



SCREEN COMPOSERS
GUILD OF CANADA

GUILDE DES COMPOSITEURS
CANADIENS DE MUSIQUE À L'IMAGE

June 23, 2025

Mr. Marc Morin
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa, Ontario K1A 0N2

Dear Mr. Morin,

Re: Broadcasting Notice of Consultation CRTC 2024-288 The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector. Final reply of the Screen Composers Guild of Canada.

1. The Screen Composers Guild of Canada (SCGC) is the national association certified under the Federal *Status of the Artist Act* to represent all professional Anglophone composers and music producers for audiovisual media productions in Canada. SCGC is pleased to provide these comments by way of a final reply to interventions tabled by various parties at the related oral public hearing.

Proposed Change to Music Composer Key Creative Point

2. SCGC reiterates its strong opposition to the proposed change to the music composer key creative point on the bases that:
 - The proposed change is inconsistent with the *Broadcasting Act* and policy direction to the Commission.
 - The award of a key creative point to a non-key creative would be inappropriate and unprecedented. Rights holders are not key creatives.
 - The proposed change to the music point would result in negative outcomes for Canadian music creators. Allowing a "Canadian" music key creative point to be earned when music which is neither written nor performed by a Canadian creator is used by a production would be an absurd outcome in the context of a framework explicitly mandated to support and maximize the use of Canadian key creatives.

- The proposed change unfairly targets the most vulnerable key creatives in the points framework. If adopted, screen composers would be treated differently from all other points-earning key creatives and would be the only point-earner replaceable by the pre-existing works by foreign creators who are not directly engaged to work on a production.
3. SCGC notes the overwhelming opposition to the proposed change on the public record. The Commission received approximately 300 interventions from Canadian screen composers opposing the proposal. The vast majority of intervening stakeholders who have taken a position on the proposed change have opposed it.
 4. SCGC notes that during the public hearing, the Commission asked various intervenors if they would support a revised proposal to change the music composer point. As Commissioner Paquette asked ADISQ:

“...ce qu’on cherche à connaître, c’est votre opinion sur la musique préenregistrée comme telle. C’est-à-dire, si on changeait, là, parce que je comprends que c’était énoncé d’une certaine façon, mais, si on changeait pour dire : « détenteur de droits sur de la musique canadienne », est-ce que l’accès...En fait, la question c’est : est-ce que l’accès aux points de certification doit être uniquement réservé à la composition ou est-ce qu’il y aurait lieu d’ouvrir de la musique... la porte à de la musique canadienne préenregistrée.”ⁱ
 5. SCGC strongly opposes the Commission’s apparent new proposal to modify its proposed change to the music composer key creative point on the bases that:
 - No clear proposal, nor any proposed wording thereof, has been offered by the Commission to intervenors either in the public hearing or public record.
 - The Commission has not provided any details regarding how such a change would work. SCGC is left to wonder - would it be enough to receive the point if the program incorporated one Canadian musical selection while all others - including the program’s original score -- were pre-existing foreign works?
 - Asking intervenors to provide a considered response to a vague proposal for such a consequential change is procedurally problematic. The Commission’s proposals for the other 14 points are clear and unchanged from the NOC and other intervenors have had months to consider clearly defined, written proposals contained in the NOC affecting the interests of their respective constituencies.

- Notwithstanding the uncertainties of the Commission’s apparent new proposal, SCGC submits that any change which would make a key creative point available for the use of pre-existing Canadian music would unfairly target Canadian screen composers. If adopted, screen composers would again be treated differently - and inequitably so - from all other points-earning key creatives. They would be the only point-earning key creative in the certification framework whose engagement would be replaceable by the use of pre-existing works from creator(s) who were not directly engaged to work on a production.
 - Adopting such a change could give rise to negative outcomes for other key creatives. For example, if a similar approach was applied vis-a-vis the director of photography point, it would mean that the point could be earned if a show licensed pre-existing stock footage shot by a Canadian, even if the DOP was foreign. If applied to the proposed costume designer point, the point could be earned if a garment made by a Canadian clothing manufacturer was worn by a character in the show.
 - Moreover, the proposed change needlessly pits original Canadian score against pre-existing Canadian songs. SCGC respectfully submits that the Commission should not create a win/lose scenario for Canada’s music creators. Rather, the use of Canadian score and songs in Canadian programs should both be recognized and supported in the Commission’s certification framework.
6. SCGC also strongly opposes Music Canada’s proposal to revise the music composer key creative point to “Music composer or performing artist must be Canadian, rather than requiring an original composed song for the production (1 point)” on the bases that:
- If adopted, screen composers would be treated differently from all other points-earning key creatives and would be the only point-earner replaceable by the pre-existing works by creators who are not directly engaged to work on a production.
 - Music Canada’s proposal would result in negative and absurd outcomes. Under its proposal, a hybrid Canadian music composer/performer point could be awarded even where i) the original score was wholly written and performed by foreign creator(s) and ii) the pre-existing music was primarily written and performed by foreign creators provided only that a single Canadian performer had performed a single musical selection used in a production.

- Composers are often the lead, or sole, performer on their scores. They frequently garner as much screen time as a performer as do the lead actors in a show. If any musical performer(s) should be recognized via a Canadian key creative point, recognition of the Canadian performer(s) of the original score would be far more appropriate.
- SCGC recognizes the important cultural contributions of Canadian musical artists but notes that their work is already recognized and directly supported via the audio certification framework, by funding bodies such as FACTOR and MUSICACTION, provincial music creation funds, and by various other measures. By contrast, the only direct support for Canadian screen composers and the creation of original Canadian AV scores is via the AV certification and tax credit frameworks. SCGC respectfully submits that it would be unwarranted to provide additional support for Canadian music artists in the AV certification framework at the expense of support for Canadian screen composers. Any new regulatory support for the use of pre-existing Canadian music must be in addition to, not instead of, support for the use of Canadian screen composers.

Proposed New Production Spending Requirement Supporting The Use Of Pre-Existing Canadian Music In AV Productions

7. SCGC respectfully reiterates its submission that, in order to support greater use of pre-existing Canadian music in Canadian programs, the Commission should add a new requirement under the Production Costs criteria as follows: "Seventy-five percent (75%) of any licensing costs incurred in respect of the use of pre-existing music by a Canadian program shall be spent on Canadian musical selections as defined by the Commission."
8. As stated at the public hearing, SCGC believes that an exception to a new pre-existing Canadian music spending requirement is reasonable and warranted. SCGC would be pleased to make itself available to the Commission for consultation regarding the appropriate construction of such an exception and any other matters related to the new production spending requirement proposal.

Proposed Mandatory Use of Certain Key Creative Points and 60% Threshold

9. During these proceedings, various intervenors have proposed that the Commission should make the use of certain key creators mandatory. SCGC conditionally supports the proposition that the Canadian screenwriter, director and one (1) lead actor should be mandatory positions but only provided that the screen composer position is also granted mandatory status.

10. While acknowledging that not all Canadian programs make use of an original score, SCGC respectfully submits that where a certified production does make use of an original score, the Commission should require that its composer(s) is/are Canadian.
11. SCGC reiterates that there are three primary authors of an audio-visual work: the first is the screenwriter, who writes the dialogue; the second is the director, who authors the visual elements; and the third is the screen composer, who writes the original compositions comprising a show's original music soundtrack. Where a program employs an original score, the screen composer's contribution must be considered on equal footing to the contributions of screenwriters and directors given the authorial role of all three in the creation of Canadian programs. Failure to treat all authors in the same manner would be inequitable and unjustified.
12. As co-author of the AV work, the role of screen composer is not merely a technical or supporting role. It is an authorial role with a "high degree of visibility and control," under section 13 (b) of cabinet's direction to the Commission.
13. Canada's *Copyright Act* provides that authors are the first owners of their works. SCGC submits that as co-authors of AV works, screen composers are first co-owner of those AV works.
14. SCGC has maintained this position throughout these proceedings. To our knowledge, no intervenors have contested that screen composers are i) co-authors of Canadian AV works and, consequently, ii) first co-owners of Canadian AV works.
15. If the screen composer on a certified program is not Canadian, it follows that the IP in the resulting AV work is not 100% Canadian.
16. SCGC submits it would be entirely reasonable for the Commission to decide that the underlying IP in a certified work must be 100% Canadian in order to achieve Canadian certification but reiterates that an equitable approach requires that one class of co-author should not be enshrined as mandatory unless all others are, as well.
17. SCGC also reiterates its suggestion that the Commission should consider imposing a condition that a number or percentage of the key creative points used by a program towards achieving certification must be post-production key creative points. Failure to do so could result in regulatory failure, since there are many paths to certification which do not require the use of any post-production

key creative points-earners under the current and proposed key creative points frameworks.

18. SCGC reiterates its position that the proposed threshold of 9/15, or 60%, engagement of Canadian key creatives falls well below the standard of “maximum” use prescribed by the *Act*. SCGC respectfully urges the Commission to adopt a higher requirement of 12/15 or 80%, engagement of Canadian key creatives.

MPA-C Statement Regarding Screen Composers

19. SCGC rejects MPA-C's assertion during its appearance at the public hearing that:

There's no logic to recognizing a composer but not hair and makeup. There's no logic to -- in an audiovisual to recognizing the inputs of a picture editor and not a sound editor. You know, all of these are key creatives which are recognized for their talent and skill by their guilds and, right now, there is a very limited profile that was developed many, many years ago and just doesn't apply to the global landscape.ⁱⁱ

On the contrary, SCGC submits that there is a clear logic to the special recognition of screen composers in the existing point framework: composers are co-authors of the audiovisual work. The fact that composers co-create the copyright in the AV work puts their contribution on a different (i.e. authorial) level.

20. SCGC also rejects MPAC's suggestions that mandatory roles are not practicable, and that 51% engagement of Canadian creators should be codified as the greatest practicable use of Canadian key creatives:

So again, it's...that there should be no mandatory positions or restrictions because that limits and constricts the kind of content that can be made...ⁱⁱⁱ

SCGC notes MPA-C has offered no evidence in support of this claim. The need to make greatest practicable use of Canadian key creatives is required by the *Act*. Consequently, in SCGC's view, there is an evidentiary burden to prove that the use of a Canadian key creative is not practicable. This has not been met in any way. The Commission should not accept MPA-C's unsupported claim that it would be impracticable or 'just not realistic' to engage a greater percentage Canadian key creatives in points-earning roles.

21. SCGC also urges the Commission to be skeptical of MPA-C's intimation that Canada lacks the key creative talent necessary to create high quality programs. For example, when asked whether there are any key creative positions which are particularly difficult to fill with Canadians, its representative responded:

“...our position is there should be no mandatory position or element or condition. That’s just inconsistent with how global productions take place and how global productions are made...The existing framework was set up for Canadian broadcasters who only made content in Canada and only showcased that content in Canada. And that is just fundamentally different than that kind of high quality international framework for those who are running global services.”^{iv}

22. SCGC rejects any assertion that Canada lacks high quality key creatives, particularly screen composers and, in the absence of any evidence to the contrary, we urge the Commission to conclude that it would, in fact, be practicable in most cases for foreign streamers to make maximum use of Canadian key creatives in the creation of certified Canadian programs.

Supporting Canadian Screen Composers and their Intellectual Property

23. During SCGC’s appearance at the public hearing, Commissioner Paquette asked what measures the Commission should put in place to better support music composers’ ability to retain the intellectual property in their work. SCGC wishes to expand on the response given at the hearing.
24. SCGC believes there are several ways in which the Commission could effectively support the goal of composers’ IP retention. First, SCGC is supportive of the position advanced by ACTRA that the Commission should require that all key creative point-earners be engaged via an independent production agreement. In the absence of collectively negotiated agreements, the imbalance of bargaining power between composers and producers is such that it is often impossible for a composer to retain their IP where a client insists on taking ownership thereof.
25. SCGC also supports the idea, alluded to by Vice-Chair Scott in CRTC 2023-138, that the Commission could impose conditions on certified independent production funds requiring that ownership of the intellectual property in funded productions (including ownership of the IP in an original score) be retained by Canadians.
26. SCGC would also support the imposition by the Commission of requirements on certified independent production funds that, as a condition of eligibility, applicants must be in good standing with all relevant guilds and unions. SCGC notes that CMF has already implemented this requirement under s.3.1c) of its “Linear Content Programs – Core Development and Predevelopment Guidelines 2024-2025” which provides that applicants must be “in good standing with all applicable talent and industry associations and guilds” in order to be eligible to receive funding.
27. SCGC also reiterates its support for CMPA’s call for a code of practice. SCGC believes such a code is necessary to ensure equitable disposition of the legal IP

rights and revenues of Canadian screen composers. A code of practice should recognize screen composers both as independent producers within the meaning of the *Act*, and as co-authors and first co-owners of the AV works which they score. The code should protect composers from predatory practices (prevalent in the current commissioning environment) which seek to unduly wrest legal property and revenue from composers as a condition of engagement.

28. SCGC also submits that a code of practice should require producers to negotiate and conclude independent production agreements with the associations representing key creatives (including screen composers). It should further require that these agreements are, in fact, used when contracting key creatives for Canadian productions.
29. Further, the code should include measures protecting creators from coerced acquiescence to the inclusion/imposition of unfavourable foreign law (such as US “work made for hire”) in their agreements, particularly where such foreign doctrines undermine the legal property and moral rights provided to authors, including composers, under Canadian law.
30. In SCGC’s view, a code of practice should also include measures which ensure creators are able to meaningfully protect their works from unwanted text and data mining, so-called “training” of large language model & neural networks, and any other non-consensual use by generative AI offerings, especially those which create outputs which compete with human creators’ protected works.

At Risk Programs And Programs of National Interest

31. SCGC reiterates its view that all categories of Canadian programs are currently at risk due to many factors including:
 - Declining television and cable revenues of Canadian broadcasting undertakings
 - Declining budgets at funding bodies such as CMF
 - Threats to defund the CBC, a major commissioner of Canadian programs
 - Tariff threats to Canadian films in the US market
 - Threats to cultural exemption provisions under CUSMA
32. SCGC reiterates its view that the PNI requirements brought in by the CRTC in 2010 have been successful in supporting genres of programming which are essential to achieving key cultural policy goals set out in the *Act* and which, in the

Commission's own words are "the main vehicles for showcasing Canadians' values and stories" (Broadcasting Decision CRTC 2017-148.) If this regulatory support is removed, SCGC believes it is reasonable to conclude – based on the record of this proceeding and past practice – that domestic broadcasters intend to shift expenditures away from PNI programming to other genres such as news and lifestyle programming.

33. As for the programming inclinations of foreign online undertakings, in SCGC's view there is little on the public record to indicate that foreign streamers are motivated to support the achievement of any of the policy goals set out in the *Act* and policy direction, including the creation of programs which maximize the use of Canadian creative talent to the greatest extent practicable and which showcase Canadian "values and stories" such as the genres of programs currently recognized as PNI.
34. Therefore, SCGC reiterates its view that the Commission should not dispense with PNI requirements for domestic players and should impose equitable PNI requirements on foreign streamers.

Canadian Production Expenditure Requirements

35. SCGC believes the Commission should require a standard 'base' CPE requirement for all domestic and foreign broadcasters and streamers. SCGC believes the 'standard' CPE requirement should be set at 30% for all.
36. In the interest of achieving the policy objective of flexibility, SCGC believes it would be reasonable for the Commission to determine that certain spending should be weighted more heavily to allow for a potential reduction of up to 1/3 of the total CPE spending requirement.
37. Specifically, SCGC proposes that 1.5x weighting should be granted to expenditures on programs which achieve 3 criteria:
 - The program makes maximum use (i.e. 100%) of Canadian key creative points
 - The program is 100% Canadian-owned
 - The program is produced by an independent Canadian producer
38. SCGC believes this approach would encourage spending which achieves a broad array of the policy objectives set out in the *Act* and policy direction while simultaneously providing significant flexibility to regulated players.

Generative Artificial Intelligence (GenAI)

39. SCGC reiterates its position that there is no legal basis or policy rationale upon which GenAI works should be considered Canadian content. The Commission is mandated to maximize the use of Canadian key creative and other human resources in the Canadian broadcasting system. Allowing Canadian certification points to be earned where GenAI has replaced the engagement of a Canadian key creator who otherwise could have performed a key creative function would be entirely inconsistent with this mandate.
40. SCGC respectfully submits, therefore, that the Commission should require, as a condition of certification, that GenAI not be used to provide functions, services or creative outputs which could otherwise be provided by a Canadian points-earning key creative.
41. SCGC appreciates the opportunity to provide its comments as part of this important proceeding.

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ⁱ Transcript May 16 line 2089.

ⁱⁱ Transcript May 16 line 2592.

ⁱⁱⁱ Transcript May 16 line 2594.

^{iv} Transcript May 16 line 2588.