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INTRODUCTION

THE CULTURAL INDUSTRIES EXEMPTION FROM NAFTA- ITS PARAMETERS

*Dorinda Dallmeyer**

It is my pleasure to serve as the moderator for this panel on the cultural industries exemption. This is the eleventh conference of the Canada/U.S. Law Institute that I have attended. I have been present here from the time we were talking about sectoral integration of trade between the United States and Canada through the Canada Free Trade Agreement, through NAFTA, and now to NAFTA revisited.

This is also the first time that Henry has put me to work and asked me to chair a session at the conference. He has given me a formidable task, because I know this crowd well. We are all that stands between you and the cocktail hour.

With that said, Henry has selected people for this panel to keep you in your seats. As he indicated this morning, Ron Atkey cannot be here, and he sends his deep regrets, but better than that he sends an eminently qualified stand-in, Jennifer Fong.

She is presently an associate lawyer at the New York office of the Toronto-based law firm of Osler, Hoskins & Harcourt, having joined the firm following her call to the Ontario Bar in 1993.

She has formerly served as assistant counsel at Rainbow Programming, the television division of Vision Systems Corporation, and in that capacity was providing advice in connection with American Movie Classics, the Independent Film Channel, Bravo, and News 12 Program Services. Also in her role at Osler, Hoskins and Harcourt, she practices in the firm's public law and regulatory affairs department, which provides advice to clients on the interface between government regulatory activities at both the federal and provincial levels and the interests of clients.

She served as an advisor to the international clients seeking to gain access to the Canadian market for cable television and direct home satellite television broadcasting, and has also assisted U.S. entertainment

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companies in completing acquisitions of Canadian businesses involved in book and periodical publishing and distribution, along with television and feature film production, distribution, and exhibition, video distribution, and recorded music distribution.

Our second speaker is John Ragosta, who is a partner in the law firm of Dewey, Ballantine in Washington, D.C. He has been intimately involved with some of the most complex trade litigation matters and negotiations in the last two decades, including the Super 301 case against Japan brought by the U.S. Alliance for Wood Products Export, and the countervailing duty cases against Canada brought on behalf of the U.S. Coalition for Fair Lumber Imports.

He is not simply content with litigation to cure problems after the fact, but has also been involved with subsequent negotiations of the U.S./Japan Wood Products Agreement, the U.S./Canada Softwood Lumber Agreement, and pertinent provisions of the U.S./Canada Free Trade Agreement.

I also should note in connection with the Cultural Industries Exemption that Dewey, Ballantine represented Country Music Television, a U.S. company, in its dispute with the Canadian government in which the Canadian government seemed to have taken its cue from Canada's own K.D. Lang in an attempt towards CMT's twang.

However, he is going to be discussing having your cake and eating it too, and the limits to cultural protectionism, specifically regarding Canada, and also responding to some of the points Jennifer makes. So please join me in welcoming John Ragosta.