

Fear of Major reprisals, weakened options pervade

MONTREAL – Quebec distributors and exhibitors fear the worst. They say the U.S. major studios will not tolerate recent amendments to the Quebec Cinema Act (Bill 109).

In an effort to increase the number of films that French-speaking citizens of Quebec can see in their own language and to make those films available sooner, the Quebec government has amended section 83 of the Cinema Act.

Section 83 limits to a single copy the number of prints of an English-language film that can be exhibited in Quebec cinemas unless French-language versions are released simultaneously. This amendment is embodied in Bill 59 which has not been proclaimed in Quebec's National Assembly.

Thus, it is still uncertain whether the amendment will, on balance, serve the francophone filmgoer or bring down the wrath of the U.S. majors on the backs of distributors, exhibitors and the Quebec dubbing industry.

Harold Greenberg, chairman of Astral Bellevue Pathé Inc., which is involved in production distribution, lab work and dubbing, says the government has clearly chosen the wrong route in trying to meet its objectives.

"Less films, not more films, will be available to the public in Quebec under this legislation whether they be French or English-speaking," says Greenberg in a letter to Premier Robert Bourassa and Cultural Affairs Minister Lise Bacon.

"Like it or not," says Greenberg, "there is often a significant delay in dubbing English-language films into French. American distributors will not delay the release of films in New York, Los Angeles, nor will Canadian distributors in Toronto, to await dubbing by Quebec distributors."

Greenberg says that unless the government rethinks legislation and consults the Quebec film industry at length, Montreal and its filmgoers "could be banished to the backwaters of the world."

Roland Smith, vice-president of Cinémas Famous Players, the Quebec branch of the Canada-wide exhibition chain, shares Greenberg's concern from an exhibitor's point of view.

"If the Quebec government is not careful," says Smith, "the majors will treat us like a colony and we will get first-run English films six to eight months late."

Not only will it be next to impossible to get dubbed versions for the national release date (when huge promotional investments by the majors are at stake), Smith says the dubbing

industry in France lags months behind film openings in North America.

Like Greenberg, Smith says that the original article 83 serves the purpose. He suggests that a code of ethics ensuring that distributors comply with both the spirit and the letter of the law would suffice in place of the proposed legislation.

(Prior to the amendment, distributors were showing several English-language prints without any intention of using a French-language version at the end of a prescribed 60-day period, despite the availability of the version in some cases.)

What is alarming is that this warning of things to come by Greenberg and Smith is shared by Millard Roth, president of the Canadian Motion Picture Distributors Association which represents the U.S. major studios in Canada.

Roth told *Cinema Canada* recently that unless the Quebec government withdraws the offending amendment and studies other ways to address its language concerns, Quebec cinemagoers, in both languages, will suffer.

"To comply with this law will mean putting Quebec on the same footing as Europe with respect to substantially late releases," says Roth.

Roth explains that although the majors are sensitive to the Quebec government's concerns, only 50 per cent of all major titles released in any given year are judged to be sufficiently viable for distribution in the French-language markets of the world. (Most of these are dubbed in France due to strict protectionist laws in that country which shut out all foreign – read Quebec – dubbed product).

Where the less prosperous 50 per cent of major studio releases are concerned, says Roth, the doubling up of dubbing costs for the markets in Quebec and again in France can't be justified given the size of the Quebec market unless there is a major subsidization program for dubbing and exhibition.

"Nobody is going to go through this exercise to recover the cost of dubbing," says Roth. "We are in the business of making a profit."

Micheline Charest, the new president of the Association québécoise des industries techniques du cinéma et de la télévision Inc., representing the dubbing industry in Quebec, says that any legislation that promises to create additional work will be supported by her association.

However, she says, it is difficult to second-guess how the majors will respond to the amendment.

One possible scenario, she says, is that the majors will pressure France to give Quebec an equitable share of the market in France. Such an arrangement could serve to offset the cost of dubbing in Quebec.

Given the comparable sizes of both French-language markets – 50 million viewers in France and five million in Quebec – Roth says he has "strong doubts" that pressure will be

brought by the majors in order to accommodate the Quebec dubbing industry.

The dubbing industry in Quebec is currently the subject of a two-month study by Secor commissioned by the federal and Quebec governments.

Broadcast News stirs up language fears

MONTREAL – On Feb. 19, the film *Broadcast News* disappeared from Cineplex Odeon theatres in Montreal shortly after receiving several Oscar nominations. It continued to play, however, in the Princess theatre in Cowansville, owned by Jean Colbert, a partner in Aska Distribution.

Cineplex Odeon released a statement, claiming "Since the French version of *Broadcast News* is not yet available, Cineplex Odeon is obliged to remove *Broadcast News* English version from its screens." The communiqué made reference to Article 83 of Bill 109 which requires a French version be available within 60 days of the opening of a non-French language film.

Sources at the Régie de Cinéma told *Cinema Canada* that morning that it had, in fact, approved a French subtitled version and issued a permanent visa to the film Feb. 12.

This news was confirmed at the end of the day when the minister of Cultural Affairs made a statement, repeating that Astral Bellevue Pathé (which handles the film for 20th-Century Fox in Quebec) had every legal right to screen the film. She "wonders what the real reasons are that the distributor should want to provoke Quebec's cinéphiles."

In an effort to confirm the news, *Cinema Canada* called the Astral offices, which referred us to 20th-Century Fox in Toronto who, in turn, asked we call Los Angeles, ironically underlining the reasons Quebec is trying so hard to repatriate film distribution.

At the Cineplex offices in Montreal, booker Guy Gagnon was answering the phone but could not comment except to confirm the contents of the press release. The Toronto office was referring calls back to Montreal. Confusion abounded.

A call to the offices of the Canadian Motion Picture Distributors Association confirmed that executive director Millard Roth, the lobbyist for the American Majors, was in Montreal, but his secretary would not say where.

Cineplex did say that a dubbed version was expected by March 4, at which time the film would return to the screens.

The whole episode seemed calculated to stir up fears over the application of the new amendments to the Law. Nevertheless, André

Guérin, director of the Régie, commented that the minister had promised public hearings before Article 83 would be made operational and that, at any rate, the bylaws had not yet been written which would allow the law to be applied.

"Even in war there are rules," he told *Cinema Canada*. "I never thought they (the American distributors) would resort to tactics like this."

Non-theatrical distributors greatly concerned

MONTREAL – John Fisher of Visual Education Centre Ltd. says the proposed amendments to the Quebec Cinema Act, as articulated in Bill 59, could have "grave consequences" for smaller companies in the non-theatrical film industry.

"On one hand we are hoping things will be worked out and on the other hand we are scared as hell," says Fisher, whose Toronto-based company is a member of the Educational Media Producers and Distributors Association of Canada (EMPDAC).

Fisher says that many of the smaller companies will not be able to withstand the prohibitive costs of versioning film required by the proposed amendments of article 83.

These costs (\$40,000 to \$100,000 for a commercial feature film) are based on the economics of commercial feature films that gross millions of dollars at the box office, says Fisher.

"Normally we might sell 20 16mm prints in Quebec which would generate a few thousand dollars but the cost of the Cinema Law would be the same for us as for Warner Brothers," says Fisher.

Thus, says Fisher, proclamation of the amended Cinema Act would deny the English-language school system in Quebec of a "substantial body of learning materials."

Besides the cost of versioning, Fisher explains that audio-visual materials used in the English and French-language school systems are different because the same subjects are not always taught at the same grade level.

"Over the past five years, we have versioned into French over 200 films and have found that it was necessary to adapt beyond just translation. Vocabulary needs are different and teaching concepts vary."

Marc Brissette, a lawyer for the Régie du cinéma, confirmed for *Cinema Canada* that the principle of the amended article 83 is such that all cassettes and prints of non-theatrical films "presented in public" must have a visa in compliance with the amended article 83 which has not yet been decreed as law.

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Schools and libraries, he says, are public places.

Brissette warns, however, that the amended article 83 will be subject to bylaws to be incorporated in the Cinema Law (article 168 paragraphs 16 and 17) which will determine conditions of exception from the law, duration of a visa, the number of copies per visa.

These bylaws, says Brissette, will not be adapted before extensive consultation (expected to continue through the summer) between the film industry in Quebec and the Quebec minister of Cultural Affairs.

Thus, he says, the panic and rumors that have beset the industry since the amended article 83 was introduced in the National Assembly in December 1987 are premature.

"Obviously, most people have panicked before reading the law. A good discussion of principles is taking place but we must wait for the bylaws before we can understand the law," says Brissette.

Film Board caught short by Bill 59?

MONTREAL - The National Film Board of Canada is waiting for the Quebec government to come to its senses and reconsider Bill 59, article 83 which requires a dubbed French-language version of every English-language film for commercial use in Quebec.

François Macerola, chairman of the NFB, says he is confident that the government of Quebec will soon desist in treating the NFB like an American major.

"I don't believe the government will retract the amended version (of article 83) but I am quite sure it will consider the particular status of the NFB as a public producer/distributor," says Macerola.

Macerola told *Cinema Canada* that ongoing talks with Cultural Affairs-Quebec should yield favorable results by mid-March.

In the meantime, close to 2,300 copies of 235 English films have been delivered to the Régie du cinéma (the Quebec government's regulatory agency for film) for visa approval in compliance with with article 83 of the Cinema Act (Bill 109) as amended by Bill 59 assented to on Dec. 17, 1987.

These films represent the majority of the English-language films released by the NFB since April 1, 1987 when the NFB became subject (by permission from the Régie) to Bill 109 proclaimed in Oct. 1985.

Article 83, not yet proclaimed, (i. e. put into operation) by the government, limits to a single copy the number of prints of an English-language film that can be exhibited in commercial

venues unless French-language versions are released immediately.

According to the NFB, this means that all prints and cassettes arriving into the NFB distribution system or produced as a result of a sale as of April 1, 1987 must be given a visa which requires a dubbed version (or the promise of within a reasonable time period) or a temporary 60-day visa for special events.

Given the present rate of issuing visas, it has been estimated that the NFB backlog will not be cleared until Feb. 1989. The NFB puts an average of 100 prints per month into its distribution system and the Régie has the capacity to classify only 30 copies per week.

Macerola says that although he has gone on record in support of the Quebec Cinema Act where Canadian versus U. S. domination of the Quebec marketplace is concerned, the failure of the act to make a distinction between theatrical and non-theatrical will hurt the non-theatrical film industry.

Thus, in order to service schools and libraries, for example, the NFB must comply with the new visa requirements in article 83 and pay the inherent costs.

Eric Cosgrove, until recently head of sales and marketing at the NFB, agrees with Macerola that the act, intended to limit the market share of the U. S. majors in Quebec and strengthen Quebec distributors, is particularly damaging to the non-theatrical industry in its amended form.

"The overriding sense is that the bill was written by people ignorant of the non-theatrical industry," says Cosgrove.

"If they had taken the trouble to learn about the non-theatrical industry or the implication of this bill for the NFB and had they included a distinction between commercial and non-commercial use we would have been free to serve the education system and libraries. We are not."

The Fly generates twins

MONTREAL - Astral Film Enterprises is boasting the highest guarantee ever for distribution of a Canadian film, David Cronenberg's *Twins* which is currently shooting in Toronto.

Stephen Greenberg, vice-president of Astral, says the decision to pay a seven-digit figure for theatrical, video and television rights is the result of Cronenberg's track record. His latest film, *The Fly*, had reportedly grossed \$17,500,000 in rentals by the end of 1987.

Twins, a psychological drama starring Geneviève Bujold and Jeremy Irons, will be distributed in the U. S. by 20th-Century Fox.

Astral has also recently announced a Canadian distribution agreement with Kings Road Entertainment in Los Angeles.



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Sales make costs worthwhile at Monte Carlo

MONTREAL – The cost of keeping body and soul in Monte Carlo may be high but Canadian television producers and distributors say that Monte Carlo Television and Video Market, Feb. 8-13, was well worth the investment in 1988.

Filmoption International Inc. signed a deal with M6-TV in France for all 249 episodes of the daily soap opera *Maison Deschênes* (Les Productions Prisma) and 16 documentaries. Other sales include the Jerry Lee Lewis documentary *I am what I am* to the BBC and a selection from the *Open Book* series (also Prisma) to Germany.

Maryse Rouillard, president of Filmoption, who has been attending Monte Carlo since its inception in 1981, says the market provides an opportunity to prepare for the larger more hectic MIP-TV (April 22-May 3).

"Monte Carlo is a very good screening market," says Rouillard. "Here you have a chance to talk to your clients and get to know their future needs."

On this point, Diane Laurier of Cimadis agrees with Rouillard. Where the two veterans of Monte Carlo disagree is on the cost of living.

"Not so expensive that you want to miss Monte Carlo," says Rouillard; "It's incredibly expensive," says Laurier.

Laurier might have spent \$20 for breakfast but, she says, Montreal-based Cimadis attracted a lot of attention in the youth market with its 26 episode series *Curiosity* – a mix of science fiction and documentary material aimed at six to 12-year-olds.

The U.S., Australia, U.K., Belgium, Scandinavia and Asia, all showed interest in the Cimadis programs.

Laurier says she noticed an unusual absence of buyers from the Middle East, South America and Africa. But U.S. representatives were there in number showing a strong interest in children's and animation series among other types of programming.

Julia Frittaion, international marketing agent for Telefilm Canada, told *Cinema Canada* that the U.S. television networks are more interested than ever in offshore programming.

"They don't have the share of the market that they once had so they are looking at productions and co-ventures from other countries. This is the perceptible edge of a big change," says Frittaion, where once the market was limited to pay-TV and cable with no hope of cracking the U.S. networks.

She says Canada has found itself in an advantageous selling position in Monte Carlo with a reputation for high quality programming. Jan Rofekamp of Film Transit, has announced

his strongest market ever with the sales of *Cole Palen's Flying Circus* to French networks in Switzerland, Belgium, Algeria and Canal Plus in France. Switzerland bought *Pouvoir intime*, *North To Nowhere* and *Le Gros de la classe* (*Fat Chance*) and Film Transit's African rock variety video *Juju Music* and *So Many Miracles*, a film by Saul Rubinek were acquired by PBS in the U.S.

Other Transit customers, this time around, are Belgium, Holland, Norway, Greece, Finland and the Gulf States.

Two first-time attendees, Michel Zgarka of Concept Image J.P. Inc. and Carmella Tuttino of Feline Film, say they will return next year. Zgarka reports strong interest in his *Ovide and the Gang*, an animated television series. He says the market was well-organized.

In business since December 1987 after a long association with Cinévidéo, Carmella Tutino characterizes the market as "hard work but well worth the investment." Her properties included the 1986 feature film by Mireille Dansereau *Le Sourd dans la ville* which drew attention from Belgian television.

Indy TV production makes progress at SRC

MONTREAL – While Quebec's producers are happy with the strides made in their relations with the Société Radio-Canada, they have called for continued efforts to increase their share of the market.

These are the conclusions reached by an exhaustive study, commissioned by the Association des producteurs de films et de vidéo du Québec, executed by Michel Houle, and entitled "La production indépendante à l'antenne de la Société Radio-Canada."

In the period from 1984 to 1987, private production has risen from 12 per cent of available hours to 19 per cent. More significant, says Houle, is that private productions make up 38 per cent of all the new programming on the network if one eliminates sports and information programming.

Houle examines every aspect of the public-private programming at Radio-Canada in his 119 page document.

Surprisingly, he reports that French versions of Canadian English series occupy 50 per cent of the programming time allotted to dramatic Canadian series. He concludes that English producers are therefore receiving twice the funds.

The APFVQ has yet to make any real impact on the English language market and, hence, would like to see some rectification of this imbalance.

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Producers still waiting for major tax legislation

TORONTO - Canadian Film and Television Association president Sam Jephcott greeted the minor tax changes announced in last month's budget with two words.

"Big deal."

The "no-news" budget offered little hope to an industry that has been anticipating major tax reform for months. The ministries of Finance and Communications have continued to promise substantial changes to legislation, but so far that has amounted to very little.

"We're still waiting for major legislation," Jephcott said. "If it doesn't happen in this administration we're going to see an even greater decline in production than we've seen already."

A White Paper on Tax Reform released last June dropped the capital cost allowance granted to certified films from 100 per cent to 30 per cent. In December, Finance Minister Michael Wilson countered the strong opposition to this change

by eliminating the half-year convention on the CCA, a move many producers considered to be cosmetic. (The half-year convention spreads the benefit of the CCA over two years.)

Uncertainty about what changes producers can expect and when they will come has made for a "disastrous" situation, according to Jephcott. The probability of a federal election in the near future compounds the problem. Although both the CFTA and the Association of Canadian Film and Television Producers have received assurances of action from Wilson's office, it is becoming likely that no new bill will be passed before voters go to the polls.

"Will anything happen before an election?" asked Peter Mortimer, executive vice-president of the ACFTP. "I don't know. We want to believe yes."

Mortimer, who is also the Toronto co-ordinator of the National Ad Hoc Screen Industries Committee, has been pressing the government to phase out the CCA in favour of tax incentives. The NAHSIC plan is to increase the CCA rate to 65 per cent as an interim measure to cushion the industry against legislative shocks.

But Jephcott and the CFTA are more impatient for change. They have proposed moving

immediately to a refundable investment tax credit, which would allow producers to invest in their own production for a credit or refund based on the size of the project budget. The NAHSIC proposal, Jephcott says, is "tired, stale, and completely lacking in any sort of recognition of what's needed in tax reform."

Mortimer downplays any differences between producers' associations. "There was never any real split. Jephcott misunderstood the interim nature of our proposal."

The two groups are working towards the same end, Mortimer insists, but with different timeframes. "You can't (replace the CCA) overnight. Abrupt adjustments are the worst thing for this industry." The NAHSIC proposal would see a tax incentive replace the CCA "probably" within two to three years.

The CFTA is employing a full-time researcher to study the implementation of its refundable tax credit proposal.

But Jephcott maintains that the differences between NAHSIC and the CFTA are real and should be acknowledged. "When the split is between positive and negative, good and bad, there is some justification in allowing the split to become visible," he said.

"We still have some accountants, stock promoters etc. forming associations and chairing ad hoc committees."

Political protest in the works in Quebec

MONTREAL - The Quebec wing of the National Ad Hoc Screen Industries Committee (NAHSIC) is determined to campaign against the Mulroney government in the wake of a federal budget (Feb. 10) that did not contain any relief for a film and television production industry in need.

"There was nothing in the budget," says Charles Ohayon, producer and chairman of the Quebec tax reform committee, who had expected an increase in the Capital Cost Allowance (CCA) for certified Canadian film.

NAHSIC was formed shortly after June 18, 1987 when the government pulled the financial rug from beneath the film and television production industry by reducing the CCA to 30

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per cent from 100 per cent.

After many exhaustive meetings with federal government officials to push for reinstated support for the industry, Ohayon says he feels cheated by a budget which offers nothing but an extended exemption from non-resident withholding tax for film, TV and video royalties and interest.

"They told us that they understood our position," says Ohayon. "I remember distinctly Len Faber (Department of Finance) admitting that although 100 per cent is too high, 30 per cent is too low and it is just a question of finding something in between. I had no reason to doubt he was talking to me in good faith."

Not all of the Quebec producers in NAHSIC expected that any more relief would be forthcoming in the February budget. Among the less-than-optimistic producers was Rock Demers, president of the Association des Producteurs de Films et du Vidéo du Québec (APFVQ), who expressed grave doubts that the federal government was listening to NAHSIC when, on Dec 16, 1987, Finance Minister Michael Wilson announced that a half-year convention, which had spread the benefit of the CCA over two years at 15 per cent each year, would be removed from the 30 per cent CCA.

Today, Demers is convinced that the government cares little for the Canadian film and television production industry.

"We had hoped for a further extension of the grandfather clause (for 100 per cent CCA) from Dec. 1987 to Dec. 1988 and we had heard rumors that Telefilm Canada, the CBC and the National Film Board would be getting more money," says Demers.

This disregard for the financial viability of the industry is even more disturbing, says Demers, when one considers that this same government has promised that Canadian cultural industries will not be part of the Free Trade Agreement.

He says there is ample evidence that the government has turned its back on Canadian film and television where free trade is concerned despite promises not to negotiate cultural industries.

"When they told us that cultural industries were not touched by free trade, they were lying," says Demers.

In order to bring its case against the government to the public, three main organizations within NAHSIC - APFVQ, the Canadian Film and Television Association and the Association of Canadian Film and Television Producers - are planning a newspaper campaign of full-page ads for early this month.

"We are buying pages in newspapers to cry or yell at the government, I don't know which," says Demers.

Says Ohayon, "We want to let the public know that as things stand right now there is no hope for the private sector in the film industry. The only ones who seem to understand this is

the Quebec government."

On Dec. 18, two days after the disappointing half-year convention announcement Quebec producers found a slight ray of sunshine in an announcement by Gérard Lévesque, Quebec's finance minister, that deductions on investments in Quebec-made films would increase on Jan. 1, 1988, from 100 per cent to 133 1/3 per cent.

Based on a miscalculation, this tax break in the Quebec Stock Savings Plan (QSSP) was reduced from 150 per cent on Dec. 11, 1986.

"At least the Quebec government was able to admit it had made a mistake," says Ohayon.

Producers fronting for Americans, Jephcott claims

TORONTO - The push for new tax legislation may have opponents among Canadian producers who have found lucrative loopholes in current laws, according to CFTA president Sam Jephcott.

Jephcott said in an interview that "Canadian companies are subcontracting U.S. production with a view to selling tax shelter units in those productions."

He declined to name any of producers.

But the result, he says, is that not all producers want major changes in legislation, especially if it means an end to their "co-productions".

"The people that are doing this are not fools," Jephcott explained. "The loopholes that they've found are quite genuine."

"The snake-oil salesmen have found another way."

Jephcott admits that any new system, including his CFTA's proposed refundable investment tax credit, may be prone to the same exploitation.

"We may not be able to find all of the possible abuses, but if we can demonstrate that we have seriously committed ourselves to legislation that won't be readily abused, then maybe we can get it in place."

Cinar distributor

MONTREAL - Donna Vekteris has been named manager of program distribution at Cinar Films Inc.

Vice-President Ron Weinberg announced that Vekteris will coordinate all distribution operations.

Vekteris has been with Cinar Films since 1986 as a production coordinator.

Prior to joining Cinar, she worked as a production coordinator with CTV and wrote advertising copy for Montreal radio stations. She is a graduate of Concordia University with a degree in communications.