Approaches to Promoting and Protecting Cultural Industries: Lessons from Canada

Pauline Couture
President, PCA

Prepared for the CRNM workshop on

The Impact of Trade and Technology on Caribbean Creative Industries
October 28-29, 2004
Port of Spain, Trinidad

1
Introduction

Despite its vast size, Canada is a relatively small country whose population of 32 million lies mostly like a reclining Chile along the border of the most powerful country on the face of the earth. For half a century or more, we have enjoyed unparalleled access to the Americans’ biggest export – entertainment, especially on television. And for the 25 million Canadian English-speakers, America’s massive presence on our airwaves is unimpeded.

When television first began, over-the-air signals could not reach far beyond the border – but did reach most of the population, within 200 kilometres of the border. The dawn of cable distribution allowed American programs to penetrate even more widely into Canadian homes. As pioneers of the technology, we were the first to experience satellite rain, which reaches every part of our vast land and extends the reach of US media products into every home in the High Arctic with television. Now, the rest of the world is having the same experience.

Occupying the northern half of the North American continent with such a sparse, highly diverse population has been the greatest challenge of Canada’s relatively short history as a federation. Our small population is divided into different languages and regions, each with its own needs and interests. My home town of Toronto is often described as one of the most ethnically diverse cities in the world – a place of great variety, and for the most part, enviable harmony, where more than half the population is foreign-born.

These factors of geography, history and diversity have made Canada one of the world’s most open markets for cultural products. But increasingly, as everywhere else, our shelves are filled with the output of a handful of mega-media corporations.

More than 80% of English-language magazines available in Canada are imported. 88% of new record releases are foreign content. Foreign films take about 95% of the screen time in our movie theatres. Foreign content makes up 61% of all English-language programming available on Canadian television screens, the vast majority of it American.

This does not mean that Canadians are indifferent to Canadian content. Many care very deeply about, and choose, Canadian content when it is available. Canadians consistently devote a proportionately higher share of their viewing time to Canadian television programs – in relation to their overall availability.

In the 1930s, a champion of the fledgling public broadcasting system said the choice was simple – “the state, or the United States”. The world is much more complicated today, but the Canadian government still enjoys a substantial public mandate to provide us with a measure of cultural defence –as long as it does not inhibit choice and the free flow of ideas. This is, increasingly, a difficult balance to maintain.

The struggle in Canada is to maintain “share of mind” for Canadian issues, stories and identity. Our long experience of living alongside the world’s strongest entertainment exporting nation may be instructive for those with similar preoccupations. This paper will seek to pinpoint the enabling factors in Canada’s successes in exporting cultural products.
The largest issue of contention between Canada (as well as many other countries) and the United States is that its government, strongly influenced by Hollywood, does not recognize the concept of culture, let alone indigenous culture. To the Americans, it’s all just entertainment – their biggest export industry. Furthermore, these powerful American interests see even modest increases in the presence of our own culture, including our investments in public service broadcasting, as subsidies that discriminate against their exports. For them, it’s just business – and they view Canada as the canary in the mine. If we are allowed to keep measures that in any way diminish the profits of the big media companies, other countries might get ideas and it might start to put a serious crimp in their style.

The Americans believe that they need to make free trade in cultural products work with Canada, if they are going to succeed with this priority worldwide. In news, information and sports programming, there is no contest: Canadians far prefer their own non-fiction programming to the widely available American alternatives. But when it comes to fiction and pure entertainment, the picture is very different. This paper will look more specifically at this area later.

Canadian public policy is always seeking to balance measures that foster, promote and protect indigenous culture and cultural industries while seeking to avoid confrontations with American commercial interests. For example, Canada has taken a leadership role in the Global Convention on Cultural Diversity. This paper will endeavour to outline the mechanisms that have evolved in Canada, and to draw lessons that might apply to CARICOM.

**Cultural Economics**

One of the most helpful books on the topic of culture and trade that I have encountered is *Blockbusters and Trade Wars, Popular culture in a Globalized World*, by Peter S. Grant and Chris Wood. It was published within the last year in Toronto, and provides an instructive and entertaining look at the strange, counter-intuitive world of cultural economics. I highly recommend it. It presents the “tool kit” of policies that are used to sustain national cultures and cultural industries, suggests ways to address the challenges of technology and trade wars that loom for all of us.¹

By way of background, the Grant-Wood approach to describing cultural economics is useful. They provide a case study of a distinctively Canadian television programme called *Degrassi, The Next Generation*, which has achieved virtual cult status among young viewers, especially young women, in Canada and the United States, as well as Britain, Scandinavia and even as far afield as the People’s Republic of China. The programme is unique for its honest and skilful treatment of adolescent life, and deserves all the praise it has garnered—as well as controversy, particularly among conservative American audiences.

No matter how successful *Degrassi* is, however, it could not exist without support from the public purse. The math is instructive:

- Each episode costs C$600,000, less than a third of the production budget of an episode of typical drama made for US television (US$1.5 million).

¹ I will have a limited number of these books available for purchase at the workshop, and additional copies can be ordered from [www.amazon.ca](http://www.amazon.ca).
• The Canadian broadcaster of the show, CTV, must amortize its investment across its audience, drawn from the potential base of 25 million English-speaking Canadians. The US network can draw on a base ten times larger at 250 million (not counting the 35 million Hispanics).
• US licence fees are US$1.3 million per hour, about 86% of the cost of production. A Canadian broadcaster can rent the finished product from the US producer for about US$50,000 an episode.
• CTV pays Epitome Productions, producer of Degrassi, C$116,000 an episode, about three times what it would cost to acquire a typical US drama. But this only covers 17% of Degrassi’s production costs. The rest comes from government subsidies, a levy on cable and satellite companies to support Canadian drama, federal and provincial tax credits and out of the producer’s pocket.
• Even though the show is hugely popular, triple the audience would still not justify its economics without these supportive measures.
• In selling the show in foreign markets, the imbalance between Degrassi and its US counterpart is even more striking: while the US show’s budget shortfall per hour is only US$200,000, Degrassi has to close a gap three times greater, at US$627,000 an hour. The US drama will be able to recover its cost within the US syndication market alone; every overseas sale drops directly to its bottom line. The Canadian show will sell around the world, but must be offered at rock-bottom prices to compete with the paid-down American shows. At best, it will recover 10% of its production cost from the export sales.

This is just one example, from just one industry, but the lesson holds true across the board: it is very difficult to compete, domestically or globally, with the major US companies in the cultural industries.

**Just like widgets? Why not?**

Trade negotiators and economists who want to treat cultural products like any other encounter stubborn resistance. Richard Caves’ *Creative Industries* attempts an integrated analysis of the organization of creative industries. His conceptual framework is very helpful in understanding the market for popular culture and how it differs from other, more conventional goods. First, he views the *nature of the product* as “experience goods” whose value cannot be calculated in the same way as other commercial products.

The *nature of the production process* is also different, with an expensive front-end development process to arrive at a master copy of an intellectual property, then subsequently a low-cost reproduction process. The master copy always remains, a sunk cost whether or not anyone ever buys the copies. Once invested, the maker loses the investment unless he or she can sell enough copies.

The *nature of consumption* is also different, since the product itself, or the master copy, is never consumed, and that no matter how many copies are sold, the master remains. Consumers value the product for the experience it conveys, not for its material form.
Another characteristic that differentiates cultural products from others is that nobody knows in advance which ones will succeed and sell, and market research is notoriously ineffective in predicting which ones will, or not.

Each cultural product is unique, and irreplaceable; they do not compete like brands of soap, but only for the consumer’s time. Therefore, there is no substitution.

Unlike food staples or energy, the demand for cultural products usually fades over time. The decay time of demand for news and sports programming is instantaneous; movies can live on forever. But most cultural products see a sharp drop-off in demand over time.

Cultural products are not like others in terms of consumer choice. Most are subject to gatekeepers such as broadcasters or publishers who pre-determine demand to one extent or another. Often, these gatekeepers have a conflict of interest in promoting one product over another, and may not reflect the true taste or wishes of the public.

The pricing of cultural products is not like that of hard goods, where the marginal cost of production and competition largely determine what the market will bear. Cultural goods are expensive at the front end, and the manufacturing process of copies is often very inexpensive. Cost recovery must be built into the price, but there may be very arbitrary price differentials, as we have seen in the cost of US programs within the US and in other countries.

All of this shows that while most cultural products fail commercially, they can be extremely profitable if they do work. They are very high-risk and therefore the larger operators who can afford to try many things at once and to support them in marketing are better equipped than smaller players—or countries, for that matter.

Most cultural products can be said to be public goods in the classic economic sense—their value is not determined by the number of people who consume them. The first master copy of a cultural product is a public good, but the physical copy in the final form that reaches a consumer may well be a private good. Consumers must make the decision to purchase before experiencing the good, usually from a gatekeeper who may exercise idiosyncratic judgments about what will be popular. This causes problems for economists who make inappropriate assumptions, such as informed consumers making free choices.

I am indebted to Peter Grant and Chris Wood for the following very useful chart:
<table>
<thead>
<tr>
<th>Attribute</th>
<th>Ordinary Commodity, e.g. Car, Detergent</th>
<th>Cultural Good or Service (e.g. Book, CD, TV Broadcast)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nature of product</strong></td>
<td>Serves utilitarian purpose</td>
<td>Communicates ideas—information or entertainment</td>
</tr>
<tr>
<td><strong>Nature of Production Process</strong></td>
<td>Assembly line; each unit requires significant resources</td>
<td>Expensive one-time process; creates intellectual property which then can be cheaply stored, duplicated and delivered.</td>
</tr>
<tr>
<td><strong>Marginal Cost of Unit of Product</strong></td>
<td>Significant</td>
<td>Insignificant</td>
</tr>
<tr>
<td><strong>Predictability of Demand</strong></td>
<td>Demand largely predictable month after month</td>
<td>Difficult to estimate demand in advance of incurring cost</td>
</tr>
<tr>
<td><strong>Substitutability</strong></td>
<td>Large degree of substitutability with competing brands</td>
<td>Limited substitutability; product is perceived as “unique”; copyright law protects monopoly on each title</td>
</tr>
<tr>
<td><strong>Time Line of Demand</strong></td>
<td>Demand for product continues indefinitely until next product cycle (measured in years)</td>
<td>Demand falls off sharply after introduction of the product and next product replaces it (measured in weeks or months)</td>
</tr>
<tr>
<td><strong>Who Determines Demand</strong></td>
<td>Ultimate Consumer</td>
<td>Ultimate consumer in the case of books and movies; advertiser in the case of magazines and commercial broadcasting; cable or satellite gatekeeper for niche broadcast channels</td>
</tr>
<tr>
<td><strong>Pricing</strong></td>
<td>Non-discriminatory; arbitrage precludes market differentiation</td>
<td>Highly discriminatory (by market, nature of use and time line of use); copyright law permits unlimited subdivision of markets</td>
</tr>
<tr>
<td><strong>Pricing Latitude</strong></td>
<td>Dependent on competitive forces of demand and supply; constrained by significant marginal cost and non-discriminatory pricing</td>
<td>Product can be priced as low as required or as high as the market can bear; marginal cost is insignificant and pricing of cultural products can be highly discriminatory</td>
</tr>
<tr>
<td><strong>Nature of Consumption</strong></td>
<td>Each unit of product is consumed and not available to others</td>
<td>Original intellectual property is not consumed and can be made endlessly available; broadcasting has “public good” attributes</td>
</tr>
<tr>
<td><strong>Time Line of Advertising</strong></td>
<td>Continual advertising over many years to reinforce brand</td>
<td>Intense advertising at time of introduction of product before it is replaced by next product</td>
</tr>
</tbody>
</table>
Restrictions on Foreign Investment in Canada

Any investment in a “cultural” business by a foreign national is subject to review under the Investment Canada Act, which defines this as follows:

"Cultural business" means a Canadian business that carries on any of the following activities, namely,

(a) the publication, distribution or sale of books, magazines, periodicals or newspapers in print or machine readable form, other than the sole activity of printing or typesetting of books, magazines, periodicals or newspapers,

(b) the production, distribution, sale or exhibition of film or video recordings,

(c) the production, distribution, sale or exhibition of audio or video music recordings,

(d) the publication, distribution or sale of music in print or machine readable form, or

(e) radio communication in which the transmissions are intended for direct reception by the general public, any radio, television and cable television broadcasting undertakings and any satellite programming and broadcast network services;

Such investments have been refused entry, and in the case of broadcasting, are ineligible under other rules and regulations. Where the investments take place, they may render the business ineligible for subsidies, supports and government programmes.

These policies are partly about ensuring that control of culturally sensitive businesses remains in Canadian hands, but also result from alarm at the trade deficit in cultural revenues. Ottawa academic Michael Geist discusses how the issue of copyright plays into this. His argument probably applies to CARICOM just as well.

Conditions Applicable to Cultural Imports

Customs tariffs for imports into Canada from the US or from other countries, including the Caribbean, have been zero-rated for almost all cultural products, including music CDs, books and magazines. The federal GST of 7% is levied across the board, without regard to the origin of products. Provincial sales taxes vary widely, and can be compared in a hyperlinked chart available at http://www.taxtips.ca/provincial_sales_tax.htm.

With regard to music CDs, there is no need to be concerned about rules of origin, (for example if the lyrics, music, arrangement, vocals (content) are all from CARICOM but the CD is pressed or reproduced in a third country such as the US) because the tariff is zero-rated. In general, the value of CDs for importation into Canada is based on the value of the physical CD, not the value of the content, as is the small levy for redistribution to creators which is applied to the sale of all recording.

---

media in Canada. This is much simpler than the UK system, for example; you will find an example specific to music CD importation at http://www.opuscds.com/shipping_uk.php.

Similarly, the custom tariffs are zero for original paintings, sculptures and carvings. There are no tariffs for books and magazines (except colouring books at 2%). GST (at 7%) and PST (typically at around 8%, depending on the province—see chart mentioned above) combined add about 15% to the price of the product in Canada, but this also applies to domestic products.

**Treatment of Live Performance Artists and Entertainers**

In the case of live performances by foreign artists or entertainers, the withholding tax is 15% regardless of whether or not there is a bilateral tax treaty with Canada.

Foreign artists and their essential supporting staff coming to Canada to perform do not need a permit if they are only performing in Canada for a limited period of time and will not be performing in a bar or restaurant. Artists working in Canada in this category may not enter into an employment relationship with the Canadian group that has contracted for their services. Artists must also not perform for the production of a movie, television or radio broadcast.

Insofar as the work permit is concerned, the rules are set forth in section 186 (g) of the *Immigration and Refugee Protection Regulations*, which reads as follows:


(g) as a performing artist appearing alone or in a group in an artistic performance -- other than a performance that is primarily for a film production or a television or radio broadcast -- or as a member of the staff of such a performing artist or group who is integral to the artistic performance, if

(i) they are part of a foreign production or group, or are a guest artist in a Canadian production or group, performing a time-limited engagement, and

(ii) they are not in an employment relationship with the organization or business in Canada that is contracting for their services, nor performing in a bar, restaurant or similar establishment;"

Note, however, that before entry is permitted, the artist may have to get a temporary resident permit.
Broadcasting

The Canadian System

The public policy rationale

Since the 1930s, Canadian governments and much of the population – or at least the opinion elites – have felt strongly that Canada’s geographic proximity to the U.S. market presents unique challenges. Alone among western countries, Canada receives U.S. film and television programs and promotional campaigns simultaneously, day and date, with the American domestic market.

Canadian sensitivities on this subject run high. Already by the 1930s, as U.S. radio stations flooded southern Canada, the opinion elites and the government agreed that without government intervention, Canada would become simply an extension of the U.S. market. To this day, and to the great annoyance of the Canadian film distribution industry, the Hollywood studios persist in treating Canada as simply a part of their own domestic market, even in official box office numbers.

When television began, Canadians were determined that the radio and movie experiences would not be repeated. A complex web of laws and regulations ensures that the Canadian public broadcaster, the Canadian Broadcasting Corporation (CBC), and the private broadcasters, get first crack at the Canadian market. The idea was to create shelf space for Canada within the domestic market while allowing the Canadian industry to be profitable.

The 1991 Broadcasting Act is the overarching law that regulates the industry (http://www.crtc.gc.ca/eng/LEGAL/BROAD.htm?print=true). It is explicit about Canadian ownership and public benefits that must accrue from the operation of the Canadian broadcasting system as a whole. All Canadian broadcasters must provide Canadian content on their services: television must be 60% Canadian overall, and 50% in prime time, and radio must play 30% (now 35%) Canadian music. In practice, these measures do not work as well as it might seem. Canadian shows and Canadian music sometimes get programmed at hours when people are less likely to be watching or listening; some Canadian TV shows get bonus points that make them count for more than their real running time, so that broadcasters can compensate by loading up with more American prime-time hits.

The broadcast and telecommunications regulator, the Canadian Radio-Telecommunications Commission (CRTC) is bound to respect a Direction from the federal government governing the circumstances under which foreign nationals can be involved in the Canadian broadcasting system: http://www.crtc.gc.ca/eng/LEGAL/NONCANAD.HTM

How it works

The business model for Canadian television programming was based on cross-subsidization: the Americans dumped their expensive, popular prime-time shows into the Canadian market at prices well below the cost of production, even, as we have seen, for far less expensive Canadian programming. In exchange, the Canadian broadcasters would use some of the substantial profits from the American shows to fund original Canadian programming.
Broadcasters were also protected from American competition through two important measures:

- **Simultaneous substitution**, which forces broadcast distribution undertakings (BDUs) such as cable companies to replace U.S. signals with the Canadian signal, including the Canadian commercials, if the Canadian station is broadcasting the same program at the same time as the U.S. station. This results in Canadian conventional broadcasters building their prime time schedules entirely around “simulcast” opportunities, because they automatically result in audiences that are at least 35% larger than anything they could run on their signal alone.

- **Tax measures** which disallow advertising expenditures on U.S. border stations and publications as business tax deductions in Canada. This creates pressure on Canadian businesses to use Canadian advertisers, both in broadcast and in print.

Broadcast Distribution Undertakings (BDUs)\(^3\) (i.e. cable or DTH services) have enjoyed a free ride for years by charging customers for broadcast signals (both American and domestic) obtained at no cost to them. But in recent years, they have had to pony up: five percent of their revenues must go either into community service channels or into the Canadian Television Fund. This fund contributes to most of the drama, entertainment and documentary programming that airs on Canadian stations and cable channels. The government also makes available other sources of funding, as do private interests seeking to ingratiate themselves with the regulator. Independent producers must put together a complex patchwork of financing in order to make their programs, but this funding model is worthy of examination.

In practice, Canadian news and sports programming is highly successful, economically feasible and attracts large audiences. Canadian drama and entertainment, hobbled by the inability of such a small market to generate the revenues that would underwrite the expensive production values Canadians demand, is more problematic.\(^ii\)

While excellent programs do get made, they suffer from a lack of funding, a lack of promotion, and smaller budgets. In addition, it is impossible to take the same level of risks as the U.S. networks, where 5,000 scripts get whittled down to 300 pilots, of which two to five might become hit shows. Here, if you spend any money on it, you have to put it on the air because there is no money to do anything else—and besides, the rules of the funding agencies dictate that you must do so.

This heightens the sensitivity of the opinion elites and the politically vocal creative community, while ensuring that Canadian commercial broadcasters resist doing any more original content than they absolutely have to. They prefer to buy U.S. hits and wrap Canadian commercials around them – a far safer and more financially rewarding business.

In recent years, cable, or specialty channels, many with lower Canadian content obligations than the networks, have made a go of it with cheaper Canadian programming. The first cable channels, on

---

\(^3\) BDUs are governed by the CRTC’s Broadcast Distribution Regulations [https://www.crtc.gc.ca/eng/LEGAL/BDU.HTM](https://www.crtc.gc.ca/eng/LEGAL/BDU.HTM)
the on the analogue band, were licensed by the CRTC mostly based on one channel per genre. The second round of digital, or Category 2 channels, were licensed by a much less formal procedure, without public hearings, and on a sink or swim basis. Many of them have not yet succeeded in getting carriage deals from the BDUs, and digital penetration remains fairly low.

Historically, specialty channels have been very successful. They now attract a quarter of all television tuning in Canada. The last round of licences, however, has broken that pattern, simply because of sheer quantity. The Category 1 and Category 2 channels are now starting to agitate for reductions in their Canadian content obligations.

http://www.friendscb.ca/articles/Cablecaster/cablecaster021105.htm

How the Canadian system treats foreign services

There are really three models for foreign services coming into Canada:

- **Programming supply deals**, such as HBO enjoys with Canada’s The Movie Network and Bravo, so that shows like *The Sopranos*, *Six Feet Under* and *Sex and the City* are carried on Canadian services with similar mandates or demographic profiles.

- **Canadianization**, where an alliance with a Canadian broadcaster results in a channel that is majority-owned by the Canadian broadcaster but carries the name of the foreign channel (e.g. Bravo, Family Channel, Food Channel). These channels must carry a significant proportion of Canadian content along with as much of the foreign partner’s content as they can, but generally, they are joint ventures with the foreign partner, and return profits to it. These may be owned by the foreign partner up to 49%, including operating and holding companies. **Acceptable Canadian Sponsors** may include: cable companies, DTH service providers (i.e. Bell ExpressVu or Star Choice), pay-television services, specialty television services or industry associations, such as the Canadian Cable Television Association.

- **Carriage of channels on the eligible services list**, in which Canadian BDUs negotiate deals with the foreign service, and return a percentage of the subscription fee to the foreign service. BDUs can only carry services which appear on the eligible services list, last modified for Category 1 (analogue, must carry) and Category 2 (digital, must negotiate carriage) in this notice: [http://www.crtc.gc.ca/archive/ENG/Notices/2000/PB2000-155.htm](http://www.crtc.gc.ca/archive/ENG/Notices/2000/PB2000-155.htm). BDUs must enter into contractual arrangements with these services before distributing them. Early arrivals on the eligible services list, such as A&E and CNN, have done very well in Canada, because the BDUs saw them as drivers for the early extended tiers. But as the tiers have filled up, it has become more difficult to charge premium dollars for them.

Up to now, there have been stringent rules about the number of foreign services allowed, and the circumstances under which this is possible:
3. Linkage Requirements with Respect to Programming Services Distributed as Discretionary Services other than single or limited point-of-view religious services

3.1 The foreign satellite services specified in the list of Part II Eligible Satellite Services may only be offered in a package with Canadian pay television and/or Canadian specialty services, and all must be distributed as discretionary services, subject to the following linkage requirements:

a) each Canadian pay television service (excluding a Canadian pay-per-view television service) may be linked in a single discretionary tier with no more than five channels containing any of the foreign-originated services specified in either Section A or Section B of the list of Part II Eligible Satellite Services, but in no case can a single discretionary tier, whose Canadian component includes only pay television services, contain more than five channels of foreign-originated services, regardless of the number of Canadian pay television services included in that tier;

b) until 31 December 1994, each Canadian specialty service, distributed on a discretionary basis within a discretionary tier that may include one or more Canadian specialty and/or pay television services, may be linked with no more than two channels containing any of the foreign-originated services specified in Section A of the list of Part II Eligible Satellite Services;

c) commencing 1 January 1995, each Canadian specialty service, distributed on a discretionary basis within a discretionary tier that may include one or more Canadian specialty and/or pay television services, may be linked with no more than one channel containing any of the foreign-originated services specified in Section A of the list of Part II Eligible Satellite Services;

d) a licensee may use any of the channels containing foreign-originated services referred to in paragraphs (a), (b) and (c) for the distribution of U.S. independent or duplicate network television signals authorized for distribution pursuant to section 10 of the Cable Television Regulations, 1986 or to a condition of the licensee’s licence;

e) a licensee is not permitted to offer a tier containing only non-Canadian services;

f) a licensee is not permitted to link services on the list of Part II Eligible Satellite Services with a Canadian specialty service distributed on the basic service; and

g) prior to 1 January 1995, a licensee may only devote a maximum of eight channels of its undertaking to the distribution of foreign-originated services specified in the list of Part II Eligible Satellite Services, unless the licensee elects to distribute each Canadian specialty service (distributed on a discretionary basis, on a discretionary tier that may include one or more Canadian specialty and/or pay television services) with no more than one channel containing any of the foreign-originated services specified in Section A of the list of Part II Eligible Satellite Services.

The Part II List contains satellite service authorized for distribution on a discretionary basis by Class 1 licensees (over 6,000 subscribers) or a Class 2 licensee having between 2,000 and 6,000 subscribers. It is divided into Sections A and B. Non-Canadian satellite services in Section A may be packaged with either Canadian pay television or specialty services. Non-Canadian satellite services in Section B may be packaged only with a Canadian pay television service.
In following years, the Commission has continued to modify the eligible list of satellite services, with the most recent controversial decisions including a highly restrictive go-ahead for Al-Jazeera and a refusal to the Italian public broadcaster RAI, whose arrival would have caused great competitive pressure on a Canadian Italian-language service which had previously relied heavily on a programme supply agreement with RAI: http://www.crtc.gc.ca/archive/ENG/Notices/2004/ph2004-52.htm

Telefilm Canada is the agency that manages film funding, festivals, new media and Canada’s 50 co-production treaties with the following 50 countries (none Caribbean), which afford national treatment. Here is the description from the Telefilm website:

Algeria  France (Mini-treaties)  Norway
Argentina  Germany  Poland
Australia  Greece  Republic of the Philippines
Austria  Hong Kong  Romania
Belgium  Hungary  Russian Federation
Bosnia-Herzegovina  Iceland  Senegal
Brazil  Ireland  Singapore
Bulgaria  Israel  Slovak Republic
Chile  Italy  Slovenia
China  Japan  South Africa
Colombia  Korea  Spain
Croatia  Latvia  Sweden
Cuba  Luxembourg  Switzerland
Czech Republic  Macedonia  United Kingdom
Denmark  Malta  Uruguay
Estonia  Mexico  Venezuela
Finland  Morocco  Yugoslavia (Serbia and
France (Cinema)  Netherlands  Montenegro)
France (Television)  New Zealand

Co-productions are a key component of Canadian film and television production. They are a favoured method of penetrating new markets and facilitating project financing. Canadians are very active in the co-production area. They promote quality and demonstrate remarkable energy and understanding of markets, making them valued, sought-after partners. Telefilm administers co-production agreements on the Canadian government’s behalf. The official co-production agreements enable Canadian producers and their foreign counterparts to pool their creative, artistic, technical and financial resources to co-produce films and television programs that enjoy the status of national productions in each of the countries concerned. At present, Canadian producers may create joint works with their counterparts in more than 50 countries. The volume of Canadian production activity, amounting to some 100 productions, is close to an average of $700 million a year for the past two years.

Guidelines 2000-2001 - Official Co-productions
(243 K)

Selective Financial Assistance for Co-production Between Canada and France (mini-treaties)
Guidelines pertaining to the employment of third-party country performers
(119 K)

FAQ
(103 K)

Assessment:

The combination of regulatory incentives and restrictions has largely worked well for Canada. The broadcasting sector, for the moment, is healthy and Canadian-owned. However, the majority of the companies are controlled by a handful of families who are agitating for liberalized rules so that they can cash out in favour of American multinational potential buyers.

Historically, the CRTC has imposed regulatory obligations without which it seems clear that private broadcasters would air little or no Canadian entertainment programming. I am very familiar with these requirements and will be happy to elaborate at the conference. An additional complicating factor is the increased competition for hit programming that has driven up the prices for US fare, and reduced the dollar amount available for Canadian in recent years.

In 1999, the CRTC published a new Television Policy (http://www.crtc.gc.ca/archive/eng/Notices/1999/PB99-97.htm) which has arguably had disastrous results for Canadian fiction programming: the number of one-hour domestic drama series on the air has gone from 12 to five since the policy change allowed broadcasters to substitute cheaper programming. This remains controversial, although to some extent the worldwide shift towards reality programming is also a factor in the decrease in dramatic programming.

Producers have benefited greatly from the web of incentives and funding, and have largely maintained ownership of their work, although mostly they have not succeeded in attracting the kind of breakthrough audiences they need. However, the system is painful in the extreme, with the majority of creative energies being drained by year-over-year uncertainty and the labour-intensive nature of the funding process. Still, production is a multi-billion-dollar industry in Canada; much of it is “service production” not destined to look or feel Canadian.

One recent high-profile success, Corner Gas on CTV, is currently the highest-rated sitcom in Canada, including US competition. This does seem like a breakthrough. The show is unassuming, good-humoured and set in rural Saskatchewan. It is heavily promoted and CTV has not gone the route of funding it through the usual web of funding agencies. It may represent a new breakthrough for English Canadian fiction programming. In contrast, French-language programming has always
dominated its domestic market in Canada, and enjoyed wide public support. It is clear that when a show truly resonates with its audience, it can be a hit no matter what—but this process, as elaborated earlier in this paper, is mysterious, and benefits from a critical mass of production. Obviously, this is a problem for smaller countries and talent pools.

The public broadcaster, the CBC, has played a crucial role in talent development, but no longer owns the intellectual property for the majority of its entertainment programming.

Effects of Canadian Content Requirements on the Music Industry

The regulatory framework is widely acknowledged to have helped the Canadian music industry do extremely well in the past 35 years, but many think it would not be possible under today’s conditions to replicate such a draconian measure as to put in such stiff quotas overnight, as was done in the 1970s. Still, the worldwide success of the Canadian music industry, from Céline Dion and Shania Twain to Bryan Adams, Rush, and the Barenaked Ladies would seem to demonstrate the results. Many of these Canadian successes do establish themselves offshore for industrial, promotional and fiscal reasons once they begin to be very successful (Dion, Twain). Others choose to stay in Canada (Sarah McLachlan, Barenaked Ladies) and find it is still possible to have an international career. The Rolling Stones tours continue to be managed out of Toronto; the group always stays and rehearses there when preparing for one.

The Canadian music industry also benefits from a series of incentives and funds such as FACTOR (listed elsewhere in this paper).

Other restrictions on foreign activity in cultural goods and services:

Foreign ownership of Canadian book and magazine publishing, broadcasting, film distribution, telecommunications and newspaper companies is either forbidden or restricted and must be reviewed by a federal authority. Some of these barriers may be vulnerable to appeal under various trade dispute mechanisms.

While there is limited available public opinion research on this subject, the little there is seems to indicate that the Canadian public believes a modicum of shelf space needs to be preserved for Canadian product, and has no problem with these measures.

In the magazine industry, there have been periods of intense lobbying on both sides of the Canada-US border during the so-called “split-run” controversies. This refers to US magazines that produce small inserts of Canadian content and then are able to call themselves Canadian for tax measures, or to solicit advertising as if they 100% Canadian magazines. Time Canada has returned to this model, but Sports Illustrated found the going so difficult that it abandoned the idea of doing a Canadian edition.

Canadian magazines long enjoyed a postal subsidy, which has now been transformed into a more politically visible and therefore more vulnerable form of support.
Programmes in Support of Arts and Culture

The Arts and Culture division of the Department of Canadian Heritage has extensive support programmes in each of the following sectors. They can be consulted in more detail at http://www.pch.gc.ca/pc-ch/sujets-subjects/arts-culture/index_e.cfm:

Books
- Book Publishing Industry Development Program (BPIDP)
- Book Publishing Policy (see http://www.pch.gc.ca/progs/ac-ca/pol/livre-book/index_e.cfm?nav=2 for details—there are severe restrictions on non-Canadians who wish to invest)
- Copyright Policy Branch
- Cultural Affairs
- Cultural Industries Development Fund
- Cultural Sector Investment Review
- Cultural Spaces Canada
- Loan Program for Book Publishers (LPBP)
- National Library of Canada
- Trade Routes
- World Poetry Day

Broadcasting
- Broadcasting Policy and Innovation
- Canada Council for the Arts (which funds individual artists and groups at all levels through peer-adjudicated grants—see http://www.canadacouncil.ca/home-e.asp)
- Canada Wordmark Screen Credit
- Canadian Arts and Heritage Sustainability Program
- Canadian Audio Visual Certification Office (CAVCO, which certifies that productions qualify as Canadian content)
- Canadian Broadcasting Corporation (CBC www.cbc.ca)
- Canadian Film and Television Production Industry - Profile 2002
- Canadian Film or Video Production Tax Credit
- Canadian Independent Film and Video Fund
- Canadian Radio-television and Telecommunications Commission (CRTC) http://www.crtc.gc.ca
- Canadian Television Fund www.canadiantelevisionfund.ca/
- Copyright Policy Branch
- Cultural Industries Development Fund
- Film or Video Production Services Tax Credit
- Media Studies
- Northern Distribution Program
- Northern Native Broadcast Access Program
- Review of Canadian Content in Film and TV Productions
- TV5

Conservation
- Canada Agriculture Museum
- Canada Aviation Museum
- Canada France Agreement on Museums
• Canada Science and Technology Museum
• Canadian Arts and Heritage Sustainability Program
• Canadian Conservation Institute, (CCI)
• Canadian Heritage Information Network (CHIN)
• Canadian Memory Fund
• Canadian Museum of Civilization
• Canadian Museum of Contemporary Photography
• Canadian Museum of Nature
• Canadian War Museum
• Heritage Branch
• International Museum Day
• Museums Assistance Program
• National Archives of Canada
• National Gallery of Canada
• National Library of Canada
• Parks Canada
• Virtual Museum of Canada

Copyright
• Copyright Policy Branch
• Electronic Copyright Fund
• Copyright Act

Exhibitions
• Canada Travelling Exhibitions Indemnification Program

Film and Video
• Introduction
• Canada Council for the Arts
• Canadian Audio-Visual Certification Office
• Canadian Film or Video Production Tax Credit
• Canadian Television Fund
• Film or Video Production Services Tax Credit (PSTC)
• From Script to Screen: New Policy Directions for Canadian Feature Film
• National Film Board of Canada
• Review of Canadian Content in Film and Television Productions
• Telefilm Canada
• The Spark Initiative

Literature
• Arts Policy
• Canada Council for the Arts
• Canadian Arts and Heritage Sustainability Program
• Copyright Act
• Copyright Policy Branch
• Electronic Copyright Fund
• Governor General’s Literary Awards
• National Archives of Canada
• National Arts Service Organization Designation
• National Arts Training Contribution Program
• National Library of Canada
• Status of the Artist Act
• World Poetry Day

Magazines
• Canada Magazine Fund (CMF)
• Copyright Policy Branch
• Cultural Affairs
• Cultural Industries Development Fund
• Cultural Sector Investment Review
• Cultural Spaces Canada
• Magazine Publishing Policy
• Publications Assistance Program (PAP)

Media Arts
• Arts Policy
• Canada Council for the Arts
• Canadian Arts and Heritage Sustainability Program
• Canadian Culture Online Funding Programs
• Cultural Spaces Canada
• From Script to Screen: New Policy Directions for Canadian Feature Film
• Governor General's Visual and Media Arts Awards
• National Art Service Organization Designation
• National Arts Training Contribution Program
• National Gallery of Canada
• Status of the Artist Act
• The Spark Initiative

Museums and Galleries
• Canada Agriculture Museum
• Canada Aviation Museum
• Canada France Agreement on Museums
• Canada Science and Technology Museum
• Canadian Conservation Institute, (CCI)
• Canadian Heritage Information Network (CHIN)
• Canadian Museum of Civilization
• Canadian Museum of Contemporary Photography
• Canadian Museum of Nature
• Canadian War Museum
• Copyright Policy Branch
• Cultural Spaces Canada
• Heritage Branch
• International Museum Day
• Museums Assistance Program
• National Archives of Canada
• National Gallery of Canada
• National Library of Canada
• Parks Canada
• Virtual Museum of Canada

Music
• Arts Presentation Canada
• Canada Council for the Arts
• Canada Music Fund
• Canadian Arts and Heritage Sustainability Program
• Canadian Broadcasting Corporation (CBC)
• Canadian Radio-televisión and Telecommunications Commission (CRTC)
• Copyright Policy Branch
• Cultural Affairs
• Cultural Industries Development Fund
• Cultural Spaces Canada

New Media
• Canada New Media Fund
• Canadian Cultural Observatory
• Canadian Culture Online Funding Programs
• Canadian Memory Fund
• Copyright Policy Branch
• Cultural Affairs
• Cultural Industries Development Fund
• CultureCanada.gc.ca
• Gateway Fund
• International Francophonie
• Electronic Copyright Fund
• New Media Research Networks Fund
• Partnerships Fund
• Virtual Museum of Canada
• Youth Cyberstation

Newspapers
• Cultural Affairs
• Copyright Policy Branch
• Cultural Industries Development Fund
• Newspapers Publishing Policy
• Publications Assistance Program (PAP)

Performing Arts
• Arts Policy
• Arts Presentation Canada
• Canada Council for the Arts
• Canadian Arts and Heritage Sustainability Program
• Copyright Act
• Copyright Policy Branch
• Cultural Spaces Canada
• Electronic Copyright Fund
• Games of La Francophonie
• International Dance Day
• International Francophonie
• International Music Day
• National Arts Centre
• National Arts Service Organization Designation
• National Arts Training Contribution Program
• Status of the Artist Act
• World Poetry Day
• World Theatre Day

Publishing
• Arts Policy
• Book Publishing Industry Development Program (BPIDP)
  • Book Publishing Policy
  • Canada Magazine Fund (CMF)
  • Copyright Policy Branch
  • Cultural Affairs
  • Cultural Industries Development Fund
  • International Francophonie
    • Magazine Publishing Policy
  • National Library of Canada
  • Newspapers Publishing Policy
  • Publications Assistance Program (PAP)
  • World Poetry Day

Radio
• Arts Policy
• Broadcasting Policy and Innovation Branch
• Canada Council for the Arts
• Canadian Arts and Heritage Sustainability Program
• Canadian Broadcasting Corporation (CBC)
• Canadian Radio-television and Telecommunications Commission (CRTC)
• Copyright Policy Branch
• Cultural Affairs
• Cultural Industries Development Fund

Sound Recording
• Broadcasting Policy and Innovation
• Canada Music Fund
• Canadian Broadcasting Corporation (CBC)
• Canadian Radio-television and Telecommunications Commission (CRTC)
• Copyright Policy Branch
• Cultural Affairs
• Cultural Industries Development Fund
Television

- Broadcasting Policy and Innovation
- Canada Wordmark Screen Credit
- Canadian Arts and Heritage Sustainability Program
- Canadian Audio-Visual Certification Office (CAVCO)
- Canadian Broadcasting Corporation (CBC)
- Canadian Radio-television and Telecommunications Commission (CRTC)
- Canadian Content - Review of Canadian Content in Film and Television Productions
- Canadian Film or Video Production Tax Credit
- Canadian Independent Film and Video Fund
- Canadian Television Fund
- Copyright Policy Branch
- Cultural Affairs
- Cultural Industries Development Fund
- Film or Video Production Services Tax Credit
- National Training Program in the Film and Video Sector
- Northern Distribution Program
- Northern Native Broadcast Access Program
- Telefilm Canada
- TV5 - International Francophone Network

Visual Arts

- Arts Policy
- Canada Council for the Arts
- Canadian Arts and Heritage Sustainability Program
- Copyright Act
- Copyright Policy Branch
- Cultural Spaces Canada
- Games of La Francophonie
- Governor General's Medal in Architecture
- Governor General's Visual and Media Arts Awards
- National Art Service Organization Designation
- National Arts Training Contribution Program
- National Gallery of Canada
- Status of the Artist Act

As part of its International Cultural Relations Program, the Department of Foreign Affairs and International Trade provides support to the cultural sector through its grant program and its business development program. Please refer to Arts Promotion for information on the grant program and to Business Development - Arts and Cultural Industries for information on export development. These elements are available at http://www.dfait-maeci.gc.ca/arts/menu-en.asp.

This extensive policy and programme apparatus is aimed in many instances at the fulfilment of underlying Canadian values of fairness, access and equity. Much of the effort goes to development funding for start-up work. For example, artists can be funded to make their first sound recording,
to go on their first tour, or to provide access to arts and culture for rural or aboriginal Canadians. This kind of effort is viewed as important in the pluralist, multi-ethnic society that Canadians have built in relative harmony.

In addition to federal government programmes, each province has programmes, as do the larger urban areas. The province of Quebec devotes considerably more resources to support arts and culture than the others, simply because of its commitment to ensure the survival and development of the French language in the vast sea of English-speaking North America.

In terms of lessons for CARICOM countries, perhaps the most obvious one is that pooling resources and supporting the development of the arts can have considerable beneficial results. Aside from their role in building a positive national identity and providing entertainment and enlightenment, Canada’s various cultural industries are robust and have proven to be the single most cost-effective source of job creation in existence. Public opinion research shows that most Canadians view measures to promote Canadian culture as essential in the face of the onslaught of US culture that pervades the Canadian environment and psyche.

**Lessons for CARICOM**

If CARICOM countries believe they have worthwhile forms of cultural expression and cultural industries, it will be important to support them in whatever ways are feasible. Such support will necessarily provide an export component because of the small size of the domestic market.

In terms of access to the Canadian market, there is a proven appetite in Canada for Caribbean cultural content and music which differs substantially from the urban style of African-Americans. See [http://www.caribana.com/schedule.html](http://www.caribana.com/schedule.html) on Toronto’s Caribana, a vast enterprise of Caribbean culture which is also one of the largest annual tourist attractions. Building on this appetite provides an access point for Caribbean cultural products. In general, access through alliances with members of the Caribbean-Canadian community, whether through joint ventures or marketing directly to them will be very effective. Certainly, this would be the simplest way to bring broadcast services from the Caribbean into Canada.

Aside from co-production treaties, discussed above, partnerships with Canadian companies, particularly in the broadcasting field, could be beneficial in penetrating the Canadian market and are worth exploring. There are many prominent and highly-respected Caribbean Canadians, such as Michael Lee-Chin, who might be motivated to help with such a strategy. There are also people like television producer Sylvia Sweeney and her uncle, Oscar Peterson, who may be two or three generations away, but still feel an affinity with their Caribbean roots. There should be a strategy to cultivate these people, and to explore what becomes possible in working with them, and celebrating their successes in conjunction with those of artists and entrepreneurs from the Caribbean.

In general, exclusionary measures are primarily aimed at large US players, not at the kind of individuals and companies which might come from the Caribbean. Wherever possible, such as in the film and television co-production treaty mechanisms, CARICOM should negotiate national treatment. Co-productions may offer the additional benefit of national treatment in the EU, and of creating end products sufficiently well-resourced to be competitive elsewhere as well, including the
US. However, they may eventually be phased out under GATT rules.\textsuperscript{iv} Beyond trade mechanisms, relationships are important in penetrating the Canadian market, as anywhere else.

This paper has reviewed Canadian content rules on radio and television, but there are no restrictions in Canada on the broadcast distribution of imported music and audio-visual material once these Canadian content minimums have been met, and none at all on the retail distribution. There is no reason why Caribbean music, for example, should not continue to build on its existing success in Canada with artists such as Shaggy. Denise Donlon, former President of Sony Canada, and a pioneer of the Canadian music industry, might be an excellent resource person for a further strategic effort in this area.

The Canadian International Development Agency (CIDA) and the International Development Resource Centre (IRDC) should be approached about this issue, and might well provide help in developing Caribbean cultural production or co-production with Canada. The climate in Canada is likely to be very receptive to such initiatives. Canada would expect its products and its help to be well-received in CARICOM countries, as the historical ties are perceived to be close and positive in nature. It is also possible that enterprises such as the Bank of Nova Scotia, CIBC and Royal Bank, with long business ties to the Caribbean, might take an interest in both sponsoring and financing cultural initiatives between Canada and CARICOM countries.

**Likely Prognosis for Cultural Trade Issues between Canada and CARICOM Countries**

In a bilateral negotiation with Canada, CARICOM will likely be treated with sympathy and openness on one hand. There will be good will and an absence of perception that Caribbean cultural industries represent a threat to Canadian interests—most likely even the contrary. However, in terms of formalizing rules that would bypass the various programs for support to Canadian cultural industries, and the interest in shielding culture from trade rules, it is extremely unlikely in my view that Canada would create an exception to its overall policies in favour of CARICOM countries.

The reason is simple: Canada would be concerned about giving any special concessions to a country on cultural goods or services (as compared to the US) because of the possibility that the MFN rules in GATT and GATS might require it to extend the same concessions to the US. This would remove the lynchpin of all Canada’s cultural policies—and by and large, there is a broad consensus in Canadian society that these policies are justified and necessary. The idea that market access for Canadian culture might balance giving up these policies simply has no traction in Canada, for the reasons that this paper has already explained.

Therefore, much as Canada might be willing to open its market to Caribbean cultural goods and services and investments, it is very likely that trade agreements will not be viewed as the primary mechanism to accomplish this.

With regard to specific issues such as the problems encountered by Jamaica’s *Gleaner* newspaper (its desire to publish a newspaper for the West Indian community in Canada has been thwarted by Canadian ownership rules; the paper is published in the US and shipped to Canada):
Canadian policies applied under the Foreign Investment Review Act do preclude the start-up of a new newspaper or periodical in Canada by a non-Canadian, unless the editorial content is majority Canadian. The relevant policy documents can be found at [http://www.pch.gc.ca/progs/ac-ca/pol/magazines/index_e.cfm](http://www.pch.gc.ca/progs/ac-ca/pol/magazines/index_e.cfm). As discussed earlier in the section on broadcasting, there is also differential tax treatment: advertising expenses in foreign newspapers targeting Canada cannot be claimed as a business expense by Canadian advertisers under section 19 of the Income Tax Act. There is a long history to Canada’s periodical policies that ended with the "split-run magazine" negotiated settlement with the US in 1999, which should be examined.

A description of the events is set out in Grant & Wood, Blockbusters and Trade Wars, at pp. 362-368. As noted at pp. 367-368, the US got some concessions there and there is no reason why the Caribbean countries could not get the same.

I remain of the view that the best avenues for success in expanding the trade relationship with Canada are co-production agreements and leveraging relationships with Canada’s large, credible and well-established Caribbean diaspora.
Appendix A: An Account of the problems with Canadian Drama

Drama Goes Down the Tubes

by Karen Hill

After the dust settled following the spring Canadian Television Fund announcement, it became clear that the day of one-hour series drama is nearly done. Blue Murder (Global), Da Vinci's Inquest (CBC), Tom Stone (CBC), Cold Squad (CTV) and The 11th Hour (CTV) are all that remain. Both emerging writers and industry old-timers are left scratching their heads as they survey the dearth of story department gigs or even freelance work.

Some are casting longing glances south of the border. Others are looking to new opportunities at home and are breaking into the still-booming animation field. What the hell happened? And how can writers function in this new Darwinian environment? The short answer: adapt or die.

While many writers are looking at different opportunities within television, others are getting out of the game altogether. Paul Gross says he deliberately bailed on series in favour of his feature Men With Brooms. "The reality of series in Canada [is that] they're almost doomed before they get out of the gate. You never have enough money. I don't know where we're going to end up but I suspect we're going to see drama disappear unless we can figure out some way of financing them properly.

"There were times in Due South when we'd have weakish scripts and you'd throw some money at it with a car chase and you could kind of get around it," Gross says. "But if you can't do anything about it, then that script sits out there boldly, and an audience doesn't give a shit how much money you spent. They don't know. There's no disclaimer at the front of it. That was one of the biggest issues, worrying about whether or not anything I undertook in a series venture would be any good."

Executive producer Peter Lauterman has been writing for more than 20 years and is a veteran of one-hour dramas including Night Heat, Adderly, Street Legal, E.N.G, North of 60 and Cover Me. He has a clear-eyed, unsentimental view of the downward turn. "I don't want to sound negative. I don't want to whine. I've been very fortunate in this industry in terms of series television. Win or lose, I have nothing to complain about, personally," he says. But, he adds, "I believe the world that gave me, and a dozen other people like me, this opportunity is gone."
Who's to Blame?
Lauterman points squarely at the softening of CRTC regulations mandating the number of drama hours networks must broadcast, as well as at changes in content rules and cuts to the CBC. The lack of a major hue and cry from audiences about those same cutbacks illustrates the absence of a national will to support an indigenous cultural television industry.

"There are so many choices out there that no one in Canada feels as passionate about Canadian content as they did 20 years ago. The issue is going away. My sense of it is the younger generation of people under 30 are not going to martyr themselves on the cross of Canadian nationalism."

Major policy changes at the federal level, the rise of reality shows, the evaporation of foreign pre-sales, the absence of a strong personality à la Robert Lantos rallying the industry, and a funding squeeze have all conspired to lay to rest the heady days of yore. There's also the CBC's near-death by a thousand cuts—which has driven the public broadcaster to eschew hour-ongs and become more reliant on half-hour series, lower budget comedies and a mix of mini-series and MOWs.

But perhaps most responsible for the recent downward spiral is the federal regulatory body that once played such a critical role in getting Canadian stories onto television screens, the Canadian Radio-Television & Telecommunications Commission. In 1999, before the CRTC loosened the requirements of networks to air drama, 11 indigenous series were airing. During 2000 and 2001, that number was down to five. Over the same period, the level of export series-co-productions which aren't discernibly Canadian but are shot here to take advantage of the low dollar and various tax breaks—has remained static at around 15.

The CRTC helped start the ball rolling downhill when it announced a new content framework for major broadcasters CTV and Global. The old framework labelled drama, variety, arts and entertainment as "underrepresented programming." That definition morphed into "priority programming" which required the major broadcasters to run eight hours per week of priority programming in prime time. The stake through the heart of drama, however, was the broadening of the definition of priority programming to include regional programs and entertainment magazines such as E!Now. And though the guilds and associations representing writers, directors and producers all lobbied for a spending commitment tied to programming, the CRTC ignored their call.

Without that key requirement, it became too tempting for broadcasters to opt for cheaper shows—ones that don't carry a million-dollar price tag per episode. That meant
drama, essentially, became optional. As if that weren't bad enough, the CRTC created another drama disincentive. So-called Super Canadian programs with 10 out of 10 points got a 150-percent time credit, meaning that 60 minutes of drama counted as 90 minutes of priority programming. While that actually looked like an incentive for broadcasters to weigh in with indigenous drama, that's not how it played out. The CRTC gave with one hand while it took away with another: export dramas with a range of six to nine out of 10 points for Canadian content were given a 125-percent time credit. Again, in English, that means a 60-minute show qualified as 75 minutes.

Export dramas such as *Relic Hunter* were already cheaper to license for Canadian broadcasters because the driver was the US licence fee. The difference in licence fees for programmers was significant since it costs about $100,000 per hour to license a one-hour export drama and up to $250,000 for indigenous one-hours. With broadcasters viewing Canadian content as loss leaders, it became more attractive for them to run exports. They still get a 125-percent credit and pay less than half of what it costs for indigenous drama.

**In the Beginning, There Was Night Heat**

Another huge factor at play is the absence of a passionate advocate capable of rallying industry players and politicians around the notion of a strong cultural identity playing on the small screen. Lantos played a key role in persuading Telefilm to get into funding television, which led to *Night Heat*, a CBS/CTV RSL (Lantos' production company) show that aired in prime time on CTV and at midnight in the US.

As Lauterman says, Telefilm's investment in the series lured in the Americans. "From the American point of view, they were getting free money. That was subsidy, that was social engineering-cultural engineering, if you will." The resulting use of Canadian writers, directors and actors helped launch 15 years worth of Canadian television. *Night Heat* begat everything. Out of *Night Heat* came most of the showrunners and the A-list writers of the next 15 years. It spawned *Adderly*, it spawned *North of 60*, it spawned *E.N.G*, it spawned *Due South* in one way or another."

But it wasn't simply the raw numbers game that made everything happen. "It was also just simply Lantos' passion for having a Canadian product. Which was risky and illogical, and he covered his ass many different ways. And in the end he remained committed to it. It takes nerve and it's not necessarily a rational thing to do from a business point of view but he did it," he adds. "You had real Canadian series on the air and being watched by substantial audiences and creating constant opportunities for younger writers to come into the system. All that has essentially gone away now."
Part of Lantos' juggling act was foreign pre-sales for series. He gambled that if he could get a five-year run out of a show, he could market it abroad. Lauterman says other countries studied Canada's success and copied it, learning how to make their own medium and low-cost drama. Because of that, there is no longer the same access to 20 percent of the funding pot available to producers that they used to be able to bank on from overseas. Dwindling pre-sales from foreign territories are putting a further squeeze on already tight bottom lines. The fact that there's less public money and less money coming in from distribution has put a boot on the throat of producers. Also, in a strange way, the increase in the monies available to drama through the CTF has led to a corresponding decrease when distributors slash the pre-sale fee.

"I was one of the beneficiaries of that system, me and all my generation in the business were given a glorious opportunity to write adult drama in prime time with great colleagues in a really creative environment," Lauterman says.

**Bureaucracy vs. Creativity**

The existing system has been governed by political machinations-"social engineering and cultural mandates"-which has been the key to the way series have been made in Canada, Lauterman adds. The bureaucrats have been driving the bus. The $1-million price tag for an hour of indigenous drama only garners about $250,000 in licence fees from networks. The need to cobble together financing from the various agencies has put too much power into the hands of people who are answerable to politicians: the bureaucrats. "Inherently, the instinct of a bureaucrat is antithetical to the creative instinct because the artistic instinct is all about taking risk and breaking new ground and stirring things up," says Lauterman. "The instinct of the bureaucrat is to manage and control and make things palatable and safe and rational. Business is creative, writing is creative. That's why there's this unholy marriage.

"In a bureaucratic situation, you end up not doing what's good or passionate or ground-breaking. You do what is manageable. When you're answering to the government for your money, it's very difficult for government people to want to do *Oz*. It's very difficult to do *Queer as Folk*, or *The Sopranos* or *The West Wing*. The instinct is to do something safer."

However, the new, tough environment is breeding a more realistic assessment of what writers need to succeed. New programming is going to emerge and reveal a much different landscape on Canadian televisions within the next 10 years. Something's got to give and that's series drama. "People are going to have to say, 'Hour long, million-dollar series is dead. Long live whatever's new.' Something new is emerging," Lauterman says. "It's going to be different. It's going to be more doable because it's
going to be based on a much more rational cost basis. It's going to be something we can actually afford to do which isn't going to require so much subsidy."

Ann MacNaughton, another veteran of the hour-long game, agrees. She's currently making her living in family drama and animation but built a successful career as a freelance writer and story department mainstay. Her dramatic series credits include *Wind at My Back*, *Traders*, *Twice in a Lifetime*, *Destiny Ridge*, *E.N.G*, *Friday the 13th*, *Street Legal* and *Road to Avonlea*. The days of multi-character shows are behind us, she says, as are hour-long family dramas. Broadcasters are simply getting out of the drama game and MacNaughton says writers need to change their approach and cope with the realities of the changing market.

"Without having the CRTC holding a gun to their heads, [broadcasters] are never going to do an expensive Canadian drama," she says. "On the other hand, people are finding ways to do strange and interesting stuff, like *Puppets Who Kill*. You have to start out aiming to be a low-budget cult hit. The only way they can afford to take those risks is on something really low budget. I don't see anyone out there at this particular time, of the producers, willing to spend money on things that can't be sold internationally."

**Sell it Overseas or Die**

Low ratings and poor international sales led to the demise of the heavily hyped series *The Associates* after just two seasons. Steve Blackman was a co-creator, writer and producer on the series, with writing partner Greg Ball. He says Canadian drama is having trouble competing for a couple of reasons. "Canadian television is trapped between two places. You've got British television on the one side, which tends to be very smart, really well written character-driven stuff that really has a market. On the other hand you have the American flash, $2.8 million per episode *The West Wing* where the sky's the limit. "We're stuck in between because we don't have the money to make it flashy and no one is willing to take the risk to make it edgy enough to justify why a viewer would watch our show over the American show. For the 25 American shows they can choose from and two Canadian shows, we have to be so much more edgy and smart to get them to watch. We don't because people in Canada are afraid to take risks, to offend, to do anything. So we make watered down television."

He says that's exactly what happened on *The Associates*. "We were constantly cut off at the knees. We were constantly told that we couldn't do [certain stories] because people wouldn't want to see a dark story. We couldn't do a rape because it might offend some viewers. They thought that edgy meant we had a bit of swearing or a little bit of nudity. That's not what we were talking about. How can you possibly
compete with *Law & Order* and these shows at their level?" With Alliance Atlantis backing out of the one-hour series game, the buzz through the writing community is increasingly to head south, or stay here and get into animation or family drama. Blackman says he and his writing partner are LA-bound. There's more of a chance to be innovative south of the border due to the sheer volume of production companies competing with one another, as well as networks that take bigger risks.

"There's great talent here. That's the sad part," Blackman says. "But someone has to be visionary at the network level and say we're going to take a chance and make a show that makes people sit up in their seats and say, 'Whoa, that I haven't seen. That is smart, that is edgy, that's dark.'" He says writers like Chris Haddock had the right idea: go to the States, build a rep, then come back to Canadian television and do things your way. He adds that Haddock "makes great television. If *[Da Vinci's Inquest]* had the budget of *The West Wing*, it would be phenomenal."

**Is Popstars Drama?**

Christine Shipton has worked in the film and television industry for over 20 years. She's been executive director of Canadian television for Landscape Entertainment, as well as executive vice president of television at Alliance Atlantis. She's long been known among writers as a champion of Canadian series drama. In her current incarnation as an executive in programming and development for W (formerly WTN), Shipton says her five-year view of drama isn't dependent upon the funding agencies, and won't rely on traditional one-hour, million-dollar series dramas. Joining forces with another Canadian network and taking a second window isn't necessarily a solution, either. So she's casting her net abroad for broadcast partners. "I have to have alternatives to offer the audience. That means we looked outside the borders which immediately means you may be compromised in your storytelling because it means you're expanding your audience base beyond just Canada.

"We've all said there are universal stories to be told that can appeal to many audiences. If a broadcast partner is either in the UK, Australia or the US, we look for those universal stories so that they're going to appeal to all of the partners and audiences. It takes away specificity of place and that is a real shame for our kids. I'm going to use the Sheila Copps take. It's a real shame that again, Canadians won't recognizably be seeing their own country on the screens. It's not in every case, but that's the risk we're taking by being put in the box of having to move to this financing scenario."

Shipton points to Global and the way it's using the wiggle room under the new CRTC regulations to create new programming. "In all fairness, the way the Canadian content is being fulfilled, there is a narrative if you look at *No Boundaries* or *Popstars*. They would call that narrative Canadian drama. They're not wrong. They're being really
creative with that. People are tuned into that. But it's not scripted drama the way the production industry would like to see us licensing." The problem, she says, all starts with the audience and the failure of creators to take viewers into account. "The first thing we have to say is does an audience want to watch this? Why would they want to watch it? And how can we make it even more attractive to them so they will watch it?"

Broadcasters are forced into becoming "creative" within the regulations laid out by the CRTC, she says. Global's hour-long reality program **No Boundaries** is a prime example of a co-marketing initiative driving a show. Ford has been using the show's title as the marketing slogan for their SUVs for several years. Teaming up with Lion's Gate and Ford, Global has created an hour-long series that fits the definition of Canadian content.

"You can't fault them," Shipton says. "The broadcaster is trying to get the advertisers involved in Canadian product, and unless they are, broadcasters cannot continue to order Canadian product. You have to make sales. It's a business. You have to sell the ad time in and around the programming. We've got to this point where advertisers run away from Canadian drama. That's just never going to give us an industry."

Shipton says the networks need to be able to take a greater role in determining what gets made based on ratings, rather than producers and funding agencies. Otherwise the industry is simply propped up by the wrong forces. The old system was set up to jump-start the industry but the time has come to do things differently. "The power of the production company and distributor, i.e. Alliance, was so huge because they were bringing other monies to the table and broadcasters had to bow to that. They weren't in control."

MacNaughton says 2002 is the year of ignominy for writers. "I think this is the year that you're seeing the horrible shrinking on the screens" as far as indigenous series go. She says the next wave for writers who want to do live-action series is "guerrilla TV" like Steve Smith's Red Green Show: half-hour and cheap to produce. Otherwise, it's into the animation industry, which can be a welcome change after the tribulations of financially challenged live-action drama, she adds. "It's very freeing to write animation because as real budgets shrink, there are only so many ways you can tell those stories within those budget constraints, like with three characters in a room, over and over again. With animation, you have doors opening in a weird way."

Karen Hill is a Toronto-based screenwriter, journalist and story editor.
Endnotes


ii See Appendix A.

iii Just as an illustration, here are the details of the Book Publishing Industry Development Program (BPIDP). Such details are available for each programme listed on the Canadian Heritage website.

The principal objective of the Book Publishing Industry Development Program (BPIDP) is to ensure choice of and access to Canadian-authored books that reflect Canada's cultural diversity and linguistic duality in Canada and abroad. The program seeks to achieve this objective by fostering a strong and viable Canadian book industry that publishes and promotes Canadian-authored books. The program has four components:

• Aid to Publishers

The objective of Aid to Publishers is to support the ongoing production and promotion of Canadian-authored books. Applicants must be 75% Canadian-owned and -controlled publishers who have been in business for at least 36 months and whose principal activity is book publishing.

• Supply Chain Initiative

The Supply Chain Initiative component provides funding to the Canadian book industry for projects and activities that seek to strengthen and modernize the supply chain for books in Canada, including the improvement of the quality and accessibility of bibliographic data, the promotion of standards-driven electronic document interchange, and the promotion of access to data on book sales.

• Aid to Industry and Associations

The principal objective of the Aid to Industry and Associations component is to provide the Canadian book publishing industry with the necessary tools to expand the presence and profile of works by Canadian authors. There are five categories of projects in this component: marketing and promotion, professional development, research, business planning, and publishing internships.

• International Marketing Assistance

Publishers receiving funding from Aid to Publishers in the previous year may be eligible for additional support for their export sales, including funding, promotional and logistical assistance, and market intelligence. Please contact the Association for the Export of Canadian Books for complete information and an application form.

iv The following paper is worth reading:

International Regimes for Trade, Investment, and Labour Mobility in the Cultural Industries by Keith Acheson (Carleton University), Christopher J. Maule
(Carleton University). It can be found at [http://www.cjc-online.ca/viewarticle.php?id=249&layout=html](http://www.cjc-online.ca/viewarticle.php?id=249&layout=html)