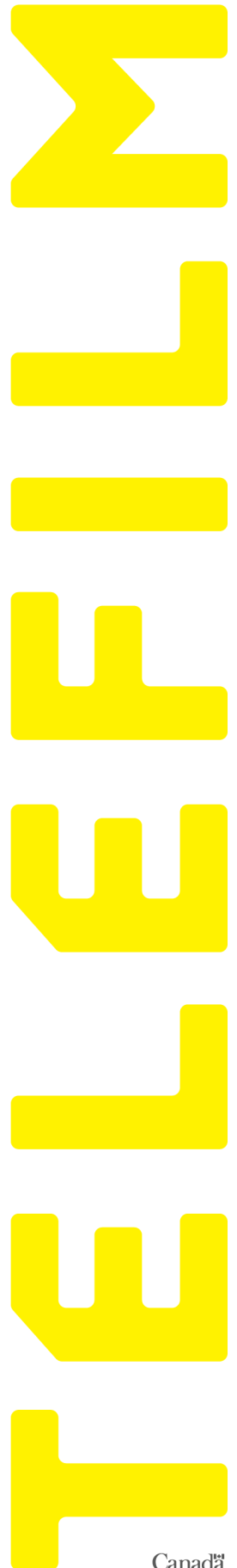


THEATRICAL DOCUMENTARY PROGRAM

ENGLISH-LANGUAGE AND FRENCH-LANGUAGE
PROJECTS – PRODUCTION AND POST-PRODUCTION
STAGES

GUIDELINES APPLICABLE AS OF AUGUST 13, 2018



1. PROGRAM INTENT AND OBJECTIVES

The Theatrical Documentary Program (the “Program”) of the Canadian Feature Film Fund (“CFFF”) provides funding for feature-length documentary projects aimed primarily at theatrical audiences. The primary goal of this Program is to increase audiences for Canadian documentary films.

Telefilm Canada (“Telefilm”) and the Rogers Group of Funds (“Rogers”) have joined forces to underwrite this Program with the intent to finance projects identified as having a strong potential to meet key audience-building objectives including box office earnings, international awards, and prominent festival selections.

Telefilm and Rogers may fund projects at either the production or the post-production stages. However, this Program does not offer funding at the development stage. Telefilm and Rogers will also aim to support a balanced portfolio of projects reflecting the diversity of voices in the Canadian audiovisual industry.

Financing applications under this Program must be submitted to Telefilm, either for Telefilm financing or for both Telefilm and Rogers financing.

2. ELIGIBLE APPLICANTS¹

2.1. Basic Criteria

In order to be considered eligible, applicants must meet the following eligibility criteria:

- Be a Canadian-controlled corporation, as determined under sections 26 to 28 of the [Investment Canada Act](#);
- Have its head office in Canada and carry out its activities in Canada;
- Operate as a production company;
- Be financially stable;
- Possess the experience and level of expertise necessary to complete the project. Telefilm’s specific requirements could vary depending on the nature and scope of the project;
- Applicants who submit production applications for the **English market** must demonstrate having successfully completed and exhibited in theatres (or at recognized Canadian film festivals) a film (fiction or non-fiction) of at least one broadcast hour in length (with appropriate exceptions for postproduction applications). The theatrical release (or exhibition at recognized Canadian film festivals) must have occurred within the last five years.

Broadcaster-affiliated production companies² that meet the basic eligibility criteria in this section are eligible to apply with projects outside of Quebec only.

¹ In the case of international treaty coproductions, the determination of eligible applicants and eligible projects will be adapted to reflect international treaties and to ensure that the spirit and intent of these guidelines are respected.

² A company is considered to be broadcaster-affiliated if it, or a corporate group of which it is a member, receives more revenue from CRTC-regulated operations (including without limitation, broadcasting, cable, satellite) than from combined production and distribution operations. For the purposes of the above, **corporate group** means two or more affiliated corporations. Telefilm will use the definition of **affiliate** set out in the [Canada Business Corporations Act](#).

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

All applicants must have a **firm commitment³ from an eligible Canadian distribution company⁴**. The eligible distributor must commit to theatrically release the project within one year of completion and delivery supported by a marketing plan.

2.2. Additional Criteria for Rogers financing

If applying for **Rogers financing** in addition to Telefilm financing, the applicant **must** either obtain:

- a Canadian broadcast licence commitment from one or more broadcasters; OR
- an agreement in writing between the project's Canadian distributor and an online video service available to Canadians⁵ to have the project shown in Canada within 2 years of its completion.

All broadcast commitments or online agreements must licence the feature length version of the project and must allow an exclusive theatrical distribution window for a duration of at least six months (unless otherwise agreed by Telefilm, the applicant, the broadcaster(s), the Canadian distributor and/or the eligible online video service).

3. ELIGIBLE PROJECTS⁶

3.1. Basic Criteria

To be considered eligible for the Program, a project must:

- Be an English-language, French-language, or Aboriginal language⁷ feature length⁸ documentary film targeted primarily at Canadian theatrical audiences;
- For production funding, have a minimum production budget of \$400,000; there is no minimum budget requirement for applications for post-production assistance;
- Be under Canadian ownership; that is, the copyright must be held by Canadians;
- Be under Canadian financial and creative control; as well, all rights and options necessary for the full and complete exploitation of the project must be held by an eligible Canadian production company;
- With respect to Canadian content certification, upon completion be **either**:

³ The firm commitment must be in a written agreement stating the amount of the distributor's P&A budget for the project and confirming that this amount will not be revised downward without the prior approval of the producer and Telefilm.

⁴ The eligibility criteria for a Canadian distribution company are the same as for the [Canada Feature Film Fund Marketing Program](#).

⁵ A list of eligible online video services is available here: <http://canada.pch.gc.ca/eng/1490626557203>

⁶ In the case of international treaty co-productions, the determination of eligible applicants and eligible projects will be adapted to reflect international treaties and to ensure that the spirit and intent of these guidelines are respected.

⁷ If the project is in an Aboriginal and French language, please refer to the French language requirements of these guidelines, and if the project is in an Aboriginal and English language, please refer to the English language requirements of these guidelines.

⁸ Projects must be at least 75 minutes long. Projects intended primarily for the video or television market are not eligible.

- Certified by the Canadian Audio-visual Certification Office (CAVCO) as a “Canadian film or video production” with a minimum of eight out of ten points or the prorated equivalent (i.e. a minimum of 80% of available CAVCO points) under the provisions of the [Income Tax Act](#); or
- Recognized as a treaty coproduction by the Minister of Canadian Heritage (refer to Telefilm’s guidelines on [treaty coproductions](#));
- Be directed by a Canadian citizen, within the definition of the *Citizenship Act*, or by a permanent resident, within the definition of the *Immigration and Refugee Protection Act* (Canada);⁹
- Conform to the Canadian Association of Broadcasters (“CAB”) [Code of Ethics](#) and to all other programming standards endorsed by the CAB or the Canadian Radio-television and Telecommunications Commission (CRTC), and not contain any element that is an offence under the [Criminal Code](#), is libellous or in any other way unlawful.

All projects financed by Telefilm under this Program must be made available on digital platforms no later than two years after their theatrical exploitation¹⁰.

Note that encoding costs must be included in the project’s budget.

4. EVALUATION PROCESS

4.1 Process

Given the high number of applications and the limited resources available, many projects may not obtain funding.

A committee composed of representatives of Telefilm and Rogers will be responsible for evaluating projects for financing¹¹. Telefilm and Rogers may, at their sole discretion, invite an external evaluator, chosen from the industry, to review and make recommendations on projects.

Telefilm and Rogers will separately contract the projects that they choose to finance.

4.2 Evaluation Criteria

All projects will be initially assessed against the Program’s goal to build larger audiences for Canadian feature-length documentaries in theatres thus helping to achieve the objectives of the CFFF. Eligible projects will also be evaluated on their overall creative merit, relevance and accessibility to theatrical audiences, as well as the potential of the project to succeed at the box-office.

4.2.1 Basic Criteria

In addition to the main criteria based on the Program’s goal, projects will be evaluated on the following criteria:

⁹ Unless the project is a treaty coproduction. Note that Rogers may, in all cases, require that the director of the project be Canadian.

¹⁰ Unless otherwise agreed by Telefilm.

¹¹ With the exception of projects submitted under the Fast Track Stream for Second Feature Films which will be evaluated separately by Telefilm as described in section 5.2 below.

- Originality of the project;
- Quality of the research including sources accessed and expertise consulted on the arguments presented;
- Quality of the cinematic and narrative potential of the project including the presentation of subject matter and characters;
- Quality of the script and production plans (for production applications);
- Quality and level of completion of the production at time of application (for post-production applications);
- Director’s vision and intentions for the film;
- Track record of participants, especially director, production team, production company and distribution company;
- Project budget and financing: successful projects will have secured substantial market interest¹²;
- Its potential to appeal to audiences in Canada and abroad in cinemas, on television and on other platforms;
- Promotion and marketing plan clearly identifying the target market with solid marketing hooks: preference will be given to projects where the attached Canadian broadcaster has committed to providing significant promotional support for the theatrical release. It is expected that the applicant will provide Telefilm with a global promotion strategy that it intends to implement in order to make its film available to its target audience and to maximize audience reach. This strategy should include the steps that will be taken towards selection in national and international festivals as well as the Canadian and international marketing strategy on traditional and other platforms;
- Balance of the overall portfolio of projects in terms of subject matter, budget, company sizes, regions across the country, and variety of viewpoints;
- Telefilm will, for projects of equal quality, prioritize projects whose key creatives (director and/or writer and/or producer) reflect the diversity of the country in terms of gender, Indigenous communities or cultural diversity.¹³

5. FAST TRACK STREAM FOR SECOND FEATURE-LENGTH DOCUMENTARIES

5.1 Eligibility

In order to foster the development of new talent, Telefilm will set aside funding under this Program to support the production of a second feature-length documentary by an emerging director whose first feature¹⁴ was selected, after January 1, 2017, at one of the major film festivals and in one of the categories listed in Appendix A.

Applications must be submitted within the **two calendar years** following the selection, by a production company that meets the requirements set out in section 2.1 of these guidelines. Note that the production company submitting an application under this Stream does not necessarily have to be the same as the company which produced the debut feature film granting access to this Stream. Nevertheless, the applicant company must demonstrate, to Telefilm’s satisfaction, that it has the necessary experience and expertise to produce the project that it wishes to submit.

¹² See the Production Program Guidelines for more details on what constitutes market interest.

¹³ For more details, see question on diversity in the [Production Program FAQs](#).

¹⁴ Note that this first feature film must be a documentary and must have been certified by CAVCO as a “Canadian film or video production” with a minimum of 8 out of 10 points or the prorated equivalent (i.e. a minimum of 80% of available CAVCO points) under the provisions of the [Income Tax Act](#) (Canada).

In all cases, the project must be directed by the same director as the project giving access to this Stream.

Furthermore, the budget for the submitted project may not exceed \$2.5 million and cannot be under \$400,000.

Note that the criteria established for the Fast Track Stream for Second Feature Films only apply to applications submitted for Telefilm financing. Applicants who wish to also obtain Rogers financing must meet all the additional criteria that are specific to Rogers' financing and comply with the process set out in section 4.1.

5.2 Evaluation

Projects submitted under this Fast Track Stream must meet the eligibility criteria set out in section 3.1 and will be assessed on the basis of the criteria set out in section 4.2. However, Telefilm will show greater flexibility when assessing the projects' creative elements.

6. TERMS OF FINANCIAL PARTICIPATION

6.1 Financing Amounts

6.1.1 Production Stage

Financing offered by **Telefilm** to successful applications will be as follows, subject to the availability of funds:

- A maximum financial participation of the lesser of 49% of the eligible Canadian production costs or up to \$125,000.

Financing offered by **Rogers** to successful applications will be as follows, subject to the availability of funds:

- A maximum of \$125,000 of the eligible Canadian production costs for English language projects; or
- A maximum of \$62,500 of the eligible Canadian production costs for French language projects.

6.1.2 Post-production Stage

Telefilm and Rogers will provide financing of a maximum of the lesser of 49% of the eligible Canadian post-production costs or a combined maximum of up to \$75,000, subject to the availability of funds. This amount may be provided by Telefilm, Rogers or a combination of the two.

6.2 Method of Financing

Rogers' financing for both production and post-production applications will be in the form of a recoupable equity investment, with Rogers acquiring a proportionate share of copyright in the project.

Telefilm's financial support will vary based on the total budget of the project and depending on the choice of the applicant.

- For projects having a total budget of **less than \$2.5 million**, applicants can choose to receive Telefilm’s financial participation either in the form of a non-recoupable contribution or in the form of an equity investment recoupable from 10% of the applicant’s entitlement to the production revenues received during a period ending 24 months after the first commercial exploitation of the project (meaning the first release in theatres, on television or on an online video service, excluding a release during a national or international festival).
- For projects having a total budget of **\$2.5 million or more**, applicants can choose to receive Telefilm’s financial participation either in the form of an equity investment or in the form of a recoupable advance.

If Telefilm’s financial participation is in the form of an equity investment, Telefilm will acquire a proportionate share of the copyright in the project.

The applicant’s choice as to the form of Telefilm’s financing may affect the amount of federal or provincial tax credits that the applicant is eligible to receive in connection with the production or post-production of the project. Consequently, the applicant must determine, in consultation with its professional tax advisors, which form of Telefilm financing is optimal for the project.

Note that the choice of method of financing for Telefilm’s funding must be clearly indicated at the time of application.

6.3 Recoupment

Telefilm and Rogers will recoup their financing according to the contract each enters into with the applicant.

For projects receiving Telefilm financing, please note that this section only applies if Telefilm’s financial participation is in the form of an equity investment or in the form of a recoupable advance.

In those cases, Telefilm’s recoupment policies will vary based on the total budget of the project.

- If the project’s budget is less than \$2.5 million, the applicant will remit to Telefilm 10% of the applicant’s entitlement to the production revenue received at any time during a period ending 24 months after the start of the project’s first commercial exploitation (as defined above).
- If the project’s budget is \$2.5 million and more, Telefilm’s financing will be recouped in accordance with the recoupment practices and policies set out in the 2012-2013 CFFF production guidelines, based on the language of the project. These policies are attached in Appendixes B and C.¹⁵

6.4 Eligible Costs

Expenses incurred and/or paid previous to submission of the application may not be eligible. Budgets must identify all related-party transactions and all items concerning technical and publicity materials normally required by theatrical distributors and for HD broadcast.

6.5 Screen Credits

¹⁵ Please note that Telefilm’s recoupment policies are distinct from those of the Canada Media Fund.

The Program must be mentioned along with the logos of Telefilm and Rogers in the project's credits and print materials, in a size and manner to be approved in advance by Telefilm.

6.6 Versioning

All projects financed by Telefilm must be made available in both official languages, through subtitling (unless a dubbed version has already been included in the project's budget). All such work must be carried out in Canada by Canadian artists and technicians (subject to applicable treaties in the case of international coproductions).

Note that if the project receives funding from Telefilm's Talent Fund, it must be available in described video in addition to being close-captioned.

All applicable versioning costs must be included in the project's budget submitted to Telefilm.

7. APPLICATION PROCESS

7.1 Deadline

Applications must be received by Telefilm prior to the first day of shooting or up to the rough cut stage, depending on the phase.

Please refer to the Telefilm [website](#) for information about the deadline. Telefilm may, at its sole discretion, choose to conduct a second deadline subject to availability of funds after the initial deadline.

7.2 How to Apply

All applicants must apply online using [Dialogue](#) and must submit the appropriate application form together with all required documents, as listed on Telefilm's website.

Under the Program, applicants must apply for Telefilm financing but are not required to apply for Rogers financing.

When financing from both Telefilm and Rogers is requested, applicants must apply to Telefilm.

Applicants who have been selected to receive Rogers financing will be contacted directly by Rogers.

Please note that applicants who wish to submit a project under the Fast Track Stream for Second Feature Films must contact Telefilm **prior** to submitting their application through Dialogue.

8. GENERAL INFORMATION

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

this program, Telefilm's interpretation shall prevail.

Any information, in any form, provided, obtained, created, or communicated in connection with an application or project is subject to the [Access to Information Act](#) and the [Privacy Act](#).

All Telefilm programs are subject to the availability of funding from government and other sources.

APPENDIX A

LIST OF ELIGIBLE FESTIVALS AND CATEGORIES FOR THE FAST TRACK STREAM FOR SECOND FEATURE FILMS

1. Berlin International Film Festival

Official selection to one of the following categories:

- **Official competition**
- **Panorama**
- **Forum**
- **Berlinale Special**
- **Generation**
- **NATIVE**

2. Cannes Film Festival

Official selection to one of the following categories:

- **Official Selection/Competition**
- **Un Certain Regard**
- **Out of competition**
- **Cannes Special Screenings**
- **Director's Fortnight**
- **International Critics Week**

3. Sundance Film Festival

Official selection to one of the following categories:

- **World Cinema Dramatic Competition**
- **Premieres**
- **Spotlight**
- **Next**
- **Midnight**
- **Sundance Special Events**
- **Documentary Premieres**
- **Kids**

4. Venice International Film Festival

Official selection to one of the following categories:

- **Official Selection**
- **Orizzonti Section**
- **Out of Competition**
- **Cinema Nel Giardino**

5. American Indian Film Festival

Films that have won a prize or prizes at the **American Indian Film Festival** in any of the following categories: **Best Film, Best Director, Best Documentary**. Note that the director of the project that has won one of these prizes must be Indigenous¹⁶.

¹⁶ As defined in the 2006 Census (Statistics Canada), Aboriginal identity refers to those persons who reported identifying with at least one Aboriginal group, that is, North American Indian, Métis or Inuit, and/or those who reported being a Treaty Indian or a Registered Indian, as defined by the Indian Act of Canada, and/or those who reported they were members of an Indian band or First Nation. <http://www12.statcan.gc.ca/census-recensement/2006/ref/dict/pop001-eng.cfm>

APPENDIX B

COPY OF THE RECOUPMENT POLICY IN THE 2012-2013 PRODUCTION PROGRAM GUIDELINES FOR FRENCH-LANGUAGE PRODUCTIONS, AS PUBLISHED ON FEBRUARY 21, 2012

7. REPAYMENT

Telefilm will recoup its financing according to the conditions of the contract it enters into with the production company. The calculation of Telefilm's entitlement to recoupment will not be affected by the form of Telefilm's financial participation.

7.1. Minimum recoupment practices for production financial participations

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

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

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

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

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

When an advance/guarantee/gap is provided by a company related to, or affiliated with, the producer, Telefilm may require a recoupment position for the advance/guarantee/gap that is more consistent with that of other financial contributions (i.e., *pro rata* and *pari passu*).

Since financing structures, distribution arrangements, marketability and most other elements vary

considerably from project to project, Telefilm considers different deals acceptable on a case-by-case basis. In every case, Telefilm is seeking a reasonable expectation of recoupment in light of its objectives as outlined above.

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

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

7.1.1. Incentive to encourage private financing

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

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

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

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

7.1.2. Special recoupment requirements of private funds

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

7.1.3. Incentive for producers of French-language productions

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

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

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

7.1.4. Standard distribution terms and conditions

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

APPENDIX C

COPY OF THE RECOUPMENT POLICY IN THE 2012-2013 PRODUCTION PROGRAM GUIDELINES FOR ENGLISH-LANGUAGE PRODUCTIONS, AS PUBLISHED ON FEBRUARY 21, 2012

6.2. Repayment

Telefilm will recoup its financing according to the contract it enters into with the production company. The calculation of Telefilm's entitlement to recoupment will not be affected by the form of Telefilm's financial participation.

6.2.1. Minimum recoupment practices for production financial participations

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

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

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

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

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

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

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

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

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

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

6.2.2. Incentive for producers of low budget English-language productions

To encourage wider distribution of projects produced by SMEs¹⁷ producing low budget English-language productions (and to improve their capitalization through recoupment), Telefilm provides the following incentive:

- Where the production budget of an English-language project produced by a SME does not exceed \$1.25 million, Telefilm will forego recoupment of 25% of its participation in favour of the producer. Producers will be allowed to recoup this amount as their own, in addition to whatever other participation they may have in the project, *pro rata* and *pari passu* with all other financial participations.

6.2.3. Incentive to encourage private financing

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

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

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

¹⁷ Small- and medium-sized companies have gross annual consolidated (including related companies) revenues of less than \$25 million, averaged over the past three years or less depending on the age of the company, and are not related to any company that exceeds the above threshold. Telefilm will use the *Handbook of the Canadian Institute of Chartered Accountants* as a guide in determining when two companies are related.

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

6.2.4. Special recoupment requirements of public and private funds

With the exception of the incentive to encourage private financial participation (as described in the section above), and distributor distribution advances, Telefilm will not accept an arrangement that provides it with less favourable recoupment than *pro rata* and *pari passu* with all other financial contributions included in the financial structure for the production, including those of private or public funds which are directly or indirectly affiliated with government agencies, broadcasters, CRTC licensees, or Canadian participants eligible to receive accompanying benefit from their participation, such as distribution or licensing rights, payment for services provided to the production, or the fulfillment of regulatory requirements.

6.2.5. Breakage

For productions in which Telefilm has made a commitment to financially participate, with a recoupment schedule as described herein (open territory(ies) or corridor(s)), Telefilm will consider, on a case-by-case basis, allowing third-party financing of extraordinary costs directly related to the engagement of a performer(s) with exceptional marquee value to recoup more preferentially than indicated herein. This exception is made in keeping with the CFFF's objective of increasing Canadian box office and audiences generally for Canadian feature films, and in recognition of industry practice regarding the financing and recoupment of breakage. Telefilm will only agree to such an arrangement in cases where there continues to be a reasonable expectation of recoupment, or indeed an increased expectation given the value of the performer in the marketplace.

6.2.6. Standard distribution terms and conditions

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