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## Maple and Shamrock: Seeking a Strategy for Survival in the Audiovisual Jungle

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### **Maple and Shamrock: seeking a strategy for survival in the audiovisual jungle.**

*Colum Kenny*

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#### **Context**

Attempting to assess what the future might hold for Irish broadcasters and producers, especially in the light of digital and multimedia developments and of increasing competition, I recently paid a visit to Ontario and Quebec, two adjacent provinces of Canada. It is a country where audiovisual matters have long been taken seriously. Canada's proximity to the U.S. 'elephant', as that neighbour is sometimes known, concentrates the northern state's collective mind on survival strategies. Previous trips to Canada, including attendance at the Toronto Film Festival and participation as a guest in the Banff Television Festival in Alberta, had induced in the author an admiration for the practical ways in which Canadians have responded to audiovisual challenges.

In contrast, Irish broadcasting developments have been stunted by bad planning and poor preparation and marked by an absence of clear strategic focus. Policy has been eschewed in favour of politics and opportunities to build up the kind of audiovisual sector we might have had have been lost. It was at Ottawa, in September 1948, that a visiting Taoiseach, John A. Costello, proclaimed for the first time his own government's intention of declaring Ireland a republic. His successors might consider another visit, specifically to see how a relatively small country can articulate successfully an elaborate media policy.

Canada enjoys a remarkably sophisticated system of regulation, licensing and support which manages to keep scores of television stations and hundreds of radio services on the air in a country of under 30 million people. Most of those people are primarily English-speaking although the substantial population of French Canada, including some seven million citizens in the province of Quebec, is often underestimated by observers both inside and outside the North American state of 'two solitudes'.

Like Ireland, Canada is overshadowed by a powerful neighbour with the same dominant language, a big population and a much greater audiovisual economy. Like Ireland it faces an uncertain future as free trade negotiations break down its self-imposed barriers and new technology creates internal uncertainty about market trends. Like Ireland its policy makers worry that they will not be able to hold back the international tide. We also have at least one other thing in common, - the first names of the respective cabinet members responsible for broadcasting (even if they are spelt differently): Ireland's Minister for Arts, Ms Sile de Valera, and Canada's Deputy Prime Minister and Minister of Canadian Heritage, Ms Sheila Copps!

Aware of the various similarities and of Canada's pride in coping with past challenges to its film and television sectors, I travelled to Ottawa, Hull and Montreal in July 1997, with the financial support of both the Association of Canadian Studies in Ireland and

Dublin City University, and met there with key regulators and professionals.

### **Fragmentation**

There were a number of surprises awaiting me. I discovered that, in the highly fragmented English-speaking television market, an audience of one million people is regarded as being top of the range. With an English-speaking population six times that of the Republic, the Canadian Broadcasting Corporation's network is delighted to attract occasionally as many viewers as RTE's 'Late Late Show' and other leading programmes get in a normal week. CBC itself is in big trouble, with a falling share of the market and cut-backs in government funding of its service. That service must compete for a budget with other government departments, there being no household licence fee paid by the public as in Ireland or Britain. In this respect CBC's recent decline is a cautionary tale not only for *Teilifís na Gaeilge*, which depends on annual exchequer funding, but also for the IRTC, which the present Taoiseach has said will soon be funded in the same way. CBC has recently moved offices in Ottawa, to an uninspired suburban building.

CBC today commands less than twelve per cent of the Canadian Television market. Its main rival, the privately-owned CTV, has nearly double that audience and CanWest Global, which recently acquired effective control of Ireland's TV3, is nibbling at CBC's heels with almost ten per cent. CanWest has avoided the regulatory responsibilities of a Canadian network by describing itself as a 'system' and is using its healthy profits to expand internationally with some success. Its formula for expansion has relied heavily on the acquisition of US programming rights and it remains to be seen if this approach, which contributed to one significant failure at its Chilean subsidiary when CanWest underestimated the demand for local content, is tried in the busy Irish market (Taylor 1993; Kenny 1997).

Adding up the figures for the two main networks and CanWest's 'system' it turns out that half of the Canadian audience is missing. Where has it gone? Well, painting a broad picture, about a quarter of the viewers at any given time are tuned into US channels. These may be received by some citizens off-air, as most Canadians live close to the very long border with the States, or otherwise via the ubiquitous cable systems which dot the provinces and cities of Canada. However, the invaders from the south have some of their teeth pulled because of a remarkable requirement for 'simultaneous substitution'.

### **Simultaneous substitution**

'Simultaneous substitution' obliges cable providers to replace the output of any distant channels with the corresponding output of any local Canadian channel whenever the latter is transmitting the same programme at the same time. So if *NYPD* is simultaneously on Channel X originating from the U.S. and on Channel Y originating locally in Canada then the cable provider in the franchise area of Channel Y must transmit or 'drop-in' the output of Channel Y over that of Channel X including, most importantly, the Canadian advertising breaks during that particular programme.

Imagine if RTE could force cable and MMDS providers to transmit its output of U.S.-made programmes and accompanying ad breaks not only on the RTE channel but also in place of identical American programmes on UTV or Channel Four!

It is not surprising to find in the circumstances that as soon as a local Canadian station acquires the rights to a U.S. programme it tends immediately to schedule it directly against its U.S. competitor. The 'simultaneous substitution' regulation is said to be worth over \$100 million dollars annually to the Canadian industry so, as might be expected, there is some concern at recent indications that American producers may be sympathetic to allowing U.S. stations along the border acquire sole rights to certain programmes for both the U.S. and Canada.

;Some of these U.S. stations consider Canada as being very much part of their market, just as Ulster Television might so regard the Republic of Ireland. To allow these U.S. stations sole rights would be even worse for the Canadians than if UTV were allowed sole rights to certain U.K.-made programmes currently on RTE, because it would put an end in effect to 'simultaneous substitution'. What really worries Canadians is that already it has happened that no Canadian TV rights were

sold to *The Lion King* or *Schindler's List* and that stations south of the border had a unique opportunity to acquire these films for screening.

U.S. channels are also being watched via direct satellite broadcasts from across the border, despite desperate and seemingly doomed attempts by Canada's government to outlaw the sale and distribution of equipment which is capable of receiving direct broadcasts from the states. Apart from offending the free trade sensitivities of their American cousins, such attempts smack of censorship and undue interference to many Canadians (Daglish, 1997).

### **Specialty services**

The final quarter of Canadian viewers are tuned into speciality channels, of which there is a remarkable and growing number. Some of these are small community channels while others are private ventures. The business models for the speciality channels are based on low penetration and many perform nicely for their investors on a share of less than one or two per cent of the market. These are again distributed largely via cable, although direct broadcasting by satellite within Canada is now being franchised. M. Pierre Marchand, general manager of Musique Plus in Montreal, told me that for his leading speciality channel 400,000 viewers is 'an excellent audience' and 1% a good market-share. He added, 'we can make a decent share because we are very focused. Advertisers buy an environment and not just numbers'. He described some other successful operations as 'no risk stations: they get subs and balance the books'. His company, part of the ChumCity group which pioneered City TV in Toronto, is about to employ thirty people to run another music channel in Montreal, this time aimed at an older age-group.

### **Canada first**

Canadian channels are advantaged by a 'predominant signal rule' which means that cable operators must carry more local channels than U.S. ones and by a requirement that Canadian companies be given first option on each particular specialty service. This is partly because cable is now at the limit of its analogue capacity. Thus, if a cable provider thinks it a good idea to carry a classical music channel then this intention must be made known in order that a new or existing Canadian channel can provide such a service and bump any U.S. one, rather than the cable provider simply relaying an existing U.S. speciality channel. An exception is made for CNN which is allowed to compete with Canada's Newsworld.

Such a 'Canada First' regulation would be likely to be deemed unacceptable in Europe as a means of discriminating against the services of a fellow member state of the E.U. but the rule survives so far in Canada despite a growth in free trade with its southern neighbour. Equally problematic in Europe would be the tax regime which allows Canadians to deduct advertising expenditure on Canadian stations but not on U.S. stations active in the Canadian market. Nevertheless, Mr André Bureau, president of the big Astral group of media companies, told me at his Montreal office that he still feels that Canada is 'probably the most open country in the world' in terms of what services are available.

For one thing, the measure of what constitutes a Canadian company is broader than what it used to be and a growing proportion of U.S. investment may be found in local ventures. Yet an Irish or other foreign company would still not be permitted to acquire a stake in a Canadian broadcasting company equivalent to that which CanWest is being allowed in Ireland's TV3.

Putting a positive spin on the prospect of increasing foreign involvement in Canada, especially where protectionism is now yielding to free trade in North America, Mr Peter Fleming, Director General of Broadcast Planning at CRTC, remarked to me that, 'there is no great fear anymore that Canada has become a U.S. plant. Canada now welcomes U.S. investment'. M. Jean Guérette, Director of Distribution Systems and Multimedia at Canadian Heritage (the government department responsible for broadcasting policy) defined the objective of current policy as being 'to ensure Canadian presence rather than closed borders, Various surveys reflect the fact that Canadians want Canadian content. People don't *simply* want freedom of choice'.

The viewing proportions which I have given so far have been for English-speaking

Canada. In the province of Quebec the audiences are proportionately greater for Canadian productions, largely in the French language, and the CBC's French service, SRC, has a much healthier market share of about one quarter of the population. The influence of U.S. stations is also far less than elsewhere in Canada, with francophone audiences sharing a more vibrant if insular culture of their own. Not even programmes from France go down particularly well here and, as in the rest of Canada, a wide range of speciality channels has developed.

The Canadian broadcasting sector still seems quite vibrant indeed, with more than one hundred stations or services commanding at least seventy-five per cent of the market, albeit their schedules including a considerable amount of programming from the United States.

### **Canadian production**

The share of viewers commanded by actual Canadian programmes is less than half of that commanded by Canadian stations and may stand as low as 30%. The position has improved since the 1980s as the price of US programming rose and the government insisted on broadcasters sustaining their Canadian content. There is a good market for Canadian programmes and producers receive substantial support in the form of tax-breaks, grants and direct investment. There is 'a vast array of public and private funds accessible to domestic producers' and few countries 'can match the level of international co-production activity generated by broadcasters and producers in Canada', activity which has included three co-productions with Ireland since 1991 (Murray, 1997).

Mr Michael McCabe, President and Chief Executive Officer of the Canadian Association of Broadcasters told me that, with the prospect of ever more stations being received from abroad, 'in the late '80s and early '90s we as an industry decided that Canadian programming is our future'. This reminded me of how RTE had long ago decided that investment in 'home-production' is an essential part of its strategy to compete for audience against British terrestrial and satellite broadcasters.

### **Quotas**

Domestic broadcasters are subject to national quotas which require that 60% of programming presented on television must qualify as Canadian content (Cancon), with 50% being allowed during peak times. CAVCO (the Canadian Audiovisual Certification Office) is one of the agencies charged with determining what constitutes 'Canadian content'. While broadcasters conform to the letter of the Cancon requirement they do so in a spirit which does not always please independent producers. Ms Elizabeth McDonald, president of the Canadian Film and Television Producers Association, expressed to me her scepticism about the long-term commitment of private broadcasters to her members. (The CFTPA produces a very useful annual guide to the Canadian audiovisual sector).

The attitude of the private sector in Canada towards 'home production' has already received some attention in Ireland (Saint-Lauren and Tremblay 1994). In general that attitude is considered by traditional broadcasters to be disappointing, especially in qualitative terms. Mr David Keeble, senior director of strategic planning and regulatory affairs at CBC, put it this way for me: 'There is a thriving independent sector but the product is not very helpful in terms of a cultural policy'.

Public policy is directed at ensuring that private broadcasters invest in the indigenous production industry but the results are not always very evident. Yet companies like CanWest Global, sometimes accused of minimising their programming commitments, more than conform in practice to the criteria of the CRTC. The ways in which they do so are the cause of some comment, with CanWest's showcase serial, *Traders*, for example being funded through a variety of creative mechanisms which ease considerably the potential burden on CanWest's coffers. One senior executive in a competing service whom I met claimed that by clever use of production funds and tax incentives CanWest is getting *Traders* for just one tenth of its actual budget.

However, this does not appear to be exceptional as one recent profile of the entire Canadian industry found that broadcaster 'licence fees' (i.e. what the broadcaster actually pays for a programme), 'typically account for 10% to 25% of a program's

budget', which is small compared to the usual contribution in Ireland or Britain (Canadian Film and Television Production Association et al. 1997: 3). On the other hand, it has to be said that in the competitive Canadian market there is not a great demand for home-made drama or for the other types of what are designated 'underrepresented' categories of variety, documentary and children's programming. Despite the well-deserved reputation of Canadian film-makers the share of the box-office which is today commanded by their productions is minuscule. In television not even CBC has succeeded in creating a standard soap such as *Eastenders*, *Neighbours* or *Glenroe*. Canadians whom I met were amazed to hear how RTE has managed to support programmes like *The Riordans*, *Tolka Row*, *Glenroe*, *Fair City* and *Ros na Rún*. CBC is currently trying to import writing talent to build up its portfolio in this area and the failure to do so to date is largely put down to the fact that Canadians became addicts of U.S. sit-coms, soaps and serials from a very early date. Even expensive productions such as CanWest's *Traders* have tended to be regarded as 'throw-aways', screened in its case against *ER* on a competing service and in many cases seen as a way to fulfil regulatory requirements rather than viewer needs. An ad spot on a programme like *Traders* or the family-show *Jake and the Kid* is a fraction of the cost of a similar spot during the very popular U.S. series *Seinfeld*.

### **Production support**

Canadian authorities have long been conscious of the need to take active measures aimed at realistic support for its cultural industries. For example, the Ottawa government's decision in 1976 to enact legislation to prevent foreign magazines from skimming Canadian advertising by reusing editorial material which was already paid for in the magazine's domestic market was regarded as crucial in the process which saw more than two hundred new Canadian magazine titles being established during the following twelve years (Campbell 1997).

Perhaps to encourage the private sector some of the regulations concerning Canadian television content are themselves flexible, with prime-time being defined as between 6.00 p.m. and midnight and certain categories of programme being counted two-hours for one actual hour. CBC's David Keeble observed dryly that 'most regulatory bodies become captured by the industry which they regulate'.

Private Canadian broadcasters are now producing programmes for themselves where before they might simply have acquired them from independents. Michael McCabe told me that 'programmes must be saleable internationally. We must build an internationally focused industry'. While this sounds in principle like an admirable objective some independent producers fear that in practice they may lose out to powerful companies which control production, distribution and transmission. They note that in the last round of licensing the majority of speciality channels went to existing broadcasters rather than to new players as had previously been the case.

### **Industrially Canadian**

The volume and turnover figures for Canadian production sometimes mask the fact that shows such as *The Outer Limits* are being shot in Canada to look like they are made in the U.S. Both Vancouver and Toronto benefit from this cross-border service business which is 'industrially Canadian' and which takes advantage of the weaker Canadian dollar. However, the end product is scarcely Canadian in any significant cultural or creative sense (Doyle, 1997). Moreover, these practices also push up costs for Canadians and have made them expect to spend a lot on their own productions. A series like *Due South*, which is now exported to the US, costs over \$2 million per episode. If Canadian technicians and actors don't get what they want in their own country then it's a short hop to Los Angeles, which is described sometimes as the fourth largest Canadian city in the world.

Some of the programmes which Canadians themselves produce look like they might have been shot in the U.S. This is done deliberately with a view to U.S. and international sales. They may include Canadian actors, but only because their accents are not nearly as off-putting to their neighbours as are British or Australian accents. As Peter Fleming, Director General of Broadcast Planning at CRTC said to

me of U.S. mass audiences, 'if it doesn't look like their country they aren't interested'.

### **Production funds**

For those Canadians wishing to produce locally, one fruitful source of investment has been the production funds which were set up over the years by cable companies, usually as a condition of their being allowed to expand in some way. In effect all cable suppliers are expected to pay for some production, a 'significant benefit test' being applied to their proposals for services. Other funds are entirely independent. A new 'Canada Television and Cable Production Fund' has also been created jointly by public and private interests but on closer inspection it is seen that some of this fund's \$200 millions has been redirected from elsewhere in the system (a Canadian Heritage news release P-09/96-149, 9 Sept. 96, notes that the fund is constituted by a Federal Budget commitment of \$100m together with \$50m each from Telefilm Canada and the private-sector Cable Production Fund. Drama, variety, children's shows, documentaries and performing arts are the eligible programme categories). Telefilm Canada and the National Film Board are both long-established and highly reputable sources of revenue. Since its inception thirty years ago Telefilm Canada has invested more than \$1 billion in films and television programming (Barker 1997:8). Telefilm Canada (1997) is a useful and informative catalogue of productions funded by that organisation.

Telefilm Canada can give up to 50% of a programme budget to independent producers wishing to make productions for television. Because of a fear that money has been spent indulgently in the past, it is now the case according to M Guy DeRepentigny, Telefilm's director of Policy, Planning and Research, that 'if you look for money you must have a commitment from a broadcaster and your proposed programme must have been scheduled during prime time'. There is a tendency to support the higher end of the market which reflects the desire to ensure that big audiences are watching Canadian productions.

The National Film Board, like CBC, has suffered serious cutbacks. Nevertheless, the budgets which the Film Board makes available to some producers of hour-long documentaries would reduce their Irish counterparts to uncontrollable fits of celebratory weeping. Each year around a dozen proposals get \$750,000 on average, while about forty more get \$450,000 each. While Canada's whole population is about eight times that of the Republic, its Film Board has an annual budget about twenty one times that of Ireland's Film Board.

As Chairwoman of the Film Board, Ms Sandra MacDonald was at pains to point out to me the importance of an active government policy: 'How much programming you can afford to make if it is not based on selling to the largest number of people is a political choice. We have had pretty extreme pressure at all levels of government to reduce spending'.

She does not see her board as being 'part of the solution to the problem of drama on television'. The Board's mission has been and remains principally factual and outside broadcasting. Its exceptions still tend towards the factually based, such as the acclaimed *Boys of Saint Vincent*, a series about sex abuse by Christian Brothers which was made with CBC participation and which remarkably, given its relevant content, has been passed up by RTE's buyers. Another programme which the Film Board made with CBC on the bombing of Germany during World War II landed them in the Canadian Supreme Court in a libel action taken by veterans. There is a fresh demand from speciality channels for the sort of films and documentaries which the Film Board funds and Ms MacDonald told me enthusiastically that Discovery, Vision, Bravo and the Cartoon and History channels are a 'great boon'.

### **Policy making**

To this visiting Irishman there seems to be in Canada a striking commitment to policy-making and planning. Allowing for the differential in the size of our respective populations, the CRTC has a far larger staff than has the IRTC and the government seems to understand the need for a coherent position on the convergence of new technologies in communications and broadcasting. The CRTC employs nearly 400 people and has a budget of about \$30 million to handle both broadcasting and

telecom matters, about 40% of its resources being allocated to the latter areas. Its full title is 'the Canadian Radio-television and Telecommunications Commission'. It boasts of regulating no less than 5,600 licensed broadcasters including AM and FM radio, television, cable, pay and speciality television, Direct-to-Home satellite systems, MMDS, subscription TV and Pay Audio. An active Information Highway Advisory Council has also been established, with a specific interest in sustaining Canadian content in any new information order.

While not wishing to idealise the Canadian position, which has its own imperfections, a glance at some of the recently published documents and discussion papers listed in the references below speaks for itself. On the other hand there is a right of appeal from the CRTC to government, which may send back or overturn decisions.

CanWest, for example, appealed last year when they failed to get certain licences in Alberta. While the government did not allow the narrow appeal CanWest did win some collateral concessions which may permit it finally to become a fully nation-wide operation. Whether such interventions constitute policy or politics is a matter for Canadians to debate.

Among the practical questions being addressed by Canadian audiovisual professionals is how to ensure that television delivery systems such as cable, satellite and DTT will give priority to Canadian channels by having them appear first on their menus and not losing them in a mass of information and services. This would mean the protection of prominent 'shelf-space' for indigenous producers and broadcasters. All systems of delivery may even have to carry a little maple leaf in the corner of the screen of Canadian channels in order to alert the casual surfer to what is non-Canadian, although some fear that this could be counter-productive.

### **Multimedia**

Of particular concern to policy-makers is potential U.S. dominance of the global information infrastructure. Says M. Jean Guérette of Canadian Heritage: 'We must ensure our presence on this infrastructure. There must not only be networks for dominant players'. For him the protection and development of Canadian content is crucial in devolving a strategy for the multimedia age. In this context one of the striking things about Canada is how its policy of actively nurturing and adjusting the circumstances of its audiovisual industries over the years, cultivating competition in a gradualist but expansive manner, has resulted in a strong sector united around certain objectives. Although Mr André Bureau of Astral is as commercial a broadcaster as you might find, he sounds like a public servant when he argues that 'you have to be constantly able to develop a mechanism which can support programme development. There is an obsession with allowing competition in everything. We have to get back to saying, "Look, we have here a country of 28 million people...so by allowing competition we will not increase their market"'.

### **Conclusion**

The advent of digital terrestrial television and the Internet, together with an expansion in free trade and the difficulties of protecting indigenous producers and broadcasters, are all factors which are as challenging to Canada as to Ireland and there is a high degree of uncertainty about the future of the audiovisual sector in both countries.

Where Ireland can learn from Canada is in reference to the latter's active cultivation of a strong and competitive local industry, its consistent sustainment of a continuing commitment to local content and its manifesting a great readiness to make, publish and evolve policy as required. Where Ireland can benefit Canada is in sharing its experience of the European Union. Because of their respective geographical and historical positions in the world and certain common cultural and economic hazards facing them, Canada and Ireland can usefully learn from each other. The two countries would profit from co-operation in the formulation of appropriate responses to the threats and opportunities of the new global information age.

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### **Note**

Quotations, unless otherwise stated, are from personal interviews conducted by the

author in July 1997. In addition to people mentioned in the text I wish to thank the following for assistance in the preparation of this article: M. Jean Bouchard of the Association des Producteurs de Films et de Télévision du Québec, Ms Claire Dion of the Maclean Hunter Television Fund, Ms Barbara Doran, independent producer, M. Harry Gulkin of the Société de Développement des Entreprises Culturelles, Mr Bob O'Reilly of Radio Canada International, Mr Philip Pinnington of the Canadian Embassy in Dublin and the librarian and staff of McGill University, Montreal.

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