



# CFTPA ACPFT

Towards a Framework for Digital Rights

A Research Study from the CFTPA  
June, 2010

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# TOWARDS A FRAMEWORK FOR DIGITAL RIGHTS

## EXECUTIVE SUMMARY

The Canadian Film and Television Production Association (CFTPA) has undertaken this study – with the generous support of the Ontario Media Development Corporation (OMDC) and several other funding agencies<sup>1</sup>, in order to build the first framework for the evolving marketplace for the digital rights associated with film and television content.

This inquiry seeks to define a common lexicon for terminology; to describe the dynamic nature of the windows of exhibition for video content; and to identify areas of confusion or misunderstanding in the Canadian production industry with respect to digital rights.

The scope of this study is restricted to the following English-language territories: Canada, the UK, the US, and Australia and New Zealand. The methodology has included an online survey to the CFTPA membership and an extensive in-person survey with broadcasters, distributors, online and mobile platform operators in each of the countries. The primary findings of this study are summarized below.

### ***General Observations:***

1. The current market for digital content may not reflect its inherent or future value as business models are still in a nascent stage.
2. The marketplace for digital rights for library feature film titles is more orderly than for current release television series due to the historical ‘all rights’ deals associated with feature film releasing.
3. The current order of windows for digital content exploitation are Electronic Sell-Through (EST), Electronic Rental (also known as Video on Demand or VOD), Subscription Video on Demand (also known as SVOD), and Free on Demand (also known as FOD).
4. EST is functioning as an extension of the home video/DVD market. iTunes has emerged as the unchallenged market leader in EST.

### ***Producer Survey Summary of Findings:***

1. Canadian producers consider that the digital rights associated with their linear content are grossly undervalued in the market.
2. According to producers, Canadian broadcasters are underpaying for digital rights (when they pay at all) and are overreaching in their demands for digital rights.
3. For their most recent project, the majority of producers surveyed did not receive any incremental compensation, whether in the form of a licence fee or revenue share arrangement, from the licensee for the digital rights to the project.

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<sup>1</sup> See Appendix A: List of funders of this research study

4. The majority of Canadian producers do not exploit digital rights to their content largely because the prices paid for these rights are not high enough to justify the cost of exploiting them.
5. Canadian producers generally feel that their level of knowledge regarding the digital content marketplace is low.

***Key Broadcaster and Online & Mobile Platform Survey Findings:***

1. The marketplace for digital rights remains in flux, though higher levels of certainty reside in the VOD and EST markets, as well as on all platforms of exploitation for older library titles.
2. The online retail side of the business (services like iTunes and Amazon) has found a business model and some stability, but the ad-supported side of the business is not working as efficiently. Hulu is currently offering the best return to rightsholders in the ad-supported environment.
3. Compatibility, portability and permanence remain obstacles to consumer adoption of the digital experience (as compared to DVD physical distribution).
4. Piracy, and the widespread availability of pirated content through search engines, remains a significant impediment to the development of a financial model for video online.
5. Another major obstacle is the 'warehouse' effect. Overcoming the unlimited shelf space of video online will require improving 'discoverability' tactics, better promotion, better search functions for video, more sophisticated ways to achieve visibility, and making video platforms more user-friendly.
6. All digital platforms require significant social media investment to support visibility, placement and audience attention in order to generate a return.
7. There is a need to manage windows of exploitation in an orderly fashion and to discourage certain players (new or incumbent) from cannibalizing potential revenue streams in an attempt to grab or hang on to market share.
8. Timing is an issue: technology is ahead of the business and advertising dollars have been slow to follow the consumer online.
9. The economic model cannot currently sustain the digital content distribution value chain as long as consumers perceive online video as 'free' and perceive digital delivery as cumbersome or limited across platforms.
10. Digital replacing traditional is a long way off. Performance in digital is still determined to a great extent by performance and exposure in traditional theatrical and broadcast windows.

# PART 1: INTRODUCTION: THE CHANGING ENVIRONMENT FOR DIGITAL CONTENT RIGHTS

## 1.1. SCOPE OF THIS INQUIRY

### 1.1.1. *Introduction: Why this study is important.*

The global film and television industry has been characterized and profoundly shaped by major technological changes since its inception. Many of these changes have presented new windows of exploitation for content distributors and producers – and often resulted in dramatic boosts in incremental revenues. For example, as the introduction of home video generated a boom of new investment for the feature film industry, so did the specialty television business in Canada create an engine of growth for the broadcasting sector.

With each new technological event, pundits and industry observers have hailed the end of an era and, in some cases, the end of the industry itself. For the most part, however, technological innovation over the past 30 years has simply created additional windows of exploitation for content owners – and the result has been an orderly ‘window’ system for the monetization of content.

Not so today.

With the advent of digitization of video, advances in digital compression, and widespread penetration of broadband Internet, the ‘last mile’ directly to the consumer, has been traveled. We have entered a period of technological disruption where the orderly windows of exploitation of film and television content are being challenged every minute of the day by piracy, file sharing software, new platforms for content distribution and dramatic changes in audience consumption behaviours.

We have witnessed the complete undoing of the 50-year music industry business model in less than five years. We have witnessed entrenched corporate structures unable to react quickly to rapid changes in audience music consumption. And we have witnessed content creators scrambling to find new ways to monetize their intellectual property in a direct-to-consumer environment where audiences have become accustomed to getting their music for free – or for pennies.

The world of film and television has been somewhat protected from the onslaught of this technological tsunami because of file size and limited distribution capacity on new networks. But these impediments to change are gradually being removed. The film and television industry now faces significant challenges to its business model assumptions.

Will this mean a complete collapse or transformation of traditional methods of production and distribution? Probably not. But the uncertainty that currently colours the marketplace for content rights has already contributed to volatility in the traditional orderly window system of exploitation.

It is in this environment of uncertainty that the CFTPA undertook this research project to better arm its membership with information on how digital rights are being defined in both domestic and international English-language markets; on how traditional

broadcasters are valuing digital rights; and on how new platforms are valuing digital rights. It is the industry's hope that this research project will create a framework – albeit a dynamic one – for producers across Canada to use as they navigate this changing environment in an attempt to monetize their intellectual property. This research study has been undertaken with the support of several of Canada's most important film, television and new media stakeholders, listed in Appendix A.

### *1.1.2. Goals of the study:*

The goals of this study are as follows:

- To create a comprehensive glossary of terms currently used by traditional and non-traditional broadcast platforms for the windows of exploitation of content in the major English-language territories;
- To map the windows of exploitation for independent producers today – and to present the areas of overlap that currently exist between traditional and new platforms of distribution;
- To examine the strategic and tactical adjustments distributors, from major studios to leading independents, are making to a quickly-shifting marketplace;
- To present illustrative case studies as examples of these changing tactics;
- To provide a framework of 'pricing' of digital rights both from traditional broadcasters and new platforms – ideally by genre of programming – in each of the English-language territories; and
- To provide qualitative guidance on strategies for content producers for exploitation of new properties versus older properties and methodologies for guided self-distribution in the digital marketplace.

The ultimate goal of this study is to provide Canadian producers, and especially new and emerging producers, with a more complete understanding of the marketplace for their digital rights, so that they are better equipped to negotiate with buyers and to exploit those rights. Given the volatility of the marketplace, the limitation of this undertaking is its timeliness. Another limitation is that, citing commercial confidentiality reasons, many broadcasters and distributors were also unwilling to provide detailed data regarding the 'price' they pay for content.

We nevertheless hope that this study will serve as a starting point for Canadian producers and all stakeholders in the industry to begin to chart a course in the determination of the 'true value' for digital content rights.

### *1.1.3. Summary of the methodology and parameters of research*

The methodology for this study is divided into two parts:

- an online survey of Canada's independent producers; and
- an extensive one-on-one expert survey conducted with broadcasters, distributors and online and mobile platform operators in each of Canada, the US, the UK, Australia and New Zealand.

The purpose of the online producers' survey was to assess the level of knowledge that the CFTPA membership currently possesses with respect to the marketplace for digital rights. CFTPA members were invited to participate in the online survey between January 19, 2010 and March 15, 2010. The producers' survey also allowed us to capture data surrounding some of the more sensitive areas in broadcaster negotiations with respect to particular digital rights.

Of the CFTPA's 375 members who received the survey, 96 responded to the survey (25% of the membership) and over half of these indicated a willingness to participate in a follow-up telephone interview. Based on the response rate and survey population, survey responses are accurate +/- 8.4%, nine times out of ten. Response rates to some individual questions were lower and therefore have slightly larger +/- % confidence intervals. All data presented in this report, unless noted otherwise, are based on the findings from the online survey of Canadian producers, and on the information provided through in-person interviews with executives who work for broadcasters, distributors and/or online/mobile platforms.

The purpose of the expert interviews with broadcasters, distributors, and online and mobile platform companies was to identify what value buyers attribute to digital video content – both linear and interactive – and to gain a better understanding of the emerging marketplace for these digital rights and products. Over 55 expert interviews were conducted in the five territories; a complete list of individuals interviewed is available in Appendix B.

## **1.2. STATE OF DIGITAL RIGHTS MARKETPLACE**

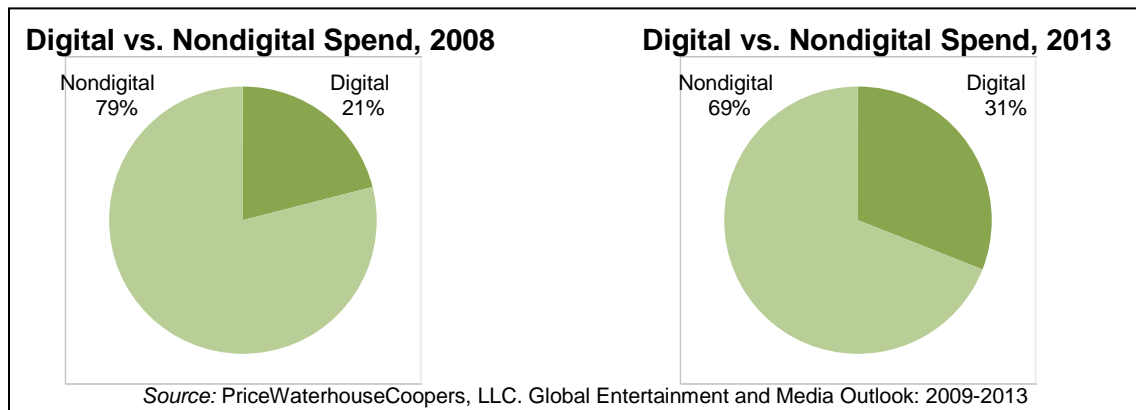
Content producers and rightsholders know that the variables affecting the changing marketplace for their content include large macro-economic factors such as the global recession, rapid deployment of new devices for wireless and online consumption of content, the dramatic shift in audience behaviour related to content consumption, and the dynamic nature of advertising models seeking to capture viewer attention over an increasing number of platforms.

One thing is certain in today's media landscape: the transition to digital distribution and digital consumption is underway in all sectors of the industry. As the PWC annual survey of the global entertainment and media business points out, "the companies that emerge as the winners in the new environment will do so by embracing digital migration."<sup>2</sup> That said, while the momentum may be in the digital sector, the lion's share of revenues continue to be generated in the non-digital arena.

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<sup>2</sup> PriceWaterhouseCoopers. Global Entertainment and Media Outlook: 2009-2013. p. 12.

## Exhibit 1: Consumer Spending on Digital Versus Nondigital Entertainment



Herein lies the conundrum for the content producer: *the current market for digital content may not reflect its inherent or future value as business models are still in a nascent stage.* For many rightsholders, the challenge is twofold: how to retain digital rights when other stakeholders (broadcasters, financiers, funders) certainly share the same imperative; and how to exploit these digital rights for maximum return over so many evolving platforms.

### 1.2.1. Film versus television in the digital rights arena

For feature films, the 'all rights' deals of theatrical distribution have long been a reality of the industry. In exchange for the risky business of theatrical release, the distributor has traditionally retained all rights in all media – for lengthy terms – in order to recover the costs of releasing a film. Feature filmmakers have not held on to digital rights, or any ancillary rights for that matter, unless a title has returned to them free and clear of its original distribution deal.

However, the 'all rights' model is a growing area of contention between distributors and some independent producers. Canadian feature filmmakers are increasingly using the Internet as a supplementary and important vehicle for promotion of their films, and are also developing unique digital media products (such as iTunes applications) that have the potential to generate additional revenue streams for the producer. Traditional 'all rights' distribution deals could choke off this potential revenue stream, noted one producer, and may also inhibit digital innovation.

In the US, meanwhile, as the independent film theatrical business has deteriorated, a new model for distribution has appeared, with the VOD platform emerging as the 'first' window for launching feature films. Several companies in the US, such as Screen Media, IFC, Cinetic's Filmbuff, Gravitas Ventures and Magnolia are tapping indie festival films for day-and-date cable VOD release – with promising results.<sup>3,4</sup> As a result, after

<sup>3</sup> Horn, John. "The living-room TV, not Cannes, may be independent film's best friend." Los Angeles Times. 12 May 2009. Web. 13 Mar. 2010.

<sup>4</sup> Kaufman, Anthony. "Why VOD is turning into a profitable avenue for indie filmmakers." Filmmaker Magazine. Fall 2009. Web. 13 Mar. 2010.

declining box office returns for many independent film titles, the cable VOD opportunity is now heralded as breathing new life into the indie scene.

Due to the relative simplicity of the independent film distribution model, the business of digital rights exploitation for feature films has proceeded on the frontlines as new platforms have launched. As a result, digital distribution of film titles is proceeding in a more orderly fashion – and largely as an extension of the well-established DVD distribution business. Whether in a streaming, download-to-rent or download-to-own model, the digital version of the feature film is finding its digital sea-legs across many platforms and, perhaps most impressively, through iTunes.

Where there is confusion – and sometimes friction – in the feature film world, it is usually those cases where a film title has traveled into the arena of the television window, which is traditionally the first pay-TV window. Services like Netflix – with SVOD streaming offerings – can bump into pay-TV windows and upset the traditional value chain of rights exploitation. The onslaught of new cable VOD services is also playing in or straddling the same window – and rightsholders must remain mindful of how services overlap and of how jumping or circumventing windows may undermine maximum revenue generation for a particular title.

Unlike the feature film industry, the financing models for television production have been more varied and, most importantly, have put ownership of certain rights in the hands of independent producers.

In a marketplace like Canada, where the independent production sector has benefited from decades of regulatory support and intervention, producers had historically been able to retain a range of rights to their content. Similarly in the UK, where government has played a more central role in the broadcasting sector, the independent production sector has grown not only because of favourable domestic content quotas, but also because Terms of Trade have facilitated access to the ancillary revenues associated with rights exploitation in other territories.

This brings us to one of the critical policy issues in the current digital rights debate: *with the migration to digital, who will control the digital rights to linear and/or interactive digital content associated with a television program – the broadcaster or the producer? And, where control lies with the broadcaster, will the producer share in revenues generated on digital platforms?*

While this report does not attempt to answer the policy question, Part 3 of the report does explore the areas of overlap and confusion in the current landscape in a number of jurisdictions.

### *1.2.2. A lexicon of digital terms and the emerging windows for digital rights*

Just as the world of digital technology and distribution platforms evolve, so does the terminology defining various modes of exhibition and consumption of digital content change. By canvassing a variety of sources – from current contracts with broadcasters and distributors, to definitions provided by online and mobile platform operators – we have synthesized the prevailing lexicon for digital rights which is presented in this report in Appendix C.

***“An orderly marketplace is key for all stakeholders - with everyone having a share - that way value can be maximized. The reason we have windows of exploitation is to ensure the most opportunities for the consumer to buy several times. Broadcasters are the most threatened in the current windowing system and economic conditions are not making this conversation easy.” (David Reckziegel, E1 Entertainment)***

While each of these rights may be described with slightly different nuance or meaning by different distributors in different territories, it is most important to the producer to understand the context of where these rights fall in the window of exploitation. Windowing of digital rights broadly falls into four exploitation or business model categories and rightsholders seeking to maximize revenue potential will seek to exploit them in the following order:

1. Electronic Sell-Through (EST)
2. Electronic Rental/Video on Demand (VOD)
3. Subscription Video on Demand (SVOD)
4. Free on Demand (FOD)

While the technology or method of delivery (for example, via streaming or download, via cable or Internet) is generally not the determining factor in the definition of a window of exploitation, this can be an area of confusion for rightsholders. Most importantly, rightsholders should consider first the position of the right being negotiated in the chain of digital exploitation, and then the method of delivery. For example, most contracts characterize streaming and downloading as a technical mode of delivery. On occasion, however, companies will define streaming as if it were another business model. Often it is used as ‘short-hand’ for Internet Free on Demand (IFOD) because IFOD frequently uses streaming as its mode of delivery. However, if the licensee simply takes ‘all streaming rights’ without specifying the business model (such as IFOD), it could potentially prevent the rightsholder from further licensing other rights (EST, VOD, SVOD) to a platform that uses streaming as a method of delivery.

## **Exhibit 2: Most Common Windows of Exploitation for Digital Rights**

1. **Electronic Sell Through (EST)** (sometimes known as “Download to Own” or DTO) is the digital sale of a program that can be accessed on demand via the Internet, mobile and cable in perpetuity for unlimited viewing in exchange for a transactional fee. It is most commonly described as an extension of the home video or DVD window and as such, EST revenue potential can be cannibalized if the same title is offered on free online platforms.
2. **Electronic Rental/Video on Demand (VOD)** is the digital rental of a program that can be accessed via the Internet, mobile and cable on demand for a limited period of time in exchange for a transactional fee.
3. **Subscription Video on Demand (SVOD)** gives digital access on demand to a variety of programs for which the viewer pays a periodic subscription fee rather than a per transaction fee. Shaw Cable’s SVOD, Netflix’s “Watch Now” and 3UK are cable, Internet and mobile examples of SVOD.
4. **Free on Demand (FOD)** provides on demand access to programs at no cost to the viewer. Most FOD services are advertiser supported. Hulu and Shaw’s Free Zone are Internet and cable examples respectively.

As the digital industry evolves, these windows are experiencing increasing compression, adjustments and overlaps. Some of these changes are currently experimental, but a proven success may solidify a new windowing release schedule. The primary area of turmoil is occurring in the digital windows related to 'current TV' - among broadcasters, cable and VOD/SVOD players. For example, services like Hulu and Netflix in the US are increasingly competing with traditional broadcasters for consumer attention in the new title arena, evidenced most recently with Viacom's withdrawal of *The Daily Show* and *The Colbert Report* from Hulu.<sup>5</sup> However, the digital marketplace for library content – i.e. older movies, documentaries and television series – is considerably more stable than for current content.

As outlined in Exhibit 3 below, the current windowing schedule has EST being offered simultaneously with DVD release three months after a premiere or theatrical release. VOD is then usually offered approximately one month after EST release. While the timing of the EST window has remained somewhat fixed, studios and platforms have been widely experimenting with VOD. Broadly, there is a push by platforms to move VOD to be day and date with EST. In the US, for example, IFC occasionally releases VOD day and date with theatrical release. Sony experimented with a premium cable VOD window by offering *Cloudy with a Chance of Meatballs* one month before the release of the DVD.

And while FOD was previously restricted to library titles, for current television shows it is now coming right on the heels of an initial broadcast, often within 24 hours, in the form of 'catch-up TV.' Hulu is managing the release of its parent companies' most valuable TV series with holdbacks to allow for revenue generation in the DVD window.

Subscription cable channels are also offering on-demand access to programs after their first airing. And, provided that there is no holdback, Internet SVOD services will now release programs day and date with EST and VOD.

While SVOD services like Netflix traditionally were concurrent with the pay TV window in the US (provided that the pay TV channel did not have exclusivity or a holdback for the project in question), there were and still are instances where SVOD straddles the pay window, especially where that pay window in countries, like Canada, is longer.

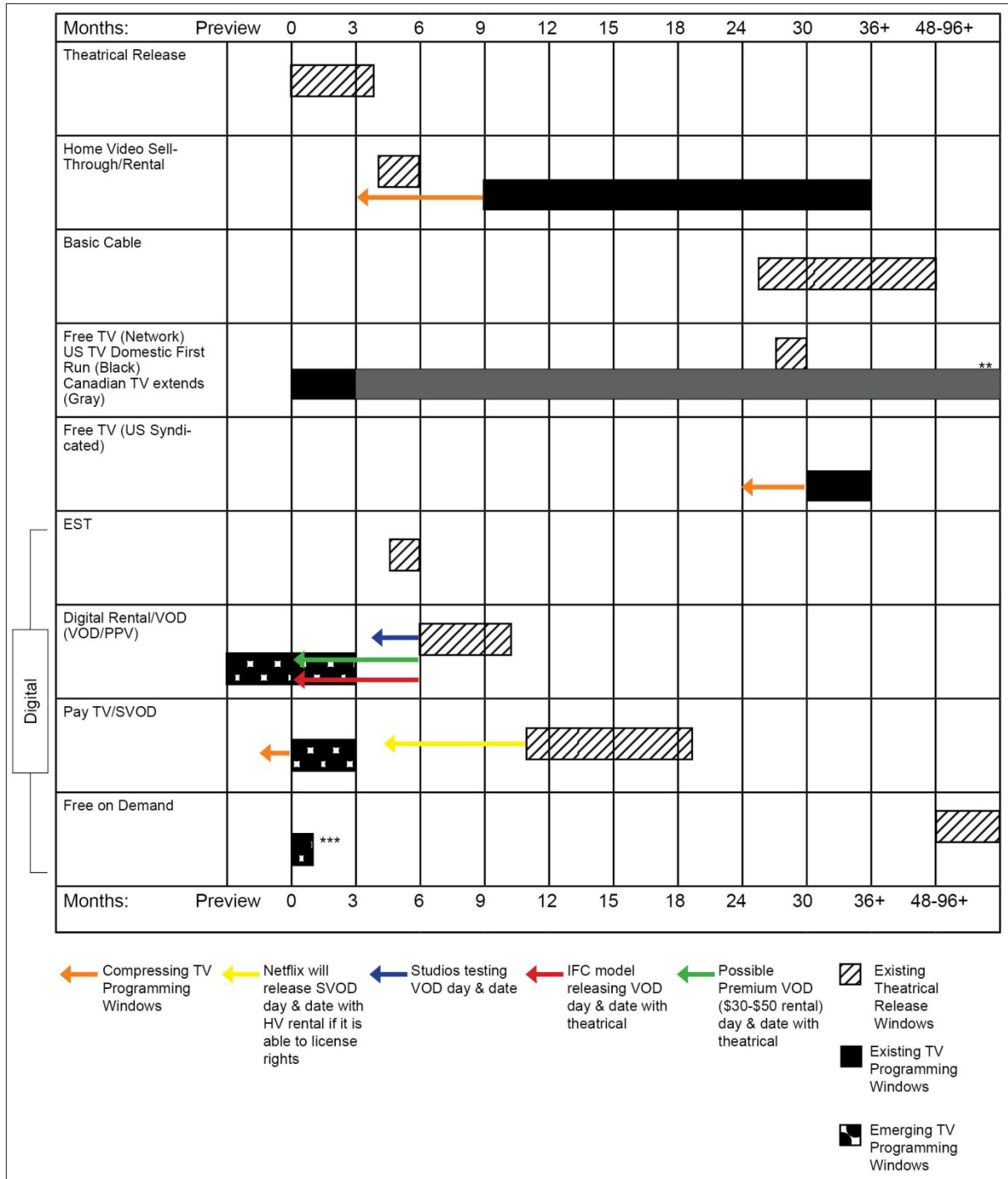
Given ongoing experimentation, and in particular, the continuing fluctuation in digital windows for current television titles, it is important that rightsholders understand the release model the licensee employs, check against other windows to avoid rights conflicts, and build in holdbacks or negotiate release dates, if needed, in order to maximize revenues.

The chart below illustrates the shortening of windows in virtually all distribution channels. Arrows indicate accelerated release dates. Digital Rental/VOD is a particularly active example. Where, historically, VOD would be available 6 months after the theatrical debut, some cable VOD services are testing simultaneous ("day-and-date") releases for theatrical and paid VOD, while other studios are examining premium pricing for day-and-date VOD.

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<sup>5</sup> Stelter, Brian. "Viacom and Hulu Part Ways." The New York Times. 3 Mar. 2010: B1. Web. 8 Mar. 2010.

### Exhibit 3: Dynamics of Current and Evolving Windows for Theatrical and Television Releases\*



Note: The arrows in this diagram demonstrate the general movement towards shortening or compressing and in some cases in the digital arena, overlapping, of windows of exhibition.

\* Representative of North America.  
 \*\* The 1<sup>st</sup> licence period in Canada can extend to 84 months or longer.  
 \*\*\* This evolving window is mainly used for Catch-Up TV (see Digital Lexicon in Appendix C for definition).

## PART 2: CANADIAN PRODUCERS: UNDERSTANDING THE OPPORTUNITIES IN THE DIGITAL CONTENT MARKETPLACE

### 2.1 CANADIAN PRODUCERS ON DIGITAL RIGHTS

In January 2010, the CFTPA sent an invitation to its members to participate in an online survey regarding their understanding of the current marketplace for digital rights. In a period of extreme uncertainty in their home market, Canadian producers were asked to provide information on current dealings in the digital rights arena – both in terms of rights negotiations with Canadian broadcasters and in terms of their ability to exploit digital rights in Canada and in other territories.

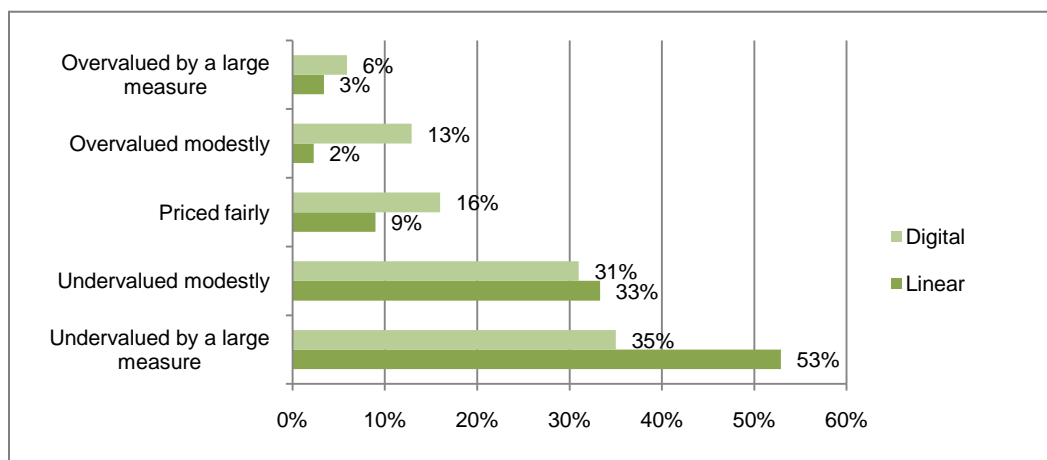
From its membership of 375 companies, 96 producers responded to the survey, a 25% response rate. Worth noting, over 88% of respondents interviewed were television series producers. Over half of the respondents indicated a willingness to participate in a follow-up interview, a reflection of the high degree of importance the respondents attributed to the issue. For more detail on the profile of producer respondents to this survey, please see Appendix D. For a copy of the online survey used in this study, please see Appendix F.

#### 2.1.1. *Presentation of findings*

***“Free content will result in less content being made because it will be economically unsustainable for the filmmaker.” (David Laks, Cinelan)***

**a. How to assess value.** Canadian producers generally feel that film and television content is undervalued in the digital marketplace today. That is, the compensation that producers are receiving for the digital rights to their linear content falls below their expectations and assessment of its value. Interestingly, Canadian producers surveyed don't feel quite as strongly about the value of accompanying digital media products, such as websites and/or interactive digital applications. While this may be counterintuitive, what is being captured in this data is the producers' beliefs about the fair market value of the content they produce – both linear and interactive – as compared to what the broadcasters may or may not be paying for these rights.

#### Exhibit 4: Canadian Producers' Perception of Value in the Digital Marketplace Today



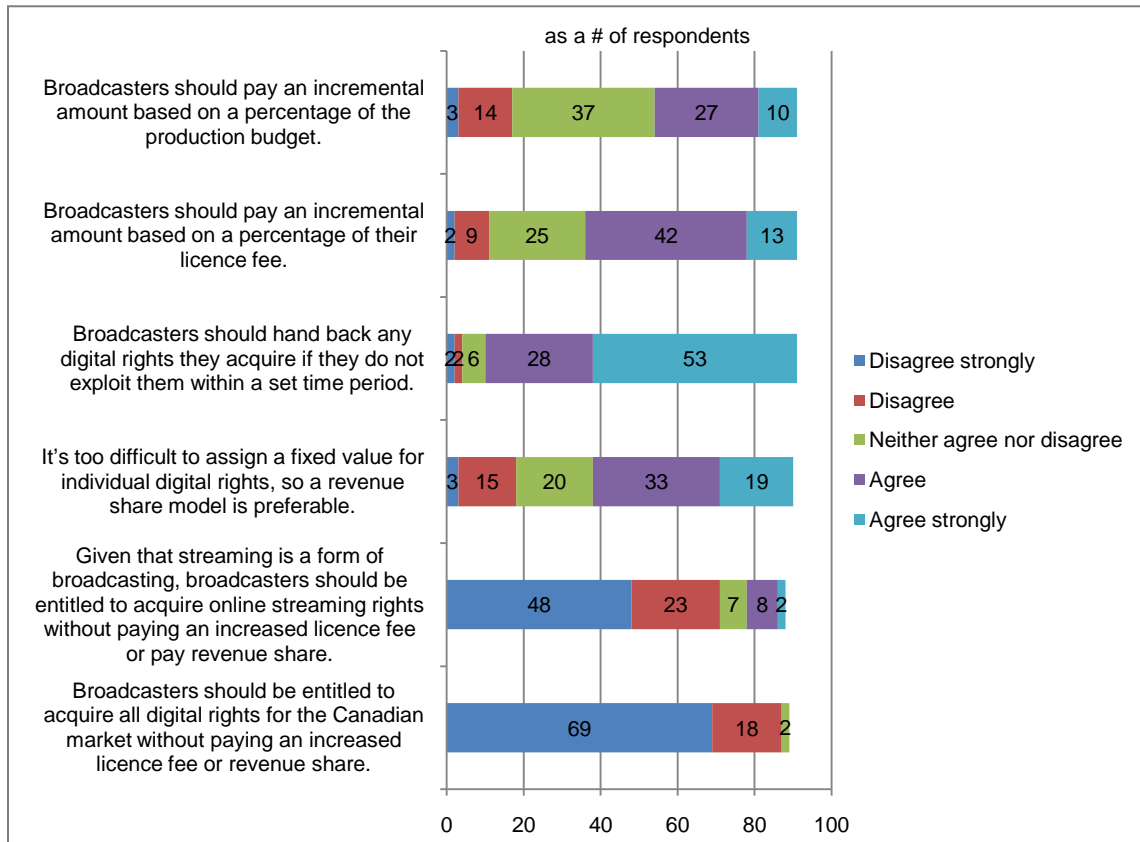
as a % of respondents

Source: Survey of Canadian Producers. 90 responses.

Testing different methodologies for achieving fair pricing of digital rights yielded a fairly diverse range of opinions. However, producers were unanimous in their belief that broadcasters should be required to pay, either through incremental licence fees or revenue sharing, for digital rights in the domestic market. The key issues and observations expressed by producers included:

- Digital rights should be treated separately from the traditional broadcast right;
- Where broadcasters do not exploit digital rights, producers should have the opportunity to do so;
- Streaming or 'catch-up' viewing, regardless of whether it is a legitimate extension of the television broadcast, is a very different right than the sale of individual shows for rent or download;
- Broadcasters who take VOD and download rights are encroaching on DVD/home video territory;
- Digital rights cannot be treated as an automatic 'add on' to broadcast rights;
- The industry needs to establish minimum values for these rights as well as a model for sharing revenues between stakeholders; and
- The rights associated with digital media products created for a linear program should be treated separately.

## Exhibit 5: Canadian Producers' Assessment of Fair Pricing for Digital Rights



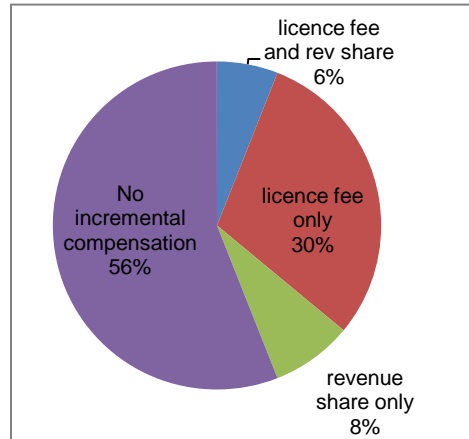
Source: Survey of Canadian Producers. 92 responses.

**b. Compensation for digital rights.** In the current Canadian environment, there is no clear methodology in place directing the compensation for digital rights associated with independently produced programming. Across all genres of programming, broadcasters are employing a variety of approaches, from minimal flat fee licences paid for digital rights (where Canada Media Fund (CMF) participation is involved), to taking all digital rights without incremental compensation.

The survey requested that respondents answer questions regarding digital rights with respect to their most recent production. Over 50% of respondents indicated that the broadcaster did not pay an incremental licence fee, nor did it offer a revenue share, on the digital rights that it acquired.

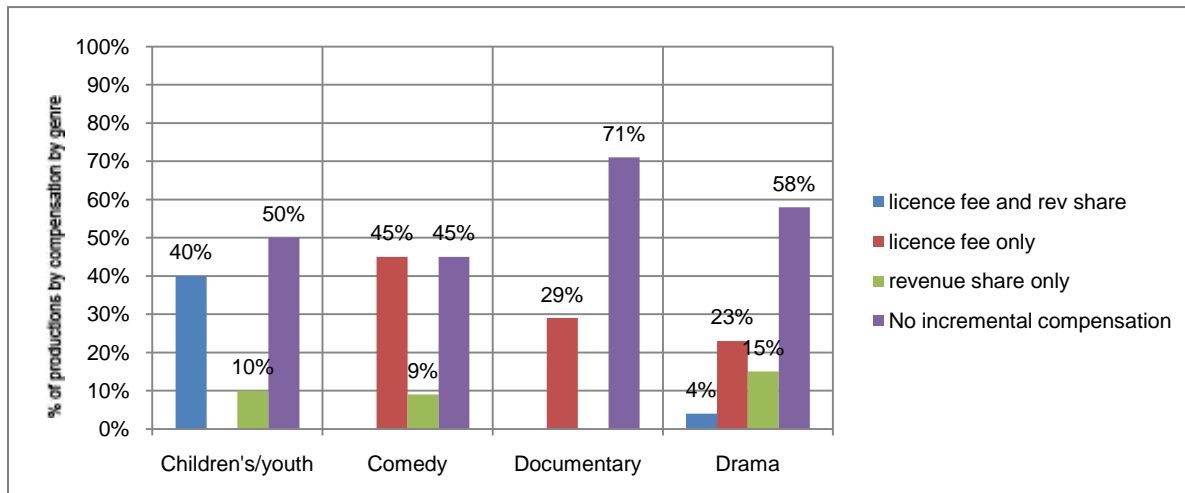
***“Not surprisingly, the digital rights conversation with childrens’ broadcasters has been much more aggressive because kids are early adopters of new technology. Ultimately, we want the entity – producer or broadcaster - that has the best relationship with the new platforms to be responsible for actually exploiting these rights. But we also want a mechanism to take back these rights if the broadcaster does not exploit them.” (Mark Bishop, marblemmedia)***

**Exhibit 6: Compensation for Digital Rights for Most Recent Production**



Source: Survey of Canadian Producers. 88 responses.

**Exhibit 7: Compensation for Digital Rights for Most Recent Production, by Genre**

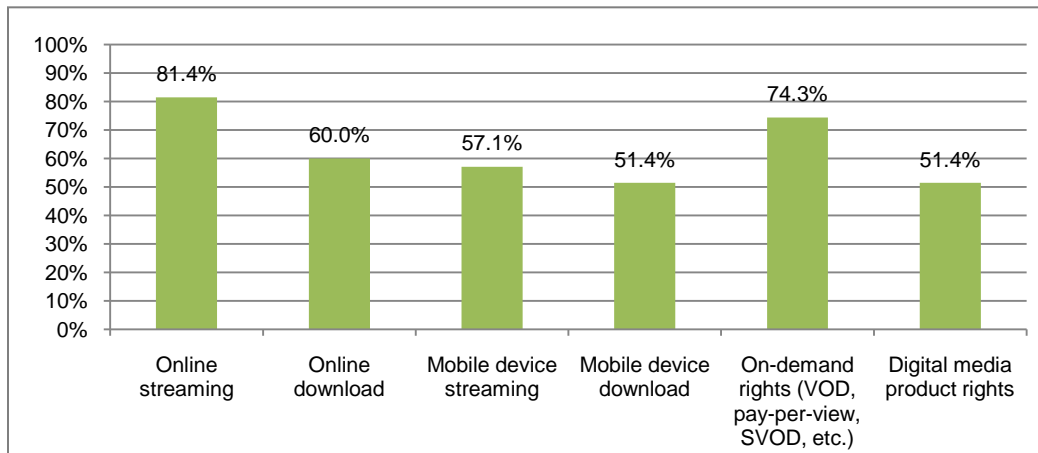


Source: Survey of Canadian Producers. 88 responses.

Across genres of programming, we see the greatest variety in digital rights compensation arrangements in children’s programming. In the children’s genre, producers were more likely to receive some combination of a revenue share and licensing deal. Documentary programming was the least likely to receive any incremental licence fee, and, where some fee was paid, it was generally lower on a per episode basis than other genres of programming.

In the majority of cases, broadcasters sought to acquire, first and foremost, online streaming rights for catch-up viewing, followed by on-demand (VOD, Pay-Per-View, SVOD) rights. Broadcasters also sought exclusivity in about 60% of the cases where digital rights were acquired.

### Exhibit 8: Digital Rights Acquired by Broadcasters for Producers' Most Recent Production



Source: Survey of Canadian Producers. 71 responses.

Where producers indicated that the broadcaster did pay an incremental licence fee (40% of respondents), 90% indicated that the amount paid was under 1% of the production budget. Producers commented that the amounts paid by broadcasters are minimal or 'token' payments made in order to comply with CMF requirements. When probed further about actual licence fees paid for digital rights, the numbers ranged from \$40 per episode at the low end to \$4,600 at the high end, with an average licence fee of \$540 per episode.

### Exhibit 9: Amounts Paid by Broadcasters for Digital Rights, Per Episode

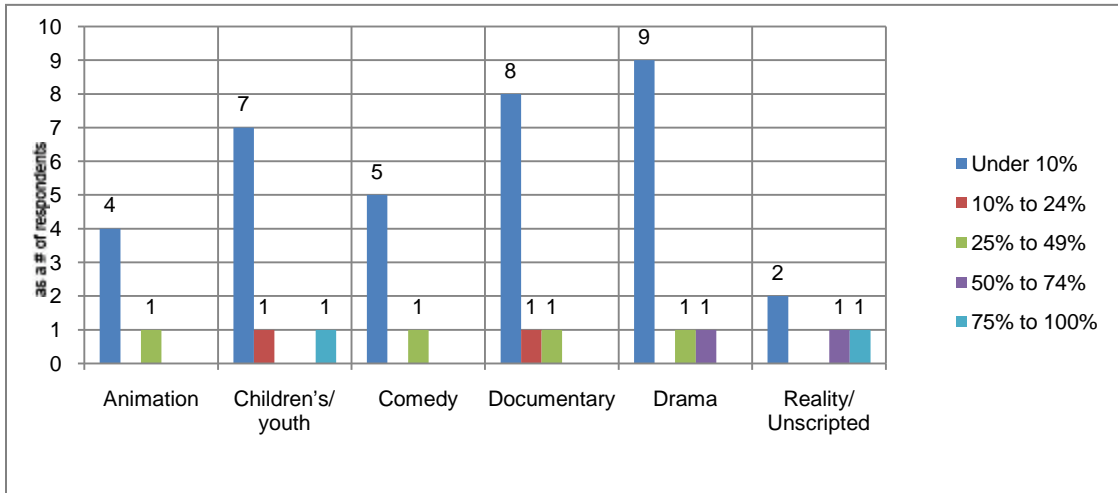
Low	Average	High
\$40/episode	\$540/episode	\$4600/episode

Source: Survey of Canadian Producers. 29 responses.

Only 14% of respondents indicated that broadcasters offered revenue shares on digital rights, and these revenue-share deals were primarily for non-Internet on-demand rights (VOD and Pay-Per-View) and secondly for online and mobile download rights.

**c. Digital media products.** Of the 96 producers who participated in the survey, only 49% indicated that they had created digital media products (websites, interactive digital applications, etc.) associated with their most recent production. In 78% of these instances, producers indicated that the broadcaster paid less than 10% of the budget of these digital media products. In the two cases where the broadcaster covered almost the entire budget for the digital media products, the genres of programming were documentary and reality/unscripted drama.

## Exhibit 10: Broadcaster Contribution to Budget for Digital Media Products

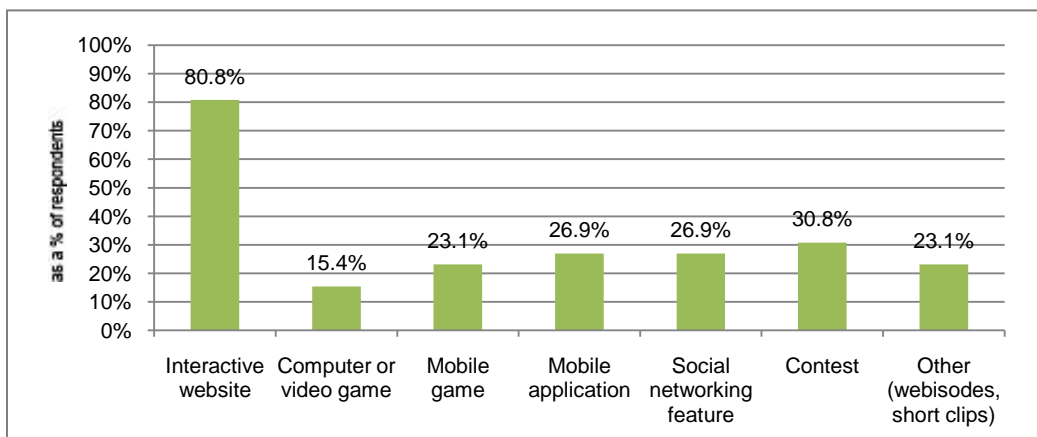


Source: Survey of Canadian Producers. 46 responses.

***“As factual TV producers our skill sets and content are particularly well-suited to digital content and social media in order to build audiences for our shows – what isn’t as obvious is how we’re going to pay for it.” (David Paperny, Paperny Films)***

While the majority of broadcasters may have paid less than 10% of the budgets for the digital media products associated with a television property, they obtained digital rights associated with these interactive products in 45% of the cases.

## Exhibit 11: Type of Digital Media Products Included in Broadcaster’s Licence



Source: Survey of Canadian Producers. 26 responses.

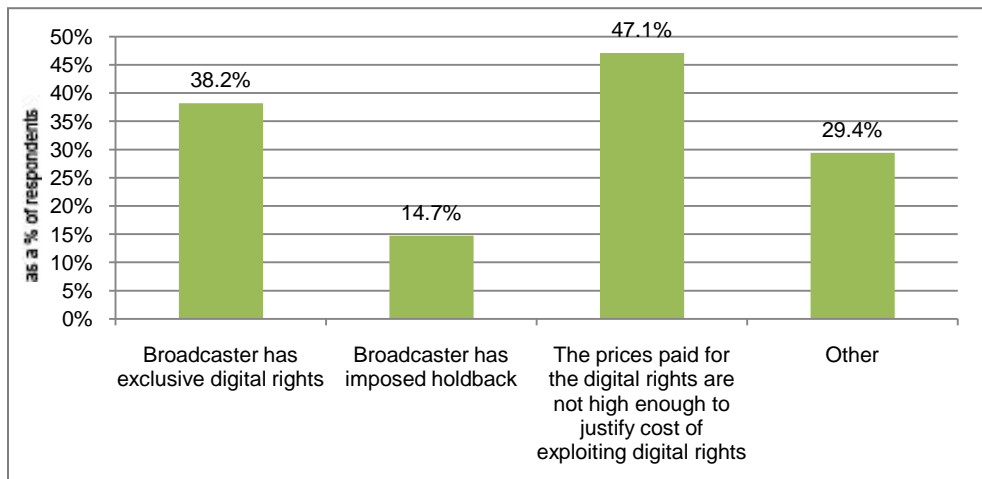
### d. Exploitation of digital rights.

***“No one knows what the value may or may not be of these rights in the future -- and that is why the producer should have the power to carve up***

**these rights. To improve the situation, we need to allow maximum flexibility, explore more hybrid distribution models, tolerate more non-exclusive arrangements and encourage more experimentation.”**  
*(Matthew Meschery, Independent Television Service - ITVS)*

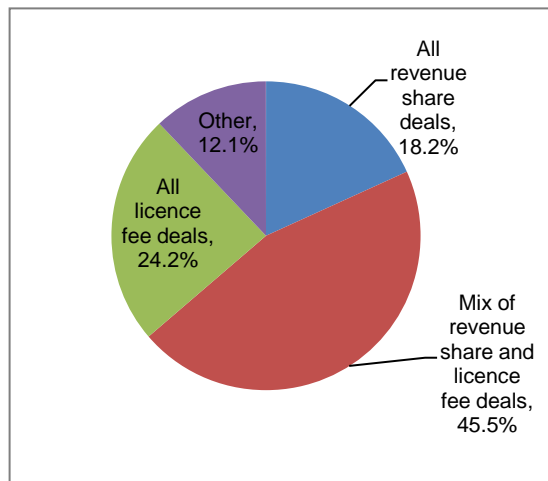
In terms of how Canadian producers are exploiting the digital rights to their programming, respondents were fairly evenly split between self-distribution (31%), third-party distribution (37%), or simply not licensing these rights or just beginning to explore how to exploit them (24%). Another 7% sell both directly and through a third party. More telling are the reasons why producers are not exploiting their digital rights – either the broadcaster has taken those rights or the prices being paid for the rights are too low to justify the costs of exploiting them. And, in terms of types of deals being executed in the digital rights arena, there is a clear split between licence fee deals and revenue share deals.

**Exhibit 12: Reasons Canadian Producers Do Not Exploit Digital Rights**



Source: Survey of Canadian Producers. 34 responses.

**Exhibit 13: Proportion of Licence Fees and Revenue Share in International Digital Rights Sales**



Source: Survey of Canadian Producers. 34 responses.

***“We are in a period of transition. As producers we recognize the growing importance of fostering a 360° approach to content creation – but as distributors, all of our revenues are still coming from the traditional TV platform.”*** (Joy Rosen, Portfolio Entertainment)

Respondents were also queried on their level of confidence in their estimates of market value for digital rights in Canada, the US, the UK, Australia, New Zealand, Europe and worldwide. Not surprisingly, the highest level of confidence on estimates of value among producers is for Canada and the US. But, even in these familiar territories, only 18.5% of producers indicated ‘very confident’ or ‘confident’ and 59% indicated ‘not very confident’ or ‘not at all confident’. Furthermore, only 47% of respondents answered a question in the survey that asked for information regarding licensing of digital rights to online and mobile platforms.

**Exhibit 14: Platforms to Which Canadian Producers are Selling Content**

Platform	Revenue Sharing (# of respondents)	Licence Fees (# of respondents)	No sales (# of respondents)
iTunes Canada	11	2	31
iTunes US	10	0	32
Amazon.com	7	1	33
iTunes UK	7	0	35
Amazon.ca	6	1	32
Rogers Wireless	6	0	35
Netflix	5	0	35
Telus	3	0	37
Hulu.com	3	0	36
Bell Wireless	2	0	37
Youtube.com	2	0	37
Heavy.com	1	0	38
Vimeo.com	1	0	38
Joost	1	0	39
SnagFilms.com	0	0	39
Atom.com	0	0	39
Jaman	0	0	39
Babelgum.com	0	0	38

Source: Survey of Canadian Producers. 46 responses.

***“There is a business opportunity to unlock incremental revenues in high quality, high value content that is no longer in its television window but could certainly have a second life on new digital platforms.”*** (Jamie Brown, Frantic Films)

Where producers have exploited their digital rights, the most consistent reporting on deals comes from iTunes, where the revenue share is always the same: 30/70 iTunes/Rightsholder. As iTunes no longer deals directly with independent producers, the intermediary aggregator will typically take between 10% and 20% of the rightsholder’s share of revenue (for a fuller discussion of the iTunes model, see section 3.3.1).

Several producers cited having been successful in licensing their completed digital media products (generally an interactive website) to foreign broadcasters. Another handful of producers were able to benefit from revenue-share deals with iTunes through their non-Canadian broadcasters.

## 2.2. SUMMARY OF FINDINGS: LOOKING FORWARD

***“The system in Canada is really not encouraging producers of content to experiment on all platforms because most of the funding still must be triggered by broadcasters. This assumes that television is the only viewing platform for consumers and we know that this is no longer the case.” (Dan Hawes, March Entertainment)***

The results of this survey clearly indicate that producers feel that they are at a disadvantage when negotiating the licensing terms of the digital rights for their projects, particularly when negotiating with Canadian broadcasters. Part of this disadvantage stems from pure market dynamics: the Canadian marketplace is characterized by many sellers and a few, very dominant, buyers.

However, it is equally clear that producers feel that they are at a market knowledge disadvantage in digital rights negotiations. A number of producers noted that they had little means of independently determining whether the prices offered for the digital rights to a project – where compensation was offered at all – was fair and reasonable. Unlike the traditional television industry, where licence fees for genres of programming in individual territories are published in trade magazines, the digital rights industry is largely operating without price transparency.

Filling this market information gap may help in establishing a true marketplace for digital rights. During this period of transition – and as we are seeing in the book publishing industry and the pricing debate between the Kindle, ebook and iPad – the film and television industry requires a coordinated, comprehensive and sustained approach by all industry stakeholders, including the CRTC, to achieve greater price transparency in the digital rights marketplace.

### **Exhibit 15: Producer Survey Summary of Findings**

1. Canadian producers consider that the digital rights associated with their linear content are grossly undervalued in the market.
2. According to producers, Canadian broadcasters are underpaying for digital rights (when they pay at all) and are overreaching in their demands for digital rights.
3. For their most recent project, the majority of producers surveyed did not receive any incremental compensation, whether in the form of a licence fee or revenue share arrangement, from the licensee for the digital rights to the project.
4. The majority of Canadian producers do not exploit digital rights to their content largely because the prices paid for these rights are not high enough to justify the cost of exploiting them.
5. Canadian producers generally feel that their level of knowledge regarding the digital content marketplace is low.

## **PART 3: THE BUYERS: BROADCASTERS, DISTRIBUTORS, ONLINE & MOBILE PLATFORMS**

### **3.1. INTRODUCTION: STATE OF THE DIGITAL CONTENT DIALOGUE IN CANADA, THE UK, THE US, AND AUSTRALIA AND NEW ZEALAND**

#### *3.1.1. Survey approach*

During January and February 2010, over 55 direct interviews (in person or by phone) were conducted in Canada, the UK, the US, Australia and New Zealand. The majority of the interviews were conducted with organizations in the UK and the US where the marketplace for digital content rights is most advanced, the rules of engagement for control of digital rights are less murky, and where there are a greater number of established digital distributors and platforms in the field operating with a high degree of knowledge.

In Canada, CBC, TVO and S-Vox were interviewed for the survey. The private conventional and specialty broadcasters declined to participate.

The survey target list spanned conventional broadcasters, cable and specialty channels, distributors specializing in digital exploitation, as well as online and mobile platforms. Wherever possible, interview subjects were invited to share case studies of successful digital titles and associated pricing or revenue models.

Overall, the interview subjects were bullish on the future upside potential in the digital rights arena, though cautious with respect to the pure ad-supported conventional broadcast model. All respondents suggested that individual rightsholders should educate themselves as to how to navigate this rapidly growing marketplace. As one put it “while producers shouldn’t overestimate the revenue potential from platforms like iTunes, they should consider digital in their Top 10 list of customers” (Mark Kashden, New Video Group).

#### *3.1.2. Snapshot of the digital rights arena – Canada, the UK, the US, Australia and New Zealand*

##### **a. Canada.**

***“In terms of calculating the value of a digital right, the CBC has tried to estimate fair market value which is difficult when we are losing money on digital. But for the public broadcaster, it’s not just about revenue generation but about being a content company which delivers content everywhere, on all platforms where Canadian viewers are.” (Lisa Clarkson, CBC)***

In Canada, the market for digital content rights has not developed at anywhere the same rate as the US or the UK. A number of respondents commented on the Canadian marketplace as generally ‘two years behind’ the US in terms of breadth and depth of digital offerings.

This is not to suggest that Canadians are not interested in video content online or on mobile, it simply means that the roll-out of new services and offerings has been slower. In fact, where Canadians gain access to new services – Facebook, for example – they demonstrate huge appetite for digital offerings and phenomenal early-adopter characteristics.

Whereas in the US, there are usually several players in one segment of the business, in Canada we often see just one or none at all. An example of this disparity is in EST, where iTunes Canada is really the only player and Xbox and Playstation are lesser, yet very present, players in the US market.

Furthermore, in the US, Netflix has become a dominant and important player in its SVOD offering and no equivalent service (of any scale) exists as yet in Canada. The only Netflix-like service, Zip.ca, has struggled to reach anywhere near the scale of its US competitor, with approximately 50,000 subscribers (as compared to Netflix's 12 million subscribers), and its offering limited to postal delivery. In Canada, the current equivalent to the 'Watch Now' Netflix offering, the online streaming of a relatively new title, is very much the purview of pay TV and cable VOD services.

#### **b. The UK.**

***“PACT agreements have provided some stability in the UK in contrast to the haggling with international distributors.” (Sarah Sparkes, ITV)***

The UK television industry is characterized by large public-service organizations like the BBC, ITV, Channel 4 and Channel 5 (collectively, “the public service broadcasters”) and as such, the progress on Terms of Trade governing the commercial arrangements between broadcasters and independent producers has been perhaps more easily won in a public policy forum.

By concluding Terms of Trade with the public service broadcasters, the Producers Alliance for Cinema and Television (PACT) secured a framework for the exploitation of rights associated with television programs, which, in turn, greatly contributed to the strengthening of the independent production sector in that country. According to PACT, television exports are up 39% and the UK now has the largest independent production sector in Europe and the Americas.<sup>6</sup>

The success of PACT in securing Terms of Trade between TV producers and broadcasters is well documented. In the development of a 'Code of Practice' required for individual public service broadcasters, prescriptive guidelines addressing the following issues were established:

- the different categories of rights that could be acquired by the broadcaster;
- the duration and exclusivity of the acquired rights;
- price ranges for each category of programming;
- a timetable for the commissioning of independent productions and the conclusion of broadcast licence agreements; and

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<sup>6</sup> Producers Alliance for Cinema and Television (PACT). Indie Briefing 2009. Producers Alliance for Cinema and Television (PACT). April. 2009.

- a dispute resolution and review process.

In the UK, PACT successfully argued that the broadcasters were throttling the development of the online market by either non-exploitation of digital rights or by imposing holdbacks on independent producers that prevented them from exploiting the rights themselves. With rules now in place, producers have the ability to reacquire those rights should a broadcaster not exploit them (often referred to as the 'use them or lose them' requirement).

After some wrangling, these rules have been extended to include the treatment of digital rights in the UK, with agreement on three sequential 'rights windows' as follows:

**The first window.** The broadcaster licenses both the television broadcast rights and 'on-demand' or 'catch-up' rights that may be exploited for a fixed period of time following the initial broadcast, but must compensate the independent producer according to formulas negotiated by PACT with each broadcaster.

**The second window.** A 'holdback' period during which the broadcaster can impose restrictions on rights exploitation by the independent producer.

**The third window.** Exploitation for the rights by the independent producer with revenue share between the parties.

Current issues in the UK marketplace include a debate surrounding the BBC's iPlayer (its free catch-up viewing platform) which some interviewed in this survey feel is preventing other paid online services from developing in that country. In fact, some observed that as a result of free viewing on the BBC iPlayer, UK consumers have developed the belief that all on-demand content should be free online.

Digital rights are being used by UK commercial broadcasters primarily as a retention or bonus strategy and therefore little or no commercial value is being attributed to those rights. PACT is working on preventing broadcaster holdbacks on VOD (currently typically 30 days but with extensions for returning shows) and encouraging an opening of the marketplace to services focused on television programming, like Hulu, which are looking to launch in the UK.

Overall, while the PACT Terms of Trade agreements have provided greater stability in the marketplace for digital rights, most of the same issues relating to the exploitation of digital rights in Canada remain contentious in the UK. Broadcasters tend to want to acquire digital rights as they perceive digital distribution as representing the future of exhibition but, as yet, they are not attributing any real commercial value to these rights.

Increasingly, specialty cable channels are required by distribution platforms to provide content for ancillary VOD and online streaming services that originate from the platform. So, for example, as part of its affiliate agreement with a cable company, a UK specialty channel will be obligated to include a certain minimum amount of content to the cable VOD service. These are part of the platform's attempt to differentiate its service and provide added value to subscribers.

In our interviews with UK broadcasters, distributors and platforms expressed the following concerns with respect to digital rights:

- Overvaluing of digital rights by distributors and rightsholders causes market stagnation, particularly with regard to new online platforms;
- The value of traditional home video/DVD window for television titles is being negatively affected as the related EST and electronic rental rights are hived off by broadcasters (and then by producers);
- Piracy is still the biggest competitor for online video services; and
- There is a need for a higher degree of partnership between producers and buyers with respect to realization of 'long tail' revenues and longer term value from digital rights.

### c. The US

***“Right now there is a disconnect between the value of eyeballs on television versus the value of eyeballs on digital. And frankly, the broadcaster has a better chance to leverage value from the digital exploitation of content than an individual producer.”*** (Frances Berwick, Bravo Media)

In the US, the digital rights debate is occurring at the large broadcaster and platform level – not between distributors and rightsholders. For broadcasters in the US, there is virtually no model for digital rights ownership by the producer, as the operating model is a 'work for hire' one. US broadcasters generally finance 100% of original program costs and, as a result, expect to control all rights.

Where they acquire or co-produce with non-US third parties, US broadcasters will still seek to control all rights within their territory. Where content providers have market clout – through past performance and reputation – their participation is reflected through participation in 'back end' or net profit participation.

The large broadcasting groups interviewed in this study (Discovery, NBC/Universal, Scripps, and Turner, for example) are highly consistent in their approaches to digital rights. Digital Rights are a necessary component of 'all rights' deals with producers and they are a small, but growing, part of the revenue mix as broadcasters seek to maximize return. Without hesitation, all broadcasters interviewed considered catch-up viewing on network websites to be an integral part of their broadcast right and most simply bundle advertising buys across both broadcast and their online platforms.

Where the US market for digital rights becomes more contentious is in the arena of VOD, SVOD and FOD platforms. As described earlier, the cable companies are vying for newer titles on their VOD services to offer more value for the paying subscriber – who might be tempted to view similar, free content elsewhere. With the success of Netflix and its 'Watch Now' streaming service, cable VOD services – and the traditional pay-TV windows – are all competing to capture the American consumer seeking 'fresh' new films and TV content.

Hulu's enormously successful foray into FOD premium television content has introduced a new level of concern among the parent broadcasters of the service who are witnessing

migration of their audience. And in the home video/DVD marketplace, the emergence of iTunes and other EST platforms has proved challenging, as some players seek to disassociate EST from the traditional DVD window. So, for example, while a traditional home video company will necessarily include EST as a critical part of their DVD rights, broadcasters increasingly want to acquire the EST rights for themselves.

The US marketplace for new online platforms is the most dynamic – with the most players vying for a piece of the action – in the English-language territories surveyed. A high degree of experimentation is occurring and, as a result, there will be some failures along the way. Already, several online platforms have failed, most recently Veoh Networks and b-side, as the economic model to support video content on the Internet has been slow to take hold.

#### **d. Australia and New Zealand**

In Australia, like the other English-language territories reviewed in this study, the issue of a ‘rights creep’, where traditional broadcasters acquire more rights with their initial licence without incremental remuneration, has been a contentious point of debate.

The Australian television industry is still largely dominated by the five free-to-air television stations (ABC, Seven Network, Nine Network, Ten Network and SBS) and three pay-TV stations. The two public broadcasters (ABC and SBS) are the only free-to-air networks that consistently pay for digital content. In fact, the public broadcasters are now investing significant funds (up to \$100,000 Australian) for licensing additional interactive content to support linear programming as part of their public remit.

As in other countries, where a traditional broadcaster is covering the majority of the production costs, it will seek to maximize the rights included in its licence agreement. Australian cable channels generally acquire non-exclusive digital rights because of their lower licence fees. And while broadcasters in both Australia and New Zealand express increasing interest in 360° commissioning, they also consistently were of the view that the revenue generated from digital remains marginal.

In the nascent marketplace for digital distribution of television content in Australia and New Zealand, iTunes is the major download option and VOD is expected to become more important in 2010 as a wide collection of services are launching this year. And similar to other countries, the transparency of the iTunes business model has made it a preferred leader over the wide variety of fee structures offered by other platforms.

### **3.2. BROADCASTERS & DISTRIBUTORS ON DIGITAL RIGHTS (CANADA, THE UK, THE US, AUSTRALIA AND NEW ZEALAND)**

***“The market will sort this out, over time, as always; but high expectations for digital sales are not yet justified by actual consumer behavior. For example, US video download sales in '09 were somewhere around \$400M, compared to roughly \$19B for combined DVD/Blu-Ray sales and rentals. For now, at least, the digital market is over-promising and under-delivering.” (Peter Edwards, Acorn)***

### 3.2.1. Presentation of findings

**a. Buyer Profile.** The expert interviews conducted with a range of CEOs, VPs of Content, and VPs of Legal and Business Affairs fell into the following two categories: broadcaster/distributor and online/mobile platforms.

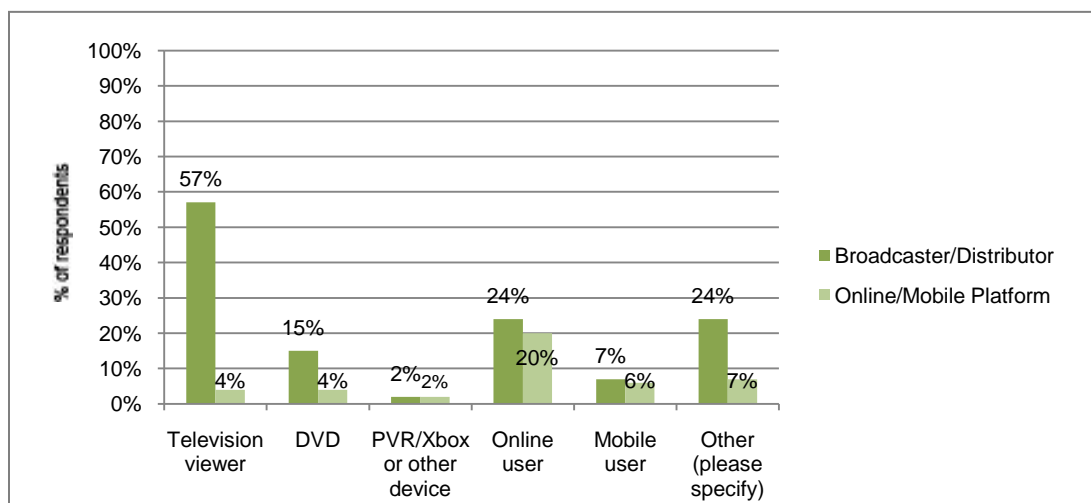
While not every sub-category is represented, the research team focused its efforts on the two categories of buyers who have a significant stake in the future of digital content:

- Conventional and specialty broadcasters, cable channel operators, and DVD/home video distributors as well as distributors with a digital ‘brief’ (what would be considered the “traditional platforms” of content exhibition and distribution); and
- Online and mobile services (what would be considered the “new platforms” of content exhibition and distribution).

Not surprisingly, in terms of numbers and relative power in the marketplace for content, the breakdown in respondents was 74% from the traditional platforms and 26% from the new platforms. In terms of buyer respondents, the breakdown points to the US as the most highly engaged marketplace for digital rights.

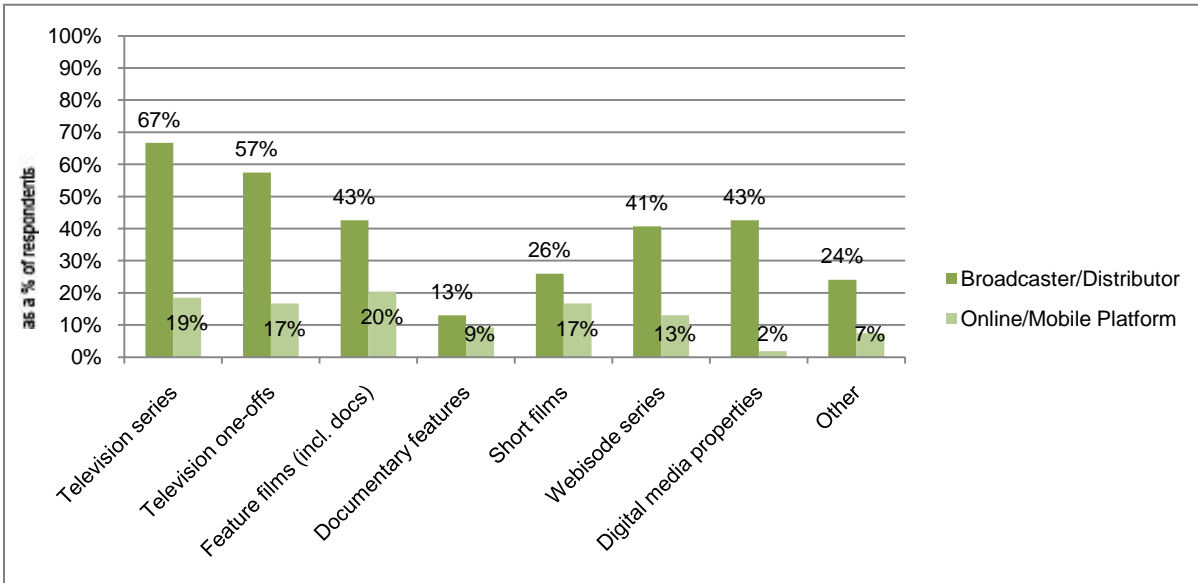
Broadcasters overwhelmingly pointed to the online user as the most important audience, second only to their television audience. Many online platforms, while quick to select the online user as their primary viewer, qualified the answer by saying they did not believe that the online user audience was synonymous with the traditional television audience. In fact, most described a new viewer – a younger, early adopter, often male-skewing viewer who might not consume television at all, as their primary audience.

#### Exhibit 16: Primary Audience by Type of Buyer



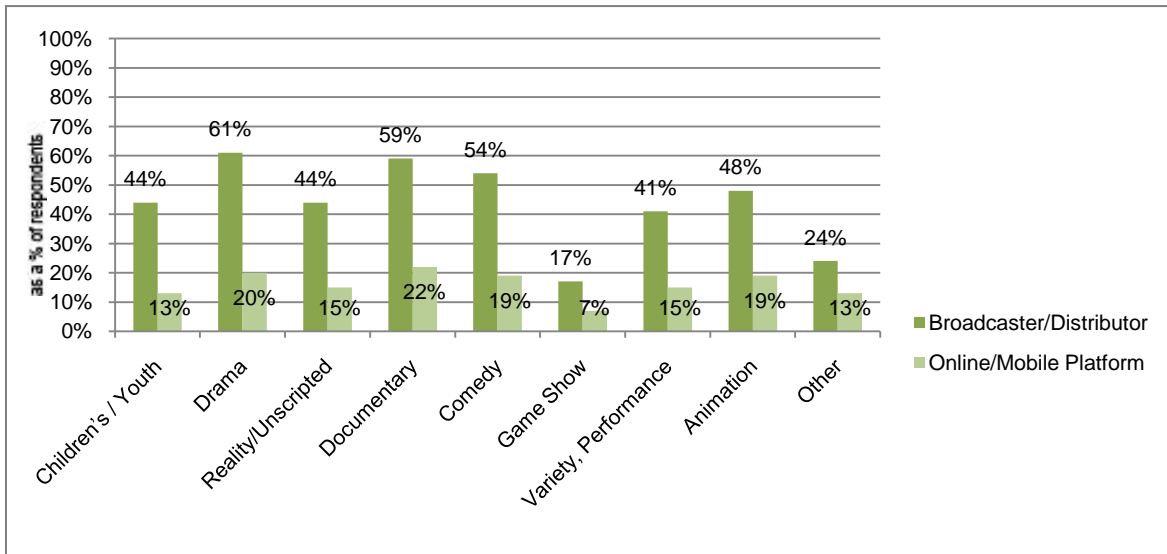
Source: Digital Content Buyers Interviews. 54 Responses.

### Exhibit 17: Formats Commissioned or Acquired, by Type of Buyer



Source: Digital Content Buyers Interviews. 54 responses.

### Exhibit 18: Genres Commissioned or Acquired, by Type of Buyer



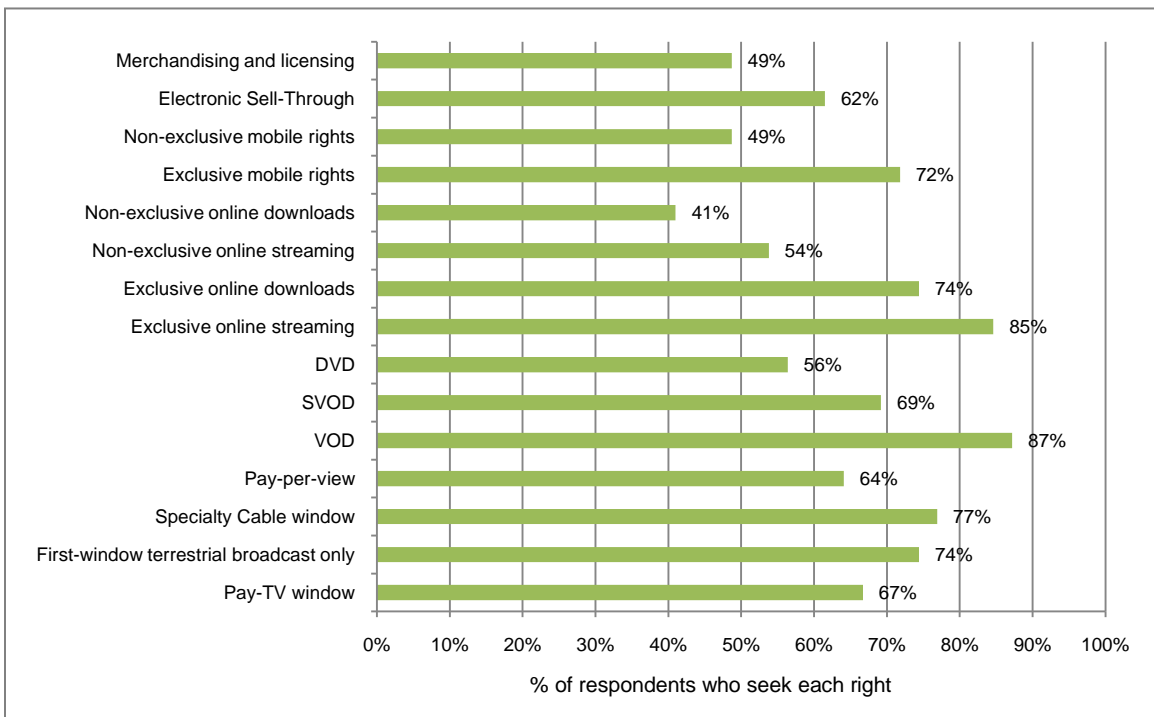
Source: Digital Content Buyers Interviews. 54 responses.

With the notable exception of Canada, what emerges in this sample of the English-language content industry is a picture of larger broadcast entities, primarily focused on their home territories, assuming most of the responsibility and cost for original commissions. Juxtaposed to this 'traditional' broadcast sector are the emerging online and mobile platforms, which limit themselves to only being distributors – that is, they do not invest in original programming – and which, wherever possible, offer up their programming on a worldwide basis.

**“We are still trading analog dollars for digital pennies!”** (Matthew Meschery, ITVS)

**b. Exploitation of digital rights.** The large broadcasters and specialty/cable channel operators in all the countries reviewed seek to control as many rights on an exclusive basis as possible in their home territory, and in the case of the US, where broadcasters are often fully financing production, they seek worldwide rights. Interestingly, for those traditional and new platforms that commission original programming, VOD rights rise above the pack as the most sought-after right. As noted earlier, on-demand rights (VOD, SVOD) that are associated with current TV programming is where there is the greatest amount of experimentation in windowing occurring, and, as a result, where the greatest instability resides.

**Exhibit 19: Rights Sought by Commissioners of Original Programs**



Source: Digital Content Buyers Interviews. 39 responses.

When queried about the types or genres of programming that might have more value in the digital marketplace, buyers and platforms were evenly split in assigning values. Most buyers interviewed indicated that they sought digital rights, regardless of genre, though they did identify the following types of programming as having a higher degree of appeal in the current digital market:

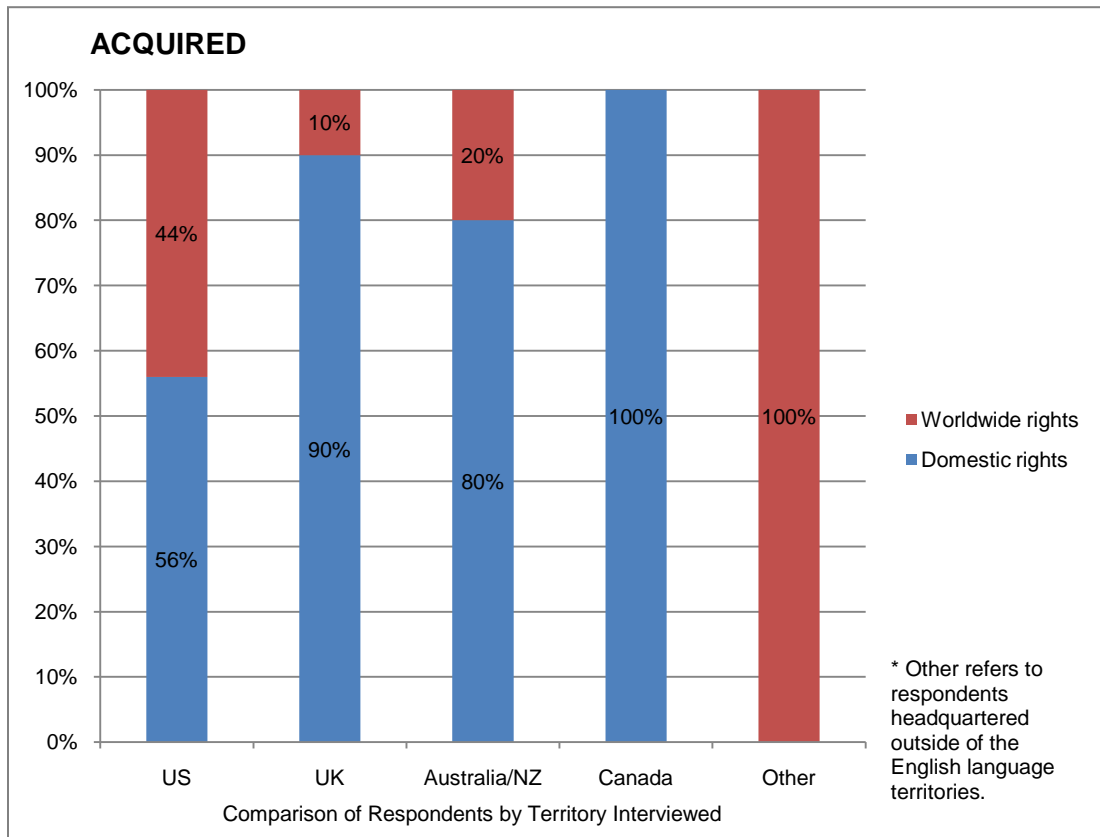
- Comedy movies and/or series (R-rated especially);
- Action and horror movies;
- Young male-skewing programming (all types);

- Current TV series (for catch-up viewing on EST and on broadcast networks' own websites);
- Long-running drama series that have aired previously on US TV;
- High-quality documentaries (especially where they can be linked to current events or 'hot button' issues); and
- Tween programming (which was ranked higher than preschool programming).

For traditional broadcasters – and especially public broadcasters, where the costs of bandwidth associated with managing their programming schedule online may be a factor – choosing between types of programming to offer on their own websites, and for how long, is important. The Canadian broadcasters interviewed all pointed to the costs of operating their digital platforms as still exceeding the revenues returned, especially given that advertising sales are bundled across traditional and new platform broadcasts.

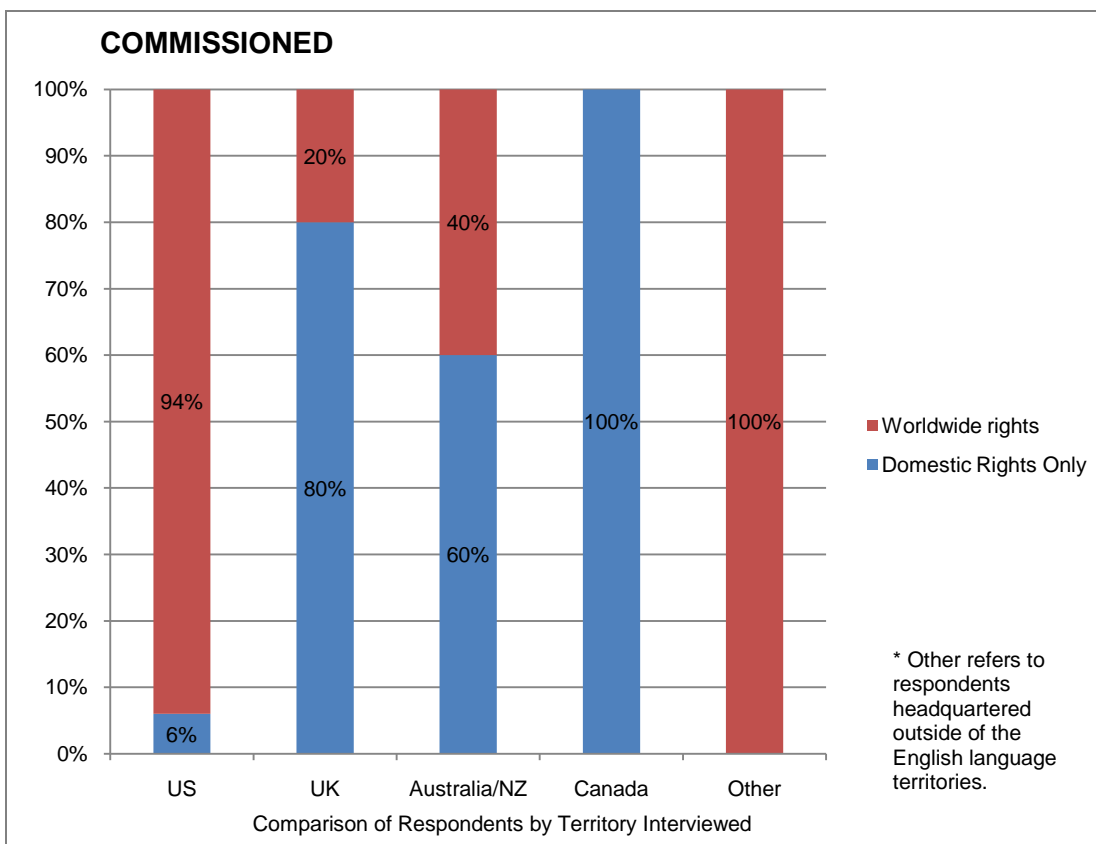
Where buyers are commissioning original programming, American platforms are the most aggressive in seeking worldwide digital rights – often because they are financing 100% of the production. The few online platforms that do commission original programming also require worldwide rights for exploitation.

**Exhibit 20: Comparison by Territory of Respondents' Assessment of the Importance of Securing Digital Rights for Acquired Programs**



Source: Digital Content Buyers Interviews. 39 responses.

**Exhibit 21: Comparison by Territory of Respondents' Assessment of the Importance of Securing Digital Rights for Commissioned Programs**



Source: Digital Content Buyers Interviews. 38 responses.

Very few broadcasters in the US are paying incremental licence fees for digital rights and most are not tracking revenues generated by digital rights for internal tracking purposes.

In Canada, where only three broadcasters participated in the survey, all indicated that where the Canadian Television Fund (now the CMF) was involved in a program's financing structure, an incremental licence fee was paid to the independent producer for the digital rights licensed by the broadcaster. However, where the CMF was not involved, no incremental fee for digital rights would be paid. As the only Canadian broadcasters participating were public or not-for-profit, each expressed the view that current licences paid for digital rights exceeded actual market value, but that compensating producers for these rights was part of their public broadcaster mandate.

**c. Digital windows**

***“Digital distribution is a critical component to our long term viability. Currently, digital sales represent a small (single digit) percentage of total sales and our experience to date has been that these sales are incremental and are not cannibalizing traditional video sales. That said, we do think that it is inevitable that digital sales will increase significantly in the coming***

***years and traditional sales will see a corresponding reduction. But we are building business models and distribution chains that will allow us to respond to these changes in the market in the hope that the financial benefits to all stakeholders will not be diminished as we experience this paradigm shift.” (Jack Dougherty, PBS)***

The broadcasters and distributors interviewed were asked to rank the relative importance, in terms of share of revenues generated, of the digital services offered by them. They were then asked to indicate the magnitude of revenues generated by digital as a function of their total revenues.

For traditional broadcasters, especially among the larger US networks, their own network websites were ranked as the single most important digital platform. Ad revenues generated on these websites, however, are generally bundled with their regular broadcast buy. For certain US broadcasters and cable channels, cable VOD ranks highly – not because of incremental value – but because of the pre-existing affiliate arrangements where VOD program supply is part of the broadcaster’s carriage agreement.

After their own websites, broadcasters cited EST – and unanimously, iTunes – as the most important digital revenue-generator. For traditional home video companies, all of which have jumped into the digital marketplace, iTunes consistently ranks as the most important digital platform across all territories.

Second only to iTunes, Hulu ranks as the fastest growing and most important platform for digital content. With over 44 million unique users in January, 2010, and over 1 billion video streams that month, Hulu is the unqualified leader in professionally produced free on-demand Internet video. While currently only available in the US, Hulu has global aspirations. Although YouTube was often mentioned in digital exploitation strategies, it has yet to rank as competitively in terms of revenue generation. This is likely to change as YouTube increases its focus on professional content and its free ad-supported model.

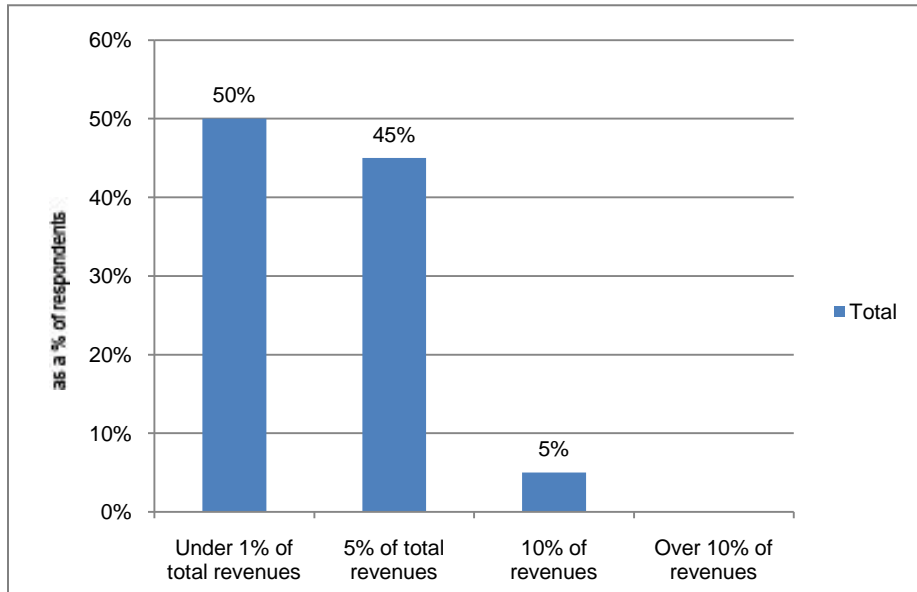
Finally, what emerged in this inquiry is the declining influence of wireless as a distinct platform. Most broadcasters and distributors ranked it low in terms of revenue potential and pointed to the iPhone and the next generation of smartphones as simply transitioning mobile into another viewing platform, rather than constituting its own distinct window.

#### **Exhibit 22: Broadcasters and Distributors Rank Revenue Potential of Digital Platforms**

<b>1<sup>st</sup></b> Broadcasters’ own website (Catch-up Viewing)
<b>2<sup>nd</sup></b> iTunes (EST & VOD)
<b>3<sup>rd</sup></b> Hulu (FOD)
<b>4<sup>th</sup></b> Netflix (SVOD)
<b>4<sup>th</sup></b> Cable VOD
<b>5<sup>th</sup></b> Mobile

In terms of relative revenues, about half of respondents indicated that digital revenues were still below 1% of total revenues, another 45% of respondents measured digital revenues at 5% of total revenues, and only one respondent, a distributor, pegged digital revenues at 10% of revenues. Almost all respondents concurred that the number is increasing, and many indicated that growth was progressing at a double digit rate.

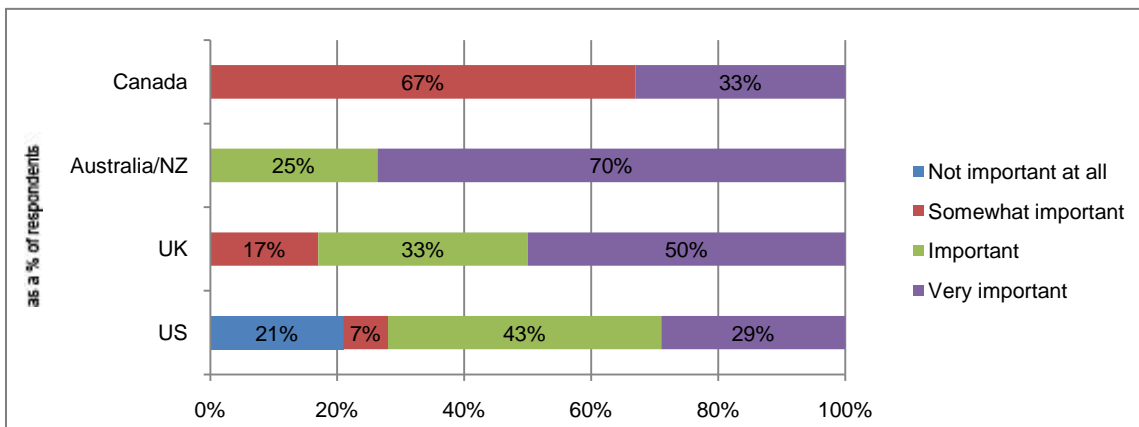
**Exhibit 23: Proportion of Total Revenue Generated, by Digital Platform**



Source: Digital Content Buyers Interviews. 20 responses.

Overall, 41% of respondents considered the creation of interactive websites, games, and other applications 'very important' in their commissioning of original content. In terms of adopting a 360° multiplatform approach, broadcasters in the UK and Australia were more emphatic in the importance of these additional digital media products. One respondent observed that while being able to offer additional digital media products might help secure a sale, it would not add much in terms of incremental revenue.

**Exhibit 24: Importance of 360° Digital Media Products**



Source: Digital Content Buyers Interviews. 27 responses.

### 3.3. ONLINE AND MOBILE PLATFORMS

***“Pirate sites are the primary competitors to legitimate services offering free films on the Internet.” (Peter Sermol, Indiemoviesonline.com)***

The twenty online and mobile platforms interviewed in this study were predominantly US-based, though operating on a worldwide basis. The business approach for the successful digital platforms is scale and reach, driven by low-cost or no-cost offerings to the consumer. Over half of the respondents are operating in a revenue-share-only environment, with a variety of splits and some mixed results for rightsholders.

***“Digital platforms need to pay fair value for content, because at this moment no filmmaker can even come close to recouping the costs of the production via digital only. The only companies who think that the value is priced fairly are those who have the relationships with the advertisers.” (David Laks, Cinelan)***

Very few online platforms are paying licence fees or contributing to the costs of production and most would agree that potential revenues from the digital arena in no way meet the cost of producing high quality content. Among services that do license original content, such as Babelgum, some exclusive windowing is required, with licence fees varying greatly from \$100s to \$1000s for packages of short film titles, to more significant sums for premier ‘releases’. Netflix, which declined to participate in this survey for competitive reasons, is probably the only digital service that exclusively employs a licence fee business model with its content rightsholders.

A free online platform like Babelgum will pay licence fees for exclusive premium titles as it builds its brand as a unique destination for independent content. Licence fees from Babelgum can range from a few hundred to thousands of dollars, depending on the title and offering.

As online platforms for long-form content compete for market share (just as the short-form platforms did five years ago), they are increasingly turning to original and exclusive content to define their brands, improve ‘discoverability’ and build audiences. Not surprisingly, where buyers are not paying licence fees or commissioning original rights, they are less likely to demand exclusive rights.

As the Internet becomes a more important destination for video, traditional broadcast networks are allocating development dollars towards the creation of original content for this platform, or are mining the web for original ideas to bring to television. Examples of this latter model abound, such as last year’s Webby Award winner, *Children’s Hospital*, from The WB. Furthermore, production entities dedicated to developing and financing original content produced exclusively for the Internet are also emerging.

Vuguru, Michael Eisner’s start-up in which Rogers Communications has taken an equity interest, is one such company. Vuguru’s approach is perhaps the most advanced in the arena, financing 100% of the production cost of web series (approximately 100 minutes of content divided into 2 – 5 minute episodes at a cost ranging from \$2500 to \$7000 per minute). Vuguru offsets some of its production costs by pre-selling to interested

advertisers in sponsorship packages and then structuring a revenue share with these partners. The free on-demand platforms like Hulu and YouTube are the most important for Vuguru's ad-driven model, as opposed to the more challenging 'discoverability' environment of iTunes. Programming is subsequently packaged in more traditional formats for international sales. At bottom, the key to Vuguru's model is delivering high-quality production values and creative.

Given the mix of platforms studied, it is perhaps more helpful to the producer to consider the two dominant players in the marketplace: iTunes and Hulu. From there we present our findings regarding distributors who are emerging as qualified aggregators or who have made the exploitation of digital rights a primary business focus.

### 3.3.1. *iTunes*

iTunes has emerged as the EST category leader in all English-language territories. Apple recently announced that its iTunes store had over 55,000 TV episodes and over 8,500 movies available.<sup>7</sup> The last publicly available information in June 2008 reported that 50,000 movies were bought or rented every day from the iTunes store.<sup>8</sup>

Currently operating in all English-language territories, iTunes is now spanning out in other countries. The iTunes operating model is highly centralized, so that, once an agreement to carry content is finalized in one territory and provided that the necessary rights clearances have been obtained, that content can then be delivered seamlessly into other territories 'by the flip of a switch'.

In Canada, iTunes' movie store launched in June 2008 and has quickly become the most important – if not the only – incremental revenue source of any significance in the digital arena. Due to demand, iTunes quickly instituted approved aggregators for dealing with independent producers. While broadcasters are still able to set up content partnership deals directly with iTunes, all independents are directed to the approved aggregator list (see Appendix E for the List of iTunes Aggregators).

The good news for independent producers is that iTunes cuts the same revenue share deal for everyone: 30/70 in favour of the rightsholder. The independent producer dealing through an aggregator will have to give up 10% to 20% of their share, netting around 59% of gross sales. Aggregators will also deduct encoding costs – and there are some differences in how much they charge (ranging from a few hundred dollars per feature film to \$7/minute).

The biggest challenge for the independent producer is the log-jam of content that it must compete against in order to get onto iTunes in the first place. iTunes functions as a curator of content – not an agnostic warehouse – and it makes judgments about titles, in order to prioritize the queue of content that it is attempting to process.

iTunes video content priorities, from a variety of sources interviewed in this study, are as follows:

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<sup>7</sup> Apple Corp. "iTunes Store Tops 10 Billion Songs Sold". Cupertino: Feb. 25, 2010.

<sup>8</sup> Apple Corp. "iTunes Store Tops Over Five Billion Songs Sold". Cupertino: Jun 19, 2008.

- Studio movies
- Comedy, action (often R-rated) movies
- Current TV series (for catch-up)
- Award-winning independent films and documentaries

Important considerations for the independent producer trying to gain access to iTunes is selecting the aggregator that is most suited to advocate for their title(s) and that is best-equipped to provide social media marketing support once the title is released on iTunes.

In the vast warehouse of video available on iTunes, ‘discoverability’ has become critical to success for any individual title. The first step to discoverability is getting on iTunes ‘Top Ten’ list. Many of the aggregators on the list below have now engaged full-time staff to ‘manage’ their digital platform relationships and to try to create awareness around new title launches.

Importantly, however, the most successful social media campaigns are not just distributor created – but are a result of ongoing maintenance and engagement of the producer through blogging, twittering, Facebook activity and other social media strategies.

#### Exhibit 25: Approved iTunes Aggregators<sup>9</sup>

Company	Territories					
	CA	US	UK	FR	Germany	AU/NZ
Alliance	Y	Y	Y	N	N	N
E1	Y	Y	Y	N	N	N
New Video	Y	Y	Y	N	N	N
Maple	Y	N	N	N	N	N
The Orchard	Y	Y	Y	N	N	N
IODA	Y	Y	N	N	N	N
Tunecore	Y	Y	N	N	N	N
Shorts International	Y	Y	Y	Y	Y	Y

While iTunes has been a market leader in terms of its transparent business model and its aggressive roll-out in multiple territories, recent data indicates that EST still faces challenges. According to research by Screen Digest, consumer spending in the US on EST reached only \$200 million in 2009, far short of the \$250 million forecast by the organization. Digital rental also fell short of forecasts with consumer spending reaching only \$92 million, instead of the \$111 predicted for 2009.<sup>10</sup>

In an interview with the Financial Times, Arash Amel, a research director with Screen Digest, posited that the restrictions for use and the inability to buy a film from an online store (e.g. iTunes) and play it on any device (e.g. Xbox) were slowing down consumer interest and spending.<sup>11</sup> These causes were in fact identified in our own interviews with broadcasters and online platforms.

<sup>9</sup> Please see list with contact information in the Appendix.

<sup>10</sup> Amel, Arash. Online Movies: Inertia Stalls Digital Retail Growth. London: Screen Digest, 2010. Web. 8 Mar. 2010.

<sup>11</sup> Garrahan, Matthew. “Demand Dips for Online Films.” FT.com Financial Times. Web. 28 Feb. 2010.

### 3.3.2. Hulu

As described earlier, Hulu ranks as the most important platform in the English-language world for free on-demand online professional or premium film and television content, whether measured by volume of content provided or volume of traffic. While the early free online platforms tended to be feature film-focused, Hulu has benefited as an early TV network-owned service (Fox, NBC/Universal and Disney) and as a first-mover in online premium television content.

Hulu has taken command of the free online space, with over 1 billion video streams per month. The ad revenue model on Hulu has stabilized and rightsholders can count on a 50% revenue share (net of minimal agency fees) based on CPMs (Cost per Thousand) in the high \$30s to low \$40s. While these CPMs may be considerably higher than network television and certainly cable channel CPMs, the ‘ad load’ on Hulu is much lower. The current model on Hulu is one ad (15 or 30 seconds) every 8 to 10 minutes (or corresponding to the original TV commercial break), but only one ad during that break. So, for example, in a 90-minute film, 9 ads could be viewed.

What Hulu delivers the advertiser and rightsholder is a very accurate picture, and revenue report, on how many times a video was viewed and how many videos (and therefore ads) were viewed all the way through. This level of granularity and the higher ad retention rates of Hulu viewers make Hulu a very compelling choice for advertisers.

Hulu currently has over 70,000 individual video assets (individual movies and television episodes) on its site and between 15,000 and 16,000 episodes of television. Hulu has now also become the most important legitimate (that is, non-pirate) platform and aggregator of animé – now ‘airing’ new programs day and date with their broadcast in Japan.

Hulu’s content strategy is to be the largest platform for premium film and television programming – regardless of whether the programming has previously secured a US broadcast. It has over 200 content partners and generally prefers to deal through established distributors or aggregators (though not exclusively). While it is only currently available in the US, Hulu is actively exploring expansion into other territories, including Canada.

#### Exhibit 26: Key Pricing Characteristics

	iTunes	Hulu
Price to consumer	\$1.99	Free
Revenue share	30/70 (iTunes/rightsholder)	50/50
Aggregator fee	15%	Net small agency fee
Net to rightsholder	59%	50%
CPM Rate	0	\$40
To net	\$1000	\$1000
Minimum threshold	847 downloads must be sold	5000 complete views must occur

### 3.3.3. Third-party distributors

While close to 90% of broadcasters and distributors say that they will deal directly with independent producers, the new gatekeepers in the digital landscape prefer to deal through experienced program suppliers (though 70% said they would still take content directly from independents). In fact, some distributors, such as Cinetic/FilmBuff, have made it their business to aggressively pursue independent filmmakers who may still own their digital rights.

***“Producers cannot expect passive revenues from digital platforms; we promote all of our titles through active social media support and through direct conversations with the platforms in order to maximize returns.”***  
(Jonathan Ford, Content Films)

As online and mobile platforms move away from direct licensing deals with individual producers, a new group of gatekeepers – aggregators or distribution companies – is emerging. Most of the approved iTunes aggregators – E1 Entertainment and New Video, as well as other digital distributors like Screen Media, Magnolia and Cinetic – will offer to exploit digital rights of an independent producer’s titles across several platforms.

Given iTunes’ stringent technical requirements, once the film asset is encoded for iTunes, it is also suitable and meets the technical specifications for other digital services. In addition to the approved aggregators, there are several independent distributors that have invested in the digital arena and made exploiting these rights a priority. Content Films, based in the UK, is one such company.

***“Price is still being dictated by the traditional marketplace and pre-existing pricing structures. Cable VOD is currently the most predictable part of the business.”*** (Matt Dentler, Cinetic)

The returns to the filmmaker or producer in the digital arena are still difficult to predict. And most distributors pointed to the unrealistic expectations of producers when it comes to potential revenue on digital platforms.

YouTube’s recent foray into digital movie rentals, where it offered five independent films from the Sundance Film Festival, pointed to some sobering data. At \$3.99 per rental, YouTube’s total take was \$10,709.<sup>12</sup> There are still few benchmarks for building projections – and many variables to consider, given different traffic numbers, CPM and revenue share models on a variety of platforms. Distributors interviewed pointed to a ‘smash’ success in the digital arena as translating into the high 5-figures to mid-6-figures (that is, tens of thousands to a few hundred thousands of dollars).

## 3.4.SUMMARY OF FINDINGS: LOOKING FORWARD

***“Digital value is a much more de-centralized value because there is so much more content available on the web and users have so much choice. Value is not distilled in the same way as it is in TV.”*** (Paul Condolora, Turner Broadcasting)

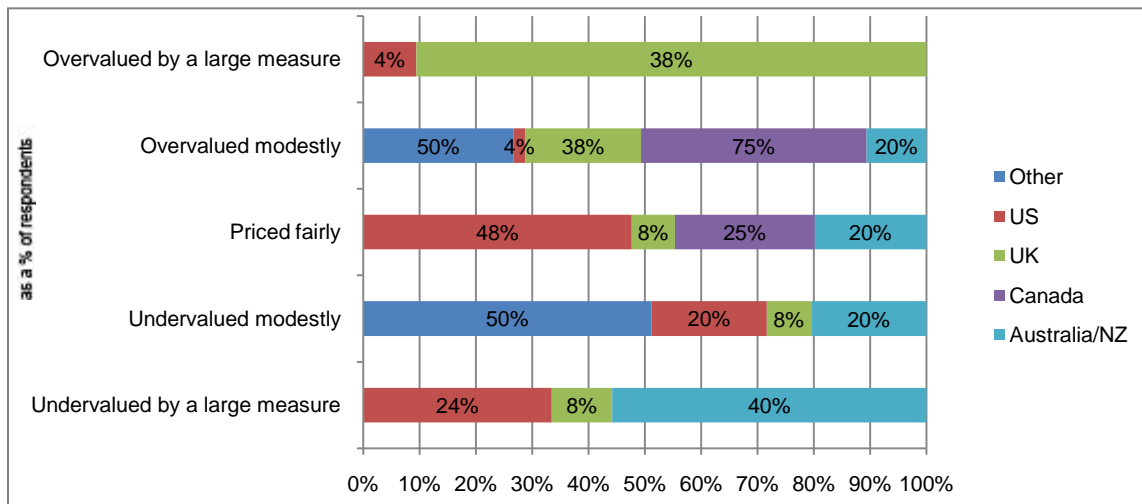
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<sup>12</sup> Helft, Miguel. “YouTube’s Entry into Film Rentals.” The New York Times. 8 Feb. 2010: Web. 11 Mar. 2010.

Although the current marketplace for digital rights is evolving rapidly, key buyers have developed relatively standard approaches for EST and FOD exploitation. Once again, the greatest area of friction is with respect to overlap in the Pay TV and VOD windows for current television programming.

On pricing, however, respondents were not as certain. Approximately 31% of buyers interviewed considered content in the digital marketplace fairly priced (the majority of these from the US) and were split across the board by type of company and country.

**Exhibit 27: Perceived Value of Content in the Digital Marketplace, by Buyer’s Territory**



Source: Digital Content Buyers Interviews. 49 responses.

***“Measurability is the key next step, and then monetization will fall into place.” (Joe Ferreira, CBS)***

The broadcasters, distributors and online and mobile platforms interviewed in this survey were each asked to comment on the relative stability and orderliness of the marketplace for digital rights. They were also invited to comment on how the market might be improved. Most respondents considered that the market is still experiencing some measure of uncertainty. The further down the respondent was situated in the exhibition window chain – with current releases at one end of the chain and library titles at the other – the greater the level of order and certainty with regard to pricing.

***“Digital video is growing at a fast clip but not as fast as music. Digital video is different from music in three key ways: video is simply not as portable as music; music lends itself more easily to repeat and random use; video consumers have invested in large screens for home viewing.” (Michael Rosenberg, E1 Entertainment US)***

Many respondents suggested that the industry still has a ways to go in gaining consumer acceptance of the benefits of digital, noting that the industry is still very fractured, which, in turn, has impeded consumers' ability to embrace the value proposition in digital. Some noted that the advantages of a DVD – notably portability, permanence and player compatibility – are simply not as present in the digital realm. Incompatible platforms in the EST domain and antiquated consumer contracts in the wireless realm were also identified as obstacles to consumer adoption. The buyers interviewed unanimously pointed to a need for greater transparency with respect to business models and the establishment of better benchmarks for performance as critical to stabilizing the market for digital rights.

### **Exhibit 28: Broadcaster, Distributor, Online & Mobile Platform Survey Summary of Findings**

1. The marketplace for digital rights remains in flux, though higher levels of certainty reside in the VOD and EST markets, as well as on all platforms of exploitation for older library titles.
2. The online retail side of the business (services like iTunes and Amazon) has found a business model and some stability, but the ad-supported side of the business is not working as efficiently. Hulu is currently offering the best return to rightsholders in the ad-supported environment.
3. Compatibility, portability and permanence remain obstacles to consumer adoption of the digital experience (as compared to DVD physical distribution).
4. Piracy, and the widespread availability of pirated content through search engines, remains a significant impediment to the development of a financial model for video online.
5. Another major obstacle is the 'warehouse' effect. Overcoming the unlimited shelf space of video online will require improving 'discoverability' tactics, better promotion, better search functions for video, more sophisticated ways to achieve visibility, and making video platforms more user-friendly.
6. All digital platforms require significant social media investment to support visibility, placement and audience attention in order to generate a return.
7. There is a need to manage windows of exploitation in an orderly fashion and to discourage certain players (new or incumbent) from cannibalizing potential revenue streams in an attempt to grab or hang on to market share.
8. Timing is an issue: technology is ahead of the business and advertising dollars have been slow to follow the consumer online.
9. The economic model cannot currently sustain the digital content distribution value chain as long as consumers perceive online video as 'free' and perceive digital delivery as cumbersome or limited across platforms.
10. Digital replacing traditional is a long way off. Performance in digital is still determined to a great extent by performance and exposure in traditional theatrical and broadcast windows.

## **APPENDICES:**

- A. LIST OF FUNDERS OF THIS RESEARCH STUDY**
- B. LIST OF SURVEY PARTICIPANTS: BROADCASTERS, DISTRIBUTORS AND ONLINE & MOBILE PLATFORMS**
- C. LEXICON OF DIGITAL TERMS**
- D. PROFILE OF CANADIAN PRODUCER RESPONDENTS**
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- I. BIBLIOGRAPHY OF SECONDARY SOURCES**
- J. DUOPOLY RESEARCH TEAM BIOS**

## APPENDIX A

### FUNDERS OF THE RESEARCH REPORTS

#### Principal Funding Partner

- **Ontario Media Development Corporation (OMDC)**

Ontario Media Development Corporation (OMDC), an agency of the Ministry of Tourism and Culture, is the central catalyst for Ontario's cultural media cluster including the book publishing, film and television, interactive digital media, magazine publishing and music industries. OMDC promotes, enhances and leverages investment, jobs, and original content creation by contributing to the continued expansion of a business environment, by facilitating and supporting innovation, invention and excellence in Ontario's cultural media, by fostering and facilitating co-operation among entities within the cultural media industry and between the public and private sectors, by assisting in the promotion and marketing of Ontario's cultural media industry as a world-class leader, by administering provincial tax credit programs and other government programs and initiatives, and by acting as a catalyst for information, research and technological development in the cultural media.

#### Other Funding Partners:

- **Association of Provincial Film Funding Agencies**

The Association of Provincial Film Funding Agencies brings together all of the funders of film and television from across Canada. The members of the Association include Alberta Film, British Columbia Film, Manitoba Film and Sound, New Brunswick Film, Newfoundland and Labrador Film Development Corporation, Northwest Territories Industry and Tourism, Nova Scotia Film, Ontario Media Development Corporation, SaskFilm and Video Development Corporation, Société de développement des entreprises culturelles du Québec, Yukon Economic Development Film and Sound Commission.

- **Bell Broadcast and New Media Fund**

The Bell Broadcast and New Media Fund advances the Canadian broadcasting system by encouraging and funding the creation of excellent Canadian digital media, promoting partnerships and sustainable businesses in the broadcast and new media sectors, engaging in research and sharing knowledge and enhancing the national and international profiles of industry stakeholder

- **Canada Media Fund**

The Canada Media Fund has been created as the Canadian Television Fund and the Canada New Media Fund are combined, reformed and rebranded through a renewed partnership with the industry. Its mandate is to ensure the production of quality Canadian content and to make it available on multiple platforms.

- **National Film Board of Canada**

Canada's public film producer and distributor, the National Film Board of Canada (NFB) provides the country and world with a unique perspective. For over 70 years, the NFB has been breaking ground in socially engaged documentary, auteur animation, alternative drama and more. Along the way, it has crafted over 12,000 productions and received more than 5000 awards, including 12 Oscars® and more than 90 Genies. Today, it is at the crossroads of innovation in the 21st century, bringing the NFB's tradition of trailblazing to the multi-platform digital universe.

- **Shaw Rocket Fund**

The Shaw Rocket Fund is a permanent, independently governed, not-for-profit corporation that provides equity financing for the production of high quality Canadian children's, youth and family programming for television.

## APPENDIX B

### LIST OF SURVEY PARTICIPANTS: BROADCASTERS, DISTRIBUTORS AND ONLINE & MOBILE PLATFORMS

Company	Country	Type of Platform	Name	Title
ABC Commercial	AU/NZ	Broadcaster/Distributor	Robert Hutchinson	Head of Interactive Strategy
Australian Broadcasting Corporation Multiplatform Division	AU/NZ	Broadcaster/Distributor	Arul Baskaran	Acting Head of Multiplatform
Foxtel & Omni Lab	AU/NZ	Broadcaster/Distributor	Tom Kennedy	Consultant
Nickelodeon Australia	AU/NZ	Broadcaster/Distributor	Deirdre Brennan	Director of Programming
SBS	AU/NZ	Broadcaster/Distributor	Marshall Heald	Exec Prod SBS Online
Screen Australia	AU/NZ	Funding Body	Mike Cowap	Development Manager
TVNZ	AU/NZ	Broadcaster/Distributor	Thor Bayer	Head of Online
CBC	Canada	Broadcaster/Distributor	Lisa Clarkson	Senior Director, Business, Rights and Content Management
CBC	Canada	Broadcaster/Distributor	Bob Kerr	Director of Business Development
E1 Entertainment	Canada	Broadcaster/Distributor	David Reckziegel	Co-President of E1 Entertainment Canada and Seville Pictures
iTunes	Canada	Online/Mobile Platform	Sam Menard	TV & Movies Manager
S-VOX	Canada	Broadcaster/Distributor	Colette Johnson-Vosberg	Manager, Business and Legal Affairs
TVOntario	Canada	Broadcaster/Distributor	Marc Le Blanc	Director, Legal Services and Business Affairs
Dailymotion	Other	Online/Mobile Platform	Luc Dumont	VP International Expansion
Indiemoviesonline	Other	Online/Mobile Platform	Peter Sermol	CEO
AETN UK (Arts and Entertainment Networks)	UK	Broadcaster/Distributor	Richard Melman	Channel Director
BBC	UK	Broadcaster/Distributor	Emmanuel Whinnery	Business Affairs Manager
BBC (CBBC)	UK	Broadcaster/Distributor	Marc Goodchild	Head of Interactive and On Demand
BSkyB	UK	Broadcaster/Distributor	Sarah Wright	Head of Acquisitions Sky 1-3
Channel Four	UK	Broadcaster/Distributor	Julia Wrigley	Head of Film4 Channel
Classical TV Ltd	UK	Online/Mobile Platform	Derek Hunt	COO
Content Films Company	UK	Broadcaster/Distributor	Jonathan Ford	EVP, Digital Acquisitions and Distribution
Five (Channel 5)	UK	Broadcaster/Distributor	Paul Fagan	Senior Legal & Business Affairs Executive Acquisitions
FremantleMedia Enterprises	UK	Broadcaster/Distributor	Justin Hatfield	SVP Television Sales
ITV	UK	Broadcaster/Distributor	Sarah Sparkes	Director of Rights
joiningthedocs.tv	UK	Online/Mobile Platform	Tim Sparkes	Founder
Nickelodeon UK	UK	Broadcaster/Distributor	Layla Lewis	Senior Programme Manager
Scanbox Entertainment Ltd	UK	Broadcaster/Distributor	Ken Law	Product Director
Talk Talk TV	UK	Online/Mobile Platform	Hugh Williams	Director of Programmes and Content Acquisition
Teachers TV	UK	Broadcaster/Distributor	Paul Ashton	Commissioning Editor
Universal Networks International	UK	Broadcaster/Distributor	Roma Khanna	President, Universal Networks International & Digital Initiatives
ABC	US	Broadcaster/Distributor	Heidi Title	VP, Business Affairs
Acorn Media Group	US	Broadcaster/Distributor	Peter Edwards	Chairman
AETN Television Networks	US	Broadcaster/Distributor	Dawn Porter	Business Affairs
Amazon	US	Online/Mobile Platform	Scott Hulse	Digital Video Business Development
Babelgum	US	Online/Mobile Platform	Karol Martesko	SVP/General Manager, Film Division
Bravo Media	US	Broadcaster/Distributor	Frances Berwick	EVP and General Manager
CBS	US	Broadcaster/Distributor	Joe Ferreira	SVP, Content Acquisition and Creative Liaison
Cinelan	US	Online/Mobile Platform	David Laks	CEO
Cinetic Rights Management, Filmbuff	US	Online/Mobile Platform	Matt Dentler	Head of Programming
Discovery Communications, LLC	US	Broadcaster/Distributor	Kris Wilhelm	Director, Business Affairs
E1 Entertainment U.S.	US	Broadcaster/Distributor	Michael Rosenberg	President, E1 Entertainment US
Film Sales Company	US	Broadcaster/Distributor	Andrew Herwitz	President
Hulu	US	Online/Mobile Platform	David Baron	VP, Content Partnerships
IFC/Sundance	US	Broadcaster/Distributor	Gail Gendler	Senior Director, Acquisitions, IFC and Sundance
ITVS	US	Broadcaster/Distributor	Matthew Meschery	Director of Digital Initiatives
MPI Media	US	Broadcaster/Distributor	Greg Newman	SVP, Marketing & Acquisitions
New Video	US	Broadcaster/Distributor	Mark Kashden	VP, Content
PBS	US	Broadcaster/Distributor	Jack Dougherty	VP Business Affairs
Scripps Network	US	Broadcaster/Distributor	Steve Lewis	VP, Business Affairs
Shout Factory	US	Broadcaster/Distributor	Andy Barrett	Manager Business Affairs
Turner Broadcasting, Inc.	US	Broadcaster/Distributor	Paul Condolora	SVP, Digital, Animation, Young Adults & Kids Media
Vuguru	US	Other	Ryan Barlow	Director of Distribution and Marketing
Warner Brothers	US	Broadcaster/Distributor	Nancy Spears	Senior Director, Acquisition and Product Development

\* Several major online and mobile platforms were interviewed, and while their answers are included in data presented, they are not listed here, at their request, for confidentiality purposes.

## APPENDIX C

### LEXICON OF DIGITAL TERMS

<b>Advertiser Funded</b>	<p>A revenue model depending on sponsorship, spot sales or other brand placement, rather than on fees paid by the consumer. Advertiser Funded services usually offer content free to the customer/viewer. The licensor (or producer) usually receives an advance or a split on the advertising revenues. Many, but not all, Advertiser Funded services provide content on an IFOD (Internet Free on Demand) basis. Advertiser Funded is also known as Advertiser Supported.</p> <p>Example: All broadcast network websites, Hulu, YouTube, Babelgum, Indiemoviesonline, Snagfilms</p>
<b>Advertiser Supported</b>	see: Advertiser Funded
<b>Authorized Device</b>	see: Viewing Device
<b>Authorized Viewing Period</b>	see: Rental Period
<b>Avatar</b>	<p>An online virtual identity, typically in graphical form. A computer user, or online game player, will create a representation of himself/herself or alter ego, whether in the form of a three-dimensional model used in computer games, a two-dimensional icon (picture) or a one-dimensional username used on Internet forums and other social media communities. They can either be free to the customer or cost a transactional fee. Avatars are generally intellectual property in their own right, so it is important a producer/licensor ensures it owns or controls these underlying rights when granting avatar rights to any third party. A collection of Avatars is called a Theme. See also: Theme</p> <p>Example: Xbox, Playstation</p>
<b>Bit Torrent</b>	<p>A peer-to-peer file sharing architecture which supports the existence of multiple servers (seeders or feeders) and multiple recipients (peers or leechers). It is designed to distribute large amounts of data widely without huge increases in server and bandwidth resources, by taking small bits from each machine and reassembling at the destination. Bit Torrent services are commonly associated with illegal file sharing or piracy.</p> <p>Example: thepiratebay, kazaa</p>
<b>Broadband</b>	<p>A transmission network or communication channel with a bandwidth exceeding that of a standard telephone network. To qualify for broadband designation, the transmission rate must be at least 1 MHz. For example, slower dial-up Internet access is being overtaken by faster Broadband Internet access.</p>
<b>Catch Up TV</b>	<p>Free-On-Demand TV programming, meant for viewing shortly after a program has been aired on conventional TV (usually about 7 days, but the viewing period varies).</p> <p>Example: CTV's watch now, BBC iPlayer, Hulu, Yahoo!7 (AUS)</p>
<b>Creative Commons</b>	<p>A non-profit organization devoted to expanding the range of creative works available for legal sharing and adaptation. The organization has released several copyright licenses known as Creative Commons licenses -- free to the public -- where copyright holders can define the available rights (and reserve other rights for themselves). See: Open Content.</p>
<b>Digital Ownership</b>	see: EST (Electronic Sell Through)
<b>Digital Rental</b>	<p>The sale of an electronic copy of a title, for delivery via Streaming and/or Download, for repeated private viewing by a customer on Authorized Devices during a limited Rental Period. (Strictly speaking, the provider is selling the consumer a short-term licence to the particular title). Some services may limit, or broaden, the permissible delivery methods (cable, telephone fiber, satellite, wireless, etc.). For example, a producer/licensor could specify only Internet delivery. Also known as: Electronic Video Rental.</p> <p>Example: Amazon, BigPond (AUS), Classical TV (UK), FloTV(US), iTunes, Jaman, joiningthedocs, Playstation, Talk Talk TV(UK), xBox, YouTube</p>
<b>Digital Rights</b>	<p>Content licensing permitting distribution and sales through non-tangible delivery (as opposed to physical media like DVD). Currently, this includes Internet, transactional cable and mobile/wireless delivery.</p>
<b>Digital Rights Management (DRM)</b>	<p>Copyright protection for digital media in which a sequence of software or hardware instructions (embedded code) controls or manages the copying, viewing, altering or accessing of audio-visual content. DRM aims to prevent unauthorized redistribution of digital media and restrict the ways consumers can copy content they've purchased or rented. DRM can also specify a time period in which the content can be viewed, and limit the number of devices where the media can be installed.</p>
<b>Digital Sale</b>	see: EST (Electronic Sell Through)
<b>Digital Video Recorder (DVR)</b>	<p>A device that allows recording from the television onto a hard disk which when accessed provides playback and fast-forwarding functionality. Also known as a Personal Video Recorder. See: PVR</p> <p>Example: Tivo, many newer cable boxes</p>
<b>Digitize</b>	<p>Process of turning analog content into digital content so that it is suitable for transmission and computer processing.</p> <p>Example: Converting a Beta tape master to digital format(s).</p>
<b>Download</b>	<p>Delivering audio-visual content to a customer/viewer where the content is stored -- temporarily or permanently -- on a device for subsequent retrieval and playback. This specifically excludes Streaming.</p>
<b>Download to Own (DTO)</b>	<p>Delivery of a licensed electronic copy (typically encrypted) of an audio-visual work which has been Downloaded to and stored on an Authorized Device or Devices for repeated private viewing by a customer over an indefinite period of time in exchange for a one-time fee.</p> <p>NOTE: Unlike EST, this does not include Streaming the title from the service provider's servers.</p>

## APPENDIX C

### LEXICON OF DIGITAL TERMS

<b>Download to Rent</b>	<p>Delivery of a licensed electronic copy (typically encrypted) of a title which has been Downloaded to and stored on an Authorized Device or Devices, temporarily, for either one-time or repeated private viewing only for a limited time period.</p> <p>Example: Amazon, BigPond (Aus), iTunes</p>
<b>Downloadable Artwork</b>	<p>Graphics generally intended for games or Themes. <i>see:</i> Themes and Avatar.</p>
<b>Electronic Sell-Through (EST)</b>	<p>Sale of an electronic copy (typically encrypted) of an audio-visual work for repeated private viewing by a customer on Authorized Devices over an indefinite period of time. (Strictly speaking, the provider is selling the consumer a perpetual licence to the particular title).</p> <p>NOTE: In the US, services do not distinguish between the methods of delivery (whether Streaming or Downloading) to define rights. In the UK, however, Streaming can be attached to television rights and therefore not included in Internet rental or ownership (EST) rights. If a rightsholder negotiates licences across territories, it is important to be aware of these potential conflicts.</p> <p>Example: Amazon, iTunes, Jaman, Playstation, xBox</p>
<b>Electronic Video Rental</b>	<p>Internet transmission of audio-visual content by a service that is not cable pay TV or satellite pay TV, to a TV receiver, computer, or other authorized device, including Mobile Devices, where the customer/viewer may view the content only for a limited time period. <i>Also known as:</i> Digital Rental.</p>
<b>Electronic Video Sell-Through</b>	<p>Internet transmission of audio-visual content by a service that is not cable pay TV or satellite pay TV, to a TV receiver, computer, or other authorized device, including Mobile Devices, where the customer/viewer may view the content for a perpetual or unlimited time period in exchange for a onetime fee. Electronic Video Sell-Through is different from DTO in that the delivery mechanism can be Streaming or Download, whereas DTO specifies that it is Download only. <i>see:</i> Digital Sale and EST</p> <p>Example: Jaman</p>
<b>Encode</b>	<p>The process where digital audio and video are formatted, using dedicated software, to meet specific playback specifications. Most digital content providers have highly detailed encoding and delivery requirements.</p>
<b>Encryption</b>	<p>The process of encoding audio-visual content so it can be read only by the intended recipient. Encryption is part of Digital Rights Management. For example, CSS is the form of encryption used in DVDs.</p>
<b>Free on Demand (FOD)</b>	<p>The encoded transmission/delivery, typically via cable TV, of a specific audio-visual work where the customer/viewer must use a decoding device to view the content, yet pays no fee for it. Often, this service is Advertiser Supported. On the Internet, this term would also be known as IFOD (Internet Free On Demand).</p> <p>Example: ExerciseTV, Rogers Channel 800, Shaw Free Zone</p>
<b>Geo-filtering (also known as geoblocking, geofencing)</b>	<p>Technologies that ensure customers/viewers are located within the territory for which the service provider has licensed rights. There are two main geo-filtering methods: IP address lookup and credit card address lookup.</p> <p>IP Address Lookup checks the unique Internet location of the consumer's computer to determine whether that computer is located in the territory.</p> <p>Credit Card Address Lookup verifies that the consumer's credit card billing address is located in the territory.</p> <p>NOTE: VPN (Virtual Private Network) lookup is a third, less-commonly-used verification method. Some Providers will block service if the IP is for a VPN. Regardless of method, geo-filtering technologies are never infallible, so it is important to be notified of any broad geo-filtering problems.</p> <p>Example: If a viewer in Canada were to try to play BBC iPlayer content or BigPond movie Downloads, a notice would be displayed that the content is not available in all territories.</p>
<b>Holdback</b>	<p>Refers to a period of time that one party to a contract must wait before being able to exploit certain specified rights in order to protect the other party against competition and/or protect certain exploitation windows.</p>
<b>Interactive Rights</b>	<p>Broadly speaking, the right to use the audio-visual content in a non-linear manner, or to add additional features to the content. Specifically, the right to develop, produce, distribute, transmit and exhibit audio-visual content in a linear or non-linear manner through a device or process allowing the customer/viewer to affect the content, form, timing, duration, sequence or other aspects of the content -- via direct or remote user input. Users may also access additional content, information, products and services displayed in or associated with the content (as in hyperlinks and click-throughs). Video recorder (PVR) functionality such as pause, play, rewind, fast forward etc. are not considered Interactive rights. Interactive Rights may be associated with any other digital rights (for example, used in conjunction with various delivery mechanisms like mobile, cable, Internet and different business models, such as subscription, VOD, EST, etc).</p>
<b>Internet/Online</b>	<p>The worldwide network of computers and devices connected via TCP/IP protocols.</p>
<b>Internet/Online Rights</b>	<p>Exploitation, transmission and viewing of audio-visual content by making it available (in linear form) to the customer/viewer over the Internet (or any similar interconnected network, intranet, multimode computer network) regardless of whether the delivery is accomplished via cable or satellite and irrespective of viewing device (including computers, portable devices and TV monitors).</p>
<b>Internet Broadcast</b>	<p>A scheduled (as opposed to On-Demand) online transmission of audio-visual content, which scheduling is determined by the service/broadcaster rather than the viewer. Internet Broadcast excludes Internet On-Demand and IPTV.</p>

## APPENDIX C

### LEXICON OF DIGITAL TERMS

<b>Internet Free-on-Demand (IFOD)</b>	<p>Delivery of, or access to, Streamed audio-visual content, chosen specifically by a customer/viewer, where no charge is made to the customer. Often this service is Advertiser Supported.</p> <p>NOTE: Currently, Free-on-Demand is only delivered via Streaming, not Download.</p> <p>Example: Babelgum, Cinelan, Daily Motion, Hulu, Indiemoviesonline</p>
<b>Internet On-Demand</b>	<p>Audio-visual content available online any time the consumers requests it. This specifically excludes Internet Broadcast and IPTV.</p>
<b>Internet Protocol Television (IPTV)</b>	<p>Simply, TV delivered over the Internet. Specifically, a system where digital television is delivered, online, over a secure, closed, Broadband network (as opposed to open or public Internet or traditional radio frequency broadcast, satellite signal or cable television networks). IPTV allows customers/viewers to receive content, typically on a subscription basis, through any computer or software-based media player. The content can be viewed on a computer, portable media device or television (via a set top box). IPTV can offer the customer live TV (multicasting), time-shifted programming and On-Demand content. NOTE: IPTV may combine a number of different rights and could conflict with other distribution windows. Typically, IPTV rights are concurrent with Pay Per View or pay TV windows and can encompass Pay Per View, pay TV, free TV and Internet distribution rights. When negotiating the grant of IPTV rights, be sure to clearly define the designated window, revenue model and distribution definition -- and be aware of any exclusivity issues with potentially conflicting rights grants.</p> <p>Example: AT&amp;T U-Verse (US), BT Vision (UK), Sasktel's Max Entertainment, Telus TV, TransTV (Aus)</p>
<b>Internet Transactional-on-Demand (ITOD)</b>	<p>Encompasses any of the transactional mechanisms (VOD, EST, DTO, DTR, etc.), in which a customer pays on a per-transaction basis (as opposed to subscription services or Free On Demand) to gain access to, and view, audio-visual content on an on-demand basis. This term is most commonly used in the UK.</p>
<b>Internet TV</b>	<p>Audio-visual content (both user-generated and professional) delivered online, often with no geographic limitation or charge to the consumer. It is generally advertiser supported, with revenue split between the service and the licensor. Note: Internet TV is not Internet Broadcast or IPTV. Unlike Internet Broadcast, it is not always scheduled by the service provider. And, unlike IPTV, Internet TV is open to everyone and is free.</p> <p>Example: Hulu, Joost and Babelgum</p>
<b>Internet VOD</b>	<p>Online program delivery, to a permitted device for a limited time period, where the viewer, not the service provider, determines when the program is delivered. In the US market, where this term is most often used, it is equivalent to Electronic Video Rental. Because the generic VOD term can be used for different delivery mechanisms, it is important to review the descriptive language when negotiating this right.</p>
<b>Metadata</b>	<p>Commonly known as data about data, Metadata is structured information allowing a service to find, manage, control and understand descriptive information about the audio-visual content it distributes. Most digital services/licensees will request Metadata to incorporate audio-visual content into their systems. Typical Metadata information includes cast, production team, run time, production date, genre, rating, graphic images, type of content (film, short, TV episode, etc), release date, availability date, and copyright owner.</p>
<b>Mobile Application</b>	<p>Software developed for portable devices (including mobile telephones and personal digital assistants), typically designed for audio or video features, including alerts, ringtones, ringbacks, text, graphics, images, games, video clips, icons and characters.</p>
<b>Mobile Device</b>	<p>Any wireless, portable, handheld device which is capable of receiving audio-visual, alphanumeric or other content. Devices include mobile phones, personal digital assistants (PDAs), handheld televisions, personal media players, iPods, iPhones, and Blackberrys. NOTE: a mobile device, as defined here, could receive content either directly from wireless/mobile service provider or copy content from another device or computer. In general, however, Mobile Device is usually associated with wireless rights, whereas Portable Device is associated with Internet rights. When granting rights, it is important to review the delivery means.</p>
<b>Mobile Device Broadcast</b>	<p>A scheduled (as opposed to On-Demand) transmission via a wireless/mobile service provider to a Mobile Device, where the schedule is determined by the provider, not the customer/viewer. Mobile Device Broadcast excludes Mobile On-Demand.</p> <p>Example: Sasktel Mobile TV, Telus Mobile TV</p>
<b>Mobile Device On-Demand</b>	<p>Transmission of audio-visual content made available via a wireless/mobile service provider on an On-Demand (as opposed to scheduled) basis to a Mobile Device. Mobile On-Demand can include rental or sell-through, but not broadcast.</p> <p>Example: Telus Mobile Video on Demand</p>
<b>Mobile Rights</b>	<p>The licence to allow the exhibition, broadcast, transmission of audio-visual content over any wireless telecommunications technology that allows viewing on mobile devices like mobile phones and PDAs.</p>
<b>Near Video On-Demand (NVOD)</b>	<p>A hybrid between broadcast and on-demand viewing. The customer/viewer can select the viewing time of audio-visual content from multiple viewing times scheduled by the service provider.</p> <p>Example: BSKyB</p>
<b>Off Deck</b>	<p>Used in the mobile/cellular industry to describe services and content that do not appear on the mobile carrier's own menu, but through a third-party website or service. Although the content is not on the menu, it can still be accessed via a cell phone. The consumer enters the address (or clicks on a link in an SMS message) and can access the content regardless of the mobile carrier. See: On Deck</p>
<b>On Deck</b>	<p>Used in the mobile/cellular industry to describe services and content provided by a mobile carrier within a dedicated area on its own menu. Content in an on-deck area is often free or subsidized, and data rates may be waived. The content that is provided in this area is under the control of the carrier – even if it contracts third parties to deliver the content. See: Off Deck</p>

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### LEXICON OF DIGITAL TERMS

<b>On-Demand</b>	The transmission and viewing of audio-visual content where the consumer, not the provider, controls when the content is transmitted and viewed. On-Demand includes VOD, Digital Rental, Digital Sale, SVOD and other similar terms. Note that NVOD, though similar, gives the consumer the choice only of several pre-determined viewing times.
<b>Online Rights</b>	see: Internet Rights
<b>Open Content</b>	Any kind of creative work that explicitly allows copying, using and sharing, without any prohibitions. Content is either public domain or under a licence that offers open access. See: Creative Commons
<b>Pay Per View</b>	Transmission of audio-visual content, whether via the Internet, broadband, satellite, cable, wireless and/or other similar technology, where the consumer/viewer pays a fee to view the program(s) for a limited period of time on one or more television receivers, computers, or any other display device, at a time scheduled by the service provider. NOTE: Pay Per View is most commonly associated with cable contracts; however, some digital service providers use the same terminology. When granting these rights, be sure to be aware of any exclusivity issues related to the windows and/or terminology.  Example: ShawVideoOnDemand or NHL Centre Ice, Illico on Demand, Time Warner Cable Movies on Demand
<b>Pay TV</b>	Subscriber-supported exhibition of audio-visual content for which viewers and other recipients (like hotels and hospitals) pay for the service, overall, but are not charged a separate fee for the right to view an individual exhibition of each program.  Example: HBO, MovieCentral, Showtime, Starz, TMN, Superchannel
<b>Personal Computer</b>	A computer containing a central processing unit (CPU) designed for private use, and which is not primarily a TV monitor, Mobile Device or Portable Device.
<b>Personal Video Recorder (PVR)</b>	An interactive TV recording device that keeps television data on a digital storage medium, like a hard disc.  Example: TiVo and some cable set-top boxes.
<b>Portable Device</b>	Handheld devices where content must be Downloaded and stored first to a computer (or similar connected device), then transferred to the device. Unlike Mobile Devices, they do not receive content via Wireless Distribution. NOTE: many of the newer portable devices are also capable of receiving content wirelessly, so it is important to review the specific language in any contract addressing their use.  Example: iPod, Zune
<b>Progressive Download</b>	A delivery process that allows the customer/viewer to access and view content before the data transfer is complete. The experience is similar to Streaming in that the viewer does not need to wait for the complete Download of the content to start viewing it. The difference is that the audio-visual content file is Downloaded and stored to a device and playback is generated from the local device's hard copy rather than played from the service provider's server.
<b>Re-Download</b>	Often associated with digital ownership where the customer/viewer has the right to view purchased audio-visual content past the end of an underlying licence period. Service providers may request this re-transmission right in case the customer's copy is corrupted or lost and cannot be viewed. These re-Downloads/re-deliveries are free of charge to the viewer. NOTE: Some service providers request this right in perpetuity, while others may limit it to a certain number of years past the end of the licence term.
<b>Rental</b>	See: VOD, Digital Rental, Download to Rent, Electronic Video Rental
<b>Rental Period</b>	The time during which a customer who purchases a Digital Rental may view a licensed audio-visual work (i.e. the Authorized Viewing Period). The Rental Period usually starts the earlier of (a) the time at which the customer initiates Streaming of the licensed title or (b) the time at which the customer begins his/her initial playback of a Downloaded version of the licensed title. Generally, the customer may view the title as many times as desired during the Rental Period. Typically, the Rental Period expires the earlier of:  (a) 30 days after a customer has ordered the title and it has been successfully delivered to them OR 30 days after the customer begins playback (this expiration depends on the specific terms of the service); or  (b) 24-72 hours after the customer has begun playback or viewing of the title; or  (c) The end of the VOD Window for the title.
<b>Retransmission Period</b>	see: Re-Download. Unlike Re-Download, however, this term implies that the delivery mechanism can be either Download or Streaming.
<b>Security Breach</b>	A circumvention of DRM, or failure of a service provider's Geo-filtering technology or physical facilities, which results in the widespread, unauthorized availability of audio-visual content. NOTE: most service providers do not consider isolated incidents an overall security breach. Pay close attention to notification requirements and resolutions when negotiating this aspect of contracts.
<b>Security Solution</b>	see: Digital Rights Management (DRM)
<b>Set-top box</b>	Electronic device, usually in the home, which receives signals and converts them into viewable audio-visual content. Some set-top boxes may also have PVR capability.  Example: The decoder supplied by nearly every cable TV company

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<b>Streaming</b>	<p>Delivery of audio-visual content to a customer/viewer's Authorized Device where the content may be viewed contemporaneously (or near contemporaneously) with its transmission, but where no copy is retained on the Authorized Device (other than a small, transient portion as needed for viewing, which is immediately deleted).</p> <p>Example: Netflix Watch Now, LOVEFiLM Watch Now (UK)</p>
<b>Subscription on Demand (SOD)</b>	<p>Transmission or delivery of audio-visual content for which the customer/viewer pays a periodic (subscription) fee for a variety of content, collectively, but for which no transaction fee is paid to view any individual program. The customer determines when to view the programs (i.e. On-Demand). NOTE: This right, more than transactional Digital Rental or Sale, when granted to Internet or non-cable providers (like Netflix), can interfere with cable exclusivity rights.</p> <p>Example: LOVEFiLM Watch Now (UK), Netflix Watch Now, Shaw's Subscription VOD</p>
<b>Subscription Video On-Demand (SVOD)</b>	<p>See: Subscription on Demand (SOD)</p>
<b>Supplementary Portable File</b>	<p>Compressed audio-visual data, optimized for Portable Devices, that service providers sometimes provide free of charge in addition to larger, standard-sized file formats.</p> <p>Example: Amazon will provide supplementary files along with the regular Download</p>
<b>Telephonic Rights</b>	<p>Internet and/or Wireless Rights, or some hybrid of the two. When negotiating any of these rights, examine the actual language (particularly around delivery and access methods) to determine in which category the rights fall.</p>
<b>Television On Demand</b>	<p>On-Demand availability of audio-visual content via a conventional TV set/monitor. Includes Digital Rental and Digital Sale.</p>
<b>Theme</b>	<p>A preset package containing graphical appearance details, used to customize the look and feel of an application or digital environment. Graphics themes for individual applications are often referred to as skins, and the words are often used equivalently, the primary difference being one of scope. An Avatar or collection of Avatars. See: Avatar.</p>
<b>Transactional On Demand (TOD)</b>	<p>Any of the transactional mechanisms (VOD, EST, DTO, DTR, etc), in which a customer/viewer pays for an individual program, On-Demand (as opposed to subscription services or Free-On-Demand). This term is not limited to Internet delivery -- unlike ITOD.</p>
<b>Usage Rules</b>	<p>The guidelines service providers set for their customers which outline viewing periods and number of Authorized Devices allowed. Many service providers require absolute control over these Usage Rules. Providers may periodically update the rules, including viewing periods and Authorized Devices limits.</p> <p>Example: The length of the Rental Period and the number of Authorized Devices are typical Usage Rules.</p>
<b>Viewing Device</b>	<p>Playback hardware capable of receiving and displaying audio-visual content. This can include fixed, mobile, wired or wireless devices: computers, set-top boxes, monitors, mobile phones, portable media devices, handheld gaming consoles, personal digital assistance and other portable electronic devices. NOTE: the number of devices to which a customer/viewer may Download/Stream or copy an audio-visual work is subject to the service provider's Usage Rules.</p> <p>Example: PSP, iPod, mobile phone, computer, set-top box, Blackberry.</p>
<b>Video On Demand (VOD)</b>	<p>Program delivery, typically via cable TV, where the viewer, not the service provider, determines when the program is delivered. The consumer may pay a transaction fee to watch the program, though some VOD is without charge. The term is widely used, for many delivery mechanisms, so it is important to review the descriptive language when negotiating this right.</p> <p>Example: HBO on Demand, Showtime on Demand, Shaw Video-on-Demand, Time Warner MoviesOnDemand</p>
<b>Wireless Rights</b>	<p>Exhibition, broadcast, or transmission of audio-visual content using any telecommunications technology that allows viewing on mobile devices. NOTE: the term wireless is usually synonymous with mobile. However, in some agreements, wireless can be used to describe the in-home connection between Authorized Devices or the wireless router. See also: Mobile Rights.</p> <p>Example: Downloading/copying the content that is on a personal computer to a PDA or mobile phone using a home wireless network.</p>

## APPENDIX D

### PROFILE OF CANADIAN PRODUCER RESPONDENTS

<b>Total Responses</b>
95 Submitted (25% response rate)
71 Completed (75% completion rate)

<b>Responses by province/territory</b>	<b>% of respondents</b>	<b># of respondents</b>
Alberta	8.50%	6
British Columbia	14.10%	10
Manitoba	2.80%	2
New Brunswick	0.00%	0
Newfoundland	4.20%	3
Northwest Territories	0.00%	0
Nova Scotia	5.60%	4
Nunavut	0.00%	0
Ontario	56.30%	40
Prince Edward Island	0.00%	0
Quebec	7.00%	5
Saskatchewan	1.40%	1
Yukon	0.00%	0

<b>Responses by Genre</b>	<b>% of respondents</b>	<b># of respondents</b>
Animation	19.70%	14
Children's/youth	40.80%	29
Comedy	52.10%	37
Documentary	54.90%	39
Drama	71.80%	51
Game show	5.60%	4
Reality/Unscripted	35.20%	25
Variety, performance	15.50%	11
Other	2.80%	2

<b>Responses by Format</b>	<b>% of respondents</b>	<b># of respondents</b>
Television series	88.90%	64
Television one-offs	56.90%	41
Dramatic feature films	41.70%	30
Documentary feature films	26.40%	19
Short films	9.70%	7
Other	11.10%	8

(%'s based on 71 responses to these questions.)

## APPENDIX E

### LIST OF ITUNES AGGREGATORS

Company	Name	Email	Phone	Territories					
				CA	US	UK	FR	Germany	AU/NZ
Alliance	Dan Loewy	Dan.Loewy@Alliancefilms.com	(416) 727-6958	Y	Y	Y	N	N	N
E1	Michael Smith	MSmith@e1ent.com	(416) 646-4411	Y	Y	Y	N	N	N
New Video	Mark Kashden	digital@newvideo.com	(646) 259-4149	Y	Y	Y	N	N	N
Maple	Ian Goggins	lgoggins@maplepictures.com	(416) 414-2298	Y	N	N	N	N	N
The Orchard	Doug Shineman	dshineman@theorchard.com	(+1) 646-747-5857	Y	Y	Y	N	N	N
IODA	Mike Butler	mbutler@iodalliance.com	(646) 367-2076	Y	Y	N	N	N	N
Tunecore	Helen Harris	Helen@tunecore.com	(646) 651-1062	Y	Y	N	N	N	N
Shorts Int'l	Linda Olszewski	lindao@shortsinternational.com	(323) 216-6460	Y	Y	Y	Y	Y	Y

## APPENDIX F

### PRODUCERS' SURVEY

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January 11, 2010:  
Date of Interview: \_\_\_\_\_  
\_\_\_\_\_

#### Digital Rights – Online Producer Questionnaire

#### CFTPA Digital Rights Survey 2010

##### 1. Introduction

Help establish an orderly marketplace for digital rights. Tell us about your most recent experiences in the financing and after-market sales of your productions.

##### About the Survey

The survey should take about 20 - 25 minutes to complete. All responses will be treated as confidential and data will only be presented in aggregated form.

Please submit your survey by February 5, 2010.

If you have questions please contact the CFTPA's Reynolds Mastin (at (416) 304-0280, ext 225 or [mastin@cftpa.ca](mailto:mastin@cftpa.ca)) or Duopoly's Catherine Tait ([catherine@duopoly.net](mailto:catherine@duopoly.net)).

##### Prize Draw

Complete your survey by February 5, 2010 for a chance to win a free registration to the CFTPA's must-attend event: Prime Time in Ottawa 2010. The winner will be drawn randomly from completed surveys. (You must provide an email address to be eligible for the draw.)

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#### By digital rights we mean:

Online streaming rights  
Online download rights  
Mobile device streaming rights  
Mobile device downloads rights  
On-demand rights (VOD, pay-per-view, SVOD, etc.)  
Digital Media Product rights (associated websites, interactive and digital applications)

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Please note that unless otherwise stated 'content' refers to traditional linear television series, one-offs, and/or feature films.

**YOUR VIEWS**

1. Do you think that film and television linear content is being undervalued or overvalued in the digital marketplace today?

Strongly Disagree/Disagree/Neither Agree nor Disagree/ Agree / Strongly Agree

- Undervalued by a large measure
- Undervalued modestly Priced fairly
- Overvalued modestly
- Overvalued by a large measure

2. Do you think that digital media products (e.g. websites or interactive digital applications) are being undervalued or overvalued in the digital marketplace today?

- Undervalued by a large measure
- Undervalued modestly
- Priced fairly
- Overvalued modestly
- Overvalued by a large measure

3. How much do you agree or disagree with these statements about methods for achieving fair pricing of digital rights?

	Disagree strongly	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
Broadcasters should pay an incremental amount based on a percentage of the production budget.					
Broadcasters should pay an incremental amount based on a percentage of their licence fee.					
Broadcasters should be obligated to hand back to the producer any digital rights they acquire if they do not exploit them within a certain time period.					
It's too difficult to assign a fixed value for individual digital rights, so a revenue share model is preferable.					
Given that streaming is simply another form of broadcasting, broadcasters should be entitled to acquire online streaming rights for the domestic Canadian market without having to pay an increased licence fee or enter into a revenue sharing arrangement with the producer.					
Broadcasters should be entitled to acquire all digital rights for the domestic Canadian market without having to pay an increased licence fee or enter into a revenue sharing arrangement with the producer.					

4. If you have another approach toward valuing digital rights, please describe it here.

## YOUR MOST RECENT PRODUCTION

These questions are about your most recent production.

1. How were you compensated for your digital rights in your most recent production? (Choose all that apply.)
  - Broadcaster obtained all digital rights in Canada as part of their telecast licence.
  - Broadcaster obtained Internet streaming as part of their telecast licence.
  - Broadcaster obtained specific digital rights with a revenue share consideration for the producer.
  - Broadcaster paid an incremental licence fee for digital rights.
  - Broadcaster obtained digital rights for a period that was equal to, or greater than, the length of the licence term for the telecast licence.
  - Broadcaster obtained all digital rights worldwide as part of their telecast licence.
  - Broadcaster obtained specific digital rights with no revenue share consideration for the producer.
  - Other (please specify):
  
2. What was the genre of this production?
  - Animation
  - Children's/youth
  - Comedy
  - Documentary
  - Drama
  - Game show
  - Reality/Unscripted
  - Variety, performance
  - Other (please specify)
  
3. What was the format of the production?
  - Television series
  - Television one-off
  - Dramatic feature film
  - Documentary feature film
  - Short film
  - Other (please specify):
  
4. If the production was a series:  
How many episodes (13, 26?) \_\_\_\_\_  
How long was each episode (e.g. 1 hour, 30 minutes)? \_\_\_\_\_

## DIGITAL RIGHTS FOR YOUR RECENT PRODUCTION

These questions are about the digital rights of your most recent production.

1. If the broadcaster acquired digital rights for your most recent production, which rights did they acquire?
  - Online streaming rights
  - Online download rights
  - Mobile device streaming rights
  - Mobile device download rights
  - On-demand rights (VOD, pay-per-view, SVOD, etc.)
  - Digital media product rights (associated websites and digital applications)
  
2. If the broadcaster paid an incremental licence fee for digital rights, what percentage of the budget did this amount represent?
  - Over 1% of budget
  - Under 1% of budget
  
3. If the broadcaster paid an incremental licence fee for digital rights, what was the total amount of this incremental fee per episode?
  
4. If the broadcaster did not pay an incremental licence fee, did they offer a revenue share on the digital rights acquired?
  - Yes

- No
5. Was a revenue share offered on all the digital rights acquired or only on particular digital rights?
- All digital rights acquired
  - Only on particular digital rights
6. For which particular digital rights did the broadcaster offer a revenue share? (Choose as many as apply.)
- Online streaming rights
  - Online download rights
  - Mobile device streaming rights
  - Mobile device download rights
  - On-demand rights (VOD, pay-per-view, SVOD, etc.)
  - Digital media product rights (associated websites and digital applications)
7. Did the broadcaster require exclusivity on the digital rights acquired?
- Yes, on all rights
  - Yes, on some rights

#### **ASSOCIATED DIGITAL MEDIA PRODUCTS**

1. Did you create any associated digital media products (e.g. website, interactive digital applications) for your most recent production?
- Yes
  - No
2. If yes, what type of digital media products did you create? (Choose as many as apply.)
- Interactive website
  - Computer or video game
  - Mobile game
  - Mobile application
  - Social networking feature
  - Contest
  - Other (please specify)
3. What percentage of the digital media products budget did the broadcaster cover?
- Under 10%
  - 10% to 24%
  - 25% to 49%
  - 50% to 74%
  - 75% to 100%
4. Did the broadcaster obtain the rights to the digital media products created?
- Yes
  - No
5. If yes, which rights to digital media products did the broadcaster's licence include? (Choose all that apply.)
- Interactive website
  - Computer or video game
  - Mobile game
  - Mobile application
  - Social networking feature
  - Contest
  - Other, please specify

#### **AFTER PRODUCTION: HOW YOU EXPLOIT DIGITAL RIGHTS**

These questions are about your company's experience exploiting digital rights after production has been completed - i.e. after-market sales.

1. How do you sell or licence digital rights to your programs, after the production is complete?

- Through a distribution division of our company
- Through third party distributor(s)
- We do not sell /license our digital rights
- Other (please describe)

2. If you do not sell or license the digital rights to your productions, why don't you?

- Licensing broadcaster has exclusively obtained the digital rights
- Licensing broadcaster has imposed holdback restrictions on the digital rights
- The prices paid for the digital rights are not high enough to justify the time/expense of attempting to sell/license them
- Other (please specify)

3. How confident are you in your estimates of the market value for digital rights in the territories listed below? (Choose one for each territory.)

	Very confident	Confident	Somewhat confident	Not very confident	Not at all confident	Not applicable
Canada						
US						
UK						
Australia						
New Zealand						
Europe (other than UK)						
Worldwide						

4. If you have been selling or licensing digital rights internationally, do these sales involve licence fees or revenue share deals?

- All revenue share deals
- Mix of revenue share and licence fee deals
- All licence fee deals
- Other (please specify):

5. To which online and mobile outlets are you selling? Please indicate whether sale is revenue share compensation or licence fee, or if you have not sold to that outlet. (Choose as many as apply.)

	Revenue Sharing	Licence Fees	No sales
iTunes Canada			
Bell Wireless			
Rogers Wireless			
Telus			
Amazon.ca			
iTunes US			
iTunes UK			
Hulu.com			
SnagFilms.com			
Atom.com			
Heavy.com			
Vimeo.com			
Netflix			
Amazon.com			
Joost			
Jaman			
Youtube.com			

Babelgum.com			
Other(s) (please specify)			

6. Please describe the most important (in terms of size and value) of your most recent digital rights sales.

Name of buyer (e.g. iTunes Canada):

What the buyer acquired (e.g. 3 film titles):

Description of compensation (e.g. 30/70 iTunes/Producer revenue sharing):

### ABOUT YOUR COMPANY

1. Name of your production company:

2. In what province is the company located?

3. What is your title? (e.g. VP - Business Affairs)

4. What genre(s) of programming does your company produce? (Choose as many as apply.)

- Television series
- Television one-offs
- Feature films (including documentaries)
- Documentary feature films only
- Short films
- Other(s) (please specify)

5. What format(s) of programming does your company produce? (Choose as many as apply.)

- Animation
- Children's/Youth
- Comedy
- Documentary
- Drama
- Game Show
- Reality/Unscripted
- Variety, Performance
- Other(s) (please specify)

6. Do you have an opinion on how the industry could develop improved methods for valuing digital rights?

7. Are you willing to participate in a follow-up telephone or in-person interview to be conducted before March 15, 2010?

- Yes
- No

8. To participate in our prize draw, please provide a name and email address.

Name:

Email address:

## APPENDIX G

### BROADCASTERS, DISTRIBUTORS AND DIGITAL & MOBILE PLATFORMS' SURVEY

January 9, 2010

Date of Interview: \_\_\_\_\_

Conducted by: \_\_\_\_\_

CFTPA Broadcaster and Digital Platform Questionnaire

#### ABOUT THE INTERVIEW SUBJECT

Please confirm the following information:

1. What company do you work for? \_\_\_\_\_
2. Where is your company based?
  - US
  - UK
  - Australia/New Zealand
  - Other (please specify)
3. What is your title?
  - VP Business Affairs
  - VP Content (Commissioning Editor, Acquisitions, or equivalent)
  - Other (please specify)
4. What territory(ies) does your company operate in? (Check all that apply)
  - UK
  - US
  - Canada
  - Australia
  - New Zealand
  - Europe (other than UK)
  - Worldwide
  - Other (please specify)
5. Who do you consider your primary audience?
  - Television viewer
  - DVD
  - PVR/Xbox or other device user
  - Online user
  - Mobile user
  - Other (please specify)

#### ABOUT THE TREATMENT OF DIGITAL RIGHTS AT YOUR COMPANY

6. What format of programming are you directly involved in commissioning and/or acquiring for broadcast or distribution? Choose all that apply
  - Television series
  - Television one-offs
  - Feature films (including documentaries)
  - Documentary feature films only
  - Short films
  - Webisode series
  - Digital media products (interactive websites, apps, etc.)
  - Other(s) (please specify)
7. What genre of programming are you directly involved in commissioning and/or acquiring for broadcast or distribution?
  - Animation
  - Children's/Youth
  - Comedy
  - Documentary
  - Drama

- Game Show
- Reality/Unscripted
- Variety, Performance
- Other(s) (please specify)

8. Do you develop and commission original work?

- Yes – continue with question 9
- No – jump to question 12

9. If yes, when you commission an original property for production, which rights does your company typically seek to license?

- Pay-TV window
- First-window terrestrial broadcast only
- Specialty Cable window
- Pay-per-view
- VOD
- SVOD
- DVD
- Exclusive online streaming
- Exclusive online downloads
- Non-exclusive online streaming
- Non-exclusive online downloads
- Exclusive mobile rights
- Non-exclusive mobile rights
- Electronic Sell-Through [What rights do you include in the definition of electronic sell-through and rental? And have we covered everything in the rights discussion above?]
- Merchandising and licensing

Do you accept non-exclusive deals? And if so, under what conditions?

10. Are you more or less likely to seek digital rights for some genres or formats?

- Yes
- No

Which?

11. When you commission an original property, do you seek these digital rights only for territories where your company operates, or do you aim for worldwide rights?

	Territories where co. operates	Worldwide Rights
Commission original property	<input type="radio"/>	<input type="radio"/>
Acquired Programming	<input type="radio"/>	<input type="radio"/>

Comments?

**BROADCASTER (pay, conventional or specialty/cable) or DISTRIBUTOR**

12. If you are a broadcaster or distributor (pay, conventional or specialty/cable) does your company pay additional licence fees for digital rights (such as online streaming, online downloads and mobile)?

- Yes
- No

13. If yes, could you estimate how much of the total licence fee, as a percentage, is allocated to these digital rights? If you have another method for assessing value of these rights, could you please describe it? [this question may require further prompting or discussion]

Example:

Broadcaster/Distributor X pays \$500,000 per half-hour of drama programming and pays 2% additional fee (\$10,000) per episode for all digital rights in the territory....

Broadcaster/Distributor Y pays \$500,000 per half-hour of drama programming and simply pays a flat one-time fee of \$10,000 for all digital rights and requires a revenue share on producer profit from other ancillary revenue streams....

14. If no, (does not pay incremental licence fee for digital rights), do you allocate a value for these digital rights for internal accounting purposes?

- Yes (go to q 15)
- No (skip to q )

15. If so, what value or percentage do you place on these rights?

16. What percentage does each of the following digital business models contribute to your overall digital revenue?

- Mobile
- SVOD (Netflix)
- Cable VOD (InDemand)
- Internet Transactional – Electronic Rental & Sell-Through (Amazon, iTunes)
- Free-On-Demand (Hulu, Network websites)
- Other

17. Could you give a general order of combined magnitude of the revenue you are generating from these digital platforms as a whole?

- Under 1% of total revenues
- 5% of total revenues
- 10% of revenues
- Over 10% of revenues

18. For your own internal purposes, where do you see this number headed? (open-ended question)

19. How important are additional digital media products (i.e., the 360 multiplatform, show pages, themes, games, other applications) to you in the commissioning of original content?

- Very Important
- Important
- Somewhat Important
- Not important at all

#### **ONLINE OR MOBILE PLATFORM**

20. Which of the formats below are you primarily interested in licensing?

- Television series
- Television one-offs
- Feature films (including documentaries)
- Documentary feature films only
- Short films
- Webisode series
- Digital media products (interactive websites, apps, etc.)
- Other(s) (please specify)

21. Do you pay licence fees only, offer revenue shares only? Or do both?

- Licence Fees only
- Revenue Share Only
- Both

Comments

22-27. Which rights do you seek when you acquire programming?

If you pay licence fees, please also indicate how much you would typically pay for each of these rights and how you calculate the price.

Rights acquired	Exclusive or non-exclusive? (check one in each case)	Typical price range (per minute or total):
All copyright, ownership	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Online digital rights single territory only (IFOD – Internet Free on Demand; VOD, and EST; streaming and downloads)	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Online digital rights worldwide	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Mobile rights (electronic sell through – cell/mobile providers) your territory	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Mobile rights worldwide	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Other rights (please specify: TV, DVD, TV/Cable SVOD, TV/Cable VOD)	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	

28-33. Which rights do you seek in exchange for your production financing?

If you pay licence fees, please also indicate how much you would typically pay for each of these rights and how you calculate the price.

Rights acquired	Exclusive or non-exclusive? (check one in each case)	Typical price range (per minute or total):
All copyright, ownership	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Online digital rights single territory only (IFOD – Internet Free on Demand; VOD, and EST; streaming and downloads)	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Online digital rights worldwide	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Mobile rights (electronic sell through – cell/mobile providers) your territory	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Mobile rights worldwide	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	
Other rights (please specify: TV, DVD, TV/cable SVOD, TV/cable VOD)	<input type="checkbox"/> We require exclusive rights <input type="checkbox"/> We will accept non-exclusive rights	

#### ALL RESPONDENTS

34. If you commission original work, do you most frequently provide full or partial financing?

- Full financing
- Partial financing
- We do not provide financing, only distribution.

Comments?

35. If you employ a revenue-share model (either in conjunction with a license fee or alone) in your licensing of content, could you please describe the terms here?

Company producer split on gross (circle one) = 80/20 70/30 60/40 50/50 40/60

Company producer split on net (circle one) = 80/20 70/30 60/40 50/50 40/60

Other model (please describe)-

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36. Who are your most important program suppliers?

37. Do you acquire content directly from independent producers?

- Yes
- No
- Prefer aggregators, but will make exceptions

38. Do you acquire content from any Canadian program suppliers?

- Yes
- No

If yes, could you please give me the company names?

#### GENERAL QUESTIONS ABOUT DIGITAL RIGHTS

39. How would you describe the current marketplace for digital rights?

- It is now generally orderly, with terms and conditions well established.
- It is still in flux, but is beginning to clarify after an initial period of uncertainty.
- We've made some progress, but the market is still very young and uncertain.
- It remains highly disorderly, with continuing lack of clarity regarding the definition and valuation of digital rights.

Comments?

40. Do you think that content is being undervalued or overvalued in the digital marketplace today? (please check only one)

- Undervalued by a large measure
- Undervalued modestly
- Priced fairly
- Overvalued modestly
- Overvalued by a large measure

41. Do you have an opinion on how the industry could develop improved methods for valuing digital rights?

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## APPENDIX H

### LIST OF EXHIBITS

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- Exhibit 1: Consumer Spending on Digital Versus Nondigital Entertainment
- Exhibit 2: Most Common Windows of Exploitation for Digital Rights
- Exhibit 3: Dynamics of Current and Evolving Windows for Theatrical and Television Releases
- Exhibit 4: Canadian Producers' Perception of Value in the Digital Marketplace Today
- Exhibit 5: Canadian Producers' Assessment of Fair Pricing for Digital Rights
- Exhibit 6: Compensation for Digital Rights for Most Recent Production
- Exhibit 7: Compensation for Digital Rights for Most Recent Production, by Genre
- Exhibit 8: Digital Rights Acquired by Broadcasters for Producers' Most Recent Production
- Exhibit 9: Amounts Paid by Broadcasters for Digital Rights, Per Episode
- Exhibit 10: Broadcaster Contribution to Budget for Digital Media Products
- Exhibit 11: Type of Digital Media Products Included in Broadcaster's Licence
- Exhibit 12: Reasons Canadian Producers Do Not Exploit Digital Rights
- Exhibit 13: Proportion of Licence Fees and Revenue Share in International Digital Rights Sales
- Exhibit 14: Platforms to Which Canadian Producers are Selling Content
- Exhibit 15: Producer Survey Summary of Findings
- Exhibit 16: Primary Audience by Type of Buyer
- Exhibit 17: Formats Commissioned or Acquired, by Type of Buyer
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- Exhibit 19: Rights Sought by Commissioners of Original Programs
- Exhibit 20: Comparison by Territory of Respondents' Assessment of the Importance of Securing Digital Rights for Acquired Programs
- Exhibit 21: Comparison by Territory of Respondents' Assessment of the Importance of Securing Digital Rights for Commissioned Programs
- Exhibit 22: Broadcasters and Distributors Rank Revenue Potential of Digital Platforms
- Exhibit 23: Proportion of Total Revenue Generated, by Digital Platform
- Exhibit 24: Importance of 360° Digital Media Products
- Exhibit 25: Approved iTunes Aggregators
- Exhibit 26: Key Pricing Characteristics
- Exhibit 27: Perceived Value of Content in the Digital Marketplace, by Buyer's Territory
- Exhibit 28: Broadcaster, Distributor, Online & Mobile Platform Survey Summary of Findings

## APPENDIX I

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## APPENDIX J

### DUOPOLY RESEARCH TEAM BIOS

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#### **Catherine Tait: Project Leader**

Catherine Tait is a founding partner of Duopoly, an independent entertainment company that has provided business development services to the media industries in Canada and the United States for the past 7 years. Tait been engaged by a range of organizations including the Canadian Film Centre, Tribeca Film Institute, the NFB, to develop strategic plans for digital and multiplatform transformation. She is also active in the production of feature films, television and multiplatform properties most recently with LUCKY, a feature documentary in competition at the Sundance Film Festival and PURE PWNAGE, a comedy series for Showcase based on a pre-existing Internet property. She was Executive Producer of the CBC's top-rated animation series, CHILLY BEACH which was also originally a web series. In 2006, Ms. Tait founded an online and mobile video content company [www.iThentic.com](http://www.iThentic.com).

Ms. Tait has over 25 years of experience in the public and private sector media business, in a variety of senior executive roles on both sides of the border. In her role as Salter Street Films' President and C.O.O., Catherine took the company public on the Toronto Stock Exchange, built and financed a new media subsidiary, and spearheaded the company's successful bid for digital broadcasting licences including the Independent Film Channel Canada. Prior to Salter Street Films, Catherine was Executive Director of the Independent Feature Project in New York, the largest organization of independent producers in the United States. Before the IFP, Catherine worked in policy and planning for Telefilm Canada, and served as Canada's Cultural Attaché to France. She was a Director of the Board of Aliant, Atlantic Canada's telecommunications company; a Director of CHUM Ltd; a Director of Triptych Media; and currently serves as a Director of the Canadian Board of E1.

#### **Research Methodology and Design, Project Manager: Avi Soudack**

Avi Soudack helps private, public and not-for-profit organizations deliver information and services online. He provides user research, needs assessment, user experience design and content strategy services. Mr. Soudack has completed dozens of market research studies on media and communication and more than 70 website usability and user experience projects.

Formerly a researcher, specializing in media technology at TVOntario, and a senior market researcher for a communications and marketing agency, Mr Soudack's consulting practice includes work on consumer response to cable television specialty channel licensing, and market analyses for educational and public broadcasting initiatives. Mr. Soudack works closely with clients and stakeholders, encouraging participation, enhancing communication, and delivering strategic value. He is experienced in both quantitative and qualitative research methodologies.

Avi studied communications research at the University of Pennsylvania (MA, Communications) and media and culture at the University of Toronto (BA).

#### **US Industry Expert: Al Cattabiani**

Al Cattabiani has always focused on distributing high-end niche programming. He is a partner in several startups, ranging from original content for mobile phones to electronic distribution of wellness information to new models for releasing music and films. He also consults for a variety of clients: from multi-billion dollar conglomerates to mid-sized growth companies to individual artists and producers.

Al was President/CEO of Wellspring Media, a company he co-founded in 1993 and sold in 2004. Wellspring, now controlled by The Weinstein Company, was a leading independent distributor -- worldwide, in all media -- of arthouse cinema and programming promoting holistic living. Its library of over 700 titles included many Oscar, Emmy and Grammy winners. Before starting Wellspring, Al served as President and Chief Operating Officer of Los Angeles-based Pacific Arts Corporation, where he helped create the PBS Home Video label.

He serves on the boards of the Global Film Initiative, a non-profit foundation to assist filmmakers

## APPENDIX J

### DUOPOLY RESEARCH TEAM BIOS

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in developing countries; and of Acorn Media Group, a distribution and direct-marketing company based in Washington DC, London and Sydney.

#### **UK Industry Expert: Nicholas Moncrieff**

Nicholas Moncrieff is a London based business consultant providing commercial advice to both public and private sector clients in the UK and internationally. He specialises in rights and distribution. His career has covered most of the new developments in the content industry from video publishing to satellite channels to online and digital. Nicholas has founded several start-up companies, including the pan european satellite arts channel Performance, selling some and participating as a key person in others. He has worked for Sky Television, the Daily Mail Group, VCI plc and the European Broadcasting Union. He provides a range of services encompassing, legal, financial, planning and research. He is currently an associate at Inclusive Digital in the UK.

#### **Australia/New Zealand Industry Expert: Dan Fill**

Dan Fill is a partner in the Canada/Australia production company The Chocolate Liberation Front. He is currently the Executive Producer of a feature film in development The World of Infinite Curiosity; a video game of the same name; a television series Figaro Pho and video game of the same name. Dan is a Producer of the Kids In The Hall Death Comes To Town Online game and the SBS Multicultural History of Australia project. Prior to starting the Chocolate Liberation Front with his partners, Dan was the Head of Multiplatform for ABC Australia and Vice President of Interactive for Decode Entertainment.

Dan lives in Melbourne Australia and is the recipient of three dozen international awards for Innovation including British Academy Award nomination and is currently awarded Australia's top digital innovator by The Australian Newspaper.

#### **Research Manager: Tanya Brunner**

Tanya is a consultant focusing on the development and execution of profitable, multi-platform business plans for media companies. She provides competitive analysis, business development, operational assessment and project implementation services. Before starting her own business, Tanya was an executive with Genius Products (The Weinstein Co.), and its predecessor, Wellspring Media, where she led the company's digital initiatives. Her career has spanned all the major facets of the media business, including packaged goods and digital media distribution, operations, strategy, international & television sales, business development, contract negotiation, rights management and finance.

Tanya has an MBA in Finance and Marketing with a concentration in Entertainment, Media & Technology from NYU's Stern School of Business and a BA in Anthropology from UC San Diego.