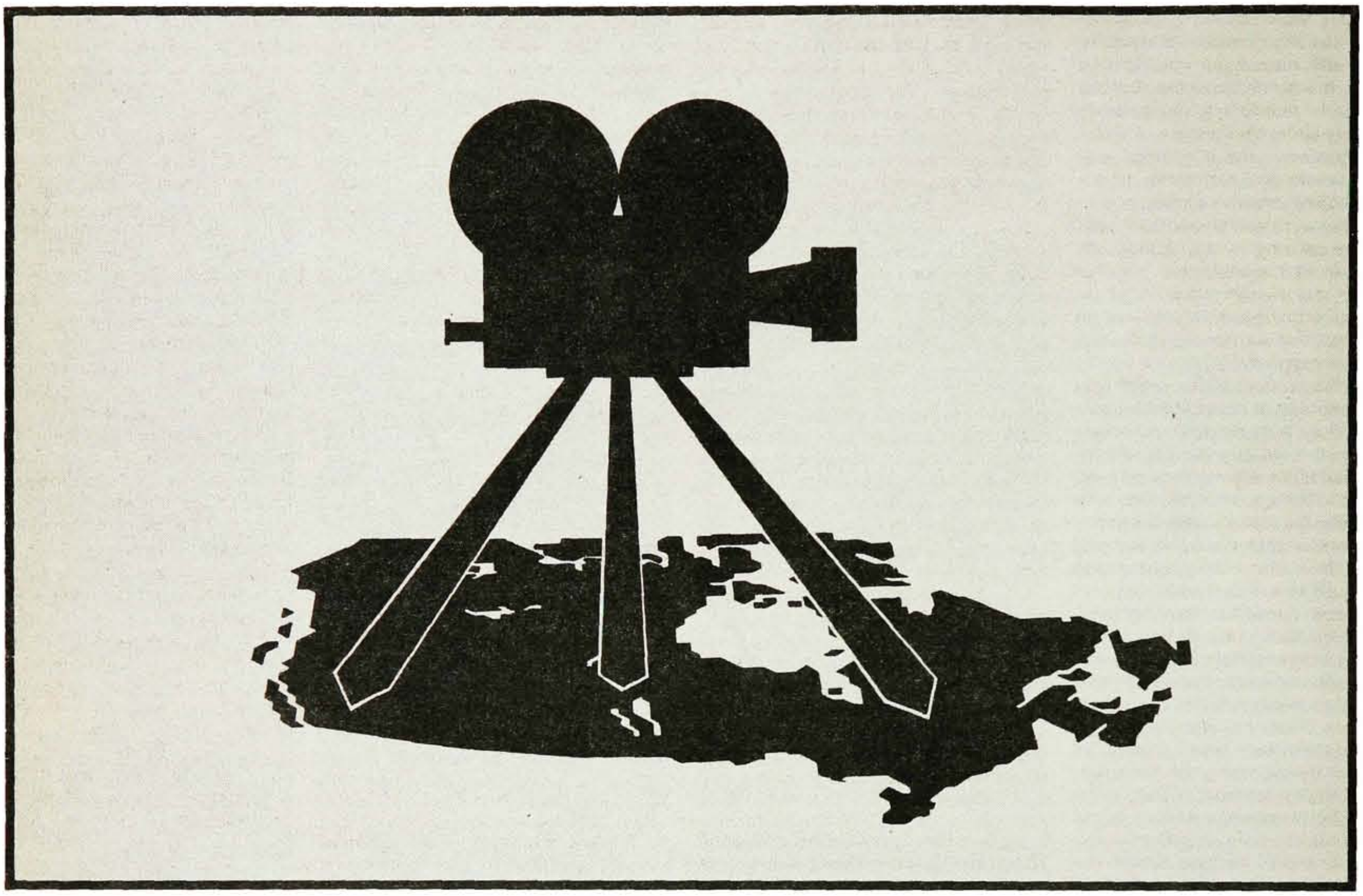
Seven strategies



for Canadianization

by Michael Bergman

To Canadianize or not to Canadianize film distribution – that is the question. Year after year the question is discussed and the familiar answers 'pro and con' are served back and forth.

Most Canadian-based Canadian filmmakers would respond in the affirmative: as one of the levers to propelling the Canadian film industry forward, film distribution *should* be removed from the control of present foreign domination. Yet very little has happened in the way of action to bring about these desired results. The blame for this usually falls to government, an indictment indicative of the widely held belief that only some kind of government intervention can bring Canadianization about.

At present most advocations of Canadianization of film distribution rest upon two assumptions: that Canadian-controlled distributors will i) invest in Canadian feature films and ii) will sell Canadian-made projects. But why would a Canadian-owned distribution system not simply invest in already proven American products and just keep the profits for themselves? Why bother with the irregular performance of Canadian production companies if a universally Canadian-owned distribution system has exclusive control of the distribution of all films from whatever country? In fact, no profound, logical and convincing arguments have been put forward in the debates so far on behalf of the real and legitimate case for Canadianization. What has been missing from the debate is a meaningful discussion of why distribution should be Canadianized; what could be done with a Canadianized system, and how this could be achieved.

Starting, then, from a new tack, perhaps the analysis of how Canadianization could be implemented would demonstrate both its necessity and viability. So we begin with the most obvious, most prevalent, and consequently most overlooked, method: do nothing. Those who will be surprised at this option will be further amazed to know that this does not mean maintaining the *status quo*. In fact, doing nothing entails a number of corollaries. As government will not intervene in any way in the theatrical film-distribution system, consequently, Canadian ownership of that system will depend solely on competition.

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The do-nothing method

The usual attitude of Canadian-owned distributors towards pure competition is that they cannot compete. Reasons advanced for this are an amalgam of their weaknesses and foreign-owned distributors' strengths. Canadian-owned distributors claim they do not have the financial resources nor the access to sufficient product in order to compete effectively. They are denied these by the financial strength and intimate ties of foreign-owned distributors to the principally American film production, distribution and exhibition system. Assuming this to be the case, the do-nothing approach necessarily means Canadian distributors will remain permanently on the periphery of the distribution system. Canadian filmmakers will only be able to advance themselves by completely joining the American film distribution system. This they would do by making films which satisfy and are competitive within the context of the American system.

As part of this process, increasingly closer and intimate ties with American production companies will become necessary both as a source of financing and a means of co-opting the American system. These links give Canadian producers the advantage of their American counterpart's clout in access to distribution, marketing or exhibition. In short, in this scenario, the Canadian film industry will become an adjunct of the American one, finding its space within the larger American system and operating within its confines. Producers who do find a place within this system will meet with some measure of commercial success. But nothing other than this will be achieved. What's Canadian in the cultural sense will be increasingly diminished as filmmakers conform to the needs of the larger system. Film distribution will be 'Canadianized' to the extent that Canadian producers, having found a niche in the American system, will have more of their films distributed, exhibited and marketed in Canadan through the already American-controlled distribution network.

New tactics

In contradistinction to that scenario, Canadians may adopt new tactics to develop a native distribution system through private initiative. But this means Canadian distributors competing with the foreign ones. It means a new effort on Canadians' behalf since evidently their success in direct competition to date has been singularly lacking. This new initiative must rationalize potential sources of strength, the foremost of which is the union of Canadian distributors and Canadian producers. Some might say that this would amount to joining two men with one crutch each to give them one complete set of crutches. On the contrary, if distribution has any meaningful role in film financing, it is to be expected that the integration of filmmaking and distribution is inevitable. The joining of Canadian producers and Canadian distributors would give each other the advantage of their common experience, financial resources and competitive ability. By specializing in the making and distribution of Canadian, independent American and foreign features, these entities may be able to carve out an adequate area of activity in the domestic Canadian market.

Such a union could also result in a shift of emphasis in Canadian filmmaking away from the American market towards the foreign, non-American one, as Canadian filmmaking/distribution entities would have greater difficulty securing American distribution contracts in part because they would be competing with these distributors, but also in part because American distributors usually demand Canadian rights as well, rights which these new entities would now be exercising directly. Reduction of the emphasis on the American market would probably result in the making of different kinds of movies – more expressively Canadian – and a gradual recourse to development of Canadian-owned and -based international filmmaking and distribution companies. If Canadian production and distribution companies are to be successful they must compete internally – not just in one (U.S.) market but in many markets. This would be both a cause and effect of their growing strength and would, in turn, add to their market edge at home.

Now, there is a down side to this model. Firstly, foreign (ie., U.S.) distributors have formidable resources available to meet any incursion into their domain. A union of Canadian filmmakers and distributors would reduce competition in Canada between Canadians as only a few such entities are truly viable. Thirdly, this approach and its benefits would only be achieved gradually – with no instant results.

Tipping the scales

Since the foreign-owned distributors have a head-start that many claim is insurmountable, another possible method of Canadianization involves redressing the balance either by giving the foreigners a few extra weights to slow them down or the Canadians a few extra cards depending on which game you want to play. The redresser of this inequality is generally seen as the government. Why the government should intervene will be discussed later, but for the moment let us make the assumption that it will intervene. Here, there are many possibilities depending on the object to be achieved.

The first of these makes the government a kind of spectator cheering from the sidelines, though not necessarily for the Canadians but rather for the best competitor. At present competition in the Canadian film distribution industry is limited primarily to foreign-owned distributors who, in turn, are owned or intimitely connected to American production companies and, in some cases, Canadian exhibition outlets. This results in Canadian distribution policy being determined outside of Canada, leaving Canadian distributors with a limited role if any, in influencing the marketplace. The government's role would be to break down these barriers to competition in Canada by eliminating direct control or undue influence between filmmakers of whatever nationality, distributors and exhibitors. In this scenario, distributors would have to display an adequate level of independence from the other sectors of the industry so that no distributor has any undue influence. Foreign ownership *per se* is not tampered with; rather, equal competition is accented.

This fragmentation of the film industry into several distinct spheres is the antithesis of the close cooperation between Canadian filmmakers and distributors foreseen earlier. Canadian filmmakers and distributors would not be able to ally themselves into mutually financing units. At the same time, foreign-owned distributors would probably perform some corporate acrobatics to adequately separate themselves from their film-producing owners. The fruit of this equalization of competition would probably be a distribution system less foreign in appearance but Canadianized only to the extent that Canadian distributors demonstrate their ability to compete.

It takes money to compete. Spending your way into competition is one way to aggressively compete. Money seems to be a commodity in short supply in the Canadian feature-film industry, an affliction from which Canadian distributors are not immune. Since they are on the periphery of the distribution scene, their earnings which should normally finance their acquisitions are diminished and this works as a vicious circle. Government assistance is one way to break undercapitalization. This can take the form of tax avoidance schemes such as the capital cost allowance. Investors investing in Canadian distribution companies would be able to obtain tax-shelter advantages as well as shares in the distribution company or other kinds of treasury securities. With this money the distributors could capitalize themselves and have greater wherewithal to compete in the marketplace. Government assistance would necessarily entail a commitment by the recipients to Canadian-made films. Financial assistance as a means towards competiveness may be useful as long as it is just that – a means to a demonstrable competitive end.

'Nationalization'

All the above approaches have some ingredient of mixed competition between foreigners and Canadians. This mix is not the only model, especially if one considers two premises: firstly, that foreigners should have no role in Canadian film distribution; secondly, that Canadian distributors, no matter what else, cannot compete with foreign distributors in Canada. The issue becomes how to force foreigners out: by the dominance of the Canadian private-sector or by official fiat?

Canadian private-sector dominance would be the result of group action organized through an association or collective body designed to ultimately direct all Canadian distribution into it and exclude foreigners from membership. Given that cartel-like bodies run counter to existing anti-competition legislation, at least tacit government approval would be necessary. Nevertheless, such an association would be industry-based and, in this hypothesis, government-accepted, not government-sponsored. In effect, this would amount to the Canadian-based industry forcing the foreigners out. This is, of course, a nasty piece of business with political and diplomatic ramifications, but, for that matter, no different from every other model that precludes foreign competition.

For such an association to be effective a sufficient number of Canadian-based participants in the Canadian film industry, including perhaps broadcasters, so that at least all Canadian and non-American foreign material would be distributed exclusively through the association. Presumably this cartel-like body would grow in power, gradually obtaining legislative changes in its favour and squeezing out non-Canadians. The problem, however, with cartels is that they tend to get carried away with themselves. Having adequately achieved their initial objective, they artificially control prices, stifle competition and keep out newcomers, even of their own ilk. The Canadian film industry would become highly structured and regimented by an internal policing governed primarily by a small group of producer/distributors.

The role of government

The government intervention discussed so far has been glancing or indirect at best. Most advocates of Canadianization, however, insist on more direct government involvement to bring about instant change. In this approach, the only issue is what the instant change will be: total government regulation of film distribution or total elimination of foreign distributors.

While Canadian content rules may affect the distribution of a film, film distribution *per se* is presently unregulated. Leaving aside the problem of federal versus provincial jurisdictions, government-imposed regulation could set rules for the manner and methods of film distribution. This would have the effect of assuring that distribution policy for all distributors, whether foreign or Canadian, is made in Canada. These rules may include mandatory distribution of a minimum number of Canadian films, the assigning of distribution territories to different companies, and the fixing of the relationship between distributors and exhibitors. Regulation is the imposition of a controlled environment where economic or competitive elements are not necessarily the only factors in play. The object of regulation would be to give Canadian distributors a defined area of activity within the distribution system whose north-south tendencies are reduced.

By far the most commonly presented form of Canadianization is some kind of expropriation. This heavy-handed device assumes that no other combination of lighter variables can achieve a distribution system where Canadians at least have significant input. The expropriation approach is invoked in the national interest. It is the near-instant enforced transfer (with compensation) of the shares or assets of foreign distribution companies to Canadians. It is also the only model for Canadianization to have ever been attempted.

The leader in this field is the government of Quebec who in its Cinema Act, popularly known as Bill 109, decreed a mandatory licensing process for film distributors (distributors who would only be licensed if they were Canadian-controlled) . The story of the Quebec government's attempt to implement this law is now well-known. Suffice it to say that, in the face of a massive American lobby, the provisions of the Cinema Act which deal with this area have yet to be implemented.

The problem of effecting some form of expropriation has masked the problem of the results. Forced share or asset transfers to Canadians assumes that there is a Canadian entity which sufficient cash to purchase them at a fair price. Unless non-industry participants were to get involved it may be assumed that there will be few buyers from within the Canadian film industry. The Canadianized distribution entities would then shrink to a small group, if not only one or two Canadian companies. These fortunate purchasers would inherit the large market share of the former foreign-owned distributors, and current Canadian independent distributors would not be any further ahead.

Instant solutions

The history of what may be termed the 'instant solution' approach in the Canadian film industry has not been a happy one. The instant film industry of the tax-shelter heyday and the implementation of pay-TV are familiar examples. The primary problem is the absence of any coherent business and market strategy to take advantage of the benefits conferred by these processes. It is wholly unsatisfactory for the government to deliver up to some prospective Canadian purchaser a complete distribution system unless that purchaser can demonstrate a strategy commensurate with proper business development and the economic and cultural objectives for which the expropriation took place in the first instance.

The ultimate government intervention into the distribution system would be the government's entire assumption of it. Given that the Canadian film industry is presently heavily subsidized through such agencies as Telefilm Canada, the government could simplify the distribution system by making a Crown Corporation the sole film distributor. Obviously this goes against the grain of private enterprise, and would be a pox on all the houses, whether foreign or Canadian. Yet, although distasteful, it is an easily conceivable alternative. Given that Canadian broadcasting and film are already heavily regulated through content rules, funding guidelines and other development programmes, it seems only logical to rationalize this process by subsuming everything under one super-Crown Corporation which both subsidizes the private film sector and distributes all films as well. One can see this corporation as self-financing, making money from the distribution of successful Canadian, American and foreign films, and using these proceeds to promote the development of Canadian film and cultural objectives. Such a super-paternalistic entity would cut across all the Canadian content or Canadianization problems. It would probably leave filmmakers as just that, filmmakers and not entertainment businessmen. It would make filmmakers in the private-sector manufacturers of feature films, but nothing else. Nevertheless, this is a concept which may be attractive to some, given the existing mix of a public film sector and a heavily subsidized private one.

The paradox of Canadianization

The approaches to Canadianization described above are certainly not complete. They span a range of thought-provoking possibilities in a cursory form. Nevertheless, they cover the field sufficiently as to enable certain salient features to be noted.

The notion of Canadianizing can have many different meanings and does not only include bringing everything under native control. A distribution system which regularly sells Canadian films can be said to be just as Canadianized as one which rarely sells Canadian films but is wholly Canadian-owned.

Canadianization can be seen in a economic context or a cultural one. It can be a means of financing Canadian filmmakers and encouraging competition, but it can also be a means of limiting or eliminating competition. It can be a means of disseminating Canadian culture, but are Canadian filmmakers creators of culture, expressive of culture or even conscious of culture? The range of economic and cultural possibilities and their effect on Canadian filmmaking are a selection of the possible results of Canadianization. They are not of themselves reasons to bring distribution under exclusive Canadian control.

The feature film industry is unique. Although the various entities within it may be competing with each other, they all share a common bond: they are selling entertainment. It is all the components of the film industry together that makes this work. American filmmakers are not simply competing with Canadian filmmakers as manufacturers of movies. The American strength lies in the competitive dominance of their entire system's ability to sell American entertainment. The American film industry understands that it can sell and profit from its culture which has commercial value. The Canadian film industry in competition with the American is selling Canadian-made entertainment. The point is crucial: a distinct entertainment content can only be achieved when all components of the industry have an interest in pushing it. The presence of foreign distributors in Canada effectively shortcircuits the development of the Canadian feature-film industry as an entertainment form. Foreign distributors are able to accept individual Canadian films on which they can make a profit, but it is not in their interest to accept an entire entertainment system which competes with the system of their home base.

The use of the word entertainment is deliberate. Whether entertainment is necessarily culture can be debated. The world's audiences want to see distinctive entertainment forms. Only when the entire Canadian film industry competes as a distinctive entertainment form will the industry succeed.

It is precisely here, in this concept of competing entertainment systems, that the Canadianization of the distribution system becomes mandatory. Only those who have a vested interest in promoting a particular entertainment system can make it work. If Canadian feature film is to gain a worldwide status, it must be aggressively promoted as an alternate entertainment experience. Movies are too bound up with the values of society to be effectively promoted as representative of an ideal by persons who are not part of that society. It is not simply the success of an individual Canadian film that will make the industry work, it is when audiences seek out Canadian entertainment that the industry will take off.

The why of Canadianization affects the how. Canadianization of the distribution system is part of the process of achieving the industry's economic and national objectives. But there is no use in promoting a private film sector if it cannot reach commercial viability by commercial means. Summary impositions to force foreigners out are self-defeating. They create an atmosphere of dependancy on government to resolve every difficulty. The Canadianization of distribution will be a joint private-government effort because there are too many marketplace constraints on Canadians resulting from foreign dominance. The aim of government is to assure that distribution policy and distribution competition are made in Canada to the advantage of the Canadian film industry. The role of the Canadian private-film sector is to take advantage of this new equality of opportunity to assume a dominant position.

Government intervention is justified to the extent that it opens up competition between foreign distributors and Canadians. It is not axiomatic that competition between Canadian distributors should be similarly subject to extraordinary measures. In fact, the link-up between Canadian producers and distributors should be encouraged and expected if self-financing is to have any chance.

Government participation should consist of rationalizing film assistance funding with an eye to distributors and imposing regulatory controls on distribution methods. After that it is up to the entertainment businessmen of the private film sector to show their stuff. •