Culture and Industry as a Development Chance for Poland

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In 1776, Adam Smith wrote in *The Wealth of Nations* that the labor of performing artists "perishes in the very instant of its production." Accordingly, Smith felt that the work of musicians, actors, and singers created little wealth for a country.

However today, at the beginning of the twenty-first century, few any longer doubt the importance of the creative industries as a source of national wealth. Creative industries in today's information-based, global economy constitute an important source of national wealth and international competitive advantage. That is certainly true in my own country, the United States of America.

For purposes of my discussion today I would define cultural industries as including the following: newspapers and periodicals, book publishing, music publishing, radio and television broadcasting, cable television, sound recordings, motion pictures, theatrical productions, museums, historic sites, libraries, professional sports, and computer software. One common characteristic of these industries is that the products they produce and make available to the public are protected by copyright law.

One of the most comprehensive economic analyses of the copyright-based industries is the Annual Report of the International Intellectual Property Alliance prepared by economist, Stephen E. Siwek.

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[1] Copyright 2000. The author is President of the International Intellectual Property Institute and served from 1993 to 1999 as Assistant Secretary of Commerce and Commissioner of Patent and Trademarks of the United States of America.

In his most recent analysis for the IPAA, Mr. Siwek demonstrated that copyright industries contributed more to the U.S. economy and employed more workers than any single manufacturing sector, including chemicals, industrial equipment, electronics, textiles and apparel, food processing and aircraft.[2] He found that in 1999 the U.S. core copyright industries contributed an estimated $457.2 billion to the national economy, accounting for nearly 5 percent of GDP.[3] From 1977 to 1997, employment in the core U.S. copyright industries grew from 1.5 million to 4.3 million workers, increasing at an annual rate nearly three times that of the economy as a whole.[4] In the last few years this growth rate has accelerated. Total employment attributed to copyright industries grew to 7.6 million workers by the end of 1999.

Mr. Siwek's studies did not include the economic contribution of museums, libraries, historic sites or the relationship of culture to the tourism industry, which the World Bank has determined to be the largest industry in the world, expected to account for $7.2 trillion of economic activity by 2005.[5] A closer look at the non profit arts industry – that is museums and publicly supported performing arts – shows that this sector contributes significantly to the U.S. economy as well. A 1994 study by the National Assembly of Local Arts Agencies found the following.

➢ Total annual expenditures	$36.8 billion
➢ Total full-time jobs	$1.3 million
➢ Total salaries	$25.2 billion
➢ Municipal tax revenue generated	$790 million
➢ State government tax revenue generated	$1.2 billion
➢ National government tax revenue generated	$3.4 billion[6]

These figures are now significantly out of date and should be assumed to be considerably higher than today. The National Assembly of Local Arts Agencies is now in the process of conducting a new study that should be available later this year.

Museums and historic sites continue to find new ways to generate income and stimulate economic activity from the cultural content in their care. For example, museums in the United States derive about eight percent (8%) of their total operating income from gift shop and publication sales.[7] Large museums like the Metropolitan Museum of Art in New York, the Smithsonian Institution and Colonial Williamsburg operate shops, mail order catalogues and web sites which sell wares based on their collections.

It is not surprising that large software and electronic firms are inviting museums around the world to include their holdings in new media compilations for commercial distribution.

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[2] International Intellectual Property Alliance, *Copyright Industries in the U.S. Economy – The 2000 Report.* A summary of the report can be found at http://www.iipa.com.
[3] The core copyright industries include movies, television programs, home videos, business and entertainment software, books, music and sound recordings.
[4] *Copyright Industries in the U.S. Economy, supra note 2*.
[5] See The World Bank, Culture in Sustainable Development: Investing in Cultural and National Endowments (1999).
[6] The National Assembly of Local Arts Agencies, *Arts in the Local Economy: Final Report* (1994)
[7] Michael S. Shapiro, "Museums and the Digital Future" 1999, p. 10.

Of course, the United States is well known for its cinema industry. If fact, the U.S. cinema industry is so dominant on the global stage that it is often a target of restrictions in other countries who are concerned with issues of American cultural hegemony. A good example of such restrictions – aimed at the U.S. film industry – is the quota imposed on foreign content broadcast by television stations in France.

Yet, while other countries may see the U.S. cinema in cultural terms, in the United States it is viewed simply as another industry – in economic terms only. The national government plays absolutely no role in subsidizing, censoring or otherwise regulating the cinema industry in the United States. The United States has no ministry of culture, no cultural policy, and the national government provides only minuscule direct financial support for the Arts, none of which is spent on film production by the major motion picture companies. There is some public funding of program production for the not-for-profit Public Broadcasting System. The budget of the National Endowment for the Arts is a mere $100 million out of a total state budget of over $3 Trillion. And, the National Endowments budget is lower than it was 15 years ago.

Every year there is a serious debate in Congress as to whether it should be abolished entirely. This is because of a widely held view in the United States that direct government subsidization of the arts involves the state in making choices as to cultural content which is better left to the private sector – both the not-for-profit and the profit-making sectors of the private economy. If consumers vote with their dollars in the form of purchases of tickets or wealthy individuals choose to give gifts to not-for-profit institutions, there is a market test of what the American people want in their culture, not a bureaucratic decision that most American's view as undemocratic and elitist.

There is no question that the Cinema business is viewed as an industry and not as a cultural institution in America. This business is often simply referred to by the name, "Hollywood," the Los Angeles neighborhood where it originated early in the 20th Century.

The Governor of California wrote the introduction to a landmark study, published in 1998, on the impact of the Hollywood on his state's economy. The Governor, Pete Wilson, wrote: "I am pleased to salute the motion picture, television and commercial production industry for its enormous and important $27.5 billion contribution to California's economy…. the production sector of the entertainment industry is an essential part of California's economic profile."[8]

The landmark 1998 study showed that the cinema industry had surpassed the defense industry as the largest industry in California. The report found that from 1992 to 1996:

- The number of Californians directly employed in entertainment production rose from 164,000 to 226,000 during the four year period, a 38 % increase – more than seven times faster than California's overall employment growth and nearly four times faster than employment growth in the rest of the United States.
- More than 233,000 jobs were indirectly generated by entertainment production, bringing the total employment impact to over 450,000 jobs.

[8] Governor Pete Wilson, April 23, 1998 letter introducing *The state of the Industry: The Economic Impact of the Entertainment Industry on California*, Motion Picture Association of America (1998)

- Industry payrolls increased 62% over the four-year period – a rate faster than the increase in the number of jobs.
- Salaries in the industry averaged $63,100 in 1998.

However, only about one-third of cinema industry jobs in the U.S. are in California. According to latest available statistics, in 1999, 630,000 persons were directly employed in the cinema industry in the United States.[9] This is an increase of 64% over 1989, or an average of 6.4 % increase in jobs each year for the decade.

The rise of the film industry in the United States is having an impact not only on the U.S. economy, but on the Canadian economy as well. The high level of salaries and other costs in Hollywood, which I cited above, has caused many producers of film and television programming to move production to Canada. Toronto and Vancouver have excellent production facilities and the talent needed for production. And, the Canadian dollar is at historic lows compared to the U.S. dollar, making production there a bargain. So-called "runaway production" has become a significant issue in the labor negotiations between the industry labor unions and the production companies. The unions are seeking restrictions on the number of U.S. productions filmed in Canada.

According to the Canadian Department of Heritage the Canadian film and television production industry reached C$4.4 billion in 2000, an increase of 12% over the previous year. Of this amount 60% is attributable to non-Canadian production taking place in Canada, most of it by United States companies. The Ministry estimates that there were 46,000 direct jobs and 73,000 indirect fobs in the film and television production industry in Canada in 2000. Canadian Heritage Minister, Sheila Copp, has estimated that there were over 600,000 people employed in the total culture labor force in Canada in 1995 and that the culture sector contributed C$20 billion to that country's economy. She has noted that from 1981 to 1991, the culture labor force grew by 32 % compared to 12 % in the growth of the general population.

Hollywood may be the most famous source of American culture, but other culture industries contribute significantly to the U.S. economy as well.

Closely related to the cinema production business, and also centered in Los Angeles, is the sound recording industry. According to the International Federation of the Phonographic Industry (IFPI), for the year 2000 the U.S. sound recording industry accounted for a total of $14.3 Billion in sales. This was 37% of world sales, which totaled $38.5 Billion.

Print publishing also remains a robust business in the United States. Historically, the publication of books, magazines and newspapers was the principal medium in which the national culture was expressed.

According to the Newspaper Association of America over 56 million newspapers are sold daily in the United States and on Sunday over 60 million are sold. Each copy is read by an average of 2.1 readers daily and by 2.2 readers on Sunday. The newspaper industry directly employed

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[9] Motion Picture Association of America *2000 U.S. Economic Review* (2000). Source: U.S. Bureau of Labor Statistics, Department of Labor.

442,200 workers in 1999 according to the U.S. Department of Commerce. Newspaper advertising revenue – its main source of income – totaled $46.3 billion in 1999, compared with $40 billion spent on broadcast television.

Magazine publishing is fastest growing of the print publishing industries in the United States. From 1970 to 2000 total sales of magazines rose from 244.7 million to 379 million. Last year alone advertising revenue or magazines increased by 14% for a total of $17.7 billion.[10]

Finally, book sales totaled $25 billion in the United States in 2000.[11] This figure includes hard-bound books, paperbacks and professional and scholarly books.

The culture industries in the United States are now in the midst of change to the digital age. Motion Picture companies are selling and renting digital videodisks for viewing by consumers at home. The same companies recently announced the formation of a not-for-profit consortium to assist theaters in purchasing the technology to receive and project films using digital technology rather than 35 mm film. Cable and satellite companies are offering subscription services and pay-per-view programs in digital format. Book publishers are partnering with software companies to sell e-books, digitized books without paper or pages, which can be read on a liquid crystal panel. New digital "streaming" technologies are being exploited to deliver music and video to the consumer through the Internet. (Previously unlicensed services such as Napster are now providing only licensed content.) There is hardly a newspaper or magazine that is not available now on-line as well as in print. And, nearly every cause, company, church, school or organization has an Internet web site. American Culture is truly on-line. For an example, see my own organization's web site: www.iipi.org.

The distinction between companies that produce cultural content and companies that produce software and access to the Internet is disappearing in America. Witness the merger of America Online (AOL) and the nation's largest media company, Time Warner, Inc. Rupert Murdoch's NewsCorporation not only publishes newspapers, owns television stations and a motion picture company, but it is becoming the world's largest supplier of culture product by satellite with the purchase of Direct TV from General Motors. And just last week the French media giant Vivendi began the process of adding a large U.S. book publisher to its holdings, as a means of adding to its portfolio of content as the age of digital distribution unfolds.

I hope that this paper has conveyed a sense of the significance of culture industries to over-all economic growth in the United States. Earlier, I emphasized that the United States has no "culture policy." American's are loath to have the government making choices for them about what motion pictures they will see, television programs they will view or newspapers, books and magazines they will read. However, this should not be understood to mean that government plays no role in sustaining or promoting the culture industry in the United States To the contrary, the national government, and state and municipal governments have been very active in creating an

[10] Source: Publishers Information Bureau 2001. *See* www.magazine.com. This amount includes only the 85% of the magazines published in the United States that are tracked by the Publishers Information Bureau and does not include subscription fee revenue paid directly by consumers. It reflects advertising revenue only.
[11] Source: Association of American Publishers, Press Release February 28, 2001

economic environment which encourages the American culture to thrive, evolve, and contribute to our economy.

While the national government provides only token direct funding to the not-for-profit culture industry, it does provide an extremely important financial benefit in the form of our system of taxation. Not-for-profit institutions are not only free from any requirement to pay taxes themselves, but all contributions and gifts given to them by individuals and corporations may be deducted from income for purposes of determining individual or corporate taxable income. The top tax rate in the United States today is 39%. This rate applies to most individuals earning more than $100,000 per year. However, very few actually pay this rate. That is because they are permitted to "deduct" from taxable income a variety of business expenses and losses, but most importantly all charitable contributions. The same principal applies to death taxes in the United States.

Hardly a day goes by without the announcement of a significant gift or bequest to a major cultural institution in the United States. For example, the opera in Washington recently received a single gift of $50 million from a local citizen and opera lover. The John F. Kennedy Center for the Performing Arts earlier this year received a $100 million gift for the support of its operations. The relatively small town of Madison, Wisconsin, where I went to University is currently building a million performing arts center designed by the noted Spanish architect, Santiago Calatrava, with a $100 million gift from a local citizen. All of these gifts benefit the giver by reducing his or her taxable income by the amount of the gift.

The national government is only one of three taxing authorities for most citizens. Most of the states and some municipalities also tax the income of their citizens. For example, in the city of Washington where I live I must pay up to 11% of my income in taxes in addition to the maximum of 39% taken by the national government. But, just as in the case of my national taxes, I am permitted to deduct from taxable income all charitable contributions. When one considers the case of the wealthy opera lover who gave $50 million to the Washington Opera, half of her gift – $25 million – is money that she would otherwise have paid to the government.

Other, indirect subsidies, also play a role in financing the cultural industries. Many cities and states directly fund the construction and maintenance of theaters and concert halls, museums, historical sites and parks, and even subsidize studios and apartments for artists. These subsidies not only take the form of direct taxpayer support, but also are part of the land use regulations imposed by states and municipalities. For example, the city of Washington D.C. has required some developers to provide low rent studio and living space to artists as a condition of permitting a higher height limit on buildings in certain locations.

Cities and states also provide services and subsidies to the profit making cultural sector. For example, cities such and Los Angeles, New York, Washington, and San Francisco and many states have an office of film development and cooperation attached to the office of mayor or governor. These offices make available locations for filming, see that streets are closed at filming sites, and provide police and city workers to assist production crews. Theaters and concert halls, while publicly owned or owned by not-for-profit organizations, also support the profit-making sector by providing venues for performances by for-profit music groups and theater companies.

In addition to national government tax policy and local government direct subsidies, government in the United States plays an important role in economic planning and policy in support of the cultural industries. I participated in this process myself as part of the Clinton Administration when I served as Assistant Secretary of Commerce for Intellectual Property.

President Clinton's economic program was developed and guided by the National Economic Council, under the leadership of Robert Rubin, who would later become Treasury Secretary. In 1994, Bob Rubin's Deputy, Bo Cutter, was put in charge of a committee of the Economic Council Committee on Intellectual Property. In addition to myself, the committee included the Assistant Attorney General for Anti-trust, an Assistant United States Trade Representative, an Assistant Secretary of State, a Representative from the White House Office of Technology Policy, and – when the topic under discussion required – similarly high level officials from other Cabinet Departments and agencies.

This Economic Policy Council Committee developed the Administration's policy a wide variety of matters. These included: the relationship of intellectual property policy to competition policy (anti-trust); the development of the U.S. negotiating position on the intellectual property provisions of the WTO Treaty; proposals to Congress for Amendments to the Copyright Laws, and the role of Copyright law in the context of the Internet. In spite of pockets of opposition within the Government, the National Economic Council was able to put the Clinton Administration squarely in favor of strong intellectual property protection in these areas.

The issue of copyrights in the context of the Internet was extremely important. The President established a Task Force on the National Information Infrastructure under the chairmanship of Ron Brown, the Secretary of Commerce. He, in turn, established a Working Group on intellectual property within the Task Force. I was put in charge of this Working Group which published a 200 page Report (The White Paper) which formed the basis – among other things – for the Administration's position in negotiating the WIPO Copyright and Phonograms Treaties. A Diplomatic Conference on these treaties was successfully concluded in December of 1996. Many of the most important provisions of these treaties originated in the Report of the Working Group and on the motion of the United States Delegation were included in the treaties. I was privileged to have been the head of the United States Delegation at the 1996 WIPO Diplomatic Conference.

The Digital Millennium Copyright Act (DMCA), passed in 1998, has incorporated these treaty provisions into U.S. law. A comparison between the amendments to U.S. law proposed in the White Paper of the Working Group and the DMCA is striking. The DMCA is essentially the recommendations of the Working Group. The role of the Working Group and my role as lead U.S. Negotiator were strengthened by the fact that differences within the Administration were worked out in the National Economic Council and the resulting policies were given the full backing of the President.

President Clinton's National Information Infrastructure Task Force coordinated and made national policy in areas far removed from Intellectual Property. A central goal of the task force was to create the most favorable environment possible for harnessing the potential of new technology to create growth of the information industries. This meant working out a host of policies and coordinating with other governments on issues such as privacy and security of digitized information accessible though the Internet.

The Working Group explored issues such as digital signatures, legally binding digital contracts, legal mechanisms for contracting through the Internet and methods of making payment for digitized products delivered on-line. Of course, telecommunications policy was extremely important. The National Telecommunications and Information Administration and the Federal Communications Commission worked on policies designed to make additional bandwidth available for Internet delivery of products and to encourage the uses of satellite technology. The Administration was dedicated to creating an environment where competition for telecommunications services in the broadband environment would be encouraged.

A direct result of these efforts was a legal and regulatory framework which supported very rapid growth in the infrastructure servicing the information industries. While I have used the term "information industries" in the last few paragraphs, one could as easily substitute the term, "cultural industries," because those industries are virtually synonymous in the United States, where nearly all cultural product is either created, disseminated or stored at some point as digitized information.

In conclusion, I hope that I have given you some idea of the peculiarly American approach to the culture industries. American's have a strong aversion to government making decisions about the content of their culture. Direct subsidization of books, plays, motion pictures, music, sports, and journalism is either minuscule or non-existent. This is because the power of the purse means the power to control the content. The government at national, state and municipal levels does play a significant role in creating the public infrastructure for culture industries. Just as governments build roads and bridges to support the transportation industry, government is deeply involved in financing and planning theaters, museums, concert halls, stadiums and urban arts centers. And government supports the fine arts, in particular, though a tax policy that rewards gifts to not-for-profit cultural institutions. Finally, government – particularly at the national level – is very actively involved in creating a policy environment in which culture industries can thrive. This takes the form of strong support for intellectual property rights, activism in creating new rules to support digital commerce in cultural products, a trade policy that supports private initiatives in building culture-based enterprises and vigorous support for freedom of expression both at home and abroad.