



Ron Cohen headed the Task Force on Distribution for the department of Communications, and has now submitted his recommendations to those who are working on the federal film policy. Below are edited excerpts from a recent interview given to Cinema Canada concerning those recommendations and the recent agreement reached between the major American distributors and Cineplex, as a result of the Combines investigation concerning exhibition (see p. 3).

Trained as an attorney, Cohen has produced four features: *Running and Middle Age Crazy* with Bob Cooper; *Ticket to Heaven* with Vivienne Leebosh; and *Harry Tracy*. He was also executive producer of *Cross Country* with David Patterson and Pieter Kroonenburg.

**Cinema Canada:** What is one to make of the Combines investigation and the subsequent agreement signed by the Majors?

**Ron Cohen:** The decision is of value because it recognizes that there is a serious problem in exhibition and has come to grips with it. The Combines

## Changing the status quo : an interview with Ron Cohen

by Connie Tadros

Branch has had a file open in connection with Famous Players since 1976, and the inquiry has been in the offing for many years. The information which Garth Drabinsky of Cineplex supplied brought an inquiry to a head.

There is no doubt that the problem was serious, and it took a lot of courage on Drabinsky's part to step forward. After all is said and done, the companies involved are the biggest distributors in the world. Drabinsky, as a lawyer, is trained to amass evidence in a certain way and although there were other exhibitors who were prepared to get involved, the folks at the Combines Branch probably thought the Cineplex material was better suited to their purpose. There is irony in the fact that a file which was opened against the exhibitor Famous Players ultimately ended up with proceedings against the Major distributors. The problems really affected everyone on the exhibition side.

**Cinema Canada:** Why did the Majors sign a letter of agreement rather than proceed with the hearing?  
**Ron Cohen:** In ordinary litigious situations, it is customary to arrive at a settlement where both parties feel their

needs are being served. It may be that there is something they don't want to reveal in public, or it may be that they simply get a more rapid settlement. In the case of the Majors, since here they were the equivalent of defendants in an action, they may have feared that they would find themselves with stiffer terms if there had been an order which had come down from the Restricted Trade Practices Commission (RTPC).

Now the RTPC has put in place a system to cope with the situation, and I'm sure that the Majors will be able to secure the right kind of advice and the additions to internal staff to enable them to keep the complicated records necessary. Had there not been a very real problem, there would have been no need for these measures. But what the Combines Branch is saying is that it doesn't want to have to go through the exercise in the future of trying to constitute a case without written records of any kind. In the event that independent exhibitors are still not getting pictures (despite the agreement), the RTPC can only judge the situation from the evidence, and for the moment, the Majors are going to keep that evidence.

**Cinema Canada: How well do you think the measures taken by the Combines Branch will rectify the situation?**

**Ron Cohen:** My feeling is that there are problems with the signed agreement. In the sense that it moves distribution and exhibition away from the status quo which was economically potentially disastrous for the exhibitors in Canada, it's positive. But what it really creates is a bidding situation. The exhibitors will bid the deal and, though the agreement doesn't say anything about this, the deal may include guarantees. The biggest theatres will be able to outbid the smaller theatres and that's the problem.

The agreement forces the smaller theatre owners to play in the same ballgame, in the same way as the major theatre owners. Now some will say, 'Ah, that's the operation of the free marketplace' and they're right. The Combines Branch is the keeper of the faith of the free marketplace. But the marketplace in which the exhibitors are now being asked to place themselves is not, in a sense, a "free" marketplace. It's a marketplace which is the result of a build-up over 60 or 70 years of a system which has so rewarded some players that they are disproportionately able to play in that ballgame at this stage. The small folk are now forced to bid against people who can afford to lose money, who can afford "loss leaders" so to speak, on a longer and more continuing basis. I think that it's likely to be harmful and financially somewhere between dangerous and disastrous for the small.

The agreement also leaves the distributor free to make the picture available in certain geographic areas and not others. That is a difficult situation for the exhibitors. For example, if a picture is to open in Calgary, and the distributor - without being collusive in any way - saw before-hand that some of his favorite folks didn't have a screen available downtown, then the distributor could decide that he only wanted to play the film in a suburban area, say, around the Market Mall. Then the bidding would take place in terms of the screens in the Market Mall, and there won't be any downtown screens because the distributor isn't looking for any downtown screens. This agreement won't change that.

**Cinema Canada: How long will it take to know if the agreement works?**

**Ron Cohen:** We should know within the first month because you'll be able to see if films are starting to play houses other than the traditional houses. But what you want to see is if it sticks. It's like going to have your car painted. You say, 'Boy! That looks great.' What you have to know is when the first rust spot appears. You hope it's never going to appear.

**Cinema Canada: How do the recommendations of the Task Force differ from the measures of the Combines Branch?**

**Ron Cohen:** We considered a bidding system, but decided against it. What we did propose was a system which would automatically fix a certain percentage of screens in the key cities to exhibitors other than the principal exhibitors of a motion picture. If, in fact, Famous or Odeon were to have the bulk of the situation, the distributor would also have to choose a certain significant percentage of situations from among persons other than that principal exhibitor. Automatically, films would become accessible to smaller exhibitors. And once that tied relationship which now exists is gone, I think the distributors would be pleased to give the opportunity to other exhibitors who were prepared to really struggle to do the job.

**Cinema Canada: What sort of concrete difficulties would arise for the distributors?**

**Ron Cohen:** Real or imagined difficulties? If you are in business to make money, and if you are going to make more money with a different state of affairs, even if it takes you an extra body to deal with a few more exhibitors, then that's what it takes. There's no question but that the distributors are going to make more money out of this.

There are, of course, imagined diffi-

culties. You may not be able to take it quite as easy as you have over the years. Your team might have to work a little bit harder, but you're going to reap very substantial benefits. It's very difficult for anybody who is being honest to deny that a distributor who has the opportunity to play in more situations both in first-run and as a move-over is going to make more money. And it's also very difficult to suggest that a picture can only play well and properly if it's in the hands of either Famous or Odeon. That's just not reasonable.

**Cinema Canada: And what about the independent distributors?**

**Ron Cohen:** The Task Force felt that the problem there was not primarily one of ownership. There are Canadian distributors and foreign distributors. The problem is that the Canadian distributors, like the independent theatre owners, have been under-nourished for so long. They haven't had the right kind of material because the Majors distribute all of the major product and, in recent years, have gone after the independent foreign-language product which used to be the mainstay of the independents. Without the product, the independents make less money and lose leverage. It's a vicious circle.

Our solution - and this is one to which Clément Richard of Quebec also turned - is to let the Majors distribute those films for which they have world-wide rights. (I think it's difficult to talk about the films which they have produced because who-produced-what is a difficult situation to deal with.)

This permits the Majors to continue making normal production deals with Canadian producers, and doesn't put you in the artificial situation of saying that any picture produced by a Canadian must be released in Canada through a Canadian distributor. If Canadian producers are engaged in production deals with negative pick-ups - which is certainly one of the very reasonable ways of making motion pictures - then

the Majors should be entitled to have the whole world, and that includes Canada.

We expect that any recommendation which would have as effect to alter the status quo will make the Americans scream. Actually, we started out with a situation in Canada in which the producers and distributors were unanimous, saying that anything that gets distributed in Canada, through any media, must be distributed by a Canadian company. That very nationalistic attitude was not necessarily rational in terms of all the factors... We thought that our recommendation was more reasonable in recognizing the needs of the Canadian distributors and their ability to handle what we would then give them. It didn't seem legitimate to me to effectively kick the Majors out of the country. So we tried to come up with a balance.

The point is, if the Majors have anything better to suggest, they ought to suggest it. And it ought to be a change in the status quo because, right now, Canadian distributors and Canadian exhibitors have been disadvantaged for an extensive period of time by the course of action the Majors have taken in this country. If the Majors only have the status quo to suggest, then it would seem to me that they are barking up the wrong tree.

**Cinema Canada: What of financial measures to bolster the independent distributors?**

**Ron Cohen:** We have proposed financial assistance which is of two types. There would be assistance analogous to the kind of book publishing grants which exist at the federal level, both in the department of Communications and at the Canada Council. Then we have suggested individual assistance, film by film, to Canadian motion pictures which need some help in distribution.

The minister has made it clear that the Canadian Film Development Corp. has his endorsement as a body to disperse funds in this country, and we didn't formulate any particular opinion in that regard or suggest any other mechanism.

We have artificially assisted our production sector in this country by the tax benefit and through the CFDC and now with the broadcast fund. The Americans are not actively screaming about that. Now we will just have to look the Americans straight in the eye and say, 'Sorry. We are not eliminating your right to carry on business here. We are simply providing a certain measure of assistance to our own players which is compatible with the kind of assistance which has been provided on the production level.'

**Cinema Canada: What priority can we expect the film policy to have in the greater scheme of things, considering Canadian/U.S. relations?**

**Ron Cohen:** The issue in the overall economic sphere is so unimportant, even to the Americans, that it ought to be something where we stand toe-to-toe, if that's what's needed, and carve out a position for the Canadians. It's not very complicated. It's not very serious. The pictures will still get out, the people who have the rights to receive revenues from those pictures will still receive revenues. Where the pictures are world-wide in the hands of the Majors, they'll receive all the benefits that they're receiving now. What it means is they can't have everything. And that really is the way it ought to be.



● Ticket to the Genies: Producers Cohen and Vivienne Leebosh getting theirs