ECONOMIC RELATIONS BETWEEN SELECTED CANADIAN FILM PRODUCERS
AND AMERICAN MAJOR DISTRIBUTORS:
IMPLICATIONS FOR CANADA'S NATIONAL FILM POLICY

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This study examines the strategies and experiences of leading Canadian film producers who have attempted to profit from the American theatrical and ancillary markets. It also analyzes American film transnationals' policies of production and distribution globally and argues that Canada's film policy based on market entry into the United States may not serve its long term interest of developing a national film industry.

Cette étude traite les stratégies et les expériences des principaux metteurs en scène canadiens qui ont essayé de profiter des marchés théâtraux et ancillaires américains. Elle analyse aussi les moyens et buts de production et de distribution du film américain globalement, et démontre qu'il se peut que la politique du film canadienne, qui est basée sur son entrée au marché des États-Unis, ne serve pas son but à long terme de développer une industrie cinématographique nationale.

Film has been an early and fundamental stratum in the multi-layered "free" flow of information which includes wire services, books, magazines, radio and television programs, and teleprocessing of data from the advanced industrialized countries to the countries of the periphery. The American film industry has been a pioneer in setting the pattern for the one way flow of cultural goods from the United States to its dependencies (Schiller, 1969; Tunstall, 1977). The American film producer-distributor combines have also set the pattern for exporting abroad the know-how, through their subsidiaries and investments, to produce imitations of the products they export as parts of the structure of domination (Guback, 1969).

Canada finds itself, in the case of its cultural industries, as a part of the periphery thereby, sharing that experience with the new nations of Africa, Asia and Latin America. Canada's feature film market was invaded and occupied by the expansionist American film
industry as early as 1915 and has remained in its captivity ever since (Pendakur, 1980). The branch plant film distribution system, which has operated in Canada for well over a half century, has been shown to have precluded the development of a Canadian feature film industry (Pendakur, 1980; CFDC Annual Report, 1981-82, 5). Until the film makers, independent distributors, independent theatre owners pressured the Canadian government in the 1960's to intervene in Canada's film market to restructure it favoring Canadian participation, Canada did not have any significant film production of its own. American branch plant production had occurred sporadically. What the Government of Canada chose was not to alter the market relations which were known to be detrimental to Canadian capital and cultural expression but to stimulate production at home. That has been the basic policy framework on which a superstructure of cultural institutions have been built including the Canadian Film Development Corporation (CFDC). The Canadian Film Development Corporation has operated like a bank to aid Canadian film makers who could not find the venture capital for film production. The Capital Cost Allowance Program (CCA), introduced in 1975 to further assist film production by allowing investors to deduct 100 percent of their investment in film against their income taxes, is also an expression of such a policy framework (Lyon and Trebilock, n.d.). From 1954 to 1974, the Capital Cost Allowance Program was set at sixty per cent mostly in consideration of short films and travelogues since very few feature films were being produced in Canada. It was increased to one hundred per cent in 1975. Criticism of the government's lack of concern for a certain degree of "Canadian" content gave rise to a point system in 1976 to which all applications are subjected. In the wake of the Canadian Film Development Corporation and Capital Cost Allowance Program, Canadian film makers have produced many films. American branch plant production has also taken place thereby over-laying a branch plant production sector on the already existing branch plant distribution and exhibition sector.

While national policies have stimulated film production, profitability for films produced in Canada appears elusive. Between 1968 - 1978, the Canadian Film Development Corporation invested nearly twenty-six million dollars in some two hundred and twenty films with budgets totalling sixty million dollars. While the Canadian Film Development Corporation recovered only five million dollars, it is not known if any of the private investors recouped their principal and received any profits from the release of those pictures (CFDC, Reports, 1978 - 1979; Report of the Federal Cultural Policy Review Committee, 1982, 254). A great many films have been made since the Capital Cost Allowance Program was introduced with bigger budgets ranging around four to six million dollars and some of those films have been shown in the U. S. theatrical and ancillary markets as well. But no analysis has been done on their profitability to Canadian film makers and investors.

Canada's policies in the film industry are not merely economic instrumentalities. They have to serve a cultural purpose also which has been articulated in many Royal Commission Reports.
on Broadcasting, 1929; Royal Commission on National Development in the Arts, Letters and Sciences, 1965; Special Senate Committee on Mass Media, 1970). The institutions such as the National Film Board of Canada, the Canadian Broadcasting Corporation, and the Canadian Film Development Corporation are also mandated by the Parliament of Canada to define, enhance, and support Canadian identity and cultural expression to counter American cultural hegemony in Canada.

This study is not concerned with the question of what cultural purpose do films produced under the current national policy serve, important as that may be. The study is primarily concerned with examining the economic relations that exist between major Canadian film producers (who have made films with the intention of profiting from the U.S. and other foreign markets) and American distributors.

The study also attempts to analyze how these Canadian film makers are coping with the changes occurring in the entertainment industry in the United States brought on by the introduction of new delivery systems such as cable, pay-television, and shrinking tax shelter moneys at home. As Andre Lamy, executive director of the Canadian Film Development Corporation explained the adverse conditions faced by Canadian producers recently:

It was no easy task for the Canadian producer to grab hold of the distribution industry -- only the Americans control their own theatrical distribution. For the Canadian producer or director, it was a hell of a game to make sure that there would be some money back from theatrical release. (Adilman, 1983, 1, 51).

This study assesses in some detail what Lamy called a "hell of a game" that the Canadian producers are playing to secure a position for themselves in the United States entertainment industry. It analyzes certain strategies pursued by the major Canadian film producers in dealing with American distributors. It also examines the patterns of U.S. distributors' policies of global production, and release of their own pictures and the pictures they acquire around the world and discusses their implications for Canada's current film policy.

METHOD

Extended interviews were conducted with a selected number of Canadian film producers to gather the necessary data for this study. Eight producer groups and their ten films marketed in the United States were identified as the study sample. They are listed in Table One. The rationale for choosing them is explained in this section.

Canadian Producers

Before analyzing the distribution deals of a selected number of films produced by major Canadian film producers, let us consider each
of the producers briefly. The study sample consisted of ten feature films which were produced by eight producer groups, whose names and film titles are listed in Table One. These films were selected for the following reasons: (1) They had all found entry into the U.S. theatrical market; (2) They were all produced in Canada either under the tax shelter and/or with financial support from the Canadian Film Development Corporation. (3) These films, in our view, are typical of the films that Canadians have been producing with the aim of profiting from the U.S. and international markets. These films fall into the general categories of horror (Terror Train), college comedy (Meatballs), and art film (Atlantic City) genres. Although the sample of films is small, it represents fairly well the kinds of films Canada is producing for global audiences.

The producers of these films are called major Canadian film producers in this study for a number of reasons. Some of these persons have built long lasting enterprises which have regularly supplied film products. Consider for instance, John Dunning and Andre Link of Cinepix in Montreal. They have been producing films since 1968 and have built their own independent distribution networks in Canada. They have also been important in the sense of creating opportunities for homegrown talent such as Ivan Reitman, David Cronenberg, etc. Harold Greenberg's Astral Films is another company that has had an on-going film production activity in Canada. Its operations include a film distribution company with branches across Canada, film processing and retailing of photographic products in a national chain of outlets. Dunning and Greenberg, who were interviewed for the study have done films in French and English, the two national languages of Canada. Garth Drabinsky, another producer in this study has not only been a prominent English language film producer with six films to his credit but has slowly built a vertically integrated enterprise of production (Tiberius Productions, Ltd.), distribution (PanCanadian Films), and exhibition (Cineplex Corporation) in Canada. His seventeen multiple screen auditoriums housing approximately two hundred screens are represented in every key Canadian city and also in Los Angeles, California. Denis Heroux has produced nearly twenty-six films since 1965 and is well known for his abilities to put together international coproductions. Don Goldberg has written two major films for Columbia Pictures (Stripes, and Space Hunter). He has also coproduced Meatballs, which was a summer hit in the United States and Canadian markets. The producers interviewed for the study thus represent a dynamic group of businessmen who, in many ways, form the backbone of commercial cinema in Canada.
<table>
<thead>
<tr>
<th>Producer</th>
<th>Film Title</th>
<th>Date of Completion</th>
<th>Chicago Release Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denix Heroux</td>
<td>Atlantic City</td>
<td>Dec. 79</td>
<td>May 81</td>
</tr>
<tr>
<td>Harold Greenberg</td>
<td>Terror Train</td>
<td>Dec. 79</td>
<td>Oct. 80</td>
</tr>
<tr>
<td>John Dunning</td>
<td>(i) My Bloody Valentine</td>
<td>Oct. 80</td>
<td>Feb. 81</td>
</tr>
<tr>
<td></td>
<td>(ii) Happy Birthday To Me</td>
<td>Sept. 80</td>
<td>May 81</td>
</tr>
<tr>
<td>Don Goldberg*</td>
<td>(i) Meatballs</td>
<td>Sept. 78</td>
<td>Aug. 81</td>
</tr>
<tr>
<td></td>
<td>(ii) Heavy Metal</td>
<td>Nov. 80</td>
<td>Aug. 81</td>
</tr>
<tr>
<td>Garth Drabinsky</td>
<td>(i) Tribute</td>
<td>May 80</td>
<td>Sept. 81</td>
</tr>
<tr>
<td></td>
<td>(ii) The Changeling</td>
<td>Feb. 79</td>
<td>March 80</td>
</tr>
<tr>
<td>Peter Simpson**</td>
<td>Prom Night</td>
<td>Sept. 79</td>
<td>Aug. 81</td>
</tr>
<tr>
<td>Pierre David**</td>
<td>Scanners</td>
<td>Dec. 79</td>
<td>Feb. 81</td>
</tr>
</tbody>
</table>

*co-producer with Ivan Reitman. Data obtained from Goldberg in a telephone interview in Toronto were corroborated with John Dunning, whose company, Cinepix produced the film. Don Goldberg was the writer for Heavy Metal.

**we tried to obtain interviews with these two producers; they were unavailable due to their shooting schedules in Hollywood. Other Canadian producers -- Robert Lantos, Robert Cooper, and Ron Cohen -- were contacted for interviews. They were, however, unavailable due to their production schedules.
Some background information on the eight producers and their films was collected from *Variety*, and *Cinema Canada*, the two major trade journals in the United States and Canada respectively. The background information was then used to ask pointed questions about the nature of the deals between producers and their distributors, certain statistics such as gross rental revenues earned by their films in various kinds of markets and the producer's share of such revenues. Face to face interviewing also allowed for some discussion of certain key issues such as, how the American majors see Canadian film makers and their films, new sources of revenues due to rapid changes occurring in the leisure industry brought on by the new technologies, etc. Generally speaking, all interviewees were extremely cooperative and forthright in their responses to the questions raised during the interview. They willingly corroborated the data we had found in the trade press which related to their films.

**Terms and Definitions**

Before we identify the terms used in this study and define them, a general outline of the film industry is provided. The feature film industry in the United States has three principle sectors -- production, distribution, and exhibition -- each with its own special function. The production sector consists of two major parts: studio productions and films produced by independents. The studios, often called the Majors, have vertical operations of production -- distribution. In the independent production sector, one or more individuals bring together the financing and artistic capital such as a director, writer, actors, etc., to make a film. It is characterized by high risk and a great deal of competition for both financing and talent. These producers, in turn, may sell the rights to market their films in a given territory on certain conditions to a distributor firm. The distributor acts as the middle agent between the producer and the exhibitor who may own one or more theatres in a given market(s). The distributor not only secures the play-dates for the producer's film in a given market but also invests in advertising the picture to generate audience demand. The distributor also invests in getting the necessary number of prints made of the film. These expenses are usually charged against the producer. For rendering this service to the producer, typically the distributor charges a fee of anywhere from 25% to 45% of the revenues generated at the box office after deducting the exhibitor's expenses and profit (if any). The exhibitor leases the pictures from a distributor on certain conditions and often shares the costs of advertising the film with the distributor in a specific market.

It should be noted that the above description should be used as a general guide and the actual relations between producers, distributors, and exhibitors are far more complex and largely depend on the question of who exercises more power over whom. In the United States and Canadian markets, the locus of power is in the hands of the eight leading studios which have production and distribution combinations of their own. They are alphabetically: Buena Vista (Disney), Columbia Pic-
tures, Twentieth-Century Fox, Orion Pictures, Paramount Pictures, MGM-
United Artists, Universal Pictures, and Warner Brothers (Huettig, 1944;
Conant, 1960; Pendakur, 1981). They have global enterprises in the
sense that they are represented around the world through their branch
offices except in the socialist countries. These eight leading firms
are called the American majors because of their historical control of
the United States motion picture industry which, measured in terms of
film rental revenues received by them, is usually higher than 90% (Variety, 19 January 1983, 131). Although the number of pictures they
themselves make has been on a steady decline in the last several years,
their market share, which indicates their power, has not diminished.

There are more than 15,000 theatre screens in the United States
and several chains control a portion of them. In the Chicago market,
where we did a study of relations between distributors and exhibitors
from which the present study was devised, two national chains were
present (Pendakur, forthcoming). One of them, Plitt Theatres, is
considered to be the fourth largest theatre chain in the United States
controlling approximately 550 screens. In Chicago, however, with sixty
screens in its control, Plitt Theaters appeared to wholly dominate the
market. We need not go into much discussion of the theatrical exhibi-
tion industry here as the present study is concerned with economic
relationships between the Canadian producers and the American major
distributors. What is important to note here is that although the
majors do not own any theatres anymore due to the Paramount Consent
Decree of 1948, they have significant influence over the theatres.
Because the majors supply the theatres with the few block busters (for
instance, Star Wars) which guarantee the profits to both the parties
and help write-off any losses incurred by showing the many marginal

In the following are brief explanations of certain key terms used
in the distribution deals:

**Box Office Gross**

Revenues collected at the theatres in a given market from ticket
sales to the patrons of a film are called the box office gross. Total
of all such revenues from all the markets in a country are referred to
as the national box office gross. The exhibitor deducts a certain
agreed sum of money from each week's box office gross to cover the
operating expenses of the theatre, which is called the "house-nut". In
the Chicago market, a major theatre may deduct approximately $7,000 a
week for the house-nut (Silk interview, 15 July 1983). The theatre
owner has another important source of revenue which is the sale of
items such as popcorn, candy, and products related to the film such as
T-shirts, posters, etc.
Rental Revenues

This is the most important measure of a film's box office performance in a market as it is from these revenues that a producer may get his or her share of the revenues. The monies left for the distributor after the exhibitor deducts the house-nut and a certain agreed sum of money as profits all of which, usually amount to about 50% of the box office gross, are called the rentals or rental revenues. The distributor deducts all expenses related to print, publicity, shipping, insurance, etc., which are called launch costs.

Foreign Markets

Additional revenues may be earned by gaining entry into major foreign markets such as the United Kingdom, West Germany, South Africa, France, Australia, Brazil, and Argentina. The American majors depend on the foreign markets for 40% to 50% of their rental revenues in any given year. Although Canada is technically a foreign market, and, the largest in terms of rental revenues generated by American films, for all practical purposes the majors treat Canada as a part of the U.S. domestic market. When Canadian producers talk about foreign markets, however, the U.S. is the most important market for them. It has an unmatched film and television market in terms of the size of the revenues generated. Canadian producers look to the Western European markets also not only to get their product distributed but also for potential financing for their pictures.

Ancillary Markets

Conventional television networks and the rapidly expanding cable, pay-cable, and home video cassette markets are called the ancillary markets. The largest of such markets is the United States. The Western European countries are also experiencing similar expansion in these new leisure markets. Canadian producers look to them as important sources of revenue for their films. Consistent with industry practice, revenues from these markets, however, are spread over several years.

The distribution deals made by film producers and distributors could be divided into five basic types: flat sale, profit deal, gross deal, joint ventures, and complete financing. They are explained below:

Flat Sale

A producer may sell the negative rights to a picture for a given sum of money in a given market which is obtained before the picture is exhibited. Although one sees the money upfront and no risk may be involved, it is not a desired method of sale for the producer because he or she will not share any profits if the picture is a success.
Profit Deal or Net Distribution Deal

This is the basic method used by the American majors when they acquire independently produced films for distribution in the United States and other markets. The distributor agrees to pay the negative cost of a film and then structures the deal in such a way that all the launch costs will be first deducted from the film's rental revenues. It should be noted here that the theatres charge approximately 50% of the box office gross as their house-nut and profit. The distributor also charges a fee which ranges anywhere from 25% to 45% of the film rental. Independent producers claim that they seldom see any profits from this type of deal.

When we asked John Dunning of Cinepix why the profit deal was not desirable to him, he replied in the following manner:

Say I have a film that will cost four million. Then they say, "We'll give you the four million, but you won't see anything until we record two and one-half to three times our costs." So they start structuring the deal, and this is where we start to get cut to pieces. So you now have ten million to recoup before you start seeing any profit on that film. That means you have to do at least twenty million dollars in the theaters because they keep about 50% - 55%, so you have got to do at least twenty million there. Then comes the thing. They say, "Look, we have this national advertising...a maximum of say no more than five million dollars." Now we're at twenty-five million. Then they say, "But we're also entitled to a distributor's fee of 20% - 30%." Now we're at thirty-five million. Now your film has to gross seventy million in the box office before you even break-even. If you look at some of the films that have grossed over seventy million dollars, it's six pictures that did it, out of a release pattern of maybe forty films. So, you haven't got a chance to make any money.

A distributor may also require cross collateralization of revenues across territories and/or across ancillary markets as was done in the case of some films in the study sample. This policy, while protecting the distributor by minimizing its risks, adversely affects the producer by reducing his or her revenues.

In some deals of this type, a non-refundable guarantee may be involved. It is paid by the distributor to the producer of the film on the delivery of a film for release. While it ensures the supply of product to the distributor, it also guarantees at least a portion of the investment made by the producer(s) in making the film whether or not the film succeeds in its exhibition.
Gross Distribution

This is a powerful deal for the independent Canadian producer because it places the producer on an equal footing with the distributor in recouping his or her share of the revenues. The gross distribution deal (or gross deal) has three important characteristics, which make it attractive to independent producers: (1) advance, (2) participation from the first dollar for the producer, and (3) the distributor absorbing the launch costs. It means that the distributor advances a certain sum of money to obtain the distribution rights to the film, which are later deducted from the rental, if the picture makes money. Participation from the first dollar means that the producer begins to draw from the first dollar of gross film rental generated from all sources by the distributor. The distributor may pay all or part of the advertising, prints, and other exploitation costs of the film. The percentages of revenues accruing to the producer will escalate according to the degree of film rentals generated by the distributor. Those percentages vary depending on the clout that a producer has and the market potential a film may have in the eyes of the distributor. One producer told us that if one can cut a ten percent gross deal it was considered excellent. Another stated that a deal may start from twenty-five percent of the first dollar and escalate in favor of the producer to as high as sixty or seventy percent depending on the size of the rentals.

When rentals start coming in, the distributor may first recoup the advance paid before paying the agreed share to the producer. Such modifications to the deal, called modified gross deal, would be negotiated between the two parties.

Joint Ventures

A producer may seek a part of the investment in a film from a distributor to accomplish several objectives. One may be to guarantee distribution to the film on its completion and, two, to boost the investors' confidence in coming forth with their money to make the film in the first place. If the financing is coming from more than one source, let us say foreign territory distributors, pay-television, network television, etc., not only is the risk spread out among them but also market entry is assured.

Complete Financing

A producer may obtain all the necessary monies needed to make a film from a major distributor and in turn sell certain rights of the film to that company. Invariably, the distributor would ask for rights to theatrical, foreign, and ancillary markets as well as the flexibility to cross collateralize the revenues. This type of deal brings Canadian producers all sorts of problems which are discussed in the following section.

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ANALYSIS AND FINDINGS

Table Two presents a summary of findings regarding the various sources of revenue for the selected ten Canadian films and the structure of the distribution deals worked out by the producers with the American majors. Except for the two films, Heavy Metal, and Prom Night, whose producers were unavailable for our interviews due to their shooting schedules, the data presented were obtained from the producers directly. In the case of Tribute, income from ancillary markets is not broken down by network and pay-television and U.S. versus Canadian because the producer could not remember these details. A word of caution regarding the figures in this table is that they should be read as nearest approximations an individual producer could make. The audited financial statements of each film may produce slightly different figures. As the interviewee was recollecting these statistics and not looking at account books, these figures may differ from the ones in the account books. What is important for the present analysis, however, is that these data reveal the patterns of terms and conditions worked out by the producers with the U.S. distributors. Consequently, they are useful guides to understand the actual policies and their practices in the U.S. motion picture industry.

Three films in this study -- Happy Birthday to Me, Scanners, and The Changeling -- were sold to the U.S. distributors on the basis of a profit deal. Their respective co-producers were: John Dunning, Claude Heroux, and Garth Drabinsky. In each film's case, the distributor advanced substantial sums of money to the producer for the delivery of the film and in each case the pattern was to cross collateralize the gross rentals. This meant that losses in the theatrical markets were made up by ancillary market sale of the film by the distributor. While that company's risk was minimized by cross collateralization, the producer may have recouped less from the gross rentals. This is clearly evident in the case of The Changeling and Scanners, which had U.S. rentals of $5.3 million and $6 million respectively. However, as the producer had to wait until the distributor recouped various costs associated with launching the film and the commission, the share for the producers was considerably low. New World, the distributor, spent $10 million in launching Scanners and the investors of that film have to wait a long time to recoup their $4 million investment. Claude Heroux, one of the producers of the film stated that although the producers have received $2.9 million from the distributor, the film would have generated higher rentals if it was distributed by a major distributor. A major could have arranged for a national break with one thousand prints or more and a bigger advertising campaign, whereas New World exploited the picture with three hundred to four hundred prints on a territory by territory release pattern.
TABLE TWO

Sources of Revenue and Structure of Distribution Deals
for Selected Canadian Feature Films

<table>
<thead>
<tr>
<th>Title/yr/neg cost</th>
<th>Distributor</th>
<th>US</th>
<th>Canada</th>
<th>Intl</th>
<th>Type of Deal</th>
<th>US/Gan</th>
<th>US/Can</th>
<th>US Rental</th>
<th>US Pay TV</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Atlantic City; 79; $6</td>
<td>Paramount</td>
<td>Paramount</td>
<td>Various</td>
<td>Gross Deal</td>
<td>10/252,000</td>
<td>5</td>
<td>1.5/3.5</td>
<td>$350,000</td>
<td>50-60 prints; area by area break; Para made 10% commission on ancillary sale; $4 MM of investment recouped.</td>
<td></td>
</tr>
<tr>
<td>2. My Bloody Valentine; 80; $2.2</td>
<td>Paramount</td>
<td>Paramount</td>
<td>Various</td>
<td>Gross Deal</td>
<td>13-14</td>
<td>2.7</td>
<td>---none---</td>
<td>1000 prints; $4 MM ad budget; still unrecouped.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Happy Birthday to Me; 80; $4</td>
<td>Columbia</td>
<td>Columbia</td>
<td>Various</td>
<td>Profit Deal ($4 MM plus advance)</td>
<td>$18/$49,270</td>
<td>5</td>
<td>No Net</td>
<td>$1.5 (Pay TV) Sale $1 plus case letters</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Meatballs; 78; $1.6</td>
<td>Paramount</td>
<td>Paramount</td>
<td>Paramount</td>
<td>Cross Deal ($2 MM plus advance; Canada $350,000 non-refundable guarantee)</td>
<td>$53</td>
<td>$21.2</td>
<td>---not known---</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Scanners; 80; New World Mutual</td>
<td>New World</td>
<td>New World</td>
<td>Various</td>
<td>Profit Deal (advance $1.2 MM)</td>
<td>$18</td>
<td>$6</td>
<td>No US $300,000 (CTV) Sale</td>
<td>Not yet sold to Radio Canada; Launch costs $10 MM; 300-400 prints; Not national break; cross-collateralized rentals; $2.9 MM returned to producers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Terror Train; 79; Fox Films</td>
<td>Fox</td>
<td>Various</td>
<td>Gross Deal (Not collateralized)</td>
<td>$6-7</td>
<td>$3.5</td>
<td>No US $15,000 (CTV) Sale</td>
<td>1000 prints; national launch; $5 MM ad budget.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title</td>
<td>Distributor</td>
<td>Distributor</td>
<td>Producer</td>
<td>Profit Deal</td>
<td>Deal Type</td>
<td>Gross Deal</td>
<td>Deal Type</td>
<td>Notes</td>
<td></td>
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<td>------------------------------</td>
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<td>-----------</td>
<td>-----------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. The Changeling; 80; $7.6</td>
<td>APD</td>
<td>PanCanadian</td>
<td>Various</td>
<td>Profit Deal</td>
<td>$13.5</td>
<td>$5.3 (US)</td>
<td>$1.4 (Can)</td>
<td>$2.5 (NBC) No pay TV sale in Canada yet. Class action suit in Canada by 264 investors against producers; APD went out of business.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Tribute; 80; $8.4</td>
<td>Fox</td>
<td>PanCanadian</td>
<td>Fox</td>
<td>Gross Deal</td>
<td>--</td>
<td>$4 (US)</td>
<td>$600,000 (Can)</td>
<td>$3.6 (all sources) Good launch. Problems with critics; advertising problems.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Heavy Metal; 80; $6</td>
<td>Columbia</td>
<td>Columbia</td>
<td>Columbia</td>
<td>Gross Deal</td>
<td>$25-30</td>
<td>$10.33 (US)</td>
<td>--</td>
<td>--not known--</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. From Night; 79</td>
<td>Avco</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>Not known</td>
<td>--</td>
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</tbody>
</table>
The co-producer of the film, The Changeling, stated that he had secured a good deal for that film with minimum cross collateralization and an advance. However, the distributor of the film, American Film Distributors, a minor company, had many financial difficulties at the time and could not hold the dates they had obtained from the theatres in many cities. It eventually went out of business thereby affecting the film's grossing potential. The film was sold in international markets extremely well according to Garth Drabinsky. He explained why the revenues from these markets were not particularly strong in the following manner:

...the trouble when you are dealing with a foreign territory, you always have to concern yourself with the solvency of the various territory distributors. And in several instances, they went bankrupt along the way and we had to reassign the rights to a new territory distributor.

The profit deal made for Happy Birthday To Me with Columbia Pictures, a U.S. major was, however, an exception. Since it was budgeted for $4 million and the producer obtained more than that amount in the form of an advance from Columbia, its investors recouped completely even before the film was released. The international theatrical sales brought another two million dollars plus to the producers. The distributor itself may not have done too badly as the film's U.S. box office gross was approximately $10 million with rentals of $5 million. Happy Birthday To Me and Scanners have not been sold to a U.S. television network yet probably because they are considered too violent by the Network Standards and Practices departments. John Dunning, the co-producer of Happy Birthday To Me stated that overall it was a good distribution deal:

We had a fee, not as much as we'd have liked, because we had to put in some for the music. But our investors saw their dollars back. The studio got a good film and made money. It's a nice deal if everybody makes a bit.

One of the ways a producer can motivate a distributor to sell a film more aggressively in the case of a profit deal is to require a "best efforts" clause in the contract. That clause is suspect to the independent producers, however, because it is nearly impossible to demonstrate what would be considered "best efforts" by the two parties in marketing a film. Garth Drabinsky emphatically stated that a best efforts clause is "absurd from the viewpoint of producers" for the following reasons:

You spend millions of dollars in creating a valuable asset, then to hand that asset over with no consideration other than their best efforts and their commitment to spend a certain amount of money down the road and they open on a selected basis in a regional market for example and the picture doesn't perform, they walk away from their
obligation and say, "sue me for damages." It will be
cheaper for them to defend their action than to meet their
commitment. Now you've tied up your product in litigation;
nobody else will touch the picture and there's no future for
it. So you got to be nuts to give away a picture without
consideration up front.

It appears that when an independent producer is in a situation where
the distributor offers only a profit deal, the best option is to try
and get an advance to cover as much of the negative cost as possible.
John Dunning explained the predicament of an independent producer like
himself in the following way:

Most people are working in this for a fee. If you've a
producer's fee built-in, the American studios accept a
reasonable producer's fee, about $200,000. So, you're not
starving, but what's denied you is the profit motive. Andre
Link (his partner) and I've always liked the carrot, and the
carrot in this business is like a race horse. You want to
get the winner. And it's not the fee because we've lost our
fee money many times either to completion of the film or
because we've put it back into the workings to get a new
soundtrack or something. We're suckers that way, because if
its either plug it or starve, we'll pledge our fee. We like
the idea of action and of the profit motive.

Six of the ten films in this study were sold by their producers to
U.S. distributors on the basis of a gross deal. As explained before,
this type of deal is most desirable to independent producers as their
negative costs may often be covered by an advance or a non-refundable
guarantee. In fact, those amounts often may be so high that would put
the producer in a profit position even before the picture is released.
We will illustrate two examples below to draw out the subtle differen-
ces in the two gross deals.

Paramount Pictures acquired Meatballs on a gross deal basis
paying an advance of two million dollars plus for U.S. theatrical
rights and also brought the Canadian theatrical rights separately with
a nonrefundable guarantee of $350,000 CAN. Paramount had correctly
assessed box office potential of that low budget comedy film and there-
by secured foreign theatrical rights for it. The producers were in a
profit position before the film's release. Of the $22 million in
theatrical rental generated by the film, which made it a "sleeper" by
industry standards, the producers received an additional sum of $5
million. Paramount also made a small commission on the sale of ancil-
larly rights of the film. John Dunning called the deal "a sweetheart
deal" because it was so profitable to all parties concerned.

Atlantic City, produced at a cost of $6 million was sold on the
basis of a gross deal but did not get an advance from Paramount Pic-
tures. The producers argued that getting an advance often raises the
distributor's commission on ancillary market sales to anywhere in the range of fifteen to thirty percent. In the case of this film, Paramount made a ten percent commission on the sale of ancillary rights.

Although Atlantic City had many saleable ingredients, its producers found it hard to sell it to the majors. It was directed by Louis Malle, who is internationally known. It featured an American star, Burt Lancaster. It had also won an award at the Venice International Film Festival in 1980. Its producer stated that those attributes of the film gave him only confidence in selling the film but the sale to Paramount was tough to make. He asserted that the critical acclaim won by the film helped him sell it in foreign territories such as England. The film has yet to recoup $4 million of investors money, twenty percent of which came from France and the rest from public units sold to Canadians under the tax shelter scheme.

Atlantic City grossed $10 million in the U.S. theatrical market and was sold to CBS-TV for $1.5 million and to Home Box Office for $3.5 million. Although Paramount made fifty to sixty prints of the film and released it area by area, it did not seem to have a handle on how to market that film. Our analysis done elsewhere of that film's release pattern and its box office performance in the Chicago market bears out that argument (Pendakur, forthcoming). Denis Heroux, the co-producer of the film, agreed that Paramount had difficulty marketing the film in the U.S. as they could not fit it into a neat category such as crime-drama and so on. He further stated:

The problem with us is that's the kind of movie we want to do. Movies that are different and original that don't enter a category. So, we have to suffer for it.

To our question whether getting an advance and other favorable terms on a gross deal depends on an independent's reputation, Garth Drabinsky explained in the following blunt terms:

Well, if you produce a dog, all the clout in the world isn't going to determine your contract. You produce a picture they want a lot, then demand creates position to be able to negotiate.

We asked John Dunning if the major Canadian producers are in a position to demand gross deals from the U.S. majors now that they have experience and perhaps some recognition. He replied:

I don't think Canadians are demanding anything. We're down there with our hats in our hands, hoping somebody will do it. I don't think we can demand anything, because I don't think the Americans are looking for us to make anything but trouble.
Dunning was also pessimistic about the acceptance of Canadian producers despite all the "success" stories reported in the trade press. His remarks below are humorous but at the same time very pointed about the nature of the relationships between the Canadian producers and the American film industry.

You go down to L.A., and you're a Canadian, they used to have what they would call in one of the agencies, the Canadian agent, which was like Siberia. Being sentenced to the Canadian agent was like you were either on your way out of the agency or they didn't know what to do with you. You say, "I want Burt Reynolds", now I am supposing, because I don't remember who's who. (The agent) would try to give you these old stars who weren't very credible anymore, who were looking for work, or who had tax problems....The only reason they would come up here was to solve a tax problem or that they needed money, but there was no respect given to the Canadian film industry down there, and I'm not sure how much is given to it still.

It appears to us that even when Canadian producers make pictures that may fit the American mass market needs as Drabinsky, Dunning, and Greenberg have done, whether or not they will get a gross deal depends entirely on the majors' priorities at a given time. Dunning's Meatballs sale to Paramount attests to that fact:

They (Paramount) wanted a summer film and wanted this film very badly. They said, "O.k., we'll give you a deal. We're on a sliding scale. The advance was deducted from what we're going to earn. Then we're at twelve and a half percent and we went up in percentage as they recouped more and more of the money. So, we started at twelve percent recoup at twelve million dollars, it went to twenty-two percent, then to twenty-seven percent and finally way there to forty-fifty percent. They absorbed their own distribution expenses in their part. We started to see dollars and recouped close to five million on the film.

Even when one gets a gross deal with an advance, if the revenues are cross collateralized by a major across territories in theatrical markets, the producer would have to lose out to the distributor. Denis Heroux's mass marketed film, Quest For Fire, distributed by Twentieth-Century Fox, had a gross deal with an advance of three million dollars. Its launch costs were twelve million dollars. The film's U.S. box office gross was twenty million dollars and Canadian box office gross was six million dollars. As these revenues were not split due to cross collateralization done by the distributor, the producer received less revenue from the rentals. It is only when a film produced under two million dollars earns a box office gross of fifty-five million dollars.
as *Meatballs* did, having a gross deal not only protected the producer's investment but also assured a good share of profits. Such instances of success are extremely rare in this industry.

A way out of cross collateralization of gross rental revenues by distributors appears to be joint ventures, a method of financing and distribution used by some of the producers in our sample. Harold Greenberg pre-sold the foreign markets in the case of *Terror Train* (negative cost $2.5 million) for $1.2 million which left him with $1.3 million to recover. The deal made with Twentieth-Century Fox assured that sum of money and if the picture had not done well at the box office, the ancillary rights would have brought in some additional revenues to the producer. Greenberg's mega hit, *Porky's*, budgeted at six million dollars was another clear example of how equity participation is being used by his company to minimize his risk:

In a deal like *Porky's*, the financing came thirty-nine and a half percent out of Mel Simon (an American production company), thirty-eight percent out of Astral and twenty-eight percent out of Twentieth-Century Fox. Again Fox did not have territorial rights. What that accomplishes and why we go that route is that we don't have cross collateralization of foreign countries. In some countries, you make money and in some you lose money. In the countries you lose money, if you have minimum guarantee, you don't get hurt. In the countries you make money, it goes right to bottom line. Otherwise, if you give it to one source on a cross collateralization, nine out of ten times you will find you don't get any returns. [Figures given by Mr. Greenberg do not add up to hundred.]

These Canadian producers have had to seek financing from elsewhere for a number of reasons including the amendments made to the tax shelter policy in Canada in 1981-1982. Virtually all venture capital for film production was reported to have dried up. So, the equity participation method is used by the producers to not only find the necessary capital from all sources including foreign sources but also to seek minimum participation from the American majors. Greenberg explained the reasons for such a policy in the following way:

With the majors, the more money you ask them, the more rights they take. As equity participants, when we minimized the investment of the U.S. majors, we're able to construct a deal which didn't tie up the ancillary rights. Again it goes down to the point that the majors, when they get involved with a film, they look at their expenditures and what is their downside protection. The lower the risk factors, the more you can negotiate on the upside.

As upfront money from foreign sales is becoming increasingly scarce these days, the Canadian producers appear to be utilizing the co-
production treaties that Canada has with six countries -- France, United Kingdom, West Germany, Israel, and Italy -- to work out joint ventures there. Harold Greenberg and Denis Heroux appear to be successful in generating a sizeable share of the films' budgets through co-production joint ventures. Greenberg explained the rationale for that policy in the following way:

We normally look, and in the past, hope to get fifty percent of our budget out of -- lower budgets, $2 and $3 million -- out of foreign sales. That's becoming very difficult today. The areas where we're spending more of our time is to do co-productions with European countries. We look for forty percent of contributions for our co-productions to come out of foreign territories as part of our co-production treaty with various countries. You do pick up additional revenues out of countries that are not part of the treaties. If you did add those two together, that's what we look for.

Denis Heroux and John Kemeny are currently producing three feature films -- Louisiana, Le Crime D'Ovide Plouffe, and Le Sand Des Autres -- along with a six-hour television mini-series all of which have a combined budget of approximately forty six million dollars. These are joint ventures done with European, American, and Canadian television companies coupled with theatrical rights pre-sale wherever possible. One important omission in this package is the U.S. theatrical market sale. Heroux claimed that one third of the budget came from French television, another third from Home Box Office in the U.S., and another third from Canadian pay-television, conventional television rights all combined. He has also generated a fourth third, as he called it, from a sales agent who is pre-selling the package at different film and television festivals around the world.

As Heroux makes essentially very different kinds of films from the mass oriented films that Greenberg and Dunning do, we asked him how he can ignore the largest theatrical market in the world, the U.S., and still expect to survive. He replied:

I think we can only survive through the other ancillary rights -- pay-tv, conventional tv, and syndication. Forget the U.S. (theatrical) main market. For us, the main marketing comes from Europe. We finance our films with fifty percent European, twenty-five percent Canadian, and twenty-five percent American capital. So, then if it works in the U.S. theatrical market, it's extra icing on the cake. We don't target the U.S. Well, I'm not saying everybody must do that, that's their problem. But that's what we're doing.

Since 1978, the American majors have provided complete financing for several films in Canada. When the majors finance the entire cost of a film, however, it does not make the independent producer's task any
In fact, the pattern is that a simple little film producer had in mind takes on monstrous proportions. Furthermore, there may not be any profits to share. John Dunning explained the difference between a Hollywood style film and a film which he has sold to a major on a profit deal or gross deal basis:

Normally we go in, cut our deal, and go away. Some guy flies up sometimes says, "What're you doing?" looks at our material for them, goes back. That's the way we do it, because we are a free hand.

He found out how restrictive it was to work under the Hollywood studio system when he recently produced Space Hunter (1983) for Columbia Pictures:

Ivan (Reitman) had a big development deal with Columbia. We showed him this Road Warrior, sci-fi type of thing we wanted to do for $4 million. A nice little, low budget film. I had a Canadian director and everything was set. Ivan liked it and said, "I'll get you a distribution deal." ...So, he takes it to Columbia and it starts. "You have to fix this, you have to fix that." So, we fix this and that. "You have to take it off the world, it's too depressing. Take it to another planet." The costs are starting to run, but they say, "Ok, we're going to do it. Get a budget." So, by this time, the budget has gone from four to six million. Now, we have to create a whole new planet. They say, "Ok, we'll do it in 3-D because the big 3-D market was coming in." They said, "Everybody is doing a 3-D, and Columbia doesn't have one." They felt they could beat every one including Jaws 3-D by getting it out quickly. We're known for doing films quickly. We're not too happy about 3-D because it's scary. I'd seen 3-D that worked really well. Then another million and half is added to the budget, because its double camera, you can't shoot as fast, etc. Suddenly, we're at seven million five, and it keeps going, and then we'd do reshoot. In the decision making, we lost because the studio took it over. The completion guarantor was in only one day, because he took one look at the mess and ran, and Columbia took over the whole thing. We just sort of stood by and watched this film take off...It's a typical evolution of the Hollywood style film, and this was our only experience with a Hollywood style film, one shot and controlled by the studio...Our Canadian director just went under and around the 3-D part. It just became too much for him.

The film was finally directed by an American, Lamont Johnson. Dunning commented on the whole experience in this way:
We probably see less out of a twelve million dollar film than we see out of David's (Cronenberg) early stuff, even with the ancillary rights.

IMPLICATIONS OF ECONOMIC RELATIONS FOR CANADA'S NATIONAL POLICY

Canada has made substantial investments to boost local film production since 1968. Table Three lists total expenditures in Canada's film industry from 1977 to 1981 and the number of films produced each year.

In those five years, a total of approximately five hundred million dollars has been spent in Canada making feature films numbering approximately two hundred and twenty-nine. These data reveal that most of the investment has come from private sources to make films in Canada. Direct investment from the Canadian Film Development Corporation is a very small percentage of that sum as its annual revolving fund for interim financing does not exceed four million dollars. It is difficult to estimate how much the Canadian tax payer is paying out to subsidize film production at home via the tax shelter (currently fifty percent of the investment in the first year and fifty percent in the second) provided for the venture capitalists who finance films in Canada. What is important to note, however, is that current film policy in Canada, at least since 1978, is based on the fundamental assumption that if local producers are shored up by creating support mechanisms such as the Capital Cost Allowance Program, and the Canadian Film Development Corporation, and the newly announced Broadcast Fund of thirty-five million dollars for prime time television program production, the industry would be on firm ground. The current film policy is also based on the belief that if Canadians could make films acceptable to the American majors and other buyers in the U.S., one need not do anything about the oppressive market conditions faced by Canadian independent producers, distributors, and exhibitors in the domestic market. The data we have presented in this study showing the penetration of Canadian product into the U.S. theatrical and other markets seem to support that such policy may in fact have worked to benefit the Canadian film industry. However, if the data are subjected to some rigorous analysis, we may find that the economic relations which have evolved since 1978 between Canadian producers and American majors may be on thin ice. In the following, let us consider the picture from a broader perspective and analyze the priorities of the two parties involved.
### TABLE THREE

Estimated Expenditures in Canada's Film Production from Government and Private Sources, 1977 - 1981 (dollar figures are in millions).

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<tr>
<td>1. Total Canadian feature film production in dollars</td>
<td>$ 40.0</td>
<td>63.0</td>
<td>150.0</td>
<td>163.0</td>
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<td>2. Total production in number of films</td>
<td>37</td>
<td>40</td>
<td>65</td>
<td>50</td>
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<td>3. CFDC assisted production in dollars</td>
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<td>4. CFDC assisted production in numbers of films</td>
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<td>5. CFDC financial assistance (equity and interim loans)</td>
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<td>6. Total short production in dollars</td>
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<td>9.0</td>
<td>36.0</td>
<td>50.0</td>
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Source: *Briefing Document*, Prepared By the Canadian Film Development Corporation For its Appearance At the Standing Committee on Culture and Communications, April 8, 1982.
Table Four provides an estimate of the number of feature films launched worldwide by American companies in the years 1981 - 1983. While the table shows that the majors are doing fewer films at home every year, they increased their domestic production by 54% between 1982 and 1983. They have doubled their offshore production from 1981 to 1983. A number of factors explain why increased offshore production is occurring, such as the current strength of the U.S. dollar versus European and other currencies, restrictions on foreign earnings, and lucrative tax shelters abroad, only to name a few. Even if Canada is getting a small share of these branch plant films at present, in the long run it is hard to tell if the majors would continue to do such films in Canada. The historic experience of the British Film industry (Guback, 1969) and Canada's own "quota quickies" history (Morris, 1978, 175 - 216) attest to the fact that such offshore production by American majors cannot be taken as a permanent phenomenon. One could speculate the possibility that if Mexico (or some other country) offers better terms and conditions to make their films, then the majors would not hesitate to move to that country or elsewhere. As they are the leading multinational corporations involved in film production and distribution, clearly they would make their financial, marketing, production, and other decisions based on their activities not within one country alone, even when that country is their "home" base. That is the basic law governing the multinationals' investment behaviour.

A more complex and revealing picture of the majors' policies related to production and acquisition abroad is provided in Table Five. It presents data regarding the American majors' releases and compares it with in-house versus outside acquisitions for the years 1980 to 1984. While the total number of in-house films released by the eight American majors for these years went down from 75 in 1980 to 83 in 1984, their releases of pick-ups from around the world have doubled from 37 in 1980 to 74 in 1984. This is the most crucial policy affecting Canadians favorably so far. It should be noted that the Major Classics Divisions, which have sought products and profits from essentially what used to be the domain of independent distributors, have shown a dramatic growth in their acquisitions and releases from one film in 1980 to 33 in 1984. Drabinsky and Dunning, two of the producers interviewed in this study who have integrated production-distribution companies, stated that their operations were negatively affected by the Classics Divisions. This policy has had a devastating effect on many small Canadian owned Independent distribution companies such as New Cinema Enterprises and Saguenay Films resulting in their bankruptcy.

The Canadians not only have to make products that are acceptable to the majors but have to assume while doing them that the majors would continue with their current policy of acquiring a high ratio of their releases from outside the U.S. If the in-house releases keep on declining as they did in the years 1980 - 1984 from 67% to 53%, Canadian producers have some choice in whether or not their products would get into the U.S. market. Between 1983 and 1984, however, the in-house
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<td>122</td>
<td>74</td>
<td>54</td>
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*1981 data are for 11 months of the year.


Data for these years are for January – September of the year.

Note that films completed in each year may be fewer than the actual number of films estimated to have gone before the cameras in this table.
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<td>Pickups &amp; Affil. Cos.</td>
<td>3</td>
<td>12</td>
<td>11</td>
<td>16</td>
<td>11</td>
</tr>
<tr>
<td>Total</td>
<td>18</td>
<td>23</td>
<td>20</td>
<td>24</td>
<td>21</td>
</tr>
<tr>
<td>Warner Bros.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-House</td>
<td>13</td>
<td>4</td>
<td>7</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Pickups &amp; Affil. Cos.</td>
<td>10</td>
<td>16</td>
<td>12</td>
<td>16</td>
<td>14</td>
</tr>
<tr>
<td>Total</td>
<td>23</td>
<td>20</td>
<td>19</td>
<td>28</td>
<td>22</td>
</tr>
<tr>
<td>Total majors In-House</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pickups &amp; Affil. Cos.</td>
<td>76</td>
<td>55</td>
<td>63</td>
<td>58</td>
<td>59</td>
</tr>
<tr>
<td>Total Releases</td>
<td>116</td>
<td>113</td>
<td>115</td>
<td>131</td>
<td>120</td>
</tr>
<tr>
<td>In-House %</td>
<td>65%</td>
<td>48%</td>
<td>55%</td>
<td>44%</td>
<td>49%</td>
</tr>
<tr>
<td>majors' Classics Releases</td>
<td>1</td>
<td>4</td>
<td>22</td>
<td>21</td>
<td>28</td>
</tr>
<tr>
<td>Grand Total of Releases</td>
<td>117</td>
<td>117</td>
<td>137</td>
<td>162</td>
<td>140</td>
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</tbody>
</table>

Source: Variety, October 5, 1983, p. 35.
films released increased by 5%. If this becomes the dominant trend in the next five years, it would put the Canadian film producers, who need to have access to the U.S. theatrical markets, in serious jeopardy.

It would be particularly difficult for producers who make mass market oriented pictures such as John Dunning, Harold Greenberg, and Claude Heroux, if their pictures were unwelcome to the American majors as U.S. theatrical market entry is crucial to recouping a substantial portion of their investments. Even an innovative producer like Denis Heroux needs the confidence generated by awards from well-known international film festivals to negotiate with the American majors to distribute his films as in the case of Atlantic City. Although much euphoria exists about the big potential revenues from the ancillary markets for all, prices paid by the U.S. networks and pay-television companies depend to a large extent on a film's performance in the U.S. theatrical market. That market is still the core of the entertainment industry despite all the changes introduced by the new delivery systems such as pay-television and home-video cassettes.

Recent reports in Variety suggest that the position of Canadian independents in the world markets may erode further particularly in the case of those who make formula films such as horror films. One article suggested that among the one hundred thirty films released by the major's in 1983, twenty-five percent of them received only a test release and they were all lower-budget films ranging in the area of $9 million or less (Variety, 2 November 1983, 37). Most major Canadian producers work with budgets around four million to six million dollars, if the trend suggested by this article holds, it may have serious implications for Canadian producers of feature film.

The whole field of horror film production appears to be in turbulent times these days. This is important to Canada as it is one of the three most important suppliers of horror films to the U.S. market. The other two are U.S. and Britain. According to one report, although one hundred forty horror projects were publicly announced in 1982, only forty-five were actually shot in these three countries (Cohen, 1983, 7, 24). If we consider the 1981 horror film production figures, they declined nearly fifty percent in 1982. As there is a time lag between production and release of at least two years (see Table One), many of these films would remain on the shelves of the distributors. This report suggests not only a glut in the market for horror pictures but also less willingness on the part of the majors to invest in distributing them on a nation-wide basis. This does not bode well for many Canadian producers such as Harold Greenberg, John Dunning and Claude Heroux who have specialized in making such genre pictures.

The majors' direct investment in financing pictures completely in Canada or elsewhere must be looked at with much caution. As John Dunning put it so well in the previous section, the Hollywood-style film the majors force on independent producers may not be beneficial at all to the independence of those film-makers. Most of those films may
not succeed in the box office arena and the little films which can be produced quite well with Canadian expertise and talent would be seriously compromised to the needs and priorities of the American majors. It is a price that an independent producer may not be willing to pay.

U.S. majors' involvement in film production in Canada necessarily results in Hollywood imitations being turned out by Canadians. That could have a devastating effect on Canada's historic attempt to build a national cinema. This thorny problem is well recognized in the following statement by Francis Fox, Canada's former Minister for Communications:

When Canadian producers and other key creators in film feel constrained to mold their productions into U.S. facsimiles because they are given to believe that unless they do this, the majors will not consider distributing them in Canada or elsewhere, this is appalling. (Variety, 22 September 1983, 3, 26)

Economic entanglement with the U.S. majors appears to be a package deal for Canadians (and others) which might perpetuate Canada's cultural dependency on the United States contrary to Canada's long term policy goals.

SUMMARY AND CONCLUSIONS

This study attempted to examine the pattern of economic relations between major Canadian film producers and major American producer-distributor combines by analyzing the distribution deals for a selected number of Canadian pictures which were exhibited in the United States theatrical and other markets. It also analyzed the financing mechanisms used by the Canadian producers in making their films, as well as the strategies they used in trying to maximize the revenues from the theatrical and ancillary markets. As major Canadian producers made their films with the intention of profiting from the U.S. and other markets, we attempted to establish if they had succeeded or failed to achieve their goal, and under what specific conditions. We also attempted to establish how the Canadian producers benefitted by the expansion taking place in leisure industries in the U.S. and in Western Europe.

As the sample consisted of eight major producers and ten films which had gained entry into the U.S. theatrical markets, findings in this study should not be generalized over the entire Canadian-American motion picture industry. It would be highly useful to Canadian policymakers to conduct a study along the lines used in this research with an expanded sample of films and, thereby, include more Canadian producers. Equally important, marketing data for the films may be collected in the top ten markets of the U.S. to clearly understand how the U.S. majors practice their trade and under what contractual conditions their mar-
keting strategies are beneficial to independent Canadian producers. The model for this part of the research could be drawn from previous work on the distribution of Canadian films in the Chicago theatrical market (Pendakur, forthcoming).

It is widely recognized that the existing branch plant distribution/exhibition in Canada is a hindrance to building a viable Canadian film industry and that U.S. distributors transfer their profits generated in Canada to other countries (Variety, 22 September 1983, 3, 24). Several cabinet ministers in the past -- Hugh Faulkner, Jean Sauve, and Francis Fox -- have stated that those are the two principal problems facing Canada's film industry. As those two issues are linked to Canada's cultural dependency problem in a crucial way, a reassessment of existing national policy is called for in order to address those problems.

Conclusions

1. For the sample of Canadian films in the study, profitability from the U.S. market is at best a mixed picture. Of the eight films for which we could obtain reliable data, five were not in a profit position, which meant their Canadian investors were still waiting for returns on their investment. It clearly indicates the high risk nature of the industry even when films are made to appeal to the American audience.

2. When we compared the types of distribution deals -- the flat sale, profit deal, gross deal -- the gross deal was the most beneficial to the Canadian producers as it greatly minimized their risks. However, it was the most difficult one to obtain from the American majors as it depends entirely on how badly they want a picture.

3. Even when a Canadian producer secured a gross deal from an American major as Garth Drabinsky did for Tribute and Amateur, poor execution in marketing those pictures reduced gross rentals. Consequently, those pictures remain unrecouped as far as their investors are concerned.

4. In profit deal or net distribution deal, cross collateralization of revenues across various kinds of markets (theatrical, ancillary, etc.) and/or various territories (U.S., Canada, foreign) is beneficial to the U.S. distributors as it reduces their risks. But it substantially reduces the Canadian's producers share of rental revenues. Atlantic City and Scanners are such examples. Therefore, both pictures have remained unrecovered.

5. The "best efforts" clause in a profit deal is hard to enforce. If there is a dispute between a producer and a distributor regarding the execution of a film's marketing, the resulting litigation jeopardizes the film. As the American major distributors are far more powerful and can afford to pay a battery of lawyers to defend them, reliance on the
"best efforts" clause for maximizing a producer's share of rental revenues is not a sound decision.

6. Joint ventures or equity participation with the American majors must be pursued with all caution. They are attractive to producers because they not only bring in a portion of the film's budget, but also guarantee U.S. distribution. However, the more money a producer demands upfront to make a film, the more rights the distributors take. Consequently, a picture that has good box office potential may not yield a reasonable share to the producer.

7. Joint ventures from many sources, including conventional television, pay-cable, etc. in the U.S., Canada as well as other countries spread the risk, thereby, strengthening the Canadian producers' bargaining power with the U.S. majors. Joint ventures also assure a certain degree of market entry for those pictures in various markets around the world. It is uncertain whether creative control would effectively remain in Canadian hands in those cases.

8. Complete financing obtained from the American majors to make pictures in Canada bring in a package of problems. Not only do those films become unmanageable in size and expectations but they also may not be profitable.

9. The majors' complete financing of "Canadian" pictures results in Canadian producers (and directors) losing control of the creative decisions regarding the film. This process of passing on decision-making to Hollywood and New York is detrimental to developing a national film industry in Canada.

10. There appears to be a glut in the low budget horror picture market worldwide. This means less opportunities for Canadian-made horror pictures in the U.S. and other markets.

11. U.S. market access for pictures produced in Canada and thereby their profitability, rest on the majors' policy of acquiring suitable products around the world. If that policy is changed anytime in the future, e.g., doing more in-house productions as the 1983 - 1984 figures indicate, Canada's producers will be seriously damaged.

12. If market entry into the U.S. is the cornerstone on which Canada's film industry is being built, that film industry is certainly on a shaky foundation.

**FOOTNOTE**

I could not have conducted this survey without the cooperation of the Canadian film producers who shared their experience and knowledge of the industry. Their assistance is deeply appreciated. I am also grateful to the Department of Communications, Government of Canada for supporting this work with a research grant.
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