



**Canadian
Association of
Broadcasters**

**L'Association
canadienne des
radiodiffuseurs**

February 18, 2005

Sent via e-mail

Mr. Jean-François Bernier
Director General
Film, Video and Sound Recording
Canadian Heritage
15 Eddy Street
Gatineau, Quebec
K1A 0M5

Dear Mr. Bernier:

Re: Canada-UK Co-Productions – Industry Consultations

The Canadian Association of Broadcasters (CAB) – the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks, and specialty, pay and pay-per-view services – is pleased to provide its response to questions from the Department of Canadian Heritage concerning Canada-UK co-production treaties. The CAB thanks the Department for its invitation to the Richard Miller briefing on January 13th, 2005 regarding the current British audio-visual environment.

Question 1

The UK has indicated that treaties must stipulate both economic and cultural objectives and that future co-production activity between Canada and the UK will need to achieve these objectives effectively. What are some examples of both cultural and economic objectives and how should these be measured?

Cultural objectives could include:

- (i) Reflecting the cultural connections that the UK and Canada share as a result of the English settlement of parts of Canada and the common literary heritage.
- (ii) Reflecting a shared cultural diversity with respect to both Commonwealth immigrants (including Canadians who have moved to the UK and vice versa) as well as non-Commonwealth immigrants who have moved to our respective countries.

- (iii) Producing high quality and attractive films and TV productions, both in terms of technical quality and creative content, which resonate with both domestic and international audiences;
- (iv) Producing projects that have relevance and appeal for broad audiences;
- (v) Providing an opportunity, through the window of film and TV productions, for Canadians and residents of the UK to better understand and appreciate each other's similarities and differences;
- (vi) Providing an opportunity, through the window of film and TV productions, for non-Canadians and non-residents of the UK to better understand Canadian and UK culture; and
- (vii) Sharing of on and off-screen talent.

Cultural objectives are likely harder to measure than economic objectives. Audiences could be measured by using Nielsen and BBM ratings information. Alternatively, focus groups could be conducted with regard to the content, quality, and value of the co-productions.

Economic objectives include:

- (i) Contributing to the professional and economic development of the respective Canadian and UK film and television industries;
- (ii) Contributing to the growth of the independent production community including both the direct effect on jobs in the film and TV production industry and indirect effects on the larger economy in creating jobs and income for a number of sectors, including retail and hospitality;
- (iii) With respect to television productions, achieving fair and equitable pre-sale licence fees and equity investment for the primary UK broadcasters;
- (iv) Allowing independent producers, within reasonable financing deals, to exploit the non-broadcast rights, the allied, ancillary and subsidiary rights, and the international distribution rights; and
- (v) Increasing revenues from co-productions by increasing international sales.

Economic objectives could be measured by tracking the increased economic benefits generated by the co-productions. The CAB notes that *Profile* - the Economic Report on the Canadian Film and Television Industry, produced by the CFTPA and the APFTQ in conjunction with the Department of Canadian Heritage, typically includes this type of information.

Question 2

The UK has also indicated a desire to enhance co-production relationships through innovative partnerships that extend beyond production, e.g. training, preservation, co-development. What are examples of ways Canada could cooperate beneficially with the UK?

Examples of some of the ways that Canada could cooperate beneficially with the UK include:

- (i) Sharing of on and off screen talent;

- (ii) Working with UK production partners to co-develop projects that are naturally suited to treaty co-production. This may require some adjustments to Telefilm Canada's rules regarding development financing of co-productions. For example, Telefilm will only contribute to development financing for a writer if the co-production is a majority Canadian co-production;
- (iii) Creating and implementing coordinated marketing strategies and promotional campaigns; and
- (iv) Organizing and funding exchange training programs which would allow representatives from Canada and the UK to better understand the film and TV industry in the other's country. The CAB notes that Telefilm Canada's *SparkPlug Program* has been a very successful training program.

Question 3

What steps can be taken to improve the distribution of Canada/UK co-productions?

The CAB notes that the television distribution of Canada-UK treaty co-productions has enjoyed moderate success. In order to build on this success, additional marketing resources could be included in the production budgets of these productions, in addition to a well-funded coordinated release campaign. To ensure the sale and preferably presale of television programming, Canadian and UK broadcasters need to be involved from the development stage of a production.

For theatrical feature films, attaching a reputable distributor to the project early enough in the development could also assist with the film's distribution since the distributor will have the opportunity to give script notes and casting suggestions. The distribution industry has changed significantly over the past few years. It is now rare for a distributor to contribute a distribution advance or minimum guarantee towards production financing. Nonetheless, good distributors are valuable resources and should be consulted regularly as they know the types of programming that are of interest to broadcasters worldwide.

International distribution could also be improved if the Canadian Television Fund's rules relating to the content/story line of treaty co-productions were harmonized with the Canada/UK co-production treaty rules relating to Canadian content certification. This would ensure consistency in the approach used by Canadian government agencies to support treaty co-productions. Currently, the CTF's eligibility requirements respecting story and content are somewhat outdated which hampers distribution efforts significantly.

Finally, attendance at the various international markets, for example, MIP-TV and MIPCOM, is important in order to assess international interest in a particular project. Funding and support, over and above what is already available to small and medium size producers, would be helpful during the development stage to assist producers in preparing professional pitch packages and attending these markets. In addition, more flexibility is needed to allow internationally recognized talent to participate in the co-production without causing it to lose its official treaty co-production status. (See response to question 4)

Question 4

What degree of key creative flexibility should be allowed with respect to third-party participation in a co-production? What criteria could be used to frame such flexibility?

There should be enough flexibility so that internationally recognized talent, including actors, directors, writers, directors of photography, editors and composers can be attached to a production without the production losing its treaty co-production status. This will make international distribution easier and provide a strong basis upon which to market and promote the co-production, and increase its attraction for domestic audiences.

In addition, if the story being told in the co-production organically includes characters that come from places or countries which would be considered third parties to the co-production, then casting third party actors in such roles should be allowed provided that the cultural objectives of the co-production are protected.

This same principle should apply to other creative talent positions. For example, a third party director of photography may bring a particular sensibility to a specific co-production which will likely result in a much better production. The third party DOP should be allowed to participate in the co-production provided that an intern is hired from either of the co-producing countries.

Question 5

What, if any, are the merits of finance-only deals, whereby, in exchange for a financial contribution of between 5-10%, a co-production is deemed to bear national status?

The merits would be economic for both partners, particularly for the partner responsible for the majority of the financing. The international market is currently very soft and finance-only deals would improve the economic prospects of the production. The CAB notes there are also significant cultural benefits for the majority partner.

Question 6

Have you experienced any difficulties co-producing with the UK? Please propose improvements to the treaty that could resolve such difficulties in the future.

Generally, television co-production with the UK has been successful. The problems encountered have been more on the business side than the creative side and generally relate to financing and difficulties in finding appropriate UK co-production partners. A great deal of time is invested in building strong relationships before moving ahead with production.

Question 7

If at all, how could the certification process be improved while ensuring continued effectiveness and transparency?

Going forward, it will be very important for the Telefilm Canada co-production office to be fully apprised of any and all changes to the various co-production treaties, particularly the administrative rules for the Canada/UK treaty regarding feature films. In addition, given that the Telefilm Canada co-production office is located in Montreal, and that Canada has multiple time zones, it would be very helpful if some of Telefilm's co-production analysts could be available beyond usual government work hours. Finally, although the current advance ruling process appears to work quite well, it is always good to review whether streamlining certain processes and improve their effectiveness.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Keeble', with a stylized flourish at the end.

David Keeble
Senior Vice-President,
Policy and Regulatory Affairs

c.c. Lynn Foran, Senior Policy Analyst, Film and Video, Canadian Heritage