INTERNATIONAL CINEMATOGRAPHERS GUILD

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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 national officers of International Cinematographers Guild Local 600 of the International Alliance of Theatrical and Stage Employees (IATSE). We represent over 5500 cinematographers, camera assistants, still photographers and publicists who are employed on 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. 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 historic 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:

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 an 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 increases every year, its growth in Canada far outstrips 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."**

Writing in the February 9th, 2004, issue of *Daily Variety*, Dave McNary noted, "Reflecting the ongoing negative impact of runaway production and piracy, Hollywood showbiz jobs will decline by 2,500 this year to 111,100 and another 1,500 slots in 2005, according to a Los Angeles Economic Development Corp. study released today.

'The employment outlook for the industry in 2004 will continue to be less than inspiring,' said Los Angeles Economic Development Corp....Jack Kyser, chief economist for the agency, said the key reason for the decline stems from the constant drain from producers taking advantage of less expensive offshore locations, **coupled with foreign government incentives.**"

What we in the entertainment industry have called "runaway production" for years now is actually part of the wholesale exportation of American jobs to foreign countries currently known as "outsourcing." Trade-distorting subsidies specifically designed to lure American productions to foreign countries are putting the present and future economic viability of our members in jeopardy. We commend the Department of Commerce's inquiry into this matter and pledge our help in any way possible to seek an equitable solution to this problem. We feel that enforcing our current international trade agreements may be an excellent way to begin returning jobs to this country.

Thank you for your consideration.

Sincerely,

Gary Dunham

Gary Dunham
President