

# Kingston Conference defines consensus for solid foundation

KINGSTON - In June, the Canadian Conference of the Arts hosted a conference of ten participants and four observers to reflect on the problems and solutions confronting the Canadian production industry. The objective was to identify those points upon which a broad consensus could be established, and to outline practical approaches to tackle the various issues.

Given the context of intense federal examination of the same problems - the CRTC and pay-TV, the task force committees at the Department of Communications and Broadcasting and film distribution, the Applebaum-Hebert Committee on Cultural Policy - it was hoped that a timely definition of objectives, coming from the private sector, might influence federal policy. The document which follows is the outcome of the deliberations of the "Kingston Conference."

The participants were the following: Allan King, chairman; producer Ron Cohen; government Film Commissioner James de B. Domville; producer John Eckert; writer Rob Forsyth; producer Don Haig; national director of the CCA John Hobday; André Lamy, director of the Canadian Film Development Corp.; and director Robin Spry. The observers were Jack Gray (Broadcasting task force, DOC), Peter Herrndorf (v.p. and general manager, CBC), Ian McLaren (director, Cultural Industries, DOC) and producer Michael Spencer.

## The Kingston Conference

### 1) Objectives

We endorse the following basic objectives, which are sometimes termed cultural policy objectives:

- 1) The creation and production, by Canadians, of Canadian materials primarily for the use of the Canadian public.
- 2) The development of the individuals, institutions, corporations and the legislative and economic framework that will make possible the creation, production, distribution and preservation of Canadian materials.
- 3) The long-term commitment and organization of the public and private resources necessary to permit the orderly, continuing creation, production, distribution, use and preservation of Canadian materials.

### 2) Relationships

Much discussion of strategies for the program production industry gets bogged down in arguments over the roles of the broadcasting and film industries, and of the public and private sectors.

The time has passed for dis-

cussions about "broadcasting" and "film" in this context.

What we are really dealing with is the *production* of program materials on the one hand, and the *distribution* of these products on the other.

In this industry the main direct markets are now theatrical, free television, pay television, and the sale and rental of cassettes and discs. There are also indirect markets (merchandising, for example).

With respect to the public and private sectors, the Canadian reality is, or should be, one of co-operative, complementary but strongly competitive services. To a large degree the private sector would find it difficult or impossible to function without the base of activity established and maintained by the public sector. The converse is, or should be, equally true.

### 3) The main problem

The recommendations we have developed deal primarily in terms of the production and distribution of dramatic materials.

There are sound reasons for this.

Dramatic materials are the most popular of programs: over fifty percent of all television viewing is of drama, a figure that grows to sixty-eight percent in prime time, when most people are watching. In the cinema almost all programming is dramatic.

Yet it is drama that Canada fails to produce. Our record in news, public affairs, sports, even variety is excellent. But only four percent of the available television drama in Canada is Canadian, and only about three percent of screen time in the Canadian cinemas is occupied by Canadian films.

We believe strategies aimed at improving the production and distribution of Canadian dramatic programming will provide the keys to improving the Canadian industry, and to serving the most urgent needs of the Canadian audience.

### English and French production

While overall both the English and French production industries face similar problems, there are differences of scale, and many specifically different categories of problem. We believe that different solutions may be required when dealing with the English and French industries.

### Targets

A useful first step in developing strategies for the program production industry is to establish practical production targets.

The setting of specific targets establishes a framework against which capacity can be

measured and resources developed, and avoids much unproductive theoretical discussion.

The following targets cover dramatic materials only, but of all kinds (theatrical films, films for television, TV drama - including series, serials, soaps, and so on). Two types of films are distinguished: those "made for television" averaging about \$2 million per film, and "theatrical" films made at higher budgets.

While almost any pattern of targets could be proposed, those we present are built on:

- a) the known desire of Canadian audiences for access to dramatic materials;
- b) our assessment of the capacity of the Canadian industry to produce and distribute dramatic programs;
- c) the proposition that a reasonable proportion of the drama available to Canadian audiences be Canadian. The reasonable proportion we are using is directly related to the viewing preferences of Canadian audiences.

A number of assumptions are made:

- a) that the CBC/Radio-Canada will have a higher Canadian requirement that private broadcasters;
- b) that private broadcasters will produce reasonable amounts of Canadian dramatic materials;
- c) that the new pay television services will originate a number

of low budget or made-for-television features, as well as limited amounts of television style dramatic programming.

- d) that the ratio of English and French production in film will be 70/30;
- e) that the targets will be phased in over a period of years.

See Table 1.

### Cost of achieving the targets

We estimate the gross production costs of achieving these targets to be \$600 million in the fifth year. (Based on 1982 dollars.)

We have developed our proposals by assuming that, as far as possible, the additional funding required to achieve the targets must be found outside present public funds. However, there are certain needs that may initially require public funding, including the immediate emergency money for the CFDC as noted later.

We underline some hard realities about our Canadian situation.

Producers in all countries rely on their domestic market to return their basic production costs. Where this is not supplied directly by the market, other measures must be used to pay for such production. Typical instruments are: national broadcasting organizations which in effect fully sub-

sidize production costs, tax measures that assist producers, and so on.

Additionally, many countries attempt to recoup part of their production costs by exporting material. This is a highly competitive business. The United States, which produces about \$4 billion worth of entertainment material a year, and supplies a large part of the world market, still exports only 10% of this domestic production. The 10% figures for potential earnings can be used as a rough guide to the amount any country might hope to earn.

Too many Canadian plans for improving the state of our domestic industry have been built on overly optimistic projections of opportunities for export to the United States. The reality of the potential of the U.S. market has been graphically expressed by one commentator who notes that while the United States exports enough material to program 22 networks, 365 days a year, it imports only enough material to program 3 networks for 2 days a year!

The fact is, that however our Canadian situation is analyzed, there is and will be a continuing gap between the potential sources of investment in dramatic programming and the revenues available from the exploitation of that product. Estimates of potential returns overall from television product range from

**Table 1**  
Program Production Targets

	Present Production	Year 1	Year 2	Year 3	Year 4	Year 5
<b>English</b>						
TV Drama (hours)	83	177	271	365	459	551
Films (\$1.5 - 2.5 m) (number)	20	50	60	75	85	100
Films (Theatrical) (number)	5	15	18	21	23	25
<b>French</b>						
TV Drama (hours)	190	200	210	220	230	238
Films (\$1.5 - 2.5 m) (number)	3	21	25	31	36	43
Films (Theatrical) (number)		6	8	9	10	11
<b>Totals</b>						
TV Drama (hours)	273	377	481	585	689	788
Films (number)	26	77	93	115	131	154

# Tax broadcasters, augment funds to CFDC, transform CBC

ten to fifty percent of costs. The present overall return on feature film investment is between twenty and fifty percent. Occasional individual programs and films will of course earn back their costs and make a profit.

In the critical area of dramatic production, there is and will continue to be insufficient revenue to cover the cost of production for the volume of dramatic material needed to serve the end of Canadian audiences, whatever targets are set.

Two conclusions are evident:

- a) Public activity (that is fully paid production, however achieved) has been and will continue to be important in Canada;
- b) The Canadian distribution system for film and television materials must be restructured to provide a greatly increased, genuine home market for Canadian product if the independent film and television program industry is to develop.

## RECOMMENDATIONS

### Priorities

There are a number of measures that must be taken, some immediately, if we are to achieve the objectives noted.

Measures that can and should be taken immediately are, in summary:

- 1) An immediate grant to the CFDC for the purpose of ensuring that the Canadian production industry weathers the present slump, is financed to begin to be in a position to supply materials to pay television, and is strengthened to play its part in achieving the objectives of broadcasting and film policies when these are fully developed.
- 2) The introduction, as part of the "basic" service provided by cable to all subscribers, of a new channel of Canadian entertainment for which a fee of at least \$2.50 per subscriber per month is paid.
- 3) Moves to integrate Canadian cable into the Canadian broadcasting system by:
  - a) restructuring the present "basic" cable service into a new "general" service that will be all-Canadian and be delivered by satellite and so made available to all Canadians, will be supplied at the lowest practical fee (essentially equivalent to the present fee for cable's basic service), and which will include the new subscriber-based channel noted in 2) above;
  - b) a tax on the gross revenues of the cable industry; to be used to assist in the financing of the Canadian independent production industry;
  - c) permitting cable operators, with the minimum neces-

sary regulation, to package additional services in "tiers," and to charge for these tiered packages prices basically determined by the market. We are, however, specifically opposed to an "open skies" policy.

4) A requirement that private broadcasters spend a percentage of their gross revenues on the production of Canadian drama.

5) The outlining and a start on the implementation of a "transformation" strategy in regard to the CBC/Radio-Canada that will enable it to continue its major role in the Canadian industry, and to develop new mechanisms to meet the challenges of the changing Canadian broadcasting environment.

6) *We believe the above steps should be taken now, and should not be delayed until the Federal Cultural Policy Review Committee has reported.*

### 1) The Canadian Film Development Corporation

The CFDC should immediately be given funds to: enable it to work with the independent production industry to ensure there is at least the minimum volume of production required to sustain the industry through the present slump; to begin to provide quality programming to the new pay television licenses; and to work on developing the industry to put it in a position to serve the strengthened film and broadcasting industry that will result from federal policies now in the planning stage.

The minimum amount needed is \$25 million per year for the next five years (in constant 1982 dollars).

We recommend that the additional funding be spent as follows:

- a) for development of scripts and projects;
- b) for aid to the distribution of Canadian products in Canada by Canadian distributors;
- c) for the production of Canadian materials:
  - i) in a discretionary manner related to cultural and national goals;
  - ii) in a non-discretionary manner related to program performance in Canada.

### 2) A new subscriber based "Universal" service

A subscriber based channel should be introduced and included as part of the "basic" cable service provided to all subscribers for a single fee. This would be a commercial free, high Canadian content, entertainment service, in which all the programming would be produced by the independent production industry. Such a service produces immediate and substantial revenues that

go directly to the independent program production industry in a variety of ways, for script development, regional programs, feature films, television style drama, variety programs, children's programs, and so on.

The fees charged for such a service must be sufficient to properly program it. Previous studies suggest that a fee of approximately \$2.50 per subscriber per month, to be paid by each cable operator on behalf of its subscribers, with the right to pass this cost through to the subscriber subject to rate of return regulation, will be acceptable to a substantial number of subscribers, and will provide sufficient funding to effectively program the channel.

The potential gross revenues at \$2.50 a month are:

See Table 2.

The potential program funds that would result, assuming the service is at least 80% Canadian, spends about 80% of its gross revenues through the independent program production industry on Canadian programming, and ensures that at least 30% of these funds go for original French language production are:

See Table 3

There are three main options for the introduction of this kind of service:

- a) through a private, non-profit corporation, established and licensed for the purpose;
- b) through a Crown Corporation, specifically created and licensed to run such a service;
- c) through an existing Crown Corporation, for example, CBC.

Consideration might be given to having this new program service administered as an independent subsidiary of the CBC, provided that it is totally separate from other CBC management, that its revenues are not used for other present or future CBC services, and that it is not used to introduce a modified form of previous CBC proposals for the CBC 2/Tele 2/Phoenix channels.

### 3) Cable

The following measures should be taken to help integrate cable into the Canadian broadcasting system.

#### a) Restructuring the "basic" service

Restructure the present "basic" service on cable into a new, "general" service, which would consist entirely of Canadian channels. Any other channels provided by a cable company would go on the "tiers."

There is no reason for the new general service to be confined to the present limited number of "basic" channels, since technology now makes it practical to extend this.

The fee charged to individual subscribers for this new general service should be as modest as possible, and as close to present fees as practical.

The general service would include the new all-Canadian entertainment channel described in 2) above.

The general service package would be delivered by satellite (therefore fulfilling the Broadcasting Act's objective of making available broadcasting services to all Canadians in both languages). It is assumed that most, and particularly urban Canadians, will elect to receive the service through a cable company, but anyone could

put up a dish to get it. This might mean that the package would have to be scrambled so that a reasonable charge could be made for those who did not take it through a cable company.

The following channels should be included in the general service:

- the CBC, French and English;
- any new public services that are introduced (e.g. a CBC sports channel);
- a "universal" service (which might be a subsidiary of the CBC);
- the private networks, CTV, Global, TVA, etc.;
- provincial services: Radio-Québec, TV Ontario, Access, etc.;
- the parliamentary feed;
- possibly certain other individual Canadian stations or services, for example a possible new channel carrying National Film Board materials.

#### b) Tax Cable Revenues

There have been numerous proposals that cable revenues be taxed, and the resulting revenues put in a Canadian Program Production Fund.

There are two main options:

- 1) Tax the gross revenues of cable. *This is the option we prefer, and recommend.*
- 2) Tax only the revenues from services other than the "basic" general service.

c) In return for the greater role that cable will be playing in the overall Canadian broadcasting system, and the positive contribution it will begin to make to the development and production of Canadian programs, permit cable operators, with the minimum necessary regulation, to package programs for the tiers and charge

Table 2

	1983	1984	1985	1986	1987
Total cable subscribers (millions)	4.8	5.0	5.2	5.4	5.65
Gross Revenues (\$ millions)	145.4	155.5	166.0	176.6	188.3

Table 3

Funds for Canadian program production (\$ millions)

	1983	1984	1985	1986	1987
English	81.4	85.3	92.9	99.0	105.4
French	34.9	37.5	39.9	42.6	45.0
Total	116.3	124.8	132.8	141.6	150.4

## Kingston

for these packages at rates they feel the market will bear. It is to be noted that we do not advocate and are opposed to a so-called "open-skies" policy which would permit unrestricted Canadian distribution of foreign signals.

## 4) Private Broadcasters

There is a general feeling that the private broadcasters can, and should, be more effectively engaged in the production of drama, the category of programs Canadian audiences most enjoy. To assist them in becoming engaged in the creation of Canadian programs, various measures have been suggested.

The CRTC, for example, placed a requirement on CTV that it produce a number of television dramas a year, a move the network resisted in the courts, but which has now been confirmed by the Supreme Court.

The recent pay licences opened up a new way to encourage licencees to produce programming, adding to the requirement that a certain amount of air time be devoted to Canadian programming, a requirement that some of this be drama, and that a percentage of revenues be spent on this category.

We recommend that the private broadcasters now be required to spend a percentage of their gross revenues on Canadian drama and make greater use of the services of the independent program production industry.

## 5) The Canadian Broadcasting Corporation

For fifty years the CBC/Radio-Canada has been the main public instrument used to provide Canadian programming to Canadian audiences. It has been very successful in this. But it now faces an evolving new situation, and needs to be transformed to enable it to meet the challenges of the 80's and 90's.

The CBC's principal task is to provide programs of many kinds to all Canadians in both languages. Like other areas of the Canadian broadcasting system, the Corporation, particularly in its English language services, is having difficulty supplying adequate amounts of Canadian dramatic materials to serve our needs.

The changes needed to correct this particular problem uncover many of the basic problems the Corporation faces: the fact that it has, to a large degree, lost its "identity," being perceived as just another commercial network; the fact that because it carries advertising it is forced into using American drama programs to sell that advertising, thus making it difficult to find not only the

money but also the broadcast time for Canadian drama; and so on.

A policy which took the ads off the CBC would inevitably result in a de-Americanization of its schedules, and could have the positive effect of encouraging the Corporation to make greater use of the independent production sector to replace these American drama programs with Canadian drama.

All of which will cost something.

Recognizing the complex nature of the process of implementing any transformation policy for the CBC, and acknowledging that the costs will be greater than they are at present (but not necessarily as great as some think), we believe that the main measures to move the new CBC should be:

a) To provide multiple CBC services, delivered by satellite to all Canadians. These might include, besides the present general service, a new entertainment channel that is financed from subscriber revenues, a sports channel, and so on.

b) To drop advertising. As noted, this would lead to a de-Americanization of the schedules and would provide opportunities to the independent production industry which could be called on to provide the new drama programming that would be needed to fill the gap. It will also be necessary to find some additional funding to permit this to happen. In this regard, while there is a definable cost to getting out of advertising, some of these revenues will go to the private broadcasters to improve their Canadian production.

c) To have a high Canadian content.

d) To put an emphasis on national and regional programming.

e) To change the present relationship the Corporation has with its Affiliates, perhaps, for example, renting these facilities for as long as they are needed.

f) To increase its production of Canadian programs, and particularly television drama.

g) To strengthen the radio services.

h) To reorganize its management and structure as may be necessary to achieve the above.

## OTHER MEASURES

The following recommendations deal with other measures.

## The National Film Board

The National Film Board has been an active force in Canada and for Canada for over forty years, and has created a unique place for itself. In recent years, there has been widespread comment and concern about the future role of the National Film Board.

The NFB has noted a number of roles it can play in develop-

ing the Canadian program production industry, including:

- the establishment of a film and television school at the graduate level,

- research and development,

- co-productions with the private sector (including feature films),

- increased farming out of government sponsored films to independent producers.

A major problem for the NFB has been pointed out by the Commissioner:

"Today the National Film Board is the largest source of Canadian programming in both official languages, which does not have its own place on television. The time has come to change that fact. We believe the NFB must be regularly available on the home screen so as much of the public as possible can have access to as many of our films as possible."

Ways in which this might be accomplished were discussed, including specific provision for NFB films on a new "universal" channel, and the possible provision of a separate channel devoted to NFB materials.

## Incentives

a) *The Capital Cost Allowance* scheme should be improved by providing three alternate provisions.

1) a 150% CCA in one year, as is now done in Australia, to films or programs that are entirely Canadian in content. This means programming that earns 10 out of 10 points, and where 75% of all other costs must be paid to, or in respect of services provided by Canadians.

2) A 100% CCA in one year applying under the current regulations.

3) A 50% CCA in one year for a film or program where:

- the producer is Canadian

- the film satisfies any two of the three following criteria:

i) the screenwriter(s) or director is Canadian

ii) one of the two highest paid performers is Canadian

iii) the film earns six out of ten points applicable under the present CCA regulations.

- 75% of all other costs must be paid to, or in respect of services provided by Canadians.

b) The way in which the Income Tax Act currently operates is detrimental to the film industry, bunching all production in the last quarter of the year. Consideration should be given to applying to the CCA the principle of RRSP's, but extending the date from the end of February to the end of June.

## c) Revenue guarantees

We recommend that Revenue Canada's interpretation of the Income Tax regulations be amended so as to clearly provide that the Capital Cost Allowance is not diminished by

revenue guarantees provided in the ordinary course of business by parties operating at arms length.

## Script development

There is a need for greatly increased support for script development.

## Commercials

The Canadian production industry would be greatly strengthened by a requirement that all commercials shown on Canadian television be fully Canadian, as is the case in Australia, New Zealand, the UK, and most other countries.

## Distribution

1) We recommend that all feature films of whatever nationality distributed on any media in Canada should be distributed by or through a Canadian controlled distributor, provided that the Canadian distributor be required to assume corresponding obligations vis-à-vis the distribution of Canadian product in Canada.

2) There is a dire and continuing problem of getting fair access in general for Canadian distributors to Canadian screens for any product. These factors seriously affect the performance of Canadian films. There are specific problems in getting lock dates, and having gotten dates, of being summarily thrown out of theatres without adequate notice.

Noting the difficulty Canadian films have in getting to Canadian screens in the first place, and of achieving performance when they do get there, we recommend that consideration be given to breaking up the Canadian chains so that reasonable

or even fair competition and orderly bidding procedures will result.

## Quotas/Levies

The problem associated with getting Canadian films into Canadian theatres raises the question of exhibition quotas. Recognizing that this is basically a matter for the provinces, we recommend that the Minister of Communications convene a meeting of his provincial colleagues to once again discuss the possibilities of introducing exhibition quotas for Canadian films.

A particular proposal such a meeting might examine, is the implementation of a quota for Canadian theatrical shorts as part of each theatre program.

Closely connected to quotas but separate from them is the question of levies on box office grosses as a potential source of additional funding for the Canadian program production industry. This is another matter that could be discussed by federal and provincial ministers.

Any scheme for levies would require government controlled box office accounting procedures. This would be enthusiastically welcomed by the production industry.

## Canadian content definition

We recommend that there be a single, common definition of "Canadian" in relation to content or eligibility definitions affecting the Canadian program production industry, in order to rationalize the present farcical confusions.

The present Capital Cost Allowance definition might form the most useful base for a single definition.

## Million dollar suit against distribs

MONTREAL - Serge Losique and the World Film Festival of Montreal have launched a million dollar law suit against Canada's independent distributors.

Following the "Gaumont affair," in which Losique was reported in the press to be ready to accept a consulting job with Gaumont following this year's edition of his festival, the distributors held a press conference, charging conflict of interest (see Cinema Canada, no. 86).

Named in the suit are the Association québécoise des distributeurs de films, the Association of Independent and Canadian-Owned Motion Picture Distributors, and certain individuals and companies: Gilles Bériault (Prima Film), René Malo (Les Films René Malo), Bernard Dagenais and Robert

Meunier (Cimadis Inc.), and Ron Emilio.

The suit cites false accusations and insinuations, and charges that the distributors impuned the integrity of the festival and its director, and tried to harm the festival by boycotting it and by urging others to boycott it.

Following the distributors action, the Institut québécois du cinéma withdrew its support from the festival "in the interest of the industry," and chose not to award the \$75,000 which the Festival had anticipated.

Some distributors have also withdrawn their films. Recently, Les Films Mutuels have withdrawn the latest film from Werner Herzog, *Fitzcarraldo*, and the Australian film *Harlequin*, both entered in the program as screening "hors-concours."