



National Library
of Canada

Bibliothèque nationale
du Canada

Canadian Theses Service Service des thèses canadiennes

Ottawa, Canada
K1A 0N4

NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.



National Library
of Canada

Bibliothèque nationale
du Canada

Canadian Theses Service Service des thèses canadiennes

Ottawa, Canada
K1A 0N4

The author has granted an irrevocable non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without his/her permission.

L'auteur a accordé une licence irrévocable et non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

L'auteur conserve la propriété du droit d'auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ISBN 0-315-59174-9

Uncommon Carriers:
Canadian Cable Television Policy (1968-1990)

Robert Hargadon

A Thesis
in
The Department
of
Media Studies

Presented in Partial Fulfillment of the Requirements
for the Degree of Master or Arts at
Concordia University
Montreal, Quebec, Canada

April 1990

© Robert Hargadon, 1990

ABSTRACT

Uncommon Carriers:
Canadian Cable Television Policy (1968-1990)

Robert Hargadon

This work examines state policy interventions directed at the Canadian cable television industry since 1968 with a focus on the attempted fulfillment of programming objectives as set out in the 1968 Broadcasting Act. The thesis draws upon the work of Clause Offe to illustrate how state interventions in this sector are shaped, in part, by the state's relationship to the accumulation process. It is argued that this relationship undermines the state's ability to formulate policies which provide for real programming diversity within the Canadian broadcasting system. An examination of interventions over a twenty-two year period demonstrates how the state has intervened in order to ensure accumulation in the communication sector while appealing to broad cultural objectives to obscure the nature of its interventions. In this regard, it is argued that legitimacy has been sought through the use of certain key rhetorical devices.

TABLE OF CONTENTS

	INTRODUCTION	1
Chapters:		
I.	RATIONALE, THEORY, AND METHOD	15
	Historical Patterns of Broadcasting Policy	15
	Towards a Focus on the Interventionist State	20
	Rhetorical Figures in Policy Discourse	32
II.	EARLY CABLE POLICY: 1968-1980	36
	The 1968 Broadcasting Act	36
	Cable as a Broadcasting Receiving Undertaking	39
	Early Cable Policies	41
	Protecting the Local Broadcasters' Profits	47
	The Failure of Protectionist Policies	51
	The Myth of Rate Regulation	52
III.	CABLE POLICY 1980-1990: A DECADE OF DIVERSITY?	57
	Cable: A Growing Distribution System for American Programming	57
	Changes to the Policy Environment and Regulatory Structure .	61
	More Programming Choices for Canadians: From Pay to Specialty Services	88
IV.	CANADIAN VICES/ CANADIAN CHOICES	115
	Industry Status	115
	The Policy and Regulatory Environment as Cable Enters the 1990s: From Bill C-136 to Bill C-40	116
	SUMMARY AND CONCLUSIONS	133
	REFERENCES	146

INTRODUCTION

The cable industry in Canada represents, arguably, the most dynamic element in a dynamic communications sector. The 1980s have been a time of rapid growth for the largest players in this industry who have seen both the numbers and types of services they provide increase dramatically. Like many other sectors of the economy in the 1980s this industry has seen an increase in vertical integration; diversification through buy-outs; and a greater concentration of ownership. A brief quotation from Shaw Cable's 1989 annual report is illustrative of the fact that cable service throughout the country is increasingly provided by a few large players who are well diversified within what may be termed the communications sector. Growth in these companies' cable operations has increasingly come not from increased cable penetration but from acquiring smaller systems:

In 1980, Shaw Cable (formerly Capital Cable TV Ltd.) served fewer than 115,000 subscribers in three cable television systems located in Edmonton, Kelowna and Penticton. In ten years, the Company has grown to become the fourth largest multi-system operator in Canada, with more than 422,000 subscribers in 16 cable systems located in British Columbia, Alberta, Ontario and Nova Scotia. In that same period of time, the Company also diversified into other segments of the communications and media industry by acquiring five radio stations and equity interest in newspaper publishing. (Shaw, 1989, p. 4)

Shaw Cable is one player in an increasingly integrated communications sector, a player which has seen its total income more than double since 1985 (p. 2).

These trends -- growth, diversification, integration, concentration -- have not occurred in a vacuum. The cable industry

then, as a player in the communications sector -- a sector which the Federal government has singled out as key to Canada's economic growth and prosperity -- is a nexus at which a number of elements have come together. The changes which the cable industry has undergone in the last ten years have taken place in a market whose rules and constraints have been fundamentally shaped by the federal state. Through state instruments such as the Department of Communications (DOC) and the Canadian Radio-television and Telecommunications Commission (CRTC) the federal government has intervened in the communications sector both to provide the basic legal framework which makes the market possible but also in more direct ways to influence and direct changes in the market. As such, both the DOC and CRTC have been the site of struggle between the cable industry and other elements of the communications sector, most notably the conventional broadcasters, who have seen their ability to influence the public policy agenda diminish throughout the 1980s.

Thus, an examination of communications policy in the 1980s with a focus on the cable industry nexus allows for an examination of the ways in which the state intervenes in a society characterized by capitalist relations. This relationship, between the state and businesses operating in a "free" market, is often difficult to observe. This is particularly true in an era in which public discourse is dominated by calls for "deregulation." The choice appears to be between government meddling or the free workings of the market in which consumers are free to choose alternatives which maximize their own best interests. A recent headline in the cable lobby's "Cable Communique" was, therefore headed "Restoring consumer choice: key industry objective" (CCTA, 1990,

p. 1). And yet, what an analysis reveals is that the choice is not between government or no government but rather between different types of government intervention. Indeed as Vincent Mosco (1989) points out, deregulation may actually increase government action (p. 86). As such what is really being discussed is reregulation or a change in the quality of government intervention.

What an analysis of communications policy in the era of free trade agreements, deregulation and privatization makes clear is that, in undertaking reregulation, we are making decisions which affect the ways in which we, as citizens (consumers?), will address social demands in our society.

Mosco outlines four modes of processing social claims in developed capitalist societies:

. . . representation or political power, the market or monetary and exchange power, social control or power derived from socialization, values, norms, etc., and expertise or power based on the possession of information. . . . (p. 88)

Each of these modes of processing social claims has certain strengths and weaknesses which serve or fail specific needs of developed capitalist societies at particular historical junctures (p. 88). In particular, "representation" while incorporating a wide range of social claims runs the risk of subjecting the system to what is referred to as "demand overload." The "market" which assigns monetary values to social claims makes for a more manageable system but restricts the types of claims which can be made to those which can be reduced to financial measurement. Growing out of these modes of processing social claims are forms of governance. Of particular interest to our discussion are what

Mosco calls regulation and private competition. It is, primarily, these two forms of governance which have framed the debates over communication policy throughout the 1980s. It is worth noting that, despite much of the public discourse which has emerged in recent years, state intervention is present in each of these forms. They differ only in the degree to which the state intervenes, ranging ". . . from a minor facilitative role to a powerful directive capacity" (p. 91).

Regulation, which is the form of governance which has most characterized the communications sector and the cable industry,

. . . offers representativeness within a private market structure. For example, the US Federal Communications Commission is responsible for representing the public interest by taking into account the views of those whose lack of market power would give them little voice in a pure market structure. Nevertheless, the Commission, like its Canadian counterpart, the CRTC, is responsible for maintaining a private market in communications.
(p. 91)

In this regard, as we shall see, the CRTC has attempted to incorporate both public concerns for communication with its responsibilities for maintaining the market in the face of certain threats. In recent years however, prompted by calls for deregulation from the cable industry, a demand overload, and the rise of conservatism, the CRTC has moved towards what it calls a more "supervisory approach" to regulation of the cable industry. This has been manifest, for example in streamlined procedures for the setting of cable rates, the pricing and development of new services, and allowing cable operators to enter into new fields. Thus, an examination of communication policy reveals a qualitative shift in the type of governance towards an approach which favours private competition:

Private competition is a form of governance that relies on the market to clear social claims and privileges the ability of experts to decide on how to make the best use of the market mechanism. In principle, technical, management and investment experts are those most appropriate to decide what to produce and how markets should be structured for distribution. . . . The market is a form of governance that relies, generally, on public bodies, for setting rules about creating and sustaining markets. (91)

Thus, in examining changes to communication policy in the 1980s, we can observe changes to the relationship between the state and the market and those private concerns which comprise the market. As we move from a form of governance based upon regulation to one based upon competition we move from a system which -- at least formally -- offers opportunities for representation to one based upon expertise. We move towards a system where increasingly, social claims must be assigned a monetary value or, in effect, cease to exist. Our method of expressing disagreement with the market becomes limited to a negative power, the ability to leave the market (p. 89).

Having outlined the larger issues which are entailed by an examination of cable policy in the 1980s, it will be argued that recent work on the interventionist state, most notably that of Clause Offe (1974, 1975a, 1975b), provides a valuable perspective often lacking from other examinations of policy issues. Specifically, Offe provides a fresh approach to framing questions about the role and functions of the state in a society characterized by capitalist relations. This approach allows for an examination of the strains and limitations on public policy often missing from more mainstream theories and discourses.

However, before launching into a discussion of the particular approach taken by Offe, it is first necessary to examine why a theory of the state is important to an analysis of communication policy. As expressed by Mosco, an examination of policy issues in the communication sector can benefit from recent work on the state which offers a distinctly political view:

Such a political view is often necessary as policy research in telecommunications, especially on deregulation, tends to be more descriptive than analytical. It identifies the major participants in the policy arena, such as equipment manufacturers, service providers, regulators, and users; and describes the major issues over which they contend such as industry structure, pricing, and the extent of regulation. While descriptive research is useful to keep us abreast of developments in technology, services, and changes in the "players" and their relationships, the lack of analytic focus leads to simplistic conclusions. Will the arena be technology, market, or regulation driven? How can we adjust to inevitable deregulation and privatization? Will there be more government intervention through regulation, or less, with a deregulatory strategy. (p. 86)

And yet, what this descriptive research often ignores is the pervasive role of the state. This includes both the functions the state performs and the social tensions or political conflicts that condense around it. As was argued earlier, the state is the precondition for markets to exist, even in an era of deregulation. This is a factor generally ignored in discourses based upon neoclassical notions of the market so popular among cable industry representatives. Likewise, those who focus on technical matters ignore both the state's role in structuring, maintaining, and extending markets (within which new technologies are developed) as well as state sponsored research and development programs in the name of, for example, national defence.

We may identify and discuss three major perspectives on the role of the state in advanced capitalist countries: pluralist, management, and class perspectives (Mosco, 1989, p. 94). In examining how each deals with the role of the state in communication policy we may distinguish between ". . . the major focus or function of state activity in each perspective and the primary social tension or political conflict that arises out of state activity" (p. 95). Of the three perspectives, it is the first two which tend to frame discourses around the communications sector.

The pluralist perspective, for example:

. . . develops from the view that power is situational, that it operates in specific circumstances over specific issues. The pluralist sees the state as only one among numerous organizations including business, unions, voluntary associations, churches, etc., around which sets of interest coalitions focus their attention to meet their needs. The state itself is held together by a legal structure and an organizational culture that reflect widely held values and acts on these values to structure impartially the preferences of competing interests. (p. 95)

Thus, in the pluralist discourse, the state oversees a "marketplace of competing interests" with proponents of various positions marshalling their resources to convince the state not only of their substantial political clout but that they conform ". . . to the dominant value preferences of the day better than their competitors do" (p. 96). The commonly held view of the CRTC conforms to this perspective on state power. The most prevalent discourse on, for example, the function of public hearings positions the CRTC as a neutral arbitrator sitting above vested interests and rendering decisions in the "public interest."

In the era of deregulation, arguments are increasingly put forward that the public interest is best determined by the free workings of the market. For example, at recent CRTC hearings dealing with the setting of cable rates and installation fees a representative of the federal Bureau of Competition Policy told the CRTC that the cable industry should be "partially deregulated" to encourage the development of competitive alternatives to cable operators:

They (the CRTC) should allow the market to discipline the behaviour of the cable companies, allow the market to determine the price and the cost structure. And the only way you're going to do that is to allow entry into the cable industry. (Financial Post, 1990, p. 3)

In the discourse framed by pluralist theories of the state then, groups such as the federal Bureau of Competition Policy set out to convince the state that there exists a shift in public support away from detailed regulation towards a commitment to policies which facilitate the operation of private, competitive markets. This group then, sets out to convince the regulator that the solutions to social claims and competing interests are best found in market and expert based solutions rather than in solutions found through more representative means as discussed earlier.

Where an analysis of state activity that rests at this level is somewhat deficient is that it often tends towards a case by case analysis which focuses on who won and who lost in each case. This approach, which sees power as situational, often ends with merely descriptive information of who won and who lost. Thus, for example, in the work of Hardin (1988, 1985) there is little real insight to be gained regarding how, consistently, certain types of policy are

formulated despite changes in state and industry personnel. His analysis, while providing a wealth of information, tends to focus on personalities and a general lack of "political will." An analysis such as this lacks a comprehensive theory of how the "public interest" becomes operationally defined in specific regulatory decisions and what the limitations are upon a body which must formulate the policies or regulations within which markets in capitalist countries take on shape and slope.

A second perspective on the role of the state in advanced capitalist countries which we may identify is managerial theory:

Where the pluralist views power as situational, tied to specific events and circumstances, the managerial theorist sees it as structural, embedded in the rules governing the operation of organizations and institutions. . . . Managerial theory sees power in elites that conflict over the policy agenda that frames a series of discrete decisions, such as the general shift in the framework of regulation from public interest to private marketplace. The pluralist asks who won and lost in this decision; the managerial theorist asks who controls the policy agenda. (p. 98)

Thus, the discourse framed by managerial theory tends to focus on the need ". . . to manage the growing complexity wrought by technological change and the increased division of labour" (p. 98). It is the discourse which circulates among bureaucratic elites in both the public and private sector. As such, in its focus on rationalization and control, many key questions on the emergence and development of new technologies and their impact on society are excluded. The emergence of Integrated Services Digital Networks (ISDN) may thus be said to necessitate new regulatory approaches as old approaches are seen to be inadequate, thus threatening system overload. Questions may not be

asked regarding whose needs ISDN was developed to serve, the impact this has in the growing gap between the rich and the poor (both in financial and information terms), and whether or not this bodes well for the society in which we live.

A third perspective identified by Mosco is class theory:

Class theory sees power as systemic, and consequently, calls on the analyst to comprehend more than its manifestation in situation and structure. In general, situational and structural power are the realization of systemic power relations. . . . Class theory sees control over decisions and agendas as expressions of dynamic processes and power relations that exist in the system at large -- in this case, developed capitalist societies. (p. 101)

We have thus far argued that an analysis of government policies relating to the communications sector can benefit from a theory of the state. The particular perspective employed in this work to explain the government's role is class theory. Class theory offers a fresh perspective which has been virtually absent from public discourse on communications in Canada. It offers a method of policy analysis which accounts for both change and continuity in policy and regulatory decisions over time. Moreover, class theory offers a perspective focused on the state which moves beyond personalities and nebulous terms such as "political will."

Class theories also offer a way of understanding how the majority of citizens in a society are won over to policies which may not be in their best interests. More specifically, class theories lead us to examine the importance of legitimacy and consent in the political process and the ways in which each is maintained.

Two major streams of class theory are identified by Mosco: state derivisionist and state power theories. Of the two, it is the former which frames the bulk of the analysis undertaken here especially through the use of the works of Clause Offe. For Offe, analysis begins with the fundamental realization that what is being examined is the capitalist state (or the state in capitalist societies). The required functions or limits on state activity are then derived based upon the relationship of the state to the process of capitalist accumulation and the need to overcome systemic contradictions. Briefly, Offe characterizes the state based upon the four characteristics (discussed in greater detail in chapter 1) described as exclusion, maintenance, dependency and legitimacy. Based upon these characteristics which shape and limit state activity Offe asks how the capitalist state intervenes in the accumulation process in purely authoritative or allocative ways and in more productive ways. The advantage offered by Offe's perspective is that through his analysis we examine how the state is enmeshed in the contradictions of capitalism.

Thus, the state must sustain accumulation not because it is the puppet of a ruling class but because it depends on accumulation for its own power, financial wherewithal, and legitimacy. With this analysis we may move beyond a limited analytic concept such as "political will" towards a fuller understanding of the limits placed upon, for example, a federal regulatory body charged with the task of maintaining public interest while ensuring the smooth operation of markets. Again however, besides being characterized by the principles of exclusion, maintenance, and dependency the state requires legitimacy to carry out its required

functions. This legitimacy is challenged each time the state acts to ensure accumulation in any particular sector to the detriment of other actors in that sector, other sectors of the economy, or certain members of society in general. The state must appear to pursue the common and general interests of society as a whole while allowing equal access to power and responding to justified demands (Offe, 1975a, p. 127). The state must intervene while obscuring the true nature or function of its interventions. This work will argue that, in bridging this gap between its required functions as a capitalist state and the need for legitimacy, the state has utilized certain key rhetorical figures in the communications sector. These rhetorical figures are described as "consumer choice" and "technological threat/opportunity." The purpose of this work will not be to trace the etymology of these rhetorical figures but merely to examine how each has functioned to mythologize particular policy and regulatory decisions made in the communications sector which have had an important impact on the Canadian broadcasting system. In effect, they have served in public policy discourse to maintain legitimacy by portraying as extremely limited or even "illusory" the policy choices available to the state.

Discussion is presented here in four chapters, followed by a summary, conclusions, and some suggestions for future work. The first chapter discusses some of the historical trends which have characterized state intervention in the communications sector and, specifically, the broadcasting area since 1928. It outlines the problem upon which this work focuses and surveys and critiques some of the other work which has

been done in this area. The theoretical orientation and methodology are described.

Chapter two examines early cable policy from 1968 until 1980. The chapter focuses on the restrictive nature of early cable policies and the CRTC's early attempts to prevent the disruption of the Canadian broadcasting system and the conventional broadcasters' profits. The chapter evaluates the success of these early efforts based upon their stated objective of providing more and better Canadian programming. Finally, the chapter examines the profitability of cable operations and evaluates the CRTC's early methods of "rate regulation."

Chapter three forms the major part of the analysis as it examines the development of cable policy in the 1980s. The status of the cable industry in 1980 is first discussed as is the failure of early protectionist policies aimed at the conventional broadcasters. Before an examination of cable policies in the 1980s is undertaken, the cable industry is situated within the larger context of the communications sector and state objectives for this sector. The use of the rhetorical figures of "consumer choice" and "technological threat/opportunity" is examined with a view to understanding how they served to obscure productive state interventions.

Chapter four focuses on the new policy environment and regulatory framework which emerged from the policy initiatives and licensing decisions of the 1980s. Some of the key changes for the Canadian broadcasting system contained in the proposed new Broadcasting Act (Bill C-40) are discussed and the implications of these changes are assessed.

Conclusions are drawn at several levels. First, a number of contradictions inherent in the relationship of the capitalist state to the accumulation process are put forward as a way of explaining the formulation of policies which seem to work "perversely" against their stated objectives. This is particularly apparent in the case of programming objectives set for the Canadian broadcasting system. Second, the new regulatory environment which resulted from policy initiatives and regulatory decisions throughout the 1980s is seen as placing certain limits on the ability of the state to draft programming policies which will result in real diversity. Furthermore, the state's technology neutral stance in Bill C-40 is seen as an unfortunate abrogation of its role as a system planner. Finally, based upon the insights gained from the theoretical framework employed in this work, some avenues for further research are offered.

CHAPTER I
RATIONALE, THEORY, AND METHOD

The Canadian state has a long history of involvement in the broadcasting sector. Since the 1928 appointment of the Royal Commission on Radio Broadcasting under the chairmanship of Sir John Aird, the state, in numerous policy statements, has formally recognized the potential benefits and threats posed by broadcasting to national unity and political sovereignty.

Historical Patterns of Broadcasting Policy

The circumstances surrounding the appointment of the Aird Commission and presentation of its findings are interesting to note for the establishment of at least three patterns which have repeatedly characterized the formulation of Canadian broadcasting policy.

First, before the government of Mackenzie King could undertake a comprehensive study of radio broadcasting, private radio stations had already been in operation for some time. However, many of the private radio stations were mere appendages of American stations and the domestic airwaves were in a general state of disarray. More powerful American stations could and did appropriate Canadian airwaves. And, as monopolistic networks grew in the United States, many Canadian broadcasters had moved to join them. There were also purely domestic concerns about broadcasting:

Stations here were forced to share frequencies, were uncertain about the status of their licenses and had to struggle to find revenues large enough to keep them on the air. Such difficulties were part of a wider confusion as to the ultimate purposes of broadcasting in Canada and of a distinct lack of appropriate federal policy and regulation. (Ellis, 1979, p. 2)

In the absence of meaningful negotiations between Ottawa and Washington with regards to frequency allocation, the Aird commission, at least, represented a step beyond the 1913 Radiotelegraph Act to organize the domestic airwaves. In effect, this would make a broadcasting license a meaningful and valuable asset. The state was needed to allocate airwaves to create meaningful property rights for exploitation by Canadian entrepreneurs.

Second, with the submission in 1929 of the Aird Report, the Canadian state became a site of political struggle among competing interest groups. Each lobbied the state for the enactment of their own vision of Canadian broadcasting. Aird had made 13 principal recommendations, primarily aimed at the creation of a publicly owned and controlled system which would owe a great deal to the British model. This immediately encountered opposition from the Canadian Association of Broadcasters (CAB). Formed in 1926 to combat the payment of copyright fees, the CAB began to gather support for its opposition among the largest private broadcasters and several leading newspapers. Supporting the Aird report was the Canadian Radio League (CRL). This group had been formed in Ottawa in October of 1930 by Graham Spry, Alan Plaunt and a number of other young nationalists. These two groups lobbied and argued -- in print and over the airwaves -- throughout 1931. These were only the first of what would be a long line of groups attempting to

influence the policy making process. In later years, the CAB's membership would grow to include television broadcasters. With the arrival of cable technology, the National Community Antenna television Association of Canada was formed in 1957 to "represent their views to government, telephone companies and other publics" (CCTA, 1989). In 1968, with the passing of a new Broadcasting Act this group relocated to Ottawa and renamed itself the Canadian Cable Television Association (CCTA). Today, at public hearings, submissions are made by groups as diverse as those mentioned above, the Consumers' Association of Canada (CAC), and the Canadian Broadcasting Corporation (CBC).

Third, before any of the recommendations of the Aird Report could be put into action or a Broadcasting Act drafted, jurisdictional issues first had to be settled. In 1931, Quebec, New Brunswick, Manitoba, and Saskatchewan had asked the Supreme court to rule on whether the federal government or the provinces had jurisdiction over radio broadcasts under the BNA Act. Following an appeal to the Privy council, the federal government was granted jurisdiction in 1932. It was this reference case which would be used in later years to establish federal jurisdiction over cable operations in the face of provincial claims for jurisdiction. Indeed, it was lower court decisions which did not extend the logic of the radio reference case to new distribution technologies which recently prompted the drafting of a new Broadcasting Act. Immediately after the 1932 ruling Bennett proposed that a committee of the House be established to consider the Aird Report and "a complete technical scheme of radio broadcasting for Canada" (Ellis, 1979, p. 6). Thus, as it would in later years, the jurisdiction won by the Federal government

gave it the ability to become a system planner. The airwaves were thus rendered as (federal) state property to be allocated in accordance with its goals established by that body for broadcasting.

To summarize, involvement by the federal state in the broadcasting sector has been characterized by late entrance into a field already developed by private interests (in some cases American). The federal state's efforts, amidst jurisdictional challenges by the provincial states, have been to create an economically viable national system. The rationale for involvement in this sector has generally been based on the need to counteract perceived threats to political sovereignty and cultural independence arising from the United States. In short, the nation-building potential of the mass media has long been asserted by the federal state. Having asserted its jurisdiction over this area of Canadian affairs, the federal state has been the focus of efforts by a number of interest groups. Many interest groups have attempted to influence the policy making process, some with greater degrees of success than others. Today, public hearings held by the Canadian Radio-Television and Telecommunications Commission (CRTC) and the Standing Committee on Communications and Culture (SCCC) provide a routinized method of participation in the broadcasting policy process. Depositions before these public bodies by various interested groups and organizations as well as policy statements issued by the CRTC and Communications Canada will form the objects of inquiry for this study.

For the purposes of discussion, critics of government involvement in the broadcasting sector can be divided into two groups based on the discourses each group employs. Both of these discourses are based upon

a pluralistic understanding of state power. These two discourses were employed in 1932 and continue to find their way into public hearings and policy documents to this day. The first group utilizes a discourse derived from neo-classical economics. They generally argue that state involvement, beyond the establishment and enforcement of private property rights disrupts the smooth operation of the market. As a result, state intervention should be kept to a bare minimum in order to allow the market to provide the maximum benefits for the most people. The second group utilizes a discourse derived from the cultural nationalism of the Aird Report. They adhere to the notion that the airwaves constitute a limited natural resource which should be exploited as a public monopoly. To many of them, the beginning of the end came when private broadcasters (radio and later television) were granted licenses.

Even those members of the second group who accept private broadcasting or private ownership of cable operations are angered by CRTC decisions which -- in their view -- consistently favour and protect private profit to the detriment of public service. They criticize the CRTC for lacking the requisite "political will" to carry out its mandate to implement Section 3 of the Broadcasting Act. Perhaps the most prominent and vocal of these critics is Herschel Hardin (1985, 1988). The very title of his book Closed circuits: The sellout of Canadian television hints at the feeling of betrayal many cultural nationalists feel.

While an analysis such as Hardin's provides a wealth of case study information that any student of Canadian broadcasting policy welcomes, his work fails to address several key issues.

What is the relationship between the Canadian state, the Canadian public, and private enterprises? What are some of the required functions of the state in capitalist society which both define and limit policy? What is the "public interest" and how does it change?

Towards a Focus on the Interventionist State

It will be argued here that, in order to answer these questions and understand recent developments in federal government policy in the broadcasting sector, an analysis which moves beyond a focus on personalities and such nebulous terms as "political will" is necessary. Indeed, the need for such an analysis can be justified based on Hardin's own research. He repeatedly demonstrates that, although personalities come and go within governmental bodies, decisions are consistently made which ". . . work perversely against Canadian objectives" despite rhetoric to the contrary (1988, p. 2). It will be argued here that, when speaking of these types of contradictions in broadcasting policy decisions:

The mental model by which we test coherence or compatibility may be simply what we are putting into the situation, and what looks contradictory, in its selected terms, may in fact be no more than an unfamiliar system, which in its own terms is coherent enough. There is then still a problem of the things we say about it, which may be muddled or locally contradictory. But the system itself, not only creating but also containing and managing tensions and instabilities, is not something that can be refuted by argument alone. (Williams, 1985, p. 178)

Therefore, in examining federal policy aimed at the broadcasting field and particularly those policies dealing with cable, an approach which asks questions regarding the strategies available to the Canadian state to achieve cultural ends is needed. What limitations are there on the state in our society that might lead to cultural policy which seems to work "perversely" against cultural goals? Is it really just a question of spineless CRTC commissioners bowing down to industry "prating" or are there constraints on what cultural goals can be achieved through what are essentially industrial policies? What function do the seemingly contradictory "things we say" about these policies play in the maintenance of the overall system. An approach which allows for this type of analysis can be found in some recent writings by Marxist theorists on what is termed the "interventionist state."

In particular, the work of Offe (1974, 1975a, 1975b) and Hall (1984) dealing with the interventionist state will be of importance in framing questions about cable policy since 1968 and into the late 1980s. At the most general level state "intervention" can be described as,

. . . all the ways in which the state intervenes in society so as to lead it in a particular direction, secure particular policies or maintain a particular structure of social relations. This enlarges the state's scope of action and redefines civil society.
(Hall, 1984, p. 7)

While it could be argued that all states -- capitalist or otherwise -- intervene, a Marxist writer such as Hall, influenced by the works of Antonio Gramsci, points out that the capitalist state intervenes in particular ways and maintains a particular structure of social relations. The notion of the state providing leadership and leading

society in a particular direction is critical to his analysis of the interventionist state.

However, unlike orthodox Marxists, both authors are quick to distance themselves from an instrumentalist reading of state behaviour in which the state is seen as expressing the will or being the instrument of the dominant class or class fraction. Instead, they opt for a more subtle approach. Hall, in his examination of the rise of the interventionist state in Britain during the late 1800s and early 1900s, specifically rejects any notion of "determination by the economic." He argues that "The correspondence between corporate economy and interventionist state do not unfold in anything like the predictable, necessary or logical way this theory, in its more doctrinal form, would lead us to believe" (p. 45). He continues:

So, if correspondences are working in this period, it is in a much looser, less predictable way than the capital-theoretical version of the marxist approach suggested. This alters how we think about "economic determination" in general in relation to the state. The economy may "determine" in the sense of favouring certain lines of development in the state over others (tendencies). Or economic development may set certain limits to the type of state development. Or economic crises may set tasks for the state which any state -- whatever its particular form or shape -- will have to confront. But this is a much looser conception. Advanced capitalist economies -- with many significant variations -- did tend to expand their activities and become more interventionist. But, in any major historical concrete sense, the economy cannot predict or determine more precisely than "tendentally."
(p. 45)

Hall's work then looked to the building of a new coalition of political forces necessitated -- although not determined -- by economic upheaval during the time period he studied. Hall writes of ". . . the struggle to define ideologically a new role for the state; to build a

coalition of political forces -- a social bloc -- capable of taking a leading role in the state; to transform the state and state machine itself; finally, to achieve social leadership and authority in society (hegemony -- in Gramsci's terms) (p. 46).

However, once the interventionist state -- as contrasted with the liberal capitalist laissez-faire state of earlier years -- is up and running, it is the work of Offe which allows us to frame specific questions about the different ways the state intervenes.

First, however, if Offe rejects instrumentalism and structuralism as adequate explanations of the relationship between the state and social classes, how does he describe the class nature of the state? Briefly, Offe (1975a) postulates four characteristics for the capitalist state (or the state in capitalist society) based on the relationship between the state and the accumulation process (p. 125). He examines the ways in which the state is functionally related to and dependent upon the accumulation process. The four characteristics can be summarized as the principles of exclusion, maintenance, dependency and legitimation. To elaborate briefly on these points, the state has no authority to order production or to control it. Production/accumulation takes place in enterprises that are said to be free in the sense of "exempt from state control." Therefore:

. . . the basic prerogative of free enterprises is a negative one: the right not to produce unless production is at the same time accumulative, that is, not only production of useful things but simultaneously production of surplus value, or profit.
(p. 126)

If the power of labour is said to reside in its ability to disrupt accumulation through what is termed a labour strike, capital has the

power to withhold investment and bring to bear upon society what may be termed a "capital strike."

Despite the principle of exclusion however, the state does have both the authority and the mandate to create and sustain conditions of accumulation. This maintenance function of the state requires the mastery of various categories of threats to the accumulation process. For example, threats can come from other accumulating units (interfirm, interindustry and international competition) that may require government action at the level of individual accumulating units, categories of accumulating units (industries, regions) or capital as a whole (p. 126).

According to Offe, the capitalist state works to maintain the conditions of accumulation out of its own institutional self-interest. The capitalist state is said to be characterized by a dependency on the accumulation process because "Its power relationships, its very decision making power depends (like every other social relationship in capitalist society) upon the presence and continuity of the accumulation process" (p. 126). The state ultimately depends upon resources created through the accumulation process and derived from the taxation of wages and profits. Therefore:

. . . this fundamental dependency upon accumulation functions as a selective principle upon state policies. The criterion of the stability of accumulation is thus incorporated in the pursuit of interests and policies that, considered by themselves, may have little or nothing to do with accumulation. Accumulation, in other words, acts as the most powerful constraint criterion, but not necessarily as the determinant of content, of the policy-making process. (p. 126)

This distinction must be emphasized: the need to ensure accumulation is said to act as a restraint criterion, limiting but not determining what policy options are open to the state.

In the work of Offe, these elements of the capitalist state are seen as insufficient without one further component. That component is legitimacy:

The idea is that only if (and only as long as) the capitalist state manages, through a variety of institutional mechanisms, to convey the image of an organization of power that pursues common and general interests of society as a whole, allows equal access to power and is responsive to justified demands, the state can function in its specific relationship to accumulation. This is equivalent to saying that the state can only function as a capitalist state by appealing to symbols and sources of support that conceal its nature as a capitalist state; the existence of a capitalist state presupposes the systematic denial of its nature as a capitalist state.
(p. 127)

By characterizing the capitalist state in this way, Offe gives a sense of the state's required functions and some of the limitations upon the performance of those functions. It is the attempt to reconcile these often conflicting elements that characterizes the state's policy making process. For, as expressed by Carnoy (1984):

. . . the capitalist State can represent the general interest of capital through the relationship between the State and the accumulation process plus the legitimacy afforded the State by mass participation in the selection of its personnel. But the State, in this formulation, cannot represent specific capitalist interests without endangering its overall function of representing the social interest of capital. Neither can it appear to represent capital to the detriment of its mass-based support, for in that case it endangers its legitimacy -- its alternative source of power.
(p. 135)

Based on Offe's characterization of the state and policy process, one can begin to gain a better understanding of the tension noted by Hardin between the rhetoric of the CRTC (the things we say about policy decisions) and specific licensing decisions. Specifically, an examination of cable policy can be framed based on notions of contradictions between accumulation/legitimation functions of the state.

Offe argues that there is a way in which the capitalist state, through its policies, can seek to reconcile the divergent requirements outlined above. He argues that as soon as the commodity form governs all social relationships permanently there is neither a problem of accumulation or legitimation:

If the conditions can be created through which every citizen becomes a participant in commodity relationships, all of the four structural elements of the capitalist state are taken into account. As long as every owner of a unit of value can successfully exchange his/her value as a commodity, there is no need for the state to intervene in economic decision making; there is no lack of material resources needed by the state; there is no problem in maintaining a steady process of accumulation (which is only the net result of equivalent exchange between the owners of capital and the owners of labour power); and there is no problem in maintaining political support for a political party which manages to create this universe of commodities. It is only to the extent that values fail to operate in the commodity form that the structure of the capitalist state becomes problematic. (Offe, 1975b, p. 140)

Offe, therefore, suggests that the commodity form is the general point of equilibrium of the capitalist state (p. 141). Accumulation is assured while legitimation is provided by the justice of the market. However, as noted by Offe, problems occur when the dynamics of capitalist development ". . . exhibit a constant tendency to paralyze the commodity form of value" (p. 141). It is at this point that the

capitalist state must act to guard the commodity form of individual economic actors and the state's maintenance function comes to the fore. The capitalist state must (out of its own institutional self-interest) ensure that labour power is employable and is employed "on the market" and that individual units of capital find it profitable to employ this labour (Carnoy, 1984, p. 135). In the cultural industries then, Offe's analysis points to a potential crisis for the state as de commodification occurs.

However, unlike other sectors of the economy, it is fairly clear that a breakdown of the commodity form in the cultural industries can result in a legitimation crisis of a qualitatively different sort. For what the cultural industries are to produce is -- despite assertions by Steven Globerman -- qualitatively different than cars or consumer electronics. The cultural industries are to produce "understanding," "national identity," "political sovereignty" by combatting "cultural homogeneity." This is not to suggest that culture is not embedded in industries or that the cultural industries do not produce commodities. It is merely to suggest that threats to the cultural industries are framed as having qualitatively different consequences for the nation. It is this fact that makes an examination of state interventions in the cultural industries unique.

Therefore, as the state intervenes to promote commodity relations in the cultural industries it seeks to reconcile its divergent functions discussed earlier as accumulation/legitimation. More specifically, we may now note the tensions inherent in the cultural sector by examining

contradictions in the formulation of cultural policy operationalized, increasingly, through industrial strategies aimed at the private sector.

This tension between cultural policies and industrial strategies opens up a discussion regarding the different strategies through which the state tries to reconcile the constituent elements discussed above. How, specifically does the state intervene? Offe distinguishes between allocative and productive state activities. This is a functional distinction which will be used when examining various state instruments (e.g., policies, bureaucracies). For Offe:

Allocation is a mode of activity of the capitalist state that creates and maintains the conditions of accumulation in a purely authoritative way. Resources and powers that intrinsically belong to the state and are at the disposal of the state are allocated. (Offe, 1975a, p. 128)

Activities of this type are said to be interventionist in that they impose a state created order on an area of social and economic activity. The powers that Offe refers to here could include the right to tax and to spend, the right to make laws and to enforce them. And, as noted by Carnoy (1984):

These are legal rights, powers vested in the State through a constitution or other legal and widely (if not universally) accepted documents that constitute the social contract. State authority to allocate resources and power is politically legitimated, and thus political power is the sole criterion and determinant of allocation. (p. 137)

Allocative state activities are contrasted with productive state activities:

Productive State activity requires something different from the allocation of resources and power that the State already has under its control. In addition to the State-organized framework of production and accumulation some physical input into production is required in order to maintain accumulation. (p. 137)

Therefore, in addition to providing the framework within which accumulation takes place, the state is sometimes called upon to take strategic action to sustain accumulation in the face of actual or anticipated threats. In short, it is called upon to perform its maintenance function. In the case of the broadcasting sector, it will be seen how the state has intervened to sustain accumulation by conventional broadcasters faced with the threats posed by cable. Later, the state would act to sustain accumulation by the cable industry faced with threats, some real and some imagined, from newer satellite-based distribution technologies.

To return to our distinction between cultural policy and industrial strategy for a moment, the Canadian state has the right to draft laws such as the Broadcasting Act with its mandate for the CRTC as set out in section 3. Furthermore, through instruments such as the CRTC, the state grants broadcasting licenses and makes a valuable private asset out of a scarce public resource. Finally, territorial licenses are granted to cable operators preventing costly duplication and ensuring wide access to service at, hopefully, reasonable rates. In each of these examples the Canadian state is operating in the allocative mode of state activity. However, given that in our society most aspects of culture are embedded within cultural industries, the state must achieve cultural ends through industrial strategies. When the state institutes changes to tax laws or decides that cable operators should

simultaneously substitute programming in order to protect the conventional broadcasters' revenues while hoping that some of these revenues will be directed into quality Canadian programming, productive state functions can be observed. Thus, Offe's distinction between allocative and productive state strategies, as carried out by various state instruments, provides a conceptual frame which can be used to analyze the different modes of state intervention in the accumulation process.

We have discussed the different strategies of state intervention. Offe also discusses some of the different instruments used by the state to implement these strategies. In the broadcasting policy field state instruments such as cable regulations or bureaucracies such as Telefilm can be examined. Without limiting our discussion, we may note Offe's work with regards to the different types of instruments used by the interventionist state to achieve what he has termed "administrative recommodification" (1975b, p. 143).

These "instruments" are categorized by Offe in the following way:

First, we find regulations and incentives applied which are designed to control "destructive" competition and to make competitors subject to rules which allow for the economic survival of their respective market partners. Usually these regulations consist in measures and laws which try to protect the "weaker" party in an exchange relationship, or which support this party through various incentives. Second, we find the large category of public infrastructure investment which is designed to help broad categories of commodity owners to engage in exchange relationships. . . . Third we find attempts to introduce compulsory schemes of joint decision making and joint financing which are designed to force market partners to agree upon conditions of mutually acceptable exchange in an organized way, outside the exchange process itself, so that the outcome is reliable for both sides. (1975b, p. 144)

It is argued that these instruments, designed as they are to stabilize and universalize the commodity form and exchange process, lead to a number of structural contradictions which manifest themselves at the economic, political and ideological levels of society. Indeed, to use another of Offe's distinctions, as state bodies engage in productive functions rather than merely allocative ones, they increasingly may become the focus for social conflict and political struggle. This is because, unlike the relatively clear cut rules for allocation of state owned resources, productive state functions require the formulation of policies.

The structural contradictions which Offe discusses open up certain areas for questioning in the broadcasting policy area. Particularly, conflicts between conventional broadcasters and cable operators relating to the growth of cable as a programmer will be examined. Offe notes that at the economic level the above mentioned instruments of economic policy making (regulations, infrastructure and compulsive accommodation) ". . . deprive the owners of capital of value to varying degrees, either in the form of capital that is just "taxed away," or in the form of labour, or in the form of their freedom to utilize both of these in the way they deem most profitable" (1975b, p. 144). This points to the role of the state in exercising its role as a capitalist state despite strenuous opposition from certain segments of capital. A second structural contradiction is related to the organizational power structures created by state strategies for administrative recommodification. Simply put, the strategy of maintaining the commodity form presupposes the growth of state-organized production

facilities exempt from the commodity form (p. 145). Social conflicts can occur over control of these organizations which serve the commodity form without actually being part of the commodity nexus. A final contradiction can be located at the ideological level ". . . or in the normative and moral infrastructure of capitalist society" (p. 146).

Thus, state intervention undermines the doctrine of possessive individualism which underlies the commodity form. As a result:

To the extent that exchange relationships are prepared and maintained through visible political and administrative acts of the state, the actual exchange value any unit of property (be it labour or capital) achieves on the market can be seen at least as much determined through political measures as through the individual way of managing one's property and resources. (p. 146)

This does not presuppose the breakdown of capitalism, rather, it serves to make the state increasingly the focus of social conflict and political struggle. It again calls attention to the accumulation/legitimation dynamic which informs policy decisions. Thus, Offe's distinction between allocative and productive state functions and his categories of instruments used by the state to restore commodity relations will allow for an examination of the strategies through which the state attempts to reconcile its required functions.

Rhetorical Figures in Policy Discourse

It is the legitimacy aspect of the accumulation/legitimation dilemma which warrants greater attention at this time. It will be argued here that the Canadian state has employed certain rhetorical figures -- particularly those based upon notions of consumer sovereignty and technological determinism -- to attempt to reconcile its

diverse required functions and, particularly, to obscure a number of productive interventions aimed at the cable industry in the 1980s. These rhetorical figures will be referred to as "consumer choice" and "technological threat/opportunity." The implications of the latter rhetorical figure have been discussed in the work of Robert Babe (1988). Both of these rhetorical figures operate at the level of myth as defined by Roland Barthes (1984). This is the case because, in the use of these figures, one can observe the "privation of history" (p. 151). The real historical forces which have resulted in a particular kind of programming choice being adopted as a policy objective or the arrival of a certain type of new technology and the institutional arrangements which accompany it are obscured. Both rhetorical figures and the implications of their use will be discussed at length later in this paper.

For the moment, however, it would be useful to discuss how these rhetorical figures function in relation to the two modes of state activity outlined earlier; namely, the allocative and productive modes. Despite the fact that both these rhetorical figures function together, they will be discussed separately.

To discuss the first rhetorical figure, consumer choice, we may note that the Broadcasting Act of 1968 calls for the Canadian broadcasting system to carry programming which is ". . . varied and comprehensive . . . using predominantly Canadian creative and other resources" (Bird, 1988, p. 374). This is the state operating in the allocative mode of intervention, formulating laws. However, once instituted, how is the state, through its instruments to realize this

policy objective? Policies aimed at the promotion of Canadian originated programming choices have included: simultaneous substitution policies; changes to tax laws designed to promote the purchase of advertising time from Canadian broadcasters; regulations preventing the importation of American originated satellite services if equivalent Canadian-produced services exist; and the establishment of the Broadcast Program Development Fund (BPDF). This exemplifies the productive mode of state intervention. This is because, in each of these cases, the state is acting to either stimulate accumulation or prevent a disruption of accumulation. Something more than the simple state-organized framework of production/accumulation is needed. In each case as well, this intervention is legitimated based upon appeals to the cultural objectives set forth in the Broadcasting Act. Thus, the adoption of increased consumer choice as a policy objective mythologizes or obscures that it is choice of a particular kind. It is choice from a set of alternatives constrained by economic concerns. Just as the policy options available to the state were, themselves, choices from a set of economically constrained alternatives.

The second principal rhetorical figure which has characterized public policy documents relating to cable is technological threat/opportunity. Again, to return to our earlier distinction between allocative and productive state functions, the state's cultural objectives relating to the Canadian broadcasting system are said to be threatened by new delivery mechanisms. Satellites are the most recent example. At the same time, these new technologies are said to offer new opportunities to achieve cultural objectives if they are introduced

correctly. Thus, public investment in satellite technology to extend service to the north is undertaken. New funds are made available to stimulate growth in the program production sector so that new programming services based upon satellite delivery will have access to quality, competitive Canadian programming. However, while these productive interventions are legitimized based upon the Canadian broadcasting system's need to adapt to the threat/opportunity of new delivery technologies, the cable industry is also used to formulate an industrial strategy designed to stimulate the hardware industry (Babe, 1989, p. 17).

This is not to suggest that the state could not make an argument for cable policy growth based upon the need to stimulate jobs for Canadians or encourage employment in the growing information sector. Indeed, the state does do this, primarily in other documents designed for other constituencies such as hardware manufacturers. The point to be made here is that the rhetorical figure of technological threat/opportunity is used to obscure the real choices that exist both in the communications technologies we use and the institutional arrangements that surround these technologies (in many cases these two elements cannot be separated). Thus, the myth quality of this rhetorical figure obscures the real constraints placed upon public policy by accumulation. This is because, above all, the story of new communications technologies is the story of products and markets (Murphy, 1983, p. 9).

CHAPTER II

EARLY CABLE POLICY: 1968-1980

In 1968, the year in which the Broadcasting Act created what was then known as the Canadian Radio-Television Commission (CRTC), cable television in Canada was already well established. Penetration of television homes was already relatively high with some 710,000 or 13% receiving the service from over 300 cable systems (Hollins, 1984, p. 84). Industry revenues for that year were some \$31.3 million (Babe, 1975, p. 55). The late 1960s represented a period of rapid growth for cable as it began to penetrate urban markets. City dwellers found cable a good way to alleviate ghosting problems caused by high-rise buildings (Babe, 1989, p. 1). Regulation of cable, to that point, had been handled by the Department of Transport which had been concerned, primarily, with the preservation of the concept of broadcasting as a local service. The Department of Transport had, therefore, insisted that cable systems carry all local stations while prohibiting the importation of distant signals by microwave (Hollins, p. 85).

The 1968 Broadcasting Act

With the arrival of the 1968 Broadcasting Act and the creation of the CRTC, cable entered into a new era of regulation. Drafted during 1967, under the guidance of Judy LaMarsh, Bill C-163 finally received first reading in the House on October 17. It was then passed into law in a somewhat amended form on March 7, 1968. Observers have noted that

the very title of the document suggested a renewed commitment to state involvement in the broadcasting sector:

The new legislation was entitled "An Act to implement a broadcasting policy for Canada," in contrast to its predecessor, which was simply "An Act respecting broadcasting" -- an act which was much criticized for its failure to provide clear goals and policy direction to either public or private broadcasters." (Ellis, 1979, p. 69)

The new Broadcasting Act replaced a previous one which had been in effect since 1958. The 1968 Act was, in fact, the fourth in Canada's history.

The earlier regulatory body, the Board of Broadcast Governors (BBG), would be replaced by the CRTC. The mandate of the CRTC would be clearly set out as would its relationship to both the public and private components of the Canadian broadcasting system. Section 3 of the Act set out a broadcasting policy for Canada. It declared, among other things, that:

(a) broadcasting undertakings in Canada make use of radio frequencies that are public property and such undertakings constitute a single system, herein referred to as the Canadian broadcasting system, comprising public and private elements. (Bird, 1988, p. 374)

Section 15 of the Act gave the CRTC the mandate to ". . . regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy enunciated in section 3 of this Act" (CRTC, 1987b, p. 2). The powers made available to the CRTC to achieve these ends included the ability to ". . . establish rules of procedure; make regulations; prescribe classes of licenses; issue, attach conditions to, amend, renew, suspend, and revoke licenses; exempt from licenses; carry out or support research; and require the broadcast

of programs of urgent importance to Canadians generally or to residents of a specific area (p. 2). The ability to grant licenses was one of the major innovations of the new Act. Previously, the government itself had issued licenses (Ellis, 1979, p. 73).

The 1968 broadcasting Act reaffirmed that the Canadian broadcasting system was viewed as a single system with a single regulator. Since the 1958 Broadcasting Act, somewhat of a dual system had developed in this country with the BBG coexisting uneasily with the CBC. As of 1968 there would once again be a single regulator. However, unlike the situation prior to the establishment of the BBG, this regulator would no longer be the CBC -- the national broadcasting service -- but a federal commission. It has been argued that this in effect retained a dual system under a single regulatory body (Ellis, 1979, p. 77). Unlike the situation prior to 1958, the private sector was no longer as clearly subservient to the national service. De facto private property rights to the airwaves continued to be established. It is interesting to note for example, that until the 1958 Broadcasting Act, there were provisions for the expropriation of private stations by the national broadcasting service (Ellis, 1979, p. 47).

However, despite the fact that the "single system" announced in 1968 was a great deal different than the one which had existed prior to 1958 (and had been envisioned for Canada in 1936) the 1968 Broadcasting Act did advocate the primacy of the public broadcaster while clearing up at least some of the ambiguities regarding the CBC's relationship to the regulator. Section 3 (f) spoke of a national broadcasting service ". . . predominantly Canadian in content and character." Any conflicts

between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system would be ". . . resolved in the public interest but paramount consideration shall be given to the objectives of the national broadcasting service" (Bird, 1988, p. 375).

Defined as a "broadcasting receiving undertaking" cable would be expected to contribute to the realization of the goals enunciated in the Act and, particularly, section 3. However, at the time of the Bill's passing, it was unclear exactly how. Despite cable's rapid growth and fairly high level of penetration, it was still a relatively unexamined factor in the broadcasting system. The 1964 Fowler Committee, for example, had been explicitly instructed not to examine cable (Babe, 1979, p. 123).

Cable as a Broadcasting Receiving Undertaking

The choice of the term "broadcasting receiving undertaking" was significant for federal claims to jurisdiction over cable (Babe, 1989, p. 2). As a broadcasting receiving undertaking, cable was made part of a broadcasting system which included both a transmitter and a receiver. This, again, goes back to the logic established at the time of the Radio Reference Case of 1932. As was alluded to earlier, the provinces' challenge to federal authority in that case was based on a separation of transmission and reception. In his judgement, Viscount Dunedin of the Judicial Committee of the Privy Council concluded that:

. . . this cannot be done. . . . Broadcasting as a system cannot exist without both a transmitter and a receiver. The receiver is indeed useless without a transmitter and can be reduced to a nonentity if the transmitter closes. The system cannot be divided into two parts, each independent of the other. (Bird, 1988, p. 109)

Thus, if one accepted that the transmitter was under federal jurisdiction, then the receiver must also be under federal jurisdiction. However, cable has enough similarities to both broadcasting and telephony to warrant being called a "hybrid" system (Babe, 1989, p. 3).

Indeed, it was the fact that cable appeared to be a local, closed-circuit facility that led to provincial challenges to federal jurisdiction following the 1968 broadcasting Act. Robert Babe (1989) and Michel Guite (1977) have documented the "federal-provincial high-jinks" which ensued as several provinces, led by Quebec, challenged federal jurisdiction in 1969. This issue was only resolved in 1978 when the supreme court affirmed federal jurisdiction over cable television (Babe, 1989, p. 12). While it is beyond the scope of this paper to discuss the impact that federal-provincial conflicts or conflicts between the DOC and CRTC may have had on policy, Michel Guite makes a strong case that the impact has been substantial. Clearly, his analysis undermines the image of the state apparatus as a monolithic technological institution, objectively rendering decisions in the national interest.

The federal state then, in drawing cable into its regulatory ambit and establishing a broadcasting policy for Canada could be said to have been operating in the allocative mode of state intervention. It is clear that even in this mode of intervention -- in exercising powers

that can be said to intrinsically belong to the federal state -- the federal state was faced with challenges from the provincial governments. However, as it began to formulate policies dealing with the broadcasting system the federal state can be said to have entered into a productive mode of state activity. This is particularly true with regards to policies designed to achieve programming goals as set out in the Act.

Early Cable Policies

An examination of early cable policies will reveal the dynamic discussed earlier as the capitalist state's attempts to reconcile accumulation with legitimation. More specifically an examination of these policies reveals the contradictions inherent in achieving cultural policies through industrial strategies. It will be argued that policies directed at achieving programming goals through protecting the profits of traditional broadcasters failed.

Robert Babe (1979) has argued that:

In order for licensees to have increased capacity to undertake the type of programming envisaged in the Broadcasting Act, the CRTC has attempted to protect and augment the financial well-being of licensees. Commission protection of licensees' interests is manifested in four general policy directions: licensing policies to protect Canadian broadcasters from Canadian competition; cable policies designed to protect over-air broadcasters from American competition; cable television rate policies to protect cable television revenues; and de facto private property rights in the radio spectrum to guard against uncertainty. (p. 157)

Of these four strategies, it is the second policy -- the protection of Canadian broadcasters from American competition -- which will be

examined in-depth here. Furthermore, it will be shown that cable rates have not been regulated with regards to rate of return.

That initial cable policy was restrictive towards cable and attempted to protect Canadian broadcasters from threats to their advertising base has been well documented. To specify further, the Commission put forth, in policy documents, a number of reasons for its concern regarding the financial health of television licensees. Babe (1979), has summarized a number of these reasons. Again, one sees here the state acting to ensure accumulation, while appealing to broad-based notions such as a broadening of service, community needs and other "national concerns."

The first, and most commonly stated reason for the protection of the financial health of broadcasters is that a weakening of the financial base of traditional broadcasters weakens their capacity to produce indigenous programming. Second, over-air broadcasting is available to more Canadians than is cable, therefore, the CRTC must act to protect the system which is the most widely available. Third, cable may erode the advertising base of support in a community to preclude the licensing of new broadcasting outlets. Cable television, it was feared, could upset the logic of local licensees serving distinctive community needs. Fourth, cable, because of the capital intensive nature of that industry, could serve to divert resources from program production to program distribution. The CRTC's comments on the importance of focusing on programming and not carriage are interesting to note in light of future developments in the hardware industry in Canada:

. . . the mandate of the Commission requires it to supervise the publicly owned radio frequencies so that the Canadian broadcasting system is not disrupted as a result of purely technological and marketing pressures which take no account of the social, cultural, economic and political objectives of the country. . . In the opinion of the Commission, there is an obvious danger that the development and even the policy of broadcasting be determined by the natural tendency of hardware, tools, and machines to proliferate as a result of technological and marketing pressures. Such a proliferation can only occur if the hardware is fed with inexpensive contents, this kind of development leads to wider and wider circulation of programs without a corresponding increase in the production of messages. Messages from larger centres are spread more and more distantly, this results inevitably in a stretching process, a "more of the same" process where, in the long run, choice is reduced rather than increased and where the medium is indeed the message. (CRTC, 1971, p. 11)

In early cable policy, it was clearly the erosion of the advertising base from new American programming brought in by cable systems that caused the CRTC the most worries and resulted in the swiftest action. Specifically, a CRTC Public Announcement entitled The improvement and development of Canadian broadcasting and the extension of US television coverage in Canada by CATV dealt with the threat posed to existing broadcasters and potential second stations by the importation of distant signals by microwave. This document was published following a series of public hearings which had started in July of 1969 (Bird, 1988, p. 417). The document, while somewhat ambivalent in its attitude towards new technologies -- seeing them as both threatening and promising -- is frank in its discussion of the effect that the use of microwave facilities will have on Canadian broadcasters and clear in the priority it extends to conventional broadcasters:

The problem facing the Commission is not whether the technology of microwave should be used to help the development of cable television. It is to decide whether the use of additional techniques should be authorized to enlarge the coverage areas of U.S. networks and U.S. stations and therefore their advertising markets in Canada. (p. 418)

The document goes on to state that:

The fact that through force of circumstances many U.S. stations now cover other parts of Canada, and that some of them seem to have been established mainly to reach Canadian audiences does not justify a decision of the Commission which would further accelerate this process. In consequence the Commission will not license broadcasting receiving undertakings (CATV) based on the use of microwave or other technical systems, for the wholesale importation of programs from distant U.S. stations and thereby the enlargement of the Canadian audience and market areas of U.S. networks or stations. . . . Nevertheless the efforts of Canadians to maintain an independent broadcasting system can be justified only if this system achieves the high expectations established by Parliament in the Broadcasting Act of 1968. (p. 418)

With this policy statement, the CRTC demonstrated its willingness to protect Canadian broadcasters at the expense of cable operators while, at the same time, challenging broadcasters to ". . . achieve the high expectations established by Parliament. . . ." These high expectations included more programming produced by predominantly Canadian creative resources and the extension of services into undeserved regions. In this early document, the rhetorical figures of consumer choice and technological threat/opportunity are already well established. Despite the concerns for the "wholesale" importation of American signals by microwave, it was clear that the CRTC was willing to consider the full development of cable television in some markets. Particularly those already served by second television service. In those areas, the CRTC

was prepared to work to "accelerate the development of Canadian broadcasting services including CATV" (p. 419).

Babe (1979) has distinguished between this earlier more restrictive period in CRTC measures and a second less restrictive period. In this second period, CRTC policy attempted to ". . . allow both an increase in cable service availability and simultaneously to shield revenues accruing to broadcasters from the possible adverse effects of cable television" (p. 161). Measures initiated during this period include the establishment of priority for Canadian signals and limits on the number of U.S. stations imported by microwave. These restrictions were included as conditions of license until the enactment of cable regulations on November 25, 1975 (Babe, 1979, p. 162). Perhaps the most important of the early cable policy statements, and the one in which many of the measures which would characterize cable policy for years to come were enunciated was Canadian broadcasting "a single system" (CRTC, 1971b) issued on July 16, 1971.

The policies announced in that document were based on a number of issues raised in another announcement, The integration of cable in the Canadian broadcasting system (CRTC, 1971a), and following a public hearing held in Montreal in April of that year. In the earlier document three policy options for cable were laid out by the commission. The first dealt with the "unfettered" growth of cable television and the consequential diminishing of the ability of television broadcasting to serve the population. The second dealt with the creation of conditions that would result in the restriction or even rolling back of the development of cable television in the interests of safeguarding the

television stations. Both these stamens were deemed to be unsatisfactory and, instead, a third option was advanced:

A third possibility is the attempt to develop a policy which would integrate cable television into the Canadian broadcasting system, avoid disrupting the system, enhance the capacity of the system to produce programs, and finally permit a vigorous development of cable television and of the whole Canadian broadcasting system. (CRTC, 1971, p. 7)

It was in the shift from the second to the third policy stance that the CRTC assumed a greater role as a "system planner" (Babe, 1975, p. 236). In adopting this role, the state was increasingly called upon to make productive interventions.

In particular, the Canadian broadcasting "a single system" document rearticulated two specific problems which cable raised for the overall broadcasting system. First, it pointed out that cable systems use "programmes which are indispensable to the service they provide but they do not contribute to the cost of the production of these programmes" (CRTC, 1971b, p. 9). The Commission then went on to note the economic disincentives which surround the production of Canadian programming. Second, the CRTC noted that, as more distant signals are imported by cable, the value of the local broadcasting licenses become less meaningful (p. 10). The result, the CRTC noted, was that the obligations the broadcaster had undertaken to fulfill, as conditions of license, became more difficult to achieve. Thus, this policy document reveals a renewed commitment both to consumer choice and to protecting the financial stability of traditional broadcasters.

It proposed to do this through a series of policies which restored the "logic of the local licence" while taking some first steps towards

diverting some of cable's revenues towards the production of Canadian programming. In addition, the CRTC relaxed its signal priority requirements and microwave policy thereby clearing the way for the importation of up to three American signals.

Protecting the Local Broadcasters' Profits

Under its policies designed to "restore the logic of the local licence" the CRTC announced new measures dealing with programme duplication, the deletion and substitution of commercials and an amendment to Section 12a of the Income Tax Act (p. 29). One can speak of these measures being initiated because of ". . . actual or anticipated, sectoral or general absence of accumulation (or disturbances in the accumulation process)" (Offe, 1975a, p. 132). Thus, the threat posed by new technology -- in this case cable -- was that it effectively undermined the value of the broadcasting license (the private broadcasters' private property rights to a public resource). Through a policy designed to restore the value of the local license, the state can be said to have "recommodified" it. The state achieved this through the instruments discussed below.

With its policy of programme duplication and the deletion and substitution of commercials, the CRTC rejected the long-standing Department of Transport policy that cable systems should not alter the signals received from broadcasting stations. Rather, the CRTC concluded that the unaltered carriage of some signals, ". . . disrupts the ability of Canadian television stations to fulfill their mandate" (CRTC, 1971b, p. 26). Again, it should be noted that the focus is on the mandate as

given to the broadcasters by the Broadcasting Act. This focuses attention on the allocative mode of state activity. The rationale then, is that the unaltered carriage of some signals disrupts the conventional broadcasters' ability to realize profits (the actual objective of the private broadcasters) which could be put back into program production.

The program duplication policy stated that systems with over 3,000 subscribers and more than 40 subscribers per mile of plant would be obliged to, at the request of a high priority station, delete the transmission of any lower priority station or optional station during any period for which these stations duplicate the programming of the higher priority station. The cable system then could substitute the transmissions of the higher priority station into the otherwise vacant channels during the period of duplication (Babe, 1975, p. 238). By withdrawing its requirement that cable companies not alter their signals, the CRTC left the door open for cable operators and television stations to negotiate commercial deletion and substitution arrangements. While cable companies were not permitted to sell advertising, they could make arrangements to insert advertising sold by the local television stations. This measure was never as successful as program substitution and was only attempted with any success by Rogers Cable in Toronto (Hollins, 1984, p. 87). With these attempts to reduce the audience fragmentation caused by cable, the CRTC was engaging in what one commentator termed "legalised piracy" (p. 87).

Also designed to "restore the logic of the local licence" was the CRTC's move to request the government of Canada to amend Section 12a of the Income Tax Act. The CRTC estimated that some \$12 to \$15 million per

year was being spent to buy commercial time on U.S. television stations (CRTC, 1971a, p. 5). Eventually coming into effect in 1976 with the passage of Bill C-58, the new law would deny business expense tax deductions on advertising which Canadian firms bought on U.S. stations for transmitting into Canada. Again, this points to moments when a state instrument is both allocative (state prerogative to draft laws) and productive (protecting the profits of private broadcasters or individual accumulating units).

An early attempt to divert some of cable's revenues into commercial program production was also found in Canadian broadcasting "a single system." Written at a time when it could still be said that television was the sole reason for the existence of cable television, the CRTC argued that "one should pay for what he uses to operate his business [sic]" (p. 21). The CRTC urged the cable operators and broadcasters to arrive at some mutually agreed upon method of payment and, in addition, offered a method of its own.

In a nutshell, the CRTC's plan called for cable television systems to pay for the programmes and services they receive over the air by "buying additional Canadian broadcast programmes from broadcast licensees and other sources for play or replay on their systems" (p. 23). The amount of compensation was to be based on the revenues of cable systems. The CRTC estimated that this method would result in some \$4 million in new revenues, almost all of which could be used for production. The programs selected by cable television systems for play or replay over their systems would be an "attractive supplement to cable service," thereby attracting new subscribers and more revenue (p. 25).

The CRTC's proposal for compensation, while ultimately ignored by most cable operators, points toward the need, perceived by the CRTC, to stimulate the Canadian production industry. However, new production money from cable would still, in most cases, be filtered through the conventional broadcasters. Canadian broadcasting "a single system" ends with the exhortation "Canada must quickly develop a programme production industry reflecting both purely Canadian and international cultures. Otherwise, we will simply have a technically sophisticated distribution system for imported programs" (p. 38).

In summary then, cable television, throughout the 1970s, was viewed primarily as a threat to conventional broadcasters. Cable advances continued to out-pace both the regulator and the conventional broadcasters. By 1975, while the Canadian broadcasting system was still adjusting to program substitution and commercial deletion policies, pay-TV was being advanced as a potential new service by the cable industry (CRTC, 1980a, p. 49). Policy statements reiterated that, if a way was not found to make cable work for the broadcasting system, that new technology would fracture the economic base of the conventional broadcasters and disrupt the cultural, educational, and information imperatives of the Canadian broadcasting system. Policy documents asserted that the system's very survival was at stake. However, by the late 1970s, serious questions were being raised as to how well the broadcasting system -- particularly the private component of that system -- was achieving the cultural, educational and informational imperatives used to legitimate state involvement in the broadcasting sector.

The Failure of Protectionist Policies

The failure of state protectionist policies is discussed by Hoskins and McFadyen (1986) in a report prepared for the Caplan-Sauvageau task force:

. . . for several years the Canadian Radio-Television and Telecommunications Commission (CRTC) fought an unsuccessful rear-guard action to prevent cable importation of distant U.S. signals by microwave. Similarly, the CRTC delayed the introduction of Pay-TV for approximately ten years. Other protectionist measures include Bill C-58 and the CRTC's simultaneous substitution policy. However, even where protective measures have been successful in boosting broadcaster's profits, there is no evidence that these additional profits lead to incremental expenditures on Canadian programming. This is not surprising as such measures do not affect the economic incentives that favour exhibiting U.S. programming. (p. 10)

Indeed, protectionist policies towards cable signals and conduct regulation dealing with the broadcasters could not change the fact that Canadian programming is less profitable than American programming. In another study Hoskins and McFadyen found that an extra hour a day of prime time Canadian programming would almost double the expenses of an average station. (1986a, p. 24) Thus, for the commercial broadcasters such as CTV, who are reluctant to act against the interests of their shareholders (from whom they get their actual mandate), conduct regulation, such as Canadian content quotas, tended to invite token responses. Examples of token responses include, producing only the cheapest Canadian programming (such as quiz or game shows), concentrating Canadian programming during the summer months, and showing Canadian programming during the early evening and late evening hours only. With regards to this last strategy, CTV during 1978-1979

exhibited Canadian programming during peak viewing periods (8 p.m. - 10:30 p.m.) only 6% of the time. (1986, p. 12)

In summary then, by the early 1980s it was clear that protecting the profits of the conventional broadcasters and imposing Canadian content regulations on them was not achieving the goals set forth in the Broadcasting Act. Productive state interventions depended on the realization of the goals set forth in the Broadcasting Act for their legitimacy. Without the component of legitimacy, these interventions, rather than being perceived as achieving common and general interests, would be seen to serve narrow sectoral interests. As expressed by the CRTC itself in policy documents, efforts to protect the Canadian broadcasting system could not be justified on this basis.

The Myth of Rate Regulation

It must, however, be noted that despite the restrictions placed on cable to protect conventional broadcasters, in those areas where cable was established, cable operations were allowed to maximize their profits (Babe, 1979, p. 163). This must be noted in order to fully appreciate the role played by the CRTC as a system planner and to understand the position in which the major cable companies found themselves as the 1970s drew to a close.

As has been noted elsewhere, cable is described, both by the federal government and the industry itself as a "hybrid" system merging elements of broadcasting and telephony. This somewhat flexible definition has had benefits for the industry. Focusing on the broadcasting elements, cable was defined as a broadcasting receiving

undertaking (as opposed to a telecommunications carrier for example). As such it was brought within the federal regulatory ambit and kept free of provincial regulation. (Babe, 1989, p. 2)

Herschel Hardin (1985), focusing on the case of Saskatchewan, has argued that federal regulation in that province has been to the benefit of private profits, while provincial regulation would have meant cooperatives and crown corporations:

The concept of a nonprofit, service-at-cost structure extending communications to all parts of the province at equal subscriber cost as quickly as possible had deep historical roots in Saskatchewan. Public ownership of the telephone system there, as in Alberta and Manitoba, went back to the early years of the century. Sasktel was an expression of the Saskatchewan character. The Saskatchewan government also knew that the province could not count on federal regulation to serve the public interest. Some of the existing cable systems were notorious for the monopoly profits they were ringing up, thanks to an obliging CRTC. (p. 198)

Certainly, it is true that the cable industry, through the CCTA, has resisted any new regulatory definition of cable which would have jeopardized that industry's hybrid status.

The point to be made here is that, despite the similarities to telephone systems, cable systems have not been subject to a similar rate regulation. This is largely due to the focus, by the CRTC and the CCTA, on the broadcasting aspects that are used to justify cable's hybrid status. This has resulted in a regulatory structure unlike that applied to telecommunications with its focus on extension of service at reasonable costs. As part of the broadcasting system, cable has been regulated with a view to increasing the amount of money available to invest in programming.

In its 1971 public announcement The integration of cable television in the Canadian broadcasting system the CRTC declared its willingness to find a compromise position between complete reliance on market forces in the setting of cable rates and strict rate regulation:

Clearly, cable television systems would maximize their return if they were permitted complete flexibility in setting rates for either basic service or special cable services. However, there have been suggestions that cable rates should be rigidly controlled, limiting return on investment so as to provide service to a maximum number of people. This argument would be very convincing if it were decided to let television broadcasting deteriorate and depend on cable systems entirely for programming. (p. 22)

This view sees the traditional broadcasters and their "free" service as the backbone of the broadcasting system, with cable providing additional services. Babe (1979) and Hardin (1985) have both outlined the three basic reasons given for the subsequent rejection of the notion that cable rates should be rigidly controlled. First, if cable systems were to contribute to the overall broadcasting system through program deletion, commercial substitution, direct compensation payments, and original programming they would have to be financially strong. This is essentially the same protectionist logic discussed earlier with regards to traditional broadcasters. Secondly, the CRTC did not want to force cable rates down thereby contributing to increased cable penetration and further undermining the conventional broadcasters. Third, as cable contributed to the strengthening of the over-the-air system, the quality of this "free" system would force cable rates down without rate regulation.

In 1974, the CRTC published a list of criteria by which applications for rate increases would be judged. These criteria,

indirectly, had the effect of keeping cable rates down. This was due to the fact that cable operators were generally reluctant to apply for increases without being prepared to also expand services (Babe, 1979, p. 130). However, the CRTC explicitly rejected regulation based upon rate of return or direct profit regulation. The criteria upon which applications were judged included: the quality of service presently provided by the licensee; proposed additions to or improvements in service; the variation of the fees proposed from those generally in effect in the region; the desirability of reasonable cost sharing to finance the expansion of cable television service within the region; economic need and; other criteria (p. 164). In applying for rate increases, cable operators were to choose the criteria upon which they wished to base their applications.

Both Babe and Hardin have noted that these criteria, in and of themselves, did not provide an adequate description of CRTC policy with regards to rate increases because too many questions were left unanswered:

For example, if the "quality of service" (however, defined) is "unsatisfactory," will rates be permitted to rise in order that service can be improved, or will the rate application be denied to penalize the provider for unsatisfactory service? What is the relation envisaged between increased revenues from rate increases and the costs of providing new services? For example, assuming the cable operator at present is making a supranormal return on his investment, will the rate increase be such that he is also allowed to make a supranormal return on the incremental service provided? (Babe, 1979, p. 164)

Thus, all the criteria did was set the stage for cable company posturing when the time came to apply for rate increases. What the criteria did not provide was a sound basis for the regulation of cable

rates. Nor did the criteria make clear how the profits enjoyed by cable operators (monopolies using public licenses under the jurisdiction of a regulatory agency) were to contribute to the broadcasting system's ability to fulfill the objectives of the Broadcasting Act.

In summary then, Babe argues that cable systems were allowed to maximize their return provided they sought CRTC permission first (p. 163). An examination of applications for cable rate increases over the period from 1971 to 1977 bears out this assertion. From 1971 to 1977 there were 324 applications made for rate increases. Of these, 255 were approved in full, 53 were approved in part, 11 applications were denied, and 5 were deferred (p. 167).

CHAPTER III

CABLE POLICY 1980-1990: A DECADE OF DIVERSITY?

By the end of the 1970s, broadcasting policy in Canada was coming under sharp criticism for failing to achieve its programming goals. Early cable policy, designed to introduce cable television in such a way that the profits of traditional broadcasters were protected had been legitimized through appeals to cultural goals. The failure of these policies to result in the production of sufficient quantities or particular types of Canadian programming has been discussed.

Cable: A Growing Distribution System for American Programming

However, at the same time, the growth and unregulated profitability of cable operations had been legitimized based upon the notion that a strong cable sector had a contribution to make to the programming goals set out for the Canadian broadcasting system. As early as 1971, the CRTC's first policy statements on cable warned that "Canada must quickly develop a programme production industry reflecting both purely Canadian and international cultures. Otherwise, we will simply have a technically sophisticated distribution system for imported programmes" (CRTC, 1971b, p. 38). By 1975, however, CRTC policy documents were still expressing frustration with the lack of direction regarding the contribution cable operators should make:

It has been suggested by the Commission and by others that cable television licensees be required to assign a fixed percentage of their revenues to aid the Canadian broadcasters and the Canadian program production industry. Without enabling legislation, however, there is no simple mechanism to achieve such a transfer of funds and to ensure their use in the production of more Canadian programs. (CRTC, 1980a, p. 51)

The document went on to state that:

. . . we are already well launched into the process of developing highly expensive and extremely sophisticated hardware without the necessary programs to make effective use of this system to fulfill Canadian social and cultural objectives. We now have in place a distribution system more effectively oriented to the development and distribution of more foreign programming than to the creation and evolution of distinctly Canadian works. (p. 52)

Thus, throughout the 1970s, the policy makers saw many of their early concerns for cable come to pass. The hoped for integration of cable did not appear to be working. Cable had become a financially lucrative distribution infrastructure for the accelerated dissemination of American programming in Canada.

As the 1980s began, the crucial problems which faced the Canadian broadcasting system were still unresolved. A brief review of a public announcement published in March of 1979, A review of certain cable television programming issues, indicates the CRTC's continued public ambivalence towards cable. This end-of-the-decade report card also indicates the CRTC's retained focus on traditional broadcasters for programming initiatives as the 1970s drew to a close (CRTC, 1980a, p. 58). An observer assessing this document noted that:

Basically it represents a further reiteration of the Commission's long held view that cable can expand if, and only if, it does not cause undue damage to off-air broadcasting. The capacity of cable to provide other

forms of programming was again reiterated but the old fears about the fragmentation this might cause are still apparent. The growing interest of the cable industry concerning programming could not be ignored, however, and it was to be allowed to continue to undertake the production and exhibition of "special interest programming of local origin which broadcasters have not undertaken or have declined to offer because of commercial scheduling and other restraints." The statement also established, "that if any conflict arises between special programming proposals and the programming services of the broadcaster it must be resolved in favour of the latter." Thus the prior right of the off-air broadcaster was again upheld, Cable was to continue to be primarily a program distributor although it could contribute to program production through some sort of arm's-length arrangement -- a sort of programming consortium. (p. 62)

What makes this policy document of interest then, is not its repetition of earlier concerns. Rather, the document is of interest because, despite the primary focus on the conventional broadcasters as providers of Canadian programming, cable was being encouraged, although not required, to put money into production. In addition, the CRTC was willing to allow for some special programming which it would decide upon on a case by case basis. The community channel, required since 1976, was providing the cable industry with good community public relations and greater claims that it was more than just a distributor of programming. Finally, rumblings about Pay-TV and some actual Pay services were well underway by 1980. This will be dealt with in greater detail later.

By 1980 the cable television industry, led by a few large corporations, was feeling its strength and began a greater push against the restrictions placed upon its growth by the regulator. An assessment of the status and structure of the cable industry, utilizing data from

the 1970s and into the early 1980s, documents the growing size and strength of that sector. Observers in the mid-seventies noted with some amazement the rapid growth rate of cable subscription in this country. Michel Guite (1977) wrote that "CATV subscribers in Canada since 1970 have increased at a compound rate of 21 percent a year" (p. 107). Indeed, by 1982, there were 4.9 million cable subscribers in Canada. This figure represents 60.9 percent of all TV households. More tellingly, this figure represents 74.7 percent of all homes passed by cable. Gross operating revenues for that year were approximately \$472 million (CCTA, 1989). The amount of revenue per subscriber that year was \$95.73 (CCTA, 1987a, p. 31).

The story of cable throughout the 1970s and into the 1980s becomes more and more the story of a few large communications conglomerates. This trend towards concentration in the cable industry was noted by observers in the mid 1970s and continues to the present. Robert Babe (1979) noted:

Although there were 427 licensed cable television undertakings in 1976, the industry is dominated by three public companies -- Premier Cablevision, Canadian Cablesystems, and Maclean-Hunter Cable TV -- and a single private company -- Rogers' Cable. Collectively, these companies controlled 35 separate cable systems and account for 1,373,963 subscribers in 1975; some 48 per cent of the total number of subscribers in Canada were served by these companies. It would appear that the Canadian cable television industry will become even more concentrated in the years to come. (p. 129)

This prediction would prove to be correct. Herschel Hardin (1985) has described Rogers Communications Inc.'s takeover of Canadian Cablesystems Ltd. and, by 1980, of Premier Cablevision of Vancouver. This takeover, wrote Hardin:

. . . would give Rogers 1,112,000 subscribers, 27 per cent of the country's total. It would give Rogers B.C. cable licenses representing 51 per cent of the provincial total, including the key licenses in Vancouver and Victoria. (p. 268)

In examining cable policy in the 1980s the leadership role played by large communication conglomerates and particularly Rogers communications, must be kept in mind. It can be argued that their needs for increased investment opportunities have provided much of the impetus for major cable policy shifts.

Changes to the Policy Environment and Regulatory Structure

Before an examination of some of the policy initiatives and licensing decisions made by the CRTC with regards to pay-TV and specialty services can be undertaken, it will be necessary to examine the policy environment and changes to the regulatory structure which characterized the 1980s. As was noted above, the CRTC's view of cable, as the 1980s began, was characterized by ambivalence regarding that distribution technology's ability to contribute to programming goals. The primarily industrial strategies designed to ensure the financial viability of certain sectors of the broadcasting system were not achieving the cultural goals which, in CRTC discourse, they were designed to achieve. The legitimacy of these efforts was, therefore, increasingly challenged.

However, this challenge to the legitimacy of certain cultural policies did not mean that they were not succeeding as industrial strategies. Robert Babe (1989) has noted the speed with which cable changed from, as he puts it, a blight to a chosen instrument in

government policy initiatives. This change was ushered in with the 1980 publication of the Therrien Report, named for then CRTC vice-chairman Real Therrien who headed the committee. Titled, The 1980's, A Decade of Diversity, the committee was set up, ostensibly, to make recommendations for the extension of service to remote and northern communities. The committee adopted the two rhetorical figures which have so characterized policy documents in the 1980s: consumer choice and technological threat/ opportunity:

Noting that in 1980 some 35 non-network programming services were being transmitted on U.S. satellites, each capable of reception in Canada with backyard dish antennae, Therrien proclaimed that "a new technological universe . . . is already taking shape at a pace that is inexorable." Then, as if to poignantly illustrate the art of self-fulfilling prophecy, the Report advised that cable systems should be authorized immediately to interconnect via satellite so that new pay television and other satellite-to-cable services could be launched with all possible dispatch. (p. 6)

To fully understand the important role assumed by the cable industry in Canada in the 1980s, its role as the cornerstone of an industrial strategy for communications technology suppliers must be appreciated (p. 7). Cable's role in this regard is sometimes mentioned briefly in DOC and CRTC documents announcing new programming choices. Inevitably, however, this industrial aspect is downplayed in favour of more lengthy discussions of cultural benefits. What the discourses surrounding the information revolution obscure are the real vested interests and decisions which have shaped both the emergence of particular technologies and the institutional arrangements which surround them. As noted by Brian Murphy (1983) in The world wired up, "Canadian people are in practice making the tools for someone else while

their own media system is programmed to another nation's priorities" (p. 12). Robin Mansell (1985) has demonstrated the lack of concern for domestic communication needs displayed by state supported transnational communication corporations such as SPAR and Northern Telecom Ltd.

A 1983 brief submitted by then Minister of Communications Francis Fox entitled Culture and communications: Key elements in Canada's economic future is indicative of the important role assigned to information technologies -- the combination of telecommunications and computers -- by the state. Cable, as part of the telecommunications industry is seen as one part of a large and important sector:

. . . the telecommunications industry is very large. When one includes telephones, data transmission, satellites, cable and mobile radio, the industry generates operating revenues of \$7.8 billion per year and employs more than 125,000 people. This represents about 3% of GDP and makes it far and away the largest high technology employer. (DOC, 1983, p. 6)

How does culture fit into this equation? In two ways: through the employment of "cultural workers" in a variety of sectors and the growth of cultural industries themselves:

Statistics from the 1971 and 1981 Census show that in the previous ten-year period the number of people working in cultural occupations (i.e., painters, designers, photographers, decorators, writers, etc.) doubled, not only in the cultural industries per se, but also in all other industrial sections. This compares with a growth rate of 30% for all occupations over the same period and suggests that arts related activities are seen as increasingly important to overall economic performance.

These figures also reflect the growth that has taken place in the cultural industries themselves. During the same ten-year period between 1971 and 1981, the operating revenues of the firms in publishing, film, videotape production and broadcasting, grew significantly faster than Gross Domestic Product. According to Statistics Canada data, the total

contribution to GDP in 1981 of the cultural sector, as defined here, exceeded \$2.7 billion, almost 1% of GDP. This means effectively that the cultural sector contributed just a little less to the economy than did the textiles, aircraft and chemicals industries combined. (p. 13)

Thus, we see a view of the so-called information age in which economic growth is predicated upon the successful exploitation of information technologies: employment is increasingly in the service sector; and the labour force is increasingly made up of "information workers." It is within this context that policies directed at the cable industry throughout the 1980s may be more fully understood.

For example, a DOC (1983a) document entitled Suppliers of equipment and services to the cable industry in Canada was prepared in order to promote awareness between cable operators and cable industry suppliers about each others needs and product/service lines. In addition, the document hoped to ". . . stimulate discussion on the need for industry-wide initiatives to ensure the continued strength of indigenous supplier capability" and "enhance Canada's international image as an important cable industry supplier" (p. 1). This is an example of the state performing its maintenance function by helping a particular industrial sector carry out strategic planning. The major product lines produced by cable suppliers include towers and antennas, satellite earth stations, engineering and management consulting, converters, and Pay-TV security equipment (p. 22). The total domestic market for these goods and services in 1982/83 was estimated to be \$110 to \$140 million (p. 27). Of that market, between 40 to 50 percent was supplied by Canadian firms (p. 27).

This document, written at a time when new programming services were beginning to be offered by cable companies, makes clear the connection between the cable industry, new programming, and hardware suppliers. The document states that:

The cable supply industry's development from 1981 to 1983 was affected by the delay of the introduction of pay-TV to 1983. Because of this, many large cable systems have adopted fairly sophisticated security methods, such as addressable descrambling systems. Jerrold and Zenith have dominated in the first wave of equipment decisions. With strong commercial interest in foiling pirates and adding new services, many non-addressable security systems may soon be upgraded. Overall, the demand for new equipment will be paced by subscriber buildup in basic services, new television services and non-programming services. . . . Although the economic viability and market acceptance of many non-programming services have not yet been proven, it is clear that as the annual revenue per subscriber rises from the current \$100 range to \$300 in 1990, a strong demand for cable equipment and services will be generated. (p. 15)

Thus, the provision of new services can be seen as resulting in a demand for new products manufactured by cable suppliers. The cost in delaying the introduction of pay-TV or other discretionary services can be understood in those terms as well.

Furthermore, while the document asserts that vertical integration between cable operators and suppliers is the exception, linkages do occur between several key companies. Specifically, the document discusses linkages at that time between Lindsay Specialty Products and Lindsay Cable, Tocom Canada and Selkirk; Cablesare, Cablesystems Engineering and Rogers; CUC and Microcom; Videotron and Videoway (p. 21).

The document ends with a discussion of some basic policy issues based upon interviews with industry representatives. It should first be

noted that many of the suppliers examined in the study not only supply the cable industry with hardware and services, they also supply other delivery technologies. These other delivery technologies include "the emerging direct-to-home DBS market"; MATV owners, who require earth stations, subscriber devices and scrambling systems; and "the standalone retail market for VCRs, video games, personal computers etc." (pp. 24-25).

The issues discussed reflect not only domestic industry concerns that their share of the Canadian market be maintained in the face of competition from foreign multinationals but growth strategies for the future which in order to ensure ". . . that Canadian suppliers have the best opportunity to gain a proportionate share of the international market" (p. 81). The document, for example, notes that:

Canadian firms that are successful technological innovators can progress to the \$5 to \$10 million volume level for a particular product. However, to gear up to a production level in the hundreds of thousands of units per year can require penetration of world markets in the highly competitive consumer electronics industry. Some form of joint venture with multinationals that have a strong market presence and established distribution channels, such as the proposed Videoway approach, is one alternative for indigenous firms. (p. 80)

This again points to some of the concerns raised by Mansell and Murphy regarding the behaviour of Canadian based multinationals. Specifically, that in designing products for a world market, they do not consider technologies that are geared to Canadian communications needs. Rather, they are designing global communications hardware based upon global communications strategies which have, primarily been developed in the United States. This aspect is discussed as developing a "so-called

world product mandate," it represents a defacto acknowledgement of the power of multinational corporations in Canada:

One multinational corporate strategy approach that can be beneficial to Canada is the establishment of a so-called "World product mandate," whereby the Canadian operations of a multinational lead the development and marketing of specific product lines to world markets. Although such a mandate may not be directly beneficial to indigenous Canadian competitors, the outcome is preferable to supplying the domestic market from offshore factories. It is also likely to be more beneficial than merely assembling products in Canada, because the latter approach lacks an R&D or a product improvement component that could form the basis for expansion. It is important to determine the conditions under which more multinational manufacturers will be encouraged to make world product mandate commitments to Canada. (p. 80)

To summarize then, the cable industry is but one component of a larger market for communication technologies of all kinds. This market is global in scope. The document's policy issues are, therefore, formulated with a view to increasing the competitiveness of indigenous Canadian firms in this global market and encouraging foreign multinationals to perform R&D to develop products for this global market in Canada. What options are open to the Canadian state in this scenario, given its exclusion from the accumulation process and its mandate to maintain the conditions conducive to further capital accumulation in this important sector of the economy?

The document advocates the further exploration of "several policy areas." However, the "discussion" reads more like relatively specific policy advocacy designed to achieve the aforementioned international competitiveness. Indeed, what the document calls for is productive state activity carried out by a number of specific state instruments. The policy options advocated include: across-the-board R&D and other

tax incentive schemes to companies for the research phase of a product; design of tax shelter programs to encourage investors to provide start-up venture capital to young and inventive companies for the development of new or enhanced products; assistance in the tracking of international markets through focussed government to government relations in cable and other equipment areas; development of cable research in government and laboratories, especially in those areas which may be too costly, despite their potential for Canadian firms; regulatory stimulation of marketplace development by encouraging the cable industry to advance more quickly into new services; and the establishment of Canadian industrial benefits as one of the factors to be considered in the licensing process (p. 81). For the purposes of our study, it is these last two policy options which are critical. They crystalize the connection between the provision of new services for Canadians and the role played by cable, fundamentally a distribution technology, in stimulating growth in the Canadian hardware industry. This document, funded by the federal state, strips away the rhetoric normally obscuring the real relations which underlie the "information revolution."

Interestingly, the document ends with a brief acknowledgement of the cultural implications of an increasingly pervasive distribution system without a concomitant rise in indigenous cultural content. This single sentence is surrounded by advocacy for greater deregulation of the cable industry and concerns that Canadian cable operators get their fair share of the increased orders which will result from such deregulation:

In the opinion of the industry representatives interviewed during this study, a stimulative activity already in the hands of the federal government is the development of a more liberalized regulatory policy. The extent to which such policies can be changed before cultural objectives are adversely affected remains a key policy issue. Ensuring that Canadian suppliers obtain their share of increased cable operator orders is also an important complementary policy question. (p. 81)

This acknowledgment of the potential negative impact upon cultural objectives of industry deregulation is one of the first real issues raised. All the other policy issues raised are, in fact, policy suggestions for productive state activity. How then does the DOC deal with this cultural policy issue when formulating broadcasting policy? More specifically, how does the DOC deal with the related issues of new technologies and culture when writing for a different constituency, namely, those concerned with broadcasting as a cultural practice consisting of a single Canadian broadcasting system?

In March 1983, the government released Towards a new national broadcasting policy (DOCb, 1983). This policy document set the tone for many significant policy and regulatory changes which would virtually redefine cable and, indeed, its role within the Canadian broadcasting system. These changes would include a rapid expansion of the range of services available over cable systems, a greater deregulation or reregulation of the cable industry, and an expansion of the range of activities cable operations could engage in. It will be argued that, in managing the contradictions between what are essentially industrial strategies designed to strengthen the cable sector and the communications hardware industry and cultural policies, the state utilized what have been termed the rhetorical figures of consumer choice

and technological threat/opportunity. The use of these rhetorical figures served to obscure or mythologize productive state activities through a reference to allocative state functions.

The policy environment articulated by Towards a new national broadcasting policy is summed up by the following statement found on the first page: "The situation is urgent, the time opportune." This is followed by a reference to the goals set for the Canadian broadcasting system by the 1968 Broadcasting Act and the warning that "Now, 15 years later, those objectives are still valid, but new challenges and opportunities have arisen, and these call for a solid and reasoned policy response." The policy document thus roots itself in the allocative mode of state activity: the state's right to draft a Broadcasting Act with objectives set out for the broadcasting system. The new challenges, however, occasion the need for specific policy initiatives and the productive mode of state activity.

The document proceeds with its depiction of a system in crisis. These statements employ the rhetorical figure of technological threat/opportunity. The use of this figure in Canadian public policy is discussed by Robert Babe (1988) in an article entitled "Emergence and development of Canadian communication: dispelling the myths." In that article he writes of the doctrine of the technological imperative, which, he argues ". . . is a doctrine maintaining that most or all technological developments ("technological evolution") are inevitable and/or necessary; stated otherwise it holds that human choices are severely limited, if not altogether illusory" (p. 59). The rhetorical figure of technological threat/opportunity mythologizes new technologies

in this way. This rhetorical figure never questions that new technologies, in particular institutional arrangements, are coming. Public policy discussions are, therefore, limited to a search for ways in which the threats can be minimized and the benefits maximized.

Towards a new national broadcasting policy proceeds to mythologize technical advances in this way warning that:

Already, more than 50 new television programming services are being delivered by satellite in the United States to a rapidly expanding cable industry. These signals are now technically available almost everywhere in Canada. There is no sign that this growth in satellite programming has peaked. Within three years, the United States will launch the first of several direct broadcast satellites, with electronic footprints covering most of Canada. Signals from such satellites, which use technology pioneered by Canada, can be received directly in the home via small earth terminals, soon to cost probably as little as \$300. . . . Though these technological innovations promise many benefits, there is a very real possibility that they could undermine the present Canadian broadcasting system and weaken our cultural integrity as a nation. (DOC, 1983b, p. 3)

The policy document goes on to hysterically forecast massive job losses in the cable and broadcasting industries as Canadians with \$300 satellite dishes pick up their American programs without going through the usual middlemen (cable operators or broadcasters). The document accepts as unquestioned the advent of satellite communications based on an American model. Thus, satellites are coming, they will be privately owned and operate on a free flow model which ignores issues of national boundaries. Ironically, we are also informed that this potentially disastrous satellite technology has been developed in Canada. The document does not question how government programs and incentives in the communication hardware sector (based on the needs of a global market)

can, therefore, be said to have threatened national sovereignty.

Instead we are posed with the threat/opportunity dichotomy. What this rhetorical figure obscures then, are the concrete policy decisions which were made by the DOC regarding the productive strategies it would undertake to facilitate accumulation for the suppliers of equipment and services to the cable industry.

However, we are still left with the question posed at the end of Suppliers of equipment and services to the cable television industry in Canada. Specifically: how much can regulatory policies in the cable sector be liberalized to facilitate growth in the hardware industry before cultural objectives are threatened? The answer implicit in Towards a new national broadcasting policy seems to be: Quite a bit, providing the program production sector is adapted and reoriented towards the new delivery systems.

Again, a rhetorical figure is required to bridge the gap between the allocative and productive modes of state activity with regards to programming. More specifically, the rhetorical figure of consumer choice is used to bridge the gap between industrial strategies and cultural policies. According to Towards a new national broadcasting policy, what makes the new American satellite services so dangerous is the fact that they respond to a genuine demand on the part of the Canadian public for more programming services. In this rhetorical figure, consumer demand rather than the emergence of new communications technologies is given as "cause," the "effect" of which is new programming services:

In every region of the country, Canadians have been expressing a desire for increased choice in television and radio programming. Many have also articulated their concern about the continued viability of the Canadian broadcasting industry in the face of growing competition from other countries. . . . This Broadcasting Strategy for Canada recognizes that, within a healthy and viable Canadian broadcasting system, Canadians are entitled to as much choice in programming as technical, contractual and international arrangements enable them to receive. This strategy acknowledges too that "choice" for Canadians is meaningless unless it also includes programming which reinforces the cultural heritage of all Canadians. (DOC, 1983b, p. 4)

Never mind the fact that these "demands" for more services are rarely supported by polls. There is only one conclusion which can be drawn from this scenario: the Canadian program production sector must become more competitive so that it can produce "high-quality attractive programs" to compete with the American fare. This echoes some of the earlier concerns for the hardware supply industry that led to the so-called "world product mandate" orientation.

Clearly, however, cultural products are qualitatively different than descramblers or satellite dishes. What is at stake in gearing television programs to a North American or global market is, therefore, not just market share or jobs. Cultural products are said to have other benefits (what neo-classical economists would term "externalities") described by such nebulous terms as "national sovereignty" or "cultural identity." For that reason, the underlying logic of the rhetorical figure of consumer choice (and the implications of its adoption as a policy objective) warrants closer scrutiny.

It will be argued that the rhetorical figure of consumer choice is based on a notion of consumer sovereignty as discussed by Mark J.

Freiman (1984). The basic assumptions which underlie consumer sovereignty seem simple enough:

Every adult is the best judge of the relative importance and validity of his or her needs and desires. . . . The index of our evaluation of the importance of our needs and desires is to be found in the extent of our willingness to pay to have them satisfied. If there is any objective interest that all individuals have in common, it is the interest each has in satisfying these subjective interests at the lowest feasible personal cost, an interest more commonly known as consumer welfare. (p. 105)

A corollary of this is that it is always a legitimate goal of governments to promote consumer welfare since to do so is to promote everybody's interests. In the context of broadcasting regulation, this means that rather than intervening directly, ". . . regulatory authorities ought to rely on consumer preferences as expressed through the workings of a free market in the context of a commercial broadcasting system to produce programming that will satisfy the needs and desires of its viewers" (p. 106). This essentially is the course of action advocated by private broadcasters and their supporters. It is also a model against which cultural nationalists have fought for over 50 years.

What Towards a new national broadcasting policy introduced was the so-called "private sector thrust." This committed the Canadian broadcasting sector to a strategy of growth based upon the private program production sector, the private broadcasting sector, and the cable sector and away from the public broadcaster. The private sector thrust then sought to:

Encourage the private broadcasting sector in Canada to fulfill an expanded role in increasing both the quantity and quality of Canadian programming. Given that new funds and government assistance are being made available to make the industry more competitive, ensure higher levels of performance from the industry, especially in the area of Canadian programming carried on existing and new services . . . cable will be encouraged to become the primary delivery vehicle for conventional and new programming services, as well as non-programming services. (DOC, 1983b, p. 14)

It will be argued here that this private broadcasting sector operates based upon the logic of consumer sovereignty. The ability of the private broadcasters to operate their businesses based upon this logic has been subject to the limitations entailed by broadcasting regulation. These regulations have included, for example, Canadian content regulations. What the rhetorical figure of consumer choice masks, however, is the real process by which particular program formats, topics, and themes are sold to viewers based upon the needs of an advertising based system.

What Freiman's analysis makes clear is that any programming model based on consumer sovereignty results in homogeneity rather than the production of real alternatives. This is because:

. . . . the real commodity being produced is not the program but the audience watching it, who will also watch the advertising messages that punctuate this programming. The true consumer, then, is the advertiser who pays the broadcaster to produce this audience. The programs being transmitted therefore become not the products of this system but rather one of the costs incurred by the broadcaster to produce an audience for the advertiser to buy. (1984, p. 106)

To the extent that consumer sovereignty exists in the system, it is the sovereignty of the advertiser not the consumer. The advertiser's consumer sovereignty has several implications for the type of

programming which tends to be produced by a "competitive" program production sector. Viewer choice will be choice from a limited number of commercially constrained alternatives. These constraints apply to the program's subject matter, form, and complexity as stability and predictability are sought by advertisers. These limitations are also said to apply to discretionary Pay per channel services as they are subject to similar ". . . audience-maximizing pressures . . ." (p. 109). Thus, reliance on the private broadcasting sector leads to a freedom of choice from a limited number of formats, themes and topics. This must not be confused with the ability to choose the formats, topics and themes themselves.

It will be argued here that the program production initiatives undertaken by Towards a new national broadcasting policy were based upon the above mentioned assumptions and, as a result, the programming choices which have resulted have been subject to the limitations discussed above. Therefore:

Central to this strategy is the assumption that action must be taken now to help the Canadian broadcasting industry become more competitive. It also recognizes that the term, "more competitive," is meaningless unless Canadian producers are developing high-quality attractive programs." (DOC, 1983b, p. 3)

One might well ask at this point, against whom are our indigenous program producers competing? With the American services available through satellite technology one would assume.

The focus on the nature of this competitive program production sector is continued later in the document. In the section that announces the Canadian Broadcast Program Development fund (BPDF) it is stated that:

The need for such funding arises from the continuing metamorphosis of the environment in which programs are produced. The new technology is bringing about a proliferation of programming services, not just in Canada but around the world. This transformation of the global broadcasting environment will result in a continually growing and voracious demand for new programming to fill the multiplicity of channels soon to be available. This hunger for new content represents an enormous opportunity for Canadian program producers. But, in order to compete effectively in these new markets and in our own domestic market, Canadian program producers must have the resources to produce attractive, high-quality Canadian programming in both official languages and of international calibre -- Canadian programming people will choose to watch. (p. 9)

As in the hardware industry, the focus is on serving a global market. The document later deals with a so-called "export thrust" which seeks to "Establish a framework for the international marketing of Canadian television programs . . . through a variety of measures" (p. 16). These measures include the negotiation of co-production deals with other countries. This move parallels those earlier detailed for the hardware sector. However, unlike the technical specifications associated with hardware, programs will be made in certain formats dealing with certain themes. They will be judged based upon production values. In all of these criteria, American program producers have set the standards to which "competitive" Canadian producers will conform. Otherwise, their programs will not be chosen by consumers.

The establishment of the BPDF, to be administered by the Canadian Film Development Corporation (CFDC) and, later, Telefilm Canada, warrants greater discussion. A productive state activity, it was legitimized based upon appeals to broad cultural goals: "As a general principle, the Canadian broadcasting system must make available a

significant amount of Canadian programming in each program category -- for example, the drama, children's and variety categories" (p. 9). This broad-based cultural goal would be achieved by providing private Canadian production companies and independent producers with funding to the tune of \$35 million in the first year of operation rising to \$60 million in the fifth year (DGC, 1983b, p. 3). The CFDC was generally directed to fund programs in certain categories (variety, drama, children's) and, if applicable, suitable for exhibition during prime time (7 p.m. to 11 p.m.). Furthermore, it was left to the CFDC's discretion whether the funding would be in the form of a loan, loan guarantee, equity participation, or a mix of these three (p. 4). Finally, the strategy called for the fund to be administered by the CFDC:

. . . consistent with the performance of its duties under the CFDC Act, and specifically, that the CFDC in carrying out this responsibility, should continue to exercise its independent judgment concerning individual investments so as to best attain a strong and creative program production industry in Canada.
(p. 2)

Hoskins and McFadyen (1986), in a report prepared for the Caplan-Sauvageau Task Force on Broadcasting Policy examined the performance of the BPDF from its inception in 1983 to October, 31, 1985 (by which time Telefilm Canada had replaced the CFDC). Their analysis notes a basic contradiction (they refer to it as an ambiguity) in the mandate of the fund: "It is not made clear, either in Towards a new national broadcasting policy or the Memorandum of understanding, whether the primary mandate of the fund is cultural or industrial (p. 17). Their

research indicates that this "schizophrenia" is widely perceived in the broadcasting sector:

The agency (Telefilm) has both a cultural mandate and an industrial policy mandate. The cultural mandate requires a large dose of programming by and about Canadians. The industrial policy, on the other hand, requires product that can be sold in foreign markets. As CBC executives pointed out, successful pursuit of the industrial development of the television program production industry has resulted in the problematic situation of basically American productions being subsidized by the Canadian taxpayer. They felt there was no question that the cultural mandate of Telefilm should receive precedence. They express concern that programs in the category of art, music and dance were not attracting Telefilm financial support despite their obvious Canadian cultural component. The failure of art, music and dance programs to provide satisfactory financial performance appears to override the value of their cultural contribution. (underlining added) (p. 49)

What these comments point to is a greater focus on rate of return rather than cultural significance in allocating funds. Again, despite the fact that a state instrument such as Telefilm is removed from market forces and does not undertake accumulation directly, it is still inserted into relations of capital accumulation. Thus, Telefilm must be concerned with recouping its investment. As was pointed out earlier this has an impact on the content and formats of programs produced. Again, the point here is to distinguish between a policy which promotes more choices and one which promotes real diversity.

The findings of Hoskins and McFadyen would seem to support Freiman's observations regarding the limitations of the commercial model of programming. With its focus on a competitive, private production sector, Towards a new national broadcasting policy established a productive state instrument designed to produce programming which would,

inevitably, be subject to those same constraints. This is one implication of programming which results from cultural policy through industrial strategy. Furthermore, it illustrates the implications of the capitalist state's attempts to reconcile its divergent functions of accumulation and legitimation. In summary, Hoskins and McFadyen's findings with regards to the types of programs funded by the BPDF are instructive:

The entire Canadian Broadcast Program Development Fund is designed to be market-driven. By definition, this is bound to set certain constraints on the type of programming that can be produced with the assistance of the Fund. Both the presidents of Global and Peter Pearson, Executive Director of Telefilm, were agreed that the major partnership opportunities for Canadian independent producers were with off-network outlets. These outlets were characterized by Mr. Pearson as older, richer, growing and more demanding. The tailoring of Canadian television programs to the need of this audience is resulting in significant changes in their very nature. For instance, although the CBC has expressed the desire to do music programs, it is Telefilm's judgement that such programs cannot be afforded since they offer no financial return relative to their high production cost. Similarly, documentaries are of little interest to Telefilm.
(p. 53)

To return to Towards a new national broadcasting policy, this document (along with Suppliers fo equipment and services to the cable television industry in Canada and Culture and communications: Key elements of Canada's economic future) set the tone for many important changes which would shape the Canadian broadcasting system in the 1980s. The important role assigned to cable by this document should be stressed. Clearly, when the policy spoke of "building on our strengths," to a large degree, it meant building on cable:

Cable, drawing on satellites and over-the-air broadcasting, represents the most cost-effective means of significantly expanding the viewer choice of most Canadians, while at the same time ensuring that the broadcasting system remains identifiably Canadian. This strategy calls for the entire range of new Canadian programming services and many foreign service to be made available over cable on a "tiered" basis, in addition to cable's continuing carriage of conventional services. (DOC, 1983b, p. 5)

These new services, produced by a newly competitive program production sector, would be providing the expansion desired by the hardware industry. Furthermore, the cable sector provided new revenues for program production. At the same time as the BPDF was announced, a 6 percent tax on cable revenues was introduced.

Along with the commitment to expand cable services went what has been termed "a more liberalized regulatory policy" towards the cable industry. This, of course, is the policy direction called for in the Suppliers of equipment and services to the cable television industry in Canada document. Therefore, before examining the development of Pay-TV and specialty programming services in Canada, this trend will be discussed through a brief examination of the development of new cable regulations put into place in 1986.

The public component of the process which led to the institution of new cable television regulation (contained in CRTC Public Notice 1986-182) on August 1, 1986 began in December of 1984. After not less than seven Public Notices and four sets of Public Hearings, the regulations which became law clearly reflected the interest of the Canadian cable television industry and that industry's hardware and service suppliers. The CCTA's response to the final Public Notice (CRTC 1986-27) issued before the new regulations came into effect demonstrates

this fact. This is not at all surprising, given the CRTC's statement that it had adopted a new regulatory approach which entailed:

. . . a more supervisory course of action. The Commission is confident that such an approach is now required in view of the increasingly competitive environment confronting the cable television industry, the perceived need for a more comprehensive menu of both programming and non-programming services to be offered to each community and the urgent need for re-investment in cable systems in order to ensure continued quality of service to all subscribers. (CRTC, 1986a, p. 3)

Given our earlier discussion of the cable industry's pivotal role in stimulating growth in the hardware sector, the last comment is particularly significant. The goal of the new regulations was to ". . . reduce regulatory lag by minimizing areas in which licensees currently must apply for authorization" (p. 3).

For the purposes of this discussion, the new cable regulations will be broken down into carriage regulations and revenue regulations. Beginning with carriage regulations, the CCTA's major policy initiatives in this area revolved around what they viewed as two key issues: the use of equipment and facilities and the growth of cable advertising.

The use of equipment and facilities represented a new category in the cable regulations which had previously been covered under section 5: the use of the undertaking (p. 31). This new section represented a significant change in the regulations and provoked a dissenting opinion on the part of Commissioner Jean-Pierre Mongeau. The new section, in effect, allowed licensees to use their equipment and facilities for the distribution of non-programming or alphanumeric services. Alphanumeric services were defined as "any combination of letters, numbers, graphic designs, still images, background music or spoken words that simply and

briefly explain or describe what is represented by the letters, numbers, graphic designs or still images."

Henceforth, while programming services were to be specifically defined and regulated, non-programming or alphanumeric services were excluded from regulation and left to the cable industry to develop. Thus, a cable licensee wishing to develop a new alphanumeric service did not need to consult with the CRTC first. The CCTA had supported this change to regulation a way to ". . . overcome the inherent delays involved in the licensing process" (CCTA, 1986a, p. 3). With a state instrument such as the CRTC, these "delays" might include opportunities for interested groups to voice concerns and opinions on their broadcasting system (in a way other than with "dollar votes" in a "free market"). The CCTA had assured the CRTC that the priority of Canadian programming services would be maintained and that alphanumeric services would not be subsidized by basic service revenues. In the final regulations, the CRTC noted the CCTA's role in the development of a "voluntary code" to prevent any invasion of privacy as a result of new non-programming services such as opinion polling or home banking (CRTC, 1986a, p. 15). Again, the focus here is on voluntary codes rather than regulation as the CRTC assumes its more supervisory approach.

The second major area of concern with respect to new carriage regulations, and one closely related to the use of equipment and facilities, was the area of cable advertising. The CCTA had been lobbying for the right to carry advertising on the community channels and other specialty programming channels since the 1970s (CRTC, 1980a, p. 60). In September of 1985, the CCTA made a presentation to the CRTC

entitled Getting the message through (CCTA, 1986a, p. 6). The CCTA's strategy had been to argue that the other Canadian media would not be harmed by cable advertising and that cable advertisements would stimulate the creation of new viewing options. The CRTC granted the cable industry permission to run advertiser supported alphanumeric services and the limited use of "contra, credit and sponsorship messages" on the community channel.

With regards to alphanumeric services, it was clear from the start that what the cable industry envisioned was home shopping services. By the time of the final Public Notice (CRTC 1986-27) before the new cable television regulations came into effect, the CCTA's only complaint was regarding what they viewed as a limiting definition of alphanumeric services. Specifically, the cable lobby did not like the phrase "simply and briefly" in the definition. This limitation has been a clear target for change by the CCTA. Recent strategy papers have stated that ". . . the specific prohibition against moving video on non-programming services is the prime factor preventing the industry from exploring the full market potential of these service concepts" (CCTA, 1987a, p. 22).

Regardless of these limitations, however, the cable industry sees these services as an important new area of growth. This is what the industry has termed "growth beyond broadcasting" (CCTA, 1989a). Within a year of the changes in the regulations, the CCTA could proudly announce in their news bulletin that "Half the cable subscribers in Canada now have access to cable originated advertising services selling homes, cars, trips and household items" (CCTA, 1987b, p. 1). Together,

cable advertising and home shopping revenues are expected to result in more than \$9 million in revenues by 1990 (CCTA, 1987c, p. 2).

The second major area of interest to the CCTA in the new cable regulations were those regulations dealing with revenues. Specifically, their concerns revolved around two key issues: installation fees and monthly fees. Of the two issues, the latter was more hotly contested.

Regulation of installation fees was replaced by a simple "cap" on the maximum amount which could be charged. The licensee could charge any amount up to this "cap" amount without applying to the CRTC. The new cable regulations stated that "operators will be able to charge an installation fee up to a maximum equivalent to the actual expenses incurred in making the installation or reconnection of the subscriber drop" (CRTC, 1986a, p. 18). This fee, as established by the licensee, would include both capital and administrative costs. The CCTA praised this provision stating that it "recognizes the current economic realities of providing cable television services" (CCTA, 1986a, p. 7).

However, of much greater significance was the proposed easing of regulations relating to monthly rate adjustments. This change represented a significant evolution in the relationship of the cable industry to the regulator. As was argued earlier, the CRTC has never been concerned with rate of return regulation with regards to the cable industry. Furthermore, despite any benefits from at least claiming jurisdiction over cable rates and establishing criteria for awarding increases to licensees, the CRTC's rate increase hearings were basically a rubber stamp procedure. As was noted earlier, these criteria did tend to keep rates down indirectly, as cable companies were reluctant to

submit applications increases without commitments to expand services, but that sort of moral suasion can hardly be said to have formed a solid basis for rate regulation. What is significant about the new procedures for rate increases is, first that they are a further step towards full deregulation of cable rates and second, that they are indicative of the CRTC's more supervisory approach. Having established a precedent for this more supervisory approach, the CRTC would institute a similar procedure for the setting of subscriber fees for specialty services carried on basic.

Since the institution of the new cable regulations of 1986, cable companies are no longer required to apply to the CRTC for rate increases that fall into one of two categories. Each year, a cable licensee may automatically raise subscription rates by up to 80 percent of the annual percentage increase in the Consumer Price Index (CPI) after advance notification of a least 40 days to subscribers and to the Commission (CRTC, 1986a, p. 9). Additionally, a licensee can automatically raise rates to cover "any new or increased costs associated with a direct per subscriber or lump sum payment to a third party" with advance notice of at least 40 days" (p. 20). These "pass through" charges would for example include subscriber fees for new specialty services carried on basic. The CRTC stated that these changes to procedures were necessary to "reduce the regulatory burden" born by licensees. Subscribers (although poorer financially) would be "better informed" thanks to the new notification procedures (p. 4).

The largest challenge to these new procedures was launched by the Consumers Association of Canada (CAC). They initiated a letter writing

campaign and made several appearances before the CRTC. In their call for letters, the CAC claimed that "the CRTC wants to remove your last line of defence against unnecessary rate increases by an industry that enjoys a monopoly position in the Canadian marketplace" (CCTA, 1986a, Appendix A). During the public hearings process, the CCTA defended the new rate setting procedures by stating, essentially, that cable rates already increase by approximately 80 percent of the CPI each year. The ". . . real difference between the two rate setting processes is that, by comparison, the current process is extremely complicated, takes as much as 6 to 12 months to conclude and is therefore in the end more costly to consumers . . ." (p. 9). Thus, the CCTA was defending the CRTC's more supervisory approach to cable rates by portraying the old procedure as little more than a costly and time consuming rubber stamp process. Indeed, despite the alarmist tone of the CAC's letter, they could hardly have disagreed with that assessment of the old procedures. They had been following rate increase applications for some time. Indeed, Hardin (1985) has chronicled the CAC's 1975 legal action which, at least, forced cable operators to disclose financial information to the public when applying for rate increases (p. 137).

The only other changes that the CCTA advocated at the time of the new cable regulations were with regards to the notification procedures. They argued that the new notification procedures were somewhat "cumbersome and expensive for the licensee" (CCTA, 1986a, p. 12). It should be noted that the cable industry has stated that its long-term objective is to achieve "full rate deregulation for basic services" (CCTA, 1987a, p. 55).

We have therefore situated the cable industry within a larger industrial strategy aimed at stimulating growth in two related industrial sectors. We have noted how the twin rhetorical figures of consumer choice and technological threat/opportunity have been used to initiate industrial strategies for the communications hardware sector and the private broadcasting sector. Particularly with reference to the program production sector we have noted some of the effects of the adoption of a particular industrial strategy on the types of cultural commodities produced. What remains to be looked at are the introduction of pay-TV and Specialty services into Canada.

More Programming Choices for Canadians: From Pay to Specialty Services

If it can be said that the adoption of a particular industrial strategy corresponds to the state's role in ensuring accumulation, then surely it is in the provision of more and better Canadian programming choices that state policy has sought legitimacy. The "jobs-for-Canadians" angle has been of importance in policy documents as well, but generally this aspect has been down-played in favour of appeals to cultural objectives when new policy initiatives are announced. An examination of the policy interventions which led to the licencing of pay-TV and, more importantly, specialty services in the 1980s indicates the emergence both of a greater role for cable operators as programmers and a greater deregulation of that sector. In public policy statements these moves have been legitimized based upon appeals to cultural objectives. However, what is clear by now is how these new roles underpin the larger industrial strategies which were discussed earlier.

Despite the fact that the CRTC did not call for applications for pay-TV services until 1981, the North American cable industry -- and here one means the largest members of that industry -- had been experimenting with it for approximately 20 years. The first large scale pay-TV experiment -- undertaken by a U.S. firm in Etobicoke, Ontario -- had been carried out in 1960. However, it had suffered from expensive home terminal costs and low customer use. As a result it had ended by 1962 with a \$2 million loss (Guite, 1977, p. 89). Other experiments with pay-TV, using a variety of delivery mechanisms, were undertaken in the U.S. and Great Britain throughout the 1960s. While generating some useful information, these early experiments had not proven profitable (p. 90).

Pay-TV emerged in Canadian broadcasting policy discussions in a position paper hastily tacked onto a February 1975 discussion paper which preceded the public hearings to develop the 1976 cable regulations (CRTC, 1980a, p. 49). It has been noted that:

Pay-television was considered at the public hearing largely because of pressure from the cable industry to promote new revenue producing services. At that time the number of pay-television experiments in the US were increasing dramatically and Canadian cable operators with channel capacity to spare, with decreasing chances for new cable franchises, and with a decreasing rate of subscriber hook-ups, began to eye pay-TV as a new revenue source. With ever increasing worries about audience fragmentation, with no appreciable improvement in the development of more Canadian programming, and with a public demanding more foreign services, the commission declined to move into the pay-TV business. It did, however, recognize that pay-TV was highly probable in the future and that it could contribute to Canadian broadcasting. It also indicated that it was prepared to consider, on a case by case basis, the introduction, by licensed cable operators, of pay-TV in hotels. (p. 53)

Indeed, experiments in the United States had been stepped up. These new pay services, while mostly per-channel, included some delivered on a per-program basis. However, with regards to the more popular per-channel services, the news was not all good. While Home Box Office (HBO), announced in 1975, had made substantial gains in its early months of operations, penetration levels for most services were low. Increases in subscribers during that period came, primarily, from signing up new cable systems and not from increasing penetration levels (Guite, 1977, p. 93). Indeed, the HBO model, based upon the delivery of major motion pictures was seen as limited in its appeal:

Part of the problem is that Pay TV has been a voracious consumer of a dwindling stock of feature films that subscribers are willing to pay for. In the 1950's, Hollywood produced some 485 feature films a year. In 1975 only 180 films were produced. Because of a shortage in first rate films, Pay TV subscribers who sign up to see The Godfather, Jaws or How Tasty Was My Little Frenchman, soon find a more typical menu is made up of The Green Berets and Cleopatra. This may partly explain why a substantial cost for Pay TV operators is the high proportion of subscribers who sign up and then disconnect from the service. (p. 93)

As was noted above, the 1975 policy document issued by the CRTC announced that it would begin to look into the delivery of pay-TV into hotel rooms. Again, in the provision of this service, Rogers Cable took the lead. By 1977, this closed-circuit, per-program service was in some 8,000 Toronto hotel rooms (p. 95).

It was estimated that some 10 percent of all hotel rooms were using the service each day with a \$3 charge for each movie. Receipts were divided between the operator, who received anywhere from 50-60 percent, the film distributor who received from 30-40 percent, and the hotel which received 10 percent (p. 95).

Indeed, it was the success of this closed-circuit system in Toronto hotels which spurred the 1976 start-up of another closed circuit project, Network One Inc., offering per-program pay to 1,419 condominiums in Toronto's new Crescent City development. The effect of this development was to simultaneously introduce a new technological challenge to the CRTC, namely the arrival of Master Antenna TV systems (MATV), and to throw the cable industry into an uproar. Before, the CRTC could even respond to the Crescent City development, Rogers Cable and Metro Cable threatened that ". . . if the CRTC failed to stop these new entrants into the Pay TV field, they would develop their own Pay TV system in defiance of CRTC prohibitions" (p. 96).

Then Minister of Communications Jeanne Sauve requested the Commission to call for submissions from interested parties regarding the ". . . form and function of a Pay TV system to serve all of Canada on a regional or national basis, in English and French" (p. 96). Thus, the second public policy discussion on pay-TV was undertaken for three main reasons:

. . . first, the apparent success of pay-television in the United States raised expectation of profitable pay-television systems in Canada, and secondly, the possibility of the emergence of competitive, unlicensed, closed circuit pay-television in cable franchise areas concerned cable operators. In addition, the cable television industry faced with decreasing growth rates due to already high penetration levels, and with unused capacity on existing systems, saw pay-television as a new avenue for the introduction of additional revenue-producing services. (CRTC, 1980a, p. 56)

Thus, the second round of public debate on pay-TV began on June 2, 1976 with the call for submissions, continued with a June 1977 public hearing and led to a "Report on pay-television" in March 1978 (p. 57).

The CRTC received some 140 submissions during this round, the majority of which were against pay-TV (Hardin, 1985, p. 298). The hearings dealt with a number of competing models of how pay-TV services should be operated. An examination of these early debates on the structure reveals the diversity of views that one might expect. For example, three competing visions are introduced by the rival submissions filed by the CBC, the cable-backed Pay Television Network Ltd. (PTN), and the private TV broadcasters. The CBC argued that the introduction of pay would dangerously fragment Canadian TV audiences and that the networks themselves would be dominated by U.S. films and sports. If pay-TV must be introduced, they argued, it should be via a single licensed monopoly owned jointly by government, broadcasters and cable operators. Furthermore, some three quarters of all profits should be funnelled back to broadcasters for development of Canadian programming (Guite, 1977, p. 97). The PTN's submission called for a single national Pay TV agency as well, however, this agency would be two-thirds owned and controlled by cable operators (p. 97). This cable controlled agency would provide programming to cable distributors in exchange for 45 percent of gross pay-TV receipts. One third of these receipts, or 15 percent of gross receipts would be committed to purchase and develop Canadian programming (p. 97). This figure repeated the offer made by the cable operators in 1975. Finally, a somewhat similar proposal was made by the private TV broadcasters, including all CTV network affiliates, private independent stations and the privately-owned CBC affiliates. Their proposal called for separate French and English pay-TV distribution networks to be owned solely by the private broadcasters.

Cable operators were excluded from an ownership role due to their lack of experience in programming. Cable operators would however, serve as local distributors for pay-TV programming. Like the plan mentioned earlier, the private broadcasters called for 15 percent of gross revenues to be used for Canadian programming. However, in the plan advocated by the private broadcasters, this money could go to programming to be distributed on pay-TV or by advertising supported broadcasting. Interestingly, despite their differences, all three of these proposals call for national systems, either a single system or one English and one French. This as opposed to the regional systems which were ultimately licensed in 1982. Interesting too, is the virtual absence of discussions of universal carriage for pay-TV.

The upshot of these hearings was that the CRTC concluded that pay-TV services should provide at least 50 percent Canadian content with 35 percent of gross revenues to be allocated to Canadian program production (CRTC, 1980a, p. 57). And, while, it recommended that experiments continue to develop methods of pay-TV delivery in Canada, it concluded that it would be ". . . premature and impossible to endorse the introduction of a national pay-television system at this time" (p. 57). Concerns were still too great for the impact new pay services would have on conventional broadcasters through audience fragmentation and program siphoning.

However, this further delay did not mean that pay-TV was not coming. As was noted earlier, a number of factors technological and social were making an expansion of cable services inevitable by 1980. In addition, the largest cable operators, prevented from entering into

new services in Canada began to look south of the border for new investment opportunities. One observer wrote in 1980 that:

It is estimated that close to \$300 million will be invested by Canadian cable companies in US cable systems and pay-TV operations within the next three years. US franchises are being won by Canadian cable companies by virtue of their superior technical know-how, and irony of ironies, often because of their superior programming expertise with community channels. The current US cable penetration is 18 percent and some say it could reach 30 percent by 1981. Given their larger population base the present 18 percent penetration already represents a cable population much larger than Canada's. (p. 63)

Thus, it can be argued that the CRTC was in somewhat of a predicament by 1980. As we have discussed earlier, throughout the 1970s the state functioned to protect the conventional broadcasters' profits. These measures were legitimized in public policy documents due to that sector's responsibility for programming. However, by the early 1980s delaying the introduction of new cable services was preventing growth not only in that sector but in allied sectors, such as the hardware production sector. Furthermore the state could not prevent cable companies from seeking investment opportunities outside Canada.

As was noted earlier, the watershed came in 1980 with the Therrien Committee. Buoyed by the twin rhetorical figures of consumer choice and the technological imperative, the cable industry and pay-TV were transformed -- seemingly overnight -- from the ". . . despicably bad . . . into the utterly good . . ." (Babe, 1989, p. 8). It must be noted at this point that, despite all the rhetoric, CRTC commissioned studies still did not support arguments that there existed a great demand for the introduction of pay-TV services. As Herschel Hardin (1985) has noted, quoting figures available in late 1980:

The new survey showed that despite the growth of pay-TV in the United States and despite, particularly, the campaign of the Pay Television Network and the rest of the cable lobby, and all the publicity they, their allies, journalistic curiosity, ministers' statements and the CRTC hearings had generated, only 14 per cent of cable television viewers said they would be "very likely" to subscribe to pay-TV at \$9 a month (the price would turn out to be \$16 a month), while 50 per cent said it was "very unlikely" they would be interested. Another 14 per cent said they were "somewhat unlikely" to subscribe; 17 per cent were "somewhat likely." Of total cable viewers, including noncable subscribers, only 10 per cent said it was "very likely" they would subscribe to pay-TV at \$9 a month on top of the regular charge, while 56 per cent said it was "very unlikely." (p. 301)

Under the chairmanship of John Meisel, the CRTC would act on the recommendations of the Therrien commission and the lobbying of the cable industry and call for applications for pay-TV services in 1981.

In its call for applications to provide pay-TV service the CRTC stated that it would be guided by three broad policy objectives (CRTC, 1982, p. 1). These policy objectives, which would also come into play during the licensing of specialty services, stated that new pay-TV services should: contribute to the realization of the goals of the Broadcasting Act; increase the diversity of programming available to Canadians; and make available high quality Canadian programming from new programming sources by providing new opportunities and revenue sources for Canadian producers currently unable to gain access to the system. Pay-TV was referred to by then CRTC head John Meisel as the last chance to get Canadian content right.

A competitive industry structure with regional services was chosen to achieve these goals. Universal service was rejected in favour of discretionary payment methods. Discretionary services it was argued

were necessary to ensure that pay-TV be ". . . accountable and responsive to consumer choice" (p. 5). No mention is made of the additional hardware required to scramble and descramble restricted signals. Furthermore, the implications of a programming model based upon consumer choice were discussed earlier. In March of 1982, the CRTC awarded a national general interest (French and English) license to First Choice Canadian Communications Corporation; regional general interest service licenses to Allarco Broadcasting Limited, Ontario Independent Pay Television, and Star Channel Services Limited; a specialty (performing arts) license to Lively Arts Market Builders Incorporated; and a multilingual service license to World view Television Limited.

Based on the lessons learned from the conventional broadcasters, the CRTC, particularly in its licensing of the general interest pay services, went beyond simply establishing minimum Canadian content quotas. Also included, as conditions of license, were requirements that certain percentages of the licensees gross revenues and total programming budgets be spent on acquiring Canadian produced programming. Furthermore, specific categories of programming, such as drama, were singled out for expenditures in the conditions of license.

A number of issues were raised at the licensing hearings which would set the tone for later hearings regarding specialty services. Of particular relevance to cable and its role in the evolving broadcasting system were questions of access for new pay-TV services. Concerns regarding the "vertical integration of the distribution and exhibition functions of pay television" were raised (p. 29). It was concluded at

the hearings that the benefits of such integration would not outweigh the disadvantages. As a result cable operators were not allowed to operate pay television services. Perhaps of greater importance to cable operators however, exhibition arrangements and rates were left to cable operators and distributors to arrange. Cable's main role at this time was to act so as to ensure ". . . the widest possible access to all pay television services by Canadian viewing audiences" (p. 31).

That pay-TV failed to live up to its promise is undisputed. The demise of "regional services" in favour of national services and the rapid expiry of C Channel offered by Lively Arts Market Builders need not be dealt with here in great detail. Cultural nationalists were amazed to see the CRTC's policy declarations deflated by such embarrassments as First choice's programming agreement with the Playboy Channel. And yet, the CRTC was still committed, for the basic reasons outlined earlier, to bringing new services to Canadian cable subscribers. Indeed, as Canadian pay services were failing, new American services such as ESPN and MTV were being used to revive the call for more Canadian services. This leads us to the licensing of specialty services.

The CRTC first announced that it would be prepared to explore the introduction of specialty programming services in 1982 during the licensing of pay-TV networks. In 1984, after the rationalization of Canadian pay television into an eastern Canadian service and a western Canadian service, the first Canadian specialty services were cautiously introduced. The importance of specialty services at this time was largely seen in the value they could add to the discretionary tier and

the troubled pay-TV services. Linkage rules were established to allow for the packaging of Canadian and eligible non-Canadian specialty services with pay-TV services on discretionary tiers. Licenses were issued for two English-language services, MuchMusic and The Sports Network (TSN) and for two ethnic services, Telelatino and Chinavision. In addition, a public hearing in February of 1985 resulted in the licensing of the short-lived Life Channel (CRTC, 1987, p. 2).

Given the lack of French-language programming, the CRTC took special steps to encourage cable operators in French-language markets to fill this need. Consequently, MuchMusic's licence was amended to allow some of that services programming to be substituted with French-language programming from MusiquePlus and Videotron Ltée was given a special short-term license to provide a French-language youth special programming service, Tele des jeunes. The fact that Quebec cable operators developed French-language services to address a specific deficiency in service would be brought up during the second specialty service hearings. For an industry interested in playing a greater programming role, this would be important.

On August 13, 1986 the commission issued Public Notice CRTC 1986-199, calling for applications for network licenses to provide specialty programming services "designed to reflect the particular interests and needs of different age, language, cultural, geographic or other groups in Canada." The CRTC highlighted several areas of programming which it had, since the first specialty licenses were issued, hoped to see filled. These areas included: youth and family programming, interfaith religious programming and ethnic programming

services. Perhaps most important, was the CRTC's announcement that it would be willing to consider applications which included plans for carriage as part of basic cable service. Following two deadline extensions, the CRTC heard 21 applicants at its July 20, 1987 public hearing.

Many groups, particularly the Canadian Association of Broadcasters (CAB) were opposed to the specialty service licensing hearings taking place before a new broadcasting policy was in place and without the forthcoming Broadcasting Act. The CAB (1987) presented an intervention stating:

The scheduled public hearing regarding specialty programming services generates two broad categories of stated concern: a) those which pertain to general policy, and b) matters of licensing. The mixing of policy and licensing decisions on a matter of pivotal importance to the architecture of the system alarms the CAB. (p. 3)

One of the long-standing policy issues concerned the status of cable in the Canadian broadcasting system and, particularly, cable as programmer. This is a question which had been addressed by the Caplan-Sauvageau report and by the Standing Committee on Communications and Culture but which had not been resolved at the time of the specialty service licensing hearings. Caplan-Sauvageau, for example, had argued for a clear separation of cable's carriage function from any role it might play as a programmer of content. Caplan-Sauvageau argued that:

Cable undertakings must be clearly identified as undertakings that receive and retransmit broadcasting signals. The activities of creation, assembly and marketing of programming, other than that which is simply retransmitted, or of providing non-programming services, should be entrusted to separate organizations. (DOC, 1986, p. 575)

Therefore, while acknowledging the current hybrid nature of cable television, Caplan-Sauvageau argued that, for legislative purposes, cable should be defined strictly on the basis of its carrier function.

Predictably, the cable industry did not agree with Caplan-Sauvageau. Appearing before the Standing Committee on Communications and Culture (SCCC), Mr. Clint Forster, the Chairman of the Board of the CCTA, stated:

. . . we say quite frankly that cable television's hybrid status must be retained. For the last 35 years, cable's dual role and contribution has been in large part due to this hybrid status. We are an industry founded by entrepreneurs. We strengthen the system, and consumers are best served when we can do both jobs. It serves the public well. (SCCC, 1987, p. 9)

Forster concluded his presentation by stating that he saw no benefit for the Canadian broadcasting system in a limiting definition for cable as suggested by Caplan-Sauvageau. As he put it, in endearing western terms, "If it ain't broke, don't fix it" (p. 10).

Despite these lofty claims, the cable industry has much more basic reasons for concern should its carriage and content functions be separated. As noted in the CCTA's strategy document Project 90/2:

The separation of content and carriage inevitably leads to a considerably weakened industry whose delivery network would over time completely disappear in favour of telephone company distribution. Regulatory jurisdiction over cable's carrier function would be challenged by Provincial authority and would immediately position all telecommunications common carriers to become involved in the delivery of broadcasting services. (1987a, p. 48)

What the cable industry fears is provincial claims for jurisdiction and competition from telephone companies. The latter scenario now seems

particularly possible given the rise of integrated systems digital networks (ISDN) with channel capacity to spare.

In electing to go ahead with the specialty service licensing hearings despite the uncertain policy environment, the CRTC in effect, demonstrated its commitment to a program of expansion of cable services despite concerns from other components of the Canadian broadcasting system regarding what they perceived as threats to their accumulation.

The major issues relating to the licensing of specialty services for distribution as part of basic service can be broken down into five sometimes overlapping categories: impact on existing services, access, regulatory framework, rate regulation, and revised linkage rules. The goal of this section will not be an evaluation of the veracity of claims made by interveners around these issues. Rather, an examination of the CRTC's decisions on these issues will indicate how that body's role with regards to individual accumulating units changes in the Canadian broadcasting system. At the hearings, the CRTC made decisions regarding whose accumulation it would secure, whose accumulation it would no longer secure and how new conditions for further accumulation would be created.

Regarding the impact on existing services, the CAB, in addition to its more general policy concerns, raised several key licensing issues. The CAB, on behalf of its members, expressed concern regarding: the "substantial and unfair advantage" specialty services would enjoy as a result of their access to both advertising and subscriber revenues; higher acquisition costs for programming; audience fragmentation; and siphoning. The CAB's concerns were heightened by the prospect of cable

ownership of specialty services in the absence of "meaningful" cost separation guidelines. Indeed, in the area of cost separation, the CRTC has relied on the CCTA and the cable industry to come up with voluntary commitments and self-regulating procedures. This is indicative of the "hands-off" approach taken by the CRTC at the licensing hearings. Nothing more than assurances were secured from the specialty services that they would not siphon programming, would not cross subsidize, could not bid up the costs of programming, and would not significantly fragment the advertising base. This, after often conflicting evidence was presented at the hearings by a variety of vested interests seeking to support their positions. Clearly, the CRTC was no longer willing to protect the profits of the conventional broadcasters to the degree it had in the 1970s.

With regard to program acquisition and potential siphoning from the specialty services, the CAB (1987) makes the point that the end result could be a decrease in viewer choice for those who do not have access to cable:

When new conventional broadcasters are licensed, the public retains access to desired programs, although they may be delivered on a different channel. Normal market forces determine which licensee gets what program, but the public is not deprived. However, in the case of specialty services, siphoned programs would only be available to (certain) cable subscribers. This may be especially relevant for religious audiences, sports enthusiasts, etc. (p. 8)

Thus, the CAB attempted to portray the newly powerful specialty services as resulting in less quality and diversity for television viewers not hooked into cable networks. This calls into question broadcasting policy's focus on cable since 1983's Towards a new national broadcasting

policy. As was discussed earlier, this policy committed the Canadian broadcasting system -- and the cultural goals of its mandate -- to a plan for increased choice and diversity through the cable system. And yet -- as the CAB intervention points out -- this focus on cable and cable services may ignore the 20 percent of Canadian households that do not receive cable.

The question of fair and equitable access for Canadian specialty services was the most important issue raised at the hearings. Discussions centred on the ability of specialty services to obtain cable carriage commitments and on subjects of pricing, channel positioning and marketing by cable licensees.

The whole question of access had been of concern to the CRTC since the introduction of specialty services in 1983. At the hearings it noted the difficulties which had been experienced by Telelatino and Chinavision and restated its position that:

. . . cable licensees have a responsibility to ensure that Canadian services are provided fair and equitable access to their cable systems. This responsibility is as significant in respect of cable television's ability to contribute to meeting the objectives of the Broadcasting Act as the Canadian content requirements are in respect of radio and television licensees.
(CRTC, 1987, p. 31)

Put another way, cable operators had been given the right to decide which of the discretionary services would be offered and how they would be marketed and priced. At the hearings, four applicants noted that cable operators had been "unwilling to provide them with the carriage commitments necessary to make their programming available at minimal or no cost to subscribers" (p. 23). Thus, the cable operators' right to control access to their federally legislated monopolies took precedence

over the rights bestowed by Telelatino and Chinavision's operating licenses. As a result of concerns regarding fair access, four applicants at the hearings applied for mandatory carriage.

The Canadian Cable Television Association (CCTA), sensitive to any threat to cable's gatekeeper role, strongly opposed any service being licensed for mandatory carriage. Their slogan, dusted off from the pay-TV licensing hearings, became "no must carry, must pay." Speaking at the hearings, Noel Bambrough, Chairman of the CCTA's executive committee summarized the cable industry's opposition to mandatory carriage in following way:

Mandatory carriage is unhealthy for the service itself, since guaranteed income removes the incentive to strive for excellence. What the Chairman has referred to as a blank cheque is more like a certified cheque. Mandatory carriage eliminates the consumer's ability to express his or her opinion by accepting or refusing to pay a subscription fee to the service, or to the cable television system as the local retailer of that service. Mandatory carriage undermines the basis of free enterprise. Cable systems cannot conduct their businesses responsibly and effectively if they are not able to choose, package and price the services in order to respond to their subscribers.
(CRTC, 1987a, p. 4015)

Elsewhere, he reassured the CRTC that "it would be illogical, certainly from a business point of view, for cable operators not to take maximum advantage of the inventory that the Commission was making available to the operator" (p. 4028).

Bambrough's discourse is clearly rooted in neoclassical notions of the market and consumer sovereignty. It has already been argued that this model belies the true nature of the relations of exchange which apply in the Canadian broadcasting system. It has been argued that the actual consumer sovereignty which pertains is the consumer sovereignty

of the advertisers. In this regard it is clear that the CRTC should be (in the words of Bambrough) working to "undermine the basis of free enterprise." It is also clear that, while the CRTC may talk about valuable additions to Canadian viewers, the cable industry views new programming as "inventory." These differences in discourse are significant for the different ideological matrices upon which they are based. The market ideology, which views new programming as inventory, risks imposing on it what Abraham Rotstein (1988) has referred to as an "artificial homogeneity." In this way, a view of Chinavision as "inventory" diminishes its cultural importance as a means through which a society communicates with itself.

Questions of fair access became even more complicated, however, when the question of cable ownership of specialty programming services was raised. It was the CRTC's decisions around this issue that held the most significant policy implications. At the hearings, the Commission heard four applications in which cable licensees held significant ownership interests. These four were: YTV Canada, Inc. (Rogers Communications Inc., CUC Ltd. and Cablecasting Ltd.), Multilingual Television Network (Rogers Communications Inc. and Rogers Broadcasting Ltd.), Tele des Jeunes (Videotron Ltée) and Cable Public Affairs Channel (a consortium of cable licensees).

Concerns were raised at the hearings by a number of interveners concerned about preferential treatment for cable owned specialty services. Would, for example, YTV benefit from discriminatory pricing arrangements or better channel placement?

The cable industry response was essentially that, because the services being licensed were of a specialty nature, there would be little direct competition between services. As a result, conflicts of interest were less likely to arise. At the hearings, both Ted Rogers (the President of Rogers Cablesystems Inc.) and Andre Chagnon (the president of Videotron Ltée) made commitments to providing fair access to new services. Rogers, in reference to the new services which would be licensed for carriage on basic stated:

Our basic thought is to carry all of them for two reasons. First, as a broadcaster, our thrust is to promote Canadian programming and to contribute to the system. Access to Canadian homes is vital for this to be accomplished. Second, as a cable licensee, I am sensitive to a special mandate and extra responsibility to Rogers to do more than most, to go the extra mile, because of our position as the largest cable company in Canada. (CRTC, 1987, p. 30)

Speaking at the hearings, the CCTA's Noel Bambrough outlined three positive benefits of cable television involvement in the development of specialty services:

First . . . cable television has been the key to creating much-needed French-language specialty services. And some of the applications now before the Commission have only been possible because of the strong commitment by some members of this association. Two, the development of specialized Canadian programming which would not otherwise be commercially viable. Third, opportunities for cable businesses to contribute their creative and financial resources directly to Canadian programming. (CRTC, 1987a, p. 4017)

Of the four cable industry initiatives, only the Rogers/CUC/Cablecasting backed YTV was granted a licence. For the CRTC, the licensing of YTV and Canal Famille was seen as "the culmination of many years of efforts to develop quality Canadian services which will

attract young cable audiences while providing them with a reflection of their own society and culture" (CRTC, 1987, p. 52). Even a cursory viewing of YTV reveals a very different picture. It is hard to see how programming such as re-runs of the old "Mickey Mouse Club" program or rock videos (already available on MuchMusic) corresponds to the latter objectives. Herschel Hardin (1988) has come out strongly against the granting of the youth channel license to private concerns:

Unlike past proposals for children's programming and proposals in TV Canada's application, YTV's scheme includes carrying commercials. Only programmes targeted to pre-schoolers (five years and younger) will be exempt. The syndicate pompously boasted about a new and stricter advertising code. Advertising codes for children are the trade's way of legitimizing their child abuse. A Gallup Poll finding -- part of the voluminous pile of submissions filed for this licensing round -- showed that 83 percent of Canadians with an opinion on the matter were against advertising on children's programming. (p. 4)

Hardin noted that, "If ever a specialty channel was suited to non-profit, non-commercial public ownership, children's programming is the one" (p. 3). Even worse, Hardin argues that increased cable rates, caused by the addition of the new channels, will make it ". . . all the more difficult politically for a TV-Canada channel to get the money it needs, money which would have to come from cable subscribers on top of these existing charges" (p. 2).

For the cable industry, the licensing of YTV was a complete turn-around from the licensing of pay-TV in 1982 when they were prohibited from owning those services. As we have noted earlier, a great deal had taken place between 1982 and 1987. The programming role given to the Quebec cable operators out of market necessity was an important step. Similarly, the cable industry's freedom to develop

non-programming services and the growth of cable advertising also point to cable's growing role as a provider of unique signals unavailable off-air. However, the licensing of YTV was still of significance. While this was not a precedent setting action, licensing this station indicated the CRTC's acceptance of the cable industry's position that increased vertical integration will not result in preferential treatment for cable-owned specialty stations. The cable industry successfully convinced the CRTC that it would be preferable that "they be permitted to re-invest the profits they make as cable operators into the Canadian broadcasting system, rather than be forced to invest elsewhere" (CRTC, 1987, p. 28).

Thus, licensing YTV also represented an extremely logical step in the development of cable in Canada and, despite the competitive nature of licensing hearings, a step which should not have come as a surprise. At the CCTA annual convention of May 1985, then CRTC head Andre Bureau made the following statement:

If cable is to remain the chosen distribution medium for television-based services, and if it is to continue to benefit, the industry will have to make critical decisions now. From my perspective, these decisions will have to concentrate on three major areas: new investments, new marketing strategies; and, diversification. (CCTA, 1987a, p. 59)

The former Minister of Communications, the Honourable Flora MacDonald, made similar exhortations to the industry during her mandate. Clearly, the initiation of a specialty service such as YTV is consistent with the goals of diversification and re-investment in the industry. It should not be surprising, therefore, to see such a service licensed, despite any concerns regarding vertical integration raised by other applicants.

It should also be noted at this time that, despite the institution of the BPDF, and the CRTC's repeated focus on more programming in certain key categories (such as children's programming) many of the economic disincentives which had kept private broadcasters from investing in program production were still in effect. Noting the low level of private broadcaster participation in the BPDF, Hoskins and McFadyen (1986) wrote:

The slowness of private English-language broadcasters to participate is more likely a reflection of the dubious economics of such involvement. For example, Denis Harvey, CBC-TV's Vice President, is reported as saying that the adventure serial "Danger Bay," despite being made with money from the Fund and the Disney Channel, still costs CBC \$100,000 an episode, whereas a comparable half-hour episode of a U.S. serial could have been bought for \$20,000 to \$30,000. For a private broadcaster, already constrained by the Canadian content quota, the trade-off may not be between yet another U.S. drama serial or Canadian drama but rather Canadian drama, with Telefilm Canada involvement, or, more Canadian news and sports. These latter categories are generally profitable and much less risky than Canadian drama. Given its size, it was primarily the reluctance of the CTV network to get involved during the year ending March 31, 1985, that was responsible for the slow private broadcast adoption of the Fund. (p. 26)

Thus, the more costly forms of programming, which the Fund was designed to stimulate the production of, remained uneconomical for the private broadcasters. This at a time when English-speaking children were spending approximately 80 percent of their viewing time watching US programming (p. 66).

Regarding the regulatory framework, it has already been noted that one of the major thrusts of cable industry lobbying efforts in recent years has been towards greater deregulation. This is reflected in what the CCTA and CRTC refer to as a more "supervisory regulatory structure"

(CCTA, 1987d, p. 7). Therefore, the CCTA's main policy concern during public hearings on specialty services can be summed up as follows:

Given the Commission's success to date in regulatory reform, we presume that the commission will not reverse this process by establishing a regulatory regime which would mandate carriage of, or payment for, any specialty programming service. (p. 7)

The CCTA presumed correctly. Their position that there should be no "must carry/ must pay" was accepted by the CRTC although universal carriage as a necessary step to make some services commercially viable has been advocated since the inception of pay-TV. Thus, new specialty services were licensed on an optional to basic service basis.

Furthermore, the CCTA's position that cable licensees "share in the risks" of introducing new services and should be able to charge more than the simple "pass through" charge to their subscribers was adopted (p. 8).

However, in several key regards, the CRTC did impose regulations designed to deal with issues raised during the hearings concerning questions of fair access. Ultimately, the CRTC refused to put complete faith in market forces.

In the Francophone market particularly, the CRTC instituted a "take one, take all" rule (CRTC, 1987, p. 66). Thus, while the new services were licensed as optional to basic, a cable licensee choosing to distribute any one service would be forced to distribute the complete package. This requirement would be in effect for a period of three years in order to allow the new services to gain an initial "foothold" in the market. In its decision, the CRTC noted the unique circumstances of the Quebec market where a few large systems serve virtually the entire market.

Refusal by even one of the large operators could spell disaster for a new French-language service (p. 33). In the anglophone market no such requirement was instituted. New services were licensed on an optional to basic basis while TSN and MuchMusic were licensed for carriage on basic or, with the permission of the service in question, the discretionary tier.

Telelatino and Chinavision had maintained at the hearings that they had encountered difficulties in negotiating affiliation agreements with cable systems. Given the high degree of emphasis placed on questions of access at the hearings, any allegations of unfair treatment would be taken seriously by the commission. Clearly, the CRTC was convinced of the validity of Telelatino and Chinavision's claims. Therefore, while Telelatino's application was denied, the CRTC put into place a procedure for complaints regarding access. The commission called upon the two services to file with the CRTC, within one month, a list of the cable licensees with which the services were experiencing difficulties (p. 70). The cable licensees named in the complaint, in turn, were expected to file with the CRTC a response outlining the steps they had taken to address the access question.

With regard to rate regulation, the CRTC maintained its policy of not regulating rates for specialty and pay services on the discretionary tier. However, for specialty services delivered as part of basic service, the commission chose to regulate both wholesale rates and the mark-up cable operators could charge. Wholesale rates would be specified as part of each decision. The authorization of wholesale rates, it was argued, was necessary to ensure specialty service

licensees "fair and equitable access and to ensure that they achieve the revenue projections upon which they based their programming plans and expenditure commitments" (p. 51). Furthermore, in the Anglophone market, a mark-up of 1 cent for every two specialty services carried as part of basic was authorized. In the Francophone market, cable operators electing to carry all five French-language services could add 5 cents per month to their basic monthly fee. The commission also announced that, as defined in the 1986 cable television regulations, the wholesale rate charged for the new services could be treated as a pass-through charge by the cable operators. With regards to the authorized mark-up, the CRTC promised amendments to section 18 the cable regulations to facilitate its implementation. Consistent with earlier efforts at rate deregulation, this would mean that only those operators wishing to charge more than the cap amount allowed by the CRTC would have to follow application procedures.

Revised linkage rules were designed to ensure the financial viability of the discretionary tier. Throughout the hearings, concerns had been expressed about the impact of some specialty services, such as TSN and MuchMusic, moving to basic. Independent producers, for example, had opposed TSN's application. Atlantis television noted the important role which First Choice/Superchannel had played in funding several of their productions and concluded:

We support the present configuration of Canadian discretionary services because it has helped stimulate considerable subscriber growth for each of the participants. (Atlantis, 1987, p. 1)

Clearly, Atlantis feared a weakened discretionary tier if some or all specialty services were moved to basic. This view was supported by

Allarcom in its intervention on behalf of its Edmonton station, CITV. Allarcom cited a study commissioned by the Federal Government for the Task Force on Broadcasting Policy by the firm Moss, Roberts and Associates. The study stated that, while the addition of a few, moderately priced services to basic cable might be good for basic cable, it might not be good for the discretionary tier. Thus, "the potential impact of increments to the basic cable rate appear to be much less in terms of disconnects for basic cable than in terms of disconnects for discretionary pay television services" (Allarcom, 1987, p. 1). The net result of more expensive basic service was viewed as a higher price threshold and total package price for discretionary services. The study concluded that the history of discretionary services in Canada had shown them to be extremely price sensitive and that the likely impact of price increases would be disconnects. This points to a view of basic cable as a "necessity" while discretionary services are a "luxury" in the eyes of some consumers.

The revised linkage rules were, therefore, designed to ensure that Canadian services would be successful in the discretionary marketplace and that the orderly introduction of non-Canadian specialty programming services would contribute to their success (CRTC, 1987, p. 74). In an effort to maintain or increase the penetration levels of pay-TV services, new non-Canadian (read American) satellite services were added to the list of eligible services. Thus, four U.S. superstations and the USA Network were made eligible for exclusive linkage with Canadian pay services. Furthermore, the total number of non-Canadian signals which could be carried on any one discretionary tier was raised from five to

eight. In this way, it was argued, the negative impact of increases in basic cable rates or the loss of popular signals to basic could be counteracted. Many writers including Smith (1980) and McPhail (1983) have noted -- with irony -- how Canada's communication policy initiatives have resulted in greater amounts of American programming penetrating the Canadian market. These revised linkage rules then, are a clear example of more American signals entering Canada in the name of Canadian cultural policy objectives. The CRTC's decision resulted in new rights for cable operators allowing them to import more American programming.

CHAPTER IV
CANADIAN VICES/CANADIAN CHOICES

That cable has prospered throughout the 1980s goes without saying. However, it is worth noting the status of the cable industry as a whole at this point in broadcasting history.

Industry Status

By 1987, of the 8 million households capable of receiving cable service, 6.3 million households were cable subscribers. That represents a 79 percent penetration rate (CCTA, 1989). That year the cable industry had gross operating revenues of \$870.6 million. This represents almost a doubling of revenues since 1982.

As new services have become available, many subscribers have chosen to receive them. As of fall 1988, over 1.5 million subscribers were receiving premium services, a 25.8 percent penetration rate of cable households. The most popular of these services are TSN and MuchMusic and many cable systems now carry them as part of basic service. These services offer graphic evidence to support Freiman's conclusions regarding the impact of advertisers' consumer sovereignty. Both these services are virtually identical in form and content to their American counterparts (ESPN and MTV respectively).

Clearly, the cable industry has grown significantly since 1968. And, while the CCTA always makes its submissions on behalf of its "654 members" at all CRTC hearings, it is clear that the industry is dominated by a few large firms. It is these firms that will, for

example, get involved in programming services or what the CCTA calls "growth beyond broadcasting." The three largest of these firms are Rogers Communications Inc., Le Groupe Videotron Ltée, and Maclean-Hunter Limited. These companies, while generally concentrating their efforts on the communications sector are well diversified within that sector. In addition to their cable operations, Maclean-Hunter has operations in periodicals, printing, newspapers, broadcasting, and communication services (this includes telemessaging for example). Rogers, besides being the largest cable operator in the Canada, has interests in broadcasting and telecommunications. In particular, Rogers is involved on the leading edge of cellular telephone communications through Cantel ". . . Canada's only national cellular telephone network covering 36 centres in 6 provinces. . . ." (Rogers, 1988, p. 18). Recently, Ted Rogers made the news as he purchased 40 percent of CNCP telecommunications for approximately \$250 million (Globe and Mail, 1989, B1). With this move, Rogers stated that he hopes to end Bell's "Soviet-style communications monopolism" of long-distance phone service in Canada. Finally, Videotron Ltée, Quebec's largest cable operation, is also involved in broadcasting and program production.

The Policy and Regulatory Environment as Cable Enters the 1990s: From Bill C-136 to Bill C-40

As was previously noted the licensing hearings on specialty services were of particular interest because they occurred during a process of policy change which had been going on for some time. This lengthy process towards legislative reform can be traced back at least as far as 1983's Towards a new national broadcasting policy. Then, in

1985, Marcel Masse appointed the Caplan-Sauvageau task force. Caplan-Sauvageau began their investigations in an environment of fiscal restraint. However, their report was not seen by the DOC to have adequately considered this fact in making their recommendations. According to Sandra Macdonald (1989), of the DOC's Broadcasting Policy Branch, it was not felt that they had adequately considered both cultural and economic concerns. Flora MacDonald, who received the report, passed it on for further consideration to the Standing Committee on Communications and Culture. This committee was asked to first provide information on legislative matters and then examine other areas of importance. Of key importance to questions of legislative change were the Committee's fifth and sixth reports. These reports were issued in April and May of 1987 respectively. The April 1987 report, in addition to broad legislative matters specifically addressed questions pertinent to the specialty services licensing hearings (Macdonald, 1989). These issues included: cable ownership of specialty services; Canadian content on specialty services; and carriage as part of basic service of specialty services (DOC, 1988, p. 58). With these sources of input, the CRTC made its licensing decisions. By making decisions with regulatory implications at the specialty service hearings the CRTC was, in effect, making policy. The CCTA, for example, has described the licensing of YTV as a breakthrough despite extremely mixed views on cable ownership of specialty services indicated both in Caplan-Sauvageau and the Standing Committee's reports (CCTA, 1989a). The case of the CRTC making policy has happened before -- with pay-TV for example -- and the DOC generally does not look upon this favorably (Macdonald, 1989).

However, as Nancy Bickford (1989), vice-president of public affairs for the CCTA noted in an interview for this study, this situation is generally more acceptable to business than it is to the DOC. Furthermore, there was a perception within the CRTC at the time of the licensing hearings that there was a need to "get on with it" given the large sums of money involved.

In June of 1988, Flora MacDonald tabled the government's long-awaited policy documents. On June 23, 1988, the government provided what it termed its blueprint for the 21st century with Bill C-136; the policy document Canadian voices, Canadian choices; and the government's official response to the fifth, sixth and fifteenth reports of the Commons Committee on Culture and Communications. The new policy and legislation was described as "cable friendly" by the CCTA. Informally, in Ottawa, many referred to Bill C-136 as the "cable bill." The new bill was passed by the House of commons on September 28, 1988 but died on the order paper when the federal election was called in November. Following the election and re-appointment of Marcel Masse as Communications Minister, the Bill, in many respects unchanged, was tabled on October 12, 1989 as Bill C-40. Even before the tabling of C-40 it was clearly expected by the cable lobby that Masse would make whatever changes he envisioned in congruence with the direction of C-136. Canadian voices, Canadian choices had, after all, been through cabinet and been announced to the public (Bickford, 1989).

For this reason, rather than now being obsolete, Canadian voices, Canadian choices bears closer examination. As a reading of that document indicates, the rhetorical figures of consumer choice and

technological threat/opportunity are still alive and well in Canadian broadcasting policy. Indeed, as the title of the document would suggest, choice -- a particular kind of choice -- is the key focal point of the new broadcasting policy. The government's policies continue to assert that "Our society has become more diverse and more demanding. Canadians in all regions want more choices in both the form and content of broadcasting services" (DOC, 1988a, p. 2). However, consumer choice, it has been argued, has worked against this goal. Consumer choice, with its basis in notions of consumer sovereignty, has only resulted in such mass appeal programming as YTV. Consumer sovereignty has not, however, led to truly alternative or minority programming (as indicated by the experiences of ethnic broadcasters). We will now examine the new policies initiated in Bill C-136 and recently tabled in Bill C-40. In some cases the initiatives of C-136 have remained unchanged. In other cases small changes were made. In any case, the goal of more Canadian programming choices is a central policy objective of recent interventions in the broadcasting sector relating to private broadcasters, the CBC, and the cable industry.

It is difficult to see how new policies such as the performance bond applied to private, advertiser-supported broadcasters will result in more choice for Canadians in terms of form or content. What is likely to be produced by the private broadcasters is "more of the same." Indeed, it is hard to imagine what else the policy makers could be expecting when they state that "The 1988 Broadcasting Bill recognizes that private broadcasters will necessarily strive for profits, and it recognizes their concern to meet audience needs with competitive

programming (DOC, 1988, p. 29). With what is this new programming competing? What is it competing for? If this new programming is to compete with American programs for advertising dollars, the types of programming which will result can be predicted from past experiences.

However, despite past failures to persuade or coerce the private broadcasters to act against the best interests of their shareholders, the Bill gives the CRTC new powers under section 11 to enable ". . . the Commission to charge a licence fee tied to performance in terms of providing specific kinds of Canadian programming (DOC, 1988, p. 29). This, unlike, general Canadian content regulations applying to all broadcasters or promises of performance would allow the CRTC to impose a financial obligation on the private broadcasters before their licensing period. The performance bond, as envisioned by the DOC would work like this:

First, at the beginning of each year, an assessment is made. The assessment could take the form of a fee calculated as a percentage of gross revenues. . . . No payment would be required at the beginning of the year. Second, a target is established. Typically, this would be set in terms of a number of hours of a specific kind of programming. . . . Third, during the year, each broadcaster's performance would be measured against the target. This performance would offset the assessment according to a simple formula. Meeting the target would offset 100 percent of the assessment. At the end of the period, the net assessment, if any, would have to be paid by the broadcaster to the Government. (p. 31)

What this performance bond attempts to rectify is the inability of the commercial broadcasting model to meet certain cultural objectives.

Indeed, Canadian voices, Canadian choices, following a discussion of the various state measures undertaken to protect the profits of the private sector (including priority carriage, simultaneous substitution,

and the BPDF), notes that, "in return for these privileges, broadcasters are expected to supply certain services, and to reach standards that are in the public interest. The CRTC oversees and enforces this regulatory bargain" (p. 28). The de facto acknowledgment that these policies have failed is found in the statement that, ". . . in attempting to get private broadcasters to focus their efforts on specific areas such as drama programming, the CRTC has been inhibited by the limited range and number of its regulatory powers" (p. 28). The implication then, despite the delicate wording, is that the CRTC requires greater and more flexible powers to coerce the private broadcasters into producing programming which they would not otherwise produce. The answer then, in lessons learned from pay-TV and specialty services, is to attach specific requirements to individual licenses.

Predictably, the CAB is against this performance incentive. Their recommendation to the Legislative Committee of the House of Commons advocated, "that the proposed performance incentive scheme, involving an unequal system of fines, inducing the spread of programming expenditures over more hours to the detriment of excellence in television, be abandoned" (CAB, 1988, p. 8). Their assertion that the performance incentive will merely result in broadcasters stretching their programming dollars over more hours is telling. Indeed, this is exactly the type of token response which has been witnessed time and again on the part of broadcasters.

The CAB argued that the performance incentive is based upon two false assumptions. First, that private broadcasters are not meeting their programming requirements (p. 5). The CAB argued that 67 percent

of their programming budget went to Canadian produced programs and, in the future, even greater commitments are in the offing. The CTV, for example, will increase drama programming by 300 percent (p. 5). This, despite the fact that every dollar spent on Canadian programming returns only \$.98 to CTV as compared to \$1.72 for every dollar spent on foreign (American) programming. Paul Morton, president of the Global Television Network has, therefore, described American programming as the ". . . engine that pulls the train. Without it we are dead" (SCCC, 1987, p. 44). What Morton went on to make clear to the Committee was that Canadian programming is a money loser, a luxury, made possible because of the lucrative American programming his network imports. This is the economic reality of private broadcasting which leads to policies described by Herschel Hardin (1985) as "Canadianization-through-Americanization" (p. 296).

Second, the CAB argued that the performance incentive falsely assumes that the private television broadcasters make "inordinate profits." Without entering into a discussion of whether or not broadcasters profits are excessive or not or the relative merits of using return on investment or profit margins as a measure, it is fairly clear that the private broadcasters' responsibilities are to their shareholders and their investment behaviour will continue to reflect this fact.

However, it is still common, at this juncture in the history of Canadian broadcasting, to find industry representatives justifying investment in other sectors instead of in programming based upon the argument that their overall economic performance is key to their ability

to fulfil cultural objectives. Just as importing American programming is good for Canadian culture then, so are investments in other industries. Questioned by Lynn McDonald about investments in the oil and gas industry, a representative of the Global Television Network stated:

. . . before we make any investment, such as the one in oil and gas, we first satisfy ourselves that not only are we not depleting resources available for broadcasting and Canadian production, but in fact that investment will increase those resources. And I am happy to tell you that it has. Global is financially stronger as a result of our investments in the oil and gas business, and Global is in a better position to try to increase its audiences for its programs. (SCCC, 1987, p. 45)

What the new performance bond indicates is an acknowledgement that the private broadcast sector requires incentives or inducements to perform counter to its best economic interests. Whether the CRTC implements this performance incentive measure remains to be seen. The response by the private broadcasting sector, as indicated by the CAB's earlier statements, will likely be in line with the letter if not the spirit of the law. The limitations -- particularly with regards to programming objectives -- of cultural policies which function through industrial strategies have been discussed at length.

However, the private broadcasters have expressed a preference for certain productive state interventions. Their preference for certain policies over others tends to vary depending upon whose accumulation is being ensured and whose is being disrupted. The last word on this subject goes to a representative of the CAB speaking before the Standing Committee on Communications and Culture:

Perhaps the most serious reservation to this new incentive option is that the magnitude of change that is envisaged could well disrupt a broadcasting system which already works well. The theory is more likely to flounder on the mechanism of implementation by jeopardizing those established regulatory and business practices which have rendered our system a model for others. There is no more dangerous trap in legislation or regulation than that of impractical expectations. In our opinion it would be wise to build on the successful instruments of public policy such as Telefilm Canada. (SCCC, 1987a, p. 8)

The private broadcasting industry clearly demands the freedom to invest its money as it sees fit. The state's role in this scenario is to provide strategies through which accumulation is facilitated. This accumulation, in turn, is legitimized through appeals to broad cultural goals.

The best opportunity for real diversity in our broadcasting system is found in a properly funded and mandated public broadcaster. However, the new broadcasting policy advocates a ". . . change in the way the CBC addresses its mandate" (DOC, 1988, p. 23). There are a couple of implications of this. First, Canadian voices, Canadian choices indicates a disturbing trend:

Canada now has a lively and innovative private production sector. There is therefore no longer a necessity for the CBC to produce all its programming, particularly entertainment programming, in-house. The CBC's responsibility for over-the-air transmission facilities may also diminish over time. Today, 70 percent of Canadian homes are hooked up to television by cable. Another quarter of a million have satellite receiving dishes, and this number is growing. It is possible to envisage, in future, that the CBC could rely more on these methods and less on conventional transmission to get its signals to Canadians. (p. 23)

This appears to set the CBC on a course which will see it make greater purchases from the "competitive" program production sector.

Furthermore, reception of the CBC may become contingent upon the payment of a monthly cable subscription. As more specialty services are added to the basic tier these monthly charges will continue to escalate.

Secondly, it has been a goal of the private broadcasters to get the CBC out of "mass entertainment programming," an area they see as their domain. The CAB (1988) has argued, in reference to the section of Bill C-136 which dealt with the proposed alternative television programming services, that:

. . . the new service would seem to be intended to reflect regions, its multicultural reality and various other minority interests. If this is finally the case, the CAB believes that these roles have traditionally been the responsibility of the CBC. The creation of the alternative programmer would appear to relieve the CBC of these responsibilities and drive it increasingly and exclusively into the role of a mass audience programmer. In that role, CBC is directly competitive with private broadcasters. (p. 11)

The CAB thus welcomed a clearer statement in the revised Bill that both the CBC and the proposed alternate programming service will be responsible for including cultural programming among their programming choices. Michael McCabe, president of the CAB, has been quoted as saying, ". . . that is a fairly general expression of the difference between the CBC and the private broadcasters -- that they are perhaps more cultural than us . . . they (the government) expect the CBC to tilt toward its cultural role and away from mass entertainment" (Globe & Mail, 1989, B4).

Thus, the CBC, as the "principal instrument" of Canadian broadcasting policy, is being directed to provide the Canadian broadcasting system with the cultural programming that the private broadcasters find it unprofitable to produce. Again, the state's

instrument is used to provide legitimacy for its regulation of the system and for the system itself. This is accomplished through an instrument removed from relations of accumulation.

Two aspects of the new legislation were of particular interest to the cable industry. First was the recognition of cable as a programmer. Canadian voices, Canadian choices recognized that, for some time, cable has been more than simply a redistributor of broadcasting signals and acknowledged the greater programming role already afforded cable by CRTC decisions. This has not been changed since the tabling of C-40. Cable it is stated:

. . . is required to give priority carriage to Canadian programming. CRTC decisions have increasingly allowed cable companies to do more than merely receive and re-transmit signals. These extensions of the role of distributor include the operation of community channels and, particularly in Quebec, direct ownership participation by cable companies in broadcasting enterprises. They also include offering non-programming services such as home security. (DOC, 1988, p. 38)

Defined as a "distribution undertaking" cable is encouraged to own and originate programming subject to certain constraints set out in the bill:

These include a power of the CRTC to mediate between distribution services and programming services (Section 10(1)); and, if needed, a further power (Section 9(1)) enabling the CRTC to require distribution services to carry specified programming services on terms to be set by the Commission. These powers should ensure that distribution services act in a fair and responsible fashion. (p. 40)

Thus, the cable industry's new rights as programmer, required a "trade-off" with regards to their rights to determine what would be carried over their systems (CCTA, 1989a, p. 2). While it remains to be

seen how the CRTC will act as a mediator or how several key terms will be interpreted in regulatory decisions, it is encouraging to see that questions of access may not be entirely left up to market forces or voluntary codes.

The second area of particular concern to the cable industry was the creation of, what they viewed as, a level playing field. This level playing field was created by a new legislative approach to communications technologies. Therefore, also intact in Canadian voices, Canadian choices is the doctrine of technological threat/opportunity:

The new policy recognizes that broadcasting goes well beyond the traditional over-the-air technologies of "radiocommunications," and will increasingly overlap and converge with telecommunications. Within this broadened scope, broadcasting jurisdiction is defined not so much by the technologies which carry and disseminate signals, as by the content of the signals, the Bill is, therefore, technology-neutral and will be better able to adapt to changing technologies without risking erosion of federal regulatory jurisdiction.
(DOC, 1988, p. 9)

By adopting a "hands off" approach to emerging technologies, the government is leaving it to the private concerns to determine the means through which the Canadian "shared cultural experience" will take place. The document speaks of "innovation" and a communications system which is as "competitive" as possible. The doctrine of technological imperative obscures the choices available to Canadians as to the type of communications technologies we will adopt. Will these new technologies centralize control and increase monopolies of knowledge? Will these new technologies exacerbate differences between information rich and information poor? Thus, the state does not claim a planning role over the means (delivery technology) but maintains its prerogative over the

ends (programming delivered). As we have seen however, this position is an acknowledgement of defeat as the means tend to overwhelm the ends. Furthermore, what this rhetorical figure obscures are the actual productive state policies which aid private companies in their development of new technologies.

How this new "level playing field" functions to the cable industry's benefit is through the new definition of "distribution undertaking." Said to be technology neutral, this new definition focuses on the activities performed rather than any particular type of technology. As a result, satellite master antenna television (SMATV) systems, long regarded as renegades by the cable industry, were brought within the regulatory ambit. In this regard the circle is completed. Cable, once restrained by the government to protect the programming commitments of the conventional broadcasters, now welcomes protection as its technology base becomes archaic and its status as the program delivery system of choice is threatened.

Since 1983's Towards a new national broadcasting policy the DOC has stated that, in licensing decisions regarding master antenna television (MATV) systems, the CRTC is to examine the economic impact upon cable operators:

Where the CRTC is satisfied that the economic impact on the cable operator in an area is not serious, the government would expect the commission to licence MATVs for distribution of satellite programming. In such licensing decisions, it is expected, of course that MATV applicants will be subject to equitable regulations and receive equitable treatment. (DOC, 1983b, p. 12)

As has been noted earlier, it was jurisdictional issues regarding satellite master antenna television (SMATV) systems that were a prime

factor in necessitating a new Broadcasting Act. Specifically, the courts were having a hard time stretching the Radio Reference case to cover SMATVs (Macdonald, 1989). Meanwhile, cable operators have been concerned about the loss of revenues from condominiums and apartment buildings equipped with SMATV systems and, in some cases, illegal descramblers. As was noted by the cable lobby while appearing before the SCCC (1987):

We have 14 buildings in Saskatoon right now that are equipped with illegal HBO decoders that have been bootlegged across the border. Those buildings are receiving HBO and other American satellite services on a separate wire the owner has put in for the purpose. Needless to say, our basic penetration in those buildings is very, very small and our pay-TV or specialty service penetration is non-existent. (p. 30)

Thus, the new regulation clearly brings SMATVs within the CRTC's regulatory grasp, thus giving that body the discretion to regulate those systems in the future (Bickford, 1989). For example, SMATVs can be required, like any other distribution undertaking, to give carriage priority to Canadian or local signals. Furthermore, changes to the Radio Act will allow for the prosecution of those systems which illegally pirate signals or operate illegal descramblers.

Further to the new "level playing field," one aspect of the new legislation which has changed since the tabling of Bill C-136 revolves around the definition of "broadcasting." The definition proposed in Bill C-136 included a phrase which specifically exempted the transmission of programs: "(a) made on the demand of a particular person for reception only by that person, or (b) made solely for performance or display in a public place." The CCTA argued that this definition of broadcasting clears the way for "video-on-demand" which

operates like a "video juke box" whereby individuals in their home will be able to call up the movie of their choice to be viewed at a time of their choice (CCTA, 1989a, p. 6). The CCTA's fear is that this service provides a "natural point of entry" for telephone companies into video delivery. Thus, telephone companies, prohibited from holding a broadcasting license, could become involved in video delivery.

Besides the involvement of telephone companies in this area, the cable industry is concerned that their baby -- "pay-per-view" -- is covered under the definition of broadcasting while "video-on-demand" is not. For some time the cable industry has been describing pay-per-view as "the next phase" in cable services (CCTA, 1986b). Simply put, "pay-per-view" allows viewers to make a request for a program in advance of the program's showing; addressable decoders are then activated; and, subscribers are billed for the viewing of the program (p. 2). The cable lobby argues that this new programming service is necessary in order for it to compete with new technologies that offer greater convenience such as home video rentals. Best of all, "pay-per-view" allows viewers the ability to register their preferences directly and register the intensity of their preferences (p. v). The CCTA supports this as indicative of the fundamental premise of ". . . consumer sovereignty and believe this to be an appropriate objective for Canadian communication policy development" (p. v).

Thus, given the importance of "pay-per-view" to the cable industry's future plans, their concerns that "video-on-demand" should escape regulation while their service does not is understandable. The CCTA thus charged that the new Bill is not, in fact, technology neutral,

essentially because they are not technologically capable of delivering services on demand and, therefore, face greater regulation:

. . . this section provides another example of how key sections of this bill are actually technology driven. The policy document accompanying the legislation says "scheduled" pay-per-view falls within the definition of broadcasting and hence thus, is subject to regulation under the proposed Broadcasting Act. A strong argument can be made that the difference between pay-per-view (a term commonly used in the cable industry) and video-on-demand (a term commonly used in the telco parlance) are essentially the same type of service [sic]. What difference there is is based on technology. Should this bill be passed, the cable industry will make a strong case for a comparable, non-regulated status for pay-per-view. (CCTA, 1989a)

Again, we see an appeal from the cable industry for protection from new technologies. Thus, the state's role in ensuring accumulation in the name of cultural objectives (keeping Canadians plugged into the regulated system) is called for by the cable lobby.

When Bill C-40 was tabled in October, one of the few changes made was to this definition of "broadcasting." As reported by the Globe and Mail (1989) in its lead story that day, "the government has broadened the definition of broadcasting to include "on-demand" television -- where customers will be able to dial up a movie or other program for individual watching" (p. A1). As the story goes on to note, "Such services don't exist yet but they are just over the technological horizon and already cable and telephone companies are jockeying for position to re-wire the nation and thus control what is expected to be a powerful new dimension in selective home viewing."

Sandra Macdonald (1989a) asserts that the deletion of phrase 2.(1)(a) from the definition of "broadcasting" makes little difference with regards to the CRTC's ability to regulate new services. This is

because, with or without the inclusion of that phrase, until new services are in place it is uncertain whether they will be deemed to be broadcasting by the CRTC or not. She argues that the inclusion of the phrase did little more than provide an opportunity for litigation over what, for example, constitutes transmissions made "on demand" and is, therefore, not considered to be broadcasting. Macdonald asserts that, when the new services appear, if they are deemed to be broadcasting by the CRTC, they will be regulated accordingly. If, on the other hand, they are deemed to be point-to-point they will be considered as telecommunications and subject to a different -- and generally less restrictive -- regulatory structure. The hypothetical new service is, of course, free to challenge this regulation in the courts.

Thus, a new technology, as was the case with SMATV, is brought within the regulatory control of the state. Operating in the allocative mode of state intervention, the federal state has introduced legislation to ensure its ability to regulate a potential new component of the Canadian broadcasting system. What remains to be seen is the concrete policies which will be initiated to ensure accumulation for the older components of the broadcasting sector while opening up new accumulation opportunities. One can be certain that the resulting productive interventions will be legitimated through appeals to broad cultural goals such as those set out in section 3 of the Broadcasting Act.

SUMMARY AND CONCLUSIONS

This thesis has examined a number of policy interventions undertaken by the state in the communications sector since 1968. The focus has been on the cable sector and particularly those interventions aimed at achieving programming goals as set out in the 1968 Broadcasting Act. Chapter one sketched out two of the most prominent discourses which critique the broadcasting policy process: those which are rooted in neoclassical notions of the market and those which are rooted in cultural nationalism. Both of these discourses are based upon a pluralist analysis of state power. It was argued that an analysis of state interventions in the communication sector would benefit from an analysis rooted in a class theory of the state. More specifically, the work of Clause Offe was seen to offer a novel approach which examined how the state was enmeshed within relations of accumulation and how this fact both shaped and limited the range of policy interventions available to achieve cultural ends. The four principles Offe postulates for the capitalist state -- exclusion, maintenance, dependency and legitimation -- were discussed as a way of understanding how the state is both functionally related to and dependent upon the accumulation process. In focusing upon the legitimacy component of the state's accumulation/legitimation dilemma it was argued that certain rhetorical devices had been used to obscure state interventions. These rhetorical figures -- consumer choice and technological threat/opportunity -- had served to mythologize the real choices available regarding the types of

programming produced by the Canadian broadcasting system and the type of communication infrastructure adopted in this country.

Chapter two illustrated how, once cable was brought within the federal regulatory ambit, a framework was designed which sought to protect the financial well-being of conventional broadcasters while, at the same time, allowing the cable industry to maximize its profits. Thus, early productive interventions designed to maintain accumulation in the conventional broadcasting sector were legitimated based upon appeals to the broad and general goals of the Broadcasting Act. A healthy conventional broadcasting sector was needed to provide the widest possible availability of Canadian programming. These productive interventions included: prohibiting cable systems from importing distant signals by microwave; program duplication regulations; the deletion and substitution of commercials; and amendments to Section 12a of the Income Tax Act. It can be clearly seen that these interventions correspond to what Offe has termed the state's maintenance function as it sought to prevent ". . . actual or anticipated, sectoral or general absence of accumulation (or disturbances in the accumulation process)" (Offe, 1975a, p. 132). At the same time as policies designed to integrate cable into the Canadian broadcasting system came to the fore (by the early 1970s) cable rates were not regulated in any meaningful way. While cable operators were required to apply for increases, it was demonstrated that this was little more than a "rubber stamp" process. Again, this policy was legitimated by the state based upon appeals to the broad and general goals enunciated in the Broadcasting Act. Specifically, a strong cable sector was important if it was to

contribute to the overall health of the system through, for example, program deletion policies and direct compensation payments to broadcasters.

The failure of the protectionist broadcasting policies to achieve programming goals was illustrated using work conducted for the Caplan-Sauvageau taskforce by Hoskins and McFadyen (1986). Specifically, it was shown how these policies had invited token responses from broadcasters reluctant to act against their best corporate interests. Similarly, it was demonstrated how growth in the cable sector -- without meaningful advances in the program production sector -- had resulted in little more than a financially lucrative distribution infrastructure for the accelerated dissemination of American programming in Canada. As such, it was shown how, by the end of the 1970s, the federal state faced a crisis regarding the legitimacy of its protectionist policies. Their productive interventions had been legitimated based upon appeals to the broad and general goals set for the Canadian broadcasting system. As the policies failed to achieve these goals, interventions, rather than appearing to achieve common and general interests, were seen to serve narrow sectoral interests. This fact partially -- but only partially -- provided a context within which to understand the stream of state interventions aimed at the cable industry in the 1980s.

In chapter three it was illustrated how a fuller understanding of cable policies in the 1980s (and more specifically cultural policies ostensibly to provide Canadians with more programming choices) could be gained through an understanding of the role these policies were to play as part of an industrial strategy aimed at the communications sector.

Specifically, it was demonstrated how suppliers of hardware and services to the cable industry would benefit from cable policies which achieved the ". . . regulatory stimulation of marketplace development by encouraging the cable industry to advance more quickly into new services" (DOC, 1983a, p. 81). It was also shown how these hardware manufacturers and suppliers of services did not gear their products and services (communication towers and antennas, satellite earth stations, engineering and management consulting) for a Canadian market or Canadian communication needs. Rather they were concerned with developing a so-called "world product mandate." These so-called world products have been developed by American based multinationals, for the needs and priorities of American based multinationals, making use of institutional arrangements and models of communication shaped by American based multinationals. This fact has been established by many writers including McPhail (1987) and Murphy (1983). Thus, cable policy designed around the stimulation of a hardware industry geared towards the American-dominated world communication grid would tend to further integrate Canada into that grid and the American dominated contents which that system delivers. Thus, state interventions in the cable industry throughout the 1980s, framed as cultural policies aimed at the provision of more Canadian programming choices, were shaped not only by the failure of earlier protectionist policies aimed at conventional broadcasters but by the demands of the emerging delivery systems. Indeed, it must be emphasized that the hardware, developed by corporations and their markets, preceded the contents carried.

It was demonstrated that the emerging delivery grid, which made use of cable and satellite, shaped the contents carried over that system and necessitated the development of specific state instruments to facilitate this change. A key policy document, Towards a new national broadcasting policy (DOC, 1983b) was examined with a key focus upon the two rhetorical figures contained within it (technological threat/opportunity and consumer choice). Applying the analytic framework developed in chapter one, it was shown how these two rhetorical figures served to obscure productive state interventions through appeals to broad cultural goals. The rhetorical figure of technological opportunity/threat was used to portray a system in crisis while offering potential growth if the new communications technologies are embraced quickly. In this way, the state mythologized the new technologies limiting the real choices available for the Canadian broadcasting system while obscuring the real historical conditions from which these new technologies developed and, indeed, its own role in the development of these technologies.

The rhetorical figure of consumer choice was employed to facilitate a shift towards a so-called private sector thrust in the provision of new programming and non-programming services. This private sector thrust was shown to fit well with the needs of a delivery system oriented towards a "world product mandate." Indeed, the document speaks of an "export thrust" for new programs geared towards the ". . . international marketing of Canadian television programs . . ." (p. 16). What the rhetorical figure of consumer choice obscured were the real limitations upon program themes, topics, and formats which inevitably

result from a commercial system based upon advertisers' consumer sovereignty and an international market conditioned to expect American programming. A shift was taking place during the 1980s away from programming which was distinctly Canadian towards programs described as "high quality" and "attractive." Rhetoric focusing on consumer choice ignored the real ways in which consumer preferences are constructed and maintained and whose interests those preferences serve.

A specific state instrument was developed to facilitate the private sector thrust which committed the Canadian broadcasting sector to the growth of new programming from private broadcasters, private production companies, and cable generated revenues. An examination of the Broadcast Program Development Fund (BPDF) was undertaken noting the inherent contradiction in a state instrument which is to achieve cultural ends through industrial strategies. As discussed by Offe, the BPDF was at once responsible for, excluded from, but dependent upon, the accumulation process. As such, in funding particular projects, its focus was, through necessity, upon rate of return. It was demonstrated how this served to limit the types of content and formats of programs which could get funding. Thus, for example, it was shown how programs in the category of art, music, and dance were not attracting funding.

Having positioned the cable industry within the state's industrial strategies aimed at the communications sector, an in-depth examination of some of the major licensing decisions and regulatory changes which served to redefine cable in the 1980s was undertaken. Three important processes were examined: the new cable regulations put into place in

1986; the licensing of pay-TV in 1982; and the specialty services licensing hearings in 1987.

The policy document Towards an new national broadcasting policy also spoke of a commitment to a "more liberalized regulatory policy." This term was also discussed in other works cited as a more "supervisory" regulatory approach. In discussing the 1986 cable regulations it was shown how these words were embodied in specific regulatory decisions particularly around carriage regulations and revenue regulations. As part of a larger industrial strategy aimed at the communications sector it was expected that reregulation would take place in a direction which would encourage the cable industry to move into new services. This could be accomplished through reregulation which diminished the CRTC's ability to direct the introduction of new services while, in effect, leaving these decisions to the "market." The new regulations, therefore, explicitly exempted from regulation alphanumeric or non-programming services. Furthermore, the regulatory process around installation fees and monthly fees was greatly dismantled. The trend towards deregulation was seen, from a class perspective, to correspond to ". . . the recognition that telecommunications, and its related informatics and communications sectors, have come to occupy a central place in the capital accumulation process" (Mosco, 1989, p. 103). In particular, the rate setting procedures for monthly fees are currently under fire for allowing the cable industry "supra-competitive" returns (Financial Post, 1990, p. 3).

Given the context established in the chapter, the emergence of pay-TV and specialty services was examined. These concrete licensing

decisions, examined along with the rhetoric surrounding them, shaped the Canadian broadcasting system of today and set it on certain trajectories for the future. What the analysis undertaken in the earlier part of the chapter illustrated was the limits placed upon state interventions and instruments by the state's relationship to the accumulation process. More specifically this framework allowed for an examination of cultural policies operationalized as part of an industrial strategy. Given the centrality of the cable industry to these industrial strategies, licensing and regulatory decisions tended to encourage accumulation in the cable sector and growth in new services with a focus on market solutions to competing claims rather than regulatory ones. Underpinning this examination of the licensing decisions around pay-TV and specialty services, therefore, was an understanding of the state role based upon a class perspective rather than a pluralistic one. Therefore, in examining depositions before the CRTC at licensing hearings (for example), power was not seen as situational. Rather, the range of policy options or possible regulatory structures available were seen as constrained by the state's relationship to the accumulation process. Thus, while the CRTC has an important representational role to play in allowing general access to concerned parties, its range of policy options was seen as constrained before the fact because of its responsibility for maintaining a private market in communications and the larger industrial strategies aimed at the communications sector as a whole. Therefore, despite real concerns raised by the conventional broadcasters (and in the Caplan-Sauvageau report) regarding cable ownership of specialty channels, the Rogers/CUC/Cablecasting backed YTV

was licensed. This was seen as an example of the CRTC subjugating its representational role to its role in maintaining private markets for communication.

However, the important marketing and programming roles given to cable operators were legitimated through a regulatory framework which controlled -- in the CRTC's new "supervisory" fashion -- the rates charged for new services offered and appeared to ensure access to new services in the Quebec market with its "take one, take all" rule. These moves met with strenuous opposition from cable operators who insisted upon control over their inventory. However, the importance of these regulations in ensuring legitimacy for state interventions must not be diminished. Access to these new "cultural offerings" must be seen to be as wide as possible in order to legitimate these industrial strategies as cultural policies.

In chapter four it was illustrated how the policy and regulatory trajectory within which the specialty services licensing hearings took place was continued first within Bill C-136 and then within C-40. Thus, Bill C-40 was placed at the end of a stream of policy interventions stretching back at least to 1983's Towards a new national broadcasting policy. It was illustrated how new policies aimed at the private broadcasters, such as the new performance bond, can only be expected to invite the type of token response witnessed with regards to earlier programming policies. These attempts to coerce the private broadcasters to act against their best corporate interests have failed and will continue to do so. The new policy initiatives aimed at the CBC (in addition to recent budget cuts) appeared to put the public broadcaster

on a course which would see it make greater purchases from the private production sector and rely to a greater degree on cable delivery. The implications of this policy were serious, it was argued, both in terms of the limited programming diversity that programming models based on consumer sovereignty entail and the limitations to access which will result if cable subscription becomes a prerequisite for CBC reception. Ironically, these measures, including the budget cuts, come at a time when the public sector is being required to provide the "cultural programming" that the private broadcasters will not. Given that most interventions in the broadcasting sector are legitimated based upon the need to protect Canadians from cultural homogeneity and ensure national sovereignty in the face of the media giants from the south, a weakened public sector increasingly charged with this task may have severe implications for the future.

For the cable industry, Bill C-40 entrenched their programming rights and expanded the regulatory ambit to include new technologies such as SMATV and "on demand services." This, it was argued, had two major implications. First, it positioned the state to prevent the disruption of accumulation in the cable sector the way it once had for the conventional broadcasters. Second, in adopting a so-called technology neutral approach the state is attempting to abrogate the role it once played (with microwave technology for example) in shaping the technological infrastructure through which the Canadian "shared cultural experience" takes place. Once again, it was illustrated how the rhetorical figures of consumer choice and technological threat/opportunity were employed by the state to obscure the real

choices available regarding the communications infrastructure and institutional arrangements we as a society will employ. Given earlier arguments advanced regarding the impact certain types of distribution technologies have on the types of programming produced and access to the system itself, the abrogation of this role of the CRTC (a body which must provide at least minimal opportunity for representation in the settling of social claims) raises serious questions for the future.

By extending this model and using some of its insights certain questions for future research may be framed. These questions are being raised at a time when the cable industry is calling for the maintenance of the rate structure put in place in 1986 while other groups are pushing for an end to local cable monopolies as a way of keeping cable rates down (Globe & Mail, 1990, p. B3). Thus, in an era in which deregulation, the impact of privatization, and the free trade agreement will continue to frame much of the public discourse, the model developed here may help frame some questions and sites for future research.

First, although broadcasting policy is often examined in isolation, a fuller understanding of these state interventions (allocative and productive) necessitates a view that encompasses the larger sectoral or economic picture. Thus, an examination of cable policies in the 1980's, it is argued, was enriched by seeing these policies within the context of larger industrial strategies aimed at the entire communications sector. Given that the state must, out of its own institutional self-interest, maintain the conditions of accumulation, the range of policy interventions is limited. While this relationship is only one determination of broadcasting policy it bears repeating that

it is a critical and often overlooked one. Thus, changes in the broadcasting sector will have to be examined within, for example, an overall climate of deregulation in the entire communications sector.

Second, in examining specific state instruments it has been argued that the characteristics Offe posits for the capitalist state result in several structural features that shape the types of interventions possible. This is particularly true in programming policy. Thus, for example, an instrument such as Telefilm was seen to be structured in a particular way that undermined its ability to produce certain types of programming that the state itself had targeted for production. However, despite the applicability of Offe's observations, the Canadian experience is unique and requires subtleties of analysis. Thus, for example, the importance of federal-provincial jurisdictional disputes and the differing prerogatives of these two levels of state are a factor further shaping interventions. What new types of state instruments will a deregulated communications sector require and how will they function in relation to federal provincial jurisdictional issues around, for example, telecommunications.

Third, this study has argued that in bridging the gap between accumulation/legitimation certain rhetorical devices have been employed. Thus, the discourses emanating from state instruments bear closer examination with the understanding that they operate at the level of myth and obscure the true nature of interventions. This is particularly true today given the United State's success at exporting "deregulation" or what we have termed reregulation. Simply substituting the term reregulation for deregulation provides a richer understanding of the

role played by the state in structuring market relations. As noted in Mosco (1989) the "free market" is a logical impossibility. What is more important is to examine the implications for democracy of substituting one mechanism (representation) for others (the market, corporatism) in the settlement of social claims. Understanding the power of rhetorical devices is one step to untangling these real relations from the things we say about them.

REFERENCES

- Allarcom Ltd. (1987). Intervention filed before the CRTC.
- Atlantis Television International. (1987). Intervention filed before the CRTC.
- Babe, R. (1975). Cable television and telecommunications in Canada: an economic analysis. East Lansing: MSU.
- Babe, R. (1979). Canadian television broadcasting structure, performance and regulation. Ottawa: Economic Council of Canada.
- Babe, R. (1988). "Emergence and development of Canadian communication: dispelling the myths." In Communication Canada: Issues in broadcasting and new technologies. Rowland M. Lorimer & Donald C. Wilson (Eds.). Toronto: Kagan and Woo Ltd.
- Babe, R. (1989). "Cable television," unpublished manuscript.
- Barthes, R. (1984). Mythologies. London: Paladin.
- Bird, R. (1988). Documents of Canadian broadcasting. Ottawa: Carleton University Press.
- Canadian Association of Broadcasters. (1987). CAB presentation: Specialty programming services hearings. Ottawa: CAB.
- CAB. (1988). Representations by the CAB to the Legislative Committee of the House of Commons considering Bill C-136. Ottawa: CAB.
- CCTA. (1986a). Response to public notice CRTC 1986-27. Ottawa: CCTA.
- CCTA. (1986b). Pay-per-view: The next phase. Ottawa: CCTA.
- CCTA. (1987a). Project 90/2: New Perspectives. Ottawa: CCTA.
- CCTA. (1987b). "Cable Communique." August 1987. Ottawa: CCTA.
- CCTA. (1987c). "Cable Communique." October 1987. Ottawa: CCTA.
- CCTA. (1987d). Summary of submissions and interventions for CRTC public hearings on specialty services. Ottawa: CCTA.
- CCTA. (1989). Industry Information package.
- CCTA. (1989a). "The legislative horizon: A new broadcasting policy and act?" Ottawa: CCTA.
- CRTC. (1971a). The integration of cable television in the Canadian broadcasting system. Ottawa: CRTC.

- CRTC. (1971b). Canadian broadcasting "a single system." Ottawa: CRTC.
- CRTC. (1980a). Canadian broadcasting and telecommunications: Past experience, future options. Ottawa: CRTC.
- CRTC. (1982). Decision CRTC 82-240: Pay television. Ottawa: CRTC.
- CRTC. (1986a). Public notice CRTC 1986-182: Cable television regulations. Ottawa: CRTC.
- CRTC. (1987). More Canadian programming choices. Ottawa: CRTC.
- CRTC. (1987a). Transcripts of hearings on specialty services.
- CRTC. (1987b). CRTC annual report 1986-1987. Ottawa: CRTC.
- Carnoy, M. (1984). The state and political theory. New Jersey: Princeton University Press.
- DOC. (1983). Culture and communications: Key elements of Canada's economic future. Ottawa: DOC.
- DOC. (1983a). Suppliers of equipment and services to the cable television industry in Canada. Ottawa: DOC.
- DOC. (1983b). Towards a new national broadcasting policy. Ottawa: DOC.
- DOC. (1986). Report of the task force on broadcasting policy (Caplan-Savageau). Ottawa: Minister of Supply and Services Canada.
- DOC. (1987). Communications for the twenty-first century: Media and messages in the information age. Ottawa: Minister of Supply and Services.
- DOC. (1988). Canadian voices/Canadian choices: A new broadcasting policy for Canada. Ottawa: DOC.
- DOC. (1988a). "News release," June 23, 1988.
- Ellis, D. (1979). Evolution of the Canadian broadcasting system: Objectives and realities, 1928-1968. Ottawa: Minister of Supply and Services.
- Financial Post. (February 6, 1990). "Competition needed among cable operators, CRTC told."
- Freiman, M. (year unknown). "Consumer sovereignty and national sovereignty in domestic and international broadcasting regulation," from Canada-U.S. Conference.

- Globe and Mail (October 13, 1989). "Bill widens definition of broadcasting."
- Globe and Mail (February 7, 1990). "Cable competition cannot exist: CCTA."
- Guite, M. (1977). Requiem for rabbit ears: Cable television policy in Canada. Stanford, California: Institute for Communication Research.
- Hall, S. (1984). "The rise of the representative/interventionist state." In Gregor McLennan, David Held and Stuart Hall (Eds.). State and society in contemporary Britain: A critical introduction. Cambridge: Polity Press.
- Hardin, H. (1985). Closed circuits: The sellout of Canadian television. Vancouver: Douglas and McIntyre.
- Hardin, H. (1988). Business as usual. Mimeograph.
- Hollins, T. (1984). Beyond broadcasting: Into the cable age. London: British Film Institute.
- Hoskins, C. and McFadyen, S. (1986). The Canadian broadcasting program development fund: Past experience and future options. Final report submitted to task force on broadcasting policy.
- Hoskins, C. and McFadyen, S. (1986a). "The economic factors relating to Canadian television broadcasting policy: A non-technical synthesis of the research literature." Canadian Journal of Communication, 12(1), 21-40.
- Mansell, R.E. (1985). "Contradictions in national communication/information policies: The Canadian experience." In Media, Culture and Society. Vol. 7, pp. 331-353.
- Maclean Hunter Ltd. (1988). Annual Report 1988.
- McPhail, T.L. (1987). Electronic colonialism: The future of international broadcasting and communication. London: SAGE.
- Murphy, B. (1983). The world wired up: Unscrambling the new communications puzzle. London: Comedia Publishing Group.
- Mosco, V. (1989). The pay-per society. Toronto: Garamond Press.
- Offe, C. (1974). "Structural problems of the capitalist state. Class rule and the political system. On the selectiveness of political institutions." In Klaus von Beyme (Ed.). German Political Studies, 1, 31-59.

- Offe, D. (1975). "Introduction to Part II." In Leon Lindberg (Ed.). Stress and Contradictions in Modern Capitalism. Toronto: D.C. Heath and Company.
- Offe, C. (1975a). "The theory of the capitalist state and the problem of policy formation." In Leon Lindberg (Ed.). Stress and Contradictions in Modern Capitalism. Toronto: D.C. Heath and Company.
- Offe, C. & Ronge V. (1975b). "Notes: Theses on theories of the state." In New German Critique. 6, Fall, 137-147.
- Rogers Communications Inc. (1988). Annual Report 1988.
- Rotstein, A. (1988). "The use and misuse of economics in cultural policy." In Communication Canada: Issues in broadcasting and new technologies. (Rowland M. Lorimar & Donald C. Wilson eds.). Toronto: Kagan and Woo Ltd.
- Shaw Cable. (1989). Annual Report 1989.
- SCCC. (1987). Minutes of proceedings and evidence of the Standing Committee on Communications and Culture. Issue No. 28, March 16-17, 1987. Ottawa: House of Commons.
- SCCC. (1987a). Minutes of proceedings and evidence of the Standing Committee on Communications and Culture. Issue No. 69, November 24, 1987. Ottawa: House of Commons.
- Smith, A. (1980). The geopolitics of information: How western culture dominates the world. New York: Oxford University Press.
- Videotron Ltée. (1988). Annual Report 1988.
- Williams, R. (1985). Towards 2000. Markham: Penguin Books Canada.

Interviews

- Bickford, N. (1989). Interview conducted with Nancy Bickford, Vice-President of Public Affairs with the CCTA. Feb. 13, 1989.
- Macdonald, S. (1989). Interview conducted with Sandra Macdonald, Director of Regulatory Policy and Extension of Service, Broadcasting Policy Branch, Department of Communications. Feb. 14, 1989.
- Macdonald, S. (1989a). Follow-up interview. Nov. 16, 1989.