

# CANADIAN CONTENT : A PLEA

**Billy Bishop Goes To War** - not a Canadian production, eh? Pity!

Yes, under the proposed new Canadian Content regulations, ACTRA's Best Television Program of 1983 would not qualify, despite being produced by Canadians, on a Canadian subject, with a Canadian script, Canadian music and a completely Canadian cast.

Only in Canada, you say.

In its public notice CRTC 1983-174 dated August 15, 1983, the Canadian Radio-television and Telecommunications Commission (CRTC) argues its case for a new definition of Canadian Content. The effect of these regulations, if implemented, will make it virtually impossible for Canadian independent producers to function effectively outside our borders, except with those countries with which we have signed co-production treaties. While the Commission is hoping to eliminate abuse through its tighter regulations, the outcome will be to wipe out legitimate producers who are not attached to existing broadcasting organizations. We think this approach is misguided and in direct contradiction to stated and expressed Government policy.

While a single definition of Canadian Content is theoretically desirable, it is practically difficult, if not impossible, to produce a totally satisfactory model. The Commission has begun this quest for a single definition by basing its regulations upon a feature film model which is not suitable for the diversity of programs that appear on television. Certainly, documentary production and variety production do not fit a model designed for dramatic feature films. Also, it should be noted that if the purpose of regulation is to limit abuse, why pick a system which has been more abused than any in recent Canadian history?

The aim of these regulations, it appears, is to reduce so-called 'American productions' being disguised as Canadian productions. We cannot believe that the aim of the regulation was to reduce the amount of co-production with Britain, France and other countries. Fortunately, the newly signed television treaty with France protects our relationship there, but we are pessimistic that treaties will be signed rapidly with other countries. There are major union problems in Britain; the structure of German television, being regional, makes a treaty very difficult to put in place; and Australia is not the easiest place with which to do genuine co-productions. Unfortunately the quest for theoretical elegance and a single definition ignored economic reality.

The proposals made by various producer groups - and specifically the Canadian Film and Television Association (CFTA) - tried to point to a flexibility to accommodate different forms of television. It concentrated on the key issue of producer control to ensure that this would not be abused. But it showed a recognition of the economic realities within which independent producers must operate.

The regulations for domestic production could be accepted, although the points system concentrates on craft categories to the complete exclusion of production functions - in a medium in

which the producer, rather than the director, is king.

Co-productions, if handled by treaties, do not represent a problem, but we must remember that the *only* existing television treaty is with France.

The issue of co-ventures, a new term to define non-treaty co-productions, is what will put us out of business. The context in which we independent producers operate is that we are lucky to take 30% of our production costs out of our domestic market. How can we, in co-ventures with others, expect them to put up the bulk of the money, while we have the privilege of spending the bulk of the money?

Let us take the case of an equal partnership in which each side is prepared to put up 50% of the money. We recently had one such example, in co-venture with BBC Television, on the production of *Billy Bishop Goes to War*. We went into this on a 50:50 basis and indeed, the points split was five each and the monies spent were 50% each. The reality of the situation was that Canada could not afford to do the production on the scale that the work demanded. We were, however, able to raise 50% of our money in Canada; Britain provided the other 50%. Can one genuinely argue that a program that is produced by Canadians on a Canadian subject, with a Canadian script, Canadian music, Canadian cast, is not a Canadian production? Under the new regulations, *Billy Bishop* would not qualify as Canadian Content. Had we attempted to do the production in Canada on the monies available from the Canadian market (which at 50% of budget is better than we have been averaging on most productions), we would not have produced a program capable of winning the award as Best Television Program of 1983. Had we then tried to sell this to the British after the fact, the price from them would have been one-tenth of what we negotiated through co-production.

The reality of the television business is that one must secure pre-sales - that is, pre-commitments from foreign networks in advance of production. This is where a program becomes viable economically, not through export sales. The export market for TV product, as distinct from pre-sales, rarely covers 10% of budget. That is the reality and it applies to all internationally marketed product, American, British, as well as Canadian.

The defence of the CRTC position that it is only concerned with cultural policy and cannot take into account industrial objectives, is belied by other industrial initiatives in the public notice. The provisions for dubbing (which we feel should be broadened to include colorization and other Canadian technological advances) are clearly industrial and not cultural. Why would independent producers be the only victims?

The new regulations discriminate against independent production in other ways. Take, for example, the series *Cities* which we produced in co-operation with John McGreevy Productions. Under the new regulations, CFTO in Toronto, or CBC could produce *Peter Ustinov's Leningrad* and have it deemed Canadian Content. If, however, they hired John McGreevy, Pat Ferns and exactly the same crew, spending the money in

exactly the same way as we did, they could get Canadian Content Status by having their name on the credit. If, however, the credit was Primedia or JMP, then it would not qualify.

If we were operating in a market which consistently paid the bulk of our production costs, these regulations would be understandable. It would be reasonable to produce a series called *Cities* comprising Gander, Regina and Vancouver, rather than Leningrad, London and Toronto. Our hosts could be Farley Mowatt, W.O. Mitchell and David Suzuki, but if we operate in a market that pays only 30% of our production costs, then we are forced to do a more international series using Peter Ustinov, Jonathan Miller and Glenn Gould.

We would argue that it is important that Canadians be represented in such international series, but what is more important is that we give a Canadian perspective on subjects that are universal and broader than simply a visibly Canadian subject. With these regulations, we can no longer deal with a subject such as *Christendom (A Third Testament with Malcolm Muggeridge)*, nor leadership in the twentieth century (*Portraits of Power*, a co-venture with The New York Times), nor deal with conservation with Gerald Durrell. This latter is particularly galling to us as we have now developed a number of major series on the breeding of endangered species in captivity for reintroduction in the wild state, which is a unique approach to conservation evolved by Gerald Durrell. Indeed, we have an exclusive contract with him; however, our ability to continue dealing with these subjects of world significance will be restricted, if not eliminated, by the current regulations. (On our first documentary series with Durrell, we were asked by CRTC staff if we could not have a Canadian actor play Durrell! We responded that faced with a choice between Noah and a Canadian actor playing Noah in a documentary series on the Great Flood, we would take Noah).

While virtually all of our previous documentary production would be wiped out by the new regulations, so too would be our dramatic production. We have been, for some time, in development of two major made-for-television movies, in co-operation with Yorkshire Television in the U.K. Each side was to bring 50% of the funding and each side was to share in the creative process. The first program was *Grey Owl*, a subject to be shot 70% in Canada and of real Canadian significance. The second, shot 80% in Canada, was a screenplay by Margaret Atwood and Peter Pearson entitled *Heaven on Earth* dealing with the Home Children, the orphans that were exported to Canada at the turn of the century. What more 'Canadian' subjects could one have than these, but what hope do we have of producing this kind of material in the face of regulation that, by forcing us to spend 75% of the budget on Canadian elements, bears no relationship to economic reality?

We believe that in co-ventures there must be at least a recognition of five points and 50% of the monies being spent on Canadian elements as allowing the possibility of equal partnerships. This would eliminate minority co-productions which frequently are necessary if one is only to obtain 30% of one's production costs in Canada. However, we believe it possible to survive with a five point, 50% arrangement and have the ability to submit for approval a package

of programs or programs which produced on a reciprocal basis. Part of the reality of co-production is that there are few subjects that lend themselves easily to filming in more than one country. Thus, it is often better to look at producing more than one project and ensuring that across the two or more programs being made there is an equitable sharing of creative opportunity and financial outlay. If there is not some acceptance of these realities, quite simply we will be out of business. Indeed, as prudent businessmen, we have given ourselves three months after which we will begin to wind down operations - that is, unless these regulations are changed. That is how seriously we view the predicament these regulations would create.

By way of conclusion, we must add another observation: the uncertainty caused by these constantly changing rules and regulations has virtually made business with our international colleagues impossible. Coupled with this, we deal at home in an environment in which Canadian programmers are not really interested in independently produced Canadian programs. They only take them because they have to. Government policy is attempting to force this issue, but unless independents deliver to the programmers a) 100% Canadian Content, b) high-quality, and c) an attractive business deal, we are ignored.

Alas, we have found in Canada that our most effective selling strategy is a combination of blackmail and begging. We have never used this with the Commission, but we do now. We plead for our survival and assure you that we will not go quietly if you put us out of business.

Pat Ferns  
and Richard Nielsen

Pat Ferns is president and Richard Nielsen chairman of Primedia Productions in Toronto.

# LETTERS

## Stunted Canadians

Congratulations on your ever-improving magazine - I have been on your mailing list since the very beginning!

It would please me no end if you looked for Canadian stunt coordinator credits out West just as you regularly list Bobby Hannah and Dwayne McLean on Eastern shoots. For example: John D. Scott was the stunt coordinator on Nicholas Roeg's *Eureka* and presently on Steven Stern's *Draw*. I have done *Never Cry Wolf*, *Iceman*, *The Neverending Story* and now *The Glitter Dome* with no mention whatsoever. I also had a lot to do with *Spacehunter*. Americans like Terry Leonard (*Class of '84*) and Buddy Joe Hooker (*First Blood*) never seem to get overlooked.

I know that it usually is the unit publicist's fault and not yours but you might just make more of the category as a help to Stunts Canada...

I would just like John Kemeny to know what I've been doing since *Shadow of the Hawk*... Don Carmody was my

(cont. on p. 24)

(cont. from p. 6)

fellow production assistant on *U-turn*... And look where Douglas Bowie is today, not to mention Mr. Carmody.

**John Wardlow**  
Stunts Canada  
North Vancouver, B.C.

*The crew credits we publish come from the production companies. If certain craft categories do not regularly get listed, we urge those concerned to inform the productions of the oversight. - Eds.*

**Co-production flap**

(The following letter was addressed to Cinema Canada's associate editor)

Further to our conversation concerning your article published in issue no. 99 of Cinema Canada entitled "NFB Opens French Studio for Co-production with the Private Sector", I am restating in writing what I have told you verbally: "I did not make that statement" regarding the NFB and the opening of a new co-production studio.

In your article, we read and I quote: *Three years ago, the private sector had rejected the Board's proposal for what was then called "coproduction par jumelage" ("three films from us, three from them," explains Verrier). Today, Association des producteurs de films du Quebec president Pierre Lamy adopts a tone that is scarcely more welcoming. "We've got nothing to do with them," he told Cinema Canada. "Whatever they do, they're not going to listen to us anyway."*

As president of the Association des producteurs de films du Quebec, I cannot take any other official position than

the one made public last year by our past president, Mrs Nicole Boisvert, which is the same as the one put forward by the Institut quebécois du cinéma. It reads as follows (I am quoting the French text knowing that no official English translation exists):

*La participation de l'Institut aux films coproduits par le secteur privé et le secteur public dépend des conditions suivantes:*

- 1- le contrôle général de la production est assumé par le secteur privé, quel que soit l'apport financier du secteur public;
- 2- les biens, services et personnel affectés au film proviennent majoritairement du secteur privé de l'industrie;
- 3- le réalisateur n'est pas un employé permanent d'une entreprise de production du secteur public;
- 4- 50% de l'investissement venant du coproducteur public est consacré à des biens et services acquis du secteur privé de l'industrie. L'autre 50% est calculé à des tarifs compatibles avec ceux en vigueur dans le secteur privé;
- 5- l'investissement de l'Institut est établi, selon les critères et les maxima prévus à ses programmes d'aide, sur la portion du devis assumée autrement que par le coproducteur public;
- 6- ce qui est considéré comme investissement privé selon les programmes de l'Institut constitue au moins 25% du devis total du film.

As an independent producer, it is virtually impossible for me to be against co-productions with the NFB, being presently engaged in a co-production with the Board. Claude Jutra's *Le silence*... presently in production, is the second film produced through an agreement between my company Les Productions Pierre Lamy Ltée and the National Film Board, the first film being Francis Mankiewicz's *Les beaux souvenirs*.

**Pierre Lamy**  
President  
Association des producteurs  
de films du Québec

*After consulting the notes to the news piece referred to by Mr. Lamy in issue No. 99, Cinema Canada stands by its story as reported. For further amplification of some of the points raised by Mr. Lamy's letter, see the story on page 25 of this issue. - Eds.*

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