Bad reception
Making sense of Canada’s pay-TV mess

by Lucie Hall

The Festival of Festivals' Trade Forum, held September 12-14 in Toronto, provided excellent opportunity for Canada's pay operators, regulators and independent producers to comment on the market. While most agree that the market is still must be overcome if this country is to establish a strong and viable independent production community. The perspective of many producers has not changed since March 18, 1982, when the Canadian Radio-television and Telecommunications Commission (CRTC) handed down its decision to license a competitive model for pay-television against the virtually unanimous advice of the industry. Commenting on that decision, CRTC Commissioner Jean-Pierre Mongeau said at the Trade Forum, "We could have adopted something more on the lines of a monopoly when it came to licensing pay-TV but we decided instead to gamble on a competitive model. We adopted the fantastic free-enterprise approach that we hear about all the time and are told we should get into. And that's precisely what we did.

Many observers found it ironic that the CRTC should gamble with the "fantastic free-enterprise approach" once they had done everything in their power to cripple it. Had it been left up to the free-enterprisers, pay-TV would have been launched in this country over a decade ago. Instead, it was the CRTC's infinite wisdom to delay the arrival of pay-TV until the home video cassette had really flourished, and only then hand it over to free-enterprise. What lunacy! How Canadian!

Since the CRTC decision, the universe has unfolded as predicted. First, we saw the bankruptcy of Channel. Next, First Choice Canadian Communications, the national English-French network, announced that it expects to lose approximately $21.2 million in its first year of operation. Now analysts are predicting that unless First Choice's cash-flow situation is not improved significantly by Christmas, it also will be virtually bankrupt. To avoid this, First Choice is presently seeking an estimated $25 million from the investment market through public share offering. As well, it is proposing that the CRTC permit cable companies offering pay-TV to sign all-needs-service to pay-TV subscribers, a move the company hopes will provide the much-needed boost in subscriber levels.

First Choice also faces intense competition from the regional pay services. With the licensing of Aim Satellite Broadcasting Corp. by the extension of Superchannel's network of about 170,000 subscribers, the combined buying power of this parallel network poses a serious threat to First Choice's bid to quadruple its numbers of subscribers to one million by 1985.

So now First Choice and Superchannel and its allies are pitched in a mighty marketing battle and while this is nothing new, and inevitable, the production industry has virtually been put on hold until the whole situation resolves itself. Pat Ferns, president of Primedia and past-president of the Canadian Film and Television Association, said while addressing the Trade Forum that, "Had the CRTC licensed a single entertainment channel and we had the subscriber levels we presently have, we would find that the pay-TV companies would now be in the black and we would have seen a much larger investment in Canadian programming than they've made to date."

But beyond the critical issue of whether or not pay-TV is viable in Canada at the present time, there also remains the unresolved problem of whether or not producers can earn sufficient fees in Canada to justify a domestic industry. It is the strongly held belief of most of the producers who attended the Trade Forum, that their survival hinges on the emergence of an orderly marketplace in Canada. "Orderly marketplace" is a phrase coined by CITV's Moses Znaimer referring to a program being marketed first to pay, second, to free or conventional television networks and last, to the syndicated market. This orderly method of marketing permits the producer to secure the maximum amount of funds available in the pay market for such high-ticket items as features, made-for-TV movies and mini-series - that is, product suitable for both pay and free levels.

First Choice, explained that if the orderl y marketplace, the CBC policy of rotating windows is untenable, unacceptable and outrageous. Yet, in the minds of this country's independent producers, it is difficult to distinguish between the worse of two evils. The first evil: the decision by First Choice not to play ball with CBC. The second evil: the decision by Superchannel to go ahead anyway and play ball with CBC. Each alternative has unfortunate consequences for the independent producers. In the best of all possible worlds, Superchannel and First Choice would link arms in a common front on this issue and quickly bring CBC to its knees. In terms of practical reality, however, this is an unlikely scenario. For one thing, Superchannel's greatest foe is First Choice, not CBC. So the likelihood of the pay services linking arms, even for so mutually beneficial and worthwhile a cause as maintaining the principle of the orderly market, is remote indeed.

So where does this leave the producer? "As usual," Pat Ferns said, "the producer must continue to scramble for scarce funds, often deferring his fees in order to complete financing. But you can't build an industry on producers deferring their fees."

But what is the root of this chaos in the marketplace? Again Ferns provides the analysis. "CBC has continually been confusing its role between that of a producer and that of a publisher. To cooperate in an orderly marketplace means that the CBC's traditionally held position as the country's pre-eminent producer of television product would be usurped versus its supposed role as the country's foremost exhibitor/publisher of television product. And so it appears that the CBC is not about to step aside, not even for quality broadcasting, if it means giving up their traditional power. As the saying goes, 'No one gives up power voluntarily.'

Then, in the spring of this year, the...
government dropped yet another bombshell on the beleaguered pay-television industry. The minister of Communications announced that the Canadian Film Development Corporation (CFDC) would administer a $35 million Broadcast fund, as of July 1, that would rise to $60 million by the year 1987-88. so that the free or conventional broadcasters could generate over $1 billion worth of television programming with the independent producers. The fund was set up in theory not so much to assist the independent producers as to help broadcasters who will face increasing competition from soon-to-be-licensed tiered services on cable. To qualify for this fund, an independent producer must submit to the CFDC a letter from a conventional broadcaster stating an intention of playing the show (either drama, variety, or kids' programming) during prime-time. Upon approval, the independent producer would then receive roughly one-third of the show's budget from the CFDC. Edward Prevoost, chairman of the CFDC, said of the fund at the Trade Forum, that "This represents more dollars than have ever been given to production than even the infamous income tax shelter. Now if this fund can't help to develop production then we might as well throw in the towel for good. Because if this doesn't work, I doubt that we will ever see anything like it." The conventional broadcaster is a must participant in the fund and we, the pay operators, may participate. The participation in the fund will be at the total discretion of the free broadcasters. It's the free broadcasters who are always going to be in control of the fund by legifying a tax on the cable industry and secondarily on the pay-television industry. Looking at the numbers, this means that the pay-television operators will contribute roughly $8 million annually towards the broadcast fund. What this means is that the pay-television operators, who already have the most stringent Canadian content requirements in Canadian broadcast history, must contribute $8 million out of their revenues and donating it to broadcasters. It's kind of like asking the Pentagon to donate to the Kremlin! I'd like to remind the people at the CFDC and elsewhere in government that we, the pay operators, that we are in the television business.

Although independent producers see the fund as a support for an industry that is struggling, there are elements within the fund that cause some concern. For one thing, the Broadcast Fund has an onerous payback scheme that ties up the CFDC ahead of the private investor when it comes time to recoup money. Second, the fund does much to reinforce the CBC's already dominant and uncooperative position within the industry by making its strength, relative to the rest of the TV-broadcast industry, disproportionately larger, thus making the eventual establishment of an orderly marketplace even more difficult.

Pat Ferns, commenting on the situation, said, "The fund must remember the context in which it is operating. The new generation of industry-building and the reestablishment of investor confidence is a vital part of that industry building. And so the fund shouldn't act totally like a Canadian bank, and you can't say anything worse about a bank than that. Further, I would think that it would be progressive thinking if the independent producers could have the assumption that the first third of any financing they need would come from the fund. Then if you're doing a Canadian project, we must look at the balance of the funding coming from licence fees in Canada, which probably means both pay-and conventional TV. And those two groups have got to get their acts together!"

The last but certainly not the least area of concern shared by both pay-television operators and independent producers alike, focuses on the proposed new regulations regarding the definition of Canadian content. Pat Ferns gave a rousing condemnation of the proposed new changes at the Trade Forum (see p. 6) where his impassioned speech was met by prolonged and resounding applause. He had obviously touched a raw nerve within the industry. He spoke both for the pay television operators and independents alike when he described his intense frustration at trying to remain viable in today's enormously regulated television environment. What seems to be the basic issue hasn't changed in decades and that is, "Can the television industry in Canada make money and address the concerns of Ottawa at the same time?" In reference to this, Peter Pearson, director of the Broadcast Fund, said "I'm not sure we have the answers at this time. I'm not even sure we have pieces of the answer. But, the further we get into it, the more I realize that we only have a chance as long as the independent producers think there's a way to put the pieces together."

At this time the pieces don't seem to fit — not as long as the government is trying to promote film and television production as part of a cultural strategy versus an industrial strategy. There's a basic dilemma facing the industry and that is, what is best for the industry in a financial sense is not always considered best for the country in a cultural sense. We've got to decide which is more important: The economic/industrial viability of our media or our cultural viability. If the government is serious about endorsing the cultural aspects of the media industry, then they should support independent producers, broadcasters and pay operators with 110-120% of the funds that they have to operate. They all did, however, expect private enterprise and private initiative to subsidize a government-contracted and regulated cultural mandate. If, on the other hand, government does not wish to support the industry in this way, then it should tamper as little as possible with the mechanics of private enterprise. If that's the case, the government should offer a little more carrot and a little less stick.

But if the current government policies persist, one thing is certain. We will have to live with neither a culturally viable nor an economically viable television industry in this country. Lucie Hall

P A Y - T V

C Channel autopsy

An interview with Edgar Cowan

Attending the Trade Forum but not in a formal way was Edgar Cowan, former president and chief executive officer of the now defunct C Channel. C Channel declared bankruptcy in late June after five months on the air. During that time it lost a staggering $1.1 million and managed to attract only 27,000 viewers.

It was strange under these circumstances that Cowan was not invited to participate in a single pay-television panel discussion during the entire three-day Trade Forum. His exclusion seemed more than just an oversight. In a world of dizzying overnight failures and successes, Cowan was no longer deemed relevant by the forum organizers. I thought this unfortunate and asked him for an interview. He seemed relieved to at last have the opportunity to talk and to share a few of his insights into what went wrong. Today, as the whole pay-television industry is rationalized and above all, to have some sense made out of it.

"I guess in hindsight it is easy for people to say 'This is what went wrong or that is what went wrong.' The fact of the matter is that it was an accumulation of a whole bunch of things. I don't think, for instance, that we should have launched simultaneously with the other pay services. We also should have gone 24-hours a day right from the very beginning. And C Channel was probably the wrong name because people had the perception that stood for big 'C' Culture when that was far from it in terms of the total package.

We were undercapitalized by at least 100%. We should have had twice the amount of money we had. First Choice was spending about $500,000 a week on television commercials for eight weeks. That $500,000 was about a third of our total budget. We just got swamped. I knew that they were going to spend money but I had no idea that it was going to be like that. We had problems internally. There was a split on the board between the good guys who were in for the long haul and who understood what we were doing, and a bunch of people on the investor side who wanted a quick in-and-out. Unlike us. First Choice's investors are made up of a bunch of..."
Institutions and institutions can be more reasonable. They understand the long haul. Our problem was that we had a private placement on the market at the wrong time and it failed because it was overpriced, because some of the inside people at C Channel wanted a quick turnaround on the price of their shares. It all got terribly messy and so all these things internally were happening while externally the CRTC was driving us nuts with changes. And they knew it. We had talked about it in our application. And they screwed us up on that.

“We got screwed on the January previews. Those previews were a cornerstone of our marketing plan but we didn’t have the money that everybody else did to spend on advertising. Those previews were absolutely vital to everything that we were doing. When they went bad the last minute, it just took the wind right out of our sails.”

“We overspent on independent production. Instead of spending 28% of revenues, we spent about 30%. If we had known that we would have had such a slow start at the beginning, I probably wouldn’t have spent so much. But in a sense we had to, because the conditions of license were so stringent. For instance, the other pay operators could go to the shelf for unreleased motion pictures. They could also go back to the motion picture catalogue. We had nothing. We had no Canadian content to pull out of the cupboard to get started. We had to create it. Sure we had 10% less Canadian content requirements than the other guys. It was granted by the CRTC, but that was not nearly enough. I mean, it was a real problem and we hadn’t identified how serious a problem it would turn out to be until we started scheduling and looked at all those conditions of license.

“And then we started getting into trouble with the TELSAT rates. We never knew what those golddarned rates were going to be. And the ballooning happened and the rates were continually going up and that really affected our bottom line.

“The CRTC called for the other provincial licenses, then they called for the province, and then the government came out with the Broadcast Fund right in the middle of the launch and that left things right up in the air. I don’t think we ever got our mind around pay TV from initiating projects.

“I have to tell you: Francis Fox did us in. At the very time that we were in trouble and I had located some money, he started and for two weeks I had to try and work our way out of that, to try and isolate ourselves out from the pack.”

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