



*Association canadienne des
distributeurs et exportateurs de films*
Canadian Association of
Film Distributors & Exporters

11 January 2008

VIA e-mail: Competitionreview@ic.gc.ca

Mr. L. R. Wilson
Chair
Competition Policy Review Panel
Industry Canada
Ottawa, Ontario
K1A 0H5

Dear Mr. Wilson,

RE: “Sharpening Canada’s Competitive Edge” – Competition Policy Review Panel.

INTRODUCTION

This letter is the intervention of the Canadian Association of Film Distributors and Exporters (“CAFDE”) in response to a request for opinions sought by Competition Policy Review Panel as outlined in the document “Sharpening Canada’s Competitive Edge”.

CAFDE is a non-profit trade association that represents the interests of Canadian owned and controlled feature film distributors and exporters. Our members include Alliance Films, Christal Films, Equinoxe Films, Maple Pictures, Maximum Films, Mongrel Media, Seville Pictures, and TVA Films. CAFDE members distribute over 90% of the non-studio and Canadian films released theatrically in Canada each year. CAFDE members distribute films in Canada from all over the world and in the widest range of genres and budgets.

Although CAFDE members distribute a wide variety of programming, in all media, feature films are their main business focus and the foundation upon which their companies are built.

Theatrical films follow a consistent value chain, or series of “windows”. For a typical film the sequence is theatrical, home video/DVD, video-on-demand/pay-per-view, Pay television, network television, cable television. Although most of the media focus and government expectation is on the theatrical release, most of the audience and revenues come from the post theatrical windows or “ancillary markets”.

The cost of marketing a film theatrically has grown considerably in the past ten years. It is rare that a film will recoup its theatrical release costs from theatrical revenues alone. As such, the strength of the ancillary markets is critical in determining what films a distributor will buy, how much will be offered for the rights and how much will be spent in marketing.

OWNERSHIP RESTRICTIONS ON CANADIAN DISTRIBUTION COMPANIES

The Competition Policy Review Panel, as part of its mandate, has been asked to review the restrictions that are currently in place on foreign and domestic ownership of firms in specific industry sectors.

The Canadian feature film distribution business is governed by a “Film Distribution Policy” that was introduced in 1988 by the Mulroney Government as part of a series of measures to strengthen both the Canadian Feature Film distribution and production sectors.

Among its main components were two guidelines that stated:

1. Foreign take-overs of Canadian owned and controlled distribution businesses will not be allowed.
2. New foreign owned and controlled companies would only be permitted to operate in Canada for the purpose of distributing proprietary films

The Distribution Policy coincided with the growth of the independent global film sector and in particular American independent distribution sector (New Line Cinema, Miramax Films etc.). As a result the 1990s brought about an enormous growth in the Canadian distribution sector from a handful of “boutique” companies to a group of larger companies that had the experience, financial strength and market clout to properly release the widest range of Canadian and non-Canadian films. The greatest success story, of course was Alliance Releasing, the distribution arm of Alliance Communications (later Alliance Atlantis and now Alliance Films).

By any measure the Distribution Policy has been a success. It has been to the feature film sector what the CRTC has been to the television sector. It has been instrumental in carving out an important part of the Canadian market for Canadian companies.

A strong Canadian owned and controlled distribution sector has resulted in the following benefits:

- **More choices for consumers.** The non-Canadian companies that distribute in Canada limit their offerings to films that are selected and produced outside this country and whose economics of production and marketing require a more general rather than specific appeal. Canadian distribution companies select films that they feel will be appealing to Canadians. In addition to promoting and distributing Canadian films they also import into Canada the best of world cinema and base their decisions on Canadian tastes and values.
- **More investment in Canada.** Canadian distributors are actively involved investing in the financing and promotion of Canadian films, something the non-Canadian distributors do not do. These investments create jobs, expertise and “cultural” products. It is estimated that the amount of these investments has exceeded \$500 million over the past ten years.
- **More money stays in Canada.** Much of the revenue generated by Canadian distributors in Canada stays in Canada to reinvest in new films. For Canadian films, all of the revenue generated in Canada by Canadian distributors stays in this country. For non-Canadian films distributed in Canada by Canadian distributors, all the money contractually owed to the distributor stays in Canada. For non-Canadian companies operating in Canada, typically all their revenue generated in Canada leaves the country (after the deduction of applicable withholding taxes).
- **Building of expertise.** The head offices of all Canadian owned distribution companies are in Canada. All of the decisions related to the acquisition, marketing and distribution of all films are made in Canada. By contrast, the non-Canadian distributors in Canada operate as branch plant offices and have little, if any, involvement in anything other than selling and collecting.

THE DANGERS OF CHANGING THE EXISTING OWNERSHIP REGULATIONS

Recent ownership changes in Canadian distribution companies have caused great concern among CAFDE member and other sectors of the feature film industry. We have been encouraged that this Government has announced its intention to uphold the existing "Distribution Policy".

There seems no practical reason for making any changes to the Policy. In its current form it allows for foreign investment in Canadian distribution companies but insists that control and majority ownership remain in Canadian hands. Any changes that would erode the Canadian ownership and control of the Canadian distribution sector would certainly bring about a weakening of the Canadian film sector overall. It would mean fewer films would be produced, which among other things, would mean a significant loss of jobs. It would also mean a significant reduction in the choices available to the Canadian consumer as Canada would become even more part of the American market than it is today.

The 1988 "Distribution Policy" has been a resounding success. Without any cash investment from the government it has helped to create an environment that has resulted in a vibrant, competitive and innovative group of companies.

Sincerely,

Canadian Association of Film Distributors and Exporters

A handwritten signature in black ink, appearing to read "Ted East". The signature is fluid and cursive, with the first name "Ted" being more prominent than the last name "East".

Ted East
President