

MR. CLAWSON: I'm here representing the Shooting Gallery Productions. It's an independent studio in New York City, and really here to second a lot of what Richard Masur had to say today.

As an independent producer, we have a challenge in that we do have a budget, and generally that budget is raised from private finances in order to make our film. The last thing we want to do is leave our families and go someplace else to make it if we don't have to.

So obviously there are times when that is necessary for the project that we're doing, locations, weather, et cetera. However, there are absolutely incentives that are offered that make it no choice but for us to take and use the amount of money that has been raised, the limited amount of money that has been raised to make our film and to go and make it with the best possible quality we can, and that is really the result of a lot of these incentives and tax rebates, et cetera, that are given by Canada and other countries.

It is a global environment and a global business, as has been said here earlier. However, we do think that there are some inequities that certainly exist today, and it does seem that is a one way street heading outside of the United States as opposed to a two way street which goes in both directions.

And really that's the point that I was going to make here today, was that as a company, as an independent company, we not only produce our films, but we also distribute our films in the foreign market. So we realize the importance of it to be a healthy global atmosphere. We want people to watch our movies everywhere else in the world. We certainly want to have the opportunities to make our films in the United States with the best technicians in the world, and by having those opportunities I think that it will keep the industry extremely healthy.

The independent film community is really the grassroots. It's really the stars of tomorrow, is what we represent, and I think we're the ones who are going to be the first ones, if not already, that are forced to leave the country based on making the amount of money that we have to make our projects, make those ends meet.

So I really came to second the motion that Richard Masur made today and appreciate the opportunity to say that to you.

CHAIRMAN D'AMATO: Thank you very much, Mr. Clawson.

Commissioner Weidenbaum.

CHAIRMAN WEIDENBAUM: I wanted to thank the three panelists. We've sat through a day of very stimulating, but statistical presentations. So it's nice to have three real, live case studies.

Mr. Masur I want to note you're the former President of the Screen Actors Guild. I used to work for a former President of the Screen Actors Guild, and it seems --

MR. MASUR: I have no such aspirations, I hasten to add.

(Laughter.)

CHAIRMAN WEIDENBAUM: Well, I wanted to generalize in a way that maybe Commissioner Becker could agree. It just illustrates that being a union president might be good training for higher office.

MR. MASUR: Well, as I said, I have no such aspirations.

CHAIRMAN WEIDENBAUM: But they can creep up on you.

CHAIRMAN D'AMATO: Commissioner Rumsfeld.

COMMISSIONER Rumsfeld: Yes. Thank you, Mr. Chairman.

Mr. Masur, I have a question. I took your presentation to basically be talking about the absence of any of the Federal Government activity to create an environment hospitable to movie production, and particularly relative to other countries.

I'm not knowledgeable, but my impression is that states and cities, in fact, do certain things to encourage that.

My office is in the Wrigley Building in Chicago, and I have the feeling that half the movies in the world are made outside my door. There's always something going on out there, and I know Chicago has been encouraging that.

It seems to me that that's not an inappropriate thing for a state or local government to do, whereas in the case of the United States, the Federal Government is possibly a less appropriate entity to be trying to create that environment.

MR. MASUR: I would submit to you that it's impossible for the State of Illinois, the State of California, the State of New York to compete effectively with the federal government of Canada.

As I mentioned, the federal government of Canada did an incredibly intelligent thing. They made what was essentially a matching grant. They said, "We'll kick in 11 percent of your hard labor cost if --

if -- you will kick in at least a like amount," thereby stimulating the provinces to come up with at least a matching 11 percent.

So the federal contribution to that was limited in terms of the percentage that they were providing, while stimulating the state and municipal governments to come in as well.

In Toronto, for example, in Montreal, in Vancouver, there are federal, provincial, and local stimuli which exist, and in Montreal, which has the least of the three in terms of ongoing production at this point, Montreal has extraordinarily aggressive and lucrative incentives that they offer because they are trying to build their industry.

And this is about building industry. Now, the problem for us has been we have been the industry, and I want to point out to you that at one time we made the television sets for the world, certainly for the U.S. market. We make no television sets now.

And what I'm trying to indicate to you is that it is entirely possible that we will make no programming for those television sets or certainly significantly less unless we as a nation take some steps in order to counteract this trend that is developing very, very aggressively.

CHAIRMAN D'AMATO: Thank you.

Commissioner Wessel.

COMMISSIONER WESSEL: I want to thank the panel for all their comments.

And I have two questions. The first, to Ms. Richardson about the problems that your two colleagues have raised is whether the MPAA has a position on runaway production and the kind of subsidies that other countries are offering to produce these films and TV and other content overseas, is the first.

And the second question to the broad panel is about some of the cultural rules that we face in trade. We've seen, for example, as I recall, France in recent years seeking to limit U.S. content, and they're doing so now in the Internet as well, for fear of the cultural invasion of France.

If I remember correctly -- and correct me if I'm wrong -- the recent China WTO accession agreement limits I believe it's to 20 films a year of U.S. production because of the fear of overtaking some of the cultural issues, as well as the trade aspects of that.

So if you could respond on both those issues and what we should be doing.

MS. RICHARDSON: Thank you. I'm happy to respond on both.

First of all, I would like to point out that there certainly is a legitimate role for the U.S. government in making the United States a more film friendly place. There are things the U.S. probably can't do, like offset the fairly substantial exchange rate differential that currently prevails between the U.S. and Canada, but there are things we could be doing.

I do want to say that MPA is not seeking subsidies for our member companies, although if Congress in its wisdom thought it would be a good thing to make subsidies available for smaller films, we certainly have no objection to that.

But the kinds of things that we would like to see the U.S. government do or actively advocate is, for example, to work with the various land agencies, the National Park Service, the National Forest Service, the Fish and Wildlife Service, all of which we would like to use more as backdrops for films; they have spectacular scenery that is unparalleled, but they are often very film unfriendly places, and sometimes for some very good reasons.

None of those agencies currently has the authority to levy fees for filming on their lands. We'd like to pay a fee, a reasonable fee that's based on the size of the production, and we've been

advocating working with the National Park Service, a bill that would create a fee structure that would allow us to pay.

That bill is currently stuck in Congress. We'd like to see it move.

There are also examples where the Federal Government has looked at film as a part of social policy and considered doing some very onerous things like prohibiting -- this fortunately hasn't passed, but there was an active proposal to prohibit any federal agency from providing any kind of assistance whatsoever, whether technical advice on a script or location, making a location available if a single actor smoked during the film.

Now, that may be a legitimate social policy, but it is not a very good way of keeping the United States to be a film friendly place. We'll go smoke in Canada if that's what the script calls for.

So there are lots of little things that the Federal Government could do to keep the United States a more film friendly place.

COMMISSIONER WESSEL: Let me interject though. Should we also be seeking to try and get Canada and other countries to have a more neutral policy and not provide these kinds of incentives?

MS. RICHARDSON: Well, that actually brings me to the second, what our trade policy should be in the filmed entertainment area.

First of all, we should have one, and the trouble with having one is that our partners won't talk to us, and partly that was our fault. During the last trade round, we allowed, participated in a debate that became very polarized.

The French, the Canadians were saying this is only about culture, and we were saying, "No, no, no. It's only about trade," and the debate became so emotional and so polarized that we've not been able to sit down since 1993 when the last trade round ended and have a rational discussion on this issue, and that's too bad.

The Motion Picture Association of America freely recognizes today, and has been for the last seven years, that governments do have a legitimate role to play in promoting their cultural industries, but there are cultural policies that are protectionist in closed markets. There are other cultural policies that are may be necessary.

Funding a local minority language production, insuring children's films tell local stories about local history and local culture, those are all legitimate things that governments can do.

Now, subsidies. Should they be illegitimate? Should they be legitimate? Are there certain kinds of subsidies that are trade distortive?

Well, if it is a subsidy to insure that a ballet gets shown on television, that's probably not trade distortive, and most governments would probably think that that is an appropriate role for government.

Whether ours would or not is a different story. We have a different tradition in terms of the Federal Government involvement in cultural areas.

But we wouldn't object if a foreign government did that.

What about the kinds of Canadian subsidies?

Well, we need to talk about that. We need to look at the broad range with our trading partners and come up with some kind of agreement on what kinds of policies are okay, what kinds of policies can we tolerate for now and hope to roll back in the course of time. What kinds of policies are just so egregious that they should be removed from the books?

The Canada 20 film limit is not such an onerous barrier for now for the simple reason that they don't have the physical capability of distributing more than 20 films a year. We're not even sure that they yet have the physical capability of distributing 20 films.

For the past five, six years, they've had a ten foreign film limit per year for big films, for the kinds of films that our companies do under revenue sharing conditions. So we're happy to see the doubling from ten to 20. We believe that that will give incentives for structural change within China.

Right now they still only have a single entity that can distribute films in China. It's a government entity. We believe that doubling the film access will give them -- we're already seeing this happen, by the way, even before the agreement is in place -- will give them the incentive to modernize their distribution, to perhaps allow some competition in distribution in China. The kind of structural change we're seeing here is what we really need to see happen, and it will create more demand for more films, and then that 20 film per year quota will become onerous, and we hope that it will be increased or eliminated over time.

But for now it's an important, big step, and we're glad to see it happen.

MR. CLAWSON: I just wanted to follow up on the one thing about the national parks and using them for filming because this is a very simple step that could be taken.

Oftentimes, and especially either its independent film makers or commercial film makers that are having to work on a very short schedule and being met with a two to four week permit process is just not very workable, and certainly doesn't reflect a film friendly atmosphere.

So sometimes it's not even a big thing. Yet it can be a completely immovable when it comes to actually using the national park if the prep. time on our movie is only four weeks, and that's how long it takes to get a permit, and those are the conditions that exist today in many of the national parks.

MR. MASUR: If I may just very briefly, the cultural sensitivity is very real and runs very deep. I was delighted when Bonnie said that the MPA has taken the position they have in recognizing that there is some legitimacy to cultural exemption if properly applied.

The problem is the last part of that sentence, "if properly applied." Prior to the current situation in Canada, which is a non-Canadian tax incentive, which is the labor rebate that I talked about, the way that you got your incentives from Canada was through what was called the Canadian content plan.

Now, their definition of Canadian content became so broad and so distorted it really only had to

do with how many elements were hired, producer, director, writer, top three stars, and you got points for those, and if you got a certain number of points, you reached one level or another level of subsidy.

And what happened was they created a lot of Trojan horse entities into which U.S. films and U.S. television series were stuck. So they went in there, and they were siphoning off all the Canadian content product money to the point where the Canadian film industry got angry, went to the government, and said, "Hey, this money is supposed to be to develop indigenous production. You can't do this," and they said, "Okay. We'll start another incentive for non-Canadian production" which is better actually than the way it was, though now it's such an overt and easy thing to get your hands on that it's become a situation where the networks -- if you're shooting a TV movie and you show a network a budget on a \$2.5 million license fee TV movie and you show them a budget and you say, "I can shoot it in North Carolina. I can shoot it in California on this budget," they will say, "Go to Canada. We don't believe we're going to get our money's worth unless you go to Canada."

And that's what's going on. You have the national networks, the U.S. national networks insisting that their product be shot in Canada so they can be

assured of getting their money's worth, and this is really twisted and distorted from our point of view.

CHAIRMAN D'AMATO: Commissioner Angell.

COMMISSIONER ANGELL: Sometimes laissez faire gets a rather bad reputation, and I think sometimes we should remember that laissez faire was the alternative to the evil of subsidy, which had prevailed quite often before.

All of us would like to congratulate you and your industry for the success that you bring to our exports and also the sense of national pride that exists in the success of your industry.

I would suggest that countries that choose to subsidize local production, quite often they are not that discriminate and they tend to subsidize nearly everything, and they then end up with a rather new problem, which prompts them to have marginal tax rates of 55 percent and thereby some of the best talent in Canada finds it desirable to live in the United States.

In some ways we often look at those that subsidize saying how unfair it is, and yet they are being primarily unfair to themselves.

MR. MASUR: Well, if I may, I didn't get a chance to say this, but in conversation with active producers who are producing out of the country, what they have made clear to us is they are not looking for

the United States or state and local governments to match what they can get in Canada, not even close. They're looking for a sign from this country that they value this industry, understand its importance, and to offer some incentive.

I will give you one specific example. Roger Korman, who is a film producer of tremendously low budget and in many ways extraordinarily successful films, he ran a company called American International in the '70s which made hundreds of exploitation films, you know, horror movies and one thing and another, made a lot of money, and probably has produced more movies than anyone alive.

Roger Korman has now moved his operation to Ireland, where he was given a substantial amount of money to build a production facility. He has sold and gotten out of his production facility from which he's worked for 35 years in Venice, California, and he's transported his entire operation to Ireland.

He came to a panel of six members of Congress who came to Los Angeles to talk to us about this issue, and he made it very clear that he wasn't looking for anything like what he could get from Ireland or from Canada. He was looking for a third, a quarter of that. That would be sufficient to make it worth his while to come back and, as Tim said, to have

access to the most proficient crew, the largest talent base, the most experienced personnel in the world to make his product.

So we don't have to match Canada. We don't have to jack our marginal tax rate up in order to do this, and I would also suggest that probably the health care system impacts the marginal tax rate much more than the film subsidies do, but that's just my opinion.

CHAIRMAN D'AMATO: Commissioner Becker.

COMMISSIONER BECKER: Let me ask you a question, Ms. Richardson and also Mr. Masur. You've attempted to relate this to executive and congressional officials, I presume. Since there is no policy or proposal that I'm aware of in the American executive branch; what rationale do they give you for the no action policy?

MR. MASUR: Are you talking about --

COMMISSIONER BECKER: Your approach to the American executive branch officials and also congressional members as to coming close to doing something to keep our production in the country.

MR. MASUR: Oh.

COMMISSIONER BECKER: What reaction are you getting?

MR. MASUR: That would be to me because the MPA has, in fact, not approached anybody on this

subject, nor should they, I want to hasten to add. I think it's admirable that the MPA has taken what is a supportive, though relatively neutral, position on this. This is not something that really impacts them as much as it does the independent film community, which I would also hasten to add represents the matrix in which the future of this industry is grown.

Tim said that. It's the stars and the players of tomorrow are the people who are working in independent film and television production.

There actually are members of Congress who are very interested in this. There was a bill introduced very briefly in Ways and Means last year, which was withdrawn immediately by Congressman Weller from Illinois who got very angry when he found out the Blues Brothers' sequel, which is entirely about the City of Chicago, which he represents a piece of, was shot in Toronto, and they were calling to find out how best to recreate Chicago in Toronto, and this really made him angry.

(Laughter.)

MR. MASUR: He also found out that there were many things that are about the history of the United States that are shot in Canada. So this clearly has nothing to do with Canadian culture.

At any rate, there is interest. In terms of the Federal Government, I'll tell you we had a meeting. Several stakeholders, people from the unions, people from the production sector, from the equipment supplier sector, caterers, people like that sat down with the Vice President on one of his recent trips to Los Angeles, and he sat with us for an hour and a half and listened to this story and was very interested.

And we hope to, frankly, get him to pay even greater attention to it in the next few months and actually maybe incorporate into some of what he might be saying in this campaign.

So there is interest. There's a certain learning curve. It's hard to listen to a \$12.5 billion revenue flowing in from offshore and think, "Here's an industry that's got a problem." In fact, the industry in the macro view does not have a problem at this point.

But if one were to look at steel some years ago or any number of other industries, one could have made the same statement. And I'm saying rather than lose all of the television sets, which we did, we could actually save this before it gets out of hand.

And I think it's a combination of what has been suggested, which is trying to dampen down some of the aggressive subsidies offered by other countries to

lure away our production, on the one hand, and on the other hand, try and put in a little level of support.

One of the most important things here, I mentioned the investment tax credit which was done away with. That was a very troubled program in a lot of ways. There was a lot of abuse.

However, there was one element of it which worked very well, which was the ability to finance risky though important ventures. Every film is a risky though, I would argue, and important venture for those of us who make this work, and some of them may do very well, Some of them will do marginally well.

In the current environment in this country, in the world, the market has grown to such an extent -- and I think Bonnie will back me up on this -- that there is a lot of room for a lot of product, which means it's a less risky investment now than it used to be.

If some mechanism could come into place so that films could be financed in this country, right now every independent film that's made, approximately 80 percent of the financing comes from offshore. That means U.S. banks are not participating in that. They don't participate in the money stream. So they are negatively impacted.

It also means that when they accept foreign financing, there are often strings attached, that either a certain percentage of the film has to be shot in their country or that certain members of the crew have to be hired that are nationals of that country, and all of these things tend to exacerbate the problem.

In the case of an African American theme film, you cannot raise money outside of the United States. You can get no foreign financing for an African American theme film because they are very difficult to distribute in Asia and in some parts of Europe, and consequently the only independently financed African American theme films that will get made are ones that are made 100 percent U.S. financed, and that money is very, very difficult to find.

We need a system which will make that money more readily available to a greater number of filmmakers.

CHAIRMAN D'AMATO: Well, thank you very much. It's been a very informative panel, and as I mentioned before, we have coffee and some refreshments.

We will take a five-minute break, and then we'll go to our last panel.

(Whereupon, the foregoing matter went off the record at 4:29 p.m. and went back on the record at 4:41 p.m.)

CHAIRMAN D'AMATO: This is the panel on educational and health care services. With us today is Steve Thompson, the CEO of Johns Hopkins International and Vice Dean of the School of Medicine at Johns Hopkins University of Baltimore; Mr. Brian Freeman, Vice Chairman, UNext.com in Deerfield; Dr. Jane Pisano, Vice President of External Relations at USC in Los Angeles; and Mr. Lee Saunders, Special Assistant to the President of AFSCME, Washington, D.C.

Welcome. Thank you very much.

We'll start from left to right. Try to summarize your remarks in ten minutes. You'll see a yellow light that will give you a warning to sum up.

Mr. Thompson.