

Alliance of Canadian Cinema,
Television and Radio Artists
ACTRA

Written Submission to
The House of Commons Standing Committee on Canadian
Heritage
Feature Film Policy Review Consultations

February 18, 2005

Executive Summary

ACTRA and its predecessor organizations have represented the interests of professional performers working in the English language media in every region of Canada for over sixty years. ACTRA's principal function is looking after the collective bargaining needs of the more than 21,000 members and others, whose performances in movies, television programs, sound recordings and digital media entertain, educate and inform Canadians and global audiences.

The feature film policy that was announced in October 2000 was generally well accepted. ACTRA noted in particular that screenwriters, emerging filmmakers, alternative distribution circuits and low budget production were all objectives that it had sought for many years. ACTRA also noted however that the Feature Film Policy did not address the issue of distribution of Canadian films within Canada. That while increasing audiences for Canadian films is a valid objective, The Policy would still not allow Canadian audiences to choose to watch a Canadian movie when ever they want.

We believe that the Canadian Feature Film Fund is vitally important and should continue to be maintained and wherever possible government contributions to this fund should be increased. Telefilm and the National film board are valuable institutions and should be maintained. Also of great importance is continued support for the Canadian Television Fund.

The Feature Film Policy should not interfere in any way a performer's mobility to work on films in any part of the country. It is also important that creative freedom is not curtailed by strict requirements and we recommend the guidelines of the Canadian Television Fund need to reflect that a film that is produced, written, directed and performed by Canadians will by definition be Canadian and will resonate with Canadians.

We applaud the efforts to increase the box office receipts for Canadian film and while we support the Policy's goals to increase the number of films, we recommend that more attention is needed to market and expose Canadian films. Simply put our films need to be seen more and by more Canadians. Canadian films should have greater exposure by both the CBC and private broadcasters on conventional channels and specialty channels alike. The policy needs to open the broadcast window to Canadian film.

The creative community could help turn around the administration of feature film policy if it were to have influence on the feature film advisory board. There is need of more support for film development, and in particular support for script development.

Tax credits are a very important element in the funding of Canadian films and must be maintained and increased. ACTRA recommends an increased of 30% to the Canadian Film or Video Production Tax Credit (CFVPTC), an increase of 18% Production Services Tax Credit (PSTC) and a broadening of the base to include all other expenditures in Canada in addition to labour expenditures. Additionally we recommend a new tax credit for labour in the development stage of a film.

ACTRA supports the maintenance of co-production agreements but is opposed to a policy of that would permit the involvement of non- treaty third country personnel.

ACTRA believes that not enough has been done to encourage demand for Canadian films in the domestic market and has recommended a number of solutions as follows: The viability of a box office levy needs to be considered and if viable implemented. The reinstatement of a Capital cost allowance provision should be reconsidered. Serious consideration should be given to the merits of a levy on film distribution. In order to provide the greatest number of opportunities possible for Canadian films to reach their audiences new policy needs to be made for programs to be undertaken to encourage a greater diversity within the Canadian distribution sector that is now dominated by US companies that control distribution and exhibition of films in Canada. Policy must be developed to put in place appropriate screen quotas. Tax incentives could be offered for exhibitors, such as permitting the ticket sales on Canadian movies to be tax free (taxes would still be charged on concession sales). of Canadian

Feature Film Policy Review

The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) welcomes the opportunity to participate in the consultation hearings of the Standing Committee on Canadian Heritage in its comprehensive study of the Canadian feature film industry.

ACTRA represents the interests of more than 21,000 members across Canada - the foundation of Canada's highly acclaimed professional performing community. ACTRA's principal function is looking after the collective bargaining needs of its members and others, whose performances in movies, television programs, sound recordings and digital media entertain, educate and inform Canadians and global audiences.

ACTRA is also a vocal advocate for the preservation and strengthening of Canadian culture and creativity. It plays a leading role in coalitions for the advancement of Canadian cultural programs and in international bodies working for the protection of cultural diversity in a global economy.

Each ACTRA member has a vital stake in Canada's cultural future. Performers benefit professionally when work opportunities are strong. ACTRA members also believe passionately that Canada needs a strong Canadian presence wherever entertainment and information services are created and however these are provided to Canadians. ACTRA's members believe, as Canadians, in our own creativity; our capability to tell and perform our own stories. It is this belief that motivates ACTRA's participation in the public processes about the future of Canadian television, film and other media that make up an important sector of the cultural industries.

The 2000 Feature Film Policy

In February 1998, the government launched new consultations on the challenges facing Canadian feature films. Despite all these policy measures and the investment of millions of dollars of government money, the Canadian English language film industry remained a disaster in the late 1990's with little penetration of the Canadian market, particularly the English Canadian market. The centerpiece of the 1999 Report "The Road to Success" was the recommendation to establish a new Feature Film Fund, to be distributed in large measure to producers who succeed at the box office. The Report also made the following observations and recommendations:

- The average budget of Canadian films needs to increase dramatically.
- More money should be provided for script development.
- The CRTC should require broadcasters to allocate a fixed % of budgets to Canadian movies, provide bonus content quota credits and exempt movie promos from the 12 minute commercial limit.
- Through competition laws, the government should prevent the tied sale of US and Canadian distribution rights for non-proprietary films.

The feature film policy that was announced in October 2000 was generally well accepted. ACTRA noted in particular that screenwriters, emerging filmmakers, alternative distribution circuits and low budget production were all objectives that it had sought for many years. ACTRA also noted however that the Feature Film Policy did not address the issue of distribution of Canadian films within Canada. That while increasing audiences for Canadian films is a valid objective, it would still not allow Canadian audiences to choose to watch a Canadian movie when ever they want.

Unlike the 1999 CRTC Television Policy which has proven to have had devastating consequences for English language television drama production there has been a modicum of success since 2000 as a result of the Feature Film Policy, however not all of the recommendations in the "Road to Success" have been carried forward.

Growth in Production of Canadian Films

The Feature Film Fund has injected \$100 million of much needed funds into the development, production and promotion of Canadian feature films. This has allowed for key economic indicators to also show growth in the film production sector since the adoption of the Feature Film Policy. Based on the available data, the number of individuals who are directly and indirectly employed in this sector has increased since the adoption of the policy in 2000 from 38,000 to 51,300 in 2002/2003. Data for 2003 also show that the GDP for film and television production increased since the adoption of the new Feature Film Policy.

Export value of Canadian film

Canadian film and television productions provide \$2.27 billion in annual export value in 2003-2004, a decrease from \$2.53 billion in 2000. (CFTPA Profile 2005). International treaty co-production activity was down by 6.5% to \$464 million and is expected to decrease further in 2005 because of new rules issued by the United Kingdom, Canada's largest treaty co-production partner.

Quantity of Films Produced

The Feature Film Policy has provided important support to the Canadian feature film production sector. The primary outcome of this process was the creation of the Canadian Feature Film Fund which, since 2000, has provided roughly \$100 million annually to support producers and distributors of Canadian movies and the production of 154 high-quality Canadian feature films since the new Feature Film Policy was adopted, compared to only 90 in the four years previous to the Policy (Telefilm Canada Annual Reports).

Value of public funding

Between 1996-2003, public funding provided on average was about 16% of the total value of all Canadian productions certified by Canadian Audio-Visual Certification Office (CAVCO). Each dollar of government support leverages over six dollars in other types of financing.

The Canadian feature film industry continues to require greater government support. The 1999 Advisory Committee recommended a fund of \$150 million annually, 50 % greater than the current level. There is a need to support the continuation of the CFFF after 2005. Also, there continues to be insufficient resources directed to:

- Script and concept development for writers and other industry professionals, particularly funding that is independent of producer involvement
- Marketing and promotion
- Smaller budget films and emerging filmmakers.

Domestic Market Share

The stated objective of Telefilm Canada is to increase the domestic market share of Canadian movies to 5 % by 2006. In early May 2004, Statistics Canada reported that, measured by revenues, Canadian films last year captured 3.8 % of the market. By early June, it appeared that the 5 % target was reached for the very first time. However it is too early to determine if this trend has continued through the rest of 2004 and will persist in the future. French-language movies account for the bulk of the increase, although the market share of English-language movies is slowly increasing from the abysmal state of only a few years ago.

A significant portion of this growth, however, was caused by the rise in box office sales in Quebec for French-language films. For instance in 2003, the French-language market share for box office receipts was nearly 20%; in the English-language market, however, the share was about 1.8%.

While there has been a slight increase in the annual box office for English-language feature films since the Policy was adopted, there continues to be a strong need for continued support for English-language feature films.

Issues and Recommendations

In this submission, we address the following film policy issues that we believe are most important to building a viable Canadian film industry. We have identified the Government of Canada's Canadian Feature Film policy objectives to: develop and retain talented creators; foster quality and diversity of Canadian film; build larger audiences at home and abroad; preserve and disseminate our collection of Canadian films. Where these issues have been effectively addressed in the existing film policy we recommend they be maintained and enhanced. Where the film policy has been deficient we have noted a serious need for improvement and provided our recommendations.

Production Budgets

Since the adoption of the Feature Film Policy, average production budgets for Telefilm-supported Canadian feature films increased to an average of \$6.9 million in 2003/2004. This is consistent with the target set by Telefilm Canada to improve the quality of Canadian feature films by fostering an increase in average production budgets to at least \$5 million.

In the two decades preceding the adoption of the Feature Film Policy, average production budgets fell from \$3 million to \$2.7 million for English-language feature films. Feature films are the form of audiovisual expression that are the most costly to produce. In order for high quality Canadian feature films to be produced and to compete in Canada and on the world stage, it is important that production budgets remain at least \$5 million per production.

Recommendations:

- The Canadian Feature Film Fund should be maintained for the long term and at least at its current level . Wherever possible government contributions to this fund should be increased.
- Canadian feature film policy should increase the level of support for feature film development, and in particular support for script development.

Marketing Budgets

The Feature Film Policy increased marketing budgets for Telefilm supported feature films to \$421,000 on average per production. Prior to the adoption of the Feature Film Policy, two thirds of Canadian feature films had marketing budgets of less than \$150,000 (by comparison, Hollywood-based studio productions had average print and ad expenditure budgets of \$37 million in 1999.)

Marketing and promotional support must continue to be provided by Telefilm for Canadian feature films. In order for Canadian films to find their audiences in a market where there is a plethora of foreign films available, marketing and promotional support are essential.

Recommendation:

- Telefilm Canada should continue to aim to support marketing and promotion budgets of \$500,000 per feature film.

Attracting Audiences to Canadian Films

One of the key objectives of the Feature Film Policy is to attract larger audiences for Canadian films. As a result of this, Telefilm Canada has tended, over the past few years, to support films that have a more commercial appeal. ACTRA is not opposed to the notion of Canadian films building larger audiences. Commercial appeal, however, should not be the chief criterion for the support of films. Telefilm can best achieve its objective of attracting larger audiences by supporting many genres of films and putting additional resources into script development.

The Feature Film Policy should support a broad range of films, including long-form and short films. This will provide opportunities for a greater number of Canadian stories to be made and shared and for more opportunities for successes with audiences

Sources of funding both private and public alone is not enough to ensure the growth of Canadian film and television. Canadian films have to be seen to be successful. The gap in the 2000 Feature Film

Policy remains; the policy did not adequately address the problem of distribution of Canadian films. In an ACTRA press release congratulating the announcement of the feature film policy in October 2000 ACTRA noted that “The next step must be to confront the unfortunate fact that Canada’s film distribution system is almost fully owned by foreign majors and integrated into their system of promoting and marketing of Hollywood movies.” This review of feature film policy must address the issue of putting Canadian movies on the screens of Canadian theatres.

Recommendations:

- To reach and sustain the 5% box office target the Feature Film Fund should provide support to a broad range of films, including drama, comedy, and long and short form films.
- Maintain and strengthen a diverse Canadian feature film distribution sector that is owned and controlled by Canadians.

Star System

The box office success of French-language films is largely due to the existence of a star system in Quebec. Unfortunately a star system has not been encouraged in the English Canadian film market. It is also imperative that nothing impede the mobility of performers and other creators to work on feature film productions in all regions of the country if there is to be a national star system.

The determination of Telefilm to create “commercial” movies is reflected in the fact that, in 2002 it loosened restrictions on the use of foreign actors in Canadian movies and in a deal reached last year to pay a substantial retainer to the Creative Artists Agency, so that this Hollywood firm can “help develop and package Canadian movies.” ACTRA was publicly opposed to the Creative Arts Agency arrangement. Rather than use an American talent agency to find Canadian performers the policy should encourage creating a higher profile for performers and other creators in English Canadian films. We are pleased that this arrangement will not be continued by Telefilm under the leadership of new executive director Wayne Clarkson.

Greater exposure of Canadian films should come from the broadcast window in television programs that promote Canadian film and through the broadcasts of Canadian films. The CBC should be required to air only Canadian films. The CRTC should introduce regulatory requirements that ensure all broadcasters support the creation of a star system in Canada.

Recommendations:

- If any changes are made to the Policy, these changes should not in any way impede the mobility of performers and other creators to work on feature film productions in all regions of the country.
- The federal government should support a Canadian feature film sector with a diversity of producers, from a diversity of regions. The quality of a production should, however, continue to be a key criterion for the support of a production.
- The CRTC’s license fee top up rule should be eliminated. Pay and specialty programming services should not be permitted to reduce their contribution to the system by using this policy.
- The CBC is Canada’s flagship cultural institution. Long-term stable and enhanced funding should continue to be provided to the CBC.
- The CBC’s schedule should be predominantly and distinctly Canadian .
- Spending and scheduling commitments should be imposed on Canadian private and conventional television broadcasters for Canadian feature film. Additional quota bonuses for broadcasters should be considered for airing Canadian feature films that have had a theatrical release.
- Pay television services should not be permitted to reduce their financial obligations to the system by having their investments in productions treated as equity, even when there is little or no risk to the investment.

Feature Film Advisory Board

The governance of the Advisory Board established by the Feature Film Policy must include representatives of the creative community that are active and full participants. These are among the individuals most closely impacted by the policy. They are also among the individuals that best understand the intricacies and demands of the feature film industry.

Creators influence and representation on the Advisory Board has been minimal. When creators were represented on the Board, meetings were scheduled so as not to allow the appointed performers to attend the meetings (meetings were scheduled during the day – performers however are required to be on set during the day). Further, representatives of performers on the Advisory Board found that their voices were not being acknowledged or heard, and in frustration they did not participate.

An Advisory Board continues to have an important role to play in implementing the Feature Film Policy, and in supporting the Canadian feature film sector. Open, transparent and timely appointments should be made to this Board and it would be appropriate to appoint members to the Advisory Board which include senior management of associations, unions and guilds that represent performers and other creators.

Recommendation:

-The Feature Film Advisory Board that was created by the Feature Film Policy should have members from the creative community on it at all times. It would be appropriate to appoint members to the Advisory Board which include senior management of associations, unions and guilds that represent performers and creators.

Telefilm Canada

One of the most important sources of funding for Canadian feature film is Telefilm Canada. In 1967, the Canadian Film Development Corporation (now Telefilm Canada) was created and charged with fostering and promoting the development of a feature film industry in Canada through equity investments, loans, awards and grants related to Canadian feature film production. From its creation in 1967 until 1983, Telefilm Canada's budget was limited. By 1982/1983, its Parliamentary appropriation was just \$4.5 million. It was not until 1986, when Telefilm's Feature Film Fund was allocated over \$30 million, that it was given the resources necessary to make any meaningful impact on the feature film industry.

Today, Telefilm Canada provides approximately \$80 million dollars in support for Canadian feature films annually, and administers the Canadian Feature Film Fund as discussed above. This funding is crucial to the existence and success of the Canadian feature film sector. While there is room for improvement concerning the governance of Telefilm Canada including representation of performers and creators (also with respect to the Advisory Board, as mentioned), this is an important cultural institution that plays a key role within Canada and should be maintained.

Recommendation:

-Telefilm should be maintained because it is an important cultural institution that provides the most significant support to the Canadian feature film sector.

The National Film Board

The National Film Board (NFB) was created in 1939 and is one of Canada's first and foremost cultural institutions. It produces and distributes films and other audiovisual works that reflect Canada to Canadians and to the rest of the world. Over the years, the NFB has developed a strong reputation in the area of documentary, short-film and animation productions both in Canada and around the world. It has won a total of 10 Oscars, nine for individual film productions and one as a special recognition of the NFB's overall contribution on the occasion of its 50th anniversary in 1989.

The NFB receives an annual appropriation from Parliament of approximately \$67 million. In 2003-2004, the NFB made 147 films, videos and multimedia products, of which 94 were NFB productions and 53 were co-productions with private-sector partners. In that same year, 30% of NFB productions were made by emerging filmmakers. NFB funds were used to create only three original films and one co-production in the English-language. We also note that the funds were not used to fund any French-language films, and only one French-language co-production.

As one of Canada's flagship cultural institutions with a world-renowned reputation, funding to the NFB should be increased. This will allow the NFB to continue to develop Canada's talent, entertain Canadians, and to show the world the creative excellence and production strength that exists within Canada.

Recommendation:

- The NFB needs increased funding in order that it may continue to excel in the area of film production

Canadian Television Fund

The CTF provides important and much needed support for Canadian feature film and television productions in Canada. The nurturing of Canada's cultural industries, for both economic and social reasons, has been a long-standing goal of the federal government. Stable and long-term funding of the CTF must be maintained and enhanced to ensure economic growth and job creation in the television and film production sector of the cultural industries

The CTF uses its feature film envelope to support the objectives of the Canada Feature Film Fund, also administered by Telefilm. Approximately \$7.5 million of the CTF's funding for feature films is available in the form of equity investments and Telefilm administers this portion of funding in the same manner as the selective envelope of the production component of the Canadian Feature Film Fund.

The other \$7.5 million of the CTF's feature film envelope is available in the form of license fee top-ups. There are problems, however, with the extent to which the CTF may trigger private sector investment due to the CRTC's license fee top-up policy (see Public Notice CRTC 1994-10). That policy allows pay or specialty broadcasters to deduct from their spending contributions otherwise required by condition of license any monies that they receive from the CTF license fee program. Through this policy, broadcasters have been able to avoid spending over \$112 million on Canadian productions that they otherwise would have been required to spend between 2000 and 2003. This policy rewards broadcasters for not supporting the Canadian industry and should be reversed.

Spending and scheduling commitments should be imposed on Canadian private conventional television broadcasters for Canadian feature film. Additional quota bonuses for broadcasters should be considered for airing Canadian feature films that have had a theatrical release. Pay television services should not be permitted to reduce their financial obligations to the system by having their investments in productions treated as equity, even when there is little or no risk to the investment.

As a funding body the CTF should not have editorial control over Canadian productions. The CTF requirement for Canadian drama which states that "the project speaks to Canadians about, and reflects Canadian themes and subject matter" is too restrictive. A film that is produced, written, directed and performed by Canadians will by definition be Canadian and will resonate with Canadians.

The CTF is instrumental in the production of high quality, distinctively Canadian programming for television and film. The CTF provides the greatest amount of support to film and television production in Canada. The CTF makes \$15 million available for feature film production funding annually. These funds are administered through the CTF's Special Initiatives Stream by Telefilm Canada. Without these funds the Canadian production sector would suffer extensively.

Recommendation:

- The Canadian government should provide stable and long-term funding to the CTF. The CTF's essential requirement for Canadian drama which states that "the project speaks to Canadians about, and reflects Canadian themes and subject matter" is not appropriate. It is too restrictive and provides the funding body with editorial control over Canadian productions. A film that is produced, written, directed and performed by Canadians will by definition be Canadian and will resonate with Canadians.

Canadian Film or Video Production Tax Credit (CFVPTC)

Although there is a need to continue to attract foreign production, the Canadian tax credit system should above all support productions that exhibit high levels of Canadian cultural content and employ high levels of Canadian labour. The CFVPTC is an important force behind Canadian drama and other production that furthers cultural goals. Moreover, it furthers those goals by rewarding Canadian creative participation, rather than just the use of Canadian labour in foreign productions.

ACTRA is pleased that the Department of Finance and Heritage Canada acted in November of 2003 to reverse changes that had been made to the CTF in the Federal Budget earlier that year. Despite the reversal of those changes, it still remains a critical time for the Canadian film and television industry.

Recommendation:

- The rate of the CFVPTC should be increased to 30% to strongly encourage Canadian production using Canadian creative talent.

Production Services Tax Credit (PSTC)

Canada must remain an attractive and competitive location for foreign productions because these productions help contribute to the growth of the infrastructure of the film and television industry. To encourage foreign productions, all expenditures on Canadian goods and services, not just labour costs should form the base of the Production Services Tax Credit (PSTC). As well to help sustain the service sector of film and television production in Canada, the PSTC rate should increased to 18% of Canadian labour expenditures.

Our domestic film and television industry benefits from foreign productions that are an important contributor to create jobs, training and infrastructure. It is an ongoing challenge to attract foreign production to Canada. Some factors that influence location, such as fluctuations in the Canadian dollar, are out of the film and television industry's control.

Despite the benefit of Canada's geographic proximity to the United States, there is competition from other locations that are aggressively trying to attract foreign production. Tax credits, similar to those in Canada are now being enacted by many countries and states in the US. This is compounded by mounting political pressure to keep productions in Hollywood.

Recommendation:

- The PSTC rate should increase to 18% of expenditures and broaden the base to contribute to the long-term growth and stability of the Canadian film and television production industry and keep Canada competitive in the international market.

New Labour Tax Credit for Film Development

Introducing a labour tax credit for film development would allow producers to hire directors and other creative professionals more often during the development process of film and television projects. This would ensure better employment of Canadian creative professionals and would bring more resources to a critical stage in film and television production. Greater use of creative consultants during the development stage would, in turn, have a positive effect on the overall quality of Canadian production and would help ensure the success of these projects.

Recommendation:

- Tax credits such as a labour tax credit for film development are crucial for Canadian productions and should be introduced and maintained.

Co-productions

Canada has over 50 co-production agreements with foreign countries. Such a large number of agreements provide a considerable pool of talent of directors, screenwriters and performers. All of the major developed countries with established film industries are parties to co-production agreements

with Canada. The only countries with established film industries not parties to co production agreements are the United States and India. As Indian films are largely produced for its domestic market, one can only conclude that the proposed Telefilm policy change to allow performers from third parties, which is solely on the basis of financial considerations and not creative, is to seek the presumed revenue generating marquee value of U.S. performers.

The Telefilm guidelines go to great lengths to insure that the producers, directors and screen writers are exercising control over the Canadian share of the co-production. The same recognition is not accorded to the performer, and thus the Canadian share of a co-production could include a non-treaty country performer if this is financially viable for the production. This is at odds with the Telefilm Mandate and the policy underlying the Telefilm Act. Expanding the policy exemption for nationals from non-participating countries will undoubtedly also set a dangerous precedent.

ACTRA is opposed to any third country personnel in any category in a co-production. ACTRA specifically opposes the possibility that a future proposal might seek to find “flexibility” to permit even greater use of non-treaty third country performers. Such a proposal is put forward in the Nordicity Group Ltd. (NGL) paper “Canada’s Competitiveness in Treaty Co-production” (dated February 2004) commissioned by Telefilm. In the NGL paper, there is a recommendation that proposes that productions be funneled through an EU co-production country like Germany which co-production agreement permits greater use of third party personnel. ACTRA sees this as nothing more than opening a back door to permit American performers to access prime roles in co-productions - thus masking an American industrial production as a treaty co-production.

Problems are also looming with the United Kingdom, Canada’s largest co-production partner. New rules requiring that at least 40 % of the production budget must be spent in Britain for a movie to receive the benefits of the Canada/UK Co-Production Treaty will make it much harder for Canadian film producers to make such deals.

Recommendations:

- **Co-production treaties are essential and need to be maintained and in particular a Canada -UK co-production treaty.**
- **Telefilm’s co-production guidelines need to be revised to ensure that non-treaty third country performers and other creative personnel are not taking the place of Canadian and treaty country performers and other creative personnel.**

Building audiences – focus on the demand side.

The fundamental problem may well be that the government support measures are overwhelmingly designed to affect the supply side of the movie industry and not the demand side. And while it is important to provide adequate and secure funding and there is no doubt a need to spend more on script and concept development, concrete steps need to be taken to stimulate the audience demand for Canadian movies, in the theatres.

There is a whole range of options to raise additional revenues.

- A box office levy could be used for a fund to assist in the marketing and distribution of Canadian films. A \$.50 charge, for example, applied to each ticket sold would raise roughly \$70 million annually. The rationale for the tax is clear, the viewers of movies will be paying a small surcharge to ensure there are sufficient resources to fund high quality Canadian movies that will provide more choice.

Recommendation:

The viability of a box office levy needs to be considered and if viable implemented.

- **Return to the capital cost allowance provisions:**

Recently, some commentators have argued for a return of the capital cost allowance provisions to encourage private sector investment in films. Clearly, any new program of this kind would have to be designed to ensure that the maximum funds generated flow to the producer, rather to the lawyers and accountants, and that ties the benefits to distribution of the movie.

Recommendation:

The reinstatement of a capital cost allowance provision should be reconsidered.

- **Tax on film distribution activities:**

In the television system, the distributors (cable and satellite companies) are required to contribute to Canadian production, primarily through a 5 % tax levy that goes to the CTF. It could be seen as equitable to apply a levy on gross receipts of theatrical and video distributors. At 5 % such a levy would raise in excess of \$100 million each year. There is strong rationale for such a tax and there could be willingness to consider it since it is a charge against business.

Recommendation:

-Serious consideration should be given to the merits of a levy on film distribution.

- **Ownership rules:**

Existing policies are based on the assumption that Canadian companies are more likely to produce, distribute and exhibit Canadian productions, unfortunately this is not the case in film, primarily because the Canadian English language film distribution industry overall is fully integrated into the Hollywood system (Toronto is one of the markets in which blockbusters are first released).

The separation of distribution rights for the Canadian and US market for independently produced foreign movies would provide additional resources to Canadian companies that could be invested in Canadian movies. These companies provide important support for Canadian productions through the payment of license fees and royalty costs to Canadian producers. It is, therefore, crucial that these Canadian companies be strengthened in order to compete on a level playing field with foreign distributors and enhance the exposure of Canadian feature films in Canada. In order to have a strong and healthy film distribution sector, it should not be dominated by two or three players.

As noted above, since the creation of the National Film Board in 1939, government policy measures in the film industry have been directed primarily at ensuring there are Canadian movies available in the market. There have been virtually no measures introduced to stimulate the demand for these movies.

Like Canada, Australia has generally supported production, development and distribution activity through direct grants and indirect measures such as tax credits. A key difference is that the Australian distribution industry has historically been primarily owned by Australians, and it is still not yet fully integrated into Hollywood release system. Last year, Australia produced 26 feature films, 17 of which had budgets of A \$3 million or less and only one of which exceeded A \$10 million. Australian movies represented 9 % of those screened in Australia's 1872 screens, close to the 10 year average of 10 %.

Recommendation:

- New policy needs to be made for programs to be undertaken to encourage a greater diversity of players within the Canadian distribution sector in order to provide the greatest number of opportunities possible for Canadian films to reach their audiences.

- **Canadian content quotas**

Content quotas work. Canada's experience in music and television, and Korea's experience in movies are all the proof needed. When you create space and an "artificial" need for cultural productions, their value is inflated and this becomes a powerful incentive for the private sector to make better

products. While the US major motion picture studios would loudly oppose quotas they are explicitly permitted under international trade rules (the 1947 GATT).

In France, competition laws limit the domination of the multiplex theatres. On the basis of financial incentives offered to exhibitors, the smaller theatre owners negotiate with the Centre national du cinema (CNC) and enter into a contract agreeing to screen certain %ages of European movies. Problems however remain in France and the negotiated screen quotas are not effective with the multiplex theatres, which effectively isolate everything but the most successful of the European films.

Recommendation:

- Policy must be developed to put in place appropriate screen quotas taking into account problems that have occurred in other jurisdictions such as France where quotas have been applied.

• Encouraging Canadians to Buy Tickets for Canadian Movies

The First Weekend Club was started in Vancouver and brings together people who make a commitment to attend the opening weekend of the commercial screening of a Canadian movie. Previously, it was possible for a picture to start small and gradually increase its reach through positive word of mouth and additional advertising. Now, films earn most of their box office within a few weeks of release, thus there is pressure for a wide release and promotion and advertising expenditures concentrated at the front end.

But, it might be possible to consider other incentives at this end of the industry.

The distributors of *Love, Sex and Eating the Bones* recently offered Toronto consumers a \$6 coupon toward a ticket purchase for their movie and this help to achieve two sold-out showings. In the late 1970s, the Ontario government introduced a program in which consumers would receive 50 % of the value of a non-winning lottery ticket against the purchase of a Canadian book, periodical or movie, by all accounts the program was cancelled because it was too successful, particularly with books, and it was a greater drain on lottery revenues than anticipated.

Recommendation:

- Tax incentives could be offered for exhibitors, such as permitting the ticket sales on Canadian movies to be tax free (taxes would still be charged on concession sales).

Actra welcomes to the opportunity to appear before the Standing Committee on Canadian Heritage to present its submission and to address questions.

All of which is respectfully submitted.

Stephen Waddell
National Executive Director

Summary of Recommendations

1. The Canadian Feature Film Fund should be maintained for the long term and at least at its current level. Wherever possible government contributions to this fund should be increased.
2. Canadian feature film policy should increase the level of support for feature film development, and in particular support for script development.
3. Telefilm Canada should continue to aim to support marketing and promotion budgets of \$500,000 per feature film.
- 4 To reach and sustain the 5% box office target the Feature Film Fund should provide support to a broad range of films, including drama, comedy, and long and short form films.

5. Maintain and strengthen a diverse Canadian feature film distribution sector that is owned and controlled by Canadians.
6. If any changes are made to the policy, these changes should not in any way impede the mobility of performers and other creators to work on feature film production in all regions of the country.
7. The federal government should support a Canadian feature film sector with a diversity of producers, from a diversity of regions. The quality of a production should, however, continue to be a key criterion for the support of a production.
8. The CRTC's license fee top rule should be eliminated. Pay and specialty programming services should not be permitted to reduce their contribution to the system by using this policy.
9. The CBC is Canada's flagship cultural institution. Long term stable and enhanced funding should continue to be provided to the CBC.
10. The CBC's schedule should be predominantly and distinctly Canadian. It is our view that it is outside of the CBC's mandate to broadcast such programming on its service.
11. Spending and scheduling commitments should be imposed on Canadian private and conventional television broadcasters for Canadian feature film. Additional quota bonuses for broadcasters should be considered for airing Canadian feature films that have had a theatrical release.
12. Pay Television should not be permitted to reduce their financial obligations to the system by having their investments in productions treated as equity, even when there is little or no risk to the investment.
13. The advisory board that was created by the Feature Film Policy should have members from the creative community on it at all times. It would be appropriate to appoint members to the Advisory Board which include senior management of associations, unions and guilds that represent performers and creators.
14. Telefilm should be maintained because it is an important cultural institution that provided the most significant support to the Canadian feature film sector.
15. The NFB needs increased funding in order that it may continue to excel in the areas of film production.
16. The Canadian government should provide stable and long-term funding to the CTF. The CTF's essential requirements for Canadian drama which states that "the project speaks to Canadians about, and reflects Canadian themes and subject matter" is not appropriate. It is too restrictive and provided the funding body with editorial control over Canadian productions. A film that is produced, written, directed and performed by Canadians will by definition be Canadian and will resonate with Canadians.
17. The rate of the CFVPTC should be increased to 30% to strongly encourage Canadian production using Canadian talent.
18. The PSTC rate should increase to 18% of expenditures and broaden the base to contribute to the long-term growth and stability of the Canadian film and television production industry and keep Canada competitive in the international market.
19. Tax credits such as a labour tax credit for film development are crucial for Canadian productions and should be introduced and maintained.
20. Co-production treaties are essential and need to be maintained and in particular a Canadian – UK co-production treaty.
21. Telefilm's co-production guidelines need to be revised to ensure that non-treaty third country performers and other creative personnel are not taking the place of Canadian and treaty country performers and other creative personnel.
22. The viability of a box office levy needs to be considered and if viable implemented.
23. The reinstatement of a Capital cost allowance provision should be reconsidered.
24. Serious consideration should be given to the merits of a levy on film distribution.
25. New policy needs to be made for programs to be undertaken to encourage a greater diversity of players within the Canadian distribution sector in order to provide the greatest number of opportunities possible for Canadian films to reach their audiences.
26. Policy must be developed to put in place appropriate screen quotas taking into account problems that have occurred in other jurisdictions such as France where quotas have been applied.
27. Tax incentives could be offered for exhibitors, such as permitting the ticket sales on Canadian movies to be tax free (taxes would still be charged on concession sales).

