

**THE SENATE OF
CANADA**

**LE SÉNAT DU
CANADA**

**FINAL REPORT ON THE
CANADIAN NEWS MEDIA**

Volume 2 of 2

Standing Senate Committee
on
Transport and Communications

Chair

The Honourable Lise Bacon

Deputy Chair

The Honourable David Tkachuk

June 2006

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The Committee also expresses thanks to Alexandre Drago in the office of the Chair; Rhonda Walker and Robin Hay in the office of the Deputy Chair; Céline Ethier in the office of Senator Fraser, former Chair; Tracy Bellefontaine in the office of Senator Johnson and Till Heyde, former Clerk of the Committee, and Jessica Richardson with the Committees Directorate, for their contributions to this study.

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Thursday, April 27, 2006:

The Honourable Senator Robichaud, P.C., for the Honourable Senator Bacon, moved, seconded by the Honourable Senator Dallaire:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report on the current state of Canadian media industries, emerging trends and developments in these industries; the media's role, rights, and responsibilities in Canadian society; and current and appropriate future policies relating thereto;

That the Committee submit its final report to the Senate no later than June 30, 2006 and that it retain until July 31, 2006 all powers necessary to publicise its findings; and

That the papers and evidence received and taken and the work accomplished by the Committee on the subject since the Second Session of the Thirty-Seventh Parliament be referred to the Committee.

The question being put on the motion, it was adopted.

Paul C. Bélisle
Clerk of the Senate

(This Order of Reference is similar to the Committee's Orders of Reference for this study during previous parliamentary sessions.)

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INTRODUCTION

Volume I of this final report contains the committee's essential analysis, recommendations and suggestions. The committee's 2004 *Interim Report* provided considerable background material that was used in the preparation of the final report. Since that *Interim Report* the committee has heard from many more witnesses and conducted additional study. This volume collects much of the recent material that helped shape the final report, as well as providing reference material and fuller discussions of points raised in Volume I.

APPENDIX I: WHAT THE COMMITTEE HEARD FROM WITNESSES

Although there was some overlap between what the Committee heard while preparing its *Interim Report* and since then, the second set of witnesses were more focused on specific concerns and problems in particular markets.

A. Changes in Society and Innovations in Communication Technologies

Witnesses discussed ongoing changes in society and innovations in communications technologies that affect the news and information media.

For this study the most important of these changes are:

- fragmentation of the audience for news and information because of the proliferation of new broadcast channels and the Internet;
- the slow decline in newspaper readership;
- the emergence of new sources of entertainment (such as DVDs and video games) which have reduced the traditional audience for news outlets;
- changes in the consumption of news and definitions of news;
- the development of new approaches to audiences (for example free dailies); and
- the use of “convergence strategies” to rebuild market share and to take advantage of changes in technology, including efforts by news organizations to maintain audience and readership (partly through acquisition of a broad range of different media).

There were mixed opinions about the implications of these changes. As journalist Ian Mulgrew told the Committee in Vancouver:

Journalism has changed in the last thirty years, some for the better, some not. ... Economic pressures, technological change, the fight for eyeballs with television and the Internet have all created this very different world. It is a busier world, and newspapers and their journalists must attract customers to survive.

We can do more in our newsrooms today because of technological change. Therefore, pointing out sometimes that we have fewer journalists does not necessarily mean that we are doing a worse job. I happen to think that, in many ways, newspapers are livelier, more visually appealing and more entertaining than they ever were. [January 31, 2005]

Opinions varied about the Internet. While witnesses agreed it contributed to change, the traditional news gathering organizations were still important. As Deborah Jones, a member of the Vancouver Chapter of the Canadian Association of Journalists, noted:

The information on the Internet may not always be just the unreliable, opinionated bloggers. I think that, increasingly, people might be turning to more mainstream or established websites like the *New York Times*. Personally, I almost never watch television any more because it is so slow to sit through a newscast when I can go to the CBC or the CTV website and find all the stories on the line-up and just scan them within a few minutes. [January 31, 2005]

The varied sources of information are having an impact on the way that younger Canadians get the news. Professor Will Straw told the Committee:

For the last several years I have asked members of my post-graduate seminars in communications whether or not they read a daily newspaper, and for the last three years, in classes of 15 to 20 people, none of them said that they did. These are students surrounded by information, immersed within it and committed to the idea of being informed, and they are not against newspapers, but they have not acquired the habit of subscribing to newspapers or buying them on a daily basis. [December 16, 2004]

Professor Straw also discussed the proliferation of free ‘metro’ newspapers.

... the free daily newspapers have, in a sense, removed (their) coverage from the culture of journalism. The news tends to be put together from little pieces supplied by services that are more or less standardized around the world. Most of the time, they publish material that is easily syndicated – movie reviews, celebrity gossip, material produced centrally for an international readership. [December 16, 2004]

A number of witnesses noted that while there may be more sources of information today than in the past, there may not be as many independent sources or as many journalists involved. This can affect the quality of coverage.

... more and more reporters are treated as general assignment reporters doing a different story each day. They may cover same-sex marriages at the Supreme Court one day, the government’s plans for the Kyoto protocol the next day and federal-provincial health negotiations the day after that. In that world there is never enough time to develop any expertise.

Christopher Waddell, Carty Chair in Business and Financial Journalism
Carleton University
November 24, 2004

In the same vein:

Although aboriginal affairs and land claims are the biggest economic and social issue in B.C. across all of the critical resource industries, there is not a single dedicated reporter covering it at the local dailies, nor is there a labour reporter at either paper, ... nor is there a dedicated legislature reporter, nor a dedicated fisheries reporter. *The Province* has no forestry reporter but there are lots of entertainment and sports reporters.

Deborah Campbell, President
Canadian Association of Journalists, Vancouver Chapter
January 31, 2005

Witnesses also emphasized the importance of having a number of reporters from different ownership groups.

If one reporter covers an event and supplies information to everybody, there is only one vision. But if you have fifteen different reporters who cover the same event; you will have fifteen different visions.

Alain Gravel, President
Fédération professionnelle des journalistes du Québec
December 16, 2004

B. Ownership

The core of this study concerns the actual or potential influence on news and information of media ownership in Canada – increased group ownership, concentration and cross-media ownership.

The central concern is that a decrease in the number of media owners implies a decrease in the number of available, distinct voices. As the Canadian Association of Journalists put it:

My focus on major cross-ownership was, if you turn on the radio or turn on the TV or open a daily newspaper and they all come from the same source. We see that as a problem in terms of diversity.

Paul Schneiderei, National President
Canadian Association of Journalists
April 19, 2005

This was a refrain of many witnesses. It is an important point. However, the Political Editor of *Corriere Canadese*, Angelo Persichilli, was one of those who questioned whether there actually is less diversity of voices, given the recent advances in communications technology.

How is it possible to have less diversity of voices in a 1,000-channel environment and a volcano- like Internet, erupting news 24/7, compared to 20 years ago, when

we had only two national TV networks, one national radio broadcaster and only one national newspaper? [December 13, 2004]

Numerous witnesses noted adverse effects of media concentration and cross-media ownership. Christopher Waddell, a former journalist, was blunt in his assessment:

I do not see any benefits to journalism in cross-ownership of media. I think we were better off when we did not allow that.

... there are several issues that are related on the cross-ownership question, most of which the committee has heard about in some form or another prior to this evening. One is just a simple question of the diversity of voices and the number of different people who are out there reporting. It makes sense, and it is practically true, that if you have five different people for five different organizations chasing the same story, the likelihood is that some of them will come up with more information than others. [November 24, 2004]

Allan Thompson, a journalism professor at Carleton University, was especially concerned by the closing of foreign bureaus.

As Canadians, we lose when our media organizations are forced to rely upon news reports produced by others. [December 1, 2004]

Professor Thompson, a former journalist, also said that the pressure to produce stories, with the 24-hour news cycle and the multi-tasking required by converged media, has harmed the quality of journalism.

What worries me is a lowering of standards in a real sense; the use of unnamed sources because of the pressure to produce stories, the manipulation that can take place in that environment, and sometimes scandal-driven journalism. It is not that there are not scandals that warrant attention because the watchdog role is very definitely a part of our function. [December 1, 2004]

Many witnesses spoke about specific markets or specific adverse effects of high levels of concentration and cross-media ownership. Vancouver was the market most often cited. Various critics described CanWest's dominance in that market¹ as "frighteningly powerful" and "debilitating for voices."

¹ In addition to owning the only two English-language daily newspapers in Vancouver (*The Province* and *The Vancouver Sun*), CanWest Global owns television station CHAN, the most popular station in the city. CanWest also distributes 16 community newspapers in the Vancouver area, including the *Vancouver Courier*, which is Canada's largest-distribution community newspaper with four editions weekly, including separate west and east editions on Wednesday, a citywide Sunday edition, and a downtown edition delivered on Friday.

The francophone media market in Quebec was also frequently cited.

What makes the situation more difficult is the current transformation taking place in the daily newspaper market owing to the phenomenon of concentration. In Quebec, concentration has occurred to an unparalleled extent. Two groups dominate the francophone press market: Quebecor and Gesca.

Bernard Descôteaux, Director
Le Devoir
April 27, 2004

Quebecor is the dominant player in that market: it is a leader in the newspaper market in Quebec and also owns television stations, magazines, distributors, cable, video and music stores, and book publishers. Possible problems with cross-promotions abound. Journalists with one of Quebecor's newspapers have filed a complaint with the Quebec Press Council over promotion of the TVA network's programs in the *Journal de Montréal*. Both companies belong to Quebecor. The Press Council did not pursue the issue.

A Quebecor journalist argued that "Quebecor's commercial activities can exert a great influence over the editorial content of the empire's dailies" and noted that:

In two years, *Star Académie* and *Occupation Double* have made front page headlines in the *Journal de Montréal* nearly 200 times, as if they were more important or influential news than municipal, provincial, national or international events.

Martin Leclerc, President
Le Syndicat des travailleurs de l'information du *Journal de Montréal*
December 15, 2004

Media organisations naturally defended their position. CTV, for example, argued that its news service had improved with cross-media ownership.

CTV's acquisition by BCE and the Thomson family, creating Bell Globemedia, provided stable financial resources, which enabled CTV to become the strong and vibrant broadcaster it is today. For the news division, this has been an important factor in expanding and improving our news service. We have raised journalistic standards at all of our stations. ...

We have improved our newsgathering infrastructure. We have built our own station-to-station video delivery system — a sort of trans-Canada telephone system for television news stories. ...

CTV News now has the financial resources to cover the most important stories from across Canada and from around the world.

Robert G. Hurst, President
CTV News
June 14, 2005

Both Torstar Corporation and CanWest argued that there was no hard evidence of the asserted harm.

Despite repeated allegations made most prominently by the Kent commission that the chain ownership of newspapers is a negative force, no serious causal evidence of this proposition has ever been advanced. Some of Canada's newspaper chains have in fact been the principal sources of advancement in innovation among Canadian newspapers. Perhaps immodestly we would cite Torstar and Southam Newspapers as good examples.

Robert Prichard, President and CEO
Torstar Corporation
February 16, 2005

The then President of CanWest Media Works, Richard Camilleri, argued that: "Reduced diversity of voices in news and information is simply not true."

Testimony from earlier witnesses who share that perspective has consistently lacked quantitative or empirical analysis. Their arguments rarely rose above anecdotal observations specifically constructed to support their own proposed remedies. [April 13, 2005]

The Canadian Association of Broadcasters argued that fragmentation in the television market, with the proliferation of pay and specialty channels, had led to concentration.

[W]here broadcasters have consolidated their holdings, and there has been consolidation, it is in response to the current trends in broadcasting and fragmentation and the erosion of traditional borders. It is a response to fragmentation as broadcasters seek to maintain economies of scale in the face of fragmenting resources. It is a response to the erosion of borders as broadcasters seek to re-aggregate audiences that have been splintered by the increasing volume of American and other foreign channels in our broadcasting system.

Glenn O'Farrell, President and CEO
Canadian Association of Broadcasters
February 23, 2005

This view was echoed by CanWest and by Torstar. Mr. Camilleri said,

[T]he biggest challenge facing all media in Canada, big or small, including both television and newspapers, is indeed media fragmentation....

Consolidations that have occurred and will continue to occur among Canadian media companies, including cross-media consolidations, are a natural and strategic business response as individual companies seek to maintain and protect a diminishing share of total industry advertising revenues. [April 13, 2005]

Another CanWest executive suggested concentration allows the large corporations to subsidize operations in smaller markets:

In fact, we have small- and medium-market stations that are not making any money. If we did not own Toronto, Vancouver, and Alberta, we would not be able to subsidize. I think eight or nine of our conventional stations are unprofitable.

Charlotte Bell, Vice-President of Regulatory Affairs
CanWest Television and Radio
April 13, 2005

Mr. Prichard argued that:

Modern media, driven by technological innovation, has been marked principally by increased fragmentation and competition, not increased concentration. [February 16, 2005]

CanWest also argued that there is increased competition in media markets and noted the amount of competition in the Vancouver market. As Mr. Camilleri put it,

In terms of dominance in Vancouver, or the alleged dominance in British Columbia or Vancouver, you have to bear this in mind. In radio, we have a zero-per-cent share of marketplace. In television, CHUM has emerged as a new player in the market. CTV has continued to expand. All of the specialty channels reach into British Columbia. In terms of newspapers, with the presence of the all the competitors, with the emergence of *Metro*, from the Pattison Group and now with *24 Hours* with Quebecor, those two papers alone rank 10 and 11 in the list of national circulation. [April 13, 2005]

Cross-media ownership, for a variety of reasons, attracted the most attention from witnesses. Witnesses were also, however, concerned about other developments, notably the fact that community newspapers have become more concentrated by province and region, with effects on diversity of voice and employment.

Transcontinental now owns 17 of the 21 newspapers in Newfoundland and Labrador. For print journalists, there is really no other place to work. The four independent papers are struggling. Copy from the Transcontinental dailies now appears in the former Optipress weeklies, and vice versa. Independent newspaper voices are getting harder and harder to find. Transcontinental has a virtual monopoly on newspaper publishing and printing in Newfoundland. I believe that

this degree of concentration of media ownership is bad for journalism and bad for democracy. Big media companies like Transcontinental are enjoying the savings of merged operations, but are not reinvesting that money into communities from which they derive their profit.

Craig Westcott, Current Affairs Editor,
The Express, speaking as an individual
April 18, 2005

Group ownership in radio was also seen as a problem.

The CAJ's primary concern with media concentration in this province rests with private radio, which is often the source of news and information in communities throughout the province, including Halifax and Sydney. Ownership among the province's approximately 20 commercial radio stations is unequally divided among four major chains: Maritime Broadcasting, NewCap Broadcasting, Astral Media and CHUM. The Irving Group is also present; however, they have only one station along the province's South Shore. There are still some independent, locally owned radio stations, most notably, CJLS in Yarmouth, CKEC in New Glasgow, CJFX in Antigonish and CIGO in Port Hawkesbury.

Murray Brewster, Nova Scotia Chapter Representative
National Board of Directors, Canadian Association of Journalists
April 19, 2005

Several other witnesses deplored the diminishing place of news on radio, especially local news.

[I]n the 1980s, I clearly remember the lively competition that existed among the various radio stations in Montreal. As a journalist assigned to the news desk and to reading the news, I was in the habit of listening to our competitors' news reports every hour. ...

What is left from that time? Almost nothing. Many FM stations with a few journalists reformat the news that they receive from other sources, copy from Internet sites, like the Radio-Canada site, that gets information from various press agencies.

Alain Gravel, President
Fédération professionnelle des journalistes du Québec
December 16, 2004

Both Cogeco and Brunswick News argued that radio is now less important as a source of news than it once was. Consumers, they said, have other means of getting news, and the demand for radio news has, accordingly, fallen off.

[B]ut I guess radio has evolved from the old AM-type newscast of the past. We mainly offer music and entertainment, rather than news, except for one of our stations, which is personality driven.

...

There are a number of ways that you can get your information. You can get it directly on the Internet. You can get it through the CPAC provision. You have local newspapers, which you did not have at the time.

Michel J. Carter, President and CEO
TQS and Cogeco Inc.
April 12, 2005

Yves Maynard, Vice-President of Corporate Affairs at Cogeco, pointed to the rise of all-news radio and noted that “It clearly provides an alternative.”²

Victor Mlodecki, the Vice-President and General Manager of Brunswick News, also cited changes in the radio news market:

In many respects, the era of “scoop” journalism is over. The days of needing a large staff to get the news before the competition are also over. The electronic media always gets the news first, and radio stations can use the local media to find the news. The other thing is that the marketplace does not demand that kind of service from the radio stations any more. If there was a real demand for local news on radio stations, somebody would fill that demand. [April 22, 2005]

The Quebec Association of Community Radio Broadcasters said that cross-media ownership can have an adverse effect on community radio stations and the provision of local news.

The fact that a resident of Longueuil or the Montreal South Shore is not able to get information about what is going on in his or her own backyard is unacceptable. This is probably why community radio exists. However, a community radio station in Longueuil is unable to sell advertising due to the commercial practices of the major networks and the big media houses.

Lucie Gagnon, Executive Secretary
Association des radiodiffuseurs communautaires du Québec
December 15, 2004

Probably the most emotional testimony was prompted by the extensive, and growing, media ownership by the Irving family in New Brunswick. In terms of dollar amounts, the Irving media empire is dwarfed by CanWest, Bell Globemedia and Quebecor. But the Irvings dominate the media in their province. Their media holdings in New Brunswick include all the English-language daily newspapers, three radio stations (they own one in Newfoundland), and all but three of the province’s English community newspapers, with recent purchases among French-language newspapers.

² April 12, 2005.

The Irving firms' media dominance is compounded by the family's dominance on the industrial side of the province. Numerous witnesses expressed concerns about the implications of a dominant media force linked to a dominant industrial base.

David Henley, whose community newspaper group had been purchased by the Irvings, also worried that the Irving empire controlled most of the printing presses in the province. This concern was echoed by David Cadogan, whose community newspaper group was also purchased by Brunswick News. Mr. Cadogan said that the Irving media have had more access to advertising from other Irving family businesses than other publications do, and that the Irving media have been and will be brutal competition to anyone who goes after the same ad dollars.

The Irving firm's dominance of newspapers in New Brunswick is extending from the English-language to the French-language market.

The independence of the print media, which was a source of pride for the Acadian community, has been seriously undermined since the Irving empire managed to increase the number of French-language newspapers it owns.

Marie-Linda Lord, Professor, Information and Communications Program
University of Moncton
April 22, 2005

To several of these witnesses, the media-industrial links within the Irving empire introduced an unhealthy bias into the news received by New Brunswickers.

No matter how unbiased the intent or open the editorial policy might be, there would be an unconscious loyalty to the parental control. It is inconceivable that a writer reporting on a sensitive issue involving one of these companies would not be intimidated about the fact that he or she is writing about another arm of the Irving body. That reporter would be gambling with the potential of a subtle punishment by way of lack of promotion or maybe even loss of a job. I emphasize "potential." I am not saying that would necessarily happen. There are now few places to go to find another job in that field. He or she would have to uproot and move out of province as their only other option.

David Henley
Former owner of Henley publishing Ltd.
April 21, 2005

A professor of sociology has examined the Irving media empire in New Brunswick and found instances where the family's commercial interests seemed to influence the stories in the Irving-owned newspapers. Bias does not have to come from direct orders from the owners, of course, but can come from self-censorship by journalists – or even incompetence.

Research on the media coverage of their own companies also reveals that the papers routinely publish their own press releases as news stories. For example, the Saint John *Telegraph-Journal* prints an article entitled “Refinery Hires 1,000 for Maintenance Project,” which is almost identical to the Irving Oil press release on that topic entitled, “1,000 Tradespeople ‘Turnaround’ Saint John Refinery.”

Erin Steuter, Associate Professor, Department of Sociology
Mount Allison University
April 21, 2005

Brunswick News denied the allegations of bias. Mr. Mlodecki said:

The publishers of BNI's newspapers operate under general philosophical guidelines, which leave editorial content, the day-to-day news coverage and management of the news coverage entirely in the hands of individual publishers. The BNI operating philosophy can be summed up as follows: BNI newspapers strive to be the most trusted, respected and accurate source of information in the New Brunswick communities that they serve. Our newspapers reflect broad, mainstream values of the citizens of New Brunswick. Our newspapers treat people with dignity and respect. What we print will be in accordance with the standards of our communities, which we recognize will evolve and change over time. BNI newspapers will cover the news as impartially as possible without fear or favour. We will expose wrong-doing, duplicity or the misuse of power, public or private. We are committed to the principles of truth, fairness and accuracy. When mistakes are made, we will admit them and we will correct them promptly. Our newspapers' duty is to serve our readers and operate on a financially sustainable basis. [April 22, 2005]

One witness, who had worked for the Irvings and several other media owners, said that the Irvings did not attempt to influence his work.

They never ever raised a single concern with me, directly or through intermediaries, complained about the content or were involved in any way. They wanted the papers to be run properly. They were run in a business-like fashion, and that was the end of their involvement in it.

Paul Willcocks
January 31, 2005

Another witness, however, who had also worked for the Irvings, suggested that the potential for interference (whether real or imagined) does in fact exist. He described one occasion where he tried to obtain confirmation of layoffs at a lumber facility owned by the Irvings:

We had double-sourced the story, but it is always nice to get the other side. The confirmation came back [from the Irvings] with an order to hold the story for a week. Now, that is a minor thing, to hold it for a week, but it is an indication of

how Irving influences outside the media empire can affect the reporting of the news. We ran the story a week later. Perhaps I should have run it anyway, but it is always hard to violate an order from the boss.

John Steeves
April 21, 2005

C. Foreign Ownership

Various witnesses spoke about foreign ownership of Canadian media. Opinions were wide-ranging. Peter Murdoch, Vice-President of the Communications, Energy and Paperworkers Union of Canada strongly supported the maintenance of current restrictions (“number one on our list at this point in our history is the issue of foreign ownership.”) and argued that “the person that owns the messenger also owns the message” (November 24, 2004).

On the other hand, Victor Mlodecki, Vice-President and General Manager of Brunswick News, argued in favour of reducing or eliminating the current restrictions.

Other witnesses advocated positions between these extremes. For example, Paul Wilcocks, a former journalist, stated:

We have to recognize we are moving through a period of fairly rapid change in Canadian media ownership and management approaches, and we have not really had enough time yet to assess all of those implications. The only effect that I can see in lifting foreign-ownership restrictions at this point would be to provide capital for some of the players currently in the market or players from the U.S. to bring about further consolidation. Until we have had a chance to see just how this plays out over the next several years, that seems to me to be unnecessarily reckless, since everybody in the business entered into it knowing what the current rules are and accepted them. It just seems prudent to leave them in place. [January 31, 2005]

Patrick Nagel, also a former journalist, suggested:

...you could improve some competitive aspects of Canadian media by permitting foreign ownership.... [January 31, 2005]

Angelo Persichilli of *Corriere Canadese* argued that:

Technology has forced us to open up to foreign competition. Unfortunately, Canadian media operators, instead of fighting foreign competition by increasing the quality of our programs or the content of our newspapers, have reduced the competition inside.

This fortress mentality, coupled with the Canadian mergers and convergence, is killing competition inside Canada and fostering competition from outside.
[December 13, 2004]

D. Legislation

1. Shield Laws

One issue of concern was journalists' ability to protect their sources. This was highlighted in 2004 when Ken Peters, a reporter for the *Hamilton Spectator*, was found guilty of contempt of court for refusing to divulge a source, and when a team of RCMP officers raided the home and office of *Ottawa Citizen* reporter Juliet O'Neill searching for documents she may have used in a story.

The most prominent issue is that this [the Ken Peters] case unfortunately set Canadian case law back many decades in the sense that courts have traditionally balanced the administration of justice and freedom of expression...

Before this case, the situation in Canada was much healthier in terms of being able to balance the two priorities. ... If we cannot have access to information and be able to give some level of promise of confidentiality our sources simply will not come forward in which case we will all be poorer for it.

Jagoda Pike, President, CityMedia and Publisher, *Hamilton Spectator*
Torstar Corporation
February 16, 2005

CanWest described the Juliet O'Neill case as "nothing less than a Third World assault on Canadian freedom, a tactic conceived and executed to intimidate journalists." Ms. O'Neill's editor complained about the effects of recent legislation:

The raid against Juliet O'Neill and the *Citizen* was made possible by provisions in the *Security of Information Act*, a piece of legislation hastily cobbled together in the days after 9/11. It is my belief that this law and others like it give politicians too much licence to stymie press freedom in the name of national security.... this is not the way things should be done here. We do not need jackboots in Canada.

Scott Anderson, Editor-in-Chief, *Ottawa Citizen*,
Vice-President and Editor-in-Chief, CanWest MediaWorks Publications
April 13, 2005

These concerns led to suggestions for ways of protecting journalists. A few witnesses had some sympathy for explicit shield laws. News organizations such as Torstar and the *Globe and Mail*, however, preferred a court-based solution to explicit legislation.

[T]he courts have been good, particularly with the interpretation of the Charter guarantees on press freedom ...

In honesty, I have to say that I do not think we have had a lot of discussion whether shield laws are a necessary response. We are in favour of journalists being able to protect their sources because that is a very important part of how they function. We believe that the direction given to the courts through *Dagenais*³ talks very much about the need to balance out press freedom against fair trial rights, and not be casual about impinging on those freedoms in any way.

Edward Greenspon, Editor-in-chief
The Globe and Mail
May 11, 2005

We think the best solution is the common-law, court-based solution respecting the central role of journalists and following the Supreme Court of Canada's jurisprudence in this area.

Robert Prichard, President and CEO
Torstar Corporation
February 16, 2005

The Fédération professionnelle des journalistes du Québec suggested amending the *Canada Evidence Act* to provide protection for journalists.

The QFPJ would like your committee to ask the Department of Justice to amend the *Evidence Act* and any related legislation to provide maximum protection from seizures and breaches of the confidentiality of certain sources.

Alain Gravel, President
Fédération professionnelle des journalistes du Québec
December 16, 2004

2. Access to Information

The most common observation was that the *Access to Information Act* did not truly facilitate access to information and that in fact there was less access now than in the past. CanWest Global deplored the lack of uniformity in access to information.

While paying lip service to openness, successive governments and governments all over the country have failed to deliver on promises for more transparency and open access to crucial information that the public has a right to know. Journalists, and one would assume, ordinary Canadians, are continually stymied and delayed in attempts to access information. The prevailing attitude is one of reluctant compliance at best and outright subversion of legislation at worst. Often the information is made expensive by excessive processing and photocopying fees. Access officers have come to believe their job is to wear journalists down rather than to ensure they get the information they need to report the truth to Canadians.

Scott Anderson, Editor-in-Chief, *Ottawa Citizen*,
Vice-President and Editor-in-Chief, CanWest MediaWorks Publications
April 13, 2005

³ *Dagenais v. Canadian Broadcasting Corp* (1994) 3 S.C.R., 835.

Similarly, the Editor-in-Chief of the *Globe and Mail* said:

Today in Canada, our ability to report the news is often encumbered by the misapplication of access to information laws or the overzealousness of privacy laws. We are also disturbed by a trend of some elements of the judiciary to the increased use of publication bans and even secret proceedings.

...

We do see what we consider misapplication of information laws. The so-called “freedom of information laws,” often block the release of information that, in our view, should be in the public domain.

That happened very early to our reporters trying to gain access to sponsorship information. They were blocked access to information that they should have been able to get, in our view.

Edward Greenspon
May 11, 2005

CTV’s Robert Hurst claimed that there was less openness now than before the *Access to Information Act*.

I am a bit surprised that in open-ended questions more and more journalists coming before you are not being more specific about the daily issues we have in the trenches about things like freedom of information and the reviews and the overhaul of freedom of information, because there is less openness and freedom of information in this country from the federal to the provincial to the municipal levels than there was before all these acts were brought before Parliament. [June 14, 2005]

3. Whistleblowers

A related issue is whistleblower legislation. The Canadian Association of Journalists wanted strong legislation – stronger than that then proposed by the government – as well as better protection for journalists trying to protect their sources.

We are looking at legislation that would protect public servants, employees in a major corporation or anybody, people who come forward to speak out about wrongdoing who are now afraid to do so because of the repercussions in terms of their livelihoods and even their future job prospects. ... people have no other way to get the stories out sometimes but to talk to journalists completely on the understanding that their names will not be used.

Paul Schneiderei, National President
Canadian Association of Journalists
April 19, 2005

4. Funding for Research and Media Initiatives

Various witnesses pointed out that Canada lacks the think tanks focused on the media that can be found in the U.S. and argued that tax laws could be changed to stimulate the funding of such foundations in Canada. Other witnesses supported the idea of media think tanks and training institutions, in principle, but were concerned about government involvement.

The federal government has stepped forward recently with increased funding for all sorts of university-based research, and it is making a huge difference in many, many areas. The same sort of process could also be used in funding an institute of this sort. There are already examples of these sorts of research consortiums that we could look to. The Project for Excellence in Journalism in the United States is one example ...

I am not suggesting that the government take the lead in organizing such an institute. I think that would defeat the purpose, but certainly your committee could be instrumental in creating the crucible and then bringing together the players that could make such an institute or think tank a reality.

Gillian Steward, Visiting Professor,
School of Journalism, University of Regina
February 3, 2005

The editor of the *Tyee*, a free web-based alternative daily newspaper produced in British Columbia, wanted the government to

...create tax incentives for media philanthropy. Some of North America's best publications that are very much reader-driven exist because someone with wealth and ideals ensures that they do.

David Beers
January 31, 2005

Two magazine publishers who appeared before the Committee thought there was a place for charitable donations in their industry, although one wanted the use of such incentives limited to avoid any problem of the government's becoming involved with content.

...I think you have to delve into the nuts and bolts of it. The *Atlantic Monthly*, *Harper's*, *Mother Jones*, the *Utne Reader* and many periodicals in the States simply would not exist without foundation support because they lose money every year. They are in this business not to make money but because they think it is important to have those voices heard. The charitable giving laws in the States are such that foundations can give money, for instance to *Harper's*, in order to continue publishing.

Ken Alexander, Publisher,
The Walrus
November 17, 2004

...I think that if we could set up an appropriate charity to do genuinely charitable things as in a student internship — help kids learn journalism, not to become partisan people but the opposite, to give them a practicum to finish their training, not to subsidize our company outright but to bring more kids into our newsroom than we could normally afford to do — that would be something that would help us out. I want to be careful because I do not want to come across as looking for a government handout. ...

Ezra Levant, Publisher
Western Standard
November 23, 2004

E. Regulators

Witnesses raised important issues about the role and activities of the Competition Bureau and the CRTC and the interface between the two organizations.

1. The Competition Bureau

The very idea that government agencies should interfere with the independence of the media was strongly contested by some witnesses. As one witness observed:

The Competition Bureau should stay out of the editorial issues and focus on competition and economic matters. “Freedom of the press” says it all. There are lessons to be learned from other countries about media regulation and I think I could sum it up by saying not to do it. I believe democratic society and media regulation do not go together.

Sarah Dennis, Vice-President, Brand and Content
The Chronicle-Herald
April 19, 2005

Representatives of Torstar said that the Competition Bureau should be involved in matters of competition but there should be no special provisions for newspapers.

We believe the *Competition Act* should apply as developed through the legislation and its jurisprudence and we seek no special treatment of any kind under that statute. ... In applying the *Competition Act*, the question is always: What is the relevant market? In a world of media where radio is competing against community newspapers or television is competing against radio, with all the different forms of media competing for the same advertising dollars, we believe it is a matter of the proper application of the *Competition Act*. The market should be defined broadly in the competition for the advertising dollar rather than being limited to just daily newspapers or community newspapers or radio or any particular medium.

Robert Prichard, President and CEO
February 16, 2005

However, a vice-president of Cogeco complained that:

In our view, the competition policy requirements, the relevant markets involved and other evaluation criteria are not sufficiently clear and consistent at this time with respect to Canadian media industries, and neither are the respective roles and responsibilities of the federal government agencies involved.

Yves Maynard, Vice-President Corporate Affairs
April 12, 2005

Other witnesses suggested that the current approach of the Competition Bureau and the legislation governing the system lacks some of the application and teeth that exist in other jurisdictions. Discussing one transaction, Anders Bruun of the *Farmers' Independent Weekly* pointed out:

Despite the clear fact of a virtual monopoly created by the Glacier purchase of Farm Business Communications,⁴ when we contacted the Competition Bureau, we were told that there was essentially nothing that they could or would do to prevent that acquisition from going ahead, notwithstanding the level of concentration in this market sector that was produced by it.

Mr. Bruun noted the lack of remedies in Canada and contrasted that with the case in other jurisdictions.

The *Competition Act* is a room with many exits. It is not often that you hear of an effective competition law remedy in non-competitive situations in Canada. If a company such as ours was forced out of business by anti-competitive behaviour, it would be very difficult for us to sue and get a remedy. In the United States, you can sue and collect triple damages. That provides a powerful disincentive to non-competitive behaviour that does not exist in Canada. You are left with very little recourse if you are forced out of business by anti-competitive behaviour. The parties doing it may be fined, but what good does that do you? You have lost your business. [February 4, 2005]

Some journalists approached the matter from a different perspective:

We also recommend that the Competition Bureau be required to take into account criteria on the diversity of information sources, when it examines a transaction relating to the media.

⁴ In 2003, Glacier Ventures International Corp. completed its acquisition of Farm Business Communications, which publishes periodicals within specific regional, crop and industry niches. At the end of 2001, Glacier had entered into an agreement to purchase Western Producer publications, which published Canada's largest weekly agricultural newspaper, the *Western Producer*, and several related publications. With the two acquisitions, Glacier, according to its annual report, became Canada's largest publisher of agricultural information.

As the Bureau said to us in a letter last March 5: The very important issue of diversity of sources of information does not fall within the purview of the competition commissioner [...]

The only thing that matters to him is competition in the...advertising market. If the diversity criteria cannot be included among the criteria used by the Bureau, then the CRTC must become the sole judge of media transactions.

Alain Gravel, President
Fédération professionnelle des journalistes du Québec
December 16, 2004

2. The CRTC and the *Broadcasting Act*

Few witnesses made specific comments about the *Broadcasting Act* except to praise it in very general terms.

We think the *Broadcasting Act* is great. We think the *Broadcasting Act* established in 1968, when you look at the objectives that were set out for it were terrific. ... The *Broadcasting Act* is a tremendous act in terms of liberating and giving people access to these services, but how the regulator interprets that sometimes becomes a problem.

Ken Stein, Senior Vice-President
Shaw Communications Inc.
February 22, 2005

As for the CRTC, witnesses recognized that it had been an important instrument in the creation of Canada's broadcasting system, but they thought that it was often out of touch and tended to over-regulate the broadcasting system.

The regulator, the CRTC, has in most cases got it right. I think that one of the most important reviews that the CRTC undertook was when they looked at the development of new media and the Internet.... They said, "We looked at this area and we could regulate it if we wanted to in certain ways, but it is thriving, dynamic and growing, and there is a great deal of Canadian stuff, so we are going to let it rip." ...

The broadcasting system in Canada has always been a competitive system. However, recently there has been a sense that it has to be more protected; things like no competition, genre protection, and licensing niche services.

Ken Stein, Senior Vice-President
Shaw Communications Inc.
February 22, 2005

Another witness criticized the CRTC's habit of paying attention to musical genres.

Furthermore, measuring diversity in terms of available musical formulas, as the CRTC currently does, teaches us little about the real verbal content of radio

programming, about the production of local news and about the access that people have to sources of diversified information.

Lucie Gagnon, Executive Secretary
Association des radiodiffuseurs communautaires du Québec
December 15, 2004

Another complaint was that the CRTC moves slowly.

[T]he time it takes to get decisions from the CRTC is getting longer and longer..... For example, a 1997-1998 CRTC notice contained the following statement, and I quote:

“...it plans to consider innovative ways of providing additional financial resources for community radio, as part of a future process.”

I regret to tell you that we are still waiting to see these innovative measures.

Jacob Atangana-Abé, Treasurer, Envol 91.1 FM (CKXL)
La radio communautaire du Manitoba
February 4, 2005

The journalists' union at the *Journal de Montréal* criticized the way in which the CRTC follows up or does not follow up on its decisions.

In 1997, when Quebecor came forward to purchase Television Quatre Saisons, our union appeared before the CRTC, stating that we were in favour of the transaction on condition that the television network establish a monitoring committee to ensure the independence of the TQS newsroom and the *Journal de Montréal* newsroom, as regards both information and promotion. The CRTC finally created a committee with limited powers that has ultimately not lived up to expectations for it.

In 1999, our union filed a complaint about two actions by TQS senior management regarding the content of the *Journal de Montréal* to influence the information printed about this network. This complaint ... to the TQS monitoring committee could not be investigated because *Journal de Montréal* senior management refused to meet members of the monitoring committee. It was stated at the time that the jurisdiction of the CRTC did not extend to the Quebecor empire's newspapers.

Martin Leclerc, President
December 15, 2004

M. Leclerc suggested that:

[T]he CRTC has no jurisdiction over print media. The CRTC must focus on the impact of transactions on electronic media. Its mandate therefore must be broadened. But it should be broadened in order to consider additional factors and impose more stringent rules with respect to percentages when the buyout of a

television or radio station will mean that the one taking over will become a player in the world of cross media ownership.

3. The Relationship Between the CRTC and the Competition Bureau

A common refrain from witnesses was the divided responsibility, or overlap, between the Competition Bureau and the CRTC. Perhaps the main comment concerned the absence of clarity when media mergers were being considered. Cogeco Inc. said:

One of the elements is trying to achieve more clarity in the attribution of roles and responsibilities as they apply to competition in the broadcast sector or in mergers and acquisitions that involve broadcasting properties.

As we say in our brief, pretty well around the world, at least the countries that we have looked at, there is a concurrency of jurisdiction between some form of competition authority and some kind of communications or broadcast regulator.

There are, however, different ways in which the policy considerations and their implementation are coordinated between these agencies. In Canada there is a document that describes how the CRTC and the Competition Bureau are prepared to consider mergers and acquisitions involving broadcast properties and competition issues involving the behaviour of broadcasting firms. It is not a regulation. It is not an enforceable document.

...

It is a very loose guideline. I take it that there can be some consultation between the two bodies, but there is no real channel set up in the law or by regulation to allow that to take place. It creates situations. The argument goes that very seldom do we see that the two bodies are at odds, but it has happened before.

Yves Maynard, Vice-President Corporate Affairs
April 12, 2005

Mr. Maynard commented on the U.K. system:

There are countries where this interface between the competition authority and the communications regulator are formalized into some kind of an ongoing consultative mechanism. That is how it happens in the U.K. It is perfectly licit for Ofcom and the competition authorities there to meet and to discuss competition issues because the scheme provides for it.

F. Public Broadcasting

1. CBC/Radio-Canada

Witnesses told the Committee that Canada's national public broadcaster was important to Canadians and Canada's broadcasting system for a number of reasons. The former Chair of the House of Commons Standing Committee on Canadian Heritage, Clifford Lincoln, said:

[T]he Canadian broadcasting system, as it is, is a mix of public and private enterprises and should stay the way it is. It works and it works well. The place of the CBC and Radio-Canada should have a prominent place within it. We need a public broadcaster more than ever before. At the same time, we are asking the CBC to do almost everything by itself, without giving it the sustained stable funding that it needs to carry out its mandate. How can we reproach the CBC for abandoning the regions and the local communities at the same time that it does not know from year to year how much funding it will receive? Some people say it receives a huge amount of funding, close to \$1 billion. At the same time, we must equate this to what its mandate is. We have said: Give the CBC adequate funds to carry out its mandate, especially its reach to the regions and local communities. If the broadcasting dies in local communities, it will die nationally. [February 26, 2004]

More than one witness stressed the importance of the CBC/Radio-Canada for Canada's regions. For example:

The CBC plays a crucial role in providing quality journalism in the regions of Canada despite what is taking place in the marketplace. When CBC managers contemplate the future of regional broadcasting from their offices in Toronto, it is difficult for them to understand what is happening on the ground here. The New Brunswick CBC supertime news programs, the CBC radio news and current affairs programming and the CBC on-line service are the only games in town. Unlike big-city markets that offer many choices for viewers and readers, the CBC is broadcasting the only New Brunswick-produced television news programs. CBC Radio is the only serious producer of radio news.

Phillip Lee, Director of Journalism
St. Thomas University
April 21, 2005

Not all witnesses agreed that the CBC/Radio Canada should get back into the production of local and regional news.

At the present time there is a big groundswell movement for the CBC to get back into local television. We do not think that is appropriate. We think that they are the national and the international service. We think that local coverage is being provided well by the private sector.

Wendell Wilks, CEO
Television Niagara
December 13, 2004

A constant refrain from witnesses was the need to restore the CBC's funding.

Radio-Canada would have many more possibilities, opportunities to produce content and programming that is diversified and distinct from what is being done

by private broadcasters, if financial resources were increased and brought back at least, to what they were before the cuts in the 1990s.

Chantale Larouche, President
Fédération nationale des communications
December 16, 2004

Serious arguments were made for clarifying the CBC's mandate. For example, one witness pointed out the difficulties of having the CBC compete with the private sector.

The commission [CRTC] recently relaxed the conditions on CBC to allow them to go after American movies. In our market, you are now seeing *Harry Potter* and all the top movies. You have to ask yourself: Why are they getting taxpayer money to compete in the advertising pool and to be subsidized? It seems like a conflict. They also compete against CTV for the rights to the Olympics and they can outbid CTV. Now, that is a very commercial enterprise. The same applies to hockey games on Saturday nights.

Scott Stirling, President and CEO
Newfoundland Broadcasting Company
April 18, 2005

2. Educational Television

Educational television is a secondary but important source of information and discussion about public affairs. As the head of TVOntario pointed out:

[A]s an educational broadcaster, TVOntario plays a unique, valuable and distinctly different role in the Canadian broadcasting system, which is different from the role played by public broadcasters such as the CBC.

Isabel Bassett, Chair and CEO
December 14, 2004

Ms. Bassett also noted that TVO serves Canada's francophones:

TFO provides an essential service to Canada's large Francophone community outside of Quebec. It is the only Canadian French-language broadcaster based outside Quebec.

Witnesses also made other points:

The business needs of national broadcasters and national speciality channels dictate that they spend their production and pre-licence dollars first on programs that appeal to the largest and most commercially appealing demographics. However, some of the broadcasting system's profits must support productions that do not fit commercial broadcasters' needs but rather advance the regionally unique social, cultural and educational agendas of people in each area of Canada.

This support is clearly stated in the *Broadcasting Act* but not easily found in the broadcasting system.

Wayne Robert, General Manager
The Knowledge Network
January 31, 2005

Télé-Québec has always included broadcasts in its programming that enable citizens to debate major political and social issues. For twenty-five years, it broadcast *Droit de parole*, a forum that enabled concerned citizens to debate important topical issues with experts or politicians. Since September, a new program hosted by Marie-France Bazzo and entitled *Il va y avoir du sport* has taken over but in another way.

...
[I]f Télé-Québec or CBC/Radio-Canada were to disappear one day, no private station, in our opinion, would want to take up the genres that are as costly as future programs for basic youth program and auteur documentaries, for example, which are extremely costly and not big money-makers.

Paule Beaugrand-Champagne, President and General Manager
Télé-Québec
December 16, 2005

3. Not-for-Profit Broadcasters

Not-for profit broadcasters include television networks such as Vision TV, CPAC and APTN⁵, as well as community media (discussed in the next section).

APTN, in part, owes its existence to the *Broadcasting Act* and the actions of the CRTC.

In the area of news and current affairs programming, APTN's all Aboriginal news team now provides APTN *National News*, a half-hour newscast every weeknight in prime time, 52 weeks of the year; *Contact*, a popular, live one-hour open-line show on the issues of the day, audio streamed worldwide over the Internet; *Death at Ipperwash*, 90 minutes per week of the testimony at Ontario's Ipperwash inquiry; specials on matters of current concern such as residential schools and elections; and a news website with daily headlines and in-depth features.

Without ... regulatory requirements, it is doubtful that many distributors would make space available on basic [cable] service for a national Aboriginal service, or if space were made available, that APTN would generate sufficient revenue to support our mandate.

Jean LaRose, CEO
APTN
February 4, 2005

⁵ CPAC and VisionTV did not appear before the Senate Committee but they contribute to discussion of public affairs.

4. Community Media

An important component of Canada's broadcasting system is community-based radio and television media. Community television programming is made available through cable distributors who provide studio and equipment to broadcast programming developed in the community. Cable companies can choose to support community television programming and the Canadian Television Fund (CTF) or only the CTF.⁶

Community radio stations operate as co-operatives and non-profits and are heavily dependent on the work of volunteers. Witnesses made a number of observations.

Community radio responds to the population's wish to have radio service that talks to it about its own environment and in which it sees itself. For example, we at CINQ FM broadcast programming in seven languages in the heart of Montreal.

...

For other regions, such as the Magdalen Islands, the community radio station is the only local radio service in the area. The people count on this "front-line" service to inform them, to support local discussions, to give a voice to their citizens and to acknowledge and recognize their culture. Local businesses also benefit from the presence of this community radio station which broadcasts their publicity at an affordable price and encourages local economic development. It serves as the station for local emergencies as well as for local events and celebrations. It is the Island people's radio.

Magalie Paré, Member of the Board of Directors
Quebec Association of Community Radio Broadcasters
December 15, 2004

Witnesses also noted some of the challenges facing community radio.

Here in Halifax, we have the campus community station CKDU, which is our largest community station. It is financed by the student's union at Dalhousie University. The University of King's College uses that station to broadcast our journalism programs. CKDU has only 50 watts. I mean I have light bulbs more powerful than that. It cannot be heard beyond downtown Halifax. It is chronically short of money and cannot hire many staff members.

Professor Bruce Wark
School of Journalism, University of King's College
April 19, 2005

Witnesses raised a number of concerns about community television and the way it has been "managed" over the past few years in particular markets.

⁶ Cable companies are required to contribute 5% of their revenues to the CTF or 2% to community television and 3% to the CTF.

The CRTC for many years required cable television stations to provide access to community producers, until around 1996, when the CRTC dropped that requirement. The owners of community television, which are in every case the cable company owners, started gradually closing down community television studios and offices, until finally, in September 2001, when even the most popular and long-lasting community television programs were unceremoniously cancelled, terminated.

In 2002, the CRTC, in the broadcasting public notice, required that TV stations owned by cable companies should once again give broadcasting access to community television groups. Gradually, the cable TV managers gave back some broadcasting time. We, the community groups, like ICTV and Work TV and VCTA, are now precariously surviving the dictates of the cable managers.

Why is this community media in crisis? The public policy required for democratizing community television in Canada either does not exist or perhaps is not well defined or the CRTC is not interpreting properly — and that is something this committee could perhaps recommend.

Pedro Mora
Vancouver Community Television Association
January 31, 2005

Corporate interests are rarely congruent with public interest and common wealth. This is especially true of community television in the Lower Mainland. For the past eight years in Vancouver, Rogers first and now Shaw have closed all neighbourhood television offices and denied citizens their rightful access to cable community challenge. Here, experience has shown that citizens and community groups have no timely legitimate and effective action when cable companies deny the public access and mismanage the community channel. Over the past eight years, the commission has first let Rogers and now Shaw incrementally dismantle the successful network of volunteers, thousands of them, and community groups working out of neighbourhood offices throughout Lower Mainland.

...

[R]ecently, Shaw TV cut its live coverage of a Vancouver community council to show a junior hockey game. Neither team was from the Vancouver or Lower Mainland area. I made a complaint. The answer from Shaw TV was that no regulations were broken. While it may be true that no regulations were broken, I believe the spirit of community television was violated.

Sid Chow Tan
January 31, 2005

G. Other Media

Diversity is not just a spectrum of views in the mainstream media, although the maintenance of a wide range of views is important. Diversity is also judged by the

availability of a broad range of news and information for audiences across the country, as well as the availability of news and information for minority audiences.

1. Canadian Press

The Canadian Press (CP) is the only major news agency in the world to rely so heavily on the shared contributions from its members of news and pictures. The Committee's *Interim Report* pointed out that the agency had a history of looking into a cloudy future. Since the *Interim Report* was tabled in April 2004, CanWest's largest newspaper, the *National Post*, has pulled out of CP. Moreover, CanWest has established CanWest News Service and a national news centre in Winnipeg to provide national and international news to its dailies and to its television stations in Canada.

Potential competition is a concern for any enterprise, of course, but the competition for CP comes from some members within its organization and this could be detrimental for others. As one witness explained:

I think Canadian Press is very important. It is more important, probably than they realize, to medium-sized papers, and certainly important to small newspapers, especially small newspapers that are not part of a major corporate group at this point, because if all the news is only coming from corporate groups, it is going to be harder for those papers to get content. ...

I think the pressure on Canadian Press has been with us for, at least in a serious way, 15 or 16 years now, as the larger corporate groups wonder if they could not do much of what Canadian Press does more cheaply and with some competitive advantage.

Paul Willcocks
January 31, 2005

Another witness seemed less concerned by possible competition from newspaper groups.

If one boils the notion of Canadian Press down to its basics, it is essentially a vehicle through which all of the newspaper owners in the country can hire one reporter to cover a story for them all. Yet if one group of newspapers with common ownership seeks to take the same approach within its own papers, the condemnation is loud and harsh. I do not understand.

Murdoch Davis, then Publisher
Winnipeg Free Press
February 4, 2005

Pressure from some members, particularly some large ones, has led to cost cutting. But as the Publisher of *Le Devoir* pointed out:

Cost cutting is also at the root of the concern that the role of the Canadian Press as a cooperative agency may be jeopardized in the medium term. For political

reasons, no one will dare attack the existence of the agency, at least with respect to its basic services. However, CP may gradually have to abandon some of its specialized services that are felt to be superfluous by the major press groups. I am thinking here of regional news services, television schedules and special covering sports events. Some members of the Canadian Press could withdraw from those services because they feel that they are redundant.

The ones who would suffer the most, of course, would be the independent newspapers and their readers.

Bernard Descôteaux, Director
Le Devoir
April 27, 2004

CanWest is noticeably not one of CP's staunch supporters.

Since the CND [CanWest's Canadian News Desk] has been launched, our papers have used significantly less CP content. That measures into the value equation that the editors are undertaking as they go through the budgeting process.

Gerry Nott, Editor-in-Chief
Canadian News Desk
April 13, 2005

Another CanWest executive noted:

With more and more easily accessible news, on the Internet, for example, and across Canada and around the world, CP becomes less and less relevant over time. We have to take that into account when we consider how much we pay for it and what the service does for us.

Scott Anderson, Editor-in-Chief, *Ottawa Citizen*,
Vice-President and Editor-in-Chief, CanWest MediaWorks Publications
April 13, 2005

Committee members asked most of the news organizations who appeared their views on CP. Newfoundland Broadcasting Company (NTV) stated that CP was not really that important to them, but Torstar, Gesca and the *Globe and Mail* support CP. So, overwhelmingly, do smaller papers:

The Canadian Press ... is absolutely vital to our product and our ability to tell Islanders what is happening when you get off the Island.

Gary MacDougall, Managing Editor
The Charlottetown Guardian
April 21, 2005

It is perhaps ironic that the competition for CP, which supplies a potential diversity of coverage for its members, comes from large groups that are criticized for reducing the diversity of viewpoints available to Canadians.

2. Official Language Minority Media

Two vital minority groups are the official language minorities. Several witnesses argued that there was a need for more news and information for and about the official language minorities.

First, we ask that the government provide more support for services in French and, second, that these services reflect our local reality to a greater degree. As it now stands, most of the programming on Radio-Canada's television and radio networks reflects the reality in Montreal and Quebec. We have no problem understanding that, but perhaps it would be a good idea to diversify the programming by focusing more on the regions so that people living here can, firstly, relate better to what they are watching, and secondly, become more well known elsewhere.

Daniel Boucher, Chairman and CEO
Société franco-manitobaine
February 4, 2005

This view was echoed by *La Liberté*, the French-language paper in Manitoba:

It is often difficult for minority media to benefit from programs designed for the majority group, since their needs are different. If it was possible to take into account the needs of the French media when the criteria for support programs are developed, it would be helpful.

Sylviane Lanthier, Director and Editor in Chief
February 4, 2005

Witnesses made two suggestions for the CRTC: getting more minority-language programming on cable and promoting community radio in minority-language areas.

The Société franco-manitobaine recognized the good work of Radio-Canada, which is accessible across Canada, but saw the need for more French-language programming.

The CRTC must play a leadership role and pressure cable operators and anyone offering these types of services to make sure that programming is available in both official languages throughout the country. We have to insist on that point.

Daniel Boucher, Chairman and CEO
February 4, 2005

Numerous witnesses noted that the government, through spending on advertising, has an impact on newspapers aimed at minority groups – ethnic newspapers, as well as those serving official language minorities. This was a particularly sore point. One group felt that government advertising expenditure could be distributed more equitably.

I think QCNA could possibly ask to be at par with a francophone association which is outside of Quebec. There is APF, which is the Association de la Presse Francophone, which represents roughly the same amount of papers [as English-language community papers] in Quebec. The amount of federal advertising dollars that flows to them is something like seven times, eight times, ten times — I am not sure — more than QCNA receives. This is not in just one year. This goes back many, many years.

We have the same challenges as francophone papers outside of Quebec. Many of our members would like to see a fair equality when it comes to federal government advertising.

George Bakoyannis, Past President
Quebec Community Newspapers Association
and Publisher of *The Chomedey News*
December 15, 2004

Several witnesses complained that government departments often ignore even the existing legal requirements.

Every week, we have to file complaints with the Office of the Commissioner of Official Languages, because many advertisements directed at francophones end up in majority language newspapers. This means that francophones in the province have to read advertising in English or in a bilingual format in English-language newspapers. This leads directly to assimilation. One of the reasons these advertisements are not published in our newspapers is a lack of planning on the part of federal government agencies. Often, when we file our complaint, if the advertisement contains a deadline, it is too late to publish it.

Denise Comeau Desautels, Director General
Le Courrier de la Nouvelle-Écosse
April 20, 2005

3. Ethnic Media

Immigrants make up a large and growing proportion of the Canadian population, especially in the larger cities. The ethnic media are proud of the job they do serving the newcomers and those in Canada wishing to maintain a link with their backgrounds.

In order to overcome the language barriers they face in the new country, they turn to the press or mass media of their own community in Canada to seek important information and valuable assistance.

In this context, the ethnic press and media become a vital source of information for newcomers and help them adjust to their new society by bringing news to them on current events. They also communicate their concerns to the various levels of the Canadian governments.

Thomas S. Saras, President
National Ethnic Press and Media Council of Canada
November 16, 2004

Some communities are especially well-served.

The Canadian-Chinese community in Vancouver is served by three Chinese dailies, two Chinese radio stations, two Chinese television stations, and several weekly free papers.

George Ho, Deputy Editor
Ming Pao Daily News
January 31, 2005

Several representatives of ethnic media noted that their operations were small and proposed ways for improving their finances, especially with what they would consider a fairer share of government advertising expenditure.

I am not necessarily calling for more subsidies. I am just saying that they should be treated just like anyone else.

Angelo Persichilli, Political Editor
Corriere canadese
December 13, 2004

One representative of the ethnic media thought the government should greatly increase advertising money going to the ethnic press.

If they have a budget of \$160 million, they should consider giving 10 per cent, or \$16 million, to us in order to sustain this segment.

Thomas S. Saras, President
National Ethnic Press and Media Council of Canada
November 16, 2004

The witness also argued that ethnic publications, even if distributed free of charge, should have access to the postal subsidy.

4. Minorities in the Mainstream

Several representatives of racial and ethnic minorities were concerned with the roles of minorities in the mainstream media – how they are represented and the role they play in working with or in the mainstream media.

Professor John Miller of the School of Journalism at Ryerson University, has studied the situation of minorities in 96 mainstream newspapers and presented his findings to the Committee. Especially telling was the result that: “Approximately 59 per cent of the papers that responded to the survey have entirely white staffs.” Since 1994 there has been some progress, Professor Miller says, but “mostly in the part-time area more than in the full-time area.” Moreover:

There is little sign of diverse hiring in small and medium papers, which means that minorities are not getting the chance to go through the same training ground that white journalists go through in order to give them more practice and make them more qualified to work for the biggest papers. [December 7, 2004]

The Canadian Race Relations Foundation agreed that some progress was being made, but:

The question is, are they [minority journalists] getting absorbed into the process and being allowed to develop, to train, and to be mentored. I am not sure. I do not want to say categorically that they are not given the same attention, but it is a difficult thing, when the news organization is trying to trim, and they do not have enough time and personnel to be mentors as well to people coming in

Patrick Hunter, Director of Communications
Canadian Race Relations Foundation
December 14, 2004

5. Aboriginal Media

Professor Miller, in his survey of diversity employment, noted that:

The group that is most under represented is the Aboriginal journalists. Of the 2,000 employees, only one was an Aboriginal. That is most worrisome and an obvious area for some effort. I compared the percentages in the newsroom ... with the percentages of these groups in our population, and you can see the Aboriginal minority group is the most under-represented, scarcely visible in daily newsrooms at all. [December 7, 2004]

This can restrict coverage, harm the reliability of news or even introduce an undesirable bias into it. As Connie Dieter noted:

It has only been recently that non-First Nations people or non-Aboriginal people have really taken an interest in what is happening in our communities. As a result, some media editors and other people in media do not have a good understanding of the basic issues that face First Nations people, and that is translated in [their] news reporting.

Connie Dieter
February 3, 2005

Ms. Dieter suggested an Aboriginal radio station in Saskatchewan and a First Nations newspaper, like the one produced in Edmonton, for Southern Saskatchewan. She also argued that more Aboriginal people should be hired by the mainstream media.

H. Self-Regulation, Governance and Training

Self-regulation was discussed extensively by witnesses. Examples of self-regulatory mechanisms include public editors (ombudsmen), press councils, the work of the Canadian Broadcast Standards Council and statements of principle. In general, witnesses thought self-regulation was a positive factor.

1. Public Editors/Ombudsmen

There are only three ombudsmen in Canadian news media.

There are 44 members of the U.S.-based Organization of News Ombudsman, but only three are in Canada, one at the *Toronto Star* and one each at the CBC and Radio Canada.

In the past, there were ombudsmen at the *Ottawa Citizen*, the *Montreal Gazette*, the *Edmonton Journal*, and the *Calgary Herald*, but they apparently were sacrificed to cost-cutting. We feel this is too bad, because we think ombudsmen provide a useful path of communication between readers and the paper.

Doris Anderson, Chair
Ontario Press Council
December 14, 2004

During its trip to Washington, D.C., the Committee met with Mike Getler, Ombudsman at the *Washington Post* and Jeffrey Dvorkin, Ombudsman at National Public Radio. Each stressed the usefulness of having a mechanism for independent oversight in the media, and noted the importance of having the trust of the readers and listeners with complaints and of the journalists whose work was being criticized. Each believed that having a transparent procedure for handling complaints helped improve the media.

2. Press Councils

Witnesses emphasized the importance of press councils. Press councils, which represent newspapers but not electronic media, were established in the 1970s and 1980s in response to issues raised by a previous Senate Committee (the Davey committee). They operate in each province except Saskatchewan. The modest funding for press councils comes for the most part from a levy on the news organizations that are members of the council. The councils tend to be reactive, dealing with complaints from citizens. While they have their limitations, witnesses suggested that they play an important role.

I think press councils and those sorts of institutions serve a purpose in the sense that they do allow for a public forum. As I said when I began speaking, so many of these issues never get talked about because the organizations that control the forum where it gets talked about have a vested interest, and they do not want certain things to be said. The CBC does not want certain things said, so they will not be discussed on CBC. The same applies to CanWest and Bell Globe Media.

I know from working inside, everyone keeps their information close to their chest. They do not want to start to actually discuss a lot of things about others, because then they will have to open up their own can of worms.

We really need more public forums where not just journalists but everybody in society who is concerned about these issues can talk about it openly.

Gillian Steward
February 3, 2005

We have a press council in Manitoba, and the *Winnipeg Free Press*, as the province's largest paper, is the biggest financial supporter of that press council and a member of our staff is a member of it. I support the notion of them being local or regional. I would not support the notion of a national press council.

I have seen press councils deal with important and tricky matters and deal with them well and helpfully. Like a lot of deliberative bodies, unfortunately they tend to take a long time, so maybe the beneficial effect is diminished.

If one analyzes the complaints that go to press councils in any province, frankly, a lot of them are marginal. We received a complaint by way of the press council at the *Winnipeg Free Press* yesterday. One of our reporters wrote rather uncomplimentary things about Donald Trump's new wife, and someone in the community has seen fit to quarrel with that at the press council. Well, I suppose we will respond and see where it goes. I am not sure it is one of the great issues of our day. However, the fact that he can take that to the press council, or anybody else, is certainly better than if he could not.

Murdoch Davis, then Publisher
Winnipeg Free Press
February 4, 2005

3. Canadian Broadcast Standards Council

Less well known than press councils is the Canadian Broadcast Standards Council.

The Canadian Broadcast Standards Council ... is responsible for the code of ethics and the RTNDA news code, and it has been moving aggressively on a public information front. It has received money from Rogers and other institutions to publish its information and findings in other languages so that third language communities can, in fact, now be aware of their right to complain and what decisions have been produced. They are trying to put online their decisions, case to case, for offensive news content. Many of the decisions, for example, have to do with race, or racism or hatred, often in the radio sector and the talk show sector. It is fair to say that citizens can find or trace some of the reasoning

of those decisions, but a survey recently discovered that fewer than 40 per cent of Canadians are even aware, as yet, of the Canadian Broadcast Standards Council. That survey was conducted by MediaWatch.

Catherine Murray, Associate Professor of Communications
Simon Fraser University
January 31, 2005

Another witness in response to a question about a code of ethics replied:

Under pay-per-view, there is a code that is in place with the Canadian Broadcast Standards Council, and we adhere to that rigorously. We also respond to our customers in terms of any complaints that they may have. We want to be able to make sure that we deal with that appropriately and respond to those complaints because we do not want to be providing products or entertainment that are offensive to people. Particularly when you are focused on the communities on which we are focused, that is a responsibility that we know we have.

Ken Stein, Senior Vice-President
Shaw Communications Inc.
February 22, 2005

4. Statements of Principle and Codes of Ethics

Many news organizations have statements of principle that guide their work. In general witnesses thought that statements of principle can be helpful.

I think it depends on the particular media organization, the owners and the senior editors, and whether they give due consideration. ... They can simply be wall art, something you stick on a wall, but that does not play a part in actual newsroom decisions or at story meetings. I think they have had some positive effects and have guided people in decision making, but not enough.

Also, there are whole new areas of problems to which these codes do not refer. If you are going to construct a code, I think you need it at two levels. At the top level, you want your statement of principles, which are the very broad things — often motherhood and apple pie — but things that need to be stated. Below that, I think you need specific policies on specific problem areas, such as covering suicides, covering funerals, and a whole range of issues. If we got public pressure to make sure that those codes were adhered to, I think it would improve the situation.

Professor Stephen Ward,
School of Journalism, University of British Columbia
February 1, 2005

Representatives of many media organizations said principles were important. For example, the CEO of TorStar, Robert Prichard, told the Committee:

All of our newspapers are guided by eight simple but important principles.

We are committed to editorial excellence. We believe that we will best serve our readers, our communities, our advertisers, and our shareholders by producing high quality publications.

Second, we are committed to the independence of each of our publishers; each publisher is fully responsible for the content of his or her newspaper.

Third, we are committed to the Atkinson Principles at *The Toronto Star*. We have a special legal and historical commitment to observing and promoting the principles that our long-time publisher Joseph Atkinson pursued in his lifetime.

Fourth, we are committed to the advancement of journalism and journalists. We believe at the heart of great newspapers are great journalists and that to advance our commitment to quality we must also advance the profession of journalism.

Fifth, we are committed to ensuring that all of our newspapers pursue quality journalism free of fear of improper influence by any source, be it public or private, and we do everything in our power to ensure that all our newspapers are able to remain fiercely independent.

Sixth, we are committed to the communities we serve, we reflect them, we inform them and we serve them.

Seventh, we are committed to our newspapers being both good newspapers and good businesses. We believe that a good newspaper makes a good business. We also believe that to be a good newspaper, a newspaper must be a good business.

Eighth, we are committed to our people, the 6,000 women and men, who design, create, report, write, print, and sell advertising in our newspapers. [February 16, 2005]

However, the prominence given to statements of principle varies. At least two organizations, CanWest and Brunswick News said that they were in the process of developing and/or distributing statements of principle to their journalists.

[A]mong other things, one of my duties is to develop and coordinate that statement of principles over time. It is an evolving thing. It is done in collaboration with editors across the country. I hope it is a work that is never finished.

Scott Anderson, Editor-in-Chief, *Ottawa Citizen*,
Vice-President and Editor-in-Chief, CanWest MediaWorks Publications
April 13, 2005

At the time of these Senate hearings the statement of principles had not been distributed to journalists within the organization. This is in contrast to the approach of the *Toronto Star* where the principles are posted on the web-site and available 365 days of the year.

In the case of Brunswick News a set of principles has been developed but has not been circulated to journalists.

This is a work in progress and we are getting it to the point where we think it is exactly what we wanted to say, and it may in the near future be rolled out to all the newspapers.

Victor Mlodecki, Vice-President and General Manager
Brunswick News
April 22, 2005

5. Journalists, Employment and Freelancers

Several witnesses analysed the effects of recent structural changes – especially recent increases in concentration and cross-media ownership – on journalists. Some argued that the changes have led to a shrinking job market for journalists, and more difficult working conditions. As well, some noted significant problems for freelance journalists with respect to income security. Not all, however, made such a bleak assessment.

Will Straw, a professor who teaches future journalists at McGill University, said that unmet expectations are a source of tension.

I think the sad thing is that they are training journalists to believe they will work in a profession that is well paid, is regarded as respectable and has ethical codes and so on. In fact, it is a profession of people working for very low wages, people offering to work for free as interns and with very little future. Most people want to get out of it when they hit middle age and want a better salary. [December 15, 2004]

Most witnesses said that fewer journalists are employed now than in the past. Other witnesses, primarily those associated with large media organizations, argued that the net effect of the changes has not been significant, although the composition of employment – for example, the split between full-time and freelance – has altered. Several witnesses, however, said that the number of journalists employed influences the quantity and quality of news and information available.

The amount of news in circulation rises and falls in direct proportion to the number of journalists available to report it.

Janet Ingram-Johnson, Secretary-Treasurer
Media Union of British Columbia
January 31, 2005

There was some disagreement among witnesses over recent trends but it seems to come from the use of different definitions of journalist. Union representatives, who argued that there had been a significant drop in employment, appear to be focusing on full-time,

editorial staff at particular news outlets. Media organisations, such as Torstar, appear to be using a broader definition that would include part-time employment.

In Vancouver, Deborah Campbell of the CAJ suggested that “[j]ournalists have estimated privately that they think that the local dailies have downsized by about 40 per cent in terms of editorial staff since the 1980s.”

Another union representative in Vancouver presented some data:

The *Sun* and *Province* newsrooms, in their heydays, used to have a combined total of 760 reporters and editors, according to Marc Edge in his 2001 treatise on the history of Pacific Press. Even into the 1980s, the *Sun* counted an editorial staff of around 200 and the *Province* about 165. Current *Sun* staffing is around 120, with only a tiny contingent of general-assignment, city-side reporters. The *Province* has a total contingent of 106 on a good day, and both these sets of figures include part-timers. Around 20 journalists were cut from the *Province* staff in 2003 alone. The *Times-Colonist* has lost 10 reporters since 1993, and the list goes on.

Janet Ingram-Johnson, Secretary-Treasurer
Media Union of British Columbia
January 31, 2005

Gesca, according to a representative of the union members working for it, experienced similar sharp declines, except in the company’s flagship papers, *La Presse* and *Le Soleil*.

According to Robert Prichard, the President and CEO of Torstar, employment in the *Toronto Star* newsroom has been stable for a decade, at least as a proportion of total employment at the *Star*. He went on to suggest that employment of journalists has increased in Canada.

If you think about how many people are involved in journalism in Canada, in the broad sense of journalism,... we believe the number of people is growing. They may not be employed in traditional daily newspapers in the same numbers, but the breadth of people engaged in news gathering and news commentary with all of the ways in which the Internet is affecting that, the number of people doing it, I think, is growing, not shrinking. [February 16, 2005]

While most of the witnesses linked the possible drop in the employment of journalists with increased concentration and cross-media ownership, one witness suggested that more attention should be paid to the influence of large unions.

I did not hear anyone speak out on or question the concentration of unionization in our media, or look at how that affects content or other things. There are far fewer unions than owners exercising influence in the country's newsrooms. In

English Canada there are basically two. I am not aware of any of the unions offering to sit down and find ways to reduce costs in non-journalistic areas so that resources can be reinvested in journalism. Sometimes, in fact, newspaper unions actively seek to exclude from publication the work of anyone who is not a member. Now there is an impingement on the diversity of voices for you to examine.

Murdoch Davis, then Publisher
Winnipeg Free Press
February 4, 2005

Several witnesses argued that local journalism has suffered with the changes in media ownership. Journalists with a regional or local bent face problems with groups that are centralized and operate from the larger cities. Monique Prince, journalist at *La Presse* and Coordinator of the Regroupement des syndicats de Gesca, suggested that journalists are not being replaced in the regions. There is widespread use of independent freelance journalists or contributors who are not well paid. With more attention being paid to the bottom line, owners have replaced experienced journalists with younger ones or with freelancers.

Some witnesses said that concentration of ownership means that journalists have limited employment opportunities, and this can have effects on content – such as limiting views out-of-synch with those of the media group.

In San Francisco, where I came from, there was an easy solution for that kind of problem. You do not like where you work, you are not being treated well by your boss, but you do good journalism, walk across the street. Here it is quite the opposite. If you get into trouble with the company that owns all the media, you will not work.

David Beers, Editor
The Tyee
January 31, 2005

According to many witnesses, the recent ownership changes have been especially hard on freelancers. Freelancers have little power to negotiate with publishers. There are fewer opportunities to resell articles they write to other papers that are owned by the same people and there is less incentive for papers to pay decent rates. According to one witness:

The rate for freelance magazine writers has not gone up for 30 years. For 30 years, the top rate that a magazine writer in Canada can make is about a dollar a word. There are some notable exceptions. *Walrus* magazine is one of them, but it is new and such magazines are very rare. ...

Probably the average that a freelance journalist might make is, I am guessing, \$12,000 a year, and I think that might even be generous because a lot of them,

like actors who are starting out in Hollywood, would be working as waitresses or doing other kinds of jobs at the same time.

Deborah Jones, Member of the Vancouver Chapter, CAJ
January 31, 2005

Numerous witnesses also complained about the draconian contracts that some freelancers are being forced to sign. CanWest and Brunswick News were cited as media firms that had contracts demanding genuinely universal rights (see, for example, the sample contract with CanWest Global in Appendix XI).

Of late, the CAJ has had to issue a statement urging CanWest to drop a new freelance contract that would seize all rights from independent writers and journalists, including moral rights, meaning that these independent voices would lose all control over their work. By taking moral rights, CanWest would be able to change or alter a story in any way, to use it in advertising copy, to change the views expressed without the author's permission. Where are these journalists and writers to go if they do not like it?

Deborah Campbell, President
Canadian Association of Journalists, Vancouver Chapter
January 31, 2005

To write for the Irvings you must sign an absolutely Draconian contract. For instance, everything they own belongs to the Irvings. There is a little bit in the contract that was interesting. It said, the owners can sell it in media “now in existence, or which may hereafter be developed.”

Jackie Webster
April 21, 2005

Not all contracts were this demanding. *Le Devoir*, the *Hamilton Spectator*, the *Halifax Chronicle-Herald* and the *Globe and Mail* do not demand universal rights for all time from freelancers. An editor at the *Globe* explained the practice at his newspaper:

They [the freelance writers] retain the copyright. What we acquire is first publication rights, that is we can publish it one time, one time only, which is the right we acquire, and non-exclusive electronic rights [within the data bank of the *Globe and Mail*]. They are free to take that same material and go elsewhere after it has appeared in the *Globe and Mail*, by mutual agreement usually 24 hours after its first publication. If they wish, they can take it to CBC, to Global, to another newspaper.

Patrick Martin, Comment Editor
May 11, 2005

CanWest said that its so-called “terrible contract” was common in some fields, and could benefit some freelancers. The then President of CanWest MediaWorks noted that in the entertainment field “the grant of rights for now and hereinafter to be known, technologies, markets, and platforms, et cetera, is very commonplace.” Scott Anderson,

Editor-in-Chief of CanWest MediaWorks, said such contracts are needed in the Internet age to bring clarity to the market for resale rights.

Mr. Anderson noted that CanWest had changed some of the language in the contracts when faced with complaints. The Editor-in-Chief of the Canadian News Desk argued that freelancers receive more for giving up universal rights than they would receive for one-time use.

We brought some order to that by signing and establishing a contract that gave us rights for publication in all of those papers, whether it was used or not, and increased the amount of payment we originally offered at the outset. For example, instead of \$200, we paid \$250. Sometimes that worked for the freelancer because they were not going to get picked up anywhere else. Sometimes it went the other way, but we simplified it and tried to make it easier for everyone. We recognized that by adding to our rights we also added to the payment required.

Gerry Nott
April 13, 2005

The Association des journalistes indépendants du Québec made several suggestions, involving changes in legislation, for improving conditions for freelance journalists. Some of these changes would be modelled on (or involve amendments to) the *Copyright Act* and the *Status of Artist Act*. Others would involve the establishment of unemployment insurance funds or group pension plans for freelancers.

6. Training, Education and Research

Everyone wants better, higher quality media. Several witnesses suggested that the key was education, broadly defined. Promoting media literacy is, for some, a good way of making better users of news and information. Training, education and research on the media are ways of producing better journalists.

Murdoch Davis, then publisher of the *Winnipeg Free Press*, argued that a media literacy course should be part of a civics program in school.

Little is to be gained if media literacy is taught in the absence of more teaching about the Charter, about how our courts function and why, about the rules and structures of various levels of government, about how the tax system works and does not work, about the value of voting, the importance of democracy, about what human rights means, what civil rights are, and how they sometimes conflict. I believe the attention paid to all of those things in the education of our young, or even our university and college students, is woeful. [February 4, 2005]

Media organisations obviously think it is important to encourage young people to become active rather than passive media consumers, to acquire a keener awareness of the nature and role of the media and to become familiar with the basic sources of news. The Committee heard of several media literacy programs run by Canadian media companies. These ranged from making discounted copies of newspapers available in schools to producing an educational guide for use in schools and, in the case of Gesca, developing the Cyberpresse-écoles program, which gives primary and secondary schools in Quebec and southern Ontario free access to the entire archives of Gesca dailies.

To be useful, news and information must be up-to-date. Journalists who produce the news cannot afford to let their skills and knowledge base become stale. As a professor at UBC noted:

Many journalists tell me that they want to upgrade their skills and train and educate, but they do not have the opportunity. The problem is that as a journalist, once you get a job and you start doing well, then you are so busy doing journalism all the time that you never get a chance to stop and retrain and rethink, because you are so caught up.

Stephen Ward
February 1, 2005

Another journalism professor, at the University of King's College, explored the increasing, and counterproductive, pressures of having less time for research:

I am interested in the idea that you might have to work for several media at once, and journalists are not just filing for radio you are also filing for TV. This increases the pressure because now you have even less time, less time, less time all the time. ...

I worry about having to serve many masters and having even less time. The time for research is dwindling rather than expanding. We are going the wrong way.

Bruce Wark
April 19, 2005

There are other problems. For a start, training programs are costly.

Several witnesses urged government help in this area. Torstar recommended increased public investment in the teaching and study of journalism.

As a newspaper company we seek no subsidies, no loans and no other financial handouts from government. Instead, we urge the government to devote its financial resources to developing the human capital a strong media depends

upon, and to supporting the research that Canadians need to better understand media's role in our society.

Robert Prichard, President and CEO
February 16, 2005

Professor Allan Thompson said the government should direct more resources to open-ended fellowships, awards and research grants for journalists, particularly for study and work abroad. For journalists to feel comfortable taking government funds, he felt the programs would have to be transparent, with clear criteria, and a selection based on the proposals made by the particular journalists. He benefited from such a program.

I was fortunate to win the Gemini Fellowship, which was funded at the time by the International Development Research Centre, a Canadian Crown corporation. This \$25,000 award directed at young journalists allowed me to work for eight months with Gemini News Service in London, a news agency devoted to developing world issues. It also financed a five-month field trip to Africa, my first foray into that kind of reporting. [December 1, 2004]

He added:

Regrettably, the Gemini Fellowship was killed off a year or so ago for lack of funds. I think this was a grievous error. In effect, we lost one of the few mechanisms in place to foster more media attention to the developing world.

Professor Thompson suggested that federal departments or agencies that are involved with foreign policy should fund one or two fellowships, “making it possible for young or mid-career journalists to expand their horizons, to tell Canadians more about the world around us and Canada's place in that world.”

Several witnesses noted the difficulties that arise if the government funds media, even indirectly. No one expressed any support for the government's involvement in content. Private sector support of media training, for some, depends on higher profits.

A good rate of return makes a number of things possible: it allows us to set up training programs, to renew our staff and equipment and to introduce new projects.

Guy Crevier, President
Gesca Ltée
March 8, 2005

As for training supported by the industry itself, the most visible support appears to come from the larger media companies.

The Toronto Star, which is the largest philanthropic arm of Torstar Corporation, has three priorities for its philanthropy and one of the three is journalism education. Our most recent gift was a \$1-million gift to the journalism education program at Ryerson University

Robert Prichard, President and CEO
Torstar Corporation
February 16, 2005

Each year, more than 30 journalism students spend some portion of the year working at *The Toronto Star*. The publisher explained:

We do not have an expectation that we will be able to hire all of them, but we do see it is an opportunity for us to identify the best talent, but it is also our sense of responsibility to journalism in general to give young people in journalism programs the opportunity to have some experience in the workplace.

Michael Goldbloom,
February 16, 2005

CanWest was also proud of its contributions to training.

We contribute many millions of dollars to academic institutions that support curricula and training for journalists, et cetera. We continue to expand our own in-house training and development budget to train and develop not only journalists but all of our employee base, because we constantly have to retool our skills because of the way the world is changing.

We are now forging strategic alliances with many academic institutions in every city in the country in which we do business — small, medium and large — which will consist of us creating co-op programs, summer student programs, and hiring graduates, as well as sending our employees back to school for training. As well, our employees are actually going back to school and lecturing and teaching because we think they have something to share.

Richard C. Camilleri
April 13, 2005

As the Director of Journalism at St. Thomas University noted:

The Irving family has also donated \$1 million to St. Thomas to create a chair in journalism which will allow us to bring a visiting journalist to campus each year to teach. The Université de Moncton received a similar gift, and we plan to work together with Moncton to make the most of these opportunities.

Philip Lee
April 21, 2005

APPENDIX II: OWNERSHIP CHANGES

A. Recent Changes in the Media Sector

In recent years, Canada's news media have undergone a kaleidoscopic series of ownership changes, with empires forming, breaking up and reforming. This Committee's April 2004 *Interim Report* documented changes in ownership, especially the rise of cross-media ownership. Since then, there have been even more changes, although these have mostly not stood out – especially in terms of dollar amounts – the way the transactions involving Quebecor, BCE and CanWest Global did in 2000. Nevertheless, more recent ownership changes are significant.

Chief among these was the sale by Bell Canada Enterprises of its controlling interest in Bell Globemedia, whose holdings include the CTV network and the *Globe and Mail*. In that deal, announced Dec. 2, 2005, the Thomson family increased its share of Bell Globemedia to 40%, up from 31.5%.⁷ Torstar Corp. bought 20% of Bell Globemedia and the Ontario Teachers' Pension Fund also acquired 20%. As a result, BCE's share fell to 20% from 68.5%.

This deal diminished concerns that had been raised about having Canada's largest telecommunications company own both a major television network and the largest national newspaper. It does, however, mean that the owners of the country's largest newspaper now have a significant share of one of its direct rivals, the *Globe*, as well as CTV. Statements by both BCE and Torstar stressed the importance of editorial independence. In sum, the reshuffling of the ownership of Bell Globemedia does not lessen the extent of cross-media ownership in Canada.

Also of interest was the sale of the last group of Canadian newspapers owned by Hollinger to a comparatively new entrant in the field, Glacier Ventures International Corp. of Vancouver. This completed the spectacular cycle in which Hollinger had grown from almost nothing to become, at its peak in the mid-1990s, the hugely dominant proprietor of Canadian newspapers, before beginning its swift subsidence.

The *Interim Report* included a lengthy section (Part II), with numerous tables, on the state of the Canadian news media. Most of the data series presented ended in 2003 and occasionally in earlier years. Although changes have occurred since then, the picture drawn of the Canadian media sector generally still holds. The major laws dealing with the

⁷ Through its Woodbridge Co. Ltd. holding company, the Thomsons had owned *The Globe and Mail* from 1980 to 2000.

media – the *Broadcasting Act* and the *Competition Act* – have not been changed, and there have been no policy shifts to address the concerns expressed in the *Interim Report*.

These concerns include: the dominance of the news sector by large media conglomerates with extensive cross-media holdings; the high concentration of ownership in particular media markets, especially in Vancouver, the French-language market in Quebec and New Brunswick. Indeed, some of the trends noted in the *Interim Report* have intensified.

Meanwhile, some attitudes toward media conglomeration have changed. There has been a world-wide decrease in expectations about the benefits of linking various parts of the media sector. Soon after the huge deals were consummated the high-tech bubble burst, stock prices plummeted and the debt loads that financed the media mergers became more noticeable. Few can now utter the phrase “the synergies of convergence” without a tinge of embarrassment.

One large legacy remains, however, from each transaction: the debt incurred to make the purchase. In recent times, executives at the new media conglomerates have spent considerable effort trying to create or salvage value from the collection of media assets they now possess. The most popular way to salvage value is to cut costs, often by reducing staff, including newsroom staff. Another way of salvaging value has been to sell off some of the acquired assets.

Profits in Canadian media can be erratic, particularly in broadcast media, but in good years they are very good. The CRTC has reported, for example, that in 2005 profits (before interest and taxes) in the commercial radio sector soared by 23.8% to \$277 million; revenues were up 8.7%, to \$1.3 billion.⁸ This stellar result followed several years of annual profit increases in the order of 12%.

As for newspapers, they continue to earn notably healthy profits even as their circulations, in most cases, decline.

⁸ CRTC News Release, May 4, 2006

CANADIAN NEWSPAPER GROUPS REVENUES AND PROFITS (2005, \$ figures in millions)							
	Toronto Star	Torstar Corp Metroland	CityMedia	Quebecor Media (Sun Newspapers)	CanWest*	FP	Osprey
Revenues	432.7	416.8	161.4	916.0	1228.9	116.9	222.5
EBITDA	64.2	80.0	28.6	222.0	254.9	24.1	53.0
<i>margin</i>	14.8%	19.2%	17.7%	24.2%	20.7%	20.6%	23.8%

*according to some financial analysts the National Post loses roughly \$10 million per year. This estimated loss has been factored into CanWest's data.

Source: Annual Reports (various)

Note: EBITDA is earnings before interest, taxes, depreciation and amortization. FP stands for FP Canadian Newspapers Limited Partnership which owns and publishes the *Winnipeg Free Press* and the *Brandon Sun* as well as some community and entertainment newspapers.

Another way to create shareholder value which has gained popularity in the media sector, as in other parts of the economy, is to create income trusts. In 2005 CanWest Global created the CanWest MediaWorks income trust to hold 12 of its daily newspapers (all of them except the *National Post*), 21 community newspapers and interests in two free dailies.⁹

It should be noted that income trusts bring their own problems. They strongly intensify shareholder and market expectations that profits will be high and sustained. Michael Sifton, founder and chief executive officer of Osprey Media, described the pattern thus in a recent newspaper interview:

(Mr. Sifton) has not had a lot of fun. "It becomes a little frustrating," he says, referring to the eternal grind of pumping out enough earnings to pay the eternal cash distribution.¹⁰

Some other changes in media ownership in Canada merit attention. These concern concentration in the ownership of radio and community newspapers, where a series of regional monopolies or near-monopolies has emerged.

⁹ Paul Brent, "CanWest to sell stake in media unit in \$1.45 billion IPO," *Ottawa Citizen*, September 9, 2005.

¹⁰ Eric Reguly, "Osprey Media should fear an empty nest of buyers", *Globe and Mail*, February 4, 2006.

1. Cross-Media Transactions

Mergers and acquisitions involving different types of media continue, despite the cooling of expectations about the benefits of convergence. The CRTC has, since 2000, approved the transfer of radio licences or granted new ones to companies also involved with print media. And in 2004, TVA and Sun Media, which are controlled by Quebecor Media Inc., acquired the television station Toronto One.

The Toronto One decision is interesting for several reasons. First, it continues the open door policy of the CRTC with respect to cross-media transactions. As in the others that have taken place since 2000, the CRTC voiced concerns about possible impacts on the diversity of editorial voices but then allowed the transaction with the modest conditions that it had imposed for CTV and Global, namely the separation of newsroom management for print and broadcasting.

The second, and related, point of interest is that the conditions imposed on Quebecor's operations with respect to Toronto One will be different from the conditions imposed on Quebecor's operations with respect to TVA, the television network it purchased in 2000. The earlier conditions placed on Quebecor involved a separation of newsroom operations – not just newsroom management – for the print and broadcasting units. One argument cited by the CRTC for the differential approach is that the Toronto market for news is highly competitive. If the CRTC is going to base its decisions on the extent of news competition in each market, one might wonder why the conditions of newsroom separation imposed on CanWest's Vancouver operations were not stronger.

This leads to the third point of interest. The conditions imposed by the CRTC may become irrelevant. As it noted in its decision approving the Toronto One transaction:

The Commission will be prepared, however, as it did for CTV and Global, to consider suspending application of the conditions of licence respecting cross-media issues if the licensee is able to enter into an agreement with the Canadian Broadcast Standards Council (CBSC) resulting in Toronto One being subject to, and complying with, an industry-wide code approved by the Commission, and provided Toronto One is a member in good standing of the CBSC.¹¹

At the time of writing, progress on the development of this code had been halted, as both the CBSC and the CRTC awaited the recommendations of this Senate study.

¹¹ CRTC Decision 2004-503.

2. Community Newspapers

Community newspapers have a long history. Before radio and television, they were the primary source of information for their communities. Even today, there are small or isolated communities that rely on their local newspapers for relevant information. As a member of the Black Press Group has put it:

Anybody can tell you what's going on in the world--CNN, USA Today, or Yahoo. But where do you turn when you want to know about the new construction site down the street or the latest school board vote? ... If you want to hear world news, ask the big guys. But if you want to know what's going on in your neighbourhood, we've got you covered.¹²

Group ownership has a long tradition in the community newspaper industry – and it has thrown up perennial concerns about concentration. The names of the group owners have changed over time. Once, the Thomsons and Southams dominated the industry. Today, they are history. What stands out in the recent transactions is the focus of groups on specific regions – regions often also covered by dailies owned by the groups (and in some cases by the broadcasters owned by the groups). At Transcontinental's 2002 annual meeting, the CEO, Luc Desjardins, noted:

In 2001, we acquired about 20 weekly newspapers, 18 of which were from Gesca and Unimedia. Transcontinental is now Quebec's leading publisher in this fast-growing segment that *we now refer to as regional press*. We are number two in this market in Canada.¹³

Victor Mlodecki is the general manager of Brunswick News, the media arm of the Irving empire. He told the Committee:

The group consists of three daily newspapers, six English language weeklies, six French language weeklies, and an urban weekly with an edition for each of the three major cities. We have a website associated with the newspapers, a career website and Acadian Broadcasting Ltd., which has four radio stations. All of the print titles and three of the radio stations are located in New Brunswick.¹⁴

In other words, the Irving empire controls every English-language daily and almost all the weeklies in New Brunswick, plus radio and Internet operations. Mr. Mlodecki gave a revealing explanation of the business benefits of group ownership in a region (or province):

¹² <http://www.soundpublishing.com/publications.html>.

¹³ Transcontinental, 2002 Annual Meeting of Shareholders. (Emphasis added.)

¹⁴ Mr. Victor Mlodecki, Vice-President and General Manager, The Brunswick News, April 22, 2005.

... *The newspapers are nice, but it is the distribution systems that are important to me.* That is the future of the business in many respects, you know. Over the next 20 years, we are going to manage our transition from newsprint to the Web. That is what we are doing, but the corollary component that is becoming very important is the distribution of flyers to households. (Emphasis added.)

The following list shows selected transactions in the community newspaper sector since 2000.

British Columbia

- CanWest Global sold off many of the community newspapers it had picked up with the purchase of Hollinger, but retained community papers in B.C.
- Black Press added to its extensive holdings in the province by acquiring in 2003 the B.C. publications of Quebecor/Bowes.

Ontario

- In June 2003, Torstar and Osprey swapped newspapers in Southern Ontario.
- Also in 2003, Osprey bought more community newspapers and some small dailies in Ontario.
- In 2005, Torstar purchased Runge Publishing Inc., publisher of 18 community newspapers in eastern Ontario.

Quebec

- In 2001, Transcontinental acquired about 20 weekly newspapers, 18 of which were from Gesca and Unimedia.

Atlantic Region

- Transcontinental purchased CanWest Global's Atlantic papers in 2002 and Optipress, which was itself the result of a merger of two printing and publishing groups, in early 2004.

New Brunswick

- In 2002, Brunswick News, the media arm of the Irving empire, purchased two groups of community newspapers (from David Cadogan and from David Henley).
- In 2003, Brunswick News bought *Northern Light* from Transcontinental. (Transcontinental had purchased it from CanWest in 2002)
- In 2004, Brunswick News bought the alternative weekly *here*.
- Brunswick News has also developed an increased presence in the French-language market.
- In 2005, Brunswick News purchased the *Tribune* and its sister francophone newspaper *La Voix du Restigouche*.

Saskatchewan

- In 2004, Glacier Ventures acquired a group of community newspapers and printing operations in Northeastern Saskatchewan.
- In 2005, Glacier Ventures acquired another group of community newspapers and related printing operations in Saskatchewan

The list does not cover all transactions involving community newspapers in Canada. There are about 2000 of these and changes in ownership (as well as start-ups, failures and reorganizations) are common. What the list highlights are transactions that have allowed groups to increase concentration in provincial and regional markets. Because of these transactions, the community newspaper markets have become more concentrated in British Columbia, Saskatchewan, Quebec, New Brunswick, the Atlantic Region and southwestern Ontario.

A telling transaction was the 2003 swapping of newspapers by Torstar and Osprey in Southern Ontario. Torstar was able to increase its concentration of community newspapers in the Golden Horseshoe region of southwestern Ontario, while Osprey picked up papers that complemented its existing holdings in smaller communities in Ontario.

The Competition Bureau examined several of the transactions but did not challenge them as being anti-competitive. Its reasoning focused on the local, not the regional, implications of the transactions. This is customary for the Bureau.

In 2001, for example, the Bureau announced it would not oppose the acquisition of Unimedia by Gesca, a subsidiary of Power Corporation Canada, because:

The Bureau concluded that the transaction would not likely substantially lessen or prevent competition because the newspapers involved did not circulate to any significant extent in the same towns or rural areas. There were no competition concerns or overlap in advertising in any of the markets and there was no media convergence issue.¹⁵

Similarly, in 2003 and 2004 the Bureau examined Transcontinental's proposed acquisition of Optipress and concluded:

Transcontinental Inc., one of the major publishing and printing houses in North America, proposed acquiring Optipress Inc., one of the major community and weekly newspaper publishing and printing enterprises in Atlantic Canada.

¹⁵ The Competition Bureau, "The Competition Bureau's Work in Media Industries: Background for the Senate Committee on Transport and Communications," 2003.

Transcontinental, which has a strong presence in the Atlantic provinces through a chain of daily newspapers and printing plants, argued that Optipress's community papers and printing assets would complement Transcontinental's operations. Following a thorough review, the Bureau announced on January 16, 2004, that it found no significant competitive overlap and consequently did not challenge the transaction.¹⁶

3. Radio

In Canada in 2004, Standard Broadcasting Corporation Ltd. was the largest radio group with 51 stations or 9.4 per cent of the total market. The market in Canada, however, includes English-language and French-language stations – 438 English and 92 French. All of Standard Broadcastings' stations were English-language ones, so its effective market share was 11.6 per cent, a greater concentration than that of Clear Channel, the leader in the U.S., which had 10.7 per cent of the total market in 2002.¹⁷

The French-language radio market in Canada is even more concentrated. Astral Media Inc. is the largest group with 27 stations or 29.3 per cent of the relevant market. Corus Entertainment Inc. is the second-largest radio group in the French market with 10 stations. The top two groups have a 40.2 per cent market share.

The top five radio groups in Canada control 40.4 per cent of the total market. For purposes of comparison, the top five radio groups in the U.S. had 17.6 per cent of the market in 2002. The largest radio group in the U.S., Clear Channel, had 10.7 per cent of the total market

The concentration in Canadian radio has not led to the extent of worry seen in the U.S. with the rise to dominance of Clear Channel (see Box on U.S. Telecom Act and Clear Channel below). This is not to say that there are no concerns, especially in Quebec with the highly concentrated French-language radio market. There are two related concerns in Canada. The first is that the local nature of radio is vanishing; groups with homogeneous programming are taking over. The related second is that local news is disappearing, although this is part of a wider concern that radio news in general is becoming less important.

¹⁶ Competition Bureau, Annual Report 2004 - Reviewing Mergers.

¹⁷ Clear Channel, in its corporate material, uses a figure of 13,000 stations for the size of the U.S. radio market and calculates that it has a 9 per cent market share of the number of stations (and an 18 per cent market share of total revenue for the industry). It argues that the radio industry is less concentrated than other industries in the media/entertainment sector.

U.S. Telecom Act and Clear Channel

In the U.S. the *Telecommunications Act of 1996* relaxed ownership limits in radio. This led to a huge increase in group ownership of radio stations. The two largest groups in 1996 each had fewer than 65 stations. By March 2002, the two largest radio groups held 1,156 and 251 stations. Clear Channel Communications, by far the largest, attracted the most criticism, and seemed to symbolize what an unregulated, profit-based system would become.

The concentration in the U.S. radio market has led to fears of reduced formats and reduced playlists within any of those formats – reduced choice for consumers – and a lessening of a truly local presence on the radio dial.

The lack of a local presence and the use of “automatic pilot” broadcasting by Clear Channel have even been linked to an avoidable death. As the *Economist* put it:

When a train carrying ammonia fertiliser derailed in Minot, North Dakota, last year, the police tried to get a local radio station to broadcast a warning about a toxic white cloud spilling from the wreckage. The station's failure to put out that warning, in a town in which all six radio outlets belong to one company (called Clear Channel), is now trumpeted as evidence of the perils of clearing America's thicket of rules that restrict the concentration of media ownership. (“Too Little Too Late”, May 15, 2003)

It is less costly, and more profitable, for a group to centralize operations with common playlists for numerous markets augmented by scattered local references, thrown out by a team of broadcasters impersonating local broadcasters. Group-owned stations can give the appearance of being local, without the higher costs of being true, local stations.

Evidence for the second concern was given to the Committee in Halifax by Murray Brewster, representing the Canadian Association of Journalists:

To give you an idea of the scale of the sacking of private radio newsrooms, in the late 1980s and early 1990s, Halifax radio station CJCH and its competition, CHNS, had approximately 11 to 15 staff each, with newscasts from 6 a.m. until well into the evening and on the weekends. Today, both newsrooms boast between three and four people and those staffers cover newscasts on two and sometimes three different private radio stations...

The other thing too that I can say with a reasonable degree of authority is that those folks that are left in the private radio newsrooms now, because there are so few bodies, rely more upon the handouts, press releases and material that is handed out to them, and cop checks. I do not want to say that there are any inaccuracies, but it affects critical thinking and the ability to question some of what is being handed to them, some of what is being told to them. [April 19, 2005]

B. Two Recent Cases of Interest

1. The CKAC Decision

As part of the fallout from Astral Media's 2001 proposal to acquire Telemedia's radio assets in Quebec – a case that highlighted jurisdictional conflicts between the Competition Bureau and the CRTC – Astral and a subsidiary of Corus Entertainment agreed to an exchange of some radio assets. The CRTC approved the exchange in January 2005 (Broadcasting Decision CRTC 2005-15).

The French-language stations Corus proposed to acquire were:

CKAC Montréal, CHRC Québec, CJRC Gatineau, CKRS Saguenay, CHLN Trois-Rivières, CHLT Sherbrooke, CFOM-FM Lévis. Corus also sought authority to acquire the assets of English-language radio station CKTS Sherbrooke; digital radio stations CKAC-DR-2 Montréal and CJRC-DR-2 Gatineau; the Radiomedia French-language information network; the CHLN Trois-Rivières network, in order to broadcast its programming on CKSM Shawinigan; the Montréal Canadians hockey network; and the Montréal Alouettes network. [para. 10]

The stations Astral proposed to acquire were:

CFVM-FM Amqui, CJDM-FM Drummondville, CJOI-FM Rimouski, CIKI-FM Rimouski and its transmitter CIKI-FM-2 Sainte-Marguerite-Marie, CFZZ-FM Saint-Jean-Iberville

Astral also applied for a licence to operate a French-language radio network for the purposes of broadcasting the football games of the Montréal Alouettes during the 2004, 2005 and 2006 seasons. The proposed radio network would originate from CKAC Montréal. The assets of this network would subsequently be transferred to Corus as part of the transaction described herein. [para. 18]

As part of its application Corus proposed to change the operations of the stations it acquired. Of most concern was the proposed transformation of CKAC in Montreal. CKAC was the oldest, largest and most vigorous provider of news and information in French-language private radio in Montreal, employing 15 journalists. But as the Commission explained:

Corus took the position that general interest AM radio is a thing of the past, at least in major markets, and that it is important that each AM station today develop a niche for itself. The applicant expressed the view that an all-news format would give the regional stations a much greater local presence than they now have. [para. 21]

With respect to CKAC Montréal, Corus proposed to transform the station into a spoken-word station primarily oriented to sports and health. ... Corus took the view that this orientation would position CKAC's programming as complementary to existing radio programming in Montréal, including that offered by its spoken word or all-news stations CHMP-FM and CINF (Info690). As a result, according to the applicant, CKAC would no longer air open-line programming dealing with controversial political topics. [para. 22]

The proposal involved a significant change in radio news journalism and broadcasting among the stations acquired by Corus.

Corus provided a description of the news staff that would be in place in its various stations after the transaction. Corus proposed to implement a new information entity in Montréal and pool all resources rather than have three separate newsrooms for CKAC, CHMP-FM and CINF (Info960). This new entity, under the heading "Corus – Nouvelles," would include 17 journalists, that is, 11 for CINF, **three for CKAC** [emphasis added], two for CHMP-FM and one for CKOI-FM. In Québec, there would be four journalists for the two stations, CHRC and CFOM-FM. CJRC, CKRS and CHLT would each have three journalists, and CHLN would have four journalists. [para. 37]

There were more than 6,500 interventions concerning the Astral-Corus transactions. "Several Members of Parliament and Members of the Quebec National Assembly intervened in the public process to express their concerns as to the ability of the stations in their regions to continue reflecting their communities." [para. 53] As an additional example of the opposition:

The Conseil provincial du secteur des communications (CPSC) of the Canadian Union of Public Employees (CUPE) and the Syndicat des employés de CKAC intervened to oppose the applications by Astral and Corus. The interveners reminded the Commission that CKAC Montréal, created in 1922, is the world's oldest private sector Francophone radio station. The unions submitted that the station has established an enviable reputation as being among the best providers of information and that it forms part of the cultural heritage of Quebec and Canada. The interveners expressed their concern that the elimination of the newsroom and the change in CKAC's program orientation would lead to the elimination of a competitor, to the benefit of other Corus-owned stations in the Montréal market. [para. 57]

The CRTC paid lip service to the importance of local information programming, but noted that "overall, AM stations in Quebec have not been profitable in the past five years" [para. 66]. It approved the application for the transfer of radio assets and the related restructuring by Corus of its AM operations in Quebec.

The CRTC did increase local programming requirements for CKAC and granted the licences to Corus only until August 31, 2009, but the decision changed the nature of radio news in Quebec.

2. The Irving Interests and Radio in New Brunswick

The history of CRTC decisions about media ownership in New Brunswick is equally sobering. In August 2000, the CRTC approved two new radio stations in Saint John and St. Stephen. The successful application for both stations was made by New Brunswick Broadcasting Co., which is owned by the Irving family that also owns all the daily English-language newspapers in the province.

The CRTC decision did not mention ties to the Irving family and its dominance of print media in the province, although CRTC commissioners did raise the issue during hearings on the applications. The decision contained no condition that the print and broadcasting newsrooms (or the management of the newsrooms) be kept separate.

A CRTC Commissioner asked the intervener from Maritime Broadcasting System Limited, a group that owns radio stations:

Would your opposition to this application be as fervent if it was a different company involved? Is it because of Irving's other properties and their role in the media that you are concerned about this?[CRTC, Transcript of Proceedings (Broadcasting Applications and Licences), Moncton, New Brunswick, March 9, 2000, para. 4386]

After some remarks about the Saint John market, the Maritime representative noted: “If the Irvings get another radio station, with the newspapers, that's an extremely difficult competitor to take on...”

The hearings and the entire application process were unintentionally ironic: New Brunswick Broadcasting (NBB) portrayed the matter as a David versus Goliath battle – with NBB in the role of David – because Maritime owned three of the four existing commercial radio stations at the time of the application, while NBB owned only one. As the Controller and Business Manager of NBB put it:

Since Maritime's three-station combo has come into play, it has dominated the market. The net effect of Maritime's activities, relative to the manner in which they are operating their near-monopoly, has seriously impacted on CHSJ's viability and ability to compete. [para. 2864]

According to one intervener, NBB had suggested that one of the Maritime stations “has the ability to be an overbearing 800 pound gorilla” [para. 4370]. Maritime responded: “...If we're the gorilla, the Irving media empire is the whole wild kingdom.” [para. 4371]

Near the end of questioning by the CRTC Chairperson NBB said:

And last but not least, in a time when ownership concentration in New Brunswick is on the rise, the licensing of these two stations will ensure that a strong local, independent voice prevails. [para. 4226]

This comes to the heart of the strongest argument in favour of the Irving media empire from the point of view of the public interest. New Brunswick has a total population of only 752,000 of whom about one-third are francophones. Such a small society surely would not have three English-language daily newspapers if those papers did not have strong group ownership. The same may be true for at least some of the weekly newspapers owned by Irving.

Still, many of the witnesses before this Committee, especially those in the Maritimes, might have been bemused to hear that the Irving media empire would provide an “independent voice” in New Brunswick. The Irvings’ corporate interests form an industrial-media complex that dominates the province. According to one source it includes more than 300 companies, has an estimated net wealth of \$4 billion and employs 8 per cent of the New Brunswick labour force.¹⁸ To give a frame of reference, the federal government in 2004 employed 1.9 per cent of Canada’s labour force. And because the Irving interests are privately owned, they do not even have to provide the level of public reporting that publicly traded corporations are required to provide. This situation is, as far as the Committee could determine, unique in developed countries.

In August 2000, five months after the Moncton hearing, the CRTC approved both applications, giving the Irving interests their second radio station in Saint John and the first Canadian commercial station in St. Stephen, New Brunswick.¹⁹

¹⁸ <http://www.yourmedia.ca/modules/irving/overview/overview.shtml#power>

¹⁹ In addition to the radio licences granted to Brunswick News, the CRTC approved several other radio licences for New Brunswick in 2000. These were: two low-power Christian music FM stations in Moncton, two new English-language FM stations in Moncton (one was a conversion from an AM station) and a new commercial French-language FM service in Moncton.

C. How Media Concentration Developed in Several Markets

In its hearings in Ottawa and across the country the committee heard about numerous concerns that Canadians have about the state of their media. Certain markets – Vancouver, New Brunswick and Quebec (primarily the French-language media) – were cited repeatedly.²⁰ Concentration and extensive cross-media ownership in these markets led many witnesses to argue that there had been a decrease in available viewpoints in these markets and a decrease in the services provided by the media there, especially in the provision of local and “hard” news.

It is reasonable to ask: Why did our laws or regulators fail to prevent the extent of concentration that we see in these markets today?

What follows is a brief history of developments that led to the current concentration of media in Vancouver, identified by committee witnesses as the market where media concentration by one owner was of most concern, with comparisons of the media markets in Quebec and New Brunswick. It would be useful, but beyond the scope of this report, to have fuller, academic studies that examine the political, economic and social influences on the three markets.

In Vancouver and the other two markets, the current state did not arise from a single transaction. Nor was there a smooth evolution, with a small media firm gradually growing into a large one. Rather, there was a series of transactions that did attract the attention of the authorities – the Competition Bureau and the CRTC. Some of the transactions were contested by the Competition Bureau, and the CRTC often set down conditions of licence to address potential problems. In the end, however, review by the authorities proved to be more of a speed bump than a protective barrier. A recent international comparison of media laws has noted “Canada’s relatively relaxed attitude toward concentration in media ownership... .”²¹ The following examples confirm this description.

1. Vancouver

Four main steps led to the current concentration in Vancouver: the monopolization of the daily newspaper market, the consolidation of community newspapers in the area with the

²⁰ As the *Interim Report* noted, in 2003 CanWest owned both Vancouver dailies and important community papers in the area, and has 71 per cent of the local audience for TV newscasts. In francophone Montreal, Quebecor had 60 per cent of newspaper readers and 37 per cent of newscast audience, in addition to its ownership of the main cable TV firm.

²¹ Rachel Brandenburger (ed.), *Getting the Deal Through – Telecoms and Media*, Global Competition Review, 2005.

dailies, the acquisition of two television stations in the broadcast market by one owner, and the acquisition of the print business by the broadcaster.

In the mid-1950s the public in Vancouver, British Columbia had a choice among three independent, daily newspapers, one morning and two evening papers. After a series of transactions, which involved the Southam newspaper empire and printing operations, Pacific Press Limited gained control of all the dailies in 1957. It closed the morning paper, the *Herald*, and turned one of the evening papers, the *Province*, into a morning paper. The Restrictive Trade Practices Commission (now the Competition Bureau) became involved. The Competition Bureau prepared a survey of its work in media industries for this Committee and described the Pacific Press case:

There were also several unsuccessful investigations into newspaper markets by the Restrictive Trade Practices Commission (RTPC) under the *Combines Investigation Act*. In 1960, for example, the RTPC launched an investigation into the newspaper industry after Pacific Press was given control over all three daily newspapers in the Vancouver market. While the RTPC concluded that the formation of Pacific Press led to a public detriment, it did not seek a conviction under the *Combines Investigation Act*.²²

Southam eventually gained control, with outright ownership, of both of Vancouver's dailies in 1980. A decade later, in May 1990, Southam announced that in a complex series of transactions it had gained control of a number of community newspapers serving the Lower Mainland of British Columbia. The Competition Bureau argued that this reduced competition for advertising in the Vancouver newspaper market (the effect on journalism or the diversity of local voices was apparently not a concern for the Bureau). The outcome was not encouraging for those who believe there should be limits to concentration of ownership in the news media. As the Bureau explained in its summary of media cases:

This case involved the acquisition of three community newspapers in Vancouver by Southam Inc. which already owned the two daily newspapers in the area, the *Vancouver Sun* and the *Province*.²³ The issues that were raised are fundamental to how the *Competition Act* applies to newspaper mergers, and in fact to mergers generally. The findings of the *Competition Tribunal* were appealed to the Federal Court of Appeal and the Supreme Court of Canada.

...

²² The Competition Bureau, "The Competition Bureau's Work in Media Industries: Background for the Senate Committee on Transport and Communications," n.d. ("This document is up to date as of November 2003.")

²³ The three community newspapers at issue in the case were the *Vancouver Courier*, the *North Shore News* and the *Real Estate Weekly* [footnote in original].

The Bureau presented a large volume of evidence to support the claim that there was overlap, and therefore that the acquisitions eliminated competition. One key piece of evidence cited was the conclusion of a report commissioned by Southam prior to the merger to study the market and provide recommendations on future strategies. The report stated:

“What is the reason for this substantial difference in market performance seen between Vancouver and other markets? We believe strongly that it is the large number of aggressive weeklies in Vancouver, which are siphoning revenues (logically) due to the Sun and/or Province by virtue of their readership and market presence.”

Based on this and other evidence, the Bureau concluded that the weekly community newspapers were in the relevant market and Southam’s acquisition would permit it to eliminate this competition

The Tribunal took a different view and concluded that community newspapers and the dailies were very weak substitutes -- i.e. small changes in relative prices were not likely to induce a significant shift by advertisers from one type of newspaper to the other. This analysis led the Tribunal to conclude that the acquisition of the *North Shore News* and the *Courier* by Southam did not likely lead to a prevention or lessening of competition in the newspaper retail advertising services market in the city of Vancouver, on the North Shore or throughout the Lower Mainland.²⁴

The summary explained that the Competition Bureau could not challenge the pre-existing concentration in the market, as the *Competition Act* requires a review to examine the impact of any *increase* in concentration. This point becomes important when looking at other markets with high existing levels of media concentration. The summary also noted that the Tribunal argued that different economic factors were at play in the market for real estate advertising, and that Southam’s acquisition of the *Real Estate Weekly* would substantially lessen competition. Southam eventually sold the North Shore edition of the *Real Estate Weekly* – a speed bump in the course of the transaction.

In 1992, the Southam chain, with its concentration of daily and community newspapers in Vancouver, fell to Conrad Black’s Hollinger Corporation.

Concentration on the broadcasting side developed in the late 1990s when CanWest Global, which had a television station in Vancouver, agreed to acquire the conventional television broadcasting undertakings of Western International Communications Ltd. (WIC). WIC, with television stations in Vancouver and Victoria, had been sold to Shaw

²⁴ The Competition Bureau, “The Competition Bureau’s Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d. (The paper was up to date as of November 2003.)

Communications and Cathton Holdings; Shaw and CanWest then reached a tentative deal to split WIC's assets.

The CRTC reviewed the proposed transaction and approved it, subject to some conditions, such as CanWest's divestiture of the station it held in Vancouver, CKVU-TV. A CRTC News Release explained:

In its decision today, the Commission is departing from its policy which allows a company to own, in the market it serves, only one television station broadcasting in a given language.

In effect, **the Commission is authorizing CanWest Global to maintain ownership of the English-language stations CIII-TV and CHCH-TV in the Hamilton (Ontario) market, and CHAN-TV and CHEK-TV in the Vancouver-Victoria market.** This is because the Commission is of the view that **these two large markets are already well-served** by a good number of media outlets, and that the plurality of voices and fora for expressing them is not compromised by having one owner for two television stations.²⁵

The News Release quoted the Commission chairperson, who emphasized the cultural benefits from the transaction:

In approving the transaction between CanWest and WIC, with certain conditions, the CRTC is allowing the company to consolidate. In so doing, it will be able to both create new synergies and make a more effective contribution to the Canadian broadcasting system. The company now has a greater capacity to spotlight local artists and to stimulate the production of quality Canadian programming, particularly in Western Canada.²⁶

This decision highlights the emphasis the CRTC places on Canadian culture at the expense of news.

In 2000, weeks after the CRTC approved the acquisition of WIC's television assets, CanWest announced that it intended to acquire the majority of Hollinger Inc.'s media assets. This was proudly announced by the executives of CanWest Global as the largest deal in Canadian media history (and was promptly denounced by the Communications, Energy and Paperworkers Union as an "unprecedented and horrifying" concentration of ownership).

²⁵ CRTC, "The CRTC Authorizes the Sale of WIC Western International to CanWest Global and that of WIC Premium to Corus," News Release, 6 July 2000. Emphasis in original.

²⁶ CRTC, "The CRTC Authorizes the Sale of WIC Western International to CanWest Global and that of WIC Premium to Corus," News Release, 6 July 2000.

The Competition Bureau reviewed the proposed transaction and concluded “that, since there was no evidence that newspapers, the Internet and television compete directly for retail advertising normally found in newspapers, the transaction would not substantially lessen competition in those markets for advertisers.”²⁷

The Competition Bureau did have some concerns with respect to the business-oriented specialty channel, *ROBTV*, in which both CanWest (through the *National Post*) and the *Globe and Mail* had interests. As the summary of media cases stated:

As a result of these concerns, CanWest agreed to the Bureau's request to place its entire investment in *ROBTV* in trust, pending resolution of the partnership situation. As the undertakings took effect at the time of the closing of CanWest's acquisition of Hollinger's assets, CanWest also agreed to ensure that Hollinger did not share confidential information with *ROBTV* and The Globe and Mail. The Bureau undertook to monitor CanWest's compliance.²⁸

In terms of the largest transaction in Canadian media, this, too, must rank as a speed bump and not a protective barrier.

The CRTC decided to examine questions related to cross-media ownership when it considered applications to renew Global's television licences. In August 2001 it renewed all the Global licences subject to some conditions, but noted concerns about cross-media ownership:

The Commission is concerned that cross ownership of television stations and newspapers, such as is the case with Global, could potentially lead to the complete integration of the owner's television and newspaper news operations. This integration could eventually result in a reduction of the diversity of the information presented to the public and of the diversity of distinct editorial voices available in the markets served. For example, under a fully integrated structure, the same editor could decide what matters would be investigated and what stories would be covered by a commonly owned television station and newspaper. Under such an integrated structure, the television station and the newspaper may no longer compete and might present a single editorial position and approach to the selection of stories considered relevant to the viewers and readers.²⁹

As a safeguard, the CRTC required Global to adhere to the following principles and practices:

²⁷ The Competition Bureau, “The Competition Bureau's Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d.

²⁸ The Competition Bureau, “The Competition Bureau's Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d.

²⁹ CRTC Decision 2001-458, para. 107.

- 1) Global will maintain separate and independent news management and presentation structures for Global television operations that are distinct from those of any Global affiliated newspapers. Decisions on journalistic content and presentation for Global will be made solely by Global television news management.
- 2) Global news managers will not sit on the editorial board of any Global affiliated newspaper; nor will any member of the editorial board of any Global affiliated newspaper participate in the news management of Global television operations.
- 3) Global shall establish a Monitoring Committee as set out in Appendix "A" to this Statement to deal with complaints from all sources, including employees and the general public, arising from any of the principles and practices included in this Statement.
- 4) Global shall report to the Commission on an annual basis, concurrent with its annual return, regarding the number and nature of the complaints received by the Monitoring Committee and how Global resolved each complaint.
- 5) Global shall provide a copy of this Statement to each of its employees and shall emphasize the importance of complying with the principles and practices set out in this Statement.
- 6) Global shall, through the use of Public Service Announcements, make its viewers aware of the principles and practices set out in this Statement, and the Monitoring Committee.³⁰

The CRTC set out the possibility that it would be prepared to suspend these conditions of licence if Global and the Canadian Broadcast Standards Council could develop an industry code dealing with cross-media ownership.

As noted, the CRTC decided to handle all the licence renewals for Global (as it would have for any group) at the same time. Thus the licences for the two Global stations in Vancouver were approved at the same time as licences for markets, such as Hamilton, where CanWest did not exercise a dominant position.

This same-time licensing for all the stations in a group is, according to the CRTC, in keeping with its new Television Policy. It is, however, at odds with the more usual case-by-case approach of the CRTC. The CRTC's treatment of Global's Vancouver stations, which were in a market of obvious media concentration, is also at odds with its treatment of Quebecor's television group in Quebec. Because the CRTC was concerned about the diversity of views in French-language media in Quebec, more stringent conditions with respect to cross-media ownership were set out. These include adherence to a code developed by Quebecor and designed to ensure that the newsgathering activities – not just newsroom managements – of Quebecor's newspapers and television stations are completely separate.

³⁰ CRTC Decision 2001-458, Appendix 1.

The CRTC did express some concern about diversity of views in the Global case:

Global's level of cross-media ownership is particularly high in Vancouver/Victoria where it operates two television stations and three daily newspapers. In Calgary and Ottawa, Global owns one of the two major daily newspapers and a television station. In each of Regina and Saskatoon, Global owns the only major daily newspaper and a television station.³¹

That was apparently not considered serious enough for the CRTC to impose stricter conditions, along the lines of Quebecor's code, for these markets, despite the noted concerns about cross-media ownership. The CRTC might have made an argument for unified treatment of all stations in a group – with perhaps the same rationale that it used for same-time renewal of all the licences in a group. But in 2004 it imposed different, lighter conditions when it approved Quebecor's acquisition of the Toronto One television station. This is an English-language station in a highly competitive media market, so the lighter conditions may have been warranted. The fact remains that the CRTC is capable of treating some stations in a group differently from others, depending on the degree of media concentration in the particular markets, but has puzzlingly chosen not to do so in some striking instances.

The end result is that by late 2001, after various stages of federal oversight going back to the 1950s, CanWest had approval for its extensive media holdings in Vancouver.

Why did Canadian laws or regulators fail to prevent the extent of concentration now seen in Vancouver? The answer to this question has three parts. The first relates to the years before 1986 when a new *Competition Act* was put in place, replacing the *Combines Investigation Act*. Under the earlier act mergers and monopolies were criminal offences, requiring that a criminal burden of proof (“beyond a reasonable doubt”) be satisfied to obtain a conviction. As the Competition Bureau noted in its summary of media cases:

... in the 75-year history of the criminal merger law, only nine cases were brought before the courts. None of these actions was successfully prosecuted on a contested basis by the Crown. Seven cases resulted in acquittal and two cases, not contested, resulted in guilty pleas.³²

³¹ CRTC Decision 2001-458, para. 106.

³² The Competition Bureau, “The Competition Bureau’s Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d.

Media mergers before 1986 had what was, in practice if not in theory, a free ride. This explains the ability of Pacific Press to obtain a monopoly of the daily newspaper market in Vancouver.

After 1986, with the new *Competition Act*, the burden of proof was lighter (matters under the act are, in general, civil rather than criminal), but Southam, which had taken over the dailies from Pacific Press, was still able to acquire a number of community newspapers serving the Vancouver market. In this case, the Competition Bureau took its investigation to the Competition Tribunal³³, and the Tribunal concluded that community newspapers and daily newspapers were not really competitors, in the sense that “small changes in relative prices were not likely to induce a significant shift by advertisers from one type of newspaper to the other.” The Tribunal, like the Competition Bureau, concentrated on a narrow, economic aspect of the media market, namely paid advertising, but the Tribunal took an even narrower view of what constituted the market. The result was that Southam kept its monopoly of the dailies, and added community papers that served the same geographical market and the same pool of readers.

Concentration on the broadcasting side is explained by the CRTC’s priorities. News was ranked well below support for Canadian culture. When CanWest Global acquired two television stations serving Vancouver, the CRTC said that Vancouver (and Victoria) were “already well-served by a good number of media outlets,” and noted that the “company now has a greater capacity to spotlight local artists and to stimulate the production of quality Canadian programming.” None of the “good number of media outlets”, however, approached CanWest’s dominance in the market.

In 2001, the CRTC renewed the licences of all Global television stations and, in effect, approved the acquisition by CanWest of the Hollinger newspaper empire. The decision expressed concerns about cross-media ownership and set down some related conditions of licence. There were no special conditions for the Vancouver market.

³³ The Tribunal, which was created in 1986 when Parliament enacted major reforms of Canada's competition law and replaced the *Combines Investigation Act* with the *Competition Act*, is a specialized court that combines expertise in economics and business with expertise in law. It hears and decides all applications made under Parts VII.1 and VIII of the *Competition Act*. The Bureau has the power to bring civil matters before the Competition Tribunal or other courts depending on the issue. (Information here is from the websites of the Competition Bureau and the Competition Tribunal.)

2. Quebec and New Brunswick

The story in the French-language media market in Quebec and the English-language market in New Brunswick is similar to that for Vancouver. A series of transactions that were occasionally contested but never completely overturned led the way to greater and greater concentration.

The final transaction in the case of Quebecor, which is the dominant player in the Quebec media market, was the acquisition by Quebecor of Videotron. Both parties were themselves large media companies that had grown from modest beginnings -- Quebecor from a single weekly newspaper in 1950, Videotron from a small cable company with 66 subscribers in 1964. Both grew through numerous acquisitions and the growth of individual parts. Two transactions are worth highlighting: Quebecor's acquisition of TQS in 1997 and of Videotron in 2000.

TQS was in financial trouble when Quebecor bought it, and the CRTC took this into account in approving the transaction. Cross-media concerns also influenced the decision. The CRTC recognized the usefulness of linking a strong print business with a struggling broadcaster, but was also aware of problems related to diversity of news sources. In the end, the CRTC accepted measures proposed by Quebecor.

... the Commission is taking into account TQS's precarious financial situation, the new owners' strong financial resources, the new vitality that can be created by the arrival of a partner like CQI in the French-language television industry and its **intimate knowledge of the Quebec environment through its print media.** ... The Commission also considers that the measures proposed by the applicant to ensure the editorial and functional independence of TQS and the CQI print media are essential, and that applying these measures will ensure TQS's independence and make it so that the plurality of voices in Quebec in the area of information will not be affected by approval of this transaction.³⁴

The conditions imposed involved a complete separation of the television and newspaper newsrooms. These conditions, as noted above, are stricter than those later imposed on CTV, Global and Toronto One.

The restrictions imposed on TQS were carried over when the CRTC approved Quebecor's acquisition of the TVA Group, through its acquisition of Videotron. Once again, the CRTC noted its concerns about diversity of voices -- but approved the transaction.

³⁴ CRTC Decision 97-482. (Emphasis added.)

The Competition Bureau took issue with this acquisition, noting that:

This would have given Quebecor control, in viewership terms, of the first and third largest French-language television networks in Quebec, TVA and TQS. As a result, Quebecor would control more than half of all the French-language television advertising revenues in the province....

The Bureau concluded that this proposed merger would likely prevent or substantially lessen competition in the sale of French-language television advertising air time in Quebec...³⁵

As part of its reasoning, which as usual focused on advertising markets, the Competition Bureau argued that “other media were very poor substitutes for television as far as advertisers were concerned.” The Competition Tribunal agreed and ordered Quebecor to divest itself of TQS, the third largest French-language television network in Quebec, in order to keep TVA, the largest network. At the end of March 2001, the Competition Bureau announced that:

...following its review of other aspects of the transaction, that *competition would remain vigorous* in the other markets it had examined, including access to high-speed Internet services and the supply of advertising space in magazines, on Internet sites and *in other French-language media in Quebec*.³⁶

The silo approach to media industries – a narrow, economic approach that essentially ignores news and information – also helps explain media concentration in New Brunswick. Here, the media transactions involving the Irving family (K.C. Irving before his death and now his sons James K. Irving, Arthur L. Irving and John E. Irving) have certainly not gone uncontested. But today the Irvings control a growing cross-media empire and are the dominant voice in their province. The Irving family also, of course, dominates the industrial life of New Brunswick.

As was the case with CanWest Global in Vancouver and Quebecor in the French-language market in Quebec, certain key transactions stand out in the explanation of the Irving media dominance in New Brunswick.

By 1968, through a series of transactions, K.C. Irving Limited had acquired a controlling interest in all five (now three) English language daily newspapers in New Brunswick.

³⁵ The Competition Bureau, “The Competition Bureau’s Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d.

³⁶ The Competition Bureau, “The Competition Bureau’s Work in Media Industries: Background for the Senate Committee on Transport and Communications,” n.d. (Emphasis added.) It should be noted that Videotron offers Internet services.

This monopoly position was contested, but as in the Pacific Press case discussed above, the *Combines Investigation Act*, in force before the 1986 *Competition Act*, required a criminal burden of proof. The result, as explained by the Competition Bureau in its summary of its work in media, was:

The Crown was successful in showing that K.C. Irving had acquired complete control of the daily newspaper business in New Brunswick. As a matter of law, however, the Court found that a showing of complete control was not sufficient to prove a criminal offense under the *Combines Investigation Act*. ... Characterizing the Crown's arguments as theoretical and without sufficient factual basis, the Supreme Court dismissed the appeal and set aside the convictions against the respondents.³⁷

The Irving conglomerate also acquired broadcasting assets in the province.

Action under competition law having failed, the federal government tried another tack. In 1982, in an action that was aimed, in large part, at the Irving's media holdings, the government issued an Order in Council Direction to prevent cross-media ownership in Canada. The Order in Council stipulated that the CRTC could not issue or renew licences to applicants effectively controlled, directly or indirectly, by the owner of a daily newspaper whose newspaper circulation covered a major area served (or to be served) by the broadcaster. Following a change in government, however, the Order was rescinded in 1985.

The Irvings' media arm sold all its television business in 1994. This was prompted by the expectation that the CRTC would not renew the two relevant licences, which were for CBC affiliates, as the CBC intended to own its own stations in the province.

In terms of media concentration in New Brunswick, it is probably the relatively recent purchases of several community newspapers in the province that have raised the most new concerns. In 2002, Brunswick News bought community newspaper groups from David Henley and from David Cadogan; in 2003, it bought a New Brunswick community newspaper from Transcontinental, which had purchased it the previous year from CanWest Global; in 2004, the company bought the alternative newspaper *here*; in 2005, it bought the *Tribune* and its sister paper *La Voix du Restigouche*. The Irving empire also increased its presence in the French-language market.

³⁷ The Competition Bureau, "The Competition Bureau's Work in Media Industries: Background for the Senate Committee on Transport and Communications," n.d.

The CRTC does not regulate newspapers, of course, so it did not need to approve the transactions, although the change in ownership structure, with the acquisition of print media, could be considered by the regulator at the time of renewal of the broadcasting licences. The Competition Bureau did not contest the Irving family's acquisition of the community newspapers; given its silo approach to media and numerous precedents of uncontested increases in group ownership of community newspapers, this is not surprising.

There has been an interesting recent change in the ownership structure of the Irving broadcasting assets. At the end of April 2005, when the general manager of Brunswick News appeared before the committee, the three Irving brothers held equal shares in the broadcasting arm, Acadia Broadcasting Limited (through 100 per cent ownership of a holding company which, in turn, held 100 per cent of Brunswick News which controlled 100 per cent of the broadcasting assets). In May 2005, Acadia asked the CRTC authority to authorize a change to the control of Acadia through a corporate reorganization. With the reorganization, John E. Irving became the sole owner of Acadia, and Brunswick News dropped off the CRTC organization chart. But the Irving empire's ultimate ownership of the entire cross-media group has not, of course, changed. Because of the private nature of the Irving empire details are scarce, and there has been no public announcement of any reasons for the reorganization. But if the three brothers own equal shares in Brunswick News, John E. Irving has 33.3 per cent, a minority position, in the print business.

The CRTC examines licence renewals on a case-by-case basis and has no stated policy on how it weighs the print side of a media conglomerate. It would be pure but understandable speculation, therefore, to suggest that the reorganization will have an influence on renewal decisions.

APPENDIX III: SURVEY OF CANADIANS

As part of its study of the state of Canadian news media this Committee commissioned a survey of Canadians to obtain information on their use of news media, their views about the balance, fairness and objectivity of Canada's news media and their opinions about certain elements of public policy.

The survey of 1503 Canadians was conducted between March 22 and 30, 2005. The survey, carried out for the Committee by Ekos Research Associates provides results for the country as a whole that are valid within (plus or minus) 2.5 percentage points, 19 out of 20 times. An additional sample of 53 aboriginal Canadians living on reserve was also surveyed. The survey included a number of questions that have been asked of Americans and thus allows one to compare Canadian and American opinion on a number of topics. Results were also compared with a similar survey carried out by the Canadian Media Research Consortium.³⁸

The survey results provide interesting insights on a number of topics that go to the heart of the Committee's work. In particular, the survey gives an overview of some of the strengths and weaknesses of the current news and information system in Canada. Careful analysis of the opinions expressed by respondents suggests that all is not well in the converged and consolidated media landscape. Indeed, if we continue down the current path without a change in direction the results could be damaging.

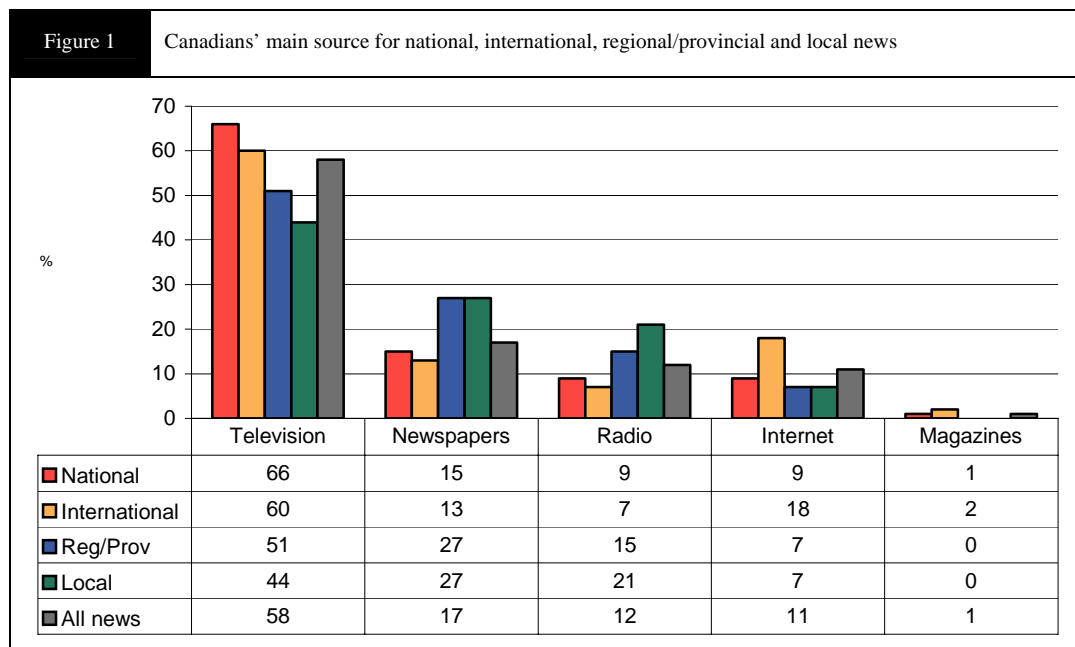
The good news is that Canadians use a variety of media to obtain news and information and that they have a good deal of trust in the media they use. There are, however, important warning signs about media concentration, and Canadians' trust in the news media, such as the perception that media cover up their mistakes. Results from this survey and the survey done by Canadian Media Research Consortium (CMRC) when compared with survey results in the United States also offer salutary warnings.

³⁸ The Canadian Media Research Consortium (CMRC) conducted a survey of 3,012 Canadians during November and December of 2003. The results of that survey were shared with this Committee by Professor Donna Logan, Director of the Graduate School of Journalism, University of British Columbia. Professor Logan was the lead investigator for the CMRC project. Where similar questions were asked the two surveys are in close agreement.

This appendix presents the key results from the survey, including observations about foreign ownership rules and concerns about concentration in Canada’s news media. It is divided into five sections. The first section describes people’s use of news media, the second their views about such issues as trust, balance and fairness. A third section compares American and Canadian opinions and attitudes about the importance of news. The fourth section presents an overview of Canadians attitudes about issues such as foreign ownership rules, media concentration and media cross-ownership. A conclusion and summary of important issues completes the analysis.

A. Canadians’ Use of News Media

The following figure shows that television is the main source of news for Canadians. This is true for all types of news (national, international, regional or local). Newspapers are the main source of news for a much smaller portion of the population. For example, television is the main source of national news for 66% of respondents as compared to 15% for newspapers, 9% for radio, 9% for the Internet and 1% for magazines.



The Internet’s greatest strength in terms of news is as a source of international news; it is the main source of international news for 18% of respondents. This is slightly higher than the percentage (13%) who said that newspapers were their main source of international news. Newspapers’ greatest strength lies in regional/provincial and local news, with 27% of respondents saying newspapers were their main source of this news.

There are some interesting differences among age groups (Figure 2). First, television is the overwhelming main source of news for people over 65 (74%). Newspapers are chosen as a main source by between 13 and 18% of respondents in all age categories. The Internet is a main source of news for younger respondents. Only 1% of people over 65 suggest that the Internet is a main source of news while 16% of those 25 and under describe the Internet as a main source of news. Given the rapid growth in importance of the Internet, this proportion seems likely to have risen since the survey was conducted.

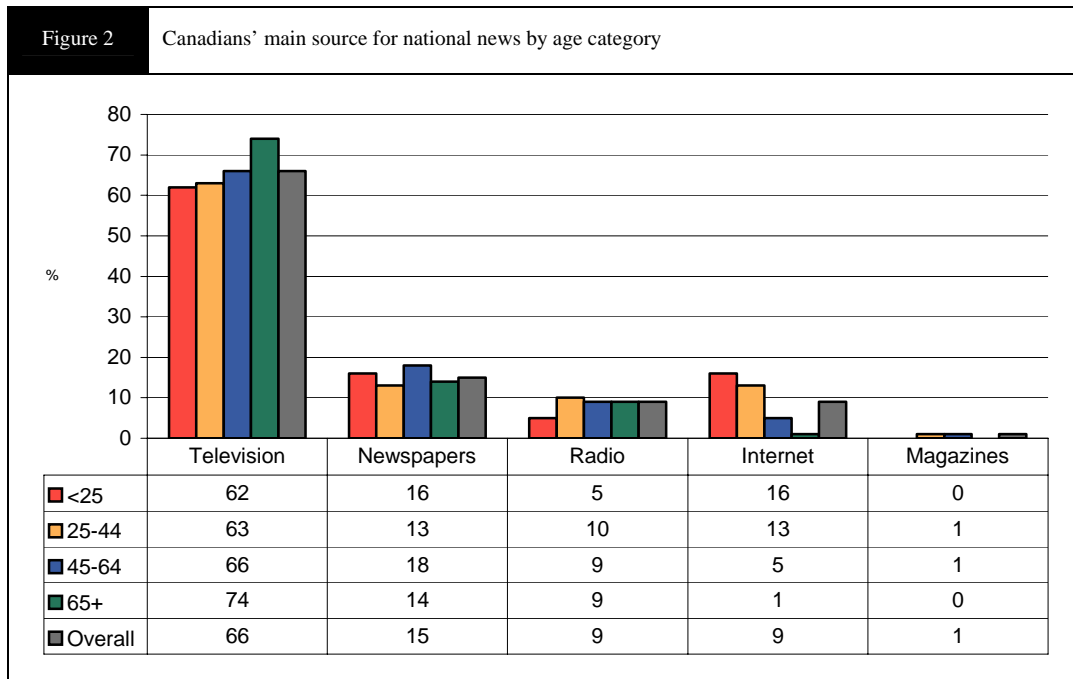
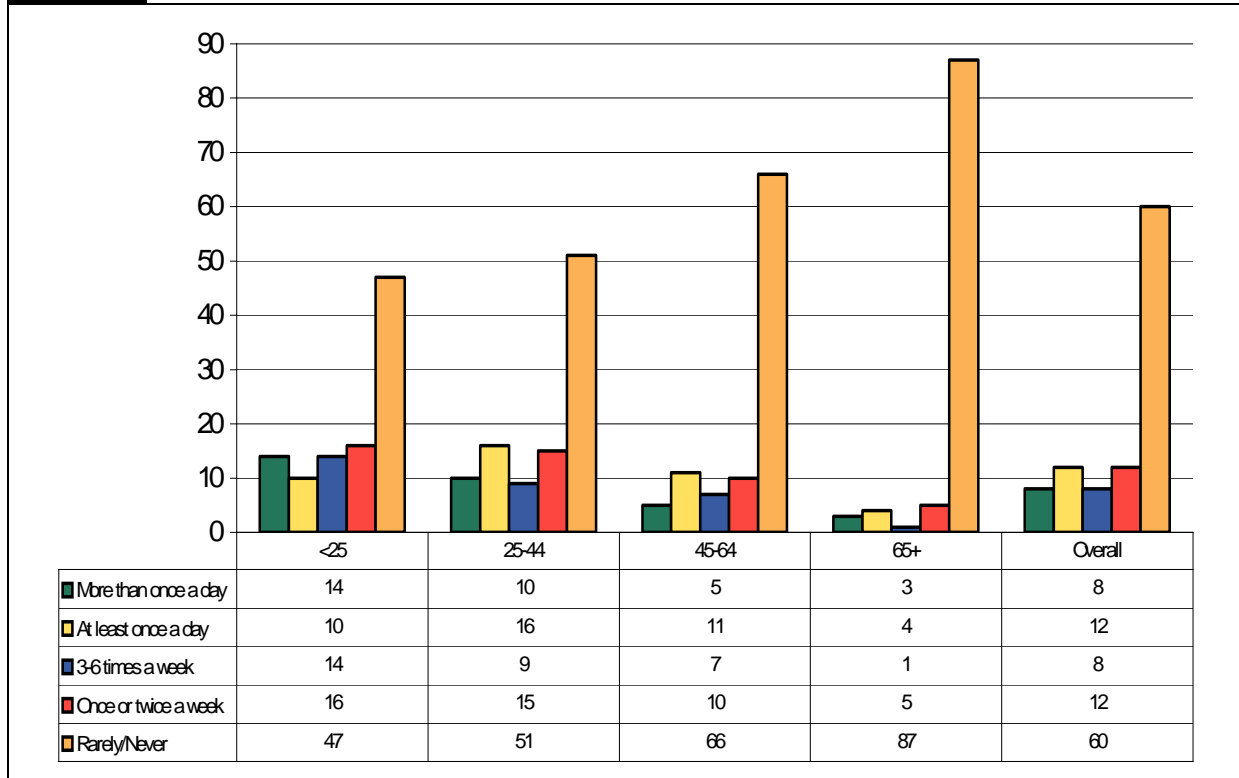


Figure 3 shows how often respondents look for news on the Internet. Usage is concentrated in the younger age groups (44 and under). The percentage of respondents saying that they rarely or never read news on the Internet increases with age. Only 47% of respondents under the age of 25 said they rarely or never read news on the Internet, while this increases to 87% for those over 65. For respondents under 25, 53% use the Internet more than once a week as a news source. The comparable figure for people between 25 and 44 years of age is 49%.

Figure 3

Frequency of use of Canadian Internet news by age category



Given the overwhelming importance of television as a source of news and information programming it is not surprising that the vast majority of anglophone Canadians (between 72% and 78%) watch the three main English-language television networks. Similarly, a large majority of francophone Canadians watch the main French-language networks. The next two figures present these results.

Figure 4 Canadians' viewing of English-language Canadian newscasts by age category

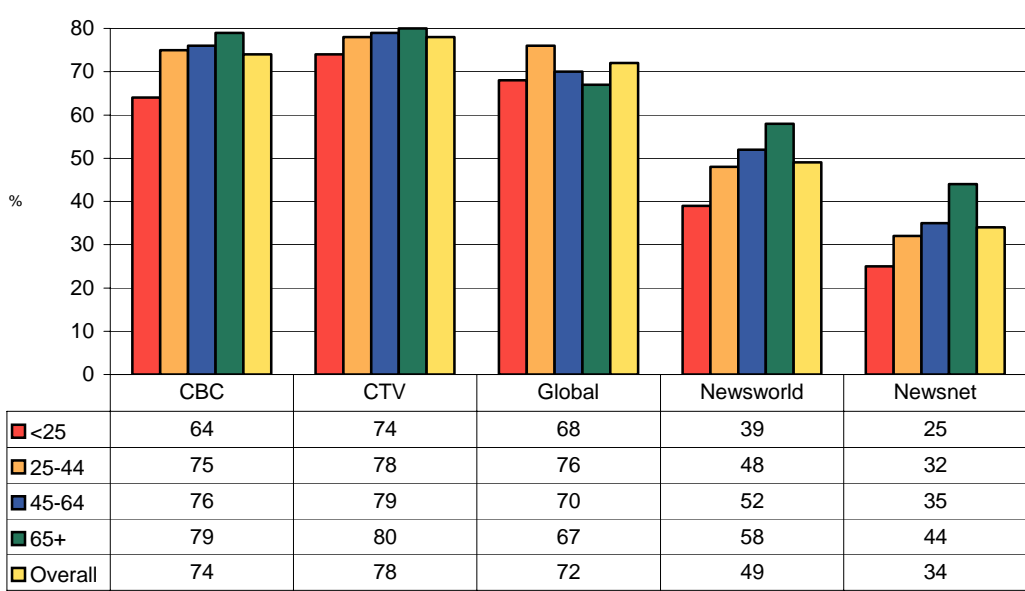
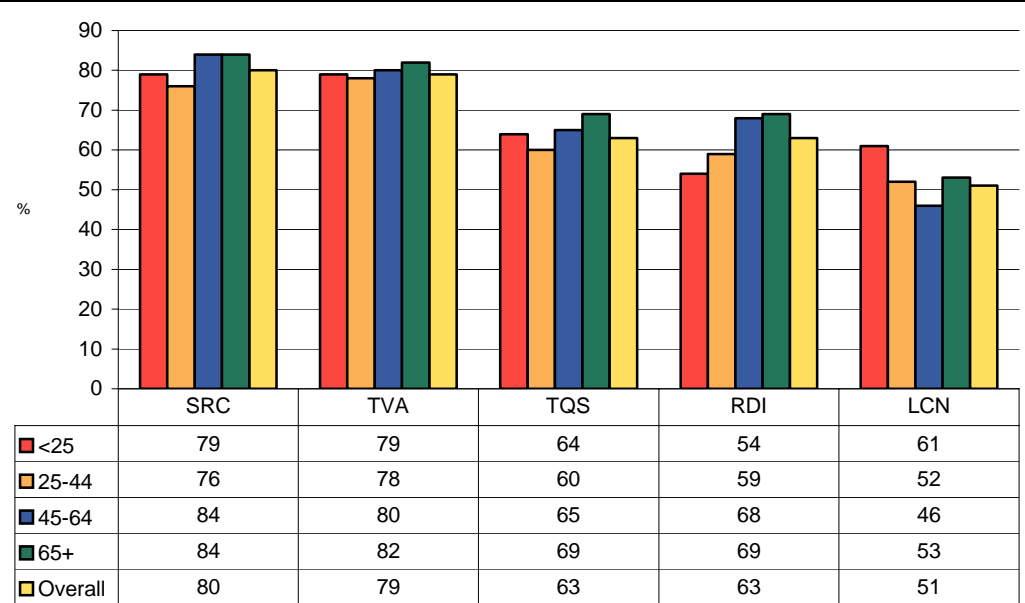


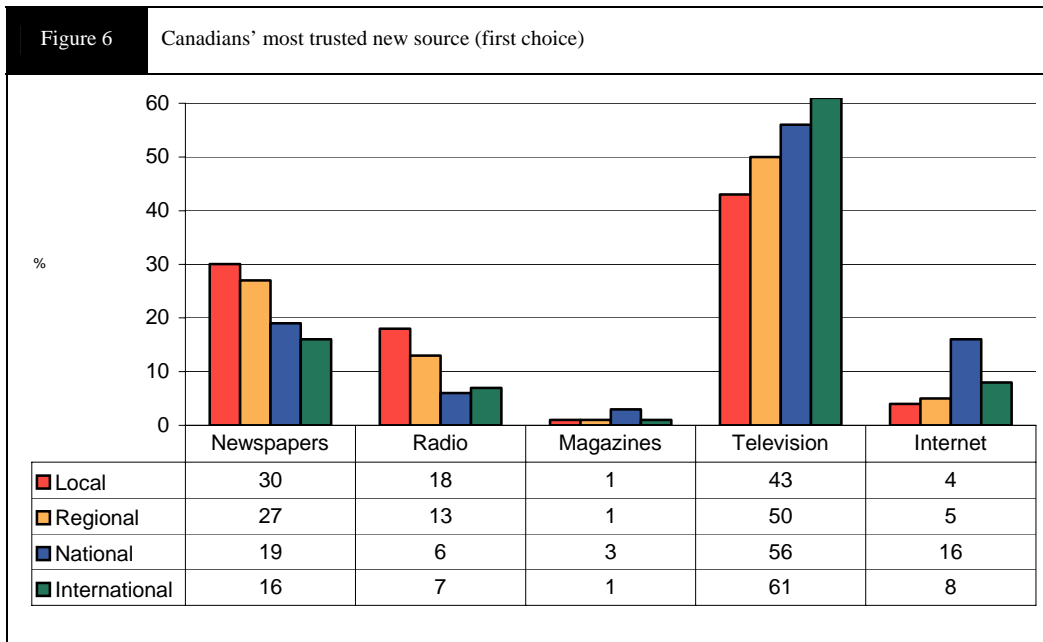
Figure 5 Canadians' viewing of French-language Canadian newscasts by age category



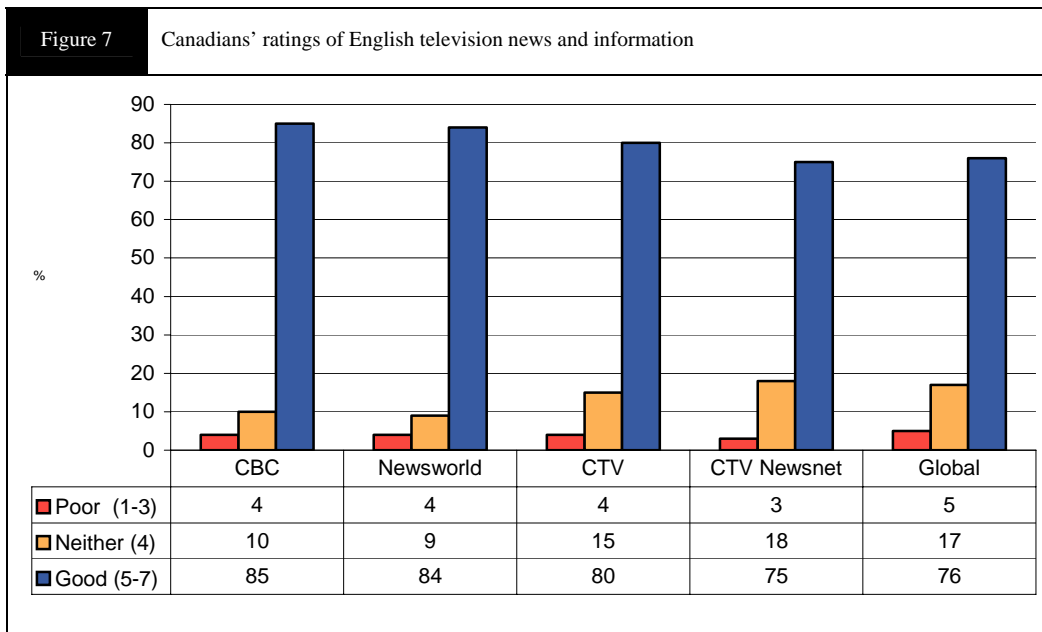
B. Trust in the News

When asked about their trust in news sources, respondents gave a ranking of news media that tends to mirror the use of news media. For example, television is rated more highly than newspapers and newspapers are rated more highly than radio.

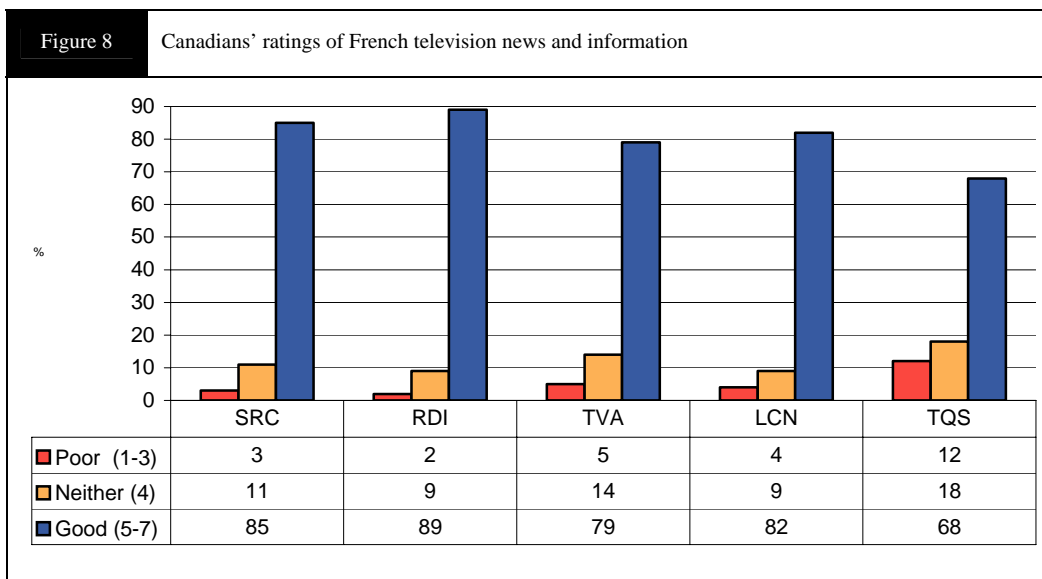
Figure 6 presents respondents answer to the question “in general what source of news do you trust the most for local, regional, national and international news?”



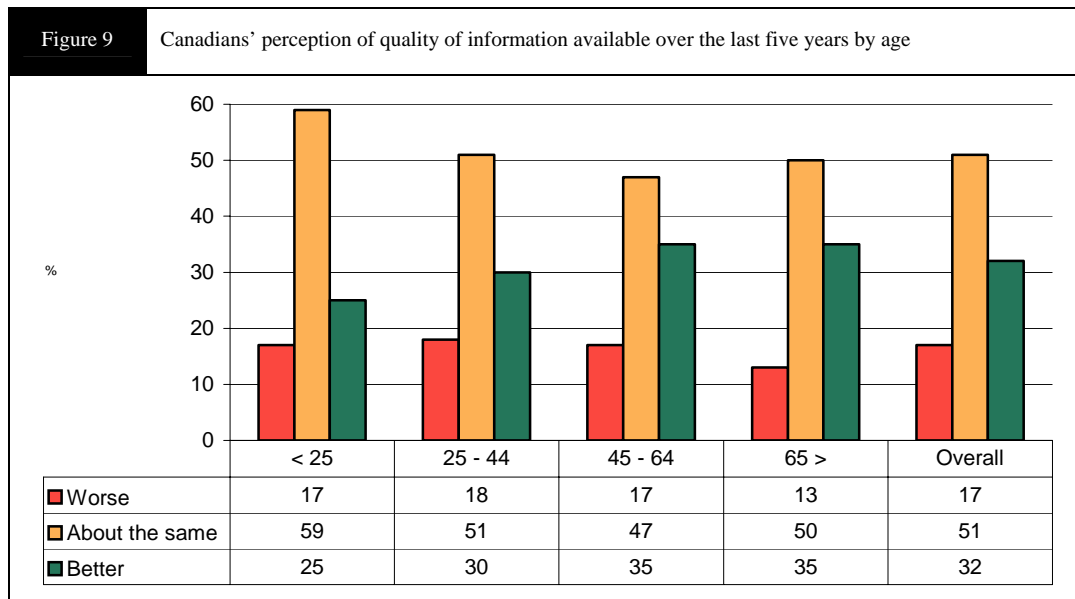
When asked to rate English language news, anglophone Canadians gave very high ratings to all of the main English language television news sources (Figure 7). In general, more than 75% of respondents rated the news and information programming as good (between 5 and 7) on a seven-point scale where “poor” is a rating of 1 to 3 and the mid-point, neither good nor poor, is 4. CBC and Newsworld were rated as good by more than 85% of respondents. CTV and Global did almost as well with 80% and 78% of respondents rating them as “good.”



A similar pattern is evident among francophone Canadians (Figure 8). A large majority rate the French language television news very highly. Indeed, almost 90% of respondents rated RDI highly. The lowest rating was for TQS news, which was rated “good” by 70% of respondents.



In short, Canadians who watch English or French language news give very positive ratings to the news they watch. More generally, Canadians do not think that the quality of the information they obtain is worse than it was five years ago (Figure 9).



In fact, approximately 50% of all age groups think that the quality of information they obtain through the media has stayed about the same. Less than 20% in all age groups say the quality is getting worse, while 32% think it is getting better.

A series of questions were asked to obtain Canadians' views about the extent to which media are balanced, fair, accurate and complete. The following four figures (Figures 10, 11, 12 and 13) present the results for these questions.

Looking across all four figures one can see that Canadians have positive views about the five media types and that they have positive views about balance, fairness, accuracy and completeness. If one compares media, television receives the highest positive ratings.

Looking at the four categories of balance, fairness, accuracy and completeness it is "completeness" that receives the lower ratings.

Figure 10 Extent to which Canadians find media balanced

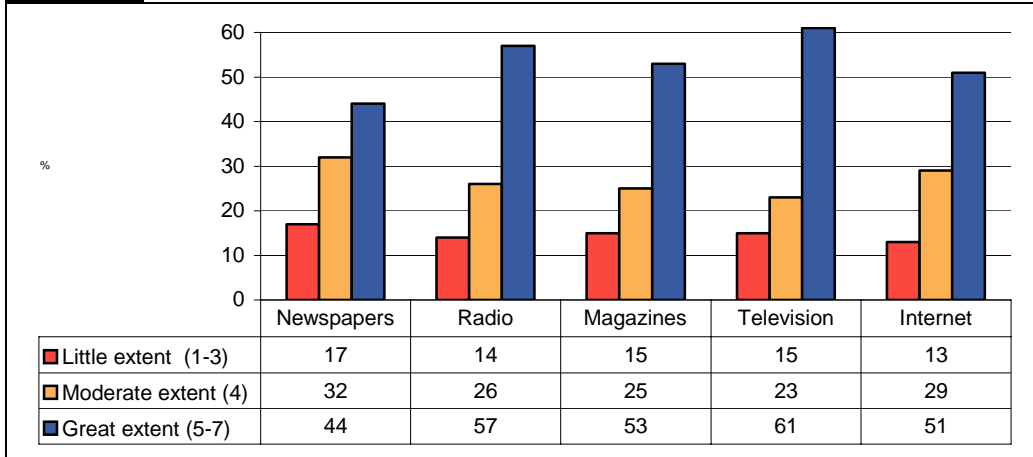
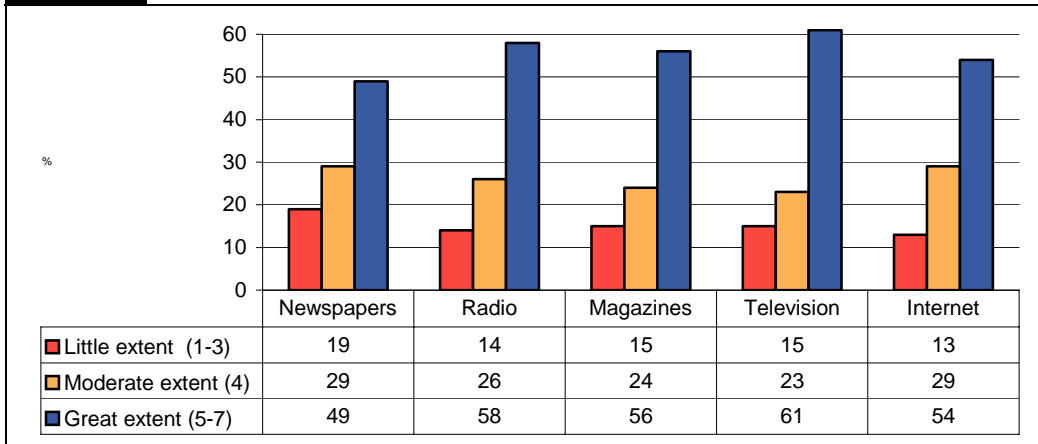
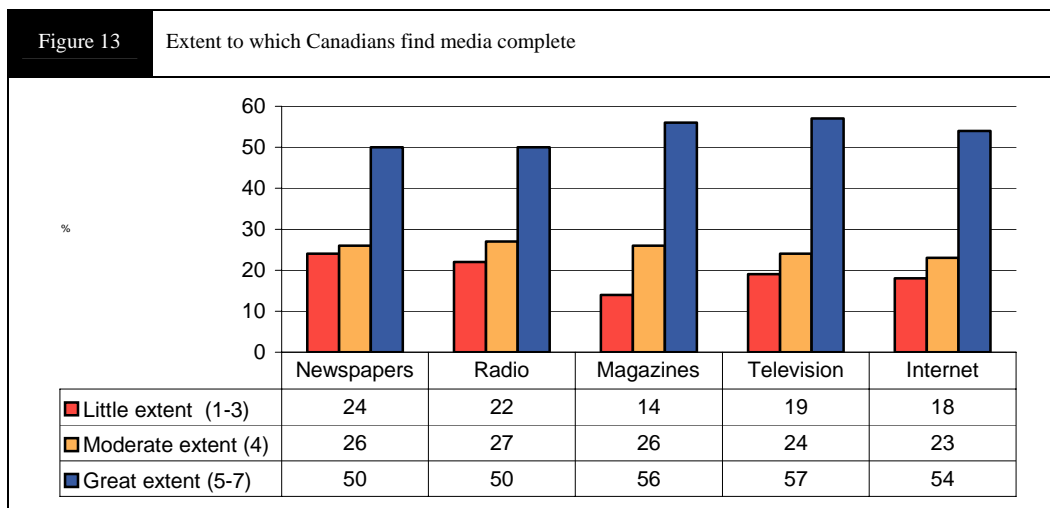
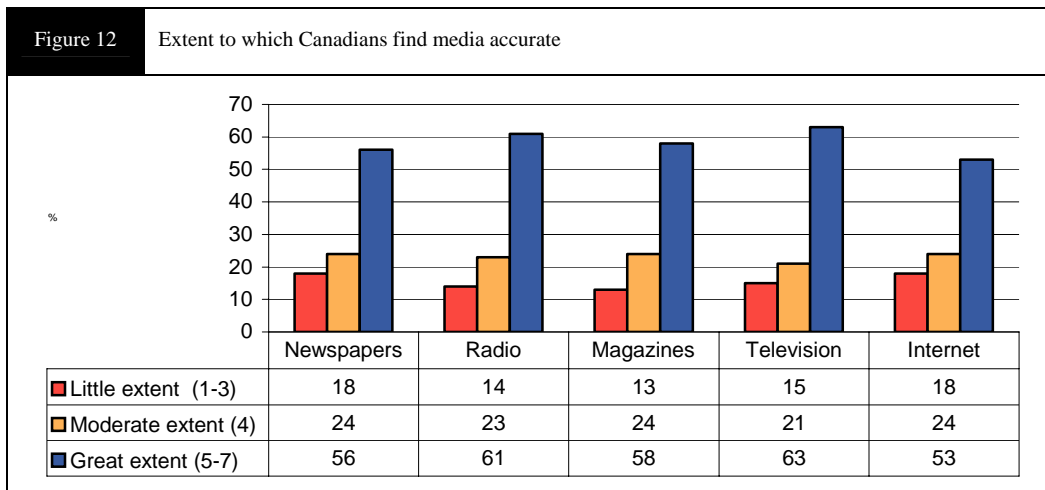
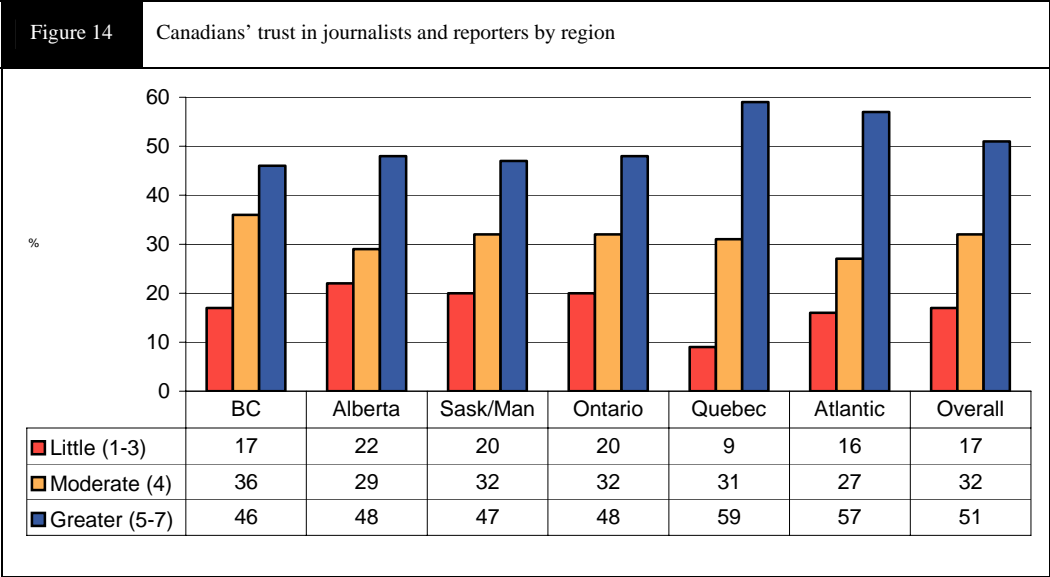


Figure 11 Extent to which Canadians find media fair





Given these positive results it should not be surprising that a large majority of Canadians have trust in journalists and reporters. Figure 14 presents the results for a question on trust by region. Respondents in Quebec and the Atlantic are more positive than those in the rest of the country. It is noteworthy, however, that overall, 17% of respondents have little trust in journalists and reporters.

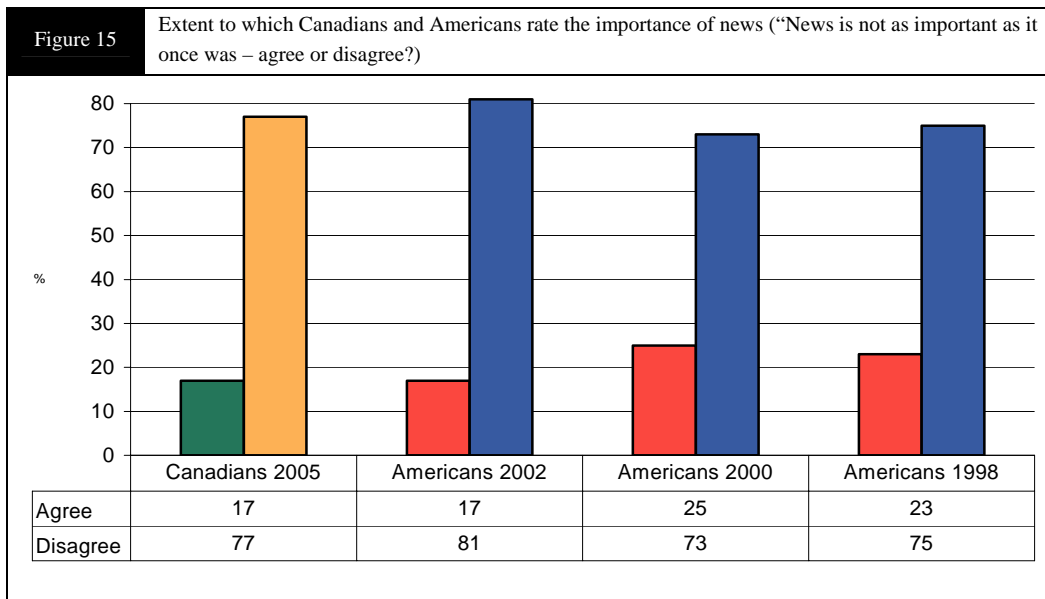


The preceding figures show that respondents have a largely positive view of their news and information media. Responses to other questions, however, reveal some disturbing patterns. These can be seen when one looks at survey questions that have been asked of Canadians and Americans.

C. Comparing Canadian and American Attitudes

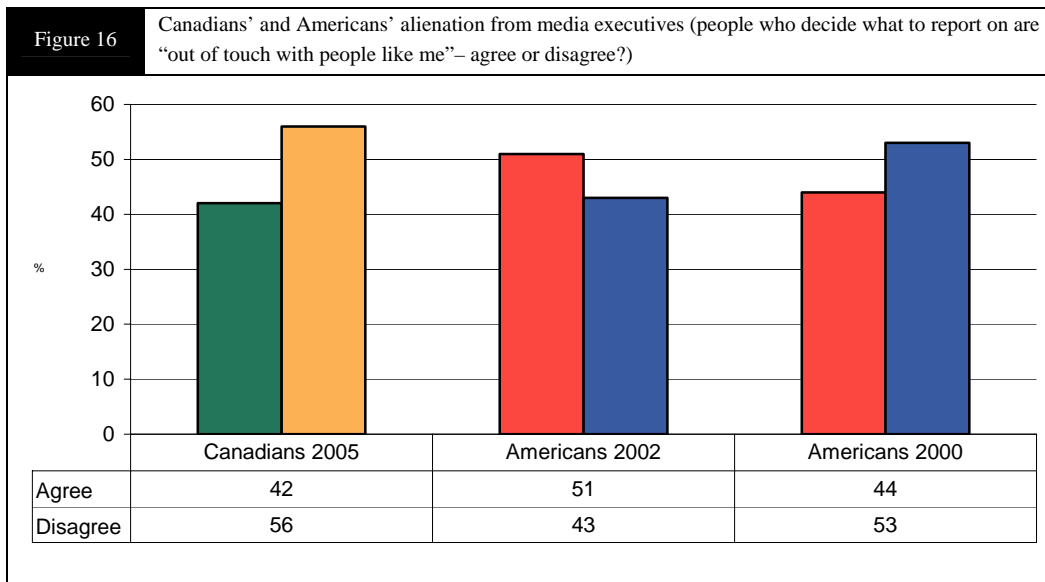
Over the past few years surveys have asked Canadians and Americans the same question on a number of different occasions. Although we lack comparable data for all the years, it is possible to obtain some sense of the differences between American and Canadian perceptions of their news media.

For example, as seen in Figure 15, most Canadians and Americans disagree with the statement that “news is not as important today as it once was.”

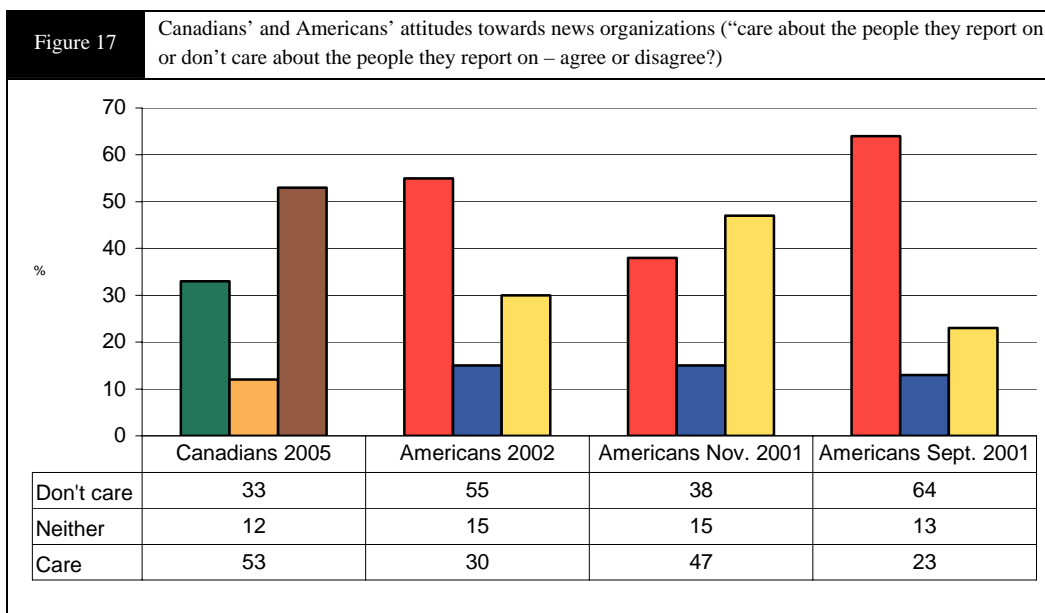


While there is little difference between the two populations about the importance of news, there are large differences when it comes to what might be described as “alienation from media executives” (Figure 16). In Canada, 42% of respondents agree with the statement that “people who decide what to put on TV news or in newspapers are out of touch with people like me.” That number is high enough to merit concern in newsrooms. If one examines the trend in the United States, the message may be even more serious. In 2000, 44% of Americans agreed that news executives were out of touch with people like them; by 2002, that proportion had grown to 51%. Thus, while the Canadian situation is more positive on this item than the American one, the responses to this question should not be taken with any sense of complacency but rather as a warning sign.

In markets with higher levels of concentration, Canadian respondents are even more ready to believe that news executives “are out of touch with me.” For example, only 38% of respondents in the Greater Toronto Area agreed with the statement, while 48% and 49% did so in Montreal and Vancouver.



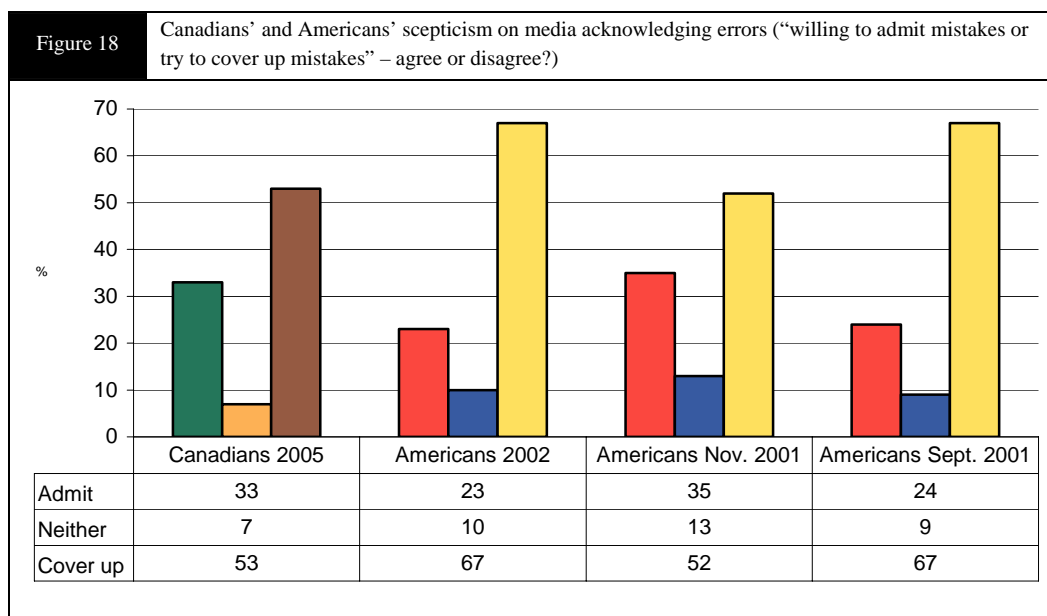
Canadians are more likely than Americans to see the media as caring (Figure 17). In 2005, 53% of Canadians agreed that news organizations care about the people they report on. A minority of American respondents agreed with this statement in September 2001, November 2001 or in 2002. For example, in 2002 only 30% of American respondents to a survey agreed that news organizations care about the people they report on.



However, there is solid evidence in the survey carried out for this Committee that Canadians' views of news media vary between markets with high degrees of concentration of ownership of cross media ownership. For example, if one looks at the

responses to this question by metropolitan area one sees a disturbing pattern. A majority of respondents in the Greater Toronto Area (GTA) (58%) agreed with the statement that news organizations care about the people they report on. This drops in Vancouver to 44% and in Montreal to 41%, both markets with high degrees of concentration of ownership and cross-media ownership.

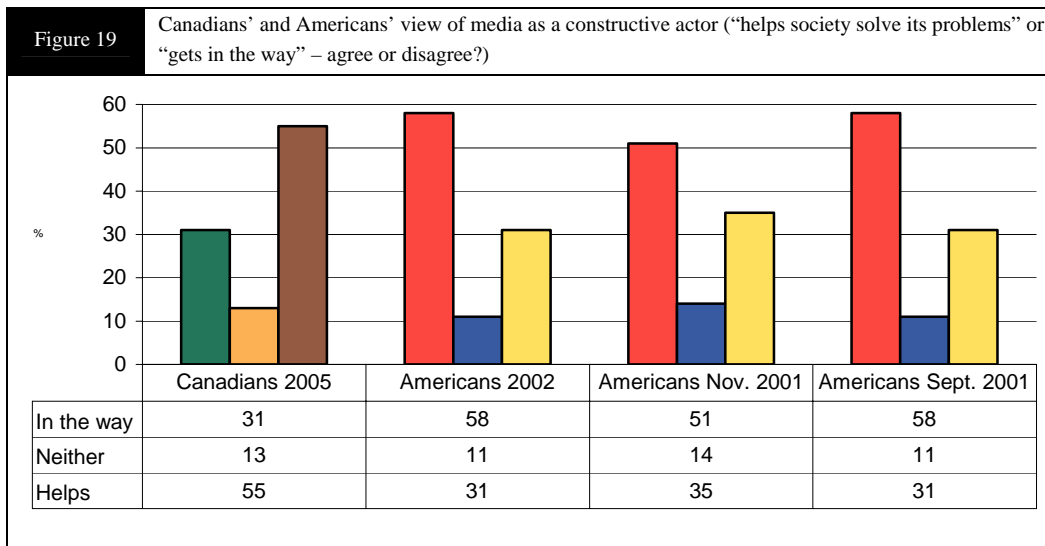
Canadians and Americans are sceptical about the willingness of media organizations to acknowledge errors (Figure 18). For example, only 33% of Canadians agree that news organizations are willing to admit mistakes. In three different surveys the percentage of American respondents willing to agree with this statement ranged from 24% to 35%.



Similar results were obtained by the CMRC survey carried out in November and December of 2003. In that survey 54% of Canadians agreed that the news media try to cover up mistakes and only 34% agreed they were willing to admit mistakes.³⁹

Canadians are more likely than Americans to see news organizations as helping society to solve its problems (Figure 19). Fifty-five percent of Canadian respondents agreed with the statement that news organizations “Help society to solve its problems” and only 31% thought that the news media “get in the way.” This is the reverse of the situation in the United States, where, in three surveys carried out between 2001 and 2002, a minority of Americans thought the news media help society, and a majority thought the media get in the way.

³⁹ Where similar questions are asked and similar scales are used the two surveys produce similar results.



The responses to these questions should give anyone concerned about the health of Canada's news media pause. One can be cautiously optimistic that things are not as bleak on this side of the border as they are on the other side, but the negative ratings are still rather too high for comfort. And if Canadian trends follow those in the United States, as is often the case in many fields, even greater alienation of audiences lies ahead. Furthermore, the survey results indicate that Canadians are more likely to entertain negative attitudes in markets with a high degree of concentration of ownership.

This is disquieting. We know from the American survey results that it is possible in a modern democracy to have a majority of citizens thinking that news organizations "get in the way" of a society solving its problems. That is extremely unhealthy, both for the media themselves and for the society they serve.

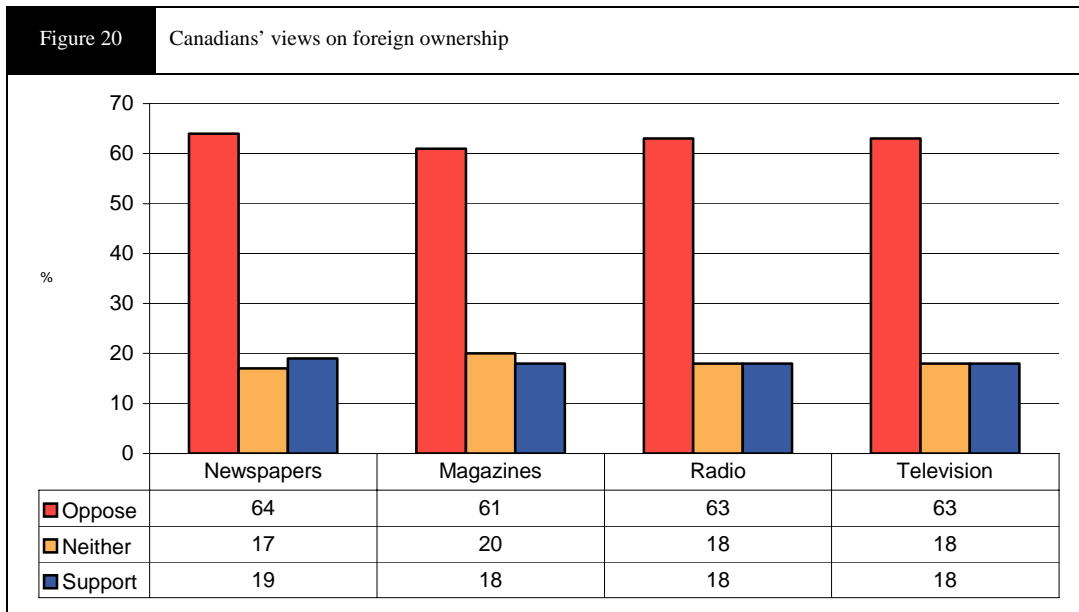
D. Foreign Ownership, Concentration and Cross Media Ownership

Several of the key issues before this Committee have to do with ownership issues. Should Canada change its position on foreign ownership of Canadian news media? Should the Government of Canada have a policy to deal with media mergers? Do higher levels of ownership concentration have negative or positive results?

The March 2005 survey asked respondents for their views about foreign ownership and media concentration.

When asked, "Do you support or oppose allowing the foreign ownership of various news media" a solid majority of respondents are opposed (Figure 20). No matter which media

they are asked about opposition to foreign ownership is supported by more than 60 percent of respondents. Less than 20% support foreign ownership.

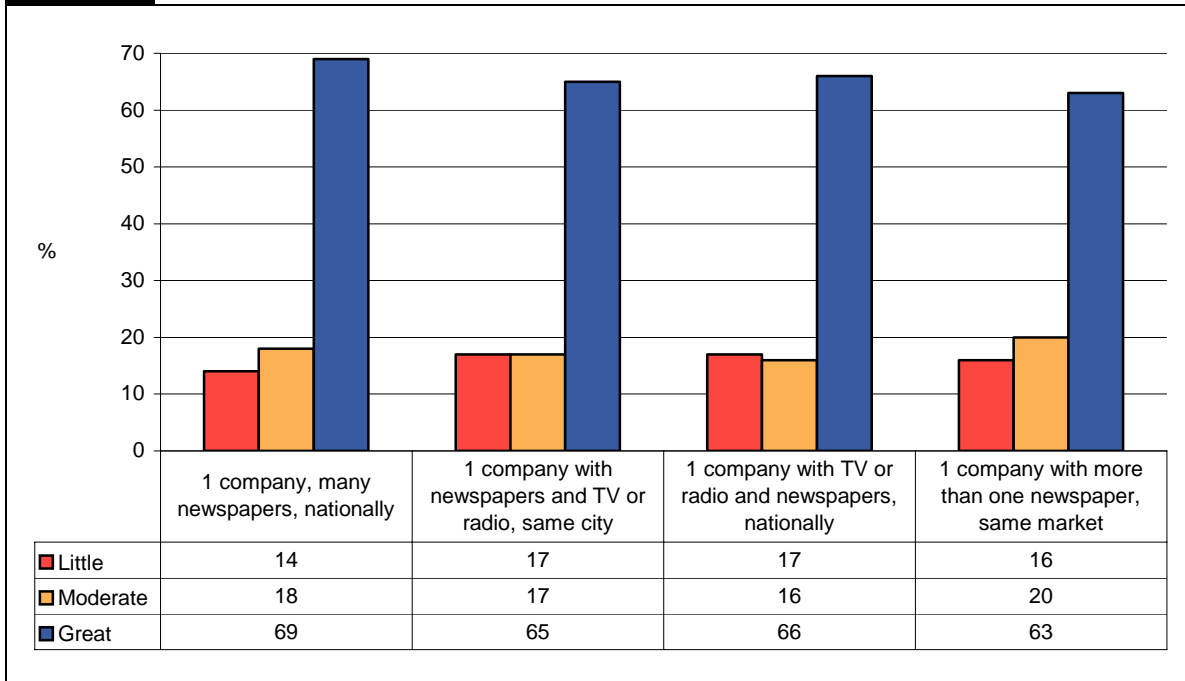


Respondents were asked a number of questions about media concentration (e.g., one company owning many newspapers across the country), cross-media ownership (e.g., one company owning newspapers and television or radio in the same city).

Looking at the responses to four questions probing different aspects of media ownership, one can see that there are serious levels of concern with concentration and cross-media ownership, whether it is in one market (e.g., one city) or across the country (Figure 21). Between 18% and 20% of respondents say they have moderate concern, while a solid majority (more than 60% no matter what the question) say they are concerned to a great extent.

Figure 21

Canadians' concerns with media concentration



Where there is a high concentration of ownership (e.g., in Vancouver) the degree of concern rises. For example, 71% of respondents in Vancouver said they were concerned (i.e., chose a 5, 6 or 7 on a seven-point scale).

Disturbing results were also obtained in the CMRC survey when respondents were asked if media consolidation has a positive or negative impact. Fifty-six percent of Canadians and 50% of Americans said that media consolidation over the “past few years” has had a negative impact. Only 5% of Canadians and 10% of Americans were willing to say that there was a positive impact.

E. Conclusions

Several conclusions can be drawn from these surveys. First, Canadians consume a great deal of news whether in the form of television, newspapers, radio or the Internet. Second, while Canadians are not as disenchanted with their news media as Americans are, there are important warning signs. A solid majority of respondents to this survey are convinced that the media try to cover up their mistakes. Similar results can be found in the CMRC survey. Third, the concerns of the many witnesses who appeared before the Committee are mirrored in the general population. Just as individual witnesses were concerned about media concentration, so are a majority of individual Canadians. Fourth, while Canadians

have a good deal of trust in news organizations and think that the news and information they provide is, for the most part, fair, balanced, complete and accurate, there are reasons to conclude that trouble is not on the horizon but already present.

The warning signs need to be addressed, given that Canadians think that the media have an influence on public issues. Seventy-two per cent of respondents think that the media have a large influence “on decisions around major public issues in Canada today.” Since the majority of citizens are convinced that the media is an important influence it should be disturbing to find that a majority think the media covers up its mistakes and that almost one-third think that the media gets in the way of society solving its problems. The most worrisome finding is that negative views increase with levels of concentration of ownership.⁴⁰

This Committee has already stated its belief in the importance of news gathering organizations for the health of democratic society. While the comparison between American and Canadian opinions give one some reason for optimism, the amount of optimism should be limited. First, it is possible to have a majority of citizens in a democratic society think that news organizations “get in the way” as demonstrated by American responses on three different surveys. Second, while a majority of Canadians (56%) see news organizations as helping “society solve its problems” there is a worrying 31% who see news organizations as getting in the way.

It is quite possible that the number of people who feel that news organizations “get in the way” will grow as distribution mechanisms continue to change. During the period from 1920 to 1980 a great deal of local news was reported by local newspapers, radio stations and, after 1950, television stations. The current situation is radically different from what it was and is likely to continue to change.

Given the survey results presented above and evidence from different surveys of American citizens it is possible that a majority of Canadians could soon be of the view that news organizations “get in the way.” The reduction of local news because of changes within corporate organizations and ongoing changes within distribution systems will be at least one source of this feeling.

Addressing the possibility of this dismal future and supporting a healthy environment for news and information organizations is the main purpose of this Committee’s work and of this report.

⁴⁰ For example, higher levels of negativity and alienation are expressed in Montreal and Vancouver than in Toronto.

APPENDIX IV: FOREIGN OWNERSHIP POLICY IN CANADA

A. Foreign Ownership Restrictions in Broadcasting

Canada has a long history of regulating foreign ownership of the media. Most recently, the Governor in Council on April 8, 1997 issued a Direction to the CRTC (ineligibility of Non-Canadians) requiring 80% Canadian ownership and control for all broadcast licensees and 66.6% for holding companies. This Direction also sets out additional restrictions on non-Canadian activity to maintain effective domestic control of broadcasting.

The definition of Canadian is key. This may be straightforward for individuals but can be complicated for organizations. Shareholders can own a company that itself owns other companies. Thus, the owners of the holding company indirectly own any companies owned by the holding company. Non-Canadians may own up to 20% of a broadcaster directly and up to 33.33% of a holding company that owns a broadcaster. In effect, this allows a non-Canadian to own up to 46.7% of a Canadian broadcaster. [20% + (33.33 x 80%) = 46.7%]

For large corporations whose shares are widely held, a block of voting shares less than 50% (even less than the 46.7% limit for direct and indirect ownership) can still provide effective control of a corporation. If a non-Canadian has effective control, by any means, of a Canadian corporation, that corporation loses its status as a qualified corporation, even if it meets the quantitative limits. Without the Canadian status the corporation may not acquire or be granted a broadcasting licence in Canada.

B. Foreign Ownership Restrictions in Newspapers

Although broadcasters must be Canadian-owned, there is no explicit prohibition against foreign ownership of newspapers. There are, however, two acts that support the ownership of Canadian newspapers by Canadians. Section 19 of the *Income Tax Act* precludes the deduction of advertising expenses to the extent that the expenses are incurred for advertisements directed at the Canadian market and placed in a newspaper or periodical that does not meet certain Canadian ownership criteria.

For a newspaper to be “Canadian” at least three-fourths of the voting shares must be beneficially owned by Canadian citizens. As was the case in broadcasting, even if non-Canadians meet the quantitative limits and own less than one-fourth of the voting shares in a newspaper, the newspaper could still be deemed non-Canadian. The key, again as in

the case of broadcasters, is whether the non-Canadian has effective control of the newspaper. If the Canada Revenue Agency decides that a newspaper is no longer Canadian, there is a one-year transition period before claimed deductions are disallowed.

Newspapers are also covered by the *Investment Canada Act*. Non-Canadians who acquire control of an existing Canadian business or who wish to establish a new unrelated Canadian business are subject to the *Investment Canada Act*, and they must submit either a Notification or an Application for Review. The “prescribed specific type of business activity that, in the opinion of the Governor in Council, is related to Canada's cultural heritage or national identity” includes newspapers and other print media.

Surprisingly, the schedule of regulations related to the *Investment Canada Act* does not include broadcasting. This omission is not of great significance, however, given the mandate for Canadian ownership and control of broadcasting that is found in the *Broadcasting Act*.

C. Foreign Ownership Policy and NAFTA

An additional question that emerged during the committee’s study of the current restrictions was whether foreign ownership policy was limited -- in the sense of not being reversible -- by the terms of Canada’s recent trade treaties, such as NAFTA. In other words, if Canada liberalized its rules, could it later decide to tighten them again?

The issue of possible irreversibility is complex. Trade lawyers argue that they would need to know the specific facts of any case before providing an answer (which would hold only for the case in question). If any restriction, such as a foreign ownership limit, were liberalized, one can argue that an attempt to reintroduce the restriction would pose problems. The reintroduced restriction could be challenged by the U.S., Mexico or the other foreign owners involved. Again, more facts would be needed, including answers to the questions: What were the grounds for the reintroduction of the restrictions? How were the restrictions reintroduced?

Countries other than the United States and Mexico could become involved if the ownership restrictions in our media industries were relaxed. Canada has other foreign investment protection agreements in addition to NAFTA. These other agreements, especially the post-NAFTA ones, would probably also include protections from any Canadian attempt to reintroduce a measure that had been liberalized.

The treatment of culture in NAFTA provides an example of how some aspects in a treaty can be overlooked. NAFTA, based on the earlier FTA, included a cultural exemption. Canada could indeed offer protection for specified cultural activity. What was widely overlooked was the related paragraph in the treaty that allowed a country harmed by the use of the cultural exemption to seek compensation of equal commercial value.

APPENDIX V: MEDIA LEGISLATION IN SELECTED COUNTRIES

The *Interim Report* noted that

[M]any nations have had to address the implications of media mergers and the gradual concentration of media ownership. While almost all advanced democracies include a traditional or constitutionally guaranteed freedom of the press, it is not uncommon for restrictions to exist with respect to concentration, cross-media ownership and foreign ownership. These restrictions, however, vary considerably by type of media and from one country to the next.⁴¹

The report included comparison tables for Canada, France, the United Kingdom, the United States and Australia. Recently, a volume has been produced that compares telecommunication and media law for a wider range of countries.⁴² The Global Competition Review covers 47 jurisdictions (46 countries and the European Union). It includes sections dealing with cross-ownership restrictions and foreign ownership restrictions.

The importance of these areas can be seen in the treatment of them by the European Union, which leaves them as the matter of member states' national laws. As the *Interim Report* noted, many nations have had to address the changes brought about by the wave of media mergers in 2000 and concentration in media sectors. Countries have also had to adjust to the changes tied to technological progress. Some countries sought to liberalize their media laws, often with respect to cross-media ownership, but the proposed changes faced stiff opposition in some countries, and media law there is still not completely settled. At the time of drafting this report, that was the case in the United States and Australia.

Of the 46 countries covered by the 2005 Global Competition Review, eight had no restrictions on foreign ownership or cross-media ownership. Most countries examined had some restrictions in one or both areas, but the nature of the legislated restrictions varied widely and could be quite complex. In several of the countries with no apparent specific restrictions, foreign or cross-media ownership is nonetheless subject to domestic competition policy and anti-trust law, or, in the case of foreign ownership, to successful registration as a local concern. The policies, laws or registration requirements can be

⁴¹ Page 31.

⁴² Rachel Brandenburger (ed.), *Getting the Deal Through – Telecoms and Media*, Global Competition Review, 2005.

loose or strict. In the case of Canada, for example, a broadcaster with cross-media links must be licensed by the CRTC. The CRTC could, in theory, set down demanding conditions of licence for media conglomerates, and such a regulatory stance could, again in theory, be an effective brake on cross-media transactions. However, as the Global Competition Review noted: "... A series of CRTC decisions in the 1980s and 1990s has eroded this policy [of discouraging cross-media ownership] *to the point where it has been effectively abandoned.*" (emphasis added)

U.S. Media Law

In June 2003 the Federal Communications Commission (FCC) tried to ease ownership restrictions in the United States. The proposed changes were hotly contested, and in June 2004 were effectively quashed by the United States Court of Appeals for the Third Circuit. Accordingly, the original ownership restrictions remain in place. These include:

- A ban on common ownership of a broadcaster and a daily newspaper serving the same market;
- Thresholds for radio-television cross-ownership, with the allowable number of jointly owned stations increasing with the size of the market;
- Restrictions on the ownership of two television stations in the same designated market area, with the restrictions based on the coverage or relative ratings of the two stations; and
- Limits on the number of radio stations in a local market that may have the same owner, with the limits based on the total number of radio stations in the market.

The most contentious change proposed by the FCC had to do with the permitted coverage, in terms of television households reached, of television broadcast networks. Under the existing system, networks could own stations that, in total, reached 35 per cent of households; the FCC proposed an increase to 45 per cent; and a Congressional Act placed the limit at 39 per cent (perhaps not coincidentally, the proportion then reached by some networks).

The fight over television network reach and the existing restrictions demonstrate the use in the U.S. of explicit quantitative limits to control media ownership (what are called "bright line tests"). The reasoning is that these tests protect consumers by providing definite limits, and they help industry participants by having a transparent system. This, according to some, limits political interference and promotes competition.

Despite its pro-market stance and nominal support of global competition, the U.S. maintains foreign ownership restrictions for broadcasters. The restrictions go back decades and cover only broadcasters, a term with a narrow meaning in the U.S., namely over-the-air transmitters of radio and television signals. Cable companies and other distributors, production companies, and pay and specialty channels may be owned by non-U.S. citizens.

There are no restrictions on foreign ownership of newspapers, and foreigners (including Canadians) do own some American papers. All the major newspapers and newspaper groups, however, are U.S.-owned.

U.K. Media Law

At about the same time that the U.S. was attempting to modify its media ownership rules, the United Kingdom's new *Communications Act* received Royal Assent.

The Act removed most foreign ownership restrictions and, according to the Global Competition Review, “substantially removed former restrictions on cross-media ownership in the U.K. by removing certain prohibitions and raising the relevant market share thresholds.” What is important for this report is the provisions for the assessment of media mergers.

Most important is the explicit role for the Secretary of State, with the advice of Ofcom (the regulator for all communications in the U.K.), to intervene in certain cases on specified grounds of public interest.

An Ofcom guide explains that two kinds of media mergers allow the Secretary of State's intervention:

In a “relevant merger situation”, the Secretary of State may intervene where:

two or more enterprises cease to be distinct as a result of the merger;
and where either

The value of the turnover in the UK of the enterprise being taken over exceeds £70 million (the turnover test); and / or

The merger would result in the creation or enhancement of at least a 25 per cent share of supply of goods or services of any description in the UK or in a substantial part of the UK (the share of supply test).

In a “special merger situation” the Secretary of State may intervene:

where two or more enterprises cease to be distinct and

one of the merging parties has an existing 25 per cent or more share of the supply of newspapers or broadcasting in the UK or in a substantial part of the UK. (Ofcom guidance document)

The media public interest considerations include a newspaper test, and a broadcasting and cross-media test.

The newspaper test includes a consideration of the following:

- the need for accurate presentation of news in newspapers
- the need for free expression of opinion in the newspapers involved in the merger
- the need for, to the extent that is reasonable and practicable, a sufficient plurality of views expressed in newspapers as a whole in each market for newspapers in the UK or part of the UK.

Considerations for broadcasting and cross-media mergers include:

- the need for there to be a sufficient plurality of persons with control of the media enterprises serving that audience in relation to every different audience in the UK or a particular area/locality of the UK
- the need for the availability throughout the UK of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests
- the need for persons carrying on media enterprises and for those with control of such enterprises to have a genuine commitment to the attainment in relation to broadcasting of the standards objectives set out in Section 319 of the *Communications Act 2003* (e.g. due impartiality of news, taste and decency).

The Secretary of State then decides whether the merger should be allowed to proceed, in whole or in part, and whether conditions should be attached.

There are lessons to be learned from laws and practices in other countries. There are, of course, important institutional differences between Canada and the U.K., as there are between Canada and the U.S. Nevertheless, it is a useful exercise to see how the media laws in those two countries would, if applied in Canada, have affected the Canadian media sector.

In terms of foreign ownership, the U.S. model would have allowed Canada to retain restrictions, although with somewhat different coverage and rationale. Following the U.K. model, on the other hand, would have led to the removal of most restrictions.

The U.S. bans cross-media ownership in the same market, although there are numerous exceptions. In the case of the U.K., it is not possible to say with complete certainty that the law would have banned the transactions discussed above that took place in Vancouver, Quebec and New Brunswick. The transactions in each of those markets would, however, have been flagged, by the turnover test or the share of supply test, if not both, for review on public interest grounds.

APPENDIX VI: CHANGE IN THE REGULATORY REGIME

Various options for changes to Canada's regulatory regime in the field of the news media will be discussed under the following headings:

- a) maintaining the status quo,
- b) modest changes to the mandate of the Competition Bureau and the CRTC,
- c) changes to the relationship between the Competition Bureau and the CRTC,
- d) adjusting the role of the Competition Bureau and a significantly altered and reduced role for the CRTC,
- e) the merger of the two institutions, and
- f) development of specific mechanisms to deal with the public interest in news and news gathering institutions.

A. Maintaining the Status Quo

From the discussion so far, the reasons for rejecting this option should be apparent. It is obvious to this Committee that the current regulatory regime is not effective and shows no sign of improving. Simply maintaining the status quo is therefore not acceptable.

B. Modest Changes to the Mandates of the Competition Bureau and the CRTC

1. The Competition Bureau

While the Competition Bureau has intervened in media mergers (e.g., the Astral case), it has done so on relatively narrow grounds. While the Bureau has commented, in some cases on related issues, it has tended to emphasize advertising markets, particularly local markets. This focus is extremely narrow and in its own right peculiar.

It strikes this Committee as extremely odd that almost the only consideration that the Competition Bureau deems important in a media merger is the local advertising market. Competition is deemed worthy because over time it provides benefits to consumers. In many cases these benefits include lower prices. Hence it is reasonable as part of a review of media mergers to look at the impact on advertising markets. However, it is short sighted in the extreme to let this be the sole focus of a review.

While this Committee does not and would not suggest examining the content of news media as part of a review of mergers it does suggest that a reduction in the number of

owners, the diversity of views and sources of news within a community should be matters of public interest and thus should be part of a review of the acceptability of a merger.

A related problem with competition policy as it has developed in Canada is the understanding of dominant position in a market. A company that achieves a dominant position in a market over a period of years by providing a better quality product at a better price is not in violation of competition law. This is particularly the case of the company that grows through its own business acumen and does not abuse its market power. Thus, in competition policy it is perfectly acceptable for a company to end with a dominant position in a particular market and this would not normally be a concern before the Competition Bureau.

While the reasoning behind this position may be acceptable for the production of many products and services, it is not acceptable in the area of news and information services. It is particularly unacceptable when a company is able to purchase all, or almost all, of the newspapers or broadcasters in a particular market or region. The situation in New Brunswick is a perfect illustration of the problem.

A solution would be to clarify the mandate of the Competition Bureau so that it could not define the markets for the news media in such a narrow manner that important services such as “news and information” can be defined out of existence. In addition, the *Competition Act* needs to address the particular public interest in news and information programming.

2. The CRTC

The mandate of the CRTC is very broad and since it flows from the principles enunciated in the *Broadcasting Act* it involves the reconciliation of conflicting goals. Legislation such as the *Broadcasting Act*, by its very nature, must be broad and comprehensive and leave some discretion to the activities of the CRTC in the exercise of its mandate. While a rational observer might conclude that Section 3 of the *Broadcasting Act* assumes that news and information have at least some importance, it is not at all clear where and how they fit within the many objectives of the Act. Nor does the Act provide any guidance on how its various objectives are to be reconciled.

This ambiguity about the importance of, and the priority for, news and information programming has allowed the CRTC a great deal of latitude in its decisions considering media mergers.⁴³ At times in the past it has denied certain corporate efforts (e.g., the

⁴³ Professor Schultz’s paper observes that the “*Broadcasting Act* is a policy morass. While some of the policy objectives in Sec. 3 are reasonably concrete, others are undefined – perhaps even

attempt by the Torstar Corporation to purchase a cable network during the 1980s). At other times it has approved large scale cross-media mergers such as that of Bell Canada Enterprises' purchase of CTV. It has allowed the merger of assets that even the Competition Bureau has argued against (the Astral case). The CRTC may appear to have criteria to guide its decision making, but it is impossible to develop a coherent list of these criteria and demonstrate how they have been consistently used over the years.

One partial solution would be to clarify the aims and objectives of the *Broadcasting Act* and the responsibilities of the CRTC with respect to news and information programming. The easiest way to do this would be to amend the *Broadcasting Act* so that it specifically gives a high priority to news and information.

Amendment of the *Broadcasting Act* should be coupled with an amendment of the responsibilities of the CRTC. One might, for example, specify that the CRTC has a responsibility to preserve an acceptable quantity and a diversity of information, news and public opinion within the broadcasting system. This does not mean judging the quality of individual news programs; it means taking into account the overall sources, diversity and quantity of the elements mentioned.

During the past few decades the CRTC has largely allowed questions of news and information services to disappear from its mandate. This is particularly so in radio. At present the Commission focuses on the economic health of AM and FM radio and provides some information on the genre of radio stations (e.g., country and western). It is extremely difficult to understand why the genre of a radio station's music is of more importance to the public interest than the question of how much and what type of news and information programming is provided.

C. Changes to the Relationship between the Competition Bureau and the CRTC

An "interface agreement" was developed by the CRTC and the Competition Bureau "to provide greater clarity and certainty" for those seeking to understand the jurisdictional boundary between the two agencies.⁴⁴ Essentially, the agreement says that both organizations have jurisdiction and can engage in parallel merger reviews. In the Astral

indefinable, e.g., 'cultural sovereignty'; furthermore there is no ranking, no attempt to resolve inconsistencies, or ambiguities, or outright conflicts. One of the most important consequences of what I think can be charitably described as a legislative laundry list of policy goals is that it effectively transfers policy-making power, subject to minimal constraints to the CRTC. It can also mean...that different Commissioners at different times can give different meanings and interpretations to the same objectives." Schultz *op. cit.*, p. 9.

⁴⁴ The Interface Agreement is contained in Appendix XI below.

case they came to opposite conclusions: the Commission approved the merger and the Bureau opposed it.

The fact is that the “interface agreement” does not help resolve the problems that concern this Committee. For example, it does not and cannot address the fact that the Competition Bureau, under its current mandate, has a narrow focus on economics or the fact that the CRTC pays comparatively little attention to news.

While it may be possible to clarify the “interface agreement” the fundamental problem is that it does not resolve the problems of joint jurisdiction or address the larger issue of the public interest.

D. Adjusting the Role of the Competition Bureau and a Significantly Altered and Reduced Role for the CRTC

Some of the problems might be addressed by substantially altering the role of the CRTC and by enlarging that of the Competition Bureau. This could be done by altering the responsibilities of the CRTC, so that it was only allowed to examine broadcasting media mergers from the perspective of a diversity of voices (in this case the amount and diversity of news, information and opinion) and restricted from commenting on the ongoing economic viability of the entities involved in the merger. The competitive aspects of the merger would be left to the Competition Bureau.

This option would require changes to the mandates of both organizations. It would have the advantage of clarifying the current situation and would go some way to ensuring that a diversity of news and views were considered in broadcast media mergers. It would not, however, clarify the situation involving newspaper mergers or cross-media mergers. The only way that these might be examined more appropriately is within an expanded mandate for the Competition Bureau.

E. The Merger of the Two Institutions

One way to reduce the overlap between the two agencies might be to merge them and form one agency. While this would reduce the confusion about overlap, the creation of one institution would not, in and of itself, change the need to apply different considerations to media mergers than are applied to other mergers. Nor would a simple integration of the agencies resolve the problem that procedures in both agencies are seriously deficient when it comes to the consideration of media mergers.

It is also unlikely that some of the considerations of public policy important for broadcasting matters could easily be incorporated within the procedures developed by the

Competition Bureau without substantial changes to the *Competition Act* and the considerations that might be included in a review by the Competition Tribunal. Two such issues might be the diversity of news and opinion available in particular markets. In short, the two agencies would not easily fit together.

F. Development of Specific Mechanisms to Deal with the Public Interest in News and News Gathering Institutions.

While the mandates of the two federal agencies most deeply involved in the issues before this Committee need to be clarified, that alone will not solve the problem. Nor is it possible to give exclusive jurisdiction to one agency or the other.

To give exclusive jurisdiction for media mergers to the CRTC would have two unfortunate consequences. First, important concerns about competitive markets (e.g., advertising) would, judging by past performance, be ignored. Second, the CRTC would have to be given responsibility for examining mergers involving newspapers. This would represent a serious and unacceptable expansion of the CRTC's mandate.

As a regulator of the broadcasting system the CRTC has enormous power to set conditions of licence for broadcasters, to require them to provide certain services and to prevent them from providing certain services. For example, the CRTC has the power to determine what genre of radio stations will be allowed in a particular market and how many of a certain genre will be allowed. The application of these types of decisions to newspapers would rightly be seen as disastrous. It would also probably be unconstitutional. In addition, it would violate one of this Committee's fundamental principles – that any solution to the current problems should not involve government interference in the internal operation of news gathering organizations.

For these fundamental reasons the Committee rejects any notion of expanding the role of the CRTC in such a way that it might be involved in oversight of the internal operations of newspapers.

An alternative approach, giving exclusive jurisdiction to the Competition Bureau, would require an expansion of the Bureau and a substantial reduction in the authority of the CRTC. While this might be desirable on certain grounds it would introduce confusion within the broadcasting system and likely lead to an increase in the friction between the Bureau and the CRTC.

Thus there will always be a problem of overlap. Given this reality there are at least two adjustments that could be made. These are the adaptation of a model used in other situations (e.g., the *Canada Transportation Act*) or a modified version of a model developed in other jurisdictions (e.g., such as that developed in the United Kingdom to deal with media mergers). Each of these will be discussed in the next two sections.

1. Adaptation of an Existing Canadian Model

Overlap between the jurisdiction of the Competition Bureau and the CRTC is not unique. A similar problem exists with respect to the *Canada Transportation Act*. As a solution, the airline merger provisions of the *Act* call for the Commissioner of Competition to be informed “under her own legislative provisions at the same time as the Canadian Transportation Agency is informed of a proposed merger.”⁴⁵

Similarly, proposed revisions to the *Investment Canada Act* (Bill C-59) concerning matters of national security had included a provision for national security reviews by the Governor in Council.⁴⁶

Adoption of a model similar to that involving transportation mergers and the inclusion of “reviews” similar to those proposed in the *Investment Canada Act* would go some way to clarifying the situation between the Bureau and the CRTC. However, they would not resolve all the issues that need to be addressed when dealing with the media.

2. Adaptation of a Non-Canadian Model

During the course of its work this Committee examined the recent changes to the regulation and supervision of broadcasting and media in the United Kingdom.

Media mergers in the United Kingdom are subject to a jurisdictional overlap similar to that in Canada. To respond to the problems of overlap the United Kingdom has developed a set of procedures that may be applied in any type of media merger. These are described in Appendix V of this Volume.

The obvious advantage of this model is that it explicitly recognizes a public interest in media mergers and further recognizes that these interests are broader than the concerns that typically apply to mergers (e.g., narrow economic concerns about competitive behaviour). It also recognizes and preserves the distinct role and competency of the two

⁴⁵ Schultz, *op cit.*, p. 37.

⁴⁶ Bill C-59 was introduced in the House of Commons in June 2005; work stopped on the bill with the election call and dissolution of Parliament in November 2005. The bill called for the adoption of a timetable for national security reviews, but the details were not made available.

regulatory agencies involved and requires both to contribute to the review. A third advantage is that the results of the review are made public.⁴⁷

⁴⁷ A fuller description of the details of this process can be found in a “guidance document” titled *Enterprise Act 2002: Public Interest Intervention in Media Mergers* available from the United Kingdom’s Department of Trade and Industry (dti).

APPENDIX VII: EXTRACTS FROM THE *BROADCASTING ACT*

PART I: GENERAL

*Broadcasting Policy for
Canada*

Declaration

3. (1) It is hereby declared as the broadcasting policy for Canada that

(a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians;

(b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;

(c) English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;

(d) the Canadian broadcasting system should

(i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,

(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

(iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society, and

(iv) be readily adaptable to scientific and technological change;

(e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;

(f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative

and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

(g) the programming originated by broadcasting undertakings should be of high standard;

(h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;

(i) the programming provided by the Canadian broadcasting system should

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,

(ii) be drawn from local, regional, national and international sources,

(iii) include educational and community programs,

(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and

(v) include a significant contribution from the Canadian independent production sector;

(j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system;

(k) a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available;

(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;

(m) the programming provided by the Corporation should

(i) be predominantly and distinctively Canadian,

(ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,

(iii) actively contribute to the flow and exchange of cultural expression,

(iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,

(v) strive to be of equivalent quality in English and in French,

- (vi) contribute to shared national consciousness and identity,
 - (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
 - (viii) reflect the multicultural and multiracial nature of Canada;
- (n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it shall be resolved in favour of the objectives set out in paragraphs (l) and (m);
- (o) programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose;
- (p) programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;
- (q) without limiting any obligation of a broadcasting undertaking to provide the programming contemplated by paragraph (i), alternative television programming services in English and in French should be provided where necessary to ensure that the full range of programming contemplated by that paragraph is made available through the Canadian broadcasting system;
- (r) the programming provided by alternative television programming services should
- (i) be innovative and be complementary to the programming provided for mass audiences,
 - (ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences, and include programming devoted to culture and the arts,
 - (iii) reflect Canada's regions and multicultural nature,
 - (iv) as far as possible, be acquired rather than produced by those services, and
 - (v) be made available throughout Canada by the most cost-efficient means;
- (s) private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,
- (i) contribute significantly to the creation and presentation of Canadian programming, and
 - (ii) be responsive to the evolving demands of the public;
- and

- (f) distribution undertakings
 - (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,
 - (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,
 - (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and
 - (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

Further declaration

(2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.

PART II: OBJECTS AND POWERS OF THE COMMISSION IN RELATION TO BROADCASTING

Objects

5. (1) Subject to this Act and the *Radiocommunication Act* and to any directions to the Commission issued by the Governor in Council under this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, shall have regard to the regulatory policy set out in subsection (2).

Regulatory policy

(2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that

- (a) is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate;
- (b) takes into account regional needs and concerns;
- (c) is readily adaptable to scientific and technological change;
- (d) facilitates the provision of broadcasting to Canadians;
- (e) facilitates the provision of Canadian programs to Canadians;
- (f) does not inhibit the development of information

technologies and their application or the delivery of resultant services to Canadians; and

(g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings.

Conflict

(3) The Commission shall give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2).

Employment equity

(4) Where a broadcasting undertaking is subject to the *Employment Equity Act*, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking.

APPENDIX VIII: EXTRACT FROM THE *COMPETITION ACT*

Factors to be considered
regarding prevention or
lessening of competition

93. In determining, for the purpose of section 92, whether or not a merger or proposed merger prevents or lessens, or is likely to prevent or lessen, competition substantially, the Tribunal may have regard to the following factors:

(a) the extent to which foreign products or foreign competitors provide or are likely to provide effective competition to the businesses of the parties to the merger or proposed merger;

(b) whether the business, or a part of the business, of a party to the merger or proposed merger has failed or is likely to fail;

(c) the extent to which acceptable substitutes for products supplied by the parties to the merger or proposed merger are or are likely to be available;

(d) any barriers to entry into a market, including

(i) tariff and non-tariff barriers to international trade,

(ii) interprovincial barriers to trade, and

(iii) regulatory control over entry,

and any effect of the merger or proposed merger on such barriers;

(e) the extent to which effective competition remains or would remain in a market that is or would be affected by the merger or proposed merger;

(f) any likelihood that the merger or proposed merger will or would result in the removal of a vigorous and effective competitor;

(g) the nature and extent of change and innovation in a relevant market; and

(h) any other factor that is relevant to competition in a market that is or would be affected by the merger or proposed merger.

APPENDIX IX: EXTRACT FROM THE *OFFICIAL LANGUAGES ACT*

Notices, advertisements and other matters that are published

11. (1) A notice, advertisement or other matter that is required or authorized by or pursuant to an Act of Parliament to be published by or under the authority of a federal institution primarily for the information of members of the public shall,

(a) wherever possible, be printed in one of the official languages in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in that language and in the other official language in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in that other language; and

(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in English or no such publication that appears wholly or mainly in French, be printed in both official languages in at least one publication in general circulation within that region.

Equal prominence

(2) Where a notice, advertisement or other matter is printed in one or more publications pursuant to subsection (1), it shall be given equal prominence in each official language.

APPENDIX X: THE INTERFACE AGREEMENT

CRTC/Competition Bureau Joint Statement

October 8, 1999

CRTC/Competition Bureau Interface

Introduction

As the transition of the telecommunications and broadcasting industries from regulated monopolies to competitive markets continues, it would be beneficial to describe the authority of the [Canadian Radio-television and Telecommunications Commission](#) under the *Telecommunications* and *Broadcasting Acts* and that of the Competition Bureau under the *Competition Act*.

This is particularly so given the complementary roles of the two organizations and the fact that the Commission is now moving beyond opening markets to competition and is exercising its powers to forbear from regulation in the area of telecommunications.

Industry stakeholders, including the general public, need greater clarity and certainty as to the overall regulatory and legal framework in which telecommunications and broadcasting firms must conduct their affairs.

Nothing in this document is intended to limit the responsibility or authority of the Commission or the Bureau to administer the respective legislation for which they are responsible. It is recognized that in addition to competition issues, the Commission has many other statutory objectives, while the focus of the Bureau is on matters related to competition.

Issues of authority with respect to competition can be grouped into four areas:

1. Where the Commission has forbore or exempted from regulation;
2. Where the Commission and the Bureau both have authority;
3. Where the Commission is exercising exclusive authority;
4. Where the Bureau is exercising exclusive authority.

1. Where the Commission has Forborne or Exempted from Regulation

Background

Under the *Telecommunications Act*, the CRTC has authority to exempt classes of carriers from application of the *Act*. Exemption orders may be subject to conditions. The Commission also has the power to forbear in whole or in part from most regulatory

responsibilities where it finds, for example, that services or classes of services are subject to sufficient competition to protect the interests of users and that forbearance would not likely unduly impair the development or continuance of a competitive market. Forbearance orders may also be conditional, and can be varied or rescinded.

As a law of general application, the *Competition Act* has an established administrative framework, jurisprudence and a market test standard of “substantial prevention or lessening of competition” with which to deal with competition issues. However, it is generally accepted that during the transition to competitive markets, competition safeguards beyond those available under the *Competition Act* are required.

Modus Operandi:

- Where the Commission has unconditionally exempted or has forbore from regulation in whole and unconditionally, until such time as it exercises its authority to review, rescind or vary its exemption or forbearance orders and decisions, the *Competition Act* would apply.
- Where the Commission has forbore only in part or has exempted or forbore conditionally, the Bureau considers that the *Competition Act* would apply to the activities exempted or conditionally forbore from regulation.
- To the maximum extent possible, the Commission identifies in its orders and decisions the powers and duties which the Commission will no longer exercise.

Transitional Safeguards

As all markets are not yet subject to effective competition, the Commission will continue to enforce regulatory safeguards to deal with issues such as bundling of services by the telephone companies, contract and access issues for multi-dwelling buildings, and exclusive programming rights practices. During the transition to competition, the Commission can deal with these issues more efficiently than a case-by-case approach under the *Competition Act*.

One notable issue in the transition to competition is anti-competitive cross-subsidization. Until all telecommunications markets are subject to effective competition, the Commission will need to guard against incumbent carriers cross-subsidizing services offered in highly contested markets with revenues from services where effective competition does not exist. Imputation tests and bundling restrictions imposed by the Commission are intended to address this issue. Safeguards imposed by the Commission seriously diminish the likelihood of anti-competitive cross-subsidization.

When the Commission deems that markets have become sufficiently competitive and the Commission forbears from regulation, the *Competition Act* would address anti-competitive pricing issues should they arise.

2. Where the Commission and the Bureau both have Authority

(a) Merger Review

Background:

Under the *Telecommunications Act*, prior approval of telecommunications mergers is not required. However, the CRTC has specific responsibility under the *Telecommunications Act* for ensuring compliance with foreign ownership and control rules and has broad regulatory authority over the Canadian telecommunications system. Under the *Competition Act*, all mergers are subject to review and those which exceed proscribed economic thresholds must be formally prenotified to the Bureau.

Under the *Broadcasting Act*, prior approval of the Commission is required for changes of control or ownership of licensed undertakings. Whereas the Bureau's examination of mergers relates exclusively to competitive effects, the Commission's consideration involves a broader set of objectives under the *Act*. This may encompass consideration of competition issues in order to further the objectives of the *Act*. The Bureau's concern in radio and television broadcast markets relates primarily to the impact on advertising markets and, with respect to broadcast distribution undertakings, to the choices and prices available to consumers. The Commission's concerns include those of the Bureau except that its consideration of advertising markets relates to the broadcasters' ability to fulfill the objectives of the *Act*.

It is generally Government and Commission policy to encourage competition in broadcasting, particularly in the distribution of broadcasting services.

Modus Operandi:

Consequently, with respect to merger review:

4. there is parallel jurisdiction.
5. any transaction must comply with the legislation administered by both organizations.
6. the merger and related pre-notification requirements of the *Competition Act* apply to telecommunications and broadcasting mergers.
7. review by the Commission under the *Telecommunications Act* deals with ensuring compliance with foreign ownership and control limitations and may include other regulatory issues that may arise as a result of the transaction - prior approval, per se, is not required.
8. review by the Commission under the *Broadcasting Act* applies to changes in ownership or control of licensees under the *Act*.

(b) Marketing Practices

Depending upon the specific circumstances, marketing practices can be addressed by the Commission or the Bureau.

The Commission will, for example, deal with slamming complaints in the telephone market. However, the Bureau may act in cases where the slamming practice involves an element of false or misleading advertising. The *Competition Act* applies to all false or misleading advertising in the communications industry, as well as to telemarketing fraud.

The Bureau considers that the *Competition Act* will apply to exclusive dealing, tied selling and other trade restraints not covered by regulatory safeguards imposed by the Commission.

Both the Commission and the Bureau would support the appropriate use of industry codes of conduct or ombudsman models as complementary vehicles to deal with consumer concerns. As appropriate, the Commission and the Bureau will review industry codes to ensure compliance with their respective legislation.

3. Where the Commission is Exercising Exclusive Authority

Background

Interconnection and access are critical for telecommunications competition. They require a high degree of technological and economic expertise, as well as flexible and timely dispute resolution. While the *Competition Act* applies to access and interconnection issues in unregulated network industries, they have been a primary focus of economic regulation in telecommunications by the CRTC.

Modus Operandi

- The CRTC will continue to deal with issues related to interconnection and access.

4. Where the Bureau is Exercising Exclusive Authority

Background

Activities such as conspiracies to fix prices or otherwise prevent or lessen competition unduly, bid rigging and price maintenance are subject to criminal prohibition under the *Competition Act*.

Modus Operandi

The Bureau will deal with price fixing, bid rigging and price maintenance.

APPENDIX XI: SAMPLE FREELANCE CONTRACT WITH CANWEST NEWS SERVICE

This Freelance Agreement (the “Agreement”) sets forth the terms and conditions of the agreement between CanWest News Service, a division of CanWest Publications Inc. (“CanWest”) and the above-named individual (“Freelancer”) for the services of Freelancer to create and supply written or other material (“Content”) to CanWest.

1. CanWest may, from time to time engage Freelancer to furnish Content to CanWest. This Agreement shall apply to all Content furnished to CanWest by Freelancer, without further formality, until terminated in writing.

2. Freelancer acknowledges and agrees that Freelancer’s engagement hereunder is on a “flat fee” basis. Nothing in this Agreement shall be interpreted so as to create the relationship of employer/employee between CanWest and Freelancer, which shall be that of independent contractors. Freelancer acknowledges that Freelancer shall be solely responsible for all necessary deductions and remittances whether for income tax purposes or otherwise in connection with the compensation earned hereunder. Freelancer agrees that the Content, this Agreement, and the services of Freelancer are not subject to any union or collective bargaining agreement, and will not become so subject.

3. Freelancer hereby irrevocably grants and assigns to CanWest all rights of every kind in and to the Content (including copyright), and agrees that CanWest shall have the right to exclusively use and exploit the Content in any manner and in any and all media, whether now known or hereafter devised, throughout the universe, in perpetuity. For greater certainty, Freelancer shall have no right to re-sell or re-publish the Content without CanWest’s express written permission. CanWest shall be entitled to edit the content, and Freelancer hereby waives in favour of CanWest and its assigns, all "moral rights" in and to the Content. Nothing herein shall obligate CanWest to use or publish the Content in any manner. The rights granted hereunder may be freely assigned or sub-licensed by CanWest to any third party.

4. Freelancer represents and warrants that the Content is wholly original to Freelancer, that Freelancer has the unimpaired right to convey the rights granted herein, and that the Content shall not infringe upon or violate the rights of any third party, whether personal or proprietary, including copyright. Freelancer hereby indemnifies and holds harmless CanWest from and against any and all damages, or liabilities arising out of a breach by Freelancer of this Agreement or any of the foregoing representations and warranties. Freelancer’s rights and remedies hereunder shall be limited to the right, if any, to obtain damages at law and Freelancer shall not have any right in such event to terminate, rescind, enjoin or restrain any of the rights granted to CanWest hereunder.

5. This Agreement shall be governed by the laws of, and shall be subject to the jurisdiction of the courts of the Province of Ontario and Canada applicable therein. Either of CanWest or Freelancer may terminate this Agreement on thirty (30) days written notice, provided that CanWest shall retain all rights in and to all previously provided Content. This is the entire Agreement between the parties.

APPENDIX XII: ELIGIBILITY CRITERIA FOR THE PUBLICATIONS ASSISTANCE PROGRAM

The following eligibility criteria for PAP are from the Department of Canadian Heritage website:

To be eligible, publications must meet certain requirements outlined in detail in the Application Guide. Key elements of these criteria include:

- in operation for one financial year and one completed publishing cycle;
- Canadian-ownership and control;
- edited, designed, assembled, published and printed in Canada;
- paid circulation comprising at least 50% of total circulation, through bona fide subscriptions and single copy sales through retailers/newsstands;
- a significant portion of original material produced by Canadians;
- a maximum of 70 per cent advertising;
- minimum frequency of 2 times and maximum of 56 times per year;
- minimum subscription price of \$12 or more per year or a value of \$1 or more per issue, and minimum single-copy-sale price of \$0.50 per issue in the case of a weekly newspaper and of \$1 per issue in the case of a periodical.⁴⁸

⁴⁸ http://www.pch.gc.ca/progs/ac-ca/progs/pap/faq/faq_e.cfm#3

APPENDIX XIII: CBC SERVICES

The CBC operates four commercial free radio networks and two television networks. It also operates two 24-hour news and information services – CBC Newsworld and the Réseau de l'information. In addition it operates: three specialty television channels (Country Canada, ARTV and a documentary channel); English and French language services over the World Wide Web; Internet based programming services for English and French youth; and Galaxie, a digital audio service offering 30 music channels.

While the CBC/Radio Canada operates a large number of services on different platforms the audience share of the main television networks has been declining for the last twenty-five years. In part this is due to the fragmentation of audiences, for both public and private broadcasters, that has occurred as the number of channels available has increased.⁴⁹ It is also due to a decision by the CBC to increase the proportion of Canadian content that it provides on its television networks.

Unfortunately, the precipitous decline in audience share over the past two decades has occurred as the parliamentary appropriation also declined. The huge loss of revenue has forced the CBC to focus on activities that earn income – advertising during TV news programs and a heavy reliance on the broadcasting of sporting events.

Although audience shares have declined over the last twenty years CBC is still an important source of news for Canadians. The following table shows the audience for various news shows during the Fall of 2005.

⁴⁹ Fragmentation was discussed at some length in this Committee's *Interim Report*.

Audiences to Early-Evening and Late-Night News Programs on Canadian English-Language Networks August 30, 2004-April 3, 2005				
Table	Network	Day	Time	Average Minute Aud. 2+ (000)
	CBC			
	Canada Now – National	Mon.-Fr.	6:00-6:30 p.m.	270
	Canada Now – Local	Mon.-Fr.	6:30-7:00 p.m.	285
	The National	Mon.-Fr.	10:00-10:25 p.m.	673
	The National – 2 nd edition	Mon.-Fr.	11:00-11:25 p.m.	186
	Saturday Report	Sat.	6:00-6:30 p.m.	213
	Sunday Night News	Sun.	10:00-10.25 p.m.	650
	CBC Newsworld			
	The National	Mon.-Fr.	9:00-9:25 p.m.	123
	The National	Mon.-Fr.	12:00-12:25 a.m.	57
	The National (Sept.-Dec.)	Mon.-Fr.	3:00-3:25 a.m.	13
	The National (Jan.-Apr.)	Mon.-Fri.	5:00-5:25 p.m.	5
	Saturday Report	Sat.	5:00-5:30 p.m.	47
	Saturday Report	Sat.	9:00-9:30 p.m.	74
	Saturday Report	Sat.	12:00-12:30 a.m.	51
	Sunday Night News	Sun.	9:00-9:25 p.m.	110
	Sunday Night News	Sun.	12:00-12:25 a.m.	58
	Sunday Night News (Oct.-Dec.)	Sun.	3:00-3:25 a.m.	13
	Sunday Night News (Jan.-Apr.)	Sun.	5:00-5:25 a.m.	4
	CTV			
	CTV Evening News	Mon.-Fri.	6:00-7:00 p.m.	1,480
	CTV Evening News	Sat.-Sun.	6:00-7:00 p.m.	901
	CTV National News	Mon.-Sun.	11:00-11:30 p.m.	898
	CTV Late Night News	Mon.-Sun.	11:30p.m.-12:00a.m.	506
	Global (National)			
	Global News	Mon.-Fri.	5:30-6:30 p.m.	921
	Global National	Mon.-Fri.	6:30-7:00 p.m.	714
	Global News/Sports	Mon.-Fri.	11:00p.m.-12:00a.m.	287
	Global National (as of Feb. 27)	Sat.-Sun.	6:30-7:00 p.m.	430

Source: CBC Corporate Research and Strategic Analysis (Nielsen Media Research)

CBC radio, in both French and English, offers a unique service that does not duplicate the efforts of private broadcasters. Because it is a unique service and is free of advertising it tends to attract audience shares that are significantly higher than those attracted to the CBC's television broadcasting. For example, for all programming the main radio services (French and English) have audience shares that are several times those of the television

services (e.g., 15% for radio as opposed to less than 5% for English language television) There are lessons to be learned here.

Although French language television audience shares are higher than those of English language television shares they have also been declining as more French language specialty channels have become available.

There is no doubt that the CBC makes an important contribution to the Canadian broadcasting system. It makes a great deal of Canadian content available to Canadians, and operates a large number of different services that allow Canadians to see and hear about different regions of the country. It also has an impact in “raising the bar” for other news services since the private sector competes with the CBC for viewers.⁵⁰

As one witness told the Committee:

We would like to draw your attention to a study conducted for the BBC by McKinsey & Company the respected international consulting firm. That study examined the role of most of the world's major public broadcasters in 20 countries on four continents. McKinsey found that there is a strong link between the health and funding of the public broadcaster and the overall quality of that broadcasting market. A strong public service broadcaster like the BBC, which produces a distinctive programming schedule, sets off what McKinsey calls a virtuous circle with its commercial competitors; because the BBC produces better programs, private broadcasters are forced to do the same.

Arthur Lewis, Executive Director
Our Public Airwaves
October 9, 2003

⁵⁰ McKinsey & Company, *Public Service Broadcasters Around the World: A McKinsey Report for the BBC* (London: McKinsey & Company, 1999).

APPENDIX XIV: CODES OF CONDUCT AND STATEMENTS OF PRINCIPLE

1. Brunswick News Inc. Operating Philosophy and editorial freedom (complete text)

The BNI operating philosophy can be succinctly summed up as follows:

- BNI newspapers strive to be the most trusted, respected and accurate source of information in the New Brunswick communities they serve.
- Our newspapers will reflect broad mainstream values of the citizens of New Brunswick. Our newspapers treat people with dignity and respect. What we print will be in accordance with the standards of our communities, which we recognize will evolve and change over time.
- BNI newspapers will cover the news as impartially as possible without fear or favour. We will expose wrong-doing, duplicity or the misuse of power, public or private. We are committed to the principles of truth, fairness and accuracy. When mistakes are made, we admit them and correct them promptly.
- Our newspapers' duty is to serve their readers and New Brunswickers at large and operate on a financially sustainable basis.⁵¹

2. CanWest Global's Statement of Journalistic Standards (complete text)

ACCURACY

Our primary duty to our readers is to report the news as accurately and fairly as possible. We must be driven by facts that are obtained through credible sources and which fairly reflect the context of the news.

MISTAKES AND ERRORS

If our reporting contains errors and omissions, we will ungrudgingly and promptly publish a correction.

FAIRNESS AND BALANCE

News reporting should be fair, unbiased and present competing sides to a story. People who are the subject of news reporting must be given a fair opportunity to respond as part of the story, failing which, such response, once obtained, should be published at the next opportunity. Journalists and editors must make all effort to set aside their own biases and prejudices in order to provide readers with fair coverage.

⁵¹ Taken from the submission of Brunswick News Inc. to the Standing Senate Committee on Transport and Communications. April 22, 2005.

DIVERSITY OF VIEWS

While the Proprietor will shape the overall editorial tone and direction of the newspaper, editors should provide readers with a wide range of views on matters of public interest. Our newspapers should promote intelligent debate and discussion on issues of the day both within the paper and as a participant in the larger Canadian media landscape.

COMMENTARY

Opinion pieces should be published as a means of assisting readers to understand and evaluate current events. Contributors will normally have broad license subject to intellectual integrity and literary discipline. Commentary should be founded on fact and not state conjecture as established fact. If critical of another commentator, such criticism should be respectful and speak to differences of ideas as opposed to personal attacks. Opinion and commentary pieces will be clearly identified as such so as to demarcate them from news reporting.

SOURCES

As a first principle, sources used in reporting should be clearly identified and the use of anonymous sources avoided. However, when circumstances dictate the use of anonymous sources, independent corroboration should be obtained before publication. Readers should be informed that such corroboration was obtained in order to establish that the information reported is as reliable as possible.

PHOTOGRAPHS

Photographs should be used in a manner that fairly represent the story or commentary with which they are associated, and not as a tool for editorial effect.

HEADLINES

Headlines should be written in a manner that fairly reflects the story with which they are associated, and not as a tool for editorial effect. They should state factually what has been written and avoid interpretive and sensationalistic language.⁵²

3. CBC / Radio-Canada Journalistic Standards and Practices (extract)

Preamble

1. FREEDOM OF THE PRESS

Freedom of the press is a cornerstone of our society, since freedom itself cannot flourish without the free flow and exchange of ideas, opinions and information. This is a principle central to democracy and vital to the defence of individual

⁵² Document dated October 17, 2002. In correspondence addressed to the committee, CanWest Global stated that it was their intention to post it on the corporate CanWest Global Communications website, www.canwestglobal.com. The Committee's staff was unable to find it on this site at the time of the publication of this report.

liberty. As broadcast journalism has become a powerful and influential part of the information media, it shares the freedom, but must also recognize the obligations that come with it.

The Corporation enjoys administrative and programming independence from political and governmental direction. This independence permits the Corporation to discharge the role assigned to it within the Canadian broadcasting system. The autonomy of the Corporation is assured through the authority conferred by Parliament upon its Board of Directors. The directors act as Parliament's "trustees" to define and to guard the public interest and to ensure the Corporation's mandate is fulfilled. This principle of the "arm's length" relationship between the CBC and government is critical to the Corporation's independence, particularly with respect to its journalistic activities. However, there is no autonomy without responsibility.

2. RESPONSIBILITY OF THE PRESS

As contemporary life becomes more complex, the distance between what we know and what we need to know for proper understanding and informed decision making seems to be greater than ever. Consequently, there has never been a greater need for truly effective media and for public confidence in the media.

Trust in the media is of crucial importance. An increasingly sophisticated public, seeking ways to cope in an increasingly complex world, makes heavy demands on the media while at the same time expecting the highest standards of performance.

To meet these expectations, the media must be socially responsible; in other words, freedom of the media and the constitutional protection that it enjoys require responsibility to the public it serves. The broadcast media in particular have an obligation to be fair, accurate, thorough, comprehensive and balanced in their presentation of information. This is unmistakably true of a public broadcasting agency, which is accountable through its Board of Directors to the Parliament and people of Canada.

While the principles of good journalism remain the same among public and private, print and electronic media, there may be wide differences in their application. In CBC journalism those principles must govern daily practice so the Corporation's journalism will meet the highest standards of excellence and integrity.⁵³

⁵³ The full text of the CBC/Radio-Canada Code of Journalistic Standards and Practices can be found at <http://cbc.radio-canada.ca/accountability/journalistic/index.shtml>

4. **CTV News Policy Handbook (extract)**

Stories Concerning Bell Globemedia, or Affiliated Companies

Stories concerning Bell Globemedia, the CTV Television Network, affiliated companies or shareholders should be covered in accordance with the same standards of fairness, balance and accuracy applied to any other story. Stories should be neither under-reported nor over-reported.

CTV employees invited to participate in stories should be treated with the same standards of courtesy as other contributors.⁵⁴

5. **Le Devoir (extract)**

10.07 Both parties acknowledge the public's right to information. Accordingly, they acknowledge that freedom of the press is not a privilege exclusive to the press, but that it proceeds from the fundamental right of every person to have access to the facts relating to or concerning any matter of public interest. Freedom of the press also proceeds from the right of every person freely to express and publish his/her opinion on or relating to any matter of public interest and to hear and read the opinions of others. For the protection of these fundamental rights, it is essential that the press be free to gather the news without any obstruction or interference whatever, and to publish and comment on the news.

Accordingly, having regard to the financial resources of Le Devoir, information must be:

- a) accurate, with attention to detail and as complete as possible;
- b) consistent with the right of persons and institutions to their reputation, without prejudice to the public's right to free information on every matter of public interest that is free and as complete as possible;
- c) free of all outside constraints;
- d) open to the public's right to express its opinion on subjects of public interest.⁵⁵

6. **The Globe and Mail Style Guide (extract)**

Journalistic practices

The credibility of the news, analysis and opinion in The Globe and Mail rests on reputation for honesty, accuracy, objectivity and balance. To these ends, the following rules and principles apply:

⁵⁴ CTV News Policy Handbook, December 2001, page 19. Provided to the Committee on June 24, 2005.

⁵⁵ Excerpt of a document provided to the Committee on April 30, 2004 by Claudette Béliveau, administrative assistant, on behalf of M. Bernard Descôteaux, publisher.

Integrity: The Globe and Mail will ask no one to slant an article, column, feature, headline or other item to suit any interest or opinion. Staffers may decline to write what they believe is untrue or unfair. A strict separation will be maintained between the editorial views of The Globe and Mail and the coverage, selection, editing and play of the news.

Fairness: The Globe and Mail will seek to provide reasonable accounts of competing views in any controversy so as to enable readers to make up their own minds.⁵⁶

7. The Toronto Star's Atkinson Principles

“Throughout his 50 years as publisher of The Toronto Star from 1899 to 1948, Joseph E. Atkinson developed strong views on both the role of a large city newspaper and the editorial principles it should espouse. These values and beliefs now form what are called the Atkinson Principles. For more than a century, they have provided the intellectual foundation on which The Star has operated and have given the paper its distinctive voice.

A strong, united and independent Canada: Atkinson argued for a strong central government and the development of distinctive social, economic and cultural policies appropriate to an independent country.

Social Justice: Atkinson was relentless in pressing for social and economic programs to help those less advantaged and showed particular concern for the least advantaged among us.

Individual and Civil Liberties: Atkinson always pressed for equal treatment of all citizens under the law, particularly minorities, and was dedicated to the fundamental freedoms of belief, thought, opinion and expression and the freedom of press.

Community and Civic Engagement: Atkinson continually advocated the importance of proper city planning, the development of strong communities with their vibrant local fabrics and the active involvement of citizens in civic affairs.

The Rights of Working People: The Star was born out of a strike in 1892 and Atkinson was committed to the rights of working people including freedom of association and the safety and dignity of the workplace.

⁵⁶ The Globe and Mail Style Guide. Provided to the committee on May 11, 2005.

The Necessary Role of Government: When Atkinson believed the public need was not met by the private sector and market forces alone, he argued strongly for government intervention.

These six Principles collectively constitute the intellectual framework on which Star editorial policy has been based. Standing alone, they dictate few specific answers to particular issues of policy and debate. They must continually be interpreted to apply to new and diverse situations. They have, however, provided a firm and principled foundation on which analysis and reasoning can take place. They also provide a spectrum against which news coverage can be organized to highlight issues worthy of debate.”⁵⁷

8. The Washington Post

After Eugene Meyer bought The Washington Post in 1933 and began the family ownership that continues today, he published “These Principles”:

The first mission of a newspaper is to tell the truth as nearly as the truth may be ascertained.

The newspaper shall tell ALL the truth so far as it can learn it, concerning the important affairs of America and the world.

As a disseminator of the news, the paper shall observe the decencies that are obligatory upon a private gentleman.

What it prints shall be fit reading for the young as well as for the old.

The newspaper’s duty is to its readers and to the public at large, and not to the private interests of the owner.

In the pursuit of truth, the newspaper shall be prepared to make sacrifices of its material fortunes, if such course be necessary for the public good. The newspaper shall not be the ally of any special interest, but shall be fair and free and wholesome in its outlook on public affairs and public men.

“These Principles” are re-endorsed herewith⁵⁸.

⁵⁷ The full text can be found on the Toronto Star’s website (www.thestar.com).

⁵⁸ From “The Washington Post Standards and Ethics”; the full text can be found on the internet at <http://www.asne.org/ideas/codes/washingtonpost.htm>.

APPENDIX XV: PUBLIC SERVICE ANNOUNCEMENTS WITH RESPECT TO CROSS- MEDIA OWNERSHIP

1. CTV

As a member of the Canadian Broadcast Standards Council, CTV is committed to the highest standards of broadcasting, and adheres to the codes of conduct of the Canadian Association of broadcasters. If you have a concern about something viewed on our service or under the statement of principles and practices regarding journalistic independence, write to:

The Canadian Broadcast Standards Council
P.O. Box 3265
Station D,
Ottawa, Ontario
K1P 6H8

Or, email Complaints@CBSC.ca. To obtain a copy of the statements of principles and practices, write us at:

CTV
P.O. Box 9,
Station O, Toronto, Ontario.
M4A 2M9

2. Global

Global Television is a member of the Canadian Broadcast Standards Council. The Council plays a special role in Canadian broadcasting by assisting in the application of specific broadcast standards and providing recourse for members of the public. Such standards include Global's Statement of Principles and Practices related to cross-media ownership.

We welcome your feedback on matters related to our programming. You may reach us at (INSERT STATION PHONE NUMBER) or you may contact the Council at:

P.O. Box 3265, Station D
Ottawa, Ontario
K1P 6H8

APPENDIX XVI: A DISSENTING OPINION BY SENATOR PAT CARNEY

FINAL REPORT ON THE CANADIAN NEWS MEDIA BY THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATION

I concur with the recommendations of the Standing Senate Committee on Transport and Communications with one major exception. I do not support the concept that proposed mergers of news gathering organizations be targeted under a new section of the *Competition Act*. It is my belief that the “public interest” in such mergers, as discussed in the report, is properly protected under the *Canadian Charter of Rights and Freedoms* in the Canadian Constitution which identifies freedom of the press and other media of communication as a fundamental freedom.

Alternatively I propose that the *Competition Act* be strengthened to ensure that **all** mergers, whether of energy, transport, media or other companies which could create monopoly conditions be more effectively scrutinized to ensure the public interest is served. My objection is the recommendation that media companies be treated differently from other companies.

Present and proposed restrictions on broadcast media implemented through the Canadian Radio-television and Telecommunications Commission (CRTC) reflect the fact that the airwaves are a public resource whose distribution and use must be monitored in the interest of their public owners. This is not the case when dealing with the ownership of private or publicly-owned media companies themselves.