**CONVERGING EMPIRES, DIVERGING INTERESTS:
CONCENTRATION AND CROSS-OWNERSHIP IN THE CANADIAN MEDIA**

by

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the requirements for the degree of

Master of Arts

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**Converging Empires, Diverging Interests:
Concentration and Cross-Ownership in the Canadian Media**

submitted by Catherine Allison, B.A.

in partial fulfilment of the requirements for
the degree of Master of Arts

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ABSTRACT

This thesis argues that government policy has propelled the forces of media market concentration and media ownership concentration, facilitating the exercise of both allocative and administrative control by owners. These two types of control are steadily undermining the communication rights of journalists and audiences. Over time, the CRTC has removed many structural barriers to market and ownership concentration. As well, media conglomeration has led to unprecedented levels of media cross-ownership. After examining regulation, concentration and cross-ownership, the following becomes clear:

- Ownership concentration is an issue. Market concentration is also a significant concern, but a study of concentration is not comprehensive if it does not address ownership concentration.
- The type of media ownership matters when considering how ownership control is exercised.
- Fiscal objectives have overwhelmed normative considerations in the evolution of the broadcasting regulatory framework.
- Multi-media conglomerates are failing despite the government's promotion of them.

ACKNOWLEDGEMENTS

I started looking at media concentration and cross-ownership just at the time that BCE acquired CTV and CanWest acquired many of the Hollinger assets along with the broadcasting properties of Western International Communications. At the time, I certainly did not anticipate where this interest would go and how topical it would become.

I am obviously indebted to the great writers whose work I drew on in writing this thesis. In my research, I had the opportunity to read the works of people such as Graham Murdock, Peter Golding, Vincent Mosco, Janet Wasko, Anthony Giddens and Stephen Lukes whose thoughts I would have never otherwise been exposed to. I am grateful to Peter Desbarats and Stephen Kimber who were generous with their time and very open about their experiences. I am also deeply indebted to Prof. Dwayne Winseck for sharing his ideas and helping me develop mine.

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In loving memory of my sister,
Andrea Allison-Boyd
(May 10, 1965 – March 21, 2002)
and my cousin,
Stephen Seekings
(September 24, 1979 – March 19, 2002)

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CHAPTER 1 – HISTORICAL POLICIES AND THE CONTEMPORARY MARKET

We cite these exceptions because we think they are important in any consideration of how to safeguard the public interest against the increasing concentration of media ownership. Media monopolies seem to operate against the public interest only when the owner allows it to happen. But if the owner has a genuine commitment to public service, if he places his readers' interests ahead of his own dividends, he can readily offset what the committee has come to regard as the intrinsic dangers of ownership concentration. The public interest can be served or ignored, in other words, according to the personal preoccupations of the people who own the media...This country should no longer tolerate a situation where the public interest in so vital a field as information is dependent on the greed or goodwill of an extremely privileged group of businessmen (Davey, 1970, p. 57).

Notions of power, profit and the public interest have dominated the history of the mass media in Canada. Both the Special Senate Committee on the Mass Media (Davey Committee) and the Kent Commission highlighted concerns about media concentration and cross-ownership that have carried through to the new millennium. Motivated by recent Canadian media mergers and public concern over media concentration, the House of Commons Standing Committee on Canadian Heritage initiated a review of the Canadian broadcasting system last summer and expects to issue a report in the winter of 2002-2003. It is the objective of the Committee to create a comprehensive inquiry into the state of the broadcasting system and review key aspects of the Canadian Broadcasting Act. As part of its mandate, the Committee will examine ownership patterns, cross-media ownership, vertical integration and the effects of these trends on the industry. Unfortunately, the Committee has left a key area out of its analysis: an investigation of the role of government policy in creating the conditions that have contributed to media concentration and cross-ownership. Marc Raboy points out in his Canadian broadcasting policy study, Missed Opportunities, that the Canadian Radio-television and

Telecommunications Commission's (CRTC) approach to concentration reflects the regulator's "continued invention of the future according to its own industrial design" (Raboy, 1990, p. 313). The displacement of cultural policy objectives by industrial policy objectives demonstrates the CRTC's desire to build a financially strong broadcasting system and to achieve this goal without adequately considering the impact of this displacement on the socio-cultural objectives of the Canadian media. The CRTC, explains Raboy, "had no policy on concentration of ownership, on cross-media ownership in single markets, or on vertical integration. Where private ownership transactions were concerned, it judged every case on its merits, leaving important precedents in its wake" (Raboy, 1990, pp. 313-314). The CRTC has approached reviews of contemporary media mergers on a similar case-by-case basis. During the course of these reviews, the CRTC made exceptions to existing broadcasting policies designed to protect against cross-ownership, continuing the precedent setting trend that Raboy notes. The central question this thesis sets out to explore is how government policy, in propelling the forces of concentration and cross-ownership in the Canadian media, has also contributed to the concentration of media owners' allocative and operational control to the detriment of the public interest.

The Problem of Convergence

Since the 1990's, CRTC policy has become increasingly focused on building a financially strong and globally competitive industry. In this process, the CRTC has championed the idea that economic concentration would help reach its goal of financial stability. However, in recent months, the CRTC has seen the basis of much of the policy created over the last three years begin to unravel. Large, multimedia conglomerates such

as CanWest and BCE have started to abandon elements of the convergence strategies that drove the acquisition of both broadcasting and newspaper assets. CanWest has sold many of its small market newspapers, particularly on the east coast of Canada. BCE president and chief executive Michael Sabia (appointed after the hasty exit of Jean Monty who oversaw BCE's acquisition strategy) recently stated that, while a decision to sell off CTV or the Globe and Mail was not imminent, the company would not rule out the possibility that these assets might be sold as the company looks for ways to slim down and bring greater focus and clarity to its business (Ravensbergen, 2002, p. D1).

Internationally, Vivendi Universal embodies perhaps the most spectacular convergence meltdown following the company's transformation from a utility company into a multimedia conglomerate. The company has gone from being the world's second biggest media company after AOL Time Warner to losing 70 percent of its stock value over a six month period (Ward, 2002, p. 194). The company has sold off \$9.8 billion worth of assets and secured loans of over \$2 billion in an attempt to stop the company from drowning under a debt of \$18.6 billion (Ward, 2002, p. 213). AOL Time Warner has similarly seen its stock value slide, trading at 52-week range of \$8.70 to \$39.21.

The premise of CRTC broadcasting policy since the mid-nineties – that the synergies and efficiencies created by multimedia mergers would foster diversity – appears to be unravelling. Having abandoned normative considerations of the public interest in its shift to an industrial policy focus, the CRTC's current policy framework is now on tenuous ground. This does not, however, negate the impact that this change has had on the industry and demonstrates the importance of thoroughly questioning policy goals. This study then begins by identifying key changes in policy and questioning how

these changes, combined with concentration and cross-ownership, have had an impact on the media industries primarily along the following four dimensions: diversity of programming genres, regionalization of programming, interlocking boards of directors and media owners' exercise of allocative and operational control. All of these areas will be considered since all have a potential impact on the ability of the media to serve the public interest.

Outline and Methodology

To examine the impact of policy, economic and ownership concentration and cross-ownership, this thesis is divided into four chapters. Following the introduction, the second chapter sets out the theoretical framework and describes the key considerations relating to power, structure and agency that will be used in order to create a more comprehensive analysis of ownership economic concentration of the media within Canada. The framework integrates structural and instrumental aspects of political economy with critical social theory. Operating from this premise, the thesis then sets out to explore the tensions between policy goals and what is actually happening in the market and to explore questions described at the beginning of this chapter. The analysis of power, structure and agency establishes the key considerations for assessing the role of power as it relates to concentration and cross-ownership. The third chapter looks at how the Canadian government, drawing on a body of knowledge informed largely by a series of dominant ideologies, has made assumptions about regulation, privatization and power and have proposed the removal of many of the regulatory barriers to cross-ownership and concentration in favour of putatively free markets. This chapter traces the evolution of the public interest in government policy and looks at the relationship between this

evolution and regulatory measures. Thinking beyond the economics of the media industry, this chapter strives to develop an understanding of why governments, in the face of economic pressures of which the logical outcome is concentration, have chosen to implement policies that equate protection of the public interest with a deregulated environment when the benefits of competition and concentration in protecting the public interest are far from clear. The fourth chapter examines the CRTC's decisions relating to the Quebecor/TVA/Vidéotron, BCE/CTV and CanWest/WIC acquisitions, the regulatory methodologies used, the perspectives drawn on in the assessments, and the nature of the process itself. This chapter provides an overview of the deals, the criteria used to assess their value to the public and a consideration of the appropriateness of these criteria in relation to stated objectives. The fifth chapter further analyzes the shift in regulatory policy. What emerges is that, although diversity and plurality continue to be associated with the public interest, regulatory policy now promotes the idea that the public is best served by a broadcasting industry that is financially stable and competitive on a global scale. In the Canadian case, this also means an industry where ownership of Canadian communications conglomerates is highly concentrated. Apart from some of the contradictions this presents in relation to historical broadcasting policies, this shift is of interest because of the gap that emerges between policy and actual market outcomes. This chapter then introduces the characteristics of concentration and assesses them using multiple factors. The sixth and final chapter describes the key conclusions of this study and puts forward some thoughts on how values traditionally associated with the public interest might be retrieved in the new media landscape.

Emerging Themes

How we have approached these values, how we think about regulation itself and how we define the public interest has had an enormous impact on the development of the Canadian media. Over the course of this development, there are a number of themes that have recurred. The ideal type of media ownership, the impact of ownership structure on content, the nature of control and the shifting conceptualization of the public interest are themes that have dominated debates, both past and present, about the future of the Canadian media.

Media Ownership – the Ideal Type

Inquiries about the ideal type of media ownership have typically questioned what form of ownership best serves the public interest: foreign versus domestic, public versus private. The public interest in this context has referred to both the interest of the general public in having a media system that meets its needs as citizens and those of private business with its desire to profit from the media. In the 1960s, the government made it clear, that foreign ownership, specifically American, was undesirable. With an updated Broadcasting Act, the Canadian government effectively repatriated the Canadian broadcasting system and created the CRTC. The 1968 Act stated that Canadian broadcasting was a single system made up of public and private elements that was to be owned and controlled by Canadians in order to safeguard, enrich and strengthen the cultural, political and economic fabric of Canada (Vipond, 1989, p. 52). Concerns about media conglomeration subsequently emerged in the 1970s and 1980s. The potential for a conglomerates' non-media interests to influence content preoccupied both the Kent and Davey inquiries and both sought the creation of regulations that would ensure owners

outside interests, as well as those of their friends, did not have an impact on content. The questions that preoccupied these two inquiries concerned the conflicting communications rights of owners, journalists and audiences and which rights took precedence.

Media Ownership and Content

When considering the potential impact a specific ownership type might have on content, the discussion has generally looked for direct and observable impacts. For instance, both the Davey and Kent commissioners raised the concern that a media conglomerate would act to protect its non-media interests through its media holdings and that owners would hire editors who would protect their interests. This analysis was very much a behavioural one, focusing on the journalist and how his or her behaviour could be directly controlled. Today, the direct impact of ownership on content is still a concern, but there has also been the realization that content can be shaped in more subtle and pervasive ways. In Global Media, Edward Herman and Robert McChesney detail what they describe as the restructuring of national media industries and the emergence of a global commercial media market. As previously discussed, early inquiries into media concentration in Canada were deeply concerned with the impact of media conglomerates' other corporate interests on content. Herman and McChesney are concerned that the global, private media system presents an even greater threat:

Private systems of media control pose a threat to the public sphere for several reasons: first, they rest on ownership control and therefore will tend to represent narrow class interest; and because of increasing economies of scale and scope, and other benefits of large size, media ownership tends to become more concentrated over time, aligning the media more closely with larger corporate interests. Second, privately owned media depend on advertising revenue and must therefore compete for advertiser attention and serve advertiser interests to prosper. Owner and advertiser domination give the commercial media a dual bias threatening the public sphere: they tend to be politically conservative and hostile to criticism of a status quo in which they are major

beneficiaries; and they are concerned to provide a congenial media environment for advertising goods. This results in a preference for entertainment over controversy, serious political debate, and discussions and documentaries that dig deeply, inform, and challenge conventional opinion – that is, the media/advertisers' complex prefers entertainment over cultivation of the public sphere (Herman & McChesney, 1997, p. 7).

The factors Herman and McChesney describe obviously influence content. The values and biases they describe are so pervasive throughout society that they are not readily apparent to those involved. Clearly, decisions about what is newsworthy or on what can or cannot be covered are governed directly, by internal policies, and indirectly by the commerce-focused worldview that Herman and McChesney describe.

Control

The discussion of how media ownership translates into a broad conception of influence can be furthered at this point by introducing another distinction between two different types of control: administrative and allocative. Administrative control refers to the ability to directly influence business and editorial positions by virtue of an ownership position. It is characterized by observable behaviour that has a direct impact on content. Allocative control refers to a more indirect kind of influence on the daily operations of media organizations that stems from how resources are allocated throughout an organization and how broad policy oriented decisions are made. This type of analysis is typical of academics such as Janet Wasko, Herman and McChesney, Vincent Mosco and Dwayne Winseck who study mass communications within a broader social context and draw on theories of political economy and critical social theory in their exploration. This study clearly shows that these two types of control are closely related to different forms of ownership. The forms of ownership examined here could be described as those of the media mogul and the modern corporation. The media mogul, embodied by CanWest,

emerges where legal and economic control of a media outlet resides with clearly identifiable interests. BCE and Quebecor more closely resemble the ownership model of the modern corporation where legal ownership of the company is widely distributed amongst a large group of shareholders. Administrative control appears to be most closely associated with the media mogul and there is an identifiable owner to whom decisions and policies can be attributed. The corporate form, on the other hand, is more closely associated with allocative control since a board of directors makes decisions that are implemented by the staff. The influence here is more indirect and, while associated with identifiable class interests, the vested interests of the legal owners of the company are not as evident in these decisions. Decisions are typically made in the interest of shareholders not of owners although this does not imply that the significance of these decisions is minimal. They are, however, a different type. Media type, the form of concentration and the type of power exercised are all factors that need to be considered when thinking about how diversity and freedom of the press are best protected.

Returning to the Question of the Public Interest

The themes discussed thus far are all closely intertwined and, as mentioned, all have an impact on how we think about the public interest. Over time, there has been a distinctive shift in the conceptualization of the public interest. A shift that has taken us away from a continual questioning of the normative values associated with the public interest and from a balance amongst the rights of media owners, professionals and citizens towards a more fiscal understanding of the public interest and the privileging of ownership rights. The CRTC's benefits test that determines whether or not a merger is in the public interest based solely on financial considerations embodies this shift. The

implementation of the benefits test appears to have vacated what had been a continuous attempt to work through questions about the role of media in society in reference to guideposts derived from, even if only implicitly, philosophy and political theory. Today, the “fiscal turn” has put neoclassical economics in the driver’s seat.

Historically, government intervention has been perceived as the greatest threat to freedom of the press. As Peter Golding explains, “the standard history of media-state relations constructs a narrative of gradual emancipation, in which occasional eruptions of heroic defiance, coupled with the awakening liberalism of late modernity, have steadily withdrawn the shackles of state control and oppression from liberty of expression” (Golding, 1998, p. 8). In the 1999 document, *Building on success – A policy framework for Canadian broadcasting* (subsequently referred to as the *Television Policy*) and in subsequent decisions relating to BCE’s acquisition of CTV, CanWest Global’s acquisition of the Western International Communications (WIC) broadcasting assets and Quebecor’s acquisition of TVA, the CRTC makes it clear that it believes a free, less regulated market will allow diversity to flourish. What the CRTC does not acknowledge, however, is the relationship between the media and power – a relationship that cannot be accounted for within neoclassic economic theory. “Communication means influence, and a capacity to exert influence over perhaps millions means power. Power, however, is not a primary concern for most mainstream economists, certainly not for neo-classicists; and commodity – alone/reduction – in uncertainty treatments afforded information indeed enable mainstream analysts to skirt considerations of power” (Babe, 1995, p. 40). Power, while references to it are rarely found in government policy, must be a consideration when examining the public interest.

The Broadcasting Act and the Public Interest

As a result of these dynamic forces, defining the public interest has presented a significant regulatory challenge. Its definition evolves greatly over time:

We should not be naïve about this notion of the collective good. In concrete terms, the public interest can never be definitively pinned down. It is pursued rather than known, and democracy entitles all with a point of view on it to take part in the search. But it is something on which differences almost always arise, due to the application to it of differing ideologies, values, weightings of diverse relevant values, and assessments of circumstances that must be taken into account. It nevertheless does refer to a somewhat elevated plane of discourse where those differences can be aired. Neither are notions of ‘the public interest’ ever finally settled; they are a moveable feast because circumstances, needs and perceptions of societal requirements continually change (Blumler, 1998, p. 54).

The role of the state in has also shaped this definition. As the role of government evolves over time, its responsibilities and functions are continually renegotiated. As Raboy explains, the state has multiple roles as “patron, organizer, and enabler of both the cultural and the technological aspects of communications systems. State intervention has been a means to guarantee Canada’s national sovereignty, a secure capital base for its entrepreneurs and financiers, and free expression and access to communications for various interest groups” (Raboy, 1990, p. 336). Identifying the state as the protector of the public interest, however, obscures the actual role of the state and its own vested interests:

In the specific case of Canada, the state has had three principal tasks: (1) to protect the integrity of the national entity from the centripetal pull of the imperial neighbour to the south; (2) to protect the internal cohesion of the national entity from the threat of fragmentation posed by Canada’s particular ‘national unity’ crisis; (3) to protect the market environment for the commercial prosperity of Canadian entrepreneurs. Until recently, a strong, central communications and broadcasting system was perceived as fundamental to all of these tasks, and federal policy flowed from that perception. This basic assumption has now changed (Raboy, 1990, p. 36).

The pressures of privatization and deregulation, along with the other dominant ideologies whose impact will be explored throughout this thesis, have diminished the state's role in all sectors, regardless of whether or not the actual impact of this rolling back was fully understood. This thesis attempts to rejuvenate discussions of the public interest specifically as it relates to concentration and cross-ownership, proposing some measures that would act as safeguards against its further erosion. It does so by starting with a look at the broad principles outlined in the Broadcasting Act. Given that newspapers are an unregulated industry in Canada, it is assumed that, in an effort to serve the public interest across media, the CRTC would take an owner's actions in relation to cross-media holdings into consideration when that owner is before the CRTC in a licence related process. Since the CRTC had previously instituted the policy that it would not issue broadcasting licences to anyone who already owned a newspaper in the same market, this should not be considered unreasonable. While all the public interest objectives defined within the Broadcasting Act will be explored in detail in the next chapter, the ones listed below from Section three of the act are of particular relevance to the measures of concentration and cross-ownership that will be put forward:

- Encourage the development of Canadian expression by offering programming that reflects Canadian attitudes, opinions, ideas, values and creativity and by displaying Canadian talent and by offering information and analysis concerning Canada and other countries from a Canadian point of view.
- Through programming and employment serve the needs and interests and reflect the circumstances and aspirations of Canadian men, women and children.
- Programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes, be drawn from local, regional, national and international sources, include educational and community programs, provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.

(CRTC, 1991, s.3)

Turning back to the central argument of this thesis, the questions raised relating to concentration and cross-ownership can also be used as measures of diversity, gauging the media conglomerates' success in serving objectives relating to diversity and varied and comprehensive programming as described in the Broadcasting Act. While, as will be discussed, these measures may not be typical, they do offer an analysis of each company's success in fostering diverse voices but do not hinge solely on an analysis of the content offered.¹

The Challenges

Obtaining information on which to base this analysis was extremely difficult. Consequently, this thesis relies extensively on the production of original knowledge to support its argument. The original outline of the final chapter included a case study that was to include interviews with current CanWest Global employees to get a better sense of whether or not CanWest was exercising operational control extensively and, if the company was exercising this control, how it was manifest in day-to-day operations. Following the byline strike at the Montreal Gazette, however, interest in media concentration and cross-ownership sky-rocketed and tensions between employees and employers seemed to increase. Many journalists seem to have become reluctant to speak out against their employers as attempts to establish interviews for the case study were unsuccessful. Consequently, information regarding the exercise of operational control was collected from various web sites that reported extensively on this issue. Journalism educators who were involved in the review of both the BCE/CTV and CanWest/WIC license renewal hearings were, however, very willing to discuss their involvement in the policy process. Both Peter Desbarats and Stephen Kimber provided invaluable

perspectives on the interests at play in the license renewal process and discussed their personal involvement in the process with great candour. In relating his personal experience, Kimber in particular highlighted the tensions inherent in the existing process and addressed head-on the complications of equating the public interest with a dollar figure and with involving those with a vested interest in the outcome in the process itself. Finally, detailed financial information about specific program investments could not be obtained directly from the broadcasters or their annual reports. This information had to be produced using data included in the broadcasters' submissions to the CRTC. Data provided for each year had to be examined extensively and expenditures on programming as a percentage of revenue calculated as the data was originally expressed only as a straight expenditure. As Marc Raboy has highlighted in his own research, there is definitely a lack of data in this area, making its study extremely difficult. Addressing this shortcoming through creative strategies for the original production of knowledge was the only way to study this important topic. Before embarking on this study, the final section of this chapter will introduce the main players in the Canadian media landscape and provide an overview of their holdings.

The Canadian Media Landscape

Canadians are faced with a highly concentrated media market, dominated by a few large players, three of which, Can West Global, Quebecor and Bell Globemedia, are examined in this thesis.² All three have newspaper and broadcasting interests across the country. In order to paint a picture of the media landscape across the country, the following pages sketch a profile of these media conglomerates and introduces relevant ownership statistics and markets that are of specific concern.

Can West Global: Controls 15 dailies out of a total of 105 across the country with an average weekly circulation of 10,244,867 controlling 31.3 percent of the total national weekly circulation. Also controls over 100 non-dailies, shopping guides and related publications. Owns 17 television stations across the country including CBC affiliates. Other assets include Fireworks Entertainment, Apple Box Productions and StudioPost File Labs. Interactive media assets include Canada.com, Faceoff.com, CarClick.com, CareerClick.com, allCanadianSport.ca, LifeServ.com and Medbroadcast.com. Owns the speciality channels Fox Sportworld Canada, Prime TV, Deja View, LoneStar, and Xtreme Sports along with Mystery (45 percent), MenTV (49 percent). Quebecor owns the remainder of Mystery and MenTV and the two companies similarly share ownership of CKMI-TV (51 percent owned by CanWest; 49 percent owned by Groupe TVA Inc.). As instructed by the CRTC Can West Global has divested CKVU in Vancouver (bought by CHUM) and has also sold a number of its daily and community papers to G.T.C. Transcontinental Group for \$255 million. Some of the properties sold included Halifax Daily News, Charlottetown Guardian, St. John's Telegram, New Glasgow Evening News, Cape Breton Post, Truro Daily News, Prince Albert Daily Herald, and Moose Jaw Times.³

Quebecor: Controls 16 dailies across the country with an average weekly circulation of 7,185,273, controlling 21.8 percent of the total national weekly circulation. Groupe TVA (99.9 percent owned by Quebecor) controls eight television stations while Tele Inter-Rives (44.66 percent owned by TVA) owns four television stations. Beyond the private conventional television stations, the Quebecor Media assets include the following: Vidéotron, the largest cable TV provider in Quebec with 1.5 million subscribers, and one

of the largest Internet service providers in Canada; Sun Media, the second-largest newspaper group in Canada, with eight metropolitan dailies in Canada and over 180 community newspapers; Netgraphe, the operator of the CANOE network of Internet properties; Nurun, a leading Web agency; Archambault, the largest music store chain in eastern Canada with 12 stores and extensive music/video distribution operations; magazines, a celebrity news weekly and arts and entertainment weeklies; a dozen associated publishing houses; SuperClub Vidéotron, the leader in video rentals and sales in Quebec. Quebecor is also investing in a number of speciality channels, some of them in partnership with CanWest Global.

Bell Globemedia: Controls one daily newspaper with an average weekly circulation of 2,003,935 for 6.1 percent of the total national circulation. Bell Globemedia includes all the broadcasting assets acquired with CTV, the Globe and Mail, specialty channels and the Sympatico Internet service. BCE owns 70.1 percent of Bell Globemedia, the Thomson Corporation controls 20 percent and the Woodbridge Company owns 9.9 percent (Thomson family holding company). The CTV network includes 21 stations owned by CTV and four stations owned by independents. CTV also owns six CBC affiliates, one satellite to cable service and is part owner of Viewer's Choice. Interests in specialty and pay channels include: CTV Newsnet, CTV Pay-Per View Sports (not launched), Discovery Channel Canada, Outdoor Life Network, RDS (Le Réseau des sports), ROBTv, talktv, The Comedy Network and TSN. Interests in digital speciality channels include: Animal Planet, CTV Travel, Discovery Civilization, ESPN Classic Canada, NHL Network and WTSN. CTV also owns Agincourt Productions Inc.,

Command Post and Transfer Inc., Exploration Network Inc., Dome Productions and CTV Music.⁴

Within this broad outline of ownership, almost every market raises concerns about concentration and cross-ownership. The CRTC has placed certain programming requirements on the CanWest stations in Victoria and Hamilton (rebranded as the “CH” stations and referred to by CanWest Global as independent since their broadcasting schedule is different from that of the Global stations) that may alleviate some concerns about diversity. However, these safeguards do not negate the fact that the CRTC has made exceptions to cross-ownership policy based on assumptions that have not yet proven themselves valid. As a result of the WIC acquisition, CanWest now owns two television stations in the Vancouver/Victoria market. In these markets, it also controls the Vancouver Province, the Vancouver Sun and the Victoria Times-Colonist. Beyond the Globe and Mail, there is no major daily newspaper in this market that is not controlled by CanWest Global. In total, CanWest controls 86 percent of the average weekly circulation for the province. If you were to isolate circulation to the Vancouver/Victoria region, it would be close to 100 percent. Together, CHAN and CHEK have a viewing share of 20.7 percent with CTV and CBC lagging well behind at approximately 5 and 6 percent respectively. Although restrictions placed on CanWest require minimum levels of local news and non-news programming and requires non-duplicative priority programming to be aired on CHEK (CH Vancouver Island) in Victoria (CRTC: 2000a), CanWest still has a virtual stranglehold on the market and the company’s recent actions have raised considerable concerns about how CanWest operates its business. While CTV maintains considerable strength in the broadcasting markets in

Calgary and Edmonton (15 percent and 16 percent viewing shares respectively), CanWest is pulling down similar viewing share numbers (12 percent in Calgary and 15 percent in Edmonton). Across the province of Alberta, CanWest controls 55 percent of the average weekly circulation while its business partner, Quebecor, controls 34 percent. Obviously, these conglomerates are independent but they clearly have a vested interest in each other's financial well-being. Similarly, in Saskatchewan, CanWest now controls stations in Saskatoon and Regina, commonly referred to as Global Saskatchewan, indicating the company's programming philosophy towards these stations. In fact, CanWest's submissions to the CRTC indicate that all programming for the Saskatoon and Regina stations is consolidated, including news production. Global Regina began as STV Regina (CFRE) and was launched on September 6, 1987 by CanWest Global. CFSK Saskatoon was launched at the same time as its sister station. Initially, both Regina and Saskatoon operated completely independent of each other but in 1994 CanWest initiated what it refers to on its website as a process of harmonization, resulting in Regina becoming the programming/operation centre for both markets. Regina handles the on-air broadcasts for both Regina and Saskatoon simultaneously. Clearly, CanWest Global had looked to centralization as a way of consolidating costs prior to its acquisition of the WIC properties. Consequently, no one connected to the industry, nor the CRTC, should have been under the illusion that further centralization would not take place across the company's print and broadcasting assets in order to save money. As well, through its acquisition of Hollinger, CanWest also owns the Saskatoon Star-Phoenix, Saskatoon Sun, Regina Leader-Post and the Regina Sun. Interestingly, in CanWest Global's backyard of Winnipeg, CTV and Thomson, affiliated with each other through Thomson's investment

in Bell Globemedia, dominate the market. Thomson controls 75 percent of the average weekly circulation and CTV has a 17 percent viewing share. Other regions that are also cause for concern include Southern and Northern Ontario. In the Southern Ontario region Global Ontario and CH Hamilton compete against each other in the same markets. Even though similar programming restrictions to CHEK are placed on CH, these stations co-exist alongside five Hollinger newspapers. In Northern Ontario, one sees consolidation primarily of the CTV broadcasting assets, with the broadcaster controlling MCTV, representing the Northern Ontario stations of CICI Sudbury, CKNY North Bay, CKNY Huntsville, CITO Timmins and CHBX Sault Ste. Marie. Beyond consolidation of broadcasting assets at both CanWest and CTV, CanWest virtually dominated the newspaper industry across the eastern provinces until selling most of its eastern assets to the G.T.C. Transcontinental Group. In Nova Scotia, it controlled 37 percent of the average weekly circulation and an incredible 100 percent in Newfoundland and Prince Edward Island. The Irvings continue to maintain their dominance in New Brunswick with 88 percent of the average weekly circulation. Undoubtedly then, this summary demonstrates that there are hot spots of concentration across the country. The problem that will be explored is how these levels of economic and ownership concentration and cross-ownership, enabled by government policy, have lessened diversity in the market. As the next chapter will explore, approaching this problem requires an understanding of the dynamic social forces, the nature of power and the individual motivations that are bound up with concentration and cross-ownership.

CHAPTER 2 – THEORIES OF POWER, STRUCTURE AND AGENCY AND THEIR RELATIONSHIP TO CONCENTRATION AND CROSS-OWNERSHIP

Media ownership was a dominant theme in the national discourse long before talk of convergence became fashionable. Although these concerns were often connected to the ongoing encroachment of American programming, a succession of inquiries, including the Special Senate Committee on Mass Media (Davey), the Royal Commission on Corporate Concentration (Bryce) and the Royal Commission on Newspapers (Kent), all discussed how the control of the media by both media and general conglomerates could potentially influence freedom of expression and democracy. This trend towards conglomeration and market concentration has been accompanied in recent years by unprecedented ownership concentration. Before exploring the fundamental thoughts that informed the development of the theoretical framework for this study, we must first define the key terms that really inform our understanding of the problem at hand. As we will see, the definitions of these terms can often be fairly malleable, so it is necessary to clearly establish their meaning as well as their interconnection.

Conglomeration, Cross-Ownership and Concentration

Conglomeration

As Graham Murdock explores in *Large corporations and the control of the communications industries*, “the potential reach and power of the leading media corporations is greater now than at any time in the past, due to two interlocked movements in the structure of the communications industries – concentration and conglomeration” (Murdock, 1982, p. 128). In this work, Murdock distinguishes between two types of conglomerates: general conglomerates and communications conglomerates. In a general conglomerate, the company’s main interests are outside communications in

other industry sectors. A communication conglomerate then operates primarily within the media and uses the profits from this industry to buy into other sectors of the media and leisure industries (Murdock, 1982, p. 119). In Canada, the effects of what Murdock predicted are becoming increasingly apparent as conglomerates with stakes in a range of media markets assume an "...unprecedented degree of potential control over the range and direction of cultural production" (Murdock, 1982, p. 120). Quebecor, CanWest Global and Bell Globemedia are examples of the communication conglomerates Murdock describes. Their interests cover printing, web properties, newspapers, broadcasting outlets and film and television production and distribution. Bell Globemedia is unique in some respects since it has the characteristics of a communication conglomerate but finds its home within a larger, general conglomerate although BCE's interests are primarily confined to the communications/telecommunications sector. As the Canadian broadcasting and newspaper industries approach duopoly-like conditions, it was inevitable that these conglomerates would operate in geographic markets where they own both broadcasting and newspaper properties.

Cross-Ownership

Operating multiple media holdings in the same market then refers to cross-ownership and is obviously closely related to conglomeration. Cross-ownership is a form of horizontal integration where a company establishes a presence across multiple media types, and it exists at the national, regional and local level. Again, the questions to be explored here will relate to how conglomeration and cross-ownership have become problematic in the Canadian case especially when accompanied by concentration of economic and legal ownership.

Concentration

There are multiple distinctions that have to be made when it comes to media concentration. The term concentration is used quite freely, but it is important to note the differences between economic or market concentration and ownership concentration. Market or economic concentration is the term used when discussing the number of competing media outlets in a given market, be it national, regional or local. This would focus more on something akin to a newspaper count where the focus is on the number of conduits owned by one corporation. Where much analysis of concentration falls short is its emphasis on market concentration and its tendency to ignore ownership concentration and cross-ownership. In her extensive research on the movie industry, Janet Wasko delineates between market and ownership concentration in the following terms:

The focus on *market* concentration...neglects any substantial consideration of *ownership* concentration. In order to truly assess concentration in the information business, we must look beyond the number of consumer decisions possible, or the number of conduits owned by one corporation. We must look much closer at those who make decisions and influence what is offered for consumption; those who control the conduits and content. It is important to look not only at those decisions made regarding program selection and program and information content, but also at those decisions made and policies set regarding how and why capital will be invested in communications and information technology. In other words, we must look at concentration among those who own and control the information business.
(Wasko, 1984, p. 217)

Market concentration, although extremely important, is then just part of the story. While the percentage of the market controlled by certain companies is important, of most interest for this study is the concentration of allocative and operational control in the hands of an identifiable group with common interests. Integrating an analysis of ownership concentration means not only considering the number of media properties a

given owner controls in a given market, it also means examining the ownership structure of each company:

As with 'control,' we need to distinguish between two levels of 'ownership': *legal ownership* and *economic ownership* (see Poulantzas, 1975, pp. 18-19). This distinction draws attention to the fact that not all shareholders are equal and that owning shares in a company does not necessarily confer any influence or control over its activities and policies. For legal ownership to become economic ownership, two conditions have to be met. First, the shares held need to be voting shares entitling the holder to vote in the elections to the board of directors – the company's central decision-making forum. Second, holders must be able to translate their voting power into effective representation on the board or that sub-section of it responsible for key allocative decisions...As a result, economic ownership in large corporations is typically structured like a pyramid with the largest and best organized voting shareholders determining the composition of the executive board who formulate policy on behalf of the mass of small investors who make up the company's capital base (Murdock, 1982, p. 123).

The importance of this distinction is obvious when one contrasts Bell Globemedia and CanWest Global. In the case of Bell Globemedia, ownership is widely held and it is difficult to identify shareholders beyond BCE and the Thomson Corporation. With CanWest Global, the Asper family holds 92 percent of the shares, making it very clear where economic ownership and control reside. As the Wasko quote explains, market concentration and ownership concentration cannot be looked at just in terms of statistics but must also be examined in terms of relationships and the nature of them. Murdock also stresses the importance of focusing on relationships and how they relate to the ability to control overall corporate direction. Considering relationships also helps draw attention to the many ways in which control can be exercised and helps avoid the unnecessary vilification of individual owners:

Effective economic control depends not only on the absolute size of the largest shareholding block, but also on the relative dispersal of the other voting shares and on their holders' capacity for common action and collective mobilization. Hence control is not a quantity but a social relation.

Consequently, its analysis requires a dynamic perspective which takes account of the shifting balance of power between shareholders, rather than the static enumerative approach (Murdock, 1982, p. 133).

The static enumerative approach is a reference to Adolf Berle and Gardiner Mean's book, The Modern Corporation and Private Property that put forward the idea that professional managers had seized control of modern corporations, giving rise to the managerial revolution thesis. Murdock criticizes this thesis as it determines whether or not a company is management controlled based solely on the percentage of stock controlled by the owner and fails to take into account the interconnection between shareholders and directors (Murdock, 1982, p. 133). The value of looking at social relations will become clear when we contrast ownership concentration at Bell Globemedia with that of CanWest Global. Although economic ownership of Bell Globemedia is widely dispersed, a board of directors who have a concentration of interests across specific companies raises questions about the impact this interlock has on the exercise of allocative control. In the case of CanWest, the Asper family controls the company and is well represented on the board, creating an environment where economic and legal ownership and, therefore, allocative and increasingly administration control are highly concentrated. The extent to which CanWest Global has chosen to exercise its control on a day-to-day basis to directly shape what Canadians read and watch will demonstrate the impact of legal and economic ownership concentration on diversity. With these terms defined, we can now turn to the fundamental thoughts of the theoretical framework.

Fundamental Thoughts

Questions of control are questions of power and, therefore, it is necessary to explore the nature of power and the forms it can take. Attempting to develop a fuller

theoretical investigation of power requires the integration of a number of perspectives in order to present a study that begins to address the social forces at work, the role of individuals and the structural properties influencing the current media landscape.

Approaching the study of power, introduces a great deal of complexity from a methodological, theoretical and ideological perspective. This paper employs a political economy perspective along with critical social theory in order to explore the inter-relationship between public policy and the exercise of power in the media.

This theoretical framework takes as its point of departure criticisms that those practicing within the field of mass communications research have levelled at their own discipline. In *Theories of Communication and Theories of Society*, Peter Golding and Graham Murdock express their concern about the neglect of theory and the underdevelopment of a conceptual framework to guide communications research, criticizing those within the discipline for attempting to develop a unified theory of communications and mass communications (Golding & Murdock, 1978, p. 340).

Golding and Murdock instead advocate an approach that studies mass communications within a wider social context:

In our view, the primary task of mass communications research is not to explore the meanings of media messages, but to analyze the social processes through which they are constructed and interpreted and the contexts and pressures that shape and constrain these constructions. To accomplish this we certainly require more adequate theories and conceptual schema, but they need to be themes of social structure and social processes not themes of communications (Golding & Murdock, 1978, p. 352).

As will also be explored through the works of Steven Lukes, power must also be studied from the broader social context to which Golding and Murdock refer. The framework Lukes puts forward makes a valuable contribution towards achieving this goal. The work

of theorists then such as Lukes, Golding and Murdock along with that of Giddens will be used to explore themes of power, control, social structure and social reproduction within the context of the current media landscape, focusing particularly on the nature and role of power, structure and agency and how they relate to current media environment.

In developing the theoretical framework for this paper it became evident that theories of communication, and social theory in general, have been marked by dualisms such as action/structure, subject/object, political/economic and empirical/theoretical (Mosco, 1996, p. 5). As Vincent Mosco explains, dualisms can lead to what are essentially negative definitions of relationships that are defined by either a presence or absence of characteristics. He argues that this tendency “disinclines reflection on third possibilities or alternatives that would take one outside the boundary formed by the dualism” (Mosco, 1996, p. 4). Steven Lukes highlights similar dualisms relating to the overt/covert and unconscious/conscious exercise of power in Power: A radical view. In order to avoid the trap of dualism or, its opposite, a descent into theoretical chaos, Mosco suggests the incorporation of differences through an epistemological framework that is open, inclusive and non-reductionist. Taking this as a guide, the theoretical framework for this study attempts to integrate structural and instrumental aspects of political economy within a broad framework of critical social theory. Within this framework, the study has two main goals. One, to explore the tension between government policy goals and what is actually happening in the market, highlighting the problems with the theoretical perspectives brought to bear on policy. And, two, to explore the exceptional characteristics of concentration and cross-ownership in this environment and examine

how, even if the hoped for benefits of concentration were delivered, regulators have nonetheless looked over normative questions of the public interest.

The Three Phases of Power

Steven Lukes' Power: A radical view puts forward an excellent framework for the study of power and provides a departure point for the discussion of power as it relates to the policy process and to media concentration and cross-ownership. The view of power that Lukes puts forward corresponds nicely to the structural and instrumental forms of power that will be subsequently discussed. Lukes' conceptual framework breaks the exercise of power down into three views or phases: one-dimensional, two-dimensional and three-dimensional. The one-dimensional view of power focuses on "*behaviour in the making of decisions on issues over which there is an observable conflict of (subjective) interests seen as express policy preferences, revealed by political participation*" (Lukes, 1974, p. 15). This view of power focuses on studying power from a behavioural perspective that involves actual, direct conflict. As Lukes describes it, the two-dimensional view of power is more comprehensive in that it examines behaviour through decision-making but also accommodates a space for the idea of the mobilisation of bias (Lukes, 1974, p. 17). Lukes draws on Peter Bachrach's and Morton S. Baratz's, *The Two Faces of Power*, for the idea of the mobilisation of bias that they describe as follows:

A set of predominant values, beliefs, rituals and institutional procedures ('rules of the game') that operate systemically and consistently to the benefit of certain persons and groups at the expense of others. Those who benefit are placed in a preferred position to defend and promote their vested interests. More often than not, the 'status quo defenders' are a minority or elite group within the population in question (Bachrach & Baratz, 1962, pp. 43-44).

The two-dimensional view of power then begins to incorporate both a behavioural and a tentative structural analysis of power in that it allows "for consideration of the ways in

which *decisions* are prevented from being taken on *potential issues* over which there is an observable *conflict* of (subjective) *interests*" (Lukes, 1974, p. 20). Lukes does, however, point out that there are a number of shortcomings with the two-dimensional view of power, particularly its constituted emphasis on the association of power with actual, observable conflict. Lukes also points to the consequences of unintended action in the reproduction of the bias of the system and the impact of individuals' inaction in the reproduction of social structure (Lukes, 1974, p. 22). As Lukes points out, power is not exercised only in situations of conflict and decision-making. It is most effectively exercised when it prevents conflict from arising and is used to shape peoples' acceptance of their role in the existing social order (Lukes, 1974, p. 24). Consequently, Lukes proposes a third dimension of power that addresses some of the shortcomings of the first two:

The three-dimensional view of power involves a *thoroughgoing critique* of the *behavioural focus* of the first two views as too individualistic and allows for consideration of the many ways in which *potential issues* are kept out of politics, whether through the operation of social forces and institutional practices or through individuals' decisions. This, moreover, can occur in the absence of actual, observable conflict, which may have been successfully averted – though there remains here an implicit reference to potential conflict. This potential, however, may never in fact be actualised. What one may have here is a *latent conflict*, which consists in a contradiction between the interests of those exercising power and the *real interests* of those they exclude.

(Lukes, 1974, p. 25)

Where the one-dimensional view focuses on decision-making, the two-dimensional view focuses on "situations where the mobilisation of bias can be attributed to individuals' decisions that have the effect of preventing currently observable grievances (overt and covert) from becoming issues in the political process" (Lukes, 1974, p. 37). Again, both dimensions focus on behaviour. A deeper analysis, as Lukes explains, offers the

possibility of a sociological and not just personalised explanation of how political systems prevent demands from becoming political issues or even from being made (Lukes, 1974, p. 38).

Giddens' work on the duality of structure and the nature of knowledge in social reproduction further extends the thoughts Lukes puts forward. While Lukes acknowledges that the three-dimensional view of power poses some challenges to the researcher, he emphatically states that it should not be abandoned. Specifically, he points to the challenge of the justification of the relevant counterfactual and the challenge of identifying an alleged exercise of power. Justifying the relevant counterfactual refers to determining how people would act in different scenarios were they not influenced by the exercise of power. Lukes states that this can be accomplished by examining how people react to opportunities to escape from subordinate positions in hierarchical systems and that researchers can take steps to find out what people would have done were they operating under different conditions (Lukes, 1974, pp. 46-50). The second challenge, identifying an exercise of power, involves overcoming three difficulties: inaction, unconsciousness and attribution of action to collectivities. As Lukes explains, it is possible to overcome these challenges by performing a deeper analysis of power, examining the nature of knowledge as it relates to the exercise of power and studying the inter-relationships and ideological values that influence group decisions. These difficulties, writes Lukes, should not preclude attempts to develop a three-dimensional analysis of power in order to address the shortcomings of the other two:

The one-dimensional view of power offers a clear-cut paradigm for the behavioural study of decision-making power by political actors, but it inevitably takes over the bias of the political system under observation and

is blind to the ways in which its political agenda is controlled. The two-dimensional view points the way to examining that bias and control, but conceives of them too narrowly: in a word, it lacks a sociological perspective within which to examine, not only decision-making and non-decision-making power, but also the various ways of suppressing latent conflicts within society (Lukes, 1974, p. 57).

Lukes' work then highlights the significance of studying power from both a behavioural perspective and from an ideological and sociological perspective. Given its multi-faceted nature, power obviously takes on multiple forms in social relations. Lukes' framework of the three phases of power then lays the groundwork for exploring the instrumental, structural and ideological manifestation of power in social relations.

Instrumental and Structural Power and Operational and Allocative Control

With this framework laid out, we will examine the manifestations of power and control within the media industries. Political economy's conception of power, explains Vincent Mosco in The Political Economy of Communication, is key to distinguishing the discipline from cultural studies or policy studies as it understands power as both a resource to achieve goals and as an instrument of control within social hierarchies (Mosco, 1996, p. 257). Within the discipline of political economy, the emphasis has traditionally been on structural analysis of power:

Political economy thinks of power as a resource that is *structured* or rooted in what Mahon (1980) has called an 'unequal structure of representation,' a feature built into a system that rewards market position with privileged status within social hierarchies. Moreover, power is **more than a resource** – it is also a form of control that is used to preserve such privilege against challengers. Though, in practice, policy studies and political economy overlap, it is intellectually clarifying to suggest an essential ontological difference in how the two disciplines view power. Policy studies views power as diffused and dispersed, one among many forces at work in the social field. Political economy sees it as congealed and structured, a central force in shaping the social field.
(Mosco, 1996, p. 257)

These different conceptions of power as congealed and structured as opposed to diffused and dispersed are further highlighted in the work of Giddens who also sees power as more than a resource and whose work in the area of knowledge can help us to interrogate how an underlying liberal-pluralist perspective that sees power as diffused has informed policy-making and shaped communications policy and regulation in Canada. Mosco goes on to state that the subjective dimensions of power are “mutually constituted with objective conceptions of power that derive from the fundamental rules governing society” (Mosco, 1996, p. 258). This again offers a similar view to Giddens who sees power as an element of social reproduction and, therefore, simultaneously shaped by society while at the same time also shaping society. Although political economy has traditionally been associated with a structural analysis of power, Murdock draws attention to the importance of the individual and incorporates agency into the analysis.

Action approaches to corporate activity revolve around the concept of power. They focus on the way in which people, acting either individually or collectively, persuade or coerce others into complying with their demands and wishes. They concentrate on identifying the key allocative controllers and examine how they promote their own interests, ideas and policies.

(Murdock, 1982, p. 124)

This action or instrumental approach to the study of power is closely aligned with Lukes' one-dimensional view of power with its focus on behaviour and observable conflict. The instrumental nature of power is then made evident in operational decisions that have a direct impact on the day-to-day operations of a business or, in our case, the media, especially as it is reflected in media content. Administrative power is exercised in the short-term and translates to a direct impact on a business. Therefore, it directly translates personal decisions into action, demonstrating how personal interests can be manifest in directly observable behaviour. While allocative control is studied through a structural

analysis, operational control is studied through observable actions and behaviour.

Murdock describes operational control as working at a lower level than allocative control and “is confined to decisions about the effective use of resources already allocated and the implementation of policies already decided upon at the allocative level” (Murdock, 1982, p. 122). Of interest in the current media environment is how administrative control is actually being exercised at what could be described a higher level as economic and ownership concentration has made it easier for owners to extend their roles beyond the setting of allocative policies to intervene in the daily operations of their holdings. When the recent actions of CanWest are examined, we will see how concentration of both legal and economic ownership has led to the widespread exercise of administrative power. Although the instrumental analysis of power has been criticized within political economy for economic determinism and a lack of empirical analysis, the analysis of this action element of power is essential for identifying how ownership interests directly impact media content.

The structural analysis of power is concerned with the way corporate direction and, in this case, content is shaped through the allocation of resources and with how institutions set the parameters for the day-to-day behaviour of media professionals. The pivotal concept here, argues Murdock, is not power itself but determination. Structural analysis looks beyond intentional action to examine the limits to choice and the pressures on decision-making (Murdock, 1982, p. 124). The last sentence of the quote above has particular significance. Murdock’s reference to the limits to choice and the pressures on decision-making provides a point of departure for the structural analysis of power. The claim is that media operations are certainly influenced by the capitalist structure of the

economy but there is also a second dimension of structure that focuses on how government policy has created an environment that allows for the consolidation of power and creates the conditions for the full exercise of instrumental power in the form of operational control. Structure then plays not only a constraining role but also a constitutive and enabling role in the exercise of corporate power over the media. Allocative control is then a form of structural power. It is an indirect form of executive influence that is manifest in the control over resources and sets of relationships over time. Through allocative control, executives can effectively set the boundaries within which administrative or operational control is exercised. Murdock defines allocative control as “the power to define the overall goals and scope of the corporation and determine the general ways it deploys its productive resources” (Murdock, 1982, p. 122). This aligns closely with Lukes’ two-dimensional view of power as it focuses on both decision-making and non-decision-making and both overt and covert, yet still observable, forms of conflict and begins to incorporate the notion of agenda setting into the analysis of power. Similar to the two-dimensional view of power, allocative control is still closely tied to the study of behaviour and the corporate decision making process. In fact, Murdock associates four specific areas of corporate activity with allocative power:

1. Formulation of overall policy and strategy
2. Decisions on whether and where to expand (through mergers and acquisitions or the development of new markets) and when and how to cut back by selling off parts of the enterprise or laying off labour.
3. The development of basic financial policy, such as when to launch a new share issue and whether to seek a major loan, from whom and on what terms.
4. Control over the distribution of profits, including the size of the dividends paid out to shareholders and the level of remuneration paid to directors and key executives.

(Murdock, 1982, p. 122)

Murdock argues that a full analysis of control needs to look at the interplay between intentional action and structural constraint at every level of the production process (Murdock, 1982, p. 125). This thesis will question the impact of the government's removal of structural constraints, influenced by ideological views relating to the liberalization of communications policy and the transition from cultural to industrial policy, on the trend towards consolidation and on the treatment of the public interest in government policy.

Media Ownership Types and their Manifestations of Power

The relationship between power and media ownership can be illustrated by discussing two ideal types of media ownership: the media mogul and the media conglomerate. The media mogul most frequently seems to embody the exercise of operational control as decisions made by specific individuals can be translated into actions. The media conglomerate, with its dispersed ownership structures, is more closely associated with allocative power where board members and executives set the parameters within which the operational control of editors and publishers is exercised. As will be explored in relation to CanWest Global, owners, who have traditionally been confined to the exercise of allocative control, seem to be exercising their operational control more frequently by virtue of the power they have because of economic and ownership concentration. This then leads one to question whether the absence of structural constraints on concentration has led to the concentration of economic power at the allocative level and the increasing exercise of administrative power within the day-to-day operations of broadcast and newspaper outlets.

Structure, Agency and Ideology

Although the structural and instrumental analysis of power as put forward offer the starting point for a more thorough analysis of how power is exercised by the modern media corporations, the characteristics Lukes attributes to the three-dimensional view of power still need to be incorporated. Analyzing power from both an allocative and operational perspective remains largely focused on behaviour similar to the one- and two-dimensional views of power. Incorporating Giddens work on the notions of structure, agency and knowledge in the role of social reproduction, helps extend our analysis of power to more fully address the complex inter-relationship between individual action and motivation, social forces and the underlying knowledge base that informs many of the policy decisions that will be examined. Turning back to the original structural analysis of power discussed at the beginning of this section, the dualism of structure and action has been an area of theoretical contestation in the study of communications. The theorists covered in some detail so far put forward two slightly different nuances of structure and action. While Murdock's thoughts on the structural and instrumental analysis of action will be used to better understand the implications of ownership concentration for the media industry, Giddens' work will be used to create a more comprehensive theory of action and develop our understanding of the policy process. Within the theory of structuration, Giddens describes a view of power similar to that of Lukes in that both theorists offer a sociological view of power. Giddens explains that power is exercised through relationships and that we all, to varying degrees, have access to the resources through which power is expressed:

Resources are media through which power is exercised, as a routine element of the instantiation of conduct in social reproduction....Power

within social systems which enjoy some continuity over time and space presumes regularized relations of autonomy and independence between actors or collectivities in contexts of social interaction. But all forms of dependence offer some resources whereby those who are subordinate can influence activities of their superiors (Giddens, 1984, p. 16).

Allocative and operational or administrative control as previously discussed are the types of power resources that Giddens refers to and are the media through which power is being exercised within the Canadian media industries. To some extent, it is operational control that gives journalists, editors, etc. their power to control the operations of media outlets. However, economic and ownership concentration, as this thesis argues, appears to be translating to the ability of owners to exercise administrative control and is eroding the autonomy of media professionals, leaving the latter with fewer and fewer resources through which they are able to exercise their power. For Murdock, structural analysis lies in looking at the way the dynamics of the media industries and capitalist economies limit and circumscribe policy and media operations. The incorporation of Giddens allows us to extend this notion to also study structure as constraining and enabling as his work creates a space for the role of the individual within the production and reproduction of social systems. Power and structure, as already discussed, are two relevant ideas from Giddens' work for this thesis as are his theories on the dynamics of change, the duality of structure and the nature of knowledge in social interaction. Turning to the dynamics of change and the creation of a space for human action, Giddens articulates a conception of social production and reproduction that acknowledges the significance of individual action and offers the theoretical tools required to begin questioning how conflicts can be suppressed within society, a key characteristic of Lukes' third dimension of power:

Deconstructing 'society,' however, means recognizing the basic significance of diversity, context and history. Processes of empirical social reproduction intersect with one another in many different ways in relation to their time-space 'stretch,' to the generation and distribution of power, and to institutional reflexivity. The proper locus for the study of social reproduction is in the immediate process of the constituting of interaction, for all social life is an active accomplishment; and every moment of social life bears the imprint of the totality. 'The totality,' however, is not an inclusive, bounded 'society,' but a composite of diverse totalizing orders and impulsions (Giddens, 1993, p. 8).

Beginning the New Rules of Sociological Method with these words, Giddens outlines the significance of structure, action and knowledge in the production and reproduction of social practices. The significance of Giddens' work for this paper is then threefold: one, it allows us to create a space for human action that is not totally bound by structure but also by individual motivation, it allows us to conceive of structure as both enabling and constraining of human action, and it allows us to better understand the role of knowledge in the production and reproduction in social systems.

Giddens' theory of structuration begins with the idea that the production and reproduction of society is a result of the skilled performance on the part of its members. This helps us to understand the dynamics of change, or the lack of it, in social systems over time, creating a theoretical space that accommodates individual or collective motivations along with the concepts of conflict and resistance. As discussed, the idea of action has been an area of disagreement within political economy and critical social theory. Some have criticized Marxist analysis for its conception of action and change (Layder, 1994, p. 46), although Murdock points out that Marx's analysis did contain both a structure and action approach:

The action strand in Marxism focuses on the way in which capitalists use communications corporations as instruments to further their interests and consolidate their power and privilege. In its simplest version, this kind of instrumental analysis concentrates on how individual capitalists pursue their specific interests within particular communications companies. The second main variant, however, works at a more general level and looks at the way the cultural industries as a whole operate to advance the collective interests of the capitalist class, or at least of dominant factions within it.

(Murdock, 1982, p.126)

The idea of instrumental action then offers the basis for looking at the actions of owners but makes it difficult to conceptualize resistance or dissent. Giddens' theory of structuration provides a bridge between this instrumental theoretical perspective with its emphasis on action and agency and those perspectives that foreground structure (Layder, 1994, p. 213). Although Murdock's work accounts for action and structure in the ownership class, Giddens' theorization of society as the production and reproduction of skilled individuals allows us to begin to understand the opportunities for opposition amongst journalists as well as understand the role of knowledge in social change. It also lends the sociological perspective that Lukes identifies as missing from most studies of power. Giddens points to early social theory as problematic because of its interpretation of order as moral consensus which he states makes it difficult to analyze the "interests which intervene between the actions of individuals and the overall global community, the conflicts that are predicated upon these, and the power alignments with which they are interlaced" (Giddens, 1993, p. 105). Change then has less to do with an individual's desire to align their interests with a common value system and more to do with their individual conditions and resources of which the individual might not even be aware:

The reproduction of modes of domination, one must emphasize, expresses asymmetries in the forms of meaning and morality that are made to 'count' in interaction thus tying them into divisions of interest that serve to orient struggles over divergent interpretations of frames of meaning and moral norms (Giddens, 1993, p. 165).

Later in this thesis, however, we will explore theories of social cohesion and explore how, in the case of an economic elite, a common value system does play a role. This is not a common value system in terms of morals but in terms of protecting financial stability or equilibrium as Porter described it in The Vertical Mosaic. With the introduction of social structure as produced and reproduced by human agents, Giddens then helps us to build a theory of action and offers the skills required to address the dynamics of change that were not fully developed in earlier social theory while also helping us to develop a fuller view of the role of individual action in social change

Moreover, Giddens' thoughts on the duality of structure offer an additional theoretical perspective for understanding the interplay between social systems and individual motivation within the context of social reproduction. Social production and reproduction acknowledges social change as the skilled accomplishment of individuals, and the duality of structure helps us to understand how these accomplishments or acts, while creating the structural properties of social systems, are at the same time shaping and reshaping these systems. This provides a theoretical balance between those theories that emphasize the behavioural versus the structural analysis of power. Giddens sees the duality of structure as existing in power relations. Although, given current levels of concentration, it may seem like journalists have little power to exercise, the key is that the potential for action exists only to be realized more or less under specific conditions.

This idea demands that we continue to develop our understanding of the role of the individual within the reproduction of the social system:

Giddens proposes that we consider structure as a duality including constraining rules and enabling resources. No longer rigid scaffolding that controls and gives form to social life, structure both constitutes action and is reproduced by it. In this respect, structure and action are interconnected in the ongoing patterning of social life. Structuration therefore describes a process by which structures are constituted out of human agency, even as they provide the very 'medium' of that constitution (Mosco, 1996, p. 213).

Giddens' concern then is to not examine structures in a reified mode that tends to think of social structures as objects existing in nature. By introducing the duality of structure, he strives to acknowledge the distinction between objectification and reification. The dissolution of reification "is tied to the possibility of the (cognitive) realization by actors that structures are their own productions; and to the (practical) recovery of their control over them" (Giddens, 1993, p. 131). As Giddens explains, this does not mean that structural analysis is a futile project but rather that one must look at the conditions that govern changes in structures. By examining these conditions specifically, we can see how the structural properties of social systems can constrain or enable social change. When we examine policy within this thesis, we can see this theory in action. Specific interpretations of policy focusing on a neoclassic economic analysis and liberal-pluralist assumptions of power have constrained some elements of the system while enabling others. Using this theoretical framework, we can explore how and why these structural properties were reproduced and understand their lasting properties.

Giddens work on knowledge plays an important role in understanding the dynamics of this process. Human agency and social structure exist in a relationship with individual acts reproducing structure. Our involvement in this reproduction and even

how we think about and respond to social situations is conditioned by the knowledge to which we have access. Giddens' work on knowledgeability begins to explore this connection and describes the multiple levels of consciousness that intertwine with different types of knowledge. This way of thinking about knowledge can help us to understand how responses to questions about media ownership have changed over time and how they reflect the underlying economic knowledge and theories that have been applied to these issues. It is important to acknowledge the distinctions Giddens makes between the consciousness and the unconsciousness and the significance of knowledgeability and reflexivity. Giddens puts forward the idea that we reproduce social practices based on the expectations of others and what we observe in day-to-day interaction. Knowledgeability is everything that we think we know about the circumstances of action that we then draw on in the production and reproduction of action. This includes tacit and discursively available knowledge (Giddens, 1984, p. 375). Reflexivity is important in this context since it is the reflexive form of the knowledgeability of agents that Giddens says is most deeply involved in the reproduction of social practices and refers to the "monitored character of the ongoing flow of social life" (Giddens, 1984, p. 3). One's understanding of and ability to observe day-to-day activities is crucial to the production and reproduction of social practices. Our access to this knowledge and ability to understand social situations, however, depends upon whether or not it rests in the conscious or the unconscious. Giddens notes that it is the unconscious that includes forms of cognition and impulsion that play a role in motivation yet should not diminish our understanding of an individual's ability to control their

actions (Giddens, 1984, pp. 4-5). Intertwined with his explanation of the conscious and unconscious is the distinction between practical and discursive consciousness:

Practical consciousness involves recall to which the agent has access in the *duree* of action without being able to express what he or she thereby 'knows'. The unconscious refers to modes of recall to which the agent does not have direct access because there is a negative 'bar' of some kind inhibiting its unmediated incorporation within the reflexive monitoring of conduct and, more particularly, within discursive consciousness (Giddens, 1984, pp. 49).

Discursive consciousness refers to what we are able to say about social conditions or the conditions of our own action (Giddens, 1984, p. 374) while practical consciousness refers to what we inherently believe about social conditions but cannot express (Giddens, 1984, p. 375). Giddens distinction between mutual knowledge and commonsense helps to further explain the distinction he makes between practical and discursive consciousness. Mutual knowledge is the type of knowledge he associates with the unconscious and refers to the interpretative schemes actors use to constitute and understand social life. He goes on to define commonsense as an articulated body of theoretical knowledge that individuals use to explain why things are as they are. The difference between the two is that while mutual knowledge appears as taken for granted knowledge, commonsense draws on and reflects the perspectives of experts (Giddens, 1993, p. 122).

These distinctions have implications for how our thinking on media concentration and cross-ownership have evolved. Interpretation of media policy has largely been conceived within an environment made up of an inconsistent amalgam of thoughts informed by nationalism, neoclassic economics and liberal-pluralism. One can see the exercise of discursive consciousness within policy development as policy makers sought to build a media system that would prevent American domination of the Canadian media. At the same time, one could see neoclassic economic thought operating at the level of

practical consciousness reinforced by common sense knowledge of experts in shaping the media system, conceiving of it primarily as a private enterprise driven by advertising revenue. In the current environment, we can now see the influence of theories of globalization and liberalization, working at the level of discursive consciousness, being used to justify CRTC policy decisions that have permitted further concentration and directly contradicted policies that sought to limit concentration and enhance diversity. Expert knowledge associated with the merger review process has largely upheld these assumptions. The notion of convergence itself and its associated benefits was not interrogated and instead worked out at the level of discursive consciousness to justify ownership concentration. Giddens' distinction between discursive and practical consciousness also relates to the difficulty of identifying an unconscious exercise of power as associated with Lukes' third dimension of power which is associated with one be unaware of the consequences of one's actions (Lukes, 1974, p. 51). For example, the underlying theoretical perspectives brought to bear on the question of media concentration shape the direction of policy and often, because of the nature of knowledge, preclude a thorough questioning of the consequences of specific policies or actions taken within the policy process:

All human beings are knowledgeable agents. That is to say, all social Actors know a great deal about the conditions and consequences of what they do in their day-to-day lives. Such knowledge is not wholly propositional in character, nor is it incidental to their activities. Knowledgeability embedded in practical consciousness exhibits an extraordinary complexity – a complexity that often remains completely unexplored in orthodox sociological approaches, especially those associated with objectivism. Actors are also ordinarily able discursively to describe what they do and their reasons for doing it. However, for the most part these faculties are geared to the flow of day-to-day conduct.
(Giddens, 1984, p. 281)

As Giddens explains, social actors frequently understand why they are doing what they are doing yet social action usually takes place within an unquestioned flow. To a certain extent, the individual is not conscious of his or her actions. We can turn to an example that will be discussed later in the paper to illustrate this point. Peter Desbarats, a former journalist, professor and consultant to the Kent Commission, supported the CRTC's approval of licence renewals for CTV and CanWest Global. Desbarats spoke out in favour of the increased investment in programming that would come with a strong ownership structure and the development opportunities that would be available to new journalists through the infusions of cash the companies offered to the regulator in the form of benefits packages. At the level of practical consciousness, Desbarats was drawing on liberal-pluralist assumptions that assumed the system would continue to run effectively if limitations on media ownership were removed since he assumed power would be widely dispersed. In a recent interview, however, Desbarats explained that, at the time, he did not believe that media owners, specifically Izzy Asper, would exercise power in the ways that have become all too common. This also demonstrates an exercise of unconscious power as associated with the three-dimensional view of power. Although Desbarats and others involved in the process certainly could have anticipated that owners would exercise their operational power, the underlying ideologies that informed their decisions led them to downplay this potential and, in effect, blinded them to the potential consequences and the need to establish safeguards as part of the process.

Desbarats position within the regulatory process shaping the contours of media ownership in Canada illuminates well the interaction between knowledge, power and structure outlined in this chapter's review of these ideas offered by Mosco, Giddens and

Lukes. It both enabled the transformation of media ownership in Canada while stabilizing the new organizational structure yet, simultaneously, produced unanticipated outcomes that can be reasonably attributed to, to use Lukes' term, the silent ideology informing his stance. This interplay between knowledge, power and structure informs the analysis on the following pages.

CHAPTER 3 – EVOLUTION OF THE CANADIAN REGULATORY FRAMEWORK

Canadian government policy on the mass media draws extensively on liberal-pluralist and neoclassic economic theory along with dominant assumptions relating to ideas about privatization and globalization in the development of contemporary regulatory frameworks. Relying on this underlying body of knowledge, governments have removed, or proposed the removal of, many structural constraints on media cross-ownership and concentration in favour of a free market enterprise system. In Canada, this has led to a rethinking of the public interest and the regulatory measures required to protect it as dominant theories about the nature of competition and its contribution to diversity has underwritten the introduction of regulatory conditions that enable cross-ownership and concentration. As discussed, this transition to an industrial policy approach effectively vacates the concept of the public interest of any normative values and implements a fiscal understanding of the public interest through the benefits test. Obviously, the economics of the media industry are complex and do play a role in the process. The purpose of this chapter is to better understand why governments, in the face of economic pressures of which the logical outcome is concentration, have chosen to implement policies that allow for concentration when its benefit is not clear. Although expressing the belief that it is implementing a free market or laissez faire approach to regulation of the broadcasting industry, the CRTC even acknowledges that it is fostering clusters of concentration in hopes that this will create benefits for the industry. Two gaps have emerged in this process: the gap between the benefits the CRTC hoped for and what is happening in the market, and the gap between the actual regulatory framework the CRTC has put forward and its long term goals for the industry. With respect to the latter,

even if the broadcasters delivered on all the benefits they put forward, this financial investment would still not compensate for the normative considerations the CRTC abandoned with the benefits test. Systemically, the questioning of the values the broadcasting system should support has been replaced by accounting procedures. The analysis in this thesis focuses on the gap between the benefits the CRTC has hoped for and actual market realities with this chapter embarking on an historical investigation of the treatment of concerns about concentration and cross-ownership in Canadian policy and an exploration of the ideas and theoretical perspectives that have led us to this gap.

Treatment of the Public Interest in Regulatory Policy

It is necessary to begin with a basic overview of how the public interest has been defined within regulatory policy for two main reasons: one, to explore the historical development of the definition over time and the factors that shaped the definition and two, to better understand the pivotal role this term and its definition have played in policy development. In the most recent broadcasting decisions relating to CanWest, Bell Globemedia and Quebecor, the CRTC refers to the public interest as defined within the Broadcasting Act. While the Act does not describe a specific definition, it does define the broad criteria that constitute the public interest. Although the benefits test is based on a measure of a merger's *economic* value, the Broadcasting Act describes the *social*, *political* and *cultural* values that constitute the public interest in the following terms:

- Safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada
- Encourage the development of Canadian expression by offering programming that reflects Canadian attitudes, opinions, ideas, values and creativity and by displaying Canadian talent and by offering information and analysis concerning Canada and other countries from a Canadian point of view
- Through programming and employment serve the needs and interests and reflect the circumstances and aspirations, of Canadian men, women and

children (including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society)

- Be adaptable to scientific and technological change
- Contribute to the creation and presentation of Canadian programming
- Make maximum and predominant use of Canadian creative and other resources in the creation and presentation of programming
- Programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes, be drawn from local, regional, national and international sources, include educational and community programs, provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern (CRTC, 1991, s.3)

However, the CRTC, by supplanting cultural policy objectives with industrial policy objectives, has changed its perception of the public interest and the tactics used to protect it – tactics that one could argue are, in fact, detrimental from a socio-cultural perspective. It appears to be making decisions in relation to the most recent mergers based solely on the economics of the broadcasting industry and the potential economic concentration creates for consolidating resources to produce not only more but also better quality programming. This conceptualization closes off the opportunity to examine the values and rights associated with the public interest and reflects the CRTC's long-standing tendency to associate the private property rights of owners with the public interest:

The CRTC effectively enshrined the private property rights of commercial broadcasters by refusing to delve into the 'managerial prerogatives' of their financial affairs, even where these might have had bearing on fulfilment of licence requirements. The CRTC habitually granted automatic licence renewals, refusing to allow competitive applications, tolerated a *de facto* traffic in licences between buyers and sellers of broadcasting enterprises, and would not enforce licence conditions. In spite of explicit wording of the broadcasting act, the CRTC protected the interests and guaranteed profitability of the broadcasting industry – a particularly contradictory attitude when seen in light of the CRTC's approach to the CBC.

(Raboy, 1990, p. 235).

If the CRTC had delved into these 'managerial prerogatives' of broadcasters' financial affairs in the context of current decisions, it would have discovered that most broadcasters were not meeting their priority programming requirements prior to spending vast amounts of money on acquisitions. The CRTC's decisions fail to demonstrate evidence of the benefits of consolidation but continue to rely on the assumption that economic efficiencies will result in increased programming expenditures:

The broadcasting industry has been restructuring through ownership consolidation. This has resulted in efficiencies and synergies which should provide increased investment in Canadian programming and a greater likelihood of the export of that programming. The Commission expects that the consolidation of broadcasting, production and communications companies will continue to the benefit of Canadian audiences, the Canadian broadcasting system and the public interest (CRTC, 1999).

While the initial definition of the public interest associated with the Broadcasting Act places greater emphasis on diversity, the emerging view of the CRTC appears to be that a wide and dispersed power base will continue to prevent owners from using their control over the media to their own benefit. The current view is also reinforced by the belief that media diversity will continue to be safeguarded by the exercise of administrative control by news directors, editors, publishers and other media professionals. This approach effectively ignores questions about the competing communications rights of owners, journalists and audiences and under what conditions ownership rights might overwhelm all other communications rights. The fallibility of this policy assumption and its impact on media content will be demonstrated as CanWest, in particular, has leveraged its economic and legal ownership to exercise control over its media holdings and other broadcasters have sacrificed diversity of content in the quest for greater profitability.

Reflecting the challenge of defining the public interest, the Davey Committee and the Kent Commission used relatively malleable definitions that reflect the struggle to reconcile the rights of owners, journalists and the audience. Both inquiries perceived very similar, well defined threats to the public interest. Within its recommendation to establish a Press Ownership Review Board, the Davey Committee stated that any mergers that increased the concentration of ownership were “undesirable and contrary to the public interest - unless shown otherwise” (Davey, 1970, p. 4). Contemporary CRTC decisions, however, start with the assumption that mergers are in the public interest. Although it might seem that the end result of an inquiry would be the same because the acquiring company still has to prove that the merger supports an adequate benefits package, it would seem that the burden of proof to demonstrate that a merger supports the public interest would be greater under the conditions the Davey Committee proposed. Any reduction in the diversity of news sources available and any concentration of the control of these news sources within the hands of a small group was seen as negative:

This tendency could – but not necessarily – have the effect of reducing the number of ‘diverse and antagonistic sources’ from which we derive our view of the public world. It could also – but not necessarily – lead to a situation whereby the news (which we must start thinking of as a public resource like electricity) is controlled and manipulated by a small group of individuals and corporations whose view of what’s Fit to Print may closely coincide with What’s Good for General Motors or What’s Good for Business, or What’s Good for my Friends Down at The Club. There is some evidence, in fact, which suggests that we are in that boat already (Davey, 1970, p. 4).

The Committee did express some trepidation in terms of wholeheartedly condemning newspaper chains as a threat, but it firmly believed that ownership concentration, be it through mixed media holdings or conglomerate holdings, gave a small ownership group too much power.⁵ The Kent Commission used a similar definition of the public interest, equating it with a redefinition of freedom of the press as freedom of the press from

corporate interests, and in so doing clearly recognized the communications rights of journalists. The Commission sought to put public responsibility on an equal footing with the quest for profit, and it proposed regulations that would ensure that people felt newspapers, as a societal institution, exercised their power legitimately. The Commission stated that editorial judgment must be free from the influence of an owners' financial interests:

This is the basic conclusion of our inquiry. The conglomerates should be kept out of the newsrooms. They claim that they are not there now; they have the power but they abstain. The reason for the claim is clear: they recognize that, to the extent that they are believed to be there, the newspapers do not enjoy public trust, they do not have legitimacy as the servants of a free society. The newspapers do not stand high in public esteem because, while the claim to abstention is made and only rarely identified as a lie, every reasonable person knows that this is far from the whole truth. The corporate proprietors or their agents determine the resources to be used for the newspaper's content, they choose the people, they set the tone, they establish the implicit guidelines for the what and how of news and the why of acceptable comment. They make their disclaimers in the morning but they go to bed knowing that their trusted agents keep their papers on their lines (Kent, 1981, p. 233).

The Kent recommendations recognized the significance of power within the media production process and the threat that the concentration of ownership control presented to editorial freedom and the presentation of diverse and antagonistic view points on matters of public concern.

The Kent and Davey inquiries' views on the public interest reflect the influence of the ideas associated with the Fairness Doctrine in the US that entrenched the communications rights of audiences alongside those of journalists and owners – an idea that the CRTC endorsed in the 1970s. The Fairness Doctrine, introduced in 1949, stated that broadcasters must provide adequate time on their stations for the discussion of matters of public importance from a range of differing view points. Although not

repealed by the FCC until 1987, the Fairness Doctrine faced numerous court challenges, Red Lion Broadcasting versus the FCC in 1969 being perhaps one of the most significant. In Red Lion, the court upheld the constitutional and statutory basis of the doctrine. The case involved a radio station in Pennsylvania that aired a 15-minute broadcast that attacked journalist Fred Cook. In response to the broadcasts, Cook demanded the free right of reply but the station refused. Cook took his demand to the FCC who agreed with him but Red Lion challenged the FCC's decision in court. The court found in favour of the FCC and held that the government had a right and duty to ensure that broadcasters present public issues in a way that allowed both sides to present their arguments. The FCC abandoned the policy in 1987 because it was originally justified on the basis of spectrum scarcity and this justification no longer applied. The CRTC recognized similar rights after the broadcast of *Air of Death*, a controversial CBC documentary on pollution. In response to the documentary, the Ontario Legislature created a special committee that concluded the program had been untruthful and irresponsible. In response, the CRTC held a public hearing that investigated the production of the program and established the limits of acceptability for controversial broadcasting (Bird, 1988, p. 484). The committee was not satisfied that the quality of research demonstrated in the preparation and production of the program was maintained with consistency throughout. When dealing with informational programs, the committee felt that it was essential that these programs be fairly and truthfully presented and that the public be informed that there are other points of view on the subject. The committee stated that the interests of Canadian broadcasters and the Canadian public were best served "by fair and objective treatment of the issues of public concern, by the expression of diverse points of view and by the

assumption on the part of the broadcasters that at this stage in the evolution of informational programming, the public is sufficiently sophisticated to accept and to benefit by the expression of a variety of opinions” (CRTC, 1970 qtd in Bird, 1988, p. 496). While owners’ property rights had always been entrenched, the committee’s findings recognized the editorial rights of journalists, acknowledging that journalists would approach their work from a particular point of view, as well as the audience’s right to be exposed to a diverse range of viewpoints and sources. These findings along with those of the Kent and Davey inquiries made it clear that when it came to the practice of journalism, there was not a unified conception of communications rights but three distinct and equally important sets of rights. As will be explored, it is the Asper family’s confusion of their rights as owners with the totality of these communications rights and the family’s ability to undermine these other rights by virtue of their ownership position that embodies the threat their actions present to the public interest.

The Davey Committee and Kent Commission: Windows on the Future

The Davey Committee and Kent Commission provide us with an historical perspective media concentration and cross-ownership. In its research, the Davey Committee found that genuine newspaper competition existed in only five Canadian cities. The Committee reported that 75 years ago, there were 35 Canadian communities with two or more dailies. By 1970, there were just 15 communities with two or more dailies and in five of those 15, two dailies were published by the same owner. In the late 1950s, Thomson, Southam and F.P. Publications controlled 25 percent of circulation, but by 1970, this number had reached 44.7 percent (Davey, 1970, p. 5). “Your average daily newspaper editor,” wrote the Committee, “is the hired branch-manager for a group of

shareholders who typically live somewhere else. Fully 77 percent of circulation of all Canadian newspapers is now controlled by these chains” (Davey, 1970, p. 5). According to the Committee, controlling these monopolistic tendencies of the media was just part of the challenge:

Plainly, something is wrong...it seems to us that there has never been a Period in the nation’s history when the press has been so distrusted, so disrespected, so disbelieved...There is something about the media that is turning people off (Davey, 1970, p. 5).

The Committee speculated that Canadians’ discontent with the media reflected a general dissatisfaction and disillusionment with societal institutions. The media were seen as being too closely aligned with government and business, and it was the Committee’s feeling that the owners’ private interests were beginning to infringe upon the content of their newspapers. The Committee looked closely at the extent to which the media were controlled by groups and how this was affecting the day-to-day operations of the media (Davey, 1970, p. 15). Its approach to the problem was forward thinking:

The Davey committee brought together for the first time all the diverse experiences then taking place in both the traditional, or mainstream media, and the new, or alternative, media in Canada. It heard submissions about such questions as the harassment of street vendors of the ‘underground’ newspaper Logos in Montreal and the problems Quebec’s mainstream journalists were having with the courts and police. The Davey Committee’s report, published in December 1970, provided one of the first official displays of legitimation for the oppositional press current of the period.
(Raboy, 1990, p. 201)

Despite the diversity of the reports it drew on, the Committee seems to have relied most on a study completed by Hopkins, Hedlin Limited of Toronto. The study took a detailed look at the economics of the media industry in Canada and provided a profile of ownership concentration that demonstrated the extent of common interests within each medium and between media as well the extent to which communications interests were

held by conglomerate organizations with holdings in other industries (Hopkins, Hedlin, 1970, p. 41). It focused on 103 communities that had a daily newspaper and a television station or stations. While the Committee relied heavily on circulation figures drawn from this report, the complete study provided an analysis of the state of ownership in major centres along with ownership profiles. It also included an analysis of the economics of the mass media and studied the implications of legislation on ownership patterns, including Combines Legislation and estate and succession duties. To determine the base level of concentration, the Committee looked at specific communities that had a single owner controlling multiple interests. The Committee believed that the potential to exert influence was greater in this type of an environment than in a newspaper chain where a single owner controlled multiple outlets in different communities (Davey, 1970, p. 16). The study revealed an initial pattern that raised some concern. Of the 103 communities studied, there were 61 where groups or independent owners owned two or more of the community outlets; 34 where groups owned two or more radio stations; 26 communities where independents owned two or more outlets; 31 communities where groups had common interests in both radio and television stations; and another 14 communities where independents had the same multiple interests (Davey, 1970, p. 19). The Committee felt that these figures indicated an unacceptable level of concentration, but it did not assume that mergers and consolidation were inherently negative:

Again, the moral is that there is no moral. There are not, nor can there be, any sweeping criteria that will determine now and for all time which ownership concentration situations mitigate against the public interest, and which ones are operating in its favour. In every case the arguments for and against are quite finely balanced. Each case must be judged in the light of individual circumstances.
(Davey, 1970, p. 70)

The Davey Committee members clearly felt that the levels of concentration observed within the industry were unacceptable and looked to put measures in place that, while not necessarily eliminating future mergers, would at least ensure that concentration of ownership power in this context would be thoroughly assessed. The Press Ownership Review Board, arguably the Committee's strongest recommendation, would have put the regulatory structure in place to ensure future mergers met specific public service criteria. The Committee recommended that the board have the power to approve or disapprove mergers between, or acquisitions of, newspapers and periodicals. The basic guideline considered any merger or acquisition that led to an increase in concentration of ownership undesirable unless it could be proven otherwise. While the board's authority would be restricted to transactions involving the print media, the Committee hoped that this principle would be included in an amendment to the Broadcasting Act to create a two-part legislative framework that would "protect the public against some of the undesirable effects of media ownership concentration" (Davey, 1970, p. 71). The Committee illustrated sensitivity to the CRTC's concern with the economics of broadcasting and explicitly stated that the CRTC should be given more precise guidelines on how much concentration of media ownership was tolerable (Davey, 1970, p. 256). The Committee went on to make a number of additional recommendations including the establishment of press councils, a freeze on second-class mail rates and enhanced training for journalists and journalism students. The creation of an independent Press Ownership Review Board could have been, however, the Committee's most lasting legacy. This again identifies the dilemma the CRTC faces in its belief that it must remain responsive to the economic needs of the industry. Mary Vipond points out in relation to Canadian

content requirements that the reason many of the CRTC policies have not worked is that they do not solve the fundamental problem with the Canadian broadcasting industry: it is not in the economic interest of Canadian broadcasters to produce Canadian programming (Vipond, 1989, p. 172). This should not lead one to conclude, however, that broadcasting is not profitable. As Marc Raboy points out, while the government has diverted resources from the CBC, private broadcasters have continued to grow, and no “Canadian government has ever taken concrete steps to contain the profitability of private broadcasting” (Raboy, 1990, p. 9).

It is also important to note that the Hopkins, Hedlin Limited study, relied on so heavily by the Davey Committee, while exhaustive in terms of assessing the ownership groups, the percentage of circulation they controlled, and their cross-media interests, focused only on economic concentration of the media and did not address ownership concentration and cross-ownership. Given the concerns the Committee expressed, looking into the actual business players and how they were interconnected through various business and social interests did prove enlightening and supported the committee’s concerns about social influence. Yet, the focus on economic versus ownership concentration reflected the government’s primary interpretation of this issue as one of economics rather than one of power. Thus, while the Davey Committee was forward thinking in terms of articulating the perils of economic concentration, but it was weakened by the structural limitations of the existing regulatory framework and by the knowledge base that informed its decisions.

Ten years later, the Kent Commission continued where the Davey Committee left off, launching a thorough investigation of the extent of media concentration in Canada

and including an extensive public consultation that drew on a wide range of social interests. The decade preceding the Kent Commission had been a difficult one for independent newspapers in particular. Between 1970 and 1980, independent titles had decreased from 45 to 29 while chain titles increased from 69 to 88. Chains that accounted for 58 percent of circulation in 1970 now accounted for 77 percent of the national circulation. Eight newspapers that had accounted for 15 percent of Canadian circulation in 1970 no longer existed (Kent, 1980, p. 1). During this same time period, the government's transition to an industrial policy approach had intensified:

Against the dominant backdrop of broadcasting as a factor in public decision making was an increased tendency among political decision makers to think of the public as audience, consumer, and even stock market investor. Economistic views of the public would become more and more powerful in the coming years, even as political debate intensified (Raboy, 1990, p. 227).

The Commission had concerns similar to those of the Davey inquiry but expanded its focus to include the issue of ownership concentration. This was in large part due to the events of August 27, 1980:

This Commission was born out of shock and trauma. Simultaneously in Ottawa and in Winnipeg, two old and respected newspapers died. The Winnipeg Tribune was 90 years old; the Ottawa Journal was almost 95. The Tribune and the Journal closed their doors August 27, 1980. This Commission, in direct response to that event, was created six days later... As we made clear from the outset, the narrow issues involved in the case are not the issues with which this Commission is concerned. Our task is to look at the industry as a whole; to suggest, if we can, a better course for newspapers in Canada; to recommend whether law or policy be different for the future (Kent, 1980, p. xi).

What is not noted in this quote is the cooperation that took place amongst the owners of the Tribune and Journal in an effort to eliminate newspaper competition and create favourable economic conditions for two ownership groups. Following Thomson Newspapers' acquisition of the eight dailies belonging to F.P. Publications, Thomson

shut down the Journal (which it had acquired in the deal). At the same time, Southam closed the Tribune, leaving Thomson's Winnipeg Free Press and Southam's Citizen as the only dailies left in Winnipeg and Ottawa. As well, Thomson sold its interest in the Montreal Gazette and Pacific Press to Southam. Consequently, four major cities lost English-language newspaper competition in a single day (Vipond, 1989, p. 68).

The Commission was concerned not only by this abuse of power as it contributed to concentration but also by the threat these types of actions presented to the legitimacy of newspapers in the public eye. Increased concentration meant that the economic interests of owners increasingly threatened the freedom of the press and that the public responsibilities of the newspapers were under threat:

Whether the country should change its general policy toward economic conglomeration is not the subject of this Report. We are concerned only about the special case of newspapers, the particular consequences of conglomeration on the way newspapers discharge their responsibility to the public. The effect is to undermine the legitimacy; it is to create a power structure of which the best defence, on the evidence of the principal corporate proprietors themselves, is that they do not exercise their power. In their evidence to the Commission they uniformly argued that the reason why there is nothing wrong is that they give free rein to the employees who are defined as publishers of particular papers. Many absolute monarchs in history might have made the same defence, but did not survive by it. Delegation does not change the ultimate locus of power (Kent, 1981, p. 219).

This quote raises the significance of looking at power from multiple perspectives and interrogating the significance of allocative versus administrative control. The distinction between allocative control and its association with economic ownership versus operational control continues to dominate the contemporary debate on the ability of owners to exercise control over content. Although the Kent report points out that delegation of power by owners does not change the locus of control, some of the studies submitted to the Commission reflect a different perspective that will be returned to later in this chapter. Drawing on Giddens, we can explore some of the unconscious

assumptions that informed these interpretations. The following excerpt gets to the heart of the ownership concentration issue from the Commission's perspective:

No one, no interest, has any place in the newsrooms of the nation except editors and reporters doing their professional job, to the best of their ability. The problem is that there is another presence: not the state, but outside business interest....The presence in the newsroom is not normally visible. But it is there, the ghost at the party, and it sets an important part of the rules. It is by no means insignificant among the factors that contribute to the pervasive sense, in contemporary society, of the individual's alienation from the remote forces that control his or her fate (Kent, 1981, p. 224).

As we will see further on, owners are no longer ghosts at the party, subtly exercising their influence through the choice of editors or through their allocative power. They, in some cases, are becoming a force to be reckoned with in the newsroom. Beyond establishing its now scaled back editorial policy, CanWest has become increasingly explicit on, not only how certain subjects are to be covered, but on the range of topics that can be covered. A former CanWest employee speculated in an interview that articles or columns that are potentially controversial are sent straight to head office for vetting.⁶ This quote also makes reference to the structural analysis of power. While the Kent Commission did not delve deeply into the nature of power, it does at least acknowledge that agency, power and social structure are bound to social forces that are beyond the individual's control and frequently beyond his or her consciousness. In this particular instance, it becomes a case where the individuals are keenly aware of their circumstances and their ability or inability to challenge them. We see power at the forefront as owners with economic ownership and allocative control can determine the journalists' fates and control their actions with the threat of dismissal. The Kent Commission, while acknowledging the power of owners, did, however, work in a political environment shaped by dominant ideologies and an absence of political will to implement the Commission's findings.

As previously mentioned earlier in this section, studies submitted to the Commission were marked by these ideological assumptions and the analysis seems to have downplayed some of their findings. Looking at them in some depth further develops the underlying theoretical perspectives that influenced these supporting studies. The report, Newspapers and Public Affairs, a research study submitted to the Commission, looked at the relationships between newspapers and the conduct of public life, and the influences on the press from such sources as ownership concentration and the electronic media. Given the relevance of this study to the Commission's concerns, its position on competition and concentration is important. Near the beginning of the study, the author states that none of the studies completed to date found that chain ownership was a major factor in content determination and that, in general, there was little evidence of headquarters-directed editorial or reportorial guidelines (Fletcher, 1981, p. 36). On the same page, however, the report goes on to state that, although there were specific accounts of newspapers deteriorating after an acquisition (specifically cited are the Peterborough Examiner and the St. John's Evening Telegram), these reports were balanced by instances where the quality of a paper was sustained or even improved. If the public interest, however, were the overriding consideration, one would think that a poor job in one city could not be traded off for a good job in another, and the specific reasons for the deterioration would have been examined. The author states that conclusions of the report were based on anecdotes involving smaller dailies that used mostly subjective criteria and that would not stand up to any sort of systemic analysis (Fletcher, 1981, p.37). Moreover, this study also comments on the statement of a former publisher of the Vancouver Sun who wrote in his memoirs that small editorial budgets in the Thomson chain amounted to a form of interference from head office. The study states, "while plausible, this argument leaves open the question of what a reasonable budget would be" (Fletcher, 1981, p. 38). There is not a question of the importance of allocative versus administrative control but more a dismissal of the significance of

budgets and the role they play in the allocation of power. The publisher's perception that the budget was meagre could have been looked at in a different light to determine whether or not the publisher had any involvement in the budgeting process and whether or not the publisher had room to exercise operational control over the budget once the funds had been allocated. Similarly, in the study's section on competition, the first few statements refer to the ambiguous effects of competition and how, in theory, competition leads to the dedication of more resources for news coverage but also puts pressure on journalists to dramatize, simplify and trivialize the news (Fletcher, 1981, p. 40). Despite the caveat on the ambiguous effects of competition, the author goes on to state that he did find clear evidence that competition could have measurable positive effects (Fletcher, 1981, p. 40). Why highlight competition as ambiguous in one instance to moderately positive in the next? Of course, this is not clear without knowing the author's intention but it does appear that the author is drawing on assumptions, not unlike the CRTC, that ownership concentration is balanced by the distribution and accessibility of power throughout society. Although it is difficult to determine the influence of this report on the overall findings of the Commission, it does demonstrate the types of questions being asked about concentration. Again, despite putting forward the same concerns as the Davey Committee regarding the intrusion of business interests in the newsroom, the Kent Commission did not look any more closely at the personal ties amongst the owners and their outside interests in measuring concentration and focused on studying concentration chiefly in economic terms. The measures of economic concentration used were, however, extensive. Drawing on data from 1978, 1979 and 1980, the Commission looked at multiple measures of concentration such as the percentage of daily circulation controlled by chains at a local, provincial and national level, number of titles under chain ownership, percentage of titles controlled by chains and also measured editorial expenses as a percentage of revenue, ranking titles above or below the national average. These figures give a solid picture of the extent of concentration across the country but do not

really shed light on the effects of concentration on the practice of journalism. The Commission did note that there was a tendency of chains and independents to become diminishing components of media and mixed conglomerates, but it asked few questions that looked more closely at the qualitative nature of concentration. As pointed out in relation to the Davey Committee, there were few questions that went beyond the news selection process to broaden the analysis to interlocking board directorship or alignment with financial institutions. The impact of concentration is studied more in the context of the owners' day-to-day impact on the newsrooms instead of extending the analysis to more indirect influences.

Underlying Assumptions

Applying Giddens' theories to the Commission's opening statements regarding its suggestions to the industry, we can draw out references to the underlying knowledge that informed its decisions, attributing the creation of policy that allowed for concentration to structures themselves rather than inquiring about the motives of the people directly involved in the process:

The structure of the newspaper industry that has now been created, that existing law and public policy have permitted, is clearly and directly contrary to the public interest. The dilemma facing the Commission, working after the birth, arises from this recognition at once of the monstrosity of the outcome and of the naturalness of the process that has led to it. We must propose how public policy and newspaper practice can be altered so that the service of newspapers to the Canadian community is greatly improved. But we must also so design those alterations that they do not unreasonably disrupt structures that have evolved naturally and legitimately under the law as it has been (Kent, 1981, p. 225).

The naturalness of structure that emerges in this excerpt is one of the criticisms Giddens levels at structural analysis. It assumes that structure plays a determining role instead of examining the interplay of structure and agency in the process of social reproduction.

The underlying body of knowledge brought to bear on the Commission's findings and the

structural framework within which it operated clearly had an impact on its ability to affect change.

Despite the challenges it faced, the Commission did propose a number of recommendations that, had they been followed, could have at their strongest, prevented further concentration and, at a minimum, ensured editorial independence from ownership interests. In making its recommendations, the Commission's concerns went beyond identifying levels of concentration that it felt were unacceptable and proposed fundamentally altering public policy to protect the communications rights of journalists and audiences. Referring to Alan Thomas' article, *Audience, market and public – An evaluation of Canadian broadcasting*, Marc Raboy points out that the royal commissions had held great promise for change:

Thomas reviewed the history of broadcasting in Canada from this perspective of interacting forces, arguing that the various royal commissions that had examined it had been attempts to restore balance at moments when the activities of the market were outstripping those of the public. The government's handling of their recommendations tended to swing the pendulum back in favour of the market (Raboy, 1990, p. 156).

The desire to swing the pendulum back in favour of public service is evident in the Commission's proposal for a Canadian Newspaper Act that identified, from the commissioners' perspectives, manageable levels of concentration. The Commission recommended that the Act stipulate that a company or person, or associates of a company or person, owning a daily newspaper may acquire an additional newspaper or newspapers only if the following conditions were met:

- The total number of daily papers owned thereby does not exceed five.
- The circulation of daily newspapers thereby owned does not exceed five per cent of the circulation (measured on a weekly total basis of all daily newspapers in Canada). At present, this is equivalent to an average daily circulation, for papers published six times a week, of 270,000. A paper

- could not acquire others beyond that total circulation level for the chain.
- The point of publication of any acquired newspaper is not less than 500 kilometres distance from any other paper in the same ownership (Kent, 1981, p. 239).

Beyond these restrictions, the Commission went so far as to set a minimum level of divestment that would bring concentration to a tolerable level and that struck specifically at cross-ownership:

A precise definition is, of course, necessary, since there are fringe cases Where a newspaper owns a broadcasting outlet at some little distance from its point of publication, so that several other newspapers may circulate in various parts of the area within the reach of the electronic medium. A reasonable guideline to provide in the legislation would be that the proprietor of a newspaper may not own or control a television or radio station or a cable system if 50 percent or more of the population within good reception reach of the electronic medium live in the areas where the newspaper is generally available by home delivery or by box or newsstand sales (Kent, 1981, p. 239).

Following the Kent Commission's recommendations, the government instructed the CRTC to deny new broadcasting licences or renewals to applicants who owned a daily newspaper in the same market, allowing exceptions only when it was in the public interest. Issued in 1982, this directive was subsequently withdrawn by the Mulroney government (Vipond, 1989, p. 69). It appears the CRTC felt that most of these cases were in the public interest as it granted seven requests of this type between 1982 and 1985 (Raboy, 1990, p. 299). This is one recommendation that had it stayed in place, would have had an impact on the current media landscape. Given the interview conducted with Peter Desbarats who participated in the inquiry, it is surprising that this recommendation got as far as it did as Desbarats questioned whether the government ever had the intention of adopting any of the Commission's recommendations. As far as divestment went, the Commission recommended that the Newspaper Act state that no company or person that is not at arm's length should own or control (or continue to own

or control) two or more papers that are the predominant newspapers in a province or distinct region that is separated from communications in other regions (Kent, 1981, p. 239). Similar recommendations would have required that Thomson divest the Globe and Mail or one of its other papers in order to ensure that an owner with a paper published in two or more locales did not control any other daily newspaper in Canada. Additional recommendations were designed to protect a journalist's right to editorial independence and included establishing contracts to clearly layout the responsibilities of editors as well as to entrench the rights of the editor-in-chief and his staff to comment on the views or actions of any person or organizations associated with the owner. The Commission also made a series of recommendations related to tax incentives to encourage editorial spending and the creation of a Press Rights Panel. As Desbarats stated, however, it was always questionable whether or not the Commission would have any impact. Mary Vipond, in her historical text on the evolution of the mass media in Canada, made the following observation on the situation the commissioners faced:

The technological and economic imperatives of the mass media have led us to a situation where the voices are few and the tunes they sing similar – and often American. Whether the next wave of technological innovation will reverse this trend remains to be seen. If we, or our government, are to exert any control over the process, we must understand the complex economic, cultural and technological factors which constitute our mass media today.

(Vipond, 1989, p. 70)

Vipond's comments relate back to some of the assumptions the commissioners made. Given the lack of political will and the dominance of industrial policy, the Commission seemed destined to have little impact. It was further challenged by the weight given to the economic and technological factors that Vipond also references. However, the weight given to the economic imperatives of the mass media and the impact of technology

diminishes the role of agency. The economic and social systems do present structural constraints but their emphasis leads to the assumption that there was no alternative. Giddens' theory of structuration makes it clear that structure must be conceptualized as both enabling and constraining as the opportunity for change remains in the process of social production and reproduction:

The production and reproduction of society thus has to be treated as a skilled performance on the part of its members, not merely a mechanical series of processes....Human beings produce society, but they do so as historically located actors and not under conditions of their own choosing.
(Giddens, 1976, p. 102)

The realm of human agency is bounded and we can see these binds within the structural properties of social systems, yet, from what has been examined thus far, the structural properties of the social system in relation to the Davey Committee and Kent Commissions have been treated as given and unchangeable.

Throughout the regulatory process, the treatment of the public interest has evolved from these earlier perspectives that offered a more critical analysis of the terms and conditions that would safeguard the rights of audiences and journalists to current interpretations that rely almost exclusively on an industrial policy knowledge base that privileges ownership rights above all others. As Raboy discussed in detail in Missed Opportunities, the Canadian regulatory framework seems to have suffered from the lack of a consistent regulatory vision and, as a result, free market policies have pushed concerns for the public interest, from a socio-cultural perspective, off the regulatory agenda. Raboy states that early conceptions of public broadcasting were "as varied and unclear as some of the sounds that come through the air on a stormy night. The idea of the public was in a state of flux" (Raboy, 1990, p. 5). And so it has continued. With no

consistent vision of the public interest, the CRTC has continually adapted regulatory policy to the requirements of the latest economic and political ideologies, culminating in the abandonment of any normative questions of the public interest in favour of its fiscal definitions – definitions that basically eliminate the question of communications rights. Contemporary justifications of concentration have relied on neoclassic economic thought, liberal-pluralism as well as assumptions about the liberating nature of technology to better align the public interest with free market policies. This has contributed to the failure of regulators to acknowledge the role of power within the process, and it is this unaccounted for exercise of power that has created the gap that has emerged between CRTC policy goals and market outcomes that will be explored in the following chapters.

CHAPTER 4 – CONTEMPORARY REGULATORY METHODOLOGIES

Having traced the historical challenges concentration and cross-ownership have presented to regulatory methodologies, focus shifts now to an assessment of contemporary Canadian decisions to see how they have been shaped by the existing regulatory framework and, in turn, how this approach has shaped the market. In assessing the CRTC's decisions relating to the Quebecor/TVA/Vidéotron, BCE/CTV and CanWest/WIC acquisitions, it is clear that, given the regulatory methodologies used, the limited range of perspectives drawn on in the assessments, and the nature of the process itself, it is extremely difficult for the CRTC to adequately assess the impact of these acquisitions. Looking at the deals, the decisions and the proposed benefits packages traces the emergence of the CRTC's struggle to reach a compromise between long-term ownership viability and public service objectives as well as the emergence of the gap between desired outcome and market reality. The financial value of the transactions involving BCE, CanWest and Quebecor have loomed large, not least because this determines the scope of the benefits package that the CRTC has exacted in return for approving each of these mergers.

Assessing the Benefits

The benefits package the acquiring company proposes must be equivalent in value to 10 percent of the total transaction and this amount effectively becomes the primary measure of the public interest. Determining the amount of the benefits package for the CTV and WIC acquisitions was relatively simple. Determining the value of the TVA benefits package was, however, rather complicated. The acquisition of TVA was part of a much larger deal in which Quebecor also acquired Vidéotron. This made determining

the value of TVA more difficult. The size of the French-language market in Quebec and the absence of other potential buyers also influenced how the CRTC addressed the merger. As a result of this deal, Quebecor Media Inc. (QMI), a subsidiary of Quebecor jointly created with Capital Communications (a subsidiary of the Caisse de Dépôt et Placement) to acquire TVA and Vidéotron and consolidate media holdings, would control 40 percent of conventional television revenues in Quebec, close to 40 percent of daily newspaper circulation, 4 percent of speciality television revenues and 79 percent of Quebec cable distribution revenues. To put these figures into perspective, CanWest leads Canada's conventional television industry with a 30 percent market share, followed by Bell Globemedia with 23 percent. Regionally, CanWest's share is 45 percent in the Prairies and 81 percent in British Columbia while Bell Globemedia's share in the Atlantic region is 57 percent. In newspapers, CanWest has 37 percent of the market followed by Torstar with 17 percent (CRTC, 2001o). Although comparable to levels of concentration across the country, Quebecor's market share and dominance across so many sectors subsequent to the acquisition would be significant relative to the size of the market. Initially, there was some disagreement over the value of the transaction, determined by Ernst and Young using a multiple of TVA's Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA). After an independent assessment conducted by the CRTC determined that the value of TVA in the total transaction was greater than initially estimated, Quebecor agreed to increase its proposed benefits package from \$30 million to \$48.9 million over a seven-year period. The CRTC approved the entire deal subject to Quebecor's divestment of TQS (previously acquired by Quebecor in 1997). Bell Globemedia and Cogeco subsequently acquired TQS⁷. Similar to the requirements placed

on CanWest in the Vancouver and Hamilton regions, TVA is expected to maintain a strong regional focus not just in terms of news but also in terms of the production of content for other program categories. Beyond the conditions of licence, the proposed benefits included an investment of \$20.5 million in the production of variety shows, dramas and youth programs; \$15 million to develop original concepts and scripts; \$15 million to develop interactive content; \$3 million to create a special unit for investigative and feature reports at TVA; and a \$500,000 contribution to develop software for closed captioning for the hearing impaired. Ultimately, the CRTC did not allow Quebecor to include the \$3 million for the investigative unit as an eligible benefit as it felt investigative reporting was part of TVA's ongoing responsibility to the public. The Commission also expects TVA to increase its spending on independent productions from \$16 million in 2001-2002 to \$20 million by 2007- 2008.

Beyond the difficulty of determining the value of TVA within the larger transaction, the CRTC also had to deal with the cultural implications of the deal, specifically the importance of TVA remaining under the control of a Quebec company. In his intervention, Hervé Fischer, chair of the Daniel Langlois Foundation for Digital Technologies and the Visual Arts at Concordia University, expressed this concern and his desire to ensure Quebec developed a media conglomerate capable of competing on a global scale:

Alors, par rapport à cela, il me semble qu'il est essentiel que nous bâtissions au Québec un grand groupe de médias. Ce grand groupe de médias est indispensable pour pouvoir investir innovés. Et je ne crois pas que TVA puisse tenir seul, d'une façon autonome, dans le cas où vous en refuseriez la propriété à Quebecor, je ne crois pas que TVA pourrait survivre à se développer par ses propres forces. Et donc, la question de savoir dans quel panier d'un grand groupe de médias tomberait-elle? Et panier pour panier, consolidation et concentration pour concentration, propriété croisée pour propriété croisée, l'essentiel pour moi c'est que ce soit un groupe québécois. C'est pour ça, me semble-t-il, que la question d'autoriser l'acquisition de TVA par Quebecor Média me paraît un incontournable, and j'en demande l'acceptation par le CRTC, justement parce que Quebecor Média est un groupe québécois et que si cette autorisation était refusée, il faudrait s'interroger quel autre groupe non- québécois accèderait au contrôle de notre television (CRTC, 2001k).

Although union representatives and professional associations raised their concerns at the hearings, the Commission agreed with these sentiments and sought to protect the editorial freedom of journalists through a code of conduct. The Fédération Nationale des Communications, the unions representing journalists at le Journal de Montreal and TVA and the Fédération Professionnelle des Journalistes du Quebec stated that a professional code of conduct would not be sufficient to prevent Quebecor from using its media properties to protect and promote its other business interests. While union representatives argued that the CRTC was being fooled by the position “québécoise,” commissioner Joan Pennefather stated that a strong code of conduct to prevent abuse seemed favourable to denying the licence renewal and risking that TVA become part of an English conglomerate (CRTC, 2001j). Beyond the concern about Quebecor itself, the unions also pointed out that keeping TVA as a Quebec company also meant aligning the network very closely with the Caisse de Dépôts et Placements which owns 45.3 percent of QMI through Capital Communications. The Caisse’s investment was not the only concern raised about the role of the powerful bank in this transaction. Prior to the Quebecor offer, the Chagnon family, the majority shareholders of Vidéotron, announced

that they would sell to Rogers and had no intention of ever selling to Quebecor (Canoe, 2000a). On February 2, 2000, Rogers announced that it planned to purchase Vidéotron for \$6 billion, initiating a battle amongst the Chagnon family, Quebecor, the Caisse and Rogers. The battle, however, was short lived as the Chagnons had previously signed an agreement with the Caisse stating that they would seek the Caisse's approval before entering into any deal that would change the company's corporate structure (the Caisse controls 18 percent of Vidéotron voting shares). On March 8, 2000, Quebecor announced through QMI its counter-offer for Vidéotron and TVA. After extensive negotiations, the Chagnon family accepted QMI's second offer and Vidéotron had to pay \$241 million to Rogers for abandoning the deal. In two separate actions, the minority shareholders of Vidéotron took the Caisse to court in an effort to have the veto deal declared null so that they could move forward with a vote on the Rogers offer. As well, the Chagnon family, Vidéotron and Rogers sought a court injunction that would require Quebecor and the Caisse to reveal the terms of their partnership. During the course of these negotiations, Rogers expressed its belief that political motives pushed the Caisse to block the deal. This was not the first time the Caisse has been criticized for blocking important transactions that would have sold Quebec companies to foreign or English Canadian companies, and in some of these cases, the companies have subsequently gone bankrupt or been absorbed into other businesses (Melnbardis, 2000a). Despite the unions' concerns and the Caisse's history, the Commission did not delve deeper into the influence of the Caisse and the significance of having a broadcaster so closely aligned with a powerful bank that had not hesitated to exercise its power in business dealings in the past.

In an effort to address some of these concerns, the Commission carried forward the code of conduct initially created when Quebecor acquired TQS in 1997. As journalists pointed out at the hearings, however, this code had been ineffective and most expressed the belief that it would not have any impact in the future. The conditions of licence also required that TVA, LCN and LCN Affaires remain independent of each other, that TVA management be separate and independent from QMI newspapers, including separate offices and computer systems, that no more than 40 percent of the board of directors of TVA could be members of the boards of directors of Quebecor, QMI or any other entity controlled by Quebecor or QMI and that QMI respect the code of professional conduct as approved by the Commission and establish a monitoring committee to review related complaints. Beyond structural separation, the code places the limitations on the journalists rather than addressing the behaviour of the owners. When the question of imposing a similar code arose during the CTV and CanWest hearings, the companies quickly dismissed the notion since the CRTC has no mandate to regulate their print interests (although both CanWest and CTV are to adhere to the principle of maintaining independent newsrooms). Journalism educators as well have been highly critical of the onerous nature of this type of code:

At least one other company, TQS, has given assurances to the CRTC that its operations will remain utterly separate from those of CGI, to the point that employees of the former are to be prohibited by a code of conduct from discussing professional matters with employees of the latter. Quite apart from the fact that such strictures strike me as Draconian and unrealistic, they would prevent the sort of limited collaboration between member elements of a multimedia company that would be of benefit to the public. There are and will be advantages to bringing news-gathering and dissemination companies such as CTV and the Globe and Mail under a single marquee, and these advantages should not be foreclosed by arbitrary regulations drafted in the shadow of a phantom threat to diversity (Dornan, 2001).

Although Dornan, director of the Carleton University School of Journalism and Communication, may have under-estimated the threat to diversity, at least in the case of CanWest, he does draw attention to the ineffectiveness of the code in terms of prohibiting what would otherwise be considered normal conduct even if the journalists were working at competing companies instead of under the umbrella of a single conglomerate. While proposed benefits played a significant role in all these deals as the main criteria for assessing the public interest, the desire to keep Vidéotron and TVA under the control of a Quebec-based company seems to have been the defining characteristic of the public interest in this case in contrast to diversity and plurality of voices.

Turning to CanWest and BCE, the CRTC focused on the financial terms of the deals in its assessment, so much so that the Commission did not thoroughly examine the effects of the benefit packages on program spending. For instance, the BCE benefits package proposes incremental expenditures of \$230 million over seven years. Of this \$230 million, BCE is required to demonstrate the allocation of a minimum of \$140 million incremental expenditure on the development, production and promotion of new priority programming. This investment represents 175 hours of original programming above and beyond the standard eight hours per week. Another \$72.6 million is dedicated to non-priority programming, specifically to the enhancement of news and current affairs programming. In setting out the conditions of approval, the CRTC requires that expenditures on priority programming be no less than \$24.9 million in any given year, effectively setting this as the base level contribution. BCE also committed to reinvesting all profits earned by its equity investments or from the distribution of the 175 hours of priority programming in the production of additional priority programming. Broken

down on a year to year basis then, this amounts to an additional 25 hours of priority programming annually and an additional \$10.3 million expenditure on news programming (CRTC, 2000b). Compare CTV's actual spending between 1998 and 2000, and one sees that this figure basically compensates for strong declines in programming expenditures, particularly in 1999 and 2000. In 1998, following the consolidation of CTV, expenditures on programming reached a peak of \$180.7 million only to drop off to \$152.3 million in 1999 for a drop in spending of \$28.4 million.⁸ In the case of CTV, the CRTC takes the company's 2000/2001 investment in eight hours per week of priority programming as the base level against which incremental investment is measured. For the year 2000, this base level amount is \$146.6 million.⁹ With the minimum annual expenditure of \$24.9 million, BCE will be required to spend \$171.5 million on priority programming in 2001. This is approximately \$9.2 million less than what was spent in 1998 although substantially greater than what was spent in 1999 and 2000. It is important to note, however, that the revisions to priority program categories mean that this investment is directed to Hollywood style drama and regionally produced programs as opposed to local programs or dramatic serials. Furthermore, looking at programming expenditures as a percentage of revenue, CTV will actually end up spending proportionately less on Canadian programming relative to revenue in 2001 and 2002. Based on the figures CTV submitted to the CRTC as part of its application for licence renewal, one finds that CTV spent 35.8 percent, 30.6 percent and 29.9 percent of total on-air revenue on Canadian programming in 1998, 1999 and 2000 respectively. In 2001 and 2002, the projected expenditure is 27 percent of on-air revenue.¹⁰

While the figures from the CanWest/WIC acquisition are slightly more difficult to interpret since the benefits are not spread equally across the network, they appear quite similar in terms of contribution. In its benefits package, CanWest proposes spending \$84.29 million over five years distributed as follows: \$23.9 million to the Western Independent Producers Fund (WIP), \$18.2 million for new or enhanced local programming for CHEK (Victoria), CHBC (Kelowna), CHCH (Hamilton), \$19.3 on a Vancouver-based early national newscast along with other public affairs and documentary programming, \$6 million to the Canadian Television Fund, \$13.4 million in grants and scholarships and \$3.5 million to community groups.¹¹ Specifically, CanWest committed to spending \$8 million and \$9 million respectively on the Victoria and Hamilton stations. In total, CanWest runs 11 conventional television stations, three independent stations and two CBC affiliates.¹² Prior to the WIC acquisition, there were effectively three stations for investment purposes, Global Atlantic, Global Ontario and Global Winnipeg. Across these three stations, the most Global spent on Canadian programming was \$74.8 million in 1998.¹³ The average expenditure on Canadian programming for the years 1997, 1998 and 1999, prior to the WIC acquisition, was \$70.6 million. This is the base level amount against which the CRTC will assess CanWest's incremental expenditure. The benefits that will have an immediate effect on on-screen programming (enhanced programming for independent stations and national newscast funding) total \$37.5 million over five years, approximately \$7.5 million annually. This would just bring the expenditure up to 1999 and 1998 spending levels and fall short of the \$113.8 million spent in 2000.

Moreover, BCE's non-priority programming benefits really have little basis for benchmarking and, based on their nature, seem subject to change. In particular, the \$3.5 million investment in reporter training which involves placing journalists in specific communities even when there may not necessarily be news to report would undoubtedly be one of the first benefits that would fall to cost-cutting measures. As well, the Eyes on the World initiative promises \$12 million to open five new foreign bureaus in New York, Hong Kong, New Delhi, Johannesburg and Berlin. Since the acquisition, bureaus have in fact been opened in New Delhi, Sydney, Mexico City, Kampala and Los Angeles. Corrie Coe, director of programming benefits at CTV, was unable to confirm if these new bureaus simply replaced ones that had previously been closed. As well, Mr. Coe could not provide budget or staffing figures for the bureaus over the last three years nor could he confirm to what extent CTV relies on these bureaus for stories and to what extent the network relies on foreign news services. Attempts to obtain this information from contacts Mr. Coe recommended within CTV were unsuccessful. BCE also devoted a significant amount of its non-priority programming expenditures to advancing its multimedia strategies. This includes \$5 million to a Content Innovation Network that is designed to bring together those working on new media content with traditional film producers, leading one to assume that BCE wants to better leverage its programming investment for both broadcasting and web casting. And, it also includes \$3 million for iTV specialists in regional offices to further assist in the development of interactive programming. Once one looks beyond the initial impressiveness of the figures proposed in both benefits packages, it becomes clear that the commitments made are compensating for previous reductions on Canadian programming expenditures, do little more than keep

expenditures constant over time and seek to advance, in particular, BCE's multimedia strategy.

Exploring Regulatory Methodologies and their Impact

Looking specifically then to the regulatory methodologies used to evaluate these mergers, it becomes obvious that the current structure does not adequately assess the impact of these mergers on the industry. Considering the regulatory methodologies and the process itself relates again to Lukes' three phases of power. Lukes states that power is most effectively exercised when it is preventing conflict from arising. Within the regulatory process, we can see this in operation in terms of looking at how the agenda is set, who prevails and, especially, the ideological values that influence the regulatory proceedings. To begin, both of the regulators who are required to assess the impact of mergers on the public interest, the CRTC and the Competition Bureau, the only regulator with the authority to intervene in matters of cross-ownership, do so with a narrow view of the public interest, setting the ideological parameters for the debate. The primary way the CRTC measures the impact of a merger, as previously mentioned, is according to the benefits package, and, therefore, the regulator focuses almost exclusively on a dollar figure. Undoubtedly, the public interest is served to a certain extent by increased investment in the broadcasting industry although even this goal remains rather elusive as the preceding analysis has just shown. More importantly, the framework, with its emphasis on the importance of competition, trades off principles such as editorial freedom for economic stability and, consequently, concentration. It does not acknowledge the importance of the role of the media in a democratic society nor does it consider the spectrum of communications rights. Although the CRTC has a broad

definition of the public interest that should be capable of addressing concerns about concentration and cross-ownership, its regulatory methodology has repeatedly dismissed measures previously created to prevent concentration and cross-ownership. Proving that a potential merger supports the objectives set out in the Broadcasting Act seems to increasingly be about setting out an adequate benefits package that guarantees 10 per cent of the value of the acquisition will be reinvested in the Canadian broadcasting system over the course of seven years. As we will see, there does not appear to be much of a foundation for the confidence that this commitment will extend beyond the end of the seven years required. As for the Competition Bureau, its view of the public interest is purely economic and examines a narrow range of criteria designed to assess the impacts of these mergers on advertisers. In 1999, the Competition Bureau published a backgrounder that detailed the interface points between the Competition Bureau and the CRTC. In the document, the Bureau states that it is necessary to explain the points where the two regulators intersect given the transition of the telecommunications and broadcasting industries from regulated monopolies to competitive markets. Although the majority of the Competition Bureau's document is concerned with the regulation of competition in telecommunications, it does state that when it comes to broadcasting mergers, the Bureau only examines competitive effects while the Commission considers the Broadcasting Act's broader set of objectives. The Bureau's concern in radio and television broadcast markets relates primarily to the impact on advertising markets and, with respect to broadcast distribution undertakings, to the choices and prices available to consumers (Competition Bureau, 1999a). Industry Canada merger enforcement guidelines reinforce this position. The Competition Act describes broad categories used

to assess all mergers. These include criteria such as the potential for anticompetitive actions, the ability of the merged company to exercise market power and the impact of the merger on the efficiency of the market. While initial descriptions of these criteria sound promising for accommodating the interests of journalists and the public in general, the Competition Bureau relates them specifically to the merger's impact on advertisers. For example, the merger guidelines state that the Bureau looks at the potential for the lessening of competition from two perspectives. First, it looks at the likelihood that the merged company will be able to unilaterally raise prices in any part of the relevant market, and, second, it looks at the likelihood that the merged company will work with competitors to fix prices (Competition Bureau, 2000b). The remainder of the criteria used to evaluate mergers is heavily weighted towards assessing merger impacts on commodity pricing, obviously not an appropriate framework to address the public interest. There are basically two perspectives from which the mergers could be evaluated: the impact on competition in advertising and the impact on the public. The Competition Bureau cannot assess the impact on the public because that is the CRTC's mandate. This opening did exist with the Combines Investigation Act but choices were made to narrow the Competition Bureau's focus while the CRTC simultaneously moved towards a similar industrial policy focus, striking a double low to the public interest.

The Competition Bureau's Perspective

The Competition Bureau's assessments of media mergers make it obvious that the Bureau is not prepared to, nor is it comfortable with, broadening its assessments. In its review of the CanWest/Hollinger acquisition, the Bureau did express concern about connecting the National Post and the Globe and Mail through CanWest's acquisition of a

stake in ROBTv, but it ultimately returns to the potential impact of the merger on advertisers:

The Bureau's review focused on the economic issues associated with the acquisition, particularly the impact on advertisers. Other factors such as market share, readership and viewership, media use by advertisers and barriers to entry were also examined. As a result of its review, the Bureau concluded that there is no evidence at this time that newspapers, Internet and television are competing directly for retail advertising normally found in newspapers. Therefore, it has concluded that there is no evidence that the transaction would likely lead to a substantial lessening of competition in such markets (Competition Bureau, 2000a).

While very little else is published about the Bureau's findings on both the CanWest and BCE acquisitions, an article published well in advance of these mergers, following Hollinger's acquisition of Southam, provides a summary of how the Bureau sees its roll within the context of media mergers:

Simply put, the purpose of the Act is to make the Canadian economy more efficient through the mechanism of competition. Many articles spoke of corporate concentration in the media, a decline of newspaper quality, interference in the editorial views of newspapers and a concomitant decrease in editorial diversity across Canada. These may be valid social concerns but it would not be appropriate for the Director to comment as he is not mandated to look at social issues such as editorial diversity and newspaper quality (Competition Bureau, 1999b).

In this article, the Bureau notes that the Combines Investigation Act took a more broad approach, examining any potential threats a merger might present to the public interest. However, this act was replaced with the Competition Act, which looks at a merger's likely impact on competition and efficiency. The Bureau states that this creates competition laws that are generally applicable across all industries so all mergers are subject to the same questions (Competition Bureau, 1999b.). Obviously, this raises the question of whether or not all mergers should be subject to the same questions. The Bureau also notes in this article that even if there were just one newspaper in a

community, its acquisition by a conglomerate would not amount to a lessening of competition. It simply constitutes a change of ownership. Similarly, in the Bureau's judgement on BCE's acquisition of the Globe and Mail, it concluded that newspapers, Internet and television are not in competition for retail advertising. Therefore, it found that the transaction was not likely to lead to a substantial lessening of competition (Competition Bureau, 2001b). The bureau also approved Quebecor's acquisition of Vidéotron subject to the TQS divestiture. Concerns about the merger were very clearly related to its impact on advertisers, not the public interest. "The purpose of the order is to maintain competition in the sale of French-language television advertising time in Quebec. In the absence of a divestiture of the TQS network, the proposed acquisition of Groupe Vidéotron would have given Quebecor control of more than half of all French-language television advertising revenues in Quebec" (Competition Bureau, 2001a). From the perspective of the Competition Bureau the only interests of concern are those of advertisers. While some of the provisions within the merger enforcement guidelines seemed to hold some potential for examining the impact of media cross-ownership on the public interest, it is obvious that these guidelines cannot currently accommodate the unique facets of these mergers or any questioning of their socio-cultural value.

Recently, the Competition Bureau submitted a report to the Standing Committee on Canadian Heritage and made a number of recommendations that further reinforced its position on the state of the broadcasting industry. The Competition Bureau suggested that the government clarify the CRTC's mandate, that it change policy statements to state that regulation is only required for realizing the Broadcasting Act's core cultural objectives and that, otherwise, there will be an increased reliance on market forces:

The Bureau believes that the legislative, regulatory and policy framework governing Canada's broadcasting system should, in response to the evolving environment, be recrafted to ensure that the role of the CRTC is focused entirely on the attainment of core cultural objectives: the production and distribution of Canadian content and the promotion and maintenance of a diversity of voices. At the same time, the framework and regulation of the system should permit market forces to operate freely where such objectives are not clearly and directly at stake, and be directed at improving the competitiveness of Canadian broadcasting and broadcast distribution undertakings. Indeed, permitting broadcasting system participants to conduct business in a more open and competitive marketplace, while the same time removing onerous and costly regulatory requirements which are unrelated to the core goals of spurring the propagation and promotion of Canadian content, will enable such participants to compete successfully within and bring Canadian content to a globalized media marketplace. If, on the other hand, we attempt to hold on to all aspects of the system as we now know it, we may well hold onto none.

(Competition Bureau, 2002, s.23)

These most recent statements make the Competition Bureau's position extremely clear but also lay out the fundamental problem of reconciling competition with public service objectives. Given the position from which the Competition Bureau approaches the broadcasting sector, however, one has to question the ability of this particular regulatory body to speak with such authority on how the public interest is best protected. These statements are further indications of the shift that has occurred over time as far as the Competition Bureau and the broadcasting industry are concerned. Although the Combines Investigation Act at one time provided the opportunity to examine a merger's broader social impact, the system has evolved in such a way to divert the Competition Bureau's focus exclusively to the economic impact of these transactions while, concurrently, the CRTC has made a similar transition to a strong focus on the economic aspects of media mergers.

The Gap Between Synergy and Efficiency and the Public Interest

The focus on the economic benefits of consolidation leads the CRTC to efforts that try to reconcile two seemingly incompatible goals: the support of the broadcasting system's socio-cultural objectives with the competitiveness of Canadian broadcasting players on a global scale. As discussed, the public service objectives described within the Broadcasting Act state that the Canadian broadcasting system should "provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern" (CRTC, 1991). In its policy framework for Canadian television introduced in 1999 and in contemporary decisions, the CRTC repeatedly refers to the efficiencies and synergies of consolidation, indicating its belief that consolidation will help the industry compete on a global scale:

In both English- and French- language markets, ownership groups have grown in size, become stronger competitors in both domestic and international market and increased their capacity to create appealing and popular programming for Canadian audiences (CRTC, 1999).

Certainly, group owners have the stability and the resources required to produce programming suitable for export, but this does not appear to be balanced with normative concerns for freedom of expression, diversity and accessibility. As discussed earlier on, this notion of synergy has dominated current debates on concentration and is frequently cited by owners and the CRTC as one of the primary motivations behind acquiring multiple media assets:

The media moguls repeatedly said that collecting a great variety of media and other programmatic and creative enterprises under one corporate umbrella would be a real boon for creative output – with cross-pollination and creative stimulation, wondrous new and exciting products and services would be forthcoming. Most observers have found little evidence for such benefits to creative output, however. But conglomerate synergy has been a significant factor in skewing economic competition

in favour of megamedia conglomerates and is presenting troubling issues of conflicts of interest in degradation of quality of news organizations.
(Alger, 1998, p. 221)

The notion of synergies and where they would be achieved was one that emerged often in the context of the Quebecor acquisition of TVA. Commissioner David Colville questioned Quebecor on this subject extensively:

It is not evident yet that people have really figured out, from an operational point of view, what those synergies really are and whether this ends up just being a nice theory that carried through the end of the 20th and early 21st century, and a few years down the road we sort of come to the conclusion, "Well, it seemed like a good idea at the time, but does not really work very well" (CRTC, 2001j).

Colville does raise an important question about these mergers. What happens a few years down the road if these companies do not realize the profits they anticipated? As discussed in the introduction, this may even be a matter of months rather than years. The way in which the communications conglomerates interpret synergy also has implications for how the public interest is evolving. During licence hearings before the CRTC, Quebecor stated that it sees synergy coming from promotions, not the exchange of news content. As Luc Lavoie of Quebecor explained, for Quebecor, it has never been about asking a journalist to work in three different media but about promoting TVA with other platforms (CRTC, 2001c). Evidence given by journalists at the hearing, however, suggests that promotion for Quebecor does not necessarily mean cross-promotion but has involved asking writers at its publication, *Écho Vedettes*, to write favourable articles and reviews so that excerpts can be placed on Quebecor's Archambault Musique web site. Journalists at the hearing also demonstrated that Quebecor appears to have let its business interests influence the news selection process. In the winter of 2001 when other Quebec media gave extensive coverage to media concentration, le Journal de Montreal published

five articles on the subject while La Presse published 27, Le Devoir, 25 and Le Soleil, 12. The union representing journalists at le Journal de Montreal did point out, however, that in this same time period le Journal de Montreal covered, at some length, the relocation of TQS' offices and the launch of the Archambault Musique web site:

Mais là où on a un sérieux problème c'est dans la logique d'information et le passé récent. Ce que le passé récent nous a démontré c'est que on a tendance, on a une forte tendance à vouloir utiliser les journalistes pour faire la promotion des autres entreprises Quebecor et là on sort carrément de notre mandat d'information (CRTC, 2001l).

Although what happens with Quebecor's print interests is not the CRTC's responsibility, one would think that these types of examples would raise concerns that cannot be addressed by a code of conduct and would lead the Commission to further question the acquiring companies and put concerns about the impacts of conglomeration and cross-ownership on an equal footing with concerns about the financial strength of the industry.

Perspectives that Limit the Process

Beyond the regulatory criteria, the limited range of perspectives brought to bear on these decisions through the submission process does little to thoroughly interrogate the benefits of the mergers to public and reinforces many of the assumptions dominant within the regulatory methodology. The focus of the hearings is almost exclusively on the financial benefits of the acquisitions. As the Fédération Nationale des Communications pointed out in relation to the Quebecor/TVA deal, the focus on investment does not provide any guarantees, particularly when it comes to the quality of the productions since that are so many factors that can influence the cost of production over time (CRTC, 2001j). More problematic is how this narrow view seems to divert the process from an inquiry into the potential of a benefits package to support the public interest into a

bargaining process that simply serves to reproduce the existing patterns of ownership.

The CRTC appears to make the assumption that the media conglomerates will ultimately do what is right and give journalists complete editorial freedom, adhering to a managerial revolution thesis. Murdock's work illustrates some of the problems with this notion as well as with the notion of the soulful corporation – another theme that emerges throughout the CRTC's assessment of BCE's and Quebecor's benefits packages in particular. Throughout the hearings and decisions on these mergers, one repeatedly finds reference to both these ideas. For instance, throughout the transcripts on the ownership hearings, BCE is portrayed as saviour of the CTV and of the Canadian broadcasting industry in general:

Before BCE made its offer to acquire all of CTV's shares, nearly 20 percent of those shares were in the hands of two competitors. With no controlling shareholder, that effectively puts CTV in play. Many wanted various pieces of the company and so we face the distinct possibility that a prospective buyer would want to break up CTV. It is far from certain that the aspects of CTV that make it a valued national broadcasting institution would have survived that scenario. Instead, the arrival of a strong, committed, controlling shareholder makes it possible to realize our dream and create a wealth of Canadian content (CRTC, 2001c).

In its final judgement on the benefits package, the CRTC acknowledges its faith in BCE to deliver on its promises without acknowledging the structural constraints that the management team will be under. As the unions represented at the Quebecor hearing pointed out, these corporations are not investing in broadcasting properties as some sort of societal undertaking. While it is obviously hoped that these corporations take their public responsibility to heart, the CRTC does little to inquire into how the myriad of business pressures they face, including stock market fluctuations and large debts, could have an impact on where the public interest falls in their grand scheme of priorities.

Looking at the benefits proposed by BCE in its acquisition of CTV, there are certainly proposals included that will help CTV fulfil its public responsibility. The addition of five new foreign bureaus, diversity initiatives and direct support of journalism schools certainly could enhance the practice of journalism in this country. These benefits, however, continue to focus on investment. In the case of the Quebecor acquisition of TVA, the Commission went outside these traditional boundaries, recognizing the compromise made for financial stability and imposed a code of professional conduct that, instead of targeting the behaviour of owners, targets the behaviour of journalists. It is essential then to extend the assessment of mergers beyond financial requirements and beyond the behaviour of journalists to ensure that the behaviour of owners is scrutinized. The CRTC started to address this issue in terms of the requirements placed on Quebecor and TVA board membership, but given its mandate, the CRTC has little flexibility to go any further. This certainly does not mean that the code of conduct is a good idea, but it does at least demonstrate an instance where the CRTC attempted to use some creativity. Neither CanWest, nor CTV, would entertain the notion of a code of conduct since it would apply to newspaper holdings that the CRTC has no power to regulate. Nor can it reinstate the ownership restrictions it has previously disregarded. Looking at the composition of boards of directors, however, could potentially be one area where it could begin to enhance diversity. When the composition of boards is examined in the following chapter, it is apparent that virtually all board members come from an elite group of business people. Including journalists, artists or anyone from the cultural sector for that matter could ensure that there is some discussion of a company's responsibilities to the public as citizens, not just shareholders. Other options to explore would include

establishing ethical standards that clearly spell out the limits of ownership rights.

Focusing the entire process on the on-screen benefits of the transaction oversimplifies the dynamics of the industry and focuses all attention on the dollar value of content alone and not on how this content might be shaped.

Furthermore, the submission process itself is an opportunistic one whereby those who are often assumed to be the chief advocates of freedom of the press – journalism educators – are themselves trying to ensure that the transactions meet their own requirements. Many of those coming from the academic world are faced with the same dilemma as the CRTC. Given the current landscape, concentration seems like the only way to sustain the Canadian broadcasting industry. Peter Desbarats stated that this was one of the main reasons he supported the CTV and CanWest Global license renewals. “We’ve now had three to four decades of weakness in the industry,” explained Desbarats. “There is no way that we can expect that this weakness will reverse itself. Inevitably, it seemed to me that medium-sized papers would fall off the cliff. That’s why, much to my embarrassment now, I supported CanWest. This is where the Southam papers seemed to have a more solid future” (personal communication, February 7, 2002). As Desbarats explained in reference to the Kent Commission report, the feeling has been that industry trends were, and continue to be, negative with circulation stagnant and out of line with population growth. The premise, however, that there were no alternatives given past and current trends does not acknowledge that opportunities to initiate change did exist. This argument effectively dismisses the work done by the inquiries and the choice made to ignore their recommendations. Nicholas Garnham explains this constrained approach to policy and regulation interventions in the following terms:

It is to say that given the constraints it [system] creates then their rational choice is to sustain it. It is also important to note that the kind of structural determinism involved does not deny the role of rational human agents and their strategic instrumental human action as a determinant of the operation of the system. On the contrary, the system only works in the structurally determining way that it does so long as human agents continue to act in specific ways that they see as rational and that, within the situation in which they find themselves, are as rational as any social decision can be in conditions of 'bounded rationality.'

(Garnham, 2000, p. 42)

Given the current state of the industry in Canada then, interveners in the process, such as Desbarats, saw few alternatives for the WIC assets, or for CTV for that matter, other than further consolidation and rationalized their actions in this context. Academics then were trying to reconcile the structural constraints created by previous regulatory decisions and economic pressures with their desire to ensure that Canadian journalism continued to thrive. The question of the public interest then becomes linked to the very survival of the industry itself, and the logical assumption in this case is that, if survival is on the line, concentration is the only alternative to foreign ownership or failure.

Moreover, journalism schools, as most universities and colleges throughout the country, as well as independent producers, face intense financial pressures, and the licence renewal process has become, in essence, another forum to access much needed new resources. Stephen Kimber, Director of the School of Journalism at the University of King's College in Halifax, explains that the Canadian broadcasting industry has a poor record of supporting journalism schools and that the licence review process offers journalism educators one of the few opportunities they have to secure additional funding:

US broadcasters have a strong history of supporting training but here we have to make broadcasters realize that they have a responsibility to train the next generation of journalists. I've pitched CanWest on this as well but don't expect a favourable response. I had to basically walk them through their newsrooms and point out how many of their journalists

we had trained. It was certainly a more calculated decision I made as the director of a journalism school to get \$75,000 to endow a journalism scholarship. When CTV ask me as a journalism educator to support their application, I wrote back with my concerns that they don't do enough as an industry to support us. They responded back with the diversity endowment, so you rationalize what you say to get the financial support you need without being glowing in your support.

(Kimber, personal communication, January 31, 2002)

Kimber went on to explain that even with what he has seen in the industry and experienced himself as a CanWest employee (a topic that will be taken up later) he continues to have mixed feelings about concentration. While he feels the CanWest way of doing things is dangerous, he also grew up in a city where the independent, family-owned local newspaper was among the worst in the country. Therefore, he does not see local ownership as a panacea for concentration nor chain ownership as an inevitable villain. Kimber states that he went before the Commission to comment on CTV's diversity initiative not to assess whether or not concentration was negative or positive and confined his assessment to the narrow section of the deal that he was asked to address. As this comment demonstrates, the process itself is rife with contradictions as it becomes increasingly oriented towards self-interest. Journalism professors, while justified in their requirements for more funding, provide, one would assume, a critical perspective on these mergers and their implications for the practice of journalism. However, the process itself is not conducive to promoting any sort of change as the pressure of the system and the pressure that individual actors face contributes to the reproduction of dominant assumptions and closes off alternatives. This is Giddens' theory of social production and reproduction in action. Giddens describes the main analytical conditions relevant to the reproduction of structures of interaction: the constituting skills of social actors; the rationalization of these skills as forms of agency; the unexplicated features of settings of

interaction that promote and permit the exercise of such capacities, which can be analyzed in terms of elements of motivation, and the duality of structure (Giddens, 1993, p. 109). Participants in the process, such as Kimber and Desbarats, obviously have rational reasons for their actions. In this exercise of human agency, however, the features of the process itself and the framework within which these hearings take place narrow the range of choices. Operating under these specific structural constraints, we see how the pressure to seize the hearing process as a financial opportunity has taken away from its power as a means to interrogate the significance of these transactions to the public interest.

Beyond the pressures journalism schools face, the adversarial nature of the process and the assumptions that dominate it, close off the opportunity to initiate a full inquiry into a merger's impact on the media and result in the dismissal of many legitimate concerns. In the CTV, CanWest and Quebecor hearings, those in favour of licence approvals included academics, independent producers and the broadcasters themselves. Dissenters in these cases were confined largely to unions and special interests groups such as those trying to seek additional financial investment for such initiatives as closed captioning. Although, in the case of the Quebecor/TVA hearing, the union was able to demonstrate key areas of concern, these concerns were overshadowed by the financial enormity of these deals and their impact on the French-language broadcasting market.

In all of these transactions, the companies have taken on incredibly high levels of debt. In its 2001 annual report, CanWest acknowledges the impact of its acquisition strategy on its bottom line, stating that although revenue almost doubled, the company's

net earnings decreased substantially as a result of the payments on the increased debt assumed to make the acquisitions (CanWest, 2001, p. 11). Under this kind of pressure and accountability to shareholders, one has to question the acquiring company's priorities. The impact here can basically be twofold: while economic concentration can put financial pressure on the companies to cut back on resources that could potentially undermine diversity, cross-ownership and conglomeration can also compromise diversity in order to protect an owner's financial interests. The Quebecor Code stipulating the structural separation of Quebecor's print and television interests has generated significant debate in this context. The code's measures that have been previously mentioned are as follows: TVA and LCN will operate independent of other Quebecor media entities, newsrooms will remain distinct from those of Quebecor's newspapers, TVA management will be distinct and independent from those of Quebecor's newspapers, a majority on the board of directors of TVA will be independent of QMI or other companies of the Quebecor family, and a code of professional conduct will be enforced by a watchdog group. This code, however, traces its heritage to Quebecor's acquisition of TQS when a similar code was adopted. As the Fédération Nationale des Communications pointed out at the hearings on the TVA acquisition, the Conseil de Presse du Quebec has noted Quebecor's tendency following the TQS acquisition to leverage its media properties to protect the company's financial interests:

Le Comité du surveillance sur l'indépendance des salles de nouvelles de TQS a emis des conclusions qui conferment que Quebecor a tendance à recouvrir ses intérêts commerciaux et que, bien que les activités de TQS et de CQI s'inscrivent dans une logique commerciale, ça ne doit pas mettre en peril l'indépendance editorials des professionnels de l'information (CRTC, 20011).

The union at le Journal de Montreal levelled similar criticism at the code stating that it was ineffective and that the committee faced a wall of silence within Quebecor when it came to taking any action (CRTC, 2001i). Although the Commission did place restrictions on Quebecor, it failed to address the unions' concerns about the unenforceability of the code. The Commission failed to inquire further into these concerns, instead putting forward the benefits of concentration and, in this instance, the importance of ensuring TVA remains part of a Quebec company:

Alors, c'est pour cette raison que vous proposez qu'on accepte pas la transaction. Mais par contre, il y a certainement des intervenants qui trouvent les bénéfices, qui trouvent les avantages, qui voient à ce que cette proposition amène une sécurité, amène un pouvoir surtout pour les activités, les artisans, les créateurs pour que – comme Madame Wylie vient de discuter aussi avec la Fédération nationale des communications, supportent une entreprise québécoise canadienne dans une ère de communication où il y a de plus en plus de convergence et peut-être de plus en plus d'entrées des autres grandes entreprises. Alors, il est très important d'avoir les entreprises fortes, canadiennes et québécoises (CRTC, 2001i).

Despite the efforts of the unions to point out that Pierre Péladeau and Quebecor were not interested in this undertaking as a societal project and despite the problems with the existing code of conduct, the Commission, nonetheless, went ahead and approved the transaction, subject to the structural separation requirements but acknowledging the trade-off this entailed:

The Commission is aware that safeguards such as a code of professional conduct and a monitoring committee are a compromise between the ownership rights of the licensees and their responsibilities as operators of a regulated broadcasting undertaking. These safeguards will be effective only to the extent that the parties concerned consider that applying them is crucial to maintaining diversity of voices in the market (CRTC, 2001o).

It is interesting that the CRTC refers to the ownership rights of the licensees since ownership rights, as discussed in the previous chapter, have traditionally been associated

with newspapers as opposed to television stations. It has traditionally been assumed, as noted in the Quebecor hearings, that editorial positions have not normally been associated with television. Ownership rights in this case refers more to the ability to derive maximum profits from their businesses than it does to the right to use broadcast holdings to take a specific position on an issue. Nonetheless, although the CRTC acknowledges the compromise, the hearings studied suggest that it did not fully understand the significance of imposing these conditions. As in the CTV and CanWest hearings, people who spoke out in favour of the transaction were predominantly those who stood to gain some benefit and who hoped the benefits packages would give them access to new funds. Any space within this process for an inquiry into the impact of the transactions on public service objectives such as diversity and accessibility then are squeezed out by the vested interests of those involved in the process. Contemporary decisions, therefore, draw out the problems of the existing regulatory framework and the knowledge traditionally leveraged when examining these issues. The tension between the rights of owners, journalists and audiences and the demands for a free market approach to regulation come to the forefront. The following chapter further develops how regulatory frameworks have evolved and examines the problem of a fiscally centred notion of the public interest and endorsement of competition without fully exploring the dynamic social forces that underlie the regulatory framework. The impact of the transition to a deregulated environment is obvious when we see how the results of stated policy goals conflict with their actual outcome.

CHAPTER 5 – THE GAP BETWEEN POLICY GOALS AND MARKET OUTCOMES

This chapter further develops the shift in regulatory methodology discussed in the previous chapter, exploring the problems that seem inherent within the existing framework by examining its market impact. Although diversity and plurality continue to be associated with the public interest, regulatory policy now promotes the idea that these values are best served by a financially stable and globally competitive industry, and, in the Canadian case, this means an industry that is controlled by a few big players. Apart from some of the contradictions this presents in relation to historical broadcasting policies, this shift is important because of the gap previously mentioned between stated objectives of broadcasting policy and their actual impact, along with concentration and cross-ownership, on both the broadcasting and newspaper industries. Although these effects were not necessarily unforeseen, given the concerns expressed by the Davey and Kent inquiries, they were for the most part unacknowledged in contemporary regulatory proceedings. In assessing these policy and market changes, how one approaches the study of concentration and diversity is very important. This chapter will demonstrate that measures of concentration can be interpreted in such a way that makes it seem as if there is no reason to be concerned with the current market structure. Obviously, Canadian media conglomerates take up the position that concentration is not an issue. Industry players such as CanWest, in fact, argue that the advertising market specifically is so fragmented that it is beginning to have an impact on programming investment. The company argues that the industry is not currently dealing with market concentration but with re-aggregation. When one looks at some of the measures of concentration used, particularly by CanWest in its submission to the Standing Committee on Canadian

Heritage, it becomes apparent that concentration can be a fairly malleable term. The distinction made earlier between market concentration and ownership concentration points to the significance of both but highlights that market concentration must be examined in relation to concentration of legal and economic ownership and concentration of cross-media holdings. As part of its submission to the standing committee, CanWest included the study *Fragmentation, consolidation and the Canadian consumer: An overview of the Canadian media market in 1950, 1975 and 2000*. Completed by Communic@tions Management, Inc., the study's findings are based on a flawed methodology that looked at each medium individually and only within a specific geographic market. Once this analysis is expanded to measure both concentration and cross-ownership and the viewing shares of speciality channels are also accurately portrayed, a very different market structure emerges from the same core data. Furthermore, when these market figures are examined in relation to the trends associated with concentration and cross-ownership put forward earlier on, it is clear that concentration and cross-ownership has led to less diversity. Contrasting the characteristics of concentration and cross-ownership used in this thesis to illustrate a lack of diversity with those CanWest proposes, highlights the inconsistencies and problems that underlie their study's conclusions. The characteristics or trends associated with concentration and cross-ownership explored all contribute to reducing the diversity of voices and views to which the public has access. The trends include the redistribution of program spending from public service oriented programming to entertainment programming, the regionalization of news programming and operations, reducing voices at the local level; the concentration of power and common ideological interests amongst

an interlocked economic and media elite, which, in turn, narrows the range of views informing allocative decisions; and the exercise of operational control over day-to-day media operations, undermining the communications rights of both journalists and audiences.

The Effects of the Television Policy

In terms of formal policy, it is the CRTC's 1999 *Television Policy* that, next to the decisions on the media mergers themselves, has had the most significant impact on the current media landscape. Instead of dealing with the Americanization of the Canadian broadcasting system by focusing exclusively on the development of Canadian content, the policy focus changed. It still strives to develop Canadian content but does so within a framework that gives broadcasters increased flexibility in terms of how they meet their priority programming objectives and how they spend their money. In The Cultural Industries in Canada, Michael Dorland explains that two distinct environments have shaped the development of Canada's cultural industries: the symbolic environment and the industry environment. The symbolic environment consists of the "symbolic and linguistic framework within which the economic development of Canada's cultural industries have taken place" (Dorland, 1996, p. xii). Dorland goes on to describe this environment as the rules, terms and conditions by which players are authorized to enter and play in the cultural industries game (Dorland, 1996, p. xii). The industry environment then refers to the understanding of the economic circumstances that prevail in a particular culture industry. This means, explains Dorland, that Canadian cultural industries face two realities, one, the specifications of the policy environment in which they develop and two, their status as economic objects (Dorland, 1996, p. xiii). Dorland

points out that the problem with the industry environment is getting accurate data about each cultural industry. The central argument in the essays compiled for The Cultural Industries in Canada is that “the way one approaches the cultural industries and the policies affecting them as well as the language that one uses, is as important as the reality one imagines one is talking about, or making policy for” (Dorland, 1996, p. xiii). In this chapter, it becomes clear that the policy environment and the perceived reality of market conditions have had an enormous impact on the broadcasting system. It seems, however, that the symbolic environment has been overwhelmed in recent years, creating a framework that on the surface should support stated objectives. In reality, however, the framework has been compromised by the desire to ensure financial stability. Previously, the CRTC did endeavour to address the market’s shortcomings from a cultural or symbolic perspective by protecting the production of Canadian programming through policy. As discussed, however, this strategy has been abandoned with the focus almost exclusively on industrial as opposed to cultural goals.

This transition in policy takes as its premise that financial stability holds the key to creating a successful Canadian broadcasting industry able to compete at the level of global distribution and exhibition. The *Television Policy* lays out from the very beginning the CRTC’s belief that ownership consolidation represents significant benefits to the broadcasting industry and that the Commission wants to foster companies that can compete both domestically and internationally. Some of the statements the CRTC makes in its policy documents embody the lack of industry data that Dorland refers to with little evidence provided to support the premise that consolidation increases a broadcaster’s capacity to create appealing and popular programs. With the desire to compete on a

global scale in mind, the CRTC has tried to put forward a framework with the *Television Policy* that enabled, what the Commission felt, was the flexibility, diversity and choice broadcasters need to be successful in a global environment. This is in keeping with Dorland's observation that "from the mid-sixties on, the object of the state policy was to be understood primarily as the development of Canadian private cultural industries." (Dorland, 1996, p. 358). As the development of private cultural industries took hold, policy seems to have become less and less focused on serving the needs of Canadian citizens and Canadian culture and more focused on financing global aspirations for the industry. As theorists such as Dorland and Raboy demonstrate, this trend had been in development for many years. However, where the *Television Policy* seems to become problematic is that it puts forward policy that appears to compromise areas of success and areas that contribute to upholding public interest objectives. This is a strategy similar to that embodied by the merger decisions. The CRTC takes the stance of deregulation while acknowledging that it is fostering clusters of concentration. It does this in an environment where it lacks sufficient data to make some of the conclusions that it has but, drawing on a knowledge base informed by assumptions about deregulation, it appears confident to move forward. Specifically, the *Television Policy* attempts to foster the development of exportable programming and lays out the five principles the Commission believed were required to support a financially strong system:

1. Ensure quality Canadian programs are on TV at the times when Canadians are watching
  2. Reflect the diversity of Canada's regions and peoples
  3. Support an economically successful broadcasting industry
  4. Require regulation only where the goals of the Broadcasting Act cannot be met by other means
  5. Ensure that regulations are clear, efficient and easy to administer
- (CRTC, 1999)

In support of these five principles, the Commission stated that the new *Television Policy* would aim to increase the amount of Canadian programming available in peak time, expand the priority programming categories, offer credits for Canadian drama, require local and regional reflection through news or non-news programs and maintain existing levels of Canadian content. Within this policy, programming that had previously been classified as under-represented was re-classified as priority programming and the associated program categories were re-hauled. The Commission did this with an eye to bolstering international exports of Canadian material:

The broadcasting industry has been restructuring through ownership consolidation. This has resulted in efficiencies and synergies which should provide increased investment in Canadian programming and a greater likelihood of the export of that programming. The Commission expects that the consolidation of broadcasting, production and communication companies will continue, to the benefit of Canadian audiences, the Canadian broadcasting system and the public interest (CRTC, 1999).

This quotation illustrates the Commission's line of reasoning: concentration leads to efficiencies and synergies leads to increased investment, to more programming exports, to more money, to greater diversity and accessibility. The impacts of these changes are just emerging now and seem to conflict with the stated objectives of the policy. It is interesting to note that this particular document actually appears to be one of the few that continues to talk about diversity – a term that is replaced by synergy in subsequent licence renewal decisions. Despite making exceptions just a year later, the CRTC also restated its commitment to the policy of permitting ownership of no more than one over-the-air TV station in one language in a given market as well its recommendation that companies with newspaper holdings not be granted broadcasting licences in the markets where they already own a newspaper. The CRTC states in the *Television Policy* that its

one station per market measure in particular “ensures the diversity of voices in a given market, and helps to maintain competition in each market” (CRTC, 1999). The compromise of these policies gives rise to what is more accurately described as multiplicity of content as opposed to diversity:

These are purely commercial decisions, but by promoting multiplicity over diversity they have a pertinent effect on the range of information and imagery in the public domain. In a cultural system built around ‘synergy,’ more does not mean different; it means the same basic commodity appearing in different markets and in a variety of packages (Murdock, 1990, p. 8).

Synergy and diversity can then clearly be conflicting concepts. Building a policy framework that should have diversity at its core but is instead built around the principle of synergy is, therefore, fraught with problems.

Beyond the exceptions made to its ownership policies, the CRTC revised the priority programming requirements in an effort to strengthen the overall system and to give licensees greater flexibility in meeting these requirements. Priority programs now include Canadian drama programs, Canadian music and dance and variety programs, Canadian long-form documentaries, Canadian regionally produced programs (in all categories other than news and information and sports) and Canadian entertainment magazine programs. The CRTC eliminated news and information and sports as priority categories. Regionally produced programs and entertainment programs were the new additions. The addition of these two categories meant that broadcasters could use programs that were less expensive to produce, a cooking show for instance, to meet their eight hours per week of priority programming requirements. Beyond removing the news and information and sports categories, the Commission eliminated the requirements for licensees to make quantitative commitments with respect to local news programs

although all licensees have to demonstrate how they will meet the demands and reflect the concerns of their audiences through either local news or other local programming. The CRTC cites the availability of other news sources as a reason for eliminating this requirement:

The Commission has carefully evaluated the availability, profitability and success of local news programs throughout the country. It has also considered the changing broadcasting environment and, in particular, the availability to Canadians of alternative sources of local news and information. In larger Canadian markets, viewers are able to choose among local or regional news provided by the CBC or Radio-Canada, and two to four private stations. In addition, some community cable channels provide regular local newscasts. A regional specialty service, Pulse 24, provides news and information primarily in southern Ontario. Various information services are also increasingly available on the Internet for those who need specific types of local information or who wish to discuss local issues (CRTC, 1999).

Again, when one looks at the strength of the media conglomerates' online properties, it is really multiplicity, not diversity, of content that is emerging. Considering the *Television Policy* alongside CRTC decisions regarding broadcasting acquisitions and the trends in program spending, reveals some striking contradictions. While in some instances the *Television Policy* refers to the expense associated with producing non-news programming and the need to have local and regional programming, it still goes on to eliminate local or regional programming in the news, analysis and interpretation and report and actualities categories as priority programs. Throughout the document, the CRTC states that it is changing the *Television Policy* to give broadcasters more flexibility in meeting their programming requirements. This change, however, introduces flexibility by undermining the objectives of the Broadcasting Act:

The Commission notes that the amount of non-news local programming has declined over the past ten years. There appears to be two major reasons for the reduction. First, as a result of the regulatory emphasis on expensive,

peak time entertainment programs, the largest broadcasters have had fewer resources to devote to local programs. Second, the consolidation of the ownership of local stations in the hands of a few corporate groups has encouraged management to effect operational efficiencies that have reduced resources at the local station level. In the Commission's view, an increase in the quality and quantity of the programming that reflects legitimate community interests can best be achieved by establishing incentives to provide it during peak viewing times (CRTC, 1999).

Regionally produced programs, however, have to be in a category other than news and information, which would seem like the most logical category for them given the reduction of resources at the local level. This apparent contradiction could be explained by an underlying expectation that programs that are regionally produced would bring opportunities to the specific region yet would not reflect specific community interests and, therefore, could be used across a network. Current and former CTV programs such as, *Vicki Gabereau* and *Celebrity Pets* would be examples of this type of programming. As well, of particular interest when examined in the context of the level of investment being made in Canadian programming, the CRTC eliminated the expenditure requirement on Canadian programming. The Commission again expressed its belief that broadcasters require flexibility in an increasingly competitive environment and will continue to produce high quality programming in order to attract audiences. Many of the changes the CRTC made in the context of the *Television Policy* are based on the premise that the television market is, in fact, not concentrated. Industry players have taken the same stance as they push for additional policy changes. The recent battle over the award of a new licence in the Toronto market to Craig Broadcasting has set off another round of controversy. Not only have competing broadcasters challenged the licence, but Craig itself has also asked for changes it says are necessary in order to meet the commitments it made to Canadian programming in order to get the licence. As well, the CRTC's recent

awarding of the Toronto licence as well as one in Victoria seems to be an effort on the regulator's behalf to enhance diversity. Again, this seems contradictory since it has previously asserted that the synergies of the large companies will enhance the public interest yet these licences were awarded to CHUM and Craig, the relatively smaller players in the market compared to CanWest and CTV. Clearly, the regulator seems to be struggling to balance the objectives of the Broadcasting Act with its desire to implement broadcasting policy that puts the financial stability of the industry first. The impact of the *Television Policy* will be further explored when looking at the trends associated with concentration and cross-ownership.

CanWest and the House of Commons Standing Committee on Canadian Heritage

As discussed, the way concentration is measured becomes very significant when considering regulatory policy. Looking at CanWest Global's position on the current state of the market, it is clear that the broadcaster has attempted to define concentration and diversity in a way that legitimates its requests for changes in broadcasting policy. In its submission to the House of Commons Standing Committee on Canadian Heritage, CanWest Global argues that it is drawing a much smaller share of advertising revenue given fragmentation in the market due to speciality channels. It argues that this fragmentation and loss of revenue is jeopardizing its ability to meet the commitments of its licence. CanWest adheres to the position that the market is fragmented and that conventional broadcasters lack the regulatory protection afforded speciality channels. Advances in communication and broadcasting technology, says CanWest, demand that conventional broadcasters focus on building new markets:

Together these new developments have fragmented the television market and undermined the integrity of the existing broadcast regulatory

framework that relies primarily on extracting Canadian content from commitments from conventional broadcasters to meet the government's policy goals for the promotion of Canadian culture in broadcasting.

(CanWest, 2002a)

It should be noted, however, that while conventional broadcasters' spending on Canadian programming has declined steadily over the last number of years, the amount specialty channels spend on Canadian programming, while marginally less overall, has continued to climb each year.¹⁴ Evidently, the CRTC is not relying exclusively on conventional broadcasters for the creation of Canadian content. CanWest argues that the fundamental question at stake is whether or not "Canadian TV broadcasters will be able to achieve the economies of scale and scope necessary to compete effectively in the global marketplace and to generate the revenues and financial capacity required to meet their public service objectives" (CanWest, 2002c). Following below are a few recommendations CanWest puts forward in its submission that are of particular interest:

- Change government financial support programs and Canadian content rules to foster the production of programs and films that are suitable for international distribution
- Allow inclusion of producer/distributors affiliated with television broadcasters to be eligible for Telefilm support programs
- Canadian television advertorials should count as Canadian content
- Remove discriminatory access of U.S. specialty channels to Canadian subscription revenues
- Revise advertising rules (12 minute per clock-hour rule)
- Simplify the system for awarding broadcast licenses; include provision for automatic license renewals unless there are breaches of the Broadcasting Act or of conditions of licenses
- Phase out or modify the current CRTC benefits policy – reduce the burden to 5 percent, with a specified sunset date within the next two or three years, after which the benefits policy should no longer exist.
- Increase the permitted limit for direct foreign ownership in voting equity of a broadcast licensee to 49 percent based on reciprocity and initiate early negotiations with the U.S. and other countries to facilitate Canadian strategic investment in foreign markets (CanWest, 2002c, pp. 23-34)

Obviously, the impact of many of these measures on CanWest Global's ability to meet the objectives of the Broadcasting Act seems questionable. Counting advertorials as Canadian content, revising advertising rules, phasing out the benefits policy and allowing producers and distributors affiliated with broadcasters to be eligible for Telefilm support will clearly go a long way towards improving CanWest's bottom line, but there is no guarantee that any financial benefit realized from these measures would be invested in new and original programming. Admittedly, CanWest's financial position has been precarious following its acquisition of WIC and Hollinger. However, the company's claim that the advertising market is fragmented and that the loss of this revenue is making it difficult for the broadcaster to honour its public service objectives are only highlighted when it suits the broadcaster. The weakness in the advertising market barely rates a mention in the presentation CanWest gave at the CIBC World Markets 2002 Institutional Investor Conference in February of this year. On slide 14 of the 16 presented, CanWest stated that it expected the TV advertising market to remain challenging through the second quarter of 2002. To this audience, it emphasized instead how cost rationalization initiatives will help improve service at an annual cost savings of \$20 to \$25 million over the next year. While the company points out to the CRTC how speciality television is hurting the conventional broadcasters, it instead highlighted the rapid growth of its own speciality service, Prime TV, at the investor conference. As well, despite the \$3.6 to 4 billion dollar debt that CanWest is carrying (lightened somewhat by its recent divestiture), it highlighted in this presentation the improvements it made on a pure revenue basis, with the company's operating revenue, net earnings and earnings per share doubling over the course of a year. The company makes it clear in this presentation that

its financial performance is quite acceptable, and it just needs to continue this performance and further reduce its debt to be successful (CanWest, 2002b). The Financial Post echoes the optimism CanWest displayed before the institutional investor community, stating that CanWest Global is “poised to dominate the industry. If you are a long-term investor, then buy now. CanWest Global is now established as a growth stock – it was always in a growth industry” (Financial Post, 2001). Despite CanWest’s arguments, both the viewing share and financial position of the conventional broadcasters appears to have remained relatively stable since 1997. Both Bell Globemedia and CanWest’s total viewing shares have stayed constant over this same time period. While Bell Globemedia’s viewing share has fluctuated by a few percentage points, hovering between 20.4 and 22.6 percent between 1997 to 2000, CanWest’s share jumped to 16.2 percent from what had been a fairly steady 10 percent following the acquisition of the WIC broadcasting properties. Over the course of these same years, operating revenue has increased by small increments each year. While there was a significant increase in the conventional broadcasters advertising revenue from 1997 to 1998, this increase has remained at around 2 percent since. In terms of advertising revenue, the entire market for both conventional and speciality channels increased by \$80 million from 1999 to 2000. When advertising revenue is broken out between the conventional and specialty channels, it becomes apparent that the decline for conventional broadcasters has not been as dramatic as what CanWest has stated. The *Broadcast Policy Monitoring Report of 2001* indicates that advertising revenue for conventional broadcasters has levelled off considerably between 1998 and 2000, growing from \$1.49 billion to \$1.51 billion. Over the same time period, advertising revenue for the speciality channels has grown from

\$853 million to \$1.04 billion. While the growth of the speciality channel advertising revenue is greater, it is not markedly out of step with overall revenue growth. Since this is a relatively new market for advertisers, it is difficult to say how long this trend will continue. Advertisers looking to target a specific market will certainly turn towards the specialty channels, but it is conceivable that some of this revenue will return to the conventional broadcasters over time. Bell Globemedia recently reported improved third-quarter results thanks to a recovering advertising market and subscription gains.

Although advertising revenue is slower during the summer months, the company reported that year-over-year gains reflect a 10 percent improvement in the television and print advertising markets for the quarter ended September 30th (Damsell, 2002, p. B10). The impact of the decline is even more questionable when one looks at the investment conventional broadcasters are making in specialty channels. Bell Globemedia owns two specialty stations outright, has an ownership interest of more than 50 percent in five others as well as a 33 percent interest in the Outdoor Life Network, 12 percent in History Television and 16 percent in ARTV. Beyond the specialty digital channels Bell Globemedia also owns DTH provider Bell ExpressVu, 16 percent ownership of CTV Direct, 20 percent of Viewer's Choice and 8 percent of Canal Indigo. In the Category 1 Digital Services, Bell Globemedia owns CTV Travel and an 80 percent share of Le Réseau Info des Sports and WTSN along with 20 percent ownership of Télé HaHa and LCN Affaires. It is also worth noting that the speciality market itself appears to be very fragmented. Working from subscriber information found in the *Broadcast Policy Monitoring Report 2001*, BCE and CHUM attract the largest percentages of subscribers at 3.4 percent and 3.2 percent respectively. Alliance Atlantis attracts approximately 2.9

percent while Corus attracts 2.5 percent.¹⁵ Although CanWest's representation in specialty and digital services is quite a bit smaller, it attracts only around .5 percent of subscribers, it continues to build in this market, owning Prime TV outright and sharing ownership of three digital services with Quebecor. Quebecor also controls 60 percent of Télé HaHa. The three big players then, CanWest, Bell Globemedia and Quebecor not only have a presence but also are all tightly interlinked through their speciality channel interests. Presumably, this is only the beginning of the investment that the conventional broadcasters will make in the speciality market. In this case, there are a number of trends in the market that CanWest does not make note of since they undermine the company's claims that the market is not concentrated.

It's all in the Interpretation

Turing to the specific evidence CanWest presents, it becomes obvious that market data, unless questioned and juxtaposed with other measures of concentration, can be used to support the claim that the market is fragmented. In its submission, CanWest states that market diversity is not necessarily determined by market structure. This is a valid statement, but when one examines market concentration alongside ownership concentration, changes in program investment, the regionalization of programming, financial cutbacks, and concentration amongst media boards of directors and top Canadian corporations, it is apparent that concentration is in fact an issue and that diversity is compromised. In the appendix to its submission, CanWest states that there are two questions that must be answered in order to determine whether or not media concentration in Canada is an issue. First, it questions whether or not it is correct to say that any one medium can be regarded as dominant. Second, it questions whether or not it

could be determined that any one company has a dominant share of a particular medium. CanWest states that this creates a double test against which questions of media concentration can be viewed and concludes that concentration is only an issue when there is a dominant medium and one company dominates within that particular medium (CanWest, 2002c, p. 41). To answer these questions, the study examined data on the time Canadians spent with a number of different media and compared the percentage of Canadian households with selected electronic services in 1950, 1975 and 2000. They also examined circulation and audience data for newspapers, radio and television along with Internet usage data. The explanation of the methodology used to measure concentration sets the tone for this document, stating that when home computers, CD players and other devices are added to our traditional means of receiving information, Canadians have substantially more information opportunities than they have had at any other point in history (CanWest, 2002c, p. 10). The report refers to the current round of media consolidation as the industry's response to fragmentation and explains that this is merely the re-aggregation of the many fragments that have developed in the industry over the last 30 years. Going back to data from the 1950s, the report argues that the media during this era were significantly more concentrated than they are now:

It should also be noted that the attempt to re-aggregate is not based on some nostalgia-induced desire to re-create a media environment of a different era. Rather, it is based on a logical economic goal – to create sufficient economies of scale in a fragmented market to be able to provide many diverse services. In other words, the goal of re-aggregation may also be characterized as an attempt to achieve sustainable diversity.
(CanWest, 2002c, p. 2)

The report emphatically states that its findings lead to the conclusion that Canadian consumers have access to more media and more diversity of content from more sources

than ever before in history. Both the methodology and the interpretation of the findings, however, are problematic. While the study's findings for each market are accurate, the analysis is a partial one that looks at each geographic market and each market segment in isolation and does not address ownership concentration or cross-ownership. Beginning with television, it points out that CTV and CanWest are the two largest private broadcasters in English-language television but argues that neither of them could be considered dominant within the medium. The study looks specifically at the Vancouver, Calgary, Edmonton, Winnipeg and Toronto markets, concluding that none of these markets are as concentrated today as they were in 1950 and 1970. The study points out that CHAN and CHEK were under common ownership in 1975 just as they are today and that, with specialty and new channels figured in, the combined CHAN/CHEK share of total hours viewed is 6 percent lower than what it was in 1975. The Vancouver/Victoria market has historically been one where the CRTC has made exceptions to its standard ownership policy. What the study fails to point out, even in its analysis of the newspaper market, is that CanWest newspapers capture 86 percent of the average weekly circulation for all of British Columbia.¹⁶ The Vancouver Sun is the largest daily in the province with a circulation of 1,999,776, followed by the Vancouver Province at 997,716, and the Victoria Times-Colonist. Only the Kelowna Daily Courier owned by Horizon comes close to the former Hollinger papers with a circulation of 119,573. The study also points out that, as a group, Canadian specialty services had almost the same share of tuning as CHAN and CHEK although the relevance of this figure is questionable since the specialty services are owned by multiple owners, not the same broadcaster as in the case of CHAN and CHEK. Moreover, the CRTC indicates that CanWest has an incredible 81

percent television market share in BC (CRTC, 2001o). The analysis of the Vancouver market embodies the two flaws of this study. First, it aggregates specialty channels into one group instead of breaking out their viewing share by ownership. Second, it does not look at cross-media holdings in the same market. The television market is studied on a city-by-city basis but newspaper interests are only discussed in reference to the Toronto market. Once these flaws are taken into consideration, a very different picture of the markets highlighted emerges. For the Calgary, Edmonton, Winnipeg and Toronto markets, the study goes on to point out that the CanWest stations share of viewing is again the same or smaller than that of the specialty stations combined. Again the relevance of comparing CanWest's combined share of viewing with the combined share of specialty channels controlled by multiple owners is not clear. With respect to Toronto, the report points out that in 1975 CanWest and CHCH each had about 9 percent share of tuning and that today, under combined ownership, their combined share of tuning is 13.4 percent, less than the total of their viewing shares in 1975. On their own, one could argue that these figures do not prove any dominance on behalf of CanWest, or CTV for that matter, but to truly provide an accurate reflection of the state of the market, viewing shares for specialty services should not be aggregated and each specialty channel should be broken out by its ownership. The study also indicates a similar pattern for radio, pointing out that in each market, the top station had a lower share of tuning in 2000 than it did in 1975; that the top four stations had a lower combined share of tuning in 2000 than they did in 1975; and that to reach a combined share of tuning of approximately 60 percent in each market required more stations in 2000 than it did in 1975. This leads to the conclusion that the radio market has fragmented since 1975 because of an increase in

choices. Similarly, in its analysis of the newspaper market, the study looks only at the Toronto Star. The study states that in 1950, the Toronto Star had an average daily circulation equal to 12 percent of the number of households in Canada. In 2000, it states, the daily newspapers owned by CanWest had 15.1 percent of the combined average daily circulation of all Canadian dailies. Comparing circulation in one city with national circulation as opposed to comparing circulation on a city-by-city basis does not seem to add much value. This clearly seems to be an instance of comparing apples and oranges – a tendency that continues with the study’s analysis of Internet usage. With respect to the Internet, the study quotes Statistics Canada survey numbers that estimate the Internet was in about 40 percent of Canadian households in mid-2000 although the study speculates that this number is well over 40 percent (CanWest, 2002c, p. 62). Since Statistics Canada also reports that 55 percent of Internet users accessed online news sites, the study concludes that this is a further indication that Canadians are receiving news and information from diverse sources. Given these findings, no Canadian medium meets the double test for dominance that the report established. While it does concede that most observers would, in a social sense, regard television as the dominant medium, the study states that no single company is dominant and that specialized services, fragment the market and contribute to diversity. The previous discussion on synergy and diversity points to the flaws in CanWest’s argument that more channels equals more diversity. Beyond these basic flaws, when the analysis of this data is extended to include ownership concentration and cross-media holdings, very different market trends emerge.

Examining market concentration alongside ownership concentration and cross-ownership by specific market and then relating this to the trends associated with

concentration and cross-ownership highlighted earlier on, it becomes obvious that CanWest has a very narrow interpretation of concentration suited to supporting its position. First, as previously mentioned, measuring the viewing shares of specialty channels as an aggregate is highly misleading. Bell Globemedia is well on its way to establishing a very strong position in the specialty market and CanWest is beginning to make inroads as well. If the specialty channels viewing shares were broken out by ownership, it is likely that the shares would be much more fragmented, potentially illustrating the strength of the conventional broadcasters. Moreover, by defining each medium as a separate market instead of examining the position of an ownership group's cross-media holdings within a specific geographic market, the CanWest study is able to completely avoid the issue of ownership concentration and cross-ownership. Although CanWest draws the reader's attention to the television markets in Vancouver, Calgary, Edmonton, Winnipeg and Toronto, the analysis of newspaper concentration looks only at the Toronto market. Looking only at television viewing share, CanWest is able to conclude that no ownership group is dominant in any of these markets. Looking at each company's cross-media holdings in these geographic markets tells a different story. In Vancouver, CHAN and CHEK have a 20.7 percent viewing share with only the aggregate of specialty channels and the other category coming close with percentages of 20.4 and 39.6 respectively. If it were broken out by ownership, the other category is potentially a very fragmented one since it includes US conventional broadcasters, US specialty services, VCR use and provincial channels. As a single, identifiable ownership group, CanWest then has the largest viewing share in the Vancouver market. When this figure is combined with newspaper circulation, it is clear that concentration and cross-ownership

are a major concern in this market. CanWest has the largest circulation of any identifiable ownership group in the province with an average weekly circulation of 2,817,716 or 86 percent of the total provincial circulation, and it controls the two largest circulation papers in the province.

Within this context, it is clear that alternative measures of concentration and cross-ownership are necessary to address the issue of diversity. The CRTC's previous policy that did not allow an owner to control more than one television station in a given market provides a starting point for considering alternative measures. The CRTC had previously made this exception in the Vancouver/Victoria market and continued it with the WIC acquisition. If one looks at newspapers, one could apply a similar measure to the CRTC's, saying newspaper concentration is an issue when a single ownership group controls more than one newspaper in a market and greater than 50 percent of the average weekly circulation. Clearly, CanWest meets and surpasses these criteria. Controlling the single largest viewing share in the Vancouver/Victoria and 86 percent of the circulation in the province, CanWest's cross-media holdings contribute to the company's dominance. The Calgary and Edmonton markets are also of interest, not just because of CanWest's relative dominance in the newspaper industry in Alberta, but also because of its close relationship with Quebecor. Province-wide, CanWest controls 55 percent of the average weekly circulation and Quebecor 34 percent. While CanWest and Quebecor are separate entities, they are partners in three digital specialty services. This relationship could lead to cooperation between the two companies in relation to their other media holdings given that together they control 89 percent of circulation for the province. In terms of cross-media holdings, the television market in Calgary seems reasonably

diversified with CanWest controlling a 12 percent viewing share. This share, however, combined with the newspaper dominance illustrates a picture that, across the province, is more problematic. Beyond Calgary, CanWest dominance continues in Edmonton where CanWest's Edmonton Journal has an average weekly circulation of 984,208. Quebecor's Edmonton Sun brings in an average weekly circulation of 551,473. This amounts to CanWest controlling 64 percent of the average weekly circulation for Edmonton and Quebecor controlling 36 percent. Again, it should be noted that CanWest puts forward a viewing share that is misleading. In the Edmonton market, CanWest commands a slightly larger viewing share than CTV at 15.6 and 15.3 respectively. The largest viewing shares are attributed to the combined viewing share of specialty channels at 17.8 percent and "others" at 34.4 percent. Given the dominance of the CanWest papers, whose closest competition is a business partner, and the relative position of the CanWest television station, the company's cross-media holdings do represent cause for concern. Winnipeg is the exception in the west being one of the few markets where CanWest has no newspaper holdings, but the Bell Globemedia/Thomson relationship is problematic in this region. Across the province, Thomson dominates, controlling 74.5 percent of the average weekly circulation. The Thomson owned Winnipeg Free Press has an average weekly circulation of 988,735 with Quebecor's Winnipeg Sun a distant second at 331,166. Bell Globemedia's CKY TV also commands a viewing share of 17 percent, with only the aggregates of the specialty channels and the other category surpassing it. Given Thomson's ownership interest in Bell Globemedia, there are definite cross-media issues. The Toronto market is the last analyzed in the study with everything further east completely ignored. Although the Irving family traditionally comes to mind when one

thinks of the east coast and media concentration, up until its recent divestiture, CanWest controlled the only daily newspapers in Newfoundland and Prince Edward Island. The Irvings continue to control 88 percent of the daily circulation in New Brunswick while Nova Scotia's newspaper market is the most diversified. CanWest previously commanded an average weekly circulation of 37 percent that is now in the hands of G.T.C. Transcontinental. Four independent newspapers share the remaining 63 percent. Looking at television, this market is also problematic because it has been the most advanced in terms of implementing a regional programming model. Therefore, not only is there little diversity in the newspaper market but television programming is being standardized across the region. Given the concentration in the market and the dominance of CanWest, cross-media holdings are a significant issue in this market and highlight, perhaps accounting for why this market was omitted from the study. When one looks at these major markets across Canada from a cross-media perspective, the argument that market concentration is not an issue does not hold much weight, and the company's failure to acknowledge ownership concentration becomes glaringly obvious.

Moreover, CanWest, further confuses the issue of market concentration by putting forward the idea, as the CRTC has, that the Internet contributes to the diversity of news sources Canadians can access while ignoring the relative strength of the multimedia companies' online properties. Within CRTC documents concerning BCE's acquisition of CTV, the CRTC repeatedly refers to the Internet as an alternative news source, drawing attention to its potential as a source for local news. CanWest's study makes similar claims, as indicated earlier in this chapter. The availability of the Internet in 40 percent of Canadian households combined with the time spent measure used that indicates people

spend 36 minutes per day on the Internet, leads the authors of the study to speculate that the Internet is becoming a significant source of information for Canadians:

Because the Internet allows consumers to access information from virtually anywhere, it represents an important additional source of diversity in the news and information Canadians are able to receive. On March 26, 2001, Statistics Canada released a survey on Internet use based on the General Social Survey conducted in 2000... 55 percent of Internet users accessed online news sites – a further indication that Canadians are receiving news and information from a wide variety of sources (CanWest, 2002, p. 23).

What the study does not elaborate on is the strong positions of the Bell Globemedia, CanWest and Quebecor Internet portals. According to Jupiter Media Metrix, a company offering Internet analysis and measurement, CanWest Global's canada.com site and BCE's Sympatico-Lycos site are ranked amongst the global top 50 web and digital media properties. CanWest states in its annual report that canada.com, according to Jupiter, is the largest Canadian web-based source of news and information used by Canadians, second only to CNN (CanWest, 2001, p. 13). In Jupiter's ranking of Canada's top ten online properties, Sympatico-Lycos ranked second in number of unique visitors per month and Quebecor's Canoe portal ranked eighth (Jupiter Media Metrix Canada, 2002). Canoe was also ranked third in the French Canadian top ten behind Microsoft and Sympatico-Lycos. Consequently, it appears that rather than providing diversity, the Internet simply offers multiplicity and further extends the dominance of these conglomerates' news distribution capabilities to the Internet. These findings demonstrate, however, it is more about re-packaging previously produced content than creating new content specific to a local audience. The findings of companies such as Jupiter Media Metrix indicate that the big Canadian media companies are simply establishing positions of dominance online equal to the positions they have established in

the print and broadcasting industries. The extension of the conglomerates' presence to the Internet is complemented by a push into the independent production sector.

Comparable to their positions with their Internet properties, the media conglomerates' interests also extend to the independent production sector. CanWest's particular vested interest is made obvious in its submission when it seeks out aid for this sector, recommending to the Standing Committee on Canadian Heritage that producers and distributors affiliated with television broadcasters be made eligible for Telefilm support programs. It states that the current eligibility exclusion of distributors affiliated with conventional broadcasters prevents the launching of a significant number of Canadian content projects. Fireworks Entertainment, however, has experienced exponential growth since its acquisition by CanWest in 1998. According to the *Broadcast Policy Monitoring Report*, Fireworks revenue has grown by 175 percent from 1998 to 2000. Only G.F.T Entertainment, Lions Gate and Peace Arch Entertainment have experienced comparable growth. Most independent producers have experienced only marginal increases in revenue and many have seen their revenues contract. This vertical concentration has raised concern with the Canadian Film and Television Production Association (CFTPA):

The consolidation of these companies – CanWest-Hollinger, BCE-CTV, Shaw-Corus, Quebecor-TVA – could potentially affect the diversity of programming in Canada and poses serious competitive issues for independent producers. Some of these media giants, as noted, have direct interests in the production sector. As the “convergence” strategies of large scale media groups appears to be in doubt, however, there could be serious consequences for independent producers seeking access to their distribution outlets. At a time when economic downturn gives vertically integrated media groups an incentive to pursue risk-reduction and cost-cutting strategies, it could well be independent producers who will suffer the most in a tighter economic environment. Vertically integrated media companies could choose, for example, to commission programming from

either wholly owned or affiliated production companies. While it is true that some safeguards are in place to mitigate the impact of vertical integration, firm policy measures are needed to ensure that the independent production sector remains vital in a harsh economic climate. Policy should ensure that a diverse range of production companies have competitive access to markets (CFTPA, 2002, p. 6).

In their annual report, the CFTPA indicates that the broadcasters' in-house production increased by 4 percent in 2000-2001 while the average annual growth rate over the last five years had previously been 3 percent (CFTPA, 2002, p. 19). In 2000-2001, Canadian Television Fund supported dramatic production decreased slightly, from 638 hour to 631 hours. The report speculates that certified productions in the dramatic genre are suffering the effects of the increased flexibility of *Television Policy* to meet domestic content requirements in prime time with productions from a variety of categories. Overall, the total hours of production supported by the CTF increased by 359 or 17 percent in 2000-01. In the Canadian Television Fund documentary category, last year some 968 hours of programming were produced, up from 634 hours the previous year. Performing arts and variety programming also experienced an increase in production activity, to 275 hours from 180 hours the previous year (CFTPA, 2002, p. 8). Again, we can see the emergence of a potential conflict between the CRTC's stated desire to bolster dramatic programming while also increasing the broadcasters' flexibility to meet their licence requirements:

As noted, there is increasing concern about the long-term future of drama on Canadian prime-time television following regulatory rules providing incentives for airing non-fiction or fact-based programming. The CRTC's Television Policy, announced in June 1999, widened the definition of "priority programs" and gave broadcasters an incentive to program fewer high-cost drama programs and focus their licence fees on lower-cost shows in the non-fiction category. While the Television Policy may have been well-intended, it has produced serious consequences for the production of high quality Canadian dramas, which have long been considered to be the cornerstone of Canadian broadcasting policy.

(CFTPA, 2002, p. 12)

Since the conventional broadcasters programming expenditures have declined across the board, it is difficult to clearly identify trends. Spending on Categories 2 to 5 (covers documentary programming) did decline by just 3 percent from 1999 to 2000 while Sports and Human Interest declined by 11 and 13 percent respectively (CRTC, 2001a). The majority of the conventional broadcasters' programming budget still goes toward high cost, dramatic programming but there is a noticeable downward trend in the number of hours produced and the amount of money spent. Looking at the independent production sector then not only helps to demonstrate the impact of the *Television Policy* on program spending but it further demonstrates how the conventional broadcasters are beginning to extend their dominance to other sectors and undermines the premise that the market is not concentrated. The omission of these areas from CanWest's study of market concentration is clearly problematic. When one examines them and then further extends the analysis beyond these measures to examine patterns in program investment, regionalization of programming, centralization of resources and control along with concrete examples of the conglomerates' exercise of administrative control, it is obvious that concentration and cross-ownership are leading to less diversity.

Trends and Characteristics of Concentration and Cross-ownership

As discussed in the introduction, this study set out first to identify key changes in policy and then sought to question the combined impact of policy, concentration and cross-ownership on the public interest. From these questions, four key trends emerged that undermine the public interest.

Distribution of Program Spending

First, program investment patterns have changed, affected by both government policies that support greater flexibility to help broadcasters compete in a global market, and the implementation of a regional news-programming model that diverges from the values of access and diversity one traditionally associates with the Broadcasting Act. As just discussed, the *Television Policy* has had an impact on the amount of dramatic programming produced and has also undermined commitments to news programming by attempting to give broadcasters greater flexibility in meeting their priority programming requirements. Beyond the CFTPA's observations, a recent report in the Globe and Mail offers further evidence that the *Television Policy* is undermining the production of series drama in Canada. In *Dying a dramatic death*, reporter Gayle MacDonald points out that, in 1999, 13 dramatic series were produced in Canada. In 2002, this number dropped to five. Instead, broadcasters have shifted their investment to mini-series and movies of the week (MacDonald, 2002, p. R1). Mini-series and movies are much more marketable abroad than a weekly dramatic television series, helping to meet the CRTC's goals of building a globally competitive broadcasting industry. Now, however, television shows such as CanWest's *Popstars* series qualifies as a priority program in the long-form documentary and could be exported just as easily as a movie of the week. Even Charles Dalfen, the new chairman of the CRTC, recently stated that series drama – above any other form of drama – is “the best way to enforce and stamp the Canadian identity on prime-time TV” (MacDonald, 2002, p. R4). In the same speech, Dalfen hinted at the possibility of rethinking the 1999 *Television Policy* to ensure more Canadian drama series are produced and aired. Furthermore, not only has Canadian self-reflection diminished in

the drama category but it has also been undermined, despite already questionable commitments to news programming at the local level, by the removal of news as a priority program category, further diminishing the diversity of news resources available in an already concentrated market. The Commission stated that it is confident that "broadcasters will continue to provide Canadian news and sports programs in peak hours without regulatory requirements because such programs are either profitable, or at least break even...and are in high demand" (CRTC, 1999). Oddly enough, despite the CRTC's confidence in the viability of news programming, CTV's supplemental briefing to the CRTC on its licence renewal indicates that this may not be the case. In this document, CTV highlights the importance of having the ability to broadcast a regional news program that includes local news inserts from cities throughout the region with the result considered as local news content for all the stations that broadcast it (CTV, 2000a, p. 9). It states that this gives CTV the ability to make sure local news remains viable in these markets although one could conclude that, from the CRTC's perspective, news programs remain viable without these assurances. As highlighted, CTV has already implemented this model with its Atlantic Television Network, producing approximately 13 hours of local news per week across CJCH in Halifax, CKCW in Moncton, CKLT in Saint John and CJCB in Sydney (CTV, 2000b). CTV has also fostered the regional news programming model with its stations in Northern Ontario while Global has done the same in the Maritimes and Saskatchewan. CanWest controls stations in Saskatoon and Regina, commonly referred to as Global Saskatchewan, indicating the company's programming philosophy towards these stations. In fact, CanWest's submissions to the CRTC indicated that all programming for the Saskatoon and Regina stations is consolidated, including

news production. In Northern Ontario, all CTV stations run essentially the same programs as indicated by the documents submitted to the CRTC for the licence renewal process. In this region, the regionalization of programming raises concerns largely due to the lack of competition. The only alternative conventional broadcaster available is the CBC, and BCE owns the CBC affiliates in North Bay, Timmins, Sudbury and Sault Ste. Marie. Clearly, in the absence of structural safeguards, broadcasters will migrate to this regionalized programming model to save money. Even though it maintains its commitment to diversity and highlights the opportunities to enhance local programming within the CTV and CanWest benefits packages, the CRTC has nonetheless encouraged the development of these regional program models:

These priority categories will also expand choice for Canadian viewers and afford increased opportunities to see themselves and express themselves in their regional context. In expanding these categories the Commission intends to encourage the production of regional programming. Such diversity should increase the synergies between conventional televisions and specialty services, attracting more viewers to individual Canadian programs through increased opportunity for exhibition (CRTC, 1999).

In apparent contradiction, however, the CRTC acknowledges the need for and a strong desire to have local programming particularly as it relates to ownership consolidation in the Vancouver/Victoria market (CRTC, 2000b). These assurances, however, seem in opposition to the policy framework. Obviously, the CRTC has not been able to balance a desire for exportable programming with local production, moving to an increasingly regional model that seems to contradict the assertion of companies like CanWest that insist local programming needs are met and that the market is diversified. Further by removing spending requirements on programming, this change in policy appears to have impacted overall expenditures, and concentration of ownership has taken regionalized

programming beyond what would appear to be the CRTC's original intentions to the point where smaller communities no longer receive news and information programming relevant to their region. The benefits package for CTV, in particular, supports these changes in spending patterns. As demonstrated, the majority of the packages offer benefits that appear to do little to enhance diversity or to ensure coverage of issues of public concern. The benefits BCE proposes do not bring spending up to 1998 levels although they do represent substantial increases over what was spent in 1999 and 2000. The vast majority of the package, \$140 million, then because of the change in CRTC policy is directed to Hollywood style drama. Although \$72.6 million is to be directed to non-priority programming and the enhancement of news and current affairs programming, BCE is given considerable latitude in determining what percentage of the \$72.6 million goes toward current affairs. Again, the CRTC seems to have put the focus on drama even though spending in this category has been relatively constant, despite the trend towards Hollywood-type productions, while news has suffered. Under the former policy from 1997 to 2000, spending on both drama and news and information categories were relatively constant. CanWest typically spent approximately 11 percent of its revenue on news and information programming while spending on dramatic programming was typically between 4 to 6 percent of revenue. Similarly, CTV typically spent about 18 percent of revenue on news and information programming and between seven and 10 percent on dramatic programming. In fact, 1998 was perhaps CTV's most balanced year in terms of the distribution of spending with news programming representing 19 percent of revenue and dramatic programming 10 percent. Following the change in policy in 1999, spending on news programming fell to 17.7 percent of revenue and spending on

dramatic programming was up to 8.5 percent from 7 percent the previous year. Although more recent figures could not be obtained for CTV and CanWest separately, across the private conventional broadcasters, spending on news and information further declined in 2000 to 13 percent of revenue with a slight increase in 2001 to 14.6 percent.

Comparably, as a percentage of revenue, expenditures on Canadian drama across the private conventional broadcasters represented 3.8 percent of revenue in 2000 and 4 percent of revenue in 2001. Expenditures on non-Canadian drama remained at a constant 18 percent of revenue in both 2000 and 2001.¹⁷ Although spending on drama is climbing under the new policy it appears the spending is on Canadian produced Hollywood-style drama. Clearly, the broadcasters have taken advantage of the new broadcasting policy, the CRTC's support of a regionalized programming model and concentration of allocative control to further reduce their overall programming costs at the expense of their commitment to the Broadcasting Act's public service objectives.

Undermining Local Control and Perspectives

Moreover, the CRTC has modified the conditions of licence originally put in place to address the objectives of the Broadcasting Act that ensured local reflection through news programming in order to help broadcasters better meet the perceived demands of a competitive environment, allowing broadcasters to spend less on local news – a trend that has been exacerbated by the centralization of resources associated with concentration. The CRTC has eliminated the requirements for expenditures on Canadian programming effective September 2001, placing stipulations on the hours of priority programming that must be produced instead and eliminating news from the priority program category.¹⁸ Again, according to the CRTC, broadcasters require this flexibility

because the stations have to be able to attract the largest possible audiences to stay competitive (CRTC, 1999). It further allows resources to be dedicated to more expensive yet exportable drama programs while local news suffers. The CRTC made this transition despite mounting evidence that under consolidation, news programming, which is often of a local nature, is frequently sacrificed. Going back to 1985, the CRTC had evidence of this trend. In this year, the CRTC released a report from its ownership study group that highlighted the effects of group ownership on programming:

This study found that group ownership of broadcasting undertakings was associated with higher profitability, particularly in television, and that it had no significant impact on advertising rates, even in cases of cross-ownership in the same market. The study found that group-owned stations spent a smaller proportion of revenues on program production than did non-group stations. Non-group stations were found to spend relatively more on news-programming than did group-owned stations.

(Royal Task Force Broadcasting, 1985, p. 642)

Thus, the CRTC's current belief that its new policy framework will lead to the creation of enhanced programming ignores historical and contemporary evidence that group owners have *lower* programming expenditures relative to revenue. For example, as the previous section highlighted, survey figures released in conjunction with the CanWest and CTV licence renewals indicate that both broadcasters are, in fact, spending less on Canadian programming as a percentage of income than they were two years ago and are also attracting smaller audiences for Canadian content (Posner, 2001, p. A9). Moreover, in allowing the transfer of ownership of WIC stations to CanWest, the CRTC relies on this same reasoning for justifying the exception it made to its ownership policy. The Commission states that it based its decision on CanWest's financial ability to support the Canadian broadcasting system and to increase its investment in the development of Canadian talent and production of Canadian programming (CRTC, 2000a). Again,

similar to Quebecor, it becomes about the compromise required to sustain the industry. Concurrent to the exceptions made for CanWest, the CRTC has allowed Canadian broadcasters to implement the regional programming model just discussed – a model that clearly diverts resources from local stations, reducing the ability of these stations to act as vehicle for local self-reflection. Obviously, group owned stations do have the resources required to produce substantially more programming than non-group stations, but mounting evidence indicates that the regulatory framework and the quest for greater profits has not encouraged them to do so. The CRTC clearly faced a trade-off between diversity, plurality and local reflection and financial stability and within the confines of the current framework has chosen the latter. These trends in spending combined with the regionalization of news programming just discussed means that local audiences are exposed to less and less content that is directly relevant to their communities, trading off the communications rights of audiences for those of the owners. Despite the commitments the CRTC makes to local and regional programming in its new policy framework, the percentages both CanWest and CTV projected spending on local news programming appear to remain flat with an increased reliance on network-produced news. For example, in 1999, CTV spent 14 percent and 3.6 percent of total revenue on local and network news production respectively.¹⁹ In 2000, the broadcaster spent 12.6 percent of revenue on local news and 3.5 percent of revenue on network-produced news.²⁰ In 2001 and 2002, the broadcaster estimated that it would spend 16 percent of revenue on total news production, considerably less than 1999 levels but constant with 2000. This seems inconsistent with goal to foster more local, or even regional, programming. Similarly, CanWest spent 10.7 percent on local news production in 1999

and 13 percent on local news production.²¹ The percentages both CanWest and CTV project spending on local news programming appears to have declined and further indicates that local programming has been compromised. Individual spending for 2001 and 2002 could not be obtained, however, spending on network produced news as a percentage of revenue rose across the conventional private broadcasters from 9 percent of revenue in 2000 to 10 percent of revenue in 2001.²² This increased reliance on network produced news reinforces the regionalization of news programming discussed earlier in relation to CTV and CanWest Global stations. The CRTC, in allowing these cross-ownership exceptions, removing hourly commitments to news programming and encouraging a reliance on untraditional news sources, has not created an environment that fosters diversity. In its submission to the Standing Committee on Canadian Heritage, CanWest argues that that there is not a link between ownership concentration and diversity:

Despite the statistical evidence to the contrary, a number of observers of media still attempt to argue that there is somehow an automatic link between the number of owners within a medium or a market and whether or not there will be sufficient diversity of viewpoints in that medium or market. However, if one considers the nature of today's media environment, it becomes apparent that there need not necessarily be any direct structural link between the number of owners and diversity. Today's media environment is different in two fundamental respects from the media environments of 1950 or even 1975:

1. First, there are simply vastly more media outlets to which Canadians have access; and
2. Second, more and more of the media are specialized and targeted (a natural evolution as the number of outlets increases).

Thus, for many of the media outlets, the specialized nature of the outlet, rather than the specific ownership, will largely determine the content. However, as will be demonstrated in a number of the examples shown in this report, even with the consolidation (re-aggregation), the audience shares of the combined holdings of many media companies are smaller than some individual media outlets achieved in the past (CanWest, 2001, p. 66).

As the Davey Committee realized, however, when there are few owners in the market, they have considerable power. Whether or not this power is exercised depends on the owner. CanWest accurately points out that the ownership structure does not necessarily determine the level of diversity in the market. Turning back to Giddens, it has been established that structure is not necessarily a determining factor in the reproduction of social life. However, in examining the changes in program spending, the centralization of programming and human resources and the current composition of ownership and boards of directors, we can see how the clash of corporate structures, concentrated allocative and administrative control and liberal-pluralist and free market philosophies are intertwining to create conditions that limit the diversity of Canadian media. From an historical and, somewhat anecdotal, perspective it is apparent that consolidation has traditionally led to centralized control over production and reduced resources at the local level. For example, following the consolidation of CTV, local stations, CKCO in Kitchener and CJOH in Ottawa, experienced a significant reduction in autonomy. In an article describing the layoffs at CJOH, the union head describes “the steady erosion in staff since CTV took over the station in 1987 and began reducing its local autonomy, centralizing much of the programming, administration and technical operations in Toronto” (Atherton, 1999, p.E1). The station lost 57 jobs in 1995, 40 jobs in 1997 and 19 jobs in 1999 when CTV laid off 131 employees across Canada. In its 2000 annual report, CTV explains some of the benefits of these reductions:

During fiscal 1999, the company further rationalized its workforce, eliminating 145 positions at a cost of \$9.4 million....Cost savings related to this staff reduction began to realized in the latter part of fiscal 1999. The company also made certain staff additions to strengthen its audience research and sales departments (CTV, 1999, p. 29).

It is interesting to note that in the same year that CTV was reducing newsroom staff in cities like Ottawa, sales staff, which, conceivably, would be part of the centralized Toronto administration, was increased. A letter from the union representative at CKCO in Kitchener also demonstrates how local station autonomy was reduced with respect to programming:

Since the centralization of CTV in to one publicly owned body that outlet at CTV has all but disappeared. CTV has been spending large sums of money on polished Hollywood style programming that allows a select few the chance to work or appear in. In fact, most of this programming is produced in a few areas and has no contact what so ever with most of the market area CTV is serving. What little access local talent has at exposure is confined to the weekly noon news entertainment segments, which has little or no audience (Molland, 2000).

While these accounts of how consolidation and centralization has led to reduced autonomy and resources at the local level are anecdotal, figures demonstrate steady erosion in staffing levels and associated costs over the last four years. According to Statistics Canada, the weekly average number of employee at private television stations decreased by 2.1 percent between 1997 and 2000. Between 2000 and 2001, however, the average number of weekly employees increased by 2.5 percent, compensating for the previous decline. Over the five years, this amounts to a marginal .4 percent increase in staff. Similarly, spending on salary and benefits dropped steadily, only to increase by 3.4 percent between 2000 and 2001, again compensating for the previous decline (Statistics Canada, 2002). The Statistics Canada survey, however, does not indicate how the staff reductions and subsequent increase were distributed. It could reflect reductions that occurred at local stations following consolidation and the ensuing increase of centralized administrative and production staff. Despite the increase in 2001 over 2000, there has, nonetheless, been a steady erosion of autonomy and resources at the local level. The

impact of this trend has been intensified by increased opportunities for the mobilization of common corporate and ideological interests as the social network of those in control of the new media conglomerates becomes increasingly closed.

The Small World of Corporate Directors

Looking at the boards of directors at CanWest, Bell Globemedia and Quebecor along with the interlocks these boards have with some of the top Canadian corporations, one begins to see a very high concentration of class and corporate interests – alignments that have clear implications in relation to theories of administrative and allocative control, power and structure. All three media conglomerates studied provide interesting contrasts when it comes to ownership and board membership, highlighting again the problems that can arise when there is an occurrence of market concentration as well as legal and economic ownership concentration. In looking to Murdock's distinction between allocative and administrative control and economic ownership and Lukes' third dimension of power, one sees interesting patterns emerge in the context of the merged Canadian communications companies. First, there is significant concentration at the level of board membership, bringing those in a position to set policy together in a number of separate forums all related to their business interests. Given the variants in ownership composition, these patterns of influence can be substantially different depending on the corporation. In the case of Bell Globemedia where economic ownership is widely dispersed, the significance of the inter-relatedness of directors could potentially be dismissed. However, it is important when one is considering the knowledge base that the boards draw on in the decision-making process. In the case of CanWest's media mogul type ownership, the Asper family controls 92 percent of the company's shares (Financial

Post, 2000). Board membership and economic control of the company are directly related, leading to the potential for these board affiliations to have a significant influence on daily operations:

As I indicated earlier, effective economic ownership depends not only on the absolute size of the largest shareholding bloc, but also on the relative dispersal of the voting shares and on their holders' capacity for common action and collective mobilization. Hence control is not a quantity but a social relation. Consequently, its analysis requires a dynamic perspective which takes account of the shifting balance of power between shareholders (Murdock, 1982, p. 133).

Examining the composition of the boards of directors at Bell Globemedia, CanWest and Quebecor illustrates the extent of this interlock and helps to draw out the problems of how this environment could shape how allocative, and even administrative, control is exercised. With Bell Globemedia and Quebecor, although the power and ownership stake of the Caisse to Dépôts et Placements is significant, economic ownership of the corporations is widely dispersed and representation on the boards draws on outside directors. One could speculate that, in this environment, the board would have little influence over day-to-day operations. These two companies' boards, however, are tightly interlocked with those of leading Canadian corporations. This interlocking, while not necessarily reflective of direct control over day-to-day operations, is significant in relation to the types of knowledge applied to allocative decisions. As well, studying inter-relationships and common ideological values that influence group decisions is essential to building a sociological and ideological study of power as Lukes advocates. With respect to banking institutions such as the Caisse de Dépôts et Placements, Wasko and other academics have looked extensively at the role of banks on boards of directors. Cees Hamelink has undertaken studies similar to Wasko's, examining the convergence of

interests between banks and the information industries. Looking beyond broadcasting and print media, Hamelink points out that a limited number of large trans-national banks have access to the financial structure required to influence the allocation of resource information. While this structure might not necessarily be used, Hamelink states that, “its presence implies that fundamental allocative control in society is potentially in the hands of a few social actors only” (Hamelink, 1983, p. 103). The composition of the boards of Bell Globemedia and Quebecor demonstrated that this is the case in Canada. A recent report published by the Globe and Mail on the corporate governance practices of Canada’s 270 largest companies also confirmed that many of the country’s largest boards have the same people sitting at the table.²³ The study found that many directors see each other frequently at other board meeting or are friends or former colleagues who travel in the same circles (McFarland, 2002b, p. B1). In fact, the review found that almost 15 percent of companies in the S&P/TSX index have groups of directors who sit on three or more boards together (McFarland, 2002b, p. B6). This study uncovered similar patterns and many of the same names as those in the Globe and Mail study. In this study, three patterns of interest emerged. First, Canadian banks have perhaps the widest representation of any industry across the media conglomerates’ boards. Second, there are three institutions, the Canadian Council of Chief Executives (CCCE, formerly the Business Council on National Issues or BCNI), the Conference Board of Canada and the CD Howe Institute, where the corporate interlocks amongst banks, leading businesses and media conglomerates are extremely dense. And third, there is a fairly tight-knit group of 12 business people who appear frequently across the media and corporate boards, raising questions about their independence.

The analysis of these boards started by compiling the names of all directors for CanWest, BCE, and Bell Globemedia. All board memberships for these directors were mapped out alongside the directors for CIBC, RBC Financial Group, Bank of Montreal and TD bank. Companies that had fewer than three common directors and people who had representation on fewer than three boards were eliminated from the analysis with the following exceptions: if a person's name appeared just twice but that person sat on the board of a media conglomerate, a bank, the CCCE, the CD Howe Institute or the Conference Board of Canada, he or she was included in the analysis. Quebecor's board was looked at in isolation since there are some unique restrictions on board membership as a result of the TVA acquisition. Looking at the banks to begin, the RBC Financial Group has the highest number of interlocks with BCE. RBC and BCE share four directors in common: Edward Newall, Guy Saint Pierre, Victory Young and Anthony Fell. Geoffrey Beattie, president of the Thomson family holding company Woodbridge Co., is on the RBC board and the board of Bell Globemedia. Newall, Saint-Pierre and Tellier also sit together on the Alcan board. Neither the Bank of Montreal nor the TD Bank has any direct interlocks with the media conglomerates included in this study. However, it should be noted that David Galloway and Robert Pritchard of Torstar Corporation are both Bank of Montreal board members. The CanWest Board has few interlocks mainly because the family dominates the board and there are few outside directors. However, Jalynn Bennett and Conrad Black sit on both the CanWest and CIBC boards. RBC, CIBC, BCE and Bell Canada are also closely interlinked through the CCCE. The significance of this representation is multi-faceted. As Wasco explains in Movies and Money, the power of a bank on a board of directors might be largely unseen.

If business is running smoothly, there is little need or desire for the bank to intervene in a corporation's day-to-day operations. However, Wasko points out that, "potential power over these corporations still exists, and during periods of crises or challenges for control, this potential power can be unleashed, revealing the details of this complex, and often hidden, power structure (Wasko, 1982, p. 218). Beyond the ability to directly exercise allocative and administrative control, Wasko explains why the interlock between the banking and, in the case she was studying, the film industry is significant:

This link become particularly important as film cannot be viewed as just another unit of production or industry as for example, the manufacture of automobiles, shoes, or widgets; movies also contribute to the reproduction and perpetuation of dominant ideology – as ideological as well as economic components of the capitalist system... The significance of this relationship, then, is not merely the financing of filmmakers and film companies by banks. A more extensive, historic interaction is involved with the potential for corporate control and conflict as well as for creative influence and intervention. Inherent in this interrelationship, as well, is the opportunity for reciprocal and co respective alliances which intensify corporate and financial concentration, and attempt to build dominant class solidarity (Wasko, 1982, p. xxi).

The broadcasting and newspaper industries obviously have a similar significance.

Studies completed in the US have also found that there is a strong correlation between long-term debt and the debt to equity ratio and the number of officers from large banks and other financial institutions sitting on media boards (Alger, 1998, p. 157). In the Canadian case, the banks represented on the media conglomerates' boards of directors are not the banks that these companies list as their official bankers and no connection was made between these institutions and the financing of the companies' acquisitions. However, with 12 names emerging repeatedly in the analysis, patterns certainly begin to emerge.²⁴ On the boards of Bell Globemedia and CanWest, there are no academics, no journalists, no artists and no representatives from other cultural organizations. In an

email interview, Gail Asper explained that there is an effort to recruit board members who have an understanding of the industry. This reference appears to reflect the need for board members to understand broadcasting and print media as businesses as opposed to having an understanding of the media's social and cultural significance. Ms Asper did state that boards are making an effort to be more reflective of the community, including shareholders, customers and employees. She points to CanWest's efforts to recruit women and people from diverse ethnic backgrounds as evidence of this effort.

Overwhelmingly, however, the criteria for board members that she described were related to the potential directors' financial expertise. As Ms Asper explained, the Toronto Stock Exchange's rules of corporate governance are quite explicit in terms of the need to have a majority of outside directors on the board. The Audit Committee, in fact, must be made up entirely of outside directors. There is also an expectation that the Audit Committee will be made up of people who are financially literate. Ideally, stated Ms Asper, you want accountants on your board to fulfil roles such as chairing the Audit Committee (personal communication, May 14, 2002). Based on Ms Asper's comments, financial and business expertise is the most important criteria when selecting a potential board member. Interestingly, Ms Asper made note of the notion of director independence. However, in the CanWest case, Izzy Asper and all of his children are on the board along with Conrad Black and David Radler of Hollinger none of who would be considered independent according to the standards the Globe and Mail used in its survey. To a certain extent, governance rules placed on corporations ensure that there is little room for change in the system, but CanWest demonstrates that there are ways around these rules. Obviously, media companies are businesses and have to be run as such but the

composition of the boards does not reflect the social role of the media in any way. When Quebecor purchased TQS in 1997, the CRTC placed restrictions on who could sit on the board of directors. The chairman of the board, president or CEO of Quebecor was not allowed to sit on the TQS board, and the majority of the TQS board had to be people who did not belong and who had never belonged to the boards of Quebecor, CQI or any other undertaking directly or indirectly controlled by Quebecor or CQI. When Quebecor purchased TVA in 2000 and divested its interest in TQS, the CRTC required that the majority of the TVA board be independent of QMI or any other Quebecor company. Despite the stipulation, the independence of many of the members is questionable and there is overlapping membership amongst Quebecor World's boards and those of its subsidiaries. The most obvious one is the chairman of the board of QMI, Pierre Bélanger, president of CDP Capital Communications Inc., a major investor in QMI and lead on financing the purchase of Vidéotron. Other members include André Bérard, Chairman of the Board and CEO of the National Bank of Canada; Michel Décary, partner Stikeman Elliott; Richard Drouin, corporate director; Serge Gouin, Vice-President Salomon Smith Barney Canada Inc.; Roger Jauvin, President La Société de Gestion et de Développement SGD Inc.; Jean Neveu, Chairman of the Board TVA Group Inc and Quebecor Inc.; Pierre Karl Péladeau, President and CEO Quebecor Media Inc.; Madeleine Saint-Jacques, Chair of the Board Saint-Jacques Vallée, Young and Rubicon LT.; and Laurent Verreault, President and CEO of GL&V/Celleco Inc. A bare majority of board members are independent of QMI. Karl Péladeau, Jean Neveu, Serge Gouin and Pierre Belanger are all on the board of QMI and Quebecor, and Quebecor and Quebecor World have six interlinking directors. Little consideration is given to potential board

members who would add diversity to the board, reflecting the importance of ownership rights in relationship to those of journalists and audiences and putting in place the structural and ideological conditions to ensure that business and financial concerns are reproduced through the corporate organization of the media.

Of similar concern to the banks' direct and indirect associations with the media conglomerates is the high concentration of media and corporate board representatives on the boards of three industry organizations: the Canadian Council of Chief Executives, the CD Howe Institute and the Conference Board of Canada. The CCCE bills itself as a non-profit, non-partisan organization composed of Canada's leading chief executives. The council engages in research, consultation and advocacy with the mandate of building a country that is stronger both economically and socially. Thomas D'Aquino serves as President and Chief Executive while Jean Monty is Chairman of the Board. The organization's membership list is extensive. If all the members of CCCE's membership affiliations were traced, it would have certainly revealed even more interlocks. However, for purposes of this study, analysis is confined to the CCCE's board of directors. A visit to the CCCE's web site reveals that the organization feels a socially strong Canada can be built through tax reduction strategies, by enhancing economic productivity, improving the economic environment for research and by making Canada more attractive to international investors. Although the CCCE does put an emphasis on improving the Canadian education system, the vast majority of its initiatives focus on making Canada a competitor in the global economy, indirectly strengthening the country socially by making its residents wealthier. The Canadian Centre for Policy Alternatives has been highly critical of the CCCE. In January 2000, the CCCE proposed a re-haul of the

Canadian tax system. As the CCPA pointed out, the tax cuts massively favoured high-income earners:

In combination...these changes would produce tax savings averaging \$10,758 for the 53,250 taxpayers with incomes of more than \$250,000; and \$3,163 for those earning between \$150,000 and \$250,000. The savings from BCNI's proposed changes to an average working person, however, would be significantly less. Someone with an annual income between \$35,000 and \$40,000, for example, would get just \$350, and a lower-income worker would receive \$3 (Jackson, 1999, p. 18).

None of this is to say that the CCCE makes policy interventions with the malicious intent of robbing the poor and give to the rich. These proposals do, however, reflect the perspective from which the CCCE and its members view the world – a view that prioritizes financial success above other considerations. In terms of the composition of the CCCE's board of directors, the organization is tightly interlocked with the leading Canadian corporations. Similarly, the CD Howe Institute and the Conference Board of Canada also bring together many of Canada's leading corporate directors. While both of these organizations have a broader mandate than the CCCE and are seen more as research institutes as opposed to advocacy groups, both still bring together a highly exclusive group of business people to discuss issues of importance to their businesses. The profile of the CCCE, Conference Board, CD Howe Institute members and their interlocks is contained in Appendix 1. When one looks at this table, it is obvious that the issue goes beyond the ability of banks to control corporate decision-making but extends to the social web that is created amongst this group of individuals. Beyond this overlap, there were 12 people in the analysis who appeared on three boards or more, leading to speculation about the cohesion of the group. As Noah Friedkin explains in The Structural Theory of Social Influence, social cohesion is ground in a network of interpersonal ties and the

network does not have to be complete for the cohesion of the group to be strong (Friedkin, 1998, p. 54). In this example, the interpersonal ties are obviously extensive. In a cohesive group, explains Friedkin, members are more likely to be aware of each other's views on emergent issues (Friedkin, 1998, p. 70). Given the relative size of this group and, one would assume, its cohesiveness, it seems logical that members would be well aware of each others' views and, given their relative positions in terms of income, class and education, would have established a relatively common world view and awareness of each other's business concerns:

Common to all of these views is the idea that actors are brought together through their joint participation in social events. Joint participation in events not only provides the opportunity for actors to interact, but also increases the probability that direct pairwise ties (such as acquaintanceship) will develop between actors....Observers in group membership allows for the flow of information between groups, and perhaps coordination of the group's actions. For example, the interlock among corporate boards through sharing members might facilitate coordination among companies (Wasserman & Faust, 1994, p. 293).

These implications of class can also be related to self-categorization theory. Self-categorization theory explains group cohesion as a result of mutually perceived similarities. In these situations, social identities become very salient and people tend to de-personalize their self-perception and perceive themselves instead in terms of shared stereotypes that define their social class. "The central hypothesis is that group behaviour can be understood as individuals acting in terms of a shared identity than as different individual persons" (Wasserman & Faust, 1994, p. 155). The theory argues that those in the same situation not only tend to act in the same way but expect it from others. The Globe and Mail report points out there has been a move away from cronyism and adding board members based on who is a friend of the CEO. However, if we think about Lukes'

third dimension of power, the inter-relationships and shared ideological values are still significant. Beyond the formation of these common values, all of these individuals have a fiduciary responsibility as board members to look out for the best interests of the corporations they represent. Seemingly, these interlocks represent instances where a shared identity and obligations to protect corporate interests are linked contribute to the formation of common discursive knowledge that emphasizes business responsibilities over public responsibilities thus informing the allocative decisions these board members have to make.

The Media Mogul – Understanding CanWest’s Control

While no evidence of Bell Globemedia intervening in the day to day operations of its media holdings was uncovered in the course of this study, CanWest has clearly exercised the allocative and administrative control to which it has access by virtue of both economic and legal ownership concentration to influence media content – an influence that has undermined the public interest. Over the past six months, the Asper family has clearly used its economic ownership and allocative control to espouse views that are in line with the Asper family’s own personal beliefs and interests. As discussed earlier in this paper, the right of newspaper owners to express their own views in their newspapers has been assumed as a right of ownership. The issue in the current debate on CanWest editorial policy goes beyond an owner’s right to express his or her views in the newspaper and undermines journalists’ editorial freedom and the right of the audiences to be exposed to diverse views. As Stephen Kimber explained, most journalism educators believe it is acceptable for owners to express their views in print. Those owners,

however, still have a responsibility to print dissenting views. This is where the Asper's fall short:

What I found was happening was that I was sitting down to write my column and I was thinking, 'that would make a good story idea, but wait, I can't write about that.' I was self-censoring based on what I thought would or wouldn't get through. It came to a head around Christmas when Israel stepped up its marginalization of Arafat. I was thinking about this September 11th syndrome where it's become easier for a government to call a state a terrorist state so that they don't have to justify how they deal with them, but I knew I couldn't write about that. I have a lot of former students in these newsrooms as well and they were telling me how depressing it is to work there. These people have families and mortgages and need their jobs, so they can't take a stand against the editorial policy. I decided to write an up-front challenge to the policy knowing full well what would happen. By commenting on it, you know that you're walking. I've written this column for 15 years and have seen a few changes in ownership. Up until Conrad Black, there wasn't much censorship. And even under Black the things you couldn't write about really weren't that important. You knew you couldn't make fun of him or his wife or his desire to be 'his lordship.' It was limited. Black might want the papers to include his position but he would allow opposing views because he thought they were stupid and that his opinion would win out in the end. Under the Aspers, the number of issues you can't talk about or have to talk about in a certain way has multiplied. One of the rules now seems to be is that if something disagrees with the Aspers' position, it's a firing offense.

(Kimber, personal communication, January 31, 2002)

Kimber went on to explain that, in his opinion, the CanWest editorial policy is not about saving costs, and he disagrees with Leonard Asper's comments that there should be a single editorial position on issues of national importance rather than a series of regional, parochial views:

In my view, there isn't anything wrong with national editorials but the Aspers have gone a step beyond that and said that this can be the only view. When you had entrepreneurs running newspapers 50 years ago, they were driven as much by ideology as by the public interest. As newspapers became more powerful, there was an unspoken trade off that with this power came responsibility. The Aspers have taken the power without the responsibility.

(Kimber, personal communication, January 31, 2002)

The exclusion of views that are not harmonious with the company's editorial policy demonstrates how economic and legal ownership concentration can have an impact on content and the public interest. As Kimber pointed out, freedom of the press has traditionally come with the expectation that owners could decide to issue national editorials if they saw fit; however, this should not be to the exclusion of competing views. On its web site, Canadian Journalists for Free Expression has clearly stated the problem CanWest has created:

CJFE defends CanWest Global's right to instruct its editors to carry chain editorials. But we believe it has failed to show equal respect for the free-expression rights of others. In actions and statements associated with the introduction of its chain-editorial program, it has sought to muzzle its employees to the point of denying them the right to withhold their names from publication. "Not in the newsroom" appears to be CanWest Global's approach to the principles of free expression. The right to freedom of expression includes the right of proprietors of news organizations to publish what they want in the media they own, without government interference or regulation and without intimidation from any quarter... CJFE believes that CanWest Global is entirely within its rights in expressing corporate opinions on issues of the day and publishing them in its newspapers. As an organization dedicated to the promotion of free expression, CJFE defends CanWest Global's right to instruct its newspaper editors to carry corporate editorials. We also note that considerable information about the chain-editorial affair is available to Canadians through non-CanWest Global media. But we also believe CanWest Global has failed to show equal respect for the rights of its own employees. Suspensions, threats of dismissal and reprimands to journalists exercising the right to dissent constitute unacceptable and unnecessary curbs on free expression. The same is true of its attempt to ban organized byline withdrawals (CJFE, 2002).

Not only has CanWest curbed freedom of expression in its own organization but also Izzy Asper has attempted to dictate to other media outlets how they should cover the news. In a recent speech (reprinted in his city papers and the National Post), Asper accused the majority of the world's media of being insufficiently pro-Israel and implied that reporters

from organizations such as the CBC, The New York Times, The Washington Post, the Associated Press, all the American networks as well as newspapers in England were anti-Semitic. Asper went on to demand that correspondents in the Middle East refer to all Palestinian militants as terrorists (Saunders, 2002, p. A10).

The original format for the concluding section of this chapter was a case study that was to draw on interviews with CanWest employees, union representatives and academics. Public interest in this topic, however, has exploded, as have tensions between CanWest management and employees. Union representatives, who were contacted repeatedly, did not respond to requests for interviews. Similar difficulties were encountered in attempting to setup interviews with CanWest employees. Consequently, this final section summarizes some of the incidents reported in the media in an effort to demonstrate how CanWest has been translated ownership concentration into the exercise of administrative control and increasingly eroded the power of its staff. This summary is also extremely relevant to Lukes' three-dimensional analysis of power. Lukes makes it clear that power is exercised most effectively when it is preventing conflict from arising and used to shape peoples' acceptance of their role in the existing social order (Lukes, 1974, p. 24). By instituting controls, CanWest is trying to prevent conflict over what can and cannot be covered. In analysing power at this level, Lukes explains that we need to determine how people would act in different scenarios were they not influenced by the exercise of power. In the case of CanWest, journalists initially reacted to the exercise of power with byline strikes and would no doubt have continued this practice if CanWest had not threatened to discipline any employees involved in this form of job action. Bell Globemedia, with its vastly dispersed ownership structure, has clearly not exercised the

same level of administrative control as CanWest. In terms of programming, this thesis has demonstrated the cumulative effects of CRTC policy changes over time. These examples further contradict CRTC policy statements that concentration serves the public. Instead, concentration has opened the door to unprecedented interference in day-to-day editorial decisions. As stated earlier, the firing of CanWest publisher Russell Mills at the Ottawa Citizen brought widespread public attention to the issue of concentration and its potential outcomes. The International Press Institute (IPI), normally concerned with freedom of the press in emerging democracies and third world countries, issued an unprecedented condemnation of the situation in Canada. Johann P. Fritz, director of IPI, stated that CanWest's actions were "an attack on press freedom by an unholy coalition between politics and big business. Many believe that it is only in autocratic countries of the Third World or in countries in transition that democracy and a free press are in danger. But the Mills affair will have a chilling effect on critical reporting in Canada and will bring an increase in self-censorship" (IPI, 2002). As demonstrated throughout this thesis, the current crisis in the Canadian media has been building over many years, and, while CanWest Global is the current focus of the debate, the policy decisions made that contributed to this situation cannot be ignored. Examining the recent controversies at CanWest, however, illustrates how the owners have taken advantage of legal and economic ownership concentration to the benefit of their interests. These examples are a clear demonstration of the degree to which ownership concentration can facilitate the exercise of operational control by owners and demonstrates the problem of government policies that facilitate market and ownership concentration.

Public controversy surrounding CanWest began in the fall of 2001 when CanWest announced its new editorial policy, requiring its newspapers to follow a national editorial policy on key issues of national or international importance. The first editorial, written by Southam editor-in-chief Murdoch Davis, urged the federal government to extend the same tax credits registered charities enjoy to private charitable foundations. Obviously, this would benefit the Asper Foundation, the family's private charitable organization. In response to the policy, employees initiated various forms of dissent, including an organized byline strike at the Montreal Gazette. Following the byline strike, CanWest banned any further forms of protest by employees. Subsequently, columnists such as Stephen Kimber, Stephanie Domet, Doug Cuthand and Peter Worthington either resigned or were terminated as a result of their refusal to comply with CanWest policies. While CanWest has argued that a national editorial policy is beneficial because it allows its papers to present a national, cohesive stance on issues of national or international importance, employees at the Gazette who participated in the byline strike stated in an open letter that they believe "this is an attempt to centralize opinion to serve the corporate interests of CanWest. Far from offering additional content to Canadians, this will practically vacate the power of the editorial boards of Southam newspapers." The letter went on to state the following:

Each editorial will set the policy for that topic in such a way as to constrain the editorial boards of each newspaper to follow this policy. Essentially, CanWest will be imposing editorial policy on its papers on all issues of national significance. Without question, this decision will undermine the independence and diversity of each newspaper's editorial board and thereby give Canadians a greatly reduced variety of opinion, debate and editorial discussion (Gazette Newsroom, 2001).

Since December, there has been a steady flow of news out of the CanWest newsrooms.

The following summary has been compiled from various sources, including the CJFE, the Globe and Mail and Fédération des Journalists du Quebec.

At the same time that Gazette reporters were protesting the national editorial policy, Gazette columnist Don Macpherson was required to change the wording of a story he submitted. The initial copy read, "a policy that forbids a newspaper from deciding for itself where the interests of its readers lie is not only bad journalism, it's also bad business." He had to change the published version to read, "a uniquely Canadian policy that allows for editorials written from both local and national viewpoints, and occasional lively disagreement between the two, could be good for business." In response to the Gazette reporters' byline strike, CanWest Global warned reporters in an internal memo that, "case law supports sanctions, including suspension or termination, against those who persist in disregarding their obligations to the employer after warning" (CJFE, 2002).

Stephen Kimber resigned early in January after a column he wrote on the chain-editorial controversy was spiked. In the column, he recalled that the paper's previous owners had allowed him to criticize them in print for ordering editorial budget cuts. In an interview, he said that more than one of his columns had been altered and that he had engaged in self-censorship to avoid offending the paper's new owners. Kimber also stated that disagreeing with the owners has become a firing offence (personal communication, January 31, 2002). Following Kimber's resignation, Stephanie Domet, wrote a column in his defence. The column was spiked and she resigned in protest. Subsequently, on April 23, 2002, Bill Turpin, editor of the Halifax Daily News, resigned after 16 years with the paper after what he referred to as philosophical differences with the owners. Kimber

stated in an interview that, when he resigned, he suspected that the conglomerate's head office had requested the changes to his columns. Turpin confirmed this suspicion when he resigned, stating that his bosses ordered him not to run Kimber's opinion piece. The CBC reported that Turpin wrote a letter to a the Regina LeaderPost that read, "I and other editors have been urged repeatedly...to get...advice on any prospective commentary that might run contrary to Southam Publications' rapidly changing editorial policies" (CBC, 2002). Obviously, this contradicts CanWest's public assertions that local editors were making the decisions to alter columns.²⁵

Doug Cuthand, a columnist for the Saskatoon Star-Phoenix and Regina Leader Post, had a column spiked in January although he continues to write for the publications. In the column Cuthand, a First Nations member, sympathized with Palestinians in Israel, calling them the "Indians of the Middle East." He wrote that US and Canadian media carry a definite bias toward Israel. "My belief is that what I wrote went against the corporate policy of CanWest," Cuthand told the Toronto Star. "Of course I'm going to carry on and continue writing. But it will never be the same ... I'll always be looking over my shoulder" (Schiller, 2002).

In January, CanWest dropped Peter Worthington's twice-weekly syndicated column from the Windsor Star. Although Worthington had not criticized CanWest editorial policy in his Windsor Star columns, he had in his column published in the Toronto Star (Worthington, 2002).

At the end of January, regular columnist Michael Johansen quit writing for the St. John's Telegram after the paper refused to run a piece criticizing the company's approach

to editorials. Publisher Miller Ayre was quoted as saying columnists for the chain are not free to criticize internal management decisions (CJFE, 2002).

In March, controversy erupted again at the Regina LeaderPost over Toronto Star editor emeritus, Haroon Siddiqui's speech at the annual James Minifie lecture at the University of Regina. Siddiqui referred to what he called the "four Cs" of Canadian journalism: concentration of ownership, corporatization, convergence and creeping censorship. "Under CanWest, the four Cs have come together," he said. He also called CanWest's behaviour chilling. Reporter Michelle Lang covered the lecture for the LeaderPost and editors made changes to her story. Initially, the lead of the story read, "CanWest Global performed chilling acts of censorship when it refused to publish several columns containing viewpoints other than those held by the media empire, a Toronto Star columnist said Monday." The published version read, "A Toronto Star columnist says it's okay for CanWest Global to publish its owners' views, as long as the company is prepared to give equal play to opposing opinions" (Millar, 2002, p. A3). After a byline withdrawal on March 7, 2002, management reprimanded 10 reporters, four of whom received 5-day suspensions for speaking out publicly. These disciplinary actions are now the subject of arbitration between CanWest Global and The Newspaper Guild of Canada.

While most of these controversies received extensive media coverage, it was the firing of Russell Mills at the Ottawa Citizen that sparked widespread public outrage at CanWest's actions. Mills has stated publicly that his firing was connected to a story published earlier in June that was critical of Prime Minister Jean Chrétien and to an editorial calling for his resignation. Leonard Asper has maintained that Mills was let go not because of the editorial but because he repeatedly failed to comply with basic

journalistic principles, including the need to present a diversity of viewpoints in the Ottawa Citizen. Because of these comments, Mills has announced his intention to pursue legal proceedings against CanWest, seeking damages for alleged libel and for wrongful dismissal.

The CanWest case is a clear example of what can happen when allocative and administrative controls become centralized through economic and legal ownership concentration, and we see the form of ownership plays a role in the type of control exercised. Although Kimber had been told that the decision not to run his column was made by the local editorial staff, he is certain that it was sent to the Winnipeg head office for vetting. His editor at the newspaper recently validated this suspicion when he resigned his position at CanWest. In the midst of this controversy, CanWest owners have stated that it is well within their rights to contribute copy to their own media, that its editorial policy simply provides a national view on national issues and that dissenting views can be published in signed opinion pieces and that internal corporate policies should not be the subject of external debate. The Mills firing and Kimber resignation, however, revealed censoring of columns by the central corporate office, demonstrating the extent to which CanWest owners are exercising administrative control to serve their corporate interests. By virtue of the extent of their allocative control, the Asper family can easily extend themselves into this operational realm. As Kimber demonstrates, the extent of this power is leading to self-censorship out of fear of losing one's job, drawing out the implications of class within this dynamic. While reasonably compensated, most journalists need their jobs in order to pay their bills. They are not in a position to flout company regulations that they may feel are wrong if it means they risk losing their job.

In this environment, journalists are severely limited to serve the public interest due to their lack of operational control over their own work, contributing to the reproduction of the existing social system. Dissenting views that may contradict the interests of those in positions of power are suppressed by virtue of the control the owners wield on a daily basis. As a result of ownership concentration, allocative and administrative control in the CanWest case has become highly centralized and frequently exercised. With this media mogul ownership type, the journalists as social agents become bound by the structure of the relationship and have very few resources they can use to challenge it and, as a result, the existing social structure is reproduced.

Taking up the evolution in regulatory methodology, this chapter has illustrated that the current approach to regulation is fraught with contradiction. Policies with the stated goal of stimulating investment in drama and local programming, have, in reality, undermined programming diversity. In the *Television Policy* and recent licence decisions, the CRTC has assumed that greater flexibility in priority programming regulations would allow broadcasters to make additional investments in expensive dramatic programs, leading to greater profits and, in turn, greater investment in Canadian programming. Ironically though, the Canadian dramatic series, a key vehicle for Canadian self-reflection and for stimulating the industry, is in decline. The assumption stated in policy that the synergies and efficiencies of consolidation would protect vulnerable program categories, such as the drama series and local news, has not proven itself, and, as should have been expected, the broadcasters' interests in protecting their profits is paramount. The self-interest of CanWest, in particular, is made glaringly obvious in the broadcaster's submission to the House of Commons Standing Committee on Canadian Heritage. By

ignoring the impact of cross-ownership and using a flawed methodology, the broadcaster's submission is able to argue that concentration is not an issue. This study is, however, instructive because it makes it obvious how important it is to examine both market and ownership concentration along with cross-ownership. Further, it illustrates the importance of developing alternative measures of concentration and cross-ownership that develop a more comprehensive picture of the market. This thesis puts forward four areas that offer a starting point for examining both market and ownership concentration from an alternative perspective. While content analysis can be problematic, examining changes in program investment can help illustrate the impact of both government policy and concentration on diversity. The CRTC, out of a belief that concentration will lead to greater investment in programming and faith in a regionalized programming model, has allowed broadcasters to meet their priority programming requirements with programs that are cheaper to produce and has allowed for the virtual elimination of local news in some regions of the country. The changes, obviously, do not seem in line with the diversity the regulator assumed would come with consolidation. Local programming has been further undermined by the consolidation of resources, both human and financial, that comes with concentration. The major broadcasters have sought the benefits of synergy and efficiency and, for them, this has meant the ability to reduce local editorial staff and centralize administrative functions. At the level of allocative control, the consolidation of ideological and corporate interests created through the interlocking of the boards of directors of leading Canadian corporations and media conglomerates represents a serious threat to the diversity of views available in the Canadian media. Significant representation of banks as well as corporate Canadian think tanks can potentially lead to

the formation of common views on matters of public importance and to the protection of common interests amongst these groups. Clearly, this small circle effectively lives and breathes business and any decisions made as corporate directors will draw on this knowledge. Finally, looking at the activities of CanWest, one can see how market concentration and legal and economic ownership concentration gives owners, should they choose to exercise it, unprecedented operational control over their media properties. This potential has long been recognized although the CRTC seems to have assumed that owners, even in the face of extreme financial pressures, would not exercise this control. At CTV, the dispersal of ownership seems to have lessened the potential for those in an ownership position to directly influence content. Given the current situation, one has to wonder what step the CRTC could possibly take next to improve the situation. Although divestiture and foreign ownership are topics that are being widely discussed, the following concluding chapter puts forward potential starting points for tackling the problem of market and ownership concentration.

CHAPTER 6 – RENEWING THE PUBLIC INTEREST

Academics, journalists, politicians and armchair pundits across the country have been quick to provide their assessments of what ails the Canadian media and deliver their pronouncements on what should be done to rectify the situation. Laying the blame directly at the feet of owners like the Aspers, however, and calling for immediate government intervention glosses over the complexity of how and why the Canadian media landscape has taken its current form. As the central argument of this thesis put forward, government policy has propelled the forces of market concentration and ownership concentration, facilitating the exercise of both allocative and administrative control – control that is steadily undermining the communication rights of journalists and audiences. Blaming the owners is an over-simplification as the CRTC has steadily removed the structural barriers to concentration. Regulators, however, cannot assume that owners will not confuse their rights with the totality of all communications rights and leverage their economic control to undermine the rights of journalists and audiences.

After examining regulation, concentration and cross-ownership, the following is clear:

- Ownership concentration is an issue. While market concentration is also a significant concern, a study of concentration is not comprehensive if it does not address ownership concentration.
- The type of media ownership matters when considering how ownership control is exercised.
- Fiscal objectives have overwhelmed normative considerations in the evolution of the broadcasting regulatory framework.
- Multi-media conglomerates are failing despite the government's promotion of them.

Ownership Concentration is an Issue

Theorists drawn on for this thesis, such as Murdock, Golding, Lukes, Mosco and Wasko, have pointed out some of the challenges associated with studies of power and

media concentration. Wasko draws attention to the tendency to approach the subject from a purely economic perspective and virtually ignore the subtleties of ownership concentration and cross-ownership – distinctions that took on critical importance in this work. The study CanWest Global submitted to the Standing Committee on Canadian Heritage embodied this approach, focusing only on viewing shares and circulation figures while ignoring owners' cross-media holdings in specific geographic markets. In order to develop a more comprehensive approach to the study of concentration, this thesis relied upon political economy along with critical social theory in order to explore how public policy has both enabled and constrained certain market and social forces, ultimately contributing to media concentration. Within this framework, power, structure and agency, were the key theoretical concepts used to interrogate economic and ownership concentration and cross-ownership. These concepts are extremely valuable and all three are virtually left out of government policy discussions and, as licence hearings transcripts demonstrated, are frequently dismissed by the assumptions that power is widely dispersed throughout society and accessible to all and that individuals can act independent of social forces that are shaping how the media landscape takes shape. Power within this context must be looked at from all perspectives, creating a space for an analysis of both its structural and instrumental aspects. The framework for studying power that Lukes puts forward is invaluable in this respect as it furthers our understanding of how to power from both a sociological and behavioural perspective. His work lays out some of the challenges associated with a study of power and highlights how these challenges can be addressed to create a deeper analysis of power.

Exploring all these facets are essential and closely tied to Giddens' theory of structuration which was one of the key social theories used in this analysis. Only by understanding the dynamics of power as a social force can we fully understand where opportunities for change exist and how they can best be approached. The structural analysis of power highlighted the role of power and knowledge within the policy process and how power within this context is largely neglected. The instrumental analysis of power focused on behaviour and highlighted how owners can directly exercise control over their media holdings *when economic and ownership concentration go hand-in-hand*. Understanding the nature of the manifestation of control and how concentration is related to the ownership type and the form of power exercised is essential to developing a more thorough analysis of the impacts of concentration and cross-ownership. Lukes' and Murdock's work provided the starting point for analyzing power and structure within this thesis while Giddens' work on structuration provided a bridge between the concepts of power, structure and agency and brought together the theoretical disciplines of political economy and critical social theory within the context of this project. Murdock's work drew out the traditional dynamics of power and structure associated with the study of political economy while the work of Giddens gave us an opportunity to fully develop an understanding of structure and the individual's role in changing it or reproducing it. His definition of structure as a rule-resource set (Giddens, 1984, p. 377) is enlightening because it conceives of structure, not as something rigid and unchangeable, but as something more malleable – something individuals do have the power to change. The theory of structuration itself furthered our understanding of individual motivation and the impact it has on social production and reproduction. As stated in the description of the

theoretical framework, this analysis is essential to avoid the reification of social structures that is so common with government policy and industry analysis of media concentration. Giddens' work in the area of knowledge further contributed to our understanding of structure and agency by illuminating the different forms of knowledge that individuals draw on within the policy process in particular and by helping us to understand how this knowledge is not always accessible to the individual in their understanding of their own actions within the process of social reproduction.

The Type of Media Ownership Matters

Questioning values, goals and outcomes has been a critical part of the regulatory process. Questions of foreign versus domestic ownership and public versus private ownership have always been a part of the debate. The Davey Committee and Kent Commissions drew further attention to the relationship between ownership type and content. It is through this questioning that regulators considered the values that should be associated with the public interest and the regulation required to protect it. It emerged in this study that the type of concentration, the form of control exercised and the impact on content were all closely inter-related. The modern corporate conglomerate and the media mogul were identified as two typical forms of media ownership. BCE, with its distributed ownership structure, embodies the modern corporate conglomerate. Despite market concentration, the ownership of BCE is not concentrated. Therefore, decisions are not associated with an identifiable ownership interest. Content is typically affected by allocative decisions made at the board level. CanWest, on the other hand, is typical of the media mogul ownership type where ownership, both economic and legal, is concentrated in the hands of a small, identifiable group. As demonstrated, this ownership

type is closely associated with the exercise of operational control and has a direct impact on content. The problem with industrial policy is, however, that it precludes the questioning of the impacts of these ownership types with its fiscally-centred view of media policy. This approach leads to an oversimplification that fails to address issues of power and control in the process. Drawing on critical political economy and social theory, one can incorporate questions of power, structure and agency and address normative considerations of the public interest. The measures put forward in this thesis are based on these critical theories and on the historical treatment of media concentration within Canadian government policy. Examining the combined impact of policy, concentration and cross-ownership on program investment; on programming and resources allocation at the local level; on concentration of common ideological interests; and on the erosion of the autonomy journalists need to do their jobs, illustrated how concentration, cross-ownership and changes in policy have comprised values of diversity and access. Given the level of cross-ownership, these measures can effectively be applied across all media holdings to provide a starting point for examining the public interest in the absence of suitable alternative perspectives.

Fiscal Versus Normative Considerations

Turning to the specific methodologies used in the regulatory review of the Quebecor/TVA/Vidéotron, BCE/CTV and CanWest Global/WIC acquisitions, the impact of the limited perspectives from which regulators approached these decisions and the very nature of the process itself further highlights the problems the current regulatory framework faces in assessing the impact of these mergers. Looking at the details of the deals, illustrated the continuation of the CRTC's abandonment of cultural policy in

favour of industrial policy. In these deals, synergy and its associated benefits are dominant themes. It is assumed that the synergies associated with consolidation will save the broadcasters money and that these additional resources will be poured back into programming. In reality, however, at least in the case of CanWest Global, any additional resources that are freed up must be put towards the debt the company accumulated during the acquisition process. The *Television Policy* introduced in 1999 was one of the first CRTC policy documents that formally espoused the benefits of synergy and consolidation. These assumptions emerged repeatedly in the transcripts recording the public hearings on these acquisitions. During the course of these hearings, many of the interveners, along with CRTC commissioners, expressed the belief that consolidation will help broadcasters achieve their public services objectives with only unions consistently arguing against this position. The concerns of these groups go largely unaddressed and are overwhelmed by the CRTC's desire to move towards a free-market system. What quickly becomes apparent when one examines these transcripts alongside CRTC policy documents and personal accounts of the public hearings, is that the process is inherently flawed in how it pits one party against another and in how it evaluates the public interest based exclusively on the financial terms of the deal. Equating the public interest with an investment package eliminates any questioning of the socio-cultural objectives of the broadcasting system. In large part due to the changes the CRTC made in the 1999 *Television Policy*, broadcasters have much greater flexibility to meet their priority programming requirements with programs whose effectiveness in meeting the public service objectives of the Broadcasting Act are suspect. Moreover, since the acquiring companies are looking for support and are doling out large sums of money, the public

hearing process has become an opportunistic one where people who traditionally have the public interest at heart, such as academics, supported deals that they may not have wholeheartedly believed in to secure much needed funds for their work. It is a trade-off that allowed them to serve the public interest by enhancing journalism education yet pressured them to set aside their concerns about these mergers. The only regulator that really has any power to address these mergers from a competitive perspective, the Competition Bureau, also approached these mergers from a purely economic perspective that examined only their impact on advertisers. Previous competition laws that gave regulators the power to address the public interest have, like CRTC measures against cross-ownership, been steadily eroded in the trend towards market de-regulation. The process has been marked by a lack of creative thinking when it comes to combating concentration and cross-ownership which, given the knowledge that dominates the process, should not be surprising. As previously mentioned, the entire process pivots on the benefits package, creating an adversarial process where those with a vested interest try to make sure they receive the benefits they feel they need from the acquisition. These contemporary licence review hearings really draw out the problems with the framework as it stands and help illuminate why there is no real impetus for change.

The Failures

At this point in time it appears that change may come from an unexpected source: the potential failure of the multimedia conglomerates themselves. As discussed in detail in the first chapter, the premise on which the CRTC based its policy – the synergies and efficiencies of concentration – appears to be falling apart. CanWest has already sold off many of its smaller papers, BCE's commitment to convergence is questionable following

the exit of Jean Monty and a number of high profile companies including Vivendi and AOL Time Warner face ongoing financial and leadership challenges. It is possible that these troubles will begin to diminish the impact of concentration and cross-ownership as assets are divested. Regardless of the potential fallout, it remains that fiscal considerations have replaced normative considerations about the media's role in society, and given the current approach to regulation, it is unlikely that these values can be retrieved.

Looking at the effects of concentration and cross-ownership on the current market, one can begin to see the problematic inherent within the existing regulatory framework and begin formulating alternative ways of establishing a balance amongst the communications rights of owners, journalists and audiences. In approaching this topic, it is essential to begin thinking about protecting the public interest through means other than financial investment. Attempting to build diversity into a media system requires much more than programming expenditures. This, however, is the logic that drove the review of benefits packages and has also fuelled the changes made to the *Television Policy*. By revising the priority programming requirements and giving broadcasters greater flexibility in meeting their priority programming objectives, the CRTC has actually created an environment where fewer resources are dedicated to the traditional one-hour weekly series and resources are instead directed toward big-budget movies that are more suitable for export. This change has gone hand-in-hand with benefits packages that do more to restore spending to levels of five years ago than they did to foster new investment. As a result, the impact on the market is directly opposite to the stated

objectives of broadcasting policy. Raboy identified this same gap in Missed

Opportunities:

At one level, Canada's broadcasting policy debate provides some indication of the issues at stake and the choices available in broadcasting, not only in Canada but in advanced societies in general. But it is possible that the most interesting aspect of the debate lies in what it reveals about the policy-making process. Policy making in Canada has never been as political as it is today, and there has never been a greater need to bring the process closer to the people. The choices are basic to democracy, yet they are made mainly by functionaries in the interests of business. There is, increasingly, a gap between the stated objectives of Canadian broadcasting and the concrete measures taken to carry them out.

(Raboy, 1990, p. 355)

The gap between stated objectives and their outcome are obvious after looking at the impact of the *Television Policy* and the benefits packages on program spending.

Attempting to foster a financially strong industry that supports the development of Canadian programming through the synergies and efficiencies of concentration has, instead of encouraging new investment, encouraged owners to cut costs and exercise their own allocative and operational power to their benefit.

Moving Forward

When one starts to examine the bigger picture and incorporates an analysis of ownership concentration and fosters alternative ways of thinking about diversity and communications rights, it is apparent that, by abandoning some of the biases that have dominated the policy debate, creative ways to protect the public interest can emerge. Obviously, given the political trends towards free-market policies and current levels of concentration, the possibility of direct government intervention to curb the power of media conglomerates is highly unlikely. The trends discussed here, however, hold some potential when compared with other options such as divestiture, which would be wholly

unacceptable to the industry or foreign ownership which would likely be unacceptable to the general public. Examining these trends, demonstrated that diversity cannot necessarily be fostered by investment alone. As previously discussed, the sweeping changes introduced in 1999 with the *Television Policy* have undermined investments made in the categories of news programming and serial dramas. These changes, established in an effort to give broadcasters greater flexibility in meeting their priority programming requirements, have, in reality, allowed broadcasters to divert funding from programming traditionally associated with serving the public interest towards more big budget, Hollywood style movies. This measure, rather than supporting the objectives of the Broadcasting Act, has supported the CRTC's desire to foster a broadcasting system that can compete on a global level. Furthermore, although the CRTC continues to stress the importance of local programming within the *Television Policy* and in recent licence renewal decisions, broadcasters have been able to take a number of actions that undermine this objective. Spending in recent years indicated that investment in local programming has remained flat and, in some instances, declined. The trend towards reduced spending has been accompanied by the regionalization of network programming and the regionalization of much of the staffing functions, resulting in reduced autonomy for local stations and inadequate resources to support local production. Recent media mergers have been associated with cost rationalization and centralization of resources while, at the same time, additional resources have been dedicated to advertising and sales staff. Fluctuations in staffing levels combined with reduced spending on local programming are defining features of the new landscape. Although the impact of this trend is indirect, examining it in relation to concentration helped us to develop an

alternative way of thinking about how the public interest relates to the administrative control of broadcasters at a local level. Looking at the interlocking board members across media conglomerates and leading Canadian business, drew together the thoughts on power, structure and agency discussed at the beginning of this thesis. All three of the conglomerates examined for this study displayed unique patterns of ownership and board membership. In the case of CanWest, the Asper family maintains tight economic control of the company and of the board of directors. While the interlocks amongst the CanWest board and others are limited, the composition of the board of directors does reflect the significant ability of the Aspers to exercise both allocative and administrative control over their media holdings. In the case of Bell Globemedia, economic ownership of the company is widely dispersed, yet the board of directors is tightly intertwined with those of other leading Canadian corporations as well as with several industry associations. Quebecor's board of directors and ownership is of equal concern but this concern relates to the power of the Caisse de Dépôts et Placements and the bank's representation on the board of directors. The composition of these companies' boards of directors is significant. Drawing exclusively on the business community, any groups that could potentially provide alternative perspectives on how the media conglomerates should operate and enhance the diversity of views on the boards are shut out. As a result, the quest for profit has a structural basis for taking consistent precedence over a desire to serve the public interest. Moreover, when the composition of these boards are mapped out, there is strong overlap amongst the media conglomerates and industry organizations such as the Canadian Council of Chief Executives and the CD Howe Institute. This overlap presents the opportunity for board members to discuss their common interests

and contributes to the formation of a common worldview that supports the protection of their business interests to the exclusion of others. As theories of social network analysis indicate, groups that maintain these types of close association establish common worldviews and expect certain behaviour from other members of the group. This tight representation and interlocking of influence represents an instance where a shared identity is likely to develop, and, in this instance, common discursive knowledge would emerge that emphasizes business responsibilities and responsibility to the public as shareholders, not as active, political citizens.

The final measure of concentration is one that embodies the impact of all the trends associated with concentration up to this point. Although Bell Globemedia, by virtue of its distributed ownership, does not appear to be exercising administrative control over its media properties, CanWest's influence and direct intervention in the day-to-day operations of its cross-media holdings has been widely publicized. Taking a look at the stories that have played out demonstrated that the Asper family's tight economic control of the company has had a major impact on content and that its direct involvement in daily operations has undermined the editorial freedom of its staff. The problem with the Aspers is that they have taken their ownership rights to the extreme. While family members may have the right to express their views in their media properties, the power they have to do this cannot also be simultaneously used to exclude alternative views. The Aspers say that it is within their ownership rights to contribute copy to their own media and foster national views on issues of national importance. The revelations associated, in particular, with the firing of Russell Mills and the resignation of Stephen Kimber, indicated, however, that the Aspers have used their control to vet stories prior to

publishing, leveraging their ownership position to exercise operational control and undermine editorial impendence.

In abandoning traditional limits on cross-ownership and moving to an industrial policy focus, the CRTC has unleashed market forces that it felt were predictable and that it felt would build stability into the Canadian broadcasting system by fostering increased investment. This perspective clearly reflects the knowledge that dominated these proceedings, particularly the influence of trends of deregulation and globalization, along with the biases of the existing structure of the social system within which media concentration has intensified. The thinking on conglomeration and concentration within government policy has taken certain premises as absolutes. That there is a natural tendency towards conglomeration and concentration within the media industries, that power is widely dispersed and accessible to all in society, that technology is inherently neutral, liberating and egalitarian, that deregulation will foster competition, that the synergies and efficiencies of consolidation will lead to increased program investment and that owners will not exercise their ownership rights for their own benefit are just some of the assumptions made in the review of recent Canadian media mergers. As explained in the fundamental challenges at the beginning of this thesis, the public interest cannot be protected in government policy until there is a realization that it requires this protection. Diversity, accessibility and balance, as opposed to spectrum scarcity or nation building, need to become the main drivers behind government regulation. Thinking about the assumptions expressed above is then the next step in tackling the fundamental challenges of the regulatory system. Considering the communications rights of journalists and audiences alongside those of owners has to be a consideration as the industry moves

forward. Thoroughly examining the impact of government policy on program investment, ensuring that the synergies and efficiencies realized through media mergers do not lead to the decimation of programming at the local level, establishing guidelines that would enhance diversity on the boards of directors of media conglomerates, and recognizing that owners, if the circumstances allow, are highly likely to interfere in the daily operations of their holdings, provides an alternative starting point for thinking about regulation of the media. In the recent decisions studied, the CRTC has made exceptions to its cross-ownership policies without ensuring adequate safeguards against ownership control. These changes in ownership have been accompanied by decisions that support the implementation of a highly regional programming model that limits local contribution and a reliance on untraditional news sources, like the Internet – a news source that has not proven itself as an adequate medium for local reflection or a credible news source and that offers multiplicity, not diversity, given the strength of media conglomerates' online properties. Marc Raboy writes that the politics of broadcasting is a struggle for control between competing interests of federal and provincial governments, the public broadcaster, the public treasury, the private broadcasting production and distribution sectors, domestic business, foreign interests, organized public interest and cultural nationalist lobbies, collective associations and the voting/taxpaying/media consuming citizen:

The issue surrounding the transformation of traditional forms of public control is this: is control to be transferred to a narrower set of economically motivated private interests, or extended by multiplying the points of popular decision making? In this sense, the fundamental question of democracy is at the centre of debates surrounding broadcasting and, in a broader sense, all cultural and communications policy (Raboy, 1990, p. 355).

At this point, it appears that there is no longer any debate. The CRTC has clearly made a trade-off, one that favours economic strength and global distribution capabilities over the public interest – a trade-off that has not proven successful and whose failure the CRTC and current debates on the issues of concentration and conglomeration have thus far failed to acknowledge.

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¹ As many theorists have highlighted, difficulties emerge when one tries to define media diversity in relationship to media content. Jan van Cuilenburg explored this issue in relation to a study on government policy completed for the Dutch government in which he and Dennis McQuail approached media diversity from the perspective of “heterogeneity of media content in terms of one or more specific characteristics” (van Cuilenburg, 1998, p.41). van Cuilenburg was concerned with the policy implications a study of this nature presents because it focuses on media content instead of media market structure and organizational conduct:

This definition avoids a too easy equalization of the number of media outlets to media performance; highly competitive media markets may still result in excessive sameness of media contents, whereas one should at least theoretically not exclude the possibility of media oligopolies or even monopolies to produce a highly diverse supply of media content. It is precisely for fine-tuning media policy that a distinction between structure and performance should be made.

(van Cuilenburg, 1998, p. 41)

This study tries to reach a middle ground of sorts when it comes to diversity, considering it in terms of diversity of programming types and in relationship to media market structure and organizational conduct as van Cuilenburg advocates. Programming type is considered in relationship to the specific programming referenced in the Broadcasting Act and levels of investment in this programming, market structure is considered by looking closely at levels of concentration and cross-ownership and organizational conduct is examined in the context of the exercise of allocative and operational control. Given the importance of diversity, several indices have been developed to measure it. In *Aspects of quality in TV programming*, Peter Hillve, Peter Majanen and Karl Erik Rosengren used Relative Entropy to study programming diversity by channel and system (Hillve, Majanen & Rosengren, 1997, p. 295). The Herfindahl-Hirschman index also offers another method of measuring the lack of diversity in a market by assessing levels of concentration. This index is calculated by summing the squares of the market shares of all the firms in an industry. The higher the index, the higher potential there is for firms to exercise market power. An index below 1000 is not considered concentrated and between 1000-1800 has some degree of concentration. An index greater than 1800 indicates that a dominant company could potentially exercise considerable influence

within the market. In Canada, if one uses the percentage of weekly circulation as the daily newspapers' market share measure, the sum of these squares, is 1747.3, indicating a relatively high degree of concentration at the national level. Prior to the recent CanWest divestiture of some of its daily newspapers, this figure was 2009.

² The companies profiled here parallel the global media system Herman and McChesney describe. They see the emergence of a global media system dominated by three- or four-dozen transnational corporations with fewer than ten (mostly US-based) conglomerates ruling over the global market (Herman & McChesney, 1997, p. 1). Globally, the authors describe this as a tiered media market, with the ten giant conglomerates in the first tier, including News Corporation, Time Warner, Disney and TCI. The second tier includes about three-dozen large media firms with annual sales in the \$2-10 billion range. "These second-tier firms tend to have working agreements and/or joint ventures with one or more of the giants in the first tier and with each other...Finally, there are thousands of relatively small national and local firms that provide services to the large firms or fill small niches, and their prosperity is dependent in part upon the choices of the large firms" (Herman & McChesney, 1997, p. 53). The model McChesney and Herman describe could be easily applied to the Canadian media industries. The three companies studied, CanWest, BCE and Quebecor, are the tier one players in Canada. There are then a large number of second tier companies that do not have the diversity of interests and reach of the first tier. This tier would include companies such as TorStar, Craig Broadcasting, GTC Transcontinental and CHUM. The third tier would then consist of the various independent media outlets and producers who rely on the first and second tier companies for their survival.

³ Briefly, while BCE's acquisition of CTV was relatively straightforward, CanWest's acquisition of Hollinger and WIC's assets requires a brief overview. In August of 2000, CanWest acquired 100 percent of 13 Hollinger metropolitan dailies, all of the company's Canadian Internet properties, more than 130 smaller daily and weekly papers and a 50-percent stake in the National Post in a \$3.2 billion deal. As part of the initial deal, Conrad Black was to remain as chairman of Hollinger and Hollinger would continue to manage the National Post for five years with CanWest having the ability to have written input into what appears in the newspapers. Subsequently, CanWest purchased the National Post in its entirety. CanWest passed on a number of newspapers in the deal, including the Kingston Whig-Standard, Barrie Examiner, Peterborough Examiner, Sault Star and Kamloops Daily News. Izzy Asper stated that the company wanted to buy major dailies and newspapers in cities that have Global television stations. The strategy was to buy smaller weeklies in the same market that would provide clusters of ownership. CanWest's acquisition of the WIC assets took a much more circuitous route. In March 1998, without the CRTC's prior approval, ownership of voting shares held by the Griffiths family of Vancouver was transferred to Cathton Holdings Ltd. (a Shaw Holding company) and to Shaw companies. With this sale, the Shaw group owned just short of 50 percent of WIC's Class A voting shares with Cathton controlling the majority of those shares. In a subsequent public offer, Shaw obtained approximated 52 percent of WIC's Class B non-voting shares. Concurrently, CanWest made a public offer to gain control of WIC, acquiring 46 percent of the company's Class B shares. In January 1999, WIC filed a set of applications that would have authorized Shaw or its affiliate to hold the shares

listed above, giving Shaw a 49.96 percent voting interest and 52 percent non-voting interest. The applications were withdrawn pending negotiations between Shaw and CanWest to split the WIC assets. Finally, in October 1999, CanWest, Shaw, Corus and Cathton entered an agreement to divide the assets. Shaw acquired WIC's distribution businesses, including its interest in Canadian Satellite Communications Inc., and Corus acquired all of WIC's radio broadcasting stations, its pay and specialty television undertakings and certain other related assets. These transactions left CanWest as the sole owner of WIC and all of its conventional television broadcasting stations, its interest in ROBTv and certain other assets. CanWest obtained the licences for the following stations: CHAN (Vancouver), CHEK (Victoria), CIFG (Prince George), CITM (100 Mile House), CHBC (Kelowna), CHKM (Kamloops), CISA (Lethbridge) and CKRD (Red Deer), CITV (Edmonton), CICT (Calgary) and CHCH (Hamilton). Subsequently, CanWest agreed to divest its interest in ROBTv after its acquisition of a 50 percent interest in the National Post would have brought the country's two national newspapers into affiliation through the specialty channel. The CRTC did, however, require that CanWest sell its interest in CFCF Television. Almost concurrently, BCE acquired all CTV assets and subsequently entered into a partnership with Thomson to create Bell Globemedia. Bell Globemedia is owned 70 percent by BCE and 30 percent by Thomson and brings together CTV, the Globe and Mail, the Globe's Internet properties and Sympatico.

³ Programming expenditures do not include the \$6.8 million received from the Cable Production Fund in 1998 and the \$12.3 million received in 1999. Please see CTV's "Station Group Licence Renewal - Canadian Programming Expenses" for more details.

⁴ This inventory of media ownership in Canada was compiled from the Campaign for Press and Broadcasting Freedom web site (<http://www.presscampaign.org/circulationdata.html>), the UBC Journalism Review (<http://www.journalism.ubc.ca/thunderbird/2001-02/december/ownerlist.html>) and CTV, CanWest Global and Quebecor's corporate web sites.

⁵ The Committee notes that in some instances mixed media ownership could contribute to media diversity instead of lessening it, pointing out that funds from a lucrative television licence could be used to subsidize a newspaper (Davey, 1970, p. 70).

⁶ Stephen Kimber speculated that editors at the Halifax Daily News sent his column to head office for approval. His editor, Bill Turpin, recently validated this suspicion when he resigned as editor of the newspaper after 16 years.

⁷ The CRTC announced its approval of the acquisition of TQS by Cogeco and Bell Globemedia on December 7, 2001. Cogeco and Bell Globemedia jointly acquired Quebecor's 86 percent interest in TQS. The total value of the transaction was approximately \$73.9 million. Under the terms of the transfer, Cogeco will own 60 percent and Bell Globemedia 40 percent of TQS. As part of the transaction, TQS is also acquiring all the television assets currently owned by Cogeco and will obtain their television licences under the same terms and conditions. This amounts to the equivalent of a \$107.6 million investment from Cogeco while Bell Globemedia contributed \$72.3 million in cash. The stations include CFKM-TV and CKTM-TV Trois Rivières, CFKS-TV and CKSH-TV Sherbrooke, and CFRS-TV and CKTV-TV Jonquière. CFKM-TV, CJKS-TV and CFRS-TV are affiliated to TQS, while CKTM-TV, CKSH-TV and CKTV-TV are

affiliated to Société Radio Canada (SRC). For stations affiliated to SRC, Cogeco and SRC came to an agreement on local news and programming and will operate separate newsrooms for SRC and TQS as of September 1st, 2002. The CRTC approved a benefits package of \$7.39 million and made its approval conditional on the licensee applying to amend the licence so that 92 percent of the tangible benefits will be directed to independent production and the rest to support the growth of the Quebec broadcasting industry. The Commission removed the conditions imposed on the licence when Quebecor bought TQS in 1997, including the conditions on the structure of their board of directors, the code of conduct and the monitoring committee.

⁸ Programming expenditures do not include the \$6.8 million received from the Cable Production Fund in 1998 and the \$12.3 million received in 1999. Please see CTV's "Station Group Licence Renewal - Canadian Programming Expenses" for more details.

⁹ Total Canadian programming expenses of \$163.4 million do not include a \$16.8 million contribution from the Cable Production Fund.

¹⁰ Please see CTV's "Station Group Licence Renewal - Canadian Programming Expenses" for additional details.

¹¹ The CRTC ultimately discounted the \$3.5 million contribution to community groups as a benefit and required that CanWest come up with a replacement. A complete breakdown of the benefits package can be found in Decision 2000-221.

¹² The Halifax and St. John stations are counted as one station, Global Atlantic. The independents include CHCH, CJEK and CJNT.

¹³ This figure does not include the \$6 million received from the Cable Production Fund. Please see CanWest's "Station Group Licence Renewal - Canadian Programming Expenses" for a complete breakdown.

¹⁴ This is based on data found in the CRTC's Broadcasting Policy Monitoring Report of 2001.

¹⁵ Subscriber numbers could not be located for all of the Alliance Atlantis properties, including Discovery Health, the Food Network, the Independent Film Channel, National Geographic, One, Pride Vision and Scream so, clearly, this percentage could be just slightly larger.

¹⁶ All circulation figures in Chapter 5 have been taken from the Campaign for Press and Broadcasting Freedom's web site. At the time this was written, the latest figures available were for July 2001 so they were updated appropriately to reflect CanWest's recent newspaper divestiture.

¹⁷ These percentages are based on total revenues of \$1.880 billion in 2000 and \$1.903 billion in 2001; expenditures on news programming of \$2.5 million in 2000 and \$2.8 million in 2001; expenditures on Canadian drama of \$.071 million in 2000 and \$.076 million in 2001; and expenditures on drama of \$3.37 million in 2000 and \$3.5 million in 2001.

¹⁸ Priority program categories are as follows: Canadian drama programs (Category 1), Canadian music and dance and variety programs (Categories 8 and 9), Canadian long-form documentary programs, Canadian regionally produced programs in all categories other than news and information (Categories 1, 2 and 3) and Sports (Category 6) and Canadian entertainment magazine programs. The categories correspond to the requirements set out in 1997's Television and Broadcasting Regulations.

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¹⁹ In 1999, CTV spent a total of \$69.63 million on local news and \$18.13 million on network produced news. The percentages are calculated against the total revenue of \$497.9 million.

²⁰ In 2000, CTV spent a total of \$62.36 million on local news and \$17.45 million on network produced news. The percentages are calculated against the total revenue of \$491.7 million. Please see CTV's "Station Group Licence Renewal - Canadian Programming Expenses."

²¹ In 1999, CanWest spent \$44.7 million on local news production and none on network produced news. This is compared against total revenues of \$44.7 million. In 2000, CanWest spent \$78.4 million on local news production and just over \$200,000 on network news production in comparison with total revenues of \$602.3 million

²² Figures on spending were obtained from the CRTC's Television Statistical and Financial summaries for 1997-2001 available at <http://www.crtc.gc.ca/eng/publications/reports/BrAnalysis/tv2001/tv2001.htm>.

²³ It is interesting to note the positioning of some of the media conglomerates in the newspaper's overall corporate governance rankings. The Report on Business developed a marking system to rate the companies' boards of directors. The marks were based on a set of best practices taken from the corporate governance guidelines and recommendations of US and Canadian regulators, as well as major institutional investors. The categories looked at included board composition, i.e. what percentage of a company's directors are fully independent, what percentage of the audit committee, compensation committee and nominating committee are fully independent and are there cozy and clubby relationships among directors; shareholding and compensation issues, i.e. are directors and CEO required to own stock; shareholder rights and issues, i.e. do all directors stand for re-election annually, are employee stock options excessively diluted for shareholders; and disclosure issues; i.e. does the company have a full statement of corporate governance practices? Points were awarded or taken away depending on each company's performance according to the criteria. Bell Globemedia's parent company, BCE, scored 88 points out of 100, ranking in the top ten. TVA Group scored 65 points, putting it in the top 100, GTC Transcontinental scored 59 points, both Quebecor World and Thomson collected 57 points, Torstar scored 56 as did Thomson. Quebecor Inc. scored 51 points putting it close to the 200th spot in the ranking while CanWest Global Communications fell ranked in the lowest 70 spots with 48 points. A number of media companies fell in the in the lowest 200-270 including Shaw Communications, Cogeco Inc. Astral Media Inc. and Alliance Atlantis Communications who tied for lowest number of points at 36 with Bema Gold Corp. The complete story on the rankings is available in the Globe and Mail, Monday October 27, 2000, p. B6.

²⁴ Conrad Black, David Galloway, Robert Pritchard, Anthony Comper were not included in this 12 since they are each associated with just two boards in the Appendix. Although Jalynn Bennett's name also appears just twice in the Appendix, she was included in the 12 as she is also a member of the Bombardier and Sears Canada boards.

²⁵ Information on the situation at the Halifax Daily News was compiled from an interview with Stephen Kimber and CBC Nova Scotia: http://novascotia.cbc.ca/template/servlet/View?filename=ns_turpin020423.

APPENDIX 1 – PROFILE OF BOARD MEMBERS

Member	BCE	Bell Canada	Bell Globemedia	RBC Financial Group	CIBC	Bank of Montreal	Alcan	CCCE	CD Howe	CP	Conference Board of Canada	CanWest	Torstar
Michael Sabia	★	★	★					★					
J. Edward Newall	★	★		★			★	★		★			
Guy Saint Pierre*	★	★		★			★	★			★		
Paul Tellier*	★	★		★			★						
Peter Nicholson	★	★	★						★				
Geoffrey Beattie			★	★				★					
Anthony Fell	★			★				★					
David O'Brien				★				★	★	★			
Robert Peterson*				★				★	★		★		
Michael Phelps					★			★		★			
Charles Sirois					★			★					
Stephen G. Snyder					★			★			★		
Anthony Comper						★			★				
Peter Bently						★			★				
Jalynn Bennett					★							★	
Conrad Black					★							★	
David Galloway						★							★
Robert Pritchard						★							★

*These individuals recently served terms as Conference Board of Canada board members

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