

LEGAL EYE

by Michael Bergman

Who rules the waves?

Deregulation of industries is a popular trend these days. The reduction or removal of government interference and control is seen as a source of growth in many sections of the economy. Many businessmen feel the free hand of competitive forces and private enterprise works more efficiently and effectively. This attitude is clearly not the case in the Canadian film and broadcast industries where many producers consider increasing regulation as the only guarantee of continued growth and development, but also as a protection of the gains, such as they are, which have already been achieved.

The Canadian film and broadcast industries are regulated both directly by the government and through its several agencies and commissions, principally the Canadian Radio-television and Telecommunications Commission (CRTC), Telefilm Canada, the departments of Communications and National Revenue (oddly enough, but think of tax shelters), and indirectly by such crown corporations as the CBC and the NFB through their respective statutory mandates.

Here, regulation and intervention is not simply the result of a licencing process or to instill a sense of market and management balance for public benefit. Regulation in Canada of film and TV has its roots in several fundamental, but not necessarily compatible, policy aims.

The most difficult of these policies is the promotion and development of Canadian culture. The difficulty in this laudable policy arises from attitude and implementation. The inherent implication is that government must create Canadian culture; that, without government insistence, Canadian culture would not exist or would be too boring to provoke any interest. This has much to do with the Canadian pastime of searching for an identity and finding out that it is the national nonsense sport. All this has tainted government cultural policy as negative in the sense that it is defensive and passive. Its aims are to protect the erosion of Canadian culture, whatever it is, and to compel the Canadian public to take notice of it between watching American films or programs.

In pursuit of this policy, government agencies and regulatory bodies have sought to force or entice the public with Canadian content rules, whether through the investment of funds to the film indus-

try or through the licencing process for television. While

Canadian content requirements are also laudible, they are to some extent artificial. Rather than creating an inherent spirit of Canadianism in Canadian

film and television as the achievement of the Canadian potential in film and TV, policy is often a numbers game. Canadian content regulations are a matter of percentages; having the right number of Canadians and the right number of spots, whether or not the film or programme reflects or looks like anything Canadian. Cana-

dian content regulations have generally not been able to achieve their purpose because they have not been able to inject an attitude that Canadian values, *mores* and attitudes are something the public or the world is interested in seeing.

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The pursuit of cultural policies in film and television has a flip side which government either ignores or has yet to solve. Film and television are not only cultural vehicles, they are also businesses. They do not accent art for art's sake, but are profit-making, capitalist enterprises. In the United States, the film and broadcast industries see American cul-

ture as one of its greatest assets. Their industry often expressly – and certainly almost always implicitly – takes advantage of their culture to express its ideals and even negative traits. Simply put, the Americans can and do make money from their culture. In Canada, the attitude is quite different. There is an unspoken sentiment that profitable film or television pro-

ductions and Canadian culture don't mix. Canadian culture is seen as a deadweight which must be paid lip-service to in order to satisfy the requirements for government funding or licencing. A long-term, stable and growing Canadian film and broadcast industry needs a strong business emphasis. Pushing Canadian culture seems to be a different kind of thrust. Government's failure is to understand that the two must go together and develop a rational process by which this can be achieved.

The second great policy of government has been to establish a national film and broadcast industry, the foundation stones of which are the CBC and, in film, the NFB and more recently, the film tax-shelter. While the CBC, however maligned, has become a national institution, the NFB has always been relegated to the background while the tax-shelter, although it has resulted in a film industry (of sorts), is itself a spent force for the in-

dustry's continued development. Again, this policy is laudable, but some of the thinking behind it is also negative and defensive. These government initiatives were necessary because no one expected that anyone else could do it, whether for want of money, interest or initiative. This defensive posture has inhibited the unleashing of the full potential of even the government's most successful creations. Nowhere is this more evident than in attitudes towards the CBC. Instead of considering government funding of the network as an investment in a dynamic, successful institution (even if in need of occasional repair), the CBC's budget is considered as so much money from the taxpayer's pocket. Broadcasting and film are not viewed as growth industries but as fences to repel American or foreign domination.

Defensiveness, uncertainty of emphasis and the attitude that it is up to government to push the buttons resulted in government itself being uncertain of which button to push. This is evidenced by the other great failing of government policy and regulation in recent years: it is *ad hoc*, stop-gap and without long-term direction. One of the principal reasons for this uncertainty is the question of whether government or private industry should be responsible for the industry's direction. Should government be a marginal player or continue aggressive intervention? (Government intervention was not the result of left- or right wing ideology; its inception was considered one of necessity.) The insistence from certain sectors that government initiative continues to be necessary for the survival of film in particular has only reinforced the pressure that government must take initiatives which it may not wish to take. Examples abound, whether it be the initial pay-TV licencing fiasco, the creation of broadcast funds, the recent increase of broadcast fund participation, and so on.

In order to simplify this *ad hoc* process, the government has embarked on another policy which has to be seriously questioned: the linking of film and broadcast policy. This is typified by the broadcast fund. Film will provide the Canadian material for the broadcasters, while broadcasters provide the money and distribution network for filmmakers. Blurring the distinction between film and broadcasting has a very important by-product. Designed to compel filmmakers to use the Canadian broadcasting distribution network, it ignores the real problem of developing a Canadian film distribution facility. It emphasizes that the Canadian film industry must be dependent

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on the broadcasting industry instead of theatrical exhibition, its more customary and traditional outlet. The problem of foreign domination of the

film distribution system is uniquely avoided, notwithstanding that healthy Canadian distribution systems could provide an immense source of private

funding for the film industry. Government's concern for the film and broadcast industry is also selective. Witness the recent round of budget-cuts and reduction of government funding made with little concern for the effects on the industry. This selective attitude demonstrates another interest-

ing trait of government policy-making in this field: it can be made with little attention from the general public. While government policy may respond to the pleas of various sectors of the industry, the general public has very little idea, input or even concern as to what is going on. Perhaps this is be-

cause the general effort to develop Canadian film and broadcasting was made with so little overt pride of ability, achievement and national consciousness. Interestingly enough, there is clearly a national sense of sentiment for the industry, perhaps embryonic, but something to be developed which can create a greater demand for Canadian film and TV products. This is demonstrated by the recent outcry against CBC budget-cuts.

The final great theme of government policy is technology, though this seems to be the most uncertain and tentative. The numerous implications of new technology and its effect on production, exhibition, distribution and reception are unknown. The important thinking behind an area that requires much technical regulation is still developing. Here too, this important area again is fraught with negative and defensive attitudes. But there is all the difference between trying to catch up and understand new technology, instead of seizing it as a useful tool for aggressive and dynamic growth.

Government policy is not created in a vacuum. In many ways it is really a response, a response that indicates uneasiness and hesitation in the private sector. The one works on the other. A great deal has been accomplished by both private industry and government in their respective domains; a great deal more is possible. It should be demanded and must be expected. Both government and private-sector must reconsider their thinking in developing new strategies for the future.

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Montreux Fest takes Vid Kids for prize

TORONTO — A Canadian half-hour children's musical variety show has been nominated as a finalist in the Golden Rose of Montreux TV Festival in the light entertainment category. *Vid Kids* produced by M&M Productions of Toronto with Avenue Television won the 1984 Canadian film and Television Association Award for best variety program under 30 minutes last year. Producer John Muller is delighted that his children's program has been selected over high-budget, prime-time international TV productions to compete for the coveted award. *Vid Kids* is aimed at 5-to-11 year-old audiences. The Golden Rose Festival is in its 25th year and takes place in Montreux, Switzerland, May 8 to 15 this year.