



**Why Canadian Cultural Industries Need  
Effective Legislation and Enforced Regulation  
To Maximize Competition**

**Submission to the Competition Policy Review Panel  
by the Canadian Conference of the Arts**

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## Introduction

- 1 The Canadian Conference of the Arts (CCA) is Canada's oldest and largest arts advocacy and cultural policy development organization. Its mandate is to be the national forum for the arts and cultural community in Canada; to provide research, analysis and consultations on public policies affecting the arts and the Canadian cultural institutions and industries; to foster informed public debates on policy issues and to seek to advance the cultural rights of Canadians.
- 2 CCA appreciates the opportunity provided by the Competition Policy Review Panel (Panel) to Canadians to make submissions about measures to improve competition in Canadian broadcasting and culture as a whole. We welcome the position stated in the Panel's discussion paper which suggests that the Panel's main concern is with competitive problems in this sector. We agree that problems exist, and believe they are caused by inadequate financial support for culture in general, and a failure to enforce existing legislation and regulation (particularly in broadcasting).
- 3 We must however express some frustration at the short time frame given for this important exercise. Since the Baie Comeau Policy was adopted in 1985, the government has approved close to 90 key applications and turned down only three under the foreign investment guidelines. Most of the decisions are considered confidential so it is very difficult if not impossible to analyze them with regards to the net benefit test. CCA is not aware of any contemporary analysis of these issues or of the past practice. Therefore, coupled with the lack of comprehensive data on issues such as decisions on foreign investments in the cultural industries and broadcastings sector, net benefit agreements, etc., it is difficult to address the issues identified by the Panel with the rigor essential to assess such important public policy issues before anyone can suggest that the support measures put in place over the years are obsolete or detrimental to competitiveness in these sectors.
- 4 Limits on foreign control in cultural industries have neither created nor will resolve competition problems in Canadian broadcasting and culture. It is worth noting that these problems are not new, having been identified in one study after the other over the past several decades. Perhaps we may take this opportunity to note that it is somewhat disappointing that despite well-supported conclusions almost unanimously endorsing Canadian control and support for culture and broadcasting by Royal Commissions, Committees of the Senate and of the House of Commons, Task Forces and other panels alike, and despite Canada's recent initiative in obtaining worldwide support for the *UNESCO Convention on the protection and the promotion of diversity of cultural expression*, Canadians are again being called upon to justify their desire for cultural sovereignty. The panel's discussion paper hints at this obligation when it suggests that culture and broadcasting's strong role in the economy was merely "deemed" important to Canada, and that market forces' failure to invest in Canadian culture and broadcast content was merely "perceived".
- 5 The CCA considers the foreign ownership restrictions in the cultural industries and broadcasting to be critical elements of Canadian cultural policy. To have them swept into a broad review of public policies in the context of competitiveness calls into question the

Investment restrictions and controls in Canada were introduced to protect important aspects of the economy deemed essential to Canada's sovereignty, cultural identity, national security and overall economic well-being. Other restrictions were imposed to deal with a perceived inability of market forces to support the development of domestic activity.

Competition Policy Review Panel, *Sharpening Canada's Competitive Edge* (30 October 2007), Chapter 3.

inherent value of cultural policies developed over decades to ensure a space for Canadian cultural expression. It is the hope of the CCA the Panel will consider the issue of foreign ownership restrictions through this lens and not solely from an economic or competitive perspective. The challenge for the Panel is to produce data that demonstrates any potential and measurable cultural benefits to a significant revision of the current foreign ownership restrictions in the cultural industries and broadcasting. The temptation to obscure such an assessment through the use of the corporate confidentiality veil must be resisted and denounced.

- 6 With all due respect, and without questioning the personal interest in arts and culture of any of the Panel members, CCA notes that there is no one on the Panel with the kind of direct experience of the cultural sector of the Canadian economy to understand and assess the rationale and importance of the foreign ownership restrictions in the cultural industries and broadcasting. CCA therefore calls upon the Minister of Industry to either appoint another member to the Panel or to set up a sub-panel drawn from people with a cultural background to examine the foreign ownership issues in this critical sector.

### **Cultural products are not products like any other**

- 7 It is important to bear in mind that while culture and broadcasting matter to the Canadian economy as businesses, they are critical to Canadians in their day-to-day lives when they seek news and information or are exposed to new values and new ideas in dramatic and other forms of cultural expression productions. Yet 'culture' is often dismissed as being of ephemeral value, and arguing in support of Canadian culture instead of the *business* of culture and broadcasting is therefore difficult: since culture's 'value' or worth is viewed as transitory and its assessment complex, standard economic taxonomies such as the North American Industry Classification System ignore it altogether.<sup>1</sup>
- 8 The reality is that cultural products are not products like any other, a fact recognized by the Canadian government when it sought and obtained the cultural exemption clause in the Free Trade Agreement and in the North American Free Trade Agreement (NAFTA). Cultural products play a defining role for Canada as a nation. They are closely linked to our collective identity and participate symbolically to our individual and collective needs in this respect.
- 9 Canadians must be able to access cultural products from Canadian artists and creators, products which reflect their own values, experiences and environment. It is from this perspective and from this perspective only that one must approach the issue of competitiveness in cultural industries and distribution systems. If those industries and systems were to present only productions and perspectives coming from foreigners, and more particularly from our US neighbours, a major component and justification for Canada to exist as a sovereign nation would disappear.
- 10 Canadian governments have long recognized that the unique importance to Canada of ensuring that Canadians have access to Canadian ideas, values and stories requires both regulation and government support. Access to properly-funded Canadian cultural content is in fact CCA's main concern: in our view, the main challenge to Canadian competitiveness in culture and broadcasting results from inadequate 'shelf space' and inadequate financial support.

- 11 The products of Canadian cultural industries and audio-visual distribution not only enlighten and entertain, but also inform Canadians. The wide reach of these media enable them to influence ideas and behaviour explain why virtually every government regulates this sector. This is why they have to be subject to specific cultural objectives on the part of government, just like other sectors of the economy may have to abide by legislation governing conditions of employment or protection of the environment.

### **The public good and the need for regulation in the cultural sector**

- 12 The fundamental question that this Panel has been asked to address is how if existing restrictions on ownership impede Canadian competitiveness and productivity. An ancillary question of equal importance revolves around the efficacy of these measures in advancing broader Canadian public policy objectives. It is difficult to answer one without a serious examination of the other.
- 13 The current restrictions on foreign ownership and control have not been designed to create a fire-wall around Canada against artistic and cultural materials from foreign producers. Canadians have a plethora of choices in all media of content from around the world. The intent of the existing regulation has been to ensure that Canada retains the capacity to produce its own materials on its own terms. This capacity takes on an important new dimension as the creative economy begins to replace the traditional industrial/agricultural basis of the Canadian economy. In order to ensure the competitive potential of Canadian artists, creators and producers in all media, it is imperative that effective control of these industries remains in Canadian hands.
- 14 CCA considers that the most effective mechanism for maximizing Canadians' access to the cultural content that they support through taxation is effective and enforced regulation of Canada's legislation affecting culture, particularly but not exclusively with regards to the audio-visual sector. The CCA considers the present range of foreign ownership restrictions as critical to the long-term health of our cultural industries and the capacity of Canadian artists, creators and producers to continue to give voice and shape to our national experiences.
- 15 For the past several decades, the operating principle in Canadian cultural policy has been that Canadian ownership and effective control of our cultural industries will ensure more Canadian content is made available to Canadians: after all, Canadians are more likely than non-Canadians to be in a position to tell our own stories and to present our own view of the world based on our own set of values. Statistics Canada reports from all of the cultural industries support this belief: Canadian-owned firms are responsible for the overwhelming preponderance of production by Canadian artists. For example, over 80 percent of Canadian books and virtually all movies and television programs that are Canadian in content and character are produced by Canadian-owned firms.
- 16 The concept of the "public good" is one that is hard to dismiss when we consider federal policies to support and advance the expression, production and distribution of Canadian cultural goods and services. This is an abiding responsibility of the federal government. Subsequent federal governments have discharged this responsibility through various tools, with equally varied results.

## The case of publishing

- 17 In 1985, then Conservative Communications Minister Marcel Masse was successful in convincing Cabinet to implement the so-called Baie Comeau foreign ownership policy, which

“...prohibited the sale of a Canadian-owned publisher to a non-Canadian and stipulated that, if a foreign firm indirectly acquired a Canadian subsidiary as part of a takeover of another foreign firm, then it would have to divest its interest in the Canadian subsidiary. The policy was expanded later to cover record producers and film and video distributors. In the case of distributors, it prevented the establishment of any new foreign firm in Canada except where the sole activity is to distribute proprietary products (these are products in which they had invested at least 50 percent of the production costs or held worldwide release rights).

(...)

Recent examples of the erosion of Canadian ownership rules include the decision in 2002 to permit the sale of Distican, one of Canada’s largest book distribution companies, to US giant Simon and Schuster, and the permission given to Amazon.ca to enter the Canadian market, thus weakening independent booksellers. The government also allowed the effective disposition of McClelland and Stewart (M&S) to the German conglomerate Bertelsmann AG and to the University of Toronto Press. It also allowed the sale of 49 percent of CDG Books/Macmillan to IDG Books - a sale that led to the recent complete absorption of Macmillan by Wiley Publishing Inc., another of the world’s big publishers. With the bankruptcy of Stoddard Publishing, the three largest Canadian book publishing firms of the 1980s and 1990s (including Canada Publishing Corporation and M&S) have either ceased to operate or been radically transformed. These firms were a critical part of the global success of Canadian literature, and these developments do not bode well for a positive future for Canadian publishing or literature.”<sup>2</sup>

## The film industry example

- 18 The absence of appropriate regulation in the movie industry is the best illustration of the impacts of foreign ownership and control of a cultural industry. The current film distribution policy has not effectively distinguished the distribution rights for the Canadian market from North American rights for most of the largest distributors. As a result foreign film distributors maintain a lock on the majority of the film distribution activity in Canada. Foreign films (i.e. US movies) occupy over 98% of screen time in English Canada, the situation being somewhat better in Québec cinemas.
- 19 In 1984, Québec announced that it would introduce strong measures designed to create more space in cinemas for local movies. These included provisions prohibiting the release of English-language movies before a French version was available, requirements to dub movies in the province and limits on the number of copies that could be released.

- 20 In 1985, the federal government tabled the *Film Industry Task Force Report*, a comprehensive study of our inability to develop a Canadian film industry. The Raymond Roth Report argued that the principal problem was that Canada's distribution sector is foreign-owned and that Canada, along with Mexico, is considered part of the US domestic market by the US film business. Evidence of this is the fact that the collective bargaining agreements between the US industry and its unions stipulate that foreign residual fees are not made until the films are distributed outside North America.
- 21 The Report argued Canada could begin to break this monopoly by first tackling the insistence of the US distributors to acquire North American rights when they contract with an independent producer to distribute a film. If Canadian distributors could negotiate for Canadian-only rights to such films, the profits they would earn from the release could be used to increase their investment in Canadian movies. This would improve their audience appeal.
- 22 The late American lobbyist Jack Valenti railed against these proposals and threatened that Hollywood majors would boycott Quebec's theatres and might take similar action throughout Canada. US President Ronald Reagan, a strong supporter of Hollywood interests, raised this issue with Prime Minister Brian Mulroney at the March 1985 Shamrock Summit in Quebec City. Canada and Québec both backed down. Québec's Cinema Act was effectively gutted through regulations and US studios agreed to distribute Hollywood movies through Québec distributors. The initial very tentative steps to capture a share of the distribution business for Canadian companies announced with great fanfare by Canada's Communication Minister Flora Macdonald in 1987, including a watered-down Film Products Importation Bill, were also gutted. The Bill, which would have required that Canadian distribution rights to independently produced films be purchased separately from rights to any other country, died on the Order Paper when the 1988 federal election was called.
- 23 This is as eloquent an example as one can dream of, of how foreign controlled cultural industries shutting Canadian cultural goods and services out of the market can occur with impunity in a weak or ineffective policy context. There is no evidence that a total abandonment of current ownership policies would not produce a similar result in other areas of the production and distribution cultural goods and services. While the federal government entrusts the task of preventing foreign producers from shutting Canadian products and services from the marketplace to Investment Canada and the Bureau of Competition Policy, there is scant evidence of an appetite or willingness by either party to enforce these measures with consistency or with any regards for legitimate Canadian cultural objectives which the government fosters on the international stage through its commitment to the *UNESCO Convention* on cultural diversity.

### International trade treaties implications

- 24 Canada's current trade treaties usually prohibit requirements that foreign investors make specific employment or content requirements that are standard in the cultural sector. This would certainly make it difficult for Canada to apply higher expectations to foreign investors than it does to Canadian investors. Since federal regulators don't have much of a track record of enforcing regulations with Canadian owned and controlled companies, they would likely find it even more difficult to enforce any regulations or conditions applied to foreign controlled ones – given past history, the latter may

legitimately expect that breached regulations or conditions of licence would attract little, if any, regulatory penalty.

- 25 CCA is particularly concerned with the potential implications of *NAFTA's Chapter 11*, which provides foreign investors with the right to sue the Canadian government and seek compensation for government actions, including those of regulatory agencies such as the CRTC, which investors believe violate their rights under the Treaty.
- 26 The only case to date challenging the cultural exemption appeared in a larger action launched by UPS primarily to address the allegation that Canada Post was cross-subsidizing its courier business from its monopoly over mail delivery. Included in that case was the UPS challenge to the Publications Assistance Program of the Department of Canadian Heritage, which assists the costs of Canada Post delivery of Canadian owned periodicals to Canadian subscribers to ensure equitable access by all Canadians to Canadian created content. In its May 2007 decision, the Tribunal ruled against UPS on this issue.
- 27 The NAFTA cultural exemption is limited in any case to the cultural industries as they were defined in the Canada/U.S. Free Trade Agreement. Importantly, while the definition included publishing, broadcasting, sound recording and film/television production, it did not consider new media, since that medium was unknown in 1988.

### The net benefit to Canada

- 28 Let us now turn to the “net benefit” element of the current review. As noted in the discussion paper “*Sharpening Canada's Competitive Edge*”, this is a somewhat elastic assessment which has evolved over time. While the CCA does not endorse the abandonment of many of the current ownership restrictions, it does support a redefinition of the “net benefit” and how such benefits should be targeted.
- 29 The CCA is of the opinion that the current net benefit system works against the long-term interests of Canadians because while it may favour individual artists and creators, it does not provide for proper reinvestment in the development of Canadian talent and cultural industries:

“The resolve of the federal government to maintain Canadian ownership in the cultural industries has weakened significantly over the years. Soon after it was implemented, the Baie Comeau policy was amended to provide that a foreign firm could acquire a Canadian subsidiary if the transaction was “of net benefit to Canada.” Instead of forced divestment, the Foreign Investment Review Agency (FIRA) began to approve the acquisitions when the foreign firms offered benefits, such as job guarantees. This approach generated some troubling consequences for Canadian cultural industries. Most troubling was the requirement that foreign firms working in Canada publish Canadian authors and record Canadian musicians. This obligation increased the value of leading Canadian artists as they became sought after by the large multinational firms. Although this benefited some artists, who signed lucrative deals, the policy hurt Canadian firms as they were generally too small to compete with these lucrative contracts and could not offer the foreign distribution. As a result, Canadian firms lost an important



revenue stream that, previously, they had used to reinvest in the development of up-and-coming Canadian talent.”

- 30 As mentioned at the outset of this brief, it is particularly difficult to properly assess the real impact of the net benefit system because of the confidentiality blanket which prevents any analysis of the issue. Once again, the temptation to obscure such an assessment through the use of the corporate confidentiality veil must be resisted and denounced.
- 31 The advent of the creative economy presents new opportunities to advance Canadian innovation and productivity, especially in those small and medium enterprises that constitute the engines of growth. Rather than apply a net benefit test to determine employment created by the merger or acquisition, the policy could be re-interpreted to focus real investment in these developing agents of the creative economy. This would ensure the development of Canadian talent and of the kind of cultural enterprises which ensure genuine Canadian cultural expression.
- 32 In a recent article in the *Globe and Mail*, Ian C.W. Russell President and CEO of the Investment Industry Association of Canada, states:
- “Our future growth and prosperity, however, will depend on our building innovative niche players for domestic and global markets. While we cannot compete in all markets dominated by the large global corporations, business opportunities for specialized products and services will proliferate as global prosperity widens.”<sup>3</sup>
- 33 A direct financial investment in these companies within the creative economy would advance the development of the Canadian economy, funnel investment into emerging producers of cultural goods and services and represent the kind of enlightened measure required to advance the public good interests of the federal government.
- 34 Such measures could also include some partnership or mentoring arrangement with a small or medium enterprise to which a limited financial value could be attached. Fostering a diverse economy, competitiveness and creativity are all worthy goals that could be supported through such a redefinition of the “net benefit” concept in theory and in practice.

### The case of broadcasting

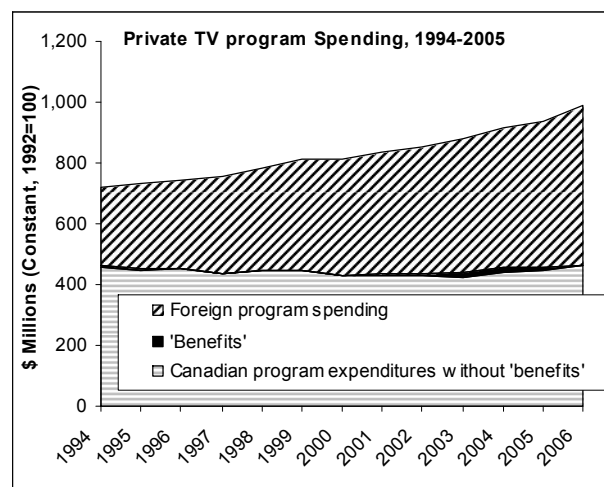
- 35 While the issue of foreign ownership obviously applies to all of the cultural industries, the balance of this brief will examine more specifically its implications for broadcasting and the audio-visual sector.
- 36 The Canadian Parliament has set out specific cultural responsibilities for this cultural sub-sector: the *Broadcasting Act* provides the most comprehensive statement of cultural policy within federal legislation. It states that broadcasters and distribution undertakings must
- “safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada”,

- reflect “Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming”,
- offer “information and analysis concerning Canada and other countries from a Canadian point of view”,
- serve Canadians’ “employment opportunities”,
- adapt readily “to scientific and technological change”, and
- “contribute in an appropriate manner to the creation and presentation of Canadian programming”.<sup>4</sup>

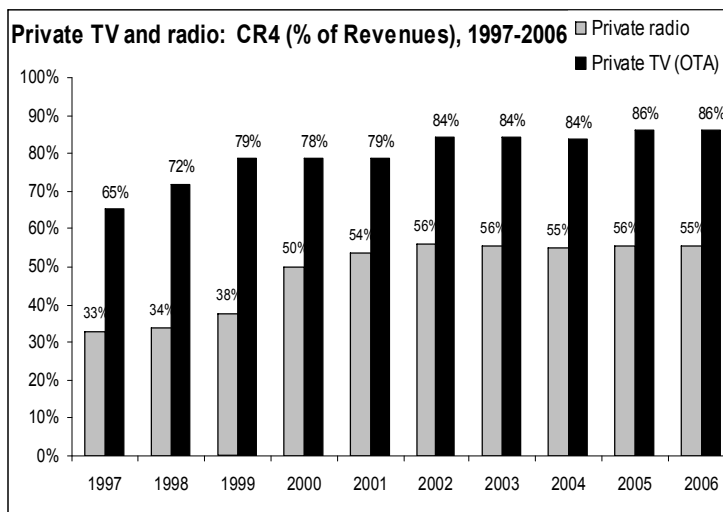
37 Parliament also requires specifically that each radio station, each television station, each pay or specialty service and each distribution undertaking “make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming”.<sup>5</sup>

38 CCA believes that the main challenge facing Canadian broadcasting is not competitiveness: the main challenge is that the CRTC has still not achieved Parliament’s objectives because it has for the past twenty-five years focussed essentially on improving the financial well-being of Canada’s broadcasters and distributors. The result is a sector whose ownership is highly concentrated, whose profits are high and whose use of Canadian resources is becoming negligible.

39 Since the airwaves belong to the federal government, private broadcasters are licensed to use a portion for a period of time and cannot simply sell them. Instead, they must apply to the CRTC for permission to acquire other broadcasters. Over the past decade it has almost become routine for the CRTC to approve such applications, typically with the offer of financial ‘benefits’: the benefits are supposed to offset the negative effects of consolidated ownership, such as the reduction in diversity of control. Benefits typically consist of spending outside the normal course of business – to invest in Canadian programming or to support specialized broadcasting education. Unfortunately, at least in the case of television, the benefits accepted by the CRTC are virtually inconsequential (being the narrow black line on the chart to the right).

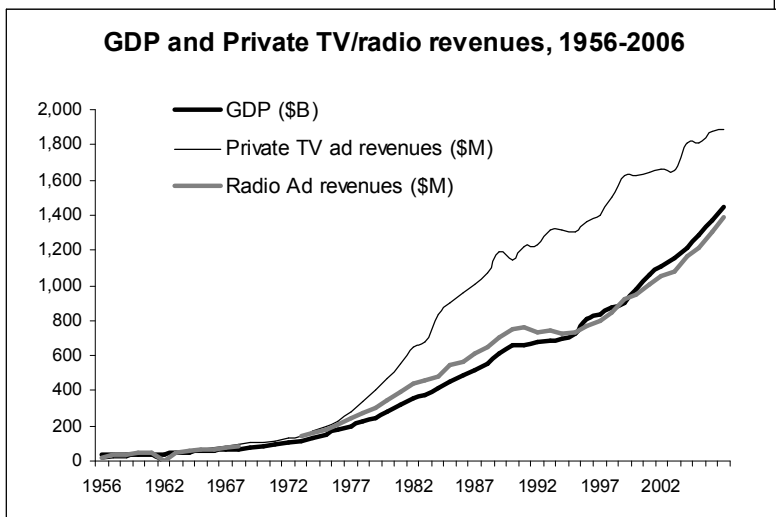
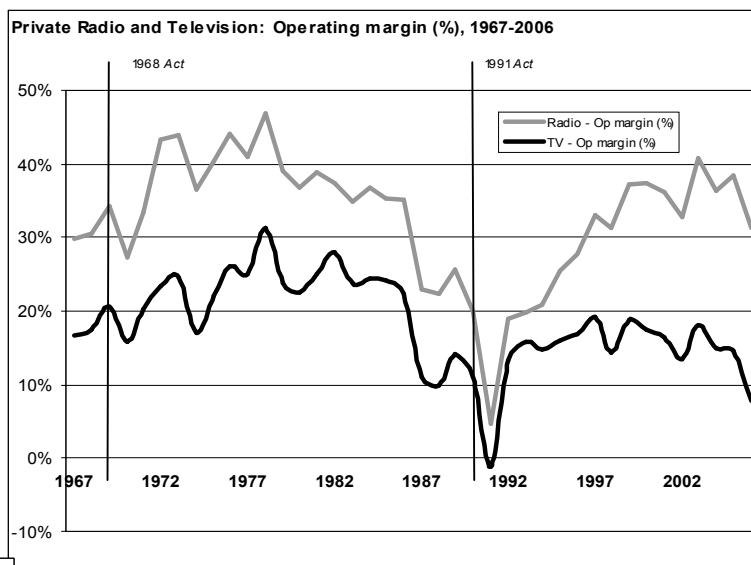


40 Ownership in Canadian broadcasting is already highly concentrated. Since the CRTC began publishing limited ownership data beginning in 1997, the proportion of revenue obtained by the four largest owners (CR4) has increased for both radio and television, although it has remained fairly constant of the past several years. We note in passing that while more informative industry consolidation statistics (*i.e.*, the Herfindahl-Hirschmann index) exist, the CRTC has never published data to enable precise calculation of a more useful nature.



41 Meanwhile, whether due to consolidation, reduced and un-enforced regulation or overall economic prosperity that encourages advertising, Canadian broadcasting's profitability has improved solidly.

42 Broadcasters' financial performance, based primarily on advertising in the case of conventional, over-the-air broadcasting services, varies in tandem with the Canadian economy. With the exception of the early 1990 economic recession, Canada's private radio and television sectors have generally been reasonably profitable,



with operating margins exceeding 30% in the case of radio, and 10% in the case of television.

43 Canada currently permits foreign investment in Canadian broadcasting services; it simply prohibits their control over these services. In its recent application to acquire Alliance Atlantis interests, CanWest Global Communications said that "Staying strong and healthy

at home in Canada requires unfettered access to both Canadian and international capital markets” And, having granted CanWest's purchase of the Alliance Atlantis programming services despite a 64% equity share held by non-Canadians, the CRTC may believe this to be true. What this means is that now American interests will control the second largest private broadcaster in Canada in addition those American interest will, through a Canadian intermediary, have effective control Canada’s largest film distributor and the largest inventory of Canadian content television and movies, most of which were produced with huge public subsidies from Canadians.

- 44 CCA is convinced that allowing foreign control in the cultural industries will not guarantee increased investment in Canadian cultural goods and services. Within the parameters of the current regulation, Canadian cultural industries already have considerable access to foreign capital, financing, co-production and distribution deals.

“In the recorded media, the ownership rules governing telecommunications companies, cable television firms, and broadcasters were standardized in 1996 as part of the federal government’s Convergence Policy Statement, which recognized that there would be increasing competition between them (Industry Canada 1996). At the same time, the foreign ownership limits in the broadcasting and cable sectors were increased. As of 2004 foreign interests were limited to no more than a 20 percent direct interest and up to one-third of a holding company, effectively permitting foreign ownership of up to 46.7 percent (Canadian Heritage 2004). But even that is not enough for some, and, in 2003, the House of Commons Industry Committee recommended that the rules be relaxed even further (SCIST 2003). In the same year, With the House of Commons Standing Committee on Canadian Heritage recommending in the same year that the restrictions be retained (SCCH 2003). Following the election of the Conservative Party government in 2005, there has been a new push to permit greater foreign ownership of Canada’s telecommunications, broadcasting and cable companies. The report of the federal Telecommunications Policy Review Panel released on March 22, 2006 recommends that the government relax the ownership rules for these sectors and appoint a panel to review Canada’s broadcasting policy in order to look at how Canadian content regulations can be maintained if ownership rules are relaxed. It remains to be seen which of the two recommendations will be followed. In April 2006, Canada joined nine other WTO members in a plurilateral request to 23 other member countries which seeks the removal of all limits on foreign investment in the domestic telecommunications sector.”<sup>6</sup>

### **The need for new legislation to address converged Canadian communications**

- 45 The 2006 Report of the Federal Telecommunications Policy Review Panel contends that it may not be possible to sustain a two track legislative and regulatory system for broadcasting and telecommunications as both now are competing in the same marketplace, with the same or similar products under significantly different rules. While the CCA accepts the view of the Panel, caution must be taken to ensure that such a move does not eviscerate the many beneficial cultural elements of the *Broadcasting Act* or undermine the centrality of these technologies in the advancement of domestic cultural policy objectives.

- 46 Parliament has brought forward legislation to address broadcasting on many occasions since 1917, when the new technology was introduced to this country. Unfortunately, it seems clear that new legislation is again needed, to ensure that Canadians' interests in their broadcasting system are met. These interests are not now being met because of highly-consolidated ownership levels that, despite high profits, are now spending a lower percentage of their revenue on Canadian programming (until they get close to licence renewing time!).
- 47 A major concern is that any new legislation must retain Canadian ownership and control of Canada's communications services. By subjecting Canadian communications infrastructure to foreign ownership or control, a real and substantial risk also exists that foreign national interests may dictate Canadians' use of this infrastructure. Historical examples illustrate this concern. In 1917, for instance, when the United States declared war on Germany, it not only limited freedom of the press,<sup>7</sup> but also assumed control over all radio-telegraphic transmitters<sup>8</sup> – threatening to imprison those who failed to comply in internment camps.<sup>9</sup> For much of 1918, U.S. naval radio operators monitored all radio-telegraphic broadcasts, tracing unknown transmissions to their origin.<sup>10</sup> Halfway through 1919 the U.S. government pressured the British Marconi Company, owner of over half of American radio stations, to sell its interests to domestic companies, and finally expropriated the company on the ground that, as a matter of national importance, radio ought to be locally controlled.<sup>11</sup> In the 1930s, NBC cancelled radio programs that might “undermine the public confidence”.<sup>12</sup> In the 1950s, the U.S. Signal Security Agency obtained International Telephone and Telegraph, and obtained copies of all foreign government cables that ITT carried, in direct breach of a 1934 U.S. law banning the interception of domestic communications.<sup>13</sup>
- 48 In the case of foreign ownership restrictions in the cultural industries and broadcasting sectors, a more comprehensive analysis is required to ensure that the broad and legitimate public policy objectives work in a complementary manner. Such an examination would require broad and sustained pan-governmental effort. The scatter shot approach in examining one issue independent of other priorities is both ineffective and deficient in the due diligence required for solid public policy development.

## CONCLUSION

- 49 The CCA contends that insufficient attention is given to ensuring coherence among various federal government policy priorities. International trade objectives, initiatives to enhance competitiveness, cultural and industrial goals do not always appear to be aligned. This can result in a dysfunctional public policy framework where one priority negates or hobbles progress in other priority areas.
- 50 While the CCA fully supports many of the federal government's objectives in fostering a more fluid international trade environment globally, it does not support the concept of revising cultural policies at the trade negotiation tables.
- 51 The coherence between the domestic cultural objectives that have evolved to ensure a space for the creation, production and distribution of Canadian cultural goods and services and other broader policy objectives such as increasing competitiveness, expanding international trade and greater reliance on the forces of the marketplace to

effectively replace regulation has yet to be achieved. There is a need for a thorough examination of how better coherence and understanding of these broad objectives can be developed so that one objective does not unwittingly undermine other important federal policy objectives in other areas of federal concern.

- 52 The CCA contends that the complexity and interconnectedness of the various instruments developed to promote and sustain Canadian cultural expression cannot be fully appreciated by a scatter-gun approach to federal policy development. While sharpening Canada's competitive edge is a laudable objective, it is the hope of the CCA that the Panel will recognize that any wholesale move to dismantle foreign ownership restrictions or any other policy which could be deemed an impediment to this objective must be seriously and thoroughly evaluated by the federal government. The potential impact of any such move, through international trade, new federal legislation, regulation or deregulation must be fully understood by government and the stake-holders in the arts and culture sector.
- 53 The CCA offers to assist in this process in a constructive and professional manner should the federal government accept that such an examination is an essential prelude to profound changes in the federal policy framework.

## End notes

<sup>1</sup> Statistics Canada, *Economic Contribution of the Culture Sector to Canada's Provinces*, Cat. no. 81-595-MIE2006037 at 9-10.

<sup>2</sup> *Whose Canada? Continental Integration, Fortress North America and the Corporate Agenda* Ed. Ricardo Grinspun and Yasmine Shamsie, McGill-Queen's University Press, Montreal and Kingston. Pg. 371-389.

<sup>3</sup> Globe and Mail, December 31, 2007.

<sup>4</sup> See s. 3(1) of the *Broadcasting Act, 1991*.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Whose Canada? Continental Integration, Fortress North America and the Corporate Agenda* Ed. Ricardo Grinspun and Yasmine Shamsie, McGill-Queen's University Press, Montreal and Kingston. Pg. 371-389.

<sup>7</sup> <<http://www.bartleby.com/65/pr/press-fr.html>>. The US prosecuted the socialist journal, *The Masses*, a socialist journal, under the *Espionage Act* for publishing articles that undermined America's war effort; it subsequently closed. <<http://www.spartacus.schoolnet.co.uk/FWWespionage.htm>>.

<sup>8</sup> <<http://www.ipass.net/~whitetho/speclnd1.htm>>.

<sup>9</sup> <<http://www.angelfire.com/nc/whitetho/1919spy.htm>>.

<sup>10</sup> *Ibid.*

<sup>11</sup> Brian Winston, *Media Technology and Society A history: from the telegraph to the Internet*, (London: Routledge, 1998) at 77.

<sup>12</sup> *Spirit of the Web*, *supra* note 9 at 170.

<sup>13</sup> Shane Harris & Tim Naftali, "Tinker, Tailor, Miner, Spy" online: slate.com (3 January 2006).