June 28, 2004

Mr. Ronald Lorentzen, Acting Director
Office of Policy, Import Administration Room 3713
U.S. Department of Commerce
14th Street and Constitution Ave., NW
Washington DC 20230

Re: Comments on Unfair Trade Practices Task Force, 69 Fed. Reg. 30,285 (2004)

Dear Mr. Lorentzen:

These comments are being submitted in response to the captioned Federal Register Notice by the Film and Television Action Committee ("FTAC"). FTAC is a coalition of the working people, businessmen and women, professionals, and artists who make films, videos, and television shows in the United States. We have been harmed by runaway production of films, videos, and television shows that are being made in foreign countries because of the unfair trade practices of some of the trading partners of the United States.

Canada, Australia, and other foreign countries have adopted programs that subsidize film production in their respective countries. These subsidy programs violate their obligations to the United States under the *Agreement on Subsidies and Countervailing Measures*, which they have committed to as members of the World Trade Organization. We are asking that the Unfair Trade Practices Task Forces address these subsidies as one of its first priorities.

As an aid to the Task Force, we first review the particular subsidies that constitute the unfair trade practice and then provide information on the harm to the domestic film industry that these subsidies have caused and continue to cause.

The Unfair Subsidies

For purposes of these comments, we have summarized the Canadian and Australian subsidy programs. Unfortunately, additional countries have noticed Canada's success in drawing film production and are implementing their own programs. This proliferation of subsidies in multiple countries makes these programs increase the damage and the magnitude of the threat to the domestic industry. We urge the Task Force to address these programs as a first priority so as to end these programs and halt their spread. We first review the Canadian programs, then those adopted by Australia.

CANADA

The Canadian federal government and its provincial governments are granting a wide array subsides for the specific purpose of encouraging the production of film and television projects within Canada.

Federal Programs

During the 2002/03 production year the Government of Canada (Canadian Audio-Visual Certification Office CAVCO) received applications from more than 2000 television or film productions requesting tax credits and certifications under two federal government programs:

1) the Canadian Film or Video Production Tax Credit Program (CPTC) and
2) the Film or Video Production Services Tax Credit Program (PSTC).[1]

The Canadian Film and Television Production Association (CFTPA) reports that over 51,000 direct full-time equivalent jobs were generated by the Canadian film and television industry in 2002/03.[2] The CFTPA also reports that foreign location shooting— productions shot in Canada by U.S. or other foreign studios which, as detailed below, are eligible for the PSTC— accounted for the largest segment of the Canadian film and television industry at 38% of all Canadian productions.[3] CFPTA also provides that CAVCO certified productions— all of which would be eligible for the CPTC— accounted for 36% of all Canadian film and television productions.[4] Given these figures, it appears that nearly 38,000 out of the 51,000 jobs in the Canadian film and television industry in 2002/03 are a result of productions which are eligible for Canadian film tax credits.

The CPTC

The Canadian Film or Video Production Tax Credit Program (CPTC) is a refundable tax credit, which is available at a rate of 25% of eligible salaries and wages incurred during production[5] for eligible[6] firms. Eligible salaries and wages qualifying for the credit may not exceed 60% of the total cost of the production, net of assistance, as certified by the Minister of Canadian Heritage.[7] Therefore, the tax credit could potentially provide assistance of up to 15% of the total cost of production, net of assistance.[8]

The Canadian government reported that for fiscal year 2002/03 productions totaling an aggregate value of C$1.419 filed applications for tax credit reimbursement under the CPTC program.[9] Using this calculation and applying only to the CPTC program alone, it is possible that the Canadian federal government provided tax credits totaling more than C$170 million in 2002/03[10] under this single program.

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[1] Canadian Audio-Visual Certification Office, *2002-03 CAVCO Activity Report* at 20.
[2] Canadian Film and Television Production Association, *Profile 2004*, at 14.
[3] *Id*. at 14; Annex B Glossary of terms (foreign location production).
[4] *Id*. at 14; Annex B Glossary of terms (CAVCO certified production).
[5] Subsection 125.4 of the *Income Tax Act*.
[6] To qualify for the CPTC program, the applicant must be a qualified corporation that carries on through a permanent establishment in Canada a business that is primarily a Canadian film or video production business. Subsection 125.4 of the *Income Tax Act*.
[7] The CPTC was amended in 2003. Department of Finance, Amendments to the Income Tax Act relating to Films and Video Productions, November 2003 found at http://www.fin.gc.ca/news03/03-058e.html.
[8] *Id*.
[9] Canadian Audio-Visual Certification Office, *2002-03 CAVCO Activity Report* at 20. The Canadian Film and Television Production Association reports that the value of CPTC productions (CAVCO-certified) was C$1.78 billion in 2002/03. Canadian Film and Television Production Association, *Profile 2004*, at 13; Annex B Glossary of Terms.
[10] The CPTC was amended in 2003 to provide benefits upto 15% of total production costs, up from 12%. Figures for 2002/03 reflect a 12% production rebate. Department of Finance, Amendments to the Income

The PSTC

The Film or Video Production Services Tax Credit (PSTC) is designed to encourage the employment of Canadians, by a taxable Canadian, or a foreign-owned corporation with a permanent establishment in Canada, the activities of which are primarily film or video production or production services.[11] As of Budget 2003 the PSTC is equal to 16%[12] of salary and wages paid to Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents) for services provided to the production in Canada.[13] The PSTC has no cap on the amount of labor that can be claimed. "This program is designed to encourage the production of film and video productions in Canada without regard to Canadian content and ownership. Its goal is economic, that is, to attract foreign productions to Canada and to employ Canadian residents."[14] The PSTC can not be claimed for a production that also gets a benefit under the CFTC program.[15]

The Canadian government reports that there were 195 PSTC applications in the 2002/03 fiscal year for productions worth $4.1 billion. The Canadian portion of those productions amounted to $2.1 billion.[16] Using the tax credit ratios described above, the 2002/03 tax benefits provided productions under the PSTC amounted to C$233 million. The Canadian government reports that "[o]verwhelmingly, the originating copyright holder of CAVCO certified PSTC productions is from the United States at 95%." [17]

Misc. Federal Programs

While the CPTC and PSTC are by far the largest Canadian federal government subsidy programs to the film and television industry they are not the only ones. Four Canadian government programs benefit the television and film industry: Canadian Television Film (CTF) Fund, Culture Industries Development Fund (CIDF), Feature Film Fund and New Media Fund. Under each of these programs the production must by produced by a Canadian-owned and controlled company.

- The CTF program has an annual budget of approximately $250 million, its role is to enhance the creation and broadcast of high-quality, culturally significant, Canadian television programs.[18]

- The CIDF program's "objective is to support Canadian cultural production by providing a range of financial services, especially term loans."[19]

Tax Act relating to Films and Video Productions, November 2003 found at http://www.fin.gc.ca/news03/03-058e.html.

[11] Canadian Audio-Visual Certification Office, 2002-03 CAVCO Activity Report at 16.

[12] The Honourable John Manley, Minister of Finance, in his February 18, 2003, Budget proposed to increase the existing Film or Video Production Services Tax Credit rate from the existing 11% to 16% of qualified Canadian labor expenditures incurred after the budget date. Found at http://www.ccra-adrc.gc.ca/taxcredit/ftc-e.html

[13] Canadian Audio-Visual Certification Office, *2002-03 CAVCO Activity Report* at 16.

[14] Subsection 125.5 of the *Income Tax Act*.

[15] Subsection 125.5(4) of the *Income Tax Act*.

[16] Canadian Audio-Visual Certification Office, *2002-03 CAVCO Activity Report* at 20.

[17] *Id*. at 16.

[18] Canadian Television Fund, *2002-03 Activity Report*, found at http://www.canadiantelevisionfund.ca/frames1/frame4_fund.htm.

[19] Department of Canadian Heritage, *Cultural Industries Development Fund* found at http://www.canadianheritage.gc.ca/progs/ac-ca/progs/fdic-cidf/index_e.cfm

- The Feature Film Fund program's intent is" to encourage the making and marketing of Canadian feature films that have high box office potential, while supporting a range of genres, budgets, companies and regions."[20]

- The New Media Fund is designed to allow Canadian companies and/or professional associations (organizations or agencies representing the Canadian new media industry) active in new media content production and distribution on-line to develop.[21]

Provincial Programs

The three largest provinces in Canada for film and television production in 2002/03 were Ontario, Quebec and British Colombia which accounted for 91% of all production in the country.[22] As such we highlight programs in those provinces, especially since the remaining provinces of similar tax credit and incentive programs.

British Columbia

British Columbia has the largest portion of "foreign location" productions in the Canadian Film and Television industry and accounted for fully 40% of all such productions in the country in 2002/03. As has been noted above, "foreign location" productions are productions shot in Canada by U.S. or other foreign studios which are all eligible for the PSTC:

Total Volume of "foreign location" Film and Television Production, by Province[23]

	2002/03 Production (million)	Share
Atlantic	C$53	<4
Quebec	C$368	19
Ontario	C$574	30
Prairies	C$71	4
BC	C$830	44
All Canada	C$1,896	

British Columbia also provides a wealth of incentives for production.

British Columbia Production Services Tax Credit (BCPSTC)- is a labor based tax incentive that provides refundable tax credits to Canadian or international film and television production corporations that have incurred costs in British Columbia. The company does not have to be a Canadian-owned corporation, and there is no requirement that it have an interest in the copyright. The program consists of three distinct credits:[24]

1. the Basic Production Services tax credit- 11% of the accredited qualified BC labor expenditure of the corporation for the taxation year in respect of the accredited production incurred by the accredited production corporation;

[20] http://www.telefilm.gc.ca/03/311.asp?lang=en&fond_id=1
[21] http://www.telefilm.gc.ca/03/311.asp?lang=en&fond_id=3.
[22] Canadian Film and Television Production Association, *Profile 2004*, at 26.
[23] *Id*. at 29.
[24] British Colombia Film, *BC Production Services Tax Credit - Factsheet*, found at http://www.bcfilm.bc.ca/downloadables/PSTC_SP03.rtf

2. the Regional Production Services tax credit- tax credit is 6% of accredited qualified British Columbia labor expenditures on production outside of Vancouver; and
3. the Digital Animation or Visual Effects Production Services tax credit- tax credit is 15% of accredited qualified British Columbia labor expenditures on digital animation and visual effects

Film and Television Tax Credit (BCFTTC)- The Film and Television Tax Credit program provides refundable tax credits to eligible corporations that produce eligible film and video productions in British Columbia. The program consists of four distinct credits: Basic Credit, Regional Credit, Training Credit and the Digital Animation or Visual Effects Tax Credit.[25]

1. Basic Tax Credit- 20% of the corporation's qualified BC labor expenditure for that year incurred by an eligible production corporation;
2. Regional Tax Credit-12.5% of the corporation's qualified BC labor expenditure incurred by an eligible production corporation shooting outside of Vancouver;
3. Training Tax Credit- Lesser of 30% trainee salaries or 3% eligible labor costs expenditure incurred by an eligible production corporation; and
4. Digital Animation or Visual Effects Tax Credit-15% of labor costs specifically incurred in producing digital images.

Ontario[26]

Ontario has the largest portion of the Canadian Film and Television industry and accounted for fully 40% of all productions in the country in 2002/03:

Total Volume of Film and Television Production, by Province[27]

	2002/03 Production (million)	Share
Atlantic	C$162	3
Quebec	C$1,450	29
Ontario	C$1,968	40
Prairies	C$312	6
BC	C$1,041	21
All Canada	C$4,934	

As a reflection of this production strength Ontario has several tax incentive programs design to bolster film and television production in the province. The main three programs are the Ontario Production Services Tax Credit (OPSTC), the Ontario Film and Television Tax Credit (OFTTC) and Ontario Computer Animation and Special Effect Tax Credit (OCASE), each described below:

Ontario Production Services Tax Credit (OPSTC)- The OPSTC provides Canadian or foreign-controlled production companies with a refundable tax credit of 11% of Ontario labor expenditures for eligible film or television productions. There is no limit to the amount of labor expenditures which may be eligible,

[25] British Colombia Film, *FILM INCENTIVE BC- Factsheet*, found at http://www.bcfilm.bc.ca/downloadables/FIBC_Overview_Sep03.rtf
[26] Information on programs summarized from Ontario Media Development Corporation (OMDC), Tax Credits found at http://www.ofdc.on.ca/ unless otherwise specifically noted.
[27] *Id*.

and no limits on the amount of the OPSTC which may be claimed. To be eligible, a qualifying corporation must be a Canadian- or foreign-owned production company conducting business at a permanent establishment in Ontario. The corporation must own the copyright in the production, or provide services to the copyright owner. Productions shot with at least 85% of location days in Ontario outside the Greater Toronto Area receive a 3% bonus on all Ontario labor expenditures.

Ontario Film and Television Tax Credit (OFTTC)- The OFTTC provides Canadian production companies with a tax credit of 20% of eligible labor expenditures incurred in a film or video production. First-time producers may be eligible for a 30% tax credit rate. To qualify, productions must be an eligible genre, be predominantly shot and posted in Ontario with an Ontario producer, have an agreement to be shown in Ontario within two years of completion, and spend at least 75% of total final costs on Ontario expenditures.

Ontario Computer Animation and Special Effect Tax Credit (OCASE)- OCASE is a refundable 20% tax credit based on eligible Ontario labor expenditures incurred in computer animation and special effects activities. The credit is available to qualifying Canadian or foreign owned corporations.

Quebec

Quebec has the largest portion of CAVCO certified productions in the Canadian Film and Television industry and accounted for fully 42% of all such productions in the country in 2002/03. As has been noted above, CAVCO certified productions are all productions that would be eligible for the CPTC credit.

Total Volume of "CAVCO certified" Film and Television Production, by Province[28]

	2002/03 Production (million)	Share
Atlantic	C$64	4
Quebec	C$750	42
Ontario	C$718	40
Prairies	C$122	6
BC	C$123	7
All Canada	C$1,776	

In addition, to being eligible for those federal funds, Quebec has the Quebec Film or Television Production Services Tax Credit for productions shot in that province. The Quebec Film or Television Production Services Tax Credit applies to 29.16% of eligible labor expenditures, upto the maximum of 14.5% of total production expenses, by an eligible corporation on services provided in Quebec by Quebec residents or taxable Quebec corporations for the making of an eligible production. Significant additional tax reductions are available for French language productions or productions shot outside of Montreal.[29]

AUSTRALIA

The Australian government also lavish significant tax based subsidies "principally targeted at off-shore productions, essentially 'run-away' productions looking for a home outside the U.S."[30] Indeed, in a June

[28] Canadian Film and Television Production Association, *Profile 2004*, at 28.
[29] Société de développement des entreprises culturelles (SODEC), Société de développement des entreprises culturelles (SODEC), found at http://www.sodec.gouv.qc.ca/finance/credits/f_cinetv.htm
30 Albert Yuen, Coudert Brothers, The New Film Refundable Tax Offset in Australia, 2/18/2002 : found at http://www.coudert.com/publications/default.asp?action=displayarticle&id=304.

2003 report prepared for the Australian Department of Information Technology and the Arts (DCITA) finds that: “After the relevant tax incentives were applied, Sydney, Australia enjoyed approximately a 7.5% net cost of production advantage over Vancouver, Canada.”[31]

Federal Incentive

The Australian Film Refundable Tax Offset is worth 12.5% of the production’s Qualifying Australian Production Expenditure,[32] and may be claimed by the production company through the company's tax return. The offset amount is first applied against any Federal income tax and other tax liabilities that the production company might have to pay. Any excess will then be refunded by the Australian Taxation Office. “The 12.5% refundable tax offset can represent a cash subsidy of between 9% and 12.5% on the total production budget depending on the extent to which a production shoots and spends money in Australia.”[33]

The Australian government submits that the purpose of the “refundable tax offset for qualifying high-budget films [is] to attract offshore productions, providing job opportunities in larger budget films for Australian casts and crews.”[34]

State Incentives

Many Australian states offer support and financial assistance in addition to the federal rebates and incentive program discussed above. “The assistance comes in the form of payroll tax rebates or exemptions, cast and crew wage rebates, location attraction cash grants and the provision of free or subsidized public service resources.”[35] State Governments in New South Wales, South Australia and Queensland offer payroll tax exemptions, while Victoria offers grants and Western Australia offers project funding.

Aus FILM, a public-private non-profit corporation that promotes Australia as a location for production, notes that:

- Queensland’s incentives include a Payroll Tax Rebate (minimum AUD$3.5m for single project or bundling two or more projects up to AUD$5m Queensland spend), a Cast and Crew Rebate (equates to 8-10% weekly wage).[36]

- South Australia incentives include payroll tax exemption to qualifying feature films (worth approximately 6% on crew wages).[37]

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[31] Department of Information Technology and the Arts (DCITA*), Final Destination: A Comparison of Film Tax Incentives in Australia and Canada*, June 2003 at 2.
[32] The definition of Qualifying Australian Production Expenditure (QAPE) is broad and refers to all goods or services supplied in Australia.
[33] Australian Film Commission, *FINANCIAL CONSIDERATIONS FOR PRODUCTION IN AUSTRALIA, found at* http://www.afc.gov.au/filminginaustralia/taxfins/federal/fiapage_56.aspx
[34] Department of Foreign Affairs and Trade, *Film in Australia*, found at http://www.dfat.gov.au/facts/film_australia.html
[35] *Id*. at *State Based Incentives and Rebates*.
[36] http://www.ausfilm.com.au/cgi-bin/show_page.pl/2/63
[37] *Id*.

The Harm Done to the U.S. Industry by These Unfair Subsidies

"WE ARE CREATING THE JOBS YOUR CHILDREN WANT"
(Slogan used by the Canadian government to garner taxpayer support for its production incentives.)

In 1998 the motion picture and television industry was given credit for California's recovery from recession in the early nineties:

> "From 1992 to 1996, entertainment production—the manufacture of motion pictures, commercials, and television programs—was the star of California's economic recovery. In 1996, the industry generated $27.5 billion in economic activity statewide. Over this four-year period, total employment rose—from 164,000 to 226,000, a 38% increase— seven times faster than the total California economy and more rapidly than any other major sector in the state. By the end of 1996, the industry was larger than California's insurance, real estate, industrial machinery, transportation equipment, computer and office equipment, auto repair and parking, auto dealer and service, legal services and communications industries, and comparable with the state's mammoth electronic equipment sector.[38]"

Also in 1998, Canada implemented very aggressive subsidy programs on both the federal and provincial levels which were specifically designed to attract "foreign" film and television production. These incentives suddenly and substantially reduced the cost of Canadian below-the-line labor, making it less expensive for American studios to make their products in Canada with Canadian crews and supporting actors rather than in the United States with American labor and talent. The response to these new subsidies was immediate and noticeable.

Movies and television shows have always been shot on locations all over the world and outside the major production centers for creative reasons, typically to take advantage of uniquely spectacular landscapes or unique architecture. A small amount of inexpensive American production did go to Canada in the past, because with such low budgets even the slight advantage provided by the exchange rate and the lack of residual payments for Canadian workers would make a difference. However, the relocation of significant amounts of film and television production to foreign countries for solely financial reasons and with no regard for artistic concerns is a recent phenomenon, and is directly related to the creation of foreign subsidy programs.

As early as 1999 American film and television artists, technicians, workers and vendors were being deeply impacted by unfair competition from newly subsidized Canadian labor. In January 1999, the Directors Guild of America and the Screen Actors Guild retained the Monitor Company, a leading global management consulting firm, to study "runaway" production. Its study was released in June, 1999 as the *U.S. Runaway Film & Television Production Study Report*, and is commonly known as the Monitor Report. Even then it showed alarming trends, and it made disturbingly accurate predictions which have come to pass in the ensuing five years:

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[38] *State of the Industry: The Economic Impact of the Entertainment Industry on California*, page 7, Motion Picture Association of America, Inc., 1998. Sector data from the California Employment Development Department, annual average California employment by standard industrial code, seasonally adjusted, March 1997 benchmark. 1996 annual employment reported for electronic equipment (SIC 36) was 228,000; insurance (SIC 63, 64) 200,000; real estate (SIC 65) 183,900; industrial machinery (SIC 35) 211,300; transportation equipment (SIC 37) 161,900; computer and office equipment (SIC 357) 89,700; auto repair & parking (SIC 75) 146,300; auto dealers & service (SIC 55) 220,900); legal services (SIC 81) 117,100 and communications (SIC 48) 147,200.

The Monitor Report distinguished between those productions which were developed and intended for release or broadcast within the U.S. but shot in foreign countries for artistic reasons ("creative runaways") and those which were shot outside of the United States solely to take advantage of lower costs ("economic runaways"). Its statistics showed a 185% increase in economic runaways from 1990 to 1998. "When these productions moved abroad, a $10.3 billion economic loss (lost direct production spending plus the “multiplied” effects of lost spending and tax revenues) resulted for the U.S. in 1998 alone. This amount is five times the $2.0 billion runaway loss in 1990."

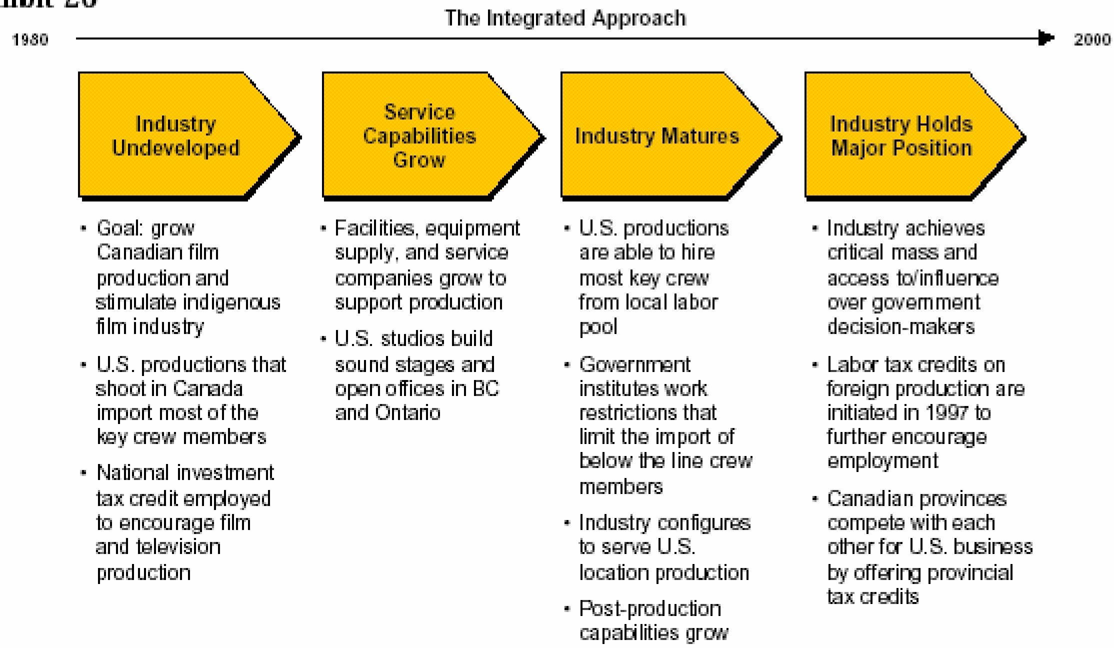
The Monitor Report confirmed that an overwhelming number (81%) of runaway productions went to Canada. In fact, American production in Canada increased 268.3% between 1990 and 1998. This means that U.S. production of features in Canada expanded at more than twice the rate (17.4% annually) of feature production in the United States (8.2%). American television production in Canada grew seven times faster, at 18.2% annually, than it did at home, where it grew only a mere 2.6% annually. In a nutshell, while U.S. film and television production increased every year, its growth in Canada far outstripped its growth in the United States. The correlation between the introduction of the Canadian subsidies and this sudden expansion is unmistakable.

While the report found that in 1998 movies made for television represented the greatest loss per category of production it found that the combined losses from runaway feature films in all budget categories was 174% greater. " It is noteworthy that feature films have such a significant economic impact. Conventional wisdom held that economic runaways are a television movie phenomenon and that larger productions would tend to remain in the U.S. since the infrastructure required to produce them wasn’t available abroad. **This data may indicate the leading edge of a trend with larger-budget productions running away.**"

The subsequent 2001 report from the Center for Entertainment Industry Data and Research confirms this prediction, showing a 193% increase in the number of films with budgets from $10.1 million to $50 million and a 400% increase in the number of films with budgets over $50 million shot in Canada from 1998 to 2001. Although this is the most recent comprehensive study available, knowledgeable industry insiders now estimate economic losses from outsourced production to total approximately $25 billion a year in lost direct production spending plus the multiplied effects of lost spending and tax revenues.

The Monitor Report made a second very astute prediction: "It is important to note that Canada has followed an integrated approach to launching its film/television production-oriented initiatives during the past several years. This approach begins with a relatively undeveloped production industry, and launches a series of (usually tax credit-centered) initiatives to attract production activity/investment, but often creates qualifying requirements for those incentives that stimulate hiring of local personnel. As a result, local production crews, actors, production managers and assistant directors gain valuable experience/training and are therefore more capable and attractive to other producers. At the same time, investments in physical infrastructure are sought so that more and more productions can be accommodated. As these production capabilities expand, other tax incentives such as those for local labor expenditures are offered to further stimulate demand for local production resources. **Ominously, this approach to capture productions is readily replicable by other countries; in fact, Australia is moving along a very similar path to that pursued by Canada."** (Monitor Report Exhibit 26, below:)

Exhibit 26



While remarkably prescient, the Monitor Report is now five years old. The most recent comprehensive data on the state of film production in the United States comes from *The Migration of Feature Film Production From The U.S. To Canada and Beyond Year 2001 Production Report* released by the Center for Entertainment Industry Data and Research in 2002. Known as the CEIDR Report, *this document focuses only on feature film production and excludes television completely*. Even lacking data from this significant part of the production industry, its conclusions are nonetheless quite disturbing:

- "Since the June 1998 revision of the Canadian Production Services Tax Credit (PSTC) and other rebates and incentives, the overall value of production in Canada has risen in total dollar volume by $635 million (154%). **The U.S. has suffered a corresponding fall in annual production expenditures from 1998 to 2001 of $683 million (-17%).**"

- "Gross production dollars in the U.S. in 2001 declined by $121 million (-4%) from $3.37 billion in 2000 to $3.24 billion in 2001. This represents an estimated loss to the economy for the year of $2.6 billion and 27,313 jobs. **Since the inception of the Canadian rebates, the loss of production expenditures in this segment of the entertainment industry alone has cost the U.S. economy an estimated $4.1 billion and an average of 25,000 jobs per year.**"

- **"Canadian subsidies are having their intended effect of making Canada the production venue of choice for U.S. producers. . . . the U.S. production industry is in a serious decline that will have ramifications for years to come."**

As correctly predicted by the Monitor Report in 1999, many other nations now have similar subsidy programs. Australia announced a "Canadian-style tax rebate" for film production on September 4, 2001.[39] A June 2003 list of countries with production incentives includes Australia, Belgium, Brazil, Canada, Denmark, the European Union, Fiji, Germany, Iceland, Ireland, the Isle of Man, Italy, Luxembourg, the Netherlands, New Zealand, Norway, South Africa, Sweden, and the United Kingdom.

[39] "New Tacks on Oz Tax" by Don Groves, *Daily Variety*, September 3, 2001.

In addition, Hungary recently announced its own incentive package and also joined the European Union on May 1, 2004, thereby making productions shot there also eligible for EU subsidies.[40]

The Canadian Film and Television Production Association said last year in *Profile 2003*, its annual report on foreign and domestic film and television production, "As Canada has enjoyed a boom in service production[41] the rest of the world has not sat idly. The UK, Australia, Ireland, the Czech Republic, Romania, even Iceland have increased their efforts to attract studio production. Internationally, governments are coming to realize that economic incentives represent short term pain for long-term gain – employed people pay taxes. . . . In Germany, regional film commissioners are discussing changes in tax incentives inspired by those in Canada, the UK and Ireland."[42]

In response to this increased competition, Canada raised its federal subsidy from 11 to 16% in February 2003, with British Columbia following suit on the provincial level. Montreal film lawyer Sam Coppola told *Daily Variety*, ". . . this new credit will make a difference for producers who're considering shooting in Europe or elsewhere. It's significant. A lot of these films are $30 million-$50 million projects, so that tax credit represents a lot of money."[43]

Despite the increase in Canadian incentives, a study commissioned by the Australian government and released in August 2003, showed that while a $25 million movie could be made for $21.2 million in Vancouver, it would cost even less in Sydney at $19.6 million, thanks to Australia's incentive package.[44]

New Zealand Minister of Economic Development Jim Anderton, neatly sums up the prevailing attitude of foreign countries toward American film and television production, saying, "You don't have to be an economist to work out that if someone is going to spend $100 million in New Zealand on New Zealand goods and services, we're going to do better than the 12 per cent we're giving back, particularly if the film wasn't going to come here anyway. The only reason we subsidise Warner Bros is if there is an economic benefit. I will subsidise the devil incarnate if there is a net economic benefit to New Zealand."[45]

As long as subsidy programs in Canada and other nations specifically designed to raid another country's industry artificially lower the cost of their citizens' labor, film and television workers in the United States remain vulnerable to economic harm. *Profile 2004*, from the Canadian Film and Television Production Association, expresses no concern about variations in marketplace forces as long as ". . . the federal government remains flexible in its approach to the tax credit. February's changes in the labour-based tax credit from 11% to 16% could simply be adjusted to compensate." [46]

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[40] "Hungary rebates a lure to foreign filmmakers: Investment must be linked to local partner" by Bobbie Whiteman and John Nadler, *Daily Variety*, January 4, 2004.
[41] The CFTPA term for foreign production in Canada.
[42] *Canadian Film and Television Industry Profile 2003*, Nordicity Group Ltd. for the Canadian Film and Television Production Association, pages 4-5 and 7.
[43] "On a runaway train--Canada ups tax breaks for foreign prod'ns" by Brendan Kelly and Dave McNary, *Daily Variety*, February 20, 2003 and "B.C. adds to tax credits" by Don Townson, *Daily Variety*, February 21, 2003.
[44] "Oz study bucks Canucks for pic play" by Don Groves, *Daily Variety*, August 6, 2003.
[45] "Banking on Hollywood: *The Last Samurai* has done well out of the New Zealand taxpayer, but local films do not receive the same breaks," by Peter Calder, *New Zealand News*, January 10, 2004.
[46] *Canadian Film and Television Industry Profile 2004*, Nordicity Group Ltd. for the Canadian Film and Television Production Association, page 8.

Another more arcane aspect of the damage caused by outsourced production is that of its impact on the U.S. balance of trade with other countries, mentioned in the 2001 study from the U.S. Department of Commerce:

> "U.S. international sales of filmed entertainment are a significant and growing component of our overall surplus in trade in services. Export revenues from U.S. films and related services have been on the rise throughout the last decade as foreign demand has skyrocketed. U.S. movies continue to dominate international trade in motion pictures, including film rentals (a percentage of box office receipts), videocassette rentals and sales, and sales of television rights (including pay television).
>
> However, although the distribution of U.S. films and television programs overseas contributes substantially to the U.S. trade surplus in service, the problem of runaway film production could undermine this positive position because runaway film production is counted as an import of services into the United States. For a few services, an import into the United States is considered to occur when the U.S. consumer travels abroad to consume the service. This is true of film production, so that when U.S. film production companies travel to Canada and then export the film to the United States, the United States is considered to have increased its imports of services from Canada. The U.S. Trade Deficit Review Commission made note of this with reference to the U.S. trade deficit with Canada of over $30 billion per year."[47]

Data from the Directors Guild of America confirms that while Canada is still the prime offender in terms of being the primary destination for outsourced production, other countries with newly created subsidy programs are also making inroads: (*NOTE: These figures are only for projects done under the DGA's contracts. Non-DGA production is not included.*)

- Of 154 feature films released in 2003 and filmed under the DGA contract, 20 were shot in Canada, 8 in Europe, 3 in Australia or New Zealand, and 6 in the United Kingdom or Ireland. **Virtually *one third* of the DGA movies in theatres last year were made *outside the United States.* DGA figures also show the U.S. share of total feature production declining each year from 2001 to 2003.**

- Of 65 drama pilots made under the DGA contract for all television outlets (network, basic cable, pay television and syndication) in 2003, 20 were shot in Canada and 2 were shot in Australia or New Zealand. ***One third* of all DGA pilots for dramatic series filmed last year were made *outside the United States.***

- Of 81 dramatic television series filmed under the DGA contract in 2003, 18 were shot in Canada, 1 in Europe and 1 in South Africa. ***One quarter* of all DGA television series broadcast on American television last year were made *outside the United States.***

- DGA figures also show the number of pilots and drama series made each year increasing. It is important to remember that if a pilot made in a foreign country sells, the production of the resulting series generally returns to the same location where the pilot was shot. Therefore, as the number of pilots shot in foreign countries increases and the number of drama series increases, it is logical to project that the number of American television series made in foreign countries as opposed to the United States will also continue to increase.

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[47] *The Migration of U.S. Film and Television Production*, U. S. Department of Commerce, March 2001, pages 21-22. Statistic from the U.S. Trade Deficit Review Commission.

- Of 110 movies for all forms of television and miniseries filmed under the DGA contract in 2003, 55 were shot in Canada, 5 in Australia or New Zealand, 3 in the United Kingdom or Ireland, 1 in Europe, 1 in Mexico and 4 were shot in South Africa. All of these countries have elaborate incentive programs with the exception of Mexico, whose current incentives to foreign production are simply a lower pay rate for Mexican workers and lax safety and environmental regulations. (The TV movie filmed in Mexico was HBO's "And Starring Pancho Villa as Himself," for which Mexico was obviously an artistically appropriate location.) **Virtually *two thirds* of all long-form television made for the American market last year under DGA contracts was filmed *outside the United States.***

The economic impact of these large shifts in the location of the physical production of American film and television product is profound. To better clarify them, think of each individual movie, each television movie or movie-of-the week (MOW), each television series not as a number but as a project which employs a large group of people for a certain period of time. The *FTAC Report*, an initial study of runaway production released by the Film and Television Action Committee in May of 1999, gave the following figures for *average* direct employment per type of production: 33,650 man days for a feature film, 4,240 man days for an MOW and 26,320 man days for a television series. These same individual projects rent and purchase goods and services from small businesses, even those not directly involved in film production, in the surrounding community. The production itself is a consumer, just as are the people it employs.

In the last quarter of the twentieth century, film production began to expand beyond Hollywood and New York to many other parts of the country, such as Illinois, Florida, North Carolina, Georgia, Texas or Maryland, becoming a truly American industry rather than just a regional specialty based in one large city on each coast. Wilmington, North Carolina is the perfect microcosm of America's film industry as a whole and what has happened to it as a result of unfair competition from subsidized foreign labor.

Famous as the home of dashing Confederate blockade runners during the Civil War, Wilmington is a small, picturesque city on the Cape Fear River a few miles inland from the North Carolina coast. It boasts a mild climate, historic architecture, and nearby beachfront communities. In the early eighties it was a college town and a tourist destination.

In 1983 producer Dino DeLaurentiis brought the film industry to Wilmington by shooting his feature "Firestarter" there and building the studio now known as EUE/Screen Gems Studios. It is the largest full service motion picture facility in the United States east of California.[48] A local production infrastructure and accomplished local crew base has grown around it.

Ironically, the term "runaway production" was originally used in the late eighties in Hollywood to refer to shows shot in North Carolina. From 1992 through 1995, 20 feature films, 45 television movies and miniseries, 3 hour-long television series totaling 53 episodes, and numerous commercials brought $720 million to the Wilmington area. In 1995, Wilmington generated more film revenue than all other U.S. cities after Los Angeles and New York, and in 1996, a total of 49 projects shot there. By 1999, the film and television industry represented 12% of the area's economic base.[49]

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[48] Wilmington Regional Production Guide 2004, published by the Wilmington Regional Film Commission, Inc., page 69.
[49] "Wilmington on Film" by Mark L. Stricklin, *Cape Fear Coast Visitors Guide*, Vol. 7, No. 1, Summer 1999.

The picture is considerably different now. By the end of 2002, Vancouver claimed to be "the third largest production center in North America after Los Angeles and New York."[50] Like other centers of production throughout the country, Wilmington has lost business to Canada and other countries. The long-running WB network series "Dawson's Creek," which shot there, spending approximately $1 million locally per episode for 23 episodes each season,[51] was cancelled in the spring of 2003. After it wrapped production, the WB pilot "One Tree Hill" filmed in Wilmington; however, when it was given a series order the studio considered moving the show to Vancouver because Canada's subsidies would lower production costs.

Faced with the possibility of losing the projected 125 full-time and 3,000 part-time jobs and "a multimillion-dollar cash infusion" to the community which "One Tree Hill" represented, the state government, along with those of the city of Wilmington and New Hanover County, offered Warner Brothers a combined incentive package worth $750,000 to counter the Canadian federal and provincial subsidies available in British Columbia and keep the series in Wilmington.[52] (Although steadily employed on the show, one local taxpayer referred to it as "extortion.")

Nothing else has shot in Wilmington since. "One Tree Hill" is on hiatus and fortunately will resume production later this year, providing some jobs, but one TV series is not enough to support the established local crew base. In the space of twenty years the film industry came to Wilmington, took root and grew to become a significant force in the local economy and make the city an important and successful center of American production, and now it is almost gone, thanks to foreign wage rates artificially lowered by government subsidies. That's a considerable loss.

In Los Angeles, which is generally considered the world capital of film and television production, the predictions are dire. UCLA Anderson Forecast senior economist Christopher Thornberg sees the industry staying put but shifting "mainly to non-production management jobs."[53] In September of 2003 he said, "I don't think the industry will leave Los Angeles, but it looks as if local **production jobs are slowly declining and moving elsewhere. Los Angeles and New York will remain the centers for the industry's dealmaking, financing and advertising.**"[54]

The physical production of a feature film or television project is incredibly labor intensive, requiring large numbers of specialized, highly skilled workers and artists in positions which far outnumber Thornberg's "management jobs" with a studio or production company. A shift in these numerous middle class jobs from cities in the United States to foreign locations has severe adverse economic impact, and is a serious problem.

Jack Kyser, chief economist for the Los Angeles Economic Development Corporation, confirmed this reality, saying, "The problem with the film industry is that everyone sees it in the light of 'Entertainment Tonight' and 'Access Hollywood'-- all the glitz and glamour-- and they don't see that **the bulk of the industry is below the line and that's what's hurting.**" He found a loss of 32,400 show business jobs in the Los Angeles area between 1999's peak employment figure of 146,000 and the final 2003 figure of 113,600, which was lower than his original prediction for the year of 116,100. Film industry employment in Los Angeles has been declining steadily every year in between, without any recovery: in 2000 it fell to

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[50] B.C.'s prod'n blues: Film, TV revs drop 30% in British Columbia" by Don Towson and Dave McNary, *Daily Variety*, November 26, 2002.
[51] "N.C. prod'n breezy in '00" by Bashirah Muttalib, *Daily Variety*, June 21, 2000.
[52] "Watering WB's 'Tree:' N.C. beats out Vancouver for new series" by Bashirah Muttalib, *Daily Variety*, June 19, 2003.
[53] "Showbiz jobs dip in 3Q" by Dave McNary, *Daily Variety*, December 11, 2003.
[54] "Biz jobs leaving, study sez" by Dave McNary, *Daily Variety*, September 24, 2003.

138,900, in 2001 to 126,100 and to 121,000 in 2002. Kyser expects a continuing decline, to 111,100 for 2004 and yet another drop to 109,600 in 2005.[55]

The same holds true of other cities and states with established film and television production industries. From 1999 to 2002, Chicago's revenue from feature films and TV production plummeted from about $125 million to $27 million, in large part because of companies choosing Toronto over the Windy City. Recently, "My Big Fat Greek Wedding," "John Q" and "Angel Eyes" were all set in Chicago but filmed in Toronto,[56] as was, of course, "Chicago," "the first best picture Oscar winner shot north of the 49th."[57]

The Oregon Film Office said, "It is impossible to track the production we have 'lost,' because they often don't even check here anymore before going to Canada or other countries. We used to do 3-5 television movies every year, each spending $1.5-$3 million, and we haven't had an MOW *(i.e.* "movie-of-the-week," or television movie) since 1999. We had three TV pilots in 1993, and three TV series from 1994-1996--but we haven't had any major series since 1996. Also, from the early 1990s through 2001 we averaged about $30-million in direct spending from out of state productions per year. In 2002 and 2003 we averaged about $13 million per year. Our film lab just closed, smaller grip and lighting companies have closed, and one of the two remaining is on the ropes. Our crew depth has gone from three crews deep to one and a half because crew have left for other areas or left the business altogether."[58]

The Washington State Film Office reports a similar situation. It says that most of its business is lost to Vancouver, which looks the same, is in the same time zone, is only three hours further north, and is, of course, cheaper because of Canadian subsidies. Reliably good weather is usually considered important in filmmaking, because rain makes for costly shooting schedule changes and delays because it slows the pace of work. However, the Film Office said that even though Vancouver gets more rain than Washington the difference in the weather has not had an effect on the exodus. In 1994 Washington had $55,373,000 in production spending; in 2003 it had just $12, 634,481. "We have several vendors who are holding on by a thread, including equipment suppliers and talent agencies. Half of our crew base has either moved to LA or gotten out of the business entirely." [59]

Variations on the same theme are occurring all over the United States. The upcoming Focus Features film "Brokeback Mountain" is based on Annie Proulx's novel set in Wyoming, but will be shot in Calgary. "The Wyoming Film Office worked very hard with Director, Ang Lee, scouting locations for the film. We were then approached by the Line Producer asking Wyoming to raise $900,000 to compete with Canadian incentives. We attempted to raise money at the state, county and local levels but were only able to raise under $100,000 which was not enough to secure the film. . . . This was the second Wyoming based story that we've lost in the past couple of years. 'An Unfinished Life' will be released this fall and was shot entirely in British Columbia though set in Wyoming." [60]

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[55] "H'w'd jobs outlook 'less than inspiring' " by Dave McNary, *Daily Variety*, February 9, 2003, "L.A.'s showbiz exodus eases off: 2,500 jobs may be lost in '04, about a third of '03 drop" by Jesse Hiestand, *Hollywood Reporter*, February 9, 2004 and "Jobs picture remains grim" by Dave McNary, *Daily Variety*, July 21, 2003.
[56] "Defiance-set movie likely moving north" by Craig Rimlinger, Fort Wayne Journal Gazette (Fort Wayne, IN), June 13, 2004.
[57] "They couldn't have done it without us" by Mark Dillon, *Playback*, March 31, 2003, page 12.
[58] June 18, 2004 e-mail from Veronica Rinard, Oregon Film & Video Office in response to a request for information on state losses from outsourced production from the Film and Television Action Committee.
[59] June 18, 2004 e-mail from Suzy Kellett, Washington State Film Office, in response to a request for information on state losses from outsourced production from the Film and Television Action Committee.
[60] April 2004 e-mail from Michell Phelan, Film, Arts & Entertainment, Wyoming Travel & Tourism in response to a query from a member of the Film and Television Action Committee.

About twenty years ago, Texas referred to itself as the "Third Coast," and seemed to have started building a busy regional film industry. According to data from the Texas Film Commission, during the years 1998 through 2003 inclusive, a total of 24 projects scouted or researched Texas and then shot in foreign countries instead. Fourteen of those went to Canada, including the television movie "Hell on Heels: The Battle of Mary Kay," the story of Texas' own cosmetic queen, which was shot in Winnipeg. Seven went to Mexico, one to Spain, one to Morocco, and one to Australia. The combined known budgets for the productions in question were over $400 million dollars; as some of the budgets were unknown, Texas' potential economic losses from these runaways was much greater.[61]

And a similar story this month from Ohio:

> "Bright lights, an A-list actress and the excitement of a major studio in town to film the movie version of a book based in your city. This was the potential scene in Defiance, Ohio, about 50 miles east of Fort Wayne, and the setting for the book 'The Prize Winner of Defiance, Ohio: How My Mother Raised 10 Kids on 25 Words or Less.' Preliminary work to bring the Hollywood version of the book to the multiplex is under way. And though the film is in its development stages, it appears Defiance's film aspirations - and the panache and potential millions the production could pour into empty city coffers - will be a casualty of the prolonged exodus of U.S.-based films being shot in Toronto, where filmmakers take advantage of substantial tax incentives.
>
> Lesley Ward, vice president of film commission services with the Greater Cleveland Film Commission, said the agency spent two years trying to lure the movie's crew to Defiance but was unable to sway producers to shoot the film in northwest Ohio. 'The producer said you are doing a good job to cover some of the costs, but you can't do $2 million,' she said. The movie is expected to be filmed primarily on a soundstage in Toronto, where many movies are shot to save money.
>
> Ward said her research into 'The Prize Winner of Defiance, Ohio,' showed the movie will most likely have a budget of $10 million to $14 million, small by Hollywood standards. That was the budget for 'Welcome To Collinwood,' a 2002 film shot in Cleveland with a similar budget. The shoot brought in about $5 million in direct revenue to the city, excluding money to restaurants, hotels and other businesses that benefited, Ward said. A windfall that substantial is about 20 percent of Defiance's $26 million budget and could work wonders in the quiet town of 17,000 residents that is far behind in service projects and was unable to open its two swimming pools this season because of a lack of money."[62]

According to *Production Weekly*, a subscription service which publishes a list of planned movies and television projects, "The Prize Winner of Defiance, Ohio" is scheduled to be in production in Toronto from July 19 through October 8, 2004.[63]

While it is neither comprehensive nor is it scientific evidence, a look at the same June 10, 2004 issue of *Production Weekly* is a good barometer, and is most enlightening. It lists a total of 73 feature films and television series or television movies with scheduled start dates. Forty-one will be shot in the United

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[61] June 21, 2004 e-mail from Carol Pirie, Assistant Director, Texas Film Commission, in response to a request for information on state losses from outsourced production from the Film and Television Action Committee. Location information about "Hell on Heels" from the Internet Movie Database, www.imdb.com.
[62] Excerpted from "Defiance-set movie likely moving north" by Craig Rimlinger, *Fort Wayne Journal Gazette* (Fort Wayne, IN), June 13, 2004.
[63] *Production Weekly*, issue #421, June 10, 2004, www.productionweekly.com.

States, 27 will be shot in foreign countries (with 12 of those in Canada), and 5 will be shot on unknown locations. Of these 73 projects, 52 are feature films. Of these 52 features, 28 will be shot in the United States, 20 will be shot in foreign countries (including 5 in Canada) and 4 will be shot on unknown locations. Of the 21 television projects listed, 13 will be shot in the United States, 7 in Canada and one on an unknown location.[64]

AFMA, the trade association for the independent film and television industry, held its sixth annual Production Conference June 17, 2004 in Beverly Hills. The event featured a panel discussion called "What Will It Take to Bring Production Back to the U.S.?," moderated by Paul Hertzberg, president of Cinetel Films. Hertzberg, who often shoots in Canada to take advantage of its subsidies,[65] joked that the panel's title should really be "How Do We Make Romania Our Fifty-first State?"

The four producers on the panel all said that the overwhelming majority of their 2004 projects will be shot outside the United States. Tom Berry, president of Reel One Entertainment, said he will make 8 movies this year, all in Canada. Crystal Sky president-CEO Steven Paul said that five years ago he made all his movies in the U.S., but now he makes most of his 8 to 10 projects a year out of the country. Andrew Stevens, president-CEO of Andrew Stevens Entertainment, will shoot 12 pictures this year, but only 2 to 4 of them will be made domestically. Nu Image will produce 12 features in 2004, but only two of them will shoot in this country. As company co-chairman Avi Lerner said, "It's all about money."[66]

Because every film or television project is unique, it can be difficult to precisely quantify losses when production is taken to a foreign country. In 2003, Vancouver was the site for the filming of, among many other "foreign" films and television shows, the 2004 summer releases "I, Robot" and the $100 million "The Chronicles of Riddick,"[67] which had 1,300 and 1,500 people on payroll respectively.[68] That's 2,800 middle-class jobs just on two movies. Director Roland Emmerich set his special effects-laden blockbuster "The Day After Tomorrow," in New York because it "is a recognizable symbol of Western civilization," but shot it in Vancouver, at a cost $125 million.[69] Multiply these figures by the number of projects which shoot outside of America every year. The damage adds up.

According to the Motion Picture Association of America, the *average* cost of the films made by its seven member studios (Disney, MGM, Paramount, Sony, Twentieth Century Fox, Universal and Warner Bros.) was $63.8 million in 2003.[70] Think about how $63.8 million spent anywhere in America could benefit the local residents and small businesses in the surrounding community. Multiply those numbers, too.

North Carolina is third in the nation behind California and New York in terms of total production revenue from all sources (feature films, television, commercials, industrial films, etc.). In 1999 total direct spending on film-making came to about $300 million; in 2002 it was down 23% to $230.8 million.[71]

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[64] Ibid.
[65] "Sci Fi a movie monster" by John Dempsey, *Daily Variety*, July 1, 2003.
[66] The panel discussion was attended by an FTAC member who provided this information from his notes.
[67] Budget information from Devin Gordon's review, *Newsweek*, June 21, 2004, page 66.
[68] "Canucks worry over Arnold factor" by Brendan Kelly and Tamsen Tillson with Don Townson in Vancouver, *Daily Variety*, October 10, 2003.
[69] "Director to New York: Drop Dead!" by Kira Cluff, *Newsweek*, June 7, 2004, page 16. Budget information from "Fox Focus is filmmaker friendly" by Claude Brodesser, *VFilm*, May 9, 2004.
[70] "Valenti valedictory view an eye-opener" by Carl Dorio, *Variety.com*, March 28, 2004.
[71] "N.C. prod'n breezy in '00" by Bashirah Muttalib, *Daily Variety*, June 21, 2000 and "Watering WB's 'Tree:' N.C. beats out Vancouver for new series" by Bashirah Muttalib, *Daily Variety*, June 19, 2003.

Recently the state did a study of the impact of four different types of productions on its economy. It determined that a $5 million television movie would ultimately have an economic impact in North Carolina of $4,981,291, a low-budget feature ($15-17 million) $14,555,177, a medium-budget feature (approximately $45 million) $32,350,567 and an episode of a dramatic television series with an estimated budget of $2 million per episode $1,660, 304.[72] While these numbers are specific to and based on data from the film and television industry in North Carolina, they certainly help illustrate the dollar value of a film or television production to a community, and how much is lost when an individual production leaves the country.

While there has been no comprehensive study of the impact of outsourced production since 2001, anecdotal evidence of ongoing and growing harm is undeniable. For most of the artists and technicians employed in the film industry health insurance and retirement benefits are based on the amount of work they have performed in given periods of time. With American production lured away to foreign countries an important social safety net is starting to unravel as American film workers are not only losing their jobs but are also losing their health coverage and not building their pensions as a result. As their incomes are reduced, so, too, are their federal, state and local tax payments.

In 2001 the Screen Actors Guild (SAG) announced that it was raising the eligibility requirements for its health plan. Among the reasons cited for this action were not just the expected skyrocketing costs of prescriptions and medical treatment, but runaway production and its resulting decline in contributions to the plan's funding from members' earnings.[73] Early in 2003 Guild president Melissa Gilbert cited "a dramatic decrease in contributions resulting from runaway production" as one of the reasons for SAG's health plan now being "in huge deficit."[74] According to an insider, of approximately 117,000 SAG members, currently, only 17,000 have had enough earnings to qualify for health insurance this year.

The Directors Guild Foundation provides many services to Guild members, but its main purpose is to give confidential emergency financial assistance to members unable to pay for food, housing or medical expenses due to temporary setbacks. In soliciting donations to support its programs a recent fundraising letter said, "Not surprisingly, requests for these short-term, no interest loans are increasing as runaway production and the downturn in our economy continue to impact our membership."[75]

According to workers speaking to FTAC members, the Motion Picture Fund has also experienced an increase in applications for its financial assistance program in the past several years. Wildly inflated real estate costs in Southern California are keeping many Hollywood film industry veterans afloat as they either sell their homes or refinance their mortgages to have money to live on in the absence of what used to be regular employment.

In Hollywood, long-established businesses which service the motion picture industry with rentals of various items have gone out of business or, if surviving, report huge losses. Some typical examples: Alpha Medical, which rents medical equipment solely for film industry use as props and set dressing, says it has lost approximately 20% of its business every year since 1999. Its sales are down $1.2 million, and it has downsized its staff from 25 to 15 employees. Independent Studio Services, a well-known prop rental and fabrication company, reports its sales are down $1.5 million and that 2003 was the first year it

[72] Data provided by the Division of Tourism, Film and Sports Development, North Carolina Department of Commerce
[73] "SAG forced to cut back health plan" by Dave McNary, *Daily Variety*, July 31, 2001
[74] "Mind your manners--SAG's Gilbert stresses conciliatory stance" by Dave McNary, *Daily Variety*, January 2, 2003
[75] Letter to Directors Guild members from Delbert Mann, Directors Guild Foundation Chairman of the Board, October 2002

has ever lost money. It has downsized from 90 to 25 regular employees and has had to reduce the size of its physical plant. Nights of Neon, a neon fabrication and rental company which also does business outside the film industry, has lost 50% of its studio business, and has gone from 10 to 5 employees.

In addition to its very real literal cost to the economies of communities across the United States, outsourced film and television production has a more insidious and subtle cost. If an American manufacturer of widgets closes its plant in the United States and relocates to a foreign country to take advantage of lower labor costs, it is logical to assume it will continue using components of the same quality with which to make the widgets. The physical surroundings of the factory, whether it is located in the tropics, the Arctic, or the desert, will not affect the quality of the finished product.

Film production is another matter entirely. In the beginning, equipment was cumbersome, and with the advent of sound, shooting conditions had to be controlled, so production stayed in the protected and manageable environs of studio soundstages and back lots. Now practical (*i.e.* real) locations are an extremely important part of the look of almost every movie or television show. Thus, when an American story is shot on foreign locations which do not really resemble the United States, unlike widgets, the quality of the product is compromised by the physical setting in which it is made.

Architecture is the response of the human need for shelter from the environment shaped by culture, society and available materials. Canada has a different climate than most of the United States, and a different history and heritage, so its architecture is different. Its geography, vegetation and light are different. Even its radiators are different. The same can be said of Australia, New Zealand, South Africa or Europe. Romania does not really resemble America's Blue Ridge Mountains, but that is where the producers of "Cold Mountain" shot the film version of the best-selling novel set in North Carolina and Virginia near the end of the Civil War. They collected $10 million from the European Union in return.[76]

When productions go to foreign countries instead of staying in the United States, they are faced not only with locations that don't necessarily look like America, but, because other nations are less ethnically diverse than the United States, a pool of supporting actors who do not sound like Americans and mostly look like only one part of America's population. ACTRA, the Canadian actors union, even offers a workshop to teach Canadian actors American accents.[77] In Romania, American tourists with no acting experience are recruited off the streets to play small parts in films because there are not enough English-speaking actors available in the country.[78] It is probably no coincidence that complaints from minority groups about under-representation in movies and TV have risen along with runaway production.[79]

The harm from outsourced or runaway American film and television production is everywhere. Its economic impact touches large and small communities all across the United States. Besides directly affecting those who have always made a middle-class living working in America's film industry, it causes people who never even dreamed of a career in show business to lose income, health care, and pension benefits. It costs companies of all sizes and governments on all levels revenue.

The loss in dollars every year is staggering-- and continues to increase as more and more countries add subsidy programs based on the Canadian model-- but the social and cultural impact, while less tangible

[76] "Analysis: Romania for Carolina" by Pat Nason, UPI, Los Angeles, January 3, 2004.
[77] "Canuck thesps get earful: Gross gives ACTRA keynote" by Tamsen Tillson, *Daily Variety*, June 2, 2004.
[78] "That big break awaits, in Romania" by Phelim McAleer, *Los Angeles Times*, January 2, 2004.
[79] A search of *Daily Variety's* archives (www.variety.com) shows a noticeable increase in news stories about complaints from minority groups to the networks and members of Congress about under-representation on screen and in production positions starting in 1999.

than the terrible economic impact, is equally real. Entertainment is our largest export. At a time in history when the way we are perceived by other nations is critical, movies (and television) are our emissaries to the far corners of the world. Do we really want to send a cheapened counterfeit image of ourselves, our culture and our society to other countries as the picture of America? Do we want to speak to our enemies and our friends with a voice other than our own?

While the studies we have are by now almost three years old and no longer current, pieces of data from all around the U.S. clearly show that the industry most closely identified with our national psyche is dangerously close to being destroyed by unfair foreign trade practices. We are in imminent danger of suffering permanent, irreversible damage to our world-renowned film industry as its highly specialized work force, which took nearly a century to build, is dispersed and not renewed. Foreign subsidies do not create new jobs, they merely relocate existing jobs from one country to another. Remember the Canadian government's slogan, and realize that runaway production is taking away not only our present livelihoods and our future, but our children's future as well.

Conclusion

In its Federal Register notice soliciting comments on unfair trade practices, the Department of Commerce stated that the purpose of its Unfair Trade Practices Task Force was “to pursue the elimination of foreign unfair trade practices that prejudice or adversely affect U.S. commercial interests.” 69 Fed. Reg. at 30,286. We have described above the programs developed by two of our trading partners to entice commerce away from the U.S. by means of unfair subsidy programs that are violative of their trade agreements with the U.S. These deliberate and concerted efforts should be of highest concern to the Department because of the damage that has been done and the even greater harm that they threaten to do because they are being copied by numerous other countries. We have shown the enormous impact that the Canadian programs have had in drawing business way from U.S. businesses and artists. The elaborate subsidy programs of Canada and other countries constitute extensive unfair trade practices that have damaged domestic interests in the amount of billions of dollars. We submit that the Department’s Unfair Trade Practices Task Force should give the elimination of these programs the utmost priority.

Thank you for your consideration of this important matter.

Sincerely,

Tim McHugh
Executive Director

Don Newman
Executive Director

Gene Warren, Jr.
Executive Director

Brent Swift
Board of Directors
Founder

Ann Champion
Board of Directors