

# Broadcasting a reflection

Cultural  
distinctiveness  
on screen

Dr. George Carothers





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Cultural  
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## **FRIENDS of Canadian Broadcasting**

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### **About the author**

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## **Executive Summary**

- Canada's proximity to the United States and the deep integration of both countries' media and cultural industries highlight the vital role of distinctively Canadian programming, and cultural policies that support its production.
- The original intent of Canadian content policies in the 1960s was to nurture and strengthen national unity through programming that was "Canadian in content and character". These policies did not provide any instructive qualitative or cultural criteria in the definition of such programming.
- The current Canadian content regime has been effective in supporting cultural sectors and the economy but insufficient in producing distinctively Canadian programming as the system continues to contain no qualitative cultural assessment. Distinctively Canadian programming should exceed the current criteria used for certifying Canadian content.
- The cultural tests used by European Union member states provide helpful benchmarks for developing qualitative criteria that can capture cultural distinctiveness and highlight these elements in programming.
- Distinctively Canadian programming should have decipherable qualities and elements that reflect the country and its regions such as people and places, their values and interests, histories, concerns and other qualitative elements.
- Canada's broadcasting and cultural policies should be remodeled around cultural tests to complement existing industrial criteria such as ownership and authorship.
- Given the precarity of Canadian media and journalism in the digital age, the need for a public broadcaster that can provide distinctively Canadian programming is becoming more critical and increasingly urgent.

## Introduction

Canadian cultural policy has long promoted the production of Canadian programming, but a persistent question has yet to be resolved: what makes a program distinctively *Canadian*? As the authoritative piece of legislation, Canada’s Broadcasting Act assigns great significance to the need for such programming and highlights the role of the Canadian Broadcasting Corporation (CBC) in providing it. Indeed, the CBC is mandated to provide programming that is “predominantly and distinctively Canadian.”<sup>1</sup> However, notwithstanding its prominence in broadcasting law, a precise definition of “distinctively Canadian” remains elusive. This report seeks to clarify what “distinctively Canadian” means, and how that definition can be applied in the application of Canadian broadcasting regulations.

One of the reasons it is so difficult to define “distinctively Canadian” is that Canadian culture is itself an amorphous concept. After all, what is Canadian culture? Definitions of any national culture are complex, and cultural qualities are notoriously difficult to measure.<sup>2</sup> But the problem is particularly complex in Canada, a nation constructed from diverse Indigenous and colonial histories, generations of immigration, and proximity to one of the largest exporters of culture in the world. Yet there are numerous reminders of the desire to celebrate “Canadian-ness” in public discourse and through key cultural institutions such as the CBC and the policies that protect and support the production of Canadian content on radio and on screen.

However, protectionist cultural policies and the institutions that uphold them are increasingly ineffectual, as digital platforms destabilize the production and dissemination of all media and information content. Digital platforms have already had a considerable impact on Canadian media organizations – firms that have grown under protectionist policies that have shielded them from American competitors. In the Internet age these rules have been sidestepped; Canada’s cultural policy now resembles a Maginot Line, impenetrable as a concept but ineffectual in action. As media and culture are vital to the functioning of democracy by keeping communities informed and connected through shared stories, decline in these sectors can have grave consequences.

As a result, Canadian media and culture are vulnerable. While the number of Canadian outlets declines, Canadian stories, both fictional and journalistic, are going untold. These stories have

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<sup>1</sup> <https://laws-lois.justice.gc.ca/eng/acts/B-9.01/page-1.html?txthl=predominantly+distinctively+predominant#s-3> [Accessed 4 Jan 2020]

<sup>2</sup> There is little agreement among academics or industry experts on how to measure specific qualities of cultural products, be it music, visual arts, or other products. This challenge exists across relevant institutions such as granting bodies, awards bodies and other sectoral and industrial organizations. For example, see Victor Ginsburgh’s assessment in, “Awards, Success and Aesthetic Quality in the Arts,” *The Journal of Economic Perspectives*, Vol. 17, No. 2 (Spring, 2003), pp. 99-111

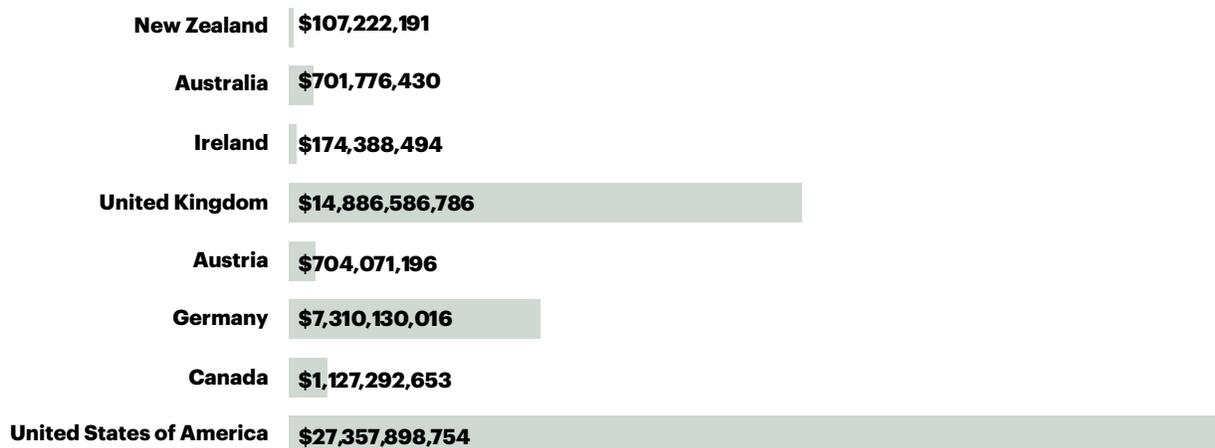
agency; they connect people and, in doing so, strengthen the national consciousness. Without these Canadian stories, therefore, the nation of Canada as an identity is weakened. If current policies are no longer sufficient to ensure that Canadian stories are told and disseminated, Canada must develop new mechanisms to keep these shared stories and, by extension, the nation, alive. A cultural definition of “distinctively Canadian” programming can help to achieve this goal.

## Living with a giant next door

Canada occupies a challenging space when it comes to maintaining its cultural distinctiveness, especially with respect to broadcasting. It suffers from the “giant-next-door effect”, a phenomenon where “the big neighbour transfers more communications into the smaller state than vice versa.”<sup>3</sup> This is particularly the case in contexts where cultural industries are deeply integrated and competition for audiences extends across national jurisdictions.

Consider the following visual comparison of cultural exports in eight countries that are implicated in a “giant-next-door” relationship. In these contexts, countries share geographic proximity, linguistic similarities and economic relationships that are integrated but are also imbalanced in terms of scale. For example, while Australia and New Zealand are located beside one another and share the same official language, Australia’s cultural exports are considerably larger than New Zealand’s, making it difficult for New Zealand’s exporters to compete, even in their own market.

### Exports of Cultural Goods (\$ USD)



Source: Unesco Institute for Statistics.<sup>4</sup>

<sup>3</sup> Steininger, C. and Woelke, J. (eds.) (2007) Fernsehen in Österreich 2007. Constance: UVK, as cited in Jackson, J.D. in Lowe, G.F. & Nissen, C.S. (2011). “Small Among Giants: Television Broadcasting in Smaller Countries”. (Gothenburg: Nordicom) p 96 [https://www.nordicom.gu.se/sv/system/tdf/publikationer-hela-pdf/small\\_among\\_giants.pdf?file=1&type=node&id=10308&force=0](https://www.nordicom.gu.se/sv/system/tdf/publikationer-hela-pdf/small_among_giants.pdf?file=1&type=node&id=10308&force=0) [Accessed 8 Jan 2020]

<sup>4</sup> 2017 Figures. Chart data sourced from Unesco Institute for Statistics, International Trade in Cultural Goods Dataset (UN COMTRADE Database). <http://data.uis.unesco.org/index.aspx?queryid=3629#> [Accessed 17 Jan 2020]

Across all of the countries presented, the United States outstrips comparators by a considerable margin, exporting almost double the amount in cultural goods as the United Kingdom. If Germany and Austria are removed, the United States exports more cultural goods than the remaining countries combined, all predominantly English-speaking countries.

On a so-called “cultural neighbourhood” level, Germany outperforms Austria’s exports by a multiple of ten, while Australia surpasses its smaller neighbour, New Zealand by nearly a multiple of seven. While these comparisons demonstrate the general challenge of being the smaller state in a giant-next-door relationship, Canada’s case is particularly acute. At roughly nine times the size of Canada in terms of population, the United States exports nearly 25 times the amount of cultural goods that flow outward from Canada.<sup>5</sup>

#### Exports of Cultural Goods (\$ USD)



Source: Unesco Institute for Statistics.<sup>6</sup>

Predictably, this relationship has had a considerable impact on Canada’s broadcasting ecosystem. Due to their proximity and integration with the giant-next-door, Canada’s commercial broadcasters have necessarily taken advantage of this dynamic. They do so by buying rebroadcasting rights to content for which they invested no risk capital. In a typical week in 2020, for example, the top ten shows in English Canada were all rebroadcasts from American networks; the highest rated Canadian show, occupying the eleventh spot, was a newscast.<sup>7</sup>

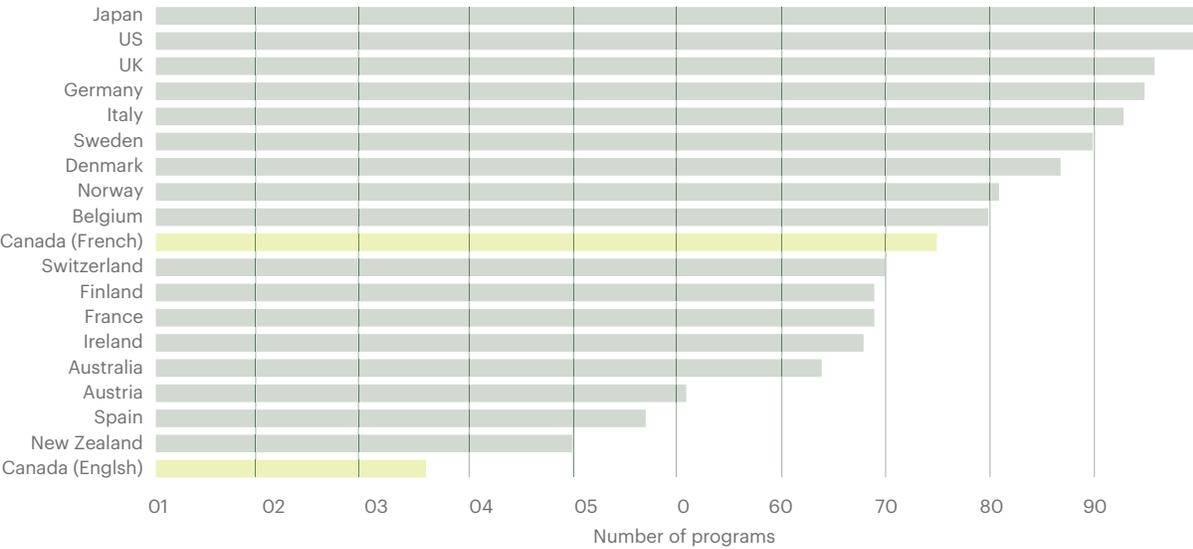
<sup>5</sup> Canada’s population was roughly 37 million in 2019, while the United States was roughly 330 million.

<sup>6</sup> 2017 Figures. Chart data sourced from Unesco Institute for Statistics, International Trade in Cultural Goods Dataset (UN COMTRADE Database). <http://data.uis.unesco.org/index.aspx?queryid=3629#> [Accessed 17 Jan 2020]

<sup>7</sup> According to Numeris, the top 10 shows on the week of February 10<sup>th</sup> 2020 were *The Good Doctor*, *Survivor*, *Grey’s Anatomy*, *NCIS*, *9-1-1: Lonestar*, *Station 19*, *New Amsterdam*, *FBI*, *Hawaii Five-0*, and *the Masked Singer*. *CTV Evening News* occupied the eleventh spot. [https://assets.numeris.ca/Downloads/February%2010,%202020%20-%20February%2016,%202020%20\(National\).pdf](https://assets.numeris.ca/Downloads/February%2010,%202020%20-%20February%2016,%202020%20(National).pdf) [Accessed 9 Mar 2020]

This observation is further substantiated through research by the Canadian Radio-television and Telecommunications Commission (CRTC). In their *Harnessing Change* report from 2018, the CRTC found that viewers in English Canada watched considerably less domestic television when compared to other nations – indeed, English Canada ranked at the bottom of the list of peers presented.

**English Canadians’ thirst for foreign entertainment is unique in the world**  
 Number of domestic TV programs in the top 100, by country



Source: CRTC<sup>8</sup>

With market dynamics like these, audiences grow accustomed to the cultural content of the larger nation, such that even domestic programming decisions are heavily influenced by, and imitative of, the cultural norms of the other country. As argued by Jackson, Lowe and Nissen in their study of giants-next-door:

“Broadcasting markets in relatively small and dependent states develop their systemic properties not only with regard to local conditions, but also in response to the social, cultural and economic ties they have with larger, more powerful neighbours as a feature of these conditions.”<sup>9</sup>

<sup>8</sup> Chart from the CRTC’s 2018 report, *Harnessing Change*, <https://crtc.gc.ca/eng/publications/s15/mar2.htm> [Accessed 9 Mar 2021]  
<sup>9</sup> Jackson, J.D. in Lowe, G.F. & Nissen, C.S. (2011). “Small Among Giants: Television Broadcasting in Smaller Countries” (Gothenburg: Nordicom) p 105 [https://www.nordicom.gu.se/sv/system/tdf/publikationer-hela-pdf/small\\_among\\_giants.pdf?file=1&type=node&id=10308&force=0](https://www.nordicom.gu.se/sv/system/tdf/publikationer-hela-pdf/small_among_giants.pdf?file=1&type=node&id=10308&force=0) [Accessed 8 Jan 2020]

Indeed, this has been true throughout the history of broadcasting in Canada. Given the overwhelming economic incentive to rebroadcast American shows, it is safe to say that without regulation, Canadian commercial broadcasters would likely still be American affiliates, as was actually the case in the early years of radio broadcasting and again during the introduction of television broadcasting.<sup>10</sup> As the Fowler Commission put it in the 1950s, “... free enterprise has failed to do as much as it could in original programme production and the development of Canadian talent, not because of a lack of freedom but because of a lack of enterprise.”<sup>11</sup>

Given this uneven economic relationship between Canada and the United States, Canadian leaders, both Conservative and Liberal, created protectionist cultural policies and founded vital cultural institutions, including the CBC.

In 1929, the Royal Commission on Radio Broadcasting, which led to the creation of the CBC, recommended that “broadcasting should be placed on a basis of public service” and, rather than allowing for the expansion of American affiliates, “stations should be owned and operated by one national company”:<sup>12</sup>

“The Royal Commission’s 1929 Report recommended the end of private broadcasting in Canada in favour of a limited number of high-power stations owned and run by a government company. This was justified as the only way to provide adequate financing for Canadian broadcasting (receiver-licence fees could be utilized to pay for programs, network lines and transmission) and to prevent the further spread of American radio into Canada.”<sup>13</sup>

Responding to this and other similar sentiments, Prime Minister Bennett rose in the House of Commons to speak in favour of the Canadian Radio Broadcasting Commission. He emphasized the significance of a dominant public service broadcaster in Canada, citing its:

“great agency for communication of matters of national concern and for the diffusion of national thought and ideals ... by which national consciousness may be fostered and sustained and national unity still further strengthened”<sup>14</sup>

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**10** As Canadian listeners grew hungry for programming, Canadian private broadcasters such as CFRB in Toronto agreed to join the American network CBS. Others such as CFCF in Montreal joined NBC. The programming that was broadcast on these American affiliates was American in nature and Canadian listeners were left with no Canadian alternatives. See p 63 of Nash’s (1995) *The Microphone Wars: A History of Triumph and Betrayal at the CBC*. (Toronto: McClelland & Stewart)

**11** Privy Council Office (1957) *Report of the Royal Commission on Broadcasting*, ix.

**12** Royal Commission on Radio Broadcasting report, p. 12, cited in Gasher, M. 1998. *Invoking Public Support for Public Broadcasting: The Aird Commission Revisited*. <https://cjc-online.ca/index.php/journal/article/view/1032/938> [Accessed 3 March 2020]

**13** Vipond, N. (1994) *The Beginnings of Public Broadcasting in Canada: The CRBC, 1932-1936* <https://cjc-online.ca/index.php/journal/article/view/806/712> [Accessed 30 Jan 2020]

**14** R.B. Bennett speaking in the House of Commons on 18 May, 1932.

Without a national public service broadcaster to provide it, distinctively Canadian programming would not – and likely could not – exist. As the country is a small neighbour, public broadcasting helps Canada to rise above the competitive market pressures flowing upward from the United States. In this respect, the CBC plays a vital role in providing unique and distinctive programming that is Canadian, *because it can* – it is not dependent on and need not respond to wider commercial practices being influenced by American cultural exports.

Ever since those early days of Canadian broadcasting policy, the argument in favour of Canadian programming was framed in cultural terms. As the Fowler Commission put it:

“... as a nation, we cannot accept, in these powerful and persuasive media, the natural and complete flow of another nation’s culture without danger to our national identity.”<sup>15</sup>

The matter was considered to be existentially important for the young nation of Canada. Arguing that only government support could ensure sufficient supply of Canadian programming on radio, campaigner Graham Spry coined his now famous adage: “The question is the state or the United States.”<sup>16</sup>

The concept of “Canadian content” itself emerged out of this period of innovation in Canadian broadcasting and cultural policy, as did the challenge of defining it in measurable terms. Starting in 1959, the Board of Broadcast Governors – the precursor to the Canadian Radio-television and Telecommunications Commission (CRTC) – forged a quota system for television to support the availability of programming that was “Canadian in *content and in character*.”<sup>17</sup> While the goal was to “maintain Canadian identity and strengthen Canadian unity” through television programming, the regulations failed to provide any qualitative cultural criteria in the definition of such programming. Instead, emphasis was placed on maintaining Canadian participation in the production, direction and performance aspects of this programming.<sup>18</sup>

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**15** Privy Council Office (1957) *Report of the Royal Commission on Broadcasting*, p.8.

**16** See, for example, Melody, W. H. (1987) “The Canadian Broadcasting Corporation’s Contribution to Canadian Culture,” *Journal of the Royal Society of Arts*. pp 286-297

**17** See the report of the Standing Committee on Canadian Heritage from 2003, *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*. pp. 132-136. Italics added.

**18** *Ibid.*

As detailed below, the term “Canadian content” has since taken on further shape and meaning over time, but the intended outcome of this policy – programming that was Canadian *in content and character* – was never realized. The assumption was that if Canadian-owned networks carried enough content that was produced by Canadian creators and featured Canadian performers, the country’s cultural policy objectives could be upheld. With the advent of streaming, the obsolescence of exclusionary regulation and the meteoric rise of foreign-controlled service productions, that already flawed assumption no longer holds any weight. The question of the *character* of Canadian content – the qualities that distinctively Canadian programming consists of – has yet to be resolved.

## Searching for ‘distinctiveness’ in Canadian content

In order to develop a better understanding of “distinctively Canadian” programming, careful distinctions must be drawn between prevailing protectionist policies and incentives currently in place to support the creation of Canadian content. Specifically, a definition of “distinctively Canadian” must not be limited to the criteria found in current protectionist systems such as the Canadian Program Certification.<sup>19</sup> This includes the existing points systems used to define Canadian content under the Canadian Film or Video Production Tax Credit (CPTC), which is administered through the Canadian Audio-Visual Certification Office (CAVCO).<sup>20</sup>

As detailed above, the original rationale underpinning the existing Canadian content regime was deeply informed by Canada’s cultural and economic relationship with the United States.<sup>21</sup> Today, Canadian content quotas protect the economic interests of Canada’s creative and cultural industries by ensuring the employment of Canadians in creative positions with the assumption that the programming will buttress Canadian culture because it is made *by Canadians*. However, as made evident below, the limits to that assumption have become clear.<sup>22</sup>

For example, as indicated in the points system used to determine CPTC eligibility, certification of “Canadian” content is based primarily on economic or industrial factors (number of Canadians employed, number of Canadians in senior positions, remuneration for Canadian talent, etc.):

To be recognized as a Canadian film or video production, a live-action production must (other than where it is a treaty co-production) be allotted a total of at least six points according to the scale below. Points will be awarded only if the person(s) who rendered the services is/are Canadian.

- Director: 2 points
- Screenwriter: 2 points

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<sup>19</sup> The Points System for Canadian Program Certification: [https://crtc.gc.ca/eng/cancon/c\\_cdn.htm](https://crtc.gc.ca/eng/cancon/c_cdn.htm) [Accessed 7 Jan 2020]

<sup>20</sup> *Guidelines for the Canadian Film or Video Production Tax Credit*: <https://www.canada.ca/en/canadian-heritage/services/funding/cavco-tax-credits/canadian-film-video-production/application-guidelines.html> [Accessed 7 Jan 2020]

<sup>21</sup> American mass entertainment in the 1940s and 1950s flooded the Canadian market to much fanfare, leaving the Canadian entertainment industry with limited revenues and an inability to develop and improve. Canada’s protectionist industrial policies were developed to respond to this uneven playing field. See Edwardson (2008). *Canadian content: Culture and the quest for nationhood*. (Toronto: University of Toronto Press) p.13

<sup>22</sup> For example, Edwardson argues that the cultural policies of the 1960s, which led to Canadian content quotas, produced the current environment where, “the production of industrially quantified Canadian content – with little concern for the qualitative elements – has become an end in and of itself.” See *Ibid*, p.19

- Lead performer for whose services the highest remuneration was payable: 1 point
- Lead performer for whose services the second highest remuneration was payable: 1 point
- Director of photography: 1 point
- Art director: 1 point
- Music composer: 1 point
- Picture editor: 1 point<sup>23</sup>

Notably, and unlike other jurisdictions explored later in this report, the criteria for certification as “Canadian” does not require a production to include specific cultural subjects or qualities such as Canadian places, communities, people, issues, stories or histories. This is also the case for other tests within the Canadian content regime, including the MAPL system for music.<sup>24</sup>

Under this regime, programming that is deemed “Canadian” and released into the broadcasting ecosystem is not necessarily concerned with representing Canadian qualities or values, nor need it be concerned with telling Canadian stories. Rather, the system ensures that Canadians have access to programming that employs Canadian artists, actors, directors, writers and composers, which in turn supports Canada’s cultural industries and economy.

One recent example that illustrates this point is the television drama *The Bletchley Circle: San Francisco*, which was certified Canadian under the CRTC’s points system in 2018, scoring nine points out of a possible ten.<sup>25</sup> The television program, which is directed and produced by Canadians, is set between the United Kingdom and the United States. It tells the fictional story of two code-breakers from England’s renowned Bletchley Park who travel to San Francisco to apply their code-breaking skills to solve murder cases.<sup>26</sup> While the program was shot in Vancouver, it tells a notably British and American story, with British and American characters, histories, locations, and issues.

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**23** *So what makes it Canadian?* [https://crtc.gc.ca/eng/cancon/c\\_cdn.htm](https://crtc.gc.ca/eng/cancon/c_cdn.htm) [Accessed 20 Jan 2020]

**24** *The MAPL system - defining a Canadian song* [https://crtc.gc.ca/eng/info\\_sht/r1.htm](https://crtc.gc.ca/eng/info_sht/r1.htm) [Accessed 20 Jan 2020]

**25** Record for *The Bletchley Circle: San Francisco* (I)(#101-108), certification number C42389, <https://services.crtc.gc.ca/pub/CanrecList/eng/CanadianProgramList> [Accessed 26 Jan 2020]

**26** *The Bletchley Circle: San Francisco* <https://www.imdb.com/title/tt7978912/> [Accessed 26 Jan 2020]

The same is true for treaty coproductions, where a project is financed jointly between a Canadian producer or funding agency and those of a partner country, and is eligible for certification as Canadian. The criteria used for certifying a treaty coproduction are similarly focused on supporting Canada's creative and cultural industries:

- Canada and the coproducing country must provide a minimum financial contribution of 15% to 30%, as per the terms of the applicable treaty
- financial, creative and technical contribution and the level of expenditure must all be in proportion
- for example, if the project is 40% Canadian, it is expected that 40% of the budget be spent in Canada
- all personnel hired to work on an official coproduction must come from the coproducing countries
- production and post-production of the project must be carried out in coproducing countries
- subject to the approval of administrative authorities, most of the treaties allow for non-coproducing country actor(s) and foreign location shooting when the script so requires<sup>27</sup>

One recent example of a certified treaty coproduction is the television program *Vikings*, jointly financed by Canada and Ireland.<sup>28</sup> The program tells the story of Ragnor Lothbrok, a legendary Viking who earns notoriety for his heroic leadership, daring adventures and violent exploits in Britain and France.<sup>29</sup> While the program features Canadian talent and benefits Canadian industry, the story, its characters and its locations are neither Canadian nor Irish, but rather Norse, Scandinavian, British and French.<sup>30</sup>

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**27** Telefilm's treaty coproduction eligibility criteria: <https://telefilm.ca/en/coproduction/submit-a-coproduction-request> [Accessed 30 Jan 2020]

**28** *So what makes it Canadian?* [https://crtc.gc.ca/eng/cancon/c\\_cdn.htm](https://crtc.gc.ca/eng/cancon/c_cdn.htm) [Accessed 23 Jan 2020]

**29** *Vikings* <https://www.imdb.com/title/tt2306299/> [Accessed 23 Jan 2020]

**30** "Viking hoards are back to make history." Irish Independent (17 Aug 2012) <https://www.independent.ie/irish-news/viking-hordes-are-back-to-make-history-26887894.html> [Accesses 23 Jan 2020]

It should be emphasized that such policies play a vital and effective role in protecting, supporting and growing the Canadian media and cultural industries, the necessary skills and capacities, and the Canadian economy in general. However, on its own, this Canadian content regime does not serve the original intended purpose of fostering and supporting cultural products that reflect the *character* of Canadian culture – its diverse stories, histories, people, places, concerns, and attitudes. Indeed, the criteria used to certify Canadian content include no language that captures the *qualities* of “distinctively Canadian” programming.

In a context where cultural institutions such as the CBC are mandated to provide programming that is distinctively Canadian, it is not reasonable to consider the fulfillment of Canadian content quotas under the current regime as being an adequate realization of the original objective. A more reflective approach to programming is required if Canada is to maintain the independence of spirit and culture that distinctively Canadian programs have the potential to uphold.

## Defining Canadian cultural distinctiveness

A critical question remains in this examination: what makes something Canadian? Searching for belonging in such a large place is no simple task. Canada has six official time zones; there are two official languages; the country physically occupies the lands of First Nations, Inuit and Indigenous peoples, who have remained a constant in the region for thousands of years. Numerous ethnic and linguistic communities have come to Canada from around the world. Each community has its own stories, histories and experiences of Canada. All share a connection to one another and to the land upon which the imagined community of Canada has been constructed.<sup>31</sup>

For Canadian author and philosopher John Ralston Saul, “What we are today has been inspired as much by four centuries of life with Indigenous civilizations as by four centuries of immigration ... Today we are the outcome of that experience.”<sup>32</sup> With its complex history of colonialism and immigration, Canada is often reduced to several catch-all descriptors of a pluralistic social or political context: “diverse”; “multicultural”; a “melting pot”. However, given the task at hand, none of these terms provide an adequate or instructive solution to the question surrounding “distinctively Canadian” programming.

Some have framed this lack of clarity around a national culture as one of Canada’s strengths. In one of his most widely cited speeches, Prime Minister Pierre Elliot Trudeau famously declared in October 1971:

“Uniformity is neither desirable nor possible in a country the size of Canada. We should not even be able to agree upon the kind of Canadian to choose as a model, let alone persuade most people to emulate it. There are few policies potentially more disastrous for Canada than to tell all Canadians that they must be alike. There is no such thing as a model or ideal Canadian.”<sup>33</sup>

While the first Prime Minister Trudeau’s assertion may resonate with many Canadians, it is precisely this sort of construction that makes it difficult to maintain a Canadian broadcasting system.<sup>34</sup> In highlighting the tensions underpinning the need for this report, one might ask if the intended objectives of Canadian cultural policy are being held ransom by the absence of a universal definition of Canadian culture.

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<sup>31</sup> See Benedict Anderson’s seminal text from 1989, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. (London: Verso)

<sup>32</sup> Saul, J. R. (2008). *A Fair Country: Telling Truths About Canada*. (Toronto: Penguin)

<sup>33</sup> Pierre Trudeau delivered these remarks at the Ukrainian-Canadian Congress on 9 October 1971.

<sup>34</sup> For example, see Richard Collins’ seminal text from 1990, *Culture, Communication and National Identity: The Case of Canadian Television*. (Toronto: University of Toronto Press)

John Ralston Saul’s aforementioned analogy signals a way out of this conundrum; perhaps Trudeau senior’s statement is a response to a poorly framed question, such as the one introduced above. Indeed, the question “*what is Canadian culture*” is unlikely to yield an actionable solution to the challenge facing Canadian cultural policymakers.

Here, it is imperative to state that Canadian culture need not be defined in precise terms for one to know that it exists. Indeed, the *outcome* of Canada’s shared experience – its collective way of life at a given moment – reveals the contours of a culture that is distinctive in its own right. The challenge for Canadian cultural policymakers is therefore not to define Canadian culture, but to find ways to capture its contours – to support and encourage Canada’s collective way of life to be expressed and reflected in domestic programming.

How might the contours of a distinctively Canadian culture be made more evident? One way to begin to address this question is to ask Canadians to articulate their shared values and interests. In preparation for the festivities of Canada’s 150<sup>th</sup> year since confederation, research and marketing firm Abacus Data conducted a national survey looking at what makes people proud to be Canadian.<sup>35</sup>

## TOP 20 THINGS THAT MAKE CANADIANS PROUD

RANK		% Really Proud	% of Cdn adults	RANK		% Really Proud	% of Cdn adults
1	Freedom to live as we see fit	59	17.1 M	11	Our steadiness and consistency	34	9.8 M
2	Terry Fox	50	14.7 M	12	How we provide healthcare	32	9.5 M
3	Open mindedness towards people who are different	49	14.2 M	13	Our food	29	8.5 M
4	Politeness	46	13.5 M	14	Wayne Gretzky	29	8.5 M
5	Rocky Mountains	45	13.1 M	15	Celine Dion	29	8.4 M
6	Maple Syrop	45	13.1 M	16	David Susuki	28	8.1 M
7	Enjoyment of the outdoors	42	12.3 M	17	Canadian wheat	27	7.8 M
8	Reputation around the world	39	11.4 M	18	Our cities	26	7.6 M
9	Multiculturalism	34	10.0 M	19	Sidney Crosby	25	7.4 M
10	Caring for the world around us	34	10.0 M	20	Leonard Cohen	24	7.1 M

Do these things or people make you really proud, pretty proud, a little proud or not make you proud of Canada?

Source: Abacus Data.<sup>36</sup>

<sup>35</sup> Out of a representative panel of 500,000 people, 1,848 respondents participated in an online survey in the middle of December, 2016.

<sup>36</sup> Image of chart from Abacus Data (2017) *What Makes Us Proud to be Canadian*. <https://abacusdata.ca/the-true-north-friendly-free-what-makes-us-proud-to-be-canadian/> [Accessed 7 Jan 2020]

The top ten items on the list include many qualities and values that circulate in popular discourses about Canadians: “open mindedness”, “politeness”, “multiculturalism” and “caring for the world around us”. However, these qualities and values are not distinctive in isolation. Polite people are found in numerous cultures and nationalities, as are people who are open minded, and also those who care for the world around them. Yet qualities and values like these can gain meaning through a comparative point of reference. While it is difficult to demonstrate the “Canadian-ness” of these cultural qualities and values on their own (eg. “open mindedness”), it is possible to better understand how these qualities and values give meaning to a “distinctively Canadian” culture when they are considered against a cultural comparator such as the United States.

Renowned sociologist Seymour Martin Lipset argues that “nations can be understood only in comparative perspective,” and of the two northernmost countries in North America, “looking intensively at Canada and the United States sheds light on both of them.”<sup>37</sup> For example, rather than saying, “Canadians value open mindedness”, it can be said that “compared to Americans, Canadians value open mindedness.” Apply the same comparative framing to “politeness”, “multiculturalism” and “public healthcare”, and a picture of two nations with distinctive cultures, values and political imperatives begins to emerge.

The healthcare example can further substantiate this point. Canada is known for its publicly funded healthcare system where free access to most services is enshrined in law. This is a cultural norm that Canadians clearly value. As indicated in the above Abacus Data report, it is 12<sup>th</sup> on the list of things Canadians are most proud of.

Conversely, in the United States tens of millions of people face barriers in accessing even the most basic of healthcare services due to a lack of insurance coverage in a system that is largely privatized.<sup>38</sup> Attempts to address the issue through government policy have prompted considerable backlash and even provoked hysterical responses, including fears over non-existent “death panels” that supposedly decide who will receive life-saving treatment.<sup>39</sup> It is highly unusual to hear Canadians speak about government-funded healthcare in such critical and dismissive ways.

It is important to note that general comparisons between the two countries do not *necessarily* yield insights into the contours of a distinctive Canadian culture. A preliminary analysis of several integrated industries reveals a particularly close relationship and similar cultural interests. As mentioned earlier in the report, Canadian and American film, television and music sectors are

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<sup>37</sup> Lipset, S. M. (1990) *Continental Divide: The Values and Institutions of the United States and Canada*. (New York: Routledge) p xiii

<sup>38</sup> “The 3 Reasons the U.S. Health-Care System Is the Worst,” *The Atlantic* <https://www.theatlantic.com/health/archive/2018/06/the-3-reasons-the-us-healthcare-system-is-the-worst/563519/> [Accessed 12 Feb 2020]

<sup>39</sup> For example, see the following report from Fox News, *The return of Obamacare’s ‘death panels’*: <https://www.foxnews.com/transcript/the-return-of-obamacares-death-panels> [Accessed 11 Feb 2020]

well integrated, which further complicates the notion of Canadian cultural distinctiveness in these sectors. For example, numerous American films and television programs are shot in Canada.<sup>40</sup> Numerous Canadian actors star in highly successful American films.<sup>41</sup> Those familiar with artists such as Neil Young, Celine Dion, Avril Lavigne or Drake will know that Canadian musicians regularly feature in the American charts, while American musicians also appear prominently in Canada.

In a context where culture and cultural products circulate freely around the world and are often produced in collaboration across several jurisdictions, determining the “nationality” of a film, song or television program will not necessarily address the question of its cultural substance. As Grant and Wood argue, “Culture itself defies straightforward national attribution.”<sup>42</sup>

While it may not be possible to identify the precise boundaries of a given culture, there is evidence in everyday life that demonstrates the edges exist. One such area for comparison is linked to the values that underpin many aspects of everyday life within the jurisdictional boundaries of a nation: the laws and institutions concerned with freedom of expression, which inform cultural practices, more generally.<sup>43</sup>

A comparison of how Canada and the United States treat freedom of expression is particularly insightful. In the American context, the First Amendment to the United States Constitution is emblematic of a well-known American set of values, where the protection of freedom of expression is explicitly enshrined:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances

Canada’s approach to freedom of expression under the Charter of Rights and Freedoms is strikingly different. Unlike the libertarian approach that protects American citizens from the potential tyranny of government, the Canadian Charter of Rights and Freedoms declares from the outset that all rights and freedoms are subject to limits:

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**40** <https://www.theguardian.com/film/filmblog/2007/nov/01/kellynestruckthursampic> [Accessed 28 Jan 2020]

**41** <https://www.buzzfeed.com/rachelhorner/79-actors-we-can-thank-canada-for> [Accessed 28 Jan 2020]

**42** Grant, P.S. & Wood, C. (2004). *Blockbusters and Trade Wars: Popular Culture in a Globalized World*. (Vancouver: Douglas & McIntyre) p. 140

**43** While his views diverge from some of those put forward in this report, media studies scholar Richard Collins also maintains that it is Canada’s institutions that produce and reproduce national identity and sentiment. See *Culture, Communication and National Identity: The Case of Canadian Television*. (Toronto: University of Toronto Press, 1990)

## Rights and freedoms in Canada

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

### Fundamental freedoms

2. Everyone has the following fundamental freedoms:

...

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.<sup>44</sup>

Canada's measured approach in its treatment of freedom of expression is emblematic of a cultural norm, shedding light on which behaviours and attitudes are deemed acceptable. The US Supreme Court has ruled that hate speech is legally protected under the First Amendment, which safeguards one's right to express thoughts freely in public.<sup>45 46 47</sup> In Canada, such an approach has been rejected, and subsequently there are Canadian laws that impose limits on freedom of expression, such as that which promotes hatred.<sup>48</sup>

This "distinctively Canadian" approach to freedom of expression is reflective of the broadly accepted values and principles that inform the Charter of Rights and Freedoms (i.e. all freedoms have limits), which are distinct from American values (i.e. government should not impose limits to freedoms). By extension, these shared Canadian values are reflected in Canadian laws, cultural policies and in Canadian culture more generally.<sup>49</sup> Crucially, these differences in values have not been defined by any one person or institution, in particular. Rather, they are the outcome of the

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<sup>44</sup> Canadian Charter of Rights and Freedoms as laid out in the Constitution Act, 1982 <https://laws-lois.justice.gc.ca/eng/const/page-15.html> [Accessed 20 Jan 2020]

<sup>45</sup> The United States Supreme Court has ruled that 'hate speech' is protected under the First Amendment. See *Matal v. Tam* <https://supreme.justia.com/cases/federal/us/582/15-1293/> [Accessed 20 Jan 2020]

<sup>46</sup> See, also, this analysis of John Stewart Mill's Harm Principle in reference to hate speech. <https://plato.stanford.edu/entries/freedom-speech/#MilHarPriHatSpe> [Accessed 21 Jan 2020]

<sup>47</sup> There are exceptions to freedom of expression in America, such as inciting actions that would specifically harm others (yelling "fire" in a theatre), uttering state secrets, distributing obscene material, etc. <https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does>

<sup>48</sup> For example, see Section 319 (1) and Section 319 (2) of Canada's Criminal Code, which are concerned with inciting or willfully promoting hatred: <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-319.html> [Accessed 15 Jan 2020]

<sup>49</sup> FRIENDS of Canadian Broadcasting produced a series of television commercials in October 2006 to articulate distinctively Canadian storytelling as measured against American storytelling through Hollywood. For example, see FRIENDS' commercial about 'Richard the Rocket': [https://www.youtube.com/watch?v=G\\_FgP54pics](https://www.youtube.com/watch?v=G_FgP54pics) [Accessed 15 Jan 2020]

natural evolution of two independent and democratic societies – the outcome of these nations’ collective way of life and shared experience.

Significantly, cultural norms around freedom of expression can have a deep impact on the media through which such expression is universally diffused. This cultural distinctiveness is manifested in media content in a variety of ways. Take, for example, a comparison of the most watched news programs in Canada and the United States. In Canada, the most watched news network in 2019 was CTV National News, which has won numerous peer reviewed broadcasting and journalism awards for excellence in its news programming from across the country.<sup>50</sup>

In America, Fox News has regularly ranked as the most watched news network in the country, breaking records for viewership in 2019.<sup>51</sup> The network is famous for its right-wing opinion programming, and often finds itself at the centre of controversy for the extreme views of its hosts. It was Sean Hannity of Fox News who propagated the notion that “ObamaCare death panels” would follow the introduction of universal health insurance, and this segment was broadcast when Fox News was the most popular network in the country.<sup>52</sup> To take peer review as an indication of quality, it is notable that Fox News has never won a Peabody Award for its news programming.<sup>53</sup>

The respective popularity of these news programs reflects some of the emblematic values and interests that contribute to a “distinctively Canadian” culture that is notably different from that of America.

Here, it is important to remember the cultural policy interventions that were implemented in order to protect and privilege Canadian programming. As demonstrated earlier, Canada was unable to nurture its own private broadcasting ecosystem due to the immense influence of American affiliates like CBS and NBC. In response, key cultural institutions and policies were established in order to protect Canadian cultural interests and support the production of Canadian content. Yet while these policies remain effective in supporting Canadian artists, content creators and cultural industries economically, they are less effective in supporting “distinctively Canadian” programming that reflects the contours of Canadian culture – the country’s collective way of life, the outcomes of its people’s experiences.

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**50** CTV National News recently won the Best Television Newscast award from the Radio Television Digital News Association. <https://www.ctvnews.ca/canada/ctv-national-news-wins-best-tv-newscast-at-rtdna-awards-1.4418879> [Accessed 12 Feb 2020]

**51** “Fox News hits highest viewership in network’s 23-year history,” *The Hill* <https://thehill.com/homenews/media/476220-fox-news-hits-record-high-viewership-in-networks-23-year-history> [Accessed 12 Feb 2020]

**52** Fox News, *The return of Obamacare’s ‘death panels’*. <https://www.foxnews.com/transcript/the-return-of-obamacares-death-panels> [Accessed 11 Feb 2020]

**53** Peabody Awards are given for excellence in broadcasting, including a category for news broadcasting. <http://www.peabodyawards.com/about#originawards> [Accessed 12 Feb 2020]

## Broadcasting Canadian distinctiveness by reflecting the country

It is evident that the difficulty of assigning a definition to “distinctively Canadian” programming has had the consequence of privileging industrial objectives that are more easily defined and measured. The above section of the report demonstrates that the distinctively Canadian approach to freedom of expression reflects the broadly accepted Canadian values and principles enshrined in the Charter of Rights and Freedoms. These values are distinct from the values enshrined in the American Constitution. Indeed, the contours of a distinctively Canadian culture, while somewhat blurred and evolving, are actually visible.

The remaining challenge is to identify a more instructive set of criteria that can capture the contours of “distinctively Canadian” programming – that which expresses the country’s collective way of life. As demonstrated below, cultural policies in other countries reveal that this goal is attainable without the need for rigid definitions of national culture or identity.

*What is “distinctively Canadian” programming?* It is that which reflects the values, interests, stories, places and people, including their histories and struggles, throughout the country and its various regions. “Reflecting” implies that the programming contains decipherable Canadian elements and qualities. Indeed, if “distinctively Canadian” programming does not reflect the stories, histories, people and places of Canada, *how can it be* distinctively Canadian?

To this end, in the section devoted to the CBC, the Broadcasting Act contains a useful point of reference against which “distinctively Canadian” programming can be theorized and understood:

... the programming provided by the Corporation should:

... reflect Canada and its regions to national and regional audiences <sup>54</sup>

While the Act provides some guidance, this report has established that criteria and tests employed in the existing Canadian content regime do not attempt to capture the decipherable elements and qualities of “distinctively Canadian” programming in their considerations. So, how might these shortcomings be addressed?

Experiences in other jurisdictions provide insight into some possible solutions. One such experience is that of the European Union, where cultural tests have been integrated into eligibility

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<sup>54</sup> The Broadcasting Act. <https://laws-lois.justice.gc.ca/eng/acts/B-9.01/page-1.html?txthl=predominantly+distinctively+predominant#s-3> [Accessed 4 Jan 2020]

criteria for television and film production tax incentives. It is important to note that the tensions and context underpinning these policy interventions are not entirely disconnected from the Canadian experience. In the period following the First World War, with its economic resources depleted, Europe found itself largely unable to invest in the development of cultural products at comparative levels to America. “Old-world” states were outpaced by American firms in the area of film production, with anxieties about Americanization and a loss of cultural sovereignty growing in tandem with an influx of American productions flooding into Europe’s cinemas.<sup>55</sup>

These anxieties and trends persisted, with American productions continuing to feature prominently on European screens.<sup>56</sup> In response, the European Commission introduced special legislation granting member states the power to provide state aid to the development of cultural products, and to create their own national criteria in determining eligibility for this aid.<sup>57</sup> Germany, for example, has the power to develop its own national criteria to measure “German-ness” for the purpose of providing state aid to German cultural products, and other member states are empowered to do the same for their own cultural products.

This has manifested itself across the European Union with the creation of substantive cultural tests for film and television production, with each member state having the power to develop its own cultural test. As is evident in the following examples (which are excerpts from their respective cultural tests), these criteria include a variety of elements that capture distinctive cultural qualities such as stories, histories, landmarks, locations and others:

### **The German Cultural Test**

- Film (substance/underlying material) plays mainly in Germany or in the German culture area
- Uses German landmarks (i.e. motives that can be attributed to Germany, e.g. German architecture or landscape, such as “Black Forest cottage”)
- Uses German locations

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<sup>55</sup> de Grazia, V. “Mass Culture and Sovereignty: The American Challenge to European Cinemas, 1920-1960,” *The Journal of Modern History*. Vol. 61, No. 1 (March, 1989), pp. 53-87

<sup>56</sup> Broche, J. et al. “State aid for films—a policy in motion?” *European Commission Directorate General for Competition, Competition Policy Newsletter* (Spring, 2007), pp. 44-48

<sup>57</sup> See the European Commission’s 2001 *Communication on State aid for Films and other Audiovisual Works* [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_01\\_1326](https://ec.europa.eu/commission/presscorner/detail/en/IP_01_1326) [Accessed 4 Jan 2020]

- Main character(s) of the underlying material is/was German
- Storyline/underlying material is German <sup>58</sup>

### **The French Cultural Test**

- A relative majority of the scenes take place in France
- A relative majority of the scenes take place in France and in a French-speaking country
- The plot and story highlight French artistic heritage or a period of French history
- The plot and story deal with political, social or cultural issues specific to French society or European societies <sup>59</sup>

In both of these tests, the criteria contain specific cultural elements and qualities that are distinctive in both national contexts without drawing upon a universal definition of what comprises German or French culture. A film that deals with a French political issue while highlighting French artistic heritage, for example, reflects a uniquely French experience and context, making it distinctively French. To reiterate the point, a television program that is set in Germany, features German characters and is based on a German storyline reflects Germany and represents a distinctively German program.

The United Kingdom provides an instructive point of reference, as well.<sup>60</sup> Like its European peers, the United Kingdom employs a points-based cultural test for film tax subsidies that includes eligibility criteria such as “cultural content” and “cultural contribution”. Specifically, the cultural test awards points to productions that are set in the United Kingdom, stories that are based on British subject matter, films that are recorded in English or United Kingdom Indigenous languages and stories that demonstrate British heritage and diversity.<sup>61</sup>

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**58** See the *Test of Characteristics for Feature Films*. [https://focal.ch/prodvalue/working\\_conditions/docs/Germany/Test-of-Characteristics-for-Feature-Films.pdf](https://focal.ch/prodvalue/working_conditions/docs/Germany/Test-of-Characteristics-for-Feature-Films.pdf) [Accessed 6 Jan 2020]

**59** See the *Tax Rebate for International Productions*. <http://www.idf-film.com/media/trip-english-presentation.pdf> [Accessed 6 Jan 2020]

**60** At the time of writing, the United Kingdom is in the process of negotiating its exit from the European Union. Accordingly, the durability of its cultural policies, trade agreements, and tax legislation are uncertain.

**61** See the *Summary of points – cultural test for film*. <https://www.bfi.org.uk/apply-british-certification-tax-relief/cultural-test-film/summary-points-cultural-test-film> [Accessed 12 Jan 2020]

Of particular note is the comparative performance and influence of the United Kingdom in light of its language, size and use of cultural tests in supporting the development of cultural goods. As demonstrated in the chart below, with less than twice the population of Canada<sup>62</sup>, the United Kingdom manages to outstrip Canada's exports of cultural goods by a multiple of more than twelve.<sup>63</sup>

### Exports of Cultural Goods (\$ USD)



Source: Unesco Institute for Statistics.<sup>64</sup>

While the United Kingdom's national and linguistic context, economy and broadcasting and entertainment ecosystems vary greatly from Canada's, the outcomes of its regulatory regime to support the development of cultural products – including its use of cultural tests – are significant and clear.

How might a cultural test be applied in a Canadian context? In their analysis of the Canadian drama *Due South*, Marsha Tate and Valerie Allen distill a list of “distinctively Canadian” elements that reflect Canada and its regions, which may prove helpful in the development of a cultural test for distinctively Canadian programming:

“These elements included, among other things, a diverse array of activities, attitudes, historical events, issues, symbols, and styles as well as notable individuals or places identified with Canada.”<sup>65</sup>

<sup>62</sup> At the time of writing, the United Kingdom has a population of roughly 67 million, while Canada's is roughly 37 million.

<sup>63</sup> Also notable is that the United Kingdom manages to export more than half the value of cultural products that flow out of the United States – a country of roughly four times its size with a population of 330 million.

<sup>64</sup> 2017 Figures. Chart data sourced from Unesco Institute for Statistics, International Trade in Cultural Goods Dataset (UN COMTRADE Database). <http://data.uis.unesco.org/index.aspx?queryid=3629#> [Accessed 17 Jan 2020]

<sup>65</sup> Tate & Allen (2003). *Integrating Distinctively Canadian Elements into Television Drama: A Formula for Success or Failure? The Due South Experience*. <https://www.cjc-online.ca/index.php/journal/article/view/1341/1402> [Accessed 7 Jan 2020]

A more recent example of distinctively Canadian elements or qualities appearing in a television program can be found in an episode of the *Baroness Von Sketch Show*, exhibited by CBC. In this episode, the cast confronts the topic of Indigenous land acknowledgments by staging an awkward encounter between a host on a theatre stage and a member of the audience. The host opens the show with a land acknowledgment – nowadays a common feature of public gatherings in Canada. When the acknowledgment is finished, the audience member asks what percentage of the ticket sales will be given to Indigenous peoples as compensation for the use of their unceded lands. The answer: nothing. It goes on most uncomfortably from there.

The topic of discussion – how to meaningfully address the issue of Canada being built upon Indigenous lands, and the appropriateness and sincerity of the acknowledgment itself – is a distinctively Canadian issue.<sup>66</sup> People who live elsewhere will not fully grasp the sensitivity of the issue as Canadians do, at least not without an explanation. Given the moral and political implications of Canada’s current and historical treatment of Indigenous peoples, this sketch provides viewers with a necessary opportunity to consider a matter of profound national and ethical importance.

Another vital and perhaps self-evident example of distinctively Canadian programming is that which millions of Canadians depend on: news programming. This is one area where Canada’s broadcasting system has experienced relatively positive outcomes.<sup>67</sup> Almost by definition, Canadian news programming reflects the issues, stories, people and places of the country and its regions. Indeed, news programming can pass a cultural test with flying colours.

Today, delivering journalism and news – local news in particular – is increasingly difficult, and the impact of the loss of this programming on Canadian communities is cause for great concern. The dire situation facing Canada’s commercial news media highlights the increasing importance of the national public broadcaster in providing news programming – programming that is “distinctively Canadian” and serves the public interest. However, even with its parliamentary appropriation, the CBC has not been able to maintain a consistently strong local news presence across Canada. Therefore, local news is a form of “distinctively Canadian” programming to which a growing number of Canadians have little or no access.

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<sup>66</sup> Land acknowledgement, *Baroness von Sketch Show* [https://www.youtube.com/watch?v=xIG17C19nYo&list=PLo\\_UQZib9JjyMfyC4p3XH3O11T1im2Mj&index=22&t=0s](https://www.youtube.com/watch?v=xIG17C19nYo&list=PLo_UQZib9JjyMfyC4p3XH3O11T1im2Mj&index=22&t=0s) [Accessed 21 Jan 2020]

<sup>67</sup> According to a 2019 report from the CRTC, a significant portion of Canadian programming expenditure (CPE) amongst Canadian broadcasters went to news and sports. News was among the most watched category of Canadian programming. <https://crtc.gc.ca/eng/publications/reports/policymonitoring/2019/cmr6.htm> [Accessed 9 Mar 2021]

The CBC's limited budget, coupled with the declining financial prospects of major private media, reveals a looming crisis facing "distinctively Canadian" programming and content. Moreover, the current system of policies is insufficient to protect Canada's domestic broadcasters; it does not mandate digital streaming services to create "distinctively Canadian" content, and it does not sufficiently support public service media to do so.

It is imperative in these circumstances that Canada's cultural policies be remodeled around substantive cultural tests in order to complement industrial criteria such as ownership and authorship, which would become proportionally less significant. The Board of Broadcast Governors set out in 1959 to forge a broadcasting system that was "Canadian in content and in character". In the 60 years since, it was assumed that an industrial definition would satisfy this cultural objective. However, as demonstrated throughout this report, this has not been the case.

If Canada wishes to continue developing a distinctive culture through media, it follows that its cultural policies should protect and support programming and content that reflects and develops this distinctiveness. Crucially, in such a precarious period for media in Canada, these standards should apply to all broadcasters, including digital services from other jurisdictions that dominate the Canadian market. If the country intends to continue producing programming that reflects Canada and its regions articulated through Canadian places and people, expressing their values and interests, histories, stories and experiences, then it must urgently and sincerely pursue a policy agenda that can achieve such an objective.

## Conclusion

As technologies have evolved, so too has the challenge of sustaining a Canadian media and cultural ecosystem. In the era of Facebook, Netflix and YouTube, preserving a Canadian broadcasting system that adequately serves Canada's diverse and dispersed population is an increasingly difficult task. Exclusionary regulation, historically the dominant tool of Canadian broadcasting policy, is no longer practicable nor is it an effective means to a desirable end. The dominance of foreign digital platforms has enforced a new level of precarity on Canadian media, one that has yet to be addressed through updating or introducing new protectionist policies. As platforms grow in scale and influence, Canada's commercial media are in decline or are disappearing altogether, and in communities where a local newspaper, radio or television station has closed, people in power are being left unchecked and Canadians are finding themselves disconnected and misinformed. Public service broadcasting has never been more essential.

Canada's current definitional regime for Canadian content results primarily in featuring Canadian artists and supporting Canada's cultural industries, rather than supporting the creation of content that is "distinctively Canadian". Existing systems do not attempt to capture the qualities and elements that reflect Canadian stories, histories, people or places, and by extension, these systems are unable to protect or support the creation of "distinctively Canadian" programming.

There is a distinctive Canadian culture in evidence. Canada's approach to freedom of expression is but one example, reflecting the broadly accepted values and principles enshrined in the Charter of Rights and Freedoms as distinct from American values, as noted above. While Canada's giant-next-door relationship with the United States has necessitated the creation of institutions and systems to protect Canadian cultural distinctiveness, these systems remain insufficient in supporting "distinctively Canadian" programming. Although the CBC is legally mandated to be "predominantly and distinctively Canadian", it lacks the clear guidance and funding that would allow it to achieve such a requirement. This does not bode well for the future of Canadian stories on air or online. Without decisive policy intervention that expressly privileges substantive cultural objectives, the underlying goals of the Canadian broadcasting system will be undermined.

"Distinctively Canadian" programming is not an arbitrary imposition. It is that which focuses on reflecting Canada and its regions. Experiences from other jurisdictions such as the European Union provide helpful insights into the kinds of qualities and elements that contribute to such programming. As indicated in the cultural tests from Germany, France, and the United

Kingdom, the crucial point is that these criteria go beyond industrial quotas and include specific characteristics in support of a country's cultural sovereignty and independence — essential criteria that are missing in Canadian cultural policy. In Canada, this reflection can be articulated through Canadian places and people, their values and interests, their local communities, histories, stories and struggles, among other qualities and elements. If Canadian culture is to remain distinctive in the digital age, it is vital that key cultural policies, in addition to protecting industrial and economic interests, include cultural tests that adequately capture such qualities and elements. In this respect, reflecting the nation is about telling Canadian stories because these stories are valuable in their own right, stories that tie the country together and set it apart. This is about providing local and regional programming from Canada *precisely because it is Canadian*.

Here, it is important to highlight the vital role of the public broadcaster in providing this programming in the future. In a context where the United States is the giant-next-door, and where providing “distinctively Canadian” programming remains beyond the financial interests of commercial broadcasters, a potentially ominous outcome emerges: the weakening of Canada's shared story. With the rise of highly competitive digital platforms and increasingly global flows of cultural products, the CBC may soon become the only broadcaster in Canada that can provide “distinctively Canadian” programming across the country. Likewise, as local media and journalism decline, the CBC could soon become the only media organization that can comprehensively reflect Canada and its regions. The need to deepen and expand its capacity to fulfill this requirement is greater now than ever.

