

The Senate



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## Canada's Positioning Within The World's Technological Revolution

Subcommittee on Communications  
of the  
Standing Senate Committee on Transport and Communications

### *Final Report*

The Honourable Marie-P. (Charette) Poulin, *Chair*  
The Honourable Mira Spivak, *Deputy Chair*

May 1999

SUBCOMMITTEE ON COMMUNICATIONS

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CANADA'S POSITIONING WITHIN  
THE WORLD'S TECHNOLOGICAL REVOLUTION

**FINAL REPORT**

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# TABLE OF CONTENTS

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STANDING SENATE COMMITTEE ON TRANSPORT AND COMMUNICATIONS.....	iii
SUBCOMMITTEE ON COMMUNICATIONS .....	iv
ORDERS OF REFERENCE .....	v
FOREWORD .....	vii
INTRODUCTION.....	1
I. TECHNOLOGY AND THE DELIVERY SYSTEM.....	3
<i>Conventional Broadcasting</i> .....	4
<i>Cable TV</i> .....	4
<i>Satellite TV</i> .....	5
<i>Telephony</i> .....	6
<i>Local Wireless</i> .....	6
<i>Utilities</i> .....	7
II. THE INTERNET AS A NEW PARADIGM.....	8
<i>World Wide Web</i> .....	8
<i>Internet Regulation</i> .....	9
<i>Hate Sites</i> .....	10
III. TECHNOLOGY AND CONTENT.....	12
<i>Content Criteria</i> .....	12
<i>Social Gains vs. Costs</i> .....	13
<i>Trend Toward Liberalization</i> .....	15
<i>Trade and Culture</i> .....	15
<i>Competition and Consolidation</i> .....	16
<i>Implications of Convergence</i> .....	17
<i>New Media Culture</i> .....	18
<i>Literacy skills</i> .....	21
<i>Promotional Role of Government</i> .....	21
IV. ELEMENTS OF POLICY FOR THE NEW MEDIA ENVIRONMENT.....	23
<i>The Web as Delivery System for Cultural Products</i> .....	23
<i>Intellectual Property &amp; Privacy Rights</i> .....	26
<i>Promoting Canadian Content</i> .....	29
<i>Supporting Canadian Productions</i> .....	31
<i>Shelf Space for Canadian Content</i> .....	33
<i>French-Language Cultural Products</i> .....	34
<i>Developing Young Talent</i> .....	35
<i>The Self-Employed</i> .....	35
<i>International Strategic Alliances</i> .....	36
V- CONCLUSION .....	37
LIST OF RECOMMENDATIONS.....	38

APPENDIX A .....	A
WITNESSES.....	A
<i>Fact-finding mission to Los Angeles, San Francisco, Silicon Valley and San Jose (February 1998)</i> .....	C
<i>Fact-finding mission to Brussels, Belgium; Paris France and London, England (November 1998)</i> .....	D
APPENDIX B .....	G
WITNESSES WHO APPEARED FOR THE INTERIM REPORT (second session, Thirty-fifth Parliament) .....	G
<i>Fact-finding mission to Boston (February 1997)</i> .....	K

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## STANDING SENATE COMMITTEE ON TRANSPORT AND COMMUNICATIONS

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The Honourable Marie-P. (Charette) Poulin, *Chair\*\**

The Honourable J. Michael Forrestall, *Deputy Chair*

And the Honourable Senators:

Willie Adams

John M. Buchanan, P.C.

Pierre De Bané, P.C.

D. Ross Fitzpatrick

\*B. Alasdair Graham (or Sharon Carstairs)

Janis G. Johnson

\* John Lynch-Staunton (or Noël A. Kinsella)

Shirley Maheu

Raymond J. Perrault, P.C.

Fernand Roberge

William Rompkey, P.C.

Mira Spivak

\* *Ex Officio* Members

\*\* The Honourable Lise Bacon was Chair of the Committee from March 26, 1996 until April 20, 1999.

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## SUBCOMMITTEE ON COMMUNICATIONS

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The Honourable Marie-P. (Charette) Poulin  
Chair



The Honourable Mira Spivak  
Deputy Chair



The Honourable  
Lise Bacon



The Honourable  
Janis G. Johnson



The Honourable  
Shirley Maheu

**Other Senators who participated in the work of the Subcommittee:**

Raymond J. Perrault, William Rompkey, \*B. Alasdair Graham (or Sharon Carstairs) and \*John Lynch-Staunton (or Noël A. Kinsella)

\* *Ex Officio* Members

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## ORDERS OF REFERENCE

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Extract from the *Journals of the Senate*, Wednesday, October 29, 1997:

The Honourable Senator Bacon moved, seconded by the Honourable Senator Maheu:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon Canada's international competitive position in communications generally, including a review of the economic, social and cultural importance of communications for Canada;

That the papers and evidence received on the subject and the work accomplished by this Committee during the Thirty-fifth Parliament be referred to the Committee;

That the Committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the Committee present its final report no later than December 31, 1998.

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

Extract of the *Journals of the Senate* of Tuesday, December 1, 1998:

The Honourable Senator Bacon moved, seconded by the Honourable Senator Maheu:

That notwithstanding the Order of the Senate adopted on October 29, 1997, the Standing Senate Committee on Transport and Communications, which was authorized to examine and report upon Canada's international competitive position in communications generally, including a review of the economic, social and cultural importance of communications for Canada, be empowered to present its final report no later than March 31, 1999; and

That the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until April 9, 1999.

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

Extract of the *Journals of the Senate* of Tuesday, March 23, 1999:

The Honourable Senator Bacon for the Honourable Senator Forrestall moved, seconded by the Honourable Senator Maheu:

That notwithstanding the Order of the Senate adopted on December 1, 1998, the Standing Senate Committee on Transport and Communications, which was authorized to examine and report upon Canada's international competitive position in communications generally, including a review of the economic, social and cultural importance of communications for Canada; be empowered to table its final report no later than May 31, 1999; and

That the Committee be permitted, notwithstanding usual practises, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

After debate,

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

Paul C. Bélisle  
*Clerk of the Senate*

Extract from the *Minutes of Proceedings of the Standing Senate Committee on Transport and Communication*, October 30, 1997:

The Honourable Senator Poulin moved, – That the study on Canada's International Competitive Position in Communications, referred to the Committee by the Senate on October 29, 1997, be referred to the Senate Subcommittee on Communications for consideration and report pursuant to the Rules of the Senate.

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

Michel Patrice  
*Clerk of the Committee*

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## FOREWORD

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**F**or more than a year, the Senate Subcommittee on Communications delved into the mind-bending complexity of telecommunications technology and grappled with often competing suggestions on how our cultural mosaic can adapt to a new global reality.

It became self-evident that no longer is communications constrained by distance, that no longer can we insulate our diverse culture from the barrage of competing forces, and no longer will some policies of yesterday, protected and nourished by monopolies, work.

We are in a world without frontiers – a world literally at our fingertips through the phenomenon of the Internet.

One thing is certain – Canada is in the vanguard of this movement in communications – and we can march boldly into the new millennium confident in the knowledge that we are no longer simply hewers of wood, but players on the world stage.

Although 90 per cent of prime time television we watch is American, we also are the largest foreign exporters of prime-time dramatic television to the major U.S. networks.

Part of the answer to how we have remained culturally independent in a land that produces one movie for every 100 that can be rented on a weekend is the fact that our governments intervened at key moments during the 20<sup>th</sup> Century to give our culture growing room. Through grants, regulations and quid's pro quo, Ottawa and the provinces enabled us to create a sense of ourselves that is something more than just being “un-American.”

Canadians may not easily define who or what they are, but they can see themselves reflected in the lakes and mountains and forests with which we are blessed. We are a peaceable nation inhabited by peoples from around the world.

At first we were linked physically by the railways and telegraph wires; later by radio and television. Copper wires gave way to coaxial cable, then fiber optics. Satellites and digital compression have added new dimensions. And, of course, the Internet and the World Wide Web are revolutionizing the very foundation of society.

While modern communications permit us to share ideas around the world in an instant, the technology that allows us to do so brings with it foreboding.

Marking its 40<sup>th</sup> anniversary last year, the Canada Council issued the unsettling statement that “if the only thing that distinguishes Canadians from Americans is our culture, our indefinable combination of caring and civility that others call ‘niceness,’ and if access to the expression of that culture is being slowly strangled by global technologies, there will be very little we can call ‘Canadian’ to live by.”

The point is that information technology knows no borders. Having that technology opens the floodgates to outside forces whose cultures could come to drown our own. That is why it is essential for us to re-think how we present ourselves to the world.

Monopoly practises that allowed us to safeguard our culture through levies and regulations no longer apply. Anyone with a personal computer linked to the Internet can travel the globe. Internet broadcasting is already here – unregulated in cyberspace, while traditional broadcasting stations are still tied to the vagaries of regulatory bodies.

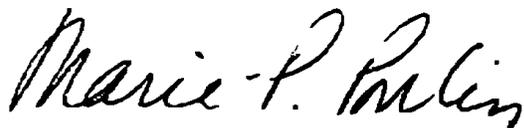
Yet that same technology opens up the world to the diversity of Canadian culture. It offers opportunity, not threats. One of the purpose of this report – to provide a roadmap of sorts that points to ways Canadians can capitalize on information technologies rather than be humbled by them.

Our forefathers showed foresight and initiative in cultivating our own brands of culture through organizations such as the CBC, Telefilm Canada, the Canada Council and the CRTC. We must continue the process, but this time by putting on an entrepreneurial face.

In closing, I would like to acknowledge the enormous effort that went into producing this document. The Subcommittee owes a great deal to the organizations and individuals who gave testimony. Without their input, much of this report would not have been possible.

Thanks are also extended to the research and communications staffs, who worked with a vast array of complex information and rendered it into digestible material, raising questions along the way that enriched the debate. Our gratitude goes out to Michel Patrice, Till Heyde, Matthew Fraser, Terrence Thomas, Tony Hodgkinson, Josée Thérien, André Savaria, Frèdelin Leroux and Daniel Chemla.

To the members of the Subcommittee, I offer my personal thanks for their support and encouragement. Despite strong demands on their time – in the Senate, in their respective regions and on other committees – they remained steadfast in their commitment to produce what I hope will be regarded as seminal documents on the technological revolution. They are: The Honourables: Mira Spivak, Lise Bacon, Janis Johnson and Shirley Maheu.

A handwritten signature in black ink that reads "Marie-P. Poulin". The signature is written in a cursive, flowing style.

The Honourable Marie-P. (Charette) Poulin  
Chair, Subcommittee on Communications

# WIRED TO WIN

## CANADA'S POSITIONING WITHIN THE WORLD'S TECHNOLOGICAL REVOLUTION

### FINAL REPORT

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## INTRODUCTION

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**T**he link between communications technology and culture has been, as most Canadians know, a defining reality of Canada's progress since Confederation. In the mid-19th century, a telegraph system was built to transmit information to newspapers and journals across the country. In the 20th century, telecommunications and broadcasting systems were created as an east-west national infrastructure to link the regions and reinforce Canadian sovereignty.

Communications systems help strengthen our identity by facilitating social dialogue and cultural expression. They also facilitate the flow of information and cultures into Canada from other countries, just as they promote the export of Canadian information and cultural productions to the rest of the world. Today, Canada can boast one of the world's most sophisticated communications systems. It is among the most open countries to foreign cultural influences – notably those from its American neighbour. Even in Quebec, where the province's unique linguistic situation makes French-language cultural works extremely popular, the influence of American culture is significant.

In the past, Canadian policymakers have tended to adopt a defensive attitude toward the pervasive influence of American culture, especially in the English Canadian market. Policies included the establishment of

Canadian monopolies or quasi-monopolies – particularly in the broadcasting industry – and imposing cultural obligations on Canadian companies in exchange for protected monopoly profits. For example, the financing of Canadian television programs and movies has been cross-subsidized by profits made by Canadian companies that imported American products. Canadian broadcasting and related cultural policy thus has been based on a pragmatic trade-off.

Today, the emergence of powerful technologies – particularly the Internet – pose challenges to traditional cultural policy and the tools that have been used to promote it. To meet the challenges and seize the opportunities presented by the new communications technologies, Canadian institutions and policies need to adapt to the realities imposed by technological change. In the future, a more pro-active approach will be required, one in which the traditional protectionist reflex is balanced by policies aimed at actively promoting Canadian cultural goods and content.

In its April 1997, interim report the Subcommittee raised a number of issues, mainly on the “hardware” of the technological revolution. For its final report, the Subcommittee spent as much time researching the “software” and the issue linked to content. It specifically asked: *How can Canada's cultural*

*diversity best be promoted given the emerging realities of market globalization, technological convergence and new media?*

Through this final report, the Senate Subcommittee on Communications hopes to provide in Chapter one and two, a concise overview of this technological revolution, through a review of the current delivery systems and the Internet as the new paradigm. Then, in Chapter three, this report raises some fundamental issues related to the cultural impacts of the new technology, while Chapter four offers suggestions for initiative that could be taken to strengthen the presence of Canadians within the new media environment.

The report is based on independent research, fact-finding missions and the published evidence from the hearings. The Subcommittee is aware that, when dealing with issues as complex and fast changing as communications technologies, discussions can be highly specialized. However, the Subcommittee wishes to put all Canadians – both as players and as consumers – at the forefront of its concerns. Given the significance of globalization, the Subcommittee has also endeavoured to take into consideration the wider international

context and broader issues related to technology and culture.

The members of the Subcommittee believe, as was pointed out in the interim report, *Wired to Win*, that it is necessary to ensure new technologies do not create a gap in our society between the “haves” and the “have-nots.” Neither should these technologies facilitate the domination of certain cultures at the expense of the full expression of others. In a word, policies should promote universal access to new communications technologies and ensure shelf-space for all forms of cultural and linguistic expression. The Subcommittee has, therefore, been guided by two basic principles. First, that competition among communications delivery systems should be encouraged in order to maximize the number of distribution outlets available to Canadian cultural material. And, second, that Canadian cultural producers benefit from significant funding opportunities so they can establish a pride-of-place presence in their own domestic market and be well-positioned to gain access to foreign audiences and markets. The specific policy recommendations contained in this report flow from the basic objectives set out above. (The recommendations, which appear in the text, are also listed in an annex.)

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## I. TECHNOLOGY AND THE DELIVERY SYSTEM

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The technological revolution marks a rupture between what are commonly called “old media” (traditional) and “new media” (contemporary). The old media, such as radio and off-air television, had their own basic characteristics. The policies that applied to them were shaped in part by their technical potential and limitations. Likewise, new media – such as the Internet – have their own inherent characteristics. Any new policies must take into account the fundamental differences between old and new media that are now coexisting in a phenomenon known as technological “convergence.”

The characteristics of old media are generally known: scarce spectrum, state regulation, distance limitations and public ownership. These concepts deserve some explanation. First, radio and television have been constrained technically by spectrum limitations that allow only a certain number of radio stations or television channels. Second, spectrum scarcity gave states an incentive to assert their role in the allocation of those scarce frequencies. Third, old media tend to be restricted geographically by the technical limitations of off-air frequencies, which travel only within a certain radius. Finally, state ownership of old media has been the dominant broadcasting model in most countries, with the notable exception of the United States.

The recent emergence of “new media” has been facilitated by technological innovations and their commercial applications. For example, the use of personal computers with powerful software applications is rapidly transforming the Internet-based World Wide Web into a mass-market phenomenon. Nevertheless, there still are more television sets than computers, and this has created an incentive to bring the Web to television –

particularly with the introduction of consumer electronics products such as “WebTV.” Indeed, so-called old media – radio, television, telephone – are in the process of merging with computers into a single technology platform. It is generally predicted that the functions of the television, telephone and computer will soon be bundled into the same household apparatus – hence, the term “convergence.”

As a witness from the Alberta-based telephone company, Telus, noted:

*We have been talking about convergence since the late 1980s, but it is through the Internet that we are really beginning to see some of that convergence materializing in the marketplace. You see it in Internet banking, shopping, new media applications. All of these instruments, all of these developments, are making convergence very real.*

Like old media, new media have their unique characteristics: capacity abundance, distance insensitivity, lighter-touch regulations and an absence of public ownership. Again, a word of explanation is required. First, digital compression permits a virtually limitless number of channels – transmitted as electronic “bits” on the Web – that can be delivered to homes via cable or satellite. Second, new media, such as satellite TV and the Internet, are not limited geographically – hence the recently coined phrase, the “death of distance.” Third, because new media are non-territorial they are more difficult to regulate by national governments than are old media. Finally, it is difficult for states to claim any legitimate role in the ownership of new media outlets, mainly because of the absence of capacity constraints.

The paradigm shift from old media to new media can be better understood by examining specific delivery systems and how they have been affected by the technological revolution and the emergence of the Internet and its commercial offshoot, the World Wide Web.

## **CONVENTIONAL BROADCASTING**

Conventional television is a “couch potato” medium –what has been colloquially called a “weapon of mass distraction.” As noted, because spectrum is limited, governments in most countries have heavily regulated the airwaves, especially to achieve public policy objectives in the areas of education, cultural content, right-of-reply, violence codes, children’s programs and the like.

The advent of the Internet poses a threat to conventional broadcasters, mainly because the Web diverts viewers from TV sets to computer screens where viewers have access to different forms of content. Children and young people in particular spend less time watching television and more time surfing the Web than do older generations. A U.S. survey taken in 1998 revealed that increased time spent in front of home computers means time spent away from other forms of electronic media. About 18 per cent of Americans said they read fewer magazines because of the Internet. Some 18 per cent said they spent less time reading books, and 11 per cent said they read fewer newspapers. Of those surveyed, 78 per cent said they spent less time watching television because of the use of the Internet. These statistics would be roughly applicable to Canada.

Broadcasters, whose revenues depend on commercial advertising, are worried about the impact of the Web on their bottom line. Their concern appears to be justified. Procter and Gamble, one of the biggest television advertisers in the world, recently held a series of strategic meetings called “FAST” – for

Future of Advertising Stakeholders. The goal of these meetings was to assess the opportunities presented by the Internet. Already, some major U.S. broadcasters, such as the U.S. network NBC, have formed partnerships with companies, such as Microsoft, and also have invested in Web search engines. In Canada, most television networks, including the publicly owned CBC, have a major presence on the Web. It can be expected that conventional broadcasters will move even more aggressively into Web-based services in order to limit negative competitive impact as technological convergence blurs the distinction between television and the computer.

## **CABLE TV**

Cable TV was first introduced in the late 1940s, but remained marginal for about two decades. In Canada, cable was at first considered to be a threat to Canadian cultural sovereignty mainly because cable TV systems offered Canadian viewers unregulated “distant” American signals. Moreover, conventional broadcasters, such as the CBC and CTV, felt threatened by cable TV because cable systems transmitted to their Canadian subscribers many competing channels from the United States. By the 1970s, however, the CRTC decided to encourage the development of cable TV as a monopoly distribution system, in exchange for certain cultural policy trade-offs – notably the mandatory carriage of Canadian channels and investment by broadcasters in Canadian programs.

By the 1980s, cable TV in Canada had become the dominant medium in the Canadian broadcasting system, reaching approximately 70 per cent of Canadian households. For viewers, cable TV brought a tremendous “fragmentation” of the television landscape. Whereas in the past only a few mass-audience channels had been available

over-the-air, now dozens of new and more narrowly focused “specialty” channels were available via cable. The emergence of “niche” television accelerated rapidly in Canada and in many other countries throughout the 1990s.

Until the early 1990s, the cable industry in North America was a monopoly facing no competition from other distribution systems. The arrival of digital satellite TV, however, has been a powerful force behind the so-called “500-channel universe” and today represents a competitive threat to the cable industry.

Several witnesses before the Subcommittee commented on the nature of the competition that would affect the cable industry. As a witness from the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) put it:

*I think much more significant will be the competition to the cable industry, which will come from the telephone companies and perhaps the satellite companies as well. I think that will be much more instructive. Even before high definition television has a real impact on the industry, I think you will see the impact of distribution via the Internet and computer-based technologies. I think those are the more likely factors to cause disruption and change and create threats and opportunities in the industry.*

Today, after many delays, Canadian cable companies are investing in digital technology to increase their carrying capacity in order to compete with satellite TV and other competitors. Cable companies are also betting their coaxial-wire infrastructure will be the most efficient and consumer-friendly system for high-speed Internet access. In Canada, major cable companies are offering a high-speed Web-access service for a monthly charge. This includes Rogers and Shaw with @Home and Videotron with its own Internet

access service. At present, most North Americans who are hooked up to the Web use dial-up services via telephone wires to access the Internet. If cable’s @Home service gains widespread consumer acceptance it could represent a significant new revenue stream for the cable industry.

## SATELLITE TV

Satellite broadcasting dates back to the late 1960s, but direct-to-home satellite TV did not emerge commercially until the 1990s with the launch of fully digital systems such as DirecTV in the United States. Satellite TV has a tremendous competitive advantage over cable TV because, thanks to digital video compression technology and its continent-wide “footprint,” a satellite can offer hundreds of channels beamed down over vast geographic areas without any need to install expensive wired systems. However, satellite TV subscribers must bear the initial cost for a small satellite dish.

Canada’s two satellite TV operators – StarChoice and ExpressVu – each launched their services in 1997. Both are owned by former large-scale monopolies. StarChoice is controlled by the Calgary-based cable company Shaw Communications, and ExpressVu is controlled by Bell Canada. At present, satellite TV does not appear to be a major competitive rival to cable TV in Canada, in part because StarChoice is cable-owned. The Canadian cable industry counts about 8 million subscribers, while StarChoice and ExpressVu each have about 250,000 subscribers. In the United States, satellite TV operators such as DirecTV, which has roughly 5 million subscribers, have competed much more effectively with the cable industry. Satellite TV is also highly successful in Europe. In London, England, members of the Subcommittee were frequently told about the influence that the satellite service BSkyB has

had on the U.K. television industry. BSkyB is an aggressive competitor and has altered the market for sports on television, bidding up the price of television rights for sporting events and shifting some from free over-the-air services to subscription. BSkyB also has introduced more foreign television content into the U.K.

Satellite systems have yet to emerge as major players in the consumer Internet-access business. However, there are some potential uses. Shaw Communications suggested:

*We would like to see a situation where someone in a car is able to do an audio Internet access and we see no reason why they should not be able to do that.*

## TELEPHONY

The Canadian telephone system began as a collection of local monopolies, but eventually consolidated into regional systems, in some cases controlled by provincial governments (for example, Saskatchewan). In the United States, a court ruling in the early 1980s broke up the monopoly phone giant AT&T into a single long-distance operator and several regional “Baby Bells.”

In competition with other distribution systems, telephone companies are hampered by the disadvantage of a relatively inefficient copper-wire infrastructure, which is not ideal for video and Internet access. However, new technologies, such as “ADSL” (asymmetric digital subscriber line), may help telephone companies overcome these obstacles to some extent. It is believed that some phone companies – particularly long-distance firms – will buy cable TV systems as a way of entering the “local loop” to compete in a marketplace of converged television and telephone service. No take-overs of this kind have occurred in Canada, but in the United States AT&T recently took control of Tele-Communica-

tions Inc., one of the biggest U.S. cable companies.

In Canada, some telephone companies – for example Telus (Alberta), Bell Canada (Ontario and Quebec) and NB Tel (New Brunswick) – have announced plans to compete head-on with cable TV systems in the delivery of television channels to homes. Telephone companies also have entered the Internet-access business as Internet Service Providers (ISPs). Bell Canada, for example, sells access to the Internet under the brand Sympatico, which competes with other ISPs who depend on Bell’s wires to offer service to their customers. Bell Canada also has entered the multimedia content business through investments in Canadian firms such as Digital Renaissance.

## LOCAL WIRELESS

Local wireless systems are fully digital and can offer both television and telephone service, as well as data and Internet access. Technically speaking, they operate much like over-the-air broadcasters, except that their signals are transmitted from “nodes” placed on top of buildings and towers and received by dish-like antennae attached to the subscriber’s office or home.

Since local wireless systems have only recently launched commercially in Canada, it is difficult to say whether they will have a significant competitive impact on cable TV and telephone systems. One player, Look TV, appears to be well positioned to compete with cable TV in Ontario and Quebec. Two others, MaxLink Communications and Connexus, appear to be concentrating more on telecom and high value-added services such as video conferencing. As the witness from MaxLink told the Subcommittee:

*Wireless is a promising alternative to new competition (in telecommunications techno-*

*logy)... You need the broadband, and we have the broadband in the wireless area.*

Launched in late 1998, the full market potential of local wireless systems will likely not be proven until the 2000-2005 period.

## **UTILITIES**

Electricity utilities have emerged as possible competitors to traditional delivery systems in providing video and telephone service. While utilities generally have been electricity providers operating as monopolies, deregulation and privatization are forcing them to exploit other market opportunities.

The communications sector is a logical business opportunity for utilities, given that they already have an extensive infrastructure in place, running wires into virtually every household. They also have the "rights-of-way" over transmission and distribution networks. And they already have a direct billing relationship with most households in their franchise area.

The universal availability of utilities is one of the reasons why long-distance carriers are seeking to establish partnerships with them as a way of getting into the local telephone market. In Canada, Ontario Hydro appears to be poised to enter the telecom business. The formation of strategic alliances between utilities and established telecom companies can be expected in the near future.

All the above distribution systems once operated in completely separate worlds, and indeed were regulated as distinct industries. With the introduction of new technologies, such as digital compression, these previously separate systems are now either converging or finding themselves in competition with one another. In the very near future, all these systems will likely be offering television, telecom and many other value-added services.

Perhaps most importantly, all these delivery systems are currently reorienting their business strategies to take advantage of the explosion of the Internet.

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## II. THE INTERNET AS A NEW PARADIGM

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**M**uch of the Subcommittee's discussion on technology dealt with the Internet. Witnesses discussed how the Internet functions today as well as its likely impact in the near future when digital set-top boxes merge TV and computers to bring the Internet into living rooms.

In a recent Statistics Canada study entitled *Household Facilities and Equipment 1997*, it was reported that in May 1997, 4.2 million Canadian households were equipped with a home computer. This represented 36 per cent of all households. More significantly, the number of Canadians connected to the Internet is growing at a rapid rate. According to StatsCan, although only 7 per cent of Canadian households were "surfing" the Internet in 1996, a year later that figure had doubled to 13-15 per cent. This trend is continuing, and indeed is rapidly increasing.

More recent data from a survey by Nielson Media-Research and CommerceNet in the U.S. revealed continuing high growth in Internet use. In June 1998, 70.2 million American adults – 35 per cent of that demographic group – were using the Internet. The survey also found some 8.5 million Internet users in Canada – or more than a quarter of the population of about 30 million.

Another survey conducted in mid-April, 1999, by International Data Corp. (Canada) Ltd. found that at least half of Canada's households have one or more persons who have regular access to the Internet. By this measure, Canada is second only to the United States in being wired.

### WORLD WIDE WEB

While these figures may seem modest, especially compared with TV and telephone household penetration, they represent a phenomenal growth rate in the few years since the World Wide Web (WWW) exploded in 1993-94. For example, it took nearly 40 years for radio to reach 50 million households worldwide and it took 13 years for television to reach the 50-million penetration threshold. The Web took only four years to reach that same figure.

A fundamental condition for the Web to become a mass medium is its virtually unlimited distribution capacity. Network systems – the "pipes" to the home – will need high bandwidth capacity and high speed for delivering video and other software applications to homes. In this way, content can be stored on giant servers and delivered to consumers on an on-demand basis. The Canadian Association of Internet Providers (CAIP) told the Subcommittee:

*Today we have the ability to store a bit of information in an individual atom. That means this is technology that will allow us to store the entire contents of the Library of Parliament on a disc the size of a dime. Even more impressive is the powerful explosion that we will see in bandwidth capacity. In fact, it will increase orders of magnitude faster than the rise we have seen in microprocessor speeds due to the adoption of fibre optics.*

Several witnesses underscored the essentially trans-border nature of the Web, and how this presents a serious challenge to traditional regulatory tools. The Canadian Cable Television Association (CCTA) told the Subcommittee:

*The Internet is impossible to restrict geographically. It flows through transparent data networks that are endlessly reconstructing themselves in new configurations. It is simultaneously everywhere and nowhere. This is the opposite of broadcasting, which is rooted in very particular cities, provinces and countries.*

The CCTA noted, for example, that to listen to CBC radio off-air in Toronto one has to be physically in the Toronto area. But you can be in Australia or China or anywhere else in the world and listen to CBC radio live, in real time, on the Internet via the CBC's Web site: [www.radio.cbc.ca](http://www.radio.cbc.ca)

## INTERNET REGULATION

Regulation of the Internet was a controversial topic during the Subcommittee's hearings.

In dealing with content regulation, Canadian policymakers have employed two approaches. The first is *negative* regulation. This method attempts to curb the flow of objectionable material, as well as seeking to ban entry into Canada of cultural products and services that compete directly with Canadian monopolies, and to impose quotas and other restrictions in order to create a market for domestic products. The second form is *positive* – or proactive – regulation, which attempts to create incentives for the production and dissemination of Canadian materials to achieve social and cultural objectives.

The emergence of new delivery systems, especially the Web, has led many to wonder whether *negative* regulation will be feasible in the future.

Speaking about the role of governments in the regulation of new media, a witness from the telephone company Telus commented:

*I am afraid that the debate over how we should best control the distribution of visual content is*

*becoming increasingly academic. The question, in our view, really ought to be: What happens when that power to control is no longer there?*

Other witnesses stated that with a little ingenuity, regulating the Web could be possible. As a witness from the Canadian Conference of the Arts (CCA) observed:

*The Internet is an excellent way of reaching people everywhere. However, there has to be some control over the content of the Internet. The Louvre is a beautiful museum, but it is also important to see Canadian museums on the Internet. People must have access to things that are happening in their own country.*

Others argued that it is impossible – and therefore a fruitless enterprise doomed to frustration – to impose regulations on the Internet. Timothy Denton, legal counsel for an association of Internet Service Providers (ISP), told the Subcommittee:

*The Internet cannot be regulated technically. The Internet should not be regulated politically. And the Internet is already fully subject to the rule of law.*

Mr. Denton argued that the Internet cannot be regulated technically because there are no control points on the network. He noted, moreover, that Internet Service Providers should not be subject to licensing because, technically speaking, there is no scarcity that attaches value to a licence. Broadcasting licences, he said, have value because they occupy scarce frequency that cannot be used by someone else. Finally, Mr. Denton noted that prior restraint is not necessary for the Internet because the rule of law is sufficient.

Mr. Denton added:

*When you pick up a telephone, when you write a letter, all these forms of communication are extensively subject to rules concerning libel, slander, some Criminal Code offences and*

*many other kinds of rules. However, none of these rules amounts to a requirement for prior permission from the state to write, print, preach, pray or speak...The rule of law is that, as long as you obey that law, you need not seek the permission of anyone to do what you are going to do. If you stay within the speed limit, you are within the rule of law, and you will never need the permission of anyone to continue at that speed.*

A witness from the Society of Composers, Authors and Music Publishers of Canada (SOCAN), which represents the intellectual property rights of Canadian artists, stated that current laws and regulations applying to the Canadian broadcasting system must also be applied to new media technologies, including the Web. The witness told the Subcommittee:

*The fact that media systems evolve does not mean that the CRTC should automatically drop all of its Canadian content rules. As you know, new media are already being used to distribute music. Unfortunately, many of those involved in these new media believe that the Broadcasting Act should not apply to them and, thus, they should not be obliged to program Canadian content like other domestic broadcasters. SOCAN believes that if the CRTC doesn't regulate new media, it will effectively create two types of broadcasters – those who are subject to the law, and those who are not.*

Professor Eli Noam of Columbia University in New York told the Subcommittee that the debate about regulating the Internet has become “an ink-blot test” onto which everyone projects their fears, fantasies and expectations. He cautioned against the stridently libertarian view that the Web, by its very nature, will be free of all government controls:

*The point is that each society has a set of values and interests for better or worse which*

*underlie its legal arrangements. No society will drop these values and interests just because these activities are now done over computer networks. It is totally naive to think that the Internet will be some form of libertarian island in a society that runs on some rules.*

Professor Noam added that, contrary to the assertions of many, the Internet can indeed be regulated by states:

*At this point, people will usually assert that even if you wanted to do something about this, you simply cannot regulate the Internet and transactions over the Internet, so it is hopeless...In a way, that is not true. It is difficult to regulate the electronic transactions themselves, but communications is not just about bit streams and transactions. They also involve physical entities, people, institutions with domiciles and assets. Therefore, if you cannot catch the mobile parts in the system, you can go after the immobile parts, such as underlying transmission networks, physical delivery, packages, people, transmission facilities, assets, advertisers or whatever. This might not be a perfect or elegant way do that if you wanted to do it, but neither are the income taxes or the traffic loads particularly elegant. Simply because there is a certain slippage, you cannot control every transaction in anything, just as in the cases of taxes, it does not mean that you cannot try if you wanted to. My conclusion is if you want to regulate the Internet, you can.*

Professor Noam said the important question is not whether states *can* regulate the Internet, but whether they *should* regulate it.

## **HATE SITES**

Laws concerning pornography, privacy and copyright protection are already hotly debated when applied to the Web. Traditionally, “telecommunications” traffic is considered to be “common carriage.” Distribution systems,

therefore, are not expected to interfere with the content carried on their wires. Only “broadcasting” content has been regulated. However, there is increasing pressure to force Internet Service Providers, which have physical assets that can be seized by governments, to block out any Web-based content that violates laws.

In Europe, a number of controversial precedents exist in this area. Germany passed a law in 1997 that holds network providers responsible for any illegal content carried on their systems, if they know about it and can be reasonably expected to block it out. In the Netherlands, Internet Service Providers can be held criminally responsible for complicity in the distribution of illegal material – notably child pornography and hate literature. Sweden has adopted similar legislation. These issues are also being debated in North America, pitting those in favour of a hands-off approach to the Internet against those who want governments to take firm action against the distribution of offensive or illegal content.

Sooner or later, Canada will have to deal with this problem head on. One estimate puts the number of Internet hate sites at 800. Targets

include religious groups, visible minorities, women and homosexuals. At an international symposium organized by B’nai Brith Canada in Toronto this spring, the federal government was urged to impose laws to quell racist and violent Web sites.

While the Subcommittee recognizes that developing laws to control Internet traffic may be difficult, it also feels that the gravity of the situation is such that urgent action is warranted.

Indeed, the symposium suggested penalties for downloading and possessing hate propaganda with intent to promote hatred. Given the vile nature of some sites, Canada cannot simply choose to ignore the problem.

**RECOMMENDATION 1:**

***The government is urged to proceed with haste, with other governments, within the appropriate international forum, in addressing Internet content that promotes racism, pornography and violence.***

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### III. TECHNOLOGY AND CONTENT

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In Canada, the longstanding goal of cultural policy has been to encourage a supply of high-quality Canadian cultural products and to help ensure they are given prominence – or “shelf-space” – in the domestic market. These goals have been based on two beliefs: First, that Canada is too small in terms of population and its culture too fragile in the face of overwhelming influence of other nations not to have policies that nurture original Canadian content. Second, that Canadian artists are of such quality that, given adequate domestic distribution for their work, they – and Canada itself – have a very real opportunity to export their artistic products internationally.

Indeed the Subcommittee heard testimony from many Canadian artists and creators who are proud of their achievements. Nonetheless, they worried about their future and the independence of their country in the context of rapid technological change, especially the Internet which is dominated by American Web sites.

Before proceeding further, it should be noted that the Subcommittee’s definition of culture was viewed in as wide a context as possible. Culture certainly is a National Ballet performance, but it is also a fact that bank customers in Vancouver can access their ABMs in English, French or Mandarin. Culture is everything: from fine arts to fine foods. It is certainly more than a mere product that is bought or sold – or used as a bargaining chip in international trade negotiations. Indeed, Canadian culture is like no other, not only because it is “Canadian,” but because “Canadian” by definition means diversity and pluralism.

As Yvon Thiec, director general of Eurocinéma, told the Subcommittee:

*There is a great debate about the definition of culture. On the one hand, there are those who believe that culture is a sort of social practice of elites. And there are others who prefer a more anthropological definition of culture as a way of living, eating and reflecting. You know, in Europe, we do not reflect in the same way. Germans reflect in a certain way, and the British reflect in a different way from the French...For this reason, I believe that what we call culture is composed of a complex set of modes of expression. I realize that this vision of culture does not correspond to the purist vision of culture as made up of great works of art and literature. But in my opinion, culture is the shared conscience that links a population.*

In Canada, our cultural expression has been promoted through a variety of public policy instruments.

The CRTC, for example, imposes minimum Canadian content quotas on radio and television broadcasters. The regulator also promotes the availability of domestic programming by requiring that Canadian channels – such as Radio-Canada, the CBC and CTV – be included in the “basic” package of channels offered by cable and satellite companies licensed in Canada. Similarly, cable and satellite services must offer one Canadian channel for every American or other foreign channel offered as part of a discretionary package of channels. In short, content regulations ensure that Canada’s cultural diversity is made available to Canadians.

#### CONTENT CRITERIA

The goals and practises of Canadian content regulation tend to be based on the distinction between the *inputs* and *outputs* of cultural production. The desired output, of course, is a

cultural product that is both high quality and identifiably Canadian. Policy requirements, however, are almost always expressed in terms of the nationality of the inputs – Canadian producers, Canadian writers, Canadian actors and so on. Therefore, the nature of inputs has determined whether a cultural product is “Canadian.” A musical selection, for example, qualifies as Canadian content if it meets certain criteria set out in the MAPL system (Music, Artist, Production and Lyrics), which assesses songs according to the nationality of the key creative contributors. Similar criteria apply to Canadian television programs, both for the broadcast of domestic programs and for access to public funding to produce Canadian programs.

There was some discussion before the Subcommittee of Canadian content requirements in promoting Canadian culture according to traditional input-based definitions. As the Canadian Motion Pictures Distributors Association (CMPDA) put it, Canada’s official policy defines Canadian content “not on the basis of cultural product, but... on the basis of nationality of the owner or the nationality of the producer/director.”

The CMPDA added:

*We find ourselves in the situation where a foreign producer could come into Canada and make a 13-week hourly TV series on Sir John A. Macdonald and it does not qualify as Canadian content. But a Canadian director can go and study the milk distribution system in Bosnia or Albania and it is deemed to be Canadian content.*

The CMPDA, which represents the Hollywood studios in Canada, called for a re-evaluation of content and ownership regulations. The Association of Canadian Television and Radio Artists (ACTRA), which represents Canadian creators, took a different view. ACTRA recommended that the point-system

criteria for “Canadian” be amended to provide additional points for Canadian creators. Clearly, the CMPDA favours a policy based on outputs, while ACTRA and other like-minded arts groups continue to advocate a policy based essentially on inputs.

In fact, the anomalies of input-based cultural policy are often cited as a reason for scrapping Canadian content requirements. This position neglects, however, the fact that Canadian cultural policy must endeavour to ensure an adequate supply of Canadian creators who can produce distinctively Canadian shows. It is fanciful to think that foreign producers will spend much of their money and effort on distinctly Canadian themes. On the other hand, a Canadian crew that might work on a documentary filmed in any foreign country will likely have the inclination to apply their talents to Canadian stories at some point. Also, a view of the world through Canadian eyes may be distinctively Canadian even if the subject itself is not, strictly speaking, Canadian. A documentary by Canadians on health services in the United States, for example, may bring out important dimensions of Canadian society, even if the nominal subject is not Canadian.

#### **RECOMMENDATION 2:**

**Current Canadian content regulations should be amended to include increased points for Canadian creators.**

#### **SOCIAL GAINS VS. COSTS**

The Subcommittee finds the argument that content regulations could infringe freedom of expression difficult to accept. In a world of scarcity, choices must be made, and not all of them will be made by the market. States make decisions based on the perceived good of the nation. The top of a flagpole has room for only one flag, and it is not surprising that each

nation reserves that spot for its flag. Indeed, it would be strange to argue that maintaining the top of the Canadian flagpole for the Canadian flag violates the freedom of expression of Canadians.

Besides, Canadians are hardly lacking choices when it comes to cultural offerings. Most Canadians live near the U.S. border and can receive virtually all the major American television network signals off-air. For Canadians who subscribe to cable or satellite TV, the major American networks and many more U.S. channels are available in increasing numbers. Moreover, the non-Canadian choices are certainly not difficult to find or access, except for the tiny minority of Canadians who rely on off-air reception for their television and can only receive Canadian stations.

It could be argued that, faced with the realities of globalization, cultural regulation may well be the last prerogative of states in their effort to ensure some form of social cohesion within their borders. Yvon Thiec, of Eurocinéma, made this point when he related to the Subcommittee his experience promoting the interests of European filmmakers:

*In Europe, national governments are increasingly surrendering legal authority to the European Union. In short, the traditional notion of state sovereignty is disappearing. The area that still belongs to national states, though, is the exercise of a language and the expression of a culture. It's the fundamental element of a national consciousness.*

In this regard, new technology will no doubt make some government policies less effective, but this does not mean governments should give up acting in the public interest. New policies may be needed, but traditional goals should not be jeopardized.

While the success of content regulations in Canadian broadcasting is often debated, their objective has always been to promote a sense of national belonging, in both English and French Canada, by ensuring shelf space for domestic programs. Critics of content regulations often claim they restrict free choice by mandating minimum levels of Canadian programs. These regulations constitute a possible restriction on choice only for those who rely on off-air reception of television and can receive only Canadian stations. A Canadian-content quota for prime-time means that viewers will not be able to watch a non-Canadian show during that time. In truth, most Canadians live near the U.S. border and thus can receive virtually all the major American television network signals off-air. For Canadians who subscribe to cable or satellite TV, the major American networks and many more U.S. channels are available.

In fact, Canada is one of the most open countries in the world in terms of the availability of non-Canadian cultural products. Whatever the level of Canadian content quotas for radio and television, Canadians have traditionally enjoyed a wide selection of American and other foreign programs with very few limitations.

A legitimate question might be why Canadian broadcasters use such large blocks of their schedules to “simulcast” American programs when these programs are readily available directly on U.S. network signals. The answer is usually that Canadian broadcasters channel profits made from airing American programs toward the financing of domestic television programs. However, the actual benefits of these cross-subsidies have been widely debated in Canada over the past two decades.

Still, as distribution capacity increases it can justifiably be asked how content regulations of any kind will apply in the new media environment.

## TREND TOWARD LIBERALIZATION

The world-wide trend over the past two decades has been toward less regulation and more reliance on market forces in the media industries. The forces of globalization have also obliged governments to withdraw from tight regulation of their national media landscapes, especially in broadcasting. The most important factor, however, has been technological: with the advent of digital satellite TV and the Web, it has become difficult in practical terms for states to regulate new media.

In many countries, this trend has provoked a debate between pro-market neo-liberals and those in favour of government protections. In Canada, there is growing support for a more deregulated approach in the cultural sphere – or, at a minimum, a lighter-touch regulatory regime. Pressures from Canada’s trading partners have convinced some people that governments will increasingly lack the tools to impose protectionist cultural policies. At the same time, Canadians generally appear to support national institutions, such as the CBC, and incentives for producers of Canadian cultural materials and programming.

As governments cede some of their regulatory prerogatives to the marketplace, the focus of state attention has shifted toward issues related to competition. In other words, governments seek less to protect designated market players as part of a policy trade-off, but rather endeavour to ensure that the conditions of fair market competition exist between all players. In short, there seems to be a shift from *cultural policy* to *competition policy*.

As competition policy becomes increasingly applied to the communications industry, a priority will be placed on removing obstacles to the competitive forces that stimulate technological advances. These barriers include existing policies that produce anti-competitive outcomes – for example, the protection of

domestic monopolies. However well-intentioned, policies can have unintended consequences. In a world of rapid technological change, more attention must be paid to these possible consequences. The European Commission, for instance, published a Green Paper on Convergence in which it argued that regulatory barriers must be avoided if Europeans can expect to enjoy the benefits of technological convergence.

## TRADE AND CULTURE

On this same concern, several witnesses brought up the question of trade policy, especially the proposed Multilateral Agreement on Investment (MAI) and the trend in recent trade agreements of treating culture as a commercial product and putting it on the table in global trade negotiations.

Certainly, the emergence of the Web is not likely to diminish the potential for multilateral trade conflicts, particularly as states attempt to seize the strategic benefits of asserting power in the Information Age. There has even been reference to “cyber warfare.”

Professor Noam told the Subcommittee that, contrary to popular belief, the Internet could be the source of increasing global tensions:

*There is still another way of looking at the Internet to see the various possibilities involved with it. People have been expecting some form of global brotherhood of man and have felt that information and communications would bring us together. ... In some ways, the digital convergence – that is, the Internet – instead of creating bridges, which it does to some extent, could also create tensions, trade wars, cultural conflict, and so on.*

Although trade was not a direct focus of Phase II of the Subcommittee's work, *globalization* is certainly part of the background to any discussion of technology and culture.

Canada obtained a cultural “exemption” in the bilateral Free Trade Agreement negotiated with the United States in the late 1980s. Similarly, the European Union won a cultural “exception” in the Uruguay Round of the GATT completed in 1993. Despite the “exemption” and “exception,” questions remain about how they will stand up as cultural notwithstanding clauses in trade treaties.

A hopeful sign is that in recent months the principle of cultural exemption has gained a number of adherents. For instance, in response to an invitation from the Department of Canadian Heritage, the culture ministers from a number of countries met in Ottawa in June 1998, to discuss cultural diversity. In order to continue their discussions, the ministers established the International Network on Cultural Policy, which by early 1999 had 25 members.

More evidence of the growth in popularity for cultural exemptions came in February, 1999, when the Cultural Industries Sectoral Advisory Group on International Trade prepared a report for Canada’s Minister of International Trade. The report, *New Strategies for Culture and Trade: Canadian Culture in a Global World* recognized two main approaches for Canada:

- the cultural exemption strategy used in the past, which takes culture “off the table” in international trade negotiations;
- a new strategy that would involve negotiating a new international instrument that would specifically address cultural diversity and acknowledge the legitimate role of domestic cultural policies in ensuring cultural diversity.

We cannot remain complacent about cultural protection, though. Canada’s bilateral tensions with the United States over cultural issues -- such as the regulatory banning of a U.S. country music channel and the dispute over the split-run edition of *Sports Illustrated* magazine – have revealed the extent of pressures to extend free-trade principles to the cultural sector. Pressures in favour of increased liberalization of the cultural industries will likely continue.

### **RECOMMENDATION 3:**

***The Government should continue to reaffirm its position that Canada will not relinquish its cultural sovereignty in trade negotiations, or yield to competitive pressures that would jeopardize it.***

### **COMPETITION AND CONSOLIDATION**

Another important global trend has been the shift in telecommunications and broadcasting away from regulated monopoly to a competitive environment. The trend is particularly evident in telecommunications, where competition has led to a downward pressure on long-distance phone rates as Bell, Sprint and others battle for market share. In broadcasting, concern was expressed by some witnesses that competition could lead to a consolidation phase where, once again, a few major players would dominate the market. It is true that Canada’s foreign ownership restrictions, which impose a 33-per cent ownership ceiling on non-Canadians, have encouraged broadcasting and telecom companies to consolidate within the realm of a few major Canadian corporations. This practice underscores the need for particular vigilance by the Competition Bureau.

The situation outside Canada is different. In the United States, old media companies have

been busy merging with new media companies. Disney, NBC and CBS have, in the last couple years, invested heavily to acquire a presence on the Internet. Also, Bertelsmann, the German publishing giant with extensive publishing interests in the U.S., has purchased a 50 per cent share in the website Barnesandnoble.com. The United States, of course, has a huge economy with numerous players in telecommunications and the media. All these players will continue to face stiff competition, even after the mergers and consolidations.

Canada has a smaller economy, which makes it difficult for domestic players to achieve critical mass in the home market and pursue strategies of vertical integration. A few large-scale Canadian companies, such as Rogers Communications and Videotron, have integrated both horizontally and vertically. But these Canadian companies, while protected from hostile takeovers and foreign competition by strict ownership restrictions, remain largely absent in the global marketplace.

In fact, the Canadian broadcasting and telecom marketplace has seen more consolidation than competition. This mirrors the worldwide phenomenon of consolidation and raises serious questions about applying effective competition policy at the multinational level. However, we believe the European example, in which the European Commission vigorously polices anti-competitive practises, offers a useful model for Canada.

#### **RECOMMENDATION 4:**

***The government should work through the Competition Bureau to ensure that competition is not stifled through a process of mergers and acquisitions.***

## **IMPLICATIONS OF CONVERGENCE**

There can be little doubt that technological convergence is putting pressure on the current system of cultural regulation. Most countries with developed broadcasting and telecommunication systems have voiced concern about the implications of technological convergence on existing policies.

The European Commission's 1997 Green Paper on Convergence focused on the regulatory systems that would be needed to cope with technological changes. The EC outlined three main options:

- build on current structures;
- develop a separate regulatory model for new activities that would co-exist with telecommunications and broadcasting regulation;
- progressively introduce a new regulatory model to cover the whole range of existing new services.

Comments on the EC Green Paper have, in general, supported an evolutionary approach in which the current system would be gradually adapted to cope with technological change.

During a visit by Subcommittee members to Britain, there was considerable discussion about the timing of any switch to a new system of regulation. The British House of Commons' Select Committee on Culture, Media and Sport and the satellite TV service BSkyB favoured a relatively quick switch to a new regulator. On the other hand, the Department of Culture, Media and Sport and the BBC seemed to favour a slower, evolutionary approach.

Canada may be fortunate in having regulatory oversight for both telecom and broadcasting within a single institution – the CRTC – even though the functions come under separate directorates. There are undoubtedly some advantages in having the regulatory functions under one roof, with a shared corporate culture and a single head of the institution.

That said, the approach chosen by regulators in the new media environment is critically important. One key question raised by several witnesses and other observers is whether, because of new media, protectionist policies must be replaced by a new approach.

The CRTC recognizes the need for change. It told the Subcommittee:

*The old Commission was protectionist in its approach – which fit the requirements of the time. The new CRTC will be much more focused on promoting opportunity, to let Canadians build on their successes, and demonstrate they can thrive in a new, more competitive environment...From a regulatory perspective, we see our responsibility as creating the right environment that will allow convergence and competition to become everyday facts of life, but where Canadian ideas and values are also reflected...We need to nurture the efforts of our creative artists and business people in such a way that they will be able to build a cultural industry with the necessary strength to be competitive and capable of featuring our products, here in Canada and throughout the world.*

The CRTC recently held public hearings to review its role in the emerging media landscape. On May 17, 1999, the commission announced it would not try to regulate the Internet. It went so far as to state that the commission would propose that on-line broadcasts from traditional broadcasters – radio and TV stations – would be exempt from regulation. Thus, it appears that for the

time being, the commission has distinguished between conventional broadcasting and on-line communications by indicating a hands-off approach to whatever is transmitted on-line.

## NEW MEDIA CULTURE

Less than a decade after its creation, the Internet is already an important distribution network for the sale of cultural materials. The spectacular success of the on-line bookseller, Amazon.com – now rivalled in Canada by ChaptersGLOBE.com – has shown how innovative forms of electronic commerce are challenging traditional intermediaries. In the compact disc market, on-line companies, such as U.S.-based CDNow, offer similar examples of how the Internet is being used as a mass marketer of cultural items that, until now, have been sold through bricks-and-mortar retail chains.

The success of Web-based wholesale operations is due largely to the efficient bypassing of conventional intermediaries – the increasingly pervasive phenomenon known as “disintermediation.” A distinction must be made, however, between on-line services, such as Amazon.com, and owners of intellectual property who distribute their products digitally directly to consumers via the Internet.

Buying a book or a CD on the Internet is no different from buying a shirt or a computer from a consumer catalogue. These products are hard goods that, once ordered, are delivered to your door. To employ the familiar distinction of U.S. telecommunications guru Nicholas Negroponte, Amazon.com sells “atoms,” not “bits.” Buying or renting a downloadable movie or song on-line is a different, more direct, form of disintermediation. The transaction is immediate and digital delivery is made at virtually no additional cost.

Disintermediation can also have effects on the incomes of artists. A SOCAN representative mentioned that composers often find themselves at the end of the queue with respect to getting payment after a sale or performance. The payment, if it comes, moreover, may occur months, at times even longer, after a consumer has enjoyed the composition. With disintermediation, the process leading to a payment to the artist could be compressed. Instead of a consumer going to a record store to purchase a pre-recorded disc, the consumer could download a piece of music to a blank disc. All the details of this new form of commercial transaction – a transaction without the traditional middle step of going to a record store – are not yet known. But it is possible that the composer could secure more financial compensation and get this money sooner.

At present, digital delivery of cultural products, such as books, recordings, movies and television programs, faces a number of major obstacles. Most Hollywood studios, major record companies and other players in the entertainment industries have established “new media” divisions and are testing their products largely through games and promotions on Web sites. Still, these same companies remain reluctant to start selling, or renting, their intellectual property as digital products on the Internet.

There are two main reasons for their reluctance. First, owners of intellectual property are worried that their products will be copied, at no marginal cost, and distributed in millions of units throughout the world on the Internet. Most copyright holders will not start selling digital cultural products on-line until a fail-safe encryption system for encoding and decoding digital signals is universally adopted. Second, critical technical obstacles must be overcome. For example, downloading video and music takes a long time and the quality is often erratic.

Therefore, networks must be expanded to increase bandwidth capacity.

It is only a matter of time, however, before these problems are resolved – the copyright issue by international treaty and the market adoption of reliable encryption systems, and the technical issues by the build-out of digitized networks. It can be confidently predicted that the sale and rental of cultural works on-line will become a billion-dollar industry within the next decade.

Despite this inevitability, policymakers remain uncertain about how – and, indeed, if – digital cultural products should be regulated. The CRTC, for example, does not regulate Internet radio stations and other forms of audio on-demand, but has decided to license and regulate video-on-demand. The regulator also has defined video-on-demand (VOD) as “broadcasting,” yet remains silent on the definition of on-line music.

In Canada, the dispute over video-on-demand and multimedia services has been part of the ongoing debate over what exactly the CRTC means by “broadcasting” and “telecommunications.” Established players in the Canadian broadcasting system have argued for a *broad* definition of “broadcasting” in order to capture on-demand services and thus limit the impact of competition by imposing regulation and market-entry barriers. The phone companies and computer industry – both new players in the provision of cultural content to homes – are calling for a *restrictive* definition so they can exploit VOD and other multimedia services with no fear of onerous regulations and other market-entry barriers.

The European Commission considers video-on-demand to be telecommunications, not broadcasting. In its “Television Without Frontiers” directive, it stated: “VOD services, like all genuinely interactive services, are classed as telecommunications in that

transmission is in response to individual demand.” In other words, VOD is switched, point-to-point communications – not point-to-multipoint broadcasting.

In the United States, the federal Court of Appeals ruled – in the case of *ACLU v. Reno* – that the Internet is not broadcasting. The U.S. court based its distinction between “broadcasting” and “telecommunications” on the fact that, on the Web, users search Web sites and “pull” down what they are interested in viewing. Broadcasting, on the other hand, is “push” transmission, according to the court, which also determined that the Internet is characterized by low entry barriers, non-scarcity of capacity and protection of freedom-of-speech rights. No Canadian court has yet ruled on this issue.

The CRTC itself, however, has recommended a legislative amendment to exclude from the *Broadcasting Act* services such as “commercial on-line multimedia services,” “interactive courses” offered by accredited schools and “educational multimedia materials.” While this definition could seem restrictive, it could be argued that AOL, Microsoft Network, Yahoo! and any other Internet-based service are “commercial on-line multimedia service.” This would mean that domestic VOD services in Canada would require a licence, while the regulator could do little to regulate the activities of other VOD services beyond Canada’s borders.

The CRTC’s recent report on the new media appeared to exclude Internet video-on-demand from broadcasting regulations, thus raising the possibility of confusion over its previous position.

**RECOMMENDATION 5:**

***The Government should issue a policy statement clarifying the precise distinction, if any,***

***between “telecommunications” and “broadcasting.”***

As emphasized in the interim *Wired to Win!* Report, the government must be vigilant in promoting universal access to the new media.

The Subcommittee stressed at the outset of this report its concern that new communications technologies do not create a gap between technologically privileged “haves” and marginalized “have-nots.” Universality must extend both to the ability to use the products of new technology and to the ability to contribute to Canada’s production of these products. No Canadian should be excluded from having the opportunity to be either a user or a producer of new media.

The Subcommittee notes that the federal government, in its 1999 budget, devoted some \$1.8 billion over four years to address this concern. In particular, the funds – earmarked for the “creation, dissemination, and commercialization of knowledge” – will help ensure that all Canadians have a chance to learn and profit from the Internet. The federal budget includes a three-year \$60 million “Smart Community” initiative that provides for technology-demonstration projects in Canada’s 10 provinces, plus one each in the Arctic and in a Native community. Similar government initiatives should be encouraged in the future.

**RECOMMENDATION 6:**

***The government should continue to survey through Statistics Canada the ownership of computers and use of the Internet to help ensure there is an equitable opportunity throughout society to utilize the new media.***

**RECOMMENDATION 7:**

***The government should also continue its efforts to bring the Internet into all Canadian schools so that all students have the opportunity to take part in the world of new technology and ultimately contribute to Canada's place in the world.***

**LITERACY SKILLS**

An interesting phenomenon of the information era has been the degree to which children have embraced technology. It is not uncommon to find them far more skilled in using computers than their parents. In particular, youth have fully embraced the new media, especially interactive video games and the entertainment that is available on the Internet.

However, computer literacy is not by itself the benchmark of success. The burgeoning number of computers in the home and in the workplace, which allow for e-mail transmissions instead of telephone calls, underscores the necessity for superior reading and writing skills. Without them, analytical thought and comprehension suffer, making it more difficult to function in the wired world.

It is, therefore, essential that governments, through their educational systems, ensure students are not only computer literate, but that their ability to read and write well is a bottom-line requirement for graduation.

There is no incompatibility in achieving these goals. Indeed, the fascination children have with computers and the apparent ease with which they embrace technology can be used to strengthen their reading and writing skills. Indeed, it is also an approach that could be taken for teaching our official languages to allophone immigrants.

**RECOMMENDATION 8:**

***Canada's educational systems are encouraged to harness the interest children have in computers as a means of enhancing reading and writing skills.***

**PROMOTIONAL ROLE OF GOVERNMENT**

One way to protect and promote Canadian culture, of course, is through government intervention, whether in the form of public funding, content regulations, or the role of public institutions such as the CBC, the National Film Board, the Canada Council and Telefilm Canada. The Canadian government has also promoted Canadian culture in markets outside Canada, largely through its own cultural attaches.

Chief among national cultural institutions is the CBC, created in 1936 to offset the pervasive presence of American radio stations whose signals were available in Canada. By the second half of this century, television had become an integral part of the CBC and the mandate included social and cultural goals. Today, the CBC has established a significant presence on the Web, which has facilitated the global distribution of Canadian information and programming.

In the past, the Canadian government has, with the support of cultural agencies, devoted resources to initiatives that promote Canadian culture in foreign markets. Yet these initiatives seem to have diminished at the very time that other nations are more actively promoting trade and diplomacy through exports of their culture.

The Canadian Association of Publishers, for example, told the Subcommittee:

*Three years ago (in 1995) the Government of Canada launched a new foreign policy that called on the promotion of Canadian cultural values and goods as one of the three pillars of Canada's foreign policy. But, to date, we have seen far more action in the negotiation of the MAI (Multilateral Agreement on Investment), and that could undermine those very values that we are trying to promote and preserve.*

In the emerging new media environment characterized by rapid globalization of the entertainment industries, government policy and institutions could play an important role in the promotion of Canadian cultural products around the world.

Indeed, it is through the important avenues of expression offered by the CBC, the National Film Board, Telefilm Canada and the Canada Council that we have developed a rich cultural heritage. Despite the onslaught of foreign materials, Canadian culture has not only survived, it has thrived on many stages and many pages. Our writers are household names in Canada. But more and more, their books are best-sellers around the world – a trend that their screenplays are beginning to duplicate. Our performing artists are every bit as good as our computer artists. And the sight of Canadian new media developers marketing their software to the world is exceeded only by the sound of four Canadian singers nominated at this year's U.S. Grammy Awards – Shania Twain of Timmins, Alanis Morissette of Ottawa, Vancouver's Sarah McLaughlin and Celine Dion of Montreal. They, and others before them, overcame benign indifference at home and ruthless competition abroad.

But something is happening that makes it essential for the government and our cultural institutions to renew their commitment to promoting our homegrown talent. It is the threat brought on by technology, especially the convergence of old media with the Internet and new media. Our entire cultural defence mechanisms, whether regulatory policies or technological limitations, are under siege. One initiative the government might consider is a “cultural foreign policy” to ensure Canadian cultural products benefit not only from pride-of-place in their domestic market, but in foreign markets as well. In addition to the recommendations outlined in this report, Canada must increase its marketing and promotional efforts – in new media and old media, live and in colour – throughout the world. The idea of a single trading organization or a cultural trade agency, whose mandate would be to create Canadian jobs by marketing Canadian cultural products, is worthy of exploration.

#### **RECOMMENDATION 9:**

***The government should re-examine the feasibility of creating a national cultural trading agency that would consolidate current international marketing activities and provide a one-stop venue for Canadians engaged in producing content or cultural products for export.***

Canada's problem has never been a lack of creativity or artistic talent; it's been enabling Canadians – and then the world – to access that creativity, something other nations seem to find easy, yet we find difficult.

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## IV. ELEMENTS OF POLICY FOR THE NEW MEDIA ENVIRONMENT

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### THE WEB AS DELIVERY SYSTEM FOR CULTURAL PRODUCTS

Five years ago, if you were a telephone or cable company, the World Wide Web would have been considered a threat. Today, it is an opportunity because both cable lines and phone lines offer significant, although very different, kinds of gatekeeping for the delivery of content on the Internet. Bell Canada, through its Sympatico service, and the cable TV companies are positioning themselves to tap into the major new revenue streams created by the popularization of the Internet. In Canada, Rogers initially began a trial rollout of an Internet-access service called “the Wave.” That service has now been branded as @Home, which is owned by major North American cable companies. In addition to Rogers, other big cable companies, such as Shaw, offer the @Home service for a monthly fee. @Home is also a provider of Web-based new media content.

The Canadian Cable Television Association told the Subcommittee that while the @Home service is still an infant service with a relatively low penetration level of Canadian Internet users, it could represent a major revenue source for the cable industry. However, as customers switch from telephone-based access providers, such as Bell, to cable-based access, the telcos can expect a major drain on revenues. The association noted:

*Our general sense is that when we see the speed with which people have taken up the high-speed cable modem offer to have access to the Internet, the response in the areas where we have been able to offer it has been very good. People like it for the obvious reasons. It is very fast, it is*

*always on, so you do not have to dial it up or anything.*

Meanwhile, the phone companies have countered with their own high-speed access involving ADSL technology, which is many times faster than traditional phone lines.

That said, cable’s entry into the Internet-access business raises a more complex competitive question: How can non-allied Internet Service Providers (ISPs) lease access to cable wires? Canadian-based ISPs can already lease access to wires owned by telephone companies, although some ISPs claim the rates charged by the telcos are too high. The real conflict, though, is that the telcos themselves offer access to the Internet through such companies as Bell Canada’s Sympatico, which is the largest ISP in Canada with well over half a million subscribers. This raises concern that many of them could offer high-speed access at below cost in order to price the independent ISPs out of the market.

On the cable access front, the battle has similar protagonists. On one side are the cable companies and on the other are Web-based services, such as America Online, which want to gain access to the companies’ coaxial cable wires running into the homes and offices of their millions of subscribers.

In fact, the emergence of Web “portals,” – for instance, AOL and Yahoo! – presents a major new threat to cable’s gatekeeper powers. The ISP giants are quickly becoming popular intermediaries between consumers and the Web-based content they seek.

Portals, which are in effect gateways to the Web, attract customers by offering one-stop Internet-access and then direct Web-users

toward revenue-generating commerce sites. The value of portals is derived from the tremendous number of Internet users who access the Web through their sites. Their domination of Internet gateway traffic allows them to command a huge premium from advertisers. Soon, with the introduction of so-called “streaming” technology that offers broadcast-quality video on the Internet, the portal companies will become serious competitors to the cable companies as an entirely separate distribution system for home entertainment products. In fact, AOL today views television as its main rival as a provider of video content. With a prime-time audience of nearly 700,000 simultaneous users, AOL’s audience rivals the ratings of conventional channels, such as CNN and MTV.

However, some portals are still intermediaries because they don’t control the network connections used to log onto the Internet. Thus, they don’t have a direct billing relationship with their customers – unless they partner with an Internet Service Provider. A few portals, notably America Online which has a customer base of some 15 million subscribers, has the advantage of operating as both an ISP and a Web portal.

In Canada, portals have been developed by major owners of print media, such as Southam’s Canada.com. Another, the CANOE (Canadian Online Explorer) portal is jointly owned by Sun Media and Bell Canada Enterprises. As noted, the two main wireline gatekeepers – cable and telephony – have developed Web-access gateways with cable’s @Home and Bell Canada’s Sympatico.

The challenge for Canadian portal sites is to win the loyalty of Web-users with more than the data and information produced by their affiliated companies, and to attract advertising dollars. They face competition not only from major U.S.-based portals, but also from their Canadian affiliates – Yahoo! Canada, America

Online Canada, and a Canadian version of the Microsoft Network.

American portals have developed strategies to provide local Web gateways in countries around the world. This has been taken by even strident nationalists as evidence that locality, geography, culture and local identity may be more important on the Internet than is commonly assumed. Certainly this is so in Britain where the most popular site in the country is the portal BBC Online.

**RECOMMENDATION 10:**

***Incentives should be provided for Canadian portal companies to give prominence to domestic cultural content on their sites.***

**RECOMMENDATION 11:**

***The Canadian Broadcasting Corporation, as this country’s public broadcaster, should receive resources to establish a search engine, or portal, to provide access to Canadian content on the Internet.***

America Online is by far the most successful Web portal. To increase its delivery capacity, AOL has demanded leased access to cable TV wires to offer high-speed interactive service. The cable industry has resisted AOL’s attempt, mainly because it fears AOL will effectively compete with @Home and potentially supplant cable as the industry’s gatekeeper.

In the United States, the telephone industry is bundling AOL with its new high-speed Internet access service. For U.S. phone companies, the attraction of AOL will likely help them increase the subscriber base to their high-speed service. In Canada, AOL has complained that companies such as Bell Canada have priced their high-speed lease

rates at least four times higher than the retail cost of Bell-owned Sympatico, thus making high-speed access to the telephone system prohibitive for competing services.

In like manner, AOL and other ISPs have complained that cable companies are attempting to block access to their wires by potential competitors which, like @Home, package interactive content with high-speed Web access. In the United States, the Federal Communications Commission has so far left negotiations between cable companies and ISPs to market forces. However, AOL has led a lobbying effort in Washington calling for legislation that would prevent cable companies from showing undue preference for Web-access services, such as @Home, in which they have an ownership stake.

The situation is different in Canada and, not surprisingly, more regulated. Here, the cable industry has agreed to offer access to Internet Service Providers, but only on a wholesale basis. In other words, ISPs would have no direct billing relationship with cable's customers for local service. The cable industry also has argued that negotiations with ISPs be left to market forces and not mandated by regulation. The cable industry clearly does not wish to surrender its privileged "gatekeeper" position, which in the television industry has given cable companies tremendous market power.

Richard Stursberg of the Canadian Cable Television Association explained to the Subcommittee his industry's position on the tensions between AOL and the cable industry:

*The Commission has already mandated access to the cable company networks by the Internet service providers. There are two issues associated with doing this. One is a technical issue. It cannot be done technically right now. We have been doing a lot of work with Cisco for the creation of policy-based routers that will*

*allow this to happen, and we have been working with the Internet Service Providers to put up some technical trials to allow that to happen.*

*Second, how will this work? We have guaranteed them access to the network and then we will send a customer a bill for the local access part and you can send them the bill for the long-haul Internet service part. They do not want that. They would like to bill the customer right through from beginning to end, including the local transport component which is what we would provide to them... They do not want us to have anything to do with the customer as far as service. We are prepared to look at that too.*

As noted, ISPs can directly reach customers through leased access to telephone networks, though there have been some obstacles to high-speed access. Cable companies, on the other hand, have resisted any form of leased access that would give ISPs a direct billing relationship with cable subscribers. There is no policy rationale, however, to prevent Web-based packagers of content – whether AOL or a similar Canadian service – from gaining leased high-speed access to cable networks and establish a direct billing relationship with their customers. Indeed, if the result is increased competition between new media services and the monopoly cable industry, this outcome should be encouraged. Policy should seek to promote actively the emergence of new forms of content packaging by ensuring that they obtain leased access to all distribution systems on fair and reasonable terms – including the right to establish a direct billing relationship with consumers.

#### **RECOMMENDATION 12:**

**Web-based content services and Internet Service Providers should be able to obtain leased high-speed access to cable systems and all other distribution networks on fair and non-**

***discriminatory terms, including the right to establish a separate and direct billing relationship with customers.***

The government must attempt to see that any benefits of competition are distributed widely and that the system does not skip from one of regulated monopoly to a brief competitive era followed by a new monopolistic era. Just as the government must ensure that barriers to entry are not erected to thwart competitive forces, so it must be on guard to see that adjustment in the industry does not lead to the re-establishment of large monopolies.

**RECOMMENDATION 13:**

***The government should monitor trends toward reinforced monopolies, or the emergence of large-scale oligopolies, in telecommunications and the new media, and act accordingly in the public interest.***

**INTELLECTUAL PROPERTY & PRIVACY RIGHTS**

The companies that own billions of dollars in intellectual property are naturally both intrigued by the opportunities presented by the Internet and concerned by its “frontier” mentality that has scant regard for intellectual property.

Indeed, intellectual property right protection has been a major obstacle to the emergence of a market for digitally distributed cultural products – i.e. movies, music and written materials on the Web. Movie studios, record companies and other players in the entertainment industries are exceedingly reluctant to exploit commercially their intellectual property as digital products on the Internet.

In music, the so-called “Big Five” global giants – PolyGram, Sony, Warner, EMI and

Bertelsmann – are concerned that their market share will be seriously eroded by the growth of independent record labels operating on the Internet. According to a recent industry study, between 1998 and 2008 the Big Five will see their global market share decrease from 78 percent to 64 percent, while the market share of independent labels, many of them selling their products on-line, increases from 22 percent to 36 percent. The Big Five say they will likely lose even more market share to illegal music piracy on the Web.

Several witnesses told the Subcommittee that content supply and availability could be limited if issues surrounding intellectual property rights and the new media are not soon sorted. These witnesses would like to see, for example, further revision of Canada’s copyright laws, commonly referred as Phase III, expedited.

Paul Davidson, executive director of the Canadian Association of Publishers (CAP), told the Subcommittee:

*One of the very serious issues on the agenda is protecting the electronic rights of authors and of rights holders. It is a contentious issue with regard to periodical writers right now, but it is very important as Phase III unfolds that Canada continue to protect the rights of authors, protect the rights of rights holders, and ensure that they are paid for their work, that they are compensated for the work that they do.*

Witnesses representing the interests of the major Hollywood studios also took a firm position on the issue of intellectual property. Susan Peacock of the Canadian Motion Picture Distributors Association told the Subcommittee that revisions are needed to the Copyright Act so copyright owners can “build some electronic fences around their works” and thus protect their rights against infringements facilitated by new technologies.

Ms. Peacock added:

*Many years ago, in 1977, when the government did a study on copyright revision, one of the authors referred to VCRs as home infringement kits. Well, they are not just home infringement kits. With the new machinery, new equipment that people are going to have in their homes, when movies are available on a digital video disc, they will be able to make an infinite number of perfect copies. These are not grainy, crummy, twelfth generation VCR copies, but perfect copies. Copyright protection has to be there and the enforcement by the RCMP or the municipal police for these sorts of offences, the support for that has to be there as well.*

*Right now we have a situation where the copyright board is in the midst of considering a tariff for the use of music on the Internet. Copyright law is always domestic law. That process is going to raise a number of very complicated questions such as whether Canadian law applies when the Internet communication originates in Canada, does it apply when it is received in Canada, or must it be both? If it is one or the other, there are tremendous enforcement difficulties. If you have to have both, then it will almost never apply.*

In Europe, the European Parliament recently voted to extend EU copyright legislation to protect music and audio-visual material from Internet piracy and to limit home copying of videos and music. The European legislation was not passed without considerable controversy, however. Telecommunications companies, Internet service providers, and hardware manufacturers attempted to persuade the European Parliament that copyright legislation should not give copyright holders a stranglehold on distribution of films and music on the Internet. A coalition of European producers, publishers, writers and musicians argued, however, that tougher

copyright rules were needed to stop illegal duplicating of films, music, and texts from the Internet. This is an increasingly widespread problem as digital technology makes it easier for audio-visual pirates to make high-quality copies. The European law opens the way for levies on blank tapes and other copying equipment so copyright holders can be given “fair compensation” for copies made of their work.

Some witnesses said privacy issues, including the security of credit card transactions over the Internet, would have to be dealt with before Web-based content delivery takes off. There is pressure in some countries to place obligations on new gatekeepers – notably ISPs and Web portals – to act as copyright and privacy police by ensuring they do not distribute content that is in violation of intellectual property.

Margo Langford, chair of the Canadian Association of Internet Providers (CAIP), told the Subcommittee:

*If licences for intellectual property are to be granted, the question is more about where is the proper locus for that to happen. We suggest that the Web site and the content creator are the appropriate people to obtain those licences and, if they have not obtained it, the proper party to be pursued in court or otherwise. To in any way involve the ISP is to take a completely different model that is not actually the model that has been chosen around the world and would create inequity in terms of trying to conduct commerce in Canada versus elsewhere.*

*Web site licences would absolutely be required for intellectual property. It cannot be used without permission to do so. It becomes complex when you figure out how to do that on a global basis with global collectives because access is available worldwide if you create a site in Canada. There are many issues to be worked out from the creator's side, but*

*obviously intellectual property must be licensed.  
We would agree with the creators on that point.*

Recent polls have revealed that while millions of people are beginning to use the Internet for e-commerce, many more are holding back purchasing goods and services on the Net because they do not believe their credit card transactions and personal information will be secure. Some witnesses said privacy issues are so significant that neither e-commerce nor the delivery of Web-based content will really catch on with consumers until privacy issues are resolved. The Canadian Association of Internet Providers (CAIP) noted that Quebec is the only province in Canada with privacy legislation. The CAIP told the Subcommittee:

*As an association we came up with our own strong view of privacy. We strongly believe that privacy is essential online to protect and attract consumers. You picked a good issue to raise because the federal government has now decided to regulate this. We could probably live with their regulation because we matched our code to their law. My understanding, however, is that there has been very little enforcement of the privacy legislation in Quebec. Some big companies have complied, but many smaller companies have ignored it. There has been no penalty for that. There is no guarantee that a law will be passed and that it will have a positive impact. The fact is that the law must be enforced. The question in both cases, federally and provincially, is how will they enforce it. Will they create offices across Canada, or will people have to be hauled in front of the privacy commissioner in Ottawa and endure an expensive two-year legal process to enforce it?*

New media gatekeepers are also under pressure to ensure certain material, such as child pornography, is not distributed through their choke points in the distribution system. Legislation in Germany, for example, has singled out ISPs as the choke point that can

be targeted for regulations applicable to the Web. Given the power of new media technologies, these controversial, and often volatile, issues related to moral values and property rights will challenge traditional policy tools and reflexes.

So far, efforts in the U.S. to encourage industry self-regulation of on-line privacy have been disappointing. In 1998, an industry-wide coalition was created to encourage companies working on-line to disclose what they do with the personal data of their customers and browsers. The Online Privacy Alliance counts some 50 major companies working in media, retail, database marketing, Internet service and telecommunications. These include AOL, Disney, Microsoft, Netscape and IBM. One component of this self-regulation is the use of "TRUSTe" certificates, which are given only to companies whose Web sites post privacy policies.

Despite these initiatives, a recent U.S. study by the Electronic Privacy Information Centre revealed that industry self-regulation was not working because of widespread abuses and lax standards. As a result, there have been calls for tough legislation by the U.S. Congress to replace self-regulation, particularly in regard to children surfing the Internet.

In Europe, meanwhile, the European Commission has drafted a Data Protection Directive that pushes the EU to impose strict international rules governing the collection, use and exchange of personal information about European citizens.

However, getting nations, let alone entire continents, to agree on the privacy issue is obviously a difficult task, especially given America's penchant for self-regulation and Europe's for government intervention. One solution – although by no means perfect – would be to compel Web sites to disclose

which jurisdictions they abide by in terms of privacy standards and security issues. This would at least allow consumers to make purchases on the Web with some idea of the laws under which the companies they do business with operate. Clearly, though, the fundamental global nature of the Internet makes the need for an international agreement self-evident, given that the Internet is an essential global medium that transcends national borders.

#### **RECOMMENDATION 14:**

***Intellectual property and privacy rights for new media and Web-based products must be adequately protected through legislation and international agreements. Canadian policy-makers should move in a timely fashion to expedite Phase III revisions to Canada's copyright law as well as take appropriate measures to ensure privacy rights on the Web.***

#### **PROMOTING CANADIAN CONTENT**

Virtually every witness before the Subcommittee agreed that Canadian culture must be supported and preserved. The need for high-quality Canadian cultural content was put several ways. ACTRA told the Subcommittee:

*Canadians want to be able to see ourselves reflected in what we watch, hear and read and be able to choose to view the world from our own perspective as well as that of others.*

The need to ensure a constant supply of high-quality Canadian content, not only in "old" media such as radio, television and newspapers, but in new media, such as the Internet, was frequently echoed by witnesses in similar terms: "Canadians talking to Canadians," or

"Canadians being able to see themselves on television, in films, or the Internet."

The problem is, and always has been for Canadians, that high quality programming of the kind that competes technically and artistically with the flood from America and elsewhere is expensive to produce. Given Canada's inability to spread production costs over a large market, lack of funding has always been a barrier to the supply of Canadian content.

In the age of the Internet, that problem has only become worse as largely American-generated Internet content spills over the border. Yet, it is virtually impossible for distinctive Canadian content to flow the other way. Indeed, some witnesses noted that distinctively Canadian programming might be more difficult to export than clones of U.S. shows.

Digital Renaissance told the Subcommittee:

*We must dilute the identity of the product to sell it to the U.S. or internationally and that does not speak to our identity as Canadians but rather speaks to our ability to dumb it down in a sense to appeal to a universal rather than a Canadian identity.*

Several witnesses cited the successful domestic program *This Hour has 22 Minutes* and noted that it would be difficult to export. One witness did, however, argue that the show offered an opportunity for Canadian entrepreneurs, as the concept of the show did have export potential.

The tendency for American cultural works to suffocate domestic Canadian content evoked recitations of familiar statistics on the prevalence of non-Canadian cultural products in Canada. ACTRA's comments were, in this respect, representative of others:

*In television, despite the proliferation of new Canadian services, about 60 per cent of what English Canadians watch is U.S. programs. Almost 95 per cent of the time on Canadian movie screens is devoted to the films of others. Over 84 per cent of retail sales of sound recordings feature foreign content, 70 per cent of the Canadian book market consists of foreign works, and 83 per cent of (the) news-stand market is foreign magazines.*

ACTRA further noted that Canada has a population of only 30 million spread over 6.5 million square kilometres. There are 22 million Canadians who share a language and idiom with the world's largest producer of cultural material.

Some witnesses were concerned that the American dominance of new technologies – Microsoft was mentioned several times – would exacerbate Canada's domestic problem with homegrown material. As the Canadian Conference of the Arts put it:

*We must have additional financial resources in order to compete with the Americans in this field. Otherwise, technology will not only swamp us, it will kill us.*

Most witnesses agreed that the key issue for the promotion of Canadian cultural production is funding. Canada has developed measures – from direct and indirect subsidies to Canadian content requirements – to compensate for our relatively small domestic market and to “level the playing field” with competitors south of the border. One important and relatively recent measure is a comprehensive funding requirement.

As the CRTC told the Subcommittee:

*All players operating in the broadcast distribution business, including traditional cable operators, DTH satellite distributors, wireless cable and telcos, must contribute a minimum of 5 per cent of the gross revenues*

*earned from program distribution activities to assist in the creation of Canadian television programming.*

Some witnesses spoke of the need for direct subsidies to stimulate new media production and cited the Canada Television and Cable Production Fund as a model of cultural support. Michel Blondeau from Digital Renaissance suggested that fiscal incentives – which currently are available to producers of TV programs and movies in Canada – might be the best way to fund the production of new media.

Mr. Blondeau stated:

*We need to foster this industry, that government and other industries need to support new initiatives – whether that be through R and D or tax initiatives – we need to help this business grow, but we are not protecting it from competition. We are protecting it so it can compete in the future as it starts to grow.*

*We need incentives to keep the talent here in Canada. We need integrated, coordinated efforts between business and government, once again, convergence. We need the support that other traditional media enjoy, tax incentive comes up again, investment in R and D, delivery channels. Finally, we need the government to be a leader on this front. The learning curve for many other private sector businesses is too high, it is too risky for them. So perhaps it is the Canadian government that needs to be a leader in shepherding this business forward as it poses so much chance for the future.*

The federal government has allocated \$30 million over five years for a new fund for multimedia products. This is an encouraging start that should be built upon with other measures, including fiscal incentives.

### **RECOMMENDATION 15:**

***Fiscal incentives, such as tax credits currently available to conventional film and television producers, should be extended to creators of new media content.***

### **SUPPORTING CANADIAN PRODUCTIONS**

The Subcommittee heard many strong opinions about the possibility of taxing the Internet to support cultural production. The Internet Service Providers adamantly opposed any such tax. Arts groups, however, saw a dedicated Internet-based tax as a reasonable source of funding for new media production. The Independent Film and Video Alliance put it this way:

*We need to find the area most profitable and add a levy at that point...Internet carriers and ISPs and IPs which have gross revenues of above \$750,000 (should) be required to contribute 5 per cent of their revenues to a new media fund. We suggest you create a fund like the Canada Television Fund for new media and we can catch the world's attention with the quality of the content that Canadians can offer.*

The Society of Composers, Authors and Music Publishers of Canada (SOCAN) agreed with this view:

*We believe that when new media generate advertising revenues by transmitting programs to Canadians, they too should contribute to Canadian content production funds. These contributions will promote the development of Canadian content which, in turn, will attract Canadian audiences, generate advertising revenues, and further the development of the new media and other industries.*

The Canadian Cable Television Association was cautious about taxing the Internet, but acknowledged that funding supply would become more important:

*When we think about the future of Canadian content and the Internet, therefore, it is important to recognize that the only viable way to support Canadian products will be through supply side measures. While we have done some work in this area in the past through things like the subsidies to the CBC and the Canadian Television Fund, we may have to begin to think more radically about the structure of the electronic media industries in Canada, and how their structure affects the economics of developing and distributing new content. We will have to focus less on keeping American content out than on ensuring our industries can produce content which is sufficiently vital and inexpensive that Canadians will enthusiastically buy through their net-enabled televisions and computers.*

Support for taxing distribution systems to finance Canadian content on the Web came from outside Canada as well. Professor Noam told the Subcommittee:

*...probably the easiest way is some form of a surcharge on the ...underlying telecommunications carriers themselves rather than on the ISPs. But not just telecommunications. If cable companies were to do, and are on the verge of doing so, in the United States, and therefore I assume also here, go into cable modems and provide Internet services over cable, I think that similar neutral levies should be levied there as well.*

On this subject, Yvon Thiec from Eurocinéma reminded the Subcommittee that, in France, feature film production is financed via a levy on box-office tickets at movie theatres. Mr. Thiec noted that because the Internet is similarly a distribution network, it,

too, should be subject to some form of levy to help finance content production.

Mr. Thiec said:

*It is easy to imagine that if the Internet becomes an important distribution system for cultural products, some form of compensation be established, notably as a tax, in order to finance the works that are distributed on the Web. These works could be audio-visual or even musical. Indeed, at present musical works are the most popular on the Internet and subject to the most piracy.*

The Subcommittee believes a balance must be struck between generating funding to make Canadian content available on the Internet and curbing the growth of the Web in Canadian households. If Internet Service Providers and other Web-based services are to pay a levy in order to fund content production, it might be prudent to wait until the Internet has benefited from a higher level of market penetration – perhaps a threshold of 50 per cent of all households. At that point, the model used for broadcast distribution undertakings could possibly work for new media funding.

In the high technology world, Canadians may continue to find it hard to compete with Hollywood blockbusters. Whatever the Internet equivalent of the film *Titanic* may be, the U.S. will undoubtedly have scale and fiscal advantages over Canada and other countries. As is currently the case, however, Canada may have strengths and advantages in the production of high-quality programming.

To continue producing high-quality programming demands sophisticated resources and the skilled personnel to best use those resources. There is, accordingly, a continuing need for funding, both for the investment in sophisticated equipment and for training to maintain and upgrade skills.

In the broadcasting funding model, only large-scale cable and satellite TV companies – which are defined in classes according to the number of subscribers – are subject to the levy and other cultural policy mechanisms. In like manner, the size and revenue performance would be criteria for the application of a similar levy on Web-based service providers. It is likely, however, that the ISP business will soon be highly concentrated, much like the cable industry, which would oblige the few major players to make financial contributions to content production. Direct subsidies, such as the five-year \$30-million federal fund, and fiscal incentives for new media producers would also inject additional funds into the production of new media content.

The Subcommittee stresses that it does not wish to promote measures that would stem the growth of the Web. There are forecasts, however, according to which Internet business (or e-commerce) will soon represent a sizeable portion of developed economies – as much as 20 to 40 per cent of economic transactions. As e-commerce becomes more important, it is obvious that the Internet cannot retain the tax advantages it enjoys now as an infant industry while competing with other, mature distribution channels that continue to be taxed.

It is important to note that imposing a levy on ISP revenues in the future simply recognizes an increasing shift from traditional distributors to the new medium of the Web. Currently, most television viewers receive their programming through TV and thus contribute to Canadian content production through a levy on cable rates. In the future, as viewers rely on the Internet for their programming, a similar levy may be applied. Under some conditions, there will be no change in the levy paid by consumers. Many of them will spend the same amount of time and money on in-home media and

entertainment, but will simply change the way they receive it. What might change is the distribution of the levy – the cable portion will go down and the ISP portion will go up. The total amount will remain roughly the same.

It is worth repeating that technological change has two possible effects with respect to media and entertainment. New products may be introduced, such as interactive films and games. Or traditional products may seek a new distribution channel, such as television programs shifting to Web-based delivery. It is impossible to say today how prices will change or what the demand for various entertainment and media products will be. The size of the levy-generated fund will, of course, depend on prices and demand.

What can be asserted, however, is that the underlying philosophy of the fund – the promotion of Canadian production – will be the same in the future as it is today. Therefore, support for a levy in no way favours the creation of a “new” levy, but merely recognizes the shifting trends in the new media and entertainment environment.

#### **RECOMMENDATION 16:**

***Consideration should be given to developing an equitable formula for the collection and distribution of funds to support new media production***

#### **SHELF SPACE FOR CANADIAN CONTENT**

If Canadian content is produced and not seen or heard, it is as if it doesn't exist. The “product” must find its way to consumers. In Canada, this has always been difficult for the simple reason that there is so little room left after American and other foreign products have filled up the “shelf space.” Discussion on this issue centred on whether the Internet

could be controlled or regulated to promote Canadian content. The Canadian Conference of the Arts, for example, stated:

*In Canada, one normally has access to the Internet through telephone, cable, satellite, and now through wireless. All of these are regulated industries, so what is the great mystery of extending a regulatory regime to deal with the treatment of intellectual property rights and some form of responsibility for Web casting? Those who say that regulation is impossible have not been thinking hard enough about it. This is not a complicated situation.*

Others argued the opposite. The Canadian Motion Picture Distributors Association referred to the experiences of the so-called “grey market” in satellite use as an obvious example of trying in vain to control new technology and warned:

*When laws and regulations purport to restrict and control behaviour, but are unenforceable, there are social costs, which include a diminished level of compliance and resulting cynicism about the system of justice.*

However, other witnesses took a different approach and argued, in effect, that the new technology – particularly navigator software – could be used to ensure prominence for Canadian product. The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), which represents Canadian actors, told the Subcommittee:

*In this connection as well, the guild believes that Canada must pay particular attention to the navigation systems. . . We are about to see in Canada with the roll out of the digital cable television boxes, the emergence of true video-on-demand which is where you can sit in your house and order up any movie you want which is delivered to you via the cable system directly to your television set.*

*In the guild's view, we must ensure that Canadian alternatives are front and centre. That comes back to the navigation system. We do not want to see a special Canadiana section in the navigation system because that would ghetto-ize the Canadian product. It must be an integral part of the menu. We cannot force Canadians to choose Canadian programs, but those who want them must be able to find them. When that is combined with efforts to continue to improve the quality and promotion of Canadian materials, we are confident Canadians will choose to watch, listen to and read Canadian materials.*

Officials at the BBC also emphasized the need for navigational guides in the future. The BBC has embraced the new media with its popular BBC Online site and hopes to develop the position of a trusted guide on the Internet.

If restrictive policy mechanisms such as levies prove to be difficult to enforce on the Internet, pro-active measures, including compulsory featuring of Canadian products in drop-down menus, could be implemented. However, measures like these would rely to some extent on the willingness and good faith of Internet-based services to ensure compliance with such pride-of-place policies. Conversely, it would be difficult to imagine what constraints could be enacted in the case of non-compliance. Be that as it may, the technology exists to give Canadian products shelf-space on the Internet where it really counts – on the home pages of the makers and marketers of entertainment and cultural products.

#### **RECOMMENDATION 17:**

**Canadian products should be accorded prominence or pride-of-place on the Web. Incentives should be offered to Internet Service Providers and those operating Canadian-based Web portals to provide this shelf space.**

#### **FRENCH-LANGUAGE CULTURAL PRODUCTS**

French-language cultural production is unique in Canada, largely because of the specific character of the Quebec market where demand for French-language television shows, movies, songs, books and music is very high. The popularity of *téléromans* and *téléseries* is testimony to the extraordinary success of Quebec-produced television shows in French Canada.

In the new media world of the Web, the French language could be challenged by the overwhelming dominance of English on the Internet. It must be said, however, that French-speaking Canadians have actively embraced the Internet and their Web usage is well ahead of that in other French-speaking countries. When the Subcommittee visited France, for example, it learned that the French often consult Quebec-based Web sites for information due to the lack of domestic Web sites in France.

Still, governments can play a role to ensure that both official languages are accorded pride of place on the Web. It is encouraging to note that Telefilm Canada financed the production of a multimedia production called *L'Encyclopédie de l'inforoute*, which won a silver prize at a festival in Biarritz, France, in 1998. Similar initiatives should be encouraged in the future.

**RECOMMENDATION 18:**

***Canadian policies should take into account the specific nature of French and English markets.***

***promoting the development of talented young Canadians by providing regional exposure that will prepare them for national and international exposure.***

**DEVELOPING YOUNG TALENT**

Information technology has opened the world to the quality and diversity of Canadian talent. We must shake off whatever insularity and defensiveness we might harbour, and become more confident of our culture strengths. We must assume a more self-assured air – and we must encourage Canadian creators to speak not only to their fellow Canadians, but also to a worldwide audience.

As already indicated, Canada possesses a wealth of talent. Thousands of award-winning Canadian performers, fine arts professionals, writers, producers, technicians and artisans are recognized world-wide for their accomplishments. What is not generally known is that the majority of our celebrities – Anne Murray, Frederic Back and Daniel Lavoie among them – developed their talent through public radio and television stations. It is the Subcommittee's view, therefore, that our public institutions should augment their support of young Canadian talent throughout the land.

By virtue of its regional outlets and affiliations, the CBC is in the unique position of being able to foster talent in all parts of the country.

In short, our cultural organizations should help promote young local talent and provide the stepping stone to the national and international stages.

**RECOMMENDATION 19:**

***Canada's cultural agencies, especially the CBC, are urged to put more emphasis on***

**THE SELF-EMPLOYED**

With the dramatic changes that have taken place in the workplace through downsizing, restructuring and buyouts, the ranks of the self-employed are swelling. In many cases, Canadians are setting up cottage industries in their own homes. Yet it seems little has been done to compensate them for lost benefits that are customarily provided by employers, such as life insurance, sick time, disability insurance, RRSP contributions and vacations.

This is particularly the case for Canadians working in the cultural industries and new media content, most of whom are contractual employees, or rely on selling what they produce.

Part I of the Status of the Artist Act, which reports to the Minister of Heritage, created a committee composed of representatives from different professions to safeguard the interests of the self-employed in the cultural sector. This part of the Act has been inactive for some time, but could be reactivated by the Minister to examine the current realities of the workplace.

A newly constructed committee could include representation from the main cultural pursuits, as well as officials from the Finance, Industry and Labour departments to undertake a study of the working conditions of the self-employed, particularly those in the new media. Income tax policy is one example that could be reviewed as a means of promoting the creation of new media content.

**RECOMMENDATION 20:**

***The Minister of Canadian Heritage, with the cooperation of the Ministers of Finance, Industry and Labour, should reconstitute a committee under Part I of the Status of the Artist Act to examine the working conditions and laws affecting the self-employed, particularly those in the cultural arena and new media.***

**INTERNATIONAL STRATEGIC ALLIANCES**

Broadcasters in French-speaking countries formed a consortium in the late 1980s to provide a new international television service.

TV-5, as the consortium is known, is expanding its distribution and enhancing the quality of its productions. The public broadcasters in English-speaking countries might wish to investigate a similar venture, either as a traditional broadcaster or as a new media service.

**RECOMMENDATION 21:**

***Given that Canada needs to promote domestic culture, English-language public television broadcasters, such as the CBC and TVOntario, should be encouraged to form strategic alliances with their international counterparts to provide a new global network offering top quality programming.***

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## V- CONCLUSION

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The Subcommittee is now confident, after producing two reports, in asserting that Canada is one of the most “wired” countries in the world.

As stated earlier, close to 100 per cent of Canadians have access to telephone service and off-air radio and television; almost 80 per cent have access to cable; and nearly 60 per cent have access to a computer, whether at home, the workplace, school or other institution (and the number is increasing annually).

This sophistication not only permits Canadians from coast to coast to receive information and cultural products from all parts of the country, but also from around the world.

Interestingly, the Subcommittee determined from the countries it visited that there is a real hunger for more Canadian cultural productions. It was stated time and again how those countries – in Europe in addition to the United States – appreciated the high quality of what they saw, heard and read about Canada. However, it was also noted that they had too little opportunity to enjoy what we produce.

Integral to the Subcommittee’s work was an examination of the interplay between technology and culture, and in particular the production and promotion of Canadian content in the new media environment.

Therefore, in the context of rapid technological change, it would be prudent for the government to develop a policy framework that provides flexibility without losing sight of what is essential. Above all, it is vital to develop and promote top-drawer cultural products – and to ensure there is always a platform in the new environment for them.

It will be appreciated by those reading this report that advancements in technology will continue to affect policymakers. The rapidity with which new technologies interplay with – and supplant – one another will compel them to be ever vigilant in adapting to the evolving “wired” world.

Clearly, as individuals, communities and countries continue adapting to the changing environment, the need to feel “rooted” in their own cultures will intensify.

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## LIST OF RECOMMENDATIONS

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- 1) *The government is urged to proceed with haste, with other governments, within the appropriate international forum, in addressing Internet content that promotes racism, pornography and violence.*
- 2) *Current Canadian content regulations should be amended to include increased points for Canadian creators.*
- 3) *The Government should continue to reaffirm its position that Canada will not relinquish its cultural sovereignty in trade negotiations, or yield to competitive pressures that would jeopardize it.*
- 4) *The government should work through the Competition Bureau to ensure that competition is not stifled through a process of mergers and acquisitions.*
- 5) *The Government should issue a policy statement clarifying the precise distinction, if any, between “telecommunications” and “broadcasting.”*
- 6) *The government should continue to survey through Statistics Canada the ownership of computers and use of the Internet to help ensure there is an equitable opportunity throughout society to utilize the new media.*
- 7) *The government should also continue its efforts to bring the Internet into all Canadian schools so that all students have the opportunity to take part in the world of new technology and ultimately contribute to Canada's place in the world.*
- 8) *Canada's educational systems are encouraged to harness the interest children have in computers as a means of enhancing reading and writing skills.*
- 9) *The government should re-examine the feasibility of creating a national cultural trading agency that would consolidate current international marketing activities and provide a one-stop venue for Canadians engaged in producing content or cultural products for export.*
- 10) *Incentives should be provided for Canadian portal companies to give prominence to domestic cultural content on their sites.*
- 11) *The Canadian Broadcasting Corporation, as this country's public broadcaster, should receive resources to establish a search engine, or portal, to provide access to Canadian content on the Internet.*

- 12) *Web-based content services and Internet Service Providers should be able to obtain leased high-speed access to cable systems and all other distribution networks on fair and non-discriminatory terms, including the right to establish a separate and direct billing relationship with customers.*
- 13) *The government should monitor trends toward reinforced monopolies, or the emergence of large-scale oligopolies, in telecommunications and the new media, and act accordingly in the public interest.*
- 14) *Intellectual property and privacy rights for new media and Web-based products must be adequately protected through legislation and international agreements. Canadian policymakers should move in a timely fashion to expedite Phase III revisions to Canada's copyright law as well as take appropriate measures to ensure privacy rights on the Web.*
- 15) *Fiscal incentives, such as tax credits currently available to conventional film and television producers, should be extended to creators of new media content.*
- 16) *Consideration should be given to developing an equitable formula for the collection and distribution of funds to support new media production.*
- 17) *Canadian products should be accorded prominence or pride-of-place on the Web. Incentives should be offered to Internet Service Providers and those operating Canadian-based Web portals to provide this shelf space.*
- 18) *Canadian policies should take into account the specific nature of French and English markets.*
- 19) *Canada's cultural agencies, especially the CBC, are urged to put more emphasis on promoting the development of talented young Canadians by providing regional exposure that will prepare them for national and international exposure.*
- 20) *The Minister of Canadian Heritage, with the cooperation of the Ministers of Finance, Industry and Labour, should reconstitute a committee under Part I of the Status of the Artist Act to examine the working conditions and laws affecting the self-employed, particularly those in the cultural arena and new media.*
- 21) *Given that Canada needs to promote domestic culture, English-language public television broadcasters, such as the CBC and TVOntario, should be encouraged to form strategic alliances with their international counterparts to provide a new global network offering top quality programming.*

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## APPENDIX A

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### WITNESSES

NAME OF ORGANIZATION AND/OR WITNESS	ISSUE NUMBER	DATE OF APPEARANCE
<b>ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS (ACTRA)</b> Garry Neil, Policy Advisor.	4	April 1, 1998
<b>ASSOCIATION OF CANADIAN PUBLISHERS</b> Paul Davidson, Executive Director; Roy MacSkimming, Policy Director.	4	April 1, 1998
<b>CANADIAN ASSOCIATION OF BROADCASTERS - NEW MEDIA TASK FORCE</b> Peter Miller, Executive Vice-President and General Counsel; Cynthia Rathwell, Legal Counsel; Hal Blackadar, CFNY-FM; Glenn O'Farrell, Vice-President, Regulatory Affairs, Global Television.	10	November 25, 1998
<b>CANADIAN ASSOCIATION OF INTERNET PROVIDERS</b> Margo Langford, Internet Policy, IBM Canada and Chair, CAIP; John Nemanic, President, Internet Direct and Member of the CAIP Board; Wayne MacLaurin, President, Cyberus Online (Ottawa) and former member of the CAIP Board; Timothy Denton, Legal Counsel, Internet Direct.	8	October 21, 1998
<b>CANADIAN CABLE TELEVISION ASSOCIATION</b> Richard Stursberg, President; Nick Masciantonio, Director, Government Relations.	8	October 7, 1998
<b>CANADIAN CONFERENCE OF THE ARTS</b> Mireille Gagné, President; Keith Kelly, National Director.	2	March 18, 1998

<b>NAME OF ORGANIZATION AND/OR WITNESS</b>	<b>ISSUE NUMBER</b>	<b>DATE OF APPEARANCE</b>
<b>CANADIAN FILM AND TELEVISION PRODUCERS ASSOCIATION</b> Elizabeth McDonald, President.	3	March 25, 1998
<b>CANADIAN MOTION PICTURE DISTRIBUTORS ASSOCIATION</b> The Honourable Doug Frith, P.C., President; Susan Peacock, Vice President.	5	May 27, 1998
<b>CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION</b> Françoise Bertrand, Chair; David Colville, Vice-Chairman, Telecommunications; Susan Baldwin, Executive Director, Broadcasting; Carolyn Pinsky, Senior Legal Counsel.	6	June 3, 1998
<b>COLUMBIA UNIVERSITY, GRADUATE SCHOOL OF BUSINESS</b> Eli Noam, Professor of Finance and Economics; Director, Columbia Institute for Tele-information	11	February 17, 1999
<b>DIGITAL RENAISSANCE</b> Michael Blondeau, Director, Content Development.	4	April 1, 1998
<b>EUROKINEMA</b> Yvon Thiec, General Delegate	12	February 18, 1999
<b>INDEPENDENT FILM &amp; VIDEO ALLIANCE</b> Penny McCann, President; Peter Sandmark, Coordinator.	9	October 27, 1998
<b>INDUSTRY CANADA</b> Dr. Robert W. McCaughern, Acting Director General, Spectrum Engineering Branch; Dr. Gerald K. Chan, Director, Terrestrial Engineering Branch.	1	November 26, 1997
<b>MAXLINK COMMUNICATIONS INC</b> Joel Bell, President.	5	May 27, 1998

<b>NAME OF ORGANIZATION AND/OR WITNESS</b>	<b>ISSUE NUMBER</b>	<b>DATE OF APPEARANCE</b>
<b>SHAW COMMUNICATIONS INC.</b> Ken Stein, Senior Vice-President, Corporate and Regulatory Affairs; Elizabeth Roscoe, Vice-President, Government Relations.	7	June 17, 1998
<b>SOCIETY OF COMPOSERS, AUTHORS AND MUSIC PUBLISHERS OF CANADA (SOCAN)</b> Gilles Valiquette, President; Paul Spurgeon, General Counsel.	13	March 3, 1999
<b>TELUS CORPORATION</b> George Addy, Executive Vice-President and Chief General Counsel; Lorna Higdon-Norrie, Vice-President, Public Policy and Government Affairs.	3	March 25, 1998

**FACT-FINDING MISSION TO LOS ANGELES, SAN FRANCISCO, SILICON VALLEY AND SAN JOSE (FEBRUARY 1998)**

<b>ADAPTEC INC</b>	S. Sundaresh, Corporate Vice President Lana Vaysburd, General Manager
<b>COMMERCENET</b>	Steve Terry
<b>DATAQUEST</b>	Christopher J. Thompson, Principal Analyst
<b>DIGITAL DOMAIN</b>	André Bustanoby
<b>FORTE DESIGNS</b>	Susan Garland Forte
<b>FOX KIDS</b>	Gregory G. Economos
<b>FULLBRIGHT &amp; JAWORSKI L.L.P.</b>	Billy Robbins
<b>@HOME NETWORK</b>	Milo Medin
<b>INTEL CORPORATION</b>	Sriram Viswanathan Dan Rabieh Jay Diamond, Online Marketing Technology Strategist
<b>KCOP TELEVISION INC</b>	Carol Myers Martz, Program Manager
<b>MEDIASCOPE</b>	Laurie Trotta

<b>MOTION PICTURE SCREEN CARTOONISTS</b>	Tom Sito, President
<b>SONY PICTURES ENTERTAINMENT</b>	Mary V. O'Hare, Senior Vice-President Don Levy, Executive Director
<b>STANFORD COMPUTER INDUSTRY PROJECT</b>	Shirley Tessler, Co-Director Avron Barr, Co-Director
<b>UCLA (CENTRE FOR COMMUNICATIONS POLICY)</b>	Jeffrey Cole, Director
<b>UNIVERSAL STUDIOS NEW MEDIA GROUP</b>	Paul Rioux, President Chris D'Angelo, Vice-President
<b>UNIVERSAL TELEVISION ENTERTAINMENT</b>	Nancy A. Steingard, Executive Vice-President
<b>UNTERVAL RESEARCH</b>	David Liddle
<b>WARNER BROTHERS</b>	Christopher Keenan, Director of Programming Tom Knott, Recruiting Manager

**FACT-FINDING MISSION TO BRUSSELS, BELGIUM; PARIS FRANCE AND LONDON,  
ENGLAND (NOVEMBER 1998)**

**BELGIUM**

<b>ART LINK BELGIUM AUCTION (ALBA)</b>	Aurore Beguelin
<b>BELGACOM</b>	Patrice D'Oultremont, Regulations Service
<b>BELGIAN INSTITUTE OF POSTAL AND TELECOMMUNICATIONS SERVICES (IBRPT)</b>	Éric van Fleesvelde, General Director
<b>BELGIUM SENATE</b>	Senator Paul Hatry, President, Americas Regional Group, Inter-Parliamentary Union Senator Michel Foret, President, Liberal, French-Speaking Senators (PRL-FDF)
<b>CANADIAN EMBASSY IN BELGIUM</b>	Ambassador Claude Laverdure Suzanne Laverdure Robert Hage, Deputy, Head of Mission

<b>CANADIAN EMBASSY TO THE EUROPEAN UNION</b>	Ambassador Juneau Emitza-Escobar Juneau Gordon Venner, Counsellor, Trade Policy
<b>DEPARTMENT OF THE FRENCH-SPEAKING COMMUNITY</b>	Paule Carnel, Official Representative
<b>EUROCINÉMA</b>	Mr Yvon Thiec, Delegate General
<b>EUROPEAN COMMISSION, COMMERCIAL POLICY, RELATIONS WITH NORTH AMERICA DGI</b>	Karl Falkenberg, Unit Chief, Directorate General I-G (External Relations) Michel Servoz, Unit Chief, Directorate General I-M1 (External Relations)
<b>EUROPEAN COMMISSION, INFORMATION, COMMUNICATION, CULTURE, AUDIOVISUAL (DIRECTORATE GENERAL X)</b>	Daniel Calleja Crespo, Chief of Staff of Commissioner Oreja Michael Neibel, Deputy Chief of Staff Jean-Michel Baer, Director, Culture and Audiovisual Policy, Directorate Eduardo Ibanez, Deputy Chief of Staff of Commissioner Oreja Jacques Delmoly, Unit Chief, Directorate General X-C
<b>EUROPEAN COMMISSION, TELECOMMUNICATIONS INFORMATION MARKET, AND EXPLOITATION OF RESEARCH</b>	Timothy Fenoulhet, Directorate General, XIII Paul Verhoef, Office of Commissioner Bangemann
<b>FEDERAL COUNCIL ON SCIENCE POLICY</b>	Hugo Weekx, President
<b>NATIONAL HOLDING COMPANY</b>	Gilles Samyn, Director Delegate
<b>NORTEL</b>	Symon Visser
<b>OFFICE OF THE MINISTER-PRESIDENT</b>	Luc van Fleteren, Counsellor, Science and Technology Policy
<b>SMIT</b>	Jean-Claude Burgelman, Director, Professor Franck Neuckens, Vrije Universiteit Brussels
<b>TELENET</b>	Van der Spiegel, President Fons van Dyck

## FRANCE

<b>“CENTRE NATIONAL DE LA CINÉMATOGRAPHIE” (CNC)</b>	Michel Romand-Monnier, Director, Audiovisual and Multimedia Industries François Hurard, Director, Film Directorate Hélène Raymondaud, Assistant Director, Regulations, Regulations Financing, Outlook and Information Directorate Paule Lappini, Assistant Director, European Affairs
<b>“CONSEIL SUPÉRIEUR DE L’AUDIOVISUEL” (CSA)</b>	Isabelle Mariani, Official Representative, International Relations Olivier Zegna-Rata, Chief of Staff of President Bourges André-Paul Weber, Director, Audiovisual Operators
<b>FRANCE TELEVISION</b>	Xavier Gouyou-Beauchamps, President
<b>FRANCE 2 AND FRANCE 3</b>	Jean-Loup Demigneux, International Director Henri False, Director of Studies and Development
<b>FRENCH SENATE</b>	Senator Danielle Pourteaud (Socialist) Senator René Trégouët (UDF-RPR)
<b>OFFICE OF THE PRIME MINISTER</b>	Brigitte Joseph Jeanneney, Culture Jean-Noël Tronc, Telecommunications and Information Technology

## LONDON

<b>BBC</b>	David Levy, Chief Advisor, Policy Development, Policy & Planning Department Simon Milner, Senior Advisor, Policy & Planning Department
<b>B SKY B (SATELLITE TELEVISION)</b>	Ray Gallagher, Director, Public Affairs Bob Oliver, Head of Operations
<b>DEPARTMENT FOR CULTURE, MEDIA AND SPORTS</b>	Niall Mackenzie, Head, Commercial and Digital Broadcasting Policy Branch

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## APPENDIX B

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### WITNESSES WHO APPEARED FOR THE INTERIM REPORT (second session, Thirty-fifth Parliament)

NAME OF ORGANIZATION AND/OR WITNESS	ISSUE NUMBER	DATE OF APPEARANCE
<b>CALL-NET ENTERPRISES INC.</b> Juri Koor, President and Chief Executive Officer; Robert Boron, Senior Vice-President, Chief Counsel and Secretary; Jean Brazeau, Vice-president, Regulatory Affairs.	4	December 4, 1996
<b>CANADA LIVE NEWS AGENCY</b> Pierre-Paul Brassard, President; Eugène Béasse, Vice-President, Finances.	6	March 12, 1997
<b>CANADIAN ASSOCIATION OF BROADCASTERS</b> Michael McCabe, President & Chief Executive Officer; Peter Miller, Senior Vice-President & General Counsel.	5	February 12, 1997
<b>CANADIAN BROADCASTING CORPORATION</b> Guylaine Saucier, Chairman, Board of Directors; Perrin Beatty, President & CEO.	8	April 9, 1997
<b>CANADIAN CABLE TELEVISION ASSOCIATION</b> Richard Stursberg, President; Dave Watt, Senior Vice-President, Technology, Economics and Telecom; Jay Thompson, Vice-President, Legal/Regulatory Affairs.	1	October 23, 1996
<b>CANADIAN FILM AND TELEVISION PRODUCTION ASSOCIATION</b> Garry Toth, Vice-President, Member Services and Industrial Affairs; Neil Bregman, President/Executive Producer, Sound Venture Productions Ottawa Ltd. and Member of the CFTPA Board of Directors.	7	March 19, 1997

NAME OF ORGANIZATION AND/OR WITNESS	ISSUE NUMBER	DATE OF APPEARANCE
<b>CANADIAN WIRELESS TELECOMMUNICATIONS ASSOCIATION</b> Robert Koven, Chairman; Roger Poirier, President; David Farnes, Vice-President.	2	November 27, 1996
<b>CELLULARVISION CANADA LTD.</b> Suzanne Scheuneman, Spokesperson; Lorne H. Abugov, Legal Counsel.	3	December 2, 1996
<b>EXPRESS VU INC</b> Chris Frank, Vice-President, Government and Regulatory Affairs.	5	February 12, 1997
<b>FONOROLA INC.</b> Jan Peeters, CEO.	2	November 6, 1996
<b>FOREIGN AFFAIRS AND INTERNATIONAL TRADE, DEPARTMENT OF</b> Robin Higham, Director General, International Cultural Relations Bureau; Valerie Raymond, Director, Arts and Cultural Industries Division; Brian Long, Director, International Academic Relations Division; Robert Collette, Director, Investment, Science and Technology and Partnering Division; Richard Lepage, Deputy Director, Corporate Partnering; André Ronish, Manager, Technology Acquisition.	1	October 23, 1996
<b>HERITAGE CANADA</b> Victor Rabinovitch, Assistant Deputy Minister, Cultural Development; Jean Guérette, Director, Distribution Systems and Multimedia; John Foote, Senior Policy Analyst, Arts Development and Programs.	1	October 23, 1996
<b>IBM CANADA LTD</b> Shahla Aly, Vice-President, Commercial services; John Warner, Government Programs.		April 9, 1997

NAME OF ORGANIZATION AND/OR WITNESS	ISSUE NUMBER	DATE OF APPEARANCE
<b>INDUSTRY CANADA</b> Larry Shaw, Director General, Telecommunications Policy Branch; H��l��ne Asselin, Analyst.	1	October 23, 1996
<b>INDUSTRY CANADA</b> <i>(Officials from the Competition Bureau Policy)</i> Gilles M��nard, Deputy Director of Investigation and Research (Civil Matters); Rachel Larabie-LeSieur, Deputy Director of Investigation and Research (Marketing Practices); Dave McAllister, Senior Commerce Officer, Civil Matters Branch.	3	December 2, 1996
<b>NATIONAL FILM BOARD</b> Sandra MacDonald, Government Film Commissioner and Chairperson; Joanne Leduc, Director of International Program.	4	December 4, 1996
<b>NATIONAL LITERACY SECRETARIAT AND THE OFFICE OF LEARNING TECHNOLOGIES</b> James E. Page, Executive Secretary; Stephen Loyd, Manager, Office of learning Technologies; Jean Pignal, Special Surveys Division, Statistics Canada.	7	March 19, 1997
<b>STENTOR</b> Michael Murphy, Acting CEO; Ron Kelleson, National Director, International Commercial Affairs; Robert Tritt, National Director, Legal and Corporate Affairs.	2	November 27, 1996
<b>TELEFILM CANADA</b> Fran��ois Macerola, Executive Director.	3	December 2, 1996
<b>TELEGLOBE CANADA INC.</b> Guthrie Stewart, President & CEO; Claude E. Forget, Special Advisor to the Chairman of the Board; Mariel Bradford, Vice-President, Corporate Affairs.	1	October 23, 1996

NAME OF ORGANIZATION AND/OR WITNESS	ISSUE NUMBER	DATE OF APPEARANCE
<b>TELESAT CANADA</b> Ted Ignacy, Vice-President, Finance and Treasurer; Robert Power, Director, Regulatory Matters.	4	December 11, 1996
<b>AS AN INDIVIDUAL:</b> David Silcox	8	April 9, 1997

## FACT-FINDING MISSION TO BOSTON (FEBRUARY 1997)

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<b>CANADIAN CONSULATE GENERAL</b>	Donald Cameron Paul Desbiens, Deputy General Consul and First Trade Officer Bruce L. Barnett, Consul Nathalie Noël, Economic & Trade Policy Officer Bryan M. Baldwin, Economic & Trade Policy Officer
<b>HARVARD UNIVERSITY</b>	Anthony G. Oettinger, Chairman, Program on Information Resources Policy John C.B. LeGates, Managing Director, Program on Information Resources Policy Martin L. Ernst, Program on Information Resources Policy Michael Bessey, Ph.D. Student, Program on Information Resources Policy Craig MacDonald, Fellow, The Center for International Affairs Michel Catinat, Fellow, The Centre for International Affairs W. Russell Neuman, The Joan Shorenstein Center on the Press, Politics and Public Policy
<b>MASSACHUSETTS INSTITUTE OF TECHNOLOGY</b>	Nicholas Negroonte, Director, The Media Laboratory David Riquier, Associate Director Communications, The Media Laboratory
<b>MASSACHUSETTS TELECOMMUNICATIONS COUNCIL</b>	Laura Ring, Executive Director
<b>TUFTS UNIVERSITY</b>	Rebecca Goldfarb, Ph.D. Student, <i>The Fletcher School of Law and Diplomacy</i>

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