

LEGAL EYE

by Michael Bergman

Film fund flaws

July saw the formal announcement of the Feature Film Fund, a money pool administered by Telefilm Canada and promised in the last federal Budget. An additional \$30 million per annum in the next five years over and above funding from the Canadian Broadcast Programme Development Fund must be welcomed by the film-producing community. Certainly increased government financial participation and funding of feature film production has long been advocated, as can be seen most recently from the recommendations of the Film Industry Task Force in its perhaps ironically titled report, *Canadian Cinema - A Solid Base*.

While more money for the making of features is sure to produce more productions, it is unfortunate that the government chose simply to throw more money at the problem. Directing these funds towards the creation of sound, well run and self-financing production companies might have been more meaningful, as a necessary corollary of the existence of such corporations would be an increase in Canadian feature film output.

The Feature Film Fund will finance projects in four ways. Equity investments is a traditional form of Telefilm participation. The Fund may participate in this form of investments up to \$1.5 million or 40 per cent of the budget. In return, Telefilm would acquire an undivided co-ownership interest in the copyright of the project. Where Telefilm also invests in distribution of the project, the fund's limit is increased to \$2 million, though in no event may Telefilm's participation exceed 49 per cent of the total budget. Loans are also a traditional form of Telefilm funding. Secured loans will be available to producers and distributors on a project-by-project basis. Presumably these loans will be determined on the basis of the project, its budget, the ability of the producer to repay and the security that is offered. A distinctive feature of these secured loans is the possibility of their being accorded on a corporate basis up to an amount of \$250,000. These corporate loans would presumably be intended to assist the general financing of the production company itself in addition to specific project activities. Long-term corporate

loans in the form of a revolving or fluctuating line of credit up to \$500,000 will be available to distribution companies to assist them in financing their activities. Lastly, non-interest bearing advances will be available for script and project development on projects where Telefilm has not taken an equity position.

This brief précis of the ways to access the fund clearly demonstrates its defects. The principal form of significant feature film production financing from the fund consists of equity investments in the copyright of the project or secured loans to the production company. Both are on a project-by-project basis. As such they encourage producers to continue their operations in such a fashion as to attract and be eligible for this form of funding. That causes producers to see the fund as the first and principal source of financing for a particular project. It tends to inhibit the development of business practices which take into account the needs of private-sector investors first. However, experience has shown that the contingencies and necessities of project-by-project filmmaking and financing tends to mitigate against the development of pools of capital available from the Canadian business and financial community. The failure to promote capital investment into feature film corporations has been and will continue to be one of the principal obstacles to the expansion of the Canadian feature film industry.

Secured corporate loans are a more interesting approach. Yet in the context of the fund, this approach is deficient because \$250,000 is unlikely to go very far in the general financing of corporate operations. Furthermore, since it is offered only on a secured basis it will restrict the collateral available to production companies to obtain credit or other loans from private financial institutions.

If the Feature Film Fund has an emphasis apart from simply supplying money for more projects, it is in terms of Canadian distribution. Access to the Fund is clearly dependent on the presence of a distribution contract guaranteeing the release in Canada of the film within one year of completion by a Canadian-owned-and-controlled distributor. The long-term corporate loan con-

cept is specifically designed for distributors, and even secured loans are available on a project-by-project basis.

But these elements of the plan of the fund are an incomplete answer to the problem of the Canadianization of film dis-

tribution in Canada. True, the fund will tend to promote Canadian distributors but does little to redress the imbalance between Canadian and foreign-owned-and-controlled distributors. As a result, the principal contribution of the fund to the

development of a Canadian distribution system is twofold. Firstly it directs fund-financed projects to Canadian distributors and in this respect, the fund tends to continue existing policies. Newer is the

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long-term corporate loan or secured loan to distributors. A long-term corporate loan to distributors is the only attempt to employ the fund to establish sound corporate entities by demanding a business plan in return for the money. However these amounts, \$500,000 per loan, are limited in terms of the potential costs of operations of a well-run distribution company and tend to promote debt as opposed to equity corporate financing.

Administration and access to the fund will result in closer

ties between Canadian producers and distributors. Since producers and distributors may make joint applications to the fund on specified projects, it is easy to envisage production and distribution companies controlled by common principals. This in itself is positive because it creates more harmonious and efficient use of resources between producers and distributors and would allow producers and distributors to feed off each other for financing. Unfortunately, the fund mitigates these advantages to the extent that monies

flowing between producers and distributors are ultimately government funds and not private-sector investment.

The rub to film-financing in Canada is that the industry's growth is dependent on private-sector development. Producers who insist that only

government financing can promote the industry and private-sector financing, tend to forget that financing in the film industry only produces increased demand for government money and diminishes interest in developing strategies for private-sector investment.

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Film sets to stay

MONTREAL — Feature film production companies may come and go but, sometimes, movie sets stay behind.

The completion of the shooting of *Les Fous de Bassan*, a co-production between Cinévideo Inc. (Canada) and Les Films Ariane (France) has left several new buildings on the desolate and uninhabited eastern shore of L'île Bonaventure, a mile-long island 10 minutes by boat from Percé in the Gaspé.

Built from the ground up, three houses and a small church building, circa 1936, have been designated as Le Vil-

lage des Fous de Bassan. The Permanent, a large real-estate brokerage firm, has agreed with the Quebec Ministry of Tourism to maintain the movie set as a tourist attraction for the next three years after which the feasibility of doing so will be reassessed.

Les Fous de Bassan was shot between July 4 and August 11. Adapted from the novel of the same title by Anne Hébert, it is a dramatic story of the relationship between several young people in a small Quebec village in 1936.

Produced by Justine Héroux and directed by Yves Simoneau, *Les Fous de Bassan* is scheduled for theatrical release in December.

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