Canadian Media Production Association, 2010)

### *Tax credits in Ontario*

Ontario is, historically, the second largest English language production centre in Canada and the largest centre for television production in Canada (OMDC, 2010b). Canadian television series production is the leading economic and employment driver. In 2010, keeping with historical trends, Canadian television production accounted for 104 of the 162 projects shot in Ontario, and contributed \$467 million of the total \$964 million in total production expenditures (OMDC, 2010b). Ontario is also a regular destination for foreign service producers. In 2010, there were 20 feature films, 16 television series and 12 television movies, mini-series, pilots and specials shot on location in the province. While the foreign service sector only accounted only 48 of the total 230 projects shot in Ontario during 2010, the total production expenditures for the foreign service sector accounted for approximately one third of the total production volume, at \$318.2 of \$964 million (OMDC, 2011b).

Ontario offers two main tax credit programs for the film and television production sector that target domestic production and foreign service production respectively. The Ontario Film and Television Tax Credit (OFTTC) was introduced in the May 1996 budget and implemented in fall of 1997 (OMDC, 2011c). Currently, the OFTTC allows independent producers to claim 35% of eligible labour expenditures incurred during production. The production must be “predominantly shot and posted in Ontario,” with at least 75% of the total final production

<sup>48</sup> The CMPA 2010 Profile report actually lists the foreign service production volume for Alberta, Saskatchewan and PEI as “N/A – Data not available or suppressed for confidentiality” (Canadian Media Production Association, 2010, p. 82). However, foreign service production is not historically a major contributor to production levels in these provinces. Of these provinces, Alberta has traditionally had the highest levels, peaking at \$57 million in 2000, followed closely with \$54 million in 2007/08. This likely reflects one, perhaps two major U.S. feature films that shot in Alberta for location specific reasons.

costs spent in the province. Producers are eligible to claim an additional 10% if they meet the eligibility requirements for the “regional bonus” based on the number of days a production films outside the GTA, bringing the total possible value of the labour tax credit to 45%.<sup>49</sup>

The importance of Canadian content production to film and television production industry in Ontario is reflected in the tax credit structure of the OFTTC. Working closely within the Canadian content regulatory framework of the CRTC, productions must meet six out of possible ten Canadian content points and must have an agreement to be broadcast in Ontario between 7:00 and 11:00pm (prime time). The OFTTC is also aligned with the federal Canadian content tax credit and the CRTC Canadian content regulatory emphasis on drama, documentary, variety and children’s programming, excluding “news or current affairs, talk shows, game shows, sports shows, awards shows, fundraising shows, reality television” as eligible genres. In 2010-2011, the OMDC issued 275 OFTTC tax credit certificates worth a combined total of \$111,851,131 (OMDC, 2011f).

Specifically targeting the foreign service production sector, the Ontario Production Services Tax Credit (OPSTC) was announced in November 1997 and implemented in June 1998. The OPSTC was introduced as an 11 % labour tax credit, with increases to 18% in 2004, 25% in 2007 and the change from a labour tax credit to a 25% ‘all spend’ credit in 2009. Currently, the OPSTC allows producers to claim a tax credit worth 25% of all eligible Ontario production expenditures, with no limit on the amount that can be claimed. In 2010-2011, the OMDC issued 95 OPSTC tax credits certificates worth a combined total of \$99,886,394 (OMDC, 2011f).

#### *Tax credits in Nova Scotia*

According to data on total production expenditures from the Canadian Media Production Association, Nova Scotia jockeys with Alberta and at times Saskatchewan and Manitoba for the title of largest regional production centre, or fourth largest production centre in Canada. Film Nova Scotia reports \$112 million in total production volume for 2010/2011, \$81 million in domestic production and \$31 million in guest production (Film Nova Scotia, 2011b). This includes six feature films, 14 documentaries, 10 dramatic television series, 12 lifestyle series, one animation series and one new media production (Film Nova Scotia, 2011c).

The Nova Scotia Film Industry Tax Credit (FITC) was implemented on January 1, 1995 as a 30% tax credit on eligible labour with 15% cap on total production costs. The labour tax credit was increased to 32.5% in June 1998 with a cap of 16.25% of total production costs. In April 2000, the credit was revised again, with the base credit reduced to 30% with a 15% cap, but the regional bonus of 5% was introduced for productions that filmed outside of the Halifax region. The labour tax credit was increased again in late 2004 to 35% with a 17.5% cap, and again in 2007 to its current rate of 50% with a 25% cap. On December 6, 2010 the provincial government announced the removal of the cap on the total amount that may be claimed (Film

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<sup>49</sup> The Greater Toronto Area is defined for the purposes of the OFTTC as of the City of Toronto and the regional municipalities of Halton, Peel, York and Durham. For details on the regional bonus eligibility requirements, see Ontario Media Development Corporation, 2011d.

Nova Scotia, 2010). Both domestic and foreign service production are eligible to apply for the FITC. Between April 1, 2010 and March 31, 2011, Film Nova Scotia finalized 48 tax credits worth a combined total of \$11,392,153. Of this, \$7.8 million was for domestic productions, and \$3.6 million for foreign service productions (Film Nova Scotia, 2011b, p. 8).

*Tax credits as labour market regulation*

Provincial tax credit initiatives are commonly credited by industry professionals as being the most important policy instrument in developing smaller regional production centres. ACTRA notes that until the introduction of provincial labour tax credits, it was facing the prospect of closing five of its regional offices (S. Waddell, personal communication, February 21, 2008). Between 1995 when the Nova Scotia Film Industry Tax Credit (FITC) was introduced and 2004, total production expenditures in the province rose from \$32 million to \$113 million (Nordicity Group, in association with Duopoly Inc., 2004). During this period the average compounded annual growth rate was 17% for the film and television production industry, although recent years have seen a considerable fluctuation in production levels as competition from other regional production centres offering tax incentives has intensified (Canmac Economics Limited, 2008; Nordicity Group, in association with Duopoly Inc., 2004).

Figure 5.3 Total volume of film and television production in Nova Scotia, 1995-2011

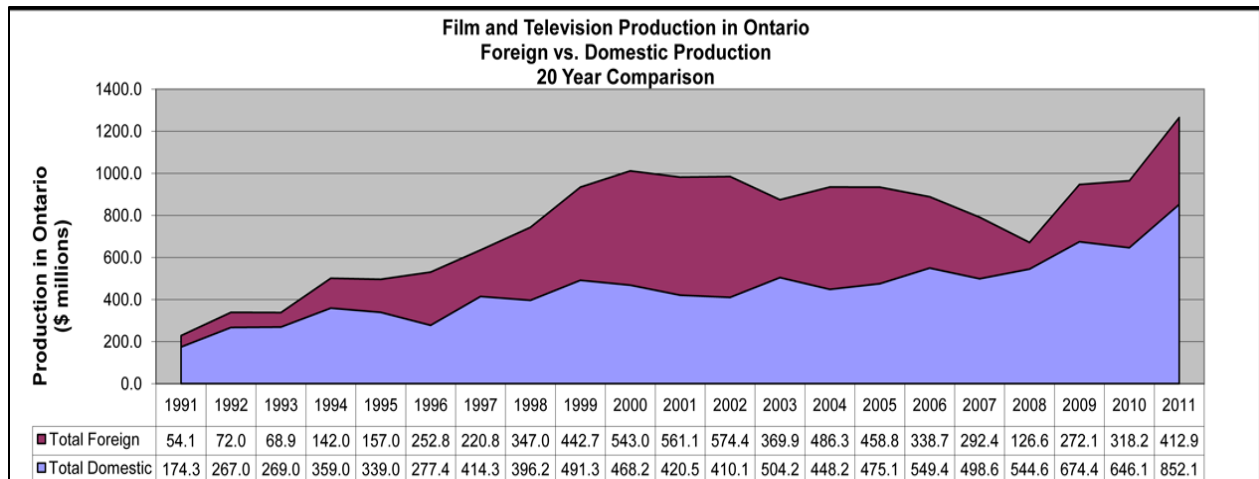


Sources: Canmac Economics Limited, 2008; Film Nova Scotia, 2011b; Nordicity Group, in association with Duopoly Inc., 2004

Ontario, and Toronto as a major production centre in particular, also experienced a significant increase in both domestic and foreign service production after the introduction of the tax credits. As Figure 5.4 below shows, production volume more than doubled in five years, from \$496 million in 1995 to a peak of \$1265 million in 2011. Similar to Nova Scotia, fluctuating production levels since 2000 in part, changes to the competitiveness of Ontario’s tax credits through the introduction of tax credits in other provincial, continental and international labour

markets.<sup>50</sup> As my analysis of the FilmOntario case study shows, it also reflects other important factor that influenced local production levels, including a rising Canadian dollar, the SARS outbreak, the 2007 global financial crisis, and the impact of the 1999 Television Policy. The sharp uptick in production in 2009 is directly tied to Ontario’s move from a labour tax credit to an ‘all spend’ tax credit.

Figure 5.4 Total volume film and television production in Ontario, in Ontario, 1991-2011



Source: (OMDC, 2011d)

A preliminary analysis of the data would seem to indicate that the introduction of tax credits has had an overall beneficial impact on the Canadian film and television production industry through increasing the volume of work available in film and television labour markets across Canada. As noted, production volume is a very important factor for workers who experience chronic income and employment insecurity. A closer look at the implementation of the tax credits, as part of a highly competitive national and international tax credit regime, reveals that the quality of work and quantity of work cannot be conflated.

#### *Worker mobility between provinces – borders as barriers*

Provincial film and television production tax credits work on the basis of provincial residency. For a production to claim a tax credit for labour costs associated with a particular cast or crew member, that individual must provide proof of provincial residency in the year that principal photography commences. Provincial residency requirements, therefore, mean that film and television workers are no longer able to move freely between labour markets. This restricts film

<sup>50</sup>Competition for work largely takes place between similar labour market structures; major production centres, namely Toronto, Vancouver and Montreal, are in competition with each other for work, while regional production centres, such as Halifax, Winnipeg, Saskatoon, Regina and Calgary, are each other primary competitors (Nordicity Group, 2004; Pricewaterhousecoopers, 2006). There is also some evidence that regional production centres provide considerable competition to major production centres in attracting lower budget Canadian productions (D. Hardy, personal communication, January 9, 2008).

and television workers in emerging production centres, such as New Brunswick or Newfoundland, from freely accessing work and developing their professional expertise on projects in larger regional production centres, such as Halifax. In an industry that is highly mobile, and particularly in the case of regional labour markets where production volume fluctuates considerably from one year to the next, restrictions on interprovincial mobility pose considerable additional challenges to an industry professional's ability to make a living in the film and television production sector.

Provincial residency requirements also undermine the union membership benefits of reciprocity between union locals across Canada that are designed to facilitate the movement of members between labour markets. This issue particularly impacts film and television workers in the Atlantic Canada. IATSE 849, ACTRA and the DGC, while based in Halifax, exercise jurisdiction for their memberships across the Atlantic region, and IATSE Local 667 exercises jurisdiction across all of Eastern Canada. Low and unpredictable volume of work across Atlantic Canada mean that unions need to organize members in a regional framework as a matter of organizational survival; there simply isn't enough of a membership base or revenue generated in Newfoundland, for example, to run a union local for workers in that province. The provincial barriers to work posed by the tax credit system inhibits the unions' approach of a broadly conceptualized regional labour market development strategy. As union leaders report, the tax credit regime also poses problems to developing and maintaining solidarity between members of a union local who have unequal access to work opportunities.

This is not to say that there is no mobility between labour markets. It is not uncommon for key cast, creative and technical personnel to be brought from major production centres into regional production centres because production volume exceeds local labour market capacity or specialized expertise is not locally available. However, the salaries paid to extra-provincial workers are ineligible under tax credit programs in Ontario and Nova Scotia. This creates pressure on extra-provincial Canadian workers to accept contracts as 'locals' as a cost-saving measure for the production company. For example, an IATSE 873 special effects technician in Toronto reports that he, along with some other Toronto-based crew, was "invited" to travel to Halifax for location specific filming on a U.S. feature film. The (well known and powerful) Canadian producer informed him, however, that if he wanted to work on this portion of the show that he would have to travel as a 'local.' This means that the technician was responsible for paying for his flights, finding his own accommodation and going without the *per diem* that would normally be offered to a union member shooting away from home. As there was not much production shooting in Toronto at the time, the technician felt that some work was better than no work, and did not report this issue to his Toronto union representatives. The producer was able to permit this technician to work under IATSE 849'S jurisdiction based on the argument that he had a skill set that was not available in local 849's membership (personal communication, May 20, 2009). While the technician was afforded the protection of the Halifax local collective agreement, he was not afforded the provisions of his Toronto collective agreement that would have compensated him for the expenses incurred with working away from home. While this is only one example, interviews with union leaders confirm that this is not an isolated incident. This highlights the ways in which the competition produced by the tax

credit framework intensifies the tendency for workers to self-exploit, and undermines the power of collective agreements even within a single union. As union leaders point out, the willingness of a worker to agree to such conditions and violate their own collective agree is linked to their personal reputation and bargaining power with producers, as well as production volume in their home labour markets. A-list key creative positions are much less likely to work as a 'local' than a rank and file technician. Similarly, if production volume is high at home, workers are much less likely to self-exploit while working in distant locations.

*Worker mobility within provinces – forced commuting*

A political motivation to attempt to move film and television production outside of urban centres and distribute the (short-term) economic benefits of film and television production more equally throughout a province has led to the implementation of the 'regional bonuses' in provincial tax credit structures. A production is eligible to claim an additional percentage, from 5% in Saskatchewan and Manitoba to up to 18.5% in British Columbia, if the production is shot outside of a specified major urban centre. Arguments are also made that encouraging productions to film throughout a province will help feed the cultural industries workforce through exposing more people to the film and television production sector. However, there is little evidence that these policy rationales are having their intended effects. As Nordicity Group's analysis of the impact and long-term strategy of the Nova Scotia FITC structures noted,

Although a significant number of productions do shoot outside of Halifax/Dartmouth, it is unclear how much of the production expenditures actually stay in the region. Outside of accommodations, and food and beverage expenses, it is likely that most purchases of equipment and services flow back to the businesses in Halifax/Dartmouth (Nordicity Group, in association with Duopoly Inc., 2004, p. 30).

Furthermore, because the cast and crew largely come from the urban production centres, their incomes expenditures also flow back to where they live. The Toronto Film Board's 2007 Strategic Plan speaks to the impact that the regional bonus has both on cultural workers and long-term industry development:

...forced commuting flew in the face of Ontario's health, safety and environmental policies by dragging workers away from their home base in Toronto where most screen arts workers live. The result in Ontario has been startling: in 2001, 84% of all Ontario's screen arts productions were shot in Toronto. By 2005, that was reduced to 49%... Instead of supporting Toronto as a world-class centre of excellence, policies have begun to tear it down (Toronto Film Board, 2007, p. 25).

None of the labour organizations representing workers in either Ontario or Nova Scotia have reported a noteworthy increase of interest in membership from outside urban regions since the implementation of regional bonuses. The evidence, in fact, presents contrary findings. Not only do regional bonuses appear to be weak in redistributing economic and employment opportunities benefits outside major production centres; they have directly negatively



impacted working conditions and labour markets for workers within established production centres.

The geographic areas that qualify under regional bonuses include locations that are not always far enough away from production centres to require overnight accommodation under the provisions of a collective agreement. Union locals in Ontario and the Atlantic region report that regional bonuses have had the net effect of exerting pressure to extend the union 'zone' beyond which producers must pay travel time for workers going to and from set, and extending what is an already very long and intense work day for film and television production professionals. For example, Hamilton, ON is approximately a 70 km drive down a major highway from Toronto, and a popular location for film and television production. Due to its relative proximity to Toronto, filming in Hamilton allows producers to access the regional bonus while still filming in an urban setting that offers a range of locations at a significant discount to the cost of filming in Toronto. Brian Topp, Executive Director for ACTRA Toronto, articulates the dangers that this creates for Toronto based film and television workers in describing a situation that one of ACTRA's members, and the unionized transport driver, faced on a show that was shooting in Hamilton:

There is an eminent member of our union who tells the story that he was picked up by his driver at 5:00 in the morning (sic) and was driving down (highway) 427, chatting with his driver and he suddenly realized they were driving at 120 kilometers per hour and his driver was asleep...So he started to sing...and the driver gradually woke up and shook his head just before they hit the QEW [to head out of Toronto] (B. Topp, personal communication, July 23, 2009).

Regional bonuses also include locations that are far enough outside the studio zone to qualify as shooting 'on location.' Union contracts generally dictate that the producer is responsible for providing accommodation, transportation to and from location, and *per diems* for crews on location. Although the additional tax credit allowance is intended to absorb the additional production costs associated with filming in distant locations, union leaders widely report that producers use competition between labour markets as a bargaining chip to leverage concessions on specific projects, building the regional bonus credits into their bottom line. A business agent working in the Atlantic Region gives an example whereby producers are demanding considerable variances from the standard contract for a Canadian television series that is taking advantage of the FITC regional bonus by filming approximately one hundred kilometers from Halifax. Producers are demanding concessions that equate to asking workers to shoot 'on location' without many of the usual contract provisions, including *per diems* for meals, incidentals or travel allowances to return back to Halifax on the weekends. The business agent was concerned that, as the show was also "shopped" to shoot in Hamilton, Ontario and in Winnipeg, Manitoba, denying the contract variances could have resulted in the relocation of the dramatic series should it be renewed for a second season (T. Storey, personal communication, September 20, 2010).

Producers' use of the regional bonus also exacerbates existing inequalities in wages and working conditions between production centres and within local labour markets. Canadian productions tend to have budgets that are smaller than those in the foreign service production sector, and thus make greater use of the regional bonus to maximize the value of the tax credits as a financing tool. Collective agreements are negotiated with a tiered rate structure based on budget size, with smaller budget shows paying considerably lower rates than top tier productions. In Ontario, only the Canadian content tax credit program offers a regional bonus.<sup>51</sup> Thus, the negative impact that the regional bonuses have on working conditions disproportionately affects workers who already offer their labour at a considerable discount compared to their colleagues working on larger U.S. productions.

### *Labour power in labour markets*

Workers are thus directly absorbing health, safety and financial costs that arise as a direct result of the Canadian provincial film and television tax credit regime. Film and television workers are tired and frustrated by, on the one hand, being asked to travel farther distances and extend an already exhausting work day, while on the other hand, having work opportunities foreclosed by provincial jurisdictional issues. When work 'on location' is secured, the pressure to work as a 'local' means workers forego the provisions in their collective agreements that help to defray personal expenses associated with shooting on location. Although the regional competition produced by the tax credit regime exerts downward pressure in labour power, and intensifies the tendency for workers to self-exploit, it is also important to account for various forms of labour resistance that occur as a direct result of competition frameworks. A labour-based analysis, that foregrounds the issues, interests, and activities of cultural workers and their unions, requires us to consider the ways in which labour actively resists deteriorating labour market conditions and collective bargaining power.

In an attempt address the health and safety issues associated with long work days and commutes that the regional bonuses promote, some locals have created 'nearby location' clauses in their collective agreements. Such clauses are designed as financial disincentives for producers to schedule filming outside of the designated studio 'zone' without overnight accommodation, and include provisions for travel time to and from location to be subject to all premiums, penalties, turnaround and overtime payments, double the amount of time allowed for travel during rush hour periods paid at the prevailing rate (i.e. in overtime or turnaround if necessary), and mandatory hotel accommodations when the work day exceeds a 14 hours (D. Hardy, personal communication, July 7, 2009). Union leaders report that the competition between production centres produced by the tax credit regime has, in cases, enhanced inter-district communication between locals as national offices and local memberships work collectively to resist the downward pressure on wages and benefits; as in the case of the IATSE Canadian office entering into talks with the CMPA to negotiate its first national agreement, as

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<sup>51</sup> Major U.S. feature film and television series also shoot outside the GTA, although this is not a product of the regional bonus, but generally for location driven reasons. Due to the sizeable resources of many U.S. shows, unions are also less likely to concede key contract provisions for shooting 'on location' or 'outside the zone', with workers being paid full travel time, accommodation, *per diem* and so forth.

discussed in chapter three. Interviews also indicate that competition produced by the tax credits has enhanced coordination and collaboration between unions within local labour markets in the process of developing strategies to secure work. We can see examples of this through the case studies of the formation of FilmOntario and the Nova Scotia Motion Picture Industry Association (NSMPIA). These case studies also allow us to see how and why the implementation of the tax credit regime has had a positive impact on the political capacity of unions at the provincial level.

### *Unions as policy actors*

In order to understand the strategies and motivations of the unions as policy actors within provincial cultural policy networks, we must first gain a basic understanding of who the main policy and industry stakeholders are, where decision making authority lies, and how information and access to decision-makers is brokered within the policy networks. In both Ontario and Nova Scotia, provincial development agencies for the film and television industry play several important roles in both industry development and policy development. In addition to offering a range of funding mechanisms for content development, training, production, and marketing, both the Ontario Media Development Corporation and Film Nova Scotia aggressively market their provinces as filming destinations. As the provincial development agencies are often the first point of contact for out-of-province producers, the provincial development agencies act as international ambassadors for their local industry. The OMDC and Film Nova Scotia connect extra-provincial Canadian and international producers and studios with local producers and production managers to budget the costs of filming their project in the province. The Ontario Media Development Corporation (OMDC) and Film Nova Scotia also play an important role in organizing policy networks, deciding whose voices and interests are consulted and represented in policy development and design, and functioning as interlocutors between the production industry and the provincial finance ministries who exercise jurisdiction over the tax credits. While neither the OMDC nor Film Nova Scotia have any policymaking capacity, they play a significant role in terms of industry research and in making policy recommendations on the provincial tax credit programs to the provincial finance ministries.

A labour-based analysis of the formation of Film Ontario and the Nova Scotia Motion Picture Industry Association (NSMPIA) reveals that the purpose of the industry associations is, first and foremost, an attempt by industry stakeholders to gain direct access to policy decision-makers rather than having their key messages filtered through a provincial government agency. In both Ontario and Nova Scotia, unions and producers both quickly came to understand the importance of the tax credits in shaping their region's competitive profile. Consequently, industry stakeholders in both provinces wanted to present their issues and policy recommendations directly to the decision-makers. The strategy they used to do this was to speak with one united voice that represented the interests of the industry as a whole.

Comparing FilmOntario to the NSMPIA reveals the degree to which the size of the local production industry plays a major role in the ability of the unions to advance their issues at the policy level. FilmOntario has been extremely successful at gaining access to policy decision-

makers and having their policy recommendations on the tax credit file addressed. This is, in large part, due to the resources that the unions bring to the table, which is a function of the size of the local production industry. As I will discuss below, it is also closely linked to the concentration of the broadcasters in Toronto that give the independent producers direct access to industry decision-makers. This, in turn, mitigates the role the OMDC plays as industrial gatekeeper for local producers. These two factors combined to give the stakeholders in FilmOntario both the political will and the resources to actively reorganize the power relationships between industry stakeholder groups, the OMDC and policymakers. In contrast, the small size of the production sector in Nova Scotia is a major factor in the failure of the NSMPIA at the policy level. The unions in Nova Scotia have few resources to contribute to the organization. The local producers rely heavily on Film Nova Scotia to connect them with out-of-province producers to secure projects. The industrial gatekeeper role of Film Nova Scotia interacts with the concentration of political power in the office of the Film Nova Scotia CEO to severely curtail the political will of the producers to be seen to be circumventing existing power relations within the policy network.

Aside from the factors related to the size of the regional production sector that affect the strength of the industry associations at the political level, my analysis also reveals that neither FilmOntario nor the NSMPIA have been particularly useful political formations for labour's ability to advance their *specific* interests at the policy level. This is a consequence of three factors. First is the prevalence of creative economy discourses within the policy environment that rationalize public subsidy of the private sector film and television production industry by foregrounding business interests. Second is the unions' decision to form an associational alliance with the producers, who, as employers, do not always share the same interests as workers. Third, and closely related to the second, was the unions' decision to discursively align their interests with those of the business community, thereby reinforcing the creative economy logic that privileges capital over labour and masks the dark side of working in the creative economy. The net result of this is that unions continue to be considered secondary stakeholders in policy networks, and, as a consequence, cultural *labour* problems are not understood as cultural *policy* problems in these provincial cultural policy networks.

#### *Speaking with one voice – FilmOntario*

The Ontario Film Development Corporation is an agency of the Ministry of Tourism and Culture. The OMDC's mission is "to promote innovation, investment and employment in Ontario's book publishing, film and television, magazine publishing, music and interactive digital media industries" (OMDC, 2011e). Specific to the film and television production sector, the OMDC conducts industry research and data collection; operates a film commission that markets Ontario and offers scouting assistance to promote Ontario as a filming destination; runs the Digital Location Library, an extensive online library of filming locations across the province; and offers a range of funding programs for content development, marketing, and industry development initiatives. One of the key functions the OMDC plays is in promoting, administering, processing, and assessing eligibility for the OFTTC and the OPSTC (OMDC, 2011e).

The degree to which the market logic of the creative economy drives the mandate of the OMDC is succinctly reflected in the OMDC'S tag line, "culture is our business" (Ontario Media Development Corporation [OMDC], 2010a). The OMDC identifies business development as their primary focus, where job growth and employment are positive by-products of a successful business development strategy. Growth is tied almost exclusively to the degree to which content producers are able to leverage investment, rather than a focus on the development of labour market size, skill, expertise, and retention *per se*. For example, the OMDC describes one of its primary functions as, "help[ing] Ontario to be recognized as a leading global jurisdiction to invest in, create, produce and enjoy original cultural media product" by "contributing to the continued expansion of a business environment in Ontario that is advantageous to the growth of the cultural media industry and to the growth of new employment, investment and production opportunities in Ontario" (Ontario Media Development Corporation [OMDC], 2010a). A narrowly defined business development mandate influences the way that that policy is conceptualized, implemented, and evaluated. For the film and television production industries in Ontario, it has led to a policy consultation, development, and evaluation model that marginalizes the role of unions as key industry stakeholders. Karen Thorne-Stone, President and CEO of the OMDC, describes the unions as secondary stakeholders:

Because our focus is on companies and growth of companies, our relationship with the unions tends to be on the ground, operational, about specific projects, whereas the bigger input into program directions and so on tends to be with the company representatives, because we're asking them, "so, what's going on out there, what are the trends, what are you experiencing, and how are our programs working and not working and what kind of adaptations do you need..." (K. Thorne-Stone, personal communication, November 6, 2009)

The OMDC engages in formal policy consultation processes with stakeholders in the film and television industry through the Screen-based Advisory Committee. The committee's objective is,

to ensure a strong working partnership between the film, television and interactive digital media industries and the Ontario Media Development Corporation, and to enhance the competitive position and success of the screen-based sector in the domestic and international marketplace by ensuring that industry priorities, issues and recommendations are reflected to the OMDC, its Chair and Board of Directors, and to the Ontario Government (J. Brown, personal communication, July 4, 2011).

The Screen-based Advisory Committee membership list is not publicly available, and so it is difficult to properly evaluate whose, "priorities, issues and recommendations" are being taken into account by the OMDC. The OMDC confirmed that the Screen-based Advisory Committee includes, "independent producers of film, television and interactive digital media content in the province, as well as trade organizations like FilmOntario, the Canadian Media Production Association, the Documentary Organization of Canada and Interactive Ontario" (J. Brown, personal communication, July 4, 2011). Union representatives do at times sit on the Committee, although they are invited for their particular expertise in the film industry, not as

union representatives *per se*. Evidence shows industry dissatisfaction with the OMDC's marketing and advocacy efforts for the film and television production sector was a major impetus in the formation of FilmOntario. As Susan Murdoch, founding board member and co-chair of FilmOntario from 2005-2011 reported to the Directors Guild of Canada Ontario District Council membership in 2007:

...we felt the OMDC was not terribly effective in dealing with screen-based industries. We wanted it reorganized, renewed, with more stakeholder involvement. We asked for more funds so it could do better marketing, research and lobbying on behalf of the provincial industry... (DGC Ontario, 2007, p. 16).

Significantly, the formation of FilmOntario is also tied to the impact that the CRTC's 1999 Television Policy had on Canadian television production in Ontario. As figure 5.2 above indicates, Ontario has the largest share of the domestic production market in Canada. As the second largest production centre in Canada, and the largest centre for Canadian dramatic television series, Ontario is also home to the largest concentration of unionized film and television workers in Canada. Local union and guild offices representing Ontario cultural workers in the film and television production sector include IATSE Local 873 Toronto Motion Picture Studio Technicians with 2030 members; the International Cinematographers Guild IATSE Local 667 with 634 members in Ontario; IATSE Local 411 Production Coordinators, Craftservice Providers and Honeywagon Operators with 242 members; ACTRA Toronto with 15,000 members; NABET 700-CEP Toronto Film Technicians 2000 members; and the Directors Guild of Canada Ontario District Council with 1500 members. Sue Murdoch explains how changes in the regulatory framework interacted with other key factors to draw independent producers and all the unions together under one advocacy umbrella:

...in 1999 the CRTC reversed a previous requirement that had always demanded that our broadcasters not only have a minimum on-air Canadian content quota, but also a minimum spending requirement. This spending requirement was taken away entirely. The CRTC also expanded the definition of what qualified as Canadian content. And post-9/11, a lot of American production decided to stay home. There was also the beginning of a steady rise in the Canadian dollar. Finally, in 2003 Toronto was hit with SARS. Thus a perfect storm of events ended our-ten-year economic growth.

Around this time a group of industry stakeholders here in Toronto got together to ask whether the boom was going to continue, and, if it wasn't, what could be done to affect it. How could we establish a more stable industry that wasn't subject to the whims of American service business or the schizophrenic nature of the Canadian regulatory system? That group, including representatives of all the guilds and unions (a first), eventually became FilmOntario. Compared to other industries, such as the auto industry, we are tiny economically, and so the only way to influence policy, especially at a government level, is to speak with as large and united a voice as possible. Previously, the lack of consensus within our industry allowed the government to use that as an excuse to do nothing (S. Murdoch, FilmOntario Co-Chair, quoted in DGC Ontario, 2007).

Prior to 2001, union locals in Ontario did no coherent policy advocacy for the film and television production sector (R. Perotto, personal communication, September 19, 2009; M. Wolch, personal communication, July 28, 2009). The 1990s had been a period of considerable growth for the Ontario film and television production sector. Robust labour markets meant that each of the unions largely focused on their own specific membership issues. Independently, the district branches or union locals had little policy experience; this was largely left to the national offices. Unions did not work with each other, or other stakeholders, toward a long-term industry development strategy. As Murdoch describes above, by 2001, changing conditions in the domestic industry and the foreign service sector brought all the unions together with other industry stakeholders in a new political formation known as FilmOntario.

FilmOntario is labour's creation. In 2001, Brian Topp, ACTRA Toronto's new Executive Director, met with DGC-ODC Executive Director Marcus Handman to discuss Marcus' proposals for a coordinated political strategy to address dropping production levels as a consequence of the impact of the 1999 Television Policy, increasing competition from other Canadian and U.S. jurisdictions, and the rising value of the Canadian dollar. Topp explains "it was the simultaneous assault on all of our members' work opportunities at the same time that brought us together" (B. Topp, personal communication, July 23, 2009). Topp and Handman approached other labour leaders and a few key Canadian and foreign service producers to participate in an informal supper club to find common interests and a point from which a common set of recommendations could be put forth to policy decision-makers. Topp explains that bringing unions together with specific independent film and television production companies, rather than a partnership with the producer's association (CFTPA), was a key reason why FilmOntario gained access to political leaders within a year of its formation.

We wanted to work directly with the companies because the magic words in doing public policy work are 'my company'...the magic of that partnership is the companies themselves. What causes you to get respect in meetings in government-land isn't 'well, our trade associations are working together.' The magic is a union leader and a producer who are across the table in collective bargaining having agreed on something. Then you can show you really have a consensus...A common representation that included workers in the industry was a novelty. It was something new. It got us meetings we were otherwise not going to get (B. Topp, personal communication, July 23, 2009).

The first FilmOntario Board of Directors was formed in July 2002, consisting of union leaders from ACTRA Toronto, DGC Ontario, NABET 700, IATSE 873, IATSE 667, three leading producers and two key industry suppliers (FilmOntario, n.d.). The voice of labour is built into the very governance of the organization, with one of the two co-chairs held by a union representative. FilmOntario describes itself as, "a privately funded, private sector consortium 30,000 strong, of companies, financial services, producers, unions, guilds and organizations within the Ontario screen-based sector (film & television and interactive media)" focussed on "marketing Ontario as a screen-based content creator and production jurisdiction, and working with all levels of government so that policies and programs ensure our international competitiveness" (FilmOntario, 2011). Their operating principle is to "pick a few important things to do, and do

them well until they are done” (FilmOntario, 2008). Their initial focus was to improve the way Ontario was marketed as a film destination, and to improve the competitiveness of the provincial film and television production tax credits.

FilmOntario quickly established itself as an industry stakeholder that considered itself an equal partner to the OMDC in promoting Ontario as a world class filming destination. FilmOntario’s marketing strategy included partnering with the OMDC and the Toronto Film Board to develop a coordinated marketing strategy that included a common brand message - “You Belong Here,” and opening the “Toronto Ontario Film Office” in Los Angeles. FilmOntario’s 2003 Cooperation Agreement with the OMDC indicates the initial commitment by FilmOntario included \$140,000 a year for each of the next two years; \$100,000 toward the operations of the LA marketing office and \$40,000 towards the joint development of coordinated marketing materials for use by the LA office and the OMDC’s general film and television marketing efforts (FilmOntario, 2003a). FilmOntario was able to do this as a consequence of the considerable resources they brought to the table – resources which came in large part from union contributions (R. Haney, personal communication, 16 September 2009; R. Perotto, personal communication, September 19, 2009; M. Wolch, personal communication, July 28, 2009).

Addressing the sharp decline in production through policy advocacy was the other main focus of FilmOntario from the outset, and their strategy focussed largely on improving the competitiveness of the provincial film and television production tax credits. The industry association concentrated its energy on presenting its case directly to policy decision-makers. As major aspect of this strategy involved the hiring of a full time Managing Director, Sarah Ker-Hornell, to develop and maintain relationships with all three political parties and key bureaucrats in key ministries. In July 2003, FilmOntario board members met with provincial representatives from the Premier’s Office, the Minister of Economic Development, the Minister of Finance and other MPPs to present their “SARS response for the film and television industry in Ontario” (FilmOntario, 2003b). The presentation establishes the clear economic arguments that characterize FilmOntario’s messaging strategy, noting that the film and television production is a \$1 billion industry in Ontario that directly employs over 35,000 people. Noting they have the support of the OMDC and the City of Toronto, FilmOntario proposed a temporary (2–3 year) increase from 11% to 16% in the Production Services Tax Credit to mitigate the massive decline in Ontario film and television production.

FilmOntario’s advocacy and strategy and discursive framing succeeded placing the film and television industry on the election platforms of all three political parties in the 2003 campaign period, including a promise by Ontario Liberals to increase the Ontario Film and Television Tax credit from 20% to 33% on the premise that, “thousands of jobs will be created. Hundreds of millions of dollars will pour into our economy” directly reflects the key messaging of FilmOntario (Liberal Party of Ontario, 2003; FilmOntario, 2008). After the newly elected Liberal provincial budget in spring 2004 failed to deliver on the tax credit increase, FilmOntario persistently pressured the government to deliver on their election promise:



In the summer and fall of 2004, we asked for meetings with the Ministers and officials at Finance and Culture, and basically laid siege to them – showing up with increasingly large groups of company CEOs, producers and union leaders to spell out the increasingly disastrous uncompetitiveness of our tax credits, and the consequent bleeding of domestic and foreign production out of Ontario and to other jurisdictions. To be fair to Premier McGuinty's Government, they always made themselves available for these meetings, and clearly were listening to us carefully (FilmOntario, 2008).

To complement the back channel advocacy work by the private sector stakeholders in FilmOntario, the unions mobilized their memberships in a mass rally of hundreds of cultural workers at Queen's Park on December 1, 2004. The demonstration involved a convoy of movie trucks and trailers circling Queen's Park circle and included speeches by prominent Canadian actors Wayne Robson and Luba Goy from the Royal Canadian Air Farce, and Canadian actress and long-time activist Shirley Douglas. Brian Topp emphasizes the importance of this action by the labour community in furthering FilmOntario's political agenda.

If you do your work in public policy, in an effective way, plus you do this, it's about making it real, it's about getting to Queen's Park with hundreds of real people who are affected here. It's a good combination. It wasn't going to win this argument, but it got their attention (B. Topp, personal communication, July 23, 2009).

On December 21<sup>st</sup>, 2004, Ontario Finance Minister Greg Sorbara announced an increase in the OFTTC from 20% to 30%, and an increase in the OPSTC from 11% to 18% (McDonald, 2004).

FilmOntario has continued to be largely successful in pushing their policy recommendations forward; most recently the organization takes credit for pushing Ontario to match Quebec's 2009 move to an 'all spend' credit within ten days of the Quebec announcement. FilmOntario's messaging continues to be clear, consistent and built on a business model that clearly aligns its interests with the logic of the creative economy that supports public investment in the private film and television sector. Brian Topp's quote, as FilmOntario co-chair, on the press release announcing the move to an 'all spend' credit reads:

Ontario's film and television industry warmly thanks the McGuinty government for stepping up to the plate to save and create thousands of jobs. We are delighted by this bold move. It will ensure Ontario continues to attract productions that generate billions of dollars in economic activity, protecting our infrastructure and creating jobs throughout the industry (Government of Ontario, 2009).

FilmOntario's associational strategy that presents a united policy message from producers, unions, and industry suppliers, and discursive strategy that rationalizes public investment in the production industry by using the creative economy discourses to support its arguments, has produced considerable achievements in terms of their ability to leverage direct access to policy makers and political leaders. Their annual reports indicate a sustained engagement with all three provincial political parties, ministerial bureaucracies, as well as engagement on policy issues at local (Toronto) and federal levels. Their annual meetings regularly include keynotes

from high ranking provincial politicians, including Finance Ministers and Premier Dalton McGuinty. Through FilmOntario, the industry established an ongoing dialogue with political decision-makers. FilmOntario thus represents labour's entrance into the inner circle of provincial film and television policy networks. FilmOntario gave the unions a seat at the policy table, and all union leaders interviewed commented that they consider FilmOntario to be a successful advocacy group in advancing the interests of the industry at the political level. Importantly, industry interests are understood in terms of maintaining Ontario's competitive profile, with 'success' measured in terms of the quantity of work for union members.

FilmOntario is not only important to labour; labour is important to FilmOntario. Independent film and television producers run small companies with bare bones infrastructure and are generally undercapitalized. Labour is a major supporter of FilmOntario's activities, bringing considerable financial and institutional resources to the organization, mobilizing their members to bring broad public attention to industry issues, and conferring legitimacy on the message by showing deep consensus between industry and labour. This is directly tied to the size of the production community in Toronto. Large memberships and high production volume (compared to the regional production centres) provide the unions in Toronto a solid financial base. A solid financial base gives unions the resources to hire executive staff with policy expertise, enough support staff so that executive staff are able to devote time and energy to policy work, and dedicated funds for policy advocacy in their budgets. With the support of the unions, FilmOntario has succeeded, through targeted messaging and consensus, to speak clearly and consistently with one voice to government and position its recommendations as representative of the industry's interests. However, a consensus agenda comes at a price for labour.

While participation in FilmOntario has improved the unions' access to decision-makers, this has not resulted in a better articulation of the labour-specific issues that arise from the design and implementation of the tax credits. FilmOntario works on a consensus model, whereby the organization only addresses issue on which all board members can agree. The consensus agenda of FilmOntario means that contentious issues – such as the impact of the regional bonus in the OFTTC – do not become part of FilmOntario's advocacy platforms. The regional bonus is a pressing health and safety issue for the unions in FilmOntario. It is also a critical financing tool for Canadian producers on FilmOntario's board. The board has, to date, been unable to come to an internal agreement on which position is more important to the long-term development of the production industry as a whole. Consequently, the organization has not advocated for the elimination of the regional bonus in the OFTTC that targets Canadian content production, as they did for the OPSTC for foreign service productions in 2004. Although labour is free to engage in political advocacy outside of the FilmOntario umbrella, they are generally reluctant to muddy the messaging or send confusing signals to policymakers about the strength or cohesiveness of FilmOntario.

Furthermore, the unions' decision to align their interests with those of the business community has only re-inscribed the unions' positions as secondary stakeholders within policy networks. As the unions do little provincial policy advocacy outside of the industry association, the consensus based nature of FilmOntario's messaging obscures the specific role that unions play as a large

part of the organization's governance structure. This is reflected in comments by OMDC President and CEO Karen Thorne Stone:

At the provincial level I'm personally not aware of any union-specific activity driving policy thinking...I don't really see anyone stepping back and looking at the big policy picture...I don't think the unions are playing a specific, targeted, organized role as a group or individually.

First of all, they should have a strategy and I'm not at all convinced they do. The strategy should be based on broad and well articulated economic realities... I think they should get into the game, I think they could add real value, but in order for them to be credible in that exercise it can't just be about "me me me" and more for members etc.. It needs to be an economic context and an assessment of where they fit in that puzzle (personal communication, November 6, 2009).

Prior to FilmOntario, the OMDC was the channel through which the Ontario film and television production industry spoke with government. The OMDC does not have any direct policymaking capacity. As the tax credit regime expanded, and other factors eroded Ontario's production levels, the importance of provincial cultural policy to the competitive profile of the Ontario production industry came into sharper focus for industry stakeholders. The industry wanted to speak clearly, and directly, with those who had the capacity to actually effect change at the policy level. The size of the Ontario production sector played a major role in the formation of FilmOntario. While the OMDC plays an important role in marketing Ontario, including the attractiveness of its tax credits, the industry stakeholders involved in the formation of FilmOntario had little to lose by attempting to restructure the policy network. Rather than defer to the OMDC, FilmOntario established themselves as industry partners who worked in close association with the provincial development agency, as active members of the policy making process. For the Canadian production companies involved in FilmOntario, circumventing the existing information and consultation pathways through the OMDC was a low-risk proposition. Due to the concentration of broadcasters in the Toronto region, these independent producers had regular access to broadcasters in pitching ideas and developing projects. As the unions were (are) not invited to consult regularly with the OMDC, they had only to gain from their efforts to directly access political decision-makers. FilmOntario's success in gaining rapid and direct access to key policy makers stands in contrast to the Nova Scotia Motion Picture Industry Association (NSMPIA), whose inability to exercise influence in the provincial cultural policy networks is as much a product of the size of the local industry, and the resources of the unions in Nova Scotia, as is the success of FilmOntario in Ontario.

*Speaking through one voice, but not their own – the Nova Scotia Motion Picture Industry Association*

Established in 1990, Film Nova Scotia is a Provincial crown corporation whose mandate is to, "to grow Nova Scotia's film industry with our partners by stimulating investment and employment and by promoting Nova Scotia's producers, productions, locations, skills and creativity in global markets" (Film Nova Scotia, 2008). The reporting structure of Film Nova Scotia reflects perhaps an even more express focus on the economic aspects of the film and

television production industry than the OMDC, in so far as Film Nova Scotia reports directly to the Minister of Economic and Rural Development and Tourism, whereas the OMDC is an agency of the Ministry of Culture, Tourism and Heritage. Film Nova Scotia offers a range of industry support programs including loans, equity investments, training and professional development funds, sponsorship programs, as well as marketing, export and distribution assistance programs (Film Nova Scotia, 2008). Similar to the OMDC, Film Nova Scotia also runs a Locations and Marketing department that “promotes the province as a film location in the global marketplace and provides initial production support to producers who are guests in the province” (Film Nova Scotia, 2008). Part of this function includes connecting out of province producers who are considering Nova Scotia as a filming destination with local producer who develop preliminary budgets based on local filming costs, and serve as local line producers who oversee all aspects of principal photography. The Finance Department administers the Nova Scotia Film Industry Tax Credit and oversees the financial administration of Film Nova Scotia.

The justification for the tax credits in Nova Scotia is entirely embedded in the discourses of the creative economy, reflected in 2005 a press release by Film Nova Scotia that announced an increase to the tax credit baseline from 30% to 35%, a 5% increase to the regional bonus, a ten year commitment to the tax credit program through 2015, and a \$600,000 increase in funding for Film Nova Scotia. In praising the government’s commitments to the industry that “has generated more than \$100 million of production activity in each of the last six years and consistently employs about 2,000 Nova Scotians” Film Nova Scotia (then the Nova Scotia Film Development Corporation) President and CEO Ann MacKenzie says,

The film business is a labour-intensive, environmentally friendly, global industry that puts the province on the map like no other sector can...With the enhancements announced today, the film corporation can increase local production and prepare a marketing campaign to go head-to-head with other jurisdictions in attracting even more guest-production activity (Nova Scotia Film Development Corporation, 2005).

The size of the film and television production sector is an important element to this case study. The film and television production industry in Halifax is a small village of closely related industry stakeholders, where unions and producers alike have very small operations with few resources, and where making a living primarily in the industry is a challenging career path for many cultural workers. Film Nova Scotia is widely regarded in the production community as an industry and policy gatekeeper. Power within the agency is highly concentrated in the office of Ann MacKenzie who has been President and CEO of Film Nova Scotia since 1999. In a 2011 presentation to the Standing Committee on Economic Development, MacKenzie summarizes the significance of the tax credits and the labour pool in shaping a region’s attractiveness, and the gatekeeper role that her office plays in terms of connecting out-of-province producers with local producers.

In a typical studio presentation, we might go into a boardroom, there might be six or seven and it's always lawyers and accountants and a couple of development people around the table, so that will give you an idea of what they're interested in - money is what they're definitely interested in. But we pitch the whole package because the

money is no good if they come to an area and you don't have the crews that can deliver or you don't have a strong enough acting talent base that you can fill in the other roles, because they're only going to want to bring in their leads - it's going to be prohibitively expensive if they have to bring all of their actors in.

Typically when we're presenting we first set them up, we tell them here's where Nova Scotia is - just in case, you can't assume anything - and here's where we place in the national industry. We're the fourth largest and because we're the fourth largest, we have five or six crews, and we have the infrastructure, the equipment rentals, and whatnot. We have the diverse locations, we have the financial incentives - we have us. We take away their headaches, we put ourselves out there.

Film Nova Scotia is one-stop shopping. We're their point of contact from the very beginning and if we can sell them on what's there, they'll actually then send us a script. We'll have our in-house marketing department break down that script, they will build them a Web site of potential sites. If they like that, we'll actually fly them in - the director, the producer, anyone who makes the decisions. While they're here we scout them around the province, we introduce them to the business agents, we introduce them to potential producer partners, because we just bring the businesses in and then everybody else has to actually do the work and deliver. We sell all of that.

...

People like things to be validated...so we always bring production manager/line producer resumés with us - I'll say 10 of them - so they can say, oh my God, *Jumping the Broom* was shot there, I didn't know that, I know so and so, I'm going to ask him how that went (MacKenzie, 2011).

Ann MacKenzie is also the policy gatekeeper for the Nova Scotia film and television production industry. Film Nova Scotia consults with industry stakeholders through the Film Advisory Committee (FAC) that meets monthly to discuss industry related issues and “legislation, policies, guidelines, and activities that impact the industry” (Film Nova Scotia, 2011a, p. 13). While the FAC includes seats for Representatives from IATSE 849, the DGC-ARC and ACTRA Maritimes, Film Nova Scotia is clear that its focus is on producers as their primary clients, as the “conduits” for business and economic development (A. Mackenzie, personal communication, June 1, 2009). Members of the production community report that the CEO is the only interface between political decision making bodies and industry stakeholders. A senior bureaucrat for the Ministry of Economic Development confirms that all information, research, statistics and policy feedback on the film and television industry his department receives on the film and television production industry comes from the President of Film Nova Scotia. Furthermore, the President and CEO of Film Nova Scotia reports directly to the Minister of Economic Development, bypassing Deputy Ministers or Senior level bureaucrats (C. Bryant, personal communication, May 28, 2009). When the Minister receives a letter from a stakeholder from the film and television production sector, the written response is sent first to the President of Film Nova Scotia for comments before the letter is signed by the Minister (C. Bryant, personal communication, May 28, 2009). This means that all communications between industry stakeholders and the policy decision-makers are necessarily filtered through the office of the CEO of Film Nova Scotia. Industry stakeholders, including the unions, found this concentration

of power to be deeply problematic. As in Ontario, the industry wanted to be able to speak directly to policy decision-makers about the policy issues that affected their livelihoods. As the tax credit regime developed across Canada, this became the issue that mobilized first the unions, and then the unions and producers, to actively engage in policy advocacy outside of Film Nova Scotia's Film Advisory Committee.

After Nova Scotia introduced the Film Industry Tax Credit (FITC) in 1995, the film and television production industry experienced a spike in production levels. This allowed the industry to develop considerable capacity through a healthy domestic sector as a result of multiple television series engaging the full range of Canadian cast and crew, as well as several major U.S. foreign features allowed local workers the opportunity to command top tier rates and gain experience and expertise through working on large, complex productions. By 2001, competition from other regions as a result of the tax credit regime combined with the effects of the 1999 Television Policy to produce a significant decline in both the quality and quantity of work available to union members. As recalled by Gary Vermier, former Branch Representative for ACTRA Maritimes and current Business Agent for IATSE Local 849, "by 2001, five or six national dramatic series has dwindled down to Lexx and Trailer Park Boys" (G. Vermier, personal communication, June 3, 2009).

Vermier recalls that the unions, and particularly ACTRA and IATSE Local 849, led the charge on an industry-wide political campaign to raise the FITC and maintain Halifax's competitive profile compared to other Canadian jurisdictions in 2005 and again in 2007. However, union policy advocacy that attempted to circumvent existing power relationships in the policy network was coolly received by Film Nova Scotia. Vermier reports that he got his "knuckles slapped" in 2007 by Film Nova Scotia CEO Ann McKenzie for not going through proper channels – her office - and for advocating for a higher tax credit than what Film Nova Scotia was recommending (G. Vermier, personal communication, June 3, 2009). This series of events produced two outcomes. One, the government announced it was increasing the tax credit from 35% to 50%, where it currently stands. Second, the reprimand from the provincial development agency for circumventing the Film Nova Scotia office in its policy advocacy reinforced the industry's resolve to develop direct links to decision-makers, resulting in the formation of the NSMPIA. The NSMPIA was launched as a group of producers, union representatives and industry support service providers during the Atlantic Film Festival on September 12, 2007 (Knox, 2007). NSMPIA board member Rob Riselli of PS Production Services explains the industry felt it was important to "lobby the government on whatever the current agenda might be, whether it's the tax credit or location permits or whatever the *filmmakers* feel needs to be addressed" as the key reason for developing an advocacy strategy outside of Film Nova Scotia's Film Advisory Committee consultation framework (Knox, 2007, emphasis added). As NSMPIA Board member and IATSE 667 Operations Manager Nadine Dunsmore commented, the industry no longer felt it was appropriate or satisfactory to only have the government lobbying itself on behalf of the industry (N. Dunsmore, personal communication, March 11, 2009). MacKenzie's request for a seat on the NSMPIA board was unanimously refused by other board members. The mission of the NSMPIA is:

To promote and preserve the common interest of those engaged in the Nova Scotia motion picture industry consisting of the production of films, television programs, commercials, interactive, digital and computer productions, and other works in audiovisual media.

To provide leadership and foster cooperation throughout the industry by providing a forum for discussion, decision-making, and policy development in the interest of all members of the industry.

To gather and disseminate information relevant to the industry and to promote public awareness of the benefits and value of the industry in Nova Scotia.

To foster a favourable image of the industry in Nova Scotia and to help create a favourable economic and artistic climate by communicating with government, corporations and other organizations and agencies.

To promote appropriate legislation affecting the industry.

To stimulate the development of educational opportunities in the industry  
(Nova Scotia Motion Picture Industry Association [NSMPIA], 2009)

The NSMPIA built on the relationships between key industry stakeholders that developed through participation on Film Nova Scotia's Film Advisory Committee. Similar to Film Ontario, the unions played a central role in the formation of the NSMPIA. It was the union representatives who worked actively to bring other members of the production community, and the producers in particular, on board. The producers had a non-functioning industry association at the time, and the unions felt the industry would be much better served by an industry-wide organization. The formation of the NSMPIA also has connections to FilmOntario. In early 2007, Tim Storey had joined the DGC Atlantic Regional Council as its Business Agent and was a strong advocate for developing an independent industry association who could speak directly to the decision-makers. As a former Business Agent for IATSE Local 411 in Toronto, Storey had participated in FilmOntario and seen firsthand the accomplishment that organization had made in a relatively short period of time. IATSE 667, whose jurisdiction includes all of Canada east of Manitoba, was also an enthusiastic supporter of the NSMPIA due to their active participation in FilmOntario.

While the unions did much of the mobilizing and organizing around the formation of the NSMPIA, defining the governance structure of the NSMPIA resulted in an imbalance of power that favoured the producers. The NSMPIA Board has thirteen directors, three of which are allocated to union representatives, held by the DGC Atlantic Regional Council, IATSE 849 and ACTRA Maritimes. In contrast, there are six seats allocated to producer representatives, and the chair must be held by a producer. There are three additional Board seats for corporate members who do not represent unions, and an individual board seat, which is currently held by Nadine Dunsmore, Operations Manager for IATSE 667. Two union representatives recall the

conditions under which the unions agreed to a governance structure which gives producers the balance of power:

We were more or less “coerced” into it. This was a collaborative effort between the unions/producers, however [a particular producer] had a very strong voice on this and referred to a similar org in Alberta that his brother helmed that had the same conditions. He was also insistent that labour only have 3 seats on the board, even though there are 4 labour orgs in Atlantic....his reasoning behind this was what if NABET starts working in Atlantic Can....then we would want 5 spots (personal communication, April 13, 2012).

It was a trade-off whereby the Producers Association would fold into the NSMPIA, so long as a Producer would be the chair of the NSMPIA. The idea at the time was for there to be one voice for the industry, as opposed to a potentially dissenting voice from the rump Producer’s Association (personal communication, April 13, 2012).

The dominance of the producers on the board of the NSMPIA is a contributing factor to their relative ineffectiveness as a political advocacy association. This is not because the Nova Scotia producers are bad at political advocacy *per se*. It is deeply tied to the size of the Nova Scotia production industry and the enduring role that Film Nova Scotia plays as policy and industry gatekeeper. There is a minimal base of local production that is developed and produced from within the province. The film and television production industry in Nova Scotia largely relies on attracting out-of-province producers to come to Nova Scotia to film their Canadian content or foreign service productions. The industrial gatekeeper role of Film Nova Scotia interacted with their role as policy gatekeepers in shaping the vision and strategy of the NSMPIA as an industry association. With producers being the primary ‘clients’ of Film Nova Scotia, and the CEO playing broker in connecting extra-provincial decision-makers with local producers, the producers within the NSMPIA appear reluctant to engage in political activities that could cause them to fall out of favour with the industrial gatekeeper.

The lack of political will by the producers is further complicated by the serious lack of resources the NSMPIA has to do its work. While the unions may be enthusiastic supporters, the size of the local production industry, and the multi-provincial jurisdictions of the unions in Atlantic Canada leave the unions with few surplus resources. In comparison to over 20,000 unionized film and television workers in Ontario the total combined union membership for the film and television sector in Atlantic Canada is just over 1200. ACTRA Maritimes has 585 members, the DGC Atlantic Regional Council has 145 members, IATSE 849 has 420 members and IATSE Local 667 represents 57 members in Atlantic Canada. Unions are regional representatives of the relatively small pool of film and television cultural workers on Canada’s east coast, whereby ACTRA Maritimes, the DGC Atlantic Regional Council, and IATSE 849 Motion Picture Studio Production Technicians Atlantic Canada exercise jurisdiction in Nova Scotia, PEI, New Brunswick and Newfoundland/Labrador. Representing a small group of workers, across a large geographic area, with fluctuating production levels that are an important source of revenues, requires film and television unions in the Atlantic region to operate on skeletal budget and staff resources. The DGC-ARC office currently consists of one full time business agent and one full time



administrative assistant representing members in four provinces; ACTRA Maritimes has one full time Branch Representative, one assistant steward and one administrative assistant. IATSE Local 849 is by comparison a large operation, with a full time business agent, an office administrator, a financial administrator and two call stewards who share member services and administrative support duties.

With skeletal budgets and staff structures, and jurisdictions that span the entire Atlantic region, the labour leaders in NSMPIA have insufficient time and financial resources required to devote to advocacy work as independent organizations. The same applies for other producer and industry supplier board members, who similarly run small operations scaled to the relative size of the production sector in Nova Scotia. Thus, while an industry association allows organizational members to pool their resources, the unions in Nova Scotia have much shallower pockets, less policy expertise, and less time to spend on the NSMPIA than those in Ontario who bring considerable sums of money, and politically experienced union representatives, to the FilmOntario Board of Directors.<sup>52</sup> The industry association does not have the resources required to hire a staff member with sufficient time and expertise to focus on the strategy, messaging and networking required to gain access to decision-makers and other political pressure points, such as bureaucrats in multiple ministries and relationship with all three provincial political parties. This means that, despite the representative nature of the NSMPIA's membership, the organization remains, at its core, a volunteer organization with a board of industry stakeholders who have overextended schedules, and insufficient funds, to develop the NSMPIA into a key political player.

Formal advocacy efforts have been sporadic. Their first noteworthy policy intervention came two years after their formation, when in August 2009 the NSMPIA met with federal Liberal culture critic Pablo Rodriguez to discuss issues the need for stronger federal cultural policy to encourage production in the regions (Nova Scotia Motion Picture Industry Association [NSMPIA], 2009). As a follow up on that file, in September 2009 the NSMPIA filed a policy brief in association with other industry associations in regional production centres calling for greater support for the regions through the federally funded Canada Media Fund.

The shift to an 'all spend' tax credit in Ontario and Quebec in 2009 challenged the competitiveness of the FITC, prompting the NSMPIA to formally engage in political advocacy on the tax credit file. In January 2010 the NSMPIA sent out formal requests to meet with the Nova Scotia Premier, the Minister of Economic and Rural Development and the Minister of Finance. In February 2010 two producers, an equipment supplier and Richard Hadley from ACTRA met with Minister of Economic and Rural Development and Tourism, Percy Paris. NSMPIA's key talking points for the meeting reflect a similar strategy to that of FilmOntario, emphasizing a consensus between labour and employers in their policy recommendations, and framing the

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<sup>52</sup> While actual membership dues the unions pay to FilmOntario are confidential, it was suggested to the researcher that each of the major unions contribute upwards of \$30,000 annually to the industry association. By comparison, collective contributions the Nova Scotia unions' make to the NSMPIA are less than one tenth of that amount.

film and television production industry as vital economic and employment driver for the creative economy:

Explanation of NSMPIA: We are a very unique organization, with management and labour working together;

Spelled out the number of full-time-equivalent jobs our sector brought to the province - 3600 average per year last 10 yrs;

Explained the money - NEW money to province: 22 million in tax credits last year – ergo 80 million or more levered in;

Supported the role of Film NS in the province - It's doing great work on issues like equity financing and tax credits and as a broker;

Reinforced the idea that the industry has brought workers here. Used the examples of people who moved here from Toronto and elsewhere – married, bought houses, set up businesses *etc.*;

As an industry we employ NSCC and NSCAD students – keeping and supporting talent in the province;

Illustrated the mix of indigenous and guest productions that use the province for filming;

Presented all the other film-related sectors - Commercials, Corporate Videos, Digital media productions, Animation House, Gaming studios, etc., that depend on our infrastructure, including crew and suppliers (NSMPIA, 2010a)

NSMPIA records also indicate that board members met with the Premier Dexter in March of that year to advance their argument to remove the cap on the total amount that could be claimed under the tax credit. At the time, the tax credit allowed producers to claim 50% of the total labour costs incurred during production, or 25% of total production costs, whichever was less. With Ontario and Quebec moving to a 25% credit on all eligible production costs in June 2009, the production cap in Nova Scotia put the province at a competitive disadvantage. The NSMPIA, in acknowledging the power that Film Nova Scotia holds in the policy network, also emphasized the need to remove the production cap through the board members who also sat on Film Nova Scotia's Film Advisory Committee. Aligning messages between the NSMPIA and Film Nova Scotia was effective. In September 2010, the NSMPIA was invited by the Ministry of Economic Development to discuss the competitiveness of the FITC in a meeting with Film Nova Scotia and the Digital Animation of Nova Scotia. The animators association had been advocating for changes to the FITC's residency rules that required workers to have been residents, for tax purposes, the year prior the production commenced. This, the animators argued, was inhibiting the growth of the animation sector in Nova Scotia by excluding workers who had just recently moved to the province. In December 2010, the Nova Scotia government announced it was removing the cap and announcing a change in the residency requirements for labour-related production costs. Revised regulations state that film and television workers have to provide evidence of residency in Nova Scotia for the production period, not the year prior.

As with FilmOntario, the advocacy of the NSMPIA also fails to articulate labour issues associated with the design of the tax credits. Whereas FilmOntario's silence on this issue has done little to advance specific union interests, the NSMPIA's advocacy *reinforced* the value of, in particular, the regional bonus through the NSMPIA's and actively worked *against* the unions' interests. The NSMPIA felt securing support for the tax credits from MLAs from across Nova Scotia was necessary to ensure broad based support for the FITC and thus emphasized the economic impact of the film industry throughout the province in their advocacy work:

#### MOVIE BIZ CREATES BIG BUZZ FOR NOVA SCOTIA LOCATIONS

*After a busy 2009, communities throughout province roll out welcome mat for more lucrative film production*

*HALIFAX, NS* - Nova Scotia film production focused its lens on a wider area of locations throughout the province in 2009 and the impact has businesses in those areas longing for more.

From the tip of Sandy Point, Shelburne County, to the colourful Valley towns and out to Shubenacadie, producers of such projects as the TV series Meet Phil Fitz, the German-Canadian mini-series Moby Dick and the indie film Halo brought a rosier bottom-line for many businesses in these communities.

"2009 saw a definite increase in the number of locations the film industry reached," says Bill Niven, executive director<sup>53</sup> of the Nova Scotia Motion Picture Industry Association. "It kept our skilled film making workforce employed and ultimately left a positive impact on the communities in which we set up locations. The motion picture industry is part of the new 'knowledge-based' economy and is enjoying a sustained level of growth in Nova Scotia." he added.

While several projects were shot in Halifax, Niven says, producers brought their talented crews to other locations outside the city like never before. Between April and October, for example, film production could be seen in Shubenacadie, New Minas, Kentville, Port Williams, Lunenburg, Shelburne, Clyde River and Sandy Point to name a few... (NSMPIA, 2010b).

This reveals how the precariousness of the employment model combines with the marked impact that the tax credit regime has on local labour markets to cause unions to engage in political advocacy that only obscures, but ignores, the impact that the policy design has on the health and safety of their members. Overall, the NSMPIA's lack of resources, the volunteer nature of the organization, the board's domination by producers, and the lack of political will by the producers to 'rock the boat' at the political level has produced a largely ineffective industry association. The NSMPIA has failed to develop and maintain working relationships with all three political parties or key senior bureaucrats, particularly in the finance department responsible for the tax credits. The 2010 mobilization around the tax credit regime was the last time that

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<sup>53</sup> This is a typo in the original. Bill Niven is the Chair of the NSMPIA, not the executive director.

the NSMPIA came together as a functioning industry association to engage in formal advocacy. In the words of a union representative and founding member of the NSMPIA,

The producers only turn up when there is a real problem. When the tax credit is in jeopardy for instance. There is occasional talk the rest of the time but anything that gets done, gets done by the unions. The chair has not called a meeting for at least 18 months.

Basically NSMPIA is dead in the water till the next crisis comes around. (personal communication, December 6, 2011).

Clearly, neither FilmOntario nor NSMPIA are effective vehicles for advancing labour specific interests at the policy level. There is, though, an interesting consequence to the relative inefficacy of NSMPIA. Recall that FilmOntario's success in gaining direct access to policymakers as an industry association has discouraged the unions from engaging in policy advocacy outside of the organization. By contrast, NSMPIA's comparative lack of vision or strategy as an industry association creates conditions under which the unions do not have to worry about sending contradicting messages to the policy community in their own, independent policy efforts.

On July 20, 2010 ACTRA, IATSE 667, IATSE 849 and the DGC-ARC sent a letter to the provincial ministers of Finance, Economic and Development and Tourism, and Labour requesting a meeting to discuss mobility issues associated with the provincial tax credit regime (Screen Industry Unions of Atlantic Canada, 2010). The letter indicates the unions wanted to open a dialogue on their proposal for interprovincial deeming within Atlantic Canada.<sup>54</sup> The unions' proposal includes graduated deeming under the tax credit regime for cultural workers within the Atlantic region. Under the unions' proposal in Nova Scotia, residents would qualify for the full tax credit; workers from other Atlantic provinces who were brought in for the project would be eligible for a discounted tax credit rate; and workers outside the Atlantic region would remain ineligible (G. Vermier, personal communication, June 3, 2009). The idea is to develop a deeper labour pool that services Halifax as the production centre of Atlantic Canada, while discouraging the practice of importing workers from outside the Atlantic region, or outside the country. Reciprocity with other Atlantic provinces would facilitate the movement of experienced Nova Scotians within the region, providing Nova Scotia film and television workers with increased work opportunities to mitigate the employment precarity, and allowing them to maintain their ties with the industry over the long-term. The proposal builds on programs in other jurisdictions, particularly the deeming program in Saskatchewan that allows out-of-province workers to qualify under the tax credits if they mentor a Saskatchewan resident,

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<sup>54</sup> For example, Newfoundland and Labrador offer a deeming provision in their film and television tax credit, which "allows the residency requirement to be waived when a qualified resident person is not available; and the non-resident person serves as a mentor of a resident of the province." (Newfoundland and Labrador Film Development Corporation, n.d.)

provided there is no qualified local resident available for the project (Saskatchewan Film and Video Corporation, 2012). The proposal is driven by the unions' interests in the long-term sustainability of the industry, and the overall labour market development of the region.

The unions decided to go directly to the ministerial level with their proposal after it was entirely rejected for consideration by the CEO of Film Nova Scotia on the grounds that it would use taxpayer dollars to subsidize employment of out of province workers. Without the endorsement of Film Nova Scotia, the deeming issue is failing to gather any political traction at the political level. The response from the Minister of Labour and Workforce Development simply states that the FITC is outside her jurisdiction, even though the issue is clearly focused on the long-term labour market development of the local screen-based industries (More, 2010). The Minister of Finance referred the matter to Economic Development. Echoing Film Nova Scotia arguments, the Minister of Economic Development clearly indicated that the deeming program is off the political agenda under the rationale that, "one of the measures of success of the program is the personal tax revenue generated for the province by the Nova Scotian tax payers. Should we pay out tax credit monies on non-Nova Scotia residents then we would forgo this crucial measure of success" (Paris, 2010). The unions have not pursued this issue any further to date.

#### *Analysis and conclusion*

Tax credits have become an integral part of the financing structure for producers of domestic Canadian film and television content, and, until a new policy instrument is created to replace them, will remain an essential tool in attracting Hollywood dollars to Canadian production centres. It is, however, essential that policy makers begin to expand their understanding of how policy frameworks for the film and television sector in Canada operate not only as economic drivers, but also fundamentally as labour market regulation. While volume of production is vitally important in a career where an eight month contract is at the long end of the spectrum, completely overlooking the impacts that policy frameworks have on qualitative aspects of work in the film and television production risks obscuring other important factors that shape an individual's professional experiences, which also has implications for the long-term viability of both major and regional film and television labour markets across Canada.

Tax credits subsidize labour costs. As film and television production is a labour intensive undertaking, tax credits have been highly successful policy instruments. However, the driving rationale behind the provincial tax credits is primarily to provide economic incentives for *producers* to bring business to a particular jurisdiction. Discourses of the creative economy present the volume of total production expenditures, or the number of projects brought into a region, or an estimate of the number of jobs created in a reporting period, as accurately reflecting the vitality of a local production centre. By comparison, the marginalization of unions as industry stakeholders in provincial development agencies policy consultation processes means that the question of the quality of those jobs goes largely unaddressed. The quality of those jobs is necessarily tied to the provincial policy framework, which is in itself affected by changes in other jurisdictions. This all contributes to the competition that the tax credit regime

produces; a competition framework which, at its core, runs off the (dis)counting of the labour involved in the film and television production process.

A labour-based analysis of tax credits allows us to examine how the unintended consequences of the tax credit regime impacts the long-term viability of film and television production labour markets in Canada. Intense competition between production centres, restricted worker mobility between labour markets, and increasingly distant work locations within labour markets fundamentally undermines basic public policy objectives of stimulating and sustaining internationally competitive and regionally vibrant creative economies. Unions representing workers whose labour costs are at the centre of the tax credit regime are keenly aware of the negative impacts the implementation of the tax credits has on the daily lived experiences of workers in both regional and major production centres in Canada. They are also keenly aware of the importance of tax credits to a regions' competitive profile, and have thus played an active role in the political advocacy related to their ongoing development.

Film and television unions in Ontario and Nova Scotia are key players in the creation of provincial film and television production industry associations. The objective of both FilmOntario and the NSMPIA is to gain direct access to policy decision-makers in order to directly influence policy outcomes. The political capacity of these two organizations is markedly different, shaped by the size of the local production sector, which in turn affects the resources of the member organizations and the organizational structure of the industry associations. The case studies offer insight as to why union participation in these industry associations is something of a paradox for unions as policy actors. The decision to work within the creative economy discourses, and align union interests with those of the producers is pragmatic. The decision reflects a political awareness of the policy environment and a strategic decision on how best to frame their interests in a way that would have their recommendations accepted as policy changes. While the associational and discursive strategies of the unions are logical, they need to be understood as coming with a price for the unions as policy actors, and for their members in their day to day professional lives. The concept of (dis)counting cultural workers is a useful concept to understand this paradox.

As with Canadian content regulations, film and television production tax credits are based on the employment of cultural workers. There is, however, a fundamental difference in the rationale behind the policy design. Canadian content regulations are deeply tied to the cultural objectives of the *Broadcasting Act*, whereby a story is defined as Canadian as long as the key creative inputs were made by Canadian cultural workers. In contrast, the provincial tax credit regime is almost exclusively tied to the economic development discourses of the creative economy, where public investment in the private film and television production sector is justified, in part, by counting the number of jobs that the tax credits generate for cultural workers. The design of the tax credits implicitly frames the wages of cultural workers as barriers to globally competitive local production industry. The objective of the tax credits is focuses on servicing the interests of highly mobile capital, and thus, privileges the interests of independent producers over those of cultural workers in the policy process. This complicates their ability to act independently as unions in policy networks. More importantly, as I mention in chapter two,

this marginalizes the unions' ability to articulate cultural *labour* problems tied to the design and implementation of tax credits as cultural *policy* problems.

Framing the labour costs of unionized film and television professionals as being inherently prohibitive to a competitive production sector compounds the disconnect between policy decision-makers and unions as key industry stakeholders. The unions' limited political capacity as independent organizations, and decision to engage in policy advocacy largely through broadly based industry associations, fails to reveal labour's proactive marketing and bargaining role in shaping a region's competitive profile, as well as the important role they play in policy advocacy. Unions are critical labour market institutions. Discounting or marginalizing their input in policy consultation and development means that policy decision-makers are failing to connect with the complex dynamics of the film and television production industry. It also means that the policy discourses around work in the creative economy remain, as Banks and Hesmondhalgh argue, "relentlessly upbeat," where the health, safety and financial costs produced by the policy regime remain hidden from public discussion and debate, at best a matter for collective bargaining. This bargaining is increasingly unequal as a result of the additional leverage that the tax credit regime gives independent producers through encouraging the hypermobility of capital while restricting the mobility of cultural workers.

Topp argues that the making a business case for government support of the film industry speaks directly the degree to which the domestic production sector is a chronically undercapitalized industry. The domestic industry is undercapitalized, Topp argues, because we don't have sufficient access to our own screens which are dominated by American product. Lack of access to our screens means the content being produced does not have adequate access to the market, and thus is uninviting for private investment. The significance of Topp's comments points to the deeply interactive nature of industrial and cultural development objectives in cultural policy. In order for the industrial development of the domestic production sector to reach a point where the capitalization of Canadian production companies is sufficient so as not to require and indirect state subsidy, we need a much stronger regulatory framework that is driven primarily by the cultural development objectives of the *Broadcasting Act* that create access to Canadian stories on Canadian television screens. This allows us to imagine a more holistic approach to assigning value to the film and television industry as a matter of policy. The creative economy is the dominant policy discourse in which the unions are attempting to influence the policy environment, but it is not the only way that the value of cultural labour can be understood in political terms. As chapter four shows, unions have the power to shift policy discourses and shape political agendas, *as unions*. The next chapter returns to Murray and Gollmitzer's (2008, 2011) concept of a creative ecology, as introduced in chapter two, as a way forward.

## **Chapter Six: Making cultural labour count through a cultural ecology**

The aim of my research is to identify and understand the interactive relationship between cultural policy, cultural industries labour markets, and unions representing cultural workers. Unions are important labour market actors whose role in the cultural industries is generally under-theorized. Producing cultural goods and services is labour intensive. Unions are responsible for organizing, accrediting, training, and reproducing the pool of creative, technical, logistical, administrative and manual labour that drives the film and television production industry. Unions provide independent producers with direct access to the full range of qualified labour required for the production process. Union social benefits allow workers a better chance of maintaining their ties to labour markets and the industry over the long-term. Unions aggressively market their memberships, and labour markets as a whole, in a highly mobile, globally competitive, vertically integrated media complex dominated by a few multinational (or, in the case of Canadian media, national) media enterprises. Unions also engage in collective bargaining in an attempt to secure fair wages and working conditions for their members. As my research shows, policy advocacy is distinctive aspect of union business. Policy advocacy is a distinctive aspect of union business because cultural workers are the primary objects of major Canadian cultural policies. My research here examines Canadian content regulations and the tax credit system as two examples of the ways in which Canadian cultural workers are at the centre of policy design, although not always at the centre of the policy process.

The unions' policy advocacy activities need to be understood in the broader context of the creative economy, as the prevailing logic that guides policy decision-making during my case studies. There is deep tension between unions and the creative economy as an economic development model. Discourses of creativity within the context of the creative economy emphasize the economic and employment generating capacity of the arts and cultural industries in order to justify substantial financial commitments from federal and provincial governments. State support is critical for stimulating production volume, and consequently, labour markets and union memberships in both the Canadian television and foreign service production sectors. However, the creative economy presents a paradox for unions, as it simultaneously venerates the productive labour of cultural workers, while dismissing the material conditions of their work. As an economic development strategy, the creative economy instrumentalizes cultural workers, and the production of cultural goods and services, in the service of capital. As a result, policy-makers and gatekeepers regard unions as secondary stakeholders in policy networks, which only further obscures the connection between cultural policy and the material conditions of work and labour relations in the film and television production sector. The degree to which the unions engage with, or challenge, the logic of the creative economy in their advocacy strategies has a significant impact on the degree to which cultural labour problems are understood as cultural policy problems.

Although the discourses of the creative economy fail to recognize what Banks and Hesmondhalgh (2009) refer to as the “dark side” of working in the cultural industries, it is



unlikely that the unions are looking for an openly critical debate on the viability of an economic development strategy built on short-term employment with minimal long-term capital investment benefits, and requiring substantial state investment in an era of fiscal restraint. We must understand that for unions to call the creative economy fundamentally into question would be to work against the labour market interests of their members. What is required is a model that builds on the benefits that the creative economy offers to workers in the arts and cultural sector, while providing a means by which they are necessarily understood as industry stakeholders equal to the producers and broadcasters.

This chapter opens with a brief review of how the application of a labour-based analysis to my case studies reveals the connections between cultural workers and cultural policy. I then return to Murray and Gollmitzer's model of a creative ecology, introduced in chapter two, as an alternative to the creative economy. I offer that their model of a creative ecology, to which I make a few minor modifications toward a *cultural* ecology, serves as a theoretical lens by which we can begin to more broadly conceptualize how life and employment for cultural workers is deeply connected to the policy environment. A cultural ecology also serves as a schematic map for the unions to chart a horizontally and vertically coordinated policy advocacy strategy that engages with multiple policy issues at all layers of the state.

#### *Revealing relationships: toward a labour-based analysis of (cultural) policy*

A labour-based analysis foregrounds the interests of cultural workers as the point of entry for understanding the relationship between cultural labour and Canadian cultural policy. This requires researchers to look for cultural workers in policy networks. Cultural workers are often represented by organizations in policy networks – in my cases, unions. My research uses a labour-based analysis of cultural policy to explain: why unions are, or are not, involved in policy advocacy; the factors that shape the degree to which policy advocacy is a key aspect of union business; which policy issues are the most pressing for the community; in which policy jurisdictions the unions are active; and the range, and changing nature of, advocacy strategies. Marsh and Smith's (2000) theory of dialectic policy networks informs my labour-based analysis, calling for scholars to interrogate the ways in which policy advocacy is embedded within a contested set of power relations within policy networks, examine the interactions between unions and other policy actors, and how network structures, and ideas, shape policy network dynamics. This requires, in-depth interviews with union leaders about their their engagement in policy processes, and in-depth interviews with key policy decision-makers about the role that cultural workers play in policy networks. My analysis would be enriched by the input of independent producers, who sit across from the unions at the bargaining table, and often sit beside them at the policy stable. I encourage scholars to take up additional research in this vein.

The first part of my analysis examines how cultural policy functions as a primary form of labour market regulation for cultural workers. Due to their status as self-employed freelancers, cultural workers are largely excluded from key aspects of Canadian labour law and the social safety net. Consequently, we need to broaden the scope of analysis in understanding the

nature of working in the cultural industries, to ask questions about how other policy areas – in my case, cultural policy – shape the quantity and quality of work in the film and television production sector. Cultural workers are the main objects of the Canadian content policy framework and the film and television production tax credit regime, two of the most important cultural policies for the film and television production sector. My study shows these two policies interact with the precarious nature of work, and the collective bargaining regime, to have a significant impact on the quality and quantity of work for workers in the Canadian independent production sector.

*Is more work better work? Connecting quantity with quality*

The precarious employment model in the independent production sector means that production volume is a critically important element in sustaining workforces. This has led unions, to a large degree, to focus their political advocacy efforts on securing a high *quantity* of work. Both the CRTC's 1999 Television Policy and the provincial film and television tax credit regime impact the quantity of work in the production industry. In Canadian television, the regulatory framework compensates for the market failure of Canadian dramatic programming, and the tax credits support the financing of Canadian drama. In the foreign service sector, tax credits define a region's competitive profile and, by extension, its ability to attract highly mobile production. Changes to the types of genres supported by Canadian content regulations in the 1999 Television Policy resulted in a sharp decline in Canadian dramatic programming. The introduction of tax credits in Ontario and Nova Scotia increased production volume in those provinces.

These case studies also connect Canadian content regulations and tax credits with the *quality* of work available to film and television production professionals. Series production is as close as workers get to a 'regular' job in highly precarious labour markets. Canadian dramatic television series often provide a better approximation of work-life balance, with shooting schedules based on a regular five day work week, and employment for up to eight months at a time with the possibility of renewal. The benefits in terms of the quality of that work are significantly diminished, however, if working on dramatic television series includes a daily long commute on top of excessive hours because they are shot well outside of urban centres, or if the crew must personally absorb the additional costs of filming on location. The degree to which policy shapes the quality of work, and the strength of collective agreements, thus has long-term implications for the health and welfare of the workforce.

*Connecting outcomes with inputs: implications for unions*

The second part of my labour-based analysis examines how unions attempt to influence the policy environment to produce positive labour market outcomes for their members. I understand this through the lens of what Marsh and Smith refer to as the "iterative loop" between policy outcomes and actors, insofar as outcomes affect both network structure and actor agency; outcomes can affect membership and the balance of resources within a network; they can impact broader social structures which weaken or affirm the position of a particular

set of interests within a policy network; and outcomes can also affect the behaviour of actors within a network (Marsh & Smith, 2000, p. 9). The impact of the 1999 Television Policy prompted the unions to create a new political formation as the Coalition of Canadian Audio-visual Unions (CCAU). Changes to tax credits in other jurisdictions threatened production levels in Ontario and Nova Scotia, and were an important factor in the formation of FilmOntario and the NSMPIA.

Comparing the CCAU to FilmOntario and NSMPIA shows why and how the strategic choices that unions make influence how cultural labour interests are identified and advanced at the policy level. The formation of the CCAU allowed labour to articulate its specific issues clearly and consistently on its own terms. Consensus only needed to be brokered between cultural workers, not between the interests of cultural workers and their employers. This kind of consensus building is significant on a larger scale for the unions. In the independent film and television production sector, union solidarity and strength is compromised by the freelance nature of work in the industry. Highly mobile production, and the precarious employment model, means that workers are willing to self-exploit. Building solidarity within union local memberships, between locals within a national union, and between unions representing different categories of workers, is an ongoing challenge. Coordination, communication, and political mobilization between unions, through labour-based coalitions such as the CCAU, show members that there is a collective shared interest with their colleagues that extends beyond the workplace and well into the political realm. As a direct consequence of the unions' decision to advocate only on behalf of cultural workers, rather than the interests of the production industry overall, the unions were able to adopt discursive strategies that shifted the ideological terrain of the policy debate, and succeed in influencing changes within the policy environment that would have positive impacts on the quantity *and* quality of work available to their memberships.

The unions' decision to align their interests and resources with the independent producers in FilmOntario and the Nova Scotia Motion Picture Industry Association (NSMPIA) resulted in an advocacy strategy that has, to date, effectively precluded a discussion of the quality of work, and its relationship to the tax credits, within policy networks. Cultural workers and independent producers have divergent interests on certain aspect of the tax credits, where the effect of the provincial tax credits is felt by cultural workers in local labour markets. When unions enter into industry associations that rely on the logic of the creative economy as their primary messaging strategy, unions reinforce the discourses that silence the articulation of systemic labour market and work model issues that are produced by the very policies they are trying to influence.

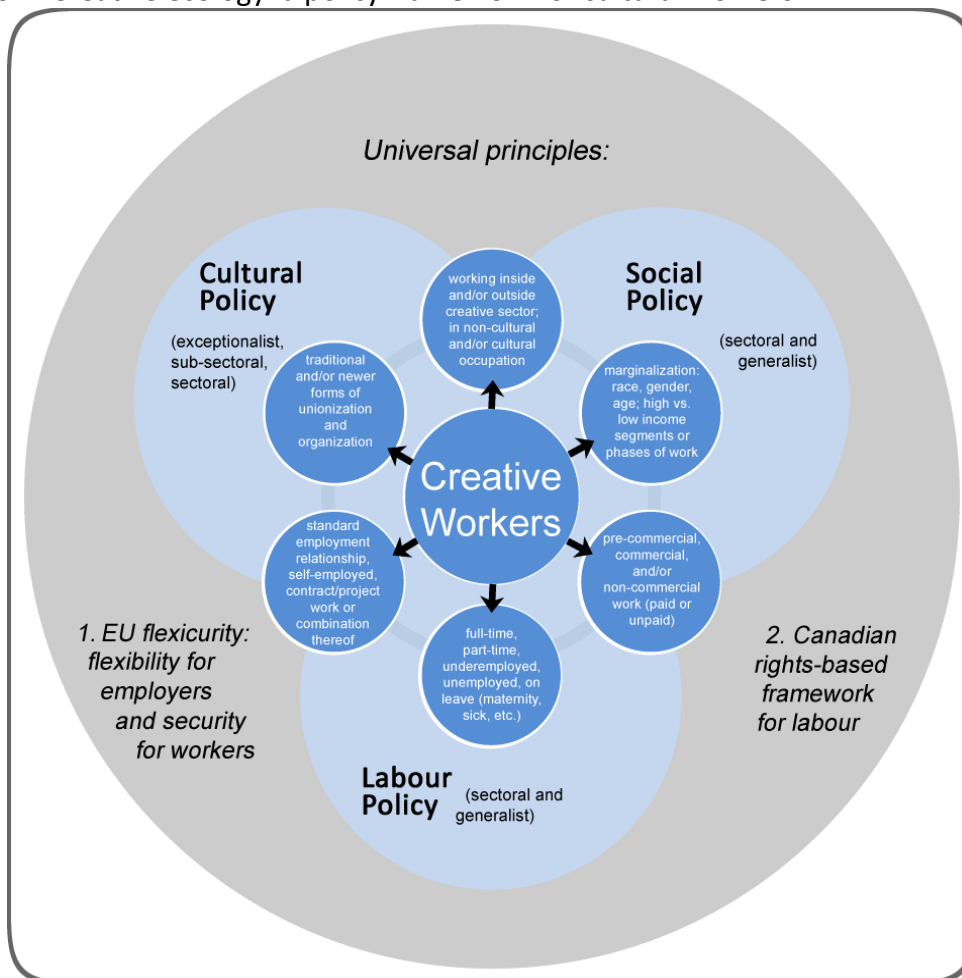
#### *From creative economy to cultural ecology*

I will now turn return to Murray and Gollmitzer's concept of a creative ecology (Figure 6.1) as an important theoretical intervention that expands the notion of the creative economy by placing the daily lived experiences of cultural workers as central to policy development. Murray and Gollmitzer's (2011) creative ecology approach both broadens and refines the ways in which we can conceptualize and value cultural labour as objects and agents of policy. In doing so, it

places cultural workers at the centre of the policy process while expanding the range of issues, and policy jurisdictions, in which they are considered to be central. Murray and Gollmitzer describe a creative ecology approach as,

...a net of integrated cultural, social and labour policies that offer holistic support to individually actualized ‘creative ecologies’ (work/life nexuses)...The term creative ecologies implies material as well as immaterial infrastructure for creative workers. Such zones of relative creative autonomy consist of creative workers experiences as inhabitants of particular physical environments; as participants in labour processes; and as members of social networks in which pre-commercial, commercial and non capitalist modes of production are embedded (Landry, 2005; Scott, 2008) (Murray & Gollmitzer, 2011, p. 14)

Figure 6.1: Creative ecology: a policy framework for cultural workers



Source: From “Escaping the precarity trap: a call for creative labour policy” by C. Murray and M. Gollmitzer, 2011, *International Journal of Cultural Policy*, p. 15. Available online 15 July 2011. Copyright by Taylor and Francis. Reprinted with permission.

Murray and Gollmitzer argue that as precarity is a defining feature of work and life for cultural workers, it must be understood as central to all policies that intersect the lives of cultural workers:

...what is needed at the core of a policy framework for creative labour is ability to better account for 'contingency'. Thus, our creative ecology model...explicitly acknowledges the constant changes and risks with respect to employment relationship and status, contractual arrangements, time spent doing cultural work, type of activity and collective organization, level of income and categories of marginalization (Murray & Gollmitzer, 2011, p. 15)

This is an important feature of their model, as my research shows that chronic employment and income security have a profound effect on unions' labour market strategies and on their policy strategies. The significance of Murray and Gollmitzer's creative ecology model, as a political project for cultural workers, lies in that it is designed to improve the quality of work and life for cultural workers *through public policy*. The model thus stands out as it acknowledges the role of the state as a central to the evolution of cultural work. In an encompassing approach to understanding and supporting the daily lived experiences of cultural workers, the authors acknowledge that it is essential to, "avoid bias to wage employment and recognize artistic goals, care work, volunteer work and other unpaid but socially valuable components of the creative life-work nexus" (Murray & Gollmitzer, 2011, p. 14) Consequently, in their comprehensive model, cultural policy sits in a nested conversation with social policy and labour policy in a broadly conceptualized social security framework (see Figure 6.1).

A creative ecology prompts scholars to examine the full range of policy areas in which the unions are involved. In connecting cultural, labour, and social policy with the daily lived experiences of cultural workers, their creative ecology model and makes four major contributions to understanding the relationship between cultural workers and the policy environment. First, their model provides an analytical framework in which policy gaps for cultural labour can be readily identified. In accounting for the role of unions as labour market actors in the film and television production sector, my research shows that some of the gaps in *social* policy are being filled, or at least tempered, by unions; such as union-funded employment leave benefits (short-term disability and parental leave), hardship funds and retirement savings plans. These important, but limited, programs are not, however, sufficient replacements for the programs from which many cultural workers are excluded as a result of their self-employed status, such as regular employment insurance benefits. Some cultural workers are able to, or choose to, claim employee status on a production. A labour-based analysis of the links between cultural work and social policy through a cultural ecology reveals that recent proposed changes to expand the scope of what is considered 'suitable work' under employment insurance benefits, for example, will have a potentially devastating impact on workers' abilities to maintain their ties to the industry over the long-term, place additional pressure on the unions to compensate for social policy gaps, and potentially erode the pool of

highly skilled cultural labour required to produce high quality film and television programming. Under the new rules, frequent users would be expected to take any available work in their communities, not just in their field, at 70% percent of their previous hourly wage (Fitzpatrick, 2012). The DGC argues that,

Skilled workers are vital to any industry and removing workers from this pool by forcing them to accept other 'suitable employment' weakens the industries in question and, by extension, the entire economy. A one-size fits all approach is simply not the answer.

Stability is vital for Canada's broadcasters who rely on the production sector to supply high-quality and innovative programming. The proposed changes to EI could weaken the production sector in Canada and have a detrimental effect on Canada's media companies and the cultural sector (Directors Guild of Canada, 2012c)

Second, a creative ecology approach reveals the connectivity of these policy jurisdictions. For example, some of the issues produced in one policy jurisdiction – such as the issue of forced commuting under the provincial tax credit regime (cultural policy), are exacerbated by policies in another jurisdiction, such as the film and television industry exemption from the daily and weekly limits on hours of work, daily rest period rule, time off between shifts rule, and the weekly/bi-weekly rest period rule under the Ontario Employment Standards Act (labour policy) (Ontario Ministry of Labour, 2011).

Third, a creative ecology reveals the degree to which unions are key labour market actors and important policy stakeholders. As I note above, looking at the lens of social policy reveals not only policy gaps and policy problems, but *the role that the unions play in compensating for these gaps and problems* in order to maintain labour markets. A labour-based analysis of *labour* policy for the cultural industries would reveal, for example, that, despite hundreds of millions of dollars for employment training support that have flowed to the provinces from the federal government under the federal-provincial Labour Market Agreement and Labour Market Development Agreement, cultural workers are largely omitted from provincial workforce development programs. Unions provide training and professional development programs for their members, but their resources are limited, and unions face challenges keeping their members trained in the latest technological developments that have dramatically changed industry workflows and skill sets in recent years.

It also

Fourth, a cultural ecology model moves the frame of analysis away from a narrow conceptualization of the relationship between cultural workers and those who employ them/engage their services (as self-employed contractors), toward a much richer conceptualization of the experience of cultural workers as embedded in what Murray and Gollmitzer refer to as the "life/work nexus" (Murray & Gollmitzer, 2011, p. 14). A cultural ecology model asks us to consider the relationships that cultural workers have to their careers,

and how this interacts with their social relationships in a range of contexts, including as partners, parents, children; community members; political activists; and so forth. It also creates important theoretical space for these questions to be examined through a range of identity politics, prompting us to ask questions about how the life/work nexus as a cultural worker is shaped by gender, age, family status, sexuality, ability, racialization and citizenship, and how that is connected to, again, the broader policy environment.

I offer two minor modifications to their model. First, I propose that the language of *cultural ecology* and *cultural workers* will add political use value to this model. As I argue in chapter two, the language of creativity obscures the specific and unique characteristics of producing cultural goods, and disembods labour markets from the highly politicized context that underpins policy support for the arts and cultural sector. The history of Canadian cultural policy is deeply rooted in the complex nature of defining what culture is, and its relationship to tradition, identity, values, social inclusion, regionalism, and representation. As my research shows, cultural policy choices shape working conditions and labour markets for cultural workers. As my research also shows, combining discourses of cultural development with the distinct industrial interests of cultural workers has the potential to be politically transformative. Moving from a creative ecology to a cultural ecology will therefore anchor the connection between the workers who produce cultural goods and services and the policy frameworks that shape their daily lived experiences. Second, I propose adding health policy as a fourth policy field. We need to develop a body of research that examines the relationship between work in the cultural sector and the mental and physical health outcomes related to employment precarity, income insecurity, excessive hours, and unpredictable schedules. This will provide a richer picture of the work/life nexus for cultural workers, allowing us to understand examine how, cultural policy, labour policy, and social policy is also connected to the mental and physical health and wellbeing of cultural workers and their families.

Developing an understanding of the value of cultural work, and the daily lived experiences of cultural workers, in a cultural ecology model requires a deep partnership between scholars, cultural workers, and the organizations that represent their interests at the policy level. Scholarly research allows unions to identify and fill knowledge gaps, and can help unions to articulate and document unintended consequences of policy choices and/or advocacy strategies. A cultural ecology will require a body of scholarly research that considers the work/life nexus of cultural workers as a guiding principle for the rapidly evolving landscape of Canadian cultural policy. This includes analyses of the ways in which copyright, corporate concentration and cross-ownership, broadcasting regulation, funding structures, production incentives, technological innovation, and platform convergence present opportunities and challenges for cultural workers. It will require substantial interdisciplinary efforts from across the academy to understand the interactivity between social, labour, health and cultural policy that shape the Canadian cultural industries.

While scholarly research is important, it is the unions themselves that will be the most important actors in moving a cultural ecology approach ahead as a political project. Advancing a cultural ecology agenda as the primary means by which the interests of cultural workers can be

established as central to policy development will require a significant collective commitment from the cultural labour community. This commitment is important. Due to the specific influence that cultural policies in Canada have on labour markets, representing members' interests for unions in film and television production by necessity should include political advocacy as a core aspect of union business. Unions have the motivation, knowledge and institutional capacity to clearly and consistently articulate the impact that cultural policies in Canada have on the professional and personal lives of cultural workers. Furthermore, given that cultural workers are at the centre of key cultural policies, principles of good public policy should take into account the ways in which cultural policy shapes cultural work. It is for this reason that both the national and local union offices need to include cultural policy advocacy as a pillar of their organizational operations.

There are differences between the unions' levels of engagement in policy advocacy that are significant to acknowledge, if we are to understand whose interests are represented in policy advocacy; in which policy jurisdictions; and the ability of cultural workers to influence the policies that shape the amount and quality of work available to them. ACTRA and the DGC are highly engaged in policy advocacy in federal and provincial policy networks, and union histories reveal that policy advocacy has been a key aspect of union activity, particularly at the federal level, for decades. Consequently, policy advocacy is woven into the organizational culture of both ACTRA and the DGC. The WGC is a much younger union than the DGC or ACTRA, but is also deeply involved in policy at the federal level. The WGC, as a strictly national organization, does not, however, engage with provincial cultural policy. The lack of a writers' regional voice at the policy level means that the specific issues that writers face in local labour markets, and their relationship to policy, go unacknowledged.

Understanding who is not active in policy networks is as important as understanding the role of those who are. IATSE, as the largest technicians union, remains outside of the Canadian broadcasting policy tent, generally silent on policy matters or oppositional in their arguments on key policy issues, particularly with respect to Canadian content regulations. While IATSE locals are more active at the provincial level, policy is not part of IATSE's organizational culture, and the degree to which IATSE locals engage in policy advocacy is largely a function of individual leadership within a local and/or pressure from other unions for IATSE to bring its resources and members into an organization. This means that the interests of a major group of cultural workers fail to be represented in policy discussions that shape their professional and personal careers. It also means and that their union's policy disengagement compromises labour's ability to present a united voice that politicizes workers' interests as central to the policies that shape their labour market and working conditions.

The IATSE needs to invest significant resources in developing their policy capacity at the national level, and expand their understanding of the connection between the industrial interests of their members and Canadian content policy framework that supports the cultural objectives of the *Broadcasting Act*. This also means that national offices of all the unions need to provide support for their offices in regional production centres (or, in the case of the WGC, consider establishing regional representative bodies) that do not have sufficient human or



financial resources to be able to advocate, unequivocally, for their members interests at the policy level. It will require the unions to set aside ideological differences, and build on the core principles of solidarity as members of the labour movement, to form labour-based alliances and coalitions that have sufficient institutional capacity to articulate, first and foremost, labour issues as *policy* issues. It will require developing a deep political consciousness within memberships to help members to understand that their personal daily lived experiences are political issues. Advancing a cultural ecology approach will require a well resourced, broadly based, clear, consistent and sustained political advocacy campaign across a range of policy jurisdictions. Finally, to develop a fully realized cultural ecology approach as conceptualized by Murray and Gollmitzer, it should include alliances with other members of the labour movement and civil society.

A cultural ecology, instead of a creative economy, allows us to imagine and build upon a much broader range of concepts around the value of cultural labour than the reductionist discourses of the creative economy that speak to the number of jobs without any critical examination of what kind of jobs those are. As a policy framework, a cultural ecology necessarily requires an examination of how the working conditions in those jobs are tied to the policies that support them. A cultural ecology approach would include acknowledging the economic interest of cultural workers as being equally important to the economic interests of business, and cultural development objectives as being equally important to, and moreover, necessarily related, to industrial development objectives. Where the cultural ecology approach would add further value to the existing model is by creating space for unions to speak to, and be heard on, the issues of their members that go beyond the economic. This includes health, safety and quality of life issues that cannot be reduced to an hourly wage or a fringe benefit. This is what makes unions, as representative of the cultural workers, distinct stakeholders from those representing the interests of capital. If one of the goals that is shared between labour, capital, and policymakers is to have a healthy, sustainable production industry that will create dynamic, compelling content for Canadian and international audiences in an increasingly mediated world, then it is more pressing than ever before to create a meaningful dialogue at policy level around the quality of work, and life, in the Canadian cultural industries.

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## **Appendix A – List of Interviews**

Brian Anthony  
National Executive Director and Chief Executive Officer  
Directors Guild of Canada, National Office

Michel Arpin  
Vice Chairman, Broadcasting  
Canadian Radio-television and Telecommunications Commission

Kelly Lynne Ashton  
Director of Policy  
Writers Guild of Canada

Chris Bryant  
Director, Decision Support  
Department of Economic Development

Joanne Deer  
Director, Public Policy and Communications  
ACTRA National Office

Nadine Dunsmore  
Operations Manager  
International Cinematographers Guild IATSE Local 667

Richard Hadley  
Branch Representative  
ACTRA Maritimes

David Hardy  
Business Agent  
NABET Local 700-CEP

Ron Haney  
Chief Executive Officer & Executive Director  
Directors Guild of Canada, Ontario District Council

John Lewis  
Director of Canadian Affairs  
IATSE Canadian Office

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Ann MacKenzie  
President and CEO  
Film Nova Scotia

Rick Perotto  
Business Representative  
International Cinematographers Guild IATSE Local 667

Timothy M. Storey  
Business Agent  
Directors Guild of Canada Atlantic Regional Council  
Vice-Chair, Nova Scotia Motion Picture Industry Association

Karen Thorne-Stone  
President & Chief Executive Officer  
Ontario Media Development Corporation

Brian Topp  
Executive Director and CEO, ACTRA Toronto  
Co-Chair, Film Ontario

Gary Vermier  
(former) Branch Representative, ACTRA Maritimes  
Business Agent, IATSE Local 849

Mimi Wolch  
Former Business Agent, I.A.T.S.E. Local 873  
Senior Business Agent, Directors Guild of Canada, Ontario District Council



### **Appendix B – Key creative positions in the Canadian content points system**

The points system is referenced in three aspects of this study.

1. It is used by the Canadian Radio-television and Telecommunications Commission for certifying program as Canadian content.
2. It is also used by the Canadian Audio-Visual Certification Office to determine eligibility for the Canadian Film or Video Production Tax Credit
3. It is used by the OMDC to determine eligibility for the Ontario Film and Television Tax Credit.

Under all three systems, the Producer must be Canadian, and is worth 1 point.

The following are the “key creative positions” that must be filled by Canadians in order to qualify for Canadian content. Under all three systems, the production must achieve a minimum of 6 out of 10 possible points.

- Director (2 pts.)
- Screenwriter (2 pts.)
- First and Second Leads (performer or voice) (1 pt. each)
- Production Designer (1 pt.)
- Director of Photography (1 pt.)
- Music Composer (1 pt.)
- Picture Editor (1 pt.)