

*Canada-U.S. Free Trade Agreement*

They say that in the past 18 months they have already seen evidence of the effect of the agreement on existing policies and policy development, including: The reduction of the capital cost allowance for Canadian films and television programs, which had encouraged production of Canadian films and television programs;

The revision of the Film Products Importation Act, which now substitutes grants for structural change. The Minister thought she could throw money at the problem and it might go away.

Third is the rejection of the Investment Canada guidelines for film distribution proposed by the 1985 film industry task force, recommendations that would ensure the orderly transfer of ownership in film distribution to Canadians which have been ignored;

Failure to apply the 1985 "Baie Comeau" book publishing policy, which promised to see the transfer of ownership in book publishing to Canadians.

Rejection of key recommendations for broadcast policy made by the House of Commons Standing Committee on Communications and Culture. These proposed measures would have significantly enhanced the production of Canadian programs for a Canadian market, and could well have had significant beneficial effects for the recording sector.

They go on to state in their document that it seems clear that the free trade agreement will alter not only the course of our economy, but by inhibiting our freedom to strengthen vulnerable yet essential cultural industries, it will also alter the course of how we define ourselves as Canadians. The agreement recognizes a North American reality, but it leaves little room for a Canadian vision. It is just like the Canadian broadcast Bill introduced by the Minister, which is a sad comment on how she and the Government view the application of a Canadian content policy.

The document states that the Government of Canada has repeatedly offered Canadians the assurance that under the free trade agreement our ability to protect our cultural sovereignty and to provide for the expression of our identity has been protected. For example, in a speech given on April 7, 1988, the Minister of Communications (Miss MacDonald) stated:

"We have a free trade agreement because this Prime Minister, this Minister of Communications and this Government promised one thing: that Canada's right to determine our own culture would be respected in every degree. Without that promise . . . a deal simply was not possible."

It is a shame that they did not mean what they said.

The Alliance goes on to say that the organizations which have signed this brief share fully the view expressed by the Minister that no trade agreement is acceptable which does not retain fully Canada's right in the future to take the kinds of measures it has taken in the past to develop its culture. However, they state, all of them have been forced to the conclusion that the free trade agreement of January, 1988, does not meet that test. Instead, the agreement sharply and unacceptably constrains Canada's ability to take the necessary measures in the future to provide fully for the expression of the

values, creativity, ideas and talent of Canadians throughout the country and for such activities to occur under the control of Canadians.

We have concluded as well, they say, based on decisions taken recently by the Government that the Government itself understands that its right of action is substantially limited by the agreement and has been prepared to accept those limits as a cost of the agreement.

What is the evidence on which we base these conclusions? First, we base them on the somewhat convoluted but increasingly understandable formal provisions of the agreement itself.

The key provisions of the Bill are in Article 2005. Rather than repeat those provisions, we simply note that we share the view expressed by Canada's Trade Ambassador and Chief Negotiator, Simon Reisman, that "it is rather impenetrable language". However, in a June 17 speech to the Canadian Film and Television Association, Ambassador Reisman provided considerable help in clarifying what Article 2005 means. He explained that it means:

" . . . new measures affecting cultural industries would be scrutinized by both sides to determine whether they were consistent or inconsistent with the agreement."

Let us remember that American law is still American law. We did not change that.

They go on to say that Ambassador Reisman went on to state that if new measures were not consistent with the trade agreement then retaliation of "equivalent commercial value" was provided for. He expressed the opinion that: "There are many things we can do to support the cultural industries without being inconsistent".

Ambassador Reisman's view is clearly different from that of the Minister of Communications, they say. What he is saying, and what we believe the agreement says, is that actions taken in the past are exempt from the agreement, but any new initiatives are not. As a result, all of the provisions in the U.S.-Canada trade agreement which apply to the economy in general apply to the cultural industries as well, insofar as new measures are concerned.

The result is to limit drastically our ability to build our own domestic Canadian-owned and controlled companies in the cultural industries and to further enhance the development of Canadian cultural products. The one area that remains clearly open for government policy is that of direct subsidies. However, we note that the issue of subsidies is itself the subject of a series of negotiations flowing out of the U.S.-Canada trade talks and that, as a result, there is no final resolution of the subsidy issues.

Moreover, there is a need for serious legislative and structural initiatives in the cultural industries, and not just for financial assistance. They go on to state in the document that if we look at the actions the Government has taken in the recent past we see a consistent and profoundly disturbing pattern. The following examples can be cited: