

Distributors crucial for Feature Fund Tax changes endanger shoots

MONTREAL — A month had not passed since her appointment as federal Minister of Communications and already Flora MacDonald was wooing the Canadian film industry with the July 17 unveiling of the annual \$33 million feature-film fund.

The former Employment & Immigration minister and long-time political stalwart of the Progressive Conservative party, officially set-forth the Feature Film Fund guidelines at a gala gathering of Canadian film industry representatives in Montreal and Toronto. Following a lunch-time address in Toronto, MacDonald flew to Montreal for a repeat, French-language performance at the Ritz Carlton Hotel where she also introduced the Prix France-Canada to be awarded every two years as a \$10,000 or 50,000 Fr. prize for a "particular contribution" to Canada-France co-productions in film and television.

Sharing the spotlight with the new Communications Minister in the Ritz's Oval Salon was Canadian artist Charles Daudelin, who presented a maquette version of the Prix Canada-France sculpture, and Jean Sirois, newly appointed chairman of Telefilm Canada (see story), the administering body of the Feature Film Fund.

In her brief address, MacDonald emphasised that the fund — established after a recommendation of the Report of the Film Industry Task Force (December, 1985) — will im-

prove investment, production and distribution prospects for French- and English-language Canadian films destined for commercial theatrical release in Canada and overseas.

MacDonald said the fund represents part of a continuing effort by the Canadian government to counter the foreign domination of Canadian movie screens where only three per cent of films shown in Canada in theatrical venues are Canadian.

The five-year Feature Film Fund will provide \$30 million annually and \$3 million for dubbing and subtitling will be available through a Versioning Assistance Fund.

Feature projects that meet eligibility criteria, including a Canadian distributor's guarantee of release in Canada within one year of completion and a national distributor's plan for both language markets, could receive up to \$2 million in equity investment, loans or advances per project for production costs. Telefilm funding will not exceed 49 per cent of total production costs.

Staying true to its mandate to encourage private-sector investment in Canadian productions, Telefilm will, in administering the feature-film fund, give special attention to first works, projects with particular relevance to Canadians and projects with participation from other federal and provincial government agencies, notably the National Film Board.

MacDonald announced that the NFB can now join in co-

productions with the private sector and Telefilm. She explained that this arrangement, previously disallowed, will enable the NFB "to contribute to the creative and production facilities of the industry from its own excellent resources."

One greatly welcomed aspect of the fund, according to Kathy Avrich, executive director of the Association of Canadian Film and Television Producers (ACFTP), long-term loan plan in which eligible distributors can defray marketing expenses with loans of up to a maximum of \$500,000 as a revolving line of credit.

Avrich, whose association together with distributors drew up guidelines for the feature fund in an effort to allay frustrations while having to wait for the July announcement, explained that earlier this year, producers seeking Telefilm investments were told to wait for the feature film-fund guidelines. The ACFTP decided to get a consensus with the distributors on appropriate guidelines and the extent of Telefilm involvement in administering the fund.

"There are many definite differences and similarities. We did not have the corporate loan in our guidelines and we were looking for stricter Canadian content regulations," Avrich commented.

The overall view, she said, is that the guidelines are fair if

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TORONTO — Strictly enforced federal tax regulations could drive many American film production companies planning work in Canada south of the border, industry experts say.

But Revenue Canada says it will collect a 15 per cent withholding tax on out-of-pocket expenses as well as taxing salaries of non-resident performers working in Canada.

As the groups involved work to gain a better understanding of the issues, a committee of entertainment and tax specialists has been formed to keep abreast of efforts to collect the withholding tax on out-of-pocket expenses or per diems given non-resident performers and other film industry workers.

Committee member Mark Prior, president of Bulloch Disc Inc. of Toronto, a company that provides payroll services to the film industry, said the group was formed to clarify the impact of the regulations on the film industry.

"It is very tricky and very complex," Prior said of the regulations. He said the committee, which consists of tax lawyers, the province's film development corporation and others, wants to develop a response to the regulations and present them to Revenue Canada. Prior said the committee hopes to find areas in the regulations that are open to interpretation and outline concerns to Revenue Canada.

Although it is difficult to judge the total impact at present, Prior said some American film producers are now examining more closely the prospects of filming in Canada.

"They are saying they are re-considering shooting their projects up here," Prior said.

The regulations, outlined in the U.S.-Canada tax treaty, will probably not effect short-term or current American films already booked to be shot in Canada, Prior said. But the long term could be more of a problem, he explained.

"There are hundreds of millions of dollars spent on foreign production in Canada."

Prior said many American companies consider Canada an excellent location for film production for several reasons, but now face being required to collect a withholding tax on per diem expenses, such as hotel bills, food and air fare. It means not only a loss of money, but it also acts as an irritant, he said.

Prior said many American producers look at the 15 per cent withholding tax as a "slap in the face." He said they wonder if this is what is being done today, then what plans are being made for the future.

Brian Villeneuve, executive-director of marketing for the Ontario Film Development Corporation, said American film producers view the tax regulations as not only having a financial impact, but also as an infringement. It is not a welcome sign, he said.

The OFDC, responsible for attracting foreign films to Ontario, is very concerned, he said. Attracting film shoots is highly competitive and Canada stands the chance of losing productions in the future to U.S. states hungry for film dollars, Villeneuve explained.

Villeneuve said the new tax regulations wouldn't mean all American-based productions would be lost, but he added it could be a large number.

In 1985 about \$46 million was spent by U.S. film produc-

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Le Permanent and Cinévidéo for \$5 million

MONTREAL — Cinévidéo, the Montreal-based producers of the popular feature *Le Matou*, and *Le Permanent*, one of the largest real-estate brokers in Quebec, have joined forces to create a multi-million dollar film and television production package.

Paul Legault, vice-president and general manager for *Le Permanent* in Quebec said "several million dollars" will be spent over the next five years on three Cinévidéo projects.

Unable to give specific dollar figures, Legault said a large portion of *Le Permanent's* \$4 million annual advertising budget will go towards sponsoring film and television productions planned by Cinévidéo.

The first project is the television broadcast of *Le Matou* on Radio-Québec this November, followed by the mini-series of the same story on Radio-Canada in early 1987.

Legault said that with close to 1,000 agents, 16 kiosks and 37 branches across Quebec, the real-estate broker can effectively promote a film or mini-series. It is the increased exposure that *Le Matou*, seen by more than 1.5 million people in Quebec cinemas, will bring to *Le Permanent* that makes the arrangement feasible, Legault said.

"Some companies sponsor sports events, we're supporting Quebec cinema," said Legault.

As well as being prime-sponsor for the television broad-

cast, *Le Permanent* is also supporting the production of two theatrical films produced by Cinévidéo — the movie version of Anne Hébert's novel, *Les Fous de Bassan*, in production through July to mid-August, and *Flagrant Délit* in December. Both films are Canada/France co-productions with Les Films Ariane.

Producing all three projects is Justine Héroux who, under the Cinévidéo umbrella, has several strong credits to her name including *Le Matou*, *Les Plouffe* and *Le Crime d'Ovide Plouffe*.

In an interview with Cinema Canada, Héroux said the assistance from the private sector is always welcome involvement always welcome. Involvement by *Le Permanent* represents a film industry, Héroux said.

Cité funding on back burner

MONTREAL — Although reasons for the delay are still uncertain, a spokesperson for the Quebec Ministry of Cultural Affairs told *Cinema Canada* the government contract to build a \$20 million Cité du Canada film studio complex will not be awarded on the date previously disclosed by the same ministry.

The spokesperson said the Quebec government is currently evaluating the feasibility of the project and that reasons for delay could be related to budgetary restraints placed on government-subsidized construction in Quebec.

According to the Canada-Quebec Subsidiary Agreement on Cultural Infrastructure, it is the Quebec government which is responsible for implementing the jointly financed project.

In early May, *Cinema Canada* was told by an assistant to the deputy minister in the Quebec Ministry of Cultural Affairs that a call for public tenders would be advertised in June and that the contract would be awarded on Aug. 16.

The ministry denied in late July that this working schedule exists.

Festival of Festivals June media launch intros Schein

TORONTO — The 11th annual Festival of Festivals, before a courtyard-filled crowd at the Hazelton Cafe in Yorkville, held its media launch June 25. Following opening remarks by festival board chairman Jon Slan, new director Leonard Schein praised his predecessor Wayne Clarkson ("He leaves me with very big cowboy boots to fill," quipped Schein) and spoke with relish of helming the popular film festival. Schein also, in what amounted to perhaps the launch highlight, introduced director Denys Arcand and producer René Malo of *Le Déclin de l'empire américain* fame. Their film, winner of the international critics' award at this year's Cannes International Film Festival and now in commercial release in Montreal, headlines a group of five opening night gala films when the festival commences September 4.

While some aspects of the festival at the time remained to be fleshed out, Schein, with Slan and festival communications director Helga Stephenson looking on, announced a new *Close Encounters* program that aims to achieve one of his principal goals for this year — increasing the intimacy and accessibility of Toronto filmgoers to the festival.

Intended as a successor to last year's *10 To Watch* program, *Close Encounters* will put festival buffs into contact not just with directors but cinematographers, special effects people, etc., although it's planned to have more directors speaking at screenings of their works to provided added insights.

"Everyone's going to be surprised at the quality of Canadian films this year," promised Schein, vowing as well that the new *Winds of Change* series, a 75-film retrospective on Latin American cinema, would also be the largest of its kind in the world.

Tax changes

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ers in Ontario. It is estimated Canada receives about \$300 million per year from American movie productions.

Villeneuve said the OFDC is concerned by the new tax regulations because if American firms are discouraged from working in Canada, it will mean lost jobs in the film industry as a whole. It could mean lost business for Cana-

dian studios, film services and workers as well as lost spinoff benefits to the general economy, he added.

Gerry McIntyre, acting chief of the non-resident taxation section of Revenue Canada's Ottawa headquarters, said the withholding tax provisions for non-residents have always been part of the tax laws.

The U.S.-Canada tax treaty of 1980, portions of which did not come into effect until Jan. 1, 1986, outline regulations under which Revenue Canada is required to collect taxes. The Jan. 1 regulations require that non-resident athletes and artists join the ranks of other non-resident workers and pay a withholding tax on per diem expenses.

Although there are conditions for some exemptions, McIntyre said Canadian and U.S. authorities agreed that artists and athletes would be sub-

ject to the tax where they perform.

"If we didn't realize the situation now and take the proper withholding now, he is going to have a big bill at the end of the year," McIntyre said about performers.

The 15 per cent withholding tax is to be held by companies as a contribution toward total income taxes owed by non-residents. Some performers may be subject to much higher taxes under graduated rates, however.

Film industry and Revenue Canada representatives held a forum in June on the tax regulation issue in Toronto, but little was resolved, Prior said. He said it appears Revenue Canada will have a bulletin prepared by September outlining non-resident taxation.

Neil Harris, an international tax entertainment lawyer with the Toronto law firm of Good-

man & Goodman, said there are several problems outstanding, not the least of which is the confusion within the film industry about the regulations.

One problem is that many U.S. performers and film producers are only now finding out about the changes and they are wondering what it all means in terms of Canadian projects.

Harris said he and probably one other person concerned about the regulations are to hold meetings with senior Revenue Canada officials in an attempt to get a clearer picture the regulations. "The government is saying the per diems are part of your income," he said.

But Harris said the issue remains as to which of the per diems can be fairly and reasonably taxed. American film producers are willing to pay taxes, but they must be clearly in-

formed what is expected, he said.

He said the full tax is to be applied and collected from performers, but it also looks like writers, production and technical people in the film industry could be affected.

Another issue the tax regulations bring to light is that of one level of government, such as the provincial OFDC, and another level of government with a different mandate working at cross-purposes.

Harris said the changes could have a serious impact in Canada.

"If the government makes it such that there is not a clear economic benefit to coming to Canada, they won't come."

The meetings with Revenue Canada will hopefully resolve the issue for the film industry, while protecting the interests of the Canadian government, he said.

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