

The Post-Neoliberal Colombian Film Policy

Liliana Castañeda

Sociocultural Programs Assistant
University of British Columbia
Vancouver, Canada

The implementation and consolidation of the Colombian feature-film policy model after 1997 follows the general trend of sectoral support policies in the rest of Latin America after the 1990s. Since the first generation of neoliberal reforms in the 1980s-1990s did not achieve a competitive market for national movies, rather it accentuated historical market bottlenecks, policymakers and artists sought to justify a new type of intervention that seeks to promote the feature film industry in ways that build and maintain efficiency, market competition, consensus and responsiveness to consumers (Hira 55). Rather than opposing the neoliberal principles of deregulation and liberalization adopted a decade earlier, the post-neoliberal framework accommodates these neoliberal principles within the discourse of cultural diversity defense and protectionist practices such as subsidies and national content requirement. Amidst the uneasy negotiation of these two contradictory ideological sources, the feature film sector has enjoyed a boom in terms of international recognition and number of movie releases in the last decade.

In order to evaluate this boom promoted by official sources and media, the present research mainly focuses on the economic performance of the feature film policies at the national level. This specific scope excludes important elements and dimensions of the general film policy model in Colombia. For example, the study does not cover the official support to documentaries and shorts or regional/ local film policies because each one of these categories would deserve a detailed discussion and further research.

The economic approach is framed within Media Economics theories on the particular field of cultural industries. Authors such as Colin Hoskins, Stuart McFayden and Adam Finn in North America and Octavio Getino and Germán Rey in Latin America have conducted extensive research on cultural markets. Their contribution to the field is remarkable in identifying economic and financial performance variables in the film markets (size of the market, human capital, exhibition and distribution conditions, role of private agents, business strategies, technologies) in order to create conditions of sustainability. This argument ties with the second major contribution of Media Economics: a better understanding of the policy rationale behind support policies. First, one of the main reasons to implement film policies is its potentially positive impact on the economy. Inspired by cluster studies of other industries, academics and policymakers in Latin America have recommended similar pathways in “the belief that cultural industries are a major vehicle of economic development and growth” (Karlsson, Johansson & Stough 2). Second, governments should promote the film industry because films are public or merit goods that carry social benefits. These benefits or externalities are redistributed to the entire society through official policies that otherwise would not occur (Cwi 60). Content presented in films disseminates social meaning and has a symbolic potential to represent the complexity of identities and the context where those identities interact, promoting a sense of belonging or citizenship.

The collection of secondary data for this study included online sources and available books and journals in Canada, but a general problem was the difficulty in obtaining reliable statistical and historical information about the Colombian film market.¹ The field research, conducted in Colombia in 2006, included further collection of statistical data and structured interviews with Film Division officials and independent critics, producers, distributors and researchers in order to evaluate the action of government institutions in the sector between 1998 and 2006. Even though there was no access to private companies' data regarding financial investments in films, some of the interviewees gave valuable information on some of the general trends of private agents.

This study seeks to analyze whether the initial success of the Colombian model of sectoral promotion supports the idea of a sustainable sector that can co-exist with more dominant clusters such as Hollywood in what is known as the construction of a polycentric landscape of film production (Hesmondhalgh 228-35). Beyond the official triumphalism that highlights the increase in number of productions, film policies in Colombia still face serious constraints in terms of exhibition, content, consumption and distribution that question its potential for sustainability. To observe this ambivalent success, the first part of the article will outline the implementation and consolidation of the policy model, paying special attention to the oppositional discourse of economic efficiency and cultural diversity to appeal to different stakeholders. The following section will explore the main market bottlenecks and policy tools that intend to solve them, and the last part will conclude the results and challenges of the Colombian film policy model.

1. The Rise of the Post-Neoliberal Model

Post-neoliberal film policies are the second attempt to promote the sector after the

Colombian version of the Import Substitution Industrialization (ISI) between the 1970s and 1980s and the hiatus of the neoliberal period in the 1990s. The initiative found a favorable regional environment after Argentina, Mexico and Brazil led the installment of similar policies which, according to Mora, inspired the Colombian framework ("Progresos"). These initiatives coupled with positive outcomes and built expectations of the film sector's potential success. Argentina, for example, initiated an acclaimed artistic movement called The New Argentinean Cinema that reports an increase in their annual production from an average of 25 in the 1990s to 58 in 2004 (Getino, Mercosur 1-13; Katz 47). Brazil, for its part, went from 0 films in 1990 under the neoliberal program to 46 in 2004 (Getino, Mercosur 20-30), going from a total investment of US \$1,000,000 in the 1990s to US \$2,000,000 a decade later (Getino, Television 53; Hart 13, 288).

By contrast, the Colombian internal atmosphere could not be more adverse to sectoral policies during the 1990s. The most visible obstacle for the post-neoliberal model was the extensive skepticism regarding its success due to the previous negative experience during the ISI period. The bankruptcy of the *Compañía de Fomento Cinematográfico* ("Colombian Cinematographic Development Company") or FOCINE and audiences' resistance to consume local movies have historically overshadowed positive outcomes such as human capital training and the portrayal of national costumes and values in films. Articles in periodical publications such as *Semana* identify fears of corruption, abuse of power, excessive centralization and deviation of funds from priority areas as the main arguments for resisting new official incentives ("Historia"). Exhibitors, in particular, resented any new attempt to declare more levies on the ticket or screen national films with low audience appeal and poor quality after their legal confrontation with the government during the 1980s ("Taquilla"). Parallel to this negative environment, there were calls to revive the promotion of national identity and to restore cultural sectors, including films, after

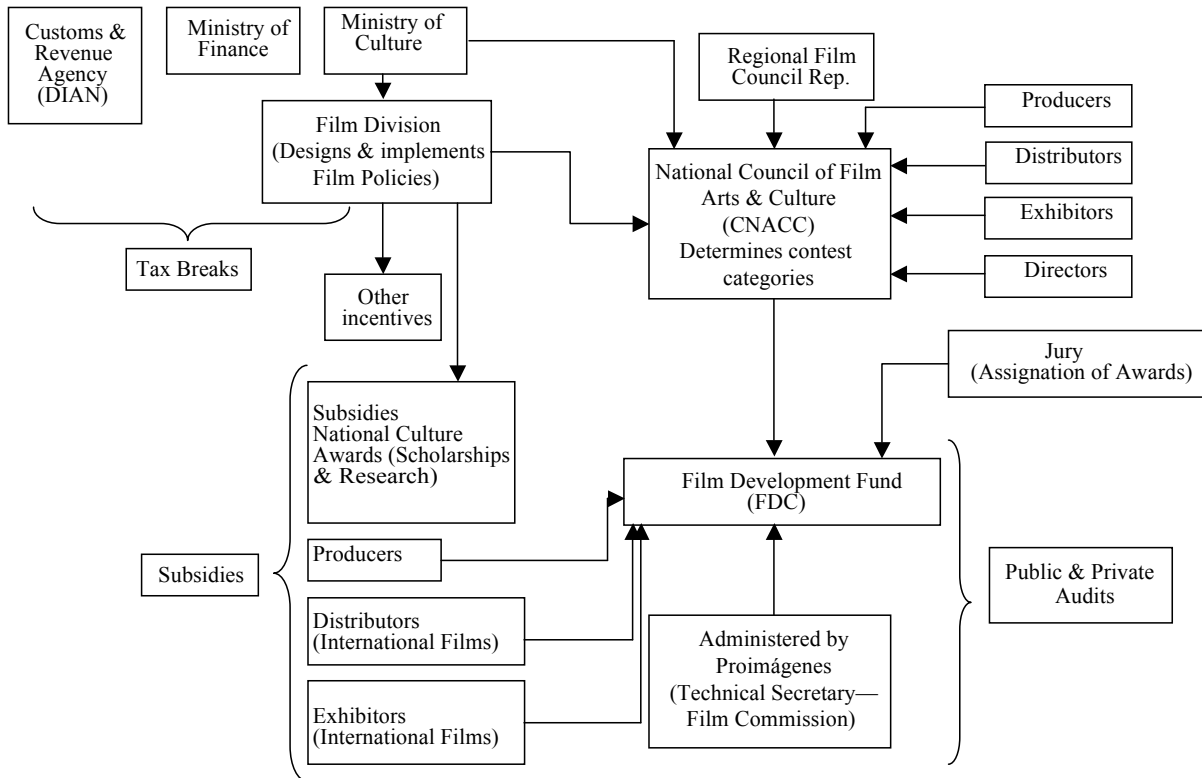


Figure 1: Institutional Structure of the Colombian Film Model

Source: Author's analysis based on the Culture and Film Laws.

the official negligence during the neoliberal phase in the 1990s.

To satisfy both sectors policymakers used three strategies: the passage of cohesive legislation that modified the definition of cinema and reorganized the sector, the display of lobby campaigns and compensation tools that strived for consensus and the establishment of a new system that could measure the economic returns and trends of the film market.

The principles of economic efficiency and cultural diversity within the official discourse were essential to create a positive transition towards the new legislation. Two pillars of the film model, Ley general de cultura ("Culture Law in Colombia") No. 397, 1997, and Ley de cine ("Film Law") No. 814, 2003, promote the dual dimension of films. The Culture Law emphasizes the industrial dimension of movies and the role of the state

as guarantor of its citizens' access to culture and facilitator of the industrial process and preservation of national films. Additionally, it introduced the concept of cinema as an expression of national identity, collective memory and cultural imagery (article 40), replacing the former consideration of cinema as "a public entertainment event" (decrees and laws between 1918 and 1996).² The Film Law also reinforced the government's commitment to create favorable conditions for the local industry (article 4) while identifying the value of films as a contribution to the national patrimony and collective identity (article 1). A complementary function of the Film Law was to consolidate all past legislation regarding films into a coherent document according to the principles proclaimed in the Culture Law.

The Culture Law also set the foundation of the film industry's institutional structure. This law created the Ministry of

Culture (article 22), which concentrates on the delivery and protection of all cultural expressions in Colombia. In the specific field of cinema, the Ministry has a *Dirección de cine* ("Film Division") (article 67) in charge of designing and implementing official policies, and *Proimágenes en Movimiento*, which serves as an administrator of the Fondo de Desarrollo Cinematográfico ("Film Development Fund") or FDC and as a Film Commission. The model also includes linkages with other official agencies, as Figure 1 illustrates.

This structure is more complex than the one established during ISI, not only for the number of institutions involved, but also because there are no clear boundaries between the private and public jurisdictions. This is the case, for instance, of *Proimágenes*, which is a public institution managed as a private company with public and private partners: the Colombian Association of Distributors, *Fundación Patrimonio Fílmico Colombiano* ("Colombian Film Heritage Foundation"), Kodak Americas Ltd., *Cine Colombia*, the Ministry of Education, the Ministry of Culture, the Ministry of Communications, Universidad Nacional, the Revenue and Customs Agency or DIAN, *El Instituto Colombiano para el Desarrollo de la Ciencia y la tecnología* Francisco José de Caldas ("Colombian Institute for the Development of Science and Technology") or Colciencias and representatives of filmmakers. This observation confirms the re-regulation (Vogel 256-69) or marketization (Hesmondhalgh 109-10) trend that scholars have observed across countries following the imposition of neoliberal policies. Although there are no official evaluation reports on increasing or decreasing costs as a result of the current structure, it is obvious that maintaining FOCINE during the ISI period was more costly due to its fiscal deficit, which reached approximately US \$702,000 ("Agonía"). By contrast, the current legislation limits available resources to support the functioning of *Proimágenes* up to 10% of the FDC and it eliminates the role of the state as a producer. The regulation has also ensured that there are sufficient monitoring mechanisms in

place, such as regular audits of *Proimágenes'* management of the FDC by public and private institutions, due to its dual nature.

The second factor of consolidation, lobbying campaigns and compensation tools, joined the legislative initiative in building acceptance of the film policy framework. Felipe Aljure, filmmaker and the first Film Division director, and Claudia Triana, current *Proimágenes* director with over twenty years of experience in film institutions, among other intellectuals and researchers, worked toward reaching a consensus among stakeholders to make the policy programs feasible. With that goal in mind, policymakers proposed the suppression of the 10% tax applied to movie tickets in Bogotá as a compensation tool for exhibitors in exchange for their compliance with the current regulation and as a goodwill gesture after their confrontation during the overpriced ticket in the 1980s. Another innovative instrument was the creation of the National Council of Films Arts and Culture (CNACC) in which directors, producers, distributors, exhibitors—elected by their peers—and official representatives, including officers from the *Consejos departamentales y distritales de cine* ("Regional and District Film Councils") participate in determining contest categories and subsidies for each category every year. This creates a perception of a common effort for the success of the policy and coordination of decisions.

In the international system, lobby campaigns coupled with global movements promoted the defense of cultural diversity, such as the national multidisciplinary associations called 'coalitions' that emerged worldwide after 1998. They are currently part of the International Liaison Committee of Coalitions for Cultural Diversity (ILC) with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO), and Colombia has joined this movement with its own coalition. This was a key element to maintaining the post-neoliberal model via the cultural reserve in the Free Trade Agreement (FTA) negotiations with the United States in 2006. By introducing the instrument of

cultural reserve,³ the Latin American version of cultural exception, Colombia managed to defend cultural diversity and still leave open the possibility of participating in free trade negotiations. Since countries in the region do not have the same level of influence and power to unilaterally impose their conditions in trade negotiations as developed countries, the term “cultural exception” may have appeared very radical. The current bilateral FTAs that replaced the continental initiative of the Free Trade Area of the Americas (FTAA) demonstrate this linguistic switch: Chile, Colombia and Peru have used “cultural reserves” in their discussions with the United States.

The third element that consolidated the economic efficiency goal in the official discourse had to do with apprehending market trends and conditions in order to design coherent policies, a disregarded element in the ISI model. The Film Division has sponsored five main sectoral studies besides other research contests: “Impact of the Film Sector in the Colombian Economy” by Fedesarrollo and a more current version by the Andrés Bello Agreement three years later by Omar López and David Melo. National consumer surveys have also been part of the official initiative with the first study conducted by Napoleón Franco Inc. in 2000 and the *Salas alternas* (“Alternative Screening Spaces”) program by the Politécnico Grancolombiano University in 2006. Finally, there was a study on audience promotion by the Externado University in 2007. These research efforts have served to gauge the economic potential of feature films and the status of the industrial development in terms of production, distribution, exhibition and consumption that no other institution has contested or matched.⁴ Moreover, access to the film sector’s performance is now possible due to the implementation of the Film Information and Records System (SIREC), two newsletters, *Claqueta* and *Pantalla Colombia*, and the information published in *Proimágenes* and the Film Division websites. These projects allow stakeholders and third parties to have current information and reduce transaction costs.

In sum, the implementation of the post-neoliberal model was a multidimensional and coherent process that took corrective actions to counteract the negative aspects of the ISI model. The two main principles of the new model, economic efficiency and cultural diversity, provided a comfortable solution for all sectors and a general roadmap for the tools to apply in the market.

2. Market Bottlenecks and Policy Tools

In addition to stakeholders’ initial resistance, the post-neoliberal model has faced a longstanding and wide range of market failures that cover factors of capital, labor, technology and national content in the production area, and distribution and exhibition bottlenecks in the circulation stage. Efficiency in this case means increasing and diversifying financial sources, facilitating artistic training and guaranteeing access and varied programming for consumers. These objectives comply with the promotion of cultural diversity by securing the presence of national movies in the market. As a result of their dual nature, economic and cultural, policy instruments simultaneously address several of these market bottlenecks.

2.1. Production Constraints

The main challenge for Colombian producers is the need for financing due to high risks of investment: while production costs and post-production have increased, potential returns remain low. For example, total production costs are US \$250,000 for a low-budget film and more than US \$1,200,000 for a high-budget movie while average attendance is approximately 300,000 (Colombia, Law on Film Donors 15 & 24). In addition, most investors are willing to participate once the product is finished but not as a future project. This represents an obstacle for most producers, who lack sufficient initial capital for their films.

Due to the dimension and the importance of this problem, policymakers have concentrated their efforts on promoting private financing for Colombian producers, so there is no risk of compromising official sources as occurred in the past. The main tools are the parafiscal quota, tax incentives and market capitalization.

2.1.1. Promotion of Financing

Perhaps the most successful instrument of the post-neoliberal model is the parafiscal quota (Film Law in Colombia, article 6), which revitalized the availability of financing for the sector. Before Film Law 814, there were limited subsidies coming from the national budget, which threatened the real sustainability and maintenance of the support policy in case of a government step back. The parafiscal quota feeds the Film Fund (FDC), a special account managed by *Proimágenes* that also includes donations, official or international contributions, asset sales, and collected fines. With regard to collected fines, producers must participate with 6.25% of their net revenues in the national market and exhibitors and distributors provide 8.5% each of their revenues for the purpose of commercializing foreign films. However, there are incentives to reduce the mandatory contribution if these sectoral agents promote national feature films as part of the cultural diversity goal. Exhibitors can reduce their quota up to a 6.25% for projecting Colombian short films; distributors can also reduce their contribution up to 5.5% during the next ten years if they distribute local films in national or global markets. Finally, producers need not provide any of their profits coming from selling exhibition rights to international partners or exploiting other windows of exhibition aside from theatrical screening.

Each year, *Proimágenes* organizes a national contest to give away 70% of the collected funds in the form of subsidies distributed in different categories. Filming and post-production hold the largest share of the subsidies, with 43% on average between

2004 and 2006 or US \$2,786,945, according to Andrés Bayona, *Proimágenes* Special Projects Director (Bayona). Current subsidies also include the so-called automatic incentives for film promotion, national box office and participation in international festivals—Cannes, Toronto and San Sebastián being among the most important. The first category awards up to US \$13,800 per project for marketing and publicity campaigns; the second assigns US \$0.30 per spectator up to US \$41,490. The last instrument, participation in international festivals, covers 100% of expenses upon the submission of receipts. All these tools were present under the ISI model, except for subsidies for promotion, which confirms the usage of former policy instruments in combination with new initiatives by policymakers.

The parafiscal quota is a financing strategy similar to the one used in the 1980s when exhibitors, distributors and producers contributed to the film fund administered by FOCINE. Silvia Echeverry, *Proimágenes* Administrative and Financial Subdirector, comments, “Unlike the past system, the parafiscal quota works now because it was a concerted action, not an imposition. This does not deny the fact that distributors and exhibitors of international films still make the largest contribution since they have a substantial market supply and share” (Echeverry).

Regardless of their functioning, subsidies awarded to producers are largely beneficial. Producers who receive these incentives do not have to re-pay them to the government, so they can pay themselves first and cover partial costs before looking for investors. Diana Camargo, *Laberinto Producciones* Producer, explains “the initial strategy for Colombian producers is to apply to any international or national contests. If they win one at least, they will have the best business card for other investors to participate. These national subsidies used to be the only source of movie financing, and now they just open the doors for other funding sources for the film project” (Camargo).

The other function of the FDC subsidies is to secure transparency by assigning the liability for copyright negotiations and awards management to producers according to the contest conditions. In order to apply for the incentives, producers have to negotiate the property rights of artistic inputs for the project. "They also have to demonstrate 10% of the capital for each production stage, and submit a meticulous and coherent business plan that they must follow under the supervision of a fiduciary corporation and audits by official authorities. Producers have to show their willingness to finish their project within a maximum three years" (Bayona). This not only guarantees that producers will absorb all losses in case of the movie's poor performance, but it also secures efficiency by forcing companies to release their films on time and within budget.

Despite the initial positive results of the parafiscal quota, its implementation is still being discussed. According to the current legislation, part of the money collected in the FDC is supposed to feed soft credits or bank guarantees for film projects; however, neither of these two options has been viable. "In order to offer credit lines or loans, the sector needs to be more mature, with more efficient distribution/exhibition circuits and enthusiastic audiences that go to see movies," states David Melo, Director of the Film Division (Melo).

The second tool to increase financing is tax incentives. This instrument offers tax deductions for those who reinvest in film activities or invest and donate in productions. The first option allows companies or individuals a 50% tax break while the second favors donors and investors by deducting 125% of their contribution from their income declared in the same year (Law 814, article 16). Neither producers nor coproducers can take advantage of this latter incentive, and those eligible should request a Certificate of Film Donation or Investment from the Film Division.

In an interview, Jorge Manuel Mutis, Policy Group Director, Film Division, mentioned that the response to the second

alternative of tax exemption has not met initial expectations, but it is growing at a slow pace. "The Film Division issued 157 certificates by December 2006,⁵ which demonstrates the interest that private agents are experiencing in the film business" (Mutis). Mostly reported as investments rather than donations, these certificates have benefited 20 projects, reaching US \$3,322,940 (*Proimágenes*). Perhaps the reason behind the low number of certificates is partially explained by some producers who consider that the tax break is not enough for what they need to attract private financing. As Efraín Gamba, EGM Producciones Executive Producer, explains, "We have to take into account that the tax break is calculated over the gross income and not on the net income, which is not very advantageous. I have not been able to convince private investors to participate in our projects under the current policies" (Gamba).

Legislators who oppose tax breaks have argued that it is time to end them since they have already accomplished the objective of encouraging private investors toward the film industry during their three years of existence. In December 2006, they proposed to eliminate this tool in the last tax reform project. Film agents and authorities lobbied to maintain tax breaks, and eventually they were able to exclude them from Law 1111 (Tax Reform).

The third tool used to encourage financing in the sector is the capitalization of movies in stock markets. This idea imitates Brazilian efforts to involve companies in film projects, but the instrument is far from representing an attractive option in Colombia. Claudia Triana states in a personal interview that "Capitalization is a long-term plan because the film project has to have a value of US \$750,000 in order to be attractive in the market. We are far from that, therefore we are analyzing the possibility of offering a portfolio of projects for the same value" (Triana). Some companies already strive for this type of strategy, taking advantage of the current positive expectations of movie production and latest success of Colombian movies. According

to David Guerrero, Dynamo Capital Executive Producer, "There is a lack of entrepreneurial thinking on the part of Colombian producers to obtain private financing in the stock market. Dynamo, then, works on this area and it is the first investment and risk capital fund to produce movies. This strategy has allowed two film projects (*Satanás* and *La milagrosa*) to become a reality" (Guerrero).

2.1.2. Human Capital Training

In contrast to negative overall conditions regarding financing, cultural labor in Colombia represents a comparative advantage for producers due to its inexpensive cost, from stars to technicians. "In Colombia actors' salaries only represent 20% of the total budget compared to 50% or more in Hollywood," Gustavo Nieto Roa, a famous producer and director, mentioned in a personal interview. Moreover, some cultural workers donate their labor time or work through a cooperative or through a service company hired by the producer. Independently from any of those categories, the work in film is unstable due to the low levels of production and, except for qualified personnel (for example, art directors and directors of photography), low paid. These facts become visible asymmetries in the case of co-productions, as Adriana Bernal, a recognized director of photography, argues: "not only was the number of Colombian technicians hired for Mike Newell's co-production of *Love in the Time of Cholera* (2007) less than that of foreigners, but the few who did work earned less than them. Failure to establish social security and labor policies in order to set an equal rate for everyone cannot be justified by arguing lack of experience because we do have well-trained personnel in Colombia" (Bernal).

Some producers, however, do not share this opinion, and highlight the lack of skilled personnel as the cause of salary asymmetries. "What film workers in Colombia should work on learning is the actual formalities on how to manage the logistics and operations of producing a movie. This is noteworthy when

there are international projects taking place in the country. Moreover, there is a need for more assistant directors and producers to manage four or five shootings at the same time. At present, we can just handle a maximum of three" (Guerrero).

The current model considers the training of human capital through subsidies a key element in the formation of an industry but reproduces the historical official favoritism toward artistic over technical and financial training. There are more grants for directors and scriptwriters than for sound technicians, editors or producers. This has had consequences on the quality and business strategies of movies: technicians are practically self-learners who come from the FOCINE era or television and TV commercials. Producers also come from these fields, but they usually have some formal training overseas, and it is only now that one can observe aggressive business strategies in order to make and promote movies.⁶ A second constraint, caused by market trends rather than official action, is the centralization of film activities in main cities such as Bogotá, Medellín and Cali. Although the program *Imaginando nuestra imagen* ("Imagining Our Image") is a decentralizing effort to bring filmmaking training (in the form of short films) to regions other than the larger cities, there is no assessment of program implementation and of the long-term benefits for those who have participated. During the field research, it was difficult to establish if these initiatives have encouraged the emergence of sustainable centers of production rather than sporadic projects. Since other conditions of the value chain, such as post-production technologies and distribution channels, are limited in small cities, the official action seems more rhetorical than practical.

The problem of training human capital goes beyond the official area of influence. There is a boom of film schools that offer more than 40 programs in 14 cities within a wide range of disciplines and different levels of quality, making an entrepreneurial mentality and technical standards hard to achieve. One

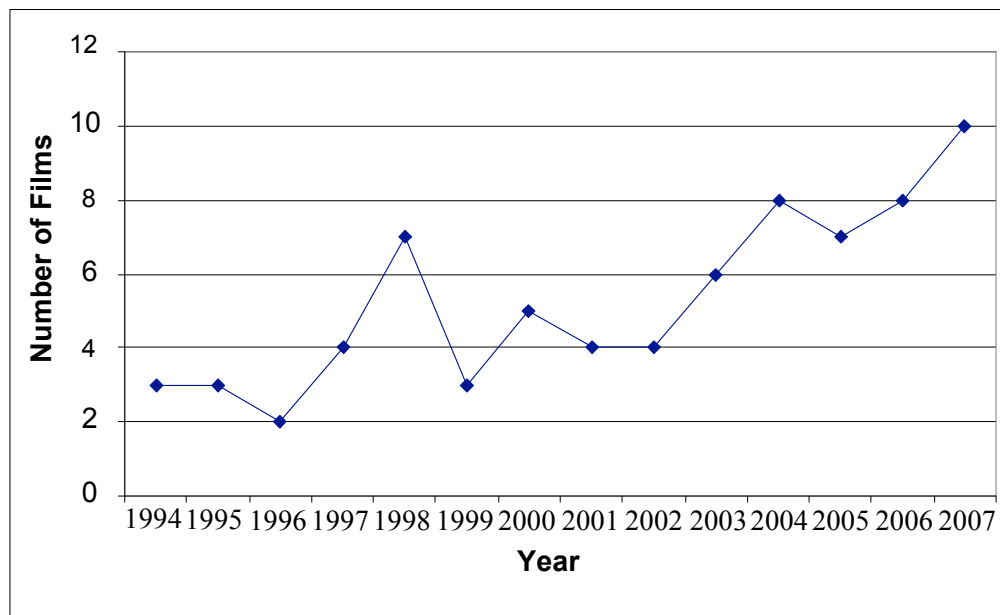


Figure 2: National Production- Movie Releases 1994-2007

Source: Proimágenes en Movimiento (Proimágenes).

of the reasons is found in the curriculum offered by these educational centers; in this respect Alberto Amaya, Director of the Universidad Nacional TV and Film School states, "The emphasis of our program is the artistic dimension of audiovisuals because we are part of the College of Arts. Our students receive general training in technical work and production through their assignments, but it is not the main goal of the major" (Amaya). Augusto Bernal, Director of the film school Black Maria, comments, "In Colombia, there are more directors than producers or technicians because everyone wants to be in control and earn recognition. Therefore, people who would like to specialize in technical and financial areas have to work hard to learn in practice and not at a school" (Bernal).

Besides the deficiency of technical and financial training, there is an urgent need for infrastructure, mainly post-production and laboratory facilities. This has been a historical problem that has forced producers to go to other countries, thereby increasing the costs. The answer is practically left to the market: "It is not competitive to have this kind of equipment when there is no a continuous use

of it" (Triana). The opening of a Cinecolor branch in Colombia, a Latin American film lab and post-production company, has been received with some caution. David Melo states, "I assume this branch will not offer all the services that producers need, and we also have to wait to see what the rates are, but this is a first step that can minimize costs for local filmmakers" (Melo).

2.1.3. National Content Requirement

Debates regarding financing and human capital training connect with the goal to promote the economic and cultural values of national films based on national content. Film legislation considers a feature film Colombian according to a ranking system that measures the participation of national capital and citizens involved in the film project, similar to that of Argentina and Canada. Colombian standards require that 70% of the artistic crew and 51% of the technicians be nationals and 51% of the capital come from local investors and producers (Culture Law; article 43; Film Law in Colombia, article 2; Regulation, articles 8 and 9). Co-production legislation requires

lower, but still significant, percentages of national content (Regulation, articles 10 & 11; Film Law in Colombia, article 2).

Such standards lead to assumptions that the promotion of national talent and business is a priority for policymakers, yet it is interesting to see that neither language nor location is a requirement to define a movie as Colombian, and policymakers are very flexible when interpreting minimum requirements: Joshua Marston's *Maria Full of Grace* (2004) received official incentives although it had a low participation of Colombians (one producer and a few actors) and most of the locations were in Ecuador.⁷ This differs from other more strict national regulations like those in Argentina (Film Law in Argentina) or Peru (Film Law in Peru). In the latter country, feature movies must also be in Spanish, Quechua or Aymará, and filming locations must be in the country in order to receive official support.

As a general conclusion, we can observe that policy tools in the production area are highly controversial, sometimes contradictory, and there are certain aspects that still need attention in order to fully implement the film regulation. Despite this, the post-neoliberal model has increased financing and the number of movies. To illustrate, participation of the local movies within the commercial circuit has gone from an average of 2.4 movies per year between 1990 and 1999 to an annual average of 8.3 films in the last three years (Figure 2).

2.2. Distribution and Exhibition Bottlenecks

Two major problems affect the circulation stage of the value chain: high levels of concentration in the distribution and exhibition subsectors and the prevalence of a business logic over the social function of cinema, which limits access and programming. Distribution companies have clearly defined their rationale behind their participation in supplying the market. According to Germán Rey, Hollywood majors control the largest share of the market in different ways:

Columbia Tristar Buenavista hold 37% and United International Pictures, 15%, with office branches in Bogotá. Cine Colombia also distributes Hollywood films through an agreement with Time Warner (28%) and holds 64% of the national box office (Rey 49). A small number of local independent companies like Babilla Cine and Candelaria Films share the rest of the market, approximately 20%. Federico Mejía, Babilla Cine Director, explains "Even though the market is controlled by big corporations, there is still room for others in a business that yields US \$330,000 profits every year. The independent circuit gets about 10% of the total audience in Colombia, and this is an incentive to keep working" (Mejía).

Unlike previous decades, there is a current interest in distributing local films based on their performance in the last three years. Sandra Dávila, Buena Vista International Marketing Director, states "Only a few Hollywood movies have placed at the top of the box office since *Shrek I* and *Ice Age 2*, in 2007. National co-productions like Emilio Maillé's *Rosario Tijeras* (2005) and Rodrigo Triana's *Soñar no cuesta nada* (2006) have attracted more than one million spectators; therefore, one can see the merit of these films in a small market like Colombia. We would like to distribute some of those films, but producers prefer to go to Cine Colombia because they do not know what we offer" (Dávila). In the international arena, distribution of Colombian movies is unusual unless the film participates in a film festival or there is a co-production agreement that allows screening the movie in the partner's market. "There are no records of revenues for this concept in national accounts because producers do not usually declare them to the national revenue agency, DIAN, or to Proexport," says Manuel Becerra, Proexport Exports Consultant (Becerra).

Regarding the exhibition subsector, only four large companies dominate the market: Cine Colombia (40%), Procinál (13%), Cinemark (7%), Royal films (9%), and a large number of independent family-owned businesses hold 31% of the business with

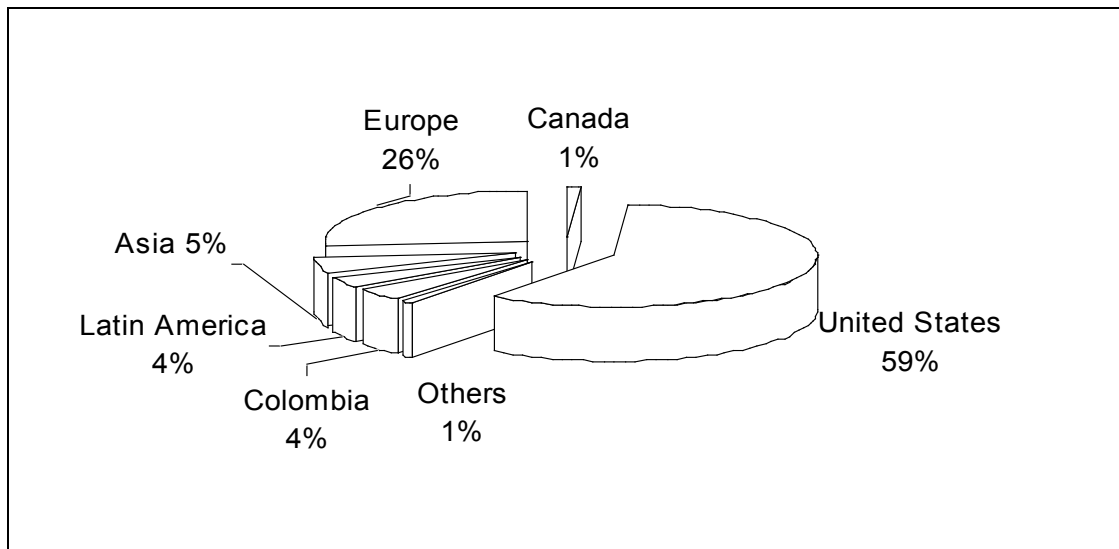


Figure 3: Movies by Nationality, Colombian Market Share- 2005

Sources: Proimágenes en Movimiento (Proimágenes) and personal interview with Bayona (Bayona).

actual reduced individual participation in the market (López 16). Among the exhibition firms, Cine Colombia represents a special case because of its dual function as distributor and exhibitor. In the case of Colombian movies, this company has served as their main exhibitor due to the fact that it owns 178 screens in the country, facilitating the exercise of monopsony power.⁸

Exhibition, in general, is a key sector for producers to cover costs and generate profits and for consumers to have access to cultural capital in movies. However, market trends are not always favorable for those purposes. Since national theatrical exhibition remains as the main window, there are no other alternatives, like pay or open TV, home video rental/purchase or Internet, to recoup investment or at least to break even in case of poor performance at the box office. Additionally, the typically short life cycle of local films is an obstacle to promoting cultural diversity, because it does not allow the audience to see local movies after their original screening, except for pirate copies illegally acquired. Lastly, in a country with a monthly minimum wage of US \$155 and a vast portion of society living under the poverty line, spending US \$4 for a movie ticket is a luxury.

However, we have to consider exhibition market trends in perspective: the number of consumers of Colombian films has also increased in relation to that of foreign films. Currently, it surpasses two million spectators when it barely reached 84,000 in 2001. Moreover, two Colombian movies, Emilio Maillé's *Rosario Tijeras* (2005) and Rodrigo Triana's *Soñar no cuesta nada* (2006), reported the largest number of spectators in 2005 and 2006 respectively (*Proimágenes*).

These trends interact with policy tools that target circulation bottlenecks in an attempt to create efficient conditions for producers and promote cultural identity in terms of securing room for national movies and diversifying programming, protecting copyrights and intellectual property, and cultivating enthusiastic audiences through screen quotas, the anti-piracy project, and audience promotion programs.

2.2.1. Exhibition of National Movies and Diverse programming

Hollywood movies are predominant in the commercial circuit, limiting the programming available to consumers. They still represent the "gold mine" of the exhibition

business (68% of the total market offer vs. 5% of local films, Figure 3) based on their quality, high investment and appeal to the audience. Although there have been historical accusations of illegal practices, such as block booking, which favor Hollywood films by selling a group of movies without giving the chance to the exhibitor to choose, there was no evidence of this during the field research.

To guarantee more variety of programming, policymakers have the option to use screen quotas (Film Law 814, article 18). This is not a new instrument in the sector, but it remains one of the most controversial. The general debate is whether imposition of these movies automatically draws audience by itself or, the opposite, whether it deters spectators if the movie is not a quality product. On the other hand, producers justify the instrument as a defense tool against majors that control the market and invest a large budget in marketing campaigns for movie releases. According to Paula Jaramillo, Trebol Communications Director in charge of the public relations of Emilio Maillé's *Rosario Tijeras* (2005) and Felipe Aljure's *El Colombian Dream* (2006), "the common rule is that majors spend an additional 50% of the production budget in promotion and copies while in Colombia this is the exception to the rule. In the case of *Rosario Tijeras* marketing was crucial for its success" (Jaramillo).

The law states that the screen quota cannot be mandatory and there will be incentives for those companies that exhibit Colombian films or those that exceed the minimum percentage. The norm contradicts itself because it makes the public authority's decision subject to the opinion of private agents that can oppose the norm according to their interests. In addition, since this norm is vague in terms of specific screening periods, economic value of private agents might prevail over socio-cultural values of movies by validating the withdrawal of a movie if it does not meet minimum standards at the box office. This leads to the question of whether cultural capital is realized once the movie is on the screen or after reaching a certain number of spectators.

These important debates do not seem to make sense when considering that the screen quota has not been in effect because of the insufficient supply of national movies. Since the issuance of the General Law of Culture in 1997, all Colombian films have been in theaters; so, they have been able to find room amidst the large offer of international movies. "The use of the screen quota is extremely risky in Colombia. We do not want to repeat the history of Spain or Argentina where the instrument failed. In the past, consumers did not go to see national movies even when they were available in theaters" (Melo).⁹

Applying the screen quota to television offers a different scenario. The justification for this instrument lies in its popularity, which makes TV ideal to promote cultural capital in movies. So far, the government has facilitated the broadcasting of national movies through the only public TV channel, Señal Colombia, and some minor or regional channels like City TV or TeleCaribe. However, resistance has characterized negotiations with the two largest private channels, RCN and Caracol, because foreign content usually fills 100% of their movie programming in prime time. After three years of the Film Law, the first television quota was effective in October, 2006. Caracol and RCN agreed to broadcast national movies during 30% of the annual programming, although there were no stipulations of TV scheduling. Another fact that demonstrated a positive attitude concerning local production was The Week of Colombian Cinema in October 2006, which included the broadcasting of six recent national movies by Caracol and City TV in addition to classic films by Señal Colombia ("Televisión").

2.2.2. Anti-piracy Programs and Informal Access

Parallel to the effort of expanding windows of exhibition for national movies, civil society has also found its own way to access films through cine-clubs in educational or cultural institutions, on one side, and illegal reproduction or purchases of movies,

on the other. Educational institutions and peer groups have historically organized cine-clubs at an affordable price or free of charge. Although they have played an important role in enabling audiences to appreciate movies as an art and in building the intellectual and filmmaking community,¹⁰ their existence is now in conflict with the legislation on copyrights. In a personal interview with María Cristina Díaz Velázquez, Film Division officer in the Audience Promotion Program, she commented that “Cine-clubs in Colombia go against all parameters of a real cine-club: they have a public exhibition when it is supposed to be private, they charge for the ticket when it is supposed to be for free, and they do not pay for copyrights or the parafiscal quota. This clearly breaks the law. We currently assist 40 cine-clubs to comply with these requirements, but we know there must be more than that in the entire country” (Díaz Velázquez). Proof of the expansion of club forums is the case of informal screenings at universities. “At the Universidad Nacional alone, the most important public educational center in Colombia, there are more than 14 cine-clubs” (Amaya).

Illegal copies are common amidst Colombians due to their low price: while a legal DVD copy costs an average of US \$20, a pirated reproduction barely surpasses US \$2. Quality of such copies varies, since some come from directly taping movies while playing on the screen while others come from taping the movie from originals. Although it is difficult to measure the performance of the black market, authorities have estimated losses of US \$16 million to the film industry in the last five years (“Competencia”).

Antipiracy programs for cultural industries have been in place since 1995, but the film sector consolidated its own initiative a decade later. The Antipiracy Program of Films, PRACI, receives a portion of the FDC collected quota toward intelligence and investigation, legal process and prevention and education campaigns. The project started in 2005 with the CNACC’s approval and during the last evaluation (Colombia, Evaluation); the

agencies in charge, Sijin, Dijin and National Police, reported 707 arrests and US \$1,000,000 worth in seized DVDs. The other success was to strengthen criminal sentences for offenders to between four and eight years in prison according to Law 032, 2006 (PRACI).

2.2.3. Audience Promotion Programs

Under the principle of cultural diversity and equal access to films, the Film Division has put into practice programs for audience promotion, among which *Maleta de películas* (“Suitcase of Movies”), *Salas alternas* under the Kayman network, festivals, and TV programs pose interesting points of discussion. *La Maleta* includes more than 100 Colombian and Latin American titles since its release in 2001, with the main objective of screening them in educational and cultural institutions. Approximately 700 organizations have received the movies through the *Plan nacional de lectura y bibliotecas* (“National Plan of Reading and Libraries”) and the National Program of Incentives for Creation. The second program, *Salas alternas*, covers eight spaces in five main cities that showcase movies and directors different from those offered in the commercial circuit, including Colombian and international movie retrospectives. This initiative has become important not only for the offer itself but also because of its more accessible admission price, favoring audiences.

However, the success of these official programs is moderate if we compare the original objectives to the outcomes of the model. For example, some institutions that received the *Maleta de Películas* never screened the actual movies to the intended target audience, according to Frank Patiño (2006), communications officer, Film division at the Ministry of Culture. This case shows the importance of implementing evaluation standards that complement official programs in order to measure the impact of policies that promote cultural diversity. Once again, and as it has happened with the program *Imaginando nuestra imagen*, there might be

interesting proposals aligned with the socio-cultural agenda of the film policy, but the lack of assessment limits their potential success.¹¹

The programming of artistic films in the *salas alternas*, organized within the program Kayman, is not always convenient for all audiences, due to their location in central but insecure areas, uncomfortable seats, lack of food services, insufficient promotion, and mediocre technical quality and facilities (Godoy Pava 13-28). The long-term goal, however, is the establishment of an independent distribution network, similar to the ones seen in European countries. This initiative shows that official film policies are currently leaning toward the independent sector in order to secure national diversity rather than imposing strategies through legal instruments as it did in the former model of FOCINE.

Official support has also addressed visible minorities through the Festival Rosa, a sample week centred on Lesbian, Gay, Bisexual, Transgender (LGBT) issues that started in 2001 with marginal participation of Colombian filmmakers. Catalina Rodríguez, Director of Audiovisuals, Bogota's Institute of Culture and Tourism, states, "The Festival Rosa mainly screens foreign films and only a few national short films from those groups that have responded to our invitation. There has been an average of three local short films or documentaries per festival" (Rodríguez). Although documentaries and short films are meeting the need of representation, they do not have the same economic and cultural potential as feature films do.

In conclusion, policies toward economic efficiency and cultural diversity in the circulation subsector have achieved mixed results because their main focus of creating an enthusiastic and educated audience diverts attention from another crucial problem: the free regulation of the market in the circulation sector, which results in the concentration of the distribution and exhibition channel and limited programming.

Although the description of the policy tools has given us a clear idea of the market

trends and bottlenecks that halt the proper performance of the model, we still need to evaluate the overall outcomes of the post-neoliberal model, along with persistent problems.

3. Results and Challenges

The general perception by Colombian stakeholders is that the current policy model is a viable strategy to achieve sustainability and promotion of national identity through a hybrid structure of neoliberal and protectionist instruments. To illustrate, attendance share at national films increased from 0.5% in 2001 to 14.48% in 2006. Moreover, a year after the issuance of the Film Law, the exhibition circuit screened eight national movies with a record of 10 feature films in 2007 (Proimágenes). Although these numbers seem insignificant compared to the average of 20 million spectators for 156 foreign films that circulated in the market between 2004 and 2006, they represent a visible improvement in a country that was able to exhibit just one national film per year during the 1990s. All of this has occurred amidst an environment of positive expectations and consensus from the sectoral actors and efforts to build a competitive sector. This goal and its long-term outcome, sustainability, refer to the shrinkage of government intervention in favor of increasing the participation of private actors, especially TV channels.

Promoting national identity and expanding business as general objectives of the post-neoliberal model have encouraged official promotion of local films in the international system. The participation of seven Colombian movies at the 2007 Cannes Film Festival ("Colombia tiene siete") has fed sentiments of cultural achievement. Producers have accomplished global recognition and lucrative contracts never seen before. To illustrate, *Ciro Guerra's La sombra del caminante* (2004) won numerous awards in the San Sebastián, Havana, Toulouse, Varsov, Cartagena, Mar del Plata and Santiago de Chile Festivals.¹² *Carlos Moreno's Perro come perro* (2008) signed

an international contract with the European distributor Celluloid Dreams during the 2008 Sundance Festival, and San Antero Films, based in Bogotá, sold the script copyrights of Juan Felipe Orozco's *Al final del espectro* (2006) to do a remake in Hollywood (Posada). Recently, the film project *La sociedad del semáforo* was awarded the World Cinema Fund in the Berlin Festival ("Sociedad"). In addition, Proimágenes has started to function as a film commission to once again attract international productions to film in Colombian locations. Two large projects have responded to this strategy so far: Mike Newell's *Love in the Time of Cholera* (2007), and Tom Schreiber's *Dr. Alemán* (2008).

Moreover, the government and civil society organizations have been part of the Coalition for Cultural Diversity movement since 2004, which lobbied for the adoption of the cultural reserve. Colombia was the first Andean country to use this tool to protect its cultural industries from opening its market, as the Free Trade Agreement negotiations with the United States required.¹³ This decision set a precedent for other states that previously seemed resigned to emulate Mexico's decision in 1994 to include cultural industries within the NAFTA, which had devastating consequences for its film industry. The number of productions has never recovered from the highest point reached during the 1950s, when the country used to release more than a 100 movies per year. In fact, after the implementation of neoliberal policies in the late 1980s, the number of films dropped 80% and it has increased by only 10% a decade since (García Canclini).

Although the increasing presence of Colombian films in the international scene is undeniable, critics have questioned the quality of national movies. Augusto Bernal, for example, says that "movies like *Soñar no cuesta nada* are turning Colombian cinema into a screen with an antenna, meaning that the film and television formats are not distinguishable any more" (Bernal). Of course, the appreciation of a movie as "good" or "bad" would depend on the point of view from which spectators

and critics make their judgment. If "positive performance" is measured by the quality of script, artistic innovation or social content, *Soñar no cuesta nada*'s contribution might be considered limited. However, if "success" is measured by attendance and box office, this movie clearly exceeded expectations.

The second major critique of the model's performance is the limited distribution of cultural benefits and promotion of cultural diversity. Access to cinema is only possible in urban areas and, within them, for those households that can afford the ticket price and reach the location of screens. In addition, the goal of inclusive representation of identity proposed by the principle of cultural diversity is also in question. Part of the problem is how to understand the concept of cultural diversity, something that is not clear in the film regulation. If cultural diversity is guaranteed solely by the fact of producing a few national feature films that share the market with the Hollywood oversupply, the post-neoliberal model has already accomplished its goal. By contrast, if cultural diversity relates to the quality and coverage of representation of historically marginalized groups, such as Afro-Colombians, aboriginals or Lesbian, Gay, Transgender and Bisexual (LGBT), among others, the results are quite different. Not only is their representation minimal, but when they are present in films, they reinforce stereotypes. For example, Afro-Colombian characters relate to crime in *El Colombian Dream* and *La sombra del caminante*.

Additionally, policies have not been able to break longstanding market bottlenecks such as concentration in the distribution and exhibition stages. Rather, the functioning of the model has accentuated monopsonic practices in the local exhibition market by Cine Colombia and has not expanded international distribution beyond festivals, co-production markets and sample weeks sponsored by diplomatic entities.

All these mixed results in the economic and cultural spheres demonstrate the complexity of the implementation and

consolidation of film policies in Colombia. From a general perspective, one can consider that this model is still in progress and that there are valuable lessons for other developing countries, such as achieving consensus among actors, participation of private actors and appeal to audiences. In domestic markets full of foreign movies and an international system pushing toward adhering to FTAs, countries might still have the opportunity to preserve and reproduce their cultural capital and create sustainable film sectors, with the ultimate objective of building a global polycentric landscape of film production.

Notes:

¹ Most of the information comes from studies financed or conducted by the Film Division and *Proimágenes*. Even though this might represent a bias, other studies by independent researchers like Germán Rey and Jorge Katz used the same sources due to the lack of other alternatives.

² Film policies in Colombia started with the imposition of the first levy on the ticket to support the Fund for the Poor and followed with regulation that covered different aspects of the film sector: Law No.9, 1942 and decrees 879, 1971; 950, 1976; 2288, 1977 and 3137, 1979.

³ The difference between cultural exception and reserve is that the former one is a total protection of cultural industries from FTAs such as those used by France or Canada in earlier decades while the reserve is a gradual or selective protection tool for certain sectors. In the case of the FTA between Colombia and the United States, the cultural reserve determines the maintenance of film incentives, but also mandates the reduction of TV screen quotas for national shows from 50% to 30%, beginning in 2009.

⁴ Although the official nature of all these research initiatives might compromise their objectivity, the reputation of the other institutions involved compensates for this factor. Other studies in the field conducted by prestigious researchers such as Germán Rey and Jorge Katz have used data collected in these official research projects.

⁵ There were 162 certificates issued at the time this study was written in July 2008 (*Proimágenes*).

⁶ An entrepreneurial mentality as condition of sustainable sectors was the exception rather than the rule during the FOCINE era. The only case of commercial success was perhaps Gustavo Nieto Roa.

⁷ Julio Luzardo's critique shows how the film receives Colombian official support despite its lack of compliance with national content requirement regulation ("Por uno\$ dólare\$ más;" "Hoy en día").

⁸ With the exception of Harold Trompetero's *Dios los junta y ellos se separan* (2006), distributed and exhibited by Babilla Cine, all the Colombian movies produced between the issuance of the Film Law and 2006 have been commercialized by Cine Colombia. The company also exerts an important influence on the market of national short films.

⁹ Critics like Augusto Bernal mention that distribution/ exhibition bottlenecks and lack of promotion also contributed to the low attendance at national films during 1970s and 1980s (Bernal).

¹⁰ The contribution of cine-clubs like Cine Club de Colombia led by Hernando Salcedo Silva or the Cine club de Cali led by the Grupo de Cali is undeniable (Rojas Romero 2-17; Zuluaga 32-49). In fact, important filmmakers like Luis Ospina and the late Carlos Mayolo began their careers in the Cine Club de Cali.

¹¹ Another tool to encourage audiences was the first phase of the TV show *En cine nos vemos* broadcasted on Señal Colombia before restructuring the programming in 2007. This program not only covered discussions and screenings of national movies, but also that of cinemas from other countries, increasing information about film activities and the opportunity to see non-commercial movies.

¹² Among the awards that this movie has earned, one can mention *Cine en construcción/ Casa de América* in San Sebastián (2004), People's choice award in Toulouse (2005) and Opera Prima Award in Trieste (2005) ("Ciro").

¹³ Colombia set an example for other developing economies by temporarily and selectively protecting cultural sectors under conditions of power imbalance, seeking to create certain levels of autonomy amidst global pressure (Hira 43-54).

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