

FILMONTARIO

FILM · TELEVISION · INTERACTIVE

January 15, 2008

Dear colleague,

On December 13, 2007, Premier Dalton McGuinty's government increased Ontario's domestic tax credit by 16% (from 30% to 35% in Toronto, and from 40% to 45% elsewhere in the province). The province's foreign service tax credit was increased by 38% (from 18% to 25%), effective January 1, 2008.

In many ways this announcement by the Government of Ontario is the most important thing to happen to Ontario's screen-based industry this year.

And almost all of the work that led to it occurred behind closed doors.

So we thought we would open those doors up for all stakeholders in Ontario's film, television and interactive industry, and report on how we got to this announcement.

Appended, you'll find the back-story to that announcement and to a number of other important developments in recent years. It's a little long, but we thought you'd like to know.

All the best,

Brian Topp and Sue Murdoch, co-chairs of FilmOntario

To begin, what is “FilmOntario”?

FilmOntario is the brainchild of former Directors Guild of Canada (Ontario) Executive Director Marcus Handman.

Handman and the DGC-O were and remain indefatigable advocates of getting people in our industry to team up, and to do together what we cannot do alone.

In the fall of 2001, it was becoming increasingly clear that the U.S. movie-of-the-week bubble that had carried Toronto's production industry for the better part of a decade was about to burst.

The market for that product was in steep decline. Simultaneously, our province's jury-rigged tax credits, studio infrastructure, and global marketing efforts were being successfully challenged by other jurisdictions.

The forums then available to our industry to talk to itself about this (forums like “FLIC” at the City of Toronto) were cumbersome and focused on detail.

So, in November 2001, Handman pitched the then newly-hired Executive Director of ACTRA Toronto, Brian Topp, on these issues over coffee. They agreed that the time had come to reach out to the rest of the industry and to see what needed to be done – and could be done.

Handman then pulled out his rolodex and convened an informal working group of producers, senior staff from unions and guilds, post-production companies, and other industry players.

A series of meetings were held over the following 18 months to talk through the issues, build trust, and find a consensus about what to do – motivated by an end to growth in the industry and our increasingly obvious competitive issues.

FilmOntario is launched:

By the fall of 2003, the members of Handman's informal working group felt there was wide enough agreement on what needed to be done, to start getting it done.

A non-profit industry trade association was incorporated (“FilmOntario”).

A board was formed.

A dues structure was set up.

Two co-chairs were named -- Patrick Whitley (CEO of Dufferin Gate Productions and soon-to-be Vice chair of the CFTPA board, from among the 60-odd industry members of the consortium); and ACTRA Toronto's Brian Topp (from among the 25,000 working

people represented in the trade association through their unions and guilds).

A successful membership recruitment drive was launched.

And a Managing Director was hired – Sarah Ker-Hornell, a Commercial Executive Producer.

FilmOntario's operating principle was and remains to “pick a few important things to do, and do them well until they are done.”

In late 2003 the trade association picked two things to do: improve Ontario's marketing; and improve our province's fiscal competitiveness.

Marketing Ontario:

On the marketing side, the job was to reach out to the City of Toronto and the Government of Ontario (both of whom have long conducted separate film and television marketing programs) and to urge them to partner with the industry in the cause of designing and implementing a single, effective global brand proposition for Ontario as a film production centre, domestic and foreign.

A working group of the Film Ontario board has been plugging away at this priority since the winter of 2004. There is much left to do. But progress has been made.

Ontario, Toronto and FilmOntario agreed to co-fund a new marketing office in Los Angeles – which has been instrumental in defending our share of US production during the roller-coaster ride of recent years.

A common brand phrase and message has been hammered out: “You Belong Here” was launched in 2006, including a web portal www.you-belong-here.com. The City, the Province and FilmOntario now use this brand phrase and accompanying design template for all marketing materials for our sector.

Industry, City and Provincial marketing efforts are increasingly well coordinated (not least because the industry, City and Provincial staff involved in marketing now hold regular conference calls to share work and make sure they are complimenting each other's efforts).

In 2007, at the invitation of the Premier's office, and the Ministry of Economic Development and Trade, FilmOntario began to develop relationships with all of Ontario's Economic Development and Trade international offices with an eye to expand Ontario's international customer base for both domestic content and production/post services.

The marketing focus now is on talking up the revolutionary change that will take place in Ontario's film infrastructure, when FilmPort opens in March 2008, coupled with our attractive tax credit climate.

Tax credits, Phase One:

On the tax credit side, FilmOntario saw opportunity in an election commitment Premier McGuinty's Liberal Party had made in the 2003 provincial election.

The Liberals promised to address the province's domestic tax credits, unchanged for many years.

FilmOntario decided to focus on that commitment, and to prove to the Government that it was good public policy to fulfill it for both domestic and service activities.

In early 2004 FilmOntario approached the Ontario Media Development Corporation and proposed a joint research project. The OMDC agreed and provided a \$12,500 grant. The CFTPA/Ontario Producers Panel contributed \$17,000. FilmOntario stumped up \$50,000.

After a bidding process, we hired the consulting firm Ernst & Young. The mandate: review Ontario's competitiveness compared to other jurisdictions (disastrously poor at that time), and demonstrate the economics of a significant increase in credits (excellent returns to the provincial government, since tax credit increases feed back into higher revenues).

Some serious brainpower was applied to that report. Many contributed to it.

Much of the underlying data and design was provided by then-FilmOntario board member and EP Canada President Mark Prior.

Working literally daily for months with Sarah Ker-Hornell, Film Ontario board member and CFTPA Ontario Producers' Panel co-chair Alex Raffe drove the detailed proposals on a new tax credit regime, assisted by her OPP co-chair Scott Garvie.

The final Ernst & Young report, detailed and clear, was presented to the province in the spring of 2004.

At first, things then didn't go well at all.

To summarize much talk with officials and elected people, it was made fairly clear to us that the Ontario Government wasn't persuaded it had made a wise promise, and wasn't sure it wanted to make the province's film tax credits a budget priority.

No tax credit changes were included in the spring 2004 provincial budget.

We set out to change this, in three ways.

We worked to persuade.

In the summer and fall of 2004, we asked for meetings with the Ministers and officials at Finance and Culture, and basically laid siege to them – showing up with increasingly large groups of company CEOs, producers and union leaders to spell out the increasingly disastrous uncompetitiveness of our tax credits, and the consequent bleeding of domestic and foreign production out of Ontario and to other jurisdictions. To be fair to Premier McGuinty’s Government, they always made themselves available for these meetings, and clearly were listening to us carefully.

We opened up a dialog with opposition parties.

Progressive Conservative Leader John Tory and New Democratic Party Culture critic Marilyn Churley immediately signed up to help our industry – and began to raise the heat on these issues in the Legislature.

We also continued working with E&Y to update the numbers to include 2004 activity, showing that our industry was not simply suffering from the after-effects of SARS.

Finally, we moved to make film tax credits a public issue.

IATSE 873 took the lead here. The elected leadership (led by then-President Matthew Pill), senior staff (led by then-business agent Mimi Wolch) and members of IATSE 873 formed a task force, brought together “get it done” workers and volunteers from the other unions and guilds in the industry, and organized a notable day of action in front of Queen's Park in the fall of 2004. The Legislature was ringed with trucks, their horns rattling the windows. Hundreds of industry workers rallied to hear statements from union leaders, performers, producers and companies repeating the key points we were seeking to put to government. Media coverage was significant and favourable. It should be noted that Opposition Leader, John Tory, and his then-Finance critic, Jim Flaherty, came out into the weather to stand with FilmOntario at the rally.

In December 2004, Premier McGuinty and Finance Minister Greg Sorbara reviewed the issue and saw the merit of our case.

At a memorable and happy press conference at Toronto Film Studios attended by hundreds of industry workers, then-Finance Minister Sorbara announced that the time had indeed come to address the competitiveness of Ontario's tax credits, and not in a small way.

Domestic credits were increased by 50% (from 20% to 30% in Toronto, and from 30% to 40% outside of the city). Foreign service tax credits were increased by 33% (from 11% to 18% in a single unified provincial rate, eliminating the anti-Toronto “regional bonus”). Significantly, this increase was without any caps restrictions.

Hurray!

Tax credits, Phase Two:

In the fall of 2005, Patrick Whitley handed over his seat to Susan Murdoch as industry co-chair of the FilmOntario board.

Murdoch is a leading Ontario film and television producer, a founding FilmOntario board member, and would soon also accept an appointment as co-chair of the Toronto Film Board (her colleague in the leadership of that board is Mayor David Miller) that FilmOntario spearheaded.

That fall, co chairs Murdoch and Topp led a discussion with their colleagues on the FilmOntario board about what Ontario needed to do for an encore.

The December 2004 announcement had restored our competitiveness – putting Ontario back in the middle of the pack of North American tax credit regimes. We had stopped the bleeding; helped our domestic producers stay home; given our LA office something to sell.

Now, the FilmOntario board asked themselves, how could we move out of the “middle of the pack” and not just match our competitors, but lap them – offer something no one else did?

FilmOntario approached the Government of Ontario and asked them if they would like to partner with us in trying to answer that question. In the form of a \$100,000 research grant through the Ontario Media Development Corporation, they answered “yes”. The CFTPA/Ontario Producers Panel also stepped up to the plate, contributing \$25,000. FilmOntario put up \$125,000 of its own funds.

We then went looking for a research firm.

In June 2006, after a bidding process, PrinceWaterhouseCoopers was hired to work with us, partnered with the ever-present, film-savvy and talented Nordicity research firm.

FilmOntario also hired a deputy project manager – Tom Sweeting, a consultant with the public affairs firm Earnscliffe Ontario. Sweeting had worked for 34 years as a senior official at the Government of Ontario's Department of Finance. He understood film tax issues. And he understood the Government of Ontario.

Project manager Sarah Ker-Hornell, Sweeting, PWC and Nordicity then set out to do something extremely difficult and challenging – they consulted the screen-based industry about a big question.

Throughout the summer of 2006 many numbers were crunched, many proposals discussed and many whiteboards covered with ideas.

Ker-Hornell worked closely with the CFTPA Ontario Producers' Panel, the Producers Roundtable of Ontario (“PRO”) and the New Media Business Alliance [now Interactive Ontario] (all groups representing producers in television, film and new media) to ensure wide agreement on the issues. These groups held regular roundtables with FilmOntario to help craft the research report's proposals; to ensure our industry spoke with one voice; to supply advocates at meetings with Government; and to keep people in the industry briefed on what was going on.

Again, many people contributed to the work.

The representatives from “PRO” (including producer Jennifer Jonas, now a FilmOntario board member) were particularly influential in keeping a strong focus on domestic Canadian production; on thinking about how to strengthen our own production companies; and on looking carefully at other best practices in Canada, notably in Quebec.

Susan Murdoch and Jonathan Barker (FilmOntario board member; former CEO of the Ontario Film Development Corporation; co-chair of the CFTPA/Ontario Producers Panel; co-President and CEO of Shaftesbury Productions) led in shaping the proposals to ensure they would really work for Ontario production companies – that they spoke to balance sheet issues; were about making our industry more market-driven and audience-driven; and would give producers new and real tools.

The upshot was another detailed and clear paper completed in late September 2006 – the “PWC Report”.

There is a lot in that report, but its key points are these:

- **A development fund:** A successful film and television industry “cluster” rests on a healthy group of production companies – some leaders; more mid-sized; and a strong slate of smaller companies jostling to be the new mids and bigs. Quebec works to build its production companies through a crown agency called “SODEC”, equipped with both a production fund and a public/private lending agency, FIDEC. The PWC Report proposed that Ontario set up similar instruments – as a first step, by rebuilding the Ontario Media Development Corporation, and equipping it with a \$30 million annual investment fund. This fund would be used to build up working capital and positive net worth in the balance sheets of Ontario production companies (among other ways, perhaps, through targeted venture investments), it would promote slate production (so that our companies can hedge their bets on multiple shows, and thus not bet their existence on a single production), and would promote and help fund project development and R&D (quality scripts; pilots; market research – the basic building blocks of successful productions).

- **More efficient tax credits:** Picking up on a key theme advocated by the CFTPA/OPP, The PWC report proposed that the current – enhanced – credits be paid more quickly. Producers currently have to wait up to 18 months to receive credits. They therefore borrow against them from banks, tying up scarce capital and incurring costs equivalent to up to 10% of the credits. For qualified companies, the PWC report proposes the credits be paid immediately – freeing up capital; cutting out a borrowing requirement. Putting all of the credits on screen.
- **Marketing:** The PWC Report carried forward FilmOntario's long-standing priority on marketing, proposing a \$5 million annual budget to market domestic productions worldwide, and to promote Ontario as a global production centre.
- **Governance:** The PWC Report proposed an industry consultative committee (basically, a system of peer review) to help steer these initiatives.

Fate of the PWC Report:

The PWC Report was put to the government in the fall of 2006. Our goal was to have the entire report adopted as part of the spring 2007 provincial budget.

Working closely with the three groups representing film, television and new media producers (the CFTPA-OPP, PRO, and Interactive Ontario) we pitched the PWC report to the Premier through his officials, to the Minister of Finance, to the Ministry of Economic Development and Trade, Ministry of Research & Innovation, Minister of Culture, to the OMDC, and to teams of officials from Finance, Economic Development, R&I and Culture. Again to their credit, Premier McGuinty's colleagues in Government made themselves available to us for many hours, and listened carefully to a great deal of pitching.

These meetings kept us busy from October 2006 until February 2007.

We felt we were making progress.

The Ontario provincial budget was presented in April 2007.

To our considerable disappointment and dismay, our proposals mostly weren't in it. Instead, the Government reached into the PWC report and implemented one measure – a \$5 million fund to promote. Screen-based industry activity.

We were told that this measure was intended as a signal that the Government wanted to keep working with us on the PWC report. We were also asked to understand that a provincial election was expected within months, and that inevitably this shaped the provincial budget. Our detailed, expensive and complex proposal just didn't “fit” what the government was trying to do that year.

We watched closely that spring to see what could be learned from the \$5 million step that had been taken. The fund was flowed through the Department of Culture to the Ontario Media Development Corporation. Encouragingly, a consultative forum was created by the OMDC made up of representatives of FilmOntario, CFTPA/OPP, PRO and Interactive Ontario. This took us a step toward a “peer review” governance model. Much less encouragingly, the focus of the \$5 million marketing fund was then lost (about which a little more, below).

Post-mortem:

In a series of meetings in late spring and early summer 2007, the FilmOntario board conducted a detailed post-mortem of the PWC/Nordicity exercise and how it had played out in the Ontario budget. The project had cost some \$250,000 and over 12 months' work. Were we happy with the result?

In sum, we concluded the following:

- No. We weren't “happy”.
- The \$5 million was an encouraging signal and something to build on.
- But as a practical matter, this relatively small sum had (from our perspective) been dissipated into a series of worthy projects and program enhancements within the Ontario Media Development Corporation, with little measureable result in terms of better balance sheets for Ontario screen-based companies, or more work days for Ontario screen-based creative people and crew.
- Further, what happened to that \$5 million made us question the core policy tool proposed in the PWC study – the \$30 million annual fund.

For this fund to work, it would require a uniquely skilled, focused and film industry-savvy fund manager. We had proposed a “rebuilt” OMDC for this role, assisted by a peer review process (all of this modelled on Quebec's SODEC agency).

But the OMDC is mandated by law to serve six industries – film, television and interactive, plus the music industry, plus the book publishing industry, plus the magazine publishing industry.

The fate of the \$5 million spring 2007 “pilot” suggested to us that the OMDC in its current form would find it quite challenging to be handed a \$30 million annual film fund. Its other stakeholders would (perhaps quite reasonably) ask for similar funds (turning our “ask” into a \$120 million annual proposition - \$30 million x four) or a fair share of the film fund (stripping it of its ability to get real results in any one industry).

- The time may come, perhaps soon, when it will make sense to partner with our colleagues in the book, magazine, and music industries. But as this report demonstrates, building industry coalitions is a multi-year, step-by-step process. Multi-industry coalitions are even more complex, and take more time.

Conscious of the money and time we had already spent, and how daunting it would be to “go bigger”, the FilmOntario board decided to look for real results in a much shorter time frame. That meant keeping focused on our own business.

So, what to do?

In early summer 2007, we decided the following:

First, we concluded that the vision set out in the PWC/Nordicity Report was correct and would continue to guide our work. Our goal is to rebuild and renew Ontario as a centre of film and television production excellence, which includes interactive. Getting there is about healthy, well-capitalized, market and audience-driven production companies. Supporting in turn a skilled, talented and steadily employed base of film workers, and a deep and cutting-edge infrastructure of studio, post, equipment supply, financial services, legal, payroll and other companies.

Second, we concluded that if we wanted to make some progress toward that vision in the short-term, we needed to simplify our “ask”. That meant working within the existing “policy instrument” (tax credits).

Third, we concluded that the upcoming provincial election provided us with our next opportunity to get results. We succeeded in getting tax credits enhanced in 2004 by pointing to and building on an election platform commitment given in the 2003 provincial election. We could do that again.

Setting up the Son of PWC Report:

We got going on the necessary homework.

We got going talking to the three political parties.

A team of FilmOntario board members contacted Progressive Conservative Leader John Tory, and with Ker-Hornell briefed his officials on these issues, and asked if the PCs would be willing to make the screen-based industry part of their election campaign. Mr. Tory is a friend of our industry and knows our industry well as a former CEO of Rogers Cablevision. The PCs responded immediately and positively, developing a printed, multi-point film, television and interactive platform that Mr. Tory then presented at a full-court press conference at the end of June 2007 held at Toronto Film Studios. FilmOntario was the only non-press invited to attend.

Sarah Ker-Hornell and a group of board members also contacted New Democratic Party Leader Howard Hampton, and briefed his officials on these issues. The NDP issued an arts and culture commitments “fact sheet” during the campaign that picked up most of the proposals in the PWC Report, as amended.

And Ker-Hornell and Topp contacted Premier Dalton McGuinty, talked through our issues with his political colleagues once more in a series of meetings and telephone conference calls. We asked that these issues be part of the Liberal Party platform in the upcoming campaign. Culture Minister Caroline Di Cocco held a press conference at the Royal Ontario Museum during the campaign to spell out a particularly clear commitment to our industry. Once again, FilmOntario was invited to attend. At this important event, the Ontario Liberal Party committed to invest an additional \$50 million each year in enhanced provincial tax credits (basically, the sum proposed in the PWC Report, but through the tax credit mechanism instead of through a new Film Fund), and to work with the industry on ways to flow tax credits more quickly to production companies.

Susan Murdoch, in her capacity as co-chair of the Toronto Film Board, arranged for an expert finance panel to be convened through the Toronto Film Board as part of an overall strategic plan. Its existence was fortuitously timed, since it gave us a “think tank” of leading film tax experts from banks, law firms and other companies to think through how we could get to some of the goals of the PWC Report through the instrument of the provincial film tax credit system.

October 10, 2007 and the six weeks afterwards:

On October 10, 2007, Premier McGuinty and his Liberal Party were re-elected in a landslide. We would like to think the people of Ontario were rewarding him for making a progressive and forward-thinking commitment about the screen-based industry. If not, it ought to be so.

Ker-Hornell stayed in close touch with officials in the Premier's Office and the Finance Ministry as the Government settled into its new mandate, undertook a major Cabinet reshuffle, and began to think about what it wanted to tackle first.

In a series of what turned out to be important calls, Ker-Hornell pointed out that the film industry plans in mid-winter for what it is going to do in the spring and summer. If the Government wanted maximum benefit of a further move on tax credits, the time to announce it would be before Christmas.

As it happened, the Government was planning a fall 2007 economic statement with a heavy focus on economic development announcements. Ontario's manufacturing industry is facing some tough challenges – the Government wanted to make some moves to help.

In early December 2007 the Finance Department requested that a small group from FilmOntario attend a meeting to review our goals as set out in the PWC Report, and to explain how these could be achieved through the tax credit system (as proposed in the 2007 Ontario Liberal platform). Very fortunately for us all, the Toronto Film Board's expert panel on tax credits had just provided Susan Murdoch with a report, doing just this.

Murdoch outlined the expert panel's proposals at a hurriedly called FilmOntario board meeting. We invited Scott Garvie to attend this discussion since his colleague at Shaftesbury, Jonathan Barker, was out of the country. With the benefit of the expert panel report and Garvie's financial expertise the FilmOntario board hammered together a pitch, and off we went.

Showtime.

We set out our pitch to a group of Finance officials on December 6th. We were hopeful it had gone well, but they never tell you what they're going to do until it's announced.

On December 12th, the Finance Minister's office called Sarah Ker-Hornell and asked her to attend the economic statement at Queen's Park the following day, and to be ready to speak to the media.

On December 13th, Finance Minister Dwight Duncan stood up and presented the Government's 2007 fall economic statement. Included in this statement – 5 additional points into domestic tax credits (a 16% increase), and 7 additional points into foreign service tax credits (a 38% increase) effective January 1, 2008.

What's Next?

At this writing (early January 2008) we're not done yet with the “Son of PWC Report”.

The Government wants to talk about how to flow these credits more quickly – a key proposal in the Report. And since the December 13th announcement does not fully spend the \$50 million/year election commitment, there may be some room to talk about additional measures to promote our industry.

Meanwhile, the Toronto Film Board's expert panel is turning its mind to mechanisms we could look at to entice private capital to now invest in screen-based industry companies.

And “CFTIC” (a industry coalition that FilmOntario sits on, created by Patrick Whitley roughly on the lines of FilmOntario, working on federal issues) is turning its mind to proposing a set of complimentary fiscal moves – one being eliminating the federal “grind” that undermines provincial tax credit enhancements.

The bottom line: a \$250,000 research effort and 18 months of diligent work led by FilmOntario Managing Director Sarah Ker-Hornell with co-chairs Brian Topp and Sue Murdoch and colleagues on the FilmOntario board, in coalition with the CFTPA/OPP, PRO, Interactive Ontario and the Toronto Film Board, and generous funding assistance from the Province of Ontario, has resulted in \$200 million in enhanced support for our industry over the next four years. That's over 60,000% return on investment (better than most mutual funds this year).

Marcus Handman and Patrick Whitley were right. When people in our industry team up, we can do together what we cannot do alone.

Susan Murdoch and Brian Topp
Co-Chairs, FilmOntario
www.filmontario.ca